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UNITED STATES OF AMERICA

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *98th* CONGRESS
SECOND SESSION

## VOLUME 130—PART 12

JUNE 12, 1984 TO JUNE 19, 1984
(PAGES 15791 TO 17224)

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1984

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For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

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# Congressional Record

United States
*of America*

PROCEEDINGS AND DEBATES OF THE *98th* CONGRESS, SECOND SESSION

# SENATE—*Tuesday, June 12, 1984*

*(Legislative day of Monday, June 11, 1984)*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable Mack Mattingly, a Senator from the State of Georgia.

Mr. MATTINGLY. The morning prayer will be offered by Gen. Jarl Wahlstrom, international commander of the Salvation Army.

### PRAYER

Gen. Jarl Wahlstrom, international commander of the Salvation Army, offered the following prayer:

Let us pray.

Almighty God, our dear Heavenly Father, we come before Thee with grateful hearts. We praise Thee for Thy wisdom, faithfulness, and love; and we give Thee thanks for all the good gifts Thou hast bestowed upon us. We thank Thee for this day and every opportunity it affords us to serve Thee and our fellow men.

We acknowledge our dependence on Thee and we ask for Thy guidance and Thy blessing upon our service.

We pray for this Nation and its elected leaders, the President and Vice President and the Members of the Senate and House of Representatives. May divine wisdom be granted to them all.

We also bring before Thee all the other nations of the world and their leaders. We pray for greater understanding between the nations and for lasting peace in the world. Hasten the coming of the day when the Earth shall be full of the knowledge of the Lord as the waters cover the sea, when the peoples shall beat their swords into plowshares and shall learn war no more.

Merciful God, we pray for the sick and suffering in the world, for the homeless and hungry and oppressed. Grant us wisdom and willingness to ease the pain and alleviate the afflictions of our brethren.

Heavenly Father, we commit ourselves and this day into Thy strong but loving hands.

In the name of Jesus Christ Thy Son. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Thurmond).

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
*Washington, D.C., June 12, 1984.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Mack Mattingly, a Senator from the State of Georgia, to perform the duties of the Chair.

Strom Thurmond,
*President pro tempore.*

Mr. MATTINGLY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

### GENERAL JARL WAHLSTROM

Mr. BAKER. Mr. President, may I first congratulate our distinguished visiting Chaplain today for his excellent presentation, and welcome him to our Chamber as a contributor to the religious tradition of the Senate, and another in a long line of distinguished guest Chaplains who have served the Senate for more than 200 years. We welcome you.

Mr. President, I would also note that General Wahlstrom is sponsored by the distinguished President pro tempore of the Senate, Senator Thurmond. I believe, according to the notes which my staff has given me, that this is only the second time that the head of the Salvation Army has opened the Senate with a prayer. The founder of the Salvation Army, William Booth, did so in 1903.

Once again, we welcome our guest Chaplain today, and wish him well.

### SENATE SCHEDULE

Mr. BAKER. Mr. President, today after the recognition of the two leaders under the standing orders, Senator Proxmire will be recognized on special order. Then there will be a period for the transaction of routine morning business until 11:20 in which Senators are permitted to speak for not more than 2 minutes each. After that, Mr. President, the Senate will resume consideration of S. 2723, which is the defense authorization bill. Votes are expected throughout the day on that measure. Today is Tuesday. And on Tuesdays, we ordinarily recess the Senate from 12 noon until 2 o'clock in order to provide a time for Members on both sides of the aisle to attend their respective party caucuses, which are held away from the Senate Chamber.

#### ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. President, once again, I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I cannot make an announcement at this point, Mr. President, on how late the Senate will be in session today because I have not yet had an opportunity to confer with the minority leader and with the two managers of the defense authorization bill on that subject. But based on my previous conversations with the chairman of the committee, Senator Tower, I think there is a strong possibility that the Senate may be in beyond the usual time today.

I will try to have further announcements on that subject later, Mr. President.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I have no further need for time remaining under the standing order, and I offer it to the minority leader if he requires additional time.

## RECOGNITION OF THE MINORITY LEADER

Mr. BYRD. Mr. President, I thank the distinguished majority leader for offering time. I accept it, and I may be yielding it back to him if he so desires.

## THE CONFERENCE ON THE BUDGET RESOLUTION

Mr. BYRD. Mr. President, I have a question of the distinguished majority leader. It is, if I may say, precipitated by a story which I read in yesterday's USA Today, entitled "GOP Senators Put Chill On Budget Negotiations." I will later ask that the entire article be included in the RECORD.

The last few sentences read as follows:

> Unlike the usual budget resolutions, the appropriations caps would have to be signed by the president and would have the force of law. House Democratic leaders want no part of the caps because they believe it would give the president the option of vetoing appropriations bills that exceed the targets in the non-binding budget resolution. But Senate Republicans doubt they can pass a budget without them. And a senior GOP aide said, "If House Democrats don't go along with the caps, the president and the Senate leadership are prepared to go to the country" blaming the Democrats for causing the failure of the deficit reduction effort.

My question does not go to the Reconciliation, or Deficit Reduction Act. I believe that is where the appropriations caps are involved. My question at this point goes to the budget resolution which under the budget reform process should have been passed by both Houses and completed by May 15.

I understand that the House appointed conferees on the budget resolution on Thursday, which would mean that under the Budget Act the House and the Senate would have, I believe, until next Monday, not counting Saturdays and Sundays.

This I think would run the full 7 days that are allowed under the Budget Reform Act for acting on the conference report.

I would like to ask the distinguished majority leader what is the status of the budget resolution, if it is true that the House has appointed the conferees—and I think that is accurate—on last Thursday, and we have only until Monday when the full 7 days will have run. When will the Senate conferees meet? Perhaps it is not a fair question for the majority leader, but I will ask it and I am sure that he will respond as best he can. Are the Senate conferees going to meet? Is it the plan of the majority in this body to go forward with a conference with the House on the budget resolution? If so, we do not have a lot of time. What is the plan? Is the majority party going to proceed with the conference?

I read once again the last line:

> And a senior GOP aide said, "If House Democrats don't go along with the caps, the president and the Senate leadership are prepared to go to the country" blaming the Democrats for causing the failure of the deficit reduction effort.

Mr. President, I have attempted to put my question in the context of the overall thrust of the quoted material, not necessarily with respect to the Reconciliation, or Deficit Reduction Act, but more particularly with reference to the budget resolution.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, June 11, 1984]

### GOP SENATORS PUT CHILL ON BUDGET NEGOTIATIONS

Rep. James Jones, D-Okla., chairman of the House Budget Committee, has asked to meet with Senate negotiators this week to reconcile differences between House and Senate budget resolutions setting non-binding spending targets for next year. But this normal congressional budget procedure is being resisted by the Republican-led Senate, leading some on Capitol Hill to wonder whether this year's deficit-reduction effort might fail. Before passing its version of the budget resolution last month, the Senate approved something new—one-year limits on appropriations, with one cap for defense spending and a second for domestic programs. Unlike the usual budget resolutions, the appropriations caps would have to be signed by the president and would have the force of law. House Democratic leaders want no part of the caps because they believe it would give the president the option of vetoing appropriations bills that exceed the targets in the non-binding budget resolution. But Senate Republicans doubt they can pass a budget without them. And a senior GOP aide said, "If House Democrats don't go along with the caps, the president and the Senate leadership are prepared to go to the country" blaming the Democrats for causing the failure of the deficit reduction effort.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. BYRD. Yes, Mr. President.

Mr. BAKER. I thank him for his question.

First, let me say that we both know, and by "we," I mean the minority leader and me, that it is difficult to know the source of stories. I suspect that the senior staff aide in that story may have either not been quoted accurately or himself misunderstood the situation. Let me first address the question of the budget conference.

The House and Senate have both passed the concurrent resolution for this year. That was House Concurrent Resolution 280. Indeed, the Senate has asked for a conference with the House on that measure, and we have appointed conferees. I cannot answer the minority leader on when the conferees will meet. I shall consult the chairman of the Budget Committee to find out, but I am sure they intend to meet. I expect they will have no difficulty in arriving at a conference report that will be submitted first to the House of Representatives and then the Senate, and I anticipate it will be acted on in a timely way.

Perhaps the author of the story in USA Today may have been referring to statements I have made in the course of debate on the deficit reduction package because, more than once during that debate, this Senator said that the idea of the double caps was so essential and integral to the structure and design of the budget reduction package that if they did not survive in this body, I would not support the bill. Indeed, that is still my position.

I believe I may have said, although I have not checked the record recently to find out, but I shall say now that, absent other extraordinary circumstances, if the idea of the caps does not survive in conference, I would not be prepared to support the conference report. But that is vastly different from the suggestion that we are trying to chill the result.

I am extraordinarily anxious, I am very anxious to see the conference on the deficit reduction package succeed.

Parenthetically at this point, Mr. President, may I congratulate Senator DOLE and his fellow conferees on the tax portion of that conference. They have gone forward with remarkable promptness and, I think, rather remarkable success.

I am somewhat troubled that we have not yet gotten around to any significant conference on the spending reduction side, but I am advised by our counterparts on the House side that they do intend to go to conference today on the spending side.

The President has often said, and quite emphatically, I might add, that as far as he is concerned, he would be unable to support a package that had just the taxes and did not have spending cuts. I agree with that. But I am somewhat reassured when I find that the conferees apparently are going to meet on the spending cut side of that package today and join with their fellow conferees on the tax side and try to bring us a package in a timely way.

It is not going to be easy. I have no illusions about it. I do not assume that the House and Senate will just end up with a product that is identical to the Senate-passed bill. But I suspect that the author of that article in USA Today may have, one way or the other, heard of or heard me say that I would not support a bill that did not have caps in it. But that was a reference not to the budget resolution, but to the deficit reduction package.

I can assure the minority leader that I understand his concern. I would be concerned if I read that in the paper. I am not being critical of the reporter who wrote that or the persons who may have given him the information. Reporting on sometimes Byzantine-appearing efforts of the Senate or the Congress to arrive at a result is most difficult at best. Those of us who are directly involved in it sometimes lose sight of the fact of how difficult it must be for the press to keep up with our spinnings and twistings.

I hope that answer, somewhat overlengthy, may be of some use to the minority leader and perhaps may even be reassuring.

Mr. BYRD. Mr. President, I am reassured by the distinguished majority leader's response. I shall be even more reassured when the conferees begin meeting.

The distinguished majority leader is correct in indicating that the Finance and Ways and Means conferees are meeting on the tax portion of the deficit reduction act. They are meeting, and I am reassured when the majority leader says that, to his knowledge, the conferees on the spending section will be meeting probably today, or will begin their meetings today. So he has, I think, responded as well as he could respond.

Mr. President, the able majority leader is quite right and I was quite right in our statements, which clearly indicate we are talking about two different things here. There are two different measures: The deficit reduction act, otherwise known as the reconciliation bill, and the other measure, the budget resolution. The latter of the two measures is what I have addressed my remarks to.

I imagine that the story was written by, as the majority leader indicated, a reporter with whom we do not find fault. It may reflect a little confusion with respect to understanding that there is, indeed, a budget deficit reduction measure, which is the reconciliation bill, on which conferees are meeting, at least with respect to the tax section; the other measure being the budget resolution, on which action should have been completed by May 15.

Mr. BAKER. I thank the minority leader for putting the question, Mr. President.

Mr. BYRD. I thank the majority leader.

Mr. President, do I have a little time remaining?

The ACTING PRESIDENT pro tempore. The minority leader has 5 minutes.

Mr. BYRD. I thank the Chair.

## A THOUGHTFUL GESTURE THAT WILL SADDEN MANY

Mr. BYRD. Mr. President, throughout its history, Missouri has been a perennial source of talented and inspired national political leaders, Senator Thomas Hart Benton and President Harry S. Truman to name but two.

In that tradition, in recent years, the Senate has been fortunate to count among its membership Missouri Senator THOMAS F. EAGLETON. Elected in 1968, Senator EAGLETON has been a generous, congenial, and helpful colleague with whom to work and a cooperative, sincere, and practical man with whom to serve.

Together with countless Missourians, then, many Senators were surprised and saddened by Senator EAGLETON's announcement yesterday that he would not seek reelection when his current term expires in 1986.

Illustrative of his characteristic consideration of the leadership and of other Senators, Senator EAGLETON contacted me prior to his announcement and indicated that that was his plan, to go forward with an announcement. I received a letter from him which went into considerable detail with respect to his announcement and his reasons for making the announcement. I was grateful for the Senator's thoughtfulness in contacting me before he made his public announcement.

Though his colleagues will still enjoy the advantages of his presence for another 2½ years, Senator EAGLETON's departure down the road will deny the Senate an incisive, alert intellect and deprive his many friends here of a warm, buoyant personality.

But just as entering the political arena demands courage, even so the decision to change one's life direction requires courage as well. Senator EAGLETON has shown in his early announcement of his future plans a characteristic thoughfulness that will allow his fellow-Missourians an opportunity to prepare for his successor.

That successor will confront enviable precedents in putting his or her feet into Senator EAGLETON's shoes. A graduate of Amherst and Harvard, after entering the legal profession in Missouri, at age 27, I believe it was, Senator EAGLETON was elected a circuit attorney; at age 31, Missouri State attorney general; and at age 35, lieutenant Governor.

For nearly 16 years in the Senate, Senator EAGLETON has been prominent in agricultural, labor, and educational affairs, as well as many other concerns. To each of his committee assignments and Senate duties, Senator EAGLETON has brought unique conviction and sensitivity, and his contributions have been admired and appreciated by Senators from both parties.

I know that my colleagues share my feelings about Senator EAGLETON's early announcement of retirement from Senate ranks, but we look forward to sharing his fellowship and talents for the remainder of his term. Although I will have more to say about this later, I think it appropriate at this point to wish Senator EAGLETON every success as he lays foundations for a useful and rewarding future when he leaves Capitol Hill.

Mr. President, if I have any time remaining, I yield it to Mr. PROXMIRE.

## RECOGNITION OF SENATOR PROXMIRE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

## SENATOR THOMAS F. EAGLETON

MR. PROXMIRE. Mr. President, I join the leader in paying tribute to TOM EAGLETON. We are going to miss him very much in the Senate. He is a man of extraordinary intelligence, and a man who feels very, very deeply about issues. I do not know any member of our party or the Republican Party in the Senate who is so committed, such a compassionate person and feels so very, very strongly on matters. He certainly will be very sorely missed.

## SENATOR ALAN SIMPSON

Mr. PROXMIRE. Mr. President, I want to put in the RECORD what I think is a very extraordinary article about Senator ALAN SIMPSON which was in yesterday's Wall Street Journal. That article, written by Dennis Farney—and I mention Dennis Farney particularly because he did such a delightful job in writing about Senator SIMPSON—starts out:

> "I must be perverse," says Senator ALAN SIMPSON, grinning an impish grin. Show me an issue that is filled with guilt, fear, and anger and I want to play with it.

Well, that is ALAN SIMPSON. As the article points out, he has a philosophy which feels that the highest calling of a Senator or of a legislator is how you still and calm what he calls the "uglies," the ugly emotions, the ugly actions, and bring cooperation and harmony and working together on those matters. That bitterly divides us.

Now, I think it is particularly appropriate this article appeared today because yesterday the House of Representatives by a remarkable vote decided they would at long last take up the Simpson-Mazzoli immigration bill. As Dennis Farney points out in his article, there is no bill that is more emotion ridden than that one. It inflames Hispanic, organized labor, the U.S. Chamber of Commerce, and a host of other groups. ALAN SIMPSON, as only

Senator SIMPSON could do it, piloted that bill through the Senate by an astonishingly big margin. Now it is pending in the House and has a good chance of passing.

In the course of this article by Farney, he mentions that SIMPSON says, "Humor is my sword and my shield." I think anybody who knows AL SIMPSON must have been delighted by some of the stories that SIMPSON tells and the great level of fun and humor that he brings to the Senate. "All politics," says SIMPSON "is lightning hitting the outhouse—unpredictable and often serendipitous." This body is a better as well as happier place, with Senator SIMPSON among us.

Mr. President, I ask unanimous consent that this article to which I referred by Dennis Farney in the Wall Street Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 11, 1984]

### SENATOR'S HUMOR DISARMING: SIMPSON PUSHES IMMIGRATION BILL

(By Dennis Farney)

WASHINGTON.—"I must be perverse," says Sen. Alan Simpson, grinning an impish grin. "Show me an issue that's filled with guilt, fear and anger, and I want to play with it."

In truth, Al Simpson isn't perverse. He's an American original.

Here is a salty Wyomingite who may have the biggest collection of stories, printable and unprintable, in Congress. One is how a lawyer-grandfather once shot and killed a man in a Cody, Wyo., altercation—and was acquitted after fellow lawyers rushed to his defense. Who draws inspiration from H.L. Mencken. And who cheerfully asserts that "all politics is lightning hitting the outhouse—unpredictable and often serendipitous."

For more than two years, Sen. Simpson has been playing with one of the angriest, most guilt-ridden issues before Congress: control of immigrants and illegal immigrant workers. The issue, tentatively scheduled for House debate this week, scrambles normal interest-group alliances and is almost too hot to handle, especially in an election year. Yet this freshman Republican senator tackled it—winning Senate passage in 1982 and again in 1983, then helping persuade a reluctant Speaker Thomas P. O'Neill to allow House consideration—and emerged with his credibility and political popularity enhanced. In Wyoming this fall, he's considered a shoo-in for reelection.

#### PHILOSOPHY RARE IN WASHINGTON

All this reflects something more than legislative acumen. It also reflects a personal philosophy that's that increasingly rare in Washington. In an era when more and more politicians routinely polarize issues, sharpening them with ideology and partisanship, Sen. Simpson works instead to drain issues of their passion. The test of an individual or a society, he likes to say, "is how you deal with the fears of life."

That's why he thinks it's especially important that the House join the Senate in confronting the emotional issue of immigration law, an issue that inflames Hispanics, organized labor, the U.S. Chamber of Commerce and a host of other groups. "It's just going to be terrible in the House," he predicts. "But somewhere along the line, you have to deal with it. Otherwise, the uglies will rise."

Keeping down the "uglies"—ugly emotions, ugly actions—is a legislator's highest calling, Sen. Simpson believes. "Legislation, done properly, is the driest form of human endeavor," he says approvingly. He says one reason he's so sensitive to the immigration issue is that, as a boy, he witnessed the ugly spectacle of Wyoming detention camps for Japanese-Americans.

Yet the conservative Republican behind this philosophy is anything but dry. A droll, lanky six-foot, seven-incher who's often compared to Will Rogers, he consciously uses humor to win support and disarm opponents.

"Humor is my sword and my shield," he says. "It protects me. You can open a door with humor and drive a truck right through."

Thus Sen. Simpson observes that, in Washington, "those who travel the high road of humility are not troubled by heavy traffic."

And he says "the rich in our society are indeed different. Among the Republicans in Beverly Hills, the IRS is known as a terrorist organization."

#### ANOTHER SIDE TO SIMPSON

But there's another side to the Simpson personality. The 52-year-old senator talks of a personal crisis in his mid-20s when, chafing under the restrictions of Army life, he literally worried himself sick. "I had gas ulcers, heartburn and felt like hell," he recalls. He credits a hard-boiled Army doctor and his wife, Ann, with straightening him out. "I finally realized what we all have to realize, that self-pity will eat your lunch."

Behind the banter, even today, is a more intense man, struggling to get out. Sometimes, as in the heat of the Senate immigration battle, he does get out.

Christopher Luis, who was the top U.S. Chamber of Commerce immigration lobbyist during Senate consideration, recalls the time Sen. Simpson read the riot act to him and other chamber officials gathered in the senator's office. The chamber was opposing a provision of the Simpson bill prescribing civil and criminal penalties for employers guilty of a "pattern" of hiring illegal aliens.

"I grew up in the South Bronx and I have never heard such language as he used against us that day," marvels Mr. Luis, who has since joined a New York concern. "He tried to humiliate us." The meeting ended in a standoff.

But liberal Democratic Sen. Bill Bradley credits a different kind of Simpson performance with winning him over to the bill, which was opposed by many Hispanic and civil-liberties groups. In a one-on-one meeting the New Jersey senator, a former Oxford scholar, peppered Sen. Simpson with an hour's worth of detailed questions. In the end, Sen. Bradley says, "I realized he had carefully considered all sides and ended up with a bill that was fair."

The Simpson bill passed the Senate by votes of 80-19 in 1982 and 76-18 in 1983. But it hit a formidable roadblock last year when House Speaker O'Neill declared that he intended to keep it from reaching a House vote. The speaker saw the bill as a political setup: If Democrats supported it, they'd risk enraging Hispanics. And then, to top things off, President Reagan likely would score points with this important electoral group be vetoing the bill.

Sen. Simpson went to work again. He first requested a meeting with the speaker's top aide for policy, Ari Weiss, and disarmed Mr. Weiss by insisting on walking over to the House side for the encounter.

#### AGREEMENT WITH O'NEILL

This led to a private meeting with the speaker—Sen. Simpson again insisted it be held on the speaker's turf—and a gentlemen's agreement. "OK, Slim," rumbled Tip O'Neill. "We'll do it."

Under that agreement, the speaker would allow the bill to come to the floor. But the measure, if passed by the House and ironed out in a House-Senate conference committee, wouldn't be sent to the White House unless President Reagan committed himself in advance to signing it. Sen. Simpson would work to get that commitment, attempting to broker a bill that could satisfy both congressional Democrats and Mr. Reagan.

"Al will have a free hand in any conference," predicts Rep. Romano Mazzoli (D., Ky.), the chief House sponsor of the landmark legislation.

The Simpson-Mazzoli bill still faces a difficult House floor fight this week. But Sen. Simpson takes pride in getting it this far and wistfully wonders why Congress can't operate more often the way he and the speaker operated last year—getting to the bottom of things in a straightforward way, free of pomp and pomposity. "God, the things we do on the Senate floor," he burst out in a recent interview.

In 1982, the pre-Christmas filibustering tactics of a GOP ideologue, North Carolina's Jesse Helms, drew a sharp-edged response from Sen. Simpson that reverberated in the normally sedate Senate chamber. "Seldom have I seen a more obdurate, more obnoxious performance," he told his colleagues. "I guess it is called hardball. In my neck of the woods, we call it stickball. Children play it."

But that outburst was a rare case of the old Al Simpson—that intense fellow of a quarter-century ago—breaking through the banter that's since become his weapon and his defense. You probably won't see that man very often. "Wyoming Democrats say the only way to beat Al is to get him to stop telling jokes and start talking issues," says one GOP colleague. "And he's too smart to do that."

The senator himself seems determined not to take Congress—or himself—too seriously. Congress, he observes in his soft, whimsical voice, "reminds me of the campus of the University of Wyoming student government. I mean that as a compliment . . . Life is absurd, in the most positive sense of the word."

## NUCLEAR ARMS RACE: NO WINNER; ONLY ANSWER: NEGOTIATION

Mr. PROXMIRE. Mr. President, President Reagan favors peace through strength. The tip-off: He has called the country's biggest and most deadly and destructive nuclear missile of the future, the MX: "peacekeeper." Do you find that ridiculous? What could the President be thinking? How can the most terrible killer of a superpower at war earn the name of "peacekeeper"?—especially from the President of the United States. If fired at Moscow, just one MX missile with its ten nuclear warheads could kill virtually every human being in that city with plenty left over for two or three other Russian cities. Some keeper of the peace that. The defenders of the MX would answer that it keeps the peace exactly because it scares the socks off the Soviets. It tells them, "Look, you start anything, you attack this country or its vital interests and we will use this awesome power to destroy you."

Our military experts call the MX the most accurate missile in the world, a triumph of U.S. military technology. But the MX is just the beginning of another phase of the arms race with the Soviets, the President has asked for a 70-percent increase in military space spending in 1985. Military space R&D would climb from about $1 billion in 1984 to near $2 billion in 1985 and to more than $25 billion over the next 5 years. Keep in mind this is for research only. Production and deployment would come later and would cost many times more. What purpose would this immensely expensive research serve? Theoretically, it would permit our country to intercept and shoot down attacking Soviet missiles. It could defend our MX missile sites, perhaps even our cities. If fully successful, it would destroy the Soviet's nuclear deterrent. Or threatened with the prospect of diminished deterrent, the Soviets might come to the bargaining table and negotiate an end to the arms race.

Those supporting the administration's position argue that the Soviet's strength lies in their total command over their society. As a totalitarian dictatorship, they can by brute force direct what—every sacrifice they desire to impose on their people, and sharply slash Soviet consumption to concentrate resources on building a military juggernaut. So what if they have a weaker economy than we do? So what if they have less productivity in their industry? So what if they suffer serious disarray in their agriculture? So what if they have a far more rudimentary and limited scientific base? So what if even with more people they produce only about half of what we in America produce? So what if their military allies, the countries of Eastern Europe, are even weaker than they are? So what if none of the Soviet's allies have any nuclear power? So what if the Warsaw Pact—that is Russian and its allies have only one-third the economic production of the United States and our NATO allies? If this is all true, who does not this translate into massive military superiority for our side?

Answer. The Soviets can and do jam and shove their economic production into military hardware. Americans enjoy infinitely better housing than the Russians. But the Russians have more nuclear missiles with more megatonnage, and more throw-weight. More than half of American families own at least one automobile. Very few Russians own a car. But where we build cars they build military tanks. They have three times as many tanks as we have. Computers and robotics are beginning to provide Americans with a far more abundant life than any people have ever enjoyed any time, anywhere, ever before in history. The Russian people can only look forward to the same grim, gray, grinding routine they have always suffered.

So is President Reagan right in calling for greater military reliance on our clear scientific superiority? Can we best achieve peace by surpassing the U.S.S.R. in lasers and nuclear firing precision, on winning nuclear weapons breakthroughs that will more than compensate for the Soviet advantage in military size and numbers?

No. Absolutely no. This Senator is convinced that if we rely on winning peace by winning the arms race, we will perish. This is not a football game between the United States and the Soviets.

One side will not lose nuclear war, while the other wins—in any sense at all. As Henry Kissinger has been reported to have said and later repudiated the statement: "What in the name of heaven, do you do with nuclear superiority?" Kissinger was right the first time. In a nuclear war—regardless of scientific progress—we are all dead or better off dead. We only win a superpower military conflict today by negotiating a mutual, comprehensive verifiable end to the arms race. This will serve the best long- and short-term interests of both the Soviet Government and the Soviet people. It will certainly serve the best interest of Americans.

## THE RAPE OF LIDICE

**Mr. PROXMIRE.** Mr. President, this week marks the 42d anniversary of one of the most remembered atrocities of World War II: The Rape of Lidice, Czechoslovakia. Lidice, a village with a population of approximately 500 persons located about 11 miles northwest of Prague, has become a symbol of Nazi barbarity.

After the assassination of Reinhard Heydrich, one of the most feared men in Nazi Germany, "a special repressive action to give the Czechs a lesson in propriety" was ordered by Heydrich's successor. The Germans believed that the people of Lidice were hiding Heydrich's killers, and on the morning of June 10, 1942, the Gestapo moved into the town of Lidice.

The convoy of Germans ordered the village sealed off and all the inhabitants were ordered to assemble in the square. A woman and a small child attempted to escape and were shot. The men were locked up in the buildings of a farm. The female population, except seven who were executed, were deported to Ravensbruck Concentration Camp where about 50 of them died. The children were also sent to a concentration camp.

Meanwhile, the men, including boys over 16, were taken from the farm buildings in groups of 10 and shot. A camera crew recorded the entire event.

After everyone was disposed of, the village was destroyed. The German Security Police burned and dynamited the houses of the village and leveled the ruins. The German newspapers then reported that the village of Lidice had been permanently stricken from the records. After World War II, a national memorial was established on the site of the razed village.

The Genocide Convention condemns the heinous crime of genocide which maliciously took the lives of so many innocent men, women, and children in Lidice, Czechoslovakia.

With respect to the victims of Lidice, I would like to call attention to this memorial occasion, and urge the Senate to take action and ratify the Genocide Treaty.

## ROUTINE MORNING BUSINESS

**The ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, with statements therein limited to 2 minutes each.

## THE ITC STEEL IMPORT DECISION IS A MIXED BAG FOR WEST VIRGINIA

**Mr. BYRD.** Mr. President, on June 12 the U.S. International Trade Commission released the results of votes taken on the steel import trade complaint filed by the United Steelworkers of America and Bethlehem Steel Corp.

For the purpose of ruling on the trade complaint, the ITC treated the American steel industry as if it were nine separate industries. The International Trade Commission considered whether or not each of the nine steel product lines were being seriously injured, or faced the threat of serious injury by an increased level of imports.

A majority of the Commission voted that five product lines were being seriously injured, or faced the threat of serious injury by increased levels of imports. A majority of the Commission voted that four other product lines were not experiencing such injury, or were not threatened with serious injury by steel imports.

The ITC votes are a mixed bag insofar as West Virginia's major steel producers are concerned. Weirton Steel Corp., the Nation's largest employee-owned firm, will be helped by the ITC votes. The sheet and strip steel products manufactured by Weirton Steel were found to be injured by unfairly traded imports.

Wheeling-Pittsburgh Steel Corp., on the other hand, will find itself hard-pressed to continue to compete for markets in railway products, pipes, and tubes. The Commission voted that those product lines were not being seriously injured by steel imports. Wheeling-Pittsburgh Steel has some of the most modern steelmaking equipment in the world, yet the company has been struggling.

The overall problem of subsidized steel dumped illegally into the open American market will not go away by itself. The ITC votes on June 12 help justify the need for a comprehensive steel import policy, as would be provided by the Fair Trade in Steel Act (S. 2380.) The legislation would impose 15 percent quotas on steel imports for a period of 5 years. The bill requires that American steelmakers plow back revenues into modernization of their plants and equipment.

While the ITC voted findings of serious injury for several types of steel, I am concerned that foreign steelmakers will target the product lines that were not considered to be injured. The result could be increases in unfairly traded steel imports in those products. Our country must insist on fair treatment and fair trade.

## AWARDS RECOGNITION ASSEMBLY—SENATE PAGE SCHOOL

Mr. BAKER. Mr. President, last Friday the Senate Page School conducted its annual "Awards Recognition Assembly." This ceremony takes place each year to recognize those pages who have successfully completed their junior course of study and participation in the Senate page program.

On behalf of Senator BYRD and myself, I wish to take this opportunity for the record to commend the class of 1984 for their outstanding academic achievement. They have proven themselves to be diligent and hardworking both in their service to the Senate and in their scholastic endeavors. We are proud of their accomplishments and know that their families and friends are as well. Congratulations to each of them on a job well done.

Mr. President, we submit the following lists of awards for the RECORD.

The list follows:

U.S. Senate Page School Awards Assembly,
June 8, 1984

Danny Smith President, Student Council.
American Legion, Stephen Kusmierczak, Elizabeth Sikorovsky.
Smith Award, Elizabeth Miller.
Harvard Book Award, Stephen Kusmierczak.
Danforth Award, Shannon Kenney, Timothy Hatfield.
Rensselaer Award, Stephen Kusmierczak.
Bausch & Lomb Award, Elizabeth Miller.
Newspaper Editors, Glenn Bruce, Stephen Kusmierczak.
Women's Bar Association of the District of Columbia: Stephen Dove, Maurice Granger, Fred Pagan, Derek Roy, Shelley Taggart.
Leadership, Danny Smith.
Geometry Awards, Kristine Bell, Shannon Kenney, Danny Smith.
Certificate of Achievement (Mathematics): Kristine Bell, Timothy Hatfield, Derek Roy, Elizabeth Sikorovsky.
Computer II, Advanced, Maurice Granger.
Computer I, Kristine Bell.
Vocabulary Achievement, Stephen Kusmierczak.
English Composition, Elizabeth Sikorovsky.
Advanced Biology, Elizabeth Sikorovsky.
Chemistry, Steven Joul, Shannon Kenney.
Science and Social Issues, Sarah Partridge.
Business Law, Kristine Bell.
Government, Steven Joul.
U.S. History, Stephen Kusmierczak.
Algebra/Trigonometry, Advanced Math, Stephen Kusmierczak Elizabeth Sikorovsky.
It's Academic, Timothy Hatfield, Sara Partridge, Elizabeth Sikorovsky.
Service, Glenn Bruce.
Student Council: Glenn Bruce, Steven Joul, Stephen Kusmierczak, Roddy MacPhail, Elizabeth Miller, Danny Smith.
Advisory Council, Timothy Hatfield, Fred Pagan.
National Honor Society Members: Inductees: Danny Smith, Fred Pagan, Stephen Kusmierczak, Steven Joul, Sarah Partridge, Elizabeth Sikorovsky, Elizabeth Miller, Shannon Kenney, Derek Roy.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

> A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

The Senate resumed consideration of the bill.

Mr. TOWER. Mr. President, the distinguished Senator from South Dakota (Mr. PRESSLER) is on the floor, and he has been very cooperative in his willingness to offer his amendments to the bill. He is about to offer one that I think is of surpassing importance and significance and one on which we expect to have a closed session this afternoon, when we return from the recess for the party caucuses.

Mr. President, I should like to say to my colleagues, in response to several inquiries we have received, that it is my intention—and I have been supported in this by the majority leader—that we should work until at least 9 o'clock this evening, in an effort to dispose of some amendments. I hope we will be able to dispose of all those amendments relating to ASAT and the special defense initiative this afternoon, because I think they tie in closely with our closed session.

I hope we will continue the pattern through the week of late sessions. It is incumbent on us to finish the bill sometime this week. If that is Saturday or Sunday, so be it.

I believe we must complete action if we are to go to conference and agree on a conference report and get it back in a timely way so that both Houses can act on it before we break for the 4th of July recess. It is essential that we complete our work, and it is my intention to stay here virtually around the clock, if that is necessary.

Later in the week, at some point, if nobody is on the floor to debate the issue or to offer an amendment or to speak on the bill, I will ask the Chair to follow the regular order, which means that the Chair will have to instruct the clerk to read the bill the third time. Of course, one person on the floor could prevent that from happening. But I think we should have Senators on the floor, ready to debate, ready to offer amendments, so that we can finish our work in a timely fashion.

I regret that we have fallen into the habit—it is not the fault of the leadership on this side of the aisle or on the other side of the aisle—but there seems to be a habit on the part of many Senators to regard Mondays and Fridays as nonworking days, days on which they can be absent for their constituents. Given the number of legislative days remaining to us in this year, I hope Members will give serious consideration to discharging their business at home on Saturdays and Sundays and be here to do the people's business on Mondays and Fridays. If we could have those additional legislative days of the week, I think a great deal could be accomplished.

Having said that, Mr. President, I am prepared to yield the floor.

AMENDMENT NO. 3156

(Purpose: Calling upon the President to seek a mutual and verifiable ban or strict limitations on weapons in space and on weapons designed to attack objects in space)

**Mr. PRESSLER.** Mr. President, I call up my amendment No. 3156, which has been printed, and ask for its immediate consideration. If there is not a copy at the desk, I will furnish one.

**The ACTING PRESIDENT** pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler) proposes an amendment numbered 3156, for himself and Mr. Pell, Mr. Percy, Mr. Cohen, Mr. Mathias, Mr. Cranston, Mr. Leahy, Mr. Bumpers, Mr. Bradley, Mr. Murkowski, Mr. Matsunaga, Mr. Kennedy, Mr. Proxmire, Mr. Sarbanes, Mr. Specter, Mr. Burdick, Mr. Hart, Mr. Stafford, Mr. Huddleston, Mr. Riegle, Mr. Dodd, Mr. Dixon, Mr. Metzenbaum, Mr. Heinz, Mr. Levin, Mrs. Kassebaum, Mr. Melcher, Mr. Inouye, Mr. Baucus, Mr. Ford, Mr. Lautenberg, and Mr. Bingaman.

On page 128, between lines 12 and 13, insert the following:

POLICY ON WEAPONS IN SPACE AND ON WEAPONS DESIGNED TO ATTACK OBJECTS IN SPACE

Sec. 1019. (a) It is the sense of the Congress that the President should seek mutual agreement with the Soviet Union to—

(1) immediately resume negotiations on a mutual and verifiable ban or strict limitations on the testing, development, deployment and use of antisatellite weapons;

(2) institute, as appropriate, a mutual and verifiable moratorium on the testing in space of antisatellite weapons during the period of negotiations; and

(3) seek, on an urgent basis, a verifiable treaty restricting the testing, development, deployment and use of space-directed weapons systems and prohibiting the testing, development, deployment and use of space-based weapons systems, if such systems are designed to inflict injury or cause any other form of damage on the Earth, in the atmosphere, or on objects placed in space.

(b)(1) Such agreements should not restrict operations in space not involving weapons, such as the United States space shuttle program.

(2) Increased funds should be allocated to improve the survivability of satellites and other space-based assets.

(3) Funds should be made available, as needed, to enhance monitoring and verification capabilities for space arms control agreements.

(c) Not later than September 1, 1984, the President shall submit to the chairman of the Committee on Foreign Affairs and the chairman of the Committee on Armed Services of the House of Representatives and the chairman of the Committee on Foreign Relations and the chairman of the Committee on Armed Services of the Senate a report detailing actions undertaken since the date of enactment of this section to open negotiations on antisatellite weapons and space-based and space-directed strategic defense systems. Such report shall be submitted in unclassified form with such classified annexes as may be necessary.

**Mr. PRESSLER.** Mr. President, this amendment is not new. Indeed, nearly one-third of the membership of the Senate are cosponsors of this amendment. It has passed the Foreign Relations Committee, and it has been the subject of much discussion and hearings over the last 2 years.

This amendment was amended by Senator Percy here on the floor and it represents the work of staffs and Senators and groups. We have tried to craft an amendment that would deal with the increasing complex policy on weapons in space and on weapons designed to attack objects in space, a subject that is relatively new to our discussion in arms control. As chairman of the Arms Control Subcommittee of the Foreign Relations Committee, I have personally chaired four hearings over the past 2 years on this subject. Information we were provided culminated in this amendment.

This amendment was originally introduced on May 16, and it was my hope that it would substitute for the resolve clause of Senate Joint Resolution 129.

Unfortunately, the cosponsors of this amendment and I, a total of 32 Senators, have not had an opportunity to consider Senate Joint Resolution 129 as a freestanding measure. For this reason I am now offering this amendment for Senate debate and a vote on the defense authorization bill.

Mr. President, I would like to take care of one detail at this point. On this amendment, I ask for the yeas and nays.

**The ACTING PRESIDENT** pro tempore. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

**Mr. PRESSLER.** Mr. President, as I have mentioned, one-third of the Senate's membership cosponsors this measure, which I think illustrates the interest and the importance of this subject.

In addition to Senators Percy and Pell, who have worked long and hard to gain adoption of resolutions calling for efforts to avert a space arms race, the following Senators have joined in cosponsoring this amendment: Senators Mathias, Cohen, Cranston, Leahy, Bumpers, Bradley, Murkowski, Matsunaga, Kennedy, Proxmire, Sarbanes, Specter, Burdick, Hart, Stafford, Huddleston, Riegle, Dodd, Dixon, Metzenbaum, Heinz, Levin, Kassebaum, Melcher, Inouye, Baucus, Ford, Lautenberg, and Bingaman.

This amendment was developed after long and careful deliberation and consultations with many of our colleagues. This amendment builds upon the content of Senate Joint Resolution 129, a resolution that received the unanimous endorsement of the Foreign Relations Committee. The committee's vote followed a lengthy set of hearings, begun in 1982. Since the committee's vote to favorably report the resolution to the Senate, we have worked to closely monitor developments in the area of space arms control and space weaponry. Additional information received in subsequent intelligence briefings and in a daylong hearing have reaffirmed my conviction and that of my chief cosponsors, Senators Percy and Pell, that space arms control rather than a space arms race must be this Nation's top priority. We, therefore, take this opportunity to allow the Senate to make its support known for a negotiated solution to this merging security problem.

Mr. President, this amendment clarifies and improves upon the content of Senate Joint Resolution 129. It makes clear that above all else, we must begin immediately to talk to the Soviet Union if we are to avoid a potentially costly and dangerous space arms race.

I am less concerned about the exact form of a space arms control agreement than about beginning the effort to reach an accord which would keep the space weapons race at the lowest possible, verifiable level. If a total ban on dedicated ASAT weapons is beyond reach, we should try to conclude more limited agreements. A ban on advanced high altitude ASAT's is one possibility. But we must negotiate if we are to determine what may and may not be possible in space arms control.

For this reason, this amendment calls for a ban on dedicated ASAT's or, if that is not possible, strict limitations on ASAT, space-based ballistic missile defenses, and other potentially destructive systems and activities in space.

Second, the amendment provides the President with the option of instituting, as appropriate, a moratorium on ASAT space flight tests during negotiations. Let me emphasize that this amendment leaves this question to the President's discretion. As for me, however, I believe that a moratorium of limited duration would be most useful.

There was some debate earlier, I believe, in other committees, where it was suggested that this amendment provided for a moratorium on ASAT tests. I emphasize that a moratorium would be left to the President's discretion.

I would personally favor a brief moratorium. A brief moratorium would allow us to test Soviet sincerity in arms control without indefinitely postponing the U.S. ASAT effort, should the Soviets seek one-sided accords. It would also allow us to avoid the verification difficulties associated with the U.S. ASAT system.

This is my view. But this amendment allows the President to make the final decision on whether or not the United States should seek a moratorium as part of a space negotiating posture. And I emphasize that is clearly a part of this amendment. It allows the

President to make the final decision on whether or not the United States should seek a moratorium as part of the space-negotiating posture.

Third, the amendment calls for the inclusion of futuristic space-based and space-directed weapons in space arms control talks. The aim here is to reinforce, not renegotiate, the injunctions in the 1972 ABM Treaty. These discussions should help to remove the ambiguities or loopholes that could be exploited by the Soviet Union. For instance, talks could seek to reverse ABM activities such as the current construction of an ABM radar in Krasnoyarsk in Soviet Central Asia.

Fourth, this amendment provides for the following: First, it rejects Soviet efforts to constrain the U.S. space shuttle and other peaceful space activities; second, it calls for increased funding for survivability measures to protect our satellites; and, third, it urges that funds be made available to enhance our monitoring and verification capabilities for space arms control.

Finally, this amendment requires the submission to Congress of a report detailing the steps taken to open talks with the Soviets on space weaponry since the date of enactment of this legislation.

Mr. President, as Senators we often let the administration of the day take the lead in giving direction to this great Nation's policies. I would fully support the concept of permitting the executive branch to provide the main thrust for national policy. But there are exceptions. Wisdom is not the exclusive domain of any particular group of officials downtown or at the Pentagon. These officials can be wrong. On occasions when poor analysis has led to bad policy, it is the Senate's duty to intervene.

This is such an occasion. Today, the United States stands on the doorstep of a revolution in military strategy, the implications of which are as great as those brought on by the advent of airpower or of the atomic bomb. For many of us here in the Senate and many, many more outside Government, it is obvious that this Nation's greater good would be best served by averting a space arms race. Included in this group of outside specialists who have urged that we move toward arms control for space rather than weapons in space, are this Nation's leading scientists, many distinguished retired military men, key representatives from our defense industries, specialists from the arms control community at universities and from former administrations, senior personnel at this Nation's nuclear weapons laboratories, and former intelligence community officials.

Even within the executive branch, officials have privately warned of the dire consequences of an unfettered space arms competition and have urged me and my colleagues to continue this effort to call for arms control talks. One is left with the distinct impression that many in Government endorse our efforts and that it is only a small, but powerful, group of officials that oppose talks.

Across this Nation, both large and small distribution newspapers have spoken out strongly in favor of space weapons talks. With very few exceptions, editorials have questioned the value of proceeding with space weaponry, without first attempting to negotiate with Moscow. Editorials have joined me in questioning claims that a space weapons ban is unverifiable. Other editorials have raised doubts on the merits of an astronomically expensive program to develop space-based missile defenses. A Philadelphia Inquirer editorial of May 29, 1984, is typical of the broad theme to be found in American media opinion in stating:

> The time to negotiate to check ASAT development is now, while America has a technological lead. If the administration won't take the lead, it is up to Congress to force its hand.

Mr. President, I ask unanimous consent that a series of editorials and press reports be printed in the RECORD at the end of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, these articles come from every corner of the United States, including from the New York Times, the Washington Post, the Los Angeles Times, the St. Louis Post-Dispatch, the Christian Science Monitor, the Chicago Tribune, the Atlanta Journal, the Cleveland Plain Dealer, and the Baltimore Sun, among others.

Beyond this Nation's shores, our allies have also spoken forcefully about the need to avert a space weapons race. A few weeks ago, West German Foreign Minister Genscher met with the President to express his government's desire for talks. He also urged the President to proceed cautiously with programs that would weaponize space. A similar message by most, if not all, of our allies was delivered to Defense Secretary Weinberger at the recent NATO defense ministers' meeting in Turkey. In the United Nations, the United States finds itself alone in opposing resolutions which call for space weapons negotiations.

Despite these calls, the executive branch repeatedly tells Senators that it finds no virtue in an arms control effort at this time. The one bit of hope lies in the frequently repeated promise to continue studying the arms control possibilities. Unfortunately, time is not on the side of continued study. We do not live in an ivory tower. As studies proceed, space weapons development continues to race ahead. It may soon be beyond our reach.

I would agree that the facts must be considered first. But I have looked at the facts for over 3 years now as chairman of the Arms Control Subcommittee of the Foreign Relations Committee. Many in the Senate and outside the Senate have also looked at the issues and implications of space weapons. In calling for negotiations rather than deployments we have not rushed to judgment. Our views were not arrived at lightly.

In numerous hearings, briefings, and other meetings, we have consulted with America's leading authorities. We have stacked up the facts in every possible combination. Each time, we have been led to the same conclusions. The United States has a great deal to lose and very little to gain from a space arms race. U.S. interests would be best served if arms control agreements can be reached. In the Senate, as more information has become available, a growing number of Senators have joined our effort to seek to avert transforming space into another battlefield.

The strength of support for this amendment is revealing of the mood of the Senate today. It is now time for the Senate to endorse a policy of negotiations. This amendment provides a foundation for such Senate action. The Senate must act now. Given the pace of space weapons development, we cannot afford to delay any longer.

### EXHIBIT 1

[From the St. Louis Post-Dispatch, Mar. 21, 1984]

### IS VERIFICATION IMPOSSIBLE?

Speaking before a congressional committee last week Richard Perle, an assistant secretary of defense and one of the hardest of the administration's hardliners, said that he believed that it would be "extremely difficult, if not impossible" to verify any arms control treaty banning anti-satellite weapons.

Mr. Perle's dismissal of the verification issue is but part and parcel of the Reagan administration's drive to block congressional efforts to stop the Pentagon's mad rush to build a new space war capability. The fact of the matter is that, while it may be difficult to verify such a treaty now, it is certainly not impossible to do so. The Soviets' current anti-satellite, or ASAT, system is a crude, operationally limited device using a few old SS-9 ICBMs. Monitoring its dismantling would be fairly simple. Similarly, a treaty that would ban all ASAT development would greatly simplify verification—any test would be a violation.

Mr. Perle's hint that the Soviets may have already deployed some sort of antisatellite "space mines" is a crude smokescreen, there is no indication that the Soviets have done this and—more importantly—why would Moscow trust such an untested system in a crisis?

However, verification of an ASAT treaty could well become impossible if Washington and Moscow delay on this issue even for a few years. Once the new U.S. ASAT system—a small, operationally flexible aircraft-launched homing missile—is deployed and the Soviets rush to copy it, the ability to verify any treaty banning ASATs will become next to impossible.

The time to ban anti-satellite weapons is now; we cannot afford to wait.

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[From the Chicago Tribune, Mar. 16, 1984]

## Let's Forgo Space Weapons

(By Joseph W. Clifford)

The military is on the verge of dominating the U.S. space program with initiation of an extremely costly and senseless race with the Soviet Union in outer space.

Arms control talks have broken down, although both countries have expressed the desire to discuss "realistic" proposals. This highly dangerous stalemate can be broken propitiously by a positive U.S. response to the Soviet Union's offer to negotiate a treaty forbidding the testing or deployment of antisatellite [ASAT] weapons, starting with a moratorium on their testing. Concurrently, the United States should declare that its research programs on defensive space-based systems will be confined to making certain that the Soviets spring no technological surprises.

Recently a TV newsman announced that the U.S. had "tested a new satellite-killer" in the same upbeat tone that had been used for bulletins on the space shuttle. This is but one indication of a deeply deplorable situation: that the daring astronaut program, the beneficial space shuttle and the projected space station are being subordinated to research on space weapons.

For more than 20 years, the U.S. policy of giving predominance to the civil development of space has enhanced national prestige and produced economic and technical benefits. Now the military space budget is larger than NASA's, and more than 25 percent of NASA's budget supports military purposes. The proposed 1985 military budget and the new five-year defense plan contain five large programs for "star wars" research on such weapons as space mines, super-powerful lasers and giant orbiting mirrors to direct laser beams.

No leading scientist outside the military-industrial complex has supported the ability of such devices to defend the country against ballistic missiles, while many scientists have spoken out against the threat to satellites.

Communication, navigation, weather and other satellites supply valuable information for both civil and military purposes, including command and control systems and early warning of a nuclear attack. Anti-satellite weapons could be used to destroy military satellites at the outset of a major attack, thus upsetting the strategic military balance. In addition, satellites are vital to the verification of arms control agreements and attempts to limit any conflict.

The U.S. plans two more ASAT weapons tests in 1984 and several during 1985, and it expects to achieve operational readiness before completion of the series of tests. Once this point is reached, there will be no way to verify a ban on the deployment of this satellite-destroying device, as it can be launched from any normal military aircraft. Accordingly, there is little more than a year left in which to stop this dangerous military program.

The USSR proposed a moratorium on ASAT testing and submitted a draft treaty on space weapons last August. These proposals, which prohibit the use, threat of use, testing and deployment of all space-based weapons and all types of ASATs, seem to indicate the Soviet Union's serious interest in preventing an arms race.

The U.S. has not responded, but a large group of U.S. scientists has urged a positive response and prepared a model treaty banning the destruction or disabling of space objects and the orbiting and testing of ASATs. Congressional support is growing, in spite of the distraction of an election year.

It is crucial that the Reagan administration make a strong effort to reach an agreement with the USSR to halt the development and deployment of all weapons in space. Their deployment would weaken the national security on both sides and undermine the possibility of controlling the nuclear arms race. It is high time to forgo the dangerous, useless and expensive space weapons as a start on real nuclear arms control.

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[From the Los Angeles Times, Apr. 9, 1984]

## Double Standard in Space

President Reagan set two different standards in as many days last week for deciding whether it makes sense to attempt to write arms-control treaties.

On Wednesday he offered to negotiate a worldwide treaty that would prohibit the "production or possession" of chemicals that can kill or cripple soldiers or civilians. Nerve gases and other deadly chemicals can be produced in garden-variety pesticide plants and probably packed around in canisters the size of basketballs. Making sure that nobody in the world produces or possesses such chemicals is a monumental task—one in which mankind surely has a life-and-death stake but one that the President scarely mentioned.

Two days earlier he rejected proposals to negotiate a treaty to ban the use of weapons in outer space, saying that verification was virtually impossible, "if not actually impossible." Yet making certain that the Soviet Union does not test a new generation of satellite-killer—and therefore would not be in a position to use one—would be child's play compared with suppressing the production or possession of deadly chemicals.

The President has awesome responsibilities as commander-in-chief, not the least of which is to steer a steady course in matters as important as arms control.

Arms control is not, nor was it ever intended to be, a substitute either for arms that hostile nations need to maintain a relatively peaceful standoff in a dangerous world or for efforts to resolve conflicts short of battle.

The intellectual underpinnings of arms control remain what they were 20 years ago—an extension of security policy designed to reduce the chance of war, reduce the damage of war if the world falls short of the first goal, and reduce the burden of arms on a nation's economy.

In recent years these worthwhile goals have too often been brushed aside by strategic planners who seem to argue that the most important goal of arms control is verification of compliance—no small order, to be sure, in a society as tightly closed as that of the Soviet Union.

Still, giving up the possible benefits of arms control for that reason is like refusing medical treatment unless your doctor signs a written guarantee that you will live forever.

Applying the more rigid standard of compliance to weapons in space means that the United States will proceed with tests of an anti-satellite system far more sophisticated than one that the Soviet Union has tested periodically since the early 1970s, with mixed results. If history is any guide, further U.S. testing will lead the Soviets to start working on a second generation of their own satellite-killer, trying to match or outperform the American version.

The horrors of chemical warfare have been known and feared since World War I, and civilized nations have forsworn the use of chemicals since then. The dangers of weapons in space may seem more remote, but the possibility of a space weapon's accidentally triggering a nuclear confrontation are no less real.

The President's attitude toward verification of compliance with a chemical-warfare treaty is sound. Verification is a matter for negotiation, not a barrier to negotiation. His insistence on a written guarantee in the matter of satellite-killers is not sound. If he were to apply a single standard to arms control, he could direct negotiations on weapons in space to begin tomorrow. If he chooses not to do so, Congress must.

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[From the Los Angeles Herald Examiner, Apr. 4, 1984]

## Satellite Destroyer—We Mustn't Fall Behind—or Give Up on Negotiating

At first glance, President Reagan seems to have compelling reasons for his skepticism about the possibility of negotiating a ban on anti-satellite (ASAT) systems with the Soviet Union. In a report to Congress this week, the administration claimed that verifying Soviet compliance would be impossible and asserted that Moscow already has a technological edge.

Ominous as that may sound, it hardly justifies the administration's refusal even to talk with Moscow about a treaty. The Soviets are known to have developed at least one ASAT System—a booster-launched vehicle intended to track and destroy orbiting U.S. satellites. But intentions do not always match performance, and the Soviet system reportedly has failed 11 of its 20 tests. Moreover, even if one assumes the worst—that the Soviets are further along than anyone suspected and may now have one or two other systems (as Sen. John Warner asserts, based on classified reports)—that would seem to be all the more reason for us to negotiate.

The U.S., of course, has been doing more than refusing to talk where ASATs are concerned. Former Defense Secretary Harold Brown announced back in 1977 that the Soviets had attained a limited anti-satellite capacity. Since then, we've developed and successfully tested (against imaginary points in space, not actual targets) an anti-satellite missile mounted on an F-15 fighter. So far, many experts, impressed with the weapon's mobility and technology, rate it superior to the Russian system.

The fact that the Soviets use the same facilities for ASAT testing as for their non-military space program lends credence to the administration's concerns about the difficulty of verifying compliance with an ASAT treaty. But verification problems are inherent in all arms-control negotiations. The point is that it makes sense, as we proceed with our own development, to make a good-faith effort to keep the arms race out of space, provided that a mutually acceptable method of verification can be found.

The result of refusing to take this two-track, develop-and-negotiable approach would probably be the same as has been the case with other strategic systems, from submarine-launched ballistic missiles to

MIRVs. Time after time, we thought we could attain superiority; and, time after time, the Soviets responded to a U.S. advantage by seeking to catch up.

It may be possible to avoid this cycle in the ASAT race. The Soviets have suggested that an attempt be made, and, with no illusions at all about the purity of Kremlin motives, we think the president should take them up on the idea.

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[From the New York Times, Apr. 16, 1984]

### HEPHAESTIAN FOLLY IN SPACE

When Hephaestus forged a cunning net to catch one of his fellow Greek gods in bed with the wrong goddess, the technology was successful—but the embarrassed victim was so enraged he threw the technologist down from heaven, leaving him with a permanent limp.

The Reagan administration has its share of overweening technologists who cannot foresee the consequences of their actions—most notably, those bent on building a device to shoot down Soviet satellites. They are renewing a race that will eventually destroy the vital sanctuary now enjoyed by American satellites used for military communications and early warning of attack.

American surveillance satellites compensate for the grave disadvantage of an open society menaced by a militarized close society. They monitor Soviet activities and compliance with arms control treaties. At present the Soviet Union's erratic antisatellite rocket can't reach the most vital American satellites, all in high orbit. Development of a better rocket would give the Russians an important edge.

Fortunately, they now seem of a mind to quit the race. They have offered a moratorium on further antisatellite tests and have proposed an antisatellite treaty that, while unacceptable in present form, provides a basis for serious discussion.

No doubt they've been brought to the table by a novel antisatellite device being developed by the Air Force. So ingenious is the technology of the new weapon that it can be delivered in a 18-foot missile launched from a plane. The antiquated Soviet device is a 150-foot rocket.

Yet instead of seizing on this opening, the Administration, in a rambling report to Congress, asserts that treaty talks would be unproductive because the problem needs more study. The American ambassador to the Geneva disarmament conference last week accused the Soviet Union of trying to preserve a one-sided military advantage in space.

The Air Force, however, is nearing a point of no return. Once its tests are completed, its antisatellite missile will be so far in advance of its Soviet counterpart that the United States will possess a onesided advantage. Soviet interest in a treaty will probably dry up and the race resume.

An agreement that halted further testing of antisatellite weapons would leave the Russians with a cumbersome weapon that threatens only low-orbit photoreconnaissance satellites. That threat could easily be countered, and the vital high-altitude satellites would keep their sanctuary.

Some may oppose a ban on further tests of antisatellite weapons because it would also curtail certain tests needed to develop a Star Wars defense shield against ballistic missiles. That's a foolish reason to put American satellites in jeopardy. The Air Force says its weapon would be needed to destroy the Soviet satellites that spy on the American fleet. But even if the satellites cannot be countered otherwise, that hardly outweighs the advantage of keeping American satellites inviolate.

High technology can improve or impair defense, depending on the nature of the race. The Air Force's clever new missile for shooting down satellites, and the Administration's refusal to negotiate, threaten to leave American security with a permanent limp.

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[From the Philadelphia Inquirer, Apr. 13, 1984]

### STOP SATELLITE KILLERS AT THE NEGOTIATING TABLE

The world stands at a crossroads in its uses of outer space. Decisions the United States and the Soviet Union make now will dictate whether this frontier can be protected or turned into earthlings' next battleground.

One such decision came early this month when President Reagan told Congress he would press ahead with development of weapons, called ASATs, designed to destroy satellites.

Previous U.S.-Soviet talks on ASATs halted in 1979 after the Soviet invasion of Afghanistan. In 1983, the Soviets, despite the breakdown on nuclear arms talks, proposed a treaty dismantling existing ASATs and banning new ones. Congress had required the administration to show "good faith" efforts to negotiate a ban on ASATs, which the Soviets have and the United States is testing. But Mr. Reagan said the United States would not negotiate on an ASAT ban because it would be virtually impossible to verify.

This decision must be reconsidered. For one thing, the impossibility of verification is sharply disputed: Many leading American scientists say a workable ASAT treaty could provide adequate verification safeguards. More important, the very real difficulties of verification should be addressed at the bargaining table, not used as an excuse to avoid it.

Attention has focused on development of satellite-killer weapons because it is at a critical stage. Space satellites have become the nerve center of superpower military operations. But so far neither the Soviets nor the Americans can threaten satellites in high earth orbits where the most important early warning and communications systems are based.

The Soviet anti-satellite weapon at present is slow, ground-based and rather crude; most U.S. satellite are above its range. The United States is developing a swifter, much more sophisticated weapon, launched from an F-15 fighter plane. At its present stage of development the U.S. ASAT would not threaten high orbit satellites but it has the potiential to do so. Many experts fear that perfection of the U.S. weapon will spark on unchecked race with the Soviets for better satellite killers.

Why is the administration so determined to press ahead with ASAT development? First, because it believes the United States must have a fully tested ASAT to deter the Soviets from using theirs. Second, because it says a ban cannot be verified.

Some experts contend an unmentioned third reason for the administration's push on ASATs is that a treaty banning them would hinder work on President Reagan's equally controversial "star wars" space defense plan.

The merits of tit-for-tat countering an inferior Soviet ASAT (as opposed to blocking its potential use through other forms of military threat), must be measured against the danger of space weapons race. The United States has the most to lose in such a race. America depends on its more technologically advanced satellites more heavily than does the Soviet Union, both for peaceful scientific and commercial uses, and to provide communications, navigation, intelligence and targeting information for the military.

Moreover, while the United States has a lead in space technology, it could evaporate under a determined Soviet effort, as has happened before.

As for verifying a ban, no one would deny the difficulties. Nor can verification ever be perfect. But claims that reasonably effective verification is impossible are challenged by experts like the Union of Concerned Scientists, which includes former top CIA, military and intelligence figures. They say that any secret attempts by the Soviets to upgrade or add to its present system would require testing that would be detectable. They also believe that use of non-ASAT weapons or space vehicles to threaten satellites would be detectable and that a Soviet "breakout" (breaking the treaty and quickly assembling an illegal ASAT system) would be much harder than the administration asserts.

When calling verification "impossible" the administration often refers to a "comprehensive" ASAT ban. Even the most ardent ASAT foes don't demand a total ban because they know it can't be achieved. But there are ways to address the problem short of that as even Mr. Reagan noted. Congress must continue to press him to negotiate on ASATs before the race for satellite killers moves beyond control.

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[From the Los Angeles Times, Apr. 4, 1984]

### INFINITE SHOOTING GALLERY

President Reagan says that he will go ahead with plans to turn outer space into a shooting gallery. His casual rejection of pleas to keep violence out of space is foolhardy in and of itself. What it suggests about the Administration's real views on controlling arms of any kind may be worse.

Reagan told Congress this week that he will not even discuss a proposal by the Soviet Union to negotiate ways to keep satellite-killers out of space. That is no surprise; a Pentagon official said as much two weeks ago. But it is a blow to those who see a virtually clean slate on which to write a two-way prohibition on violence in outer space, a far different picture from the nuclear standoff on Earth and the deadly silence at other arms-control bargaining tables.

The President keeps saying that the United States is willing to resume talks on controlling short- and long-range missiles, of which there now are thousands deployed by both major nuclear powers. His refusal to talk about controlling a handful of weapons that either do not work very well as in the case of the Soviet Union's on-again-off-again anti-satellite program, or have not been fully tested, as with the American satellite-killer, raises serious doubts about the value that the Administration places on arms control of any kind.

The U.S. system, which is about two years from deployment, involves launching small rockets at targets in space from high-flying F-15 fighter planes. The Soviet satellite-killer is more cumbersome, using the space equivalent of floating mines that pull along side targets and blow up, taking the targets with them. Soviet tests have not been spectacularly successful.

Reagan's argument for his program depends heavily on a number of straw men. Reagan told Congress that the United States will press ahead with its satellite-killer program in part because there are "significant" difficulties with verifying Soviet compliance with a treaty that would ban weapons capable of destroying satellites—notably those used by both countries for military reconnaissance.

But nobody else is talking about an absolute ban. Even the strongest advocates of arms control in space acknowledge that no treaty could ban research or possession of such weapons. Without on-site inspection, it would indeed be impossible to know who was designing and building what weapons in secluded laboratories. And there are as many good reasons for our not wanting Soviet inspectors tramping around our bases as there are for their not wanting to let American inspectors in.

But a treaty that banned testing could be effective. One trademark of Soviet military research and development is cautious, plodding progress, never deploying anything new until it has been tested over and over. A ban on tests, which could be spotted from U.S. satellites, could keep Soviet weapons out of space, even if Moscow went ahead with research, as this country undoubtedly would.

The President said that Soviet proposals for a ban on satellite-killers are full of "ambiguities and loopholes." But nobody wants him to whip out a pen and sign the Soviet draft. They want him to try to negotiate a treaty without loopholes.

The message says that the United States must continue to "protect against threatening measures." Again, the Administration system is not designed to fend off Soviet satellite-killers but to kill Soviet satellites. America already is trying to make U.S. satellites less vulnerable—the only way to protect them against threatening measures.

Congress appropriated $19 million for further work on the U.S. system last year, but there were two strings attached. One required the Administration to spell out its plans to negotiate an arms-in-space treaty before it could spend the money. Even the rejection puts Reagan in technical compliance with that part of the law. The other string, which passed the Senate on a 91-0 vote, requires the Administration to start negotiations on a treaty before it test-fires any missile at a target in space. Reagan obviously will try to cut that string.

Congress must stick with its position. The fact that the President brushed aside the doubts of Congress about satellite-killers this week sets the stage for a full debate not only on weapons in space but also on arms control generally. No issue in this election year is potentially more important.

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[From Science, Oct. 28, 1983]

## Administration Resists Demands for ASAT Ban

### ARGUMENTS FOR A BAN ON ANTISATELLITE WEAPONS GAIN AN INCREASINGLY SYMPATHETIC HEARING IN CONGRESS, BUT REAGAN'S APPOINTEES SHOW LITTLE ENTHUSIASM

(By R. Jeffrey Smith)

Five years ago, for principally selfish reasons, the United States proposed to sign a treaty with the Soviet Union that would have stymied the development of weapons capable of efficiently destroying satellites in outer space. The general idea was that such a treaty was needed—in light of technological developments then on the horizon—to ensure the continued survival of satellites that form the basis of strategic deterrence and arms control verification. A subsidiary motivation was economic: such an agreement would close off costly and unnecessary competition in a challenging area of weapons design.

Despite the considerable appeal of such a treaty, the United States and the Soviet Union were unable to come to a quick agreement, and the talks petered out in the aftermath of the soviet invasion of Afghanistan. As a result, the development of efficient satellite killers is now nearly at hand, and no agreement on their abolition is within sight. This autumn, the United States will conduct the first space test of a device that can potentially kill critical early warning and military communications satellites orbited by the Soviet Union (Science, 14 October, p. 140). The Soviets, meanwhile, are experimenting with new kill mechanisms on their existing antisatellite weapon, and are threatening to develop an ASAT identical to that now under construction by the United States. Both nations are also working aggressively on more advanced ASAT's, which could in theory use laser beams to destroy orbiting satellites from a great distance. This contest will cost the United States tens of billions of dollars.

A growing number of scientists have become concerned about the size of these expenditures and fearful about where these endeavors will lead. "We believe that the testing or deployment of any weapons in space—in part by threatening vital satellite assets—significantly increases the likelihood of warfare on earth," says a petition circulated last spring by Richard Garwin of IBM and Carl Sagan of Cornell University. "We join in urging the United States, the Soviet Union and other spacefaring nations to negotiate . . . a treaty to ban weapons of any kind from space, and to prohibit damage to or destruction of satellites of any nation." The petition has been signed by 36 scientsits and retired military officers, including Lee Dubridge, science adviser to President Nixon; Noel Gayler, former director of the National Security Agency; James Van Allen, president of the American Geophysical Union; Thomas Donahue, chairman of the Space Science Board at the National Academy of Sciences; and Margaret Burbidge, chairman of the board of AAAS.

Congress is also becoming interested in stemming the migration of weapons to outer space. Last July, the Senate Foreign Relations Committee approved a resolution introduced by Senator Larry Pressler (R-S.D.), urging the Reagan Administration to negotiate a prompt moratorium on ASAT tests, followed by a "mutual and verifiable ban" on ASAT's, and then by more general prohibition on all space-based or directed weapons systems. "This is a unique opportunity to halt a major arms race before it gets off the ground," says committee chairman Senator Charles Percy (R-Ill.). "Once started, it may prove nearly impossible to stop." A similar resolution introduced in the House by Representative Joe Moakley (D-Mass.) has garnered 124 cosponsors.

So far, these pleas have gone unheeded by the Reagan Administration, which habors considerable skepticism that a verifiable ASAT ban is possible, much less desriable. Kenneth Adelman, the director of the Arms Control and Disarmament Agency (ACDA), noted last May, for example, that "there are difficult technical problems, including verification problems, that constitute fundamental obstacles to progress in this area. . . . These daunting problems have not been resolved, and we should not rush into negotiations on these subjects until we are ready with verifiable proposals that will enhance national security." He also noted that an ASAT ban would severely limit the Pentagon's ability to destroy Soviet satellites that are used to direct weapons against the U.S. forces. "I am not saying there is an overriding concern but there is concern. Thus, there is a dilemma as to whether arms control agreements that would restrict our ability to deal with such satellites are in our national interest."

To date, the Administration has refused to conduct either bilateral or multilateral negotiations on ASAT's, despite the repeated urgings of various European allies—led by Italy—whose own satellites would be endangered by a shooting war in space. Until recently, it was opposed even to the establishment of a formal working group on outer space arms control under the auspices of the United Nations Committee on Disarmament in Geneva. "We want to ensure that, if established, it would usefully undertake full discussion of the relevant issues," Adelman explained last May. This task is of course complicated by the fact that, after studying the matter for several years, the Administration says that it remains unsure what the relevant issues are.

The Soviet Union, in contrast, has recently expressed enthusiasm for space arms control negotiations, and has presented a draft treaty to the United Nations that would require the dismantling of existing ASAT systems and prohibit the development of any future spacebased weapons. In August, at a meeting in Moscow with a delegation from the U.S. Senate. Soviet Premier Yuri Andropov also promised to suspend tests of the Soviet ASAT so long as the United States refrains from "stationing in outer space antisatellite weapons of any type"—an ambiguous phrase that may refer to scheduled testing of the new U.S. ASAT stationed on F-15 jet fighters.

Independent analysts such as John Pike of the Federation of American Scientists say that these initiatives go a long way toward satisfying earlier U.S. complaints. During the formal negotiations in 1978 and 1979, for example, U.S. negotiators were angered by the Soviets' refusal to include satellites orbited by third countries (such as China or the members of NATO), within the scope of a treaty. They also were upset by a Soviet claim that any nation could act against satellite engaging in "hostile or pernicious acts"—a phrase that was generally considered dangerously ambiguous. The United States had also objected to language in a previous draft Soviet treaty that could be interpreted as permitting the use of force against space objects unilaterally regarded as out of compliance with the treaty provisions. None of these objectionable ideas survived in the latest Soviet draft, which states clearly that "it is prohibited to resort to the use or threat of force against space objects in orbit around the earth, on celestial bodies or stationed in outer space in any other manner." Apart from any other considerations, Pike says, "the scope of the new proposals seems to suggest a very real Soviet interest in dealing with the major issues posed by the space weapons competition."

Despite the apparent improvements, the Administration responded negatively to the diplomatic initiative at a State Department press conference on 25 August. Spokesman

Alan Romberg noted that, although it was being given careful study, "our preliminary examination . . . suggests that inadequate verification is one of its major weaknesses." In particular, he said it would be "nearly impossible to verify through national technical means alone the dismantling and destruction of the Soviet ASAT system" because it sits atop a rocket booster, the SS-9, that is frequently used for other missions. "We do not know how many . . . ASAT interceptors have been manufactured, and it would be relatively easy for the Soviets to maintain a covert supply of interceptors for use in a crisis. Since satellites which serve U.S. and allied national security are very few in number, any Soviet cheating on an ASAT agreement, even on a small scale, could pose a prohibitive risk."

Pike responds by acknowledging that verification of a ban on possession of ASAT's would indeed be difficult, if not impossible. "Clearly, they are correct," he says. "Even if all the personnel of the CIA, the FBI, and even the Post Office were loosed upon the Soviet Union to roam the country at will, the task of hiding a handful of satellites no larger than a small car would still be child's play." But this is a bogus issue, he suggests, because there is actually no need to seek a ban on ASAT possession. Verifiable restrictions on use, testing, and deployment would be sufficient to undermine confidence that even hidden ASAT's could be effectively used, he says.

Kurt Gottfried, a physicist at Cornell who recently directed a lengthy study of ASAT's for the Union of Concerned Scientists, makes a similar argument. "A treaty that forbids possession presents knotty problems of verification that would require lengthy negotiations," he told a congressional hearing last May. Along with nine other scientists and weapons experts who worked on the UCS report, Gottfried recommends a more modest goal: the United States and the Soviet Union should agree merely to halt all testing of "weapons that can destroy, damage, render inoperable, or change the flight trajectory of space objects."

As explained in the report, such an agreement would immediately freeze ASAT technology at current levels. The Soviets would be permanently limited to their existing system, which works only half the time and is incapable of threatening the communications and early warning satellites necessary for nuclear retaliation by the United States. Any attempts to improve the device or to build something sharply different would be seriously if not fatally handicapped by enormous operational uncertainties. "Tests or use of lasers or high-powered transmitters to damage satellite sensors or to burn out satellite receivers would [also] be banned." Verification will be straight-forward, according to the UCS report, because the United States has in place or under development a worldwide network of sophisticated cameras, radars, and infrared sensors capable of peering deep into outer space; and also because any illegal ASAT tests would create "a host of telltale signs," including and observable launch; transmissions to and from the test vehicle; and possibly some target debris, heating, or displacement.

One aspect in particular of the UCS proposal sticks in the craw of Reagan Administration weapons officials. As even the UCS acknowledges, a prompt ban on ASAT tests leaves the United States without any data on the success of its fancy new device, while the Soviets would be left with useful results from several years of testing its device. As Adelman noted last spring, "it is an asymmetrical relationship and it becomes a serious obstacle at achieving an equitable space arms control agreement. . . . [We cannot] eliminate the decade of Soviet ASAT experience." UCS panelists respond by noting first that the Soviet tests have hardly been a smashing success, and second that a new and even worse asymmetry will be created if tests of the U.S. ASAT are allowed to proceed, due to its vastly superior capabilities (it is smaller, faster, and capable of hitting more important satellites). Garwin predicts that "the Soviets involved in building their own ASAT's will say . . . 'we have to go one more round' " in order to match the U.S. system, and a new arms race will be under way.

Despite the appeal of this argument to some members of the Senate Foreign Relations Committee and the cosponsors of the House resolution, Congress as a whole has listened harder to repeated Administration statements about the disparity in existing U.S. and Soviet ASAT testing experience. During the summer, for example, the House rejected by a wide margin a proposal to delay the initial U.S. test. It also rejected, by a slightly smaller margin, a proposal to delay the purchase of ASAT parts and testing equipment that require a long time to produce. Due to the concerted efforts of a few ASAT opponents, however, both the Senate and the House were persuaded to accept a provision in the annual defense authorization bill that requires a special presidential certification before the U.S. ASAT can be tested against an object in space. Specifically, President Reagan will be required to certify that the United States is endeavoring in good faith to negotiate an ASAT ban and that the initial test is "necessary to avert clear and irrevocable harm to the national security."

Although this is clearly not a high hurdle for Reagan to leap, it has had the effect of forcing his appointees to develop some evidence that negotiations on ASAT's are actually under consideration. Consequently, there has been a flurry of activity in quarters where the topic previously excited little interest. ACDA, for example, has begun to talk up a study of ASAT arms control options being prepared by a group of scholars under the direction of William Durch a research fellow at Harvard University. Durch says that ACDA acceded to his request for research funding last July and that a copy of his report is due on 1 February, shortly before the date of the second ASAT test, which involves a space-based target. ASAT arms control options are also under consideration by a formal interagency government working group, which is chaired by a Pentagon official. Measures under discussion reportedly include a treaty that bans only the use of ASAT's, not their testing or deployment, and a treaty that would limit both countries to systems now in advanced stages of development. Administration critics assert that the former would of course be meaningless in the event of U.S.-Soviet hostilities, and the latter would, for reasons already described, give the United States a substantial strategic advantage.

Hardly anyone who desires an ASAT treaty attaches much significance to the working group activity. General Charles Gabriel, the Air Force chief of staff, and Robert Cooper, the director of the Defense Advanced Research Projects Agency, have both publicly expressed opposition to an ASAT ban. A former ACDA official who has been following the issue closely asserts that virtually any significant treaty would conflict with the President's desire to conduct research on space-based antiballistic missile systems, which use similar technology. "It will require, at a minimum, a change in administrations" to achieve an ASAT ban, he says.

The proponents of such a ban believe that the United States is now at a critical juncture in its weapons invention, because successful tests of the U.S. ASAT will soon shatter any realistic opportunity for space arms control. Kurt Gottfried says there is a parallel between today's competition in ASAT's and the development of multiple independently targeted warheads, or MIRV's in the 1970's. MIRV's were developed by the United States in order to counter a primitive Soviet antiballistic missile system, and they provided temporary strategic advantage. But the Soviets soon developed MIRV's of their own, which made U.S. land-based missiles vulnerable to preemptive attack. "Today, at long last, there is general agreement that we would have been far better off had we abstained from introducing MIRV's", Gottfried says. "This lesson applies directly to antisatellite weapons. The Soviets have been both foolish and reckless to spend some 15 years nurturing a clumsy threat against a rather small portion of our satellites. Their major accomplishment has been to provoke us into building a far more sophisticated system. Our ASAT, if deployed, will give us a temporary advantage. But as with ballistic missiles, an ongoing competition in space weaponry will, inexorably, reduce the security of both sides. That should be clear to all by now. Or must we wait . . . a decade hence [to learn] that in 1983 the United States blundered once again by upping the ante in this deadly poker game?"

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[From the Washington Post, Apr. 4, 1984]

### QUEST FOR NUCLEAR SANCTUARY

It is no surprise to find that, a year after its unveiling, the president's bold proposal for a space-based defense against nuclear attack is under fire. The basic charges are that it would make the Soviets fear the United States intended to attack, that the irreducible weak points in even the most successful imaginable system would leave the country devastated and that the eventual costs would be in the hundreds of billions. What is a surprise is that the informed support for the proposal, in the defense bureaucracy and among defense thinkers, is so qualified. This bears on the current question of the direction and pace of research.

It helps to recall how President Reagan defined his goal a year ago. He urged a quest for a shield so effective as to render offensive weapons obsolete. "I clearly recognize that defensive systems have limitations and raise certain problems and ambiguities," he said. "If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that." The secretary of defense and the White House science adviser continue to enunciate the initial goal to move from deterrence to defense so as to afford the country nuclear sanctuary.

But the Pentagon's research chief has testified he cannot foresee the day that defensive weapons will not be "paired with offensive systems." Both blue-ribbon panels appointed by the White House to study the idea concluded that since perfect protection cannot be assured, offensive weapons will remain essential.

As a result, in place of a claim that eventually missile defense will be foolproof, the claim is now made that anyway it will strengthen deterrence by imposing new uncertainties on a would-be attacker. The president's goal of ending the current risk to military targets and civilian populations is being eased offstage. Now the research money is being tipped to lesser "intermediate" objectives—guarding against accidental launches, protecting MX holes, reducing casualties, and so forth.

It is widely granted that an American move will induce a Soviet move. The Soviets, one of the reports says, are "better prepared than we" to proceed.

"We have a nation that can indeed produce miracles," the new head of the program said the other day. Precisely so. If you believe in miracles, you may wish to consider supporting the president's five-year $18-to-$27 billion research program. Otherwise, you will want to take it easy.

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[From the New York Times, Apr. 10, 1984]

### COURTING A NEW ARMS RACE

(By Peter A. Clausen)

CAMBRIDGE, MASS.—President Reagan began the year with professions of good faith on arms control. But on a key test of this new conciliatory tone—the control of space weapons—he continues to stonewall.

Hiding behind dubious arguments about verification, the Administration refuses to negotiate with the Soviet Union to restrain anti-satellite weapons. In January, the Air Force began testing an anti-satellite weapon, which could squander future hopes of controlling these weapons. Meanwhile, America is pressing ahead with the President's "Star Wars" program—an implusible quest for weapons to shield the American people from nuclear attack by intercepting Soviet missiles in flight. These ill-advised policies foreshadow a new space arms race at great peril to our security.

Anti-satellite weapons are a bad idea whose time, unfortunately, seems to have come. Development of them threatens the satellites we rely on for warning of attack; monitoring arms control agreements; and military command, control and communications. The vulnerability of such satellites to attack would be a highly provocative factor in future United States-Soviet confrontations, and would reduce the chances of bringing hostilities under control if nuclear conflict actually began.

The Administration rejects talks on anti-satellite weapons on the pretext that restrictions on them would be impossible to verify. It is true that an absolute ban on them would pose serious verification problems, but such a ban is not critical. A freeze on testing and deployment could readily be monitored and would achieve the key objective of preventing the further development and perfection of these weapons.

But the opportunity for such a freeze is fleeting. The Administration's verification argument could become a self-fulfilling prophecy if American testing continues. Our anti-satellite weapon is launched from a small missile carried by an F-15 fighter plane. Once operational, this weapon would be very difficult to monitor, since there are no obvious differences between F-15's equipped with the device and those not. In contrast, the Soviet anti-satellite weapon is placed in orbit by a huge booster rocket operating from known launch sites. Its previous tests have been closely watched by America, and such a weapon could not be clandestinely deployed.

Neither the American nor the Soviet anti-satellite weapon can now attack the key communications and early warning satellites stationed in high orbits. But this will change if anti-satellite-weapons development continues. A test ban is needed soon to halt development of these weapons while they remain relatively primitive on both sides, and before deployment of our weapons undermines future control possibilities.

Why then does the Administration shun negotiations? For two reasons having little to do with verification. The first is straightforward, if shortsighted: The Administration wants the option of attacking Soviet satellites, even if the price is to forfeit any restrictions on Soviet anti-satellite weapons. The second reason is the "Star Wars" connection. Development and testing of the weapon offers a technological stepping stone to missile defense systems operating in space. This tactic is also legally convenient, since missile defenses are banned by the 1972 Anti-Ballistic Missile Treaty, while anti-satellite weapons remain unrestricted. America plans to exploit this loophole in developing "Star Wars" weapons and is loath to see it closed.

The Administration's approach amounts to playing games with the A.B.M. Treaty, the cornerstone of nuclear arms control. It also undercuts recent American accusations that the Soviet Union is violating the treaty, and precludes any serious attempts to resolve that issue. There is a real danger in all this that the A.B.M. Treaty could come unraveled. This outcome would be all the more tragic because it would be in a lost cause: Independent scientists agree that the hope of defending ourselves against devastation in the event of nuclear attack is an escapist fantasy. It is dangerous fantasy as well, since the development of missile defenses will inevitably stimulate few offensive arms buildups and make the nuclear balance shakier by multiplying fears and suspicions on both sides.

To prevent a new arms race in space. America must shift course. Two steps are critical: Suspend testing of anti-satellite weapons and start megotiations to halt the further development of them, and give up the costly, futile and dangerous pursuit of "Star Wars" missile defenses. These actions would signal to Moscow that Washington stands by the A.B.M. Treaty and would put us in a position to insist—as we should—that Moscow do the same.

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[From the Los Angeles Times, Apr. 9, 1984]

### "STAR WARS" HAS BEEN BADLY OVERSOLD

#### REAGAN'S VISION OF SUPER DEFENSE NEEDLESSLY SHAKES THE BALANCE

(By Ernest Conine)

President Reagan, though sometimes a clumsy diplomat, is a good politician. Otherwise he would not have been twice elected governor of California, then gone on to win the nation's highest office. Nor would he now be in such an excellent position to win reelection as President in November.

That being true, it is hard to understand his bungling of the "star wars" issue. Both the President and Defense Secretary Caspar W. Weinberger have indulged in sometimes careless exaggerated rhetoric about the purpose and prospects of a stepped-up research-and-development program on ballistic-missile defenses. By doing so they have puzzled and frightened America's allies abroad and handed the Soviet Union a propaganda windfall; they have also given additional fuel to critics at home—all unnecessarily, and all without contributing a thing to national security.

Keep in mind that a sizable research program on possible defense against nuclear-missile attack has been going on for years before Reagan ever took the oath of office. And properly so.

The 1972 ABM treaty drastically limited the actual deployment of anti-ballistic missile systems by the United States and the Soviet Union. But neither side has been willing to run the risk of being caught flat-footed if the other suddenly scrapped the treaty and began to deploy an ABM system in order to tip the nuclear balance.

So both great powers have continued to do research-and-development work on missile-defense systems. Such activities do not violate the 1972 treaty.

Considering that the Soviets have begun to do things that bend if they do not break the treaty, no one should have blamed Reagan if he had announced an acceleration of the R&D program on ballistic-missile defense and warned the Russians to abide by the ABM agreement. But he went further.

In his March, 1983, speech on the subject, the President conjured up the vision of an America—and ultimately of a world—free of the threat of nuclear destruction. In his words, a strategic defense program could give us the means of rendering . . . nuclear weapons impotent and obsolete."

If the English language means anything, the President was clearly holding out the prospect of a missile-defense system capable of protecting American cities from nuclear destruction in event of a large-scale missile attack.

Weinberger reinforced that impression when he described the Administration's goal as "a thoroughly reliable and total" defense against nuclear missiles.

Any President must feel cold chills at the thought that, as things stand, this country's only defense against missile attack that would kill tens of millions of Americans is the threat to kill tens of millions of Russians in return. The idea of a missile-defense system that would not hold a protective umbrella over our heads should be alluring to us all, not just to the President.

The problem is that in order to protect cities from attack an ABM system must be nearly perfect. If even a small proportion of the Soviet Union's 9,000 strategic nuclear warheads got through, millions of Americans would die. And almost nobody, even among the most enthusiastic proponents, believes that achievements of a leakproof system is likely.

Any serious effort to build such a system, rather than merely to conduct research and development as an insurance policy against a Soviet abrogation of the ABM treaty, will be enormously expensive.

The Pentagon estimates that it will require an expenditure of $26 billion over a five-year period to explore alternative technologies and to enable whoever is President in the early 1990s to decide whether an actual missile-defense system should be built.

If the answer is yes, the ultimate price tag is anybody's guess. Estimates run as high as half a trillion dollars—this for a program that, according to most knowledgeable defense scientists in and out of government, couldn't be relied on to save the American people from nuclear destruction, anyway.

Given a large enough development effort, there is a better chance of developing a system that would stop, say, 40% or 50% of incoming warheads aimed at this country's land-based strategic missiles. That wouldn't protect the populace, but it might introduce enough uncertainty into Soviet calculations to keep the Kremlin deterred from any thought of a surprise attack.

This more limited objective is in fact the most that most of Reagan's own advisers think is possible. But even here there is a downside.

To begin with, the Soviets might try to offset the effectiveness of such a missile-silo protection system by building more missiles which they could do more cheaply than we could improve the ABM system. They could also place more emphasis on submarine-launched cruise missiles that could be countered only by an expensive U.S. air-defense network that does not now exist.

Obviously such a train of events would be inconsistent with the stated U.S. goal in the strategic-arms negotiations, which is to bring about a reduction in numbers of warheads on both sides.

Beyond that, as Weinberger was reminded by this country's allies again last week talk of a limited ABM system disturbs the Europeans on grounds that (1) it smacks of an American attempt to avoid the consequences of a nuclear war in Europe, and, (2) by ensuring that the Soviets would build a comprehensive ABM system of their own, it could erode or destroy the deterrent value of the independent French and British nuclear forces.

Again, Reagan could simply have asked Congress for more money to pursue our expanded research-and-development program as a hedge against Soviet abrogation of the AMB treaty and let it go at that. After all, by the Administration's own optimistic timetable, we are talking about a weapon system that wouldn't be ready before the 21st Century.

By talking prematurely and unnecessarily in terms of changing this country's entire strategy in a way that could introduce new instabilities into the balance of terror, he has done a disservice to himself and to true national security.

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[From the Los Angeles Times, Mar. 29, 1984]

### LET'S USE CAUTION ON "STARS WARS"

#### A U.S. MONOPOLY IN SPACE TECHNOLOGY WOULD NOT LAST LONG

(By A. Fenner Milton)

For 20 years we and the Soviets have been naked before each other's nuclear arsenals. If the new Soviet party chief, Konstantin U. Chernenko, pushed the button, 8,000 nuclear warheads could rain down on America in 30 minutes—and we couldn't stop a single one. Our only option would be retaliation with our own warheads.

The very fact that we both lie open to massive nuclear assault is one reason nobody has pushed the button. Deterrence has served us well. But will it work forever? This is the first question to ask in any consideration of space-based defense against intercontinental ballistic missiles.

A year ago President Reagan offered us a vision of a different world. In his so-called "Star Wars" speech he told us that he was betting on technology to save America from nuclear war. In effect he told scientists that "you gave us unclear weapons, now make them go away," and called for a national commitment to develop a defense against ballistic missiles.

Spurred by the President's speech, the Pentagon studied the question of whether space-based systems can accomplish this mission, and its findings are embodied in the $24-billion Strategic Defense Initiative now before Congress. The point of this research-and-development package is merely to permit an informed decision in the early 1990s on whether to go ahead with "an engineering validation phase"—i.e., building real hardware. This package is only a small first step on the very long path toward a meaningful defense of our cities.

The path is long and uncertain because such a defense must deal with all vehicles that could deliver nuclear warheads. Also, the offensive side can use a whole bag of tricks to make defense more difficult. But, given our current vulnerability, on one can deny the appeal of the President's long-term goal of "rendering nuclear weapons impotent and obsolete." In fact, the goal is made even more attractive politically by recent progress with techniques that can shoot down missiles in flight without using unclear explosives.

There may be useful intermediate steps on the path to an effective population defense. Silo defense may be the most cost-effective way to be sure that our land-based missiles will survive. Even an imperfect defense of our command and communication systems could introduce enough uncertainty to make a first strike against them unattractive. And a defense of cities that would never stop a massive Soviet attack could protect them against accidental launches or third-party attacks.

However, there are pitfalls. Given the number of warheads on each side, defensive systems that could really save our cities may prove impossible at any price. What does it mean for a missile defense of our population to "work"—when only 1% of the warheads get through it? That's about 80 cities that you can write off. Then the defensive systems themselves need protection or they will be sitting ducks. And consider the fact that satellites might prove to be tempting targets for war in space. Even a poor ballistic missile defense system can be a good anti-satellite weapon.

Without firm controls on offensive forces, the deployment of any form of defense of large parts of the United States would undoubtedly accelerate the arms race. According to the orthodox U.S. view of deterrence, nothing could be more threatening than a combination of counterforce missiles and population defense. The first strike destroys most of the enemy's forces: defense takes care of the rest. As the defensive system is being built, the other side will take steps to preserve its ability to retaliate.

Each side's uncertainty about the effectiveness of the other's defenses will also fuel the arms race. Each will assume that the other has a working defensive umbrella, and each will spend billions looking for ways to puncture it.

The 1972 anti-ballistic missile treaty, which prohibits or severely limits deployment of all forms of ballistic missile defense, was designed to remove this uncertainty. If we move ahead with developing a missile defense system, we will eventually have to renegotiate the treaty or violate it. Abrogating it would set a dangerous precedent. If we are ever to arrive at an affordable and effective defensive posture, we will need to negotiate more extensive offensive force reductions than have been seriously considered so far.

In the short run we may have little choice but to proceed with research and development. The Soviets have demonstrated a growing lack of respect for the ABM treaty, having deployed a tracking radar with an ambiguous mission at Krasnoyarsk. If they deploy an extensive system in violation of the treaty, we would be forced to follow suit. Demonstrating out technical prowess now might give the Soviets an incentive to pull back from a unilateral treaty abrogation.

But in the long run we must proceed with care. No matter how great an advantage in space technology we could gain with an accelerated R&D program, we cannot assume that a U.S. monopoly could last long. It never has with any other system. We should proceed with one foot ready to brake and a watchful eye on problems associated with transition to a defense-dominated strategy. The important decisions on ballistic missile defense, which will involve unprecedented development costs and critical arms-control issues, will not come before the early 1990s. But the debate should start now, to ensure that a rational policy is not overwhelmed by events.

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[From the Washington Post, Apr. 11, 1984]

### "KILLER SATELLITES" SEEN SHIELDING AMERICA, NOT EUROPE—BONN WORRIED BY U.S. PLANS FOR SPACE WEAPONRY

(By William Drozdiak)

BONN, April 10.—The West German government is becoming increasingly worried that the Reagan administration's plans to explore the possibility of an antimissile defense system in outer space will cast new doubts on U.S. nuclear guarantees for the defense of Europe.

West German officials have expressed deep concern that Washington has virtually ruled out chances for a future accord with the Soviet Union that would ban space weaponry or "killer satellites."

The prospect that the United States will push ahead with research and eventual production of such arms, they said, could portend another agonizing debate about the nuclear protection of Europe only months after the controversial deployment in Western Europe of the first Pershing II and cruise nuclear missiles.

During last week's meeting of the North Atlantic Treaty Organization's nuclear planning group in Turkey, European defense ministers reportedly sharply questioned U.S. Defense Secretary Caspar W. Weinberger about whether "killer satellites" that might shield the United States from intercontinental missiles fired by the Soviet Union would leave Western Europe unprotected.

They suggested that the U.S. shield would create zones of unequal nuclear security within the alliance and lead to the "decoupling" of Europe from America, since the United States would no longer be putting its cities at risk to defend Europe from nuclear attack.

Weinberger reportedly sought to assure his European counterparts that it was technically feasible to build antitactical missiles that would protect Europe. He also was quoted as promising close consultations with the allies concerning the development stages of space weapons and any impact on the antiballistic missile treaty with the Soviet Union.

Weinberger argued that the United States needed to catch up with the Soviets in antimissile research, but he reportedly failed to alleviate skepticism among the European delegations.

"We got the impression that the administration has made up its mind on producing these weapons and is not thinking about arms control first," a West German official said.

On his return from Turkey, West Germany Defense Minister Manfred Woerner openly expressed concern that the U.S. effort to develop antimissile systems in space could "destabilize the East-West balance" and increase tensions with Moscow.

He strongly endorsed early arms control agreements between the two superpowers governing all space-based weaponry. "It is in the interests of all mankind that [the U.S. program] does not open up a new dimension of the arms race," he said.

While Woerner acknowledges that the United States may need to match Soviet research, he and other West German politicians have warned about the dangers of proceeding with the production of space weapons.

Franz-Josef Strauss, who heads the Christian Social Union, a sister party of Chancellor Helmut Kohl's Christian Democrats, cited the U.S. space weapons program as evidence that the U.S.-European partnership in nuclear security "is no longer functioning."

Karsten Voigt, the foreign policy spokesman of the opposition Social Democrats, predicted today that if Washington proceeds with plans to develop space weapons, the conflict between West Germany and U.S. interests would set off a storm of protests. He urged Kohl to express his concern to President Reagan about the risks of an arms race in space.

The Christian Democrats announced today that they will form a committee to study the impact that the U.S. space weapons program may have on Europe's security. Willy Wimmer, a party spokesman, said a primary purpose would be to determine if the protection of West Germany could be assured once antimissile systems were deployed in space.

Since returning from Washington last month, Kohl has abandoned his fruitless calls for a revival of détente through a meeting between Reagan and Soviet leader Konstantin Chernenko.

Bonn has been pressing for more accommodating western proposals in the Vienna talks on troop reductions in Europe as well as the Geneva negotiations for a ban on chemical weapons, but so far with little effect.

Space weapons development, however, is seen as a volatile field with critical consequences for West German and European security. "This is one area where we cannot afford to sit back and keep quiet," a West German diplomat said.

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[From the New York Times, Apr. 2, 1984]

### THE MIRAGE OF SPACE DEFENSE

In his "Star Wars" speech a year ago, President Reagan challenged scientists and engineers to design a space-based defense against Soviet missiles to "give us the means of rendering these nuclear weapons obsolete." An expert panel has now given a forceful response: For the foreseeable future, a total shield is technologically impossible.

A defense against strategic missiles has been sought for years. If there was any practical basis for Mr. Reagan's exhortation, it lay in new technical ideas—the X-ray laser developed under Edward Teller's auspices at Livermore or the ground-based excimer laser advocated by George Keyworth, a Teller protégé who is Mr. Reagan's science adviser.

Mr. Teller is often given credit for developing America's hydrogen bomb. But others, like Hans Bethe and Richard Garwin, also played important parts. Mr. Bethe and Mr. Garwin led the opposition to the antiballistic missile in the late 1960's. Now, as members of a Union of Concerned Scientists panel, they express vigorous skepticism about the X-ray laser and other aspects of the proposed defenses.

The X-ray laser is a one-shot device powered by a nuclear explosion. Its beam would shoot 2,500 miles across space and hit Soviet missiles before the warheads—and easily deployed decoys—separate from their booster rocket.

The scientists' panel points to a fatal flaw: Boosters can be redesigned to part from their payload low in the atmosphere, beyond the reach of the most powerful X-ray beam. Other lasers could, in theory, penetrate the atmosphere enough to damage a booster by heating its skin. But they would be effective only if the Russians neglected simple countermeasures, like spinning the booster to prevent the laser from burning a hole, or hiding its telltale flame with heat shields.

Destroying missiles in the booster phase is by far the best strategy for the defense. Only after reentry into the atmosphere sorts out the decoys is defense again feasible. At that late stage, some protection could be given to missile silos, but not to cities vulnerable to nuclear bursts at high altitude.

The science panel found that all conceivable defense weapons, from particle beams to the homing device used in America's antisatellite missile, have grave if not insuperable defects for a Star Wars system. So do platforms from which such weapons might be launched or directed. Platforms in space are sitting targets, and the gigantic mirrors needed to direct laser beams would be especially vulnerable. To cover Soviet silos round the clock would require hundreds of platforms. Just to lift their laser fuel into space would cost $70 billion.

Computer speed is another problem. It is unlikely that any software now conceivable could work fast enough to manage an antimissile battle. Since even minor holes in any defense would risk millions of deaths, no system is worth having unless it works almost perfectly. And since it could never be fully tested, perfection is unattainable.

Secretary Weinberger says he has no doubt that a "reliable and effective defense" will one day be possible. Other Pentagon officials have told Congress that the Star Wars program is designed only to develop technology and that no deployment decisions will be taken before 1990.

But a decision can be taken right now. It's worth spending something, but surely not $25 billion, on Star Wars research. Short of some giant new stride in technology, the old answer remains as cogent as ever: Defense is destabilizing. It stimulates the opposing side to develop offenses that will defeat it, and offers a premium to the side that strikes first. As far ahead as anyone can see, the most effective protection is agreement with the Soviet Union to limit the nature and quantity of nuclear forces.

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[From the Christian Science Monitor, Apr. 4, 1984]

### BRAKING THE "STAR WARS" MOMENTUM

It might come as a surprise to many Americans, but President Reagan's futuristic "star wars" missile defense system has a powerful lot of today's budget resources and development thrust in it already.

President Reagan was in effect acknowledging the momentum behind his administration's comprehensive space defense program when he told Congress this week that seeking a treaty ban on satellite weapons would be fruitless.

The White House says (a) the Soviets already are out in front on an antisatellite system, and (b) verification of compliance with any treaty would be nearly impossible. It likely well believes this.

But the larger point is that the administration's policy on space, missiles, and nuclear weapons is heavily driven by the military's views; arms control is secondary. Fundamentally, it's star wars that the administration is driving toward—a system that can destroy offensive weapons in flight. Many Reaganites think the Soviets are already off and running, so the United States must get on with its program too.

The President's Commission on Strategic Forces issued a report this week that tried to cut a reasonable line between the buildup and arms-control factions in the United States. It cautioned not to expect too much, too soon from talks. It criticized the nuclear freeze movement for potentially locking the U.S. into destabilizing, outmoded systems. But it also warned against tampering with the 1972 antiballistic-missile treaty by pushing anti-missile defense systems. It disputed the cynical view of some Reagan aides, that Washington is being duped by Moscow by arms negotiations, and it recommended a cautious step-by-step approach to arms control.

How odd and disappointing that the Democratic presidential race has so far mostly drawn a blank on this issue of U.S. space/missile defense programs, or has tried to oversimplify it into which candidate was first to favor a nuclear freeze.

The 1972 antiballistic-missile treaty rightly allowed for research and some development on defensive systems. The critical line it set was between testing and deployment.

The defense budget already shows terrestrial and extraterrestrial sections. The 1985 and 1986 department of defense budgets contain several billion dollars for "strategic defense initiatives"—almost a defense budget in itself. Antisatellite weapons are discussed as part of the overall strategic requirement. The mandate for a package of measures—including F-15 launched weapons and antisatellite and space weapons—is broad and ambitious. Administratively, the program is institutionalized in a Pentagon space command.

So much momentum has gathered that it may soon be more a question of *which* defensive system to build, rather than *whether* to build one at all, say experts concerned about the Washington trend. Trying to control so much activity by treaty can only become more difficult.

One can't be naive about Soviet intentions. What they have been doing all these years in space with their docking maneuvers bears suspicion.

But Washington has a duty to examine its own steadily rising commitment to space weaponry—a commitment larger than has been acknowledged.

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[From the Atlantic Journal, Apr. 27, 1984]

### THAT UMBRELLA IN SPACE COULD BE FULL OF HOLES

Since President Reagan first proposed it as a major thrust in America's national security efforts, we have had serious reservations about the so-called "Star Wars" plan to defend the country against nuclear attack using exotic space-based weapons.

We share the doubts of many that such a system could be made effective enough to withstand an all-our atomic attack. Further, we think there could be serious strategic consequences if the idea did work and both the United States and the Soviet Union put the shields in place. If the Soviets knew that we could not hurt their homeland, they might be more likely to move against Western Europe or the Persian Gulf, confident that we would not be able to stop them using only conventional or tactical nuclear forces in those areas.

That second concern seems less important in light of a new report from the congressional Office of Technology Assessment, which calls the "Star Wars" proposal a pipe dream. The likelihood of a virtually impenetrable defensive umbrella is so remote, the report says, "that it should not serve as the basis of public expectation or national policy about ballistic missile defense." Critics of the idea say the report is proof that we should not spend money on research and development.

We lean toward agreeing with the OTA's prediction about the futility of developing a truly workable shield; even if a system stopped 90 percent of the warheads in a large-scale attack, the several hundred that would still get through would devastate the country. But we don't completely agree with the critics who want all funding on the concept shut down.

As we have said before, it would be a mistake for the United States to halt research on defensive systems if the Soviet Union was proceeding with its work. After all, even though nothing much would be gained if both sides had them, there would be a tremendous and decisive advantage if only one party did.

We still think the proper course is to continue basic research to discover what kinds of weapons might work, and what kinds of countermeasures might be used against them, while trying to negotiate a ban on such weapons with the Soviets. Unfortunately, the Reagan administration doesn't seem very interested in talking about such a treaty; it has already discarded the idea of seeking a ban on anti-satellite weapons, something that could be a precursor to a ban on space weapons of all kinds.

The OTA report ought to be a sobering warning about the dangers, both financial and military, of devoting too much of our national security effort in the direction of "Star Wars" technology. We could spend ourselves broke creating an umbrella that is so leaky we are no safer than we were before.

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[From the Cleveland Plain Dealer, May 5, 1984]

### A Cold Warrior's Toys

The fatal attraction of President Reagan's star wars initiative is that it plays to the most basic moral prerogatives. The perversions of a nuclear balance that is defined by capacities for devastation are abjectly corrupt. On the face of it, Reagan's plan rejects that hypocrisy; it proposes a day when security and peace are based on parallel concepts of deterrence and defense, rather than the conflicting philosophies of deterrence and offense.

To believe that anti-satellite and space-mounted anti-missile technology can generate a new peace, however, is wrong and misleading. The Soviets will view such a system as a threatening escalation. Invulnerable nations, the logic runs, have no fear with which to restrain themselves from attack. Thus a major U.S. investment in science fiction merely begs for an expansion of the arms race to outer space. The science is not available to make the plan feasible, thus the expenditure of billions of dollars down a technological rat hole is a doubly bad investment. The money is wasted and international arms negotiations, already deeply mired, become even more contentious.

Thus it is that Secretary of Defense Casper Weinberger has not done the nation any favors with his offer to reduce the military's budget by $14.4 billion. Reagan's five-year, $26 billion research program for the "Strategic Defense Initiative" was untouched by Weinberger's cuts. Also innocent of fiscal discipline are such dubious and destabilizing strategic programs as the B-1 bomber and the MX missile. Where were the cuts? Mainly in the category of military preparedness: staffing, training, support equipment and tactical weapons such as the benighted M-1 tank, the Bradley fighting vehicle and the Sergeant York gun.

The Reagan administration is spending money on cold warriors' toys while slashing at the expenses that help maintain the balance of power—even though strong conventional forces are a major prop against battle escalations. Ground parity and strength help remove itchy fingers from atomic buttons. Further, declining tactical ability needlessly wastes lives. The propensity of the M-16 assault rifle to jam accounted for hundreds of American dead in Vietnam. The failure of proximity detonators in some torpedoes might well have helped prolong the fighting in the Pacific theater during World War II.

The distended military budget obviously needs to be slashed. So it is that some cuts in military readiness and conventional fighting ability may be necessary. But those cuts easily can be accommodated by aborting other wasteful Pentagon programs. The star wars project is a likely candidate.

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[From Time magazine, May 7, 1984]

### The Case Against Star Wars Weapons

The esoteric yet immensely important national debate over how to avoid nuclear war has suddenly been focused like a laser beam on one issue: Should the U.S. develop and deploy a space-based system for defending itself against Soviet missiles so as to deter Moscow from ever contemplating such an attack?

Slightly more than a year ago, President Reagan surprised the nation, and many experts in his own Government as well, by calling for an all-out program, along the lines of the Manhattan Project, which developed the atom bomb, to build a defense system in space. He envisioned a network of orbiting sensors that would detect a Soviet attack as soon as it was launched, then trigger giant remote-control ray guns that would destroy attacking rockets or their warheads before they could do any damage.

The idea had been planted in Reagan's mind by his friend and frequent adviser Edward Teller, the Hungarian-born superhawk, often described as the father of the hydrogen bomb, whose bold and controversial ideas have occasionally led some of his fellow physicists to moan, "E.T., go home." Teller's brainstorm became Reagan's dream, and the dream became national policy. In a speech in March 1983, the President asked, "What if free people could live secure in the knowledge that . . . we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?" In December, with no fanfare, Reagan approved $26 billion over the next five years for research into a Strategic Defense Initiative.

Last week the program came under close scrutiny by two high-level groups on Capitol Hill, and it was found wanting. The Congressional Office of Technology Assessment released an extremely negative report warning that a comprehensive antiballistic-missile system was so unpromising "that it should not serve as the basis of public expectation or national policy." At the same time, the Senate Foreign Relations Committee subjected five Administration witnesses, including the President's science adviser, Geroge Keyworth, and the newly designated director of the program, Lieut. General James Abrahamson, to withering skepticism. Among the doubters were moderates like John Glenn as well as liberals like Massachusetts Democrat Paul Tsongas.

Lest there be any doubt that the issue will figure in the presidential campaign, Democratic Front Runner Walter Mondale last week denounced the plan as "dangerously destablizing" and called for a freeze on military uses of space. The Democrats believe that the President's embrace of antimissile weapons will fan fears that he is a trigger-happy nuclear cowboy.

That charge is not only unfair—it misses the point that there are substantially more legitimate doubts about the wisdom of this policy in particular and about the President's approach to complicated national security issues in general. Reagan has often been drawn instinctively to simplistic, gimmicky solutions to problems that entail layers upon layers of historical background and technical complexity. Reagan's early fascination with supply-side economics in its least sophisticated form and his advocacy of two-China policy are but two examples. He abandoned both during the crash course in realism that comes with being President. But he has clung more stubbornly to the idea of space-based defenses. He has done so for reasons that are as straightforward and sincere as they are wrongheaded.

In his March 1983 speech unveiling the scheme, he said he hoped the U.S. could erect an umbrella of impenetrable antimissile defenses over itself and its allies. By thus rendering an attacker's weapons impotent, the U.S. would not have to count on ballistic missiles and bombers to deter Soviet aggression or to retaliate against an attack. No longer would "crisis stability" between the superpowers have to be enshrined in a suicide pact.

In Reagan's view, the scenario for World War III would become more like an arcade video game and less like a prime-time apocalypse. Instead of mushroom clouds springing up from charred landscapes and families being vaporized in their backyards or dying slow deaths from radiation sickness, the imagery would feature unmanned enemy projectiles being zapped and disintegrating high above the earth; the planet and its population would remain out of harm's way.

What is more, the U.S. would be able to protect itself without the threat of committing mass murder. Like Darth Vader spinning helplessly but harmlessly away from the doomed Death Star in his crippled TIE Fighter, the Soviets would be mightily frustrated in their losing battle with American ingenuity, but they would not be incinerated.

Best of all, the Soviets would probably not do anything as foolish as start a fight. If they were to do so, however, they would probably not come back to fight another day: realizing the futility of their earth-based spears against the new-space-based American shield, the Soviets might set down, or at least phase out, their missiles and other weapons of aggression. Following the American example, they too would shift to defense rather than retaliation. The world would be a safer place. Reagan has even suggested that the U.S. might some day share its defensive technology with the Soviet Union.

Critics quickly dubbed the Strategic Defensive Initiative "Star Wars." That sobriquet suggested a fantasy—not just a dream, but a pipedream, and a potentially perilous one at that.

The case against Star Wars rests on a cluster of mutually reinforcing arguments. Strictly on technical grounds, experts all across the ideological spectrum doubt that space-based ray guns would work well enough to vindicate Reagan's vision. To provide the sort of blanket protection the President and Teller originally had in mind, the system would have to offer a 100% guarantee (an untested guarantee at that) of intercepting and disarming an entire huge barrage of Soviet warheads. If even a tiny percentage of the warheads "leaked" through, the devastation in the U.S. would be horrendous, and the American leadership would very likely feel compelled to order a retaliatory strike with whatever remained of its offensive arsenal.

After a year of study and refinement in the Executive Branch, the Strategic Defense Initiative now implicitly accepts the impracticality of a leakproof umbrella. Instead it adopts the somewhat more modest "interim" goal or "enhancing," rather than replacing, deterrence based on offensive weapons. The idea is that Soviet plans for an attack would be further complicated by even an imperfect American defense.

The President's program remains, however, a radical, unilateral American departure from the rules that have governed the strategic competition between the superpowers for two decades. As seen from Moscow, it is bound to look like an attempt to create an invulnerable sanctuary from which the U.S. can attack the Soviet Union with impunity. American leaders insist, of course, that they would never consider such a thing, but the Soviets will not believe such protestations. Instead, they will see the U.S. indulging in a deadly combination of ambitions—better offense, better defense—that the Soviets are sure to try to match.

It has long been part of the dogma of the nuclear age that the best defense is a good offense. That is what deterrence is all about: the other side is less likely to attack if its leaders know they will prompt a vastly destructive counterattack. A corollary to the dogma of "offense-dominated" deterrence is that there is nothing more provocative and destabilizing than a strategic defense. The more one superpower tries to protect itself against attack, the more the other side will try to improve its offensive weapons to be sure it can overwhelm and thwart those defenses. Thus a defensive arms race will exacerbate and accelerate the offensive one, with the advantage always remaining with the offense.

The classic example of how this dynamic has worked in practice can be seen in an insidious interaction between two high-tech systems: today's ultimate offensive weapons, multiple independently targetable re-entry vehicles, or MIRVs, and yesterday's misconceived defensive weapons, antiballistic missiles, or ABMs.

The Soviets erected a primitive AMB defense around Moscow in the '60s. Like Ronald Reagan today, the Kremlin leaders of 20 years ago believed it was a matter of common sense and irreproachable civic responsibility to do whatever they could to protect their country from nuclear attack. "A defensive system that prevents attack is not a cause of the arms race," said the late Soviet Premier Alexei Kosygin in 1967. It took former Defense Secretary Robert McNamara and other officials of the Johnson Administration hours of arduous discussion to persuade Kosygin and his comrades that they were wrong, and that an ABM race would only intensify efforts to create even more destructive weapons. The U.S., in any case, had an ABM system of its own. It also had an incipient MIRV program that would allow it to penetrate, or beat, any Soviet ABM network simply by hurling more warheads (and decoys) at the U.S.S.R. than the Soviets had interceptors.

Shortly after coming into office, Richard Nixon said, "Although every instinct motivates me to provide the American people with complete protection against a major nuclear attack, it is not now within our power to do so . . . And it might look to an opponent like the prelude to an offensive strategy threatening the Soviet deterrent." Nixon was aware of the paradox that Reagan has overlooked: one side's quest for safety can heighten the other side's insecurity. By 1972 the Soviets had accepted the logic of the American position and agreed, in the strategic Arms Limitation Talks (SALT), to severe restrictions on ABMs. But if one lane of the arms race was thus closed down, another stayed wide open when the U.S. passed up a chance to negotiate limits or a ban on MIRVs. Why? Primarily because MIRVs, with their microcomputers and other prodigies of Yankee electronic wizardry, were then seen to be an area of permanent American technological superiority, an ace not to be discarded in the nuclear poker game.

Within a few years, however, the Soviets not only had mastered MIRVing but in some areas were outdoing the U.S. at it. With their Hydraheaded monster rockets, they were able to pull sharply ahead of the U.S. in the land-based MIRV race. It is partly to compensate for that imbalance that Reagan finds Star Wars appealing. But the risk are daunting. One is that the ABM race that was called off a dozen years ago might resume with a vengeance, only this time utilizing space-based death rays and satellite killers in addition to ground-launched antimissile interceptors. The Soviets are poised on the starting blocks for such a race themselves. They have been experimenting vigorously with directed high-energy weapons.

Even if the U.S. were able to perfect and monopolize space-based defensive weapons capable of neutralizing the entire Soviet arsenal, these American wonder weapons might still eventually prove to be sitting ducks for pre-emptive attack by Soviet anti-satellite (ASAT) devices. So far the Soviets have been experimenting only with rather cumbersome ground-launched satellite killers that can strike at relatively low altitudes; the U.S., meanwhile, has a more sophisticated, versatile and effective aircraft-launched weapon in the works. But it would be unrealistic to assume that an American lead in ASAT would prove any more permanent than the one the U.S. enjoyed in MIRVs twelve years ago.

The Kremlin has professed a willingness to stop the ASAT race before it begins. Thirteen months ago, the late Yuri Andropov called for an international ban on space weapons, and last August he declared a unilateral moratorium on Soviet launches of antisatellite weapons. While there is good reason to be wary of Soviets bearing disarmament initiatives, there is no reason for refusing to probe them further. Yet the Reagan Administration dismissed Soviet ASAT feelers out of hand. It did so partly because of its shortsighted and amnesiac confidence in the superiority of American high tech, and partly because of its deep-seated distaste for arms control of any kind.

No program of strategic defense should be launched unless a comprehensive arms-control program that places sharp limits on offensive weapons is established first. That way, strategic defense might conceivably serve as a useful backup to traditional deterrence, an extra insurance against war breaking out by accident (a space-based American death ray might knock out an errant Soviet missile, for instance, without necessarily touching off a full-scale Soviet attack) or against war being started by a reckless newcomer to the nuclear-weapons club.

But the current situation could not be less propitious, or the dilemma more obvious. It was articulated clearly by a top Administration military scientist, Richard DeLauer, Under Secretary of Defense for Research and Engineering, about six weeks after Reagan's original Star Wars speech. The proposed defensive system, said DeLauer, could be overcome by Soviet offensive weapons unless it was coupled with substantial controls on offensive arms. "With unconstrained proliferation" of Soviet warheads, he added, "no defensive system will work."

Yet offensive arms control is dead in the water. The Administration's proposals in the Strategic Arms Reduction Talks in 1982-83 were transparently nonnegotiable because they required drastic, one-sided cuts in Soviet forces. To make matters worse, the Soviets walked out of those talks last year. As of now, the Administration has no unified plan for resuming negotiations, much less achieving an agreement. Star Wars itself jeopardizes what little is left of arms control. Despite Administration disclaimers to the contrary, an all-out Strategic Defense Initiative would surely bring the U.S. into violation of the nuclear-arms-control agreements still formally in force with the U.S.S.R., including the ABM treaty concluded as part of SALT I.

Meanwhile, offensive weapons are proliferating on both sides, and the prospect for limits any time soon, to say nothing of reductions, is bleak. That makes today the worst possible time for the superpowers to carry their competition into space—or even to threaten to do so.

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[From the Sun, May 15, 1984]

## Star Wars Revisited

(By Jeffrey Record)

Washington.—More than a year has passed since President Reagan spoke of a world in which nuclear weapons would be rendered "impotent and obsolete." In what the news media billed as his "Star Wars" speech of March 23, 1983, the president stated, "let me share with you a vision of the future which offers hope. It is that we embark upon a program to counter the awesome Soviet missile threat with measures that are defensive." The president went on to ask: "What if free people could live secure in the knowledge that their security did not rest upon the threat of instant retaliation to deter a Soviet attack; that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?"

President Reagan was referring to futuristic concepts of space-based laser, particle beam and other anti-ballistic-missile (ABM) systems that both the United States and the Soviet Union have been exploring for a number of years. The president conceded that "it will take years, probably decades," to construct a space-based anti-ballistic-missile defense. This year the administration has requested congressional approval of a package of ballistic missile defense programs totaling over $26 billion through 1989.

The president's vision of a world free, if not of nuclear weapons, then of the possibility of their effective use, is unquestionably alluring. It is certainly more inspiring than the present strategy of deterrence through retaliation, which rests on the proposition that American security can be assured only by a capacity and a willingness, if necessary, to incinerate the civilian populations of any potential aggressor.

Yet his idea raises a number of knotty questions. Can there be an effective defense against a determined nuclear attack? Is there a technological solution to the balance of terror that has governed East-West relations for 35 years? Do we really wish to "think" our way out of a situation that for so long has deterred conflict between nuclear-armed states? Are we ready to discard the capacity to retaliate in kind, which is the heart of deterrence? Would the world indeed be a safer place if nuclear weapons could be rendered "impotent and obsolete"?

The notable lack of skepticism voiced by the president in his speech reflects not only a characteristically unwarranted American faith in technology but also an inadequate knowledge of the history of warfare, which has repeatedly demonstrated that there is no such thing as an impenetrable defense.

There is, first, the fact that a space-based anti-ballistic-missile defense of the kind sought by the administration would not make all nuclear weapons impotent and obsolete, since it offers no defense against other kinds of nuclear weapons, such as bombers, cruise missiles, low-trajectory ballistic missiles and small bombs in the hands of terrorists. Moreover, it is to be assumed that the Soviets will stand idly by for the next 20 or 30 years while the United States builds a defense that would compromise their capacity to strike America with nuclear weapons? Would not the Soviets be tempted to preempt deployment of the proposed American defensive platforms with their advanced killer satellites already in space? Are there not other counter-measures available to the Soviet Union, such as simply building enough missiles to saturate U.S. space-based defenses?

There is also the unresolved issue of technological feasibility. Most scientists who have ventured an opinion on the matter are highly skeptical. During World War II, the fact that the bombers always got through was not militarily decisive, since each bomber carried but a few tons of high explosive and it took literally thousands of bombers to demolish a city. Yet, as former Secretary of Defense Harold Brown has observed, if "a single (nuclear) weapon can destroy a city of hundreds of thousands, only a perfect defense (which, moreover, works perfectly the first time) will suffice." Mr. Brown went on to conclude that "the prospect for a technical solution to the problem of preserving modern society in the face of an actual thermonuclear war . . . seems to me very poor. The effort to attain such solutions could itself be quite dangerous if it created an illusion that such a solution has been achieved or is likely to be." Mr. Brown's views were recently echoed in a study released by the Union of Concerned Scientists, which stated flatly: "There is no realistic hope of developing defensive weapons that could protect the American people from overwhelming destruction in the event of nuclear war." MIT scientists George Rathjens and Jack Ruina are convinced that "the Soviet Union would be able to offset our efforts by improving its offenses—and would probably be able to do so at a lesser cost."

But suppose for a moment that every nuclear weapons on the planet could be made utterly unusable. Would the United States and the Free World really be more secure? As desirable as it might be for other reasons, a world without usable nuclear weapons would be a world in which the United States and its allies would be denied the principal means by which they have for more than three decade offset the Soviet Union's massive preponderance in conventional military power. The costs of competing with the Soviet Union exclusively in a military arena in which it already enjoys an enormous advantage would dwarf present levels of Western national defense expenditures, and it is not obvious that the world would be less unsafe than it is today. It can be argued, for example, that but for the presence of nuclear weapons, another major war in Europe would have occurred since neither World War I nor World War II succeeded in resolving the German question.

There is also the matter of how far we wish to proceed with the militarization of outer space. Space should be made to serve the purposes of arms control and strategic stability; it should not be transformed into yet one more arena of unchecked arm competition. It is in space that both the United States and the Soviets place surveillance and command, control and communications satellites. These satellites are essential not only to the verification of arms control agreements but also, in the event of war to the maintenance of some check on the threat of uncontrolled escalation.

The real issue underlying the administration's proposed space-based anti-ballistic missile defense is that of how best to preserve deterrence in an age of rapidly unfolding technology. Although research in the area of ballistic missile defense should continue, for no other reason than to keep pace with Soviet advances in the field, nuclear deterrence for the foreseeable future will continue to rest on the possession of survivable retalatory capabilities. In lieu of such capabilities only an infallible defense against all conceivable nuclear threats would do, and man has yet to devise an infallible weapon.

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[From the Washington Times, May 22, 1984]

### Bonn's Foreign Minister Wants Star Wars Ban

(By Amy Stromberg)

Hans-Dietrich Genscher, the foreign minister of West Germany now meeting in Moscow with Soviet Foreign Minister Andrei Gromyko, is a firm supporter of the United States on questions involving the strategic and military balance of power.

Despite a clear commitment to the West, however, the German diplomat is his own man. For example, he is four-square behind a ban on nuclear space weapons despite the Reagan administration's inclination to compete with the Soviet Union in outer space.

At 57, the stocky Mr. Genscher is a recovered tuberculosis patient and a physical fitness buff.

A tough minister of foreign affairs, he has held the post under two chancellors from different parties. He was foreign minister for the previous chancellor, Helmut Schmidt, when the Social Democratic Party (SDP) was in power in a coalition with his own Free Democratic Party (FDP).

Then, sensing that the ruling SDP was turning its back on a crucial foreign policy issue—the stationing of new U.S. nuclear missiles in West Germany—Mr. Genscher pulled his Free Democratic Party out of its 13-year coalition with the Social Democrats. The move eventually brought down the Schmidt government.

When Mr. Genscher removed the FDP from Mr. Schmidt's government, he resigned his government post. Just 17 days later, he was reappointed by Mr. Kohl to his former jobs of vice chancellor and foreign minister.

Known for his political acumen, Mr. Genscher has drawn fire from the political right for his evenhanded approach to the Soviet Union. Franz-Josef Strauss, the head of the conservative Christian Social Union, leaked a paper to the press in 1982 that said Mr. Genscher had never understood the Soviet Union's coexistence policy and that pursuit of detente amounted to a "continuation of class warfare through other means."

Mr. Genscher, twice married, was born in Reideburg, near Halle, now in East Germany, and attended the universities of Leipzig, in East Germany, and Hamburg, in West Germany.

In 1952, he left East Germany, settled in Bremen, and became a lawyer. He entered politics as an assistant to the FDP's Bundestag party caucus and served as executive secretary after moving to Bonn.

In 1959, he was elected to the Bundestag and became business manager of the FDP and one of three deputy chairmen. He became foreign minister and vice chancellor in 1974.

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[From the Philadelphia Inquirer, May 29, 1984]

### Congress Must Halt Tests of Satellite-Killer Weapons

The House of Representatives moved wisely last week to check the dangerous expansion of the arms race into outer space.

It voted to prohibit funds for U.S. testing of satellite killer weapons (called ASATs) against a target in space so long as the Soviet Union continues its unilateral 22-month-old ban on ASAT testing. This, say its sponsors, provides "a window of opportunity" to explore with the Soviets a mutual and verifiable ban on ASATs.

The timing of this vote could not be more critical. Decisions made now by the Reagan administration and Congress, as well as the Soviet Union, will determine whether a no-holds-barred arms race will move from the confines of earth into space.

Target testing of a sophisticated U.S. ASAT, now scheduled for November, would be an irrevocable step toward launching that race. It would also provoke a new arms race on earth. This is because ASAT technology will contribute to the administration's equally controversial "star wars" space defense plan, which the Soviets will try to counter by building more offensive nuclear weapons.

At present the Soviets have a crude, unreliable, ground-based ASAT that cannot reach the orbit of the important U.S. early warning and communications systems. It can be foiled by hardening satellites against attack and by increasing their maneuverability. The U.S. is developing a swifter, much more sophisticated ASAT, launched from an F-15 fighter plane, whose completion is certain to trigger a crash program by the Soviets to improve their own backward system. Once that happens, says Rep. Lawrence Coughlin (R., Pa.), a cosponsor of the ASAT amendment, "a new weapons race will have begun and the opportunity for an ASAT ban may be lost."

The U.S. has the most to gain by limiting the development of satellite killers before the Soviets perfect them. America is far more dependent on satellites than the Soviet Union for military and communications use, as well as for civilian scientific and commercial purposes.

But the Reagan administration announced on March 31 that it would not seek to negotiate an ASAT ban with the Soviets because such a ban could not be verified. This claim is sharply challenged by experts like the Union of Concerned Scientists. They say that despite serious difficulties, reasonably effective verification can be achieved. They also say that the small, mobile U.S. ASAT when fully tested would be harder to verify than the bulky Soviet one.

The House vote on ASATs amended the bill authorizing Defense Department funding. But the fight for a similar limit on funds in the Senate will be more difficult. The Senate may produce only a nonbinding recommendation to the President that he resume negotiations with the Soviets on ASATs. In this case, the House measure would likely be watered down in a Senate-House compromise.

This would be a dangerous mistake. The Senate should not squander this opportunity to help prevent *Star Wars* movie battles from turning real. The time to negotiate to check ASAT development is now, while America has a technological lead. If the administration won't take the lead, it is up to Congress to force its hand.

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[From the New York Times, May 29, 1984]

## The Arming of Space—Experts Plead for a Ban on Antisatellite Weapons

(By John Noble Wilford)

Reflecting a rising tide of opposition by scientists to the arming of space, experts who gathered here yesterday called with near unanimity for a ban on testing of antisatellite weapons and a limit to development of even more exotic technologies for so-called "Star Wars."

The urgency expressed yesterday seemed to grow out of a fear that the space-war technologies, once the realm of academic discussion and science fiction, had reached a point where they verged on reality. The gathering at the annual meeting of the American Association for the Advancement of Science was notable for the passion expressed both among the experts and members of the audience and for an occasional irony. One of the most spirited attacks on the Reagan Administration plans came from a scientist who himself has been designing weapons.

The Administration declined an invitation to present its point of view.

Of most immediate concern was the matter of banning tests of antisatellite weapons before they could be made ready for deployment. The Soviet Union has offered to resume negotiations, broken off in 1978, and has circulated a draft treaty of the proposed ban. The Reagan Administration refuses to negotiate, it said in March, because a comprehensive ban could not be adequately verified.

Scientists and other arms-control advocates conceded this point in a recent study for the Congressional Office of Technology Assessment. But even if a few tests escaped detection, scientists said at the meeting, a nation would not be able to conduct enough secret tests to have confidence that such a complex system would be reliable enough to be counted on in its strategic planning. Displeased with the Administration's refusal to engage in such arms-control talks, the House of Representatives last week voted to prohibit tests of the American antisatellite system as long as the Soviet Union maintains its moratorium on similar tests.

To complaints that the Soviets would not bargain in good faith, Richard L. Garwin, a weapons physicist associated with the I.B.M. Corporation, remarked, "We ought to negotiate right away and see what we can get and if it suits us."

Robert W. Buchheim, who headed the American delegation to the antisatellite weapon negotiations in the Carter Administration, said the Reagan Administration has "squandered time with these eternal damned studies." Then he added, "We should call the Soviets up on the phone this afternoon and tell them we're on our way."

Stephen M. Meyer, associate professor at the Massachusetts of Technology and an expert on the Soviet military program, said the Soviets have "a sincere interest in negotiating" a treaty controlling antisatellite weapons, known as ASAT's. It is a practical matter with the Soviet Government. Although at least 20 Soviet ASAT's have been tested over the years, Dr. Meyer said, the system is relatively unsophisticated and inflexible. It involves launching a satellite into the orbit with its intended target and exploding as it comes near to the target. Eleven of the tests have been reported to be failures.

### SOVIETS PRESENT LIMITED THREAT

In an article in the June issue of Scientific American, Dr. Garwin, Kurt Gottfried of Cornell University and Donald L. Hafner of Boston College observed that the "current Russian antisatellite system presents a ponderous, inflexible and quite limited threat to the United States." This was also the opinion of General Lew Allen, the Air Force Chief of Staff in 1979, and "nothing has happened in the Russian test program since then to alter this 1979 assessment," the authors said.

The American system, which underwent its first fight test last January, is considered more sophisticated. It would be launched by a small rocket deployed from an F-15 fighter, which conceivably could take off from any airfield anywhere in the world. Although the system has yet to be tested against a target, its sensors for homing in to collide with a satellite are thought to give the device a reliable effectiveness.

At the meeting, Dr. Garwin said there could be only four reasons for the United States to continue testing its ASAT with a view to deployment. Two reasons are to deter or destroy Soviet ASAT's, which he and others said were not that great a threat. Another reason was to destroy the Soviet naval reconnaissance satellites, which keep track of shipping at sea throughout the world and have been a concern of the United States Navy. A fourth reason for further development of American ASAT's is to use them as bargaining chips in future arms-control negotiations.

"If all else fails," Dr. Garwin joked, "you call it a bargaining chip. That's the last step before you say you have to keep a program for the jobs it creates."

Several experts suggested that the United States had more to gain than to lose in a ban on ASAT's. They agreed with Dr. Meyer's observation that the Soviet military is "less dependent on space than is the U.S. military" for communications and surveillance.

### IMPASSIONED PLEA FOR TALKS

If a ban should be negotiated and approved, Dr. Garwin said that the United States would need to develop even more reliable methods of verifying compliance with the treaty through various satellite tracking and monitoring methods. More attention also would have to be paid to technologies for protecting vital satellites from attack, as a way of discouraging any thought of resumption of antisatellite deployments in violation of the ban.

In one of the most impassioned speeches at the meeting, Hugh E. DeWitt, a physicist at the Lawrence Livermore National Laboratory, one of the nation's foremost weapons research centers, asserted: "I feel that if the danger of nuclear war is to be reduced and if national security is to be improved, then political agreements between the nuclear powers are more conducive to safety than the current uninhibited technological race."

Dr. DeWitt urged the immediate resumption of negotiations to ban further development of ASAT's. "This very dangerous possible new technology can be stopped now," he said. "In a couple of years it will be too late."

The weapons physicist also called for a halt of the Administration's Strategic Defense Initiative, the new name for its research and development of "Star Wars" technologies. As Dr. DeWitt noted: "There is serious debate now in the American scientific community as to whether these new ideas for 'defensive nuclear weapons' can ever lead to any weapon system worth deploying. I share the skepticism."

This is the program that grew out of the speech President Reagan made in March 1983 calling on scientists to invent the means of rendering nuclear weapons "impotent and obsolete." His aides said that he had in mind a vast array of laser and other directed beam weapons, many of which would be based in space for use against any offensive missiles immediately after launching.

### FURTHER RESEARCH RECOMMENDED

Two panels of scientists and engineers that were appointed by the Administration failed to give the plan a wholehearted endorsement, though they recommended further research and development. Even Administration spokesmen have begun to back away from its earlier stated goals of a "perfect leakproof" defense against offensive weapons.

But as Dr. DeWitt noted, the Strategic Defense Initiative, estimated to cost at least

$26 billion in its initial stages, already has its own momentum. The weapons laboratories have a vested interest in continuing the efforts, he said, and once tests of the exotic new weapons begin in space, the "present fragile structure of arms control treaties is likely to become completely unraveled." He referred specifically to the Outer Space Treaty of 1967, banning weapons of mass destruction in space, and the 1972 treaty controlling antiballistic missiles, a foundation of the prevailing concept of stability through mutually assured destruction, or the fact that no superpower presumably would risk launching a nuclear attack because of the threat of massive retaliation.

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[From the Christian Science Monitor, Aug. 25, 1983]

### BAN SPACE WEAPONS

There does not seem to be much enthusiasm in Washington for Yuri Andropov's recent proposal to ban antisatellite weapons. The State Department does say it will "study carefully any serious Soviet proposal." But Pentagon planners tend to view it as a propaganda ploy—an effort to forestall US advancement in this field. It may be that. But this is no reason not to explore with Moscow the possibilities for stopping what threatens to become a dangerous and costly extension of the arms race into outer space.

Experience has shown that the time to negotiate is before technological advances push an arms competition out of control. The United States sees itself behind the Soviets in antisatellite (ASAT) weaponry and therefore seeks to catch up and create a "bargaining chip." Assuming it does, what then? Remember MIRVs? Ten years ago the US had an advantage in these nuclear multiple warheads and refused to negotiate a ban on them. Now the Russians have MIRVs, too, and there has been no arms control agreement for over a decade. With any weapons system, therefore, the US over the long run risks losing its supposed "advantage."

In this case, the Soviet Union got a head start on the US. It has been developing a "satellite killer" for some 15 years and its ASAT system is said to be operational. But the judgment of many American arms experts is that the system is highly overrated. The weapon can only attack targets in low earth orbit, so it does not threaten the vital US early warning and communications satellites at higher altitudes. The warheads on the Soviet system, moreover, is ponderous, weighing more than two tons. Launching of it is slow, and it can reach its target only after orbiting the earth one or two times.

The United States, for its part, is about to test its own ASAT. The system would enable an F-15 fighter plane anywhere in the world to launch a miniature homing vehicle designed to collide with its target. Among its advantages, the American ASAT is swift and hard to detect.

From all indications, the air-launched American weapon will be more effective than the rudimentary ground-launched Soviet ASAT, giving the US a clear lead. American defense planners must know, however, that the Soviet Union will not sit still for any US technological advance. If no effort is made to bring ASATs under control, the Russians are certain to accelerate their own program. As the Union of Concerned Scientists notes, this would put US national security at even greater risk because the US, more than the Soviet Union, depends on satellites for early warning of strategic attacks and communication with its armed forces around the world. In time of war, America's "eyes and ears" in space could be destroyed.

As the pace of ASAT development quickens, the two sides should have the good sense to return to the negotiating table. Talks on the control of antisatellite weapons were launched in 1978 under President Carter. Little progress was made, however, and the talks were broken off after the Soviets invaded Afghanistan. Now that the US has a vigorous program under way, the Russians seem ready to negotiate. They have in fact tabled a draft treaty at the United Nations—a flawed one, from the US standpoint, but at least representing an opening Soviet bid.

For both the United States and the Soviet Union, an agreement banning antisatellite weapons in space would save enormous resources and, most important, enhance security and global stability. "Star Wars" may make for exciting movie and television entertainment. Mankind must not risk their becoming a reality.

**Mr. BAKER.** Mr. President, will the Senator yield to me?

**Mr. PRESSLER.** Yes; I yield.

### UNANIMOUS-CONSENT AGREEMENT—CLOSED SESSION

**Mr. BAKER.** Mr. President, I have a unanimous-consent request with respect to the closed session of the Senate that I believe has been cleared all around.

Mr. President, I ask unanimous consent that the Senate go into closed session beginning at 12 noon today for the purpose of receiving information up to the top secret classification level regarding the Soviet military use of space. I believe this information is essential for an informed debate of the antisatellite arms control amendments now pending.

I further ask unanimous consent that all necessary materials for the briefing be permitted in the Senate Chamber and that the following individuals be permitted to attend the briefing: Jim McGovern, Alan Yuseph, Bob Bott, Doug Graham, Jim Smith, Carl Smith, Arnold Punaro, Bill Hoehn, Larry Gershwin, CIA, Pat Taylor, CIA, Scott Cohen, Bob Bell, Hans Binnendijk, Bill Ashworth, Alex Glicksman, Ken Johnson, Alan Frumin, Scott Bates, William Lockey, Jr., John Tuck, Joe Hagin, Robert Simmons, Gary Schmitt, Angelo Codevilla, Joe Mayer, Keith Hall, John Campbell, Ken Geisen (DIA), Maj. Ned Cummings, Edward Keeling, Issac Sarvis, James Haynes, McLloyd Cotten, Jeff Smith, David Sullivan, Cranwell Montgomery, George Murphy, and Don Massey.

And from the Office of the Secretary, Official Reporters of Debates: William D. Mohr, E. Frances Garro, Frank A. Smonskey, Ronald Kavulick, Jerald D. Linnell, Raleigh Milton, Mark Lacovara, Morning Business Clerk, and Jeanie Bowles, Assistant Editor.

Minority staff: Dick D'Amato, Mike Epstein, Bill Ashworth, Bill Haynes, Steve Ward, Dan Finn, Tom Blau, John Elliff, Tom Connelly, Peter Sullivan, Patty Watson, Mark Albrecht, and Edward McGaffigan.

The **ACTING PRESIDENT** pro tempore. Is there objection?

**Mr. NUNN.** Mr. President, reserving the right to object, there is no time limit on it, is there?

**Mr. BAKER.** No; there is not.

**Mr. NUNN.** If we go into closed session we will make the decision at that time.

**Mr. BAKER.** That is right.

**Mr. PRESSLER.** Mr. President, reserving the right to object, what time will we go into closed session?

**Mr. BAKER.** We will go in at 12 o'clock. We will also recess at 12 o'clock until 2 o'clock. When we come back at 2 o'clock, we will still be in closed session.

**Mr. PERCY.** Mr. President, would it be in order if I ask unanimous consent to offer a noncontroversial amendment and not have the Senator from South Dakota lose his right to the floor?

**Mr. BAKER.** Mr. President, let me try to get this order first, if I may, and then I will be glad to yield.

The request is that the Senate go into closed session at 12 noon for the collateral matters that should be dealt with in that respect. The Senate will recess then at 12 noon under a previous order to reconvene at 2 o'clock and at 2 o'clock the Senate will reconvene in secret session.

The **ACTING PRESIDENT** pro tempore. Is there objection?

**Mr. GOLDWATER.** Will the Senator yield?

**Mr. BAKER.** Yes.

**Mr. GOLDWATER.** Has there been a time limit set starting at 2 o'clock?

**Mr. BAKER.** No; there has not.

**Mr. GOLDWATER.** Is the Senator going to ask for a time limit?

**Mr. BAKER.** I would like to, but that is not included in this request. I would like to negotiate further on how long that would go, may I say to my friend from Arizona.

**Mr. GOLDWATER.** Would not an hour suffice?

**Mr. BAKER.** Let me consult on that, if I may, before I add it to the request because I do not have an indication from the managers—the chairman of the Intelligence Committee has just given me an indication—nor from the author of the amendment. But I would urge Senators that by the motion of one person with a second that this can be done anyway. So I hope the request would not be objected to.

The **ACTING PRESIDENT** pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from South Dakota has the floor.

**Mr. PRESSLER.** I yield to the Senator from Illinois.

Mr. TOWER. Will the Senator from Illinois withhold his amendment until later today? I would not like the opportunity to present itself for this to preempt the amendment of the Senator from South Dakota as the pending business, and any Member could elect to debate this issue.

Mr. PERCY. As I understand it, this is fully acceptable to both sides.

Mr. TOWER. I understand that.

Mr. PERCY. My problem is that I am conducting a hearing all afternoon and I will probably be the only one there. We have witnesses from all over the country on religious repression in Eastern Europe. This will just take 1 minute.

Mr. TOWER. Mr. President, I ask unanimous consent that if the unanimous-consent request by the Senator from Illinois is granted it would be with the understanding that if the amendment could not be disposed of in 3 minutes' time that we would go back on the amendment of the Senator from South Dakota.

Mr. PERCY. Very good. I thank my distinguished colleague and I thank my colleague, Senator PRESSLER.

### AMENDMENT NO. 3184

(Purpose: To require not less than 91 flying units in the Air National Guard during fiscal year 1985 and to express the sense of the Congress regarding modern replacement aircraft for the Air National Guard)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an amendment numbered 3184.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 15, between lines 12 and 13, insert the following new subsections:

(c) The Secretary of the Air Force shall utilize the personnel strength for the Air National Guard of the United States authorized by subsection (a) to establish and maintain in the Air National Guard of the United States during fiscal year 1985 not less than 91 flying units.

(d) It is the sense of the Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA-37 Dragonfly aircraft in order to fullfill the Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA-37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA-37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA-37 from the stocks of the Air Force.

Mr. PERCY. Mr. President, this amendment simply confirms existing Air Force policy with respect to two aspects of the operations of the Air National Guard. First, it directs the Air Force to utilize the personnel strength of the Air National Guard authorized in this bill to maintain 91 flying units during fiscal year 1985. The Air National Guard has for some time been maintaining 91 flying units and plans to maintain 91 flying units next year.

Second, the amendment expresses the sense of Congress that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units flying the OA-37 Dragonfly under the Forward Air Controller mission. The amendment also expresses the sense of the Congress that the United States should not sell OA-37's from Guard units to foreign countries unless the unit is provided with replacement OA-37's or is in the process of converting to modern replacement aircraft.

Mr. President, I introduced this amendment because I was concerned that the 182d Tactical Air Support Group, Illinois Air National Guard, might find itself stripped of its flying mission. The unit, which has one of the best safety and unit accomplishment records in the Air Force, has been flying the OA-37 since 1980. Unfortunately, OA-37's from this Peoria unit have been sold to foreign governments and few, if any replacement OA-37's are available. In addition, the OA-37 itself has severe operating limitations, which become more and more evident with the increasing sophistication of Soviet and Warsaw Pact air forces.

This amendment is intended to deal with both of these problems. I am pleased to have Senator DIXON join me as a cosponsor, and I understand that the amendment is acceptable to the floor managers for the majority and the minority.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senator from Illinois (Mr. DIXON) be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TOWER. I am prepared to accept on behalf of the majority.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. NUNN. Mr. President, I am prepared to accept the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 3184) was agreed to.

Mr. TOWER. I move to reconsider the vote.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CLOSED SESSION

### RECESS UNTIL 2 P.M.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into closed session and will stand in recess until the hour of 2 p.m.

Thereupon, at 12 noon, the doors of the Chamber were closed and the Senate recessed until 2 p.m.

## CALL OF THE ROLL

[During the closed session the absence of a quorum was suggested and the following occurred:]

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5 Leg.]

Baker
Bingaman
Chiles
DeConcini
East
Exon
Glenn
Goldwater
Leahy
Levin
Nunn
Pressler
Randolph
Sasser
Simpson
Symms
Thurmond
Tower
Wallop
Wilson

The PRESIDING OFFICER. A quorum is not present.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER. I announce that the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Florida (Mrs. HAWKINS), the Senator from Nevada (Mr. HECHT), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Idaho (Mr. MCCLURE), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Virginia (Mr. TRIBLE), are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 82, nays 5, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—82

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
East
Evans
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Heflin
Heinz
Helms
Huddleston
Humphrey
Jepsen
Johnston
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
Melcher
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stennis
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Wilson
Zorinsky

NAYS—5

Goldwater
Murkowski
Proxmire
Quayle
Weicker

NOT VOTING—13

Boschwitz
Dodd
Durenberger
Eagleton
Hawkins
Hecht
Hollings
Inouye
Kassebaum
McClure
Stafford
Stevens
Trible

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

(At the conclusion of the above proceedings the Senate continued with and concluded its deliberations in closed session.)

## OPEN LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. SPECTER). Under the previous order, the Senate will now resume open session.

(Thereupon, at 4:38 p.m. the Senate resumed its open legislative session.)

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I have a unanimous-consent request, Mr. President, that I believe has been cleared all around.

It is a routine housekeeping matter.

## PROCEDURE FOR CLOSED-DOOR SESSION

Mr. BAKER. I ask unanimous consent that, now that the closed-door session has been completed, the complete transcript of the proceedings be personally delivered in a sealed envelope by the editor in chief to the Secretary of the Senate; that the transcript of the remarks of each Senator who participated in the debate be made available by the Secretary of the Senate under his direction to said Senators for revision of their said remarks, and when this is completed the transcript shall be resealed and stored in the Office of Classified National Security Information for safekeeping and for any further disposition the Senate may order.

Mr. President, I ask unanimous consent that the official reporters of debate be authorized to report verbatim the proceedings of the closed-door session; that the notes be transcribed; and that when the session is concluded, the original notes, together with all material and papers used in the transcription process of the proceedings, be personally delivered in a sealed envelope by the editor in chief to Office of Classified National Security Information and kept secret along with other minutes and matters of such nature already in the custody of that office.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the Senate is back in open session; am I correct?

The PRESIDING OFFICER. The Senator is correct. The Senate is back in open session.

Mr. NUNN. Mr. President, I see we have a little lull here. I do not want to interfere with the Senator from South Dakota, but I would like to make a few remarks in open session.

Mr. PRESSLER. I was in the middle of a speech when we went into closed session.

Mr. NUNN. I do not know what the floor manager has decided. I do not see him on the floor. If the Senator would like to complete it, that would be fine.

Mr. PRESSLER. I would like to go ahead and I can stop, at any time.

## OMNIBUS DEFENSE AUTHORIZATION, NO. 3156

The Senate continued with the consideration of the bill.

### AMENDMENT NO. 3156

Mr. PRESSLER. Mr. President, I wish to address some of the security and verification issues raised by space arms control.

Mr. President, on March 31, 1984, an ASAT arms control report was released by the administration. This report contends that the United States faces a vast array of threats to its space assets; that the United States requires an ASAT in meeting this challenge; and, in any event, an ASAT accord is not verifiable. Let me suggest that this report is built upon false assumptions and an incorrect analysis of the problem.

The report of March 31 addresses a so-called comprehensive ban on anti-satellite weapons. But let me say at the outset, what we propose in this amendment is not a comprehensive ban. This amendment asks that the United States negotiate bans, if possible, on the deadliest threat to satellities. That threat comes most directly from the dedicated Soviet ASAT, launched by the SS-9 booster. It is in our interest to bring about the destruction of this weapon. I draw my colleagues attention to two charts assessing the United States and Soviet dedicated ASAT's.

A ban on the SS-9 system can be verified. It is associated with a few known launch facilities that can be monitored by national technical means [NTM] of verification. If talks can bring about the destruction of SS-9 launchers, the Soviets would be without the one proven means of attacking U.S. satellites. Issue has been taken about the risks of clandestine storage or manufacture of Soviet ASAT interceptors or boosters. But such a violation of an ASAT accord yields little, if any, advantage if the Soviets have previously destroyed their SS-9 launch sities and associated facilities.

But what if a total ban cannot be reached on the dedicated Soviet ASAT? Should we rule out arms control? I think not. We still have much to gain from an accord that would foreclose the development, testing, and deployment of increasingly sophisticated satellite killers. One idea that has been suggested and has received the support of a panel of specialists assembled by the Office of Technology Assessment, chaired by McGeorge Bundy, is for a "grandfather" agreement. This would allow the United States to deploy the F-16 ASAT and the Soviets to retain the SS-9 system. A grandfathering arrangement has the virtue of stopping development of increasingly deadly, systems, otherwise such systems will come to threaten many U.S. assets at high orbit, according to the OTA panel.

As for other systems with a significant ASAT potential, the United States should seek strict limitations. Two such systems are the Soviet Union's high energy laser facilities and the Galosh ABM, permitted under the ABM Treaty.

According to many specialists, the ASAT potential of Soviet high energy lasers is limited at best. This need not remain so. If the Soviets are allowed to freely develop and test these capabilities, these laser facilities will be transformed into potent satellite killers. The same is true of the Galosh system. It, too, has a limited ASAT potential, at best. But if we fail to constrain the Soviet Union's Galosh test program, particularly in an ASAT mode, Moscow will be able to fine tune this system. If the Galosh improvements are unconstrained, eventually, it too will be capable of attacking U.S. satellites while avoiding damage to its own space systems in the vicinity.

We can effectively monitor the Soviet test programs and similar development in this area. Is it not in this Nation's interest to halt the advancement of these technologies? We can do so if we act now to impose strict limitations on these systems.

Beyond the real, though limited, threat posed by the dedicated SS-9 ASAT and potential of the Galosh system and the Soviet Union's high energy lasers, the March 31 ASAT report postulates a myriad of other threats. These range from jimmy-rigged systems to low-powered lasers and to space mines. With regard to these capabilities, let me say that we are dealing with strewmen rather than satellite killers.

It is the opinion of many specialists from industry, the intelligence community and the military, that the Soviets would not have confidence in the operation of an untested or jimmy-rigged system. The Soviet Union's dismal test record for its dedicated ASAT system, of 11 failures in 20 attempts, is testimony to the complexities involved in attacking satellites.

I draw the attention of my colleagues to a third chart which looks at other ASAT threats and arms control verification questions.

Mr. President, I ask unanimous consent that all three charts be printed in the Record.

There being no objection, the charts were ordered to be printed in the Record, as follows:

### Soviet Co-orbital ASAT

Ground-based system launched by a variant of the SS-9 missile, known as the SL-11.

Slow response time—response limited by the number of SS-9 launchers; the fixed location of launchers; and by the need to orbit before interception.

Low altitude capability—has been tested at no higher than approximately 1,400 miles, well below the altitude of most U.S. satellites.

Two types of homing sensors:

First generation: radar.

Second generation: optical/IR.

Dismal test record—11 failures in 20 attempts for both generations combined.

Air Force Chief of Staff General Lew Allen asserted in 1979 that the Soviet ASAT represented "a very questionable capability for a few launches" and was not "a very credible threat."

Verification—associated with a few known fixed launch sites which would permit monitoring of activities.

### U.S. F-15—Launched Homing Vehicle ASAT

Air-launched system deployed on modified F-15 aircraft.

Quick response time—direct ascent to target; deployed at two bases; launch flexibility enhanced by air mobility.

Low altitude capability.

Test record—several captive tests and one against a point in space; high confidence for future performance derived from extensive ground tests and the knowledge that the system is built with off-the-shelf technology.

Office of Technology Assessment expert panel concluded that this system "is clearly technically superior to the present generation of Soviet ground-launched ASATs."

Verification—extremely difficult to differentiate an ASAT-equipped F-15 from any other F-15.

Requirements:

Deterrent against Soviet ASAT use—OTA experts assert, "The idea that the United States needs an ASAT weapon in order to deter enemy ASAT attack was not strongly supported."

Defense against Soviet ocean reconnaissance satellites—Navy Vice Admiral Gordon Nagler has stated that the Navy has other countermeasures for defeating Soviet RORSATs and ELINTs.

Arms control—The 1977 ASAT development decision was driven by the desire to draw the Soviets into an accord, exchanging dismantlement of the Soviet ASAT for nondeployment of the U.S. ASAT.

### Other Space Threats and Arms Control Verification (Expert Opinions)

Space mines—"The people who postulate this threat don't know a spacecraft from a frying pan." James Reynold, Aerospace Manager, Northrop Corporation.

Low-powered lasers—These would threaten U.S. satellites only if U.S. satellite designers were "remarkably careless," and failed to include readily available countermeasures. Michael May, Associate Director, Lawrence Livermore Laboratory.

Clandestine ASAT tests—"I'm quite confident that testing things surreptitiously in space is a hard thing to do, and the U.S. has a very robust detection capability in this area." Leslie Dirks, Former CIA Deputy Director, presently with Raytheon Corporation.

Covertly developed and untested ASATs—"I know that the Soviet military would be very unwilling to depend on a system that has not been fully tested." Leslie Dirks, former CIA Deputy Director.

Satellite survivability and arms control—"ASAT arms control cannot eliminate the need to protect or supplement vital satellites with a variety of survivability measures. However, it can serve to lessen the measures required to protect space systems." Conclusion by an Office of Technology Assessment expert panel.

Verification—"Compliance with some ASAT arms control provisions could be verified with high confidence." Conclusion by an Office of Technology Assessment expert panel.

Mr. PRESSLER. With regard to low powered lasers, the Armed Services Committee recently heard from Dr. Michael May, associate director of Lawrence Livermore Laboratory, on this issue. According to Dr. May, such lasers would be a threat to our satellites only if our satellite designers were remarkably careless in satellite design and construction. Dr. May also asserted that the construction of new powered lasers would be detectable.

According to another specialist, James Reynolds, currently with Northrop Corp., and previously with the Air Force Space Division, space mines are a nonissue. They exist only in the minds of space arms control opponents. Accordingly he states, "The people who postulate this threat don't know a spacecraft from a frying pan."

On verification, let me say that the March 31, ASAT report is built upon a double standard. If similar requirements were set for nuclear arms reductions, there would be no hope of ever reaching any accords. For instance, just as any satellite can be jimmy-rigged with explosives and be used as an ASAT, so too any commercial airliner can be loaded with a nuclear bomb to threaten American cities. But we all realize that the potential of commercial airliners to effectively deliver nuclear weapons is militarily insignificant. We need a similar realism—not artificial barriers—when considering ASAT verification, as well.

Similarly, the March 31, report states that we must have answers to all verification questions before talks begin. But there has been no comparable preconditions applied to opening the START and INF talks. The United States entered both negotiations without having resolved all verification issues. And rightly so. Only through negotiations can we hope to learn what may be possible for the verification of arms control agreements. This requires talking to the Soviets and not only amongst ourselves.

Mr. President, today, the ASAT problem is a serious one. Still the problem remains manageable. We are quickly approaching a time when this will no longer be the case.

Several years ago, the United States was on the verge of another military breakthrough, called MIRV. MIRV's promised to give the United States a leg up in the military competition with the Soviet Union. Then as now, we looked toward technology for a solution to our security dilemma. But then the decision was taken to move ahead with this technological cure to our security problems. MIRV's have since returned to haunt us. Within a few years, the Soviets came out with their own MIRV's. Today, this Soviet capability is viewed by the Scowcroft Commission as the source of our land-based missile vulnerability.

When considering the emerging space arms race we should recall the MIRV experience of the late 1960's. There is a strong parallel here. Today, we are busily working to put the MIRV genie back in the bottle. In the case of space weapons, there is still time to prevent this new technological genie from getting out of hand. It is our responsibility as Senators to take a stand on this issue. Now is the time to do so. I would urge Senators to join with me in voting for this important space arms control amendment.

In conclusion, in presenting my amendment to the Senate, I would say this is an amendment cosponsored by a bipartisan group of 32 Senators. It was adopted by the Foreign Relations Committee unanimously. It does not seek a comprehensive ban. It merely calls for the President, in the sense-of-the-Congress amendment, to seek mutual agreement with the Soviet Union, to immediately resume negotiations on a mutual and verifiable ban or strict limitations on the testing, development, deployment, and use of antisatellite weapons.

It also provides—and again this is a sense-of-the-Congress amendment—that the President would have the option, if he felt it appropriate, to institute a mutual and verifiable moratorium on the testing in space of antisatellite weapons during the period of negotiations. But I emphasize that that would occur only if the President thought that was appropriate.

Also, the resolution would require a report to be submitted not later than September 1, on steps that have been taken to implement this amendment.

Mr. President, I think the discussion we had this morning on this matter, along with my statements in the closed session, and these closing remarks will end my presentation of this amendment to the Senate.

I yield back the remainder of the time yielded to me.

**Mr. GOLDWATER.** Mr. President, I will only make a few remarks, and I hope my colleagues will pay the attention.

First, I want to read something from "Military Review" which is very apropos:

> . . . The art of war is in a constant state of change, reflecting the cumulative effects of technological, conceptual and social change in our society and in war itself. These changes—at every level and through the full spectrum—affect every aspect of our lives and are even more pronounced in any consideration of military conflict.

I read that because I want to remind my colleagues that war has been a constantly changing exercise ever since man first fought with his fists. It did not take long for man to discover the club. Then, as has been true all through history, whenever man develops an effective weapon, man develops an effective defense. Someone started throwing rocks, and then someone came up with a shield. With every change in weapons systems, man's concept of war changed.

I can imagine the great consternation that must have ranged through the countries of the world when the Chinese discovered gunpowder, and that was to be the end of all wars. Gunpowder, for many, many years, even until today, has been the propellent force of effective weapons.

I can remember in the days before World War II when the horse, the cavalry, was a part of our weapons system. Then came more modern times—and I am skipping over hurriedly—when the tank was introduced in World War I. I can remember, as a young boy, that that was going to be the end of warfare, that nobody could ever mount a defense against an iron tank.

Then came General Smuts of South Africa, who made the strange prophecy that aircraft would be a deciding factor in future wars, and everybody thought he was crazy. Well, in World War II, aircraft did play a very important role. It did not win the war. I have to say, as one who has been in the infantry and the air, that no wars have been won until somebody we call a foot soldier walked in and stuck a flag in the ground and said, "This is ours."

I talk like this, Mr. President, because while history may be the logical starting point, the major driving force for changes in national strategies today, at least for the superpowers, is the rate of technological change. Of course, change is not limited to technology but derives from the conceptual changes devoted to the employment of new technology.

So what are we really talking about here today? We are talking about a new concept. Somebody, sometime after World War II—I think it was General Graham—started talking about "Star Wars" or war in space. That was to be the next place where wars would be fought. Not that the airplane is not going to be important, or the ship, or the tank, or the gun. But we have a new space now. Mr. President, I have to say—with a great deal of care, because I know quite a few things we cannot talk about—that I see space as a possibility of creating peace in this world, not just for one war but possibly forever.

So space—we call it the Star Wars, as the President did—is merely another place where war might be fought; also another place where we might prevent wars on Earth.

So, Mr. President, I hope we can get this whole thing in concept. All we are asking is that the American technology superiority, the American electrical genius, the American basic genius in anything we undertake, be allowed to go forward so that we can do the best we can to prevent war.

No one who has ever been in war wants another war. We want to do all we can to do what we can to prevent war.

Mr. President, I thank the chairman and the ranking minority member for allowing me to speak, because I feel very deeply about this. I do not think there is much we have to do about it. We just have to get our shoulders to the wheel and create a system or systems that will discourage any potential enemies from taking us on.

### THE ASAT DILEMMA—TWO EXTREMES IN SEARCH OF SOME MIDDLE GROUND

**Mr. NUNN.** Mr. President, we are debating today an item that we hope we will be able to resolve today, although that remains to be seen. We have had a closed session on the testing of antisatellite warheads, or the so-called ASAT, and certain arms control policies associated with these systems. I believe this is an important area for our national security policy and one appropriate for the Senate to act upon. The range of choices is seemingly broad, with the House having enacted an ASAT provision in its bill, with the provision brought forward by our committee in its bill, and with amendments to be offered, I understand, both by Senator TSONGAS and by Senators PERCY, and PRESSLER, and others.

To give a little background on this matter, last year, an amendment offered by Senator TSONGAS was adopted by this body by a vote of 91-0, indicating, I believe, the overwhelming desire by the Members of the Senate to see some form of ongoing arms control discussions or negotiations with the Soviet Union over space defense capabilities. Last year's Tsongas amendment basically prohibited further testing of the U.S. miniature homing vehicle (MHV) unless the President certified that the United States "is endeavoring, in good faith, to negotiate a mutual and verifiable ban"—I emphasize the word "ban"—"on antisatellite weapons * * *." In response, the administration conducted a review of its policy, and in March of this year provided the Congress with a report on U.S. policy on ASAT arms control. Its principal findings are:

No arrangements or agreements beyond those already governing military activities in outer space have been found to date that are judged to be in the overall interest of the United States and its allies, and

While the administration is continuing to examine selected limits on specific systems or activities, they "do not believe it would be productive to engage in formal negotiations."

In short, the administration believes it has made a prima facie case that a so-called comprehensive ban on ASAT's is both unverifiable and not in our national interest. I have some reservations as to this prima facie case. Notwithstanding the lopsided nature of the vote for last year's Tsongas amendment. It is clear that the Presidential certification it required cannot be given at this time. Therefore, if the intent of the Senate was and remains to encourage ASAT negotiations of some sort rather than just ban the U.S. ASAT program, some modifications to section 1235 of Public Law 98-94 is required, because of the language calling for a "mutual and verifiable ban."

I noted above an important if: If our intent was to encourage space arms control negotiations, not to kill the U.S. ASAT program. I wonder what interpretation we should put on the actions of the House. They adopted an amendment that would prohibit the testing of our ASAT against objects in space unless and until the Soviets resume testing of their ASAT. This, it seems to me, provides neither an incentive for the administration to move toward negotiations with the Soviets nor an incentive for the Soviets to be motivated to bargain in good faith. I personally believe that we should continue to develop our ASAT capability at a measured pace and that we should endeavor to explore with the Soviets potential areas of agreement for partial or limited bans on ASAT capabilities. Indeed, Ambassador Buchheim, who led the U.S. delegation in ASAT negotiations with the Soviet Union, endorsed continuing the testing of our ASAT, and argued that continued testing would not jeopardize chances of an ASAT agreement.

Interestingly, Ambassador Buchheim was the Ambassador to those talks under the Carter administration.

While I take note of the administration's findings on the unverifiable nature of the comprehensive ban—and, in some areas on the comprehensive ban, I would agree with those findings—I find, however, unpersuasive their arguments for and their position on negotiations for more limited objectives. In many respects, they have put forth a set of strawman arguments: Their logic is as follows:

First, it seems that the administration's logic is that the Soviets already have an ASAT and we do not. That is partially true, but theirs is not very sophisticated and is easily defeated, in my view.

Second, the Soviets are also working on lasers to attack our satellites. That also is true, but our satellites can be made much harder and much less vulnerable to this threat.

Third, the administration says that we could not verify that existing coorbital ASAT or low-power lasers will be removed if banned. That is also true, but in my view, if these are rendered ineffective because of our steps to remove our vulnerability, then it does not really matter if they can be verified because we would no longer be dependent on an arms control treaty to counter those systems that we ourselves counter by rendering our satellites less vulnerable.

I might add that whether we have a treaty or not, I think it is clear that we have to take certain steps to reduce the vulnerability of our satellites.

Mr. WALLOP. Will the Senator yield?

Mr. NUNN. I should like to get through with this logic, then I shall yield.

Mr. WALLOP. I just wanted to make a point on the point of vulnerability.

Mr. NUNN. I want to complete this, Mr. President, because I am laying out the logic of the administration as I understand that logic.

The fourth point, the administration seems to say, is, therefore, because of the other three, a comprehensive ban is inherently unverifiable. I submit that is also true, but it is true in the absence of measures for our satellites which significantly reduce this vulnerability.

Fifth, in addition, the administration seems to say that we need to have the capability to attack high-value Soviet satellites, so a complete ban on both sides would not be in our national interest. I submit to my colleagues that this is a highly debatable proposition, given the preponderance of studies that have shown the United States dependence on satellites to be far greater than that of the Soviet Union.

Sixth, we are still studying whether or not there are partial bans that are verifiable and in our national interest—this is the administration view, as I interpret it—but have not found any that meet those tests, given the multiplicity of threats. Again, I submit that this is perhaps true if we do not address and fix our vulnerable posture.

Unless the administration is willing to come forth with a program to fix our posture, we are going to remain vulnerable whether or not we have a treaty. That is the point I think should be underscored over and over again.

The final conclusion: Obviously, therefore, the administration concludes that negotiations with the Soviets at this time would be unpromising. Needless to say, my comment, based on the administration's propositions, is I think this is a dubious conclusion based on dubious logic.

I do not accept much of this logic chain. I accept some of it, but not all of it.

It is my view that a serious study is needed, one that would look first to major reductions in our satellite and ground-link vulnerabilities over time and then ask, once implemented, whether this reduced vulnerability posture does not open the door to significant limitations that could be adequately verified on various kinds of threats—most of which do not now exist and would therefore require development and testing.

In other words, we are in a much better position to verify future threats that have not yet developed than we are to verify threats that are already mature that have developed. Whether or not we have a treaty, in my view we are going to have to find ways to render our satellites less vulnerable to the existing threats that we cannot preclude.

However, I regret to say that the Armed Services Committee did not move in that direction. Some members of our committee moved to amend section 1235 of Public Law 98-94 to accommodate to the findings of the administration, by simply substituting the word "restrictions" for the offending word "ban." This amendment failed by a vote of 10 to 8, and the committee subsequently passed a substantial modification which may, in fact, be more restrictive than the amendment they sought to replace. The amendment passed by our committee—and this has been ignored thus far in our debate—bans ASAT testing unless, and I quote from the existing bill as it came out of committee unless—

> The President determines and certifies to the Congress that such testing is compatible with, and essential to, the accomplishment of arms control agreements affecting antisatellite weapons that are effectively verifiable and consistent with the national security interests of the United States.

Let me just read that one more time for emphasis:

> * * * the President determines and certifies to the Congress that such testing is compatible with, and essential to, the accomplishment of arms control agreements affecting antisatellite weapons that are effectively verifiable and consistent with the national security interests of the United States.

Mr. President, that is a long and wordy clause and you have to read it closely. In brief, it says "compatible with * * * arms control agreements * * * that are effectively verifiable and consistent with the national security interests of the United States." But in the ASAT policy report I mentioned earlier, the administration declared that no new agreements are both in our national interest and effectively verifiable.

Mr. President, I ask the following: If the administration says no such agreements are possible, then how can the

President certify to the requirements of this amendment?

My answer to that is he cannot at the present time. Therefore, I think we have a provision in this bill now that the administration has already indicated on record they cannot certify to. Therefore, it is my view that the words themselves and the administration position clearly will ban testing under the provisions of the bill as it now lies.

It is also my view that a good many people on both sides of this issue should take a very close look at this provision in the bill. If the administration says no such agreements are possible, then how can the President certify to the requirements of the amendment? I believe the administration has painted itself into a corner.

I must say that I think it is clear, because of the words, that we have some rather tortured legal interpretations. Frankly, I have never seen such tortured logic in all my legal career, if you can consider the U.S. Senate a continuation of what previously was one. I have just never seen such logic, because the words speak for themselves. They are absolutely clear and no amount of interpretation or legislative history can change those words.

The administration is on record that a verifiable agreement is not possible and that they can find none that are in our national interest. That clearly is what the amendment says has to be done if they are going to have any testing.

Indeed, in recent days, I have questioned a number of administration spokesmen and others on this very issue, and while a few of them are still trying to invent tortured logic chains in an attempt to show that the amendment does not really mean what it says, most objective persons who have examined the amendment have concluded that this committee provision, as presently drafted, is more restrictive than the Tsongas amendment, as it was going to be presented in the committee itself, moving from a ban to a limitation. That amendment was defeated. I submit the amendment defeated in the committee was less restrictive than the one that passed, although I would also submit that was not the intention of the authors of the amendment which did pass. I know that was not their intention but I think that is clearly what has happened.

Mr. President, I would not want to leave the impression that we simply sat back and watched it happen without raising this in committee. I objected from the beginning that the amendment as drawn had the opposite effect from what the sponsors declared they wanted. Nevertheless, the amendment prevailed in the committee without my support.

Mr. President, the Senate faces what I would call a dilemma at this time. This subject is complicated enough without adding the complications which I think clearly have come about because of the committee provision itself. While a strong case can be made on the merits that the United States should continue to develop our ASAT capability at a measured pace, one side says we should do so without the hope of any arms control; the other side says we should not do any more testing at all. At least that is the polarized positions as they existed before today.

I hope that we are moving closer together. I certainly do not believe we can put all of our faith in arms control in lieu of any military capability, now do I believe, however, that we should go blindly forward in taking steps now that cannot be at a later date corrected even if the Soviets at some point in the future decide to negotiate in good faith on this subject.

I believe we should reject the extreme approaches, and that is why I cannot support either the House action nor can I support the provision contained in the Senate Armed Services Committee bill.

I believe the Senate must have before it a measure that both permits the U.S. ASAT development to proceed and put this ASAT development in the context of some hope of arms control. I suppose this could be labeled the middle ground between two extreme positions, in my view.

In my judgment, the Senate needs to be on record expressing several key points. This is what I think we should search for in terms of an amendment:

First, that we believe there are opportunities for arms control in the area of mutual and verifiable limits on ASAT weaponry;

Second, that U.S. development of our ASAT capability at a measured pace could help facilitate that goal but that if circumstances and opportunities permit this development could and should be halted to further the cause of an arms control agreement;

Third, that U.S. efforts to improve our own satellite vulnerabilities could significantly reduce both the current and the more distant threats that we face and also again, I repeat, a reduction of those satellite vulnerabilities in my view is not only essential for our national defense, it is also essential if we are going to have any hope of having a verifiable treaty;

Fourth, that an all-out race in space is not in the best long term interests of either the United States or the Soviet Union; and

Finally, that a clear distinction between ASAT capabilities and other capabilities that will be delivered under the space defense initiative is highly desirable.

While some so-called SDI capabilities may ultimately turn out to have some ASAT capability, the issue before this body is the MHV program at this point in time and not Star Wars. I think there ought to be a clear distinction in the debate on those subjects.

Mr. President, I am not ready, as the administration apparently has been, and I hope that is changing, to throw in the towel on the possibility of arms control agreements where antisatellite weapons are concerned. Attempting to determine what verifiable limitations can be achieved will not hurt our Nation's military capability. Attempting to limit the long-term arms race in space should be viewed as a positive goal, not a negative incentive.

At this time, Mr. President, I hope that we can search for the kind of formula that would reject both extreme views and move forward with the testing that is absolutely essential in some respects, or may be essential and with some verifiable and mutual proposal for arms control limitations. I do not think the two are incompatible, but I believe any testing should be carried out with the full view in mind that we hope to have that kind of agreement. I think this body and the House are not going to be willing to permit that kind of testing unless we have some language that sets forth that hope and that puts the burden on the administration to come forward with a limited or less than comprehensive approach to the antisatellite dilemma.

Mr. President, at this stage I yield the floor.

Mr. **DENTON** and Mr. **PRESSLER** addressed the Chair.

The **PRESIDING OFFICER** (Mr. WALLOP). The Senator from Alabama is recognized.

Mr. **DENTON**. Mr. President, I wish to make only a few remarks, having heard the closed session and the open session in detail, but not having participated in the committee meetings. I want to give my overall statement in the feeling of brotherhood which should prevail as we approach such an important decision.

First, I am convinced that there is no dichotomy in the administration's point of view. I have not checked with them explicitly today, but it has been my experience that in any field of arms control or negotiations they are not only willing but eager to pursue useful avenues. I believe that remains true.

I am convinced from what I have learned today that the state of the art in space is such that it is as difficult or more difficult than in the nuclear field to verify, by our side's resources alone, whether or not any particular agreement is being followed by the Soviet Union. I believe that our administration's position philosophically is that they would pursue negotiations but they recognize that to negotiate with the Soviets, to have any hope for those negotiations, requires either that the Soviets suddenly have a burst of goodwill, which we have not seen in any of their history—and even the Washington Post negates as one of their characterizations—or else that we present them a good reason to negotiate.

I believe that the set of circumstances which would represent good reason for them is attainable. I believe we have not attained it. I believe we have seen Congress cut President Reagan's request regarding defense beyond that which President Carter would have requested. I believe we have seen a long record of Congress not supporting Presidents in any confrontational issue with the Soviets since about 1970, to the great damage of our own national interests. I think that is a trend which is dangerous and I hope to see it reversed before we find it too late to reverse.

For the Senate to suggest to the President that he negotiate in such a field under the above circumstances, the two circumstances being no goodwill and no good reason, seems to me both absurd and damaging—absurd because, given the circumstances, negotiations would be fruitless—damaging because congressional urging of the President to negotiate under such conditions would tend to mislead our public as to the efficacy of such negotiations.

But, Mr. President, there would be even more damage in that such a message to the Soviets would reassure them that the mischief of Congress in the field of providing for the common defense—or, rather, in not providing for the common defense of U.S. interests—is continuing, with rationales like those heard today. It has frustrated Presidents Johnson, Nixon, Ford, Carter, and Reagan both from negotiating successfully, and from bringing about peace.

We had peace in South Vietnam after the raids in December 1972, and a settlement which could have prevailed in a peaceful negotiation for those poor people, but Congress cut off the aid which was material to South Vietnam and forced a very unpeaceful solution. There is no peace now in Southeast Asia: in Cambodia, Laos or Vietnam. There is no peace in Afghanistan, because the encouraged Soviets have invaded, in the first undisguised invasion by a major power since World War II began.

It is Congress which has, and I believe all five of the Presidents I mentioned would agree has, failed to permit the executive department—not all of Congress but a sufficient majority—to prevent the Presidents from providing for the defense of our common interests. We are suffering economically from that failure around the world, and we can suffer mortally if we provide the signal, which we may provide today, that Congress is willing to ask the President to negotiate when the circumstances are wrong. The President, be he Carter, Ford, Nixon, or whoever, is capable of judging when those conditions are correct.

Why should we who have been doing all this mischief be the ones who tantalize and decrease the probability that there will be peace, decrease the probability that there will be understanding among our public, decrease the possibility that we will be able even to survive?

I hope that we can keep domestic politics out of this. I believe Senators who know better may be taking positions possibly rooted in domestic politics within an election year. I do not think this is an issue on which we can afford that.

I would have been glad, had I been a Senator during President Carter's years, to have supported many of his initiatives which were not supported by the other body or this body and which resulted in some rather tragic situations, the one developing in Angola and in Africa being one.

Mr. President, I hope we will approach this with the seriousness which it deserves. We have to have either goodwill or good reason. Let us provide him with good reason by showing him we have the common sense and understanding to see how to protect our interests around the world.

Such a course as proposed by the amendment from the Senator from South Dakota is not in that category.

Thank you, Mr. President.

Mr. PRESSLER. Mr. President, I wish to add Senator GORTON as a cosponsor to my amendment which brings total cosponsors of this amendment to 33. Senator GORTON has asked to be added as a cosponsor and I so ask unanimous consent.

The PRESIDING OFFICER (Mr. DENTON). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I rise to oppose the pending amendment. It seeks to require the President of the United States, an action that is ill advised. It asks of the President of the United States that he make a good-faith effort to engage in negotiations that will lead to a verifiable antisatellite treaty with the Soviet Union.

Mr. President, in the closed session we have heard enough this afternoon to I think suggest to all concerned with the safety of this Nation that would not be not only ill advised, it is also a requirement that is virtually impossible to satisfy. The President is supposed to reply to Congress with a report on the status of those negotiations by September 1 of this year, mere days from now.

It might be a very useful thing, Mr. President, if we were able to receive a report with respect to what is verifiable with respect to the entire realm of antisatellite technology.

I understand full well that it is the purpose of the Senator from South Dakota to engage the President in this effort only with respect to those portions of that technology which are presently verifiable.

Yet, even that action which might on its face seem not just well intended but well advised I think is not.

There is a general consensus that has been expressed by Members on both sides of this question this afternoon that "the lion's share of the antisatellite technology is unverifiable."

Part of that antisatellite technology is indeed verifiable, but the part that can be verified is the part the Soviets have already tested and deployed.

By contrast, Mr. President, the United States has yet to test any antisatellite capability other than the first phase of the F-15 launched direct ascent system which has not yet had tested the critical terminal guidance system.

Mr. President, we must be serious about this matter because it is of critical importance and with the Soviets having a tested and proven reliable system, if they are now assured by the United States either by the treaty that is proposed, or existing legislation, the Tsongas amendment of last year, that the United States is not going to test, then, Mr. President, what we engage in is nothing less than a temptation of the Soviet Union to engage in time of crisis in either blackmail or in an actual breakout of their existing technology. The potential is very high in the absence of any tested U.S. response, very high given the surge capability that the Soviets enjoy.

The Soviets have that surge capability because they have tested their system. The United States has no surge capability because we have tested no system beyond the first phase of that F-15 direct ascent test.

In any case, substantial questions of verification surround even as modest a proposal as one only for a limitation, rather than total far-reaching comprehensive bans.

If the United States seeks to negotiate a limitation which will restrict ASAT payloads only, we do not know how many there are and we cannot find out in order to be able to tell if the Soviets have complied with an agreement to destroy their ASAT payloads. We do not know how many sleepers they many awaken. Beyond that it is simply naive to assume that the Soviets would give up this enormous advantage of a tested reliable ASAT capability for the sake of this agreement.

If the United States were to negotiate or rather to attempt to negotiate to restrict not only the use by the Soviets of their existing low orbital interceptor and SL-11 launchers that they use, it is not very suspenseful, Mr. President. We have to anticipate the Soviets will refuse because the SL-11 launcher also launches the EORSAT and the RORSAT, two satellites by which they conduct reconnaissance of the oceans. It is not likely they will give up that capability for the sake of an agreement.

Hypothetically, even were the Soviets to agree, they could still launch covert, secreted ASAT payloads from SS-9 boosters and launchsites, which number literally in the hundreds.

Mr. President, many of my colleagues indicated this afternoon a belief that the effect of this amendment would be simply to let them have one and let us have one, and then let us just forget it. That tragically is not the case. It is simply not an option that is available to us to let them have a tested system when we have not tested one of our own.

This amendment means—and make no mistake about it—that we will let the Soviet Union have at least one tested system that we know about capable of surge breakout and, in the meantime, we will hope that we can talk them into giving it up, since we have already given up testing anything of our own.

Well, if they do not, then, Mr. President, what is the U.S. defense to the existing Soviet ASAT capability? I will tell you what it is. It is only a posture of moral goodness or, to call it what it is, one of unilateral vulnerability.

Just how dangerous is the current Soviet system? How dangerous would a surprise breakout be for the United States? The current Soviet coorbital antisatellite is capable of taking out the U.S. space shuttle despite the space shuttle's maneuverability since all that is required is that an antisatellite weapon puncture it to render it useless.

Over half of our high-value satellite assets are vulnerable to existing Soviet antisatellite capability.

Now, there is I think a little history to be remembered appropriately at this point, Mr. President. If we are to consider negotiating in what is a largely unverifiable area of weaponry, then we have to enjoy reasonable assurances that this moral good intention will in fact result in some safety for the people of this country.

I have asked a question of the national intelligence officer for the Soviet Union, Mr. Gershwin, who was here during the closed session. I asked him this question: Is there any precedent for a scenario by which the Soviets would initiate declaratory statements about U.S. operations in the atmosphere, in space or in international waters that, over time, could provide them the basis for an overt attack on U.S. systems; or to put it more simply, a justification, however slim the pretext, to launch an attack against us?

The answer which he made is as follows:

> While we know of no precedent for such a scenario, several points can be noted. Soviet officials acknowledge the right of free passage through space. However, they claim certain space activities are illegal and reserve the right to take appropriate actions. Illegal activities, in their assertions, include spacebased intelligence gathering that is for other than treaty verification, as well as direct-broadcast satellites that could interfere with their control of the flow of information to their populace. In dealing with direct-broadcast satellites, they expressed the view that a state has the right to use any means to counteract such activities not only within its own territory but also in outer space.

Mr. President, it requires little imagination to summon up the image in space of the same kind of pretext of a violation of Soviet turf that warranted them in their brazen judgment in shooting down the Korean airliner less than a year ago. I am not going to belabor the point. I will simply say this: We must bear in mind at any time that we undertake to give the President of the United States such an instruction, we must undertake to imagine full well not just past performance on the part of the Soviet Union but the context in which we ask the President to operate.

What if we rush to a partial limitation on ASAT's with the Soviets, assuming that we agree only on that small portion which is verifiable and which they have tested but we have not, sacrificing the test of a U.S. system? And suppose some day the Soviets use an easily hidden antisatellite to destroy the U.S. shuttle, claiming it violated Soviet sovereign rights? What then, Mr. President, will be the U.S. response? A grain embargo? A boycott of the 1988 Olympics? A resolution in the United Nations once again condemning Soviet ruthlessness, yet once again being able to do nothing to restrain it because we have not tested an antisatellite capability of our own?

Mr. President, if that is what we are left with, then this instruction to the President of the United States is not a moral act, it is a dangerous, foolish, naive act.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I am pleased to be a principal cosponsor of this amendment. The amendment is identical to one which I placed in the RECORD on May 23 on behalf of myself, Senators PRESSLER and TSONGAS, and approximately one-third of the Senate. I had hoped that this amendment would be taken up during Senate consideration of Senate Joint Resolution 129, the resolution on space arms control which the Foreign Relations Committee passed without dissent last summer. Since we have not succeeded in bringing up that resolution, though, it is appropriate that we debate the amendment in the context of this bill.

On March 31, the Congress received the administration's report on its policy on antisatellite (ASAT) negotiations. I wish that I could take some comfort from this report. After all, the report notes that test bans for selected types of ASAT's might be verifiable. The report also observes that verification problems could be mitigated by new technologies or by cooperative measures that might be reached in future arms control agreements.

Unfortunately, having left the door open for at least modestly constructive ASAT negotiations, the administration still refuses to walk through it. I simply cannot agree with a report that concludes that urgently required proposals for preventing an arms race in space must necessarily remain under study for the indefinite future.

This is 1984, not 1981, and the administration has had over 3 years to develop an effective strategy for space arms control. During these 3 years, time has not been standing still. On the contrary, the Soviets have continued to improve their existing operational ASAT system, and the United States has now begun testing of its own miniature vehicle (MV) ASAT. Even more disturbing, the administration has formalized a so-called strategic defense initiative (SDI) that raises grave questions as to its cost, goals, technological feasibility, effect on crisis stability, and consistency with longstanding U.S. arms control policy.

In the late 1960's, I vigorously opposed the proposed deployment of the safeguard ABM. At that time, I was convinced that whatever investment the United States made in strategic defensive weaponry would have inevitably been overtrumped by additional Soviet investments in relatively less expensive offensive systems. The net result would have been that each side would have spent tens of billions of dollars simply to maintain the strategic stalemate at a much higher, more costly, and less stable level.

That argument was certainly an argument that was carried on in a bipartisan way. Senator PROXMIRE, Senator JOHN SHERMAN COOPER, Senator JACK JAVITS, myself and many others engaged in that very heated debate which we felt was a debate backed up by months and months of hearings, research that we had done, with expert witnesses, and that simply I think gave a clear-cut case to the fact that it would have been unwise for us to have gone ahead with that project. I think, as we look back now, we can see today even more clearly than we could then that that would have been an unwise investment, and an unwise decision. It would have escalated the nuclear arms race. It would not have brought it down, and certainly the technology that was developed then would have been obsolete as we look at it today.

I am deeply concerned that the administration's SDI proposal repeats the error of the original ABM deployment proposal 15 years ago. In light of determined Soviet research and development efforts in directed energy weapons programs, the United States must maintain a prudent level of R&D in these areas as a hedge against a possible Soviet breakthrough. But there is a great difference between a hedge and a top-priority development program that is designed to lead to a deployment decision.

In a report released in March, the Scowcroft Commission warned that extreme caution should be applied before plunging ahead with the SDI. I could not agree more. I believe that the United States should exercise extreme caution before it deploys its ASAT or invests tens of billions developing other space-based or space-directed weaponry.

One element of a policy of caution is arms control. I do not know if arms control can succeed in this area. It could be that the Soviets would reject all our proposals for effective verification of a total ASAT and space weapons ban. It could be that we would have to settle for the time being for a partial ban, one that only prohibited high-altitude ASAT's. But I do know that we should try. I cannot fathom why this administration is willing to propose a total ban on chemical weapons, with all the challenges for verification that that entails, yet it remains unwilling to do the same with ASAT's.

The amendment that we are proposing today reflects our commitment to take all concerns in this area into account, especially those relating to the verifiability of an ASAT ban or restriction. What this amendment says is that the Senate simply does not agree with the administration's decision not to enter into any negotiations on space-based or space-directed weaponry. We believe the United States should propose such negotiations, if not on a total ban, then at least on as strict a set of restrictions as can be negotiated consistent with our national security interests.

The amendment also underscores our belief that arms control should precede any decision to deploy elements of the SDI. We do not believe that arms control in space should be held in abeyance for years while development of SDI programs carries forward, as the President's science adviser recommended in testimony before the Foreign Relations Committee on April 25. If we were to accept this approach, we would only insure that development of space-based weaponry would proceed beyond the point where arms control could ever be expected to save us from an unregulated competition.

Mr. President, this is a balanced and a flexible amendment. By passing it today, the Senate can send a strong message to the administration, a message that we believe that this great Nation, which has always championed the peaceful uses of outer space, should lead the way in trying to negotiate an arms control regime that will, the fullest extent possible, preserve space as a sanctuary from weaponry. I urge the adoption of the amendment.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **TOWER**. Mr. President, what we are going through here really is an exercise in wishful thinking, an exercise in naivete. Talk about sending a strong message to the administration—I think we are sending an even clearer message to the Soviet Union; that is, we are prepared to impose unilateral restraints on ourselves in an effort to prod our President into negotiating, and we are willing to diminish our own capability. When we talk about the peaceful uses of space, we have to convince the world that we are dedicated to peaceful use of space when most of our space exploration, the vast majority of it, has been for peaceful purposes? Whereas, 70 percent of the Soviet space exploration and space research has been purely military, and another 20 percent of it has been partially military and partially civilian.

I sometimes wonder who we delude besides ourselves. The Soviets are hardnosed negotiators. I do not know where we get the idea that by imposing restraints on our own development and permitting them some superior capability in an area, we are likely to hasten negotiations. I do not know of any historical incident that would bear that out.

If we learned a lesson from the ABM experience, it would be that we should go ahead, test, and perhaps even begin to deploy a system. Then the Soviets might negotiate in earnest as they did on the ABM Treaty but they did so only after we had authorized, funded, and begun to deploy the system.

True, we began to dismantle that ABM system that we spent a lot of money on very shortly, and a few short months after we deployed it. But it was in the happy circumstance that we had achieved an ABM Treaty.

I wonder if anybody genuinely believes that by carefully restraining our own ability to test the system—we talk about testing, not deployment. The time to impose limitations, if you want to, is on deployment. But we inhibit our own research and slow ourselves down in the hope that this will make the President more amenable to negotiations. Boy, that is some circumstance under which the President has to go to the negotiating table with the Soviets.

Mr. **PRYOR**. Would the Senator from Texas yield?

Mr. **TOWER**. I yield to the Senator from Arkansas.

Mr. **PRYOR**. I would ask the Senator a question. I think I may be missing something in this debate this afternoon. I have read the language in the Pressler amendment that is now pending before the Senate. I am wondering if the Senator from Texas would be so kind as to point out to the Senator from Arkansas exactly what area of this sense-of-the-Senate resolution unilaterally ties the hands of the United States of America on this issue?

Mr. **TOWER**. Just let me get my copy here and I will talk about it.

All right, here we go.

> The President should seek mutual agreement with the Soviet Union to—
>
> (1) immediately resume negotiations on a mutual and verifiable ban or strict limitations on the testing, development, deployment and use of antisatellite weapons;
>
> (2) institute, as appropriate, a mutual and verifiable moratorium on the testing in space of antisatellite weapons during the period of negotiations; and
>
> (3) seek, on an urgent basis—

Why should you have a moratorium during negotiations? It seems to me that during negotiations is the time when you want to be improving your technology so you have something to negotiate with.

Mr. **PRESSLER**. Will my colleague yield?

Mr. **TOWER**. No. I will not yield—

> a verifiable treaty restricting the testing, development, deployment and use of space-directed weapons systems and prohibiting the testing, development, deployment and use of space-based weapons systems, if such systems are designed to inflict injury or cause any other form of damage on the Earth, in the atmosphere, or on objects placed in space.

That is pretty comprehensive. I think it is unclassified. Verification is enormously difficult if not impossible for some forms of antisatellite weapons.

> (b)(1) Such agreements should not restrict operations in space not involving weapons, such as the United States space shuttle program.

How on earth can you verify the fact of a space shuttle? The Russians are going to have one pretty soon, a copy of ours. How can you verify that what they are engaged in is a peaceful operation? They will tell the world that it is, but how can you verify it?

> (2) Increased funds should be allocated to improve the survivability of satellites and other space-based assets.

How much in the way of funds and over how long a period? What funding profile on that one?

> (3) Funds should be made available, as needed, to enhance monitoring and verification capabilities for space arms control agreements.

I would like to know what additional enhancement can be had other than what we have now, outside of onsite inspection, which they obviously are not going to agree to, and which would really have to be intrusive and pervasive.

> (c) Not later than September 1, 1984, the President shall submit to the chairman of the Committee on Foreign Affairs and the chairman of the Committee on Armed Services of the House of Representatives and the chairman of the Committee on Foreign Relations and the chairman of the Committee on Armed Services of the Senate a report detailing actions undertaken since the date of enactment of this section to open negotiations on antisatellite weapons and space-based and space-directed strategic defense systems. Such report shall be submitted in unclassified form with such classified annexes as may be necessary.

What we are saying is, "You better get on with the negotiating right now." Of course, I think the Soviets might conclude if they would just come to the table and make a pretense of negotiating, we would continue to impose unilateral restraint on ourselves.

The fact is, this is a sense-of-the-Congress resolution, but the clear thrust of it is to inhibit, in my view, the negotiating posture of the President. It is, in fact, saying to the world, "The United States has not been serious about negotiations. Only the Soviets are."

Why do we not pass one instead urging the Presidium of the Supreme Soviet to urge that they get involved in negotiations? Of course, that would be useless, would it not?

But the Congress of the United States intrudes itself into the negotiating process with stuff like this. This is the very thing that is a disincentive for the Soviets to negotiate.

The only thing that has been historically proven is, fund a system, deploy it, and then they will negotiate, and then they will conclude a treaty. That was the ABM. Can the Senator name any other situation in which we have imposed unilateral restraints on ourselves and the Soviets have responded by saying, "Let us negotiate. We are willing to accept some limitations, too." Cite them to me.

**Mr. PRYOR.** I say to the distinguished chairman of the Armed Services Committee that we held a secret session of the Senate, and that is not secret. I will certainly not talk about what we talked about in that session, of course. But I could not help sitting here in that 2½ or 3 hours and thinking about the fact that 40 years ago, when we entered a new age, the nuclear age, had we had the same sort of session 40 years ago in this very body we may—and I underline "may"—have at least caused some alarming signals to go off and say that it was at that moment that we should have been seriously talking around this world about what we had the potential of doing. Today, we are initiating——

**Mr. TOWER.** Does the Senator know that we volunteered to turn our atomic capability over to international control and the Soviets refused?

**Mr. PRYOR.** And what have we done now?

**Mr. TOWER.** And the Soviets refused. Why? Because they wanted to develop their own capability. I will remind you of what Harold Brown, Secretary of Defense, said:

> When we build, they build, when we don't build, they build.

**Mr. PRYOR.** But the Senator from Texas is saying let us build more and more and more so we can have less.

**Mr. TOWER.** The Senator from Texas is suggesting no such thing. The Senator from Texas is saying let us continue with our research, let us continue testing. I have not suggested deployment for one moment. But what we do is inhibit our R&D.

Mr. President, if you do not negotiate, we are not going to research and develop this thing. We are not going to develop the capability, unless you are negotiating in good faith.

Who is it that does not negotiate in good faith? Over the years, who has it been for the most part? The United States or the Soviet Union?

The Soviet Union, after the ABM Treaty, after SALT I, when we went into a state of détente, and when we reduced defense spending in real terms, continued to relentlessly build and build and build. I suggest that the Senator from Arkansas, if he thinks the Soviets are people of equal goodwill to the United States, equally responsive to the public opinion of their people, who are desirous of arriving at peaceful arrangements with the United States, he probably believes that a people-to-people exchange would solve everything. We would all learn to love each other and all lay down our arms.

Well, that is not the real world as it is.

**Mr. PRYOR.** The Senator from Arkansas is not that naive and the Senator from Texas knows that.

**Mr. TOWER.** I did not think the Senator was, and I wanted to hear him say it.

**Mr. PRYOR.** And I do not believe the Senator believes this is a mandate upon the President or that this will unilaterally tie the hands of the President.

**Mr. TOWER.** No; I do not say it is a mandate. I say what you do is create the kind of climate in this world that really makes it impossible for us to arrive at a serious arms agreement with the Soviets. What was historically shown is we develop and deploy a system and the Soviets negotiate seriously and we limit the system. That is what has been proven to work.

But you are experimenting here with wishful thinking. That is what you are doing.

**Mr. PRYOR.** It would appear to me——

**Mr. TOWER.** This is nothing but wishful thinking. It is not going to get us where we want to be. It is not going to result in one iota of arms control. If anybody really believes that it will, they better read the history of the past.

**Mr. PRYOR.** If the Senator——

**Mr. TOWER.** If the Senator wants to make a speech, I will yield the floor.

**Mr. PRYOR.** I certainly would. It would appear to me that this President should not oppose this resolution because it basically is saying in print what he has been saying in public, that he wants to negotiate. He is willing to go to the negotiating table. He is willing to talk to the Soviet Union. Here comes the Congress of the United States saying, "Mr. President, we encourage you to do this. Mr. President, we stand behind you in doing this."

Now what is happening is we are throwing this up as some sort of an albatross around the President, around the country. We are going to unilaterally disarm. The Senator from Texas knows very well on page 1 in the Pressler amendment at line 11, "as appropriate" such a moratorium. "As appropriate" would certainly give the President of the United States the opportunity to back away from this moratorium if he did not deem it to be appropriate.

I did not know earlier today, Mr. President, even what was in the Pressler language nor how I was going to vote for it. But sitting through the session this afternoon and seeing what was the new beginning of a new age that we know very little about, I do not think we would be wrong in trying to encourage the President of this country, the great communicator, to begin at least some indication with the Soviet about this, and I think that is what the Pressler amendment does.

**Mr. TOWER.** Mr. President, I hope nobody thinks the press is going to interpret this as simply an endorsement of the President's position. If this amendment is adopted, what it says is that Congress believes that the President will not act in good faith, and therefore they are pressuring the President, and that is what the Russians will believe, too. The Russians will say, "We got that guy over a barrel. His own Congress pushes him into negotiation."

The fact is that we should be thinking about what is in the national security interests of the United States. But we are going off on arms control for the sake of arms control, not for the sake of national security.

We could get an agreement tomorrow with the Russians if we wanted to make concessionary terms. By the way, from time to time, we have done some of those things—made agreements for the sake of agreement, not for the sake of the security of the United States of America.

I do not think anybody has any illusions about how this is going to be interpreted. In the meantime, we always play around with these inhibitions and restrictions on ourselves. If we just will not R&D on this system or if we will show some restraint, the Soviets will negotiate and we will negotiate the problem away. I can tell you that there is nothing in history to prove that.

We had to actually deploy the ABM before the Soviets were willing to negotiate. Then we sat back and thought we were OK; and the Soviets indulged themselves in the most relentless arms buildup in history, when they were not provoked, not challenged, and engaged in military adventures all over the world.

When we possessed military superiority, nuclear monopoly, even under severe provocation, the United States had the restraint not to use it. Does anybody think for a minute that, given the current state of Soviet military power, we would do anything irresponsible on our own initiative? I hope not.

Mr. TSONGAS. Mr. President, I find myself in a peculiar position. Last year, when we considered this bill for fiscal year 1984, I was determined to bring the issue of antisatellite weapons and their limitation to the attention of the President. I offered an amendment requiring that the President endeavor to negotiate a ban on such weapons. My colleagues supported me generously—91 ayes to 0 nays. The amendment survived conference and was signed into law by the President.

Today, I am a victim of deja vu. I am doing the same thing all over again. As if the 91-to-0 vote never happened, we must do it again. Someone said "Those who ignore history are doomed to repeat it." In this case, let us hope so.

Why must I offer my amendment again? A simple question usually receives a complex answer and so it is.

After that amendment was signed into law last year, it dawned on the administration's strategic thinkers that there would be no test of the F-15 ASAT against an object in space unless there was movement on ASAT arms control. The amendment did not demand a signed treaty with the Soviets—of course not—but it did require at the minimum a Presidential certification that he was willing to make such efforts. That apparently was too much to ask. An arms control component for the security interests in space was not on and by March 31 of this year, the administration so reported to Congress. Two months later, by a close margin 10 to 8, the Armed Services Committee voted to gut my amendment, effectively eliminating any requirement that the President move forward with ASAT arms control.

The committee's gutting of the amendment is not obscure in its meaning. It says that there will be no test against an object in space "unless the President determines and certifies that proceeding with the ASAT program is compatible with and essential to the accomplishment of arms control agreements."

We have here a neat reversal of legislative priority—my amendment focused on the funds for the ASAT test as a lever on the administration to move forward in good faith on ASAT arms control. The committee amendment makes arms control incidental to the conduct of the ASAT test.

So, Mr. President, I am not alone in my peculiar position I alluded to earlier. I have partners. My good friends on the Armed Services Committee and a host of strategists in the Pentagon, the White House, and the Arms Control and Disarmament Agency. We are all partners in this curious reenactment of last year's drama. Only this time, we are divided. It is over the issues of ASAT arms control.

Let me say, Mr. President, that the past year's events have not been completely repetitive on this ASAT question. As my colleagues will recall my amendment last year sought a negotiated ban of ASAT's. The word "ban" in that amendment was ambiguous, but what we were seeking was an attempt on the part of the President to negotiate limitations which would control the arms race in dedicated ASAT systems, or perhaps, with verve and imagination to negotiate a treaty eliminating dedicated ASAT weapons.

The administration response was in hindsight, a clever tactical move. They claimed that a ban meant development, testing, deployment, and possession. They also said that a ban of ASAT's meant everything residual or that could be conceivably used as ASAT's, such as space shuttles and ICBM's. Therefore, they argued, they could never satisfy my amendment's requirements—it was too absolute, too comprehensive—verification—a now familiar theme—would be impossible.

Well done. If I had been in their predicament, faced with that amendment and feeling no particular enthusiasm for ASAT arms control, I would have done the same thing—seize upon the letter of the law and ignore the spirit. Tactically, a smart move. But the Nation, and I believe the Congress, is not of the same mind. We support a sincere effort to negotiate arms limitations on ASAT's. We think arms control can be a very effective means to protect and improve our security interests in space. We are so determined to see arms control efforts go forward in this area that we will accept and even applaud a good-faith effort to negotiate something less comprehensive than an absolute ban.

Any amendment to S. 2723 which I will support should reinstate the original ASAT arms control provision but with an important modification. Last year's legislation required a Presidential certification that he was endeavoring in good faith to negotiate a ban on ASAT's. My present amendment deletes the word "ban" and inserts "ban or strict limitation."

This key modification responds to the administration's contention that a comprehensive ban would not be verifiable. With the goal of promoting an arms control approach to our security interests in space, I therefore have modified the original amendment of 1983 to include "strict limitations" as a worthwhile arms control objective. Arms control in space is an urgent priority in order to safeguard our heavy investment in satellites performing vital tasks in communications, electronic intelligence, early warning, photoreconnaissance, ocean surveillance, and navigation. This modification of last year's amendment offers sufficient flexibility to permit the negotiation of a mutual and verifiable treaty containing significant limitations.

Mr. President, the amendment now before the Senate makes the implicit claim that a world with ASAT arms control would be more secure than one without ASAT arms control. I think it is important for all of us here to understand how and why that assessment is eminently true.

First, let us examine how the question should be addressed. It is not enough to say that arms control is "a good thing". We have to demonstrate that various treaty options make sense in terms of cost, stability, and survivability of our space assets. It is not useful to think of treaty verification as an absolute in this regard. We must ask if there are arms control options, combined with other techniques, which are sufficiently verifiable to render cheating an insignificant factor in the survival of our satellite inventory.

Let us begin with cost. Satellites are very expensive and it is expensive to place them in orbit. The higher the orbit, the higher the cost. If we allow ASAT capabilities of the Soviets to develop without limit, we will face heavy costs in order to protect our satellites. To counter Soviet ASAT's we will have to implement a strategy of satellite duplication or redundancy to make it more difficult to destroy the presently small number of highly sophisticated satellites we deploy in high altitude orbits. We would also need to spend large sums as even more sophisticated defensive capabilities of our satellites. It must be remembered that in a race between ASAT's and satellite defensive measures, the ASAT is less expensive than the combined costs of the satellites and its intricate defensive capabilities. Plus we will be in a race to develop ever more effective antisatellite weapons at huge cost.

Which side can better adapt to the costs of unrestrained ASAT competition? Our most important satellites and, by far, the majority of our satellites are in high Earth orbit, including elliptical, semisynchronous, and geosynchronous orbit. These satellites are beyond the reach of the presently deployed Soviet ASAT. Our satellites are more sophisticated and more long lived than the Soviet systems. They are currently secure from Soviet attacks.

The Soviets have short-lived satellites, mostly on low Earth orbit. They replace them frequently and maintain more of them in orbit. The Soviets are therefore better situated to deal with a race for satellite redundancy and, more important, if they develop a high altitude ASAT, they will place at risk our valuable, long-lived, expensive satellites at high altitudes.

Because our F-15 ASAT has such impressive offensive capabilities, some experts have lost sight of how much it would cost the United States to develop critical defensive capabilities. Would it not be logical to constrain the Soviet program so that it remains limited to a primitive, slow, and marginally reliable system against our less numerous low orbit satellites, and thereby preserve our high-altitude sanctuary?

If we were unable to negotiate the verifiable dismantling of the Soviet orbital interceptor, could we not install relatively simple defensive capabilities on our satellites to neutralize the Soviet ASAT? Would not Soviet systems erode over time in the absence of further tests?

But, it is argued by some ASAT proponents that the slightest, undetected cheating on a treaty would imperil our few strategic satellites in high orbit. They argue that an undetected breakout of Soviet high-altitude ASAT capabilities could happen before we detect it and thus threaten our security in the event of a crisis. This argument ignores, however, the obvious option we would have and do have of securing our high orbit satellites with defensive capabilities insuring their survival. This includes evasive maneuvering, hardening, decoys, electronic countermeasures, and so forth. This could be done and should be done whether we have a treaty or not. So, with ASAT arms control we can lower cost and increase survivability of our satellite assets.

What about strategic stability? Would an unrestrained ASAT arms race enhance or degrade the stability of the nuclear balance? At a recent conference on ASAT's and arms control sponsored by the Office of Technology Assessment, 25 experts in the field, representing a cross section of opinion, all agreed on the following assessment:

> Future U.S. and U.S.S.R. activities in space hold great potential for generating uncertainty and misunderstanding regarding the countries' respective intentions. Workshop participants agreed that the Soviet Union will continue its vigorous exploitation of space, and that some Soviet activities will be perceived in the United States as provocative. Similarly some American actions will appear provocative to the Soviets. Both countries will observe activities which they will not completely understand and which will cause considerable concern. Misunderstandings concerning the intent of various space actions could be particularly dangerous during crises or low-level conflicts.

Can we accept as valid the administration's contention that adequate verification of an ASAT Treaty is not feasible? Certainly not. There are numerous options for a negotiated treaty that can be adequately verified, while substantially enhancing the security of our satellites. Our ability to verify a treaty with high confidence certainly depends on the specifics of a treaty to be negotiated. The administration's lack of willingness to negotiate is the crux of the matter here, not our technical limitations to monitor an arms control treaty.

The new version of the Tsongas amendment provides sufficient flexibility for negotiating a ban, or strict limitations, on ASAT weapons. The OTA workshop on arms control in space identified a broad range of treaty options that could be adequately verified. Certainly a ban on dedicated ASAT testing can be monitored with high confidence. We have for 15 years monitored the 20 or so Soviet ASAT tests and know their barely marginal rates of success and their relevant parameters. Our upgraded deep-space radar network ground-based electro-optical deep-scale surveillance (GEODSS) to be completed in 1987, will provide greater tracking accuracy, broader coverage, and more detailed optical and orbital information on space objects than ever before. It could clearly monitor from the ground, with additional support from space, any tests of ASAT's from launch to intercept.

A test ban would preclude development of a new high-confidence dedicated ASAT system and halt any efforts to improve present systems. It is difficult to conduct space tests of ASAT's surreptitiously, and a system not tested extensively cannot be of concern as a military threat.

While possession of ASAT's is more difficult to verify, deployment and use of ASAT's can easily be observed. They, too, could be included in a test ban treaty. Moreover, a treaty constraining ASAT weapons would still leave us the option to improve the survivability of our satellites and carry on our vigorous research program as a hedge against technological surprises.

The OTA workshop and other experts agree that there are still other treaty options, verifiable at high levels of confidence, such as a treaty establishing "rules of the road in space" dealing with space mines, confidence-building measures, a form of discussing questionable activities, other ways to alleviate dangers and miscalculations in space. Other possibilities include a high Earth orbit ASAT ban, and limitations on nondestructive interference with satellite functions.

I am convinced that a ban on testing, deployment, and of use dedicated ASAT's is a negotiable, verifiable, proposition. If this administration responds in good faith to this amendment, they will propose to the Soviets a variation on that theme. Also at hand are other options, which I have listed and which ASAT experts have discussed as thoroughly practical, verifiable, and useful. This amounts to a large basket of ASAT arms control options, all of which would enhance our security in space. We are asking the President to move forward decisively and propose to the Soviet Union the most creative and far-reaching ASAT arms control treaty that he can devise.

Mr. President, since much of the discussion today took place in closed session, I should like to take advantage of this lull in negotiations to read into the RECORD some of the comments that were made during the session, none of which are classified, all of which are in the public domain.

Mr. President, the issue we are discussing here is antisatellite weaponry. The argument made is that the Soviets have the capability and we do not. There is a certain element of truth to that, but I should like to go into some of the details of what has happened from the Soviet perspective, so that we understand clearly what capability they have.

There is a chart here that goes into some detail as to the three kinds of testing the Soviets have engaged in, in antisatellite weapons.

The most primitive test is what is referred to as the second-orbit intercept. In other words, the Soviets launch the antisatellite weapon with ICBM's. It then orbits twice, and then moves against the target.

On the chart, it is shown that they began testing that in 1968, again in 1970, 1971, 1977, and 1981. In that, the most primitive system, they have had nine tests, and seven of the nine were successful. So one has to conclude that the Soviets have concluded that that kind of system can be employed.

The next testing they did was a more sophisticated intercept, a one-orbit or a first-orbit intercept. In other words, one of the problems of the Soviet system was that you have to wait two orbits to be able to effect the intercept of the target. This was an attempt to move it down to one orbit. They tested that in 1976 and 1977. Two succeeded; two failed.

They then got to a position where they moved to a third interceptor and began to use high technology, very much the kind of technology that we are looking at in the United States, the so-called optical infrared homing second-orbit intercept—in other words, using the available high technology to find your target and go after it, with the resulting increase in efficiency.

They tested that in 1976, 1977, 1978, 1980, 1981, and 1982—six times. All six times they failed. So the Soviet record with the alternative that would be the greatest threat to the United States is that they were zero for six. I do not know anybody who would suggest that the Soviets would deploy a system that had a zero-for-six record.

I just raised that to put into perspective some of the details as to what the Soviets have and have not done. I do not know anyone who would argue that the Soviet systems is superior to the F-15 system that we have tested.

The second chart which was referred to during the secret session—again, these are unclassified charts—goes into the question of satellites: U.S. satellites, U.S.S.R. satellites.

Most people did not realize that there is a difference between our type of satellites and the Soviet satellites. If I can go into that for a moment, there are, in essence, four kinds of orbits within which satellites operate. There is the low orbit, which is a 90- to 1,200-mile orbit. There is the high elliptical orbit—in other words, an orbit in which at one point in time the satellite is closer to the Earth, in the neighborhood of 250 miles. Then, at the other end of the ellipse, it is very distant from the Earth—in many cases, up to 25,000 miles.

The third orbit is the semisynchronous, which is about 12,000 miles up.

The fourth, and, in my opinion, by far the most important, is geosynchronous, which is at 22,000 miles.

The point to be made by these charts is that the low orbit and the high elliptical orbit are the vulnerable orbits: The low orbit by definition, and the high elliptical orbit because at one point in its orbit it is close to the Earth. Those are orbits we are talking about that are vulnerable to the system we have been describing today.

If you look at U.S. reliance upon low orbits, you find that the number of satellites of the United States is just below 20 percent; whereas, the Soviet reliance upon low orbits goes up beyond 55 percent. So if anybody is vulnerable here, the Soviets are far more vulnerable than the United States.

In the case of the high elliptical orbits, the Soviet reliance is probably eight or nine times greater than that of the United States.

The United States put its effort in geosynchronous orbits, which are by far the safest. What does this mean? It means that, given current technology, the Soviets and the United States would have the capability of going after low-orbit satellites.

In that case, they are more vulnerable than we are. If, however, we do not have a treaty, and there is no control achieved in this particular space race, in time, semisynchronous and geosynchronous orbits are going to be in danger. That is the point at which the United States begins to be very vulnerable.

So it seems to me obvious to conclude that there are a great number of hazards around here besides walking in front of the speaker.

The other one would be that if we do not achieve a treaty here, 5 or 10 years out, the Soviets will, through various technologies, be able to look at and to endanger geosynchronous orbits. That is the point which the United States does not want to get to, because it is, in fact, a point of no return.

Mr. President, what we are talking about here today is not tying anybody's hands. It is simply urging the administration to get on with the business of negotiation so that this potential vulnerability for high-orbit satellites which we depend on for early warning and so on, that we achieve some arms control before that vulnerability should appear. If we do not, our successors 10 years out will find themselves in a situation where the Soviets will be in a position to take up not only low-orbit satellites, but also those in geosynchronous orbit. That, I suggest to my colleagues, is a point of real danger.

Mr. WILSON. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to the Senator from California.

Mr. WILSON. Because we are no longer in closed session, this discussion necessarily is constrained. While the Senator's charts do illustrate his point with respect to numbers, I assume he would agree that in terms of the value of satellites, the United States has a great number which are within range and, therefore, vulnerable to the existing coorbital interceptor of the Soviet Union.

Mr. TSONGAS. That is correct.

Mr. WILSON. I assume the Senator would also agree, and this is what I was seeking to get the Senator's attention on during the closed session, when he says the Soviets will be more vulnerable to the U.S. antisatellite capability, does that not presuppose that we have tested that capability beyond what is clearly the first phase with respect to the F-15?

Mr. TSONGAS. Let me answer it by asking the Senator a question: Would he rather have their tested second orbit interceptor or our F-15 approach? Which would he rather have?

Mr. WILSON. I think we would rather have ours once we have tested it. But we have not tested it, that is precisely the point. Therefore, while we could argue the relative merits of direct descent as opposed to the more time-consuming orbital or co-orbital approach the Soviets have undertaken, the fact is they have a tested, reliable system, one which they feel sufficient confidence in that they have agreed to void it, which they can agree to under existing international rules.

Mr. TSONGAS. Does the Senator consider the second orbit intercept to be a reliable system? Would the Senator vote for such a system in our program?

Mr. WILSON. What the Senator would vote for is that we test it so that we can develop it to the level of confidence it apparently has now on the part of the Senator from Massachusetts. I would like to share that confidence. I believe we can but not if we ban unilateral testing.

If the Senator is asked do I have some confidence in the ability of the Soviet weapon to do danger to a great number of high-value satellite assets of the United States, the answer is yes, I do.

Mr. TSONGAS. Mr. President, that is not in debate.

The final point I make, Mr. President, is that no matter what happens here today, and I think perhaps we can negotiate our way out of this, the fact is that whether we have a treaty or do not have a treaty, one of the major issues of vulnerability—we hear a lot of talk about what lasers can do and what these intercepts can do. The fact is that one of the ways to get around this is to build in defenses. You can, indeed, make satellites that are more maneuverable. You can, indeed, put protective devices on satellites to obviate some of the problems of lasers. We have not done that. Whether these amendments pass or fail today, there is an obligation on the part of the United States to do something about vulnerability of our satellites. Even those of us who argue for an approach of ASAT arms control would in no way argue with that point.

What we are going to vote on today is very simple: We are saying to the administration, yes, go ahead with your testing; yes, go ahead with all your R&D; but at least begin to negotiate.

The Senator from California says we have to test the F-15. I do not argue that point. All I say is as you go about doing that, the second track is at least as important, sitting down and negotiating. When you do not do that, nothing else can be accomplished and the window of opportunity will have closed, the second orbit intercept is vulnerable.

Mr. BINGAMAN. Mr. President, I would like to speak just briefly to support the amendment by the Senator from Massachusetts and also the amendment by the Senator from South Dakota.

I want to make a few points very specifically, Mr. President.

We had a series of hearings in the Armed Services Committee, particularly in the Strategic Subcommittee which I sat in on. Some of the testimony there, I felt, was extremely useful. One of the witnesses we had was Mr. Robert W. Buchheim, the former head of the U.S. delegation to the United States-Soviet ASAT talks. In questioning Mr. Buchheim, Senator WARNER, chairman of that subcommittee, asked the following question:

> Mr. Buchheim, I am reading an amendment before the Senate which states * * * "United States immediately resume negotiations on a mutual and verifiable ban on the testing, production, deployment and use of any antisatellite weapon."
>
> What is your judgment in view of the present United States-Soviet relationship of the immediacy of being able to enter into such talks?

Mr. Buchheim's response was, "We should start today—not tomorrow but today."

Senator WARNER then said: "I beg your pardon?"

Mr. Buchheim repeated: "We should start today—not tomorrow but today."

Senator WARNER then asked: "What is the likelihood that the Soviets will respond with equal enthusiasm, in your judgment?"

Mr. Buchheim's response was: "Very good."

Mr. President, I believe that the information we have received in the committee and here, on the floor, with regard to the threat that the United States faces from the Soviet Union with regard to this capability is somewhat distorted. I think that any kind of balanced assessment of our capability and Soviet capability would have to lead a person to conclude that we have at least as great a capability in this respect as does the Soviet Union. That is based on the testimony we have received in all of the various briefings that have been made.

I know there have been statements by people in the Department of Defense to the effect that we are 10 years behind the Soviet Union in some of these technologies. But I think that when you get the knowledgeable people in as witnesses, and we were fortunate to have some of the knowledgeable people in as witnesses in the Armed Services Committee, it becomes clear that we are not 10 years behind the Soviet Union in these various areas. We have at least the capability that they do and I think that is a reasonable and a balanced assessment of where we now stand.

On the issue of verification, clearly there are major problems in verifying the inventory of some types of antisatellite weapons which might be developed in the future, but clearly there are parts of the antisatellite-weapon arsenal that can be verified. There are agreements in this area of the arms race that can be verified. And for us to take the posture, which apparently the administration would like to take, that this is a part of the arms race that is off limits for arms control I think is just not a responsible course for us to pursue.

The amendments that are before the Senate do not tie anybody's hands. The amendments that are before the Senate do not weaken our defenses in any respect. They do not even limit the ability of this country to go ahead with testing or research and development. What they do is urge the administration to simultaneously pursue negotiations with Soviet Union and to endeavor to arrive at some kind of arms-control agreement.

Quite frankly, I find it very difficult to understand why the administration, and some of the Senators who have spoken here today, could resist the simple request that the United States be willing to go ahead and endeavor to negotiate. That seems to me to be a very difficult position to defend. So I hope that the Senate in its final action on this matter later this evening will do the appropriate thing and pass legislation which will let the administration know that those of us in Congress are seriously concerned about this problem; we see the control of weapons in space as a major new problem facing this country and we see the need to pursue arms control in this area as an extremely high priority.

Mr. President, today's debate is really over whether there is a role for arms control on antisatellite weapons or whether we will proceed with the weaponization of space without trying in any way to regulate it. The administration reported on March 31 that it has yet to find any arms control measures which it is willing to pursue, allegedly because of verification difficulties and because of our need to be able to destroy Soviet ocean reconnaissance satellites.

Yet, the overwhelming view of experts from outside the administration, including all those who testified on this subject before the Senate Armed Services Committee, is that ASAT arms control should be pursued promptly. Dr. Robert Buchheim, former chief scientist of the Air Force and former chief ASAT negotiator put it most bluntly: "We should start today, not tomorrow, but today."

Last year, the Senate asked the President in a 91-to-0 vote on the Tsongas amendment to go out and endeavor to negotiate in good faith a mutual and verifiable ban on antisatellite weapons before testing our new ASAT weapon against an object in space. This was not a severe requirement. I remember criticism at the time that the Congress had placed only a minor hurdle before the administration which would easily leap it by seeking to engage in negotiations with the Soviets.

But the administration has dug in its heels and refused to contemplate negotiations in this area. They chose to interpret the Tsongas amendment as calling for a comprehensive ban on any sort of weapon which could possible interfere with satellites, from ICBM's to ABM's to shuttles to low-power lasers. That was not the standard Senator TSONGAS enunciated last year, and this year's slightly modified amendment makes that explicit.

The administration has managed to fritter away a year without negotiations during which no tests of our ASAT against an object in space were planned. I would underline the Tsongas amendment has not delayed our ASAT program 1 day at this point. If it does eventually cause some delay, it will be the administration's intransigence that will have caused it. The administration promises to study the issue of ASAT arms control from now until kingdom come, but in reality the people who seem to determine administration policy in this area see no possibility for arms control.

For example, I asked Assistant Secretary of Defense Richard Perle at a March 15 Armed Services Committee hearing whether his skepticism about the wisdom of ASAT arms control applied both to low-orbit and geosynchronous ASAT's and he replied that it did, not the least of all because an ICBM with a nuclear warhead can be launched at even geosynchronous satellites with a very high prospect of destroying them.

Mr. Perle also stated in response to another of my questions that:

> I think the history of arms control with respect to the inhibition of technical innovation has been a pretty sad history. . . . Arms control as a means of inhibiting technology seems to me almost certain to fail.

And in response to a question from Senator QUAYLE about whether future technology might make verification of ASAT arms control possible, Mr. Perle answered:

> I would not want to rule out what is inherently unknowable, but we cannot now foresee means of verification.

So my colleagues should not place very much hope on this administration taking any action to seek ASAT arms control except under pressure from the Congress and the public at large.

I was struck, frankly, the first week in April by the contrast between the administration's stated unwillingness in its report on Monday of that week to even talk about ASAT arms control with the Soviet Union and the President's announcement on Wednesday of a major initiative on chemical weapons arms control. No one can doubt that tremendous verification problems lie in the way of achieving a CW agreement. Yet the administration argues that verification problems make ASAT arms control unworkable. No one doubts there will be significant breakout problems from any chemical weapons accord. Yet the administration argues that Soviet ASAT breakout potential makes ASAT arms control difficult. No one doubts that there are significant definitional problems and overlaps with civilian activities in the case of chemical weapons.

Manufacture of organopesticides is just one example of a permitted civilian activity requiring close monitoring. Iraq has apparently been able to obtain significant help from abroad for its CW program because others thought they were assisting their fertilizer and pesticide industry. Yet, ASAT definitional problems and overlaps between civilian and military uses of space are among the factors cited by the administration as complicating the prospects for ASAT arms control. No one doubts that even with CW arms control, significant expenditures would still be needed for defense against chemical weapons. Yet the fact that we will have to continue defensive measures to increase satellite survivability and reconstitutability is used as an argument against ASAT arms control. Clearly, such expenditures are going to be far higher without arms control constraints.

It jumped out at me in reading the administration's report on ASAT arms control that essentially the same arguments used to reject ASAT arms control negotiations could be used to reject arms control negotiations in any area: chemical and biological weapons, strategic weapons, intermediate-range nuclear weapons, conventional forces in Europe, or a comprehensive test ban. In at least the first four of these areas, the administration with varying degrees of enthusiasm has engaged in negotiations. This presumably means that they see a way at least potentially of dealing with the difficulties of verification and have been able to identify restraints that are in our national security interest in these areas. The benefits of having those restraints have been judged to outweigh the risks involved in an arms control treaty, risks such as undetected covert noncompliance and open break-out by the other side.

Why should ASAT arms control negotiations be an exception? Based on my study of this issue, I believe that they should not be. Experts have outlined possibilities for ASAT arms control restraints that would demonstrably be in our national interest and could be effectively verifiable. They believe that the risks associated with an unconstrained arms race in space are far higher than the risks associated with arms control agreements on antisatellite weaponry.

Mr. President, let me try to outline for my colleagues why I have reached such different conclusions from the administration.

What I find most lacking in the administration's ASAT arms control approach are, first, a comprehensive view of our national interests in space; second, a balanced assessment of the Soviet space threat; and, third, realistic criteria with regard to verification.

Let me take these points in order. Great stress is laid in the administration's March 31 report on our need to be able to attack Soviet ocean reconnaissance satellites which provide targeting data to Soviet conventional forces attacking our naval and land forces. Mr. Perle in his March 15 testimony was even more explicit:

> Even leaving aside considerations of verifiability, the United States cannot accept arms control limitations that would preclude us from taking action against those satellites in the course of hostilities . . . What is more, we must acquire as quickly as possible the capability to neutralize such threatening Soviet satellites.

But, Mr. President, there is no free lunch. We cannot deny any adversary the use of space-based systems that provide support to hostile military forces, as the President's space policy calls for, and expect our adversary to do anything but reciprocate by putting our military support satellites at risk.

I believe that we do have broader national security interests which impel us to make every effort to limit dedicated ASAT capabilities, especially at high altitude. Our high-altitude communications, navigation, and early warning satellites are clearly critical to strategic and crisis stability. Without these satellites we would be much less able to control our strategic forces. Without them it would be harder to negotiate our way out of a crisis. Indeed, each side will have an incentive to strike first in a crisis against the other side's space command and control assets. Warning times would thereby be reduced and the risk of nuclear war increased. Thus, there are solid national security arguments for seeking to constrain to the maximum extent possible ASAT weapons.

How important is the Soviet ocean reconnaissance satellite threat? This is one of many areas where the committee received conflicting information. While the administration played up this threat, Dr. Buchheim pointed out that the Soviet radar ocean reconnaissance satellite (RORSAT) is not a threat which ought to dominate U.S. national security policy as to evolution of the surface Navy—RORSAT can be countered electronically. Even if not countered, unless deployed in large numbers, RORSAT cannot provide continuous identification and targeting information. If the Soviet RORSAT should become truly unbearable, we can at least try for an agreement to prohibit such things. Such an agreement would not present much of a verification task, the beast does emit easily detectable radar transmissions. I would note that in a private conversation with me an administration official also recommended that RORSAT's be included in an arms control regime dealing with ASAT weapons.

Thus, there are other means to counter Soviet ocean reconnaissance satellites than to simply shoot them out of the sky. Current-generation Soviet satellites apparently offer very little useful targeting data to Soviet forces. And we are free to use countermeasures to deceive or confuse such Soviet satellites. Moreover, the Soviets have many other means of targeting our naval forces, especially when they are operating near the Soviet periphery. So eliminating the statellites would only eliminate a fraction of the threat to our naval forces.

This brings me to my second general criticism of the administration's approach to ASAT arms control. I would encourage my colleagues to look very carefully at the classified threat briefings which accompany the administration's report, such as the one we had earlier today. It has struck me in listening to these briefings that we are engaged in the most extreme worst-case analysis. The intelligence community is taking very speculative information about potential Soviet capabilities, and building them up as a relatively near-term likelihood for purposes of public consumption via selective leaks to journals like Aviation Week and selective declassification in documents like "Soviet Military Power." The goal is to convince us that the time is past for arms control and stampede us to the conclusion that our choice is to outrace the Soviets into space weaponry.

At one recent hearing, I pressed Dr. Robert Cooper, the head of the Defense Advanced Research Projects

Agency, about whether the Soviets would have a certain capability in the time period ascribed to them by the intelligence community. He thought not and felt that the particular Soviet program under discussion was not very prospective. We were not devoting very much effort to it and instead were working on another technology that looked far more promising and where we were ahead. He noted that by and large the intelligence estimates that we hear and which sound so frightening are estimates based on what the Soviets could possibly do if everything fell into place for them in their development program and if they solved problems we had not yet solved and judged rather difficult.

In my opinion, these intelligence estimates of the Soviet space threat are the basis for only the most paranoid of national policies. We will bankrupt ourselves if we must, as McGeorge Bundy has put it, develop a counter for every 8-foot Russian that fear can find.

My bottom line, having listened to all the testimony on Soviet capabilities and having examined the U.S. ASAT and ballistic missile defense programs, is that the United States is not behind the Soviet Union in this area. I repeat, the United States is not behind the Soviet Union in ASAT weaponry. The current Soviet ASAT interceptor, which the administration refers to as an "operational system" was described by Dr. Michael May of Laurence Livermore Laboratory before the Armed Services Committee as a "clumsy, limited first generation system and we can, without too much trouble, remove much of our vulnerability to it." Dr. Buchheim questioned whether the Soviet ASAT system was even operational. He stated:

> In my opinion, they do not have an operational antisatellite capability because they have never tried the thing except in an orbital inclination of 59° or thereabouts.

I would note that the Soviets have achieved only nine successes in 20 tests of their ASAT system. The most recent test in 1982 was a failure. The more advanced model of the Soviet ASAT has been singularly unsuccessful in its tests, as Senator TSONGAS pointed out earlier.

Our ASAT system, on the other hand, is going to be a highly flexible one. Since it is a direct ascent system, the Soviets will not have warning of an impending attack as we have with the Soviet system. It will give us an effective weapon against Soviet low-altitude satellites.

We have also heard much about the Soviet ground-based laser systems. Classification prevents us from talking about these systems capabilities in open session. But I would note for my colleagues that we have similar systems. In my home State of New Mexico at White Sands Missile Range, we have the most powerful chemical laser in the free world. Whether it is the most powerful in the whole world is classified. And we have the statement of the President's science advisor, Dr. Keyworth, last October 13 that before the end of the decade we could demonstrate a multimegawatt, ground-based pulsed excimer laser whose beam is corrected for atmospheric distortion and powerful enough to act as an antisatellite weapon, maybe even strong enough to be effective as far away as geosynchronous altitudes." Dr. Keyworth clearly thought that this would place us ahead of the Soviets. He states:

> Such a demonstration would pressure the Soviets to take our arms reduction proposals much more seriously than they do now.

Now I differ with Dr. Keyworth on this arms control point, but whatever the merits of the point, it is clear that our Government's chief scientific official believes we will lead the Soviets in the demonstration of this technology.

I would note also that we are ahead in almost all areas of science and technology important to advanced ASAT or ballistic missile defense weaponry, according to the Defense Department's own assessment. Our optical technology is far superior to the Soviets, as is our electronics, artificial intelligence, and computer technology, especially our software capabilities. Yesterday, we successfully tested the homing overlay ballistic missile defense technology for the first time. This is another area, conventional kill of ballistic missiles, where we are ahead of the Soviets.

Let me turn finally to the question of verification. It seems to me in reading the administration's ASAT arms control report that the implicit verification standard has been raised to an impossibly ambitious level. Certainly, we must seek an agreement which is effectively verifiable. No one in this body would vote for ratification of an agreement which was not. But there always will be risks of possible Soviet noncompliance in any arms control agreement. We must evaluate these risks against the potential benefits of the agreement. We must ask ourselves such questions as: Are we better off with a Soviet ASAT capability, severely constrained by an arms control agreement, even if the Soviet retain some residual capability and some breakout potential, or are better off with a robust, unconstrained, Soviet ASAT capability which will place all of our satellites at risk and require enormous expenses on our part to counter? Are there unilateral measures which we could take to place ourselves in an analogous position to the Soviets with regard to residual capabilities and breakout potential under an ASAT arms control regime? Are there unilateral actions we can take to minimize Soviet temptation to breakout from an ASAT agreement? How real would the residual threat be? Could untested or jimmy-rigged systems form the basis for Soviet strategic plans?

I believe that the President's report set up a strawman—a perfectly verifiable comprehensive antisatellite arms control agreement in which our civilian satellites and military support satellites would be at no risk—and then found such an agreement impossible to achieve. But that does not answer the question of whether more discrete arms control measures would serve our interests.

There is no doubt that both sides will retain residual ASAT capabilities in any ASAT arms control regime. If we or the Soviets choose to use nuclear explosives in space, we will be able to destroy satellites at geosynchronous orbits and beyond. This capability will not be lost until ballistic missiles cease to exist. But it is a capability of last resort, destroying as it does satellites on both sides, and disrupting command, control, and communications facilities and electric power systems on the ground in unpredictable ways.

Similarly, it is hard to imagine how electronic jamming of satellites from the ground can be constrained. We are hopefully designing our military communications, defense support system, NAVSTAR and other satellites to be resistant to the most robust Soviet electronic warfare capability. In general, one cannot make a military support satellite's job easy via arms control. We cannot prohibit a naval task force from stopping its radio emissions and running silent. We cannot prohibit a small ship from sounding like an entire task force to an electronics intelligence satellite. What ASAT arms control must focus upon are actions which damage or destroy satellites, not those which frustrate them. Dr. Buchheim stressed this point in his testimony before the Armed Services Committee. This is a distinction lacking in the administration's report.

Thus, it is both rocket-boosted ASAT's using conventional kill mechanisms, such as the Soviet coorbital interceptor, the F-15 launched MHV ASAT and space mines, and directed energy ASAT's such as ground-based laser ASAT's, space-based laser ASAT's, and particle-beam ASAT's, which ASAT arms control negotiations must address over the long term. In the near terms, over the next 5 years, conventional rocket-boosted ASAT's and ground-based lasers are the only systems likely to be deployed on either side. Limits on deployment and testing of all of these systems do pose verification difficulties in varying degrees. There is no doubt about that. But it is my view that these difficulties do not represent impossible obstacles.

As I noted earlier, the Soviet coorbital interceptor has not been very successful in its testing and has limited capabilities, which can be countermeasured. It can be launched from only a small number of known launch pads on a single booster. A halt in testing of rocket-boosted ASAT's would prevent the Soviets from upgrading the reliability and the capability of this system. For example, the Soviet ASAT could not be tested at higher altitudes on a more powerful booster, where it would threaten our critical, high-altitude satellites. Improved sensors could not be tested. A halt in testing would also prevent us from gaining confidence in our more capable MHV ASAT. Verification of anything besides the testing of this small and operationally flexible satellite killer would be extremely difficult, even with intrustive procedures.

Such a testing limitation would appear then to be effectively verifiable and would create one barrier to further development of a fully dedicated military ASAT. The residual Soviet low-altitude ASAT capability, even if it were not completely dismantled, would remain of low and decreasing reliability. We could bring our MHV ASAT to a similar stage of development even without testing and thereby maintain a safeguard against Soviet noncompliance. We could further reduce Soviet incentives for noncompliance by improving the survivability and reconstitutability of our space assets, something all of the experts before the Armed Services Committee recommended and Dr. Michael May of Livermore Laboratory highlighted. And we could develop conventional cruise missile capabilities to attack the fixed Soviet ASAT launch facilities, should they ever begin attacking our satellites in a crisis.

Testing and deployment of ground-based lasers against objects in space also appears in principle to be verifiable. We have apparently been monitoring the Soviet R&D laser facilities for some time. Because lasers cannot penetrate cloud cover, they will always be located in regions of the Soviet Union most accessible to overhead inspection, just as we are locating our lasers at White Sands, N. Mex.

Technical experts tell me that all potential ground-based lasers produce recognizable signatures when they propagate through the atmosphere and hit targets. Moreover, ground-based lasers which would be effective at damaging even minimally hardened satellites at geosynchronous orbits would have to be very powerful—10,000 times more powerful to reach to 20,000 miles than to reach to 200 miles, something not in prospect at least until the end of the decade.

Thus, it should be possible to develop and deploy sensors which would detect such ground-based laser ASAT testing with high confidence before the Soviets or we approach any real operational capability in this area. So verification problems should not preclude the inclusion of ground-based lasers in an ASAT agreement. As Dr. Michael May put it before the Armed Services Committee: "A laser attack to be effective would have to involve high-power lasers and many of them, and at that point the ASAT system becomes detectable and verifiable."

I believe that similar arguments can be made on verification of testing and deployment of space-based laser and particle beam ASAT's. In no case will verification be perfect. But, perfection is not a reasonable standard. Verification is potentially effective if we develop and deploy improved verification capabilities, if provisions are made for intrusive verification in disputed cases, if there are collateral constraints on possibly ambiguous activities, and if we take prudent measures to reduce incentives for Soviet noncompliance, such as increasing our satellites' survivability.

As a member of the Armed Services Committee, I would certainly argue for the expenditures needed to safeguard our interests under any ASAT arms control agreement which we were able successfully to negotiate.

Thus, it would appear to me that ASAT arms control limitations are worthy of negotiation with the Soviet Union. They would sharply reduce the threat to all of our satellites, most especially to our critical higher altitude communications, navigation, and early warning satellites. There is no doubt that the capability to attack such satellites would be extremely destabilizing, for these systems are critical to maintaining deterrence against war on Earth. As John Barton of Stanford Law School has written:

> The ASAT is probably one of the more seriously destabilizing technologies since the nuclear weapon. It is like the MIRV, the multiple independently retargetable reentry vehicle, whose ill-considered development in the late 1960's complicated both strategic stability and arms control. If verification of an ASAT prohibition is still technically feasible, such a prohibition is the most important strategic arms control task currently facing us. If such verification is not now feasible, we may ultimately have to look to onsite inspection of factories and launch facilities. In the meantime, we are condemned to a long series of programs to attack one another's satellites, to defend against such attacks, and to find less vulnerable ways to fulfill the reconnaissance and communications missions now fulfilled by the threatened satellites.

Mr. President, I believe that Mr. Barton is exactly on the mark. ASAT arms control is the most important arms control task facing us today. We must negotiate, recognizing full well that such negotiations will be difficult and may not bear fruit. We must not repeat the MIRV mistake, if we can avoid it.

Refusal to negotiate is, in the end, irresponsible and terribly shortsighted. If we allow ourselves in this instance to be driven by a combination of the quest for marginal technical advantage, threat inflation, and demands for perfect verification to reject arms control out-of-hand, there can be little hope for any constraints on the strategic arms race. A space arms race will prove to be a black hole consuming our national wealth.

We are on the verge of making Mr. Perle's prediction that arms control cannot successfully inhibit technology a self-fulfilling prophecy. If we do not inhibit ASAT technology via testing and deployment restraints, we will find ourselves on a slippery slope toward partial ballistic missile defenses. For missile defenses utilize the same underlying technology, such as miniature homing vehicles and directed energy weapons. It is not hard to imagine threat inflators on both sides ascribing BMD capabilities to future directed energy ASAT systems long before they have any real BMD capability. As Dr. Keyworth put it last October in discussing the ground-based excimer laser ASAT demonstration: "Quite frankly, If I were a Soviet planner, I would quickly put 2 and 2 together and realize that an important part of the technology for an ABM system was well in hand and that development was more a matter of time than breakthrough at that point."

And fear of ballistic missile defense breakout on both sides is even today clouding the prospects for negotiation of any real limitations on strategic offensive forces.

Indeed, I believe that the major reason for the administration's opposition to negotiations on ASAT arms control is that an ASAT agreement would simultaneously constrain development of ballistic missile defense technology. We would be closing off one loophole in the ABM Treaty. The administration does not want "a patch work of arms control constraints," to interfere with their strategic defense initiative, as Dr. Keyworth put it before the Senate Foreign Relations Committee. Arms control, in the view of many within the administration, is apparently something to be pursued in the 21st century to help manage a transition from dominance of strategic offensive systems to dominance of strategic defenses.

The question then becomes whether such ASAT limitations would be so bad. And that depends on judgments as to whether the President's star wars initiative is likely ever to deliver the almost perfect population defense against ballistic missiles, which its advocates, including the President, promise. My judgment is that this promise is very unlikely to be realized. Administration witnesses have been walking back the President's promise in presenting their case on behalf of the strategic defense initiative to the Armed Services Committee.

We have heard many revisionist interpretations of the President's March 22, 1983, vision, as one of our witnesses put it. Administration officials talk of partial defenses and hard-target defenses, and promise no reduction in our spending on offensive forces for the foreseeable future. If that is the case, I do not want to see us slide into an enormously expensive arms race in space just because technology is opening up some new possibilities for ASAT weapons.

R&D hedges against the Soviet R&D effort are needed, and I have strongly supported them, but they should remain hedges. The Scowcroft Commission has recently similarly warned against doing anything in our R&D program which would undermine the ABM Treaty. It seems to me that an ASAT arms control agreement would create an earlier firebreak against proceeding down a path where promises are likely to prove evanescent and difficulties all too real.

Mr. President, this is a complex and highly technical matter. I do not claim to have mastered all the technical detail. But the administration's refusal to engage in ASAT arms control negotiations is regrettable and very wrong. One does have to understand the technological jargon to understand that, and I would ask my colleagues and the American people not to be snowed by the complexity, but rather to subject this administration's position to the standard of commonsense. When measured against that standard, it falls very short of the mark.

In a nutshell, the administration opposes ASAT arms control negotiations, first, because it assets that an ASAT treaty is inherently incapable of being verified. This is an untenable position particularly when viewed in contrast to the administration's support for chemical weapons arms control, an area where verification problems are at least as difficult.

Second, the administration asserts that ASAT arms control is not desirable because we need to beat the Russians in space to assure our security. This is foolishness. An unfettered arms race in space will have the same result as the arms race here on Earth. We are less secure today than we were 4 years ago and if the arms race continues unfettered for 4 more years, we will be less secure then than we are now.

Therefore, I believe that we must endeavor to negotiate ASAT arms control limitations, and test Soviet seriousness about avoiding the weaponization of space.

I do not welcome, and did not expect, this battle between the Congess and the President over whether we should engage in ASAT arms control negotiations, when we passed the Tsongas amendment last year. But, if the administration will not take the lead in vigorously pressing negotiations to seal off the weaponization of space, leadership by default belongs to the Congress. I hope that we will show that leadership in today's vote.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, it seems to me there are two questions we have to answer regarding these ASAT arms control proposals now before us. The first is whether or not there is some ASAT testing which is verifiable. The second question is, assuming that there is some ASAT weapon testing which is verifiable, might it be in the national interest to ban the testing of those weapons which can be verified.

The answer to the first question is clearly "yes," and I do not think the opponents of these measures even would disagree.

For instance, I asked Assistant Defense Secretary Richard Perle in hearings before our Strategic Subcommittee the following question:

> Would you today agree that a limited ban on antisatellite weapons or partial ban on some antisatellite weapons may be verifiable?
>
> Mr. PERLE. Yes, I would agree.

That is on page 35 of the transcript of that testimony. The Congressional Office of Technology Assessment has reached the exact same conclusion in the special arms control in space workshop that it held earlier this year. The conclusion, on page 2 of the workshop proceedings, was that:

> Panelists agreed . . . that compliance with some ASAT arms control provisions could be verified with high confidence.

And so we have the bipartisan and expert Office of Technology Assessment, we have Assistant Defense Secretary Richard Perle, indeed we have several other sources to assure us that testing of some ASAT weaponry can be verified. No less of an authority than Dr. Michael May, who is the Associate Director at Large of Lawrence Livermore National Laboratory, said that:

> A laser attack—

And that is one form of antisatellite weaponry—

> A laser attack to be effective would have to involve high-power lasers, and many of them, and at that point the ASAT system becomes detectable and verifiable.

So we do know that some forms of antisatellite weaponry and their tests can be verified, and that becomes, it seems to me, almost a consensus answer to question No. 1.

Question No. 2 is: Might it be in our interests then to ban the testing or the deployment of those forms of ASAT weaponry which can be verified? Here I would very simply like to quote Dr. Henry F. Cooper, Assistant Director, of Strategic Programs Bureau of the U.S. Arms Control and Disarmament Agency, and Secretary Perle again. I asked the question of these two gentlemen after we received the Predsident's March 31 report on ASAT Arms Control Policy. I said first to Dr. Cooper:

> Doctor, does it imply clearly to you, that report, that such limited test bans may be in our national interest?

And Dr. Cooper said:

> I would not have agreed to writing the report if I didn't think there was a chance that they might be.

And then I asked Secretary Perle the question:

> Do you agree with that?

And Mr. Perle said:

> Yes, I am not going to rule something out forever.

Both Dr. Cooper and Secretary Perle answered that it might very well be in our national interest to have a partial ban on ASAT weaponry where we can verify the testing of particular weapons.

And so what we have before us are two forms of a resolution, in an amendment, which simply says we should follow two tracks; we should go ahead and test. There is no unilateral ban on testing in either of these provisions. Unlike the statement which was made by my friend from California, no one is proposing a unilateral ban on testing. What we simply are saying is let us go on two tracks simultaneously. Let us proceed to do our research and development, but at the same time let us see if we cannot get at least a partial ban on those weapons systems, the testing of which can be verified.

It is a very logical position. It cannot be answered by assertions that it is unilateral or that there is a ban on testing that is unilateral or that we are tying anybody's hands. Nobody's hands are tied. The Defense Department's hands are not tied. As a matter of fact, we are trying to untie the President's hands. We are trying to tell the President:

> We want you to proceed with research and development of the antisatellite weaponry, we want to proceed on that track but we want you to proceed on the other tracks—the arms control tracks—as well.

So we are actually trying to untie the President's hands to move him on both tracks rather than proceeding on one track and ignoring the possibility of a partial ASAT ban which could be verifiable.

I hope that we can reach a compromise version which will push this process forward. It is critical that we do so. Again, perhaps the very future of our world depends upon it. I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, men of good will have been hard at work trying to devise a compromise that would satisfy the concerns of all parties in this matter. I believe that those efforts have borne fruit, and a suitable arrangement has been made. It is my understanding that an amendment has been devised which has been signed off on by the distinguished chairman of the Strategic and Theater Nuclear Forces Subcommittee of the Armed Services Committee, Senator WARNER, by Senator TSONGAS, and I believe the distinguished ranking member of the Armed Services Committee has also indicated his assent, and others.

It is my understanding that under the circumstances the Senator from South Dakota has graciously consented to withdraw his amendment, and I would hope that the Chair would recognize him for any statement that he may have to make or comments that he may have to make.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I am withdrawing my amendment in the desire for compromise. I am, therefore, joining to cosponsor an amendment which obligates the administration to demonstrate that the United States is endeavoring in good faith to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with the national security interests of the United States.

I have consulted with many of the 33 cosponsors of my amendment. They agree with me that the legislative effort we have made here provided an excellent basis for a legislative compromise on the problems posed by space weapons. I am, therefore, cosponsoring an amendment that will be offered by the chairman of the Strategic and Theater Nuclear Forces Subcommittee.

Let me say that in withdrawing my amendment I reserve the right to raise it again at a future time. I do feel that this compromise amendment has retained the essential elements of the amendment I have withdrawn. I am, therefore, pleased to join as a cosponsor of this amendment and urge that it be adopted by the Senate.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I compliment my distinguished colleague, Senator PRESSLER, for withdrawing his amendment. He has worked many, many months as the chairman of the Subcommittee on Arms Control in this field. He has shown considerable leadership. We have appreciated that very much indeed.

I agree with him that the compromise amendment accomplishes much of what we want to accomplish. I was an original cosponsor of the Pressler amendment. It is identical to the amendment that I offered which had Senator TSONGAS' and Senator PRESSLER's views on this subject. Last year, the Senate voted 91 to zero to approve a similar amendment of Senator TSONGAS. That amendment was enacted into law. I was pleased to vote for that amendment.

In effect, this compromise amendment proposes a dual-track approach to the ASAT question. Developments and testings can go forward, but only if there is a concomitant effort to bring this type of weapon under the purview of arms control. I believe it is a prudent and balanced approach and urge adoption of the amendment.

But I also urge that we look carefully at the most important word in it, that the United States is endeavoring to in good faith negotiate with the Soviet Union. "Endeavor" is the important word. Webster's New Collegiate Dictionary defines "endeavor" as "to strive to achieve or reach, to attempt (as the fulfillment of an obligation) by exertion of an effort."

I think that is the attempt and intention of Congress. I think we have reached a compromise here. I urge our colleagues to vote in a bipartisan approach on this issue.

Mr. TOWER. Mr. President, I ask unanimous consent that the yeas and nays ordered on the amendment of the Senator from South Dakota be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment (No. 3156) is withdrawn.

The Senator from Massachusetts.

Mr. TSONGAS. I will wait until another time, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

### AMENDMENT NO. 3186

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of myself, Senator TSONGAS, Senator PRESSLER, Senator EXON, Senator NUNN, Senator BINGAMAN, Senator LEVIN, Senator PERCY, and Senator MITCHELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Virginia (Mr. WARNER), for himself, Mr. TSONGAS, Mr. PRESSLER, Mr. EXON, Mr. NUNN, Mr. BINGAMAN, Mr. LEVIN, Mr. PERCY, and Mr. MITCHELL proposes an amendment numbered 3186.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 122 strike section 1013 and insert the following:
>
> SEC. 1013. Section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695) is amended to read as follows:
>
> SEC. 1235. (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—
>
> (1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with national security interests of the United States;
>
> (2) that, pending agreement on such a ban or strict limitations, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security;
>
> (3) that such testing will not constitute an irreversible step which will gravely impair prospects for negotiations and antisatellite weapons; and,
>
> (4) that such testing is fully consistent with rights and obligations of the United States under the Antiballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.
>
> (b) The President shall submit with any certification made under this section an unclassified report, with any necessary classified annexes, justifying his certification and addressing:
>
> (1) the current state of Soviet antisatellite weapon activity;
>
> (2) the vulnerability of present and future U.S. satellites and ground-links to Soviet antisatellite weapons and proposed steps to make them less vulnerable, to include costs and dates such steps can be implemented;
>
> (3) the verifiability of various possible agreements banning or limiting antisatellite weapons following any planned reductions in the vulnerability of U.S. satellite systems; and
>
> (4) the specific proposals he is prepared to endorse for possible further negotiations or discussions with the Soviet Union.
>
> (c) The prohibition on the expenditure of funds provided for in this section shall be removed only when the certifications and reports referred to in subsections (a) and (b) have been received by the Congress and 30 days of session of Congress have expired following the date on which such certifications and reports have been received. In computing the 30 day period, the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such 30 day period.

Mr. WARNER. As eloquently stated by my distinguished colleague from South Dakota, the chairman of the

Foreign Relations Committee, and others, this amendment represents a conscientious compromise on behalf of a diversity of interests here in the U.S. Senate.

Essentially, we have taken the law, the law derived from the amendment by the distinguished Senator from Massachusetts, and modified the law to reflect the necessity to have "the strictest possible limitations on antisatellite weapons consistent with national security interests of the United States" to be negotiated with the Soviet Union in a manner that will provide, hopefully, not only the Soviet Union and the United States but the world, a mutually verifiable agreement.

In addition, we have set forth a series of stipulated requirements. The President of the United States must refer to those. I will allow others to address those respective certifications. The report of the President is to be submitted to the Congress within such period of time that the President will have 30 legislative days to consider that report prior to the expenditure of funds, or the obligation of funds and expenditure, to "test any explosive or inert satellite warheads against objects in space."

Mr. President, I wish to express my profound gratitude to the Senator from South Dakota, the chairman of the Foreign Relations Committee, the Senator from Georgia, the Senator from Massachusetts, the distinguished ranking minority member of the Subcommittee on Strategic Weaponry (Mr. EXON), and, of course, the Senator from Texas, the chairman of the Senate Armed Services Committee, who has, throughout the afternoon, directed this compromise.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I think what we have here is a rather delightful compromise for those of us who have been concerned with this issue for some time. I would particularly like to commend Senator PRESSLER for this history of involvement in arms control in space.

Specifically, from this Senator's perspective, let me list why I am going to vote for it and why I would urge my colleagues to do the same.

No. 1, the language which was important to us, "endeavor in good faith," has been kept in the compromise. That, to my mind, is critical and has been accomplished.

Second, this has the force of law. It is not a resolution. Therefore, it has the weight behind it that legislation has as opposed to resolutions.

Third, there are four add-ons that go beyond what we had last year. These add-ons are a result of the recommendations of Senator NUNN.

The more important ones to me are the language that demands consistency with the ABM Treaty. That speaks for itself.

Second, it raises for the first time the question of vulnerability, which, whether you are for treaties or against them, I think is a very important issue.

Third, the request and the necessity of getting specific proposals for negotiations. That, I think, is a major step in the right direction.

Finally, the language which gives the Congress 30 days to react to a Presidential finding. I think anyone who is concerned with arms control in space would feel very comfortable voting for this compromise. I commend all the parties who negotiated.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I commend the Senator from Massachusetts for his longstanding interest and very effective work in this area; also the Senator from South Dakota. I certainly commend the Senator from Virginia for working diligently to help put this compromise together.

I just want to emphasize one point that I think is enormously important. The administration has been arguing that we could not verify a comprehensive antisatellite treaty.

I think they are partially correct. I believe when you look at the existing threats to those satellites that we have, it is certainly accurate to say that it would be very, very difficult if not impossible to verify the destruction of existing capability. But that is a different thing altogether than saying that you cannot verify any limitation on future threats that have to be tested before they can be matured into serious weapon system threats.

There are many important parts of this compromise, but to me the most important, as I view it, is that we are requiring the President to submit, with his certification, a report which addresses the vulnerability of our present satellites and also proposes steps to make them less vulnerable.

It is my view that unless those steps are taken, we really are not ever going to say that an antisatellite treaty is indeed verifiable, and we will continue in the catch-22 position of saying that a treaty is not verifiable, but at the same time not taking the steps necessary to reduce the vulnerability that would allow verifiability as to future threats. I think that is enormously important.

So there is a 1 to 2 situation here. We must reduce the vulnerability of our present systems if we are truly concerned about that vulnerability, as many in the administration indicate we should be. If we do take those steps, it is my view that we will be within reach of a possible verifiable treaty. Certainly, we have to assume that we are going to strive in that direction.

So this carries forth my basic premise as set forth earlier, that we should go forward with our own research but do it while keeping open the live hope and the possibility, if not probability, that at some point we will be able to produce treaties that indeed are verifiable and reduce the vulnerability of our system.

Mr. WILSON. Mr. President, I address this question to the Senator from Virginia.

Before doing so, I say that I think the substitution he has brought forth is a definite improvement in terms of the stated requirement for an inventory of U.S. vulnerability and for the quite rational statement that, pending arrival at agreement of the kind that is hoped for, it is necessary for the security of the United States that there be testing of the kind that has been discussed this afternoon.

My question is simply this: In the language at paragraph (b)(2) that addresses the vulnerability of present and future U.S. satellite systems, would he be amenable to asking unanimous consent for a separate modification that would include U.S. space shuttles? It may be that that would include satellites. It should be spelled out.

Mr. WARNER. For clarification, we are addressing paragraph (b)(2), which now reads:

> (2) the vulnerability of present and future U.S. satellites and ground-links to Soviet antisatellite weapons and proposed steps to make them less vulnerable, to include costs and dates such steps can be implemented;

Mr. WILSON. I propose a simple modification, that after the word "ground-links" there be a modification, so that it would read: "and ground-links and U.S. space shuttles."

Mr. WARNER. I should like to have a brief time in which to consider that proposal.

In response to the Senator from California, this particular provision represents hard-fought ground, and at this particular time the Senator from Virginia would not be in a position to support any amendment as suggested by the Senator from California.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. WILSON. I am happy to yield to my good friend from Arizona.

Mr. GOLDWATER. Mr. President, I think we have reached a rather sad point. We have argued this all day. In committee, we argued it for a long, long time. We made a compromise in the House on the MX. Now we are willing to make a compromise on whether we are going to have an antisatellite program.

What are we going to wind up doing—compromise with the Soviet Union across the board?

I am not going to vote for this. I think it is a bad piece of business.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. WARNER. I yield to the Senator from Pennsylvania.

Mr. HEINZ. I thank my friend from Virginia for yielding.

Mr. President, I shall be brief. First, I ask unanimous consent that my name be added as a cosponsor of the Warner, Tsongas, Pressler, et al., amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I am sorry to take issue with my good friend from Arizona. I think this is a sensible compromise. It accommodates the kind of flexibility that many members of the Armed Services Committee were worried about not being able to have under the Tsongas amendment, but at the same time I think it does send a strong message to the administration that still needs to be heard, and that is that we do not have to have a position that says if you cannot have a comprehensive verifiable ban on every kind of satellite weaponry, that is not a reason not to try to negotiate something that is reasonable, that is limited, and that is also verifiable.

Mr. President, today, the Senate has the opportunity to send a very clear signal to the administration by approving the amendment introduced by Senators WARNER and TSONGAS. It needs to be clearly stated that the U.S. Senate is unwilling to jeopardize the fragile strategic and political balance that exists between the superpowers by entering into a new arms race to develop antisatellite weapons.

We should be unwilling to enter into a new, dangerous arms race without knowing all of its consequences, and equally unwilling to delude the American people into believing that the destruction of Soviet and American intelligence-gathering capabilities embodied in their respective satellites, will make this world more stable or more secure.

We should be willing—and I think this amendment puts us on record accordingly—to take the risk of negotiating—to stop now before it is too late to turn back—by banning or seeking strict limitations on the deployment of antisatellite weapons.

A year ago when the Senate enacted the fiscal year 1984 defense authorization bill, we passed, by a vote of 91 to 10, the Tsongas amendment denying the use of funds for testing antisatellite weapons against objects in space unless the President determined first, that "the United States is endeavoring in good faith to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons," and second, that "pending agreement on such a ban, testing of explosive or inert antisatellite warheads against objects in space is necessary to avert clear and irrevocable harm to the national security."

On March 31, 1984, the Congress received the administration's report on antisatellite testing. Simply stated, its conclusions were that a comprehensive ban would be impossible to verify, and as a result not worth pursuing.

Though the administration admits that more limited bans, for example on high-altitude ASAT's, may be verifiable and desirable, the administration's inescapable bottom line is still that deployment of an ASAT is preferable to arms control.

Mr. President, the position of the administration in this important area is simply not good enough. The Warner/Tsongas amendment gives the administration a chance to live up to its stated good intentions. If a comprehensive ban is not possible, then certainly the strict limitations which the administration itself has admitted are both possible and desirable can be achieved.

We believe that before we take the next critical steps toward the deployment of ASAT weapons, that the United States should propose antisatellite negotiations leading, if not to a total ban, then at least to a set of restrictions which are mutual, verifiable, and consistent with our national interests.

Let me make it clear that we are not proposing unilateral disarmament or the negotiation of a treaty which cannot be verified. Verification is absolutely critical. Neither I nor any of the other proponents of this amendment are suggesting that this Nation pursue negotiations with the Soviets the outcome of which we cannot verify—simply for the sake of arms control.

We recognize that no verification scheme can be foolproof, but we also recognize that a ban on testing ASAT weapons would greatly increase the difficulty of developing high quality, dedicated ASAT systems.

As a group of experts brought together by the Office of Technology Assessment recently concluded:

> In the absence of tests, no one could be highly confident that a new system would be effective in difficult scenarios against many targets in a short time interval and/or effective at geosynchronous altitudes (altitudes at which our ballistic missile early warning satellites currently operate). If a system were to be developed without testing, the inability to make refinements based on tests and the lack of confidence developed through tests would degrade the system's military significance.

Any arms control agreement must be assessed on the basis of its ability to deny the ability of an adversary to cheat and thereby deploy capable and reliable weapons with which to threaten our national security. It is my belief that we can negotiate a verifiable treaty with strict limitations against ASAT and thereby achieve this objective.

The irony, Mr. President, is that the failure to achieve a comprehensive ban or strict limitations on ASAT's will give both superpowers the ability to destroy the backbone of their respective verification capabilities—satellites.

Mr. President, opponents of this amendment will criticize it for its inability to comprehend the current military balance as it relates to ASAT weapons. In short, it will be claimed that our faulty military analysis and our emphasis on arms control will jeopardize the national security of this Nation. Nothing can be further from the truth.

We stand behind this amendment for a number of compelling military reasons.

First, the U.S. ASAT launched from a mobile platform represents a superior capability to the Soviet ASAT, launched from atop an SS-9 from a limited number of launchsites. Our ASAT's mobility and direct ascent capability can reach targets in a fraction of the time it takes the Soviet ASAT to track, chase, and intercept its target. In short, we cannot justify a new arms race because we have to catch up to the Soviets.

Second, the potential deployment of our small ASAT on every F-15 in our inventory would create a verification nightmare.

Third, because of our Nation's geographic position and worldwide interests, we are far more reliant on satellites for communications than are the Soviets—about 70 percent of this Nation's military communications move by satellite. If stability is the objective for which we are striving in our strategic modernization program, then it would seem far wiser to emphasize survivability and maneuverability for our satellites rather than threatening their destruction.

Finally, because of the redundancy the Soviets have built into their satellite network, they may be better suited to survive the outcome of satellite warfare. Though the duration of their satellite flight time is shorter than our own, the Soviets have emphasized satellite stockpile and launch capabilities. In 1982, the Soviets launched 81 military satellites compared to 7 for the United States.

In short, Mr. President, it is in our national security interest to pursue ASAT arms control.

Finally, Mr. President, I am most concerned about antisatellite weapons and their technologies because of their often ignored capability to undermine the Antiballistic Missile Treaty. The relationship of ASAT to boost phase and other ballistic missile defense capabilities can quickly lead to the abrogation of the ABM Treaty which clearly bans the development, testing, and deployment of sea-based, air-based, space-based, or mobile land-based ABM systems.

Mr. President, I draw very little comfort from the new strategic vision enunciated by the administration—emphasizing star wars defense technologies and antisatellite weapons.

In the absence of arms control agreements to limit offensive strategic arms, aimed specifically at reducing and ultimately eliminating the destabilizing consequences of proceeding to deploy MIRV'd warheads on large land-based missiles, the aggressive pursuit to develop and deploy defensive technologies and the candid talk about revisions to the ABM Treaty can only lead to a new destabilizing arms race whose consequences we cannot understand.

We have time and again failed to limit the deployment of new strategic technologies. We are still paying for our failure to stop the deployment of MIRV technology. By passing the Warner-Tsongas amendment, we have an opportunity not to make the same mistake again.

Mr. President, in closing, I would like to insert excerpts from an article written by Leslie Gelb entitled "Is the Nuclear Threat Manageable?" published in the New York Times Magazine on March 4, 1984. I urge my colleagues to listen carefully to the future strategic picture Mr. Gelb paints because it is a picture we may find ourselves posing for—in a matter of years:

> The United States and the Soviet Union are now on the threshold of decisions that could make nuclear war seriously thinkable for the first time. In 10 to 15 years, new technologies now being developed and tested could, if deployed, fundamentally and irretrievably undermine the basic philosophy that has been the center of both sides' nuclear strategy-mutual deterrence.
>
> If the go-ahead is given to deploy these new technologies, a Soviet or American military planner could, before the end of this century, be able to make all of the following statements to his leaders for the first time:
>
> "We can blind all their satellites, destroy their capital in five or six minutes, before they can react, and, with a few well-placed nuclear airbursts, we can knock out their whole communications network and make them sightless and headless.
>
> "With new pinpoint-accurate missile warheads, I can guarantee that we can destroy virtually every missile in a silo, every submarine in port, and every bomber on an airfield.
>
> "That will leave our adversaries only with missiles in their submarines at sea, and we are now able to locate and neutralize this ultimate retaliatory threat.
>
> "Almost all of their few remaining missiles can be destroyed by our missile defense system.
>
> "We may suffer a few million casualties, but our adversary will be thoroughly and finally defeated. And if we don't do it to him now, it is he who will be able to win by striking the first blow."

Nothing will ever be this simple, of course. Who is to say whether Moscow or Washington would reach this stage first? And how is one to foresee what the very competition to develop these technologies may lead to? But the overriding question for leaders in Moscow and Washington is: Can they manage these mounting nuclear threats?

Mr. President, I commend the authors of the amendment. They have worked long and hard. I think it is a very meaningful step forward, and I congratulate them.

Mr. WARNER. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Maine (Mr. Cohen) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wish to express my gratitude to all Members of the Senate for their participation—indeed, most Senators did participate—in a very long executive session this afternoon. I think it was beneficial, and it provided Senators with a threshold of knowledge so that we all stood on the same ground as we addressed this most sensitive and critical question.

I thank the distinguished Senator from Georgia for his kind remarks. Indeed, his modesty precludes him from saying that he was one of the principal authors and negotiators of this compromise.

I also wish to express my sincere thanks to the distinguished ranking minority member of the Subcommittee on Strategic Weapons, Mr. Exon. Senator Exon stood with the Senator from Virginia, as we say, like a stone wall from the very first consideration of this important question and never once has wavered in his determination to forge a compromise such as we now have to submit to our colleagues.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. WARNER. I yield.

Mr. WALLOP. Mr. President, I agree with the comments of the Senator from Arizona.

Let me express my opinion that, while it is a compromise and it is perhaps better than where we were, it has gotten us nowhere. It is the principal purpose, apparently, to reward the Soviet Union for staying away from the bargaining table on this or any other matter of arms control.

Why in heaven's name would anybody expect them to come back for any purpose, if the Senate of the United States and the Congress of the United States continue to provide the negotiating forum within these Halls to do these events and they give up nothing?

Who, may I ask, is to determine what is endeavoring in good faith? Whose determination is that? Is that Congress determination or is that the determination of the President of the United States?

It says it is going to, in good faith, negotiate "a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with national security interests of the United States; that, pending agreement on such a ban or strict limitations"—that means that merely by refusing to go anywhere, we are prohibiting ourselves from testing the very kinds of things which they will continue to test all along. "Pending agreement on such a ban or strict limitations."

We have given the Soviet Union the go ahead or stay still on testing in the United States.

Mr. President, I just do not understand why, in the name of trying to do something to make people feel comfortable in this country, we delude them into thinking that these things are verifiable and that the Soviet Union is at the threshold of the door, waiting to enter the room to negotiate with us when we, in this very piece of legislation, say that pending agreement, we cannot test explosive or inert antisatellite warheads against objects in space. And only if it is necessary to avert clear and irrevocable harm to national security.

When, I ask my friends, do we decide when that moment is? After it is impossible to get to that achievement? Only to avert a clear and irrevocable harm. Who makes that determination and when does that take place?

Let us go on: "that such testing"—even if it is to avert an irrevocable harm to the national security—"will not constitute an irreversible step which will gravely impair prospects for negotiations on antisatellite weapons."

My friends, I ask, where is the logic in that? We have provided in this that we cannot do anything, we cannot do any testing unless they agree to a ban, unless there is a clear and irrevocable harm to the country, and that if that clear and irrevocable harm exists, somehow or other, we cannot do anything about it in case it would harm the prospects for a treaty some other place down the road.

Mr. President, I ask my colleagues, search your minds for logic in our attempt to do something to make the American people happy. Think what it is that we are doing.

Let us go on: And that if we test these things, having found that there is a clear and irrevocable harm that will not constitute an irreversible step to impair the prospects for negotiations, that such testing "is fully consistent with rights and obligations of the United States under the Antiballistic Missile Treaty."

How did we get into ABM on antisatellite? Who is to say that Arbatov, or one of those other people who has almost total access to the press of the United States, will not say that this is outside the circumstances provided for in the ABM Treaty?

Then we go on down, having gotten through all those tests, which I ask anybody in this room if they are possible to achieve, to say that the President has to submit with any of these certifications "an unclassified report with any necessary annexes, justifying his certification and addressing:

"First, the current state of Soviet antisatellite weapon activity"—which, if it has already constituted a clear and irrevocable harm to national security, is probably an irrelevant document.

Going on, it discusses the vulnerability of present and future satellites. That is a pleasant thing to put out, the vulnerability of our present satellites, as we go along trying to do something to take care of it.

I say to the Senator from Georgia, and I was trying to point out in his opening remarks after the classified session, that a satellite which is in the interest of our national security, which has a price tag of multimillions of dollars and a shelf life of 15 years, is not going to be brought back from thousands of miles in space and modified. It is not as if we can enter into this program in the morning and pick up a satellite and say, this is the bare one, send it up and we will spend the next $20 billion, with this Congress unwillingness to fund the basic needs of the defense of this country.

Mr. **NUNN**. If the Senator will yield——

Mr. **WALLOP**. The Senator from Georgia did not yield to me.

Mr. **NUNN**. I would stipulate to that. There is no quarrel on that point.

Mr. **WALLOP**. Mr. President, the Senator from Wyoming has the floor, the Senator from Georgia did not yield on that point when he was speaking. It was a simple point.

We cannot do this simply or cheaply. Yet we are going to be persuaded—persuaded? Ordered—by the action of this Congress not to do any of these things in the future.

Now, we go on to talk about the verifiability in the President's certification of various possible agreements banning or limiting antisatellite weapons following any planned reductions in the vulnerability of U.S. satellite systems, which is a nice tip to the Soviet Union of what we are doing in trying to counter the various things that they are having.

It goes on to say:

> (4) The specific proposals he is prepared to endorse for possible future negotiations or discussions with the Soviet Union.

We finally got something that he might be able to do without destroying the welfare of the future of this country.

It goes on to say:

> The prohibition on the expenditure of funds provided for in this section shall be removed only when the certifications and reports referred to in subsections (a) and (b) have been received by the Congress and 30 days of session of Congress have expired.

Mr. President, if we are up to the kind of emergency that is described in here, we will not have 30 days; we will have had 3 years that we should have been doing something and have not been, because this Congress, in its absolute desire to say something to seduce the American people into thinking that something early and easy is possible in here, has seen fit to act.

I agree with the Senator from Arizona and I hope that some people look at the language in this amendment and see what it is that we cannot do under it, by law, and see what it is that we have done to reward Chernenko with his curiously comfortably timed announcement that seeks the ban of weapons in space, antisatellite weapons especially, when the Senate is about to begin its debate.

Mr. President, who runs this country? This Congress or the leader of the Soviet Union? I intend to oppose the amendment.

SEVERAL SENATORS. Vote.

Mr. **WARNER**. Mr. President, I seek to amend the pending amendment, directing the Chair's attention and that of my colleagues in the Senate to paragraph No. 2, deleting the words in the first line, "on such a ban."

The **PRESIDING OFFICER**. The Senator has the right to modify his amendment.

The amendment was so modified.

The amendment (as modified) is as follows:

> On page 122 of the bill, strike section 1013 and insert the following:
>
> SEC. 1013. Section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695) is amended to read as follows:
>
> SEC. 1235. (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—
>
> (1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with national security interests of the United States;
>
> (2) that, pending agreement of strict limitations, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security;
>
> (3) that such testing will not constitute an irreversible step which will gravely impair prospects for negotiations on antisatellite weapons; and,
>
> (4) that such testing is fully consistent with rights and obligations of the United States under the Antiballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.
>
> (b) The President shall submit with any certification made under this section an unclassified report, with any necessary classified annexes, justifying his certification and addressing:
>
> (1) the current state of Soviet antisatellite weapon activity;
>
> (2) the vulnerability of present and future U.S. satellites and ground-links to Soviet antisatellite weapons and proposed steps to make them less vulnerable, to include costs and dates such steps can be implemented;
>
> (3) the verifiability of various possible agreements banning or limiting antisatellite weapons following any planned reductions in the vulnerability of U.S. satellite systems; and,
>
> (4) the specific proposals he is prepared to endorse for possible further negotiations or discussions with the Soviet Union.
>
> (c) The prohibition on the expenditure of funds provided for in this section shall be removed only when the certifications and reports referred to in subsections (a) and (b) have been received by the Congress and 30 days of session of Congress have expired following the date on which such certifications and reports have been received. In computing the 30 day period, the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such 30 day period.

Mr. **WARNER**. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The Senator from Idaho.

Mr. **SYMMS**. Mr. President, I shall address the Senate only briefly. I was listening to this debate in my office and came to the Chamber. As one who is not on the Armed Services Committee and one who does not claim to be an expert in the field of strategic military equipment in space and arms control, commonsense should be our guide at a time like this. I have watched the whole gamut of negotiations with the Soviets. What we have seen is the Soviet Union, with no free press, with no peace demonstrators, with no elections, wait America out. All they have to do is go to the negotiating table and say, no. And pretty soon, the Americans will start negotiating with themselves.

I compliment my colleagues here who have worked this compromise out, but I only have to observe, as someone who is not on the committee, that we have seen some of our colleagues who have one point of view negotiating with other colleagues who have another point of view, which leads me to believe that true negotations with the Soviets at the present time are a sham because the Soviets are doing no negotiating whatsoever. We are negotiating for the Soviets by negotiating with ourselves.

Unless we stand firm and stand together—and I share the point of view of my colleague, Senator WALLOP from Wyoming, who is obviously very learned and very expert in this subject matter—all we are doing is weakening the U.S. arms control negotiating position. If I were over in the Kremlin, I would say, if this amendment passes with this great momentum behind it, "Just stand firm, boys, because the Americans are weakening. They are voting on the Senate floor the same position we would like to see them take to demonstrate that they are weakening their position all the time."

How are we ever going to get the Soviets to truly come to bargain with us and how are we going to strengthen our position as American negotiators, whoever is doing the negotiating, whether it is President Reagan's negotiating team or some other President's negotiating team, by passing amendments like this? I appeal to my colleagues to vote this amendment down. I say that with great respect for my colleagues who have tried to work this compromise out. But in my judgment, this will do nothing but weaken the United States, and it will strengthen the hand of the hawks in the Kremlin. I cannot for the life of me understand why we cannot see that in this Chamber and vote this amendment down and move forward to pass our DOD authorization bill and stop all the debate. It gives the appearance that we in the United States are weak and are not willing to develop our own strategic defenses of this country. Any nation that will not defend itself, I say to my colleagues, eventually history will catch up with it.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that an article entitled "Lobbyists in Scientific Clothing" appearing in the Heritage Foundation publication, "National Security Record" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### LOBBYISTS IN SCIENTIFIC CLOTHING

The Federation of American Scientists, which likes to project an image of cerebral scientific thinkers, actually operates in Washington as a hustling lobbying group busily flooding congressional offices with pamphlets and arguments that promote disarmament. A copy of the Association's Agenda for 1984 shows their legislative priorities:

Space Weaponry: Cut the funds for Strategic Defense Initiative; Call for moratorium on anti-satellite weapons; Urge compliance with the Anti-Ballistic Missile Treaty.

Comprehensive Test Ban: Support Kennedy-Mathias Resolution.

MX Missile: Cut back number of missiles; Delete 1985 procurement funds; Delay final decision until 1985 and new President.

Nerve Gas: Delete production money.

B-1 Bomber: Kill program.

Support new nuclear freeze proposal.

Cut overall level of military spending.

The lobbying program goes on with pages of details; members of Congress to contact, bills to support or oppose, programs of working groups and liaison with other pro-peace groups. The one-sidedness of the FAS agenda—opposition to most defense programs and support for none, implies little scientific inquiry into the defense needs of the nation. Rather it suggests an unscientific, kneejerk reaction against any kind of defense spending.

In early May, the Federation of American Scientists invited a group from the Soviet Academy of Sciences to participate in a conference at Airlie House in Virginia on issues concerning the anti-ballistic missile treaty and ballistic missile defenses. The American side, led by Paul Warnke, President Carter's arms control director, was disappointed when the Soviets refused to participate in a planned joint press conference at the end of the three-day session. As might be expected, the Russian side, led by a vice president of the Soviet Academy of Sciences, was highly critical of the arms control policies of the Reagan Administration. Since the FAS is also highly critical of those policies, FAS officials apparently had planned to hold a joint press conference that would show U.S. and Soviet scientists joining together in opposition to the Administration's defense program. But the Soviets refused to cooperate, even in that kind of activity.

This practice of inviting Soviet scientists to participate in dialogues on such political issues as arms control and defense policy is of highly doubtful value. The Soviet Academy of Sciences is strictly under the control of the communist party and operates very closely with the Soviet military. There are reports that as much as 75 percent of the basic and applied research conducted for the Ministry of Defense is done by the Soviet Academy of Sciences. Just as there are no independent trade unions in the Soviet Union, there are no independent groups of scientists.

These scientists who come to the West as members of peace committees are representatives of the official Soviet line, sent abroad by their government to spread political propaganda scientific terms. One American scientist who tries to keep track of the activities of the Soviet Academy says the only similarity between the highly independent Federation of American Scientists and the state-controlled Soviet Academy of Sciences is their vocal opposition to U.S. defense programs.

Mr. SYMMS. Mr. President, I ask unanimous consent to print in the RECORD an executive memorandum from the Heritage Foundation entitled "Violating SALT: Moscow Jams U.S. Satellites," by Mr. Jim Hackett.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### VIOLATING SALT: MOSCOW JAMS U.S. SATELLITES

(By James T. Hackett)

Defense and intelligence officials have confirmed reports appearing on June 4 in the Washington Times and June 5 in Defense Daily that the Soviet Union continues to violate its arms control agreements with the U.S. The reports tell of Soviet jamming of U.S. satellites that monitor Soviet nuclear missile tests. According to the reports, electronic interference with U.S. satellites began last year after the Soviet downing of Korean Air Lines Flight 007. Intelligence experts claim the interference is electronically precise, timed to coincide with Soviet missile test flights and clearly deliberate. This interference with U.S. satellites highlights the need for the U.S. to complete the testing of its anti-satellite system that is now under development.

For years the Soviets have been encrypting much of the telemetry from their missile tests, in violation of provisions of the SALT I and anti-ballistic missile agreements, and the commitment by Brezhnev to comply with the SALT II treaty. The agreements specifically prohibit interference in the national technical means of verification of the other party to the treaty. To the extent they interfere with U.S. verification efforts, both the encryption of missile test telemetry and the jamming of monitoring satellites constitutes such interference.

Last January 23, the President detailed to Congress seven Soviet violations of arms control agreements, one of which was the encryption of missile test telemetry. The main concern involved Soviet encryption of test data on the new SS-X-25 ICBM. The Soviets encrypted more than 90 percent of SS-X-25 test data to prevent the U.S. from verifying that the SS-X-25 is in fact a new missile. If it is, then it is the second new ICBM developed by Moscow since the SALT II agreement was signed in 1979. This violates the SALT II provision limiting each superpower to only one new missile.

Added to the continuing Soviet encryption of telemetry, the newly revealed electronic interference with U.S. satellites designed to gather information on Soviet missile tests presents a pattern of Soviet violations of both the letter and spirit of the arms control agreements they have signed.

Electronic interference with satellites is only one of a number of capabilities the Soviets have for anti-satellite (ASAT) activities. These include an operational orbital satellite interceptor that has been tested at least 18 times, ground-based lasers with ASAT capabilities and nuclear-armed Galosh anti-ballistic missiles that can also be used against satellites. By contrast, the U.S. ASAT, which has been under development for years, has yet to be tested in space. The first test is scheduled for November, but on May 23 the House voted to prohibit the Defense Department from conducting space tests of the U.S. ASAT.

Last year the Soviet Union announced a moratorium on further ASAT testing in space if other countries did likewise. This clearly was an attempt to prevent the U.S. from catching up in ASAT capabilities. If the U.S. halts space testing, the Soviets will continue to have a much-tested operational ASAT plus other ASAT capabilities, while the U.S. would be left with an untested ASAT. In voting to prohibit U.S. ASAT testing, most House members were unaware that the Soviets had begun interfering with U.S. satellites through electronic means.

Soviet behavior in refusing to return to the START nuclear arms negotiations, together with their deliberate interference with U.S. satellites, should not be rewarded by a concession that would lock the United States into a position of inferiority in anti-satellite capabilities. The Defense Department should be permitted to conduct the planned operational test of the U.S. ASAT this fall.

Mr. SYMMS. Mr. President, I also ask unanimous consent that five additional articles be printed in the Record:

First, the Washington Times, June 4, 1984, entitled "Soviets Reportedly Are Jamming U.S. Satellites Used as Monitors," by Walter Andrews. This story was confirmed by the Defense Department, according to a Washington Times story of June 8, 1984.

Second, Defense Daily, June 5, 1984, entitled "Soviets Jamming U.S. Satellites and Monitoring Radars."

Third, Defense Daily, June 6, 1984, entitled "Soviets Masking ABM Tests From U.S. Monitors."

Fourth, Newsweek, June 18, 1984, "Why Arms Control Is Harmful," by George Will.

Fifth, The National Security Record, The Heritage Foundation, June 1984, "The Fight for a U.S. Antisatellite Defense," edited by Jim Hackett.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, June 4, 1984]

### Soviets Reportedly Are Jamming U.S. Satellites Used as Monitors

(By Walter Andrews)

U.S. intelligence indicates that the Soviet Union has begun jamming American satellites used for monitoring Soviet nuclear missile tests and verifying compliance with arms control agreements, government sources say. Apparently using information provided by convicted U.S. spies, the Soviets have indicated their intent to block verification when possible, the sources said. The satellites would be one of the main means of verifying the terms of any new arms control agreement.

President Reagan in January charged the Soviets with violating a previous arms control provision against interfering with verification by encoding or encrypting the missile test data being telemetered to ground stations. Among other things, the information provides data on the number of warheads tested on a particular type of missile which is used to set missile warhead limits in an agreement.

The government sources told The Washington Times that the Soviets have now begun jamming the telemetry monitoring satellites to prevent even the gathering of the encrypted data for possible decoding later.

They said the jamming has been electronically precise, and apparently has taken advantage of the technical data reportedly provided to the Soviets by convicted spies Andrew Daulton Lee and Christopher John Boyce in 1977 on the Rhyolite and Argus satellites.

The satellite jamming began last year after the Soviets shot down a South Korean airliner in September, the sources said. U.S. intelligence also indicates the jamming is deliberate in that it had only occurred during missile flight tests. The sources could not say why the Soviets waited until recently to utilize the Rhyolite satellite data provided by the spies.

Shortly after the KAL 007 disaster, the sources said, the Soviets also began jamming radars for monitoring the path taken by a Soviet missile and multiple warheads during flight tests.

The so-called "Cobra" radars using sophisticated phased-array, electronic scanning operate out of the Aleutian islands.

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[From Defense Daily, June 5, 1984]

### Soviets Jamming U.S. Satellites and Monitoring Radars

The Soviet Union, which has refused to abide by the SALT treaty provisions prohibiting the encryption of missile flight test telemetry, is now resorting to the electronic jamming of United States satellites and radar systems established to provide U.S. national technical means of verification.

Using information apparently obtained from United States spies, the Soviets are selectively jamming the United States telemetry monitoring satellites and the Cobra Dane and other missile monitoring radars during strategic missile flight tests, in addition to continuing to encrypt the telemetry from those flights.

Defense and intelligence officials stress that the Soviet jamming is deliberate and timed to coincide with the weapons tests. In addition to the electronic intelligence monitoring (ELINT) and Defense Support Program satellites, the United States gathers missile and space test data with radars in the Aleutians, the Pacific, the People's Republic of China and Turkey.

Defense officials could not confirm for Defense Daily yesterday whether the leadership of the House and the floor managers of the Defense authorization bill, and amendment leaders, such as Rep. Les Aspin (D-Wis.), were aware of the Soviet jamming, which began last year, in their effors to alter the authorization bill to improve the arms control environment. The officials said they definitely want to make the information available to the leadership of the Senate and other members responsible or involved in consideration of the Defense budget as the debate begins in that body.

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[From Defense Daily, June 6, 1984]

### Soviets Masking ABM Tests From U.S. Monitors

The Soviet Union is masking the performance of surface-to-air missile tests believed related to the development of anti-ballistic missile systems as a part of a program to deny this intelligence to United States monitoring systems.

In what could constitute a direct violation of the ABM Treaty and SALT agreements, intelligence sources say the Soviets are deliberately jamming U.S. electronic intelligence (ELINT) satellites and radars used to monitor Soviet weapons testing and representing a prime segment of the U.S. national technical means of verification (Defense Daily, June 5).

The selective jamming operations by the Soviets are in addition to the encoding or encryption of missile telemetry data which the Administration has cited as a violation of the arms control agreements between the U.S. and the Soviet Union.

The Soviet Union tests its surface-to-air and anti-ballistic missile systems at the Sary Shagan test center in lower central Siberia. Tests at this facility, and at the Soviet space center at Tyuratam-Leninsk (Baikonur Cosmodrome), were originally monitored by U.S. radars in the mountains of northern Iran, but since the fall of the Shah the U.S. has reportedly been using a radar facility in the mountains of northwest People's Republic of China. Data from the facility have been coordinated with satellite-gathered data, and from other radars, such as the Cobra Dane system in the Aleutians, to assess not only the ABM development program at Sary Shagan but also the strategic missile development flights from Baikonur toward Kamchatka Peninsula.

Some officials are reluctant to discuss the degree of success of the Soviet program to deny the vital weapons' performance assessment data from the U.S. intelligence gathering network.

Others emphasize that the situation created when the Soviets encypt as much as 100 percent of missile flight test telemetry is now compounded by the masking or jamming operations, preventing the reception of even the encrypted data. Previously, the encrypted telemetry data could be studied thoroughly and possibly deciphered enough to allow a basic assessment of the missile's performance.

The Soviets began the jamming operations last fall, and have resorted to the practice during selected flight tests. Intelligence analysts have in the past reported Soviet missile test activities which indicated they were testing surface-to-air missiles in an ABM mode, developing a rapidly deployable and rapid refire ABM capability, and, with missiles such as the SA-12, developing a capability for a rapid breakout of a nationwide ABM system when used with the battle management radars that are being located around the Soviet Union. One of these radars has been cited as a violation of the ABM Treaty.

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[From Newsweek, June 18, 1984]

### Why Arms Control Is Harmful

(By George F. Will)

Today's arms-control controversy is remarkable for the virtual absence of the most important argument. It is that the arms-control process is injurious to U.S. interests. That argument offends conventional wisdom and (what is much the same thing) wishful thinking. It has the redeeming merit of being true, as Seymour Weiss knows. In a paper presented at the Lehrman Institute, Weiss, retired ambassador and State Department director of political and military affairs from 1960-67, argues that enthusiasm for the arms-control process—a process barren of achievements—reflects misapprehensions about the usefulness of that process in slowing the arms race, saving money and taming the Soviet Union.

The idea of an arms "race"—often described as "spiraling"—is odd. The U.S. nuclear-weapons inventory has been sharply reduced. It contains 8,000 fewer warheads and 25 percent less megatonnage than in the 1960s. This is the result not of arms agreements but of modernization programs that produced safer, more effective weapons—modernizations of the sort that arms-control advocates try to block with agreements.

#### SAFER WORLD

During the era of détente and arms control the Soviet nuclear arsenal has grown quantitatively and qualitatively. A study commissioned during the Carter administration compared 41 categories of nuclear capabilities (warheads, megatonnage, delivery systems, etc.) in the period beginning with the Cuban missile crisis. It concluded that the United States had been well ahead in every category in 1962 and was behind in all but two by the late 1970s. Since SALT II was signed in 1979 the Soviet Union has added more than 3,400 warheads. Does anyone think the world is safer than it was when the SALT process began in 1969?

The achievement most celebrated by arms-control enthusiasts is the 1972 treaty effectively banning antiballistic missiles. True, we saved the cost of ABM's. But partly as a result of that decision we will spend many more billions on MX missiles, an unsatisfactory response to the fact that our undefended land-based ICBM's are vulnerable. Because MX is unsatisfactory, billions more may be spent on smaller, mobile "midgetman" missiles. Why is MX so unsatisfactory? Because of an arms agreement.

SALT I limited the number and size of launchers—basiscally, holes in the ground—rather than numbers or megatonnage of warheads. Limits on those would be hard to verify, given Soviet secrecy. So SALT I drove arms planning toward big missiles packing maximum megatonnage. SALT I did what arms agreements usually do: it did not restrain competition, it turned it in a new direction. It was a direction in which the Soviet Union, with its huge SS-18s, had a lead. SALT I ratified a Soviet advantage and, by giving rise to the inherently vulnerable MX, reduced the stability of deterrence.

This republic overflows with laws, lawyers and faith that the world can be tamed by words on parchment. Americans see arms control as a way of freezing the status quo; the Soviets see it as one arena in a comprehensive, unending competition. Furthermore, Weiss says, persons who think arms control should be the "centerpiece" of U.S.-Soviet relations ignore the fundamental incompatibility of U.S. and Soviet objectives. The configuration of the Soviet buildup in the arms-control era is unambiguous. The arms are not designed for defense but for producing a world pliant to Soviet designs. Weiss says there is no reason to expect the Soviets to negotiate away advantages, and ample reason to expect the Soviets to exploit the American thirst for agreements.

In addition to selling discord among U.S. allies and paralyzing U.S. procurements, Soviet negotiators have, Weiss says, five aims. First, limit the wrong things (e.g., launchers). Second, make sure the limits on important things are ambiguous. (SALT I limited but did not define "heavy" missiles.) Third, accept specific limits only if they are unverifiable (e.g., the ban on biological weapons or the SALT II limits on cruise-missile ranges). Fourth, evade even strict, verifiable limits by claiming they do not apply to this or that program. (The Soviets claim their ABM system is just a defense against bombers.) Fifth, get the treaty to legitimize violations of the treaty. (SALT II's flimsy verification terms forbid encryption of data from missile tests—except when encryption is not intended to evade arms-control limits. But given that it is encrypted, how are we to tell?)

Because ours is an open society, our government cannot cheat on agreements, and because our society invests such hope in arms control, even an administration as starchy as Reagan's is apt to forgive Soviet cheating or mute even required reports of it. When complying with a Senate demand, the administration submitted a list of Soviet violations, The New York Times denounced the—you guessed it—administration for "initiating this damaging laundry list."

### WEAPONS

The arms-control era has coincided with unparalleled Soviet aggression and threats, from Indochina through Afghanistan. Try to tell victims of "yellow rain" about the wonders of arms control. Biological weapons are controlled—on paper. What has violation of the controls produced? A U.S. clamor for yet more agreements. And arms-control enthusiasts, their enthusiasm impervious to evidence, continue to use slogans that were threadbare when Dean Acheson refuted them.

Acheson demolished the bromide that "as long as the Russians are talking they are not fighting." Acheson said that Americans are so wedded to the belief that negotiations are means of ending conflicts that they are blind to the fact that negotiations are equally suited to continuing conflicts. Of the slogan "There is no alternative to negotiations with the Russians," Acheson said: "This is, of course, silly. For if there is no alternative, and if the Russians will only negotiate, as is now the case, on their own terms, then there is no alternative to surrender."

For that reason someone should tell Ronald Reagan to quit saying that nothing is more important than "development of a better working relationship with the Soviet Union." Such talk worsens the asymmetry in U.S.-Soviet negotiations by building pressure on the U.S. government for concessions to produce "movement." An immoderate and unempirical belief in arms control produces a policy of apologetic retreats.

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[From the National Security Record, June 1984]

## THE FIGHT FOR A U.S. ANTI-SATELLITE DEFENSE

A coalition of anti-defense lobbying groups spearheaded by the Federation of American Scientists (FAS) has succeeded in its efforts to get the House of Representatives to vote for a moratorium on testing the U.S. anti-satellite (ASAT) defense program. On the evening of May 23 the Democratic-controlled House voted an amendment to the Defense Authorization Bill prohibiting the Defense Department from conducting tests in space of the ASAT weapon it has been developing for years. The prohibition would be in effect so long as the Soviets conduct no further tests of their ASAT, which has been tested 18 times and has long been operational. This is exactly what the Soviets want—it leaves them with an operational ASAT and the U.S. with an untested weapon.

The Republican-controlled Senate appears to be moving toward a conflict with the House on this issue. The Senate Armed Services Committee approved a Defense Authorization Bill with no constraints on ASAT testing, so long as the President certifies it is essential to arms control efforts. If approved by the full Senate, the matter will have to be settled in conference. But more threatening to the ASAT program is the possibility of a Senate vote on an amendment proposed by Sen. Larry Pressler (R-SD), which would prevent further testing of the U.S. ASAT.

For years opponents of defense spending have argued against nuclear missiles on the emotional gounds that they were terrible weapons of mass destruction that could kill millions whether launched in anger or by accident, and would produce destructive radiation or other nuclear effects in either case. Now the Administration is trying to develop weapons that kill no one, that produce no harmful radiation and which would be strictly defensive in nature. Their sole purpose would be to protect the American people from the effects of nuclear missiles.

One might expect the arms control lobbyists to embrace both the anti-satellite program and the longer-term program of research in strategic defense as ways of neutralizing nuclear missiles and protecting the American people. But in the Humpty-Dumpty world of arms control, defense is destabilizing, even if it may save millions of lives. Instead of embracing anti-satellite weapons as people-savers, the anti-defense lobbyists are conducting a major assault against the program just as it nears completion.

### MILITARY SATELLITES

Satellites have become increasingly essential to the conduct of modern warfare. Photo-intelligence satellites monitor military activities, early warning satellites watch for missile launches and track their flight communications satellites handle nearly three-quarters of U.S. global military communications, while navigation and weather satellites are essential to all effective military operations. With U.S. forces deployed around the world, satellites are more important to U.S. military operations than to those of the Soviet Union, centered in the Eurasian land mass. Thus, interference with U.S. satellites is an important objective of Soviet military planners.

The Soviets have made a major commitment to ocean surveillance from space. They obviously consider their ability to strike at the U.S. Navy a prime factor in their strategic planning. Their very large fleet of attack submarines reflects this concern. The Soviets' radar-equipped ocean reconnaissance satellites, or RORSATs, are designed to spot U.S. naval vessels and track them around the world as targets for Soviet subs or missiles. Considering the importance of the Navy to U.S. global military operations, the threat posed by the Soviet RORSATs and their related EORSAT's (ocean satellites that detect electronic transmissions) is potentially significant, despite Navy countermeasures said to be effective against the present generation of such satellites.

### THE SOVIET ASAT

The Soviet Union has the world's only operational antisatellite weapon. The Soviets began testing their ASAT as early as 1968, achieving a 70 percent success rate in tests conducted between 1968 and 1971. They stopped ASAT testing for five years, resuming with a new program in 1976 that continued until 1982. That year an ASAT was used to practice the destruction of U.S. satellites as part of a major Soviet exercise of strategic forces that included ICBM, SS-20, ABM and SLBM firings. The Soviet orbital ASAT is a three ton satellite-killer, launched by an SS-9 booster rocket into an orbit close to that of its target. Directed by ground control stations and using its own radar, the ASAT maneuvers into position near the target, where it fires a blast of pellets to destroy it.

The United States has slightly more than 100 operational satellites in various orbits. Photo-intelligence, electronic-intelligence and weather satellites operate in low earth orbits ranging from about 60 to 900 miles. Most communications and navigation satellites function in geosynchronous (stationary) orbits above 22,000 miles, although some are in elliptical orbits which bring them within a thousand miles of the earth at their perigee. The Soviet ASAT is reportedly able to reach an altitude of about 3,000 miles, enabling it to target all U.S. satellites in low-earth orbits and some in mid-level orbits. This includes most of those used for intelligence and weather monitoring, plus a number of others. If the Soviet ASAT were put on a more powerful booster, it could also threaten satellites at higher altitudes.

A greater threat to high orbit and geosynchronous satellites are the anti-satellite lasers now under developement in the Soviet Union. As part of a long-term effort to expand their military capability in space, the Soviets have been developing high energy lasers for use as both ground-based and space based anti-satellite weapons. The Soviets now have two ground-based test lasers that could be used against satellites.

In addition to their existing ASAT, the Soviets have a wide range of capabilities for interfering with U.S. satellites, including the use of ABM missiles such as the Galosh that is deployed around Moscow, attacks from orbiting space stations, space mines and use of electronic countermeasures. This array of possible ASATs makes a comprehensive ASAT ban unverifiable and a limited ban useless to protect U.S. satellites.

### THE U.S. ASAT

Unlike the futuristic technology of the laser ASATs being developed in the Soviet Union, the U.S. program now under development is a marriage of current technology and existing equipment. It consists of a miniature non-explosive warhead mounted on a two-stage booster rocket, launched from a modified F-15 fighter plane. It will be capable of attacking Soviet satellites in low earth orbit. While more sophisticated than the existing Soviet orbital ASAT, the latter has much greater range. The U.S. miniature missile was successfully test fired early this year from an F-15 to a pre-determined point in space. It is due to be tested against a target in space this November, unless a moratorium on ASAT testing becomes law.

The U.S. anti-satellite is unlike most modern weapons. In an age of sophisticated new concepts and multi-billion dollar costs, the American ASAT uses current technology and is launched by existing aircraft. Development and procurement of the ASAT is budgeted at only $223 million in fiscal year 1984, with comparable amounts requested for 1985 and 1986. These are very small amounts compared to the cost of most weapons systems. Yet if Congress allows it to continue, the program will produce an operational anti-satellite defense for the United States by 1986.

### SOVIET EFFORTS TO STOP THE U.S. ASAT

Despite their orbital ASAT, ground-based test lasers and a research and development program in space-based lasers, the Soviets have continued to protest the U.S. ASAT as the "militarization" of space. In fact, space is already militarized, but the Soviets never admit their ASAT capabilities as they advance arms control proposals designed to stop the U.S. ASAT. Shortly after assuming power earlier this year, Soviet President Konstantin Chernenko listed a ban against ASAT weapons as one of the highest arms control priorities of the Soviet Union. It is not surprising. The Soviets have operational ASATs that put U.S. military satellites in jeopardy, and they are anxious to stop the deployment of a comparable U.S. capability. The Soviets have proposed a draft treaty to ban ASATs that would bring the present U.S. ASAT program to a halt. Significantly, the Soviet treaty would not prevent the further development or deployment of ground-based high energy lasers, an area of ASAT development in which the Soviets have a considerable lead.

Over the years, the Soviets have started weapons research and development programs and then pursued them inexorably, producing and deploying large numbers of operational weapons. All the while, they have negotiated with the United States on the control of such weapons. In contrast, U.S. weapons programs often have gone in fits and starts, with Soviet calls for arms control prompting the Congress, or in some cases the Executive Branch, to delay, stretch out or even cancel U.S. programs. The Soviets now appear to be trying to do the same with the U.S. ASAT. Last year the Russians announced a unilateral moratorium on the testing of ASATs in space and proposed that the U.S. do the same. Since they already had tested theirs extensively and the U.S. was preparing for its first full-scale test, the Soviet proposal clearly was aimed at stopping the U.S. test.

### THE ANTI-ASAT ARGUMENTS

The opposition to the further development and testing of the U.S. ASAT has been led on Capitol Hill by a coalition of anti-defense lobbyists, including the Federation of American Scientists, the Union of Concerned Scientists, Physicians for Social Responsibility, the Council for a Livable World, the Center for Defense Information, and the Arms Control Association. They have been collaborating with a group of liberal Democrats in the House, and Sens. Larry Pressler (R-SD) and Paul Tsongas (D-Mass.) in the Senate. The leaders of the anti-ASAT drive are mainly the same liberals who fight against most defense programs, although they often give different reasons for opposing different weapons.

ASAT opponents argue that a successful test of the U.S. ASAT against an object in space will give the U.S. an ASAT capability, which will make agreement with the Soviets unachievable. To the extent that the Soviet goal is to block the U.S. ASAT and maintain their present monopoly, that assessment may be correct. But ASAT opponents persist in arguing that the U.S. should not match the Soviet capability. A Democratic House Member, Beverly B. Byron (D-Md.), proposed that the U.S. be allowed to test its ASAT the same number of times the Soviets tested theirs. Amazingly, this very reasonable proposal was decisively defeated.

One of the main arguments, that the U.S. ASAT would start a headlong rush toward an arms race in space, ignores the existence of the Soviet ASAT with capabilities similar to the proposed U.S. weapon, the continuing Soviet development of laser ASATs, the large number of satellites with military applications that are now in space and the fact that ICBMs travel through space on their way to the target. Halting the modest U.S. ASAT program could not prevent the militarization of space, which already is a reality.

Another concern of ASAT opponents is the relationship between ASAT and anti-ballistic missile (ABM) systems. Some ABM missiles can be used against satellites, while an anti-ASAT weapon could conceivably be used as an ABM. The concern is that the deployment of ASATs might be a means of evading the provisions of the ABM Treaty limiting each side to one ABM site. Yet concerns of the critics that the U.S. might deploy an ABM defense posing as an ASAT, or that the range of the U.S. ASAT might be extended to reach satellites in higher orbit than those that can be reached by the Soviet ASAT, hardly seem realistic in our open society where there is constant press and congressional scrutiny. The anti-defense forces seem more concerned about the possible misuse of U.S. weapons than about the Russian weapons, the existence of which the Soviets do not even acknowledge.

Rep. George E. Brown, Jr. (D-Cal.), has argued that many of the Soviet ASAT tests were not successful and, therefore, their ASAT is no threat to the U.S. Of course, the reason for the Soviet testing was to find out what did not work so it could be fixed. To conclude after 18 tests that the Soviet ASAT is not effective is an assumption the U.S. cannot afford to make.

### CONCLUSION

On March 31, the President sent a report to Congress spelling out serious difficulties in assuring the effective verification of compliance with an arms control agreement banning ASAT weapons. For example, the Administration listed several critical problems: (1) there are many different types of systems which could be used to destroy satellites; (2) many non-military space activities present opportunities to deploy and conceal ASAT systems; and (3) an agreement would be easier to verify if the definition of an ASAT were strictly limited, but such an agreement would provide no security for U.S. satellites.

The verification problems are so serious that the Administration has been unable to develop a proposal for an ASAT ban that would both be verifiable and protect U.S. security interests. Therefore, the Administration plans to test the U.S. ASAT late this year. At the same time, the Administration is committed to continue the "search for viable arms control opportunities in the ASAT area." One idea under consideration is the possibility of a ban on ASAT tests against satellites in high altitude orbits. This would cover a number of early warning, communications and navigation satellites that cannot be reached by either the existing Soviet ASAT or the planned U.S. ASAT.

While the U.S. explores this and other possibilities for a negotiating position that is both realistic and protects national security, it is essential to test and deploy the U.S. ASAT as a counter to the existing Soviet ASAT and as a deterrent to its possible use. The Senate votes on this issue in June will be crucial to the continuation of the U.S. program.

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[From the National Security Record, June 1984]

### LOBBYISTS IN SCIENTIFIC CLOTHING

The Federation of American Scientists, which likes to project an image of cerebral scientific thinkers, actually operates in Washington as a hustling lobbying group busily flooding congressional offices with pamphlets and arguments that promote disarmament. A copy of the Association's Agenda for 1984 shows their legislative priorities:

Space Weaponry: Cut the funds for Strategic Defense Initiative; call for moratorium on anti-satellite weapons; urge compliance with the Anti-Ballistic Missile Treaty.

Comprehensive Test Ban: Support Kennedy-Mathias Resolution.

MX Missile: Cut back number of missiles; delete 1985 procurement funds; deauthorize 1984 procurement funds; delay final decision until 1985 and new President.

Nerve Gas: Delete production money.

B-1 Bomber: Kill program.

Support new nuclear freeze proposal.

Cut overall level of military spending.

The lobbying program goes on with pages of details; members of Congress to contact, bills to support or oppose, programs of working groups and liaison with other pro-peace groups. The one-sidedness of the FAS agenda—opposition to most defense programs and support for none, implies little scientific inquiry into the defense needs of the nation. Rather it suggests an unscientific, kneejerk reaction against any kind of defense spending.

In early May, the Federation of American Scientists invited a group from the Soviet Academy of Sciences to participate in a conference at Airlie House in Virginia on issues concerning the anti-ballistic missile treaty and ballistic missile defenses. The American side, led by Paul Warnke, President Carter's arms control director, was disappointed when the Soviets refused to participate in a planned joint press conference at the end of the three-day session. As might be expected, the Russian side, led by a vice president of the Soviet Academy of Sciences, was highly critical of the arms control policies of the Reagan Administration. Since the FAS is also highly critical of those policies, FAS officials apparently had planned to hold a joint press conference that would show U.S. and Soviet scientists joining together in opposition to the Administration's defense program. But the Soviets refused to cooperate, even in that kind of activity.

This practice of inviting Soviet scientists to participate in dialogues on such political issues as arms control and defense policy is of highly doubtful value. The Soviet Academy of Sciences is strictly under the control of the communist party and operates very closely with the Soviet military. There are reports that as much as 75 percent of the basic and applied research conducted for the Ministry of Defense is done by the Soviet Academy of Sciences. Just as there are no independent trade unions in the Soviet Union, there are no independent groups of scientists.

These scientists who come to the West as members of peace committees are representatives of the official Soviet line, sent abroad by their government to spread political propaganda in scientific terms. One American scientist who tries to keep track of the activities of the Soviet Academy says the only similarity between the highly independent Federation of American Scientists and the state-controlled Soviet Academy of Sciences is their vocal opposition to U.S. defense programs.

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[From the National Security Record, June 1984]

## Insiders Report: Tracking the Policy Process in Washington

### EAGLEBURGER PRAISES DOBRYNIN

At a recent farewell ceremony for Lawrence S. Eagleburger, retiring Under Secretary of State for Political Affairs, in the diplomatic reception rooms at the State Department, witnesses were astonished when Eagleburger singled out Soviet Ambassador Anatoly Dobrynin for special praise. Ignoring officials from other countries, Eagleburger reportedly praised Dobrynin in a personal and emotional statement of appreciation for their "good relationship," adding that the Soviet Ambassador had always represented his country honorably. Even dedicated détentists were shocked by such a public display of empathy for the top Soviet official in America by the third ranking official of the State Department. What does this say about Eagleburger's understanding of the real nature of the Soviet threat?

### SOVIETS VIOLATING TEST BAN TREATY

A routine letter from the Director of the Arms Control and Disarmament Agency to Senator Claiborne Pell (D-RI) of the Senate Foreign Relations Committee has caused surprise and concern on Capitol Hill. The letter to Pell dated April 19, 1984, subsequently was made available to all senators. The sentence generating concern reads:

". . . there continue to be numerous Soviet ventings involving dispersal of radioactive materials beyond Soviet borders and numerous U.S. demarches to the Soviet Union protesting this practice."

This sentence appears to confirm "numerous" Soviet violations (other sources say there have been over 30) of the 1963 Limited Test Ban Treaty. That agreement bans nuclear tests in the atmosphere. While permitting underground nuclear tests, the treaty prohibits such explosions if they cause "radioactive debris to be present outside the territorial limits of the State" conducting the explosions. A number of senators are drafting a letter to the President asking for a detailed report on these Soviet violations. Experts indicate that explosions close enough to the surface to cause the venting of radioactive materials would permit more useful tests of nuclear effects than those being conducted by the U.S. at depths of 1,000 to 5,000 feet.

### TURF WARS CONTINUE AT STATE

Two years after his departure from the State Department, the turf battles that former Secretary Alexander M. Haig raised to the level of full-scale warfare are still raging. Some of Haig's appointees have been carrying on the tradition with enthusiasm. Rick Burt, the former New York Times man brought to State by Haig as Director of Politico-Military Affairs and later promoted by Secretary Shultz to head the Bureau of European Affairs, is said to be the most aggressive and abrasive of the turf warriors.

The replacement of recently retired Lawrence Eagleburger as Under Secretary for Political Affairs with Michael Armacost, a relatively junior career man who has not previously shown the kind of drive displayed by Eagleburger and Burt, is creating speculation that Burt might fill Eagleburger's shoes as the de facto man in an otherwise gray State Department. There is concern on Capitol Hill and elsewhere that neither Burt nor Armacost has been known as a Reagan supporter. At his recent oath-taking in the Office of the Secretary of State, Armacost is reported to have said that while he is only a recently appointed Foreign Service Officer, he "would defend the interests of the Foreign Service with all the zealotry of a convert." That gives small comfort to the supporters of the President who have encountered difficulties in dealing with the Foreign Service.

### WANTED: A TOUGH SCC COMMISSIONER

One of the major staffing disappointments of the Reagan Administration appears to be retired Air Force General Richard H. Ellis, as the U.S. Representative on the Standing Consultative Commission (SCC). This joint U.S.-Soviet committee meets twice a year in Geneva to discuss questions concerning compliance with the SALT and ABM agreements. For years officials have been downplaying Soviet violations of arms control agreements to assure continuation of the arms control "process." This attitude reached its peak during the Carter Administration when some U.S. officials went out of their way to try to prove that the Soviets were not violating agreements. The appointment of General Ellis, a former SAC Commander, was welcomed as an opportunity to put U.S. security interests first.

For the past two years there have been reports that General Ellis had been captured by those bureaucrats anxious to protect the SCC process (which includes two trips a year to Geneva), and that he was being manipulated to assure that he did not make waves with the Soviets. It is claimed that the general has not followed instructions to press hard for explanations of Soviet arms control violations. There has been discussion of replacing General Ellis after the election with a tough SCC Commissioner who will demand satisfactory Soviet explanations. But some Members of Congress who want the Soviets to be called to task for their arms control violations also are asking why the U.S. doesn't walk out of the SCC.

### HAIG COMMENTS ON PERCY AND DOBRYNIN

Those who have not read Caveat, the recently published memoirs of former Secretary of State Alexander M. Haig Jr., may find interesting his description of a meeting with Soviet Ambassador Anatoly Dobrynin at the Georgetown home of Senator Charles R. Percy (R-Ill) that took place two weeks after the beginning of the Reagan Administration. As described by Haig, when the three began talking privately the Secretary "recited the litany of Soviet excesses—Poland, Afghanistan, Kampuchea, the Yemens, Africa and . . . Cuban activities in the Western Hemisphere." But Dobrynin was impatient, and according to Haig "he had not come to discuss these issues, but to talk about arms negotiations. Senator Percy was an enthusiastic advocate of such talks. He sought to elicit from me some commitment that the Administration would consent to a resumption of strategic arms negotiations. Dobrynin clearly read Percy's advocacy as an encouraging sign that he had a valuable ally, and pressed for a commitment to begin talks on almost any subject. Once again, I said that there could be no business as usual."

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[From the National Security Record, June 1984]

## The MX and Other Missiles

### THE MX IS UP TO THE SENATE

Congressional consideration of the Administration's request for the production of 40 MX missiles in 1985 (vs. 21 in 1984) became hopelessly entangled with election year politics. All three Democratic presidential candidates said they would cancel the MX if elected. That gave House Speaker Tip O'Neill and Rep. Les Aspin (D-Wis) an opening to make the continuation of the MX program an election year political issue.

Year after year, the MX has suffered the perils of Pauline in the Congress. In 1982, production funds for the missile were approved in the House by the slimmest of margins, 212-209. Last year the program survived by a larger margin, but only because the President made a commitment to a group of liberal Democrats, led in the House by Reps. Aspin, Norman D. Dicks (D-Wash) and Albert Gore, Jr. (D-Tenn), to implement the recommendations of the Scowcroft Commission. Among other things, this reduced the MX program from 200 to 100 missiles to be deployed in hardened Minuteman sites. The Senate also added its own conditions last year, requiring the Administration to propose a "build-down" concept in arms control negotiations with the Soviets, which the Soviets rejected.

This year, with the Democratic presidential candidates attacking the MX and the Speaker personally boasting that he had the votes to defeat it, Rep. Aspin devised an alternative to the President's request for production funds for 40 missiles. Aspin's proposal, approved by a vote of 218-212, cut the program to 15 missiles (it had been cut from 40 to 30 a week earlier in the House Armed Services Committee) and added wording that seriously constrains the Administration. The Aspin wording would freeze 1985 production funds for six months, after which production could resume only if the President certifies that the Soviet Union is willing to take steps to control strategic missiles similar to the MX.

This wording would stop the MX production line for six months and give the Soviets the ability to keep production stopped just by appearing to be reasonable. House Republicans were especially unhappy that the National Security Council Staff dealt directly with Congressman Aspin in developing language that many Members feel would be extremely damaging to the Administration in its dealings with the Soviet Union, without the participation of House Republicans, who were fighting for the President's program.

The Senate Armed Services Committee has voted to cut the program from 40 to 21 missiles, but with no production delay or damaging language. If this bill is voted by the full Republican-controlled Senate, Hill supporters of the President will make a major effort in conference to drop the House language that would give the Soviets a veto over U.S. missile production.

### NEW LARGE SOVIET MISSILE REPORTED

Reports of a massive new intercontinental missile under development in the USSR suggest the Soviets may have decided to stop trying to convince the world they are complying with the SALT agreements. The new Soviet ICBM, being dubbed the SS-X-26, reportedly is a solid fuel model, apparently intended as an improved follow-on to the massive SS-18 ICBM that can carry up to 20 megatons of nuclear warheads. A test of the new rocket would be the final blow to the SALT II agreement that both sides have agreed to honor even though it was never ratified.

SALT II limits each side to one new type of ICBM. The Soviets have stated that their new type ICBM is the SS-X-24. They also have tested a second new missile, the SS-X-25, which they contend is merely an upgraded version of their old SS-13. But the Soviets have encrypted over 90 percent of the telemetry from their SS-X-25 tests, trying to complicate U.S. efforts to confirm that this new missile exceeds the limits for modifications allowed by the treaty. The test of a third new ICBM of a clearly different type would be an even more blatant violation of SALT II.

Although the basic rationale for such huge and destructive weapons has always been questioned in the West, the Soviet leadership apparently is committed to them. Thus, it would be logical from a Soviet military point of view to begin developing replacements for the large land based ICBMs that constitute the backbone of Soviet offensive forces. Their three huge existing missiles, the SS-17, SS-18 and SS-19, were deployed beginning in 1974-75. Following their practice of inexorably developing and deploying new weapons systems, the Soviets now are working on their 5th and 6th generations of ICBMs. By contrast, the MX is only the 3rd generation of U.S. ICBMs.

### DEPLOY THOSE MINUTEMAN III'S

Reports of a large new Soviet missile give some urgency to the proposed deployment of additional Minuteman III missiles, which was approved by Congress three years ago as a relatively quick and inexpensive way to increase U.S. strategic power. Senator James A. McClure (R-Idaho) wrote to the President on May 16 pointing out that $5 million was authorized and appropriated by Congress in 1981 and 1982 to begin the deployment of 100 stockpiled Minuteman III missiles with three warheads each to replace an equal number of single-warhead Minuteman IIs.

Senator McClure asked the President to direct the Defense Department to report what happened to the funds appropriated for this purpose and the reason for not proceeding with the authorized deployment. Meanwhile, the Soviets have continued to develop and deploy new missiles, while increasing the number of nuclear warheads targeted on the West by some 75 percent over the past five years. The U.S. ICBM force of 550 Minuteman IIIs, first deployed in 1970, and 450 Minuteman IIs, deployed beginning in 1966, are aging and deteriorating along with their ground support systems.

The eventual deployment of the MX will provide a much-needed modernization of 100 of these missile systems. However, Senator McClure and others contend that the early replacement of another 100 of the eighteen-year old Minuteman IIs with Minuteman IIIs that already have been produced and are sitting in storage, would be a logical additional improvement of the U.S. strategic forces.

Mr. SYMMS. Mr. President, on January 23, 1984, in a report to Congress, President Reagan determined that the Soviets have violated:

First, the 1925 Geneva protocol banning chemical warfare.

Second, the 1972 convention banning biological warfare.

Third, the Helsinki Final Act of 1975 with an illegal military exercise.

Fourth, the SALT II Treaty of 1979 by encrypting ICBM telemetry.

Fifth, a SALT II rule concerning ICBM modernization [SS-X25 warhead to throw-weight ratio].

In addition, the President has determined:

Sixth, that the Soviets are almost certainly violating the 1972 SALT I ABM Treaty.

Seventh, that the Soviets are probably violating the SALT II rule on ICBM modernization by having two new type ICBM's, the SS-X-24 and SS-X-25.

Eighth, that the Soviets have probably violated SALT II by deploying banned SS-16 mobile ICBM's.

Ninth, that the Soviets are likely to have violated the 1974 Threshold Test Ban Treaty by underground nuclear tests above 150 kilotons.

President Reagan has confirmed to Congress that the Soviets are violating arms control treaties in nine ways, five of which cases are conclusive.

Assistant Secretary of Defense Richard Perle has stated that the President's report of January 23, 1984, was only illustrative, and that there are 20 to 25 additional cases of Soviet arms control treaty violations under study in the executive branch. I am told that this phase II of the mandated violations report will be delivered soon to Congress.

The report of the General Advisory Committee of the Arms Control and Disarmament Agency confirms these violations and covers 17 other Soviet arms control treaty violations since 1958.

Mr. President, I do not wish to have these reports on Soviet arms control treaty violations misconstrued. Neither President Reagan nor I are against arms control. Far from it. Arms control is an important diplomatic tool in preserving world peace. But the integrity of the existing arms control treaties and negotiating process for future treaties must be preserved if world peace is to be upheld. American national security is severely damaged by Soviet violations of existing arms control treaties. Until the Soviets can be made to comply with existing arms control treaties, it will be futile to try to negotiate an ASAT arms control treaty.

Mr. THURMOND. Mr. President, I wish to state my opposition to the pending amendment offered by my distinguished colleagues.

Although I share their concern for the subject of arms control, I feel that this amendment will unduly restrict President Reagan's ability to conduct negotiations with the Soviet Union on control of antisatellite weapons.

It is not necessary to legislate the United States into a position of being forced to seek arms control negotiations with the Soviets.

There can be no doubt that the United States seeks peaceful solutions to all areas of mutual concern with the Soviets. We should be reminded that it is the Soviets who have walked out of all the various arms-control talks. It is their intransigence and not President Reagan's that prevents meaningful negotiations.

Mr. President, I urge my colleagues to oppose this amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I will just take about 20 seconds in brief response to the Senator from Wyoming. He did read a section of the amendment which says, "The President shall submit with any certification made under this section an unclassified report," and he emphasized the word "classified." He went on to say "with any necessary annexes." He left out the word "classified," and emphasized the word "unclassified." We give the

President every right to represent any of this information in classified form that he wants. I would not want anyone to get the impression that we are ordering unclassified information that is going to assist the Soviet Union in this amendment. That is simply not correct. The Senator emphasized one word that is in the amendment, and left out another word that is also in the amendment.

Mr. **WALLOP** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Wyoming is recognized.

Mr. **WALLOP**. Mr. President, I am having copied for the benefit of the floor leadership an amendment to this amendment, which I will send to the desk and therefore I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **WALLOP**. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

### AMENDMENT NO. 3187

Mr. **WALLOP**. Mr. President, I send an amendment to the underlying amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows;

The Senator from Wyoming (Mr. WALLOP) proposes an amendment numbered 3187 to amend No. 3186, as modified.

Mr. **WALLOP**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

Add the following to the end of the amendment pending:

(d) Notwithstanding any provision contained in this section, nothing shall be construed to limit the ability of the President to act in a manner consistent with the national security interests of the United States.

Mr. **WALLOP**. I will explain the amendment in its entirety. The amendment simply says the following:

Add the following to the end of the amendment pending: (d) Notwithstanding any provision contained in this section, nothing shall be construed to limit the ability of the President to act in a manner consistent with the national security interests of the United States.

If the leadership is willing to accept that, I will not insist on a rollcall, but if they are not I will.

Mr. **WARNER** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Virginia is recognized.

Mr. **WARNER**. As the original sponsor of this amendment, I would have to strongly object to the language proffered by the Senator from Wyoming. Similar language was considered as a part of our lengthy negotiations, and it was the considered opinion of almost all in the group who negotiated on this amendment that the effect of such language would render null and void the President's option that is recited prior thereto. For that reason I object to the language.

Mr. President, let me be clear about one other point. The spirit of the Wallop amendment is already present in the language of my amendment. I am concerned, however, that if the Wallop amendment were adopted, a number of Senators who support my amendment would withdraw their support and the Senate would once again be confronted with the amendment of the Senator from South Dakota. I am completely confident that the President will not take any action inconsistent with the national security interest in complying with the requirements of my amendment. Certainly the amendment does not require that he take any such action. I believe, Mr. President, that this carefully crafted approach to the antisatellite question captures the national interest on the question. It is unnecessary to say that any more clearly than the amendment already does.

Mr. **NUNN** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Georgia is recognized.

Mr. **NUNN**. I join the Senator from Virginia in opposing this amendment. If we are going to do that, we could simply put a dollar amount in the defense bill and say the President shall use these dollars consistent with the national security of the United States.

Mr. **WALLOP**. Mr. President, can we have order?

The **PRESIDING OFFICER**. The Senator will suspend, please. The Senate will please come to order.

The Senator from Georgia.

Mr. **NUNN**. Mr. President, if we take this logic, we could simply put a dollar amount in the defense bill and say that the President shall spend these dollars in accordance with the national security interests of the United States. If you want to cut Congress out of the process completely—and I recognize there may be some who want to do it on this amendment at least—then that is the way to do it. We have a well-thought-out amendment. There is room for disagreement. I acknowledge that. I admire the work that the Senator from Wyoming has done in this area. He is very knowledgeable. We put a provision in paragraph 1 that says specifically that any negotiations we have with the Soviet Union for strict limitations on antisatellite weapons shall be consistent with the national security interests of the United States. It is already in there. The President certifies to this. He already has it in there, and he already has to make that judgment that whatever we do in this area is consistent with the national security interests. So it is a well-framed amendment that has been compromised, and I would urge the Senate to reject the amendment.

Mr. **WALLOP** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Wyoming is recognized.

Mr. **WALLOP**. Mr. President, I may say that paragraph 1 does no such thing as the Senator from Georgia just said. Paragraph 1 requires that the President certifies to the Congress the United States is endeavoring in good faith to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with the national security interests of the United States. Paragraph 1 requires him to negotiate this thing, does not require him to act in the overall consistent with the national security interests of the United States, only in the negotiations in what he is trying to do.

Second, might I say, after all the limits I pointed out in this amendment in the first place, which give the Soviet Union a yes or no, go or no go on any testing in the United States simply by not coming to an agreement, we get down to the bottom of it and the prohibition is open-ended. The President still cannot act, if all of these things are met, which I do not believe can be met, under the terms of this amendment. I cannot believe, despite what they have said, the leadership of this committee, Armed Services Committee, upon which this Senate and the country depends for its judgment in matters of the conduct of war and defense of this country, would object to a provision that says notwithstanding any provision in this section, nothing shall be construed to limit the ability of the President to act in a manner consistent with the national security interests of the United States.

If what they are saying is that this amendment does constrain the President from acting in the national security interests of the United States, who, I ask you, is going to vote for it? Are we in fact going to constrain the President in acting in the national security interests? Either it is that way or it is not. There is no middle ground on this one.

Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **BIDEN**. Mr. President, the primary purpose of any arms control agreement should be to enhance the U.S. national security. Collateral benefits such as diplomatic cooperativeness are welcome but secondary. The main reason I favor prompt negotiations for a mutual and verifiable ban on antisatellite weapons, therefore, is to make U.S. satellites, and the decisionmakers who must rely on them, more secure.

As a member of the Intelligence and Foreign Relations Committees, I know how important satellite systems are to our national defense. If even a small fraction of these systems were to be blinded in a crisis, our national command authorities would face extraordinary difficulties assessing and responding to a possible attack. Ignorance and uncertainty would compound our fears and suspicions. No one can be certain what would happen in those terrifying circumstances.

Accordingly, it should be a high national priority to protect our satellites. There are three ways to do that, and they are not necessarily mutually exclusive. One, we can take steps to improve the survivability of our satellites against certain possible threats. I think everyone agrees with that approach, though we could obviously be doing more in this regard. Two, we can seek by mutual agreement on cheat-proof provisions to limit the Soviet systems which threaten our satellites. Regrettably, this administration has rejected this course. Three, we can develop our own antisatellite weaponry and hope that mutual possession will lead to mutual deterrence against use. We may ultimately have to rely on such a policy, but it is reckless not even to try to protect ourselves better by pursuing the first two approaches as far as possible.

Both the Soviet Union and the United States still have time to forestall this particular space weapons race, for neither nation has a proven system against vital high-altitude satellites. But if we wait, if we let technology go full speed while diplomacy is idling, we may soon find ourselves less secure—just as we did when both sides rushed to develop multiple warhead missiles, which have made the nuclear balance far less stable.

The administration argues that any ban on antisatellite (ASAT) weapons would not be adequately verifiable. No doubt there would be difficulties which would have to be overcome by appropriate provisions, but why not try? It is hard for me to accept the argument that an ASAT agreement in inherently unverifiable but a chemical weapons ban could be verified to our satisfaction.

Mr. President, now is the time to send a strong message to the administration that Congress wants tough, comprehensive, mutual, and verifiable limits on antisatellite weapons. We want such limits both to enhance our own security and to reduce the risks of an uncontrolled space weapons race.

Mr. **LEVIN**. Mr. President, for the reasons set forth by Senators Nunn and Warner I will vote against the Wallop amendment.

The **PRESIDING OFFICER**. If there be no further debate, the question is on agreeing to the amendment of the Senator from Wyoming.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from North Dakota (Mr. Andrews), the Senator from Nevada (Mr. Hecht), the Senator from Iowa (Mr. Jepsen), and the Senator from Virginia (Mr. Trible), are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. Andrews), would vote "yea."

Mr. **CRANSTON**. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Hawaii (Mr. Inouye), and the Senator from Massachusetts (Mr. Kennedy), are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. Kennedy), would vote "nay."

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—45

Abdnor
Armstrong
Baker
Baucus
Boren
Boschwitz
Cochran
D'Amato
Danforth
Denton
Dole
Domenici
East
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Heflin
Helms
Hollings
Humphrey
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Pryor
Quayle
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Wallop
Wilson
Zorinsky

NAYS—48

Bentsen
Biden
Bingaman
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Cranston
DeConcini
Dixon
Dodd
Durenberger
Evans
Exon
Ford
Glenn
Hart
Hatfield
Heinz
Huddleston
Johnston
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Stafford
Stennis
Tsongas
Warner
Weicker

NOT VOTING—7

Andrews
Eagleton
Hecht
Inouye
Jepsen
Kennedy
Trible

So Mr. Wallop's amendment (No. 3187) was rejected.

Mr. **WARNER**. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **EXON**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **GOLDWATER** addressed the Chair.

The **PRESIDING OFFICER** (Mr. Wallop). The Senator from Arizona is seeking recognition. The Senator from Arizona is recognized.

Mr. **GOLDWATER**. Mr. President, I move to table the Warner amendment, and I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from Arizona to lay on the table the amendment of the Senator from Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from North Dakota (Mr. Andrews), the Senator from Nevada (Mr. Hecht), the Senator from Virginia (Mr. Trible), are necessarily absent.

I further announce that if present and voting, the Senator from North Dakota (Mr. Andrews) would vote "nay."

Mr. **CRANSTON** I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Hawaii (Mr. Inouye), and the Senator from Massachusetts (Mr. Kennedy), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. Kennedy), would vote "nay."

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 29, nays 65, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—29

Abdnor
Baker
Boren
D'Amato
Danforth
Denton
Dole
East
Garn
Goldwater
Heflin
Helms
Hollings
Humphrey
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Quayle
Rudman
Simpson
Stennis
Symms
Thurmond
Wallop
Wilson

NAYS—65

Armstrong
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Heinz
Huddleston
Jepsen
Johnston
Kassebaum
Lautenberg
Leahy
Levin
Long
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Specter
Stafford
Stevens
Tower
Tsongas
Warner
Weicker
Zorinsky

NOT VOTING—6

Andrews
Eagleton
Hecht
Inouye
Kennedy
Trible

So the motion to lay on the table was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I am prepared to ask unanimous consent that the order for the yeas and nays be vitiated.

Mr. SYMMS. I object.

Mr. TOWER. There apparently are objections, and therefore I will not do so.

However, I ask unanimous consent that the vote on the Warner amendment be only 10 minutes.

Mr. BAKER. Mr. President——

Mr. TOWER. I withhold that.

Mr. BAKER. Mr. President, at this hour, we will have Senators scattered hither and yon.

Mr. TOWER. I certainly will not make that request. I do not want to be hauled into the majority leader's office.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3186, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia, as modified.

Mr. TOWER. Mr. President, I just want to inform the Senators that there will be other record votes tonight. I expect there to be an interim between the record vote on the Warner amendment and the next record vote, probably an interim of some 30 minutes' duration.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. BAKER. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Nevada (Mr. HECHT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), and the Senator from Virginia (Mr. TRIBLE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. ANDREWS) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 28—as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—61

Armstrong
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Bumpers
Burdick
Chafee
Chiles
Cochran
Cohen
Cranston
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Glenn
Gorton
Grassley
Hatfield
Hawkins
Heinz
Huddleston
Jepsen
Johnston
Kassebaum
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Simpson
Specter
Stafford
Tower
Tsongas
Warner
Weicker
Zorinsky

NAYS—28

Abdnor
Baker
Boren
Byrd
D'Amato
Danforth
Denton
Dole
East
Garn
Goldwater
Hatch
Heflin
Helms
Humphrey
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Nickles
Quayle
Rudman
Symms
Thurmond
Wallop
Wilson

NOT VOTING—11

Andrews
Eagleton
Hart
Hecht
Hollings
Inouye
Kennedy
Packwood
Stennis
Stevens
Trible

So the amendment (No. 3168) as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I understand that that is the last vote?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. GOLDWATER. Yes; I am happy to yield.

Mr. BAKER. Mr. President, that is the last vote. Let me explain why, ever so briefly. This morning, when the Senate convened, I indicated we would be in late, but I did not know an hour, and that I would consult with the two managers to ascertain the time.

At that time it was indicated we would be in until 9 o'clock, which I announced this morning. So while the Senator from Texas wanted to continue and have other rollcall votes, when I discussed this matter with him and pointed out that Members had made plans based on that 9 o'clock announcement, he agreed we would proceed only with voice votes after this point and no more rollcall votes this evening.

Mr. GOLDWATER. Mr. President, if this Senator may make an observation, we are not going to finish this bill by July 4. And when you talk about staying in late, I can remember when we stayed all night. I had three amendments ready to offer.

Mr. BAKER. If the Senator will yield——

Mr. GOLDWATER. I have not finished. I will finish in just a short order because I am a little bit you know what.

Mr. BAKER. I am ready and waiting for the Senator to finish.

Mr. GOLDWATER. We sit around here day after day after day and never do a doggone thing. If we want to get this bill passed, we ought to get to work.

It is only 9 p.m. Everyone of us can miss whatever we had planned for tonight. I do not know why people think we have to quit so early. I have been here since 7 o'clock this morning. This place is getting to be like a cookie farm.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I do not know whose cookie farm the Senator is talking about.

Mr. GOLDWATER. Yours.

Mr. BAKER. But there is one thing that I prize more than anything else, and that is standing by what I say, and the Senator from Arizona knows that.

I said today that we are going to go to 9 p.m. and, Mr. President, that is what I propose to do.

Mr. GOLDWATER. You are 1 minute over.

Mr. WARNER. Mr. President, I express my appreciation to the staff members of both majority and minority who participated in the many hours of negotiation in preparation for the executive session. I thank them, Mr. President, and I yield the floor.

AMENDMENT NO. 3188

(Purpose: To clarify provisions of the bill relating to the procurement of the high speed, low altitude aerial reconnaissance camera by the Navy)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON) proposes an amendment numbered 3188.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 19, strike out "(1)" and insert in lieu thereof "(2)".

On page 6, line 20, strike out "failed" and insert in lieu thereof "fails".

On page 6, lines 22 and 23, strike out "additional cameras" and insert in lieu thereof "10 cameras for the fourth year".

On page 7, line 2, strike out "(1)" and insert in lieu thereof "(2)".

On page 7, line 5, insert "for the fourth year" after "cameras".

On page 7, lines 14 and 15, strike out "additional cameras" and insert in lieu thereof "10 cameras for the fourth year".

Mr. DIXON. Mr. President, I understand that this technical amendment has been cleared on both sides.

Mr. President, my technical amendment on pages 6 and 7 of the defense authorization bill, S. 2723, simply clarifies the clerical typing error referring to an incorrect preceding paragraph. It also corrects a grammatical error, and makes the statutory language conform to the agreed-to report language of S. 2723.

Mr. TOWER. Mr. President, let me say on behalf of the majority that we are prepared to accept the amendment of the Senator from Illinois.

Mr. DIXON. Mr. President, I am authorized to state it has been cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 3188) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, we are prepared to entertain any consideration of any further amendments that the Members may have.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am told there are no other amendments to be brought up tonight.

### AMENDMENT NO. 3179 IS NO SUBSTITUTE FOR A REAL PEACETIME GI BILL

Mr. CRANSTON. Mr. President, tomorrow morning, when the Senate resumes consideration of the defense authorization measure, the pending business will be the amendment—amendment No. 3179—proposed by the Senator from Ohio (Mr. GLENN) to establish a so-called citizen-soldier educational assistance program. It is my intention to oppose that amendment and, in lieu thereof, Senators ARMSTRONG, COHEN, HOLLINGS, MATSUNAGA, and I—along with others—will offer an amendment to establish a new peacetime veterans' educational assistance program. I described that amendment, which is substantially the same as the provisions of S. 1747, on the floor yesterday in considerable detail—pages 15637 through 15642 of the RECORD for June 11.

Today, the distinguished Senator from Maine (Mr. COHEN) and I distributed a "Dear Colleague" detailing our concerns about and opposition to the Glenn amendment. Mr. President, I ask unanimous consent that the text of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., June 12, 1984.*

DEAR COLLEAGUE: We are writing to share with you some of our very deep concerns regarding the amendment offered to the Defense Authorization Act (Amendment No. 3179) by Senator Glenn to establish a "Citizen-Soldier Educational Assistance Program." We hope that you will share these concerns and join with us in opposing this amendment and supporting instead the amendment that Senators Armstrong, Hollings, and Matsunaga and we will be proposing.

Our principal concern is that the Glenn proposal looks very much like a poor cousin to the existing authority for the contributory/matching veterans' educational assistance program already established under chapter 32 of title 38—what has become known as "VEAP." We say "poor cousin" based on the following comparison of the proposed Citizen-Soldier program and the existing VEAP.

1. Under VEAP, a servicemember may elect to participate by making monthly contributions, through deduction from pay, of between $25 and $100, to a VEAP account. Under the Citizen-Soldier program (CSP), a servicemember would be required, while participating in the program, to take a $250-a-month reduction in pay and to forego generally any allowance for subsistence or quarters.

2. Each dollar contributed under VEAP up to a maximum of $2,700 is already matched on a 2-for-1 basis. No better match would be provided under the CSP.

3. Under VEAP, in order to assist in critical skill areas, the service branches can (as the Army does) enhance the basic program by offering what have been termed "kickers." These are additional contributions to a servicemember's account or the payment of part or all of the servicemember's contribution. The Glenn proposal really amounts; to mandating that a "kicker" be provided to pay the $500-a-month benefit level and requiring an additional contribution by the servicemember as well.

4. Under VEAP, a servicemember can begin to use his or her entitlement to benefits while on active duty after having completed either an initial commitment (generally three years for the Army and Marine Corps, four years for the Navy and the Air Force) or a maximum of six years of service. CSP would permit a servicemember to use the benefits only following discharge, thus creating a real incentive to leave the service after only two years.

5. A servicemember who, because of financial hardship, chooses to discontinue participation in the VEAP program can receive a full refund of the amount he or she has paid into the program. Under CSP, a servicemember who, during the two-year period of participation, finds the $250 reduction in pay and the absence of any subsistence or quarters allowances financially unworkable could terminate participation in the program only prospectively and would receive no refund of the foregone pay or allowances. This "enter at your own risk" aspect of the program would undoubtedly be a major deterrent to participation.

6. A VEAP participant who opts not to use his or her entitlement to educational assistance benefits following discharge may at any time receive a refund of his or her contributions. Under CSP, a refund of the foregone pay may be obtained only by re-enlisting—a requirement that would impose another disincentive to participation.

7. Neither VEAP or CSP deal with the need to enhance recruitment and retention in the Selected Reserve, a critical problem which our amendment would address effectively.

By pointing out how VEAP is already more flexible and attractive than Senator Glenn's program would be, we are not in any way suggesting that the current VEAP program will be an adequate mechanism for meeting the very critical recruitment and retention needs of the All-Volunteer Force in the future. It will not be. During the late 1970's, when the services had serious recruiting and retention problems, there was no evidence that VEAP made any significant difference. It was only when the economy deteriorated, unemployment rates were high, levels of pay were substantially increased, and the use of bonuses was expanded that the situation turned around. Last year, for example, the VA paid out almost 2½ times as much VEAP refunds as it did in VEAP benefits.

With the advent of a declining pool of young men and women and the increased competition for those in the eligible pool, we firmly believe that VEAP will not meet our needs. Likewise, its "poor cousin"—the CSP—would not do the job. If the economy continues to improve and unemployment rates continue to drop, it is very likely that we would quickly see a revival of the poor recruitment/retention performance of the late seventies.

The Glenn amendment was hastily conceived and drafted; three pages were handwritten. Unlike our proposal, made a year ago, on which hearings have been held in this session—with an extensive hearing record compiled before two Committees in the House on the counterpart, similar measure, H.R. 1400, authored by Representative "Sonny" Montgomery—the Glenn proposal has been subjected to no careful scrutiny or analysis. There has been no opportunity for exploring questions such as why any 18- or 19-year-old potential recruit would choose to participate in a rigid program like CSP under which he or she would be required to set aside 2½ to 10 times as much pay as under VEAP and do so irrevocably—and forego subsistence or quarters allowances. We believe CSP would be far less attractive than VEAP, assist far fewer people, and be counterproductive since its enactment would serve to delay further the enactment of an effective program of educational benefits to aid recruitment and retention.

That really is the key. Do we need an effective educational benefits program for that purpose?

If you share our conviction that a program of educational incentives, properly designed and implemented, can be an effective recruitment and retention tool for the military and a sound investment in the future of our Nation, we urge you to support our amendment to the Defense authorization measure that would establish such a program. Compare the Glenn proposal to the current VEAP program and to the flexible program provided for by our amendment and join us in voting against Amendment No. 3197.

If you have any questions on this matter or on the amendment we intend to offer, please have a member of your staff contact Jim Dykstra (42523) for Senator Cohen or Babette Polzer (42074) for Senator Cranston.

With warm regards,

Cordially,

Alan Cranston.
William S. Cohen.

## ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business not past 9:10 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT—S. 1660

Mr. PRESSLER. Mr. President, today I wish to draw the Senate's attention to a question which has been of interest to many Members of this distinguished body. They are concerned that, without the availability of a special private line service, universal access to information through libraries is seriously jeopardized.

When S. 1660, the Universal Telephone Service Preservation Act of 1983, was brought to the Senate floor in January, I made known to the Senate my concern about the private line telephone service which is essential to the bibliographic services of our country's libraries. At that time, I filed an amendment to S. 1660 which would have directed the FCC to make a specific finding that additional charges for communications services—beyond those in effect on December 31, 1983—would not harm the facilities needed to provide adequate service. The test for such a finding would have been taken from the Communications Act of 1934 regarding universal service. The amendment would not have prohibited new charges but would have required the Commission to take a long, hard look at the public interest served by libraries. Unfortunately, action on S. 1660 did not go forward.

My proposed amendment would have applied to "entities providing not-for-profit bibliographic services," which means library services provided by public libraries as defined by the Library Services and Construction Act; libraries in institutions of higher education as defined by the Higher Education Act; libraries in elementary and secondary schools; cooperative library networks as described in title III of the Library Services and Construction Act; and medical libraries as defined by the Medical Library Assistance Act.

Libraries have linked together via telecommunications over the past 15 years, often with the stimulus of Federal funds, to reduce the labor-intensive nature of library materials processing and to enable any library users to gain access to the country's library resources. Thousands of libraries, serving perhaps half the Nation's population, use interstate private telephone lines to gain access—through State and regional networks—to nationwide bibliographic data bases.

The largest of these bibliographic utilities is the Online Computer Library Center (OCLC), a not-for-profit organization whose data base contains over 10 million bibliographic records and more than 147 million location listings. Tariffs filed last October would increase the charges to connect to OCLC by 73 percent, with increases to regional networks as high as 138 percent and to individual libraries as high as 183 percent.

In an April 10 letter to my Senate colleagues, I requested support for a letter to FCC Chairman Fowler asking the Commission's consideration of a library private line service. As I stated in that letter, libraries are the common carriers of information, but their budgets cannot accommodate the rate increases proposed by the interexchange service providers.

Libraries cannot pass along these increased costs to consumers. In rural States, like my home State of South Dakota, bibliographic data services are essential in sharing library resources and providing adequate information services to all citizens, regardless of age, income level, or educational background. It is imperative that the FCC determine guidelines to protect the excellent library network now operating in this country.

Twenty-seven Senators responded to my request for support. As a reading of the letter to Chairman Fowler—which I will submit for the Record—will indicate, there was bipartisan support for the consideration of a private line service.

The response which we received from the FCC indicated that the Commission felt a rulemaking to establish a private line service would be premature at this time. This reply—which I also will ask to have included in the Record—suggests that the public interest will be served best by waiting for the resolution of the current investigations of special access and private line tariff prior to assessing the need for a special rulemaking.

I hope that this decision will prove wise. If not, Mr. President, it is clear that Congress must take action. Our libraries are our good friends. We cannot allow the divestiture of AT&T to prevent them from performing their historic role of providing universal access to information.

Mr. President, I ask unanimous consent that excerpts of letters from South Dakota librarians be printed in the Record immediately following my remarks, along with the texts of the two letters I mentioned previously.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Excerpts From Letters From South Dakota Librarians

Rapid City Public Library: Such an increase leaves few alternatives. We can pull the terminal plug and return to pre-OCLC days. For the patrons of the Rapid City Public Library this means diminished access to materials that could be borrowed from other libraries and a return to delays in getting materials out on the shelves. Or, we can pay the increased rates by finding ways to trim the budget. This invariably means cutting the materials budget and/or reducing the size of the library staff. And once again the people who use the library suffer. They don't get the service they deserve.

St. Mary's Hospital, Pierre: The net would be a loss to the patient whose medical personnel need access to current information. Budgeted funds for an increase couldn't be available until August, and many larger institutions couldn't budget for such an increase for two to five years.

Sioux Falls Public Library: With our budgets for years and years constantly stretched so very much in efforts to put new materials on the shelves for an education-hungry audience, the sharing of resources with other libraries has been very important. Increased charges would almost certainly set our progress back instead of allowing us to move forward.

Mount Marty College, Yankton: Since our library is on a small, fixed budget, we would not be able to pay for this increase. This would probably mean that we would be forced to discontinue use of our terminal, which would be detrimental to our patrons.

Brookings Public Library: In South Dakota, low budgets, great distances, and heavy use of library resources have necessitated a healthy spirit of cooperation among all of our libraries. We are, as of this fall, at the exciting stage of developing a statewide, multi-type automated library network. One unanswered question, however, remains crucial to our plans: Will telecommunications costs increase to prohibitive levels for most of the small libraries in this network?

Augustana College, Sioux Falls: Libraries are doing more and more of their information handling via computers and telecommunications. At the Mikkelsen Library we catalog all materials, process all interlibrary loans, and initiate our book orders using our OCLC terminal * * * The future of libraries in this area of increased automation to better serve their users may be cut short if the costs become prohibitive.

Yankton College: An average increase of 60 percent or $120 per month would make it very difficult for this small library in a small private college to continue using the automated cataloging system and interlibrary loan system which we have had since 1977.

Northern State College, Aberdeen: Publicly funded libraries such as the one I manage operate on budgets prepared eighteen to twenty-four months in advance. A sixty percent increase in telecommunications charges would require a severe cut in the book budget and staff cuts as well. I have no mechanism to pass these charges on to my users: the students and faculty at Northern State College.

Sioux Falls College: Libraries are willing to accept increasing costs, but (1) it seems disproportionately applied to private/leased line users and (2) we have no way to absorb or pass on those kinds of increases all at once. Alternate, more cost-effective options are not available, especially on such short notice.

University of South Dakota: * * * we will have to absorb [increases] internally, and the prime target for absorbing these costs is the book budget. By so doing, however, we initiate again the vicious circle of depriving information for both my immediate users, students and faculty, and other citizens of the State. We take some pride in South Dakota in considering all of our libraries to be a library of the whole; thus, what hurts one library hurts us all.

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U.S. Senate,
*Washington, D.C., May 1, 1984.*

Hon. Mark S. Fowler,
*Chairman, Federal Communications Commission, Washington, D.C.*

Dear Mr. Chairman: We are writing to ask the Commission to consider a library private line service. Under this service, all exchange and interexchange carriers would furnish entities providing non-profit bibliographic services with unswitched point-to-point and multi-point service under the terms and conditions in effect September 30, 1983 with modest annual adjustments.

We believe that without such a class of service, universal access to information through libraries is seriously jeopardized. The drastic increases in telecommunications costs facing libraries could prevent them from performing their historic role of providing universal information access to the public. As more and more information is only available electronically, libraries serve as the one institution which makes access to electronic information universally available.

In the last 15 years, a quiet revolution has taken place in libraries as more services and processes have become automated. Caught in the double bind of tighter budgets and increased dependence on telecommunications networks, libraries have adapted data processing and resource sharing through telecommunications to increase their efficiency and provide cost-effective library services to the widest possible population. Thousands of libraries, serving perhaps 50 percent of the nation's population, adapt private, voice-grade multi-point telecommunications circuits to data transmission. This reduces the labor-intensive nature of library materials processing and enables any library user to gain access to the country's library resources.

Through a system of "bibliographic utilities"—such as the Online Computer Library Center (OCLC), the Research Libraries Information Network and the Washington Library Network, as well as regional and state library networks—libraries created nationwide bibliographic databases. The largest of these, OCLC, is a non-profit organizaton near Columbus, Ohio, whose database contains more than ten million bibliographic records and over 147 million location listings. Libraries gain access to OCLC through a system of regional library networks over private telephone lines leased from AT&T. Private line Tariff FCC No. 3 filed last October by AT&T Communications would increase current charges for connection to OCLC by an average of 73 percent. Three-quarters of the regional networks face increases of 70 percent or more, with the highest at 138 percent. Individual libraries, to whom these costs are passed through, face increases as high as 183 percent.

Libraries are typically publicly funded and supported, and operate on fixed budgets. They cannot pass additional unbudgeted expenses on to their patrons. Large libraries will probably direct book budget funds to pay telecommunications costs, thus degrading service. Smaller libraries may have to discontinue automated services or postpone plans to begin them.

We view libraries as the common carriers of information and a library private line service as consistent with the universal service philosophy of the 1934 Communications Act. It is also consistent with the philosophy of several existing federal programs, including the library postal rate, which encourage and support libraries in the use of available technologies to share resources and provide cost-effective services.

In summary, we ask the Commission to initiate a proposed rulemaking regarding a library private line service, and to request carriers to engage in preparatory engineering meetings for such a service.

We look forward to hearing from you.

Sincerely,

Larry Pressler, John Danforth, Paul Trible, Strom Thurmond, John Tower, Paul Laxalt, Chic Hecht, Dan Evans, Pete Domenici, Bob Kasten, Claiborne Pell, Robert C. Byrd, Alan J. Dixon, Rudy Boschwitz, John Stennis, David Boren, Paul Sarbanes, John Melcher, Jennings Randolph, Quentin Burdick, Tom Eagleton, Carl Levin, Sam Nunn, David Pryor, Wendell Ford, George J. Mitchell, Daniel Patrick Moynihan.

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Federal Communications
Commission,
*Washington, D.C., May 22, 1984.*

Hon. Larry Pressler,
*U.S. Senate,*
*Washington, D.C.*

Dear Senator Pressler: By letter dated May 1, 1984, you and 26 other members of the United States Senate urge the Commission to initiate a rulemaking proceeding to consider the establishment of a private line service offering for libraries. Specifically, you suggest that this service offering would ensure the availability of non-switched two point and multi-point private line service to providers of non-profit bibliographic services under terms and conditions in effect September 30, 1983 subject to modest annual adjustments. Your letter appears to be based on concerns that the private line rate increases proposed by AT&T Communications (AT&T) on October 3, 1983 would adversely affect the nation's libraries.

While I share your concern over the substantial rate level and rate structure changes proposed by AT&T, a rulemaking to establish a private line service offering for libraries would be premature at this time. The Commission, as you know, deferred the effective date of AT&T's proposed new private line tariffs along with all other access and divestiture related tariffs on October 18, 1983, and instituted an investigation into their lawfulness. Consequently, we are currently engaged in a comprehensive review of the private line tariffs, including their likely effect on various customer classes. "Investigation of Access and Divestiture Related Tariffs," CC Docket No. 83-1145, FCC 83-470, released October 19, 1983. This investigation, a notice and comment rulemaking proceeding, has given the public, including Online Computer Library Center, American Library Association, and CAPCON Library Network, an opportunity to comment on the tariffs. In addition, we have received numerous informal comments from members of Congress as well as from libraries throughout the nation. Although I cannot comment on the likely outcome of the investigation, I can say that the concerns of the nation's libraries have been brought to the Commission's attention, and we are aware of the significant impact the proposed rates would have on these and other customers. The Commission plans to address the concerns raised with respect to AT&T's tariff prior to its effective date, June 1, 1984.

On February 16, 1984, the Commission found unlawful the National Exchange Carrier Association's (NECA) proposed Special Access rate structure as unreasonable, discriminatory and violative of Commission decisions and policies. NECA Tariff Order, FCC 84-51, released February 17, 1984. This decision is significant, because a large portion of the charges proposed by AT&T are attributable to increases proposed for local exchange company facilities which are a part of AT&T's cost of providing private line service. Pursuant to Commission order, new Special Access tariff provisions have been filed, subjected to a public comment period and are currently being reviewed by the Commission. Again, the Commission plans to address the issues raised in the revised tariffs prior to their June 13, 1984 effective date.

As a result of these two ongoing investigations of the Special Access and private line tariffs, I believe that the public interest will be served best by waiting for their resolution prior to assessing whether to commence a rulemaking proceeding to investigate parallel issues which may be resolved within the context of the investigation. I appreciate your concern and will keep you fully apprised of our progress in this matter.

Sincerely,

Mark S. Fowler,
*Chairman.*

## MEASURE PLACED ON THE CALENDAR

The Committee on Foreign Relations was discharged from the further consideration of the following concurrent resolution; which was placed on the calendar:

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, without amendment:

S. 2746. An original bill to provide authority to negotiate trade agreements to reduce trade barriers (Rept. No. 98-510).

By Mr. PERCY, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1668. A bill to amend chapter 37 of title 31, United States Code, to authorize contracts retaining private counsel to furnish collection services in the case of indebtedness owed the United States (Rept. No. 98-511).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE from the Committee on Finance:

S. 2746. An original bill to provide authority to negotiate trade agreements to reduce trade barriers; placed on the calendar.

By Mr. SASSER (for himself and Mr. BAKER):

S. 2747. A bill to designate the Federal building in Oak Ridge, Tenn., as the Joe L. Evins Federal Building; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. MATHIAS, Mr. KENNEDY, and Mr. DECONCINI):

S. 2748. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new-drug applications and to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 2749. A bill to provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself, Mr. MURKOWSKI, and Mr. LAXALT):

S. 2750. A bill to permit States to bring suits against the United States to adjudicate disputed land titles; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOSCHWITZ (for himself, Mr. DIXON, Mr. HELMS, Mr. HUDDLESTON, Mr. PERCY, Mr. BOREN, Mr. DOLE, Mr. BENTSEN, Mr. LUGAR, Mr. ZORINSKY, Mr. COCHRAN, Mr. PRYOR, Mr. JEPSEN, Mr. HEFLIN, Mrs. HAWKINS, Mr. MELCHER, Mr. DURENBERGER, Mr. INOUYE, Mr. DANFORTH, Mr. EAGLETON, Mr. QUAYLE, Mr. EXON, Mr. McCLURE, Mr. SYMMS, Mr. LEVIN, Mr. GRASSLEY, Mr. KASTEN, Mr. PRESSLER, Mr. ABDNOR, Mr. NICKLES, Mrs. KASSEBAUM, and Mr. EAST):

S. Res. 402. A resolution opposing certain proposed import restrictions by the European Community on U.S. agricultural products; to the Committee on Finance.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER (for himself and Mr. BAKER):

S. 2747. A bill to designate the Federal building in Oak Ridge, Tenn. as the "Joe L. Evins Federal Building"; to the Committee on Environment and Public Works.

### JOE L. EVINS FEDERAL BUILDING

Mr. SASSER. Mr. President, it gives me great honor to introduce today, for myself and Senator BAKER, a bill to designate the Federal building on Administration Road in Oak Ridge, Tenn., as the Joe L. Evins Federal Building.

Joe L. Evins was one of Tennessee's most outstanding and distinguished political leaders. Before stepping down in 1976, Congressman Evins served an unprecedented 15 terms and 30 years, a longer tenure than any individual from Tennessee has ever served in the U.S. House of Representatives. Congressman Evins, who passed away in March, represented Tennessee's old Fourth and Fifth Congressional Districts in middle Tennessee. His specialities in Congress were public works and small business. The Small Business Administration is a continuing example of his efforts to foster economic development.

As chairman of the House Public Works Appropriations Subcommittee, Congressman Evins oversaw funds for the U.S. Corps of Engineers, the Tennessee Valley Authority, and the old Atomic Energy Commission. Among his specific accomplishments were securing funds for several TVA and Corps of Engineers dams, the Appalachian Center for Crafts, and the Tennessee-Tombigbee Waterway. Congressman Evins was also instrumental in obtaining for Oak Ridge the building that houses the present offices of the Department of Energy.

Congressman Evins demonstrated a grasp of the important energy issues of his day, issues that are still high on our Nation's agenda. Indeed, Joe Evins was a builder. He enjoyed seeing our Government make capital investments that would create a higher standard of living for all.

When confronted with differing interests, he listened to all sides and always dealt as a gentleman, even with those who opposed his views. Through his influence and hard work, life in his district, his State, and the Nation have been and continue to be enhanced.

It would be a small gesture on the part of the Congress to remind people of Joe Evins' good work in formulating programs concerning energy and public works accomplished during his outstanding congressional service.

We can honor him by giving his name to the Federal building on Administration Road in Oak Ridge and we should do so.

An editorial recently appeared in the Clinton Courier News that spoke eloquently about Congressman Evins. I ask unanimous consent, that this editorial be printed in the RECORD. I also ask unanimous consent that the full text of S., 2747 be printed in the RECORD.

### S. 2747

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in recognition of the service of Joe L. Evins as a distinguished Member of Congress from the State of Tennessee, the Federal Building located on Administration Road in Oak Ridge, Tenn., is named and designated as the "Joe L. Evins Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Joe L. Evins Federal Building".

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### JOE L. EVINS

(By Horace V. Wells, Jr.)

During the years Anderson County was in the Fourth Congressional District and was represented by Joe L. Evins, he was intensely interested in taking care of the needs of the people and communities here. In fact, it was largely through his efforts that Oak Ridge obtained the building that houses the offices of the Department of Energy, as well as the new museum building and many other facilities there.

Now that the congressman, who retired in 1977 after serving 15 terms, has died of a heart attack and it probably should have been done before, it would be fitting if the DOE office building in Oak Ridge might be named for him. He died March 31 at the age of 73.

A key figure in the state Democratic party for years, he became one of the most powerful men in Congress, serving as chairman of the subcommittee on public works and atomic energy appropriations. Yet, with all his power, Joe L. Evins was a humble man, always courteous and thoughtful.

Naming the DOE building in his honor would be a small way to remember this gracious and helpful man.

By Mr. HATCH (for himself, Mr. MATHIAS, and Mr. KENNEDY):

S. 2748. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for new drug applications and to amend title 35, United States Code, to authorize the extension of the patents for certain regulated products, and for other purposes; to the Committee on Labor and Human Resources.

### DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT

Mr. HATCH. Mr. President, I send to the desk one of the most important and far-reaching bills which the Congress will consider this year. Its importance is no less than that of our Nation's health care; its reach ranges as far as the ubiquitous wonder drugs and medical technology which have become a part of all of our lives. This bill, the Drug Price Competition and Patent Term Restoration Act of 1984, is remarkable not only for its impact, but for its balance and for the breadth of its support, for its bending of private economic interests to the public good. It combines a relaxation of federally imposed barriers to competition by generic drug manufacturers with added stimulus for research on new drugs and medical devices, carried out mainly through the large brand-name companies. On the one hand it sets up within the Food, Drug and Cosmetic Act an abbreviated new drug application procedure for greatly shortening the time and expense of bringing to market generic copies of drugs first approved after 1962. On the other hand, it grants an extended patent life—up to 5 additional years—for groundbreaking new drug discoveries and for medical devices and food additives, to compensate for market life lost in Food and Drug Administration (FDA) regulatory review.

The bill is the product of many months of negotiation and compromise among the research-oriented pharmaceutical companies, the generic pharmaceutical companies, and consumer interests.

I am joined in introducing these amendments by Senator **Mathias** and Senator **Kennedy** and on the House side, corresponding legislation is being introduced by Congressmen **Waxman** and **Madigan** together with a bipartisan group of other House Members.

Mr. President, the bill is a complex one, and I am therefore including in my comments at this point a section-by-section analysis.

Section 101 of the bill amends section 505 of the Food, Drug and Cosmetic Act to add a new subsection (j), which statutorily establishes an abbreviated new drug application (ANDA) process. Section 101 sets forth requirements of identity and equivalency which insure that the generic drug is no different from the original or "pioneer" drug in terms of safety and efficacy. It sets forth a procedure for submitting and approving ANDA's, including safety and efficacy review by FDA if the proposed ANDA drug is different from the pioneer in route of administration, dosage form, strength, or in one of the active ingredients in a combination drug. It further sets forth grounds for disapproval and procedures for withdrawal when the approval for the pioneer drug is withdrawn or suspended or if the drug is voluntarily withdrawn from the market. Further, section 101 establishes a procedure whereby an ANDA approval is not made effective until the expiration of the existing pioneer drug patent unless a patent challenge is made at the time of ANDA filing, with the effective date of approval delayed until the issue is settled or until the expiration of 18 months. Finally, section 101 provides that no ANDA approval may be made effective for 10 years after the approval of any pioneer new chemical entity drug which received FDA approval between 1982 and the date of enactment, or for 4 years after the approval of any pioneer new chemical entity drug which, upon FDA approval, is not protected by any existing patent.

Section 102 requires the filing by NDA holders and applicants of the patent information for their drugs covered by NDA's.

Section 103 conforms FDA's "paper NDA" procedure to the same ANDA conditions and patent filing requirements as prescribed in sections 101 and 102.

Section 104 states that the term "patent" as used in the bill refers only to a U.S. patent.

Section 105 requires FDA to implement the act by regulations to be issued within 1 year. Pending the issuance of these regulations, the existing regulations for pre-1962 approved drugs will govern ANDA's made under the act, except that this provision does not authorize approval of ANDA's for drugs granted 4 or 10 years of exclusive market life.

Section 201 adds a new section to the patent law. It grants an extension to patent life for certain human drugs, for medical devices, and for food additives and colors, in the amount of all of the time spent in Federal regulatory approval plus half of the time spent in the testing phase to a maximum of 5 years. However, the total remaining patent life after extension cannot exceed 14 years. The section places certain limitations on the types and characteristics of the patents eligible for extension and spells out what patent rights are extended. It establishes a procedure for applying for the extension through the Patent Office and for the appropriate agencies to furnish the Patent Office with a determination of the testing and approval time periods. It also places upon the NDA applicant an obligation of due diligence in pursuing approval and provides that the patent extension will be reduced by the period of time during which the applicant did not act with due diligence.

Section 202 provides that the formulation or use of a drug solely for the purpose of performing tests required by FDA in its approval process does not constitute a patent infringement, provided there is no commercial marketing before the patent expires.

Section 203 adds a defense to existing patent law. It states that invalidity of the patent extension because of the Patent Commissioner's or applicant's failure to comply with the other patent extension requirements is a defense in actions involving the validity of the patent extension. However, a court making such a finding would invalidate less than the full term of the extension where appropriate.

This is a good bill. Without compromising the public safety or welfare in the least it will significantly lower the price of off-patent drugs, by many times in some cases, through increased generic competition. It contains numerous safeguards to insure that the generic drugs are equivalent to the brand name drugs they compete against. It encourages more research on new drug compounds and medical devices, research which is crucial to maintaining the health and worldwide leadership of our domestic pharmaceutical and medical technology industry, a $45 billion per year force in our economy.

That research encouragement is provided through an extension of patent life to help recover the costs of obtaining FDA approval, which involves not only years of tests, but millions, usually tens of millions of dollars.

While not all of the companies affected by the compromise are content with the selection of balance points and the placement of weights along the beam, it is my hope that they will recognize this is a good bill, a genuine, significant improvement over existing law for all segments of the industry and for the public, and that everyone will put aside any lingering doubts and unite behind our efforts for speedy passage of this act. I solicit support from my colleagues, and look forward to moving the legislation through my committee and the Senate.

I would like to add that this bill is not the only one of major importance in the food and drug area. We will also soon be addressing drug export reform in the Labor and Human Resources Committee, and I am hopeful of final congressional action this session. Further, the need for food safety legislation remains a priority with us.

I ask unanimous consent that the text of the bill be printed in the **Record**.

There being no objection, the bill was ordered to be printed in the **Record**, as follows:

### S. 2748

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Drug Price Competition and Patent Term Restoration Act of 1984".

### TITLE I—ABBREVIATED NEW DRUG APPLICATIONS

Sec. 101. Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by redesignating subsection (j) as subsection (k) and inserting after subsection (i) the following:

"(j)(1) Any person may file with the Secretary an abbreviated application for the approval of a new drug.

"(2)(A) An abbreviated application for a new drug shall contain—

"(i) information to show that the conditions of use prescribed, recommended, or suggested in the labeling proposed for the new drug have been previously approved for a drug listed under paragraph (6) (hereinafter in this subsection referred to as a 'listed drug');

"(ii)(I) if the listed drug referred to in clause (i) has only one active ingredient, information to show that the active ingredient of the new drug is the same as that of the listed drug,

"(II) if the listed drug referred to in clause (i) has more than one active ingredient, information to show that the active ingredients of the new drug are the same as those of the listed drug, or

"(III) if the listed drug referred to in clause (i) has more than one active ingredient and if one of the active ingredients of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the other active ingredients of the new drug are the same as the active ingredients of the listed drug, information to show that the different active ingredient is an active ingredient of a listed drug or of a drug which does not meet the requirements of section 201(p), and such other information respecting the different active ingredient with respect to which the petition was filed as the Secretary may require;

"(iii) information to show that the route of administration, the dosage form, and the strength of the new drug are the same as those of the listed drug referred to in clause (i) or, if the route of administration, the dosage form, or the strength of the new drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), such information respecting the route of administration, dosage form, or strength with respect to which the petition was filed as the Secretary may require;

"(iv) information to show that the new drug is bioequivalent to the listed drug referred to in clause (i), except that if the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in clause (i) and the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in clause (i);

"(v) information to show that the labeling proposed for the new drug is the same as the labeling approved for the listed drug referred to in clause (i) except for changes required because of differences approved under a petition filed under subparagraph (C) or because the new drug and the listed drug are produced or distributed by different manufacturers;

"(vi) the items specified in clauses (B) through (F) of subsection (b)(1);

"(vii) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the listed drug referred to in clause (i) or which claims a use for such listed drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under subsection (b) or (c)—

"(I) that such patent information has not been filed,

"(II) that such patent has expired,

"(III) of the date on which such patent will expire, or

"(IV) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the application is submitted; and

"(viii) if with respect to the listed drug referred to in clause (i) information was filed under subsection (b) or (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

The Secretary may not require that an abbreviated application contain information in addition to that required by clauses (i) through (viii).

"(B)(i) An applicant who makes a certification described in subparagraph (A)(vii)(IV) shall include in the application a statement that the applicant has given the notice required by clause (ii) to—

"(I) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

"(II) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

"(ii) The notice referred to in clause (i) shall state that an application has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of such drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

"(iii) If an application is amended to include a certification described in subparagraph (A)(vii)(IV), the notice required by clause (ii) shall be given when the amended application is submitted.

"(C) If a person wants to submit an abbreviated application for a new drug which has a different active ingredient or whose route of administration, dosage form, or strength differ from that of a listed drug, such person shall submit a petition to the Secretary seeking permission to file such an application. The Secretary shall approve or disapprove a petition submitted under this subparagraph within ninety days of the date the petition is submitted. The Secretary shall approve such a petition unless the Secretary finds that investigations must be conducted to show the safety and effectiveness of the active ingredients of the drug or of the route of administration, the dosage form, or strength which differ from the listed drug.

"(3) Subject to paragraph (4), the Secretary shall approve an application for a drug unless the Secretary finds—

"(A) the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity;

"(B) information submitted with the application is insufficient to show that each of the proposed conditions of use have been previously approved for the listed drug referred to in the application;

"(C)(i) if the listed drug has only one active ingredient, information submitted with the application is insufficient to show that the active ingredient is the same as that of the listed drug,

"(ii) if the listed drug has more than one active ingredient, information submitted with the application is insufficient to show that the active ingredients are the same as the active ingredients of the listed drug, or

"(iii) if the listed drug has more than one active ingredient and if the application is for a drug which has an active ingredient different from the listed drug, information submitted with the application is insufficient to show—

"(I) that the other active ingredients are the same as the active ingredients of the listed drug, or

"(II) that the different active ingredient is an active ingredient of a listed drug or a drug which does not meet the requirements of section 201(p),

or no petition to file an application for the drug with the different ingredient was approved under paragraph (2)(C);

"(D)(i) if the application is for a drug whose route of administration, dosage form, or strength of the drug is the same as the route of administration, dosage form, or strength of the listed drug referred to in the application, information submitted in the application is insufficient to show that the route of administration, dosage form, or strength is the same as that of the listed drug, or

"(ii) if the application is for a drug whose route of administration, dosage form, or strength of the drug is different from that of the listed drug referred to in the application, no petition to file an application for the drug with the different route of administration, dosage form, or strength was approved under paragraph (2)(C);

"(E) if the application was filed pursuant to the approval of a petition under paragraph (2)(C), the application did not contain information required by the Secretary respecting the active ingredient, route of administration, dosage form, or strength which is not the same;

"(F) information submitted in the application is insufficient to show that the drug is bioequivalent to the listed drug referred to in the application or, if the application was filed pursuant to a petition approved under paragraph (2)(C), information submitted in the application is insufficient to show that the active ingredients of the new drug are of the same pharmacological or therapeutic class as those of the listed drug referred to in paragraph (2)(A)(i) and that the new drug can be expected to have the same therapeutic effect as the listed drug when administered to patients for a condition of use referred to in such paragraph;

"(G) information submitted in the application is insufficient to show that the labeling proposed for the drug is the same as the labeling approved for the listed drug referred to in the application except for changes required because of differences approved under a petition filed under paragraph (2)(C) or because the drug and the listed drug are produced or distributed by different manufacturers;

"(H) information submitted in the application or any other information available to the Secretary shows that (i) the inactive ingredients of the drug are unsafe for use under the conditions prescribed, recommended, or suggested in the labeling proposed for the drug, or (ii) the composition of the drug is unsafe under such conditions because of the type or quantity of inactive ingredients included or the manner in which the inactive ingredients are included;

"(I) the approval under subsection (c) of the listed drug referred to in the application under this subsection has been withdrawn or suspended for grounds described in the first sentence of subsection (e), the approval under this subsection of the listed drug referred to in the application under this subsection has been withdrawn or suspended under paragraph (5), or the Secretary has determined that the listed drug has been withdrawn from sale for safety or effectiveness reasons;

"(J) the application does not meet any other requirement of paragraph (2)(A); or

"(K) the application contains an untrue statement of material fact.

"(4)(A) Within one hundred and eighty days of the initial receipt of an application under paragraph (2) or within such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall approve or disapprove the application.

"(B) The approval of an application submitted under paragraph (2) shall be made effective on the last applicable date determined under the following:

"(i) If the applicant only made a certification described in subclause (I) or (II) of paragraph (2)(A)(vii) or in both such subclauses, the approval may be made effective immediately.

"(ii) If the applicant made a certification described in subclause (III) of paragraph (2)(a)(vii), the approval may be made effective on the date certified under subclause (III).

"(iii) If the applicant made a certification described in subclause (IV) of paragraph (2)(A)(vii), the approval shall be made effective immediately unless an action is brought for infringement of each patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (2)(B)(i) is received. If such an action is brought before the expiration of such days, the approval shall be made effective upon the expiration of the eighteen month period beginning on the date of the receipt of the notice provided under paragraph (2)(B)(i) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that—

"(I) if before the expiration of such period the court decides that each such patent is invalid or not infringed, the approval shall be made effective on the date of the court decision, or

"(II) if before the expiration of such period the court decides that any such patent has been infringed, the approval shall be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of the forty-five day period beginning on the date the notice made under paragraph (2)(B)(i) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(iv) If the application contains a certification described in subclause (IV) of paragraph (2)(A)(vii) and is for a drug for which a previous application has been submitted under this subsection containing such a certification, the application shall be made effective not earlier than one hundred and eighty days after—

"(I) the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the drug under the previous application, or

"(II) the date of a decision of a court in an action described in clause (iii) holding the patent which is the subject of the certification to be invalid or not infringed.

whichever is earlier.

"(C) If the Secretary decides to disapprove an application, the Secretary shall give the applicant notice of an opportunity for a hearing before the Secretary on the question of whether such application is approvable. If the applicant elects to accept the opportunity for hearing by written request within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days unless the Secretary and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs.

"(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted effective before the expiration of ten years from the date of the approval of the application under subsection (b).

"(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this subsection and if the holder of the approved application certifies to the Secretary that no patent has ever been issued to any person for such drug or for a method of using such drug and that the holder cannot receive a patent for such drug or for a method of using such drug because in the opinion of the holder a patent may not be issued for such drug or for a method of using such drug for any known therapeutic purposes the Secretary may not make the approval of an application submitted under this subsection which refers to the drug for which the subsection (b) application was submitted effective before the expiration of four years from the date of the approval of the application under subsection (b) unless the Secretary determines that an adequate supply of such drug will not be available or the holder of the application approved under subsection (b) consents to an earlier effective date for an application under this subsection.

"(5) If a drug approved under this subsection refers in its approved application to a drug the approval of which was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under this paragraph or which, as determined by the Secretary, has been withdrawn from sale for safety or effectiveness reasons, the approval of the drug under this subsection shall be withdrawn or suspended—

"(A) for the same period as the withdrawal or suspension under subsection (e) of this paragraph, or

"(B) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

"(6)(A)(i) Within sixty days of the date of the enactment of this subsection, the Secretary shall publish and make available to the public—

"(I) a list in alphabetical order of the official and proprietary name of each drug which has been approved for safety and effectiveness under subsection (c) before the date of the enactment of this subsection;

"(II) the date of approval if the drug is approved after 1981 and the number of the application which was approved; and

"(III) whether in vitro or in vivo bioequivalence studies, or both such studies, are required for applications filed under this subsection which will refer to the drug published.

"(ii) Every thirty days after the publication of the first list under clause (i) the Secretary shall revise the list to include each drug which has been approved for safety and effectiveness under subsection (c) or approved under this subsection during the thirty-day period.

"(iii) When patent information submitted under subsection (b) or (c) respecting a drug included on the list is to be published by the Secretary, the Secretary shall, in revisions made under clause (ii), include such information for such drug.

"(B) A drug approved for safety and effectiveness under subsection (c) or approved under this subsection shall, for purposes of this subsection, be considered to have been published under subparagraph (A) on the date of its approval or the date of enactment, whichever is later.

"(C) If the approval of a drug was withdrawn or suspended for grounds described in the first sentence of subsection (e) or was withdrawn or suspended under paragraph (5) or if the Secretary determines that a drug has been withdrawn from sale for safety or effectiveness reasons, it may not be published in the list under subparagraph (A) or, if the withdrawal or suspension occurred after its publication in such list, it shall be immediately removed from such list—

"(i) for the same period as the withdrawal or suspension under subsection (e) or paragraph (5), or

"(ii) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

A notice of the removal shall be published in the Federal Register.

"(7) For purposes of this subsection:

"(A) The term 'bioavailability' means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a drug and becomes available at the site of drug action.

"(B) A drug shall be considered to be bioequivalent to a listed drug if—

"(i) the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses; or

"(ii) the extent of absorption of the drug does not show a significant difference from the extent of absorption of the listed drug when administered at the same molar dose of the therapeutic ingredient under similar experimental conditions in either a single dose or multiple doses and the difference from the listed drug in the rate of absorption of the drug is intentional, is reflected in its proposed labeling, is not essential to the attainment of effective body drug concentrations on chronic use, and is considered medically insignificant for the drug.".

Sec. 102. (a)(1) Section 505(b) of such Act is amended by adding at the end the following: "The applicant shall file with the application the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If an application is filed under this subsection for a drug and a patent which claims such drug or a method of using such drug is issued after the filing date but before approval of the application, the applicant shall amend the application to include the information required by the preceding sentence. Upon approval of the application, the Secretary shall publish information submitted under the two preceding sentences.".

(2) Section 505(c) of such Act is amended by inserting "(1)" after "(C)", by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by adding at the end the following:

"(2) If the patent information described in subsection (b) could not be filed with the submission of an application under subsection (b) because the application was filed before the patent information was required under subsection (b) or a patent was issued after the application was approved under such subsection, the holder of an approved application shall file with the Secretary the patent number and the expiration date of any patent which claims the drug for which the application was submitted or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If the holder of an approved application could not file patent information under subsection (b) because it was not required at the time the application was approved, the holder shall file such information under this subsection not later than thirty days after the date of the enactment of this sentence, and if the holder of an approved application could not file patent information under subsection (b) because no patent had been issued when the application was filed or approved, the holder shall file such information under this subsection not later than thirty days after the date the patent involved is issued. Upon the submission of patent information under this subsection, the Secretary shall publish it.".

(3)(A) The first sentence of section 505(d) of such Act is amended by redesignating clause (6) as clause (7) and inserting after clause (5) the following: "(6) the application failed to contain the patent information prescribed by subsection (b); or".

(B) The first sentence of section 505(e) of such Act is amended by redesignating clause (4) as clause (5) and inserting after clause (3) the following: "(4) the patent information prescribed by subsection (c) was not filed within thirty days after the receipt of written notice from the Secretary specifying the failure to file such information; or".

(b)(1) Section 505(a) of such Act is amended by inserting "or (j)" after "subsection (b)".

(2) Section 505(c) of such Act is amended by striking out "this subsection" and inserting in lieu thereof "subsection (b)".

(3) The second sentence of section 505(e) of such Act is amended by inserting "submitted under subsection (b) or (j)" after "an application".

(4) The second sentence of section 505(e) is amended by striking out "(j)" each place it occurs in clause (1) and inserting in lieu thereof "(k)".

(5) Section 505(k)(1) of such Act (as so redesignated) is amended by striking out "pursuant to this section" and inserting in lieu thereof "under subsection (b) or (j)".

(6) Subsections (a) and (b) of section 527 of such Act are each amended by striking out "under section 505(b)" and inserting in lieu thereof "under section 505".

Sec. 103. (a) Section 505(b) of such Act is amended by inserting "(1)" after "(b)", by redesignating clauses (1) through (6) as clauses (A) through (F), respectively, and by adding at the end the following:

"(2) An application submitted under paragraph (1) for a drug for which investigations described in clause (A) of such paragraph and relied upon by the applicant for approval of the application were not conducted by or for the applicant or for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted shall also include)—

"(A) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the drug for which such investigations were conducted or which claims a use for such drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under paragraph (1) or subsection (c)—

"(i) that such patent information has not been filed,

"(ii) that such patent has expired,

"(iii) of the date on which such patent will expire, or

"(iv) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new drug for which the application is submitted; and

"(B) if with respect to the drug for which investigations described in paragraph (1)(A) were conducted information was filed under paragraph (1) or subsection (c) for a method of use patent which does not claim a use for which the applicant is seeking approval under this subsection, a statement that the method of use patent does not claim such a use.

"(3)(A) An applicant who makes a certification described in paragraph (2)(A)(iv) shall include in the application a statement that the applicant has given the notice required by subparagraph (B) to—

"(i) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

"(ii) the holder of the approved application under subsection (b) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

"(B) The notice referred to in subparagraph (A) shall state that an application has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commerical manufacture, use, or sale of the drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

"(C) If an application is amended to include a certification described in paragraph (2)(A)(iv), the notice required by subparagraph (B) shall be given when the amended application is submitted.".

(b) Section 505(c) of such Act (as amended by section 102(a)(2)) is amended by adding at the end the following:

"(3) The approval of an application filed under subsection (b) which contains a certification required by paragraph (2) of such subsection shall be made effective on the last applicable date determined under the following:

"(A) If the applicant only made a certification described in clause (i) or (ii) of subsection (b)(2)(A) or in both such clauses, the approval may be made effective immediately.

"(B) If the applicant made a certification described in clause (iii) of subsection (b)(2)(A), the approval may be made effective on the date certified under clause (iii).

"(C) If the applicant made a certification described in clause (iv) of subsection (b)(2)(A), the approval shall be made effective immediately unless an action is brought for infringement of each patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under paragraph (3)(B) is received. If such an action is brought before the expiration of such days, the approval may be made effective upon the expiration of the eighteen month period beginning on the date of the receipt of the notice provided under paragraph (3)(B) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that—

"(i) if before the expiration of such period the court decides that each such patent is invalid or not infringed, the approval may be made effective on the date of the court decision, or

"(ii) if before the expiration of such period the court decides that any such patent has been infringed, the approval may be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of the forty-five day period beginning on the date the notice made under paragraph (3)(B) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under such section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(D)(i) If an application (other than an abbreviated new drug application) submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), was approved during the period beginning January 1, 1982, and ending on the date of the enactment of this subsection, the Secretary may not make the approval of another application for a drug for which investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant or which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted effective before the expiration of ten years from the date of the approval of the application previously approved under subsection (b).

"(ii) If an application submitted under subsection (b) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b), is approved after the date of the enactment of this subsection and if the holder of the approved application certifies to the Secretary that no patent has ever been issued to any person for such drug or for a method of using such drug and that the holder cannot receive a patent for such drug or for a method of using such drug because in the opinion of the holder a patent may not be issued for such drug or for a method of using for any known therapeutic purposes such drug, the Secretary may not make the approval of another application for a drug for which investigations described in clause (A) of subsection (b)(1) and relied upon by the applicant for approval of the application were not conducted by or for the applicant or which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted effective before the expiration of four years from the date of the approval of the application previously approved under subsection (b) unless the Secretary determines that an adequate supply of such drug will not be available or the holder of the application approved under subsection (b) consents to an earlier effective date for an application under this subsection.".

Sec. 104. Section 505 of such Act is amended by adding at the end the following:

"(l) Safety and effectiveness data and information which has been submitted in an application under subsection (b) for a drug and which has not previously been disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

"(1) if no work is being or will be undertaken to have the application approved,

"(2) if the Secretary has determined that the application is not approvable and all legal appeals have been exhausted,

"(3) if approval of the application under subsection (c) is withdrawn and all legal appeals have been exhausted,

"(4) if the Secretary has determined that such drug is not a new drug, or

"(5) upon the effective date of the approval of the first application under subsection (j) which refers to such drug or upon the date upon which the approval of an application under subsection (j) which refers to such drug could be made effective if such an application had been submitted.

"(m) For purposes of this section, the term 'patent' means a patent issued by the Patent and Trademark Office of the Department of Commerce.".

Sec. 105. (a) The Secretary of Health and Human Services shall promulgate, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, such regulations as may be necessary for the administration of section 505 of the Federal Food, Drug, and Cosmetic Act, as amended by Section 101, 102, and 103 of this Act, within one year of the date of enactment of this Act.

(b) During the period beginning on the date of the enactment of this Act and ending on the date regulations promulgated under subsection (a) take effect, abbreviated new drug applications may be submitted in accordance with the provisions of section 314.2 of title 21 of the Code of Federal Regulations and shall be considered as suitable for any drug which has been approved for safety and effectiveness under section 505(C) of the Federal Food, Drug, and Cosmetic Act before the date of the enactment of this Act. If any such provision is inconsistent with the requirements of section 505(j) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall consider the application under the applicable requirements of such section. The Secretary of Health and Human Services may not approve such an abbreviated new drug application which is filed for a drug which is described in sections 505(C)(3)(D) and 505(j)(4)(D) of the Federal Food, Drug, and Cosmetic Act execpt in accordance with such section.

Sec. 106. Section 2201 of title 28, United States Code, is amended by inserting "(a)" before "In a case" and by adding at the end the following:

"(b) For limitations on actions brought with respect to drug patents see section 505 of the Federal Food, Drug, and Cosmetic Act.".

## TITLE II—PATENT EXTENSION

Sec. 201. (a) Title 35 of the United States Code is amended by adding the following new section immediately after section 155:

### "§ 156. Extension of patent term

"(a) The term of a patent which claims a product, a method of using a product, or a method of manufacturing a product shall be extended in accordance with this section from the original expiration date of the patent if—

"(1) the term of the patent has not expired before an application is submitted under subsection (d) for its extension;

"(2) the term of the patent has never been extended;

"(3) an application for extension is submitted by the owner of record of the patent or its agent and in accordance with the requirements of subsection (d);

"(4)(A) in the case of a patent which claims the product or a method of using the product—

"(i) the product is not claimed in another patent having an earlier issuance date or which was previously extended, and

"(ii) the product and the use approved for the product in the applicable regulatory review period are not identically disclosed or described in another patent having an earlier issuance date or which was previously extended; or

"(B) in the case of a patent which claims the product, the product is also claimed in a patent which has an earlier issuance date or which was previously extended and which does not identically disclose or describe the product and—

"(i) the holder of the patent to be extended has never been and will not become the holder of the patent which has an earlier issuance date or which was previously extended, and

"(ii) the holder of the patent which has an earlier issuance date or which was previously extended has never been and will not become the holder of the patent to be extended;

"(5)(A) in the case of a patent which claims a method of manufacturing the product which does not primarily use recombinant DNA technology in the manufacture of the product—

"(i) no other patent has been issued which claims the product or a method of using the product and no other patent which claims a method of using the product may be issued for any known therapeutic purposes; and

"(ii) no other method of manufacturing the product is claimed in a patent having an earlier issuance date;

"(B) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product—

"(i) the holder of the patent for the method of manufacturing the product (I) is not the holder of a patent for the product or for a method of using the product, (II) is not owned or controlled by a holder of a patent for the product or for a method of using the product or by a person who owns or controls a holder of such a patent, and (III) does not own or control the holder of such a patent or a person who owns or controls a holder of such a patent; and

"(ii) no other method of manufacturing the product primarily using recombinant DNA technology is claimed in a patent having an earlier issuance.

"(6) the product has been subject to a regulatory review period before its commercial marketing or use;

"(7)(A) except as provided in subparagraph (B), the permission for the commercial marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of the product under the provision of law under which such regulatory review period occurred; or

"(B) in the case of a patent which claims a method of manufacturing the product which primarily uses recombinant DNA technology in the manufacture of the product, the permission for the commerical marketing or use of the product after such regulatory review period is the first permitted commercial marketing or use of a product manufactured under the process claimed in the patent; and

"(8) the patent does not claim another product or a method of using or manufacturing another product which product received permission for commercial marketing or use under such provision of law before the filing of an application for extension.

The product referred to in paragraphs (4), (5), (6), and (7) is hereinafter in this section referred to as the 'approved product'. For purposes of paragraphs (4)(B) (5)(B), the holder of a patent is any person who is the owner of record of the patent or is the exclusive licensee of the owner of record of the patent.

"(b) The rights derived from any patent the term of which is extended under this section shall during the period during which the patent is extended—

"(1) in the case of a patent which claims a product, be limited to any use approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred;

"(2) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent and approved for the approved product before the expiration of the term of the patent under the provision of law under which the applicable regulatory review occurred; and

"(3) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make the approved product.

"(c) The term of a patent eligible for extension under subsection (a) shall be extended by the time equal to the regulatory review period for the approved product which period occurs after the date the patent is issued, except that—

"(1) each period of the regulatory review period shall be reduced by any period determined under subsection (d)(2)(B) during which the applicant for the patent extension did not act with due diligence during such period of the regulatory review period;

"(2) after any reduction required by paragraph (1), the period of extension shall include only one-half of the time remaining in the periods described in paragraphs (1)(B)(i), (2)(B)(i), and (3)(B)(i) of subsection (g); and

"(3) if the period remaining in the term of a patent after the date of the approval of the approved product under the provision of law under which such regulatory review occurred when added to the regulatory review period as revised under paragraphs (1) and (2) exceeds fourteen years, the period of extension shall be reduced so that the total of both such periods does not exceed fourteen years.

"(d)(1) To obtain an extension of the term of a patent under this section, the owner of record of the patent or its agent shall submit an application to the Commissioner. Such an application may only be submitted within the sixty-day period beginning on the date the product received permission under the provision of law under which the applicable regulatory review period occurred for commercial marketing or use. The application shall contain—

"(A) the identity of the approved product;

"(B) the identity of the patent for which an extension is being sought and the identification of each claim of such patent which claims the approved product or a method of using or manufacturing the approved product;

"(C) the identify of every other patent known to the patent owner which claims or identically discloses or describes the approved product or a method of using or manufacturing the approved product;

"(D) the identity of all other products which have received permission under the provision of law under which the applicable regulatory review period occurred for commercial marketing or use and which are claimed in any of the patents identified in subparagraph (C);

"(E) information to enable the Commissioner to determine under subsections (a) and (b) the eligibility of a patent for extension and the rights that will be derived from the extension and information to enable the Commissioner and the Secretary of Health and Human Services or the Secretary of Agriculture to determine the period of the extension under subsection (g);

"(F) a brief description of the activities undertaken by the applicant during the applicable regulatory review period with respect to the approved product and the significant dates applicable to such activities; and

"(G) such patent or other information as the commissioner may require.

"(2)(A) Within sixty days of the submittal of an application for extension of the term of a patent under paragraph (1), the Commissioner shall notify—

"(i) the Secretary of Agriculture if the patent claims a drug product or a method of using or manufacturing a drug product and the drug product is subject to the Virus-Serum-Toxin Act, and

"(ii) the Secretary of Health and Human Services if the patent claims any other drug product, a medical device, or a food additive or color additive or a method of using or manufacturing such a product, device, or additive and if the product, device, and additive are subject to the Federal Food, Drug, and Cosmetic Act.

of the extension application and shall submit to the Secretary who is so notified a copy of the application. Not later than 30 days after the receipt of an application from the commissioner, the Secretary receiving the application shall review the dates contained in the application pursuant to paragraph (1)(E) and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall publish in the Federal Register a notice of such determination.

"(B)(i) If a petition is submitted to the Secretary making the determination under subparagraph (A), not later than one hundred and eighty days after the publication of the determination under subparagraph (A), upon which it may reasonably be determined that the applicant did not act with due diligence during the applicable regulatory review period, the Secretary making the determination shall, in accordance with regulations promulgated by such Secretary determine if the applicant acted with due diligence during the applicable regulatory review period. The Secretary shall make such determination not later 90 days after the receipt of such a petition. The Secretary of Health and Human Services may not delegate the authority to make the determination prescribed by this subparagraph to an office below the Office of the Commissioner of Food and Drugs.

"(ii) The Secretary making a determination under clause (i) shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination together with the factual and legal basis for such determination. Any interested person may request, within the 60 day period beginning on the publication of a determination, the Secretary making the determination to hold an informal hearing on the determination. If such a request is made within such period, such Secretary shall hold such hearing not later than thirty days after the date of the request, or at the request of the person making the request, not later than sixty days after such date. The Secretary who is holding the hearing shall provide notice of the hearing to the owner of the patent involved and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within thirty days after the completion of the hearing, such Secretary shall affirm or revise the determination which was the subject of the hearing and notify the Commissioner of any revision of the determination and shall publish any such revision in the Federal Register.

"(3) For purposes of paragraph (2)(B), the term 'due diligence' means that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period.

"(4) An application for the extension of the term of a patent is subject to the disclosure requirements prescribed by the Commissioner.

"(e)(1) A determination that a patent is eligible for extension may be made by the Commissioner solely on the basis of the information contained in the application for the extension. If the Commissioner determines that a patent is eligible for extension under subsection (a) and that the requirements of subsection (d) have been complied with, the Commissioner shall issue to the applicant for the extension of the term of the patent a certificate of extension, under seal, for the period prescribed by subsection (c). Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent.

"(2) If the term of a patent for which an application has been submitted under subsection (d) would expire before a determination is made under paragraph (1) respecting the application, the Commissioner shall extend, until such determination is made, the term of the patent for periods of up to one year if he determines that the patent is eligible for extension.

"(f) For purposes of this section:

"(1) The term 'product' means any machine, manufacture, or composition of matter for which a patent may be obtained and includes the following:

"(A) A drug product.

"(B) Any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.

"(2) The term 'drug product' means the active ingredient of a new drug, antibiotic drug, new animal drug, or human or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Virus-Serum-Toxin Act) including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient.

"(3) The term 'major health or environmental effects test' means a test which is reasonably related to the evaluation of the health or environmental effects of a product, which requires at least six months to conduct, and the data from which is submitted to receive permission for commercial marketing or use. Periods of analysis or evaluation of test results are not to be included in determining if the conduct of a test required at least six months.

"(4)(A) Any reference to section 351 is a reference to section 351 of the Public Health Service Act.

"(B) Any reference to section 503, 505, 507, 512, or 515 is a reference to section 503, 505, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act.

"(C) Any reference to the Virus-Serum-Toxin Act is a reference to the Act of March 4, 1913 (21 U.S.C. 151-158).

"(5) The term 'informal hearing' has the meaning prescribed for such term by section 201(y) of the Federal Food, Drug, and Cosmetic Act.

"(6) The term 'patent' means a patent issued by the United States Patent and Trademark Office.

"(g) For purposes of this section, the term 'regulatory review period' has the following meanings:

"(1)(A) In the case of a product which is a drug product, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a drug product is the sum of—

"(i) the period beginning on the date—

"(I) an exemption under subsection (i) of section 505, subsection (d) of section 507, or subsection (j) of section 512, or

"(II) the authority to prepare an experimental drug product under the Virus-Serum-Toxin Act,

became effective for the approved drug product and ending on the date an application was initially submitted for such drug product under section 351, 505, 507, or 512 or the Virus-Serum-Toxin Act, and

"(ii) the period beginning on the date the application was initially submitted for the approved drug product under section 351, subsection (b) of such section 505, section 507, section 512, or the Virus-Serum-Toxin Act and ending on the date such application was approved under such section or Act.

"(2)(A) In the case of a product which is a food additive or color additive, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a food or color additive is the sum of—

"(i) the period beginning on the date a major health or environmental effects test on the additive was initiated and ending on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and

"(ii) the period beginning on the date a petition was initially submitted with respect to the product under the Federal Food, Drug, and Cosmetic Act requesting the issuance of a regulation for use of the product, and ending on the date such regulation became effective or, if objections were filed to such regulation, ending on the date such objections were resolved and commercial marketing was permitted or, if commercial marketing was permitted and later revoked pending further proceedings as a result of such objections, ending on the date such proceedings were finally resolved and commercial marketing was permitted.

"(3)(A) In the case of a product which is a medical device, the term means the period described in subparagraph (B) to which the limitation described in paragraph (4) applies.

"(B) The regulatory review period for a medical device is the sum of—

"(i) the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515, and

"(ii) the period beginning on the date an application was initially submitted with respect to the device under section 515 and ending on the date such application was approved under such Act or the period beginning on the date a notice of completion of a product development protocol was initially submitted under section 515(f)(5) and ending on the date the protocol was declared completed under section 515(f)(6).

"(4) A period determined under any of the preceding paragraphs is subject to the following limitations:

"(A) If the patent involved was issued after the date of the enactment of this section, the period of extension determined on the basis of the regulatory review period determined under any such paragraph may not exceed five years.

"(B) If the patent involved was issued before the date of the enactment of this section and—

"(i) no request for an exemption described in paragraph (1)(B) was submitted,

"(ii) no request was submitted for the preparation of an experimental drug product described in paragraph (1)(B),

"(iii) no major health or environmental effects test described in paragraph (2) was initiated and no petition for a regulation or application for registration described in such paragraph was submitted, or

"(iv) no clinical investigation described in paragraph (3) was begun or product development protocol described in such paragraph was submitted, before such date for the approved product the period of extension determined on the basis of the regulatory may not exceed five years.

"(C) If the patent involved was issued before the date of the enactment of this section with respect to the approved product and the commercial marketing or use of the product has not been approved before such date, the period of extension determined on the basis of the regulatory review period determined under such paragraph may not exceed two years.

"(h) The Commissioner may establish such fees as the Commissioner determines appropriate to cover the costs to the Office of receiving and acting upon applications under this section.".

"(b) The analysis for chapter 14 of title 35 of the United States Code is amended by adding at the end thereof the following:

"156. Extension of patent term.".

Sec. 202. Section 271 of title 35, United States Code is amended by adding at the end of the following:

"(e)(1) It shall not be an act of infringement to make, use, or sell a patented invention solely for uses reasonably related to the development and submission of information under a Federal law which regulates the manufacture, use, or sale of drugs.

"(2) It shall be an act of infringement to submit an application under section 505(j) of the Federal Food, Drug, and Cosemtic Act for a drug claimed in a patent or the use of which is claimed in a patent, if the purpose of such submission is to obtain approval under such Act to engage in the commercial manufacture, use, or sale of a drug claimed in a patent or the use of which is claimed in a patent before the expiration of such patent.

"(3) In any action for patent infringement brought under this section, no injunctive or other relief may be granted which would prohibit the making, using, or selling of a patented invention under paragraph (1).

"(4) For an act of infringement described in paragraph (2)—

"(A) the court shall order the effective date of any approval of the drug involved in the infringement to be a date which is not earlier than the date of the expiration of the patent which has been infringed,

"(B) injunctive relief may be granted against an infringer to prevent the commercial manufacture, use, or sale of an approved drug, and

"(C) damages or other monetary relief may be awarded against an infringer only if there has been commercial manufacture, use, or sale of an approved drug.

The remedies prescribed by subparagraphs (A), (B), and (C) are the only remedies which may be granted by a court for an act of infringement described in paragraph (2), except that a court may award attorney fees under section 285.".

Sec. 203. Section 282 of title 35, United States Code, is amended by adding at the end the following:

"Invalidity of the extension of a patent term or any portion thereof under section 156 of this title because of the material failure—

"(1) by the applicant for the extension, or

"(2) by the Commissioner.

to comply with the requirements of such section shall be a defense in any action involving the infringement of a patent during the period of the extension of its term and shall be pleaded. A due diligence determination under section 156(d)(2) is not subject to review in such an action.".

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By Mr. BENTSEN:

S. 2749. A bill to provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas; to the Committee on Energy and Natural Resources.

### BIG THICKET HEADQUARTERS

● Mr. BENTSEN. Mr. President, I am today introducing legislation to authorize the acquisition of 15 acres for a headquarters site for the Big Thicket National Preserve in Texas.

It was anticipated when the authorization bill for the Big Thicket was passed that an additional authorization would be needed once a suitable location for the headquarters had been found. The existing units of the Big Thicket National Preserve are either too far from the major highways or are subject to flooding, rendering them unsuitable as a location for the visitor center. This site is ideally located on a major highway intersection near the geographic center of the preserve. The current owner of the site wants to sell this land and has agreed to hold it for a time to allow passage of the necessary authorization bill. The National Park Service wants to acquire this site and needs only this authorization in order to proceed.

Mr. President, I urge the expeditious passage of this legislation.●

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By Mr. WALLOP (for himself, Mr. MURKOWSKI, and Mr. LAXALT):

S. 2750. A bill to permit States to bring suits against the United States to adjudicate disputed land titles; to the Committee on the Judiciary.

### STATE-FEDERAL LAND CLAIM DISPUTES

Mr. WALLOP. Mr. President, today I am introducing legislation to amend the Quiet Title Act of 1972 to exempt sovereign States from the 12-year statute of limitations for filing suit against the Federal Government over disputed land claims.

Mr. President, few of us would disagree that land title controversies between States and the Federal Government need prompt and final resolution. As long as such controversies exist, orderly land planning and development cannot occur.

Unfortunately, the recent decision of the the U.S. Supreme Court in Block against North Dakota left us in precisely that position. Acting contrary to established common law rules, the Court held that the 12-year statute of limitation in the Federal Quiet Title Act of 1972 applies to the States as well as private parties. This means that where a Federal-State controversy exists over a parcel of land, the State must file, or must have filed, its lawsuit within the 12 years of the time it knew or should have known there was a Federal claim to the land in question.

While it may be reasonable to apply this restriction to private parties to prevent a flood of litigation on old claims, the Supreme Court's decision is contrary to the general rule that statutes of limitation apply to States only where such intent is explicitly stated. The decision leaves State-Federal land title disputes in limbo by disqualifying many State-initiated suits, but at the same time noting that the dismissal of the claim under the 12-year limitation does nothing to resolve the ownership of title issue. As long as such clouds are allowed to hang over titles of contested property, all parties are left in very uncertain and untenable positions. This is particularly evident for administrators who cannot show clear title to property they seek to offer for lease of either the surface or mineral estates.

Since most States' claims have been barred under this statute of limitation in the 1972 act, and prior to 1972 the doctrine of sovereign immunity was invoked to protect the Federal Government from such lawsuits, the States have been, in effect, prevented from seeking a judicial remedy based on the merits of their claims.

Following the Court's suggestion, the States have sought relief from Congress. In response to request from State Governors, attorneys general, and land commissioners, I am planning to introduce legislation exempting States from the statute of limitations in quiet title actions against the Federal Government. This proposal has been endorsed by the National Governors' Association, the National Conference of State Legislators, the National & Western Associations of Attorneys General, the Western States Land Commissioners, and the Interstate Oil Compact Commission.

Mr. President, I ask unanimous consent that resolutions of each of the aforementioned groups be printed in the Record, and that a list of the 28 States filing amicus curiae briefs with the Supreme Court in the Block against North Dakota case be printed in the Record as well. I would also ask unanimous consent that the bill be printed in the Record immediately following that listing.

There being no objection, the material was ordered to be printed in the Record, as follows:

### S. 2750

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (f) of section 2409a of title 28, United States Code, is amended by inserting ", except for an action commenced by a State," after "section" and by inserting after the first sentence the following: "Any civil action under this section by a State may be commenced regardless of when such action accrued.". Such subsection is further amended by striking our "Such" and inserting in lieu thereof "For purposes of this subsection, an".

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### Committee Resolution on Resolving State-Federal Land Claim Disputes

The State and Federal Governments share responsibility for orderly development and management of the nation's energy resources. As disputes over state or federal ownership of lands associated with these resources may preclude their development, it is in the interest of both parties to resolve such controversies.

The Quiet Title Act of 1972 applied a 12 year statute of limitations to claims against the federal government regarding title to parcels of land. It also removed a prior prohibition, based on federal sovereign immunity, on such suits against the federal government. Under the principle that no statute of limitations runs against sovereign states, quiet title actions were brought by states against the federal government for resolution of title disputes.

The U.S. Supreme Court decision in *Block v. North Dakota* (May 3, 1983), held that the 12 year statute of limitations does apply to state claims. The effect of this decision is to leave unresolved state/federal title disputes. If the United States can successfully demonstrate that the state knew or should have known of a federal claim 12 years before the suit, the quite title action would be dismissed without determination of its merits. The basic title issue will remain judicially unresolved.

Because energy and other resources frequently occur on publicly-owned land, the need to settle definitively federal/state title disputes is evident. Without final judgment, leasees of parcels in question will be uncertain as to their rights to occupy, and granting of leaseholds may be stymied.

Congress is currently considering legislation amending the Quiet Title Act to declare the statute of limitations inapplicable to state claims. The Governors support such legislation as necessary to provide orderly land management and domestic energy resource development.

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### State-Federal Land Claim Disputes

The National Conference of State Legislatures supports legislation amending the Quiet Title Act to declare the statute of limitations inapplicable to state claims. Such legislation is necessary to provide orderly land management and domestic energy resource development.

The Quiet Title Act of 1972 applied a twelve-year statute of limitation to claims against the federal government regarding title to parcels of land. It also removed a prior prohibition, based on federal sovereign immunity, on such suits against the federal government. Under the principle that no statute of limitations runs against sovereign states, quiet title actions were brought by states against the federal government for resolution of title disputes.

The US Supreme Court decision in *Block v. North Dakota* (May 3, 1983), held that the twelve-year statute of limitations does apply to state claims. The effect of this decision is to leave unresolved state/federal title disputes. If the United States can successfully demonstrate that the state knew or should have known of a federal claim twelve years before the suit, the quiet title action would be dismissed without determination of its merits. The basic title issue will remain judicially unresolved.

The state and federal governments share responsibility for orderly development and management of the nation's energy resources. As disputes over state or federal ownership of lands associated with these resources may preclude their development, it is in the interest of both parties to resolve such controversies. Therefore, it is important to amend the Quiet Title Act to prevent the application of the statute of limitations to state claims.

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### Resolution Endorsing H.R. 3917: Legislation To Permit Resolution of State-Federal Property Disputes on the Merits

Whereas, the disputes over title to lands between federal and state sovereigns have caused uncertainty and impeded the orderly resolutions of title disputes in the states; and

Whereas, it is in the interest of both states and the United States that such uncertainties be decided on their merits; and

Whereas, the U.S. Supreme Court held in *Block v. North Dakota* that the orderly resolution of title disputes between states and the federal government may be prevented by the application of the statute of limitations to the claims of sovereign states against the United States; and

Whereas, it is an accepted and cardinal principle of law that no statute of limitations should run against a sovereign state; and

Whereas, if states are precluded by the statute of limitations from asserting claims against the United States, a cloud will nevertheless remain over the disputed property, thus preventing the resolution of title and seriously impeding the process of leasing and orderly utilization of the natural resources upon such land; and

Whereas, such controversies should be resolved by litigation on the merits; and

Whereas, in June, 1983, this Association requested Congress to enact legislation to permit sovereign states to bring actions in quiet title against the United States and to obtain resolution of such actions on the merits, free from the procedural obstacles created by the statute of limitations; and

Whereas, H.R. 3917 would achieve this result by exempting sovereign states from application of the 12 year statute of limitations in the Federal Quiet Title Act in disputes with the United States over land titles;

Now Therefore Be It Resolved, that this Association urges Congress to enact H.R. 3917; and

Be It Further Resolved, that the President of this Association be authorized and directed to transmit copies of this resolution to the appropriate committees of Congress, the United States Attorney General and the Secretary of the Interior.

### Resolution Endorsing H.R. 3917: Legislation To Permit Resolution of State-Federal Property Disputes on the Merits

Whereas, the federal and state government coexist as sovereigns in our federal union; and

Whereas, the disputes over title to lands between federal and state sovereigns have caused uncertainty and impeded the orderly resolution of title disputes in the states; and

Whereas, it is in the interest of both states and the United States that such uncertainties be decided on their merits; and

Whereas, in *Block* v. *North Dakota*, the U.S. Supreme Court held that such resolutions may be prevented by the application of the statute of limitations to the claims of sovereign states against the United States; and

Whereas, it is an accepted and cardinal principle of law that no statute of limitations should run against a sovereign state; and

Whereas, if states are precluded by the statute of limitations from asserting claims against the United States, a cloud will nevertheless remain over the disputed property, thus preventing the resolution of title and seriously impeding the process of leasing and orderly utilization of the mineral resources upon such land; and

Whereas, such controversies should be resolved by litigation on the merits; and

Whereas, it is within the power of Congress to provide for such orderly solutions by legislation; and

Whereas, H.R. 3917 would provide for such a solution by exempting the claims of sovereign states from application of the 12-year statute of limitations in the federal Quiet Title Act: Now, therefore, be it

*Resolved*, That this Association requests Congress to enact H.R. 3917 to permit sovereign states to bring actions in quiet title against the United States and to obtain resolution of such actions on the merits, free from the procedural obstacles created by the statute of limitations; and be it further

*Resolved*, That the secretary of this Association be directed to transmit copies of this resolution to the appropriate Committees of Congress, the U.S. Attorney General and the Secretary of Interior.

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### Resolution Endorsing Federal Legislation (H.R. 3917) To Permit Prompt Judicial Resolution of State-Federal Public Land Title Disputes

Whereas, the Federal and State governments constitutionally coexist as sovereigns in the Federal Union; and

Whereas, numerous disputes over public land titles between the Federal and State Sovereigns presently exist and even more will unquestionably be found in the course of further survey and utilization of public lands; and

Whereas, it is in the interest both of the States and the Federal Government that such disputes be promptly and finally decided judicially to prevent serious administrative difficulty and delay in the orderly administration and utilization of the public lands of both Federal and State Sovereigns as may be required in the public interest; and

Whereas, in *Block* v. *North Dakota*, the United States Supreme Court held that such judicial resolution may be prevented by the application of the time limitations in the existing Quiet Title Act procedures to claims of the states, notwithstanding the accepted and cardinal principle of law that statutes of limitations do not run against claims by a sovereign state; and

Whereas, the Court also held that the application of the limitation on suit did not extinguish the underlying dispute, but that it would still continue; and

Whereas, only action by the Congress can now provide for the needed resolution of these disputes and permit the process of orderly administration and use of the sovereign lands in dispute; and

Whereas, a bill presently before the Congress (H.R. 3917) provides for the needed solution by exempting all title disputes between the two sovereigns, the State and the Federal Government from the application of the 12-year limitation period in the Federal Quiet Title Act: Now, therefore, be it

*Resolved*, That this Association requests Congress to enact H.R. 3917 to permit sovereign states to bring actions in quiet title against the United States and to obtain resolution of such actions on the merits, free from the procedural obstacles created by the statute of limitations; and be it further

*Resolved*, That the Secretary of this Association be directed to transmit copies of this resolution to the appropriate Committees of Congress, the U.S. Attorney General and the Secretary of the Interior.

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### Resolution Adopted Midyear Meeting Interstate Oil Compact Commission

Whereas, the Interstate Oil Compact Commission has from its inception sought cooperation between the producing states and the federal government for the efficient and orderly development and conservation of oil and gas resources, including those located on state and federal public lands; and

Whereas, the federal and state governments coexist as sovereigns in our federal union, and the long-standing rule of law has consistently excepted both sovereign entities from the application of statutes of limitation; and

Whereas, the United States Supreme Court in *Block* v. *North Dakota* has recently held that final resolution of many such disputed is precluded by the application of the statute of limitations of the federal Quiet Title Action (28 U.S.C 240a(f)) to the claims of sovereign states against the United States, but not to the claims of the United States against the states; and

Whereas, in the *Block* case, the United States Supreme Court expressly held that, although the states are precluded by that statute of limitations from asserting such claims against the United States, a cloud will nevertheless remain on the title to the disputed property which can be judicially settled only by an action brought by the federal government, or by out of court settlements or an Act of Congress; and

Whereas, states having title claims against the federal government will continue to assert those claims leading to ingenious devices aimed at forcing the federal government to bring a quiet title action and, in the meantime, resulting in uncertainty and ineffectiveness in the management of lands subject to such claims to the detriment of conservation of resources therein, and the protection of correlative rights; and

Whereas, unresolved title disputes involving lands claimed by both the federal government and the states makes it impossible to get the title certification by lessees which is essential to the financing of any drilling or development efforts, inhibiting prompt development of the mineral resources located on such public lands, preventing the protection of correlative rights and the ending of physical waste of oil and gas resources thereon; and

Whereas, sound public policy demands that such lands disputes be finally and fairly settled to prevent the waste of the resources therein and to protect fully the correlative rights of all interested parties: Now, therefore, be it

*Resolved*, That the Interstate Oil Compact Commission urges the enactment of federal legislation to exempt sovereign states from the Statute of Limitations provision of the Federal Quiet Title Act and recommends that each of the member states urge their Congressional delegations to support such legislation.

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### States Filing Amicus Curiae Brief in Block v. North Dakota Case

Alabama, Alaska, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Washington, and Wyoming.

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## ADDITIONAL COSPONSORS

### S. 2258

At the request of Mr. Moynihan, the names of the Senator from Ohio (Mr. Metzenbaum) and the Senator from Wisconsin (Mr. Kasten) were added as cosponsors of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

### S. 2719

At the request of Mr. Lautenberg, the name of the Senator from Illinois (Mr. Dixon) was added as a cosponsor of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

### SENATE JOINT RESOLUTION 55

At the request of Mr. Mathias, the names of the Senator from Tennessee (Mr. Baker) and the Senator from Virginia (Mr. Warner) were added as cosponsors of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

### SENATE JOINT RESOLUTION 269

At the request of Mr. Levin, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of Senate Joint Resolution 269, a joint resolution designating the week beginning September 23, 1984, as "National Adult Day Care Center Week."

### SENATE JOINT RESOLUTION 272

At the request of Mr. Murkowski, the name of the Senator from Arizona (Mr. DeConcini) was added as a sponsor of Senate Joint Resolution 272, a joint resolution recognizing the anniversaries of the Warsaw uprising and the Polish resistance to the invasion of Poland during World War II.

### SENATE JOINT RESOLUTION 275

At the request of Mr. Dixon, the names of the Senator from North Carolina (Mr. Helms), the Senator from Arkansas (Mr. Bumpers), the Senator from Pennsylvania (Mr. Heinz), the Senator from Michigan (Mr. Riegle), the Senator from Georgia (Mr. Nunn), the Senator from Massachusetts (Mr. Tsongas), the Senator from Rhode Island (Mr. Chafee), and the Senator from Arizona (Mr. DeConcini) were added as cosponsors of Senate Joint Resolution 275, a joint resolution to designate the month of October 1984 as "National Spina Bifida Month."

### SENATE JOINT RESOLUTION 294

At the request of Mr. Boren, the name of the Senator from Montana (Mr. Baucus) was added as a cosponsor of Senate Joint Resolution 294, a joint resolution to designate the week of July 1, 1984, through July 7, 1984, as "National Softball Week."

### SENATE CONCURRENT RESOLUTION 119

At the request of Mr. Pell, the names of the Senator from Oklahoma (Mr. Nickles), the Senator from Maine (Mr. Cohen), and the Senator from Michigan (Mr. Riegle) were added as cosponsors of Senate Concurrent Resolution 119, a concurrent resolution expressing the sense of the Congress concerning infringements of religious freedom by the governments of the Warsaw Pact states.

### SENATE RESOLUTION 329

At the request of Mr. Nunn, the name of the Senator from Colorado (Mr. Hart) was added as a cosponsor of Senate Resolution 329, a resolution expressing the support of the Senate for the expansion of confidence building measures between the U.S. and the U.S.S.R., including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers.

### SENATE RESOLUTION 386

At the request of Mr. Levin, the names of the Senator from Minnesota (Mr. Boschwitz) and the Senator from Massachusetts (Mr. Tsongas) were added as cosponsors of Senate Resolution 386, a resolution entitled the "Mandela Freedom Resolution."

### SENATE RESOLUTION 389

At the request of Mr. Cranston, the name of the Senator from North Carolina (Mr. East) was withdrawn as a cosponsor of Senate Resolution 389, a resolution to express the appreciation of the Senate to the Screen Actors Guild for 50 years of representing America's film performers.

### AMENDMENT NO. 3156

At the request of Mr. Pressler, the name of the Senator from Washington (Mr. Gorton) was added as a cosponsor of amendment No. 3156 proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

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## SENATE RESOLUTION 402—RESOLUTION OPPOSING CERTAIN PROPOSED IMPORT RESTRICTIONS BY THE EUROPEAN COMMUNITY ON U.S. AGRICULTURAL IMPORTS

Mr. BOSCHWITZ (for himself, Mr. Dixon, Mr. Helms, Mr. Huddleston, Mr. Percy, Mr. Boren, Mr. Dole, Mr. Bentsen, Mr. Lugar, Mr. Zorinsky, Mr. Cochran, Mr. Pryor, Mr. Jepsen, Mr. Heflin, Mrs. Hawkins, Mr. Melcher, Mr. Durenberger, Mr. Inouye, Mr. Danforth, Mr. Eagleton, Mr. Quayle, Mr. Exon, Mr. McClure, Mr. Riegle, Mr. Symms, Mr. Levin, Mr. Grassley, Mr. Kasten, Mr. Pressler, Mr. Abdnor, Mr. Nickles, Mrs. Kassebaum, and Mr. East) submitted the following resolution; which was referred to the Committee on Finance:

### S. Res. 402

Whereas the European Council of Ministers has directed the Commission of the European Community to initiate consultations and negotiations with the United States under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

Whereas the European Community is continuing to consider a Commission proposal to impose a domestic consumption tax on vegetable oils and fats, including soybean products imported from the United States;

Whereas the European Community has agreed in the GATT that it will impose no import duties on soybeans, soybean products, corn gluten feed, and other corn byproducts, and such zero-tariff bindings were agreed to in return for United States trade concessions to the European Community during earlier rounds of trade negotiations;

Whereas the proposed restrictions and tax would impair access for U.S. agricultural products to European Community markets, adversely affect the economic livelihood of U.S. farmers and related industries, and shift the financial burden of needed adjustments in the European Community Common Agricultural Policy from the European Community to other countries;

Whereas the proposed restrictions and tax would have a negligible effect in resolving current European Community budget difficulties, and both the Administration and Congress have repeatedly urged the European Community to develop internal solutions to the fiscal problems caused by its domestic agricultural policies;

Whereas there appears to be no sound economic justification for the proposals to restrict imports of these products and impose the tax; and

Whereas action by the European Community to breach these negotiated concessions is a highly protectionist act that is very damaging to U.S. trade interests: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the Administration should continue to firmly oppose imposition of any restriction by the European Community on imports of nongrain feed ingredients, including corn gluten feed, as an attempt to shift to other countries part of the cost of its domestic agricultural policies;

(2) imposition of a consumption tax on vegetable oils and fats by the European Community would restrain trade and violate the tariff bindings in the GATT on soybeans and soybean products; and

(3) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable oils and fats, including soybean products, the United States should immediately impose trade restrictions on a sufficient volume of European Community exports to the United States to reestablish the balance of concessions under GATT.

Sec. 2. The Secretary of the Senate shall transmit copies of this Resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the United States Trade Representative, the Head of the Delegation of the European Community to the United States, and the Ambassadors to the United States for each of the member states of the European Community.

● Mr. BOSCHWITZ. Mr. President, it is unfortunate that today, once again, the agriculture trade problems between the United States and the European Community (EC) must come before the Senate. It is unfortunate because we have tried to communicate our concerns about their policies which negatively affect our agricultural exports. Either they do not care what we think, or else they just have not bothered to listen.

The issue of the hour centers on our 3.7 million metric tons of corn gluten feed exports to the EC. That is about $700 million worth of product.

The EC has requested formal consultations through the GATT to discuss restricting the entry of corn gluten feed, perhaps to as little as 3 million metric tons. This would change the current zero-duty level which was established during the Kennedy round of negotiations in the early 1960's. The United States paid for this concession by granting offsetting concessions to the EC.

Is $700 million worth of trade an important item for the Senate to discuss? I think so, Mr. President. We have to remember that corn gluten feed represents the tip of the iceberg. If the rules governing its importation are changed by the EC, our agricultural community has reason to believe that they will subsequently move to restrict oilseeds and their products. That could severely damage our $4 billion of soybean trade with the EC.

It is for those reasons that I and several of my colleagues are submitting a resolution opposing the adoption of trade restrictions on corn gluten feed and soybeans and their products. It also asks the U.S. administration to engage in meaningful retaliation if the EC acts.

Mr. President, some Senators may ask, "Is the EC threatening this unreasonable and confrontational move in response to some previous action by the United States? Have we done something so egregious with our agricultural trade policy that these proposals by the EC are fitting and proper in return?"

The answer is unequivocally no. The United States has done nothing to deserve this treatment. Quite the contrary, during a time of greatly increasing world agricultural surpluses, we took 80 million acres of land out of production with PIK while other countries continued to expand their production. The EC and other major exporters have increased their share of world agricultural export markets while our share has declined. Clearly, the EC is threatening to throw the first stone in what could turn out to be a long and costly agricultural trade battle.

It is right that we, as Senators, should call upon the EC to turn from that course before it is too late. I urge all Senators to join us in this effort.●

● Mr. DIXON. Mr. President, I am pleased to join the chairman of the Subcommittee on Foreign Agricultural Policy of the Senate Committee on Agriculture, Nutrition, and Forestry, Mr. **Boschwitz**, in submitting this sense of the Senate resolution. The resolution expresses the Senate's strong opposition to the proposal being made to modify the common agricultural policy of the European Economic Community.

This resolution is straightforward and to the point. First, it states that the administration should continue to firmly oppose any restriction by the EC on imports of nongrain feed ingredients, including corn gluten feed.

Second, it states that any imposition of a consumption tax on vegetable oils and fats by the EC would restrain trade and violate the tariff limits in the General Agreements on Tariff and Trade (GATT) on soybeans and soybean products.

Third, the resolution expresses the sense of the Senate that if unilateral action is taken by the EC to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable oils and fats, including soybean projects, the United States should immediately impose trade restrictions on a sufficient volume of EC exports to the United States to reestablish the balance of concessions under GATT.

I would have hoped this resolution would not be necessary, but the EC's latest action leaves us no choice.

The EC in April of this year informed the Directorate of the General Agreements on Tariffs and Trade of its intention to restrict the amount of corn gluten feed presently imported duty free from the United States. Any imports in excess of an established amount would be subjected to an import duty. It has been estimated this amount could be as low as 3.0 million metric tons.

The United States exported over 3.6 million tons of corn gluten feed to the EC in 1983 at a value of over $560 million. Under GATT rules, these imports, as well as the import of a number of other protein materials, are duty free under agreements reached during the Kennedy round of multilateral trade negotiations. The recent proposal by the EC violates both the spirit and the letter of GATT and the fundamental purposes of international trade negotiations.

Of equal concern is the possible imposition by the EC of a consumption tax on vegetable oils and fats. Even though action on an oils and fats tax does not appear as imminent as do the corn gluten restrictions, any decision on corn gluten will establish a precedent which could adversely affect U.S. soybean exports.

In 1982, nearly half of the U.S. $8.4 billion in soybean and soybean product exports was exported to the EC, where it entered duty free. This represents over 10 percent of our agricultural exports. If the proposed tax on oils and fats is implemented, we will lose much of the EC soybean and soybean products market.

The net effect of this proposal would be a loss of soybean and soybean meal exports by the United States. This would correspond to a reduction in price to the American and Illinois soybean farmer.

Mr. President, this is the third time in 2 years that the U.S. Senate has had to respond to proposed reforms by the EC which have threatened our markets.

It is imperative that the U.S. Senate be on record objecting to the potential threat by the European Economic Community that would further restrict our access to the EC market.

It is also imperative that our trading partners understand that we will no longer stand idly by and watch our markets being attacked and threatened.

Mr. President, I urge my colleagues to join me in this effort by supporting this sense of the Senate resolution.●

● Mr. HUDDLESTON. Mr. President, I am pleased to join a number of my colleagues in submitting this resolution, which expresses the opposition of the Senate to certain proposed import restrictions by the European Community.

The resolution relates to proposed modifications of certain import and tax policies of the European Community that will unfairly restrict U.S. agricultural imports to Europe to protect the domestic agricultural economies of EC members. If adopted by the Council of Ministers of the European Community, the modifications will put severe stresses on the mutually productive trade relationship that the United States and the European Community have enjoyed for many years, and, most certainly, create real problems for U.S. farmers.

In April of this year, the European Community informed the Directorate of the General Agreement on Tariffs and Trade (GATT) of its intention to restrict the amount of nongrain feed ingredients, including corn gluten, imported duty free from the United States. Any imports in excess of an established amount, which might be as little as 3 million metric tons, will be subject to an import duty. The United States exported over 3.7 million tons of corn gluten feed to the European Community in 1983 at a value of $700 million.

Also, the European Community has proposed the imposition of a consumption tax on vegetable oils and fats. Even though action on an oils and fats tax does not appear as imminent as do the corn gluten restrictions, any decision on corn gluten will establish a precedent that could adversely affect U.S. soybean exports.

The resolution expresses the sense of the Senate that the proposed imposition of restrictions on nongrain feed ingredients should be vigorously opposed by the U.S. Government, that the proposed tax on vegetable oils and fats would restrain trade and violate GATT principles, and that strong countermeasures should be implemented if the import restrictions or tax are adopted by the European Community Council of Ministers.

U.S. farmers are in financial trouble. Following 2 years of disastrously low prices, many farmers experienced severe hardship from the drought last summer. The serious financial problems facing farmers are being compounded by a contraction in export markets.

In fiscal year 1983, agricultural exports declined for the second consecutive year—to $34.5 billion, which is some $9 billion below the value of agricultural exports in 1981.

We must reverse this trend toward reduced export sales. To do this, we must work to preserve the ability of U.S. farmers to sell their products abroad.

Last year, on October 17, the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry held a hearing on trade with Europe. This hearing established the importance of the European market to U.S. farmers and exporters; and the testimony of farm leaders, as well as that of the administration, clearly indicated that the Government of the United States should strongly oppose the proposed modifications in EC policy.

Last year, both the Senate and the House passed resolutions—Senate Resolution 233 and House Resolution 322—that expressed congressional objections to the proposed import restrictions. Despite these expressions of firm opposition, the European Community has yet to disavow its intentions to proceed with the proposals to limit corn gluten and similar imports. Instead, the European Community has moved even closer to imposing the restrictions.

Mr. President, we must not sit back and allow our agricultural producers and exporters to be put at a disadvantage by protectionist trade and tariff practices of other countries.

The costs to governments and consumers of such protectionist policies are great because they distort patterns of trade and divert resources from better economic uses. No one gains from such inefficiencies.

I am hopeful that the Council of Ministers of the European Community will reject the ill-advised proposals of the Commission. I urge my colleagues to support this resolution that reaffirms the strong position of the Senate in this regard.●

## AMENDMENTS SUBMITTED

### OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### PROXMIRE AMENDMENT NO. 3183

(Ordered to lie on the table.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes; as follows:

On page 41, strike out lines 1 through 20. Renumber the following sections accordingly.

### PERCY (AND DIXON) AMENDMENT NO. 3184

Mr. PERCY (for himself and Mr. Dixon) proposed an amendment to the bill S. 2723, supra; as follows:

On page 15, between lines 12 and 13, insert the following new subsections:

(c) The Secretary of the Air Force shall utilize the personnel strength for the Air National Guard of the United States authorized by subsection (a) to establish and maintain in the Air National Guard of the United States during fiscal year 1985 not less than 91 flying units.

(d) It is the sense of the Congress—

(1) that the Air Force should, at the earliest practicable date, provide modern replacement aircraft for those Air National Guard units currently using OA-37 Dragonfly aircraft in order to fulfill the Forward Air Controller (FAC) mission of the Air National Guard; and

(2) that the United States should not sell or otherwise provide to any foreign country any OA-37 aircraft currently assigned to an Air National Guard unit unless the unit to which such aircraft is assigned is in the process of converting to the use of a more modern aircraft or unless the OA-37 aircraft to be sold or otherwise provided to a foreign country has been replaced with an OA-37 from the stocks of the Air Force.

### LEVIN AMENDMENT NO. 3185

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

#### PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

Sec. 1019. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to takes their vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon the return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sales and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United States for their personal use while assigned to duty stations in this country; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out is subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the personal vehicles of members of the Armed Forces of the United States brought into Japan for their personal use while stationed in Japan.

(c) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report on the actions taken as a result of subsection (b). The report shall include—

(1) a description of the negotiations carried out with the Government of Japan, if any; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain the agreement described in subsection (b).

### WARNER (AND OTHERS) AMENDMENT NO. 3186

Mr. WARNER (for himself, Mr. Tsongas, Mr. Pressler, Mr. Exon, Mr. Nunn, Mr. Bingaman, Mr. Levin, Mr. Percy, Mr. Heinz, Mr. Cohen, and Mr. Mitchell) proposed an amendment which was subsequently modified to the bill S. 2723, supra; as follows:

On page 122 of the bill, strike section 1013 and insert the following:

Sec. 1013. Section 1235 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 695) is amended to read as follows:

Sec. 1235. (a) Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations on antisatellite weapons consistent with national security interests of the United States;

(2) that, pending agreement or strict limitations, testing of explosive or inert antisatellite warheads against objects in space by the United States is necessary to avert clear and irrevocable harm to the national security;

(3) that such testing will not constitute an irreversible step which will gravely impair prospects for negotiations on antisatellite weapons; and,

(4) that such testing is fully consistent with rights and obligations of the United States under the Anti-Ballistic Missile Treaty of 1972 as those rights and obligations exist at the time of such testing.

(b) The President shall submit with any certification made under this section an unclassified report, with any necessary classified annexes, justifying his certification and addressing:

(1) the current state of Soviet antisatellite weapon activity;

(2) the vulnerability of present and future U.S. satellites and ground-links to Soviet antisatellite weapons and proposed steps to make them less vulnerable, to include costs and dates such steps can be implemented;

(3) the verifiability of various possible agreements banning or limiting antisatellite weapons following any planned reductions in the vulnerability of U.S. Satellite Systems; and,

(4) the specific proposals he is prepared to endorse for possible further negotiations or discussions with the Soviet Union.

(c) The prohibition on the expenditure of funds provided for in this section shall be removed only when the certifications and reports referred to in subsections (a) and (b) have been received by the Congress and 30 days of session of Congress have expired following the date on which such certifications and reports have been received. In computing the 30 day period, the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of such 30 day period.

## WALLOP AMENDMENT NO. 3187

Mr. WALLOP proposed an amendment to amendment No. 3186 proposed by Mr. WARNER (and others) to the bill S. 2723, supra; as follows:

Add the following to the end of the amendment pending:

(d) Notwithstanding any provision continued in this section, nothing shall be construed to limit the ability of the President to act in a manner consistent with the national security interests of the United States.

## DIXON AMENDMENT NO. 3188

Mr. DIXON proposed an amendment to the bill S. 2723, supra, as follows:

On page 6, line 19, strike out "(1)" and insert in lieu thereof "(2)".

On page 6, line 20, strike out "failed" and insert in lieu thereof "fails".

On page 6, lines 22 and 23, strike out "additional cameras" and insert in lieu thereof "10 cameras for the fourth year".

On page 7, line 2, strike out "(1)" and insert in lieu thereof "(2)".

On page 7, line 5, insert "for the fourth year" after "cameras".

On page 7, lines 14 and 15, strike out "additional cameras" and insert in lieu thereof "10 cameras for the fourth year".

## AUTHORITIES FOR COMMITTEES TO MEET

### SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be deemed to have been authorized to meet during the session of the Senate on Tuesday, June 12, at 10 a.m., in closed session to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be deemed to have been authorized to meet during the session of the Senate on Tuesday, June 12, at 10 a.m., to hold an oversight hearing on S. 2568, the Civil Rights Act of 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be deemed to have been authorized to meet during the session of the Senate on Tuesday, June 12, at 2 p.m., to hold a hearing entitled "Protecting and Promoting Religious Rights in Eastern Europe and the Soviet Union."

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

## THE SELF-TAX PLAN ACT OF 1985

● Mr. QUAYLE. Mr. President, in December the administration will present the Congress with the results of a major study on tax simplification and tax reform. Many bills have already been introduced in both Houses of Congress dealing with these issues and important groups throughout the country are studying various alternatives.

I believe that Congress and the administration will seriously tackle the issue of tax simplification in 1985. For this season, I plan to reintroduce my own proposal, S. 1040, the SELF-Tax Plan Act, early next year. This proposal, one of the earliest introduced as a blueprint to achieve major simplification of the individual income tax, has been analyzed by the Joint Committee on Taxation. Unlike other proposals now before the Congress, its impact on income distribution among different classes of taxpayers has been released to the public.

I believe the SELF-tax, with certain modifications, presents a workable model of an income tax system which is simple to understand and administer, efficient in its effect on the distribution of economic resources, has low marginal tax rates, and is fair to taxpayers of all incomes (SELF): The SELF-tax which I will propose next year retains all of these features and is revenue neutral—collects about the same amount of revenue as current law.

### REASONS FOR THE SELF-TAX: THE NEED TO STRENGTHEN SAVING AND INVESTMENT

Reforming the present U.S. tax system will help reinvigorate the U.S. economy and maintain a high level of economic growth.

The world population—now 4 billion—is competing for a limited pool of resources. The United States must develop and rapidly apply new technologies, pursue aggressive marketing practices, modernize its industry, and retrain its work force if it is to succeed in this increasingly competitive world.

The U.S. economic pie is simply not large enough to permit the level of consumer expenditure to which we have become accustomed, and still provide for the modernization of our infrastructure—roads, bridges, et cetera—and capital plant necessary for us to remain competitive. Over the 1970's, we did not maintain our position. One consequence was that U.S. productivity growth rates per employed person were the lowest of any industrialized Western nation over the 1960-79 period.

Productivity growth results from the decisions of individuals and businesses concerning saving and investment—decisions which are substantially influenced by Government policies. For example, Government fiscal policies leading to persistently high levels of deficit have the effect of accelerating inflation which, in turn, discourages saving and investment. During periods of inflation, individuals and businesses understand that the value of their resources is eroding. In such periods, when liquid resources are losing their value, the most rational means of maximizing income is to consume it as quickly and efficiently as possible. Saving and investment, especially for long-term projects such as technological modernization and industrial expansion, naturally suffer and decline in inflationary periods.

The U.S. tax structure is a major factor inducing Americans to consume in the short term rather than to save. Rather than putting resources into financial investments that could lead to new plant and modernization, we have instead put much of our investments into housing and other durable goods. This is largely due to the favorable tax treatment of housing and to a lesser extent, durable goods, provided by the U.S. Tax Code.

Some recent changes to the tax system, such as the introduction of accelerated depreciation and the expansion of individual retirement accounts (IRA's) have helped to reduce the bias toward consumption. One provision of the Windfall Profits Tax Act of 1980, which was intended to stimulate savings, increased the interest income deductible to $200, but this provision was phased out under the Economic Recovery Tax Act (ERTA) of 1981.

The effect of current tax laws on business has been similar to the effect on individuals: the host of tax preferences which have been added to the Tax Code over the years create a wide disparity in effective tax rates across industries. Under 1981 law effective tax rates ranged from −12.6 percent on commercial banks to +39.7 percent on apparel companies. This dispersion of 52.3 percentage points in the tax burden imposed on different industries is far from the neutral corporate tax which would minimize the economic inefficiency of the tax system. Fortunately, since 1981, tax policy has moved in the direction of less dispersion among effective tax rates.

Each of the tax expenditures in the current law was added to meet a specific national need felt at the time of enactment. Unfortunately, the net result of all of these preferences taken together has been to reduce the effective tax rates imposed upon corporations in a haphazard way. Some of these tax expenditures apply only to particular industries, such as the expensing and depletion provisions for mineral extraction industries. Other tax expenditures apply generally, such as the investment tax credit and accelerated depreciation. But even these provisions differentially favor those industries that happen to use relatively more depreciable capital.

Capital responds to this preferential tax treatment by flowing to the most tax-favored industries, where the after-tax rates of return are greater. This flow continues until after-tax returns in the tax-preferred industries are bid down to equality with those industries that are more heavily taxed. The result is that the Nation's capital stock is misallocated; there is too much investment in the tax-favored industries and not enough in the others. The value of our total income is therefore reduced; we would produce more output according to society's valuation if there were no tax preferences and tax rates were equal across industries.

For business, as for individuals, the need for higher tax rates imposed by the tax expenditures creates a vicious cycle. The higher the statutory tax rates, the greater is the incentive to take advantage of preferences and shelters. Over time, there is ever-increasing pressure for the creation of new tax expenditures. Eliminating most tax preferences and reducing the tax rate both cut this vicious cycle.

Another major cost incurred by the present tax system is that by allowing interest expense deductibility and the double taxation of dividends it creates a bias toward debt versus equity finance. This increases a given corporation's exposure to the risks of bankruptcy from which society may suffer major economic loss.

One cannot reasonably expect the Rube Goldberg design of our tax system to inspire the taxpayer respect needed to make it work. It does not. Tax avoidance, more and more consumptionism, inefficient and noneconomic activities by both individuals and businesses are all motivated by a desire to avoid the presently high official marginal rates of taxation. Meantime, for the Federal Government, the shortfall of revenues is becoming extreme.

### THE SELF-TAX PLAN ACT OF 1985

Strengthening the economic expansion now taking hold requires that the U.S. Government give major priority to developing policies which consciously begin to foster saving, investment, and real economic growth for the 1980's and 1990's. In an effort to provide a basis for discussion of simplification of the Tax Code, next year I will introduce in the Senate the SELF-Tax Plan Act of 1985. SELF stands for the overriding principles in taxation: simplicity, efficiency, low tax rates, and fairness. This means:

People should be able to understand the basic requirements of the tax law and how to file their returns by themselves, without need for professional assistance.

All income should be taxed as equally as possible, with some consideration given to ability to pay. People who earn the same income should pay the same tax.

The poor should not be taxed at all, and we should be careful to establish this standard fairly generously.

Specific preferences and subsidies should be removed from the Tax Code; economic policy should be addressed directly and not through incomprehensible tax manipulations.

What I am advocating is a return to a relatively simplified, low-rate, moderately progressive tax structure. My plan, which will raise roughly the same amount of revenue as under current law, establishes low-rate tax schedules while broadening the tax base. Under the SELF-tax, most special tax subsidies and preferences would be eliminated from the Internal Revenue Code.

Under the SELF-tax, income subject to tax would include:

Adjusted gross income—per the present law;

One hundred percent of capital gains and capital losses—subject to the current $3,000 per year limit on capital losses;

Government transfer payments;

Half of social security benefits for high income taxpayers—per current law; and

Employer benefits currently not taxed—under both the income and payroll tax;

Present law treatment would be retained for all items not mentioned above, particularly interest on State and local bonds, IRA and Keogh contributions and the taxation of social security benefits. The present law provision for indexing tax brackets for inflation would still be applied under the SELF-tax.

The aged and blind exemptions would be repealed. The zero bracket amount (ZBA) would be increased to $10,000 on joint returns and to $6,000 on single and head of household returns. The present personal exemption of $1,000 would be retained. All tax credits would be repealed and all itemized deductions would be repealed, except the following which will be retained.

Charitable contributions—for itemizers and nonitemizers, as per current law;

Home mortgage interest; and

Medical expenses—if they exceed 5 percent of AGI, as per current law.

The marriage penalty would be ended by permitting optional separate filing to two-earner married couples. Those who elect optional separate filing would split their unearned income, exemptions, and excess itemized deductions equally between both spouses.

Under the SELF-tax, a married couple filing jointly would not have to pay tax on any income up to $10,000 and would, in addition, receive a personal exemption of $1,000 per person. A family of four could thus earn $14,000 free of tax under this plan; no poor family would pay any tax. Wealthier taxpayers would pay somewhat higher rates of tax than average or lower income taxpayers.

As shown in table 1, the SELF-tax basic schedule has four tax brackets. For single individuals, income under $6,000 would not be taxed; between $6,000 and $20,000 the tax rate would be 15 percent; between $20,000 and $30,000 the rate would be 24 percent; and over $30,000 the tax rate would be 30 percent. For married taxpayers filing jointly, income below $10,000 would not be taxed; between $10,000 and $24,000 the rate would be 15 percent; between $24,000 and $45,000 the tax rate would be 24 percent; and over $45,000 the tax rate would be 30 percent. No taxpayer would pay a higher rate than 30 percent.

Certain important features of the SELF-tax of 1985 deserve iteration. First, the poor are not to be subject to tax. The schedule includes a relatively high zero-bracket. Currently, the officially defined poverty level is about $9,000 per year for a family of four; the average value of transfer payments received by the same size family is now estimate to be equal to about $5,000 per year.

Under the SELF-tax, with its ZBA of $10,000 and $1,000 personal exemption, families officially defined as poor would pay no tax. This is a great improvement over present law, which taxes the working poor with incomes as low as $3,300 for singles and $5,400 for couples, but exempts all transfer income. That creates a bias against work. My bill rectifies that bias by treating transfers and wages identically, while keeping the threshold on taxable incomes high enough to exempt the working as well as nonworking poor.

TABLE 1.—SELF-TAX PLAN: TAX SCHEDULES

SCHEDULE I. SINGLE TAXPAYERS WHO DO NOT QUALIFY FOR RATES IN SCHEDULES II AND III

| If taxable income is: | The tax is: |
|---|---|
| Not over $6,000 | No tax. |
| Over $6,000 but not over $20,000. | 0 plus 15% of excess over $6,000. |
| Over $20,000 but not over $30,000. | $2,100 plus 24% of excess over $20,000. |
| Over $30,000 | $4,500 plus 30% of excess over $30,000. |

SCHEDULE II. (A) MARRIED TAXPAYERS FILING JOINT RETURNS, (B) CERTAIN WIDOWS AND WIDOWERS

| If taxable income is: | The tax is: |
|---|---|
| Not over $10,000 | No tax. |
| Over $10,000 but not over $24,000. | 0 plus 15% of excess over $10,000. |
| Over $24,000 but not over $45,000. | $2,100 plus 24% of excess over $24,000. |

| If taxable income is: | The tax is: |
|---|---|
| Over $45,000 | $7,140 plus 30% of excess over $45,000. |

SCHEDULE III. UNMARRIED (OR LEGALLY SEPARATED) TAXPAYERS WHO QUALIFY AS HEADS OF HOUSEHOLD

| If taxable income is: | The tax is: |
|---|---|
| Not over $6,000 | No tax. |
| Over $6,000 but not over $22,000. | 0 plus 15% of excess over $6,000. |
| Over $22,000 but not over $35,000. | $2,400 plus 24% of excess over $22,000. |
| Over $35,000 | $5,520 plus 30% of excess over $35,000. |

SCHEDULE IV. MARRIED INDIVIDUALS FILING SEPARATE RETURNS

| If taxable income is: | The tax is: |
|---|---|
| Not over $5,000 | No tax. |
| Over $5,000 but not over $12,000. | 0 plus 15% of excess over $5,000. |
| Over $12,000 but not over $22,500. | $1,050 plus 24% of excess over $12,000. |
| Over $22,500 | $3,570 plus 30% of excess over $22,500. |

SCHEDULE V. ESTATE AND TRUST

| If taxable income is: | The tax is: |
|---|---|
| Not over $7,000 | 15% of taxable income |
| Over $7,000 but not over $17,500. | $1,050 plus 24% of excess over $7,000. |
| Over $17,500 | $3,570 plus 30% of excess over $17,500. |

The SELF-tax recognizes the needs not only of the poor, but of all American families generally. The provision for a personal exemption of $1,000 per person is designed to be equitable to families incurring the cost of raising children and supporting other dependents who have no income. These provisions plus the SELF-tax's elimination of the current marriage penalty recognize the differential costs of single compared to married taxpayers, and provide a fairer approach to taxing the family than does current law.

The SELF-tax retains a small number of deductions now available under current law, because these provisions are very important to many Americans and reflect values that should be encouraged in American society.

The deduction for charitable contributions is retained because of the importance of charitable giving to many of our most treasured institutions—schools and universities, museums, hospitals, research organizations, community service groups, and religious institutions all depend heavily on charitable donations. A major change in the tax treatment for charitable giving could have an adverse effect on these organizations. I believe that Government should provide a stable tax environment for our charities and for this reason, the SELF-tax will retain the deduction for charitable giving.

Similarly, the home mortgage interest deduction is extremely important to many American taxpayers. Also, the health of the home building industry is vital for the rest of the economy, and the home mortgage deduction has been an important feature of our Government's policy of supporting the expansion of home ownership in the United States. I believe, as with the charitable deduction, that Government policies must provide a stable predictable tax treatment for such an important industry. For these reasons, the SELF-tax will retain the current law deduction for home mortgage interest.

The medical expense deduction is retained under the SELF-tax because it is the only provison in current law that allows some relief for persons and families incurring very high medical costs. I believe this is a reasonable and compassionate policy, especially in view of the fact that the SELF-tax's expansion of the tax base will result in taxation of employer paid benefits, including health insurance.

Other features retained by the SELF-tax—IRA's, Keogh's, and indexation of tax rates—are recent additions to the Tax Code designed to encourage saving and investment and to protect middle-income taxpayers from bracket creep due to inflation. I believe these provisions and policies should be supported and encouraged.

The SELF-tax retains current law treatment for State and local bonds, as well as for all retirement-related provisions. As with the other exceptions, I believe it is essential that we maintain a stable predictable tax treatment in these areas.

WINNERS AND LOSERS UNDER THE SELF-TAX

The SELF-tax presents a good illustration of who the winners and losers would be under a simplified rate income tax which basically retains only the home mortgage, charitable, and medical expense deductions. The tables below show the effects of the SELF-tax as estimated by the individual income tax calculator model used by the Treasury Department and the Joint Committee on Taxation.

As table 2 shows, current law rate schedules—for both the income and payroll tax—and other provisions for 1984 would yield revenues of $454.76 billion. The SELF-tax would yield $449.2 billion, a revenue loss of $5.57 billion or 1.2 percent.

This revenue loss is distributed quite evenly over a wide income range. For returns with expanded incomes—that is, adjusted gross income, or AGI, plus tax preferences less investment interest to the extent of investment income—between $10,000 and $20,000, tax liability decreases by less than 8 percent; for all other income classes the change is less, varying between +4.6 percent and −5.6 percent. Even the very lowest—under $10,000—and highest—over $200,000—income classes show small percentage changes—+2.9 percent and −5.6 percent, respectively.

TABLE 2.—DISTRIBUTION OF TAX LIABILITIES UNDER PRESENT (1982) LAW AND THE SELF-TAX (INCOME AND PAYROLL TAX)

[Dollar amounts in billions]

| Expanded income | Tax liability | | | Change |
|---|---|---|---|---|
| | Current | SELF-tax | Amount | Percent |
| 0 to $10,000 | $53.13 | $54.68 | $1.54 | 2.9 |
| $10,000 to $20,000 | 78.40 | 72.44 | −5.97 | −7.6 |
| $20,000 to $30,000 | 101.88 | 98.75 | −3.13 | −3.1 |
| $30,000 to $40,000 | 79.97 | 80.15 | .18 | .2 |
| $40,000 to $50,000 | 45.37 | 46.16 | .79 | 1.7 |
| $50,000 to $75,000 | 39.72 | 41.56 | 1.83 | 4.6 |
| $75,000 to $100,000 | 15.71 | 16.32 | .60 | 3.8 |
| $100,000 to $200,000 | 22.16 | 21.77 | −.39 | −1.8 |
| $200,000 plus | 18.40 | 17.37 | −1.03 | −5.6 |
| Total [1] | 454.76 | 449.20 | −5.57 | −1.2 |

[1] May not add due to rounding.

This minimal change in distribution is in marked contrast to flat-rate income tax proposals. Current-law rates are progressive—collect more tax as a percent of income from upper-income returns than from lower-income returns. Thus, flat-rate plans invariably cut the percentage of total tax paid by the top income groups and raise it for those in the middle and sometimes at the bottom, depending on exemption levels. The SELF-tax achieves substantial simplification of brackets, deductions, and credits. Yet, as table 3 shows, the share of total tax paid by any expanded income class changes by less than 1 percentage point for all income classes except the $10,000 to $20,000 group and that class changes by only −1.11 percent—see table 3.

These small aggregate changes among income classes mask large gains and losses within each class. As table 4 shows, 54.5 million returns show tax decreases under the SELF-tax, while 55.6 million show tax increases. The average decrease would be $611; the average increase, $500.

Returns with increases and decreases are roughly equal in number overall, but there is considerable variation among income classes. For example, in the under $10,000 income class 36.38 million returns show tax increases while 14.41 million show decreases; the average decrease—$226—is larger by over 70 percent than the average increase—$132. Thirty million of the 36 million returns with increases are attributable to the higher social security tax payments that occur due to the inclusion of employer-paid fringe benefits in the payroll tax base. In the under $10,000 income class, returns with income tax decreases outnumber ones with income tax increases by 16 million to 6 million.

In contrast, in the income class $10,000 to $20,000 tax, decreases—19.51 million—outnumber increases—4.98 million—by nearly 4:1. Decreases also outnumber increases in the $20,000 to $30,000 class by 2:1—11.56 million to 5.64 million.

TABLE 3.—SHARE OF TOTAL TAX PAID BY EACH INCOME CLASS UNDER PRESENT (1982) LAW AND SELF-TAX

| Expanded income | Percent distribution | | |
|---|---|---|---|
| | Current | SELF-tax | Change |
| 0 to $10,000 | 11.68 | 12.17 | 0.49 |
| $10,000 to $20,000 | 17.24 | 16.13 | −1.11 |
| $20,000 to $30,000 | 22.40 | 21.98 | −.42 |
| $30,000 to $40,000 | 17.59 | 17.84 | .25 |
| $40,000 to $50,000 | 9.98 | 10.28 | .30 |
| $50,000 to $75,000 | 8.73 | 9.25 | .52 |
| $75,000 to $100,000 | 3.45 | 3.63 | .18 |
| $100,000 to $200,000 | 4.87 | 4.85 | −.02 |
| $200,000 plus | 4.05 | 3.87 | −.18 |
| Total [1] | 100 | 100 | 0 |

[1] May not add due to rounding.

TABLE 4.—TAX INCREASES AND DECREASES UNDER THE SELF-TAX (1981 INCOME LEVELS; COMPARED TO 1984 PRESENT LAW)

| Expanded income | Tax decrease | | Tax increase | |
|---|---|---|---|---|
| | Returns (million) | Average amount | Returns (million) | Average amount |
| 0 to $10,000 | $14.41 | $226 | $36.38 | $132 |
| $10,000 to $20,000 | 19.51 | 402 | 4.98 | 376 |
| $20,000 to $30,000 | 11.56 | 579 | 5.64 | 633 |
| $30,000 to $40,000 | 5.08 | 772 | 4.25 | 966 |
| $40,000 to $50,000 | 2.02 | 1,158 | 2.08 | 1,501 |
| $50,000 to $75,000 | 1.16 | 1,848 | 1.57 | 2,537 |
| $75,000 to $100,000 | .35 | 3.255 | .39 | 4,470 |
| $100,000 to $200,000 | .35 | 7,382 | .27 | 8,113 |
| $200,000 | .09 | 37,015 | .07 | 36,790 |
| Total [1] | 54.55 | 611 | 55.62 | 500 |

[1] May not add due to rounding.

THE CORPORATE INCOME TAX

Mr. President, the SELF-Tax Plan Act of 1985 presents a carefully analyzed approach to the individual income tax. It is a proposal which has taken several years to develop, indeed, this is the third version of the proposal which I will introduce—in the 97th Congress, the plan was introduced as S. 2557; in the 98th it was introduced as S. 1040.

It is my aim to simplify the corporate income tax as well as the individual tax, much for the same reasons: to provide for lower rates, greater efficiency and a higher degree of fairness across industries and among companies. However, compared to the individual income tax, simplifying and reforming the corporate income tax presents problems of far greater complexity.

On a theoretical level, there has always been a problem with the corporate income tax: in the final analysis a corporate tax is not paid by corporations, but by individuals—customers, workers, and corporate suppliers must share the burden of the corporate tax. This creates a system of double taxation—individuals who must pay the individual income tax also share the burden of the corporate income tax on the same income. The corporate tax, which is extremely uneven across industry, results in major distortions in the allocation of investment, and creates enormous complexity for taxpayers who are presented with numerous opportunities to game the tax structure.

Because the issues are so complex and also because a major study of the tax structure has already been ordered by the President, the SELF-tax will not present a specific proposal for corporate tax reform. The proposal will however, outline a number of principles which I believe will be essential to any successful reform of the corporate income tax. These principles include the following:

THE CORPORATE INCOME TAX SHOULD BE RETAINED

Although well-reasoned arguments against double taxation can be made, I believe the corporation income tax should be retained. Large corporations can make enormous profits, partially because they receive many advantages from their corporate status. The legal concept of the corporation as a legal person and the corporate form protects shareholders as well as corporate officers; legal protection of corporations facilitates the conduct of domestic and international business. The corporate income tax is a reasonable means by which the Federal Government can collect revenues from entities which owe much to the legal stability and protection provided by the Federal Government.

DOUBLE TAXATION SHOULD BE REDUCED OR ELIMINATED

Double taxation need not be continued in as extreme a form as under current law, even if the corporate tax is retained. For example, corporations could be permitted a deduction for dividends paid; thus profits would be taxed to the shareholders, but not to the corporation. Such an approach, and other proposals for reducing the level and impact of double taxation should be seriously studied and evaluated by the Treasury.

THE TAX BURDEN AMONG CORPORATIONS AND ACROSS INDUSTRIES SHOULD BE MADE AS EQUAL AS POSSIBLE

A corporate income tax should tax corporate income as equally as possible, so that investments can be allocated throughout the economy as efficiently as possible. This general principle, fully consistent with the general philosophy underlying the SELF-tax for individuals, implies the following:

There should be a single corporate tax rate for all corporations—regardless of size and industry. Service and financial enterprises should pay the same rate of tax as manufacturing institutions.

The corporate tax rate should be the same as highest individual income tax rate: 30 percent. If the corporate rate was equal to the highest individual rate, there would be no direct incentive built into the tax structure to encourage individuals to set themselves up as corporate enterprises.

All special credits and preferences now enjoyed by specific industries in services, finance and manufacturing should be eliminated because they distort the natural flow of investments.

All corporations should be permitted deductions for ordinary and necessary business expenses, such as interest payments, which permit them to grow and develop as business enterprises.

Present depreciation rules should be amended so they will be equal across industry and equally usable by all sizes of corporation. This implies a move toward expensing—that is, immediate writeoffs for all corporate expenditures and investments. Expensing would be easier to understand and utilized by small as well as large businesses. Expensing should be studied and analyzed with great care by the Treasury Department.

It is possible that the corporate income tax, if it embodied these principles—including the provision that the corporate rate should be equal to the highest individual rate in a reformed individual income tax system, that is, 30 percent as in the SELF-tax—would lose revenue compared to the corporate income tax under current law.

If this is the case, I urge the Treasury to study the possibility of making up the lost revenue by a move to a broad-based consumption tax. A consumption tax would have the effect of encouraging saving and investment while discouraging consumption. Many different kinds of consumption taxes have been proposed—a national sales tax, a value-added tax, a tax on business transactions. Much additional study is needed before choosing the best approach to making up any possible revenue gap.

I urge my colleagues to join me in this effort to restructure the Nation's tax system. Our prospects for economic growth for the rest of this century will depend on how we repair and modernize our basic tax system. Government must raise sufficient revenues to provide necessary services and functions; individuals and businesses must be permitted to pursue their economic goals with a minimum of Government restriction. A major simplification of our tax system is required, provided it is perceived as fair and in tune with the basic values of the American people.●

## PROMPT PAYMENTS BECOMING AN INTERGOVERNMENTAL STANDARD

● Mr. SASSER. Mr. President, paying one's bills on time was such a universal business standard that it hardly deserved to be considered the innovation it was when I called for making it a statutory requirement for Federal agencies through the introduction of S. 30, the Late Payments Act of 1981, on the first day of the 97th Congress. The purpose and content of this legislation is clear and unequivocal: Government ought to pay its bills on time, within 30 days, or face up to interest charges.

Yet, this standard was an initiative. And this initiative, which grew ultimately to be the Prompt Payment Act of 1982 (Public Law 97-177), is yielding more and more results and benefits for those who do business with the Federal Government and State governments, and for those governments themselves.

Kenton Pattie, whose indefatigable efforts as leader of the Slow Pay Coalition—a coalition consisting primarily of small business groups—contributed much toward the enactment of the Prompt Payment Act, recently wrote me to tell me that similar coalition efforts at the State level are producing similar statutes in our Nation's States.

A total of 35 States now have prompt payment laws.

Mr. President, in order that additional information on State prompt payment laws be available for review by my colleagues and others, I ask that Mr. Pattie's letter to me, along with excerpts from an accompanying report, be printed in the RECORD at the conclusion of my remarks.

This report of success on prompt pay laws at the State level follows another encouraging report earlier this year from the Office of Management and Budget (OMB). The OMB reported that, following the first full year of implementation of Public Law 97-177, the Federal Government was paying its bills promptly 99 percent of the time. This compares favorably to a 60-percent prompt payment rate reported in a 1978 study by the U.S. General Accounting Office. The latter rate represented a sorry state of affairs, especially when one considered that the majority of the late payments involved small businesses.

Unlike large corporations, small businesses have neither the administrative personnel available nor the cash-flow capability required to carry overdue accounts for long periods of time. I should note here, to emphasize this point, that even though the Federal Government now has a 99-percent "on time" rate in paying its bills, the remaining 1 percent represents 180,000 overdue bills. Most of these are owed small businesses.

When the financial practices of the Federal Government affect small businesses so directly, I have a special concern: I serve on both the Governmental Affairs Committee, which oversees Federal financial management practices, and the Small Business Committee, which focuses its attention on the special concerns of this country's small businesses and entrepreneurs.

It is in this context that the objective of the prompt payment standard was, and remains, twofold: First, to make certain that those businesses which provide goods and services to Government receive payment in a reasonable period of time; and second, through the prospect of interest charges, to encourage Government agencies to develop and maintain efficient financial management practices.

The improvement from 1978 to 1984 in the rate at which Federal agencies pay their bills on time—from 60 percent to 99 percent—as well as the determined efforts of small businesses in coalition to encourage the enactment of prompt payment legislation by State governments shows that there is substantial progress toward meeting this objective. If such progress continues, I feel confident that the initiative of 1981 will soon become a standard for all levels of government. I welcome such a standard.

The material follows:

NAVA, THE INTERNATIONAL
COMMUNICATIONS INDUSTRIES
ASSOCIATION,
*Fairfax, Va., June 1, 1984.*

Hon. JIM SASSER,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR SASSER: It has been a while since I wrote you about prompt pay laws. A lot has happened:

10 states passed prompt pay laws last year.

8 states passed prompt pay this spring.

Prompt pay is currently pending in 17 state legislatures.

A total of 35 states now have prompt pay laws. By the end of the year, I hope we can report to you on several more.

Meanwhile, in April we published "Prompt Pay Laws Are Succeeding" which documents the fact that prompt pay laws are working. The Prompt Pay Act of 1982, which requires Federal agencies to pay interest penalties when late in paying companies, has been particularly successful.

Of course, there are some problems. Companies still have problems getting paid by the U.S. Navy although Congressman Sisisky is trying to solve the problem. (For more details, call Diane Worthington (225-6365)). Meanwhile, some states with prompt pay laws are passing amendments to tighten up language, raise interest penalties, and strike loopholes.

If you, your staff, or supporters back home need more information about the prompt pay issue, please feel free to contact me. We appreciate your support and encouragement and look forward to continuing to work with you in the months and years ahead.

Sincerely,

KENTON PATTIE,
*Senior Staff Vice President.*

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STATES WITH PROMPT PAY STATUTES

*Adopted prior to 1981*

1. (1) Florida.
2. (2) Hawaii (strengthened by Senate Bill 806 in 1983).
3. (3) Illinois.
4. (4) Massachusetts (limited).
5. (5) Oregon.
6. (6) Arkansas (limited).
7. (7) Michigan (limited).
8. (8) North Carolina (limited).
9. (9) Indiana.

*Adopted in 1981*

1. (10) South Carolina.
2. (11) Washington.
3. (12) North Dakota (strengthened by Senate Bill 2056 in 1983).

*Adopted in 1982*

1. (13) Alaska (limited).
2. (14) Arizona.
3. (15) California.
4. (16) Louisiana.
5. (17) Pennsylvania.
6. South Carolina.

*Adopted in 1983*

1. California.
2. (18) Colorado.
3. (19) Delaware.
4. Illinois.
5. Indiana.
6. (20) Iowa.
7. (21) Maryland.
8. (22) Montana.
9. (23) Nevada (limited).
10. (24) Oklahoma.
11. (25) Rhode Island.
12. (26) Utah.
13. (27) Wyoming.
14. North Dakota.
15. Hawaii.

*Adopted in 1984 (as of April 1984)*

1. (28) Kentucky.
2. (29) Maine.
3. (30) South Dakota.
4. (31) Virginia.

Note.—Out of 50 states, 31 have prompt pay laws as shown by the number in parentheses. The numbers without parentheses show that in addition to passing new prompt pay laws, some states are amending their existing prompt pay statutes to strengthen language, increase interest penalties, and eliminate loopholes.

From: Coalition for State Prompt Pay, Attn: Kenton Pattie, 3150 Spring Street, Fairfax, Va. 22031; 703/273-7200.

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INTEREST PENALTIES PAID BY STATES WITH PROMPT PAY STATUTES

| State | Limitations | Interest |
|---|---|---|
| 1. Alaska | Construction contracts | 10.5% per year. |
| 2. Arizona | | 10.0% per year. |
| 3. Arkansas | Construction contracts | 8.0% per year. |
| 4. California | | |
| 1982 statute | | 0.25% per day. |
| 1983 statute | Nonprofit public benefit corporations. | 0.25% per day. |
| 5. Colorado | | 1.0% per month. |
| 6. Delaware | | 12.0% per year. |
| 7. Florida | | 1.0% per month. |
| 8. Hawaii | | |
| 1977 Statute | | 1.0% per month. |
| 1983 Statute | Subcontractors | None. |
| 9. Illinois | | |
| 1976 Statute | | 1.0% per month. |
| 1983 Statute | | 1.5% per month. |
| 10. Indiana | | |
| 1933 Statute | Highway contracts | 12.0% per year. |
| 1983 Statute | Road or street contracts | 12.0% per year. |
| 1983 Statute | | 1.0% per month. |
| 11. Iowa | | 1.0% per month. |
| 12. Kentucky | | 1.0% per month. |
| 13. Louisiana | | 0.5% per day. |
| 14. Maine | | Current rate charged by a business concern. |
| 15. Maryland | | 10.0% per year. |
| 16. Massachusetts | | |
| 1961 | Construction contracts | Daily interest rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank of Boston. |
| 1977 | Gas and electricity contracts | Penalty according to the terms of the contract. |
| 17. Michigan | Construction contracts | Reasonable interest rate set by contract. |
| 18. Montana | | 0.05% per day. |

### INTEREST PENALTIES PAID BY STATES WITH PROMPT PAY STATUTES—Continued

| State | Limitations | Interest |
|---|---|---|
| 19. Nevada | Construction contracts | Interest rate equal to the lowest daily prime rate at the three largest U.S. banking institutions on the date the contract is executed plus 2.0%. |
| 20. North Carolina | Construction contracts | 1.0% per month. |
| 21. North Dakota | | |
| 1981 Statute | | 1.5% per month. |
| 1983 Statute | | 1.75% per month. |
| 22. Oklahoma | | Annual interest rate set by the State treasurer based on the average of the interest rate for 30-day time deposits of State funds during the last calendar quarter of the last preceding fiscal year. |
| 23. Oregon | | 8.0% per year. |
| 24. Pennsylvania | | Interest rate computed by the secretary of revenue based on interest payments on overdue taxes or the refund of taxes. |
| 25. Rhode Island | | 12.0% per year. |
| 26. South Carolina | | 15.0% per year. |
| 27. South Dakota | | 1.5% per month. |
| 28. Utah | | 15.5% per year. |
| 29. Virginia | | Interest rate shall be the same as the discounted 90-day U.S. Treasury bill rate. |
| 30. Washington | | 1.0% per month. |
| 31. Wyoming | | 1.5% per month. |

From: Coalition for State Prompt Pay, Attn: Kenton Pattie, 3150 Spring Street, Fairfax, Va. 22031; 703/273-7200.

### STATES WITH PENDING PROMPT PAY LEGISLATION

| State | Bill number | Passed House | Passed Senate | Comments |
|---|---|---|---|---|
| 1. Alabama | Senate bill 16 [1] | | | Senate calendar. |
| | House bill 15 [1] | | | House committee. |
| | House bill 60 | | | House committee. |
| 2. Alaska | House bill 506 | X | | Senate committee. |
| 3. Connecticut | House bill 5841 | | | Will be sent to joint House and Senate for a vote. |
| 4. District of Columbia. | Bill 5-120 | | | Government Operations Committee. |
| 5. Georgia | House bill 886 | X | X | Vetoed by Governor. |
| 6. Hawaii | Senate bill 20 | X | X | In Governor Ariyoshi's office. |
| 7. Kansas | Senate bill 295 | X | X | Joint House and Senate Conference Committee. |
| | House bill 2303 | X | | Senate Ways and Means Committee. |
| 8. Massachusetts | House bill 5302 | | | House committee. |
| | Other bills listed in report. | | | Same status as HB 5302. |
| 9. Michigan | House bill 4133 | | | House committee. |
| | Senate bill 13 [1] | | | Senate committee. |
| | House bill 4134 [1] | | | House committee. |
| 10. Minnesota | Senate file 1552 | | | Senate committee. |
| | House file 1373 | | | House committee. |
| 11. Missouri | HCS—House bills 925 and 927. | | | House Budget Committee. |
| 12. New Jersey | Senate bill 185 | | | Senate committee. |
| | Senate bill 186 | | | Senate committee. |
| 13. New York | Assembly bill 8165 | | | Assembly committee. |
| | Senate bill 739 [1] | | | Senate committee. |
| | Assembly bill 872 [1] | | | Assembly committee. |
| 14. Ohio | Senate bill 240 | | X | House committee. |
| 15. Pennsylvania | House bill 1823 | | | House committee. |
| 16. Tennessee | Senate bill 878 [1] | | | Senate committee. |
| | House bill 943 [1] | | | House committee. |
| 17. Virginia | House bill 269 | | | House committee, carried over to 1985 session. |
| | House bill 974 | | | House committee, carried over to 1985 session. |

[1] Companion bills.

From: Coalition for State Prompt Pay, Attn: Kenton Pattie, 3150 Spring Street, Fairfax, Va. 22031; 703/273-7200.

### STATE-BY-STATE SUMMARY: STATUTES AND LEGISLATION

| State | Legislation | Status |
|---|---|---|
| Alabama | Senate bill 16 [1] | Senate calendar for third reading. |
| | House bill 15 [1] | House Ways and Means Committee. |
| | House bill 60 | House Ways and Means Committee. |
| Alaska | 1982 statute (limited). | |
| | House bill 506 | Passed House; in Senate Committee on State Affairs. |
| Arizona | 1982 statute. | |
| Arkansas | 1977 statute (limited). | |
| California | 1971 statute. | |
| | 1982 statute. | |
| | 1983 statute. | |
| Colorado | 1983 statute. | |
| Connecticut | House bill 5841 | Review by legislative commissioner, will be sent to House and Senate for a vote. |
| Delaware | 1983 statute. | |
| District of Columbia. | Bill 5-120 | Government Operations Committee. |
| Florida | 1974 statute. | |
| Georgia | House bill 886 | Vetoed by Governor Harris on April 9, 1984. |
| Hawaii | 1977 statute. | |
| | 1983 statute (payment to subcontractors). | |
| | Senate bill 20 | In Governor Ariyoshi's office. |
| Idaho | None. | |
| Illinois | 1976 statute. | |
| | 1983 statute. | |
| Indiana | 1983 statute (limited). | |
| | 1983 statute (limited). | |
| | 1983 statute. | |
| Iowa | 1983 statute. | |
| | Senate file 458 | Died in Senate committee; carried over from 1983 session. |
| Kansas | Senate bill 295 | Passed the Senate and House with amendments, currently in Joint Senate and House conference committee. |
| | House bill 2303 | Passed House; in Senate Ways and Means Committee. |
| Kentucky | 1984 statute. | |
| Louisiana | 1982 statute. | |
| Maine | 1984 statute. | |
| Maryland | 1983 statute. | |
| Massachusetts | 1961 statute (limited). | |
| | 1977 statute (limited). | |
| | House bill 5302. | Reported out of joint State Administration Committee; in House Ways and Means Committee. |
| | Other Senate and House bills listed in the State-by-State report under Massachusetts. | |
| Michigan | 1981 statute (limited). | |
| | House bill 4133 | House Committee on State Affairs. |
| | Senate bill 13 [1] | Senate Committee on Appropriations and Retirement. |
| | House bill 4134 [1] | House Committee on State Affairs. |
| Minnesota | Senate file 1552 | Senate Committee on Governmental Operations. |
| | House file 1373 | Reported out of House Committee on Commerce and Economic Development; currently in House Tax Committee. |
| Mississippi | House bill 8 | Died in House Appropriations Committee. |
| Missouri | HCS House bills 925 and 927. | House Budget Committee. |
| Montana | 1983 statute. | |
| Nebraska | Legislative bill 959 | Died in general file. |
| Nevada | 1983 statute (limited). | |
| New Hampshire | None—Biennial session—Next legislative session in 1985. | |
| New Jersey | Senate bill 185 | Senate Education Committee. |
| | Senate bill 186 | Senate County and Municipal Government Committee. |
| New Mexico | None. | |
| New York | Assembly bill 8165 | Carried over from 1983; in Assembly Ways and Means Committee. |
| | Senate bill 739 [1] | Senate Finance Committee; carried over from 1983. |
| | Assembly bill 872 [1] | Assembly Governmental Operations Committee; carried over from 1983. |
| North Carolina | 1958 statute (limited). | |
| North Dakota | 1981 statute. | |
| | 1983 statute. | |
| Ohio | Senate bill 240 | Passed the Senate; awaiting House committee assignment. |
| Oklahoma | 1983 statute. | |
| Oregon | 1979 statute. | |
| Pennsylvania | 1982 statute. | |
| | House bill 1823 | House Appropriations Committee. |
| Rhode Island | 1983 statute. | |
| South Carolina | 1981 statute. | |
| | 1982 statute. | |
| South Dakota | 1984 statute. | |
| Tennessee | Senate bill 878 [1] | Carried over from 1983; Senate Finance Committee. |
| | House bill 943 [1] | Carried over from 1983; House State and Local Government Committee. |
| Texas | None—Biennial session—Next legislative session in 1985. | |
| Utah | 1983 statute. | |
| Vermont | None. | |
| Virginia | 1984 statute. | |
| | House bill 269 | Carried over to 1985 session. |
| | House bill 974 | Carried over to 1985 session. |
| Washington | 1981 statute. | |
| West Virginia | None. | |
| Wisconsin | Assembly bill 755 | Died in Assembly Committee on Rules. |
| Wyoming | 1983 statute. | |

[1] Companion bills.

Note.—Copies of these bills or statutes are available from the Coalition for State Prompt Pay.

From: Coalition for State Prompt Pay, Attn: Kenton Pattie, 3150 Spring Street, Fairfax, Va. 22031; 703/273-7230.

### MODEL PROMPT PAYMENT LEGISLATION

(1) It is the policy of this state and commonwealth that all bills owed by state departments, institutions and agencies shall be paid promptly. No state or commonwealth department, institution, agency, or project supported in whole or in part by state or commonwealth funds, shall be exempt from the provisions of this statute.

(2) All bills shall be paid within 30 calendar days of receipt of invoice, except as provided in (3) and (7).

(3) Where the state or commonwealth, or a project sponsored by the state or commonwealth funds, purchases meat and meat products, fish and shellfish, edible fresh or frozen poultry, poultry meat food products, fresh eggs and perishable egg products, bills shall be paid within 7 calendar days. Payments for groceries, vegetables, fresh fruit, and other perishables shall be made within 10 calendar days. For other industries with common payment practices of less than 30 calendar days, the state or commonwealth shall comply with the industry terms.

(4) Interest penalties shall be paid automatically when bills become overdue. It shall be up to each state or commonwealth agency, and each project administering state or commonwealth funds, to calculate and pay interest automatically at the time payment is made on the principal. Interest payments shall accompany payment of net due for goods and services. Agencies shall not require companies to petition, invoice, bill, or wait any additional days to receive interest due.

(5) Partial payment shall be made on partial deliveries. Each complete item or service must be paid for within 30 calendar days or in accordance with (3) above.

(6) All proper deliveries and completed services shall be received or accepted promptly and proper receiving and acceptance reports shall be forwarded to payment offices within 3 days of delivery of goods or completion of service.

(7) Payment shall be due on the date on which the agency actually receives the invoice or receives the goods or services, whichever is later. The 30, 10, and 7 calendar day periods shall be considered as "grace periods" during which all proper invoices shall be paid.

(8) The rate of interest paid by the state or commonwealth shall be the one commonly charged to all the vendor's customers. The rate of interest charged by the vendor may be equal to the vendor's cost of short-term money, but not higher.

(9) Unpaid interest penalties owed to vendors shall compound every month.

(10) These rules shall apply to all purchases, leases, rentals, contracts for services, construction, repairs, and remodeling.

(11) No discount offered by a vendor shall be taken by the state or commonwealth, or by a project manager administering a state or commonwealth-supported project, unless full payment is made within the discount period. In the event a discount is taken later, interest shall accrue on the unpaid balance from the day the discount offer expired.

(12) Interest shall be paid from funds already appropriated to the offending department, institution or agency or granted to the state or commonwealth-supported project. If more than one department, institution or agency has caused a late payment, each shall bear a proportional share of the interest penalty. No interest shall be charged directly back to the state or commonwealth's general funds.

(13) In instances where an invoice is filled out incorrectly, or where there is any defect or impropriety in an invoice submitted, the state or commonwealth department, institution, agency, or the state or commonwealth-supported project, shall contact the vendor in writing within 10 days of receiving the invoice. An error on the vendor's invoice, if corrected by the vendor within 5 working days of being contacted by the agency, shall not result in the vendor being paid late.

(14) Checks shall be mailed or transmitted on the same day for which the check is dated.

(15) This statute authorizes no new appropriation to cover interest penalties. Neither state or commonwealth departments, institutions and agencies nor state or commonwealth-supported projects shall seek to increase appropriations for the purpose of obtaining funds to pay interest penalties.

(16) Payment of interest penalties may be postponed when payment on principal is delayed because of disagreement between the state or commonwealth and the vendor. However, in the event of a dispute, the dispute shall be settled within 30 days after interest penalties could begin to be assessed. At the resolution of any dispute, vendors shall automatically receive interest on all proper invoices not paid for as provided in (2) within 30 calendar days (or within 7 calendar days in the case of meat and meat products (as defined in (3)), or within 10 calendar days for groceries, vegetables, fresh fruit and other perishables).

(17) On small purchases of $500 or less, the state of commonwealth, or state or commonwealth-supported project, shall wherever possible: (A) make payment by cash-on-delivery, or (B) make payment by 10 calendar days after receipt or acceptance of the goods.

(18) This statute shall in no way be construed to prohibit the state or commonwealth from making advanced payments, progress payments, or from prepaying where circumstances make such payments appropriate. All such payments shall be made promptly and are subject to interest penalties when payment is late. Where construction, repair and remodeling payments are subject to retainage, interest penalties shall accrue on retained amounts beginning 30 calendar days after work is completed by the contractor(s) unless otherwise provided by contract.

(19) Each department, institution and agency head shall be responsible for prompt payments. In all instances where a payment is made late, the head of the state or commonwealth agency shall submit to the proper committee of the state or commonwealth legislature an explanation of why the bill is paid late and what is being done to solve the late payment problem.

(20) Whenever a vendor brings formal administrative action or judicial action to collect interest due under this act, should the vendor prevail, the state or commonwealth is required to pay any reasonable attorney fees.

(21) State or commonwealth agencies making purchases for projects using Federal funds shall make no purchases without final assurance of Federal funds to cover cost of purchases. Where the date of payment to vendors is contingent on the receipt of Federal funds or Federal approval, the solicitation of bids for contracts and any contracts awarded shall clearly state that payment is contingent on such conditions.

(22) Each January, the Governor shall submit a report to the state or commonwealth legislature summarizing the state or commonwealth's payment record for the preceding year. Included in the report shall be (A) the number and dollar amount of late payments by department, institution and agency, (B) the amounts of interest paid, (C) the percents (A) and (B) are of the total number of purchases and the total dollars spent on procurement of all goods and services, and (D) specific steps being taken to reduce the incidence of late payments.

(23) This statute shall be effective at the beginning of the state's or commonwealth's next fiscal year and shall apply to all payments due on or after that date.

Prepared by: Coalition for State Prompt Pay, Attn: Kenton Pattie, Director, 3150 Spring Street, Fairfax, VA 22031; 703/273-7200.

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MEMBERS OF THE COALITION FOR STATE PROMPT PAY

The International Communications Industries Association (ICIA)

National Moving & Storage Association (NMSA)

Door & Hardware Institute (DHI)

American Subcontractors Association (ASA)

Association of General Contractors, Rhode Island Chapter (AGC)

National Association of Manufacturers (NAM)

Small Business United (SBU)

Coalition for Common Sense in Government Procurement

American Meat Institute (AMI)

Associated Pennsylvania Constructors (APC)

American Consulting Engineers Council (ACEC)

Associated Specialty Contractors (ASC)

National Electrical Contractors Association (NECA)

Painting & Decorating Contractors of America (PDCA)

Mechanical Contractors Association of America (MCAA)

Mason Contractors Association of America (MCAA)

Sheet Metal and Air Conditioning Contractors National Association (SMACNA)

National Roofing Contractors Association (NRCA)

National Association of Plumbing-Heating-Cooling Contractors (NAPHCC)

National Insulation Contractors Association (NICA)

National Meat Association (NMA)

National Association of Wholesalers (NAW)

National Association of Credit Management (NACM)

Associated General Contractors of Virginia (AGC)

International Sanitary Supply Association (ISSA)

Association of the Wall and Ceiling Industries—International (AWCI).●

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## UNION VIOLENCE

● Mr. DENTON. Mr. President, the recent outbreak of mass violence during the United Auto Workers' union strike at the AP parts plant in Toledo, Ohio, serves as yet another reminder that the ugly problem of labor violence continues to plague our society.

According to the Toledo Blade of May 22, an estimated 2,000 to 3,500 rampaging demonstrators assaulted city police at the plant gates with baseball bats, bottles, chunks of asphalt, bricks, and rocks. It took the outnumbered police contingent more than 2 hours to contain the riot. As the rioters retreated, they battered police cruisers with baseball bats and rocks. One police van was burned, and 18 police vehicles were heavily damaged.

During the current Congress, the Senate Judiciary Committee has conducted extensive hearings on the subject of union violence. The hearings have produced overwhelming evidence that incidents such as the recent riot in Toledo are not isolated occurrences.

A large part of the problem stems from the 1973 Supreme Court split decision in the case of United States against Enmons which exempted union officials engaged in "legitimate" union activities from prosecution for extortion under the Hobbs Act. According to FBI testimony before the Judiciary Committee, the decision has handcuffed the ability of Federal agents to control union violence.

Mr. President, violence, intimidation, and property destruction have no valid place in the process of bargaining for wages and benefits. Clearly, we must enact legislation to overturn the faulty Supreme Court decision. My distinguished colleague from Iowa (Senator GRASSLEY) has introduced S. 462, the Hobbs Act Amendment, to restore the power of Federal prosecution of extortion when it takes place in the course of pursuing otherwise legitimate union objectives. I sincerely hope that my colleagues in the Senate will join me in supporting Senator GRASSLEY's laudable effort.

Mr. President, I ask that five articles from newspapers in Ohio reporting the violence in Toledo be printed in the RECORD.

The articles follow:

[From the Toledo (Ohio) Blade, May 22, 1984]

## AP PARTS CO. PLANT SHUTS AFTER MASS PROTEST TURNS VIOLENT; 41 ARE ARRESTED

### POLICE PROVIDE PROTECTION AS WORKERS LEAVE

(By William Green)

Production ceased today at the AP Parts Co. plant on Matzinger Road following the removal of about 120 nonunion replacement workers and 130 supervisory personnel who had remained inside the plant when a union protest yesterday erupted in violence.

Police arrested 41 people after an estimated 2,000 to 3,500 demonstrators threw rocks, vandalized police cruisers and burned the sign in front of the plant.

The United Auto Workers union's Local 14 has been on strike at the plant since May 2.

Police said 18 vehicles were damaged, some badly, and rocks and tear gas filled the air as a union show of support for strikers turned into a violent confrontation.

Company officials said today the plant work force drove their own vehicles out of the plant's main gate about 9:10 a.m. following assurances by police that their route was safe.

### NO INCIDENTS

There were no incidents, company officials said.

Richard Deming, company director of employee relations, said the replacement workers likely would not be brought back today but he added that probably would restart operations tomorrow.

"We are going to continue to operate the plant, and if we don't do it today we'll do it tomorrow," he said.

Meanwhile, some of those arrested yesterday appeared today in Toledo Municipal Court before Judge William Skow and were released on their own recognizance on condition that they not return to the plant area.

Mayor Donna Owens announced today that officials of AP Parts and Local 14 were to meet this afternoon with a panel of local business and labor leaders in an effort to resolve the strike and quell violence.

Mrs. Owens said that last night she contacted Ned Skeldon, an independent consultant; Virgil Gladieux, chairman of Gladieux Corp.; Warren Buckey, chairman of the University of Toledo board of trustees and chairman of the mayor's economic development task force; Mel Pelfrey, vice president of the Marine Engineers Beneficial Association, and Harold Leu, president of the Teamsters Local 20, to help mediate the dispute.

Union officials estimated the size of yesterday's turnout at the plant, but it was difficult to obtain an accurate count, because they were arrayed along about a mile of Matzinger.

Police used riot gear, including tear gas, riot sticks, shields, helmets and pellet guns. No serious injuries were reported, although several police officers required treatment at area hospitals, and several demonstrators complained of minor injuries.

### PHOTOGRAPHER INJURED

Luke Black, a Blade photographer, suffered a hand injury when someone clubbed his camera as he was recording the action. The camera and a 300-millimeter lens were destroyed.

"What this is all about is the scabs in there," Dave Zeller, a striking AP worker, said, motioning at the plant. "We don't mind supervisory people in there. This city isn't going to stand for this."

James Hall, senior vice president for operations for AP, said 230 people were in the plant, about 130 of them hired as replacements for strikers.

Local 14 officials said they had no part in organizing the demonstration and had not authorized it.

Harold Monhollen, a union steward at Jeep Corp., said the call for the demonstation "probably came out of Detroit as a massive move against AP Parts."

First word of the demonstration went up the Jeep assembly line about 1 to 1:30 p.m., he said.

"I imagine every factory in Toledo got the word the same time," he said.

At the General Motors Hydramatic Division, workers heard about it at 2 p.m., John Dombrowski, an electrician from the plant, said.

### 2 HOURS TO RESTORE CALM

It took police more than two hours to restore calm after the first tear gas cannister was lobbed into the crowd at 4:35 p.m.

By 3:30 p.m. about 400 to 500 demonstrators had gathered outside the main entrance. Some carried baseball bats and others carried bottles, chunks of asphalt, bricks and rocks.

The main gate was blocked by an empty car carrier pulled partially into the gate and other trucks parked in the middle of the street.

At 3:50 p.m., Lt. Mark Mason, who headed the first contingent of Toledo police arriving at the scene, warned demonstrators to disperse, saying they were violating a court order limiting picketing at the plant.

About 4:30 p.m., a scuffle erupted as police sought to arrest a demonstrator near the main gate. About two dozen angry demonstrators rushed the gate shortly afterwards and were repelled.

The crowd responded with a hail of rocks and bottles, and Capt. Jim Greenwood fired a tear gas cannister into the crowd. Several others followed, and the first of four major confrontations in which police used tear gas was under way.

Capt. Greenwood said he fired the cannister in response to rock throwing and because demonstrators were trying to overturn police cruisers.

Oscar Bunch, president of Local 14, blamed the use of tear gas for touching off the damaging of police vehicles that followed.

"I think it was unnecessary," Mr. Bunch said. "They had one guy who jumped the gun, and got everybody excited."

Mr. Bunch said both the police and the company had been warned of the potential for violence.

"We told them it could happen," he said. "They knew it was coming."

Police used tear gas to split the crowd, pushing demonstrators in both directions along Matzinger, leaving fewer than 100 at the main gate.

As they retreated, demonstrators smashed windshields in cruisers and dented some of the cars with baseball bats and rocks. One police van was set afire, and the interior heavily damaged.

Police said 18 cruisers were damaged, but that several were kept in use with their windows knocked out. Six had to be towed, they said.

When the crowds began to disperse, police managed to move the truck blocking the gate and dragged their vehicles inside.

Sgt. Rose Reder said several officers were treated at hospitals, but that none was admitted for injuries.

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[From the Cincinnati Enquirer, May 22, 1984]

## TOLEDO STRIKERS, POLICE CLASH; 28 ARRESTED, SEVERAL INJURED

TOLEDO.—Hundreds of union workers demonstrating outside a strikebound auto parts company clashed with police Monday, and at least 28 people were arrested, several were injured and a police cruiser was set afire, authorities said.

At least one cruiser was burned, and others sustained flat tires and broken windshields as the workers, some carrying baseball bats and bricks, battled with Toledo police from late afternoon into the evening, said police Sgt. Rose Reder.

The police department had issued a full recall and hoped to have 500 officers on duty by midnight, Ms. Reder said.

"It's in a holding pattern now," she said at about 10:45 p.m. "We are expecting more problems."

Other people were starting to gather at the AP Parts Co. as evening shifts at other area plants ended at 11 p.m., Ms. Reder said.

The 250 people inside the plant were refusing to leave without police protection, a company spokesman said.

Police went to the 1.2 million square-foot plant as several hundred people, mostly United Auto Workers union members from several locals, began gathering about 3 p.m. in support of striking AP Parts workers, police said.

Several police officers sustained minor injuries when they were hit by bricks and other objects, Ms. Reder said.

Ms. Reder said 28 people had been booked on various charges, including aggravated rioting and failure to disperse, and more people were being brought in.

Company spokesman Richard Deming said the 250 replacement workers and management employees still inside the plant were refusing to leave until police could guarantee them protection from the demonstrators who remained outside the plant on the city's north side.

The violence apparently began near the company gates about 4 p.m., and police tossed tear gas canisters into the shouting crowd, Ms. Reder said. The crowd tossed the canisters back over the company gates, according to the *Blade* and radio station WMHE.

UAW members from several Toledo plants said they showed up spontaneously or received calls telling them to gather at the AP Parts gates for a "solidarity demonstration."

"The estimates grew to some 4,000 armed with bottles, bricks, clubs and God knows what else," Deming said. "They made several attempts to penetrate our fence, including an 18-wheel tractor-trailer rig. There's been considerable damage to our facility, to our motor vehicles. They are now heaving Molotov cocktails at the plant."

Said Deming: "We had some indications that there was going to be a demonstration. A demonstration and out-and-out lawlessness are two different things."

Workers struck the plant May 2 over a 35% wage and benefit cut imposed by AP Parts at the beginning of March. Workers said the cuts were unbearable, but the company said it needed them to remain solvent.

Deming said the company had obtained a temporary restraining order limiting pickets to six at each company entrance. A negotiating session over the weekend failed to yield any settlement.

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[From the Toledo (Ohio) Blade, May 23, 1984]

## AP Parts Restarts Talks; Salaried Workers Return

(By Tahree Lane)

AP Parts Co. resumed negotiations today under the supervision of a special committee appointed by Mayor Donna Owens to break the deadlock that sparked a massive protest Monday.

The committee met for more than 8½ hours yesterday with union and company officials. Ned Skeldon, chairman of the five-member panel, said serious negotiations are under way but he declined to comment on whether any progress was made.

The plant, struck May 2 by members of United Auto Workers Local 14, was the scene Monday of a violent confrontation between police and an estimated 2,000 to 3,500 members of several auto union locals.

No violence was reported at the site yesterday after police arrested 41 demonstrators in connection with Monday's violence.

However, Charles Greenwade, 39, 217 Charles St., was arrested about 8:15 a.m. today as he crossed the entrance to a company gate that was being cleared by police to allow a convoy of cars to enter the plant. Mr. Greenwade, an AP Parts employee, was charged with disorderly conduct and resisting arrest.

The 35 to 40 cars were carrying plant supervisory personnel and some replacement workers. Oscar Bunch, president of UAW Local 14, said the union had been told that no replacement workers would be allowed in the plant today in order to start a cooling off period.

The company announced yesterday that a power outage apparently unrelated to the strike would prevent the firm from resuming production as planned this morning.

A company spokesman said today that the nonunion workers that showed up this morning were unable to be notified last night that the plant was closed due to the power outage. Supervisory personnel that entered the plant this morning were loading mufflers.

The company yesterday asked that a temporary restraining order on picketing at the site by Local 14 members be expanded to limit activity by any union, John T. Landwehr, an attorney for AP Parts, said.

Parties for both sides appeared before visiting Judge Richard McQuade in Lucas County Common Pleas Court just before the court was to close yesterday, but the judge did not issue any ruling.

The company's lawsuit was originally assigned to Judge Francis Restivo who withdrew, saying that AP's attorney's had represented the Lucas County Common Pleas Court judges in a federal court case. He also cited his membership on a United Auto Workers scholarship committee.

The local system for reassigning cases calls for transferring them first to the visiting judges' docket, since the visitors usually are more readily available than are the local jurists.

The company asked that all picketing and demonstrations be banned, Mr. Landwehr said. Picketing at the plant's gates it currently limited to six members of Local 14.

"This is intended not to exacerbate the problems," he said, "but to help keep the peace and to prevent further violence."

The two sides were to meet again before Judge McQuade at 1 p.m. today to argue the issue.

Production at the plant—run by replacement workers and supervisory personnel after the strike began—was halted yesterday when workers were removed from the site, and the firm had said it planned to resume production a 8 a.m. today.

### MUST HIRE PRIVATE CONTRACTOR

A spokesman from Toledo Edison Co. said AP Parts must hire a private electrical contractor to make repairs because the failed equipment belongs to them.

Edison cut power to electrical feeders going into the plant from the road, he said, adding that reconnecting power could be difficult if the road is full of picketers.

Richard Deming, director of employee relations for the company, said the company hopes replacement workers can be called back to work by tomorrow.

Even though the plant was to be closed today, efforts to end the dispute were to move ahead, Mr. Skeldon said.

"We were gathering information today," Mr. Skeldon said after his group recessed about 10:15 last night. "Both sides will be available to us tomorrow."

Company and union leaders met with the panel before it recessed, but not face-to-face. Company officials met in one room with members of the panel, union officials in another room.

### ESTABLISHING GROUND RULES

Joe Tomasi, director of the union's Region 2-B, and Jack Sizemore, assistant regional director, met with the panel once for about 3½ hours. Mr. Tomasi said the time was spent getting ground rules established.

"We can't accomplish anything by ourselves," Mr. Tomasi said. "They are an influential group of men. They might be able to get us back into talking to each other."

Talks between the union and the company collapsed Saturday, and several union officials said Monday that may have been what triggered Monday's violence.

Mr. Deming and Paul Putman, AP Parts president, refused to comment after they met with the committee twice, for a two-hour session in the late afternoon and for 1½ hours last night.

Mr. Skeldon expressed confidence that his group could have an effect on the deadlock.

"I think there's a lot of leverage when the mayor has formed a committee (like this)," he said.

"There has been a lot of pressure on this in the community," he said. "We will go on for whatever it takes. We have no time limit."

### MEMBERS OF COMMITTEE

"We'll continue until this thing is resolved," Mr. Skeldon said.

Mrs. Owens' committee includes Mr. Skeldon, an independent consultant; Virgil Gladieux, chairman of the Gladieux Corp.; Warren Buckey, chairman of the University of Toledo board of trustees and chairman of the mayor's economic development task force; Harold Leu, president of Teamsters Local 20, and Melvin Pelfrey, vice president of the Marine Engineers Beneficial Association.

The talks were held at the Marine Engineers Beneficial Building.

Mayor Owens' efforts to resolve the strike was the latest in a series of gestures she has made since problems surfaced last January.

"Our role as a city should not be to meddle into internal affairs of others. Our role should be to protect law and order," Mrs. Owens said. "But we've reached the point where this is no longer a labor-management dispute."

### GAINS FEARED PERILED

The mayor said she was concerned all of the strides forward in downtown redevelopment and other areas to boost the city's image could be negated by unpalatable labor-business relations.

"We've been working hard to turn the image of this city around," she said.

Mayor Owens said she waited until the situation turned to violence, because until then, she had been told there was some hope of ending the difficulties.

Meanwhile, preliminary hearings have been scheduled over a three-week period next month in Toledo Municipal Court for those charged with felony offenses in connection with the violence.

The cases were brought before the court yesterday, and the preliminary hearings were scheduled from June 4 to 19, court records show.

Those charged with misdemeanor offenses had their cases continued until next month or are pending a prosecutor's pretrial hearing.

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[From the Toledo (Ohio) Blade, May 22, 1984]

## Besieged Workers Say They're Thankful for Jobs

(By Tom Ford)

"I'm not sorry," the man said.

He sat with three others, smoking, surrounded by the silent shadows of production equipment.

"Those people can't understand how hard it is to get a job around here. If you get a job, you keep it, no matter how dangerous."

Inside the AP Parts plant on Matzinger Road, the 230 replacement and salaried workers were calm last night. Some of the besieged workers, perhaps a bit nervous, clustered at a window looking out at the pickets and Toledo police officers patrolling a debris-strewn driveway.

Others found space on the carpeted floor of the plant's executive offices and slept beneath blankets flown in earlier in the evening on a company helicopter. Still others gathered in the cafeteria to play cards or to talk.

No one seemed terribly worried about being forced into an extended stay.

"I have to admit to being a little nervous," one of the four men sitting in the darkened production area said. Like the others, he had put in a 12-hour day while the violence raged outside.

Gil Heyhlom, plant manager, said his crew kept the plant operating at 80 per cent of the pre-strike production.

"It's not that the people in here want to bust unions," one worker said, "If they don't want the jobs, we'll take them. We're tired of welfare lines, and those strikers are getting $85 a week for being on strike, which is about as much as I got on welfare."

One woman, who said she had come from another city to take the job at AP Parts, said she was not afraid to work, but the overnight stay in the plant was keeping her from seeing her 4-year-old son, who was in a day care center.

"We can sympathize with the strikers," another man said. "We understand they felt the pay cuts they were asked to take would make them give up some things. But we don't have those things."

An executive secretary, who had been moved from the company's corporate offices downtown to work in the plant in January, said she was irritated by the strikers, not afraid of them.

"They have no right to keep me here" she said. "It is really an experience you can't comprehend."

Another worker summed up the view of the workers succinctly.

"Pork chops taste better than bologna."

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### THE BLADE READERS' FORUM

### STRIKE VANDALISM

To the Editor of The Blade:

After dropping my wife off recently at her place of employment on Stickney Avenue I passed in front of the AP Parts Co. plant. The strikers had slowed the traffic to a stop-and-go pace. A gentleman was walking down the middle of the road, and when he passed my car, he held out a small metal object, possibly a screwdriver, and put a scratch approximately six feet long along the side of the car. I was in no way harassing or trying to interfere with the picketers. I was simply passing by.

Are such illegal actions necessary? Did this incident promote the cause of the strikers?

My father is a member of the UAW, and I support it in the strike against AP Parts, but actions such as this are only detrimental to the public opinion of the UAW and the strike at AP Parts.

DANIEL E. GARDNER.●

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## CAPABILITY × WILL = DETERRENCE

● Mr. GOLDWATER. Mr. President, for days and months and years on end, we have been subjected to a massive barrage of what is supposed to pass as informed opinion about the nature of our national defenses. Unfortunately, all of the words and deeds that we have witnessed have tended to obscure rather than enlighten. Somewhere, along the line, we have missed sight of the basic, fundamental reason for our country's existence—freedom. Too often, we have let our enemies usurp the definitional terms embodied in the dialog over our national defenses. As a result, we are unable to examine our positions in the rational, objective manner.

In a recent editorial for Air Force magazine, General Russell Dougherty addressed this problem in succinct but eloquent style. Entitled "Capability × Will = Deterrence," Dougherty's editorial reminds us that our Founding Fathers pledged their lives, their fortunes, and their sacred honor to establish a nation of free men and women. As he points out, the legacy of our forefathers is that of maintaining that freedom and what it takes to do so.

Mr. President, because of the timeliness of this editorial, I ask that it be printed in the RECORD in order that my colleagues and all those interested in our debate here may have a better understanding and perspective on what we are doing and what we should be doing.

The editorial follows:

### CAPABILITY × WILL = DETERRENCE

(By Russell E. Dougherty)

Whether in mathematics, law, or analyzing the great issues of our time, it is important to get the basic proposition set down properly. Otherwise, one is unlikely to arrive at a useful solution. Thus it is unfortunate that so many Americans persist in portraying the gravest matters affecting our nation's security as issues of "war and peace."

When the National Conference of Catholic Bishops established its Committee on War and Peace, for example, it formulated not only a name for the study commission but also a conceptual framework within which the issues were to be studied. This was of more than semantic importance. In casting the central problem as one of war and peace, the Bishops made it difficult for Americans to carry on a realistic and helpful discussion about circumstances that deeply concern all of us.

"War and peace" is an erroneous proposition—a nonissue. All rational people desire peace; I know none in favor of war. Debate of nonissues leads nowhere. In this case, it also obscures vital principles that our nation has held dear for two centuries and positions us to forfeit what may be our best opportunity for peace.

The political creed of the United States is to preserve basic individual freedoms—not to seek peace at the price of those freedoms. Our fundamental national values are at variance with those of the Soviet Union, where individual liberties are seen as a threat to the political system instead of its central objective. Over the years, some nations have secured—or sought to secure—peace by the expedient of surrendering their freedoms, but our legacy rejects that solution. Unless we are ready to concede freedom in order to achieve peace, we must state the issue more broadly and less simplistically than "war and peace."

The real issue is how best to go about keeping our people both alive and free. And the right solution—possibly the only solution—is a strategy of deterrence. While deterrence requires armed preparedness, it is not a strategy that a warlike nation would adopt. It optimizes the capabilities to forestall aggression and to reduce the probability of conflict at any level.

The United States emerged from World War II as the strongest nation in the world. Although mobilized, equipped, and intact, it did not use its power to build an empire, as many dominant nations throughout history had done. Rather, the postwar United States pursued a course aimed only at containing the export of Communist control and at deterring military aggression against the freedoms of the Western democracies.

So, in the aftermath of Korea, the United States addressed seriously the two essentials of a successful strategy of deterrence. This involved not only the acquisition of adequate military capability but also the development of a national consensus of will that the capability would be used, if need be, to preserve our freedoms. We recognized that reliable deterrence is achieved only when potential adversaries perceive the multiplying effect of our capability and our will. As Col. "Abe" Lincoln of West Point used to put it, capability times will equals deterrence. He emphasized that this is a proposition in multiplication, not in addition, for if either of the essential factors is zero, then the product—deterrence—is also zero.

It has become clear that the Soviet Union will feel totally secure and satisfied only when the entire world is, like its own populace, subjugated under Soviet control. It has also become clear that the Soviets have built a military force that is awesome in its potential to coerce and intimidate—as well as to wage actual war against—those who have neglected their defenses.

The exercise of that capability by the Soviet Union, either for war or intimidation, must be deterred. If we and our allies would keep our freedom, we must also keep a credible deterrent, incorporating both capability and will. We must have improved conventional forces, because we need to decrease our reliance on nuclear responses to non-nuclear attacks—as some say, to raise our nuclear threshold. But conventional forces, no matter how strong or how much improved, will not be enough. Faced with a nuclear-equipped and determined adversary, there is no "conventional" option. We cannot avoid the necessity for both nuclear and conventional forces of a quality and quantity relevant to the threats we face.

Of course, there is a risk to ourselves as well in a strategy of deterrence, because implicit in it is the assumption that freedom is worth fighting for and that we have the guts to fight for it. Since the risk has a nuclear dimension, it has generated understandable fear about the escalating horror that could ensue if deterrence should ever fail. This leads to erosion of the "will" factor in the equation for deterrence. And, unlike a problem in addition, a consequential reduction in the will factor has a devastating effect in decreasing the product: deterrence. Erosion of will also decreases the determination of the nation to prepare itself in a timely, adequate manner, resulting in further erosion of the "capability" factor as well. The synergistic effect is to weaken the product of the factors—deterrence—to a most dangerous degree.

It is perversely ironic that the circumstances under which the continued success of deterrence is least likely are exactly those minimalist solutions advocated by many would-be peacemakers. Never was an acronym more apt than MAD, which describes a unilateral strategy, supported by a grossly inefficient deterrent force, capable only of a Minimum level of Assured Destruction of enemy populations and urban areas. Pursuit of a MAD strategy would provide us with minimal strategic forces, armed with minimally capable weapons, posing a minimal threat to opposing military forces. It would leave us with cheap, inefficient weapons that might be useful for blowing up cities and killing people by the millions, but—contrary to much of the claptrap written for dissertations or the oped pages—neither the policy of the United States nor its treaty obligations has ever sanctioned the wholesale targeting of concentrations of civilian noncombatants.

What is true, unfortunately, is that misguided minimalists have been successful, all too often, in blocking development of the systems required to maintain an adequate deterrent posture. They have derailed progress toward advanced and accurate weapons that are efficient enough, and in sufficient quantity, to put an adversary's military might and his command and control system at risk. To the extent that the Soviet Union perceives that it might be able to wage war without significant losses of the political and military assets it values most highly, the chances that our deterrent strategy will succeed are decrease. The probability of peace is diminished, too.

Our national policies, our treaty law, common sense, morality, and military logic all converge in the requirement for a credible deterrent posture. We must couple the will of our nation to deter conflict with the capability of our armed forces to deny an aggressor the benefits—or even the perceived benefits—of aggression. He must be denied any possible calculation of success through military aggression. This is not, as some would have us believe, preparation for Doomsday. On the contrary, it is the most sensible approach to keeping our world at peace without compromise of our freedoms. Let us not be misled by those who pose the great issue of our times simply as one of "war and peace." As Secretary of Defense Caspar Weinberger said in the Oxford Union debate earlier this year, the real issue is freedom—or lack of it.

I have just reread the Declaration of Independence. It does not speak of war and peace. It defines rights of people and governments and declares denial of those rights unacceptable. That is a declaration to which our American political ancestors pledged their lives, their fortunes, and their sacred honor. The current generation of Americans should do no less.

As Americans, let's make sure we have our basic propositions right before we proceed. The issue is not merely one of war and peace, but rather how to preserve our freedoms with the least risk of war. So far, the best answer for us has been the possession of the capability and the will for a credible deterrent. For the future, our best bet is to make sure that both our capability and our will are adequate for the job.●

## PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the Chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. Any portion which is classified information has been deleted or publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., June 6, 1984.*
In reply refer to I-02224/84ct.

Hon. CHARLES H. PERCY,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Control Act, we are forwarding herewith Transmittal No. 84-48 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $87 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
*Director.*

[TRANSMITTAL NO. 84-48]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Israel.

(ii) Total estimated value:

| | *Millions* |
|---|---|
| Major defense equipment [1] | $67 |
| Other | 20 |
| Total | 87 |

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of seven AN/TPQ-37 Firefinder radar systems with spares and support.

(iv) Military department: Army (XTF).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending December 31, 1983.

(viii) Date report delivered to Congress: June 6, 1984.

### POLICY JUSTIFICATION

### ISRAEL—FIREFINDER RADAR SYSTEMS

The Government of Israel has requested the purchase of a quantity of seven AN/TPQ-37 Firefinder radar systems with spares and support at an estimated cost of $87 million.

This proposed sale is consistent with the long-standing U.S. policy of assisting Israel to ensure that it has the means of defending itself within secure borders should it become necessary.

The addition of the AN/TPQ-37 Firefinder radars to the Israeli inventory will enhance their ability to detect and locate hostile fire. This capability will greatly improve the Israeli defense posture. The Israelis have the technical knowledge to absorb this weapon system.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of four additional U.S. Government personnel to Israel for 30 days and two contractor representatives for two years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., June 6, 1984.*
In reply refer to I-02682/84ct.

Hon. CHARLES H. PERCY,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-47, concerning the Department of the Army's proposed Letter of Offer to Thailand for defense articles and services estimated to cost $32 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

PHILIP C. GAST,
*Director.*

[TRANSMITTAL NO. 84-47]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Thailand.

(ii) Total estimated value:

| | *Millions* |
|---|---|
| Major defense equipment [1] | $25 |
| Other | 7 |
| Total | 32 |

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of 40 M48A5 tanks with machine guns, radios, tool sets, spare parts, and support equipment.

(iv) Military Department: Army (VIS).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending March 31, 1984.

(viii) Date report delivered to Congress: June 6, 1984.

### POLICY JUSTIFICATION

### THAILAND—M48A5 TANKS

The Government of Thailand has requested the purchase of a quantity of 40 M48A5 tanks with machine guns, radios, tool sets, spare parts, and support equipment at an estimated cost of $32 million.

This sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of a friendly, moderate nation which is an important force for peace and regional stability in Southeast Asia. Recent events have underscored the need for the Thai armed forces to maintain well-equipped military units to deter hostile forces operating from neighboring countries.

These tanks will be used by the Royal Thai Army (RTA) to upgrade and expand its armored capability. The RTA will have no problem integrating these tanks into its active forces since trained personnel are available to operate and maintain this equipment.

The sale of this equipment and support will not affect the basic military balance in the region.

There will be no prime contractor since these tanks will be provided from U.S. Army stocks at the Anniston Army Depot, Anniston, Alabama.

Implementation of this sale will require the assignment of seven additional U.S. Government personnel for 28 days to Thailand.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

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Defense Security Assistance Agency,
*Washington, D.C., June 6, 1984.*

In reply refer to I-02545/84ct.

Hon. Charles H. Percy,
*Chairman, Committee on Foreign Relations,*
*U.S. Senate, Washington, D.C.*

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-49, concerning the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $131 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Philip C. Gast,
*Director.*

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[Transmittal No. 84-49]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total estimated value:

| | *Millions* |
|---|---|
| Major defense equipment [1] | $0 |
| Other | 131 |
| Total | $131 |

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Cooperative logistics supply support arrangement consisting of a blanket order requisition (FMSO II) case for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin being operated by the Saudi armed forces.

(iv) Military department: Air Force (KBX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending March 31, 1984.

(viii) Date report delivered to Congress: June 6, 1984.

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### POLICY JUSTIFICATION

#### SAUDI ARABIA—COOPERATIVE LOGISTICS SUPPLY SUPPORT ARRANGEMENT

The Government of Saudi Arabia has requested the purchase of a cooperative logistics supply support arrangement consisting of a blanket order requisition (FMSO II) case for follow-on spares and supplies to support aircraft and other systems and subsystems of U.S. origin from 1 September 1984 through 31 August 1985 at an estimated cost of $131 million.

This sale is consistent with the stated U.S. policy of assisting other nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services. It will demonstrate the continuing willingness of the U.S. to support Saudi Arabia which is an important force for moderation in the region.

This cooperative logistics supply support arrangement FMSO II case is necessary to ensure an uninterrupted flow of spare parts to support the Saudi F-5, F-15, and C-130 aircraft and other air force systems and subsystems of U.S. origin. Saudi Arabia will have no difficulty in absorbing the articles.

The sale of this equipment support will not affect the basic military balance in the region.

Procurement of these items will be from the many contractors providing similar items to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

## MRS. THATCHER'S MAY 11 SPEECH

● Mr. KENNEDY. Mr. President, Mrs. Thatcher delivered an important speech last month in which she addressed problems of the Western alliance. At a time when our European allies' commitment to the alliance and to sharing the burdens of NATO have been seriously questioned, Mrs. Thatcher's declaration that the Europeans cannot go on drawing on American goodwill and generosity without trying to understand American concerns and burdens is especially welcome.

As NATO celebrates its 35th anniversary this year, it is worth noting that the concerns which were originally responsible for creating and building the alliance still exist. And it is also worth pointing out that Britain still stands at the core of this alliance.

I ask that excerpts from Mrs. Thatcher's speech appear in the Record.

The excerpts follow:

### EXTRACT FROM A SPEECH MADE BY MRS. MARGARET THATCHER TO THE CONSERVATIVE PARTY IN PERTH ON MAY 11, 1984

Once we settle Europe's internal problems, Europe can look more to its global responsibilities. We are part of the free world. We must act with the free world. And that means, first and foremost, that we should work with our great ally across the Atlantic, the United States. Where would Europe have been in that most difficult and dangerous period after the last war without America? Where would we have been since without America's massive contribution to freedom and security of Europe?

We cannot go on drawing endlessly on American goodwill and generosity without ourselves trying to understand their concerns and the burdens which fall to them. For they are the champions of all the beliefs and ideals which we cherish most deeply.

I believe profoundly that the alliance between Europe and the United States is vital to the defense of the free world. Conservatives will work for a Europe which is a strong partner of the United States and which uses its experience and an increasing part of its resources, to reduce the areas of tension and conflict, to improve the prospects for the poorer countries and to defend and spread beliefs and ideals which are shared by the Western democracies. That is our vision for Europe.●

## S. 1739: THE VIEWS OF CHAIRMAN STAFFORD

● Mr. CHAFEE. Mr. President, the Committee on Finance last week reported amendments to two provisions contained in S. 1739, the Water Resources Development Act. If I had not been necessarily absent from the Senate during the Finance markup, I would have argued strenuously against the adoption of these amendments. My reasoning is contained in the additional views I filed with Senate Report 98-509.

The approval of these amendments is regrettable, since they make it most unlikely that we will see floor action on S. 1739 in this Congress. S. 1739 provides for a continued strong Federal role in water development programs while encouraging careful targeting of scarce Federal dollars toward high priority projects.

The Environment and Public Works Committee has spent over 3 years attempting to achieve a responsible approach to water development policy, and S. 1739 is a careful crafted compromise. Senator Stafford, chairman of the Environment and Public Works Committee, outlined these efforts in testimony to the Finance Committee last week. Chairman Stafford's views represent the balanced approach that is essential if we are to see enactment of this vital legislation.

Mr. President, I ask that Chairman Stafford's statement be printed in the Record.

The statement follows:

### STATEMENT BEFORE THE COMMITTEE ON FINANCE ON S. 1739

(By Senator Robert T. Stafford)

Mr. Chairman, it is an honor and a pleasure to appear before this distinguished Committee.

The reason I am here is to testify, as chairman of the Committee on Environment and Public Works, on two provisions of S. 1739 that are currently before you on limited referral.

Each is controversial.

Yet each represents a carefully crafted effort by our Committee to resolve a difficult issue.

I urge your Committee to endorse our basic concepts. These concepts are needed, I believe, to obtain a Presidential signature on this important legislation.

Section 502 authorizes the Secretary of the Army, upon the recommendation of the Inland Waterway Users Board, also established in Title 5, to set use fees on commercial waterway users, if the Board recommends such fees as a way to obtain additional construction and maintenance spending on the waterways.

Section 1006 authorizes non-Federal public bodies to charge use fees to cover the non-Federal share of the cost of harbor projects.

Both sections are permissive. Neither requires fees.

Neither of these proposals, of course, is popular with navigation interests.

Barge companies, in particular, oppose Section 502.

Many harbor interests do not want to pay any portion of new project costs, as envisioned in Title 10.

I recognize the problem. Business as usual is always attractive. So long as it works.

Let me examine where we are. A growing list of needed navigation improvements exists at this time when spending is declining.

It would be very nice if our nation could afford to construct each of them.

It would be very nice if the Federal Government had the money to dredge the 30-or-so ports in the competition for harbor projects with depths of 50 or 55 feet.

I wish we also had the money to rebuild every aging lock and dam on our 25,000 miles of inland waterways.

I also wish we had the money to build every flood protection levee that every local community finds necessary, or to replenish every public swimming beach that nature is eroding.

But we lack that kind of money.

Unlimited resources no longer exist for water resources.

A look at the record of spending on water resources projects shows a steady decline over the past two decades.

Specifically, the construction budget of the Corps of Engineers stands at just 23 per cent of where it was 20 years ago, in constant dollars.

I know of no one who believes that such a trend is likely to be reversed dramatically during this decade.

Yet testimony shows clearly the need for new projects and additional investment.

That is what S. 1739 is all about. It is an effort, if I may say so, to deal with the world as it really is, not as we would like it to be.

### INLAND WATERWAYS

Let me first address the issue of inland waterways.

Current law imposes an 8 cents per gallon fuel tax on operators on some of our waterways. That tax will bring in around $50 million this year, well under 10 per cent of Federal spending on the commercial components of our inland waterways.

The Administration sent up legislation, which I introduced by request—S. 1554.

That bill, which was referred to the Committee on Environment and Public Works, is attached to my statement for inclusion in your hearing record. It requires 70 per cent cost-recovery on all waterway expenditures now.

In other words, the Administration has proposed pushing user charges from about $50 million a year up to about $450 million a year. Immediately.

For years, the commercial waterway operators have made the reasonable argument that they could accept users charges if the charges were brought on gradually, and if the operators have a say in how any user-charge money is spent.

That is precisely what Title 5 and Section 502 seek to do.

As reported, Title 5 provides three basic initiatives intended to resolve the inland waterway debate:

First, five new lock and dam projects are authorized at a cost of $895 million.

Second, an annual level on direct Federal inland navigation spending is set for fiscal year 1986 and beyond at $646 million. That is a snapshot figure. It is a figure based on actual 1983 spending levels on commercial inland navigation construction, operation, and maintenance. That figure is somewhat higher than the levels actually projected for 1984 or 1985.

Third, an Inland Waterway Users Board is created to recommend annually to the Corps of Engineers a commercial inland waterway spending program. If that recommendation is higher than the cap ($646 million), the users would be required to pay the differential above $646 million. If the recommendation were at or below the cap, there would be no additional user cost-sharing that year.

Let me stress that: There would be no user fees in any year unless the User Board recommended a spending program above $646 million.

How much will this cost the users?

Obviously, I cannot answer that question. That answer depends solely on the basis of the recommendations by groups now arguing against Title 5.

It has been argued that there is no ironclad link between the Board's recommendation and the fees. That is true. But two points are important:

The Users Board would control spending and users charges through a sense of the Congress declaration that the Corps should follow the Board's recommendation, plus a requirement that these fees become a part of the annual Budget-Appropriations process;

The provision also recognizes that a percentage of inland waterway spending goes for non-commercial navigation; no limit is set, or fees required, on Corps spending for non-commercial purposes.

I think it is important to note the obvious—any Users Board would serve as a powerful and effective watchdog over excessive Federal spending, since its members could be responsible for financing that excess spending.

It has been argued that the Corps could override the Users Board and charge the users anything the Corps wants to. While waterway interests have been told repeatedly that this is not the intention of the legislation, and that our Committee would support any language needed to clarify that intent, no such language has been suggested.

Let me stress this fact: Our approach was designed as a compromise between the views of the Administration (70 percent cost recovery now) and the views of the waterway industry (authorize new projects now, and study cost sharing in the future). Ours is a responsible middle-ground position.

In Committee, Senator Simpson offered an amendment to tighten the cap by $35 million annually. That amendment lost on a vote of 8-to-8. I voted with Senator Simpson.

The compromise bill was then reported by Committee on a vote of 14-to-2.

Personally, I am willing to stand behind what the Committee has created. It is a sound program for sharing responsibilities.

Mr. Chairman, I recognize the political appeal of giving into the barge industry. I recognize the appeal of fogging the issue with yet another study.

But I also recognize the fact that if we are to have an adequate inland waterway system to serve the needs of this nation in the 1980's and 1990's, we must, somehow, begin to tap new sources of funding in a responsible manner. That is what this issue is all about.

I urge your support.

### HARBORS

Now, let me turn briefly to the harbor provision of the bill. Title 10 appears somewhat less controversial. This deep-draft title was accepted in Committee on a voice vote.

Title 10, as reported by the Committee, would:

Set a 30 per cent non-Federal cost-share on new harbor construction projects to depths of 45 feet or less;

Set a 100 per cent non-Federal cost-share on the few "superport" projects (those deeper than 45 feet).

It is the view of the Committee on Environment and Public Works that we have adopted a provision that will assure construction of the more economically viable projects more expeditiously, thus enabling our nation to export coal at competitive prices at as early a date as possible.

A number of ports and shipping interests have worked with us to make the provisions more workable, particularly in relation to harbor projects deeper than 45 feet. They seem to recognize the value of 100 per cent cost-sharing as a way to filter out low-priority work, and to move development along much faster than if the project had to wait for Federal appropriations.

As a result of these discussions, I was honored to join with our Subcommitee chairman, Senator Abdnor, as well as Senators Bentsen and Moynihan, in sponsoring an amendment to Title 10. We introduced the amendment before the recess; a copy is attached with this statement.

The major change in the amendment sets the level of Federal loan guarantees at 90 per cent, rather than 70 per cent. Our amendment also clarifies the language in Section 1006 to assure the harbors have some flexibility in setting use fees, provided there can be no Title 10 charges at all on shallow draft barges.

Mr. Chairman, the conclusion of our Committee is this: If there is only so much Federal money available for harbor work, we believe it should be focused on maintenance of existing harbors, with some for construction of general purpose harbors. And to obtain the great economic returns of superports, shippers should be willing to pay somewhat higher port fees.

To be of further assistance to you in your deliberations, I ask that you include as part of your hearing record some appropriate portions of our Committee report, which are attached.

Mr. Chairman, I thank you for this opportunity to testify. While I am not as familiar as some other of our Committee members with every detail of Titles 5 and 10, I shall be pleased to try to respond verbally or in writing to any questions that you may have.●

## UNITED STATES-SOVIET RELATIONS

● Mr. KENNEDY. Mr. President, my distinguished colleague and friend from New York, Senator Moynihan, delivered recently a thoughtful and thought-provoking speech on the deterioration in United States-Soviet relations. Senator MOYNIHAN suggested that we have not correctly defined the nature of our problems with the Soviet Union:

> Let me offer the thought that the desired outcome of the world politics the United States pursued in the period of its great ascendancy a generation ago is that that ascendancy would gradually merge into an ascendant world community of like-minded, above all democratic, nations. This has happened. Our politics worked. Now this change, of course, causes problems, too. We now have to pay a great deal more heed to other nations than we once did. Fine. That is the mark of *our* success. But somehow of late, we seem to be mistaking it for a sign of weakness, and attributing that weakness to the rise of Soviet strength.

I urge my colleagues to read this speech, which Senator MOYNIHAN delivered at New York University's commencement on May 24. I ask that the full text appear in the RECORD.

The speech follows:

### COMMENCEMENT ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN, NEW YORK UNIVERSITY

The theologian, Georges Bernanos, once observed that "the worst, the most corrupting lies are problems poorly stated." This is in a way a kindly view of the human condition, but it makes a special claim on those whose education is much concerned, as yours has been, with the art of problem solving.

It would appear that once again, as a Nation, we are in the process of defining the nature of our problems with the Soviet Union. This is a recurrent process, things change. An early period of intense hostility was followed by a measure of normalcy, next by a wartime alliance, thereafter by a period of alternating cooperation and competition accompanied by the accumulation on both sides of unimagined levels of nuclear weaponry which now presents itself as the central concern of mankind.

This period of redefinition has been brought about by a number of events, some transient, as in the styles of political rhetoric, but some far more real. Of these, the single largest fact is the obsessive accumulation by the Soviets not just of more nuclear weapons, but ever newer weapon systems. This behavior seems unrelated to anything we do. A recent Secretary of Defense put it: "when we build, they build; when we don't build, they build."

Of late, the Soviets have begun to deploy these weapons in ways that have no conceivable military purpose but are, rather, singularly political. In Europe, they have deployed far more SS-20 missiles, or rather warheads, than there are targets they might wish to destroy. Here on the east coast of the United States, our week began with an announcement by Marshal Ustinov that the Soviet Union has deployed an increased number of nuclear armed submarines off our shores, with missiles aboard capable of reaching their targets in "ten minutes." President Reagan has replied there is nothing new in this; that if there were he would not have slept in the White House Tuesday night.

Now, indeed, there is nothing new in the deployment of Soviet submarines close to our shores. Their Yankee Class boats began to appear there some fifteen years ago, and in fact they have been moving further off shore ever since. Their newest submarine, the Typhoon Class, half again as large as our Trident, will spend much of its time under Arctic ice.

Even so, the question arises how it has come about that our relations have deteriorated to the point that responsible Soviet officials talk of war as if it were coming, and, as in Europe, direct their remarks not to governments but to the publics. This is new and ominous.

In less dangerous times, it would be sufficient that if something ominous developed in our relations with the Soviet Union it was because they wanted it to. Certainly that is the experience of the last forty years. But at this moment, it seems necessary to ask the degree to which the United States shares some responsibility. Such a case can be made.

In the aftermath of World War II, finding ourselves the ascendant, indeed almost the only economic and military power in the world, the United States, under a succession of Presidents of both parties, conceived a world politics based on a remarkably enlightened perception of our own national interests. (Which is to say interests not inimical to others and thus having the potential of forming an enduring system.)

These world politics were based on three central concepts. In the order they emerged: first, the idea of law governing the conduct of nations; second, the doctrine of nuclear deterrence; and third, growing out of the first two, the quest for arms control agreements so that the world might back away from the nuclear brink.

The Soviets came to understand these to be our politics; and to a degree participated in them.

Then, of a sudden, it began to appear that the United States was abandoning these former positions. Certainly our friends began to ask whether we were. We must assume our adversaries have done so as well.

In the realm of law, the United States seems almost to have forgotten our once deep and abiding commitment to the rules of international conduct. In Washington, where toughness and ignorance are frequently confused, the view is heard that for us to abide by such rules when the Soviets do not, is to submit to a permanent and possibly fatal disadvantage. Former Ambassador Richard N. Gardner, now teaching at Columbia, has described this as a contention "that we must be free to 'fight fire with fire,'" and admits its undoubted political appeal, even, in cases, its utility. But, he asks, if nations such as the United States "accept the Soviet standard of international behavior as their own, do they then forfeit any claim before the rest of the world to stand on a higher plane of morality?" And, of course, we do. And if such a claim is thought not to matter, then indeed we have changed.

The doctrine of strategic deterrence emerged in the 1950s when it became clear that the Soviets, also, would have nuclear weapons and missiles. It was a simple doctrine: the United States would defend itself: a right, incidentally, fundamental to international law.

We would never use our strategic weapons first, but we would deploy them in such a manner that if attacked, we could always attack back. And yet a year ago, as if no such history existed, the administration proposed, and Congress agreed, to deploy the giant MX missile in the old Minuteman silos in Wyoming and Nebraska, the very sites which, having become vulnerable to a Soviet attack, led us to the decision to build the new missile and deploy it elsewhere.

The MX in Minutemen silos can be instantly destroyed by a Soviet first strike. Which means that in a crisis, our only choice, as the phrase goes, is to "use 'em or lose 'em." Which the Soviets know is our only choice, and which allows them ten minutes to preempt. The moment those missiles are deployed, the world goes on a ten minute trigger, called "launch on warning." Wise men protest. McGeorge Bundy of this university has written that the MX decision . . . violated the fundamental rule first laid down in the Eisenhower Administration: the object of any new strategic system is to deter, and to deter safely it must be able to survive.

Professor Bundy goes on to echo Ambassador Gardner's remark. True, he writes, the Soviets deploy their land based missiles in a first strike mode: it has ever been such. It follows that "the most important thing we can do, is not imitate the Russians." But with an amnesiac innocence, we seem bent on just that.

Arms control agreements got off to a fast start in the 1960s, beginning with the Limited Test Ban Treaty negotiated under President Kennedy; the critical Non-Proliferation Treaty of the Johnson Administration, culminating in the SALT I agreement reached under President Nixon. Then, of a sudden, the momentum broke. The Soviets have watched us sign, in succession, the Threshold Test Ban Treaty of 1974, the Peaceful Nuclear Explosions Treaty of 1976, and the SALT II Treaty of 1979—but not finally ratify any of them. For the moment, we are not even negotiating. That the United States is prepared to negotiate, no one doubts. But we can no longer bring the Soviets to do so. And we don't know why. In the meantime, we commence talking of stationing nuclear weapons in space.

And so the question arises: are we stating the problem poorly?

Let me offer the thought that the desired outcome of the world politics the United States pursued in the period of its great ascendancy a generation ago is that that ascendancy would gradually merge into an ascendant world community of like-minded, above all democratic, nations. This has happened. Our politics worked. Now this change, of course, causes problems, too. We have now to pay a great deal more heed to other nations than we once did. Fine. That is the mark of our success. But somehow of late, we seem to be mistaking it for a sign of weakness, and attributing that weakness to the rise of Soviet strength.

What pitiful stuff that is. The truth is that the Soviet idea is spent. It commands some influence in the world; and fear. But it summons no loyalty. History is moving away from it with astounding speed. I would not press the image, but it is as if the whole Marxist-Leninist ethos is hurtling off into a black hole in the Universe. They will be remembered for what? The death of Andrei Sakharov? Yelena Bonner?

Are there Marxist-Leninists here and about in the world? Yes: especially when the West allows Communism to identify with nationalism. But in truth, when they do succeed, how well do they do? And for how long?

We should be less obsessed with the Soviets. If we must learn to live with military parity, let us keep all the more in mind that we have consolidated an overwhelming economic advantage. The 24 members of the Organization for Economic Cooperation and Development, known as the O.E.C.D.—a quintessential initiative in world politics of the post-war United States—now produce 60 percent of the world's GNP. The Soviet bloc produces 19 percent. What is the rest of the world to think?

The historical outcome is certain if we can keep the nuclear peace and attend to our own arrangements in a manner that they continue to improve. The world monetary system, which the United States put in place forty years ago is badly in need of adjustment, lest it become an instrument for draining wealth from the nations that are least wealthy.

The culture of terror, a peculiar mutant of the totalitarian age, threatens democratic societies across the globe: in my own ancestral home of Ireland; in Italy; Israel; now India. That the governments and peoples of these nations show surpassing resources of firmness and courage does not make of terror any less a trial. (The Soviets, of course, contribute greatly to terrorist movements. Here we have no choice but to confront them. But, surely, with a sense of proportion.) And, lastly, a kind of latent tribalism is sweeping much of the Earth, challenging the traditions of modernity in which we have invested so much hope. This, too, is to be understood and confronted. But now, are these not challenges enough for one generation?

I suggest they are, and I offer a closing thought: our grand strategy should be to wait out the Soviet Union; its time is passing. Let us resolve to be here, our old selves, with an ever surging font of ideas. When the time comes, it will be clear that in the end freedom did prevail.●

## NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 which would permit John Ritch of the Senate Foreign Relations Committee staff to participate in an annual conference on current East-West security issues to be held on June 28-29, 1984, and sponsored by the Friedrich Ebert Stiftung.

The committee has determined that participation by Mr. Ritch in the program in Bonn at the expense of the Friedrich Ebert Stiftung is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Senator MACK MATTINGLY, his wife, and a member of his staff to participate in a program in Taiwan, sponsored by the National Chamber of Commerce of the Republic of China in August.

The committee has determined that participation by Senator MATTINGLY, his wife, and staff member in the program in Taiwan (Republic of China) at the expense of the National Chamber of Commerce of the Republic of China as part of a trade delegation visit is in the interest of the Senate and the United States.

The select committee has received a request for determination under rule 35 which would permit Dr. Samuel T. Francis, a member of the staff of Senator JOHN P. EAST, to participate in a program in the Republic of South Africa sponsored by the Institute for Strategic Studies of the University of Pretoria from June 23 through July 6, 1984.

The committee has determined that participation by Dr. Francis in the program in South Africa at the expense of the Institute for Strategic Studies of the University of Pretoria, to participate in a conference on issues involving the psychological uses of terrorism, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Ward H. White, a member of the staff of the Committee on Commerce, Science, and Transportation, to participate in a program in Barcelona, Spain, sponsored by the Institute of North American Studies from June 20 to 26, 1984.

The committee has determined that participation by Mr. White in the program in Spain, at the expense of the Institute of North American Studies, to participate in a seminar on issues involving the radio broadcast industry in the United States, is in the interest of the Senate and the United States.●

## TORTURE IN URUGUAY

● Mr. KENNEDY. Mr. President, Uruguay continues to arrest its citizens and hold them incommunicado. Uruguay continues to torture its citizens and violate their most fundamental human rights. This is going on today, despite the best efforts of many Members of the U.S. Congress, and despite the reports of human rights organizations throughout the world. The policies of the Government of Uruguay are an affront to the conscience of all mankind.

This morning, on the editorial page of the New York Times, we are reminded that gross human rights violations are a continuing and routine phenomenon in Uruguay. More specifically, we know that political prisoners are being held incommunicado and are being systematically tortured by the authorities in Uruguay.

The case of Hiber Conteris is well known to the Members of the Senate. Mr. Conteris is a writer, a professor and a former Methodist minister. He was visiting lecturer at Louisville Theological Seminary in 1971. After attending a church conference in Europe in 1976, he was arrested upon his return to Uruguay. He has been tortured and held incommunicado since that time. As the New York Times reported this morning, Mr. Conteris has been charged with "assault upon the constitution and criminal association with suspect subversives. To secure a confession, he was hung from the wrist, burned and submerged in filthy sewage."

The case of Hiber Conteris is only one of many examples of human rights violations in Uruguay. It is now clear that this systematic oppression of the people of Uruguay by their own Government is a routine pattern and practice. In its 1984 report entitled "Torture in the Eighties," Amnesty International states that, "The systematic use of torture as a means of obtaining information and confessions leading to prosecution under Uruguayan security legislation has remained a major concern * * *." Amnesty International states that it has "continued to receive reports of the torture of—individuals detained for political reasons—during interrogation." According to Amnesty International, "Reports since 1980 suggest that torture took place with the greatest frequently in military barracks, although allegations of torture in police stations have also been received."

The techniques used by the authorities in Uruguay have been described in testimony by prisoners who have been released after serving prison sentences. Those techniques include forcing prisoners to wear hoods for prolonged periods—in some cases for more than a month; severe and repeated beatings; enforced standing for prolonged periods; hanging from the wrists, knees, and ankles; electric shocks administered to the most sensitive parts of the body; near asphyxiation by submersion of the head or upper part of the body in tanks of water sometimes polluted by excrement; forcing prisoners to sit straddling iron or wooden bars which cut into the groin; burns; simulated executions; rape and other sexual abuses.

The May 1984 Report of the Lawyers Committee for International Human Rights confirms the findings of Amnesty International. In that report, the committee describes frequent and continuing instances of torture through 1983 and into the beginning of 1984.

The violations continue even as we talk today. Just last week, a wave of new arrests occurred in Uruguay, including the arrest of Alberto Zumaran, the editor of La Democracia. He was arrested by the police and is now being held incommunicado.

In light of these events, I am particularly concerned about the safety and well-being of former Senator Wilson Ferreira Aldunate, the leader of the National Party. Mr. Ferreira has announced his intention to return to Uruguay from exile in Argentina and will be landing this weekend in Montevideo from Buenos Aires. The Uruguayan authorities have banned Mr. Ferreira from Uruguay and denied him the right to participate in the elections scheduled for November. Thousands of Uruguayan supporters are reportedly planning to meet the boat carrying Senator Ferreira when he arrives. I have asked the Department of State to notify the Government of Uruguay of our concern—the concern of all Americans who care about democracy and human rights in this hemisphere—that no harm come to Mr. Ferreira or his party upon their arrival in Montevideo.

The Government of the United States should not remain silent nor should we do nothing. The policies of the authorities in Uruguay are unconscionable, and we must all work together to bring those practices to a halt.

Mr. President, I ask that the text of the New York Times editorial and that excerpt of Amnesty International's report on "Torture in the Eighties" that relates to Uruguay be placed in the RECORD.

The material follows:

[From the New York Times, June 11, 1984]

### TORTURED IN URUGUAY

Torture is the dirty little secret of modern politics, and typically, victims are punished not only for real or imagined crimes, but also because they know the secret. They die, or "disappear," or languish in jail for years to prevent their bearing witness against the degrading use of technology to smash bodies and bend minds.

In Uruguay, for example, why else has Hiber Conteris been denied a fair trial in open court? A 50-year-old Methodist minister, Mr. Conteris, was arrested in 1976 on his return from a church conference in Europe. He was charged with "assault upon the Constitution" and "criminal" association with suspect subversives. To secure a confession, he was hung from the wrist, burned and submerged in filthy sewage.

After a "trial," in which he was forbidden to choose his own lawyer, he was sentenced to 15 years, plus five years for "security."

Satisfied that he never advocated or engaged in violence, Amnesty International has adopted Mr. Conteris as a prisoner of conscience. When 26 United States Senators and 81 Congressmen signed a plea in his behalf, Uruguay's only response was to repeat the vague charges against him.

His plight is commonplace in Uruguay, long a stable democracy but under military rule since 1973. In a country of 3 million, there are 800 political prisoners—the highest ratio anywhere. Torture routinely occurs immediately after detention. At least 96 prisoners have died in custody.

The armed forces originally seized power to subdue a violent, lawless leftist insurgency. That threat ebbed long ago, and elections are supposed to be held in November. But the best-known opposition leader, Wilson Ferrela Aldunate, has been denied a chance to participate. His announcement that he plans to return from Argentine exile has already prompted a fresh round of arrests.

So the miserable cycle threatens to continue: detention, torture, fake trial, prolonged imprisonment. A high price for the dirty little secret.

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### TORTURE IN THE EIGHTIES, AMNESTY INTERNATIONAL REPORT, 1984—EXCERPT

### URUGUAY

During the 1970s Amnesty International received reports indicating that the great majority of political prisoners arrested in Uruguay were tortured. The systematic use of torture as a means of obtaining information and confessions leading to prosecution under Uruguayan security legislation has remained a major concern of Amnesty International during the period under review.

Since 1980 individuals detained for political reasons have continued to be held for long periods incommunicado, without access to lawyers, doctors, or their relatives, before formal charges have been brought against them. Amnesty International has continued to receive reports of the torture of such people during interrogation. The vast majority of the victims were detained on suspicion of illegal political or trade union activities or of membership of proscribed political parties and trade union organizations. Many were subsequently sentenced by military courts to long terms of imprisonment for alleged offences under the Law of State Security and Internal Order (1972).

The police force and all three branches of the armed forces have continued to engage in political intelligence work directed at opposition political parties and groups, which include previously legal political parties forced to become clandestine by legislation banning their activities. The most frequent allegations of torture have concerned units of the army, navy and police force, and intelligence coordinating bodies, such as the Organismo Coordinador de Actividades Anti-Subversivas (OCOA), Coordinating Body for Anti-subversive Activites.

Safeguards against torture or ill-treatment of detainees are lacking, due to the common practice of the authorities of failing to acknowledge arrests officially when they occur, or of not informing relatives of the place of detention. In most cases, the prisoner is allowed to receive visits from relatives only after a confession or other incriminating evidence has been obtained and formal charges have been made. This period of incommunicado detention, without safeguards or guarantees, often lasts for several months.

Reports of torture after prisoners have appeared before a court or have been transferred to a penal establishment under the jurisdiction of the armed forces have been rare. Cases were reported in 1980, however, in which convicted political prisoners were summarily transferred from a regular military prison to an army barracks where they were reinterrogated and allegedly tortured, either to obtain information leading to their indictment on new charges, or to gain information about other political suspects. Amnesty International has continued to receive reports of the ill-treatment and torture of a group of nine leading members of the Movimiento de Liberación Nacional—Tupamaros, National Liberation Movement, who have been held separately in military barracks in the interior of the country since 1973, when they were removed from Penal de Libertad, Uruguay's high security military prison.

Reports received since 1980 suggest that torture took place with the greatest frequency in military barracks, although allegations of torture in police stations have also been received.

Testimonies of prisoners released after serving prison sentences, supported by information supplied by former serving members of the armed forces have provided details of the torture techniques commonly employed in Uruguay. These include forcing prisoners to wear hoods for prolonged periods (in some cases for more than a month); severe and repeated beatings; plantón enforced standing for prolonged periods; hanging from the wrists, knees and ankles; picana eléctrica, electric, electric shocks administered to the most sensitive parts of the body; submarino, near asphyxiation by submersion of the head or upper part of the body in tanks of water, sometimes polluted by excrement; caballete, forcing prisoners to sit straddling iron or wooden bars which cut cruelly into the groin; burns; simulated executions; rape and other sexual abuses.

Consistent allegations have been made that medical staff at military barracks have routinely assisted in or advised over torture by conducting preliminary examinations of the victims, reviving and treating them following torture sessions, and advising officers when their life appeared to be in danger.

Since 1980 Amnesty International has issued frequent appeals when it feared that detainees faced the possibility of torture after arrest. It has asked the Uruguayan Government to carry out an independent inquiry into the death in custody of three prisoners in December 1980, April 1982 and June 1982, when it was feared that the prisoners in question might have died as a result of torture. In the first of these cases, that of Hugo Haroldo Dermit Barbato, the Human Rights Committee set up under the International Covenant on Civil and Political Rights, which considered the case in October 1982, found the Uruguayan Government responsible for a violation of Article 6 of the covenant for failing to take adequate measures to protect his life while in custody. In nine other cases considered by the committee since August 1979 (the date of its first ruling), it found that Article 7 of the covenant had been violated.

The Uruguayan authorities have consistently maintained that rigorous measures are taken to prevent the torture and ill-treatment of detainees in the custody of the police and military units. In its report to the Secretary-General of the United Nations under Article 40 of the International Covenant on Civil and Political Rights, submitted in February 1982, the government provided a list of 16 cases in which officials had been convicted of abuses against detainees. However, the cases all dated from 1977 or earlier, although Amnesty International has continued to receive allegations of torture since that date, and no details were given of the incidents to which the convictions related, of the people involved, or of the sentences passed by the courts.

Strict controls on the press and the effects of widespread self-censorship have prevented the publication inside Uruguay of allegations of torture and ill-treatment, and even complaints made to military magistrates have been rare, due to their widely attested lack of impartiality and failure to investigate or act on such complaints. In many cases details of the alleged torture of detainees can only be obtained after their release from prison on the completion of a prison sentence, when many are obliged to go into exile. In July 1983, however, a Montevideo human rights organization issued a statement which received publicity in the Uruguayan press, denouncing the alleged torture of a group of students, 25 of whom were subsequently committed for trial on accusations of membership of the Unión de Juventudes Comunistas, Union of Communist Youth. Amnesty International obtained independent reports which corroborated this statement. Some of the prisoners were said to have been tortured with electricity, beatings and semiasphyxiation by immersion in water, and several women were raped, one of them in front of her husband. One prisoner, a student of agronomy, was reported to have been transferred to the main military hospital as a result of injuries caused by torture, including the administration of electricity to the genital area. According to information obtained independently by Amnesty International, another of the detainees, a female medical student, was tortured repeatedly over a 15-day period by the methods described above, including being hung naked by the wrists in an outdoor patio in winter temperatures. Committal proceedings against the 25 were instituted by a military court, allegedly on the basis of confessions obtained as a result of this treatment, and they were subsequently transferred to regular military prisons to await sentence.●

## AMBASSADOR LUCIO GARCIA DEL SOLAR

● Mr. KENNEDY. Mr. President, in a recent speech delivered at MIT, Argentinian Ambassador Lucio Garcia Del Solar described the impressive steps undertaken by President Alfonsin to fulfill his campaign promises of "peace and tolerance, law and ethical order, both at home and abroad" and to put Argentina on a truly democratic path.

President Alfonsin was elected because of the failures of the three military juntas in power between 1976 and 1982. He moved swiftly, as Ambassador Garcia Del Solar describes, to strengthen the rule of law, restructure the military services, subordinate the military chiefs of staff to a civilian minister of defense, reduce the number of flag-rank officers, cut military spending, prosecute former junta members for abuses, and establish a national committee on the disappeared.

Ambassador Garcia Del Solar recognized that "our new political experience will certainly be placed in jeopardy if the Government's economic recovery program fails." He notes that success depends on cooperation from abroad and flexibility to restructure Argentina's external obligations.

Ambassador Garcia Del Solar's concluding comments about a more comprehensive relationship between the United States and Argentina in terms of security, development, and democracy are an invitation to a more constructive dialog. With the new Alfonsin government comes a great opportunity to strengthen United States-Argentinian relations and to improve the prospects for democracy in Latin America as a whole. We should seize that opportunity. I ask that the full text of the Ambassador's speech appear at this point in the Record.

The material follows:

### Today's Democracy in Argentina

1. To speak about Argentina is a challenge. For years our country has been unpredictable and paradoxical. Though known because of its natural resources, Argentina persistently makes headlines in virtue of its military coups, by getting into wars, by reason of its world-record inflation rate, because of terrorism and repression by the state.

2. Though blessed with an educated and literate population, in the last 50 years the country has not lived up to its expectations, and its political culture has been a disappointment to everyone.

3. Argentina's social sophistication and high literacy rate should have guaranteed a public arena of civilized discussion and attempts at mutual persuasion where ideas and values could be debated and interchanged. Instead, for years in the relatively recent past, the country has been the victim of political violence at all levels, the result not of ignorance, but of confusion and intolerance.

4. But I have come here to tell you that Argentina has now the chance of becoming a predictable country, a stable and credible one. The coup d'etat as an accepted form of changing governments has failed, and we are tired of being ruled by-arbitrary means. Today people believe that Argentina can only be governed as a democracy.

5. An old yet new democratic force, the Union Civica Radical, has taken over the reigns of government—by means of a free election in which it achieved a stunning victory. The government that has come out of this election is promising peace and tolerance, law and an ethical order, both at home and abroad. During the first few months of President Alfonsin's administration these promises are already being fulfilled.

6. But why should you believe me? Our country's credibility has been damaged by years of rigid and messianic military rule interrupted by unsuccessful civilian interregna. Many of you may rightly ask: Is this change for real, or is it merely cosmetic?

7. Yet sceptics will be inclined to say that what has happened in Argentina today has happened before. They might add that after a few years the military will be back. But this time the sceptics may be mistaken. More than one change has taken place in Argentina's political culture, and the country is returning with a united will to its democratic and civilian traditions that it so unrewardingly abandoned in 1930.

8. This democratic revolution has taken place in the minds and hearts of the Argentine people and it has been fueled, in part, by a generalized perception of a remarkable historical contrast.

9. Argentine history can be divided into three periods. First, there is the stage of national consolidation that lasted more than 50 years: from 1810 to the 1860's. This stage was characterized by political turbulence, civil strife, and institutional instability.

10. The second stage of Argentine history lasted from the 1860's to 1930. It was a period of national development and growth in which Argentina emerged as one of the richest countries in the world, attracting millions of immigrants of all races and creeds, Italian, Spanish, Jewish, Arabic, Welsh, Irish, Polish, and German. It also attracted investment capital which was used to build the country's infrastructure.

11. It was a time in which culture and politics flourished. Argentina was seen as the promise of the Hispanic world. A promise that had nothing to do with authoritarianism but was based on the vigor of the country's developing democratic institutions. The country was like a large oasis of contemporary Europe in a slowly emerging Latin America, enjoying the multiple benefits of a stable democratic political culture.

12. The third stage of Argentine history dates from 1930 to June 1982. Except for brief periods it is characterized by the growing political power of the military and its tendency to ally itself with the conservative oligarchy in order to rule in the name of an order without law.

13. At the end of this stage, that has lasted more than 50 years, the country has lost ground to the rest of the world in many vital economic, political, cultural, and institutional areas. From being one of the wealthiest and more progressive of nations, Argentina has become one of many struggling and severely indebted countries, and it has attained the highest inflation rate in the world.

14. This contrast I have drawn, between a stunting period of intermittent military rule and the steady, sometimes even spectacular growth that took place mainly in the democratic period, has created a significant unconscious motivation that has led the country as a whole to desire democracy. We have all come to hope, and to believe, that Argentina can only live up to its potential as a free and open democratic society.

15. But there are specific recent developments which help explain both the fervor and the conviction with which Argentines have returned to their traditional democratic faith. In the last 8 years the country has been hurt morally, in the pocket and by war.

16. The military government that took over in 1976 gambled much of its prestige on the success of an economic plan that did not work, and now as a result of that failure the majority of Argentines are suffering the consequences of a severe recession, the loss of purchasing power, and the penalties of a more than $40 billion foreign debt.

17. The military also made a terrible mistake in the way it decided to curb terrorism. Faced in the seventies with a clear and present danger in terms of persistent, widespread terrorist activities, the military leadership opted to ignore law and Christian values by using methods of repression that only now the Argentine people are coming to acknowlege and to reject.

18. Finally, the military tried to recover the Malvinas by the use of force in 1982. The legitimate Argentine claim to these islands is part of our identity as a nation. The military authorities exploited national feelings to unilaterally commit the country to a war it could not win, breaking our long standing traditions of respect for the peaceful settlement of international disputes.

19. When the attempt to recover the islands failed, and the British retook the Malvinas, the prestige of the military government in Argentina fell to an all time low. The bitterness of the defeat, the loss of lives, and the professional ineptitude to conduct a war profoundly affected Argentines, convincing them of the lack of capacity of the armed forces to ever again run the affairs of the nation.

20. As a natural consequence of this state of affairs and of the forceful expression of the traditional democratic values of the Union Civica Radical during a vibrant and successful election campaign, the hope in democracy was at an all time high when Raul Alfonsin was inaugurated President last December. The President, shortly after this inauguration, swiftly made political decisions to confront the country's many problems and turned this hope into a reality.

21. As his first step, the President decided to strengthen the rule of law. He immediately presented new legislation to congress, whose end is to erradicate forever the coup d'etat as a political alternative in Argentina by proposing severe penalties for whomever in the future attempts to alter the constitutional order.

22. At the same time he thought it essential to restructure the military services and reaffirm the constitutional principle that the President of the Republic is the only commander-in-chief of the armed forces, eliminating the positions of commander-in-chief of the Army, Navy, and Air Forces, and, as in the Untied States, it was established that it will be the chiefs of staff subordinated to the Minister of Defense, a civilian, who will lead each service in a strictly professional capacity.

23. The President also reduced the number of superior-officers by more than half their previous number, and he decided to drastically cut military expenditures, transferring to a civilian administration the management of those industries that produce materiel for war. Resources saved from military expenditures will be used to support the country's education, health, and social programs. All these decisions have been taken with the complete acceptance of the armed forces. No civilian government has ever dared to introduce such a deep reform, and that is why, in the past, civilian governments have always left in the ground the seeds of their own destruction.

24. President Alfonsin not only took these steps to assure the armed forces fulfill the specific role assigned to them by the constitution, which is the defense of national sovereignty, he also established the necessary measures so that, from a moral perspective, military personnel confront a past that has degraded the image of the Republic and that of the armed forces themselves. I am referring to that repression that took place outside of the law and which used methods that imply severe violations of human rights.

25. A few days after inauguration, the President ordered the prosecution of all the members of the three military juntas that governed Argentina between 1976 and 1982. They are to be tried for allegedly ordering homicides, illegal privations of liberty and torture.

26. The purpose of these measures is not revenge: It is to apply the rule of law, and to show the members of the armed forces, specially the young officers, that the citizens who are in military institutions cannot take the law into their own hands and apply it arbitrarily. Of course, this message goes for civilians, too.

27. That is why President Alfonsin has also ordered the attorney general to initiate judicial proceedings against the instigators and authors of any left wing terrorist acts that took place in the country since May 25, 1973, announcing that if these leaders reenter Argentina they will be arrested and prosecuted for what they did in the past.

28. The names of these persons have been made public and one of them is already under arrest. Two others await extradition in a foreign country. It would offend the country's sense of justice, if those who sowed the seeds of violence and hate would today return as victors.

29. On December 16; the government formed the National Committee on the Disappeared—the Argentine equivalent of a Presidential Commission—to look into the thousands of cases of persons who have been abducted by the security forces during the military regime. President Alfonsin wants every disappeared person to be identified, every family to know the truth. Furthermore, measures have been taken to stamp out illegal coercive practices. For example a new Federal law will provide the same penalty for torture as for homicide.

30. President Alfonsin also sent a legislative proposal to congress to insure free democratic elections in the labor unions. Some of these unions have been run by bosses unaccountable to the union membership, because union procedures for elections were not applied in the past. Yet Alfonsin's initiative, strongly opposed by most of the union leadership, after being approved by the House, was rejected by the Senate where Peronists hold a slight majority. This attitude of the opposition which feeds on the country's difficult economic and social issues constitutes the biggest problem President Alfonsin confronts today.

31. A perceptive observer, Congressman Stephen J. Solarz, after touring Latin America recently wrote in the New York Times: "The democratic trend is most palpable in Argentina. After five decades of repression and economic stagnation, President Alfonsin is moving vigorously to engineer fundamental reforms. But the enthusiasm engendered by his initiative will be squandered if there is no economic revivial."

32. True, the government has inherited a grave situation: the highest inflation in the world, a severe recession, and a gigantic foreign debt.

33. And it is also true that our new political experience will certainly be placed in jeopardy if the government's economic recovery program fails. Millions of Argentine families are suffering because of the inherited economic crisis. The recovery process will be hard for the people, and we are aware that a lot depends on our own efforts to end inflation, reduce public spending, improve tax revenues, reactivate and rationalize the economy, achieve a better distribution of income, and stimulate exports.

34. But we also know that this effort could be frustrated if from abroad we do not receive cooperation with comprehensive and imaginative solutions to our problems, and if the government is not permitted sufficient flexibility to restructure our external obligations so as to deal with Argentina's debt problem, as we always have, by paying what we owe.

35. Foreign creditors and potential investors should not overlook the fact that despite current difficulties, Argentina's productive potential exists and today there are some signs that a modest industrial recovery is on the way. Our main source of foreign exchange for meeting our financial obligations is agricultural production. In the last 5 years the agricultural sector of the economy has doubled, and there is every indication that it will continue to grow. Argentina has no energy shortage. The export of substantial amounts of natural gas is in the offing, new oil wells have recently been discovered in the north, and nuclear energy plants are both operating and under construction.

36. In foreign affairs Argentina, a nonaligned country, will carry out an independent foreign policy placing special emphasis on Latin America.

37. In the first 2 months of the new Argentine democratic administration our government signed in the Vatican a friendship agreement with Chile improving our relations with that country which have been strained over the last few years because of a conflict centered on a group of islands in the Beagle Channel. Progress is being made towards a definite settlement of that dispute demonstrating our President's vocation for peace.

38. Argentina also wants a peaceful settlement with the United Kingdom with respect to the Malvinas, but our country will never abandon its claim to sovereignty over the islands. Our objective is to negotiate the issue with Great Britain as requested by the United Nations. But as yet London refuses to do so. It should be recalled that last fall, for the second consecutive year, the United States voted in the United Nations in favor of a resolution calling for future negotiations of the dispute.

39. We feel that your country is now committed to pressure the United Kingdom to sit down with Argentina at the bargaining table, and we feel that a solution that does justice to our legitimate claim, with due consideration of the interests of the islanders, should be sought by everyone. Such a solution will put an end to a focus of tension in the southern area of our hemisphere which affects the relationship between the United States and Latin America, and provides an opportunity to third parties to be ominously active where they never were before. The Argentine Government is opposed to any trend that would make the South Atlantic an area of East-West Confrontation.

40. That is why the search for peace, and a just order, is also behind the Argentine Government's position in Central America. Argentina wants everyone to fully respect the principles of nonintervention, political pluralism, and observance of human rights and feels that any solution to the crisis could and should be achieved by the people of Central America through peaceful negotiations. Therefore, the government of Alfonsin backs the diplomatic efforts of the Contradora group, while rejecting the use of force or terrorism in any of its forms as a way to resolve international conflicts, or to change internally the will of the people. It firmly believes that no government, within or outside the hemisphere, has the right to interfere in the indigenous struggles of our nations.

41. As for Argentina's bilateral relations with the United States, you must know they have been injured by the fact that your government helped the United Kingdom during the war over the Malvinas.

42. Time and the cooperation that the United States may give to find a just solution to our dispute with Great Britain will certainly help heal the wounds inflicted on United States-Argentine relations.

43. On the broader aspects of our bilateral relations, the meeting that President Alfonsin had with Vice President Bush on Inauguration Day in Buenos Aires and the talks which took place in Washington a few days ago between our Minister of Foreign Affairs Dante Caputo and Secretary of State George Schultz have been positive steps taken towards a better understanding of our respective points of view. After all, the United States and Argentina share once

again the common value of democracy and that eases the process of communication. But we still have different perceptions of hemispheric problems, and there can be no doubt that these differences often obstruct the relations between Washington and the democratic governments in Latin America.

44. The United States in its dealings with Latin America has tended to stress security issues while unconvincingly mentioning the need for development. On the other hand the Latin American democracies tend to stress the need for economic development while understating the problems of security.

45. Too often security has been the reason for Washington's intervention in the internal affairs of our countries and the excuse for backing authoritarian governments, thus alienating the good will and the support of oppressed populations who only desire freedom and the kind of prosperity that has been denied to them by unjust conditions.

46. This has led, and may again lead, to situations of political turmoil and social unrest which inevitably facilitate the intrusion of the unwanted East-West confrontation in our midst. The frequently ad-hoc American way of facing security problems usually creates seductive rationals for the growth of anti-Americanism and invites the proliferation of extreme left wing movements which threaten the stability of our fragile democratic governments. Yet, there is not a better shield against Communist infiltration in Latin America than the consolidation of moderate and prosperous democracies.

47. So the great danger for the Americas today is that conflicting perceptions about the links between security issues, economic development and democracy, will contribute to a drifting apart of the North American and Latin American points of view. This is why we believe that it is only by means of a candid and comprehensive new dialog that misunderstandings can be avoided.

48. I have sketched some of the domestic and foreign policies of the government of President Raul Alfonsin. These policies are meant to strengthen democracy and to remedy the ills of the political culture of my country. They are contributing to a transformation of Argentina that is taking place before our eyes while you are sitting here.

49. This change is not brought about by Utopian or Messianic thinking, it is a change brought about by the fact that people not only want to be governed fairly, honestly and peacefully, but demand they be so governed. The Union Civica Radical has a historical vocation to meet this demand.

50. Today in Argentina we have learned collectively that violent solutions, wherever they come from, however they are dressed up, only worsen problems they supposedly solve. The country by voting the way it did in the last election expressed clearly that it needed a government that insures fair and ethical procedures to regulate social and political intercourse and commerce among human beings.

51. I believe that this kind of government, which some members of the Union Civica Radical would call more a style of governing, a "conduct", rather than a creed or doctrine, must succeed because it is the only kind of government that a majority of the people want. The alternative to today's democracy is anarchy or some narrow and cruel discipline of the right or of the left.

52. Usually when there is talk about a country with a troubled past solutions to its difficulties are formulated in apocalyptic terms: Changes of structure are announced and there are calls for different kinds of revolutions.

53. As a simple Argentine citizen I feel it is refreshing and heartening when a leader speaks, as Alfonsin does, of justice and ethics as remedies that will heal, and not as weapons that will hurt.●

## EQUITABLE AND EXPANDING TRADE

● Mr. ROTH. Mr. President, I rise to call to the attention of the Senate that today, June 12, is an important date in trade policy history. Fifty years ago, on this day, the Reciprocal Trade Agreements Act of 1934 was enacted. With that act, the Congress as a body recognized that isolationist trade policies do not serve the national interest. The 1934 Trade Act began the process of dismantling the sky high Smoot-Hawley tariffs which intensified the hardship of the Depression years in this country and abroad by precluding job creation through trade. As a substitute for isolationism, the 1934 Trade Act provided a congressional mandate for a cooperative approach to trade through U.S. leadership to construct an international trading system.

Today most commentators agree that the international trading system, which grew from the 1934 Trade Act, is in serious trouble.

In saying this, I am not referring to the principal causes of the enormous U.S. trade deficit: exchange rates, international debt, and the slow pace of recovery abroad. These issues are already the subject of much public attention.

Discussion of the trade deficit is, of course, critically important, but it can obscure an underlying and serious trade problem for the United States: the erosion of the international trading system itself.

Ostensibly world trade and U.S. trade interests are fostered by the GATT, the General Agreement on Tariffs and Trade, which is the foundation of today's trading system. GATT membership has grown from 23 countries in 1947 to 88 countries, accounting for four-fifths of world trade today. But this impressive gain in membership hardly reflects the growing importance of international discipline to the real trade situation.

The erosion of the trading system has a number of facets. Today, many trading countries receive special treatment under the GATT. Other nations of increasing importance to the United States as trading partners simply do not participate in that institution. Growing areas of trade, such as services, are not covered by the agreement, and new barriers to trade are proliferating in traditionally important trade sectors. The relevance of GATT rules, which are based on a presumption that free markets operate in trading nations, is more and more open to question.

This last point particularly concerns me and others. Some have in fact referred to the increasingly blurred distinction between public and private enterprise as the central dilemma facing trade policymakers in the coming decades. In Europe, for example, governments now have a direct ownership stake in more than half of Europe's 50 largest companies, and in some countries state-owned companies amount to nearly half of the industrial sector. In other countries—Japan is the most noted example—the state may not own the productive facilities, but it has a significant role in industrial policy, especially in targeting industrial sectors for expansion.

We cannot afford to ignore the erosion of the international trading system. These changes in the conditions of trade create real problems for American traders. They also give rise to calls for protectionist or unilateral trade policies—calls which will not be silenced as long as the trading system remains out of date.

Protectionist responses to the frustrations of today's trading conditions are understandable, but they are misdirected. They misunderstand the U.S. trade interests. Protectionism might make trade fair in this country, but the cost will be high in lost export sales as other countries retaliate against us. And domestic protectionist actions will do nothing to make trade competition fairer in international markets, where the real future lies for U.S. jobs and economic growth.

Perhaps this confusion results because the current catch phrase we use to describe our basic trade objectives—free and fair trade—is, at best, too obscure. At worst, it is a code for protectionism. We can start creating a U.S. trade policy for the 1980's by adopting a new phrase to summarize U.S. trade objectives: instead of free and fair trade, let us talk about equitable and expanding trade.

When we clearly recognize that we have two trade objectives—to make trade equitable and to help it expand—it also becomes clear that we must find better ways than protectionism to pursue our dual trade interests.

For this reason, I am chairing hearings in the Joint Economic Committee (JEC), on the occasion of the 50th anniversary of the Reciprocal Trade Agreements Act of 1934. These hearings are being conducted in an unusual, informal manner with witnesses and members participating in free-flowing, brainstorming sessions. Discussion at each hearing has focused on how to save the international trading system. Witnesses and members have presented their ideas on ways to reform the international trading system to bring equity to our trade relations and at the same time support trade expansion.

For these hearings I have tried to bring together some of the Nation's most well-respected trade experts. Robert Hormats, former Deputy U.S. Trade Representative and former Assistant Secretary of State; Fred Bergsten, director, Institute for International Economics and former Assistant Secretary of Treasury; Clayton Yeutter, president, Chicago Mercantile Exchange and former Assistant Secretary of Agriculture; and Gardner Patterson, former Deputy Director General of the GATT, participated in the first hearing on April 26.

Today at 2 p.m. a second hearing will take place and the witnesses will be: Ambassador William Brock, U.S. Trade Representative; Robert Strauss, former U.S. Trade Representative; Gov. George Busbee, former Governor of Georgia and chairman of the Bipartisan Coalition for American Exports; Edmund Pratt, chairman of Pfizer, Inc., and chairman of the Emergency Committee for American Trade; and William Diebold, former senior fellow, Council on Foreign Relations and coauthor of "The New Multilaterism: Can the World Trading System Be Saved?"

These JEC discussions can serve as the intellectual basis for development of a constructive, bipartisan trade policy for the 1980's. Though the hearings are informal, with no written statements required, transcripts of the discussions will be available. I hope Senators will use these transcripts as a resource in developing their positions on trade policy.

When we talk about trade policy, the focus is all too often on the domestic side. But trade policy, as well, subsumes the role this country wants to take internationally in sustaining and reforming the trading system. In turn, a better functioning international trading system will limit the need for domestic trade measures.

U.S. leadership had much to do with the kind of trading system that developed after World War II and this country continues to have a major role to play in shaping the framework for international trade relations in the coming years.

My hope is that June 12, 1984, like June 12, 1934, will mark a turning point for U.S. trade policy; that we will begin on this date to focus on ways to save the international trading system and that we will recommit this country to a cooperative approach to trade—the only approach that can insure both equitable and expanding trade.●

## NUCLEAR CATASTROPHE

● Mr. KENNEDY. Mr. President, on May 22, 1984, the leaders of Argentina, Greece, India, Mexico, Sweden, and Tanzania issued a joint public statement expressing their united concerns over rising international tensions and the possibility of a nuclear catastrophe. The threat of nuclear confrontation endangers the entire world but the work to prevent such an occurrence must begin in those nations that possess nuclear weapons.

These leaders from four continents declared: "The rush toward global suicide must be stopped and then reversed."

The leaders urged immediate cessation of the testing, production, and deployment of nuclear weapons by the nuclear states—the U.S., U.S.S.R., U.K., France, and China—as a necessary step toward reduction in nuclear arms. I join in support of this plea by six very different countries united in a common desire for peace. I urge my colleagues to read this important statement, which I ask be printed in the RECORD following my remarks.

The statement follows:

### JOINT PUBLIC STATEMENT BY THE LEADERS OF ARGENTINA, GREECE, INDIA, MEXICO, SWEDEN, AND TANZANIA

Today, the survival of humankind is in jeopardy. The escalating arms race, the rise in international tensions and the lack of constructive dialog among the nuclear weapons states has increased the risk of nuclear war. Such a war, even using part of the present stockpiles, would bring death and destruction to all peoples.

As leaders of nations, member states of the United Nations, we have a commitment to take constructive action toward halting and reversing the nuclear arms race. The people we represent are no less threatened by nuclear war than the citizens of the nuclear weapons states. It is primarily the responsibility of the nuclear weapons states to prevent a nuclear catastrophe, but this problem is too important to be left to those states alone.

We come from different parts of the globe, with differences in religion, culture and political systems. But we are united in the conviction that there must not be another world war. On this, the most crucial of all issues, we have resolved to make a common effort in the interests of peace.

Agreements which merely regulate an arms build-up are clearly insufficient. The probability of nuclear holocaust increases as warning time decreases and the weapons become swifter, more accurate and more deadly. The rush towards global suicide must be stopped and then reversed. We urge, as a necessary first step, the United States and the Soviet Union, as well as the United Kingdom, France, and China, to halt all testing, production and deployment of nuclear weapons and their delivery systems, to be immediately followed by substantial reductions in nuclear forces.

We are convinced that it is possible to work out the details of an arrangement along these lines that takes into account the interests and concerns of all, and contains adequate measures for verification. This first step must be followed by a continuing programme of arms reductions leading to general and complete disarmament, accompanied by measures to strengthen the United Nations system and to ensure an urgently needed transfer of substantial resources from the arms race into social and economic development. The essential goal must be to reduce and then eliminate the risk of war between nations.

We will do everything in our power to facilitate agreement among the nuclear weapons states. We will continue to keep in touch with one another about the best ways and means of achieving this objective. We will be consulting with the leaders of the nuclear weapons states and with other world leaders as well as pursuing discussions through United Nations channels.

We affirm our belief in detente and mutual understanding, with broad international cooperation and respect for the right of each state to a peaceful, secure and independent existence and of the right of each people to organize its life according to its own aspirations. There can be no assurance of safety for one side only. That is why we attach such importance to a halt in the nuclear arms race that allows for renewed talks on nuclear disarmament.

All people have an overriding interest in common security and the avoidance of a nuclear war which threatens human survival. Citizens throughout the world are expressing, as never before, their concern for the future; this public discussion of peace and disarmament must continue and increase. The support and encouragement of an informed public will greatly strengthen governmental action to reverse the nuclear arms race.

We have faith in the capacity of human beings to rise above the current divisions and create a world free from the shadow of nuclear war. The power and ingenuity of the human race must be used, not to perfect weapons of annihilation, but to harness the resources of the earth so that all people may enjoy a life of security and dignity in an international system free of war and based on peace and justice.

Today, the world hangs in the balance between war and peace. We hope that our combined efforts will help to influence the outcome.●

## COST CONTAINMENT IN HEALTH CARE FINANCING

● Mr. DURENBERGER. Mr. President, the new emphasis on cost containment in health care financing by both public and private payers is forcing hospitals to take a close look at the services they provide and their cost.

I ask to have printed in the RECORD a copy of an article that appeared in the New York Times on June 11, 1984, written by Ronald Sullivan. The article describes how six hospitals in Brooklyn are combining resources in an effort to eliminate duplicative services and reduce costs. Private, municipal, State, and Federal hospitals are participating in this consolidation, providing direct benefits to the poor, containing costs, and improving medical education.

The article follows:

### SIX HOSPITALS, PUBLIC AND PRIVATE, WILL SHARE SERVICES IN BROOKLYN

(By Ronald Sullivan)

A major share of medical services provided by private and public hospitals in Brooklyn will be consolidated under a plan to eliminate fragmented and duplicative services and reduce costs.

As part of the overall plan, New York City intends to spend $300 million to rebuild its Kings County Hospital Center.

The reconfiguration of services, which is to be announced today in Brooklyn, was described by city officials as the largest consolidation of public and private hospital care ever undertaken in the city. They said it was intended to eliminate redundant services that waste public health funds and often result in poor treatment.

### LINKING SIX HOSPITALS

The plan will link the services of six hospitals: two private voluntary ones—Brookdale Hospital Medical Center and the Long Island College Hospital; two municipal ones—Kings County and Woodhull; a state one—State University Hospital of the Downstate Medical Center, and the Federal Veterans Administration Hospital.

The Brooklyn Caledonian Hospital, itself the result of a recent hospital merger, said it was considering joining the plan as its third private hospital.

The hospitals, which are teaching affiliates of the state's Downstate medical school in Brooklyn, will remain independent. They will, however, participate in a so-called consortium, which will consolidate a number of their specialty services and reorganize various medical and surgical departments.

The consolidation of services will take up to five years to complete and the rebuilding of Kings County Hospital twice that long, the officials said. The renovation would be financed primarily by New York City's 10-year, $750 million hospital capital construction fund.

### MADE OVERALL PLAN POSSIBLE

Government officials and the heads of private hospitals in Brooklyn have been meeting for years in an effort to deal with the rising cost of medical care and its implications for the poor.

Participants in these talks said the city's commitment to rebuild Kings County Hospital, which cares for a large number of poor patients, moved the talks forward because it made possible an overall plan to address the needs of those who could pay for care and those who could not. The plan also succeeded because the private hospitals agreed to cede some of their medical autonomy.

Similar talks are continuing in the Bronx.

Mayor Koch said the Kings County Hospital rebuilding plan fulfilled a commitment "to do everything we can to upgrade municipal hospitals, physically, structurally and medically."

The rebuilding of Kings County would be the largest municipal hospital construction project since Woodhull Hospital, the ultramodern hospital that opened in northern Brooklyn two years ago.

City officials acknowledged that any plan to build something new, particularly when other city services have been cut, is expected to be criticized.

However, they contend that spending more on repairs to keep Kings County open is like spending money on a dilapidated automobile that should be [illegible]ed. They say a complete renovation of [illegible] hospital would save more money in the [illegible]n.

"Of course, doctors and [illegible]tals fear any threat to their autonom[illegible] [illegible]id Dr. Alvin I. Kahn, Brookdale's assi[illegible] vice president for medical affairs. "Bu[illegible] more we can do together, the better it [illegible] for every hospital in Brooklyn."

A consolidation, he said, "would end old conflicts and rivalries among medical chiefs and allow doctors to broaden their expertise."

For example, the ophthalmology departments in the participating hospitals will be headed by one chairman who will establish his office in the hospital that provides the largest volume of eye care, in this case Brookdale.

Medical education also would be improved by allowing interns and residents in one hospital to spend more time in another that excels in a specialty they are concentrating on, officials said.

### A TWO-TIER SYSTEM

Expensive specialty care and medical technology will also be consolidated. For example, plans envision that cardiac surgery, which is now performed in several of the hospitals, will be consolidated in one or two of them.

This is intended to eliminate the high cost of maintaining duplicative and competitive cardiac surgical teams. It also would improve surgical expertise by assuring a higher volume and wider range of surgical cases for the remaining teams, health officials said.

For the most part, New York City's hospital system is divided into two tiers, with private patients generally using private voluntary hospitals while the poor without private insurance or Medicaid coverage are treated in municipal institutions.

The consolidation will bring both tiers closer.

"Both private and municipal patients would share the same doctors, the same technicians and the same equipment," said Dr. Donald Sherl, Downstate's president.

For example, plans call for private patients at State University Hospital, one of the primary teaching institutions of the Downstate medical school, to share a radiation therapy unit with municipal patients from Kings County, which is directly across Clarkson Avenue in the Flatbush section.

The city's plans for renovating Kings County include a bridge over Clarkson Avenue connecting it with the medical center. The bridge would be used both by doctors treating patients in both hospitals, and by patients being treated in merged specialty units, such as kidney dialysis.

Dr. Sherl said the consortium "would entirely change the focus of an academic medical center and facilitate the provision of shared services."

He said department chairmen, long accustomed to having their offices in the center, will be relocated to participating hospitals. "In other words," he said, "they will begin exercising their authority where medical care is actually delivered."

"We believe this is the direction an urban academic medical center must take and we intend to be a model for others to come," Dr. Sherl said.

Frederick D. Alley, the president of Brooklyn Caledonian, said joining the new consortium "did not pose a threat to the independence of our hospital or our doctors."

"Rather," he said, "given existing economic constraints, it offers us the chance to eliminate duplicative services and to concentrate high-cost services at just a few locations."

Moreover, Mr. Alley said consolidation would enhance the private practice of medicine in Brooklyn and help keep private patients from seeking care elsewhere, particularly in Manhattan's large teaching hospitals.

For Kings County Hospital, the plan would regenerate a long-delayed rebuilding plan for a huge municipal complex that officials contend is dilapidated and hopelessly obsolete.

Ira C. Clark, the head of both Kings County and Woodhull, said plans envision that existing patient care services in five separate buildings would be consolidated in one new building. He said Kings County's current size of 1,350 beds, spread out in 20 buildings on 40 acres, would be cut to about 1,000 beds.

"We can no longer ask patients to endure a dysfunctional clinical environment that has inadequate bathrooms, no air-conditioning and no dignity," he said.

"How in the world can anyone expect a very sick patient or one who has just undergone surgery and has a high fever to be placed in a room with other patients where the temperature is over 100 degrees," he said.●

## TRIBUTE TO FRANK K. KELLY

● Mr. PELL. Mr. President, I should like to take note of a milestone in the life of a good friend and a distinguished American, Mr. Frank K. Kelly.

I came to know Frank Kelly when he was director and I was deputy director of the Harriman for President Campaign Committee in 1952. He later became vice president of the Center for the Study of Democratic Institutions, the center for scholarly studies founded by the great educator, Robert Hutchins. The Center for the Study of Democratic Institutions was the prototype for many of the "think tanks," both conservative and liberal in outlook, that have since been established. Frank Kelly served at the Center for 22 years, and played a central role in many of its studies and projects, including the Pacem in Mares and Pacem in Terris conferences, in which I participated, and in Center projects related to first amendment rights and the freedom of the press.

Actually, Frank Kelly's involvement in public affairs issues had its roots right here in the Senate, where Frank served as an assistant to the Senate majority leader, Senator Scott Lucas of Illinois. He served also as a speechwriter for President Harry Truman during his memorable and successful campaign for reelection in 1948.

Through the years, Frank Kelly has been an astute, thoughtful, and reflective observer and commentator on the deeper trends and the most basic issues that confront the United States as a Nation dedicated to a democratic form of government.

Most recently, he has written a well-received history of the Fund for the Republic and its establishment of the Center for the Study of Democratic Institutions, and is serving on the board of directors of the National Peace Academy Campaign.

Mr. President, Frank Kelly will soon be observing his 70th birthday, and I join with his many friends in extending my congratulations and very best wishes.●

## SENATE TRAVEL REGULATIONS

● Mr. **MATHIAS**. Mr. President, the Committee on Rules and Administration has received inquiries from several Senate offices concerning the proper disposition of bonus or discount coupons received from various airlines as a result of official travel. In order to remove any confusion that might exist, I have sent a memorandum to all Senate offices which clarifies the procedure stated in the Senate travel regulations. I ask that a copy of this memorandum be printed in the RECORD at this point.

The memorandum follows:

COMMITTEE ON RULES
AND ADMINISTRATION,
*Washington, D.C., May 30, 1984.*

Re: Discount airfare coupons.
To: All senatorial offices.
From: CHARLES McC. MATHIAS, Jr., Chairman, Committee on Rules and Administration.

This memorandum is intended to clarify the Senate policy concerning the proper disposition of discount airfare coupons or bonus travel certificates earned by Senators and staff as a result of official travel. Regarding this matter, the Senate Travel Regulations state: "Discount coupons or other evidence of reduced fares, obtained on official travel, shall be turned in to the office for which the travel was performed so that they may be utilized for future official travel."

This regulation is predicated upon the general Government policy that all promotional materials such as bonus flights, reduced-fare coupons, cash, merchandise, gifts, credits toward future free or reduced costs of services or goods, earned as a result of trips paid by appropriated funds, are the property of the Government and may not be retained by the traveler for personal use.

It is the traveler's responsibility to turn in to the office manager all promotional materials which would provide free or reduced costs for future travel. These should be integrated into the office's plans for future official travel. Even in those instances when the coupons are non-transferable or carry an impending expiration date, and it appears that the office will not be able to use them, they are still Senate property and should not be converted to personal use.

I hope that this memo has been helpful and informative. Any questions regarding this matter can be directed to the Rules Committee staff on 4-0284 or 4-0277.●

Mr. **BAKER**. Mr. President, I have a few formalities that appear to be cleared on both sides.

## ORDER DISCHARGING FOREIGN RELATIONS COMMITTEE FROM CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 226

Mr. **BAKER**. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of House Concurrent Resolution 226, a concurrent resolution expressing the sense of Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran, and that it be placed on the calendar.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

## ADDITIONAL CONFEREES TO H.R. 4170, THE OMNIBUS DEFICIT REDUCTION ACT OF 1984

Mr. **BAKER**. Mr. President, I ask unanimous consent that the following Senators be added as conferees to H.R. 4170, the Omnibus Deficit Reduction Act of 1984, solely for the consideration of title IV of division B of the House amendment to the Senate amendments: Senators WEICKER, GORTON, and BUMPERS.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

## ORDERS FOR WEDNESDAY

### ORDER FOR RECESS UNTIL 9:30 A.M. AND ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. **BAKER**. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow and that after the recognition of the two leaders under the standing order, the following Senators be recognized on special order of not to exceed 15 minutes as follows and in this order: Senators KASTEN, PROXMIRE, CHILES, PRYOR, and HEINZ.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

### ORDER FOR A PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. **BAKER**. Mr. President, I further ask unanimous consent that after the execution of the special orders, there be a time for the transaction of routine morning business until the hour of 11 a.m. in which Senators may speak for not more than 2 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

## PROGRAM

Mr. **BAKER**. Mr. President, on tomorrow, the Senate will convene at 9:30 a.m. After the opening formalities, there will be special orders to be followed by a time for the transaction of routine morning business. At 11 a.m., the Senate will resume consideration of the Department of Defense authorization bill.

It is anticipated there will be votes throughout the day and the Senate is expected to be in late tomorrow evening.

A further announcement as to approximation of time for the Senate to adjourn or recess will be made in the morning after consulting with the two managers and the minority leader.

## RECESS UNTIL 9:30 A.M. TOMORROW

Mr. **BAKER**. Mr. President, could I inquire of the minority leader if he has any further requirements for time this evening; otherwise, I am planning to ask the Senate to recess?

Mr. **BYRD**. Mr. President, I thank the distinguished majority leader. I have no requests.

Mr. **BAKER**. I thank the minority leader.

Mr. President, I see no other Senator seeking recognition. I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and, at 9:07 p.m., the Senate recessed until Wednesday, June 13, 1984, at 9:30 a.m.

# HOUSE OF REPRESENTATIVES—*Tuesday, June 12, 1984*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, as the Psalmist has written, let us make a joyful noise of praise for all Your many gifts to us. In spite of the dangers of our time, and the tensions and tumults that people face, let us begin each day with thanksgiving, giving You our adoration for Your faithfulness and Your promises. And even as we offer our gratefulness for Your blessings, O God, may we translate that gratefulness into deeds and acts of justice, mercy, and charity to those in need wherever that need may be. In Your name we pray. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5155. An act to establish a system to promote the use of land remote-sensing satellite data, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1286. An act to establish a program to conduct research and development for improved manufacturing technologies, and for other purposes.

## NO MORE EXCUSES

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, President Reagan is expected to go on national television again this week to continue his media blitz of the past 2 weeks.

Undoubtedly, the President will try to capitalize on his ceremonial performances in Europe. If he behaves true to form, he will almost certainly attempt again—as he did in Europe—to blame his high deficits on the Congress, particularly Democrats.

But that is a bum rap and a weak alibi. Making excuses does not solve problems.

The House has already acted responsibly in trimming the administration's red ink. Before Easter we passed the budget resolution, the reconciliation bill, and the tax bill. They made $82 billion more cuts in the deficits than the President had asked and $42 billion more than the Senate wants. Ever since then, we have been trying to get the Senate to come to conference on the budget.

Staggering deficits, unmanageable interest rates, unprecedented trade deficits—these threats to our economic recovery all stem directly and unmistakably from the administration's misguided economic policies.

And so I call on the President not to scapegoat, not to point an accusing finger at the Congress, but to face the facts and to join us in the search for solutions.

It takes some courage to do that. Not so much courage as it took to storm the beaches of Normandy. But the deficit crisis calls for a D-day of another sort.

It will take a steady resolve and effective leadership—not scapegoating—to roll back these deficits and get this country out of hock.

Our allies know the dangers of our deficits and high interest rates.

The only missing ingredient is Presidential leadership in restoring fiscal sanity.

## BANNING OF ANTISATELLITE WEAPONS

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, yesterday Soviet leader Konstantin Chernenko called on the United States to negotiate without delay a pact banning the use of antisatellite weapons.

The House's action several weeks ago to block testing of ASAT is being taken seriously in Moscow. This is good news for arms control and, one would think, for President Reagan's reelection effort.

Now, the President has the opportunity to prove that he is seriously interested in real arms control.

We are in a position of strength with respect to ASAT's—a position the administration has supposedly been waiting for. We should move without delay to the bargaining table and stop this next round of dangerous and destabilizing weapons.

We can stop the countdown to an outer-space arms race now.

An ASAT ban is within Ronald Reagan's orbit.

## A TRIBUTE TO RUTHE DESKIN

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, her personal résumé spans pages but humility would prevent this outstanding Nevadan from disclosing her many accomplishments and contributions to our State. So, I will take a moment to do so. Ruthe Deskin, premiere journalist and communicator, for 50 years, this Yerington-born media master has contributed her skills to newspaper, television, radio, public relations, advertising, and more. Under her direction, the Las Vegas Sun Youth Forum has received numerous awards, including the National Golden Press Award for America's best youth program.

This enthusiasm is reflected in other community activities, too, ranging from the Animal Rescue Foundation, to Friends of the Library, to the Southern Nevada Drug Abuse Council.

Her awards and honors recognize Ruthe for her service to her country, in the form of the Extra-Meritorious Civilian Service Medal during World War II to her State, as distinguished Nevadan for 1980, to her profession, with the 1984 Nevada State Press Association's "Silver Make-up Rule," its most prestigious award.

Though I am limited by time to continue my speech I am not limited by time to continue my praise.

## EMPLOYER SANCTIONS UNDER THE IMMIGRATION REFORM BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, one of the most controversial aspects of the Simpson-Mazzoli bill is employer sanctions. This morning the Washington Post in an editorial stated that there would be no discrimination if employer sanctions were enacted. Let me tell the Washington Post and others who think employer sanctions are not discriminatory how they would be discriminating.

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

If Robert Redford and I applied for a job, I would not get the job because the employer would not want to take a chance on hiring me because I am Hispanic and dark complexioned. The burden of proof would be on me to certify that I am a real American citizen with an identity card. This is how discrimination works. The perception would weigh against Americans of Hispanic origin that are not fair haired.

Mr. Speaker, employer sanctions will not work. Twenty countries, it has been shown in a recent study, have tried them and they have not worked effectively.

In addition to that, employer sanctions, as I have stated, promote discrimination. Furthermore, employer sanctions will make more businessmen bona fide INS officers replete with redtape. The small businessman would be burdened to carry out the responsibility that an INS officer traditionally does.

The intent of the sponsors of the bill is to be fair and nondiscriminatory and I believe Mr. MAZZOLI is a good and fair man. Nonetheless, employer sanctions, which are the heart of this bill, would be a big mistake for this country to adopt precisely because they are discriminating and would not work.

□ 1210

## STATEMENT ON NUCLEAR COOPERATION AGREEMENT WITH CHINA

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, more than 8 weeks have now elapsed since the President initialed the nuclear cooperation agreement with the People's Republic of China. Since that time, the administration has indicated three separate dates when the text would be submitted to Congress. On three consecutive occasions, the Foreign Affairs Committee, which is responsible for reviewing the text, has been forced to cancel hearings scheduled on the agreement.

Although the nuclear proliferation assessment statement, which must be sent to the President along with the agreement, has been ready since mid-May, the agreement is still sitting in the State Department. It has not even been transmitted to the White House for review.

Mr. Speaker, either the China nuclear agreement is not as significant as the President claimed a month and a half ago, or the text does not meet the necessary statutory criteria and the State Department is searching for a rationale to sell a flawed agreement to the Congress and the American people. The silence of key State Department officials on the reasons for the delay is hardly reassuring.

The law requires that the Congress have 60 days of continuous session to review the proposed agreement. If the administration fails to submit the text within the next few days, consideration will be held over to the next Congress. I do not believe that our national interest would be served by such a delay. Time is running out on the agreement.

## IMMIGRATION REFORM BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. I thank the Speaker. I just want to take this 1 minute, this one moment to thank my colleagues, those who voted for the rule yesterday to bring up the immigration bill. It was a correct vote and it was a courageous vote and I thank you.

For those who were unable to vote yesterday for the rule to bring up the bill, I salute your honesty, integrity, and I do hope that you will pay attention as the bill unfolds; as the camera unreels during the balance of this week because it is the intention of the gentleman from Kentucky and all members of the committees to deliver a bill to the floor at the end of this week which will be one you can support proudly and well.

I think the strong vote—almost 3 to 1—in the House yesterday on the rule says one very important thing and that is that the House does not want to do nothing. The House voted resoundingly against the status quo. The House says, "We want to do something."

Our effort during this week is to give you something you can be proud of. I thank you for your help and look forward to working with you the remainder of this week.

## NOAA WEATHER PROGRAMS DESERVE OUR SUPPORT

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, over the weekend, we were given a taste of the destructive power of weather as a storm unleashed dozens of tornadoes across the Midwestern States. Heavy rains over Memorial Day weekend in Oklahoma brought flash floods to Tulsa, destroying millions of dollars worth of property. Flooding touched the lives of almost 5,000 families there. These weather-related disasters—two of many this storm season—raise an important question: Are we developing the forecasting technology we need to save lives and property?

Meteorologists at the National Severe Storms Lab in Norman, Okla., tell me that recent progress with the next generation radar system—known as Nexrad—will make our Nation's 25-year radar systems obsolete. Nexrad is superior because it enables weather services to issue warnings 20 or 30 minutes before violent weather strikes. There is almost no warning time with the present radar system.

We owe it to the American people to support programs of the National Oceanic and Atmospheric Administration that put these advances in weather systems to full use. Improved observation and forecasting will help eliminate many of the hardships that intense storms often bring.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5081

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 5081.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

## SPECIAL COMMISSION REPORT ON MAKING SOCIAL SECURITY AN INDEPENDENT AGENCY

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, no Federal program is more important than the social security system, which has provided essential protection for millions of workers and their families for nearly half a century.

Throughout its history, social security has been one of the best run programs in Government.

That all changed in 1981 when President Reagan and his political appointees took over.

Time after time, President Reagan's managers have sent proposals to Congress which fly in the face of the historical mission of the social security system.

We have seen attempts to cut protection for poor older Americans who depend on the minimum benefit.

We have seen a review of the disabled turn into a national disaster.

We have seen attempts to slash protection for workers forced to retire before age 65.

The time has come to insulate social security from the short-term policy swings of Presidents and political appointees who want to balance the budget on the backs of the elderly and the disabled.

Later today, a special commission will report to Congress on the question of making social security an independent agency.

We need to make sure that any plan which we go ahead with makes Social Security truly independent.

The future of social security depends on it.

## DEMOCRATIC OPPOSITION TO MILITARY AID TO EL SALVADOR

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, how many times in our recent debates over Central America have we heard our Democratic colleagues justify their votes in opposition to military aid to El Salvador by bemoaning the fact that it was economic aid, not military, that was absolutely essential to address the problems of extreme poverty and underdevelopment in the region?

Mr. Speaker, last week's action by the Appropriations Subcommittee on Foreign Operations drastically cutting economic and military aid to Central America illustrates that these arguments are sheer political hypocrisy.

The Democrat-controlled subcommittee approved legislation which slashed President Reagan's economic aid request for Central America by almost $200 million, rejecting entirely the $73 million in development aid that he had asked for. At the same time, they approved a mere $25 million of the administration's $197 million military aid request.

Mr. Speaker, I am appalled by this action, and I hope it does not go unnoticed by the American people.

## MATCHING FUNDS TO ESTABLISH A STATEWIDE MISSING CHILDREN CLEARINGHOUSE

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Thank you, Mr. Speaker. Mr. Speaker, several weeks ago I introduced House Concurrent Resolution 301, which encourages States to establish their own statewide missing children clearinghouse. I am encouraged by my colleagues' strong bipartisan support of this resolution.

Now, however, I believe we must go one step further. Today I am introducing legislation that will provide State law enforcement departments with matching funds to establish a statewide missing children's clearinghouse. The crucial step in locating these children occurs at the State and local levels, where law enforcement agencies can use telecommunications systems and manpower to step up the search for runaway and abducted children.

It is my hope that States will utilize this funding opportunity to develop an efficient and effective nationwide system to locate these children. The type of system that Angel Lopez of West Palm Beach, Fla., and Shannon and Kenny Easter of Lake Park, Fla., have been working on.

I encourage all of my colleagues to join with me in this effort to protect and save our children.

Thank you.

## WHAT ELSE CAN YOU EXPECT FROM A DEMOCRATIC TEAM?

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, mark your calendar. Wednesday night at 7 p.m., a week from tomorrow will be a day of reckoning—a day of settling a score that has lingered for a year. Next Wednesday a week, June 20 at Four Mile Run Park in Alexandria will see the continuation of the debate over who has the best baseball team in Congress.

Last year after battling until nearly midnight the game was stopped at a 17-to-17 tie. I insisted that we continue the game but Congressman CHAPPELL weeped that it was past his bedtime and MARTY RUSSO stated that he would miss his goodnight cookies and milk if he did not hurry home.

It was a shame that they did not have the stamina to complete the game, but then what can you expect from a team whose second baseman had to relay through the pitcher to get the ball to first base—whose left fielder has set a league record for tripping while chasing fly balls—whose pitcher has perfected his fastball to such a state that it is considered a legal pitch in the Capitol Hill softball league—and whose catcher has to be lowered into his crouch by two batboys. I am certain that we would have won the game earlier if it had not been for the fact that the Democrat pitchers walked so many of my players that they were lulled into forgetting how to hit.

So to settle the issue we are going at it again. Tickets are on sale now in Mr. CHAPPELL's and my offices. In keeping with our progress against inflation, the price is the same as last year—$2.50 for the game or $7.50 for the game and the pregame party. The proceeds are going to Children's Hospital so come out and see the slaughter, enjoy the food and drink, and help the kids.

## THE IMMIGRATION BILL

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I would like to join my colleague, the gentleman from Kentucky (Mr. MAZZOLI) in congratulating this House for voting out a rule that I think is a fair rule that will allow full and open debate on the immigration bill, which of course is an important subject for us to deal with here.

One of the things I am proudest about is that yesterday's vote was truly a bipartisan vote. I hope that augurs well for the consideration of this bill on the floor of the House. For it would be in keeping with the entire consideration of this subject over the last half decade. Democrat and Republican administrations have worked. We have had a Presidential task force established by this administration working on a commission's work by the prior administration. In the Senate, with both Republican and Democratic support, twice we have passed this legislation out. We worked on a bipartisan basis in our subcommittee and in our committee to bring it to the floor.

I would hope, in keeping with yesterday's vote of a bipartisan nature, we might work through this week so that at the end of the week we might conclude with bipartisan support for a response to a very difficult situation that has plagued the United States for a number of years.

## THE EQUAL ACCESS BILL—NO RULE, NO DEBATE, NO VOTE

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, on May 15, a majority of this House supported the equal access bill. In fact, the vote was 270 to 151. Normally all that is necessary is a simple majority to pass legislation, but the Democratic leadership cleverly brought this bill to the floor under suspension of the rules, which requires a two-thirds majority. Therefore no passage of the bill.

Mr. PERKINS, chairman of the Committee on Education and Labor asked for a rule in a letter to the Rules Committee on May 16. Here we are almost 1 month later. No rule, no debate, no vote. Once again, it should be clear to the American people that the Democratic leadership of this House is blocking their will. Mr. Speaker, give us a rule so we can pass the equal access bill.

## THE EQUAL ACCESS BILL

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute.)

Mr. McCANDLESS. Mr. Speaker, it has been demonstrated that a majority of the Members of this House favor an equal access bill. This bill would give the same access to facilities on campuses across the land to religious groups as it presently does to other types of community organizations.

Now that a solid majority of the Members of this House have voted for equal access it is only fair that the bill be now brought back in regular order with full and fair debate given to the proponents and opponents of this important issue.

I would hope, Mr. Speaker, that a rule will shortly be passed which will allow this House to give equal access the full consideration that it deserves.

## CONGRESS IS RESPONSIBLE FOR DEFICITS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, this morning the majority leader launched a preemptive strike against a Presidential speech yet undelivered which was an obvious attempt to divert the American people's attention away from the truth.

We can hope that what the President will say later on this week will lay the blame for deficits where they belong, right here in the House of Representatives. It is this House that is responsible for the fact that we are piling up massive deficits in this country.

The majority leader mentioned the fact that we attempted to save money through the Budget Act. What he did not mention was that most of those savings were as a result of increased taxes. He also did not mention the fact that when it came to actually spending the money in the appropriations bills that what we did was waive the Budget Act. We said the Budget Act has no meaning when it comes to actually spending money. We will just waive it. So there we are saving no money at all.

He also did not mention the bills we have been bringing up under the Suspension Calendar, which have been brought up. Big spending bills in violation of Democratic Caucus rules and also means that we do not have any chance to amend out the big spending because they are here under suspension.

Once again we are adding to deficits in a way in which this House cannot react in a responsible manner. The President ought to lay the blame right where it belongs, here in the House of Representatives. We are responsible for the deficits this country is piling up.

## THE EQUAL ACCESS BILL

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, equal access has been voted on favorably by the majority of this House. Unfortunately, however, the two-thirds majority that was needed under the procedure which this matter was brought to us was not forthcoming.

I would urge you, Mr. Speaker, to bring this back to us now under regular order. The majority has spoken. Now it is time that the majority rule.

## CONSIDERATION OF VOLUNTARY SCHOOL PRAYER, LINE-ITEM VETO, BALANCED-BUDGET AMENDMENTS, AND CRIME CONTROL

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, at this time I would hope to offer unanimous-consent requests calling for consideration of amendments to permit voluntary school prayer, a balanced budget, line-item veto, and legislation calling for the passage of the President's Comprehensive Crime Control Act of 1983, H.R. 2151.

The Chair has ruled that in order to make these requests I must have the clearance of the majority and minority leaderships.

This request has been cleared by the minority leadership.

I would now yield to a spokesman from the majority leadership for appropriate clearance.

Mr. Speaker, I hear no response. That should make it clear to the American people who stands in the way of these four important issues, the Democratic leadership of this House.

□ 1230

## EQUAL ACCESS LEGISLATION

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, in Minnesota a fourth grade student was reprimanded by her supervisor for bowing her head to pray before her meal. According to the assistant superintendent of the Boulder, Colo., schools, a group of two or more may not sit together for the purpose of spiritual or religious discussion. In Indianapolis, students are not allowed to get into a car to be picked up at the end of the schoolday by a youth pastor or worker. In Philadelphia, several students were reprimanded because they discussed their faith with one another. In Cincinnati, a principal issued a statement that it is illegal to even mention God in the public schools.

Mr. Speaker, because there is such a great misunderstanding and confusion about student-initiated and student-run religious meetings, I believe it is time for us to consider equal access legislation, H.R. 5345. As was mentioned by previous speakers this morning, this has been approved by the House by nearly 2 to 1, and I believe it is time to be considered in a fashion that this majority can then affect the legislation of our country and enact this into law this year.

## THE FAIR TAX ACT

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, tomorrow a Subcommittee of the Joint Economic Committee will hold a very important hearing on income tax reform and the Bradley-Gephardt fair tax plan, of which I am a cosponsor.

This hearing is important because our income tax system is not working well any more.

Mr. Speaker, it is time to restructure the tax system. We need a system that is simple to understand—currently, over half of all individual tax forms are filed with professional help.

We need a tax system that does not distort business investments—people should be encouraged to make productive investments, not encouraged to lose money just to lower their tax liability.

And, perhaps most of all, Mr. Speaker, we need a tax plan that is fair.

For all of these reasons, I have cosponsored the Fair Tax Act. Under this plan, most individuals would pay a tax rate of 14 percent. And while many current deductions would be eliminated, some of the most popular and important ones, including those for home mortgage interest and charitable deductions, would be retained.

This legislation would revamp the tax law for individuals and corporations by the best means available: It would lower tax rates and broaden the tax base largely by eliminating most existing tax loopholes.

The Bradley-Gephardt tax plan calls for the kind of change that is needed to insure steady economic growth and to restore the element of fairness and simplicity to our system. The loss of confidence in today's tax laws costs the Treasury $100 billion a year in avoidance.

## HARMON KILLEBREW DAY

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 285) to designate June 13, 1984, as "Harmon Killebrew Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. CRAIG. Mr. Speaker, reserving the right to object—and I will not object—I would like to inform the House that the minority has no objection this legislation being considered.

Mr. Speaker, I have introduced companion legislation, House Joint Resolution 559, to designate June 13, 1984, as "Harmon Killebrew Day."

Killebrew was chosen for induction into the Major League Baseball Hall of Fame on January 11, 1984. He will be formally inducted into the Hall of Fame, located in Cooperstown, N.Y., on August 12.

Killebrew played for more than 17 full seasons, leading the league in home runs for 7 seasons and amassing 573 home runs—fifth among baseball's all-time home run leaders. As listed in the "Baseball Encyclopedia," Babe's homer percentage was 8.5, meaning that he hit 8½ homers for every 100 official times up. In comparison the great Hank Aaron and Willie Mays are tied for 10th at 6.1. Harmon Killebrew ranks third with a percentage of 7 homers per 100 at bat.

Killebrew was discovered by former U.S. Senator Herman Welker of Idaho, who convinced the old Washington Senators to sign up the slugging youngster before his 18th birthday. When the Senators moved from Washington to Minneapolis, Harmon arrived as a second baseman, but was soon switched to third base, and then became the team's regular left fielder.

Since that time I have got to know Harmon Killebrew quite well. Harmon has participated in voluntary activities across this country, and especially in my home State of Idaho, to raise money for leukemia victims. Along with former Idaho Congressman Ralph Harding, Killebrew has established the Danny Thompson Leukemia Foundation to honor a former teammate who died of that disease at the age of 26. Of course, many of our colleagues here in this body have participated in that Danny Thompson event in Sun Valley on an annual basis. I certainly know the Speaker has been out there on many occasions to participate in that worthy event.

I think it is appropriate that the House honor tomorrow as an official day for Harmon Killebrew.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, this date is essential for today because tomorrow is in fact the day. I am told by the Senator's office that they have some arrangement to get it to the President right away. I believe it was Senator MCCLURE from Idaho who introduced the bill over there. We had a similar bill introduced by the gentleman on this side, which the committee had not considered in time to take this action. That is why we are taking up the Senate bill.

I would simply like to say, Mr. Speaker, that both you and I have had the honor of participating with Harmon Killebrew and our former colleague Ralph Harding in their endeavors in Idaho. I see the gentleman from Minnesota standing. The money that is raised by this annual event is raised from people all over the country and goes to the Leukemia Research Foundation at the University of Minnesota, which is one of the most outstanding efforts to control this terrible disease presently operating in the country, and it certainly is a worthy cause. I think above and beyond the brilliant baseball career that will have him inducted into the Hall of Fame on August 12, Harmon Killebrew should have this honor for the constant effort he has made ever since watching this young fellow player die of this dreadful disease during the baseball season up there in Minnesota. He has worked year in and year out to raise money to research this so that it will not happen to others. I think that this country does itself proudly when it honors people of this kind.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I endorse the resolution. Harmon Killebrew was a temporary resident of the district that I represent. For all of the Minnesota congressional delegation, I would say that we, and the people of our State, have the greatest honor, respect and affection for Harmon Killebrew.

Whatever his athletic talents were, and they were prodigious, they were exceeded by his other personal virtues. We are not aware of any person in organized sports who is more universally recognized as the perfect gentleman and just a fine all-around person than Harmon Killebrew. He is the epitome of a sports, a figure who millions of young baseball fans looked up to, and hoped to emulate.

Harmon Killebrew needs no flowery prose from us. His personal conduct on and off the field has already won him accolades beyond our meager abilities. Nevertheless, House Joint Resolution 559, is a little bit of frosting for his cake, and ought to be promptly passed.

Mr. CRAIG. Mr. Speaker, I withdraw my reservation of objection.

● Mr. VENTO. Mr. Speaker, in 2 months, baseball will formally honor one of its greatest players of the last generation, Harmon Killebrew. As a prelude to this fitting tribute and as a mark of affection for this man, I am pleased that the House is moving expediently to pass Senate Joint Resolution 285, a resolution proclaiming June 13, 1984, as "Harmon Killebrew Day."

The Fourth District of Minnesota, which includes the city of St. Paul and surrounding suburbs, holds a special place in their hearts for Harmon for his many years of athletic achievement and community service while a player for the Minnesota Twins. Mention the Twins teams of the 1960's and early 1970's to baseball fans anywhere and the name most likely first mentioned will be Harmon Killebrew. While Harmon participated in 22 major league seasons, his greatest achievements were attained while in a Twins uniform. His multiple American League championships in home runs and RBI's and his many All-Star game appearances were a great source of community pride. A generation of Minnesota youngsters grew up with Harmon as an inspiration, not only for his athletics but also for his gentlemanly manner and sense of community service.

The designation of June 13, 1984, as "Harmon Killebrew Day" is a fitting accolade to a man who has exemplified the ideals of sportsmanship and community service. For Minnesotans, Harmon Killebrew was a Hall of Famer long before his formal selection into Cooperstown. I know I am joined by many of my constituents in Minnesota in celebrating Harmon's achievements and good works and wish him well in his future endeavors.●

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 285

Whereas Harmon Killebrew was named to Major League Baseball's Hall of Fame on January 10, 1984;

Whereas Harmon Killebrew was a member of eleven American League All-Star squads and was the first American League player elected at three positions—first and third bases and the outfield;

Whereas next to Babe Ruth, Harmon Killebrew is the most prolific home run hitter in American League history;

Whereas Harmon Killebrew had eight seasons of at least forty home runs and eight years of one hundred and ten runs batted in;

Whereas Harmon Killebrew was the American League's Most Valuable Player in 1969, when he hit forty-nine home runs, had one hundred and forty runs batted in, and had a fielding average of 0.975; and

Whereas Harmon Killebrew hit four home runs in one double header: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That June 13, 1984, is designate "Harmon Killebrew Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

☐ 1240

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 11, 1984, all time for general debate had expired.

Pursuant to House Resolution 519, the amendment in the nature of a substitute recommended by the Committee on the Judiciary printed in the reported bill and reprinted in the committee print, Committee on Rules, June 8, 1984, shall be considered as an original bill for the purpose of amendment under the 5-minute rule, and shall be considered as having been read.

No amendments are in order except the 69 amendments printed in the committee print, and they shall be considered only in the order in which they appear in the committee print. They shall be considered as having been read, and may be only offered by the sponsor designated in the committee print, or by the chairman of the appropriate committee, or his designee, where a committee is designated.

The amendments are not subject to amendment except pro forma amendments for the purpose of debate.

The Clerk will designate the amendment in the nature of a substitute.

The Clerk read as follows:

### *H.R. 1510*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### *SHORT TITLE; REFERENCES IN ACT*

*SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1983".*

*(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.*

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### *TITLE I—CONTROL OF ILLEGAL IMMIGRATION*

### *PART A—EMPLOYMENT*

### *CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS*

*SEC. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:*

### *"UNLAWFUL EMPLOYMENT OF ALIENS*

*"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee or other consideration, for employment in the United States—*

*"(A) an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or*

*"(B) an individual without complying with the requirements of subsection (b).*

*Subparagraph (B) shall not apply to a person or entity until the Attorney General, based upon evidence or information he deems persuasive, has notified the person or entity in writing that the person or entity has in his employ (or has referred or recruited) an unauthorized alien and the person or entity is thereafter required to comply with the requirements of subparagraph (B), except that any such person that voluntarily complies with such requirements before the date of such notification must comply with such requirements for all individuals with respect to which such requirements may apply.*

*"(2) It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section and in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.*

*"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States and has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.*

*"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.*

*"(5) For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.*

*"(b) Except as provided in subsection (c), the requirements and procedures referred to in paragraphs (1)(B), (3), and (5) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—*

*"(1) the person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is eligible to be employed (or recruited or referred for employment) in the United States by examining the individual's—*

*"(A) United States passport, or*

*"(B)(i) social security account number card or certificate of birth in the United States or establishing United States nationality at birth, and*

*"(ii)(I) alien documentation, identification, and telecommunication card, or similar alien registration card issued by the Attorney General to aliens and designated for use for this purpose,*

*"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section, or*

*"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;*

*"(2) the individual must attest, on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and*

*"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—*

*"(A) in the case of the recruiting or referral (without hiring) of an individual, three years after the date of such recruiting or referral, and*

*"(B) in the case of the hiring of an individual—*

*"(i) three years after the date of such hiring, or*

*"(ii) one year after the date the individual's employment is terminated,*

*whichever is later.*

*A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine. Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection. A person or entity has complied with the requirements of this subsection, with respect to the hiring of an individual, if the requirements of this subsection are first met not later than noon of the day following the day on which the individual is first employed by that person or entity. A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this section or section 1546 of title 18, United States Code.*

*"(c)(1)(A) Within three years after the date of the enactment of this section, the President shall study and report to the Congress concerning the possible need for and costs of changes in or additions to the requirements of subsection (b) as conform to the requirements of paragraph (2) of this subsection and as may be necessary to establish a secure system to determine employment eligibility in the United States. In considering possible changes or additions, the President shall consider use of a telephone verification system.*

*"(B) Nothing in this subsection shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards.*

*"(2) Such changes or additions shall be designed in a manner so that—*

*"(A) personal information utilized by the system is available only to employers, recruiters, and referrers for employment and to Government agencies and only to the extent necessary for the purpose of verifying that an individual is not an unauthorized alien,*

*"(B) if the changes or additions provide a verification method to determine an individual's eligibility to be employed in the United States—*

*"(i) the verification may not be withheld for any reason other than that the individual is an unauthorized alien, and*

*"(ii) the verification method may not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code), and*

*"(C) if the system requires individuals to present a card or other document designed specifically for use for this purpose at the time of hiring, recruitment, or referral, then such document may not be required (i) to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) or (ii) to be carried on one's person.*

*"(d)(1)(A) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has hired, or has recruited or referred for a fee or other consideration, for employment in the United States an unauthorized alien, the Attorney General may serve a citation on the person or entity containing a notification that the alien's employment is not authorized and a warning of the penalties and injunctive remedy set forth in this subsection.*

*"(B) In the case of a person or entity which has previously been cited under subparagraph (A), which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)(i)) to have violated paragraph (1)(A) or (2) of subsection (a), and which—*

*"(i) has not previously been subject to a civil penalty under this subparagraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or*

*"(ii) has previously been subject to a civil penalty under this subparagraph in one or more instances, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.*

*"(C) A person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which has previously been subject to a civil penalty under subparagraph (B) in two or more instances shall be fined not more than $3,000, imprisoned not more than one year, or both, for each unauthorized alien with respect to which the violation occurred.*

*"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the United States district court for the district in which the person or entity resides or in which the violation occurred requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.*

*"(3) A person or entity which is determined (after notice and opportunity for an administrative hearing under paragraph (4)(A)(i)) to have violated subsection (a)(1)(B) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.*

*"(4)(A)(i) Before issuing a citation on, or imposing a civil penalty against, a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than thirty days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.*

*"(ii) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code and rules of the United States Immigration Board established under section 107. The hearing shall be held within two hundred miles of the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the assessment shall constitute a final and unappealable order.*

*"(iii) A person or entity (including the Attorney General) adversely affected by a final order respecting an assessment may, within sixty days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.*

*"(B)(i) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in the United States district court for the district in which the person or entity resides or in which the violation (with respect to which the penalty was assessed) occurred.*

*"(ii) In any suit described in clause (i) based on an assessment—*

*"(I) made after a hearing before an administrative law judge, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the administrative law judge's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, or*

*"(II) for which a timely request for a hearing was not made, the validity and appropriateness of the final order imposing the assessment shall not be subject to review.*

*"(5)(A) In determining the level of sanction that is applicable under paragraph (1) for violations of paragraph (1)(A) or (2) of subsection (a), determinations of more than one violation in the course of a single pro-*

*ceeding or adjudication shall be counted as a single determination.*

*"(B) In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referral for employment without reference to the practices of, or under the control of, or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.*

*"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.*

*"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee or other consideration for employment, unauthorized aliens.*

*"(g)(1) The President shall monitor, and shall consult with the Congress every six months concerning, the implementation of this section (including the effectiveness of the verification and recordkeeping system described in subsection (b) and the status of the changes and additions described in subsection (c)) and the impact of this section on the economy of the United States and on employment (including discrimination in employment) of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status.*

*"(2)(A) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of this section and shall investigate allegations that the enforcement or implementation of this section has been conducted in a manner that results in unlawful discrimination by race or nationality against citizens of the United States or aliens who are not unauthorized aliens (as defined in subsection (a)(4)).*

*"(B) The Civil Rights Commission, not later than eighteen months after the month in which this section is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of this section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted thirty-six and fifty-four months after the month in which this section is enacted.*

*"(3) The Attorney General, jointly with the Secretary of Labor and the Chairman of the Equal Employment Opportunity Commission, shall establish a task force to monitor the implementation of this section and to review and investigate complaints registered of employment discrimination which may be attributable to the operation of this section.".*

*(2)(A) No citation, civil or criminal penalty, or injunction may be issued under section 274A of the Immigration and Nationality Act for the hiring, or recruiting or referring for a fee or other consideration, for employment of individuals occurring before the first day of the seventh month beginning after the date of the enactment of this Act.*

*(B) During the one-year period beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act.*

*(C) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.*

*(3) The table of contents is amended by inserting after the item relating to section 274 the following new item:*

*"Sec. 274A. Unlawful employment of aliens.".*

*(b)(1) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—*

*(A) by striking out "101(a)(15)(H)(ii) and 214(c)" in paragraphs (8)(B) and (10)(B) of section 3 (29 U.S.C. 1802) and inserting in lieu thereof "101(a)(15)(H)(ii)(a), 101(a)(15)(O), 214(c), and 214(e)";*

*(B) in section 103(a) (29 U.S.C. 1813(a))—*

*(i) by striking out "or" at the end of paragraph (4),*

*(ii) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and*

*(iii) by adding at the end the following new paragraph:*

*"(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act.";*

*(C) by striking out section 106 (29 U.S.C. 1816) and the corresponding item in the table of contents; and*

*(D) by striking out "section 106" in section 501(b) (29 U.S.C. 1856(b)) and by inserting in lieu thereof "paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act".*

*(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act.*

### FRAUD AND MISUSE OF CERTAIN DOCUMENTS

*SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—*

*(1) by amending the heading to read as follows:*

***"§1546. Fraud and misuse of visas, permits, and other documents.".***

*(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",*

*(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",*

*(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",*

*(5) by inserting "(a)" before "Whoever" the first place it appears, and*

*(6) by adding at the end the following new subsections:*

*"(b) Whoever knowingly uses an identification document (other than one issued lawfully for the use of the possessor) or a false identification document or a false attestation for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined not more than $5,000 or imprisoned not more than two years, or both.*

*"(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".*

*(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:*

*"1546. Fraud and misuse of visas, permits, and other documents.".*

### PART B—ENFORCEMENT AND FEES

### IMMIGRATION ENFORCEMENT ACTIVITIES AND AUTHORIZATION OF APPROPRIATIONS

*SEC. 111. (a) An essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States.*

*(b)(1) Section 404 (8 U.S.C. 1101 note) is amended to read as follows:*

### "AUTHORIZATION OF APPROPRIATIONS AND IMMIGRATION EMERGENCY FUND

*"SEC. 404. (a) There are authorized to be appropriated to the Department of Justice for the Immigration and Naturalization Service for the purpose of carrying out this Act (other than chapter 2 of this title)—*

*"(1) for fiscal year 1984, $716,550,000,*

*"(2) for fiscal year 1985, $689,232,000, and*

*"(3) for fiscal year 1986, $731,327,000.*

*"(b) In addition to the funds authorized to be appropriated under subsection (a), there are authorized to be appropriated for each of fiscal years 1984, 1985, and 1986, not less than $6,000,000, for the activities of the task force described in section 274A(g)(3).*

*"(c) There are authorized to be appropriated to an immigration emergency revolving fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance to the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.".*

*(2) In addition to the funds otherwise authorized to be appropriated for fiscal year 1983, there are authorized to be appropriated for such fiscal year to the Department of Justice for the Immigration and Naturalization Service $35,480,000.*

*(3) The item in the table of contents relating to section 404 is amended to read as follows:*

*"Sec. 404. Authorization of appropriations and immigration emergency fund.".*

### UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": Provided, however" and all that follows up to the period at the end of subsection (a),

(2) by inserting "or subsection (c)" in subsection (b)(1) after "subsection (a)",

(3) by redesignating subsection (c) as subsection (d), and

(4) by inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined not more than $5,000 or imprisoned not more than one year, or both, or

"(2) in the case of—

"(A) a second or subsequent offense under this subsection,

"(B) an offense done for the purpose of commercial advantage or private gain, or

"(C) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined not more than $10,000 or imprisoned not more than five years, or both.".

### FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the heading to read as follows:

"NONIMMIGRANT VISA FEES AND ALIEN USER FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, in consultation with the Secretary of State, may impose fees on aliens with respect to their use of border facilities or services of the Service in such amounts as may reasonably reflect the portion of costs of maintenance and operation of such facilities and provision of such services attributable to aliens' use of such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and alien user fees.".

### RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR OPERATIONS

SEC. 114. Section 287 (8 U.S.C. 1357) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service shall not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States or for activities related to that purpose.".

## PART C—ADJUDICATION PROCEDURES AND ASYLUM

### INSPECTION AND EXCLUSION

SEC. 121. Subsection (b) of section 235 (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(B)(i) If the examining immigration officer determines that the alien seeking entry—

"(I) does not present the documentation required (if any) to obtain entry to the United States,

"(II) does not have any reasonable basis for legal entry into the United States, and

"(III) does not indicate an intention to apply for asylum under section 208,

subject to clause (ii), the alien shall be excluded from entry into the United States without a hearing.

"(ii) Before excluding an alien without a hearing under clause (i), the examining immigration officer shall inform the alien of his right to be represented by counsel (in accordance with section 292) and to have an administrative law judge redetermine the conditions described in clause (i). If the alien requests such a redetermination by an administrative law judge, the alien shall not be so excluded without a hearing until and unless the administrative law judge (after a nonadversarial, summary proceeding in which the alien may appear personally) redetermines that the alien meets the conditions of subclauses (I) through (III) of clause (i).

"(C) If the examining immigration officer determines that an alien seeking entry, other than an alien crewman and except as otherwise provided in subparagraph (B), subsection (c), or section 273(d), is otherwise not clearly and beyond a doubt entitled to land, the alien shall be detained for a hearing before an administrative law judge on exclusion of the alien.

"(2) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before an administrative law judge for a hearing on exclusion of the alien.

"(3) The Attorney General shall establish, after consultation with the Judiciary Committees of the Congress, procedures which assure that aliens are not excluded under paragraph (1)(B) without an inquiry into their reasons for seeking entry into the United States.

"(4) In the case of an alien who would be excluded from entry under paragraph (1)(B) but for indicating an intention to apply for asylum, the exclusion hearing with respect to such entry shall be limited to the issues raised in connection with the alien's application for asylum.".

### UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF ADMINISTRATIVE LAW JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF ADMINISTRATIVE LAW JUDGES

"SEC. 107. (a)(1) There is established, as an independent agency in the Department of Justice, a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and six other members appointed by the President by and with the advice and consent of the Senate.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, two shall be appointed for a term of two years, two shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until reappointed or his successor has taken office.

"(3) A member of the Board may be removed by the President only for neglect of duty or malfeasance in office.

"(4) Members of the Board (other than the Chairman) are entitled, subject to the amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled, subject to the amounts provided in advance in appropriation Acts, to receive compensation at the rate now or hereafter provided for grade GS-18 of such General Schedule.

"(5) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board. The Board shall establish rules of practice and procedure for itself and for the administrative law judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of administrative law judges under this Act, other than a redetermination excluding an alien under section 235(b)(1)(B)(ii) or a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties under title II of this Act, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (3) or (6) of section 203(a) or petitions on behalf of a child described in section 101(b)(1)(F), and

"(ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205;

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c); and

"(F) such other administrative decisions and determinations under this Act as the Attorney General may provide by regulation.

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members or in banc (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4)(A) Appeals to the Board from final orders of deportation or exclusion (including an order respecting asylum contained in such an order) shall be filed not later than twenty days after the date of the final order.

"(B) The Board shall review the decision of an administrative law judge based solely upon the administrative record upon which the decision is made and the findings of fact in the judge's order, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive.

"(5) A final decision of the Board shall be binding on all administrative law judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by a court of the United States.

"(6) In a case in which the Board is considering an appeal of a decision of an administrative law judge respecting an application for asylum, the Board shall render its decision on the appeal not later than sixty days after the date the appeal is filed.

"(c)(1) The Chairman, in accordance with sections 3105 and 5108 and other provisions of title 5, United States Code, relating to administrative law judges in the competitive service, shall—

"(A) appoint administrative law judges, and

"(B) designate one such judge to serve as chief administrative law judge.

"(2) In accordance with rules established by the Board, the chief administrative law judge—

"(A) shall have responsibility for the administrative activities affecting administrative law judges, and

"(B) may designate any administrative law judge in active service to hear and decide any cases described in paragraph (3).

"(3) Administrative law judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208,

"(E) the assessment of civil penalties under section 274A, and

"(F) such other cases arising under this Act as the Attorney General may provide by regulation.

Administrative law judges may also, without a formal hearing, make redeterminations pursuant to section 235(b)(1)(B)(ii).

"(4) In considering and deciding cases coming before them, administrative law judges may administer oaths, shall record and receive evidence and render findings of fact and conclusions of law, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(b) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of administrative law judges.".

### JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) in the matter before paragraph (1), by striking out "The procedure" and all that follows through "any prior Act" and inserting in lieu thereof the following: "Notwithstanding section 279 of this Act, section 1331 of title 28, United States Code, or any other provision of law (except as provided under subsection (b)), the procedures prescribed by and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of exclusion or deportation (including determinations respecting asylum encompassed within such orders and regardless of whether or not the alien is in custody and not including exclusions effected without a hearing pursuant to section 235(b)(1)(B)) made against aliens within (or seeking entry into) the United States";

(3) in paragraph (1), by striking out "not later than six months" and all that follows through "whichever is the later" and inserting in lieu thereof "by the alien involved or the Service not later than sixty days from the date of the final order";

(4) inserting ", in the case of review sought by an individual petitioner," in paragraph (2) after "in whole or in part, or";

(5) by inserting "in the case of review sought by an individual petitioner," in paragraph (3) after "(3)";

(6) by inserting "exclusion or" before "deportation" in paragraphs (3) and (4);

(7) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order";

(8) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in";

(9) by adding at the end of paragraph (4) the following new subparagraph:

"(B) to the extent that an order relates to a determination on an application for asylum, the court shall only have jurisdiction to review (i) whether the jurisdiction of the administrative law judge or the United States Immigration Board was properly exercised, (ii) whether the asylum determination was made in accordance with applicable laws and regulations, (iii) the constitutionality of the laws and regulations pursuant to which the determination was made, and (iv) whether the decision was arbitrary or capricious;";

(10) in paragraph (7)—

(A) by inserting "or exclusion" after "deportation" each place it appears,

(B) by striking out "subsection (c) of section 242 of this Act" and inserting in lieu thereof "section 235(b) or 242(c)", and

(C) by striking out "a deportation order;" and inserting in lieu thereof "an exclusion or deportation order; and";

(11) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period; and

(12) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Nothing in the provisions of this section shall be construed as limiting the right of habeas corpus under chapter 153 of title 28, United States Code. Petitions for habeas corpus based upon custody effected pursuant to this Act may be brought individually or on a multiple party basis as the interests of judicial efficiency and justice may require.

"(B) Nothing in this section shall preclude a class action under section 279 or under section 1331 of title 28, United States Code where—

"(i) the action alleges a pattern or practice of violations of provisions of the Constitution;

"(ii) administrative remedies have not been exhausted, but the exhaustion of administration remedies is inappropriate; and

"(iii) a delay of a determination on the issues presented pending judicial review under subsection (a) would significantly and irreparably impair the rights of the class members in the proceedings, and a timely determination of such rights would be most consistent with providing for the efficient judicial review of the issues presented.

This subparagraph shall not be construed as permitting district courts to review individual determinations in exclusion, deportation, or asylum cases. In any action under this subparagraph, the court shall, to the extent practicable, prevent unnecessary delays in the conduct of the exclusion, deportation, or asylum proceedings.

"(2) No court shall have jurisdiction to entertain a petition relating to a determination concerning asylum under section 208 except in a petition for review under subsection (a).

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of administrative law judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or a redetermination to exclude an alien from entering the United States under section 235(b)(1)(B)(ii).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an administrative law judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) The item in the table of contents relating to section 106 is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation, exclusion, and asylum.".

(f) In the case of a final order of deportation or exclusion entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) sixty days after the date of the enactment of this Act, or (2) the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

### ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) In the case of an alien against whom exclusion or deportation proceedings *have been instituted, the alien's application for asylum may not be considered unless—*

*"(I) not later than fourteen days after the date of the service of the notice instituting such proceedings, the alien has filed notice of intention to file an application for asylum and, not later than thirty days after the date of filing such notice of intention, the alien has actually filed the application for asylum,*

*"(II) the alien can make a clear showing, to the satisfaction of the administrative law judge conducting the proceeding, that changed circumstances after the date of the notice instituting the proceeding have resulted in a change in the basis for the alien's claim for asylum, or*

*"(III) the administrative law judge determines, solely in his discretion, that the interests of justice require the consideration of the application.*

*"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances after the date of the denial of the previous application have resulted in a change in the basis for the alien's claim for asylum.*

*"(2) Applications for asylum shall be considered before administrative law judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1983 may not be designated to hear applications under this section, unless the individual has received such special training after the date of the enactment of such Act.*

*"(3)(A)(i) Upon the filing of an application for asylum, an administrative law judge, at the earliest practicable time and after consultation with the attorney for the Government and the applicant, shall set the application for hearing on a day certain or list it for trial on a weekly or other short-term hearing calendar, so as to assure a speedy hearing.*

*"(ii) Unless the applicant consents in writing to the contrary, the hearing on the asylum application shall commence not later than forty-five days after the date the application has been filed. The holding of an asylum hearing shall not delay the holding of any exclusion or deportation proceeding.*

*"(iii) In the case of an alien who has filed an application for asylum and who has been continuously detained pursuant to section 235 or 242 since the date the application was filed, if a hearing on the application is not held on a timely basis under clause (ii) or a decision on the application rendered on a timely basis under subparagraph (D), and if actions or inaction by the applicant have not resulted in unreasonable delay in the proceedings, the Attorney General shall provide for the release of the alien on parole subject to such reasonable conditions as the Attorney General may establish to assure the presence of the alien at any appropriate proceedings, unless the Attorney General has reason to believe that the release of the alien would pose a danger to any other person or to the community.*

*"(B)(i) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public.*

*"(ii) At the time of filing of notice of intention to apply for asylum, the alien shall be advised of the privilege of being represented by counsel (in accordance with section 292) and of the availability of legal services.*

*"(iii) The applicant is entitled to have the asylum hearing closed to the public, to present evidence and witnesses in his own behalf, to examine and object to evidence against him, and to cross-examine witnesses presented by the Government.*

*"(C) A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General, and the United States Immigration Board, shall provide that a transcript of a hearing held under this section is made available not later than ten days after the date of completion of the hearing.*

*"(D) The administrative law judge shall render a determination on the application not later than thirty days after the date of completion of the hearing. The determination of the administrative law judge shall be based only on the evidence produced at the hearing.*

*"(E) The Attorney General shall allocate sufficient resources so as to assure that applications for asylum are heard and determined on a timely basis under this paragraph.*

*"(4) An alien may be granted asylum only if the administrative law judge determines that the alien (A) is a refugee within the meaning of section 101(a) (42) (A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).*

*"(5) The burden of proof shall be upon the alien applying for asylum to establish that the alien is a refugee within the meaning of section 101(a)(42)(A).*

*"(6) After making a determination on an application for asylum under this section, an administrative law judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances have resulted in a change in the basis for the alien's claim for asylum.".*

*(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".*

*(3) Such section is further amended by adding at the end the following new subsections:*

*"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.*

*"(e) The Attorney General shall report to the Congress annually on the number of applications for asylum (by country of nationality of applicant) (1) submitted during the year, (2) approved during the year, (3) denied during the year, and (4) pending at the end of the year, and shall also include in such report such other general information relating to such applications as may be appropriate.".*

*(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:*

*"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section.".*

*(c) Section 222(f) (8 U.S.C. 1202(f)) is amended—*

*(1) by inserting "(whether as an immigrant, nonimmigrant, refugee, or otherwise)" after "enter the United States",*

*(2) by inserting "(1)" after "(f)" and*

*(3) by adding at the end the following new paragraph:*

*"(2)(A) Except as provided in subparagraph (B), the records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the approval or denial of any application for asylum or withholding of deportation under sections 207 and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. In the discretion of the Attorney General or the Secretary of State, as the case may be, certified copies of such records or document may be made available to a court which certifies that the information contained in such records or document is needed by the court in the interests of the ends of justice in a case pending before the court.*

*"(B) In the case of an applicant for asylum or withholding of deportation who seeks records or documents revelant to that particular application, subparagraph (A) shall not be construed as limiting that applicant's access to such records or documents except insofar as such records or documents otherwise are exempt from disclosure under section 552(b) of title 5, United States Code.".*

### *EFFECTIVE DATES AND TRANSITION*

*SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.*

*(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121, 123(a)(2), 123(a)(3), 123(a)(6), 123(a)(10), 123(a)(12), 123(b), 123(d), and 124(b)) shall not apply to—*

*(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or*

*(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).*

*In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that administrative law judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as administrative law judges.*

*(B) Paragraphs (1)(B), (3)(B)(ii), (3)(B)(iii), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—*

*(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than 14 days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and*

(ii) references in any such paragraph to an administrative law judge shall be deemed (before the asylum transition date) to be a reference to the immigration officer conducting the asylum hearing.

(b)(1) The President shall nominate the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Board shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and administrative law judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Chairman shall appoint at least ten administrative law judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these administrative law judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the administrative law judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of administrative law judges, in accordance with section 3105 of title 5, United States Code, under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an administrative law judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before the date this Act takes effect.

(2) Under rules established by the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and administrative law judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction

### TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a)(1) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'administrative law judge' means such a judge appointed under section 107.".

(2) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(c)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "administrative law judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any administrative law judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and administrative law judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "administrative law judge".

(2) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an administrative law judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an administrative law judge".

(d) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(e)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "administrative law judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An administrative law judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended—

(A) by striking out "From a decision" and all that follows through "Attorney General" in the first sentence and inserting in lieu thereof the following: "From a decision of an administrative law judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file a timely appeal of the decision with the United States Immigration Board in accordance with rules established by the Board",

(B) by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board", and

(C) by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(f) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, and seventh sentences and inserting in lieu thereof "administrative law judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the United States Immigration Board",

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "administrative law judge shall be final unless reversed on appeal".

(g) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "administrative law judges".

(h) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an administrative law judge and in any appeal before the United States Im-

migration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(i) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after "proceedings", and

(2) by striking out the second sentence.

(j) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an administrative law judge under section 101(a)(43) of such Act.

### PART D—ADJUSTMENT OF STATUS

### LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY OUT-OF-STATUS ALIENS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by inserting after "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" the following: "or who is not in legal immigration status on the date of filing the application for adjustment of status".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status pending on the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

## TITLE II—REFORM OF LEGAL IMMIGRATION

### PART A—IMMIGRANTS

### PROVIDING ADDITIONAL IMMIGRANT VISA NUMBERS FOR NATIVES OF CONTIGUOUS COUNTRIES

SEC. 201. (a) Section 201 (8 U.S.C. 1151) is amended—

(1) by inserting "certain aliens provided immigrant visa numbers under subsection (c)," in subsection (a) after "subsection (b) of this section,", and

(2) by adding at the end the following new subsection:

"(c) Whenever the Secretary of State estimates that for a fiscal year at least 90 per centum of the maximum number of visas will be made available under section 202(a) to natives of either of the foreign states contiguous to the United States, then, without regard to the numerical limitations specified in subsection (a), an additional number of aliens born in that foreign state may also be issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, which number shall not in any of the first three-quarters of the fiscal year exceed a total of five thousand five hundred and shall not in the fiscal year exceed twenty thousand.".

(b) Section 202 (8 U.S.C. 1152) is amended—

(1) by inserting "and (c)" in subsection (a) after "section 201(b)",

(2) by striking out "under section 202" in the matter in subsection (e) before paragraph (1) and inserting in lieu thereof "under subsection (a)", and

(3) by adding at the end of subsection (e) the following: "This subsection shall not apply to visas made available under section 201(c) and allotted under section 203(f).".

(c) Section 203 (8 U.S.C. 1153) is amended by adding at the end the following new subsection:

"(f)(1) Aliens who are subject to the numerical limitations specified in section 201(c) shall be allotted visas in the same manner, subject to the same conditions, and in the same order as aliens who are subject to the numerical limitations specified in section 201(a) are allotted visas under subsection (a), except that the percentage limitations specified in paragraphs (1) through (6) thereof shall not apply.

"(2) Requirements respecting acquisition of preference status by reason of a relationship or occupational qualification described in a paragraph of subsection (a) shall apply, in the same manner, for the acquisition of preference status under paragraph (1) of this subsection.".

(d) The amendments made by this section shall apply to fiscal years beginning with fiscal year 1984.

### CHANGE IN COLONIAL QUOTA

SEC. 202. (a)(1) Section 202(c) (8 U.S.C. 1152(c)) is amended by striking out "six hundred" and inserting in lieu thereof "three thousand".

(2) Section 202(e) (8 U.S.C. 1152(e)) is amended by striking out "600" and inserting in lieu thereof "3,000".

(b) The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1984

### REPORT ON ADMISSIONS AND NUMERICAL LIMITATIONS

SEC. 203. (a) Chapter 1 of title I is amended by adding at the end the following new section:

### "PRESIDENTIAL REPORT ON IMMIGRATION ADMISSIONS AND IMPACTS

"SEC. 210. (a) The President shall transmit to the Congress, not later than January 1, 1987, and not later than January 1 of every third year thereafter, a comprehensive report on the impact on the economy, labor market, housing market, educational system, social services, foreign policy, environmental quality, resources, and population growth rate of the United States of admissions and other entries of immigrants, refugees, asylumees, and parolees into the United States during the preceding three-year period and on the projected impact (based on reasonable estimates substantiated by the best available evidence) on such factors of admissions and other entries during the succeeding five-year period.

"(b)(1) The President shall include in such report the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum during the relevant period as well as a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241.

"(2) The President also shall include in such report any appropriate recommendations on changes in numerical limitations or other policies under this title bearing on the admission and entry of such aliens to the United States.

"(c) Not later than ninety days after the date of receipt of such a report, the Committees on the Judiciary of the House of Representatives and of the Senate shall hold public hearings to review the findings and recommendations contained in such report.".

(b) The table of contents is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Presidential report on immigration admissions and impacts.".

### G-4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(I) an immigrant who entered the United States with the status of a nonimmigrant under paragraph (15)(G)(iv) and who—

"(i) is the unmarried son or daughter of an officer or employee of an international organization described in paragraph (25)(G)(iv), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for a visa under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later; or

"(ii) is the surviving spouse of a deceased officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided in the United States within seven years of the date of application for a visa under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(N)(i) the parent of an alien accorded the status of a special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I)(ii).".

### MISCELLANEOUS PROVISIONS

SEC. 205. (a) Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting "or natural father" after "natural mother".

(b) Section 19(2) of Public Law 97-116 is amended by inserting "(A)" after "because" and by adding before the semicolon at the end the following: ", or (B) the alien was entering the United States for the purpose of retirement, would not seek gainful employment in the United States, had purchased property in the United States before such date, and had demonstrated the ability for self-support while in retirement".

(c) In the case of an alien—

(1) who was in the United States on October 1, 1982,

(2) who, as of such date—

(A) had a petition approved for classification under section 203(a) (3) or (6) of the Immigration and Nationality Act, and

(B) had been issued a labor certification under section 212(a)(14) of such Act with respect to employment for an employer,

(3) who intends to remain in the United States for the purpose of performing such employment, and

*(4) with respect to whom the Attorney General estimates that an immigrant visa will become available before October 1, 1984,*

*the Attorney General may provide that, notwithstanding any provision of section 214 of the Immigration and Nationality Act, the alien may be classified as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act with respect to such employment until October 1, 1984, or, if earlier, one month after the date the alien's immigrant visa becomes available. For purposes of applying section 245 of such Act to an alien classified as a nonimmigrant under this subsection, the alien shall be considered to have been inspected and admitted into the United States and subsection (c)(2) of that section shall not apply.*

*(d) Section 204(g)(3)(A) (8 U.S.C. 1154(g)(3)(A)) is amended by striking out "(C)(i) of paragraph 2" and inserting in lieu thereof "(C)(ii) of paragraph (2)".*

*(e) Section 212(a)(14)(A) (8 U.S.C. 1182(a)(14)(A)) is amended—*

*(1) by inserting "(i)" before "who are members",*

*(2) by striking out "or who have" and inserting in lieu thereof ", (ii) who have", and*

*(3) by inserting after "sciences or the arts" the following: ", or (iii) who have doctoral degrees and are seeking to enter the United States to be employed as researchers at colleges, universities, or other nonprofit educational or research institutions".*

### *PART B—NONIMMIGRANTS*

### *H-2 WORKERS AND TRANSITIONAL NONIMMIGRANT AGRICULTURAL WORKER PROGRAM*

*SEC. 211. (a)(1) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".*

*(2) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 204(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:*

*"(O) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States to perform temporary services or labor in seasonal agricultural employment (as defined in section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act) under the transitional agricultural labor program provided for under section 214(e).".*

*(b) Section 214 (8 U.S.C. 1184) is amended—*

*(1) by adding at the end of subsection (a) the following new sentences:*

*"An alien may not be admitted to the United States as a nonimmigrant—*

*"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than the period (or periods) determined by regulations of the Secretary of Labor, or*

*"(2) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.*

*The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",*

*(2) by inserting "(1)" after "(c)" in subsection (c),*

*(3) by adding at the end of subsection (c)(1), as so redesignated, the following:*

*"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor and includes, with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the Department of Agriculture.*

*"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—*

*"(I) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and*

*"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.*

*"(ii) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii)(b) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—*

*"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and*

*"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.*

*"(iii) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.*

*"(B) The Secretary of Labor may not issue a certification under subparagraph (A)—*

*"(i) if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification,*

*"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers, or*

*"(iii) for an employer unless the Secretary has been provided satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.*

*No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.*

*"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—*

*"(i) the Secretary of Labor may not require that the application be filed more than 50 days before the first date the employer requires the labor or services of the alien;*

*"(ii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons therefor and permit the employer an opportunity to resubmit promptly a modified application for approval;*

*"(iii) the Secretary of Labor shall make, not later than twenty days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A)(i) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer; and*

*"(iv) in the employer's complying with terms and conditions of employment respecting the furnishing of housing, the employer shall be permitted, at the employer's option and in lieu of arranging for suitable housing accomodations, to substitute payment of a reasonable housing allowance, but only if housing is otherwise available in the proximate area of employment.*

*"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application.*

*"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A)(i) or, at the applicant's request, for a de novo administrative hearing respecting the denial.*

*"(ii) The Secretary of Labor shall expeditiously, but in no case later than seventy-two hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing or qualified, the burden of proof is on the employer to establish that the individuals referred are not able, willing, or qualified because of employment-related reasons as shown by their job performance.*

*"(D) For purposes of this paragraph, the term 'eligible individual' means, with re-*

*spect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.*

*"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection and on the work permits issued under subsection (e), the impact of aliens admitted pursuant to such certifications or permits on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.*

*"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in sections 101(a)(15)(H)(ii) and 101(a)(15)(O), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection or subsection (e).*

*"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).", and*

*(4) by adding at the end thereof the following new subsection:*

*"(e)(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall by regulation establish a three-year transitional agricultural labor program (hereinafter in this subsection referred to as 'the transitional program') to assist agricultural employers in shifting from the employment of unauthorized aliens to the employment of eligible individuals (described in subsection (c)(3)(D)).*

*"(2)(A) No person is eligible to employ a nonimmigrant described in section 101(a)(15)(O) unless the person (or a person or association representing the person) applies for registration with the Attorney General during the first year of the transitional program (as designated by the Attorney General). In such application, the person shall provide such information relating to the person's requirements for seasonal agricultural labor in months or other periods in previous and future years as the Attorney General may specify.*

*"(B) In approving applications for registration under this paragraph and taking into consideration the needs specified in the applications, the historical employment needs of agricultural employers for seasonal agricultural labor, and the availability of domestic agricultural labor, the Attorney General shall specify, with respect to each registration, the maximum number of nonimmigrants described in section 101(a)(15)(O) the person can employ during the various months in the first year of the transitional program, which number shall approximate the employer's maximum reasonable requirement for nondomestic seasonal agricultural workers. The approval of an employer's application for registration under this paragraph and the issuance of work permits thereunder is conditioned upon the employer's compliance with the terms and conditions of this subsection and regulations issued thereunder.*

*"(C) If the Attorney General approves the employment of a number of such nonimmigrants for a month or other period in the first year of the transitional program, the Attorney General shall issue to the employer a nonimmigrant labor form (hereinafter in this subsection referred to as a 'work permit') for each such nonimmigrant for the month or other period specified. The Attorney General may require by regulation, as a condition of issuing work permits, the payment of a fee to recover the reasonable cost of processing registration applications and issuance of work permits under this subsection.*

*"(D) For months or other periods in the second or third years of the transitional program, the Attorney General shall provide for the issuance (to each registered employer who has complied with the terms of the program and of the program described in subsection (c) in previous years of the program) of a number of work permits equal to 67 or 33 per centum, respectively, of the number of such permits issued with respect to that month or period for that employer in the first year of the transitional program.*

*"(E) No work permit shall be issued under this subsection with respect to the employment of any alien for any period after the third year of the transitional program.*

*"(3) An agricultural employer desiring to employ in seasonal agricultural labor for a month or other period an alien who is not otherwise an eligible individual (as described in subsection (c)(3)(D), but for this subsection) must—*

*"(A)(i) complete and endorse a copy of a work permit for that month or other period directly to the alien, who shall retain a copy of the work permit for inspection, (ii) transmit a copy of such endorsed permit to the Attorney General, and (iii) retain a copy for the employer's records; or*

*"(B) provide for transmittal of the work permit to an appropriate consular officer to provide for the issuance of a visa to a qualified alien as a nonimmigrant described in section 101(a)(15)(O) to perform seasonal agricultural employment for that employer for the period specified.*

*Upon the receipt of an endorsed copy of a work permit of an alien under subparagraph (A), the Attorney General shall provide for the recordation of the alien as a nonimmigrant described in section 101(a)(15)(O), except that such recordation shall not prevent the deportation of the alien after the expiration of the work permit or on any ground (other than on the ground described in section 241(a)(2) or on the basis, under section 241(a)(1), of being excludable at the time of entry under paragraph (19), (20), or (26) of section 212(a)).*

*"(4)(A) An agricultural employer employing an alien with a work permit must provide for the same wages and working conditions as those which would be required with respect to the employment of nonimmigrants described in section 101(a)(15)(H)(ii)(a), and, in the case of such an alien described in paragraph (3)(B), must meet such other transportation and similar conditions as are required with respect to the importation of nonimmigrants described in section 101(a)(15)(H)(ii)(a).*

*"(B) In accordance with regulations of the Attorney General, a work permit issued under this section shall be considered an alien registration card for purposes of section 274A(b)(1)(B)(ii)(I) and an alien employed by an employer and in possession of a properly endorsed work permit for a period of time shall be considered (for purposes of section 274A(a)(4)) to be authorized by the Attorney General to be so employed during that period of time. For purposes of section 3121(a)(1) of the Internal Revenue Code of 1954 and section 210(a) of the Social Security Act, a nonimmigrant described in section 101(a)(15)(O) performing seasonal agricultural services for a registered employer with a properly endorsed work permit shall be considered to be lawfully admitted to the United States on a temporary basis to perform agricultural labor.*

*"(5)(A) The Attorney General may provide for such suspensions and conditions on participation in the transitional program as are consistent with suspensions and conditions of participation of agricultural employers under the program described in subsection (c).*

*"(B) The Attorney General shall suspend the registration of an agricultural employer under the transitional program, and may prohibit the employer from participating in the program under subsection (c), for a period of up to three years if the Attorney General determines, after opportunity for a hearing, that the employer, during the previous two-year period (after the effective date of the transitional program)—*

*"(i) has knowingly discriminated in terms or conditions of employment against eligible individuals without work permits,*

*"(ii) has knowingly hired aliens not permitted under law to be so employed,*

*"(iii) has employed an alien classified or recorded as a nonimmigrant described in section 101(a)(15)(O) for services other than seasonal agricultural employment or for a period for which a work permit has not been issued and is not in effect,*

*"(iv) has become ineligible for a certification under subsection (c)(2)(B)(ii), or*

*"(v) otherwise has at any time during the period substantially violated a material term or condition of the registration with respect to the employment of domestic or nonimmigrant workers.*

*"(6) Aliens employed pursuant to work permits issued under this subsection are fully protected by all applicable Federal and State laws and regulations governing the employment of migrant and seasonal agricultural workers.".*

*(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").*

*(d) The Attorney General, in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.*

*(e) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall report to the Congress not later than eighteen months after the effective date on recommendations for improvements in the temporary alien worker*

program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among Government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act and of the transitional seasonal agricultural worker program under section 214(e) of such Act.

(g) For amendments prohibiting nonimmigrants under the seasonal agricultural worker program from adjusting their status to immigrant or other nonimmigrant status, see sections 212(b) and 213(d) of this Act.

### STUDENTS

Sec. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by striking out "(e) No person" and inserting in lieu thereof "(e)(1) No person (A)",

(2) by inserting after "training," the following: "or (B) except as provided in paragraph (2), admitted under subparagraph (F) or (M) of section 101(a)(15) or acquiring such status after admission.",

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (A)(iii) or clause (B) of the first sentence",

(4) by striking out ": Provided, That upon" and inserting in lieu thereof ". Upon",

(5) by striking out ": And provided further, That except" and inserting in lieu thereof ". Except", and

(6) by adding at the end the following:

"The Attorney General may waive such two-year foreign residence requirement in the case of an alien described in clause (B) of the first sentence who is an immediate relative (as specified in section 201(b)).

"(2) The Attorney General, in the case of an alien described in clause (B) of the first sentence of paragraph (1) who has the status of a nonimmigrant under section 101(a)(15)(F), may waive the two-year foreign residence requirement of paragraph (1) if the Attorney General determines that the waiver is in the public interest and that—

"(A) the alien—

"(i)(I) has obtained an advanced degree from a college or university in the United States and has been offered a position on the faculty (including as a researcher) of a college or university in the United States in the field in which he obtained the degree,

"(II) has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and has been offered a research or technical position by a employer in the field in which he obtained the degree, or

"(III) has obtained an advanced degree in business or economics from a college or university in the United States, has exceptional ability in business or economics, and has been offered employment which requires such exceptional ability;

"(ii) is applying for a visa as an immigrant described in paragraph (3) or (6) of section 203(a),

"(iii) has received a certification under section 212(a)(14) with respect to position referred to in clause (i), and

"(iv) has applied for a waiver under this paragraph before September 30, 1989; or

"(B) the alien—

"(i) has obtained a degree in a natural science, mathematics, computer science, or in a field of engineering or business,

"(ii) is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii),

"(iii) will receive no more than three years of training by a firm, corporation, or other legal entity in the United States, which training will enable the alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof, and

"(iv) furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (I) is in good standing in the training program in which the alien is participating, and (II) will return to the country of his nationality or last residence upon completion of the training program.".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver under section 212(e)(2)(A)) who entered the United States classified as a nonimmigrant under subparagraph (F), (M), or (O) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under subsection (l) or (m) of section 212".

(c) Section 244(b) (8 U.S.C. 1254(b)) is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(b)(1)", and

(2) by adding at the end the following:

"(2) In determining the period of continuous physical presence in the United States under subsection (a), there shall not be included any period in which the alien was in the United States as—

"(A) a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15), or

"(B) a nonimmigrant described in section 101(a)(15)(H)(iii), pursuant to a waiver under section 212(e)(2)(B).".

(d)(1) The amendments made by subsection (a) apply to aliens admitted to the United States as a nonimmigrant described in subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act after the date of the enactment of this Act or who otherwise acquire such status after such date.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

(3) The amendments made by subsection (c) apply to periods occurring on or after the date of the enactment of this Act and shall not have the effect of excluding (in the determination of a period of continuous physical presence in the United States) any period before the date of the enactment of this Act.

### VISA WAIVER FOR CERTAIN VISITORS

Sec. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsections:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends or agrees to extend reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit; and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival and departure into the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless—

"(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(ii) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless—

"(I) the average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and

"(II) the average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection. The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.

"(6) The Attorney General and the Secretary of State shall jointly monitor the program and shall report to the Congress not later than two years after the beginning of the pilot program, and shall include in such report recommendations respecting extension of the pilot program period and of the number of countries that may be designated under paragraph (3)(A).

"(m) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determine that—

"(1) the territory of Guam has developed an adequate arrival and departure control system, and

"(2) such a waiver does not present a threat to the welfare, safety, or security of the United States.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to subsection (l) or (m) of section 212 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding ninety days or fifteen days, respectively, from the date of admission.".

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien classified as a nonimmigrant under section 101(a)(15)(O) or admitted as a nonimmigrant visitor without a visa under subsection (l) or (m) of section 212.".

## TITLE III—LEGALIZATION

### LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

### "ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien has entered the United States, is physically present in the United States, and applies for such adjustment during the one-year period beginning on a date (not later than ninety days after the date of the enactment of this section) designated by the Attorney General,

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1982, and has resided continuously in the United States in an unlawful status since January 1, 1982, or

"(B) the alien entered the United States as a nonimmigrant before January 1, 1982, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1982, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1982, and the alien has resided continuously in the United States in an unlawful status since January 1, 1982; and

"(C) in the case of an alien who at any time was a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (b)(3),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(D) registers under the Military Selective Service Act, if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 shall be considered to have entered the United States and to be in an unlawful status in the United States. Notwithstanding paragraph (1), an alien who (at any time during the one-year period described in paragraph (1)) is the subject of an order to show cause issued under section 242, must make application under such paragraph not later than the end of the thirty-day period beginning either on the first day of such one-year period or on the date of the issuance of such order, whichever day is later.

"(b)(1)(A) The Attorney General shall provide that applications for adjustment of status under subsection (a) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies and other qualified State, local, and community organizations, which have been designated for such purpose by the Attorney General.

"(B) Files and records of designated agencies and organizations under this paragraph are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

"(C) In the case of an alien who submits an application under subsection (a) to the Attorney General (or to an organization designated under subparagraph (A) and who approves the forwarding of the application to the Attorney General), the alien is subject to a criminal penalty under section 1001 of title 18, United States Code, for knowingly and willfully making false, fictitious, or fraudulent statements in the process of submitting the application. An organization designated under subparagraph (A) which receives such a statement and which, without knowledge that it is false, fictitious, or fraudulent and with the consent of the alien involved, forwards the statement to the Attorney General is not subject to such a penalty.

"(2) The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

"(3)(A) The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsection (a)(3)(A), and the Attorney General, in making such determination, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana), (27), (28), (29), or (33) with respect to the alien involved for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(B) In determining whether or not an alien is admissible to the United States for purposes of this section, the alien shall be required, at the alien's expense, to meet the same requirements with respect to a medical examination as are required of aliens seeking entry into the United States as immigrants.

"(4) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with agencies and organizations designated under paragraph (1), shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(5)(A) Notwithstanding any other provision of law, the Attorney General shall first issue, on an interim or other basis and before the beginning of the one-year period described in subsection (a)(1), such regulations as are necessary to implement this section on a timely basis.

"(B) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with agencies and organizations designated pursuant to paragraph (1)(A), shall prescribe regulations establishing a definition of the term 'resided continuously', as used in this section, and for establishing the requirements necessary to prove eligibility for immigration benefits under this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

"(6) The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the one-year application period described in subsection (a)(1), and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period) may not be deported until he has had the opportunity, during the first thirty days of the one-year period, to file an application for such adjustment.

"(7) The provisions of this section shall not apply to an alien described in section 2(b) of Public Law 97-271.

"(c)(1) During the five-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) and during the five-year period beginning on the date an alien is provided a record of lawful admission for permanent residence under section 249 based on an entry into the United States on or after June 30, 1948, and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and

"(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A), provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2) Paragraph (1) shall not apply—

"(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983);

"(B) in the case of assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General in consultation with the Secretary of Health and Human Services) to require such assistance because of age (in the case of aliens sixty-five years of age or older), blindness, or disability, and

"(C) in the case of medical assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General in consultation with the Secretary of Health and Human Services) to require such assistance in the interest of public health or because of serious illness or injury.

The requirements of State plans under title XIX of the Social Security Act are superceded to the extent required to restrict the medical assistance in the manner described in subparagraph (C) and paragraph (1)(A)(ii).

"(3) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(d)(1) There shall be no administrative or judicial review (by class action or otherwise) of a determination respecting an application for adjustment of status under subsection (a) except in accordance with this subsection.

"(2) The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination. Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application.

"(3)(A) There shall be no judicial review of such a determination, unless the applicant has exhausted the administrative review described in paragraph (2).

"(B) There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106. Such review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish gross abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for permanent residence.".

(c) The President shall transmit to Congress, not later than eighteen months after the date of the enactment of this Act, a report on the impact of the enactment of the legalization program described in section 245A of the Immigration and Nationality Act, including such impact on State and local governments in the different regions of the United States.

(d)(1) Public Law 89-732 (approved November 2, 1966) is repealed.

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

### UPDATING REGISTRY DATE TO JANUARY 1, 1973

SEC. 302. (a) Section 249 (8 U.S.C. 1259) is amended—

(1) by striking out "JUNE 30, 1948" in the heading and inserting in lieu thereof "JANUARY 1, 1973", and

(2) by striking out "June 30, 1948" in paragraph (a) and inserting in lieu thereof "January 1, 1973".

(b) The item in the table of contents relating to section 249 is amended by striking out "June 30, 1948", and inserting in lieu thereof "January 1, 1973".

### STATE LEGALIZATION ASSISTANCE

SEC. 303. (a) There are authorized to be appropriated to carry out subsections (b) and (c) of this section such sums as may be necessary for fiscal year 1984 and for each of the three succeeding fiscal years.

(b)(1) Subject to the amounts provided in advance in appropriation Acts, the Secretary of Health and Human Services shall provide reimbursement to each State (as defined in paragraph (2)(A)) for 100 per centum of the costs of programs of public assistance (as defined in paragraph (2)(B)) provided to any eligible legalized alien (as defined in paragraph (2)(C)).

(2) For purposes of this subsection:

(A) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(B) The term "programs of public assistance" means programs existing in a State or local jurisdiction which—

(i) provide for cash, medical, or other assistance designed to meet the basic subsistence or health needs of individuals or required in the interest of public health,

(ii) are generally available to needy individuals residing in the State or locality, and

(iii) receive funding from units of State or local government.

(C) The term "eligible legalized alien" means—

(i) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was granted such status; and

(ii) an alien who has been provided a record of lawful admission for permanent residence under section 249 of such Act based on an entry into the United States on or after June 30, 1948, but only until the end of the five-year period beginning on the date the alien was provided such record.

(c)(1) Subject to the amounts provided in advance in appropriation Acts and in ac-

*cordance with this section, the Secretary of Education shall make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens (as defined in subsection (b)(2)(C)).*

*(2) The amount of the payment to a State educational agency under this subsection for a fiscal year shall be based on the number of eligible legalized aliens (as defined in subsection (b)(2)(C)) who are enrolled in elementary and secondary public schools under the jurisdiction of each local educational agency within that State.*

*(3) For purposes of this subsection, the terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.*

### *TITLE IV—EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS*

#### *EXTENDED VOLUNTARY DEPARTURE FOR SALVADORANS*

*SEC. 401. It is the sense of Congress that in the case of nationals of El Salvador who otherwise qualify for voluntary departure (in lieu of deportation) under the Immigration and Nationality Act, the Attorney General shall extend the date such aliens are required to depart voluntarily until such date as the Secretary of State determines that the situation in El Salvador has changed sufficiently to permit their safely returning to El Salvador.*

#### AMENDMENT NO. 1, REPORTED BY THE COMMITTEE ON AGRICULTURE, AS REPORTED BY THE COMMITTEE ON THE JUDICIARY, OFFERED BY MR. DE LA GARZA

**The CHAIRMAN.** Amendment No. 1 reported by the Committee on Agriculture is in order at this time.

Does the chairman of the Committee on Agriculture desire to offer amendment No. 1?

**Mr. DE LA GARZA.** Yes, I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 reported by the Committee on Agriculture to H.R. 1510, as reported by the Committee on the Judiciary and offered by Mr. DE LA GARZA: Page 5, after line 15, insert the following:

"(6)(A) In the case of a person or entity that has complied with the requirements of subsection (b) with respect to the hiring, recruiting, or referring of an agricultural worker, that person or entity shall be considered to have complied with such requirements with respect to any subsequent hiring, recruiting, or referring of that agricultural worker occurring during the applicable period (as defined in subparagraph (B)) beginning on the date of the most recent and previous compliance with such requirements.

"(B) For purposes of subparagraph (A), the term 'applicable period' means, with respect to compliance with the requirements of subsection (b)—

"(i) a five-year period for a citizen or national of the United States;

"(ii) a three-year period for an alien lawfully admitted for permanent residence;

"(iii) a period (not to exceed one year) as the Attorney General may establish for a nonimmigrant; or

"(iv) a period (not to exceed three years) as the Attorney General may establish for an alien otherwise classified.

**The CHAIRMAN.** The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

**Mr. DE LA GARZA.** Mr. Chairman, the first amendment is an Agriculture Committee amendment to reduce the paperwork requirements under the employer sanction provisions of H.R. 1510.

Many of the same workers return to the same farm or employer for the harvest of several different crops each year, and year after year. Accordingly, it was the view of the committee that it was burdensome, as well as unnecessary, to require the employer to complete the verification paperwork required under the new subsection (b) of section 274A, as added by the Judiciary Committee, each time the same worker returned to the same farm during the same year, or year after year—particularly in the case of U.S. citizens and nationals and permanent residents.

Specifically, under the committee amendment verification would be required: First, every 5-year period for a citizen or national of the United States; second, every 3-year period for an alien lawfully admitted for permanent residence; third, each period—not to exceed 3 years—as the Attorney General may establish for an alien other than nonimmigrant; and fourth, each period—not to exceed 1 year—as the Attorney General may establish for a nonimmigrant alien.

The Agriculture Committee amendment eliminates the requirement for duplicative paperwork as to worker status, but still provides the necessary protections regarding nonimmigrants entering the United States.

Mr. Chairman, I yield at this point to the author of the amendment, the gentleman from Washington (Mr. MORRISON).

**Mr. MORRISON of Washington.** I thank my chairman for yielding.

Mr. Chairman, I would point out to the Members that, unfortunately, the description of this first amendment is in error as published by the Democrat Study Group, a group who usually does work that is beyond reproach and we are delighted to subscribe to their service. That error is continued in other descriptions of this first amendment.

The description involved is of a provision that actually exists in the judiciary version of the bill. It is important that the Members understand that the amendment in front of us has to do with paperwork reduction. It applies to both agricultural employers and employees. This does not change the requirement that the employer verify the legality on the necessary form like everyone else. All it does is clarify the length of life, if you will, of that verification. The Agriculture Committee asks for this because of the off-again-on-again nature of seasonal agricultural work, and the measure, very frankly, is not clear in this regard.

For instance, this would allow the verification to have a life of its own; it would be kept on file by the employer. It would provide that that verification, once established could exist for 5 years for a citizen or a national; for 3 years for an alien lawfully admitted for permanent residence, and a period not to exceed 1 year, as determined by the Attorney General, for nonimmigrants.

From my personal experience, Mr. Chairman, I can indicate that in agricultural employment quite often the same workers are back year after year. Many of the Members do not realize that this law, once passed and put into effect, would require employers to check and verify the legality of all workers, not just those that might in fact look like they could be aliens. It is important to me that agricultural employees who will work perhaps for 1 week and come back a month later, and potentially be back working for the same employer several times a year, that they not be required to reverify and duplicate this paperwork each time they are hired.

I am not worried about this for large farmers, but for the smaller farmer whose office is the kitchen table, this is indeed a burden, and it is an unnecessary burden. Again, there is no attempt to dodge the verification procedure; it just clarifies how often, where employment is spasmodic in agriculture, that these forms would have to be filled out.

I urge the acceptance of this particular paperwork reduction amendment.

**Mr. DE LA GARZA.** I thank the gentleman for his excellent explanation and would urge the Members to support the amendment.

Mr. Chairman, I yield back the balance of my time.

**Mr. MAZZOLI.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me take a few moments to set the stage for our colleagues about where we are today, and then I will address the amendment of the gentleman from Washington as advanced by the chairman of the committee.

First, let me thank all the Members of the House who voted for the rule yesterday. The resounding vote of 291 to 111 does indicate one thing clearly, that is that the House does not want to do nothing with respect to immigration reform. The House wants to do something. We hope in the remaining 4 days of this historic debate that we can deliver to the House a bill which everyone can support proudly. I thank those who voted for the rule.

I also respect those who voted against the rule. I am sure they acted from deep feeling and from their own sense of intellectually what this bill is. We hope that they continue to pay attention to the amendments which are offered because many of them might change the bill to the point where they then could support the bill. I salute you for being honest to your purpose, but I also ask that you watch and keep an open mind because the bill could change.

Let me also thank the Speaker of the House for having nominated the gentleman from Kentucky (Mr. NATCHER) to chair this historic debate. I think all of us recognize that there is no one in the House who is any more competent, who is any more gentlemanly, who is any more alert to the nuances of the legislative process than the gentleman from Kentucky (Mr. NATCHER) who will, as he did even last night into the wee hours, bear with us and understand that this matter is very important. So I thank him for his willingness to accept this challenge along with us.

The Members of the House would be notified that on last night we did complete general debate and we are now under the 5-minute rule. We are deliberating on the amendments, the first of which is from the distinguished Committee on Agriculture. This is a 4-day debate, which I have said is historic, and it is historic because we are dealing with historic matters: How we get to America, how we stay here, what we do when we are here, how we are treated when we are here. This is historic, and therefore, this matter should be given careful and deliberate consideration.

Under the genius of the rule reported yesterday by the Rules Committee and voted by this House, the House will have the opportunity of voting as many as 69 amendments. Every shade of every idea of every substance will be brought forward. We can tighten employer sanctions; loosen employer sanctions, or vote sanctions out of the bill. We can tighten legalization, loosen legalization or vote it out of the bill. That is the genius of the rule, and that is the responsiveness of the rule to the historic nature of this debate.

I would suggest that the gentleman from New Jersey, our distinguished chairman who is the chairman of my committee, and the manager on the floor for the bill, is a man of great patience and great deliberation, and he wants the House to work its will. But I think also the gentleman from New Jersey is a man who realizes that he wants something to emerge from this activitiy, and under the rule, I would just advise the House, the gentleman from New Jersey has the opportunity to move to curtail debate if he feels the House is acting dilatorily, or if he feels that there is a conscious effort afoot to bog the bill down in protracted debate designed to kill the bill.

The gentleman from New Jersey has that opportunity to move to curtail. I am sure he will not act unless he is clearly of the opinion the House is not trying to work its will, but is trying to dilly-dally.

I urge the House therefore to, as we will on this particular amendment, to move with reasonable expedition; to discuss the issues in a careful and deliberative manner, and then, at the end of this activity, this historic activity, to vote up a bill.

With respect to the amendment offered by the gentleman from Texas on behalf of the gentleman from Washington, we in the committee took the posture that what was good for the goose should be good for the gander. What was good for domestic workers or factory workers should be good for agricultural workers as well. Therefore, our bill says that everyone is examined at each change of job.

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If, however, the House, in its will, decides that agriculture is different and, therefore, depending on the 5 years, 3 years, 2 years, verification as advanced by the gentleman from Washington, that that is suitable for this particular activity, the gentleman from Kentucky suggests this is not what I would call a killer amendment to the bill.

I would, perhaps, propound to my friend, the gentleman from Texas, the distinguished chairman of the committee, does the gentleman, who understands agriculture far better than the gentleman from Kentucky, suggest that there is a difference with respect to the frequency of verification by reason of this kind of agricultural activity?

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, yes; there is. This is an attempt to not have to do one, two or three times a year the same thing when it is the same individual, same employer, same employee.

Mr. MAZZOLI. I thank the gentleman, because the gentleman is distinguished in his knowledge of agriculture matters, as is the gentleman from Washington.

As I say, our bill took the posture that what was good for one was good for the other, but if the House, in its will, feels that this amendment is one which does show a distinction in the nature of agriculture activities, then it would not hurt the bill in any essential sense.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that one of the things I am confident will happen is that employers will realize that this paperwork is the prima facie evidence that keeps them out of jail or from being fined, and they will want to have it in their records.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. I yield to my friend, the gentleman from Washington (Mr. MORRISON).

Mr. MORRISON of Washington. I thank the gentleman for yielding.

Mr. Chairman, quite often in agriculture, as the chairman has pointed out, again there is no office procedure, there is no office staff. People will be coming in the early morning hours, and I think to repeat and force the same papers to be filled out a number of times per year on the same individual is harassment to the employee and could lead to technical difficulties for the employer. So there is a difference in this industry that justifies special consideration.

Mr. MAZZOLI. As I say, I thank the gentleman from Washington. I yield to my friends for their knowledge of the subject and suggest again that this amendment, while it is not what the committee had in mind, is certainly not the kind that would do essential harm to the fabric of our bill.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, even though I do not think that this amendment will be as clean as some suggest it will, because it will require the employer to make a finding on his own as to whether the person who he is employing is a U.S. citizen, a permanent resident alien, or a nonimmigrant, because he will have different periods of time in which to keep the paper information, those on the Committee on Agriculture think that this will, in fact, be easier for those in agriculture to work with.

We have no objection to it, so I would support the amendment and hope we can get on with further amendments.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, this is the very first amendment, and already we are giving a specific industry special consideration.

Based upon our debate last night, moving somewhat ahead of ourselves to the Panetta amendment——

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Let me allow the gentleman from New York to finish his statement and then I will be happy to yield.

Mr. GARCIA. I thank my colleague for continuing to yield.

Based upon the conversation that we had late last night with our colleague from California (Mr. PANETTA), we are going to, with this bill, give a very high priority to agriculture. What gets me about all of this is that illegal aliens are all right to work our farms, and we can give the farmer every consideration, but these workers are not allowed to have the rights of the persons living and working in this country.

If we are going to have a tough immigration bill, as I assume the gentleman from Kentucky (Mr. MAZZOLI) wants, we cannot already begin to work out special compromises for special industries. I would say to my colleague, the gentleman from Texas, that I am going to have to think very carefully about these special considerations, because if it is good for the goose, it better be good for the gander. Since we are all in this together, we should really give serious consideration to what you are talking about regarding immigration reform.

Mr. LUNGREN. Mr. Chairman, reclaiming my time, I would just suggest the reason I believe that this makes sense is that we are dealing with an industry in which there is seasonal-type employment and there was the problem with respect to having someone come at one time of the year, coming back several months later, coming back the next year. They know the individual. He comes back on a regular basis. To clear up confusion about whether they would have to get a new paper document from him each time, even though he is in a continual employment status, I think it makes certain sense.

So, yes, it is a compromise. Yes, it is treating it somewhat differently, but it is because there is a difference in the type of work schedule as opposed to many other industries.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the chairman of the Committee on Agriculture, the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, the fact is that, one, we cannot educate this House at this point as to the respective intricacies of certain business endeavors such as manufacturing, agriculture, retailer, or whatever. The fact is that this bill, as it is written, imposes a burden on an agricultural worker because a farmer, for example, would hire an individual in this field for a period of time. Then that work terminates. Then he has to rehire him when he moves to the next field or next crop 1 week or 2 weeks hence.

Under this legislation, he would have to do the paperwork every 2 or 3 weeks for the same worker. Agriculture is not asking for special privileges.

This amendment is simply aimed at streamlining the verification process so that we do not burden an employer with the onus of unnecessary, repetitive verification of the same employee to satisfy the technical requirement of the law.

This process in no way affects employer sanctions. It changes nothing except that it reduces the paperwork for the farmer and for the identification process for the prospective employee.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has again expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would just like at this particular moment to continue my dialog with the chairman of the Committee on Agriculture.

I felt very strongly about what we talked about last night, and I feel as strongly about it as I did yesterday. I do not want to belabor this point because we have many more issues to take up, but I would hope that as we start to give special considerations—and the gentleman is chairman of the Committee on Agriculture and I respect that—but I want to emphasize that here is another segment of this country which will get special consideration. In effect, they get these persons in, let them pick, and then get them out as soon as possible.

There is something wrong with this and as I said last night, if we are going to go on with this, let us go all the way, and see that everybody is treated equally.

Mr. LUNGREN. If the chairman of the Committee on Agriculture would like to respond, I would be happy to yield to the gentleman.

Mr. DE LA GARZA. I would appreciate it very much. If this legislation passes without this amendment, we are burdening the employer and we are burdening the employee. We are burdening those whom the gentleman wants to protect from burdens and impositions, under his philosophical reservation. It is not special privilege nor is it treating someone differently. It merely follows an established legislative goal of reducing cumbersome bureaucratic paperwork, something the gentleman supports. That is all it is.

Mr. LUNGREN. Mr. Chairman, I might say that with respect to this amendment, it makes an accommodation recognizing particular circumstances. We attempted in the bill to establish a paperwork burden that related to all prospective employees precisely because we wanted to eliminate the possibility of discrimination.

At the same time, we wanted to make that burden the least onerous that it could possibly be, and this amendment seems in keeping with that. It establishes the same pattern of paperwork that is necessary for purposes of enforcement, and yet it seeks to eliminate unnecessary paperwork burdens in a particular industry because of the particular circumstances there. Therefore, I would support the amendment.

☐ 1300

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would really like to understand what this amendment is all about. We heard yesterday a tremendous argument on the floor that the reason that sanctions are recommended in this bill is because this will stem the flow of the undocumented coming into the United States. We were told that if the employers were to be sanctioned if he hired people without documents, that that in itself would secure the borders.

I felt then that that was an argument that had very little merit. Nevertheless, every time this bill was discussed the same argument was made. This we were told, was the way to secure our borders.

But now we have an amendment that exempts a special interest group. I often made the statement that this legislation is designed to benefit a special interest group in the United States, and I have also said that as prima facie evidence of that we can point to the fact that one of the most prestigious firms in Washington, D.C., was hired to lobby on behalf of the passage of those things that benefit agriculture.

Having said that, now we find an amendment that says growers will have to verify job applicants' ID cards every 5 years; that is, if you are an American. But If you are a permanent resident, it will have to be done every 3 years. Now, if you are a temporary worker, it is every year.

How is the employer going to know whether or not you are an American citizen, whether you are here as a permanent resident, or whether you are here as a temporary worker? Is he then going to start making that examination and doing then the job of the Department of Immigration? Yes, he will, if this amendment prevails.

But how are you going to enforce it? How much is it going to cost to be sure that that employer does or does not discriminate to the point where he will start verifying all these cards whenever he pleases and perhaps in that instance become subject to a fine and/or jail because he made a mistake somewhere down the line?

Now, this amendment removes the farmer-grower from compliance with the Simpson-Mazzoli bill. It eliminates the requirement for employer verification each time an employee applies for work.

If sanctions against the employer are going to help and if this is going to be the mechanism that is used to secure our borders, an exemption is made by this amendment in that growers and farmers do not have to see documents every time they hire someone; you can do it every 5 years or every 3 years, and an exemption is made clearly indicating that an industry in this Nation is being favored by the passage of this amendment.

I would like to have someone explain to me how that is going to be done. If the main feature of this bill is sanctions and legalization, how are you going to actually be fair in trying to make a determination as to what should be done under the circumstances?

Now, it could be that there may be another amendment exempting other employers. Does this mean that all employers, regardless of who they are, will fall under this amendment, or does it mean that only the growers will come under this amendment?

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Chairman, this amendment simply follows the limits of our committee's jurisdiction over agricultural workers.

Mr. ROYBAL. So in other words, this is a special interest amendment just for agricultural workers? Is that correct?

Mr. de la GARZA. I do not agree with the special interest part. I know the gentleman has a hangup about agricultural workers, and I respect that.

Mr. ROYBAL. I do not have a hangup.

Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just have to disagree with my distinguished colleague, the gentleman from California (Mr. Roybal). There is no exemption at all. There is the same requirement for verification.

This is to screen out illegal workers, even those attempting to work in agriculture, where only 15 percent of illegal workers are currently hired in this country. All this amendment does is reduce the volume of paperwork by saying that once you are verified and you come to work in a number of different weeks throughout the year, you do not have to repeat that paperwork over and over again.

While this may be considered as special treatment for agricultural workers and agricultural employers because they do not have to go over the same paperwork time and time again, it could also be said that in other industries, employing 85 percent of the illegal workers in this country, your work is going to be more continuous and you would not be going through this reverification procedure anyway.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield at that point?

Mr. MORRISON of Washington. I am delighted to yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, as I understand the gentleman from Washington, he is, of course, talking about the worker. I am concerned about the employer as well, and I think that is the distinction that this amendment makes.

For those who are employers of agricultural workers, they are not going to be treated the same as are employers of other seasonal-type workers, such as jobs in amusement parks, for example. If an amusement park employer, for example, hired an undocumented worker, they are subject to the criminal and civil sanctions in H.R. 1510, whereas an agricultural employer would not be subject to those sanctions under this amendment.

Mr. MORRISON of Washington. The gentleman errs in that anyone who hires an illegal worker is guilty under the law. We are not attempting to get away from that at all.

All we are saying is that if you worked for 1 week harvesting one crop and come back a week later to go to work for the same farmer, the paperwork that was done for the first employment is valid all through the time.

The amusement park, I presume, once they hire a worker, is going to have that person working all through the summer or throughout a certain season of the year, as opposed to the spasmodic employment that we find in agriculture.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield further?

Mr. MORRISON of Washington. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I would just say that I understand that the distinction may be made as between weeks and months as opposed to the entire year. In the amusement park example, for every 3 months that went by or for every 4 or 5 months that went by and a person was rehired, the employer would still have to file the paperwork, whereas the agricultural employer would not.

Is that the gentleman's understanding of the amendment?

Mr. MORRISON of Washington. That is my understanding. One of the attitudes that we took in the Agriculture Committee was that we chose to generally restrict our amendments to the agriculture sector since that was basically our jurisdiction, and we were attempting to represent our own particular area of interest rather than make this universal for all employers.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Washington (Mr. Morrison) a couple of questions, if I might, about this amendment.

As I understand it, the gentleman is describing a case in which an employer hires an individual, goes through the verification process; it is verified under the test in the bill that this person is not an illegal alien, and he goes ahead and hires him, and the person works for 2 or 3 weeks or some period of time. And then you kind of lose me, and I do not understand.

Does this person then go to work for another employer, maybe on a different crop that has come time to harvest, and then maybe 3 or 4 weeks he comes back to the original employer?

Mr. MORRISON of Washington. Yes. Mr. Chairman, if the gentleman will yield, the intent is this: Say that you hired the worker initially; every time that worker came back to you within the prescribed period your verification paperwork would be in your files to protect you in case the Immigration Service checked your employees.

Mr. MILLER of California. So the gentleman is talking about where an employee returns to the original employer?

Mr. MORRISON of Washington. Yes; that is right.

Mr. MILLER of California. Now, for the second employer, this would not meet that test. The second employer would have to go through the verification process and meet that test.

□ 1310

So I am looking forward to some other amendments down the road where one of the arguments is that the employee would be allowed to move from crop to crop within a period of time. I am just trying to determine at what point this verification is made and for how long it is good?

So the second employer—if you finished picking cherries and the peaches came in and you moved to a second employer, that employer would have to go through the verification requirements of the legislation.

Mr. MORRISON of Washington. Mr. Chairman, if the gentleman will yield, his answer is accurate, that there is no intent at all to eliminate any of the initial verification steps for any given employer.

After all, the verification procedure is to protect the employer from the sanctions that would be imposed under the Simpson-Mazzoli bill.

Mr. MILLER of California. Under the legislation, with the amendment of the gentleman, the employer would be required to retain the verification documents or copies of them for inspection if that was required at a later time; is that right?

Mr. MORRISON of Washington. That is right.

Mr. MILLER of California. So we are not, if I have the correct reading, we are not destroying the paper trail if you want to come back in and engage in whether or not verification took place for an ex-employee, the paper would remain in the employer's file. You simply would not be redundantly adding to that each and every time the person came back to his employment.

Finally, for what period of time is the gentleman talking about?

Mr. MORRISON of Washington. It varies. We went to the Immigration Service to ask them for their suggestions. We found that for people who were identified as U.S. citizens or nationals that 5 years was adequate, because their status is not going to change.

For people under the law, under Simpson-Mazzoli, who might be declared to be permanent residents, their status could change, so their verification paper is given a life of 3 years.

The Attorney General was given flexibility on others. For instance, if workers came in under some legalized program, the verification there would need to be more frequent because of the changing status of the potential worker.

Mr. MILLER of California. But as I read on line 19, it is conceivable that could be a 3-year period for an alien, under the gentleman's amendment?

Mr. MORRISON of Washington. No; it is not to exceed 1 year, to be determined by the Attorney General.

Mr. MILLER of California. Well, then I do not understand the last paragraph on page 105.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. de la GARZA. The gentleman is reading correctly. It is a 1-year span for a nonimmigrant and the Attorney General would set a period not to exceed 3 years for another nonimmigrant alien category.

Mr. MILLER of California. It says a period not to exceed 3 years.

Mr. de la GARZA. That the Attorney General may establish for an alien not otherwise classified.

Mr. MILLER of California. This procedure could be invoked for a period for 3 years, assuming that the alien is in the country for 3 years; he could work up and down my State or the gentleman's State and coming back to that employer, that verification process would not have to be gone through for that 3-year period of time.

Mr. de la GARZA. As long as he is not classified as a nonimmigrant, the Attorney General can establish a period of time not to exceed 3 years from the initial verification.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to belabor the point, but we have here a situation where the mighty, those people who are powerful in Washington, and those people who are represented by very strong lobbies, are going to walk away from this bill with everything intact. Yet, every other industry is going to be subjected to the employer sanctions put forth by the Simpson-Mazzoli bill.

In agreeing to this particular amendment, it eliminates the requirements of employer verification each time an employee applies for work.

Growers—and I underline the word growers—who I might add are well represented, will have to verify a document once every 5 years for an American citizen, once every 3 years for a permanent resident, and once every year for a temporary worker.

Second, growers will not be subject to fines for having hired illegal aliens, because they have buffered themselves with this amendment from criminal or civil penalties by passing it on to other entities, such as, State employment agencies.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Texas.

Mr. de la GARZA. The gentleman is not correct. Employer sanctions will prevail without distinction. This amendment does not change anything except to eliminate an unnecessary repetitive, paperwork verification process of the same employee within and short span of harvest breaks.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. Well, yes, I would be happy to yield.

Mr. GARCIA. Well, I have the time. May I ask a question.

We are living today in a very sophisticated society. Because we are living in a computer age, there is not the complicated paperwork that has been referred to, the point the gentleman is making.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. Sure, I yield.

Mr. de la GARZA. Has the gentleman seen the application form that the members of the committee have? You can be computerized to the *n*th degree, but you still have to fill out an application form, a form which the gentleman and I object to in our philosophical agreement. But, here the gentleman is incorrect about agricultural workers, because all this says is that you do not have to fill the same blank every 2 weeks.

Mr. GARCIA. Well, reclaiming my time, to the chairman of the Agriculture Committee, I say that there is nobody that likes to eat more than me and I am deeply appreciative of all the farmers and growers in our country; but what I am opposed to is that we are protecting one industry. Later on there will be another industry that will come in for special consideration. Later on another, and then what will happen? We are going to find ourselves in a situation where only those persons who are trying to put their lives together are the ones who are going to be penalized.

That is the problem with this amendment. I simply want to extend the same rights given our grandparents at the turn of the century, to individuals coming to this country today. I think it is important that we understand this.

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. Yes; I yield.

Mr. de la GARZA. Mr. Chairman, I cannot seem to dispel the misconception of my colleague. This is denied in part for the protection of the group that my colleague wishes to protect.

Mr. GARCIA. Why should they be given special consideration?

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it strikes me as ironic that in a bill which provides that employer sanctions are the key part of protecting our borders and of preventing the hiring of undocumented workers, that in the industry, agriculture which has the highest record of utilizing undocumented workers, we now weaken and dilute, I think to a tremendous extent, the verification requirements.

I would like to ask the author of the amendment several questions if I might, if he would be willing to respond on my time.

The first question is, does this reduction in verification requirements apply to the worker hired for a grower's farm by a farm labor contractor? How does the situation where the farm labor contractor is hiring seasonal workers fit into this proposal?

□ 1320

Mr. MORRISON of Washington. Will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. It is my understanding that ultimately the employer, the final, the base employer, the farmer himself will be the one to want to be protected by the verification work that is going on. So this will be required to be in the files of that employer, as I understand it, as part of the paper work and protection for that employer.

Mr. BERMAN. Will the gentleman repeat that? I did not understand the answer fully.

Mr. MORRISON of Washington. The fact, as I understand it, the fact that an agricultural employer would work through a labor contract does not protect that employer from the sanctions under the Simpson-Mazzoli bill, that he will want to have in his files this verification. So ultimately the paperwork, of course, will have to be with that employer. And so this amendment changes the life, if you will, of that paper once it is in the hands of that particular agricultural employer.

Mr. BERMAN. In other words, the amendment is not to dilute the employer sanctions; it is only to reduce the paperwork burden of verification?

Mr. MORRISION of Washington. That is precisely the case.

Mr. BERMAN. But given the fact that the sanction is for knowingly hiring an undocumented worker, once you reduce and dilute the verification requirement, are you not building a shield around that particular grower? If the grower uses farm labor contractors, as is very common in many parts of this country, including my own State of California, are you not building a shield around him in a sense that for this particular industry it is going to be very, very difficult to ever establish that an employer knowingly hired an undocumented worker, because the grower can insulate himself?

He simply says, "I have no verification requirement. I didn't know. I asked and he said yes, he was here legally, he was a permanent resident, he was a citizen."

Or, "I asked Joe, the farm labor contractor, to provide me with 50 people. He provided me with 50 people. I didn't know that 25 of them were undocumented workers, or that the State Employment Service sent these people."

It seems to me this amendment is totally inconsistent with the thrust of what the author of the bill is trying to propose.

Mr. LUNGREN. Will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LUNGREN. Can the gentleman in any way show me what difference this makes with respect to hiring somebody through a labor contractor? We still have the requirement of respondeat superior, we still have the requirement of agency, it is still a finding by a court with respect to willful decision. This does nothing to it whatsoever.

You still have the requirements in the first place.

Mr. BERMAN. I understand that the requirements of triggering any employer sanction in this proposal is initially for citation purposes and in the second instance for civil liability and the third potentially for a pattern of activities, and after that for criminal liability where knowledge is always a requirement.

Mr. LUNGREN. Absolutely.

Mr. BERMAN. I would like to understand the basis on which the intent of a farm labor contractor is going to be imputed to the employer. I would like to know where in the bill it says that. I would like to know where that protection is clear.

Mr. LUNGREN. Will the gentleman yield for an answer to his question?

Mr. BERMAN. Yes.

Mr. LUNGREN. We make it clear in the bill that the regular rules of agency will apply as they do in any other business transaction.

Second, in the bill, we say whether you hire someone, whether you refer someone, or whether you recruit someone. So the labor contractor will be in the first instance guilty if in fact he has hired those people illegally.

The person that he has the contract with may or may not.

The CHAIRMAN. The time of the gentleman from California (Mr. BERMAN) has again expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. BERMAN was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. In the first instance, the labor contractor will be considered at fault under this law and would be subject to those penalties. In the second instance, the ultimate employer may or may not be, depending on the specific circumstances that are to be brought into application.

In any event, the paperwork requirement only gives him an affirmative defense which can be overturned by a sufficient showing of proof by those people attempting to prosecute.

Mr. MILLER of California. Will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. MILLER of California. I would like to ask the gentleman a question because you have taken us now to what I think is a crucial point that was raised by my colleague from California. You are suggesting that, under the bill, the definition of person or entity includes a labor contractor.

Mr. LUNGREN. Will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. LUNGREN. Certainly it would be because we state specifically hire, refer, or recruit.

Mr. MILLER of California. Right. The labor contractor goes through the verification process for 100 seasonal workers. Then the farmer enters into a contractual arrangement for 50 of those workers. What is the requirement on the farmer at that point under the bill?

Mr. LUNGREN. It would depend on the specific contractual relationship between the employer and the contractor.

Mr. MILLER of California. Let me ask you this question, then: Is it possible, then, that the farmer, the final employer, can contract away his obligation for verification and leaving it with the labor contractor?

Mr. LUNGREN. With respect to the requirement of willful, he still has to prove, or they would prove that he willfully employed illegal aliens.

Mr. MILLER of California. That is my point.

Mr. LUNGREN. So, if the individual contracted with a labor contractor who he, by the circumstances of the evidence, knows to hire predominantly illegal aliens, and he does that without any checking on his own, and that does turn out to be the case, then I would say under certain circumstances that would be proven to be a willful violation.

However, we do have one thing in the bill which lets him off to the extent that he has been given employees from the Government referring service. There we say he can depend on the State or the Federal Employment Service for referring them to him, but that is the only total defense that he has.

Mr. MILLER of California. Will the gentleman yield for a second further?

Mr. BERMAN. Yes.

Mr. MILLER of California. We may be creating, I think, a very large loophole here because of the test. If the test is willful, the farmer engaging in a labor contract with the labor contractor says supply me with $x$ number of workers for my crop on a specific date, and the labor contractor assumes the burden of point of verification. So I have now washed my hands of it, I have not willfully done it, and I have assumed that I have engaged in a good-faith contract with the labor contractor.

Let me say to my colleague that we are talking about an industry that has hidden behind and been hidden behind the illegal, unlawful act of labor contractors for years to exploit these workers.

Let me give you the problem. The labor contractor verifies 100 people, gets their papers. They go to work for farmer A. They go on to other employment and they come back. The people who have verified stay with the second employment. It is time to come back from the job.

I take the name of a person on the labor contractor's list and he says, he just says, "Miller." Here, Miller goes "Aye." He says we have checked his papers and then under this amendment he is cleared. You have now made room for an illegal alien on a verified list.

Let us remember who we are talking about. We are talking about people who historically for profit have exploited the law, have exploited the people. So what you are doing here is creating slots where you use a legal person to create the slot.

Listen. We are talking about the worst-case scenario where you have an unscrupulous labor contractor. There are hundreds of them in the field.

Mr. LUNGREN. I understand.

Mr. MILLER of California. So what you have done, if we create a slot for a Lungren, and your papers are verified, and you go to employer A, and then you go to employer B, than it comes time again for employer A to have a list, because another crop is due, and he calls out Lungren's name, and the labor contractor says, "Oh, we checked Lungren 3 months ago." I am under no obligation to look at your papers to find out if you are really Lungren or you are standing in for Lungren.

Mr. BERMAN. May I reclaim my time for 1 minute?

Mr. LUNGREN. I was asking if the gentleman would yield for a response to the question.

Mr. MILLER of California. I would like to find out if, in fact, that scenario is allowed.

Mr. BERMAN. I yield to the gentleman from California.

Mr. LUNGREN. You can create any worst-case scenario you want. The fact of the matter is still there is an obligation for someone to act in good faith. If that employer recruiter, et cetera, does not act in good faith, they are in violation.

The CHAIRMAN. The time of the gentleman from California (Mr. Berman) has again expired.

(On request of Mr. Miller of California, and by unanimous consent, Mr. Berman was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. But let me suggest here the reason we are here is, the aliens, the labor contractors, the employers, have all made a conscious decision to violate the laws of the United States, to help people violate the laws, to hire people who have violated the laws. So I think when we draft this law, we ought to do it with the same scrutiny we would do with other laws where we look for those people who would cheat.

I would say to my colleague that the gentleman from California, Mr. Berman, has made a very good point. We are creating a very large loophole that will allow the continued flow of illegal aliens to receive employment in American agriculture and the agricultural industry.

Mr. BERMAN. If I may reclaim my time to make one important point, then I will yield to the chairman of the Agriculture Committee.

The ranking minority member of the subcommittee last night spoke so eloquently about employer sanctions as the only effective way to get control of the situation. The ranking minority member last night, and who has written eloquently about the weaknesses of even the Kindness amendment in terms of its dilution in recordkeeping, should be leading the charge against this particular amendment because, notwithstanding what has been said earlier, the lack of definitiveness in the relationship between the grower and the independent contractor who the growers tend to use to shield themselves, and the tremendous reduction in verification, would provide a way of escaping from the determination of knowledge, is undercutting just what he has been fighting for right up to this time.

□ 1330

Mr. de la GARZA. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the chairman.

Mr. de la GARZA. I appreciate the gentleman yielding very much and I do not want to prolong the discussion.

I would like to remind my distinguished colleague from California (Mr. Miller) that he helped write something called Farm Labor Contractors and the scenario he is bringing before us is almost an impossibility under that other legislation that is on the books already.

Mr. MILLER of California. Let me suggest that later Mr. Morrison and others will make an attempt to exempt these workers from the Farm Labor Contractors Act.

Mr. de la GARZA. That is not in front of us here.

Mr. MILLER of California. That is why I think Mr. Garcia said we have the cart a little ahead of the horse at this point with this amendment, because we have agriculture amendments coming down the road that just continue to broaden the loophole for these workers to come to this country.

Mr. BERMAN. Mr. Chairman, I urge a "no" vote on the amendment before us.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from Texas (Mr. Coleman) rise?

Mr. COLEMAN of Texas. Mr. Chairman, I move to strike the requisite number of words.

I just wanted to very briefly say to the Members that I do not have a special interest in amusement parks nor retailers who have seasonal workers who come perhaps once a year, perhaps at Christmastime, but it just seems to me that somebody ought to stand up and answer the question why it is we are going to treat different classes of employers differently? That becomes the problem.

It has been suggested, for example, that "Well, there is a special interest. You could have offered an amendment." I suggest that what we are attempting to do by this very amendment, is offer a special interest exception, a loophole that I think is large enough to drive a truck through; so that we can exempt from the sanction provisions of H.R. 1510 those employers who have to fill out documentation.

Now, that is part and parcel of this legislation. I have great sympathy and understanding for many of the farming areas and ranching communities in this country that are going to be put out by having to fill in those forms under this onerous bill.

But I want to ask the question, and I still await a Member to really respond to that question: Why is it that we are going to require everyone in the country to do it except one special group? I think that becomes the basic issue of this amendment. With no answer I yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 1 recommended by the Committee on Agriculture and offered by the gentleman from Texas (Mr. de la Garza).

The question was taken; and on a division (demanded by Mr. de la Garza) there were—ayes 6, noes 11.

So the amendment was rejected.

The CHAIRMAN. The amendment No. 2 by the Committee on Agriculture is in order at this time.

Mr. de la GARZA. Mr. Chairman, the committee does not wish to pursue any further amendment No. 2.

Mr. EDWARDS of California. Mr. Chairman the Agriculture Committee decided not to offer its proposed amendment which would have authorized the establishment of a more secure system of employee verification to accompany the proposed employer sanctions system of H.R. 1510. Nonetheless, I want to make the following statement for the record.

The Judiciary Committee has carefully examined the question of an employee verification system in the context of employer sanctions and has concluded that legislative safeguards are necessary to prevent the unintended consequence of a hastily established, national ID system with grave civil liberties consequences. I am the author of an amendment which was adopted by the Judiciary Committee with overwhelming support which provides the needed safeguards; this amendment became the current language of H.R. 1510.

This current language in the House bill requires the President, within 3 years after the enactment of the bill, to prepare and present to the Congress a report concerning the operation of the employment verification system set up by section 101. The report would address the question of whether any legislative changes in the existing verification system are necessary after the system has been in operation for 3 years, what the estimated costs of any possible changes would be, and what impact any of these changes would have on civil rights and civil liberties. This language deleted the requirement in the bill that the President unilaterally implement a more secure verification system without any further consideration by the Congress. I do not believe that the issue of whether our Government should develop a new nationwide identification system for keeping track of everyone who is eligible to work in this country is one that we should leave to the President to resolve alone.

There are four major reasons for supporting the current language of H.R. 1510 regarding the ID system.

First, the premise underlying this immigration bill is that the Congress has a responsibility to establish long-term policy concerning immigration and refugee matters. If that is the premise on which we are proceeding, it would be totally inconsistent for us to abdicate responsibility for deciding whether our immigration policy should include a costly new national identification system with substantial and unpredictable consequences for civil liberties. This is not a matter that we should leave to the President alone to decide. We should decide it in the Congress only after a thorough study of all aspects of the issue.

Second, the current language takes into account the many different points of view that exist on the question of a national identification system. The proposed Agriculture Committee amendment incorrectly assumed that there is a consensus for a more secure system. No issue more deeply divided the Select Commission which voted 9 to 7 in favor of an identification system based on existing documents, and 8 to 7 with one abstention in favor of a more secure form of employment verification. The differences in the Commission over this issue concerned the relative weights to be assigned to enforcing employer sanctions and protecting individual liberties, and the long-term consequences of empowering the Government to keep close track of the national work force. We cannot pretend these differences will disappear once an immigration bill is enacted. The only way they can be resolved is to reserve the issue for study and further legislation, if necessary, after the new law has been in effect long enough for us to see how it works.

Third, no one has any idea how much a secure identification system would cost. The GAO estimates for instituting a counterfeit proof identity card and an underlying data bank ranging from approximately $1 to $2 billion. At a time when we are cutting Federal spending in virtually every Federal program, we should not loosely delegate to the President the responsibility for developing an identification system the cost of which we do not know and the effect of which—in addition to all its other problems—could be to force us to make still further cuts in other vital Federal programs.

Fourth, there are some critical long-term civil liberties questions involving the development of a new national identification system that must be considered before any such system is established. I am far more confident that these questions can be addressed in the deliberative process of the Congress than in the policymaking of the executive branch.

For all these reasons I urge you to reject my amendment.

### AMENDMENT NO. 3, REPORTED BY THE COMMITTEE ON AGRICULTURE, AS REPORTED BY THE COMMITTEE ON THE JUDICIARY, OFFERED BY MR. DE LA GARZA

The CHAIRMAN. Amendment No. 3, from the Committee on Agriculture, is in order at this time.

Does the chairman of the Committee on Agriculture the gentleman from Texas (Mr. DE LA GARZA) desire to offer amendment No. 3?

Mr. DE LA GARZA. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the next amendment.

The text of the amendment is as follows:

Amendment No. 3 reported by the Committee on Agriculture to H.R. 1510, as reported by the Committee on the Judiciary, offered by Mr. DE LA GARZA: Page 10, line 20, immediately after "civil penalty of" insert "not less than $100 nor more than".

Page 10, line 25, immediately after "civil penalty of" insert "not less than $500 nor more than".

Mr. DE LA GARZA. Mr. Chairman, the third Agriculture Committee amendment amends the civil penalties in the employer sanction provisions of the bill as reported by the Judiciary Committee to substitute for the fixed penalty of $1,000 a range between $100 and $1,000 and for the fixed penalty of $2,000 a range between $500 and $2,000.

The committee was of the view that flexibility was needed as respects employer sanctions, taking into consideration the circumstances surrounding the violation. The Agriculture Committee amendment accomplishes this objective by providing discretion in the imposition of fines under the bill. In only rare instances does any statute impose a fixed penalty—criminal and civil penalties generally are set in terms of maximums that can be adjusted to meet the nature of the offenses, taking account of any equities that may be present. We think this is particularly important in respect to the employer sanction provisions of this bill.

Mr. Chairman, this amendment represents the efforts of Mr. MORRISON, the gentleman from Washington, and Mr. VOLKMER, the gentleman from Missouri. At this time I yield to Mr. MORRISON for further discussion of its provisions.

Mr. MORRISON of Washington. I thank the chairman for yielding.

Mr. Chairman, this particular amendment does not apply just to agriculture but is an attempt to build some flexibility into the penalty structure. This is a totally new area for employers all across America and while I am not as worried about IBM or Ford or some of our major corporations, I am worried about the smaller employers.

I notice some amendments coming up later that would exempt small businesses entirely from employer sanctions. Perhaps that is not appropriate. But I think we should have some consideration for a range of penalties.

There are a number of examples of this in Federal law. I find, for instance, that under the Occupational Safety and Health Act, the civil and criminal penalties are worded so that they say a penalty of not more than $10,000 or a penalty of up to $1,000, and so forth; civil rights laws at the Federal level, again not more than $10,000.

In fact, this immigration bill, itself, in one of its sections having to do with unlawful transportation of aliens provides for penalties up to a figure in several instances.

So all we have done is to say that, let us leave a little bit of flexibility with the local courts, to provide a range of penalties, a maximum and a minimum. We do this in the case of the first violation, the second; or the third offense it is interesting to notice that the Judiciary Committee in its wisdom provided a penalty of not more than $3,000 per alien.

I am saying, let us just apply the same flexibility in the first two instances rather than a very set fee from which there could be no deviation as far as the court is concerned.

I thank the chairman for yielding.

Mr. **de la GARZA**. Mr. Chairman, before I conclude, let me state that this is across the board, and amends H.R. 1510 so that it is applicable to everyone.

I yield back the balance of my time.

Mr. **MAZZOLI**. Mr. Chairman, I move to strike the last word and I rise in reluctant opposition to the gentleman's amendment.

Mr. Chairman, I will be very brief. I think the House Committee on the Judiciary and its Subcommittee on Immigration labored very hard to bring a fair, equitable, and balanced bill before this Chamber.

I think that is what we have. Part of the genius and beauty, I think, of H.R. 1510 is that it applies to everyone in approximately the same situation. And what we found in our long deliberations over basically 3½ years was that fixed fines rather than flexible fines, first of all, would be the firm statement on the part of an assembly like ours that employer sanctions was meant to work, it was meant to hurt those people who would knowingly hire undocumented aliens.

Once you have the range, anywhere from $100, which is fairly low; to $1,000, and from $500 to $2,000, the low end of the range is really just a cost of doing business; it is just like, in effect, a license fee. It really will not hurt and it would pay an employer of great numbers to just pay this because it is cheaper than not hiring undocumented workers.

So first off, our idea of fixed fines of a stern dimension was for simplicity in administration and for firmness of resolve.

The Judiciary Committee and your subcommittee also felt that, looking around the world to the nations which have employer sanctions laws on the books, we found that where those laws have not worked, they have not worked because the fines are too low, they were sporadically enforced; and that is why they did not work.

But where they were sternly enforced and where fixed fines were imposed, and the criminal penalties were imposed with resolve, then, of course, employer sanctions worked and flow of undocumented aliens was curtailed.

So here we think, at least I think on behalf of the committee, that a range of penalties would weaken employer sanctions, the low range of these penalties is so low as to simply constitute a cost of doing business and would not be a deterrent to the hiring knowingly of undocumented workers.

I add that the administration is against this amendment. The administration feels that fixed penalties of a high level which hurt is the way to go.

So I would respectfully request of my colleagues a "no" vote on this amendment.

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Mr. **LUNGREN**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. We have had two arguments against employer sanctions. One, is that they do not work and the other is they work too effectively.

The whole question is: They either are going to work if you have penalties that are sufficient or they are not going to work at all. That is the conclusion of the GAO report surveying 20 countries around the world with respect to their employer sanctions. Virtually every major industrial country in the world has employer sanctions, save the United States. And even though they have had difficulty in actually utilizing them, they have taken a relook at those employer sanctions and a number of them, over the last couple of years, and have imposed tougher sanctions because they have discovered that that will work.

In France and Germany just in the last year or year and a half, they have increased the penalty structure. In Hong Kong, as I have mentioned on the floor before, they have increased the penalty structure. It is now working such that people want to be repatriated to the People's Republic of China. That must mean it is a pretty effective sanction.

My fear is that this really waters down the employer sanctions such that those who otherwise would be deterred by the possible sanctions might feel that the penalty was just the cost of doing business.

Let us look at what the penalties are here. First of all, if this law goes into effect, for the first 6 months we are going to have an educational program. The Federal Government is going to try to tell everybody how it works and no one will receive a violation during that period of time.

Following that, the very first time that they discover that you have willfully hired an illegal alien, you get a citation, which is nothing more than a warning saying do not do it again.

It is then on really, in most cases, for an unscrupulous employer at best, the third occasion that they find that you have willfully violated the law that any sanctions will be imposed whatsoever. It seems to me when we have structured it in that phased fashion to say that after you have had a warning, as the entire Nation has had a warning, after you have had a specific finding that you violated the law and you have nothing more than a warning, then we are going to hit you with a $100 fine. It is ludicrous, in my judgment, because what can happen is that the cost of hiring an illegal alien compared to hiring someone who is here legally can be well worth more than $100.

The idea is right now if you find an employer who is hiring 200 illegal aliens willfully, it is going to mean a lot more to him by being hit $1,000 per person than it is by giving him a $100 fine which is not going to cumulatively amount to anything.

The tragedy of the situation now is that we castigate the Immigration Service on this floor continually for not doing a job and then those people who are on the front lines, in the border patrol, go out and they find 100 or 200 people working illegally. They deport them to their country of origin and within the week they are back working at the same location and the employer knows they are going to be coming back and waits for them to come back.

If employer sanctions are going to work, they have to be in fact real sanctions.

I would suggest that diluting it more than we have already done in the bill would substantially weaken employer sanctions and if you want to make sure employer sanctions do not work, weaken them and then you can come in with a report 2 years down the line from the GAO saying employer sanctions do not work. They do not work in California right now even though we have them on the books. Why? Because the courts there said you could not prosecute under the law because it was within the Federal domain. Now ultimately the California Supreme Court said that was not quite true, but by the time they came down with their decision they could not find the plaintiff any more, because presumably the plaintiff had returned to his country of origin or had moved somewhere else within the great matrix of employment here illegally.

So I think we ought to be very serious about this. If you think we ought to have employer sanctions and they ought to be significant ones, I think you ought not to vote for this amendment.

If you do not like employer sanctions, if you want to kill it, I suppose this is one way of doing it.

Mr. **KINDNESS**. Mr. Chairman, will the gentleman yield?

Mr. **LUNGREN**. I yield to the gentleman from Ohio.

Mr. **KINDNESS**. I thank the gentleman, who is quite right, but I would ask for one point of further clarification. Even if the amendment is not adopted, and I do not think it should be, would not a judge still have the right, the opportunity, under his discretionary powers, to remit a part of the fine or to suspend a part of the fine in the event circumstances warranted that? There would still be that discretion, would there not?

Mr. **LUNGREN**. I assume with the Federal court system the way we have it now they do have the right to maintain flexibility with respect to any penalty structure we give them.

But I do not think we ought to make it statutory in this regard.

**Mr. KINDNESS.** And if the gentleman would yield further, I think that illustrates the point that the amendment is not needed. For those of you who might be concerned that it might be too inflexible, it is not too inflexible the way it is, as the gentleman from California has pointed out. The judge could still remit or suspend a portion of the fine.

**Mr. FISH.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I am happy to yield to the gentleman from New York.

**The CHAIRMAN.** The time of the gentleman from California (Mr. LUNGREN) has expired.

(At the request of Mr. FISH and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

**Mr. FISH.** I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has made the case very well against the flexible civil fines because it is kind of ludicrous to allow a fine to be less than the cost of doing business. Obviously, as the gentleman has said, an unscrupulous employer will simply ignore the fines and continue to employ illegal workers since the fine is less than the amount that he stands to gain.

But could the gentleman tell me, in addition, should we not be concerned that fined employers under a system of flexible fines are likely to litigate the fines, challenging discriminatory application in the amounts levied?

**Mr. LUNGREN.** I think that is one of the concerns we would have. We want application across the board. We ought to have a certain fine structure as opposed to such great flexibility as allowed in this amendment.

**Mr. FISH.** I thank the gentleman.

Mr. Chairman, I ask for a "no" vote on the amendment.

**Mr. ROYBAL.** Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, this is another amendment that protects a special interest. In the Judiciary Committee report in the first offense a warning is given and the paperwork starts.

The same thing is happening with this amendment.

In the second offense, under the Judiciary Committee's report, the second offense has a civil fine of $1,000, but under this amendment it decreases it to $100 to $1,000.

Now this is definitely a provision that would benefit a particular interest group. This amendment, I am told, was drafted in an effort to protect the employer. This bill, I would say, is long on protections for the employer and short on protections for the workers.

The thing that bothers me more than anything else is the fact that if sanctions are the main provision in this bill, why then are amendments being proposed this afternoon that if adopted would weaken sanctions, I think that certain interests are being benefited should these amendments pass, and that it destroys completely the sanctions provision under the bill before us.

It is for that reason, Mr. Chairman, that I am joining the gentleman from Kentucky, the author of the bill (Mr. MAZZOLI), in opposing the amendment.

**The CHAIRMAN.** The question is on the amendment No. 3 recommended by the Committee on Agriculture and offered by the gentleman from Texas (Mr. DE LA GARZA).

The amendment was rejected.

**The CHAIRMAN.** Amendment No. 4 by the Committee on Education and Labor is in order at this time.

Does the chairman of the Committee on Education and Labor desire to offer amendment No. 4?

### AMENDMENT NO. 1 REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR, AS REPORTED BY THE COMMITTEE ON THE JUDICIARY, OFFERED BY MR. HAWKINS

**Mr. HAWKINS.** Mr. Chairman, I offer an amendment.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 reported by the Committee on Education and Labor to H.R. 1510, as reported by the Committee on the Judiciary, offered by Mr. HAWKINS: Page 3, strike out line 8 and all that follows through page 5, line 15, and insert in lieu thereof the following:

"UNLAWFUL EMPLOYMENT OF ALIENS AND UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee or other consideration, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment.

"(2) It is unlawful for a person or other entity, after hiring an alien for employment subsequent to the date of the enactment of this section, to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3)(A) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1) with respect to such hiring, recruiting, or referral.

(B)(i) If a person or entity employs four or more employees and hires (or recruits or refers for a fee or other consideration) for employment in the United States an unauthorized alien after the effective date of paragraph (1), for purposes of such paragraph the person or entity shall be considered to have known the alien was an unauthorized alien unless the person or entity has complied with the requirements of subsection (b) with respect to the hiring (or recruiting or referral) of that alien.

"(ii) If a person or entity—

"(I) employs fewer than four employees,

"(II) hires (or recruits or refers for a fee or other consideration) for employment in the United States an unauthorized alien after the effective date of paragraph (1), and

"(III) within the two-year period before the date of such hiring, recruiting, or referral had been notifed by the Attorney General in writing that the person or entity has hired (or has recruited or referred for a fee or other consideration) an unauthorized alien after the effective date of paragraph (1),

for purposes of paragraph (1) the person or entity shall be considered to have known the alien referred to in subclause (II) was an unauthorized alien unless the person or entity has complied with the requirements of subsection (b) with respect to the hiring (or recruiting or referral) of that alien.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

Page 5, beginning on line 17, strike out "paragraphs (1)(B), (3), and (5) of subsection (a)" and insert in lieu thereof "subsection (a)(3)".

Page 7, line 11, insert ", the Special Counsel of the United States Immigration Board," after "Service".

Page 9, line 14, insert "or revoked" after "withheld".

Page 10, strike out line 3 and all that follows through page 16, before line 23, and insert in lieu thereof the following:

"(d)(1) It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee or other consideration, of the individual for employment because of such individual's national origin or alienage.

"(2) Paragraph (1) shall not apply to—

"(A) a person or other entity that employs three or fewer employees,

"(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

"(C) discrimination because of alienage which is otherwise required in order to comply with law.

"(e)(1) Any person (or person, including a class, representing such persons) alleging that the person is adversely affected directly by an unfair immigration-related employment practice or by a violation of subsection (a)(1) or (a)(2) or an officer of the Service alleging that an unfair immigration-related employment practice or a violation of subsection (a)(1) or (a)(2) has occurred or is occuring may file a charge respecting such practice or violation with the Special Counsel of the United States Immigration Board (hereinafter in this subsection referred to as the 'Special Counsel' and the 'Board', respectively). Charges shall be in writing under oath or affirmation and shall contain such information as the Board requires. The Special Counsel shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice or violation) on the person or entity within ten days.

"(2)(A) The Special Counsel shall investigate each charge received and, within 30 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before the Board. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and violations of subsection (a)(1) or (a)(2) and, based on such an investigation and subject to subparagraph (C), file a complaint before the Board.

"(B)(i) If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice, has not filed a complaint before the Board with respect to such charge within such 30-day period, the person making the charge may (subject to subparagraph (C)) file a complaint directly before the Board.

"(ii) If the Special Counsel, after receiving such a charge respecting a violation of subsection (a)(1) or (a)(2), has not filed a complaint before the Board with respect to such charge within such 30-day period, the person making the charge may appeal such failure to the Board under such rules as the Board shall establish. If the Board determines that such failure was an abuse of discretion by the Special Counsel, the Board shall order the Special Counsel (subject to subparagraph (C)) to file a complaint with the Board with respect to the charge within 30 days of the date of the order. The determination of the Board with respect to such an appeal shall not be subject to judicial review.

"(C) No complaint may be filed respecting any unfair immigration-related employment practice or violation of subsection (a)(1) or (a)(2) occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel and the service of a copy thereof upon the person or entity against whom such change is made. This clause shall not prevent the subsequent amending of a charge or complaint under paragraph (3)(A).

"(3)(A) Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice or violation of subsection (a)(1) or (a)(2), the Board, through an administrative law judge designated by the Board for such purposes, shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

"(B) Hearings on complaints under this section shall be considered before administrative law judges who are specially designated by the Board as having special training respecting employment discrimination and the requirements of subsections (a) and (b) and, to the extent practicable, before such judges who only consider cases under this section.

"(C) Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice or violation of subsection (a)(1) or (a)(2) shall be considered a full party to any complaint before the Board respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the administrative law judge conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(4)(A) The testimony taken by the administrative law judge shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may provide for the taking of further testimony or hear argument.

"(B) The administrative law judge shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become effective as therein prescribed.

"(5) In conducting investigations and hearings under this subsection and in accordance with rules of the Board, the Special Counsel and administrative law judges—

"(A) shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) by subpena may compel the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpena lawfully issued under this paragraph and upon application of the Board, an appropriate district court of the United States may issue in order requiring compliance with such subpena and any failure to obey such order may be punished by such court as a contempt thereof.

"(f)(1) If, upon the preponderance of the testimony taken, the Board shall be of the opinion that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice or has violated subsection (a)(1) or (a)(2), then the Board shall state its findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice or any such violation of subsection (a)(1) or (a)(2). Such an order also may require the person or entity—

"(A) to comply with the requirements of subsection (b) with respect to individuals hired (or recruited or referred for employment for a fee or other consideration during a period of up to three years;

"(B) to retain for the period referred to in subparagraph (A) and only for purposes consistent with the last sentence of subsection (b) the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referral for a fee or other consideration, for employment in the United States;

"(C) to hire individuals directly and adversely affected, with or without back pay;

"(D) if the Board finds that the practice or violation was intentional, to take such other action as the Board deems appropriate; and

"(E)(i) except as provided in clauses (ii) and (iii), to pay a civil penalty of not more than $2,000 for each individual discriminated against or for each unauthorized alien with respect to whom a violation of subsection (a)(1) or (a)(2) occurred,

"(ii) except as provided in clause (iii), in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $3,000 for each individual discriminated against or for each unauthorized alien with respect to whom a violation of subsection (a)(1) or (a)(2) occurred, or

"(iii) in the case of a person or entity who has engaged or is engaging in a pattern or practice of such discrimination or of such a violation, to pay a civil penalty of not more than $4,000 for each individual discriminated against or for each unauthorized alien with respect to who a violation of subsection (a)(1) or (a)(2) occurred.

"(2)(A) In providing a remedy under paragraph (1)(C), back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Board. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals aggrieved against shall operate to reduce the back pay otherwise allowable under such paragraph. No order of the Board shall require the hiring of an individual as an employee or the payment to him of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or alienage or the effect of such an unfair immigration-related employment practice or a violation of subsection (a)(1) or (a)(2).

"(B) In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment without reference to the practices of, or under the control of, or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person or entity named in the complaint has engaged or is engaging in any such unfair immigration-related employment practice or that the person or entity has not violated subsection (a)(1) or (a)(2), then the Board shall state its findings of fact and shall issue an order dismissing the complaint.

"(4) In any complaint respecting an unfair immigration-related employment practice, the Board, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee.

"(5)(A) The provisions of subsections (d), (e), (f), (g), (i), and (j) of section 10 of the National Labor Relations Act (29 U.S.C. 160) shall apply to court petitions and review of orders under this section in the same manner as they apply to court petitions and orders under that section, except that the authority of the General Counsel or the National Labor Relations Board under those subsections shall be exercised for purposes of this paragraph through the Special Council to the Board.

"(B) In any proceeding referred to in subparagraph (A), the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs.

"(g) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitation with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(h) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or recruit or refer for a fee or other consideration for employment, unauthorized aliens.

"(i)(1) The President shall monitor, and shall consult with the Congress every six months concerning, the implementations of this section (including the effectiveness of the verification and record-keeping system described in subsection (b) and the status of the changes and additions described in subsection (c)) and the impact of this section on the economy of the United States and on employment (including discrimination in employment) of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status.

"(2)(A) The Civil Rights Commission shall monitor the implementation and enforcement of the provisions of this section and shall investigate allegations that the enforcement or implementation of this section has been conducted in a manner that results in unlawful discrimination by race or nationality against citizens of the United States or aliens who are not unauthorized aliens (as defined in subsection (a)(4)).

"(B) The Civil Rights Commission, not later than 18 months after the month in which this section is enacted, shall prepare and transmit to the Committees on the Judiciary of the House of Representatives and of the Senate a report describing the implementation and enforcement of the provisions of this section during the preceding period, for the purpose of determining if a pattern of such unlawful discrimination has resulted. Two more such reports shall be prepared and transmitted 36 and 54 months after the month in which this section is enacted.".

(2)(A)(i) No order or injunction may be issued under section 274A of the Immigration and Nationality Act for actions occurring before the first day of the seventh month beginning after the date of the enactment of this Act.

(ii) The President shall first submit a nomination to the Senate for Special Counsel to the United States Immigration Board not later than 60 days after the date of the enactment of this Act.

(B) During the one-year period beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the provisions of section 274A of the Immigration and Nationality Act.

(C) The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement section 274A of the Immigration and Nationality Act.

(3) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens and unfair immigration-related employment practices.".

Page 20, strike out lines 21 through 25.

Page 21, line 1, strike out "(c)" and insert in lieu thereof "(b)".

Page 29, after line 6, insert the following: The Board shall also exercise functions described in subsections (e) and (f) of section 274A.

Page 31, amend lines 9 and 10 to read as follows:

"(E) with respect to judges designated to hear such cases, complaints under section 274A(e), and".

Page 31, line 24, strike out the closing quotation marks and the period that follows them.

Page 31, after line 24, insert the following new subsection:

"(d)(1) The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel to the Board, to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the offer or employee who shall act as Special Counsel during such vacancy.

"(2) The Special Counsel shall be responsible, on behalf of the Board, for investigation of charges and issuance of complaints under section 274A and in respect of the prosecution of all such complaints before the Board and the exercise of certain functions referred to in section 274A(f)(5)(A), and shall have such other duties respecting such section as the Board may prescribe.

"(3) The Special Counsel is entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) The Special Counsel, in accordance with rules established by the Board, shall establish such regional offices as may be necessary to carry out his duties.".

**Mr. HAWKINS.** Mr. Chairman, I dare say that there is no Member of this Congress who does not recognize the problem of illegal immigration.

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We all have concerns about the burdens which individuals unlawfully residing and working in this country place on local, State, and Federal resources maintained for the benefit of citizens and other lawful guests of our country.

Correspondingly, while there are those in this Chamber who would like to deny it, bigotry and discrimination are alive and well in America in 1984. And despite the laudable purpose behind this bill, there are those in this Nation who would use this measure as a pretext to deny employment to U.S. citizens and aliens lawfully residing here and by right, simply because they look or sound foreign.

If there is one thing I believe my colleagues on both sides of the aisle will agree, it is that this country and this Congress should do everything possible to insure that citizens and lawful residents are not subjected to employment discrimination because of their national origin.

The amendment that I am offering today is designed to insure that the immigration measure now before the House will not be used as a pretext to deny employment.

Specifically, my amendment would modify H.R. 1510 in three important ways: First, it creates a quasi-judicial administrative enforcement mechanism for the enforcement of sanctions. May I say that in this regard we follow a definite model. It is not a new creation. It is based upon the model of the National Labor Relations Board, and it is followed in specific ways by the Equal Employment Opportunity Commission. Second, it creates a cause of action not now in H.R. 1510 prohibiting employment discrimination which augments but does not duplicate the jurisdiction of title VII of the Civil Rights Act of 1964. And, third, it provides the same quasi-judicial administrative enforcement mechanism for the enforcement of the nondiscrimination provisions that it provides for the enforcement of the employer sanctions provisions in the bill.

Even with the adoption of my amendment, I still would have grave reservations about the impact of this immigration proposal on the very fabric of our country. However, without the inclusion of my amendment, I am certain that any jobseeker who does not fit an employer's notion of an American in both physical characteristics and speech will face limited employment prospects in the future.

Let me repeat, Mr. Chairman, if I may, that H.R. 1510 as proposed does not address the problem of racial discrimination, a discrimination—and I think everyone will agree—that is not only possible but that is probable to occur if we impose sanctions on employers. The bill does make, the proposal does make, various references to employment discrimination. But in what way? On pages 14 and 15 of the bill, for example, employment discrimination is obliquely referred to, and then they set up several agencies or groups to monitor, not to enforce, but to monitor whether there is any impact on employment, including discrimination. The President is charged with the responsibility of monitoring.

Then they apparently felt that that was not strong enough, and so they added another provision that the Civil Rights Commission shall monitor the program.

And again they were not satisfied, and in order to refer again to employment discrimination obliquely but not as a cause of action, they say that the Attorney General jointly with the Secretary of Labor and the Chairman of the Equal Employment Opportunity Commission shall establish a task force—to do what? Also to monitor.

Three groups monitoring, but presumably not to do anything about racial discrimination as my amendment would do.

**Mr. MAZZOLI.** Mr. Chairman, I rise in very reluctant opposition to the amendment offered by the gentleman from California (Mr. HAWKINS).

Let me try to basically explain the gentleman's amendment. Let me first pay tribute to the gentleman from California (Mr. HAWKINS), as one of the leading Members in our Congress and one with whom I served on the Education Committee in my early years in Congress, and a man who is a very thoughtful gentleman in all aspects of his work. And this is a thoughtful amendment. There are parts of it I think the House will have a chance to come to grips with separately later, which the House might actually be able to vote up.

First of all, this is really a basic rewrite of the section in H.R. 1510, the bill before this Congress, dealing with the employer sanctions. It rewrites it, first of all, by striking criminal sanctions. We just discussed in the offering of the Agriculture Committee amendment a moment ago how important it was to retain sharp teeth in the section on employer sanctions. And part of the sharp teeth are the eventual criminal penalties which ensue if a person is blatantly misbehaving and blatantly violating the terms of employer sanctions.

First of all, the Hawkins amendment takes away criminal sanctions. Second, the Hawkins amendment inserts a kind of agriculture amendment in the sense that it has civil fines of up to $2,000 or up to $3,000.

We discussed just a bare few moments ago that in the range of penalties which have been proffered by the Agriculture Committee of $100 to $1,000 or $500 to $2,000 that the lower range which could be the eventual decision of the court or of the administrative law judge would become a cost of doing business and far less costly to the employer than the hiring of U.S. persons or documented aliens.

So here again the "up to," the flexibility, reduces and waters down the effectiveness of employer sanctions.

Furthermore, one of the beauties I think, and we think, of the bill, H.R. 1510, is an amendment which was offered by the gentleman from New Jersey (Mr. RODINO), the distinguished chairman of our committee, which says that in order to make sure that this law is properly understood and easily implemented, every employer has what we call a first bite. In fact, the first violation is visited by a citation, a citation of saying, "You have done wrong, we would like for you to do better in the future."

The amendment of the gentleman from New Jersey (Mr. RODINO), which is in H.R. 1510, is eliminated by the Hawkins amendment, it eliminates the citation phase. You immediately go into civil remedies and then, in the Hawkins amendment, they strip even the eventual remedies of criminal sanctions.

What the Hawkins bill does, of course, is set up a kind of NLRB, an independent agency in the Department of Justice, to hear both sanction actions as well as the whole question of discrimination which might unintentionally and unwittingly insure from employer sanctions.

Later, this House will have the opportunity in the amendment of the gentleman from Massachusetts (Mr. FRANK) to deal with the question of setting up a special counsel to deal with any unintended discrimination which might come.

So I would ask the House to vote down the Hawkins amendment and then take a very serious look at the amendment of the gentleman from Massachusetts which might deal with that phase of discrimination.

Later the House will be able to deal with the amendment offered by the gentleman from California, the ranking minority member of the committee, which will strike the Kindness language. The Kindness language, let me explain, is also stricken by the Hawkins amendment, of the gentleman from Ohio (Mr. KINDNESS) says that paperwork verification is optional until you make the first mistake. Thereafter you keep paper, you verify.

The gentleman from California will make an offering which will strike the Kindness language.

So you have the opportunity to take up two major elements which might be attractive to the House later on in separate amendments. But again the bill which is offered by the gentleman from California, the thoughtful gentleman from California (Mr. HAWKINS), I think is defective because it provides a range of civil penalties which waters down employer sanctions. It eliminates the criminal sanctions which adds the teeth to the employer sanctions, and it also eliminates the citation phase which we think adds fairness and balance to the institution of a whole new enforcement activity on the part of government, which is employer sanctions.

So for those reasons, but with great respect and deference to my friend, the gentleman from California (Mr. HAWKINS), I would respectfully oppose his amendment.

□ 1400

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

**Mr. HAWKINS.** Mr. Chairman, will the gentleman yield?

**Mr. MAZZOLI.** I yield to the gentleman.

**Mr. HAWKINS.** I would ask the gentleman whether or not he considered increasing the maximum and leaving to the administrative court judge to fix the penalties consist in watering down, it would permit a higher penalty where the facts justify it. It would, on the other hand, make it discretionary with the judge to lower them where that is warranted?

If the gentleman is familiar with the GAO report of the experience in the other 20 countries as well as in California, I think the gentleman from California (Mr. LUNGREN) did refer to the experience in California as having not been very satisfactory. One of the reasons was that in the district courts, which would obviously be emphasized under the bill as it is now drafted, collateral issues were raised, and one of the reasons why the experience in California I think justifies modifying the penalty section is to allow the court to determine the severity of the offense.

I cannot under any circumstance identify that with the attack that therefore this weakens rather than makes stronger the penalty section.

**Mr. MAZZOLI.** I thank the gentleman. Obviously, the gentleman makes an important statement when he says that if you have a range of penalties enforced by a court, that that might make the employer sanctions very biting and therefore very effective.

Again, the experience that the GAO reports, which the gentleman from California (Mr. LUNGREN) has recited to the House earlier today, suggests that where you do not have inflexible penalties, where you have this range which allows courts and administrative bodies to go to the low range, you lose the effectiveness.

I would, therefore, with respect to my friend, oppose the amendment.

**Mr. LUNGREN.** Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to congratulate the gentleman from California for bringing forth an amendment that tries to deal with two parts of this bill. One is the question of protections against discrimination. We have two or three sections that we believe deal with it; however, some think we ought to do more. Mr. FRANK will present that. I have some question about that approach, but at least that deals with that separately.

The other thing the gentleman does, I think in some ways, is to strengthen the employer sanctions provisions with respect to hiring illegal aliens. I think we need to do that. I will be offering an amendment after this one that tries to make the application across-the-board instead of limited, as I believe it is, under the bill.

However, I think this amendment does it in the wrong way. Let me just explain why. The gentleman from Kentucky has already talked about how the penalty structure here could result in cost of doing business penalties imposed. Because of the excessive flexibility, even though it increases up to $3,000, it says up to $3,000; that means anything in between as well.

Second, it requires that every single case of knowing employment of an unauthorized alien must be, not can be or may be, adjudicated by an ALJ before a fine can be assessed. In the bill that we have before us, the district director can send out a fine notice and the person so cited can pay the fine and that is it. Under this amendment, that can no longer be done; there has to be an affirmative adjudication done by the administrative law judge. I believe that will obviously tie up the whole system. If in fact one thing would perhaps inadvertently, but nonetheless effectively, stand in the way of real employer sanctions, that would be it.

Additionally, when we first held hearings in the previous Congress on the bill that was before us last year, we invited suggestions about how we might improve the bill. One of the suggestions we received, I believe it was from Congressman HANK BROWN from Colorado, was that in the verification section of the bill, ought we not to allow that the employer could rely on the State's representation that someone was here legally. In other words, if the State government has an employment service, which refers certain individuals to an employer should that not be good faith for the employer to rely on? So we placed that in there. So if you are an employer, and your State employment service refers you several employees, you do not have to go through the verification process as long as you keep a document in the file that they were referred by the State government.

Presumably the State government has the resources to check on that; it would be in their interest to do so, and in fact the State governments would not want to be violating the Federal law. That defense, if you will, is excised by this amendment.

Lastly, I would say this: The paperwork burden does two things. We think it does allow for easier law enforcement on the one hand. On the other hand, it provides an easy protection or defense by the scrupulous employer. So that that document or two documents provide an affirmative defense for them.

On the amendment of the gentleman from California, if in fact you were within that category, as is allowed in the bill now, an employer that did not have to keep the paperwork, and they discovered that there was someone who was here illegally working for you, not only would you not have the affirmative defense, because you never had those documents in the first place, but you would be presumed to have knowingly hired that person. It shifts the burden. What it means is that you would then have to prove you were not guilty, as opposed to the prosecution having to prove that you were guilty.

It shifts the burden; that is extremely important. As far as anything that is overly onerous in my judgment, with respect to the employers, it is contained in this amendment, which says that if you, under the law, are not required to have the paperwork burden, but they then discover later on that you have someone who is here illegally, the fact that you did not do the paperwork on them, which was voluntary, is a presumption that you knowingly hired them as an illegal worker.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Texas.

Mr. KAZEN. The gentleman, a while ago, said that the employer who has violated the law would get a notice that his fine was so much and he could send it in and that would be the end of it.

Mr. LUNGREN. He could, if he did not wish to appeal it.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has expired.

(On request of Mr. KAZEN and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. KAZEN. Who sets that fine? Under the gentleman's bill, who sets the fine?

Mr. LUNGREN. We set it by statute.

Mr. KAZEN. The Attorney General, no judge, nobody else; it is done by statute, automatically?

Mr. LUNGREN. That is the penalty proscribed for knowing violation. So, what would happen is——

Mr. KAZEN. Who is going to determine it?

Mr. LUNGREN. Let me just reclaim my time.

A citation would be sent out. If an individual wanted to pay that fine, the person could go ahead and do that. If the person did not want to pay that fine, they have every right to have their case adjudicated and then appeal, and so forth.

Under the amendment before us, even if someone who received the citation wanted to pay it, he or she could not pay it, because the citation could not require them to pay a fine until they have actually had a hearing.

Mr. KAZEN. So what is wrong with that? Is that not the American way?

Mr. LUNGREN. No.

Mr. KAZEN. Why should you be declared guilty and assessed a mandatory fine before you even had your day?

Mr. LUNGREN. No, no, no, no; that is not the case. It is like going to traffic court right now. You have the option to send your money in.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has again expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. GARCIA. I am trying to understand. I asked the sponsor of this amendment if this was the same amendment we debated 2 years ago, and he said it was identical.

If I remember correctly, during the debate 2 years ago, the biggest problem we had with employer sanctions is how do we prove that somebody applied to a specific factory or a specific office for a job?

□ 1410

If I remember correctly, the purpose of that and this amendment was to establish a record to show that a person, applied for a job. This is what I understood from 2 years ago.

What happens if an employer wants to take no risks, and I walk into his office and I ask for an employment application and he does not give it to me because he may think I do not have proper papers, and another person follows me an hour later, or a half-hour later, or 10 minutes later, and asks for an application and is given that application?

How do we have proof that a Garcia, or a Rodriguez, or a Smith, or a Jones, or a Lee actually went into that plant, went into that employment office and was taken care of?

The danger is that it is easier not to even interview or accept applications. What we tried to do with this is to set a record so that a record is established, showing that I was as qualified as you.

I believe that is why we supported the Hawkins amendment 2 years back. How else could we really find out if discrimination is part of a pattern within a personnel office?

Mr. LUNGREN. Mr. Chairman, if I might reclaim my time, I might respond to the gentleman in several ways.

One is that this amendment does far more than that, as I mentioned in my testimony.

Mr. GARCIA. But does it do what I said?

**Mr. LUNGREN.** In one way it does, or it attempts to do it in that way, but it does far more than that, and as I understand it, under the Frank amendment we will have an opportunity to go directly to that question, isolated from all these other things, first.

Second, I would suggest that one of the possibilities of discrimination that may exist in this bill, if it does at all exist there, is the fact that we do not have application of the paperwork burden with respect to all employees above a certain size because, under the bill as it is now written, the Attorney General has to first make a finding that there has been someone working there illegally, and only then does the paperwork burden extend.

So in the amendment I will offer after this, we will extend it to the total area.

This amendment, instead of doing it in that direction, says it is still voluntary until there is a finding made, but if, in fact, you have voluntarily decided not to keep the paperwork and it turns out that you have an illegal alien, an undocumented worker, in your employ, it is presumed that you knowingly hired that person who was illegal, and that shifts the burden.

I think that is an overcompensation for a shortcoming in the bill as it is before us. It goes far too far in being onerous on the employer without even touching the question that the gentleman mentioned that is the intent of the bill.

**Mr. GARCIA.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I yield to the gentleman from New York.

**Mr. GARCIA.** I thank the gentleman for yielding.

All right. Let us forget about the person who is here illegally. Let us talk about an American citizen who goes for employment who happens to be Hispanic, or Asian, or whatever the case might be. What challenges does that person have if we do not accept the Hawkins amendment?

**Mr. LUNGREN.** As I say, we will have an opportunity to vote on the Frank amendment that will come up later, but additionally, we have required in the bill that the President monitor and consult semiannually with the Congress concerning the implementation of the employer sanctions, and whether or not there is any impact on employment, including discrimination of certain ethnic groups in this country, specifically Hispanic Americans. It requires the Civil Rights Commission to monitor the implementation of it. It requires them to submit three reports to us so that we can establish if there is any pattern or practice with respect to discrimination.

**The CHAIRMAN.** The time of the gentleman from California (Mr. LUNGREN) has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

**Mr. LUNGREN.** It requires the Attorney General to jointly with the Secretary of Labor and the Chairman of the EEOC establish a task force to monitor and review allegations of discrimination.

In addition to that, there are all of the already existing laws with respect to discrimination in employment.

And last, this amendment, in the manner of implementing the intention suggested by the gentleman, does so by establishing what is really a quasi-EEOC within a department of the Government that has no expertise in that area. I feel this would probably overburden them because of what they already have to do, and the net result will be that we might on paper look like we will have greater enforcement of discrimination matters, but in all honesty, in my judgment, I do not think it will because of where we reposit that authority. Not because I do not think the people are good people; I do not think they have the manpower nor the training to do that.

**Mr. GARCIA.** I thank my colleague for yielding, and I guess on my own time I will pick up some of the points where the gentleman left off.

**Mr. EDWARDS of California.** Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the amendment offered by the gentleman from California.

Mr. Chairman, I take this moment to ask a question or two of the author of the amendment, the gentleman from California (Mr. HAWKINS).

Is the U.S. Immigration Board an independent agency, and why is that important?

**Mr. HAWKINS.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** I yield to the gentleman from California.

**Mr. HAWKINS.** I thank the gentleman for yielding.

Mr. Chairman, the answer is that section 107(a)(1) of H.R. 1510 establishes this agency, known as the USIB. The agency is not created by my amendment. It is already established by H.R. 1510 as an independent agency within the Department of Justice. We simply vest authority for enforcement of both the employer sanctions and nondiscrimination provisions, in this Board, which is already created, in an effort to minimize political influence and to insure continuity of policy development. H.R. 1510 vests the authority to enforce employer sanctions in the Attorney General, and I think this gives rise to the question of political influence as opposed to an independent agency.

**Mr. EDWARDS of California.** I thank the gentleman.

Does your amendment increase or decrease the burden on employers of complying with the sanction provisions as compared with H.R. 1510?

**Mr. HAWKINS.** The answer is that my amendment significantly decreases the burden on employers. The quasi-judicial administrative format which we use, culminating in a cease and desist order, is not only more efficient and effective, as experience has demonstrated, particularly in NLRB, the EEOC and other agencies, but it is also less burdensome and less costly than a process which relies to any degree on a process which involves proceedings in courts, and the Federal courts in particular.

**Mr. EDWARDS of California.** Does the penalty structure established by your amendment differ from the structure in H.R. 1510?

**Mr. HAWKINS.** Yes; it does. H.R. 1510 establishes mandatory progressive penalties of $1,000, $2,000, and $3,000 for the first, second, and subsequent offenses respectively. It also provides criminal penalties after two or more violations which, incidentally, in the experience as cited in the studies that have been made, have been completely unworkable and have never really been assessed.

My amendment provides discretionary progressive penalties of $2,000, $3,000, and $4,000, respectively, for the first, second, and pattern or practice offenses. Criminal penalties are omitted; however, hire and backpay relief is available and the administrative law judge is given the discretion to order other appropriate relief in conjunction with his cease and desist order. Violations of the cease and desist order carries with it the potential for contempt proceedings where further violations occur which breach a cease and desist order.

□ 1420

**Mr. EDWARDS of California.** Mr. Chairman, my last question of the author of the amendment is this: Would you describe the quasi-judicial administrative enforcement process which you mentioned in your opening statement and indicate how it differs from the process established in H.R. 1510?

**Mr. HAWKINS.** Mr. Chairman, there is a vast difference.

A quasi-judicial proceeding is merely one which is judicial in character, but not in fact. The process enables an agency to satisfy constitutional due process requirements while, at the same time, avoiding the costly, burdensome and time-consuming judicial process. It provides an efficient and cost-effective way of adjudicating rights.

H.R. 1510 does provide some due process protection. My amendment differs from H.R. 1510 in several important respects. First, while H.R. 1510 merely permits a hearing in aid of due process, my amendment requires it as an integral part of the enforcement process. Second, H.R. 1510 creates an enforcement process which is triggered by a preliminary notice of violation which carries with it a recordkeeping requirement. This notification is issued by the Attorney General without due process; that entire process turns on an alleged violation which is never proven.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. Mr. Chairman, if the gentleman will yield further, my amendment provides an expeditious process by which to issue a charge and adjudicate its validity beginning with the first alleged offense. Finally, H.R. 1510 provides at least two ways in which an employer could obtain a hearing in a U.S. district court with all the attendant delays and costs which are an inevitable part of that process. And even though a narrow scope of review is prescribed, the process established by H.R. 1510 greatly increase the possibility of dilatory collateral attacks or even de novo hearings. As one commentator noted on that issue "* * * While the basic premise of judicial review * * * is that the aid of the courts, under normal circumstances, can be summoned only to combat administrative action that is illegal or unconstitutional, * * * when courts deal with a consequence they consider unjust, they will often find a way to avert it." My amendment avoids this difficulty by establishing an administrative format which avoids court proceedings except at the appeals stage.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this Member is not one of those who thinks that in no situation can employer sanctions ever be a meaningful part of immigration reform. My concern is that that proposal that was originally set forth by the Commission as it comes before us on the House floor at this time constitutes, in effect, a legislative proposal which unintentionally but nonetheless significantly provides a public policy which I believe will tend to encourage discrimination against Hispanic-surname individuals, foreign-born, and Asian Americans.

For that reason I think that the amendment offered by the gentleman from California (Mr. HAWKINS) and the Committee on Education and Labor goes a long way toward curing this very significant defect in the employer-sanctions proposal.

In the first place, it provides a meaningful mechanism for dealing with charges of discrimination, and in the second place, it undoes the damage that was done to effective recordkeeping, which has to be the foundation for charges and determinations of discrimination. This damage was caused by the adoption in the Judiciary Committee of the amendment offered by the gentleman from Ohio who, in seeking to reduce the burden on employers, inadvertently and unintentionally has created an atmosphere and environment where discrimination charges are not able to be determined or established and, therefore, will be encouraged.

Some may say that the Equal Opportunities Commission, through title 7 of the Civil Rights Act of 1964, should deal with these charges, but I suggest to this body that it is a woefully inadequate remedy. In the first place, employers of 14 or fewer employees are exempt from title 7 of the Civil Rights Act.

We know that in many parts of this country in many situations small employers have utilized an undocumented work force to carry on their business. All those groups are excluded from the Civil Rights Act and from coverage by the Equal Opportunities Commission.

Perhaps even more significantly, employers who do not hire employees for 20 or more calendar weeks in each year are excluded. A huge number of growers, agricultural employers in this country, relying on a seasonal work force, which at times can cover 200, 500, or 800 workers, do not have those people on their work force for 20 or more calendar weeks in each year.

We have now eliminated from the title 7 remedy a very large segment of agricultural employers relying on a seasonal work force. The same is true for canneries, and the same is true for a large number of other seasonal industries.

In addition, the 1964 Civil Rights Act provides exceptions from discrimination on grounds of national origin where national-origin characteristics constitute bona fide qualifications necessary to the operation of a business and also excludes the use of practices with a discriminatory effect so long as the practice has a relationship to job performance or is supported by a business necessity.

Now, I would suggest that an employer who has traditionally relied on a large number of undocumented workers and who has no racist motivation or discriminatory intent, faced with the choice of the governmental policy against discrimination based on national origin or based on race, and also faced with a very strong expression of a public policy against hiring undocumented workers, can easily fall into the trap of saying: "For my own protection, to avoid the potential for civil, and then criminal penalties, and all the costs, and expenses of fines, and litigation connected with those charges, I want my personnel department to start screening out applications of Hispanic surnames and applications of people who speak with a foreign accent."

That is not because of any racist intention but because they do not want to fall into the trap of employer sanctions. We have to be wary of that. We cannot just embark on this whole new procedure without providing meaningful protections.

When we add to that the absence of recordkeeping requirements and the unwillingness of the committees that have so far heard this bill to consider requiring employers to keep records of applicants for employment to determine whether there is a systematic exclusion of applicants with Hispanic surnames, then we are moving into a very dangerous area.

The Hawkins amendment recommended by the Committee on Education and Labor improves this situation tremendously. I think it allows the authors of this proposal and the proponents of this kind of immigration reform to say that they have done everything they can to try to protect against the discriminatory potential side effects of employer sanctions.

Therefore, Mr. Chairman, I would urge support for the amendment.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the Committee on Education and Labor amendment No. 1—amendment No. 4 of the Rules Committee Print—offered by Mr. HAWKINS. As I stated yesterday, I can appreciate his concern, but oppose his means.

The principal philosophical reason I must oppose this amendment is that it deviates from the main purpose of the legislation which is immigration reform and control. The bill we are considering is not a bill to eliminate discrimination. The Hawkins amendment turns the concepts around and makes H.R. 1510 a bill addressing alleged discrimination.

Under present law, title VII of the Civil Rights Act of 1964 specifically prohibits employment discrimination on the basis of national origin. At the time the Civil Rights Act was passed, Congress made the determination that only employers with 15 or more employees would be covered. It was a deliberate determination. The Hawkins amendment, by permitting the Immigration Board to hear complaints of unfair treatment filed against persons employing more than three individuals, would effectively eliminate this exemption. Under H.R. 1510, therefore, "mom and pop" companies would not only be subject to criminal sanctions for violation of immigration laws, they would have to defend themselves against employment discrimination claims as well.

The Hawkins amendment would now make unlawful employment discrimination on the basis of national origin applicable to employers of between 4 and 14 employees. It would do this without hearings and in doing so, would move the determination to make such civil rights decisions away from EEOC to a newly created Immigration Board. This Board will have no expertise in the area of employment discrimination. Its main job will be to make employer sanction determinations, but the amendment imposes on it the additional burden of making employment discrimination decisions.

The Immigration Board should be making decisions which reflect its area of expertise—immigration. The EEOC should be making discrimination determinations. If some feel that the EEOC only cares about race and sex claims, then steps should be taken to deal with that problem. If we find that the EEOC is unable to do its job, then we should initiate legislation to correct that. And if we now want to extend national origin discrimination to employers of fewer than 15 employees, we should extend the authority to enforce such a law to the agency which already enforces identical language, to the EEOC.

The anomaly of the situation regarding the new national origin discrimination to employers of fewer than 15 employees is that the other prohibited areas of discrimination—race, color, religion, and sex—are still only applicable to employers of 15 or more. Do we consider discrimination on the basis of national origin more onerous than other forms of discrimination? Have we found that employers of fewer than 15 employees have a tendency to discriminate on the basis of national origin more than they discriminate on the basis of race, or color, or sex, or religion?

It is my contention, Mr. Chairman, that the amendment is inconsistent with our existing civil rights law. As stated, national origin discrimination is already outlawed by title VII of the Civil Rights Act of 1964. Title VII already contains sufficient protection of applicants to allay the concern that employers would refuse to hire applicants who appear to be foreign. Under title VII, employers are prohibited from failing to hire any individual because of such individual's race, color, or national origin. Title VII contains an elaborate administrative scheme for the handling of complaints of discrimination and allows complainants to bring suit in Federal court to seek back pay, reinstatement, and other equitable relief. Title VII is proving to be an effective deterrent against employment discrimination. It provides victims of discrimination with sufficient remedies where violation occur. At time of fiscal austerity, there is no need for Congress to create another EEOC.

Additionally, there are problems related to alienage discrimination. One is that I am not sure exactly what it is under the Hawkins proposal. However, the Supreme Court in *Espinoza* v. *Farah Manufacturing Co., Inc.*, 414 U.S. 86 (1973) defined it as discrimination on the basis of citizenship. In that case, where the employer did not discriminate on any grounds under existing law, the Court declared that such alleged alienage discrimination did not violate title VII, since it was not discrimination on the basis of national origin. Therefore, if this committee amendment is adopted, we will be creating a new cause of discrimination action outside of title VII and EEOC. We should be very careful in our understandings and actions. We would be overturning the Espinoza case without a clear intent to do so.

Another problem with the alienage discrimination is that it applies to all employers employing over three employees. The alienage amendment would overlap with EEOC coverage of employers. EEOC would enforce all the prohibited areas of discrimination under title VII against employers with 15 or more employees, while the new Immigration Board would have jurisdiction over discrimination on the basis of alienage, over all employers. Realistically, a noncitizen under this amendment could bring a cause of action against an employer under Immigration auspices for alienage discrimination and the cause of action under EEOC jurisdiction for national origin discrimination.

Allowing the Immigration Board to have jurisdiction over employers with more than 15 employees directly impacts on EEOC jurisdiction and the title VII statute. Although well intended, the discrimination amendment goes well beyond its intentions. It imposes on the Immigration Board additional and redundant powers which should rest in the EEOC.

Finally, although patterned after the NLRB General Counsel, but inconsistent with the NLRB procedures, the committee amendment allows a private right of action to pursue those discrimination claims. If the amendment is to follow NLRB procedures, the special counsel should have final authority. I am opposed to allowing a private right of action in these discrimination claims, which rightly should be under EEOC procedures.

It is for these reasons I must vigorously oppose this amendment.

☐ 1430

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy now to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from Illinois. I ask the gentleman if he would allow me to ask a question.

Given the potential for discrimination that will exist when an employer is trying to avoid the sanctions under the bill before us, do not the proponents of this proposal have some obligation if they have some disagreement with the procedural aspects of the amendments proposed by the gentleman from California (Mr. HAWKINS) to provide some framework by which employees and applicants for employment of small employers and seasonal employers can go somewhere where there is a meaningful enforcement remedy?

We all can imagine the intense opposition if we were simply to offer a proposal to extend the jurisdiction of the EEOC or to give it the kind of meaningful powers that exist with the National Labor Relations Board or other Federal agencies. Here we are enhancing the potential, unintentionally, but we are enhancing the potential for discrimination in order to avoid certain penalties.

Mr. ERLENBORN. Well, if the gentleman will let me reclaim my time to answer his question, if it is believed that we are going to have more national origin discrimination now and that it is desirable to extend the jurisdiction of the EEOC to employers of fewer than 15 employees, then I think we should do that, but I do not think we should create a new cause of action that would be parallel to and exist at the same time as the EEOC.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 3 additional minutes.)

Mr. ERLENBORN. We have created really a new cause of action here so that if this amendment were adopted, an employer with 3 to 15 employees would be subject to this cause of action, which could be brought before the Board and it also could be the subject of a private right of action of the complainant. Employers of 15 or more would not only have the criminal sanctions, the hearing before the Board, the private right of action by the employee, based on alienage but also a national origin discrimination charge before the EEOC and all of these could exist and proceed simultaneously. Now, that just does not make very much sense.

If we really think that EEOC national origin discrimination jurisdiction should be expanded downward to the smaller employers that have less than 15 employees, then I think we should also ask ourselves should it only be for national origin, or are sex discrimination cases, or race discrimination cases just as onerous and we should expand the jurisdiction of the EEOC for those cases as well.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I salute the gentleman for a very cogent, very important statement. You do not take anything away from the author of the amendment, but you simply say that there is another forum and another time at which this should be taken up.

I salute the gentleman for that and say again that in our bill, we have three separate mechanisms already in the bill which provide for someone who might be inadvertently or advertently discriminated against if employer sanctions carry. In the bill there are three separate mechanisms: the President of the United States and a task force involving the EEOC, the Secretary of Labor, and the Attorney General, and last but not least, the U.S. Civil Rights Commission—all three separately can monitor this with respect to discrimination.

If the House feels more is needed, the gentleman from Massachusetts will separately offer an amendment, specifically dealing with discrimination.

So I believe, as does the gentleman from Illinois, that the House should vote down the Hawkins amendment, as it did by about 100 votes 2 years ago and then get started with the individual parts.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield to the gentleman.

Mr. HAWKINS. So I could ask the author of the bill, the principal author of the bill, a question. He refers to the possibility of using the Attorney General, the President, and the special task force as a means of addressing wrongs, that is racial discrimination under the bill.

May I ask the gentleman what enforcement mechanism is contained in either one of these entities in the case of an individual discriminated against or under any provision of H.R. 1510? Is there any recourse for an individual who is actually discriminated against?

Mr. ERLENBORN. May I answer the gentleman? If there is discrimination of the kind I have heard so often speculated about, that is, someone whose skin is dark, who has a Spanish surname or otherwise looks as though they may be foreign, if there is that kind of discrimination, that would be discrimination on the basis of national origin, which is already covered by the EEOC and proceedings could be taken there. As I said, if we want to expand that, we should do that under the EEOC.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. HAWKINS, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 3 additional minutes.)

Mr. HAWKINS. The gentleman would reverse the process and take us into a different forum. However, would the gentleman admit that under EEOC, not only have the exclusion from coverage of a large number of individuals and, therefore, EEOC would not apply, certainly in the case of seasonal workers, it would not apply in the case of small businesses or an employer who employs fewer than the stipulated number, 15, and so forth, but it would exempt large farm holders who might employ 200 or 300 seasonal workers that would be excluded.

□ 1440

To say that they have this forum when they are excluded certainly is not, in my opinion, a reasoned answer. Not only that, but would the gentleman also admit that when we have over the years attempted to give to the EEOC cease-and-desist authority so as to reduce the costs and make it possible for individuals who are without the means of doing so to fight their way through the court proceedings, that the gentleman has opposed giving to the EEOC that power which this amendment gives them.

Mr. ERLENBORN. Let me respond to the gentleman. The gentleman raises the issue of those who might not be covered now under title VII. If the gentleman believes that it is necessary to expand the jurisdiction of the EEOC, we should do that. We should not create a new cause of action to be enforced in a new forum and one that would exist, coexist, with the current cause of action so that an employer with more than 15 employees currently subject to title VII could find himself being sued and successfully sued for two separate violations from the same incident. That really does not make any sense.

The gentleman talks about—and I will not yield at the moment, I want to answer the gentleman's other question—you talk about the enforcement authority of the EEOC. As the gentleman well recalls, we fought that out some 10 or 12 years ago in this House.

Our Committee on Education and Labor reported a bill to give cease-and-desist authority to the EEOC.

This gentleman happened to offer a substitute bill on the floor. My bill was adopted and EEOC, that had no enforcement authority prior to that time, as a result of the passage of my bill, now does have court enforcement authority.

I will stand behind the decision of Congress at that time and my position at that time because I do not think that we should make the EEOC the one that is the prosecutor, the judge, the enforcer, and wrap all of those functions in together.

I think we need to have an independent judiciary determine whether a violation has occurred rather than having the prosecutor bring the case before himself and then make the decision.

It just happens that the gentleman from Kentucky (Mr. MAZZOLI), the principal sponsor of this bill, was a cosponsor of our successful effort to give EEOC enforcement authority. I think he, as well, believes we made a good decision at that time and one that has stood the test of time.

I yield back the balance of my time.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I seem to recall that Robert Burns wrote "Oh what a tangled web we weave when first we practice to deceive."

In this case we are not talking about actual deception. We are talking about trying to kid ourselves into believing people are going to behave not as human beings but in some other manner, as a result of the passage of various laws.

It has not worked up to now. No matter how erudite the deliberations of this body and the body on the other side of the Hill, we pass legislation that may seem so sophisticated, and yet people are still people and people still behave like people.

Let us apply that for a moment to what we are about in the bill before us. We seem to be saying that if we make the sanctions serious enough and far reaching enough people will behave differently. But then some of us are arguing well, no, these sanctions are liable to cause some people to behave like human beings and try to avoid the sanctions.

Well, what do we do about that? Why do we not make the sanctions reasonable enough to live with so that there are left opportunities for employment available to all people, maybe not in the particular places where, historically, illegal aliens have been particularly able to find jobs but let us remember that most of the employers in this country are not concerned day by day about whether people who are coming to them for employment are illegal aliens or not.

Most employers just are not even aware that the problem is liable to come into their own bailiwick, their own backyard.

There are particular places in the United States where the problem is concentrated, and I do not mean to say we ought to target all of our enforcement efforts on particular industries or agriculture in particular areas. But let us face it, there are many places in this country where employers do not face this problem.

How are you going to make employers aware of the problem and cause them to be suspicious about anyone coming to them for employment who may look as though they have a foreign origin?

The best way to do it that I can think of is require the employers, who are out in, let us say, the Eighth Congressional District of Ohio, where we have very few people in the category that we are talking about, make them keep these records all of the time about their employees, as this amendment before us would require; make them acutely aware, day by day, of what the risk is. And sure enough, you are going to get the kind of discrimination you are talking about.

OK, so you try to offset that with another mechanism, an administrative procedure or what have you. You are just making the web more and more tangled by doing that.

But if instead we leave the bill as it is so that employers do not have to keep on going through the verification process and keep those records day by day, every day, regardless of their experience in encountering people who may or may not be illegal aliens or undocumented aliens, if you leave the bill like it is, as reported by the Judiciary Committee in that respect, I think you leave open the greatest number of opportunities for people to be employed on a nondiscriminatory basis.

So for those who are concerned about discrimination, I would say let us not create an atmosphere that is more likely to foster troubles of that sort. Let us do what is reasonable to begin with. Leave the bill as it is and without this amendment so that employers who decide not to have available to them the affirmative defense of verification and records until they have been found responsible for one violation are simply not going to have that recordkeeping responsibility if they choose to do it that way.

One other thing about the amendment before us. I am really almost shocked by the restraint that has been exercised here today in describing the changing of the burden that is inherent in this amendment.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(By unanimous consent Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. The amendment actually says that the employer shall be considered to have known the alien was unauthorized, an unauthorized alien unless the employer has complied with the requirements of subsection B and so on. That is completely shifting the burden to say that the employer is guilty until proven innocent.

Obviously you have to remove the criminal sanctions if you have that because you would have a completely unconstitutional provision. But this is saying that the employer is guilty until proven innocent. I think that alone is a basis for saying this amendment ought not to stand. It may be well intentioned, but it ought not to stand. It ought not to be adopted.

Mr. BARTLETT. Will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

As I understand the committee bill at present also says that if an employer relies upon his local State employment commission to verify eligibility and obtains his employees through the commission, then that is a defense. And yet this amendment deletes that defense. Is that the gentleman's understanding and does he share that sense of loss that we would lose that section of the bill?

□ 1450

Mr. KINDNESS. That is my understanding and concern.

I must admit there are a number of things about the proposed amendment that cause me some concern. That is one of the more serious considerations involved. But I do not think it is by any means something that could be stated as an improvement. No one would argue that that is an improvement, to strike that provision in the bill.

Mr. BARTLETT. I thank the gentleman.

Mr. HAWKINS. Mr. Chairman, would the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. HAWKINS. There is a good reason for that elimination. I do not know whether the gentleman is aware of the fact that the employment service is not willing to accept that responsibility. They have opposed in the Mazzoli bill the idea of the making of the employment service a law enforcement agency.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. HAWKINS and by unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. I yield further to the gentleman from California.

Mr. HAWKINS. May I, in support of my statement, read a statement that was entered into the record of the Subcommittee on Employment Opportunity on this issue from the Interstate Conference of Employment Security Agencies.

They say, "We strongly believe that a recently adopted amendment to the Immigration Reform and Control Act of 1983 violates the intent and changes the Wagner-Peyser Act itself as discussed above. This amendment would extensively involve the Employment Service in a complex and costly system of verifying the employment eligibility of at least all individuals," not just agricultural workers, but every individual that goes to the Employment Service, would go through the same processes and they would have to verify every individual.

Mr. KINDNESS. If I may reclaim my time, I hope no one misses the humor in that. Here is a governmental type agency saying, "We do not want the responsibility of enforcing the law, leave it on the employers."

Mr. HAWKINS. Well, I do not see the humor, if the gentleman will yield further.

Mr. KINDNESS. I think it is a humorous position.

Mr. HAWKINS. Saying everybody who is in need of a job and who goes to the Employment Service, expecting the Employment Service to do its function, and trying to locate a job for that individual, to have to go through the same verification processes and it would seem to me that you are imposing on an agency that does not want this responsibility and you say that is a humorous situation.

I fail to see it.

Mr. KINDNESS. No. You are willing to place the burden on private individuals, but not on a governmental entity. You know I really think that here we have laws we turn over to the private sector to enforce.

Mr. HAWKINS. Is there in this proposal anything to take care of the cost of doing this? It was testified that this cost is an exceedingly high cost and there is nothing in this proposal which will give to this agency the resources for doing the job that you are causing them to do.

Mr. KINDNESS. The same thing applies to the private sector. Let us apply the same rule.

Mr. BARTLETT. Mr. Chairman, will the gentleman from Ohio yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

Mr. BARTLETT. I attended the same subcommittee hearing in which we heard from State employment commissions say they did not know how they could verify eligibility. I asked the question: How would they propose that an employer verify eligibility. And they could not answer the question. That is the essential problem.

As far as the cost, the cost may be large for the agency but it would be far smaller than the aggregate cost to impose that entire cost on employers.

Mr. LUNGREN. Mr. Chairman, will the gentleman from Ohio yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. LUNGREN. I happen to be one who strongly supports the idea of employer sanctions and the paperwork burden. Certainly I find it very difficult to hear what I am hearing; that in fact we are willing to place it on the employer but a governmental agency that is going to refer a worker just like any other professional reference service or union cannot do the same thing. It is as simple for them as it is for the employer.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hawkins amendment. I wish to commend the gentleman from California for his persistent championing of civil rights, especially on this issue over the years.

I have heard a number of arguments today pro and con, and I think the reality is that if the vote reflected yesterday is indicative of the strength of Simpson-Mazzoli, unfortunately we will have employer sanctions.

This provision, the Hawkins amendment, is the only discrimination protection that minorities have if this bill is going to pass. It is our only safeguard. All other provisions relating to discrimination are not adequate enough. This is a provision that has been worked out, that provides a number of steps that adequately protect minorities from employment discrimination which would arise from enforcement of sanctions.

I have heard a number of charges. The first charge is that there is no need for this Hawkins amendment since Federal laws prohibiting discrimination already exist. The fact is that title VII does not provide adequate protection. It exempts from coverage small businesses and seasonal employers. Employers of fewer than 15 employees are not covered by title VII. They can therefore escape coverage by maintaining a small work force less than 20 calendar weeks in a year.

Title VII does not prohibit all forms of discriminatory employment practices. Discrimination based on national origin is allowed if it is a bona fide occupational qualification necessary to the operation of a business.

Furthermore, title VII allows discrimination based on alienage.

Business practices which have a discriminatory impact are allowed as long as the practice bears a reasonable relationship to job performance or is supported by business necessity. It is extremely difficult to prove discrimination under title VII. A complainant must establish that the discrimination was intentional. If a prima facie case of intentional discrimination is established, an employer can still rebut it by establishing any legitimate reason for the discriminatory treatment.

Another charge that Hawkins adds another level of bureaucracy. This wrong the U.S. Immigration Board already exists to adjudicate exclusion and deportation matters. Hawkins merely expands the Board's responsibilities to include adjudication of discrimination claims.

In addition, the Hawkins provision provides an expedited administrative process for adjudicating charges of discrimination. This is a quicker and less expensive route than the procedures established under title VII, of private litigation in the Federal courts.

Another charge; Hawkins puts employers in a no win situation. If they hire undocumented aliens, they face prosecution under sanctions. If they play it safe and fail to hire someone who is in fact documented, they may be sued for discrimination.

This dilemma best illustrates the problem with employer sanctions. It does not work and the best way to avoid this problem is defeat the bill.

Another charge I have heard this afternoon, that Hawkins provides after-the-fact remedies. It does not prevent discrimination; it only ameliorates some of the discriminatory effects of sanctions.

The fact is, though, that this is true of all civil rights legislation. The purpose of Hawkins is to minimize the damage done to and to discourage employers from engaging in future wrongdoing.

Another charge that I heard today that Hispanics and other minorities are not likely to make use of the remedies and procedures established under Hawkins. This conclusion comes from our past experience with EEOC.

However, a special EEOC task force undertook a study of the EEOC's relationships with Hispanics and found that the agency did not pursue legislation on behalf of Hispanics. For example, it discovered that the number of charges filed by Hispanics steadily declined since 1977, from 9.1 percent in 1977 to 4.9 percent in 1982. Moreover, EEOC has filed very few lawsuits alleging national origin discrimination. For the years 1980-1983, less than 3 percent of all cases in litigation alleged national origin discrimination. At the end of fiscal year 1983, only 2.5 percent of the docketed cases alleged such discrimination. These problems are compounded by the lack of bilingual personnel and internal organizational shortcomings, such as lack of outreach to Hispanics and inadequate investigation.

The last charge that I have heard today is that the inadequacy of administrative remedies means that the only option available to those discriminated against is private litigation. The high cost of private litigation is a major justification for administrative remedies. More people can avail themselves administrative remedies. In addition, low-income claimants can easily use the Hawkins procedures without the need for hiring private counsel.

Mr. Chairman, the only safeguard we have so far in this bill to insure discrimination protection, is this amendment. Organized labor, in my judgment, will appeal this bill unless this amendment is enacted. I urge its adoption.

□ 1500

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. RICHARDSON) has expired.

(At the request of Mr. MAZZOLI and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I salute the gentleman, one of the outstanding young Members of Congress. We appreciate this counsel and advice.

I would just respectfully suggest to my friend from New Mexico that in the bill there are three separate sections, the gentleman is familiar with them, on page 15 of this committee print, in which—there are three sides of it—the Civil Rights Commission, the Presidential report and recommendation, and this task force, all of which cannot only monitor but act upon charges of discrimination.

So that it is not exactly accurate to say that there is nothing that would protect discrimination unless the Hawkins amendment is adopted.

One other thing I would suggest, as the gentleman knows, the gentleman from Massachusetts (Mr. FRANK), a member of our subcommittee, has in the offing in the next amendment, an amendment which will deal with the discrimination aspects by apparently adopting all of the Hawkins language on that phase. The Hawkins language, of course, goes far beyond discrimination matters into eliminating sanctions and so forth.

I would just suggest to the gentleman the House will have an opportunity, in addition to the gentleman from California's amendment, to also get into the question of discrimination.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Chairman, the point has been made by the author of this bill the Frank amendment will solve the problem therefore reject the Hawkins amendment.

I would ask the gentleman in the well to address a question to the author of this bill whether he intends to support and to sponsor the Frank amendment then.

Mr. MAZZOLI. If the gentleman will yield further, at this point the Frank amendment, if it is the wisdom of the House to accept it, just like in the case earlier today with the amendments offered by the Committee on Agriculture, I feel very comfortable with our bill. If this bill, H.R. 1510, as before the House right now——

Mr. HAWKINS. Would the gentleman answer the question.

The question is: Would the gentleman, as an individual Member of this House, support the Frank amendment, which he is now saying is the reason why the Hawkins amendment should be defeated on the basis that down the road the likelihood is that he is going to sponsor and support it so that the House will do what he is saying should be done.

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. RICHARDSON) has again expired.

(At the request of Mr. GARCIA and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I do not think Members really heard what the gentleman said concerning EEOC. I believe it is important that we repeat some of that because Members were busy. These are the same Members who were asking us to rely on EEOC to insure that discrimination is not part of this Simpson-Mazzoli bill.

I would just like to read to some of my colleagues what my colleague from New Mexico read:

> A special EEOC task force undertook a study of the EEOC's relationship with Hispanics and found that the agency did not pursue litigation on behalf of Hispanics. For example, it discovered that the number of charges filed by Hispanics has steadily declined since 1977, from 9.1 percent in 1977 to 4.9 percent in 1982.
>
> Moreover, EEOC has filed very few lawsuits alleging national origin discrimination for the years 1980-1983, less than 3 percent of all cases in litigation alleged national origin discrimination. At the end of fiscal year 1983, only 2.5 percent of the docketed cases alleged such discrimination.

And the problem, as my colleague from New Mexico put so very well, is compounded by the fact that they have a lack of bilingual personnel at the agency.

Now, for the purpose of my colleagues on both sides of the aisle who were very much in support of the Simpson-Mazzoli bill, I would like to give you the reference material so you can study it and see it for yourself. It is a study by EEOC, Equal Employment Opportunity Commission and Hispanics: An analysis of the Equal Employment Opportunity Commission's Services to Hispanics in the United States, Washington, D.C., December 2, 1983.

Now to the second part, the Civil Rights Commission. I would like to remind every Member on this floor that during 1983 the Civil Rights Commission was dismantled by this administration. Those persons who are presently sitting on that Civil Rights Commission are there only because they agreed with the President. They had a certain philosophical predisposition.

Now you are asking us to rely on EEOC, you are asking us to rely on the Civil Rights Commission, two Commissions that really have been out of it for the last 4 years. How in good conscience are we going to battle discrimination from sanctions?

The CHAIRMAN. The time of the gentleman from New Mexico (Mr. RICHARDSON) has again expired.

(At the request of Mr. GARCIA and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. GARCIA. It is important that we understand how necessary the Hawkins amendment is. If you want sanctions you have to accept protective provisions. You cannot have your cake and eat it. The Hawkins amendment at least would let us know who is asking for applications in offices across America, if the Simpson-Mazzoli bill becomes a reality. You have got to give us something to protect ourselves.

It is for that reason the Hawkins amendment is important.

Last night, and I say this to my colleague from New Mexico, I watched on network news a small businessman someplace in the Midwest or the Far West who said, "It is not my responsibility to monitor who I hire. It is the Federal Government's responsibility. Why is the Government placing this on my shoulders?"

Let me say to my colleagues on both sides of the aisle, with this bill, as presently written by Simpson and Mazzoli, everybody is on the hook. Nobody is off the hook. We may be the first ones to feel the brunt of discrimination, but the small business person, the middle management person, and all of us together are going to face a problem.

I say that to my colleague who has worked on this for 4 years. This bill, as it presently stands, with the employer sanctions provisions, is going to be a disaster. It will be a disaster not just for those of us who look different, or sound different, but also for those who are trying to run small businesses across America.

Mr. WILLIAMS of Montana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if immigration reform is to have an opportunity for passage, as it should, it needs to have language which fully and properly assures American workers that their civil rights, their jobs, and their work conditions will be fully and adequately protected.

So I rise in support of this amendment and of the few amendments that will be offered by the House Committee on Education and Labor to place those protections in the bill and help assure the bill's passage, which I think is important.

Nothing in America's history is more extraordinary than the collective struggle of wave upon wave of immigrants. The historian Oscar Handlin once wrote:

> Once I thought to write a history of the immigrants in America. Then I discovered that the immigrants were American history.

Not far from here, across the Potomac River, in the valley of the Shenandoah, lies a gravestone with this inscription: "Here lies the remains of John Lewis, who slew the Irish lord, settled in Augusta County, located the town of Staunton, and furnished five sons to fight the battle of the American Revolution."

The drama, the sacrifices inherent in those words represent the contributions common to America's immigrants. Contributions which taken together have woven the varied, colorful, resilient, durable fabric that is these United States.

Our Nation was named by a German mapmaker to honor an Italian explorer. The *Nina*, *Pinta*, and the *Santa Maria* came to this place under a Spanish flag, commanded by an Italian, who in his crew numbered an Englishman, an Irishman, a Negro, and a Jew.

□ 1510

And they continued to come, wave upon wave, 150,000 in the 1820's, 1 million or more in the 1840's, 3 million in the 1870's, and by the end of the first decade of the new century, fully 14 million more had landed and were making their lasting impression upon the American character.

Inevitably, of course, and this brings us more clearly to this legislation before us, the Federal Government came to recognize that our entry gates could not permanently remain wide open. This immigration legislation today is in a long line of immigration policy initiatives starting 102 years ago in 1882.

Now, let me speak more specifically to my support of this amendment of the gentleman from California, this amendment of the Labor Committee, and the other few amendments that will be before you from the Labor Committee.

Immigration, as you all know, from its beginning has been a prominent and often divisive subject. For a century now, the majority of Americans have persistently and persuasively argued for a policy which, though firm, is not blindly restrictive. America's workers, while recognizing their own roots, have, in the main, demanded prudent entry quota policies and regulations which would adequately protect their jobs.

That has been the price of immigration reform in each of the Congresses that dealt with it.

It is imminently understandable that today's 10 million unemployed and their families are concerned that this immigration bill not provide them with additional hurdles toward finding a job. The amendments of our Labor Committee protect this Nation's domestic workers, many of them at the bottom of the economic ladder, protect them from losing their jobs to temporary foreign labor, protect their civil rights, as this amendment does. Without these amendments, the number of foreign temporary workers could increase by as much as 25 times; that is, we could have, without proper amendment, 500,000 alien workers in this country. Consider it, my colleagues; 500,000 new workers competing with America's moderate-income people in a marketplace of scarce jobs.

The CHAIRMAN. The time of the gentleman from Montana (Mr. WILLIAMS) has expired.

(By unanimous consent, Mr. WILLIAMS of Montana was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS of Montana. The Labor Committee's amendments reach two necessary, important and, I believe, reasonable goals. First, they provide a prudent security for America's domestic and agricultural workers, and in so doing they reach the second goal, which is the heart of what I am saying, the goal of dampering anti-immigration sentiment which can often become ugly, unproductive and has too often, in my judgment, been found among those workers whom these amendments seek to reassure.

In conclusion, America's strength has been in the expansiveness of our people, in our willingness to open the gates of entry, not without restriction, but with welcome.

So I ask the Members on the floor and those listening on their television sets in their offices to give full consideration to this amendment and the amendments which will be offered by the Labor Committee designed to protect the American work force. They intend that this Nation continue to welcome the citizens of the world to chase democracy's rainbow.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment brings into focus something that happens at least one other time and maybe more in this legislation, and that is that the representation is held out to the committees that somehow various people are covered by other laws of the United States and therefore we need not concern ourselves with those problems in this legislation.

Here, it is suggested in the arguments against the amendment that title VII of the Civil Rights Act in fact applies, and then it is suggested that the only people it does not apply to is somehow mom and pop.

Well, let me tell you that is not exactly accurate, because when we use the threshold of 15 employees, it is not the employer who employs 15 employees once. To meet the threshold of title VII, you must employ 15 employees for more than a 20-week period, 20 weeks or more. So in fact what you do not have is title VII applying to seasonal employees.

So a farmer—once again we are back to agriculture, once again we are back to a major employer of aliens in this country—who can run a farm the year around with eight or nine people and then seasonally, for a 4-week, 5-week, 6-week, 10-week period, can employ hundreds of people and not have those people have any provisions under this act, and for those people who therefore were discriminated under this act, they have no rights of action.

In spite of what has been said about other sections of the law, about what the Attorney General can do, you still do not have people with the right of action. The Attorney General can put together a task force and go around and investigate, but that does not deal with the person who has been discriminated against.

And let us remember that one of the problems that is raised by this legislation in its attempt to provide amnesty, in its attempt to provide guest workers from our neighboring countries, is the issue of discrimination of people who are already in this country, who are legal, who are citizens of this country, because they happen to come from those same countries. And that is a very real problem.

Now, I say to you that this problem is also raised when it is suggested in the transitional agricultural worker program that aliens employed pursuant to work permits issued under this subsection will be fully protected by all applicable Federal and State laws—page 76. However, on page 17, transitional workers, hundreds of thousands of people who will be brought here under a guest worker program, will not have the new provisions of Migrant Seasonal Agricultural Worker Act to protect their rights. So there is some deception going on here. The idea is that the people who are here legally, people who are citizens of this country, will be able to invoke the rights under title VII. But, in fact, title VII does not apply in the case of an industry that can employ hundreds of thousands or tens of thousands of people and never meet the threshold of title VII.

I think that is very important that Members of this Congress understand that. We cannot close our eyes that the very industries, the very entities that have been involved historically in the employment of illegal aliens, raise the specter of discrimination against American citizens and that those American citizens, especially if they are employed in seasonal work—and let me say again to the Members of this House, there are thousands of resident farmworkers in this country, American citizens who do farmwork, who are currently unemployed who are looking for these jobs and are not allowed to have these jobs at this time because the jobs are taken by illegal aliens.

Those are the very people who may be asked, after the provisions of this law are passed, for rights so that they could not be discriminated against. But they will be told that their employer, the person who they were seeking employment with, is not covered. Because title VII threshold has not been met, they have no cause of action, they have no rights against discrimination.

So we are at that point in the bill which a lot of people do not want to address, and especially those with large populations of Hispanics and people from other countries in their districts. They do not want to address the idea that this bill creates tremendous potential for discrimination against those people. Well, this is where it is. And the question is whether or not you are going to vote for the Hawkins amendment and extend the right of action to those individuals not so that they can wait for the Attorney General and some task force and commission to investigate charges, but so that they can get their job back, go to work, and earn a living. And that is what is embodied in the Hawkins amendment on the discrimination side. The other side has been discussed, the paperwork requirements.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(On request of Mr. ERLENBORN and by unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, I find the gentleman's discourse interesting, and the gentleman is touching on the question of coverage, which employers are covered by the amendment and current coverage under title VII, et cetera.

It reminds me that when the Civil Rights Act of 1984 was before our committee recently, the gentleman from Texas (Mr. BARTLETT) offered an amendment to extend coverage under EEOC, and other civil rights statutes to Members of Congress, so that race, religion, national origin, and so forth, all would be covered under those acts relative to the hiring practices of Members of Congress. That was rejected.

□ 1520

I would note, however, that the current amendment pending refers to those who are covered as "any person or other entity employing more than 3." That clearly includes Members of Congress. So now we will be extending nondiscrimination legislation under this amendment to Members of Congress who are obviously persons or other entities hiring more than three individuals. But it will extend this antidiscrimination coverage only on national origin or alienage grounds, and not on sex, religion, or other grounds.

I think, having consulted with counsel on both sides of the aisle, that this is quite accurate, and I think that we should be aware that we are doing this.

Mr. MILLER of California. If I may reclaim my time, I appreciate the observation of the gentleman.

The fact of the matter is, the form of discrimination that is raised by the specter of the passage of this bill, and the change in status that it grants to individuals inside this country and outside of this country is a discrimination based upon national origin. Because that is the issue that the employer, in these industries, is going to be concerned about: "Are you here legally or not?" And so, when in doubt we are concerned that they will dismiss those people who in fact are American citizens of Hispanic origin or of other origins, and they will dismiss them.

That is the issue that is raised in this one; not the issue of sex discrimination. That is not known what the specter this bill raises. I do not know what that has to do with Members of Congress, but the fact of the matter is what this bill does is create an employment situation where the issue of a person's origin and their status in this country is being raised against those individuals because of sanctions, because of the concerns that have been raised by this legislation. At the same time, it does not provide protection for American citizens who are seeking employment opportunities not to be discriminated against.

There are only two ways to remedy that: Either adopt the Hawkins amendment, or later the Frank amendment, because the legislation as reported does not address discrimination. The legislation says that the laws of the United States, including title VII, will be sufficient. Unfortunately, for the vast number of these workers and the job opportunities that are available, title VII in all likelihood does not apply because we are talking about seasonal work forces.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. So I would just like to call to the attention of the House that that is where we are. There has been a lot of discussion about this; there is a lot of consternation by my friends on the Democratic side about what this will or will not do. This is the opportunity to give a right to action to those individuals who will be discriminated against as a result of the passage of this legislation. It will not close the door on discrimination, because I am inclined to believe that that will exist even with this amendment.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding to me.

I would like to ask the gentleman a question because I think we are on a point which is so crucial to the whole question of the benefits of employer sanctions versus the detriments.

Assuming that the amendment of the gentleman from California (Mr. HAWKINS) fails, that the amendment of the gentleman from Massachusetts (Mr. FRANK) fails, that there is no effort other than this notion of study and investigation to deal with this very real possibility of discrimination. Now the law is in effect, and the employer sanctions are in effect, and assuming we have an employer.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. BERMAN. Assuming we have an employer that is covered, that is not seasonal, that has more than 14 employees, and but in order to protect himself from the sanctions provisions of this legislation which is, under my hypothetical, now law, he has asked his personnel department to be particularly wary of hiring people with foreign accents and Hispanic surnames. A charge of discrimination is brought, and it is claimed that the individuals are discriminated against based on race.

Does the gentleman see any framework in this legislation with the absence of recordkeeping requirements where the defense of the employer, that he simply thought the applicant did not have valid documentation, would not prevail over the unverifiable charge of discrimination made by the applicants for employment who were systematically turned down?

Mr. MILLER of California. I think that is exactly the point that is raised by Hawkins amendment. That the enforcement of the rights of the charge of discrimination simply do not prevail in that case. I think the gentleman makes a very telling point.

Let me suggest to the House again for those of you that have conned yourself into believing that there is relief provided for under this legislation without the Hawkins amendment, then I direct you to page 15 and you will discover that there is no relief. There is a great deal of governmental action running around, but for that individual, for that citizen of this country who has been discriminated against, there is no relief under this act, if in fact title VII does not apply. I tell you again that it was cleverly designed because title VII leaves out so many seasonal employers. In fact, what you are doing is you are reaffirming the right of the old mom and pop exemption; it pops up here every time we pass a tough piece of legislation, mom and pop are exempted.

In this case, mom and pop can be a very large operation for seasonal purposes. They can discriminate and in those individuals who did not have the opportunity to get the job will have no relief under this act absent the Hawkins amendment.

Mrs. BOXER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hawkins amendment, and I compliment my colleague from California for authoring it, because we really do need a better remedy for persons who will be exposed to painful discrimination. I would say that there is no question that discrimination will be the case because it already is the case. I am going to talk about that a little bit.

My colleague from California (Mr. MILLER) very eloquently explained that title 7 simply is not a remedy. We know that very clearly, because employers of 14 or fewer employees are specifically exempted, and an employer must employ 15 or more employees during 20 or more calendar weeks each year in order to be covered by title 7. So the effect is to exclude from coverage employers who hire a large number of workers on a seasonal basis, and this is very important, and I compliment the gentleman from California (Mr. **Miller**) for bringing this out so eloquently.

Now, the big question is will there be discrimination, and I said before that not only will there be, there already is. I would say to the Members that it would come under two forms: One, the employer who merely seeks to comply with the law, and I want to make the point that most employers will want to comply with the law, and that is what makes this bill really so insidious in this regard, because there are people who want to comply with the law.

Most employers will not knowingly hire undocumented people but they do not understand immigration laws. You know how many of us are going through the pages and pages and 4 years of hearings to understand immigration law. The average employer is not going to understand it, and he would rather not want to hire anyone who has a chance of being an illegal alien.

It is important to note that this kind of discrimination has already taken place, and I would cite to you Time magazine in 1982 which did a story on "Project Jobs" that happened in California, when the Immigration Service went in and raided to find illegal aliens.

I think it is important to note that we have a track record on what happens when these kinds of raids take place. Time stated that "Employers admitted reluctance even to rehire workers who managed to prove their legal status to arresting officers." You can imagine how that feels; not only are you subjected to this unbelievable discrimination, to this kind of rough treatment, because you look different and you sound different, but once you have proven that you are not different, that you are a citizen or that you are here legally, you cannot even get your job back. I think that is a major problem that this bill poses for us.

□ 1530

After California adopted its sanctions law, the administrator of California's program, Colleen Logan, testified before the U.S. Commission on Civil Rights, and this is what she said: That some employers did begin to screen their employees on the basis of skin color and speech accent.

This is not somebody who is saying this might happen; this is someone who knows that it has happened. I think, Mr. Chairman, as we look at this bill, we have to understand that we have a track record, and that track record is very, very dismal.

So sanctions will not only create new forms of discrimination; they will serve to perpetuate existing job discrimination. So how anyone who proposes this bill can say it will not occur, we know discrimination is occurring right now, and the passage of Simpson-Mazzoli will make it worse.

Therefore, what the Hawkins amendment seeks to do is to give those people a deserving chance at quick justice so they can get those jobs back, because they have to feed their families just as you and I do. So I hope we will pass the Hawkins amendment.

**Mr. LUNGREN.** Mr. Chairman, will the gentlewoman yield?

**Mrs. BOXER.** I will be happy to yield to the gentleman from California.

**Mr. LUNGREN.** I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman mentioned an article that appeared in Time magazine which described a situation that exists under present law in which an INS raid takes place at a particular area of employment, and after that the people may discriminate because they are fearful of hiring someone who is here illegally unknowingly. That is what the current law is.

The Simpson-Mazzoli bill sets up a procedure whereby a simple verification done with respect to everybody, whether they speak with an accent, whether they have blond hair, blue eyes, or whatever, just as a very simple thing, and then the results of that very slight imposition of a paperwork burden act as a protection. So where is there the incentive to discriminate as a result of Simpson-Mazzoli versus the discrimination that the gentlewoman describes that takes place now because of the uncertainty of the present law.

**Mrs. BOXER.** If I could answer the gentleman, I would be happy to do so.

**The CHAIRMAN.** The time of the gentlewoman from California (Mrs. **Boxer**) has expired.

(By unanimous consent, Mrs. **Boxer** was allowed to proceed for 2 additional minutes.)

**Mrs. BOXER.** I think the gentleman did not really listen to the quote I was giving from the Time magazine article, but let me say it again.

> Some employers who were raided during Project Jobs admitted reluctance even to rehire workers who managed to prove their legal status to arresting officers.

So what I am saying to the gentleman is: We have a track record. We know what happens when there are sanctions because, as the gentleman knows, under California law there were sanctions. What happens is legal employees cannot even get their jobs back. That is the point I am making.

As I look at Simpson-Mazzoli, without the protections of the Hawkins amendment, people will say, "Rely on title VII." Title VII is not going to work in many, many cases, and we are deluding ourselves if we think it is going to work. That is why we need the amendment offered by the gentleman from California.

**Mr. MAZZOLI.** Mr. Chairman, will the gentlewoman yield?

**Mrs. BOXER.** I would be happy to yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank the gentlewoman for yielding.

Mr. Chairman, I would like to advise the gentlewoman that I can sort of understand what she says. If I were an employer nowadays and had made known following a raid that this individual is legally here, I would not want to hire him back either, because I want docile labor, I want vulnerable labor, I want labor to work for less, and people legally here will not do that.

So I can well understand what the gentlewoman is saying. If the Simpson-Mazzoli bill were to pass, we give those very same people, all people, an opportunity to be here legally. But I can well understand the gentlewoman saying an employer who finds that the work force is legal does not want them back, because those people can fight back.

**Mrs. BOXER.** I appreciate the gentleman's remarks. I certainly respect him, but I would like to say if Simpson-Mazzoli passes, maybe we are not even going to have this problem because, let me tell my colleagues, employers will not hire people at the risk of being prosecuted for criminal activity, and that is the major problem.

So what we do here in the Hawkins amendment is say, "Look, it is not enough to tell people title VII, because there are loopholes there. If discrimination does happen, we want a sure-footed remedy."

But I really thank the gentleman for his remarks. He and I disagree as to the effect of this bill.

**Mr. ROYBAL.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment, but I do so with mixed emotions.

First of all, I realize that this amendment is designed to minimize employment discrimination which may arise from the enforcement of sanctions.

I also realize that it addresses minority concerns about the impact of discrimination that sanctions will have. But then I also hear arguments that we do not need a Hawkins amendment; that we must and can rely on title VII of the Civil Rights Act, than I disagree.

I agree, however, with those who have made the argument that title VII has, within the confines of its language, a built-in discriminatory process. It definitely makes possible discrimination under certain conditions. Those conditions have already been read into the **Record** so I am not going to repeat them, but I do know for a fact that title VII does not prohibit all forms of discriminatory employment practices.

The Hawkins amendment, however, does give some hope. It does, for a fact, call attention to the one thing that we have been talking about right along, and that is that inherent danger in this bill that within the sanctions provision there is hidden a process by which the American worker can be discriminated against. That is in the bill now. I firmly believe that the Hawkins amendment provides an expedited administrative process for adjudicating charges of discrimination. At least we will have that. This is a quicker and less expensive form that can be taken, or a less expensive procedure that would be established outside of title VII.

So we have then in place a situation where an amendment is being proposed that will at least give hope that somewhere down the line discrimination can be minimized.

I agree with the author of the amendment. He said that he, himself, had some misgivings. He was not sure whether this was going to work, but he believes, as I do, that at least it directs the attention of this House to the possibility that under sanctions discrimination can become a way of life. We do not want to happen.

I think the best thing to do when the time comes is to actually strike the sanctions provision, but that will come later. Let us deal, then, with the problem before us, and that is, shall we provide some means by which discrimination can be reduced. I firmly believe that the Hawkins amendment does just that. It is not a fix-all amendment. It is still an amendment that leaves in place, and cannot touch title VII of the Civil Rights Act.

We heard arguments here that we have a Civil Rights Commission that is taking care of the discriminatory complaints that are made. The truth of the matter is that it is a commission that is powerless. It has less money now to spend for its operations than it had in years past. It is a commission that has a backlog now that would probably take a lifetime for them to substantially reduce.

It is true that Hispanics and others are not making as many complaints today, in this year, as they made in years past, and the answer is quite simple. Why make a complaint when nothing is done; why seek redress, they say, when the Commission is so far behind that nothing can be done by the Commission.

□ 1540

**Mrs. SCHROEDER.** Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hawkins amendment.

Mr. Chairman, I join others in reluctantly supporting the Hawkins amendment. I think most of us are in the same position where we really wish that employer sanctions had not been mandated by this bill and hope they will be taken out of the bill; and that, I think would make the bill much more acceptable.

I come from a part of the country where I have watched very carefully the Immigration Service, and I think it is to look and see what happens. If you deal with the average person in my part of the country, the Southwest, and you talk to them about illegal aliens, they immediately think of Hispanics. They do not think of anybody else. I think I have pointed out many other times that Hispanics are really only a portion of the problem, that there are Europeans, there are Canadians, and there are any number of other people working without green cards or who are illegals.

So what does this mean? What this means is that the average person thinks that Hispanics are the only ones that are illegal. When you say you are going to go after illegal aliens, employers and everybody else in the general community then become 10 times more suspicious of ever hiring anyone who is a Hispanic, when you have something like employer sanctions.

Why else do I think I can guess what employers are going to do? I used to work for the NLRB, the National Labor Relations Board, and that is the model upon which the gentleman from California has made his amendment. We used to see this all the time: That we did not worry about the big companies. They know what the law is, they have personnel departments, they have lawyers, and so forth. In my part of the country it is the moderate and small businessman who is the major employer, and they never quite have the money to have the fancy personnel departments or the fancy lawyers who can go to all the fancy seminars to learn what the law is today.

And as a consequence, what happens is that somebody tells them, "Hey, guess what? The Congress just passed employer sanctions."

So that guy says, "Well, the last thing I want is the Feds sticking their nose in here, and what do I have to do to keep them out?" And if his image is that Hispanics will trigger the Feds coming in to stick their nose in his business and look at the records, and so forth, and so on, he has always got 25 reasons why he can hire someone else, and he is going to tend to go in that direction.

You can say, "Oh, no. No, they will all know the law. They will have personnel departments and lawyers." But you are not dealing with the real world, and you are only dealing with the major employers of this country. That is not to say smaller businesses are evil. They are not. They are just harassed, they are doing a hundred other things, and the last thing they want to know is that some Federal inspector is coming to look at their enterprise. That is not going to bring great joy to their hearts.

So in my region, what that means is that many of the Hispanics, who have been American citizens much longer than most of the Anglos, I may point out, are going to have a much tougher time getting a job, because the employer will just think, "Gee, if I hire them, then maybe the immigration people will come around here and look at all my records, and if something is wrong, I will be in trouble." And who needs to bring this kind of trouble on themselves? Who volunteers for this kind of trouble.

So this kind of subtle discrimination will be very hard to quantify, and if you give them a title VII right as the bill does, first of all, there are many cases it will not affect, and, second, even if they have that right, they have got to go into court to prove it. Court and lawyers are expensive. You have given them a right they can enforce only with a lot of money.

So I think the remedy in the amendment of the gentleman from California is the only solution we can possibly give, because at least here they do not have to hire an attorney and go into court.

I assume the gentleman from California's remedy would operate in exactly the same way the NLRB does, which is that you file the charge and they make the investigation, and if there is found to be discrimination, they then move forward and file the charges without shifting heavy legal costs on the person who is making the complaint.

I think this is the only fair remedy we can possibly do if we are going to be struck with employer sanctions. I truly hope we are not stuck with employer sanctions. I have said over and over again that I think the sensible thing would be to move into this gradually. Immigration knows which employers are most apt to hire illegals. If they would just give those employers names to the labor agencies that are already out there and empower them go out and enforce the labor laws against those employers they would take the profit out of hiring illegals, you would ruin the main reason employers have to hire illegals.

But the really painful thing is that we are constantly targeting one segment of our community, citizens who are going to bear this burden much heavier than any other segment of our community. I doubt that any employer in the Southwest would ever ask me, if I was applying for a job, to prove that I was a citizen. I think I can say that. And I think there are many Members of Congress here who are in the Hispanic caucus who, if they went in to some of the employers in my region for a job and this bill passed, would be asked. And it is not because they do not want them; it is just that they do not want the Feds coming in and beating on their heads.

Mr. Chairman, we all understand that, and I hope the gentleman's amendment passes. It is the only hope I see for keeping employer sanctions in the bill for it is the only real remedy for discrimination against segments of the American population caused by this bill.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, there are a number of reasons why we should defeat this amendment. First of all, I do not believe that we have a problem in the bill as it now exists with discrimination because there is every protection for an employer who wants to hire whomever comes forward as long as they present the documentation that is required.

But assuming that you do believe or you are fearful of some of the arguments that have been made today about the potential for discrimination, you have the opportunity, first of all, to have this addressed by those provisions of the bill that now exist, that have been elaborated on, and that are on page 15 of the committee print. If you do not think those are sufficient and the EEOC is not sufficient, then you have an opportunity a little later to vote on the Frank amendment, which would put into effect a good deal of what is here.

While this amendment is represented to get at possible discrimination, it does some other things that are very detrimental to this bill. First of all, it overlays onto a very finely tuned adjudications provision of this bill an extra burden that it was not designed to have. The administrative law judge system that is set up under this bill and the U.S. Immigration Board system that is set up under this bill are designed to take care of the employer sanctions provisions as they are presently written, and to also handle asylum, exclusion, and deportation matters under the adjudication sections to try to get rid of the tremendous overload we have of asylum cases, and so on, that we have in this country today.

By adding the feature of a special counsel that is in this bill, by having the special counsel added on to handle every detail that comes up, not just of discriminatory practice questions but also of all the employer sanctions questions, we have added an additional bureaucracy that is not necessary. The Attorney General, under the bill as it is now written, would handle this, along with the immigration officers, and process the situations where there are alleged employer sanctions, and we do not have a need for this additional burden; and otherwise we do not have trained officers to do the additional work of discriminations.

If we are going to be involved with discrimination problems, then let us enhance the existing laws that are already on the books with agencies that exist to be involved with this, like the EEOC. If they are not satisfactory, let us do that. But in any event, let us not mess up what is otherwise a good bill and a good provision.

Second, there is a paperwork requirement involvement in this amendment. There are some of us like me who happen to like the bill that exists now, with the Kindness amendment being adopted to it. That would not require paperwork on the part of employers until such time as they have been cited for having been in violation in some manner for hiring an unauthorized or illegal alien. But if you do not agree with that, you still have a chance to adopt the amendment of the gentleman from California (Mr. LUNGREN) a little later on. That would add the paperwork. I do not like the extra paperwork that is in here, and I submit to the Members who do not like the adding of a burden to the employers in this case that they had better stick with the bill as it is now written.

In addition, this amendment would take out the criminal penalties, and I think at a certain point criminal penalties are absolutely essential to truly enforceable employer sanctions. And it strikes, in addition, a protection to employers that we carefully put into this bill when they go to a State employment agency to hire someone when the State employment agency is doing the screening.

So I think for all those reasons we should not adopt this amendment. It is not a necessary amendment. If you want to have the protections, if you are really concerned about them in the area of discrimination, you have other possibilities, including the Frank amendment. If you want to re-add the paperwork requirement because you are afraid there is not enough in here, even though I do not think we should add it back, you have the Lungren amendment.

There are other things that are in this amendment also that simply bottle up the process and that make the operation very, very difficult.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, this is one of the problems I have: When you look at the title 7 rights, I think we have to point out the big difference between title 7 and what the amendment offered by the gentleman from California does. Under title 7 they can do absolutely nothing to enforce it except that the injured party can go and get an attorney and go into court, which is very costly. I know I have had all sorts of hearings under title 7, and the commissioner literally can go and have tea with violators and try to be persuasive, but if the employer does not agree to a settlement, then the only option is to go to court with the injured party paying for it. You have justice done only if you can afford it. The gentleman from California corrects this inequity.

□ 1550

I think that is a very different remedy than what the gentleman from California is proposing. I really think that is why we should consider this amendment.

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, if the gentlewoman is concerned about that, then we ought to be amending title VII or we ought to be amending the Equal Employment Opportunity Commission provisions. We should not be messing up and overburdening the system that is set up in this bill to do other things that I think are critical to discrimination.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I will be glad to yield to the gentleman.

Mr. DAUB. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well. I really do believe that he has put his finger on it, but I want to emphasize something to my colleagues. The gentleman is a distinguished member of the Judiciary Committee and has dealt with this.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. DAUB, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. DAUB. Is the gentleman saying that in the Hawkins amendment that there will be an elimination of the criminal sanctions contained in this title of the bill?

Mr. McCOLLUM. That is correct.

Mr. DAUB. Then I would want to say that I have to strenuously object even more vigorously to the amendment, because if we are going to remove the incentive for illegal immigration, then there is no other effective way to solve the problem, because we cannot build a brick wall high enough around the problem.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I will be glad to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I hope that we can be bringing this debate to a close. We have spent a considerable amount of time on it. It is an important amendment, as I am sure the Chair appreciates.

The gentleman in the well has told us that what we are doing here is replacing a very efficient administrative mechanism for adjudicating employer sanction violations worked out over a considerable period of time, I might add. I am talking about a year and a half of trying to accommodate diverse interests that brings us to where we are today. Instead of using or relying on the traditional enforcement agency, the Department of Justice, we are asked in this amendment to involve several layers in the charging process. A special counsel would duplicate investigations already carried out by the Immigration Service and then file a charge before an Immigration Board which goes on and appoints somebody else.

Now, I think the other side of this amendment that we have heard a lot about talks about the great concern we all have about discrimination, the possibility of discrimination, something we have spent an inordinate amount of time on and our bill reflects the safeguards.

I ask anybody in this Congress to tell me that a bill could come out of the Judiciary Committee, chaired by the gentleman from New Jersey (Mr. RODINO) that was sloppy on the aspect of discrimination. I challenge anybody in this body to tell me that.

In a short time, we will have an opportunity to vote on an amendment that does not change the jurisdiction of the Justice Department in employer sanctions violations, but does affect the discrimination charges, and that is by our colleague on the committee, the gentleman from Massachusetts (Mr. FRANK).

The CHAIRMAN. The time of the gentleman from Florida has expired.

(At the request of Mr. FISH, and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. FISH. That is the Frank amendment and I just want to let my colleagues know that I intend to support that if this amendment fails. I do not see how it could be offered if this amendment passes. This amendment goes a lot further, does a lot of mischief, upsets a lot of support that this bill has received.

I think the main concern that we all have with reaching the possibility of discrimination in employment will be addressed by that amendment, and I thank my colleague for yielding.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for his tremendous help over these last 4 years and for his very kind statement today. I support the gentleman's position.

With respect to my friend, the gentleman from California, his amendment should be defeated.

The gentleman offered a lot of reasons. I would again reiterate for the benefit of the House that not only, as the gentleman from Nebraska pointed out, does it eliminate criminal sanctions, which are the guts of this whole enforcement apparatus, but it also eliminates the citation warning segment which was put in by the gentleman from New Jersey, our chairman, which gives every employer a little bit of an opportunity to gradually phase in to the new system to, in effect, as we say in the law, to have the first bite and I think that is very important.

That would go if the Hawkins amendment were adopted.

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in support of the amendment and at the risk of being redundant, I would like to say that this amendment is a perfecting amendment in the most literal and truest sense of the word. It perfects what is imperfect already.

I think the entire bill is imperfect and shoud be voted down, but if that does not happen, I hope the employer sanctions provisions are voted down, but if that does not happen, I hope that this amendment will be accepted as a perfecting amendment to allow the thousands and thousands of people whose lives will be impacted by this legislation, by this employer sanction provision, to have some recourse, some better recourse, some more adequate recourse when they suffer discrimination.

What we seem to be forgetting is that discrimination is already rampant and widespread in American society. In case anybody wants to refute that, just check the large numbers of laws that we have on the books to combat discrimination and the large apparatus, various governmental bureaucracies that we have already set up to deal with discrimination. So discrimination is a fact of life.

The trouble with the employer sanctions provision of this bill is that it is offering an instrument for those who discriminate, an instrument for them to use and to use against very large numbers of people who are not being considered as we fashion this bill.

This bill and this particular section, this mechanism for employer sanctions, is constructed on the assumption that we have a finite number of cases to deal with, a finite number of situations, that all we have to worry about is certain kinds of situations affecting farmworkers in rural areas of the West, Southwest, and the South. All you have to worry about in addition to that is maybe sweatshops in New York, but you have got a finite number of situations to worry about, whereas the bill really impacts, particularly impacts on the lives of every American who works. Anybody who is working, this bill has an impact on his life, particularly those who are already discriminated against.

Just let me give you one example that is close to home. I am black. I represent the 12th Congressional District, which is the district which has the largest concentration of people of Caribbean descent in the United States. Because I represent the 12th District and I come from Brooklyn, I often am told by people in New York who have noticed there is a large concentration of West Indians in Brooklyn, that I speak with a West Indian accent.

We also have a large number of Africans in New York, large numbers of Africans who are in this country. At a time when oil was being sold in large amounts to the United States, the way the Nigerians balanced off the surplus was to buy education from the United States. So at one time 40,000 Nigerian students were studying in this country, most of them in New York City. We thus have a large number of Africans, a large number of Caribbeans, and people tell me I speak with a West Indian accent, whereas I am sure that all of you listening objectively know that I speak with a southern accent, because I was born in the Deep South in Memphis, Tenn.

The accent is not always in the mouth of the person who is speaking. The accent is in the ear of the person listening and if the person who is listening happens to be a racist employer or an employer who just does not want to be inconvenienced, then he can hear an accent coming from the mouth of every black face that comes before him and he can decide he wants to put this person through the hoops and demand his papers and do things which will discourage him from wanting to come back, or if he comes back, he will tell him that it is too late now. You did not have your papers, you were not ready, I decided to hire somebody else. He can discriminate in a more efficient way than ever before as a result of this bill.

Large numbers of people from the Caribbean areas, the islands, are not farmers. They are not rural workers. They are commercial artists. There is a heavy concentration of people in the accounting and finance fields. There are large numbers of people in the medical field; medical technology, even dentists and doctors. Those people speak with an accent.

I do not know who is legal and who is not legal, because when you have large numbers of people as immigrants, everybody is placed at risk because there are large numbers there.

Who is legal and who is not legal becomes a question, or any black face can become a question if the employer wants to discriminate.

So this amendment will help your bill. If the bill is going to pass, I cannot see why anybody would object to accepting this amendment to make it a more just amendment, a more humane mechanism and a less careless mechanism, because I think what you are putting in place is a regulatory mechanism at a time when in America we are talking about getting rid of regulations. You are putting a major regulatory mechanism in place, and you are doing it in a slipshod way. With all due respect to comments that were made before, you are not preparing adequately for the impact that this bill is going to have upon large numbers of our citizens.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. Mazzoli, and by unanimous consent, Mr. Owens was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. OWENS. Yes; I definitely yield.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman. I salute him on an excellent statement.

I believe earlier the gentleman said that the bill was defective and that all sections are defective. Would the gentleman say that the section of the bill which legalizes the Haitians who came to this country before 1982 is a defective section of the bill?

□ 1600

Mr. OWENS. No; that is not a defective section of the bill. And, as I said to the gentleman previously, my problem with it is not that that section is defective, it is the fact that Simpson has already passed a bill which is much more regressive and it is likely to prevail because the President supports the Simpson bill and not your bill.

Mr. MAZZOLI. If the gentleman's view prevails and the bill goes down, does not also the legalization of Haitians go down?

Mr. OWENS. I regret that. I regret that. But I am afraid we have no other course when the President supports the Simpson bill which is a more regressive bill and the likelihood is we are not going to have the legalization in your bill but the move limited legalization in the Simpson bill or something even worse.

Mr. GARCIA. Will the gentleman yield?

Mr. OWENS. I am happy to yield to my colleague.

Mr. GARCIA. I thank my colleague for yielding.

I believe the chairman of the subcommittee, who is handling this bill, is trying to manipulate a person here and a person there because of their special interests. I do not think that is fair.

The CHAIRMAN. The time of the gentleman from New York (Mr. Owens) has expired.

(On request of Mr. Garcia and by unanimous consent, Mr. Owens was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. I think that my colleague, with whom I served in the State senate, knows the parameters of this legislation. Every one of us on this floor is concerned about the Haitians. We are going to do everything humanly possible for them.

To isolate the concerns of one group is not in keeping with the way we have been discussing this bill.

Mr. MAZZOLI. Will the gentleman yield?

Mr. OWENS. I take no offense, with all due respect to the gentleman. He only points out the tremendous conflict that I have, internal conflict I have in terms of those people that are looking to this bill, people whom amnesty and legalization will help, or help their families and et cetera. There is a great conflict. But in the overall outlook for this bill and the process it has gone through, I would only advise him that this is not the time and this is not the bill and it will not happen.

Mr. MAZZOLI. Will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I appreciate the gentleman's very eloquent statement and very gentlemanly statement. I would just suggest to my friend from New York, of course, it would legalize not just the Haitians but the Cubans as well and not just they but also many others, perhaps hundreds of thousands or millions who are in the country from all nations of the world. And I say that is a very important segment of our bill, the legalization part, which, if people stand on trying to seek perfection, will go down the drain with it and the hopes and aspirations of many, many people to have a better life as well.

Mr. OWENS. This amendment will help the process and will help to make this a better bill and I hope you will accept it.

Mr. GARCIA. Will the gentleman yield?

Mr. OWENS. I yield to the gentleman from New York.

Mr. GARCIA. I thank my colleague for yielding.

I want to make it clear to everyone in this Chamber, and in a calm manner, that those of us who are fighting against this legislation, who are fighting the Simpson-Mazzoli bill, are cognizant of the provision in this bill helping Cubans and Haitians.

I also think it is fair to say that most of us, at least on this side of the aisle, are in favor of amnesty. We will fight hard for amnesty because we think it is time that these people be allowed to live freely.

I want to make that very clear. Amnesty should be awarded and given to these people who have been making contributions. Further, we want to make sure that after they get the amnesty——

The CHAIRMAN. The time of the gentleman from New York (Mr. Owens) has again expired.

(On request of Mr. Garcia and by unanimous consent, Mr. Owens was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. After amnesty is granted we want to make sure that they have equal access for employment. Amnesty in itself, without the right to work, is not enough. I want to reiterate that we are very much in favor of the Haitian and Cuban provision, and the amnesty provision of this legislation.

What many of us find unfair about this legislation is that sanctions will make it virtually impossible for those who will be granted amnesty and many others who are already American citizens to obtain employment.

Mr. HAWKINS. Will the gentleman yield?

Mr. OWENS. I yield to the gentleman from California.

Mr. HAWKINS. The impression has been given by the gentleman from Kentucky, unfortunately, and I am sure it was not out of bad motive, that in some way adoption of this amendment would in some way destroy the good parts of the Simpson-Mazzoli bill.

Mr. MAZZOLI. Will the gentleman yield?

Mr. HAWKINS. I would be glad for a clarification.

Mr. OWENS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Certainly not. What the gentleman from New York had said was that the bill was defective and it was not a good bill and I say there are sections of the bill which we, without question, agree are good parts.

But if the search for perfection says you must vote down a bill which is not perfect, then many good aspects will also go down the drain with it.

Mr. HAWKINS. I think the point has been made many times that the bill in its present form is not even acknowledged by the sponsors of the bill as being that good, and we keep hearing the statement that it is not a perfect bill.

Nobody has said that it was or was not. There are good parts to the bill.

This amendment addresses only a part of those parts of the bill that we think are defective, leaving the other parts, legalization, amnesty, if you will, and the other provisions.

Mr. OWENS. I agree wholeheartedly with the gentleman from California. I do not know why this amendment would not be accepted, especially since it comes from a person as experienced as the gentleman is in the area of fighting discrimination in employment.

This amendment would greatly help the bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. OWENS) has again expired.

(On request of Mr. HAWKINS and by unanimous consent, Mr. OWENS was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. I think the point should be made that this idea of discussing discrimination, which is always an emotional subject, is only brought about because of the sanctions that are in this bill. If the sponsors of this legislation had not brought this bill in to create the condition that makes discrimination probable, and I think we have had enough testimony to say that it is probable, that we would not even be offering an antidiscrimination amendment.

Now who has the obligation to make the bill better and to help solve the problem that the bill itself creates? It seems to me the sponsors have. But they have not assumed that responsibility. They have referred to other legislation. They have referred to other programs and they have not assumed, in my opinion, humble opinion as it may be, the main responsibility of saying look, we want to control our borders, we want a bill that is strong on sanctions, but we recognize there may result some discrimination, and we will write into our bill provisions that will protect against this situation that we create.

It seems to me that follows.

● Mr. TOWNS. Mr. Chairman, I rise in support of the gentleman from California's amendment. As a Member with a 38-percent Hispanic constituency, I want to assure you that my constituents are legitimately concerned about the impact of employer sanctions on their future ability to gain employment and be free of harassment from the Immigration Service. This is a particular problem in my district because most of the Hispanic community is Puerto Rican and therefore they are U.S. citizens. They are the constant targets of investigations by the INS. This situation will only be exacerbated by sanctions.

First, employer sanctions will foster the creation of de facto suspect classification for Hispanics and persons of foreign appearance. Because the problem of illegal immigration is perceived by many, as a Mexican problem or as a problem of Central America and the Caribbean Basin, persons who share a common appearance with those from the region will invariably become suspect in the minds of employers. As to these individuals, the sanctions provisions would impose conflicting obligations on the employer which may prove difficult to reconcile: The obligation not to discriminate in hiring on the basis of an applicant's race or national origin; and the new obligation not to hire persons unauthorized for employment.

In an effort to minimize the conflict and to avoid the risk of the new obligation, some employers will undoubtedly adopt a simplistic solution of discriminatory exclusion of foreign-looking workers. In effect, the sanctions provisions may inadvertently foster a business incentive to discriminate by making it more cost effective to run the risk of employment discrimination, than to run the more costly risk of employer sanctions.

Although title VII of the Civil Rights Act of 1964 is purported to provide a full and adequate remedy against such discrimination, we have established that title VII's limitations in the scope of its coverage will leave millions of workers unprotected; approximately 3.7 million employers and 11 million employees are uncovered by title VII's protections, according to a GAO report prepared at my request.

The gentleman's amendment has three distinct advantages. First, it would make only minor changes to H.R. 1510 and would actually strengthen enforcement of sanctions while offering an independent general counsel to investigate and bring cases of immigration-related employment discrimination. Second, the proposed amendment creates no substantial new bureaucracy since the Immigration Board would be folded into the existing Board as outlined in H.R. 1510. and third, the amendment provides primary relief for employees not covered by title VII.

I urge my colleagues to join me in supporting this amendment as one small step to provide protections against immigration-related employment discrimination.●

The CHAIRMAN. The question is on the amendment reported by the Committee on Education and Labor and offered by the gentleman from California (Mr. HAWKINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. HAWKINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 253, not voting 14 as follows:

[Roll No. 227]

### AYES—166

Ackerman
Addabbo
Akaka
Alexander
Anderson
Annunzio
Aspin
Barnes
Bates
Beilenson
Berman
Biaggi
Boggs
Boland
Bonior
Borski
Boxer
Britt
Brooks
Bryant
Burton (CA)
Carr
Clay
Coelho
Coleman (TX)
Collins
Conyers
Coyne
Crockett
de la Garza
Dellums
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (CA)
Evans (IL)
Fazio
Feighan
Ferraro
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Gray
Green
Guarini
Hall (OH)
Hance
Harkin
Harrison
Hawkins
Hayes
Hertel
Horton
Howard
Hoyer
Hubbard
Hunter
Jacobs
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
Lantos
Lehman (FL)
Leland
Levin
Levine
Lipinski
Long (MD)
Lowry (WA)
Lujan
Lundine
Markey
Martin (IL)
Martinez
Matsui
Mavroules
McCloskey
McDade
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Moody
Morrison (CT)
Mrazek
Murphy
Nowak
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patterson
Pease
Pepper
Perkins
Price
Rahall
Rangel
Ratchford
Reid
Richardson
Rinaldo
Roe
Rostenkowski
Roybal
Sabo
Savage
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sikorski
Staggers
Stark
Stokes
Stratton
Studds
Swift
Torres
Towns
Udall
Vento
Waxman
Weaver
Wheat
Whitley
Williams (MT)
Williams (OH)
Wirth
Wise
Wolpe
Wright
Yates
Yatron
Young (MO)

### NOES—253

Albosta
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Archer
AuCoin
Badham
Barnard
Bartlett
Bateman
Bedell
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boner
Bosco
Boucher
Breaux
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carper
Chandler
Chappell
Chappie
Cheney
Clarke
Clinger
Coats
Coleman (MO)
Conable
Conte
Cooper
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
Derrick
DeWine
Dicks
Dorgan
Dowdy
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fascell
Fiedler
Fields
Fish
Flippo
Frank
Franklin
Frenzel
Fuqua
Gekas
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Hartnett
Hatcher
Hefner
Heftel
Hightower
Hiler
Hillis
Holt

Hopkins
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (OK)
Kasich
Kemp
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Luken
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
Mica
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Patman
Paul
Penny
Petri
Pickle
Porter
Pritchard
Pursell
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Rodino
Roemer
Rogers
Roth
Roukema
Rowland
Rudd
Russo
Sawyer
Schaefer
Scheuer
Schulze
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Stangeland
Stenholm
Stump
Sundquist
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Whittaker
Whitten
Wilson
Winn
Wolf
Wortley
Wyden
Wylie
Young (AK)
Young (FL)
Zschau

NOT VOTING—14

Bonker
Brown (CA)
Dickinson
Hall (IN)
Hansen (ID)
Kaptur
Oberstar
Quillen
Rose
Sensenbrenner
Simon
Tallon
Weiss
Whitehurst

☐ 1620

The Clerk announced the following pair:

On this vote:

Mr. Weiss for, with Mr. Dickinson against.

Messrs. NIELSON of Utah, SOLARZ, GORE, SLATTERY, and WYDEN changed their votes from "aye" to "no."

Messrs. ROE, HARKIN, and HUNTER changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5, AS REPORTED BY THE COMMITTEE ON THE JUDICIARY, OFFERED BY MR. LUNGREN

The CHAIRMAN. Amendment No. 5 is in order at this time.

Does the gentleman from California (Mr. LUNGREN) desire to offer amendment No. 5?

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. LUNGREN of California: Page 4, line 1, strike out "until" and all that follows through line 10 and insert in lieu thereof "that employs three or fewer employees.".

Page 10, strike out line 7 and all that follows through "alien" on line 9 and insert in lieu thereof "violated paragraph (1)(A) or (2) of subsection (a) with respect to the hiring, or recruiting or referring for a fee or other consideration, for employment of an alien".

Page 11, after line 18, insert the following:

"(3)(A) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has violated subsection (a)(1)(B) with respect to the hiring, or recruiting or referring for a fee or other consideration, for employment of an individual, the Attorney General may serve a citation on the person or entity containing a notification of the requirements of subsection (a)(1)(B) and a warning of the penalty set forth in subparagraph (B).

Page 11, line 19, strike out "(3) A person or entity" and insert in lieu thereof "(B) A person or entity which has previously been cited under subparagraph (A) and".

[If the Amendment (#1) Reported by the Committee on Education and Labor has been adopted, include the following matter:]

Page 5, after line 15, insert the following new paragraph:

"(6)(A) It is unlawful for a person or other entity after the date of the enactment of this section to hire, or to recruit or refer for a fee or other consideration, for employment in the United States an individual without complying with the requirements of subsection (b).

"(B) Subparagraph (A) shall not apply to a person or entity that employs three or fewer employees.

"(C)(i) In the case of a person or entity which has not previously been cited under this subparagraph, if the Attorney General, based on evidence or information he deems persuasive, reasonably concludes that the person or entity has violated subparagraph (A) with respect to the hiring, or recruiting or referring for a fee or other consideration, for employment of an individual, the Attorney General may serve a citation on the person or entity containing a notification of the requirement of subparagraph (A) and warning of the penalty set forth in clause (ii).

"(ii) A person or entity which has previously been cited under clause (i) and which is determined (after notice and opportunity for an administrative hearing) to have violated subparagraph (A) shall be subject to a civil penalty of $500 for each individual with respect to which such violation occurred.

In the section 274A(a)(3) (inserted by Amendment (#1) Reported by the Committee on Education and Labor in lieu of other matter on page 3, line 8, through page 5, line 15), strike out subparagraph (B) and strike out "(3)(A)" and insert in lieu thereof "(3)".

In the subsection (f) (inserted by Amendment (#1) Reported by the Committee on Education and Labor in lieu of other matter on page 10, line 3, through page 16, line 23), strike out subparagraph (A) of paragraph (1), strike out "for the period referred to in subparagraph (A)" in subparagraph (B) of paragraph (1) and insert in lieu thereof "for a period of up to three years", redesignate subparagraphs (B) through (E) of paragraph (1) as subparagraphs (A) through (D), respectively, and strike out "(1)(C)" in paragraph (2)(A) and insert in lieu thereof "(1)(B)".

☐ 1630

Mr. LUNGREN. This is amendment No. 5. I just might say to my colleagues who may have looked at the DSG's report on the various amendments that there was, unfortunately, an error in which they described my amendment as providing for the creation of a system to verify the employment eligibility of aliens. That is not a proper representation of this amendment.

This amendment simply seeks to undo an amendment that was adopted in the full committee, the Judiciary Committee, that in my judgment, although sincerely offered, I think moves us in the wrong direction.

Mr. Chairman, my amendment goes to the question of how broadly the paperwork burden should be imposed on businesses across the land. As the bill presently reads, the paperwork burden is not imposed on any employer of four or more employees until after there has first been a finding by the Attorney General of hiring of an illegal alien.

Now, this has been presented presumably so that those who have not been engaged in the employment of illegal aliens will not be bothered by the paperwork burden. But in my judgment it goes in the wrong direction because, as one veteran officer of the border patrol said, "the limited verification"—referring to this section of the bill—"would give us another game of tortoise and hare. Only this time instead of playing the game mainly in the border States, we are going to have to play across the United States."

What I have done is ask to be brought to the floor a copy of the simple document, the paperwork burden, that will be imposed on the employer so that Members might look at it. It is a simple two-sided sheet which requires you at the time an employee comes before you to ask them to show two out of five types of documents which we articulate, and all that is done is a review of those documents, and information off of them is entered into the document. All the employer does, or his designate, is sign that document, saying, "I have reviewed their documents; they appear to be valid." Nothing more, nothing less.

On the other side, the employee signs the document, saying, "I have a legal right to be in the United States." It does not say, "I am a citizen." It does not say, "I am a permanent resident alien." It does not say, "I am here under any other circumstances." That is the total sum and substance of the paperwork burden we are talking about. I hope my colleagues will take a chance to look at it before we vote on this amendment.

So the question is: Do we apply that to all employers similarly situation around the country, or just those who have already had some finding by the Attorney General that they have already violated the law?

If we are going to talk about various interests involved, I would suggest, for instance, the agricultural community might be interested in this, because it is my judgment that if the bill stands as it is, the natural tendency of the INS would be to go where they have found the most number of illegal aliens in the smallest piece of territory, and that is in agriculture. Even though only 15 percent of all those who are here illegally working are in agriculture and 85 percent are nonagricultural-related jobs, agriculture would be the focus, because it would be the easiest way to go to find people who violated the law in the first instance and impose that obligation on them and not everywhere else.

It seem to me that one of the things we are trying to do in this bill is have fairness throughout. There are illegal aliens working and being victimized in sweatshops around this country and in factories, as well as at agricultural locations; and it seems to me that we ought to be concerned about that.

A mandatory employee verification process, in my judgment, provides an essential safeguard against invidious discrimination. Examination of the readily accessible existing identifiers provides the employer with an objective basis—not subjective, such as how you look, whether you have an accent, where were you from originally—but an objective basis for determining employee eligibility in place of the alternative reliance on subjective factors.

I believe from a civil libertarian standpoint it makes better sense to ask employers to apply a uniform system.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I want to make it clear the difference between the gentleman's amendment and what the bill currently is.

Under the bill, in order for the employer to be subject to these requirements, there must be a past violation of immigration law.

Mr. LUNGREN. Correct.

Mr. GLICKMAN. Whereas what the gentleman is trying to say is that all employers ought to be subject to this requirement.

Mr. LUNGREN. Right.

Mr. GLICKMAN. Because otherwise certain employers in certain parts of the country would be unfairly singled out.

Mr. LUNGREN. That is correct.

Mr. GLICKMAN. I think the gentleman's amendment is a good one, and I think that those who are subject to this law, particularly the workers, ought to be given these kinds of protections. So I would urge support for the gentleman's amendment.

Mr. LUNGREN. I thank the gentleman for his comments.

I would point out that one of the problems we have seen in this over the years is that because of the lack of personnel and lack of appropriate funding for the INS, they have not been able to do the job all the way across the country. Those areas that have been subject to prosecution in the past will be the areas that will still be in that larger area. In most cases, 85 percent of those that are involved with illegal workers will not be similarly affected and we will not have an even approach across the country.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to my distinguished chairman.

Mr. RODINO. I thank the gentleman for yielding, and I would like to state that, insofar as I am concerned, this amendment is certainly desirable. Certainly it is less burdensome to employers and lessens the potential for discrimination. The amendment is fair and it is balanced. While I do not know about the exemption for small employers, nonetheless I believe that this amendment is desirable and should be supported.

Mr. LUNGREN. I thank the gentleman. One thing I would like to point out here is that if you have it the way it is now, if I am an illegal alien and I want to work here, one of the first clues I have as to whether the place I want to work is going to be looked at by the INS is when I go in for employment and they say, "Where are your documents?"

☐ 1640

I know then they have already been found of a prior violation and are probably within the sights of the INS. I would just leave and go to another employer who does not ask me for documents because I know he has never been found by the INS in the first place. So it is the tortoise and the hare.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. RODINO. I think the gentleman makes a sound argument and I believe that this amendment should be supported, and I would hope that all those who have had any apprehensions about some other phase of the bill would recognize that this certainly improves it.

Mr. LUNGREN. I thank my chairman.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. FRANK. I thank the gentleman from California for yielding.

Mr. Chairman, I also want to speak in support of his amendment. The gentleman is a member of the Immigration Subcommittee, and now is the ranking minority member. He is as familiar with this bill as any Member of the body along with the chairman, the gentleman from Kentucky. He has been thoughful in his approach to it. This is an example of that thoughtfulness.

I would just add that I intend to offer, as soon as this amendment is dealt with, the antidiscrimination half of the amendment just voted on. I think it is very important that we strengthen the antidiscrimination piece, and I think the gentleman's amendment is an important part of a scheme which will leave us to do that.

I think reinstituting the requirments, if the gentleman wants to reinstitute, will strengthen the operation of the sanctions, and in conjunction with the amendment which I intend to offer will also, I think, make it a bill in which we can better protect people against any potential discrimination.

I am glad the gentleman has offered the amendment. It was in the bill originally; it was very narrowly taken out in committee. I do not think when it was voted on by committee that there was a full understanding of the implications. I think the gentleman is taking a long step toward improving the bill.

Mr. LUNGREN. I thank the gentleman.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I agree with the thrust of the comments of the author of the amendment and the previous speaker in that it improves the bill. I am concerned about one summary of the gentleman's amendment and would ask the gentleman to clarify it for me.

That summary says that in addition to what we have already described here, the amendment amends H.R. 1510 so that employers will only be cited if they knowingly hire or retain undocumented aliens, rather than for the unknowing act of hiring or retaining such alien.

I had been under the assumption that the bill that was before us was restricted to a knowing standard.

**Mr. LUNGREN.** If the gentleman would allow me to reclaim my time, I might say I had to draft the amendment to the bill in anticipation of either the previous amendment being adopted or not being adopted. There was a section that is no longer applicable that had to be in there to make it consistent with the prior amendment.

Since that amendment was not adopted, that part of the amendment is not before us.

**Mr. BERMAN.** If the gentleman would yield further, then it is correct to conclude there is no substantive change in the knowledge requirement by virtue of your amendment?

**Mr. LUNGREN.** Absolutely not. All it does is extend the application of the paperwork requirement to all employers of four or more employees.

**Mr. BERMAN.** I think it should be adopted.

**Mr. KINDNESS.** Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, the amendment before us, as you will notice, has gotten a little different treatment than amendments usually receive. The chairman of the committee supports the amendment; not the version reported by the committee. A number of people who voted against the language that is in the bill have spoken. But that does not represent the majority view of the committee that reported this bill. That is almost the impression that has been created up to now.

Let me try to present the other side. That is, the bill as reported by the committee. It was recognized in the full committee that the recordkeeping and verification procedures are something else that would be added to the burden of doing business in this country and of providing jobs for people in this country. Adding to that burden was not something that was particularly desirable in the view of people who look at it from the business community standpoint.

In place where you have problems with undocumented aliens in agriculture, feelings run a little bit differently about this, I guess. But in major portions of this country, there is not that concentrated concern about where the undocumented aliens are working. There are many employers who simply would not feel the need to have this affirmative defense that is provided by keeping the verification records.

The committee voted to include in the bill that language that is now there, which this amendment seeks to replace, which says, in effect, that an employer does not have to have this affirmative defense available. The employer does not have to go through the verification procedure in the hiring of employees and does not have to maintain those additional records.

Now, it has been pointed out that these records are minimal, but the Members know what happens with records that the government requires you to keep, do you not? They are subject to being examined; they are subject to being audited. They are subject to becoming much more complicated forms the next time the INS gets around to redesigning the form. They become subject to all of the bureaucratic kinds of functions that make life more complicated for those who are providing employment for people throughout this country.

Why make it any more complicated unless it is necessary. Granted, all that the employer gets out of this verification and keeping of the forms is an affirmative defense which can be rebutted. It is not an absolute defense. All of this recordkeeping is required just so that initially if an illegal alien is found on the employer's premises or in the employment of the employer, he can say, "Well, gosh, I didn't know that." But that affirmative defense can be offset by proof that the employer did have some knowledge to the contrary. That is all this recordkeeping is about.

Why impose it on everyone? There is no need. For those who feel the need, they may voluntarily go through the verification process and keep the records. If they choose to have that extra burden and costs for the sake of having an affirmative defense available to them, fine, why not allow it to be voluntary? That is the way the bill reads right now.

This amendment would change that. This amendment would say that everyone has got to keep the records whether they feel they want that affirmative defense available to them or not. That is really all we are talking about here. Now, if you are going to offer me an affirmative defense that somebody else can rebut, I am going to say what is the cost of it?

**The CHAIRMAN.** The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

(By unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

**Mr. KINDNESS.** I will just point out that not only I, but anyone who is an employer would say what is the price of this advantage you are offering me under this new law? Big deal, the price is the cost of the recordkeeping, the auditing, the examination of those records. Many employers would say "I do not need it. In the first place, I do not have all that much concern about who I hire in our small town, I know just about everybody who comes through anyway."

There are places like that in this country, and there a lot of them in various parts of the country. It is not geographically just one section of the country. We are going to impose by this amendment, if it passes, more of the recordkeeping and paperwork burden that has been criticized time after time after time and every survey and every poll of people who are operating, particularly small businesses throughout this country, for what purpose? Only to give them an affirmative defense that they can gain for themselves voluntarily under the present form of the bill.

□ 1650

They can do it on their own initiative as the bill now stands. Do not impose it as an absolute burden because it is unnecessary. The amendment that is offered is offered, I am sure, in good faith, the idea of making everyone uniformly subject to the same requirement, but it is not necessary and it is something that would simply add to the cost of doing business and providing jobs in this country.

The illustration on the form down in front of us does not mean a thing, incidentally, to those who happen to have observed that or care about it, because it can change in 1 month, 2 months, or 6 months and become a much more complicated form, so do not be misled by that.

**Mr. RODINO.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I merely rise to disagree with the gentleman from Ohio, who was the original proponent of the amendment known as the Kindness amendment, which many of us, frankly, misunderstood when it was considered in committee. Also at that time the Attorney General, had not had an opportunity to review the amendment. The Attorney General later contacted me in a letter dated July 27, 1983, on the amendment. I will read part of that letter for the benefit of the committee:

> Additionally, it is our view that the failure to require a uniform verification procedure could create the potential for increased employment discrimination by employers. Requiring that the employment eligibility verification procedures are only applicable to employers who have hired an unauthorized alien could provide an improper but realistic incentive for employers to avoid hiring anyone who looks or sounds foreign.
>
> The Administration strongly recommends that the employment verification procedures in H.R. 1510 be applied to all employers of 4 or more employees, as provided for in the House bill as introduced, and the Senate-passed bill, S. 529. The effect of this modification would be to balance the need for effective employer sanctions with our desire not to impose unnecessarily burdensome requirements on small employers. Limiting the paperwork verification requirement to employers of 4 or more employees would include an estimated 95 percent of employees in the Nation's work force, yet would exempt 50 percent of the employers.

This, Mr. Chairman, is just what the Lungren amendment has accomplished, and it is for this reason that the Lungren amendment should be supported.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, briefly I want to speak in support of the Lungren amendment. The language in the committee bill, which I am proud to say I did not support in the committee, I think actually encourages discrimination because under this language an employer, instead of relying on objective data, will form instead subjective impressions based on physical appearance and on accent, the very things that we have thought about so much and want to avoid.

I think that if we require an employer to look at documents we are benefiting him because we are providing him with an affirmative defense, as long as he acts in good faith.

I think this language is needed to make sure that employers do look at objective data. Simply put, the INS does not have the resources to investigate more than a fraction of the employers. If they do not have this opportunity to investigate documents, what we are going to see is more raids on plants and physical inspections of the plants, which is something else that I do not think we should be a party to encouraging.

Mr. LEWIS of Florida. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be happy to yield to the gentleman from Florida.

Mr. LEWIS of Florida. I thank the gentleman for yielding.

Mr. Chairman, we are talking about filling out forms, and the employer does this and the employer does that, and we have discussed this now for several hours on previous amendments. I am concerned about the term "employer" that has never formally been defined. What does employer mean?

The problem I foresee with the employer sanctions is that there is no clear answer as to who is liable and who pays the fines. I represent an area of Florida which has a large agricultural constituency. The common practice for growers in this region of the country is to hire a crew chief, who then has the responsibility to put together a team of pickers.

If the crew chief were to hire an illegal alien and bring him to work on a grower's property, who is liable? Who suffers the penalty? Is it the crew chief who actually did the hiring, who actually made the selection of the harvesting crew, or is it the grower, the property owner, who may have virtually no contact with the actual crew involved in the harvest except indirectly by virtue of their being the purpose for the contract between the crew chief and the grower?

Mr. FISH. I will answer the gentleman, that it depends on the facts. If this farmer or grower, landowner, has a crew chief that he has delegated managerial responsibilities to, and the crew chief does the hiring, brings the employees onto the land and pays their wages out of a lump sum that he has from the landowner, then the crew chief and not the property owner or the farmowner is liable.

Mr. LEWIS of Florida. I see. I thank the gentleman.

I have a second example for the gentleman from New York.

What if two or more growers get together and hire the same crew chief to find the harvesters for their crops? If the crew chief hires an illegal alien and brings that alien into the grower's property, and is then found in violation of the law, are all the growers liable by virtue of their association together, or does the penalty accrue to the crew chief?

Mr. FISH. No. If the crew chief had management responsibilities for the hiring on both farms, or more than two farms, and recruited and paid the people out of a lump sum that he received from the two growers, then, once again, the crew chief is responsible.

Mr. LEWIS of Florida. I thank the gentleman.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will reluctantly support this amendment. The assumption behind the amendment is that employer sanctions are going to work and are positive. I have my doubts about that, but I do commend the gentleman from California for offering this provision.

I do not want to engage in a colloquy on the merits of employer sanctions with my colleague from California, but I would like to point out to him, if I could have his attention, the fallacy of the argument about employer sanctions.

I want to point out to the gentleman, and I am sure he is familiar with the 1982 GAO report on employer sanctions, and the conclusion of this GAO report was that sanctions were ineffective for two reasons. One was that employers were able to evade responsibility for illegal employment; and second, that employers were penalized too lightly to deter their actions.

Mr. LUNGREN. Right.

Mr. RICHARDSON. As I understand it, the gentleman's amendment would, in a way, cause both of these results. As I understand it, the gentleman's provision means that only employers who knowingly hired undocumented aliens would be cited; is that correct?

Mr. LUNGREN. If the gentleman would yield, that is what the bill is. That is not changed by my amendment.

Mr. RICHARDSON. It would then make it easier for employers to state that they were not aware that their employee was illegal and could, thus, evade sanctions altogether.

Mr. LUNGREN. If the gentleman will yield further, no, the proof in the bill is a requirement for knowingly hiring, and that is a quantum of proof that is utilized in the courts in areas outside of this. It is not some new level of proof that we are requiring.

It basically means that the person must have something more than negligence. He must have some knowledge or some reason to believe that a person he is hiring is illegal; not that accidentally he hired one through some sort of negligence, but it takes something far more than that. So my amendment does not change that. As I stated earlier, it was suggested that it did, but that part of the amendment was only viable if the previous amendment we just discussed had been adopted.

□ 1700

That part of the amendment that went to that question of the knowing standard is no longer before us, because the previous amendment was not adopted.

Mr. RICHARDSON. I understand what the gentleman is saying, but it seems to me we are kind of in a catch-22 situation.

Another example: As I understand it, the gentleman's provision requires that only those employers that violated their recordkeeping requirements twice would be fined. Is that true?

Mr. LUNGREN. No. My amendment does nothing. My amendment does nothing with that. All that my amendment says is that right now we have a paperwork burden that is required, that is the document in front of us to be imposed on employers of four or more employees.

The way the bill is drafted at the present time, that paperwork burden is not brought to bear until after there has been a determination by the Attorney General that you have already violated the law. Only then do you have the paperwork requirement.

All mine says is that all employers who have employees of four or more have that same obligation. It does not go to the citation. It does not change any of the other things that are a part of this bill.

Mr. RICHARDSON. Well, I appreciate the gentleman's explanation. I think I will support his provision; but once again, perhaps if I could engage the gentleman in a dialog, if he could comment on the GAO study. This is an arm of the Congress.

Mr. LUNGREN. Certainly. I would be very happy to.

Mr. RICHARDSON. I believe it was 20 countries, that sanctions did not work because they were not tough enough and the penalties were much too light.

Mr. LUNGREN. That is exactly correct.

Mr. RICHARDSON. Then why are we having sanctions?

Mr. LUNGREN. The GAO conclusion is that in a survey of 20 countries around the world, employer sanctions did not work because they were not enforced and because there was not a mechanism by which they could identify employers who had hired someone who they knew to be there illegally; so we precisely tried to draft this bill to avoid those two problems. We wanted to make sure that the sanctions were severe enough so in fact they would provide a deterrent.

Two, we wanted to give additional resources to the INS so that they could in fact enforce them.

And, three, we wanted to have a mechanism by which employers could be identified. That is the paperwork mechanism that we have had.

Since that report has come out, a number of those countries have increased those penalties and they are working now.

The CHAIRMAN. The time of the gentleman from New Mexico has again expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. Mr. Chairman, if the gentleman will yield further, since that time we have received reports. I have requested reports from the State Department from their consulates as to what the approach is now in those countries. Every single report that we have gotten is that in those countries they do think employer sanctions are important. In almost all those countries they have moved to increase the penalties. In France and Germany in the last 2 years they have increased their penalties and the best object lesson I can give the gentleman is Hong Kong. We just received a cable from Hong Kong in which they say it is working in Hong Kong, which has been plagued by an illegal immigration problem for a long period of time. It is working precisely because jobs are drying up for those people who were there illegally.

Mr. RICHARDSON. Once again, I think the intent of the gentleman's amendment is commendable, but I do want to state for the record that I disagree with employer sanctions being effective. I think that employer sanctions are counterproductive. Nevertheless, I will support the gentleman's amendment.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to get into a little colloquy with the gentleman from California.

Mr. LUNGREN. All right.

Mr. KAZEN. This is the form that the gentleman is suggesting will protect an employer if this is filled out and this is the information which the prospective employee has to give.

Mr. LUNGREN. Correct.

Mr. KAZEN. All right. Of course, the gentleman understands that it is not foolproof.

Mr. LUNGREN. Absolutely.

Mr. KAZEN. So what good is it?

Mr. LUNGREN. One of the reasons we require two documents is because we think there ought to be a cross check against those two documents, first.

Second, it goes to the question of whether or not we are going to move toward documentation that is more counterfeit proof. In the last year or two we have on this very floor voted new criminal penalties for those who use documentation fraudulently for the purpose of obtaining Federal benefits; so in fact we are moving in tandem in other areas to try to shore that up.

Mr. KAZEN. Let me just give the gentleman an example of how this can be evaded.

Mr. LUNGREN. Sure.

Mr. KAZEN. Very briefly, take a young lady, a woman asking for a job, and I understand that over half the women in this country are now employed. The form says, these are the documents that have to be seen: U.S. passport, the gentleman and I do not carry a U.S. passport.

Mr. LUNGREN. Correct.

Mr. KAZEN. So this lady would not carry hers.

Mr. LUNGREN. Right.

Mr. KAZEN. She could not show a passport.

Mr. LUNGREN. Right.

Mr. KAZEN. A social security card or a U.S. birth certificate.

Mr. LUNGREN. Right.

Mr. KAZEN. She shows a social security card. It is a valid social security card, because the gentleman and I know that all you have to do is go into a social security office, give your name and address, and request a social security card and you get it legitimately.

Mr. LUNGREN. You have to appear in person now.

Mr. KAZEN. And one other, selective service registration card. Women do not have to register for the draft so she does not have a selective service registration card.

A driver's license. The lady says, "I am not a driver. I don't own an automobile. I don't drive an automobile. I don't have a driver's license."

So that she does not have.

A naturalization certificate. "I was born," she says, "in Timbuktoo, Washington," a little community up there. She gives you the name of the community.

I do not know how any prospective employer is going to ask for proof of it, but she says she was born there, so she does not have a naturalization certificate.

Certificate of citizenship. Who in this room or on the street carries a certificate of citizenship? Not one of us, so she will not show that.

Alien registration receipt card. She says, "I am not an alien. I was born here."

U.S. Immigration Form 194 with employment authorization. She does not have one of those.

Other: Specify. What other document? A credit card? Yes, I have a credit card and she would have a credit card. Will that suffice?

How in the world are you going to show with this information that that person is not an illegal alien?

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Yes; I would be delighted to yield to the gentleman.

Mr. SAM B. HALL, JR. Mr. Chairman, if the gentleman will wait for just a few minutes for about the third amendment that is coming up, I will solve that problem for the gentleman, because I have a telephone amendment that says exactly what the gentleman is saying, that if you go to a prospective employer seeking work, you give to that employer your social security card and that employer, using also his employer number which we all have, makes a telephone call on an 800 number, just like you do today when you buy something on one of your courtesy cards. You go to the store and they call in to see if your number is good. Inside of 20 seconds, you will get back on the phone a notice that that card is good or it is not good. If it is a good card, a transaction code will be established under your number and if you hire that person, you have an absolute defense in the future.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Go ahead, I yield.

Mr. SAM B. HALL, JR. What this will do, it will take care of an employer, it will give some degree of protection to an employer, assuming this bill is passed. He has an absolute defense in the future.

Mr. KAZEN. May I ask the gentleman this question. What constitutes a bad card or a good card, what is the difference?

Mr. SAM B. HALL, JR. It will take several months to establish this. They will come back and tell the employer that it is a void number or that it is a fraudulent number and that it is a nonusable number. That is an absolute defense for that employer if he has hired that person.

Mr. KAZEN. This is all well and good if you have a foolproof social security card system, but we do not yet and we do not set it up in this bill. It is easy for anyone to get a social security card.

□ 1710

Mr. MAZZOLI. Will the gentleman yield on that point?

Mr. KAZEN. I will be delighted.

Mr. MAZZOLI. I appreciate the gentleman yielding.

I have just been advised by staff that it is not as easy as the gentleman would represent to get a social security card.

Mr. KAZEN. Then tell me what is necessary to get a valid social security card?

Mr. MAZZOLI. I understand in order to get one now, since 1972, not prior, but up until now since 1972 to get a social security card one must have proof of birth or one must show citizenship papers, or if you are an H-2 worker or a student here you can get a nonimmigrant for nonwork purposes social security card.

I am told that students sometimes use social security cards for the purposes of opening bank accounts.

But for the most part you must show you are a U.S. citizen or you are a permanent resident alien before you are given a social security card.

Since 1972, the system is curing itself. Now it does not mean that a basement burglar might not set up some sort of printing press and make false numbers. But a real, valid number that the gentleman from Texas is talking about, Mr. HALL is talking about, can only be obtained with certain proof of your citizenship or of the fact that you are a permanent resident alien.

Mr. KAZEN. The gentleman says that this is from 1972 until this date?

Mr. MAZZOLI. That is correct. Since 1972, yes.

The CHAIRMAN. The time of the gentleman from Texas (Mr. KAZEN) has again expired.

(On request of Mr. SAM B. HALL, JR., and by unanimous consent, Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. SAM B. HALL, JR. Will the gentleman from Texas yield?

Mr. KAZEN. I yield to the gentleman.

Mr. SAM B. HALL, JR. The situation that I am talking about is this, in all of these other measures the employer is the one who must keep the records. If I understand this bill correctly, if the employer keeps his paperwork and the employer says he has done these things and has looked at the birth records and all of those matters that are on that board behind you, then, the employer has an affirmative defense.

But those things can change. Under my amendment you have the U.S. Government verifying what you say you have done by the existence of a transaction code. You can go back and refer to that code if it is necessary.

If someone comes to you in the future and shows that you have hired a person who is illegal, all you have to do is say that on a certain date I made this 800 number call and there is a transaction code which says that the number was good. The burden of proof is then on the Government to prove the contrary.

I think it is foolproof and handles the matter that the gentleman is talking about.

Mr. KAZEN. I would certainly look at the gentleman's amendment and I hope it does.

But this amendment and what we are talking about here will simply not work. This form will not do the job.

One more thing, as long as I have the floor, let me get this off my chest. How many times are you going to ask a prospective employee to prove that he is here legally?

Mr. LUNGREN. If the gentleman will yield, I will be happy to answer that.

Mr. KAZEN. Yes, certainly.

Mr. LUNGREN. Every time he goes to a new job. Once he is in your employ, he does not have to do so again.

Mr. KAZEN. Why can we not then, following what my colleague from Texas has said, why can we not then establish once and for all that if a prospective employee has satisfied an employer and offered whatever proof we finally come up with under this bill, why is not that information stored in a central place here in the Government, and then make a telephone call into that station and verify the fact that that person is here, declared to be here legally? Why cannot that be done once and for all?

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to bring the debate back to the amendment that is on the floor, I would remind the Members that in fact we need to make no mistake that what the amendment does is to strike what has been known as the Kindness amendment.

Now, the Kindness amendment in committee was carefully crafted and carefully developed. In fact, as I recall, it was widely regarded and reported as a key compromise for a protection for employers. The Kindness amendment keeps an additional burden of paper work from being placed on employers who are not guilty of anything. And as a key of H.R. 1510, I would suggest that the Kindness amendment is in fact the best protection.

I am still not satisfied with employer sanctions as they stand now. But to further strengthen employer sanctions by deleting the Kindness amendment would be going in the wrong direction.

The Kindness amendment, as we all know, offered the two-stage sanction. First an employer would have to be ruled to be part of the problem before he would be required to maintain new paperwork requirements.

Mr. ORTIZ. Will the gentleman yield?

Mr. BARTLETT. I will be happy to yield to the gentleman from Texas.

Mr. ORTIZ. If I understand correctly, this form is to be used to deter the illegal alien from obtaining a job in the United States. If I may, I would like to ask a question of the chairman. You stated that from 1972 on you need to verify that you are an American citizen; correct?

Mr. MAZZOLI. Will the gentleman yield to me?

Mr. BARTLETT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. To get a valid social security card, yes. This does not mean that the gentleman and I may not have a district in which people can go downstairs in some basement and buy from some printer, or go into some bazaar and find a card. But to get a legal social security card, one that would match up with the system the gentleman from Texas (Mr. HALL) talks about, you must show more than just simply stating your name.

Mr. ORTIZ. My question is, How many illegal aliens had legal social security cards prior to 1972?

Mr. MAZZOLI. I have no idea. I cannot answer the gentleman.

Mr. ORTIZ. That is a problem we do have. Until that is verified, it would not matter.

Mr. MAZZOLI. Of course, it is not a problem people have. Either the employer can look, and if it does not appear to the reasonable person examining this sequence of paperwork that it is illegal or fraudulent on its face, then that individual has an affirmative defense under the bill.

Mr. BARTLETT. Reclaiming my time. I think the gentleman is stating what this amendment would do would be to add to that burden of paperwork to all employers, whether they are a part of the problem or not.

Mr. KINDNESS. Will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman who originally sponsored the amendment in committee, the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding and helping to clarify this point.

We have had stated to us from a letter from the Department of Justice a little earlier, cited by the chairman of the full committee, a figure of something like 95 percent or in excess of 95 percent of the employers of the

Nation would, by Mr. LUNGREN's amendment, be brought back under the recordkeeping requirements of this bill, meaning that fewer than 5 percent of the employers of this country are really involved or known to be involved as a part of the problem.

Do we make laws for the 5 percent or less or the 95 percent or more? If there is a choice, which way should the balance fall?

If you have the uncertainty as to how effective this form can be to begin with and how much good can be done by requiring 100 percent of employers to fill that form out and keep it for years, maybe the judgment of this body ought to fall on the side of the 95 percent plus who say do not give us any more recordkeeping requirements for unnecessary causes.

If there is something that will really be done by it, OK. But do not give us this unnecessary paperwork.

What is this reduction of paperwork everyone is talking about all of the time? We are going to try to reduce the burden of paperwork. Well, this is working exactly to the contrary of that if this amendment were to be passed.

The gentleman did point out, the gentleman from Texas, quite correctly, as I recall it, that there were quite a few who opposed, and groups that opposed the legislation without the so-called Kindness amendment in it.

I think today there would be a lot more opposition to this legislation than there is, and there will be opposition again if we reimpose this unnecessary burden.

The gentleman from Texas (Mr. HALL) has described a whole lot better system, it seems to me. If we are going to establish a burden of enforcing the laws, let us put it on the Government itself, not on the employers.

I thank the gentleman for yielding.

Mr. BARTLETT. I think the gentleman is saying we need to understand that this is a very serious amendment that is being proposed. This amendment would be a major step backward. What the gentleman is saying is that for those of us who have problems with employer sanctions, to add a new burden on to 95 percent of the employers that are not part of the problem, is to add to the problem.

The CHAIRMAN. The time of the gentleman from Texas (Mr. BARTLETT) has expired.

(On request of Mr. LUNGREN and by unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from California.

Mr. LUNGREN. I heard the 95-percent figure. That unfortunately is incorrect. We are talking about 95 percent of the employees being brought in, 50 percent of the employers being brought in.

What we are trying to do is to say that this ought to cover everybody. If you think that what we ought to do is just to refine our law enforcement mechanism to those who have already been discovered to have hired illegals, then basically you are going to say we are going to go after agriculture and just a few other factories that are thrown in and the 85 percent of the employment of illegal aliens that goes on now largely undetected and largely unenforced again is going to go scot-free, and I do not think that is fair.

Mr. BARTLETT. Let me reclaim my time. The gentleman from California does not contend that all employers or 85 percent of employers in this country hire undocumented immigrants, does he?

□ 1720

Mr. LUNGREN. No. But what I would say is we ought not to allow 85 percent of those industries—although only a small portion of those industries actually have employers who are doing it—a free ride, which is what we are doing now. That is what this Kindness amendment unfortunately will do unless they adopt my amendment.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman from Texas.

Mr. Chairman, I think we have to remember how you get convictions in the first place under this. If we are looking to enforcing the law and getting convictions you are not going to do it by having all this recordkeeping.

What you have got to do is have proof in the first place that there is a hire of someone who is undocumented. That is what you have really got to find out. You are not going to find it through these records. These records are only an additional burden on the employer.

This is not an enforcement mechanism for the ultimate question of hiring or not hiring illegal aliens. This is a record for the purpose of being able to convict employers of an additional violation of the law, the misdemeanor of failing to keep a record, if they do not have the record.

That is all this record is going to be for.

Mr. BARTLETT. I thank the gentleman.

I think the committee would be much better served with the Kindness amendment supplemented by the telephone verification amendment by Mr. HALL.

The CHAIRMAN. The question is on amendment No. 5 offered by the gentleman from California (Mr. LUNGREN).

The question was taken, and on a division (demanded by Mr. KINDNESS) there were—ayes 19, noes 7.

### RECORDED VOTE

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic means, and there were—ayes 321, noes 97, not voting 15, as follows:

[Roll No. 228]

### AYES—321

Ackerman
Addabbo
Akaka
Albosta
Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Aspin
AuCoin
Badham
Barnard
Barnes
Bateman
Bates
Bedell
Beilenson
Bereuter
Berman
Bethune
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carney
Carper
Carr
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne
Crockett
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
English
Erdreich
Erlenborn
Evans (IA)
Fascell
Fazio
Feighan
Ferraro
Fish
Florio
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Gray
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Hartnett
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (FL)
Leland
Lent
Levin
Levine
Lewis (CA)
Lipinski
Livingston
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marriott
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Moody
Moorhead
Morrison (CT)
Mrazek
Murtha
Myers
Natcher
Neal
Nichols
Nielson
Nowak
O'Brien
Oakar
Olin
Ottinger
Oxley
Packard
Parris
Patterson
Pease

Pepper
Perkins
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Roemer
Rogers
Roth
Roukema
Rowland
Roybal
Russo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shelby
Shumway
Shuster
Sikorski
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Udall
Valentine
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zschau

## NOES—97

Anderson
Applegate
Archer
Bartlett
Bennett
Bilirakis
Bosco
Chandler
Chappell
Coelho
Cooper
Craig
Crane, Daniel
Crane, Philip
Darden
DeWine
Dicks
Dowdy
Edwards (OK)
Emerson
Evans (IL)
Fiedler
Fields
Flippo
Foley
Franklin
Gekas
Gephardt
Gore
Gramm
Gunderson
Hall, Ralph
Hall, Sam
Hance
Harrison
Hatcher
Holt
Horton
Ireland
Jenkins
Kasich
Kazen
Kindness
Lagomarsino
Latta
Leath
Lehman (CA)
Levitas
Lewis (FL)
Lloyd
Loeffler
Lott
Lujan
Marlenee
Martin (IL)
McCain
McCollum
McNulty
Miller (OH)
Montgomery
Moore
Morrison (WA)
Murphy
Nelson
Obey
Ortiz
Owens
Panetta
Pashayan
Patman
Paul
Penny
Petri
Regula
Ritter
Roberts
Rudd
Sabo
Schaefer
Shaw
Siljander
Skeen
Slattery
Smith, Denny
Smith, Robert
Stangeland
Stenholm
Stump
Thomas (CA)
Traxler
Vander Jagt
Vandergriff
Vucanovich
Walker
Weber
Wylie
Young (FL)

## NOT VOTING—15

Brown (CA)
Burton (IN)
Hall (IN)
Hansen (ID)
Kramer
Martin (NC)
Mitchell
Oberstar
Quillen
Rose
Rostenkowski
Sensenbrenner
Simon
Tallon
Weaver

☐ 1740

Messrs. WALKER, GEKAS, PANETTA, COELHO, and ROBERTS, Mrs. LLOYD, Mr. SAM B. HALL, JR., Mr. SLATTERY, Mrs. MARTIN of Illinois, and Messrs. THOMAS of California, SABO, and DARDEN changed their votes from "aye" to "no."

Mr. SCHUMER and Mr. GONZALEZ changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 6 OFFERED BY MR. FRANK

The CHAIRMAN. Amendment No. 6 is in order at this time. Does the gentleman from Massachusetts (Mr. FRANK) desire to offer amendment No. 6?

Mr. FRANK. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. FRANK: Page 15, strike out lines 19 through 24 and insert in lieu thereof the following:

"(h)(1)(A) It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien) with respect to the hiring, or recruitment or referral for a fee or other consideration, of the individual for employment because of such individual's national origin or alienage.

"(B) Subparagraph (A) shall not apply to—

"(i) a person or other entity that employs three or fewer employees,

"(ii) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

"(iii) discrimination because of alienage which is otherwise required in order to comply with law.

"(2) Any person (or person, including a class, representing such persons) alleging that the person is adversely affected directly by an unfair immigration-related employment practice or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel of the United States Immigration Board (hereinafter in this subsection referred to as the 'Special Counsel' and the 'Board', respectively). Charges shall be in writing under oath or affirmation and shall contain such information as the Board requires. The Special Counsel shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within ten days.

"(3)(A) The Special Counsel shall investigate each charge received and, within 30 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before the Board. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to subparagraph (C), file a complaint before the Board.

"(B) If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice, has not filed a complaint before the Board with respect to such charge within such 30-day period, the person making the charge may (subject to subparagraph (C)) file a complaint directly before the Board.

"(C) No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel and the service of a copy thereof upon the person or entity against whom such charge is made. This clause shall not prevent the subsequent amending of a charge or complaint under paragraph (4)(A).

"(4)(A) Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, the Board, through an administrative law judge designated by the Board for such purposes, shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

"(B) Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Board as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

"(C) Any person filing a charge with Special Counsel respecting an unfair immigration-related employment practice shall be considered a full party to any complaint before the Board respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the administrative law judge conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony.

"(5)(A) The testimony taken by the administrative law judge shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may provide for the taking of further testimony or hear argument.

"(B) The administrative law judge shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the Board may authorize, and such recommended order shall become the order of the Board and become effective as therein prescribed.

"(6) In conducting investigations and hearings under this subsection and in accordance with rules of the Board, the Special Counsel and administrative law judges—

"(A) shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) by subpena may compel the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpena lawfully issued under this paragraph and upon application of the Board, an appropriate district court of the United States may issue an order requiring compliance with such subpena and any failure to obey such order may be punished by such court as a contempt thereof.

"(i)(1) If, upon the preponderance of the testimony taken, the Board shall be of the opinion that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice. Such an order also may require the person or entity—

"(A) to comply with the requirements of subsection (b) with respect to individuals hired (or recruited or referred for employment for a fee or other consideration) during a period of up to three years;

"(B) to retain for the period referred to in subparagraph (A) and only for purposes consistent with the last sentence of subsection (b) the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee or other consideration, for employment in the United States;

"(C) to hire individuals directly and adversely affected, with or without back pay;

"(D) if the Board finds that the practice was intentional, to take such other action as the Board deems appropriate; and

"(E)(i) except as provided in clauses (ii) and (iii), to pay a civil penalty of not more than $2,000 for each individual discriminated against;

"(ii) except as provided in clause (iii), in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $3,000 for each individual discriminated against, or

"(iii) in the case of a person or entity who has engaged or is engaging in a pattern or practice of such discrimination or of such a violation, to pay a civil penalty of not more than $4,000 for each individual discriminated against.

"(2)(A) In providing a remedy under paragraph (1)(C), back pay liability shall not accrue from a date more than two years prior to the filing of a charge with the Board. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals aggrieved against shall operate to reduce the back pay otherwise allowable under such paragraph. No order of the Board shall require the hiring of an individual as an employee of the payment to him of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or alienage.

"(B) In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment without reference to the practices of, or under the control of, or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(3) If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person or entity named in the complaint has engaged or is engaging in any such unfair immigration-related employment practice, then the Board shall state its findings of fact and shall issue an order dismissing the complaint.

"(4) In any complaint respecting an unfair immigration-related employment practice, the Board, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee.

"(5)(A) The provisions of subsections (d), (e), (f), (g), (i), and (j) of section 10 of the National Labor Relations Act (29 U.S.C. 160) shall apply to court petitions and review of orders under this section in the same manner as they apply to court petitions and orders under that section, except that the authority of the General Counsel of the National Labor Relations Board under those subsections shall be exercised for purposes of this paragraph through the Special Counsel to the Board.

"(B) In any proceeding referred to in subparagraph (A), the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs.

Page 29, after line 6, insert the following: The Board shall also exercise functions described in subsections (h) and (i) of section 274A.

Page 31, line 10, strike out "274A" and insert in lieu thereof "274A(d) and, with respect to judges designated to hear such cases, complaints under section 274A(h),".

Page 31, line 24, strike out the closing quotation marks and the period that follows them.

Page 31, after line 24, insert the following new subsection:

"(d)(1) The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel to the Board, to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

"(2) The Special Counsel shall be responsible, on behalf of the Board, for investigation of charges and issuance of complaints under subsections (h) and (i) of section 274A and in respect of the prosecution of all such complaints before the Board and the exercise of certain functions referred to in section 274(i)(5)(A), and shall have such other duties respecting such section as the Board may prescribe.

"(3) The Special Counsel is entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code.

"(4) The Special Counsel, in accordance with rules established by the Board, shall establish such regional offices as may be necessary to carry out his duties.".

**Mr. FRANK.** Mr. Chairman, I think this is a rare amendment because the way things have evolved, it is significant and noncontroversial, and we ought not to take a great deal of time on it.

The Members will probably be familiar with this amendment. It is half of the amendment offered by the gentleman from California (Mr. HAWKINS), one amendment preceding this. Members will remember the Hawkins amendment had two pieces. It set up a special counsel within the U.S. Immigration Board that the bill creates. The special counsel under the Hawkins amendment was to deal with the enforcement of employer sanctions and was also to be empowered to deal in every forceful way with complaints of discrimination. The amendment I have offered is the antidiscrimination piece of the Hawkins amendment without the part dealing with sanctions. It is identical to the Hawkins amendment with regard to antidiscrimination.

Mr. Chairman, this may be one of those days when the best way to present ourselves to the public would be to have the camera pan the Chamber but keep the sound turned down.

The amendment, as I said, is half of the amendment which was offered by the gentleman from California (Mr. HAWKINS). It is identically, I think, the very thoughtful and very practical scheme to protect potential victims of discrimination against discrimination. It empowers the special counsel to bring complaints. It adds to but does not replace existing title VII remedies. It creates the remedy for people between employers of 3 and employers of 16. It deals with aliens. It does, that is, everything that the Hawkins amendment did, because it is exactly the Hawkins amendment language with regard to discrimination.

Many Members who agreed with the efforts of the gentleman from California to tighten the antidiscrimination provisions of this legislation voted against his amendment because they disagreed with what he did on sanctions. All I am doing, I can claim no pride of authorship, no intellectual creativity, the only thing I can say about this is that it is a little cute, but I think sometimes that is useful, it gives those who want to be strongly against the potential of discrimination a chance to vote for Mr. HAWKINS' antidiscrimination provision without in any way jeopardizing the sanction scheme.

I would say, Mr. Chairman, that I hope this amendment passes. Like many here, I am going to very much hope if we get a bill through and into conference that the kind of strong antidiscrimination language that this amendment we would put in would be preserved by those who will be representing the House, and I think we have a lot of support for that.

I yield to the chairman of the committee.

**Mr. RODINO.** I thank the gentleman for yielding.

I would like to engage the gentleman from Massachusetts in a colloquy and present him with a question or two. Is it the intention of this amendment to separate out the work that needs to be on potential discrimination so that there would reside in the special counsel that kind of expertise to deal with that possibility?

□ 1750

**Mr. FRANK.** I would say to the chairman that he is absolutely correct. We do have, obviously, a pattern of discrimination here. What we will have if this amendment, which was drafted by Mr. HAWKINS of the Education and Labor Committee, it is adopted, we will have a readiness for any discrimination that might arise. It will be an anticipatory remedy for any discrimination that might arise.

**Mr. RODINO.** The other question that I would put to this gentleman is that this is no way however diminishes the role of INS prescribed in H.R. 1510 to move against those unscrupulous employers who are exploiting undocumented aliens and who are actually discriminating against them.

**Mr. FRANK.** It would in no way do that; the chairman knows I would never do a thing like that.

**Mr. GLICKMAN.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. GLICKMAN.** I support this amendment. The most serious charge against this bill that has been brought up by our colleagues Mr. ROYBAL and others is that this bill institutionalizes discrimination because of the employer sanction provisions.

I do not think that that is a fair characterization. The fact of the matter is, is that this language of the gentleman from Massachusetts effectively prevents that discrimination from happening, because it provides very strong procedures whereby somebody who feel aggrieved can go to an NLRB-type board.

The **CHAIRMAN.** The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 5 additional minutes.)

**Mr. GLICKMAN.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. GLICKMAN.** Because, as I was saying, that this provides an unfair immigration-related practice for anybody to in fact discriminate. It provides a fairly easy avenue for an aggrieved person to go. It provides very stiff sanctions for people who in fact discriminate. In fact, the sanctions for this are actually stiffer than the sanctions are on the employer sanction side of the picture.

I think the gentleman offers a very strong argument to basically provide that this bill does not provide any method for discrimination. I urge the adoption of the amendment.

**Mr. FRANK.** I thank the gentleman.

**Mr. RODINO.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to my chairman.

**Mr. RODINO.** I support the amendment wholeheartedly. I think that it should remove from those who are concerned with the possibility of discrimination and apprehension that discriminatory practices would go unchallenged.

Further, while I was sympathetic to the purpose of the earlier amendment offered by the gentleman from California (Mr. HAWKINS), I felt that the issue of discrimination must be addressed separate from the issue of sanctions. To combine both enforcement responsibilities in the special counsel, as proposed in the earlier amendment, could have created a bureaucratic nightmare and a confused enforcement situation.

This amendment separates those responsibilities and will allow the special counsel to devote full time and attention to the potentiality of discrimination.

**Mr. FISH.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. FISH.** I thank the gentleman for yielding.

Mr. Chairman, both the gentleman from Massachusetts, the author of this amendment, and myself are responsible for language that appears in the pending bill to assure monitoring and to meet the concerns expressed by so many of us on this question of discrimination in employment.

I think we are going one step further here that is appropriate, that does address the major concern about this legislation that has been made very clear by a number of our colleagues. I support the amendment and I personally accept it.

**Mr. FRANK.** I appreciate the gentleman's comments.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. MAZZOLI.** I thank the gentleman for yielding.

Mr. Chairman, let me say first that I support the gentleman's amendment. It is a very constructive amendment, and it does help us overcome, as my friend from New York has said, one of the more strong arguments perhaps slightly less founded than it has been suggested, but nonetheless, a strong argument against our bill, and that is the potential for unintended discrimination.

Let me also salute the gentleman from Massachusetts. He serves on the subcommittee and has served with valor and distinction for these last two Congresses, and the gentleman has a way to offer in the midst of some of the more turmoilsome of times a way that solves problems. I think what the gentleman has done here is continue that tradition of being able to find solutions in situations in which others cannot find them.

I want to salute the gentleman for another excellent job well done.

**Mr. FRANK.** I thank the gentleman and would say that I appreciate the kind remarks of my chairman.

**Mr. GARCIA.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. GARCIA.** Just so that the Members of the Committee understand this amendment, let us take an example. Mr. Smith walks into a personnel office, and he is given an application for employment. Now, that application is submitted to the Department of Personnel of that particular company. There is a record that he applied for a job, as a welder or whatever the case might be.

Let us say that Mr. Smith does not get the job. The following day, another person walks into the same office, applies for that same job, and gets that job. Now, the first person finds out that the second person got the job. Now that first person has an opportunity to institute legal action against the person for not receiving the job. Is that fair?

**Mr. FRANK.** Yes, that is exactly right. With the help of a special counsel set up to help him prosecute that charge.

**Mr. GARCIA.** Now, does this apply across the board or are there any special exemptions in your amendment?

**Mr. FRANK.** The amendment which I offered which as I said was drafted by the gentleman from California (Mr. HAWKINS), covers everybody who employs more than three people.

**Mr. GARCIA.** Anybody who employs more than three people?

**Mr. FRANK.** There are no exemptions as I read the amendment.

**Mr. GARCIA.** No seasonal workers; no 15 or less?

**Mr. FRANK.** That 15 or more comes in title 7, which this amendment would add to and not subtract from or modify, now kicks in at the 16th employee. What this does is provide for national origin discrimination for those who employ between 4 and 16 and for alienage all the way up and down. So there is no exemption in the terms of this as Mr. HAWKINS has drafted it.

**Mr. GARCIA.** Well, in view of what has been said, Mr. Chairman, by the distinguished gentleman from Massachusetts; I would appreciate it if he yield me enough time so that I could engage in colloquy.

The **CHAIRMAN.** The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. FRANK was allowed to proceed for 5 additional minutes.)

**Mr. FRANK.** I yield to the gentleman from New York (Mr. GARCIA).

**Mr. GARCIA.** Now if I can engage in colloquy with my colleague from Kentucky. If in fact we get to the conference committee, what assurances do we have as a committee here that every effort is going to be made to make sure that if we pass this bill, that the Frank amendment is going to be included?

**Mr. FRANK.** I yield to the gentleman from Kentucky (Mr. MAZZOLI).

**Mr. MAZZOLI.** I thank the gentleman and I will in turn yield to the gentleman from New Jersey who will be chairman of the committee. Speaking as the gentleman from Kentucky, I can assure my friend from New York that I will do my very best to preserve the Frank amendment and what it stands for, which is an ability to pursue any unintended discrimination in the full conference product.

**Mr. RODINO.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. RODINO.** I thank the gentleman for yielding.

I want to assure the gentleman from New York that insofar as this person is concerned, and I expect to be sitting on the conference if there is such a conference, and if there is, I want to assure the gentleman that there will be no equivocation, there will be no possible effort made by me or anyone else that will be represented by this side to diminish this amendment's effectiveness.

**Mr. FRANK.** I yield to the gentleman from New York (Mr. GARCIA).

**Mr. GARCIA.** I think what I have to say is worth repeating because many of you were not in this Chamber.

The Simpson-Mazzoli bill means that each and every person in this country, whether he is the employer or the employee, is now on the hook. There is nobody that walks away from this bill without being affected. It is important that we understand that many of us who have been fighting this legislation over the last 3 to 4 years have protested, all along, the discriminatory parts of this legislation.

I want everybody to understand that the employers too, will be tested, constantly, as to how they meet the criteria in the Frank amendment.

□ 1800

**Mr. FRANK.** I thank the gentleman.

**Mr. HILER.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from Indiana.

**Mr. HILER.** I thank the gentleman for yielding.

Mr. Chairman, I wonder if the gentleman might just explain for me in subparagraph (b), subsection (3), it is one of the exceptions and it says that discrimination because of alienage which is otherwise required in order to comply with law.

Is the gentleman referring in that section to quotas, affirmative action, some type of discriminatory hiring practice that takes place so as to meet a quota or an affirmative action plan?

**Mr. FRANK.** As I would understand the intention of that, it is not an affirmative action proposal, although I would not want to be here recorded as saying anything bad about affirmative action. I think it is a perfectly wonderful concept. It just is not in this bill.

What we are talking about is that there may be requirements of citizenship in State laws or elsewhere. There are some jurisdictions where you have to be an American citizen to do certain kinds of jobs. There was a recent Supreme Court case on the earth-shaking question of whether or not you had to be an American citizen to be, I think, a notary public, and I do not remember how it went out. We want to make it clear we are not trying to preempt that.

So all this means is that where there are existing State statutes that have been constitutionally upheld that require that you be a citizen for certain jobs, that this is not meant as a preemption. That is a requirement for certain law enforcement jobs.

**Mr. HILER.** All right. If the gentleman will yield further, then, the purpose of that section is to talk about employment practices which require the hiring of a citizen as opposed to some other type.

**Mr. FRANK.** Let me give an example to the gentleman. If someone were to run against the gentleman who is not an American citizen and be defeated, your opponent could not bring a claim under this because the Constitution said that you were a citizen and he was not that that somehow was unfair. So I would like to assure the gentleman that he would be protected in that situation, and this is not an effort to preempt at either the Federal or the State level those valid laws that say you have to be a citizen. That is all it intends to do.

**Mr. HILER.** I thank the gentleman.

**Mr. RICHARDSON.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from New Mexico for what I hope will be the last yield so we can vote and move on.

**Mr. RICHARDSON.** I thank the gentleman for yielding.

Mr. Chairman, I just want to stress once again the importance that we would attach to this provision staying in conference, because as I think the gentleman from Massachusetts knows, there is no provision whatsoever in the Senate bill regarding discrimination protection, whether it is for the employer or the employee.

**Mr. ERLENBORN.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I hate to rain on the parade of those who have joined together in supporting this amendment, but I feel that it is incumbent upon me to say that all of the objections I had to the Hawkins amendment apply equally well to the Frank amendment since all of my comments were directed to the antidiscrimination portion of the Hawkins amendment, which is identical in all respects with the Frank amendment.

The problem I see is that I am afraid not enough attention was given to the effect of this when it was drafted. The amendment says that any "person or other entity" who fails to hire someone based upon national origin or alienage would be guilty of discrimination and you could proceed against them before the Immigration Board.

There is no definition either in this amendment or in the bill of the Committee on the Judiciary or in existing law as to who a "person or other entity" is. That is about as broad as it can be. Let me point out that means every State and Federal governmental agency. It means you and me as Members of Congress. It covers everyone. There are no exceptions.

What it also means is that we are reducing from 15, which is the limit below which title VII does not apply, down to 3, which is the limit established here, only for those purposes of discrimination based on national origin or alienage. In other words, and I do not think that there is any question that this would be the net effect, if we, as Members of Congress, were charged with discrimination, we are not covered by title VII—so if we are charged under this provision of having discriminated against someone because they are not a U.S. citizen, we fail to hire them, we could be found guilty.

But our defense could be that we do not hire blacks because title VII does not apply to us, and there is noting wrong with us discriminating on that basis. Or our defense might be that we do not hire women, because title VII does not apply to us.

It seems to me that this is not an intended consequence of the Frank amendment or the Hawkins amendment, and I just raise these issues not because I am not vain enough to think we are going to take a record vote on this and defeat the Frank amendment. As long as the leadership on that side and this side of the aisle are going to support the amendment, I presume it is going to be adopted. But I hope that the assurances given by the gentleman from Kentucky and the gentleman from New Jersey that they are going to protect this amendment in conference does not mean that they are going to fail to take a look at what I think are real shortcomings in this amendment and do something in the conference to make it somewhat more reasonable in its application.

That is the only reason I take this time. I do not want to extend the debate. I would like to see all of the amendments disposed of and this bill passed because I am a supporter of the bill.

**Mr. BARTLETT.** Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take the entire 5 minutes, but I believe this to be a very significant amendment and one worthy of dwelling on for just a moment. I commend the gentleman from Massachusetts for this amendment because it addresses a very specific and very fundamental problem with this bill.

There is no doubt in my mind and in the minds of many Members of this House and the American public that the employer sanctions which are in H.R. 1510, as reported out of the committee, can, in fact, result in discrimination against certain potential employees. In the Southwest United States, those most susceptible to being the victims of discrimination would be the persons of Hispanic descent, or persons who look or sound foreign born.

This potential for discrimination results primarily from the criminal sanctions against employers. The Frank amendment does not remove those criminal provisions, but this House will have the opportunity to do so at a later time.

What the Frank amendment does do is to state specifically and categorically that discrimination will not be tolerated and that if it does occur there will be recourse for the victims. The Special Counsel which the amendment creates will be able to handle complaints concerning discrimination and to see to it that the victims have redress. The provision is very similar to that in the Hawkins amendment.

Like many in the House, I could not support the omnibus Hawkins amendment because of other provisions, but I applaud the antidiscrimination provisions and urge my colleagues to support those provisions and to support this amendment. This amendment strengthens the bill. It makes it more palatable to those of us who have reservations about employer sanctions.

Mr. McCAIN. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to my good friend and colleague, the gentleman from Arizona.

Mr. McCAIN. I thank the gentleman for yielding.

Mr. Chairman, we have been through a lot of debate on this issue and we will be through many hours more. I believe that this amendment is a key one as to whether this bill will actually be passed or not.

The greatest danger to this bill is the either unknowing or unwitting discriminatory aspects of it. I believe that the amendment offered by the gentleman from Massachusetts will remove a great deal of that doubt, and I urge everyone's strong support of the gentleman's amendment.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I think the amendment is a good one also. In the State of California, a bill very similar to the one before us was passed a number of years ago, and although it is not being enforced now, it was enforced for a while and the experience was that, indeed, there was a kind of discrimination against Hispanics that the people fear here.

I think the amendment will alleviate at least part of that fear and hopefully will help with the problem.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to my colleague, the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I am glad that everybody finally is coming around to understanding the original Simpson-Mazzoli bill was, in fact, discriminatory. I find it interesting that everybody is taking this floor right now on this amendment and saying, yes, that there are discriminatory aspects in this legislation.

Let me say to the people in this Chamber, we are going to test sanctions. If the bill becomes a reality, we will go into plants and factories across America, to make sure, that there is no discrimination. If we have to take test case after test case, we will do just that.

Mr. BARTLETT. Mr. Chairman, if I may reclaim my time, this amendment still does not remove criminal sanctions, which still need to come out of the bill.

□ 1810

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank the gentleman from Texas for yielding.

When my good friend, the gentleman from New York, got up again to help me, I felt like I was on the *Lusitania* and I just got word that the *Titanic* had set sail to rescue me.

I want to say to the gentleman that I appreciate his support, "But enough already before you sink my amendment." I do not think that support for this amendment is a concession of discrimination, but let us all be for it and let us talk later.

Mr. Chairman, let us vote on the amendment.

The CHAIRMAN. The question is on amendment No. 6 offered by the gentleman from Massachusetts (Mr. FRANK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

### RECORDED VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 404, noes 9, not voting 20, as follows:

[Roll No. 229]

### AYES—404

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carney
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta

Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

### NOES—9

Crane, Daniel
Crane, Philip
Erlenborn
Kindness
Lehman (CA)
Marlenee
Paul
Shumway
Stump

### NOT VOTING—20

Boland
Brown (CA)
Burton (IN)
Carper
Ford (MI)
Hall (IN)
Hansen (ID)
Hyde
Jones (NC)
Lujan
Martinez
Myers
Oberstar
Quillen
Rose
Sawyer
Sensenbrenner
Simon
Tallon
Weaver

□ 1820

Mr. TRAXLER changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

### PERSONAL EXPLANATION

Mr. CARPER. Mr. Chairman, I was unavoidably absent for the vote on rollcall No. 229. Had I been present, I would have voted yea.

### AMENDMENT NO. 7 OFFERED BY MR. SAM B. HALL, JR.

The CHAIRMAN. Amendment No. 7 is in order at this time.

Does the gentleman from Texas (Mr. SAM B. HALL, JR.) desire to offer amendment No. 7?

Mr. SAM B. HALL, JR. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 7, offered by Mr. SAM B. HALL, Jr. of Texas: Page 5, after line 15, insert the following new paragraph:
>
> "(6) Paragraphs (1) and (2) shall not apply to a person or entity (other than a farm labor contractor, as defined in section 3(7) of the Migrant and Seasonal Agricultural Worker Protection Act) which employs three or fewer employees.

□ 1830

Mr. SAM B. HALL, JR. Mr. Chairman, this amendment is very specific in its purpose. It seeks to do only one thing; it would exempt small employers—those employing three or fewer workers—from the criminal and civil penalties prescribed in the immigration bill. The amendment excludes employers of three or fewer workers from employer sanctions.

As in now common knowledge, the bill before us today would establish a four-tiered penalty structure for employers who hire, recruit, or refer undocumented aliens. The penalties are uniformly applied to all employers regardless of the number of workers under their employ.

Mr. Chairman, I just do not believe that it was the intention of our Founding Fathers to place U.S. citizens who happen to employ one, two, or maybe three workers in the position of having to enforce our national immigration policy. The fact that we have arrived at this point is representative of the extent to which this Government has failed to meet its responsibility to protect the integrity of our borders.

Under this bill we are going to threaten mom and pop operations, shopowners, and all the small employers of Main Street, U.S.A., with criminal and civil penalties if they are found to employ undocumented aliens.

Under this bill we are going to sanction small, rural farmers who need workers but who cannot always find help. There are areas in this country where people who are trying to carry on a legitimate business cannot get people to work. I know firsthand of people in east and west Texas and in other areas of the Southwest who have literally advertised in every news media in an effort to find workers willing to labor for $5 an hour and more. They could not get people to do the work.

Though brief mention is made in the bill report language that H.R. 1510 is not meant to cover casual hire, there is no place in the bill itself that says that everybody is not going to be included. Under the way this bill is written, we could very well be threatening criminal sanctions upon widows or senior citizens who employ helpers to clean windows, to assist in home repair, or to maintain their yards. If the bill is not intended to cover casual hire, that policy should be spelled out in statute language, not report language.

Mr. Chairman, though employers carrying three or fewer workers constitute 50 percent of all employers in this country, they hire only 5 percent of the working population. My amendment excluding employers of three or fewer workers, therefore, would not perpetuate a substantial job magnet.

Larger employers have a regular personnel policy and maintain personnel files. It is a fairly easy thing for them to keep documents such as those required under this legislation. The same cannot be said for small employers and certainly not for individuals involved in casual hire.

Under this bill we leave the proverbial foot in the door that will allow an overzealous INS to go into residential areas to ferret out citizens who may have—innocently or not—hired an illegal alien, or two, or three.

This amendment is necessary to protect mom and pop businesses, small farmers, and families who hire domestics from criminal and civil liability. Immigration reform was never meant to include these people under the watchful eye of government. If we can extend to small employers an exemption from having to comply with the paperwork requirements of the bill, we can and should release small employers from civil and criminal liability.

This amendment goes a long way toward improving the bill, and I ask that it be given favorable consideration.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Before I address the gentleman's amendment, let me first again salute the Chair for the excellent job that the gentleman from Kentucky (Mr. NATCHER) is doing. He presides with great attention and with great skill and with great gentlemanliness toward the House. I think the House is responding to his kind of leadership by having today disposed of many amendments in a very excellent fashion with dispatch and with respect for all sides of the issues. I salute him for having set that tempo.

Let me also salute the gentleman from Texas (Mr. SAM B. HALL, JR.) who has been a very valued member of our subcommittee and a very valued friend for these last 4 years.

The gentleman has had, from his home State and from other aspects, difficulty with some of these issues and it is understandable. But he has unfailingly been cooperative about showing up for quorums and endeavoring to help the gentleman from Kentucky move the bill along. I want to thank him publicly for that help.

The gentleman made many contributions to the bill. He has other amendments today which will be considered and which could be adopted which might assist in some Members feeling sympathetic to the bill.

This particular amendment, however, I just have to oppose. It would unbalance our bill. The bill, which has been before our committee for 4 years, studied very carefully, the ideal of the bill, the driving force of the bill, the goal of this bill was to be fair to all parties and to have balance.

The driving force behind all the work that the Subcommittee on Immigration has done is to try to be fair to all parties, to try to have a bill which was balanced, to try to have a bill which treated all parties here equally.

We seized upon the idea that even if you perhaps exempt small employers from keeping paperwork as a mandatory matter—they can keep it voluntarily—but even if they do not have to keep it mandatorily, certainly they should be liable if they transgress the law because under our law, our proposed law, you cannot knowingly hire an undocumented worker. You cannot just have an undocumented worker in your work force, you must knowingly hire in order to first get into the civil fines and eventually perhaps into the criminal fines and even perhaps into jail sentences.

□ 1840

What the amendment of the gentleman from Texas would do is to exempt small employers, three or fewer, from the requirement of being sanctioned in the event that they knowingly hired an undocumented worker. We think this would unbalance the bill. It would have it asymmetrical instead of symmetrical. And we would, therefore, on behalf of the committee, at least on behalf of the gentleman from New Jersey and myself representing the majority in the committee, ask the House to vote down the gentleman's amendment in order to retain the present structure in the bill (H.R. 1510) which does say to all employers, large and small, "You, if you knowingly hire somebody who is undocumented, you are going to be sanctioned."

So I would urge the House to defeat the gentleman's amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I would be happy to yield to my friend, the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

I want to ask the gentleman a couple of questions. One is that employers of three or less, would the gentleman understand this to include a housewife, for example?

Mr. MAZZOLI. The gentleman from Kentucky understands that in the event that there is an employment relationship between an individual and one other worker, then that would come under the purview of the bill. This gets into agency law and the question of independent contractors. There are situations in which you might hire an independent contractor who is one person or a group of persons. That would not come under the purview of the bill. But essentially speaking, if you hire a worker who is not an independent contractor, who is not an individual, say, for example, a self-employed person——

Mr. DE LA GARZA. An entrepreneur.

Mr. MAZZOLI. That that would come under the purview of the bill.

Mr. DE LA GARZA. So a housewife, or a priest at the local church hires a fellow to do his yard, or the Methodist preacher——

Mr. MAZZOLI. If, for example, you hire a person——

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. If, for example, a housewife were to hire someone on a basis of $20 to do a one-time job, it is probable that that would be considered a self-employed person, and would not come under the bill. But if you hire somebody at $5 an hour, on an hourly basis, that could come under the purview of the bill, and that individual would then have to be sanctioned in the event they knowingly hire. But again I would say by reason of the Lungren amendment earlier adopted there is no mandatory verification required for small employers. However, if you fail to verify and it is found that you have knowingly hired someone who is undocumented, then you would be liable.

Mr. DE LA GARZA. Let me ask the gentleman further: On the other side, the gentleman knows of my position, how obnoxious it is to me that a citizen would have to identify himself. Would this not then give the fellow who works as a yardman or a father and son, it would exempt them from having to identify themselves without the norm? Would the gentleman consider that as a fact?

Mr. MAZZOLI. The gentleman from Texas (Mr. DE LA GARZA) brings up the point that if the amendment of the gentleman from Texas (Mr. HALL) is adopted, indeed there would be a void in which employers of three or fewer people would not be sanctioned, they would have no liability if they knowingly hired someone who is not documented.

Mr. DE LA GARZA. So we would have saved at least a few from the onerous task of having to identify themselves beyond the norm in an unconstitutional manner?

Mr. MAZZOLI. If I can address the gentleman, by reason of the Lungren amendment earlier adopted, small employers do not have to verify eligibility or to keep paperwork, but if they knowingly hire someone who is undocumented, then they are sanctionable under the committee bill. They would not be under the gentleman's amendment.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Texas (Mr. SAM B. HALL, JR.)

Mr. SAM B. HALL, JR. I would like to say, with reference to what the gentleman from Texas just said, the report language states that casual hire is not to be covered by this bill. But there is no definition of "casual hire." As the gentleman from Kentucky said a moment ago, under the amendment of the gentleman from California (Mr. LUNGREN) adopted earlier, there are no paperwork requirements for people who have three employees or under. There is going to be a void here if they do not have to keep paperwork and they hire people under the situation that the gentleman just mentioned, if the priest hires somebody to work in the yard or if the widow woman hires someone to do the windows, whatever menial work it might be, it is going to leave a void in one respect, but in another respect it is putting those people under the throes of this bill, and I do not think that is what this bill is meant to do. I think if we are going to have any uncertainty in it we should not have the uncertainty where you have somebody hiring three people or less.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. BARTLETT. Well, this gentleman is somewhat surprised and amazed at the leadership of the committee, anyway, in opposing such a straightforward amendment.

As I understand the amendment of the gentleman from Texas, it simply addresses the housewife issue or the person hiring one person, two people, or three people.

Further, if there is no paperwork requirement, then as I understand the bill the way it presently reads, there is no defense; so you would be placing, without the gentleman's amendment, a higher burden, is that correct, I will ask the gentleman from Texas?

Mr. SAM B. HALL, JR. I think the gentleman is exactly right. I think the gentleman is correct.

Mr. BARTLETT. A higher burden on the housewife than you place on IBM or Xerox. Is that the way the gentleman understands the bill without this amendment?

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the distinguished subcommittee chairman.

Mr. MAZZOLI. I thank my friend, the gentleman from Texas (Mr. de la Garza) for yielding.

If I might address the gentleman from Texas (Mr. Bartlett), if I understand it correctly, while the Lungren amendment exempted small employers from the mandatory aspect of verification or paperwork, it suggests that if you voluntarily verify or keep paperwork, whatever we wind up doing, because we may adopt a telephone system, but whatever is the final form of verification, if you voluntarily do it as a small employer, that provides the affirmative defense.

Mr. BARTLETT. If the gentleman will further yield, the difficulty with that is that then we take the small employer and we surprise them, and 5 years from now the housewife who has hired one person to work in the yard, all of a sudden Immigration comes knocking on her door and says: "Well, we are going to impose a sanction on you," the housewife or small employer is much less equipped to keep the paperwork as a voluntary basis.

Mr. MAZZOLI. If the gentleman will yield, I thank my friend, the gentleman from Texas, for bringing it up. Of course, under the bill you have in the bill today the Rodino amendment, which was adopted in the full committee, which suggests that everyone who is covered by the employer sanctions element of our bill may, first of all, actually transgress the law, violate the law, and the first time all they receive is a citation, no penalties, no criminal sanctions for the first violation. It is the first violation after the citation that brings you the first level of civil fine, and then further subsequent activities.

Furthermore, there is a 6-month period of education before the bill even becomes effective. Then, as I say, you have the Rodino amendment which suggests that you have a citation for the first violation, so that no one, including the housewife, is ever going to have INS knock at the door and say: "Hey, hello, you are guilty." That person for the first violation receives a citation, and only thereafter would there be even civil remedies, and only thereafter, still later, would there be criminal.

Mr. de la GARZA. But do you still impose on the seeker of employment the onerous duty of having to identify besides the norm, even though he be a citizen?

Mr. MAZZOLI. I appreciate what the gentleman said. We engaged in an extended debate last evening, and the gentleman was very eloquent on that point. I cannot argue with him.

We indeed ask all citizens, as well as noncitizens, after a certain date, "You will have to verify who you are and whether you are qualified to work." We say that of all citizens.

Mr. de la GARZA. That is a shame, that is a terrible shame. But let me ask the gentleman another question: There is a permit called a border crossing card.

The CHAIRMAN. The time of the gentleman from Texas (Mr. de la Garza) has expired.

(By unanimous consent, Mr. de la Garza was allowed to proceed for 3 additional minutes.)

Mr. de la GARZA. Now, on the border crossing card, it says that "you are allowed to come for $x$ purposes but not for employment."

Now, does your employer sanction cover the border crossing card or only a person who is illegal altogether? With the border crossing card, if I might remind the gentleman, you are legally in this country for $x$ purposes but not for employment.

Mr. MAZZOLI. I would expect—and I would yield to anyone who understands border crossing cards better—that that would be like a nonimmigrant visa, which does not permit you to work unless it so specifies. Mostly nonimmigrants coming into the country for visitor purposes, for pleasure purposes, for business purposes, may not work when they are here unless there is some sort of a specific notation to that effect. I would expect that the border crossing card would say, somehow, specifically that you cannot work but you can come into the country.

□ 1850

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman.

Mr. SAM B. HALL, JR. You know this discussion here in the last 2 or 3 minutes points out the fact that you are going to have so much indecision as to whether or not a person is or is not covered. Now it is not known with any degree of certainty whether or not a border crossing is covered by this or not. We have already stricken out all of the paperwork for these same people. These same people that you are talking about and the people that I am talking about. Why still have them subject to criminal and civil contempt violations?

We do not know whether they are going to be covered or whether they are not going to be covered. This amendment takes all of the guesswork out of it and still does not affect over 5 percent of the work force of the United States.

Mr. de la GARZA. I think the gentleman is correct about the indecision. There is another part of the bill that allows local constables and policemen to work. You are going to have a local constable running around in circles knowing what to do and so on, and breaking into houses, and chasing the widow woman around the lawn there to find out if she has her paperwork or has a legal illegal or somewhere in between with a border crossing card.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman.

Mr. McCOLLUM. I just want to express my support for the Hall amendment, for this amendment that the gentleman from Texas, Mr. Hall, is offering. I think that it is something that we talked about a great deal in subcommittee; I know there is debate over it. I know the gentleman from Kentucky feels strongly about it and some others. But it seems to me that there is no real good reason why we should pester people down there at the one-, two-, and three-employee level. It never has been, to me, a good idea, and I do not think it has to be to make this bill work on employer sanctions.

I commend the gentleman from Texas for offering the amendment, and I support him.

The CHAIRMAN. The time of the gentleman from Texas (Mr. de la Garza) has expired.

(On request of Mr. Mazzoli and by unanimous consent, Mr. de la Garza was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman.

Mr. MAZZOLI. I thank my friend from Texas who has been a very important Member of this Congress and this debate for the last 4 years.

I would just like to respond to my friend from Florida who has been a valued member of our subcommittee, that indeed, this has been before the committee and we have rejected it five times.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to the gentleman.

Mr. BARTLETT. I am not certain I understood. Mr. Hall spoke of casual labor as somehow being semiexempted under the committee report, but I wonder if there is a definition of casual labor in here anywhere, and if there is not, then what the gentleman from Texas is trying to do is define what the committee means.

Mr. de la GARZA. I yield to the gentleman.

Mr. SAM B. HALL, JR. There is no definition, whoever has the time, so far as I know there is no definition in the bill of casual hire. It is in the report language. But I do not think that it should be in the report. I think it should be statutory language as to what is or what is not covered under certain circumstances. The only way I know how to do that is to spell it out.

Mr. BARTLETT. I commend the gentleman for his amendment because he makes it very specific as to what the bill means when we speak of casual hire, and I think he tightens the bill and strengthens the bill.

Mr. DE LA GARZA. Well that is my concern that if there is no definition of casual labor, you are going to allow a local constable or a local chief of police to have to do the identifying factor.

I wonder if the gentleman from Kentucky would at least if he opposes this amendment, would he give us what the legislative intent is as to what casual labor would be?

I yield to the gentleman.

Mr. MAZZOLI. The gentleman from Kentucky is not totally skilled in the area, but we did go into this thing of what constitutes employment and what constitutes casual hire and what constitutes a contractor who comes in to do a job.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Generally under the terms of the case U.S. against Companegro and the Avis Rent-a-Car case, two recent Second Circuit U.S. decisions, the courts spelled out the differences between employees and casual hire. There is a gray area and the gentleman from Kentucky concedes it. But essentially speaking, employees who work for a salary, employees, I should say, employees work for a salary, casual hires work for a fee. I tried to explain, for example, you might have a job done for $100 to paint your house and that might be considered a casual hire.

If you hire a person and say I pay you $3 an hour to paint my house, that is probably a contract of employment. Furthermore, employees work under direct supervision, where a casual hire does not. For example, if you have a self-employed painting contractor, you probably do not watch over them. They bring their tools, their paints. If you hire a person to paint your house, you may supply the brushes and the paint, and they supply themselves.

Mr. DE LA GARZA. Oh, the gentleman has confused me more. I was hoping to get some clear legislative intent. That is going to confuse the local constables more.

Mr. MAZZOLI. The gentleman from Kentucky says employees work for a salary; casual hires work for a fee. Employees work under direct supervision; casual hires do not work under direct supervision. Employees usually do not bring their own tools or equipment; casual hires usually do bring their own. The employees usually do not have the right to employ their own laborers; casual hires usually do have the right to employ their own helpers.

Employees usually will not profit if they do their work efficiently; casual hires usually will, because they will be able to do the work more quickly and move on to another job. Finally, employees typically have an ongoing relationship with their boss or hire, where casual labor does not have an ongoing relationship.

Mr. DE LA GARZA. So this has no number attached to it?

Mr. MAZZOLI. No.

Mr. DE LA GARZA. A casual hire could be 20, or 30, or 40, or 50.

Mr. MAZZOLI. Presumably. Of course what we are talking about, under the gentleman's amendment, any employment over three is automatically under the bill, so we are talking about small groups of people.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. KAZEN. In furtherance of the definition that the gentleman gave through court apparently that was dicta or actually a verdict or judgment. Anyway, I hire one person to mow my lawn. He does not have any tools.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. KAZEN and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. I yield to the gentleman.

Mr. KAZEN. I hire a person to mow my lawn. He has his own cutter, his own lawnmower, and he charges me $20 to do my whole yard. Under what the gentleman has just said he is casual.

Mr. MAZZOLI. That is right. That means you do not have to get that person's papers.

Mr. KAZEN. That same person comes to me, I have the lawnmower, he does not have anything but himself. He charges me $5 an hour to cut that same lawn. Is his status different?

Mr. DE LA GARZA. I yield to the gentleman for his reply.

Mr. MAZZOLI. I can only suggest that tort describe that in those circumstances you do not bring your tools, you are paid by the hour, then you could be considered an employee, yes.

Mr. DE LA GARZA. Let me ask the gentleman now, since this is getting wierder. I live here in the suburbs of Washington, in Virginia, and we hire this kid to come do the lawn. Do I have to fill out one of those blanks?

Mr. MAZZOLI. No.

Mr. DE LA GARZA. How come?

Mr. MAZZOLI. Well, because typically speaking, a child, or young man, or person brings their own lawnmower and you pay them $10, or $5, or $50, or something, and that is casual hire. You do not have to check the papers.

Mr. DE LA GARZA. But I hired him for the summer.

Mr. MAZZOLI. If you hired him on an ongoing basis, it is very conceivable that that is an employee of yours.

Mr. DE LA GARZA. And I have to get this kid from Virginia to fill out and show me the license number, the driver's license, and all of that?

Mr. MAZZOLI. Check his passport.

Mr. LUNGREN. If you tell us whether you paid the social security tax on him, we can tell you whether he is an employee or just someone that you have hired to do the job.

Mr. DE LA GARZA. No; I do not think I am paying social security on him.

Mr. LUNGREN. It sounds like he is an independent contractor, then.

Mr. DE LA GARZA. And we have to fill out the form?

Mr. LUNGREN. It sounds like you would not.

Mr. DE LA GARZA. I would or would not?

Mr. LUNGREN. You would not.

Mr. DE LA GARZA. I would not be subject to a local constable coming and arresting Mr. Bainbridge or myself.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. SAM B. HALL, JR. I again state what I said a moment ago that this discussion in the last 3, 4, or 5 minutes indicates the point that we have got so much indecision in this matter and the way it is now written, that it would be criminal, literally criminal, not to take out from under the purview of this act people who would be acting in the same position as the gentleman from Texas (Mr. DE LA GARZA) and the other gentleman from Texas (Mr. KAZEN) stated. It would put these people in a terrible light trying to decide whether or not they are hiring somebody on a casual basis or whether they are hiring somebody on a contractual basis.

□ 1900

Mr. DE LA GARZA. We do no damage to the intent to curtail illegal immigration on vast ranches and growers, and this does not involve itself in that.

Mr. SAM B. HALL, JR. If the gentleman will yield further, the people that

I am talking about hire less than 5 percent of the work force of America. I say the amendment should be adopted.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was not going to enter into this debate until my distinguished chairman of the subcommittee mentioned that this has been defeated five times in committee and subcommittee. At least three or four of those defeats were my amendment.

The gentleman is presenting at this time an amendment that I thought we originally should have in the bill as we tried to go through a very difficult and complex situation. How do we deal with the question of large-scale illegal immigration in this country without providing an undue burden on the employers of this country and at the same time recognize that we are not going after ma and pa stores and we are not going after individuals who have to make decisions that the kid down the block who is going to mow their lawn, and so forth, with the possibility of criminal sanctions down the road.

I might just mention that I believe the gentleman's amendment is in keeping with the original bill as requested to be introduced by the administration. I believe this was the administration's original position: That those who hire three or less employees ought not to come under the mandate of the civil and criminal sanctions.

One of the arguments that has been made against this amendment in the past is that it is somewhat contradictory or inconsistent because if we truly want to get rid of illegal immigration, then we ought to do it entirely. I understand there is an inconsistency here, but we are talking about 5 percent of the total work force being subject to this rule by an imposition on their employers who by and large are ma and pa stores or happen to be housewives or families themselves who, in all likelihood, are not used to dealing with personnel files, or do deal in that kind of misty area of whether someone is supposed to be paid social security or not paid social security, or confront questions such as if you pay them by the hour are they an employee, if you pay them by the job are they independent contractors?

So I think that under all circumstances, the gentleman's amendment makes sense. In fact, I would say it probably improves the chances of the bill's success in the long run because of the questions that have been raised here this evening.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Chairman, I am not going to argue too strenuously against this amendment, but I would say to my colleague that in some respects this amendment reminds me of the Beverly Hills or the Scarsdale amendment because so many small employees are really domestic and they work for very rich people around this country. Oftentimes you cannot find domestics very easily, and these are people who find their way into the households of higher income people and many of these people ought to be paying social security tax on their domestics and may or may not, and many of them are exploiting their domestics.

But I would just say that I realize, as the gentleman from Texas (Mr. DE LA GARZA) pointed out, and Mr. KAZEN also pointed out an interesting example about whether somebody is an employee or not, it may be difficult to know that. But I would venture to say that most of these people who employ less than three in number, these employees are very well known by their employer, they are very close to each other, they see each other all the time. They probably know their country of origin and where they came from for the most part.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Let the gentleman complete his statement and I will be happy to yield.

Mr. GLICKMAN. I was just saying that if you exempt all employees of three or less, what you are doing to a large extent is exempting a very large market for people, and these are people who work as domestics.

Mr. LUNGREN. We are exempting 5 percent of the total.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman just mentioned something that strikes at the core of this. He can be my next door neighbor and I could know him since he was born. I still have to fill out that crazy little piece of paper.

Mr. LUNGREN. No; you do not.

Mr. DE LA GARZA. Yes; I do.

Mr. LUNGREN. We have already exempted him from the paperwork requirement.

Mr. DE LA GARZA. I still have to inquire.

Mr. LUNGREN. If I could reclaim my time, all I wanted to say is that I understand it is a close question and I understand there are some inconsistencies here, but I also understand we are talking about family situations, and so forth. I am not supporting this amendment to protect those who knowingly hire an illegal, to bring them into their house because they do not want to pay them the proper amount, but I am talking about the practical application of it. I do not think, in fact, we are going to have a prosecution effort directed at these individuals. If it is going to cause trouble in passing the bill and if it is going to cause trouble with concerns of individuals as exposing themselves to criminal penalties, then I think it may make some sense to adopt the amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I do not disagree with the thrust of this amendment in the cases in which it has been cited so far, and it does conform to the earlier amendment which exempts the recordkeeping requirement. I think there is an exact conformity there; I am not sure. But three or less excluded?

Mr. LUNGREN. Yes.

Mr. BERMAN. What I am concerned about is the potential for what I can see as a glaring loophole which gets back again to the agricultural situation with the use of associations and farm labor contractors. I would like to get some clarification, because I do not think the dialog on the earlier Agriculture Committee amendments at least clarified this very well in my own mind.

Assuming a group of growers band together in an association, and that association only employs three people doing essentially clerical kinds of functions, and that association then utilizes a farm labor contractor to provide workers for the many different growers that are a part of this association, and this is not a far-out situation, at least in the agricultural fields in California.

I am concerned that this amendment will be utilized to drive a truck full of farm laborers through, literally, and that it will be a terrible loophole that will undercut all that you and the gentleman from Kentucky are trying to do with the employer sanctions.

Mr. LUNGREN. If I may reclaim my time, that is not my intent in supporting the amendment. I do not think it is the author's intent. If the gentleman could describe to me the manner in which that might be done, I might be able to respond better.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield so I might reply to what the gentleman from California said?

**Mr. LUNGREN.** I yield to the gentleman from Texas.

**Mr. SAM B. HALL, JR.** I thank the gentleman for yielding.

If the gentleman will notice this amendment, it says paragraph 1 and 2 shall not apply to a person or entity, and then in parentheses it says (other than a farm labor contractor as defined in section 3.7 of the Migrant and Seasonal Agricultural Workers Protection Act).

That explicitly excludes what the gentleman from California is talking about. It would not cover a contractor, a farm labor contractor, in any way.

**Mr. BERMAN.** If the gentleman will yield further, it would exclude the association for which these growers had joined together to, in effect, contract out their farm labor. That would be excluded.

**Mr. SAM B. HALL, JR.** If the gentleman would yield further, the parenthetical in this amendment is for the purpose of retaining existing law, that is, section 106 of this act, that prohibits a farm labor contractor from recruiting, hiring, employing or using with knowledge the services of any individual who is an alien not lawfully admitted for permanent residence, or who has been authorized by the Attorney General to accept employment.

**The CHAIRMAN.** The time of the gentleman from California (Mr. LUNGREN) has again expired.

(On request of Mr. DE LA GARZA and by unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

**Mr. SAM B. HALL, JR.** If the gentleman will yield further, I am reading, more or less, from section 7 of article 3 of this act. It would not allow the situation to happen as the gentleman from California stated it.

**Mr. DE LA GARZA.** Mr. Chairman, will the gentleman yield to me?

**Mr. LUNGREN.** Let me yield to the chairman of the Committee on Agriculture, the gentleman from Texas.

**Mr. DE LA GARZA.** I thank the gentleman for yielding.

Mr. Chairman, I am getting terribly concerned by this obsession in the House or in the committee about farmers, who give us the best quality food for the lowest amount of disposable income. There is an obsession here beyond the norm.

□ 1910

Should the statue on top of the dome ever become pregnant, you will probably blame a farmer for it. This is an obsession beyond the norm, that everything has an insidious, hidden motive for some farmer to bring in illegal workers, and I am getting concerned that we are getting away from the thrust of the legislation or away from the thrust of those who oppose it, with this obsession that behind every amendment there is a dark motive for some farmer to bring in something illegal.

That is not the norm. The average farmer is a law-abiding citizen and respects the law, and again we are making it look like everything that is done is illegal in the agricultural sector. That is not where the majority of the illegals are. They are in the factories, in the restaurants, in the hotels, and in the cleaning establishments; they are in Los Angeles, and in San Francisco, in Chicago, Cleveland, New York, and so on.

Mr. Chairman, there is an obsession that somehow this bill is geared to Hispanics and to farmers who abuse the law, and I am getting a little concerned that we are heading in the wrong direction.

**Mr. FISH.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise reluctantly to oppose the amendment offered by my great friend, the gentleman from Texas (Mr. SAM B. HALL, JR.). I would have brought up the same issue that the gentleman from California just raised, because while I can sympathize with the chairman of the Committee on Agriculture, I think what has been explained here is a distinct possibility and one that cannot be overlooked as a loophole that we are creating in this measure.

But very briefly, we are told that only 5 percent of our Nation's work force is employed by employers of three or fewer. We have a work force in excess of 100 million, so that 5 percent would just about equal or exceed the number of undocumented workers who will be seeking employment in the United States, and I do not think we want to leave our labors this week having created job opportunities for undocumented workers.

This proposed exemption would create such a loophole for all undocumented workers to take advantage of. The employer sanctions came out of our Select Committee on Immigration and Refugee Policy as the most efficient enforcement tool. It is aimed at removing the magnet that brings people here, the opportunity for employment. I fear that by making this exception we would be creating just such an opportunity for employment that all undocumented workers would quickly steer to, and that would destroy the effectiveness of the program.

Mr. Chairman, I yield back the balance of my time.

**Mr. EVANS of Illinois.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hall amendment to exempt small employers from employee sanctions. These sanctions are unduly burdensome on small businesses such as family farmers and mom and pop operations, and reflect the larger problem with employee sanctions.

Indeed, as a whole, the employer sanctions called for in H.R. 1510 are unrealistic. Similar sanctions in other countries consistently failed to meet the objectives sought. Too many employers are able to evade the law or, if apprehended, can appeal the administrative fines imposed.

Moreover, employer sanctions that are enacted because of the actions of a few may punish those employers who seek in good faith to meet the requirements of the law. Many employers, such as farmers and small businessmen and women, are already struggling through difficult economic times. These sanctions are not solutions but added hardships for both the employee and employer.

Employer sanctions do not significantly curtail undocumented immigration. But they may well cause increased discrimination against minorities who have a different accent, language, or appearance. Employers who want to discriminate against minorities will have a legitimate reason for doing so. And to insure that they are complying with the law, overcautious employers may quit hiring suspected illegals.

I also believe that these sanctions bring us closer to a national identification system and brings today's 1984 closer to Mr. Orwell's 1984. Apart from objections on civil liberties grounds, the ID system could cost billions of dollars and thousands of staff years.

Employer sanctions are treating a symptom, not a cause. What we really need is a substantial increase in the number of immigration enforcement officers and investigators, especially along our Nation's borders, and full enforcement of existing labor laws.

In closing I would just like to bring the attention of our colleagues to the May 28 issue of People magazine which carried an article about a neighborhood in Silvis, Ill., in my district called Hero Street. The story reported that the 38 Mexican-American families who live on the street have sent 110 of their sons into the Armed Forces—8 of whom never returned to that neighborhood again. But, if you need any more proof of the contributions of Hispanics to the defense of this country, then go down and see all the Spanish surnames inscribed upon the Vietnam Memorial.

On Hero Street and across this country, Hispanic Americans have served their country. They have obeyed laws and built communities, they have paid taxes, and opened thousands of businesses. And they have certainly been very patriotic.

We are proud of our devotion to human rights. But human rights, like charity, must begin at home. By opposing employer sanctions, we in this Chamber can do a great deal to preserve human rights and civil liberties in this country.

I urge my colleagues to support the Hall amendment and oppose employer sanction provisions.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to bring the body's attention back to this discussion we had earlier, because again I want to reemphasize that as explained in the debate, I do not disagree with this amendment. But the problem we have—and I think it was alluded to by the gentleman from New York (Mr. Fish) is that, yes, the farm labor contractor is covered, but that raises a far bigger question. The thrust of this bill is to insulate individual growers, including very large growers, not mom and pop growers but very large growers, from responsibility for the actions that they will undertake under this law.

I read from the Department of Justice's interpretation of this language:

> If a labor contractor provides contract workers, is paid for the contract labor in a lump sum, and pays the worker directly, then the contracting agricultural employer has no responsibility toward those contract laborers.

These are the underpinnings of this bill's approach to agriculture's use of farm labor contractors.

Now, the chairman of the Committee on Agriculture says there is an obsession with the problems here. Well, a study of California's history of the utilization of farm labor contractors as a means for the exploitation of undocumented workers is a very, very brutal one and in California a fundamental shift was made to hold the growers ultimately accountable. Yes, they can still use farm labor contractors, but they cannot escape their liability under labor laws, safety and health standards, and the general obligations that are applied for the benefit of workers in California.

I suggest that would be a far better approach for this legislation to take. I am concerned that without some additional language, a mechanism to utilize agricultural associations can be used to further insulate the growers from responsibility for the employer sanction provisions which were put forth for the benefit of a group of people who had been exploited in the past.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I certainly will yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Chairman, that is all well and good, but it has not a thing in the world to do with this amendment. This amendment says one thing: "Paragraphs (1) and (2) shall not apply to a person or entity * * * which employs three or fewer employees."

That is all it says. We have a specific exclusion that is not covered by this because it is parenthesized in this amendment. We say: "(other than a farm labor contractor * * *)"

That is a separate law altogether, and that is what the gentleman has reference to. I do not argue with that provision that he states at all. I just point out that my amendment just says what it says, that it shall not apply to a person or entity which employs three or fewer employees. That is all it says.

Mr. BERMAN. Mr. Chairman, just to reclaim my time and to respond one last time—and I will not try to drag this issue out—I am advised by staff and others that with that amendment and notwithstanding the exclusion of farm labor contractors, a practice which is not uncommon in agriculture will now become very, very popular, and that is the use of employer associations, with the small numbers of employees, to become the mechanism for hiring large numbers of workers on any individual farm, hundreds or many hundreds of workers, in order to extricate themselves from the employer sanctions provisions.

□ 1920

I do not think it was intended, I think it could be easily remedied, but there is nothing in that language other than the parenthetical comments which do not deal with that specific situation which would block that kind of ruse.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. Chairman, I think it is clear that this amendment ought to be adopted. I would like to address the point that is raised by the amendment and that point is the absurd extremes to which you have to go to try to make a program work that is based on dealing with the symptoms rather than the causes of a problem.

Mr. Chairman, the problem is basically this: We have people in Mexico who are having trouble feeding their children. If I were in Mexico and my two little boys were hungry, you would have to kill me to keep me from coming across the border.

Now, we respond to that problem by talking about magnets which draw people to America. Well, it seems to me that we ought to be trying to deal with the problem by expanding the Caribbean Basin Initiative and opening up trade with Mexico so that people on both sides of the border could earn a living. We ought to be changing our welfare laws to provide incentives for our people to take jobs, jobs that do not get filled and that end up drawing Mexican nationals into the country. Rather than dealing with the causes of the problem, we try to stick a finger in every crack in the dike. The problem is clearly going to be there as long as we have human beings who see greater opportunities here than they have there.

It seems to me that the amendment of the gentleman from Texas (Mr. Sam B. Hall, Jr.) simply tries to bring reason to this whole approach by saying that there is a limit beyond which you cannot go. If you try to do that, you are going to impose on every small employer in the country a responsbility for determining whether a potential worker is legal or illegal. You are going to impose on them a judgment that they are not in a position to make.

This amendment ought to be adopted, but I simply point out that it gives clear evidence that this bill does not deal with the real problem, and in my opinion will not solve it.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I would be happy to yield to the gentleman from Texas.

Mr. WRIGHT. Well, I find myself in a strange position and I think I should acknowledge it.

I think the gentleman from Texas has made eminently good sense.

Mr. GRAMM. Well, I thank the gentleman.

Mr. WRIGHT. I have sometimes disagreed with some comments that the gentleman has expressed on the House floor, but I want to say today that the gentleman is exactly right in this amendment and also right on the cause of the problem. There is no doubt about that. There is hardly a punishable sin in wanting to find work so that you can feed your family.

Surely the evil we seek to avoid is not the evil of the housewife who employs someone to do her housework or the evil of the elderly person who employs someone to look after his yard work.

Surely there ought to be this reasonable exemption that would make the bill from my standpoint a lot more palatable and make it a lot easier for a great many people to embrace.

Mr. GRAMM. Mr. Chairman, I thank the gentleman for his kindness and for his support of the amendment.

The CHAIRMAN. The question is on amendment No. 7 offered by the gentleman from Texas (Mr. Sam B. Hall, Jr.).

The amendment was agreed to.

### AMENDMENT NO. 8 OFFERED BY MR. SAM B. HALL, JR.

The CHAIRMAN. Amendment No. 8 is in order at this time.

Does the gentleman from Texas (Mr. Sam B. Hall, Jr.) desire to offer amendment No. 8?

Mr. SAM B. HALL, JR. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. SAM B. HALL, JR.: Page 5, after line 15, insert the following new paragraph:

"(6)(A) A person or entity that establishes that it has complied with the requirements of subsection (b) (including meeting the requirement of subparagraph (B) of this paragraph) with respect to the hiring, recruiting, or referral for employment of an individual has established a complete defense as to a violation by that person or entity of paragraph (1)(A) with respect to the hiring, recruiting, or referral of that individual.

"(B) The Attorney General, in cooperation with the Secretaries of Labor and Health and Human Services, shall establish a method to validate the social security account numbers of individuals applying to be hired, recruited, or referred for employment in the United States. The Attorney General shall provide for publication in the Federal Register of notice of the establishment of the validation method, and procedures for its use, not earlier than six months, and not later than two years, after the date of enactment of this section. Beginning on an effective date, not earlier than 90 days after the date final regulations are published under the previous sentence, set forth by the Attorney General, in order to comply with the requirement of subsection (b) in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the person or other entity must, pursuant to the verification method—

"(i) submit the social security account number of the individual, and

"(ii) be provided and record on the form designated or established for purposes of subsection (b)(1) a validation code indicating that the number submitted is valid.".

Page 6, line 25, strike out the semicolon and insert in lieu thereof a comma.

Page 6, after line 25, insert the following: and by validating (to the extent and in the manner required under subsection (a)(6)(B)) the social security account number presented by the individual;

Mr. SAM B. HALL, JR. Mr. Chairman, before entering into an explanation of the telephone verification amendment, I will first voice my strong objections to employer sanctions. Getting right down to brass tacks, I do not believe that employer sanctions are proper. Employers of this country should not be placed in the law enforcement business. I know that proponents of the employer sanctions provisions of this bill argue that the availability of jobs in the United States is the magnet that draws people here. To that, I counter that if we had a border that was patroled adequately by the United States and Mexican Governments, we would go a long way to solving many of the problems of illegal immigration. Prevention of entry should remain the foremost enforcement goal of our immigration policy.

Under the terms of this bill we are going to put U.S. employers under the gun of employer sanctions. In doing so, we are subjecting employers across the country to civil and criminal liabilities. Though the committee bill provides an affirmative defense for employees who show good faith compliance with the recordkeeping requirements of the bill, the Government could rebut that presumption of good faith compliance by offering evidence that the documents did not reasonably appear on their face to be genuine.

Mr. Chairman, now we arrive at the crux of the matter. What standard of reasonableness will be applied by the Government in reviewing employer compliance? This bill establishes a paperwork requirement that for 3 years uses an existing documents system under which employers would examine certain documents presented by a job applicant in an effort to screen out those who cannot obtain the necessary papers. Under this system employers will be required to examine various documents, which may include birth certificates, drivers licenses, INS documents, passports, or Selective Service documents. The problem here—and our colleague from Illinois (Mr. HYDE), spelled it out clearly in his testimony before the committee—is that existing documents are easily forged. The art of forgery has advanced to the point that employers cannot be expected to readily tell forgeries from genuine documents.

Employers are not generally trained to detect counterfeit documents, and this presents a problem in keeping the verification program effective while, at the same time, assuring employers that they will not be prosecuted for inadvertent mistakes.

A call-in system such as I propose in this amendment, however, relieves employers of a verification role. Major credit card systems use precisely this type of system to verify some 70 million credit card transactions each month. The telephone validation system that I offer is made possible by inexpensive, modern technology and should be used for work eligibility verification.

The telephone validation amendment provides employers with a means by which they may comply with the requirements of this bill, while offering them a complete defense in doing so.

This amendment requires the employer to take but one additional step in determining job eligibility. In addition to requiring employer compliance with the paperwork provisions already in the bill, my amendment would require the employer to call in the social security number of the prospective employee to a toll-free Government agency telephone number. A computer would examine the number and verify it against its records. If the number is valid, the agency informs the employer. A transaction code is used to make a record of the verification transaction, much the same way as credit card purchases are verified. If the number is inaccurate, defunct, or otherwise invalid, the employer is informed. The entire transaction is completed in a matter of seconds.

Compliance with this telephone validation process would give the employer a complete defense—absent fraud—to any action under this section.

Mr. Chairman, telephone verification alleviates some difficulties associated with the existing documents verification system contained in the bill. A Government agency, rather than the employer, is responsible for verifying the job applicant's eligibility to work. The telephone verification system also provides the best record of the verification transaction, both protecting the employer from inadvertent Government prosecution, and providing important evidence to prove or rebut charges of discrimination in hiring, should the employer check some job applicants who look or sound foreign, but not others.

This amendment creates no new national ID or worker identification card, and thereby avoids the pitfalls associated with those systems. Indeed, I am opposed to a national employment card concept both on philosophical and practical grounds.

Under this amendment, the Attorney General, in cooperation with the Secretaries of Labor and Health and Human Services, must establish a method to validate the social security account numbers of individuals applying to be hired, recruited, or referred for employment. The Attorney General must publish notice in the Federal Register of the establishment of the validation system, and procedures for its use not later than 2 years after the date of enactment of this section.

The telephone verification amendment provides a fair and simple test of worker eligibility. It does not lend itself to discrimination against foreign-looking job applicants, it does not intrude on individual freedoms any more than is strictly necessary, and it is cost effective. I urge adoption of this amendment.

□ 1930

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield for a question?

Mr. SAM B. HALL, JR. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. I wonder if the gentleman from Texas, and his amendment has a great deal of appeal, do you have any consideration at all for some of the concerns of agricultural areas, and perhaps you have some, where there are no telephones available for employers, where they may in fact be starting crews? Is there any flexibility in your amendment for that sort of problem?

Mr. SAM B. HALL, JR. I have not made reference in here to a person or entity that might be in an area where there is an absence of telephones. In the part of the country where I come from, we have more telephones than we have houses. I do not think that is going to prove to be any problem in the enforcement of this telephone verification.

The people that I have talked with, who are interested in this sort of thing, have not raised that question and I have talked to a multitude of people, both in and out of industry. So, I think with the portable telephones we have today I do not see that as any problem at all.

Mr. MORRISON of Washington. Is there any possibility, if the gentleman will continue to yield, that in determining the regulations that there may be some consideration for this? We will have a distinct problem in some parts of my area in even getting through to the telephone, as we do not have radio telephone opportunities in many of the remote areas. And there could well be some difficulties in getting a large crew started in the early morning hours when you have not had access to their social security cards until just the time they arrived.

Mr. SAM B. HALL, JR. I think that when the Secretary of Labor and the social security people get together, I am sure that they can work out something that will solve the problem.

I do not see it as a problem myself.

Mr. MORRISON of Washington. I appreciate the gentleman yielding.

Mr. LUNGREN. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment, not because I am in any way against the intent of the author. In fact, I have supported his amendment to require that this method of telephone verification be the specific alternative that is viewed among many in the study to be brought forth by the administration.

By that I mean we have not articulated any other suggested thing that they must study. We have said they should study alternative methods of identification over the 3-year period of time and then report to Congress at the end of that period of time.

The Hall amendment would, however, require that instead of that, this program actually be put into effect. And inasmuch as I am intrigued by the proposal of telephone verification, I am not certain it is as simple as I would want it to be.

I am concerned also about the expense involved.

It seems to me that what we have in the bill now is a pretty good approach. That is, we require that the administration, whatever administration be in power at that time, spend 3 years in reviewing the identifier system that we have in place in this bill. That is the two out of five documents, and then the written form that is required from the employer and the employee. During that period of time they are to review the proposal that we have here, as it is implemented, and then to make suggestions as to anything that is needed to supplement it or to act in lieu of it. And they then report to the Congress, and we review it before we then proceed to putting any alternative into force.

Under the bill as we have it before us they are specifically required to study the whole approach of a telephone verification system and how it would apply with respect to social security numbers or any other type of identifier.

I would hope that they would follow that approach.

I am hopeful that, in fact, the approach offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) will ultimately be the one that we find most effective. But I do not think we have the data to suggest that is the case at the present time, first; and second, I would hope that in a study that would be done by the administration, the HHS, Social Security Administration, the Attorney General, and the other departments involved, that they would work out any problems that presently exist with respect to the counterfeit-proof nature of social security cards and social security numbers.

I guess what I am saying, in short, is I think this is premature. We dealt with this question in committee. Although I was very supportive of the approach of the gentleman from Texas in the past, I think at this point in time it probably would be premature, and it is better for us to have it as one of the things being considered, but not limiting us to this single approach because I do not know if, in fact, this is the best approach. There may be a better approach that we do not have before us, but which will come out of a study, an intensified study, over the next 3 years.

For that reason, Mr. Chairman, I would recommend a "no" vote on this amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, once again I am very reluctant to rise in opposition to an amendment offered by my good friend and member of our subcommittee. But I think this amendment has a few flaws in it.

At one point, as the gentleman from California has said, we were considering alternatives that would be recommended to the Congress and this would certainly be a valid place for this kind of an amendment.

Alternatively, an earlier version of the amendment spoke in terms of a demonstration project and we, and the administration, certainly had no problem with this being a demonstration project. But here the language says that it must be established. So we are really precluding a lot of other options and study for the next few years as to what would be the best way to go about this.

I think the system also is flawed in that it has a sole reliance on social security cards. These cards, as we know, could be borrowed cards. So that would destroy the effectiveness.

The sole reliance goes to the issue of enforcement also, because individuals would not be able to supply documentation which would better identify them than a social security card. No master index of valid card numbers now exists in a single computer data base.

The reissuance of social security numbers would be required to make this type of a verification really workable.

As we know, for a number of years one did not have to prove that he was either a citizen or legal resident of this country until sometime in the 1970's. That was not a requirement, so the vast majority of the social security numbers on file do not show that one is eligible for work. You did not have to be eligible to work in the United States to get a social security card.

We are talking about, to be effective, a reissuance of social security numbers after the entire country has presented themselves for personal interviews with the documentation establishing their citizenship or their authorization to work in the United States. We are talking about something that would cost billions of dollars and take up to several years.

□ 1940

Now, in an op-ed article by Dr. Fuchs in today's Washington Post, the former executive director of the Select Commission ventured that would be ultimately the way to go. It would take at least 10 years to implement a foolproof social security card. Certainly we have no data base, no computers that have social security numbers in them that could be of any use whatsoever to be implemented in the near future.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. If the gentleman will recall, I stated a moment ago that, in addition to requiring employer compliance with the paperwork provisions already in the bill, this amendment would require the employer to call in the social security number. That is the only additional step that the employer would have to have.

We do not have a built-in system now—stating whether or not you have void cards or valid cards—I do not think that would be a problem. Of course, there will be a certain cost to this, without any question. The main thrust behind this amendment is that it takes the recordkeeping off of the shoulder of the employer and puts it where it belongs, with the Federal Government.

**Mr. FISH.** I thought the gentleman just said that, this was in addition to the paperwork.

**Mr. SAM B. HALL, JR.** That is correct. I am not trying to do away with what is already in the bill. I am trying to give the employer an absolute defense if that employer or entity makes that telephone call and gets back from the 800 number that this is a valid number. I want to give some degree of protection to the employer, and I know of no other way to do it except by doing it this way. There is no independent action on the part of the employer. He is relying completely upon what the Federal Government tells him when he makes the telephone call.

**Mr. FISH.** The gentleman remembers the chart we had earlier here. The degree of verification is a very minor matter for the employer today, and I suggest to my friend that you are really putting an employer through a useless act, because most of the social security numbers would have no bearing on the eligibility to work in the United States.

**The CHAIRMAN.** The time of the gentleman from New York (Mr. FISH) has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 30 additional seconds.)

**Mr. FISH.** One other thing. I do not think that this telephone verification would work. The phone numbers would always be busy. This has been the case where they have tried in southern California. I think, therefore, an employer calling and calling and calling would hire the person with the most assured and easily verifiable documents, and again we get back to the issue of discrimination.

**Mr. SAM B. HALL, JR.** Will the gentleman yield for one last remark?

**Mr. FISH.** I yield to the gentleman from Texas.

**Mr. SAM B. HALL, JR.** I understand that American Express, Master Charge, and all of these others complete 77 million calls a month. The evidence indicates that we would not have anything like that.

**Mr. RICHARDSON.** Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the proposed telephone verification system appears simple and is alleged to be inexpensive. However, it will be more cumbersome in operation than relying on multiple documents and will not provide employers with any greater assurance that they are hiring persons eligible to work in the United States. Moreover, it will be excessively expensive.

The system would not in any way identify the person presenting a social security card. Borrowed cards would be readily approved by the system.

The system might well reject persons who have made multiple applications for a new or second job.

The enforcement effect would be adverse, since individuals would not be required to supply documentation which would identify them and their right to work in the United States.

No master index of valid card numbers now exists in a single computer data base, so both this data base and the problem card number data base would have to be created. The cost of creating and maintaining such bases in an on-the-line mode would be more in the neighborhood of $100 million annually than the first year cost of $23 million asserted by the proponents. Even a demonstration project would require a minimum of 3 years leadtime.

The ease for the employer is illusory. At peak call periods, the suggested 21 regional computers could not handle the automated calls. A sizable number of employers will not have touch tone phones and some proportion will be hiring away from an office or phone location, delaying their calls or resulting in making hiring decisions prior to the verification calls.

The only way this system could property operate would be through the reissuance of social security numbers after persons presented themselves for a personal interview with documentation establishing their citizenship and/or authorization to work in the United States. Then, an on-line data base could be treated with the social security numbers and identifying characteristics for all individuals. The cost for establishing such a system would be $1 to $2 billion with annual operating costs on top of that.

The administration is opposed to the development of any centralized data base with information on all persons to whom social security numbers have been issued.

**Mr. MAZZOLI.** Mr. Chairman, I move to strike the requisite number of words and to engage my friend, the gentleman from Texas, in a little colloquy.

The gentleman's amendment is really quite attractive—I have to concede that—because it does involve not only the most modern technology, which is used in verifying credit cards, but it also would eliminate paperwork. And if I understand correctly, the House has twice today suggested that small employers and paperwork do not mix very well.

But let me ask the gentleman a question. If the gentleman will refer to page 4 of the committee print, if he has it before him, on line 18, the gentleman will note that that is the committee language which says that when documents are checked in good faith there is created an affirmative defense.

If the gentleman refers to his amendment, on page 137, on line 2, it does not say that compliance must be "in good faith." Mere compliance constitutes a complete defense.

So my question to the gentleman is this: Is it implicit in the gentleman's amendment that when you comply with the telephone verification, that you must comply in good faith? Is that implicit in the gentleman's amendment?

**Mr. SAM B. HALL, JR.** If the gentleman will yield, there is a difference between an affirmative defense and an absolute defense.

**Mr. MAZZOLI.** That is the second part of my question.

**Mr. SAM B. HALL, JR.** You have the burden of proof on a different person when you have an affirmative defense. Where you have an absolute defense, as my amendment says, the burden of proof is on the Government. On an affirmative defense, the person has to prove that his defense is a good defense.

This puts the burden of proof on the Federal Government to prove that this entity or person engaged in bad faith.

**Mr. MAZZOLI.** So the gentleman's understanding of the bill is that in order to show an affirmative defense the individual has to show good faith, and in that regard the burden of proof is on the employer?

**Mr. SAM B. HALL, JR.** It is on the person himself. A person always has to raise an affirmative defense.

**Mr. MAZZOLI.** In the gentleman's amendment, the burden of proof is on the Government?

**Mr. SAM B. HALL, JR.** That is correct.

**Mr. MAZZOLI.** Let me ask the gentleman a question, then, about the impressive amount of costs which have been estimated. Would the gentleman address for a moment in his discussion the question of money? The gentleman from Kentucky has heard various estimates, ranging from $50 million to perhaps more, in year 1, and thereafter at least $250 million for the next 5 or 6 years. Are those costs within the framework of the gentleman's amendment? And if not, what are the costs the gentleman estimates?

**Mr. SAM B. HALL, JR.** If the gentleman will recall, when we passed this bill in committee I think there was some language somewhere used that we were going to allocate about $600 million a year to carry out this immigration bill, $600 million each 3 years, 1984, whatever. This amendment that I am speaking of now—and I have heard the cost of $100 million mentioned this afternoon and $300 million for 3 years. There is absolutely no basis that I can find for that. The information that I have been able to receive indicates that the first year cost would be about $35 or $40 million. That would be an amount that is substantially less for enforcement than is now built into this bill.

□ 1950

Mr. MAZZOLI. Would the gentleman repeat that? Instead of the first year cost, which I have in this paper, $515 million, the gentleman's first year costs are closer to $35 to $40 million.

Mr. SAM B. HALL, JR. Yes; I could break it down. The total cost for the first year would be about $40 million; continuing costs would run about $35 million yearly. The first-year, one-time cost for equipment for 21 regional office computers and 1 central processing computer is $1 million. Construction, building modifications, $1.5 million. Startup and related costs, $2.5 million for a total of $5 million.

Continuing costs would be labor, programming, and related investigations includes 100 investigators.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. The additional costs, the continuing costs would run $17 million a year, a subtotal of $35 million a year. The total first-year cost would run $40 million and taper off after that.

Mr. MAZZOLI. I thank the gentleman for that. The gentleman's amendment is an attractive amendment, but one of the deterring parts for the gentleman from Kentucky is the cost.

A second deterrent or concern would be the reliability of the system. Is the gentleman from Texas able to assure the House that were his amendment to pass that 2 years down the road there would exist the technology to accept the number of inquiries which would be received under this amendment in the sense of the number of applications for employment, each one of which I would assume would have to go through this telephone system?

I yield to the gentleman for his reply.

Mr. SAM B. HALL, JR. Well, of course, I cannot stand here and tell my dear friend from Kentucky that the telephone is going to always be the way to transmit information. It may be that some years down the line we will run into some other different type of system that will take precedence over this.

I can say that the information that has been mentioned earlier, that it is used every day by the credit card companies and banks. The 3 biggest credit companies clear about 77 million transactions each month.

Mr. MAZZOLI. Seventy-seven million each month?

Mr. SAM B. HALL, JR. Seventy-seven million each month.

Mr. MAZZOLI. Would the gentleman have any estimate of how many employment applications might be generated each month?

Mr. SAM B. HALL, JR. The information I have is that the telephone validation system is expected to handle 77 million transactions each year.

Mr. MAZZOLI. Would that be anywhere near the amount that would be required? How many employment verifications would be likely to occur in 1 calendar year?

Mr. SAM B. HALL, JR. Well, at the inception of this plan, I think it would be impossible to state. I just know that it works in industry, in private industry.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. MAZZOLI) has again expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. One last question that I would ask the gentleman from Texas: Does the gentleman from Kentucky understand that if the gentleman from Texas' amendment were to carry, it does not supplant anything in this bill which calls for a documentary verification, but it would simply add an alternative, that is, the telephone calling system, as a measure that can be used for verification?

I yield to the gentleman for his reply.

Mr. SAM B. HALL, JR. If the entity or the person wants to continue making and keeping records, that is his or her business. It will not be necessary in my opinion, under the purview of this amendment.

Mr. MAZZOLI. Thank you.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to speak on this amendment, but I think that one of the matters brought up in the excellent speech of the gentleman from New Mexico (Mr. RICHARDSON) should bear emphasis. That is that the use as suggested in the amendment offered by my good friend from Texas (Mr. SAM B. HALL, JR.), has civil liberties problems that are very large. We should not mandate the system as required in the amendment because the dangers inherent in the amendment have not been explored or examined as they will be in the committee proposal on page 8.

What the amendment would do is mandate the use of the social security card and number further down the road toward its use as an internal passport for Americans generally. The gentleman from New Mexico pointed out in how many areas already it is being used as a national identifier. I can assure you that the subcommittee I chair has found that the Federal Government, especially the police agencies, are always anxious to have a national computer system that can maintain a sort of surveillance as to where Americans are at a particular time, especially the suspect classes.

This subject of the amendment needs a great deal of study. The study is provided for on page 8 in the committee bill, and I suggest that we vote down the amendment and allow the study to take place.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman.

Mr. SAM B. HALL, JR. I want to point out to my dear friend from California that one thing that this amendment does not do, is make any effort to set up a national ID card. If it was, I would not be here supporting it. I am as opposed to that as the gentleman is.

The only thing that this does is an employer, picks up the telephone, he makes an 800-number call, he gives his employer number, and the social security number that somebody has handed to him.

On the other end of the line, he gets within 20 or 30 seconds the reply back that that social security is good. That is all that it does.

Mr. EDWARDS of California. I understand, and I understand that the gentleman is very much opposed to a national ID card. However, I would like to point out to the gentleman and to you, Mr. Chairman, that sitting in Washington, under the control of the big government, Big Brother in Washington, would be a system where anybody could find out where somebody is. I assure you that there are police agencies throughout the United States that would love to use something like that, because all they would have to do is crank it in. When the identifier goes in, the Federal Government knows where you are.

I know that that is a little bit far out, but it is a step in the wrong direction. Perhaps we do want to use the system as suggested, and my only point is that we should not mandate it by accepting the well-intentioned amendment by the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. BARTLETT. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would seek to engage in a colloquy with the sponsor of the amendment. As he and I have worked on this amendment for some time, there are a number of questions that have been answered on the floor, and a few questions that perhaps we could go into some more details on. It is a very well researched and well thought out amendment.

I would inquire and yield to the gentleman.

What will the employer say when he makes the call?

**Mr. SAM B. HALL, JR.** The employer will call the toll-free number and give his employer identification number. Every employer today must have one of these numbers for tax purposes.

The employer then gives the social security number to be verified to the computer operator. While the employer is still on the telephone, the computer checks the number against two periodically updated lists:

First, to see if the number was ever issued as a social security number, and

Second, to see if the number has ever been reported as defunct, or misused.

**Mr. BARTLETT.** What happens if the social security number is not valid, or is on one of these lists?

**Mr. SAM B. HALL, JR.** The employer will be told that the social security number is not valid. The applicant for employment would be referred to the local or regional office of the agency operating the verification system to clear up the problem. If the person is not an illegal alien, the agency can issue a letter stating that there is no further problem with employing this person.

**Mr. BARTLETT.** What if the social security number is valid?

**Mr. SAM B. HALL, JR.** Then the employer is given a transaction code, signifying that the transaction has occurred, that the number was given, and that the number was found valid.

**Mr. BARTLETT.** Where do these transaction codes come from?

**Mr. SAM B. HALL, JR.** The computer creates a random verification number for each transaction it handles. The code is recorded along with the information given by the employer so that the code can later be checked if a question arises about the transaction.

**Mr. BARTLETT.** What kind of administrative structure will be necessary for this type of system?

**Mr. SAM B. HALL, JR.** I would suggest that 21 regional data centers be established, with computers capable of receiving a day's worth of calls at each center. At night, when few calls will be received, the regional centers would transmit their records of calls and transaction codes given that day to a national office for storage. The national office could also transmit to the regional centers misused numbers, which would also be brought to the attention of the operating agency for investigation.

□ 2000

**Mr. BARTLETT.** A question has been raised about a national data bank of information on people. I do not believe that is valid or possible under this system, but I would ask the sponsor: Will this system lead to a national data bank of information on people?

**Mr. SAM B. HALL, JR.** This system is the least likely program to grow into some sort of national computer identification system. It uses a number that each worker is required to use right now. It is not connected to any other computer system. The two lists of numbers it uses are generated internally; the most important list is the one which has the numbers of social security numbers which have been lost, stolen, or used by illegal aliens.

If someone looks into the records of this system, they will find only the tax identification number of the employer, the social security number of the job applicant, the hiring site, and the transaction code used. Except for the new transaction code, this is all information which the employer already has to give the Government on the social security and unemployment forms.

This is a small system, designed for just one job. It will do that job quickly and inexpensively, without threatening to grow into something bigger.

**Mr. BARTLETT.** I thank the gentleman from Texas for offering this amendment. I believe that this system is the best approach for a job eligibility verification program, and I will support the amendment.

**Mr. SAM B. HALL, JR.** I thank my colleague from Texas.

**Mr. MARTINEZ.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have an amendment that is similar to this. I have been urged not to offer that amendment and I have just about decided not to.

We believe those people who are against Simpson-Mazzoli, and especially against the sanction portion of that bill, and we state that the biggest reason is that it will cause discrimination. I think what the gentleman from Texas is offering is a way to verify the legal right to work without discrimination, and it removes the onus from the employer.

What this Simpson-Mazzoli bill and the sanctions do is make immigration officers out of employers when there are agencies that have not done their job. Social security is one of them. Social security law right now requires that the only person who is eligible for employment in the United States is a person who has a social security card, and that person has to be the legal resident or a citizen of this country, and yet the INS has told me personally that as many as 40 people are using one number.

I understand the civil rights apprehension, and I would have those apprehensions, too, except that we already do have in effect the closest thing to a national ID card that we should ever have, and that is social security. I challenge anybody to open a bank account without having a social security number.

But the most important part of this is that it does take the onus off the employer and does not make them immigration officers, and it does allow them to verify whether that person is legal for employment or not in accordance with the requirement that only a legal resident or citizen of this country should have a social security card.

There are a lot of reasons why I am against the sanctions, because I really do not believe that we have done as much as we could to enforce laws that exist on the books, either labor laws or the social security law. Let me tell my colleagues: Anybody who believes that sanctions are going to do away with people crossing the border is not living in the real world. There are so many domestics who come here who will never be reported because they are hidden in homes. There are small shops that do subcontracting for the garment industry. Those people are struggling, and do you really think that they are going to be concerned with the Simpson-Mazzoli bill? They are not. They are going to continue to hire, and on some complaint they may get caught, and they will close there and open in another garage or another small factory someplace. It is not going to deter the crossing of the border.

California already has sanctions. California has had sanctions for some time, and it has not deterrred the crossing. This sanction as a national law will not deter it either. But I think that if we want to stop the hiring of illegals, this is the way to do it. I would hope and urge that my colleagues who are concerned about civil rights invasions and intrusions really look at what the social security card is today and it has not afforded those intrusions of civil rights.

I do not think we are really talking about a great expense because social security is already in place and the Social Security Administration right now is beginning to require that people bringing in a social security card to apply for a job, that the employer look at that card, because up until this time all they have had to do was put down a number. I know instances, and it was reported by our Ambassador to Mexico, where people crossing the border are snitching social security card numbers from dead people and using them, and there is no system of verifying that that person is dead.

Under this amendment I think they would not be able to do that. I urge support of this amendment.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my understanding that the sole purpose of this amendment is to protect the employer. It would also provide, I understand, through an employer's participation in a telephone validation system, a complete defense for the employer.

Up to that point it sounds good and well. We would like to protect the employer if it is all possible. But in this entire argument, only one reference has been made to the privacy of the citizen. How are we going to protect the privacy of the citizen under this plan?

We can go back a long way in the history of this Nation and we can even go back, I suppose, to a study that was made by the University of Michigan in the midseventies where it was estimated that there were 70 million new hires a year, which translates into 7,500 calls every hour. Then the article went on to say that if you have ever had any experience with the filing system of the Social Security Administration or other Government agencies, you can imagine how much fun it will be waiting for an answer.

I realize that this was in the seventies, and at that particular time our computer technology was not as sophisticated as it is today. So conditions have changed and it is possible that one can do what the author has already told us, that this can be done almost instantaneously. But the truth of the matter is that as this is done instantaneously, the privacy of the citizen is also violated second by second.

I think that this amendment is one that violates the rights of the individual. I think also that if this amendment were to pass that it would be very easy, for example, for anyone who wants to use somebody else's social security card to use it, and that computer on the other side would not know that it was a particular individual using that card, and a card that rightfully belonged to someone else.

So there is a potential there for abuse. We also know, based on history and background, that in the past the Government has abused the privacy of individuals' personal records. This was done, if you remember, during World War II, when the Government examined the Census records of all Asians, and then ended up rounding up American citizens who were sent to concentration camps.

□ 2010

I am afraid of government abuse. I am afraid that the right of the individual is going to be abused in this process.

I agree with the author of the amendment that something should be done to protect the employer, but as we do that and in considering this amendment, we must not forget that there are individual rights that should not be violated.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, the gentleman is making a good point. Our colleagues have said tonight that there is already a social security system. Yes, there is, but it is nothing to the extent that is contemplated in this amendment, with this immensely expensive, sophisticated central system under the control of somebody in Washington.

Washington or whoever might be in control of the system would know where the person is, the person about whom the inquiry is made. A record is made by the computer on the tape. The FBI or anybody else who has access to the computer can get a printout of any number, any social security number, and locate where the person or the suspect is or was at that particular time, and, therefore, by doing that over and over again, can keep track of a person, and we have the beginnings of a national surveillance system.

Mr. Chairman, all of this should be studied, and that is what the bill provides for.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would have opposed the amendment that the gentleman from California (Mr. MARTINEZ) was scheduled to have offered, and I would have opposed it strongly, that is, the study of the use of the social security card as the identification card.

I want to give the Members a little background and tell them why I am making these remarks now, in view of the fact that the amendment offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) is pending.

As chairman of the Subcommittee on Social Security, I am familiar with the proposal to use social security cards for identification, and I really do not think that the study is necessary. And I would have strongly opposed the amendment of the gentleman from California (Mr. MARTINEZ) that says you must study the use of the social security card.

Let me give the Members a little background. The social security number was created as a useful bookkeeping system for the Social Security Administration and employees—nothing more. It was for bookkeeping purposes, for a wage record, and that is the whole purpose of the number on the card. It was never intended to be an identifying number, because the Federal Government cannot control birth and death certificate procedures in the States. As long as the States handle birth certificate procedures, the Social Security Administration cannot guarantee that the person they assign a number to is the person he or she claims to be. It is a number, and that is all it is.

Now, as far as Social Security is concerned, that is not a major problem, and this is why: When Social Security assigns a number to anyone who presents a birth certificate or other proof, the number is issued, but the number itself does not get anybody any benefits unless they work and report earnings under that number. To get benefits you have got to have a certain amount of earnings under a certain number, and that is the only purpose of the number.

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I will yield in just a minute.

Since the number cannot be made an identifiable or a reliable identifier, the card cannot be either. To develop the kind of card this amendment of the gentleman from California (Mr. MARTINEZ) is talking about and to reissue all current social security cards—and we are talking about over 200 million cards—would cost $1 billion.

Now, in addition, if you gave us that responsibility in Social Security, it would cause chaos for the Social Security Administration and the field offices, trying to haul in literally every person with a social security number in the United States to an office to check their identity and to reissue a card. Social Security is not equipped to do that.

Now, last year in the Social Security Administration bill we did make a change. We agreed to a Senate amendment requiring the Social Security Administration to make the social security card more tamper resistant. This has been done. And we have also improved our procedures and provided for stiffer penalties for proving the identity of people applying for a replacement card.

Now, we have done that, and the idea was that if we issue a tamper-proof card, we will stamp out all this fraud. But about all we have done is cause people to be uneasy and to worry about whether the card is a good one and flood our offices with phone calls and create a great deal of expense. Perhaps it was a good thing, and we agreed to try it out and see whether it works. But it is no miracle.

Now, the social security number and the social security card work very well at what they were intended to do, and that is for bookkeeping procedures to give wage information. But it is for wage purposes only, and it ought not to have access given to it by anybody else in the United States. It is for their own personal wage records, and it ought to be used for that purpose and nothing else.

So if we go to the system that the gentleman from Texas (Mr. Sam B. Hall, Jr.) recommends—and I am not going to oppose his amendment—I want to make him understand that there is no miracle in just saying that we are going to use the social security card. If we set up a national office for telephone vertification, I want to be sure there is going to be another office. I do not want the gentleman to say it is going to be Social Security's responsibility. We have got enough to say grace over right now instead of trying to take over a system that would indirectly be set up as an identification system.

So I say to the gentleman from Texas (Mr. Sam B. Hall, Jr.) that I am not opposing his amendment, but I want to be sure that he understands we are not going to take that responsibility over at this point, and if we use it as an identifier, well and good, but do not saddle Social Security with that responsibility at this point.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Pickle) has expired.

(On request of Mr. Martinez, and by unanimous consent, Mr. Pickle was allowed to proceed for 2 additional minutes.)

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, is it not true that social security cards are issued for bookkeeping purposes, as the gentleman has described, but it is also for paying that claim when supposedly the user of that number gets to an age when he can file his claim or other conditions exist that he can file a claim? And then, if that is true, is it not implicit that only one person should be using that number?

Mr. PICKLE. Yes; it is implicit, but we cannot be sure of that. It is a number, and that is all it is.

Mr. MARTINEZ. All right. Is it not a part of the purpose of issuing what is described by the Social Security Administration as nonforgible social security cards to insure that one person is using one number?

Mr. PICKLE. We can make a tamperproof card, and we can make it the best card possible that cannot be easily duplicated. But we cannot be positive that the person that has that number is the person he claims to be. That is not our responsibility.

Mr. MARTINEZ. Would it not be a simple matter that if in the Social Security department there were the abilities to check whether more than—and they already do have that ability—to know that more than one person is using that same number—that if more than one person is using that number, that person in all probability, No. 1, is using it illegally, and No. 2, is probably an illegal?

Mr. PICKLE. The gentleman can make that assumption or that presumption, and I will say, yes, if you want to rely on it. So I am not going to oppose that amendment, but as I said, there is more than meets the eye there.

Mr. MARTINEZ. Is it not also true that now social security has issued regulations to require the employer to see the card, where before all the person had to do was write down the number of the card?

Mr. PICKLE. Yes. I said in my remarks that we have tried to improve our procedure and we have provided for different penalties. But all we have done in issuing this card is try to make it more difficult for it to be duplicated and to make certain, as best we can ascertain, that the person who has that card is the person for whom it was intended. But we cannot be sure of that.

Mr. MARTINEZ. It seems to me inherent in the idea of a social security card and number is that one person uses it and only one person is entitled to it, especially for employment purposes, not for national identification purposes, although it is being used for that purpose.

The CHAIRMAN. The time of the gentleman from Texas (Mr. Pickle) has expired.

(By unanimous consent, Mr. Pickle was allowed to proceed for 1 additional minute.)

Mr. PICKLE. Mr. Chairman, I will say to the gentleman from California (Mr. Martinez) that his intent may be good, but the social security card should not be used as a national identifier.

Mr. MARTINEZ. I agree with the gentleman.

Mr. PICKLE. The gentleman from Texas (Mr. Sam B. Hall, Jr.) has indicated that he did not intend that. In my own view, it seems to me that if we pass this bill, we would need some kind of a national identification system.

The provision in the bill would allow for a study and for a recommendation within 3 years of some kind of secure employment verification system but we do not know what that will be.

At this point I would support the committee's version. I think that is probably a good provision. I would not have supported the gentleman from California's amendment by any means. Under the circumstances, I would go along with the gentleman from Texas (Mr. Sam B. Hall, Jr.). I just do not want the gentleman to say that Social Security is immediately going to say that you have this number and we can be sure that the person we are talking about is the person we are talking about. We cannot be sure of that.

Mr. MARTINEZ. I am not sure that we can be, and I would not argue that point here, but I do agree with the gentleman that the main point is trying to eliminate the discrimination that is inherent in this bill, whether people will admit to it or not.

● Mr. McCAIN. Mr. Chairman, I rise in strong support of this amendment. I believe it is vital that a system be instituted to verify the employment eligibility of job applicants that at the same time minimizes the possibility of discrimination against potential employees. I understand the concerns of those individuals who are worried that employer sanctions will have a discriminatory effect on people who do not look Anglo or speak perfect English. This is why we must have a verification system which is immune to such differences.

The bill as presently drafted provides for a 3-year period during which the President will consider use of a telephone verification system. I believe this is too long a timespan. It maintains the use of subjective judgment for at least 3 years, allowing for, however unintentioned, discrimination based on looks or accent or some other equally unacceptable factor.

I believe the establishment of a telephonic or electronic data communication verification system, similar to the one used for most credit card transactions, is the most desirable option. Such a system would remove the need for anything like a national ID or national worker card. In addition, I believe it would greatly lessen any potential discrimination. When combined with this amendment's absolute defense against any hiring-type violation, such a system would remove any possible incentive an employer had to discriminate against potential employees.

I am aware of the technical problems associated with this system. I do not minimize them. However, I refuse to believe that our Nation cannot surmount these obstacles if we truly dedicate ourselves to accomplishing the task. I urge my colleagues to support this amendment.●

The CHAIRMAN. The question is on amendment No. 8 offered by the gentleman from Texas (Mr. Sam B. Hall, Jr.).

The question was taken, and the Chairman being in doubt, the Committee divided, and there were—ayes 13, noes 14.

### RECORDED VOTE

Mr. SAM B. HALL, JR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 242, noes 155, not voting 36, as follows:

[Roll No. 230]

AYES—242

Alexander
Andrews (NC)
Andrews (TX)
Anthony
Applegate
Archer
Barnard
Bartlett
Bateman
Bedell
Beilenson
Bethune
Bevill
Bilirakis
Bliley
Boner
Boucher
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Campbell
Carney
Carper
Carr
Chappell
Clarke
Coats
Coleman (TX)
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Daschle
Daub
Davis
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dowdy
Dreier
Duncan
Durbin
Dyson
Eckart
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fazio
Fiedler
Fields
Flippo
Ford (MI)
Fowler
Franklin
Frost
Fuqua
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gramm
Gregg
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hansen (UT)
Hartnett
Hefner
Heftel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kazen
Kindness
Kolter
Kramer
LaFalce
Lagomarsino
Leach
Leath
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
McCain
McCurdy
McEwen
McKernan
McKinney
Mikulski
Miller (OH)
Minish
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Neal
Nichols
Nielson
Nowak
O'Brien
Olin
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Pease
Pepper
Petri
Pickle
Porter
Pursell
Rahall
Ray
Regula
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Roth
Rowland
Rudd
Russo
Sawyer
Schaefer
Scheuer
Schroeder
Schulze
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Spence
Spratt
St Germain
Stangeland
Stenholm
Stratton
Stump
Sundquist
Swift
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Williams (MT)
Winn
Wirth
Wise
Wolf
Wortley
Wright
Wylie
Yatron
Young (AK)
Young (MO)
Zschau

NOES—155

Ackerman
Addabbo
Akaka
Albosta
Anderson
Annunzio
AuCoin
Badham
Barnes
Bates
Bennett
Bereuter
Berman
Boehlert
Boland
Bonior
Borski
Bosco
Boxer
Burton (CA)
Chappie
Clay
Clinger
Coelho
Coleman (MO)
Collins
Conable
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Dellums
Derrick
Dixon
Downey
Dwyer
Dymally
Early
Edgar
Edwards (CA)
Evans (IL)
Fascell
Feighan
Ferraro
Fish
Florio
Foglietta
Ford (TN)
Frank
Frenzel
Garcia
Gejdenson
Gephardt
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hamilton
Hance
Harkin
Harrison
Hatcher
Hayes
Hertel
Hoyer
Jacobs
Jeffords
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kogovsek
Kostmayer
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Livingston
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Markey
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McGrath
McHugh
McNulty
Mica
Miller (CA)
Mineta
Mitchell
Morrison (CT)
Mrazek
Natcher
Nelson
Oakar
Obey
Ortiz
Owens
Packard
Patterson
Penny
Price
Pritchard
Ratchford
Reid
Richardson
Ridge
Rodino
Rostenkowski
Roukema
Roybal
Sabo
Savage
Schneider
Schumer
Seiberling
Shannon
Sikorski
Smith (FL)
Smith (NE)
Solarz
Staggers
Stokes
Studds
Synar
Tauke
Torres
Torricelli
Towns
Udall
Vento
Walgren
Waxman
Weiss
Wheat
Wilson
Wolpe
Wyden
Yates
Young (FL)

NOT VOTING—36

Aspin
Biaggi
Boggs
Bonker
Burton (IN)
Byron
Chandler
Cheney
Darden
de la Garza
Edwards (AL)
Foley
Hall (IN)
Hansen (ID)
Hawkins
Kemp
Latta
Lundine
McDade
Michel
Moore
Oberstar
Paul
Perkins
Quillen
Rangel
Rose
Sensenbrenner
Simon
Solomon
Stark
Tallon
Traxler
Weaver
Whitten
Williams (OH)

□ 2030

Messrs. TAUKE, MATSUI, HARRISON, and HOYER changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2040

### AMENDMENT NO. 9 OFFERED BY MR. ROYBAL

The CHAIRMAN. Amendment No. 9 is in order at this time.

Does the gentleman from California (Mr. Roybal) desire to offer amendment No. 9?

Mr. ROYBAL. Mr. Chairman, I have an amendment at the desk which I offer at this time.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 9 offered by Mr. Roybal: Page 5, line 16, strike out "Except as provided in subsection (c), the" and insert in lieu thereof "The".
>
> Page 8, strike out line 16 and all that follows through page 10, line 2, and insert in lieu thereof the following:
>
> "(c) Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment or administration of a national identification card or system.

Mr. ROYBAL. Mr. Chairman, this is perhaps the most important amendment that will be introduced during the discussion of this bill. It is important because it deals with the national identification system.

We have been told over and over again that this bill does not have language that makes possible such a system. But I would like to read the language in the House bill. On page 8 of the bill, line 16 it says:

> (c)(1)(A) Within three years after the date of the enactment of this section, the President shall study and report to the Congress concerning the possible need for and costs of changes in or additions to the requirements of subsection (b) as conform to the requirements of paragraph (2) of this subsection and as may be necessary to establish a secure system to determine employment eligibility in the United States.

The language is very clear, it opens the door to a national identification system. But then we also have the language of the other body. And the language of the other body reads as follows:

> Within 3 years after the date of enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a security system to determine employment eligibility in the United States.

The difference between the two bill languages is: In the bill that we are now debating it just says that the President shall report within 3 years the need for an identification system. But in the Senate version it says that the President shall report a system back to Congress within 3 years.

Now that language is very clear. But I am concerned about further language that I see in the House report.

In the House report, for example, it says the following:

> While it is the committee's intent that no document should be required to be carried on one's person for general identification purposes, the bill would not preclude the development of a verification system which utilizes a card or other document specifically designed for demonstrating employment eligibility.

It is very clear in that language that a national identification system would be permissible under this language.

Now, I believe that a national identification system is something that we in this free Nation should not have. I remember very well the times during World War II when the Nisei, the Asians in California, were required to register; the Chinese registered because they wanted to be sure that they were not identified as Japanese. The Japanese or Niseis all born in the

United States, they too had to register.

And the end result was that they were able to be identified and they ended up in concentration camps.

I bring that to your attention just to point out that such a system can go so far as to violate the rights of individuals.

Some of you perhaps did not witness that exodus of Asians from the State of California; I did. I had neighbors who were Nisei; neighbors who grew up with me; born right there on the same block on which I lived, and I saw them and their families move out one day with their furniture on the sidewalk, get on trucks and be carted away. Tears were shed that afternoon; not only by those who left but those of us that remained behind, because we knew then that we, as a nation, were wrong.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MITCHELL and by unanimous consent, Mr. ROYBAL was allowed to proceed for an additional 5 minutes.)

Mr. MITCHELL. Mr. Chairman, will the gentleman from California yield to me very briefly?

Mr. ROYBAL. I yield to the gentleman from Maryland.

Mr. MITCHELL. Mr. Chairman, I voted against the rule on this bill because there is no feature in this bill that frightens me more than the possibility of a national identification system.

That is totally inimical to the spirit and character of America. I am going to ask the gentleman to yield to me for just a brief period of time and I will try to get him some more time.

I do not have to go back very far to remember the situation in my city in Baltimore, a sordid chapter when we who were involved in civil rights were advised by the commissioner of police in a public meeting, the commissioner's name was Donald Pombleau and he said to us in that public meeting, "I know who you are, I know who you met with, I know when you met with them, I know why you met with them."

Later on there were disclosures in the Washington Post and in the Baltimore press about the system of surveillance that had been set up in my city against black civil rights leaders, white civil rights leaders, a surveillance system set up by the police department to frustrate our efforts to try to gain equality.

□ 2050

When the Commissioner of Police was up for another term, I went down to testify against him. And I ask him why had I been placed under surveillance, why it was when I came from Washington doing my duties here, I was picked up by a police car in Baltimore City and followed to my house.

His lame reply was there had been so many threats against my life he thought the police needed to protect me.

That was not the answer. The answer was that there was espionage police surveillance against citizens. If that could be done without identity cards, think of what would happen in this country if there were identity cards, an identification system, a national system. Think of the enormous dangers to civil liberties and civil rights.

This must be defeated. How in the world—I feel very, very strongly about this—if ever there was a civil liberties issue it is this one—how in the name of God can I travel around the world and say that this great bastion of democracy, this system that I defend many, many times when maybe I should not defend it, how can I look people in the face and say we are contemplating adopting a pass card system similar to that as exists in South Africa? How can we stand in the United Nations or any other place and condemn the hideous and venial apartheid of South Africa when we even begin to contemplate the possibility of a national identification system?

My colleagues in this House, whatever else you have done on this bill maybe I can understand it, but for God's sake on this one, on this one issue, let us move precisely, and effectively, and swiftly to prevent the establishment of some kind of national identification system which indeed, in my opinion, is totally and terribly inimical to the democratic process.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the chairman of the committee, the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank the gentleman for yielding.

I would like to respond to my friend from Baltimore, the gentleman with whom I entered Congress 14 years ago and whom I very much admire, that the gentleman must understand and would refer to the specific page 9 of our bill that we have already in our committee bill said nothing in this bill will any way authorize, directly or indirectly, the issuance or use of a national identification card.

We have further evidence in all of the statements in our subcommittee that nothing like that could happen. This Presidential Commission may or may not exist after the vote tonight. If it were to continue, the Presidential study, and report back the Congress would have to act on any recommendations. They could not be imposed.

I would respectfully say to the gentleman that nothing like the South African situation that he has described eloquently could ever occur here by reason of this bill.

Mr. MITCHELL. If the gentleman would yield further, oh, it is so easy, it is so easy for those in this House who have never been the victims of oppression and surveillance to say that we are making the safeguards and the House would have to vote to protect it, it is so easy to say that.

But it is not easy for me to understand how you lay the groundwork for that possibility, even though you have those nice words.

The CHAIRMAN. The time of the gentleman from California (Mr. ROYBAL) has expired.

(At the request of Mr. MITCHELL and by unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

Mr. MITCHELL. If the gentleman will yield further, yes, I am concerned. You ought to be concerned, too, when during the entire civil rights decade there was a collusion between violators of the law and enforcers of the law to break our spirit. Anything that even suggests the remote possibility of setting the stage for this kind of heinous activity in any country ought to be dealt with summarily, and swiftly, and ended. I do not care what word you have in there. There are no safeguards against those who would want to do evil. They find those words as a method of facilitating evil.

I thank the gentleman.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

I would appreciate the gentleman from California, the author of this amendment, observations on what we have just done. It seems to me that we have just approved the amendment offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that sets up a billion-dollar system of identification that is much more sophisticated than anything that we have ever dreamed of in this country.

How does that fit into the gentleman's amendment?

Mr. ROYBAL. Well, first of all, it would be part of a national identification system. By deleting the language that we now have in the bill the committee can then go to conference and meet with the Senate's version. They would at least have no language at all.

If they go to conference with the language that they now have, they will probably come back as a compromise with the House version.

But it seems to me that the conferees on the part of the House would have a better opportunity to negotiate with the Senate if there was no language in the House version. That is the main reason for proposing this amendment, together with the many arguments that I would like to give.

(By unanimous consent, Mr. ROYBAL was allowed to proceed for 5 additional minutes.)

**Mr. ROYBAL.** Mr. Chairman, firmly believe that a national identification system is definitely a step backward. I realize that the passage of this bill is not going to put in place immediately a system of identification, but it opens the door to that system.

Within those 3 years if just the House version passes, the President will have to study and decide on a particular system. It will then be submitted to the House as a completed study and recommendation.

If the Senate version passes, the President will submit to the Congress his choice of a system. And it will be in place if, of course, it is finally adopted by the Congress.

I believe that the Congress still has the ultimate say-so. But at least 3 years of study and drafting will take place, 3 years in total, of a particular system that may enslave the American people.

I think that a national identification system is going to affect every man, woman, and child in the United States. I realize that it is designed to be used only by those who work, but pretty soon we are going to say, why not students, and then why not others, and then there will be no end. It will be extended and extended and pretty soon we may face the danger of ending up like Nazi Germany.

History tells us that Hitler recommended and put in place a system where everyone had to carry a card. And that it did not work well. You see the motion pictures of Hitler wearing a dog tag over his neck because he wanted to show the German people that there was nothing wrong with everyone having to identify themselves.

What will happen in this country if such a system were to be put in place? I do not say that we are going to go back to the Nazi regime, but I do say that it will be the beginning of the violation of rights, and that we as individuals in this Nation may be known by numbers. If it is true that we already have a system of identification, if we use a social security system, why then do we impose upon ourselves, a third system.

Now we have been told often that we do not have such language in the bill. You have heard it and I have. The truth of the matter is that I read that language. It is in both the House and the Senate while it may not be the sole intention of that language to establish a national identification system, it does open the door to that possibility.

□ 2100

I really did not think that the committee would have any objections to the deletion of language because they have told us on several occasions that such language did not exist. If it does not exist, why do they now complain that the language be deleted, and place therein the language in the amendment.

**Mr. LUNGREN.** Mr. Chairman, will the gentleman yield, please?

**Mr. ROYBAL.** I yield to the gentleman from California.

**Mr. LUNGREN.** Can the gentleman tell us when any of us who have been working on this bill have ever asserted that there is not language in here calling for a report? What we have said continually, as the gentleman well knows, when I have appeared on television with him and in other circles, is that we deny that we say that there should be a national identification card because, in fact, if the gentleman wants to read the other lines that he did not read, it says specifically:

> Nothing herein, directly or indirectly, shall be utilized for the purposes of establishing a national identification card.

That is what the language says.

**Mr. ROYBAL.** The gentleman is correct. That is exactly what the language says. But it says nothing about a dog tag. So, you see, you can kill a bird with different stones. In this instance, sure, the committee takes the position it shall not be a card, but it can be a dog tag or it can be a system of verification that will definitely endanger the rights of individuals throughout the country. We want language that simply says that we do not want a national identification system.

I believe that we would be going backward if this is not adopted, and I would place the responsibility on the Democrats of this House if this language remains. This House is in control of the Democrats and it will be the responsibility of the Democrats to see to it that America is not saddled with this kind of legislation. The Democratic Party, in this instance, must assume the responsibility of being sure that such a system is not put in place, or even take the chance that under this language such a system is in danger of being placed as part of the policy of immigration all under so-called immigration reform.

I sincerely hope that we will defend the right of Americans. Consider please the freedom we have in this Nation. Let us not enslave ourselves by placing around our necks an identification card. Let us do everything we possibly can to protect our liberties under the Constitution, and I think that can be done if we delete this language, and adopt this amendment.

Above all, it will give the committee an opportunity to sit down with the Senate with a clear slate and not have to compromise to an open door policy, and that open door is the language in the bill at the present time. May I again repeat that we have had votes here that are most important. But in this instance I would place the responsibility for this vote on every Democrat in the House of Representatives as well as on those who would defend the liberty and the freedom of the individual on the other side of the aisle.

This is a plea that may go unheard, but if the conference committee comes back with the present language in both of the bills, the American people will start waking up to the reality of a national identification system the consequences of which will be protests in both the Republican and Democratic Conventions.

Let us do the right job now, and let us go along with the adoption of this amendment.

**Mr. LUNGREN.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the most difficult things in dealing with this issue is to get the Members of the House dealing with the facts and dealing with what is in front of them instead of dealing with strawmen. I think one of the reasons we have not had comprehensive reform in the area of immigration for 32 years is precisely because this is a difficult issue. It is very emotional. It is tough enough to deal with the issue that we have in front of us. It is much more difficult to deal with those things that are not in the bill that it is suggested are in the bill.

In the last 2 days my office is being picketed with great signs saying: "Lungren Racist, Support Simpson-Mazzoli." When reporters are interviewed, they say: "Why is he a racist?" "Because he supports a national identification card. There are going to be dog tags people are going to have. It is like South Africa. It is like Hitler's Germany."

My God, they are not talking about the bill we have here. They are not talking about the bill we have here. What does this bill say? This bill says within 3 years after the date of the enactment of this section, the President shall study and report to the Congress concerning the possible need—possible need—for and cost of changes in or additions to the requirements of subsection (b) as conformed to the requirements of paragraph (2) of this subsection; in other words, to see if we have to do anything other than the identifier system that we already have in the bill.

It says it must be done under certain guidelines. What are those guidelines? First and foremost is this guideline:

> Nothing in this section shall be construed to authorize, directly or indirectly, the issuance of use of national identification cards.

Now, I suppose if you say it long enough, people are going to believe that your are in support of a national identification card. We can say it is not true. We can say we do not do it, and then we can put language in the bill that says nothing in this subsection shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards, and still speakers will get up here and say that is what we intend to do.

I majored in English in college. I practiced law, where we had a concern for the words. And what is the problem here? We say the words say what they do not say. We say the words say what they do not say.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to my friend in just a minute.

My friend said it is easy for those who have not suffered personal discrimination to not pay attention to this. I would say to the gentleman we have paid attention to this. We are concerned about it.

What concerns me is that it is easy for Members to get on this floor and say we are not concerned. It is easy for Members to get here and say we are trying to establish some sort of thing akin to Nazi Germany, to say that we will not go all the way back to Hitler's Germany.

What kind of a suggestion is that in terms of the bill we are dealing with here? I do not know how more plainly we could put it than to say, "Nothing in this subsection shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards."

When we were dealing with it in the committee, some of us felt that was not sufficient because some would still say that we had not done enough, so we went further, and we said this:

> If the system requires individuals to present a card or other document designed specifically for use for this purpose at the time of hiring, recruitment, or referral, then such document may not be required (i) to be presented for any purpose—

National ID card or any purpose—

> other than under this section, or (ii) to be carried on one's person.

So we have said in one section it cannot be used directly or indirectly for a national ID card, and then we have gone beyond that and said it cannot be used for any purpose other than the specific purpose of presenting it at the time you are seeking employment.

If the gentleman has a suggestion as to what more language we can put in here to make sure that we will not have a national ID card, I would happily adopt it. But for some to come up here and suggest that those of us who have worked hard on this are somehow in cahoots with those who would like to try and discriminate against others does a disservice to your colleagues on this floor.

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from Maryland.

Mr. MITCHELL. I certainly did not and shall not try to stigmatize my colleague in that fashion. I am merely trying to suggest to the gentleman what must be a deep-seated fear on the part of some of us.

I have read the words. I have read the words in the bill and they are very clear. But so were the words, "We hold these truths to be self-evident that all men were created equal." Very, very clear words, and yet we were not equal.

I read the words following the Civil War with the freedom of the slaves. Very, very clear words; that we were full citizens in this Nation, absolutely, unequivocally clear, but then the door was opened again where we were reduced to less than poor slaves.

The words themselves, and please let me finish, the words themselves are not a sufficient safeguard.

Mr. LUNGREN. The intentions, the good faith of your colleagues who serve you in this House? This bill says that the President must report to us. The Congress would have to impose it. That means evidently you do not trust the good will of the membership in this House to be able to say we do not want to do that if any President would recommend a national ID card.

□ 2110

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. MITCHELL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Maryland.

Mr. MITCHELL. Mr. Chairman, it is not a matter of distrust of my colleagues who have worked on this bill or who serve in the House. It is a matter of the human frailties that all of us possess, and given certain tempestuous periods in history, despite our own integrity and our own best intentions, we betray them, given certain tumultuous periods.

Let me cite one illustration, if I may, and then I will quit. I am not questioning the gentleman's motives or what he intended to do, but I am taking the historic perspective.

Following the Civil War, slaves were freed. The word said that. And there were people in State legislative bodies who embraced that idea in the South and worked to accomplish that. But within a short span of history, within 10 or 20 years, tumultuous waves of violence swept this Nation, and 2,000 black people were lynched in America during the Post-Reconstruction Era.

The words were there, the good will of members of legislative bodies was there, and yet certain events occur in history that pull men from their moorings.

I say to the gentleman, I am sorry, I trust you, I like you, I respect you, but this issue is too important for us to play around with, and I would just again urge that we delete this language. It is too dangerous, it seems to me.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman's remarks, and if I might reclaim my time, what I am trying to suggest here is that all we are doing in this section of the bill is to require the President to look at it and make a recommendation to us. The power still comes to us.

Are we afraid of the words of an administration, no matter what administration it is going to be? Are we incapable of dealing with the recommendations of that administration? Are we incapable of trying to use our judgments of what they do?

I appreciate the gentleman's historical references, but I do not know how they apply to what we are attempting to do right here. In many ways what we have been trying to do is to get some sort of system which applies to all employees precisely so we will not have discrimination. If it does not apply to all employees, there will be an incentive for discrimination on the part of some unscrupulous employers. That is what we have tried to do.

As for the Senate bill, the gentleman from California tries to say that there is a difference in the Senate bill in a number of different ways. In one way, there is. They give the President authority to do things before coming to Congress, and then they can overcome that by concurrent resolution.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. But in that grant of authority that the Senate bill gives to the President, it says the system, presumably that the President will establish if he were to establish a new system, shall not be used for law enforcement purposes other than the enforcement of this section. Then it says that if the system requires individuals to present a card or other document designed specifically for use for this purpose at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any other purpose other than under this section nor to be carried on one's person.

So even in their grant of authority to the President to take an action, they say that whatever action he takes must be in compliance with that section.

We go further than that. They have to report to us before anything can be done.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** In just a moment I will yield. The gentleman had several extensions of time, and I would just like to be able to respond to most of the comments he made.

So what I say is, let us deal with what we have before us. If we do not like the idea of employer sanctions, as I know the gentleman from California does not—he wants to kill this section, and he is going to have an amendment which allows us to do that—that is fine, but let us not color the argument by suggesting that somehow those of us who are in support of a study to be done by the executive branch of the Federal Government are supporting the establishment of a national ID card. We have done everything we can except write in blood the fact that we do not want a national ID card, and still we are confronted with assertion after assertion that we want that to happen.

If the gentleman does not want a study, find, let us argue that, but please do not argue that what we are doing in this bill is establishing a national ID card, because we are not.

**Mr. ROYBAL.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I am happy to yield to the gentleman from California.

**Mr. ROYBAL.** What we want to do is to delete the language.

**Mr. LUNGREN.** Of the study. I understand that.

**Mr. ROYBAL.** We want to delete the language with regard to the study, and by deleting the language, it will place the committee in a better position to negotiate with the other body, with the language that is left.

**Mr. LUNGREN.** May I ask the gentleman this question: If he says all we want to do is to negotiate, what about the language? We cannot negotiate questions like this, because one way or the other, no matter what we say in good faith, the assertion always leads to a national ID card.

The **CHAIRMAN.** The time of the gentleman from California (Mr. LUNGREN) has again expired.

(On request of Mr. ROYBAL, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

**Mr. ROYBAL.** Mr. Chairman, will the gentleman yield futher?

**Mr. LUNGREN.** I yield to the gentleman from California.

**Mr. ROYBAL.** Mr. Chairman, the only thing this amendment does is to delete the language.

**Mr. LUNGREN.** I understand that.

**Mr. ROYBAL.** I think what it does is to place the committee in a better position.

**Mr. LUNGREN.** Then let me explain this one thing: Words have meaning. If we are not going to consider what the meaning of the words is, then what are we talking about? The gentleman says it merely deletes the words. Of course, it deletes the words. It deletes the authority for the study.

**Mr. ROYBAL.** I will stipulate to the fact that words have meaning.

**Mr. LUNGREN.** Well, let us talk about the meaning of the words we have here.

**Mr. ROYBAL.** Let us talk, then, about words. If one looks into the arguments that were presented to this House during the time social security was passed, one would find that there was language and a lot of argument during the passage of social security that the social security card was only going to be used for one purpose, and only at the time a person was seeking employment would that person present a social security card. There is all kinds of language in the bill and in the debate that clearly states that that is the only reason or the only purpose of the social security card. But today one cannot go anyplace to seek anything without presenting a social security card or giving the number.

**Mr. LUNGREN.** I understand that.

**Mr. ROYBAL.** The language, then, was violated, and perhaps even violated by this Congress, but nevertheless it was violated.

**Mr. LUNGREN.** I understand that.

**Mr. ROYBAL.** And what we are afraid of is that the language the gentleman now has can be likewise violated. But if we delete this language, we will go to the Senate with a clear bill and perhaps come out with a better compromise than we have at the present time. That is the purpose of this remaining language.

**Mr. LUNGREN.** Mr. Chairman, if I may reclaim my time, we will also go to the Senate without any instructions at all about what we want to do other than the one thing that says—and that is less than the language we have now—that it shall not be used for the issuance of a national ID card. We repeat that several times now in the language that the gentleman wants us to take out, including saying that it cannot be used by the person, and so forth.

The only thing I would like to say here is that what this amendment does, with all due respect to my friend, the gentleman from California, is that it denies this body knowledge. It is an amendment which says that we are fearful of receiving information generated by an administration, Democrat or Republican, within the guidelines that we present for them, and I thought this body was adult enough to accept such information and then make an informed judgment.

Now, if the position of the gentleman from California is that we have to fear receipt of that information, then, fine, let us say that. But all this language in the bill says is that the President over a 3-year period of time shall conduct a study, the fruits of that study will be presented for the Congress to do with what they want, and in giving us the study, we set parameters for that study.

So in fact the gentleman by his amendment will deny us information to make a free judgment as to whether the identifiers that we have established in the bill as the appropriate ones are sufficient or insufficient or whether they are doing the job or not doing the job.

**Mr. ROYBAL.** The information that the gentleman says would be denied is something that will be forthcoming 3 years from now. I am talking about the negotiating powers of the committee when they meet with the other body, and we should have that opportunity. Under this language we just will not have any opportunity but to come back to the language we now have ourselves.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I yield to the chairman of the subcommittee.

**Mr. MAZZOLI.** Mr. Chairman, I appreciate all this concern about the chairman of the committee giving us the power in conference, but I would ask the gentleman, if the total language is stricken and we go in with zero and the Senate comes in with, as the gentleman points out, a provision which says that the President shall mandate the new system, we might go in hamstrung. And if I understand it, in the conference, they might well exercise their will and we would come out with nothing. At least if we went in with something, we would meet them halfway; if we went in with zero, I fear that the conference would be one-sided.

**Mr. LUNGREN.** Mr. Chairman, if the gentleman will allow me to proceed, we initially had in the bill similar language to that found in the Senate bill. We decided in deliberations in the full committee that instead we should have the study, with the President reporting to us before any action takes place.

□ 2120

We have changed the position of the original bill away from the Senate position and we would be denied the opportunity to present that as an alternative, because if we go with nothing in that section, we accept all or nothing in the Senate position.

**Mr. EDWARDS of California.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I would be happy to yield to the gentleman from California.

**Mr. EDWARDS of California.** Mr. Chairman, I appreciate the gentleman from California pointing out that the subcommittee came to the full Judiciary Committee with a provision that where the President had the sole power of issuing the identification card, and we have corrected that in the full committee.

The **CHAIRMAN**. The time of the gentleman from California has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Mr. **LUNGREN**. Let me just say, Mr. Chairman, we did not come to the full committee with the grant of authority to the President to issue a national identification card. We specifically said in the language from the subcommittee that he may put in place a particular program, but whatever he puts in place would not be able to be utilized directly or indirectly for the purpose of a national identification card, so I just think that ought to be precise. We did, however, amend it to say that he does have to report before he does anything to put it into place.

Mr. **FRANK**. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not idly engage in the kind of rhetoric that we lather ourselves with, but I mean very sincerely that I have gained in my 3½ years here an enormous amount of respect for my friend, the gentleman from Maryland, so I have to say with some pain that having listened to him and understanding the depth of his feeling, I do not think I have ever disagreed more with someone I respect as much as on this particular issue.

I think he does the moral monsters who run the Republic of South Africa far too much credit even remotely to suggest that the kind of oppression they have imposed on black people happened by an accidental first misstep or that you get into it gradually. That kind of oppression only comes when you have a complete absence of morality and a willingness simply straightforwardly to put it on. That simply does not seem to me to be analogous.

Mr. **MITCHELL**. Mr. Chairman, will the gentleman yield?

Mr. **FRANK**. I yield to the gentleman from Maryland.

Mr. **MITCHELL**. Mr. Chairman, I thank the gentleman for yielding.

South Africa was but one of the illustrations that I referred to. I referred to what happened to me and scores of other people. So I do not want to hang it on just that one.

Mr. **FRANK**. I understand. I will get to that. The gentleman had plenty of time. I can only make one point at a time. If I make more than one simultaneously, my mother yells at me.

Mr. **MITCHELL**. All right.

Mr. **FRANK**. So I would ask the gentleman's indulgence. I will try to reach the other points.

The basic point we have here is that I think the opponents of the bill, and they have every right to be opponents, have got a fairly clever whipsaw going. On the one hand they say that if you restrict this question of sanctions to those who are at risk as not being here legally, you are going to get discrimination, so we said in the subcommittee and the full committee, you are right. We will make sure that nothing is put forward which applies only to those who may be at risk. We will have a universal system which applies to everyone and then they say, "Gotcha," because it is a national identification card.

Of course, what that means is that there are people who are opposed to the idea of employer sanctions, which they have every right to be, but I think we have, those of us who think they are a regrettable necessity today, some responsibility to bring forward a system that makes it work and we think we have it.

What we are saying here in part moving toward a better form of identification is in fact a way of protecting vulnerable minorities, because we precisely want whatever system of identification is there to apply to everyone in this House and to everyone to whom we are related and to everyone in the country. That is what we are talking about. We are talking about a system which applies to everyone.

Now, what kind of a system ultimately we are not sure and the language simply says that the President can talk to us and make a recommendation.

And the gentleman says, well, the fact that that language is there does not mean anything 3 years from now, even with the absence of language. What is likelier to impede a President and the Congress later on intent on this, language that says it should not be a national identification card or silence? If language which argues against the possibility of a national ID card is not going to be helpful, what will silence be? That will be even less helpful, I would assume.

The point has to be stressed again, as the gentleman from California (Mr. LUNGREN) pointed out, we are not talking about anything that has to be carried on your person or in your car or alongside you. We are talking about a method of verifying at the time that you apply for a job that you are legally in this country.

Frankly, I think most people are astounded to know that it is not now illegal to hire someone knowingly who is here illegally and the notion that we simply want to have a universal system whereby anybody in the country applying for a job can verify the fact that he or she is here illegal seems to me to be fairly routine. We will do everything we can to keep that from being a national ID system and everything we can is very simple. It will be first, that we have in the law that you will not be allowed to ask for it, that you will not be required to carry it.

Well, people may say, well, they may not abide by that. Well, the people who are not going to abide by that will not abide by the absence of it.

You are saying to me that they will break the law. Well, they will break two laws or three laws as easily as one. If there are police officers in this country, as there are in a minority of police officers, not the majority, who are prepared to hassle and harass individuals, they do not need the fact that we have the President studying a national ID to engage in hassle and harassment. They will do it anyway.

All we are saying is that we want to have a system which is universal precisely because we want to minimize discrimination, because we buy the argument that vulnerable minorities if the system applies only to them, may bear an undue burden.

We are saying here is what we have so far. We are asking the President to report back to Congress in 3 years with no legislative veto or any other kind of system, simply tell us so we can then decide whether we want affirmatively to act on something which we say should not be an ID system. You should not have to carry it. People should not have to ask you about it.

I have to say to the gentleman from Maryland, let me return to his other point, I think that is a very different situation than what he talked about.

Yes; the words of the Constitution, "We hold these truths to be self-evident" in the Declaration of Independence, the people at that time were also perpetuating slavery.

The **CHAIRMAN**. The time of the gentleman from Massachusetts has again expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. **FRANK**. Mr. Chairman, I take that mainly for the purpose of yielding.

I want to say to my friend, the gentleman from Maryland, that in each case the people at the time, I think, did not have the right intentions, but the key point historically is this, that if at a subsequent point evil and malign intent takes over, that is what determines it and our asking for a study now in an attempt to make this system universal and therefore less likely to discriminate, if anything would retard any such effort in the future, it can hardly be argued to bring it about.

Mr. **MITCHELL**. Mr. Chairman, will the gentleman yield?

Mr. **FRANK**. I yield to the gentleman from Maryland.

Mr. **MITCHELL**. Mr. Chairman, I thank the gentleman for yielding.

Let me just say to my good friend from Massachusetts that even the remote, most remote suggestion of a study of an identification system is repugnant to the Democratic process. I mean, some things are simply repugnant.

Would the gentleman support a study to look at euthanasia to solve the problem of senior citizens in this Nation? No; the gentleman would not. The very idea is repulsive and there are some things that are so antithetical to the ethos of this country, to the fundamentals of democracy, that we should not even broach them.

Mr. FRANK. Well, I agree. I would not suggest that we should study the possibility of euthanasia.

I absolutely reject the suggestion that there is anything morally analogous between a system whereby you can at the time of employment verify the fact that you are in this country legally and euthanasia for the elderly.

I have to say to the gentleman, what he is saying is, it seemed to me earlier, well, what you are talking about may not be objectionable, but we have to reject even the remote possibility of launching something that might be misused.

You simply cannot legislate if you are determined to ban the remote possibility of anything that might later be misused. That is a very conservative argument, I would say to the gentleman. That is the camel's nose under the tent and the slippery slope. That is the people who say once you begin it, then the next thing you know it is going to get bigger and bigger and more expensive.

No; we do not in a democratic legislative body lose control when we take a first step. This does not inevitably lead to that and that. That argument that we lose control, I think, is an incorrect one.

But I would disagree with the gentleman if he is suggesting that the fact of a system whereby anybody in the country can at the time of employment not have to carry anything around, not have to have it on your person, verify that you are here legally. I do not find anything remotely conflicting to civil liberty in that regard.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I think the House has just listened to one of the most eloquent statements I have ever heard in my years here. I think the gentleman has exactly stated the case. There is every protection in this, not only in the words which sometimes are fallible, but more importantly in the fact that we require any recommendation to come back to this Chamber, to the other Chamber, in order to be approved. It cannot be imposed upon this body.

I think the gentleman had just said it in a most eloquent fashion, that what the subcommittee has labored to do with the gentleman's assistance is to deliver a good deal, which I think it has done.

I would urge support for it.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(At the request of Mr. GARCIA, and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Chairman, what gets me about the argument of my colleague from Massachusetts is that the gentleman is very matter of fact about the silliness of this debate and the fact that——

Mr. FRANK. Wait a minute. I am going to take back my time.

I never used the word "silliness." I object to that. I think we have had a reasonable debate and that is out of order.

Mr. GARCIA. Mr. Chairman, I apologize. I apologize, I am sorry.

Mr. FRANK. I yield to the gentleman.

Mr. GARCIA. I thank the gentleman.

I think that some of the thoughts that have been put forth here question the motives of those of us who will feel the pangs of what this Simpson-Mazzoli bill will be.

□ 2130

In terms of what we are talking about, my colleague from Maryland, my colleague from California, myself, and my colleague from California who I think whoever picketed against him has no moral right to do that and I think it was wrong. And moreover, whoever it was I would say that I would be the first to defend him. But to take this floor at this particular moment in history and sort of make us feel—and I am telling you what you are making me feel, anyway—that we are here in the course of the debate as it pertains to ID cards or whatever other sanction may come down, that we are wrong, that every protection is being given to us, that nothing is going to happen, that you should go along with us, that what are you worried about and that is the bottom line. And I say that with all due respect to my colleague from Massachusetts.

Mr. FRANK. Is the gentleman contending I said to go along, that there is nothing wrong? Would the gentleman tell me to what debate he has been listening? It was not the one that I was participating in.

I do not think that I have been disrespectful to the gentleman's concerns. I believe that I helped push for an amendment by the gentleman from California (Mr. HAWKINS) that was carefully crafted and we got that through.

I do not think I have been dismissive of the people who have concerns. I do not think I have been dismissive of the gentleman's concerns. I do not think I am being dismissive of those concerns now.

I do not think that the Presidential study leads to those concerns. I happen to disagree with the gentleman. If he disagrees with me, fine. But I resent his suggesting that I am in any way being cavalier or not taking these things seriously. I do not think that that is at all an accurate characterization of the position I have taken here. I just disagree.

Mr. GARCIA. Let me say to my colleague, for those of us who must be faced with what this legislation is going to mean a year from now, I think the debate in the RECORD should be very clear as to where we all stand. And I have no quarrel with that. And I think that that is why we are trying to establish a record. And if in fact we get into a system right now where you go into conference, we want to make it very clear, as I said to you just a minute ago, that you go in with the tools that are necessary.

Mr. FRANK. I am baffled at the gentleman's hostility, frankly. I was just agreeing with the gentleman when he said that.

The gentleman and I participated in an effort a few hours earlier, I think—maybe one of us was dreaming—to do precisely that with regard to conference.

I do not know what the gentleman's comment is. I have no disagreement.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) has again expired.

(On request of Mr. GARCIA and by unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. I yield to the gentleman from New York.

Mr. GARCIA. We are faced with a serious problem here. I think we must both admit that.

I think the Simpson-Mazzoli bill as it is presently structured will have a damaging effect on many Americans. I believe that from the bottom of my heart.

I am not here to waste my time or your time. I say that to you because part and parcel of some of the conversations that have been held as it relates to ID's, identification, as it relates to sanctions, I will tell you without hesitation that if I should be somewhat out of order it is not because I am here—we have been on this for 4 years and it has been a serious, serious question for millions of people. So we stand here today and at this late hour debating a particular section that my colleague from California feels very strongly about. And whether he is right or wrong, I think it has——

Mr. FRANK. I have to ask the gentleman is he suggesting that I in any way questioned the right of the gentleman to offer the amendment, or belittled that? I thought I started out by acknowledging the seriousness of the concern of the gentleman from Maryland. I do not understand what the gentleman is talking about.

I am trying to take this seriously. I do not think you belittle an argument by responding to it seriously.

I have not finished with my statement. I think frankly the gentleman having suggested that I was taking an attitude that I am not taking, no, I think this is most serious, one of the most serious things that can be debated in a democratic society. And I was trying to debate it and I resent the gentleman suggesting that I have in any way implied other people have no right to debate.

As far as who is affected by this, I am particularly talking about a universal identifier system because I think one of its advantages is that it will affect everybody here and everyone who is related to us.

But, no, I am not suggesting that anybody stop debating.

I yield back the balance of my time.

Mr. MAZZOLI. Mr. Chairman, at this point might I inquire, just for the purposes of determining how much more debate there might be on this, as to the number of speakers? I would like to certainly think we have had a good debate on this, Mr. Chairman.

I ask unanimous consent that debate on this amendment end in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. DYMALLY. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that debate on this amendment end at 5 minutes after 10.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. DYMALLY. I object, Mr. Chairman.

Mr. MAZZOLI. Mr. Chairman, I am coming very close to moving. Would the gentleman from California (Mr. DYMALLY) and the other gentleman from California bear with the gentleman from Kentucky and suggest a time of perhaps a quarter after 10, and that would give everybody a chance, if I see the number of Members standing?

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. DYMALLY. Mr. Chairman, reserving the right to object, I will tell you why I objected. When I spoke here on this floor in the Democratic Caucus, you suggested that I was raising a red herring on this issue. I, therefore, want to be guaranteed by you an opportunity to respond to that, and then you can leave at whatever time you want.

Mr. MAZZOLI. Mr. Chairman, certainly.

Let me rephrase it. I ask unanimous consent that debate on this amendment end at 10 o'clock, with the gentleman from California (Mr. DYMALLY) being guaranteed 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. LELAND. Mr. Chairman, I reserve the right to object.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent to make a further change to 10 o'clock with the gentleman from Texas (Mr. LELAND) and the gentleman from California (Mr. DYMALLY) guaranteed 5 minutes each.

Mr. LELAND. Further reserving the right to object, Mr. Chairman, I would like to ask the gentleman, there are many Members on the floor who are on their feet. If they took 5 minutes apiece, the debate would last until 10:30.

Mr. MAZZOLI. I would ask the gentleman who are standing, if perhaps the gentleman who really do wish to speak on the issue would rise. I think that now we have reduced that number.

Mr. LELAND. I would just like to say this debate is too important, particularly on this issue, since so many issues have been raised within this round.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MINETA. Reserving the right to object, Mr. Chairman, are we under the process of determining the limitation of 5 minutes by individuals on this debate?

Mr. MAZZOLI. The gentleman from Kentucky was erroneous, except to the extent of the gentleman from California, Mr. DYMALLY. I assumed, I thought perhaps the gentleman from Texas was asking that same thing because he had been on his feet for the past 15 minutes.

Mr. MINETA. The gentleman from California has also been on his feet.

Mr. MAZZOLI. May I then ask unanimous consent that debate on this amendment cease at a quarter after the hour?

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. GARCIA. Reserving the right to object, Mr. Chairman, may I ask the chairman of the subcommittee, what time does he anticipate that the Committee will rise this evening?

Mr. MAZZOLI. Mr Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. The gentleman is going to seek further advice from the leadership as to that point. The gentleman from Kentucky is prepared to go through until perhaps 6 o'clock in the morning. I have waited a long time for this opportunity. But I assume that the leadership will suggest something in the range of perhaps 11 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MAZZOLI. Mr. Chairman, I am advised that if we can complete this amendment at perhaps a quarter after 10 or thereabouts, that would probably wind up our day.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROYBAL. Mr. Chairman, reserving the right to object, what is the big hurry in ending this debate?

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I would be glad to be here until later.

Mr. ROYBAL. Fine. If the gentleman is going to be here until later anyway, why do we not just proceed?

Mr. MAZZOLI. Mr. Chairman, I withdraw the unanimous-consent request.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words and to speak against the amendment.

Mr. Chairman, I do not contemplate that I will take my full 5 minutes, but I have seen the debate go from very constructive amendments, I think, to the point of guerrilla warfare, and that is where we are right at the moment. We are now in the midst of debating things that are not in the bill; we are debating things that are not in the amendment.

I would say to those that are supporting this particular amendment and who are making such statements as to things that are not in the bill, that you are doing severe damage to your own credibility.

I would ask that we go ahead with the debate. This is very important piece of legislation. It does touch the lives of all Americans, whether they be citizens or whether they wish to be citizens.

It is too important a piece of legislation to be charging at strawmen, be setting up strawmen, and then attacking them and trying to shut them down.

I would hope that we would go about this debate in a very sensible manner and that we would get on to completion of the 69 amendments that are ahead of us.

I yield back the balance of my time.

□ 2140

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Thank you, Mr. Chairman.

I have sat and listened to this debate and agonized over a number of these amendments on which I have voted ultimately the way I previously voted in committee, and frankly the way I thought was appropriate then and now.

However, I feel very constrained to rise now and urge my colleagues on both sides of the aisle who serve on this committee and who are listening to this debate to reassess their position on this particular amendment.

I would urge you to adopt this amendment. I would urge you even though I reject, reject categorically, the analysis used by every proponent of this amendment in their substantiation, in their zeal to communicate what they feel about discrimination, in their zeal to communicate what they believe is the ultimate test of this bill and that is whether or not it will perpetuate the American dream or perpetuate discrimination as the American disgrace; they have used tragic, tragic instances.

This bill to be likened to Nazi Germany is unfortunate and that is a word I use most assuredly as a poor substitute for that which I might say.

But by the same token, it pains me that we are going to take the time and cause the anguish over a small set of words, and my colleague from California is right, they have meaning; but nobody has put them in the context of this bill.

In the context of this bill, they have no meaning at all because in the context of this bill they are extraneous matter and go 3 years out and give someone the power only to look at something that this Congress can look at, itself.

I reject the argument on the grounds of discrimination; I reject the argument totally on all other grounds that have been made. But I tell you that I think the proponents of the amendment are correct. There is absolutely no real use for the language of the study giving the authority to the President to conduct a review and then report to us. We could do that ourselves.

Two years from now the committee on which I sit, the chairman of which I have substantial respect for, the subcommittee chairman of which I have great respect for; having worked with him so closely on this bill for 2 years as a member of that subcommittee, the ranking minority members and all others having great respect for, and yet I tell you, I urge each one of them to reconsider their position.

This study does not merit what is being generated on this floor and it is divisive. Do not fool yourselves; it is divisive.

As Democrats and Republicans we cannot afford, over issues which have little or nothing to do with real immigration reform to get down in such a bitter debate, and I urge you to adopt this amendment; get on with the really substantial issues of what will be immigration reform when this bill passes; not what we might not do 3 years down the road, which is only a study and which our own committee and I am sure the chairman would agree, our own committee could study if we so desired.

I urge you for that reason alone, rejecting the arguments made by the proponents, just stop this debate on this particular issue and adopt the amendment.

I yield back the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from California (Mr. MINETA) rise?

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of Mr. ROYBAL's amendment to delete the authorization for a Presidential study of changes in identification requirements for determining employment eligibility in the United States. I believe authorization of such a study is very likely to lead to issuance or use of a national identification card. This amendment makes it explicit that Congress will not authorize a national ID card—which I strongly oppose.

I do not think we should travel down the road that could lead toward national identification cards: not one foot; not one inch. The idea of a possible central national data bank listing everyone's ethnicity and heritage—a listing which would be essential for such a system—is profoundly and overwhelmingly abhorrent. It makes little difference if the cards are to be carried by each individual or the data bases are to be tapped by phone calls.

We neither want nor need to develop this intrusive, potentially discriminatory system of national identification.

To those who complacently say that such a system would not be abused. I must say that the precedent already exists, and for me, memories of that precedent are all too clear. I was once incarcerated by this Government because of my ethnic background, and there is evidence that the evacuation and internment of Americans of Japanese ancestry involved the illegal use of confidential Census Bureau records.

Thus we know that the potential for abusing national identification systems is far too great to make any steps in this direction worthwhile. I believe it is impossible to provide guarantees that such a system would not be abused. But for the sake of argument, let me say that even if such guarantees were provided, we would still have the deplorable situation in which our citizens are categorized by race. And how would we develop such a data base? Would everyone have to file a form with the Government stating their ethnic heritage? I realize this sounds silly, but if you think about it, is that not what we are talking about? How else would such a system be devised?

Mr. Chairman, I strongly support the amendment of the gentleman from California. This amendment prevents Congress from making a terrible mistake, We cannot authorize the creation of any type of national identification that may potentially endanger the rights and freedoms of the citizens of this great country.

Mr. DAUB. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

My colleagues, I do not take the floor at this point in time in a very light mood. I have listened to the debate on the rule with some interest and I have listened to the debate on this particular amendment now for enough time to really, I guess, well up all sorts of different kinds of emotions inside of me.

First, because I know what discrimination is really like. I particularly know what racism is really like. I guess I know a little more about it than most without actually having been born of another nationality.

□ 2150

Some of my colleagues may not know it, but my wife is a Korean national who has come to country by virtue of her marriage to me. She is now a proud citizen of this country by virtue of naturalization. My mother-in-law and father-in-law and other relatives in our extended family are here by virtue of the quota system and a system of legalized immigration and naturalization.

Because of that unique circumstance, I say to my colleagues, simply by virtue of being sort of a country lawyer from the flatlands back in Omaha, Nebr., it became known to others of different origins that there was an attorney in Omaha, Nebr., who had a wife of another nationality and perhaps he could help us with our problem.

So I ended up becoming a specialist in this field of immigration law. I have practiced that law and I have experienced firsthand the dilemmas that are faced by those who are here legally and illegally. I know the emotion that, for example, my friend from Maryland and, for example, my friend from New York (Mr. Garcia) are trying to express in their colloquies with us on this very amendment. I understand those things.

Let me say first that I am unalterably opposed to any kind of a national identification system. If you are truly a Member of this body who believes in the principles of civil liberty, you cannot be for any form of national identification.

I believe that this bill makes it very clear that we do not tolerate that kind of effort, even on the part of a Presidential study.

If you look at all the options that are available, what are we really trying to do with the language of the committee bill? We are trying to say that over a period of 3 years, when we get done here, we go to conference and we get a bill for immigration reform, and it is so important and we need it, we are going to have the executive branch in a position to study the phone calling checking system, if that does pass. That is going to be in partnership with the Social Security Administration. Or with the Lungren amendment and the documentation that that is going to require. Or with a system of fines and employer sanctions that the Justice Department is going to have to administer. All of these things over a 3-year period of time must be reviewed and examined and nowhere does it say in this bill or in the legislation that we are considering that there would be any kind of a national registration or universal ID system for these purposes.

I want my colleagues to look carefully at the language of the bill. It is extremely important that we provide for this opportunity for conference on this issue with the Senate to avoid the very suspicions that are being raised on the floor at this time.

Now, caution is one thing, that is important. Skepticism, that is healthy, is another. And indeed, my colleagues, that is important.

But to raise doubt as we examine the very fundamental thing that we are trying to do, which is to provide the least discriminatory vehicle for addressing our immigration problems, is the wrong way to proceed on this particular amendment.

It is for that reason that I urge my colleagues to remember the following ideas: That for slope of chin or cheekbone, that for color of skin or slant of eye, or sound of voice, those considerations by the subcommittee who brings this bill to us today have been so carefully considered, the language so carefully constructed, that there can be no doubt and I would not come to my colleagues and ask them to consider opposing this amendment if I felt in any way that the dangers suggested by some who support this amendment would indeed come to pass.

Mr. LELAND. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, let me answer some of the questions the gentleman from California (Mr. Lungren) raised, if I can.

He suggested that there was some dishonest effort on the part of those of us who support this amendment in terms of or relationship to the reality of what this language is that he refers to really is.

Let me say to him in my honesty, if I can, that I am not going to be dishonest about my intentions. What I intend to do in terms of supporting this amendment is indeed to say that I do not trust the report.

Is that what the gentleman wanted me to say?

I do not like the report that any President will give to us. I will tell you what I am tired of. I am tired of white people coming into my district, studying my people. And where are the studies going to be taking place?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

I did not—if I did I certainly did not mean to suggest that anybody is being dishonest here.

Mr. LELAND. The gentleman said that——

Mr. LUNGREN. No. All I was saying was that if in fact we are opposed to a certain section of the bill that is fine. I just wish Members would not suggest that those of us who may have an contrary position are acting out of any animus, or acting out of any racism, or anything like that.

Mr. LELAND. Well, while I have the gentleman on his feet, let me ask the gentleman if he will engage in colloquy with me?

Where is this study going to take place? Is it going to be in Mr. Mineta's district, is it going to be in Mr. Garcia's district, is it going to be in Mr. Roybal's district, is it going to be in my district? Is it going to be in the ethnic minority districts who represent the large majority of ethnic minorities in this country? Is that where the studies are going to take place?

Mr. LUNGREN. I would expect that the study of the program would be of the implementation of it nationwide since we mandate that it is nationwide, including the 30 percent of those who are here illegally not by virtue of coming across the border illegally, but having come in initially under a proper permit or under whatever visa they had and then have violated it, which means not just people of a certain ethnic background, but people from Western Europe, people from Australia, and people from Japan and people from Canada.

Mr. LELAND. Thirty percent, but 70 percent of the study is going to be done in the ethnic minority districts and communities of this country.

Let me regain my time and let me tell the gentleman why we are paranoid and why we are afraid.

We came here to represent ethnic minorities in this country, those of us who are of ethnic minority backgrounds. We came here to defend against any opportunity that might be created in the Congress, any kind of discrimination or oppression or repression of our communities and our folks and our constituents. That is why we came here.

I am really very upset about those who would suggest that we are not used to the kinds of analogies that have been used. What is wrong with using the analogy of what is happening in South Africa if in fact there is some inkling that that might happen because of some study that some President does about folks in our community? What is wrong with using the analogy of what happened in Germany? Or what happened in Poland? Sure, they are extreme analogies and sure, this country has come a long ways in the short time that we have existed as a country. But Congressman Parren Mitchell understands the lessons of black history. He understands what it means every February during Black History Month, what it means for us to stand up before black youngsters in schools all over this country to talk about the pain that we had to suffer as a people. And how it is that we can never forget what our history is.

How can we suggest or try to diffuse the interests of raising the dynamics of what the history of slavery represented or what Mr. Mineta raised about what happened to his people in the Japanese community of this America?

This time is to present today. We are still discriminated against as blacks, as Hispanics, as Japanese, as Chinese-Americans, as native Americans. I do not care what anybody says on the floor of this House, we are paranoid about what might happen if you engage some kind of study about our folks and what we are all about. And to charter some kind of identification study of folks in this country today seems to me to be rather repugnant and ought to be rejected by all folks.

Sure, we are emotional about this because—and I will tell my colleagues, if you will look up at the board at the time we vote on this amendment, every black, Hispanic, Asian-American, every person of color is going to vote in favor of the Roybal amendment because we are paranoid.

It seems to me that the majority Members of this Congress and I do not mean majority in party, the majority Members of this Congress ought to accept at some point in this bill the wisdom of those of us who have a history of having suffered from our historical deprivation that we have in this country realized.

□ 2200

I am not too young not to have known about having to sit on the back of the bus. I did that. I know what integration meant in the last 25 years.

The CHAIRMAN. The time of the gentleman from Texas (Mr. LELAND) has expired.

(By unanimous consent, Mr. LELAND was allowed to proceed for 1 additional minute.)

Mr. LELAND. I just want my colleagues to understand that we are indeed paranoid about studies, we are paranoid about identification cards, we are paranoid about dog tags, about ribbons we have to tie around our arms or tattoos that we might have to suffer from. The Jewish people of this country have reminded me many times that they remember and will never forget what happened to them in Eastern Europe. And so we ethnic minorities in this country remember what our history is and therefore we will never forget and we will forever stand up and fight against any kind of identification system or anything that would approach what those cruel and evil people have done in Eastern Europe and other places.

I thank my colleagues.

Mr. DYMALLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to speak on this measure, but listening to the debate I felt compelled to come here and talk about an incident that took place within the Democratic Party family. Last week I cited an experience I had in Moscow where I was standing in front of the hotel and the police officer asked a young woman who was walking down the street to show her identification card. My very good friend from Kentucky (Mr. MAZZOLI), rose and said that I was raising a red herring. And, frankly, I was stopped in my tracks. I was stopped because I thought he knew me better than that, because we serve on the same committee, and I respect him so much, I know of the work he has put in on this bill; I was left cold, without a response. In addition, the time ran out on me.

But Mr. ROYBAL came to me and said, "There is language in the Simpson bill that could possibly lead to the issuance of an identification card." And here today this issue is before us. So I feel somewhat vindicated that I did not in fact raise a red herring, because had I raised a red herring, this issue would not be debated today.

Let me touch on a few points which some of my friends raised here. I subsequently went to my friend, the gentleman from Massachusetts (Mr. BARNEY FRANK), and said, "I am concerned about your statement that an issuance of a card means equal treatment of all citizens." I said to him, "There is not equal application of the law in America. And therefore we cannot talk about equality of treatment because we live in a society that is loaded with racism."

And this is a subject those of us in politics of education and middle class background do not want to talk about publicly, but that is a fact of life, and I cited the fact that in California the Supreme Court ruled the vagrancy law unconstitutional because it was only applied against minorities and poor whites. But it did not stop the police in San Diego from stopping a black man not because of the color of his skin but the style of his hair. He was stopped because he was walking down a suburban neighborhood street. And he was arrested. And the California Supreme Court said that that was unconstitutional.

And so we had in California the Supreme Court saying the vagrancy law is unconstitutional and the police stopping a man because of the style of his hair, not the color of his skin, which is a new twist in discrimination now.

But let me give you one that is even funnier. I was just elected to the California Senate and was in the San Diego Airport, and the police came to me and flashed his badge and said, "When did you cross the border?" And I said, "Do you know who I am?" And he said, "No. I want to know, when did you cross the border?" I said, "I am a Member of the California Senate. Why did you stop me?" He said, "Because you were wearing that double-breasted suit." I said, "What does a double-breasted suit have to do with coming across across the border?" He said, "Because those Mexicans wear these old double-breasted suits, and that is how we discover them."

So, ladies and gentlemen, there is not equal application of the law. To suggest that if everyone has a card no one will be discriminated against is a fallacy, because law enforcement officers do not apply the law equally.

Now, about the Presidential commission. Do we want the President to appoint another Kissinger Commission, a commission on which there sat no blacks, no women, a commission that said that the CBI no longer exists because we have a lot of money for Central America and therefore Central America is not the Caribbean Basin any more? But when they wanted to give arms to El Salvador, they called Central America the Caribbean. Now they want to give money to Central America, the Caribbean is not involved. Is that the kind of commission you want?

During the civil rights movement those of us who were over 30 were told by the young people, "We do not trust you because you are over 30." As Members of Congress we have a right to distrust the President. This is an adversary system. If this bill is so good, if this recommendation is so pure, why does not the Congress appoint its own commission? Why do we not have the Judiciary Committee in which we have so much trust study this issue and come back with the recommendations? Why do we need a Presidential commission to study the issuance or nonissuance of a card?

Mr. MITCHELL. Mr. Chairman, I move to strike the requisite number of words.

My colleagues, after 13 years in this body, coming to this Capitol night and day, I must confess to you that every night when I see the Capitol dome illuminated, I still get a thrill, and I get a thrill because of what that dome symbolizes for me. It symbolizes what I consider to be the best values in this American nation. And there are some things that we simply should not ever accept in a legislative hall or any other place, things that strain the values that I see embodied in that flood-lit dome of the Capitol.

We agree that no men shall be held in bondage. That is fundamental. That is very fundamental. I thought we also agreed that we would never have a system in which people were asked to carry a card to identify themselves in this Nation. No, the bill does not do that. It does not. But it opens up the door for that possibility.

As I told my good friend, the gentleman from Massachusetts (Mr. FRANK), the very idea of that, the very idea of a study is totally and terribly repugnant to the values that I see when I look at that Capitol dome.

One of my colleagues said that this argument is creating divisions. It should. It should. One the fundamental values behind this Nation, behind its ethos, if there are questions, there should be division.

Another one of my colleagues has said that we were working guerrilla warfare. I will be the first to admit I would use guerrilla warfare to defend that basic value of not identifying our people or opening up the possibility. I would go beyond that. I have no hesitancy in telling you that beyond guerrilla warfare I would go into actual warfare within this Nation if I thought the basic values that I treasure so very much were going to be destroyed even by the threat of opening up this dreadful, dreadful possibility.

Vote with the Roybal amendment. I urge you to do it. It is essential.

Mr. MAZZOLI. Mr. Chairman, in part, I thought I might have been the last speaker. I was delaying to wind up debate. I see two of my colleagues. Is the gentleman seeking recognition?

Mr. GARCIA. Yes; I am.

Mr. MAZZOLI. And the gentlewoman?

Mrs. BURTON of California. Yes.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that the debate on this amendment end in 15 minutes, with 5 minutes for the gentleman from New York (Mr. GARCIA), 5 minutes for the gentlewoman from California (Mrs. BURTON), and 5 minutes for myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There is no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from California (Mrs. BURTON).

Mrs. BURTON of California. Mr. Chairman, I rise in support of the Roybal amendment. All of you can hear and see I have an accent. I was born in Europe. I was born in Poland, and I am an emigrant. Obviously I am an American citizen or I could not serve in this body. However, the most detestable thing in the world is to have an ID card. The Jews in Europe, in Poland where I was born, were wearing yellow stars. Is that what we really want?

□ 2210

I was so touched by what Mr. MINETA said that I almost feel like crying. That was a detestable time in America; we do not want to do this again. We never want to do this again. I do not think that we in this country should have an ID. It is an outrageous attitude, and I wish we could really stop even the thought of it. Only in dictatorships do you have identification cards, identification tags; you wear yellow stars. This is not the United States, the haven for me or for anyone else.

I hope that your amendment, Mr. ROYBAL, will pass.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I speak, I yield to the gentleman from New Mexico (Mr. RICHARDSON).

Mr. RICHARDSON. Mr. Chairman, I rise in support of the Roybal amendment. This amendment deletes the authorization for a Presidential study of a national ID card. This amendment makes it explicit that Congress will not authorize a national ID card in H.R. 1510.

Mr. Chairman, there can be privacy without freedom, as those in solitary confinement know. But there can be no freedom without privacy. A national ID card would violate the right of the individual to live and work free from the shadow of Government surveillance. It places the burden of enforcing American immigration laws on the farmer and the manufacturer. And it puts all individuals who don't look like the majority at risk of unemployment and deportation.

A national identifier would create a national population registry, a Government data bank to establish and validate every person's identity. The pages of American history tell the story of how Census Bureau files were used to incarcerate Japanese American citizens during World War II. Are we willing to repeat past mistakes?

A national identifier would also require an extensive computerized network for verification. Do we want our personal histories on line? Do we want our personal histories centralized for extraction by Government agencies, foreign governments, or precocious teenagers?

National identifiers endanger our right to privacy and our right to work. To avoid penalties that accrue from a simple mistake, the simplest thing that an employer can do is not hire a person with an accent, with brown skin, or with a foreign-sounding last name.

Finally, Americans do not want to carry internal passports. Members report that at townhall meetings, constituents expressed serious concern about immigration control. But when asked if they would be willing to carry an ID card, none of them raised their hands.

Constituents realize that the Government will require everyone in the American work force—all 100 million of us—to carry a national ID card.

Will it work?

A GAO report says no. GAO told us, in 1980, that we could not create a card that would never be borrowed, misused, or falsified. And we cannot expect an employer, facing stiff penalties and fines, to be able to tell the difference.

Meanwhile, computer crime would grow while our civil liberties shrink.

A national identifier serves neither employer nor employee. Already employers—whether farmers or restaurant owners—have to fill out forms for FICA, social security, workers compensation, employment records, and health insurance. H.R. 1510 would require employers to verify as well as maintain immigration documents. Large employees would have to hire entire immigration security divisions. At what cost?

For the Government, GAO estimated that a tamperproof social security card would cost $2 billion. And it still would not work.

Mr. Chairman, this is 1984. Let us not fulfill the Orwellian prophecy with a system that is costly, dangerous, and obsolete before it is born.

Mr. GARCIA. Mr. Chairman, I am taking the floor at this particular moment not to debate the amendment. I am taking the floor in search of my colleague from Massachusetts, who I believe and who I know is a gentleman.

I take the floor to apologize to him for a manner in which 18 years in legislative service should have served me better. I say that with all humbleness because I have a great deal of respect for my colleague from Massachusetts.

I would also like to say, Mr. Chairman, as the last speaker before the chairperson speaks, that obviously the emotion of this debate has finally reached the floor of the House. I had hoped that it would not get to this point; I had hoped that we would continue in a manner that we have continued from the very beginning, from yesterday, when we had full debate. But obviously it affects the lives of so many of us that we are, at this particular moment, I guess at this late hour, our tempers are not what they should be and we are not acting in what I consider to be the legislative manner that we are all capable of.

So I say to my colleague from Kentucky and my colleague from California, to both of them, that as far as I am concerned, I hope that the rest of the many amendments to take place are debated in the manner that this body is capable of.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman.

Mr. SKELTON. I thank the gentleman for yielding to me.

I hope that all of the sparks of the debate that we have seen tonight that those who are watching this debate do not get the opinion that this objection is limited, this objection to the language in this bill is limited to ethnic minorities. I think that it applies across the board regardless of the national heritage from which any of us come. The same objections arise.

I know full well, and I feel that I know the people of my district quite well, where I can pose the hypothetical question of this language or what this language might lead to. I know full well what the answer might be, and the answer would be very, very similar to the answer that your people would give you.

So, I hope that this debate has not taken on the appearance that it is solely limited to ethnic groups.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first, as I have done before, let me salute the Chair on another excellent presiding session. I think the gentleman from Kentucky (Mr. NATCHER), our Chairman, has continued to show the kind of restraint and the kind of gentlemanliness and the kind of real competency that rewards the House, and I am sure must impress all of our visitors and those who observe these proceedings.

I salute my friend and he makes me proud to be a member of the Kentucky delegation.

Let me engage my friend from California, Mr. ROYBAL, the author of the amendment in a question, please. I would like to ask the gentleman from California this question:

When the subcommittee and the Committee on the Judiciary engaged itself in production of the bill, H.R. 1510, it adopted what we have called the Glickman language, and may I read the Glickman language. It occurs on page 9 of the committee bill, which says:

> Nothing in this subsection dealing with the Presidential study shall be construed to authorize directly or indirectly the issuance or use of national identification cards.

I ask my friend from California, does his amendment, which strikes the Presidential Commission, strike the Glickman language?

I yield to the gentleman for his response.

Mr. ROYBAL. The language does in fact strike all of the language starting with line 16 on page 8 through page 10, line 2. In effect, it does strike out the language.

Mr. MAZZOLI. Then does the gentleman have any language which protects this body and this country from the institution of a national ID system or ID card?

Mr. ROYBAL. Well, first of all, if this amendment is adopted, you will have no reference to the language stricken. You will go then to the other body with——

Mr. MAZZOLI. I take my time back. The gentleman does not understand his own amendment. I am trying to lead to the gentleman.

Mr. ROYBAL. I am trying to understand what you want.

Mr. MAZZOLI. On page 139, the gentleman's language says:

> Nothing in this section shall be construed to authorize directly or indirectly the issuance or the use of a national identification card or the establishment or the administration of a national identification card or system.

I am actually trying to send the gentleman a fast hard ball over the center of the plate to hit out of the park.

Mr. ROYBAL. I understand. First of all, the amendment deletes certain sections——

Mr. MAZZOLI. But it does reinstitute the language.

First of all, let me say this: I think the House must know that while the gentleman's amendment has support and obviously is articulate and thoughtful, it is primarily supported by those who are against this section, and they are against this bill.

This amendment does not really assist us, if this amendment passes, it engages us in further, in effect, undermining the bill and the support for the bill. I would oppose it on that basis.

Second, I oppose it because as I told my friend from California, if his amendment is adopted, we go into conference with zero position except for the Glickman restated language, zero position on the question of a study. The gentleman well knows, the Senate version of this provision says the President may impose his judgment on this Congress.

This committee came forth, as the gentleman from Massachusetts brilliantly defined, this committee came forth and defended the House by saying the President, under this version, may only suggest a system. The gentleman puts us in the posture in the conference of having no language to protect this body and this Nation from the possibility of a system.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

I just wanted to briefly acknowledge the very gracious remarks of my friend from New York. I just want to say to him since he is much nicer than I am most of the time, there was no need for him to do that.

Mr. MAZZOLI. With what is left of my time, let me just say this: Two years ago when the House took up this bill in the lameduck session of 1982, one of the reporters was talking about the debate, and I said, you know what it did? It rose to the level of oral history, and I think what the House and the country observed tonight is another chapter of oral history.

I think it was very healthy. I really do not think this was at all difficult or divisive. I think it was instructive, I think it was beautiful. I think it says why America is America. How we all came here, by what various means, from what various backgrounds. Why we are concerned about language. Why we do get concerned.

I urge defeat of this amendment, and I would urge support of this bill.

The CHAIRMAN. The question is on amendment No. 9 offered by the gentleman from California (Mr. ROYBAL).

□ 2220

The question was taken, and on a division (demanded by Mr. MAZZOLI) there were—ayes 57, noes 51.

So the amendment was agreed to.

Mr. MAZZOLI. Mr. Chairman, I believe that the gentleman from California (Mr. MARTINEZ) who is the author of amendment No. 10 had indicated that he was not going to offer it; is that correct?

I would like to dispose of amendment No. 10.

The CHAIRMAN. Amendment No. 10 is in order at this time.

Does the gentleman from California (Mr. MARTINEZ) desire to offer amendment No. 10?

Mr. MAZZOLI. Mr. Chairman, do I understand that amendment No. 10 did not get offered?

The CHAIRMAN. The gentleman is correct.

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

### PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF THE COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, JUNE 13, 1984

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit while the House is considering bills under the 5-minute rule on Wednesday, June 13.

Mr. Speaker, I have talked with the minority, the gentleman from Ohio (Mr. KINDNESS). We both agree we might not have anybody there, but the gentleman has no objection to this.

The SPEAKER pro tempore (Mr. COLEMAN of Texas). Is there objection to the request of the gentleman from Texas?

There was no objection.

### PERMISSION FOR SUBCOMMITTEE ON WATER RESOURCES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, JUNE 13, 1984, AND THURSDAY, JUNE 14, 1984, AND THE SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION ON THURSDAY, JUNE 14, 1984

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule in the House on Wednesday, June 13, 1984, and Thursday, June 14, 1984, and the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation on Thursday, June 14, 1984.

This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## CALIFORNIA STATE UNIVERSITY, FULLERTON WINS COLLEGE WORLD SERIES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. DANNEMEYER. Mr. Speaker, I am pleased to report to the House that the Titans of California State University, Fullerton, captured the 1984 NCAA College World Series, Sunday in Omaha, Nebr. I am privileged to represent this fine institution in the House of Representatives.

In this double-elimination tournament, Cal State Fullerton came back from an earlier loss to Texas, 6 to 4, to defeat the defending champion Longhorns in the championship game by a score of 3 to 1. Cal State Fullerton is no newcomer to the series or to the highest ranks of college baseball. The Titans also won the national baseball championship in 1979.

The team compiled an impressive record of 66 wins and only 20 losses in the 1984 season. The all-around quality of the team is evidenced by the fact that 13 team members were selected in the recent major league baseball free-agent draft. Four team members were named to the all tournament team. They are: Eddie Delzer, Bob Caffrey, Blaine Larker, and John Fishel. In addition, Fishel tied an NCAA record with 13 base hits in the series.

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Congratulations are in order to the entire team and to Coach Garrido and his staff. My sympathies go out to the many Longhorn fans in the House, but California is justifiably proud of the Cal State Fullerton Titans, the 1984 champions. The team roster and other information is inserted at this point in the RECORD. Thank you, Mr. Speaker.

COACHING STAFF, CAL STATE FULLERTON TITANS

Augie Garrido
Dave Snow
Chris Smith
Bill Hughes
Rick Vanderhook

CHAMPIONSHIP TEAM MEMBERS

Eddie Delzer
Jeff Farber
Tom Thomas
John Fishel
George Sarkissian
Todd Simmons
Corby Oakes
Greg Mathews
Shane Turner
Jack Reinholtz
Kirk Bates
Bob Caffrey
Damen Allen
Rick Campo
Mike Halasz
Blaine Larker
Scott Wright
Steve Rousey
Jose Mota
Rich Slominski
John Bryant
Dan Apodaca

NCAA 1984 COLLEGE WORLD SERIES

| | |
|---|---|
| Championship game: | |
| Cal State Fullerton | 3 |
| Texas | 1 |
| Earlier games: | |
| Cal State Fullerton | 10 |
| Oklahoma State | 2 |
| Cal State Fullerton | 6 |
| Arizona State | 1 |
| Cal State Fullerton | 13 |
| Miami (Florida) | 5 |
| Texas | 6 |
| Cal State Fullerton | 4 |
| Cal State Fullerton | 8 |
| Michigan | 4 |

[From the Washington Post, June 11, 1984]

### FULLERTON STATE CAPTURES TITLE

OMAHA, NEBR.—Eddie Delzer allowed two infield singles in the first inning, then did not allow another hit through the seventh as third-ranked Cal State-Fullerton captured the NCAA College World Series title with a 3-1 victory over defending champion Texas tonight.

Delzer (8-2) left the game after suffering a leg cramp while warming up for the eighth inning. Reliever Scott Wright came on to hold Texas scoreless over the final two innings for his 22nd save of the season.

Texas (60-14) scored its lone run in the first inning as Elanis Westbrooks reached on an infield hit, was sacrificed to second and scored on Rusty Richards' single.

Fullerton State picked up its first run in the second inning when John Bryant was hit by a pitch, stole second and scored on a single to center by Kirk Bates. The Titans (66-20) added two runs in the fourth when Bob Caffrey led off with a single and scored on a triple to right center by Bryant, who came home with the final run of the game on a sacrifice fly by George Sarkissian.

The Longhorns managed just three other baserunners against Delzer before the 5-foot-8 senior lefthander left the game. Wright gave up a pinch-hit double with one out to Doug Hodo, then retired the next five Longhorns to wrap up the championship and add to his single-season NCAA save record.

Fullerton State's John Fishel also entered the record book when he singled in the seventh inning. It was his 13th hit of the series, tying the record set by Keith Van Horne of Arizona in 1976 and tied by Stan Holmes of Arizona State in 1981.

[From USA Today, June 11, 1984]

### CAL STATE FULLERTON STOPS TEXAS 3-1 FOR TITLE

(By Steve Wieberg)

OMAHA, NEBR.—Fullerton's Eddie Delzer and Scott Wright turned in the best pitching performances of an offense-dominated College World Series, combining on a three-hitter to beat Texas 3-1 Sunday and win the Titans' second national championship.

Delzer, a 5-8 right-hander born in England, allowed only two hits before suffering a cramp in his left leg while warming up for the eighth inning. On came Wright, who recorded his NCAA-record 22nd save of the season by retiring six of the seven batters he faced.

The victory was the fourth in five nights for Fullerton, which won the 1979 title. The Titans (66-20) won their opener against Michigan, lost 6-4 to Texas, then defeated Miami (Fla.), Arizona State, Oklahoma State and the Longhorns.

"I've been working for this thing for four years," said Wright, one of 13 Fullerton players taken during last week's free-agent draft. "I couldn't ask for anything more. This is a great way to go out."

The save was Wright's second of the series. Delzer finished with two wins—he also beat Miami in relief—and a save, and was named with teammates Bob Caffrey (catcher), Blaine Larker (third base) and John Fishel (outfield) to the all-tournament team.

"He (Delzer) did a great job keeping our guys off-balance all night long," said Texas coach Cliff Gustafson. "Both teams were a little tense at the plate. They weren't swinging as freely as they had."

This College World Series was the highest-scoring in history, with each of the 15 games averaging more than 15 runs, but Fullerton, and the defending champion Longhorns combined for only eight hits in the championship game.

Texas (60-14) took a 1-0 lead in the first inning on an RBI single by freshman first baseman Rusty Richards.

| | ab | r | h | rbi |
|---|---|---|---|---|
| Texas | | | | |
| Westbrks cf | 3 | 1 | 1 | 0 |
| Hodo lf | 1 | 0 | 1 | 0 |
| B. Bates 1b | 2 | 0 | 0 | 0 |
| Richards 1b | 4 | 0 | 1 | 1 |
| Denny 3b | 4 | 0 | 0 | 0 |
| Loy c | 4 | 0 | 0 | 0 |
| Cook rf | 4 | 0 | 0 | 0 |
| Labay dh | 2 | 0 | 0 | 0 |
| Wrzesinsku lf | 3 | 0 | 0 | 0 |
| Doughty ss | 2 | 0 | 0 | 0 |
| Totals | 29 | 1 | 3 | 1 |
| Fullerton | | | | |
| Thomas cf | 3 | 0 | 0 | 0 |
| Mota 2b | 3 | 0 | 0 | 0 |
| Fishel lf | 3 | 0 | 1 | 0 |
| Caffrey c | 3 | 1 | 1 | 0 |
| Bryant rf | 3 | 2 | 1 | 1 |
| K. Bates 1b | 4 | 0 | 1 | 1 |
| Sarkissin dh | 2 | 0 | 0 | 1 |
| Turner ss | 3 | 0 | 1 | 0 |
| Larker 3b | 3 | 0 | 0 | 0 |
| Totals | 27 | 3 | 5 | 3 |

| | |
|---|---|
| Texas | 100 000 000—1 |
| Fullerton St. | 001 200 00x—3 |

Game-winning RBI—Bryant.

E—Mota; Doughty. DP—Fullerton 1. LOB—Texas 5, Fullerton 7. 2B—Hodo. 3B—Bryant. SB—Bryant (15), Fishel (28). S—B. Bates, Sarkissian, Mota. SF—Sarkissian.

| | IP | H | R | ER | BB | SO |
|---|---|---|---|---|---|---|
| Texas | | | | | | |
| Swndell L. 14-2 | 4⅓ | 3 | 3 | 3 | 2 | 3 |
| Boudreaux | 3⅔ | 2 | 0 | 0 | 1 | 3 |
| Cal-Fullerton | | | | | | |
| Delzer W. 8-2 | 7 | 2 | 1 | 1 | 3 | 7 |
| Wright S. 22 | 2 | 1 | 0 | 0 | 0 | 1 |

HP—Bryant by Swndell
T—2:24. A—13,487

## LEGISLATION TO PROTECT TAXPAYERS AGAINST IRS

(Mr. ZSCHAU asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZSCHAU. Mr. Speaker, today I am introducing H.R. 5821, a bill to protect taxpayers against the Internal Revenue Service applying retroactively administrative and judicial rulings that would have an unfavorable impact.

Our legal system has traditionally determined the legality of an action based on the laws that are in effect at the time of the particular action. In contrast, the IRS has enforced its rulings retroactively. Even when a taxpayer files a tax return that is accurate and conforms exactly to the existing instructions, the IRS has applied subsequent regulations reflecting later court decisions or a change in an administrative ruling that requires taxpayers to pay additional taxes. This has happened even in those cases when the taxpayer has received written advice from the IRS confirming the accuracy of the original tax treatment.

I believe such actions are wrong and unfair. But that's what can happen as the tax law stands today. For example, two of my constituents took a deduction for certain educational expenses in 1977. The form 1040 instructions at the time stated clearly that the particular deduction was allowed. Then, in 1980, new IRS regulations were written which reversed that instruction. When my constituents were audited in 1981, the IRS recomputed their 1977 taxes using the new instruction and demanded several thousand dollars in additional taxes.

Mr. Speaker, H.R. 5821, would modify section 7806 of the Internal Revenue Code of 1954 that covers the retroactive application of tax law. This change wouild prevent the IRS from applying, to the detriment of a taxpayer, any administrative or judicial interpretation of a provision in the tax law or regulations made subsequent to the time that the taxpayer had relied on that provision to compute his or her taxes. My bill would not modify the authority of the IRS to dispute returns that relied on tax instructions in an unreasonable manner, nor would it eliminate the authority to apply tax law changes in a retroactive manner. I do not believe that the complete elimination of such authority is warranted or desirable. For instance, there may be cases when taxpayers can recover overpayments of taxes through retroactive remedies.

Mr. Speaker, I hope that my colleagues will join me in supporting H.R. 5821. At a time when we are seeking ways to reform the Tax Code, we should also look for ways to make its implementation fairer. H.R. 5821 would do so.

The text of my bill follows:

### H.R. 5821

A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to disregard certain retroactive administrative and judicial interpretations of such Code

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. CERTAIN RETROACTIVE ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS OF 1954 CODE MAY BE DISREGARDED.

(a) In General.—Section 7806 of the Internal Revenue Code of 1954 (relating to construction of title) is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) Certain Retroactive Interpretations May Be Disregarded.—

"(1) In general.—For purposes of this title, if—

"(A) the taxpayer's treatment of any tax item has a reasonable basis in law as of the date such item is properly taken into account under the method of accounting used by the taxpayer for purposes of this title, and

"(B) the taxpayer filed a return or otherwise relied on such reasonable basis with respect to such item,

the taxpayer may disregard any administrative or judicial interpretation announced after such date.

"(2) Special rules.—

"(A) Acts of congress.—Nothing in paragraph (1) shall be construed to apply to any judicial or administrative interpretation carrying out any Act of Congress which applies retroactively to such date.

"(B) Administrative and judicial interpretations.—For purposes of paragraph (1)—

"(i) any published position of the Internal Revenue Service shall be treated as an administrative interpretation, and

"(ii) a judicial interpretation may be disregarded whether or not the taxpayer is a party in the case decided.

"(3) Definitions.—For purposes of this subsection—

"(A) Published position.—

"(i) In general.—The term 'published position' means—

"(I) any regulation or ruling of the Internal Revenue Service,

"(II) any instruction for filing a return, or other publication, of the Internal Revenue Service, and

"(III) any other document of the Internal Revenue Service which can be acquired under section 552 of title 5, United States Code.

"(ii) Exceptions.—Such term does not include—

"(I) any position which is in proposed form, and

"(II) any written determination which may not be used or cited as precedent under section 6110(j)(3).

"(B) Tax item.—The term 'tax item' means any item which is required to be, or may be, taken into account in determining any liability for tax under this title."

(b) Effective Date.—The amendments made by this section shall apply to administrative and judicial interpretations announced after the date of the enactment of this Act.

## ANTISATELLITE WARFARE AND SPACE WEAPONRY

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKS. Mr. Speaker, I am deeply concerned that the Reagan administration may miss an opportunity to break the current impasse between the United States and the Soviet Union on arms control. The Soviet Union has made a request that the United States enter into negotiations on the question of antisatellite warfare and space weaponry.

Just a week ago this House of Representatives voted overwhelmingly to have a moratorium against testing against an object in space for 1 year in order to see if there was an opportunity to reach arms-control agreements with the Soviets in this area. From a military point of view, it is an effort to try to preserve our national means of technical assessment which are the eyes of either side's strategic force. I see this as an opportunity to get arms control again underway between our two countries, and I urge the Reagan administration to take up the Soviets on this challenge to have direct negotiations.

I am including for the Record an article on the ASAT question that appeared today in the Washington Post:

[From the Washington Post, June 12, 1984]

### The ASAT Question

Add ASAT to your list of acronyms worth deciphering. It stands for anti-satellite, as in antisatellite weapons—weapons to shoot at the communications and intelligence satellites with which the great powers control their nuclear forces. The Soviet Union has had some crude ASAT weapons for years. The United States is ready to test a superior model. Plainly, the American capacity to leapfrog was some part of the reason Moscow started talking up ASAT arms control last year. As a result, the House wrote into the defense bill an amendment that would keep the United States from testing a new ASAT as long as the Soviets keep from further deploying old ones. The Senate is talking up a similar proposal now.

It's a good idea. Satellites are a nuclear power's eyes. To be able to threaten to blind the other in a crisis is to risk provoking him to do something terrible to you first. This is the very definition of instability. If this particular genie is ever going to be controlled, furthermore, the time to do it is before the Air Force starts testing. Afterward, verification may be impossible. The general state of Soviet-American relations may not permit early ASAT talks, notwithstanding Moscow's repeated expressions of interest in them. That is all the more reason not to close the door now.

Another aspect of the question is not well understood in some Washington quarters. The technology needed to knock out a satellite has a relationship to some of the technology needed to make good on President Reagan's program to study how to knock out incoming missiles. That helps explain why the administration insisted, in a report to Congress last spring, that efforts to negotiate a treaty banning ASAT weapons are not in the national interest. But the missile defense idea, itself still far from proven, should not be used as cover for going ahead on an ASAT program whose own merits are challengeable, to say the least.

Soviet concern over a connection between testing ASAT and studying missile defense is evident. The Kremlin seems to be more respectful of American technology, on both fronts, than many Americans are. What is relevant here is that the American technology advantage, if it is that, gives the United States a strong bargaining card in any prospective discussion of ASAT. It makes sense for the United States to go slow on ASAT testing in order to preserve the opportunity for later talks on limiting the military uses of space.

## THE 60TH ANNIVERSARY OF WGN RADIO IN CHICAGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues that WGN Radio in Chicago will celebrate, during the week of June 17, its 60th anniversary of providing the people of the Chicagoland area with excellent broadcasting service.

WGN Radio began regular broadcasts to the people of Chicago on June 1, 1924, as "WGN, the Chicago Tribune Station in the Drake Hotel." It was a pioneer 50,000-watt clear channel station, and today, broadcasting at 720 kilohertz on the AM broadcasting band, WGN Radio continues to provide the Chicago area and the communities in the surrounding States with quality radio programing.

During the past 60 years, WGN Radio daily has provided professional and dedicated service to our community and our Nation, with programing which includes sporting and special events coverage, news and music, and farm news, as well as other important informational, educational, and entertaining programing. Hundreds of thousands of listeners have come to rely on WGN Radio, as a clear channel station, for its skywave signal, which in many instances provides these listeners with their only source of nighttime radio service.

WGN Radio is affiliated with the WGN Continental Broadcasting Co., whose parent company, the Tribune Broadcasting Co., has made numerous contributions, and has been at the forefront of the development of the media and communications industry in the city of Chicago.

Mr. Speaker, on the occasion of its 60th anniversary, I congratulate WGN Radio, and its parent, the Tribune Broadcasting Co., on six decades of outstanding service to the people of the Chicagoland area, and extend to WGN Radio my best wishes for continued success in providing quality programing and in maintaining its high standards of excellence in radio broadcasting.●

## POLICE DIRECTOR HUBERT WILLIAMS RECEIVES LEADERSHIP AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, this evening, I will have the honor of presenting to Police Director Hubert Williams of Newark, N.J., the first annual Leadership Award of the Police Executive Research Forum, which comprises the police chiefs and sheriffs of our major cities.

It is a great tribute to the talents and abilities of Director Williams to have been chosen by his peers to be the first recipient of this award. We in Newark have long known of the high quality of his leadership and of his distinguished and dedicated public service at a time when our city had to grapple with terribly difficult problems.

Mr. Williams has been director for 10 years. In this capacity, he has the responsibility of administering and managing the affairs of the Newark Police Department, which includes some 1,600 sworn personnel and several hundred civilian employees. In addition, he is an educator who lectures on criminal justice at the graduate level and is a member of the bar.

His career in the law and in criminal justice has set the highest standards for those who have had the good fortune to be associated with him. Beyond this, his humanitarian contributions have done much to improve the quality of life in our city.

Director Williams has received many distinguished awards for his professional excellence and compassionate community service. The honor he receives this evening is yet another richly deserved.

As a long-time friend, I am grateful to Director Williams for all that he has contributed to our city and its citizens.●

## RECONCILIATION CONFERENCE UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today the reconciliation conference continues with two meetings scheduled. Senate Finance and Ways and Means met this morning on spending reduction issues involving medicare part A, and a meeting is scheduled between Energy and Commerce and Senate Finance on medicaid/CHAP issues this afternoon.

Substantial progress is being made in the twelve subconferences. Highlights of action taken so far include:

Last week Senate Finance and the Ways and Means Committees reached agreement on more than $30 billion worth of tax increases. This means we are just about halfway to our conference target of $60 billion in 3-year deficit reductions.

Subconference No. 6, involving the House Post Office and Civil Service and Senate Governmental Affairs Committees, resolved a number of issues this past Wednesday, and is expected to complete its work before the end of this week.

Subconferences 7 and 11 are planning to meet later this week on procurement/competitive contracting issues and miscellaneous matters.

In all of the other subconferences informal discussions are underway.

Again, it is my hope that we can finish work on the conference before the end of this week, or at the latest early next week. With that goal in mind I would like to thank the committee chairmen and other conferees for their hard work so far, and encourage them to wrap up action in their subconferences as soon as possible.

Below is a list of the subconferences, the committees participating in each subconference, and the issues they are discussing:

| Committees | | Issues |
|---|---|---|
| House | Senate | |
| Ways and Means | Finance | Taxes |
| | Budget | Do |
| Energy and Commerce | Finance | Medicaid/CHAP |
| Budget | Budget | Do |
| Ways and Means | Finance | Medicare part A, SSI, AFDC, Grace Commission |
| Budget | Budget | Do |
| Ways and Means | Finance | Medicare part B |
| Energy and Commerce | Budget | Do |
| Budget | | Do |
| Appropriations | Appropriations | Appropriations cap |
| Rules | Governmental Affairs | Do |
| Budget | Budget | Do |
| Post Office and Civil Service | Governmental Affairs | Federal retirement |
| Armed Services | Budget | Do |
| Judiciary | | Do |
| Budget | | Do |
| Armed Services | Armed Services | Procurement/competitive contracting |
| Governmental Operations | Governmental Affairs | Do |
| Budget | Budget | Do |
| Banking | Banking | Federal credit union insurance premiums |
| Budget | Budget | Do |
| Small Business | Budget | Small business |
| Budget | | Do |
| Veterans' Affairs | Veterans' Affairs | Veterans' issues |
| Budget | Budget | Do |
| Government Operations | Governmental Affairs | Miscellaneous |
| Budget | Budget | Do |
| Budget | Budget | Miscellaneous |

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## ADDRESS OF HON. JOHN D. DINGELL BEFORE BANKING LAW INSTITUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, our distinguished colleague and the chairman of the House Committee on

Energy and Commerce, the Honorable John D. Dingell, recently addressed the Banking Law Institute on the problems facing many of America's financial institutions. His thoughts and incisive comments deserve the attention of those of us in the Congress concerned with the problem and effects of deregulation of the Nation's financial depository institutions.

I commend his remarks to my colleagues.

### Remarks by John D. Dingell Before the Banking Law Institute First Annual Bank-SEC Update, June 4, 1984

Good afternoon. I appreciate the invitation to speak with you. It is indeed encouraging the see a group of bankers, bank accountants, bank counsel, securities counsel and SEC staffers exchanging views and information at a conference like this. It is billed as your "first." I hope there are others and that a meaningful dialogue will develop between and among you after you leave.

The current regulatory system is not designed to cope with bank securities activities. When Congress enacted the Federal securities laws, banks were generally excluded from the securities business by the Glass-Steagall Act. Accordingly, the Securities Exchange Act of 1934 contains an exclusion from the definitions of "broker" and "dealer" for banks "unless the context otherwise requires." Nor do the Federal securities laws contain any remedial provisions to deal with bank conflicts of interests and other problems like the specific restrictions governing investment banking firms, broker-dealers and investment advisors. Moreover, the banking laws were designed to protect depositors' funds and the soundness of the banking system. Securities regulation, on the other hand, is designed to protect investors by promoting informed assessment of risk-taking through full and fair disclosure, minimum qualification standards for sellers of securities, and prohibitions against various deceptive and fraudulent sales and market practices. If banks were to embark upon speculative securities activities, banking regulation would not protect investors or preserve confidence in the securities markets or the banking industry. Therefore any legislation that modifies Glass-Steagall must deal with the myriad special problems that arise from bank involvement in the securities business.

But I'm getting ahead of my story.

Over the past few years, the Members of the Energy and Commerce Committee have been getting as much welcome and unwelcome advice as our sister Committee across the hall, the Banking Committee, chaired by my able colleague Rep. St Germain, on what the U.S. financial system should look like. We were lobbied to death on mutual funds and revenue bonds. One unelected public servant recently threatened to dump over 200 nonbank banks on us in time for Christmas if Congress didn't do what he wanted done. On May 24, Chairman St Germain and the Ranking Minority Member of that Committee, Mr. Wylie, along with 18 other co-sponsors, introduced H.R. 5734, the Financial Institutions Equity Act of 1984. It is no secret that I am among those co-sponsors, along with two other members of the Energy and Commerce Committee—Mr. Wirth, Chairman of our Finance Subcommittee, and Mr. Rinaldo, Ranking Minority Member of that Subcommittee. The two House Committees share a faith and confidence in the financial system that has brought America out of the depression and sustained its growth and stature as a world power to be contended with, both economic and political. we agree that this system should not be dismantled or compromised in any way. The leadership of the two Committees are a united front on this issue.

The Congress has a responsibility to provide a sane, reasoned forum in which rational decisions can be made on the shape and future of the financial system. The needs of the economy and of the people must be and are, our paramount concern. Then the institutions must be shaped to meet those needs.

You know, on March 7 of this year, Walter Wriston delivered a speech to The Bank and Financial Analysts Association in New York on the Citibank/Citicorp of Tomorrow. He spoke of "adopting the Willie Sutton strategy of going where the money is" (translation: forget the non-upscale customers), "working within a regulatory environment . . . not always conducive to [Citi's] efforts" (translation: laws are for other people, not for us) and "envisioning a world of 35 million Citicorp customers producing earnings of $30 per customer." His plan called for three kinds of world-class banks, "all of which can leverage off an unrivaled global network." Said Wriston: "Although we would like to see the formal demise of the Glass-Steagall Act, our real money-making future lies in the potential for merger, barter, and arbitrage activities, which are not the investment banking products of the 1960s and 1970s, that may often be centered in countries many people might never consider as prime markets but are in countries we know well through long-established profitable operations."

Lacking in the discussion was any reference to how all this relates to the critical function of banks with their profound implications for the performance of the economy and the distribution of economic benefits. The natural outgrowth of eliminating Glass-Steagall would be intolerable concentration of financial services and holdings of equities in giant financial supermarkets. Such monopoly power is unacceptable. The effects on small businesses, farmers and non-upscale customers would be bad public policy.

Therefore, the legislation introduced in May, as well as similar legislation to be marked up by our Finance Subcommittee this week, is a loophole-closing bill-period. The nonbank bank loophole will be closed by redefining a bank for bank holding company purposes. Businesses that become bank holding companies, as a result of this redefinition, would have two years to divest nonconforming activities, no matter when acquired. There will be no expanded powers of any kind for any bank or any other kind of financial institution and no grandfather provisions. We warned you not to slip through "loopholes"—you should have listened.

This legislation would extend the Glass-Steagall prohibition on the intermingling of banking and securities dealing to cover affiliations between banks that are not Federal Reserve members and securities organizations and officer, director and employee relationships between them. Currently the Glass-Steagall prohibitions cover only Fed member banks.

This change would prevent implementation of the FDIC security subsidiary proposal and close the loophole used by the Boston Five Cents Savings Bank to form a mutual fund and establish subsidiaries to manage the fund and market its shares.

The securities dealing prohibitions would also be extended to prohibit affiliations between firms engaged in any type of securities activity and deposit-taking institutions, whether acting through affiliates or directly. This would close the loophole which permits Dreyfus to acquire depository institutions.

Also prohibited would be all retail brokerage activities for all types of depositories or depository holding companies. This would include discount brokerage and would end, for example, Bank America Corporation's ownership of Charles Schwab Corporation, and the relationship between the consortium of federal savings and loans and the joint service corporation known as Invest. A two-year divestiture period is provided.

Affiliations between thrifts and securities organizations, and any officer, director and employee relationships between them, would also be prohibited.

Affiliations between thrifts and securities organizations, and any officer, director and employee relationships between them, would also be prohibited.

There are other provisions but I think you get my drift.

Some of you are staring at me in disbelief, asking—"Why"? Others are emitting "this guy is dreaming!"

When you've been in this town as long as I have you learn quickly that you never say never.

Several things are working against banking deregulation now.

Foremost, is the recent near-disaster at Continental Illinois and the resultant government bailout. And I would like to commend my colleague Chairman St Germain for scheduling hearings for June 13 on the problems that the Continental Illinois rescue is creating. As noted recently by Business Week, this episode is undermining the assumptions underlying banking deregulation and propelling the rush of nondepository institutions into financial services: (1) that deregulation would allow banks safely to perform a wider variety of services; (2) that large deposits would be no safer in banks than anywhere else; (3) and that nothing would fundamentally shake confidence in the financial system as a whole. Potentially more devastating to the economy are the new doubts being raised about the Federal Reserve's ability to continue pressing its five-year-old fight against inflation. A financial system in need of periodic rescue operations will make it more difficult for the Fed to assure the stability of the system.

When Latin American borrowers see how easy it is for a big U.S. bank to get billions of dollars in aid, won't the tendency be for them to put more pressure on lenders to liberalize their loan conditions? Will they just refuse to pay, raising the specter of more cash-strapped banks with nonperforming loans and inadequate loss reserves?

Doesn't the historic rescue of Continental free big U.S. banks of market discipline and encourage them to pursue risky innovations in funding and lending policies with even more reckless abandon than they have so far evidenced, throwing more money after bad foreign loans, energy loans, and god knows what all else?

Last March 16, the FDIC announced a "modified payoff" procedure whereby depositors over the $100,000 insurance limit would share losses with the FDIC in failed banks. In roughly a score of failures since, beginning with the celebrated Penn Square debacle, this policy was applied with some $200 million of uninsured deposits of credit unions, thrifts, and other customers going unpaid. However, the government threw its full faith and credit behind Continental to the tune of a $7.5 billion rescue package. Last week Continental's chairman told Illinois legislators that his bank is likely to need permanent Federal aid to put together a merger or to survive on its own. Its shareholders may have to be sacrified.

Is the Treasury looking down a black hole? By penalizing large depositors at small banks and subsidizing them at big banks, will the FDIC spawn a two-tier system in which small banks must pay a risk premium to attract funds? What will this mean for credit availability outside of big money centers?

The bottom line is best illustrated by an account in Stephen Fay's book, "Beyond Greed," in which he recalls Bunker Hunt's foray into the soybean market in Chicago in 1977.

Bunker, Herbert, and their families has bought more than one third of the soybean contracts in the market, and the largest short seller was a grain trader named Cook Industries. The size of that short position bankrupted the company, and on June 1, 1977, its chairman, a man named Ned Cook, asked that trading in the company's shares be suspended while he organized "an orderly repayment of its debts."

A reporter telephoned Bunker in Dallas to ask what he thought of Ned Cook's plight.

"Is this on or off the record?" Bunker inquired.

"On the record, please, Mr. Hunt," said the reporter.

"Well, replied Bunker, "I think Ned Cook's a fine gentleman, and I'm real sorry this has happened to him."

"Off the record, Mr. Hunt, how do you feel about Ned Cook?"

"Tough * * * [expletive deleted]," said Bunker.

Until we are prepared to say "that's too bad" and condemn government intervention when banks fail, we need to think long and hard about letting the banks assume new powers and new risks that could threaten the whole financial system. Banks are special: they are the chief source of the money supply, depositories for much of our liquid wealth and transmitters of monetary policy.

What about the proposal to let banks offer commerical and securities services through affiliates?

The Senate Banking and Currency Committee's 1932-1934 investigation of stock exchange practices, commonly called the Pecora Hearings, in recognition of the large role played by the Committee's counsel, Ferdinand Pecora, led directly to the passage of the Securities and Banking Acts of 1933, the Securities Exchange Act of 1934 and the creation of the SEC. They ultimately transformed American capitalism for the better. The hearing record revealed, among other things, that many banks were conducting securities operations through affiliates, thus "circumventing legal prohibitions." Pecora, in analyzing the economic debacle that followed, described how a bank assumed a "veritable dual personality":

The technical instrument which enabled the bank to carry on in this Dr. Jekyll-Mr. Hyde fashion was known as the 'banking affiliate.'

At the root of most of the mischief there was always present, in some form or other, the influence of the banking affiliate—a ready facility for financial misadventure. Pecora, "Wall Street Under Oath," 77, 83 (1939).

According to Judge Pecora, the Senate Banking and Currency Committee's investigation established that, "[w]ithout the affiliate to act as an alter ego of the bank, free from the wise restrictions of the National Banking Act, most of the mischief could not even have been initiated."

It is tempting to say that the concerns of the 1930s are no longer relevant. Don't you believe it! Advances in communication and information technology have made banking faster-paced and riskier. Technology does not prevent lending debacles. The human factor concerns are the same. The FDIC in its 1983 report to Congress, "Deposit Insurance in a Changing Environment," pointed out that "it is impractical to think that the future of the bank can be separated from the future of the company of which it is a part." Along the same lines, Chairman Volcker of the Federal Reserve Board testified in January that a bank cannot be insulated from the fortunes of its affiliates and the success or failure of their business objectives; the public will inevitably regard the two as one.

"The more things change, the more they remain the same" is as true today as when Alphonse Karr coined the expression in 1875.●

## THE FAIR TAX PLAN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

● Ms. **KAPTUR**. Mr. Speaker, loopholes have turned the Tax Code into a thick document of rules and exceptions that totals more than 2,000 pages. American taxpayers should not have to rely on accountants or tax lawyers to figures how much they owe in taxes. Nor should they harbor suspicious, often justified, that others are paying less taxes simply because they are able to take advantage of the Tax Code's loopholes. Paying taxes should not be a game, but an obligation fairly shared by us all.

It is time to restore the faith of the American people in the Federal tax system. We must close loopholes and create a simple and fair system with lower marginal tax rates. This is the heart of the Bradley-Gephardt "fair tax" approach. It simplifies the Tax Code and maintains a progressive rate structure.

The fair tax bill would simplify the tax system by eliminating most business and personal loopholes. In and of itself, simplicity is a desirable characteristic of a tax system. Americans would prefer a streamlined, straightforward tax system to the mind-numbing complexity of the current code.

A simpler tax system would also be a fairer system. Horizontal equity would be promoted as individuals or corporations with the same incomes or profits would pay the same amount in taxes. Horizontal equity is now thwarted by the more than 100 major personal and business loopholes. For example, a study by the Joint Committee on Taxation found that while the chemical and investment industries had roughly the same pretax income, the chemicals industry's tax rate was a negative 17.7 percent while the rate for investment companies was a positive 21.9 percent.

The simpler tax system that would be established by the fair tax bill would also raise revenues in the manner most consistent with economic productivity and job creation. Tax loopholes are not a good mechanism to promote economic development. They encourage paper entrepeneurism because businesses focus their attention on potential tax break opportunities instead of on more productive activity. They are inefficient because they inevitably subsidize some business decisions that would have been made in the absence of any tax break. Last, loopholes often subsidize some industries over another without any underlying rationale. It is not clear that society benefits when the auto and electronic industries contribute sizable sums in taxes while other industries, such as aerospace and chemicals, do not pay taxes at all.

The fair tax bill would also maintain the principal of taxation based on the ability to pay. Those who have the greatest incomes in this society and who are better able to afford life's luxuries should be expected to contribute a larger share in taxes. The fair tax bill stands in sharp contrast to other comprehensive reform measures such as the flat tax or a consumption tax. These alternatives would be disadvantageous to the ordinary taxpayer because they are not based on the principle of the ability to pay. At the same time, even with its progressive rate structure, under the fair tax bill all marginal tax rates would drop.

Adherence to the principle of progressivity is especially important now because recent changes in tax law, often under the guise of supply-side economics, have often been regressive and unfair. When a corporation or wealthy individual receives a tax break, someone has to pay for the loss in revenues. That person often turns out to be the average or low-income taxpayer. Thus, while corporations received more in tax breaks last year than they paid in taxes, and while the effective tax rate paid by individuals earning more than $200,000 a year dropped by more than a third since 1978, the effective tax rate on the bottom half of the population increased by more than 50 percent since 1978.

So we must be careful to insure that others do not use the necessary step of tax simplification as a ruse to further shift the tax burden on the lower and middle-income classes. The Federal income tax must continue to act as a progressive counterbalance to the often regressive nature of other taxes. If not, even greater inequity will result.

We need a Tax Code that is simple.

We need a Tax Code that taxes individuals and corporations of equal incomes equally.

We need a Tax Code that is most consistent with economic growth.

We need a Tax Code that adheres to the principle of the ability to pay.

We need the Fair Tax Act.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. HALL of Indiana (at the request of Mr. Wright) for today, on account of a death in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Hiler) to revise and extend their remarks and include extraneous material:)

Mr. Dannemeyer, for 60 minutes, on June 20.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.
Mr. Rodino, for 5 minutes, today.
Mr. Panetta, for 5 minutes, today.
Mr. St Germain, for 5 minutes, today.
Ms. Kaptur, for 5 minutes, today.
Mr. Gonzalez, for 60 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Edwards of California, to extend his remarks immediately after the vote on amendment No. 1 to H.R. 1510 in the Committee of the Whole today.

(The following Members (at the request of Mr. Hiler) and to include extraneous matter:)

Mr. Young of Alaska.
Mr. Conte in three instances.
Mr. McKinney.
Mr. Campbell.
Mr. Broyhill.
Mr. Kemp.
Mr. Smith of New Jersey.
Mr. Hyde.
Mr. Wortley.
Mr. Packard.
Mr. Lent.
Mr. Lagomarsino.
Mr. Sundquist.
Mr. Ritter.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Frank.
Ms. Ferraro.
Mr. Mavroules.
Mr. Gejdenson.
Mr. Roybal.
Mr. Wise.
Mr. Solarz.
Mrs. Schroeder.
Mr. Montgomery.
Mr. Carr.
Mr. Matsui.
Mr. Edgar.
Mr. Synar.
Mr. Britt.
Mr. Jenkins.
Mr. Rahall.
Mr. Lipinski.
Mr. Sam B. Hall, Jr.
Mr. Lantos in two instances.
Mr. Hoyer.
Ms. Oakar.
Mr. Martinez.
Mr. Akaka.
Mr. Vandergriff.
Mr. Kildee.
Mr. Weiss.
Mr. Conyers in two instances.
Mrs. Lloyd.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1286. An act to establish a program to conduct research and development for improved manufacturing technologies, and for other purposes; to the Committee on Science and Technology.

## ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1723. An act to authorize appropriations through fiscal year 1986 for the Great Dismal Swamp, Minnesota Valley, and San Francisco Bay National Wildlife Refuges; and

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes.

## ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 13, 1984, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3534. A communication from the President of the United States, transmitting proposals that reduce the request for supplemental appropriations for fiscal year 1984 and amendments reducing the request for appropriations for fiscal year 1985, pursuant to 31 U.S.C. 1107 (H. Doc. No. 98-229); to the Committee on Appropriations and ordered to be printed.

3535. A letter from the Comptroller General of the United States, transmitting a report on his review of the proposed deferral of budget authority and revision to a previously reported deferral contained in the Message from the President dated May 8, 1984 (H. Doc. No. 98-216), pursuant to Public Law 93-344, section 1014 (b) and (c) (H. Doc. No. 98-230); to the Committee on Appropriations and ordered to be printed.

3536. A letter the Comptroller General of the United States, transmitting a report on his review of a proposed deferral of budget authority contained in the Message from the President dated May 21, 1984 (H. Doc. No. 98-224), pursuant to Public Law 93-344, section 1014 (b) and (c) (H. Doc. No. 98-231); to the Committee on Appropriations and ordered to be printed.

3537. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide more equitable benefits for spouses and former spouses under the Civil Service Retirement System and for other purposes; to the Committee on Post Office and Civil Service.

3538. A letter from the Chairman, U.S. International Trade Commission, transmitting a report on the operation of the trade agreements program during 1983, pursuant to Public Law 93-618, Section 163(b); to the Committee on Ways and Means.

3539. A letter from the Secretary of Health and Human Services, transmitting a report on foster care and adoption assistance under title IV E of the Social Security Act, pursuant to Public Law 96-272, Section 101(b); to the Committee on Ways and Means.

3540. A letter from the Comptroller General of the United States, transmitting a report entitled, "Examination of the Federal Home Loan Bank Board's and Federal Savings and Loan Insurance Corporation's Financial Statements for the Years ended December 31, 1983 and 1982" (GAO/AFMD-84-47, May 30, 1984), pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HUGHES: Committee on the Judiciary. H.R. 5656. A bill to amend the Controlled Substances Act to strengthen the authority to prevent diversion of controlled substances, and for other purposes; with an amendment (Rept. No. 98-835, Pt. I). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ZSCHAU (for himself, and Mr. Pursell):

H.R. 5821. A bill to amend the Internal Revenue Code of 1954 to allow taxpayers to disregard certain retroactive administrative and judicial interpretations of such code; to the Committee on Ways and Means.

By Mr. CONYERS:

H.R. 5822. A bill to amend the Voting Rights Act of 1965 to prohibit the requirement that a majority, rather than a plurality, of votes cast in a primary election for Federal office be obtained in order to achieve nomination; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. Jenkins, Mr. Broyhill, Mr. Andrews of North Carolina, Mr. Barnard, Mr. Bevill, Mr. Britt, Mr. Clarke, Mr. Coelho, Mr. Corrada, Mr. D'Amours, Mr. Daniel, Mr. Derrick, Mr. Dowdy of Mississippi, Mr. Duncan, Mr. Flippo, Mr. Frank, Mr. Gingrich, Mr. Guarini, Mr. Sam B. Hall, Jr., Mr. Hartnett, Mr. Hefner, Mr. Jones of North Carolina, Mr. Kindness, Mrs. Lloyd, Mr. Martin of North Carolina, Mr. Martinez, Mr. Matsui, Ms. Mikulski, Mr. Murphy, Mr. Murtha, Mr. Neal, Mr. Nichols, Mr. Quillen, Mr. Rangel, Mr. Ray, Mr. Ritter, Mr. Roe, Mr. Rose, Ms. Snowe, Mr. Spence, Mr. Spratt, Mr. Studds, Mr. Tallon, Mr. Towns, Mr. Valentine, Mr. Whitley, and Mr. Darden):

H.R. 5823. A bill to establish limitations on the quantities of textiles and apparel that may be imported into the United States during 1984 and each of the 4 years thereafter; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 5824. A bill to expand the medical freedom of choice of consumers by amending the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under that act solely to assure their safety; to the Committee on Energy and Commerce.

By Mr. HYDE:

H.R. 5825. A bill to amend title 11 of the United States Code to make nondischargeable debts for liabilities under the terms of a property settlement entered into in connection with a separation agreement or divorce decree; to the Committee on the Judiciary.

By Mr. LEWIS of Florida:

H.R. 5826. A bill to provide States with assistance to establish clearinghouses to locate missing children; to the Committee on Education and Labor.

By Mr. LIPINSKI:

H.R. 5827. A bill to establish a National Industrial Revitalization Board to provide loans and loan guarantees to industries which are unable to obtain the financing needed to modernize, expand, or improve such industries; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5828. A bill to establish a National Commission on Industrial Policy to formulate policy recommendations for revitalizing essential industries in the United States; to the Committee on Banking, Finance and Urban Affairs.

H.R. 5829. A bill to require businesses to give advance notice of plant closings and permanent layoffs and to facilitate the economic adjustment of communities, businesses, and workers affected by such closings and layoffs; to the Committee on Education and Labor.

H.R. 5830. A bill to modify the application of the antitrust laws with respect to joint research and development programs, and with respect to mergers, involving certain essential industries; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. Waxman, Mr. Leland, Mr. Bryant, Mr. Wirth, Mr. Scheuer, Mr. Bates, Mr. Shelby, Mr. Swift, Mr. Dannemeyer, and Mr. Sikorski):

H.R. 5831. A bill to penalize unauthorized direct access to or alteration of individual medical records through a telecommunications device; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. HOYER:

H.R. 5832. A bill to authorize two additional Assistant Secretaries for the Department of the Treasury; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. Jones of North Carolina, Mr. Pritchard, and Mr. Snyder):

H.R. 5833. A bill to improve certain maritime programs of the Department of Transportation and the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. BARNES (for himself, Mr. Hansen of Utah, Mr. Ackerman, Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Alexander, Mr. Anderson, Mr. Andrews of Texas, Mr. Archer, Mr. Aspin, Mr. Badham, Mr. Bartlett, Mr. Bateman, Mr. Bates, Mr. Beilenson, Mr. Berman, Mr. Bethune, Mr. Biaggi, Mr. Bliley, Mr. Boehlert, Mr. Boner of Tennessee, Mr. Bonior of Michigan, Mr. Bosco, Mr. Boucher, Mrs. Boxer, Mr. Britt, Mr. Brown of California, Mr. Broyhill, Mrs. Byron, Mr. Campbell, Mr. Carney, Mr. Carr, Mr. Chandler, Mr. Chappell, Mr. Chappie, Mr. Cheney, Mr. Clinger, Mr. Coats, Mr. Coelho, Mrs. Collins, Mr. Conyers, Mr. Corrada, Mr. Crockett, Mr. D'Amours, Mr. Daschle, Mr. Daub, Mr. de la Garza, Mr. Dellums, Mr. DeWine, Mr. Dickinson, Mr. Dingell, Mr. Dixon, Mr. Dowdy of Mississippi, Mr. Downey of New York, Mr. Dreier of California, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Dyson, Mr. Edgar, Mr. Evans of Iowa, Mr. Evans of Illinois, Mr. Fauntroy, Mr. Fazio, Mr. Fields, Mr. Fish, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Ford of Tennessee, Mr. Frank, Mr. Frenzel, Mr. Frost, Mr. Fuqua, Mr. Garcia, Mr. Gejdenson, Mr. Gekas, Mr. Gephardt, Mr. Gilman, Mr. Goodling, Mr. Gore, Mr. Gramm, Mr. Gray, Mr. Guarini, Mrs. Hall of Indiana, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hance, Mr. Hansen of Idaho, Mr. Hartnett, Mr. Hatcher, Mr. Hefner, Mr. Heftel of Hawaii, Mr. Hightower, Mr. Hiler, Mrs. Holt, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Hughes, Mr. Hutto, Mr. Ireland, Mrs. Johnson, Ms. Kaptur, Mr. Kasich, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kogovsek, Mr. Kostmayer, Mr. Kramer, Mr. Lagomarsino, Mr. Lantos, Mr. Leach of Iowa, Mr. Lehman of Florida, Mr. Leland, Mr. Lent, Mr. Levin of Michigan, Mr. Levine of California, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Loeffler, Mr. Long of Maryland, Mr. Lowery of California, Mr. Lungren, Mr. McCollum, Mr. McGrath, Mr. McHugh, Mr. Markey, Mr. Marriott, Mr. Martin of New York, Mr. Martin of North Carolina, Mrs. Martin of Illinois, Mr. Martinez, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. Michel, Ms. Mikulski, Mr. Miller of California, Mr. Moakley, Mr. Molinari, Mr. Mollohan, Mr. Moore, Mr. Moorhead, Mr. Morrison of Connecticut, Mr. Morrison of Washington, Mr. Murphy, Mr. Murtha, Mr. Neal, Mr. Nelson of Florida, Mr. Nielson of Utah, Mrs. Oakar, Mr. Oberstar, Mr. Ortiz, Mr. Ottinger, Mr. Owens, Mr. Oxley, Mr. Packard, Mr. Pashayan, Mr. Patterson, Mr. Pepper, Mr. Porter, Mr. Pritchard, Mr. Pursell, Mr. Rahall, Mr. Ratchford, Mr. Reid, Mr. Richardson, Mr. Rinaldo, Mr. Ritter, Mr. Roberts, Mr. Robinson, Mr. Roe, Mr. Roth, Mr. Sawyer, Mr. Schaefer, Mr. Scheuer, Mr. Seiberling, Mr. Shaw, Mr. Shumway, Mr. Sikorski, Mr. Simon, Mr. Sisisky, Mr. Skeen, Mr. Smith of New Jersey, Mr. Denny Smith, Mr. Smith of Florida, Mr. Smith of Iowa, Mr. Robert F. Smith, Mrs. Smith of Nebraska, Mr. Snyder, Mr. Solarz, Mr. Spence, Mr. Stangeland, Mr. Stenholm, Mr. Stokes, Mr. Studds, Mr. Stump, Mr. Sunia, Mr. Synar, Mr. Tallon, Mr. Tauke, Mr. Thomas of Georgia, Mr. Torricelli, Mr. Towns, Mr. Vandergriff, Mr. Walgren, Mr. Walker, Mr. Waxman, Mr. Weber, Mr. Weiss, Mr. Wheat, Mr. Wirth, Mr. Wolf, Mr. Wolpe, Mr. Won Pat, Mr. Wortley, Mr. Wright, Mr. Wyden, Mr. Wylie, Mr. Yatron, Mr. Young of Florida, Mr. Young of Alaska, and Mr. Young of Missouri):

H.J. Res. 590. Joint resolution to designate the week of December 9, 1984, through December 15, 1984, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. HOYER (for himself, Ms. Mikulski, and Mrs. Hall of Indiana):

H.J. Res. 591. Joint resolution designating the month of November 1984 as "National Diabetes Month"; to the Committee on Post Office and Civil Service.

By Mr. FRANK:

H. Con. Res 319. Concurrent resolution to request that the President issue a proclamation designating July 4 of each year as the principal national permanent legal holiday; to the Committee on Post Office and Civil Service.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. REID introduced a bill (H.R. 5834) to direct the Secretary of the Interior to sell certain property located in Elbow Canyon, Ariz.; to the Committee on Interior and Insular Affairs.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 87: Mr. Lagomarsino.

H.R. 618: Mr. Young of Alaska.

H.R. 1797: Mr. Young of Florida and Mr. Mazzoli.

H.R. 2053: Mr. Darden.

H.R. 2927: Mr. Bonior of Michigan.

H.R. 3793: Mr. Heftel of Hawaii.

H.R. 4356: Mr. Schumer, Mr. Perkins, Mr. Leland, Mr. Shannon, Mr. Kildee, Mr. Owens, Mr. Bonior of Michigan, Mr. Edwards of California, Mr. de Lugo, Ms. Kaptur, Mr. Rangel, Mr. Roe, Mr. Waxman, Mr. Hatcher, Mr. Levine of California, Mrs. Boxer, Mr. Scheuer, Mr. Berman, Mr. Martinez, Mr. Vento, Mr. D'Amours, Mr. Weiss, Mr. Simon, Mr. Towns, Mr. Lehman of California, Mr. Richardson, Mr. Bereuter, Mr. Conte, Mr. Jeffords, and Mr. Nowak.

H.R. 4440: Mrs. Burton of California, Mr. Florio, Mr. Owens, Mr. Rodino, and Mr. Torricelli.

H.R. 4567: Ms. Oakar.

H.R. 4621: Mr. Lagomarsino and Mr. Rinaldo.

H.R. 4684: Mr. Tallon, Mr. Foley, Mr. Ford of Michigan, Mr. Wolpe, Mr. Leland, Ms. Oakar, and Mr. Panetta.

H.R. 4876: Mr. Torricelli.

H.R. 4966: Mr. Matsui.

H.R. 5023: Mr. Ackerman.

H.R. 5078: Mr. Fish and Mr. Kolter.

H.R. 5111: Mr. Gregg.

H.R. 5341: Mr. Bates, Mrs. Collins, Mr. Mrazek, Mr. Roe, and Mr. Fish.

H.R. 5383: Mr. Madigan.

H.R. 5423: Mr. Wortley, Mr. Won Pat, and Mr. Gradison.

H.R. 5446: Mr. Spratt, Mr. Nelson of Florida, and Mr. Ireland.

H.R. 5450: Mr. Weaver and Mr. Robert F. Smith.

H.R. 5640: Mr. Rodino, Mr. Spratt, Mr. Beilenson, and Mr. Dwyer of New Jersey.

H.R. 5756: Mr. Downey of New York.

H.R. 5791: Mr. Boehlert, Mr. Corrada, Mr. Shannon, Mr. Sawyer, Mr. Broyhill, Mr. Mavroules, Mr. Clarke, and Mr. Staggers.

H.J. Res. 84: Mr. Young of Alaska.

H.J. Res. 174: Mr. Brown of California, Mr. Gejdenson, Mr. Oberstar, Mr. Minish, Mr. Towns, Mr. Anderson, Mr. Kastenmeier, Mr. Wilson, and Mr. Gray.

H.J. Res. 205: Mr. Bedell, Mr. Hubbard, Mr. Hyde, Mr. Martinez, Mr. Mineta, Mr. de la Garza, and Mr. Crockett.

H.J. Res. 233: Mr. Minish and Mr. Rinaldo.

H.J. Res. 389: Mr. Downey of New York.

H.J. Res. 418: Mr. Carper, Mr. Burton of Indiana, Mr. Early, Mr. Gregg, Mrs. Johnson, and Mr. Carr.

H.J. Res. 482: Mr. Gekas and Mr. Britt.

H.J. Res. 491: Mr. Darden, Mrs. Lloyd, Mr. McDade, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Natcher, Mr. Torricelli, Mr. Wortley, and Mr. Wyden.

H.J. Res. 494: Mr. Britt, Mr. Edgar, Mr. Fish, Mr. Smith of Florida, Mr. Vandergriff, and Mr. Waxman.

H.J. Res. 508: Mr. Alexander, Mr. Anderson, Mr. Anthony, Mr. Bliley, Mr. Boner of Tennessee, Mr. Daniel, Mr. Daub, Mr. Dickinson, Mr. Dymally, Mr. Edwards of Oklahoma, Mr. Emerson, Mr. Evans of Illinois, Mr. Frenzel, Mr. Green, Mr. Hammerschmidt, Mr. Harrison, Mr. Hayes, Mr. Hutto, Mr. Jones of North Carolina, Mr. Lent, and Mr. Parris.

H.J. Res. 528: Mr. Leland, Mr. Biaggi, Mr. Berman, Mr. Moorhead, Mr. Bates, and Mr. Green.

H.J. Res. 529: Mr. Guarini and Mr. Torricelli.

H.J. Res. 543: Mr. Martin of New York, Mr. Moorhead, Mr. Gore, Mr. Feighan, Mr. Britt, Mr. Towns, Mr. Mavroules, Mr. Swift, Mr. Roth, and Mr. Hance.

H.J. Res. 544: Mr. Regula, Mr. Thomas of California, Mr. Wolf, Mr. McCain, Mr. Donnelly, Mr. Moakley, Mr. Foley, Mr. Smith of Florida, Mr. Wolpe, Mr. Courter, Mr. Dymally, Mrs. Martin of Illinois, Mr. Mollohan, Mr. Erdreich, Mr. Oxley, Mr. Fields, Mr. Lott, Mr. Franklin, Mr. McCollum, Mr. Bedell, Mr. Andrews of Texas, Mr. Bevill, Mr. Richardson, Mr. Coelho, Mr. Durbin, Mr. Feighan, Mr. Boland, Mr. Stangeland, Mr. Shumway, Mr. Dyson, Mr. Bilirakis, Mr. Porter, Mr. Moore, Mr. Breaux, Mr. Martin of New York, Mr. Ottinger, Mr. Oberstar, Mr. Moody, Mr. Udall, Mr. Yates, Mr. Carper, and Mr. Dwyer of New Jersey.

H.J. Res. 572: Mr. Skelton.

H.J. Res. 574: Mr. Wilson, Ms. Kaptur, Mr. Lewis of Florida, Mr. Lowery of California, Mr. Stokes, Mrs. Holt, Mr. Coyne, Mr. Rangel, Mr. Ortiz, Mr. Owens, Mr. Lagomarsino, Mr. Fauntroy, Mr. Matsui, Mr. Jenkins, Mr. Luken, Mr. Vento, Mrs. Boxer, Ms. Mikulski, Mr. Thomas of Georgia, Mr. de la Garza, Mr. Rowland, Mr. Daub, Mr. Young of Florida, Mr. Fascell, Mr. Watkins, Mr. Jones of Tennessee, and Mr. Richardson.

H.J. Res. 577: Mr. Akaka, Mr. Andrews of Texas, Mr. Bevill, Mr. Britt, Mrs. Burton of California, Mr. Chappie, Mr. Corcoran, Mr. Corrada, Mr. Daschle, Mr. Davis, Mr. de la Garza, Mr. Dowdy of Mississippi, Mr. Dreier of California, Mr. Duncan, Mr. Dymally, Mr. Frost, Mr. Gradison, Mr. Ralph M. Hall, Mr. Hamilton, Mr. Hammerschmidt, Mr. Hayes, Mr. Kogovsek, Mr. LaFalce, Mr. Lagomarsino, Mr. Leach of Iowa, Mr. Lewis of California, Mr. McNulty, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Mavroules, Mr. Panetta, Mr. Regula, Mr. Sawyer, Mr. Skelton, Mr. Thomas of Georgia, Mr. Weaver, Mr. Wolpe, and Mr. Won Pat.

H.J. Res. 587: Mr. Winn and Mr. Wolf.

H. Con. Res. 298: Mr. Lowry of Washington, Mr. Fauntroy, Mr. Towns, Mr. Garcia, Mr. Addabbo, Mr. McHugh, Mr. Markey, Mr. Florio, Mr. Matsui, Mr. Hayes, Mr. Mitchell, Mr. Dellums, Mr. Leland, Mr. Frank, Mr. Wirth, Mr. Udall, Mr. Ratchford, Mr. Waxman, Mrs. Boxer, Mr. Bedell, Mr. de Lugo, Mr. Richardson, Mr. AuCoin, Mr. Torricelli, Mr. Stokes, Mr. Lundine, Mr. Green, Mr. Ottinger, and Mr. Owens.

H. Con. Res. 301: Mr. Kindness, Mr. Thomas of Georgia, Mr. Campbell, and Mr. Crockett.

H. Con. Res. 302: Mr. Downey of New York, Mr. Frank, Mr. Volkmer, Mr. Thomas of Georgia, Mr. Patterson, Mr. Fauntroy, and Mr. Levine of California.

H. Con. Res. 315: Mr. Cooper, Mr. Crockett, Mr. Derrick, Mr. Dwyer of New Jersey, Mr. Edgar, Mrs. Johnson, Mr. Stangeland, Mr. Winn, and Mr. Wortley.

H. Res. 518: Mr. Bereuter.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5081: Mr. AuCoin.

# EXTENSIONS OF REMARKS

## THE MEDICARE/MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1984

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### HON. PETE WILSON

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

*Tuesday, June 12, 1984*

● Mr. WILSON. Mr. President, I rise to strongly support the Medicare/Medicaid Patient and Program Protection Act of 1984 offered by my distinguished colleague from Pennsylvania (Mr. HEINZ) on Friday, June 8.

I am an original cosponsor of the measure because it will not only go a long way toward protecting medicare and medicaid from unfit doctors, it will also help protect these programs from financial fraud and abuse.

Mr. President, today there exists a glaring loophole in the law whereby a handful of physicians who may have their licenses revoked in one State can simply pack up their medical bags and set up a practice in another State.

The General Accounting Office found in a study that patients were being treated in some States by doctors whose licenses were revoked or suspended in other States because they were judged incompetent.

A very small percentage of the Nation's physicians is involved. Mr. President, as we know the American doctor provides the best and most conscientious medical care in the world. GAO found that only about 1 of every 1,000 doctors lost his license for disciplinary reasons in 1982.

The measure Senator HEINZ has introduced provides protection for some 51 million Americans who partake in federally supported medical and health programs from those individuals who simply shift from State to State to practice medicine when their licenses have been revoked or suspended. Mr. President, let me illustrate: We have a case where a doctor whose license was revoked by Michigan authorities on grounds that he was mentally impaired and dangerous simply moved to New York and set up a new practice. He even billed the Federal Government for $4,000 over 4 years for treating elderly patients in the medicare program. And he collected. He was one of several found in a study by the General Accounting Office which found that of 328 doctors who had their licenses revoked or suspended for a year or more, 122 simply moved elsewhere to practice, often on the poor or elderly who depend on Federal assistance for their health care.

In addition to giving the Secretary of Health and Human Services the much needed authority to protect medicare and medicaid from unfit medical practitioners, a number of improvements are needed in the Secretary's civil monetary penalties authority to protect medicare and medicaid from financial fraud and abuse. The bill, if enacted, would make these needed improvements.

Last year, the Federal Government spent $56 billion on medicare and $19 billion on medicaid. And, as my colleagues know, the question of medical cost is one we are going to have to tackle in the near future. But, no matter what reforms we develop, we have to make certain that those who receive Federal support will get quality medical care and that our precious tax dollars are not wasted. We cannot offer that guarantee while we subsidize, or otherwise support, doctors who have had their licenses pulled.

I fully realize that the licensing of health professionals is the business of the States and this measure simply builds, and in no way infringes on that right.

Closing this loophole enjoys bipartisan support on our Special Committee on Aging, from the administration, and by concerned medical groups. I urge my colleagues to join in supporting this important reform measure.●

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## STATEMENT BY LAWYERS ON THE MX MISSILE

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. FRANK. Mr. Speaker, one of the most thoughtful groups pressing for a reversal of our current policy of a virtually unlimited arms buildup is the Lawyers Alliance for Nuclear Arms Control, Inc. This group has a very distinguished national advisory board which includes among its members my predecessor, Robert Drinan, and the work that the Lawyers Alliance has produced is a very important contribution to the case for arms control.

Recently, the Lawyers Alliance drafted a cogent statement in opposition to the MX missile. As they note, "There has been an utter failure to present a clear, coherent, and persuasive justification for deployment of the MX missile."

The Lawyers Alliance for Nuclear Arms Control, Mr. Speaker, forms part of a very important new group which has entered this debate—the Professionals Coalition for Nuclear Arms Control, Inc. David Cohen, the president of this group, is a thoughtful and experienced advocate of sensible public policies and the work of the Professionals Coalition has greatly enhanced the quality of the debate in which we are now engaged.

I insert the statement of the Lawyers Alliance for Nuclear Arms Control with the list of supporters of that statement.

#### STATEMENT BY LAWYERS ON THE MX MISSILE

We are lawyers and law professors who are members of the Lawyers Alliance for Nuclear Arms Control. We are issuing this statement in support of the efforts of the Professionals' Coalition for Nuclear Arms Control (made up of representatives of the Lawyers Alliance, Physicians for Social Responsibility, and Union of Concerned Scientists) to oppose further funding of the MX intercontinental ballistic missile.

We are convinced that, when seriously pursued by all parties, negotiations of nuclear arms control agreements has proven to be a safe and effective guarantor of national security. A case in point is the Anti-Ballistic Missile Treaty of 1972, which for many years was effective in preventing an arms race in defensive weapons and in providing increased stability. The ABM Treaty is a good example of a strong agreement—one based on mutual or compatible self-interests and regulated by an adequate dispute resolution mechanism, the Standing Consultative Commission. This is the model upon which we should continue to rely.

In contrast, experience has shown that uncritical reliance on new technologies and a nuclear arms buildup has proven ineffective in ensuring our security. We believe in a strong national defense capability, but one that is effective rather than counter-productive and wasteful.

There has been an utter failure to present a clear, coherent and persuasive justification for deployment of the MX missile. With approximately 10,000 strategic warheads already in the U.S. arsenal, we believe that the burden is on the proponents of the MX to demonstrate a rationale for adding additional nuclear weapons. Moreover, this burden should be a heavy one in view of the uncontested fact that the MX, carrying ten highly accurate warheads and housed in theoretically vulnerable silos, will likely reduce stability in a crisis by providing an incentive for a preemptive strike.

The MX missile is a dangerous anachronism. It adds nothing to our national security. Principled and realistic negotiations offer more substance and more promise than the MX missile. We therefore strenuously urge members of Congress to reject the MX missile and help turn the defense efforts of the United States in a more constructive direction.

### STATEMENT BY LAWYERS ON THE MX MISSILE BY STATE

California: William A. Brockett, Guy Blase, James J. Herrick, Paul C. Valentine, Richard D. Hendlin, Barry Lasendorf, Keith Motley, Gary Schons, Steve Zeigler, Ronald L. Olsen, Bradley S. Phillips, Charles D. Siegal, Enda T. Brennan.

District of Columbia: Steven C. Raikin.

Florida: R. Andrew Rock, James C. Gresser, Timothy A. Hunt.

Georgia: Gaylen D. Kemp, Marilyn Park.

Illinois: Ellen C. Craig.

Massachusetts: Arthur L. Berney, James L. Houghtling, Carol B. Liebman, Hans F. Loeser, Zygmunt Plater, Richard K. Donahue.

Maryland: Michael J. Kelly, James M. Kramon, Robert S. McCormick.

Maine: Seward B. Brewster, Katherine Greason, William H. Howison, Peter J. Landis.

Michigan: Joan T. Boyle, Martin L. Boyle, Marilou E. Drews, Paul V. Grott, Michelle L. Bilger, Theodore J. St. Antoine.

Minnesota: Harold D. Field, Jr., Suzanne E. Kennedy, Fred Pritzker, James P. Martineau.

New Hampshire: Graham Chynoweth, W. Wright Danenbarger, Claudia C. Dawson, E. Paul Kelly, Robert H. Reno.

New York: Lloyd K. Garrison, J. Michael Harrison, David B. Hopkins, William G. Little.

Pennsylvania: Herbert B. Newberg, William J. Brown, Alan Meisel, Pamela Samuelson.

New Jersey: John Diaz.

Rhode Island: Michael J. Bashaw, David Green, Harold E. Krause, Gary Yesser, Myrth York.

Tennessee: Nancy-Ann Min.

Texas: Henry Simpson, Timothy J. Hogan, Pamela R. Perron, Kathryn Taller.

Vermont: John H. Downs, Robert A. Mello, William W. Pearson, Priscilla K. Reidinger.

Other: Willard S. Martinez, Joseph Millinet, William Hallgrove, Robert A. Katz.●

## A TRIBUTE TO DALTON, MASS., CELEBRATING ITS 200TH BIRTHDAY: 1784-1984

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CONTE. Mr. Speaker, I would like to pay tribute to a community in my district, Dalton, Mass., which will be celebrating its bicentennial during the week of June 16-24.

Dalton is a warm community nestled in the heart of the Berkshires and exemplifies the deep, rich traditions of scenic New England. Originally called Ashuelot, or Ashuelot Equivalent when first settled in 1755, the community was incorporated in 1784 and named Dalton after the Honorable Tristam Dalton, then Speaker of the Massachusetts House of Representatives.

Dalton is most noted for its longstanding paper industry, founded in 1801 by Zenas Crane. Once Crane began the paper industry others were soon to follow. Eight years later, David Carson, Joseph Chamberlain, and Henry Wiswall began a second mill which Zenas Crane bought out in 1822. In 1824, Thomas Carson, David's son, opened a third mill in the town. In 1832, Zenas Crane replaced hand labor with the first papermaking machines, and in 1835 cylinder dryers were added to his equipment.

The paper industry in Dalton specializes in high-grade products. Crane & Co. is credited with originating the term "bond" as applied to paper. In 1847, Zenas Marshall Crane, son of Zenas I, developed a special paper for banknotes. In 1879, Crane & Co. obtained an exclusive contract to furnish the U.S. Government with paper for its securities and currency. Except for 1 year when the contract was divided, Crane's has continued to supply high quality paper to the Government. Today, the Crane Mills supply more than 40 countries with specialized paper for their bond issues and currency.

More importantly however, are the contributions that these industries have brought to Dalton. They have developed a tradition of philanthropy among the members of the community. Dalton serves as a model community because it demonstrates how an industry has been raised by hand, while still maintaining a spirit of benevolent paternalism that has continued from the early 19th century. In both the Crane and Weston mills every employee is covered by private pension and health plans which were in existence prior to the Social Security Act of 1934.

This meaningful past is captured today in the Crane Museum. Originally the museum was a wing of the Old Stone Mill built in 1844. The interior has been restored to resemble the Old Ship Church in Hingham, Mass. Upon entering into the museum one gets a feeling of the rich heritage in the rough-hewn oak beams, old-fashioned chandeliers, many-paned windows, wide oak floor boards fastened with wooden dowels, and plain oak benches. One entry in the museum notes that 13 reams of paper were sold to Paul Revere in 1776 to be used for "money paper."

Today, the industry coexists in harmony with the beautiful setting of the Berkshire Hills. As one drives along Main Street in Dalton, one can view the colonial houses canopied under ancient elm trees. Along the eastern edge of the community, Dalton has the picturesque Wahconah Falls State Park, named after the chieftain's daughter who won her "brave" only after many trials in which an evil spirit played a large role. Dalton is also noted as the home of Wizard's Glen, which Indian legend calls the pile of the Devil's Altar Stone, where medicine men and tribal wizards are supposed to have offered human sacrifice to the Spirit of Evil, Ho-bo-mo-ko.

Dalton exemplifies the community's ability to integrate industry within the surroundings without destroying the natural beauty of the Berkshires. Dalton continues to maintain these colorful, past traditions and legends which help it face the realities of today. Most importantly, during this bicentennial celebration, one will see the reason why Dalton is truly a special community in the faces of the people. The warmness displayed by the people during this celebration best engenders the spirit of Dalton's rich heritage. As Dalton's Representative, I speak with pride to the Members of Congress and I hope that you will join me in emulating this fine community during its bicentennial celebration.●

## INVESTING IN THE MINDS OF AMERICA

### HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. MONTGOMERY. Mr. Speaker, on June 1, this great body gave its approval to legislation that enables American servicemen and veterans to realize their dreams of a good education, a good job, and a good future—a new peacetime GI bill for our All-Volunteer Force.

It is fitting that the House should pass this measure at this time. The month of June marks the 40th anniversary of the Servicemen's Readjustment Act, later dubbed the GI bill, signed into law on June 22, 1944.

President Franklin D. Roosevelt commented as he signed the bill that it "gives emphatic notice to the men and women in our Armed Forces that the American people do not intend to let them down," and my colleagues have held true to that commitment.

Mr. Speaker, it is my understanding that the Senate will offer its own GI bill on Wednesday. It is my hope that it will have the same valuable foresight in planning for the future as does this body.

The Congress has, from time to time, sought other solutions to meet the education entitlements of our military personnel, but we keep returning to a proven performer—the GI bill.

One such solution was a contributory program wherein the Federal Government offered $2 for every $1 donated by an eligible veteran. The veterans' educational assistance program, or VEAP, was a sincere attempt to help veterans continue their education, but it has since proven to be totally ineffective. With the enactment of the new GI bill, as passed by the

House, this program will be phased out.

I would like to submit for the RECORD a letter I recently received from one of our servicemen stationed overseas. I believe it presents a clear picture of the critical need to discontinue the VEAP program, which is filled with an undercurrent of dissatisfaction, and replace it with an improved version of the GI bill, widely recognized as one of the most important pieces of legislation ever enacted.

MAY 19, 1984.

HON. G. V. MONTGOMERY,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. MONTGOMERY: I'm currently a United States serviceman stationed overseas, a voice seldom heard from, but yet ever present. This particular correspondence is in reference to the new G.I. Bill, and your staunch support for it. I would just like to say, "Thank You!" It's a good feeling to know that someone in Congress is looking out for our best interest.

Back in September 1983, I decided to make the bonds of matrimony, but because I had faithfully invested in VEAP, my money was not readily available. The United States Government held 900 dollars, for a total of 11 and one half months, which absolutely collected no/zero interest. (this was due to paperwork/time/system.) Logically, an individual in a low income bracket can only reasonably invest in one endeavor. On a PFCs salary/income, its impossible to simultaneously support a family and adequately invest in this current educational program. It sounds glorious on paper, until you need a large sum of money ... immediately. Thus, my educational future now looks dim.

I'm not asking for a handout, only a supplemental program to help me support my family and finish college. Support, in my opinion, means a roof, clothes, and food. (not a new car or a trip.)

We spend billions upon billions of dollars on foreign aid, and to what long term end result. By investing in the minds of America ... the strength of our great nation will continue. I love and believe in America ... and would even die to preserve her freedom. Do I have to give-up my dreams, because I decided to go with my heart? VEAP, again in my opinion, is unfair to the lower enlisted military family. A response is desired.

Sincerely yours,
Pfc ALAN JEAN-PIERRE RIMAR,
*AFKN, APO SF 96301.*●

## REPUBLICAN AGITPROP

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mrs. SCHROEDER. Mr. Speaker, from time to time we hear earnest lectures from our Republican colleagues about fairness in legislative procedure.

Indeed, our minority colleagues have founded a veritable cottage industry upon such themes. Last month a trio of conservative Republicans cried "foul" when their floor debate with Democrats was exposed as the legislative equivalent of shadowboxing. Obviously they consider exposing the truth a violation of House rules, Republican style.

Last year, the Republicans were driven into howling fevers when the equal rights amendment was brought up for a vote. The Democratic leadership brought up the ERA under a suspension of the rules, thus denying the Republicans the opportunity to sabotage the amendment.

Comes now the Republican leadership of the New York State Senate to demonstrate legislative fairness.

[From the New York Times, June 12, 1984]

SENATE GOP BLOCKS RIGHTS AMENDMENT

ALBANY, June 11.—The proposed state equal rights amendment for women was blocked in the Legislature today when the Senate's Republican majority decided not to bring it to a vote.

The Republican senators decided not to vote on the amendment because "they were concerned that voters could be confused by their positions," said Charles Dumas, spokesman for the Senate majority leader, Warren M. Anderson, Republican of Binghamton.●

## THE LONG ISLAND ZIONIST ORGANIZATION OF AMERICA CELEBRATES ITS 50TH ANNIVERSARY

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. ACKERMAN. Mr. Speaker, on Sunday, June 17, the Long Island Zionist Organization of America will celebrate its 50th anniversary at its annual convention, at the Bay Terrace Jewish Center in Bayside, Queens, N.Y. This New York regional chapter of the National Zionist Organization of America serves its more than 3,000 members in Queens, Nassau, and Suffolk Counties.

The Long Island ZOA supports several outstanding youth programs. One of these is Massada–a nationwide youth group which promotes interest and discussion of Jewish traditions and current Israeli events. Children as young as 9 years old can join this club. Teenage members are encouraged to participate in Massada's annual summer-in-Israel 6-week session, which combines vacation and travel in Israel with daily classes at a school in the Holy Land.

The Long Island ZOA also supports Kafarsilver, a campus and youth village in Israel, where American students live and attend classes with Israeli students. And the ZOA's on campus program brings together American high school students and Israeli students of the same age here in the United States, for a great cultural/educational exchange.

The organization offers many informative activities for adults as well. Its public affairs committee works to educate members about Zionism and informs members of Israel-related legislative efforts by the Congress of the United States. The Long Island ZOA also holds public forums on Israel and the Middle East as part of its program to educate the local Jewish community.

On Sunday, the convention, chaired by Howard Schaerf, will honor Rabbi Joseph P. Sternstein, the past president of both the National Zionist Organization and the American Zionist Federation, and David Black, the national coordinator for Middle East Affairs of the Zionist Organization of America. I commend these two men for their tremendous efforts to promote a greater understanding of Jewish culture and history, both here in America and among our friends in Israel.

Mr. Speaker, I ask that all my colleagues in the U.S. Congress join me in congratulating the Long Island Zionist Organization of America, its president, Joseph H. Liss, and the honorees, on the occasion of the organization's 50th anniversary convention, and in celebrating yet another successful year of Jewish cultural and youth activities.●

## A SALUTE TO JOHN SHATTUCK

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. SOLARZ. Mr. Speaker, at the end of this month, John Shattuck will be leaving his position as executive director of the American Civil Liberties Union Washington office to undertake new responsibilities at Harvard. Before he departs, I want to take a few moments to highlight for my colleagues the contribution which Mr. Shattuck has made, not only to the legislative process in Congress, but also to the cause of protecting civil liberties in our Nation.

The work performed by courageous individuals like John Shattuck is often lonely. Intrusive policies of the Government are rarely directed at those in the mainstream. On the contrary, it is those individuals who hear, in the words of Henry David Thoreau, the beat of a different drummer, who have their civil rights challenged. The American Civil Liberties Union has been dedicated to protecting minority rights and the rights of individuals for the better part of this century. Its position as an organization, however, would be largely irrelevant without the participation of people like John Shattuck.

Simply put, John Shattuck has been at the forefront of every significant civil rights and civil liberties battle for the better part of a decade.

He led the attack against the use of warrantless wiretaps directed at suspect members of the White House staff, during the Nixon administration.

He challenged the harassment by the Federal Bureau of Investigation against civil rights activists.

He has launched significant and successful legal suits against a variety of Federal agencies which were blocking citizens from examining records which were kept that contained information on their personal lives.

Besides entering the Federal courts to protect the constitutional guarantees of our citizens, John Shattuck has spent a great deal of time working with our congressional committees to shape legislation consistent with the rights of our citizens. He has provided expert testimony on issues ranging from the privacy of medical records and third-party searches of newsrooms to Government data collection. Wherever and whenever legislation has been before the Congress which would impinge upon the civil liberties of Americans, John Shattuck has been vigilant on behalf of our rights.

Winston Churchill once said:

> One ought never to turn one's back on a threatened danger and try to run away from it. If you do that, you will double the danger.

Rather than doubling the danger, by flinching in the face of attacks on our constitutional guarantees, John Shattuck has exhibited persistent courage, standing to protect our citizens even when the weight of public opinion or the power of Government made his an unpopular stand. For this reason, John Shattuck's departure from Washington will leave a void.

It is my hope that John finds great fulfillment as he moves to his new job in Cambridge. In his absence, we will all have to try a little harder we will have to exhibit just a little more courage, in order to take on some of the battles where John Shattuck, typically and selflessly, played a leadership role.

He will be missed.●

## FLORICULTURE REPORT

### HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CARR. Mr. Speaker, during debate on the Department of Agriculture appropriations bill (H.R. 5743) I commended my colleagues on the inclusion of funds to restore reporting by the Statistical Reporting Service, within the Department of Agriculture, on domestic production of floricultural crops. This report was discontinued in 1981 as an economy measure, a decision that has proven to be a serious handicap to producers in Michigan and more than 25 other States, as well as to marketing organizations who have an urgent requirement for this information.

At this time, I want to acknowledge the extensive assistance and support provided to House Appropriations Committee by members of Florists' Transworld Delivery Association of Southfield, Mich., and the officers of FTD. Acting at the direction of FTD President Edward Von Bargen and Executive Vice President William A. Mass, FTD members made special efforts to inform Congress of the importance of this data in FTD's extensive marketing and information programs. They acted in close cooperation with other industry organizations previously mentioned.

This report, known as Floriculture Crops, is vital to FTD's program of attempting to assure an adequate supply of cut flowers to its approximately 20,000 retail florist members, while maintaining good quality and reasonable prices at the consumer level.

I wish to salute FTD for its diligent work in support of the Agriculture appropriations bill. Considering that cut flower sales are valued at about $6 billion annually at the retail level, it is easy to see the economic importance of the commercial floriculture industry to the United States.●

## UNRESOLVED CYPRUS ISSUE

### HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. MAVROULES. Mr. Speaker, next month will mark the 10th anniversary of the Turkish invasion of the Republic of Cyprus. Many times we here in Congress have heard that the first step in resolving this problem must be the resettlement of Famagusta/Varosha by Greek Cypriots left homeless by the Turkish occupation.

Time and time again the leader of the Turkish Cypriots, Rauf Denktash, has dangled the carrot of resettlement as a sign of his willingness to bargain in good faith on the Cyprus issue. Time and time again the carrot has been withdrawn to be followed by measures which widen the rift between the Greek and Turkish Cypriots.

Mr. Speaker, we have seen a unilateral declaration of independence, we have seen an exchange of ambassadors between Turkey and the Turkish rump state, we have seen the creation of a flag for Mr. Denktash's pseudostate. I think we have all seen enough.

Since actions clearly speak louder than words, I feel it is time for Mr. Denktash to make good on his nearly decade old promise.

I would like to commend to the attention of my colleagues a recent editorial that appeared in the London Guardian on May 29, 1984.

[From the London Guardian, May 29, 1984]

#### Mr. Denktash Asks for More

When Cyprus catches cold, the rest of the region shows a distinct tendency to sneeze. That is why both the growing tension in Cyprus and the Greek Government's endorsement of the neutralist Stockholm declaration, which calls for an immediate nuclear freeze, have been placed on the agenda for the Nato foreign ministers' conference in Washington today. Prime Minister Papandreou, the socialist leader of Greece is often accused of taking an erratic and unpredictable attitude towards Western defence. Not so: he blows hot or cold primarily according to the state of play with Turkey. Over Cyprus, he has concluded that Ankara is in a diplomatically aggressive mood and that the big guns in Nato are doing nothing to register their displeasure—if any. Hence the boat-rocking.

Greece now fears tension may increase in the next few weeks as the six-monthly mandate for the UN peacekeeping force in Cyprus comes up for renewal. The UN force is, technically, accredited to the government of the Republic of Cyprus which is only able to administer that two-thirds of the island not under Turkish control. Since the unrecognized Turkish Cypriot * * *.

UDI last November, their leader, Mr. Rauf Denktash, has refused to accept the writ of the UN force. But he has allowed UNFICYP soldiers to continue their essential monitoring on his territory, as "guests." Now, he warns, that privilege will be withdrawn unless the UN recognises his "Turkish State of Northern Cyprus." That the security council clearly will not do. For the position of the UN, since 1974, has been that Northern Cyprus is under Turkish occupation and that the Denktash administration is illegal. The Security Council wants a negotiated settlement, it is true. But it consistently refuses to legitimise the invasion or the ministate which emerged from it.

At the time, Mr. Denktash wrapped UDI in a plethora of platitudes: independence was designed "not to hinder but to facilitate the establishment of a genuine federation." He appealed to the secretary-general to continue his shuttle diplomacy in search of a negotiated settlement. Since then, however, it has become increasing difficult to believe that Mr. Denktash has any inclination to come to formal, federal terms with his Greek Cypriot neighbours. Still less, that Ankara is an unwilling Goliath, being dragged along by a sophisticated David, based in northern Cyprus.

Turkey and Turkish Cyprus exchanged ambassadors on the very day the UN special representative was in Nicosia asking both sides to "freeze" things. Then came threats of a referendum to endorse a new "independence" constitution, to be followed in short order by election. In London next month Mr. Denktash and the Turkish ambassador to the UK will be joint guests of honour at a banquet for bankers and "international business circles" sponsored by leading Turkish banks. The purpose is to encourage Britain's fast growing trade—a trade of dubious legality—with the North. Mr. Denktash is systematically building upon UDI. He is calculating subverting the UN-mediated solution he claims to seek. And he is apparently doing it all with the blessings of Ankara. Small wonder there is a degree of twitching from Turkey's Nato neighbour, Greece.●

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## PRIME MINISTER THATCHER AND HER "DELPHIC" COMMENTS ON NORTHERN IRELAND

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. BIAGGI. Mr. Speaker, in my capacity as chairman of the bipartisan 104 member ad hoc Congressional Committee for Irish Affairs, I wish to share with my colleagues a brief article from the June 5 Irish Times which features a discussion between Prime Minister Thatcher and the editor of the Times London Bureau, David McKittrick.

McKittrick aptly described the Prime Minister's comments as "delphic." It is high time for the British Government to addresss the issue of Northern Ireland with something more than indifference and ambiguity.

I was especially disappointed in Mrs. Thatcher's observation about the New Ireland Forum. The report and work of the forum while not perfect does represent the foundation upon which a political solution for Ireland could be built. This Congress felt positively enough about it to pass a resolution of commendation to the forum and its participants.

It is my hope that we can see something more than political inertia on the part of the Thatcher government. The article follows:

[From the Irish Times, June 5, 1984]

CAUTIOUS ON FORUM

(By David McKittrick)

The British Prime Minister, Mrs. Thatcher, was a little delphic in commenting on the New Ireland Forum yesterday. On the one hand she said there was no point in having an inititative which made things worse. On the other hand, she said she was prepared to discuss "many, many things" with the Republic.

In an interview with George Gale in the Daily Express, which is one of her strongest supporters in Fleet Street, Mrs. Thatcher was perhaps a little taken aback when asked whether Britain should not withdraw from Northern Ireland.

She replied: "At the moment I believe that if the English weren't there, there would be far more killing than there is. Please don't think we just leave it alone, it's a shortage of acceptable solutions."

Asked about the Forum report, the Prime Minister answered: "I said we'd give any new idea a pretty thorough intellectual inspection. But each of those things in the New Ireland Forum—the unitary State, a federal state, and joint authority—each of those things is to some extent a takeover, as it would appear to the Ulster Unionists.

"Now, I am prepared to discuss many, many things with the Republic of Ireland, including that report, but when it comes to deciding the future, it is a matter for the people of Northern Ireland and for the British Parliament."●

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## LAWRENCE TOWNSHIP, N.J., HONORS LARRY KSANZNAK

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. SMITH of New Jersey. Mr. Speaker, I would like to call special attention today to the illustrious career and community service work of Larry Ksanznak of Lawrence, N.J.

Mr. Speaker, Larry Ksanznak is a dedicated educator who has devoted much of his life to bettering the educational process for young people. His unselfish work organizing educational and extracurricular activities has made his community of Lawrence a much better place to live and grow for both schoolchildren and their parents.

For the past 23 years, Larry Ksanznak's enthusiasm and work has brought him numerous citations, certificates, and awards. His accomplishments are impressive, but more importantly, what he has meant to Lawrence as a community and its families in far greater than words can express.

Mr. Speaker, Larry Ksanznak will be honored at a special recognition dinner to be held Friday, June 15, 1984, in Lawrenceville. I will have the pleasure of joining Lawrence Mayor Gretal Gatterdam, School Board President Sara Hill, Superintendent of Schools Joseph Farinola, and many, many other friends of Larry's on this most appropriate occasion.

Larry Ksanznak began his work in Lawrence Township as principal of Benjamin Franklin Elementary School in 1961. He became director of elementary education for Lawrence in 1964. In 1966, he was named assistant superintendent of the Lawrence Township School and has served with distinction in the position ever since.

Larry Ksanznak coordinated student exchanges between Lawrence Township and Charlottesville, Va., during the Nation's Bicentennial, as a way to provide an educational experience for students during that special celebration in 1976.

He served as the originator of the outdoor education program in 1964 and coordinated activities of Earth-Space Resource Year in 1974. The visit of astronaut Harrison Schmitt in connection with that event can be attributed to Larry's outstanding organizing efforts.

Mr. Speaker, Larry Ksanznak originated Student Government Day in Lawrence Township. This worthwhile program offers students the unique experience of serving with various municipal government officials for a day. Larry is the founder of Safety Town, a summer program designed to teach young children fundamental rules of safety. In addition, he founded the Lawrence High School Athletic Booster Club and the Lawrence Band Parents support group.

Mr. Speaker, Larry Ksanznak is the epitome of excellence in teaching and caring for children. He has actively expressed this genius so many times both in school and out. He has coached girls soccer and softball teams when those programs were first introduced as part of Lawrence Township recreation programs. He is a charter member and participant in the Lawrence Township Bocci League. He has also served as a Little League and Babe Ruth League baseball coach. Larry also founded the Biddie Basketball program in Lawrence Township.

Larry Ksanznak not only has devoted much of his time to children, but he has also found time in his busy schedule to devote to his community. He was a volunteer at the Neighborhood Service Center and an active participant in many of their programs.

Larry served as cochairman of the Lawrence July 4 Celebration Committee from 1981 through this year. In 1980 he was cochairman of the Olympic Celebration Committee. He was the first person to be named Man of the Year by the Lawrence Jaycees and was named Man of the Year by Lawrence American Legion Post 414 in 1981. The Lawrence Athletic Association named him Sportsperson of the Year in 1977.

Larry Ksanznak served as coordinator of Project Pride I, II, and III. Project Pride I was a successful fundraising project to help earthquake victims in Italy. Project Pride II honored the Lawrence High School undefeated football team and its quarterback, Scott Brunner who is now playing professional football with the Denver Broncos. Project Pride III honored school employees who had served 25 years or more.

Clearly, Mr. Speaker, Larry Ksanznak is a special individual who places the well-being of students and his community above all else. I am proud to be able to call him a friend and would like the rest of the country to know that he is indeed a loving and outstanding citizen of Lawrence Township, N.J.●

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## INTERNATIONAL NETWORK OF JEWISH HOLOCAUST SURVIVORS

### HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. GEJDENSON. Mr. Speaker, during the Memorial Day weekend, May 27-29, 1984, more than 1,700 sons and daughters of survivors of the Holocaust met in New York City. This

**conference, the first of its kind, was organized by the International Network of Children of Jewish Holocaust Survivors under the leadership of its founder and first chairman, Menachem Z. Rosensaft. At the opening plenary session of the conference, Mr. Rosensaft delivered an address in which he set forth the principles and goals of the second generation. I participated in this historic conference, and, as a son of Holocaust survivors, as a Jew and as an American, I am proud to associate myself fully with his views.**

**It is my pleasure to share Mr. Rosensaft's speech with my colleagues in the House.**

### OPENING ADDRESS BY MENACHEM Z. ROSENSAFT, FOUNDING CHAIRMAN, INTERNATIONAL NETWORK OF CHILDREN OF JEWISH HOLOCAUST SURVIVORS

#### FATHER

I used to be a part of you, belong to you
the extension of your being
but now you live within me
are the spark of my consciousness

I say kaddish for you, with you
as you sing your melodies
speak your words, hearing your voice in mine
and my eyes, too green
have somehow started to reflect the blue of yours

I used to be a part of you
protected by your presence, by your light
but now the time is mine
and alone I must be more than myself:
your son has become your heir
has become you

For more than thirty years, beginning on the day of the liberation of Bergen-Belsen on April 15, 1945, my father was one of the principal leaders of the survivors of the Holocaust. His was one of the few voices that kept the memory of the Six Million alive during the 1950's and 1960's. With dignity and fierce dedication, he devoted his life to commemorating those who had perished, and to educating a world that did not want to listen.

When he died eight and a half years ago, he left many things undone, many projects unrealized. As his son, and as his witness, it is my privilege today to open the First International Conference of Children of Holocaust Survivors.

We, the sons and daughters of the survivors, have accepted the heavy responsibility inherent in our unique identity, and we have committed ourselves to providing the necessary continuity for our parents' work of the past thirty-nine years. Together with them, we shall protect and perpetuate the sanctity and the inviolability of the memory of the Holocaust. We shall prevent it from being exploited, mythologized or desecrated by anyone for any purpose.

And above all, we shall transmit to our children our profound reverence and admiration for the spiritual strength, the heroic defiance and the somber dignity displayed throughout the years of the Holocaust by all who suffered its agonies, the victims as well as the survivors, for it is their unyielding adherence to the highest principles of Judaism and humanism which symbolizes and explains the survival of the Jewish people.

However, it is important to remember that the years of darkness constitute only a part of our cultural and spiritual identity. Our inheritance is a singular awareness of our past and, in particular, of the totality of that past. True, the Holocaust often stands out as the most prominent element of that awareness, but this in no way diminishes the importance of all that preceded it.

Contrary to the apparent belief of many American and other Jews who first saw them as refugees and who to this day persist in regarding them only as such, our parents did not suddenly appear out of nowhere. They did not begin their existences as adults in the ghettos and camps, or on the day of their liberation from the Nazis. Nor are they just two-dimensional, anonymous figures whose sole purpose is to be, and to be known as, "the survivors."

Before the catastrophe, before they became immersed in death and darkness, they had been educated, cultured, productive men and women. They had belonged to cohesive families, many had already married and become parents, and they had played active roles in their communities. This is how they entered the Holocaust, and, having resisted all efforts on the part of the Germans to dehumanize them, they emerged determined to resume their rightful place in society. Thus, they had the energy and determination, despite all obstacles, to rebuild their lives. And in the new homes they created, in which they raised us, they instilled in us those qualities which, I believe, set us apart from others of our generation.

For the most part, we have received more from them than most children ever receive from their parents. Some of them were silent about their experiences, unable or unwilling to speak. Others told us everything. Many wanted to shield us, to protect us from the knowledge of evil. But all of them gave us their love, their presence, their laughter and melodies, their hopes and their dreams. They encouraged us to study, to develop intellectually, not to waste our lives, and they taught us what it means to be a Jew. It is because of them, through them, that we are able to be a bridge between the decimated world of pre-Holocaust European Jewry and a future that is ours to shape and influence.

Unfortunately, in many instances our search for our collective identity as children of survivors has led to the creation of an artificial and counterproductive separateness. Specifically, I firmly believe that we do not share in our parent's exclusivity. They went through the Holocaust. We did not. It is wrong for us to think of ourselves as survivors in any sense of the term. They, and they alone, are entitled to that designation. Nor do we have any exclusive rights to the survivors' legacy or to the memory of the Holocaust. These belong to the Jewish people and to mankind.

However, while our being children of survivors does not give us any privileges, it does impose on us a profound responsibility. Thanks to our parents, we have a particular knowledge of and sensitivity to the significance and consequences of the Holocaust, and we have a special understanding of that Central and Eastern European Jewish universe that has ceased to exist. It is our obligation to share all that we have learned from them with the rest of the Jewish community as well as society as a whole.

Tragically, the basic character of man has not changed since 1945. We live in a world of ever-escalating anti-Semitism. The oppression of Jews in the Soviet Union has intensified dramatically; the Jewish community of Ethiopia continues to languish in despair; Jewish schools and cemeteries are regularly vandalized, even here in the United States; a prominent supporter of the Reverend Jesse Jackson dares to publicly proclaim the greatness of Adolf Hitler; and the State of Israel is subjected to a continuous barrage of vitriolic attacks by its enemies.

At the same time, atrocities in Central America and India, the brutal persecution of the Bahai in Iran, and the continuing international disgrace represented by South Africa's reprehensible policy of Apartheid serve to remind us that Jews are never the only victims of the world's evil and venality. And today, we are even confronted by the terrifying phenomenon of Jewish would-be terrorists on the West Bank who strive to implement the racist philosophy expounded by fanatics such as Meir Kahane—a philosophy which, I might add, is contrary to the most basic principles of both Judaism and Zionism.

Thus, it is not enough for us only to commemorate the past. Rather, we must be sensitive to all forms of human suffering, and we must take our place at the forefront of the struggle against racial hatred and oppression of any kind.

It is clear, therefore, that the time has come for us, the members of the Second Generation, to stop talking solely or even primarily to ourselves. The critical dialogue that we must initiate and maintain is with others of our generation—Jews and non-Jews alike—whose parents did not go through the Holocaust. Thus, it is our role in the community which is of primary importance. We must be active and bring our presence and our particular perspective to bear within our respective synagogues, within local and national Jewish organizations, and within the American political system as a whole. Those are the arenas where we have to make our contribution, both as individuals and as members of Second Generation groups, to ensure the perpetuation of the memory of the Holocaust. If we fail to do so, we will have betrayed our responsibility.

Moreover, there can be no question that each of us will express his or her commitment to our collective identity in an individualistic, often idiosyncratic, manner. Some of us carry out our responsibility in our individual capacities, others as part of organized Second Generation groups. Some of us are political activists, while others have academic orientations. Many children of survivors teach and write about the Holocaust for both Jews and non-Jews. Others are deeply involved with Jewish cultural institutions. And still others devote themselves to the campaigns on behalf of Soviet and Ethiopian Jewry.

My point is that we are no different from our parents and grandparents, and no one should expect us to conform to any preconceived, uncontroversial stereotype. Some of us will be paragons of all the conventional values of the American Jewish community. And that is as it should be. Others are revolutionaries, and that, too, is as it should be. For after all, the Six Million included Communists, atheists and Bundists as well as Rabbis, businessmen and Zionists.

In fact, I would go one step further. In contemporary post-Holocaust America, being a committed, proud Jew no longer requires courage or spiritual strength. But being true to one's conscience often does. And the moral imperatives of our lives and convictions may take us beyond the boundaries of the Jewish community. Remember that two of the three young civil rights workers who were murdered near Philadelphia, Mississippi in the summer of 1964 were Jews. For me, and for many of our generation, they will always represent the most admirable embodiment of true Jewish values. And remember also that Anatoli Shcharansky lingers in a Russian jail because he chose to fight on behalf of all those who are deprived of their rights by the Soviet regime, Jews as well as non-Jews.

In short, the issue is not whether we are all committed to the identical ideals. The critical question, instead, is whether or not each of us is committed to any ideal. And I suggest that it is only by being true to ourselves and to our convictions that we can be worthy of our legacy.

Above all, however, as the heirs of the Six Million Jews who were annihilated during the Holocaust, we have a sacred obligation to uphold and defend those principles and ideals which unite us. Thus we must continue to identify unambiguously with the State of Israel; we must preserve and strengthen our Jewish spiritual and cultural identity; and, if we are to avoid a recurrence of Auschwitz and Bergen-Belsen, we must both speak out and act on behalf of all who are persecuted and oppressed anywhere in the world.

Somewhere, beyond us and within us, there is a nocturnal eternity where six million souls wait for the Messiah. Among them is the shadow of my five and a half year old brother. My own daughter is now just about that age, only a little older. Each time I look at her, hold her in my arms, watch her as she laughs and plays, I realize how fortunate we are, and how much we owe the future. We must ensure that she and all other children growing up in our world will never experience another Holocaust. For that, and that alone, is the meaning of our heritage.●

## CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

### HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. McKINNEY. Mr. Speaker, more than at any time since I have been in Congress, I am compelled to join the Congressional Call to Conscience Vigil for Soviet Jews. I come forth now to call your attention to the intolerable conditions under which Jews in the Soviet Union are living. Inside their country, there exists a growing pervasive mood of anti-Semitism. The Russian state is intensifying its propaganda campaign against those who simply would like to pursue basic human rights. It has become an accepted fact in the Soviet Union that any public intervention on their behalf is an act against humanity. Reliable sources claim that KGB agents monitor conduct, make daily raids on apartments, confiscate all Jewish religious materials and force many to renounce their faith. Imaginary state crimes are charged against refuseniks, who subsequently lose their jobs. They are labeled traitors and are frequently forced to serve in labor camps, or thrown in jail with little opportunity to defend themselves. Hebrew classes and Jewish religious services are state crimes punishable by imprisonment. In defense, the Soviet Government claims that the desire for emigration represents essentially one thing: A drive to disseminate official Soviet secrets to hostile foreign countries. All of this seems to me a bit preposterous.

Among the most cherished of our inalienable rights in the United States is our ability to worship in any manner we choose. Being such a fundamental feature of our American way of life, we take for granted our right to religious freedom. It is seldom that we stop to consider what it would be like if this freedom were to be taken away from us. Yet, that unimaginable reality does exist in the Soviet Union. Congress, as well as the public at large, must continue to call attention to the plight of these refuseniks.

Recently, an individual case of this struggle has come to my attention. A young man from Stamford, Conn., informed me that he celebrated a joint bar mitzvah with a Soviet friend of his. Since Soviet boys are not legally permitted to have bar mitzvahs, my constituent took it upon himself to represent the Russian boy, named "Karmi Elbert," at his bar mitzvah so that Karmi could participate, in some sense, in this sacred occasion.

Like so many others in the Soviet Union, Karmi's family was denied permission to leave the country on the grounds that they had access to classified information. When the Elberts inquired about what this classified information might be, they were told that the father, Lev, had uncovered Government secrets during his army service. In fact, Lev was in a construction battalion building swimming pools. In 1977, the Elberts petitioned the Ukrainian Supreme Court to supply a written explanation to their refusals for leaving the country. Shortly thereafter, Karmi's mother was beaten by strangers twice in 1 day, and it was made clear that the family would face even graver consequences if they persisted in their efforts to emigrate. In protest, Karmi's father joined six others in a 5-day hunger strike which was of little avail. They were then informed that Lev had a criminal file of his own opened by the KGB and that he was suspected of abuses of official position, having misused a medical certificate, participating in illegal Zionist activities, and selling sensitive information. These contrived charges incur an even greater risk of arrest under parasitism. In January 1980, the Elberts were informed that they no longer would be denied exit visas on the grounds of secrecy, but rather, insufficient kinship, and that their file would be considered closed.

Karmi's family is one of many who is being denied its right to leave the Soviet Union. Recently, there has been an alarming decline in the number of Jewish immigrants from the Soviet Union, and it seems clear that this follows official Government policy. To illustrate, less than 3,000 emigrated in 1982, as compared with approximately 51,000 in 1979. In 1983, the total number of immigrants was about 1,000, a two-thirds reduction from the previous year. In January, 1984, only 88 Jews were allowed out; in February, 90 succeeded; and in March, only 55 received exit visas. Projections for the rest of this year are just as bleak. World awareness has been growing over this concern, and it is the hope of many that, if the world expresses continued indignation, the Soviets will ease their repressive policies.

The Soviet Union's increasing oppression represents an appalling abuse of civil rights. There are now approximately 1.8 million Jews persecuted in the Soviet Union, and as their numbers grow, I feel compelled to respond. I speak before you now in support of the Congressional Call to Conscience Vigil for Soviet Jews, in the hope that we in Congress can advance their cause. At the present time, I have asked the State Department to inquire on Karmi's behalf, and have made a request for additional, updated information about the Elbert family. It is the duty of all of us to do whatever we can to assist in this desperate situation. Mr. Speaker, a world as interdependent as ours demands activism, and it seems hypocritical for us to sit idle while millions of people are being persecuted for the sole crime of pursuing those same liberties which we hold so dear.●

## VOA MODERNIZATION SHOWS THAT GOVERNMENT CAN WORK

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. KEMP. Mr. Speaker, for the first time in recent history, we have a President who not only talks about the need for modernizing the Voice of America but is willing to do something about it. In previous administrations, funds for VOA modernization were always cut out of budget requests before they reached the Congress. The result has been decades of neglect of VOA's technological needs.

Thanks to President Reagan's support and the strong leadership of VOA Director Ken Tomlinson, along with broad-based backing in Congress, the Voice of America is finally modernizing its antiquated equipment, upgrading its news services, and sharpening its feature stories.

**I commend to my colleagues the following excellent essay on this important achievement from National Journal, and urge them to continue their support for modernizing our international broadcasts. With continued bipartisan support in Congress we can show the Nation that Government can indeed work, and continue the remarkable progress Mr. Tomlinson has made.**

**The article follows:**

### ALL THE NEWS THAT'S FIT TO HEAR

(By Kenneth Y. Tomlinson)

Ironies abound at the Voice of America (VOA). While its parent organization, the U.S. Information Agency (USIA), is quartered in a new office building in a complex known as Federal Center Plaza, the VOA occupies a faded art deco structure across the street. What is worse, until recently its facilities were mostly of World War II vintage.

Yet the VOA is hardly being left behind. Under director Kenneth Y. Tomlinson, who joined the organization at the end of 1982, the emphasis is on higher professional journalistic standards: more hard news, sharper feature stories and an end to what he calls "radio formats of the 1950s."

And because accusations of politicization are rampant at the USIA, Tomlinson works hard to differentiate his organization's goals and purposes from those of the USIA and to shield his troops from agency controversies.

Tomlinson came to the VOA from *Reader's Digest,* where he had been a senior editor in New York as well as a correspondent in Paris and Washington. He began his career at the Richmond *Times-Dispatch.*

The USIA and the Voice of America are "very different and separate institutions," Tomlinson said in an interview. "VOA is chartered to be a news and current affairs organization in the same tradition as the BBC. . . . The policy job of USIA is to tell America's story to the world and reflect, to a major degree, U.S. government policy."

The VOA does have a policy mission. The three aspects of its charter, updated by Congress in 1976, are to: "serve as a consistently reliable and authoritative source of news; represent America, not any single segment of American society and . . . present a balanced and comprehensive projection of significant American thought and institutions;" and "present the policies of the United States clearly and effectively . . . and present responsible opinion and discussion on these policies."

To meet its interpretation of the last portion of this charter, the VOA, under the Reagan Administration, began broadcasting editorials representing the Administration's views. Some career officials in the agency are troubled by the editorials, which are consistently hard-line, anti-Soviet and polemical.

During a three-week stretch in May, for example, the editorials covered the plight of Soviet dissident Andrei Sakharov and his wife, events in Communist Kampuchea, the Soviet and Eastern European boycott of the 1984 Olympics, a comparison between the elected government of El Salvador and the nonelected regime in Nicaragua and the role of education in a free society.

The news, however, is straight. It differs from a typical commercial American newscast only in that it is much more internationally oriented. It does not avoid bad news about Administration policy.

During the week that Salvadoran President-elect José Napoleón Duarte visited Washington, for example, the VOA broadcast a lengthy story from London about an Amnesty International report on death squad activity in El Salvador. The report criticized both the Salvadoran government and U.S. embassy officials for not cracking down hard enough on right-wing violence.

Tomlinson said there is a consensus that the VOA's past news standards were not high enough; an overseas listener, in the midst of an international crisis, would tune in on the hour, only to hear a feature about roller skating in New York. Someday, he wants the newscasts to be as highly regarded as the BBC's.

In addition to bringing in more professional journalists, he has added indepth hard news programming, protected the "sanctity" of the newsroom against political interference and plans to beef up political coverage.

He has also brought in more outside commentators to reflect the diversity of opinion on major issues instead of having VOA writers prepare in-house commentaries.

But Tomlinson does not apologize for the editorials. "Like it or not, East-West issues are among the most important issues of our time," he said. "If advocacy of the Administration's views offends some American listeners, there are people around the world who are genuinely curious about U.S. policies.●

## THE SOVIET UNION'S AGGRESSIVE ISOLATIONISM

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

**● Mr. YOUNG of Alaska. Mr. Speaker, much attention is being focused at present on the Soviet Union and what has been called its aggressive isolationism. The West has been speculating as to why the Soviets have retreated into their shell and whether this represents a net gain or a net loss for the free world. In its usual hard-hitting fashion, the British magazine, the Economist, has addressed this subject. I commend this editorial to the Members' attention.**

### HEDGEHOGS AREN'T LIONS—SO BE GLAD OF MR. GROMYKO'S ROLLED-UP RUSSIA

That Russia has for the time being rolled itself up into a prickly ball is now generally understood. That this is good news, except of course for the Russians themselves, is still in dispute. An inward-looking Russia, it is argued, is a worrying Russia. On the contrary: it is one of the brighter spots of this nervous 1984, for two reasons.

The Russians' recent retreat into themselves is unlikely to be the prelude to a sudden pounce outwards. They are behaving like this because a large part of their foreign policy, from missiles in Europe to Marxism in Mozambique, has run into a brick wall. President Chernenko shows no sign of believing that the brick has turned into cardboard. He has done little to exploit the Reagan administration's failure in Lebanon, and almost nothing to worsen its problems in Central America. He has missed a rather obvious chance to see if bad relations with America could be the moment for better relations with China. Only where he can use his power without much risk—against the Afghans and Mr. Andrei Sakharov—is he piling on the pressure.

A dynamic young Soviet leader might have been tempted to punch a hole through his country's difficulties abroad. The undynamic Mr. Chernenko, presiding over a foreign-policy committee of puzzled septuagenarians, does not look like a puncher.

The one semi-exception to Russian wariness might be the wars of south-west Asia. The fighting in Afghanistan could eventually point Russia towards opportunities in Pakistan and India. The Iran-Iraq war offers a more immediate temptation. It is not true that Russia and the west "have the same interests" in the Gulf. The west's interest is to be able to buy the Gulf's oil at a reasonable price; Russia does not need the oil, and wouldn't in the least mind the west's not getting it. If the Gulf war takes a turn for the worse, it would be against nature for the Russians not to try to put a spoke into the west's efforts to deal with the problem. Yet even here they cannot go too far: they do not want either an outright victory for the ayatollahs' Iran, or a head-on clash with America.

#### GLOWERING ISN'T LOVABLE

The other reason why Russia-in-a-huff is no bad thing is its effect on public opinion in Western Europe. The east-west contest over the past few years has been in large part a battle for the hearts and minds of west Europeans. Under Leonid Brezhnev and Yuri Andropov, the Russians did fairly well in this battle, because Brezhnev and Andropov managed to keep up an air of steady reasonableness that made a lot of Europeans overlook things like Afghanistan and Poland and the SS-20s. Under Konstantin Chernenko, Russia has reverted to the behaviour of an earlier era.

The foreign minister, Mr. Gromyko, browbeats west European visitors when he should be trying to cajole them. The defence minister, Marshal Ustinov, threatens more missiles instead of talking about how both sides might have fewer. President Chernenko himself mutters anti-western platitudes. The aim is presumably to frighten west Europeans out of the missile-deploying decision they implemented last year. The evidence, so far, is that a glowering Mr. Gromyko and chuntering Mr. Chernenko are making Europeans feel that maybe Mr. Reagan was half-right about Russia after all.

Because nuclear weapons have to be controlled, Mr. Chernenko or his successor will one day have to say to his ruling party—as South Africa's Mr. Botha said to his ruling party last weekend—that "we must face the realities of the world". But for the rest of 1984, and maybe longer, the Greek poet has the last word. "The fox knows many things, but the hedgehog knows only one big thing". The big thing Russia knows is that it does not know what to do next.●

## WELFARE MERCEDES

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

**● Mr. MATSUI. Mr. Speaker, one of the burning issues in the current deficit reduction/tax reform conference**

now underway between the House and the Senate is the issue of limitations of tax breaks for luxury automobiles.

At a time when we are asking the average American family to continue to pay billions of dollars in telephone excise taxes, and when the Senate is proposing billions of dollars worth of cutbacks in medicare for our Nation's elderly and sick, surely we can impose some restrictions on tax breaks for the use of a luxury car.

My colleague, Congressman Fortney H. (Pete) Stark, of Oakland, led in proposing limitations on luxury autos in his bill of last October, H.R. 4135. This idea was adopted by Senators Baucus and Moynihan—and is now close to being adopted, for a tax reform gain of $1 to $2 billion. It is essential that this most visible of reforms in the deficit reduction package be retained.

The June 9, 1984, Washington Post carried an excellent editorial on this point, entitled, "Welfare Mercedes," which I would like to include at this point in the Record.

[From the Washington Post, June 9, 1984]

Welfare Mercedes

Of course you've heard the horror story about the welfare recipients who drive late-model Cadillacs. The story turns out to be true. Except that the recipients in question aren't welfare mothers but business mothers and fathers—wealthy business people and professionals. They tend to drive a Mercedes-Benz or a Rolls Royce rather than a Cadillac. And they pick up their government benefits at the Internal Revenue Service rather than their local welfare office. But except for that, the story is pretty much as you heard it.

Ever since enactment of the 1981 tax bill, people who buy luxury cars for primarily business use have been able to get the Treasury to pick up a major part of the tab. Thanks to a 6 percent investment tax credit and the ability to write off a car in three years, the buyer of a Rolls, for example, might realize over $65,000 in tax benefits in three years. "With these kinds of figures," advertises one car dealer, 'a luxury isn't a luxury. It's a wise investment."

That "investment" looks even better when you consider that a high-priced import will hardly degenerate into a pile of scrap metal in three years, as the tax law now supposes. Even the average car loses only about half its value over four years, and a top-of-the-line Mercedes, for example, may lose as little as 10 percent. The lucky purchaser, having realized all his tax benefits in three years, can then look forward to years of private use.

Reasoning that the public has no interest in subsidizing tastes for luxury, Rep. Fortney Stark and Sen. Max Baucus succeeded in adding limits to the tax bills now in conference. Business people could still claim tax benefits for luxury cars, but only up to a limit—$21,000 in the House bill, $15,000 in the Senate. The Senate rules, which would save $2 billion over the next three years, also require that the car be used for business 90 percent of the time.

But even before the conference met, certain senators had made subtle inquiries as to whether both houses might not simply agree to drop the limits entirely. What concerns them, of course, is not the possibility that executives might be forced to drive Chevrolets. No they're worried that a limit of, say, $21,000 would damage trade relations with the Germans and British, who make most very-high-priced cars. That's silly. No foreign country can seriously argue that because the United States made a mistake in its tax code that happened to benefit it, that mistake cannot now be corrected. And, as German representatives have noted, the discriminatory effect can be avoided by adopting the lower Senate cap and the 90 percent use rule.

For that matter, why not set the limit at $10,000, about the average car price? A reasonably priced car, truly needed for conducting a business, is certainly a legitimate business deduction. But people who insist on riding in a gilded chariot are not making an investment. They are indulging themselves. That's a choice they can freely make—and then pay for themselves.●

## THE DEATH OF ASSISTANT DIRECTOR OF THE BOTANICAL GARDENS, JIMMIE L. CROWE, ON JUNE 9, 1984

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CONTE. Mr. Speaker, on Saturday, June 9, the U.S. Capitol lost one of its most valuable employees, Jim Crowe, to a long struggle with cancer. Since 1968, Jim had served as the Assistant Director of the U.S. Botanical Gardens, assuming that post after 6 years as a staff horticulturalist for the Capitol Grounds.

During his tenure at the Botanical Gardens, Jim initiated several successful programs—the summer terrace display, the development of the Botanical Gardens park into an extensive English Perennial Garden, the self-guided tour program, and the public classes in horticulture, to name a few. His personal touch and love of beauty made these programs memorable to tourist and resident alike.

In addition to his years of service to the Government and visitors to the Capitol, Jim served with the U.S. Air Force from 1945 to 1953, participating in the Berlin airlift and in the Korean war, where he earned a Purple Heart. Returning to the States after his service, Jim studied at North Carolina State University, earning a degree in horticulture. He moved to the Washington area in 1961 and began his career as a topnotch horticulturalist.

The responsibility of providing a beautiful setting for our Nation's seat of Government was not lost on Jim. Recognizing the success of his efforts, many national horticultural societies chose the Botanical Gardens as the site of their shows. More important, however, was the pride that Jim took in each cactus, flower, plant, and tree. As a gardener and the father of a horticulturalist, I particularly appreciate each minute of care required to have a healthy, beautiful garden. Jim's devotion of his talents for so many years to the Capitol has left a legacy in the Botanical Gardens that will be appreciated for years to come.

I extend my heartfelt sympathy to his widow, Sterling, and his children and grandchildren on the loss of Jim. A grateful Congress joins them in mourning.●

## TRIBUTE TO POLISH AMERICANS

### HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Ms. FERRARO. Mr. Speaker, I am delighted to join my colleagues, the Honorable Robert A. Borski and William O. Lipinski, in cosponsoring House Joint Resolution 577 to designate August 1984 "Polish American Heritage Month." I urge my colleagues to join me in this important effort to honor Polish Americans and the contributions they have made. The Polish American Congress is observing its 40th anniversary this year and would like their celebration to culminate during the summer month of August. As I would like to participate in and commemorate these celebrations, I am calling upon my colleagues to join me in officially designating the month of August 1984 "Polish American Heritage Month."

Traditionally, Poles have been a hard-working and determined people well accustomed to sacrifice. As such, they learned to adjust and prosper after arriving in this country. In America, they forged ahead in our steel mills and coal fields, on our railroads and in our quarries. Their spirited national character supported by an even greater individual tendency toward advancement insured that the Poles would thrive.

Several names come to mind. Kazimier Pulaski and Tadeusz Kosciuszko arrived on our shores fighting in our War of Independence and giving their lives and fortunes for the creation of the United States. Ignacy Paderewski and Wanda Landowska command the respect and admiration of countless numbers with their artistic talents. In government, Zbigniew Brzezinski served as President Carter's National Security Adviser and currently teaches at one of our leading universities. In business, Ed Piszek, is a captain of industry in culinary delights. In sports, quarterback Ron Jaworski leads the Philadelphia Eagles to the Superbowl. In entertainment, Loretta Switt of the 12-year-old M*A*S*H television series contributes much toward the legacy which the program has left behind. The list goes on. From the country which produced Copernicus and Chopin followed the descendants who would ultimately rise up to become leaders of American life.

Of course, there are many other reasons why the month of August 1984 should be designated "Polish American Heritage Month." Polish Americans make up one of the largest ethnic communities living in this country. Currently, they number over 8 million, living predominantly in the Northeastern and North Central regions of the United States. I personally represent over 14,600 Polish Americans from the Ninth Congressional District in New York. These Americans of Polish descent, who are supported by many non-Polish Americans, place a premium on human rights and freedom. Consequently, they are sympathetic and committed to a free and independent Polish nation. Poles take great pride in honoring Nobel Peace Laureate Lech Walesa, founder of the Solidarity Labor Federation. At the same time, Polish Americans also claim the great honor of sharing a common lineage with Poland's greatest native son, His Holiness Pope John Paul II.

Mr. Speaker, Poles in this country have worked hard and saved to make America great. I strongly urge my colleagues to take note of the praiseworthy contributions made by our fellow Americans of Polish descent. By designating the month of August 1984, "Polish American Heritage Month" Congress would acknowledge these industrious hard-working people and pay them the respects they are due.●

### THE TEXTILE EMPLOYMENT AND FAIR TRADE ACT OF 1984

### HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. BROYHILL. Mr. Speaker, in 1983, a record year, textile and apparel imports into the United States increased by 25 percent over 1982, contributing to a textile/apparel/fiber trade deficit of $10.6 billion—15 percent of the total trade deficit.

In the first 4 months of this year, textile and apparel imports have increased 49 percent over the same period in 1983. Imports of textiles during that time period increased 69 percent over January-April 1983 while apparel imports rose 38 percent and yarn imports rose an astonishing 99 percent. The bottom line is that the increase in imports in 1983 represented the loss of 140,000 U.S. job opportunities. Total 1983 imports displaced 740,000 job opportunities and if the current 1984 figures hold true, the calculations are much higher. Such trend cannot continue. The jobs of 1.9 million Americans in practically every State of the Union are at stake.

The situation has reached crisis proportions and no end is in sight. It appears that the problems confronting the industry have become institutionalized. Despite the many actions taken by this administration to try to bring the magnitude of this situation under control, the problems have not been solved and it becomes increasingly clear that the present import control program is simply not working.

My colleagues and I firmly believe that the Government has the authority under section 22 of the Agricultural Adjustment Act of 1933 to impose emergency quotas and to mandate an import licensing system. We will continue to push for such action by the executive branch.

The urgency of this situation, however, will not allow us the liberty of waiting for an indefinite period of time. Therefore, I join 47 of my colleagues today in introducing the Textile Employment and Fair Trade Act of 1984. As introduced, the legislation calls for a freeze on 1984 textile/apparel/fiber imports at 1983 levels while allowing a growth rate of 1½ percent each year from 1984 through 1988. The legislation also includes a provision which requires the Department of Commerce to institute an import licensing system. Under such a system, all textile and apparel imports from all sources could be more easily and reliably monitored. All importers, or exporters, would be required to obtain a license from the Government for each shipment of textiles and apparel brought into the United States. This would provide an early warning signal as to potential market disruption and a mechanism for circumventing fraudulent shipments of textiles and apparel.

The steady rise of imports is putting additional thousands of jobs at risk. We need to bring this situation under control—now.●

### IN HONOR OF DR. JOAN PATON ACOSTA

### HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. ROYBAL. Mr. Speaker, I would like to take this opportunity to rise and commend an outstanding member of my community, Dr. Joan Paton Acosta. She has dedicated her life to a task that prepares our future Americans, our children, with the best possible education so that they may continue to uphold the standards of this Nation. Without the significant contributions this fine individual has contributed to the Los Angeles community we would definitely be at a great loss.

Dr. Acosta has shown enthusiasm, compassion, and diligence in her various productive activities in and out of the classroom. Through combining her talents in the field of politics with her ability to educate children, she has inspired her students from all backgrounds and capabilities to become politically astute and involved citizens. She has served as a prime motivator for the California Teachers Association/National Education Association, organizing and supporting many of their activities. In addition, Dr. Acosta has utilized her rare leadership qualities in obtaining and maintaining vital legislative connections with Hispanic policymakers in the Los Angeles area.

I would also like to congratulate Dr. Acosta for receiving the 12th annual statewide Theodore Bass Teacher-in-Politics Award as well as commend the California Teachers Association/National Education Association for nominating such an excellent candidate. I give my best wishes to Dr. Acosta and am very proud to have her as a member of the Los Angeles community.●

### PERSONAL EXPLANATION

### HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. WISE. Mr. Speaker, on last Thursday, June 7, I missed rollcall No. 220, a vote on final passage of the bill, H.R. 5504, Surface Transportation and Uniform Relocation Assistance Act of 1984. My absence was due to a commitment I had previously made to give the commencement address at East Bank High School in my district.

Had I been present and voting, I would have cast an "aye" vote.●

### THE TEXTILE EMPLOYMENT AND FAIR TRADE ACT OF 1984

### HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CAMPBELL. Mr. Speaker, today I am introducing with Congressmen ED JENKINS and JAMES T. BROYHILL and a bipartisan group of 45 additional original cosponsors legislation which would halt the explosion of textile/apparel/fiber imports that is robbing American jobs and closing American plants.

Our legislation requires establishment of a textile/apparel/fiber import licensing system to be administered by the Department of Commerce. The bill also directs the President to freeze textile imports at 1983 levels during 1984, and allows a maximum 1½-percent growth rate for each of the following 4 years.

The textile import numbers, quite frankly, speak for themselves. Last year, imports hit a new record, increasing 25 percent over 1982. During the 4 months of 1984, the news is even worse as textile and apparel imports have skyrocketed 49 percent over the same period in 1983, reaching the highest January-April import level in history.

In dollar terms, the situation is the same. During the first 4 months of this year, the textile/apparel trade deficit jumped 74.3 percent over the same 4-month period during 1983, reaching over $5 billion. At this rate, the textile/apparel trade imbalance would make up 12 percent of the Nation's total merchandise deficit on an annualized basis in 1984.

However, it is the human cost of these imports that is most troubling. The industry employs 1.9 million workers, more than 10 percent of the entire U.S. manufacturing work force. Most of these workers (68 percent) are women, and many—19 percent versus 12 percent for all manufacturing—are minorities. There are 28,000 textile and apparel plants located in every State throughout the United States according to the Department of Commerce, and the mill is often the principal employer in the community. When a plant closes, then, it is not easy for these less mobile, lower skilled workers to move to a different job.

Mr. Speaker, I have become convinced that, however good its intentions, the textile import program, which is rooted in 1950's and 1960's economic premises, is not handling the trade problems of the 1980's. While the basic premise—that because of its unique nature, an international textile trade control program is necessary—is sound, nearly everything else has changed, including our chief trading partners. I appreciate the actions this administration has taken to try to curb textile imports, including the toughened policy on consultation calls announced December 16, 1983, and the recent Executive order on enforcement, but even in the face of the record number of actions taken as a result of the December policy, imports have failed to come down. The problem has grown beyond the capacity of the current program, and we need time to find solutions that will work. That is what this bill is all about.

Finally, we must reject the arguments of those who suggest that the United States should give up its labor intensive industries to the cheap labor economies of the world whose governments support these industries in a variety of ways. That would be tragic, Mr. Speaker, not only in terms of our own economy and national defense, but in terms of the Americans who rely on these manufacturing jobs for their livelihoods. And make no mistake about it, Mr. Speaker, we are talking about the eventual loss of an American industry if we allow these imports to continue unchecked.●

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## REVITALIZING AMERICA'S ESSENTIAL INDUSTRIES

## HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. LIPINSKI. Mr. Speaker, today I submit a four-part package of legislation designed to curb the industrial decline afflicting America's smokestack industries. This legislative package, while comprehensive in nature, is not designed to completely reverse the industrial decline confronting America. However, I strongly believe that a viable alternative must be presented to offset the Reagan administration's continued policy of a "hands-off"—let the free-market process work. Their policies are failing, and need immediate alteration. There is considerable work to be done in attempting to resolve the problem of our industrial decline—which, I feel, is the most serious threat to the economic well-being of the United States, outside of armed conflict.

During the past 2 years, there has been considerable discussion on the subject of establishing a national industrial policy. Throughout these discussions, there have been repeated references to the successes of the Japanese. Let me say from the outset, my legislative proposal does not attempt to emulate the Japanese style of industry. Because of the serious concerns I hold regarding our industrial future, I wish to contribute to the ongoing dialog which is currently underway. Therefore, I submit a positive and forward-looking plan to maintain essential industries in the United States and permit their modernization to take place. It is absolutely critical this dialog on industrial policy evolve into a piece of legislation approved by this Congress and sent to the President. We cannot afford to continue buzzword discussions, because the American people in general and American industry in particular, await our prompt action.

The present improvement in the economy should not cloud the fact that American industry is still in critical condition. The present economic recovery shows all the signs of previous cyclical patterns where a period of recovery will be followed by another period of recession—meaning unemployment, higher interest rates, bankruptcies, higher trade deficits, and a bleak outlook for the American worker. I propose that America break from this cyclical pattern and embark on a course which offers a new and brighter future for today's generation of Americans. Future generations will sincerely thank us for turning away from the pattern of industrial decline and for preventing our foreign competitors from engulfing American industry. The international marketplace remains a highly competitive arena, where only the most structurally sound industries can realistically meet the challenges. In recent years, we have witnessed the United States suffer from the industrial plants deteriorating into unprofitable operations. Today, the United States faces a world market filled with competitors who are using the most modern state-of-the-art equipment for the production of their goods. Our markets are rapidly being filled by these newly modernized competitors who offer materials and goods below the prices we can produce them. In fact, the automobile industry now finds foreign producers accounting for some 30 percent of the U.S. market, compared to about 6 percent two decades ago. In our troubled steel industry, imports consist of over 20 percent of the market, compared to about 3 percent in the late 1950's. In one other depressed industry, machine tools, the U.S. world market share has diminished from about 35 percent two decades ago to less than 20 percent today. The results of this world market decline are a staggering structural unemployment rate and a record trade deficit, announced recently at some $61 billion. These figures are warning signs of a weakened American economy that is in need of adjustment.

The legislation I have proposed, centers around the concept of Government joining in the cooperative efforts with business and labor in trying to reconcile past adversarial relationships. I do not wish to impose any rigid cooperative activity on the business and labor communities. There is nothing in my legislative package mandating the course industry must take in the future. Therefore, critics of Federal Government intervention designed to stem industrial decline, are doing a disservice to the American people by claiming some form of central planning will be implemented. The Japanese Ministry of International Trade and Industry [MITI] is frequently cited by critics as the wunderkind of industry. I disagree with that assertion, and have no intention of leading American industry in that direction. There is no attempt in my legislation to pick winners or losers among the various industries. However, I do recognize tne need for plant, equipment, and facility modernization within our smokestack industries. This assistance is completely in line with other Government ventures made in the past and does not establish any new precedents.

To fully understand the problems our industrial base is facing, we need only to realize the disjointed Government policy we now have toward industry. There is a definite need for a coordinated Government policy toward industry and the need has never been greater. To facilitate this coordination of Government policy, one segment of legislation I am introducing today creates a National Commission on Industrial Policy. This Commission is designed to formulate policy recommendations for revitalizing essential industries in the United States. The social security issue, Central America, and the MX missile are but three examples of how a bipartisan commission can properly examine the issue and reach a consensus. My Commission would have a membership drawn from the fields of Government, labor, business, and academia. The key premise this Commission will work under is the belief in allowing Government, business, and labor to work in a spirit of cooperation to achieve a proper consensus on future industrial success. The Commission will be authorized for 2 years and shall issue a report on their findings. The Commission will also be responsible for reports on inquiries made by congressional committees, seeking an indepth look at certain industrial problems. Before the Government can adequately address the future needs of American industry, some guidelines should be developed and this Commission will work toward that goal. The scarce resources can best be allocated through the Commission's careful examination of our essential industries and the reasons for their decline.

A key concern of my legislative package deals with the deteriorating condition of the facilities, plants, and equipment of our essential industries. To reverse this downward trend, I am establishing a National Industrial Revitalization Board [NIRB], to provide loans and loan guarantees to qualifying industries for the purposes of modernization, expansion, or improvement of their existing facilities. It is my belief, supported by a number of qualified experts, that this Government assistance is absolutely essential if our industries are to continue competing effectively with our foreign competitors. The Board is created with a threefold purpose: allowing maximum potential for modernization of qualifying industries, permitting minimum opportunity for interest groups to determine where and how much assistance is to be granted, and to seek minimum interference in the marketplace, outside of preserving a viable industrial base.

The industries I have made eligible for Government assistance are the following: machine tool, automobile, steel, and rubber. The determination of where, how much and the terms for such assistance will rest with the eight member Board. The membership will be appointed by the President, upon recommendation from congressional leaders. There are four categories of membership and they are: academia, labor, business, and one from either finance or public policy with expertise in heavy industry. With a qualified membership, this Board will properly allocate the Government assistance to the qualified applicant.

There are strong provisions contained in the legislation to prevent conflict of interest. By adopting the provisions of financial disclosure and prohibiting members from deliberating on matters where they have a financial interest, the public's confidence will be kept intact. We learned from abuses of the past and tightened the oversight provisions to insure no impropriety exists. There will be a detailed application procedure and the Board will be required to undergo periodic audits. An explicit quarterly report on the Board's lending activity will further insure compliance with keeping the process suitably monitored.

The amount of funding to initiate the Board has been set at $4 billion to assist in the moderization of qualified firms. While this is a considerable commitment to request of the American taxpayer, I believe this use of tax dollars is a wise and prudent decision. There have been calls for a more generous level of financial assistance, however, I believe this level of $4 billion, coupled with limitations on who can receive assistance, will best meet the needs of our industrial base. My limit on eligibility focuses the aid on four industries which are in severe trouble in both the world and domestic markets. This Board could become a model for future Government assistance programs which are efficient and cost sensible. Perhaps through the successes of this Board, we could look toward advancing the eligibility to other industries—like high technology firms. However, I do not advocate such assistance at this time due to the scarcity of available resources and the urgent need to assist our essential industries.

Another piece of legislation introduced today addresses the serious problem of plant closing and permanent layoffs, which are plaguing numerous regions across the Nation. This problem has been exacerbated from the current industrial decline which has taken place the past few years. Studies from 1982, show that more than 600 plants and factories closed in that year and some 215,000 workers lost employment. The misery attributed to these plant closings could have been mitigated through the enactment of my legislation. This bill requires early notification when there is a plant closing or permanent layoff. The need for communities to adjust from a plant closure is well known, as the loss of tax revenue and worker dislocation can devastate the area. By permitting the community and workers time to plan for the eventual layoff, the misery associated with it can be softened. With the additional time this notification provides to communities, a search can begin to attract new industry or seek remedies to the problem at hand—trying to prevent the pending closure or layoff before it is too late. Any successful business executive is required to have a long-term goal for their firm and requiring that firm to share in notifying the community when a closure is eminent seems like a sensible and compassionate approach. Because there are few areas across our Nation which have escaped the pain of plant closures or permanent layoffs, this legislation answers the call many Americans have placed for relief from this burden. By imposing this requirement on all firms who meet the requirements, a more compassionate and orderly way to address the unemployment and tax base erosion problems can be devised.

Another piece of legislation I am introducing today deals with the need of certain industries to undergo a restructuring process needed to effectively combat foreign competition. This legislation will permit joint research and development ventures and allow for mergers in certain qualifying industries. There has never been a greater need for the U.S. industrial base to reshape their operations to counter foreign firms. In many cases, foreign firms competing against us are receiving government assistance or they are the sole producer of that good in their country. This unfair advantage can be met without creating an unfavorable environment for our domestic consumers. My legislation permits eligible U.S. firms to engage in joint research and development projects, designed to develop new products on an efficient and cooperative level. The need for new methods of production is clearly evident and this bill will encourage such activity. I have restricted eligibility to four industries which have been hit hard by the surge in foreign competition. My concerns over protecting the domestic consumers of our Nation are addressed by placing a limitation on the number of firms who must remain competitive on a national level.

The workers of this country who have for generations worked in the four industries I made eligible for assistance, cannot be asked to step aside and watch foreign firms continue to take more of the marketshare. Foreign firms are endangering the American work force, the industrial base and quite possibly our national security, by continuing to capture more of our marketshare. I contend this is not a favorable direction for our country, since a viable, sustaining industrial base is required for the future economic growth and freedom of our Nation. Permitting the restructuring of qualified firms will properly address the urgent need for action concerning our essential industrial base.

Mr. Speaker, I urge careful consideration of this legislative package and seek an urgent review of all pending legislation concerning industrial policy. I applaud the efforts of my colleagues here in the House, where several bills are awaiting consideration. They, like myself, wish to act quickly in order to preserve an industrial base which is threatened. A prudent and wise industrial policy is needed and I urge prompt review of this proposal, since millions of American workers await our actions.●

## NEW LEGISLATION ON BANKRUPTCY AND DIVORCE

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. HYDE. Mr. Speaker, the legislation which I introduce today is designed to remedy what I perceive to be a major defect in the 1978 Bankruptcy Reform Act. Notwithstanding the intent of Congress, bankruptcy courts throughout this country—and I am particularly aware of circumstances which exist in my own State of Illinois—have consistently categorized divorce settlements which involve property in lieu of alimony and maintenance as dischargeable in bankruptcy. This has been done despite the expectation of the parties and the understandings reached in State court.

Often, in divorce cases, the wife will accept property rather than alimony so that the strings which connect her to her former husband can be severed permanently. She then uses that property for maintenance and support, both for herself as well as for her dependent children. This practice also constitutes the most efficient alternative available to relying on the absent spouse for monthly payments which may or may not arrive, or for child support which may or may not be sufficient to meet the needs of the former wife and child as conditions change. For example, it is not unusual for such property settlements to take the form of a house or other significant investments which are later transformed or collateralized in order to finance college or further schooling for either the wife or her dependent children.

In Illinois, I am familiar with cases in which six-figure income husbands have been allowed by bankruptcy courts to discharge lump-sum payments because those payments have been construed as property transfers and therefore dischargeable as alimony or maintenance under section 523(a)(5)(B) of the 1978 act. This was certainly not Congress intent when it fashioned the language in section 523, and this view is supported by the House-Senate conference report, which states that such a debt to a spouse is dischargeable "only to the extent that payment of the debt by the debtor is not actually in the nature of alimony, maintenance, or support of the debtors spouse, former spouse or child."

This legislation is designed to protect spouses from having the assets upon which they depend stripped from them and distributed to other creditors. Creditors assume certain risks in any business relationship, and, while marriage is more and more becoming somewhat of a business relationship, it is initiated and consummated by more important considerations. The support and maintenance of the family, even though separated through divorce, should continue to be a principle consideration in the distribution of property. I hope that my bill will help reduce the trauma which inevitably attaches to parties associated with divorce proceedings and I urge its swift and prompt consideration.●

## CEASE-FIRE NEEDED FOR LEBANON

### HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. RAHALL. Mr. Speaker, yesterday, in the strife-torn country of Lebanon, we witnessed the heaviest fighting in months. Over 60 people were killed, including civilians, and more than 250 wounded. This heavy outbreak of violence could not have come at a worse time. The Lebanese Parliament was scheduled to meet yesterday to confirm the new coalition Cabinet formed by Prime Minister Rashid Karami. At a time when members of Parliament should have been meeting to help shape a peaceful coalition for the future of Lebanon, only 25 of the 90 members were able to attend the meeting due to the heavy street fighting. While all factions are fixing the blame upon one another, the fighting continues. Along with the fighting comes a diminishing chance for the Karami Cabinet to effectively implement a peaceful solution in Lebanon.

I urge all of the factions to halt this carnage and destruction and allow the coalition Cabinet to meet and try to hammer out a peace plan which is so desperately needed in Lebanon. The people of Lebanon have known nothing but constant war and occupation in recent years. I hope that the factions in Lebanon will observe any cease-fire and allow their leaders within the Cabinet to discuss and solve their problems at the negotiating table with dialog rather than in the streets of Beirut with rockets and shells.●

## AMTRAK RECOGNITION

### HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. SAM B. HALL, JR. Mr. Speaker, last year a very tragic Amtrak derailment in east Texas resulted in the death of four people as well as numerous injuries. An Amtrak employee, Mr. Griff Hubbard, did as much that day to aid the rescued passengers as any one person could possibly do. I know Griff Hubbard and his family, and the prompt, decisive and humanitarian manner in which he aided the accident victims is characteristic of this outstanding young man and his family. Griff is truly an ambassador of good will for Amtrak, and his lifelong interest and love of railroading is well known in my part of Texas. Just recently, the Longview Daily News had an article describing that fateful day when Griff Hubbard did so much for so many, as well as pointing out the justifiable praise and recognition that he received from Amtrak. I commend the article to the attention of my colleagues and the Nation as follows:

[From the Longview (Tex.) Daily News, May 22, 1984]

AMTRAK AGENT RECOGNIZED FOR ACTION

(By Bob Smith)

Last Nov. 12, Longview's Amtrak ticket agent, Griff Hubbard, was in radio contact with The Eagle, on its way with a load of rail passengers, when the train derailed near Marshall.

Hubbard immediately called for aid and rushed to the spot, the first Amtrak representative at the scene.

Today, Hubbard was cited by two Amtrak officials for "significant achievement" during the hours that followed the disaster, which killed four passengers and injured scores.

Present at the local Amtrak station were E. E. Price, district manager from New Orleans, and R. N. Wright, district supervisor from San Antonio. They presented a plaque to Hubbard in front of the local ticket office.

Frank Skelton, another local Amtrak agent, also was awarded a plaque, but was ill and could not be present.

After the ceremony, Hubbard recalled the incident. The time was 10:03 a.m. on Nov. 12.

"By a stroke of fate," he said, "I was in radio communication with the engineer at the time."

Hubbard actually was talking by telephone with the railroad dispatcher who had the actual radio contact with the train, "but I could hear the radio." The ticket agent was calling to relay a message.

"This was something that I don't believe was brought out at the time," Hubbard said. "There was a women on board who had an epileptic seizure, along about the time the train had passed Jefferson. The conductor had radioed ahead to have an ambulance at Marshall."

Hubbard had made that arrangement and was calling back to tell the conductor. And while the two were talking via the dispatcher, the Eagle jumped the rails and several passenger cars overturned.

"I couldn't actually hear the derailment itself," Hubbard said, "but I could hear the excitement. The impact threw the engineer and the fireman into the wind-shield, and I knew something disastrous had happened."

Hubbard cut the line and quickly dialed the Longview emergency telephone number, 911, telling the Longview police dispatcher who answered of the derailment and asking her to send all available emergency vehicles to the scene.

"It was the Longview police who coordinated the first emergency vehicles," Hubbard said. "They sent units from Jefferson, Karnack, Shreveport, Marshall, a lot of places."

The moment Hubbard hung up after calling 911, Hubbard sped to the scene, accompanied by Missouri Pacific special agent Owen Douglas and MP trainmaster Ken Bohn, both of Longview.

"Police departments and other officers kept intersections open for us all the way, through Longview, Hallsville, Marshall," Hubbard said.

When he arrived, Hubbard was in charge for Amtrak.

"I helped get things organized and helped get passengers out of the train," he said. "And I helped get train crews and passengers to the highway. I coordinated emergency vehicles, and got people to the National Guard Armory in Marshall."

On the arrival of Amtrak agent Bob Barton from Texarkana, Hubbard and Skelton went to Marshall Memorial Hospital and the Armory to help the injured and help sort things out.

"I arranged bus service for the non-injured passengers, so they could complete their trips without more delay," Hubbard said.

He left for home at 3 a.m. the following day, a Sunday, but was back at the scene at 9 a.m. the same day.

It was a sort of clean-up job for a bleary-eyed Hubbard, picking up various personal items to be sent on to the passengers.●

## THE TEXTILE EMPLOYMENT AND FAIR TRADE ACT OF 1984

### HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. JENKINS. Mr. Speaker, today I join in with 47 of my colleagues in introducing the Textile Employment and Fair Trade Act of 1984, which we consider to be an important step in addressing the import problem the textile industry faces. Imports during the record year of 1983 displaced 740,000 textile/apparel job opportunities, and 1984 portends much grimmer news for the textile/apparel work force if current figures hold. In the first 4 months of this year, textile and apparel imports have increased an unbelievable 49 percent over last year. This trend does not appear to be letting up at all, at the expense of jobs in an industry that basically hires women and minorities and others for whom relocation into other jobs in other parts of the country would not be feasible. The jobs of some 1.9 million American workers in virtually every State in the Union are at stake. Sadly enough, only 6 years ago the jobs of 2.7 million workers were at stake—the tremendous drop in the textile/apparel employment figure in 6 short years only too well illustrates the urgency of this problem.

The legislation we are introducing today is a bipartisan effort to institute within the Department of Commerce an imports licensing system and to create a freeze on 1984 textile/apparel/fiber imports at 1983 levels and allow a growth rate of imports of 1½ percent for each of the 4 years thereafter. While an imports licensing system would be instrumental in implementing the freeze, it is also a viable means by which imports—and exports—from all sources may be monitored more efficiently and easily, thus insuring earlier detection and prevention of potential market disruption.

While my colleagues and I are convinced that the President is empowered under existing statute to implement the preceding measures, results from the administration have been slow in forthcoming. We feel we can no longer wait to hear from the administration on what it plans to do while the import surge continues to take its toll on American workers.●

## PERSONAL EXPLANATION

### HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. SYNAR. Mr. Speaker, I was absent for several recorded votes yesterday due to official business and I would like to take this opportunity to record how I would have voted had I been present.

H.R. 5525, semiconductor chip protection, rollcall No. 221, "yea."

H.R. 4772, VVA charter, rollcall No. 222, "yea."

H.R. 5600, preventive health services, rollcall No. 223, "yea."

H.R. 5603, alcohol, drug abuse, and mental health services, rollcall No. 224, "yea."

H.R. 5496, medical technology assessment, rollcall No. 225, "yea."●

## TEXTILE EMPLOYMENT AND FAIR TRADE ACT OF 1984

### HON. C. ROBIN BRITT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. BRITT. Mr. Speaker, I today joined 46 of my colleagues in introducing the Textile Employment and Fair Trade Act of 1984. This legislation would freeze 1984 textile and apparel imports at 1983 levels and would limit the import growth rate to 1.5 percent for each of the next 4 years. The bill also requires the Department of Commerce to implement an import licensing system for all textile and apparel imports.

My good friend and colleague from Georgia (Ed Jenkins), who is chairman of the Congressional Textile Caucus, and I held hearings in Greensboro, N.C., on April 9, 1984, which focused attention on the serious nature of the textile import crisis.

The import statistics are staggering. In 1983, the textile/apparel/fiber trade deficit reached a record $10.6 billion—15 percent of the Nation's total trade deficit. Textile and apparel imports in the first 4 months of 1984 increased by 49 percent over the level for the same period in 1983. Most importantly, the total 1983 imports displaced 740,000 domestic textile job opportunities, and projections for 1984 are even higher.

Interest rates subsidized for foreign governments, unfair and even fraudulent circumvention of existing tariff regulations, unconscionable wage structures, and denial of foreign markets to our products have created an environment which threatens the existence of our domestic textile manufacturers. Unlike other industries, the textile manufacturers have not priced themselves out of the market. The average wage in the textile industry is less than $6 per hour; 60 percent of those employed in the textile industry are women and 28 percent are minorities. These workers cannot find a new job easily, and their jobs should not be sacrificed to unfair foreign competition.

The Textile Employment and Fair Trade Act of 1984 is an effort to restore fairness. The jobs of 1.9 million Americans are at stake.

Mr. Speaker, I urge my colleagues to support this important legislation.●

## SISTER MARY JANE BAUMANN OBSERVES 50TH ANNIVERSARY AS A NUN

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. KILDEE. Mr. Speaker, it is with pleasure and pride that I bring to the attention of the Congress the observance on Sunday, June 17, of the 50th anniversary of Sister Mary Jane Baumann, IHM, as a sister, servant of the Immaculate Heart of Mary. The celebration of Sister Mary Jane's service to God will be held at St. Michael Catholic Church in Flint, Mich.

Sister Mary Jane also will be observing the 25th anniversary of her service at St. Michael Church, where she is now coordinator of religious education. She taught the primary grades there from 1935 to 1939, taught kindergarten there from 1958 to 1969, and has been religious education coordinator since 1974.

With a generous heart, Sister Mary Jane has continually searched out and been an effective advocate for children and the poor in each community and State in which she has served. She was the originator of the kindergarten program at St. Felicitas School in Chicago in the 1940's, and is one of the founding members of the Catholic Kindergarten Association. She served in ministry to migrant farmworkers in the Yakima Valley of the State of Washington from 1971 to 1974 in the areas of adult basic education, prayer ministry and religious education for adults and children. Sister Mary Jane also served in ministry to migrant farm workers in Michigan, organizing safe, developmental, and nurturing day care programs for children of migrant workers to protect them from unsafe conditions in the fields.

Sister Mary Jane has continued in the tradition of the sisters, servants of the Immaculate Heart of Mary, who in the spirit of their founder, desire to be everywhere when they see so many needs and have given dedicated service since 1845 to God's people.●

## A TIME TO CHANGE COURSE

### HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. EDGAR. Mr. Speaker, I have just reviewed the summary of a new report entitled "Changing Course: Blueprint for Peace in Central America and the Caribbean." Prepared by members of Policy Alternatives for the Caribbean and Central America, a group of scholars and experts in the field, the report has been endorsed by numerous civic officials, scholars, and religious leaders.

Changing Course calls for a shift in our policy in the region away from military interventionism and toward democratic values and institutions. It is argued that our goal of democracy and stability is best achieved by promoting justice and equality in the nations of Central America and the Caribbean Basin.

Mr. Speaker, I commend this report to my colleagues; the summary of the report is included immediately following my remarks in the RECORD.

### CHANGING COURSE: BLUEPRINT FOR PEACE IN CENTRAL AMERICA AND THE CARIBBEAN

#### A TIME TO CHANGE COURSE

U.S. policy in Central America is not working. Death squads continue. Government officials sell arms to guerrillas. One billion dollars in U.S. aid increases corruption. Refugees flee. American soldiers die. The CIA directs a covert war. Harbors are mined, innocent people killed. Our allies object and call on us to stop.

President Reagan's policy in Central America is a failure. The drift towards war is clear. It is time to change course before it is too late.

#### THERE IS AN ALTERNATIVE: THE CHOICE OF EXPERTS AND CIVIL LEADERS

Changing Course: Blueprint for Peace in Central America and the Caribbean challenges the direction of current administration policy and provides a pragmatic and humane alternative. It offers an opportunity to avoid regional war and to restore respect for U.S. policy.

Unique in scope and public support, Changing Course is the choice of experts and civic leaders across the nation. In only one month after its publication, the Blueprint received the endorsement of over 500 scholars and experts in the field including the current and two past presidents of the Latin American Studies Association (the professional organization of academics and development experts specializing in the region). It has won the endorsement of prominent public officials and major leaders of church, labor, minority, and civic organizations.

#### CHANGING COURSE AUTHORS: PACCA

Changing Course was written by members of Policy Alternatives for the Caribbean and Central America (PACCA), an association of scholars, development specialists and policymakers with long-term experience in the region. PACCA analysts are drawn from some thirty universities and research institutions including: Harvard, Stanford, Cornell, Notre Dame, the Massachusetts Institute of Technology, the University of Texas, Austin, the University of Wisconsin, Madison, the Institute for Food and Development Policy, the Center for the Study of the Americas, NACLA, the Central America Resource Center, the Development GAP and the Institute for Policly Studies.

#### CHANGING COURSE: A PROGRAM FOR PEACE AND DEVELOPMENT

*Principles for a new policy*

U.S. foreign policy should be based on the principles which it seeks to further in the world. These include: non-intervention, respect for selfdetermination, collective selfdefense, peaceful settlement of disputes, respect for human rights, support for equitable development and concern for democratic values.

A program for peace, Changing Course calls for the United States to take the following short-range steps:

Nicaragua: cease backing the counter-revolutionary forces based in Honduras and Costa Rica, and support Contadora efforts to normalize relations between Nicaragua and its neighbors.

El Salvador: cut off military aid, and support efforts for a negotiated settlement involving power-sharing among the contending forces. A transition government can provide the security necessary for true free elections.

Honduras: dismantle the U.S. bases in Honduras, withdraw U.S. troops and warships and participate in development aid.

Guatemala: express disapproval of the government's repressive policies toward indigenous people, maintain the cut-off of military assistance and provide aid for Guatemalan refugees in Mexico who have fled from the violence there.

Costa Rica: oppose militarization and extend economic assistance.

Cuba: begin a process designed to achieve normal diplomatic and commercial relations.

A program for development, Changing Course calls for the United States to promote initiatives responsive to the needs of the majority.

Aid: U.S. economic assistance should be given to those regional programs and governments that are narrowing the gulf between rich and poor, as well as to grassroots institutions and projects that diversify the economic base of each country.

Trade: U.S. trade should be liberalized alongside support of limited commodity agreements to help Central American countries stabilize earnings from their commodity exports.

Debt: The U.S. should support regional plans for renegotiation of external debt.

Workers and Migrants: The U.S. should develop programs to compensate and retain U.S. workers affected by liberalized imports, guarantee rights to immigrant workers, and grant extended voluntary departure status to all Guatemalan and El Salvadoran refugees.

#### PRESENT POLICY FOUNDATION FOR FAILURE

Present U.S. policy toward Central America is built on a history of misjudgment and intervention. Support is being given to repressive governments and elites unresponsive to the basic needs of the vast majority of their populations. These misdirected policies reinforce the very conditions which lead to revolt and instability.

In El Salvador, more than $730 million in U.S. aid has been sent over the past three years to uphold a brutal regime. Yet during that time the opposition forces—the FDR-FMLN—have steadily gained domestic support and international recognition, in Europe and Latin America. By 1984, they control almost a third of the country.

In Nicaragua, the CIA has spent over $100 million to wage a covert war against the government. But the CIA-financed forces have failed to hold any territory. National sentiment has rallied to defend the country against the external attack. Prominent international development experts and church leaders praise Nicaragua's literacy and health programs and point to them as exemplary models for development. Most independent observers believe that contrary to administration views, the U.S. sponsored covert war causes the government to harden its positions.

In Honduras, the United States is building a major military complex and joins in frequent maneuvers with the Honduran army. The CIA directs its operation against Nicaragua from Honduran territory with the assistance of local army troops. The result has been to strengthen military control over civil government, undermine Honduras' fragile democracy and transform the capital into what reporters there call "the poor man's Saigon." Already U.S. soldiers have died near the Nicaraguan border.

### REGIONAL WAR IN CENTRAL AMERICA: ANOTHER INDOCHINA?

Continued U.S. escalation pushes these three nations perilously close to regional war. The leaders of major countries in the region—Venezuela, Colombia, Panama and Mexico—have appealed to the United States to stop the escalation of violence. "Military intervention," Mexican President Miguel de la Madrid stated in January 1984, "far from solving problems would aggravate them—in Central America if not in all the neighboring area."

To secure support and recommendations for his policy, President Reagan created a commission led by Henry Kissinger, Secretary of State to former President Richard Nixon during the Vietnam war. Time Magazine summarized the Kissinger Commission proposals with one word—"more." More military and economic aid, more covert war, more intervention. At a time when U.S. social programs are being severely cut, the administration has asked Congress to finance a multi-billion dollar package for Central America. It requested $8.4 billion in economic aid for 5 years and over $500 million in military aid for the next 18 months. But the most likely result of this escalation will be simply to raise the level of violence.

The administration's policy failure originates in a refusal to understand the events in the region. The roots of the revolutions there and the interests of the United States require that we change our course before we suffer a self-inflicted defeat.

### WHAT ARE THE ROOTS OF REVOLUTION?

The upheaval in Central America is caused by popular revolt against unbearable living conditions. In each of the countries, a tiny elite has controlled the lion's share of economic wealth and political power for generations. The vast majority of society suffers from poverty, hunger, disease and illiteracy. Peaceful opposition to these conditions and democratic attempts at reform have been met with murder and violence. Elections of reform candidates have been annulled by the military; political, church, press, and labor leaders assassinated; government-sanctioned death squads institutionalized. The elite that made reform impossible made revolt inevitable.

### WHAT IS THE LEGACY OF THE UNITED STATES IN THE REGION?

Over the past century, the United States has too often stood with the wealthy few and their military guardians. In Nicaragua repeated intervention culminated in the U.S. creation of a National Guard and the appointment of Anastasio Somoza to head it in 1933. Over the next forty-five years, the Somoza dynasty created what the Kissinger Commission admitted was a "hated kleptocracy." In Guatemala, the CIA sponsored a coup against a democratically elected government in 1954 leaving a thirty-year legacy of murderous rule. In El Salvador, the United States has committed itself to a government which depends upon terror and graft to preserve the privilege of the few.

U.S. supplied economic aid to these countries has often been siphoned off by corrupt bureaucracies. Rather than alleviate inequalities, economic assistance has tended to increase the gap between the rich and the poor and become an added source of discontent.

The region's revolutionary movements reflect these conditions. An amalgam of nationalism, socialism, marxism, and Christianity, they are prickly in their independence, suspicious of the United States, sympathetic to the social programs of Cuba, and impatient in their desire to redistribute wealth and power. They are also movements which succeed only to the extent that they respond to the basic needs and aspirations of a majority of their people.

### IS OUR NATIONAL SECURITY AT STAKE?

The Reagan administration invokes the words "national security" and attempts to transform civil strife in countries around the world into threats against U.S. interests. Yet a clear definition of U.S. security in Central America demonstrates that the greatest danger comes from a military overreaction to these situations, not from the revolutions themselves.

The United States is an ever-changing dynamic society, one born of the Declaration of Independence and matured by long struggles for equality. Our fundamental national security interest rests on the ability to continue meeting the challenge of this heritage, free from external threat. Revolutions in Central America do not endanger this fundamental interest. The countries are small and poor. Every post-revolutionary government—no matter how hostile to the United States—will face a massive reconstruction task. All will require external assistance and investment. The United States and its allies will necessarily be major sources of that aid. Thus, all of the revolutionary movements have declared their intention and desire to pursue a non-aligned foreign policy that safeguards their independence and sovereignty and provides access to aid from a range of countries.

### *Dominoes*

The Reagan Administration suggests that the true threat is that Nicaragua and the guerrillas in El Salvador are part of Soviet and Cuban attempts to subvert Mexico and Panama. But while guns can be exported, revolutions cannot. Efforts to do so—as illustrated by Che Guervara's failure in Bolivia in 1967—have proved disastrous. The leaders of the countries allegedly threatened by subversion—Mexico and Panama—have stated that the major threat to their internal stability comes not from revolution in tiny El Salvador but from a regional war which may result from U.S. military escalation there.

### *Debt and national security*

The most serious threat to U.S. security in the hemisphere stems not from the revolutions in Central America but from the debt crisis. Mexico, Argentina, and Brazil cover some ¾ of the population and production in the hemisphere. All suffer from an unprecedented debt burden with payment owed far exceeding their ability to pay. In many countries of the region, governments have cut back on vital social programs and food subsidies in order to service their debt. Riots and civic unrest have often been the result. Under these circumstances, countries will find it increasingly difficult to repay interest charges. Because of the massive amount of money involved, this situation threatens the collapse of major U.S. banks and perhaps the international financial system itself. This clear danger to our national security has received but a fraction of the attention devoted to Central America.

### *Vital sea lanes*

The administration charges that the Caribbean sea lanes are threatened. To consider this a real possibility, a series of highly unlikely assumptions must be accepted and certain facts ignored. Any attack on U.S. ships would be an open declaration of war resulting in decisive U.S. military action. For shipping lanes to be endangered one has to believe that a Central American nation would essentially be willing to commit suicide. Ironically the sole infringement of international shipping has come from the CIA mining operation against Nicaragua, which has damaged ships from several different countries.

### WHAT ABOUT THE SOVIET THREAT?

The administration claims that the revolutions in Central America are part of a "Soviet and Cuban backed campaign * * * to incorporate the region into the Soviet orbit." This claim not only distorts the nature of the revolutions and possible threat, it obscures the real source of power in Central America—the U.S.

"The realities of relative strength make it totally clear that no one is going to make war on us from Central America. There is something genuinely zany in thinking about the areas in such terms."—McGeorge Bundy, National Security Advisor to President John F. Kennedy.

The United States is unquestionably the dominant power in the region. Even Cuba, after twenty-five years as a Soviet ally, offers no significant threat to the U.S. In fact, the United States still maintains a military base on the island. Moreover, the Soviet Union has borne significant economic costs in sustaining Cuba as an ally. The Soviets have demonstrated reluctance to assume further burdens of this kind although U.S. actions, such as the mining of Nicaraguan harbors, have led them to offer increased assistance to Nicaragua. France, hardly an ally of the U.S.S.R., has made a similar offer. Indeed, the greatest benefit to the Soviet Union would be continued U.S. military escalation and intervention. Such a situation would further alienate public opinion in Latin America, in Europe and throughout the world against the U.S.

### WHAT ABOUT OUR CREDIBILITY?

Referring to Central America, President Reagan has stated, that "if we cannot defend ourselves (there), we cannot expect to prevail elsewhere. Our credibility would collapse; our alliances would crumble; and the safety of our homeland would be put in jeopardy."

The leading countries of this hemisphere oppose the course of U.S. policy. In the face of such concern, some have joined together in their own effort to seek a solution. In Europe, informed observers worry that U.S. intervention will divide the nations of the West. Refusing to allow the World Court to judge our actions in Central America further damages our reputation as a government of law. If we wish to regain our credibility with respected allies, our course must be changed.

The current policy not only offends human rights, it fails to serve our own national interests. It has failed at present levels of expenditure. Escalation only draws us closer to full-scale military intervention.

### WAR: WE CAN PREVENT IT

The time to change course is now. We have the capacity and the creativity to promote a new foreign policy, one that is humane, pragmatic and preserves our democratic principles and national interests. We have the opportunity to build a Central America policy that strengthens the possibility for peace and justice. It is the time for bold leadership and initiative.

Our past can provide direction. In 1938 when Mexico was labelled a 'Bolshevik" threat to our security for nationalizing U.S. oil companies. President Roosevelt provided the country with a long-term, low-interest loan in order to repay the U.S. corporations. A potential enemy became a staunch ally.

The way towards war in Central America is being prepared. Already national security is invoked to limit congressional opposition. The threat made by President Reagan in his speech to Congress in April 1983—"who among us would wish to bear responsibility for failing"—makes legislators reluctant to oppose his policy.

Only a broad-based citizen movement can now bring about this change. Please join in the effort to avert an unnecessary tragedy. Together we can change course, before it is too late.

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## DEREGULATION AND SAUK CENTRES

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## HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. McNULTY. Mr. Speaker, deregulation. It is the in thing, "an idea whose time has come," the wave of the future and all the rest of that bunk. It is also going to be the end of the Sauk Centres of America.

Sinclair Lewis summed up for a century the flavor of small-town America, its hyprocrisy, its stolidness, and its tendency to suffocate. "Main Street" coincided with the escapes of the first of generations of Americans from the small towns where everyone knew the business of everyone else. They fled to the anonymity of the metropolis, where they were free to shuck the responsibility of having neighbors. A society that worshipped competition was able to extend the limits of its sense of competition to a degree of callousness toward others worthy of John Galt.

Then along came the idea of deregulation. We had too much regulation; did the business world of America not tell us so? We needed less paperwork, fewer restraints on a people who would be free. We needed business unimpeded by social engineers; we needed a world where the marketplace was dominant.

We needed $99 airline flights from San Francisco to New York, while the air fare from Phoenix to Salt Lake City was $160. We needed to allow modern technology to expedite cheap long-distance phone calls, while the residential rates of the people in Elfrida, Ariz., tripled. Perhaps we need 3-cent first-class mail between Chicago and Boston. Of course, that means 75-cent mail between Elfrida and Lyndeboro, N.H.

We needed truck and freight deregulation. We needed to deregulate bus service, and we needed to deregulate what was left of the railroads. Cost of service was to be the new heart of all considerations, economic and otherwise.

But the deregulation fervor reached its peak just as the lemming-like flight of industry to the Los Angeleses of the world began to limp. The undersewered, underhighwayed, overpolluted, and endlessly crowded metropolis was becoming part nightmare. Crime, wretchedly kept schools, bad air and the frantic, rodent-like competitive life was beginning to sour. Even for high achievers, the price was climbing too high.

Demographics began to show a new flight to the farm. Parents suddently wanted to raise kids in Red Bluff, and Roswell, and Prescott. The more leisured pace of life, the ability to park a car, hire a serviceman, and walk streets safely at night told millions of Americans that Sauk Centre had some virtues after all, that life there was sustainable.

Right then, our Nation should have sensed the national usefulness of programs designed to keep citizens happy in Sauk Centre, and simulatenously save the Dallases the migration they were ill-equipped to accommodate. But the Nation did little. The enormous change began.

So where are we now? At the raw edge of disclaiming a sense of one nation. At the point of deciding that private and public services will be based solely on undiluted economics. We are en route to a destruction of Jeffersonian ideals, to a new contempt for meaningful federalism, to an abandonment of our commitment to the concept of "from many—one nation."

We are yielding the sense of a nation indivisible, and deregulation is the principal vehicle for getting there. On our present course how can we avoid different rates for postage of electricity for rural and urban consumers? The country cousins will expect less, earn less, and do with less, but only up to a point. Then they will join the relentless tide, resolving this Naiton into 100 communities, each of 2 million souls. Our national consensus will be bruised, our sense of variety will wither.

No deregulation-based saving is worth that price. If we can not repent now, we should at least reconsider.

Perhaps the preservation of a non-metropolitan/suburban America is unimportant or too expensive or both. After all, we grow more food than we can eat and sell combined. We subsidized electricity, and mail, and telephones, and freight, and maybe it is time to check all that. But then we look at the roster of the dead marines—they disproportionately came from Cloverdale, Ind.; Horton, Ala.; Altus, Ark.; and Lacey, Wash.

I believe in a many-colored Jacob's coat, in the strength of dissimilarity, in the cultural health of a plural society, in the propriety of refusing to be homogenized. There are risks to be sure, but we reached this pinnacle of power, this universally admired national existence in just such a fashion.

Revel in our differences. A happy band of brothers and sisters can look differently, talk differently, live differently, and worship differently but, on those things that are common, possess uncommon strength.●

## NATIONAL DIABETES MONTH

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## HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. HOYER. Mr. Speaker, today, along with two of my colleagues, I am introducing a joint resolution to designate the month of November 1984 as "National Diabetes Month." The ongoing war against diabetes has yielded significant advances in basic and clinical research aimed at prevention, diagnosis, and treatment of persons who are afflicted with this disease. yet much more remains to be done.

Eleven million Americans suffer from diabetes. A significant portion of the victims are not yet even aware that they have the disease. Tens of millions of Americans—the friends and families of those with the disease—are personally affected by the grave impact which diabetes has on their loved ones. Over $10 billion are spent each year for health care, disability payments, and premature mortality costs resulting from diabetes.

Health complications resulting from diabetes affect a variety of bodily functions and organs. The lasting effects of these complications are extremely severe. For example, the National Diabetes Data Group has reported that:

Diabetes causes almost 50 percent of foot and leg amputations among adults;

Twenty five percent of all cases of kidney failure and 15 percent of all blindness are due to diabetes;

Diabetes is a major cause of birth defects and infant mortality;

The United States ranks among the highest five nations in the world in mortality due to diabetes;

Diabetes is a major risk factor for cardiovascular disease;

Persons with diabetes spend twice as many days in hospitals as persons without the disease;

Diabetes, which is the fourth leading cause of visits to general- and family-practice physicians, places a major drain on our health resources; and

One in every six hundred children suffers from insulin-dependent diabetes.

Mr. Speaker, the designation of November 1984 as National Diabetes Month will serve to bring to the attention of all Americans the human and economic costs of diabetes. It is my sincere hope and belief that this increased awareness and subsequent understanding of the disease--both by those afflicted and by others—will lead to more intensive research, improved methods of preventing serious complications, new types of treatment, and general awareness of the challenge we face in seeking to lessen the impact of diabetes. I urge the speedy adoption of this joint resolution.

Mr. Speaker, the text of the resolution follows:

H.J. RES. 591

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* Whereas diabetes kills more than all other diseases except cancer and cardiovascular diseases; and Whereas eleven million Americans suffer from diabetes and five million seven hundred thousand of such Americans are not aware of their illness; and Whereas $10,100,000,000 annually are used for health care costs, disability payments, and premature mortality costs due to diabetes; and Whereas up to 85 per centum of all cases of noninsulin-dependent diabetes may be controllable through greater public understanding, awareness and education; and Whereas diabetes is a leading cause of blindness, kindney disease, heart disease, stroke, birth defects, and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the month of November 1984 is designated as "National Diabetes Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies and activities.●

## ACID RAIN: THE PERSISTENT UNCERTAINTIES

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## HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mrs. LLOYD. Mr. Speaker, in my continuing efforts to shed some additional light on the current scientific uncertainties associated with causes and effects of acid rain, I would like to bring the following article to the attention of my colleagues. The article, which appeared in the American Mining Congress Journal, is authored by Mr. Ralph Perhac, the director of the Environmental Assessment Department of the Electric Power Research Institute (EPRI). I believe that this article reinforces my contention that we should wait for definitive results on causes and effects of acid rain before enacting control legislation. The article follows:

### SCIENCE DOESN'T HAVE THE ANSWER ON ACID RAIN

(By Ralph M. Perhac)

The question of acidic deposition probably is causing more consternation in the coal and utility industries than any other current environmental issue.

However, as the report of the National Acid Precipitation Assessment Plan (NAPAP) pointed out, "because of the general lack of consistent monitoring in the past, longterm trends in acid deposition in North America are poorly defined."

A major concern about ecological effect is possible damage to forests, crops and aquatic systems. The American Paper Institute and the National Forest Products Assn. reported recently that "at the present time, there is no . . . need to reduce acidic deposition . . . to protect the timberlands of North America."

The Environmental Protection Agency (EPA) also concluded, "At present there is no proof that acidic deposition is currently limiting growth of forests in either Europe or the United States." And the June 1983 NAPAP report attests that "there is no indication to date that . . . forest production is being affected."

In the case of crops, we can be a bit more certain about the effects of acid rain. The 1982 report from NAPAP states, "The most consistent conclusion to be drawn from agricultural research at all scales and with all species has been 'no effect' at current . . . pH levels (pH 4.0-4.2)."

In trying to establish the actual extent of damage to aquatic systems, we face the same paucity of data. Some reports suggest wholesale destruction of lakes in sensitive areas. Yet data from the New York Department of Environmental Conservation show that less then 5 percent of the lakes in the Adirondacks have a pH of less than 5.0.

SRI International recently completed a study of water records in the U.S. to see what trends in lake acidification could be identified. Of the 188 lakes studied, 18 showed increased acidity, 71 a decrease, and 99 no change.

In view of these uncertainties, why are so many persons concerned? Perhaps the circumstantial evidence for ecological damage is strong enough to suggest that we are on the verge of ecological disaster. Or, perhaps the potential for damage is sufficient to take regulatory or legislative action now.

The action most commonly suggested is a reduction of sulfur dioxide ($SO_2$) emissions from utility power plants. How effective will such a reduction be? The question is not easy to answer because it involves understanding the relationship between the emission of $SO_2$ in one place and the deposition of sulfuric acid or sulfate particles in another.

The efficacy of a control strategy can be judged in two ways: by implementing a reduction and observing what happens, or by using an air-quality model that relates changes in emissions to changes in deposition.

Present air-quality models have an uncertainty factor that is too large to be useful for designing control strategies. A group of U.S. and Canadian scientists recently concluded, "The adequacy of available models to predict the results of alternative emission patterns is uncertain."

More recently, the National Academy of Sciences stated, "We do not believe it is practical at this time to rely upon currently available models to distinguish among alternative strategies." As the Academy points out, a uniform reduction in all sources of $SO_2$ in eastern North America should result in a uniform and proportional reduction in sulfate deposition.

Information on the rate of damage is probably even more sparse than that on other aspects of acid deposition. A recently completed lake study, funded by the Electric Power Research Institute (EPRI), gives some insight into the rate question. In the Adirondack Mountains of New York, three lakes close to each other receive the same atmospheric input but have remarkably different acidities.

Model simulations suggest strongly that, in some parts of the Adirondacks, soils have a marked influence on the process of lake acidification, and some soils have the capability of neutralizing precipitation for many years. The EPRI-funded researchers have been making regular measurements in the Adirondacks for over five years, and they have not been able to measure any changes in the acquatic system. We have no evidence that any serious changes will occur over the next 5, 10 or 20 years.

What should society do? We are uncertain about the extent of damage to ecosystems. We do not have models that can predict reliably the effect of alternative control strategies. And a limited amount of research suggests that, over the next decade or two, we will not be able to measure changes in the ecosystem at present rates of acidic deposition. Should emission controls be implemented now or should more time be devoted to research? That question cannot be answered by science alone. It involves such factors as economics and public perception.

The regulator or legislator is in a difficult position. It is easy to propose a reduction in $SO_2$ emissions. Such a reduction will do no harm to the environment and may well do good. But reducing emissions is a costly undertaking that will be paid for by public through higher utility bills. Does he propose a control strategy whose efficacy cannot be judged fully for a problem that is still not fully defined? Society will have to decide the answer to that question. Science cannot.●

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# EUROPEANS ARE ABANDONING THE CENTRALIZED INDUSTRIAL POLICY APPROACH

## HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. RITTER. Mr. Speaker, recently, the House Energy and Commerce Committee narrowly approved by a 22-to-19 vote, title I of H.R. 4360, the industrial policy bill. It is becoming increasingly clear that H.R. 4360 will have a hard time passing in its present form in this body. That is because H.R. 4360 contains all of the ingredients necessary for substantial Government intervention in our industrial marketplace. H.R. 4360 would set up an industrial council to pick winners and losers and a bank using tax dollars would provide low-cost loans at taxpayers expense and at the expense of increasing Federal budget deficits.

Enactment of this approach would greatly surprise many of our European allies who have seen the dismal failure of such a centralized economic planning approach. Hobart Rowen, in an article that appeared in the Washington Post on May 24, 1984, noted that:

> The big shock for Europe this past year has been the sharp American recovery from recession in the face of high real interest rates. This was totally unexpected. It is greatly attributed to our unleashing of the American economy from government regulation and to American labor's willingness to join in the process.

Rowen went on to note that "many Europeans sound like Republican National Committee clones."

H.R. 4360 could be a giant step backward in our efforts to improve our domestic industrial competitiveness. It is a misguided effort that sees Government intervention as the means for the creation and preservation of jobs.

There is an alternative. The House Republican Task Force on High Technology Initiatives of which I am vice chairman has made 14 specific legislative proposals that are aimed at creating an environment in this country where innovation, new ideas and new companies are likely to flourish; a climate in which mature industries can modernize and regain their industrial competitiveness. Making sure that such an environment exists is the best way Government can help America maintain its technological leadership and industrial competitiveness.

I urge my colleagues to take notice of the article by Hobart Rowen which I am inserting into the CONGRESSIONAL RECORD, and reject the centralized planning approach that is the foundation of H.R. 4360.

### GAINING EUROPE'S RESPECT

(By Hobart Rowen)

PARIS.—The big story in Europe is not simply that the Common Market countries are light years behind American and Japanese technology, but that Europeans have begun to develop new respect for the American entrepreneurial spirit—of which they were once contemptuous.

The highly regulated, heavily bureaucraticized societies here now have a grudging admiration for the more adventuresome, aggressive free-market system. Sophisticated Europeans ascribe much of their lagging economic performance to this difference in approach.

An underlying problem has been the time, energy and money that the Common Market poured into protecting agriculture. Industry has played second fiddle: nationalist pride and primitive capital markets keep European industrial companies from combining forces to help them compete with the IBMs and Sonys.

But the big shock for Europe this past year has been the sharp American recovery from recession in the face of record high real interest rates. This was totally unexpected. It is generally attributed to an unleashing of the American economy from government regulation and to American labor's willingness to join in the process. Many Europeans today sound like Republican National Committee clones.

As John Vinocur pointed out in The New York Times, the traditional anti-Americanism of the French intellectual has flip-flopped. The French, seeing the franc plunge in value while the dollar soars, have soured on Francois Mitterrand and socialism, and are beginning to sound downright pro-American.

Mitterrand was stunned by his recent trip to the United States, where he saw not only the high-tech outpourings of Silcon Valley, but for the first time understood the significance of cooperation between the business world and academia. The Bonn government, too, is beginning to catch on to this all-important nexus between the private corporation and campus research.

But for the near future, European businessmen see themselves heavily dependent on the American "engine of growth." They doubt that there is any independent force left in Europe that will nurture their skimpier recover, once the U.S. boom tapers off.

Today, the more daring European companies in Italy and France look for American, rather than German or Dutch, partners. "They want transatlantic, not European, connections," says a diplomat

Ironically, the one country in Europe that seems to have more of America's entrepreneurial spirit than any other is Italy. Although Frenchmen, Germans and Englishmen have always looked down their noses at their Italian neighbors, Italy boasts a thriving economy, having moved from a negative 3 to 4 percent rate of growth in 1983 to a positive 2 or 3 percent this year.

The discerning businessman in Europe today makes no attempt to disguise his awe of America's economic success under President Reagan. Some Americans worry, as they should, at the maldistribution of the benefits of Reaganomics, which are concentrated in the middle and upper income brackets. But Europe would be happy with a trickle-down result.

Officials and private citizens I talked with here and in Rome are openly envious of the strength of America, the power of the almighty dollar, and especially the ability of the American economy to generate new jobs. In the past 10 years, America has created 25 million jobs; in Europe, the figure is minus 3 million.

Most of the American jobs have been in services, including high-tech, and have been preponderantly created by new, small companies. But in Europe, businessmen talk of the "exit cost": the statutory obligations for pensions, severance pay and other cost of getting out of business discourage European entrepreneurs from getting started in the first place.

By contrast, new interpretations of the American bankruptcy laws provide a cheap way of exiting from business obligations—a new management tool tantamount to a license for union-busting.

Obviously, "Europessimism" and the contrasts between American progress and Europe's foot-dragging can be exaggerated. But for the first time in the 23 years I have been coming to Europe as a reporter. I hear a common refrain: things must change from the old ways. Labor union work rules will have to become more flexible. State welfare systems must be cut back. And if manufacturing companies can't lick the United States and Japan, then they'll have to join them; however, that jars the slender remaining unity of the Common Market.●

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## FIVE HUNDRED REBELS DESERT, REQUESTING AMNESTY

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. LAGOMARSINO. Mr. Speaker, recent reports from El Salvador indicate that quite a number of guerrillas are deserting their rebel groups and seeking amnesty with the military. The State Department confirms that over the past 3 to 4 months perhaps as many as 500 guerrillas have turned themselves in and requested amnesty, although no formal, nationwide amnesty program is currently in effect. Part of the reason for these desertions is the offer of local military commanders to buy guerrilla weapons turned in to them. Another reason is reported to be the fact that many guerrillas have been forcibly recruited and seek an early opportunity to desert. The State Department also reports that because of the forced recruitment of youth for the guerrilla forces, large numbers of families are fleeing El Salvador and traveling to Honduras. There they ask to be repatriated to El Salvador to areas controlled by the Government. It is reported that more than 2,000 Salvadorans have gone that route in recent months.

The report follows:

### FIVE HUNDRED REBELS DESERT, REQUEST AMNESTY

Unofficial reports that were revealed yesterday indicate that 500 rebels have put down their weapons and turned themselves in in various parts of eastern El Salvador, asking the Armed Forces and the government to grant them amnesty.

When we asked the Armed Forces Press Committee, COPREFA, to confirm this report, the spokesmen said that information was being gathered from all of the Usulutan, La Union, Morazan, and San Miguel Garrison in an effort to establish the veracity of this report.

COPREFA also confirmed that 17 young peasants who had been abducted in rural parts of San Miguel and Morazan turned themselves in to the 3d Infantry Brigade in San Miguel last weekend. Another group of 14 youths turned themselves in to Salvadoran Army troops in Usulutan.

The COPREFA spokesman stated that most of them said that the rebels had taken them to guerrilla camps in San Gerardo, San Fernando, and Perquin in northern Morazan, where they received forced training in a "terrorism school." They added that one was to be conscripted into the Rafael Arce Zablah Brigade, BRAZ, and others into the People's Revolutionary Army, ERP.

All of them said that they fled because they were tired of the poor treatment given them by the commanders, who threatened them daily by pointing rifles at their temples and telling them that they would be killed if they attempted to flee. They added that in addition to this psychological pressure, they were desperate because of the lack of food, clothing, medicine, and shoes, in addition to the constant fear of being killed in operations that the Armed Forces are carrying out in that area.●

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## THE ISSUE OF COMPARABLE WORTH

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Ms. OAKAR. Mr. Speaker, the following article appeared in Washington Jewish Week concerning pay equity. It is an excellent article, and I commend it to my colleagues. It is my hope that the legislation I introduced concerning pay equity will pass soon.

[From the Washington Jewish Week, May 31, 1984]

### "IT PAYS TO BE A MAN"—COMPARABLE WORTH: YOU HAVE COME A LONG WAY—MAYBE

(By Janice L. Kaplan)

The Book of Leviticus put women's value at 30 shekels, while men were said to be worth 50 shekels. Today, the wage gap between men and women remains unchanged: Women earn 59 cents for every dollar men earn.

Comparable worth—the concept of equal pay for work of comparable value—has grown out of a concern that, more than 20 years after passage of the Equal Pay Act, a disparity in earnings between men and women persists. While the law may require equal pay for equal work, women continue to be discriminated against in the workplace.

Public attention to the differences in men's and women's wages has increased in recent years, mainly because more women are employed than in the past, and more women are the heads of households. While women's groups and their allies argue that pay equity is today's prime economic rights issue, they say they are up against an unsympathetic Reagan administration which campaigned against ratification of the Equal Rights Amendment, and has done little to remedy the problem of sex-based occupational segregation and its salary inequities.

To understand the issues raised by the comparable worth debate, one needs to begin by looking at traditionally male jobs, comparing their salaries to those of jobs dominated by women. For instance, professions which entail similar skill, effort and responsibility are nursing and pharmacology. Nurses—96 percent of them female—make an average annual salary of $17,300, while pharmacists—84 percent of them male—earn an average of $25,000. Like comparisons can be made between zoo keepers and child care workers, secretaries and parking lot attandants. The disparity begins as early as when girls are paid less as babysitters than boys who mow lawns.

A number of strategies are being employed to remedy inequities. Equal pay legislation, like an antidiscrimination bill proposed in Montgomery County, would require that compensation be free of sex-bias. Court cases, such as the landmark AFSCME v. Washington State case which earned back pay for female workers, will become more common and send a clear message to employers who discriminate.

Discrimination against women "is no less devastating than race discrimination," says Winn Newman, the Washington, D.C., attorney who won the AFSCME case last fall. "There is much more prejudice against women, today, than against blacks," says the longtime civil rights activist and labor lawyer, pointing out that "our prejudiced society openly allows us to talk about 'women's jobs' but we would never talk about black and white jobs."

While the Washington State case—which won $770 million in back pay and fringe benefits for women workers—was viewed as a precedent, Newman has been winning similar victories for women, on a smaller scale, for 10 years.

### FAIRFAX COUNTY CASE

Closer to home, Newman has filed charges with the Equal Employment Opportunity Commission (EEOC) on behalf of Fairfax County librarians, who are required to have a master's degree, but who are paid less than workers in country male-dominated professions which do not require a master's. In addition, Newman said, he is planning to file a lawsuit soon.

Newman, who shares his downtown office with his two senior associates—both female—and a male junior associate—avoids the term comparable worth, preferring to define the problem as one of outright sex discrimination.

An assistant executive director of the EEOC in the 1960s, Newman often refers back to that time and lessons learned from working in the Civil Rights Movement. "For years, we talked about passing a law prohibiting discrimination, but the argument used to be, we need to educate people."

Progress was slow for blacks, and Newman learned an important lesson. "We broke our backs to pass the Civil Rights Act and finally when we get it passed we hardly use it for women's rights. Granted, if we had people running the federal government who cared about civil rights and women's rights, they would be bringing law suits. Enough people have got to be sued to make it clear to empoyers that they can't beat the rap. As long as we allow them to keep breaking the law, they will keep doing it."

"The women's community must begin to recognize this as out and out discrimination," adds Newman. "The women's movement has lost terribly by not litigating this issue—from the research table to the litigation table, from rhetoric to action."

The women's movement "will do whatever it has to achieve pay equity," says Donna Lenhoff, associate director of the Women's Legal Defense Fund.

The group's director, Judith Lichtman, a member of Tifereth Israel Synagogue, adds that, "advocates of pay equity for women are working for change on a variety of fronts." Lichtman cites her group's work in affecting government regulations, working with other organizations on collective bargaining strategies, educating the public through a campaign called "It Pays to be a Man," as well as bringing court cases.

Locally, Esther Gelman, a Montgomery County Councilmember and Jewish activist, has introduced a bill requiring the county to pay its workers equal compensation for work of equal value. The County's Compensation Task Force, established a year ago, is considering the broader issue of compensation, and "within that picture we want to do a comparable worth study," says Gelman. "We are constantly evaluating jobs in the county, and making progress toward equity."

On the national level, the Reagan administration position on comparable worth has been that there are laws on the books set up to deal with sex discrimination. At congressional hearings in April, Donald J. Devine, director of the Office of Personnel Management, testified that sufficient legislation exists to enforce "equal pay for equal work."

"This administration is neither for equal rights, nor for the E.R.A.," says Lichtman.

A spokesman for the U.S. Commission on Civil Rights said the commission is examining the issue and will hold a consultation on comparable worth next week. The commission's staff director, Linda Chavez, has been quoted as saying that "the principle that underlies comparable worth is a fundamentally radical one that would alter our existing marketplace economy."

"That's what they said about child labor laws, the Equal Pay Act, and the Civil Rights Act," responds Lenhoff. "The system can accommodate fairness to its workers."

The Reagan administration is not the only obstacle facing supporters of comparable worth.

Critics of comparable worth say it is impossible "to compare apples and oranges." But comparable worth supporters argue that the issue is not whether or not dissimilar jobs can be compared, but that wage discrimination still flourishes.

### JOB EVALUATION STUDIES

On the question of how reliable job evaluation studies are, Lenhoff responds, "While they are not perfect, they are a beginning." She adds that, "Although job worth is hard to measure, we do it all the time. Every employer has a job evaluation and wage-setting scheme in practice. The question is: Are those values being applied on a nondiscriminatory basis?"

It is unclear, Lenhoff says, how much it would cost to implement a comparable worth policy on a national scale, but she cites a study done in Minnesota where it was determined that it would cost 1¼ percent of the state legislature's budget for pay equity adjustments.

In addition to women's groups, a number of Jewish organizations have included comparable worth in their agendas. The National Jewish Community Relations Advisory Council will be considering comparable worth next month at a meeting of its commission on economic equity. NJCRAC will be looking to see what position the Anti-Defamation League takes on the issue when its national commission meets this week.

The National Council of Jewish Women has come out in favor of comparable worth, and has set up study groups across the country to look at pay equity. And B'nai B'rith Women, also a supporter of comparable worth has stated that, "while there are assuredly problems and costs in achieving pay equity . . . we must also look at the costs of not achieving it."●

## PERSONAL EXPLANATION

## HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. TORRES. Mr. Speaker, I was not present for rollcall vote No. 221 (Semiconductor Chip Protection Act, H.R. 5525) on Monday, June 11. Had I been present on the House floor, I would have voted "yea."●

## DANES WHO SAVED JEWS FROM THE NAZIS

## HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. LANTOS. Mr. Speaker, I would like to share with my colleagues a recent article which appeared in the San Francisco Examiner. It concerns the heroic actions of the Danish people who gave themselves selflessly during the Nazi occupation of their country to protect the Danish Jews. Their example of courage and steadfast unity in the face of brutality and oppression enabled a race and a culture to be saved. They should be remembered by us all for their enduring contribution to peace and humanity.

I would like to give particular recognition to Henning Jensen, whose activities are described in this excellent article. Mr. Jensen, who lives in Redwood City, Calif., is one of my constituents. I am honored, Mr. Speaker, to have the privilege of representing such a courageous individual as Mr. Jensen:

### GREAT DANES WHO SAVED JEWS FROM THE NAZIS

(By Norman Melnick)

They were young and indestructible.

That is how Harry Andersen of Orinda and Henning Jensen of Redwood City see themselves as they were in the momentous days of late 1943 when they helped in the rescue of the Jewish population of Denmark.

As one of the greatest humanitarian acts of World War II, the evacuation of Denmark's 7,000 Jews to neutral Sweden 40 years ago frustrated the Nazis who were secretly planning a Danish version of the "final solution," Adolf Hilter's plan to eradicate European Jewry.

As resistance fighters, native Danes Andersen and Jensen both were involved in the rescue. Andersen, a college philosophy student then, took care of Jewish children hidden in a Copenhagen fraternal lodge hall. Jensen was a machine-gun-toting guard on fishing boats making the perilous 1½-hour crossing from Denmark to safety in Sweden, a country that had declared its willingness to receive, house and sustain Jewish refugees.

"I would sit with the children, they were absolutely fantastic," said Andersen, 59, now a successful East Bay travel agent. "You never heard anybody complain. I brought food to the children, I read to them, I turned on the light at night when they went to sleep. I told them, 'Yes, you will see mommy and daddy again. You will be reunited, there's nothing to worry about.'

"I never thought of it as dangerous at the time," he said, "but I could have ended up against the wall."

Packed into vehicles of all types, the Jews were taken from their hiding places to coastal embarkation points swarming with Nazi SS, Panzers and planes. Usually an hour after midnight, they were spirited across the Oresund Strait in fishing vessels, past German warships blocking the sea lanes, to their Swedish haven.

"It was kind of stinky down by the fish, underneath the fish where the Jews had to be put, but they didn't mind at all," said Jensen, 63, now assistant editor of the San Francisco-based Danish Newspaper Bien. "I made 15 crossings. Trouble? Only seasickness among some of the females. We were lucky; many of the others were caught."

Even now, the silver-haired Jensen said, "it's hard to pinpoint the real reason" his countrymen gambled everything to save the Jews. "We are a broad-minded people. We have no discrimination against anybody—

never had. We were terribly angry, all those five years of the occupation, and that was the main reason we stood up to Hitler."

The Nazi war machine overran Denmark in April 1940. Under King Christian X, the Danes settled in to a fairly relaxed German "protectorate."

There was one problem. Hitler found it loathsome that Danish Jews were allowed to run their businesses, worship and move about freely in a democratic society that had bestowed "full public rights" on Jews as far back as 1814. he demanded that anti-Jewish measures be taken.

That marked the start of Danish resistance. While historians recorded that it came to the Danes later than to most of the other conquered peoples under Hitler, they finally realized that what they called "loyal cooperation" was impossible under the Nazis.

"There is no Jewish question in this country. There are only my people," declared the king. In a symbolic gesture, in full regalia—all 6 feet 6 inches of him—he attended with great fanfare a service in Copenhagen's finest synagogue.

"This show window of Hitler's didn't work," Andersen said. "Denmark had been an independent kingdom since 940 A.D.; we weren't used to being told what to do."

They had some help from their occupiers. Prodded by their consciences, two German officials in Copenhagen let out the secret that the SS planned to deport all Danish Jews to extermination camps starting Oct. 1, 1943, the first day of Rosh Hashanah, the Jewish new year.

Throughout Denmark, according to contemporary accounts, people were stopped in the streets and asked whether they were Jews or had Jewish friends or acquaintances. Jews were offered temporary shelter.

Up to that time the smuggling of anti-Nazis to Sweden had taken place on a small scale in camouflaged fishing boats. But the imminent roundup of all Danish Jews presented the underground with a formidable task.

As four German prison ships waited in Copenhagen harbor, the Danes ferried Jews in small groups across the strait to asylum in Sweden.

Several hundred Jews fell into German hands during the raids, before the general alarm was sounded. An estimated 1,000 more were seized before they could get to Sweden. It is estimated that 7,000 Jews were rescued within three months of the day the Nazis began their roundup.

The Danes even thought to hide sacred Hebrew scrolls in the cellars of Copenhagen's Protestant churches. Records of all possessions were kept and returned to their grateful Jewish owners after the war. Their businesses and their homes were intact. Even their lawns had been mowed.

"We didn't do it for money. We didn't do it for any other reason than the Jews were our countrymen," said Andersen, who was knighted two years ago by Danish Queen Margrethe for his Danish-American activities.

What was it in the Danes' character (and the Swedes') that they undertook to deliver from certain doom a whole people? The question is often asked.

Sociologist Earl Raab, a founding member of the San Francisco Human Rights Commission and executive director of the Jewish Community Relations Council: "I think it was a matter of national pride rather than overwhelming love for Jews. These were *Danish* Jews and the Danes weren't going to have them violated."

San Francisco State University historian and author Konnilyn Feig ("Hitler's Death Camps," 1982) acknowledges that anti-Semitism was non-existent in Denmark, "but that alone cannot explain what happened."

When they realized that they were not going to be vassels of the Reich forever, "the Danish people got madder than hell at the Germans and the Jews were considered their citizens, their family," she said.●

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## ABOLITION OF RUNOFF PRIMARIES ESSENTIAL UNDER SECTION 2 OF VOTING RIGHTS ACT

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CONYERS. Mr. Speaker, today I introduced H.R. 5822, the Runoff Primary Elimination Act of 1984, a bill which would amend section 2 of the Voting Rights Act to eliminate runoff or second primaries.

The abolition of the runoff primary is an essential step in breaking down the barriers to full and equal participation in the political process which persist in the United States today.

Runoff or second primaries are a device that was adopted by 10 Southern States during the early part of this century as part of a reactionary crusade to eliminate any chance of black Americans gaining influence in the political system. Indeed, runoff primaries continue today to discriminate against numerical minorities, black or white, in elections in which there is racial polarization. If blacks are a minority in a particular congressional district, for instance, and if whites vote in a solid block, a black candidate can never be elected. This is precisely what happened in Mississippi's Second Congressional District, where a black candidate, Mickey Michaux, was denied his party's nomination.

Most available evidence today indicates that runoff primaries serve to dilute the black and minority vote. Section 2 of the Voting Rights Act, as amended in 1982, explicitly prohibits election laws and procedures that have a discriminatory intent or effect. This bill would further amend section 2 to establish that runoff primaries in Federal elections "shall be considered a procedure to deny or abridge the right of a citizen of the United States to vote on account of race."

Hearings on the Runoff Primary Elimination Act of 1984 are scheduled in the House Judiciary Subcommittee on Civil and Constitutional Rights for Thursday, June 28, 1984. I invite all interested Members to cosponsor this legislation.●

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## REV. STEPHEN A. KISH; A SERVANT OF GOD AND HIS COUNTRY

### HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. WORTLEY. Mr. Speaker, I wish to bring to the attention of my colleagues a servant of God, his country and the people of central New York who will be retiring Sunday, July 1.

He is the Reverend Stephen A. Kish, pastor of the Borodino United Methodist Church and the Amber Congressional Church.

A native of Wharton, N.J., Reverend Kish came to our community in June 1960, following a distinguished career in the U.S. Army.

During World War II, he was commissioned as a second lieutenant in the Ordnance Corps and served in the European theatre during six campaigns. In subsequent years of military service, which spanned 20 years, Reverend Kish served as an ordnance adviser to the Armed Forces of Turkey and the Philippines.

In the Philippines, in addition to his regular duties, he was post chaplain for about 50 families. A large chapel was built and Reverend Kish ran a full program which included worship, Sunday school, youth fellowship and arrangements for Catholic and Jewish services.

He also preached at Union Seminary in Manila, the main chapel of the Armed Forces in the Philippines and at a half dozen barrio churches on weekends.

For his outstanding work as chaplain, Reverend Kish won two Meritorious Service Awards and the Commendation Medal.

In 1955, he received a license to preach in the Southwest Texas Conference. And while still in military service, he pursued a 4-year course which led to his ordination. He holds a B.A. from the University of the Philippines, a master's degree in religious education from Syracuse University, and a doctor of divinity degree from Eastern Nebraska Divinity College.

Reverend Kish's last Army assignment was as an associate professor of military science at Syracuse University. He retired from military service with the rank of lieutenant colonel.

When he assumed his pastoral duties in Borodino and Amber, about seven people regularly attended services at the two churches which now attract congregations totaling more than 600 persons.

Reverend Kish is a past grand chaplain of the F&AM of New York, chaplain of local and county fire departments, a director of the New York

State Association of Fire Chaplains, chaplain of the Central New York Retired Association, a director of the Welch Allyn Foundation, a former director of Blue Cross, a former Scoutmaster, and an Eagle Scout.

He is married and the father of four children.

Following his retirement, Reverend Kish will continue to reside in Borodino in the 27th Congressional District.●

## NEW BUSINESS IN SPACE

### HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. AKAKA. Mr. Speaker, as you know, I have long been a strong promoter of space commercialization and the obvious benefits which will accompany the development of new commercial opportunities in space.

Recently, as I flipped through the most recent issue of High Technology magazine, I came across a remarkably intelligent article on the risks and benefits of space commercialization. This article, written by Lester C. Krogh of the 3M Corp., is well worth our attention.

Mr. Speaker, I ask that the text of the article "New Business in Space," be inserted in the RECORD immediately following my remarks:

NEW BUSINESS IN SPACE

(By Lester C. Krogh)

Earlier this year, 3M and the National Aeronautics and Space Administration announced a joint venture to explore the commercial possibilities of space. NASA's role in long-term space research seems clear. But why 3M? Indeed, many have asked us why a rational, profit-seeking entity would want to gamble any of its resources on such a project.

One answer is that the potential of space fits 3M very well. We have long been a materials-processing company and are thus well aware that new materials lead to new products and new businesses. Moreover, our operations typically involve high-value/low-volume materials that are candidates for improvement through space-based process modifications.

3M has not yet sent any experiments into space, but we already know, for example, that some materials—such as water and oil—that will not mix on earth will do so in space. We know that low-gravity processing can eliminate many of the difficulties in growing crystals and can yield other unique results. We know that separation processes—as used for biologicals—that can be done on earth only with difficulty can be done in space quite readily and with greater purity.

The limited amount of materials processing that has been done in space has already revealed a number of opportunities. And these have whetted our appetites to know what else space science can teach us. We want to know if wholly new materials can be made in space. And we wonder if the extraterrestrial environment can help us develop products so advanced that they establish new definitions of "state of the art" in their fields.

But what we expect to gain from space, most of all, is learning. We want to find out where our agreement with NASA—to work together on long-term research in chemistry and materials processing in space—can take us. This makes the project extraordinarily exciting and represents its greatest challenge.

A venture of this sort entails risks, even for a major corporation. Substantial expenses will be incurred long before commercial applications—and revenues—begin to balance the picture. Our most optimistic projections of new products from our space research envision sales beginning no sooner than five years hence. In all likelihood, the leadtimes will be 10 to 20 years. But there is also a risk of not investing: A wait-and-see posture could endanger a company's competitive edge considerably more, in the long run, than its attempt to move out ahead.

Spance science is a field in which we especially need to think globally. If U.S. space technology is not aggressively developed for its industrial applications, we may soon have competition from less timid nations.

The Japanese, for example, have built their own space center and are working on a three/stage rocket. The European Space Agency, led by France, has been successfully flying its Ariane expendable launch vehicle. West Germany has had its own lab in space. In duration, the manned space excursions of the Soviet Union are well ahead of ours.

The greatest risk, in our view, would be a lack of timely progress on the learning curve of space, where there is so much yet to be discovered. As the practical dimensions of space commercialization begin to emerge—and we are certain they will—we want to have as much intellectual momentum going for us as we can.

Space has been called industry's largest vacuum chamber and clean room. There is truth to both claims, although the part of space now being considered is not a perfect vacuum and is not entirely clean. But it is weightlessness in space that offers the greatest possibilities for industrial applications. For example, we may be able to develop containerless processing and new techniques for mixing liquids without convection.

Space is also vibration-free and completely quiet. These characteristics have not attracted the same attention as microgravity and vacuum, but they could be enormously beneficial to any process sensitive to background noise or vibration.

Until now, space research has emphasized exploration. But the work of NASA and the aerospace industry has convinced us that space science can now begin to emphasize utilization. And costs are moving within reach of companies that maintain basic research programs.

We all have a lot to learn. Even more, we may have a lot to forget. From elementary school on, we have been taught the limitations imposed on natural phenomena by the earth's atmosphere and gravity. These constraints might not deter us much longer, and we might have whole new sets of circumstances for our technical people to consider. We can then begin to integrate what we learn to do in space with the things we can already do on the ground.

As one 3M scientist recently put it: "I feel like a kid at Christmas, contemplating experiments I would not have dreamed possible a year ago."

We do not know what new ideas, new processes, and new priorities may arise. But we do know that the potential for expanding science and technology in space is limited only by our imaginations.●

## POST CARD REGISTRATION: LET'S EXPAND IT TO ALL FEDERAL ELECTIONS OF 1984

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. CONYERS. Mr. Speaker, today I am introducing H.R. 5815, the Post Card Registration Act of 1984. If enacted, this bill would provide for post card registration in all Federal elections. The chief election officer of each State would make available post card registration forms in quantities sufficient for distribution in State and Federal facilities. Additionally, the Postmaster General, the Commissioner of Social Security, and the Administrator of Veterans' Affairs would, in cooperation with the Federal Election Commission and the chief election officer of each State, be responsible for facilitating distribution of post card registration forms in Federal and State facilities.

Voter participation is the very essence of democracy. It is thus essential that we discover and implement mechanisms that will facilitate and encourage increased participation in the most cost-efficient and fraud-free way.

Post card registration has been embraced by 19 States and the District of Columbia. When it was first introduced in these States, there was some skepticism relating to cost inefficiencies and voter fraud. Today, this skepticism has dissipated. Many studies, including one commissioned by the Ford Foundation, have conclusively demonstrated that post card registration is substantially more efficient and less expensive to administer than other alternatives and that it presents no increased risk of voter fraud.

Today, the majority of the populace live in States which provide this unobtrusive method. Others, however, live in States where registration barriers are the norm. By far, the greatest single structural obstacle to voting in American is erected by the laws and administrative practices that make registration significantly more difficult in the United States than in any other democratic country—dual registration, inconvenient registration dates and hours, and inaccessible registration locations.

Indeed, voter registration is the artery of the democratic process in the United States. Studies of voting and nonvoting show consistently that the overwhelming proportion of Americans who are registered go on to cast their votes. In 1980, for instance, 86.6 percent of Americans who were registered voted, A recent Harvard/ABC symposium found that easing the means of voter registration should have the highest priority in efforts to increase voter participation.

In light of the barriers to voter participation which persist today, I think that the time has come to realize and implement this new, effective and cost-efficient system of post card voter registration.●

## STOP THE DANGEROUS SALE OF STINGER MISSILES TO SAUDI ARABIA

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. LENT. Mr. Speaker, the President's ill-advised decision to send 400 Stinger antiaircraft missiles to Saudi Arabia demands corrective action.

I have joined with a number of my colleagues on both sides of the aisle in writing an urgent letter to President Reagan calling attention to the dangers involved in this risky decision and urging him in the strongest terms not to send more of these weapons to the Saudis. Our letter is a bipartisan expression of very grave concern for the possible dangerous effects of this unfortunate move.

Mr. Speaker, I am convinced that the dangers involved in putting these weapons into the hands of the Saudis far outweigh any possible benefits from Saudi ownership of these missiles. Their practicality in protecting shipping in the Persian Gulf is at best questionable.

But my grave concern centers on the fact that delivery of the Stinger missiles to Saudi Arabia creates an immediate and very real danger that some of these weapons may turn up very quickly in the hands of terrorists such as the Palestine Liberation Organization [PLO]. We all know the PLO has been the beneficiary of millions of dollars worth of assistance from Saudi Arabia, and that numerous weapons sent to the Saudis have been found in the PLO stockpiles in Lebanon.

The Stinger missile gives an awesome striking power to even a single terrorist. It can fit into the back seat of a car, and can be launched undetected from any street, roof, garden, or field within a few miles of the intended target. The heat-seeking capability of the Stinger missile locks on to the exhaust heat of an aircraft engine from any direction. It is frightening to contemplate the heavy toll that terrorists could exact from commercial aircraft flights with the Stinger ground-to-air missile. Even the threat of their use near the airports of the free world would cause very serious difficulties.

There is also a serious security risk in distributing these 400 missiles to the Saudis. If even one of them falls into Soviet hands—and you can bet the Soviets are making every effort to get one—it would allow them to begin the manufacture of the missiles themselves. What a broad avenue of supply for the terrorists of the world this would open up.

Because of these very fearful risks, those of us signing the letter to the President have urgently requested that Americans maintain the closest possible supervision over the distribution and use of the Stinger missile by the Saudi Arabian military forces, maintaining the greatest security obtainable. The last thing the United States should permit is careless distribution or use of these weapons by the Saudis.

Second, we are demanding that no further missiles be sent to Saudi Arabia. Because the President invoked the national emergency escape clause of the Arms Export Control Act, it is impossible for the Congress to act to block this distribution of arms. But any further shipments of Stinger missiles to the Saudis would increase the danger of misuse of these weapons exponentially. We cannot permit this to happen. I urge my colleagues in the Congress to join our efforts to maintain the maximum possible American control over the missiles already being sent to Saudi Arabia, and to block further shipments of these weapons to the Saudis. Such action would be a real contribution to the peace and security of the free world.●

## THE YOUTH EMPLOYMENT OPPORTUNITY WAGE ACT OF 1984

### HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. PACKARD. Mr. Speaker, during the weeks that have followed the introduction of H.R. 5721, the Youth Employment Opportunity Wage Act of 1984, many editorials have appeared in newspapers across the country expressing support for the youth opportunity wage. I would like to enter some of these editorials into the RECORD at this time so that my colleagues may see what is being said about H.R. 5721.

[From the Belleville (Kans.) Telescope, May 31, 1984]

#### LOWER WAGE—MORE JOBS FOR YOUTH

President Ronald Reagan made a proposal for a special lower minimum wage for teenagers recently and has come under attack by labor unions and the liberal media, but in our opinion the president was right on track.

We attended a high school reunion of our 50-year-class this past week and we all were recalling that we all held down jobs in those days. You had to, if you wanted to continue your schooling or to have any spending money at all. It was in the depression years of the mid-thirties.

But in those days there were no minimum wages. It wasn't until 1933 that the first minimum wage of 35-cents an hour became effective and that only applied to businesses doing interstate work. Those businesses soon were limited to only hiring those of 16 years or older.

The legislation on minimum wage and other restrictions of age were brought about by labor unions who didn't want too many learning trades that were competitive to organized labor.

Not only did we seek all kinds of employment when in high school in the 1930s we often worked without hourly pay. Many, many times we worked and completed a job, and then told our employer to pay us "whatever you think the work was worth." Often this got us more than to have demanded a set price or hourly wage in advance.

The important thing was to "learn to work" and to "know what a dollar was worth". There was no vandalism, virtually, because we had such a knowledge of the value of everything.

Reagan's plan wouldn't take jobs away from adults as some liberals claim, but would allow businesses to add employees that they need, but cannot afford now. It also would permit businesses or individuals to train people to jobs that could not possibly afford to do so under the higher minimum wage restriction.

We think youth would benefit from such a program and it could benefit a lot of people in a number of different ways.

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[From the Arizona Republic, June 1, 1984]

#### SUMMER OF DISCONTENT

Youth, it has been said, is like spring—overpraised.

It is also a time of discontent for thousands of teen-agers who can't find jobs once school is out.

There is a solution to the problem at hand—in the form of the youth Employment Opportunity Wage Act of 1984.

The proposed legislation would do everything that its name implies—if only Congress would let it. To date, Congress has said no.

To provide teen-agers with the employment opportunities they need, Congress must approve a pay scale of $2.50 an hour for youths under 19 years of age. This is about 75 percent of the Federal minimum wage, now $3.35 an hour.

There is a crying need for a subminimum pay plan, which would be of special benefit to minorities.

As it is, many teen-agers find the job market closed because some employers cannot afford unskilled help at the going rate.

A reduced scale could change that.

Secretary of Labor Raymond Donovan estimates that enactment of the special youth wage would create 400,000 new jobs each year—a large percentage of which most likely would go to minority teen-agers, those most in need.

Even more new jobs—up to a total of 640,000—would be provided if those states with minimum wage laws also enacted a $2.50 summer pay scale for youths.

The special program, which would be in effect between May 1 and Sept. 30 each year, would be set up on a temporary basis. It would expire in September 1987, at which time an evaluation report would be sent to Congress.

As to fears that the youthful workers would replace older employees, they are not warranted. There are adequate safeguards.

Under the special act, employers are prohibited from reducing the wage rate for youths hired at any time during the 90-day period prior to May 1 of each year.

Moreover, the act prohibits employers from laying off an adult worker and displacing him with a youth at the $2.50 wage.

Violators would be subject to criminal and civil penalties, imprisonment and payment of back wages.

A summer job can be an important first step on the career ladder. It provides work experience, self-confidence, a sense of discipline and responsibility. And it keeps otherwise idle hands from getting into mischief.

Unless opponents of the special youth wage can come up with a better idea, which they have failed to do, they are doing a major disservice to America's youth by their continued opposition.

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[From the San Francisco Examiner, May 12, 1984]

### Lower Youth Wage Has Friends

A Reagan administration proposal for a sub-minimum wage for teen-agers—once roundly denounced and vilified by social workers and labor leaders—is now drawing support from an unexpected quarter.

As the result of an endorsement by the National Conference of Black Mayors, the administration is ready to revive its plan to permit the payment by employers of roughly 75 percent of the federal minimum wage of $3.85 an hour to workers between the ages of 16 to 21.

Spokesmen for the administration have argued, with what seems to be sold logic, that the reduced minimum wage could cut minority unemployment and generate up to half a million jobs for teen-agers in the private sector—at no cost to the government and the taxpayers. The move could prove a godsend to young people, particularly during the forthcoming summer months.

A half century ago, thousands of small businesses routinely hired young people at low-paying tasks which not only kept the kids off the streets and gave them a glimpse of the world they would soon permanently join, but made them self-sufficient and taught them some habits of thrift. The minimum wage laws, however, have tended to discourage the practice in recent years. Storekeepers and small shop proprietors found they could not afford to pay the existing minimum wage to a youngster who also had to be instructed and guided in the job.

Some labor leaders have protested that lowering the minimum wage for young people will only take jobs away from adults. If this sounds familiar it is because the arguments is a variation of the one used years ago by business and industry to limit the entry of women into the work force.

Women were barred from many positions on the ground they would deny opportunities to men who had families to support. Women proved the invalidity of this premise just as young people, if the subminimum wage measure is adopted, could demonstrate the fallacy of labor's opposition to the proposal.

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[From the Oklahoman and Times, May 10, 1984]

### Helping Youths Find Jobs

It may seem like bad politics in this election year, what with its publicized estrangement from labor unions and minorities, but the Reagan administration is mounting a youths' subminimum wage offensive again.

As outlined by Labor Secretary Raymond Donovan, the new plan sent to Congress would be geared to helping youths find jobs during the summer months. Workers aged 16 to 19 would be paid $2.50 an hour, or about 75 percent of the current minimum wage of $3.35 an hour.

The theory is that a business firm will hire more inexperienced youths if it doesn't have to pay them as much as it would adults who are already in its employ. The Reagan administration holds—and is supported by many economists—that the minimum wage law is a barrier to entry into the work force of unskilled workers, and especially young blacks.

A somewhat similar plan, not oriented toward strictly summer work, was defeated in Congress last year. As expected, the new proposal has already drawn criticism from organized labor and, surprisingly, the NAACP, which calls it "income exploitation."

The administration does have support, however, not only from business groups but also the National Conference of Black Mayors. The latter, of course, bear the burden of dealing with high unemployment among black youths in the big cities. For example, in April, teen-age unemployment was 19.4 percent, but among black youths it was 44.8 percent.

A black scholar, Dr. Walter E. Williams, has documented the case for the subminimum wage for youths by identifying theaters, restaurants and other businesses that have cut back on hiring teen-agers as the minimum wage increased.

He has also pointed our black youths deprived of entry-level jobs lose the chance to learn the work attitudes, such as reliability, punctuality, self-esteem and respect for supervision, that are crucial to jobs that will put them on the path to productive careers.

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[From the San Diego Union, May 13, 1984]

### Subminimum Solution

Six years ago, Ronald Reagan said the minimum wage had "caused more misery and unemployment than anything since the Great Depression." His charge is especially true for black teenagers.

In 1948, the total teen-age unemployment rate was nearly 10 percent. Today, about 22 percent of white teens are unemployed, and the corresponding rate for blacks is almost 50 percent. This disparity is reason enough for the National Conference fo Black Mayors to endorse the Reagan administration's proposal for a summer sub-minimum wage.

The measure would lower the minimum wage from $3.35 to $2.50 an hour for those 16 to 21 years of age with after-school or summer jobs from May 1 to Sept. 30 each year. A similar proposal was ambushed on Capitol Hill last year, but there is growing concern in Congress that something must be done soon to alleviate the unemployment rate among black youths.

The Reagan proposal would achieve that objective faster than most other federal jobs programs "at no cost to the government." That is the conclusion of U.S. Labor Secretary Raymond Donovan, who contends the sub-minimum wage would create 500,000 new jobs. This, coincidentally, is approximately the number of black teen-agers currently seeking work.

Many of these youngsters lack jobs because they lack rudimentary job skills. Yet they are caught in a vicious cycle because, whenever the minimum wage rises, employment opportunities are reduced for those with the fewest skills. This Catch-22 situation comes full circle by the time they reach their early 20s. Lacking either job experience or skills, many of these young adults turn to crime or become wards of the state.

The Reagan proposal would break this cycle by recognizing a basic law of economics—that the demand for labor is inversely related to wage rates.

Big Labor, which adamantly opposes the bill, argues that the sub-minimum wage would harm adult workers. Not likely. The Labor Department has promised to impose sanctions on any employer who sacrifices an older worker for a sub-minimum wage employee. Moreover, the unions' assumption conveniently forgets that lower wages would create service-related jobs, such as delivery boys, ushers, and elevator operators, that businesses cannot afford to offer at the prevailing wage rate.

The sub-minimum wage proposal is not a panacea that will solve the problems of black teenage unemployment. Nor is it a Trojan Horse to displace adult workers with teens who are then consigned to sweatshops. Simply states, the measure would give black youngsters an opportunity to get on a private payroll and gain job skills and experience instead of staying on the federal dole.

Those congressmen who constantly inveigh against social and economic injustice can do something about both by promptly approving the President's prudent proposal.

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[From the Milwaukee Journal, Apr. 20, 1984]

### Why Not Trim Teenage Wage?

The problem of unemployment among minority youth staggers the imagination. In that problem lie the seeds of social upheaval and the condemnation of millions of young people—largely black—to perpetual membership in America's social and economic underclass. Innovative weapons are required to attack the problem.

Thus, it is encouraging that the National Conference of Black Mayors has endorsed an idea that offers some hope of relief: pay teenagers less than the federally required minimum wage for summer jobs.

The mayors, who are well acquainted with the youth unemployment problem, are specifically backing a Reagan administration proposal to allow employers, from May through September, to pay workers between the ages of 16 and 21 an hourly wage of $2.50, or 75 percent of the minimum wage. Employers who used the young workers to displace other employees would be subject to fines and a jail term. That provision should be a shield against abuses.

The black mayors strongly support the concept of the minimum wage. However, they say they will support the Reagan experiment because of "the persistence of the tragedy of youth unemployment particularly the problem of minority youth unemployment." As Mayor Johnny Ford of Tuskeesee, Ala., puts it: "Our No 1 concern is putting our people back to work."

Ford is right. The emphasis should be on putting young people to work, and not on cherished ideological concepts. If a carefully targeted. sub-minimum wage can provide jobs for young people, it is well worth trying.

Mayor Maier, speaking of the city's emerging youth-gang problems, described many young people engaged in gang activity as "yearners, who can't be earners . . . dreamers who feel forced to become schemers." Job opportunities must be found if such young persons are to be diverted from gang activity, with its immense potential for a descent into more serious criminal conduct. Remember, too, that incarceration of a teenage offender is very expensive, costing about $30,000 per year in Wisconsin.

The sub-minimum wage is not the only answer to the problem. However, we believe it can prove useful in expanding job opportunities. That is why we have urged businesses in Milwaukee and elsewhere in Wisconsin to explore the concept. And that is why we welcome the responsible, politically mature statement of support from the National Conference of Black Mayors.

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[From the San Francisco Chronicle, May 8, 1984]

### Black Mayors' Stand

It is interesting to learn that the National Conference of Black Mayors now has 254 members and that it favors amending the minimum wage law to legalize lesser pay for those aged 16 to 21.

The number of black mayors of American cities undoubtedly reflects the positive and lasting achievement of the Voting Rights Act of two decades ago. Their willingness to cut the minimum wage reveals not only their political influence but also their practical recognition of the inability of dozens of government programs to prepare young disadvantaged people for meaningful work or to create enough opportunities for them.

It is not unusual for unemployment rates of young black males to run at 50 percent or more. Many come to the job market ill prepared for regular work schedules at a time when jobs demanding little or no skill are not as plentiful as they were in the past.

Many will remember when a high school diploma was a basic requirement for a beginning job. After World War II and the GI Bill, the requirement in many fields became a college degree. This development has left large numbers of young blacks behind and wanting in job training.

The black mayors are seeking a way to create new employment opportunities for an entire class of young people who would otherwise have little reason for hope today. Under their proposal, young people could be paid $2.50 an hour, three quarters of the congressionally established minimum wage of $3.35 per hour, for after school and school vacation employment. It is a wage that seems, in the Bay Area, astonishingly low but in many parts of the nation it will be considered far from unreasonable.

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[From the Chicago Sun-Times, May 22, 1984]

### Youth Unemployment

The Reagan administration desire to establish a special minimum-wage category for teenagers to create more private-sector jobs for youth is a welcome step.

Previous efforts in this direction have foundered on the resistance of organized labor, which sought to protect jobs of adults, even though unemployment among youths nationally is above 30 percent, ranging above 40 percent among blacks.

This latest measure provides that employers may hire youths aged 16-19 for up to five months, from May through September, for $2.50 an hour, 75 percent of the current minimum wage. There are still penalties for employers who fire or tamper with wages of regular employees to make room for teens.

Labor Department officials estimate this new wage category would result in 200,000 to 400,000 additional jobs for teenagers. As the minimum wage has risen, and its coverage expanded, teenage joblessness has increased, especially among blacks.

In 1960, when the minimum wage was 75 cents an hour and 53 percent of jobs were covered, unemployment among older teens was 11 percent for whites and 17 percent for blacks. In 1980, with the minimum wage at $3.10 and 83 percent of jobs covered, unemployment was 14.6 percent for white youths and 33 percent for blacks.

Unemployment among Chicago teenagers in 1982, the latest year for which such information is available, averaged 44.6 percent, ranging up to 65 percent among black youth. Givern those grim statistics, the area's congressional delegation could do much worse than getting behind this much needed legislation.●

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## H.R. 5145

## HON. TOM VANDERGRIFF

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. VANDERGRIFF. Mr. Speaker, last week several of our colleagues expressed their objections to the human services bill, H.R. 5145. The objections were totally unrelated to any discussion of the merits of the bill. Rather, they related solely to the procedures under which this measure was considered. Mr. Speaker, I rise today to express my own concerns about the improper use of the Suspension Calendar.

I have no inherent objection to the existence and use of the Suspension Calendar. I realize that it does serve a legitimate purpose. For measures which clearly have a consensus of opinion, it makes perfectly good sense to expedite their consideration. For measures which do not significantly impact on the budget, or for noncontroversial items, a total of 40 minutes is ample time for discussion. Furthermore, if the bill is indeed supported by most Members, there is no need for the amendment process to be used, and it should be easy enough to obtain the necessary two-thirds approval of those voting required for passage under the Suspension Calendar procedures.

This year, however, we have witnessed instances in which the Suspension Calendar was improperly used. One might even say that the Suspension Calendar was flagrantly abused. Measures have been considered under these shortcut procedures to avoid subjecting them to the test of the amendment process. They have been brought up on the Suspension Calendar, only to face almost certain defeat because the necessary two-thirds approval is beyond attainment. Mr. Speaker, the use of the Suspension Calendar in this way clearly obfuscates the democratic process. We do our constituents, our country, and this institution a grave disservice if we continue to allow the legislative process to be manipulated and distorted in this manner.

I call upon my colleagues to reflect on these sentiments, bearing in mind that the sword is double edged. The process can, and has, been abused during consideration of measures considered liberal as well as conservative. The process should be reformed in order to legitimate all our actions. The public will thank you, and I will thank you. We will see the enactment of better laws, better representation, and a restoration of the public's confidence in the system.

Thank you.●

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## CELEBRATING NATIONAL HISTORY DAY

## HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. MARTINEZ. Mr. Speaker, in these days, when we are more apt to be marveling at our technological future than examining our past, some students from California's 30th District are learning some exciting lessons in history. Each State recently held a "National History Day" competition. Winners were chosen at different grade levels for both individual and group projects, papers, or media presentations. The variety of subject areas reflect mankind's rich and varied history as well as the diverse interests of the participants.

I would like to take this opportunity to read the names of the winners from the 30th District into the Record. I know you will share my pride that this young generation is finding new knowledge and satisfaction in studying our past.

Scott Couchman, seventh grade, Jefferson Intermediate School, first place; individual project: "Castles."

James Bradley, seventh grade, Jefferson Intermediate School, second place; individual project: "A millenium of Religious Families and Communities."

Joe Garofalo, eighth grade, Jefferson Intermediate School, second place; group project: "The Greatest Family on Earth."

Charm Greene, eighth grade, Jefferson Intermediate School, second place; group project: "The Greatest Family on Earth."

Amy Lewis, eighth grade, Jefferson Intermediate School, second place;

group project: "The Greatest Family in on Earth."

These students will be competing in the fifth annual "National History Day" finals at the University of Maryland at College Park beginning today, June 13 until June 16. Please join me in congratulating them on their achievement and wishing them the best of luck during the national competition.●

## THE LIBERTY BOWL

### HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. SUNDQUIST. Mr. Speaker, I wish to recognize an event in my hometown of Memphis, Tenn., the ever successful Liberty Bowl football game. This year the bowl will be celebrating its 25th anniversary.

The Liberty Bowl began as an idea of the devoted football lover Ambrose F. "Bud" Dudley. Originally, the bowl was held in Philadelphia, Pa., but because of cold weather, antagonistic criticism, the lack of funds, and the indifference of the crowds, Dudley pursued a new location. First he pursued Atlantic City, which failed as Philadelphia had. Then, a group of Memphians headed by Judge Harry Pierotti, Commissioner "Jimmy" Moore, and Early Maxwell invited the bowl to Memphis. Since then, the Liberty Bowl has been an overwhelming success and the pride of Memphis.

Besides the acceptance and cooperation of the citizens of Memphis, the bowl has been successful for two very important reasons: The game can offer a larger payoff than other bowls, and it can offer primetime television exposure. Another and very important ingredient in the success of the Liberty Bowl is that it has combined patriotism with America's favorite sport, football. This unbeatable combination gives the bowl a uniqueness that other bowls lack.

Some of the highlights that contribute to that theme occur during the bowl's halftime. The halftime show consists of an all American extravaganza centered around the red, white, and blue, and the distribution of American flags by the Phoenix Club of Memphis. Some of the comments about the Liberty Bowl over the years have been: "It stands the test as a performance that other bowls should envy." "It gives me feelings of pure jubilation." "Magnificent and moving," and so forth.

The Liberty Bowl has reached its peak through surviving the test of time and I am proud to represent this kind of determination. I, myself, have attended many of these games and do plan to attend again this year. It would greatly honor me if you, the Members of the House of Representatives, would invite all to attend this year's event and accompany me along with many others to this fine occurence.●

## THE NEED TO PROTECT SEMICONDUCTOR CHIPS

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. LANTOS. Mr. Speaker, I rise today to commend my colleagues in the House for their farsighted support of an important American industry yesterday in their approval of H.R. 5525—the Semiconductor Chip Protection Act. This legislation takes a significant step forward to fill a number of gaping holes that exist in the protection that our laws provide chip developers under existing copyright, patent, and trademark law. This well-reasoned approach to a serious national problem will provide necessary protection required by American high-technology firms working at the forefront of the international electronics field.

In this industry, innovation plays a substantial role in successful operations, Thus, it is entirely reasonable for Congress to take action to reward creativity and encourage research and development in semiconductor advancements.

H.R. 5525 will help innovative firms by providing the means effectively to fight chip piracy. The U.S. electronics industry has been shaken time and again by foreign concerns that cheaply copy new chip designs, and then sell them in the United States at rock-bottom prices because their prices do not have to include any research and development costs. As a result, these foreign pirates have captured a disproportionate share of the chip market in our Nation, while the innovative U.S. firms often have been unable to recoup the substantial investments associated with developing new chip designs. The U.S. electronics industry has been undercut by cheap copies of its own chips to the point that our Nation faces a potential foreign trade deficit in high-technology trade for the first time in recent years.

The semiconductor chip is symbolic of the new information age that we have discovered. At the same time, it is being victimized by piracy in a way which will surely discourage the innovation needed to advance this field on the cutting edge of technology. The legislation approved by the House is urgently needed to fight this trend of chip piracy and the unfair competition it breeds. I am convinced that H.R. 5525 represents the best approach possible to protecting the dramatic advances made by creative forces in the field of semiconductor chips.

Finally, Mr. Speaker, I wish to commend my good friends and colleagues in the House, and particularly those from California who have worked for the passage of this important legislation.●

## BRADLEY INTERNATIONAL TERMINAL DEDICATED AT LOS ANGELES INTERNATIONAL AIRPORT

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 12, 1984*

● Mr. ANDERSON. Mr. Speaker, the $700 million reconstruction of Los Angeles International Airport (LAX) culminated yesterday with the dedication of the Tom Bradley International Terminal.

Dedicated in 1961, the new jet age terminal made LAX the first airport in the Nation able to handle the demands of the jet age. In its first full year of operation, 1962, the newly expanded LAX handled 7 million passengers—including 276,000 international passengers. In 1983, total passenger traffic was 33 million—including 5 million international passengers—making it the third busiest airport in the world.

Although numerous improvements have been made since in and around the airport, the Bradley International Terminal—named after Los Angeles Mayor Tom Bradley—is the pièce de résistance. This $123 million terminal has almost 1 million square feet of floor space, and can accommodate 11 jumbo jets at one time.

It is important to stress the point, Mr. Speaker, that with all these badly needed improvements, including new and improved terminals, parking structures, escalators, and pedestrian bridges, not one penny in taxpayers' money was used to do the job. All costs were financed by charges imposed on the airlines and airport concessionaires.

Following is an article which appeared in the June 10, 1984, edition of the Los Angeles Times which discusses this important project in greater detail.

The article follows:

[From the Los Angeles Times, June 10, 1984]

L.A.'s New Airport Is Poised for Takeoff

(By John Needham)

When the general manager of Los Angeles International Airport returned recently from one of his frequent trips to the far points of the globe, his jumbo jet was one of five wide-bodied airliners that arrived at Terminal 2 at about the same time.

More than 1,500 people stampeded through a terminal designed to handle no more than 600, Clifton A. Moore recalled, and "there was baggage all over the place. People were taking one bag and putting it here, getting another and putting it somewhere else and stacking things around them. You couldn't move."

It is just that sort of scene that Moore hopes never to see again.

On Monday, Moore will join Mayor Tom Bradley and other officials in dedicating the $123 million Bradley International Terminal, a new building that is expected to end the nightmare of international travelers and serve as the centerpiece of the reconstruction of the airport.

### TWO-THIRDS THE SIZE

The Bradley building is two-thirds the size of all the terminal space created when the airport was built two decades ago.

What was then the international terminal—Terminal 2—was designed for planes that carried 100 passengers each. The whole airport handled 7 million passengers in 1962, 276,000 of them bound for or returning from overseas destinations.

But today's wide-bodied jet carries more than 400 passengers, and last year 5 million overseas travelers used the airport. Total passenger traffic in 1983 was 33 million, making it the third-busiest in the world, behind Chicago's O'Hare (42.8 million) and Atlanta (37.9 million).

The terminal's opening marks the culmination of three years of chaos and confusion caused by nearly $700 million worth of building designed to create "the new LAX" in time for the Olympic Games, which open July 28.

Bricklayers, steelworkers and carpenters labored to construct a new $55 million roadway on top of the old one in the horseshoe-shaped central terminal area, the new $46-million domestic Terminal 1, three new parking structures costing $30 million and a $17-million overhaul of the airport power plant, in addition to the international building.

At times during the rebuilding, five-lane roadways were cut to one lane, whole parking lots closed, and traffic signs and bus pickup points changed constantly. Motorists screamed at police, who sometimes screamed back. Travelers yelled at customs inspectors.

But the inconvenience had its compensations. The airport reconstruction doubled the amount of terminal space at the 3,600-acre airport complex, making it easier for passengers passing through. The completion of the second-level roadway last November—which split traffic in half by putting departure facilities on top and arrivals on the ground level—has ended the traffic jams that occasionally saw airport-bound cars backed up on Century Boulevard as far as the San Diego Freeway.

So far the Board of Airport Commissioners has spent nearly $300 million on construction of terminals, escalators, parking structures, pedestrian bridges, landscaping and the like. The construction has not cost the taxpayer a cent; it was financed by charges imposed on airlines and airport concessionaires. In addition, United Airlines, the largest airlines at LAX with 6.2 million passengers last year, spent about $100 million to remodel its Terminal 7. Other airlines, car-rental firms and restaurant operators are spending hundreds of millions more.

Among the two dozen carriers that will operate out of the new international terminal will be such newcomers to Los Angeles as El Al, Alia and Alitalia. Other new airlines are expected to follow.

The new terminal provides "an incentive . . . the little extra push they need" for carriers to open up shop in Los Angeles, according to Roland Giuntini, an Air France executive and spokesman for the foreign airlines that will be using the Bradley Terminal.

Frank Gomez, the top U.S. Customs Service representative at the airport, agreed that "this airport is poised for takoff."

"A lot of carriers have not come to Los Angeles before, because who'd want to go into Terminal 2?" Gomez said. "It's dinky. The (new) terminal is going to invite a lot of new traffic here, and I think it's really going to mushroom."

With 125,000 square feet of floor space, the Bradley Terminal now has the largest airport facility in the United States devoted to customs, immigration, public health and agricultural inspectors. It has counters for 70 inspectors and can handle 2,600 passengers per hour—more than four times the number that can be handled in Terminal 2.

The five-story building has almost 1 million square feet of floor space in all, and room for 11 jumbo jets to load and unload passengers, (Terminal 2, which will remain open, has 10 gates, but not all can handle wide-bodied aircraft.)

Fifty palm trees, 135 other trees and thousands of shrubs and plants landscape the exterior of the vast new building. Additional plants and flowers are being installed inside.

There are five bars and restaurants—with one billed as the nation's largest airport restaurant. There are showers, private cubicles for rent, a baggage repair room and self-service laundry and ironing facilities.

Airline, airport and customs officials say the airy, skylighted building is long overdue and should end some international travelers' complaints.

"We really have a bad international reputation for our bad international facilities," said Virginia Y. Black, an airport spokeswoman. The international terminal "was built at a time when our percentage of international operations was very small."

"I'm ashamed of being an American," one woman irately complained to Black after arriving at Terminal 2 on a flight two weeks ago. "We're being treated like cattle, being treated rudely."

### CAN HOLD ONLY 600

With only two baggage belts and 30 customs inspections points, Terminal 2 can hold about 600 people at a time.

When on a recent Saturday, four jumbo jets with more than 1,300 passengers arrived within half an hour, two of the planes had to wait to unload for nearly an hour—after flights of more than 10 hours.

Such an occurrence has been all too typical. Pilots sometimes jockey to get to the landing gates first so their passengers will not have to stay on board. In addition to raising tempers, "holding on board" costs airlines money to keep the air conditioning and other systems running.

The problems, coupled with added inconveniences during construction, led travel agents in Japan to advise customers to enter the United States at Honolulu, San Francisco or Seattle rather than brave Los Angeles, airport and airlines officials said.

"After the opening of the new international terminal * * * I don't think travel agents in Japan will be saying the same thing," said Hotaka Inaba, district manager for Japan Air Lines, the busiest international carrier at LAX. The new terminal "is a great improvement. I think this is what we can call an international terminal."

Giuntini, the Air France official who headed the international airlines' technical committee that met with architects and designers in planning the building, said a key to how well the new terminal functions will be the number of customs and immigration officials working there. In Western Europe, he said, good airports can have a passenger from the aircraft to the sidewalk in 20 minutes because there are sufficient inspectors to speed up the flow. At Terminal 2, it can take two or three hours.

The inspection system at the new building will be the same as at the old one, with "primary" inspectors checking passports and asking preliminary questions about purchases made abroad and "secondary" inspectors performing thorough luggage searches if needed, officials said.

But the increase in the number of inspection stations from 30 to 72, the use of eight baggage carousels instead of two, and the increased room for passengers should speed the passenger flow considerably, they said.

### BUBBLES TO BE DEFLATED

Although the old terminal was far too small for the more than 30 airlines currently using it, it should be fine for the half a dozen or so that will remain there, airport officials said. The three plastic bubbles, or tents, set up alongside Terminal 2 to relieve the space crunch will eventually be removed, although there is no definite timetable for their disposal.

The bubbles cost more than $3 million to build, and the largest, which has 39,000 square feet, may be used to process flights chartered for the Olympic Games.

Airport officials say that because of the ready-made deadline imposed by the Games, a construction project that might have taken five years was done in three.

Moore, who began working at the airport in 1959, before the first jet landed there, said that modernizing the airport was necessary for the future of Los Angeles.

"Potentially, Los Angeles can be the major city in the United States," he said. "The future of the (United States) is Asia. That's something I firmly believe, something I continually tell the airport board, the mayor and councilmen privately. We can make Los Angeles the eastern anchor point of the whole Asian region.

"Los Angeles can be truly the center of the country. You need transportation to do that. The great cities of history always centered around the transportation networks, be they rivers, mountain roads or seaports. Today it's the airport."●

# SENATE—*Wednesday, June 13, 1984*

*(Legislative day of Monday, June 11, 1984)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, Senators are weary—the staffs are weary—there is much to be done and time is short. Issues are critical—emotions are deep—the pressure is on. Gracious God, we need Thee whether we realize it or not—we need Thy wisdom and power. Loving Father, impress upon us Your nearness, Your grace, Your instant and constant availability. In the name of Thy Son. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

## SENATE SCHEDULE

Mr. BAKER. Mr. President, after the extensive time for special orders today, there will be a period for morning business to be followed by the resumption of debate on the Department of Defense authorization bill. I have not yet had an opportunity to confer with the distinguished chairman of the Armed Services Committee about how long he wants to run tonight. But my present information is that he wishes to stay late, and I am willing to ask the Senate to remain late as long as we are doing useful work, meaning taking up, debating, and perhaps disposing, I hope, of amendments. If I were guessing at this point, I would guess we will be in until 10 or 11 o'clock tonight. But I will have a further announcement to make during the day after I confer with the chairman on a more precise estimate.

Mr. President, I have no further statement this morning, I believe.

I ask unanimous consent that I may reserve 1 minute of my time under the standing order for use at some other time during this calendar day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. I yield the floor, Mr. President.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting minority leader.

Mr. CHILES. Mr. President, I request unanimous consent that the time normally designated to the minority leader at this time be reserved for his use at a further time as appropriate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President.

The PRESIDENT pro tempore. The majority leader.

Mr. BAKER. Who has the first special order, may I inquire?

The PRESIDENT pro tempore. The distinguished Senator from Wisconsin (Mr. KASTEN) I believe.

Mr. BAKER. I ask unanimous consent that I may suggest the absence of a quorum without charging it against the time allocated to any Senator under the special orders; and, further, I ask unanimous consent that in order to expedite the execution of the special orders that at the request of Members they may change the order and sequence of the special orders.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## S. 2751—A BILL TO PROVIDE FOR COORDINATED MANAGEMENT AND REHABILITATION OF THE GREAT LAKES

### SAVE THE LAKES

Mr. KASTEN. Mr. President, today I am introducing legislation to provide for comprehensive environmental assessment and management of the Great Lakes. This legislation will be known as the Save the Lakes Act.

The Great Lakes are the largest body of fresh water in the world. They contain 95 percent of the surface fresh water in the United States and 20 percent of the world's fresh water supply. Millions of people depend on the Great Lakes for their drinking water, and they are essential to commerce and industry in the Midwest.

In Washington, however, the Great Lakes are treated like an ugly stepchild. There is no single group with responsibility for overseeing the Great Lakes. Instead, there are over 20 separate Federal, State, and international groups with responsibilities relating to the Great Lakes. While these groups perform important functions, they are not doing an adequate job. Efforts are frequently duplicated, or worse yet, major issues fall between the cracks. Someone must have responsibility for the comprehensive management of the Great Lakes.

The Federal Government has been the source of many of these problems. For the past several years, the scientific research stations on the lakes have been targets of budget cuts. These labs have been attacked despite a growing recognition of serious environmental threats to the Great Lakes. Instead of defending critical programs, we should be strengthening research that directly protects the public's health and welfare.

The legislation I am introducing today will correct many of these management problems. The "Save the Lakes Act," establishes an office within the National Oceanographic and Atmospheric Administration [NOAA] with responsibility for comprehensive management of the Great Lakes. This office, the Research Management and Planning Office, will be responsible for coordinating scientific research on the lakes, and providing a comprehensive assessment of the condition of the Great Lakes. Finally, this office will prepare an annual State of the Lakes Report. This report will be presented to Congress each year. It will describe the condition of the Great Lakes and a program for the environmental rehabilitation of the Great Lakes.

Mr. President, over the next several days I will focus the Senate's attention on many of the problems facing the Great Lakes. These problems include the accumulation of toxic materials in the food chain that directly threatens human health and wildlife, the loss of critical habitat, our failure to live up to international agreements on Great Lakes water quality and several other major threats to the lakes.

Mr. President, I invite my colleagues to join with me in efforts to protect the Great Lakes.

A recent issue of Outdoor America, the Journal of the Izaak Walton League, summarized many of the problems facing the Great Lakes. I ask unanimous consent that the text of these articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

### THE GREAT LAKES

Spanning some 1,200 miles from Duluth, Minn., to the St. Lawrence River and containing some 65 trillion gallons of water, the Great Lakes are the largest freshwater reserve on the face of the earth. Because the lakes are so vast, it was long thought that in addition to providing clean water for drinking, fish and recreation, they could also assimilate the wastes of one of the most heavily populated and industrialized regions of the country.

By the early 1960s, however, we received dramatic evidence of the fallacy of that assumption when Lake Erie was declared "dead" and fish kills and excessive algae blooms were widely reported on the other lower lakes. Thanks to government action, the Great Lakes have begun to rebound. Today, the waters look visibly cleaner and fish are making a comeback in many areas.

Yet serious problems still plague our valuable "inland seas." In this special report, Outdoor America examines three of the most pressing ones. Two—"nonpoint" pollution and toxic contamination—can be traced to wastes entering the lake. A third article examines threats to fish and wildlife posed by a proposal to open the Great Lakes to winter shipping.

But we also have some good news to report. We wrap up our look at the Great Lakes with a story on successful efforts to control a Great Lakes invader, the predatory sea lamprey—an effort that is giving the lake trout and other native fish a fighting chance at a comeback.

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### TOXICS: THE INVISIBLE MENACE

(By Tom Kuchenberg)

Fishermen sit relaxed in their boats, lines drifting off beneath the calm, silvery water. Seeming to feel the weight of the August heat, even the gulls move slowly overhead. A humid haze blurs the horizon, and the nearby city seems far away. But suddenly the stillness is broken as a series of tugs in one of the boats signal a strike.

It is a scene that has been familiar for more than a century along the shores of the Great Lakes.

Increasingly, however, something happens that occurred only rarely 100, 50 or even 25 years ago. As the fisherman pulls his catch into the boat, his face registers a look of disgust. He frees the hook and tosses the wriggling creature back into the water. His brief glance revealed a swollen and distorted parody of a fish. A "bad" fish.

The most extreme forms of toxic contamination in the Great Lakes have become visible in the form of badly diseased fish. As with an iceberg, however, the bulk of the problem lies beyond the reach of the naked eye.

Stretching across the eastern third of the U.S.-Canadian border, these "inland seas" lie at the core of one of the world's most intensely industrialized regions. The lakes form a "sink" to their surrounding basins, and contaminants from industries, cities, dumps and farms can easily be carried to the lakes by inflowing water and by wind and rain.

Traces of more than 950 substances of "potential concern" have been found in the ecosystem, according to the International Joint Commission (IJC), the body charged with monitoring the progress of the 1978 U.S.-Canada Great Lakes Water Quality Agreement. These include organic chemicals such as dioxin and polychlorinated biphenyls (PCBs) and heavy metals such as mercury, zinc, cadmium and arsenic.

Not all of the lakes are equally affected. Water flows from Lake Superior to Lakes Michigan, Huron, Erie, Ontario and finally through the St. Lawrence River to the Atlantic. Superior, the largest of the lakes and the least populated, is relatively free of point source contaminants, but is particularly vulnerable to airborne pollution. Lake Michigan's south shore and Green Bay, and Huron's Saginaw Bay have serious problems. However, the most intense cluster of toxic sources lies along or near the St. Clair and Detroit Rivers and Lake St. Clair, which connect Lake Huron with Lake Erie, and along the Niagara River, which connects Erie with Ontario. Downstream Ontario ultimately receives pollution souvenirs from all the other lakes.

The IJC has designated 18 of the worst regions in the basin as "class A" problem areas with seriously degraded water quality. Relatively pristine Superior has no such areas, while Huron has two, Michigan and Ontario four and Erie eight.

It is remarkable how little is known about many of these contaminants. For some, there are understood human health and/or environmental dangers upon which restrictions and controls can be based. For many more, however, data is minimal, and hazards and risks have not been established for the substances at any concentration. Without such information, control strategies cannot even be considered.

If the potential risks of many individual toxics are not known, it is not surprising that the effects of a collection of such substances remain a mystery. It is known that some chemicals may be strengthened by the presence of others and that the combination of certain chemicals may actually be a good deal more potent than the sum of the parts. In some areas of the lakes where there are numerous pollution sources present, it is this "stew" of contaminants that concerns researchers. For example, in the St. Clair River, near Detroit, 84 different organic compounds have been detected.

#### EFFECTS ON FISH AND WILDLIFE

In the lakes, minute amounts of toxics, chemicals and heavy metals are taken in by small plants and animals, such as protozoans, which form the diet of larger creatures. At each step upward on the food chain, there is a marked increase in the concentration of many toxics. Some fish at the top of the chain may end up with amounts of toxics in their tissues that are hundreds of thousands of times greater than the amounts originally present in the water.

The effects of these toxic substances on living creatures are only beginning to be understood. But researchers have already discovered a wide range of disorders in fish that live in contaminated environments. Dr. Ronald Sonstegard, a Canadian scientist, has found a high incidence of goiters in coho salmon and reports that nearly 100 percent of the Lake Erie cohos are affected. To demonstrate that toxic contamination of cohos can affect species higher up the food chain, Sonstegard and a colleague fed rats a diet that contained contaminated salmon from Lakes Michigan, Erie and Ontario. While the results varied, all the rats developed thyroid abnormalities, and some also showed liver and immune system changes.

Fish are also developing cancers. Dr. John Black, a cancer research scientist at Roswell Park Memorial Institute in Buffalo, N.Y., found liver and skin cancer in epidemic proportions among bullheads in the Buffalo River, a tributary of Lake Erie. The river sediments contain several known carcinogens. Using extracts of these sediments, Black induced skin and liver cancers in previously healthy fish, providing what is believed to be the first direct experimental evidence that tumors in wild fish are a result of exposure to contaminants in the water.

The extent of fish cancers in the Great Lakes is not yet known, but Dr. Black believes that his experiments in the Buffalo River and other Lake Erie tributaries are not isolated examples, "They just happen to represent instances where competent investigation took a closer look," he said in testimony before Congress last September. "I expect that wherever marine resources interface with urban environments, other examples of pollutant-caused fish neoplasia [tumors] can be identified." In fact, with the exception of Lake Superior, high fish tumor rates have been reported in all the Great Lakes. Thyroid tumors have been found in coho salmon, gonadal tumors in carp-goldfish hybrids and skin cancers in white suckers and freshwater drum.

Creatures higher up the food chain that feed on a steady diet of fish are also beginning to develop disorders. Lake Ontario gulls, for example, have developed goiters, physical abnormalities and reproductive problems. Dr. Sonstegard reports that in a few cases, traces of more than 200 chemical compounds have been found in the tissues of the gulls.

So far there is no tangible evidence that consumption of Great Lakes fish has had any adverse effects on human beings. However, state health and natural resource agencies are advising caution. In eight of the 18 "class A" problem areas identified by the IJC, there are either bans or advisories on the consumption of fish. And government officials suggest that individuals planning to fish in the Great Lakes consult state resource or public health agencies for information on other fishing or consumption warnings that might apply. Because toxics concentrate in the tissues of fish and other organisms, regularly eating contaminated fish poses a far greater potential health risk than drinking Great Lakes water. One scientist has estimated that a human being would have to drink Great Lakes water for 1,000 years in order to take in the amount of PCBs in a one-pound serving of fish contaminated at a level of five parts per million.

#### ADDRESSING THE PROBLEM

Because the sources of toxic contaminants are so widespread and it is so hard to trace the path of individual substances once they make their way into the lakes, toxic cleanup is an extraordinarily complex problem. Yet, based on the threats toxics pose both to the environment and to the health of man and other creatures, control of toxics is "the most urgent problem facing the Great Lakes," according to the IJC.

Some progress has already been made. Toxics that have been restricted or banned, such as PCBs and DDT, have registered sharp and significant declines in the Great

Lakes. PCB levels in the lakes have dropped by 60 to 70 percent, while DDT levels are down by as much as 80 percent. At the same time, the amounts of toxic substances entering waterways across the nation are declining as the result of controls on industrial discharges required by the Clean Water Act.

But there is much more that remains to be done. The nation still needs to develop an effective means of controlling "nonpoint" pollution, the source of pesticides and chemical-laden runoff from farms and urban areas. Also of pressing concern is the cleanup of toxic "hot spots," those areas that are most severely polluted by industrial wastes. Amendments to the Clean Water Act, which is currently up for reauthorization by Congress, include strategies for addressing both of these severe problem areas for the first time.

There is also a need for an assured commitment to monitoring and research in the Great Lakes. So far, Congress has refused to go along with Reagan administration attempts to cut funds for two key Great Lakes research labs. Cutbacks of the sort that have been proposed would "negate the progress that has been made and leave untouched the serious new problems facing the Lakes," says Robert Ragotzkie, director of the University of Wisconsin Sea Grant Institute, which is involved in Great Lakes research and education.

Over the long-term, there must be a concerted effort to prevent new toxics from entering the environment. Better, more economical methods of testing need to be developed so the nation can do a more thorough job of determining the potential risks of new chemicals coming onto the market before they become widely distributed in the environment.

In addition, industries must be encouraged to adopt safer methods of handling and disposing of toxic substances. Methods already exist to reduce the output of contaminated waste. The 3-M Co. in St. Paul, Minn., for example, has reportedly eliminated 90 percent of that firm's hazardous waste through recycling or incineration. In doing so, the company has cut its disposal costs by 75 percent.

Ultimately, the responsibility for toxics must be returned to those industries and municipalities that generate and dispose of harmful materials so that they bear the burden of adequate treatment of wastes and any liability resulting from contamination. At present, the cost of contamination is too often transferred to innocent third parties in the form of lost recreational opportunities, threats to health or—in the worst cases—damage so severe it renders an area uninhabitable.

In the last century, miners took caged canaries with them to the shafts. If the birds died, the miners were warned of the presence of potentially deadly gas. In this case, the canaries were acting as "sentinels," guarding human health by providing an early warning of danger.

In a similar way, fish and wildlife in the Lakes may be providing us with an early indication of the potential threats that toxics hold for us—not only in the Great Lakes region, but elsewhere, as well. It has been said that the Great Lakes system is so large that if something is a problem there, it is likely to be a problem everywhere. The Great Lakes can be used to measure progress toward solving problems posed by toxic pollutants and other water quality threats. Properly observed, the Lakes can act as a monitor of the environmental health of this continent.

Mr. KASTEN. Finally, Mr. President, I ask unanimous consent that the text of the "Save the Lakes Act" be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2751

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Save the Lakes Act of 1984".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as important sources of food, freshwater, recreation, beauty, and enjoyment;

(2) the Great Lakes, containing 95 percent of the surface freshwater of the United States and 20 percent of the world's freshwater, are among the greatest natural resources in the world;

(3) the Great Lakes are among the world's major waterways, each year carrying tons of waterborne shipping to and from all parts of the world;

(4) the ecosystems of the Great Lakes which provide sustenance and recreation to the people of the United States and other nations have been severely affected, and are continually threatened, by the introduction of foreign species into the lakes and by pollution of the Great Lakes waters;

(5) diversion of water from the Great Lakes to other areas of the Nation may result in adverse economic and ecological consequences which are not now well understood or predictable;

(6) careful management of the Great Lakes will permit the rehabilitation and protection of the lakes, their waters, and their ecosystems, while continuing and expanding their use for industry, food production, transportation, and recreation;

(7) management of the Great Lakes is currently divided among many Federal, State, and international organizations;

(8) effective management of the Great Lakes is best accomplished through a partnership of the States and the Federal Government;

(9) agencies with management and research responsibilities for the Great Lakes should coordinate activities among themselves more effectively in order to obtain maximum benefits;

(10) a greater awareness of the importance of preserving and protecting the ecosystem and environmental quality of the Great Lakes is in the national interest; and

(11) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978, with particular emphasis on goals relating to toxic pollutants.

(b) The purposes of this Act are—

(1) to provide for a rational and effective coordination of the management of the Great Lakes and of the federally supported research aimed at protecting, rehabilitating, and enhancing the environmental quality and natural resources of the Great Lakes;

(2) to identify issues of concern which are affecting or will affect the Great Lakes and their environment, and to develop and promote coordinated research, data synthesis, and management plans which address these issues;

(3) to provide for the development of the necessary data bases on information to support the rational, efficient, and equitable utilization, development, protection, and rehabilitation of the Great Lakes and their resources;

(4) to provide to the Department of State problems and issues to be referred to the International Joint Commission for study and action;

(5) to foster public understanding and appreciation, and to assure greater understanding at all levels of government, of the role of the Great Lakes as unique natural resources; and

(6) to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Federal Government.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Administration" means the National Oceanic and Atmospheric Administration;

(2) the term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) the term "Office" means the Great Lakes Research and Management Office as established by section 4 of this Act;

(4) the term "Director" means the Director of the Great Lakes Research and Management Office established by section 4 of this Act;

(5) the term "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border); and

(6) the term "Great Lakes system" means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes.

GREAT LAKES RESEARCH AND MANAGEMENT

SEC. 4. (a)(1) There is established within the Administration the Great Lakes Research and Management Office.

(2) The Office shall be headed by a Director who by reason of his management experience and technical expertise relating to the Great Lakes is highly qualified to direct the development of programs and plans on a variety of major Great Lakes issues.

(3) The Director may appoint such staff as the Director determines are necessary to carry out the duties and responsibilities of the Office and to fulfill the purposes of this Act. The staff appointed pursuant to this paragraph shall be appointed subject to the provisions of title 5, United States Code governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The responsibilities of the Office are as follows:

(1) The Office shall identify Federal and State research programs, and, to the extent feasible, those of other nations, relating to the Great Lakes system, and shall annually update that inventory.

(2) The Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed, and which affect the Great Lakes system.

(3) The Office shall identify the priority research needs for the protection and rehabilitation of the Great Lakes.

(4) The Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College Program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

(5) The Office shall establish a Great Lakes systemwide surveillance and monitoring network and reporting system to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants. The Office shall utilize any relevant data available from the Environmental Protection Agency, other Federal agencies, State or local agencies, and international agencies.

(6) The Office shall develop, in cooperation with the appropriate State, Federal and international agencies, the long term, comprehensive environmental, resource, and economic data bases required for sound assessment of the impacts of proposed decisions of such agencies on the environmental health, productivity, and economic well-being of the Great Lakes. These shall include, but not be limited to, developing, and reporting to Congress, specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978.

(7) The Office shall inventory all State, Federal, and international agencies with management responsibilities for the Great Lakes system, identify jurisdiction, overlap, and management plans and cooperative management activities in existence, and update the inventory annually.

(8) The Office shall identify priority management needs to protect and rehabilitate the Great Lakes and their resources. In connection with appropriate State, Federal, and international agencies, the Office shall develop management plans where needed for the entire Great Lakes system, for specific Lakes, or for specific issues.

(9) The Office shall prepare an annual report on the state of the Great Lakes, which shall be submitted to Congress and the President prior to December 31 of each year, and shall be made available to appropriate State and Federal agencies which manage or monitor the Great Lakes. The report shall contain an executive summary and appropriate scientific and technical data. The report shall include (but not be limited to)—

(A) an annual update to reflect changing priorities in Federal, State, and international management needs as well as the need for fundamental research;

(B) a plan for the establishment and maintenance of comprehensive, long-term environmental, resource, and economic data bases on the Great Lakes;

(C) identification of the priority management issues in the Great Lakes system, and, in cooperation with State, Federal, and international agencies, the development of management plans to address these issues; and

(D) identification of the priority needs for rehabilitation and restoration of the Great Lakes and their resources, and, in cooperation with State, Federal, and international agencies, the development of rehabilitation and restoration plans which address these needs.

(10) The Office shall actively promote, at the State, Federal, and international levels, the adoption and execution of the management and rehabilitation plans.

(11) The Office shall serve as the source of issues which the Federal Government refers to the International Joint Commission for study.

(12) The Office shall host a meeting (not less often than annually) for officials of State and Federal agencies involved with the Great Lakes.

(c) The Administrator shall, in the agency's annual budget submission to the Congress, include a funding request for the Office as a separate budget line item.

### FINANCIAL ASSISTANCE

Sec. 5. (a) The Administrator may provide financial assistance in the form of grants or contracts for research, monitoring, and planning projects and activities necessary to address the priorities and needs established under section 4(b)(8) which are not being adequately addressed by Federal or State agencies. The Director shall make recommendations to the Administrator with respect to the awarding of grants and contracts under this section.

(b) Any person, including institutions of higher education and departments, agencies, and instrumentalities of the Federal Government or of any State or political subdivision thereof, may apply for financial assistance under this section for the conduct of projects and activities described in subsection (a) of this section, and, in addition, specific proposals may be invited. Each application for financial assistance shall be made in writing and in such form and manner, and containing such information, as the Administrator may require. The Administrator may enter into contracts under this section without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(c) The projects and activities supported by grants or contracts made or entered into under this section shall, to the maximum extent practicable, be administered through existing Federal programs (including, but not limited to, the National Sea Grant College Program) concerned with research, monitoring, and management.

(d) The Administrator shall act upon each application for a grant or contract under this section within six months after the date on which all required information is received by the Administrator from the applicant. Each grant made or contract entered into under this section shall be subject to such terms and conditions as the Administrator deems necessary in order to protect the interests of the United States. The total amount paid pursuant to any such grant or contract may, in the discretion of the Administrator, be up to 100 percent of the total cost of the project or activity involved.

(e) Each recipient of financial assistance under this section shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or activity in connection with which such assistance was given or used, the amount of the portion of the cost of the project or activity which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for three years after the completion of such project or activity. The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Administrator or of the Comptroller General, may be related or pertinent of such financial assistance.

### INTERAGENCY COOPERATION

Sec. 6. (a) The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve or rehabilitate the environmental quality and natural resources of the Great Lakes—

(1) shall cooperate with the Administrator and Director in carrying out the purposes of this Act;

(2) may, upon written request from the Administrator or Director, make available to the Administrator or Director such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator or Director in achieving the purpose of this Act; and

(3) shall, upon written request from the Administrator or Director, furnish such data or other information as the Administrator or Director determines is necessary to fulfill the purposes of this Act.

(b) The Administrator of the Environmental Protection Agency, the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, and the Director of the Fish and Wildlife Service shall each submit an annual report to the Administrator with respect to the efforts by that agency or office to comply with the Water Quality Agreement of 1978 and with recommendations made by the Office.

### RELATIONSHIP OF ACT TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES

Sec. 7. Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government, or of any State government, nor any powers, jurisdiction, or prerogatives of international bodies created by treaty with authority relating to the Great Lakes.

### AUTHORIZATION OF APPROPRIATIONS

Sec. 8. There are authorized to be appropriated to the Administration for the purposes of this Act not to exceed $10,000,000 for each of the fiscal years 1985, 1986, 1987, 1988, and 1989.

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## RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. **Proxmire**) is recognized for not to exceed 15 minutes.

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## WHY WE NEED NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, like millions of other Americans I enjoy reading George Will. Who would not? He is learned. He is amusing. And he angers or bullies or challenges you into thinking. He does not mind taking on motherhood, brotherhood, or Little Red Riding Hood. He is also sometimes wrong. In his column in the latest Newsweek, George Will is very wrong. This time he kicks around arms control. Believe it or not he even wades into President Reagan for being soft on arms control. Will tells Reagan to stop saying that "nothing is more important than development of a better working relationship with the Soviet Union." Such talk, says Will, builds pressure on our Government to make costly concessions to the Soviets just so that we can have an arms control agreement.

Mr. Will says arms control has not brought us a safer world, but a more dangerous one. It has stopped us from building missiles that would defend our country (the ABM treaty) and force us to produce hair trigger weapons like the MX. Arms control, according to Will, has also given the Soviets an immense advantage in nuclear capability. Will reasons that the Soviets will not negotiate away advantages, but oh—how they will exploit "the American thirst for agreements." For us arms control will continue to be a losing game. Why? Because the United States is an open society with a critical, inquisitive press poised to expose any departure on our part from our arms control commitment. In other words, we cannot cheat. And the Soviets? Well—the Soviet press prints precisely what the Kremlin leaders want them to print and not a word more. So, according to Will they can and do cheat to their hearts content. Will cites the yellow rain in Afghanistan as a prime example.

Does Will really mean this? Would Will abandon arms control in any form and let the nuclear arms race have its head taking us wherever it should lead? Does he really believe the world will be safer if we throw off all the arms control shackles? How about the test ban treaty that has kept both superpowers from exploding nuclear weapons in tests in the atmosphere, in outer space and underwater for the past 20 years? Would the world be safer today without the restraints of SALT I or SALT II or the Anti-Ballistic Missile Treaty or the Outer Space Treaty? Admittedly, whatever these treaties have accomplished, the world is not safer from nuclear war today than it was 25 years ago before any of the arms control agreements were signed. Yes, indeed, we do live in a more dangerous world. But is this the fault of the arms control treaties or is it the fault of the onrushing nuclear arms race which arms control is trying to restrain?

Will finds two virtues in the arms race: First, it sometimes moves the superpowers toward more stable, less vulnerable weapons systems. It moves both adversaries away from stationary, land-based, use 'em or lose 'em, MIRV'd missiles. The arms race pushes Russia and the United States toward mobile air- or sea-launched missiles. Second, and I think this was what George Will was really thinking of, with the generally superior U.S. technology, the unrestrained arms race gives the United States a better chance than arms control of staying ahead of the Soviet Union. And finally Will ends his essay on the harm of arms control with a change of pace, a kind of off-speed pitch. Consider his last sentence. He writes: "An immoderate and unempirical belief in arms control produces a policy of apologetic retreats." Think about that sentence for a minute. What Will protests is: "an immoderate and unempirical belief in arms control." Well, after all, who believes in immoderate and unempirical anything? How about a moderate and empirical use of arms control? Would Will find that also harmful? Suppose we follow an arms control strategy that seeks only those agreements that benefit both? I repeat, both—both the United States and the Soviet Union. Are there such agreements? Of course, there are. Both countries suffer heavy economic burdens from an unrestrained arms race. Both countries want to preserve their nuclear deterrents. Both countries only survive by avoiding nuclear war. Both countries will benefit immensely from stopping the proliferation of nuclear weapons. No negotiations will work between adversaries unless both benefit from them. The basis of mutual benefit for the two superpowers is obvious and very big, indeed.

Finally, will the Soviet Union with its closed society abide by any arms control agreements if it is to its interest to violate it? Certainly it will not abide by an arms control agreement or any other agreement which it can violate to its advantage provided it can get away with the violation. So what does that mean? That means we tie any arms control agreement to thorough, detailed, unambiguous verification procedures. It also means that we monitor that verification constantly. And we blow the whistle loud and clear when we find a violation. The Afghanistan yellow rain violation constitutes a Soviet breach of a treaty that has no verification or compliance features. None. Let me repeat that. The Afghanistan yellow rain violation constitutes a Soviet breach of a treaty that has no verification or compliance features. Several years ago I secured a unanimous Senate approval of a resolution calling on the President to amend that treaty or call for negotiating a new agreement based on effective verification and strict compliance terms. The administration ignored that resolution.

Mr. President, I am tempted to point out that where arms control is concerned, where there is Will, there is no way. So I will not. I agree with George Will that an immoderate and unempirical belief in arms control is wrong. But let us have arms control based on moderation and experience.

Mr. President, I ask unanimous consent that the column to which I have referred from the June 18, 1984, issue of Newsweek by George Will, headlined "Why Arms Control Is Harmful," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WHY ARMS CONTROL IS HARMFUL

(By George F. Will)

Today's arms-control controversy is remarkable for the virtual absence of the most important argument. It is that the arms-control process is injurious to U.S. interests. That argument offends conventional wisdom and (what is much the same thing) wishful thinking. It has the redeeming merit of being true, as Seymour Weiss knows. In a paper presented at the Lehrman Institute, Weiss, retired ambassador and State Department director of political and military affairs from 1960-67, argues that enthusiasm for the arms-control process—a process barren of achievements—reflects misapprehensions about the usefulness of that process in slowing the arms race, saving money and taming the Soviet Union.

The idea of an arms "race"—often described as "spiraling"—is odd. the U.S. nuclear-weapons inventory has been sharply reduced. It contains 8,000 fewer warheads and 25 percent less megatonnage than in the 1960s. This is the result not of arms agreements but of modernization programs that produced safer, more effective weapons—modernizations of the sort that arms-control advocates try to block with agreements.

Safer World? During the era of détente and arms control the Soviet nuclear arsenal has grown quantitatively and qualitatively. A study commissioned during the Carter administration compared 41 categories of nuclear capabilities (warheads, megatonnage, delivery systems, etc.) in the period beginning with the Cuban missile crisis. It concluded that the United States had been well ahead in every category in 1962 and was behind in all but two by the late 1970s. Since SALT II was signed in 1979 the Soviet Union has added more than 3,400 warheads. Does anyone think the world is safer than it was when the SALT process began in 1969?

The achievement most celebrated by arms-control enthusiasts is the 1972 treaty effectively banning antiballistic missiles. True, we saved the cost of ABM's. But partly as a result of that decision we will spend many more billions on MX missiles, an unsatisfactory response to the fact that our undefended land-based ICBM's are vulnerable. Because MX is unsatisfactory, billions more may be spent on smaller, mobile "midgetman" missiles. Why is MX so unsatisfactory? Because of an arms agreement.

SALT I limited the number and size of launchers—basically, holes in the ground—rather than numbers or megatonnage of warheads. Limits on those would be hard to verify, given Soviet secrecy. So SALT I drove arms planning toward big missiles packing maximum megatonnage. SALT I did what arms agreements usually do: it did not restrain competition; it turned it in a new direction. It was a direction in which the Soviet Union with its huge SS-18s, had a lead. SALT I ratified a Soviet advantage and, by giving rise to the inherently vulnerable MX, reduced the stability of deterrence.

This republic overflows with laws, lawyers and faith that the world can be tamed by words on parchment. Americans see arms control as a way of freezing the status quo; the Soviets see it as one arena in a comprehensive, unending competition. Furthermore, Weiss says, persons who think arms control should be the "centerpiece" of U.S.-Soviet relations ignore the fundamental incompatibility of U.S. and Soviet objectives. The configuration of the Soviet buildup in the arms-control era is unambiguous. The arms are not designed for defense but for producing a world pliant to Soviet designs. Weiss says there is no reason to expect the Soviets to negotiate away advantages, and ample reason to expect the Soviets to exploit the American thirst for agreements.

In addition to selling discord among U.S. allies and paralyzing U.S. procurements, Soviet negotiators have, Weiss says, five aims. First, limit the wrong things (e.g., launchers). Second, make sure the limits on important things are ambiguous. (SALT I limited but did not define "heavy" missiles.) Third, accept specific limits only if they are unverifiable (e.g., the ban on biological weapons or the SALT II limits on cruise missile ranges). Fourth, evade even strict, verifiable limits by claiming they do not apply to this or that program. (The Soviets claim their ABM system is just a defense against bombers.) Fifth, get the treaty to legitimize violations of the treaty. (SALT II's flimsy verification terms forbid encryption of data from missile tests—except when encryption is not intended to evade arms-control limits. But given that it is encrypted, how are we to tell?)

Because ours is an open society, our government cannot cheat on agreements, and because our society invests such hope in arms control, even an administration as starchy as Reagan's is apt to forgive Soviet cheating or mute even required reports of it. When, complying with a Senate demand, the administration submitted a list of Soviet violations, The New York Times denounced the—you guessed it—administration for "initiating this damaging laundry list."

Weapons: The arms-control era has coincided with unparalleled Soviet aggression and threats, from Indochina through Afghanistan. Try to tell victims of "yellow rain" about the wonders of arms control. Biological weapons are controlled—on paper. What has violation of the controls produced? A U.S. clamor for yet more agreements. And arms-control enthusiasts, their enthusiasm impervious to evidence, continue to use slogans that were threadbare when Dean Acheson refuted them.

Acheson demolished the bromide that "as long as the Russians are talking they are not fighting." Acheson said that Americans are so wedded to the belief that negotiations are means of ending conflicts that they are blind to the fact that negotiations are equally suited to continuing conflicts. Of the slogan "There is no alternative to negotiations with the Russians," Acheson said: "This is, of course, silly. For if there is no alternative, and if the Russians will only negotiate, as is now the case, on their own terms, then there is no alternative to surrender."

For that reason someone should tell Ronald Reagan to quit saying that nothing is more important than "development of a better working relationship with the Soviet Union." Such talk worsens the asymmetry in U.S.-Soviet negotiations by building pressure on the U.S. government for concessions to produce "movement." An immoderate and unempirical belief in arms control produces a policy of apologetic retreats.

## AMERICAN JEWRY DURING THE HOLOCAUST

Mr. PROXMIRE. Mr. President, after four decades, the horrors and atrocities of the Holocaust are vivid in the minds of many, and this monumental crime is far from being solved. Formed in 1981 at the initiative of a number of American Jews, 34 prominent American Jews were chosen to serve as the American Jewish Commission of the Holocaust. After 2½ years of historical investigation, the Commission has issued a report entitled "American Jewry During the Holocaust."

The main thrust of the report, as stated in a foreward by former Supreme Court Justice Arthur Goldberg, is to determine "what American leaders did, and indeed might have been able to do in all the circumstances, to mitigate the massive evils of the Holocaust."

The volume contains a 65-page report by Prof. Seymour Finger, data on American Jewish organizations during World War II, commentary by commission members, and over 300 pages of historical monographs by nine historians from the United States and Israel.

Goldberg believes that the underlying aim of the Finger report is to "enable later generations to learn from this experience whatever might help prevent a similar tragedy from ever befalling the Jews or any other people."

Predominantly the product of American initiative, the Genocide Convention, was adopted unanimously by the United Nations on December 9, 1948, as a response to the Nazi Holocaust. Nearly 40 years later, we, the United States Senate, have yet to meet the obligation we owe to our own citizens by ratification of the Genocide Convention.

There are many lessons to be learned from the Holocaust, and one of them is the need for the Senate to take immediate action and ratify the Genocide Treaty.

## OUR EXPENSIVE FORMER PRESIDENTS

Mr. CHILES. Mr. President, approximately 5 years ago, I was a member of the Committee on Appropriations and on the subcommittee that considered the appropriations of the Secret Service. In connection with that, the Secret Service was having to come in and ask for supplemental appropriations. I wondered at the time if that was because of the Presidential campaigns and the additional expense from covering Presidential candidates. I found out that the occasion for the need for the additional Secret Service funds was the protection of former Presidents and the widows of former Presidents. That, Mr. President, got me interested in the subject of reviewing some of the legislation that had been set forth in Congress covering the different emoluments and benefits which go to the former Presidents and their wives and/or widows.

I found that we had really passed several pieces of legislation for what I think were at the time, very good purposes. I still think there is a valid purpose for that legislation. But, Mr. President, I think Congress has failed to look at that legislation over the past 25 years. It has certainly grown and it certainly needs to be looked at. Some controls need to be placed upon those programs.

One of the things an evaluation reveals is that, in 1955, we paid some $64,000 for expenses related to former Presidents and their widows. This year, it is going to be some $30 million. That figure is growing. It is more now than the current Office of the President. In other words, to take care of the former Presidents and their wives, we are paying more than we are paying for the Office of the President itself.

Now, if we look back into our history, I believe that the concept of the Founding Fathers—and I think it was a valid concept—was that we were to pick a civilian. We would honor him with the office of the Presidency. He would then return to his civilian status.

In fact, George Washington said in his Farewell Address that he looked forward to being able to return to the high office of being a private citizen of the United States. I think that is a high office, one of privilege in this country. I do not think that we were trying to set up royalty or a dynasty as such. Yet what I now refer to as the "imperial former Presidency" reigns.

There were some historic landmarks as to why we passed some of this legislation. As I say, I think it was for a valid purpose. One of those purposes was to see that a former President of the United States did not end up being left destitute. It was considered in our earlier days that it would be improper for a former President to enter into gainful commerce, to go back into the realm of commerce. About the only occupation that was felt to be proper for a former President was that of a gentleman farmer.

On the occasion of Thomas Jefferson's death, part of his household furnishings and part of his property were sold to pay for his debts. I think that Congress, in its wisdom, feeling that we did not want that to happen, felt we had to set up a sufficient pension for a former President.

I agree with that, Mr. President. Nothing in the legislation I have introduced touches on pensions. In fact, the bill I have been introducing, S. 563, provides for an additional pension, increasing the amount of the pension for a widow of a former President and making it more in line with the times that we live in today. But now, over the years, other benefits and emoluments have been added to the pensions.

We found that former Presidents did not have any allowance to handle correspondence, to handle official requests that they receive. In fact, we found Harry Truman was typing his own letters in replying to people who had been writing to him after he was President. This is the same Harry Truman who drove his Dodge back to Missouri. This is the same Harry Truman who said he would not take any job or sit on any board of any corporation because he could never discern whether they were hiring Harry Truman the person; or the former President. So he would not take any job. And Congress decided we should make some office allowance.

Again, we have not looked at that office allowance budget recently. The bill I introduced would say that allowance would be $300,000 for the first few years. It gradually would scale down to $200,000, after 9 years, recognizing the first few years a former President is out of office, he is going to have a great deal of correspondence, a great deal of requests for appearances, and he is going to need more staff allowance. But, as the years go by and there are intervening former Presidents, the request will not be so great and the need for the allowance would be less.

Mr. President, we also looked at the library situation. We found that we had provided for a former President to be able to have a library to house his papers, and that library was to be provided for originally by supporters of the former President. Then the Federal Government was to take over, pay for all the costs and expenses from then on to operate and maintain that library.

Well, there was no limitation as to what the space of that library could be. And if we look back over some of the Presidencies, we see they were getting bigger and bigger, fancier and fancier. The Federal Government was having to pay more for the upkeep.

Along comes one former President who decides he is not just going to have a library, he is going to have a library and a museum. His university town would like to have one facility, his home town would like to have another, so he is going to have both. So, for the first time, we find a former President with a separate library and a separate museum.

We felt, Mr. President, it was time to try to put some reasonable space limitations on a library. Make it larger for a former President who has had two terms as opposed to one, but say there should only be one facility. Because, in fact, if one former President could have two, there is no limitation; you could have three or four.

Maybe if you had lived in several States, each one of those States could have some claim to the library. These are nice tourist attractions; hometowns like them, and so we would have more. We attempted to do something about that.

Secret Service protection is also something we attempted to do something about. I mentioned at the outset of my remarks that I found the Secret Service was having to ask for these supplementals because of the protection they provide former Presidents' families. I found Bess Truman and Mamie Eisenhower, widows of distinguished Presidents, were under 24-hour Secret Service protection even though both of them were bedridden, were unable to travel, unable to get out of their homes. I found the Secret Service had tremendous morale problems because they have the most highly skilled, highly trained agents who protect with their lives. They are trained to participate in all kinds of hand-to-hand protection or anything else. They found themselves staring across the way at a house in which the shades were drawn. These widows were totally incapacitated and yet received around-the-clock protection.

Mr. President, we recognize that where there is a diminished threat and the time has run, we should be able to do something about reducing protection. We should be able to make some curtailment of service. So we set up a procedure in the bill to allow coverage for a period of 5 years and then allow for a review to see whether or not that coverage is still necessary.

Mr. President, another thing we looked at was: Should a former President be able to use the Government's money in his staff allowance to help write his memoirs and then sell those memoirs at a tremendous profit, because books of former Presidents are now in great demand, and is that proper? We made a limitation. We said if the Government's money is used in preparing the memoirs, then the Government should sell and be responsible for the books.

Those are the types of changes we tried to make—doing something about the library situation, doing something about the protection, which involves tremendous sums of money, doing something about the staff allowance, and recognizing we need to do something to better compensate the widows. It is a bill that has been some 5 years in the making, Mr. President. We have 21 cosponsors now and for the first time the Committee on Governmental Affairs, whose distinguished chairman is now on the floor, reported out the bill. The distinguished chairman of the committee is a cosponsor of the bill. He has provided valuable insight.

Senator Pryor has been working on this bill with me over the last 5 years, since we first started looking at this matter. We held a number of hearings. We have talked with former Presidents about this bill. We have solicited the comments from widows of former Presidents and from the existing Office of the President.

I will say, Mr. President, that we were not honored with the presence of someone from the White House to testify, although we made that request. But this bill has been reported out of the committee and is on the calendar. I was very hopeful that we were going to see that bill taken up during this session and routinely passed, as I think it would have been.

Mr. President, I did receive a call this last week—a courtesy call, I guess it is referred to in the Senate—in which one Senator gives another Senator the courtesy of telling him that he is placing a hold on his bill.

This call was made to me by the chairman of the Appropriations Committee, a very distinguished Senator and my friend, who told me that he had been requested by the White House to put a hold on this bill.

Mr. President, I will say that I was very surprised by that. I was very disappointed. As perhaps many know, there are two kinds of holds that happen in the Senate. Sometimes there is a hold because somebody has a little problem with a bill; they want to get somebody's attention or they want to work out that problem. Then the other kind is sort of the choke hold, and it means that they do not want that bill to come up. A hold coming at this time of this session in an election year, when we are going to be out for both conventions and out for the elections, if it is the latter kind of hold, Mr. President, the choke hold, it would mean this bill probably could not be considered in the normal routine of this session. If it is the first kind of hold, one because somebody has some little problem, then perhaps the problem can be remedied.

Mr. President, I am going to write the White House and ask them whether they have a choke hold on this bill or whether they have some problem which they have failed to let us know about, because we did write them and made a request to find out what concerns they might have about the bill. If it is the chokehold, then I guess in that instance you try to find out whether the hold can be lifted. I will be looking for other ways to try to see that the bill is considered because I think it covers an important matter and should be considered.

But I must say that I am disappointed to find an administration which talks at great length about the need to eliminate unnecessary spending, the need to make sure that we are getting the most for our dollar, the fact that everyone has to tighten their belt a little bit, to suck up and do their share, would place a hold on this bill. But maybe it is simply some problem in the bill which they want to call to our attention that can be worked out.

I hope that is the case because I feel the public wants to see reasonable constraints, to see that we do not create an office of imperial former Presidency, while we recognize the great work that Presidents do. I do not denigrate the respect they deserve. I guess everyone in this body would love to be a former President. That would be a very high honor to have, certainly one that this Senator would consider to be a high honor.

But I again am reminded of the remarks of the first former President, George Washington, when he said he was getting ready to take on the very high honor of returning to be a citizen of the United States. I think that is a high honor itself. I think it is what we were trying to set up; that we would have a citizen assume the Presidency of the United States and when he had served his country in his term of office, he would return to the high honor of being a citizen.

Mr. President, I have an outline of the bill itself which I ask unanimous consent to have printed in the RECORD at this time.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

### PURPOSE AND SUMMARY OF S. 563, THE "FORMER PRESIDENTS FACILITIES AND SERVICES REFORM ACT OF 1983"

#### PURPOSE

The purpose of this legislation is to establish a reasonable set of controls on federal spending associated with programs benefitting former Presidents. Through several laws, including the original Former Presidents Act of 1958, the Congress has affirmed a national policy which ensures each former President is able to lead a dignified retired life, free from a need to commercialize the prestige of the Office of Presidency, and free from danger resulting from its visibility.

But the cost of former President programs has gone from $64,000 in 1955 to $6.3 million in 1975 to some $27 million in 1983. This four fold increase exceeds the original program expectations considerably. S. 563 is intended to stop, and then reverse the increasing costs of services and protection currently provided former Presidents.

More importantly, tax dollars have been used to assist former Presidents become wealthy. This is a consequence not ever envisioned by the lawmakers who authorized the Former Presidents Act, the Former Presidents Library Act, secret service protection, or other benefits. It is a consequence that seriously detracts from citizen confidence and respect for the institution of the American Presidency. The "Former Presidents Facilities and Services Reform Act of 1983" is intended to restore the appropriate character and intent of programs benefitting former Presidents.

#### SUMMARY

*Title I: Presidential Libraries*

Establishes the Administrator of the General Services Administration as responsible for managing Presidential Libraries. He is to create architectural and design standards in consultation with the Archivist and the Commissioner of the Public Building Service. He may accept, as private gifts or pursuant to agreements with State or local governments, institutes, or foundations, land, buildings and equipment as are needed to operate and maintain a Presidential Library.

Requires all new libraries to be in a single building whose size, including museum space, may not exceed 60,000 square feet for a one term President, 70,000 square feet for a two term President. The Administrator must submit a new library prospectus to Congress for 60 day review period before he may act to accept responsibility to operate and maintain a library. The submission must include a cost estimate of annual cost to the government for maintenance. Modifications for existing libraries are subject to similar Congressional review requirements.

Requires the President, while holding office, to dispose of his or her Presidential records which have no administrative, historical informational, or evidentiary value unless the Archivist notifies the President he intends to request advice from Congress concerning the disposal of such papers.

*Title II: Office, Staff, and Allowances*

Establishes an original staff allowance of $300,000 a year, which will be reduced over a nine year period to a ceiling of $200,000.

Limits each former President to one office, not to exceed 4,000 square feet.

Prohibits absolutely the use of funds for either partisan political activities or income generating activities. Funds can be used for the preparation of memoirs provided receipts from the sale of such memoirs are paid into the treasury.

Insists that memoirs prepared by a former President who used his staff allowance funds to do so will be printed by the Government Printing Office and distributed and sold by the Superintendent of Documents.

Requires each former President submit a report by March 1 of each year detailing his activities and their expense.

Mandates a 10 year "sunset" provision for the authorization of staff allowances. The automatic termination forces Congress to redetermine what the proper funding should be at least every 10 years.

Places the pensions of widows of former Presidents to be at a rate which equals two-thirds of what the former President would receive if he were alive.

*Title III: Presidential Protection*

Specifies a former President may have automatic, around-the-clock secret service protection for five years instead of for life. A spouse and children are entitled to protection only if their safety is related to the former Presidents'.

Enables the Secretary of Treasury to extend Secret Service protection of a former President for one year and of a widow or child for six months after the original period of protection has ended upon a finding a threat warranting protection exists.

Authorizes the Secretary of Treasury to provide additional periods of protection after submitting request for a extension to Congress for a sixty day review period.

Authorizes the President to direct the Secret Service to protect a former President, spouse, widow or child upon determining a threat warrants emergency action. The President shall notify Congress and such authorization shall not extend beyond sixty days, or beyond the time needed for Congressional review once the Secretary of Treasury has submitted a request.

Limits protection of former Vice Presidents from their last day in office to the end of that fiscal year. Such protection is provided only if requested and the Secretary of Treasury finds a serious threat.

Mr. CHILES. Mr. President, I again thank the distinguished chairman of the Governmental Affairs Committee, who, as I said, has given such valuable input to this bill; he helped very much in getting the bill through the committee, and to the distinguished Senator from Arkansas, who has played such a valuable role in drafting this legislation.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. PRYOR) is now recognized.

Mr. PRYOR. Mr. President, I would be glad, if the time of the distinguished Senator from Florida has expired, to yield some time from my 15 minutes to the Senator from Delaware.

Mr. CHILES. I would be delighted to yield any time that I have remaining.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank both Senators.

Mr. President, I, too, am very disappointed that a hold has been placed on this particular piece of legislation. I think the action taken by the Committee on Governmental Affairs is a reasonable approach.

I congratulate and thank the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Arkansas (Mr. PRYOR) for their leadership in this matter. I think it was 5 years ago that they began the long, tortuous road of trying to develop some legislation that would be fair and equitable to former Presidents and to the taxpayer at large.

When I became chairman of the Governmental Affairs Committee 3 years ago, I agreed and worked with them in seeing that a bill was passed.

It is important to understand that we do not want to treat the former Presidents in any way that would undermine the dignity and grace entitled to a former President. As the distinguished Senator from Florida has pointed out, we try to provide reasonable allowances for the needs of a former President. We recognize that they continue to provide service as an adviser and consultant to the incumbent in the White House, as well as the Government at large.

However, at the same time, we think it is unfair and inequitable not to have caps or limitations on the benefits that are extended to former Presidents. In these times, when we have to take a lot of tough measures in various social programs, I believe it is critically important that those in positions of leadership—and I count those positions of leadership to include former Presidents—be willing to have limitations on what the Federal Government should pay them.

In the matter of libraries or museums, we are not saying that former Presidents cannot have larger libraries or larger museums, but we are saying that it has to be done with private funds. I think the proposal in this area is very reasonable. The same is true with respect to the Secret Service.

I am not going to review all these, except to say that I think it is critically important that Congress act upon it. Congress may not necessarily agree with the report of the Governmental Affairs Committee, but I think it is important that the Senate have an opportunity to act upon it and work its will.

I assure the distinguished Senator from Florida and the distinguished Senator from Arkansas that I shall work with them to assure the opportunity to vote upon this important legislation.

I have to say that this particular piece of legislation has never been very popular at the other end of Pennsylvania Avenue. It has not been supported by this administration, and, in all candor, it was not supported by the prior administration. So the opposition has been fairly consistent on the part of Democratic and Republican administrations. Although we requested former Presidents to comment, I did not receive any advice or recommendation in response to my inquiries.

Mr. President, I think it is fair that we look at this problem as we look at all Govenment spending programs. I believe we have come up with a reasonable approach, and it is important that Congress act upon this important piece of legislation.

Mr. President, I thank the distinguished Senator from Arkansas for yielding.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I rise today to express the concern and frustration I share with the distinguished Senator from Florida (Mr. CHILES) and the distinguished Senator from Delaware (Mr. ROTH), the chairman of the Governmental Affairs Committee, regarding the obstacles we face today in getting Senate consideration of S. 563, the Former Presidents' Facilities and Services Reform Act.

Because this administration continually states its desire to reduce unwarranted Federal expenditures, I am very disturbed and disappointed by the position of the White House on this matter. I hope—and I think a lot of our colleagues and a lot of taxpayers in this country hope—that the White House will change its position on this matter and allow, and even encourage, S. 563 to be brought before the Senate for debate and possible amendment, but at least allow consideration by this body.

Taxpayers spent $27 million in fiscal year 1983 taking care of former Presidents and maintaining the libraries which are constructed in their honor. The legislation which we have introduced tightens constraints for such expenditures. From the mail my office has been receiving, I would say the bill—or, more specifically, this concept—has the support of the people of my home State of Arkansas and across the Nation.

I have worked on this issue since I came to the Senate in 1979. Bills have been introduced during each Congress since then, and concern has increased as the public has become more aware of the problem which we seek to correct. Numerous articles in national magazines and newspapers have focused attention on the expanding costs to taxpayers associated with former Presidents. These articles, as well as congressional hearings, have indicated that at least three types of expenditures for former Presidents need immediate reform.

First, and most expensive, is the Presidential Library Program. Under current law, these libraries are built with private funds. Problems occur, however, because there are no statutory size limits for these libraries. The practical effect of this can be to give the Federal Government a structure, which because of its excessive size, is unreasonably costly to maintain. Since upkeep and maintenance of these facilities is the responsibility of the Federal Government, we have incorporated language into the bill which would limit the size of all new Presidential libraries to 60,000 square feet, with a 70,000 square feet limit for a two-term President.

We believe this restriction will allow ample space for excellent libraries and at the same time will reduce Government expenditures by millions of dollars for future years.

Secret Service protection for former Presidents and their families cost more than $12 million during fiscal year 1983. Under current law, this protection is extended to a former Chief Executive for life, regardless of whether a threat exists to his or her safety. Our legislation replaces lifetime protection with automatic 5-year protection, and provides for emergency and extended protection in excess of 5 years if such protection is deemed necessary.

Finally, it implements a staff allowance of $300,000 a year, to be reduced to $200,000 over the course of 9 years. It also makes clear the restrictions on the use of Federal funds. This provision adds much-needed certainty into the budget of a former President and will help reduce costs in the future.

Mr. President, this bill has broad bipartisan support, with 21 cosponsors.

Senator ROTH, the chairman of the Committee on Governmental Affairs, stated this morning his support for this legislation. Senator CHILES, who I have worked with very closely and who has truly been a leader in this effort to bring back at least some reason into the area of support for former Presidents, has eloquently stated this morning his support for this legislation.

I urge my colleagues to express their support for Senate consideration of this important measure. Taxpayers are demanding that we take action on this matter; I hope that my colleagues and the White House will listen.

Finally, Mr. President, let me quote from a 1957 Senate report which was filed on Former Presidents Act legislation. This is 25 years ago.

> In short, the Government should provide adequate compensation and other facilities for former Presidents, to enable them without financial hardship to maintain the dignity of the great office they have held, to meet public demands upon them, and to make themselves available for further public service whenever they are called upon in appropriate cases.

Mr. President, this is exactly what this legislation, S. 563, is attempting to achieve. It should not be interpreted as penalizing any former President or his or her family. It is simply to strike a balance and to define what we can and should provide to former Presidents.

This legislation, S. 563, has been 5 years in the making. It has been carefully crafted. We have listened to the testimony of as many interested parties as possible in order to achieve equity in this bill.

Mr. President, in closing, I say once again I am very hopeful that the White House will remove its objection to this legislation so that it might be properly considered and fully debated in this Chamber.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PRYOR. I am proud to yield to my friend.

Mr. CHILES. I again wish to compliment the Senator and thank him for his help, and just to re-echo what he said, I hope this will be a temporary hold and we will be able to take this up in its normal procedure. If we are not able to do that, I look forward to working with the Senator from Arkansas in finding some other way to release this bill from the choke hold that has been placed on it, if it is that kind of a hold.

I thank him again for his help.

Mr. PRYOR. I am very appreciative for the leadership the Senator from Florida has demonstrated. Every time there was a hearing held or an article written or a statement made, on this subject. I've became even more compelled to follow the leadership of Senator CHILES and Senator ROTH in this issue so that we might achieve reason and balance. That is exactly what S. 563 attempts to do, and hopefully the White House will recant and rethink its position and allow this measure to be brought up. Otherwise, I can only assume that we are going to have to start all over in this process.

**Mr. CHILES.** Either that or we might have to find some other appropriate vehicle to see that we can bring this bill out and allow Senators to have an opportunity to express themselves on this legislation.

**Mr. PRYOR.** I appreciate the leadership of the Senator from Florida on this.

**Mr. CHILES.** I thank the Senator.

Mr. President, are there further special orders?

**The PRESIDING OFFICER.** There is one further special order.

**Mr. CHILES.** Then, Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. HEINZ.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER** (Mr. WARNER). Without objection, it is so ordered.

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## S. 2752—MEDICARE INCENTIVES REFORM ACT [MIRA]

**Mr. HEINZ.** Mr. President, today I would like to discuss one of the single greatest social issues facing our Nation today; namely, the imminent financial crisis in the Medicare program. I am also here to urge my colleagues in the Senate to join with me to begin to solve this problem before we get ourselves back into the same predicament we were in 2 years ago with the Social Security System.

Now I know there are many unmet needs and many issues worthy of our collective concern, but unless we have the political courage to stop out-of-control increases in health costs, neither older Americans nor the Federal Government will have the resources to address any other problem. And unless we bring Medicare costs back into line with economic reality, Americans over 65 are not going to share in any rise in our national standard of living. Indeed, the looming insolvency of Medicare would be a catastrophe for millions of America's senior citizens.

Mr. President, to address these concerns and to hopefully get the debate started, I am today introducing legislation which represents at least an initial step along the road to reform of Medicare. I believe that this bill could form the basis for a thorough reform of the Medicare system.

My bill, entitled the Medicare Incentives Reform Act—MIRA for short—has four major goals. First, it restores solvency to the Medicare HI Trust Fund. Second, it holds down health cost increases for all Americans, not just Medicare beneficiaries. Third, it checks runaway part B costs by encouraging primary care and discouraging unnecessary and expensive hospital care. And fourth, it strengthens current insurance protections by providing catastrophic coverage for beneficiaries.

I believe the specific components of the bill represent by far the fairest solution to the Medicare financing problem. Traditionally, there have been three ways of solving the financing problems of Government programs. One is to increase the taxes on working Americans. But payroll taxes are already high enough. Another is to cut benefits. But coverage is already inadequate and the third option is to reform or restructure the entire program.

Where health care is concerned many of us have been looking at the option of major reform. To date only two very different strategies have been considered. On the one hand, comprehensive regulation. On the other, what is termed the competitive or market-based model. I submit that to rely on either is to invite serious problems. Let me explain my reasoning.

I have for many years supported the so-called competitive model of health care reform, because I believe that it promotes flexibility, innovation, and individual choice—and that it promotes a more sensible and affordable alternative to traditional fee-for-service health care arrangements.

But I also have to admit that this strategy for health care reform has been moving slowly. A clear consensus on specifics is still lacking. And most distressing of all, even if we could agree on what changes to make today, competitive strategies simply are not going to relieve the burden of rising health costs any time soon enough, or produce health cost savings anywhere large enough to rescue Medicare.

If competition won't work, what about regulation? States with mandatory hospital rate setting for all insurance payors report that they can slow down hospital cost increases without the cost shifting we are likely to see if Medicare DRG rates are ratcheted down further. Given the urgent need for savings, Congress may find irresistible the allure of a Federal all-payor rate regulation system.

In my judgment, however, the risks and long-term costs of a Federal regulatory approach are very great. A total system of controls imposed virtually all at once from Washington on hospitals and doctors will become increasingly restrictive, bureaucratic, and inflexible as rates are reduced. Such an approach will inevitably ignore the fundamental regional and other differences in the structure and traditions of health care. Such a system will inhibit change. It will, I fear, also freeze into place all the shortcomings and misplaced priorities of the current system.

So, if competition will not work fast enough, and if top down Federal regulation would make a bad situation worse, then perhaps it is time for a new approach and what I propose is an incentive approach.

This third option would combine the best of both regulation and the health care market to get the results we want while avoiding the pitfalls of both models. The bill I am introducing today, MIRA, is based on the notion of creating such a system of incentives, not only for States but also for hospitals, physicians, insurers, and patients in order to control health costs.

If we're going to attempt to restructure the present health financing system—and attempt we must—it is imperative that we remain consistent with American values of individual choice, creativity, and innovation. An incentive-based approach is the only way to incorporate these values into a new system that will withstand the force of today's conflicting pressures.

How have I structured MIRA to address this ambitious result? First, MIRA will grant financial rewards to States with cost-containment programs that limit hospital expenditures for all insurance payors. States can use competitive, regulatory and voluntary approaches to control health costs, in the combination that best suits each State's local market conditions and preferences. States that take this initiative will receive a higher Medicare payment for hospitals and an increase in the Federal match for Medicaid. If a State chooses not to develop an individual plan, MIRA requires strict adherence to the present DRG system but under tighter payment limits. But—this is an important "but"—a State's failure to act, unlike some approaches that have been advocated, does not trigger a backup, federally controlled all-payor, regulatory system.

Second, for States that do not develop their own cost-containment programs, MIRA retains the incentives contained in the new DRG prospective pricing system and, in addition to holding the increase in DRG rates to the hospital market basket only, MIRA adds new incentives to the DRG system for hospitals to limit the volume of their admissions by limiting payment to marginal costs for both overall admission levels and highly discretionary admissions where inpatient care may not be necessary.

MIRA also tackles the Medicare deficit by doubling the Federal excise tax on cigarettes from the current 16 cents to 32 cents a pack. This increase will capture an estimated $56 billion over 10 years—dollars that will be applied directly to the Medicare deficit. As an added benefit, this increase is a direct incentive for smokers to reduce or quit smoking.

And, I might add, under this provision, smokers who continue to smoke will finally begin to make a small but necessary contribution to offset the high cost of smoking-related illness, which is estimated today to be approximately $3 per pack.

Another problem—out-of-control cost increases in part B of Medicare—has been neglected up to now, perhaps because Congress has been reluctant to take on the medical profession. But we can no longer afford to avoid the issue. When we started part B in 1965, it cost us $1.8 billion. Ten years later, in 1975, the cost of part B to the Federal Government had grown to $2.8 billion. In 1985, just 20 years after the start of Medicare, the cost to the Federal Government of part B will be $25 billion less premiums paid by the beneficiary. We can no longer afford to avoid this issue. We must recognize that it is the doctors who control the health care cost equation, and if we leave them out of the equation, it is not going to add up.

We will not be effective in our efforts to save Medicare unless we provide new incentives for physicians to be not just quality conscious but cost conscious as well.

But to be effective in our attempt to control physician costs we cannot discard traditional relationships between doctors and patients. And while it is important to bring the rate of increase in part B expenditures under control, it is equally important to provide incentives to physicians that restore an appropriate balance to the health care system—reemphasizing primary and preventive care and deemphasizing hospitalization and high technology care. This will both improve the medical care received by elderly persons and help to bring down part A costs.

To achieve these objectives, MIRA makes Medicare a prudent purchaser of physician care by setting fair prices for medical services through a fee schedule. These fees will be based on a relative value scale—one that will ultimately encourage primary care and use of cost-effective settings. Physicians will be free to decide whether or not they wish to provide services at these prices, so, under MIRA, the market will at last operate, rather than allowing physicians billing needs to tell us what to pay.

Now the real bottom line here is what MIRA will do for the millions of older Americans who depend on Medicare for their health care, not only does MIRA ensure the solvency of Medicare, and effectively controls overall health costs, it actually strengthens the beneficiaries' protection against unpredictable and unforeseen costs.

MIRA significantly enhances Medicare insurance protection by providing catastrophic coverage for a significantly less costly, but actuarily determined premium. This will provide far better coverage, for the beneficiary, and cost on average one-third less—over $100 per year less—than the standard Medi-Gap policy.

MIRA also simplifies Medicare by eliminating the complicated, and unpredictable copayment provisions that often penalize the sickest and poorest elderly patients. In addition, MIRA limits the cost sharing to two simple deductibles—a maximum of $200 for part A and $200 for part B—and limits total out-of-pocket costs to $400 per year a significant decrease in what beneficiaries now pay out-of-pocket. This consolidation of benefits puts control of Medicare back where it belongs—in the hands of the consumer not the private insurers.

This bill is by no means a perfect piece of legislation. Certainly no one legislator is capable of solving the problem alone. But I do believe that this approach is a fair proposal, that it is an effective way to address our problems, and that it is consistent with the values most Americans share.

I mentioned earlier in my remarks that I believe it is time to abandon the notion that either competition or regulation is the key to our health care financing dilemma. If we look back upon the ebb and flow of health policy over the past decade, it is clear that neither approach alone can be successful. Regulation, by itself, crushes the creativity and energy of the marketplace. Competition—an approach we may all find appealing—I know I do—cannot produce the savings we need in time to rescue Medicare. And we cannot afford to wait and let the present system run us into bankruptcy. The Medicare Incentives Reform Act, I submit, transcends this choice and offers new, more realistic options for the coming debate.

I don't know when the Congress will earnestly take on the job of a significant, wide ranging reform of either health care or Medicare, but I think that it's time we put forward our best ideas. For unless we put these ideas forward, we may find that our efforts to save Medicare, no matter who well intentioned, may fall far short. We must start this important debate now, for the sake of the Federal deficit, for the sake of Medicare, and for the sake of future generations of older Americans.

Mr. President, I ask unanimous consent that the bill and a section-by-section summary of it be printed in the RECORD following these remarks.

There being no objection, the bill and the section-by-section summary were ordered to be printed in the RECORD, as follows:

### SECTION-BY-SECTION SUMMARY OF MEDICARE INCENTIVES REFORM ACT [MIRA]

Section 2. The Social Security Act is amended by adding a new title:

### "TITLE XXI—STATE HEALTH CARE EFFICIENCY PROGRAMS; STATE HEALTH CARE EFFICIENCY PLANS

"Section 2101. *Application.* The Governor of a State may apply to the Secretary of HHS for approval of a three year State Health Care Efficiency Plan. The Secretary must approve the plan if it meets the requirements set forth in Section 2102. The Secretary must approve or disapprove the plan within 60 days and, if disapproving of the plan, must give the reasons for disapproval and provide opportunity for a hearing on the disapproval.

"Section 2102. *Plan Requirements.* The general requirements which the state plan must meet are:

(a) it must limit the rate of increase in total revenues for all inpatient hospital services for all hospitals in the State;

(b) it must limit the amount paid under Part A of Title XVIII for hospital inpatient services to the amount that would have been paid by the Medicare program in the absence of an approved plan;

(c) it must provide a method of reimbursing hospitals for inpatient care provided to the uninsured and underinsured, with all payors contributing to the cost of unreimbursed care in the same proportion in which they make payments for reimbursed hospital care;

(d) it must provide a plan for allocating among hospitals the capital-related payments under Part A of Title XVIII.

The plan may meet these requirements through a ratesetting system, a voluntary system, by competition mechanisms or by a combination of these. If the plan uses a method other than ratesetting to achieve its cost control targets, Medicare payments for inpatient services will continue to be made by the DRG methodology.

A State Health Care Efficiency Plan may at the states option include a program for limiting total expenditures in the State for physicians' services.

"Section 2103. *Incentives, Re-Approvals, Compliance and Technical Assistance.*

*Financial Incentives.* For states with a Health Care Efficiency Plan for controlling hospital cost, the annual increase in the State's Medicare total hospital rate increase will be an additional one-half percent—from market basket only to market basket plus one-half percent—and the Federal Medicaid match is increased by 2 percentage points. When the State plan also controls the rate of increase in total physician expenditures, the State's Medicaid match is increased by 3 percentage points.

*Compliance.* Each plan is reviewed annually for compliance. If the Secretary determines that a plan is not in compliance during its first or second year, the Secretary may continue approval of the plan only if the State presents a credible plan for assuring that it will be in compliance with requirements for the entire thirty-six month period of the State plan. If the State is not in compliance with its plan requirements during the third year or any subsequent year, the Secretary may specify the conditions upon which re-approval is contingent.

*Technical Assistance.* The National Center for Health Services Research will conduct a program to educate State officials, business groups and other payors on alternative approaches to health cost control. The Secretary will provide technical assistance to States in the preparation of state health care efficiency plans.

"Section 2104. *Definitions.*

### MEDICARE PAYMENT PROVISIONS—SECTION 3

*Annual Increase in DRG rates.* The annual increase in the DRG rates will be limited to the increase in the hospital market basket, adjusted for population change.

*Reduced Reimbursement for Excess Discharges.* Reimbursement for excess discharges will be made at 50 percent of the full DRG rates. This will recognize the hospital's marginal costs, but will eliminate current financial incentives to hospitalize patients unnecessarily. The base number of discharges for a hospital will be equal to the number of Medicare discharges in 1983, adjusted for change in the number and size of the beneficiary population. Admissions above the base number, with exceptions made by the Secretary, will be reimbursed at marginal cost.

*Reduced Reimbursement for Excess Discretionary Discharges.* Reimbursement for excess discretionary discharges will be made at 50 percent of the full DRG rates. Over a five year-period the number of fully reimbursed highly discretionary discharges in each state will be reduced by a number equal to 5 percent of the 1985 total number of Medicare discharges in the State.

The DRG categories targeted for discharge reduction—to be identified on a state-by-state basis—are high volume DRG categories in which high variability in Medicare per capita discharge rates across the State's hospital service areas indicates that hospitalization for these diagnoses is often at the discretion of the physician rather than based on consensus in the medical profession. The small area analysis and the resulting identification of targeted DRGs will be made public in 1986 to give physicians the opportunity to reduce the number of these discretionary discharges through a physician-initiated, voluntary process. The reduction in the allowable number of fully reimbursed discharges in targeted DRGs will begin in 1987.

All PROs will be assigned reduction targets. If the targets are met, no reduction in reimbursement will be made. If the PROs do not meet their targets, reimbursements for the discharges above the year's target will be made at 50 percent of the normal rate. After 1991, reimbursements for discharges above the final targets will be at 50 percent of the normal reimbursement rate.

*Reimbursement for Capital.* Capital reimbursement is paid by a flat percentage add-on to the DRG rates. The percentage of the add-on is Medicare's payment for hospital capital-related costs (reduced by the amounts now being paid for return on equity and re-evaluation of assets and adjusted to compensate for the lesser capital intensity of Medicare's case mix) as a proportion of Medicare's payment for hospital operating costs. The transition to the capital allowance payment method will be accomplished through a blended rate over a five-year period.

### PHYSICIAN REIMBURSEMENT—SECTION 4

*Assignment.* For physicians providing inpatient services to Medicare beneficiaries, the Medicare rate will be payment in full. Hospitals will obtain physician agreement to accept assignment on Medicare claims for inpatient services for all such services delivered in their hospitals. Beginning July 1, 1988, physician acceptance of assignment on Medicare claims is a condition of Medicare reimbursement for physician services. Prior to the providing services to Medicare Part B enrollees, physicians are required to inform these patients whether the claim will be assigned.

*Fee Freeze.* Prevailing rates are frozen for one year, beginning July, 1985. Current indexing is resumed for the two year period to July 1988.

*Physician Billing Information.* Information on physicians' patterns in accepting assignment for outpatient services will be published annually, by local geographic area; and lists will be available in district Social Security offices or from the carrier.

*Medicare Plus Program.* A special program is created for physicians who sign an agreement with the Secretary to take assignment on all Medicare claims for a one-year period. All Medicare beneficiaries will be provided with the list of all physicians in their local area who have signed the Medicare Plus agreement, and each carrier will maintain a toll-free telephone number to provide information on which physicians are Medicare Plus participants.

HHS will develop a nationwide multimedia educational campaign to improve general understanding about the "assignment of claims for physician services."

### THE RELATIVE VALUATION OF PHYSICIANS' SERVICES—SECTION 5

*Fee Schedule.* HHS shall contract with the Institute of Medicine or another appropriate non-profit agency to develop a relative value scale for physicians' services by July, 1987. The Institute or other agency shall appoint a committee with membership drawn from medicine, non-profit and commercial health insurers, the Office of Technology Assessment, the Medicare Prospective Payment Assessment Commission, the Health Care Financing Administration, health maintenance organizations, business, labor, biomedical and health services research, health economics and persons knowledgeable about consumer preferences and needs. One-half of the committee's members are to be physicians.

In developing the relative value scale of services, physician time is to be regarded as the basic element, to be modified by considerations of training, intensity of effort and degree of skill, efficacy of services and benefit to patients, and other costs, including personnel and equipment. Also, consideration should be given to redefinition of payment units from narrow procedures to more comprehensive bundles of services. Health objectives to be considered in the valuation of physician services include (1) encourage physicians to provide more primary and preventive care and (2) encourage physicians to provide needed services in the least costly way and setting. The report shall also include recommendations on the manner and frequency of updating the relative value scale and on the advisability of a national fee schedule for physicians' services.

Beginning in July, 1988, Medicare will adopt a relative value scale as the determinant of the weighting factor for the various physician services. This relative value scale will serve as the basis for regional fee schedules, to be phased in over a three year period through a blend with "reasonable charges." Regions are carrier service areas, except as indicated below in the "Regional Contract" description. The rural-urban differential in regional fee schedules will be limited solely to the difference between urban and rural medical office overhead and labor costs in a region.

*Regional Expenditure Limits.* Concurrent with the introduction of the fee schedule as the basis of payment, the rate of growth in Medicare physician expenditures will be limited to the increase in the services component of the Consumer Price Index. Limitation of regional rate of growth in expenditures will be achieved by one of two methods:

(1) *Regional Physician Contract Option.* A physician organization representing 55 percent or more of the physicians in a region (which may be a State or a tertiary medical service area) may contract with HHS to provide all needed Medicare physician services in that region for the amount of the regional expenditure limit. Payment to individual physicians in the region will continue to be on a fee-for-service basis.

(2) *Prudent Purchase of Physician Services.* HHS will hold total physician expenditures in a region to the amount of the regional expenditure limit by a combination of reducing the level of the regional fee schedule and by acting as a prudent purchaser of some physician services.

### BENEFICIARY PROVISIONS—SECTIONS 6 THROUGH 8

*Limitation on Out-Of-Pocket Costs.* Beneficiary costs for Medicare covered services are limited to $400 per year—a $200 deductible for Part A and a $200 deductible for Part B. All copayments are eliminated.

*Catastrophic Coverage.* Part A coverage is extended to cover an unlimited number of acute care hospital days, and the initial deductible for each hospitalization in each spell of illness is replaced by the single annual deductible described above.

*Premiums for Catastrophic Coverage.* The improvement of Medicare hospital and supplementary medical insurance of the costs of covered services in excess of the new deductible amounts is financed by establishing an actuarily determined surcharge for all Medicare beneficiaries (estimated at $60 for Part A and $133 for Part B in 1985).

### GENERAL PROVISIONS—SECTIONS 9 THROUGH 11

*Tax on Tobacco Products.* Effective October 1, 1985, the excise tax on tobacco products is doubled and the revenues from this additional tax are dedicated to the Hospital Insurance Trust Fund.

*Mortgage Insurance for Hospitals.* Authority over the hospital mortgage insurance program—Section 242 of the National Housing Act—is transferred to the Secretary of HHS. Mortgage insurance will be targeted to hospitals with limited access to capital markets and hospitals providing a substantial amount of unreimbursed care.

*Reports and Demonstration Projects.* (a) By January, 1986, HHS shall report to the Congress on the effectiveness of the hospital utilization review programs of Medicare and of private third-party payers, and make recommendations for legislation to improve hospital utilization control under Title XVIII. (b) By July 1, 1988, HHS shall conduct the following area-wide demonstration projects in carrier service areas or tertiary medical service areas—Packaging physician services for reimbursement purposes by:

(A) making a single payment for all physician services provided during a single hospitalization, and

(B) making a single payment for all physician services closely related to a particular diagnostic or surgical procedure; with the single payment to be made to the principal physician or to the hospital or other facility in which the services were provided.

The Medicare payment rate is payment in full for physicians who elect to participate in the demonstration projects.

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### S. 2752

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Medicare Incentives Reform Act".

### STATE HEALTH CARE EFFICIENCY PROGRAMS

SEC. 2. The Social Security Act is amended by adding at the end thereof the following new title:

## "TITLE XXI—STATE HEALTH CARE EFFICIENCY PROGRAMS

### "APPLICATION FOR APPROVAL OF STATE HEALTH CARE EFFICIENCY PLANS

"SEC. 2101. (a) The chief executive officer of any State may apply to the Secretary for the approval of a health care efficiency plan for that State.

"(b)(1) The Secretary may approve a State plan for an initial period of up to thirty-six months.

"(2) The Secretary shall approve an application for a plan under paragraph (1) if the Secretary determines that the plan meets the requirements applicable to such plan under section 2102. The Secretary shall approve or disapprove the application within sixty days after the date the application is submitted.

"(3) If the Secretary does not approve a plan, the Secretary shall provide the State with a notice of the reasons why the plan may not be approved and an opportunity for a hearing on such disapproval.

### "REQUIREMENTS OF STATE HEALTH CARE EFFICIENCY PLANS

"SEC. 2102. (a) In order to be approved under this title, a State health care efficiency plan must meet the general requirements set forth in subsections (b) and (c) for all such plans and, if applicable, the requirements of subsections (d) and (e). In meeting the requirements of subsections (b) and (c), a plan may be designed in a manner that meets such requirements through a ratesetting system, a voluntary system, or through the use of competitive mechanisms described in subsection (f). A plan may be designed to meet the requirements through different systems or mechanisms for different areas or hospitals within a State.

"(b)(1) A State health care efficiency plan must be designed to limit the rate of increase in the total revenues for inpatient hospital services for all hospitals in the State for each twelve-month period in which the plan is in effect.

"(2)(A) For purposes of this section—

"(i) except as provided in clause (ii), in determining the revenues for inpatient hospital services of a hospital there shall be included all revenues (whether received by or through the hospital or any other entity) paid respecting inpatient hospital services provided to any individual by the hospital;

"(ii) there shall be excluded from revenues for inpatient hospital services amounts paid in philanthropy or under research grants and contracts; and

"(iii) except as provided in subparagraph (B), there shall be excluded from revenues for inpatient hospital services provided in a hospital amounts paid for such services by eligible organizations;

"(iv) in establishing the base from which revenues are computed under a State plan established pursuant to this title for the first twelve-month period in which such plan is in effect, there shall be taken into account any reductions which would have otherwise been effected under subparagraphs (E) and (F) of section 1886(d)(5) for portions of hospital accounting periods occurring during that period.

"(B) In the case of a State at least 50 per centum of the population of which is enrolled with an eligible organization, clause (iii) of subparagraph (A) shall not apply and there shall be included (in computing revenues under State health care plans) the revenues paid by eligible organizations for inpatient hospital services.".

"(C) The plan may, with the approval of the Secretary, exempt revenues of hospitals from limits under the plan if—

"(i) the exemption is necessary to facilitate an experiment or demonstration entered into under section 1115 of title XI or section 402 of the Social Security Amendments of 1967; and

"(ii) the experiment or demonstration is not inconsistent with the purposes of this title.

"(3)(A) A plan established by a State under this title must be designed to provide, to the satisfaction of the Secretary, that, for any twelve-month period for which the plan is in effect—

"(i) the total amount paid under part A of title XVIII for inpatient hospital services provided under such plan to individuals entitled to benefits under such part may not exceed the total amount paid to all hospitals in such State for such services under section 1886 during the twelve-month period immediately preceding the first twelve-month period for which the plan is in effect; increased by the sum of (I) the compounded sum of the percentage limits computed under subsection (b)(3)(B) of such section (without regard to subsections (d) and (e) of such section) for that twelve-month period and all preceding twelve-month periods for which the plan was in effect, (II) one-half percent for that period and all preceding twelve-month periods for which the plan was in effect, and (III) the estimated percentage increase during such preceding twelve-month periods in the number of individuals residing in such State who are entitled to benefits under such part; adjusted to reflect the reductions which would have otherwise been effected under subparagraphs (E) and (F) of section 1886(d)(5) with respect to hospitals in such State during that twelve-month period and all preceding twelve-month periods for which the plan was in effect; and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such State of any changes during such preceding twelve-month periods in the age distribution of individuals residing in such State who are entitled to benefits under such part; and

"(ii) the total amount paid under part A of title XVIII for capital-related costs of inpatient hospital services provided in such State for a twelve-month period may not exceed the amount which would be payable to all hospitals in such State under section 1886(g) for such costs for such period if such plan were not in effect.

"(B) A plan (other than a plan providing for the establishment of rates of hospital reimbursement for hospital inpatient services) may provide that payment under title XVIII for inpatient hospital services shall continue to be made in the amounts and in the manner otherwise provided under such title.

"(c)(1) The plan must have a mechanism for providing fair hearings for hospitals and any other entities aggrieved by determinations made under the plan.

"(2) The plan must assure that hospitals continue to meet Federal and State certification standards for quality of care.

"(3) The plan must provide for a method of assuring that hospitals do not engage in an admissions practice that results in—

"(A) a refusal to admit a patient because the patient is unable to pay for inpatient hospital services provided by the hospital or with respect to whom payment is (or is likely to be) less than the anticipated charges for or costs of services provided to the patient; or

"(B) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services.

"(4) The plan must provide for a method of allocating among the hospitals in the State the amount payable under part A of title XVIII with respect to the capital-related costs of inpatient hospital services.

"(5) The plan must provide for a program of hospital utilization control with respect to all inpatient hospital services for which payment is made under such part (including any services for which payment is made in accordance with paragraph (6)).

"(6)(A) A plan shall provide that unreimbursed costs incurred by hospitals in providing inpatient hospital services to patients (other than patients who are entitled to benefits under part A of title XVIII or to medical assistance under a State plan approved under title XIX) who are of low income and are uninsured or underinsured (as defined by the Secretary) shall be paid through distribution of funds pooled at the statewide level or through another method approved by the Secretary. Payment of amounts to hospitals in a State under the previous sentence must be allocated among payors for inpatient hospital services (including eligible organizations) in a manner that reflects the relative proportion of the payments for such services that are made by that payor (or class of payor), and shall be allocated among hospitals in proportion to the share of unreimbursed inpatient hospital services provided by the hospital.

"(B) The amount provided to cover such unreimbursed costs (after reasonable efforts to collect debts) must, in the aggregate, be the same proportion of total revenues for inpatient hospital services (including revenues from philanthropic payments and other sources of revenues other than revenues relating to research grants and contracts) as such unreimbursed costs are of total costs of inpatient hospital services.

"(7) The plan must provide for such reports to the Secretary as the Secretary may require in order properly to review assurances provided under this section and the operation of the plan.

"(8) The plan must permit eligible organizations in the State to negotiate directly with hospitals with respect to the rate of payment for inpatient hospital services provided by such organizations.

"(d) To the extent that the plan provides for meeting the requirements of subsections (b) and (c) through a system which provides for the establishment of rates for hospital reimbursement for inpatient hospital services by an entity other than the hospital, the plan must meet the following additional requirements:

"(1) Except as provided in paragraph (2), the plan must be designed and administered in a manner that provides equitable treatment under the plan of all entities that pay for inpatient hospital services under the plan, of employees of hospitals, and of patients receiving such services.

"(2)(A) If the plan is established under State law, the plan must take into account (whether on a per diem, per discharge, or other basis) the proportion of costs associated with, and services covered by, the different payors, including payments under titles XVIII and XIX of this Act, and may not permit undue shifting of proportions of costs among the different payors. Where there are large disparities among private payors in the amounts paid, the plan may provide for elimination of the differences in payment amounts among such payors over a period of time.

"(B) The plan may not make available any discount in price to any purchaser unless—

"(i) the discount is in an amount which accurately reflects identifiable and measurable economic benefits to that hospital resulting from a service or reimbursement arrangement with that purchaser, and

"(ii) the discount is made available to all other purchasers who can satisfy such service or reimbursement arrangement.

"(3) The plan must provide a procedure whereby, upon the request of a hospital, an adjustment can be considered to the rate limitation applicable under the plan to that hospital to reflect—

"(A) a significant change in the capacity or character of the inpatient hospital services available in the hospital or a major renovation or replacement of physical plant which has been approved by the State health planning and development agency or the State planning agency designated for purposes of section 1122(b), if either such agency exists;

"(B) funds necessary to provide for the efficient operation of the hospital if the hospital (i) is a sole community hospital or provides a disproportionate percentage of its services, in comparison with facilities of similar size and urban or rural location, to low-income patients, (ii) would otherwise be insolvent, and (iii) should be maintained in the judgment of the State health planning and development agency (or other appropriate State agency); and

"(C) higher expenses associated with the special needs and circumstances (including greater intensity of care) of the hospital because it is a regional tertiary care institution, teaching hospital, public hospital, or children's hospital,

but only if any change due to which the adjustment is sought is not inconsistent with any applicable State health plan approved by the State health planning and development agency.

"(e)(1) A health care efficiency plan approved under section 2101 for any twelve-month period beginning after June 30, 1988, may include a program for limiting the amounts payable by all payors for physician's services provided in such State during such period. Such program may employ a relative value scale and a fee schedule for such services or an alternative method for constraining the costs of physicians' services approved by the Secretary.

"(2) A plan imposing limits on the amounts payable with respect to physicians' services must be designed to provide, to the satisfaction of the Secretary, that, for any twelve-month period for which the plan is in effect, the total amount paid under part B of title XVIII for physicians' services provided under such plan to individuals enrolled under such part may not exceed the total amount paid to all physicians in such State for such services under such part during the twelve-month period immediately preceding the first twelve-month period for which the plan is in effect, increased or decreased by the sum of (i) the compounded sum of the percentage increases and decreases computed under section 1845(b)(3)(A)(i) for that period and all preceding twelve-month periods for which the plan was in effect, and (ii) the estimated percentage increase or decrease during such preceding twelve-month periods in the number of individuals residing in such State who are enrolled under such part, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such State of any changes during such preceding twelve-month periods in the age distribution of individuals residing in such State who are enrolled under such part.

"(3) If a State proposes to limit the amounts payable for physicians' services for a twelve-month period in accordance with this subsection, and such limitations are to become effective with respect to a twelve-month period other than the first twelve-month period for which the plan of such State for controlling the cost of inpatient hospital services becomes effective, the Secretary shall treat the program of such State for limiting the amounts payable for physicians' services as a separate plan for purposes of applying the provisions of section 2103.

"(f) If the plan provides for control of the cost of inpatient hospital services in whole or in part through a competitive mechanism, the Secretary shall, in reviewing the plan, take into account the degree to which the plan provides for the following or other measures to improve price competition among providers:

"(1) The plan provides for the establishment of one or more open enrollment periods permitting eligible individuals to elect to enroll, disenroll, or change the type of enrollment with private or public health benefits plans (whether providing prepaid care or otherwise).

"(2) The plan provides for the dissemination of such information concerning different health benefits plans (including benefit structure and premiums) to individuals eligible to enroll with the health benefits plans as may encourage informed decisionmaking and competition in price among the plans.

"(3) The plan encourages innovation and public incentives to new forms of health care delivery and financing.

"(4) There are negotiated prices and risk-sharing between insurers and health care providers.

"(5) The laws of the State do not impose legal barriers to competition in negotiated and other arrangements among insurers and health care providers.

### "REAPPROVAL OF STATE PLANS, COMPLIANCE, INCENTIVES, AND TECHNICAL ASSISTANCE

"Sec. 2103. (a)(1) The Secretary shall annually review the compliance of each plan approved under this title with the applicable requirements of section 2102.

"(2) If the Secretary determines that a State has not complied with such requirements for the first or second twelve-month period in an initial period (as described in section 2101(b)(1)), the Secretary may continue approval of the plan for the following twelve-month period only if the chief executive officer of the State presents a credible plan for assuring that the State will be in compliance with such requirements for the thirty-six-month period beginning with the first date on which the plan is in effect.

"(3) If the Secretary determines that a State has not complied with such requirements for such thirty-six month period, or any twelve-month period beginning after such period, the Secretary may (taking into account the degree of noncompliance and other relevant factors)—

"(A) approve the plan of such State for an additional period or periods,

"(B) condition such approval upon the fulfillment by such State of such conditions as the Secretary determines to be necessary to bring such plan into compliance with such requirements, or

"(C) disapprove such plan.

"(b)(1) In the case of any State with a plan approved under section 2101 for any twelve-month period—

"(A) the provisions of section 1886 shall not apply to hospitals in such State for accounting periods (or portions thereof) to which such plan applies;

"(B) the Secretary shall waive limitations (other than those relating to beneficiary cost sharing and those imposed under section 1866(a)(4)) imposed under part A of title XVIII upon the amount, and manner, of payment to such hospitals under such part for inpatient hospital services furnished in such State during the twelve-month period; and

"(C) for purposes of making payments to such State under section 1903 (and notwithstanding any other provision of title XIX), the Federal medical assistance percentage for such State, for each calendar quarter ending in any twelve-month period in which the plan is in effect, shall be 102 per centum of the amount of the Federal medical assistance percentage otherwise determined under section 1905(b).

"(2) If such plan imposes limitations on the amounts payable with respect to physicians' services for such twelve-month period in accordance with section 2102 (e)—

"(A) the provisions of section 1845 shall not apply to physicians' services provided in such State during such period;

"(B) the Secretary shall waive limitations (other than those relating to beneficiary cost sharing and those requiring payment for physicians' services to be made only on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1)) imposed under such part upon the amount, and manner, of payment to physicians under such part for physicians' services furnished in such State during such twelve-month period; and

"(C) notwithstanding subparagraph (C) of paragraph (1), for purposes of making payments to such a State under section 1903 (and notwithstanding any other provision of title XIX), the Federal medical assistance percentage for such State, for each calendar quarter ending in any twelve-month period in which the plan is in effect, shall be 103 per centum of the amount of the Federal medical assistance percentage otherwise determined under section 1905(b).

"(c)(1) The Secretary, upon request of the chief executive officer of a State, may provide technical assistance to the State in the preparation of a plan for approval under this title.

"(2) The National Center for Health Services Research of the Department of Health and Human Services shall develop and implement a program for educating and advising State officials, business groups, and other payors with respect to the alternative approaches available to States desiring to establish a health care efficiency plan in accordance with this title.

### "DEFINITIONS

"Sec. 2104. For purposes of this title:

"(1) The term 'hospital' means, with respect to any period, an institution that satisfied paragraphs (1) and (7) of section 1861(e) of this Act during all of the period, but does not include any such institution if it—

"(A) does not impose charges or accept payments for services provided to patients,

"(B) is a Federal institution during any part of the period,

"(C) is a psychiatric hospital (as described in section 1861(f)(1) of this Act), a rehabilitation hospital (as defined for purposes of section 1886(d)(1)(B)(ii) of this Act), a hospital whose inpatients are predominantly individuals under 18 years of age, or a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days, or

"(D) derives 75 per centum or more of its inpatient revenues from one or more eligible organizations during the preceding twelve months.

"(2) The term 'inpatient hospital services' has the meaning given such term in section 1861(b) of this Act.

"(3) The term 'State health planning and development agency' means, for a hospital, the agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located.

"(4) The term 'eligible organization' has the meaning given such term in section 1876(b).".

### MEDICARE PAYMENT PROVISIONS

Sec. 3. (a)(1) Section 1886(b)(3)(B) of the Social Security Act is amended—

(A) by striking out "1 percentage point plus"; and

(B) by inserting "(plus 1 percentage point in the case of cost reporting periods beginning before October 1, 1985)" after "fiscal year" the third place it appears.

(2) Section 1886(d)(3)(A) of such Act is amended—

(A) by inserting "and each fiscal year thereafter" after "fiscal year 1985"; and

(B) by striking out "and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4),".

(3) Paragraphs (4) and (5) of section 1886(e) of such Act are repealed.

(b)(1) Section 1886(d)(5) of such Act is amended by adding at the end thereof the following new subparagraph:

"(E)(i) If the total number of discharges of individuals entitled to benefits under part A for all hospitals in a medical service area (as defined by the Secretary) during a twelve-month period exceeds the sum of the adjusted base number of discharges for all such hospitals in such area for such period, the Secretary shall make such adjustment in the payments to a hospital under paragraph (1) as may be necessary to provide that, to the extent that the number of individuals discharged from a hospital during a twelve-month period who are, on the date of discharge, entitled to benefits under part A of this title exceeds the adjusted base number of discharges for such hospital for such period determined under clause (ii), the payments per discharge to such hospital shall be equal to 50 per centum of the payments per discharge otherwise provided under this subsection (other than under this subparagraph).

"(ii) For purposes of clause (i), the adjusted base number of discharges for a hospital for a twelve-month period is equal to the number of individuals discharged from such hospital during the accounting period of such hospital ending in calendar year 1983 (or, if higher, the average of the total number discharges of such hospital for such accounting period and the total number of discharges of such hospital for each of the two preceding accounting periods) who were, on the date of discharge, entitled to benefits under part A of this title, increased by a percentage equal to the estimated percentage increase, during the period between the last day of the accounting period of such hospital ending in calendar year 1983 and the first day of the twelve-month period for which adjustment is to be made under clause (i), in the number of individuals residing in the medical service area in which the hospital is located who are entitled to benefits under such part, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of inpatient hospital services in such area of any changes during such period in the age distribution of individuals residing in such area who are entitled to benefits under such part.

"(iii) The Secretary may by regulation provide for a higher percentage than the percentage specified in clause (i) in those cases where the Secretary determines that the increase in the number of discharges from a hospital is extraordinary and is due to circumstances beyond the hospital's control, or is required to improve access to care.".

(2) Section 1886(e)(1) of such Act is amended—

(A) by inserting "and shall not take into account any adjustment made under subsection (d)(5)(E)" before the period at the end of subparagraph (A), and

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon and the following:

"except that the adjustment made under this subparagraph shall not take into account any adjustment made under subsection (d)(5)(E).".

(3)(A) The amendments made by this subsection shall become effective on the date which is 90 days after the date of the enactment of this Act and shall apply to discharges occurring on or after such date.

(B) In the case of a hospital cost reporting period which begins before the effective date of this subsection, and ends after such date, the Secretary of Health and Human Services shall provide that the amendments made by this subsection shall apply to such a period in such a prorated manner as to be consistent with subparagraph (A).

(c)(1) Section 1886(d)(5) of such Act, as amended by subsection (b) of this section, is further amended by adding at the end thereof the following new subparagraph:

"(F)(i) On or before January 1, 1986, the Secretary shall—

"(I) determine the diagnosis-related groups (or aggregations of such groups) within which the greatest number of hospital discharges for which payment may be made under this section are classified in the United States during the twelve-month period ending September 30, 1985;

"(II) rank the diagnosis-related groups and aggregations of such groups described in subclause (I) according to the degree of variation among hospital service areas in such State in the percentage of individuals entitled to benefits under part A who are discharged from a hospital during such period and classified within such group; and

"(III) disseminate information with respect to the determinations and rankings made pursuant to subclauses (I) and (II) to physicians and the general public.

"(ii) On or before January 1, 1987, the Secretary shall determine the maximum number of discharges in a State for diagnosis-related groups and aggregations of such groups ranked pursuant to clause (i)(II) (beginning with those groups and aggregations with the highest variability in per capita discharge rates) for the twelve-month period beginning January 1, 1987, and each twelve-month period thereafter, for which full payment may be made under this section.

"(iii)(I) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1987, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregation of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1987, equals one percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(II) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for a State for the twelve-month period beginning January 1, 1988, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregation of such groups in such State in the twelve-month period specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1988, equals two percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(III) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1989, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1989, equals three percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(IV) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1990, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period beginning January 1, 1990, equals four percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(V) The maximum number of discharges for a State for such a diagnosis-related group or aggregation of such groups for the twelve-month period beginning January 1, 1991, and each twelve-month period thereafter, shall be equal to the number obtained by subtracting from the total number of discharges in such diagnosis-related group or aggregations of such groups in such State in the twelve-month specified in clause (i) a number of discharges, which when added to the total number of all other discharges subtracted pursuant to this subclause for diagnosis-related groups and aggregations of such groups for such State for the twelve-month period for which the determination is made, equals five percent of the total number of discharges for which payment was made under this section for the twelve-month period specified in clause (i).

"(iv) The Secretary may provide for an increase in the maximum number of discharges determined under clause (iii) for a State for a diagnosis-related group or aggregation of such groups for any twelve-month period if the Secretary determines that the health status of the individuals in such State who are entitled to benefits under part A warrants such increase.

"(v)(I) On or before January 1 of each year beginning after December 31, 1986, the utilization and quality control peer review organization (or organizations) in a State shall, in accordance with procedures prescribed by the Secretary, allocate among hospitals in the State the number of discharges computed with respect to a diagnosis-related group or aggregation of such groups in such State for the twelve-month period beginning on January 1 of such year.

"(II) The amount payable for hospital discharges classified within a diagnosis-related group or aggregation of such groups for a twelve-month period which are in excess of the number of discharges within such group or aggregation that are allocated to a hospital for such period pursuant to subclause (I) of this clause shall be equal to 50 percent of the amount that would be payable with respect to such discharge under this section but for this subparagraph."

(d)(1) Section 1886(g) of such Act is amended to read as follows:

"(g)(1) Notwithstanding section 1814(b), and except as provided in paragraphs (2) and (3), there shall be paid with respect to inpatient hospital services of a subsection (d) hospital (as defined in subsection (d)(1)(B)) for inpatient hospital discharges in a cost reporting period beginning on or after January 1, 1986, an additional amount equal to the product of the amount payable under such subsection with respect to such discharge and the capital-related cost percentage determined under subparagraph (B) of paragraph (4) of this subsection.

"(2) Notwithstanding paragraph (1), the additional amount payable to a subsection (d) hospital under this subsection for inpatient hospital services for cost reporting periods beginnng after December 31, 1985, and before January 1, 1990, shall equal—

"(A) for services provided during cost reporting periods beginning after December 31, 1985, and before January 1, 1987, an amount equal to the sum of (i) an amount equal to 80 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 20 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph;

"(B) for services provided during cost reporting periods beginning after December 31, 1986, and before January 1, 1988, an amount equal to the sum of (i) an amount equal to 60 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 40 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph;

"(C) for services provided during cost reporting periods beginning after December 31, 1987, and before January 1, 1989, an amount equal to the sum of (i) an amount equal to 40 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 60 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph; and

"(D) for services provided during cost reporting periods beginning after December 31, 1988, and before January 1, 1990, an amount equal to the sum of (i) an amount equal to 20 percent of the amount that would have been payable with respect to the capital-related costs of such service under section 1814(b) (as such section was in effect on the day before the date of the enactment of this Act) and (ii) an amount equal to 80 percent of the amount that would be payable with respect to such service under paragraph (1) of this subsection but for this paragraph.

"(3)(A) If a subsection (d) hospital can demonstrate to the Secretary that the capital-related cost percentage determined under paragraph (4)(B) would have to be increased by at least two full percentage points for a cost-reporting period to permit such hospital to pay interest, principal, and lease obligations for such period with respect to a capital project for which a certificate of need has been approved, the Secretary shall provide for an additional payment for such period in an amount which, when added to the amount which would have been paid to such hospital if such percentage had been increased by two percentage points, would equal the total cash needs of such hospital with respect to interest, principal, and lease obligations for such project for such period. Additional payments shall be made to a hospital pursuant to the preceding sentence only if the hospital agrees to corresponding reductions in future payments to such hospital under this subsection. In determining the cash needs of a hospital with respect to a capital expenditure, the Secretary shall take into account the utilization and occupancy level with respect to the facility constructed or improved with the capital expenditure.

"(B) The Secretary may require, as a condition for the making of additional payments or adjustments in the payment schedule under subparagraph (A) that a hospital must refinance loans related to capital expenditures, if such financing is reasonably available.

"(4) For purposes of this subsection—

"(A) the term 'capital-related costs of inpatient hospital services' shall have the meaning given to such term by the Secretary for purposes of subsection (a)(4); and

"(B) the term 'capital-related cost percentage' means the ratio (expressed as a percentage) of—

"(i) the average of—

"(I) the total of the amounts paid to all subsection (d) hospitals in the United States under part A with respect to the capital-related costs of inpatient hospital services, in the most recently completed twelve-month period ending prior to the date of the enactment of the Medicare Incentives Reform Act for which adequate information is available, excluding amounts paid with respect to return on equity, and amounts paid with respect to capital-related costs resulting from the valuation of hospital assets in amounts exceeding the book value (acquisition cost minus depreciation) of such assets to the prior owner, and adjusted to reflect the capital-related costs of providing inpatient hospital services to individuals entitled to benefits under part A relative to the capital-related costs of providing such services to all other individuals;

"(II) the total of such amounts for the first twelve-month period preceding the twelve-month period described in subclause (I) (determined in accordance with the methodology specified in such subclause); and

"(III) the total of such amounts for the second twelve-month period preceding the twelve-month period described in subclause (I) (determined in accordance with the methodology specified in such subclause); to

"(ii) the average of—

"(I) the total of the amounts paid to all such hospitals in the United States under such part for inpatient hospital services and such costs for the twelve-month period described in subclause (I) of clause (i);

"(II) the total of the amounts paid to all such hospitals under such part for inpatient hospital services and such costs for the first twelve-month period preceding the twelve-month period described in such subclause; and

"(III) the total of the amounts paid to all such hospitals under such part for inpatient hospital services and such costs for the second twelve-month period preceding the twelve-month period described in such subclause.".

(2)(A) Section 1886(a)(4) of such Act is amended by striking out ", with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986,".

(B) Section 1886(b)(3)(B) of such Act is amended by striking out "but excluding nonoperating costs" and inserting in lieu thereof "and including appropriately weighted capital costs".

(C) Section 1886(d)(3)(B) of such Act is amended—

(i) by inserting "and certain additional capital payments" after "outlier payments",

(ii) by inserting before the period at the end the following: "and shall further reduce the amounts by a proportional amount necessary to offset the amount of the additional payments described in subsection (g)(3)".

### PHYSICIAN REIMBURSEMENT

SEC. 4. (a)(1) Section 1866(a)(1) of the Social Security Act is amended by striking out "Any provider" and inserting in lieu thereof "Subject to paragraph (4), any provider".

(2) Section 1866(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(4)(A) A hospital shall be qualified to participate under this title and shall be eligible for payments under this title only if it provides (in the agreement filed with the Secretary under paragraph (1)) that any physician who—

"(i) is on the medical staff of the hospital (courtesy or otherwise), and

"(ii) furnishes services for which payment may be made under part B to inpatients of the hospital,

must enter into an agreement described in subparagraph (B) in a manner established by the Secretary.

"(B) A physician's agreement referred to in subparagraph (A) is an agreement by the physician not to impose any charge or receive payment for any physicians' services which are provided to any inpatient in the hospital for which payment may be made under part B except on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1).".

(3) Section 1866(b)(2) of such Act is amended by inserting before the period at the end thereof the following:

", or (H) that such provider (in the case of a hospital) is not complying with the provisions of the agreement specified in subsection (a)(4)".

(b) Section 1842(b) of such Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for the twelve-month period beginning July 1, 1985, the Secretary shall not set any level higher than the same level as was set for the period beginning July 1, 1984.

"(B) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services for periods beginning after June 30, 1986, the Secretary shall treat the level set under subparagraph (A) as having fully provided for the economic changes that would have been taken into account but for the limitation contained in such paragraph.".

(c) Section 1842 of such Act is further amended by adding at the end thereof the following new subsections:

"(i)(1) The Secretary shall compile annually a list of physicians serving individuals enrolled under this part, indicating with respect to each such physician—

"(A) the specialty practice (if any) of such physician;

"(B) the total number of bills paid under this part for physicians' services (other than services provided to hospital inpatients) provided to such individuals by such physician in the preceding year; and

"(C) the share (by percentile intervals not to exceed deciles) of such bills for which such physician has agreed to accept payment on the basis of an assignment described in subsection (b)(3)(B)(ii)) or an arrangement described in section 1870(f)(1).

"(2) No more than six months after the end of each year, the Secretary shall make available in each district office of the Social Security Administration and, upon request, by mail from each carrier, the information compiled under paragraph (1) for the local geographic area or areas served by the office or the carrier. Such information shall be organized by specialty practice to the extent practicable. The Secretary shall, when such information becomes available, annually notify each individual enrolled under this part of the availability of such information.

"(j)(1) On or before June 30 of each year the Secretary shall publish a list of all physicians who have agreed in accordance with this subsection to accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii) or an arrangement described in section 1870(f)(1) for all physicians' services (other than services provided to hospital inpatients) furnished under this part during the twelve-month period beginning on July 1 of such year to individuals enrolled under this part.

"(2) To permit the publication of the list provided under paragraph (1), the Secretary shall, before the beginning of each such twelve-month period, offer physicians a reasonable opportunity to sign an agreement that they will accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii) or an arrangement described in section 1870(f)(1) for all physicians' services furnished under this part (other than services provided to hospital inpatients) during that twelve-month period to individuals enrolled under this part.

"(3) The Secretary shall make available to individuals enrolled under this part in each local geographic area during a twelve-month period described in paragraph (1) a list of physicians in that area who have signed an agreement under this subsection for such twelve-month period.

"(k) The Secretary shall develop and conduct a nationwide multimedia program to inform individuals enrolled under this part and members of the general public of the nature of the assignment described in subsection (b)(3)(B)(ii) and the arrangement described in section 1870(f)(1) and the manner of implementing such assignments and arrangements.

"(l) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, and (if available) the telephone numbers of physicians who have signed an agreement with the Secretary under subsection (j).

"(m) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the direct transmission to such carrier of bills for physicians' services, such carrier shall (with the approval of the Secretary and subject to such conditions as the Secretary may by regulation prescribe) make such system available during a twelve-month period only to physicians who have signed an agreement with the Secretary under subsection (j) for such period.".

(d) Section 1861(q) of such Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The term 'physicians' services' does not include professional services performed by a physician who fails to take reasonable steps to notify individuals enrolled under part B, prior to the provision of such services, of whether the physician will accept payment for physicians' services (other than services provided to hospital inpatients) on the basis of an assignment described in section 1842(b)(3)(B)(ii) or an arrangement described in section 1870(f)(1).".

(e) Effective July 1, 1988—

(1) section 1833 of such Act is amended by adding at the end thereof the following new subsection:

"(k) No payment may be made under this part for physicians' services provided during any twelve-month period by a physician who has not entered into an agreement under section 1866 (a)(4) with respect to services for which payment may be made under this part provided by such physician to hospital inpatients during such period and an agreement under section 1842(b)(3)(G), with respect to any other physicians' services for which payment may be made under this part provided by such physician during such period."; and

(2) section 1842(b) of such Act is amended—

(A) in paragraph (3)—

(i) by inserting "and" after the semicolon at the end of subparagraph (F); and

(ii) by inserting after subparagraph (F) the following new subparagraph:

"(G) will take such action as may be necessary to assure that, where payment under this part for a physicians' service (other than a service subject to an agreement under section 1866(a)(4)) is on a fee basis, no payment will be made under this part for such service unless the physician providing such service has signed an agreement with the carrier not to impose any charge or receive payment for any such service except on the basis of an assignment described in clause (ii) of subparagraph (B) or an arrangement described in section 1870(f)(1);"; and

(B) by striking out paragraph (4) (as added by subsection (b) of this section) and redesignating paragraphs (5) through (7) (as redesignated by subsection (b) of this section) as paragraphs (4) through (6), respectively; and

(3) section 1842 of such Act is further amended by striking out subsections (i), (j), (k), (l), and (m).

### RELATIVE VALUATION OF PHYSICIANS' SERVICES

SEC. 5. (a) On or before July 1, 1987, the Institute of Medicine of the National Academy of Sciences (hereafter in this section referred to as the "Institute"), or another appropriate nonprofit private entity selected by the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") in accordance with subsection (e), shall develop a relative value scale for physicians' services and shall submit a report to the Secretary and the Congress with respect to such relative value scale.

(b) In developing the relative value scale described in subsection (a), the Institute or such other entity shall appoint, and take into account the recommendations of, a committee comprising physicians and representatives of the Health Care Financing Administration, the Prospective Payment Assessment Commission, the Office of Technology Assessment, nonprofit and commercial health-care insurance organizations, health maintenance organizations, business, labor, biomedical and health services research organizations, persons with knowledge of health-care finance, health-care economics, or health-care reimbursement, and persons with knowledge of consumer preferences and needs. One-half of the members of the Committee shall be physicians.

(c)(1)(A) In developing the relative value scale described in subsection (a), primary consideration shall be given to the relative time necessary to provide a service. Investment in professional training, the intensity of effort and degree of skill necessary to provide the service, the efficacy of the service, and overhead and personnel expenses associated with providing the service shall also be taken into account in the development of such scale.

(B) Consideration shall also be given to the redefinition of payment units from narrow procedures to more comprehensive aggregations of physicians' services.

(C) Consideration shall also be given to the following health-care objectives:

(i) encouraging physicians to provide more primary and preventive care; and

(ii) encouraging physicians to provide physicians' services in the least costly manner and setting.

(2) If the Institute or such other entity determines that it is impracticable to evaluate and assign relative values to all physicians' services on or before July 1, 1987, the Institute or such entity shall evaluate and assign values to those services for which payment is most frequently made under part B of title XVIII of the Social Security Act and those services for which the Institute or such entity determines that the amounts currently paid under such part greatly exceed or fall below the relative value of such service, and shall assign provisional values to other services.

(d) The report required by subsection (a) shall also include recommendations with respect to—

(1) the manner and frequency of updating the relative value scale developed in accordance with such subsection, and

(2) the advisability of a national fee schedule for physicians' services.

(e) The Secretary shall enter into a contract with the Institute to develop the relative value scale described in subsection (a) and to submit the report required by such subsection. If the Institute is unwilling to enter into such a contract, the Secretary shall enter into a contract with another nonprofit private entity which the Secretary determines is qualified to carry out the terms of such contract (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competitive bidding).

(f) For purposes of this section—

(1) the term "physicians' services" means physicians' services (as defined in section 1861(q) of the Social Security Act) for which payment may be made under section 1833(a)(1) of such Act; and

(2) the term "physician" shall have the meaning given to such term in section 1861(r) of such Act.

### FEE SCHEDULES FOR PHYSICIANS' SERVICES

SEC. 6. (a) Part B of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

### "FEE SCHEDULES FOR PHYSICIANS' SERVICES

"SEC. 1845. (a)(1) Taking into account the factors set forth in section 5 of the Medicare Incentives Reform Act, and the recommendations contained in the report submitted pursuant to such section, the Secretary shall establish a relative value scale for physicians' services on or before July 1, 1988, assigning to each such service a weighting factor that reflects the value of such service compared with the value of all other physicians' services.

"(2) The Secretary shall adjust the relative value scale established and the weighting factors assigned under paragraph (1), from time to time, to reflect changes in treatment patterns, technology, and other factors that may change the relative value of physicians' services.

"(b)(1) The Secretary shall establish for each carrier service area for each twelve-month period beginning after June 30, 1988—

"(A) a fee schedule for physicians' services for which payment may be made under this part that are provided during such period in urban areas located within such carrier service area; and

"(B) a fee schedule for physicians' services for which payment may be made under this part that are provided during such period in rural areas located with such carrier service area.

"(2) In establishing fee schedules for a carrier service area for a twelve-month period under paragraph (1), the Secretary shall take into account the estimated volume of each such service to be provided in such carrier service area during such period, the weighting factor assigned to such service for such period, and differences in the costs of medical office overhead for urban and rural areas of such carrier service area, and shall adjust the amount of the fee established for each such service to assure that the total amount payable under this part for physicians' services provided in such carrier service area during such period will not exceed the cap amount for such carrier service area for such period.

"(3) For purposes of this subsection—

"(A) the term 'cap amount' means, with respect to any carrier service area for any twelve-month period beginning after June 30, 1988, an amount equal to the total amount paid under this part for physicians' services provided in such carrier service area during the twelve-month period immediately preceding such twelve-month period, increased or decreased by (i) the estimated percentage increase or decrease in the Consumer Price Index (all services—United States city average) in such preceding twelve-month period as compared to the second-preceding twelve-month period (as determined by the Secretary after consultation with the Commissioner of Labor Statistics), and (ii) the percentage increase or decrease in the number of individuals in such carrier service area who are entitled to benefits under this part in such preceding twelve-month period as compared to such second preceding twelve-month period, and further adjusted (in accordance with regulations prescribed by the Secretary) to take into account the effect upon the utilization of such services in such carrier service area of any changes during such preceding twelve-month period in the age distribution of individuals residing in such carrier service area who are entitled to benefits under this part;

"(B) the term 'urban area' means the area within a Standard Metropolitan Statistical Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under section 1886(a);

"(C) the term 'rural area' means any area other than an urban area; and

"(D) the term 'costs of medical office overhead' means expenses incurred by a physician (other than expenses incurred for professional services and fees) associated with the provision of physicians' services.

"(c)(1)(A) Notwithstanding subsections (a) and (b), the Secretary shall establish a separate fee schedule (or schedules) for physicians' services provided during any twelve-month period beginning after June 30, 1988, in a State or tertiary medical service area for which a physicians' services agreement under this subsection is in effect.

"(B)(i) Except as provided in clause (ii), the Secretary shall employ the methodology described in paragraph (2) of subsection (b) in establishing a fee schedule (or schedules) for a State or tertiary medical service area for a twelve-month period pursuant to subparagraph (A).

"(ii) In establishing a fee schedule for a State or tertiary medical service area for a twelve-month period pursuant to subparagraph (A), the Secretary shall—

"(I) apply the relative value scale, weighting factors, and urban-rural medical office overhead differential specified for such period in the physicians' services agreement in effect for such State or tertiary medical service area for such period; and

"(II) in determining the cap amount for such State or tertiary medical service area, substitute 'State or tertiary service area' for 'carrier service area' each place it appears in subsection (b)(3)(A).

"(2)(A) For purposes of paragraph (1), the term 'physicians' services agreement' means, with respect to any State or tertiary medical service area, an agreement entered into by the Secretary and a qualified physicians' services organization for such State or tertiary medical service area which provides that—

"(i) the Secretary will make no payment under this part for physicians' services provided in such State or tertiary medical service area during any twelve-month period for which such agreement is in effect by a physician who is not a member of such organization for such period;

"(ii) the total payments made under this part for physicians' services provided in such State or tertiary medical service area for a twelve-month period for which such agreement is in effect (other than amounts paid with respect to deductibles pursuant to section 1833(l)) will not exceed an amount, specified for such period in such agreement, which is equal to or less than the cap amount determined for such State or tertiary medical service area for such period in accordance with subsection (b)(3)(A) and paragraph(1)(B)(ii)(II) of this subsection;

"(iii) the Secretary will pay to any physician providing physicians' services for which payment may be made under this part pursuant to such agreement an amount equal to 100 percent of the fee established for any such service and collect any deductible applicable to such service in accordance with section 1833(l);

"(iv) the fee schedules for such State or tertiary medical service area for a twelve-month period for which such agreement is in effect shall be established in accordance with a relative value scale, weighting factors, and urban rural medical office overhead differential specified for such period in such agreement;

"(v) the Secretary will adjust, in a manner specified in such agreement, the amounts paid for physicians' services provided pursuant to such agreement during any twelve-month period with respect to which the Secretary estimates that total payments under this part pursuant to such agreement will, unless such adjustments are made, exceed the amount specified for such period in such agreement pursuant to clause (ii); and

"(vi) in the case of the first agreement entered into by the Secretary and a qualified physicians' services organization for a State or tertiary medical service area, such agreement will be effective for such State or tertiary medical service area for a period of not less than thirty-six months.

"(B) For purposes of subparagraph (A), the term 'qualified physicians' services organization' means, with respect to any State or tertiary medical service area, an organization that—

"(i) represents not less than 55 percent of the total number of physicians practicing in such State or tertiary medical service area;

"(ii) is authorized by its members to enter into a physicians' services agreement with the Secretary pursuant to this subsection;

"(iii) has received from each member a written statement that such member will abide by the terms of such agreement;

"(iv) has a membership capable of providing all physicians' services for which payment may be made under this part in a timely manner to individuals enrolled under this part in such State or tertiary medical service area;

"(v) accepts new members at any time;

"(vi) provides that termination of membership in such organization by a member shall become effective 180 days after such member has requested such termination (or on such later date as the Secretary may find to be necessary to assure timely access to physicians' services in such State or tertiary medical service area); and

"(vii) provides that, as a condition of membership, a physician must sign an agreement under section 1866(a)(4) and an agreement under section 1833(l) for any twelve-month period (or portion thereof) for which such physician is a member of such organization.

"(3) A physicians' services agreement entered into pursuant to this subsection may be terminated on a date other than the date specified in the agreement—

"(A) by the qualified physicians' services organization that is a party to such agreement, at such time and upon such notice to the Secretary and the public as the Secretary may by regulation prescribe; and

"(B) by the Secretary, at such time and upon such notice to such organization and the public as the Secretary may by regulation prescribe, but only if the Secretary finds, after notice and opportunity for a hearing, that such organization has failed substantially to carry out the agreement.

"(d) Notwithstanding subsections (a), (b), and (c), the fee established with respect to any physicians' service provided in an urban or rural area of a carrier service area, State, or tertiary medical service area during a twelve-month period beginning after June 30, 1988, and before July 1, 1991, shall equal—

"(1) for services provided during the twelve-month period beginning July 1, 1988, an amount equal to the sum of (A) an amount equal to 66⅔ percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area, for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 33⅓ percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period;

"(2) for services provided during the twelve-month period beginning July 1, 1989, an amount equal to the sum of (A) an amount equal to 50 percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 50 percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period; and

"(3) for services provided during the twelve-month period beginning July 1, 1990, an amount equal to the sum of (A) an amount equal to 33⅓ percent of the reasonable charge that would have been established for such service in such carrier service area, State, or tertiary medical service area for such period under section 1842(b) (as such section was in effect on June 30, 1988) and (B) an amount equal to 66⅔ percent of the fee established with respect to such service in such carrier service area, State, or tertiary medical service area for such period.

"(e)(1) Notwithstanding subsections (a), (b), and (d), the Secretary may enter into an agreement with any organization of physicians providing physicians' services in a carrier service area for any twelve-month period beginning after June 30, 1988, under which the members of such organization will provide physicians' services during such period to individuals enrolled under this part for fees that are less than the fees established with respect to such services for such period under this section.

"(2) Notwithstanding section 1839, the Secretary shall adjust any premium and surcharge which would otherwise be applicable under such section during a twelve-month period to an individual enrolled under this part who agrees to receive physicians' services during such period only from an organization which has entered into an agreement with the Secretary under paragraph (1) for such period. The total of the adjustments made pursuant to the preceding sentence for a twelve-month period shall equal one half of the total reduction in the amounts paid with respect to physicians' services for such period on account of agreements made pursuant to paragraph (1).

"(f) Notwithstanding any other provision of law, the Secretary may limit the amounts paid under this part for physicians' services—

"(1) by altering the definition of physicians' services units in order to pay global fees for an expanded number of diagnosis-related groups;

"(2) by including payment for some physicians' services costs in amounts payable under section 1886; and

"(3) by expanding utilization controls for physicians' services, including the use of physician practice profiles and hospital preadmission screening.

"(g) For purposes of this section—

"(1) the term 'physicians' services' means physicians' services (as defined in section 1861(q) of this Act) for which payment may be made under section 1833(a)(1) of this Act;

"(2) the term 'tertiary medical service area' shall have such meaning as the Secretary may by regulation prescribe; and

"(3) the term 'carrier service area' means the region or other geographic area specified in the contract entered into by a carrier and the Secretary under section 1842(a) for which such carrier administers benefits under this part (excluding from such area any States and tertiary medical service areas located in such area for which a physicians' services agreement (as defined in subsection (c)(2)(A) of this section)) is in effect.".

(b) Effective July 1, 1988—

(1) section 1833(a) of the Social Security Act, as amended by section 7(b) of this Act, is amended—

(A) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and inserting after the matter preceding paragraph (2), as redesignated, the following new paragraph:

"(1) in the case of physicians' services (other than physicians' services for which payment may be made under paragraph (3))—100 percent of the fee established for such service under section 1845; except that (A) with respect to expenses incurred for those physicians' services for which payment may be made under this part that are described in section 1862(a)(4), the amounts paid shall be subject to such limitations as may be prescribed by regulations, (B) with respect to expenses incurred for physicians' services (furnished by a physician who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all physicians' services which are preadmission diagnostic services furnished by the physician to individuals enrolled under this part) which are preadmission diagnostic services for which payment may be made under this part and which are furnished (i) in the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital, or (ii) to the extent practicable as determined by regulations prescribed by the Secretary, in a physician's office within seven days of such individual's admission to a hospital as an inpatient, the amounts paid shall be equal to the fees established for such services under section 1845, and (C) with respect to expenses incurred for services described in subsection (i)(3) under the conditions specified in such subsection, the amounts paid shall be the fees established for such services under section 1845";

(B) in paragraph (2), as redesignated, by inserting "(other than physicians' services described in paragraph (1))" after "section 1832(a)(1)";

(C) by striking out subparagraphs (B), (E), and (F) of such paragraph and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(D) by inserting "and" before the subparagraph designation for subparagraph (B), as redesignated, of such paragraph; and

(E) in paragraph (3), as redesignated, by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)";

(2) section 1833(b)(1)(C) of such Act, as redesignated by section 7(b) of this Act, is amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(C)";

(3) section 1833(i)(3) of such Act is amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(C)";

(4) section 1833 of such Act, as amended by section 4(e)(1) of this Act, is further

amended by adding at the end thereof the following new subsection:

"(l) Notwithstanding subsections (a) and (b), in the case of a State or tertiary medical service area (as defined by the Secretary pursuant to section 1845(e)(2)) for which a physicians' services agreement (as defined in section 1845(c)(2)(A)) is in effect for a twelve-month period, the Secretary shall pay 100 percent of the fee otherwise payable under this part with respect to a physicians' service provided in such State or tertiary medical service area during such period, and the Secretary shall collect the amount of any deductible that would be payable (but for this subsection) to a physician by the individual to whom such service is provided from such individual in the manner specified in section 1870 for overpayments under this title.";

(5) section 1835(b)(1) of such Act is amended by striking out "section 1833(a)(2)" and inserting in lieu thereof "section 1833(a)(3)";

(6) section 1835(c) of such Act is amended—

(A) by striking out "section 1833(a)(1)" and inserting in lieu thereof "section 1833(a)(2)"; and

(B) by striking out "section 1833(a)(2)" and inserting in lieu thereof "section 1833(a)(3)";

(7) section 1839 of such Act is amended—

(A) in subsection (a)(1) by striking out "such enrollees." and inserting in lieu thereof "such enrollees (determined without regard to section 1845(e)).";

(B) in subsection (a)(2) by striking out "and (e)," and inserting in lieu thereof "and (e), and section 1845(e),";

(C) in subsection (f)(1), as added by section 9(a)(1)(C) of this Act, by striking out "such enrollees." and inserting in lieu thereof "such enrollees (determined without regard to section 1845(e))."; and

(D) in subsection (f)(2), as so added, by striking out "The amount" and inserting in lieu thereof "Except as provided in section 1845(e), the amount";

(8) section 1842(a) of such Act is amended—

(A) by striking out "reasonable charge" in the matter preceding paragraph (1) and inserting in lieu thereof "fee"; and

(B) by striking out "or reasonable charge" in paragraph (1) and inserting in lieu thereof ", reasonable charge, or fee";

(9) section 1842(b) of such Act, as amended by section 4(e)(2) of this Act, is further amended—

(A) in paragraph (3) by striking out all beginning with "In the case of physician services" through "economic changes." in the matter following subparagraph (F);

(B) by striking out all beginning with "Notwithstanding the provisions of the third and fourth sentences" through "June 30, 1975." in such matter;

(C) in paragraph (6) by striking out "subparagraph (C)" in the matter preceding clause (i) of subparagraph (A) and inserting in lieu thereof "subparagraph (B)";

(D) by striking out clause (ii) of such subparagraph and inserting in lieu thereof the following:

"(ii) to the extent that the amount of the payment exceeds the fees established for services under section 1845."; and

(E) by striking out subparagraph (B) of such paragraph and redesignating subparagraphs (C) and (D) of such paragraph as subparagraphs (B) and (C), respectively;

(10) section 1861(q)(2) of such Act, as added by section 4(d) of this Act, is amended to read as follows:

"(2) In the case of a State or tertiary medical service area (as defined by the Secretary pursuant to section 1845(e)(2)) for which a physicians' services agreement (as defined in section 1845(c)(2)(A)) is in effect for a twelve-month period, the term 'physicians' services' shall not include any professional services provided in such State or tertiary medical service area during such period by a physician who is not a member of a qualified physicians' services organization (as defined in section 1845(c)(2)(B)) for such State or tertiary medical service area other than physicians' services for which payment may be made under section 1833(a)(3).";

(11) section 1884(c)(4) of such Act is amended by striking out "1833(a)(2)" and inserting in lieu thereof "1833(a)(3)"; and

(12) section 1902(a)(13)(B) of such Act is amended by striking out "section 1833(a)(3)" and inserting in lieu thereof "section 1833(a)(4)".

### LIMITATION ON PATIENT COSTS

SEC. 7. (a)(1)(A) Section 1813(a) of the Social Security Act is amended—

(i) by striking out "The amount payable for inpatient hospital services furnished an individual during any spell of illness" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the amount payable for inpatient hospital services furnished an individual during any calendar year";

(ii) by striking out the second sentence of paragraph (1); and

(iii) by amending paragraph (3) to read as follows:

"(3) The total inpatient hospital deductible applicable to inpatient hospital services provided during a spell of illness shall not exceed the amount of the inpatient hospital deductible for the calendar year in which such spell of illness begins.".

(B) Section 1861(y) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(2) Section 1813(b) is amended to read as follows:

"(b)(1) The inpatient hospital deductible which shall be applicable for purposes of subsection (a) shall be $200 for calendar year 1985.

"(2)(A) For 1986, and each succeeding calendar year the inpatient hospital deductible shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, increased or decreased by the percentage increase or decrease in the Consumer Price Index (all items—United States city average) during such preceding calendar year as compared to the second preceding calendar year. Any amount determined under the preceding sentence which is not a multiple of $5 shall be rounded to the nearest multiple of $5 (or if it is midway between two multiples of $5, to the next lower multiple of $5).

"(B) The Secretary shall, between July 1 and October 1, 1985, and each year thereafter, determine and promulgate the inpatient hospital deductible which shall be applicable under subsection (a) for the following calendar year.".

(3) Section 1814(d)(3) of such Act is amended—

(A) by striking out "60 percent of"; and

(B) by striking out "80 percent of".

(b)(1) Section 1833(a)(1) of such Act is amended—

(A) by striking out "80 percent" each place it appears and inserting in lieu thereof "100 percent";

(B) by striking out "20 percent of the reasonable cost plus any" and inserting in lieu thereof "the";

(C) by striking out subparagraph (B) and redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively; and

(D) by striking out ", and and" and inserting in lieu thereof ", and".

(2) Section 1833(a)(2) of such Act is amended—

(A) in subparagraph (B)(i) by striking out all beginning with "less the amount a provider" through "80 percent of such reasonable cost,";

(B) in subparagraph (B)(ii) by striking out "80 percent of"; and

(C) in subparagraph (C) by striking out "80 percent of".

(3) Section 1833(a)(3) of such Act is amended by striking out all beginning with ", less the amount a provider" through "80 percent of such costs".

(4) Section 1833(b) of such Act is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) by striking out "$75" and inserting in lieu thereof "$200 for calendar year 1985"; and

(D) by adding at the end thereof the following new paragraph:

"(2)(A) For 1986, and each succeeding calendar year, the deductible applicable under paragraph (1) shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, increased or decreased by the percentage increase or decrease in the Consumer Price Index (all items-United States city average) during such preceding calendar year as compared to the second preceding calendar year. Any amount determined under the preceding sentence which is not a multiple of $5 shall be rounded to the nearest multiple of $5 (or if it is midway between two multiples of $5, to the next lower multiple of $5).

"(B) The Secretary shall, between July 1 and October 1 of 1985, and each succeeding year thereafter, determine and promulgate the deductible applicable under paragraph (1) for the following calendar year.".

(5) Section 1833(f) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) Section 1866(a)(2)(A) of such Act is amended—

(1) by striking out ", or (a)(3)";

(2) by striking out "section 1833(b), or section 1861(y)(3)" and inserting in lieu thereof "or section 1833(b)";

(3) by striking out all beginning with "and (ii) an amount equal to" through "for 20 percent the proportion" and inserting in lieu thereof "and (ii) in the case of items and services described in section 1833(c), the proportion"; and

(4) by striking out the last sentence thereof.

### CATASTROPHIC COVERAGE FOR INPATIENT HOSPITAL SERVICES

SEC. 8. (a) Section 1812(a) of the Social Security Act is amended by amending paragraph (1) to read as follows:

"(1) inpatient hospital services;".

(b) Section 1812(b) of such Act is amended—

(1) by striking out "(subject to subsection (c))" in the matter preceding paragraph (1); and

(2) by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) Section 1812 of such Act is further amended—

(1) by striking out subsection (c);

(2) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively; and

(3) in subsection (d), as so redesignated, by striking out "For purposes of subsections (b) and (c), inpatient hospital services" and inserting in lieu thereof "For purposes of subsection (b)".

(d) Section 1861(a) of such Act is amended—

(1) by striking out "inpatient hospital services or" in paragraph (1); and

(2) by striking out "neither an inpatient of a hospital nor" and inserting in lieu thereof "not".

### PREMIUMS FOR IMPROVED COVERAGE

Sec. 9. (a)(1) Section 1839 of the Social Security Act is amended—

(A) in paragraph (1) of subsection (a) by inserting "(other than amounts payable by reason of section 1888)" after "Federal Supplementary Medical Insurance Trust Fund";

(B) in paragraph (4) of such subsection by inserting "(other than amounts payable by reason of section 1888)" after "Federal Supplementary Medical Insurance Trust Fund"; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) The Secretary shall, during September of 1984 and of each year thereafter, determine the monthly actuarial surcharge amount for enrollees which shall be applicable for the succeeding calendar year. Such amount shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to all enrollees will equal the total benefits and administrative costs which the Secretary estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund by reason of section 1888 for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating such rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2)(A) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly surcharge applicable to individuals enrolled under this part, for the succeeding calendar year. The amount of such surcharge shall be the surcharge amount determined under paragraph (1).

"(B) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly surcharge for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of the adequate actuarial surcharge amount under paragraph (1) and the derivation of the dollar amount specified in this paragraph.

"(C) If any monthly surcharge determined under this subsection is not a multiple of 10 cents, such surcharge shall be rounded to the nearest multiple of 10 cents.

"(3) In the case of an individual subject to subsection (b), the monthly surcharge determined under this subsection with respect to such individual shall be increased in the same manner as the monthly premium of such individual is increased under subsection (b).".

(2) Section 1840 of such Act is amended—

(A) by striking out "premiums" each place it appears and inserting in lieu thereof "premiums and surcharges";

(B) by striking out "amount thereof" each place it appears and inserting in lieu thereof "total amount thereof"; and

(C) by striking out "premium" in subsection (h) and inserting in lieu thereof "premium and surcharge".

(b) Part A of title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

### "PART A PREMIUM

"Sec. 1819. (a)(1) The Secretary shall, during September of 1984 and of each year thereafter, determine the monthly actuarial rate for individuals entitled to benefits under this part who are age 65 and over, which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees age 65 and older will equal the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Hospital Insurance Trust Fund by reason of section 1888 and the amendments made by section 8 of the Medicare Incentives Reform Act for services performed and related administrative costs incurred in such calendar year with respect to such individuals. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The Secretary shall also, during September of 1984 and of each year thereafter, determine the monthly actuarial rate for disabled individuals under age 65 who are entitled to benefits under this part, which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such disabled individuals will equal the total of the benefits and administrative costs which the Secretary estimates will be payable from the Federal Hospital Insurance Trust Fund by reason of section 1888 and the amendments made by section 8 of the Medicare Incentives Reform Act for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.

"(3)(A) The Secretary shall, during September of 1984 and of each year thereafter, determine and promulgate the monthly premium applicable to individuals age 65 and over who are entitled to benefits under this part and the monthly premium of disabled individuals under age 65 who are entitled to benefits under this part. The amount of such premium shall be the monthly actuarial rate determined under paragraph (1) or (2), as the case may be.

"(B) Whenever the Secretary promulgates the dollar amounts which shall be applicable as the monthly premiums for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate under paragraph (1) and the amount of an adequate actuarial rate under paragraph 2 and the derivation of the dollar amounts specified in this paragraph.

"(C) If any monthly premium determined under the foregoing provisions of this section is not a multiple of 10 cents, such premium shall be rounded to the nearest multiple of 10 cents.

"(b)(1) Except as provided in paragraph (2), premiums payable under this section shall be payable in the same manner as premiums payable under section 1840.

"(2) Amounts paid to the Secretary as premiums under this section shall be credited to the Federal Hospital Insurance Trust Fund.".

### TAX ON TOBACCO PRODUCTS

Sec. 10. (a)(1) Effective October 1, 1985, paragraphs (1) and (2) of subsection (a) of section 5701 of the Internal Revenue Code 1954 are amended to read as follows:

"(1) Small cigars.—On cigars, weighing not more than 3 pounds per thousand, $1.50 per thousand;

"(2) Large cigars.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 17 percent of the wholesale price, but not more than $40 per thousand.".

(2) Effective October 1, 1985, paragraphs (1) and (2) of subsection (b) of section 5701 of such Code are amended to read as follows:

"(1) Small cigarettes.—On cigarettes, weighing not more than 3 pounds per thousand, $16 per thousand;

"(2) Large cigarettes.—On cigarettes, weighing more than 3 pounds per thousand, $33.60 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.".

(b)(1) On cigars and cigarettes manufactured in or imported into the United States which are removed before October 1, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) On cigarettes, weighing not more than 3 pounds per thousand, $8 per thousand;

(B) On cigarettes, weighing more than 3 pounds per thousand, $16.80 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2)(A) A person holding cigarettes on October 1, 1985, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on October 18, 1985, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on October 1, 1985.

(3) For purposes of this subsection—

(A) the term "cigar" shall have the meaning given to such term by subsection (a) of section 5702 of such Code; and

(B) the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of such Code.

(4) The taxes imposed by paragraph (1) shall not apply to cigars and cigarettes in retail stocks held on October 1, 1985, at the place where intended to be sold at retail.

(c) Effective October 1, 1985 section 1817(a) of the Social Security Act is amended—

(1) by striking out "100 per centum of" in the matter preceding paragraph (1);

(2) by striking out "(1) the taxes" in paragraph (1) and inserting in lieu thereof "(1) 100 per centum of the taxes";

(3) by striking out "and" at the end of paragraph (1);

(4) by striking out "(2) the taxes" in paragraph (2) and inserting in lieu thereof "(2) 100 per centum of the taxes";

(5) by striking out the period at the end of paragraph (2); and

(6) by adding at the end thereof the following new paragraphs:

"(3) 100 per centum of the taxes imposed by section 10(b) of the Medicare Incentives Reform Act; and

"(4) 50 per centum of the taxes imposed by subsections (a) and (b) of section 5701 of the Internal Revenue Code of 1954.".

### MORTGAGE INSURANCE FOR HOSPITALS

Sec. 11. (a)(1) Section 242(a) of the National Housing Act (12 U.S.C 1715z-7 (a)) is amended by inserting ", giving preference to hospitals with limited access to capital markets and hospitals providing a substantial amount of unreimbursed care." before the period at the end thereof.

(2) Section 242(b) of such Act is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the term 'Secretary' means the Secretary of Health and Human Services.".

(3) Section 242(d)(5) of such Act is amended by striking out "the Secretary of Housing and Urban Development and by" in the matter of the following subparagraph (B).

(4) Section 242 of such Act is further amended by adding at the end thereof the following new subsection:

"(i) There is created a Hospital Mortgage Insurance Fund, which shall be used by the Secretary as a revolving fund for carrying out the provisions of this section.".

(b)(1) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall enter into an agreement to effect a transfer of all of the assets and liabilities of the Mutual Mortgage Insurance Fund established under section 202 of the National Housing Act which are attributable to the program of mortgage insurance for hospitals established under section 242 of such Act to the Hospital Insurance Mortgage Fund established by section 242(i) of such Act.

(2) In the event that the Secretary of Housing and Urban Development and the Secretary of Health and Human Services are unable to agree to the terms of the agreement required under paragraph (1), the Director of the Office of Management and Budget shall determine the terms of such agreement and take such action as may be necessary to effect the transfer required by such paragraph.

(c)(1) Except as otherwise provided in this section, the personnel employed in connection with, and property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Secretary of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(2)(A) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this section.

(B) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such times as the Director of the Office of Management and Budget may provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with the functions transferred by this section.

(3)(A) Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this section.

(B) Any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department of Health and Human Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(4)(A) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(i) have been issued, made, granted, or allowed to become effective by the President, the Department of Housing and Urban Development or any official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this section; and

(ii) are in effect when this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Health and Human Services, a court of competent jurisdiction, or by operation of law.

(B)(i) The provisions of this section shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this section before the Department of Housing and Urban Development or any office thereof with respect to functions transferred by this section; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary of Health and Human Services, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(ii) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development are authorized to issue regulations providing for the orderly transfer of proceedings continued under clause (i).

(C) Except as provided in subparagraph (E)—

(i) the provisions of this section do not affect actions commenced prior to the effective date of this section, and

(ii) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this section had not been enacted.

(D) No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Housing and Urban Development with respect to functions transferred by this section shall abate by reason of the enactment of this section. No cause of action by or against the Department of Housing and Urban Development with respect to functions transferred by this section, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of action and actions with respect to a function transferred by this section, or other proceedings may be asserted by or against the United States or the Secretary of Health and Human Services, as may be appropriate, and, in an action pending when this part takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subparagraph.

(E) If, before the date on which this section takes effect, the Department of Housing and Urban Development or any officer thereof in his official capacity, is a party to an action, and under this section any function of the Department of Housing and Urban Development is transferred to the Secretary of Health and Human Services, then such action shall be continued with the Secretary of Health and Human Services substituted or added as a party.

(F) Orders and actions of the Secretary of Health and Human Services in the exercise of functions transferred by this section shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Secretary of Housing and Urban Development. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this section shall apply to the exercise of such function by the Secretary of Health and Human Services.

(5) With respect to any functions transferred by this section and exercised after the effective date of this section, reference in any other Federal law to the Department of Housing and Urban Development or the Secretary of Housing and Urban Develop-

ment, shall be considered to refer to the Department of Health and Human Services or the Secretary of Health and Human Services, as the case may be.

(d) The amendments made by this section shall be effective with respect to fiscal years beginning more than 180 days after the date of the enactment of this Act.

REPORTS AND DEMONSTRATION PROJECTS

Sec. 12. (a) On or before January 1, 1986, the Secretary of Health and Human Services shall submit to the Congress a report that—

(1) analyzes the effectiveness of the program of hospital utilization review established under part B of title XI of the Social Security Act;

(2) examines hospital utilization control programs established by private payors; and

(3) makes recommendations for legislation to improve hospital utilization control under title XVIII of the Social Security Act.

(b) During the period beginning on the date of the enactment of this Act and ending June 30, 1988, the Secretary of Health and Human Services shall conduct demonstration projects for carrier service areas or tertiary medical service areas with respect to—

(1) making one payment under part B of title XVIII of the Social Security Act for all physicians' services provided to an individual enrolled under such part that are—

(A) closely related to a particular diagnostic or surgical procedure; or

(B) provided during a single period of hospitalization;

(2) making payments under paragraph (1) to—

(A) the provider in which such services were provided; or

(B) the principal physician; and

(3) negotiating area-wide caps on the total amount payable under such part for physicians' services provided during a specified period of time

No payment shall be made under part B of the Social Security Act for any physicians' service provided under any demonstration project conducted under this subsection except on the basis of an assignment described in section 1842(b)(3)(b)(ii) of the Social Security Act or an arrangement described in section 1870(f)(1) of such Act.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

## RETIREMENT OF SENATOR EAGLETON

Mr. ROTH. I, along with the other Members of the U.S. Senate learned with some surprise and much regret that our distinguished colleague, Senator Tom Eagleton of Missouri, has announced that he will retire from the Senate at the end of his current term.

I have served in the Senate since 1971, and I have not met a Senator who has brought a greater sense of humanity and decency to his job than Tom Eagleton. Tom and I have not necessarily agreed on every issue, but he has put forth his views effectively and with great respect for opposing thought. In a business where decency is, unfortunately, forgotten sometimes, Tom Eagleton has effectively fought for what he has believed in while at the same time maintaining the highest standard of respect for his colleagues. His goal has always been to develop the best possible legislation. He has not sought undue credit for his accomplishments; in fact, I would argue that Senator Eagleton would probably be the last person to suggest that he has made a substantial contribution to this body. But that enormous contribution is on the record.

I can speak highly and with experience of his work in the Governmental Affairs Committee. He presently serves as ranking minority member of the committee, and I can tell you that legislation such as the creation of the inspectors general system, the Ethics in Government Act, and the Financial Integrity Act would not now be law if it were not for Senator Eagleton. He has been an outstanding colleague with which to work on Governmental Affairs Committee, and I am very happy that that association will continue through 1986.

It is always sad for me to see an individual of Tom Eagleton's quality leave the Senate, but I wish him well in whatever future path he chooses.

## THE MANY CONTRIBUTIONS OF WOMEN VETERANS

Mr. CRANSTON. Mr. President, as my colleagues know, I have a very strong and deep interest in matters relating to our Nation's veterans. In recent years, long-overdue attention has finally begun to be paid to one group of veterans who had largely been ignored—women veterans. As was noted in a 1982 report from the General Accounting Office, "Although women have served in the military since at least World War I, they have not always received recognition as veterans and VA benefits equal to those given to male veterans."

Last year, a book—"Women Veterans, America's Forgotten Heroines," by June Willenz, the executive director of the American Veterans Committee—was published dealing with these veterans. The book chronicles the history of their participation in our Armed Forces, the neglect that they faced after their service, and their present legitimate needs based on their service and status as veterans. Recently, a review of this book was published in the Stars and Stripes. So that my colleagues and the public might be made more aware of this book and of issues generally relating to women veterans, I ask unanimous consent that that review be printed in the Record.

There being no objection, the review was ordered to be printed in the Record, as follows:

### Women Veterans, America's Forgotten Heroines

(By June A. Willenz)

Shadows are longest at dawn. For women veterans who have lived for six generations as the shadows of their male counterparts, opportunities for a career in the military are truly the dawn of a new era.

Given the history of patronizing, malicious, and racist treatment of women in uniform documented by Willenz, this new day of equality for females who serve in the military will not rapidly be replacing the military's ingrained habits of discrimination.

The ever-growing population of women now serving in the military totals at 73,000 in the Army, 45,000 for the Navy, the Air Force has 63,000 women, Marines have 8,600 women in uniform, and the Coast Guard almost 2,000.

Today in the United States 1,218,000 women have veterans status. This number is regularly swelled with those women who are leaving uniformed service.

Those realities regularly bump up against the images of what women in uniform should symbolize, what they actually perform as their duty, and what realistic future the military can offer to the woman professional.

Willenz has not written a polemic about the abuse which women in the services have traditionally withstood. It is a mark of their credo of service with which women have entered military life that few others have written such well-deserved diatribes.

Rather she lets the history of women veterans unfold through a series of cameo shots. Those portraits show a population of women whose strength made a major difference in the American conduct of war and whose work since leaving the military has made an equally powerful mark on society.

For until recently, women veterans were an invisible population. The Veterans Administration, for example, has no knowledge of the number of women who took advantage of the GI Bill educational rights. Such data were not deemed useful.

Likewise, health care and other veterans entitlements were benefits of which few women veterans were aware or which they considered open to them as well as their male colleagues.

This absence of a data base, permits Ms. Willenz to sketch a profile of female veterans and then allows these women to speak for themselves. They speak with a loud voice.

We meet the Army and Navy nurses who served, and were injured in the rear, middle and front lines of World War I. The curtain is removed from the courageous exploits of WAACs, WASPs, and WAVES of the next global war in which over 11 million women served. And we follow the continuing struggle of these servicewomen to receive the full benefits long ago awarded to their male veterans.

It is a straight forward biographical narrative of discrimination whose matter of factness belies any efforts to sugar coat the continuing military tradition of placing women in second class service.

These women served proudly and well. But their memories are bittersweet. For the most part, their experiences with veterans organizations since their service are simply bitter.

There is a long line of veterans posts which still will not allow women veterans to march in their Veterans Day and Memorial

Day parades, to receive the full burial honors given, without question, to male veterans, and which prefer to have women veterans serving with the "wives" in the post auxiliary.

While the Integration Act of 1948 brought women more fully into the military services, local veterans groups have, clearly, yet to make the same judgement. One wishes that the author could have explored more fully the work of women veterans in vet organizations. If there was more to be said.

Traditionally the military has used slanderous gossip as a form of social control whenever women enter a new area of the services. In civilian life, these female veterans find that the VA has difficulty talking about them at all.

Willens's book is a milestone of military history. It leaves many unanswered questions and provokes new possibilities for research and documentation. Hopefully the well financed military history branches of the services will now also address themselves to their singular saga of women in uniform.

The military uniform is a symbol of power. Those women who did their duty by that symbol were trailblazers for a vast population of women who reached out in later generations for a full peace-time equality.

Contemporary films on women in the military usually focused on Vietnam service and have consistently missed the mark. Willens's work should challenge Hollywood to produce a genuine documentary of women who have served. The material is there and the contribution would be great.

## TELEVISION IN THE SENATE

Mr. BAKER. Mr. President, I know that my colleagues will indulge me the opportunity to resurrect again a subject around which this body has waltzed on any number of occasions and with which it is bound to dance again before this year ends. That subject is, of course, televised coverage of Senate proceedings. I remind Members of this topic in the course of recommending for their consumption a front page article from today's Wall Street Journal entitled, "The Eyes Have It: U.S. House Sessions Are a TV Addiction." As the title suggests, the article focuses almost entirely on the reaction of viewers to C-Span's broadcasts of congressional proceedings with brief mention of the recent events in the House concerning the ground rules for televising those proceedings.

But there are also two other items of interest to Senators in the article. One paragraph testifies to the potential of televised proceedings to restore the participatory element to the American democratic process, and I suggest that Members ponder well that idea. I should also wish to call to Senators' attention the paragraph dealing with the prospects for Senate consideration of a measure to begin televised coverage of Senate proceedings, and for the benefit of Members I quote briefly from the article on that point:

> The House squabble (concerning camera angles), meantime, has made some members of the Senate . . . nervous about bringing the cameras to their chamber. That reluctance doesn't sit well with C-SPAN junkies. Those senators for the most part are really old fuddy-duddies for not wanting TV cameras, says Paul Griffiths, 75, of Black Mountain, N.C.

As Walter Cronkite said on more than one occasion, I don't make the news, I just report it.

I ask unanimous consent that the article be printed in the Record in its entirety.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, June 13, 1984]

### The Eyes Have It: U.S. House Sessions Are a TV Addiction: C-Span Coverage Is Creating Stars Among Lawmakers; Watchdogs of Sioux City

(By Jeanne Saddler)

Washington.—Television has taught Ruth Woods of Lubbock, Texas, a great deal about the U.S. House of Representatives.

"Oh, I knew there were two houses of Congress," she says. But since she started watching House sessions on cable TV, she says, "even a congressman's picture in the newspaper will jump out at me. Now I know I've seen that fool making an ass of himself in the well of the House."

That isn't exactly the kind of public recognition a politician covets. But it is an example of the strong viewer reaction to the televising of House floor sessions and other political programs over the past five years on C-Span, the Cable-Satellite Public Affairs Network. Even before the recent flap over House TV cameras, C-Span junkies found the House floor show more diverting than "Dynasty."

"I don't believe I could do without it," says Winnie Gill, 61 years old, of Baton Rouge, La., who has taken a new interest in government affairs. "When I watch the House of Representatives," she says, "I know many of them by name now. I want to know everything that's going on."

And if some viewers think that watching Congress legislate is about as interesting as watching Julia Child chop onions, others discern wide significance.

#### PARTICIPATORY DEMOCRACY

"In 20th-century America, democracy has become a spectator event," says Richard Roderick, a 34-year-old University of Texas philosophy lecturer, who assigns his class to watch C-Span. "Instead of elections, it seems like we have plebiscites on politicians as media figures. If (the C-Span network) succeeds, it could eventually re-create real participatory democracy."

Many viewers of House sessions are often interested in less lofty matters, and they can be tough critics. "Some of those guys on there are still wearing those suits with six-inch lapels and jackets that would try your eyeballs," says Mrs. Woods, 63. "Now I know how much those guys make, and their haircuts are real cheap, so they could do better than that. My God, there have to be standards."

The *cinema verite* of the House had lent a certain star quality to some congressmen, however. One current media star is Rep. Newt Gingrich, an articulate, 40-year-old, gray-haired Republican from Georgia, who has led the House GOP in making political use of TV. "I think Newt Gingrich has watched a lot of Phil Donahue tapes," says Mr. Roderick, the Texas lecturer.

In Mr. Roderick's view, though, "one of the best speakers and a guy who makes the best appearance is Ron Dellums of California. He's a more urbane and intellectual version of Jesse Jackson, plus you never see the role of an intellectual black man on television, with the possible exception of Sidney Poitier." Mr. Poitier, of course, isn't a polician but a real actor.

#### DISPUTE RAISES RATINGS

In recent weeks, the House's TV ratings have climbed because the show has turned into something like the C-Span version of "Family Feud." A small band of Republicans has taken to holding "special order" sessions after the House concludes its main business for the day and most lawmakers have left. They use the time for partisan orations before the TV cameras.

Though C-Span is controlled by a private nonprofit corporation, the cameras are controlled by the House—and until recently were fixed only on speaker's faces lest a roving lens catch a sleeping lawmaker. But the House is controlled by the Democrats, and an angry Speaker Thomas "Tip" O'Neill—the "Mr. T" of the House—ordered the cameras to pan the empty chambers during the special-order time.

The action has sparked furious debates on the House floor, before the TV cameras. Viewer response is split down the middle. "I think that panning should be the rule," says Michael Cochrane, 77, of Richland, Wash. "With those special orders, they make their constituents think they're heroes and it's not true."

But Mrs. Gill of Baton Rouge calls Speaker O'Neill order "very partisan. Anyone who watches C-Span for five minutes knows that there probably aren't more than two dozen congressmen on the floor of the House even during the most important debates." (One reason is that these days the members watch House proceedings on TV sets in their offices and then go to the floor to vote.)

The House squabble, meantime, has made some members of the Senate, which is considering televised sessions, nervous about bringing the cameras to their chambers. That reluctance doesn't sit well with C-Span junkies. "Those senators for the most part are really old fuddy-duddies for not wanting TV cameras," says Paul Griffiths 75, of Black Mountain, N.C.

Such viewer involvement warms the heart of C-Span President Brian Lamb, who began the network in 1979 after persuading a consortium of cable-TV-system owners to fund it as a public service. Mr. Lamb had worked in the Defense Department's public-affairs office at the height of the Vietnam War.

"I saw that there was too much power in television and that the executive branch had too much power because it was dominated by one person," he says. "The whole system was set up so that a congressman had to say something controversial or out of the ordinary to get coverage."

On C-Span, a House member needs only to speak on the House floor to get coverage. The network televises all floor sessions live, gavel to gavel—for a total of 852 hours last year—and even shows reruns. The 24-hour coverage also includes call-in talk shows three times daily, important Washington-based meetings and events related to the presidential election. The network's hallmark is its dedication to letting events unfold at their own pace without comment from reporters.

Though Mr. Lamb himself says that Washington can be "excruciatingly boring," his network attracts a daily audience of some 200,000 people. About 17 million U.S. households, or half of all homes that have cable TV, currently receive C-Span.

Surveys show that most C-Span watchers are men aged 24 to 54. Some viewers, such as a senior-citizens group in Sioux City, Iowa, called "the Watchdogs," watch the telecasts together. "Some people tell us they only tune in once a week to get their Washington fix," Mr. Lamb says.

While the shows may not be the stuff that "The A-Team" is made of, Buck Scott, 54, the Democratic county chairman for Montgomery County, Pa., says he was fascinated by a recently televised seminar on federal-state relations. "It was dull, dry and terrible. The mikes didn't work and the front seats weren't filled," he says. "But I liked it: I was interested in the subject, and it showed the whole thing wasn't staged."

Some viewers contend that C-Span coverage is becoming partisan. Everett Walton of Phoenix, Ariz., accuses the network of "forcing the Democratic Party's presidential ideas on the American people." Others complain that C-Span is letting Republicans, with their special-order sessions, take unfair advantage of its House coverage.

C-Span officials say its natural focus on the Democratic primaries accounts for the complaints about imbalanced political coverage and that they try to seek out Republican caucuses and events to cover. As for the special orders, they are part of official House sessions.

At least one viewer, Stephen Liesen of Wyandotte, Mich., isn't concerned about politics. "I tune you in out of curiosity and/or boredom," he wrote C-Span. "I've found that the House has the same effect on me as a baseball or a football game. If I have any trouble getting to sleep, I can tune them in."

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## ADDITIONAL STATEMENTS

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### THE AMERICAN STEEL INDUSTRY: MYTH VS. REALITY: III

● Mr. HEINZ. Mr. President, today I present the third in a series of brief statements which will appear periodically in an effort to elevate the level of debate on the crisis in the American steel industry.

I would like to discuss the findings of the Marshall Bartlett study as submitted by Dr. Paul W. Marshall on behalf of the American Iron & Steel Institute to the Subcommittee of International Trade of the Committee on Finance of the U.S. Senate at its hearing on June 8. Dr. Marshall, a noted managerial and economics consultant, is concerned with the critical state of the American steel industry caused primarily by excess capacity abroad. As a solution, he believes the U.S. Government must begin to cope effectively with unfair trading practices and market distortions by addressing the problem of steel imports.

The debate over steel import quotas is quickly becoming a major topic of discussion in the Congress and the executive branch and will grow in intensity as a result of the International Trade Commission's determination finding injury caused by import for some 70 percent of the industry. In order to provide more background for the discussion, I am offering some further myths about imports and the domestic steel industry.

Myth: The share imported steel holds in the U.S. market is primarily determined by U.S. domestic demand.

Reality: Steel imports, as a portion of the U.S. market, are primarily determined by the amount of excess capacity which exists outside the United States at any given time. Foreign producers attempt to absorb unused capacity in order to maintain employment, cover high fixed costs, and generate foreign exchange to help repay large foreign debts. As Dr. Marshall testified:

> When there is excess capacity, a foreign producer will reduce the export price for its product until a sufficient export demand is generated to bring production up to an acceptable level.

This "volume target" for foreign producers is reached at the expense of U.S. domestic producers because the total consumption of steel is relatively insensitive to price changes in the short run. As foreign capacity utilization rates decrease, greater amounts of supply become available for export to the United States at ever lower prices.

Myth: Imports have little effect on the cyclical swings within the U.S. domestic steel industry.

Reality: Steel imports' share of our market is counter-cyclical, increasing normal cyclical swings for domestic producers. Beginning with the assumption that the United States and the other economies in the world are linked in their cyclical behavior, it can be demonstrated that as domestic demand increases, imports provide a smaller share of the U.S. market. Thus, any increase in economic activity magnifies the upswing for domestic producers. However, as economic activity worldwide declines, subsidized imports enter the U.S. market and claim an expanded share for themselves. Therefore, declines in demand are also magnified for domestic producers.

In sum, Marshall's testimony found that the "counter-cyclical behavior on the part of imports increases the magnitude of the swings in demand faced by domestic producers." The uncertainty associated with such potentially dramatic swings has made domestic producers unwilling to substantially expand their capability to produce steel, even in times of economic upturns.

Myth: Price changes in the steel industry primarily reflect changing demand levels rather than unfair trade practices.

Reality: Marshall's testimony supports the opposite contention that "price changes occur not because of changing demand levels, but because of a desire by foreign producers to change their share of the U.S. market." After the trigger price mechanism [TPM] was terminated in early 1982, prices quickly dropped as foreign producers attempted to gain a greater share of the U.S. market. Their actions were based primarily on short-term opportunism and did not reflect the economic reality of the need to be profitable. Domestic producers could only vainly attempt to slash prices to try to preserve their share of the market.

Injury to the domestic steel industry due to price suppression, as calculated by Marshall's study, indicates that price suppression increased from $38 per ton during the TPM period in early 1982 to $104 per ton by the end of 1983. "During the seven quarters following the termination of the TPM, price suppression due to imports resulted in a pretax profit loss of over $8.1 billion to the domestic steel industry." This injury caused by price suppression has as yet shown little sign of slowing.

Myth: In lieu of any changes in current U.S. public policy concerning imports, the U.S. market share for steel from abroad should remain relatively stable.

Reality: Assuming that the U.S. Government refuses to take any comprehensive action to reduce steel imports and allows the United States to remain an open market for world steel trade, Marshall expects import levels to significantly increase by the end of the 1980's. Continued excess world capacity and the maintenance of artificially high production levels could result in import levels exceeding 25 percent. Marshall based his estimates on trend forecasts, warning that "any cyclical movements around the trend could create even greater import penetration."

These trends include a continuing excess of steel capacity in the world for the next 5 to 10 years, more Government interference with market forces keeping the least efficient producers in business, unrealistically priced imports being sent to the United States and inability of domestic industry to cut costs to stay even with import price levels, and the failure of the U.S. Government to formulate and implement a policy to compete with unfair trade practices. As an end result, U.S. steel producers are reducing steelmaking capacity and diversifying into other areas. Without Government involvement, the United States will be increasingly dependent on foreign sources for its steel and faced with large numbers of unemployed workers. A rational, stable policy for the steel industry is a necessity for its survival into the future.

Mr. President, I ask that the summary of the testimony of Dr. Marshall be printed at this point in the RECORD.

The summary follows:

### TESTIMONY OF DR. PAUL W. MARSHALL

### INTRODUCTION

My name is Paul W. Marshall. I am President of Marshall Bartlett, Incorporated, a Management and Economic consulting firm located in Lexington, Massachusetts. Before becoming a full-time consultant I was on the faculty of the Harvard Graduate School of Business Administration where my primary teaching and research interests were in the area of Production and Operations Management with particular emphasis on the Steel Industry. I have worked on many projects for American and Foreign Steel producers and for various agencies of the United States Government. In 1975 I was a consultant to the Council on Wage and Price Stability and prepared a report on the conditions of the U.S. Steel Industry. In 1977 and 1978 I, along with others, prepared two reports for the American Iron and Steel Institute on the economic implications of Foreign Steel Trade for the American economy. In 1977 I worked for the Ecumenical Coalition of Youngstown and assisted in their efforts to reopen the Campbell Steel Works. I was invited to the White House Meeting in October 1977 to discuss the crisis facing the American Steel Industry. In February 1980 I was a panel member at the OECD Symposium on the Future of the World Steel Industry. I have prepared major studies for the U.S. Environmental Protection Agency and the Department of Energy analyzing the impact of regulation on the American Steel Industry.

I have testified before the International Trade Commission on matters relating to competition in the Western United States Steel market and matters relating to the Specialty Steel Industry. I have also testified before the House Ways and Means Committee's subcommittee on Trade and the House Committee on Energy and Commerce subcommittee on Oversight and Investigation on matters relating to the American Steel Industry.

Much of my testimony today is based on a study my firm prepared and submitted to the International Trade Commission in their current Investigation relating to Carbon and Certain Alloy Steel products. I presented testimony based on this study before the Commission on May 9, 1984 on behalf of Bethlehem Steel Corporation and the United Steel Workers of America.

Our study treated the steel industry as a single industry and relied on data representing an aggregation of individual steel products. The major reason is that up to the semi-finished stage, steel is in fact a single product. It is generally true that most of the investment is required and most of the expenses are incurred for this portion of processing. In addition, we demonstrated that foreign producers' steel exports to the U.S. can best be explained by analyzing their production in aggregate. Their desire to maintain operating rates at the raw steel level causes foreign producers to shift final production into different products at different times. However, the basic force behind these decisions is the amount of raw steel capacity to be utilized. Such behavior requires that any careful analysis view the industry as a single entity.

In this introduction I would like to briefly summarize our conclusions and provide several general statements concerning the current steel crisis. In later sections of my statement more details from this study will be presented.

Let me briefly summarize the major points of our study.

1. Steel imports as a share of the U.S. market are primarily driven by the amount of excess capacity outside the U.S. at any point in time. This is consistent with the desires of foreign producers to stabilize their operating rates.

2. Market forces in the U.S. are not the primary influence on the flow of imports. This is because the economies of the world are linked in their cyclical behavior.

3. The net result of these supply and demand factors is that steel imports' share of our market is countercyclical and increases the cyclical swing faced by domestic producers. Such behavior is injurious not only to steel producers, but in the long run to the entire economy.

4. Imports have taken 21.9 m. tons of shipments from domestic producers from 1977-1983. This measure assumes that an appropriate level of imports would be 15% share of the domestic market. This reference share for measuring loss is based on the approximate share of the U.S. market taken by imports during the 1970s which was about 15%.

5. These excess imports have cost the industry $2.6 billion in lost profits and have conservatively cost employees $2.4 billion in lost wages as jobs have been eliminated.

6. Severe price suppression by imports in 1982-83 cost the industry over $8.0 billion in lost profits.

7. A model of import behavior we developed suggests that continued excess capacity in the world will drive import share to higher levels in the 1980's, exceeding 25%.

The American Steel market is currently in a serious state of disequilibrium. This has resulted because many foreign producers have capacity far in excess of their home market needs. It is natural for them to want to increase their volume by exporting. If the entire world steel market were open and available to them we would not need to be here today. Under free market conditions this excess capacity would be used to supply steel at a world price and the most inefficient producers in the world would be driven out of business. A lower capacity level would result and the remaining steel producers could operate profitably.

*Unfortunately there is not a free open world steel market.* Two major categories of distortions are currently present in the market. First, many countries limit their home steel markets to imports from other countries and secondly, many governments are willing to subsidize the losses of their domestic producers when they export steel at levels below their production costs. The result is that import prices to the U.S. are well below any equilibrium level that would exist in a free market and many producers more inefficient than U.S. companies are kept in business and continue to supply steel.

During the last decade, the U.S. government has not effectively dealt with these unfair trading practices and market distortions. It has hoped they would go away. What has been done by our government has been only in response to numerous unfair trade cases filed by American companies. Given the nature of our laws such cases can address only specific countries and specific products. Such a piece meal response is not only costly but it is ineffective.

In summary I would make the following observations:

(1) There is an excess of steel capacity in the world that will continue for the next five to ten years.

(2) Because of government interferences with market forces, particularly in Europe, the least efficient producers have not gone out of business.

(3) Steel imports, priced at unrealistically low prices, have been sent to the United States by these less efficient producers as well as by other more efficient foreign producers causing serious injury to American production.

(4) The American steel industry has been unable to reduce its costs to compete successfully with these imports. This is true even with concessions made in wages and benefits by American steel workers.

(5) The U.S. government has been ineffective in developing and implementing a policy to counteract the unfair trading practices of foreign steel products in the U.S.

(6) American steel producers are reducing their steel-making capacity and diversifying into other businesses.

I believe these trends will continue without a new governmental policy. Thus, we will continue to see a shrinking of the American steel industry. Many analysts argue this is the natural consequence of market forces and that the American steel producers should not complain, but rather get on with their business. I do not agree that this situation has evolved from market forces. However, I do agree that individual steel companies will get on with their business—namely reducing their commitment to steel and moving their investments into other areas if there is no change in government policy.

Unfortunately, there still remains a problem. Specifically, the United States will become increasingly dependent on foreign sources for steel and there will be significant regional unemployment in areas where much of the marginal American steel capacity now exists.

These are problems for the U.S. government! During the past five years many government agencies and Congressional committees have studied the steel industry as though the problem was that of the industry. I submit the individual companies who produce steel are solving "their problem." They are reducing capacity and moving into other businesses. It is now time for the government to look at "its problem:" namely, whether or not we can develop a rational, stable policy for the steel industry. I believe the enactment of the quota bill, now before the Congress would be a good first step in helping establish such a policy.●

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## COSPONSORING S. 2644

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of S. 2644, the bill of the distinguished junior Senator from Iowa to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity—the "notch"—between those levels and the benefit levels of persons who became eligible for benefits before 1979.

This is the first measure introduced in the Senate to remove the so-called notch in Social Security benefit levels caused by the 1972 and 1977 amendments to the Social Security Act. I support ending the current discrimination against those who just happen to have been born in the period 1917-21.

Last year, I cosponsored Senate Concurrent Resolution 62, introduced by the distinguished junior Senator from Georgia, which would have directed the Commissioner of Social Security and the Secretary of Health and Human Services to develop and present to Congress a plan to correct the benefit disparity caused by the 1977 changes in the Social Security retirement benefit formula. It was referred to the Committee on Finance, Mr. President, where, for all practical purposes, it has died. There have not even been any hearings. An observer might easily conclude that this body does not take this issue seriously.

I can tell my colleagues, however, that the citizens of New York take this issue very seriously indeed. They expect us to make progress and solve the notch problem. The time has come for this body to appreciate the hardship the notch has caused our aged citizens and make a serious commitment of time and effort to restore fairness to the Social Security benefit formula.

No one should have to suffer a financial penalty for no other reason than their year of birth. I did not choose the year in which I was born and I know no other person who has had the power to make such a choice. It is cruelly unfair to say to our citizens now approaching the end of their working careers that they will not receive the benefits to which they are entitled, and upon which they relied when they planned for retirement, simply on the basis of the calendar year in which they were born.

Worse, the notch is the product of a mistake we made when we passed the 1972 amendments to the Social Security Act. In that measure, we included a provision which increases Social Security benefits by the same percentage the Consumer Price Index—the "cost of living"—increases on an annual basis. However, somehow we overlooked the fact that we had indexed the wage base, upon which benefits are calculated, in a previous measure.

The result was a seriously flawed system for figuring Social Security benefits, since people then received double compensation for inflation. It worked like compound interest and would have bankrupted the Social Security system if Congress had not identified the problem and taken corrective action.

In 1977, Congress established a new formula for determining benefits, which now affects all people born after 1916. The formula provides for lower benefits. To ease the transition from the old formula to the new formula, special provisions were enacted for people who were about to retire, that is, those born in 1917-21. These benefits would be determined by a special formula if, and only if, the formula would provide higher benefits than under the new system.

However, the unanticipated high inflation rates of the late 1970's made the difference in benefit levels for individuals whose benefits were computed under the old rules higher than anticipated when the benefit formula changes were enacted. As a result, people whose benefits were computed under the old rules have had a great advantage over those who have to use the transitional or the new rules.

We have an obligation to solve the problem we created through our error. We cannot simply turn our backs on our aged citizens and tell them we have done all we can. We haven's even made a serious attempt to study the problem.

This measure represents one approach to solving the notch problem. It is not perfect, but it is the best vehicle now available to the Senate. I urge my colleagues to give their support to this bill. The time has come for us to send a message that we are going to tackle this problem and we are going to solve it.

Thank you, Mr. President.●

### DR. DELLA KEATS

● Mr. MURKOWSKI. Mr. President, I should like to take a moment to commend Dr. Della Keats from Noatuk, AK, who retired from the Maniilaq Association's Traditional Medicine Program this spring.

The Traditional Medicine Program was established in 1975 and is the only program of its kind funded by the Indian Health Service. This unique program was built around the special knowledge of Della Keats, who has been healing and helping people in Alaska for over 60 years. Her knowledge has been vital in bridging the gap between modern medicine and traditional methods of healing.

The Maniilaq Board of Directors has mandated that all of its programs be guided by the Ilitqusiat which embodies the philosophy of the Inupiat Eskimo. The Ilitqusiat values include sharing, hard work, respect for nature, spirituality, and responsibility to tribe. Della Keats is the personification of these values.

I know she will be greatly missed by her colleagues. However, her guidance and example shall continue through the Della Keats Summer Enrichment Program. This program gives Alaska Natives the opportunity to learn about healing and health careers. Della visits the program each year. This visit is the highlight of the summer and her presence inspires young people to continue her work.

I extend my thanks and the gratitude of all Alaskans to Della Keats for her contributions to our great State.●

### OFFICE AUTOMATION FOR SENATORS

● Mr. MATHIAS. Mr. President, the Committee on Rules and Administration took action on June 12 to provide office automation for Senators' offices. The committee authorized leasing contracts with three vendors, Honeywell, Data General, and Prime, to supply services and equipment to the Senate. Senators desiring to have this equipment will be able to choose from among these vendors.

This is a change for the Senate and will require a serious decision by each Senator, but based on tests conducted by the committee we are convinced that the technology is available and that Senators are prepared to use it. In the very near future the Rules Committee will inform each Senator how to go about making a selection and arranging for training and installation.●

### THE FAIRNESS OF THE REAGAN TAX CUTS

● Mr. SYMMS. Mr. President, over the past several years we have been continually barraged by reports in the media and elsewhere stating that the Reagan tax cuts were a giveaway to the rich.

Well, the numbers have come in at the Department of the Treasury and they indicate that all of those people opposed to the President's program are wrong. Recently released Treasury Department statistics indicate that cuts in the top marginal tax rate collected 42 percent more revenue from taxpayers making $1 million or more. It seems that President Reagan was right. A cut in the tax rate actually provided a stimulus for more economic activity, and as a result of that activity, individuals made more money and paid more taxes.

This morning, the Joint Economic Committee held hearings on the fairness of the Reagan tax program. The testimony presented at the hearing was very interesting and would, I believe, be a benefit to my colleagues. Consequently, I would like to have printed in the RECORD the testimony that was presented, as well as an article that was printed on the editorial page of the Wall Street Journal several weeks ago.

The material follows:

[From the Wall Street Journal]

THE PANIC OF 1984

Conventional wisdomers always said tax cuts would cause an economic panic, and they finally may be right. Recently released Treasury Department statistics indicate that cuts in the top marginal tax rate collected a gush of revenues from the rich in 1982—indeed, a 42 percent increase from people who made $1 million or more. Whatever the impact on the economy or the stock market, these numbers have produced a frenzy among those who predicted just the opposite, a giveaway to the rich.

One refutation, for example, runs as follows: All that happened in 1982 was that rich people declared more income once tax rates were cut, thus increasing total revenues from the rich. There is a name for this observed relationship between tax rates and the tax base: the Laffer Curve.

But of course, the whole object of the frenzy is to avoid admitting that Arthur Laffer was right that cutting high marginal tax rates can induce more tax revenues. If that is true there is no justification for a punitively progressive tax structure. So other explanations have to be found.

One notion is that collections went up because rich people's incomes surged chiefly in the capital gains area. The short answer to this argument is, So what? The long answer is: (1) OK, if the capital gains tax has been so lucrative after being cut to a 20 percent maximum, let's cut other maximums too. And (2) people have to have gains to claim capital gains. Is the problem with supply-side income-tax cuts that they cause stock market and housing industry booms?

Even more paradoxical is a theory posed by John Berry of the Washington Post, who argues that the "rich" are now paying an increased percentage of total tax revenues because the incomes of the poor have fallen. Mr. Berry cites statistics on the adjusted gross income of people earning under $25,000. In 1981, he notes, taxpayers falling into this category made a total of $750 billion; in 1982, $726 billion.

If the number of people falling into this category were constant, these numbers would indeed show that the income of the typical individual making less than $25,000 went down. Ah, but the numbers were not constant. In 1981, 70.5 million taxpayers claimed income of $25,000 or less, while in 1982, only 68 million did. Did 2.5 million taxpayers disappear, or even die, perhaps victims of the Reagan Budget Cuts? Nope. they simply moved—into a higher tax bracket.

Whereas in 1981 only 20.6 million taxpayers claimed incomes between $25,000 and $50,000, in 1982 22 million did. This left fewer people around to report incomes of less than $25,000. And so on up the ladder: in 1981, 5,300 taxpayers claimed incomes of $1 million or more; in 1982, 8,300 did.

Imagine if all 15 million people earning less than $5,000 suddenly inherited $1 million. Mr. Berry would note with alarm that "the incomes of people earning less than $5,000 plummeted to nothing" while "the incomes of millionaires were skyrocketing."

The debate seems to boil down to this: Is it more fair to tax the rich at a very high rate but collect paltry revenues, or to tax them at a lower rate but get more money? Is it better, say, to collect 70 percent of a pie that is $10 billion big, for a total of $7 billion; or to get 50 percent of a pie that is $20 billion big, for a total of $10 billion?

We would prefer the latter case, giving us an extra $3 billion to spend on social programs and the national defense. Of course, this means giving up the thrill of confiscating an impressive-sounding percentage of visible income from the wealthy. But as compassionate pragmatists, we place greater value on helping the poor.

## WAS THE 1981 TAX CUT FAIR?

(By Professor Richard Vedder and Lavell Gallaway)

Thank you, Senator Jepsen, for inviting us to testify on this issue of vital national interest. This is something of a homecoming for both of us, as we both have had an enjoyable past association with the JEC as professional staff members.

There has been a growing public concern about whether the Reagan economic program, and in particular the 1981 tax bill, was "fair." We wish to make three major points with respect to this question.

First, the recent primary campaigns make it abundantly clear that some political officials and some parts of the public believe that increased taxation of the rich relative to the poor means a fairer tax system. The empirical evidence is crystal clear that persons holding that view should consider the Economic Recovery Tax Act of 1981 as a major milestone in a half century of public policy moves in providing income equality. That statement is based not only on data showing that the wealthy paid a larger proportion of the total income tax burden in 1982 than in 1981, but also on six decades of history that show a systematic tendency for the tax burden of the rich to rise relative to that of the poor when marginal tax rates are reduced for upper income groups.

Second, the evidence suggests that the American people are more concerned with horizontal equity, and strongly believe that persons with similar incomes should pay similar amounts of income tax. The public appears to be particularly galled at the thought that some rich persons escape taxation altogether. The 1981 tax bill was a step in the direction of alleviating that concern, as is such a legislative proposal as the Kemp-Kasten tax simplification bill.

Third, "fairness" is an elusive concept to define and impossible to objectively measure with any precision. Nonetheless, the best available evidence is that fairness cannot be increased by increasing tax rate progressively. A "soak the rich" philosophy of taxation is not considered to be fair by the American people. The reduction in tax rates for all groups in the 1981 tax bill was viewed by the American public as an important first step in improving tax equity or fairness, contrary to the utterances of Jesse Hartdale and other politicians.

### MARGINAL TAX REDUCTIONS AND THE TAX BURDEN: HISTORICAL EVIDENCE

Let me elaborate briefly on each of these points. First, other witnesses and other observers such as the distinguished syndicated columnist Warren Brookes have demonstrated that the 1982 tax reduction lowered tax payments by the relatively low income groups but increased payments by the rich, a move in the direction of increased fairness if the view is correct that the federal income tax previously imposed too low of a tax burden on the rich relative to the poor.

Some have criticized this evidence on the grounds that 1982 was an unusual year, with a stock market boom, a major recession, and so on. Examination of the historical evidence suggests, however, that the 1982 experience was very typical. When marginal tax rates are reduced significantly for the rich, tax payments from the rich almost invariably rise relative to tax payments from the poor.

Consider the interwar period from 1920 to 1941. In those years, the maximum marginal tax rate was lowered and raised drastically on several occasions, ranging from 24 percent in 1929 to 80 percent in 1940 and 1941. The era included high war-related rates, a period of supply side tax rate reductions promoted by Secretary of the Treasury Mellon, and the Hoover-Roosevelt "soak the rich" tax increases of the Thirties.

TABLE 1.—TAX RATES AND SHARE OF TOTAL TAX BURDEN BORNE BY SUPER RICH, 1920–41 [1]

| Period | Median effective tax rate [2] | Median marginal tax rate [2] | Percent of total taxes paid by the super rich [1] |
|---|---|---|---|
| 5 lowest tax years [3] | 16.19 | 25 | 11.18 |
| 12 middle burden tax years [3] | 39.33 | 63 | 6.30 |
| 5 highest tax years [3] | 69.71 | 78 | 4.58 |

[1] "Super Rich" includes those reporting incomes of more than $1,000,000 a year.

[2] Rate applying to those with incomes in excess of $1,000,000 a year.

[3] As measured by the effective tax rate, which is total tax payments divided by total reported income.

Table 1 shows that in years in which the tax burden on the rich was the lowest, the proportion of total income taxes paid was the largest—more than twice as great as in the highest tax years. The evidence in Table 1 is confirmed by use of a highly accepted statistical technique known as regression analysis. About 72 percent of the variation in relative tax effort by super rich Americans is explained by variations in the marginal and average tax rates, with a strong and statistically significant negative relationship observed between the marginal tax rate and the proportion of tax paid.

The evidence suggests that high marginal tax rates of high income Americans might satisfy the demagogic instincts of some politicians, but those rates end up placing an increasing tax burden on poorer Americans.

The experience of the interwar years is duplicated in the last quarter of a century. Take the Kennedy tax cut of 1964 and 1965. In 1963, those with $1,000,000 or more income paid $326 million in taxes, while in 1965 they paid $603 million, and their share of the total tax burden rose significantly. Yet those high income Americans got a generous tax cut, almost equal in percentage terms to those in lower income groups. More details on this tax cut are provided in an excellent 1982 staff study prepared for your committee, and I recommend you look at it.

The Laffer cure lives! Why? The answer is almost trivially simple. Citizens face two options: they can pay taxes or not pay taxes. The latter option can be pursued along two lines, namely tax avoidance (which is legal) or tax evasion (which is illegal.) Lowering marginal tax rates lowers the cost of paying taxes, reducing incentives to engage in either tax avoidance or tax evasion strategies. Income comes out of shelters and out of the underground economy and is taxed. If you attempt to tax the Golden Goose too much, it will run away.

### FLUSHING THE MILLIONAIRES INTO THE TAX ECONOMY: THE 1981 TAX CUT

To our second point. Survey data show that taxpayers are enraged by the fact that some rich persons do not pay taxes. In the jargon of public finance, people are concerned with horizontal equity, or the issues of whether people in similar economic circumstances pay similar amounts of taxes. It is considered unfair for some millionaires to pay hundreds of thousands of dollars in taxes while others pay nothing.

In the last few years two significant changes in the tax code have greatly improved horizontal equity by flushing out many heretofore hidden millionaires. The first is legislation effective in 1979 sharply reducing tax rates on capital gains, the second is legislation approved at the request of President Reagan in 1981 lowering taxes for virtually all American.

Using regression analysis again, we developed a model based on changing personal income levels and time trends that can explain almost 94 percent of the variation in the number of income tax returns filed by persons with more than $1,000,000 in income for the period 1970 to 1978. In 1978, for example, there were 2,039 returns filed by those making $1,000,000 or more annually in income, while our model predicted 2,035 returns, only four less. Yet in 1979 our model says there should have been 2,474 returns—but in fact there were 3,594, 45 percent more. Why the big error? A sharp reduction in marginal tax rates of capital gains (from 49 to 28 percent) flushed well over a thousand millionaires into the taxable economy.

Using a similar model for the period 1970 to 1981 based on levels of personal incomes, time trends, and a "dummy" variable measuring the impact of the aforementioned capital gains tax changes, we can predict over 99 percent of the variation in the number of tax returns over time, and the model is otherwise extremely robust statistically. In 1981, our model predicted 5,198 returns would be filed by those with over $1,000,000 in income, while in fact 5,495 were filed, only 82 more. However, in 1982, the same model predicts 5.495 returns, while the actual number of returns filed was 49 percent larger, 8,185. The reason is simple: the reduction in the top marginal rate from 70 to 50 percent. Some 2,690 very rich persons joined the taxpaying army, paying hundeds of millions of dollars in taxes and reducing the problem of horizontal equity.

### FAIRNESS AND THE 1981 TAX CUT: SOME EVIDENCE FROM THE PEOPLE

Fairness is something that cannot be precisely measured, and indeed different people, with different value systems, have diverging views on what is fair or unfair. Professional economists or organizations like the Congressional Budget Office cannot in any objective, scientific way, "prove" or disprove that any tax is fair or unfair. The values of the so-called experts, including myself, should count no more in evaluating fairness than the values of millions of ordinary taxpayers with no claims of expert status. The public at large is probably the best judge as to the "fairness" of a tax.

In this regard, the nonpartisan Advisory Commission on Intergovernmental Relations (ACIR) has been conducting polls on tax fairness for many years. For many years, the polls were done by Opinion Research Corporation, although the latest poll was conducted by the Gallup Organization.

One question consistently asked is: "Which do you think is the worst tax—that is, the least fair?" Chart One looks at changes in the porportion of the respondents thinking the federal income tax was the most unfair over time. During the Seventies, the proportion of the population thinking the federal income tax was the most unfair tax grew nearly two percent each year, so that by 1981 the income tax was considered far more unfair than local property taxes, perennially the most disliked tax. Yet feelings as to the unfairness of the tax have declined slightly since the 1981 tax cut was approved, reversing a decade long trend of increasing disenchantment. At least from the public's perspective, the 1981 tax bill seemed to be a move towards more equity, not less.

CHART 1.—*Change in percent viewing Federal income tax as most unfair tax, 1972-83*

| | *Percent* |
|---|---|
| More unfair: | |
| March 1972 to May 1977 | +9 |
| May 1977 to September 1981 | +8 |
| Less Unfair: | |
| September 1981 to May 1983 | −1 |

It is interesting to note that the rise in public perceptions of unfairness with respect to the federal income tax did not occur in a period when the tax system was becoming more regressive. Indeed, as Table 2 suggests, the proportion of the population viewing the income tax as the most unfair tax almost doubled in a period when the share of the tax burden paid by high income groups actually rose relative to the share of the tax burden borne by the poor. The problem with the tax system, that would suggest, is not the rich pay too small a share of taxes. Rather, the problems lie elsewhere, such as the horizontal equity issues mentioned earlier.

TABLE 2.—FAIRNESS AND TAX BURDENS, 1972 AND 1981

| | 1972 | 1981 |
|---|---|---|
| Percent viewing Federal income tax as most unfair tax | 19 | 36 |
| Percent of income taxes paid by top 10 percent of income recipients | 43.68 | 44.06 |
| Percent of income taxes paid by bottom 20 percent of income recipients | 2.67 | 1.99 |
| Progressivity index: ratio, tax payments of top 10 percent to tax payments of bottom 20 percent | 16.7 | 22.1 |

Sources: Internal Revenue Service, Advisory Commission on Intergovernmental Relations.

### CONCLUSIONS

The claim that the 1981 tax cut was unfair is without foundation. The 1981 legislation increased the tax burden on the rich relative to the poor, reducing vertical inequities. Horizontal inequities were reduced by increased participation in the tax system by wealthy Americans. The American public itself views the 1981 tax cut as a move toward greater equity. The fairness issue, at least as it relates to the 1981 tax cut, is no issue at all.

### STATEMENT TO CONGRESS

(Submitted to the Joint Economic Committee, June 12, 1984)

Since the modern income tax was first levied in 1913, the Economic Recovery Tax Act of 1981 (ERTA) was only the third instance in which the basic rate schedules were substantially reduced. (The other two were the so-called "Kennedy" tax cuts of 1964 and the "Mellon" cuts 40 years before that.) Over the years, there have been numerous other tax cuts, but they usually involved enlargement of exeptions to the basic rates. One observer (Michael K. Evans) has estimated that the percentage of any increase in personal income that was paid in taxes (including state, local and Federal income taxes and Social Security taxes) was about 10 percentage points higher in the late 1970's than it was in 1965 after the Kennedy tax cut. This increase in the marginal tax rate was accompanied by an increase of only 4 percentage points in the average tax rate, or total personal taxes as a proportion of total income. This divergence between the changes in the average rate and the marginal rate reflected "bracket creep," caused by the interaction of inflated incomes and progressive rate schedules, and the use of "targeted tax cuts" during the years 1965-1980. In 1980, the Consumer Price Index (CPI) increased 13.5 percent. Those whose incomes kept up but who had no real gain in pre-tax income paid higher real taxes. The extent of this unlegislated tax increase for a family of four at various income levels is shown in Table 1.

The 13.5 percent increase in the CPI for 1980 followed increases of 11.3 percent in 1979, 7.7 percent in 1978 and 6.5 percent in 1977. Individual income taxes (national income accounts basis) increased from 10.5 percent of each (non-imputed) personal income in 1976 to 11.9 percent in 1980 despite some tax reductions, including a drop in capital gains tax rates, during those years. By 1980 the time was ripe for a major tax reduction as the effects of bracket creep were becoming too pronounced to be ignored by the administration or Congress, no matter who was in office.

TABLE 1.—"BRACKET CREEP" IN 1980 FOR A FAMILY OF FOUR

| 1980 income | Inflation-induced tax increase [1] |
|---|---|
| $10,000 | $297 |
| 20,000 | 252 |
| 30,000 | 521 |
| 50,000 | 1,179 |
| 100,000 | 2,524 |
| 200,000 | 4,271 |
| 500,000 | 4,863 |

[1] Excess of 1980 Federal income taxes over 1979 taxes, expressed in 1980 dollars for a married couple with two dependents and no deductions, tax credits (except the earned income credit), or adjustments to gross income and whose income increased as much as the CPI between 1979 and 1980.

Before considering the changes that were actually enacted in ERTA, it is worth examining bracket creep further. As Table 1 suggests, the effects of bracket creep fall proportionally more on those with lower incomes. (The $10,000 family was subject to a double whammy in 1980, not only because more of their income was taxed at a higher rate, but also because the workings of the earned income credit added 12.5 percentage points to their marginal tax rate.) Inflation-induced income gains have a proportionally larger impact on taxes in the lower income ranges, because the brackets are narrower at the bottom. At the top, taxpayers are less affected by bracket creep. The marginal tax rate can creep no higher than the top. The tax liabilities of those in the top bracket are only inflated to the extent that income taxed in the top bracket becomes a larger proportion of total inflated income.

One of ERTA's key provisions was to "index" taxes starting next year (1985), so that any gains in nominal income which simply reflect a loss of purchasing power of the dollar will not lead to lower real after-tax incomes and purchasing power. If the indexizaton of tax brackets and other provisions fixed in dollars is postponed or repealed, the impact will be proportionally largest on taxpayers with the smallest incomes. Any resultant increase in tax receipts will mainly be paid by taxpayers in the middle (say, $20,000 to $75,000) because such taxpayers receive most U.S. income and pay the bulk of income taxes. Of course this latter aspect is inescapable: Any prospective increase in taxes designed to increase Federal revenues will mainly affect those in the middle: neither the "poor" not the "rich" have sufficient aggregate resources for tax changes to make a substantial impact on tax receipts from those groups.

The major provision of ERTA was a phased-in reduction of tax rates "across the board." Starting with a 1¼ percent tax credit against 1981 tax liabilities, rates were reduced in all brackets during 1982, 1983 and 1984. The overall reductions totaled about 23 percent (with some variation due to rounding tax rates to whole numbers). In addition the top marginal rate was reduced in the first year (1982) from 70 to 50 percent, a 28.6 percent reduction.

At the time of enactment, official projections were for a 25 percent decrease in the purchasing power of the dollar over the four-year span that tax rates were to be reduced. Thus, it was expected that the ERTA tax rate cuts would be slightly less than the effects of bracket creep for most taxpayers whose incomes kept up with the cost of living between 1980 and 1984.

As it turned out, prices increased less than was expected: the purchasing power of the dollar is now "only" about 20 percent less than four years ago, which means that most taxpayers received small real income tax cuts instead of slight real increases between 1980 and 1984. (For wage and salary earners this was offset by increased Social Security taxes.) It was this underestimate of price inflation combined with the effects of the 1981-82 recession (also unanticipated at the time ERTA was passed), that produced the large shortfall of Federal income tax receipts from earlier projections.

But ERTA was designed not so much to reduce tax payments in real terms (except in relation to what they might have been if bracket creep had continued unchecked) as to reduce marginal tax rates. In Table 2, I have shown the average and marginal Federal tax rates (including both income and Social Security taxes) for 1980 and 1984 and the percentage point change between those years. I have also shown the total taxes due and the 1980 to 1984 changes, expressed in 1980 dollars. As in Table 1, these were computed for families of four with uncomplicated tax returns.

It should be stressed that the data in Tables 1 and 2 are artificial. Few taxpayers today have uncomplicated returns. Above relatively modest income levels, virtually none do. At a minimum, this means that anyone who is paying the 1984 taxes on the income levels shown in Table 2 is likely to have a higher income in any generally understood sense. Nevertheless some general observations seem warranted.

First, ERTA did not actually produce significantly reduced Federal taxes in real terms for most taxpayers. In fact, real tax liabilities (including Social Security taxes) increased slightly for real incomes in the range in which the vast majority of taxpayers are found.

TABLE 2.—CHANGE IN COMBINED FEDERAL INCOME AND SOCIAL SECURITY TAXES, MARRIED WORKER WITH 2 DEPENDENTS, 1980 TO 1984 [1]

[Dollar amounts in 1980 dollars]

| | 1984 taxes | Change from 1980 | Average tax rate (percent) | | | Marginal tax rate (percent) | | |
|---|---|---|---|---|---|---|---|---|
| | | | 1980 | 1984 | Change | 1980 | 1984 | Change |
| Income: | | | | | | | | |
| $10,000 | $1,140 | +$153 | 9.9 | 11.4 | +1.5 | 22.1 | 20.7 | −1.4 |
| $20,000 | 3,562 | +71 | 17.5 | 17.8 | +.3 | 30.1 | 28.7 | −1.4 |
| $30,000 | 6,870 | +332 | 21.8 | 22.9 | +1.1 | 32.0 | 34.2 | +2.7 |
| $50,000 | 13,900 | −505 | 28.8 | 27.8 | −1.0 | 49.0 | 42.0 | −7.0 |
| $100,000 | 35,927 | −5,299 | 41.2 | 35.6 | −5.6 | 59.0 | 49.0 | −10.0 |
| $200,000 | 85,571 | −20,328 | 53.0 | 42.8 | −10.2 | 68.0 | 50.0 | −18.0 |
| $500,000 | 235,571 | −79,940 | 63.1 | 47.1 | −16.0 | 70.0 | 50.0 | −20.0 |

[1] Calculations assume no deductions or tax credits and no exclusion for dividend income, alimony paid, contributions to a retirement plan or other adjustments to gross income (nor do they reflect the maximum tax on earned income for 1980). Income up to the maximum subject to social security taxes ($25,900 in 1980 and $37,800 in 1984) is presumed to be earned by one source only.

Second, marginal tax rates did decrease "across the board" between 1980 and 1984. The ERTA decreases were offset by the increased Social Security taxes of 0.6 percentage point where applicable and, because the Social Security tax base rose faster than the CPI, the marginal rate on wage and salary income may have actually increased for a few souls who had managed to receive a small portion of their pay free of this tax in 1980 but not in 1984. (This is the cause of the 2.7 percentage point increase in the marginal rate of the $30,000 family shown in Table 2.)

Finally, it is clear that ERTA significantly reduced the marginal tax rate on those with higher incomes. However, the individual income tax schedules remain sharp progressive. The 1984 rate schedules call for a family of four with 10 times the income of a $10,000 family to pay 30 times as much tax and for a family with 50 times $10,000 of income to pay 200 times as much.

Since the time it was first proposed, critics and opponents of ERTA have focused on the extent of the tax reduction for upper-income taxpayers that the new rate schedules called for. This lies at the heart of the so-called fairness issue with respect to ERTA. But as anyone who has even looked at a form 1040 recognizes, there can be vast differences between "income" in a generalized sense of the word and what appear on the line labeled "taxable income." [1] At some level of marginal taxation, an individual will begin to consider the tax consequences of decisions to work, save or invest. This level cannot be determined precisely (and it probably varies among individuals), but there can be little doubt that anyone who was subject to the top 70 percent marginal rate in 1980, made few, if any, financial decisions in which the tax implications were not considered.

Even people facing much lower marginal rates probably make tax-influenced choices concerning work vs. leisure, taxable vs. nontaxable investments, do-it-yourself vs. paying for services, "on-the-books" vs. "off-the-books," and so forth. Choices that taxpayers make to avoid or evade taxes not only serve to shrink the tax base but also retard economic growth. The economy as a whole reflects countless individual choices and if the tax laws drive people toward inefficient but lightly-taxed uses of resources and away from more efficient fully-taxed uses, then the economy as a whole suffers.

Serious analysts have recognized that the "fairness" issue cannot be assessed simply from the relationship between the old and new rate schedules without reference to any changes in actual taxpayer behavior. Unfortunately, measuring the effects of ERTA on the tax base and on resource allocation are incomparably more difficult to measure than is analysis of the effects of the new tax schedules on hypothetical taxpayers (as I have done in tables 1 and 2). The latter type of analysis has dominated discussions of the effects of ERTA since it was first proposed.

The largest and most exhaustive attempt was a March 1984 staff memorandum of the Congressional Budget Office (CBO), "The Combined Effects of Major Changes in Individual Income and Excise Taxes Enacted in 1981 and 1982 for Households in Different Income Categories." Astoundingly this study relied on "static estimates . . . based on the somewhat [!] arbitrary assumption that . . . changes in the tax code do not have significant effects on general taxpayer behavior or otherwise on the economy at large." This methodology effectively precluded any findings that ERTA had worked in ways that its advocates had expected.

With this methodology, it should have been no surprise that the CBO found that the "rich" benefited far more from ERTA than the "poor." ERTA's opponents reacted to their findings like felines to catnip. The New York Times editors proclaimed that the CBO was "a professional, not a partisan, organization." And they asserted that "it seems clear that the rich have gotten richer and the poor poorer."

However, as behavioral scientists, professional economists must look when possible to actual evidence of human behavior. Such evidence, IRS and Treasury reports of changes in actual tax payments, was available to the CBO well before their study was published. In terms of the ethics of the economics profession, I can only call the CBO's methodology scandalous. If anything the actual data on tax collections have indicated that high income taxpayers have paid a larger proportion of the Treasury's total income taxes since ERTA even though ERTA gave them the largest reduction in tax rates. I have appended an article on this subject, portions of which appeared in The Wall Street Journal for May 1, 1984. (I have also appended a letter from Mr. Rudolph Penner and an editorial from the Journal, that relate to this article.)

ERTA presented a rare opportunity for economists: a significant sudden change in the rewards and penalties applicable to a relatively small but heterogeneous group: those who have high property incomes. One might have expected that a major effort would have been made to ascertain what these changes have been especially on the part of those who have a major interest in the subject and who have the quickest access to the available data: the Treasury and the CBO for example.

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[1] In strict economic terms, an individual's income in a given period can only be defined as total consumption plus change in net worth adjusted for price level change is taxed on form 1040s is only vaguely related to this, especially if the taxpayer holds assets or is a net debtor or creditor.

I hope these hearings will prompt those with the best abilities and resources to determine what actually happened. I believe that acutal tax liabilities this year may well be more "progressively" distributed in 1984 than in 1980, i.e., that as a result of ERTA, upper-income taxpayers now account for a larger proportion of all personal income taxes due. If this proves to be the case, attacks on ERTA as "unfair" can be based on envy alone.—Lawrence S. Pratt, American Institute for Economic Research.

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### THE CBO REPORT: "FACTS" FOR THE OCCASION [1]

(Chart 1 not reproducible in the RECORD.)

A key idea of supply-side economics is that lower tax rates encourage more productive effort and incomes. The 1981 tax bill provided "across the board" income tax rate cuts. But for most taxpayers there has been little actual tax relief, because rate cuts have been offset by "bracket creep" due to inflated incomes. The major exceptions were the high-income taxpayers, for whom the top rate dropped from 70 percent in 1981 to 50 percent in 1982. The share of income taxes paid by the top group increased in 1982, and their actual taxes paid decreased much less than the rate cuts implied. This was a classic supply-side response. The Congressional Budget Office, which purportedly provides Congress with accurate and nonpartisan information, recently produced a widely reported analysis of the effects of changes in Federal taxes and spending on various income groups. In suggesting ERTA was more advantageous to the "rich" than the "poor," this report completely disregarded actual tax changes, relying on estimates based on the assumption that taxpayers' behavior is unaffected by tax rate changes. The politicians seem to prefer the belief that citizens do not act on their own initiative and can benefit only from politically targeted tax and spending programs.

Since the Economic Recovery Tax Act of 1981 (ERTA) was first proposed, critics have decried the dollar magnitude of the prospective tax savings of the "rich" (large) and of the "poor" (small). These dollar magnitudes are calculated by applying the lower tax rate to an estimated amount of taxable income—which amount is assumed to be the same under the high-rate tax structure as under the low-rate structure. This is called a static analysis of tax revenues. The supply-side rationale for the cuts, that lower rates would foster higher taxable income, was dismissed as a sort of eccentric nuttiness, at worst, or something that cannot be tested, at best.

Not the least reason for this has been the Administration's failure to enunciate and repeat at every opportunity the original supply-side rational. Instead, the Administration's tendency has been to respond to the critics with some variation on the theme: "Golly, we treated everyone the same." As recently as at his April 4 news conference, the President answered a hostile question on this subject with, ". . . there is no way that the tax program could have benefitted someone at one end of the scale and not the other. It's based on proportions." By now, however, it should not be necessary to guess about the response of taxpayers to the Reagan tax cuts. The initial evidence is in, and it is consistent with the supply-side rationale.

In 1982, the first full year after ERTA, most Americans received little or no real income tax relief. Personal income tax rates were indeed 10 percent lower "across the board" than in 1981, but nominal incomes were driven up by inflation (6.0 percent as measured by the GNP deflator). Therefore, the 1982 reductions mainly offset "bracket creep," and for most groups marginal income tax rates changed little.[2] Persons with high property incomes were a major exception—the top rate on such income dropped from 70 percent in 1981 to 50 percent in 1982.

Here at the American Institute we looked to the nonwithheld ("other") component of Federal individual income tax receipts for an early sign of a supply-side response to ERTA. In the summer of 1982 we noted that the 12-month total of this "other" component, which is where quarterly estimated tax payments on property incomes are reported, had increased to a 9-year high as a proportion of individual income tax receipts. (It has since remained higher than at any time during the years 1973–81. See Chart 1.) We subsequently reported that for fiscal 1982 the "other" component was $7.9 billion higher than in fiscal 1981 and $9.7 billion more than had been forecast by the Office of Management and Budget in February of that year. The amount had increased, when the static analysis of the budgeteers had foretold a decrease.

In fiscal 1983 the "other" category was the only major category of Federal receipts to exceed the early-1982 budget projection. This was all the more remarkable because the economic assumptions used in that budget projection were grossly optimistic, and thus one would have expected taxable incomes, and thus tax revenues, to be much lower than projected.

The trend of non-withheld, or other, individual income tax receipts is influenced by many factors. Collection procedures and the timing of payments are two. Therefore, the early data were never more than an indication that the rich were paying a larger share of tax. Confirmation had to await publication of detailed data from the 1982 tax returns. These recently became available. (The date over the signature of the Commissioner of Internal Revenue is January 31.) One of the first reports of these data was in a Wall Street Journal editorial of April 11. There the editors used the data, as presented in Table 1, to show that for groups with incomes of less than $50,000, the share of taxes paid in 1982 was lower than it was in 1981 and that for groups above $50,000 the share was 2.5 percentage points higher. The Reagan "tax cuts for the rich" had, if anything, shifted some of the income tax burden away from the poor.

TABLE 1.—TAX SHARE UNDEP REAGAN 1981–82 CUT [1]

[Actual data for tax liabilities confirm that higher income taxpayers paid a larger share of individual income taxes in 1981 than in 1982]

| | Percent share of taxes paid | |
|---|---|---|
| | 1981 | 1982 |
| Net income group: | | |
| $0–10,000 | 3.0 | 2.7 |
| $10–15,000 | 6.1 | 5.6 |
| $15–20,000 | 8.0 | 7.2 |
| $20–50,000 | 50.0 | 49.1 |
| $50–100,000 | 17.9 | 18.1 |
| $100–500,000 | 11.9 | 12.9 |
| $500–1,000,000 | 17.9 | 18.1 |
| $1,000,000 & up | 1.7 | 2.4 |

[1] From The Wall Street Journal, April 11, 1984.

Source: U.S. Treasury.

### WASHINGTON CAN'T BE BOTHERED WITH THE FACTS

The most widely quoted attempt to assess the effects of "Reaganomics" has been a March 1984 staff report of the Congressional Budget Office (CBO) called "The Combined Effects of Major Changes in Federal Taxes and Spending Programs Since 1981." Its findings usually have been distilled to an estimate that between 1981 and 1984, households with less than $10,000 income "lost $820, while households with over $80,000 income "gained" $8,270 as a result of the "Reagan revolution." A subsidiary report indicates that the $8,270 figure was more than accounted for by average estimated ERTA tax savings of $8,750 by top-income households this year (1984). For this group ERTA was estimated to have "saved" $7,510 in 1983 and $5,100 in 1982.

In Table 2 we have shown (1) the average tax per return for the various income groups used in the CBO study and (2) the change from 1981, in percent and in dollars. As one should expect in the light of the top group's large tax liabilities, the dollar decrease in the top group (over $75,000 adjusted gross income) was the largest. But the 2.7 percent per return decrease in the top group was proportionally by far and away the smallest.* By static analysis it should have been the largest, because 1982 was a year of recession (property income is more cyclical than wages, contrary to popular myth) and because of the large drop in the brackets that were over 50 percent in 1981. In short, the data strongly suggest that there was a supply-side response to the Reagan cuts.

Although the CBO estimates for the 1982 tax savings of the lower income groups (shown in the last column of the table) are reasonably close to the actual dollar changes on tax returns from 1981 to 1982, the $5,100 figure for its top group is overstated by a factor of more than four. (Simple arithmetic reveals that the 1982 average tax liability on returns with over $75,000 adjusted gross income was about $1,210 less than in 1981.) This error cannot be explained by definitional differences, such as "households" vs. "returns" or over $80,000 vs. over $75,000 grouping. The CBO acknowledged that its figures are ". . . static estimates based on the somewhat arbitrary assumption that . . . changes in the tax code do not have significant effects on general taxpayer behavior." This makes about as much sense as saying that motorists are unaffected by road signs and police cars.

We shall have to wait for the 1983 and 1984 tax return data to learn more of what actually happened. No massive cuts for the rich were made in these years. The CBO's estimated $3,650 additional ERTA tax savings for its top group (from $5,100 in 1982 to

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[1] A briefer version of this report was published on the editorial page of The Wall Street Journal, May 1, 1984.

[2] The marginal tax rate is the rate on the highest dollar of taxable income.

$8,750 in 1984) apparently reflects 1983 and 1984 cuts in the brackets under 50 percent (high-income taxpayers pay tax in all brackets). However, given (1) the small actual 1982 change in relation to the average total paid, (2) the cyclical rebound of property income, and (3) the additional time in which to re-deploy assets, the possibility cannot be ruled out that the top group will pay more taxes on average in 1984 than they did in 1981.

On the other hand, it is possible that high-bracket taxpayers took steps to delay receipt of 1981 income in order to be taxed at the lower 1982 rates (thereby distorting the 1982 data) or that post-1982 "revenue enhancement" measures will discourage the rich from generating taxable income. Only time will tell.

We are not in a position to dissect the CBO's estimate of the $820 average "loss" of under-$10,000-income households between 1981 and 1984. Apparently it involves some estimate of what various income-transfer outlays would now be under 1981 law and apportioning the difference from current 1984 estimates among income groups. The questionable accuracy of a figure derived from the difference between two guesses divided by a third guess is one reason to doubt the usefulness of the CBO's approach. But even more condemning is that it totally ignores the possibility that low-income groups benefited from the 4 million increase in employment since 1981, at least some of which may have been due to a supply-side boost to output.

### BEHIND CLOSED MINDS

It is probably too much to ask that the media headline the CBO report with "Congressional Aids Publish Fake Data" instead of "Rich Gain, Poor Lose," even though it is scandalous that the CBO could have continued to employ static estimates of tax changes after actual results were available. But it is, alas, all too understandable that the CBO report came out the way it did, given the question the staff was asked to answer: How has government policy affected the distribution of income? Economic changes that reflect the spontaneous decisions of producers and consumers are suspect or ignored in Washington. "Inside the beltway" it seems that only Government policy matters.

Economic change fostered by market forces has long been fought by the politicians. For example, Government grants extraordinary assistance to areas of high unemployment and thereby discourages outmigration of persons to places where opportunities are greater. Government thus prolongs the agony of the "rustbelt." The same attitude finds more to celebrate in the Chrysler bailout (which "saved" the jobs of a relative handful of workers whose wage rates are higher than most of the taxpayers who paid for the bailout) than in the over 5 million net gain in employment since December 1982. The latter jobs presumably are more closely matched to providing consumers with what they want at a price they can afford than were the 1 million jobs that were eliminated (net) during the years 1980-82.

That the average income tax payment of the rich decreased only about $1,200 while the CBO's static analysis estimated a decrease of about $5,000, of course does not indicate that the rich failed to benefit as much as those with lower incomes. It simply indicates that the taxable incomes of the rich increased substantially more than those in other groups. Although the ability of individuals to spend and invest their own money with less regard to artificial "tax consequences" benefits the economy as a whole, its impact on the economy would have been small in 1982. Only about 1 percent of all taxpayers were involved. Not until 1983, when the "across the board cuts" exceeded the effect of "inflation," was there much supply-side incentive for the vast majority of taxpayers to respond to. The unexpected vigor of the current expansion and perceived improved attractiveness of the United States as a world investment haven may be a result.

That governments cannot make someone better off without robbing someone else is well understood. The fairness issue can never be resolved to universal satisfaction because what one group perceives as fair another group will not. Economic analysis cannot provide warranted assertions about what is or is not fair. However, the study of economics can be used to determine whether government policies and actions foster or retard human progress.

As for fiscal policy (Government spending, taxation, borrowing and lending), the issue is how much of the Nation's resources are taken or directed by Government not only in total but also at the margin of decisions to work, spend, and save. Some taxes, such as those on site-values or even head taxes in underdeveloped countries, can actually promote economic activity. Others can stifle it or force activities underground.

Supply-siders deserve much credit for drawing attention to the latter issue. But their achievements to date have been quite limited, for all the rhetoric. Marginal tax rates remain high, while the total taxes collected are inadequate to pay for the spending voted by the politicians. The reason, of course, is that the politicians love to take credit for the special provision of the tax laws that provide "relief" to specific groups just as they love to spend for the benefit of favored special groups. That the economy as a whole suffers as a result seems to be beyond their comprehension or concern.

TABLE 2.—INDIVIDUAL INCOME TAXES AFTER THE 1981 TAX CUT

[The average 1982 tax savings of the top income group were only about one-fourth as large as estimated by the CBO and in relation to taxes paid were much smaller than for the other income groups]

| Adjusted gross income (dollars) | Actual 1982 tax payments | | | CBO estimate [1] |
|---|---|---|---|---|
| | Average tax per return | Change from 1981 | | |
| | | Percent | Dollars | |
| Less than 10,000 | $210 | −6.1 | −14 | $10 |
| 10,000 to 20,000 | 1,410 | −10.3 | −162 | −130 |
| 20,000 to 40,000 | 3,890 | −7.6 | −320 | −460 |
| 40,000 to 75,000 | 9,070 | −10.7 | −1,093 | [2] −1,170 |
| Over 75,000 | 43,900 | −2.7 | −1,210 | [2] −5,100 |

[1] 1982 dollar change in taxes "per household resulting from ERTA by income category." From a March 1984 memorandum prepared by staff of the Tax Analysis Division of the Congressional Budget Office.

[2] The CBO's income categories divide at $50,000 (not $75,000) for these two groups.

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### LETTER TO THE EDITOR

The Congressional Budget Office's analysis of the distributional impacts of Congressional legislative actions in 1981 and 1982 seems destined to be much discussed but seldom read.

If Lawrence S. Pratt (editorial page, May 1) had read it carefully, he would have realized that in no way did we purport to provide a forecast of changes in the distribution of tax burdens between 1981 and 1982. On the tax side, the analysis examined only one of the many sets of variables that changed between those two years, namely, those related to changes in the tax law. It isolated the initial impact using carefully decribed static assumptions—that is, it evaluated the impact before any behavioral response occurred. The column of figures that Mr. Pratt labels "CBO estimate" does not denote the tax liability "change from 1981" as he says, but rather it computes the difference between applying the old versus the new tax law to 1982 income levels. Mercifully, though badly misrepresenting our data, Mr. Pratt did at least note that we used static assumptions.

While the static approach has many disadvantages—carefully enumerated in our analysis—it is difficult to know where else to begin. Without a quantitative estimate of initial impacts, there is no basis for what should be a vigorous debate regarding behavioral responses and fairness. Isolating behavioral responses involves difficult statistical problems that are far from being resolved, which issues of fairness involve political value judgments that CBO is required to avoid.

Certainly, comparisons of two years of actual data shed little light on such issues. Too many things other than the tax law changed during those two years. There was a rather major recession in 1982 with effects far more complex than indicated by Mr. Pratt, and The Wall Street Journal's editorial writers in their analysis of "Tricklenomics" (April 11) seem to have forgotten it entirely. Those who use the recession to argue that there is no merit to supply-side economics are naive, but so are those who maintain that the principles of supply-side economics are confirmed by the fact that high-bracket taxpayers received a greater share of nominal income in 1982 than they did in 1981.

Aside from the effects of the recession, many taxpayers undoubtedly "gamed" the tax system between 1981 and 1982. Any sensible taxpayer would, as far as possible, have moved deductions for such things as charitable contributions backward to 1981 to take advantage of high marginal rates while moving income items, such as capital gains, forward to 1982 to take advantage of lower rates. The incentives for such maneuvering were highest in the top brackets. If taxpayers did not take advantage of such obvious incentives, they surely are not likely to have adjusted their work effort and savings behavior to changing tax burdens. But it will take many years of data to sort out the importance of such behavioral phenomena.

On a more minor point, a careful reading of our analysis would have shown Mr. Pratt that we did not use adjusted gross income to distribute taxpayers across income categories. We used something called "expanded income," which is somewhat closer to economic income than is AGI. Consequently, his table not only confused very different methodologies but also different statistical definitions. Thus his comparison between our tables and actual data is doubly meaningless—if that is logically possible.—RUDOLPH G. PENNER, *Director, Congressional Budget Office, Washington.*

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[From the Wall Street Journal, May 1, 1984]

### FAIRNESS

Just when you thought it was safe to go out in the water . . . up pops . . . The Fairness Issue!

Like the metal shark in "Jaws," the Fairness Issue is a kind of prop, contrived by people who have a particular vision of fairness—namely redistributionism—and who, far from viewing it as an issue, have made up their minds. Their purpose, using reports by the Congressional Budget Office and the Treasury on the "Reagan" tax and budget cuts, is to spoil your fun at the economic recovery beach. Read the studies carefully, though, and you won't be scared off.

In separate articles on this page, Irving Kristol and Lawrence S. Pratt recently harpooned the CBO report. Frankly, we found CBO Director Rudolph Penner's response in defense of his underlings on our letters page yesterday rather disingenuous. Perhaps the CBO is precluded from "value judgments" and perhaps dynamic analysis is more difficult than the CBO's static analysis, as Mr. Penner says. But a lot of liberal politicians had no trouble finding in the CBO report the value judgment they were looking for, that Mr. Reagan's tax program has shifted tax burdens from the rich. And that is clearly untrue.

Mr. Penner pleads that the CBO's report was only a quantitative starting point for the debate. The "difficult" dynamic analysis of behavioral response to tax cuts was left to others. That's a little like claiming you have baked a chocolate cake but neglecting to mention that you didn't put in the chocolate. Economics to have any meaning at all has to be a behavioral science. The CBO, by skirting the question of a supply-side response to tax cuts, made possible the rapid blossoming of specious arguments that there is no supply-side response.

The report also ignores any "indirect" economic effects. Let's say the government cuts $100 billion from the federal budget by reducing Social Security, welfare and all other federal benefits by an average of $500 a family. And let's say that as a result of this budget balancing move, interest rates and inflation plummet, as deficit cutters say they would, raising the purchasing power of the average family by perhaps $1,000. Simple arithmetic would suggest that, on average, every family would be $500 better off. But CBO-style analysis would still have the average family $500 worse off.

Indeed the CBO urges, with gross understatement, that its analysis "be used with caution." The press gives this academic caveat all the heed a chain smoker affords the Surgeon General's warning while ripping into a pack of Camels. CBO findings are not only not qualified, but are frosted with pseudoscientific precision: "Well, Joe, if you earned $14,703, you were 482 dollars and 18 cents worse off," says the matter-of-fact voice, as if we were talking about the boiling point of water or the consequences of smoking 2.83 packs a day.

Of greater interest are the Treasury figures dealing with the tax side, outlined here recently. "Fairness" critics predicted that cutting top marginal tax rates to 50% from 70% would shift tax burdens to the poor. Yet in 1982, when such a cut took effect, individuals making $1 million or more paid 40% more than in 1981.

As some sensible letter writers note nearby, part of the surge was induced by bracket creep—taxpayers being pushed into higher brackets largely by inflation. Still, inflation slowed to 4% in 1982, and "thanks" to the recession, nominal GNP rose only 4%. Remember, it's growth in nominal income, not inflation itself, that pushes people into higher brackets. Higher prices are simply what make the process unfair. It seems very unlikely that in a recession year bracket creep accounted for a 40% rise in high-income tax payments and very likely that reduced incentives to shelter income were mainly responsible.

Likewise, there is reason to believe that once the cut in top rates passed in August 1981, people crammed income into 1982 to take advantage of the cut. Others claimed more, largely because of a cut in the capital-gains tax. But these observations do not refute the supply-side case; they enhance it providing yet more evidence that people respond to incentives.

As Mr. Kristol observed, there is room for a legitimate debate on fairness. But, in all fairness the debate should be based on what the real consequences of a government action are—as yearly as they can be discovered—rather than on a bunch of meaningless numbers. And if, after having discovered that lower tax rates on upper bracket earners induce them to pay more taxes, there are still people who want to punish them with high rates, let them say so. They will have to admit that in the name of "fairness" they are willing to settle for Pyrrhic victories, but that's their business. "Jaws" makes good drama, but it is not persuasive to argue that it is good public policy.

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## STATEMENT ON FAIRNESS AND THE ECONOMIC RECOVERY TAX ACT BEFORE THE JOINT ECONOMIC COMMITTEE

I am Richard Rahn, Vice President and Chief Economist for the Chamber of Commerce of the United States. On behalf of our over 200,000 members, I would like to thank you for the opportunity for expressing our views on the fairness of the Economic Recovery Tax Act of 1981 (ERTA).

### THE GOAL OF ERTA

ERTA led to at least a 25 percent reduction of marginal tax rates for everyone and about a 7.5 percent reduction in the average person's tax liabilities. Single taxpayers making $41,500 or more and married taxpayers making more than $60,000, however, saw their rates reduced from 70 percent to 50 percent, or about 29 percent.

Proponents of the Reagan tax cuts urged that the tax cut would encourage more work, savings and investment and would lure the rich out of tax shelters and into taxable investments. This would increase the tax base and actually increase the share of taxes paid by the rich. Further, everyone would benefit from the economic growth sure to follow.

In effect, with the rate cut from 70 percent to 50 percent, the rich would both earn and "show" more income. In the long run, the tax cuts, by increasing the return to capital and labor could also lead to robust economic growth, an even greater expansion of the tax base and more economic benefits for everyone.

The Chamber of Commerce of the United States is the largest federation of business and professional organizations in the world, and is the principal spokesman for the American business community. It represents about 200,000 members—business firms, state and local chambers of commerce, and trade and professional associations.

More than 85 percent of the Chamber's members are small firms with fewer than 100 employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—numbers more than 14,000 members. Yet, no one group constitutes as much as 26 percent of the total membership. Further, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the 50 American Chambers of Commerce Abroad, an increasing number of members are engaged in the export and import of both goods and services, and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross section of its members serving on committees, subcommittees and task forces. Currently, some 1,800 business people participate in this process.

### WHAT ERTA'S DETRACTORS SAID

Many doubted the efficacy of these "supply-side" incentive effects. They maintained that such a drastic cut of marginal rates would have no impact upon the tax base. As a consequence, less taxes would be collected from the rich and the poor would have to shoulder a larger percentage of the tax burden. Some have argued for three years that the tax cut favors the rich and have attempted to sell that notion.

This is a very sensitive issue and the resolution of the debate will influence the course of economic policy for decades to come. A recent volley in the continuing battle over the actual effects of the Reagan tax cuts was a Staff Analysis prepared by the Congressional Budget Office (CBO). The CBO study, entitled "The Combined Effects of Federal Taxes and Spending Programs" since 1981, was a static estimate of net tax reduction by income class and gave the distinct impression that the tax cuts would actually reduce the share of taxes paid by the rich and increase the poor's share. Some members of the press, ever eager to pounce on the "fairness issue", utilized the CBO study to attack Reaganomics. "Rich gain, the poor lose", read the headlines.

### REAGAN TAX CUTS SOAK THE RICH

The results for 1982 are now officially in. They show emphatically that incentives do matter. The percentage of taxes paid by the rich has increased while the percent paid by the poor has actually fallen.

The actual results for 1982 are shown in table 1. They clearly document the powerful incentive effects triggered by the 1981 tax cut. The percentage of taxes paid by those in the income classes above $50,000 actually increased. Individuals making $1 million or more paid 42 percent more taxes in 1982, after the tax cut. As shown by table 1, a reduced share of taxes was paid by lower income groups.

The pattern is clear. If one wants to truly "soak the rich," the way to do it is to reduce high marginal tax rates. Some of the most able ministers of public finance, cognizant of the disincentive effects of taxation, have employed this tactic to boost both economic growth and tax revenues. In the nineteenth century, William Gladstone of England often employed the metaphor that imposing high taxes on the rich was like killing the goose that laid the golden egg. His tax cuts were an important ingredient in the booming economic growth of the British Empire during the middle and late nineteenth century. Andrew Mellon, Secretary of the U.S. Treasury during the 1920s, used the same policies to boost taxes paid by the rich. He argued, "Is it fair to tax the rich at a very high rate and collect a paltry amount or tax them at a lower rate but get more money?"

### THE FAILURE OF STATIC ECONOMICS

Apparently, history seem easily neglected when it comes to examining the actual effects of the Reagan tax program. Although it was merely a static estimate, the CBO analysis, for example, was used as a basis for prediction, by others. The CBO simply "projected" tax shares by multiplying the previous tax base with a lower tax rate. This static arithmetic exercise would obviously lead to a smaller share paid by the upper income groups since the tax cuts were initially greater for this group. The CBO exercise was inexcusably misleading because they employed their static revenue estimates in a March, 1984 report even though actual results were available in January 1984.

Table 2 illustrates the large reduction in tax revenues found by CBO in its study. In 1982, for income categories above $40,000, CBO projected a $23 billion shortfall. The actual results show that tax revenues from this group actually rose by approximately $4.5 billion. This increase is all the more impressive since it occurred in during a deep recession. The marginal rate reduction caused higher income taxpayers to work more, invest more and to invest in higher risk-higher return assets; the lower rates also encouraged the rich to shelter less income, placing their resources instead in more productive areas. These effects were so powerful that they overshadowed the effects of the cyclical downturn.

Actual results for future years will almost certainly show greater taxes collected from higher income taxpayers, not less. Whereas many interpreted the CBO study to mean that the rich will be paying less in taxes in response to a cut in marginal tax rates, the available data indicates just the opposite. Apparently, when it comes to actual results, supply-side incentive economics is alive and well.

In the face of such overwhelming evidence, critics continue to quibble. John Berry of the Washington Post argues that the tax cuts have, nevertheless, been unfair since total income, in 1982, has fallen for income classes below $25,000. However, as the Wall Street Journal notes, this has little to do with fairness. The fact is that more lower bracket taxpayers simply moved up the income ladder. 20.6 million taxpayers claimed income between $25,000 and $50,000 in 1981, 22 million did so in 1982.

A legitimate concern is whether the wealthy paid increased taxes simply due to bracket creep. Are the rich simply paying more because this group is becoming larger through bracket creep?

Probably not. 1982 was a year of low inflation; the Consumer Price Index (CPI) increased by only 3.9 percent. Consequently, not much bracket creep occurred. Furthermore, the percentage of taxes paid by the rich has increased only in those years where they have received significant tax decreases. From 1973 to 1983, the most important bracket creep years, the sharpest rise in the percentage of taxes paid by the rich occurred only in those years which coincided with tax reduction. For example, the effective maximum rate on capital gains above $50,000 fell from 49 percent to 28 percent in 1978, then to 20 percent in 1981. It was over this same period that we experienced a significant increase in the percentage of taxes paid by the rich, the sole group for whom capital gains are an important source of income.

### WHY MOST ECONOMISTS' FORECASTS ARE ERRONEOUS

Why is it that many, perhaps most, economists, continue to believe that the path to higher tax revenues is to push tax rates even higher? The answer: because they fail to incorporate the incentive effects of taxation into their analyses. Within their macroeconomic models lurk a strange sort of "economic man," a person who does not respond to changes in the relative rewards or trade-offs between work and leisure, consumption and savings, tax-sheltered and nonsheltered investments. Human nature is blithely ignored.

The failure to consider the incentive effects of taxation is clearly stated, for example, in the statement of methodology in the CBO report. The report notes that their "estimates do not take account of an individual's behavior resulting from tax changes as they affect the household or the economy at large." In effect, this statement is equivalent to saying that "we are going to estimate the effects of Reaganomics by assuming that Reaganomics does not work." Recall, the point of Reaganomics was that the supply-side incentive effects of the 1981 tax cuts.

### INDEXING MUST BE RETAINED

Beginning in 1985, the personal exemption and tax rate brackets will increase each year to compensate for increases in the cost of living as measured by the CPI. This provision is most important to lower and middle income taxpayers; wealthy taxpayers are already in the top bracket and therefore will remain subject to the same top marginal rate whether the tax code is indexed or not.

Tax indexing assures honesty and integrity in the tax policy process. It will prevent continued unlegislated increases in real individual tax liabilities that result entirely from the effects of inflation on the tax system. If tax indexing were repealed, individual and business taxpayers at the lower income levels would continue to be taxed at higher and higher rates. Furthermore, inflation would lessen the value of the personal exemption and zero bracket amount, which are relatively more important to lower income persons.

As noted above, the relative tax burden on the wealthy has increased over the past several years. This is because we have had de facto indexing. The 25 percent cut in marginal rates has benefitted lower income taxpayers disproportionately over the past several years; middle income taxpayers received a reduction in rates each year—helping them to compensate for bracket creep—while the highest income taxpayers remained subject to the highest marginal rates. The rate cuts helped lower income taxpayers avoid bracket creep, even though the code was not indexed. Inflation increased their nominal incomes, but not their real incomes, and would have forced them into ever higher tax brackets if the tax cuts were not taking effect at the same time.

The Congressional Research Service in its January, 1983 study noted that, because of narrower low income tax brackets and fixed personal exemptions, inflation disproportionately hurts lower and middle income taxpayers. It concluded that this continual increase in their tax burden will be stopped by indexing. Instead of increasing the burden on the middle income taxpayers, it concludes that "once indexation begins this new distribution will, for all practical purposes, be 'locked in' ". That is certainly preferable to increasing the burden on middle income taxpayers by continued and unlegislated bracket creep.

### RECORD CAPITAL FORMATION

The Accelerated Cost Recovery System (ACRS) was a cornerstone of ERTA and it is working. Replacement of the inadequate Asset Depreciation Range (ADR) system with ACRS cut the cost of capital and allowed businesses to make the investment in plant and equipment needed to drive the recovery. Nonresidential fixed investment (equipment and machinery) has increased by 16.5 percent in the five quarters since the recovery began in the fourth quarter of 1982. This is the highest rate of capital formation in any recovery since 1949 (when it grew at 22.5 percent). The average increase during post-1950 recoveries is 8.4 percent, half of the present rate.

*Capital formation during the recovery*

| Recovery began: | *5 quarter*[1] |
|---|---|
| 1949 | 19.1 |
| 1954 | 15.3 |
| 1958 | 10.5 |
| 1961 | 10.7 |
| 1970 | 6.3 |
| 1975 | 8.8 |
| 1980 | 7.8 |
| Average of all 7 | 12.1 |
| Average last 4 | 8.4 |
| 1982 most recent | 16.5 |

[1] Percentage increase in fixed nonresidential investment.

CAPITAL RECOVERY DURING THE RECESSION

| Quarters after peak | Average of 7 postwar recessions | Last recession |
|---|---|---|
| 1 (percent) | −2.0 | +0.2 |
| 3 (percent) | −6.4 | −4.1 |
| 5 (percent) | −14.2 | −7.5 |

Capital formation did not fall nearly as much during the last recession because of ACRS.

Increased capital formation increases productivity, employment and competitiveness. Because pre-ERTA allowances were insufficient, the U.S. economy has fallen behind, stagnated and become uncompetitive. Our capital stock is much older than our trading partners because our allowances have been insufficient for decades. Any further cutbacks in ACRS will sabotage the progress made to date.

The tax law has undergone many changes over the last seven years—often several major changes in one year. Businesses have watched tax cuts be enacted only to be undone within the year. This sort of activity makes it difficult to plan. Moreover, it makes every tax reduction suspect and therefore reduces the efficacy of its incentive effects.

Many businesses choose not to take "advantage" of new tax incentives because they expect the new advantages to disappear. They will not make marginal investments on the basis of tax provisions if they expect them to disappear, thus rendering their investments unprofitable.

ACRS under ERTA was simple. The Tax Equity and Fiscal Responsibility Act of 1982

(TEFRA) introduced new complexities. Any additional attempts to decrease depreciation allowances will just add complexity. This ever increasing complexity is rapidly undoing the progress made in 1981.

One of the most important incentive effects of lower taxation is the increased reward to both savings and investment. Lower marginal tax rates reduce the tax wedge that exists between savings and investment. It simultaneously increases the after tax reward to savings and the after tax return on capital investment. As Dr. Norman Ture, former under secretary of Treasury for tax and economic affairs, notes, this has been an important characteristic of the current expansion. The recovery has been literally driven by gross private investment.

Dr. Ture states that real gross private domestic investment surged ahead by 37.4 percent from the fourth quarter of 1982 through the fourth quarter of 1983, a growth rate almost seven times that of consumption, and substantially faster than the 26.4 percent average of the first-year growth rates of investment spending for prior postwar recoveries. Producer's durable equipment outlays were up a remarkable 20.3 percent, almost double the average first-year postwar recovery rate. Residential investment, presumably a casualty of "gigantic federal budget deficits", increased during the first year of the current recovery by 37.4 percent, more than twice the postwar average first-recovery-year rate. Consumption certainly has not been the prime mover of this recovery to date. Capital formation has provided most of the momentum.

### THE FUTURE COURSE OF FISCAL POLICY

As we look beyond the impact of the 1981 tax cut on 1982 tax revenues, the positive incentive effects of the tax cuts continue to unfold. The robust expansion presently underway has developed unexpected speed and power. The incentive effects of taxation have played an important role, particularly in business fixed investment. The effects of lower taxation not only contributed to the rising tax share paid by the rich, but also to the strength of the present economic recovery.

What this adds up to is a surprisingly large increase in the tax base. The incentive based tax cuts have been responsible for a 12.5 percent increase of taxes collected in the first seven months of 1984 compared to 1983. In effect, economic growth is increasing federal revenues at the same time it is cutting federal spending. Better business conditions have resulted in higher tax revenues and reduced unemployment benefits. If this trend continues, the FY '84 deficit would be $37 billion less than the $195 billion FY '83 deficit.

Having failed to make much of a dent in the federal budget, some now cast their eyes upon so-called tax "reforms" to close the deficit. For the most part, this translates into a euphemism for major tax increases. But where are the tax revenues to come from?

Evidence provided by the Internal Revenue Service (IRS) indicates it will not come from the rich. Increasing tax rates which the rich will simply drive them into tax shelters and reduce federal revenues. The Grace Commission has calculated that even if the IRS confiscated one hundred percent of all remaining taxable income above $75,000, it would run the government for no more than ten days.

This means that any tax increase will come out of the paychecks of lower and middle income class taxpayers. This group accounts for ninety percent of all personal income tax payments. Their 1981 tax cuts have already been whittled away by bracket creep, Social Security tax increases, and higher excise taxes. How much further can we dip into their pocketbooks?

The message should be clear by now. Any major assault on the federal deficit must be based on cuts in the growth of federal expenditures. An increase in tax rates would create strong disincentive effects that would eradicate any gains made by reducing the demand for credit by the federal government. Furthermore, it would not lead to anything like the increased tax revenues that proponents of tax increases claim. We must face up to the problem that the federal government is an extravagant spender, and that one does not cure the habits of an extravagant spender by providing him with more funds.

### CONCLUSION

The results of the 1981 tax cut are filtering in. They show that these tax cuts have had strong incentive effects. They have increased the share of taxes paid by the rich by causing them to produce more and to shelter less income. They have been a prime ingredient in the current economic expansion. ACRS has caused a dramatic increase in capital formation which is vital for continued economic growth. This proven success should place the focus of deficit reduction on the expenditure side of the ledger. Major tax increases threaten to reverse all the gains that have been made so far.

TABLE I.—TAX SHARE UNDER ERTA 1981–82 CUT

[Dollars in millions]

| Net income group | Tax revenues collected | | Percent change | Percent share of taxes paid | |
|---|---|---|---|---|---|
| | 1981 | 1982 | | 1981 | 1982 |
| $0 to $10,000 | $8,634 | $7,627 | −12 | 3.0 | 2.7 |
| $10,000 to $15,000 | 17,680 | 15,873 | −10 | 6.1 | 5.6 |
| $15,000 to $20,000 | 23,385 | 20,425 | −13 | 8.0 | 7.2 |
| $20,000 to $50,000 | 145,412 | 140,135 | −4 | 50.0 | 49.1 |
| $50,000 to $100,000 | 52,156 | 51,732 | −1 | 17.9 | 18.1 |
| $100,000 to $500,000 | 34,613 | 36,723 | +6 | 11.9 | 12.9 |
| $500,000 to $1,000,000 | 4,118 | 5,719 | +39 | 1.4 | 2.0 |
| $1,000,000 and up | 4,901 | 6,945 | +42 | 1.7 | 2.4 |
| Total | 290,900 | 285,179 | −2 | 100.0 | 100.0 |
| Summary: | | | | | |
| Under $20,000 | 49,699 | 43,925 | −12 | 17.1 | 15.5 |
| $20,000 to $50,000 | 145,412 | 140,135 | −4 | 50.0 | 49.1 |
| Over $50,000 | 95,788 | 101,119 | +6 | 32.9 | 35.4 |

Source: U.S. Treasury, Office of Tax Analysis.

TABLE II.—CONGRESSIONAL BUDGET OFFICE ESTIMATES OF TAX CHANGES RESULTING FROM ERTA AND TEFRA BY INCOME CATEGORY CALENDAR YEARS 1983–85

[In billions of dollars]

| Calendar year | All households | Household income | | | | |
|---|---|---|---|---|---|---|
| | | Less than $10,000 | $10,000 to $20,000 | $20,000 to $40,000 | $40,000 to $80,000 | $80,000 and over |
| 1982 | −37.8 | −.1 | −1.0 | −13.6 | −16.0 | −7.1 |
| 1983 | −68.0 | −.1 | −4.9 | −25.1 | −27.8 | −10.0 |
| 1984 | −93.6 | −.4 | −7.3 | −35.0 | −38.8 | −12.1 |
| 1985 | −115.9 | −.9 | −9.8 | −44.1 | −47.9 | −13.3 |

Source: Congressional Budget Office. Based on CBO economic projections of February 1983.

## Tax Rates, Taxable Income, and the Distributional Effects of the Economic Recovery Act of 1981

(By James Gwartney*)

### EXECUTIVE SUMMARY

Many observers are misled as to the distributional effects of a change in tax rates because they erroneously assume that taxable income is unaffected by tax rates. When tax rates decline, particularly high tax rates, people will respond by spending more time earning taxable income and less time (and money) with investment consultants and tax experts figuring out how to shelter their income. As a result, lower rates will expand the tax base. This factor is particularly important in the upper tax brackets.

Once allowance is made for the responsiveness of the tax base to the lower rates, comparison of the 1981 and 1982 tax data indicate that the rate reductions shifted the burden of the income tax toward high income taxpayers. Even though the 50 percent rate ceiling imposed in 1982 cut the rates of high income taxpayers by as much as 28.6 percent (from 70 percent to 50 percent), the tax revenues collected from the wealthy grew. The revenues collected from the top 1.36 percent of taxpayers, the group most directly affected by the sharply lower rates, jumped from $58.0 billion in 1981 to $60.5 billion in 1982. The top 1.36 percent of taxpayers shouldered 21.8 percent of the tax burden in 1982, up from 20.4 percent in 1981 (see Exhibits 4 and 5).

At the other end of the income spectrum, the tax liability fell. The bottom 50 percent of income recipients paid income taxes of $19.5 billion in 1982, down from $21.7 billion in 1981. The share of total income tax revenues contributed by the lower half of income recipients fell from 7.6 percent in 1981 to 7.0 percent in 1982 (see Exhibit 5). Far from creating a windfall gain for the rich, as some have charged, the 1981 tax cut actually shifted the burden of the income tax toward those with higher incomes, including taxpayers who received substantial rate reductions as the result of the 50 percent rate ceiling applicable in 1982.

There is nothing mysterious about the shift in tax liability emanating from the 1981 tax cut. It was totally predictable. The shift in the tax liability toward the rich reflects the greater responsiveness of the tax base to rate changes in the upper brackets. As a result, a roughly proportional rate reduction will always shift the tax burden toward the upper tax brackets. Both the Kennedy-Johnson tax cuts of 1963-1965 (see Exhibit 6) and the rate reductions of the 1980s illustrate this point.

Contrary to the conventional wisdom, it is not easy to determine the impact of tax rate reductions on the distribution of the tax burden across income groupings. Economic theory indicates that the taxable income base will be negatively related to tax rates, particularly in the upper income brackets. Failure to incorporate the impact of the rate changes on the taxable income base will result in potentially misleading projections. This is precisely the problem with static income projections. They are based on the fallacious assumption that taxable income is unaffected by changes in tax rates.

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This study integrates the impact of the rate changes on the taxable income base when estimating revenue changes across income groupings. Comparative income and revenue data for 1981 and 1982 are utilized to analyse the distributional effects of the Economic Recovery Tax Act of 1981 (ERTA). The findings are discussed in light of both economic theory and other research in this area.

### *Tax facts and tax policy*

Historical evidence sheds light on the likely distributional effects of ERTA. The following four tax policy facts will help the reader better understand the forces at work.

Fact 1: Literally millions of Americans now pay marginal tax rates that were previously reserved for only the rich and super rich. Since the tax rate increases were brought about by inflation and the accompanying bracket creep rather than legislative action, few Americans realize how much tax rates have increased. There has been a dramatic increase in the number of taxpayers paying marginal tax rates in the 30, 40, and 50 percent ranges during the last two decades. Exhibit 1 illustrates this point. In 1965, only 2.9 percent of the families (1.13 million returns) filing joint returns confronted a marginal federal income tax rate of 28 percent or more. By 1979, the figure had jumped to 35.3 percent (15.238 million returns), a twelvefold increase over the 1965 figure. Stated another way, by the end of the 1970s most persons in the upper third of the income distribution faced marginal tax rates previously confronted by only the very rich—the top 2 or 3 percent of earners. As Exhibit 1 shows, the picture is the same for still higher marginal tax rates. While only 1.0 percent (376 thousand) of the taxpayers filing joint returns in 1965 paid a marginal rate of 37 percent or more, the comparable figure in 1979 was 12.8 percent (5.533 million returns). A similar increase was recorded in the 49 percent marginal tax bracket.

These figures, as dramatic as they are, actually understate the increases in marginal tax rates during the last two decades. In the mid-1960s, persons facing marginal rates of 30 percent or more would have had earnings above the cutoff point of the Social Security payroll tax. This would not be true today. For most taxpayers in the 30 percent federal income tax range, the Social Security tax boosts their effective marginal rates another 6.7 percent. If they live in states with an income tax, this tax takes another 5 or 10 percent of their additional earnings. Clearly, the tax collectors take 40 percent or more of each additional dollar earned by many middle and upper middle income families—particularly those with dual earners.

Fact 2: As marginal tax rates increased during the post-1965 period, tax avoidance activities soared. Sheep may stand still while they are sheared, but taxpayers do not. Predictably, they responded to the higher rates by increasing their tax avoidance activities. Self employment, which offers greater opportunity for tax avoidance, expanded rapidly as the marginal tax rates rose. The underground economy grew at a rate twice that of the "reported income" economy. The prices of depreciable assets, including housing, increased more rapidly than the general price level, as investors sought out projects yielding accounting losses while appreciating in value. Of course, the losses reduced their current tax liability while the appreciation transformed ordinary income into a capital gain.

In several areas, this expansion in tax avoidance is clearly observable. A comparison of income losses relative to gains in major categories affected by tax shelter investments illustrates this point. As Exhibit 2 shows, during the 1966-1981 period, there was a sharp increase in net income losses from rents, business and professional practice, farming, partnerships, and small business corporations, the income categories most directly affected by tax shelter investments. In 1966, net income gains from these five categories were seven times greater ($52.23 billion compared to $7.43 billion) than the net income losses. In each category, net income gains were substantially greater than the losses. By 1981, the picture had changed dramatically. By 1981, the net income gains were only one and a half times greater ($122.28 billion compared to $80.74 billion) than the losses. In four of the five categories the losses actually exceeded the gains.

Fact 3: High marginal tax rates promote economic waste and discourage productive activities. When individuals bear the full cost of their actions and are able to reap fully the gains that occur from their activities, they use resources wisely. When I bear the full cost of food, clothing, telephone service, recreation facilities and thousands of other items, you can be reasonably sure that I will conserve on my use of these items. I will not consume them unless I value the services that they provide more than the cost of the provision. Similarly, when I am able to reap the full benefits of my productive activities, you can be sure that I will undertake even unpleasant tasks when the benefits (usually personal income) exceed the costs. When individuals bear the full cost and reap the full benefits, they will use resources in a wealth-creating manner. They will engage in positive-sum economic activity.

In contrast, as economists have long been aware, problems arise when a sizable share of the benefits or costs emanating from economic activity accrues to non-participating parties. This is precisely the problem that arises when marginal tax rates are high. High marginal tax rates make it possible for individuals to enjoy tax deductible items at a fraction of their costs to our economy. High marginal tax rates make tax deductible expenditures cheap to the taxpayer-consumer, but not to society. The personal cost of tax-reducing expenditures such as business-related vacations, luxury restaurants, nice automobiles, plush offices, mortgage financed homes and literally thousands of other items are substantially reduced because such items are deductible. However, deductibility does not reduce the cost to society of the valuable resources used to produce these commodities. Since they bear only a fraction of the costs, individuals often choose the deductible goods and services even though the items cost more to produce than they are valued by the taxpayer-consumer. Wealth is destroyed by this process; it wastes our valuable resources.

Simultaneously, high marginal tax rates reduce the incentives of individuals to engage in wealth-creating activities that generate taxable income. When taxpayers are permitted to keep only 40 or 50 percent of the fruits of their labor, they spend less time working in the taxable income garden. Lawyers, doctors and other high income professionals spend more time on the golf course and consulting with their accountants and less time serving their clients. Similarly, secondary workers decide that their job is not worth the hassle when they get to keep only a fraction of every dollar they earn. Individuals forego wealth-creating activities because they are unable to capture fully the fruits of their labor. The result—a smaller output and slower economic growth.

It is no coincidence that the 1970s were a period of both rising marginal tax rates and stagnating economic growth. The incentive structure created by the former leads to the latter. Rising marginal tax rates and stagnating economic growth—predictably, the two will be associated.

Fact 4: Essentially what the Economy Recovery Tax Act of 1981 (ERTA) did was correct for bracket creep and higher Social Security tax rates. Except for the imposition of the 50 percent rate ceiling which took effect in 1982, ERTA did little to rollback high marginal tax rates. In a nutshell, it kept rates from increasing. Exhibit 3 indicates the marginal tax rate a two-earner family of four would confront if their money income just kept pace with inflation. Thus, their inflation adjusted family income is constant. Only the federal income and Social Security taxes are considered. The data indicate that by 1984, marginal tax rates are slightly lower than 1980, but almost identical to the marginal rates of 1979 for families with real incomes (1979 dollars) of less than $75,000. Since returns with an adjusted gross income of $75,000 or less constitute approximately 98.5 percent of the total, it is clear that ERTA only modestly reduced the enormous rate increases that took place during the 1970s.

### *The incentive effects of a proportional rate reduction differ across tax brackets*

Many observers are misled as to the distributional effects of a change in tax rates because they erroneously assume that taxable income is unaffected by tax rates. Static revenue comparisons based on the assumption that taxable income would be the same before and after the rate changes are meaningless. They are akin to General Motors comparing before and after revenues associated with, for example, a 10 percent price reduction, assuming that the number of GM automobiles purchased by consumers would remain constant. However, since consumers would buy more GM cars at the lower price, such a calculation would be of little value to a manager seeking to determine the impact of a price reduction on GM revenues. Similarly, since taxpayers will generate more taxable income at the lower rates, the static projects reveal little about the impact of the lower rates on tax revenues.

As Richard Stroup and I discussed in an article on the 1964 tax cut, economic theory provides insight on the distributional effects of a proportional tax rate reduction.[1] The 1964 tax cut reduced rates across the board by approximately 20 percent. Except for the 50 percent rate ceiling, ERTA also reduced rates proportionally. For 1984, both upper and lower rates applicable to nominal income are approximately 23 percent lower, as compared to the 1980 rates.

When tax rates fall, particularly high tax rates, people will respond to the lower rates by spending more time earning taxable income and less time (and money) with investment consultants and tax experts figuring out how to shelter their income. The result—the tax base expands due to the lower rates. Higher rates exert the opposite effect. For an economist, the negative relationship between tax rates and the size of the tax base should be obvious. After all, it is merely a reflection of the basic economic postulate that "incentives matter" in a predictable way.

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[1] James Gwartney and Richard Stroup, "Tax Cuts: Who Shoulders the Burden," Economic Review: Federal Reserve Bank of Atlanta, March 1982.

From an incentive standpoint, what really matters is the impact of a tax rate change on after-tax income. People work, save, and invest mainly for "take home" income. The larger the share of additional earnings that the taxpayer is permitted to keep, the greater his or her incentive to generate additional income.

The incentive effects of a proportional tax reduction will differ considerably across tax brackets. Proportional rate reductions, such as the 1963–65 and 1981–83 tax cuts, will increase the take-home pay derived from additional earnings far more in the upper brackets than for the lower brackets. Perhaps some numbers will drive this point home. Suppose tax rates are cut across the board by 20 percent. In the 10 percent bracket, the rate is cut to 8 percent. For the 50 percent bracket, the rate falls to 40 percent and the 70 percent rate declines to 56 percent. Now, consider how this proportional rate reduction impacts take-home pay. For persons in the 10 percent bracket, after-tax income increase from 90 cents per dollar of additional earnings to 92 cents, a paltry 2.2 percent increase. Clearly this small increase is unlikely to exert a major impact on the incentive of those taxpayers to earn more taxable income.

In contrast, look what happens in the 70 percent bracket. Here the 20 percent rate reduction increases take-home pay from 30 cents to 44 cents per dollar of additional earnings—an increase of 47 percent. This exerts a substantial incentive effect. Taxpayers in this and other high income brackets are now permitted to keep a significantly larger proportion of their before tax earnings. Predictably, they will respond by earning more taxable income and engaging less intensely in tax shelter activities which generate less tax savings at the lower rates.

How does this incentive structure affect the distribution of the tax burden across income groupings? The answer is now straightforward. Since the rates were all reduced by the same percentage, the size of the revenue reduction will be inversely related to the changes in taxable income. If taxable income is virtually unaffected by the rate reductions, as is likely to be the case in the lowest marginal tax brackets, revenues will fall by the same percent as the rates. In these brackets, a 20 percent rate cut will lead to approximately a 20 percent reduction in tax revenues. In contrast, in the upper income (and marginal tax) brackets where the incentive effects on take-home pay are greater, increases in the tax base will at least partially offset the lower rates. In these brackets, tax revenues will fall by less than the 20 percent rate reduction.

Since tax revenues fall by a smaller amount in the upper income brackets, the share of taxes collected from high income taxpayers expands. As the Laffer curve emphasizes, if the expansion in the revenue base in the upper brackets is large enough, lower rates may lead to an increase in revenues. However, even if this is not the case, the incentive structure indicates that the tax burden is shifted toward the rich.

### *The distributional effects of ERTA*

Thus, economic theory indicates a proportional rate reduction will shift the tax burden to high income taxpayers because the taxable income base will be more sensitive to rate changes in the upper tax brackets. However, the 50 percent tax ceiling reduced the highest tax rates (on non-personal service income) more than proportionally. Unless the tax base is highly responsive in the upper brackets, the 50 percent ceiling may reduce the share of revenues collected from taxpayers previously facing marginal rates of 50 percent or more. The test of a theory is in its ability to predict. We now turn to the empirical evidence.

Exhibit 4 presents income and revenue data for taxpayers most directly affected by the imposition of the 50 percent rate ceiling. In recent years, itemized deductions have averaged slightly more than 20 percent of adjusted gross income (AGI). Assuming itemized deductions summed to 20 percent of AGI, taxpayers filing joint returns with adjusted gross incomes in excess of $75,000 would have confronted marginal tax rates of more than 50 percent in 1981. The 50 percent rate ceiling would have reduced the marginal rates of similarly situated taxpayers in 1982. The rates (on non-personal service income) of those at the top of the income pyramid were slashed from 70 percent to 50 percent, a whopping 28.6 percent cut in one year. Thus, in this area the rate reductions in 1982 were both real and significant.

In 1981, 1.36 percent of the returns had gross incomes of $75,000 or more. Exhibit 4 compares the income and tax liability of the top 1.36 percent of tax returns in 1981 with the parallel data for 1982. Just as our theory indicated, the reported adjusted gross income, wages and salaries, and taxable income of this group of taxpayers grew quite rapidly. Even though 1982 was a recession year and nominal gross national product rose by only 4 percent, AGI, wages and salaries, and taxable income for the top 1.36 percent of taxpayers, each expanded at double digit rates. As a result of the rapid growth of taxable income, the tax revenues collected from the top 1.36 percent of taxpayers rose from $58.0 billion in 1981 to $60.5 in 1982, a 4.3 percent increase in a recession year. These findings illustrate that the taxable income base is quite sensitive to changes in the rates, at least in the upper tax brackets.

Exhibit 4 also presents the income and revenue data for all other taxpayers (the bottom 98.64 percent). As expected, the reported income of other taxpayers grew less rapidly, more in line with the growth rate of GNP. As a result, the tax liability of the bottom 98.64 percent of taxpayers, reflecting the lower rates in 1982, declined by 4.3 percent. Thus, even though the 50 percent ceiling cut the top rates by a larger amount, tax revenues collected from the taxpayers most directly affected by the rate ceiling expanded by 4.3 percent while the tax liability of other taxpayers declined by an identical percentage.

Exhibit 5 presents data on the share of tax revenues collected from a broader set of income groupings for both 1981 and 1982. The tax liability of the bottom 50 percent of returns fell from $21.7 billion in 1981 to $19.5 billion in 1982. In these lower tax brackets, the 10 percent lower rates resulted in approximately 10 percent less tax revenues. Thus, the bottom 50 percent of returns contributed only 7.0 percent of the tax revenues in 1982, down from 7.6 percent in 1981. The tax liability of taxpayers in (a) the 50 to 75 percentile and (b) the 75 to 98.64 percentile groupings also declined by 5.8 percent and 2.8 percent respectively. Thus, the share of income tax revenues paid by these groups declined slightly. In contrast, the share of income taxes paid by the top 1.36 percent rose from 20.4 percent in 1981 to 21.8 percent in 1982. Note the decline in tax liability was inversely related to income—the largest reductions in tax liability were in the lowest income and marginal tax brackets. As economic theory indicates, this is precisely the pattern that one would expect from a roughly proportional rate reduction. Far from creating a windfall gain for the rich, as some have charged, ERTA actually shifted the burden of the income tax toward taxpayers in upper brackets, including those who received the largest rate reductions as the result of the 50 percent rate ceiling.

Exhibit 6 presents parallel data for the 1964 tax cut. Just as theory predicts, the proportional rate reductions of 1964–65 also shifted the tax burden to the rich. The tax revenues collected from the bottom 50 percent of returns fell by 6.4 percent between 1963 and 1965. Smaller reductions in tax liability accrued to those in the 50 to 75 percentile and 75 to 95 percentile groupings. In contrast, the revenues collected from the top 5 percent of returns rose by 16.9 percent between 1963 and 1965. As a result, the share of tax revenues collected from the top 5 percent of taxpayers rose from 35.6 percent in 1963 to 38.5 percent in 1965. The proportion of revenues collected from all other groups fell. Just as economic theory predicts, the proportional rate reductions of 1963-1965 like the reductions in 1981-1982 shifted the tax burden to the rich.

### *Two fallacious views as to why high income taxpayers paid more taxes in 1982*

Confronted with the evidence that the tax burden shifted toward upper income taxpayers in 1982, critics of the "incentives matter" view have raised two points. First, some have argued that the pattern merely reflects cyclical conditions—the recession of 1982. Of course, a recession does reduce incomes. However, there is no reason to believe that it reduces incomes more in lower tax brackets than in upper brackets. In fact, the evidence indicates that business income and profits fluctuate more than other components of income over the business cycle. This being the case, a recession is more likely to *retard* incomes in the upper tax brackets more severely than in the lower brackets because business income and profits are a larger component of total income for those with higher incomes. However, the most damaging evidence against the cyclical view is the pattern of the 1963-1965 data. During this period of economic growth and rising incomes, the distributional pattern emanating from a tax reduction was similar to the pattern experienced in 1982. This indicates that changes in the structure of incentives across tax brackets is far more important than cyclical conditions as a determinant of changes in tax liability across income groupings.

Second, other critics have argued that the shift in the tax burden toward the rich merely reflects rising capital gains associated with the bull market on Wall Street beginning in August 1982. Inspection reveals that this is a "tail wags dog" theory. Capital gains are a small component of total income. In 1981, net capital gains less losses contributed only 1.7 percent to the total adjusted gross income. Even for the top 1.36 percent of taxpayers, the capital gains component was only 9.6 percent of AGI. Given the size of capital gains as a share of AGI, it would have taken a huge expansion in capital gains income to explain the observed pattern of income growth across income groupings in 1982. But the actual increase in net capital gains income was rather modest—from $29.3 billion in 1981 to $32.0 billion in 1982, an increase of only 9.2 percent. Of course, the major component of income is wages and salaries. In 1981, the wage and salary component summed to 84 percent of AGI. As Exhibit 4 shows, this component of income grew substantially more rapidly in the upper tax brackets between 1981 and 1982. Clearly, it provided the major impetus for the growth of taxable income in the upper brackets.

### *Why taxpayers have not made a major move out of tax shelters*

As we noted previously, the tax shelter industry boomed with the rising marginal tax rates of the 1970s. In fact, taxpayers are still adjusting their investment portfolios to the higher marginal rates. We are in the midst of a tax shelter investment boom. Why didn't the 1981-1984 tax cuts arrest the growth of the the tax shelter industry?

There are three major reasons why recent tax changes have failed to reduce significantly the size of the tax shelter industry. First, given bracket creep and higher Social Security tax rates, marginal tax rates are not much lower today than they were in 1979 and 1980 for taxpayers with an AGI of less than $75,000 (see Exhibit 3). Since the overall marginal rates were not reduced, at least not reduced very much, it is not surprising that there has been little movement away from tax shelters.

Second, ERTA provided far more rapid depreciation allowances beginning in 1982. This aspect of the legislation would make tax shelters more attractive. The more rapid depreciation write-off would mean larger up front losses from real estate and other depreciable investments. Far from discouraging the tax shelter industry, the rapid depreciation allowances made the shelter business more profitable.[2]

Finally, the incentive to engage in tax shelter investments is influenced by expected future rates as well as current rates. Many influential policymakers have argued, and continue to argue, that tax rates will have to be increased in the near future. Given the current environment, many investors anticipate higher tax rates in 1985 and 1986. Predictably, they will stay with their tax shelter investments, so they will not be caught short when the anticipated higher rates are instituted.

### *Additional evidence from the 1979 data*

Analysis of both the 1963-1965 and 1981-1982 data indicate that the taxable income base is more responsive to rate changes in the upper income (and tax rate) brackets. In the terminology of economists, the tax elasticity coefficient is larger in the upper income brackets. In order to investigate this issue more thoroughly, Professor James Long of Auburn University and I utilized the Internal Revenue Service 1979 Individual Tax Model File to estimate the impact of differences in marginal tax rates on the taxable income base. Since the IRS data contain a state of residence indicator, we were able to integrate the federal and state rate structures so the income base of persons with the same gross income but a different effective marginal tax rate (reflecting differences in the state marginal tax rates) could be compared.

Seeking to obtain an income measure that was not contaminated by tax sheltering, we developed a gross income variable. "Gross income" is defined as the positive components of income and thus is a measure of taxpayer income prior to their engaging in tax shelter activities. In contrast, "adjusted gross income," as defined by the IRS, indicates the income of taxpayers after deduction of losses from many, if not most, tax shelter activities. Thus, gross income is a better indicator of the taxpayer's income level in the absence of tax shelter activity.

Utilizing the 1979 data, the following model was developed and estimated:

Taxable Income=f(MTR, GI, Age, PE, and IA)

where: MTR is the combined marginal federal and state income tax rate the taxpayer would confront in the absence of deductible expenditures and deductions for losses;

GI is the gross income of the tax return;

Age is a dummy variable indicating the taxpayer is age 65 or over;

PE is the number of personal exemptions; and

IA is a dummy variable indicating the taxpayer used the income averaging method to calculate tax liability.

In order to reduce variability from factors outside the focus of our study, only taxpayers filing joint returns were included in our analysis.

Taxpayers residing in states where the state marginal tax rate is higher will confront higher marginal tax rates than taxpayers in states with lower rates. State marginal tax rates range from zero in states without an income tax to maximum rates in the teens in several states.[3] Therefore, even after making allowance for the deductibility of state income tax payments on one's federal return, differences in state income tax rates lead to substantial differences in marginal rates among taxpayers with similar gross income and number of exemptions.

Within the framework of our model we are most interested in the impact of changes in marginal tax rates on taxable income. Since higher marginal rates increase the taxpayer's incentive to shelter income and thereby reduce taxable income,[4] we expect a negative relationship between taxable income and marginal tax rates. The regression equations for our model were estimated within income groupings. Exhibit 7 summarizes the results. As expected, higher marginal tax rates exerted a negative impact on taxable income.

Predictably, the largest negative impact was in the high income (and high marginal tax rate) categories. For the $40,000 to $60,000 gross income cell, after adjusting for gross income, age, personal exemptions, and income averaging, taxable income declined by $103 for every one unit increase in marginal tax rates. This indicates that in this income range, a one unit increase in the marginal tax rate induces a decline of $103 in taxable income. For the $60,000 to $80,000 gross income grouping, taxable income is estimated to decline by $322 for each one unit increase in marginal tax rates. As one moves to income groupings above $80,000, the negative impact of marginal tax rates increases. For the $80,000 to $100,000 gross income cell, the negative impact of a unit tax rate change rose to $1,525. Still, larger estimates were obtained for income brackets above $100,000.[5]

The estimates of Exhibit 7 (column 1) can be converted easily to tax rate elasticities. The tax rate elasticity coefficient is equal to:

Percent change in taxable income divided by percent change in marginal tax rate.

Since the tax base and tax rate generally change in opposite directions, a negative tax rate elasticity coefficient is anticipated. If the percent change in the tax base (taxable income in our case) is less than the percent change in the tax rate, the elasticity coefficient will be less than one. Under these circumstances, higher (lower) marginal tax rates would lead to an expansion (contraction) in tax revenues. In contrast, when a change in the tax rate leads to an ever larger change in the tax base, the tax rate elasticity coefficient will be greater than one. When this is the case, higher (lower) tax rates would lead to a reduction (increase) in tax revenues. Tax rate elasticity coefficients in excess of unity indicate that taxpayers in the grouping are on the backward bending portion of their Laffer curve.

Exhibit 7 (column 2) presents estimates for the tax rate elasticity coefficient for each of the ten gross income groupings. For income cells below $60,000 the tax elasticity coefficient is small. However, beginning with the $60,000 to $80,000 gross income cell, the estimated elasticities rise sharply. For gross income cells in excess of $80,000, the estimated tax elasticity coefficient is greater than one. This indicates that lower marginal rates in these cells would have raised more tax revenue.

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[2] Some of us indicated at the time the legislation was passed, that this would be the case. For example, Richard Stroup and I stated the following at a conference held in March 1982:

"Will the Reagan tax program reduce the flow of resources into tax avoidance? Unfortunately, the answer is, Probably not. Congress added sections providing favorable tax treatment for special-interest groups such as racehorse owners and commodity traders. The leasing provision of the new law will increase the attractiveness of this technique as a means of sheltering income. The more rapid depreciation writeoffs, particularly for real estate, will clearly increase the attractiveness of tax-shelter investments in depreciable assets.

"However, the major reason for doubting that the 1981 legislation will reduce tax avoidance is that for most people it does not reduce marginal tax rates on real income. The rates during 1981-84 will be lower than they would have been in the absence of the Reagan plan. However, they will be about the same or higher than the 1980 tax rates."

See Federal Reserve Bank of Atlanta, *Supply-side Economics in the 1980s* (Westport, Conn.: Quorum Books, 1982).

[3] Florida, Nevada, South Dakota, Texas, Washington, and Wyoming did not levy a state income tax. In contrast, California, Delaware, Hawaii, Iowa, Minnesota, Montana, New York, and Wisconsin all levied maximum rates of 11 percent or more in 1979.

[4] Since we are interested only in taxpayer decisionmaking that influences their taxable income, our taxable income variable adds state and local income tax deductions to the taxpayers' taxable income. Thus, the lower taxable income for taxpayers confronting high marginal tax rates reflects factors other than the deductibility of state and local income tax liability from their gross income.

[5] Our estimate for the open-ended $200,000 and above grouping should be interpreted with caution. Since the Internal Revenue Service does not provide information on state of residence for returns with an adjusted gross income of $200,000 and over, these returns had to be excluded from our analysis. Thus, we are left with persons who had an adjusted gross income of less than $200,000, but a gross income (positive components of income) of more than $200,000. The more tax sheltering undertaken by a taxpayer with an adjusted gross income near the $200,000 cutoff, the more likely their gross income will place them in our $200,000 and over bracket. Therefore, taxpayers in our $200,000 and over gross income grouping may be a biased sample of all returns in this bracket.

Perhaps a little additional discussion is necessary to highlight the importance of these estimates. Consider the $60,000 to $80,000 gross income category. Our analysis indicates that taxpayers who have the same gross income (remember gross income is a control variable in the model) report $322 less taxable income for each one unit increase in their effective marginal tax rate. Given the shrinkage in taxable income as tax rates rise in this grouping, it takes a substantial increase in tax rates in order to squeeze additional tax revenue from this tax bracket. In fact, the estimated tax elasticity of minus .34 indicates that a 10 percent increase in tax rates in this bracket will reduce taxable income by 3.4 percent. Thus, the 10 percent higher marginal rates will lead to, at most, only a 6.6 percent increase in revenues from taxpayers in this bracket.

For higher incomes (and tax rates), the tax elasticity is still greater. For example, the 1.29 estimated tax elasticity in the $80,000 to $100,000 grouping indicates that a 10 percent rate hike in this category would cause a 12.9 percent shrinkage in taxable income. Of course, since the decline in the tax base is larger than the increase in rates, higher rates for this bracket would lead to a reduction in revenue collected. As of 1979, our estimates indicate that taxpayers in this grouping were on the backward bending segment of the Laffer curve. As expected, the estimated elasticities are even larger for the higher income categories.[8]

In interpreting the estimates of Exhibit 7, it is important to recognize that they reflect long-run adjustments. One would expect a smaller shrinkage in the tax base in the year or two immediately following a rate increase than the shrinkage that will eventually take place as the result of a tax rate increase.[7] The major factor contributing to rate differences within income categories in our model is differences in state income tax rates. Since the general pattern of state rates has been in place for a considerable period of time, it is reasonable to assume that taxpayers have adjusted their tax sheltering activities accordingly. Thus, the responsiveness of taxable income to changes in tax rates in the year or two immediately following a change in tax rates may be somewhat less than the magnitude indicated by the estimates of Exhibit 7.

### SUMMARY

Economic theory indicates that the taxable income base will be more responsive to changes in tax rates in the upper tax brackets than in the lower brackets. A detailed analysis of the 1979 individual tax data indicate that this proposition is true. Given the greater responsiveness in the upper brackets, proportional rate reductions such as those instituted in 1964-1965 and 1981-1984 will shift the burden of the income tax to taxpayers in the upper brackets. Predictably, there will be an increase in the share of tax revenues collected in the upper income brackets. The empirical evidence from both the 1963-1965 and the 1981-1982 period is highly consistent with the underlying economic theory.

EXHIBIT 1.—THE RISING MARGINAL FEDERAL INCOME TAX RATES: 1965–79

| | 1965 | 1970 | 1973 | 1977 | 1979 |
|---|---|---|---|---|---|
| No. of joint returns (in millions) | 39.506 | 42.660 | 39.805 | 42.576 | 43.217 |
| Joint returns (in millions) facing: | | | | | |
| Marginal tax rates of 28 percent or more | $1.130 | $2.984 | $5.386 | $12.003 | $15.238 |
| (Percent) | 2.9 | 7.0 | 13.5 | 28.2 | 35.3 |
| Marginal tax rates of 32 percent or more | $0.722 | $1.701 | $3.044 | $7.308 | $9.782 |
| (Percent) | 1.8 | 4.0 | 7.6 | 17.2 | 22.6 |
| Marginal tax rates of 37 percent or more | $0.376 | $0.797 | $1.321 | $2.965 | $5.533 |
| (Percent) | 1.0 | 1.9 | 3.3 | 7.0 | 12.8 |
| Marginal tax rates of 49 percent or more | $0.136 | $0.296 | $0.481 | $1.032 | $1.541 |
| (Percent) | .3 | 7 | 1.2 | 2.4 | 3.6 |

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (annual).

EXHIBIT 2.—NET INCOME LOSSES COMPARED WITH NET INCOME GAINS FOR SELECTED SOURCES OF INCOME, 1966 AND 1981

[Dollars in billions]

| Source of income gain or loss | 1966 returns | | | 1981 returns | | |
|---|---|---|---|---|---|---|
| | Net income gain | Net income loss | Loss/gain ratio (percent) | Net income gain | Net income loss | Loss/gain ratio (percent) |
| Rents | $4.36 | $1.75 | 40.1 | $15.05 | $17.82 | 118.4 |
| Business and professional practice | 28.14 | 1.95 | 6.9 | 68.53 | 15.46 | 22.6 |
| Farming | 5.99 | 1.92 | 32.0 | 8.53 | 16.34 | 191.6 |
| Partnerships | 12.08 | 1.35 | 11.2 | 25.91 | 26.05 | 100.5 |
| Small business corporations | 1.66 | .46 | 27.7 | 4.26 | 5.07 | 119.0 |
| Total | 52.23 | 7.43 | 14.2 | 122.28 | 80.74 | 66.0 |

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (annual).

EXHIBIT 3.—MARGINAL TAX RATES FOR A TWO-EARNER FAMILY OF FOUR, 1979–84 [1]

| Adjusted gross income (1979 dollars) | Marginal tax rate [1] (percent) | | | |
|---|---|---|---|---|
| | 1979 | 1980 | 1982 | 1984 |
| 20,000 | 24.13 | 27.13 | 28.7 | 24.7 |
| 40,000 | 38.13 | 43.13 | 45.7 | 39.7 |
| 60,000 | 49.13 | 55.13 | 50.7 | 48.7 |
| 75,000 | 49.00 | 54.00 | 49.0 | 48.7 |
| 100,000 | 54.00 | 54.00 | 50.0 | 45.0 |

[1] The data are for Federal personal income and social security tax liabilities. The calculations are based on the following assumptions: The couple files a joint return and all income is earned income. The second wage earner earns one-half the amount of the first. Taxpayers take the zero-bracket amount or itemize deductions equal to 23 percent of income, whichever is greater. When calculating the 1980 and 1984 incomes in 1979 dollars, the actual inflation rates were used for the 1980–83 period and a 5-percent inflation rate was projected for 1984.

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[8] Our model estimates the impact of a change in tax rates on taxable income, holding gross income constant. To the extent that higher marginal rates also induce taxpayers to consume more leisure, engage in the underground economy, shift income to closely held corporations, and/or take other steps (e.g., purchase municipal bonds) to reduce their reported gross income, our model will underestimate the negative impact of higher marginal tax rates on the taxable income base.

[7] See James M. Buchanan and Dwight R. Lee, "Politics, Time, and the Laffer Curve," *Journal of Political Economy*, vol. 90, no. 4 (1982), pp. 816-819.

EXHIBIT 4.—THE ESTIMATED GROWTH RATE OF INCOME COMPONENTS AND THE INCOME TAX LIABILITY FOR TAXPAYERS AFFECTED BY THE 50-PERCENT TAX CEILING OF ERTA COMPARED TO OTHER TAXPAYERS

| | Top 1.36 percent of tax returns [1] | | | Bottom 98.64 percent of tax returns | | |
|---|---|---|---|---|---|---|
| | 1981 | 1982 | Percent change | 1981 | 1982 | Percent change |
| No. of returns (in millions) | 1.3005 | 1.2992 | −0.1 | 94.096 | 93.998 | .01 |
| Income range | >$75,000 | >$80,300 | | <$75,000 | <$80,000 | |
| Adjusted gross income (billions) | 177.0 | 196.9 | +11.2 | 1565.6 | 1652.3 | +3.6 |
| Wages and salaries (in billions) | 102.3 | 113.0 | +10.5 | 1383.[illegible] | 1451.6 | +4.9 |
| Taxable income (in billions) | 138.2 | 155.0 | +12.2 | 1245.5 | 1313.9 | +5.5 |
| Income tax liability (in billions) | 58.0 | 60.5 | +4.3 | 225.1 | 216.4 | −4.3 |

[1] In 1981, persons filing joint returns faced a marginal tax rate of more than 50 percent on nonservice income if their taxable income was in excess of $60,000. Allowing for 20-percent itemized deductions, this suggests that returns with an AGI of $75,000 or more would have confronted marginal rates in excess of 50 percent in 1981. In 1981, 1.36 percent of all returns had an adjusted gross income of $75,000 or more. Here, the income and tax liability of the top 1.36 percent of returns—those confronting a marginal tax rate of 50 percent or more in 1981—are compared with the income and tax liability data for the top 1.36 percent of returns in 1982.

Source: The 1981 data are from Internal Revenue Service, "1981 Statistics of Income: Individual Income Tax Returns," tables 1.1 and 1.3. The 1982 data are from Internal Revenue Service, "Statistics of Income: SOI Bulletin" (winter 1983–84), pp. 11–22.

EXHIBIT 5.—THE SHARE OF TAX REVENUE COLLECTED FROM VARIOUS PERCENTILE GROUPINGS RANKED ACCORDING TO ADJUSTED GROSS INCOME—1981 VERSUS 1982

[Dollars in billions]

| | Income tax liability | | | Share of total income tax liability | |
|---|---|---|---|---|---|
| | 1981 | 1982 | Percent change | 1981 | 1982 |
| Bottom 50 percent [1] | $21.7 | 19.5 | −10.1 | 7.6 | 7.0 |
| 50 to 75 percentile [1] | 59.0 | 55.6 | −5.8 | 20.8 | 20.1 |
| 75 to 98.64 percentile [1] | 145.4 | 141.3 | −2.8 | 51.2 | 51.0 |
| Top 1.36 percent [1] | 58.0 | 60.5 | +4.3 | 20.4 | 21.8 |
| Total | 284.1 | 276.9 | −2.5 | 100.0 | 100.0 |

[1] The adjusted gross income intervals for the percentile groups were:

| | 1981 | 1982 |
|---|---|---|
| Bottom 50 percent | <$14,160 | <$14,344 |
| 50 to 75 percentile | 14,160–26,140 | 14,344–26,855 |
| 75 to 98.64 percentile | 26,140–75,000 | 26,855–80,300 |
| Top 1.36 percent | >75,000 | >80,300 |

When necessary, interpolation was used to estimate the tax revenues within income intervals.

Source: The 1981 data are from Internal Revenue Service, "1981 Statistics of Income: Individual Income Tax Returns," tables 1.1 and 1.3. The 1982 data are from Internal Revenue Service, "Statistics of Income: SOI Bulletin" (winter 1983–84), pp. 11–22.

EXHIBIT 6.—THE SHARE OF TAX REVENUE COLLECTED FROM VARIOUS PERCENTILE GROUPINGS RANKED ACCORDING TO ADJUSTED GROSS INCOME PRIOR TO AND SUBSEQUENT TO THE 1964 REDUCTION IN TAX RATES

[Dollars in billions]

| | Tax revenues collected from group | | | Percent of personal income taxes collected from group [1] | |
|---|---|---|---|---|---|
| | 1963 | 1965 | Percent change | 1963 | 1965 |
| Bottom 50 percent | $5.01 | $4.69 | −6.4 | 10.4 | 9.5 |
| 50 to 75 percentile | 10.02 | 9.90 | −1.2 | 20.8 | 20.0 |
| 75 to 95 percentile | 16.00 | 15.88 | −.7 | 33.2 | 32.1 |
| Top 5 percent | 17.17 | 19.05 | +10.9 | 35.6 | 38.5 |
| Total | 48.20 | 49.53 | +2.8 | 100.0 | 100.0 |

[1] These estimates were derived via interpolation.

Source: Internal Revenue Service, "Statistics of Income: Individual Income Tax Returns" (1963 and 1965).

EXHIBIT 7.—THE ESTIMATED ELASTICITY OF TAXABLE INCOME WITH RESPECT TO MARGINAL TAX RATE FOR VARIOUS INCOME CATEGORIES—JOINT RETURNS 1979

| Gross income | Impact of 1 unit increase in marginal tax on taxable income (1) | Estimated elasticity of taxable income with respect to MTR (2) | Hypothetical marginal federal income tax rate, midpoint of income interval, 1979 [1] (3) |
|---|---|---|---|
| $0 to $20,000 | −$5 | −0.01 | 16 |
| $20,000 to $40,000 | −1 | −.00 | 28 |
| $40,000 to $60,000 | −103 | −.13 | 43 |
| $60,000 to $80,000 | −322 | −.34 | 49 |
| $80,000 to $100,000 | −1,525 | −1.29 | 54 |
| $100,000 to $120,000 | −2,584 | −1.86 | 54 |
| $120,000 to $140,000 | −3,371 | −2.10 | 59 |
| $140,000 to $170,000 | −3,630 | −1.92 | 64 |
| $170,000 to $200,000 | −5,000 | −2.38 | 64 |
| Over $200,000 | −5,708 | −3.93 | >64 |

[1] Assumes a family of four married and filing a joint return. Taxpayers are assumed to take either the standard deduction or itemized deduction equal to 22 percent of AGI, whichever is greatest.●

## COMPUTER CRIME

● Mr. TRIBLE. Mr. President, decades ago, the United States embarked on a vast technological adventure and as a result, the computer has become a centerpiece of our life. The Federal Government alone uses more than 16,000 computer systems, and the private sector employs more than 50,000 large general purpose computers. In addition, some 3.5 million personal computers are currently in use in the business market, and about 100,000 have already been installed in the Nation's schools.

These are tremendous and welcome changes, and the benefits they have conferred on our way of life are immeasurable. Yet, the Nation's judicial system has failed to keep abreast of these changes, and the daily efforts of government, of business, and of individuals are at risk because of it.

Last year, I introduced legislation designed to protect the computer systems of the Federal Government, federally insured banks, and businesses operating in interstate commerce from fraud and abuse. This measure, S. 1733, has the support of many private computer-related firms and of many computer security associations. In addition, the Department of Justice has already testified that the lack of a specific computer crime statute:

> Could lead to the dismissal of a prosecution, notwithstanding the egregious nature of the offense or the extensiveness of trial preparation, because decades old statutory elements designed to deal with other crimes have been stretched too far to accommodate modern criminality.

Despite this, S. 1733 still languishes in the Senate Judiciary Subcommittee on Criminal Law, and hearings have not been held on the bill.

Nevertheless, the American Bar Association today provided additional evidence why the Congress must move swiftly in this area. In one of the first major empirical surveys of computer crime, the ABA computer crime task force found "disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep."

More importantly, the ABA's task force concluded that the need for a Federal computer crime statute—like that provided by S. 1733—is clear and unmistakable. Its report said that prosecutors need a specific statute to use against computer criminals, and that such legislation would reduce the belief the computer abuse is a victimless intellectual challenge.

The survey by the ABA's computer crime task force also made these important findings:

Almost 50 percent of the businesses and agencies surveyed reported some form of computer crime just in the last year, with total losses estimated at between $145 million and $730 million.

The most frequent computer crimes are thefts of assets, including software; embezzlement of funds; and defrauding of consumers and investors.

The perpetrators are most often people employed inside the organization, and their motive is usually personal financial gain.

It is also important to note that these figures are almost certainly understated. For the survey also found that many organizations don't know when a computer crime has been committed, and often cannot monitor their systems to detect a crime. As a result, many go unreported and unprosecuted.

The full breadth of the computer crime problem will probably remain a mystery, of course, until victims are assured a reasonable chance of legal recourse. Affected companies will remain reluctant to report crimes as long as the damage to their reputations outweighs the likely results from prosecuting the case. And attorneys and judges will remain reluctant to involve themselves in these cases until they are provided a more effective tool of prosecution than the wire fraud laws that have frequently been used in the past.

Also, a common attitude found by the survey, and by the Washington Post in a series of interviews with computer abusers, is that their antics are merely an enjoyable challenge. Absent a comprehensive computer crime law, they will continue to be a challenge without risk. Many abusers are well aware that their chances of being caught, reported, and successfully prosecuted under present law are virtually nonexistent—no matter how threatening or damaging their actions. Those actions will continue unabated until abusers are told by this Congress that they are committing crimes—every bit as serious as vandalism, fraud, and robbery that does not involve a computer—and that they will be punished accordingly.

The United States has moved boldly into the computer age, and has reaped the rewards of vastly enhanced productivity and efficiency. It is time for the Congress to move with equal boldness and vigor, by enacting a Federal computer crime statute that will preserve the integrity of the computer systems on which we increasingly depend.

I would like to commend the ABA on its timely and important report, and I ask that their findings, along with the recent Washington Post series, be printed in the Congressional Record.

The material follows:

[From the Washington Post, May 20, 1984]

### Report Cites Extent of Computer Crime

(By Fred Barbash)

An American Bar Association committee, in one of the few empirical surveys of computer-related crime, said yesterday that it rivals conventional white-collar crime in cost and gravity and is aggravated by the spread of computer technology.

The committee, also citing the absence of deterrents and the glorification of computer "whiz kids," concluded that the "need for federal computer crime legislation is clear and unmistakable."

Its report said prosecutors need a specific statute to use against computer criminals rather than stretch current laws. And legislation would reduce the perception that computer crime is a harmless game or intellectual challenge, the committee said.

The report of the Computer Crime Task Force of the Association's Criminal Justice Section was based on a survey of 283 large corporations and government agencies.

There is "disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep," the report said. Among its conclusions:

About 48 percent of those surveyed reported some form of computer crime in the last year with total annual losses estimated at $145 million to $730 million. The estimates are described as "conservative," because the respondents were asked to report only "known and verifiable" incidents.

The most significant computer crimes were thefts of assets, including software; embezzlement of funds; defrauding of consumers and investors, and destruction or alteration of data and software.

The perpetrators—where identified—most frequently have been people employed inside an organization. But 45 percent of the crime victims reported that outsiders were responsible. Among the outsiders were consultants, customers, competitors and individuals with no prior relationship with the organization.

The motive, where it can be identified, is usually personal financial gain. But another significant impetus has been "the intellectual challenge" associated with computer crime.

"The survey responses reflect a concern that we are developing a culture of young computer users who are challenged to use computers to the ultimate extent possible, with little or no regard for other peoples' property or privacy interests," the report said.

"These young users are encouraged by their peers and by the role models that they see treated as 'whiz kids' and 'heroes' by the media, to push technology to the limit, without any balancing of legal or ethical considerations in computer use."

One of the biggest problems found by the committee was that organizations often do not know who committed a computer crime. Many do not know when a computer crime has been committed and cannot monitor their systems to select crime, the study said.

Uncovered crimes often go unreported to law enforcement authorities, who are unequipped to deal with the problem.

There is a "gap between computer technology generally and computer security technology," the study said. "This gap, or lag, between the two seems to be increasing."

Survey participants expressed grave concerns about the future. A health services company responded that it worried about "the growing industry of personal computers and the ability of connecting to on-line applications and data bases in the public and private sectors. Individuals, from elementary students on up, who would not as a rule have access to this very powerful equipment can now purchase it at local computer stores."

An accounting firm officer said that proliferation of computers will put the equipment into the hands of more people "with criminal propensities."

A system-design firm official responded that "it is difficult to explain to 12 men and women that a copy of a software code, on a mag tape valued at $25, has an overall value in excess of millions of dollars."

A computer security consulting firm said one of the biggest problems was "the inability of the courts and law enforcement to deal with complex issues relating to theft of computer technology, trade secrets, transborder data-flow and leniency in dealing with white-collar criminals. Juries may never be trained in computer crime, but jurists should be."

The task force members were Joseph B. Tompkins Jr., former deputy chief of the Justice Department's fraud section and now a partner in the Washington office of the law firm of Sidley & Austin; James R. Jorgenson, a Florida appeals court judge; Nathaniel E. Kossack, former deputy assistant attorney general in the Justice Department's Criminal Division and now a partner in the law firm of Perito, Duerk & Pinco; and Marcia L. Proctor, manager of security policies at R. J. Reynolds Industries Inc.

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[From the Washington Post, May 20, 1984]

## AGE OF ELECTRONIC CONVENIENCE SPAWNING INVENTIVE THIEVES

(By Mary Thornton)

On Jan. 18, 1980, a New York air traffic controller, angered by the Soviet invasion of Afghanistan a month earlier, momentarily took over an incoming Aeroflot jet carrying Soviet Ambassador Anatoliy F. Dobrynin. He transferred control to his computer, deleted a signal identifying the aircraft as a large jet, then returned control to the main console.

Without the signal, the jet looked like a small private aircraft on other controllers' monitors. It landed safely, but only after flying through heavily traveled airspace without proper controls for 20 perilous minutes. The controller was fired but not prosecuted.

Last summer, a group of young Milwaukee computer enthusiasts, nicknamed "the 414s" after their telephone area code, was raided by FBI agents after gaining access to more than 60 computer data banks, including those at New York's Memorial Sloan Kettering Cancer Center, the Los Alamos scientific laboratory in New Mexico and a California bank.

Those incidents, one potentially deadly and the other apparently playful, represent the extremes of a phenomenon that has triggered growing concern among law enforcement officials: computer crime and abuse.

Experts in the federal government and private industry say the variety of such crimes and the potential for damage are staggering. They cited harassment, copyright violations, extortion, multimillion-dollar electronic bank thefts, industrial and military espionage, terrorism, sabotage and even murder.

Computers also present unnerving opportunities for invasion of privacy. If a young computer buff can gain access to computerized credit records, hospital medical records, motor vehicle records and bank records, the experts ask, what potential mischief can a computer professional wreak?

Yet, as the nation becomes more computerized, the experts warn that too little effort is going into legislation governing computer abuse, security measures to prevent it, new kinds of insurance to protect against loss or addressing the ethical and social questions raised by the arcane wonders of electronic information processing.

Joseph F. Coates, a consultant on long-range technological trends, put the problem this way.

"The computer industry is so complacent, its buyers and users so beguiled by the equipment and regulators so enchanted by the calm sea as computers slowly spread across this nation [that] the industry needs its equivalent of Hiroshima to alert the nation . . . to the enormous risks in the way we organize our computer affairs."

The special and increasing danger of computer crime arises from several factors, including.

Invisibility: The crime can be committed from great distances, perhaps in the privacy of a home or office. Evidence of the intrusion often can be erased.

The microcomputer: Alexander Stein of Dataquest, a California consulting firm, said that at the end of 1983 there were 7.9 million home and personal computers and more than 1 million business computers in the United States. The number is increasing by 34 percent a year, or more than doubling every three years, he said.

Without exception, federal law enforcement officials said they expected the proliferation of personal computers to cause a corresponding increase in computer crime.

Computer "literacy:" Microcomputers are common even in elementary schools now. Young people go to summer computer camp. Teen-agers can buy a small computer system for less than $1,000. The Massachusetts Institute of Technology, with help from IBM Corp. and Digital Equipment Corp., is providing 3,000 computer teaching terminals for its 4,500 undergraduate students.

As a far larger portion of the population learns to use computers, the experts said they fear a substantial rise in computer abuse by criminals, malcontents and the mentally unstable.

Networks: Inexpensive devices called "moderns" allow home computers to be connected by telephone with computer systems worldwide. Already available are hundreds of consumer services, including news, stock tips, worldwide airline schedules and fares, a full encyclopedia, weather information and even movie reviews dating to 1930.

The next stage involves "interactive," or two-way, services such as computerized grocery shopping, billing, banking and mailing—an innovation that recently got a major boost from the formation of a joint venture by Sears, Roebuck and Co., IBM and CBS.

Improved technology: Computers are becoming faster, cheaper and simpler to use, and memory capacity is growing. Thus, use of computers both for more complex and more mundane tasks becomes even more practical.

Smarter computers: The race between the United States and Japan to develop "fifth-generation" computers could lead to early forms of "artificial intelligence" within a few years, providing undreamed-of capabilities for good and evil.

Marvin Minsky, an artificial-intelligence expert at MIT, said the computer world is at a stage he once thought would take centuries to reach. As for the future, he said, "You should be reading [science fiction writers Robert] Heinlein or [Isaac] Asimov."

Estimates of annual losses from computer crime range from $100 million to more than $3 billion, but even the experts admit that the figure is drawn from thin air. Anthony Adamski, who oversees computer crime cases for the FBI, said no one knows the number of computer crimes or what they cost.

Robert P. Campbell, a private computer-security specialist who until five years ago headed computer security for the U.S. Army, has estimated that only one in 22,000 criminal acts involving a computer will be prosecuted.

He believes that one crime in 100 is detected; that of those detected, 15 percent or fewer are reported, and that of those reported, one in 33 is successfully prosecuted.

Federal officials said one reason is that many companies, often banks, do not want the public or shareholders to know that they have been victimized and that the crime was relatively simple to commit. In addition, the way many white-collar crimes are classified, it is impossible to tell whether a computer was used.

Even when computer crimes are reported, they often do not go to trial because prosecuting attorneys, judges and jurors do not have the technical expertise to deal with the issues.

Yet computer crimes occasionally make headlines.

Officials in several states have uncovered schemes in which an individual substitutes his deposit slips at the bank counter where blank slips normally would be. When other customers unknowingly use them, the computer reads a slip's magnetic-ink number and deposits the money in the criminal's account.

By the time irate customers come in with their bank statements, the criminal has withdrawn the money and fled.

In 1978, computer consultant Stanley Mark Rifkin called the wire room at Security Pacific National Bank in Los Angeles, identified himself as a senior bank officer, gave the proper codes and arranged for transfer of $10.2 million to a Swiss bank account.

He converted the cash into Soviet diamonds and was caught trying to sell them. He served less than three years of an eight-year sentence and now runs the computer system for a major organization.

Former Federal Reserve Bank Board employe Theodore Langevin, who took a job with E. F. Hutton and Co., Inc. in New York, illegally tapped into the Fed computer to obtain secret money-supply information in 1980.

He was caught, pleaded guilty to wire fraud and was sentenced to one year's probation.

In a case uncovered in 1980, San Francisco's Wells Fargo Bank lost $21 million in a year, allegedly to two boxing promoters who, with a bank employe's help, used a computer for illegal transfers.

Richard P. Kusserow, inspector general for the Department of Health and Human Services, recently finished the first survey of crimes involving the federal government's 650,000 microcomputers and 16,000 large "mainframe" computers and concluded that there is an "extraordinary vulnerability" to crime.

"The government has become the biggest user of computers in this country," he said. "There is an information explosion going on. . . . It's come so quickly that the bureaucracy hasn't had time to respond."

The study found 172 cases of fraud and abuse in 12 government agencies in slightly more than four years. One employe diverted $24,000 in unauthorized benefits checks to himself over five months and erased the evidence. In another program, three clerks were able to steal $150,000 worth of food stamps because their supervisor left a key in a computer terminal.

Kusserow said those cases are not even the tip of the iceberg since most crimes were discovered by accident and most agencies have virtually no procedures for finding such problems. Three of every four agencies contacted said they did not know if their computer systems had ever been audited for possible crimes.

David Geneson, a Justice Department lawyer who deals with computer crime, said no federal law deals specifically with use of computers in a crime or with trespassing by computer or reading private files.

"There's no statutory definition of computer crime," he said. "It's a more complicated area than you might think. If you break in [to a government computer office] and steal a disc pack, that's theft of government property. But if you break in electronically and copy it, that's not clear. You haven't really stolen anything."

The closest relevant federal laws, he said, deal with wire fraud, theft of government property and interstate transportation of stolen property in cases where the theft tops $5,000.

The FBI's Adamski said that 21 states have enacted laws dealing with computer crime but there is little consistency from state to state and several fail to deal with "hackers" who enter systems for fun rather than profit.

Enacting a law does not necessarily give state authorities the manpower or expertise to enforce it. In Florida, where the nation's first computer-crime law was passed in 1978, only two cases have been brought.

Congress is debating several computer crime bills. One introduced by Rep. Bill Nelson (D-Fla.) and Sen. Paul S. Trible Jr. (R-Va.) would provide for a fine as high as $50,000 or a five-year prison sentence for theft from or abuse of federal or private computers used in interstate commerce. A second bill, introduced by Rep. Ron Wyden (D-Ore.) would set up an 18-month task force to investigate the extent of computer crime in small businesses.

A third, introduced by Rep. William J. Hughes (D-N.J.) and approved by a House subcommittee last week, would establish as a federal felony unauthorized computer access that yields a defendant $5,000 or more a year, the use or modification of materials in someone else's computer would be a "computer abuse" misdemeanor.

The proposed legislation does not deal with a person who enters the system simply to look around. Not does it deal with computer wiretaps. Although it is against the law to wiretap a telephone conversation—even the FBI needs court approval—no law prevents a wiretap on a computer communication on a telephone line.

As a result, much of the congressional debate has focused on making it a federal crime for young "hackers" to intrude without authorization into government or private computers. But most law-enforcement and computer-security experts said the real problem is crime by insiders who already have access to the system.

[From the Washington Post, May 21, 1984]

## "Hackers" Ignore Consequences of Their High-Tech Joy Rides

(By Mary Thornton)

For Susan Headley, it started when she was 17, a high school dropout who had run away to California to work as a waitress. She was lonely and fell in with a group of young people who used home computers to harass the telephone company.

For the next four years, they spent almost every night at their consoles—romping through the computers of government agencies, defense contractors, corporations and credit bureaus, occasionally lowering the credit rating of prominent citizens or doing similar exploits.

Their chief target was the phone company. Using a variety of techniques—from job tryouts to searching through trash for computer passwords—they penetrated telephone security and made free calls all over the world, complete with such special features as call forwarding.

Headley left the group in 1981 when she decided that such computer antics could land them in jail. She was right. Her companions had been inserting obscenities into a California company's computer-generated catalogue. The company decided to press charges.

Headley was not prosecuted and now, at 24 has turned to computer security as a career.

Despite public attention to outside "hackers" such as Headley law enforcement officials say their largest computer problem by far is crime by insiders. But even that pales when compared with the criminal potential in coming decades as millions more people learn to use computers.

As a portion of the population eventually turns to criminal activities, the experts say, computer crime is bound to grow and some young computer wizards are almost certain to become super criminals.

Moreover, organized crime has had lawyers and accountants for decades. Computer experts would be the next logical step. Donn Parker, of SRI International Inc. and author of "Fighting Computer Crime," said that there are documented instances of organized crime using computers, especially in bookmaking and that he expects more imaginative schemes to surface soon.

"If I were a Mafia capo, the one place I'd be sending my sons is to the school of engineering at MIT," said Joseph F. Coates, a consultant on technological trends.

Some experts say they are also worried about crime by terrorists, not just with computers but also against them. Parker said that 29 computer centers have been blown up by terrorists in Italy, France, and Germany in the last four years.

Robert P. Campbell of Advanced Information Management Inc., a computer security firm in Woodbridge, Va., said, "We've been relatively free of terrorism in the United States, but the days are numbered. . . . We're investing more in our computer systems than any other nation in the world."

Computer experts and law enforcement officials say there is an explosion in the number of young people turning to computers for thrills. Their journeys into forbidden territory are accelerated through electronic bulletin boards, which can be dialed into by anyone knowing the right phone number and access codes. Whenever a hacker discovers how to break into a system, he's likely to post the information on a bulletin board so that his friends can try it.

In 1980, students at Dalton Middle School in Manhattan used classroom computers to break into 21 systems in Canada, destroying crucial data in one intrusion. They were caught but not prosecuted.

Last summer the FBI raided the homes of several Milwaukee area youngsters who called themselves the "414s" after their telephone area code. The group had broken through the security of 60 computers, including one at New York's Memorial Sloan Kettering Cancer Institute containing patient files.

In October, the FBI raided the homes of other young computer enthusiasts around the country. They had been detected raiding the message system of the GTE Telenet network that links 200,000 users and 2,000 computers.

Similar exploits were romanticized in the movie "War Games" and the television show "Whiz Kids."

Unlike much of the public Parker calls computer hacking a "very serious epidemic across the country" and says hackers activities are not larks but crimes. In the Sloan Kettering case, he said, changing records could have led to a patient's death.

"You have to prove intent and maliciousness, and the kids deny that" he said. "But once you get into this electronic land of Oz, you don't know what you're doing. It's a bull-in-the-china-shop situation. Just turning around can destroy something, cause the system to crash."

Professor John Kender who teaches computer science at Columbia University, said of the hackers. "The closest analogy is joy riding where kids find a car with the keys in it. There's a thrill of doing something powerful.

"Perhaps there's not much sense that they are violating someone's rights. . . . It's anonymous. . . . In some ways, its a less violent form of juvenile delinquency. There is the same alienation and hanging out in groups of hackers."

Kender said most hackers are young, male and very bright. Some students become virtually "addicted" to computer studies, excelling in them but failing in everything else.

Susan Headley, like Kender, said the thrill of cracking computer security is "simply exerting power—joy riding."

She described most hackers as socially awkward loners. In many cases, she said, fellow hackers provide their first close friendships. She said most in her group were "reclusive types . . . with no civic involvement. Their sole entertainment was in their computer terminals."

Many people, including some law enforcement officials say they believe that most hackers are relatively harmless.

Richard Stallman, 30, a professed hacker who worked at Mill's Arundal Intelligence Lab for seven years, said hacking, committing sophisticated pranks, has been going on for years, especially at places like MIT and Caltech, and that it is not always related to computers.

There is elevator hacking, for instance, which might involve rewriting the control panel in the elevator of a rival dormitory so that pushing the button for the second floor might sent it the 20th floor.

At MIT, there is a tradition of disrupting the annual Harvard-Yale football game. In 1949 Fortney H. (Pete) Stark, now a Democratic member of Congress from California, was suspended briefly for helping to blow up part of the Harvard gridiron during a game so that it spelled "MIT."

In a widely publicized hack during the Illinois-UCLA Rose Bowl game this year, two Caltech students took over the scoreboard by computer and changed the team names to show Caltech leading MIT, 38 to 9.

Perhaps the best-known hack was the MIT "Cookie Monster" in the 1970s. As an unsuspecting user worked at his terminal, the word "cookie" would flash across the screen, obliterating his work. Unless the startled user responded quickly, the machine would begin to flash more rapidly. "Cookie, cookie, give me a cookie."

Finally, just as the user was convinced that the computer had eaten his work, the "monster" would flash, "I didn't want a cookie anyway," and vanish into the system to wait for another user. The assault could be stopped by typing "cookie" prompting a polite "thank you" from the monster.

Yet there have been cases of real crimes by hackers.

Jerry Schneider, 19, posed as a magazine writer to research the telephone company's equipment-ordering system in Los Angeles, then manipulated the computer to order himself $1 million in telephone equipment. He went to prison.

Two suburban Chicago teen-agers who called themselves System Cruncher and Vladimere, cracked the three-character password at DePaul University in 1980, causing the system to crash and costing the university about $22,000 to restore it to service. They were prosecuted but got probation and a movie offer.

Lewis DePayne, Susan Headley's former companion went to prison for various computer escapades. In one case, he and his friends stole a computer manual from Pacific Telephone to assist them in invading the main computers to shut down area telephone service.

Most hackers seem to see little ethical problem with their activities.

Headley said that, as far as she knows, her group never made personal profit from hacking. As for using others' computer time by intruding into their systems, she said, "We always did it at night when they weren't busy. The machine would have been turned on. It would have been using electricity anyway."

Stallman said hackers traditionally are not malicious and often assist in debugging programs. He contends that it is "immoral" to copyright computer programs and has quit his job at MIT to write programs to be distributed free.

"I consider that the golden rule requires that if I like a program, I must share it with other people who like it," Stallman said. "This means much more than just serving everyone the choice of a program. It means that much wasteful duplication of system programming effort will be avoided. This effort can go instead into advancing the state of the art."

Some hackers say they believe that making computer trespass a federal crime would merely provide teen-agers a bigger challenge.

"I never believed in obeying laws just because they're laws," Stallman said. "Rule is never reason for doing something. When someone tries to put in security, my impulse is to get around it."

Phil Bertoni, a former MIT hacker who recently wrote the book "Strangers in Computerland," warned that turning the FBI loose on hackers probably would make hacking more fun. The whole point of hacking is to challenge authority. . . . "The higher the authority, the greater the challenge. What better challenge could you have than proving you can outwit the whole FBI?"

"There's a tradition, a long history of tech hacking. It's just a way of young people testing their ingenuity. I can see a [crime] if you steal data or use it for profit or if you damage a system so that all the iron lungs in the hospital shut down. . . . But there is a difference," Bertoni said.

A number of federal law enforcement officials say, at least privately, that they do not see major crime problems with hackers. They say they would not want FBI resources squandered on low-level computer break-ins by young people if there is no profit motive or criminal intent. Even with a change in the law, they say, it would be extremely difficult to prove criminal intent when prosecuting a 14-year-old hacker.

FBI Director William H. Webster, who has not taken a position on proposed computer-crime legislation, said, "Most of these youngsters are not deliberately dishonest. . . . I think a little parental advice and a little personal awareness will reduce the amount of damage potential out there. . . .

"We're obviously not against children, and we're not against smart children. We're just hoping they'll find a more constructive use for that talent."

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### Other Perils to "The System"

Robert Courtney, former chief of security for IBM and now a security consultant says current crime is only one of the perils of the computer age. His list of hazards in order of importance:

Human error. "The No. 1 problem now and forever is errors and omissions. The dummies win hands down."

Crime by insiders, particularly non-technical people of three types: single women under 35, generally clerical employes whose boyfriends tell them to do it; "little old ladies" 50 and over who give the money to charity; and older men in accounting who may be disenchanted and feel unappreciated.

Disasters, including fires, floods and earthquakes.

Sabotage by disgruntled employees.

Water damage, such as from leaking roofs, overflowing toilets and broken pipes.

Outsiders who break into systems: "I'm convinced the damage they've done is less than 3 percent of the damage."

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[From the Washington Post, May 22, 1984]

### Security Is Often an Afterthought

(By Mary Thornton)

Robert Campbell is part of an industry that barely existed 10 years ago.

He earns his living by trying to protect some of the nation's largest corporations from a serious new threat: the computer criminal.

On a given day, Campbell might be found at a major credit card company, such as VISA or American Express, setting up systems to prevent potential criminals—inside and outside—from tampering with the billing system to allow themselves unlimited free purchases.

Or, he might be helping a large bank guard against fraudulent electronic transfers of funds.

Or, Campbell could be working for the Defense Department, checking whether malcontents or foreign agents could gain access to U.S. missile systems and reprogram computerized directional coordinates to aim the missiles at American cities rather than ones in the Soviet Union.

Campbell, who retired five years ago as head of computer security for the Army, runs Advanced Information Management Inc., of Woodbridge, Va. The company is part of two prospering new industries—computer security and computer-crime insurance—that have arisen in response to the growing awareness of computer crime.

An estimated 9 million computers have flooded the nation's offices, schools and homes in recent years. And the number of computers is expected to grow by at least 9 million every three years. But security experts and law enforcement officials say that most companies and many government agencies have virtually no security and are naive about the risks they are running.

Even the most security-conscious agencies, such as the FBI, the CIA and the Pentagon, are not entirely safe from computer crime. Over the years, the military has used groups of computer experts called "Tiger Teams" to look for vulnerabilities in its computers. Some experts were given partial access to the system. Others started with nothing. According to Campbell, they have always managed to break in.

Joseph Coates, a consultant on long-term technological trends, said that companies without adequate security are "courting disaster." But he predicts it will take a $500 million crime to convince corporate management that there is a need for change.

Like other experts in the field, Coates blames computer-security violations on companies themselves rather than on the young people who get inside, such as the celebrated "414s" in Milwaukee.

"The Milwaukee babies are great," said Coates, "the kind of kids anyone would like their own to be. . . . They're heralding the types of problems we have to deal with. . . . There's nothing wrong with those kids. The problem is with the idiots who sold the system and the ignorant people who bought it.

"Nobody should buy a computer without knowing how much security is built in. The industry is bereft of that discussion. You have the timid dealing with the foolish. The scandal is with the industry and its reluctance to face the problem," he said.

Campbell speaks as alarmingly about the future. As computer technology mushrooms, he says, businesses and government agencies are facing a crime epidemic that few, if any, are equipped to handle.

Campbell and other experts say the biggest problem is that most managers, including those in the federal government, are unaware of the potential losses from computer crime.

The large electronic fund transfers between banks—sometimes as much as $1 billion in a day—present "a challenge beyond our capability," he said.

"The technology was not designed with security in mind. Security has been based on the ignorance of the public, but that's being stripped away by the personal computer. The group of potential abusers has expanded tremendously," he added.

Campbell complains that the computer-manufacturing industry as well as its customers in business and government have known of the threat for at least a decade and have failed to respond. Management, he said, is not willing to pay for security and not farsighted enough to see the potential threat. Manufacturers, therefore, have little financial incentive for greater research and development on security matters, he said, and as a result most available security is haphazard, expensive and far from foolproof.

"So many folks say it can't happen here," said John Linden, vice president of International Security Technology Inc. in New York.

Robert Courtney, who handled security for IBM until he retired to start his company said most companies are extremely careless.

"Some guys become a religious fanatic and thinks the company is the agent of the devil. They fire him and give him two weeks notice. Anyone who does that's crazy," he said. "The policy at IBM is to take them to the lobby, find them a comfortable seat. You bring out the contents of their desk along with the final check."

Many companies compound their problems by failing to report the illegal entry into their computer system. Courtney said.

"The managements of those corporations [are] quite aware that shareholders, depositors, policyholders, customers and voters regard reports of major losses as solid evidence of gross mismanagement—and they are usually right," he said.

In the case of the break-in by the 414s into the computer system at New York's Memorial Sloan Kettering Cancer Institute, he said, "Long after they knew the kids had gotten in, they refused to tell the users. They didn't have nerve enough. The problem was greatly aggravated for that reason."

Richard P. Kusserow, the Department of Health and Human Services inspector general who last year did the first government-wide survey of computer crime, found that three-quarters of the federal agencies he contacted did not know if their computer systems had ever been audited.

While agencies like the Defense Department, the CIA and the FBI have very strict security, others do not. Kusserow, for example, calls the Social Security Administration's system an "unmitigated disaster." SSA has had theft problems, he said, because it has 1,300 district offices with terminals that can get access to the central computer system, generate checks and then erase the evidence.

The agency is spending $500 million to upgrade its computer system. But until recently, there were no backup records of individual Social Security histories. "One good fire and you'd have been out of business." Kusserow said.

"I'm not a merchant of doom, but automation is moving much faster than systems to guarantee integrity." he added.

Kusserow said that the main problem with computer security is insiders. He said that he would like there to be security clearance for data processing employees to weed out people with criminal records. But a low-level clearance check costs $1,500, and Social Security alone has 40,000 employes in data processing.

Louis Lushina, a NASA official, said that his agency takes some of the blame for a "hacker" intrusion into NASA's computerized mail system.

"They didn't get anything. They left little messages, drew pictures of Kilroy . . . . it was annoying, but we knew we hadn't done all we should have to go in and shut off the system [from outsiders]. We were trying to make it as easy as possible. We were probably amiss in not tightening up the password system," he said.

The National Bureau of Standards bears most of the responsibility for keeping the federal government's information systems secure.

But one government expert, Frederick Weingarten of the Office of Technology Assessment, is not optimistic that the job is manageable.

"We have to keep in mind the rapid growth of these systems," he said. "Just in my post-graduate lifetime they have gone from scientific toys to being huge tools of large corporations, and I'm not that old.

"They have not only grown in size, they've grown in complexity, incredibly in complexity. I'm not surprised at all that from year to year [system managers] are just trying to hang on and are not doing a terribly good job or effective job at managing the security of systems, of finding out when they work, when they don't.

"There are many federal systems that are just limping along from year to year. And the problem is mainly to get the checks out. Any kind of other fancy tinkering is just an extra problem."

Because of mounting concern over computer crime, several insurance companies have begun offering coverage against computer theft and vandalism by insiders or outsiders.

The types of coverage appear to vary widely. And most companies say that they are in the early stages of developing policies. The coverage is so new that no one is sure what the premiums should cost or what losses to expect.

So far, none of the companies requires a client to report a crime to the police when it files a claim. One executive said it should be required, but "it wouldn't work unless they required everyone to do it" because executives "don't want people to know that they were victimized, or that they were vulnerable."

David Kaiser, an underwriter for St. Paul Fire and Marine Co., said that his firm was one of the first to get into the computer crime insurance market, initially covering just computers but now covering software as well. St. Paul also offers software manufacturers insurance covering defective programs and even malicious errors.

For two years, St. Paul has offered banks protection for up to $25 million in thefts through outsider access to computers, according to another executive. But he said that his company is "not real pleased with the number that have actually purchased it."

The general insurance policy would not cover accidental malicious damage by outsiders. That would require a different kind of policy. In addition, there seems to be no coverage for simple security violations, such as a customer complaint about privacy violations after an outsider breaks into the system.

Kaiser who deals with non-financial companies said that it is not too difficult to set a value for coverage of inventory or data that has been destroyed. They simply determine replacement value.

"It's more difficult to put a price on something in the conceptual stage that when it gets to the market might bring $100 million," he said.

Terry Van Gilder of Chubb & Sons, Inc., said that when proprietary information is involved his company works with the customer in advance to agree on a dollar value. But he added. "The industry is in a bit of a turmoil. There's no standard approach . . . no uniform way."

If a computer invader were to steal data electronically from a covered customer, Van Gilder said, Chubb would pay for developing the data again. But what about unauthorized copying of data? That hasn't been worked out.

Van Gilder added that most companies are "not all that aware that the policy exists, not all that aware of the exposures they have to lose. And in some cases it's difficult to buy. We require a fair amount of work on the part of a potential client before we're willing to write the insurance policy."

For now, Kaiser said, the insurance market is "extremely limited. Insurance companies are trying to determine what are the chances of loss. What do we need to cover it? We really have no idea." But he said that he expects business to improve.

"Currently, with the lack of security, there is a lot of people who feel vulnerable," he said. "When they feel vulnerable, they buy insurance."

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[From the Washington Post, May 23, 1984]

## ETHICAL QUESTIONS ARISE FROM COMPUTERS BITING INTO PRIVACY

(By Vivian Aplin-Brownlee)

Last fall Joan D. Abrams, superintendent of schools in Red Bank, N.J., distinguished her small town from the rest of the state and most of the nation by introducing "computer responsibility" training in the schools—starting with the first grade.

"For the very little children, we don't talk about the computer, we talk about rules," she said. "In later grades, some of it is in social studies, and some of it is in library, and some is when they are actually in the computer lab." Abrams said she is trying to prepare her pupils for a world of ever-more-powerful computers and millions of sophisticated new users, a world of uncertain moral guidelines and a potential for staggering—even catastrophic—computer crimes.

"We recognize they have computers at home," she said, "and we wanted [to teach] the concept of the computer carrying with it responsibility and not just fun."

The Red Bank program exposes students to a host of ethical questions born of the age in which they live. Increasingly, it is a world in which employers are monitoring workers. Friends and neighbors are prying into one another's private affairs.

Government has the potential to spy on all its citizens. Large corporations swallow multimillion-dollar losses rather than publicly admit being stung in computer thefts. And every day the number of people capable of committing electronic wrongs grows.

Most attention has focused on the young computer generation, such as the Milwaukee teen-agers who drew national attention when they broke into the computer banks at Los Alamos National Laboratory in New Mexico and the Memorial Sloan-Kettering Cancer Institute in New York.

One of them, honor student Neal Patrick, 17, testified on Capitol Hill that he and his colleagues were acting out of curiosity and didn't consider the ethics of what they were doing until "the FBI knocked on the door."

Rep. Ron Wyden (D-Ore.) said he was especially concerned that the youngsters did not seem to realize the damage they might have done.

"What is particularly frustrating is that some of our brightest young people, who would never think of knocking an elderly woman down in the street and stealing her purse, seem to think there is nothing fundamentally wrong about playing with a few keys on a computer terminal, altering a hospital patient's medical file and possibly causing irreparable physical harm," Wyden wrote.

Wyden called on schools to add ethics to their computer courses. "No matter how many laws we pass," Wyden said, "we cannot prevent computer crime. I think education is just going to be the heart of this problem."

Some experts such as Robert Courtney, a New York computer security consultant and former chief of security for IBM, blame computer crimes on the offended rather than the offenders, especially youthful "hackers." Not only is security often lax, Courtney said, but companies compound their problems by not reporting unauthorized entries.

But beyond the question of hackers and the non-reporting of electronically stolen millions, the computer age has generated a new ethical debate.

Eileen M. Trauth, an instructor at the Boston University School of Management, argues that "tech-knowledgeable" persons must not be allowed to slip through legal loopholes.

"Taking the property of another is wrong behavior whether one uses a gun or a computer terminal," she has written. "This applies to the unauthorized use of another's computer resources, proprietary programs and private files as much as it does to their financial assets.

"The principle remains, using the computer does not absolve anyone from the requirements of behavior that are expected in non-computer mediated situations."

Yet, Frederick Weingarten, a project manager of the congressional Office of Technology Assessment's communications and information technology program, said that he wonders whether technology is controllable by law or policy.

The proliferation of small computers could make federal laws and corporate rules obsolete, he said.

"When the corporation or government agency has a large central system and a central data base, one can somehow think of setting laws [which] say you can keep this kind of data. You can't keep that kind of data. You can do this with it, but you can't do that with it . . . . You can go in and audit them, and see whether or not they're doing it.

"But when every executive in the agency has their own computer sitting in their office and does anything they please with it, then how do you set rules, how do you enforce them, how do you even know what they're doing?"

Weingarten and Yale Prof. Scott Boorman say that computers are changing private and professional lives and presenting new ethical quandaries.

Boorman described a hypothetical situation in which a manager is concerned that some of his "bright young engineers" who formerly worked together might be planning to quit and form a rival firm.

"What kind of early warning can one have for that kind of split-off?" Boorman asked. "That can be picked up by phone patterns . . . the phone calls are flying. Electronic mail is flying. Now that's kind of interesting. Why are they getting back together?"

Boorman said that employers can also follow electronic mail trails to separate promising employees from the rest of the lot—a practice adopted by "more sort-of-aggressive middle-size firms than one would think."

One technique, he said, would be to look at electronic "patterns of association between individuals."

"Who tended to send messages to whom? Who didn't reciprocate whose messages? You can identify in-house opinion leaders. There would probably . . . be some who work in patterns of alliance with others and there would be others who would jealously guard their information and not send anything more that the minimum that they had to carry out their jobs. . . ." Boorman said.

"This kind of technology and screening is perhaps most useful in tight organizations, some newspapers, some corporations, perhaps some government units, possibly some non-profits where essentially there's real concern to know small changes, small fluctuations in the behavior of particular employes," he added.

Employers are using these technology enhanced techniques, Boorman said, though obviously without fanfare. He said that they are certain to become widespread because "once it's been pushed successfully in one environment, others will pick it up."

Technology might be forcing new values on society, he said.

"I would say that the concept of privacy is profoundly changing," Boorman said. "In the old days, 10 or 15 years ago an invasion of privacy meant that some how somebody had gotten at some personal secret of yours and had revealed it to some third party or to the world at large."

But large new data bases of "very mundane information" about individuals—their telephone and shopping habits, medical records, entertainment choices—make it "possible to characterize one's life history on an almost minute-to-minute basis" on and off the job and to use the information for "something much more interesting than ferreting out particular secrets."

"Just the pattern of phone messages defines the person," Boorman said.

He also said union contracts can offer workers some protection from this sort of invasion, but added that non-union, white-collar workers are the likeliest targets and have the least defenses.

"I think that this goes well beyond the immediate, classic problem of government agencies exceeding their statutory mandate, which we have been aware of for a long time," he said. "In a funny way, the people we are most vulnerable to is our direct employer."

The OTA's Weingarten said that Congress is unlikely to protect the rights of individuals against such new threats to privacy unless there is public outcry.

"Several staff members for committees on the Hill tell me that there is virtually zero constituency that they hear concerned over privacy," he said. There was a wave of it post-Watergate, and Sen. [Sam] Ervin [D-N.C.] was able to somehow coalesce a political constituency behind the Privacy Act of 1974. And since that time people talk about privacy, articles are written, but there's virtually no political constituency behind it.

"And in the meantime, systems have changed, have grown. Data collection practices have changed in the executive branch and in private industry. But there's virtually no move, no support on the part of the public to deal with it."

Privacy, he said, means different things to different people. And that is part of the problem.

"One line of thought is to say, well, it's a question of abuse. In other words, if somebody has my information and they make a decision about my job or . . . throw me in jail, it may be because the information is inaccurate. So, my concern about privacy is about the misuse.

"Another person says, well, it's nobody's damn business. . . . I don't care if they misuse it or just file it away in a file drawer. It's none of their business, and I don't want them to have it.

"So, in some ways, maybe the problem is that privacy has not been a very good term to wrap around this set of problems."

Weingarten also said that computers may present future generations with the quandary of "knowing more than we want to know . . . . more than we're capable of dealing with.

"For instance, suppose I could predict with 80 percent accuracy [using a computer] that there would be an earthquake in Washington tomorrow. What do you do with that knowledge? Do you announce it, create a panic, a drop in property values, people trampling one another to get out of town—with a 20 percent chance that it might not happen?

"Do you keep silent and allow the loss of life and property damage? It presents us with enormous dilemmas, and you can see the same problem in medical science.

"And my guess is that the same kinds of problems will come out of using computers to define and predict functions and behavior. If one assumes that we can get more and more accurate with it, and we can predict with a 90 percent accuracy that a person is going to be a murderer, then what do we do with it within our constitutional limitations? What do we do with that information when they haven't committed a crime—we just are pretty sure that they will?

"What do you do when models tell us that such and such is going to happen, or that it will cost too much to clean up environmentally hazardous sites?

"It seems to me possible, at least in the realm of philosophical speculation, that technology is giving us more information than we are capable of dealing with and providing us as a society with decisions that we would be better off flipping a coin over than trying to understand."

Weingarten added, "It seems to me that right now if I were to write a letter to my congressman to tell him what I would want done, I don't really know that I'm prepared to tell him. And I'm supposed to be an expert.

"I want him to be more sensitive when he votes appropriations for new technology. I want him to hold more hearings and sort of investigate agency practices. But I don't know that I want to tell him to control technology because I don't know what that means."

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## TASK FORCE ON COMPUTER CRIME, SECTION OF CRIMINAL JUSTICE, AMERICAN BAR ASSOCIATION

In August 1979, the American Bar Association's policy-making House of Delegates approved a policy resolution concerning the need for federal computer crime legislation. This resolution is included in Appendix II of this report. The commentary accompanying the resolution, as well as the survey results and analysis contained in the body of this report, have not been acted upon by the Association's House of Delegates or Board of Governors and thus they do not constitute the policy of the American Bar Association.

### EXECUTIVE SUMMARY

This report is the result of a study conducted by the American Bar Association Criminal Justice Section Task Force on Computer Crime. The report presents information, gathered as a result of a nationwide survey, concerning the nature and occurrence of computer-related crime—its causes, its perpetrators, its victims, its effects, and how its occurrence can be prevented or minimized. The report also offers an analysis of the significance of the survey results, in the context of the current public debate concerning computer crime and its effects on society.

The Computer Crime Task Force survey was distributed to approximately 1,000 private organizations and public agencies, including the Fortune magazine list of the 500 largest United States corporations, numerous banking, accounting, financial services, and computer/electronics firms, all major federal departments and agencies, all state attorneys general, and a sample of district attorneys. The survey results presented in this report are based on the responses of the 283 survey respondents, representing a broad range of private industry and a substantial number of federal, state and local government agencies. The survey respondents were predominantly supervisors or executives with direct or indirect responsibility for computers and their use. Among other things, the survey responses indicate the following:

1. The most significant types of computer crime according to the respondents, are: Use of computers to steal tangible or intangible assets; Destruction or alteration of data; Use of computers to embezzle funds; Destruction or alteration of software; and Use of computers to defraud consumers, investors or users.

2. Computer crime is regarded by the survey respondents as less important than most violent crimes, but of equal or greater importance than many other types of White Collar Crime, including antitrust violations, counterfeiting, consumer fraud, bank fraud and embezzlement, securities fraud, and tax fraud.

3. The annual losses incurred as a result of computer crime appear, by any measure, to be enormous. Over 25% (72) of the survey respondents reported "known and verifiable losses due to computer crime during the last twelve months." The total annual losses reported by these respondents fall somewhere between $145 million and $730 million. Thus, the annual losses per respondent reporting losses could be anywhere from $2 million to as high as $10 million. Approximately 28% of the survey respondents reported no available system to monitor or estimate the value of their computer crime losses.

4. Approximately 48% (136) of the survey respondents reported that they had experienced "known and verifiable incidents of computer crime" during the past twelve months. The most frequently mentioned incidents were those involving: (1) unauthorized use of business computers for personal activities; (2) theft of computer software; (3) theft of tangible or intangible assets by means of a computer; (4) theft of computer hardware; and (5) destruction or alteration of software and/or data.

5. A large proportion of the respondents (39%) indicated that they had not been able to identify the perpetrators of known incidents of computer crime. Of the perpetrators identified, 78% of the respondents (125) indicated that the perpetrators were individuals within their organization; 46% (73) indicated that the identified perpetrators were individuals outside the organization.

6. Of the 148 respondents indicating that they had experienced incidents of computer crime (not necessarily during the past twelve months), approximately one-third reported that none of the incidents had been reported to law enforcement authorities, and another one-third reported that only some of the incidents had been reported. The remaining respondents indicated that most or all such incidents had been reported.

7. The respondents were asked to rank various means of preventing and deterring computer crime in terms of their effectiveness. The top-ranked items were as follows: (1) more comprehensive and effective self-protection by private business; (2) education of users concerning vulnerabilities of computer usage; (3) more severe penalties in federal and state criminal statutes; and (4) greater education of the public regarding computer crime.

8. The respondents were then asked to identify the steps that their organizations have actually taken to prevent and deter computer crime. The most frequently mentioned self-protection steps were: (1) limited access to computer programs, computer logic (85%); (2) limited access to computer operations (81%); (3) frequent changing of access codes, user ID numbers (72%); (4) limited access to input of data into computer (71%); (5) installation of asset controls and accountability (57%); (6) frequent security checks of computer and operations (50%); and (7) security education for employees (49%). The least-mentioned protective steps were prompt referral of suspected illegal activity to law enforcement authorities (20%), and coding of input or output data (14%).

9. The respondents were asked their views regarding the need for a federal criminal statute directed specifically to computer crime. Their views were as follows: strongly support=163 (58%); somewhat support=58 (21%); no opinion=43 (15%); somewhat oppose=12 (4%); strongly oppose=4 (1%).

10. The respondents were asked to provide written comments concerning "the most troublesome current and future aspects of computer crime." Over 60% (175) of the respondents provided such comments. The concerns most often articulated were the following: (1) the proliferation of business and personal computers and computer users; (2) the difficulty of detecting computer crime; (3) the existing vulnerability to computer crime, lack of adequate security measures; (4) the lack of public and/or managerial awareness and concern; and (5) the growing magnitude of potential losses from computer crime.

Based on the survey results and other available information, it is the view of the Task Force that both the public and the private sectors have important roles to play in combatting the incidence of computer crime. It is the intent of the Task Force to analyze further the respective roles and responsibilities of the public and private sectors and to offer a number of specific recommendations in a future report to the Criminal Justice Section and the ABA House of Delegates.

In August of 1979, the American Bar Association House of Delegates approved a resolution from the Criminal Justice Section supporting "legislation to establish federal jurisdiction, concurrent with state jurisdiction, over certain offenses committed against, or through the use of computers, computer systems or computer networks." The 1979 resolution, which remains the position of the ABA today, is fully supported by the results of the Task Force survey and other available information. While the Section and the Task Force reserve comment on specific legislative language, we believe that the need for federal computer crime legislation is clear and unmistakable.

The Section and the Task Force hope that this report will stimulate discussion and action by both the public and the private sectors. Comments on the report are encouraged.

## INTRODUCTION

This report is the result of a study conducted by the American Bar Association Criminal Justice Section Task Force on Computer Crime. The Task Force, which consists of attorneys in private practice, industry and the judiciary, is part of the Criminal Justice Section's White Collar Crime Committee. This report is based, in part, on a survey of major American business and government organizations conducted by the Task Force in early 1984. The survey was conducted in an attempt to gather information and to elicit expert opinion on the nature of computer crime, its causes, its perpetrators, its victims, its effects, and how its occurrence can be prevented or diminished.

The purpose of this report is to provide useful information on the nature and occurrence of computer-related crime in order to enhance the current public debate concerning public and private actions that should be taken to deal with a growing law enforcement problem. It is the hope of the Section and the Task Force that this report will stimulate further discussion and appropriate action by individuals and organizations in both the public and the private sectors.

The report first presents the results of the Task Force's survey. The survey results are then analyzed in the context of other available information and the American Bar Association's existing policy with respect to the need for federal computer crime legislation.

The Section and the Task Force welcome public and private discussion of the information and analysis contained in this report. We also hope that interested parties will come forward with whatever comments they deem appropriate on this report and its contents.

## *I. The computer crime survey and its results*

### A. Nature of the Survey and the Respondents

In February 1984, the Computer Crime Task Force distributed its survey to approximately 1,000 private organizations and public agencies. The survey was 12 pages in length and contained questions eliciting information in a number of different areas—the nature and importance of computer crime, the effects of computer crime, the perpetrators of computer crime, prevention/deterrence of computer crime, and information concerning the responding organizations and the basis for their responses to the survey. A copy of the survey itself is attached as Appendix I.

The survey was distributed to the following organizations: companies in the Fortune list of the 500 largest United States corporations; banks, insurance companies, financial services/brokerage firms, and accounting firms selected from corporate directories; computer/electronics firms chosen from corporate directories and other available information sources; all major federal departments and agencies; all state attorneys general; a sample of district attorneys; and several relevant trade associations which were invited to distribute the survey to their members. The respondents to the survey were not required to identify themselves, but they were asked to describe the type of business in which they were engaged. The distribution of respondents, by type of business, is as follows:

TABLE 1.—DISTRIBUTION OF RESPONDENTS BY TYPE OF BUSINESS

| Type of business [1] | Number of respondents | Percentage of total |
|---|---|---|
| Manufacture of equipment and materials | 44 | 16 |
| State/local government—law enforcement | 28 | 10 |
| Production of consumer goods | 27 | 10 |
| Computer/electronics industry | 27 | 10 |
| Conglomerate | 20 | 7 |
| Insurance | 17 | 6 |
| Banking | 16 | 6 |
| Production or sale of energy | 12 | 4 |
| Financial services/brokerage | 10 | 4 |
| Natural resource industry | 10 | 4 |
| Federal Government—other than law enforcement | 9 | 3 |
| Communications | 8 | 3 |
| Retail sale or distribution of consumer goods | 6 | 2 |
| Medical health services | 4 | 1 |
| Federal Government—law enforcement [2] | 4 | 1 |
| Transportation | 3 | 1 |
| Accounting firm | 3 | 1 |
| Other [3] | 35 | 12 |
| Total responses | 283 | [4] 101 |

[1] In some cases, respondents indicated more than one type of business; in such cases, where it could be determined, the respondent's primary type of business was used; where that was not possible, the respondent was identified as a "conglomerate."

[2] The U.S. Department of Justice was asked to send the survey to 20 of the largest U.S. attorney's offices; the Department declined to do so, because of the "policy questions" raised by the survey.

[3] This category includes the following types of business: Computer security and engineering firms (9); other consulting and service firms (6); printing and publishing (4); manufacturers of industrial material (4); miscellaneous (12).

[4] Percentage totals in this and other tables may not equal 100 percent because percentages were rounded.

The respondents were also asked to indicate their annual gross revenues (or budget) and their number of employees. The results were as follows:

TABLE 2.—ANNUAL REVENUES (BUDGET) OF RESPONDENTS

| Annual gross revenues (budget) | No. of respondents | Percentage of total (269) |
|---|---|---|
| Under $100,000 | 5 | 2 |
| Between $100,000 and $500,000 | 5 | 2 |
| Between $500,000 and $1 million | 9 | 3 |
| Between $1 million and $10 million | 19 | 7 |
| Between $10 million and $50 million | 13 | 5 |
| Between $50 million and $100 million | 10 | 3 |
| Between $100 million and $500 million | 26 | 10 |
| Between $500 million and $1 billion | 52 | 20 |
| Over $1 billion | 130 | 48 |
| Total responses | 269 | 100 |

TABLE 3.—NUMBER OF EMPLOYEES OF RESPONDENTS

| Number of employees | Number of respondents | Percentage of total |
|---|---|---|
| Under 100 | 26 | 9 |
| Between 100 and 1,000 | 35 | 13 |
| Between 1,000 and 10,000 | 93 | 34 |
| Between 10,000 and 50,000 | 87 | 31 |
| Between 50,000 and 100,000 | 26 | 9 |
| Between 100,000 and 500,000 | 8 | 3 |
| Between 500,000 and 1,000,000 | 2 | 1 |
| Over 1,000,000 | | |
| Total responses | 277 | 100 |

Finally, the respondents were asked to identify their principal place of business. To assess the geographic distribution of the respondents, the country was divided into six different regions; the distribution of the respondents was as follows:

TABLE 4.—GEOGRAPHIC DISTRIBUTION OF RESPONDENTS

| Region [1] | Number of respondents | Percentage of total |
|---|---|---|
| Northeast | 93 | 33 |
| Middle Atlantic | 36 | 13 |
| South | 30 | 11 |
| North Central | 86 | 30 |
| Northwest | 11 | 4 |
| Southwest | 27 | 10 |
| Total responses | 283 | 101 |

[1] The regions consisted of the following States:

1. Northeast: ME, NH, VT, MA, RI, CT, NY, NJ, PA.
2. Middle Atlantic: DE, MD, DC, VA, WV, NC, SC, KY, TN.
3. South: GA, FL, AL, MS, AR, LA, OK, TX.
4. North Central: OH, IN, IL, MI, WI, MN, IA, MO, ND, SD, NE, KS.
5. Northwest: WA, OR, ID, MT, WY, AK, HI.
6. Southwest: CO, UT, AZ, CA, NM, NV.

These identifying characteristics of the respondents indicate: 1) that they include a wide range of businesses, the largest groups being manufacturers of equipment and material, producers of consumer goods, state/local law enforcement, computer/electronics firms and conglomerates; 2) that the respondents include organizations of all sizes, with the majority having revenues of over $500 million and over 1,000 employees; and 3) that they represent all parts of the country, with slightly larger representation from the Northeast and the North Central regions of the United States.

### B. Basis for Responses

In an effort to gauge the survey respondents' personal and organizational experience with computer-related crime, the respondents were asked to indicate the basis for their responses to the survey. The results were as follows (respondents were allowed to give more than one response):

TABLE 5.—BASIS FOR RESPONSE TO SURVEY

| Basis for responses | Number of respondents [1] | Percentage of total |
|---|---|---|
| Organization's own experience with computers and computer-related crime | 186 | 66 |
| Personal experience with computers and computer-related crime | 167 | 59 |
| General knowledge of computers and computer-related crime (no direct knowledge) | 130 | 46 |
| Other | 9 | 3 |

[1] Total number of respondents, 281.

These figures indicate that at least two-thirds of the respondents based their answers on their own, or their organization's, direct experience with computer and computer-related crime.

The respondents were further asked to indicate the nature of their personal involvement with computers and computer operations. Again, multiple answers were allowed, and the response was as follows:

TABLE 6.—RESPONDENTS' INVOLVEMENT WITH COMPUTERS

| Involvement with computers and computer operations | Number of respondents [1] | Percentage of total |
|---|---|---|
| Executive with some responsibility/oversight | 127 | 45 |
| Supervisor or manager with direct responsibility/oversight | 118 | 42 |
| User of computers, computer services | 87 | 31 |
| Public law enforcement official with jurisdiction over computer-related crime | 32 | 12 |
| Computer programmer, software designer | 22 | 8 |
| Manufacturer or retailer of computer hardware or software | 15 | 5 |
| Computer operator, including data input and output | 10 | 4 |
| Other | 59 | 21 |

[1] Total number of respondents, 282.

The respondents thus appear to be predominately supervisors and executives with direct or indirect responsibility for computers and their use. The responses in the "Other" category included a number of organizations in the computer servicing industry, including computer security firms, as well as corporate counsel whose involvement is with the legal aspects of computer use, and not with computer operations per se.

In general, the survey respondents appear to be well-acquainted with computers and with the actual and potential impact of computer-related crime on themselves and others. Their responses to other questions in the survey further demonstrated that most respondents have more than a passing acquaintance with computers and computer-related crime (see discussion below).

### C. The Nature and Importance of Computer Crime

In an attempt to identify the respondents' views on the most significant type(s) of computer crime, the respondents were asked to review a list of computer-related crimes, grouped according to whether the computer or its components were the objects of crime or the instruments to perpetrate crime or were otherwise involved in criminal activity, and to indicate the types of computer crime considered "most significant."[1] The results of this inquiry are shown below:

TABLE 7.—MOST SIGNIFICANT TYPES OF COMPUTER-RELATED CRIME

| | Number of respondents | Percentage of total |
|---|---|---|
| 1. Crimes where computer or its components or its output are the object of crime: | | |
| a. Destruction or alteration of data | 221 | 79 |
| b. Destruction or alteration of computer software | 190 | 68 |
| c. Theft of computer software | 178 | 64 |
| d. Theft of raw output data | 110 | 40 |
| e. Theft of coded output data | 88 | 32 |
| f. Destruction or alteration of computer hardware | 84 | 30 |
| g. Theft of input data | 75 | 27 |
| h. Theft of computer hardware | 70 | 25 |
| i. Other | 22 | 8 |
| 2. Crimes where computer or its components are the instrument used to perpetrate crime: | | |
| a. Theft of assets, tangible or intangible | 241 | 87 |
| b. Embezzlement | 203 | 73 |
| c. Fraud against consumers, investors or users | 184 | 66 |
| d. Sabotage | 123 | 44 |
| e. Extortion/blackmail | 80 | 29 |
| f. Other | 14 | 5 |
| 3. Other criminal activity: | | |
| a. Unauthorized use of computer for personal programming activities | 140 | 50 |
| b. Other | 42 | 15 |
| Total number of respondents | 278 | |

Thus, the types of computer crime most often designated as significant are: 1) Use of computers to steal tangible or intangible assets; 2) Destruction or alteration of data; 3) Use of computers to embezzle funds; 4) Destruction or alteration of software; 5) Use of computers to defraud consumers, investors or users; and 6) Theft of computer software.

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[1] The respondents were asked to rank up to five types of crime in terms of significance, with a 1 indicating most significant, a 2 indicating next most significant, and so on. Because a large number of respondents did not interpret the question correctly and did not rank the crimes as asked, the relative rankings given the various crime-types cannot be calculated. The responses shown herein simply indicate the number of times a particular crime-type was marked as a "significant" crime in the survey responses.

The respondents were then asked to identify who has the primary responsibility for controlling the incidence of computer crime. Their responses were as follows:

TABLE 8.—PRIMARY RESPONSIBILITY FOR CONTROLLING THE INCIDENCE OF COMPUTER CRIME

| | No. of respondents | Percentage of total (262) |
|---|---|---|
| Private industry | 114 | 43 |
| Individual users | 89 | 33 |
| The Federal Government | 27 | 10 |
| State and local governments | 13 | 5 |
| Other [1] | 23 | 9 |
| Total number of responses | 266 | 100 |

[1] The "other" category included vendors and manufacturers of computers and a large number of "all of the above" responses.

In order to gain a sense of how the respondents viewed the importance of computer crime generally, relative to other types of crime or crime-related problems, the respondents were given a list of other types of crimes and were asked to indicate whether, in their view, computer crime was more important, less important, or equally important, or whether they had no opinion. As the results below indicate, respondents generally regarded computer crime as less important than most violent crimes, but perceived it to be equal to or more important than many other types of White Collar Crime. The results, ranked according to the difference between the percentage of respondents finding computer crime more important than the listed crime versus the percentage finding it less important, are as follows:

TABLE 9.—RELATIVE IMPORTANCE OF COMPUTER CRIME

| Type of crime/problem being compared | Computer crime more important | | Computer crime less important | | Same | | Don't know | | Total number of respondents |
|---|---|---|---|---|---|---|---|---|---|
| | Number | Percent | Number | Percent | Number | Percent | Number | Percent | |
| Shoplifting | 197 | 74 | 16 | 6 | 46 | 18 | 6 | 2 | 265 |
| Illegal immigration | 153 | 57 | 44 | 17 | 41 | 16 | 30 | 11 | 268 |
| Overcrowded prisons | 114 | 43 | 73 | 27 | 18 | 7 | 62 | 23 | 267 |
| Illegal possession of firearms | 117 | 44 | 83 | 31 | 46 | 17 | 21 | 8 | 267 |
| Antitrust violations | 73 | 27 | 58 | 22 | 108 | 40 | 28 | 11 | 267 |
| Counterfeiting | 65 | 25 | 59 | 23 | 138 | 52 | 5 | 2 | 267 |
| Consumer fraud | 44 | 16 | 42 | 16 | 171 | 64 | 12 | 5 | 269 |
| Bank fraud and embezzlement | 34 | 13 | 34 | 13 | 188 | 70 | 8 | 3 | 269 |
| Insider trading/securities fraud | 40 | 15 | 44 | 17 | 173 | 65 | 9 | 3 | 266 |
| Tax fraud | 40 | 15 | 50 | 19 | 165 | 62 | 12 | 4 | 267 |
| Commercial espionage/bribery | 39 | 15 | 53 | 20 | 168 | 63 | 7 | 3 | 267 |
| Distributing marijuana | 87 | 32 | 126 | 47 | 31 | 12 | 25 | 9 | 269 |
| Commodities fraud | 31 | 11 | 44 | 16 | 184 | 68 | 11 | 4 | 270 |
| Fraud against the government | 27 | 10 | 80 | 30 | 152 | 56 | 12 | 5 | 271 |
| Criminal health and safety violations | 52 | 19 | 133 | 50 | 59 | 22 | 23 | 9 | 267 |
| Corruption of public officials | 32 | 12 | 124 | 46 | 108 | 40 | 8 | 3 | 272 |
| Criminal toxic waste violations | 36 | 14 | 160 | 60 | 47 | 17 | 25 | 9 | 268 |
| Assault | 31 | 12 | 185 | 70 | 31 | 12 | 17 | 7 | 264 |
| Armed robbery | 17 | 6 | 197 | 73 | 46 | 17 | 11 | 4 | 271 |
| Organized crime/racketeering | 3 | 1 | 187 | 70 | 65 | 24 | 13 | 5 | 268 |
| Distributing cocaine | 14 | 5 | 204 | 76 | 26 | 10 | 25 | 9 | 268 |
| Distributing heroin | 11 | 4 | 213 | 80 | 22 | 8 | 22 | 8 | 268 |
| Espionage/foreign counterintelligence | 5 | 2 | 205 | 77 | 37 | 14 | 18 | 7 | 265 |
| Rape | 0 | 0 | 252 | 93 | 9 | 3 | 10 | 4 | 271 |
| Murder | 0 | 0 | 260 | 96 | 6 | 2 | 6 | 2 | 272 |

### D. The Effects of Computer Crime

The respondents were asked a series of questions intended to evoke information regarding known incidents of computer crime and verifiable losses resulting therefrom, and also their opinions concerning the effects of computer crime beyond their own organizations. For example, the respondents were asked to indicate the "known and verifiable losses due to computer crime" experienced by their respective organizations during the last twelve months. The words "known and verifiable" were deliberately inserted so that the respondents would not give speculative estimates having no firm basis in fact. For this reason, the responses given would appear to be conservative estimates of actual losses sustained by respondents. The responses are also likely to be conservative estimates of losses because of the use of the phrase "losses due to computer crime." Many respondents may have considered "computer crime" not to include acts of abuse or misuse (such as use of business computers for personal programming activity) which may or may not constitute "computer crime" in a legal sense. The survey results are as follows:

TABLE 10.—KNOWN AND VERIFIABLE LOSSES DUE TO COMPUTER CRIME EXPERIENCED DURING THE LAST 12 MONTHS

| Amount | Number of respondents | Percentage of total |
|---|---|---|
| None | 125 | 45 |
| Between 0 and $100,000 | 54 | 20 |
| Between $100,000 and $500,000 | 8 | 3 |
| Between $500,000 and $1,000,000 | 1 | |
| Between $1,000,000 and $5,000,000 | 4 | 2 |
| Between $5,000,000 and $10,000,000 | 0 | |
| Between $10,000,000 and $50,000,000 | 4 | 2 |
| Between $50,000,000 and $100,000,000 | 0 | |
| Between $100,000,000 and $500,000,000 | 1 | |
| Over $500,000,000 | 0 | |
| No available system to monitor losses | 41 | 15 |
| No available estimate of value of losses | 37 | 13 |
| Total number of responses | 275 | 100 |

One cannot extrapolate from the results of this limited survey to derive a valid "total annual dollar loss" figure for computer crime, a figure which has been sought by many, but which is elusive and unattainable given the current state of record-keeping. However, it does appear significant, given the conservative manner in which the survey question was framed, that over 25 percent of those responding have sustained "known and verified losses due to computer crime during the last twelve months." It also seems significant that these annual losses, given the parameters of the survey responses, could range anywhere from $145 million to as high as $730 million, for the 72 respondents reporting known and verifiable losses. The average annual loss per respondent reporting losses thus ranges from approximately $2 million to over $10 million per year. It is worth noting that many of the large federal agencies, with huge outlays and acknowledged significant losses due to computer crime, did not participate in this survey. It is also noteworthy that many of the largest organizations responding to the survey (those with annual revenues/budgets over $1 billion) reported no available system to monitor or estimate value of losses.

At the very least, the results of this survey support the proposition that the annual losses sustained by American business and government organizations as a result of computer crime are, by any measure, huge. If the annual losses attributable to computer crime sustained by the relatively small survey group are, conservatively estimated, in the range of half a billion dollars, then it takes little imagination to realize the magnitude of the annual losses sustained on a nationwide basis.

The survey respondents were asked their opinions concerning the total annual dollar losses due to computer crime in the United States. The resulting responses were as follows:

TABLE 11.—OPINIONS REGARDING TOTAL ANNUAL LOSSES DUE TO COMPUTER CRIME IN THE UNITED STATES

| Amount | Number of respondents | Percentage of total |
|---|---|---|
| Under $1 million | 1 | |
| Between $1 million and $10 million | 10 | 5 |
| Between $10 million and $100 million | 27 | 12 |
| Between $100 million and $500 million | 51 | 23 |
| Between $500 million and $1 billion | 39 | 18 |
| Between $1 billion and $10 billion | 59 | 27 |
| Between $10 billion and $50 billion | 24 | 11 |

TABLE 11.—OPINIONS REGARDING TOTAL ANNUAL LOSSES DUE TO COMPUTER CRIME IN THE UNITED STATES—Continued

| Amount | Number of respondents | Percentage of total |
|---|---|---|
| Over $50 billion | 7 | 3 |
| Total number of respondents | 218 | 99 |

Thus, *59%* of those responding to this question believe annual losses due to computer crime exceed $500 million, *41%* believe them to be in excess of $1 billion, and *14%* believe the annual losses exceed $10 billion. The respondent's *opinions* seem to be supported by the empirical *data* concerning actual losses sustained by respondents, provided elsewhere in the survey. If anything, the respondents' opinions regarding total annual losses may be conservative.

The respondents were also asked to identify the "known and verifiable types of incidents of computer crime" experienced by their organizations during the last twelve months. Two-hundred-thirty-seven (237) respondents answered this inquiry. One-hundred-one (101) of the respondents indicated that the question was "not applicable" to them. The remaining respondents (136) indicated the following types of "known and verifiable" incidents (multiple responses were allowed):

TABLE 12.—KNOWN AND VERIFIABLE INCIDENTS OF COMPUTER CRIME EXPERIENCED DURING LAST 12 MO

| | Crimes | Number of respondents | Percentage of total (283) |
|---|---|---|---|
| 1. Crimes where the computer or its components or its output were the object of the crime | | 124 | 44 |
| (a) Destruction or alteration of computer hardware | 10 | | |
| (b) Destruction or alteration of computer software | 23 | | |
| (c) Destruction or alteration of data | 23 | | |
| (d) Theft of computer hardware | 43 | | |
| (e) Theft of computer software | 45 | | |
| (f) Theft of input data | 12 | | |
| (g) Theft of raw output data | 22 | | |
| (h) Theft of coded output data | 7 | | |
| (i) Other | 28 | | |
| 2. Crimes where the computer or its components were the instrument used to perpetrate crimes | | 87 | 31 |
| (a) Theft of assets, tangible or intangible | 44 | | |
| (b) Fraud against consumers, investors or users | 14 | | |
| (c) Extortion/blackmail | 5 | | |
| (d) Embezzlement | 22 | | |
| (e) Sabotage | 13 | | |
| (f) Other | 26 | | |
| 3. Other | | 70 | 25 |
| (a) Unauthorized use of computer for personal programming activities | 63 | | |
| (b) Other | 13 | | |

These results give some indication of the range of computer crime incidents experienced by the respondents during the past twelve months and the relative frequency of those incidents. The fact that approximately 48% of the respondents reported one or more computer crime incidents, while only 25% provided "known and verified loss" estimates, also underscores the conservative nature of the "known and verified loss" figures provided. The respective results of the two questions seem to indicate that a large number of respondents sustained losses as a result of computer crime, but were unable or unwilling to quantify the magnitude of those losses.

### E. Perpetrators of computer crime

The survey respondents were asked a series of questions concerning the identity and motivation of known perpetrators of computer crime and what, if any, action had been taken with respect to them. The respondents were first asked to provide information concerning the perpetrators of incidents of computer crime actually experienced by the respondent. Of the 265 respondents responding to the question, 105 (or 40%) indicated that the question was not applicable to them. The responses of the remaining 160 participants were as follows:

TABLE 13.—IDENTITY OF KNOWN PERPETRATORS

| | Crimes | Number of respondents | Percentage of total (160) |
|---|---|---|---|
| Perpetrator not identified | | 62 | 39 |
| Individuals within the organization | | 125 | 77 |
| a. Executives, managers not directly involved with computers | 21 | | |
| b. Computer operations supervisors | 22 | | |
| c. Computer programmers, software personnel | 67 | | |
| d. Nonsupervisory computer operations personnel | 42 | | |
| e. Nonsupervisory personnel not directly involved with computers | 40 | | |
| f. Other | 18 | | |
| Individuals outside the organization | | 73 | 45 |
| a. Competitors | 16 | | |
| b. Customers/clients | 11 | | |
| c. Outside consultants | 22 | | |
| d. Individuals with no prior relationship with organization | 37 | | |
| e. Other | 16 | | |
| Total number of respondents | 160 | | |

The respondents were then asked, with respect to the identified perpetrators of computer crime against their organization, to indicate what, if any, actions had been taken against them. Two-hundred-fifty-seven (257) respondents answered this inquiry, with the following results (multiple responses were allowed):

TABLE 14.—ACTION TAKEN AGAINST IDENTIFIED PERPETRATORS

| Action | Crimes | Number of respondents[1] | Percentage of total (257) |
|---|---|---|---|
| None | | 39 | 15 |
| Criminal investigation underway/completed | | 49 | 19 |
| Criminal prosecution initiated | | 54 | 21 |
| Status or outcome: | | | |
| Still pending | 21 | | |
| Dismissed | 7 | | |
| Acquittal | 5 | | |
| Guilty plea | 20 | | |
| Guilty verdict | 13 | | |
| Sentenced | 11 | | |
| Fined | 4 | | |
| Other | 5 | | |
| Civil legal action initiated | | 17 | 7 |
| Disciplinary action against employee | | 69 | 27 |
| Other | | 6 | 2 |
| Not applicable | | 114 | 45 |

[1] Total number of respondents, 257.

The respondents were then asked to indicate the extent to which they had reported incidents of computer crime to law enforcement authorities. Their responses were as follows:

TABLE 15.—REPORTING COMPUTER CRIME INCIDENTS TO LAW ENFORCEMENT AUTHORITIES

| | Number of respondents | Percentage of total |
|---|---|---|
| All such incidents reported | 40 | 16 |
| Most such incidents reported | 13 | 5 |
| Some such incidents reported | 45 | 18 |
| None of such incidents reported | 50 | 20 |
| Not applicable | 102 | 41 |
| Total number of responses | 250 | 100 |

It is notable that, of the respondents to whom the above question was applicable, approximately one-third did not report any of the computer crime incidents experienced to law enforcement authorities, and another one-third only reported some of the incidents experienced.

Finally, the respondents were asked their opinion regarding the motivation of computer crime perpetrators. Their responses were as follows (multiple responses were permitted):

TABLE 16.—MOTIVATION OF COMPUTER CRIME PERPETRATORS

| | Number of respondents | Percentage of total |
|---|---|---|
| Personal financial gain | 261 | 96 |
| Organizational/corporate financial gain | 67 | 25 |
| Organizational/peer group pressure | 31 | 11 |
| The intellectual challenge | 168 | 62 |
| Desire for publicity/recognition | 43 | 15 |
| Other personal reasons | 96 | 35 |
| Other | 19 | 7 |

Note.—Total number of respondents equal 271.

Included in the "Other" category were the following Revenge/Retaliation against employers (7); Ease of access/financial gain (5); Espionage/vandalism (2); and Miscellaneous (7).

### F. Prevention/Deterrence of Computer Crime

The respondents were asked a series of questions concerning the prevention and deterrence of computer-related crime. They were first asked to review a list of various means of preventing and deterring computer crime, and then to rank those alternative means in terms of effectiveness (a rank of one (1) indicates the most effective, a rank of two (2) indicates the next most effective, and so on). The results of this question are shown below:

TABLE 17.—MOST EFFECTIVE MEANS OF PREVENTING AND DETERRING COMPUTER CRIME

| Action | Number of respondents | Relative score (rank) |
|---|---|---|
| More comprehensive and effective self-protection by private business | 246 | 1.53 |
| Education of users concerning vulnerabilities of computer usage | 210 | 2.78 |
| More severe penalties in Federal and State criminal statutes | 193 | 3.62 |
| Greater education of the public regarding computer crime | 168 | 4.07 |
| More aggressive Federal law enforcement | 166 | 4.13 |
| More aggressive State and local law enforcement | 174 | 4.17 |
| Greater caution by individual consumers, investors, entrepreneurs | 163 | 4.38 |

Note.—Total number of respondents equals 259.

The respondents were then asked to identify the steps that their organizations have actually taken to prevent and deter computer crime. Their responses were as follows (multiple responses were permitted):

TABLE 18.—STEPS TAKEN TO PREVENT/DETER COMPUTER CRIME

| Action | Number of respondents [1] | Percentage of total (274) |
|---|---|---|
| Limited access to computer program, computer logic | 235 | 85 |
| Limited access to computer operations | 223 | 81 |
| Frequent changing of access codes, user ID numbers | 198 | 72 |
| Limited access to input of data into computer | 195 | 71 |
| Installation of asset controls and accountability | 157 | 57 |
| Frequent security checks of computer and operations | 137 | 50 |
| Security education for employees | 135 | 49 |
| Improved screening of employees who have access to computers | 114 | 42 |
| Severe sanctions for employees involved in computer-related irregularities | 101 | 37 |
| Prompt referral of suspected illegal activity to law enforcement authorities | 54 | 20 |
| Coding of input data | 39 | 14 |
| Coding of output data | 39 | 14 |
| Other | 34 | 12 |

[1] Total number of respondents, 274.

Included in the "Other" category were the following: Implementation of comprehensive computer security policies/program (8); Increased frequency of EDP/internal audits (7); Installation of software security package (5); Education of users (2); Miscellaneous (12).

The respondents were next asked their views on the need for a federal criminal statute specifically directed to computer crime. Their responses were as follows:

TABLE 19.—VIEWS REGARDING NEED FOR FEDERAL CRIMINAL STATUTE DIRECTED SPECIFICALLY TO COMPUTER CRIME

| Position | No. of respondents | Percentage of total (280) |
|---|---|---|
| Strongly support such a statute | 163 | 58 |
| Somewhat support such a statute | 58 | 21 |
| Have no opinion regarding the need for such a statute | 43 | 15 |
| Somewhat oppose such a statute | 12 | 4 |
| Strongly oppose such a statute | 4 | 1 |
| Total number of respondents | 280 | 99 |

Although the respondents were not asked to evaluate any specific proposed statutory language, the fact that 79 percent of them either strongly support or somewhat support the passage of a federal computer crime statute is noteworthy.

The respondents were asked to indicate whether their respective states had a computer statute in effect. If their state has such a statute, the respondents were asked to evaluate its effectiveness. If their state did not have a computer crime statute, the respondents were asked to indicate whether they favored or opposed the passage of such legislation. The results of these inquiries are shown below:

TABLE 20.—RESPONDENTS IN STATES WITH COMPUTER CRIME STATUTES

| | Number of respondents | Percentage of total (274) |
|---|---|---|
| State has a statute | 72 | 26 |
| State does not have a statute | 92 | 34 |
| Don't know | 110 | 40 |
| Total number of respondents | 274 | 100 |

TABLE 21.—OPINION REGARDING STATE COMPUTER CRIME STATUTES

| | Number of respondents | Percentage of total (82) |
|---|---|---|
| Statute is beneficial and worthwhile | 36 | 44 |
| Statute is deficient; should be repealed or drastically amended | 12 | 14 |
| Insufficient information to respond | 34 | 42 |
| Total number of respondents | 82 | 100 |

TABLE 22.—OPINION REGARDING NEED FOR STATE COMPUTER CRIME STATUTE IN STATES HAVING NONE

| | Number of respondents | Percentage of total (119) |
|---|---|---|
| Favor the adoption of such a statute | 91 | 77 |
| Oppose the adoption of such a statute | 5 | 4 |
| No opinion | 23 | 19 |
| Total number of respondents | 119 | 100 |

The overall opinion of respondents strongly supporting the passage of a *federal* computer crime statute thus seems to carry over into their opinion regarding the need for *state* legislation, where there is none.

### G. Respondents' Comments On Most Troublesome Aspect Of Computer Crime

The respondents were asked to describe in their own words "the most troublesome aspect of computer crime, currently and in the foreseeable future." Over 60% (175) of the respondents chose to provide comments. Although some of the respondents' handwritten responses require some interpretation, they fall roughly into the following major categories:

TABLE 23.—MOST TROUBLESOME CURRENT AND FUTURE ASPECTS OF COMPUTER CRIME

| Problem | Number of respondents [1] | Percentage of total (175) |
|---|---|---|
| Proliferation of business and personal computers and computer users | 40 | 23 |
| Difficulty detecting computer crime | 36 | 21 |
| Vulnerability, lack of adequate security measures | 35 | 20 |
| Lack of public and/or managerial awareness and concern | 24 | 14 |
| Increasing reliance on computers/magnitude of potential losses | 19 | 11 |
| Difficulty of prosecution/lack of prosecutional interest or measures | 17 | 10 |
| Lack of adequate statutes/criminal sanctions | 16 | 9 |
| Lack of understanding of problem/law enforcement expertise | 16 | 9 |
| Lack of clear definition/failure to recognize as crime | 13 | 7 |
| Espionage and spying, foreign and domestic | 8 | 5 |

[1] Total number of respondents, 175.

Other areas of concern expressed by respondents include the following (number of respondents in parentheses): (a) Costs of prevention (5); (b) Exaggeration of the problem (5); (c) Privacy concerns (5); (d) Failure to report to law authorities (4); (e) Hackers (4); (f) Identifying perpetrators (3); (g) Determining damages (2); (h) Copyright problems (2); and (i) Expicitation by organized crime (1). Obviously, the categories described above sometimes overlap, and could have been divided differently. As presented, however, they provide a good description of the range of concerns expressed by respondents.

Some of the respondents' remarks merit specific citation, both for their tone and their content. A selection of some of the respondents' more emphatic comments is given below. The respondents' respective geographic location and type of business are indicated.

### Proliferation of computers and computer users

"The proliferation of computer equipment among the general public will lead to the training in the use of such devices to greater numbers of individuals with criminal propensities. The lack of efficient security measures among both private and public sector users for storage of computer based technical and financial information will result in growing losses until the problem of security deficiencies catches up with technology advances." (Northeast; accounting firm).

"My concern is the growing industry of personal computers and the ability of connecting to on-line applications and data bases in the public and private sectors. Individuals, from elementary students on up, who would not as a rule have access to this very powerful equipment can now purchase it at local comp. stores. This accessibility and knowledge of automation has and will continue to lend to problems either maliciously or accidentally. The solution lies in more sophisticated computer security." (North Central; medical health services company).

"In my opinion, the largest security exposure in the coming year will be the use of personal computers with the data residing on moveable floppy disks. Manufacturers must address this problem so that the systems have a uniqueness for each company." (Middle Atlantic; banking company).

### Detection

"Because software and magnetically recorded data are invisible, it is extremely difficult to detect criminal or fraudulent actions, and therefore, the level of computer crime or computer-based crime is difficult to assess." (Northeast; computer/electronics company).

"Government and business are not willing or are incapable of addressing computer crime/prevention issues. Corporate victims are reluctant to report computer crime as they fear stockholder suits. Lack of Federal/State law. In short, computer crime pays darn well." (Northeast; security consulting).

"Because a good programmer can cover up a crime so easily and effectively, the most troublesome aspect of computer crime is the difficulty detecting it. This is compounded by the fact that security and control of the computer are in their infancy, so preventing computer crime is extremely difficult. The situation will probably worsen in the future because of the continued rapid growth of computer usage." (Northeast; insurance company).

### Lack of effective security measures

"The rapid pace of technology—both hardware and software, that continuously outdates existing controls or presents new control concerns." (South; natural resource company).

"A good system of internal controls—that is data processing control coupling with good accounting controls—will discourage and uncover theft of assets and embezzlement. From a data processing executive's standpoint, sabotage of equipment and data is the most difficult from which to recover." (Northeast; manufacturer of equipment materials).

"The failure of management to implement sufficient internal controls to supervise their systems is one of the major problems.

because of this, individuals are the systems for unauthorized jobs. There are neither federal nor state statutes for a DA to use when dealing with computer crimes. It is difficult to process this type case. It is hard to explain to 12 men or women that a copy of a software code, on a mag tape (valued at $25.00) has a overall value in excess of millions of dollars." (North Central; system design, implementation and testing).

### Lack of public/managerial interest

"Education and awareness—failure of the user to recognize loss/vulnerability potential to computer crime and of management to allocate resources to combat the problem." (Middle Atlantic; federal government agency).

"Lack of awareness—that a person is doing anything wrong by attempting to enter someone elses data system. It is viewed as a game. Education should start in high school. Even with legislation/laws—no resources to enforce." (North Central; manufacturer).

"The crime, where it is labelled 'crime', has an image of 'gamemanship' about it, with the 'gaming' often directed into an entity which is 'neutral' and 'rich' (the corporation) with a perception that no one loses anything, just an intangible 'corporation.'" (Northeast; computer/electronics firm).

"Difficulty in installing safeguards and lack of strong enforcement attitude against perpetrators. There is a tendency to look upon computer crime as a lark or the perpetrator as a 'little guy' who is a hero for 'ripping-off' a big institution." (North Central; producer of chemicals).

### Magnitude of potential losses

"An organization's whole accounting system could be destroyed. Intangibles like this are more important than people doing it for monetary gain." (Middle Atlantic; computer/electronics firms).

"Theft of significant assets through embezzlement. Alteration of corporate data causing management to receive erroneous information. Destruction of critical corporate documents/files. Alteration of critical corporate documents/files leading to chaos within corporation and possible theft of assets." (Northeast; steel manufacturer).

"Computer crime creates financial losses that are eventually absorbed by all consumers, you and me." (North Central; producer of consumer goods).

### Lack of law enforcement expertise/resources

"The most difficult task at present is to educate government so as to make them aware of the computer problem. Law enforcement agencies are not familiar enough with computers and the losses that can occur to properly conduct an investigation and prosecute the perpetrators." (Northeast; consumer reporting agency).

"The inability of the courts and law enforcement to deal with complex issues relating to theft of computer technology, trade secrets, transborder data-flow and the leniency in dealing with white collar criminals. Juries may never be trained in computer crime but jurists should be." (Southwest; computer security consulting).

"Allocation of resources to remedy the problem and for enforcement of existing and developing laws has not been a priority. The degree of sophistication of the criminal is outstripping the enforcement/prevention forces." (Northwest; state/local law enforcement agency).

### Lack of adequate laws/sanctions

"The difficulty in proving under the law that a specific individual committed the act (remote activation with technical obscurity)." (North Central; computer/electronics firm).

"Computer crime is more a potential than real problem at this time. I see a significant potential for major computer crime problems in the future. In addition, computer crime is inherently interstate in nature. State and local efforts to control such crime (at least where a computer is the instrument of the crime) will be of limited effectiveness on that account." (Middle Atlantic; federal government agency).

"As in other aspects of crime, there are too many liberals worrying about the rights of the criminal and not the public. Wrist slapping is the punishment likely to be given computer criminals. A thief is a thief whether he uses a gun or computer to rob doesn't matter, penalty should be the same." (North Central; manufacturing firm).

### Spying

"Technology theft and transfer to potential adversaries." (Southwest; state/local law enforcement agency).

"Difficulty of policing in an open non-regimented society. I feel greatest problems lie in area of commercial and national security related espionage directed at computer related technology." (Southwest; computer/electronics firm).

### Hackers

"Computer trespass and vandalism where economic gain is not the motive. The thrill of destroying or playing havoc' with a computer system seem to be the motivating force." (Northeast; state/local law enforcement agency).

### H. Caveats Concerning Survey Results

The Task Force believes that the survey results are very helpful and instructive on the issues surrounding computer crime and on public and private efforts to deal with it. However, it is appropriate to end this section with a number of caveats regarding the survey results and their significance. First, it should be noted that the phrase "computer crime" has different meanings to different people. In distributing the survey, we purposefully provided no hard-and-fast definition of "computer crime." Instead, we offered a wide range of types of computer crime, including crimes in which computers or their components are the objects of crime, and criminal activities in which computers are the instruments of crime, and asked the respondents to indicate those they considered most significant. Thus, by implication we suggested a broad definition of computer crime and, as it turned out, the respondents' answers indicated an equally broad view of the meaning of computer crime. Nevertheless, it is certainly possible that, in answering the survey, individual respondents had differing views of the meaning of "computer crime."

Secondly, as is inevitable with any survey, the respondents had different levels of experience and expertise with respect to computer crime. Many of the respondents were individuals with direct responsibility for the operation and security of computers. Other respondents were managers or legal counsel with only indirect responsibility and oversight over computer operations. The survey asked the respondents to indicate their personal involvement with computers and computer operations and the basis for their responses. Over two-thirds of the respondents indicated direct or indirect responsibility for computers and their operation, and based their responses on their own personal experience or on their organization's own experience with computers and computer-related crime.

Thirdly, because of the size of the sample, the survey results do not allow one to conclude with any certainty the number of incidents of computer crime that have occurred or are occurring on a nationwide basis, or the magnitude of economic losses that are attributable to these incidents. However, by looking at the respondents' answers concerning known and verifiable losses that they themselves have sustained as a result of computer crime during the past twelve months, one can make some reasonable inferences concerning the overall economic significance of computer crime. As various commentators have pointed out, valid and reliable statistics on the actual incidence of computer crime and actual losses sustained on any comprehensive basis are simply not possible until better reporting systems are in place.

Finally, as with any survey, there may be ambiguities in the survey instrument itself and ambiguities in some of the responses. We attempted to keep such ambiguities to a minimum by carefully constructing the survey and by pretesting it, and the survey responses do not indicate that the respondents were troubled by the ambiguity of any specific questions. However, it is always possible that the respondents viewed certain questions in slightly different ways. In the few instances where the written comments of the respondents were ambiguous, we have attempted to interpret them in a reasonable and consistent manner, and we have indicated where such interpretations were necessary.

With these caveats, we believe that the survey results, as reported here, are meaningful and instructive.

## *II. Significance of computer crime survey results*

The foregoing section of this report set forth the results of the survey conducted by the Task Force on Computer Crime. This section attempts to place those results in the context of some of the issues currently being debated with respect to computer crime and society's response to it, and to assess the significance of the survey results based on facts available to the Section and the Task Force members.

### A. Nature and Importance of Computer Crime

Discussions of computer crime often begin with an extended discourse on various possible definitions for computer crime and a lament that there is no one, clear, agreed-upon definition. We choose to forego any such discussion. For purposes of our survey and for purposes of discussion, we adopt a broad definition of "computer crime" including criminal activities directed against computers and their components, criminal activities which use computers or their components as instruments to perpetrate crime, and other activities involving computers which, while they may not constitute "crimes" in the strict legal sense, nevertheless amount to abuse which perhaps should be declared illegal.

Our broad definition of the phrase "computer crime" for purposes of this discussion does not mean that more precise or more limited definitions are not appropriate when one is attempting to craft legislation or design operating or security procedures. Different types of computer crime may indeed require different preventive measures and different sanctions. Our review of the phenomenon of computer crime is purposefully broad, to avoid meaningless semantic hair-splitting, while perhaps providing guidance on distinctions and disaggregations that may be useful for specific purposes.

Reports on computer crime also often contain numerical estimates, usually unexplained or unsupported, of the economic losses attributable to computer crime. These numerical estimates, which vary widely,[2] are typically offered to convince the reader that computer crime is a serious problem.

We are not in a position to offer any quantification of total annual economic losses due to computer crime. Such a quantification of aggregate losses would be interesting and helpful to have, but it is not necessary to convince us that computer crime is a problem of substantial, and growing, significance. There is more than enough evidence to support that proposition.

The survey results indicate that over 25% of those responding have sustained "known and verifiable losses due to computer crime during the last twelve months.' Among the 72 respondents sustaining losses, the known and verifiable losses are, at a minimum, $145 million and could be as high as $730 million. This puts the average annual loss per respondent reporting losses in the range of $2 million to over $10 million. Given the small number of organizations reporting these large known and verifiable annual losses (total and per respondent), the total annual loss figures nationwide would appear to be enormous.

Beyond the survey results, the magnitude of the computer crime problem, both currently and in the future, becomes clear when one considers the latest estimates regarding computer usage: 3.5 million personal computers now in use in the business market, out of a total of 9.1 million personal computers currently in use in the United States ;[3] over 16,000 large computers being used by the federal government, and more than 56,000 large, general purpose computers in use in the private sector.[4] The proliferation of computers and computer users in recent years has far outpaced the earlier projections of those closely involved in the industry.[5] This proliferation of machines and knowledgeable users, along with recent concrete examples of the damage that can be caused by one person with one personal computer, provide disturbing and undeniable evidence that the scope and significance of computer crime, and its potentially devastating effects, are broad and deep. The survey results reveal that, among those responding, computer crime generally is viewed to be of equal or greater importance than many other types of White Collar Crime and is seen as being more important than a number of other crime problems (e.g., shoplifting, illegal immigration, illegal possession of firearms).

For these reasons, it would seem beyond dispute that computer crime is today a large and significant problem with enormous potential for becoming even larger and more significant.

### B. Public and private sector response to computer crime

We believe that both the private and the public sectors bear responsibilities for dealing with computer crime. How each sector defines and fulfills its responsibilities obviously has an impact on society as a whole.

For example, it is relatively clear that, in economic terms, society's losses due to computer crime include two type of costs—the actual monetary losses to businesses, government agencies, and individuals caused by computer crime and the resources that society is called upon to spend in controlling (i.e., preventing, detecting, investigating, prosecuting) computer crime. The opportunity costs of the resources devoted to the latter (which we can call "security costs") are obviously great. The object of social policy toward computer crime, in economic terms, must be to minimize these combined economic costs (actual economic losses and security costs). This can be accomplished in a number of ways: (1) Utilizing the most efficient level of security investment;[6] (2) Lowering the probability of loss;[7] and (3) Lowering the potential magnitude of loss.[8]

The results of the Task Force's survey provide some relevant insights on these matters. The respondents overwhelmingly indicated that the primary responsibility for controlling computer crime rests with private industry and individual users (76% of the respondents so indicated; see Table 8 above). Similarly, by a large margin, the respondents indicated that "the most effective means of preventing and deferring computer crime" was "more comprehensive and effective self-protection by private business" (see Table 17 above). At the same time, one of the respondents' most-repeated concerns in their written comments is the alleged lack of awareness and lack of concern by management and the public generally concerning computer crime. There at least seems to be a different (greater) perception of the significance of computer crime by those directly involved with computers than by those farther removed (higher management, general public). If the concerns expressed by a large number of the respondents are accurate, it would appear that the upper levels of corporate (and government) management may be underestimating both the potential magnitude and the probability of various types of computer crime. If this is so, public and private management may be implicitly or explicitly undervaluing the possible, or likely, losses from computer crime and, therefore, underinvesting in protective security measures.

What significance does this apparent underestimation of the present and future dimensions of computer crime have for society at large? If the managements involved are not investing the appropriate amount in security measures (i.e., the "efficient" amount), the economic losses to them and to society from computer crime are greater than they should be. In addition, if managements are not adequately aware of and concerned about the potential for computer crime, they are unlikely to be adequately exploring and demanding more efficient computer security devices.[9] While the Task Force survey does not demonstrate conclusively that this is the case, it indicates strongly that this may be the case.

Several other themes emerge from the comments provided by respondents to the Task Force survey. One is the apparent gap between computer technology generally and computer security technology. This gap, or lag, between the two seems to be increasing.

Secondly, the survey responses reflect a concern that we are developing a culture of young computer users who are challenged to use computers to the ultimate extent possible, with little or no regard for other people's property or privacy interests. These young users are ecouraged, by their peers and by the role models that they see treated as "whiz kids" and "heroes" by the media, to push technology to the limit, without any balancing of legal or ethical considerations in computer use.

Thirdly, the survey responses indicate broad concern regarding the lack of effective federal and state computer crime legislation. Of the respondents in states having computer crime statutes, most thought the statutes were beneficial (see Table 21, above). The respondents in states not having a computer crime statute were strongly in favor of having a state statute (see Table 22, above). And, among all respondents, there was overwhelming support for a federal computer crime statute (see Table 19, above). The need for federal computer crime legislation will be discussed in the following section.

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[2] *See, e.g.,* $20 to $100 million annual losses due to computer crime (Police Chief, June 1983, p. 50); $300 million to $5 billion per year (Technology Review, April 1982, p. 21); $1 billion per year (The Office, November 1983, p. 47).

[3] Wall Street Journal, April 9, 1984, p. 37; May 4, 1984, p. 29.

[4] Speech by Congressman Bill Nelson to the American Society for Industrial Security, October 31, 1983.

[5] . . e.g., Business Week, April 20, 1981, p. 86: "Five years ago, just 1,500 personal computers had been sold in the U.S.; today that number is 500,000, and by the mid-1980s the total should hit 3 million [citing International Data Corportation projections]."

[6] For example, if company A is currently investing X amount of resources in computer security and its expected losses from computer crime are X+Y, it may or may not be investing at the most efficient level. If company A increases its security investment by 1 unit (say, $1 million dollars) and the result is to decrease its expected losses by 2 units ($2 million), then the additional investment would seem justified. If, on the other hand, spending [illegible] $1 million on computer security has no effect on company A's expected losses, or decreases them by any amount less than $1 million, the security investment should not be made.

[7] The probabilities of losses can be lowered by a number of means, including more aggressive law enforcement, the use of increased security measures, or the introduction of more efficient security measures which do not increase security costs while decreasing the likelihood of the successful perpetration of computer crime. Obviously, it does not make economic sense to spend more on these probability-reducing devices than they produce in reduced expected losses.

[8] For example, if a company or a government agency can reduce the potential magnitude of its losses from computer crime to $2 million instead of $10 million, its overall expected losses, assuming the probability of loss remains the same, will be lower. A concrete example of this might be designing an extensive computer network, with multiple access points, so that a person at access point A could affect only data relating to access point A, and not that of access points B, C, D, etc.

[9] Many of the survey respondents, in one form or another, seemed to be asking, "Why don't companies that design or manufacture computer systems pay more attention to security features in the design stage? Why don't companies (and government agencies) demand more from computer designers and themselves invest more in computer security, research and usage?"

Part of the answer to these questions is probably a lack of information or lack of awareness of the potential of computer crime losses. But another part of the answer is that these companies (and agencies) do not pay the full price of their failure to design or implement adequate security measures. The costs of their failures or their underinvestment are, at least in part, passed on to others—they are "externalized." In some cases, they are borne by other companies, by consumers, by taxpayers, or by society at large. Similarly, the gains that may result from technological advances in security are not necessarily internalized by the companies or individuals that develop them.

Finally, the survey results indicate that both private industry and public officials believe that law enforcement personnel do not have the expertise necessary to investigate and prosecute computer crime successfully. This may explain, in part, the high proportion of computer crime incidents that are not reported to law enforcement officials. The survey responses provided by law enforcement officials indicate that, while they recognize their need for more resources and improved expertise, they would welcome more conscientious reporting of alleged computer crime incidents.

### C. The Need For Federal Computer Crime Legislation

The Criminal Justice Section first endorsed the adoption of federal computer crime legislation in 1979, in a resolution ultimately approved by the ABA House of Deligates in August 1979.[10] The ABA's position in favor of federal computer crime legislation is fully supported by the results of the Task Force survey and by recent events.

The need for such legislation seems clear; nonetheless, we will briefly discuss some of the major reasons such legislation is necessary and beneficial. First, the survey results and recent experience indicate that, among a large portion of the population, there is a failure to recognize various forms of computer abuse and misuse as illegal and improper. This illustrated by the view of the teenagers in the recent Milwaukee "414" gang who used a personal computer to infiltrate the computer records of the Sloan-Kettering Cancer Clinic, the Los Alamos Nuclear Weapons Research Laboratory, and over 50 other business and institutional computers. One of the teenagers involved admitted that the first time he felt he might have done something illegal or unethical was when the FBI knocked at his door.[11] But the lack of recognition of computer abuse as illegal or unethical appears to be not limited to young "hackers"; it seems to be shared by others in society who have the means and the ability to commit various forms of computer crime. The existence of a federal criminal statute specifically directed at computer-related illegal activity, and a few well-publicized prosecutions under such a statute, should dispel any lingering perception that computer abuse is a "game" that one may engage in freely without fear of prosecution or concern for the damage that may result.

Secondly, the enactment of a federal criminal statute should have a number of other positive effects on law enforcement. It will give investigators and prosecutors a specific jurisdictional hook and a framework for prosecution, so that they need not attempt to fit "a square peg" in a "round hole"[12] by crafting new theories of prosecution and stretching existing criminal statutes (many of which were drafted long before "computers" became part of our vocabulary) to cover situations that were clearly not contemplated by their authors. A specific computer crime statute should also encourage private citizens to report, and law enforcement authorities to pursue, incidents of computer crime. The current uncertainty about whether computer crime is a "crime" and whether it can be successfully prosecuted has an inhibiting effect on law enforcement. The existence of a specific computer crime statute should also increase the likelihood that investigators and prosecutors will receive the additional training they need to combat computer crime.

A third reason for enacting federal computer crime legislation is to make the sanctions for committing computer crime more rational and more consistent with the seriousness of the crime. At present, there are arguably no penalties that apply to certain types of computer abuse which nevertheless have the potential for great harm. Other types of computer crime, which could theoretically be prosecuted under various existing statutes (e.g., wire fraud, trespass, embezzlement, etc.), would be subject to greatly varying penalties depending upon which statute was used, many of which penalties are far from commensurate with the seriousness and the costliness of the associated crimes. Thus, equity and rationality of punishment would be promoted by the existence of a specific federal statute.

An additional reason for adopting a federal computer crime statute comes from the government's increased reliance upon computers and the devastating effect that manipulation or destruction of those systems could have on both public and private institutions. This increased reliance, and the increased vulnerability that comes with it, can be seen on a number of fronts: (1) Extensive use of computers in defense, national security work;[13] (2) Extensive use of computers by the Federal Reserve and financial institutions;[14] (3) Extensive use of computers by medical and health facilities;[15] (4) Extensive use of computers in connection with various benefit programs;[16] (5) Increased reliance on computers by other government institutions;[17] and (6) Increased government and private efforts to enhance computer compatibility.[18] Existing federal criminal statutes are simply not adequate, in their coverage or their sanctions, to deal with the government's increased exposure to computer crime.

Finally, a further positive effect of a federal computer crime statute worth noting is its likely impact on the collection of data concerning the occurrence and nature of computer crime and the outcomes of investigation and prosecution. Most law enforcement agency records, including those of the FBI and U.S. Attorneys' offices, are designed to collect data according to statutory provisions (e.g., mail fraud, wire fraud, RICO, etc.). Thus, existing records cannot be used to gather and analyze information concerning computer crime. The passage of a computer crime statute would trigger a record-keeping mechanism which, while not perfect, would nevertheless create at least a partial data base on computer crime. That data base could then be used to study the types and patterns of computer crime that occur and would also enhance efforts to locate perpetrators who engage in repeated and multi-district criminal activity.

For these reasons, the Section and the Task Force believe that the need for a federal computer crime statute, recognized and advocated by the ABA in 1979, is even more acute today. While we will reserve for the future recommendations concerning specific legislative language and other appropriate public and private actions, we have no hesitation in concluding that comprehensive federal computer crime legislation is long overdue.

[NOTE.—Appendix I not reproducible for the RECORD.]

### APPENDIX II

[Approved by ABA House of Delegates, August 1979]

### SECTION OF CRIMINAL JUSTICE

### RECOMMENDATIONS

The Section of Criminal Justice recommends adoption of the following resolutions:

*Be it resolved*, That the ABA support legislation to establish federal jurisdiction, concurrent with state jurisdiction, over certain offenses committed against, or through the use of computers, computer systems or computer networks;

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[10] A copy of the 1979 resolution is attached hereto as App. II.

[11] Testimony of Neal Patrick before the House Subcommittee on Transportation, Aviation and Materials of the Committee on Science and Technology, Sept. 26, 1983, p. 27.

[12] See Statement of John C. Keeney, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, before the House Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary, Nov. 18, 1983, p. 1.

[13] The extensive use of computers in defense and national security-related work is well-documented. The teenagers in Milwaukee were able to penetrate the computer system at the Los Alamos Nuclear Weapons Research Laboratory. According to public reports, no sensitive records were accessed or manipulated, but the dangers of such manipulation are obvious.

[14] The country's financial institutions, including the Federal Reserve, banks, stock exchanges and commodity markets, are increasingly dependent on computers. The recent penetration of a Federal Reserve Bank computer by a former employee demonstrates the vulnerability of that system and others. Someone bent on sabotaging the country's financial markets, for whatever reason, could do so by successfully penetrating the computers on which those markets depend.

[15] The recent unauthorized tampering with the computers of the Sloan-Kettering Center Clinic is illustrative. The perpetrators inadvertantly altered patients' files controlling radiation treatment. One need not ponder long to recognize the havoc and the injury that could result from ill-intentioned tampering with medical records at major government research facilities (e.g., the National Institute of Health) and health care centers.

[16] Government agencies use computers extensively to manage and implement various benefit programs (e.g., Social Security, welfare, food stamps, Medicare/Medicaid). There have been a significant number of documented incidents involving the use of computers to manipulate records in government programs and defraud the government. (See, e.g., Computer-Related Fraud and Abuse in Government Agencies, Inspector General, U.S. Department of Health and Human Services, June 1983; Computer-Related Crimes in Federal Programs, Report of the Comptroller General, Apr. 27, 1976.) The potential for monetary loss and for destablization of these programs themselves as a result of computer crime is clear.

[17] Congress is now highly dependent on computers to process information and otherwise assist Members of Congress. The Securities and Exchange Commission relies on computers to monitor the activity of the stock markets. The FBI and other law enforcement agencies rely heavily on computers to maintain information concerning past and ongoing investigations and known or suspected criminals. The potential for mischief, disruption or worse is obvious.

[18] On Apr. 24, 1984, the U.S. Commerce Department and industry executives signed an agreement to develop and test internationally accepted standards intended to make it easier for different kinds of business computers to communicate with one another. (Daily Report for Executives, The Bureau of National Affairs, Washington, D.C., Apr. 25, 1984, pp. A-12, A-13.) The agreement, according to the Secretary of Commerce, is designed to promote computer compatibility so that companies with different computers will be able to communicate more easily with each other, both domestically and internationally. While the enhancement of computer compatibility will clearly have positive economic and trade benefits, it also, obviously, creates increased exposure to damages from computer crime.

*Be it further resolved,* That the proposed federal concurrent legislation reach:

(a) The use of attempted use of a computer, computer system or computer network to obtain money, property or services by means of false or fraudulent pretenses, representations or promises;

(b) Intentional, unauthorized accessing for the purpose of alteration, damage, destruction or theft of a computer, computer system, computer network or any computer software, program or information contained therein; and

(c) International, unauthorized interception of nonaural communications by wire or radio between computers, computer systems, or computer networks.

*Be it further resolved,* That legislation creating concurrent federal jurisdiction over offenses committed against or through the use of computers, computer systems or computer networks require the Attorney General, in consultation with state and local law enforcement authorities, to publish guidelines for the exercise of that jurisdiction by the United States;

*Be it further resolved,* That legislation denominating federal offenses committed against or through the use of a computer or computer systems or computer network should:

(a) Preclude the charging of a federal offense based upon the same facts except for proof of an element involving a computer, with a charge brought under the computer crime statute;

(b) Provide for gradation of offenses and a graduated scale of penalties consistent with ABA policy on the sentencing scheme of the proposed Federal Criminal Code, with a sanction not to exceed five years imprisonment or $50,000 or both; and

*Be it further resolved,* That additional study be undertaken to find solutions to the procedural and evidentiary problems that impede the detection and prosecution of computer crimes under existing law.

### REPORT IN SUPPORT OF RECOMMENDATIONS

The Subcommittee on Criminal Laws and Procedures of the United States Senate Judiciary Committee held hearings on a proposed Federal Computer Systems Protection Act (S. 1766—95th Congress) during 1978. In a letter to the Criminal Justice Section, Senator Joseph R. Biden, Jr., Subcommittee Chairman, requested written comments by the ABA for Subcommittee consideration without further hearings. No action was taken on S. 1766 by the 95th Congress and the bill died at the close of the legislative session. Senator Abraham Ribicoff (R-CT) and twelve cosponsors introduced a slightly modified version of the Federal Computer Systems Protection Act proposal (S. 240) in January, 1979 (S. 240 attached).

The Section of Criminal Justice recommendations are based on a report submitted by the Section's Committee on Economic Offenses and Complex Criminal Litigation Problems in support of federal computer crime legislation. The Section takes no position on the technical computer definitions contained in the proposed Act.

### *Pending legislation*

The bill proposing the Federal Computer Systems Protection Act of 1979, S. 240, intends "to amend Title 18 of the United States Code, to make a crime the use for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions and entities affecting interstate commerce."

Section 2 of S. 240 details the need for legislation, highlighting the growing problem; the high cost to the public; the impact of this type of crime on federal programs, financial institutions and interstate commerce; and the difficulty of prosecuting computer related crime under current federal criminal statutes.

Section 3 adds a new section to Chapter 47 of Title 18 U.S.C. entitled "1028 *Computer fraud and abuse.*" The critical portions of this new section are:

"(a) Whoever knowingly and willfully, directly or indirectly accesses, causes to be accessed or attempts to access any computer, computer system, computer network, or any part thereof which, in whole or in part, operates in interstate commerce or is owned by, under contract to, or in conjunction with, any financial institution, the United States Government or any branch, department, or agency thereof, or any entity operating in or affecting interstate commerce, for the purpose of—

"(1) devising or executing any scheme or artifice to defraud, or

"(2) obtaining money, property, or services, for themselves or another, by means of false or fraudulent pretenses, representations or promises, shall be fined a sum not more than two and one-half times the amount of the fraud or theft, or imprisoned not more than fifteen years, or both.

"(b) Whoever intentionally and without authorization, directly or indirectly accesses, alters, damages, destroys, or attempts to damage or destroy any computer, computer system, or computer network described in subsection (a), or any computer software, program or data contained in such computer, computer system or computer network, shall be fined not more than $50,000 or imprisoned not more than 15 years, or both."

As proposed by S. 240, 18 U.S.C. § 1028(c) will set forth the controlling definitions under the Act, including definitions of "computer systems" and "computer network" that are particularly far reaching in scope.

### *The scope of proposed Federal jurisdiction*

Some question the need for federal legislation that embraces a long list of offenses already proscribed by existing federal statutes (*e.g.*, Mail and Wire Fraud, Interstate Transportation of Stolen Property and Fraudulent Documents etc., embezzlement and the various larceny statutes). The Attorney General in a letter to Senator Biden dated September 21, 1978, estimates and reports in part ". . . As reflected in the testimony before the Committee, there are no less than 40 Federal statutes on the books that conceivably might impact on computer fraud and abuse . . .," but refers to "existing ambiguities" which hinder or prevent the application of those statutes. Apart from the "ambiguities" reportedly caused by technical definitions, the principle justification for the apparent duplication of federal jurisdiction proposed in S. 240 is the deterrent effect of a single statute proscribing the *use* of a computer as an instrumentality of the offense. Direct Congressional statements of federal government authority to investigate and prosecute have improved federal law enforcement effectiveness and deterrence in the past. The wire fraud statute, 18 U.S.C. § 1343, for example, was enacted to discourage confidence swindles in which the interstate and foreign wires were used to further or accomplish the fraud.

It is important to note that some computer offenses are not encompassed by S. 240. The principal omission is theft of the unusual assets of the computer—computer software, data and services. Prosecutors will also be forced to rely on judicial interpretation, similar to securities laws and mail fraud statute interpretations, to make the Act's language "devising or executing" reach computer "cover-ups" and "lulling." [1]

### *Concurrent Federal jurisdiction*

Although federal computer crime legislation proposed to Congress creates potential problems in federal-state law enforcement relations by extending federal authority into areas of enforcement traditionally within the jurisdiction of state and local authorities based on the *means* used to accomplish otherwise wholly intrastate offenses, the position of the Attorney General is revealing on this point. In a letter to Senator Biden he states ". . . (1) As we indicated during our testimony, while the proposed statute may provide for expansive jurisdiction, it is not our intention to prosecute all conceivable violations. We are nevertheless, of the view that to reach all the instances of computer fraud and abuse which would be *appropriate* for Federal prosecutions and, in view of the uneven capabilities of state authorities to deal with the problem, broad jurisdiction would be highly desirable." (emphasis supplied)

The federal government is currently attempting to prioritize federal law enforcement efforts by seeking close cooperation from state and local agencies. While the language of the proposed Act does not constitute legal preemption, it can be argued that de facto preemption will take place if the federal government is given authority to "select" for prosecution cases that are traditionally considered local in character unless the Attorney General develops guidelines for the exercise of federal jurisdiction over computer offenses in consultation with state and local prosecutors. Those guidelines should respect the capability of metropolitan prosecutors and state attorneys general with large, well-equipped economic crime units to investigate and prosecute major computer thefts and frauds. They should reflect policies consistent with the Department of Justice's stated intention to decline prosecution in the bulk of bank embezzlement cases (those involving less than $5,000) in favor of state prosecutions, without regard to the use of computers in committing those embezzlements.

Published guidelines governing the exercise of federal jurisdiction over offenses committed against or through the use of computers can limit federal preemption to instances where required by the objective inability of local authorities to combat computer crime. The recommendation that published guidelines be required contained in the third Resolved clause of the Section of Criminal Justice recommendations is consistent with the position taken by the House of Delegates at the 1979 Midyear Meeting in adopting a Joint Substitute Resolution on the codification of federal criminal law.[2]

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[1] Many experts consider the famous Equity Funding case to have been a computer cover-up case, because the actual fraud was accomplished before the computer came into the scheme.

[2] "3. The Association makes the following specific recommendations with respect to codification legislation:

"(a) *Concurrent Federal/State Jurisdiction.* The Association expresses concern about the expansion of federal criminal jurisdiction over subjects within the traditional police power of the states. Accordingly, the Association recommends that codification legislation refrain from creating new federal offenses in situations now covered under state penal statutes absent a clear showing in the particular in-

### *Charging and punishment*

In 1975, The Association adopted the position that "the several jurisdictional bases should be removed from the definitions of the substantive crimes, where they are now found in Title 18." The Criminal Code Reform Act of 1978 legislation (S. 1437) that passed the Senate in January, 1978, which would have separated the jurisdictional bases from the substantive offense, attempted to achieve the reach of current federal mail fraud and wire fraud statutes while obviating the most frequent criticism of current law—pyramiding of offenses. Legislation introduced in the United States Senate thus far (S. 1766-95th Cong.; S. 240--96th Cong.) is inconsistent with the Association position on recodification of federal criminal law. In the absence of criminal code reform, however, legislation should be enacted in Title 18 that confers federal concurrent jurisdiction over certain computer-related offenses. The computer crime statute should preclude the charging of a federal offense based on the same facts except for proof of an element involving a computer, with a charge brought under the computer crime statute to avoid the pyramiding of offenses.

Although the Section of Criminal Justice believes that the need to deter both professional swindlers and amateurs or first offender "computer freaks" justifies a clear statement of federal law enforcement authority to investigate and prosecute computer crime, the Section believes that a sanction that includes 5 years imprisonment provides an adequate deterrent and represents an appropriate outer limit of sentence severity. Legislation pending before Congress prescribes a 15-year maximum term of incarceration without any structure of gradation to guide the exercise of sentencing authority. Fifteen years is overly severe and inappropriate. The broad undifferentiated range over which sentencing discretion would be exercised under that legislation conflicts with Association positions on structuring sentencing discretion and should be disapproved.

### *Procedural and evidentiary problems*

The proponents of S. 240 and its predecessor, S. 1766, contend that it facilitates detection, investigation and prosecution of computer crime. This, however, is an overstatement. The Attorney General also comments: "Use of traditional and prosecutive techniques for gathering evidence, such as immunity grants, grand jury inquiries, and search warrents, would be just as effective in this area (computer crime) as in dealing with any other white collar illegality. However, technical problems associated with computer crimes, such as the manner and means of executing a search warrant on a computer center, pose unique problems which will have to be dealt with as they occur."

The most troublesome problems posed by computer fraud concern detection and proof, which are not cured by the proposed statute. Auditors find themselves stymied without carefully planned audit leads and program security. The new Federal Rules of Evidence recognize the necessity of establishing the standardization of the computer and the integrity of the data input before the printout will be accepted into evidence as an exception to the hearsay rule. Case law has been concerned with the "mystique" of the computer and its evidentiary output. See *U.S.* v. *DeGeorgia*, 420 F.2d 889 (9th Cir. 1969); *U.S.* v. *Russo*, 480 F.2d 1228 (6th Cir. 1973) cert. den. 414 U.S. 1157 (1973). Neither this proposed statute nor other proposals have been helpful in extending these limited aids to meet the technical and novel problems of procedure and proof in these computer fraud cases. (See also Tapper, Colin, "Evidence from Computers", 4 *Rutgers Journal of Computers and the Law*, 324 (1974), where the problem and statutory progress is discussed. See also Freed, Roy N., *Computers and the Law*, p. 46 et seq. (4th Ed.)).

Very little has been done to overcome obvious problems in discovery, search warrants, and subpoenas except for the impact of the Privacy Act. Further study must be undertaken to find solutions to the procedural and evidentiary problems that impede the detection and prosecution of computer crimes under existing law.

Respectfully submitted,

Tom Karas, *Chairperson.*●

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

Mr. TOWER. Mr. President, has the morning hour expired?

The PRESIDING OFFICER. Morning business is closed.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Glenn Amendment No. 3179, to provide a new GI educational assistance program.

(2) Tower-Nunn Amendment No. 3180 (to Glenn Amendment No. 3179), of a perfecting nature:

### AMENDMENT NO. 3180

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is amendment No. 3180, offered by the Senator from Texas, to amendment No. 3179, offered by the Senator from Ohio.

Mr. TOWER. Mr. President, we debated this matter at some length last Monday. I do not know that there is much in addition I can say about my amendment, which is designed to make the proposal of the Senator from Ohio a test program. I am prepared to get a vote on that rather soon.

So that Senators will be on notice, Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. Kasten). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I yield the floor.

Mr. GLENN. Mr. President, last Friday, I sent a "Dear Colleague" letter to all Members of the Senate, announcing my intention to introduce what I term the citizen-soldier bill as an amendment to the defense authorization bill, and on Monday I offered that amendment. The distinguished chairman of the Armed Services Committee, Senator Tower, and the distinguished ranking minority member of the committee, Senator Nunn, offered a perfecting amendment, with which I heartily agree, and I support that amendment, the one just referred to by the Senator from Texas, today.

Monday, after some rather spirited discussion and opposition by Senators Cohen, Cranston, and Matsunaga, who argued that the Armstrong GI bill was preferable, we achieved an agreement that the citizen-soldier bill amendment should be laid aside until this morning, when we would take it up first thing, and that is where we are now.

On the desk of each Senator is a second "Dear Colleague" letter on the citizen-soldier bill, to bring them up to date.

This new "Dear Colleague" letter is cosigned by the amendment's cosponsors, Senators Jepsen, Thurmond, Warner, and myself. It incorporates the provision of the Tower-Nunn amendment and reiterates the major attributes of the program. I commend it to you as a reference point in our discussion this morning.

On Monday, the distinguished chairman of the Veterans' Affairs Committee, Senator Simpson, offered some thoughtful and illuminating comments on the citizen-soldier GI bill, and I would certainly invite his additional comment and participation in the debate today. He made two especially important points; namely, that targeting a population of recruits and setting it up as a contributory program was extremely desirable. One of

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stance of a compelling federal interest; supports the proposal in the Brown Commission Report relating to publication of criteria for exercise of federal enforcement authority in cases of concurrent federal and state jurisdiction; and supports the proposal in that Report for the application of double jeopardy provisions to prosecutions in different jurisdictions."

the major outcomes of these elements is that the cost is held down while desired results can still be attained.

And I repeat that last sentence.

One of the major outcomes of these elements is that the cost is held down while desired results can be attained.

We are targeting a specific population, at the same time recognizing the budgetary problems that we have in the country today, and that is one of the major features of this bill. It is far, far, far less expensive than its alternative, the full-blown GI bill that we will be talking about some here today.

Let me give you just a brief outline of the citizen-soldier bill which I propose.

No. 1, it is a targeted program for new 2-year enlistees only who are willing to forgo $250 per month in salary in order to receive postservice educational benefits provided over and above that $250 saving, on a 3-to-1 basis.

These people would be assigned in whatever field the service needs them.

They would not receive subsistence or basic allowance for quarters, which means in effect they would live in the barracks.

And I must say that in the "Dear Colleague" letters that were sent around by the opposition to this amendment it was somewhat misrepresented, I felt, because any recruit would have barracks and base facilities available. The only subsistence or allowance that would not be provided would be an off-base allowance where the recruit was married, for instance, or where they are given the option at some bases to live off base or on base. That would not be the case with this particular program. We have, I would add, changed the language of the original draft to provide that where the services find they are assigning people to a remote facility where there are no quarters or subsistence available, the service at that point could say that they deserve quarters and subsistence allowance because regular Government-furnished quarters or subsistence was not available.

Upon release from active duty the service member would receive $500 per month for 36 months or 4 school years.

We have researched this proposal very carefully, and many people who have worked on this particular subject through the years will recognize that much of what I am proposing is the handiwork of Prof. Charles Moskos, professor of sociology at Northwestern University, who is an acknowledged expert on military manpower. He is a frequent witness before congressional committees on the subject and he is a very respected adviser to the Department of Defense.

I feel that this citizen-soldier bill will do precisely what it is designed to do; that is, induce high-quality recruits to join the military from a wide spectrum of American society. This will have the concurrent effect of enhancing a national attitude of societal responsibility and boosting our postsecondary educational system at the same time. All of this can be achieved at less cost than comparable plans, though it would not conflict or prevent utilization of plans already in existence.

We had concern expressed by some Senators privately about what this would do to the VEAP program and ultra-VEAP program. It would not alter those in any way. It would not conflict or prevent utilization of plans already in existence.

To insure that the plan does work and that the cost is kept moderate in light of budgetary considerations, the Tower-Nunn perfecting amendment institutes a 4-year test program and caps participation at what we feel to be the reasonable number of 12,500 recruits joining the program in any 1 year, which means a maximum of 25,000 in at any one time.

Mr. President, we are recognizing several things here. We are recognizing the need for high-quality recruits in the military. We are setting up a program that would appeal directly to them. We want to address their educational needs at the same time. And above all we want to keep the cost down so that we do not add to our budgetary difficulties.

So we think we have struck a very reasonable balance in this regard, and I hope my colleagues will support this amendment I have proposed as well as the amendment that is made to my amendment in the second degree by Senators **Tower**, and **Nunn**, which I fully support.

I yield the floor.

Mr. ARMSTRONG. Mr. President, I have a number of observations which I wish to make about the broad subject of the GI bill, but I only want to ask for a moment of recognition now for two purposes:

First, to express my appreciation to the Senator from Ohio, the Senator from Texas, the Senator from California, the Senator from Wyoming, and the others who were kind enough when this issue arose and I was away from the Chamber to arrange it to recur at a moment when I could be here.

As Senators know, I have long been a champion of the GI bill. I believe it to be one of the most successful of all of the programs which have been undertaken in the entire history of our country.

There is just a handful of Federal programs in the entire history of our country which stand out above the others for succeeding in their intended purpose and doing so in a way that has been economic, efficient, admirable, and graph-free, and just in every way highly successful, and the GI bill is one of those.

For several years I have been urging my colleagues to consider bringing back the GI bill which, in my opinion, was unwisely terminated in 1976.

So when the Glenn amendment came up I am really grateful to him and the others I have mentioned for rearranging the schedule that it might occur at this moment.

Now, I do not wish at this time to discuss either the substance of the Glenn amendment nor of the alternative proposal which I will shortly introduce which is a full-blown GI bill education program.

The pending question, as I understand it, is the Tower amendment. Now I happen to believe for reasons which I will explain a little later that the Glenn amendment really does not address itself to the needs of this country either from a national defense standpoint nor from an educational standpoint.

But the Tower amendment is merely a limitation on the Glenn amendment and since it is a limitation which is acceptable to Senator **Glenn**, as I understand it, I see no reason that we should not go ahead and adopt the Tower amendment, thereby putting the Senator's proposal in the form that he wishes it to be so it can be considered by all Senators and then if, as I fully expect, the Tower amendment is adopted probably by a unanimous vote or a nearly unanimous vote, then I would seek recognition to offer a substitute on behalf of myself and a number of other cosponsors.

So, Mr. President, I have nothing further to add at this point. We are sort of jockeying for position to get the various proposals on the table as fairly and as cleanly as we can so that everyone can reflect and make up his own mind, and I am certainly going to vote for the Tower amendment. In fact, I would inquire whether the Senator wishes to go ahead and have a rollcall vote. I do not think it is controversial. But there may be other reasons why a rollcall vote would be in order.

Mr. TOWER. Mr. President, the yeas and nays have already been ordered on my amendment, and I think it is fitting that we have a rollcall vote on it.

Perhaps some Senators did not expect a rollcall vote to occur this early this morning. So I think we might have to put in a quorum call so they can be alerted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. Tower]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

**Mr. STEVENS.** I announce that the Senator from North Dakota [Mr. Andrews] and the Senator from Florida [Mrs. Hawkins] are necessarily absent.

**Mr. CRANSTON.** I announce that the Senator from Colorado [Mr. Hart] is necessarily absent.

**The PRESIDING OFFICER** (Mrs. Kassebaum). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 122 Leg.]

### YEAS—96

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

### NAYS—1

Pell

### NOT VOTING—3

Andrews
Hart
Hawkins

So Mr. Tower's amendment (No. 3180) was agreed to.

**Mr. ARMSTRONG** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from Colorado.

### AMENDMENT NO. 3189

(Purpose: To establish two new programs of educational assistance for veterans of peacetime service, and for other purposes)

**Mr. ARMSTRONG.** Madam President, I send an amendment to the desk and ask for its immediate consideration.

**The PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. Armstrong) proposes an amendment numbered 3189 to amendment No. 3179, as amended.

**Mr. ARMSTRONG.** I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

The amendment of Mr. Glenn (Amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

### TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

### SHORT TITLE

Sec. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

### NEW EDUCATIONAL ASSISTANCE PROGRAMS

Sec. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters

### "CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"Subchapter I—Purposes; Definitions

"Sec.
"1401. Purposes.
"1402. Definitions.

"Subchapter II—Basic Educational Assistance

"1411. Entitlement to basic educational assistance for active duty service.
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"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

### "SUBCHAPTER I—PURPOSES; DEFINITIONS

**"§ 1401. Purposes**

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

**"§ 1402. Definitions**

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"Subchapter II—Basic Educational Assistance

**"§ 1411. Entitlement to basic educational assistance for active duty service**

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For the purposes of subsection (a)(3)(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate),

shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

### "§ 1412. Entitlement to basic educational assistance for service in the Selective Reserve

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1)(A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member if unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsections (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service,

shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

### "§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

### "§ 1414. Payment of basic educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

## "Subchapter III—Supplemental Educational Assistance

### "§ 1421. Entitlement to supplemental educational assistance

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released therefrom, or (ii) is serving on active duty.

### "§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficent numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

### "§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

## "Subchapter IV—Additional Recruitment and Retention Incentives

### "§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerend determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual.

### "Subchapter V—General and Administrative Provisions

**"§ 1441. Expiration of periods during which entitlement may be used**

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later.

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or II has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabiliiation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus additional length of time as the individual demonstates, to the satisfaction of the Administrator, that the individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

**"§ 1442. Suspension of educational assistance**

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

**"§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits**

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time to the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipman at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

**"§ 1444. Extension to permit completion of term**

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

**"§ 1445. Program requirements**

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of section 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

**"§ 1446. Appropriations; administrative expenses; budget function**

"(a) Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayment and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

**"§ 1447. Reporting requirements**

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) whether it is necessary, for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the

Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

### "CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

"Subchapter I—Definitions

"Sec.
"1451. Purpose.
"1452. Definitions.

"Subchapter II—Eligibility, Contributions; and Matching Fund

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death of participant.
"1465. Discharge or release under conditions which bar the use of benefits.

"Subchapter III—Entitlement, Transfer, and Duration

"1471. Entitlement; payment.
"1472. Transfer of educational benefits.
"1473. Duration; limitations.

"Subchapter IV—Administration

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

"Subchapter I—Definitions

**"§ 1451. Purposes**

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

**"§ 1452. Definitions**

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"Subchapter II—Eligibility; Contributions; and Matching Fund

**"§ 1461. Eligibility**

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

"(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

**"§ 1462. Contributions; matching fund**

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense may prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this section as the Secretary concerned considers necessary of appropriate to encourage persons to remain on active duty in the Armed Forces.

**"§ 1463. Refunds of contributions**

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

**"§ 1464. Death of participant**

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parent of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

**"§ 1465. Discharge or release under conditions which bar the use of benefits**

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

"Subchapter III—Entitlement, Transfer, and Duration

**"§ 1471. Entitlement; payment**

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapter 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

**"§ 1472. Transfer of educational benefits**

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

**"§ 1473. Duration; limitations**

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

### "Subchapter IV—Administration

**"§ 1481. Requirements**

"The provisions of section 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

**"§ 1482. Reports; accounts**

"(a) The Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

**"§ 1483. Administrative expenses; budget function**

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veterans' Educational Assistance Program .................... 1401
"30. Career Members' Contributory Educational Assistance Program . 1451".

### COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34"; and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d) of such title is amended by inserting "29," after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29," after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31". (2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapter"; and

(B) by inserting after clause (4) the following new clause:

"(5) chapters 106 and 107 of title 10;".

### EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

**"§ 708. Educational leave of absence**

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(c) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

### PRESEPARATION COUNSELING

Sec. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1043. Preseparation counseling requirement**

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

### TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

Sec. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

Sec. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

### FUNDING

Sec. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

Mr. BAKER. Madam President, will the Senator yield to me?

Mr. ARMSTRONG. I am happy to yield to the leader.

Mr. BAKER. Madam President, this morning, when we convened, I indicated that today would be a late day and I would confer with the distinguished chairman of the committee to get an estimate on how long we might be in session. He reports to me that he expects to be in until at least midnight tonight. I wish to convey that happy information to all my colleagues. I suggest they make their plans to be in very late, at least until midnight, maybe longer than that. Senator GOLDWATER says that is good.

Madam President, I thank the Senator from Colorado.

Mr. ARMSTRONG. Madam President, on that cherry note, if the Senate will be in order, I shall begin to present the GI bill.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Colorado.

Mr. ARMSTRONG. Madam President, just to get all the administrative matters taken care of, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Madam President, Congress is caught between a rock and a hard place. We are facing large and mounting budget deficits that demand that we hold spending down. At the same time, every Member of this body wants and, indeed, insists upon providing the level of national defense which is needed to assure the security and safety of this country. As we try to stretch too few dollars to cover too many needs, I believe it is particularly appropriate that we are now considering reinstating a program which will not only strengthen this Nation's defense but will save us money in the process—the GI bill.

Madam President, Congress passes hundreds of bills every session. Some of this legislation has done a great deal of good; some of it has proven to be mediocre. Some of it, of course, has proven to be positively harmful and counterproductive. But as we look back over the whole history of this country, over 200 years of legislation and Federal action in various aspects of American life, I believe there are only a handful of programs that stand out—indeed, that tower above the legislative landscape as the most outstanding and successful programs of all time.

I think, for example, of the great land grant university program—that is certainly a towering success of the Federal Government; the great hydroelectric projects of the 1930's; and the Interstate Highway programs of the 1950's, 1960's, and 1970's. Programs like these have succeeded not only in fulfilling their intended purpose, but indeed have conferred benefits generation after generation as an investment in the future of this country.

Madam President, if you started out to make a list of the programs that have really succeeded, that have been cost-efficient and scandal-free, which have accomplished their intended purpose, which have spun off benefits to one generation after another, I think that list, even if it were only the top half dozen programs of all time, would have to include the GI bill.

The World War II and successor GI bills put college education within the reach of millions who would not otherwise have been able to go to college, fueled the postwar economic recovery and boom, and, according to some estimates, will ultimately return to the Treasury from three to six times its cost in higher revenues.

The GI bill has also proven to be the most effective and the most cost-effective recruiting device that the Armed Forces ever had. It is especially attractive and has proven historically to be especially appealing to the high-aptitude, highly motivated young men and women which our armed services need so badly as our military capability becomes increasingly technology-oriented.

The decision of Congress to terminate the GI bill in December of 1976, in my judgment, has proven to be one of the worst decisions ever made by the Congress of the United States. The Army warned us in advance what was likely to happen. In September of 1974, the Army conducted a survey of 11,336 recruits at Armed Forces examining stations throughout the United States. Twenty-four percent of those who were interviewed said flatly they would not have enlisted in the service if it were not for the GI bill. An additional 36 percent said they were not sure whether they would have enlisted if they had not been made eligible for education benefits. After factoring out those who seemed to be indecisive, the Army concluded and predicted that termination of the GI bill could depress the pool of potential recruits by as much as 36.7 percent right off the top.

That was not all. In its report to the Secretary of Defense, the Army said that terminating the GI bill would require a 17-percent increase in annual accessions just to offset increased losses due to attrition; that is, service members administratively discharged prior to completing their term of obligated service.

In addition, it was predicted prior to the termination of the GI bill in 1976 that the result would be a shift from more capable service recruits to less capable, literally resulting in a disproportionate number of recruits from the lower mental categories. That was the prediction. I say to my friends, the actual result of terminating the GI bill program has been even worse than was feared by the Army in 1976. By the 1980 fiscal year, the number of Army recruits scoring in the highest mental category had plunged by two-thirds and the number of volunteers in the second highest category had dropped by more than half. The attrition rate had climbed to nearly 40 percent, more than double the 18-percent rate of the Army predicted would be totally unacceptable by Congress.

Although the Army suffered most, recruiting for other services was severely impaired by the cancellation of the GI bill. In the Air Force, the proportion of recruits scoring in the two highest categories on the Armed Forces Qualification Test dropped from 53.8 percent in fiscal year 1977 to 40.2 percent by fiscal year 1979, nearly a 25-percent drop in high aptitude recruits in just 2 years.

A Center for Naval Analysis study indicated that cancellation of the GI bill reduced the pool of recruits willing to enlist in the Marine Corps by 17 percent and reduced the number of high school graduates willing to become marines by 24 percent. In the Navy, the percentage of recruits scoring in the two highest mental categories declined from 43 percent in fiscal year 1976 to 35 percent in 1979 and the percentage of recruits in the lowest category quadrupled from 5 percent to 21 percent.

Ladies and gentlemen of the Senate, we have received solid proof of what a powerful recruiting tool of the GI bill was in the 3 months preceding the termination of the post-Korean GI bill in December of 1976. In the fourth quarter of that year, which is usually the poorest recruiting period for the Armed Forces, we had record numbers of young men and women come forward to join the armed services, and cancellation of the GI bill was clearly a major contributor to the military manpower crisis which followed.

In 1979 and 1980, we reached a point where the Army Chief of Staff, General Meyer, said his was "a hollow Army." And how many in this Chamber recall that at about that same period of time the Secretary of the Navy was actually forced to beach ships because we did not have enough qualified sailors to run them, despite the fact that the number of warships in the Navy had dropped from more than 1,000 to less than 500. Even with this reduced naval strength, we did not have enough qualified sailors to keep our reduced naval forces afloat.

Well, that has turned around to some extent, thanks in part to long overdue increases in military compensation voted by Members of the Congress in 1980 and 1981 and also in part to a severe recession which sent unemployment into the double digit range, the highest since the Great Depression, I might note. Recruiting has improved. It has improved markedly. Fiscal year 1981 was the best recruiting year since cancellation of the GI bill and fiscal year 1982 was even better, but even in these otherwise excellent recruiting years there were ominous signs. Despite recruit pay which had been increased 59 percent since the cancellation of the GI bill program, the initial enlistment bonus, which in the case of a nuclear submariner could exceed $25,000 and a youth employment rate nearly double that of the population at large, despite all of these factors, the percentage of the recruits in the two highest mental categories in fiscal 1982, a good year for recruiting, still trailed the proportion of recruits in these mental categories in the last year preceding the termination of the GI bill.

My friends, we do not need a crystal ball to see what is looming in the future. All we have to do is project the demographic trends which are already evident to see that disaster is ahead. We are in the midst of a recovery, and good economic times have traditionally meant hard times for military recruiters. The recovery, moreover, is coinciding with a period in the life of our country when there will be and is a sharp decline in the number of young people in military age brackets. The 18-year-old population will decline a full 20 percent, by 1.3 million, between fiscal year 1982 and 1987. Let me say that again. There is going to be a 20-percent decline in the number of young people in the age group from which we expect to draw most of our new recruits and that will occur in just 5 years, between 1982 and 1987, and will decline still further in the 1990's.

If we make no serious effort to recruit the upward mobile, college-bound young people who are so much needed in the armed services today, we are going to face a problem of gradually mounting proportions which will again reach the crisis point.

Well, is the GI bill the answer to this recruitment problem? I want to stress we are not talking about recruiting numbers of new service men and women. We are talking about quality. We are talking about what are the incentives which appeal most to the upward young people, the young men and women who are coming out of high school who want to improve themselves, who are looking for a step on the ladder. We are not just trying to hire people to do a job but literally appealing to that group of people who want to raise their own standard because that is what we need in the services.

Today you will have a corporal or a sergeant driving a tank which is vastly more complex technologically than the aircraft of World War II ever turned out to be despite the fact that in World War II we thought you had to be a college graduate to fly one of those airplanes, and yet today, junior enlisted men are responsible for tasks of technological complexity that far exceed those of pilots in World War II. So we need these people, but the question remains, Is the GI bill the proper recruiting tool?

Well, survey after survey has made it plain that educational incentives are the only effective means of recruiting voluntarily the high aptitude young people the Armed Forces need the most. Typical are the findings of the most recent comprehensive study conducted by the Army Research Institute at Army reception centers throughout the country from May through August 1982. Overall, money for college ranked second of the 11 reasons cited as the most important consideration for enlisting, trailing behind—and this is significant—the category labeled "To get trained for a skill." Money for college ranked far ahead of such categories as "Earning more money" or "I was unemployed." Among recruits in the two highest mental categories, however, money for college was the most important reason cited for enlistment, being mentioned by 36.3 percent of the recruits interviewed in this period. This compared with just 7.8 percent who said they joined the Army because they could not find a job elsewhere and 3.3 percent who said they joined the Army to obtain higher pay. Although the Army believes that the educational incentive programs it has at the present are its most effective recruiting devices, and we do have some educational programs at present and they have done some good, senior Army commanders are convinced that a new GI bill would be more effective.

Gen. Maxwell Thurman, the Vice Chief of Staff and formerly the Army's top recruiter, has told Congress flatly:

> The Army must have an educational pull mechanism permanently authorized in law which is not subject to the vagaries of year-to-year change. The education benefits about which we are speaking do two things at once. They are recruiting incentives for us and they are rewards for service to the Nation.

General Thurman is right, and he makes a very important point because, on the one hand, we are talking about improving the quality, the ability, the skills of young people coming into the service, but we are also talking about reestablishing the traditional link between something that you get from your country and serving your country. I think that is a very significant aspect of this whole GI bill notion—earning your college education, earning the opportunity to improve your education and your life.

Manpower experts for other services are equally blunt.

Lt. Gen. C.G. Cooper, Deputy Chief of Staff for Manpower for the Marine Corps said:

> I think the GI bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to be much more competitive, much smaller, and it is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think a good education bill in the future will be of great assistance.

In addition, Maj. Gen. Kenneth Peek, Deputy Chief of Staff for Manpower and Personnel of the Air Force, stated:

> There is no question about it: A new GI bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy and a declining pool of eligible youth to service the country, and some programmed growth in the Air Force.

Madam President, before I turn to some of the other issues on the GI bill, particularly the aspects of how it makes a permanent investment in the lives of the young people who are affected and its cost-benefit ratio for the armed services, I should like to pause at this point to yield to my colleague from Hawaii, who has been a leader in this effort.

The GI bill amendment which we bring up today does not arise for the first time in 1984, nor did it arise first in 1983, when he and I and some others first brought it to the floor. In fact, the effort to restore the GI bill and other benefits for servicemen is something that Senator MATSUNAGA has been interested in for a long time. Not only has he been passively interested; he has been a fighter; he has been an effective leader in this cause, to the great betterment of servicemen and women around the world, and he has made an important contribution to the national defense in so doing.

Madam President, I wish to turn to focus on some issues that have as yet not been explored and that is the question of costs. Obviously, if you are going to grant to servicemen and women educational benefits, it costs something and it is only reasonable to ask, how do the benefits which a GI bill benefit program would provide compare with the potential cost of providing those benefits?

There is no question, I think it is obvious from the testimony that has been submitted by the service chiefs, from the testimony of noncommissioned and commissioned officers in the field as recruiters, from the statement of the Senator from Hawaii and others that have been made, that it is our intent to draw qualified, talented, upward bound men and women into the services. But what about the costs? Well, the GI bill has inherent cost advantages over any kind of less effective, across-the-board pay increase measures, such as pay raises and bonuses.

Now, I am not against pay raises for the troops. In fact, Senators may recall that the Senator from Hawaii and I, with the help of others, led the fight in this Chamber a few years ago to give a long-overdue pay raise to the Nation's airmen, soldiers, and sailors. We did the right thing. We should have given them a pay raise. It was well deserved.

But we should not confuse pay raises with the kind of incentives that are inherent in the concept of a GI bill.

The first advantage, from a cost standpoint, of a GI bill is that you get the Government service up front and the cost to the taxpayers is deferred. Let us just spell that out. You attract somebody to go into the Army, Navy, or Air Force today, but you pay nothing toward the cost of the GI bill benefits until and unless that new service member completes 2 years of honorable service.

Now, is that a trivial consideration? It is not, because, at the present time, we are paying large bonuses, in some cases huge bonuses, up front to induce people to enter the service and a fairly high percentage of them do not end up completing their term of enlistment. So the idea of deferring the cost makes real sense.

A more important advantage is this surety of performance. By paying bonuses up front, we may encourage a young man or woman to come into the service and buy a new car and head off for their military destination, but that does not keep them interested. That does not keep them on the job throughout their term of enlistment. In fact, I regret to inform you that quite a large number of people who sign up as enlistees in fact do not complete that term of enlistment.

Madam President, the GI bill is also uniquely capable of generating countervailing savings within the Department of Defense. We are talking now about attracting high aptitude recruits. These recruits cost less to train than less capable recruits. It is obvious on the face of it, yet I would ask my colleagues to reflect upon what we have been through in the last few years as the weapons have grown more and more complex and we have literally seen an effort to rewrite Army training manuals downward to the seventh and eighth grade reading levels because the new recruits were not able to cope with the tech manuals. Aside from that fact at some point you get a capsized effect, you literally end up with a situation where the recruits simply cannot handle the weapons. And the cost of providing training is noticeably less to these more capable high school graduates.

The largest area in which countervailing savings are likely to occur, however, is in the area of attrition. The General Accounting Office estimated in 1980 that each serviceman who attrites cost the taxpayers $12,000. High school graduates attrite at less than half the rate of nongraduates. College eligible high school graduates attrite at a still lower rate.

Now, the maximum benefit that is specified in our proposed bill is less than the cost of attrition. So if you look at it in that sense there is a countervailing savings which we have not attempted to quantify or take credit for in our legislation, but it is simply built in as a matter of fact.

Madam President, I also want to emphasize that while my initial interest in the GI bill arose because I believe so strongly that it is a way of bringing into the service the kind of young people we need, not just those who cannot find a job elsewhere, but young people who literally are on their way up, future leaders of our country, and that they are needed in the armed services, but there is another aspect of it which I would be remiss if I failed to emphasize.

We are talking about making an important investment in the lives of these young people and, in turn, in the future of our country. Because it is not just the service that will benefit, it is the individuals and their families and their communities who will benefit from the college education made available to young people who, in many instances, would have never had a chance to go to college otherwise.

In the 1965 hearings conducted on the proposed enactment of the GI bill at that time, Senator Ralph Yarborough of Texas, chairman of the Senate Subcommittee on Veterans' Affairs, credited the Internal Revenue Service with an analysis of the World War II and Korean GI bill that stated that the Government was "accruing a profit of over $1 billion a year."

Statistics maintained by the Census Bureau indicate a very high correlation between lifetime income and education level. Using the 1972 census data as the baseline, the Census Bureau estimates a typical high school graduate's lifetime income at $416,000, while a typical college graduate's income soars to $609,000. If the college graduate paid taxes in the low percentage bracket, he or she would pay $38,600 more in taxes than a high school graduate during his or her working lifetime. That is about triple the cost of the GI bill.

Now, am I literally saying that we are going to get more than our money back in taxes for the cost of the GI bill? The answer is yes, I am saying exactly that, because the people we are talking about who will be the GI bill beneficiaries in most instances will be precisely the young men and women who would not get to go to college otherwise.

Here is something interesting. I cannot quote the statistics precisely, although I shall attempt to do so before the afternoon is over, but I was advised this morning by a representative of a higher education association that the proportion of young people graduating from high school who are going to college is dropping in this country today, is actually declining. Now that is a very significant trend in this country of ours.

We are talking about, in this legislation, affording an opportunity to young people who, in practically every instance, would simply not get to college. The most important thing about that is what it will do for their lives, for their perspective, the enrichment that that means to them, to their families and their communities. But in dollars and cents terms, aside from all the human aspects of it, there is good reason to believe that the Federal Government will double and probably triple its investment in increased tax revenues arising from this investment in college education. Obviously, the GI bill would also benefit in many ways that cannot be measured in money.

Madam President, I believe we made a terrible mistake in 1976 when we terminated the then existing GI bill. I think the evidence is in.

When I last raised this issue, it was defeated by a handful of votes and somebody said, "Well, under the circumstances, let's have a hearing." Well, we did have a hearing. In fact, we have had several hearings since then. The evidence, the massive preponderance of the evidence is that we need a new GI bill.

I want to send to the desk at this time and ask to have printed in the RECORD at this point just a sprinkling, just two pages of quotes of what people are saying about the GI bill.

I am not going to take time now to read the comments of Gen. R.H. Barrow, Commandant of the Marine Corps; or Gen. E.C. Meyer of the U.S. Army; or Vice Adm. Lando Zech, Deputy Chief of Naval Operations; or Lt. Gen. C.G. Cooper, Deputy Chief of Staff for Manpower of the Marine Corps; or Maj. Gen. Kenneth Peek, Deputy Chief of Staff for Manpower and Personnel of the Air Force.

But I hope my colleagues will reflect upon these. And, as my colleagues come to the floor from wherever they may be, I intend to hand a copy of these comments to each of those who are willing to take a look before they vote on this issue. Also, I hope my colleagues will reflect seriously upon the observations of such organizations as the Veterans of Foreign Wars. Here is what James N. Magill says speaking for the VFW:

> The VFW supports the concept of a peacetime GI bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel.

G. Michael Schlee, director of the National Security Commission of the American Legion said.

> The GI bill model for recruitment and retention is perferable to a contributory educational program.

And many others have come forward.

This legislation, Madam President, is supported not only by recruiters, but by distinguished thoughtful military sociologists from the academic sector, and by service chiefs. It is also backed by the Non Commissioned Officers Association; National Association of Uniformed Services; Reserve Officers Association; Association of the U.S. Army; National Guard Association; Fleet Reserve Association; Naval Reserve Association; and, Air Force Sergeants Association.

I ask unanimous consent that these two pages of comments appear in the RECORD at this point.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

The comments ordered to be printed in the RECORD, are as follows:

### WHAT THEY SAY ABOUT THE GI BILL

"I will ask Congress to reinstate the G.I. Bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."—Ronald Reagan, Televised Address to the Nation, October 19, 1980.

"I would like to point out that in addition to the incentive that an educational assistance program would provide to encourage enlistment and retention, there is another benefit that may be even more significant. Many of the great advances in the arts and sciences, in business and industry, in research and applied sciences that have occurred in this nation since World War II have been accomplished by Americans who took advantage of their G.I. Bill benefits to go on to higher education. It has been an immensely successful investment, and I am confident that a new G.I. Bill will be equally valuable."—Gen. R.H. Barrow, Commandant of the Marine Corp (ret), July 15, 1983.

"By everyone's analysis educational benefits, particularly the G.I. Bill, have proven effective attractors for college bound youth who would not have elected Army service without the availability of an educational benefits program. These quality youth are the key to a better Army because they are more easily trained, are more disciplined, are more motivated, and as such, promote enhanced readiness and esprit."—Gen. E. C. Meyer, U.S. Army, (ret), November 3, 1983.

Below are excerpts from the testimony at earlier hearings that have been held on the G.I. Bill during the last three Congresses, this one before the House Veterans Affairs Committee on April 12, 1983:

"No Americans are more deserving of educational assistance than those who serve our Nation in the military services. I believe their service and their sacrifice should be rewarded. Although the individual services would benefit greatly by a G.I. Bill, I believe in the long run our country benefits even more."—Vice Adm. Lando Zech, USN, Deputy Chief of Naval Operations.

"I think the G.I. Bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to become much smaller, competition is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think that a good education bill in the future will be of great assistance."—Lt. Gen. C. G. Cooper, USMC, Deputy Chief of Staff for Manpower.

"There is no question about it: A new G.I. Bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy, a declining pool of eligible youth to serve the country, and some programmed growth in the Air Force. A new G.I. Bill would help us attract and retain the kinds of people that we need in the increasingly complex and high technology Air Force that we have today."—Maj. Gen. Ken-

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neth Peek, USAF, Deputy Chief of Staff for Manpower & Personnel.

"The VFW supports the concept of a peacetime G.I. Bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel."—James N. Magill, Special Asst., Natl Leg Service, Veterans of Foreign Wars.

"The G.I. Bill model for recruitment and retention is preferable to a contributory educational program."—G. Michael Schlee, Director, Natl Security Commission, American Legion.

"The sacrifices which military service exacts, especially in terms of years away from that period of life usually devoted to education are just as real for the peacetime veteran as for his wartime comrade. The crucial need for armed forces of the highest caliber is greater now than at any time in our history, including periods of hostilities. AMVETS believes that it is high time that the dignity of military service during this age of peril be recognized at least to the same degree that wartime service has been recognized in the past."—LTC David Passamaneck, USA (ret), Legislative Director, AMVETS.

"We believe that recruiting and retention in the Armed Forces in the future will become more difficult and that consideration supports the creation of a G.I. Bill. But we have also said . . . that we believe the creation of a G.I. Bill is something that should not be done specifically for the purpose of recruiting and retaining people in the Armed Forces, but also for the good that it has on the Nation's economy and for its positive effect on veterans."—Richard W. Johnson, National Legislation Director, NonCommissioned Officers Assn.

"A new G.I. Bill should not be considered as an expenditure of funds; rather, it should be considered as an investment of funds. . . . An investment in the youth of America is one of the best, for it returns the highest dividends."—Max Bielke, Legislative Counsel, Natl. Assn. of Uniformed Services.

"An educational assistance program is a proven, highly effective recruiting incentive. Not only is it a strong magnet among bright, motivated youngsters; it also is attractive to their parents."—Col. Erik Johnson, USA, Director of Legislative Affairs, Association of the U.S. Army.

### SERVICE ORGANIZATIONS SUPPORTING THE GI BILL

Non-Commissioned Officers Association.
National Association of Uniformed Services.
Reserve Officers Association.
Association of the U.S. Army.
National Guard Association.
Fleet Reserve Association.
Naval Reserve Association.
Air Force Sergeants Association.

Mr. ARMSTRONG. Mr. President, I want to turn from the general to the specific, and outline with precision exactly what is in the amendment which I have sent to the desk which is now pending as an amendment to the Glenn amendment. It is a perfecting amendment of course, but it is in spirit, if not in a parliamentary form, a substitute. It is an alternative. I want to tell you what is in our amendment, and why it is preferable to the proposal which has been brought forward by the Senator from Ohio.

Our proposal will establish two new programs of educational assistance to veterans of peacetime service designed to assist armed forces in recruiting, and retaining highly qualified men and women. It would close the post-Vietnam era educational assistance program to new participants. That is the so-called VEAP program—I am going to come back to that in a moment—and would repeal the termination date of the Vietnam era GI bill. Our proposal provides a basic benefit level of $300 a month to be funded by the Defense Department to service members who complete 2 or more years of honorable service starting September 30, 1985, with the provision that the President may postpone the effective date by 1 year increments to no later than October 1, 1987. Benefits vest at the rate of 1 month of benefits for each month of service to a maximum of 36 months.

For the Reserves—for the National Guard—may I point out that this is a terribly significant provision at a time when we are trying to beef up the Reserve component of our national defense. For Reserves, or the National Guard, benefits would vest at the rate of 1 month of benefits for every 3 months of service. The service Secretaries would be permitted to supplement the basic benefits to encourage enlistments in the combat arms, and in MOS—military occupational specialties—where critical skills are required.

Our bill would also establish a career member supplementary educational assistance program through which service members with 10 or more years of honorable service would be permitted to contribute from $25 to $100 a month, to a maximum of $6,000, to a special fund. After a 2-year vesting period the service member's contribution would be matched two-for-one by the Defense Department. These funds could be used either by the service member, or by his spouse or dependent child.

A third provision of our bill would permit career service members to utilize their GI bill benefits full time without interrupting or abandoning their military careers. In their discretion, the service Secretaries would be permitted to offer an educational leave of absence up to 12 months. Service members granted education leave would be required to extend their term of obligated service by 2 months for each month of education leave. Service members on education leave would continue to draw their basic pay but would not be permitted to draw both allowances and the GI bill benefits.

Mr. President, this legislation is aimed just like a rifle shot at the exact recruiting concerns which have emerged from surveys of recruits and potential recruits, and from the advice and testimony of people in the field who know the most about this problem. There are several reasons why this legislation should be enacted.

First, while the economy is very strong at the present time, with unemployment at the lowest level in 3½ years, that means it is relatively speaking easy to recruit people for the armed services. We know that good times do not last forever. At some point, unemployment may again be a problem in this country. We ought to provide in advance the kind of incentives we need to attract highly qualified young men and women to the service.

Second, the proportion of young people in the age bracket from which we must expect to draw new recruits to the Army, Air Force, and Navy is declining, and will decline by a full 20 percent—by 1.3 million men and women in a very brief period of time, from 1982 to 1987. So the pinch is really going to be going on.

Third, the GI bill is a cost-effective incentive to attract qualified personnel. The testimony on that is crystal clear. It is not only a desirable feature, but it is very cost effective.

Fourth, the current program, the Veterans' Educational Assistance Program, is a flop. The services do not like it. The service men and women do not like it. The participation rates are low. I think my colleague from Hawaii has explained adequately why continuation of this program is not a desirable alternative to a true GI bill.

It is my belief that the Senator from California, Mr. CRANSTON, will also have something to say on this subject. So I do not want to dwell on it. But let me make it plain that the VEAP program, which we replace and phase out, is not gaining large participation. Even among those who contribute to it initially, and get into it, most end up cashing out their benefits. They do not end up using it for educational purposes.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Yes. I would be happy to yield.

Mr. COHEN. I would point out that last year the VA paid out almost 2½ times as much in VEAP refund as it did in VEAP benefits. If that is any indication of what is happening to those people going in and getting out, it seems to me the statistics of paying out 2½ times more in refunds than benefits is a story of the lack of success of the VEAP program.

Mr. ARMSTRONG. I thank the Senator for pointing that out. I hope every one of our colleagues will listen closely to what he said because it not only bears on the VEAP program, but in a moment I will turn my attention to the alternative GI bill proposal suggested by the Senator from Ohio which is a form of a super-VEAP, I guess you would have to call it. And, in view of the really failure of the existing VEAP program, it is difficult for me to see why we would want to now saddle ourselves with something which combines the worst features of the prepayment with some new ideas which I think put it greatly at hazard for its success. But before I get to that, let me mention two more reasons why our concept of the GI bill ought to be passed.

A new GI bill will be, according to the testimony, in my judgment, clearly more cost effective than across-the-board pay increases in the future, or the enlistment bonuses which pay at the front end for service to be performed later; service which in many instances does not finally end up being performed.

Finally, let me just summarize my overall feeling as I began; that there are some programs which once tried you never want to go back to. There are some Federal programs which have proven to be so counterproductive that they have been allowed to expire, and even some have been repealed. But there are a handful of programs which have proven to be towering successes, and the GI bill is one of them in every way. In terms of what it has done for recruiting and retention, bringing in high-quality people, in the investment it has made in the lives of young people, in its payback to the taxpayers of the country, by every standard it has been an extraordinary success, one of the finest, perhaps one of the half-dozen or dozen true success stories of all time in Federal legislation—the GI bill.

So it just seems to me that the evidence is overwhelming. In fact, I cannot help recalling what Victor Hugo said about an idea whose time has come. Greater than the tread of a mighty army is an idea whose time has come, and I think the GI bill idea has come again, and so do quite a number of my colleagues.

When I sent this to the desk a few moments ago, I did so with the sponsorship of Senator Cohen, Senator Matsunaga, Senator Hollings, and Senator Cranston. I now ask unanimous consent that the following Senators be added as cosponsors of this amendment: The Senator from Massachusetts, Mr. Kennedy, Senator Huddleston, Senator Pressler, Senator Inouye, Senator Ford, Senator Kasten, Senator Bradley, Senator Hawkins, Senator Hart, Senator Trible, Senator DeConcini, Senator Boschwitz, Senator Baucus, Senator Mitchell, Senator Evans, Senator Lautenberg, Senator Boren, Senator Johnston, Senator Specter, and Senator Durenberger.

Mr. President, before I yield the floor, I would just like to explain again for the benefit of those who may have tuned in late the parliamentary situation we find ourselves in. The pending question is the amendment of my colleagues and I to the Glenn amendment. It is in parliamentary form a perfecting amendment. But it is in spirit and in substance a substitute.

If you are for the new GI bill, we hope you will vote for this amendment to the Glenn amendment. If you do not favor our approach, then presumably you would vote against our amendment and proceed to take final action on the Glenn amendment.

I urge that all of my colleagues now listen carefully to the statements which I anticipate will be made by the Senator from Maine, the Senator from Washington, the Senator from California, and others who will be coming to the floor to explain why this is such an important piece of legislation.

Mr. President, I yield at this time to the Senator from Hawaii (Mr. Matsunaga).

Mr. MATSUNAGA. Mr. President, I thank the Senator from Colorado for yielding, and I thank him for his kind words. I commend him for the leadership he has demonstrated in this body.

As a cosponsor of the original bill, with Representative Steiger, who is now deceased, to create a voluntary military force, I feel privileged to work with the Senator from Colorado in cosponsoring his amendment.

Mr. President, I rise to voice my opposition to the amendment offered by the Senator from Ohio [Mr. Glenn], and my strong support for the Armstrong - Cohen - Matsunaga - Cranston-Hollings GI bill amendment.

At the outset, I want to say that after listening to the Senator from Ohio and reading his "dear colleague" letter on his amendment, I believe that we, the sponsors of the GI bill amendment, share his basic objective, which is, as I understand it, to improve the ability of the military services to attract high quality young men and women. We also fully share his view that the only way to accomplish this goal is through providing enhanced educational benefits in exchange for military service.

Unfortunately, where we do not agree with the Senator from Ohio is in what fashion these educational benefits should be offered by the military. We are very concerned, frankly, that the program which would be established by the Senator's amendment would not be much more than a modification of the current Veterans Educational Assistance Program, better known as VEAP. That program, because of its extremely low participation rate and high drop-out rate, has been considered a disaster by virtually every military manpower expert, from the military and civilian sectors, who has testified on it before the House and Senate Veterans' Affairs Committees. It has not been a successful educational benefit program; it was not designed to be a recruiting and retention incentive. Only when the Congress authorized the military to augment the basic VEAP Program with so-called kickers did the program begin to attract greater numbers of high scoring school graduate recruits. It is important to note that it took kickers of $8,000 to $12,000 to actually make a significant difference in high quality recruiting. The point is that solid educational benefits are necessary to attract the highly intelligent high school graduates that the military services need. Anything less will just not do the job, and the program that is being proposed in the Glenn amendment would, by any measure, provide far less than a GI bill.

Under the Glenn amendment, service members electing to participate in the program would make a contribution of $250 per month to an educational benefits fund, which would come out his or her active duty pay, and forego cash payments for subsistence or quarters. Based on the low participation rate of the VEAP Program, under which service members may contribute from as low as $25 to as high as $120, I cannot see how a program which requires an even greater contribution and, at the same time, takes away cash for quarters or subsistence, will be any greater attraction for high quality recruits. The success of the Army college fund, under which service members are provided the basic VEAP plus $8,000 to $12,000 for which they have to make no contribution, proves very conclusively that the more noncontributory the educational program is, the greater its attractiveness to the high quality recruit.

Mr. President, the fact of the matter is that there is simply no evidence to suggest that the program created by the Glenn amendment will encourage any more high quality young people to join the military.

On the other hand, there is ample evidence to suggest that a noncontributory GI bill educational assistance program designed specifically for the All-Volunteer Force will make the difference in the recruitment of high quality personnel in the difficult recruiting years ahead.

Mr. President, the argument that is most often made against the enactment of a new GI bill—it was made last year on the floor when we offered this amendment and it is being made again this year—is that it is not needed now; that over the past 2 years the services have been having unprecedented success recruiting quality personnel. That is true. The sponsors of the GI bill amendment do not dispute that recruiting has been very successful. It should be noted, however, that the manpower chiefs of each of the military services, in testimony before the Veterans' Affairs Committees of both the Senate and House of Representatives have forecast the onset of serious recruiting difficulties for their services in the mid to late 1980's and beyond. Independent analyses done by the Congressional Budget Office and the Government Accounting Office have also confirmed the very real possibility of recruiting shortfalls, particularly in high quality personnel, in the not too distant future.

The House Armed Services Committee, in its report on its version of the Defense Department authorization bill, expressed its concern that the military services' current recruiting success may not continue if the economy continues to improve or if a number of other factors currently favorable to recruiting change adversely. According to the House Committee, these factors include:

First, the impending decline in the youth population over the next decade;

Second, the increased competition from colleges and from private industry for the shrinking pool of high quality young people;

Third, the military services' need for an increasing number of highly intelligent personnel to operate and maintain the high technology equipment of the modern battlefield.

Mr. President, it should be emphasized that in recent testimony before the House and Senate Armed Services Committees, Army Chief of Staff Gen. John Wickham indicated that the Army has recently experienced a 22-percent decline in the number of young people coming into Army recruiting stations to take the military entrance exam. General Wickham suggested that this 22-percent reduction "may be a harbinger of an upturn in employment opportunities" for young people. The fact of the matter is that many top military officials believe that we are seeing the first signs of the recruiting difficulties that the military services will surely face in the coming months and years, especially if the economy and unemployment continue to improve at a faster rate than expected.

Mr. President, there should be no misunderstanding about the reason for the great recruiting success of the military over the last 2 or 3 years, our country was in a deep recession which caused employment opportunities to dry up and which once again made military service an attractive alternative for young people unable to find work or pay for college. Our efforts to restore military pay to levels comparable with the private sector can also be considered a factor in the improvement of recruiting. However, the state of the economy has to be considered the driving force behind the recruiting success. In the absence of a poor economy, it is doubtful that the services would have been able to meet their quality recruiting goals without additional incentives. For this reason, the manpower chiefs of the military services are unanimous in their support of a new GI bill. They see the need for the services to expand their penetration of the high quality recruiting market, and they are convinced that only a noncontributory GI Bill Program would have the attractiveness to accomplish this.

Let me turn for a moment to the testimony provided to the Senate Veterans' Affairs Committee earlier this year by the Vice Chief of Staff of the Army, Gen. Maxwell Thurman. General Thurman, who was the head of the U.S. Army Recruiting Command and Deputy Chief of Staff of the Army for Personnel, is recognized as one of the military's foremost manpower experts. His testimony before our committee in support of the enactment of a GI bill was both convincing and compelling.

The main point of General Thurman's testimony was that the military's high quality recruiting market must be viewed as a dual-track affair—the first track being high school graduates that are "employment-oriented," that is, they have a propensity to go directly to work after school, and the second track being high school graduates who are "college-oriented," that is, those who have a propensity to go directly to college after high school. According to General Thurman, the military services have been recruiting heavily from the "employment-oriented" group for a number of years. Indications are that recruiting from that group, which responds primarily to cash bonuses for enlistment, cannot be expanded to any further degree. "There is not much more we can get from the employment-oriented group," General Thurman said, "especially in an improving economy."

On the other hand, the college-oriented group responds primarily to money for college and, according to General Thurman, "the market can still be expanded for the college-oriented group by a well-designed, noncontributory GI Bill Program."

In responding to a question which I posed concerning whether or not the GI bill could be a cost-effective recruiting tool, General Thurman provided a detailed response which, in my judgment, fully and completely refutes any criticism or question of the recruiting effectiveness or the cost effectiveness of the GI Bill Program we are proposing.

The general first made the point that without the inducement provided by GI bill educational benefits, the services will not be able to recruit adequate numbers of quality recruits. Recruiters will just not be able to expand recruitment in the college-oriented market. "We have," said General Thurman, "penetrated the employment—oriented market to the point that sensitivity to bonuses is less than sensitivity to education benefits among the bright young men and women we wish to attract."

Second, General Thurman made a convincing case about the effectiveness of educational benefits as an enlistment inducement for college-oriented youth. Let me read from General Thurman's testimony:

> The effectiveness of education benefits has been demonstrated. The RAND study, "Enlistment Effects of Military Educational Benefits," February 1982 notes that ". . . educational benefits can produce significant increases in high quality enlistment." Kaplan and Harris of the Rumson Corporation, in "The Measurement of High School Students' Attitudes Toward Recruiting Incentives" states". . . financial assistance for post-high school education appears to be of primary interest to Mental Categories I and II students" and "Mental Categories IIIA, IIIB, and IVA clearly show greater interest in the magnitude of enlistment bonuses than in the size of the educational assistance portions of the packages." In its 1983 Recruit Survey, the Army Research Institute finds that over 32% of the mental category I and II enlistees place college money as the most important reason for enlisting. Over 23 percent of the people in these categories say they would not have enlisted without money for college. Clearly, these individuals are influenced by education benefits more than by bonuses. Clearly, education benefits expand the market by attracting bright young men and women intent on a college education.

Mr. President, General Thurman also pointed out three other reasons why the costs of a GI bill would not be as high as frequently predicted. First, he stressed that historical GI bill use is only 42.5 percent. While it was somewhat higher during the Vietnam-era GI bill, use of the benefits under the new GI bill would probably not exceed that which was attained during Vietnam. This, of course, will yield significant savings with respect to the cost of a GI bill. Second, General Thurman expressed the Army's view that smart soldiers require considerably less training time to master the skills they will need on the battlefield, thereby producing significant savings in training costs. Third, General Thurman indicated that high school graduate recruits complete their terms of service at a much higher rate than do non-high-school graduates, again yielding considerable savings in attrition costs.

Mr. President, when these savings are taken into account, and when the enormous benefit to the Nation that GI bill educational benefits provide in terms of better educated, better rounded individuals who contribute a great deal to society, the GI bill looks better and better.

Mr. President, I do not believe there is a need for me to further stress the importance of the opinion of the Army's top recruiter and manpower specialist. The Army is the service which needs the most high quality recruits and traditionally has the hardest time getting them. When recruiting shortfalls begin, they usually impact on the Army first. The Army, therefore, has the most at stake if another manpower crisis is allowed to happen. It is for this reason, and the fact that the Army is determined to keep its manpower quality high in order to keep force readiness up, that the Army is so strongly in favor of a new GI Bill Program.

Third, General Thurman addressed the criticism that is so often made of our GI bill proposal, that it would be prohibitively costly. Let me again refer to General Thurman's testimony:

> As to their cost, education benefits are not as expensive as they appear. The basic benefit for all servicemembers need not be very high if a second level of benefits—such as the "kickers" in VEAP—are provided. We must have such a feature to attract soldiers with specific skills and into certain jobs such as the Combat Arms in the Army. Since the smart soldiers respond to education benefits more than do the low scoring ones, the "kickers" can provide the primary attraction and distribution tool. Concurrently, it expands the market for all Services as previously stated. The lower-scoring soldiers will still be eligible for the basic amount—but these are the people least interested in taking advantage of them. In fact data from the Vietnam era GI Bill even shows that the historical GI Bill use is 42.5 percent of eligibility.
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> The CBO's concern, then, that a GI Bill is not sufficiently targetable and would be throwing money at people who we do not want to target is not well founded. Even if it were, the United States is still generous with grants for education—over $2 billion in 1984. This amount carries no national commitment. I suggest that the men and women who have devoted two to thirty years to defense of our nation by serving in one of its Armed Services have earned an opportunity to use a part of that generosity.

Mr. President, another argument that has been made against the GI bill is that such a program, by definition, will have an adverse effect on retention of trained personnel because servicemembers will want to leave the service to use their benefits.

During our hearings on the GI bill, I posed this question to General Thurman. The Vice Chief of Staff indicated that the provision of GI bill educational benefits need not affect recruiting adversely. Here is what General Thurman had to say about the retention argument:

> Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, imbued with the values and ethics of service.
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> Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

The fact is, Mr. President, that our bill includes the transferability feature to which General Thurman referred. We have also included in the bill a provision which will facilitate and expand in-service use of GI bill benefits. We strongly believe, as does the Army, that the inclusion of these features, in conjunction with the double tier benefit structure of the GI bill, will more than compensate for any decrease in retention that the program might cause.

In the final analysis, we need this GI bill in place now to head off what will inevitably be serious recruiting problems in the near future as improving economic conditions combine with the shrinking pool of eligible recruits to create a highly competitive recruiting market. We must not be shortsighted where our military manpower is concerned. We did that during the late 1970's, and we found ourselves faced with a manpower readiness crisis that caused the then Chief of Staff of the Army, Gen. Edward C. Meyer, to call his force "a hollow Army." If Congress fails to learn the lessons of just a few short years ago and allows the services to once again experience recruiting shortfalls, I doubt that we will be able to stop the momentum toward the abandonment of the volunteer system and a return to the peacetime draft.

What we are proposing in our amendment is to give the military services what they say they need to continue to attract adequate numbers of high quality recruits, and that is a full GI bill program. What we are proposing is not alien to our military system as some opponents would have us believe. What we are proposing is not anywhere near as costly as some would have us believe. What we are proposing will not do any unintended harm to recruiting or retention that some would have us believe.

What our GI bill proposal will do is provide the All-Volunteer Force with the recruiting incentive it needs to expand the high quality recruiting market and bring in more bright young men and women who would have gone to college instead. It is as simple as that, Mr. President. Nothing else will bring in these high quality recruits—not bonuses, not pay raises, not other cash inducements, not a modified VEAP program as proposed in the Glenn amendment. Only a GI bill will do the job, and that conclusion is supported by the manpower chiefs of each of the military services. In my estimation, there is no greater argument for the proposal than that.

Mr. President, I hope that my colleagues will not be tempted by substitute programs that advertise lesser costs and equal benefit. There is no substitute for the GI bill. The House of Representatives recognized this by adopting a GI bill program very similar to the one embodied in our amendment. This may be our best chance ever to get this program enacted. I hope my colleagues will vote for the Armstrong-Cohen-Matsunaga-Cranston-Hollings amendment and make the peacetime GI bill a reality.

Mr. ARMSTRONG. Mr. President, I very much thank my colleague from Hawaii for his statement. Before he leaves the Chamber, I wish to acknowledge again the leadership he has shown on this.

When I decided some years ago that I really wanted to make an effort to do something about the GI bill, the first Member of this body I went to talk about it was SPARK MATSUNAGA, because he has shown over and over again not only his understanding of these national defense and military issues but the fact that he is willing to fight. When SPARK MATSUNAGA signs on to get something done, he is ready to carry the battle forward. He is ready to state his side of the case with the kind of forcefulness which I believe is going to carry us to victory.

I do not know if we are going to win today. Frankly, I think there is a good chance we will. Whether we win the battle today, 6 months from now, or a year from now, whenever it is, when the GI bill is restored, and it will be restored, in large measure, the credit for that goes to the distinguished Senator from Hawaii.

I am proud to be associated with him in this effort.

Mr. MATSUNAGA. I thank the Senator from Colorado for his kind remarks and I return the compliments because he has indeed displayed the leadership that is necessary for success.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Maine.

Mr. COHEN. Mr. President, first let me congratulate the Senator from Colorado for his strong statement today, but more importantly for his dedicated effort. In 1979, I believe, when the first effort was made to reestablish the GI bill, Senator ARMSTRONG was, in fact, the first to offer this measure. I was pleased to join him then in 1979 and pleased to do so now.

Let me also say that I rise with some regret today in opposition to the amendment of the Senator from Ohio [Mr. GLENN], though his amendment was, in fact, amended by the Senator from Texas [Senator TOWER]. I admire Senator GLENN a great deal. I particularly admire the trial by ordeal or torture that he has just passed through during the spring months and the way in which he conducted himself during the course of that very long battle that he waged, even if unsuccessfully, I thought with a great deal of vitality.

I continue to admire Senator GLENN for his contribution to the committees on which I serve with him.

Mr. President, I pass over for the moment my admiration for Senator TOWER, which I could take perhaps the next 2 or 3 hours to talk about, the role he has had in the shaping of our defense forces for the past 20 years or so that he has served in this body.

Having said that, I would like to express why I believe the Glenn-Tower amendment, if it is adopted, will, at best, have only a negligible impact and, at worst, could seriously hamper the ability of recruiters to attract the high-quality, educationally motivated young men and women that we need in today's Armed Forces.

The citizen-soldier GI bill, as the Glenn amendment is called, in my judgment, is anything but a GI bill. Those who wish for a GI bill should not vote for the Glenn amendment, but should vote for the Armstrong-Cohen-Matsunaga, et al., amendment with the 25 cosponsors that we now have. That, in fact, is the only true GI bill that will be on the floor today.

If they should support the Glenn approach, what they will be supporting is an unattractive version of one of the least effective and most unpopular Federal programs ever established, the Veterans' Educational Assistance Program, otherwise known as VEAP.

VEAP was established as a replacement to the GI bill when Congress terminated the GI bill in 1976. A contributory program, it asked service personnel to pay in monthly increments up to a maximum of $2,700, with the Government matching their contribution on a 2-for-1 basis. The initial contribution level was $50 to $75 monthly.

The Glenn proposal is also, in effect, contributory. Service members would have to agree to a reduction of active duty pay by $250 per month and also would lose their basic allowance for subsistence or quarters. Their total contribution of $6,000 over 2 years would be matched on a 2-for-1 basis by the Government.

The Citizen-Soldier Program proposed by Senator GLENN and Senator TOWER would require service personnel to forego between a third and two-fifths of their already low wages, in addition to their BAS and BAQ, in order to receive the deferred educational benefit.

The unattractiveness of this option is obvious. And the experience under VEAP only confirms the lack of appeal of this approach.

Mr. GLENN. Mr. President, will the Senator yield for one comment?

Mr. COHEN. I yield.

Mr. GLENN. On the question of subsistence and quarters, there has been reference to that several times this morning. I would like to correct any misunderstanding. What this amendment would supply is normal base housing. We would leave it up to the service in this amendment as to whether, if a person is assigned to a remote site where there were no barracks or subsistence available, the person would be given subsistence and quarters allowance at that site. Obviously, the general rule would apply to everybody else. They would not get off-base quarters and subsistence. In other words, we are not trying to attract the high school married group. We are trying to attract that group that is trying to go to college and trying to move on. They would normally be quartered on the base and would have normal base subsistence like anyone else.

Mr. COHEN. I thank the Senator. To continue with my comments:

We need look no further than the first study conducted to examine the VEAP Program. That study concluded that a $50 minimum—let alone a minimum of $250—discouraged some members from enrolling. It recommended a lower minimum monthly contribution in order to "allow many service members who cannot afford the current $50 minimum to enroll in the program."

In response to that study, the minimum was reduced to the present $25 level, and service members were also permitted to contribute up to $100 if they so desired. Still, until the Army established its Ultra-VEAP With Kickers Program, the participation rate was low and the dropout rate high under VEAP that it has rendered VEAP, for all practical purposes, unworkable. A study a few years ago found that only about 25 percent of those who had the choice decided to participate in VEAP and that 60 percent of those who had participated were no longer doing so.

Earlier, I pointed out that the VA had paid out 2½ times as much in refunds as in benefits.

With this awareness of the problems associated with a contributory program of educational benefits, it is hard to understand why we would want to approve a new contributory program which would place such burdensome financial demands on those who would consider participating in it.

If this program were intended to replace VEAP, it could actually make the job of military recruiters more difficult. If it were meant to augment VEAP, it would, in effect, be a nonfactor. Why would smart, educationally motivated young men and women sign up for a program requiring them to give up more than a third of their already low wage for an educational benefit lower than that which they could receive under the Ultra-VEAP With Kickers Program? The answer is, they would not. There would simply be no incentive to do so.

If the Glenn amendment is approved today, we will be doing a great disservice to potential recruits, to the military services, and to the Nation. Calling something a GI bill does not make it one. And voting for a proposal such as the one before us may only delay the time at which we, in fact, provide the kind of program which military recruiters say they so badly need.

The program is the one embodied in the proposal which Senators ARMSTRONG, CRANSTON, MATSUNAGA, HOLLINGS, and I offered earlier this afternoon. Our amendment, which lost narrowly last year on a procedural motion, has been the subject of hearings in the Veterans' Affairs Committee, and it has received the endorsement of such recognized manpower experts as former Chief of Staff of the Army Edward "Shy" Meyer and the Army's present Vice Chief of Staff, Gen. Maxwell Thurman.

Last Monday, I had the occasion to read from General Thurman's remarks. I shall not take the Senate's time this afternoon to repeat or, indeed, expand on them. But they reflected quite clearly his strong personal belief that a new GI bill of the short embodied in our amendment is essential if the Army is going to meet its manpower requirements.

General Meyer, in a letter to my colleague [Mr. ARMSTRONG] also pointed out, I thought rather forcefully:

> The current DOD position which supports VEAP in the near term risks repeating lessons already learned from the past where lean recruiting years yielded lower quality enlistees who are expensive to replace and become the basis for a hollow Army. This is a price the Army can ill afford to pay again. . . . In my view, a G.I. Bill containing the features (contained in the Armstrong proposal) would be an extremely critical piece of legislation the Congress could enact in the interest of promoting the long term combat readiness of the military services.

Mr. President, how many times have we stood on this floor and listened to Members criticize the state of readiness of our Armed Forces? How many times did we have to hear, back in the early 1980's, about the poor quality of the people who are in the services? How many times did we have to keep invoking Admiral Hayward's words, "We have a hemorrhage in the Navy. Our top quality people are leaving. They are leaving in hundreds, they are leaving in thousands."

What was the reason for that? It had to do with a host of reasons, but most importantly, it had to do with lack of adequate pay, had to do with quality of life. The professional soldiers and sailors who came before us said there was a very important recruiting device that we were passing up. That was the GI bill. They called for it.

I mentioned this on Monday. We hear a lot about campaign promises. President Reagan made a very strong campaign promise. He said he was going to call for the reintroduction of a GI bill.

Cap Weinberger, during his first year as Secretary of Defense, said he wanted a GI bill. Unfortunately, every time we would come to a GI bill proposal, they would say, "Well, not right now; we cannot really afford it right now; let us try again maybe next year." So every time, we have waited until next year. We waited from 1979 to 1980, we waited from 1980 to 1981 and from 1981 to 1982, then we waited until 1983. Then last year, we took this measure up. I think we were even accused at that time of acting politically. The statement was made, I know you people are all concerned about something that is politically attractive, as I recall those words; that is why it is being introduced during an election year—everybody trying to pick up some votes.

I do not know what we do in this body. We listen to our professional military witnesses, the Chiefs of Staff, the Vice Chiefs of Staff; we listen to retired admirals, who can speak even more freely than they could while they were in the service themselves. Every one of them to a person says we need the GI bill. They are not looking for votes; they are looking out for the best interests of this country. They want to make sure we do not repeat the mistakes of the past, as we did back in the seventies.

So if the Glenn amendment is not defeated and if the Armstrong amendment is not passed, as I mentioned before, we are only going to postpone the implementation of an effective GI bill of the sort which General Meyer and General Thurman say is so badly needed. We will open ourselves to justified criticism when service recruiters encounter problems in attracting top quality individuals to join the military.

I went through this back in 1979 and 1980. When they started looking at all the mental categories, the 4's and the 3's, we started looking at the kind of attrition rates we had at that time, started looking at the quality, they said, "My God, look at this Army, it's filled with all kinds of poor, uneducated people, not motivated and not very bright." The cry they had at that time was, we have to have a draft. Somebody said, wait a minute, a draft is not necessary at this time. What we need is something to make service life attractive so they will stay.

You can run a draft tomorrow and run all the 18- and 19-year-old males—and females to the extent they want to volunteer—through a military program and they would leave at the end of 2 years. Are you more militarily ready at the end of that 2-year period of time? I submit the answer is clearly no.

The people we were losing were the ones who had 12, 13, 14 years in service, midlevel, midcareer personnel leaving in droves because they said it is simply not worth staying in anymore; I can do a lot better outside and be home every night for dinner.

So somebody said, let us see if we cannot improve the quality of life for people we are asking to give their lives to the service of this country. That means better pay, better quality of life, better environmental circumstances, reform the way we attract quality people to serve our country. When we took that action, there was a dramatic reversal in the quality of people coming in and the retention of those who wanted to stay. Now that we are up there and meeting our recruiting goals, we are ignoring the warning signs on the horizon.

The warning signs, as outlined by my colleague from Colorado [Mr. ARMSTRONG], are that the economy is improving. That is going to have a negative impact on the types of people we want to come into our services. The warning signs are we are going to have fewer young people going into the services. We have fewer people now available. The warning signs are that we are cutting back on the quality of life in the service, that we are capping pay again, just as we did back in the 1970's: "We promise you 5 percent next year, we shall cap you 3 or 4 percent this year." Next year we shall say, "Well, we did promise 5, but the economic times are tough so we are going to get you around 4 again, but don't worry; we still have you in mind."

That is what we have done in the past and it has led to near disaster. That is what we are trying to avoid now. We have an opportunity to put something in place which will, for the first time in almost a decade, really make a significant difference in the ability of our recruiters to attract high-quality, highly motivated young men and women.

We simply cannot afford to play games with military manpower policy. Those who wish to thwart efforts to provide fair compensation and necessary incentives for military service must bear the responsibility for their actions.

What we have today is a choice between a program which has a proven record of success; namely, the GI bill, the approach embodied in the proposal we are offering, and one about which little is known, but one thing is clear: It will not be an attractive incentive to bring potential recruits.

Approval of such a program will only compound the difficulties already being felt by recruiters. Approval of our approach, on the other hand, if we are given the fair chance of presenting it, will give those recruiters the tool they say they most need to appeal to the top quality young people we hope to attract and, indeed, we must attract, into military service.

Mr. President, I join my colleague Mr. ARMSTRONG in calling upon our colleagues to support the Armstrong GI bill proposal and to reject that of Senator GLENN and Senator TOWER.

Mr. President, I yield the floor.

Mr. TOWER. Will the Senator yield for a question?

Mr. COHEN. Certainly, Mr. President.

Mr. TOWER. One of my concerns is the retention. How do you deal with the problem of retention if someone comes in and gets benefits after a time and gets out who otherwise might stay in? As a matter of fact, retention is as big a problem as initial acquisition.

Mr. COHEN. Retention is a problem right now. What this would do is no guarantee they would have to leave at the end of 3 years. They can postpone or defer that benefit until such time as they decide they want to go into education or a career or whatever they say they want. They know this is money in the bank they can take out at some future time.

By the same token, I say to my friend, I think he knows that educational benefits are the greatest incentive the recruiters say they have to get these high-quality people into the service. I think we have to balance that against what the Senator is suggesting, that they will leave at the end of 2 or 3 years. I think the evidence has been to the contrary in the past.

Mr. TOWER. According to the CBO estimates, what we are paying is about $200,000 for each additional high-quality recruit. It gets to be a very expensive program. We would be better advised to give them bonuses for signing up.

That is a pretty high premium to pay for whatever we would get in the way of additional high-quality recruits.

Mr. COHEN. I submit to my friend from Texas in terms of the high price that has to be paid for high-quality personnel, we get a pretty good deal. If you want to ask the Members of this body to start supporting procurement requests, M-1 tanks, if you want to ask the Members to start supporting requests for all of these very exotic, new, complicated weapons systems, you better have the kind of people who are going to be attracted to come in to man those systems.

I would suggest also to my colleague that his proposal would really require the person to leave the service in order to take advantage of it at the end of 2 years.

**Mr. TOWER.** It is a targeted program. It is designed for specific effect.

Let me say to the Senator from Maine that I know that people who advocate this program feel it is a good way to hedge against the possibility we may have to have a draft. What I am telling the Senator is with restraints on military spending and with annual assaults being made on the Presidential spending requests for defense, and with annually the Congress funding at well below the DOD request, personnel costs are a very high percentage of military spending. With the GI bill, I think you are going to add more to personnel costs than what you are going to realize in the way of additional recruitment, and the more costly you make personnel the more likely you are to hasten the day when the Congress may give some serious consideration to going back to a draft.

Now, I think there are a lot of things worse than a draft. When I think of the generation of Americans who were drafted in the service, it turned out pretty good. JOHN GLENN was not drafted; he volunteered, but he would have been drafted if he had not volunteered. I volunteered, but I know I would have been drafted if I had not volunteered. There is probably no greater incentive for people volunteering for the service than the draft. Let me just warn the Senator from Maine that he is initiating a costly program.

**Mr. COHEN.** Let me make two points. Let me cite the Secretary of the Navy, who, when faced with a choice of whether or not he would rather have more money for ships or more money for quality personnel, came out in favor of the manpower. I do not know that anyone has disputed that in the Senate Armed Services Committee, including the chairman himself.

Second, let me read what General Thurman has said in response to the kind of objection that the Senator has offered. He said:

> Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, embued with the values and ethics of service.
>
> Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

So here we have one of the leading spokesmen within the military itself giving two very good reasons as to why we should support the GI bill.

**Mr. EVANS** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Washington is recognized.

**Mr. EVANS.** Mr. President, I rise to join the Senator from Colorado and my other colleagues as a supporter of this GI bill amendment. I do so with an interesting three-way relationship with the GI bill over past years. First, I was a beneficiary of the GI bill from World War II, and I saw and studied and succeeded in college with my colleagues who represented that first wave of returning veterans from World War II who through their studies and subsequent successes have done much for this country. I recognize that as one of the great investments we made at that time. But I also speak as one who served the last 7 years as a college president and also who served for 12 years as Governor of the State of Washington. In both cases I had close association with the end results of the GI bill or, conversely, the results of the educational failure.

First, as a college president, we still many years after the end of the Vietnam war had many students who were the beneficiaries of the GI bill. Some 10 percent of our student body was still studying under that program. Many of them were students who simply could not have carried on their education without it. All of the other financial assistance programs available, the Pell grants and student loans and other elements, are collectively insufficient to take care of the financial requirements of today's college and university students. Tuitions necessarily have escalated far more rapidly than the cost of living. It is exceedingly difficult today, especially in private institutions, to finance the total cost of education. But I did see students—most of them older; most of them married, most of them working, most of them making unusual sacrifices in order to finish an education and become a more productive and contributing member of society—who were only able to make it because the GI bill filled the gap between what they could get elsewhere in benefits and what they could earn on their own, and the cost of their education.

We should feel fortunate that these men and women, most of them older than the typical student, were able to come back and finish an education and contribute to the high technology society we are rapidly becoming.

Let me turn now to the demographics of the rest of this decade and the rest of this century. At the risk of repeating what the Senator from Colorado has said, we are facing an unusual period during the next 10 years and perhaps some time beyond. We will see a drop of about 20 percent in the number of 18-year-olds. Mr. President, if you do not think that is an ominous figure to one who has served as a college or university president, you are just not thinking. But it is also an ominous figure to those who seek recruits for the military and will also be an ominous figure to those who seek young people to fill the needs of our industrial society. One of the most remarkable events of the last decade was that we were able to assimilate the number of new entrants into our work force, without unemployment growing faster than it did. We had a huge number of war babies come into the work force. Most of them are working and effectively contributing, and at the same time we expanded markedly the number of women who were full-time participants in the work force. We have built a society, we have built job requirements, and we have built an industrial base which depends on a certain number of new people coming into that work force. And so, the next few years are going to be years of high competition, and rather than facing problems of youth unemployment, except in certain restricted areas, we will be facing a time of severe competition for those young, new entrants to the labor force. Competition from those who would seek to advance their education by encouraging them to go to college, university, or advanced training beyond high school; competition from the work force which would like hire them and effectively participating; and competition, of course, from the military which has continuing manpower requirements.

I do not think this should be viewed just as an expenditure relating to our military. It is much broader than that. The GI bill has consequences which go far beyond military preparedness, although that may well be one of the most important initial benefits.

We have over the years, since World War II, developed a comprehensive network of community colleges, of colleges and universities, of vocational and technical programs, many of which serve on-base students today.

We have considerable relationships with the military and the various GI bill educational programs which have been established over the years. The educational establishment is uniquely prepared to continue to carry on what we have built so well over the last quarter of a century or more.

I think it is important to consider also the long-term nature of what this amendment would do. It is important to give to our military establishment some long-term recruiting strategy, to not have to go to potential new recruits and say, "Well, we have a new program, but we cannot depend on its continuing for very long because it is experimental and has a cutoff date."

Especially at this time, with what we are facing in terms of the decrease in the manpower pool, we ought to give our military what they have been asking for—long-term recruitment policies which are dependable and which will work.

I said that it was more important than just this relationship to the military. I think this concept is a splendid one for other service opportunities, not that it should be considered today, but it may well be considered at some time in the future.

I have served for the last 7 years on the Carnegie Foundation for the Advancement of Teaching, and during that time I participated as a member of their Council on Policy Studies in Higher Education, under Clark Kerr. One of the major studies of that era was a study on American youth—not just youth as related to education, but youth generally and their potential and alternative opportunities. Among those alternative opportunities were suggestions that, for some, a youth conservation corps or similar programs might well be an alternative of value. A national volunteer service, not mandatory, but voluntary, might also be a potential alternative for our youth.

In fact, in the State of Washington, some 10 years ago, we embarked on just such a program, which proved to be remarkably cost effective, remarkably popular, and one which I believe could well be emulated elsewhere in the country.

The suggestion of the Carnegie Foundation was that programs of this nature might also benefit from those participants gaining educational credits in much the same way military participants would gain educational credits toward the GI bill. That is why I believe it has potential ramifications which go far beyond the military and could be of considerable benefit to almost any young man or woman.

I suppose one of the fundamental questions that could be asked is, "Why vote for this relatively large expenditure just after we have concluded 5 weeks of debate and a vote on a deficit reduction package?" We make expenditures in Congress and we make expenditures in this country. We make them because we want to or because we have to. But we also make investments. There is sometimes a considerable difference between an expenditure and an investment.

Here is where my responsibility and experience as Governor, I think, bear on this GI bill. To the degree that, through education, we can reduce future failures, we have a chance to reduce the governmental costs which are associated with those failures. I have seen far too many younger people who otherwise could be effectively employed who are on welfare because they are simply incapable of working. They are in corrective and expensive job programs because they have failed to get educational benefits earlier. Some are in prison and almost all those in prison are uneducated. They have seen some failure in their educational opportunity in the past, and most of them are young. As Governor, I had to finance the cost of failure, as did all the Governors throughout this country, and as we do at the national level.

It seems to me that it is a good investment, for a few thousand dollars per year, to give someone an opportunity for further education, and to be an effective participant in our society, than it is to spend from $10,000 to $50,000 a year to incarcerate someone in a prison, to keep them on welfare, or to engage them in a corrective and sometimes not very effective jobs program. I think this could well be one of the most important investments, for the amount of money involved, in the future of this Nation.

We are concerned and recently have read much about the quality of our education. We are on our way, with the benefits of recent reports and the fact that we have raised educational quality to a high position on our domestic agenda, to do something about that. But education quality is only one-half of education. The other is those who can and will participate in education. We provide the opportunity; now we need to provide the access.

We will need all of the educated and trained people we can get for the rest of this century to provide the skills necessary for our country and the skills necessary for our military. We build the success of this Nation in its post-World War II progress fundamentally on the strength and the success of the GI bill of World War II, Korea, and Vietnam. I think it is time now to extend that success so that we can continue the strength and success of this country for the remainder of this century.

Mr. HOLLINGS. Mr. President, I am moved by the eloquence and commonsense of our distinguished colleague from Washington, Senator EVANS. He talks from a position of experience; and if our colleagues would listen, we would have no difficulty in passing this particular amendment.

My support for the GI bill comes from my experience of having opposed the Volunteer Army. Back in 1971 and 1972, you could look at the casualty figures of the war in Vietnam, and see that it was being fought by the black, the poor, and the disadvantaged. I argued at the time, on the floor of the U.S. Senate, that that is what we would end up with—a Volunteer Army of the black, the poor, and the disadvantaged. The events since then have verified my earlier position.

In sponsoring a GI bill, I would like to have been proved wrong. I would like the Volunteer Army to work. That is one of the big reasons why I not only have been sponsoring a draft, which I think will be necessary for us to return to, but also to make one last college try for success of this Volunteer Army. I think nothing could help it more at this time than a GI bill.

The GI bill worked, as Senator EVANS has pointed out. It worked extremely well. I happen to be another beneficiary who came back from the war and went through law school on the GI bill. I still have some eligibility, and if we can stop some of these night sessions, maybe I can go to American University and use the rest of it at night classes.

Mr. TOWER. Mr. President, if the Senator will yield, I believe his eligibility has expired if he did not claim it.

Mr. HOLLINGS. It has expired.

Mr. TOWER. It has expired. If he seeks additional education, he will have to pay for it himself.

Mr. GLENN. He needs another amendment.

Mr. HOLLINGS. I need another amendment. I see that.

Mr. President, I am pleased to cosponsor the reinstitution of the GI bill program.

I say this with a strong conviction.

We need the GI bill.

In 1984, spending for our national defense will be $265 billion.

The 1985 budget for defense will be $290 to $300 billion or double the $145 billion provided for defense in 1980.

About half the defense budget goes toward weapons R&D and procurement and operations and maintenance—for the readiness and sustainability of our troops.

The remaining 50 percent is spent on our manpower needs.

The DOD says that we are getting the high quality, trainable personnel through the All-Volunteer Force [AVF] that are needed to operate our new and advanced technology systems.

Everywhere one turns are heard wondrous stories of how the DOD is more than meeting its recruiting objectives.

We hear that the "military is back."

It is respectable. We are over the "Vietnam syndrome."

I do not believe that.

I do not feel that any member of this committee or of the U.S. Senate believes that.

Check the polls and see how your average American feels about troops in Central America.

No, we are not over Vietnam when it comes to American involvement.

There's one reason and only one reason why the military is meeting its recruitment objectives.

There are no jobs for the young 17- to 25-year-old citizens.

The success of the AVF does not come from an enlightened citizenry that feels a duty to serve its nation.

It comes only from the hard times that all our young citizens are facing and from the sobering fact that for them there is no job market.

Teenage unemployment is 20 percent; for black teenagers, unemployment is 50 percent.

The Reagan administration promises an economic revival while our young people grow desperate for work.

But the DOD incredibly boasts that it is successful in meeting personnel goals.

They hide the truth that their success comes only from the pains of idleness and unemployment resulting from callous policies that favor the wealthy at the deprivation of all others.

And now we are confronted with the prospect of thousands of college graduates unable to find employment in the Reagan depression.

Their only hope lies in our Armed Forces.

This is not a commitment for national duty—but the path of last resort.

Out on the recent campaign, and our distinguished colleague from Ohio was there also, I thought maybe I could get my friend, the Reverend Jesse Jackson to help me talk about the draft and minorities in the services. So in one of the debates I asked him questions on this issue. Reverend Jackson had visited the front in Europe last September and he met with quite a number of minority groups primarily black soldiers at the front lines.

As Senators well know, there is a disproportionate amount of blacks in the Armed Forces in relationship to the overall population.

In trying to ask questions which would suggest a favorable answer on that relative to a draft, asking about the disproportionate numbers and whether we should have a draft, Reverend Jackson turned and made this statement, and I remember writing it down at the particular time. He said:

> They are not over there to defend their country; they are over there to have a job.

That is a sad commentary. That is a sad commentary in today's America.

I thought that the best single bargaining chip we could have given our President on his recent visit to Europe in talking to the leaders of the free world who, generally speaking have universal draft systems in their countries, was to demonstrate America's willingness to support its Armed Forces. Instead, we focus on money, on matters such as MX or B-1 or some of these other sophisticated pieces of weaponry. More than a demonstration of military power, we need a demonstration of will power. Everyone needs to be committed to our national defense. But since we do not have a cross section of the population in the services we lack a cross section of support.

I think the GI bill presently in front of us would go a long way to repair that particular defect.

The administration's view of success ignores, when they talk about the success of the Volunteer Army, the broadening need that we have for the highest quality and educated recruit for today's Army. The percentage of recruits that score in category I and category II in the Armed Forces qualification test is much lower today than the percent of draftees scoring in the same category in 1964, the last prewar year before Vietnam; 33.7 percent of our draftees scored in these highest categories in 1964; recent complete figures available from 1981 show that only 23.6 percent scored in categories I and II.

With the recent depression and the influx of unemployed high school graduates into the Armed Forces has caused some improvement in 1982 and 1983 figures.

When we look at the demographics of the changing male population and if we exclude the college graduates, and there are not many college graduates enlisting in the services, we will have a very difficult recruiting period ahead of us. If the projected male college population is excluded from the potential of Department of Defense recruits it will be necessary in the early 1990's to recruit more than 1 out of every 2 males, where in 1980 we are calling on 1 in 5. We won't be able to reach such goals unless we start moving as strongly as we possibly can, making every possible effort for the success of the Volunteer Army.

I would like to discuss the cost of the GI bill. The CBO estimate shows that there will be relatively little cost at all.

In 1985, 1986, and 1987, for the first 3 years there would be zero cost. By 1988 and 1989, it will be $250 million to $300 million, and that does not go up dramatically. By the year 2000 it will be $877 million.

That is a nominal cost for when one considers the costs of weapons systems in the multibillions and billions of dollars. When you consider in 1980 we had a $145 billion defense bill and by next year we are going to have double that to almost $300 billion. Fifty percent of that, of course, is going to equipment procurement, R&D, and the other 50 percent has gone to our manpower needs, and these continue to go up in order to maintain the numbers much less the quality that has been lacking.

So I think this is really a nominal savings of what will be the cost in trying to continue on with a Volunteer Army, and I solicit our colleagues to look at it closely and consider the testimony of many defense exports and President Reagan in support of the GI bill.

Mr. President, I ask unanimous consent to have printed in the RECORD the informal CBO estimate.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

*GI bill—Informal CBO estimate*

| Fiscal year: | Millions |
|---|---|
| 1985 | 0 |
| 1986 | 0 |
| 1987 | 0 |
| 1988 | $250.5 |
| 1989 | 328.5 |
| 1990 | 401.0 |
| 1991 | 468.5 |
| 1992 | 569.0 |
| 1993 | 640.0 |
| 1994 | 693.5 |
| 1995 | 719.0 |
| 1996 | 768.0 |
| 1997 | 804.0 |
| 1998 | 838.0 |
| 1999 | 867.0 |
| 2000 | 877.0 |

Does not include offset for reduction of recruiting costs due to anticipated increases resulting from GI bill.

Includes offset for termination of VEAP as presently constituted (with kickers).

Mr. HOLLINGS. Mr. President, we must upgrade the quality of the Armed Forces and reward those that sacrifice for our national security.

A new GI bill is the most effective, and cost-effective step we can take to improve the quality of recruits for our Armed Forces.

To meet this goal, I am pleased to introduce—along with my distinguished colleagues, Senators ARMSTRONG, MATSUNAGA, COHEN, and CRANSTON—a new GI bill program for our Armed Forces.

We must recruit more high-quality, highly motivated young men and women.

The manning problems of our Armed Forces will become quite severe in future years when the pool of young, service-age people is diminished and if our economy improves.

Demographic forecasts show that young males age 19 will diminish over the next decade by 25 percent.

The educational benefits provided by a new GI bill should attract increased numbers of high school graduates into the services and will assist them in retaining the career middle-grade noncommissioned officers needed to train and lead our fighting men.

Under the provisions of the new GI bill, veterans could receive education assistance payments of up to $300 per month for up to a total of 36 months while attending an approved educational institution.

Eligibility for benefits at this level would be attained through a number of active duty and Reserve service options.

For example, a young man could enlist for 2 years of active duty and agree to serve 4 years in the Reserves to become eligible for the maximum benefits commencing at the time he is honorably discharged from active duty.

A longer period of active duty would reduce the Reserve obligation.

Military personnel who perform in critical skill and combat arms jobs as designated by a service Secretary could be eligible for up to a $600 a month benefit.

A unique feature of the bill is that it also provides educational benefits for persons who serve in the Reserve Forces without having served on active duty.

While the benefits for eligible reservists are roughly one-third of what is provided to active service veterans, they are still substantial and should prove to be an attractive recruitment incentive.

The Reserves are experiencing even greater difficulties in filling their ranks with quality people than the Active Forces.

I believe that this bill can go a long way toward providing the needed incentives to draw young men and women into the Reserve Forces.

A second unique feature of the bill which should have the greatest appeal to our career military people is a provision which provides for transferability of benefits.

As written, the bill would enable a person eligible for education benefits to transfer these benefits to one or more of his dependents—but not to exceed the 36-month/$300 level.

This requires a contribution from the military member that is matched on a 2-for-1 basis by the DOD.

Thus, for every $1,000 contributed by the serviceman, DOD will kick in $2,000.

I believe that this will provide an extremely valuable retention incentive for many of the very important middle-grade noncommissioned officers.

An alarmingly large number of these small unit leaders are presently leaving the services because they cannot afford to send their children to college on the military pay they receive.

This bill can provide them the assistance they need to educate their children while continuing in a career that most of them prefer.

Support for the GI bill starts at the White House. President Reagan indicated he would reinstitute the GI bill as a campaign promise that is yet unfilled. Nonetheless, I would like to provide the following quotations from the many supporters of the GI bill program:

> "I will ask Congress to reinstate the G.I. Bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."—Ronald Reagan, Televised Address to Nation, October 19, 1980.
>
> President Reagan is far from alone in his appreciation of the benefits to the Armed Forces and to the country of a new G.I. Bill. Below are excerpts from the testimony at the most recent of the 24 hearings that have been held on the G.I. Bill during the last three Congresses, this one before the House Veterans Affairs Committee on April 12, 1983:
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> "The Army must have an educational pull mechanism permanently authorized in law which is not subject to the vagaries of year to year change. . . . The education benefits about which we are speaking do two things at once. They are recruitment incentives for us, and they are rewards for service to the Nation."—LTG Maxwell Thurman, USA, Deputy Chief of Staff for Personnel.
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> "No Americans are more deserving of educational assistance than those who serve our Nation in the military services. I believe their service and their sacrifice should be rewarded. Although the individual services would benefit greatly by a G.I. Bill, I believe in the long run our country benefits even more."—Vice Adm Lando Zech, USN, Deputy Chief of Naval Operations.
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> "I think the G.I Bill is a must for the future. I have been in the recruiting business, and I can look down the pike and know that the talent market is going to become much smaller, competition is going to become much more intense with industry and other means looking for the quality of youngsters we want, and I think that a good education bill in the future will be of great assistance."—LtGen C. G. Cooper, USMC, Deputy Chief of Staff for Manpower.
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> "There is no question about it: A new G.I. Bill will help recruitment, retention and society, and I think it is especially important as we look down the road and see a recovering economy, a declining pool of eligible youth to serve the country, and some programmed growth in the Air Force. A new G.I. Bill would help us attract and retain the kinds of people that we need in the increasingly complex and high technology Air Force that we have today."—Maj. Gen. Kenneth Peek, USAF, Deputy Chief of Staff for Manpower & Personnel.
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> "The VFW supports the concept of a peacetime G.I. Bill and has testified so on previous occasions. We recognize the undeniable need of the military to attract and retain qualified, high-caliber personnel.—James N. Magill, Special Asst., Natl Leg Service, Veterans of Foreign Wars.
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> "The G.I. Bill model for recruitment and retention is preferable to a contributory educational program."—G. Michael Schlee, Director, Natl Security Commission, American Legion.
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> "AMVETS, which was born with the original G.I. Bill, believes that the traditional hard distinctions between wartime and peacetime veterans, which has formed the matrix for much of our veterans' legislation, is becoming increasingly irrelevant in this age of constant, increasingly dangerous and expensive struggle with the forces of totalitarian communism throughout the world. . . . The sacrifices which military service exacts, especially in terms of years away from that period of life usually devoted to education are just as real for the peacetime veteran as for his wartime comrade. The crucial need for armed forces of the highest caliber is greater now than at any time in our history, including periods of hostilities. AMVETS believes that it is high time that the dignity of military service during this age of peril be recognized at least to the same degree that wartime service has been recognized in the past."—LTC David Passamaneck, USA (ret), Legislative Director, AMVETS.
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> "We believe that recruiting and retention in the Armed Forces in the future will become more difficult and that consideration supports the creation of a G.I. Bill. But we have also said . . . that we believe the creation of a G.I. Bill is something that should not be done specifically for the purpose of recruiting and retaining people in the Armed Forces, but also for the good that it has on the Nation's economy and for its positive effect on veterans."—Richard W. Johnson, National Legislation Director, NonCommissioned Officers Assn.
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> "A new G.I. Bill should not be considered as an expenditure of funds; rather, it should be considered as an investment of funds. . . . An investment in the youth of America is one of the best, for it returns the highest dividends."—Max Bielke, Legislative Counsel, National Association for Uniformed Services.
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> "An educational assistance is a proven, highly effective recruiting incentive. Not only is it a strong magnet among bright, motivated youngsters; it also is attractive to their parents."—Col. Erik Johnson, USA, Director of Legislative Affairs, Association of the U.S. Army.
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> "The Fleet Reserve Association, in cooperation with U.S. Rep. Duncan Hunter, held a public G.I. Bill Forum in San Diego. Thirty-nine active duty witnesses, ranging from pay grades E-3 with three years of service to E-9 with 30 years of service, presented the views of over 200,000 active duty personnel. Amazingly enough, the views of all personnel, those in the Tidewater area, Boston and San Diego, were the same: a peacetime G.I. Bill was needed and all felt such a program would attract and retain Service personnel."—Robert W. Nolan, Natl Executive Secretary, Fleet Reserve Assn.

I ask my colleagues to look at particular quotes from the various authorities such as Lt. Gen. Maxwell Thurman, the Deputy Chief of Staff of Personnel in the Army; Adm. Lando Zech, from the Navy; and Lt. Gen. C. G. Cooper, the Marine Corps Deputy Chief of Staff for Manpower.

But more than anything else here is one particular commitment—I say to the Senator from Virginia, who did such a splendid job yesterday in the Chamber, for which I commend him—and it was made in October 1980 by President Reagan. He said, "I will ask Congress to reinstate the GI bill, a program which was directly responsible for the most rapid advance ever in the educational level of our population."

The GI bill is one particular promise or commitment that can be carried out without busting the budget. We have had billions and billions for weapons as we have pointed out. We have doubled the defense budget. This amendment is one that would really strengthen our defenses, strengthen the All-Volunteer Force, strengthen the Reserves. We are 200,000 shy in the Reserves and Guard in our country right today.

With this amendment we can begin to strengthen the Reserve Force and when you strengthen it, again you get a cross section of support in our society for the national defense and for the Nation's defenses.

So I thank my colleagues for their attention and strongly support the amendment of the Senators from Colorado, Maine, Hawaii, and California, and the others who are now sponsoring this particular measure that I introduced some 3 years ago.

I hope we can pass it now and not delay this very critical requirement.

In closing, let me state that Congress has moved decisively in recent years to provide our military forces with the modern, high-technology equipment they need to at least keep abreast of the Soviets from a weapon systems standpoint. But, as we all know, we are now at a point where we must significantly improve the quality of our military manpower. I believe that we must now move resolutely to remedy this problem if the security of this Nation is to be assured. I believe a new GI bill can be a step in that direction. I am very pleased to join with my colleagues in introducing this vital legislation.

I gladly yield the floor.

Mr. WARNER. Mr. President, I first wish to acknowledge with appreciation the kind remarks of the distinguished Senator from South Carolina with respect to the floor action yesterday.

I also wish to repeat a conversation the two of us had earlier today that probably neither of us would be in the Senate today were it not for the GI bill.

Mr. HOLLINGS. That is right.

Mr. WARNER. Indeed, I profited from it greatly following World War II service and again in active service in the Marines following the Korean War I went back to law school on the GI bill. So I feel a heavy debt to this type of legislation.

But I must say that my views rest with the distinguished Senator from Ohio and I regret that I cannot join the distinguished Senator from South Carolina on his proposal.

Mr. President, I yield to the distinguished Senator.

Mr. BOSCHWITZ. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from South Carolina and also with the remarks of the Senator from Washington, to which I listened with great interest.

I am particularly pleased that the Senator from South Carolina spoke about the Reserves. As we build the All-Volunteer Force and improve the educational caliber of our troops we must insure that we do the same thing for the Reserves. They are vital to our Nation's security and it would be our hope that many of those who come voluntarily to the service of their country will continue on with the Reserves at the termination of their active service.

It is interesting to note, Mr. President, that for each defense dollar we spend, about 55 percent is spent for the pay, housing, clothing, and feeding, of the young men and women who serve in the Armed Forces of the United States. Considering the fact that such a large portion of our defense spending is for personnel, it seems most appropriate to take a step that would increase the intellectual caliber of those people and that would draw to the active services the most qualified people that we possibly can find. This is not only in the interest of our defenses, but it is also in the interest of the performance of the duties of the individual services.

It is particularly appropriate now. I know that the Senator from Colorado has introduced this amendment a number of times. I have supported it a number of times in the last 3 or 4 years, and I am pleased to support and be a cosponsor of it again.

I identify myself once again with the remarks made by the Senator from Washington and the Senator from South Carolina, particularly those remarks which referred to the nature of the men and women who served in Vietnam. It was an Army that was not fully representative of the American people. I state also that in this time, as full employment comes nearer and nearer, that it is important that we take a step like this to make the armed services of the United States as attractive as possible to the most qualified and the highest caliber people possible in the interest of our Nation as a whole.

I yield the floor.

(Mr. RUDMAN assumed the chair.)

Mr. GLENN. Mr. President, I have listened for the last couple of hours to all of the comments here in the Chamber by my distinguished colleagues. I must say I agree with them in almost every respect. The GI bill was a tremendous bill. It was brought in at the end of World War II, of course, and more at that time as sort of a thanks for a job well done for many millions of Americans who had served and many who served and did not come back. It was a grateful nation saying thank you to the young people who had served.

I do not disagree with all of these figures about the educational advantages and the fact, as the distinguished Senator from Colorado pointed out, that some estimates are of a 6-to-1 advantage in revenues back to the Government from every dollar spent on the GI bill just by the increased incomes and businesses and so on that resulted from all that training.

But I also am very much aware that in this particular time period in which we are operating right now, we have very, very serious budgetary restraints. So when we put together this alternative, we had that very much in mind.

And not much has been said yet this afternoon about the cost of the two programs. The costs of the program that is being proposed this afternoon by the GI bill advocates; Senator ARMSTRONG's bill, the CBO estimates would go up steadily until, when it was in full blossom after about a 10-year period, it would be costing $775 million a year, three-quarters of a billion dollars a year. It goes up to that over a 10-year period.

But the amendment that I have this afternoon would cost nothing in the first year and second year, and the third year cost would be $80 million maximum and the fourth year $160 million maximum, and the cost would remain not above that level just by the way we designed this amendment. So that is the major consideration.

I do not argue with anyone about the advantages of the GI bill. I was in during World War II also. I chose to remain in the service and was in the Marine Corps for some 23 years. So I completed my education without having to go on the GI bill, completed it while I was in the service.

But I am familiar with all the advantages that accrued from that GI bill and the advantages that would accrue if we could take our whole population in this Nation and say, yes, we will take every young person in this country and we will say that just by being American we will in fact guarantee that you have the opportunity to get a college education. That, too, would be very advantageous and I would like to see that if we could afford it. But the facts are we would break the bank right now and we have very serious, tremendously serious, economic problems in this country.

No one has a better record in this whole Senate or in the Congress, as a matter of fact, in voting for matters dealing with the military personnel, because I feel a particular kinship with them, having spent as much time in the Marine Corps as I did. But, in addition to the budgetary constraints, I am also aware of the point that was made by the distinguished Senator from Texas, Mr. TOWER, who is floor managing the bill. He said, "How do we solve the problem of retention? Are we not working at cross-purposes with ourselves here when we give tremendous advantages to people that get in and they reap those advantages by getting out as fast as they can so they can take advantage of the advantages we just gave them." I think he made a very good point.

When you are talking about retention in the Navy and other matters that came up earlier in debate here, you are talking about a lot of other problems besides education. I think had we listened just to the debate today we would think all we have to do is pass a GI bill and we have solved all of our problems and the Navy is going to be happy to stay at sea and the Marine Corps is going to be happy to have their people overseas without dependents and if we are going to cut out commissaries, nobody will care, and if we are going to cut out all benefits nobody really will care and that has nothing to do with keeping people in the service. That is nonsense, of course.

Just giving a GI bill does not solve all of our problems, I would submit. The distinguished Senator from Colorado pointed out earlier some of the difficulties in recruiting that went on following the lapse or the ending of the GI bill in 1976, and no one can deny that those changes did occur at that time. But I would submit that recruiting people in at the lower grade levels in the military is far more affected by the economic conditions of this Nation than by whether the people have a GI bill that is enticing them to get out instead of stay in.

I am in favor of the GI bill—and I would like to be able to vote for it. I would like to have not a $775 million bill, I would like to gold-plate it more and make it a $1.5 billion or $2 billion bill. Let us include some civilians in this, and if we get this 6-to-1 advantage out of this, great. I am all for it. But we cannot afford it right now. That is the problem.

What I have done is try to draft a measure that addresses the major problems that the military has right now in attracting people in, and that is primarily into the Army. A lot of top Army people we have talked to over in the Pentagon prefer my bill because they think it more specifically addresses the problem that they face; that is, getting high quality recruits into the Army. The Navy, Air Force, and Marine Corps have had an easier time of recruiting in the past years. That has been historically true.

So what we do with my bill is apply it to all the different services, of course, but the Army in particular likes it because it addresses their very specific problems. We say that you require a high school education to get in and qualify for this program. That means right off the bat that they have a higher level recruit than they normally get. So we say then that, if they are getting in on that basis and they are going to take advantage of this educational program, they must also make a contribution. They forgo $250 a month of their pay because they are motivated. They are highly motivated, the young people, upwardly mobile is what I believe the Senator from Colorado said in some of his remarks. That is the kind of people we want—I agree with him 100 percent—high aptitude recruits, those people who have a high mental category. Much comparison was made here earlier this morning about the amendment I proposed, and comparing it with the VEAP program. But I do not think it compares at all with either the VEAP program or the ultra-VEAP program. There has been very little participation in that VEAP program. It is not similar to the one that I am proposing because the benefits that I propose on this are considerably greater than either VEAP or ultra-VEAP.

I would add regarding the ultra-VEAP program that by limiting it to only those top mental categories based on the armed services qualification tests we limit that to mental categories 1, 2, or 3A, which means that 52 percent of the people do not even qualify for ultra-VEAP. We have eliminated half of them, and we often say it is a nonsuccess program. It has not really worked, and no wonder it does not work.

We put the qualifications for it up to the point where a large number of recruits cannot qualify. Fifty-two percent of the people cannot even qualify for it. There is no wonder the thing has not worked. How do we correct that? We say before they get in they have to be high school graduates. We say then that if they want to elect this program, that for every $250 they forego, we will see later on they get benefits worth $750. After their 2 years of service, it means that they will have enough saved up, or they will have enough credits that they can then have money enough for 36 months, 4 years of college. That is a big attraction in getting high-quality recruits into the Army, which is the greatest need.

I agree wholeheartedly also for the need for these high quality recruits. Much was made of that a little bit earlier on also. We need people who know how to work the radar, who know how to work the fire control systems. Just being what they used to be called in World War I, "doughboy," and in World War II, "dog face," and so on through the years, whatever nickname you want to give that infantryman out there who bears the brunt of battle is no longer enough. Just to be able to carry a 50- or 70-pound base plate on your back or a knapsack, as it was in earlier time periods, and be able to be agile, get around, duck in and out of foxholes—no. We have complex equipment now on the battlefield. It is very complex equipment. We need a high grade recruit to work it. Even if that person is only in for 2 years, and can be trained to work it, give him some benefit for being willing to take that position.

Along with it we have something else, too. I am not one who thinks the young people of this Nation are not without their patriotic feelings toward our Nation. I believe our young people, given the proper motivation, are willing to serve in this Nation; serve in the Armed Forces, to serve their country, and be proud of it. Our 17- and 18-year-olds who are getting out of high school are the people who we have this amendment targeted toward. Bring them in. Their concern is not just the money they are going to get. They are in to serve their country. They are proud of it. They are willing to build up these credits. They are willing to forego some of their money, and make it a contributory program if we will help them a couple times—three times over that amount, as a matter of fact—when it comes time for them to get out and go on to college. They are the young. They have already had a high school education. They are motivated. They want to get a good life. They want to break out of the mold. Perhaps they might have been limited without the opportunity for a higher education, and in return for that, they are willing to serve their country for 2 years, put their talents, and their already developed mental capacities to work for the Army, Navy, Marine Corps, or Air Force, and be proud of that service.

The Nation could then be proud of them, and help them go on to get a decent education in return for their service without going to the full GI bill that addresses the total population of the armed services. This is a targeted program.

We have heard repeated statements here this morning that VEAP is no good, and we will tie this up as though it is another VEAP program. It is not just that, as I point out. It is a program that I think would be attractive to young people. There might be some who, once they were in the middle of that 2-year period, decide they like the service, and they want to stay in. At that point we take care of that. We say OK, you have money to put money into this program. It has been there. You are foregoing that. If you opt not to continue with the program, fine, you get that money back. That pay is restored. It is not that they do not get the benefit one way or another. Something happens to them. If they are deceased, or if they die, that money would go to their estate.

In one of the dear colleague letters it was said that we had hastily written some of this because some of it had been handwritten when the original amendment was submitted. What we were doing was correcting that particular item.

It was a point we overlooked in this, I must admit. It was concerned with what happens if someone dies in the service. What happens to this money they have foregone? We had not covered that. That is the reason that handwritten addition was in there. We corrected that deficiency. Along with that, the other thing we corrected with that handwritten addition was the fact that in the original bill, the people signing up under this arrangement would not get quarters and subsistence allowance off base. It is what we intend. We corrected it so it would not be misunderstood. It is correct; they do not get quarters and subsistence allowance off base, nor do I think those are the people we want coming in out of high school. People who would be in for this period of time would normally not have subsistence off base. We want them to stay in the barracks. We want them on base, unless they were off at a remote site someplace where there were no barracks available, and no subsistence available for them. At that point, it would be up to the service head of their particular service to declare that that was the situation, go ahead, and pay them subsistence and quarters allowance, as would normally be the case in such a situation.

Mr. President, I think this targets the needs, and it does it at a cheaper cost. That to me is a very important function, and a very important factor. I too wish I could say we would have a $2 billion, $3 billion, or $4 billion program; we make it not only a GI bill; we would make it a citizens bill also, and just say by the fact you graduated from a high school in the United States of America that you have a right to go onto college. Maybe sometime we will have an economy that is recovered enough, and in good enough shape that perhaps we can start doing that. I do not know. I want to see every young person in this Nation develop their talents and capabilities to the maximum extent possible. But we cannot do that. In this time of budgetary constraint, what I have tried to do with this is target it to the specific needs of the Army, and specific needs for those qualified recruits to man that sophisticated equipment which we have in the military now, whether on the battlefield, aircraft, on ships at sea, or wherever. I think we have done a good job in crafting that. It is not a complex bill at all. But one of the most notable parts of it is, instead of ramping up to costs three-quarters of a billion dollars a year, it levels off at $160 million a year maximum. You cannot go above that. We limit it to that. So budgetarily, economically speaking for the country, to me it is a far more responsible approach, even though I wish we could go on with the more expensive bill.

I wish we could make certain that every young person in this country has a good education. I want to reap that 6-to-1 benefit which the distinguished Senator from Colorado pointed out. I think that is great. It is a good benefit. I do not quarrel with that at all. But what I am saying is in light of our economic constraints, and our budgetary constraints, that now I have tried to bring this down to a more acceptable level for my colleagues and for the people of this country and say, "Yes, we will use this as an enticement for people to get in." It is going to be a maximum of $160 million a year after the program is fully into effect. And we would use that as an enticement to get good people in the armed services. They would provide the high-quality recruit that we need, particularly in the Army. That to me makes cost-benefit sense, and common sense. That is the reason I have submitted this particular legislation.

I see the distinguished Senator from Texas, the floor manager of the bill, has returned. I would yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from California.

### NEED FOR A TRUE PEACETIME GI BILL

Mr. CRANSTON. Mr. President, I rise to speak in very strong support of the pending amendment that I join in offering with the distinguished Senator from Colorado [Mr. Armstrong], and Senators Cohen, Matsunaga, and Hollings. Joining with us in this very broad bipartisan coalition are Senators Bradley, DeConcini, Ford, Hart, Hawkins, Huddleston, Inouye, Kasten, Kennedy, Pressler, Trible, Boschwitz, Baucus, Mitchell, Evans, Boren, Lautenberg, Johnston, Specter Durenberger, Garn, and Helms.

This amendment, which is essentially identical to S. 1747, is designed to establish two new programs of educational assistance in order to assist the Armed Forces in recruiting and retaining highly qualified men and women.

On Monday, Mr. President, when the underlying amendment by Senator Glenn was called up and briefly debated, I presented a detailed statement on the merits of, and the need for, our alternative amendment. Those remarks appear at pages 15638 through 15642 of Monday's Record. I do not intend to reiterate that statement at this time. Instead, I want to take this opportunity to comment on a number of issues.

First, Mr. President, I want to address the concerns of my colleagues who are wary of our amendment in light of the projected costs it could entail.

Let me begin by assuring the Senate that I, too, am deeply concerned about rising budget deficits and the need to control Government spending. However, I believe that, when viewed in a real-world context, the costs of this measure are reasonable and prudent and that it is a cost-effective measure. Above and beyond that, these costs and the dollars invested in a GI bill are dollars invested in people—dollars invested in human futures, for individuals and their families. As under prior GI bills, these investments are returned to the Treasury manifold in the form of better educated workers, increased taxes, and a healthy economy.

To focus for a moment on the informal CBO cost estimate of our amendment: For the first 3 years, there are no costs to the Federal Government—no costs in fiscal years 1985, 1986, and 1987. Indeed, the projected cost of the amendment does not reach $500 million until fiscal year 1992 and stays below $700 million until fiscal year 1997. In fiscal year 2000, the projected costs of the amendment are around $806 million.

Mr. President, the President's budget for defense in fiscal year 1985 estimates outlays of $272 billion. The average cost per year in the first 10 years of spending—fiscal years 1988 through 1997—in which our amendment could be effective is $507.5 million. That is less than two-tenths of 1 percent of the amount of the President's projected outlays in the upcoming fiscal year—two-tenths of 1 percent.

To me that is a small—very small—price to pay to ensure that this Nation's All Volunteer Force remains effective, efficient, and strong.

From a slightly different perspective, Mr. President, in fiscal year 1985, the Department of Defense will pay out more than $760 million in enlistment, reenlistment, and anniversary benefits. Those are benefits—cold cash—paid out to get people in the service and to keep them there. How much of that $760 million, when in the hands of an 18-year-old enlistee, goes to pay for a car or an expensive vacation and how much is invested in a quality education? I think the answer is clear.

Compare this, Mr. President, to the fact that it is not until fiscal year 1998—1998—that the annual costs of our amendment would exceed the costs of the pay bonuses that will be paid next year. And then only by $8 million. Ten years from now, under this amendment we would still be paying less to establish an effective recruitment and retention tool than we are paying now for incentive bonuses.

Mr. President, it is important to stress that the Armed Forces are not now faced with the extremely difficult recruiting situation that is certain to come when beginning in 1989 the military will have to attract more than one in every three available 18- and 19-year-olds in order to maintain its viability. Imagine, if you will, what we will need to pay in bonuses when that time comes if we do not have a GI bill in place.

I think the report of the House Armed Services Committee on its version of the Defense Authorization Act put it quite simply: "Demographics by the late 1980's will pose a difficult challenge for maintaining high-quality recruiting and retention * * *." I think we could add to that: "To say the least."

Indeed, Mr. President, the House committee's report is replete with signposts of what is to come. For example, at page 227 of its report, it states:

> The committee must once again caution that the favorable recruiting story of fiscal years 1981 to 1983 and its continued success in fiscal year 1984 may not be maintained easily in future years, especially if the economy continues to experience an upturn.

In addition, Mr. President, despite the fact that recruiting and retention goals are generally being met, shortfalls and problem areas remain in each of the service branches. The Army needs more persons in armor, military intelligence, and electronic warfare. The Navy has a shortfall in midgrade surface warfare, submarine, and aviation unrestricted line officer categories. In the Marine Corps, some enlistment skill specialties remain critically short. Imagine, if jobs become more readily available in many more private industries, how we will be seeing these shortfalls exacerbated.

Mr. President, the House committee report sums it all up in a way that I believe is most accurate:

> In summary, * * * readiness has increased over the past 4 years. However, this improvement is no reason for complacency. Readiness is an extremely perishable asset * * *. The experience of the past decade shows conclusively that readiness is easy to degrade but extremely difficult to improve when eroded from neglect and indifference.

The committee concludes with the hope that we will not have to relearn this lesson in the future.

That is a hope that I fully share and why we offer this amendment. We are fully cognizant of the fact that the armed services are doing reasonably well—some might say, very well—at the present time. But even though I do not wish to be the pessimist, that record cannot and will not continue if we stand pat. There are very real, very critical problems that will soon be at hand.

We must ready for them. We cannot sit back and say that, well, when they develop—and when we are really sure we have a problem—then we will see what we can do. We must not have to relearn our lesson. We already know that when recruitment and retention drop, quality and readiness suffer. And the journey back from that point is much, much harder and longer than the journey forward.

That, Mr. President, is the underlying basis for our amendment.

Mr. President, the need for this amendment is also readily apparent and fully documented in volume upon volume of testimony before Senate and House committees. My good friends from Hawaii [Mr. MATSUNAGA] and Colorado [Mr. ARMSTRONG] have cited extensively from testimony relating to the need for this amendment.

But, what we do not need is another test—especially a test as ill-designed and hastily conceived as the underlying amendment by Senator GLENN represents. At best, as Senator COHEN and I noted in our "Dear Colleague" letter to Senators yesterday, the underlying Glenn amendment is a poor cousin to the existing program that attempts to meet the needs of the Armed Forces today.

That program—the Veterans' Educational Assistance Program, called VEAP—was itself begun in 1977 as a test. In 1980, when it was clear that the test had failed, we enacted additional programs of educational incentives and added authority for kickers to the VEAP authority. We patched and mended the VEAP authority by raising the maximum contribution and lowering the minimum. We prodded the services to push the program and to use it as a tool. We did everything we could to save the test. And we were relatively successful in establishing a program that may be working today. But it will not work in the future.

From my perspective as former chairman and now as ranking minority member of the Veterans' Affairs Committee, I believe I can speak with some authority about what is wrong with another test and with the merits of the underlying Citizen-Soldier Program [CSP] proposed by Senator GLENN.

First, $250 a month is simply much, too much for a servicemember to give up—especially a young man or woman just out of high school or a young person with some college who wants to serve this country or a young parent with a family to support. We knew that in 1980 when we amended VEAP. We knew that, for many members, even $50 was too much a month to forgo. We lowered the VEAP minimum contribution to $25.

I believe that $250 a month is too much to ask anyone to give up. I know of very few people who would willingly say, "OK, take $250 a month from my pay for the next 2 years." They simply cannot afford it. Let me just ask if any of my colleagues here in the Senate would agree to have their pay reduced by $250 a month? Would any of their staff? I think not. And we and our staffs are earning a bit more than the average $670 a month that an enlistee is paid.

But this unrealistic test proposal does not end there. It goes on: Not only will we take $250 a month from your pay—and you cannot get it back until you complete this program no matter what, and then only if you reenlist—but we are also not going to pay you any allowance for quarters or subsistence even though your duty station assignment is one at which housing is not provided. We are, in essence, going to make you work off every penny of any benefit you will earn through actual reductions in pay and through the hardships these reductions produce. That is a real incentive alright, but it is not an incentive to enlist.

Second, each dollar contributed under VEAP up to a maximum of $2,700 is already matched on a 2-for-1 basis. No better match would be provided under the CSP.

Third, under VEAP, in order to assist in critical skill areas, the service branches enhance the basic program by offering kickers. The Army already does that in a big way. The Glenn proposal really amounts to mandating that a kicker be provided to pay the $500-a-month benefit level while requiring an additional contribution by the service member as well. The present Army ultra-VEAP Program already provides approximately the same total benefit level.

Fourth, under VEAP and under our amendment, a service member can begin to use his or her entitlement to benefits while on active duty. CSP would permit a service member to use the benefits only following discharge, thus creating a real incentive to leave the service after only 2 years.

Fifth, neither VEAP nor CSP deals with the need to enhance recruitment and retention in the Selected Reserve, a critical problem which our amendment would address effectively.

By pointing out how VEAP is already more flexible and attractive than Senator GLENN's program would be, I am not in any way suggesting that the current VEAP Program will be an adequate mechanism for meeting the very critical recruitment and retention needs of the All Volunteer Force in the future. It will not be. During the late 1970's, when recruiting and retention were at record low levels, there was no evidence that VEAP made any significant difference. It was only when the economy deteriorated, unemployment rates rose to record highs, levels of pay were substantially increased, and the use of bonuses was expanded that the situation turned around. Last year, for example, the VA paid out almost 2½ times as much in VEAP refunds as it did in VEAP benefits.

With the advent of the declining pool of young men and women and the increased competition for those in the eligible pool, VEAP will simply not meet our armed services personnel needs. Likewise, its poor cousin—CSP—would not do the job. If the economy continues to improve and unemployment rates continue to drop, it is very likely that we would quickly see a revival of the poor recruitment/retention performance of the late seventies.

Mr. President, the Glenn amendment was, as I noted, hastily conceived and drafted: three pages were handwritten. Unlike our proposal, made year ago, on which hearings have been held in this session—with an extensive hearing record compiled before two committees in the House on the counterpart, similar measure, H.R. 1400, authored by Representative "SONNY" MONTGOMERY—the Glenn proposal has been subjected to no careful scrutiny or analysis.

But from what I have seen, CSP would be far less attractive than VEAP and assist far fewer people. What its enactment would do principally—and that is the true reason for its warm embrace by those who so staunchly oppose our proposal—is to delay further the enactment of an effective program of educational benefits to aid recruitment and retention.

That really is the basic question. Do we need an effective education benefits program for that purpose?

We say the answer is yes and that our amendment would provide for just a program.

To those who share our conviction that a program of educational incentives, properly designed and implemented, can be an effective recruitment and retention tool for the military and a sound investment in the future of our Nation, we urge you to join with us in this grand venture. Support our amendment and reject the amendment it would replace—a proposal which will really produce no action.

I want to close with one quote from Gen. Maxwell Thurman, Vice Chief of Staff of the Army, in response to a question from the distinguished Senator from Hawaii [Mr. MATSUNAGA] at the hearing of the Veterans' Affairs Committee last April:

> We must have a good educational incentive program. The GI bill is recognized nationally and associated with military service in a most positive way. We have found that educational benefits attract smart young men and women whose goals include college education and the opportunities which education open to them * * *. The soldiers themselves profit not only by the money for education but by the extra maturity and understanding about our Nation's purpose and position in the world that comes with 2 or more years of service * * *. A new GI bill should be noncontributory, should provide additional benefits to service members with particular skills, should be transferable to a soldier's family members and should include within the same legislation comparable provisions for the reserve components.

Mr. President, that is precisely what our amendment does. I stongly urge my colleagues to join with us in supporting it.

Mr. President, I am delighted to note a new cosponsor we have just been notified about, the Senator from West Virginia [Mr. RANDOLPH]. He is the only Member of the Senate who participated in the debate creating the original bill in 1944. I ask unanimous consent that Senator RANDOLPH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I yield the floor, Mr. President.

Mr. DIXON. Mr. President, I wonder if the manager of the bill, the distinguished chairman of the Armed Services Committee [Mr. TOWER], would yield to me for a question or two?

Mr. TOWER. I would be delighted to respond to the Senator from Illinois.

Mr. DIXON. I want to tell the chairman that last year, the last time this matter was before us, I supported the Senator from Colorado in his attempt to pass a GI bill here. Since that time, I have become a member of the Armed Services Committee. As the chairman of that committee knows, I am ranking member on the Subcommittee on Manpower and Personnel, which would be the subcommittee which would most likely address itself to this question. So I have reservations about going forward now without sufficient hearings.

I wonder if the chairman of the committee could assure this member of the Armed Services Committee that he would support the effort to have the GI bill jointly referred to the Armed Services Committee and the Committee on Veterans' Affairs in the event that this matter is not successfully considered here, today, for hearings in the next session of Congress?

Mr. TOWER. Mr. President, in response to the Senator from Illinois, let me say that, in fact, our committee does not have original jurisdiction over this legislation. I would certainly consult with the chairman of the Veterans' Affairs Committee, who, I see, is on the floor. He has always indicated a disposition to be very cooperative with our committee. I think we would, as a matter of fact, like to have a look at the bill from the standpoint of its impact on both recruitment and retention.

I suspect it would have an adverse effect on retention and retention is a greater problem than initial acquisition at this point. I think it would be a disincentive to reenlist, myself. It is enormously costly and I would respond to the question of the Senator from Illinois in the affirmative. I would be glad to ask for joint referral of a GI bill and we shall hold hearings on it.

The point has been raised that our committee has not held hearings on it, which is correct, because I do not like to preempt the jurisdiction of other committees.

Mr. COHEN. Will the Senator yield?

Mr. TOWER. Before I yield to my distinguished friend, may I inquire of the distinguished chairman of the Committee on Veterans' Affairs if he would be amenable to the idea of joint referral of such a bill?

Mr. SIMPSON. Mr. President, I have been quite amenable to almost anything with regard to this bill. I have now listened to the debate as if it were a return to nostalgia.

What an extraordinary debate. It is as if you are not for this, you are against the GI bill. I swear, I do not know how we got to this position, because it is a rich transition.

That is not what we are talking about at all. I have held hearings on it. I shall hold more hearings on it. I guess the expression is used from time to time that we have not held hearings because they did not turn up what we want to hear. The DOD scraps against it, VA scraps against it, other professional people scrap against it and say, if this is a recruitment device, you are missing the point.

Furthermore, it is the first peacetime GI bill we have ever had. We have never had one of those before, ever. This has always been for readjustment for veterans after a conflict. We have never ventured into this area. So I can tell Senators that I would certainly be agreeable to any kind of joint referral.

I have in my particular work with the Veterans' Affairs Committee learned very quickly not to join any turf battles because all you have to do is bring up the word "veteran" or "GI bill" or "agent orange" and the roof crashes and the walls smash into the hearing Chamber. So I have to deal continually in this area with this rich, rich array, this miasma of guilt, fear, and emotion that goes along with anything in connection with "veterans." And if you walked up to a guy on the street and said, "What should we do for the veterans of this country?" he would say, "Anything it takes." And yet there are millions of veterans who have never served more than 6 months, never left the United States and have never been involved in any kind of combat activity who draw every single benefit that a combat veteran draws. There are hundreds of thousands who mashed their toe in the turret at Newport during their summer cruise who have been drawing a green check. There are hundreds of thousands who may have been looking for a case of lemon extract in the mess tent to finish off a 3-day pass who mashed their big toe and have been drawing a green check for 30 years. That is the kind of arena in which I get to play.

Let me just say kind of swiftly that as chairman of the Veterans' Affairs Committee, I am up to some things. I am going to help the service-connected disabled veteran and give that person anything he wants. That is for sure. We are going to help the veteran who participated anywhere in any combat theater. But we are going to have to look into eligibility, and when you come to an absolute GI bill like this is supposedly called—and as I say, it is a rich etching of where we all were. I went to school on the GI bill. I wish I could have given my pitch when everybody else was giving it. I went to school on the GI bill, thank heaven. There were times when they nearly took the check back. Those were the days when I thought beer was food and it was very difficult to go to school under those circumstances.

So here we are now with the memories of the GI bill. I am a lifetime member of the VFW and a member of the American Legion and AMVETS. I love it. I admire those people. I work with them. I know them. I work with the national commanders. They have been patient with me. They have taught me some tricks and done a lesson or two on me, and I deserved it because there were times when I have made some pretty smart aleck statements, and they will probably have that visit on me one more time after today. But the issue is that this is an entitlement program. You can call it anything you want. It really startles me to see some of my colleagues who voted for freezes, and budget this and budget that, and who are probably the most responsible people in this Chamber, coming up with really what is in effect an entitlement program. And not only that, you have not just $300 a month but with the kickers that are in this proposal, it comes to $900 a month, and it starts in 1985.

Guess what I would do if this bill passes and I was waiting to go into the service. If you think this is going to help recruitment/retention, I would think I would wait until September 1985 before I would join anything because that is when the bucks start. There are no bucks until then if this bill passes. You effectively will hamper recruitment in every day. It is not an enhancement.

And then, as I mentioned the other day, if anybody really believes that the Department of Defense is going to keep this in their budget, they are really wrong because this is going to end up in the Veterans' Administration budget and it is going to come out of some existing veterans' benefit.

I hope everybody is hearing that clearly. I have oversight over a committee that spends $27.2 billion of your money, and if you believe somehow that we do not do things for the veterans of the United States, that is an absolutely atrocious misstatement. I can cite book page, and hymn number of what we have done this year for the veterans of the United States, and it is an extraordinary array of benefits. I am going to enter in the RECORD what they are.

That is where we are with this particular issue which rides along on a tide of absolute ancient history of what the GI bill did. We have never done it before. This is an entirely new adventure.

I think Senator JOHN GLENN is on the right track. If you want to do something to improve the quality of the voluntary service—and it is of good quality now; people are attracted to it, the educational level has never been higher. It is working. It is working—then Senator GLENN has the right idea with the targeted approach to the skills that need to be developed in the armed services.

The Armstrong-Cranston-Cohen proposal, with oak leaf clusters on the cosponsorship, is a very interesting approach, but it is an entitlement. It will deter recruitment, and it will also get people out of the service. People will leave the service to take advantage of their GI benefit. Anybody who is missing that is missing part of this argument. No one is going to stay in the service if they are going to receive something in the form of $900 a month with the various benefits, plus the ability to pass those benefits on to their children, a departure totally unknown in any veterans benefit.

I guess I will conclude and say I know what happens in these issues. If you support the Armstrong-Cranston proposal, then I want you to know you are going to dilute the benefits of the Veterans' Administration by some figure. Whatever you have to spend on this is going to come out of the $27.2 billion that we provide for the veterans of this country, the most generous and extraordinary benefits is a direct health care system that is the envy of the world, which I have supported and will continue to support.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois continues to hold the floor.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me briefly?

Mr. DIXON. I will yield to the Senator from Colorado if he will yield back to me, and this is all ensuing from a question I had asked of my distinguished friend, the manager of the bill, the chairman of the Armed Services Committee.

Mr. TOWER. If I may——

Mr. COHEN. Could the Senator repeat the question? I did not hear the question.

Mr. TOWER. Well, the question is of the Senator from Wyoming.

Mr. COHEN. Sequential referral?

Mr. DIXON. No; a joint referral.

Mr. COHEN. Joint referral.

Mr. TOWER. If the Senator will withhold, I will sort this matter out. Now, again, let me inquire of the Senator from Wyoming, it is my understanding that in the course of his very edifying and enlightening discourse he did indicate he would be amenable to joint referral to the Armed Services Committee of the GI bill?

Mr. SIMPSON. Mr. President, the answer is "yes."

Mr. TOWER. I thank the Senator very much.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I would like to, if the Senator from Colorado will indulge me, make some very brief remarks.

Mr. ARMSTRONG. Could we dispose of the referral question before the Senator moves to another topic, I ask the Senator?

Mr. DIXON. I would be inclined to adopt that approach.

Mr. ARMSTRONG. Mr. President, this will only take a moment. There are several things that have been said by the Senator from Wyoming and the Senator from Texas that I will comment on another time, but while we are on the specific point of hearings, I think the Senator from Texas inadvertently stated that the advocates of this legislation were complaining about the lack of hearings.

Nothing could be further from the truth. I think he said something to the effect that the advocates of this amendment complained of no hearings and then, when hearings were held, complained that there still were no hearings, evidently because we did not get the results we wanted.

Now, I just want to point this out to the Senator. The fact is that there have been extensive hearings, exhaustive hearings, and the Senator from Wyoming has not only been willing to have hearings in the future, he had hearings last year; he had hearings the year before that. The House Veterans' Affairs Committee had hearings and the House Armed Services Committee had hearings. As far as a joint referral or a sequential referral, I myself have on another similar occasion to this took the floor to introduce a bill and asked for the consent which is necessary to get the bill referred to the Armed Services Committee, and that was denied to me. But the reality of this is that the bill has been pending, in fact, if not in parliamentary substance, before the Armed Services Committee. This is exactly the same measure as one adopted last fall, which was voted on, very close to the identical substance, several times before that. So it is not new.

We are not asking hearings. We think plenty of hearings have been held.

I say to the Senator from Illinois that I previously entered into the RECORD some brief excerpts of volumes of testimony that support our position. It is a very extensive record.

Mr. DIXON. Mr. President, I thank the Senator from Colorado for expressing his point of view about the question of hearings.

If everyone will indulge me to briefly express my point of view, I say this about the question: On the last occasion that the question of a GI bill came before this body, I supported the Senator from Colorado, as the RECORD will show, because I do support a GI bill of rights. That was prior to the time I had been appointed to the Armed Services Committee and prior to the time I had served a complete session of the U.S. Senate as a member of that committee and as the ranking member of the Subcommittee on Manpower and Personnel.

I remind my colleagues that the amendment being considered here is an amendment to the DOD authorization bill. The bill would be paid for by the Department of Defense. As my colleague from Ohio has pointed out, the cost is going to be about three-quarters of a billion dollars a year in the very short outyears.

Later this afternoon, I am going to offer a motion to rerefer the DOD authorization bill back to the Armed Services Committee, to mark up at a figure of $293.7 billion, which is 5 percent real growth this year for the DOD authorization bill. I am sure that motion will not be agreed to, but I am sure it will have substantial support.

However, the point I want to make is this: No matter what price you might put on the cost of our operation of our military programs in the country, no matter what number you put in the DOD authorization bill, there are a great many ways you can spend more. This is one of those ways.

If we are going to obligate the country and the taxpayers to pay for this, then I think a committee that understands the question ought to look at it very closely. I have never looked at it in the Armed Services Committee. I have talked to my colleagues, and neither have they.

The chairman and the ranking minority member of the committee have indicated that they would be delighted if this question would be referred jointly to the Armed Services Committee in the next session, for substantial hearings.

I would work for a markup of such a bill that was carefully crafted, to work within the confines of what we can afford in a logical way to induce people to enter the service, in the first instance, and to stay there once they get there.

A lot has been said today about inducing people into the service. I was on the subcommittee that had the hearings this year. We filled our quotas this year. I am not saying that we will do it every year, but we are doing it now.

The probability is pretty good that, in the long run, we will consider something like this, but I do not think we should consider it this year without hearings in the jurisdictional committee that has a good deal of authority over what the Department of Defense does.

So I simply suggest this: I think the GI bill is an idea whose time has once again come. I have no quarrel with the distinguished Senator from Colorado when he makes that statement. But let us craft a bill in the Armed Services Committee, among members of that committee who understand the problem and understand the goals we are trying to seek, both toward inducing folks to enter the service and encouraging them to stay in there for substantial periods of time once they get there.

Let us do it in a careful way. Let us craft a bill that makes sense. Let us craft a bill that does not cost too much money, the price of which is taken into account in the whole number we bring up as a final number on the DOD authorization bill when it comes to the floor of the U.S. Senate next year.

I just want to say this, in conclusion: The chairman of the committee has been a very fair man. He has given us an opportunity for full hearings on everything we wanted to discuss. I have not always agreed with him, but I have found him to be entirely fair in his chairmanship of that committee. He has given me his assurance, and the ranking minority member, who I admire greatly, has given me his assurance that this matter would be welcomed in the committee, that hearings would be held. I think that is the appropriate and proper way to deal with this problem.

If everybody who had a massive piece of legislation of this kind brought it to the floor as an amendment on major legislation and all 100 Members would vote on everything of that kind out of emotion only, without true knowledge of the circumstances, the country would be in a lot of trouble.

I think the Senator from Colorado and the Senator from Maine have a solid idea. I believe there is a future for the idea. This Senator wants to support the idea, but I think it should be done in a careful, thoughtful, intelligent manner, in a jurisdictional committee with sound responsibility for the ultimate idea that comes to the floor of the U.S. Senate, so that when we have a law, it is a law that every one of us can be proud of and a law that does the job for the servicemen and women in this country and advances their educational opportunities while advancing the opportunity to bring people voluntarily into our Armed Forces, people who will ultimately make a career of their time in the armed services.

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Executive Office of the President, Office of Management and Budget, signed by Mr. David Stockman, dated June 6, in strong opposition to the measure offered by the distinguished Senator from Colorado.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
*Washington, DC, June 6, 1984.*

Hon. JOHN TOWER,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: I am concerned that a new educational benefit program for military personnel may be offered on the Senate floor as an amendment to the FY1985 DoD Authorization Bill. The Administration has expressed its opposition to such a program several times in the past. As Secretary Weinberger pointed out in his letter to you of May 14, 1984, the cost of the proposed educational benefits could exceed $1 billion within 10 years. The current Veterans' Educational Assistance Program is working very well, and we get most of the full impact of the proposed G.I. Bill at far less cost. As of now, recruiting and retention remain very good. In light of our other priorities and our limited resources, a costly new program cannot be justified by defense needs at this time.

We continue to support the current Veterans' Educational Assistance Program, along with supplemental benefits targeted to selected shortage skills in the Army, and the current program in the reserves. These programs target significant educational incentives where they are needed most. Together the cost of these educational incentives, in the steady-state, is under $300 million. This is less than one-third of the steady-state outlay cost of most of the new educational benefit programs being proposed. We also support the repeal of the 1989 termination date for the use of Vietnam-era GI Bill benefits, which is included in the Authorization Bill passed by your committee.

This Administration supports educational benefits. However, our current program appears to be meeting our needs, and there is no compelling rationale for replacing it with an expensive new program at the present time.

Although there is not a pressing need for new recruitment and retention tools at present, we recognize that conditions may change and that additional incentives may become desirable.

In order to assure an adequate assessment of the services' recruitment needs before enacting a costly new GI Bill, we would recommend passage of S. 1873 sponsored by Senator Simpson. This measure would require the President to report to Congress by July 1, 1987, concerning the need for a new educational assistance program for service members to assist in the recruitment and retention of qualified personnel, and to provide for the expeditious consideration of proposed legislation establishing such a program.

Sincerely,

DAVID A. STOCKMAN,
*Director.*

Mr. TOWER. Mr. President, I also wish to enter into the RECORD a second letter from him, dated June 13, addressed to the situation we have at the moment, which I shall read:

DEAR MR. CHAIRMAN: I understand that the Senate is considering a number of proposals on educational benefits for military

> personnel. As I stated in my letter of June 6, there is no need at this time for a new educational benefits program for military personnel. The current Veterans Educational Assistance Program is adequate, and recruiting and retention remains very good.
>
> We continue to believe that the appropriate course of action is to study educational benefits as proposed in Senator Simpson's bill, S. 1873. However, if the Congress believes that action on military educational benefits is essential at this time, then the Administration would strongly prefer a test program, as proposed in the Tower-Nunn amendment to the proposal advanced by Senator Glenn, as opposed to a permanent and more expansive program.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. TOWER. I yield.

Mr. COHEN. I heard the Senator from Illinois say that what we should do is turn to the experts for their advice. Are you suggesting that David Stockman and the Office of Management and Budget are the kind of expert advice we are going to turn to in making a determination on this bill? Is that the kind of expert advice we are going to turn to?

Mr. TOWER. If I may respond to the Senator from Maine, I had not expected to invite Mr. Stockman to testify. Our interest would be primarily on the impact of recruitment and retention, and that is the proper aspect of our jurisdiction. As Senator Simpson pointed out, this is the first peacetime GI bill ever.

Mr. ARMSTRONG. No, no. We had a peacetime GI bill in this country until December 1976.

Mr. TOWER. Yes; but that was for the Vietnam era.

Mr. ARMSTRONG. I do not want to belabor the point——

Mr. TOWER. And the primary benefit was to combat veterans.

Mr. ARMSTRONG. That was a peacetime GI bill, and it worked. When we terminated it, the prediction was that we would encounter great difficulty in achieving our recruitment goals for quality, and that is the way it turned out.

Mr. TOWER. Recruitment and retention are good now, and "if it ain't broke, don't fix it."

I think there are some very serious implications in this bill for retention. This is an attractive bill. It is an election year. You get 30 cosponsors any day.

Mr. COHEN. There you go again.

Mr. TOWER. I am not saying that is your motivation. I am saying it is attractive in an election year.

Mr. COHEN. The Senator has been saying that since 1979.

Mr. TOWER. I know the Senator from Maine is honestly motivated. Anyone who sits under the lovely trees and on the seashores in Maine, who writes the beautiful poetry the Senator from Maine does, cannot ever be accused of being dishonestly motivated. He is a man of spirit, heart, and deep conviction. I know him to be that. I would never impugn his motives, nor those of the distinguished Senator from Colorado who is well known for all his public-spirited, charitable work.

But the fact is this is an election year, and that is why a lot of people will not vote on this bill on the merits. It is that simple.

Mr. COHEN. Mr. President, if the Senator will yield further, I have listened to the Senator from Illinois call for hearings. It is like a giant oasis out there. It is a mirage. We keep thinking we see water, and every time we approach it, it turns to dust. We have to have hearings. Last year, the last time we had this measure, the same issue, the Senate defeated it on the basis that the Veterans' Affairs Committee did not have any hearings.

Lo and behold! They hold hearings. They come back and say, "Just a minute, we have not had hearings in the Armed Services Committee."

How many times is the Senate going to put this off into the future, giving as the reason that we have not had enough testimony on the issue, that we are going to call on David Stockman, on the Office of Management and Budget, to tell us that we really do not need the measure now?

How about listening to military experts who come in and testify?

Mr. TOWER. I did not call on Mr. Stockman. He volunteered.

Mr. COHEN. I am sorry. He volunteered for what?

Mr. TOWER. He volunteered the information.

Mr. COHEN. What?

Mr. TOWER. He volunteered the information.

Mr. COHEN. The Senator is talking about the letter. He confused me for a moment.

Mr. TOWER. I have no intention of calling Mr. Stockman as a witness. I believe I have made that point.

Mr. COHEN. OK. I would not want the Senator from Texas, and I know he would not dare or even attempt, to compare OMB's expert testimony in this field with those of General Meyer, or General Thurman, or any of the other experts who have testifed at length on this subject matter as to what they feel they need in order to get high-quality recruits.

Mr. TOWER. General Meyer is no longer Chief of Staff of the Army.

Mr. COHEN. The Senator from Texas is not going to be chairman of the Armed Services Committee next year.

Mr. TOWER. I am sure there will be joy in the streets in that event.

Mr. COHEN. It may be.

The point is, every time, since 1979, the first year I introduced this measure in this body, the cry has always been, wait until next year, give the committees a chance for hearings. Then we go to the Veterans' Affairs Committee, and they have their hearing. Now we are told we have to go to the Armed Services Committee for yet another hearing.

The Senator from Illinois has been a valuable member for 1 year on the Armed Services Committee and the Manpower Subcommittee. I have been there 6 years and worked with Senator Nunn on a thing called DOPMA. He is holding his head right now, and I doubt if 10 people in this entire body would spend the length of time we did on DOPMA.

I will tell the Senator from Texas and the Senator from Illinois that we have looked at this in 10 different ways. We have considered this testimony. We have listened to the generals. We have listened to the experts. In a moment I will yield to the Senator from Wyoming for more of his comments.

But the fact is that virtually all military manpower officers who have testified said they need a GI bill to insure high quality that we are looking for.

Let me take a few moments to read some of the statements that have been made.

I take issue with the suggestion that somehow we cannot have a GI bill in peacetime. How can anyone suggest that those people who were subjecting their lives to danger in Lebanon somehow are not entitled to a GI bill as opposed to someone who was washing dishes at Fort Dix back during the Second World War or the Korean war.

Let me read to the Senate what Gen. Maxwell Thurman has said on this:

> In the years following termination of the GI Bill and before the Army College Fund took effect * * * the Army recruited only 89.3% of the quantity of soldiers we needed. * * * [The] percentage of high school graduates dropped to 54.3% in 1980 [and] test category IV, the lowest category accepted into the Army, was 52% of accessions. * * *

More than half of all the people who come into the Army were category IV's. That is the problem we had back in 1980.

> We have a requirement to have no more than 10% category IV and to have at least 90% high school graduates.

On Monday I pointed out what happened with the 80-percent degradation of tanks commanded by category IV's as compared to those commanded by category II's.

So the emphasis has been that we need to get more qualified people into our military.

Let me read a portion of a letter from General Meyer.

Mr. GLENN. Mr. President, will the Senator yield for a comment?

Mr. COHEN. I yield to the Senator from Ohio.

Mr. GLENN. That is exactly what I am targeting. It is those high school graduates who we want to get into the Army. That is exactly the focal point of my amendment. That is what we targeted it to. We do not try to go to the total population.

That is the reason my amendment costs $160 million a year at max, and the one that the Senator from Colorado is proposing goes to $775 million and going up. In fact, I think the Senator from Wyoming will have some figures in a few moments that go even higher than that.

But the exact problem the Senator is addressing is what I targeted with this amendment. I tried to make it cost effective and keep the budget under control.

Mr. COHEN. I thank the Senator for his comments.

Let me just read from a letter addressed by the former Chief of Staff, General Meyer. I do not know what happens when one becomes a former Chief of Staff. I assume his credibility goes higher, rather than lower. But nonetheless let us listen to the words of a former member of the Joint Chiefs. He talks about:

> During this time, participation in VEAP (an indicator of the program's unattractiveness) was only 26 percent of all eligibles. This rate only began to improve with the Army's introduction of additional benefits ("kickers"), which were used to increase the basic benefit level. During FY 1979 "kickers" ranging from $2,000 (2-year enlistees) to $6,000 (4-year enlistees) were tested to ascertain whether these increased amounts would prove attractive enough to penetrate the higher scoring high school diploma graduate market. Results were marginally successful and the participation rate improved 2-3 percent. Finally, during the congressionally mandated FY 1981 Educational Assistance Test Program, the Army tested $8,000 and $12,000 "kickers" which have since proven to be the key to an Army "equalizer" among the Services in the quality recruiting market—

I go to the second page of General Meyer's letter to Senator Armstrong:

> During testimony prior to passage of the VEAP legislation, the Assistant Secretary of Defense for Manpower and Reserve Affairs made comments pertinent to the current need for a return to the GI Bill. At that time he likened the Army's efforts to recruit high-quality personnel to a service station TV commercial where the station manager says, "You can pay me now or you can pay me later." The Army is currently "paying" for the lower mental category enlistment cohorts experienced subsequent to the termination of the GI Bill. During these early years, the lowest mental categories entered the force in increasing numbers until the renaissance in recruiting that the Army began experiencing in FY 1981.

Here are the key words:

> Unfortunately, the future does not look as promising as the past years and the return to a non-contributory GI Bill is imperative. This program should contain the following features:
>
> Basic benefits adequate enough to compete equally with non-military federal loans and grants,
>
> Supplementary benefits for use in targeting selected recruits; and skills
>
> Transferability of benefits to dependents to act as a retention incentive; and
>
> Inclusion of the Selected Reserve to compensate the Total Army.

Those are precisely the elements that are currently in the amendment the Senator from Colorado and I have offered.

Let me conclude in not so poetic terms. My friend from Texas seems to diminish the significance of a phrase, be it lyrical or prosaic. But I simply suggest that this bill is not, as was implied, politically motivated.

I heard that charge last year and the year before. Frankly, I resent it. I resent it because it flies in the face of the experience of this particular bill, the legislative history or nonhistory, I should say, of this particular measure. It was introduced back in 1979 when this Senator certainly was not facing reelection, in 1980, 1981, 1982, 1983, and now in 1984.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. COHEN. I can assure the Senator from Texas and my other Member who questions the motivation of the Senator from Colorado and the motivation of the Senator from Maine that our motivations are to see to it that we do not repeat the errors of the past.

Mr. TOWER. Mr. President, if the Senator will yield, I made the RECORD very clear on that point, that I would never suggest that either of the cosponsors of this measure were politically motivated. It has been something that has been recurring year after year that they have sponsored it in political or nonpolitical years. So I know their continued and steadfast dedication to the idea. That does not vitiate the fact that this is a politically attractive measure in an election year regardless of motivation.

Mr. SIMPSON addressed the Chair.

Mr. COHEN. Of all issues——

Mr. TOWER. One might be honestly motivated in offering an amendment endorsing regular attendance at Sunday school. Now, despite the motivation, it is a politically attractive idea that I doubt if anyone would vote against.

Mr. COHEN. I think the President has offered a number of politically attractive ideas which do not have merit, I might suggest.

What we have tried to do is offer something that has substantive merit, a program which will benefit not only the people coming into the service, but our military services and the country as well.

So maybe I did not understand, because of the Senator's accent, the words in which he phrased his praise of the Senator from Maine and perhaps his implied meaning was missed by the Senator.

(Mr. COCHRAN assumed the chair).

Mr. TOWER. I apologize for my thick Texan accent which cannot be easily understood by my Yankee friends.

Mr. SIMPSON. Will the Senator yield?

Mr. TOWER. Mr. President, I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, having known the two who have just participated here in this particular dialog, and knowing them quite well, they are enjoying this down deep. I see that. And I hope people realize that their friendship is one of the richest in this body.

But you have just all handled it very nicely because finally you are keeping your eye on the rabbit. Why not wait and have hearings as is suggested, because this bill does not even go into effect until fiscal year 1986? What an extraordinary adventure in something out there. When have we ever done a bill like this which is just out in the vapors? There is no reason for this whatsoever.

No wonder I have puzzled about it. I hold hearings and hold them again and again, and the date always appears out there—October 1, 1986, trying to pull it down to 1985 now. If they are going to do something, get it down to 1984 and get with it. But because it will not work that way, it is always out there.

Not one person in this debate has admitted that this is necessary now. I heard Senator ARMSTRONG say this bill is not presently necessary. I heard Senator COHEN say that. I heard Senator CRANSTON say that. Any one of the proponents of this measure has said it is not necessary now; it is for another time out there.

And I proposed, and maybe at some course in the debate today or tomorrow or tonight, I might throw in a proposal I made which says if it ever becomes critical to have this, then we have an accelerated procedure to do it—30 days, 45 days, 90 days to the President's desk. But not one person in this debate has said this is necessary today, June 1984. And, if that is the case—and that certainly is the case of every proponent, that is what they have said, that is the record—then let us hold these hearings, concurrent hearings. Because I can say to you, and I know it does not appear now, but the DOD is taking on this obligation that we will put to them by statute, $770 million. And our figures show—and we have no reason to question them—that with indexing—and we do that with everything else; we do that with the cost-of-living allowances, with every veterans' program; that is part of the trouble with the deficit, part of the problem with the oversight I deal with—some of them hold them without the cost-of-living benefit and make us do that every year. I do not know whether people are aware of that. It is like taking it when it is in a heavy year of inflation, but when it is not you can come to Congress. And it is an awesome, awesome political force. I have learned that; I have, indeed.

So here we are now going to deal with something which is going to cost us $1.8 billion by the year 2000 if we index it for inflation. And no one has yet refuted those figures—$1.8 billion by the year 2000 if indexed for inflation.

So it would seem to me rather logical that we do have the hearings and that we do have perhaps a joint referral.

I will again extend myself in every way I can to these gentlemen on both sides of the aisle. Senator AL CRANSTON was chairman of this committee when I came here. There is no more compassionate man in the U.S. Senate or more generous. I have worked with him. He held hearings on this, and I have held hearings on this. We both know what the costs are.

I must say that again I mention some of the things that always enter my arena as I dabble in veterans' affairs. And we have hit upon another one that Senator COHEN has thrown into the debate, and that is David Stockman. The name "David Stockman" is always destined to arouse the animal passion in the veteran community because he did not serve in the Vietnam conflict, and the thought was that he perhaps may have avoided it. And it makes for a wretched other part of the emotional arena to play in when the name David Stockman enters the budget discussion. It does not help at all; makes it a little ragged, tough. But I get used to that. That is why I used to weigh 260 and now I am down to 190.

We always hear somehow the myth that we have never done anything for the Vietnam veteran. That is the truest myth abounding in the land: that somehow this veteran has been just left. We have done more for the Vietnam veteran than any veteran in our history.

The Senator who enters the Chamber at this time, Senator ALAN CRANSTON, was chairman of the committee at that time. I wish you could see the legislative accomplishments that he put on the books; and when I got here, I tried to do that.

But the myth goes on because the men who write the docudramas and produce them are all about 34 to 35 years old, too, and many of them sat out the Vietnam conflict and are now trying to expiate their guilt and anguish as they write them up and put them on the tube, and docu this and docu that, to make the Vietnam veteran look like some crazed beast. They ought to be tired of that image.

And the people who are doing it are the people who sat it out. I have asked some of them, "Where were you during the Vietnam conflict?" They say, "That is none of your business." I say, "Yes, it is. Where were you?" They say, "Well, I was at a little school somewhere." I say, "Yes, where? What were you doing?" They say, "Expressing myself under the first amendment." "What were you doing?" "Well, I might have been carrying a Vietcong flag."

And now that they have got gastrointestinal pains and heartburn; they are trying to make it right for themselves by trying to make it look like we have never produced for the Vietnam veteran in this country. And we have always produced for veterans, and we always will. So let us get that myth put away. That is one I have to grapple with in the fun and games in the Veterans' Affairs Committee.

So here we are. The maximum cost of Senator JOHN GLENN's proposal is $12,000 per recruit. The cost of Senator ARMSTRONG's proposal is approximately $200,000 per recruit. And that is the issue—you can pay for a GI bill now or you can pay for it later.

I hear Senator ARMSTRONG speaking that his bill is $300 a month. I wish that were true. But when I read it—may I do that for you so that you hear the full proposal? This proposal calls for a basic noncontributory educational benefit entitlement of $10,800, which is $300 a month for 36 months for all high school graduate service members satisfactorily completing 3 years of active service for 2 years and 4 years of selective reserve.

It also adds kickers—that is the phrase; we use that in the VEAP program—additional funds of another $300 a month for 36 months for active duty personnel who served in hard-to-fill skills, such as Army combat teams. And then it provides additional benefits of up to $10,800, $300 a month for 36 months, for active duty personnel who serve 3 or more years in hard-to-fill skills beyond the service required to qualify for the basic entitlement.

Plus, as I say, a most extraordinary adventure into benefit land, which is benefits for the survivors or children—the children, not survivors. The phrase is for the benefit of dependents; the benefit could be transferred to them. We have never done that before.

I guess what troubles me about the whole debate is when it started the Senator from Colorado said that this was a battle that somehow had to be won. How did we ever get to a position where this was a battle that we hoped to win? I do not ever look on it that way. I am a very accessible chairman. I listen to the Members of this body. How do we get to that? That is wholly out of proportion to what we are trying to do here.

We are not at a time of conscription in this country. We are not at a time of ending a war. And, God forbid, if we ever have another one, how will you ever sweeten the pot? And, God knows, we all hope desparately to avoid that, and it is our duty in here to do that, and we will because we are all men of good conscience.

But if the All-Volunteer Force is in trouble, then let us examine all the reasons why; except it "ain't" in trouble, so let us examine it. Let us hold some hearings later on this issue, and let us deal with it in the context of everything we do with regard to recruitment and retention.

Mr. President, I speak against the amendment offered by my distinguished colleague from Colorado and others, to establish a new Educational Assistance Program for members of the Armed Forces to take effect September 30, 1985, or September 30, 1987, at the latest, if the President determines it is not needed before that time.

Mr. President, the sponsors of this amendment have always recognized that the Armed Forces presently are enjoying unprecedented success in recruiting and retaining quality personnel. It is only because they believe that future manpower problems are inevitable that they recommend that we adopt a "preventive approach" to these as yet unknown problems by enacting a very expensive Educational Assistance Program. I think that is unwise.

Mr. President, I certainly recognize that there is a possibility that recruiting and retention shortfalls may occur in the future, although I do not in any way believe that they are inevitable. Those shortfalls, however, if they do occur, will not arise momentarily and Congress will have amply opportunity to address them in a proper manner. Meanwhile, the Department of Defense, which opposes this legislation, has many other effective incentives available to it, including the Post-Vietnam-era Educational Assistance Program known as "VEAP." Also available to the Department of Defense are "kickers"—extra benefits to sweeten the pot—which can be combined with VEAP to attract quality personnel to particular occupations. "VEAP With Kickers" is currently doing an excellent job of attracting high quality enlistees to the Army's combat arms. The Army is not the only service authorized to use Ultra-VEAP, but is the only one which has needed to use this effective option. Year after year we increase pay and allowances as well.

If VEAP is left intact and the Glenn amendment as amended is adopted, the Department of Defense will certainly have multiple attractive incentives to offer to future enlistees to avoid any critical skill shortfalls.

Strong evidence was presented in February of this past year by the Congressional Budget Office in testimony before the Senate Veterans' Affairs Committee that broad based, generally available educational assistance programs are neither the most cost effective nor efficient means of addressing recruiting and retention problems. It is essential to point out that recruitment and retention difficulties in the past have varied from service to service, grade to grade, and occupation to occupation, and there has never been an "across-the-board" problem—one that might call for an across-the-board solution such as the one proposed by this amendment. What clearly is needed, as the amended Glenn proposal recognizes, is first, identification of specific manpower problems or needs; second, a solution that is applied only to the problem and not to areas where there is no problem; and third, a solution that is the most cost effective one available. This simply cannot be done in advance by enactment of this untargeted educational assistance amendment offered by my good colleagues, Senators ARMSTRONG, COHEN, CRANSTON, MATSUNAGA, and HOLLINGS have cosponsored.

I am especially concerned with the cost of the programs authorized by this amendment. A close look at the cost figures, together with the likely results on recruiting and retention of quality personnel shows that it will yield very little benefits for the taxpayer's dollar. The Congressional Budget Office has unofficially projected that in the late 1990's when this proposed program would be in full swing, outlays would run in the range of $800 million per fiscal year. Those figures do not even assume that Congress will adjust these benefits for inflation as has been the consistent congressional practice with previous GI bills. If similar cost-of-living adjustments are made with this bill, CBO estimates that the net cost will approach $2 billion annually by the late 1990's.

Additionally, CBO projects that enactment of this amendment without adjustments for inflation will not result in a very large increase of new quality military personnel by fiscal year 1990; only about 3,000 persons a year. Thus, the cost per additional quality recruit is truly exorbitant.

Mr. President, the service of today's volunteers is invaluable to this Nation indeed and it should not be rated as somehow second class because they were not drafted or did not serve during wartime. However, the fact remains that throughout the array of services and benefits provided to veterans, distinctions have been drawn between wartime and peacetime service. Congress has, on numerous occasions, deemed it appropriate to provide higher rewards, including the various GI bill benefits, for wartime service. In considering the programs offered today, we must keep in mind that in the future, should it become necessary to return to conscription, or God forbid, should we become involved in war, we will be asked, and indeed we may feel compelled, to increase existing benefits to compensate for that service. If we accept the very expensive amendment offered today, how will we then later "up the ante" for any wartime service? I believe that the answer to this question involves severe budgetary considerations.

This amendment proposes today to add not one, but two new entitlement programs which have been estimated by CBO to cost some $5 billion in the first decade they incur costs. And I would hasten to point out that this cost estimate does not include periodic cost-of-living adjustments such as has been the custom of Congress in its dealing with every previous GI bill ever passed. If COLA's then are included, the cost will nearly double, to over $8 billion through fiscal year 1997.

Let us bear in mind at the same time the uncertainty of these figures. Because of the uncontrollable nature of these programs, it is impossible to predict with any certainty or reliability what the actual cost will be. It all depends on how many people sign up for the programs, and on future inflation rates as a factor in granting appropriate COLA's. The actual cost could be double—or triple—the presently estimated cost. That's why the Tower-Nunn amendment to the Glenn proposal is important—it limits the number of participants while we study the effects of the program in its first 4 years of operation.

I would point out that these proposed programs would grant a very attractive and costly array of benefits—up to $900 per month in educational assistance for the service member, as well as up to $18,000 in educational benefits which could be transferred to the service member's children which has never been done before. Little effort is made in the proposed amendment to target only those veterans most in need, or to impose some final termination date for the programs which would be comparable to the 1989 termination date presently in effect for the Vietnam-era GI bill. The end result is that for every person who is actually induced to sign up for military service as a result of these programs, a great many more will be receiving benefits who would have signed up for service in any event.

Let me just make a few additional points, Mr. President, on a few specific aspects of the amendment. In some important ways, the programs that would be established by this amendment work against themselves—a bit like driving a car with the brake locked on. Although the declared purpose is to provide incentives for recruitment and retention, certain provisions would clearly operate as disincentives. For example, the fiscal year 1986 effective date for this very generous program would unquestionably chill recruitment efforts in the interim. Any potential recruit with the flexibility to enlist either now or to wait until fiscal year 1986 would have considerable incentive to wait, in order to partake of the full range of these benefits. Two other significant disincentives have been mentioned in a letter, sent on July 8, 1983, from Alice Rivlin of CBO to the Senator from Colorado [Mr. ARMSTRONG]. She states:

> However, termination of VEAP and the successful "Ultra-VEAP" program used by the Army, as provided in S. 691, (the 1983 version of this Armstrong amendment) would offset nearly half of the gain in recruiting. Further, the availability of additional educational benefits under S. 691 would induce additional separations after completion of 3 or 5 years of service, and would thus require an increase in recruiting merely to maintain overall manpower levels.

Finally, I would have to question seriously whether the contributory program for career military members proposed as the second entitlement program in this amendment will have any beneficial effect at all on recruitment and retention. Any individual who serves in the military for 10 years has probably already decided to make a career of it, and is highly likely to stay in for at least the next 10 years, regardless of what lucrative benefits might be offered to the service member or the service member's children—simply because of the usual incentives of retirement benefits and other advantages of staying in for 20 years or longer.

Mr. President, I am disturbed by the notion that, at a time when we are routinely dealing with deficits in the neighborhood of $200 billion a year, we would consider enacting two new uncontrollable programs which have a potential for awesome expense, are virtually unrestricted in scope and are wholly lacking in any present justification whatsoever.

Since it would seem clear, Mr. President, that this amendment, standing alone on its merits, should be rejected at this time, I would earnestly express then that there are really only two reasons one would choose to support it: First, that GI bills are a very good thing, providing, for many of us—myself included—educational opportunities to which we otherwise would not have had access; and second, that this would seem to be an excellent opportunity to get on the record in a political year—as having done an act generally positive for veterans.

As to the first point, it cannot be emphasized strongly enough that this is not a GI bill like any previous GI bills. The goal in the past has always been to assist veterans to readjust to civilian life after service in a period of war. No GI bill has ever been enacted solely in order to assist the Armed Forces in recruitment and retention. Furthermore, for the present peacetime period, we already have an attractive educational assistance program and have another complimentary one before us. No veteran who seriously wishes to pursue a college education could possibly be left out in the cold. And as I have already noted, DOD informs us that recruitment and retention in the All-Volunteer Force is working very very well, thank you.

As to the second point, I would respectfully offer a brief list of items already on the legislative agenda for this session of Congress which are of very substantial benefit to our Nation's veterans. We have a proposed VA budget for fiscal year 1985 that is substantially above the 1984 budget—$27.2 billion. We are in the first year of an operating program created last year to provide job training for veterans who have been hardest hit by unemployment during the recent recession. We have a veterans' health bill pending which would provide a number of significant improvements in benefits and services for veterans. We have introduced bills which would increase the rates of education benefit payments and would provide a 4.7-percent COLA for service-connected disabled veterans and their survivors and dependents, and we have a bill ready to go to conference with the House which addresses the complex problems surrounding the determination of which diseases should be service connected for veterans whose disabilities and death may be a result of their exposure to agent orange or radiation.

Clearly this is no session of Congress in which any Senator who feels a true and honest and nonpartial sense of commitment and national obligation to veterans could find himself or herself lacking in opportunities of a most unarguably worthy and positive nature, to disclose that he or she continued to honor that commitment and to repay that heartfelt debt.

Mr. President, I strongly urge my colleagues to join me in opposing the pending amendment.

Mr. CRANSTON. Mr. President, will my friend from Wyoming yield for a question?

Mr. SIMPSON. I shall.

Mr. CRANSTON. The Senator used a figure of $1.851 billion as the cost by fiscal year 2000. Am I correct in assuming that that is based upon an automatic cost-of-living increase?

Mr. SIMPSON. It is based upon a computation by CBO, based on indexing, which we do with other veterans' benefits.

Mr. CRANSTON. Is it not true that there has not been any automatic cost-of-living increase for GI bill beneficiaries? As a matter of fact, since 1977 there has been only one increase—a 10 percent—for the current GI bill benefits for Vietnam era veterans. And is it not also correct that this year, beginning in fiscal 1985, it looks like another 10 percent, no more? That is 20 percent over 7 years during which the CPI rose well over three times that amount, almost 68 percent. So I see no justification in figures that assume that we will have something happen that has never happened before.

Mr. SIMPSON. Mr. President, we have raised the GI bill in a continual way over the years until it amounts to an extraordinary figure. We just most recently recommended a 10-percent increase here on this floor about 3 weeks ago, with the assistance of the Senator from California, and the reason we did it at that figure is because we do not do it annually. But we do it. It may not be an annual thing. But at least with the GI bill we have a record of periodically raising the percentage of the GI bill.

Mr. CRANSTON. We have been falling steadily behind in the cost-of-living increase in terms of the actual cost of living, and there is no provision in this amendment for any cost-of-living increase.

Mr. GLENN. Will the Senator yield?

Mr. SIMPSON. Yes.

Mr. GLENN. I will submit to the Senator from California that it will do blessed little good for anyone if they have a GI bill that they do not index because college costs are going to continue to go up. What are they going to go to school on? You will have to index to really guarantee them money to go to college on. If you do not index, it is a worthless GI bill.

Mr. CRANSTON. We have never had it done automatically, but there have been many people who wanted to use it.

Mr. MATSUNAGA. Would the Senator from Wyoming yield?

Mr. SIMPSON. Yes.

Mr. MATSUNAGA. The Senator has made much of the fact that the proposal will not go into effect immediately but a few years hence. The Senator was, I believe, in the hearing when General Wickham testified before the Senate Veterans' Affairs Committee. He indicated this, and I remind the chairman of the Veterans' Affairs Committee: The Army has recently experienced a 22-percent decline in the number of young people coming into the Army recruiting stations to take the military entrance exam. General Wickham suggested that this 22-percent reduction "may be harbinger of an upturn in employment opportunities for young people." The fact of the matter is that many top military officials believe that we are seeing the first signs of recruiting difficulties that they ran into in the seventies, and that this will continue in months ahead and in the immediate years ahead.

If it takes as long to pass a bill as this amendment, the chairman of the committee will recall that this amendment was first offered in 1979. It has been 5 years now while we have been trying to get this GI bill passed. If it is going to take another 5 years, it will be too late, I remind the chairman of the Veterans' Affairs Committee.

In the final analysis, if the Senator will yield further——

Mr. SIMPSON. I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I do not want to interrupt the Senator from Hawaii. I will yield for him to complete.

Mr. MATSUNAGA. Mr. President, if I may have the floor now.

Mr. NUNN. I will not yield the floor. But I will yield for him to complete. How long will the Senator take?

Mr. MATSUNAGA. Probably 2 or 3 minutes.

Mr. NUNN. I will yield to the Senator from Hawaii for such time.

Mr. MATSUNAGA. In the final analysis, Mr. President, we need this GI bill in place now to head off what will inevitably be serious recruiting problems in the near future as improving economic conditions combine with the shrinking pool of eligible recruits to create a highly competitive recruiting market.

We must not be shortsighted where our military manpower is concerned. We did that during the 1970's. We found ourselves faced with a manpower readiness crisis that calls the then Chief of Staff of the Army, Gen. Edward C. Meyer, to call his force "a hollow Army." If the Congress fails to learn the lessons of just a few short years ago, and allows the services to once again experience recruiting shortfalls, I doubt that we will ever be able to stop the momentum toward the abandonment of the volunteer system, and a return to the peacetime draft that would be inevitable.

As one of the two so-called fathers of the All Volunteer Force, it would be a sad day for me if that happens. What we are proposing in our amendment is to give the military services what they say they need to continue to attract adequate numbers of high-quality recruits. That is a full GI bill program.

Mr. TOWER. Mr. President, would the Senator yield? Not one head of the military services has said he needs this specific bill.

Mr. NUNN. Mr. President, the Senator from Georgia has the floor.

Mr. TOWER. I am sorry.

Mr. NUNN. I yield to the Senator for a question.

Mr. TOWER. I wanted to make the point that none of the heads of military services have said they need this bill.

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Has the Senator from Hawaii completed his statement?

Mr. MATSUNAGA. If I may make one statement, the chief recruiting officer has said this GI bill is needed in testimony before the Veterans' Affairs Committee. So if the chairman of the Armed Services Committee, if I can have his attention, had only held hearings on this matter as we did in the Veterans' Affairs Committee, perhaps he could have had the wise counsel not only of the recruiting officers but all the chiefs of the various services.

I urge my colleagues to vote "aye" on the pending amendment.

Mr. ARMSTRONG. Mr. President, would the Senator yield for a question?

Mr. NUNN. I will yield.

Mr. ARMSTRONG. Is it the intention of the Senator to offer a tabling motion in a moment?

Mr. TOWER. It is the intention of the Senator from Texas, if I might intervene, to do so at the appropriate time.

Mr. NUNN. I yield.

Mr. ARMSTRONG. I am not trying to interrupt. I thought perhaps the Senator from Georgia was preparing to do that. I have a brief observation that I need to make sometime prior to that. I need not do so now.

Mr. NUNN. For the benefit of the Senator from Colorado, I intend to make a brief statement, and if the Senator needs to make an observation or ask questions——

Mr. ARMSTRONG. Not at all. I only wanted to be sure I am not foreclosed. Please go ahead. I want to hear the observation of the Senator from Georgia. I will be glad to put my remarks in, and I believe we are ready to vote. I believe we are really at that point.

Mr. GLENN. If the Senator will yield, I want to make a comment about the statement of the Senator from Hawaii.

He started off commenting about the Army's difficulty getting people interested these days. That is exactly what my amendment approaches. It exactly approaches that Army problem. It is not a basic problem of the Navy, Air Force, or Marines. It is an Army problem.

When we have the option of going from what is an approach of about a $1 billion a year program when it is fully in place as opposed to the program that is guaranteed not to go over $160 million per year, if we address specifically the major problem the Army has, and if we can get high-quality recruits in, then it seems to me that is the most cost-effective way to go. That is the reason I proposed this.

So we are addressing specifically the problem you addressed your remarks to.

Mr. MATSUNAGA. If the Senator will yield for 30 seconds, in response to that, if the Senator had been on the floor when I made my opening statement——

Mr. GLENN. I was here.

Mr. MATSUNAGA. Not for the very opening statement. This is what I said.

Mr. NUNN. I do not know whether I would yield to the Senator to repeat his opening statement.

Mr. MATSUNAGA. No; merely that the sponsors of this amendment did not in any way disagree with the objectives of the Senator from Ohio.

We do disagree on the manner in which the goals are to be attained. We believe that the Senator's amendment would not attain the goals because it has been shown, under the VEAP program, that a contributing program does not work, and a noncontributing program, such as ours, has worked in the past and will work again.

I thank the Senator from Georgia for yielding.

Mr. NUNN. Mr. President, I will just make a few brief comments because I know the debate has gone on for quite a while and I am sure that there may be other remarks. I know the Senator from Texas is prepared to vote on this, as is the Senator from Colorado. I understand all parties are prepared to vote.

Before I disagree with the amendment, let me say a few things on the points I agree with.

First, I agree with the emphasis on quality that has been made in this debate. Having led the charge for improving recent quality for about 5 years in the late seventies and early eighties, having pointed out the very severe quality deterioration in the services, and having proposed the amendment that put a floor on the number of high school graduates and a ceiling on the number of AFQT category IV recruits in the services that is now the law of the land, I could not agree more with the emphasis on quality.

I congratulate all parties for striving toward that goal.

We may disagree on the method of getting there, as we will in this debate, but that is a very important part of our military readiness today.

I am thankful, for whatever reasons, that we have improved the quality of our military recruits very dramatically in the last 4 or 5 years. This was partially because of increases in pay and benefits, partially because of the minimum standards set in law, but primarily, and regrettably, because of the very high youth unemployment rate, which we all hope is going to turn around now.

The second point I want to make is that I agree we are going to have difficulties ahead in recruiting. I think we are going through a very transitory period now that has been produced primarily because of economic matters and the high youth unemployment. I am afraid in the late 1980's we are going to go back through at least a portion of the problems we went through in the 1970's.

So I would agree on those points.

I disagree with the proponents of this amendment on other questions. The proponents of this amendment believe this GI bill will be a strong recruiting incentive that will attract large numbers of college-bound youth into the military. There is no doubt a new GI bill will help recruiting. Any time you have a major new benefit, it helps. The question is whether it helps commensurate with the cost and how much it helps. It does cost a great deal of money, as has been pointed out.

On the other hand, the amendment that the Senator from Ohio has offered is a much more carefully targeted program. It is designed to hold down costs and to appeal to a specific segment of the youth population. That segment would be the high school graduates, people who have the ambition to go to college, people who are willing to sacrifice at the front end of their career so they can get a larger benefit, people who are willing to go on a low-cost track in terms of pay and benefits so they can go forward with their education.

Incidentally, these people are more than likely going to be single people. If you look at the costs in the military, and, of course, it is up to every individual soldier whether they get married or not, and we do not want to dictate that, we do have a very large cost that is attendant to large families in the military.

If you look at the support costs and break out those support costs, you will see one of the reasons that personnel costs have gone up so much in the last 10 to 15 years is because we have a much higher percentage of married service members and a much higher percentage of families with children. That is not incidental when it comes to costs.

So I do not think any of the equations and debates about costs have taken into account the fact that the amendment of the Senator from Ohio is going to inevitably result in lower costs because it limits off-base housing and subsistence allowances. This will encourage people to live on base, and people who live on base in enlisted barracks are going to be the single people. You are going to have a huge cost savings in my view that is not being computed in any of these equations if the Glenn amendment becomes law.

After analysis in a year or two, after another look at the program, and it will last for a 4-year test program, we may well find, because of shifting the percentage of young people coming in from those who are more likely to be married or get married to those who are more likely to be single, that those savings are going to be very, very substantial. Those are the people we need to recruit, particularly in the combat arms.

Let me mention one other part of this debate that I think needs to be emphasized.

The Armstrong approach is a broad-based benefit. That across-the-board benefit way of proceeding is the least effective recruiting tool because it gives benefits to so many people who would come into the military services even if this program did not exist.

There are some who would not come in without this Armstrong amendment. I recognize that. I concede that point. But there are huge numbers, a very large percentage—I do not know whether it will be 75, 85, or 95 percent—who would come in without this, and we are paying everybody across the board. That is a different approach from what the Senator from Ohio is attempting. His approach is a targeted approach and more than likely a very high percentage of those who will come into the military service because of the amendment of the Senator from Ohio, if it becomes law, are more likely people who would not otherwise come in, and they will be paid in that respect.

Let me just say to reiterate the point that the CBO, the General Accounting Office, and others have estimated that it costs four to five times more to attract each additional high-quality recruit with an across-the-board educational benefit, like the Armstrong bill, than with a more targeted approach.

We are talking about a bill that in the past has primarily been looked at as a postservice program, not necessarily a transitional or readjustment program. The GI bill was a transitional program, a marvelous program, to help the transition from wartime to peacetime, and it did marvelous things for our society. We are now talking about using a program that did a great deal for our society and using it in a different way entirely as a recruiting device.

There is another problem with this approach. The Army is the service that needs help the most in recruiting and retention as times get difficult. Difficult times in recruiting and retention are good times in the economy. There is a relationship between high prosperity and low recruiting. When the economy deteriorates, recruiting gets better. The worse the economy is, the better the recruiting and retention are. So we have to keep that in mind.

The Army is the service that gets hurt the worst when we have a good economy and when the youth employment rate goes up.

The Armstrong bill could—and I emphasize could, because there will not be any certainty unless we pass it but it should be looked at with a very close analysis in this respect—end up hurting the Army, the very service that needs the help the most.

The greatest challenge facing the Defense Department is recruiting enough people for the Army, especially the Army combat arms. The yearlong test of educational benefits authorized by the Congress and conducted 2 years ago by the Defense Department demonstrated that an across-the-board educational benefit like a new GI bill could reduce the number of high-quality recruits in the Army. The reason is obvious: Offering the same benefits to all services and to all recruits in the Army, Navy, Air Force, and Marine Corps takes away from the Army the competitive edge they now have because they now have the most lucrative educational benefit program of any of the services.

This program will inevitably draw more recruits into the Air Force, Navy, and Marine Corps; it will have a relatively detrimental effect on the Army, in my view. It will draw recruits away from the services and skills which involve the greatest risks and are not readily transferable to the civilian economy; in other words, the Army combat arms.

There is one other point I think we ought to make. There are two dimensions of military personnel readiness. One dimension in the early stages is recruiting; the other dimension is retention.

In my view, there is a considerable amount of evidence that would indicate that not the Army alone but all the services under the Armstrong GI bill would be hurt on retention. Think a minute. Why is that true? The reason is that a postservice educational benefit program provides people in the services with a negative incentive to reenlist. People will leave the service to use their educational benefits. A lucrative, universal, educational benefit is going to make it harder to retain larger numbers of skilled technicians, particularly in the Navy and the Air Force.

The Congressional Budget Office concluded in their recent study of educational benefits for military personnel that:

> Earned educational benefits also provide servicemembers an incentive to leave in order to use their benefits. Ultimately, such separations might offset, in part or in whole, the gains in recruiting. This should be a key concern in evaluating educational benefits.

Mr. President, I shall not go on and on. I know there are some who feel we should pass nothing, that we have not had enough hearings. I shall not quarrel with that argument on the Glenn or the Armstrong amendment. If we are going to pass any kind of program today, let us pass one we know something about in terms of effect.

We know something about the cost. We have a limited test program. We have a limited number of people who can participate. We know the people coming in that program if the Glenn amendment passes will be people who will be highly motivated and who want to pursue their education.

If they are not highly motivated, if they do not have a lot of educational ambition, they certainly are not going to come in on an approach to the military that will require them at the very beginning to give up $250 a month and would require them to give up quarters, and subsistence allowances, and live on base. We know something about what the Glenn amendment will attract. We do now know whether it will work totally; that is the reason we are making it a test program.

As to the Armstrong approach, while we know it will help recruiting, we do not know how much. We feel that in all likelihood, it is going to have a detrimental effect on retention. It certainly will have a negative effect on the Army, because the Army will no longer have a lucrative educational program. It will be just like everybody else. So I urge my colleagues to vote against the Armstrong-Cohen-Matsunaga-Cranston proposal.

I hope, in the final analysis, while the Budget Committee and the Finance Committee are out having conferences and trying to figure out a way to cut the Federal budget, and while we are all going back and making speeches about how entitlement programs are out of control, and we have to do something about them as soon as we can get the elections behind us, and while the interest rates continue to creep up because of the huge budget deficits, it seems to me everyone who votes today should ask himself the question: Is this the time to create a new major entitlement program before we do what we are supposed to do about getting budget reduction this year?

Mr. President, that is just what this is. This is a new entitlement program. I hope everyone will consider that and the effect on the economy.

I yield the floor.

Mr. **BOREN** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oklahoma.

Mr. **BOREN.** Mr. President, each year when the Senate struggles with the defense authorization bill and later the appropriations bill, the headlines are made by what we accept or reject in weapons systems—the MX, the B-1B, strategic defense initiative, ASAT, and others.

Too little attention, if any, is paid to the one element of our defense without which all others fail. That is, the people who make these sophisticated systems work. The men and women who operate the tanks, fly the planes, fire the artillery, supply the ammunition, cook the food, wash the clothes, repair the equipment, lead the troops—the men and women who have chosen to enter the service of their country, and have expressed their willingness to defend the rest of us with their lives if necessary. These men and women are among the finest this country has to offer, Mr. President, and in recognition of the sacrifices they make throughout their service, we have a tradition of providing special consideration to their needs. That tradition rightfully includes the opportunity for educational benefits.

I am proud to join the Senator from Colorado and others as a cosponsor of this amendment which provides for a GI bill as an expression of commitment by this Nation to the maintenance of the quality and caliber of people required by today's Armed Forces.

This proposal attracts my support for several reasons. Among its most important features is its consistency with the total force concept we have adopted. It recognizes the extremely important role of the Reserves and the National Guard to our national security.

Under this program, eligibility for both the basic program and the career members contributory educational assistance encompasses these components of our force. It is just as vital, Mr. President, to retain personnel in these areas as well as the active force.

Retention is another important element that benefits from this program. We have had recurring difficulties with retention in all services and while the GI bill will not permanently resolve those difficulties, it will be a major step in the solution.

I might add that cost—we have just heard them discussed by the able Senator from Georgia—is never far from anybody's mind in the Senate. I have been consistent in my call for equal sacrifice by all to address the horrendous budgetary imbalances we face year after year. In this case, the cost of this program is, on balance, well within the limits of prudence and priorities. If we must forgo a weapons system to fund this program within budgetary limits, Mr. President, we will have made the wiser choice. This program is cost effective.

Finally, Mr. President, I find the GI bill a positive step to the readiness in our Armed Forces that must be attained if we are to have an effective defense. Through retention and the quality of people such a program will attract the standards of readiness we know we must meet will be within our reach.

There is a declining pool of men and women from which we can draw to maintain our strength requirements. We must make service in the Armed Forces attractive and desirable. This proposal of a GI bill is a major pillar in the foundation of that effort.

Mr. ARMSTRONG. Mr. President, we have had a good half day's debate on this issue. I think the thought of the Senate has been enriched by what has been said here, and I do not limit my observation about the speeches and arguments to those who happen to agree with my point of view. I believe the points made by the Senators from Wyoming, Georgia, Texas, Ohio, and others who do not see eye to eye with me on this issue have made a valuable contribution. I have learned something sitting here the last 5 or 6 hours and hearing what has been said. I believe the entire Senate has benefited from this additional discussion.

I think we are about ready to finish this issue now. I would count it a privilege if, as the chief sponsor of the amendment, I would have the opportunity to close the debate.

Mr. MATSUNAGA. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield.

Mr. MATSUNAGA. I think there was a point here which has not come into the debate, which was raised by the Senator from Georgia, relative to the problem of retention. As the Senator from Colorado will recall, that was taken up in the hearing in the Veterans' Affairs Committee. During the hearing, when General Thurman, the Vice Chief of Staff, was the witness, I asked a question. Here is the exchange taken from that hearing record:

> Senator MATSUNAGA. There has been criticism of our GI bill proposal that it will have a negative impact on retention because of the built-in incentive to get out of the service and use the benefits. First, does the Army see this drawback of GI bill as insurmountable? If not, what features should a GI bill have to blunt the negative impact on retention?
>
> General THURMAN. Provision of education benefits need not affect retention adversely. First, the Army does not need or want to retain all soldiers who enlist. The understanding and maturity that a former soldier takes with him when he returns to college or to the civilian community strengthens the nation. Many enter college ROTC programs and return to the Army as superb junior officers. Others grow to serve in leadership positions throughout American society, embued with the values and ethics of service.
>
> Second, provisions can be made to aid retention of soldiers who want to stay in the military and who we want to be the leaders of today and tomorrow. Foremost among the possibilities is transferability. If a soldier sees that the education of his children is provided for, he and his spouse are more likely to stay, accepting often arduous assignments but gratified by the service they perform.

That was General Thurman speaking. I remind my colleagues that the GI bill, as proposed in the pending amendment, does provide for transferability.

I thank the Senator from Colorado for yielding.

Mr. ARMSTRONG. Mr. President, I again thank my colleague for his observations. I believe we are about to the point of closing the debate, but before we do so I want to quickly respond to some issues that have been raised. I do not intend to recap the arguments I made earlier. I think they speak for themselves, and in fact I think most Members of the Senate are well acquainted with the arguments. But there are two or three issues that have been raised which I think need to be addressed.

Someone pointed out that this amendment rides on a tide of American history. Indeed, that is true, because what we are seeking to resurrect is one of the most successful programs in the history of our country.

Now, someone says that this program is not needed or that if it is needed, it is only in the future.

Well, Mr. President, I want to point out to you it is needed right now, today. The enactment of this program responds to a problem which is very real in statistics as recent as last month's Active Army recruitment figures. The mission accomplishment was only 88.3 percent in May of this year, representing the fifth month that the contract mission has been missed.

If this trend continues, the Army will begin to experience a second mission shortfall by the first quarter of fiscal 1985; that is to say, by the last quarter of this year—in other words, 4 or 5 months from now. Even during the years when unemployment was high and the economy was soft and it was, relatively speaking, easier to recruit for the armed services, the educational level of recruits suffered. For example, in fiscal year 1982, which was our best recruiting year, the proportion of high aptitude recruits coming into the Army was lower than in 1976, the last year during which the GI bill was in effect.

Well, somebody says this is not the most effective way and, besides, it really will not help the Army; it will be mostly helpful to the Navy and the Air Force.

Maybe so, but the Army does not think that. If there is one thing that emerges from all the hearings that have been held, it is that the Army recruiters want a GI bill. Now, all the services are for it to some degree or another, under some level or another, under some circumstances or another, but the people who really hunger for this, who say it is critical, are the

Army recruiters and the Army service chiefs and the military sociologists who are looking at the problem of the armed services.

Survey after survey has made it plain that education incentives are the only effective means of recruiting voluntarily the high aptitude young people the Armed Forces, especially the Army, need most.

Someone has asserted, "Well, this is something we have never done before; it has never happened in peacetime." But I want to note we had it in peacetime. We had it up until December 1976. It was working well. The predictions for what would happen when we eliminated this successful program were dire and catastrophic, and even they proved to underestimate the severe effects of terminating this program.

Then there is the notion that was brought up by our colleague from Illinois that we really ought to have some more hearings and get together a carefully crafted bill.

Friends, this matter has been the subject of many hearings, hearings in the committee that has jurisdiction over it, informal hearings in other settings, hearings last year, hearings the year before, hearings in the House, hearings in the Senate. It has been the topic of conversation as well as formal hearings for at least 5 years. As a result of these informal meetings, these conversations, the give and take, the negotiations, and the formal hearings, in fact, a compromise bill has been hammered out. That is what this is. This is not the bill that Senator MATSUNAGA and Senator COHEN and I introduced 5 years ago when we first raised it. This is a bill that has been refined and has been through the test of scrutiny that comes from extensive hearings both in this body and in the House of Representatives.

Well, even so, would it be a good idea to send it back to, say, the Veterans' Affairs Committee, the committee that has jurisdiction over this, or the Armed Services Committee? I would like each Member to reflect on that for themselves, but evidently the members of the Veterans' Affairs Committee, the committee of jurisdiction, think that they have this matter pretty well under advisement because there are 12 members on that committee and 8 of them are cosponsors of this amendment. I believe, my friends, the case is proved. The time is now. The merits of this matter are very clear.

I appreciate the acknowledgment of the Senator from Texas that this is not politically motivated, and he is correct; I raised this issue long before I was even thinking about running for reelection. I raised it in 1979, in 1980, and in 1981. I appreciate his gracious acknowledgment that my motive is for the good of the service and the country. I want all Members to recall that he also said it might be politically popular. If it has that side effect, I do not reject that as a conclusion from someone who is wise in the ways of election campaign politics. This is an amendment that really is good for everybody. I hope that my colleagues will support it. I believe it will be received in a friendly way by the other body. I think a cheer will go up among servicemen and women around the world. It is truly, as I observed earlier, like Victor Hugo said, "an idea whose time has come."

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in the Senate as cosponsor of this important amendment which will help to ensure that our Armed Forces are staffed with qualified men and women. I commend Senators ARMSTRONG, COHEN, CRANSTON, HOLLINGS, and MATSUNAGA for their hard work in developing this GI bill. I am aware of their continued interest in this area and the amendment we have before us represents a well thought out compromise.

In the past, the main goal of our GI bills has been to assist the Nation's veterans in readjusting to civilian life after war duty. Those programs were very effective and were responsible for educating and broadening the horizons of many Americans who would not have had such opportunities without these benefits. I do not doubt that some of my colleagues in the Senate and many of the Members of the House of Representatives reaped the benefits of the GI bill and would not presently be serving the people of our great Nation in their present capacities were it not for those educational programs.

More recently, this focus has shifted from readjustment to recruitment and retainment of personnel in our All Volunteer Forces. We are all aware of the recruitment difficulties that existed in our armed services in the late 1970's. At one point during that time, all four branches of the Armed Forces failed to reach their recruitment goals and the quality of our military personnel was not as high as the figures were showing. Even the President expressed his strong concerns regarding the critical recruitment situation at that time. During his address before the 1980 annual American Legion convention in my home State of Massachusetts, then-candidate Ronald Reagan stated:

> We must provide the resources to attract and retain superior people in each of the services. We should take steps immediately to restore the GI bill, one of the most effective, equitable and socially important programs ever devised.

We can all agree that over the past few years, there has been a major improvement in the number of recruits and in the quality of these volunteers. Hard economic times and a tight job market have made enlistment a viable option for many men and women. But we must not become complacent about this situation. We must not allow our military to slip back into the critical posture that existed only a few years ago. An expected decline in military-age youth in the near future and the possibility of a stronger economy could bring about these past difficulties.

In order to avoid this crisis and continue to recruit quality personnel for our Armed Forces and for the protection of all Americans, we must act now to establish a GI bill. We must provide the necessary incentives to attract men and women to careers and opportunities in the military. The GI bill has proven to be one of the most effective and cost-saving recruitment devices the military has ever had and we should reinstitute it.

I urge the Senate to adopt this amendment and once again reaffirm our commitment to the people who are instrumental in keeping our Nation secure.

### NEW GI BILL NEEDED

Mr. PRESSLER. Mr. President, I rise today to support the amendment offered by my distinguished colleague from Colorado, Senator ARMSTRONG. I am a cosponsor of this amendment and cosponsored this legislation in its bill form, as S. 1747. The new GI bill, as proposed by the Armstrong amendment, would best meet the needs of our Armed Forces personnel, as well as the various military services.

It is a fact that the percentage of young people reaching the age of 18 is steadily declining. Estimates project a decline of 20 percent between fiscal year 1982 and fiscal year 1987. If we do not move now to address this issue, we will pay the price later. Poor economic conditions have contributed greatly to the successful recruiting and retention rates of recent years. With the unemployment rate now on the decline and an improved economy, military recruiting and retention will become increasingly difficult.

Many of our colleagues have received excellent education through previous GI bills. They and countless other American veterans have benefited from those educational programs. Successful careers and a multitude of opportunities have resulted from the GI bill. The increased earning power of former servicemen and their contributions to our economy are usually overlooked by those who question the necessity of the proposed new GI bill.

Mr. President, another point that should be addressed is the importance of education programs in the service-to-civilian life transition. Education plays a vital role in helping the veteran to build civilian opportunities and make the change from the rigors of military life. It is clear to me that the new GI bill, as proposed by Senator

Armstrong, is a much more effective educational package than the often unused VEAP Program or that proposed by Senator Glenn.

One other item is the extension of the 1989 cutoff date for the Vietnam-era GI bill. Originally, this extension was a part of S. 1747. However, it was not necessary to include it in this amendment before us because it was included in the fiscal year 1985 DOD authorization bill. This extension is essential for many Vietnam veterans who wish to complete their military careers before utilizing the benefits to which they are rightly entitled. I commend Senator Tower and the Armed Forces Committee for adopting this much-needed provision in the committee-reported legislation.

● Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by my distinguished colleagues, Senators Armstrong, Cohen, Hollings, Matsunaga, and Cranston, to establish a peacetime GI bill. They have worked hard over the past year to fashion this new program. I have cosponsored this amendment because I believe a GI bill can be vital in attracting top quality candidates to our Armed Forces and providing educational opportunities for young people who would otherwise be unable to attend college.

The sponsors of this amendment have spoken about the favorable impact a peacetime GI bill could have on our military recruitment efforts. Projections suggest that there will be a dramatic decline in the pool of young people in the 18 to 21 age bracket in the years ahead. With this decline, it will be increasingly difficult to attract motivated, intelligent high school graduates to join the Armed Forces. The armed services will find itself vying with colleges and universities and private sector opportunities for new entrants.

Our experience in the past indicates a close relationship between the GI bill and recruitment/retention levels. Following the cancellation of the GI bill in 1976, recruitment levels dropped and have only increased recently as the economic recession has driven young people to seek jobs in the military because other employment prospects were curtailed. Efforts to provide educational incentives through the Veterans Education Assistance Program [VEAP] have proved ineffective. The attrition rate is very high and the amount of refunds paid far exceeds the amount of educational benefits paid. This is a sorry situation and one that needs to be rectified.

The GI bill proposed by Senators Armstrong, Cohen, and others provides incentives to bring high quality recruits into the military. Moreover, it provides similar incentives for those who would serve part of their time on active duty and the rest in the Reserves or the National Guard. The Reserve and National Guard constitute an important component of our military forces. This type of national service should qualify reservists and guardsmen for eligibility for benefits under this program.

The Armstrong-Cohen-Cranston amendment would also recognize the contribution of career military men and women, those who have served over 10 years, and provide them with the opportunity to contribute to an educational assistance fund and have their contributions matched on a 2-for-1 basis. This fund could be used by the contributor for his/her family. This will provide an educational fund for career military personnel, who provide the continuity and mainstay of our military Forces.

In addition to giving military recruiters the tools they need to attract high quality personnel, this revised GI bill would give many the means for pursuing higher education following or during their military service. At a time when funding for many other educational programs has been curtailed, this is a major step in making educational opportunities available for those with the motivation to pursue a degree and to use that education to make a contribution to our society.

As a past beneficiary of the GI bill, I can speak from personal experience about how critical this program was to me in starting on my career. I strongly support efforts to afford others the same opportunity. I urge the Senate to support this peacetime GI bill.●

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, the impact of this proposal on retention is enormously uncertain. In my view, it could very well be adverse. It is far too costly. And even though it might achieve in a limited way its purpose, $200,000 per additional quality recruit is much too high. It is a new entitlement program, and once you get them on the books they are awfully hard to take off.

We have had some 4½ hours of debate. Therefore, Mr. President, I conclude that it is time for me to move, and I do move, to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. Andrews], the Senator from Wisconsin [Mr. Kasten], and the Senator from Delaware [Mr. Roth] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. Kasten], would vote "nay".

The PRESIDING OFFICER (Mr. Specter). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—46

Abdnor
Baker
Bentsen
Bingaman
Bumpers
Chafee
Chiles
Danforth
Denton
Dixon
Domenici
Eagleton
East
Exon
Glenn
Goldwater
Grassley
Hatfield
Hecht
Humphrey
Jepsen
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Percy
Proxmire
Quayle
Rudman
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Wilson

NAYS—51

Armstrong
Baucus
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd
Cochran
Cohen
Cranston
D'Amato
DeConcini
Dodd
Dole
Durenberger
Evans
Ford
Garn
Gorton
Hart
Hatch
Hawkins
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Johnston
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Mitchell
Moynihan
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Trible
Tsongas
Weicker
Zorinsky

NOT VOTING—3

Andrews
Kasten
Roth

So the motion to lay on the table Mr. Armstrong's amendment (No. 3189) was rejected.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I want to tell the Senate what we have done. We have agreed to a brand new entitlement program on the floor of the Senate and the cost is going to grow annually. I am hopeful, since this is not needed as a recruiting tool and perhaps may have an adverse effect on retention, that we can perhaps consider an amendment that would take this out of the function 050 and put it in the veterans' function so that the Department of Defense, which has opposed this measure, will not have to bear the expense of it.

Mr. President, I suggest the absence of a quorum.

Mr. ARMSTRONG. If the Senator would withhold, I move to reconsider the previous vote.

**Mr. CRANSTON.** I move to lay that on the table.

**Mr. TOWER.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. BAKER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BAKER.** Mr. President, after consulting with the distinguished chairman of the committee, and other Senators, it appears to me appropriate at this point to suggest that a point of order does lie against this amendment.

At this time, Mr. President, I make the point of order that the amendment violates section 303 of the Budget Act by creating a new entitlement program for a year for which a first budget resolution has not been adopted.

**Mr. ARMSTRONG.** Mr. President, I move to waive the relevant portions of the Budget Act, and I understand that is a debatable motion. I do not intend to debate it at great length but I think the Senate should understand why we are in this situation.

**Mr. BAKER.** Would the Senator yield?

**Mr. ARMSTRONG.** Of course.

**Mr. BAKER.** I wonder what section of the Budget Act the Senator is consulting.

**Mr. ARMSTRONG.** I will consult the Parliamentarian. I think it is 304(b), am I correct? That is the section under which I have to make my request?

**The PRESIDING OFFICER.** The authority for the waiver is under section 904(b) of the Budget Act.

**Mr. BAKER.** 904(b) is a waiver of all of the requirements of the Budget Act. Is that correct?

**The PRESIDING OFFICER.** 904(b) contains the authorization for waiver of any provisions of title III or IV of the Budget Act.

**Mr. BAKER.** Mr. President, I thank the Chair.

If the Senator would yield further, I do not mean to create an unduly difficult situation. But for the sake of clarity, it is my understanding that there should be a designation of what section of the Budget Act is being waived under this provision. Could I inquire of the Chair, is that correct?

**Mr. CRANSTON.** Section 303(a).

**The PRESIDING OFFICER.** There is precedent for a motion to waive being stated generally. Past practice has used that procedure.

**Mr. BAKER.** I yield.

**Mr. ARMSTRONG.** Mr. President, I thank the Chair.

I ask if the leader would stay on the floor, please, for just a moment because the implication when someone brings a measure to the floor and seeks a waiver, particularly after the majority leader has raised the point of order, deserves, I think, a bit of explanation. The reason why a waiver is necessary, and why the majority leader's point of order lies, is not because of something that is wrong with the amendment, or because there is something wrong with the procedure for bringing the amendment to the floor, but because we have not yet passed a budget resolution in due course. In other words, if we had completed work on the budget resolution in the normal timetable, this amendment would in fact be in order, and would not be violative of the Budget Act. I think that is terribly important because the proponents of this measure found themselves in a catch-22 situation. If we decided not to come forward in order to not run afoul of the Budget Act, then we would miss the opportunity to take it up on this bill which is the most logical place to put it. I would appeal to the majority leader to withhold his point of order for a couple of reasons and then I, of course, would withdraw my waiver request.

The first reason is because other sections of the bill are also subject to a point of order, and it scarcely seems to me that we ought to say that points of order lie against one section of the bill and not against another, particularly when it is only a technical violation, only a violation arising for failure to pass the budget resolution; second, because we have been down this path before.

On one previous occasion at least this amendment was very narrowly defeated on a procedural question. It might be again today, even though the vote we have just had would tend to indicate that Senators wish to adopt the GI bill. But, Mr. President, at some point during this year, this amendment will be in order. Sometime during this session of the Congress, we will have passed a budget resolution, and we will have gotten ourselves into a calendar situation in which this point of order will not lie, and we could bring it up again.

It seems to me to march up and down that mountain more times than is necessary is really taking undue time.

So I appeal to the majority leader to withhold his point of order so that I would not be constrained to press my request for a waiver, have another vote, and go through all of that.

**Mr. BAKER** addressed the Chair.

**The PRESIDING OFFICER.** The majority leader.

**Mr. BAKER.** I respect the Senator from Colorado's point of view, and indeed I understand fully what he speaks of. It is absolutely true that from time to time we either ask the Budget Committee to report a waiver under a different section of the act, or in the absence of such resolution from the Budget Committee we proceed under section 904 in effect to waive the Budget Act itself. That really is what we are dealing with. As the Chair has stated, it need not specify what provision of the act is being waived. It is a general waiver. But the point that I made was not that there is not a budget resolution for this year.

It was for a year in which the first budget resolution has not been adopted.

I would call attention to the fact, as I understand it, and I would ask the Senator to correct me if I am wrong, that the first benefits from this bill will not be paid as an entitlement until 1988. Regardless of whether we had passed the budget resolution this year or not, the point of order would still lie, because it is clear we do not have a budget resolution for any of the outyears. We do not have one yet for this year. But this year is not the controlling feature. The controlling feature is that the point of order lies because it deals with an outyear, a year in which no budget resolution has been adopted and we cannot contemplate what our economic situation will be in this year, let alone 1988.

**Mr. ARMSTRONG.** But when would a program of this type ever be in order?

**Mr. CHILES.** If I may answer that, it would be after the Budget Committee would decide to embark on this program. The purpose of the act is to try to keep us from passing entitlement programs binding outyear appropriations without being considered by the Budget Act and by this body and without a deliberate decision of the body that we are ready to create new entitlement programs.

**Mr. ARMSTRONG.** Mr. President, who has the floor?

**The PRESIDING OFFICER.** The majority leader.

**Mr. BAKER.** I will take but a moment and then I will yield so the Senator from Colorado can seek recognition in his own right.

Mr. President, I do not know a single person more concerned about the state of the budget, the deficit, and the question of entitlement than the Senator from Colorado. What I am about to say is not to be critical of him. But if we are going to hatch new entitlement programs that begin 2 or 3 years in the future, and do so with a general waiver of the Budget Act, then we might as well throw away the Budget Act. We might as well stop thinking that we have any sort of restraint on the question of structuring a budget that has some sort of coherence and relevance to our economic situation today or in the future.

So, Mr. President, I did not wish to make this point of order, and indeed I had hoped that the motion to table would prevail. I think I would be derelict if I did not point out that all of us who have been screaming about trying to get entitlements under control, if we do not sustain this point of order, will be hatching one of the biggest entitlements we have seen in a long, long time.

I yield the floor.

Mr. **ARMSTRONG** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Colorado.

Mr. **ARMSTRONG**. Two or three things need to be pointed out. If the issue is when it starts, when the expenditure of money begins, it appears to me that there never comes a time when you are in the current budget year for a program that requires 2 or 3 years of military service to qualify one to receive the benefit.

Furthermore, let me point out that exactly the sort of concern the majority leader expresses is already contained in the bill because there is an extension of the GI bill date in this bill, which would be subject to the exact same point of order raised against this.

Mr. President, I would appeal to my colleagues not to be confused with the parliamentary issue, whether we are creating a new entitlement program. It is true we are. We are phasing out an old entitlement program, but we are substituting a program by this Senate for a program that has not been successful, in the judgment of this Senator and a number of others, according to what the recruiters say, the military chiefs say, the military sociologists says. We are substituting the GI bill which did work for an entitlement program which is not working very well. Maybe that is not a good policy decision, but it is not a parliamentary issue.

I will appeal, without getting into the fine points of parliamentary procedure, and particularly to the leaders, to let us have a vote on the merits of the question and not bog down in procedural points because at some stage, and I assert this with the utmost confidence, indeed with serenity, at some moment during this year this will be in order. It may not be in order on a military bill. It may be in order on a bill that is completely unrelated to the national defense.

It appears to me far more orderly to put it on a bill which has in broad terms the general jurisdiction and concerns of the amendment, than hook it onto something that is unrelated. But we might have to do that if the only legislation on the calendar which was moving at a time when we have the right combination of budget resolutions in place would permit us to offer it.

I do not think we ought to let this hang up over a parliamentary situation, really a catch-22.

Mr. **CRANSTON**. Will the Senator yield?

Mr. **ARMSTRONG**. I have no desire to monopolize the floor. The motion is debatable. I yield the floor to whoever wants the floor.

Mr. **BAKER**. Could I present one remark, and then I will yield to the Senator from California.

I promised not to make this a long-winded debate, and I will not, but one point made by the Senator from Colorado deserves an address, and that is the question how do you deal with it if you deal with it 3 years hence? You deal with it in a simple way. It is not just a procedural way. It has to do with how we do business. The way you do it is to go to the authorizing committee, try to get this program authorized, get it included in a budget resolution, and then you adopt it by May 15. That is the way you do it.

Mr. President, if the authorizing committee reports a bill that conforms, then you do that and the outyear objection would not apply. But it does in this case, Mr. President, and I think it is far more than just a procedural move. I think it is a matter of great substance and great importance.

Mr. **ARMSTRONG**. Will the Senator yield to me?

Mr. **BAKER**. Yes.

Mr. **ARMSTRONG**. I have been a member of the Budget Committee for 5 years, and the Budget Committee does not consider the individual components except in arriving at their totals. When the Senate votes on a budget resolution, it is not whether or not we need a new Food Stamp Program or a new GI bill or a new airplane. It votes only on budget totals. In fact, frequently, I say to the leader, when we set our mark in committee, Senators will say, "I arrived at my mark in this way," and another Senator will say, "I am going to vote for the mark, but I do so on the basis of entirely different assumptions." It is perfectly possible for the Budget Committee to send forth a resolution in which one Senator says, "I am putting in extra money for a new bomber," and another one says, "I am putting it in for the new GI bill." But that is really not the issue.

Mr. **BAKER**. Mr. President, I do not wish to pursue it further. The only additional point I will make, and I will stop after this, is what we are doing is creating an entitlement and, therefore, contracting to spend money in the future. Had this proposal been to enact a GI bill but subject to appropriation, you would have an entirely different situation. But that is not what it is. The appropriating committee never gets a crack at it. We are committing funds without going through the authorizing process, without going through the appropriating process, and it does require a waiver of the act to do that. I oppose it.

Mr. **CRANSTON** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from California.

Mr. **CRANSTON**. In answer to one of the points made by the majority leader, we are talking about people earning a right by putting in at least 2 years of service, perhaps 3, and perhaps committing to 6. Unless they know they are going to get what we hold out to them as a reward for that service before they commit that service, they are not going to enlist. They must have that assurance before they begin to serve or the program would make no sense. The interpretation of the Senator from Florida I also question, because the budget process does not have any binding effect, it simply sets targets, for outyears. I do not believe it can take an action under the present law that would absolutely commit money being available in the outyears. This is purely a technical point of order.

The budget resolution, when it has been approved, would not be affected by one penny of what we are talking about, because there is no money to be spent in 1985 and no money to be spent in 1986 under the amendment we have approved by a slim margin in the Senate just now.

I would also like to add that if this point of order holds against the amendment that the Senator from Colorado offered, it would also hold against the amendment offered by the Senator from Ohio. The same logic would knock it down. I do not think we want to knock down a program that is designed to help us meet our military manpower needs.

Mr. **DOMENICI**. Mr. President, I think this is a very important issue. I do not believe it is a casual point of order. I did not think the Budget Act was cavalier at all about it.

It is not easy to create a new entitlement in the outyears since the Budget Act was enacted. That is the issue, and I think, it is a good proposition for us.

I can remember, Mr. President, for those who wonder how entitlements got to where they are, an entitlement program that was described on the floor of the Senate as costing only $700 million per year. I just refreshed my memory by reading the RECORD.

Let me tell you about that program: That program this year, which was voted into existence on the floor, because it did not go through any committees, is costing the American Government this year $21 billion and is costing the various States of the United States, $23 billion a year. That is how things happen around here.

Frankly, I think if we are going to decide that a Budget Act which says you cannot create new entitlements in the outyears in this manner, if we are going to say it does not really mean anything, then we may just as well decide that committees mean nothing, that estimates mean nothing, that we are just going to come to the Senate floor and create new entitlements when we please; appropriations mean nothing; and having some way to control these things means nothing.

Aside from the proposition that the Senator from Texas has raised, I have serious doubts whether we should charge a program like this to the 050 function, which is the defense of our country. Maybe we ought to have a debate on that some day as well. I do not know whether an entitlement program which might cost $1.8 billion belongs in the national defense function.

The question of whether it is counterproductive or not, whether it is needed or not, has been debated. Perhaps those who have voted for it have decided that is a very significant thing for an All-Volunteer Army. I for one am not sure of that at all. That is not the issue here. The issue is the Budget Act and the precedents of this institution.

For those who forget, we did the very same thing last year. The very same thing was tried here. I am not sure whether it was on this bill. The Senator from Georgia may remember whether it was or not. Maybe it was on another bill. But if it comes on another bill, with the same posture of this institution, the same point of order will apply again. For those who say try it next week when we have another bill, I will tell you that it will be subject to another point of order. I hope we sustain it here today.

Mr. NUNN. Will the Senator from New Mexico yield?

Mr. DOMENICI. I am happy to yield.

Mr. NUNN. Mr. President, had this matter been presented to the Budget Committee, what would be the proper procedure if one wanted to create a new entitlement program like this in terms of the Budget Committee?

Mr. DOMENICI. Let me say the Senator from Colorado is correct with reference to the Budget Act and the functions. Obviously, somebody would come before our committee and say there is not enough money in the 050 function, because we ought to be considering this new program in the third year. Frankly, that is not why it is subject to a point of order.

Mr. CHILES. Will the Senator yield?

Mr. DOMENICI. Yes; I yield.

Mr. CHILES. I think exactly the reason it is subject to a point of order is the creation of the Budget Act. The Senator from Georgia will remember that one of the great concerns was we were trying to put back into the Appropriations Committee every function that we could. We were trying to get away from trust funds, we were trying to get away from entitlements in any way we could. We were trying to get away from where we just sort of passed a tax and this or that fund and it did not become appropriated anymore.

If we think carefully, since we have passed the Budget Act, again we have been very careful about creating new entitlement programs. That 303 was put in there specifically the way it was to be a barrier to creating entitlement programs that did not go through the appropriations process, so we could look at those programs and see what they are, because of the trouble we were in because of past appropriations. We could say this bill only costs so much this year, it is just a little old program we are starting. We did that with program after program until we found the Appropriations Committee is handling less than 25 percent of the budget. Over 75 percent is going with entitlements.

How many of us have said the woe we are in now is because we passed these entitlements? Now we have the Budget Act and at least we have not created any new ones. At least we are trying to watch that. If this program—here is a way this program can start: Put it through an appropriations process. Then it will not come under the Budget Act. It has to be done timely as all appropriations have to be. But it will not fall in this particular act. It will not fall under this.

But whether it be this program or any other entitlement program, I am certainly going to stand here, I hope the chairman of the committee is going to stand here and try to say to the Senate, this is why we passed the Budget Act. This is what we said the act was about. We were trying to move back into the Appropriations Committees every kind of funding that we could possibly do and we were saying we are not going to go down that path that we went down that got us into the kind of trouble and bind that we have been in by virtue of the fact that we allow these things to start off in just little dollars, they are not going to cost much, they are for a good purpose and we ought to have it.

The exact reason for the act is it was created to be a barrier, that section, so that we would not have these programs started here.

Mr. NUNN. Mr. President, may I ask a question of the Senator from New Mexico and the Senator from Florida?

Mr. DOMENICI. Yes, Mr. President.

Mr. NUNN. In analysis costing this program out, I heard the Senator from New Mexico mention $1.8 billion and I have heard other figures on the floor. What size military force did he assume? Did he assume the present size military force?

Mr. DOMENICI. Mr. President, let me say to my friend from Georgia, I have the CBO preliminary cost estimate. It does not provide that particular number. Staff thinks that they used the present estimates of force structure that exist currently. We can find out exactly.

Mr. NUNN. The point I am getting at is that we have a very small military force now. If we did have any kind of emergency buildup, the cost figures here would go up appreciably, would they not?

Mr. DOMENICI. No question about it, Mr. President.

Mr. NUNN. May I ask the Senator another question? Maybe staff can answer the question on indexing. We have had discussion here about the costs and whether indexing was assumed here, whether we wanted to increase those benefits each year based on indexing. I know the proponents of the amendment said clearly that is not in the amendment. Is that correct, I ask the Senator from Maine?

Do the cost figures assume indexing or not?

Mr. DOMENICI. Mr. President, the $1.8 billion does. CBO prepared estimates of the bill with and without indexing. If the Senator would like, we shall put both tables in the RECORD.

I ask unanimous consent that they be printed in the RECORD. Preliminary CBO estimates of the cost of this amendment, one indexed, one not indexed.

Mr. NUNN. I thank the Senator.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

S. 1747: INDEXED JUNE 12, 1984

| | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Veterans training | 0 | 0 | 0 | 20 | 117 | 212 | 307 | 413 | 518 | 623 | 737 | 867 | 1,008 | 1,149 | 1,253 |
| Transferability | 0 | 0 | 200 | 247 | 290 | 333 | 373 | 427 | 470 | 510 | 547 | 580 | 610 | 640 | 660 |
| Reserves training | 0 | 0 | 2 | 19 | 34 | 45 | 58 | 66 | 81 | 92 | 103 | 114 | 129 | 137 | 139 |
| In-service training | 0 | 0 | 67 | 69 | 77 | 85 | 86 | 88 | 91 | 95 | 96 | 97 | 99 | 99 | 99 |
| VEAP offsets | 0 | 0 | 0 | −7 | −28 | −45 | −72 | −112 | −141 | −170 | −200 | −230 | −257 | −285 | −300 |
| Budget authority | 0 | 0 | 269 | 348 | 490 | 630 | 752 | 882 | 1,019 | 1,150 | 1,283 | 1,428 | 1,589 | 1,740 | 1,851 |
| Outlays | 0 | 0 | 269 | 348 | 490 | 630 | 752 | 882 | 1,019 | 1,150 | 1,283 | 1,428 | 1,589 | 1,740 | 1,851 |

S. 1747: NONINDEXED, JUNE 12, 1984

| | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Veterans training | 0 | 0 | 0 | 16 | 88 | 147 | 198 | 245 | 284 | 317 | 347 | 377 | 407 | 432 | 435 |
| Transferability | 0 | 0 | 145 | 175 | 200 | 220 | 237 | 257 | 270 | 287 | 300 | 310 | 320 | 330 | 337 |
| Reserves | 0 | 0 | 2 | 17 | 32 | 39 | 51 | 56 | 58 | 62 | 64 | 65 | 66 | 66 | 65 |
| Inservice | 0 | 0 | 67 | 69 | 77 | 85 | 86 | 88 | 91 | 95 | 96 | 97 | 99 | 99 | 99 |
| VEAP offsets | 0 | 0 | 0 | −6 | −25 | −40 | −65 | −80 | −93 | −104 | −111 | −118 | −124 | −129 | −130 |
| Budget Authority | 0 | 0 | 214 | 271 | 372 | 451 | 507 | 566 | 610 | 657 | 696 | 731 | 768 | 798 | 806 |
| Outlays | 0 | 0 | 214 | 271 | 372 | 451 | 507 | 566 | 610 | 657 | 696 | 731 | 768 | 798 | 806 |

**Mr. DOMENICI.** Mr. President, I want to make one last remark.

Out in the country, people ask us why we cannot get the budget under control. There is a word we keep giving them. We say because 65 percent of the budget is uncontrollable—uncontrollable in quotation marks. They end up looking back at us and saying, "What do you mean, uncontrollable? Do you not run the country?" We end up trying to explain to them that every year, the appropriators pass a bill.

They say, "That is what is spent for our country. Why not take that appropriations bill and cut it?"

I am looking at the distinguished former chairman of the Committee on Armed Services, now ranking member on the Appropriations Committee. People think those appropriations bills can just be cut and we would control the budget. When we say it is uncontrollable, he knows what we are talking about. We are talking about these kinds of programs. Once you pass them, there is a definition of the recipient.

As a matter of fact, that is how we got the word "entitlement," because the courts interpreted the recipients to be entitled to them. That is what this does. I submit we ought not to be creating it in violation of the act and I also think we ought to think very seriously about the process that says, "Be careful, put the red flag up." You can do it. You can vote to overturn the point of order. That is all that is necessary to vote in such an entitlement. Then you can proceed to vote it in. I hope you do not.

**Mr. STENNIS.** Mr. President, will the Senator yield just for one question?

**Mr. DOMENICI.** I am pleased to yield.

**Mr. STENNIS.** Mr. President, the Senator is eminently correct in the points he has made, as is the Senator from Florida entitled to the same degree of credit. I am for something along the lines of what this bill contains. I have supported pay increases as needed over the years, but I have restrained my self today. I have not said anything. I voted the other way because I have said, as have many others, that we absolutely must take care of the budget deficit and these entitlements. This has been quite a red-letter day in the history of our Budget Act and the way it has been carried out has been of the highest order of statesmanship. I thank both Senators.

**Mr. DOMENICI.** I thank the distinguished Senator.

Mr. President, I want to refer to one last item because I do think the Senate ought to know that we are not just talking about a prohibition. Some might be thinking, "Well, how do you do it? Obviously, from time to time, in the national interest to create an entitlement."

Well, I will just refer Senators to the Congressional Budget and Impoundment Control Act of 1974, as amended, page 18, section 303, subsection (c).

There is a very detailed procedure for waiver, and there is a process for doing it without waiver. It can be done. It is not being done that way in this case and maybe it is because committees are not prone to do it the way it is prescribed in this amendment because they do not think we ought to be doing this kind of thing. I think that is a pretty good sign to us that we ought not be doing it either.

I yield the floor.

**Mr. COHEN** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from Maine is recognized.

**Mr. COHEN.** Mr. President, earlier this afternoon, or just a few moments ago actually, reference was made to our "hatching" an entitlement program. "Hatching" to me sounds like something you do in secret, like a covert action. Maybe we hatch a Stealth bomber program.

This particular amendment has been offered in public session, not in closed session. It has been the subject of debate since 1979 and the subject of debate at length this afternoon. The message to me from what is taking place this afternoon is that if we cannot win on the merits, we will beat you to death on the procedure. This issue is no longer being discussed on the merits but, rather, placed on the alter of the Budget Committee' sanctity.

We keep hearing the issue about costs. The Tomahawk missile is going to come up later tonight or tomorrow. I can recall being told that missile program had a $250 million cost overrun. I tried to find out why, and they said,"Well, it was mismanagement."

No big deal, just a little mismanagement on the part of the Navy and the contractor at that time. But in the G.I. bill, we are talking about putting in a program which we know has worked in the past in substitute for a program, VEAP, that is not working today. What we are getting is a lot of legislative razzle-dazzle.

Last year we came before this body and they said, "Gee, let's not move to hastily. We are moving too quickly here. By the way, has the Veterans' Affairs Committee had hearings?"

We said they did not have hearings. The Veterans' Affairs Committee this year had hearings. They come back to the floor after they have had their hearings and they say, "Wait a minute, this really didn't belong in Veterans' Affairs. How about DOD? Let's go back to Armed Services. Shouldn't we have a hearing over there?" And it is the same sort of legislative dance that we are playing here. If we cannot beat you on the merits, we will beat you on the procedure.

Let me address one more subject. Do you really believe, Mr. President, we are going to create a GI bill that is subject to annual appropriations? Are we going to tell the young recruits, "By the way, we have this good program for you. If you will give us 2 years, 3 years, maybe 4 years, 5 years or 6 years, you will have the following educational benefits that will have accrued to you in terms of money, subject, of course, to the whims and caprice of Congress, assuming they will appropriate the money for that given year."

So, we must face the suggestion, "Gee, don't create this as an entitlement program, put it in subject to annual appropriations." What we have here is a procedural issue that is being raised.

**Mr. NUNN.** Will the Senator yield for just one brief question? As I understand it, if there were an amendment then to this amendment, to the Armstrong-Cohen amendment that said this provision shall be subject to annual appropriation, would the Senator from Maine support that amendment or oppose that amendment?

Mr. COHEN. I am sorry; I did not hear the question.

Mr. NUNN. Mr. President, the Senator from Georgia may have an amendment at some point that would make it clear that it is subject to annual appropriation. Would the Senator from Maine be opposed to that type of amendment? Does the Senator from Maine believe——

Mr. COHEN. I would want to consult with the Parliamentarian first.

I yield the floor.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I am hopeful the majority leader and other Senators will return to the Chamber because I think we are at the verge of reaching a conclusion about the pending point of order and my motion to waive provisions of the Budget Act.

Before telling Senators what I think may happen, I just want to make a couple of observations.

The notion that somehow an action to waive this Budget Act means the Budget Act does not mean anything, let me say to the Senator from New Mexico, is simply not my understanding. The Budget Act provides for such a waiver. Now, I am not going to press my motion for a waiver, but that is consistent with the Budget Act. It is not something that is contrary to the Budget Act. It is not something that violates the Budget Act, that despoils the Budget Act, that trashes the Budget Act or, as he has put it, means that the Budget Act does not apply or does not mean anything. It is part of the budget process and, as the Senator knows, the Budget Act has been waived on innumerable occasions, nor am I going to complacently stand by and let the argument remain unanswered that somehow this amendment would always be subject to a point of order.

That is simply not the case. A time would come when even under the interpretation which the majority leader has propounded this amendment would be in order.

Now, it might or might not be in order under the understanding which the majority leader has put forward, but we believe a proper reading of the bill will not lead the Chair to sustain the point of order. And so after consulting with the Parliamentarian, it is my intention not to press my motion for a waiver of the Budget Act at this time. We think, in fact, that the Chair will not sustain the point of order of the majority leader and that the matter will be back before us.

If I am in error about that, then we will have some other options to get it back before us. But the cleanest, simplest way is to dispose of the point of order so that we can vote on the matter on its merits.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Parliamentary inquiry. Is the motion of the Senator withdrawn? Has the Senator withdrawn his motion to waive the Budget Act?

The PRESIDING OFFICER. The Senator has not.

Mr. ARMSTRONG. Mr. President, I have indicated that I will perhaps do so. I was awaiting the arrival of the majority leader and other Senators before reaching a decision on that.

Mr. DOMENICI. Mr. President, while the Senator discusses that, let me respond to the Senator about the waiver. The Senator from New Mexico does not contend that the proposal to waive the Budget Act is in violation of the Budget Act. Actually, the Senator is correct. If it says the way to do it is to waive the section, clearly that is a process for the Senate to use. I did not mean to say anything to the contrary. If I did, I misspoke. The waiver is before the Senate. If that is what it is, you vote on it. It is clearly a process which puts up all the red flags, but it is, indeed, an appropriate process.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. Chairman, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the motion to waive by the Senator from Colorado.

Mr. COHEN. Mr. President, would the majority leader yield?

Mr. BAKER. Yes; for a question.

Mr. COHEN. Shortly, prior to the most recent quorum call, Senator Nunn had put a question to the Senator from Maine. I was wondering—there was confusion at that particular time—whether or not he could restate that question to me.

Mr. NUNN. I say to my colleague that I do not know whether I can precisely restate it. But at that point we were trying to determine—and we are still trying to determine—whether this is an entitlement program, and we have a point of order going to the question I asked. There is considerable doubt about whether this is an entitlement program. My question to the Senator from Maine, and also the Senator from Colorado, is, if we propose an amendment that makes it absolutely clear that there are no vested interests except subject to appropriation in this program, that there is no vesting, that there is no entitlement, and that there is no right to go to court, whether that would solve the question for the Parliamentarian, solve his dilemma, and whether the Senators from Maine and Colorado would accept that amendment.

Mr. COHEN. I was going to suggest to the Senator, if this first section, 1446(a), were rewritten with just two words in this measure, whether he would find this in accord with what he is recommending: putting the word "no" in front of "payment" so it would read "No payment of educational assistance allowance under this chapter shall be made except from appropriations made to the Department of Defense," and the words following.

Mr. NUNN. That will not do it. I might have answered more affirmatively before all of this discussion, but since we have been educated on this, I would have to say unequivocally that would not accomplish the purpose the Senator from Georgia had in mind, which was to prevent vesting, or to prevent people from going to court, if the money was not available.

The PRESIDING OFFICER. The Senator's time has expired.

The majority leader is recognized.

Mr. BAKER. Mr. President, I yield.

Mr. NUNN. Mr. President, I am sorry. I thought the Senator from Colorado had the floor.

I am told that you have very explicit language, and it has to be very precise language to avoid entitlements; that is, that there have been precedents in court cases where there were appropriated funds, but they were deemed to be appropriated entitlements; and, that, if the court has held that the money is not appropriated, the plaintiff was nevertheless entitled under the law; and, that the appropriation in effect had to be a mandatory appropriation.

Mr. DOMENICI. Would the distinguished majority leader yield?

Mr. BAKER. Yes.

Mr. DOMENICI. Is it not correct that the amendment pending before us is the same amendment that was brought before the Senate last year, and that the Chair ruled that it was out of order under the Budget Act?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Let me ask one further question: Did not the amendment that was offered and ruled out of order contain language that the money was subject to appropriations?

The **PRESIDING OFFICER.** It contained language that payments should be made from an appropriated fund.

Mr. **DOMENICI.** I have it now. I am reading:

> Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

Mr. President, will the majority leader yield?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **BAKER.** Mr. President, I would be happy to yield. But let me say that we have a waiver pending under section 904 of the act. We have been an hour or more on this. I would recommend that we do one of several things since time is moving on. We either have a vote on the waiver, which I am prepared to do; or, I will move to table the waiver, if necessary; or the waiver will be withdrawn. I have no control over that except in the case of tabling, but I would prefer to go ahead, and vote on the waiver, or see it withdrawn, if the Senator from Colorado would choose to do that.

Mr. President, there are all sorts of variations on this. There is no doubt in my mind that one way or the other you can probably fit this thing together. But it has been my experience also that when you try to cut, fit, and paste on the floor you end up not really knowing what you are doing. At least I do not know what I am doing. So I would not be willing to amend this. But I would be willing to go forward now on some basis for disposing of this matter and then, of course, the Senator from Colorado or others have not impinged any rights they may have.

I would like to liquidate this issue at this time. I would ask the Senator from Colorado if he is prepared to go forward with a vote on the waiver, or to withdraw the waiver and let the point of order be ruled upon.

Mr. **ARMSTRONG.** Mr. President, I will be ready to do so very promptly. I would like to take a few minutes to explain to my colleagues who have not been discussing in the ad hoc huddles what the parliamentary situation is. Aside from the fact that I would like to pass this amendment, which despite what the majority leader and others have said has not been cut and pasted on the floor, the fact is it has been under development, and is the work of quite a large number of Senators and staffers here, in the Pentagon, and elsewhere. This is not something that has been thrown together in a slapdash way. In fact, it has been rather carefully developed after extensive hearings.

I would also like to avoid, if we possibly could, polluting the precedents any further on this kind of question. The issue, which as I understand it, is to be addressed by the majority leader's point of order, is the question of whether or not there is an entitlement in this bill. Under his interpretation, under the theory that there is an entitlement created—and I am on page 19 of the amendment if anyone wants to follow this—it would be out of order to offer this amendment because we have not yet passed the budget resolution. That is the point I made at the outset when he and I first began to discuss this 1 hour ago—if we had passed a budget resolution yesterday, then his point of order would not lie.

May I address the Chair to ask if my understanding of that issue is correct, that under the theory which the majority leader has propounded that an entitlement exists in this amendment, a theory which I do not subscribe to, that it would nonetheless be in order had we passed a budget resolution yesterday.

The **PRESIDING OFFICER.** Entitlement begins in the year in which payments are to be made. The payments pursuant to this amendment are to begin in which year?

Mr. **ARMSTRONG.** The entitlements would begin to be earned in fiscal 1985; the first payments thereunder would not begin until some subsequent year.

The **PRESIDING OFFICER.** The budget year for that subsequent year would have to be in place.

Mr. **ARMSTRONG.** Would the Chair state that again, please?

The **PRESIDING OFFICER.** The budget resolution for that subsequent year would have to be in place in order for this amendment to be in order.

Mr. **ARMSTRONG.** If I understand what the Chair has said, we have received an advisory opinion that in effect it is impossible to start a program under which people earn an entitlement that they do not receive payment for 2 years hence. So we really do have exactly the kind of catch-22 situation I described earlier. There are several ways out of it. One would be, if I would be able to argue as persuasively as I think I might, that the language on page 19 makes it quite clear that this is subject to annual appropriations, or at least to appropriations not necessarily annual appropriations but subject to advance appropriations, and, therefore, is not, in fact, an entitlement within the meaning of the Budget Act. That would be one possibility.

Another possibility would be if we were to vote on the waiver and pass that, as I believe we have subsequently agreed, waiving the Budget Act is part of the Budget Act procedure. It has been used on many occasions and is particularly appropriate for use when we are confronted with the need to resolve in some practical way what amounts to a technical problem that is not otherwise capable of resolution.

Still another possibility would be if the Chair would rule adversely to my interest; that is, to sustain the point of order, it would then be possible for us to appeal the point of order and in an abstract sense of writing the precedents and putting the precedents where some of us believe they should be, that would be the best solution. The only reason, I understand it, that the Chair might sustain this point of order is not based so much on the language here but the fact that identical or nearly identical language has previously been ruled out of order in a setting in which there has been little understanding by the sponsor of the amendment, the Senator from Colorado, or the Presiding Officer. We did not address this in the process as we sometimes do. We must add a precedent which I think, aside from the merits of this issue is really an unfortunate one. I am trying to figure out what is the best way not to make the precedential situation any worse and also to give the amendment a fair chance. That is why I want to again appeal to the majority leader to not press this point because at some stage of the game we are going to have the right to get a vote on this on its merits. It just appears to me that to ask us to go up and down the mountain again later tonight or tomorrow on another bill does not really help the Senate.

To that point, let me just make this clear: Even if we took the amendment down, if it was knocked down on a point of order, if our waiver motion fails, a very simple amendment which clarifies the existing intent of the amendment—it does not change it but really clarifies it—would, we are told, qualify it and eliminate the technical points of order. I want to shop around with my fellow sponsors and see what their pleasure is. I have a duty, I think to do that.

That is the parliamentary situation in which we find ourselves. I yield to the Senator from Maine.

Mr. **COHEN.** It is my understanding that if we insert those two words, that no payment would be made except subject to appropriations, then the point of order would not lie against that particular amendment.

Mr. **BAKER** addressed the Chair.

Mr. **ARMSTRONG.** Would the Senator from Maine restate that so we have it pinned down?

Mr. **COHEN.** It is my understanding that were we to amend this particular provision with two words; namely, that no payment shall be made except subject to appropriations, that provision would not be subject to the point of order.

**The PRESIDING OFFICER.** The Senator from Maine is correct.

**Mr. ARMSTRONG.** May I just point out to the Senator from Maine, that would not change the bill, it would not change what we are doing. It would make what amounts to a cosmetic change, a technical change. I do not say it is not a significant change, but not a change of substance, intent, spirit or outcome. All it would change is enough so that the amendment would qualify.

**Mr. NUNN.** Will the Senator yield?

**Mr. ARMSTRONG.** Let me finish my point. That would be the most straightforward way of doing it without having the point of order lodge, without appeal of the point of order, without a waiver motion. It would simply be to modify our amendment, if that be the desire of the distinguished cosponsors. I inquire of the managers of the bill were we to offer such a request whether or not they would be willing to allow it, though it would require unanimous consent, because after all the yeas and nays have not been ordered. I put that to them. If their desire is to kill the amendment that is one thing. If it is procedural, that is something else. But all the opponents of the amendment make a series of parliamentary points that support their original position, which is for policy reasons they do not want to pass this. So if all we are doing is dancing around the parliamentary point in order to get it into shape to vote on it, I would be glad to make a change to do that.

**Mr. TOWER.** Will the Senator yield for a question?

**Mr. ARMSTRONG.** Yes.

**Mr. TOWER.** Would this be subject to the annual authorization and appropriation process if modified?

**Mr. ARMSTRONG.** It would be subject to appropriations before the benefits could be earned. It probably would be forward funded in the way we do with some education programs at the present time or put on the same kind of appropriated basis that the House version of this has been done. But it is conceivable, not probable, I think, that we might appropriate less frequently than annually. But in order for the benefits to be earned, an appropriation would have to occur.

However, and I want to stress this, that does not change what it already says, it only changes the words.

Here is what it already says:

> Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense—

And so on. Now, because these exact words, through a fluke, in my opinion—that is an editorial comment but it was a fluke—a year ago that was ruled out of order. We did not present our case properly to the Presiding Officer at that time. Had we done so, I believe these very words would have been held not to be an entitlement and not violative of the Budget Act. But perhaps we ought to make some sort of change in order to let the Parliamentarian take a fresh look at it and avoid having to further complicate the precedents.

**Mr. GLENN.** Will the Senator yield for a question?

**Mr. ARMSTRONG.** I yield.

**Mr. GLENN.** It does not seem to me that anyone has earned their right to this money. It would not have anything except a big question mark added as to whether they are going to get anything or not. I do not think there would be anything left of the GI Bill. I think this is going forward for nothing.

**Mr. ARMSTRONG.** I can reassure the Senator on that point, although I am surprised he raised it, because his underlying amendment is subject to the same point of order.

**Mr. GLENN.** We are talking about a pig in a poke here. You are selling them one thing, getting them in, and maybe they will get it and maybe they will not. I am more concerned about that.

**Mr. ARMSTRONG.** If the Senator from Ohio will reflect on what he has just said, I think he may want to think again about that because surely he is not suggesting that that is the intent of the Senator from Colorado. What he literally said is you intend to do this or will do this.

**Mr. GLENN.** I did not say intend. I said you are going to get people in with no certainty of the promise you make to get them in.

**Mr. ARMSTRONG.** That is not the case. This will be subject to appropriations in advance of the time the benefits are earned. That means, if we did not appropriate the benefit, it would not be earned. As a practical matter, Congress will do that. It is analgous in some ways to the Food Stamp Program which some people feel is an entitlement as a political matter but, in fact, requires an appropriation to fund that account.

Let me finish the point. I do not want to bog down on the technicality because the reality is this: If we are for the GI bill and adopt this amendment, we will fund it through the appropriations process. We will do that. That is a fact. In my opinion, Congress could change its mind on that just as we have a right to change our mind on everything that comes before us in appropriations bills every year. As a practical matter we are not going to do that. We are not going to break faith with the troops on pay. We are not going to fail to fund other multiyear kinds of obligations. We are not going to do that.

**Mr. TOWER.** Will the Senator yield for a question?

**Mr. ARMSTRONG.** I think I am responding to the Senator from Ohio.

**Mr. GLENN.** No matter what the language says, we are really funding this as an entitlement program.

**Mr. ARMSTRONG.** It is not an entitlement program in a legal sense from our reading of the Budget Act. It is a commitment to begin this program.

**Mr. GLENN.** It is an entitlement program.

**Mr. ARMSTRONG.** An entitlement program is a particular kind of legal entity, the kind of entity on which somebody can come and bring a lawsuit. That is not what this is because it is subject to an appropriation.

What it does represent, and I do not want any Senator to be in favor of this thing otherwise; it does mean, if we pass this and fund it, that we intend to go with it.

**Mr. TOWER.** Will the Senator yield?

**Mr. ARMSTRONG.** Anybody who has any idea that we are going to set it up and not do it, that is not what we have in mind.

**Mr. DOMENICI.** Mr. President, will the Senator yield for a question?

**Mr. ARMSTRONG.** I reluctantly yield.

**Mr. DOMENICI.** Is it not correct that the Senator suggested that last year's ruling was a fluke, since last year's amendment language said it was subject to appropriation? Now you are going to add two words, and conclude that the amendment is subject to an appropriation.

**Mr. ARMSTRONG.** It was anyway.

**Mr. DOMENICI.** Would the Senator not conclude that maybe the ruling is inconsistent?

**Mr. ARMSTRONG.** No, Mr. President; I would say to the Senator that the issues which we have spent an hour discussing with the Presiding Officer and the Parliamentarian were not discussed last year.

I do not want to involve the Parliamentarian in a policy dispute. The Senator from Maine propounded a question. The question was if a minor change is made in this paragraph, would the amendment be subject to this point of order? He was told it would not.

**Mr. DOMENICI.** Did the Senator not say last year's ruling was a fluke?

**Mr. ARMSTRONG.** I believe it was. The reason it was a fluke is that, having argued the merits at some length, when the point of order arose, I, as sponsor of the amendment, was not quick enough on my feet to explain why the point of order was not valid and it just whistled by me. I was relying instead on the opportunity to move to waive the Budget Act, a motion which nearly carried. If there had been only a couple or three Senators to vote contrary to the way they did, we would have won and I thought we were going to win. I thought we had a chance.

I am saying it was a fluke because I did not do my job. I did not explain as carefully as I should have last year to the Presiding Officer and the Parliamentarian what I had in mind. I am very reluctant to be in a position of urging that the Parliamentarian reversed himself, even though I do not think it was good law a year ago. So I am trying to find some way for the Senate to work its will without facing that question head on.

Mr. DOMENICI. Mr. President, I wonder if I may have 2 minutes without the Senator's losing his right to the floor. Will he yield for that purpose?

Mr. ARMSTRONG. Certainly, Mr. President.

Mr. DOMENICI. Mr. President, I think the Chair ruled correctly last year. There is no doubt in my mind that this bill clearly said that it was subject to appropriations and the Parliamentarian ruled it was an entitlement. I think that is simple. You cannot have an education GI bill that says if you stay in the military for *x* number of years, you are entitled to *x* number of years of the Government educational benefits and conclude that is not an entitlement just because it requires an appropriation. That is precisely the subject covered by section 303 of the Budget Act.

It seems the Parliamentarian has changed his mind regarding this interpretation, but I do not think the Senate will change its mind. I think the Senate will table the waiver motion.

My first point is this: It seems to me that it is clearly not the intent of this amendment to let the Appropriations Committee determine the size and scope of this program. Therefore it is not a discretionary program but an entitlement.

Second, Mr. President, this Budget Act, has a provision for waiver. So anyone thinking that they are supposed to come down to the floor and cavalierly move for a waiver to solve the entitlement problem, that is not so. Anyone can waive the entire Budget Act on the floor of the Senate. Anyone. But a waiver for an entitlement should utilize the waiver process described in the Budget Act.

First a waiver resolution is filed, which is referred to the Budget Committee. The Budget Committee considers the issue and, after 10 days reports the waiver to the Senate. If the Senate agrees to the waiver, the process has been completed and a new entitlement starts.

I am suggesting, Mr. President, that the waiver process is a very valid process. Anybody who wants to do that, can do it, but no one has done it in the last few years. The reason I think they have not done it is simple: Congress is not interested in new entitlements. So coming down here and attempting to waive the Budget Act has generally not been successful.

Mr. GLENN. Mr. President, I suggest the lack of order for listening to the Senator from New Mexico. Some of the people involved here are carrying on separate conversations. I think what he said makes a lot of sense.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. Mr. President, unless another Senator wishes to speak, I need to confer with one of my cosponsors and I shall suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, it is my intention to object to the consent request to amend the amendment offered by the Senator from Colorado. I suggest that the best way to proceed is to go ahead and vote on the motion of the Senator from Colorado to waive the rule, then go from there and let us get this thing moving.

We are going to be in, I think all night now, Mr. President. We have spent 6½ hours on this measure, an inordinate amount of time. We have some big-ticket items in this bill. Of course, if they are going to loan this on defense—everybody wants to cut defense. We have small business setasides, we have restraints against contracting out that will save us a lot of money. We have restrictions against base closures, we have Davis-Bacon that applies to military construction. We have all these fancy social and economic programs in defense. Nobody ever wants to cut those out of defense. Now they want to lard this on it. God knows how much it is going to cost, particularly if we get the SURGE situation in the Armed Forces.

I am getting a little bit resentful of the fact that many of those who advocate rather severe reductions in defense are not willing to support those politically unpalatable things that make defense more affordable. So I intend to object to the Senator's request to modify his amendment, and I suggest we get on with it. We are going to be here all night.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG Mr. President, there comes a time when you just kind of have to do what you have to do. I have been trying to figure out some way to get a fair vote on our amendment because, if it is voted on up or down, someday, it is going to pass. I do not know whether today is the day or tomorrow or next week or 6 months from now. But as I look back on the history of this thing, when a handful of us first introduced it, there was not much support. But the more Senators that have looked at this thing, the more hearings we have had, the more people in the other body have looked at it, the more the service chiefs have testified, the more service organizations have expressed their feelings, we are picking up steam every day. Someday we are going to get a vote on it and when we do, it is going to pass.

I think this is the day to do it. I would like personally to do so in a way that minimizes the procedural frustrations and that gives us a vote on the merits of the issue. If the Senator from Texas will not permit us to modify our amendment to make the modest changes that are necessary to comply with the rule——

Mr. TOWER. If the Senator will yield, if the Senator from Texas did not object, there are others who would.

Mr. ARMSTRONG. I understand, Mr. President. That is their right. Then it seems to me the most orderly way to go at it is just to have a series of votes. It may take more than one more vote, I am not quite sure; it may take several. I would just as soon do it now while the subject is fresh in everybody's mind. After the passage of the budget resolution, this whole thing would be in order without any change.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Yes; I am happy to yield, Mr. President.

Mr. GOLDWATER. I am inclined to agree with the Senator that sometime this will pass. What would be wrong with introducing it as a piece of legislation and having it pass as a bill?

Mr. ARMSTRONG. Mr. President, let me say to my friend from Arizona, that is what I did 5 years ago; that is what I did 4 years ago; that is what I did 3 years ago; that is what I did 2 years ago; that is what I did last year. We have had extensive hearings on this matter. I have begged the Senate not only to have hearings in the Veterans' Affairs Committee, which has jurisdiction over this issue, but also in the Armed Services Committee.

Frankly, we have just been stiff-armed at every occasion in armed services. The Veterans' Affairs Committee has had extensive hearings on it. And the hearing record not only this year but the year before, not only in the Senate but in the Armed Services Committee of the House and the Veterans' Affairs Committee of the House just bolsters the case. In fact, of the members of the committee which has jurisdiction over this matter, 8 of the 12 members of the committee are cosponsors of this amendment. So the Senator's suggestion is a valid one.

Mr. GOLDWATER. Eight out of twelve could not get it out of committee?

Mr. ARMSTRONG. Well, they have not been able to yet, I say to the Senator.

Mr. President, all I can tell you is that we are here offering it as a floor amendment again, as we did before. All I want to do at this point is expedite the process, and so I am going to reluctantly suggest that the best way to do that is to first have a vote on the motion to waive. That is a part of the Budget Act process. Even though I do not think it is the most orderly and best way, it seems to be the best approach. If that succeeds, then the amendment is squarely before us for an up or down vote. If it fails, then there is going to be a ruling by the Chair and I assume at that point, the Chair will sustain the point of order. We will, however, those of us who are present, the two dozen who have sponsored this amendment, expect to offer again our amendment in a slightly modified form, a form that does not really change the effect, or purpose, or spirit, or outcome of the amendment but merely qualifies it under this catch-22 parliamentary situation in which we find ourselves. Then I would not expect to debate it at length but simply to call for a vote on it at that time. I would like, let me say to the managers of the bill, with their agreement in that sequence of events, to put it on right away so that we do not have to come back to it tomorrow. At some point in time, whether it is tonight or tomorrow, in order to pass this, my colleagues and I are going to have to produce 50 or 51 votes or a majority of however many are here to vote. I do not know whether we have the votes tonight. I understand that some of our backers are already traveling, but then I see that we have additional—well, there are Senators here tonight who expressed a special interest in this matter and there are maybe opponents of the measure who are also traveling tonight. I do not know who is here tonight. But it just seems to me the straightforward thing to do now is vote on the waiver motion, and I hope my colleagues will vote for it so we can get on with the Senate's business.

I want to close by saying that nobody, nobody should say I am voting against the waiver on some procedural grounds. This is just a vote on the GI bill. That is all it is. It is a vote on this version of the amendment. We have waived the Budget Act hundreds of times. This is not some crazy, unprecedented, unusual, unheard of procedure. We have done this over and over again. So I just sum it up this way. If you are for the GI bill amendment in the form that my colleagues and I have presented it, vote for the waiver, and then we will have a vote on the bill.

Mr. CRANSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

### VOTE ON MOTION TO WAIVE RELEVANT PORTIONS OF BUDGET ACT

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. TSONGAS], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 44, nays 48, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—44

Armstrong
Baucus
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd
Cochran
Cohen
Cranston
D'Amato
DeConcini
Dodd
Durenberger
Evans
Ford
Garn
Gorton
Hart
Hatch
Hawkins
Heflin
Heinz
Hollings
Huddleston
Inouye
Kassebaum
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Mitchell
Moynihan
Pell
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Trible
Weicker

NAYS—48

Abdnor
Baker
Bentsen
Bingaman
Chafee
Chiles
Danforth
Denton
Dixon
Dole
Domenici
Eagleton
East
Exon
Glenn
Goldwater
Grassley
Hatfield
Hecht
Helms
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Percy
Proxmire
Quayle
Rudman
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Warner
Wilson
Zorinsky

NOT VOTING—8

Andrews
Bumpers
Kasten
Kennedy
Pressler
Roth
Tsongas
Wallop

So the motion to waive relevant portions of the Budget Act was rejected.

The VICE PRESIDENT. On a point of order an identical amendment was ruled out of order 1 year ago. This amendment falls.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Texas is recognized.

### AMENDMENT NO. 3179, AS MODIFIED

Mr. TOWER. Mr. President, I believe now the question recurs on the amendment of the Senator from Ohio, and I wish to inquire of the Senator from Ohio what his intentions are.

Mr. GLENN. Mr. President, my intentions are to ask unanimous consent that I be able to modify my amendment, which is at the desk, if I get the floor to do that.

May I do that at this time?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. ARMSTRONG. Mr. President, reserving the right to object, could we understand the nature of the modification?

Mr. GLENN. Yes. It makes the amendment subject to annual appropriations.

Mr. ARMSTRONG. Mr. President, I am disposed not to object to this proposed change in the amendment offered by the Senator from Ohio even though at one level it might be natural if I would do so because a similar request was objected to when I offered to do that. It would be my intention not to object, but then immediately if the Chair will recognize me to offer my amendment again in a slightly modified form so that both are before us and we get a fair up-or-down choice between the two proposals.

I pointed out earlier the point of order was available against the Senator's amendment. In fact, I will point out to the managers of the bill if there are other points of order of exactly the same character which are available to someone who might wish to object to other portions of the bill, I am not going to make that point of order or any points of order because my desire—Mr. President, is the Senate in order?

The PRESIDING OFFICER (Mr. COCHRAN). In the opinion of the Chair, the Senate is not in order.

The Senate will please come to order. The Senate will please be in order.

The Senator may proceed.

Mr. ARMSTRONG. Mr. President, just to sum it up, the desire of the advocates of the GI bill is not to delay. It is not to confuse the situation. It is not to debate parliamentary fine points. It is simply to get the issue fairly before us.

So I will not object to the request of the Senator from Ohio. I will immediately seek recognition to offer my amendment in the hope that we could vote on it promptly. I do so because of the very close vote we have just had on what in a sense was a procedural motion, and I am constrained to do so because some of those who voted against us on the last vote have said that they would like to vote with us the next time around, that they have scruples against voting for the budget waiver even though we have done it hundreds of times.

There are a handful of Members who have never voted to waive the Budget Act under any circumstances. I do not think it is any crime to waive the Budget Act. It is a part of the budget process to do so. But some Members feel otherwise. So we did not really get a vote on our amendment. We got a vote on a procedure.

So, therefore, Mr. President, I do not object to the Senator's request.

Mr. DOMENICI. Mr. President, reserving the right to object, and I am not going to object, but I would like to tell the Senate why I am not going to object. I do not think it makes any difference. I do not think the amendment that the distinguished Senator from Ohio offered has changed in its basic character by adding the language. It is an entitlement, a very small one, a pilot.

I think when the distinguished Senator from Colorado offers his amendment and he adds two words, I do not think it changes things one bit.

I hope the Senate understands that in the vote just taken, those who voted for the point of order basically said this: this amendment is an entitlement. In the outyears, it can cost as much as $1.8 billion.

There is a provision in the law of the land that says you cannot, without waiving the Budget Act in a very specific way, you cannot do this. So you agreed that you ought not do this.

Now, the proponents of that amendment propose to add two words, which they say turns the entire amendment into a discretionary program.

The amendment that was just ruled out of order said the payments were subject to annual appropriations. The proponents of the amendment have modified it to say that no payments are forthcoming unless there is an appropriation.

Now, I ask anybody if there is any difference. Somehow, it is being argued that there is a difference. It has been established by precedent that a program can be subject to appropriations and still be an entitlement. But now the argument is being changed so that if there are no payments until there is an appropriation, it is no longer an entitlement. I do not know what it is subject to appropriations for. Payment for what? I think it is something else to be appropriated.

On the other hand, the Senator from Colorado makes a point that we waive the Budget Act all the time. Let me make one point. We do not waive the Budget Act all the time under section 303, which prohibits the creation of new entitlements in this manner. In fact, section 303 is waived very rarely.

What we do is waive the whole act from time to time. But I remind you that for good reason the Congress of the United States prescribed a very excellent process for new entitlements.

We are supposed to introduce a resolution saying we want to waive section 303, pursuant to the Budget Act and have a new entitlement. The resolution is referred to the Budget Committee, and the committee looks at it and says, "Do we think we ought to recommend a new entitlement?" If they do not, the Senate does not vote on it. If they do, then we have waived the entitlement prohibition.

So I am not suggesting waivers are not provided for. They are. But the waiver for a new entitlement is an excellent process. The proponents of this amendment do not want to follow it here today.

Mr. ARMSTRONG. Will the Senator yield to me?

Mr. DOMENICI. I will yield, but I want to finish one point.

On the other hand, the Senator is correct. There is a catch-all provision in the Budget Act that you can waive it all and just say we do not want to be bound by it. That is clearly in order on the floor, and there is clearly a provision that says you can do that.

I submit, however, that what we really had in mind is when the issue is an entitlement, we go the other route. Now, my good friend from Colorado knows I have the greatest respect for him. He is going to say, however, that the Senator from New Mexico is arguing about an entitlement and it is not an entitlement. I remind the Senate that when the identical language was offered last year, it was ruled to be an entitlement, and therefore out of order. Now the Senator from Colorado argues it is not an entitlement anymore, that because of the addition of two words, it is no longer an entitlement.

I submit that it was an entitlement then, and it is an entitlement now.

The Senator from Colorado says that last year's ruling was incorrect. I submit that is incorrect to argue this year that the identical language, with the addition of two small words, is no longer an entitlement.

I yield the floor.

The PRESIDING OFFICER. Is there objection to unanimous consent request? Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, follows:

On pay 7, line 31, insert "No" before "payments".

On page 7, line 32, insert "except" after "made".

On page 7, line 32, insert "annual" after "from".

Several SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I just want to suggest that the Senator from Colorado go ahead and offer his amendment, and let us get on with this.

### AMENDMENT NO. 3191

(Purpose: To establish two new programs of educational assistance for veterans of peacetime service, and for other purposes)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an amendment numbered 3191.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed later in the RECORD under Amendments Submitted.)

Mr. SIMPSON. Mr. President, I have a point of order. I would like to inquire, did we not just, by unanimous consent, modify the amendment of the Senator from Ohio?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. That is before the body?

The PRESIDING OFFICER. It was.

Mr. SIMPSON. And the amendment of the Senator from Colorado is also before the body?

The PRESIDING OFFICER. It is an amendment in the second degree to the amendment of the Senator from Ohio.

Mr. SIMPSON. We have a situation here then procedurally that if Senator GLENN were to withdraw his amendment, then Senator ARMSTRONG might be able to proceed; is that right?

The PRESIDING OFFICER. It is not necessary for the Senator to withdraw his amendment in order to proceed with the Armstrong amendment. The Armstrong amendment is an amendment in the second degree of the amendment of the Senator from Ohio.

Mr. ARMSTRONG. Mr. President, I want to clean this up fast. We have been on it long enough. Everybody understands the issue.

But just to recap where we have been, we had a good debate on the question of whether we want a GI bill. The Senator from Texas moved to table. The tabling motion was defeated by a vote of 46 to 51. Ordinarily, that would have been dispositive of the issue, but for the point of order raised by the majority leader.

Since we were not successful in the budget waiver and since some Members who voted against the GI bill concept on the waiver motion issue expressed to me privately their willingness and desire to vote squarely on the issue if I could get it before the body in a form that we were just voting on that and not some procedural question, I have felt constrained to offer this. Ordinarily, I would not come back a third time. But I do think we understand the issue.

It is not my desire to drag it out. I just ask the 51 who voted with us an hour or two ago to do so again, and let us get on with the task.

Mr. TOWER. Mr. President, I would simply ask the 49 Senators that voted with us on the last vote to vote with us again. I think that the Senator's views on the issue to create new entitlements are clear.

I move to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. Will the Senator withhold for just a moment?

Mr. TOWER. I will withhold for a moment, but we have been debating this issue for well over 7 hours today, and I do not think we could get any more enlightenment on it. Senators are going to be here all night voting on other amendments that are germane to this bill.

Mr. ARMSTRONG. Since there was a tabling motion previously, I wonder if the Senator would now not be willing to have an up-or-down vote on the issue itself, rather than a tabling motion. We had this tabling motion earlier. I would just appeal to the Senator that we have been through that, and could we not just now vote on the pending question.

Mr. TOWER. Without the tabling motion, the matter is still debatable. Therefore, Mr. President, I move to table the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I reluctantly ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas [Mr. TOWER] to table the amendment of the Senator from Colorado [Mr. ARMSTRONG]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. STAFFORD], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "nay."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—47

Abdnor
Baker
Bentsen
Bingaman
Chafee
Chiles
Danforth
Denton
Dixon
Domenici
Eagleton
East
Exon
Glenn
Goldwater
Gorton
Grassley
Hatfield
Hecht
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Percy
Proxmire
Quayle
Rudman
Simpson
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Wilson

NAYS—45

Armstrong
Baucus
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd
Cochran
Cohen
Cranston
D'Amato
DeConcini
Dodd
Dole
Durenberger
Evans
Ford
Garn
Hart
Hatch
Hawkins
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Mitchell
Moynihan
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Trible
Zorinsky

NOT VOTING—8

Andrews
Bumpers
Kasten
Kennedy
Roth
Stafford
Tsongas
Weicker

So the motion to lay on the table amendment No. 3191 was agreed to.

Mr. ARMSTRONG addressed the Chair.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, before we take up the reconsideration motion, I would just like to thank all Senators, especially those who joined me in attempting to pass this amendment. When last we visited this issue about 6 months ago, we failed by four or five votes. I guess today, after three rollcalls, they finally got us by a vote or two. I expect that some of us will want to make this effort again. In fact, I think the clear sentiment which has been expressed is increasing support for the concept of a GI bill. There are parliamentary questions to be answered; there are details that need to be reconciled.

I just want to announce here and now that I am going to be in touch not only with Senators who have voted for this, but I am going to be in touch with some of the Senators who have told me privately that they would like to vote on this but did not feel they could today, to see if there are little adjustments we can make.

I would like to express the hope that the Armed Services Committee will have a hearing on this. They do not have to have a bill before them to do it.

Mr. TOWER. If the Senator will yield, we have made that commitment already once today, and I reiterate that commitment.

Mr. ARMSTRONG. Mr. President, I thank the Senator, and I am going to apply for permission to come testify before his committee as I have before the Veterans' Affairs Committee and have before the House committee.

Mr. TOWER. The Senator's application is accepted.

Mr. ARMSTRONG. I hope, in the process of considering the amendment, even though we have not passed the amendment, we have enriched the thought life of this body and have focused attention on one of the most important programs that is under consideration. In doing so, I have had some sense of fulfillment, although next time out, let us pass the amendment.

Mr. DOMENICI addressed the Chair.

Mr. TOWER. Mr. President, the question now recurs, I believe, on the amendment of the Senator from Ohio.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator is correct.

Mr. NUNN. Mr. President, we have not reconsidered the vote by which the Armstrong amendment was tabled. I move that we reconsider that vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3179, AS MODIFIED

Mr. GLENN. Mr. President, I would like to have a record vote on this. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GLENN. Mr. President, as I explained before, this amendment is a targeted effort to assist the services in acquiring high quality recruits for 2-year enlistments from a wide cross section of American society and at a limited cost.

It does not conflict with, or change, any existing programs.

It is a contributory program: The recruit forgoes $250 per month in pay for the full 24 months.

We assume most of these people will be on the base so there is no offbase quarters or subsistence allowances.

Services can assign duty in any of the critical fields they warn. Service members are encouraged to reenlist after 2 years but will retain benefits to the end of their service career if they like.

The benefits to the recruit at the end of his 2-year service would be $500 a month for 36 months, and the total we would see on this whole program, which would be not over $160 million as we have covered several times today, would be limited to that but could not go above that, so it is a far less expensive bill.

I think we have debated these things long enough today, Mr. President. Unless there is objection, I am prepared to move to vote.

The PRESIDING OFFICER. Is there further debate?

Mr. TOWER. Mr. President, briefly, before we vote, Senators are now ready to come forward with amendments, which I think is a happy state of affairs. Senator Percy has indicated a desire to cooperate. Senator Domenici is prepared to offer his amendment relative to DOE and DOD. That, I think, can be voted on at the appropriate time by voice vote.

After that, Senator Percy is ready to bring up his amendment to reduce funding for special defense initiatives to the House level.

### TIME LIMITATION AGREEMENT

I would like to ask unanimous consent that, following the disposition of the amendment of the Senator from New Mexico, Senator Percy be recognized to offer his amendment. He has agreed to control of time on that amendment, 1 hour equally divided.

I propound that as a unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I simply want to say that as chairman of the Veterans' Affairs Committee, I assure the Senator from Texas that we shall hold hearings. I assure the Senator from Colorado we shall do that again and Senator Cohen, too. It has been the most formidable and awesome array of adversaries here. I hope when somebody comes by in the next few months and hands my colleagues a "Dear Colleague" letter about the GI bill, they will reserve their judgment until they see the damage in the bill again.

The VA is going to end up paying this. Senators will want to know that is going to happen. They will want to know the proposal of the Senator from Ohio is for $12,000 per recruit as opposed to the Armstrong, which is $200,000 per recruit.

I hope my colleagues keep those perceptions as we go into the future.

Mr. THURMOND. Mr. President, the pending amendment is a very generous educational assistance program, and I am pleased to be a cosponsor.

A soldier will receive approximately $18,000 for educational purposes from a $6,000 investment.

This voluntary savings program is cost effective and will certainly be an incentive for enlistment for those who want to join the military services in order to further their educations.

Mr. President, with the absence of a draft and the high pay given recruits, it is unfair to ask the taxpayers to wholly subsidize service-connected educational benefits. Therefore, I believe this amendment, which requires the Government to match a serviceman's funds at a rate of about 2 to 1, is equitable and fair to the soldier and the taxpayer. I urge my colleagues to vote for its adoption.

Mr. COHEN. Mr. President, before we vote, I would like to call to the attention of my colleagues on the floor that on the Glenn proposal, there have been no hearings held whatsoever. The basic objection we have heard here on our proposal is that we have not had hearings again. The record is voluminous, yet not quite enough hearings have been held. On the proposal of the Senator from Ohio, there have not been any hearings held, to my knowledge.

Also, I point out if my colleagues think VEAP is a failure, then this, it seems to me, is also going to be doomed to failure. We have a system in which there is a $25 a month contribution on the part of the service personnel and the program is, in fact, failing. Now we are going to have a $250 a month contributory program. If that is not doomed to failure, I do not know what is.

Nobody should vote on this measure thinking it is a GI bill. It is not, in fact, a GI bill. It is an amendment which has had no hearings. If we had had hearings, I think the evidence would indicate it is not likely to improve the situation. In fact, it would prove to be a much less productive program.

Mr. GLENN. Mr. President, the VEAP program the Senator from Maine refers to certainly was not successful. I hope ultra-VEAP can be considered a success. I think the amendment I am proposing will be a response to that.

We agreed with Senator Tower and Senator Nunn to accept their amendment on that. I supported that amendment. I think it did perfect my amendment, made it better. I am prepared to go forward with the vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. Andrews], the Senator from Tennessee [Mr. Baker], the Senator from Wisconsin [Mr. Kasten], the Senator from Delaware [Mr. Roth], and the Senator from Vermont [Mr. Stafford] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Massachusetts [Mr. Tsongas] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 72, nays 20, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—72

Abdnor
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Chafee
Cochran
D'Amato
Danforth
Denton
Dixon
Dodd
Domenici
Durenberger
Eagleton
East
Exon
Garn
Glenn
Goldwater
Gorton
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Lautenberg
Laxalt
Leahy
Long
Mathias
Mattingly
McClure
Melcher
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Rudman
Sarbanes
Sasser
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson

NAYS—20

Armstrong
Burdick
Byrd
Chiles
Cohen
Cranston
DeConcini
Dole
Evans
Ford
Grassley
Hollings
Levin
Lugar
Matsunaga
Mitchell
Pressler
Randolph
Riegle
Zorinsky

NOT VOTING—8

Andrews
Baker
Bumpers
Kasten
Kennedy
Roth
Stafford
Tsongas

So the amendment (No. 3179), as modified, was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3194

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk in a moment that I am very pleased to thank some cosponsors. Senator Baker is a cosponsor along with my junior Senator, Mr. Bingaman, Mr. Boschwitz, Mr. Johnston, Mr. McClure, Mr. Percy, Mr. Moynihan, Mr. Wilson, Mr. Glenn, and Mr. Randolph. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici] for himself and Mr. Baker, Mr. Bingaman, Mr. Boschwitz, Mr. Johnston, Mr. McClure, Mr. Percy, Mr. Moynihan, Mr. Wilson, Mr. Glenn, and Mr. Randolph proposes an amendment numbered 3194.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 117, strike the text and catchline of Section 1006 and on page 237, strike the text and catchline of Section 331 and insert the following catchline and text:

"COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

"(a) The President shall establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance and retirement of nuclear weapons. The purpose of the Group's effort will be to recommend any needed change in such procedures.

"(b) The Group shall consist of seven members, qualified by reasons of experience and education. The President shall appoint three members and shall designate one member to act as Chairman of the Group. The Majority and Minority leaders of the Senate and the House of Representatives shall each appoint one member. None of these members shall be an employee of the Department Energy, the Department of Defense, or any contractor employed by either such Department and involved in the research, development, testing, production, surveillance or retirement of nuclear weapons.

"(c) Within 90 days of the date of enactment of this Act, the President shall submit the names of those persons appointed to such Group, together with the qualifications of such persons to serve on such Group, and a detailed plan for completing the report required by subsection (e) to the Committees on Armed Services of the Senate and the House of Representatives.

"(d) The President shall insure that the Group has complete and timely access to Department of Energy and Department of Defense employees and records pertaining to such procedures.

"(e) The Group shall submit a report of their findings and recommendations to the President and the Armed Services Committees of the Senate and the House of Representatives within 180 days of the date of enactment of this Act. Such report shall include any additional or dissenting views that any members of the Group may wish to submit. As a minimum, the study shall include recommendations in the following areas—

"(1) ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production;

"(2) cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials productions; and

"(3) whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs."

Mr. DOMENICI. Mr. President, I do not think we will take very long. From what I understand, the distinguished manager, the Senator from Texas, and the distinguished ranking minority member, the Senator from Georgia, are willing to accept the amendment.

The Armed Services Committee has proposed what I consider to be a fundamental change in the way we control the production of nuclear weapons. In an effort to bring greater scrutiny to the cost, they would move the budgeting of these weapons from the Department of Energy to the Department of Defense.

The placement of the nuclear weapons program in the Department of Energy was not an accident. It has always been kept separate from the Department of Defense in an attempt to create the requisite checks and balances that many think the development of such weapons require.

As a matter of fact, clear back to President Truman, he proposed in writing that we should not put development of nuclear weapons in the same Department, the Department of Defense, which I think then was the Department of war. It started with a letter from President Truman to the then committee of the Senate, and I ask unanimous consent to have printed in the Record the distinguished President Truman's remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

### Letter to Senator McMahon Concerning a Bill for Domestic Development and Control of Atomic Energy, February 2, 1946

[Released February 2, 1946. Dated February 1, 1946]

*My dear Senator McMahon:*

You have requested my views on S. 1717, a bill for the domestic development and control of atomic energy. I wish to give you my thoughts at this time because I consider the subject of paramount importance and urgency, both from the standpoint of our welfare at home and that of achieving a durable peace throughout the world.

I appreciate the thorough and impartial manner in which atomic energy hearings have been held before your Committee. I believe that the hearings, in keeping with democratic tradition, have aided the people in obtaining a clearer insight into the problems which such legislation must meet.

You will recall that I sent a special message to the Congress on October 3, 1945, calling for legislation to fix a policy for the domestic control of atomic energy. Since then I have given considerable time to the further study of this most difficult subject. I have had the advantage of additional technical information and expressions of public opinion developed at the hearings. With this background I feel prepared to recommend in greater detail than before what I believe to be the essential elements of sound atomic energy legislation:

1. A commission established by the Congress for the control of atomic energy should be composed exclusively of civilians. This should not be interpreted to disqualify former military personnel from membership, and is in accord with established American principles embodied in our statutes since 1870. I would prefer a three-man commission in lieu of a larger group which administrative experience has shown unwieldly. It is essential that the members of the commission be full-time Government employees.

2. The Government must be the exclusive owner and producer of fissionable materials. (*Fissionable* materials are, of course, to be distinguished from *source* materials from which fissionable materials may be derived. By fissionable materials, I mean such as U235, or Plutonium, or any substance enriched in these beyond its natural state.) It follows that there should be no private patents in this field of exclusive government activity.

The disadvantages of Govenment monopoly are small compared to the danger of permitting anyone other than the Government to own or produce these crucial substances, the use of which affects the safety of the entire Nation. The benefits of atomic energy are the heritage of the people; they should be distributed as widely as possible.

3. Consistent with these principles it is essential that devices utilizing atomic energy be made fully available for private development through compulsory, non-exclusive licensing of private patents, and regulation of royalty fees to insure widespread distribution of the benefits of atomic energy while preserving the royalty incentive to maintain the interest of private enterprise.

4. In my message of October 3rd, I wrote: "Our science and industry owe their strength to the spirit of free inquiry and the spirit of free enterprise that characterize our country . . . (This) is our best guaranty of maintaining the preeminence in science and industry upon which our national well-being depends."

Legislation in this field must assure genuine freedom to conduct independent research and must guarantee that controls over the dissemination of information will not stifle scientific progress.

Atomic energy legislation should also insure coordination between the research activities of the Commission and those of the proposed National Science Foundation, now under consideration by the Congress.

5. Each of the foregoing provisions for domestic control of atomic energy will contribute materially to the achievement of a safe, effective international arrangement making possible the ultimate use of atomic energy for exclusively peaceful and humanitarian ends. The Commission should be in a position to carry out at once any international agreements relating to inspection, control of the production of fissionable materials, dissemination of information, and similar areas of international action.

I feel that it is a matter of urgency that sound domestic legislation on atomic energy be enacted with utmost speed. Domestic and international issues of the first importance wait upon this action.

To your Committee, pioneers in legislation of vast promise for our people and all people, there beckons a place of honor in history.

Sincerely,

Harry S. Truman.

[Honorable Brien McMahon, United States Senate, Washington, D.C.]

Note: On August 1, 1946, the President approved the Atomic Energy Act of 1946 (Public Law 585, 79th Cong., 60 Stat. 755) providing for the development and control of atomic energy.

**Mr. DOMENICI.** Mr. President, then Congress abolished the Atomic Energy Commission, which had been the civilian agency that did this. In the process we created ERDA. We transferred these programs to ERDA. When we did away with ERDA, consistent with civilian control, we transferred it to the Department of Energy.

In 1982, the President proposed that DOE be abolished, but decided to send nuclear weapons development, even at that time, to the Department of Commerce rather than DOD.

I do not think it is wise to break with a system which is based on this fundamental principle.

The concerns about the rising costs raised principally by the distinguished Senator from Georgia may very well be valid. New procedures and accounting methods should be explored.

I propose along with my cosponsors that we create a blue ribbon committee, that that committee be made up of three Presidential nominees, one to be recommended by the majority and minority leaders of the House of Representatives and the Senate, and they begin a study that is to be done in 180 days. The study would explore better coordination between DOE and DOD, better management, and whether or not to move the budget function from the Department of Energy to the Department of Defense. No present employees of either department, DOE or DOD, could participate in the study as members of the committee, and it is my hope that the National Security Council should have the lead for the administration and not the Office of Science and Technology or some other group which does not have as its principal responsibility the management of a national security matter.

Mr. President, I have letters of support from the Secretary of Energy and the Secretary of Defense indicating they do not desire the transfer that is contained in the bill. They have no objection to the blue ribbon commission. I ask unanimous consent to have printed in the RECORD the letters to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
*Washington, DC, June 13, 1984.*

Hon. PETE A. DOMENICI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DOMENICI: I am writing in regard to your proposed amendment to the Omnibus Defense Authorization Act of 1985 (S. 2723) to establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Energy (DOE) and Department of Defense (DOD) to establish requirements for nuclear weapons and suggest improvements that may be warranted.

In doing so, I want you to know of our strong support for this amendment as it is in close concert with our own position on the matter. We recognize the important need for developing ever more effective operating procedures between the two Departments. We welcome this amendment as an appropriate step in developing additional efficient and cost-effective improvements to the current approaches being employed. Of utmost importance in such efforts is the preservation of the fundamental concept of civilian control of nuclear weapons, a concept which dates back to the Atomic Energy Act of 1946 and which has been reaffirmed several times whenever the idea of having DOD fund and/or manage DOE defense programs has been studied.

The current division of responsibility between DOD and DOE provides for dual agency judgments and has worked well to improve the safety, security, control, and performance features of nuclear weapons. This separation of responsibilities has also been a key factor in ensuring separate scientific advice from our laboratories on defense issues and in maintaining the active involvement of universities in managing major weapons research facilities.

The DOE fully supports efforts to improve the planning and budgeting of weapons systems and has taken a number of important steps in recent years to strengthen the coordination process with DOD. We would be pleased to join with the proposed Blue Ribbon Task Group as well as the DOD in a study of ways to further improve coordination in budgeting, management and execution of weapons activities. We believe this is the best way to address the concerns you or your staff may have without infringing upon the underlying premise of the Atomic Energy Act for civilian control of nuclear weapons.

Sincerely,

DONALD PAUL HODEL.

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THE SECRETARY OF DEFENSE,
*Washington, DC, May 23, 1984.*

Hon. SAM NUNN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR NUNN: Thank you for your letter of May 18, 1984 requesting our views on an amemdment to the FY 85 Omnibus Defense Procurement Authorization Bill, which would transfer the nuclear warhead and associated nuclear materials budget from the Department of Energy (DoE) to the Department of Defense (DoD), effective in FY 86. We understand that this amendment would continue DoE management for the full scope of this activity and that the amendment is intended to strengthen programming of procedures to insure that nuclear warhead costs are given full consideration in the DoD when decisions are made on tactical and strategic nuclear systems.

As you know, nuclear warhead costs and requirements are given careful consideration throughout our system acquisition process. This department maintains active and continuing interaction with the DoE through the Military Liaison Committee and through many other working level machanisms within the Services.

We have been working over the years to insure full coordination between the Departments. In particular, as a result of the 1980 "Starbird Study" we have put in place a number of measures to ensure better coordination. We welcome the interest expressed by the Subcommittee in seeking organizational and management arrangements to accomplish further improvements in the process. However, we think that the approach envisioned by the amendment is clearly not the best way to accomplish such improvements.

I know we share a common conviction that the nuclear weapons program constitutes a vital national security resource. The United States and its allies rely upon this program as an indispensable component of our shared deterrent posture. Consequently, the ability of the nuclear weapons program to function effectively—and efficiently—within the government must be one of our highest national priorities. That very priority requires, however, that the mechanisms whereby we implement the Atomic Energy Act and perform the various related missions are altered only after careful analysis and deliberation.

For that reason, we do not recommend adoption of the amendment in the absence of such careful study and analysis of the results. Instead, we would propose that the Departments of Defense and Energy conduct a joint and comprehensive assessment of all the potential improvements to the present management and budgeting procedures for the nuclear weapons program. We believe it is appropriate and achievable for the results of such an assessment to be available in time for detailed Congressional consideration along with the FY 1986 budget submissions.

Sincerely,

CAP.

**Mr. DOMENICI.** Mr. President, I am going to yield in a moment to the Senator from Illinois.

Before I do so I wish to thank the Senator from Texas for his cooperation, the Senator from Georgia for his cooperation, and certainly the distinguished Senator from Virginia, Senator WARNER, for his cooperation, and I know that the distinguished junior Senator from California along with the Senator from Illinois have an interest. They are on the floor.

I also wish to thank my distinguished junior Senator. We talked about this after the bill came out. He asked me to proceed and concluded that he wanted to support this, even though he is on the committee. I thank him for that. I think we are doing the right thing. Basically by this amendment we will have stricken the mandatory language which would move budgeting of this very vital defense function, that is that function of nuclear weapon development from the Department of Energy to the Department of Defense. That will not occur. It will be studied. Congress in due course can make up its mind.

We can get recommendations that are much needed in the studies that the Senator from New Mexico feels are very much needed.

With that, I know the Senator from Illinois wished to be heard. I yield the floor.

**Mr. NUNN.** Mr. President, I wish to make a few points about this amendment. I am not trying to get in front of someone, if the Senator from Illinois wishes to speak first or the Senator from California.

**Mr. PERCY.** Mr. President, I rise to express my strong support for the amendment to require a comprehensive report to the Congress on how to achieve the greatest efficiency and cost savings in the nuclear weapons research, development and production programs. I believe the Armed Services Committee's proposal to move an important part of the nuclear weapons program from the Energy Department to the Department of Defense raises issues that go to the heart of the 1946 Atomic Energy Act, and I would like to take just a few moments to address them.

First, I certainly share the concerns of my distinguished colleagues, the Senator from Virginia [Mr. WARNER], and the Senator from Georgia [Mr. NUNN] regarding the costs of nuclear weapons. Those of us in the Congress bear a special responsibility to monitor and control the costs of providing for our national security. There are many important things we can and should do to reduce those costs, and to make sure that they do not escalate unreasonably. But I am not persuaded that moving a major program like this one into the Department of Defense will, of itself, produce cost efficiencies. I am just not convinced that DOD regards cost efficiency as one of its top priorities. There have been too many examples of waste in the Pentagon for me to accept the idea that just giving them the nuclear weapons program will somehow ultimately save the taxpayers money, or improve the management of the program.

Second, we should not take a major step of this kind without reviewing the very important considerations for the existing institutional arrangement, especially one that has endured for 40 years and which has been deliberately preserved by the Congress on a number of occasions. When the Atomic Energy Act was written, the drafters believed it of utmost importance to separate the development and control of nuclear weapons from the military—to insure control by civilians. This was one of the important reasons for creating a separate Atomic Energy Commission. As the system has developed, the arrangement has proven to have a number of benefits. For one thing, it allows the civilian agency which performs nuclear weapons research to independently advise the President and other senior officials—including the Congress—with regard to weapons design, safety considerations, and other technical matters. In some instances, this independent advice has been of great benefit in the conduct of our foreign policy and our national security policy. Despite strong initial opposition from the military, safety and command and control features have been developed and implemented in nuclear weapons systems which might otherwise never have seen the light of day. This is just one example of how maintaining independent, civilian control of these programs has been important and beneficial.

Third, I do not think a transfer of the kind recommended by the Armed Services Committee should be carried out unless there are strong reasons for it. Reorganizations of this kind inevitably cause dislocations and problems. They involve organizational costs that can actually—at least in the short run—harm the effectiveness of the program. When it is the nuclear weapons program that is at issue, we must be particularly careful.

As I understand it, the committee believes this new setup will produce cost efficiencies by making nuclear weapons compete against other weapons systems in the budget process. This could be true, but we should not assume that it will be true. Furthermore, funding pressures of the kind the committee intends to create could have perverse effects. For instance, the military might decide that a certain safety feature should not be developed, because it would make an otherwise desirably new system too costly. So the safety feature would be scrapped. Congress might not learn about it. Who loses? All of us lose. To be sure, tradeoffs of this kind are made today. But today we have the advantage of some checks and balances. The shift proposed by the committee would begin the erosion of those checks and balances.

We must always remember that when we are talking about nuclear weapons, we are talking about the most destructive technology known to man. In changing the institutional structure of this program, the utmost caution is called for. The need for independent civilian control is just as present today at it was in 1946, when the Atomic Energy Act was enacted. We must be absolutely certain that we will not compromise the goals of that act. For these reasons, I fully support the amendment to require a report from the administration before making any such change as the committee recommends. I, therefore, urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, while we have a few Senators in the Chamber, I wish to make a few points about why this provision is in the bill.

I am agreeable to the amendment that is proposed by the two Senators from New Mexico as well as others.

I first wish to say that the Senator from New Mexico [Mr. BINGAMAN] in committee was an opponent of this amendment. We did have votes in the committee. It passed, but he was in opposition there. I think that point should be made clear.

I think that everyone who is concerned with this issue should begin to focus on what has happened.

I realize it is history here to separate the Department of Defense from all aspects of the production of nuclear warheads. I recognize that history.

We are certainly not separating the Department of Defense from the management of warheads once they are produced. So no one should believe that we have complete civilian control of nuclear warheads once they are put in the field. They are under the Department of Defense. But I am afraid what we have developed inadvertently is an insensitive system for more and more warheads to be built independent of any kind of real analysis about whether they are needed.

The amendment did not take any authority away from the Department of Energy in terms of producing the warheads, in terms of managing the program. What this amendment that is being stricken by this Domenici amendment and Bingaman amendment would have done is, it would have industrialized funding these warheads. It would have said to the Department of Defense you are going to have to pay for these warheads. They are going to come out of your budget. Therefore, you better start paying attention to them. You better start looking at the cost of them. You better start figuring out whether you really need them. But you better start deciding whether conventional capabilities in the emerging technologies can substitute for some of these warheads.

You are over here funding a very large emerging technologies program. It is going to get larger. The emerging technologies program is being talked about by the Secretary of Defense, by the President, by European allies, and by many of us in Congress as a possible beginning toward substituting precision guided and accurate conventional weapons for a lot of our short-range nuclear systems that are now stationed in Europe.

If we do not have someone in the Department of Defense who is looking at the tradeoff between those conventional weapons and the nuclear weapons, then we have no incentive for anyone to do anything except keep on producing nuclear weapons, particularly short-range nuclear weapons, whether we need them or not.

In effect, what we have right now is a system where the Department of Defense basically has every incentive to say, whether they say this literally, I do not know, I do not allege that they do, but it is a system that basically says, "Step right up, folks, the nukes are free. The nukes are free. Get as many of them as you want. We do not have to pay for them."

The Department of Defense does put in the requirements, but why should they worry about it, whether they order 1,000 or 10,000 or 50,000. They do not pay for them. The Department of Energy is sitting over there, and they are saying, "We have these laboratories," and I recognize they are wonderful laboratories, and we have some great people there, but they are saying, "We have all these laboratories, we have all this overhead, we do not want to lay anyone off. Now the Department of Defense does not care how many nuclear weapons we produce. If we produce more nuclear weapons, we can divide that number into the total overhead and we look like we are more efficient."

So, the Department of Energy has every incentive to produce nukes. The Department of Defense has no incentive to do anything about it.

Now, I do not know how many nuclear weapons we need. I do not stand here on the floor and say that I know how many we need. I know we are producing a lot of nuclear weapons that no one in the executive branch is properly monitoring as to whether we really need them or not. I know we do not have an incentive system for anyone to manage this program. I know that whether you produce more or less nuclear weapons, per unit cost continues to go up. I know we have had huge increases in the per unit cost of these warheads.

I am not arguing this point philosophically. I am arguing it from a management point of view.

It seems to me that those who signed on to the Domenici amendment should begin to ask serious questions, and I think the study should begin to ask serious questions. Anyone who thinks that we have some great civilian control of the production of nuclear weapons now simply does not know how the system is working.

First of all, the people in charge at DOE, most of them are military people or retired military people. So you are not really separating them that much. There is some kind of myth going around that by having the Department of Energy fund all of these weapons you have divorced them from the military. Well, that is just totally inaccurate in terms of the facts now.

I think it is important to say that the purpose of the committee provision that is being stricken by this amendment—and I am not arguing against the amendment. I am not absolutely certain that the proposal we have come up with is the final and best solution. I am convinced that the status quo is not working in terms of management and in terms of incentives.

So the purpose of the committee provision is to try to build some cost discipline into the process of acquiring nuclear weapons. Under the system that exists today, there is a built-in incentive for DOE to build the most expensive warhead possible and to build as many as possible. The Department of Defense is not constrained to consider cost in setting warhead requirements because DOE funds the warhead costs. That is the situation we are in. The Department of Defense specifies the most complex and, therefore, usually the most expensive weapons that DOE can make. DOE justifies its expenses based on DOD requirements.

So the long and short of it is in the executive branch there is every incentive to have very high numbers and high costs of nuclear weapons. What we are trying to do is turn that incentive around.

Now it is true that we in Congress have looked at this account more and more carefully. I think it was about 3 years ago the Armed Services Committee terminated the so-called B-77 bomb. This was killed by our committee because it was too expensive. But it is not a good management system when you have to get to the Congress of the United States before you have anyone with an incentive to look very carefully at the dollars.

We have some examples that bring into mind very serious questions here. We had just 2 or 3 years ago a so-called dial-a-yield warhead on the ground-launched cruise missile. That added very substantially to the cost of that. We never found anywhere in the testimony why that had to be done, why that was different from other warheads. But we did know and do know it cost a lot more money.

We had SLCM's and GLCM's that were built with much cheaper warheads and no one can explain really what the difference is. So we have a situation where the status quo is simply not acceptable.

I agree with the amendment by the Senator from New Mexico because I think it does bear close scrutiny from a high-level group. Again, I am not precisely certain that the industrial-funded provision would solve all of this problem. I am not certain we have got exactly the right solution, but I am reasonably certain that the status quo is not a good management system and we have no incentive in the executive branch to properly manage.

I want to give you just a couple more examples. The Defense Resources Board—that is the Board that allocates the defense spending—they do not consider the warhead portion in terms of costs when they are making decisions on weapons. Those are the people over there that are considering the tradeoffs and there really is not a consideration of tradeoffs in this nuclear warhead area.

There is another, I think, important point. The warhead funds are not reviewed by the national security apparatus in the Office of Management and Budget. The people in the Office of Management and Budget reviewing national security look at the whole picture. Looking at the tradeoffs, they do not review this. These costs are reviewed by the energy and natural resources part of the Office of Management and Budget.

So I think there was a great deal of frustration in our committee with the present system. I hope that this blue ribbon commission would take note of the situation we have today.

I also hope that people who have gotten—perhaps sincerely, perhaps not—very alarmed—I heard rumors going around that this provision in the bill is a first step toward cutting out the national laboratories. I know of no discussion that has taken place like that. There is no discussion in our committee on cutting out the national laboratories. They are indispensable assets. I think we have to have them. I think they have a number of people who are indispensable there that cannot be replaced. I do not think that means, though, we ought to just have a blank check and say, "Build as many nukes as you want to. Nobody cares." And say to the Pentagon, "Step right up and get your nuclear weapons, folks. They are free." And that is the system that we now have in terms of incentives.

So I hope that everyone concerned with this blue ribbon commission would recognize the seriousness of this issue and would give it the kind of attention that it deserves.

Mr. WARNER. Mr. President, this issue was considered by Senator NUNN and myself during the course of the hearings conducted by the Subcommittee on Strategic Nuclear Systems, of which I am privileged to be the chairman. I wish to associate myself with the observations made by my distinguished colleague from Georgia.

Mr. President, let me briefly discuss the committee-reported provision.

The purpose of the committee provision was to try and build some cost discipline into the process of acquiring nuclear weapons. Under the system that exists today there is a built-in incentive for DOE to build the most expensive warheads possible. DOD is not constrained to consider cost in setting warhead requirements because DOE funds the warhead cost. Therefore, DOD sometimes specifies the most complex, and therefore, the most expensive warheads that DOE can make. DOE justifies its expenditures based on DOD requirements. The system has built-in incentives to promote high costs.

The principal controls on the system reside in Congress. The Armed Services Committees have exercised that control on a regular basis. For instance, the B-77 bomb, which was to be a new strategic bomb, was killed by the Senate Armed Services Committee because it was too expensive. It was too expensive because the requirements for the warhead were unrealistically restrictive. After the B-77 was canceled, the requirements were relaxed and the B-83 is now being produced at a fraction of the cost of the B-77. Other similar examples can be cited.

It is poor management to depend on Congress to be the first level at which cost discipline is imposed. Somewhere within the administration cost controls should be built into the system.

The provision does nothing to affect current DOE program management. DOE would continue to execute its programs just as it does today. The amendment does require that funding responsibility be transferred to DOD. It is bad management technique to have the same agency responsible for both setting requirements and funding the execution of those requirements; such a situation that exists in DOE today with regard to atomic weapons programs. The committee provision seeks to correct that bad management situation.

There has been a great hue and cry raised by the DOE labs that the provision would destroy the labs and the independence that they enjoy today. There is no intent to change the way the labs are managed. DOE would continue to contract with the University of California and Bell Labs, just as it does today, to run these labs. There is no intent in the provision to restrain the independent voice of the labs.

During the course of our deliberations, the junior Senator from New Mexico was present and asked a number of pertinent questions. At the conclusion of our markup, Senator NUNN and I had some concerns and requested that the Secretaries of Defense and Energy provide the committee with their views on the subject.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the responses of those Secretaries to the committee.

There being no objection, the responses were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
*Washington, DC, May 23, 1984.*

Hon. JOHN W. WARNER,
*Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR SENATOR WARNER: Thank you for your letter of May 18, 1984, requesting our views on an amendment to the FY 1985 Omnibus Defense Procurement Authorization Bill which would transfer the budgets for the Nuclear Weapons and Nuclear Materials Production programs from the Department of Energy (DOE) to the Department of Defense (DOD), effective with the execution of the budget for FY 1986. We understand the amendment is intended to strengthen programming procedures to ensure nuclear warhead costs are given full consideration in the Department of Defense when decisions are made on tactical and strategic nuclear systems.

The need to ensure nuclear warhead costs are given full consideration in the nuclear system decision process has been and continues to be a matter of high priority. This interest was a major reason for the studies that have been performed over the past several years wherein the possibility of having the DOD fund and/or manage DOE defense programs was considered. Among these studies were the 1976 "Funding and Management Alternatives for ERDA Military Application Functions," commonly referred to as the "Transfer Study," updated in 1981; the July 1980 "Long-Range Nuclear Weapon Planning Analysis," called the "Starbird Study"; and the review conducted in the context of the proposal to merge parts of DOE with the Commerce Department.

These reviews generally concluded that consistent with the thrust of the Atomic Energy Act of 1946, as amended, which established the Atomic Energy Commission (now DOE) to exercise civilian control over atomic energy, it is vital to keep weapon program management and funding responsibilities in a single civilian agency. One concern was that separation of funding and management responsibilities for programs of substantial size could result in steadily increasing involvement of the funding agency in the management of the program, with a resultant diffusion of responsibility to a level detrimental to weapon quality. Another concern raised in these reviews was that changes in funding arrangements could increase pressures toward duplication of facilities, staff, and other resources.

Nonetheless, it should be noted that, as a result of these specific reviews as well as our continuing joint efforts, several recommendations for improved coordination between the two agencies were developed and have been implemented. For example, over the past few years, the DOD has joined the DOE in discussions with the Office of Management and Budget and in testifying before Congress regarding the validity of weapons cost estimates and the annual DOE funding; required to support such estimates. Additional examples of recent improvements are enclosed.

We will continue to work closely with the Military Liaison Committee, the Office of Management and Budget, and the Congress to ensure all factors, including the full costs of the nuclear warheads, are taken into consideration during the decisionmaking process. We believe in this way we can best address the concern you or your staff may have without disrupting the fundamental tenets of the atomic Energy Act, which has served this Nation so well. Accordingly, we do not support the proposed amendment. However, we would have no objection to a joint reassessment by the Departments of Defense and Energy of potential improvements in the present budgeting and management procedures.

Sincerely,

DONALD PAUL HODEL.

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EXAMPLES OF STEPS TAKEN TO IMPROVE DOD/DOE COORDINATION ON PROGRAM DECISIONS AND THE BUDGET PROCESS

1. As a result of the 1980 "Starbird Study," Department of Energy (DOE) costs are receiving more consideration in the Defense Systems Acquisition Review Council (DSARC) process then formerly was the case. Some (but not all) programs containing nuclear weapons have been incorporated into the DSARC process. The DOE Assistant Secretary for Defense Programs and the Development of Defense (DOD) Assistant to the Secretary of Defense (Atomic Energy) participate as observers for those systems included in the DSARC process.

2. In participating in the DSARC, the DOE has taken a position that weapon system tradeoff analyses must equally consider life cycle costs and nuclear weapons performance characteristics.

3. DOE costs are now being included in the DOD system acquisition cost reports to Congress.

4. DOE development phasing has been revised for better alignment with the DOD acquisition cycle. Besides providing for improved engineering detail for early program definition, this change allows the DOE to provide more detail on nuclear weapon costs and the impact of DOD requirements on DOE resources for consideration at major system decision points.

5. A criticism of the DOE has been that the DOE has been overly optimistic in nuclear warhead cost and schedule projections with the result that it tries to accomplish too much with limited resources. To remedy this, the DOE has established a position with the DOD that specific workloads can be accomplished only at specific resource levels. The DOE will not make a production or design commitment unless it is confident that the workload can be accomplished within specified resource levels. Further, the DOD has agreed that DOE can reject requested weapons characteristics on the basis of cost or production difficulty. Additionally, active efforts continue for improvement of cost definition.

6. The DOD and the DOE have agreed that decisions involving nuclear weapon systems will include full consideration of their impact on the total nuclear weapons complex. These considerations include the desirability of achieving more stable nuclear weapon production rates and stockpile levels, to include costs and availability of nuclear materials.

7. Over the past few years, the DOD has joined the DOE in discussions with the OMB and in testifying before Congress regarding the validity of weapons cost estimates and the annual DOE funding required to support such estimates.

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THE SECRETARY OF DEFENSE,
*Washington, DC, May 23, 1984.*

Hon. JOHN W. WARNER,
*U.S. Senate,*
*Washington, DC.*

DEAR JOHN: Thank you for your letter of May 18, 1984 requesting our views on an amendment to the FY 85 Omnibus Defense Procurement Authorization Bill, which would transfer the nuclear warhead and associated nuclear materials budget from the Department of Energy (DoE) to the Department of Defense (DoD), effective in FY 86. We understand that this amendment would continue DoE management for the full scope of this activity and that the amendment is intended to strengthen programming procedures to insure that nuclear warhead costs are given full consideration in the DoD when decisions are made on tactical and strategic nuclear systems.

As you know, nuclear warhead costs and requirements are given careful consideration throughout our system acquisition process. This department maintains active and continuing interaction with the DoE through the Military Liaison Committee and through many other working level mechanisms within the Services.

We have been working over the years to insure full coordination between the Departments. In particular, as a result of the 1980 "Starbird Study" we have put in place a number of measures to ensure better coordination. We welcome the interest expressed by the Subcommittee in seeking organizational and management arrangements to accomplish further improvements in the process. However, we think that the approach envisioned by the amendment is clearly not the best way to accomplish such improvements.

I know we share a common conviction that the nuclear weapons program constitutes a vital national security resource. The United States and its allies rely upon this program as an indispensable component of our shared deterrent posture. Consequently, the ability of the nuclear weapons program to function effectively—and efficiently—within the government must be one of our highest national priorities. That very priority requires, however, that the mechanisms whereby we implement the Atomic Energy Act and perform the various related missions are altered only after careful analysis and deliberation.

For that reason, we do not recommend adoption of the amendment in the absence of such careful study and analysis of the results. Instead, we would propose that the Departments of Defense and Energy conduct a joint and comprehensive assessment of all the potential improvements to the present management and budgeting procedures for the nuclear weapons programs. We believe it is appropriate and achievable for the results of such an assessment to be available in time for detailed Congressional consideration along with the FY 1986 budget submissions.

Sincerely,

CAP.

Mr. WARNER. Mr. President, I wish to congratulate the distinguished senior Senator from New Mexico. Indeed, he and the junior Senator from New Mexico have brought to the attention of the members of the committee the alternative we are now considering. The majority is prepared to accept this amendment. Senator NUNN and I will continue to monitor this question in the forthcoming year, because I am as concerned, as he is, that there be proper oversight with respect to the tradeoff between expenditures for conventional weapons and those for nuclear weapons which might not be present in the existing budget review process.

[Mr. WILSON addressed the Chair.]

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I join to urge the adoption of the resolution authored by the senior Senator from New Mexico. I commend him. I think it is a very great improvement upon what the committee adopted. At the time the committee did so, I objected. I commend my colleague on the committee, the junior Senator from New Mexico.

You have offered letters from the Department of Defense and from the Department of Energy. There are, as well, concerns that have been expressed by those at the national laboratories affected and by the University of California. All of them have opposed the change which the committee proposed. The reason, I believe, quite simply, is that they were concerned that the conviction shared by them with those who drafted the Atomic Energy Act might somehow have left this body and that there was no longer an appreciation of the wisdom of dividing the responsibility with respect to nuclear weapon development so that civilians that were really responsible for the research and development and testing.

I think that we can all appreciate the concern of the Senator from Georgia. I commend him for his concern about the costs of nuclear weaponry. It is a concern which I share.

But I think that the study that this amendment proposes will very likely lead us to the conclusion that the proper concern of the Department of Defense should be with respect to production. They should be concerned with the kind and number of nuclear weapons that are actually produced. I think we will probably determine that the better part of wisdom is to keep research and development and testing and, necessarily, the funding and management of those functions with the civilians who are now charged with that responsibility under existing law and who have been under the Atomic Energy Act since 1949.

So I thank the Senator from Virginia for his accommodation. I commend my colleague, the senior Senator from New Mexico, for proposing this amendment. I join him in urging it. I think the study will prove useful. I think it will lead to a division of function perhaps but not one that will violate a principle that I think was well thought of in 1949, and remains a good idea today; that is, the retention of the responsibility of the funding, management, research, development, and testing with the civilian laboratories.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank the distinguished Senator from California. Indeed, he has added to this issue the valuable perspective of those in the university systems, principally the University of California, and indeed there are others who make contributions to this important national defense effort. This is a very important perspective that we had overlooked initially during the subcommittee consideration of this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not want to take a lot more time. But there are a couple of things I want to say because I do not agree wholeheartedly with my friend from Georgia, and I would not want him to accept my amendment today with the motion that the Senator from New Mexico agrees with everything he said because I really do not.

First of all, I do not think the Department of Energy is deciding the number of nuclear warheads. I think the Senator understands that decision is made by the President of the United States, and it is from him that it comes down. There are people who wanted to change that at one point in history, and actually the Department of Defense people wanted to change that. That really is not the issue. There are two things that I am impressed with in the present situation. I urge that this blue ribbon commission worry about them, and be concerned in anything they recommend. First of all, there is an enormous safety and reliability function that is involved in the development of nuclear warheads, of all types, all sizes, tactical and strategic. I find in discussing this with the civilians that whenever there is any pressure on money, it is safety and reliability that they are concerned about more than the defense people. I think that is very, very healthy. I would not want this function vested in the generals exclusively where they could choose between safety, reliability, and getting more of what they want.

Second, I really question whether the best way to get cost benefit is to put the budgeting for nuclear weapons in the Department of Defense. Frankly, if I did not have so much respect for the Senator from Georgia, I would say that I do not think it makes any sense at all. But I am not going to say that. I hope the Blue Ribbon Commission looks at it because I do not know that anybody would believe that the Defense Department save money. As a matter of fact, it seems to me from the fights we have more times than not down here that they waste money. I do not know why they would not waste it on nuclear if they are wasting it on everything else.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. DOMENICI. Of course.

Mr. NUNN. My very point is the same one which you made. I think money is being wasted on nuclear, but the reason the Defense Department really could care less is because they do not have to pay for it. I would agree with the Senator about the importance of safety. I would not in any way diminish that. Of course, as you recognize, our amendment would have left all the management of this to the Department of Energy. But those are the type of questions. The Senator makes a valid point on savings, and that should be possibly separated out of the consideration. Those are the kind of things I hope will be studied.

Mr. DOMENICI. Mr. President, the last point I would make is that I look at the defense budget from a slightly different vantage point. First of all, when we get the defense budget from the White House, the first place it goes is to the Budget Committee, and strangely enough, all of the Department of Defense is in one function; that is, those aspects that the distinguished Senator from Georgia is worried about here today are not separated out in the defense function when we debate down here whether we want $299 billion in budget authority or a lesser number. They are in that number. They are separated out in the appropriation process.

I actually do not think leaving them in the appropriation process is necessarily going to cause any more frugality or cost benefit concern than the way it is done now. As a matter of fact, in the appropriation process, which is the next step, they go to a committee, or a subcommittee that has a significant function that is nonmilitary, and nonnuclear. And in that, they are balanced in the total amount available against a series of domestic needs; nonmilitary.

Maybe there is not enough pressure there yet. Maybe the function has been too large, and they have not been able to squeeze enough out as they consider the nondefense aspects of that particular subcommittee. But frankly, I think ultimately that may be a better way to handle it; to make it compete not with the entire defense budget, and say it will get treated there with more cost consciousness, and the like, but rather to mix it as we have but maybe do something else that we are not doing today.

So I am pleased that we are going to accept the amendment and not move precipitously. I hope the blue ribbon commission studies the matter in great detail.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to very briefly comment on the action we took in the committee. I did object to the language, the proposal by the Senator from Georgia, and the Senator from Virginia, to transfer this funding to the Department of Defense. I did so because of my concern that this was precipitous action which was being taken without adequate consideration for the complexity of the problem.

Although the committee at that time was not persuaded by my arguments, I am encouraged that the sponsors of that amendment are now willing to accept the amendment that is being proposed by the senior Senator from New Mexico. I commend him for putting together this amendment, and have the matter properly studied. I think there are some significant questions here. I think his concern about continued attention to the safety and reliability issues needs to be given high priority.

I am honored to be a cosponsor of this amendment that is being offered by the senior Senator from New Mexico.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suffer from a very serious oversight in my remarks. Wherever I referred to the distinguished Senator from Georgia as having proposed something that did not make much sense, but that I did not want to say that, I want to add that whenever I referred to the Senator from Georgia, I want to add the Senator from Virginia also.

Mr. NUNN. Mr. President, I think the Senator might want to include the Senator from Virginia in that statement about having great respect, and if you did not have great respect for the Senator from Georgia, you would say the amendment made no sense at all. If the Senator is going to be in one part, he ought to be in the other.

Mr. WARNER. Mr. President, I think all Senators who wished to speak on this subject have now been heard.

Mr. MATHIAS. Vote.

Mr. WARNER. If the senior Senator, the Senator from Maryland, would refrain just a moment, the senior Senator from New Mexico has courageously put this issue to the Senate, joined by the distinguished junior Senator from New Mexico. The managers of the bill are willing to accept the amendment. But we forewarn all that this issue will be revisited in the coming year with great scrutiny.

Mr. NUNN. I agree with the Senator from Virginia. We will be looking forward, assuming we can get this motion, to stay in conference, and I hope we can receive the blue ribbon commission report. I hope they will give this a great deal of attention. I hope they will consult with some of our fine staff people that have been monitoring this for a long time, like Jim Smith. He is very knowledgeable. That is where the greatest check and balance is in this whole program right now—the staff.

Mr. BAKER. Mr. President, as a cosponsor of the Domenici amendment I am compelled to speak in opposition to the movement of budget control of nuclear warhead development, testing and production from the Department of Energy to the Department of Defense. Although I heartily commend Senators WARNER and NUNN for their efforts to control more effectively costs of nuclear weapons systems, I believe that the consequences of their suggestions could extend beyond those which they emphasize.

As a past member of the Joint Committee on Atomic Energy, I attach special significance to this issue. The Atomic Energy Commission was established in 1946, was staffed by civilians, and was given control of atomic energy matters. In 1957 the amendments to the Atomic Energy Act underlined the principle of civilian control of nuclear energy and nuclear weapon development. Since that time, the country has maintained the concept that the management and funding of nuclear weapons projects be a responsibility of the civilian sector. A transfer of authority for nuclear weapons work from DOE to DOD would mitigate this legislative history, a step which I am not, at this time, inclined to endorse.

The preservation of civilian control of these programs is not, however, my sole reason for supporting the position of Senator DOMENICI on this point. For I would suggest that such a transfer of authority as that recommended by Senators WARNER and NUNN would lead to both agencies sharing responsibility over weapon development, and, rather than reducing the costs of such systems, the ensuing increase in bureaucratic involvement would tend to ultimately increase our costs. Inasmuch as the secretaries of both agencies oppose any change in authority, I feel that the alternative proposed by my friend from New Mexico is the preferred option. A study of this matter, as authorized in this amendment, will provide a greater depth of understanding of the elements at issue, and hopefully provide members with the backdrop for a more informed choice at some later time.

In sum then, I applaud the members of the Armed Services Committee for their attention to this problem and their concern that we achieve a more effective control of nuclear weapons costs. I do hope, however, that the Senate will avoid the temptation offered by the quick-fix method of cost control which would erode the fundamental underpinning of our nuclear weapons program, that the civilian component of our Government shall make policy for and shall manage that program.

Mr. WARNER. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 3194) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. NUNN. Mr. President, would the Senator yield for about 10 seconds?

Mr. PERCY. Yes.

Mr. NUNN. Mr. President, was consideration given to the Glenn amendment?

The PRESIDING OFFICER. The Glenn amendment was reconsidered, and the motion to reconsider was tabled.

Mr. NUNN. I thank the Chair.

AMENDMENT NO. 3196

(Purpose: To limit funds for certain programs of the Strategic Defense Initiative)

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, 1 hour has been agreed to on this amendment. I feel it can be disposed of more quickly than that.

I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. Percy], for himself and Mr. Mathias, Mr. Proxmire, Mr. Bumpers, Mr. Hatfield, Mr. Pell, Mr. Heinz, and Mr. Pressler, proposes an amendment numbered 3196.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 1, strike out "$4,566,541,000," and insert in lieu thereof "$4,466,541,000 of which not more than $1,527,000,000 may be used for the following program elements of the Strategic Defense Initiative:

(1) surveillance, acquisition, tracking, and kill assessment, (2) directed energy weapons, (3) kinetic energy weapons, (4) system concepts, battle management, command, control, and communications, and (5) survivability, lethality, and subsystems; and ".

Mr. PERCY. Mr. President, this amendment which I am offering with Senator Pell, Senator Pressler, Senator Heinz, Senator Mathias, Senator Proxmire, Senator Bumpers, and Senator Hatfield as cosponsors, and which I understand will be supported—though they are not cosponsors—by Senator Nunn and Senator Cohen. If they would care to speak on the amendment, I would be happy to yield to them.

Mr. President, this amendment would reduce funding for the strategic defense initiative (SDI) by $100 million which brings it closer to the level approved for fiscal year 1985 by the House. The amendment cuts $100 million from the level recommended by the Armed Services Committee, for a total reduction from the DOD's request of $250 million.

At the outset, I want to emphasize that this amendment does not kill the SDI. The amendment still provides $1.527 billion for research and development of SDI-related technologies. According to estimates prepared by the Congressional Budget Office, this figure represents over a 50-percent increase in R&D for SDI-related programs over the level provided for the same programs in fiscal year 1984. This increase in SDI funding, I might add, is more than double the requested 26-percent increase for all defense R&D programs.

Mr. President, the House Armed Services Committee—which is certainly a fairly conservative body when it comes to national security matters—maintains that the SDI can be funded at a much lower level, a position that was not challenged on the House floor. For its part, the Senate Armed Services Committee agrees in its report on this bill that in light of fiscal year 1985 budgetary constraints, it could not approve the DOD's full request for $1.78 billion for the SDI. In sum, there is agreement in both bodies that SDI must be cut—the only question is how much. The amendment does not target the SDI funding reductions; rather, we agree with the position taken by the Senate Armed Services Committee that the cut should be distributed by the Pentagon.

What this amendment does is to ensure that SDI is approached with a prudent degree of caution. This is precisely what the Scowcroft Commission has recommended. In a report released in March, the commission warned, and I quote:

> . . . the strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictate extreme caution in proceeding to engineering development in this sensitive area.

The words used by the commission, Mr. President, were "extreme caution." This amendment will ensure that the Scowcroft Commission's warning is heeded.

Over the past two sessions, the Foreign Relations Committee has held a series of hearings on the SDI and other space arms control issues. The hearings have been chaired by Senator Pressler, who is the chairman of the Subcommittee on Arms Control. From my participation in these hearings, I have come to the conclusion that there are grave questions raised by the SDI proposal with respect to cost, goals, technological feasibility, effect on crisis stability, and its consistency with long-standing U.S. arms control policy.

Mr. President, the Foreign Relations Committee was not the only committee in this body to come away from its hearings on the SDI with far-ranging concerns about this defense initiative. In its report on the bill, the Armed Services Committee alludes to "uncertainties about the precise focus and goals of the program, and about the reactions of our allies and adversaries alike." Indeed, the Armed Services Committee warns that a "clearer articulation of the goals, and assessments of the many-faceted implications of the program, including its implications for arms control will be essential if the committee is to support the substantial funding increases proposed beyond fiscal year 1985."

What this language says to me, Mr. President, is that the Armed Services Committee was very concerned by the Pentagon's presentation on SDI but nevertheless decided to give the Pentagon the benefit of the doubt by only recommending a modest funding cut. In a time of serious Federal deficits, I do not believe that the Senate can give the benefit of the doubt to any new program that is proposed if DOD does not make a convincing case for that program. If the DOD's SDI presentation was confused and uncertain as to ultimate cost, specific objectives, implications for arms control and allied reaction, then it is incumbent on this body to hold funding for that program to the minimum level consistent with our national security interests.

This amendment conforms to that criterion. It provides for a significant increase in R&D in those technologies where our technical community must be informed as to what is and is not possible. I fully appreciate the large investments which the Soviet Union is making in similar technologies, and it is imperative that we maintain a vigorous R&D effort as a hedge against a Soviet breakthrough.

There is, however, a crucial distinction between a hedge and an all-out, crash program intended to lead to deployment of hardware within the next decade. Our distinguished colleague, Senator Goldwater, said it best in remarks he made during an Armed Services hearing on the SDI. According to press reports, Senator Goldwater said, "We're facing a threat far more destructive than anything that the Soviets might throw at us—the deficit."

I agree with Senator Goldwater in that respect. We cannot underestimate the danger to this country if we do not bring this deficit down, and we and we alone, the House and the Senate, have that responsibility. After all, we have to take into account you cannot have a credible foreign policy unless you have a strong national defense, but you cannot have a strong national defense unless you have a strong, dynamic, growing economy. This deficit is going to drive interest rates up, is driving interest rates up, and they will slow down economic recovery and increase unemployment if we do not do something about it. It begins that vicious cycle all over again.

Just this week, the leaders of the seven leading Western industrial nations reaffirmed the critical need to reduce U.S. deficits if we are to preserve economic recovery and avoid escalating interest rates. Reducing the SDI by $250 million would send a strong signal that this warning has been heeded by the U.S. Senate.

Mr. President, I will not belabor all of the doubts that I have about the SDI. There is much about this initiative that we simply know very little about, in part because the DOD itself has been unclear as to what, exactly, is being proposed. We do know, however, one thing for certain. We know that the ultimate costs of deploying a multilayered space-based and space-directed shield against ballistic missile attack would be, in Under Secretary of Defense DeLauer's words, "staggering." By the estimates of many in the scientific community, the costs could run into the hundreds of billions of dollars.

Where will we find this money? Not by cutting funds for strategic offensive forces, since Defense officials have testified that such forces will have to be retained even if we do go ahead with a defensive shield. Not by cutting conventional forces, since everyone that I know shares Gen. Bernard Rogers' concern that conventional forces must be improved and expanded if we are to avoid having to resort to an early use of nuclear weapons in the event of a major Soviet attack in Western Europe.

The difference between $1.53 billion, as proposed in this amendment, and $1.63 billion, as recommended by the Armed Services Committee, may seem small to some. But I would stress that the fiscal year 1985 SDI request is just the tip of the iceberg. We know that the Pentagon intends to request $3.8 billion for the SDI next year, and that the total 5-year costs may approach $26 billion. None of this money—not a penny—will buy a single missile, gun, tank or submarine. It will not be used to increase the benefits provided our servicemen or to build new facilities. Rather, we are being asked to spend $26 billion on a research project—an exploratory study if you will.

Today, Mr. President, we can take a modest step toward imposing some rationality and caution in our approach to dealing with the new technologies of space warfare. This amendment, Mr. President, is a deficit-reduction amendment. It is a vote for fiscal responsibility. It is not a referendum on "Star Wars." It is not a referendum on the doctrine of mutual assured destruction. It will not indicate whether a Senator is or is not in favor of nuclear retaliation as opposed to strategic defense.

There will be many opportunities in the years ahead to have such fundamental up-or-down vote on the SDI. But on this vote, Mr. President, we can decide to keep the funding for this new and still very unfocused program to a minimum level consistent with our national security interests.

I know to some, Mr. President, it is probably a disappointment that we are only talking about reducing the $100 million, but after all, it was Everett Dirksen who said, a million dollars here or a billion dollars there, pretty soon you are talking about real money. And $100 million is a lot of money.

I know it is asking a lot of the Armed Services Committee to accept this amendment, Mr. President, but I do urge it, because members of the committee itself are feeling there can be a reduction here of $100 million without adversely or seriously affecting in any way the program. It will just mean I think we could have a better, steady, on-the-course program.

I never found in industrial research that by crashing dollars in there, you are really, in the end, ending up much better off than you would have been. Sometimes you lose time and money.

Mr. PROXMIRE. Will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. Mr. President, I support the amendment of the Senator from Illinois.

Mr. President, I'm pleased to join my colleagues, Senator PERCY and Senator MATHIAS, in sponsoring this amendment to reduce the level of funding of the Strategic Defense Initiative to that authorized by the House.

Mr. President, the administration requested that the funding for the Strategic Defense Initiative jump from $991 million in fiscal year 1984 to $1.78 billion in fiscal year 1985.

This represents a staggering real growth in the program of more than 70 percent.

In actual dollar amounts, this increase the administration has requested is higher than the increase for any other research and development program in the defense budget.

As a matter of fact, the increase for SDI was even higher than the increase requested for the entire Army R&D budget.

Mr. President, the Armed Services Committee cut the administration figure by $150 million, which I commend. But the committee did not go nearly far enough. It still allowed for a real growth in SDI of 55 percent.

This amendment would cut SDI another $100 million, which would still allow for a 45 percent real increase for SDI.

Even the huge increase the administration is requesting for fiscal year 1985 represents only the tip of the iceberg. Next year, the Defense Department wants to double SDI's budget. And by 1989, the Congressional Budget Office estimates that SDI will consume a whopping 16 percent of DOD's research budget.

It looks like even the SDI budget does not even come close to reflecting all that the Pentagon is spending on what has been called the President's Star Wars Program.

When you add in what will be spent on other strategic defense related programs—such as continental air defense, ASAT's, civil defense, Department of Energy Programs, and programs in the military services—when you add all this up, the total bill for strategic may run over $40 billion the next 5 years.

What are we trying to accomplish with this huge amount of spending?

Well, that is anybody's guess at the moment.

The House Armed Services Committee had written into its bill a requirement that DOD explain exactly what it is going to do with the money. And even the Senate Armed Services Committee admitted that there "will be uncertainties about the precise focus and goals of the program."

In other words, this year we are being asked to spend this money with a blindfold on.

And, after we get through this massive R&D effort, we would have another period of testing and development of prototype weapons that could cost us another $50 billion.

But even the $100 billion we would probably have to spend before the Star Wars is deployed—even this huge amount would only be a drop in the bucket compared to what we shall have to spend to deploy Star Wars.

And this is not my assessment. It is the Pentagon's.

None other than Richard DeLauer, the Under Secretary of Defense for Research, testified before the House Armed Services Committee:

> When the time comes that you deploy any one of these technologies, you'll be staggered by the cost that they will involve.

Dr. DeLauer has testified that Star Wars would be equal to "a multiple of Apollo Programs." Over a 10-year deployment period, Dr. DeLauer estimated that Star Wars' cost "could be equivalent to what we're spending on nuclear forces now."

In other words, according to Dr. DeLauer's estimate, the deployment of Star Wars could cost us $500 billion.

And even that may be an underestimate. Many outside experts believe the total cost of Star Wars could hit $1 trillion.

One trillion dollars.

Mr. President, this afternoon and this morning the Senate spent several hours debating a GI bill proposal that would attempt to encourage more highly motivated people to enlist in the Armed Forces, secure an education and give our national security the kind of human skill and competence we must have as the basis for protecting our country. With a heavy heart I voted against that proposal for one reason. It cost too much. The managers of the bill eloquently opposed that amendment on the grounds that we could not afford to begin spending three-fourths of a billion dollars for such a purpose. I bought their opposition. I opposed the amendment because I agree that with the kind of deficits this country has suffered in recent years and faces in the future, we shouldn't spend the major fraction of one billion dollars, even for such an attractive purpose.

Now the distinguished chairman of the Armed Services Committee is calling for an SDI or Star Wars Program that will cost not three-fourths of a billion dollars, but will plunge this Nation ahead on a spending binge that will, if we follow through with it, cost our Federal Government $1 trillion or more. We were dealing with a relatively few peanuts for education. Now we are getting to the real mazuma. Make no mistake about it. If we go ahead with this program, we will be well on our way to the biggest and most extravagant commitment in our history. Any voter who, in 1984 or any subsequent year, wants to measure the fiscal responsibility or lack of it of his Senator will simply have to look at his vote on Star Wars—the big spending issue of 1984 and the future.

Mr. President, now whatever the final price tag, the important question remains: Can the U.S. economy afford to be staggered by such a massive drain on its resources?

Can the Federal deficit which is hitting an unbelievable $200 billion, afford to be staggered by such massive spending?

Can the readiness of our forces, which we all agree is not what we would like to to be—can that readiness afford to be staggered by such a massive drain on [DOD] funds?

The answer is "no."

No, we cannot afford Star Wars.

And, even if we could afford Star Wars, we do not want it.

We do not want it because the hundreds and hundreds of billions of dollars we would spend on Star Wars will not buy our children a dime's worth of security.

Why?

Because the bottom line is that the United States would never be able to deploy a perfect defense system that would make nuclear weapons "impotent and obsolete," as the President envisions this program.

Again, this isn't my assessment, Mr. President.

None of the defense experts, in an out of DOD, claims we could ever deploy a perfect defense.

The Fletcher Panel, which conducted a blue-ribbon defensive technologies study for DOD, talked only about achieving an "effective defensive capability by the 21st century"—not a perfect defense.

The Hoffman Panel, another blue-ribbon group DOD commissioned to study the role of Star Wars in our future security strategy, concluded that in the long term a defense system "might provide a nearly leakproof defense"—not a perfect defense.

Even Gen. James Abrahamson, the new chief of SDI, testified before the Defense Appropriations Subcommittee, on which I serve, that the defense system would be "highly effective"—not perfect.

But in this game, almost doesn't count.

Without a perfect defense system, enough nuclear warheads would lead through to effectively destroy the United States.

That's the bottom line.

A 90-percent effective system would allow 800 Soviet warheads to leak through—perhaps enough to touch off a climatic catastrophe known as nuclear winter.

Even if Star Wars were 99 percent effective, enough Soviet warheads would get through to destroy every major city in the United States with a population over 500,000.

Now we can spend hours debating this technology over that technology.

I agree that we cannot make a judgment now on what kind of future Star Wars technologies can be developed.

And I also agree that a laser beam or an interceptor can probably be developed to knock out another weapon.

But the real question is not whether under a carefully controlled test we can get an experimental missile to knock out dummy warhead, as the Army did yesterday.

The real question is whether during a nuclear attack we could intercept tens of thousands of warheads cleverly mixed in with hundreds of thousands of decoys while the Soviets are blinding and confusing our sensors and radars.

The real question is whether we could get hundreds of laser satellites and thousands of tons of chemicals and equipment into space to shoot down thousands of Soviet missiles in a matter of minutes.

In other words, the real question is not whether the technology will work.

The real question is whether the whole idea will work.

And the answer is "no."

Now we may not know what will come our way with the Star Wars technology.

But we do know what will come our way if we try to implement the Star Wars idea.

First, we know that the United States will have to abrogate the 1972 ABM Treaty.

There's some question about when we'll violate it and about whether during this 5-year R&D period anything will be done that constitutes a violation.

But in the end, those questions become irrelevant if the United States launches a massive program designed to eventually abrogate the treaty. As far as the Soviets are concerned, the treaty will be dead long before the actual violation occurs.

Now some say that we could amend the ABM Treaty to allow for these defensive systems.

That would be like amending the drug laws to allow heroin trafficking.

No Star Wars will kill the ABM Treaty.

Star War also will likely kill the Outer Space Treaty, which would prevent the deployment of nuclear bomb pumped lasers in space.

And while we are at it, you can toss the Limited Test Ban Treaty in the trash can. Those nuclear bomb pumped lasers would have to be tested in space to become operational and the LTB now prevents that.

We would probably never have a comprehensive test ban treaty, which has been the hope of every President since Dwight Eisenhower. Third generation nuclear testing would be in full swing under Star Wars.

And since a CTB was one of our best hopes for getting proliferation under control, the cause of nonproliferation would suffer.

There would never be any hope of negotiating an ASAT treaty since both sides would be scrambling to develop antisatellite weapons to puncture that other side's defenses.

We can say goodby to any type of INF treaty. Regardless of what the administration says, a perfect defense system is even more unfeasible for Europe than it is for the United States and Soviet Union.

So with the two superpowers racing to deploy missile defenses, the British and French will probably be scrambling to build up their nuclear forces so they can retain some credibility in their deterrent.

And since one of the main sticking points in the INF talks has been the British and French forces, you can be sure that the Soviets would never agree to reduce their intermediate-range missiles as long as the British and French are building up.

For that matter, START will also go down the drain.

And this will be disastrous, because the administration has already admitted that without Soviet reductions in their offensive arms, our defense system would never succeed.

The administration envisions that while the United States and the Soviet Union are deploying defensive systems, both sides will be walking arm in arm and reducing their nuclear forces.

Of course, these buildups and cutbacks would have to be synchronized perfectly so that neither side gets ahead of the other with its missile defenses.

But if the administration says it cannot verify an ASAT treaty, it certainly won't be able to verify that the

Soviets are not ahead of us in space weapons.

So it looks like we would just have to trust the Soviets not to develop secret countermeasures to overcome our defense system, and they will have to trust us not to overcome theirs.

Now we all know this is not going to happen.

There is not one scintilla of evidence that Moscow would be willing to render its nuclear deterrent impotent and obsolete.

On the contrary, the Soviets have said quite clearly that they view Star Wars as U.S. effort to gain a first-strike capability and they have let it be known they will do all they can to overcome Star Wars.

And if they do, if they simply build up their nuclear arsenal—Dr. DeLauer has admitted that "no defensive system will work."

Mr. President, I know that a number of my colleagues support the builddown proposal, whose goal would be to get both sides to move toward small, single-warhead ICBM's.

But if we have Star Wars, the last thing we'll have is builddown and small single-warhead ICBM's.

With Star Wars, the Soviets will likely be producing large ICBM's that would offer the most efficient means of delivering large numbers of warheads, decoys, and penetration aids.

One of the reasons we originally MIRV'd our missiles was in response to the Soviet ABM program in the 1960's. In fact, even the Scowcroft Commission argued that we needed to deploy large MIRV'd ICBM's like the MX in order to overcome a Soviet defense system.

As I have said, Mr. President, Star Wars represent a leap into the technological unknown.

But what is known is that Star Wars will kill arms control.

It will drive a spike right through it.

And, Mr. President, let us not be fooled that the R&D program we are launching today is some benign effort.

I know some people have been saying that all this 5-year research effort is doing is developing options for a future President to decide on Star Wars.

Well, that is hardly the case.

We are not debating here some options paper that came out of the Pentagon's bureaucracy.

The President of the United States, on national TV, announced to the world that the United States would launch a national program that would eventually result in our abrogating the ABM Treaty and attempting to deploy a missile defense system.

We are not talking about developing options here for a future decision.

The White House has already made the decision.

The R&D program that has been proposed for the next 5 years will develop options on the best way to carry out that decision.

And make no mistake about it.

What we are deciding now is whether to allow the administration to take that first step in making Star Wars a reality.

It is a decision that will affect the security of generations to come.

So I hope that we begin today by deciding today to accept this amendment, which represents a critical step in keeping this program under control.

I thank the Senator.

Mr. TOWER. Mr. President, is the Senator for Illinois through?

Mr. PERCY. I am finished, Mr. President.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The effect of this amendment would be to move us closer to the House position. It would have the result of endorsing their action on SDI, which cut back on satellite survivability and arms control verification technology, the very things this Chamber went on record yesterday as supporting. I think most people here supported that amendment and insisted on making a study of survivability of satellites. Now we want to cut the funds for it.

None of the arguments made by the Senator from Illinois, I think, is really a good reason for cutting SDI except budgetary considerations. One hundred million dollars out is not going to send a clear signal. Why does the Senator not offer an amendment to cut entitlements by billions? That would be a better signal.

Remember, Mr. President, it was not defense that drove this deficit. Defense went down in real terms by 20 percent in the decade of the seventies, while nondefense was going up $100 million. Let us not call this a deficit-reducing measure. It is no such thing.

Mr. President, a lot of the debate about SDI is focused on whether or not defenses can be effective, what they will cost, how they will affect arms control. These are precisely the questions we seek to answer with the research program. This is not a full-scale development and engineering program. It is not a production program. It is research. And given the erudition of my distinguished colleague from Illinois, I am surprised and shocked that he would want to reduce funding for research.

It is from research that we derive knowledge. Without basic research, there can be no applied research. What applies in industry does not apply here. Industrial research is applied research. We are seeking the answer to questions—not only what our own weapons potential might be or what we can do to insure the survivability of our systems, but also to get some idea of what precisely the Soviets might be doing in this field, because we can be reasonably well assured that they may be pursuing some of the same research courses we are. And, Mr. President, we had better spend the money for this.

Remember that these programs are designed to perhaps give us some answers on defensive systems, systems that kill weapons, not people. The Senator said that cutting these funds is not an endorsement of the doctrine of mutual assured destruction, but, by George, it comes pretty close, if we are not going to fund research programs designed to defend against weapons, to kill weapons, not kill people. That is what this is all about.

Mr. President, I do not want to preempt all of the time that is allotted to us on this matter because there are others far better versed than I who, I know, want to address this issue. I hope the amendment of the Senator from Illinois will be roundly defeated.

I suggest to my friends who want to achieve some budget savings they are going to have an adequate opportunity. The junior Senator from Illinois is going to come up with one that is going to try to send us back to committee to try to whack about $6 million out of it. I am not advocating that anybody vote for that, either. But the point is we have already taken a $14 billion whack out of defense. That ought to be a pretty clear signal, I say to the senior Senator from Illinois. What is this additional $150 million going to mean? We have already taken a $14 billion cut. And we have come down barely to the level of acceptable risk in doing so.

Mr. MATHIAS. Mr. President, will the Senator from Illinois yield me 2 minutes?

Mr. PERCY. I yield 2 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I am pleased to be a cosponsor of the amendment offered by the distinguished chairman of the Foreign Relations Committee and by my good friend, the senior Senator from Wisconsin. Our amendment would reduce funding for the Strategic Defense Initiative Program [SDI] from the $1.62 billion recommended by the Senate Armed Services Committee to $1.52 billion, 22 percent above the level authorized for fiscal year 1984.

There has been a great deal of debate during the past year on the merits and demerits of the President's Strategic Defense Initiative Program; the successful intercept Sunday of a warhead in space by a Minuteman I missile raises as many questions about this country's policy toward the uses of outer space as it answers. If a common theme has emerged in the course of the last year's SDI debate among opponents and proponents of ballistic missile defense, it is that the United States must proceed cautiously with the development of these programs. I believe our amendment injects the proper amount of fiscal caution into a program where costs are quite literally astronomical. In this case, restraint is the better part of valor.

A strategic defense is nothing new. A number of international treaties already proscribe certain military activities in space and certain programs which are defensive in nature. President Reagan in his so-called "Star Wars" speech showed a personal interest in some sort of strategic defense.

Toward the end of that address you might recall the President shifted his focus from a discussion of deterrence to strategic defense. He proposed that this country embark upon a program to counter the awesome Soviet missile threat with measures that are defensive and directed a comprehensive and intensive effort to define a long-term research and development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles. Two reports to the White House, by the Defense Technologies Study Team and the Future Security Strategy Study, have subsequently endorsed a space-based ballistic missile defense [BMD]. Indeed, the DTST recommended spending as much as $27 billion over the next 5 years in support of such programs.

One of the most popular and well-publicized proposals to emerge following President Reagan's speech is the high frontier proposal for a global ballistic missile defense [GBMD]. The high frontier project, quite literally a call for America to seize the high ground in the race to control outer space, envisions a space-based missile defense and ground-based point defense of U.S. missile silos. This would be augmented by a second tier of space-based defenses, a massive civil defense program, advanced manned military space vehicles, and more. High frontier advocates have testified before the Senate Foreign Relations Committee that an initial GBMD can be deployed with off-the-shelf technology within 5 or 6 years, and at a cost of $15 billion. But before digging any deeper in the space-based BMD debate, recall briefly the current condition of the space environment we and the Soviets seem bent on leaving behind.

Outer space, obviously, is common territory; ideally a peaceful place. Space has served military functions for some time, many of which actually contribute to stability and deterrence. High-altitude geosynchronous satellites are used by the United States and U.S.S.R. to monitor one another's global military activities, verify compliance with existing arms agreements, and to provide crucial information to our country and our allies in times of crisis. Six international treaties govern the military uses of outer space, and several contain provisions prohibiting the deployment of some systems integral to any strategic defense program.

Furthermore, the United States depends far more on outer space than does the Soviet Union. Not only do we rely more on space for peaceful commercial activities, but most of what we know about Soviet nuclear weapons comes from satellites. Moreover, we depend on satellites to communicate with United States and NATO forces throughout the world. It's safe to say that the United States has special reason to pause before leaping into the abyss of a space arms race.

And this race, which I am convinced is imminent in the absence of restraint, will not begin when one side or the other finally deploys a space-based BMD. Those systems, while terribly costly today, are decades away. The space arm race begins with antisatellite (ASAT) weapons.

The ASAT mission is self-explanatory. ASAT's are used to blind or destroy enemy satellites. While it is true that the Soviet Union is the current sole possessor of an operational ASAT system, the primitive nature and limitations of that system are well known. The United States discontinued its ASAT Program 437 in 1975, but is now on the verge of testing a new device against an object in space.

This device consists of a miniature homing vehicle (MHV) fired from the belly of a high-flying F-15 aircraft and is far more sophisticated and versatile than the operational Soviet system. The MHV destroys its target by zeroing in on an enemy satellite and exploding nearby or colliding with it. Once operational, this ASAT weapon will offer the United States a temporary edge in the space arms race. Many also believe this capability will bring the U.S.S.R. to the negotiating table. I would like nothing more than to negotiate a ban with the Soviet Union on ASAT weapons and the other esoteric systems under consideration, I only wonder if first raising the stakes in space is the best way to do that.

A space-based BMD, however, leaves the ASAT threat far behind. Fortunately, opponents of a ballistic missile defense have found a powerful ally in deflating the claims of projects like High Frontier: the Reagan administration.

Dr. Robert Cooper, head of the Defense Advanced Research Projects Agency [DARPA] reports that DARPA has "experienced some difficulties in ratifying the existence of off the shelf components and technologies to provide the required surveillance, command and control and actually perform the intercepts," and specifically questions the High Frontier GMBD concept design. He concludes that the "enormous complexity of such a system is unmanageable today."

With respect to the $15 billion cost and 5 to 6 year timeframe of high frontier Dr. Richard DeLauer, Under Secretary of Defense for Research and Engineering, has testified that both are grossly underestimated. And Dr. Cooper has told Congress that "our understandings of systems implications and costs would lead us to project expenditures on the order of $200 billion to $300 billion in acquisition costs alone for the proposed systems." To put that in perspective, remember the entire fiscal year 1985 Defense Budget request we are considering today totals only $230 billion. Speaking of strategic defenses generally, Dr. DeLauer told the House Armed Services Committee:

> When the time comes that you deploy any of these technologies, you'll be staggered at the cost. Any defense system can be overcome with proliferation (of an adversaries missiles).

And if the numbing expenditures forecast by top DOD officials aren't reason enough for a long second look at BMD programs, consider this.

I have mentioned the dubious merit in militarizing outer space beyond the current level. Space should not and need not be the arena for the next round of United States-Soviet brinksmanship. Nor is it at all clear how an American strategic defense would affect relations with our allies. Would the United States be able or willing to construct similar shields over the NATO allies, Japan, parts of the Pacific? It would be folly to expect the Soviets to sit idly by as we develop these brave new weapons. And, in fact, we know the Soviets are not sitting still. They too are heavily involved in BMD and related programs.

The most obvious consequence of American and Soviet military space activity is the continuation and extension of the arms race. The arms race will become a two-pronged effort, both offensive and defensive in nature. Dangers will also arise when strategic offensive and defensive systems are integrated. If either superpower were to couple its awesome offensive forces with what was perceived to be a seamless defensive capability, the nuclear threshold could be lowered instead of raised. A nation that possessed offensive nuclear weapons and a strategic defense could be attacked before that defense is completely deployed by another nation that feared its weapons would otherwise be rendered impotent; or it could unwisely initiate a nuclear attack, secure in the belief that it could not experience similar devastation. Neither prospect is acceptable.

Too, we must ask if a space-based BMD would really work. How many missiles must it be capable of intercepting to be useful? Gen. Brent Scowcroft recently told me that a strategic defense could probably never be better than 90 percent effective. And as Dr. DeLauer points out, an enemy could simply produce missiles and decoys enough to overwhelm any defensive system. But let's assume that the United States did possess a strategic defense, and that it was 95 percent effective. At today's force levels, approximately 800 of the U.S.S.R.'s 16,000 strategic nuclear warheads would still reach American soil. This would create unbelievable, unacceptable damage, and we haven't even factored in Soviet warheads delivered by bombers and on cruise missiles.

The most urgent item, then, on the space arms control agenda is ASAT weapons and their control. And the reckless and costly focus on a space-based BMD is premature. Worse still, advocates of strategic defense run the risk of raising false hopes, and of perpetuating the myth that America would somehow be spared the devastation of a nuclear exchange.

We do not have to fix our eyes on the stars to relieve the risk of war on Earth. The dangers and expense involved in fielding a ballistic missile defense overshadow the proposal's seductive appeal. Research and development of a BMD and of other methods for reducing our reliance on nuclear weapons should of course continue. Programs of such limited scope are decidedly cost efficient in terms of adding to the body of knowledge on the subject.

Which is why our amendment capping the fiscal year 1985 strategic defense initiative budget request at $1.52 billion is a prudent reduction in an already ambitious research and development program. I urge all of my colleagues to support it.

Mr. GOLDWATER. Mr. President, I was impressed yesterday during the debate on the antisatellite program by one thing. I think there is great confusion in this body as to what we were really talking about. I am firmly convinced that a great majority of the Members of this body thought we were talking about nuclear weapons. We were not. This amendment does not apply to nuclear weapons. So what my good friend from Maryland was speaking about will not apply in this whole general area.

When Dr. DeLauer was before our subcommittee, I asked him how much this whole thing was going to cost. He very frankly said he did not know. I pointed out to him that we had to have some idea of where we were going. He said he expected to have an estimate of how much it would take to get started and this represents, in my opinion, the estimate that he was referring to.

Striking the amount of money out that the Senator from Illinois has suggested would work real hardship, for example, on surveillance. Is that important? Yes. It is probably the most important part of the defense systems that we are trying to establish for use in outer space.

It is true that we can direct a satellite to within almost contact with any other satellite that is orbiting in space, but we have to know a little bit more about it. And again we are not talking about developing a weapon to destroy another weapon or a satellite with atomic power. We are talking about a laser, for example, or other weapons that would be varying from rather small power of 1 or 2 watts to a very high power of maybe a kilowatt or 2. The acquisition is important. We know a little bit about it. Tracking, we know a little more about it. The kill assessment is something we do not know much about. We do not know how well our laser rays, for example, will work. We know that they will work if we can develop the accuracy and develop the acquisition and the power.

Now we get into directed energy weapons. Mr. President, this is something we do not know a lot about. This is something that Dr. DeLauer was not able to discuss with us. We need this money for further research. We get into kinetic energy weapons and the same thing applies. We have a great knowledge of this type of weapon, how it is to be constructed, what it generally will do, but if we are going to strike the amount of money out of this defense budget that we are asking for, we are not going to be able to perform some of this research and development.

Mr. President, there is no more important term in the whole defense arsenal than research and development because we are not talking about the ordinary conventional weapon with wings on it or with a barrel out of which you shoot a bullet. We are talking about new concepts because, as I related on the floor the other day, we go down through the whole history of war beginning with man fighting a man with his fists. We see developments in warfare that immediately produce the reaction that that will be the end of war.

Mr. President, I will remind you that there has never been a weapon developed in the history of this world that some other weapon was not built to defend against. This is all we are trying to do. We hear it called Star Wars, we hear all kinds of exotic terms applied to it, but the prophesies were made as short a time ago as World War I that the war would be won by tanks. To a large extent it was and the prophesies were made that never another battle would be fought because of tanks. And then the airplane came along and many people said, "Well, it won World War II." It did not. It helped.

So, Mr. President, what this amendment is going to do, I am afraid, if it passes, is to prevent us from doing the type of research and development that we have to do. And again we are not talking about atomic weapons. We are not talking about nuclear power. We are not talking about long-range ballistic missiles. We are talking about the ability to guide a satellite to within striking distance of a satellite of whatever enemy we might have whose satellite could not necessarily rain destruction upon us but destroy satellites that we have for communication.

We are doing most of our communicating today around this world with satellites. Observation, I cannot get into that because it is extremely highly classified. But I have to ask my colleagues in the Senate to vote against any reduction of funds from this rather small amount that has been authorized merely to find out can we do it. If we do these experiments and we are convinced that we can go no further, Dr. DeLauer said, "I would be the first one to say so." I think we have to continue with the research that we have started. It is necessary to our defense and offense as any conventional weapon.

So, Mr. President, I am going to oppose this amendment. I do not think it is a wise amendment. I do not want to see us make a mistake in the cessation of research and development at this time.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I should like to comment first on the comments of the distinguished chairman of the Armed Services Committee. I want to be certain that we clearly understand that in this amendment we specifically reject specified cuts which the House Armed Services Committee directed. We agree with the position taken by the Senate Armed Services Committee that the cuts should be distributed by the Pentagon.

Second, there is still a $150 million difference between the amendment and the House mark that should provide the Senate conferees with leverage in the conference.

I would like to finally ask the distinguished floor manager of the bill, Senator WARNER, a few questions. Is it not correct that the Senate Armed Services Committee reduced the President's request for SDI by $150 million?

Mr. WARNER. Mr. President, in response to that question, the Subcommittee on Strategic Systems had no less than three hearings on this subject, and after many careful hours of deliberation and a number of witnesses—and I might add that we invited those who were in opposition to the President's initiative and gave them adequate opportunity to appear—it was the collective judgment of the committee that we would take out no more than $150 million.

Mr. PERCY. Is it not also correct that in doing so the committee cited fiscal constraints caused by the Federal deficit?

Mr. WARNER. Throughout the discussion by the Armed Services Committee on its entire defense budget, the members of the committee had in mind fiscal constraints, but in terms of this specific cut of $150 million it was not related to any goal or figure for reduction by the committee. It was taken out solely because it was our judgment that that was the amount of money that could be removed without endangering this program. A dollar more in our judgment does endanger the program.

Mr. PERCY. Is it not also correct that the committee report warns that full funding will not be provided next year if the administration's presentation is as uncertain as it was this year?

Mr. WARNER. I was the author of that language, and indeed the subcommittee as well as the full committee was concerned about the preciseness with which the administration laid down certain aspects of this program, but the $150 million cut was not related to any lack of confidence by the committee in this program.

Mr. PERCY. I would ask my distinguished colleague, the senior Senator from Virginia, if he would not agree that the House Armed Services Committee did actually support SDI?

Mr. WARNER. Indeed, to an extent.

Mr. PERCY. Would I not be correct in characterizing that committee as a rather conservative body on defense matters?

Mr. WARNER. In this instance they showed less than good judgment.

Mr. PERCY. Is it not true that the House committee reduced the fiscal year 1985 SDI request by $407 million?

Mr. WARNER. That is in the RECORD.

Mr. PERCY. I thank my distinguished colleague. If there is no one else who would like to speak——

Mr. COHEN. Will the Senator yield?

Mr. PERCY. Yes; I would be happy to yield to the distinguished Senator from Maine.

Mr. COHEN. My understanding is that there is about a $1.7 billion request for the SDI; is that not correct? And that if the Senator's amendment were to prevail that would make a total reduction of $250 million from the administration's request?

Mr. PERCY. That is correct.

Mr. COHEN. Let me say to the chairman of the Foreign Relations Committee that part of the difficulty has come about from the nature of the presentation made by the administration as to the goals of the SDI. On the one hand, you may recall that the President made a very dramatic speech in a joint session of Congress in which he indicated we should strive for that day when we could render offensive weapons obsolete. I do not think anybody would question the desirability of that particular goal. It was then suggested that you would use a strategic defense initiative as a means of preventing attacks upon city populations. Later that was somewhat modified to say that we really have in mind the protection of our silos. Furthermore, I think there was a good deal of evidence in the RECORD that we could never really have what they call an astronomic roof over the United States that would be totally leakproof, that there would be some leakage, some percentage; and when you have thousands of warheads being fired upon the United States, even a small percentage means a good deal of damage.

However, more important than those issues that have been raised about effectiveness is the question: What is the strategic goal we have in mind? How does that pertain to what we are doing with our offensive systems? I think we make a mistake to simply look at our offensive capabilities and not take into account the effect when you also devise or develop and deploy an adequate defensive system.

What does that combination do? Is there a certain dynamic set up?

I mention this in the context of what do we anticipate our adversaries or enemies are going to do in response to this.

For example, one of the rationales offered—and the chairman of the Intelligence Committee may want to correct my recollection of this—one of the rationales that was offered was that if we build a defensive system, a very significant, substantial defensive system, it would provide the incentive for the Soviets to reduce their offensive capability. That was one of the rationales offered before the Armed Services Committee, as I recall.

The difficulty with that rationale is that it is contradicted by the Department of Defense studies. The Hoffman report indicates that—contrary to the Soviets reducing their offensive systems, being persuaded that they would be totally unable to penetrate the defense—the Hoffman report indicated that in all probability, and I have the language here, the Soviets would seek a cheaper way of using more offensive systems to overwhelm the defensive system.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. COHEN. I yield.

Mr. GOLDWATER. Mr. President, I think we have to make it clear—at least clear in my mind—as to what the President was talking about when he talked about "star wars" and what Dr. DeLauer was talking about.

This is not the development of offense. It is the development of defense, but not against ballistic missiles. As we grow more and more dependent upon the satellites for communication and for observation, the Soviet Union, or any enemy we have, will attempt to destroy the ability of those satellites.

This does not involve massive attacks. It involves the ability to render that satellite useless for what they are intending it for. That, in my opinion, is star wars.

I remember the day that President Kennedy said we are going to send a man to the Moon. I thought the guy was out of his head. Well, he was not.

I think we should at least give the President a chance to see if he can develop these things, and I think we can. They are not offensive. They are defensive.

Mr. COHEN. Mr. President, I appreciate what the Senator from Arizona has said.

It is not a question of whether it is technically feasible. I agree that within 15 years we will look at what we have now as obsolete. I think technology is running at such a pell-mell pace that, in a short period of time, we can achieve almost anything technologically.

The question I am raising is the context in which we are pursuing this. According to the Hoffman report, the Soviets' reaction to our building a defensive system, whether it is in space or call it star wars, would be to try to overwhelm a system.

Second, I recall during the course of the testimony, once again, the paradox or inconsistency in our positions. It was testified that we are way behind the Soviets in BMD or in our defense capabilities, at least 10 years behind. The logical question which comes is that if we are that far behind, why are we not reducing our offensive capabilities? That was a rhetorical question. The answer is that we are not doing that in any way.

I raise these questions because I believe there is a certain destructive tension between moving toward an expansion of our offensive capability at the same time we are developing a significant defensive capability. I believe that creates a certain instability.

I think many witnesses testified that one of the worst situations you can have is where you are expanding your offensive capability at the same time you are building a significant defensive capability. Preventing that is the rationale behind the ABM Treaty.

It may be that this administration is committed to the principle of repealing ABM, saying that it does not work, that they have not abided by it, and that we want to get away from it. They have not said that yet, but we may be taking certain steps which will lead us inevitably to that conclusion. I am not sure that we are prepared to come to that judgment yet or to say that moving away from the concept of the ABM Treaty—that it is a destabilizing move to start making systems which are defensive—maybe we want to make that judgment, but we are funding programs which are going to carry us to that conclusion.

I think Members should be aware that there is a certain dynamic or a certain tension between the two, when you create an offensive capability and couple that with a defensive capability, and you are in fact, in my judgment, promoting a crisis instability situation.

I believe we should continue the R&D on it. I do not know what an adequate level is. I do not know how you can spend $7.1 billion in 1 year on a brand new program. So there is room for disagreement.

This is a question of the coherency of our objectives. How do they relate to our negotiating process? Are we not, in deed or in fact, calling for abolition of the ABM? Does it no longer serve our interests?

I have listened to the Secretary of Defense say words to that effect on television, that he has never been a supporter of ABM, and if he did support it, it is no longer relevant in view of Soviet behavior.

I do not believe we have answered the questions that I think are relevant. If you combine offensive capability with defensive capability, what position does that put you in, in terms of maintaining crisis stability?

Mr. QUAYLE. Mr. President, the Senator refers to the Hoffman report, as perhaps this is going to trigger a response from the Soviets, that they would overwhelm—that that would be their offense.

I believe the Hoffman report says that initially that would be the Soviets' response, but finally the report says that after they find out if a system works, and we do not know, and that is why we want to go ahead—that if the SDI defense works as envisioned, then the Soviets will find out that it will be difficult for them to overwhelm it.

As a matter of fact, it is going to be very uneconomical for them, and therefore they may be forced into a smaller missile, one that will be more survivable, which will demand more accuracy and less megatonnage and less throw-weight.

Does it not go on and indicate that perhaps after they initially tried to overwhelm this, that necessarily might not be the case?

Mr. COHEN. The operative words are:

> Their current program emphases suggest that they would be more likely to respond with a continuing buildup in their long-range offensive forces. However, such a buildup would not necessarily be sufficient to maintain their current level of confidence in the achievement of the strategic objectives of those forces.

Is that the phrase the Senator is talking about?

Mr. QUAYLE. I am talking about that language, also.

In the conclusion, they say that would be the Soviet response. But if we have a system that is going to work, then I am not sure that is going to be the Soviet response.

Mr. COHEN. There is no testimony I heard that said you could have a leak-proof system.

Mr. QUAYLE. We do not need a leak-proof system, but if you have one that is fairly close——

Mr. COHEN. But the question comes, are we committed philosophically at this point to saying that the ABM is out the window, and that rather we believe in the concept of trying to deploy defensive systems while you have offensive systems?

The whole theory behind ABM was that you have a greater chance of instability if you have an offensive threat coupled with a defensive capability.

Then you are really creating instability in a crisis situation.

Mr. QUAYLE. We are not ready to discard ABM.

Mr. COHEN. I do not think so either.

Mr. QUAYLE. I do not think we should be. I think that treaty is still there, but that is why we need the research to find out what is necessary, and that is why I think we have already taken a whack at this about $150 million. I think another $150 million the Senator from Illinois is talking about would really be counterproductive.

We have to give a President in the 1990's the options to make these decisions, and I do not think the Senate is going to make these decisions here tonight. We are not going to make them tonight or next year. I do not think we should start turning this thing down.

I know there is a lot of momentum out there to say we have to do something about this, keep referring to "Star Wars." That is strictly a defensive initiative. We are talking about defensive weapons, not offensive weapons. We are talking about defensive weapons and talking about a President's speech, that the Senator from Maine referred to, as having the possibility of rendering nuclear weapons obsolete by such and such a date or a date in the future.

I think that is certainly a worthwhile objective. I think the Senator's amendment would not go in that direction.

Mr. PERCY. Mr. President, before the remaining time I have runs out I wish to correct just one statement that was made. The reduction is $100 million, not $150 million.

Mr. WARNER. Mr. President, if the Senator will use his microphone, I am not sure what the specific request was. The Senator from Virginia is now in tight control of the time for the opponents of this amendment.

Mr. President, will the Chair kindly inform the Senator from Illinois the time that he has remaining?

The PRESIDING OFFICER. The Senator from Illinois has 1 minute remaining.

Mr. PERCY. Mr. President, I ask unanimous consent that Senator NUNN be permitted to have the 1 minute that I have remaining and 3 additional minutes if the manager of the bill would be good enough to yield that time to him.

Mr. WARNER. I am willing to provide some time from the opponents to Senator NUNN.

So at this point I understand the Senator from Georgia now has the floor.

Mr. NUNN. Mr. President, I will not take much time. To me this is not a matter of deep philosophical argument but a matter of economics and efficiency.

The record, as the Senator from Virginia no doubt recognizes, and I must say the Senator from Virginia did a superb job in these hearings—I have never seen a more patient subcommittee chairman. The Senator from Virginia and the Senator from Nebraska did a superb job in giving the administration time after time every opportunity to come up and clarify the record, to set forth reasonable logical goals and concepts. Some days we thought we had arrived at that point and then before the hearings were over most of the testimony had been contradicted or the previous testimony had been contradicted.

The long and short of it is what we have as we launch a new program basically is $28 billion worth of research. The Senator from Texas emphasizes this was just research. It is $28 billion worth of research.

We have a record that is replete with contradictions in goals and objectives, with contradictions in concepts, with contradictions about all sorts of different important parts of this program.

I am not against the program. I think it has considerable promise. It has been grossly overstated to the American people in terms of what it might reasonably be expected to accomplish.

I remember being in a hearing with all the experts from the administration the afternoon before the President made his so-called "Star Wars" speech at which time they testified almost unanimously that they had all the money they could reasonably spend and they were requesting all the money that they could reasonably and prudently spend. The record is replete with that testimony.

The next night the President made his speech. Since that time we have been in a vigorous contest to try to match rhetoric and reality. The scientists have been trying to take the statements about protecting populations and all of that and get it down to a point of reality. Secretary DeLauer went through that. All of them went through it.

Let me just say I think that this program is overfunded. If you cut the $100 million out, you will still have a 50-percent growth, a 50-percent growth from 1984 spending levels to 1985 spending levels. A 50-percent growth in a short time of 1 year with massive changes going on it seems to me is a sufficient growth rate.

I think what the administration needs under this program is more time and less money.

Mr. WARNER. Mr. President, first I wish to thank the Senator from Georgia for his remarks. Indeed the subcommittee did spend many hours on the subject.

Let us make eminently clear that we are talking about programs which are related to systems for the defense of incoming ballistic missiles.

Second, all research on this program is being conducted in compliance with the ABM treaty.

Third, the Department of Defense principal witness, Dr. DeLauer, said it will take this Nation a decade to catch up with the Soviets in this area.

As my distinguished colleague from Indiana pointed out, the President indeed, everyone occupying the Office of President of the United States today, would be compelled out of a sense of responsibility to take the same initiatives that President Reagan has taken. Otherwise, he would foreclose the options of a future President in the 1990 decade.

Mr. President, I rise in opposition to the amendment to reduce funding for the stragetic defense initiative. Let no one mistake the amendment as a mere budget adjustment. The intent of the amendment is to frustrate one of the most important new thrusts in U.S. strategic policy to have occurred in recent times. In addition, approval of this amendment will surely have the result of endorsing the House action on SDI, which cut back on satellite survivability and arms control verification technologies that this Chamber went on record yesterday as supporting.

The President has outlined a program that holds great promise for enhancing deterrence, advancing our efforts to negotiate reductions in strategic offensive forces, and providing a means to save lives rather than avenge them. The President regards the SDI as a personal initiative, and has written to me and other Senators urging that no further reductions be made in the program.

Much of the debate about the SDI has focused on whether or not defenses can be effective, what they will cost, and how they will affect arms control. These are precisely the questions that the SDI is intended to answer. Again quoting from the President's recent letter: "I want the Congress to clearly understand that the SDI is not a decision to develop, or a commitment to deploy, a strategic defense. It is principally a research program."

Mr. President, in response to my distinguished colleague from Maine, who has left the Chamber, while this research and technology program is underway, complementary policy and strategy studies will examine the implications of these technologies for arms control and for the important transition from a purely offensive strategy to a balanced offensive/defensive strategy. The SDI will provide the basis for an informed decision by a future President and Congress on whether or not to begin the development and deployment of a U.S. strategic defense capability. In the meantime, the program has been structured to be in compliance as I have said, with all U.S. arms control commitments, including especially the 1972 ABM Treaty.

The proponents of this amendment argue that it will guarantee that the SDI is approached with appropriate caution, and cite the Scowcroft Commission's recent report. In fact, Scowcroft cautioned against proceeding to engineering development, which has nothing to do with the SDI program now before us. Relative to the research objectives of the program, Scowcroft stated: "In the Commission's view, research permitted by the ABM Treaty is important in order to ascertain the realistic possibilities which technology might offer, as well as to guard against the possibility of an ABM breakout by the other side."

The SDI program is intended to do exactly that.

In response to my distinguished colleague from Illinois, I wish to remind him and other Senators that most of the ongoing programs that have been incorporated into the strategic defense initiative have enjoyed the bipartisan support of Congress in the past and are essential on their own merits, quite aside from their application to the SDI. And the Congress has done that for good reason. The SDI incorporates important technology programs aimed at providing a hedge against a ballistic missile defense breakout by the Soviet Union. In view of Soviet efforts to significantly expand this ballistic missile defense capabilities, efforts that raise serious concern about their compliance with the 1972 ABM Treaty, an aggressive research program on the part of the United States is not only prudent—it is essential.

The SDI also incorporates programs intended to satisfy the requirements for a survivable tactical warning/attack assessment system and a satellite attack warning/verification capability. These programs address the very concerns expressed by Senators yesterday regarding the need for greater satellite survivability and improved verification capabilities. And while it is not the expressed intent of the sponsors of this amendment to cut these programs, that is exactly what will happen if the Senate reduces SDI funding and with it the negotiating leverage we will need in conference to restore House cutbacks in these critical programs.

Those who argue that the requested funding level represents too large an increase over last year should be reminded that several of the technology demonstration programs included in the SDI were in the concept and design phase, and are now moving into the most costly hardware fabrication phase—the natural evolution for any technology development program.

They should also be reminded that the defense technologies study, directed by Dr. Fletcher, which provided the blueprint for the SDI program, recommended a technology-constrained program in fiscal year 1985 almost half again as large as the President's request. Even the fiscally constrained program identified by Fletcher was significantly more robust than the President's request, which reflected overall national defense priorities and budget constraints.

The funding requested this year is, in fact, only $250 million more than was programmed prior to the President's speech and the establishment of a focused and coordinated SDI effort. The approximate 15-percent increase represents modest increases in most program areas, with significant percentage increases in the area of survivability and lethality studies, which have been identified as important areas of uncertainty.

Let me assure Senators that the $150 million reduction recommended by the Armed Services Committee reflected budget constraints. It is not a reflection of committee dissatisfaction with the manner in which the program was presented to the committee. The concerns of the committee have very little to do with the fiscal year 1985 request. Indeed, many of the committee's concerns demand a vigorous program start so that the technological uncertainties, and related policy question, can be resolved.

I ask you to join me in rejecting any amendments that seek to further reduce funding for the SDI. The level of research recommended by the Armed Services Committee is essential if the program is to get a vigorous start toward its goal of moving away from our current sole reliance on offensive retaliation for deterrence. It is also very important in view of ongoing Soviet efforts to develop expanded ballistic missile defense capabilities.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated June 11, 1984, relating to this matter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DARTMOUTH COLLEGE,
*Hanover, NH, June 11, 1984.*

Hon. JOHN W. WARNER,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR WARNER: We are writing to you as scientists with experience in a variety of fields of research, to indicate our support for the President's proposal to defend the United States against a Soviet nuclear attack.

In our view, an effective defense of this kind, even if less than perfect, will enhance the security of the American people by magnifying the risks which cautious Soviet leaders must contemplate in assessing the chances for a successful preemptive attack on the United States.

We wish to register a strong disagreement with the judgments reached by a panel of the Union of Concerned Scientists, and by Dr. Ashton Carter in a background paper prepared for the Office of Technology Assessment (OTA), to the effect that such a defense against Soviet missiles is technically infeasible. Research results already in hand indicate several promising technologies for the implementation of an effective missile defense. Further research will be required to determine which technology or combination of technologies will be most effective at minimum cost. However, no fundamental scientific or technical obstacles stand in the way of achieving the President's objectives. A long and careful study by a highly qualified group of experts in this area, reported to the House Armed Services Committee by Dr. James C. Fletcher, has concluded that "a robust multi-tiered ballistic missile defense system can eventually be made to work." The same language would have applied in the mid 1930's to the promise of radar as a revolutionary new defense technology.

The reports by the Union of Concerned Scientists (UCS) and by Dr. Carter state that the goal of an effective defense against Soviet missiles is unattainable. We find that this pessimistic judgment is based on an analysis which is seriously in error in several critical respects.

For example, the UCS report exaggerates by a very large factor the number of satellites needed to counter a massive Soviet ICBM attack in its boost phase. According to the UCS study, 2400 laser-equipped satellits are needed for a boost-phase defense, whereas the correct number of satellites is less than 100.

This extreme exaggeration of the required number of satellites has the effect of surrounding the President's proposal with an aura of costliness and impracticability. In particular, it brings the cost of the boost-phase of the defense to well over one trillion dollars. When the UCS calculation is corrected, the cost of satellites deployed in the boost-phase defense comes down to an amount which, when spread over a number of years, as well within the current annual level of U.S. expenditures for strategic forces, as Dr. Keyworth and other Administration spokesmen have indicated.

The exaggerations in Dr. Carter's OTA background paper are not as extreme as in the UCS report. However, they are still substantial. According to Dr. Carter's analysis, up to 500 laser-equipped satellites are needed for an effective defense, depending on whether the attacking Soviet ICBMs are spread out across the Soviet Union or concentrated in one area. Again the correct number in either case is under 100.

We find that statements by UCS spokesmen also exaggerate the effectiveness of Soviet countermeasures, and underestimate the penalty that would have to be paid by the Soviets in implementing these countermeasures. For example, one proposed countermeasure is a coating of ablative material, spread over the surface of a Soviet SS-18 to protect the skin from laser energy. The thickness of the coating must be at least two grams per square centimeter, equivalent to the thickness of about one-half inch for likely materials, to protect the Soviet missiles against the lasers planned for deployment in the U.S. strategic defense. In a panel discussion of defense issues sponsored by the American Association for the Advancement of Science, a scientist active in UCS discussions of missile defense stated that the necessary protective coating would weigh 660 pounds. Actually, this coating, spread over the upper two-thirds of a Soviet SS-18 missile, will weigh 4.8 tons. (The SS-18 is twice the size of the MX and is the most menacing weapon in the Soviet arsenal. The U.S.S.R. has deployed 308 SS-18s carrying a total of 3000 warheads with the same accuracy as the best U.S. warheads and considerably greater destructive power.) Since the payload of the SS-18 is eight tons, such a Soviet countermeasure would reduce the effectiveness of this largest element of the Soviet ICBM arsenal by 60 percent.

Furthermore, the specifications for laser brightness in the U.S. Strategic Defense Initiative can be upgraded if the result promises to be a substantial gain in effectiveness. An increase in laser brightness would require an additional increase in the thickness of the ablative coating applied by the Soviets to their ICBMs, even further reducing the payload of the SS-18 and making this terrible weapon far less effective than it was before the defense was constructed. That would be a major plus for American security, and an important step toward the achievement of the President's objective of making these weapons "impotent and obsolete."

One of the most promising possibilities for an effective defense against Soviet missiles is the X-ray laser, whose basic principle has been successfully tested several times by the Lawrence Livermore Laboratory. According to a widely quoted proposal discussed in detail by both the Union of Concerned Scientists and by Dr. Ashton Carter in the OTA background paper, the Soviet Union could circumvent an X-ray laser defense by replacing its present ICBM arsenal with a new generation of ICBMs designed to burn out quickly at altitudes below about 40 miles, well within the earth's atmosphere. These fast burn ICBMs would be protected against X-ray laser beams because X-rays do not penetrate through the atmosphere; their energy is absorbed by collisions with air molecules. As a result, Dr. Carter concludes, "Fast burn boosters would therefore be a potent, even decisive, countermeasure against almost all concepts for boost-phase intercept." The UCS report states, "The X-ray laser is not a viable BMD (Ballistic Missile Defense) weapon."

This proposed countermeasure to the X-ray laser is appealing to the theoretical scientist, but has no practical value when tested against the reality of Soviet ICBM capabilities. In order for an ICBM booster to burn out at altitudes below 40 miles, it must complete its burning within about 50 seconds. However, the boost phase of the SS-18 lasts 300 seconds. As a consequence, the Soviet SS-18 arsenal is extremely vulnerable to an X-ray laser defense. Furthermore, nearly all Soviet ICBMs currently deployed are, like the SS-18, liquid fueled and therefore, relatively slow burning; all have burn times in the neighborhood of hundreds of seconds. Consequently the entire ICBM Soviet arsenal, in its present form, is vulnerable to an X-ray laser defense.

As for the possibility that the Soviets will be able to develop new, solid-fueled ICBMs with shorter burn times, the fastest burning ICBM in existence at this time—either operational or about to be deployed—is the MX, which has a burn time of 180 seconds. Experts who advised Dr. Fletcher's panel stated that it may eventually be possible to build a still more advanced rocket than the MX, with a burn time as short as 50 seconds, but this would be a new generation of ICBMs which would not be available to U.S. strategic forces until the period 1995 to 2000. The Soviet Union is a generation behind the U.S. in solid-fueled rocket development. According to Dr. Carter's background paper, the U.S.S.R. will still be relying on a missile similar to the MX 15 to 20 years from now. The Soviets will not have a fast-burn, 50-second ICBM before the first decade of the next century—25 years into the future. This means that the entire present generation of Soviet missiles—and the generation after that, will be useless against an effective X-ray laser defense. Surely that would be a worthwhile response from the American community of defense scientists to the President's appeal for new defense technologies that could render nuclear missiles "impotent and obsolete."

In concluding this statement of support for the President's Strategic Defense Initiative, and rebuttal of some of the objections raised by the Union of Concerned Scientists, we wish to express our concern that as a consequence of the unquestioning acceptance of a seriously flawed analysis conducted by a group of scientists without working experience in present-day problems of missile defense, and yet speaking out in opposition to the judgments of the most qualified defense scientists in the country, the American people may be deprived of the opportunity to protect themselves against the most serious threat to their existence that has existed in the lifetime of this nation.

Sincerely,

Signed by:

ROBERT JASTROW,
Founder and Director (Ret.), NASA's Goddard Institute for Space Studies and Professor of Earth Sciences, Dartmouth College.

WILLIAM A. NIERENBERG,
Director of Scripps Institution of Oceanography, Member of the Defense Science Board, Member of the National Science Board, and Former Chairman of the NASA Advisory Council.

FREDERICK SEITZ,
President emeritus of Rockefeller University, Past Chairman of the Defense Science

**Board, Past President of the National Academy of Sciences, and Past President of the American Physical Society.**

Mr. RUDMAN. Mr. President, will the Senator from Virginia yield for a question?

Mr. WARNER. I yield briefly.

Mr. RUDMAN. It will be very brief. I believe I am the only Member in the Chamber who serves on the Defense Appropriations Subcommittee.

Could the Senator from Virginia tell me how much of the money that we appropriated last year in outlays has actually been spent to date or will be spent by the end of the fiscal year?

Mr. WARNER. I do not have that figure at this time. I will try and supply it before the debate is complete.

Mr. RUDMAN. I believe that if the Senator checks he will find that he might be surprised at what he finds. Could the Senator from Virginia tell me whether or not——

Mr. WARNER. Will the Senator perhaps intimate what the answer is since obviously he possesses it?

Mr. RUDMAN. I would not like to put it in the RECORD without having the numbers, which I looked at weeks ago. I think the Senator from Virginia will find the money has not been spent at the rate we appropriated it.

I do support the program.

My second question is: Does the Armed Services Committee feel confident that if in fact this $1.5 or $1.445 billion is authorized and appropriated by the committee that it can reasonably be spent under programs presently contracted for by DOD?

Mr. WARNER. In response, the answer is in the affirmative.

Mr. RUDMAN. I would only say to my friend from Virginia that if that is so that will be the fastest gearing up of spending this kind of R&D money that I have ever seen.

Mr. WARNER. I remind the Senator from New Hampshire that this relates to ongoing programs.

At this time I yield 5 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank my colleague from Virginia and, as no surprise, stand in opposition to my colleague's amendment.

Let me first take on the argument that strategic defense is destabilizing. There can be no more fatuous argument made. If strategic defense is destabilizing why is this country not mobilizing in response to the building of the ABM X-3 nationwide and of the SA-12 local ballistic missile defense system, and of the ABM battle-management radars in the Soviet Union? If it is destabilizing to do something in our defense, what happens to the argument that because we can kill each other so many times over, no one would dare go to war in the first place?

The strategic defense initiative is not destabilizing, rather, it seeks to provide protection from the things which terrorize the world, both free and captive.

Does anyone in here argue that the people of the United States should not be defended, if that is within our capability? Who would make that argument?

Now it is true that maybe some of the things we are funding here will turn out to be good, and be deployable, but that in some future time someone will be able to counter them.

Let me answer that argument by asking who in here feels that it is not worth eating tonight because tomorrow morning he will be hungry at breakfast?

We are buying time in safety. We are buying capability, buying safety for the American people in our time.

The Senator from Maine said this is an awful lot of money for a brandnew program starting up. Well, strategic defense is not a brandnew program starting up. As of now it is the sum of programs that have been funded by this Congress for a long time. They have now been put under one roof. Certain of them were descoped, that is, reduced in scope by some members of this administration. That is why the Senator from New Hampshire is finding some moneys that have not been spent. Very recently, since the administration has placed a single person in charge of the program, the organization has improved.

We hope that this person will make sense of all these various programs which have been suddenly thrust under one umbrella called SDI. This is not for the purpose of Star Wars or ground wars or anything else. This is for the defense of the American people. They are entitled to it. Protection of the population is the first obligation of government.

Now, the Senator from Maryland said that we ought not do this thing because space has always been a peaceful place. What poppycock. The Germans were the ones who made space unpeaceful when they first started sending missiles to Great Britain, long before sputnik. Since that time, the Soviets have deployed weapon after weapon in space—we talked about one of them yesterday—this antisatellite weapon that goes up and explodes in space. We also use space for military purposes now, but the Soviet Union spends 70 percent of their space budget on the military. An additional 20 percent of that space budget is primarily military.

I again ask what Senator in here, knowing that this country has within its capability, or could have if we devoted ourselves to it, the ability to defend American people, would turn down the option not to build more weapons of destruction, not to go down and add to the nuclear throw-weight of the world, but to take care of some of the nuclear throw-weight of the world, to stop the threat to the people and stop this crazy program that we have been indulged in since McNamara's time called mad where two great powers hold each other hostage to the blinking of the eye of the other. Well, we have this capability. Let's not turn it down.

What we are trying to do is something that is decent and respectable, and the obligation of Government: That is, protect the people of the United States.

The Senator from Illinois wants to cut strategic defense and the Senator from Georgia says strategic defense is overfunded. Neither of them will say where it is overfunded, and what the alleged overfunding is for because they do not know. They cannot know. You cannot know where a program is underfunded if you have not studied the whole program and know what can and cannot be done.

I know in detail that the program is nothing like overfunded. In fact it is underfunded. I will tell you where it is underfunded. It is underfunded in the space-based laser program that the Carter administration put in place. The Reagan administration, whose original platform, upon which it was elected, was for an active defense, is spending less on the space-based laser than the Carter administration projected. Now these Senators seek to reduce that spending even further. Why?

I think that is a mistake. The American people will not forgive us if the ability to protect ourselves was turned down on a night when somebody thought that turning it down would be a nice gesture, to go along with the other gestures that we have just made to Konstantin Chernenko.

I thank the Senator from Virginia.

Mr. PERCY. Does the Senator from Virginia have a minute to yield to me?

Mr. WARNER. I will yield a few seconds, but I will control the seconds as each one goes by.

Mr. PERCY. May I simply say to my distinguished colleague that I sat for 18 years as head of a multinational corporation reviewing budgets. I fought very hard for the budget procedure in the Senate for years.

All I can say is this program is a soft program. It had many, many questions raised about it. And if we are serious about reducing this budget, we better reduce it where we can reduce it. This is not going to terribly hurt that program. The House has determined that. It is not going to cut into it. It is not going to cut the program out.

But if you cannot find $100 million in this—they will spend it—but you can find $100 million here and cut that out. And if we are going to start to cut the budget, we better start on just this kind of program.

Mr. **WARNER**. In reply to the distinguished Senator from Illinois, why did he not cut $500 million out of this program? How did he arrive at $100 million?

Mr. **PERCY**. I arrived at it very simply because two members of the Armed Services Committee said they could support $100 million. I had $257 million in the original figure.

Mr. **WARNER**. I think that is not a very constructive manner in which to override the judgment of many hours of hearings of the subcommittee and the collective judgment of a full committee. If the Senator wishes to cut $100 million out, why does he not amend his amendment and just cut it out totally as to the defense budget and then let us assign the priorities?

Mr. **PERCY**. The Senator from Illinois consulted with two members of the Armed Services Committee who are highly respected. Both of them came to the conclusion that $100 million, in their judgment, could be cut out of this program. That is the figure I agreed on.

Mr. **WARNER**. Mr. President, I at this time yield 5 minutes to my distinguished colleague from California.

Mr. **NUNN**. Will the Senator yield for a brief comment?

Mr. **WARNER**. The Senator will not yield any more time. It is going to be rough and tumble from here on.

The **PRESIDING OFFICER**. The Senator from Virginia has less than 5 minutes remaining.

Mr. **NUNN**. I just wanted, if the Senator would yield for 10 seconds—I am not going to ask a question.

It is going to be very difficult to get any more time agreements if a Member on the minority side cannot get 10 seconds. It is going to be very difficult to get any more time agreements in this body, I assure you.

Mr. **WARNER**. Mr. President, I say to my distinguished colleague, I will be glad to yield him 10 seconds. I apologize.

Mr. **NUNN**. I do not want it.

Mr. **WARNER**. Mr. President, if I may address my colleague from Georgia, I was engaged in a colloquy with the Senator from Illinois. I would be happy to yield to the Senator from Georgia such time as he wishes.

Mr. **NUNN**. I just want to serve notice that there will be no more time agreements on amendments until the attitude changes, because if I cannot get the floor—I have no time—then there will not be any more time agreement. It is that simple.

Mr. **TOWER**. Mr. President, I ask unanimous consent that the Senator from Georgia be given 3 minutes and the time to be charged to neither side.

The **PRESIDING OFFICER**. Is there objection?

Mr. **NUNN**. I object.

The **PRESIDING OFFICER**. Objection is heard.

The Senator from Virginia has the floor.

● Mr. **DENTON**. Mr. President, I am discouraged that so many of my colleagues appear to have been persuaded that the Strategic Defense Initiative is nothing but "Star Wars," laser battle stations in orbit, bristling with weaponry, "zapping" Soviet missiles at the least provocation, under the command of esoteric computers so advanced that they can win at chess and still destroy everything in flight even with one chip tied behind their back. I congratulate those in our society who oppose the program for having succeeded in giving that impression. It is truly a public relations triumph.

It does, Mr. President, raise the question of whether we are going to work to provide the security of our country through Madison Avenue or the wit of editorial cartoonists rather than through considered examination of the facts and debate on the merits. The sad truth is that much of this debate and most of the public comment on Strategic Defense is devoid of consideration of much of anything other than making debating points.

Let me point out to my colleagues that, in fact, the great weight of the program is not focused on "Star Wars," lasers, and the like. It is concentrated on some considerably more mundane things. Command and control, technology for surveillance, tracking and discrimination. Destruction of ballistic missile warheads by conventional means in the middle or at the end of their flight.

As an example of the kind of thing that we can expect the program to accomplish, in the interest of our Nation's security, consider the successful test the other day of the homing overlay experiment, or HOE. In that test, reported in the press yesterday, we launched an experimental vehicle that intercepted and destroyed an inert ballistic missile warhead far outside the atmosphere. The destruction of the warhead did not require a nuclear explosion, or indeed an explosive of any sort. It was brought about by a physical intercept, by the one vehicle hitting the other. That feat has never been accomplished before. It was a considerable achievement, and I am proud that the experiment was conducted under the auspices of the Army's Ballistic Missile Defense Organization, located in Huntsville, AL.

Consider, Mr. President, that the conventional technology included in the experiment is allowed under the ABM Treaty to which many of my colleagues attach great importance. Consider that, if we wished, we could deploy a system of 100 such interceptors in full accordance with the terms of that treaty. Consider that the high altitude of the intercept means that interceptors of that type could destroy warheads targeted over a very large area on the ground. It implies that we can do something that is far more useful, far more contributive to the national security, than was the case with the terminal intercept, point defense systems that we developed earlier.

The SDI includes many such promising technologies, as well as the more esoteric ones that have received so much attention. Let me say, however, that over the course of a long-term, carefully considered research and development program, even some of those advanced technologies will, I am confident, show great promise. I am equally sure, of course, that some of those technologies will prove to have little utility.

I am not in a position to say which technologies—various kinds of lasers, particle beams, kinetic energy weapons, and so forth—will fall into which category. Nor, I submit, is anyone in this Chamber. Nor, I submit, are even the best scientists in our country, even those now working on those technologies.

Yet, for some reason, Members of this body and of the public at large are willing to conclude, and to argue as an article of faith, that the technologies will not work and that it is impossible to provide a means to defend our country, and our allies, against ballistic missile attack. Those same people, of course, thereby put themselves in the odd position of advocating a continuation of the policy of "Mutual Assured Destruction," or "MAD" as the acronym appropriately reads. Perhaps they should consider upon the resulting conundrum.

Mr. President, given the possibilities of rapid technological development, given the stakes, given the great possible—possible—benefits of our science and technology, we clearly must conduct an active program of research and development that is much broader than just lasers and "Star Wars." I believe that the President's Strategic Defense Initiative is just such a program, and I doubt that we, in this Chamber, have the capability to start micromanaging technological development, as we are dangerously close to doing.

Mr. President, I remind my colleagues that 40 years ago, people, including respected scientists, ridiculed the notion that we could have satellites in space, that we could put men into orbit, that we could send Americans to the Moon. That was laughed at. It was called science fiction. Well, we know what has happened, and our distinguished colleague from Ohio [Mr. GLENN] can testify to it firsthand, as could our distinguished former colleague from New Mexico [Mr. Schmitt]. I ask my colleagues to support the committee position, and to give a solid start to a program that will certainly benefit every American and that may well be the key to our survival.

Thank you, Mr. President.●

● Mr. SYMMS. Mr. President, President Reagan's Strategic Defense Initiative is one of the most important new thrusts in U.S. defense policy in recent time. I fully support President Reagan's historic Strategic Defense Initiative as one of the most important U.S. defense programs in our entire military budget.

The level of research recommended by the Senate Armed Services Committee is essential for a vigorous start to move away from sole dependence on nuclear offensive retaliation for deterrence. The SDI request is only $250 million more than was planned for related programs in fiscal year 1985 prior to the President's speech announcing the SDI on March 23, 1983. Any reduction in this $250 million Presidential add-on would vitiate the President's initiative significantly.

The other body has already reduced aspects of the SDI that are important to strategic warning, satellite survivability, and arms control monitoring. This is already going to be difficult to correct in conference.

The SDI will provide a future President and Congress with the technology and policy assessments required to make an informed decision regarding the development of a strategic defense system for deployment. The SDI will, in the nearer term, provide a research hedge against an ongoing Soviet ABM breakout. Such a hedge is especially important in view of extensive Soviet ABM deployment and research and development, including an almost certain Soviet violation of the 1972 SALT I ABM Treaty. And the Soviets are already 10 years ahead of the United States in ABM technology. The Soviets also have a significant lead in directed energy technologies.

In sum, Mr. President, research for SDI included in the bill is already well below levels that experts believed were necessary and prudent.●

Mr. HEFLIN. Mr. President, almost three decades ago, research and development was initiated on ballistic missile defense [BMD] by the Army in Huntsville, AL. During most of that time, the United States has pursued a modest research and development program, deferring any move to begin a BMD engineering and development program until circumstances and technology supported such a decision. This continues to be the nature of the BMD Program today.

This year the BMD Program has been included in the budget for the Strategic Defense Initiative. I estimate that approximately half the amount recommended by the Armed Services Committee in the next fiscal year for strategic defense is dedicated to the continuation of conventional BMD research and development. I heartily endorse the Strategic Defense Initiative Program, which I believe signals a welcome shift in strategic policy from one of extreme dependence on nuclear offensive weapons to one designed to eventually make nuclear offensive weapons obsolete. I am also delighted that the Armed Services Committee's Strategic Defense Initiative proposal recognizes the importance of an evolutionary approach of strategic defense systems combining emphasis on near- and far-term concepts which I have long advocated. As I have stated many times before this body, the United States must maintain the option of deploying a BMD system, of relatively mature technology, within a decade. Based on the demonstrated progress of the BMD development program, I believe this is an achievable goal.

In the years since it was initiated, the Army's BMD Program has gone through major changes in emphasis from a concentration on advanced technology to actual development and deployment of a system at Grand Forks, ND. In all of that time, in spite of the shifting direction, the defense expertise centered in BMD-Huntsville has produced a technology that has maintained pace with developments that have taken place in the much more costly Soviet BMD Program.

Far from being a never-ending series of paper studies, the research conducted by the BMD organization has produced significant technologically advanced defense components in software and radars, optics, missiles, data processing, communications, tactics, and systems. The results of this research has been of immeasurable benefit to the United States. First, through the technological advancements that have been realized from this vigorous research and development, we have successfully maintained pace with the Soviet Union. In my judgment, if the Soviet Union and the United States decided today to develop and field a BMD system, the system fielded by the United States would be technologically superior to that of the Soviet Union. It would likely incorporate modern phased array radars, airborne and spaceborne optical equipment, distributed high speed data processing, and high acceleration nonnuclear interceptor missiles.

Second, the experiments, demonstrations, and studies performed by the Ballistic Missile Defense Office have been invaluable in preventing technological surprises in Soviet Union ballistic missile defense. By pursuing feasible alternatives for BMD system components, the Soviet Union kept the intelligence reports coming from the United States in perspective. Only by looking at U.S.S.R. research and development against a backdrop of U.S. research and development have we been able to understand the significance of much of the work on BMD in the Soviet Union.

Third, a major responsibility of the BMD organization is the very critical one of readiness. That is, the United States must have the capability to produce and deploy a modern, effective BMD system quickly. Three times in the past, the BMD system command, on short term, has been told, "Get a defense system out," once with Safeguard and twice with Site Defense and Sentry. In every case the team in Huntsville was able to develop the organization, plans, designs, and facilities and to assemble a Government/contractor organization which could successfully produce and deploy a modern defense.

Of course, only with Safeguard did the project go to completion with the deployment of the most complex military system ever fielded by the United States, a system which, I might add, would be extremely effective against anything in the Soviet inventory today, a decade later. The ability to respond to unforeseen national and international developments quickly and effectively constitutes, in my opinion, one of the greatest reasons for pursuing BMD research and development and, I believe, is the primary reason that Congress has supported and continues to support a Ballistic Missile Defense Program.

Just last Monday, the very expertise I have alluded to was clearly evident in the successful demonstration of the new BMD long-range interceptor. Hundreds of miles above the Earth a nonnuclear BMD missile guided by infrared optics and advanced miniature computers collided with a simulated Soviet ICBM, effectively destroying it. This historic event, the first actual kill of an ICBM with a BMD missile, is clear evidence that our national commitment to a nonnuclear defense system is beginning to bear fruit and the potential of defending the United States without the use of nuclear weapons is realizable.

If we are to maintain this momentum, it is essential that we continue a vigorous BMD research and development program. Important demonstrations of other pivotal technologies are underway now in BMD. A small nonnuclear missile guided only by an infrared sensor, advanced performance interceptors, and an aircraft equipped with long-range detection and tracking optical sensors, will be demonstrated in this decade. These experiments and demonstrations are the keystones of a program which will continue to provide the three advantages I outlined earlier:

First, maintaining pace with the Soviet Union;

Second, preventing technological surprises;

Third, providing a hedge for the near-term deployment, if required, of a BMD system.

As I said earlier, this year the BMD program has been included within the larger program called the Strategic Defense Initiative [SDI]. The SDI is a research and development program for advanced defense against ballistic missiles. Coupled with maintaining the option to deploy a near-term BMD system, I believe the SDI program offers great promise of putting an end to the threat of nuclear missiles.

Much of the criticism of the SDI program has been that certain key components of the system are infeasible and, thus, the system is not doable. It is unfortunate that the vision of the day when nuclear offensive weapons would be obsolete could be obscured by a premature examination of the means to that end. Who is to say that an advanced technology system employing laser, neutral particle, free electron beam, and conventional weapons cannot be made to meet the President's goal? After 6 months of study, a team of experts from all over the country under the direction of Dr. James C. Fletcher concluded that the United States must go forward in the research of this technology and demonstrate some of the advanced components before any conclusion of feasibility can be made. The money requested for the Strategic Defense Initiative Program for 1985 is to gather the scientific evidence necessary to determine whether the advanced long-range BMD concepts are indeed doable.

Another criticism of the program is that the pursuit of an effective counter to offensive missiles will interfere with arms limitation efforts. It is perplexing to me that effective defense can be interpreted as a threat to nuclear disarmament rather than what it actually is: a valuable inducement to ballistic missile disarmament. Defense is not provocative—it is the opposite.

If each side neutralizes the other's offensive ICBM capability, the threat of ICBM aggression must be reduced. The history of our country discloses proudly that ours is not an aggressor nation. But many times, we have been caught, with almost tragic results, with our guard down. I believe that far from being destabilizing, development of a strategic defense system would accelerate and guarantee a nuclear ballistic missile disarmament. It seems clear to me that the incremental employment of a highly effective defense against offensive missiles will ultimately drive those missiles to extinction.

Mr. President, in conlusion, I hope that the humorous label of "Star Wars" which has popularized the strategic defense issue does not disparage the serious and responsible nature of this important research and development. I believe that this program, which couples demonstration of conventional ballistic missile defense and advanced strategic defense technology is needed, timely, promising, and should be approved as presented to this body by the Armed Services Committee.

Thank you, Mr. President.

Mr. MATTINGLY. Mr. President, the recent debates on the future direction of the United States antisatellite [ASAT] defense program, the Strategic Defense Initiatives, and the arms control implications of those efforts, serve to emphasize the importance of the amendment that was offered to this legislation last week by the distinguished senior Senator from Idaho, Senator McClure, and which I cosponsored.

That amendment, which was approved, called on the President to transmit to Congress the report entitled, "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983." That report, prepared by the President's General Advisory Committee on Arms Control and Disarmament, will be of much value to the Congress as it attempts to make informed judgments on such matters as the much discussed test moratorium on the ASAT systems and on the other, related arms control and reduction questions with which Congress continues to grapple.

As one Senator who has tied much of his previous support for the President's strategic modernization programs to a demonstration of administration intent to pursue true and verifiable arms reduction agreements with the same vigor that it has used to seek approval of its defense budget requests, I can state that I am very interested in receiving and reviewing the contents of the Advisory Committee's report.

If the report indicates a general Soviet effort to comply with the letter and spirit of the agreements to which it is a party, then we should vigorously renew our efforts to reach new arms accords with the Soviet Union. Otherwise, obviously, we would need to take a close look at where we are with the Soviets in regard to arms control agreements and, more importantly, in what direction we should go.

So, Mr. President, I congratulate Senator McClure for his effort and urge the attention of my colleagues to the report when it is transmitted to the Congress.

Mr. WARNER. Mr. President, I now yield to my distinguished colleague from California.

Mr. WILSON. Mr. President, this amendment seriously undermines the strategic defense initiative. The Senator from Illinois may not recognize that. It, in fact, does. If he wants to know what can intelligently be spent, the Fletcher Commission has told us that something in the neighborhood of $2.6 billion could be intelligently spent for research and development in this fiscal year.

To the extent that it so seriously undermines this program, his amendment does indeed relegate us to continued dependency upon the deterrent of "mutually assured destruction."

Research into strategic defense initiative does offer the hope, if not the sure promise, of allowing us to escape from that potentially very dangerous dependency.

Reference is made in the Senator's letter to an admonition of the Scowcroft Commission urging caution with respect to proceeding to "engineering development." This is not engineering development. We are a long way from that. What is at stake here is not engineering but research. Even the harshest critics of the SDI effort, the Union of Concerned Scientists, have advocated research and development, saying:

> It is needed to protect us from Soviet surprises and might uncover concepts which could actually provide a viable defense.

There is concern expressed in the Senator's letter about the arms control implications of SDI. He fears that this program of research may be destabilizing. The Senator from Illinois said that he fully appreciates the substantial investment the Soviets have been making in their own strategic defense.

Does he recognize, as do Keith B. Payne and Colin S. Gray, writing in the current issue of Foreign Affairs, that there is a great jeopardy if, in fact, that substantial Soviet investment in strategic defense research leads them to "even a limited effective unilateral Soviet [BMD] system." This is what these gentlemen say in the current issue of Foreign Affairs:

> A unilateral Soviet [BMD] system of even limited effectiveness could be highly destabilizing in the context of existing Soviet offensive first-strike capabilities and extensive air defense and civil defense preparations: the U.S. deterrent threat could be severely degraded by the combination of the Soviet first-strike potential to destroy American strategic nuclear forces and a Soviet defense against surviving American forces.
>
> This combination of Soviet offensive and defensive capabilities could increase first-strike incentives during a crisis if Soviet leaders were persuaded that the U.S.S.R.'s defenses might be capable of largely absorbing the much-diminished U.S. retaliatory capability.
>
> Thus, early deployment by the United States of a ballistic missile defense for its retaliatory forces would not only help to ensure the survival of U.S. strategic weapons, but would also assist in preserving the credibility of the U.S. offensive deterent . . .

Mr. President, what they are saying is that if we allow the Soviets to gain so substantial a lead that, in fact, they can deploy, as they say, a system of "even limited effectiveness," they will be tempted to use it.

Mr. President, we dare not lose the opportunity to "help to ensure the survival of U.S. strategic weapons . . . [thereby] preserving the credibility of the U.S. offensive deterrent during an otherwise potentially unstable transition period."

We dare not, Mr. President, but we are in grave danger of doing precisely that by stinting further on the research and development program recommended by Dr. Fletcher (former director of [NASA]) and his technological panel. We are in danger of destabilizing the nuclear balance by inviting a Soviet first strike. We are tempting them to further accelerate their effort to achieve what Payne and Gray call "a unilateral Soviet [BMD] system of even limited effectiveness." Because, Mr. President, if they achieve such a unilateral defense, we can no longer accurately speak of mutually assured destruction.

Oh, no, Mr. President. To the contrary, we must come to the grim realization that our destruction from a Soviet first strike is—if not assured—threatened to a much greater degree than at any time since Hiroshima, precisely because it will no longer be deterred by Soviet—belief or fear that they will share in the destruction we suffer.

The destruction will not be mutual. It will be unilateral U.S. destruction that we assure if for want of adequate funding, we fall farther behind the Soviets in research in this critical area. We all know the timeworn parable that for want of a nail, a shoe was lost, and for want of a shoe, a horse, a battle and a kingdom were lost.

Mr. President, much is at stake here. The additional $100 million which the Senator from Illinois seeks to cut will provide no cure for the deficit, as he suggests. Indeed, even if not spent elsewhere, it will have negligible effect on the deficit. But it is a high cost for America to pay. It will cost us time, Mr. President, precious time. It will send the wrong signal, but one gratefully received by war planners in the Kremlin. They will be encouraged if his amendment succeeds.

Mr. President, my friend from Illinois seeks a small saving where the cost may be the hope offered by the Fletcher panel—the hope, Mr. President, that we can in time—through long and vigorously pursued research, one day step off the treadmill to a nuclear Armageddon set off by design or by accident.

Mr. President, the Senator from Illinois urges that we spend for this priceless hope—in his words—"The minimum level consistent with our national security interests. "But his amendment proposes a cut far below our national security interest, a cut that undermines and threatens our security. His amendment must be defeated.

If we are to err, let it be on the side of hope. Let us spend not the uncertain bare minimum but what we must to achieve, if we can, escape from the anxiety of dependency on the deterrent of mutually assured destruction. That way lies a realistic hope of real and lasting peace.

The PRESIDING OFFICER. The time is under the control of the Senator from Texas.

Mr. WILSON. Mr. President, I ask unanimous consent that I may have an additional 2 minutes to complete this statement.

Mr. TOWER. Mr. President, I object.

Mr. WARNER. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Fifty-one seconds.

Mr. WARNER. Mr. President, I yield the remaining time.

The PRESIDING OFFICER. Excuse me. Fifty-one seconds remain under the control of the Senator from Illinois.

Mr. WARNER. Mr. President, again I ask unanimous consent that the time be extended under this agreement to provide the Senator from Georgia such time as he may wish to take.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, we thank the managers of the bill, however.

The PRESIDING OFFICER. Does the Senator from Illinois wish to use time?

Mr. PERCY. Mr. President, I yield back the remaining time.

The PRESIDING OFFICER. All time has expired.

Mr. TOWER. Mr. President, I move to table the amendment of the Senator from Illinois.

Mr. NUNN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STAFFORD (when his name was called). Mr. President, I have a live pair with the distinuished Senator from Tennessee [Mr. BAKER]. If he were present and voting, he would vote "aye." If I were at liberty to vote, I would vote "nay;" Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Tennessee [Mr. BAKER], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. KASTEN] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 47, nays 45, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—47

Abdnor
Armstrong
Boren
Cochran
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
East
Evans
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Packwood
Quayle
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—45

Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cohen
Cranston
Dixon
Dodd
Durenberger
Eagleton
Exon
Ford
Hart
Hatfield
Heinz
Huddleston
Inouye
Johnston
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nurn
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stennis
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, against.

NOT VOTING—7

Andrews
Baker
Bumpers
Kasten
Kennedy
Roth
Tsongas

So the motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, with regard to the debate on the matter that was just voted upon, I wish to extend my apologies to the distinguished Senator from Illinois and to the distinguished Senator from Georgia if, in the controlling of the time, I in any way exhibited conduct which was inconsistent with the traditions of this Chamber. I extend my apologies to both. It was my intention to complete a dialog with the Senator from Illinois and then yield such time as I had remaining to my distinguished friend from Georgia, whose judgment and friendship I value so much.

Mr. NUNN. Mr. President, the Senator has no reason or need to apologize. We all get caught in a time squeeze. When both sides of the argument are being controlled on that side of the aisle and we do not have an opportunity over here, it does mitigate against willingness to participate in time agreements without clear understanding on how we are going to allocate time. It was certainly not any problem and was certainly not personal. I thank the Senator from Virginia for his kind and gracious comments.

Mr. TOWER. Mr. President, we have about four amendments which we can now accept. We do expect further RECORD votes this evening.

The PRESIDING OFFICER. Is the Senator from Texas giving up the floor?

Mr. TOWER. Yes.

AMENDMENT NO. 3197

(Purpose: To require a report to certain committees of the Congress regarding the strategic defense initiative)

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. PERCY, Mr. MATHIAS, and Mr. BOSCHWITZ, proposes an amendment numbered 3197.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. . At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning after September 30, 1985, and ending before October 1, 1990, but not later than March 15 of the calendar year in which such fiscal year begins, the Secretary of Defense shall prepare and transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the strategic defense initiative, including—

(1) details of all programs and projects included in the strategic defense initiative and administered by any department or agency of the United States;

(2) a clear definition of the objective(s) of the strategic defense initiative;

(3) an explanation of the relationship between that objective(s) and each program and project associated with the strategic defense initiative;

(4) an identification of technology base efforts being conducted by the Department of Defense and the Department of Energy having a relationship to the objective(s) of the strategic defense initiative.

(5) details on the funding of programs and projects for the strategic defense initiative, including—

(A) prior and current year funding levels for all such programs and projects in the strategic defense initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs and projects for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

Mr. PRESSLER. Mr. President, this amendment is noncontroversial. It calls for a report which will help clarify the objectives of the strategic defense initiatives [SDI] and will help to identify all programs related to the SDI's objectives and the full cost of this endeaver. Senators PERCY, MATHIAS, and BOSCHWITZ join me as cosponsors.

First, this amendment asks for a clear definition of the objective or objectives of the SDI. Some people cannot help but be confused on what the SDI seeks to accomplish since different officials, or even the same official speaking on different days, have suggested a myriad of goals for the SDI. Is it a program that seeks to protect people from nuclear attack, as some contend? Is the SDI designed to protect U.S. missile silos, as others claim? Is the SDI designed to deal with all nuclear delivery systems, including cruise missiles and bombers, or does it aim to defeat intercontinental ballistic missiles alone, as proposed by the Fletcher panel? Is the SDI directed at a long term goal, decades away from completion, or does it intend to deal with the more immediate concern of Soviet breakout as well, as General Abrahamson states?

It should be evident to all Senators that we need a clear definition of the SDI's objective or objectives. This amendment will require that a clear definition be provided.

Second, this amendment requires that the DOD explain the relationship between this objective and all programs and projects in the SDI. It would also require that other programs and projects serving this objective be identified, independent of whether or not they are currently associated with the SDI. This would include programs and projects administrated by the Department of Energy.

Mr. President, in this regard, I wish to bring to Senators' attention a recent Congressional Budget Office study, entitled "Analysis of the Costs of the Strategic Defense Initiative—1985-1989," conducted at my request. I ask unanimous consent that this study together with Dr. Penner's transmittal letter to me be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. PRESSLER. Mr. President, this CBO study has identified a number of programs that would appear to be distinctly related to the goals and objectives of the SDI. Such programs and projects include research on particle beam technology, research on high energy lasers, a laser weapons technologies project, the Army's Ballistic Missile Defense Program, and the DOD high energy laser facilities. The CBO looked only at Defense Department programs. Programs such as those conducted by the Energy Department's nuclear weapons laboratories were not considered. Still the CBO found programs costing the taxpayer some $357.9 million that are SDI related but are not included in the $1.77 billion SDI budget request.

The CBO study represents only a preliminary assessment. There may be yet other SDI-related programs not identified by CBC. This amendment would require that all DOD and DOE programs and projects related to the SDI be identified to Congress.

Finally, this amendment requires that this SDI report provide detailed budgetary information on the SDI, including past, present, and future funding levels I believe that the American taxpayer deserves to know the full scope and the detailed cost of this very expensive program. Americans have every right to know what these expenditures will buy. I believe that a report providing a full disclosure of the details of this effort is required, if we in the Congress are to serve the interests of the American people.

Mr. President, this amendment requires a full and open presentation of the factual details and the cost of the strategic defense initiative. I believe it deserves the support of every U.S. Senator.

The managers of this bill have recognized the value of a detailed report on the SDI. This amendment represents a refinement of printed amendment No. 3157. I believe that the bill's managers will agree to accept this new language.

We have very carefully worked this amendment through the Foreign Relations Committee, and the Armed Services Committee, the majority and minority. I understand it has been agreed to on all sides.

With that, I thank the manager of the bill for his courtesy, and the minority manager and their staffs and my staff for their work on this amendment. I ask its adoption.

**Exhibit 1**

Congressional Budget Office,
U.S. Congress,
*Washington, DC, May 23, 1984.*

Hon. Larry Pressler,
*Chairman, Subcommittee on Arms Control, Oceans, International Operations and Environment, Committee on Foreign Relations, Washington, DC.*

Dear Mr. Chairman: In your recent letter, you asked that the Congressional Budget Office (CBO) examine cost trends in Administration spending plans for the Strategic Defense Initiative (SDI). You also asked that CBO address the question of whether these plans include all the programs needed to support strategic defense. The attached paper presents our results.

In making our examination we relied primarily on data furnished by the Department of Defense (DoD) in submitting the President's budget in February 1984. (There were no major changes in the May revision of that budget.) We did not attempt to go beyond these documents to assess the long-term costs of the SDI or to evalute its potential effectiveness in defending against missile attacks.

I hope the attached information is useful. If we can be of further assistance, please let me know.

With best wishes,

Rudolph G. Penner,
*Director.*

Attachments.

### Analysis of the Costs of the Administration's Strategic Defense Initiative, 1985-89

[Note: Unless otherwise indicated, all years referred to in the text are fiscal years. All dollars are budget authority dollars that include anticipated inflation using the Administration's economic assumptions.]

#### INTRODUCTION AND SUMMARY

Last year President Reagan called for the exploration of defensive technologies that would render nuclear weapons "impotent and obsolete." The resulting Administration plan—called the Strategic Defense Initiative (SDI)—has sparked intense debate on the technological and arms control implications of creating a novel strategic defensive system based largely in space.

Many in the Congress are also interested in the costs of SDI. This paper, prepared at the request of the Arms Control, Oceans, International Operations and Environment Subcommittee of the Senate Foreign Relations Committee, examines near-term cost trends. It also discusses whether current SDI plans include all the efforts needed to support a strategic defense.

In summary, the paper finds that:

The Administration plans substantial growth in SDI spending over the next two years; from $991 million in 1984 to $3,790 million in 1986. Press reports suggest continued though slower growth through 1989. While such rapid growth is not atypical of newly started research and development (R&D) programs, the SDI will consume an increasing share of DOD R&D resources, growing from about 4 percent in 1984 to about 16 percent by 1989.

Everything else being equal, growth in SDI funds between 1984 and 1985 would have been larger had the Administration funded the Army's Ballistic Missile Defense (BMD) program at levels planned in its February 1983 budget. Changes in BMD funding plans were probably tied to the shift in basing plans for the MX missile. BMD changes not only offset growth in SDI but may also portend a more fundamental shift in the Army's BMD effort, emphasizing development of a capability to defend entire areas of the United States sometime in the future rather than emphasizing the defense of specific military installations in the nearer term. This could be of concern to those who feel the United States may need to deploy a near-term ballistic missile defense in response to a potential Soviet deployment.

There are questions about the inclusiveness of the Administration's current definition of SDI. The broad definition of strategic defense implied by the President and stated explicitly by others in the Administration embraces defense against all forms of nuclear attack. But the SDI currently contains funds for research on defense against ballistic missiles. Important components of a more comprehensive defense—most notably air defense—are missing. In addition, there appear to be a number of relevant programs that are not currently included in SDI even by the narrower definition of defense against ballistic missiles.

In accordance with the mandate of the Congressional Budget Office (CBO) to provide objective and impartial analysis, the paper makes no recommendations.

Lawrence J. Cavaiola and Bonita J. Dombey of CBO's National Security Division prepared this paper under the general supervision of Robert F. Hale. Francis Pierce edited the manuscript.

#### BACKGROUND

On March 23, 1983, President Reagan called for the United States to develop the means of rendering nuclear weapons "impotent and obsolete." It would do this, he said, by developing defenses against enemy nuclear weapons capable of destroying them after their launching but before they reached this country. Currently, the United States relies largely on the deterrent capability of its strategic offense, which is designed to discourage an attack by maintaining substantial retaliatory capability that could survive an enemy's first strike.

With this speech the President set in motion a consolidation and expansion of ongoing research programs for defense against nuclear weapons. The resulting long-term research and development plan—known as the Strategic Defense Initiative (SDI)—calls for devoting nearly $26 billion over the next six years to determining the applicability of technologies and systems concepts to the strategic defense mission.[1] Many of these technologies involve such exotic approaches as destroying missiles with directed energy or "beam" weapons and establishing new space-based surveillance and weapons platforms. Systems concepts include the deployment of novel, multilayered defenses that would engage weapons not only as they approached their targets but also at other points along their trajectories, including shortly after launch. SDI also continues existing development efforts like the Army's Ballistic Missile Defense program, with an emphasis towards integration into a multilayered defense.

Full-scale development of most SDI weapons would probably not occur until the 1990s, and deployment of most weapons would not take place until early in the next century. Nonetheless, the SDI would be a first step toward creating an ascendancy of strategic defense over offense, in line with President Reagan's call for a "break out of a future that relies solely on offensive retaliation for our security."

#### PLAN OF THE PAPER AND SOURCE OF DATA

Many have expressed concern both about the feasibility of this plan and about its cost. This paper examines in detail the 1984-1986 spending plan for SDI that was submitted with the Administration's February 1984 budget. (There were no major changes in the May revision to that budget.) As part of that examination, the paper notes changes in a major, ongoing strategic defense program—the Army's Ballistic Missile Defense (BMD) effort—which offset some of the growth in SDI funding between 1984 and 1985. Finally, the paper raises some questions about the total cost of the SID program by indicating types of research that are related to SDI but apparently not included in the Administration's current estimates of the cost of the SDI.

The paper does not attempt to project the ultimate costs of designing and deploying a strategic defense system. It is too early in the research and development process to do more than speculate on what those might be. Nor does the paper attempt to evaluate the potential of defensive systems to protect the United States against attacks. Such analyses are, however, being attempted in other studies being done for the Congress, such as the ongoing effort by the Office of Technology Assessment.

Data for the paper were drawn primarily from the descriptive summaries of research, development, test, and evaluation (RDT&E) programs that accompanied the 1983-1985 budget submissions. These included RDT&E programs run by the individual services, defense agencies, and the Office of the Secretary of Defense. All these data provide information only through 1986; official budget figures beyond 1986 are unavailable because the DoD typically does not provide details, future RDT&E budget plans to the Congress. But the paper notes estimates for years beyond 1986 that have been reported in the press.

#### TRENDS IN COSTS

##### *Growth and sources of funding in 1984 and beyond*

The latest Administration budget calls for a steep growth in SDI funding: from $1,777 million (79 percent growth) in 1985 to $3,789.8 million (113 percent growth) in 1986 (see Table 1).[2] While large, these growth rates are not uncharacteristic of new RDT&E efforts. In 1984, all SDI funds except for a $50 million contingency fund come from programs in existence before the President's speech. By 1986, however, new funds comprise 52 percent of total SDI funding.

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[1] Although the Department of Energy will be involved in specific aspects of SDI research, the Department of Defense (DoD) will be the focus for the SDI and will spend the large majority of SDI funds. Overall program management has been consolidated within the Office of the Secretary of Defense (OSD), with the program manager, Lt. Gen. James A. Abrahamson, reporting directly to the Secretary. Each of the services and certain defense agencies, however, will continue to carry out the actual research efforts.

[2] These figures are based on proposals submitted to the Congress in the Administration's February 1984 budget plan. In recent testimony before the House Appropriations Defense Subcommittee, Lieutenant General Abrahamson indicated that internal DoD plans—formulated before creation of the SDI—would have funded SDI-type research efforts at about $1,527 million in 1985, $2,600 million in 1986, and $15,000 million for period 1985-89. Note also that in its report on the 1985 authorization bill the House Armed Services Committee recommended the deletion of $407 million from the SDI.

TABLE 1.—GROWTH AND SOURCES OF FUNDING FOR SDI, BY FISCAL YEAR

[In millions of nominal dollars of budget authority]

| | 1984 | 1985 | 1986 |
|---|---|---|---|
| Funds from existing program elements | 941.0 | 1,527.0 | 1,809.4 |
| New funds | 50.0 | 250.0 | 1,980.4 |
| Total | 991.0 | 1,777.0 | 3,789.8 |

Detailed plans for SDI spending beyond 1986 are not routinely made available. But estimates published by the press show SDI funding continuing to grow through 1989, though at a decreasing rate. According to these reports, SDI funding grows an average of 25 percent per year from 1987 to 1989 (see Table 2).

### *SDI will soon be a substantial part of DOD research budget*

With its substantial growth, SDI will consume an increasing share of DOD research funds. Table 2 compares funding for SDI through the five-year defense plan with overall funding for DOD research and development. In 1984—the first year of the program—funding for SDI comprises only 4 percent of the DOD RDT&E budget; by 1989, SDI takes up 16 percent, or more than one-sixth, of the total DOD research budget.

### *Change in Army BMD funding and growth in SDI*

Everything else being equal, growth in SDI funding between 1984 and 1985 would have been larger had the Administration followed the plans in its February 1983 budget for the Army's Ballistic Missile Defense (BMD) program. Army BMD is a major part of SDI; in 1984 it makes up 52 percent of the SDI budget. But in its February 1984 budget plan, the Administration requested some $572 million less for Army BMD in 1985 than projected in the February 1983 plan (see Table 3). This may reflect elimination of plans to deploy a ballistic missile defense to aid in the survivability of the MX missile now that the decision has been made to base the MX missile in existing Minuteman silos.[3] Whatever the reason, the decrease in planned spending for BMD offsets some of the growth in the SDI between 1984 and 1985.

TABLE 2.—COMPARISON OF FUNDING FOR SDI AND FOR DOD RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, BY FISCAL YEAR

[In millions of nominal dollars of budget authority]

| | 1981 actual | 1982 actual | 1983 actual | 1984 plan | 1985 plan | 1986 plan | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|---|---|---|
| DOD RDT&E | 16,634 | 20,103 | 22,825 | 26,868 | 33,985 | 37,797 | 38,426 | 43,717 | 47,099 |
| Annual percent growth | | 21 | 14 | 18 | 26 | 11 | 2 | 14 | 8 |
| SDI | | | | [1]991 | [1]1,777 | [1]3,790 | [2]4,989 | [2]6,260 | [2]7,406 |
| Annual percent growth | | | | | 79 | 113 | 32 | 25 | 18 |
| As percent of DOD RDT&E | | | | 4 | 5 | 10 | 13 | 14 | 16 |

[1] From 1985 President's budget (submitted in February 1984).

[2] From Defense Daily, Feb. 3, 1984, p. 192.

TABLE 3.—CHANGE IN SPENDING PLANS FOR ARMY BALLISTIC MISSILE DEFENSE, FISCAL YEARS 1984–86

[In millions of nominal dollars of budget authority]

| Plan | 1984 | 1985 | 1986 |
|---|---|---|---|
| February 1983: | | | |
| Requested | 709.3 | 1,564.1 | NA |
| Appropriated [1] | 517.3 | ([2]) | ([2]) |
| February 1984: Requested [3] | | 992.1 | 1,104.6 |

[1] As amended by additional SDI funds in 1984.

[2] The Congress does not appropriate funds beyond the budget year.

[3] Excludes money that is not part of SDI.

Note.—NA—Not available.

### *Potential Shift in BMD Priorities in SDI*

The new SDI budget structure also appears to change the funding of the Army BMD program in ways that shift priorities toward longer-term rather than near-term systems. In recent years, substantially more funds have been devoted to the BMD systems technology program—efforts directed at the state-of-the-art technology needed for a deployable BMD—rather than the more basic research efforts of the advanced technology program. Under the reallocation of resources for SDI in the February 1984 plan, however, there has been a shift away from this pattern. February 1983 plans for Army BMD in 1984 would have allocated roughly 30 percent of total BMD dollars to advanced technology and 70 percent to systems technology; February 1984 plans change these shares to 45 percent and 55 percent, respectively. Published data do not indicate whether this shift will continue beyond 1984. If it does, it may represent an emphasis—consistent with the SDI goal of a more comprehensive but long-term strategic defense—on longer-term development of the capability to defend entire areas of the United States rather than specific targets like missile silos. But it could delay—though not foreclose—the option of deploying in the relatively near term a BMD system to defend hardened missile silos or other strategic assets in the event of a Soviet BMD deployment, which some analysts fear.

### *Changes in SDI Budget Structure That Preclude Estimating Spending Planned Before 1984*

In light of the planned growth in SDI and shifts in priorities, it would have been useful to know whether planning for SDI-type projects before 1984 anticipated substantial funding increases later on. This might have indicated how much change the formulation of the SDI actually caused in funding.

Estimates of spending on SDI-type projects planned before 1984 cannot readily be made, however, because of changes in the budget structure. Starting with the 1985 budget plan, the DoD created five new program elements—all under the control of the Office of the Secretary of Defense—that form an umbrella under which future SDI research is to be conducted. (Program elements are the basic building blocks used to structure and describe the defense budget.) The new program elements are:

SDI Surveillance, Acquisition, and Tracking (Program Element 63220D),

SDI Directed Energy Weapons (Program Element 63221D),

SDI Kinetic Energy Weapons (Program Element 63222D),

SDI Systems Analyses and Battle Management (Program Element 63223D),

SDI Support Programs (Program Element 63224D).

Beginning with the budget submitted by the President in February 1984, all DoD SDI funds for the years 1985 and beyond have been placed in these five program elements. In budgets submitted earlier, funds are still spread through 27 military service and defense agency program elements. Because many of the 27 program elements are broad in scope, anywhere from a few percent to all of any given program element may be subsumed in the new SDI structure. For 1984 DoD provided a "roadmap" of how the 1984 SDI-applicable funds in each older program element would match up with the five new SDI program elements. Table 4 shows how one of the five new SDI program elements was created (the remaining four are shown in the Appendix).

TABLE 4.—*Example of change in budget structure for program element 63220D*

[In millions of nominal dollars]

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1984 budget structure: | |
| 63304A—Army ballistic missile defense—advanced technology | 82.0 |
| 63308A—Army ballistic missile defense—systems technology | 172.4 |
| 62101F—Geophysics | 5.1 |
| 63424F—Missile surveillance technology | 7.7 |
| 63424F—Advanced warning systems | 20.8 |
| 63428F—Space surveillance technology | 22.5 |
| 61101E—Defense research sciences. | 6.3 |
| 62301E—Strategic technology | 31.2 |

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[3] The February 1983 budget showed substantial growth in BMD funding for 1985, predicated largely on systems development for possible defense of the MX missile in Dense Pack. Many felt that, had the Administration and the Congress elected to deploy the MX missile in Dense Pack, some sort of ballistic missile defense system would be associated with it to improve the survivability of the MX missile. Now that the Administration has chosen instead to place the missiles in 100 existing Minuteman silos, it is unlikely that—given the constraints of the Anti-Ballistic Missile (ABM) Treaty—any of the Army's current BMD programs could substantially improve their survivability.

| *Program element and name* | *Associated with SDI* |
|---|---|
| 62711E—Experimental evaluation | 10.0 |
| 62715H—Defense nuclear agency | 8.5 |
| 1985 budget structure: | |
| 63220D—SDI/surveillance, acquisition and tracking | 366.5 |

NOTE.—For other SDI program elements, see the appendix.

TABLE 5.—COMPARISON OF FUNDING FOR SDI-ASSOCIATED PE'S AND DOD RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, FISCAL YEARS 1981–84

[In millions of dollars of nominal budget authority]

| | 1981 actual | 1982 actual | 1983 actual | 1984 plan |
|---|---|---|---|---|
| DOD RDT&E | 16,634 | 20,103 | 22,825 | 26,868 |
| Annual percent growth | | 21 | 14 | 18 |
| SDI-associated PE's [1] | 1,529 | 1,973 | 2,199 | 2,646 |
| Annual percent growth | | 29 | 12 | 20 |
| As percent of DOD RDT&E | 9 | 10 | 10 | 10 |

[1] From 1984 President's budget (February 1983), according to DOD. Includes funds that do not become associated with SDI in the 1985 budget, and excludes new SDI funds.

No such roadmap is available, however, for years prior to 1984; thus estimates of SDI-type spending in earlier years cannot be made. Nor can CBO estimate the amount of SDI-type spending in 1985–1989 that was planned in earlier budgets.

To provide some notion of trends in spending before 1984, CBO compared the historical growth in the 27 program elements from which the SDI funds were transferred with historical growth in the overall DoD research and development budget. Table 5 shows that, from 1981 to 1984, these associated program elements grew at about the same rate as the overall RDT&E budget and represented a relatively constant 9-10 percent share of the research and development effort. While this may suggest that SDI-type funding was not increasing rapidly in earlier years, it is not conclusive evidence. In most cases only a portion of each of the 27 program elements is assigned to SDI; so growth in all the 27 program elements may not accurately reflect growth in SDI-type funding.

### HOW INCLUSIVE IS THE DEFINITION OF SDI COSTS?

There are, of course, many programs that could contribute in whole or in part to strategic defense. The Administration has chosen a set to define as SDI, and these programs were the basis for the above discussion. But there are other programs that many might argue should be included in SDI but are not.

The choice of programs to be included—and hence total cost—largely depends on the scope and goals of the SDI effort, and some of the Administration's statements regarding the goals of SDI have been ambiguous. Funding for SDI currently includes research and development on antiballistic missile capability. However, on March 27, 1984, Secretary Weinberger said that the goal of the program is to create a "thoroughly reliable and effective defense against both ballistic missiles and cruise missiles."[4] This, together with President Reagan's call for rendering nuclear weapons "impotent and obsolete," implies the goal of a more comprehensive strategic defense system that could defend against all major types of nuclear attack, including attack by strategic bombers and cruise missiles.

TABLE 6.—EXAMPLES OF PROGRAMS NOT INCLUDED IN SDI BY THE BROADER DEFINITION

[In millions of dollars of budget authority]

| Program element and name | 1984 | 1985 | 1986 |
|---|---|---|---|
| 64406F—Anti-satellite(ASAT) R&D [1] | 203.6 | 143.3 | 101.7 |
| 63226E—Air defense surveillance/warning (teal ruby) | 31.5 | 30.0 | 30.0 |
| 63401F—Research on satellite power and survivability (advanced spacecraft technology) | 6.3 | 31.0 | 29.0 |

[1] The ASAT program also includes the following funds for procurement and construction: $19,300,000 in 1984, $117,600,000 in 1985, and $153,000,000 in 1986.

Table 6 gives major examples—though not a comprehensive list—of programs that could arguably be part of the SDI by the broader definition. For example, SDI funding excludes the costs of the "Teal Ruby" program to develop a new system for warning against attack by bombers and cruise missiles. SDI funding also excludes costs for the anti-satellite program (ASAT)—a system designed to shoot down enemy satellites in low-earth orbits. The ASAT program would almost certainly be a necessary part of a system to defend comprehensively against nuclear attack. Among other roles, it might be needed to defend U.S. satellites that are assuming increasingly greater importance for tactical warning and command and control. Moreover, ASAT technology could be useful in the development of a ballistic missile defense system.

More generally, the Administration's current definition of SDI excludes much of the cost associated with defending the United States against attacks by enemy bombers, yet air defense would be an important part of any comprehensive strategic defense. Indeed, the House Armed Services Committee, in its report on the 1985 defense authorization bill, expressed its concern regarding overall air defense efforts and their relationship to the SDI.

Even by the narrower definition of SDI that limits it to ballistic missile defense, a number of projects closely related to SDI could have been included in the funding estimates. The summaries that accompany the 27 program elements from which SDI funds are drawn describe projects that relate to SDI but are not included in SDI funding. The basis upon which portions of these program elements are included or excluded is not readily apparent, particularly since the funds transferred to SDI are rarely associated with a particular project or projects. Table 7 provides some examples, most of them pertaining to research in basic beam weapons or laser weapons. For example, the descriptive summary for Particle Beam Technology states that surface-based particle beam research and development is not part of SDI, but space-based particle beam research is. But there is likely to be a surface-based component in any sort of layered defensive system since most such concepts envision attacking incoming missiles again just before they reach their targets in the United States.

TABLE 7.—EXAMPLES OF ASSOCIATED RESEARCH NOT INCLUDED IN SDI FUNDING

[In millions of nominal dollars of budget authority]

| Program element and name | 1984 | 1985 | 1986 |
|---|---|---|---|
| 63650F—Advanced radiation technology | 46.7 | 12.4 | 37.1 |
| 62301E—Strategic technology | NA | 53.7 | 80.4 |
| 62707E—Particle beam technology | 33.1 | 17.4 | 32.4 |
| 61102A—Research on missiles and high energy lasers | 4.5 | 8.0 | 7.6 |
| 62307A—Laser weapons technology | 15.6 | 21.2 | 22.3 |
| 63304A/63308A—Army BMD | NA | 1.5 | 38.2 |
| 63424F—Missile surveillance technology | NA | 7.0 | 10.0 |
| 65806A—DOD high energy laser facility | 36.2 | 39.4 | 38.9 |

NA=Not available.

Table 7 also provides other examples of other programs or parts of programs that are excluded from SDI but seem to support it. For instance, in the plan for 1985 all but $1.5 million of the Army BMD program is subsumed under SDI; indeed, the Army BMD program is a conspicuous part of SDI. In 1986, however, $38.2 million of Army BMD research is funded outside of the SDI effort. Likewise, Missile Surveillance Technology is included in SDI in 1984 but not in 1985 or 1986, although its technology supports the Advanced Warning System, which is part of the SDI.

Together, Tables 6 and 7 raise questions about the inclusiveness of the current definition of SDI and hence about the total cost of strategic defense.

## APPENDIX

TABLE A-1.—*Example of change in budget structure for program element 63221D*

[In millions of nominal dollars]

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1984 budget structure: | |
| 63304A—Army ballistic missile defense—Advanced technology | 8.5 |
| 63308A—Army ballistic missile defense—systems technology | 12.8 |
| 62101F—Geophysics | .7 |
| 63402F—Space test program | 4.9 |
| 62601F—Advanced weapons | 6.4 |
| 63605F—Advanced radiation technology | 28.2 |
| 61153N—Defense research sciences | 5.2 |
| 62768N—Directed energy technology | 7.9 |
| 62107E—3d generation nuclear weapons | 8.0 |
| 62301E—Strategic technology | 72.5 |
| 62707E—Particle beam technology | 10.0 |
| 62711E—Experimental evaluation | 127.6 |
| 65805E—Tri-service laser range | 25.0 |
| Total | 317.7 |
| 1985 budget structure: | |
| 63221D—SDI/directed energy weapons | 322.5 |

TABLE A-2.—*Example of change in budget structure for program element 63222D*

[In millions of nominal dollars]

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1984 budget structure: | |
| 63304A—Army ballistic missile defense—Advanced technology | 117.0 |
| 63308A—Army ballistic missile defense—systems technology | 63.3 |
| 62602F—Conventional munitions | 1.3 |
| 63438F—Satellite systems survivability | 5.5 |
| 61101E—Defense research science | 1.0 |
| 62702E—Tactical technology | 7.7 |
| Total | 195.8 |

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[4] Dr. George A. Keyworth, Science Advisor to the President, also noted in recent testimony before the Senate Foreign Relations Committee that the Congress should not infer "that we consider submarine, air breathing, or tactical nuclear weapons any less deadly. They are also to be addressed with the Defense Initiative."

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1985 budget structure: | |
| 63222D—SDI/kinetic energy weapons | 195.8 |

TABLE A-3.—*Example of change in budget structure for program element 63223D*

[In millions of nominal dollars]

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1984 budget structure: | |
| 63304A—Army ballistic missile defense—Advanced technology | 18.2 |
| 63308A—Army ballistic missile defense—Systems technology | 30.1 |
| 63603F—Space laser program | 29.2 |
| 62715H—Defense nuclear agency | 5.2 |
| Total | 82.7 |
| 1985 budget structure: | |
| 63223D—SDI/systems analyses and battle management | 82.7 |

TABLE A-4.—*Example of change in budget structure for program element 63224D*

[In millions of nominal dollars]

| *Program element and name* | *Associated with SDI* |
|---|---|
| 1984 budget structure: | |
| 64711F—System survivability (nuclear effects) | 3.6 |
| 63211F—Aerospace structures and materials | 7.3 |
| 63314F—Strategic laser | 2.8 |
| 62715H—Defense nuclear agency | 3.3 |
| 63304A—Army ballistic missile defense—Advanced technology | 3.5 |
| 61101E: | |
| Defense research sciences | 3.0 |
| Other reprogramming | 10.0 |
| Total | 33.5 |
| 1985 budget structure: | |
| 63224D—SDI/support programs | 33.5 |

Mr. TOWER. Mr. President, on behalf of the majority manager of the bill, I am prepared to accept the amendment of the Senator from South Dakota. I believe it has been cleared by the opposite side of the aisle.

Mr. DIXON. Mr. President, the minority is prepared to accept this amendment.

Mr. WARNER. Mr. President, I believe this amendment has been cleared on both sides. The amendment is consistent with the interest of the Armed Services Committee that the Congress be fully informed of the relationship of the various technology research and technology demonstration programs included in the SDI, and the objectives of the program. This information should contribute to informed debate on future SDI funding requests, and will serve to preclude confusion about what is and is not included in the SDI program. Although the amendment calls for quite detailed funding summaries, it is not intended to impose requirements beyond those already in place for important programs like the SDI.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment No. 3197 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3198

(Purpose: To enhance the status of the Award of the Purple Heart)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3198.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, between lines 6 and 7, insert the following section:

SEC. . (a)(1) Chapter 57 of title 10, United States Code, is amended by adding at the end of thereof the following new section:

"1127. Precedence of the Award of the Purple Heart"

"In the case of a member of the armed forces who has been awarded the Purple Heart, the armed force concerned shall afford the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed on the uniform of such member, not lower than that immediately following the lowest position afforded any award or decoration for valor made to such member, or if there is no such award or decoration for valor, the highest precedence.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1127. Precedence of the Award of the Purple Heart."

Mr. WARNER. Mr. President, it is my understanding that the distinguished minority manager of this bill is in concurrence with the purport of this amendment and will accept it.

Mr. President, on May 30, 1984, our traditional Memorial Day, the Military Order of the Purple Heart dedicated a plaque and a cherry tree in Arlington Cemetery in honor of all recipients of the Purple Heart.

Congressman SONNY MONTGOMERY and I had the honor of participating.

Subsequently, at the invitation of the President, I participated in the ceremonies in Normandy, commemorating the 40th anniversary of D-day.

Many heroic soldiers, sailors, marines, and airmen who participated in that historic event paid the ultimate sacrifice for our freedom.

No one can visit either of these honored places without being moved by the dramatic evidence of sacrifices made by so many who have preceded us.

Memorial Day is testimony that America cherishes the sacrifices of its heroes.

It is because of those sacrifices that we here today can enjoy freedom in our Nation and elsewhere in the world.

As we consider the defense authorization bill for fiscal year 1985, it seems appropriate at this time that we address an issue which affects those Americans who have been killed or wounded in the service of our country.

The Purple Heart is the decoration used by the military to recognize those who were injured or killed in battle.

The award was created by George Washington on August 7, 1782, as the "Badge of Military Merit" to recognize soldiers with unblemished records and who performed a singularly meritorious act.

At that time there were only three recipients of the original badge, and for the next 150 years there were no additional awards.

In 1932, in honor of George Washington, the Purple Heart was revived with new conditions for the award added, including the occurrence of wounds received in action with the enemy.

Additional changes to the regulations governing the Purple Heart have occurred since 1932, the most recent of which broadens the criteria for eligibility to include those wounded or killed by terrorist attack. President Reagan executed this new policy by Executive order this year.

I take some pride in having played a modest role in that change.

Today, the Purple Heart is one of many decorations available to members of the military.

Unlike other decorations which are based on judgment of circumstances and the form and content of recommended written citation, the Purple Heart is awarded on "prima facie" evidence; either a combat wound or a fatality.

This aspect of the Purple Heart makes it unique among military decorations.

More than any other award, the Purple Heart symbolizes the willingness of our young men, throughout our history, to risk their lives in defense of freedom.

The significance of the Purple Heart in recognizing personal sacrifice during battle is not, however, reflected in its relative ranking compared to the other military decoration.

Through the years following the establishment of the Purple Heart, many other decorations have been established to recognize valor or meritorious service.

Today, the Purple Heart ranks 17th among decorations available to its members, preceding only the Good Conduct Medal in rank.

Mr. President, the amendment I am offering would direct the Department of Defense to restructure the relative ranking of military decorations to formally increase the recognition accorded the Purple Heart.

Specifically, the amendment would cause the Purple Heart to be ranked in precedence immediately after the lowest award for valor.

Most commonly, this would place it in rank following the Bronze Star.

Mr. President, medals are awarded in part to recognize the contribution of those who serve their country.

The current ranking of the Purple Heart does not reflect appropriate recognition for the sacrifices of our military personnel who are wounded or, in many cases, make the ultimate sacrifice for freedom.

A nation cannot, during peacetime, forget the sacrifices of its defenders.

We are indebted to those veterans of wars from our Nation's past.

We are especially indebted to those whose sacrifices included scars, disabilities, and the ultimate—their lives—as a result of enemy action.

I, therefore, ask that my colleagues support this amendment which would more appropriately recognize the sacrifices of our military personnel through restoration of the significance of the award of the Purple Heart.

Mr. President, I should like to single out for special recognition Col. John Campbell, who has been associated with the U.S. Senate for many years, formerly as a military liaison officer to the Senate with the Department of the Army. He then served on my staff with distinction and is now a member of the staff of the Senate Armed Services Committee. He has been awarded the Purple Heart in two instances, and his guidance to me on this matter and others has been invaluable.

Mr. DIXON. Mr. President, I wonder if my friend from Virginia could make available to us, prior to the conference, the position of the Secretaries of the various branches of service, regarding the amendment by the Senator from Virginia.

Mr. WARNER. I will be pleased to make that available to the conferees.

Mr. DIXON. I thank my distinguished friend.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3198) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3199

(Purpose: To require a report by the President regarding Americans captured or missing-in-action in Southeast Asia as a result of the Vietnam conflict)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 3199.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new Section:

### REPORT ON UNACCOUNTED FOR AMERICANS CAPTURED OR MISSING IN ACTION IN INDOCHINA

SEC. . (a) The Congress finds—

(1) that the President has declared the issue of 2,489 Americans missing or otherwise unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue with the governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) that the United States Congress, on a bi-partisan basis, fully supports these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments;

(3) that the government of the Lao People's Democratic Republic has pledged to cooperate with the United States Government resolving this humanitarian issue, separate from other issues dividing our two countries, and has recently taken some positive actions to assist the United States Government in resolving the status of missing Americans;

(4) that during a recent visit by a U.S. delegation to Hanoi, the Government of the Socialist Republic of Vietnam pledged to redouble its efforts to account for those servicemen still missing or unaccounted for in Southeast Asia;

(5) that despite this pledge, the Socialist Republic of Vietnam has repeatedly postponed setting a date for the next series of technical meetings and the transfer to the U.S. government of eight additional sets of remains;

(6) that these repeated postponements risk destroying the progress which has been achieved, and

(7) that the POW/MIA issue is strictly a humanitarian matter which must not be linked to other issues.

(b) The Congress strongly urges the Socialist Republic of Vietnam to set an early date for the next technical meeting and repatriation of remains.

(c) The Congress hereby strongly urges the President—

(1) to ensure that officials of the United States Government consciously and fully carry out his pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina, and

(2) to work for the immediate release of any Americans who may still be held captive in Indochina and the immediate return of all American servicemen and civilians who have died in Indochina whose remains have not been returned.

(d) The President shall submit a report to the Congress on the POW/MIA problem which describes current actions being taken by the Federal government in carrying out subsection (c) of this section. This report shall be submitted within one hundred and eighty days after the date of enactment of this section.

Mr. EXON. Mr. President, I should like to alert my colleagues that I think we can dispose of this amendment in rather short order, but because of the importance of the subject, several Members have asked for a rollcall vote. At this time, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, I think we can be very brief on this amendment. I know of no opposition to the amendment. I believe it has been cleared on both sides.

I ask unanimous consent at this time that the names of some 30 cosponsors of Senate Joint Resolution 246 be added as cosponsors of this amendment. I also ask unanimous consent that the names of Mr. PERCY, Mr. JEPSEN, and Mr. D'AMATO be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cosponsors are as follows:

Senators Glenn, Baucus, Zorinsky, Hollings, Ford, Chiles, Melcher, Sarbanes, Pressler, Heflin, Leahy, Bradley, Randolph, Moynihan, Cranston, Hart, Hatch, Boschwitz, Boren, East, Levin, D'Amato, Long, Proxmire, Bingaman, McClure, Mitchell, Roth, Pell, Bentsen, Huddleston, Percy, and Jepsen.

Mr. EXON. Mr. President, I am offering as an amendment to the defense authorization bill a somewhat changed version of the joint resolution I introduced earlier which calls for a full accounting of all Americans still listed as missing-in-action in Indochina.

Two weeks ago, in the Arlington National Cemetery, this Nation added an unknown soldier from this conflict to his comrades from World War I, World War II, and Korea. Many feared that this act ended the chapter on Vietnam in our history books. This is something we cannot do. There are still 2,489 Americans listed as missing-in-action in Indochina. Their fate is unknown and we as a Nation owe it to them and their families to pursue every avenue to determine their fate. I applaud the congressional intent to award these missing Americans a special commemorative medal, as a result of last year's Byrd amendment, and to honor their families in special ceremonies across the Nation this summer. I am looking forward to the ceremony in my State which will honor those 25

Nebraskans who are still unaccounted for long after their comrades have returned home. But I believe we can and should do more for them and their families. My concern is further heightened by the fact that to date there have been over 200 sighting reports—which remain unverified—of Americans being held against their will in Indochina.

Our Government, including the State Department, Defense Department, and National Security Council, has been working to obtain a full accounting of our servicemen missing-in-action. The Congress has been supportive of these efforts and I personally have been kept up-to-date on developments in this area. This amendment, which I originally introduced as Senate Joint Resolution 246, calls upon the President to act immediately to secure from the governments of Indochina a full accounting of our missing Americans. It also calls for the President to work for the immediate release of any living American still being held and the return of the remains of all Americans who died in action or captivity. Additionally, it calls for a Presidential report to Congress on actions to be taken in the near future to achieve these goals.

My original joint resolution has some 30 cosponsors. Since the time I introduced it, the Foreign Relations Committee has held a hearing on it. After consulting the Foreign Relations Committee and the Department of State, I have made some wording changes to the original resolution which are reflected in my amendment today.

Mr. President, in view of the fact that I have not had an opportunity to check the language changes with the approximately 30 cosponsors, including the cosponsors added this date, I ask unanimous consent that the names of all the cosponsors of record on Senate Joint Resolution 246 be added as cosponsors of this amendment at this time, with the understanding that any cosponsor has the right to withdraw if he objects to any of the redrafting changes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Nonetheless, the intent of the original joint resolution remains unchanged, and this amendment remains simple and straightforward. It reflects the need for Congress to remain involved in the POW/MIA issue. It states that Congress is keeping faith with those 2,489 families who do not know for sure the fate of their loved ones. It reiterates our heartfelt desire that this matter deserves priority attention within our Government and that the passage of time will not diminish its importance to all Americans, and it expresses the resolve of the Congress that these men will not be forgotten.

Many dedicated people in our Government have been working to resolve this matter. My amendment is not meant to reflect adversely on these efforts. It does, however, reflect the desire of Congress to be kept informed of these actions and to work with and support the President of the United States in this matter. The nations of Indochina should know the mandate of Congress to achieve a full accounting of our missing Americans.

As a nation, we must stand behind each and every man and woman who serves this country. We must keep faith with them and their families.

Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I am pleased to join Senator EXON in offering this amendment. I have worked with Senator EXON in suggesting certain modifications to the original text of the amendment. I am delighted that he has responded in such a cooperative manner.

The modifications came as a result of a hearing we held on June 5, in the Foreign Relations Committee, which gave us a detailed briefing on the visit to Hanoi in February of a high-level U.S. delegation that was led by Assistant Secretary of Defense Richard Armitage and joined by Ann Mills Griffiths, executive director of the National League of Families of American Prisoners Missing in Southeast Asia.

During the visit, the Socialist Republic of Vietnam promised to redouble its effort to account for the missing U.S. servicemen, a pledge that was favorably received by the delegation.

Since that time, this pledge has not been fulfilled or followed through on by Vietnam. I have called upon the Vietnamese Government to fulfill the commitment it made. They have said that they have the remains of eight additional service personnel and would turn them over. I now call upon the Vietnamese to turn them over and not to interminably delay the meetings.

What they are dealing with is the anguish of 2,489 families of U.S. service personnel still missing, and perhaps some could be held captive, from the conflict in Southeast Asia.

They must recognize that this is a humanitarian issue. They told the Armitage delegation that this was a humanitarian effort on their part.

And yet they constantly seem to refer to other political matters and then defer and delay the next meeting. I call upon them now to fulfill the pledge that they made and to remove unnecessary anguish from a situation that is already extraordinarily difficult.

I commend Senator EXON for his initiative in offering this amendment and for his deep personal commitment to doing everything possible to help the U.S. Government gain the full accounting for the 2,489 U.S. servicemen still missing and perhaps held captive from this conflict in Southeast Asia.

The POW-MIA issue is truly a bipartisan concern, one on which no nation should ever believe that, for example, divisions on policy matters might exist between Republicans and Democrats.

The solid bipartisan nature of congressional support for all U.S. Government efforts to gain a full accounting will be underscored if the Senate gives its strong approval to this amendment.

In closing, Mr. President, I simply wish to mention that on the evening before Memorial Day in Chicago a most unusual ceremony was held, a banquet where 28 Congressional Medal of Honor winners were brought from all over the United States to appear together.

I must say everyone in that audience of 600 people was deeply moved by the story of every one of those veterans. One of them, 90 years of age, was a veteran of World War I, one of five living Congressional Medal of Honor winners from World War I.

To a person, they pledged themselves in every way they could to assist in connection with the MIA-POW problem, which will remain a great problem for all Americans until we resolve it. Hundreds of live sightings of U.S. servicemen have been reported to us by refugees. None have been definitely verified.

I support and back the President in the decision that he has made that the possibility does exist that some servicemen are still alive in Southest Asia and being held as prisoners of war. As long as there is one single American there, we will not give up hope.

I was very delighted and pleased that Anne Mills Griffiths paid tremendous tribute to President Reagan and the administration for developing a strategy which is fully supported now by the families of the MIA and POW families.

I commend the administration, and I commend Senator EXON for his staunch leadership in this field.

Mr. EXON. Mr. President, I thank very much the kind words that have been said so well by my friend and colleague, the chairman of the Foreign Relations Committee. I thank him for his help. I thank him for his support.

Mr. President, I ask unanimous consent at this time that my colleague from Nebraska, Senator ZORINSKY, be added as a cosponsor of the amendment before us, and also Senators SYMMS, CRANSTON, and DENTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I know of no further speakers on this amendment. If there are none, I believe we are ready to vote.

Mr. TOWER. Mr. President, let me say that I support the amendment of the Senator from Nebraska. I am delighted to note that he and Senator Percy have worked out a suitable compromise on what was Senate Joint Resolution 246 and now has become the Exon amendment to this bill.

I think it is a commendable amendment and it does, I might add, have the support of the administration, and the administration, I might say, feels that a full accounting of POW's and MIA's is of enormous importance.

I know the President has great personal interest in it and, therefore, am delighted to express the support of the administration of this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I rise to commend the distinguished Senator from Nebraska [Mr. Exon] and the distinguished Senator from Illinois [Mr. Percy].

I ask unanimous consent to be added as a cosponsor. I think this is an excellent move to give this very appropriate recognition. I support the amendment.

The PRESIDING OFFICER. Without objection, it is ordered.

If there be no further debate, the question is on agreeing to the amendment of the Senator from Nebraska.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. Andrews], the Senator from Tennessee [Mr. Baker], the Senator from Wisconsin [Mr. Kasten], and the Senator from Delaware [Mr. Roth] are necessarily absent.

I further announce that, if present and voting, the Senator from Wisconsin [Mr. Kasten] would vote "yea".

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Massachusetts [Mr. Kennedy], and the Senator from Massachusetts [Mr. Tsongas] are necessarily absent.

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—93

Abdnor
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—0

NOT VOTING—7

Andrews
Baker
Bumpers
Kasten
Kennedy
Roth
Tsongas

So Mr. Exon's amendment (No. 3199) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. STEVENS. Mr. President, would the Senator yield for a moment?

Mr. TOWER. I yield.

Mr. STEVENS. Mr. President, it is my understanding that the majority leader announced this morning that we would be in session until about midnight. I inquire of the distinguished Senator from Texas what the intentions of the managers of the bill are now with regard to further amendments?

Mr. TOWER. I believe that we will be in until about that time, and possibly slightly beyond it.

And we already have some amendments in sequence. We do expect more rollcall votes.

Mr. STEVENS. Tonight?

Mr. TOWER. Tonight.

Mr. STEVENS. Is the Senator planning to be on the bill again tomorrow, and into the evening tomorrow?

Mr. TOWER. And on into the evening tomorrow evening. That seems to be the only way to get Senators to come to the floor and offer their amendments.

We have had pretty good luck this evening in getting Senators to agree to offer their amendments. We have disposed of some very critical amendments. There is still a big one yet to go on MX. Unfortunately, the people who were going to offer that amendment are not here this evening—one or two of them are not here. Hopefully, though, they will be ready by around noon tomorrow. We will get on that then. Once we get beyond that, once we dispose of the far-reaching motion of the Senator from Illinois [Mr. Dixon], to recommit the bill to committee with instructions, we will have gotten over the major amendments. Then we will be on those of less controversy and critical importance. Hopefully, we can finish tomorrow night.

I have already had some indications that some Senators will not offer all of the amendments that they had originally proposed to offer.

Let me clear up one misconception. The word seems to be floating around town that "Tower is leaving town on Friday", and, therefore, we can still take our time, go out tomorrow night, and not come back until next week to continue on the bill.

Well, the fact is the Republican State convention is being held this weekend and I would like to be there. However, I have some recent assurances that even if I am absent I will be elected a delegate to the national convention. Therefore, it is not absolutely essential that I go. So I will say that I am prepared to stay here all night tomorrow night, Friday, Saturday, whatever it takes. We must finish the bill this week because otherwise we cannot get it in conference and get the conference report acted on by the time we break for the Fourth of July recess.

Then the appropriations process starts to overtake us.

I lament the bureaucratic system that we have devised for ourselves here in the Senate that forces this on us. We could have had this bill to the floor a month earlier than we did, probably 6 weeks earlier. But we had to wait for the budget process to run its course. It is getting increasingly problematical around here that the authorization process is being squeezed out between the budget and the appropriations process. We are desperately in need of reform in this body. I hope that everybody is not perfectly content and satisfied with the system we have now because we cannot get our work done.

A few years ago, I think it was back in about 1976, we changed the date of the ending of the fiscal year from June 30 to September 30 because we could not get the appropriations bills done by then. Now we cannot even get them done by September 30. We operate under continuing resolutions.

Do you think that the public has great admiration for the way that we do our business here? Quite frankly, they do not. We are not really held in extremely high esteem.

I am sorry to impose this on the Senate. I do not like to stay here late at night. I do not like it to be an imposition on my colleagues. But the fact is that we are up against a deadline and we have to meet it.

I recognize that I will take serious risks because a number of Members will be absent, perhaps, on Thursday night or on Friday, a number who might vote with me on my positions on the issues. But I have to take that risk for the sake of getting an authorization bill or else at least the authorizing process for the Department of Defense becomes somewhat irrelevant.

Let me suggest to other committee chairmen here, too, that if you are not concerned about this situation, you should be, because it is going to get to the point where the only relevant committees in the Senate are the Budget Committee and the Appropriations Committee, and service on the rest of them is not going to be worth what John Nance Garner once said the Vice Presidency was worth, a pitcher of warm spit. That is not actually what Cactus Jack said, but that is the way it was printed. [Laughter.]

Now we can proceed to the consideration of my amendment, Mr. President. We do expect more record votes tonight, at least one more and probably two.

AMENDMENT NO. 3178

(Purpose: To enhance certain special pays for enlisted members of the uniformed services)

**Mr. TOWER.** Mr. President, I call up my amendment numbered 3178 and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. TOWER] proposes an amendment numbered 3178.

**Mr. TOWER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in Title I of the bill insert the following:

SEC. (a) The table relating to rates of special pay for enlisted members in section 305a(b) of title 37, United States Code, is amended to read as follows:

ENLISTED MEMBERS

| Pay grade | Years of sea duty | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | 1 or less | Over 1 | Over 2 | Over 3 | Over 4 | Over 5 | Over 6 | Over 7 | Over 8 |
| E-4 | $50 | $60 | $125 | $160 | $175 | $175 | $175 | $175 | $175 |
| E-5 | 60 | 70 | 140 | 175 | 185 | 190 | 205 | 220 | 220 |
| E-6 | 125 | 135 | 170 | 190 | 210 | 215 | 225 | 235 | 245 |
| E-7 | 135 | 145 | 215 | 235 | 255 | 260 | 265 | 265 | 270 |
| E-8 | 165 | 180 | 225 | 255 | 265 | 270 | 280 | 285 | 290 |
| E-9 | 175 | 195 | 235 | 265 | 280 | 290 | 310 | 310 | 310 |

| Pay grade | Years of sea duty | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | Over 9 | Over 10 | Over 11 | Over 12 | Over 13 | Over 14 | Over 16 | Over 18 |
| E-4 | $175 | $175 | $175 | $175 | $175 | $175 | $175 | $175 |
| E-5 | 220 | 220 | 220 | 220 | 220 | 220 | 220 | 220 |
| E-6 | 255 | 265 | 265 | 280 | 295 | 310 | 325 | 340 |
| E-7 | 275 | 280 | 300 | 310 | 330 | 350 | 370 | 390 |
| E-8 | 300 | 310 | 310 | 320 | 340 | 360 | 380 | 400 |
| E-9 | 310 | 320 | 330 | 350 | 370 | 390 | 410 | 410 |

(b)(1) Section 307 of title 37, United States Code, is amended to read as follows:

"307. Special Pay: special duty assignment pay for enlisted members.

"(a) An enlisted member of a uniformed service who is entitled to basic pay and is performing duties which have been designated as extremely difficult or as involving an unusual degree of responsibility in a military skill of the uniformed service concerned may, in addition, to other pay or allowances to which he is entitled under this title, be paid special duty assignment pay at a monthly rate not to exceed $275.

"(b) The Secretary concerned shall determine which enlisted members of a uniformed service under his jurisdiction are to be paid special duty assignment pay under subsection (a). He shall also designate, from time to time, those skills within each uniformed service under his jurisdiction for which special duty assignment pay is authorized, and shall prescribe the criteria under which members of that uniformed service are eligible for special duty assignment pay in each skill. He may, when he considers it necessary, increase, decrease, or abolish such pay for any skill.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the Uniformed services under his jurisdiction, and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The item relating to such section 307 in the table of sections at the beginning of Chapter 5 of such title is amended to read as follows:

"307. Special Pay: special duty assignment pay for enlisted members.".

(3) A member of the uniformed services who, on the day before the effective date of the amendments made by this section, was entitled to special pay under section 307 of title 37, United States Code, as it existed on the day before such effective date, may continue to be paid the special day authorized by such section 307 as though the amendments made by this subsection had not been made. However, a member may not be paid the special pay authorized by such section 307 as it existed on the day before the effective date of the amendments made by this section and the special pay authorized by such section 307 as amended by this section.

(c) Section 308 of title 37, United States Code, is amended—

(1) in subsection (a)(1), by striking out ", or $20,000, whichever is the lesser amount";

(2) by adding after subsection (b) the following:

"(2) Not more than 10 percent of the bonuses paid under the authority of this section to members of any uniformed service in any fiscal year may exceed $25,000"; and

"(3) by inserting "(1)" after "(b)".

**Mr. TOWER.** Mr. President, I am offering an amendment to give the services increased authority to better target certain special pays for enlisted members. Each of the changes my amendment would make was recommended by the fifth quadrennial review of military compensation.

First, my amendment would slightly increase the rates of career sea pay for enlisted members in grades E-6 through E-9 and would provide for incremental increases in this pay for sea duty beyond the 12-year point.

Mr. President, there is no question in my mind that sea duty is unusually arduous. I can personally attest it is arduous because I spent some substantial number of months in my life as a deck ape on an amphibious gunboat that drew 4 feet forward and 6 feet aft. We went all over the world in that thing. How we all got out of it alive, I do not know. We should have been swamped.

But, of course, it has its compensations, too. One enjoys the camaraderie fo fellow sailors, a very collegiate atmosphere, very congenial.

Too, it is very intimate because you have to take saltwater baths but only once or twice a week.

Well, I will not go into all my experiences as a deck ape in the U.S. Navy, though I am sure it would be terribly edifying and interesting to most of the people here.

The fact is that sea duty is demanding and it does take people away from their families. When a ship goes to sea, the whole ship works, and it works around the clock.

This enhanced career sea pay is designed to aid the Navy in retaining the senior petty officers who make our seagoing Navy work. This change would effect approximately 900 enlisted members.

Second, my amendment would replace the existing authority for proficiency pay with a new authority for the services to pay special pay of up to $275 a month to enlisted members who are required to perform extremely demaning duties or duties demanding an unusual degree of responsiblity. For example, the Navy assigns petty officers as surface nuclear propulsion plant operators. The responsibility placed upon these young men is tremendous and far exceeds that expected of most midlevel enlisted personnel. This new authority would permit the Secretaries of the military departments to discretely target limited manpower dollars to those people qualified to perform the unusually demanding duties, thereby increasing the liklihood of retaining these personnel on active duty.

Finally, my amendment would remove the present statutory ceiling on the selective reenlistment bonus. That bonus is designed to retain highly qualified and experienced personnel in critical skills on active duty. The amount of the bonus is based upon a formula involving the basic pay of the member at time of reenlistment, the number of years of service for which the member reenlists, and a factor based upon how critical the skill is in which the member is qualified.

The fifth quadrennial review on military compensation has identified the removal of the statutory ceiling on this bonus as being a cost-effective means of increasing the overall value of the program. The total amount of a bonus would still be controlled by statutory formula.

This enhanced bonus will enable the services to eliminate shortages in certain critical areas. For example, there is a decreasing retention rate in the Navy among nuclear-trained submariners and nuclear-trained surface technicians. The retention rates in these fields are 42 percent and 33 percent respectively. I believe that this change in the bonus program will go a long way in overcoming these declining retention rates.

Finally, Mr. President, it is my intent that the changes which would be made by my amendment be accomplished without any increase in funds from the amounts already budgeted for these special pays in 1985. My amendment is not designed to funnel new money into these programs. Rather, it is designed to permit better use of that money.

Let me reemphasize, Mr. President, the budgetary impact is zero, it is neutral. It simply would end the currently available funds for bonuses and permit the service more flexibility to target retention the very, very critically needed personnel, particularly in the nuclear engineering field where it is very difficult to retain these people when the compensation they could get in the private sector would be enormously greater.

I urge the Senate to adopt this amendment.

Mr. DIXON. Mr. President, I wonder if my friend, the manager of the bill, would be kind enough to answer a couple of questions for this side.

I do not have any problem at all with the increases in pay for those doing sea duty and things of that character, but there are some questions over here about removing the statutory ceiling on reenlistment bonuses.

As I understand it now, the reenlistment bonuses are restricted to a maximum of $16,000 a year or $20,000 for Navy nuclear power personnel. Is that correct?

Mr. TOWER. I believe that is correct, yes, Mr. President.

Mr. DIXON. Mr. President, we understand that the nature of the manager's amendment is to remove the cap altogether, thus leaving to the Navy the discretionary authority to pay whatever they believe is a suitable reenlistment bonus. Is that correct?

Mr. TOWER. That is correct. However, not more than 10 percent of the bonuses can be in excess of $25,000. Let me say it would be possible for a few personnel—I think very, very few personnel—to go as high as $39,000. That would be about the ceiling. That would apply to only a handful of people.

Mr. DIXON. Mr. President, I wish to say to my friend, the chairman of the committee, that as the ranking member on the Manpower and Personnel Subcommittee, frankly we did not go into this at all. There were not any hearings on it in the subcommittee nor were any particular questions raised with at least this Member. I cannot speak for the chairman, the Senator from Iowa, who is not, as I look across the floor, present at this time.

I would like to suggest to my friend that we had quite a bit of discussion in the committee about salary increases. A great deal of time was spent on that. A great deal of time was spent on reenlistments, particularly of Navy pilots and others in connection with the hearings there. No time at all was spent on this.

Of course, we are advised that the services have recently been accused by the Grace Commission and others of abusing the authority to pay the selective reenlistment bonus by paying it to people reenlisting in skills where there are no shortages. I wonder whether the Senator feels that that could be a continuing problem in connection with what the amendment proposes.

Mr. TOWER. Quite to the contrary, Mr. President, the added flexibility would mean that the service—let us say the Navy, for example—could actually target the bonuses to a fewer number of people with higher bonuses.

It sounds like an awful lot of money when we say that it could go as high as $39,000. What we have to consider is that if we fail to do this, the retention rate is going to go down. The cost of training these people is enormous, recruiting and training them. Too, not just everybody who walks in and joins the Navy could qualify for one of these nuclear ratings.

I know I certainly could not. I barely passed my minimum requirements when I took physics in college. I took a course known as moron physics, given to those who know nothing about the subject of physics, so I could meet the minimum requirements to graduate. So I could not qualify for one of these jobs. It takes a young man with a fine mind to do it, and it is awfully difficult to get them to enlist in the Navy in the first place. Once they are trained in nuclear engineering, what they could command in the private sector is pretty handsome indeed.

What we have to do is maintain some kind of comparability of compensation with the private sector, or we are out of the nuclear business.

Mr. DIXON. Mr. President, let me say to my friend that I do not have any problem generally with what he is doing. But I think candor requires me to suggest that the chairman's saying this is revenue-neutral exhibits some license. It may be revenue-neutral at this point in time, but I think to take off the cap of $16,000 and $20,000 for Navy nuclear power personnel and permit the reenlistment bonus to rise to as high as what I am informed can be $40,000 suggests, in the course of some time, a substantial sum of revenue. I do not know whether I would want to quarrel with the issue of the benefits involved. It might be a worthwhile thing to do.

Mr. TOWER. I do not want to mislead the Senator, so let me say in the first year, fiscal 1985, it would be revenue-neutral. They would operate within existing budgeted funds. It is estimated that in the following fiscal year of the program, there would probably be an additional cost in the neighborhood of $5 million, which is relatively small when you think of the types of people we are trying to retain and the cost of training their replacements.

Mr. DIXON. Mr. President, may I say out of consideration for the manager of the bill, who is an excellent chairman of the committee and for whom I have great personal regard, I shall not suggest a rollcall or anything of that kind. I would like to suggest that my subcommittee is the jurisdictional committee. I think it would have been an appropriate thing for the Navy to come to us and make their case before the subcommittee. I think we probably would have treated them generously there; perhaps not so generously as in this amendment.

I think the policy is a bad policy. In the last session, a similar policy was employed with respect to Navy pilots in the 6- to 10-year window, as I recall, with respect to reenlistment bonuses. I happen to be a Navy person myself. I do not want to be here being critical of that, but I think the policy is bad.

I think our subcommittee is the appropriate subcommittee to pass on the proposal in the first instance. My high regard for the chairman causes me to sit down after making that statement. But I think there is a better method of reaching the kind of attempted result that has been obtained here through the use of the chair.

Mr. TOWER. Mr. President, may I say that this was included in the whole package of proposals that came to the subcommittee and we somehow overlooked the subcommittee's deliberation.

Mr. DIXON. Of course, the subcommittee had a bogey, as the chairman knows.

Mr. TOWER. I understand that, Mr. President. May if say that the matter will be in conference, because there is no similar provision in the House bill. But I think that we have to be somewhat careful in trying to micromanage there bonuses ourselves. There may be shifting demands for talent, shifting requirements, shifting urgencies on retention. I think the Senator will agree that we have to give them some flexibility in the system so that they can target on those skills that are in particular shortfall or in which the retention rate is poor.

Mr. NUNN. Mr. President, will the Senator from Texas yield?

Mr. FORD. Mr. President, will the chairman yield for a question?

Mr. TOWER. Yes, Mr. President; I yield.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I could not help listening to the floor manager and the chairman of the committee say it was only a handful of people that would receive this bonus. Coming from Texas, a handful to him might be a bushel to somebody else. Does he have an idea how many individuals would be involved as it relates to the $40,000 bonus?

Mr. TOWER. Let me check with staff.

Mr. President, I cannot give the precise figure. Probably around 100 or less.

Mr. FORD. Would it be in order, Mr. President, and I am asking the question as simply as I can put it: Since apparently the subcommittee did not have a hearing on it. Maybe it was overlooked, but the indication is that there was not a hearing. Is there some way we could add to the amendment that a report will be given at the end of the fiscal year as to how many would receive it, how the selection process was made, and what judgment was made, would there be any kind of restriction on it?

Mr. TOWER. Let me say to the Senator that I shall direct and get Senator NUNN to join with me in directing the Department to furnish us with a report. That we can do by letter. We will have a report on it.

I hope we can go ahead and approve this in this fiscal year and take a closer look at it before we go further into it in the next fiscal year. This program would only have a budgetary impact of around $5 million in the second year of the program, and it would have no impact the first year.

Mr. NUNN. Will the Senator yield for a couple of questions?

Mr. TOWER. I yield to the Senator.

Mr. NUNN. First, Mr. President, on the first part of this, where we remove the present statutory ceiling of $20,000 on selective reenlistment bonus, would there be any cap on it at any stage if we pass this amendment? We are removing the statutory ceiling of $20,000. Does that mean they could pay $100,000 or $250,000 or $50,000?

Mr. TOWER. Mr. President, I am informed the present statutory formula would produce only a maximum of $39,000.

Mr. NUNN. That is based on the statutory formula of multiples of the skill, pay, and so forth?

Mr. TOWER. That is correct.

Mr. NUNN. Mr. President, do we really want that large a reenlistment bonus? When we get up into the $40,000 range for reenlistment—I guess it is a policy question, but does the chairman believe it is appropriate to have that much of a reenlistment bonus?

Mr. TOWER. The question is, if you do not get that high, you start losing these people. How much does it cost to train their replacements? You are drawing from a very small pool of people who have the mental qualifications to do this kind of work.

Mr. NUNN. I have not studied this proposal very carefully, but one of the things the Grace Commission pointed out was what they called abuse of the authority to pay the selected reenlistment bonus. They say the services are paying it to people reenlisting in skills where there are no shortages.

We hear an awful lot about the Grace Commission and how much we are going to save, and it seems to me that what we are doing with this amendment is making what they have already described as a problem a worse problem. I do not know because I have not studied the amendment as it relates to the Grace Commission report. I know President Reagan has put a great deal of emphasis on how much we are going to save by the Grace Commission report. I have asked the Secretary of Defense and others questions about which parts of that report they are willing to accept as it pertains to the Defense Department. Almost every one of the recommendations they have rejected as it applies to the Department of Defense, and that is a big hunk of the total Grace savings.

So I wonder, since they criticized this area, are we really making a worse problem than now exists?

Mr. TOWER. I would think not. The figure $39,000, the bonus you pay to retain a man for another 6 years, works out at what, a little better than $6,000 a year. If you consider that maybe he could get $6,000 more per year going into the private sector—and he would not have to go to sea—I wonder if we might be pennywise and pound foolish, because these bonuses do sound high, saying, "No, we are not going to pay them" and then have a declining retention rate in these much needed skills where the training costs are very high.

Mr. NUNN. It just seems to me that going from $20,000 to $40,000 in 1 year is a pretty big hunk. You are doubling the bonus.

Mr. TOWER. Yes; that is true. So you are going from roughly, on a 6-year enlistment, a little better than $3,000 a year to $6,000 a year.

Mr. NUNN. Has the Navy presented testimony, or the services, that would show the critical skills where they are having a problem, where they are going to have to raise it to up to $40,000?

Mr. TOWER. Yes. The Navy has been very specific in this request because of primarily the retention rate among the nuclear ratings, the submariners.

Mr. NUNN. Would the Senator from Texas consider, instead of being permanent law, having it limited to 1 fiscal year so we might have the subcommittee look at the whole thing next year and they can make it permanent if they so choose?

Mr. TOWER. You can do it anyway. You have to look at it every year in the authorization bill. I think the matter can be revisited next year.

Mr. NUNN. I would prefer not to have to repeal the law. Would the Senator consider an amendment to his amendment that would make it 1 fiscal year? Then we would have it in conference. We can take a closer look at it in conference and, if need be, next year it can be revisited without having to repeal something that is in the permanent law.

Mr. TOWER. Let me consider that. In the meantime I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I have had a little discussion during the quorum call with my colleagues, and I think they are prepared to let this amendment be acted upon as is, without efforts to amend it.

Let me simply say that we estimate the cost of training these nuclear personnel at around $100,000. So if you are paying a premium to keep one in—and one that is experienced, in particular—it means that is one less you have to go out and recruit and train at great expense.

I think that, really, it is a prudent way to do business. However, I think some valid points have been made, and it is a matter that the committee can look into in some depth during the authorization process next year.

Before we go to conference with this measure, we will undertake to get information that expresses itself to the concerns expressed by the distinguished ranking minority member of the subcommittee and the distinguished ranking minority member of the full committee on this matter.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment No. 3178 was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. ABDNOR.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.38031059

### AMENDMENT NO. 3200

(Purpose: To provide authorizations of appropriations for the impact aid program under Public Law 874 of the Eighty-first Congress, and for other purposes)

**Mr. ABDNOR.** Mr. President, I send an amendment to the desk.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. Abdnor], for himself and others, proposes an amendment numbered 3200.

**Mr. ABDNOR.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

Sec. —. (a)(1) Section 502(a)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking out "for each of the fiscal years 1984 and 1985" in the matter preceding clause (A) and inserting in lieu thereof "for the fiscal year 1984, and $700,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989 plus the amount authorized in subparagraph (B)";

(C) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(D) by striking out "for each of the fiscal years 1984 and 1985" in clause (i) (as redesignated by this section ) and inserting in lieu thereof "for the fiscal year 1984 and $30,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989"; and

(E) by adding at the end thereof the following new subparagraph:

"(B)(i) Not later than November 15 of each fiscal year (beginning with the fiscal year 1985), the Secretary of Education shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(ii) If in any fiscal year the percentage change published under division (i) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i) increased by such precentage changes, but in no event may the percentage change be more than 5 percent.

"(iii) If in any fiscal year the precentage change published under division (i) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i).

"(iv) For purposes of this subparagraph, the term 'price index' means the Consumer Price Index for all Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(2)(A) Section 505(a)(3) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(B) Section 505(b) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(b) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1989".

(c)(1) Section 3(d)(2)(E)(ii) of such Act is amended by striking out "1983 or 1984" and inserting in lieu thereof "1984 and each fiscal year thereafter".

(2) Divsion (iii) of section 3(d)(2)(E) of such Act is repealed.

The cosponsors are as follows:

Senators Abdnor, Pell, Moynihan, Symms, Stennis, Pressler, Sarbanes, Warner, Boren, McClure, Matsunaga, Trible, Huddleston, D'Amato, Zorinsky, Tsongas, Lautenberg, Inouye, Levin, Heflin, Mathias, Melcher, Cochran, Tower, Exon, Johnston, Chiles, Hatch, Pryor, Garn, Thurmond, Dodd, Kennedy, Randolph, Bentsen, Hollings, Riegle, Stevens, Ford, Bradley, Nunn, Bingaman, Baucus, and DeConcini.

**Mr. ABDNOR.** Mr. President, on behalf of myself, Senator Pell, and 43 of our colleagues, I am today offering an amendment to reauthorize for 5 years the Impact Aid Program (Public Law 81-874).

On February 29, the distinguished ranking member of the Labor and Human Resources Subcommittee on Education, Arts, and Humanities, Mr. Pell, and I introduced S. 2378, a bill to reauthorize impact aid. With the exception of a technical change, the language of this amendment is identical to that of the bill.

Mr. President, this amendment increases from $565 million to $700 million the authorization for Public Law 81-874 beginning in fiscal year 1985, increases from $20 million to $30 million section 2 authority, and repeals the third and final year of the category "B" phaseout—leaving at one-third of entitlement the authorization for section 3(b) of the statute. In the absence of this provision, authority for funding category "B" expires at the end of the current fiscal year.

I wish to emphasize, Mr. President, that this amendment is not a fiscally irresponsible one. We are simply seeking to restore to an adequate level funding for impact aid. The Omnibus Reconciliation Act of 1981 reduced drastically funding authority for impact aid. In contrast to other major education programs, which were reduced by 7 to 10 percent, impact aid was cut by more than 40 percent. If enacted, our amendment will restore to a roughly commensurate level support for federally impacted school systems.

It is also worth noting that administration witnesses, from the Department of the Interior, have stated in testimony before the Select Committee on Indian Affairs, that if the Bureau of Indian Affairs became responsible for educating the native American children currently enrolled in our Nation's public schools, it would cost the Federal Government more money than it contributes to their education under the Impact Aid Program. I believe, Mr. President, that the same would be true of the dependents of our military personnel, were the Department of Defense solely responsible for those currently attending public schools.

Last year, the distinguished chairman of the Armed Services Committee, Mr. Tower, agreed to consider during the debate on the DOD authorization measure, a similar amendment Senator Pell and I initiated. That language called for increasing the authority for Public Law 81-874 to $625 million. That amount was subsequently reduced to $565 million in the conference committee.

This year, the other body has incorporated in its omnibus education bill language similar to that included in our amendment. Consequently, I believe that we will find our colleagues on the other side of the Hill sympathetic to our proposal.

Mr. President, the amendment I am offering is on a very important subject to a great many Senators from a number of States—it deals with impact aid.

A total of 43 Senators have joined Senator Pell and I in sponsoring this amendment. It is a straightforward reauthorization which increases overall the program funding authority.

I have discussed this amendment with the chairman of the committee and the ranking minority member of the committee, and they have been more than willing to accept this amendment. Before I move the adoption of the amendment, I want to offer a modifying amendment, and I send it to the desk at this time.

**The PRESIDING OFFICER.** The amendment will be stated.

### AMENDMENT NO. 3201

(Purpose: To strengthen the provisions of section 3(d)(2)(B) of the Act of September 30, 1950, and to assure that proper regulations on comparability and the contribution rate be used to carry out that Act, and for other purposes)

The legislative clerk read as follows:

The Senator from South Dakota [Mr. Abdnor], for himself and others, proposes an amendment numbered 3201 to amendment numbered 3200.

**Mr. ABDNOR.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new subsections:

(d)(1) Section 3(d)(2)(B) of such Act is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h)(1) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.

"(2) Any local educational agency which is eligible to receive payments under subsection (d)(2)(B) and which is making the maximum tax effort permitted under State law shall receive at least an amount under subsection (d) with respect to that local educational agency for any fiscal year which is the product of—

"(A) the amount the Secretary determines to be the average per pupil expenditure in the State during such fiscal year,

multiplied by—

"(B) the number of children served by such agency for such year.".

(e)(1) Notwithstanding any other provision of law, the regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued March 30, 1984, shall not take effect and shall not be used to implement the provisions of that Act. The Secretary of Education shall not issue regulations relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are substantially similar to the regulations prohibited by this paragraph.

(2) The regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued on April 8, 1975, as in effect on July 1, 1983 (34 C.F.R. 222.30) shall be used to implement the provisions of such Act.

(f)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

**Mr. ABDNOR.** Mr. President, the amendment I am offering in the second degree directs the Secretary of Education to use the existing regulations to determine districts' local contribution rates versus those proposed on March 30, 1984. Earlier this year the Senate adopted an amendment offered by the Senator from Montana [Mr. MELCHER] to prevent the Department from implementing its proposed regulations during the current fiscal year. Although sympathetic to our objectives in this regard, the House conferees were not convinced that the Melcher amendment should be included in the urgent supplemental bill—it was deferred without prejudice.

In the report accompanying the Senate's fiscal year 1984 Labor-HHS and Education appropriations bill, the committee made clear its opposition to any regulatory changes in the impact aid program which would result in reduced payments to districts in States which utilize individually selected comparable districts to determine their rates. The Department, unfortunately, has not only chosen to ignore this language, but sought to impose the changes during the middle of the fiscal year, and the end of the current school year. At present, not only have federally impacted school districts failed to receive their final payments for the current school year, most of them have little or no idea of what their final payment will be.

I find totally unacceptable the excuse the Department of Education has used in defense of its regulatory proposal. I am advised that Department representatives have finally admitted that the Office of Impact Aid does not have sufficient staff to make the subjective determinations necessitated under current law and regulations. What these same indviduals neglect to mention is that last year, on the premise that category "B" payments would no longer be made, the staff in the Impact Aid Office was cut in half. This decision was not prompted, I might add, by congressional action. If we allow the proposed regulations to take effect, a number of school systems in almost 20 States stand to lose much-needed funds.

Mr. President, my second degree amendment also clarifies what I believe to be the intent of section 3(d)(2)(B) of the statute. Further, it ensures that six school systems in the Nation, which have no local tax base whatsoever, will receive funding adequate to maintain operations. Finally, it includes a change necessary to allow the State of Hawaii to benefit from a provision enacted last year as part of the Education Consolidation and Improvement Act technical amendments package.

Mr. President, I wish particularly to thank Mr. TOWER, the most able chairman of the Armed Services Committee, who has worked diligently during his tenure in the Senate on behalf of our Nation's federally impacted schools, and my most able cosponsor, Mr. PELL. I wish also to thank the staffs of these Senators, especially Rick Finn with the Armed Services Committee, and David Evans, with the Labor and Human Resources Committee, who have been tremendously helpful to me and my staff.

Finally, I wish to thank the National School Boards Association [NSBA], the National Education Association [NEA], the American Association of School Administrators [AASA], the National Parent Teachers Association [PTA], and the National Association of Federally Impacted Schools, all of which have played an important role in this effort to restore adequate funding for the Impact Aid Program.

I strongly urge my colleagues to adopt both these amendments.

We are asking that the proposed regulations be rescinded so that payments are distributed in accordance with the present regulations which have been in effect since April 8, 1975. We do not preclude the Department from issuing new regulations at a later date.

The two amendments are very necessary.

**Mr. MOYNIHAN.** Mr. President, I am pleased to join my distinguished colleagues, Senator ABDNOR and Senator PELL, in offering this amendment to reauthorize the Federal Impact Aid Program (Public Law 81-874) through the 1989 fiscal year. Our amendment would increase the program's total authorization for the coming fiscal year from $565 million to $700 million and would increase the section 2 authorization from $20 million to $30 million. These authorization levels would be indexed to changes in the Consumer Price Index for fiscal years 1986-89.

Congress enacted the Impact Aid Program in 1950 to provide financial assistance to school districts in federally affected areas—including military bases, Indian lands, and Federal low-rent housing projects. Such properties generally are exempt from local tax levies that go to support education, and Congress determined to compensate the school districts affected in this way and therefore unable to raise sufficient funds for their schools. Over the years, this fine program has provided financial assistance to thousands of local educational agencies across the country, including some 150 school districts in my home State of New York.

This program has been immensely important for local school districts responsible for educating children whose parents live and/or work on properties producing no property tax. The Highland Falls-Fort Montgomery School District in the Hudson Valley of New York exemplifies the plight of federally impacted areas. Property taxes to support the school district have risen more than 150 percent over the last decade—in large part because the district lies adjacent to the U.S. Military Academy at West Point, and 95 percent of the district's land is owned by the Federal Government. The school district is forced to operate on property tax revenues raised from just 5 percent of the district's total land—operations including the education of children whose parents live and work on the Academy's tax-free grounds.

The plight of school districts such as Highland Falls has been exacerbated by the Reagan administration's cuts in the Federal Impact Aid Program. Between fiscal years 1980 and 1983, the program's authorizations fell 35 percent, from $707 million to $455 million. New York State suffered even more severely: 150 New York school districts received some $41 million in impact aid in the 1980 fiscal year; but 3 years later, in fiscal year 1983, fewer than 85 New York school districts received only $11.2 million. That is a reduction of 73 percent over 3 years. New York City has 133,000 federally impacted students, nearly 7 percent of the national total; however, its share of impact aid fell from $26 million in fiscal year 1980 to $5 million in fiscal year 1983.

The downward trend was reversed, if ever so slightly, in the current fiscal year. On July 26, 1983, during consideration of the previous Department of Defense authorization bill, I offered an amendment with Senator ABDNOR to raise the impact aid authorization to $625 million for fiscal year 1984. The Senate adopted our amendment, but the House of Representatives regrettably approved a much smaller increase. A compromise measure later signed into law provided $565 million in overall program authority—$60 million less than the Senate approved under my proposal, but $110 million more than the fiscal year 1983 authorization.

Had the moneys under this authorization been appropriated equitably, all federally impacted school districts would receive modest increases in funding. Unfortunately, the appropriations were not so allocated. Some districts with very high concentrations of impacted children will received significant funding increases this school year. Other districts, with only slightly fewer impacted children, will not gain any additional funds and may even have their allocations reduced.

Even if the appropriations for the current fiscal year were distributed more equitably, the program's overall authorization would remain well below its 1980 funding level. New York State still would fall some $20 million to $25 million short of its fiscal year 1980 allocation, even without adjusting for inflation. It is time to rectify this situation, and we can begin to do so by raising the total authorization to $700 million and the section 2 authorization to $30 million. The authorization also would be extended for category B students, whose parents either live or work on Federal property. This provision, which the administration unfortunately has opposed, is a matter of equity and of particular importance to many New York districts, including Highland Falls.

I would emphasize that this amendment will not redress the damage done over the last 4 years. Even if approved, the measure will leave the Impact Aid Program some $7 million below its fiscal year 1980 level. It does not restore revenues already lost by thousands of federally impacted districts. Nor does it, nor could it, rectify the loss of educational opportunities by thousands of students under the President's cuts in impact aid. But this legislation will move the Federal Impact Aid Program in the right direction, and I urge all of my colleagues to support it.

I also would urge my colleagues to support an additional amendment that my distinguished colleague, Senator ABDNOR, plans to offer to this legislation. This amendment would require that during fiscal years 1985-89 the Department of Education must distribute payments under section 3 of the Impact Aid Program in accordance with regulations now in effect.

The Department of Education's recent efforts to implement new regulations governing local contribution rates under the Impact Aid Program have necessitated this amendment. Local contribution rates—the share of education costs assumed by each school district—are used to determine impact aid entitlements for eligible districts. The proposed regulations, which first appeared in the March 30, 1984, edition of the Federal Register, would alter significantly the current methods for determining a school district's contribution rate.

I understand the Department has proposed these new regulations, because it no longer has enough staff assigned to administer the Impact Aid Program under the current regulations. I would posit that the Department's unwillingness to fullfill its obligations regarding the Impact Aid Program is not sufficient reason to change those regulations. There is little doubt the Department's proposed regulations would adversely affect hundreds of local school districts. Federally impacted school districts already have lost large amounts of Government assistance under the current administration. The Department has yet to provide a valid reason to disrupt further the education of American schoolchildren in federally connected areas. Any changes in the methods used by school districts to calculate their entitlements should not be implemented at the expense of the very children the guidelines are intended to serve.

Finally, I would mention my intention to offer an amendment, with my distinguished colleague, Senator D'AMATO, to the next supplemental appropriations bill. This amendment would provide an additional $20 million for those districts which received reduced impact aid entitlements last year. Although Congress appropriated increased funds for fiscal year 1984, many school districts in New York State and across the Nation lost money. This amendment would redress that inequity and insure that these districts are properly compensated for educating children from federally impacted areas.

Mr. ABDNOR. Mr. President, I am happy to have the remarks of the Senator from New York. He has been very helpful, as has Senator D'AMATO.

We think the proposed amendments will work out to the benefit of all the States involved. They are very reasonable amendments.

Mr. President, I yield to Senator NUNN, the ranking minority member of the committee.

Mr. NUNN. Mr. President, I have a couple of questions. I understand that the Senator has two amendments. Is that correct?

Mr. ABDNOR. Yes. I modified my first amendment by my second amendment.

Mr. NUNN. What is the pending business, then, I ask the Chair?

The PRESIDING OFFICER. The amendment of the Senator from South Dakota in the second degree.

Mr. NUNN. So we have two amendments pending. We have a second-degree amendment to the Senator's first-degree amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Will the Senator explain again his second-degree amendment? The first-degree amendment, as I understand it, relates to the impact aid funds themselves, and the second-degree amendment relates to regulations that are being overturned. I am not sure I understand the second-degree amendment.

Mr. ABDNOR. The second-degree amendment directs the Secretary of Education to use the existing regulations that are in effect today to determine the local contribution rates versus those proposed on March 30, 1984. As the Senator from Montana [Mr. MELCHER] pointed out to the Senate earlier, the proposed regulations are unworkable and unreasonable, and we have no objection to working with the Department on an alternative. I wish to point out to my colleagues, however, that a recent meeting arranged by staff from the House Education and Labor Committee with my staff, Senator MELCHER's staff, Senate Education Subcommittee staff, and representatives, from the Department of Education was canceled—by the Department.

Mr. President, the new regulations have not been published in final form, yet the Department intends to utilize them relative to fiscal year 1984 payments—payments which the school districts anticipated receiving during the 1983-84 school year. The second-degree amendment instructs the Department to use the regulations currently through this modifying amendment. We are just saying that until they can come up with a reasonable set of regulations that can be used across the country without adversely affecting districts which utilize comparables, let us continue with the regulations which have been in effect for the past 9 years.

**Mr. NUNN.** I thank the Senator. I have a couple of other questions.

"Special provisions," paragraph 2, relates to computations. It seems to me that paragraph 2 basically sets up a floor for a minimum payment to a local education agency, saying that they are eligible for at least a minimum amount. Does this create any new expenditure, or is this a shifting of funds?

**Mr. ABDNOR.** It is a shifting of funds. It is not a new expenditure. That is what we have been trying to point out to the Department of Education. This provision insures that desperately needy districts will receive funding sufficient to maintain services for their students. It gives the Department the latitude to place the money where it is most needed.

**Mr. NUNN.** Can the Senator explain where the money is shifted from?

**Mr. ABDNOR.** This amendment simply clarifies what we always thought was the intent of section 3(d)(2)(B). This is an important part of the statute. In addition, it insures that six school systems in the Nation which have no local tax base whatsoever will receive funding adequate to maintain operations.

Also, it includes a change necessary to allow the State of Hawaii to benefit from the provision enacted last year as a part of the Education Consolidation and Improvement Act technical amendments package.

**Mr. NUNN.** What I am trying to get at is are there winners and losers in this amendment? If there is a shifting of funds, the funds come from somewhere else, and those funds come from other districts within the State; or are we shifting funds from one State to another State?

**Mr. ABDNOR.** No; we are not shifting funds that districts currently receive—any increased funds that the few districts which may benefit from these special provisions would receive would not result in reduced funding for other districts. As the Senator from Georgia is aware, the first degree amendment increases the overall funding authority by $135 million.

**Mr. NUNN.** Are there additional funds in the second-degree amendment? Is there a cost in the second-degree amendment?

**Mr. ABDNOR.** Not in the second-degree amendment, but in the first-degree amendment there are additional dollars.

**Mr. NUNN.** Are all the dollars for the second-degree amendment in shifting of funds available by reason of extra funds provided in the first-degree amendment?

**Mr. ABDNOR.** It is the Department which is seeking a significant shift in funds through its proposed regulations. The second-degree amendment would maintain the status quo.

**Mr. NUNN.** Are any States going to get less than they receive now by reason of the second-degree amendment?

**Mr. ABDNOR.** No; definitely not.

**Mr. NUNN.** But, for instance, if I were asked by the people of the State of Georgia, and occasionally they do ask these kinds of penetrating questions, whether the second-degree amendment would shift funds from out of my State, what would my answer be?

**Mr. ABDNOR.** In reply to the Senator from Georgia, the second-degree amendment does not change anything from the previous year. Payments will be computed on the basis of regulations in effect for the past 9 years. But it does ensure that several of the most heavily impacted districts will be funded adequately.

**Mr. NUNN.** I do not have any objection to that. I am just trying to find where the funds are shifted from.

**Mr. ABDNOR.** We are increasing the program authorization. No funds are being taken away from any districts.

**Mr. GOLDWATER.** Mr. President, if the Senator will yield so I might try to explain this, because we have a comparable situation in many of the Western States, although the situation I am going to describe is not covered by defense funds, but it could be, we have one county in Arizona that is one-third non-Indian and two-thirds Indian. We cannot tax the Indian land, so the non-Indian or the white man has to pay for the schooling of two-thirds of the children, and we get money to compensate us for that from Indian funds.

Now, there are occasions in my State where a school district might get money from the military, but that is usually provided in the general military funds. For example, schools down in a little town named Oho, where the Luke Air Force Gunnery Range is located, there are no taxes paid by the Federal Government on hundreds of thousands of acres. So we get compensated funds.

It has been going on for years and years, and the moneys come either from defense or from Indian funds or sometimes from agriculture.

**Mr. ABDNOR.** If I could add to that, I wish once again to reiterate that no school district is going to receive any less than they did the previous year. Quite the contrary. In every case they should receive additional dollars, but those specific school districts that are so depressed that I mentioned here are the six districts plus a couple of others which at the very most would receive a little special consideration. We think it is very necessary and very adequate, and we urge acceptance of the amendment.

**Mr. MELCHER.** Mr. President, will the Senator yield for a moment?

**Mr. ABDNOR.** I yield to the Senator from Montana.

**Mr. MELCHER.** Mr. President, I commend the Senator from South Dakota for his continued interest in making such impacted aid and making sure that the school districts are given the proper amounts as Congress wants them to have.

We are caught in the bind, and that is part of the reason for the Senator's second-degree amendment. If the Department of Education goes ahead and implements these regulations that they propose, they absolutely are going to defy the procedure and the formula that Congress has enacted.

In addition, to that, they chose to try out their new regulations at a time when they could not get them implemented and finalized and through all the revisions prior to the time that the school districts need the money because this is budget time for school districts for this coming school year; and without the assurance that they are going to continue as they thought they were going to continue, some school districts simply are not going to have enough money to pay their bills.

This is absolutely essential that this amendment be adopted and the second-degree amendment is the same amendment that was adopted earlier by the Senate and fell through the cracks in the conference on the urgent supplemental, not out of prejudice but only on the basis that they would pick it up in the next supplemental.

Time has gone by and time is wasting as far as these school districts are concerned.

**Mr. ABDNOR.** I thank the Senator from Montana.

I only wish to say while he probably had the same experience I had and I wish everyone in the Chamber might have had to know what we are talking about when you have your school closed down in the middle of the year because they run out of money, and you go home and face all the mothers and fathers who are ready to run you out of the area thinking it is your fault. I do not know why it is so difficult for the Department of Education to understand this and the proposed regulations they would have implemented would have completely destroyed what we are trying to accomplish here, simply to give the basic education to these school districts that the Federal Government has caused to be impacted.

Mr. MELCHER. Mr. President, if the Senator will yield further, I think we could reassure the Senator from Georgia and all other Senators that we are not attempting to in any way delete funds from any State or any school district, just to make sure that we just carry it out as Congress has intended.

Mr. ABDNOR. Absolutely.

Mr. NUNN. Mr. President, I understand the first-degree amendment. There is no doubt about that. The second one is the only problem I have, and I wish to support the Senator. But could I ask this question: Is there an amount of money that we could peg down that is involved in the second-degree amendment? Do we know what the totals are and where those funds go?

Mr. ABDNOR. We cannot give the Senator the exact figures no one can at this time.

Mr. NUNN. Are we talking about $10 million or $100 million?

Mr. ABDNOR. No; we are not talking about $100 million. It is more like the first figure of $10 million, I believe.

Mr. NUNN. Would that be primarily in Western States?

Mr. ABDNOR. Not necessarily. It could very well be in air bases, for instances, or military bases anywhere in the United States.

Mr. NUNN. I know the first-degree amendment is everywhere where we impacted aid. I still do not know what the second-degree amendment is.

Mr. ABDNOR. New York definitely would be one of those that would enter into it. As a matter of fact, I now have something here that I can be more specific on, I say to the Senator from Georgia. The States that use the comparable needs, this comparable means of figuring are California, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Michigan is equal, Montana, Nebraska, New Hampshire, New York, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, and Wyoming.

Mr. NUNN. I think the Senator has already named enough States to pass the amendment whatever he does.

Mr. ARMSTRONG. Are those helped or hurt?

Mr. ABDNOR. Helped.

Mr. NUNN. I still do not know how much money is involved. I am puzzled by what amount of money we are talking about.

Mr. FORD. Mr. President, will the Senator yield?

Mr. ABDNOR. I yield.

Mr. FORD. I wish to ask the distinguished Senator a question. I have both copies of the amendments, and I do not see any money in either one of them. In the amendment in the first degree, the Senator had a large number of cosponsors.

Mr. ABDNOR. That is right.

Mr. FORD. On the second-degree amendment he has about four compared to about 40 of the first one. In neither amendment, particularly the second-degree amendment, I do not see any amount of money, and I am trying to read it as best I can.

It says the amount the Secretary determines to be the average per pupil for expenditure in the State during such fiscal year and the number of children served by such agency for such year notwithstanding the provision of law, et cetera.

I do not understand what the Senator is trying to do. I have a large constituency in my State that gets impacted aid. I am getting ready to vote for an amendment, and I do not know what it does.

Mr. ABDNOR. In my initial amendment, we increase from $565 million to $700 million the authorization for Public Law 81-74. In this body last year we authorized $625 million. We got into a conference committee and it was reduced down this $565 million.

We have increased from $20 million to $30 million in section 2 authority and we repealed the third and final year of category B. There was a great demand in this body and from others, particularly on the House side. And this would have been phased out this year. But we repeal that in the original amendment which has 43 cosponsors in addition to Senator PELL.

I do not know how many would have cosponsored the second amendment, the secondary one. But I know we did not complete the amendment. It took a lot of study and a lot of research and we just put it together.

Frankly, I do not think my assistant, who I wish was here on the floor to verify this, has had the time to try to call back and contact everyone. As we mentioned, there are at least 16 or 17 States that are affected. I can almost assure you they would be more than happy to put their name on it if we had the time to go back and make the contacts, but we have not had that time.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. ABDNOR. Yes.

Mr. NUNN. I think everybody I know of would like to support both of the Senator's amendments. I do not know of any opposition. It is just a matter of not having an explanation at this hour of the night. We just saw what is in the second-degree amendment.

I would suggest to the Senator that he might want to consider withdrawing the second-degree amendment, going ahead with the first-degree amendment tonight, and giving us time to staff that tomorrow and bring that amendment up tomorrow. We will be on this bill at least all of tomorrow.

Mr. ABDNOR. Does the Senator want me to postpone both amendments?

Mr. NUNN. I do not have any objection to going ahead, unless someone else does, with the first-degree amendment. I would hate to come in tomorrow morning and have about half the Senators here say that they found out from their State people that the amendment, the second-degree amendment, has taken money from States and given to other States. I do not know whether it does that. If there is a shifting of funds, it has to be shifted from somewhere.

Mr. ABDNOR. I know the Senator is very sincere in his concern. I would be willing to state my assurance to the Senator that no one is going to get cut. But if that is a problem, maybe we should start all over and offer the first one, adopt that one tonight, and let us review the second part, if that would make the Senator rest easier. We are not trying to pull the wool over anyone's eyes or pull any fast trick.

Mr. NUNN. I know the Senator is not. I think if he did that, we could expedite the matter and get the first amendment passed tonight and we will have time tomorrow to take up the second amendment and perhaps it will go right on through.

Mr. ABDNOR. I guess with all the study my assistant did here I was so convinced that it was just the natural and proper thing to do. I think the Senator will conclude the same about it if we can visit with him about it tomorrow and we will arrest any fears he may have because I assure him no one is going to lose dollars. But, as the Senator from Montana pointed out, it points a little direction to how it ought to be handled from the Congress and not from a bureaucrat down in the Department of Education.

So I ask unanimous consent that my secondary amendment be withdrawn and return to the original amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

Mr. MOYNIHAN. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. EXON. Mr. President, I am pleased to cosponsor the amendment offered by Senator ABDNOR to reauthorize the Impact Aid Program.

The Federal Government has a responsibility to assist school districts that are directly affected by the presence of Federal installations or properties. It is estimated that there are over 2 million children across this Nation who are served by the Impact Aid Program. A number of school districts in Nebraska are impacted by a military installation or an Indian reservation and the Impact Aid Program assists these school districts in providing a quality education for our young people.

Mr. President, this amendment would reauthorize the Impact Aid Program through fiscal year 1989. It would increase the authorization for Impact Aid from $565 million to $700 million beginning with fiscal year 1985. This increase is necessary to restore some of the drastic cuts in the program that were made in 1981. Between 1980 and 1983, authorization for Impact Aid was cut from $707 million to $460 million, a reduction of 35 percent.

This amendment would also reauthorize category B payments and repeal the phaseout of "B" payments that was included in the Omnibus Reconciliation Act of 1981. While the impact of "B" children—that is, children of parents who work or live on Federal property—is not as great as the impact of "A" children, whose parents both work and live on Federal property, the impact exists nevertheless. Without this amendment, authority for category "B" payments will expire on September 30 of this year.

Payments under the category "B" program are important to school districts in Nebraska and across the Nation, particularly to school districts that are in close proximity to military installations and enroll large number of military "B" children.

I urge my colleagues to support this amendment and to show our commitment to providing assistance to school districts that are impacted by a Federal presence. What we are really talking about is making it possible for the children of our military personnel and others to receive a quality education. The dollars we spend on the Impact Aid Program are an investment in our Nation's future and are dollars well spent.

I thank my friend and colleague from South Dakota for offering a very sound amendment that is backed by many cosponsors. I see nothing wrong with the second-degree amendment that he has offered, but I appreciate the fact that it is a late hour. I think we can probably dispose of that very quickly tomorrow. I appreciate his gentlemanly approach to the situation.

Mr. ABDNOR. I thank the Senator from Nebraska. Let me assure him that I am confident that when everyone understands it, we are not going to have any trouble convincing the Members of the Senate to go along with it. That is why we are willing to do it.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleagues, Senator Abdnor and Senator Pell, in offering this amendment to reauthorize the Federal Impact Aid Program (Public Law 81-874) through the 1989 fiscal year. Our amendment would increase the program's total authorization for the coming fiscal year from $565 million to $700 million and would increase the section 2 authorization from $20 million to $30 million. These authorization levels would be indexed to changes in the Consumer Price Index for fiscal years 1986-89.

Congress enacted the Impact Aid Program in 1950 to provide financial assistance to school districts in "federally affected areas"—including military bases, Indian lands, and Federal low-rent housing projects. Such properties generally are exempt from local tax levies that go to support education, and Congress determined to compensate the school districts affected in this way and therefore unable to raise sufficient funds for their schools. Over the years, this fine program has provided financial assistance to thousands of local educational agencies across the country, including some 150 school districts in my home State of New York.

This program has been immensely important for local school districts responsible for educating children whose parents live and/or work on properties producing no property tax. The Highland Falls-Fort Montgomery School District in the Hudson Valley of New York exemplifies the plight of federally impacted areas. Property taxes to support the school district have risen more than 150 percent over the last decade—in large part because the district lies adjacent to the U.S. Military Academy at West Point, and 95 percent of the district's land is owned by the Federal Government. The school district is forced to operate on property tax revenues raised from just 5 percent of the district's total land—operations including the education of children whose parents live and work on the Academy's tax-free grounds.

The plight of school districts such as Highland Falls has been exacerbated by the Reagan administration's cuts in the Federal Impact Aid Program. Between fiscal years 1980 and 1983, the program's authorizations fell 35 percent, from $707 million to $455 million. New York State suffered even more severely: 150 New York school districts received some $41 million in impact aid in the 1980 fiscal year; but 3 years later, in fiscal year 1983, fewer than 85 New York school districts received only $11.2 million. That is a reduction of 73 percent over 3 years. New York City has 133,000 federally impacted students, nearly 7 percent of the national total; however, its share of impact aid fell from $26 million in fiscal year 1980 to $5 million in fiscal year 1983.

The downward trend was reversed, if ever so slightly, in the current fiscal year. On July 26, 1983, during consideration of the previous Department of Defense authorization bill, I offered an amendment with Senator Abdnor to raise the impact aid authorization to $625 million for fiscal year 1984. The Senate adopted our amendment, but the House of Representatives regrettably approved a much smaller increase. A compromise measure later signed into law provided $565 million in overall program authority—$60 million less than the Senate approved under my proposal, but $110 million more than the fiscal year 1983 authorization.

Had the moneys under this authorization been appropriated equitably, all federally impacted school districts would receive modest increases in funding. Unfortunately, the appropriations were not so allocated. Some districts with very high concentrations of impacted children will receive significant funding increases this school year. Other districts, with only slightly fewer impacted children, will not gain any additional funds and may never have their allocations reduced.

Even if the appropriations for the current fiscal year were distributed more equitably, the program's overall authorization would remain well below its 1980 funding level. New York State still would fall some $20 million to $25 million short in its fiscal year 1980 allocation, even without adjusting for inflation. It is time to rectify this situation, and we can begin to do so by raising the total authorization to $700 million and the section 2 authorization to $30 million. The authorization also would be extended for category B students, whose parents either live or work on Federal property. This provision, which the administration unfortunately has opposed, is a matter of equity and of particular importance to many New York districts, including Highland Falls.

I would emphasize that this amendment will not redress the damage done over the last 4 years. Even if approved, the measure will leave the Impact Aid Program some $7 million below its fiscal year 1980 level. It does not restore revenues already lost by thousands of federally impacted districts. Nor does it, nor could it, rectify the loss of educational opportunities by thousands of students under the President's cuts in Impact Aid. But this legislation will move the Federal Impact Aid Program in the right direction, and I urge all of my colleagues to support it.

I also would urge my colleagues to support an additional amendment that my distinguished colleague, Senator ABDNOR, plans to offer to this legislation. This amendment would require that during fiscal years 1985-89 the Department of Education must distribute payments under section 3 of the Impact Aid Program in accordance with regulations now in effect.

The Department of Education's recent efforts to implement new regulations governing local contribution rates under the Impact Aid Program have necessitated this amendment. Local contribution rates—the share of education costs assumed by each school district—are used to determine Impact Aid entitlements for eligible districts. The proposed regulations, which first appeared in the March 30, 1984, edition of the Federal Register, would alter significantly the current methods for determining a school district's contribution rate.

I understand the Department has proposed these new regulations, because it no longer has enough staff assigned to administer the Impact Aid Program under the current regulations. I would posit that the Department's unwillingness to fulfill its obligations regarding the Impact Aid Program is not sufficient reason to change those regulations. There is little doubt the Department's proposed regulations would adversely affect hundreds of local school districts. Federally impacted school districts already have lost large amounts of Government assistance under the current administration. The Department has yet to provide a valid reason to disrupt further the education of American schoolchildren in federally connected areas. Any changes in the methods used by school districts to calculate their entitlements should not be implemented at the expense of the very children the guidelines are intended to serve.

Finally, I would mention my intention to offer an amendment, with my distinguished colleague, Senator D'AMATO, to the next supplemental appropriations bill. This amendment would provide an additional $20 million for those districts which received reduced impact aid entitlements last year. Although Congress appropriated increased funds for fiscal year 1984, many school districts in New York State and across the Nation lost money. This amendment would redress that inequity and ensure that these districts are properly compensated for educating children from federally impacted areas.

Mr. SYMMS. Mr. President, I am pleased to join my colleague, Senator ABDNOR, in his efforts to increase funding for the Impact Aid Program.

Since the 1950's, the Federal Government has provided a program of assistance to local education agencies in areas where Federal presence either through Federal installations or Federal land ownership existed. The Impact Aid Program provides funds to compensate school districts for the cost of educating children when enrollment and availability of revenues from local sources are adversely affected by Federal activities.

Every administration has issued complaints with regard to Impact Aid funding since its inception in 1950. However, I believe it is important to investigate the reasons for the increases. First, due to the expansion of the Federal Government, the total number of tax exempt acres owned by the Federal Government grew from 405 million acres in 1957 to 742 million in 1977. Additionally, the value of federally owned land has tripled since 1953 to $101 billion. Nationwide, the Federal Government owns 33.7 percent of the land; however, in Idaho the facts are worse because the Federal Government owns 64 percent of the land. Second, in 1950, there were 1.9 million civilian service employees and today there are more than 3 million, excluding military personnel. Third, the average per pupil cost rose from $209 in 1950 to about $2,000 plus today.

The concept behind Impact Aid funds was that the Federal Government, a major nontaxpaying enterprise, should pay some measure of fiscal support to offset the demand for local services created by its presence and to offset the lack of taxes generated from land occupied by the Federal Government in prime areas.

To Idaho, Federal impact aid is compensation for the loss of local property taxes that the withdrawal of Federal lands from the local tax rolls engenders. The administration's budget proposal seems to miss the issue of equity.

Impact aid funds are not a supplementary program which can be eliminated from the budget. Impact Aid funds finance the basic operating accounts of the school programs. This program is one of the least costly to administer, it fosters local control in meeting the special needs of school districts, and is much less costly to the Federal Government than a program to make payment in lieu of taxes. Consequently, I believe that the Federal Government, which is a major nontaxpaying employer and landholder, has an obligation to close some of the gap caused by the removal of the value of Federal installations from the local tax rolls.

The Public Land Law Review Commission best summed up the need for this legislation with the following recommendation:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of the policy is spread among all of the people of the United States and is not borne only by those States and governments in whose areas the lands are located. Therefore, the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal lands.
>
> The situation is similar in county after county across the country; the Federal Government as landowner does not pay what would be required if this land was on the tax rolls; nor does it adequately compensate counties for the burdens associated with the maintenance of local government services on these lands.

Therefore, I would like to urge all of my colleagues to support the amendment that is being offered.

Mr. McCLURE. Mr. President, I am pleased to be counted as one of the original cosponsors of legislation to reauthorize the Impact Aid Program. I would like to commend and thank my colleagues from South Dakota and Rhode Island, Senators ABDNOR and PELL, for their hard work and dedication to this very important education program.

Mr. President, the impact aid is a vital program to many school districts in this country. In Idaho alone, over 60 of our 115 school districts receive Public Law 81-874 funds. This represents nearly 20,000 of Idaho's 215,000 schoolchildren.

The need for impact aid goes much deeper in Idaho than in many areas of the country. The Federal Government owns 66 percent of the land in Idaho. We are only outranked in Federal land ownership by Alaska with 89 percent and Nevada with 86 percent. A school district that is located on or near federally owned property faces the stark reality that it has a very small tax base from which to support its schools. The Federal Government is exempt from both the residential property tax and the business or worksite property taxes that generally support public schools. Therefore, the impact aid program becomes a very important source in helping make up for the lost tax revenue.

I think the issue here is very simple—when the Federal Government has a facility, Indian reservation or places a burden on an area that affects a school's revenue-raising ability, then it has an obligation to make up for those lost revenues.

Mr. President, over the years I have spent in Congress, I have begun to feel like a broken record when I speak about how important Public Law 81-874 is to school districts in Idaho and across the Nation. It seems we have to fight a continual battle to keep the program alive and then to provide adequate funding for it.

Federally impacted school districts have suffered from underfunding long enough. The proposal we are considering now would increase impact aid funding to levels which will help these schools provide a basic education to their students. For too many years, impacted districts have been forced to operate with diminishing Federal funding and the uncertainty of the program's future.

It is time we end that uncertainty and I urge my colleagues to support the measure now before us.

**Mr. PRESSLER.** Mr. President, I am pleased to support and cosponsor this amendment to reauthorize impact aid funding for the over four dozen South Dakota school districts which depend on this Federal assistance.

I am also a cosponsor of another amendment which would clarify that controversial new Department of Education regulations should not be used in the determination of impact aid allocations to the most heavily impacted school districts. We simply cannot have a situation in which school districts which are now setting their budgets for the 1984-85 school year are in doubt about the amount of Federal funds they will receive. These funds should be apportioned as Congress intended.

I urge all Senators to support the reauthorization of the Impact Aid Program which provides Federal funds to so many school districts in our Nation.

Senator WEICKER, chairman of the Senate Labor/HHS/Education Appropriations Subcommittee, has personally assured me of his continued support for impact aid appropriations. I very much appreciate his cooperation in this matter. He has been very receptive to the information I have provided him concerning impact aid payments and needs in South Dakota.

Earlier this year, I was also pleased to see the Senate adopt S. 2893, which will require the Secretary of Education to pay the required impact aid appropriations under Public Law 98-139.

Mr. President, let us never forget the obligation this Nation owes those school districts which, by virtue of the large Federal employment presence within their boundaries, could not exist without this assistance. Local property tax base is not enough to sustain a decent education for children in these districts. We must fight to continue this essential Impact Aid Program.

**Mr. BOREN.** Mr. President, I am proud to be a cosponsor of the Abdnor amendment. It is imperative that the Senate act to reauthorize this essential Impact Aid Program. Failure to do so would result in severe hardships to public schools which are largely impacted by the activities and operations of the U.S. Government.

At a time in which our Nation's future clearly depends upon the development of our human resources through excellence in education and training, we must not fail to keep faith with those in districts which have large Federal installations or Federal tax-exempt properties. I urge my colleagues to adopt the reauthorizing amendment offered by the Senator from South Dakota.

**Mr. MOYNIHAN.** Mr. President, I would like to commend my distinguished colleague from South Dakota for his diligent efforts over the past 2 years to increase the authorization level for the Federal Impact Aid Program. This program provides financial assistance to local school districts for the operating costs of educating children in areas where local costs and revenues are affected by Federal activity. Last year, I cosponsored the legislation offered by my colleague from South Dakota that increased the authorization level to $625 million. Unfortunately, the authorization was reduced to $565 million in the Senate-House conference. As a cosponsor of the amendment offered today by the Senator from South Dakota, I strongly support a further increase in the overall program authority to $700 million.

I have one concern, however, that I would like to share with my colleague from South Dakota. The Department of Education has advised non-Super "A" school systems that they are likely to receive less money in fiscal year 1984 than they did during the prior fiscal year: As Super "A" districts are to receive 100 percent of entitlement, the amount of money appropriated for section 3(a) is insufficient to fully fund "A" districts.

I quite agree that those school districts with higher concentrations of federally impacted children should be compensated at a higher rate. But I also recognize the burden imposed on all school districts that provide educational services to children in federally affected areas. I am troubled to find that districts such as Highland Falls-Fort Montgomery, in my own State of New York—a district that encompasses the U.S. Military Academy at West Point and provides educational instruction to 222 children from families connected with the service academy—received almost no benefit from the higher authorization approved by Congress last year. Highland Falls has an extremely small tax base; 95 percent of the property located within the district is owned by the Federal Government. Over 50 percent of the district's high school students are federally connected. Yet, because the school system fell just short of qualifying as a "heavily" impacted district, it received a disproportionately small percentage of the higher authorization for the current school year.

Highland Falls is not unique. Hundreds of other districts across the country, significantly impacted by Federal activities, received little or no benefit, or even lost funds, under the increased authorization. These include Anne Arundel, MD; Bourne, MA; South Tampa, IA; Fort Worth, TX; Cumberland County, NC; Oak Harbor, WA; San Diego, CA; and East Meadows, NY.

Knowing of my colleague's commitment to the Impact Aid Program, and knowing of his work on the Appropriations Committee, I would like to ask the Senator from South Dakota whether he thinks that given the increased authority our amendment provides, will we be able to increase the amount of funding available to compensate these districts?

**Mr. ABDNOR.** I thank my distinguished colleague from New York for his support of my efforts to increase funding for the Impact Aid Program, and his observations on the severe problems of many school districts which provide educational services to children in federally affected areas. Several districts in my State are from 10 to 20 percent impacted with category "A" native American children, so I can appreciate fully the concerns raised by the able Senator from New York.

Last year, as the prime sponsor of a similar amendment to the DOD bill, I was working to provide an increase for all federally impacted school systems suffering as a result of the reductions enacted under the Omnibus Reconciliation Act of 1981. Unfortunately, as the Senator has pointed out, some of these districts may actually lose dollars this year.

It is my hope, however, that with this additonal increase in program authority, we can work together with our colleagues from the other body to ensure an equitable distribution of funding for this program. I can assure the Senator from New York that I look forward to continuing to work with both him and the junior Senator from New York, who has also discussed this matter with me, throughout the appropriations process, to address this matter of great concern to us both.

**Mr. MOYNIHAN.** I thank my distinguished colleague from South Dakota for his comments and am grateful for his assurance that all federally impacted school districts will be given careful attention in the appropriations process.

**Mr. D'AMATO.** Mr. President, I am delighted today to join my distinguished colleagues, Senators ABDNOR and PELL, in offering this amendment to reauthorize the Impact Aid Program, Public Law 81-874 through fiscal year 1989. Under this amendment, the overall program authorization for section 2 would be increased to $30 million. This amendment also continues through fiscal year 1989 authority for category "B" children.

The Congress enacted Public Law 81-874 in recognition of the financial burden many school districts bear due to Federal presence. The Impact Aid Program provides financial assistance to school districts in federally affected areas. By law, these areas are defined to include military bases, Government offices, Indian land, and public low-rent housing projects. We must address the need for assistance for school districts affected by Federal presence. It is the obligation of Congress to help school districts when enrollment and the availability of sufficient revenue from local taxes has been adversely affected by the presence of Federal activities.

Although this reauthorization will benefit many school districts, I am saddened because it is still not enough. I am concerned and outraged by the inadequacies that presently exist in the Impact Aid Program and which will remain even after adoption of this amendment. There are a host of school districts throughout the United States that do not have sufficient revenue to cover the cost of educating federally connected children.

Now is the time to unite and rectify problems that exist within this program. The Impact Aid Program was originated because the Federal Government has a financial obligation to reimburse school districts for lost revenue. The Congress felt then, and should feel now, that federally and non-federally connected children should have the highest standard of education. This law has been in effect for many years, but for the past few years many of our school districts have not received sufficient aid.

Highland Fall-Fort Montgomery School District is an example of a school in my home State of New York that is making every attempt to educate all of its children. However, it is experiencing severe Federal impaction, with sufficient compensation. This school district is being forced to cut back in the acquisition of textbooks and other institutional materials just to keep its doors open. The impaction it is experiencing is causing an undue burden on the children and taxpayers of this fine community. School districts like this should not have to suffer because of Federal presence. Therefore, I will do all that I can to help school districts that are federally impacted.

This year Highland Falls will experience a short fall in impact aid. This is intolerable. There is no reason that our children in Highland Falls, N.Y., or children anywhere else in this great country should suffer academically for lack of fair Federal compensation. If we do not provide the best education possible, we face severe consequences. Our children, our communities, and our country will suffer if there is an inadequate standard of education. I can no longer tolerate this disregard for children for they are the future strength of this Nation.

I ask my colleagues to join me in helping all school districts that are impacted. No child should be denied the very best education, especially when Federal activity contributes to the additional cost our schools must bear. We, in the Congress, must join together and show our commitment to our youth.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 3200) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. ABDNOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3202

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 3202.

On page 2 line 18 strike the figure "$3,808,500,000" and insert in lieu thereof the figure "$3,800,600,000".

Mr. GOLDWATER. Mr. President, this amendment concerns the UH-60 Blackhawk helicopter.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, this amendment is to adjust the funding levels for the procurement of the Army's UH-60 Blackhawk helicopter to permit the Army to execute the procurement contract as agreed upon by the Committee on Armed Services. This amendment would authorize the funding levels for the UH-60A as follows:

Procurement, $280.1 million; advanced procurement, $132.8 million.

Mr. President, I am happy to report that, as a result of recent very favorable contract negotiations, this amendment will result in an additional savings of $7.9 million with no reduction in the number of helicopters purchased.

The amendment has been read. I further ask unanimous consent that this amendment be treated as original text to avoid foreclosing any later amendments to this account which may be offered.

Mr. MOYNIHAN. Mr. President, may we have order? The Senator from Arizona is offering an important amendment.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GOLDWATER. Mr. President, I had a unanimous-consent request, Mr. President, that this amendment be treated as original text to avoid foreclosing any later amendments as to this account which may be offered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arizona?

Mr. BYRD. What is the request, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has requested that his amendment be treated as original text for purpose of further amendments.

Mr. GOLDWATER. Mr. President, that is the sum and substance of my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, reserving the right to object. Objection to what?

The PRESIDING OFFICER. The Senator from Arizona has made a unanimous-consent request that his amendment be treated as original text.

Mr. GOLDWATER. I thought we had the yeas and nays called for, Mr. President.

Mr. NUNN. I do not have any objection.

The PRESIDING OFFICER. The yeas and nays have been ordered. The Senator is correct. The Senator made a unanimous-consent request which is now pending.

Mr. GOLDWATER. I made a unanimous-consent request. I was talking about the text. I already called for the yeas and nays. I would like to have a rollcall vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Reserving the right to object, Mr. President, I was not clear as to what the unanimous-consent request was for.

Mr. GOLDWATER. Let me read this again. I request unanimous consent that this amendment be treated as original text to avoid foreclosing any later amendments to this account which may be offered. This subject will be brought up again. I mean the subject of the UH-60A helicopter, and there may be amendments. I do not want to foreclose the possibility of those amendments being offered. That is why I asked unanimous consent.

Mr. TOWER. Reserving the right to object, may I explain that the Senator is just trying to prevent foreclosing other amendments, if Senators want to offer amendments. That is why he is asking that this be treated as original text. Otherwise, it would foreclose any amendments. It might be a favor to me if somebody would object to that consent request, because if this amendment is adopted, you could not offer any more amendments changing the dollar figures.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered. Is there further debate?

The Senator from Connecticut.

Mr. DODD. I inquire of my friend from Arizona if he might explain what the net effect of this amendment would be. What is intended? As I understand it, it is a $7.9 million reduction in that specific helicopter program. What is the net effect of that on the number of helicopters that would be produced?

Mr. GOLDWATER. It will have no effect on the total number of helicopters to be purchased. This is a very recent contract negotiation that the Army has had with Sikorsky, and will result in a savings of $7.9 million. There is no reduction in the number of helicopters purchased. It is just a little, good break we had that we can save $7.9 million.

Mr. DODD. I thank my colleague from Arizona.

Mr. NUNN. Mr. President, I think the Senator's explanation is clear. I have no objection to the amendment. It is based on a contract negotiations that have been favorable, and there is no adjustment to the number being procured.

Mr. GOLDWATER. I thank my friend from Georgia. I requested the yeas and nays because we want to have a strong position on this to be able to demonstrate to the House that it is not just something that we wished up in a few minutes and injected into the bill. So the yeas and nays have been ordered, and I would suggest now would be a very good time to start.

The PRESIDING OFFICER. If there is no further debate——

Mr. NUNN. Before we have the rollcall, could I inquire of the chairman about his plans for the remainder of the evening? I think a lot of people would probably like to know as we proceed to vote.

Mr. TOWER. I think everybody would be overjoyed to know that this, as far as this bill is concerned, will be the last rollcall for the evening. However, the Senator from Alaska has an unrelated matter on which I understand there may be a rollcall vote. I would yield to him to respond to that.

Mr. STEVENS. Mr. President, we have been attempting to clear the bill pertaining to drinking age. There are still negotiations going on. I understand that it is not possible to clear, however, to have the vote tonight. We had hoped that we might be able to do that because of the tremendous interest that is being expressed here by the Mothers Against Drunk Driving who are here in the city. We hope we might be able to get that done. This would be a time rather than interrupt the bill tomorrow to get it done tonight. But I can say the Senator from Missouri is the mover of this concept, but it has not been cleared yet.

Mr. DANFORTH. Mr. President, if the Senator will yield.

Mr. TOWER. I yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I believe the situation is as follows: There have been fairly intense negotiations going on throughout the day involving the House, the Senate, Democrats, Republicans, and the administration on the drinking age bill. As the Senator knows, the House did attach to a highway bill certain drinking age provisions, and the hope was that the Senate would be in a position to pass similar legislation hopefully tonight. We have been working on trying to clear a bill which would be acceptable, and the clear answer has taken place on this side. I think there are, however, some remaining problems. My hope would be that perhaps tomorrow the Senate could find, if we could get cleared a period, maybe 5 minutes where we could set the defense authorization bill aside, take this up, and perhaps have a rollcall vote on it.

Mr. STEVENS. Mr. President, if the Senator would yield to me further, the problem is we have a request for a rollcall vote on the bill. It could not be handled as a routine matter. I do appreciate the willingness of the Senator from Texas to set the pending measure aside to take it up. And based on the comments from the Senator from Texas, this will be the last vote tonight. We will come in tomorrow at 10:30.

Mr. NUNN. Mr. President, before we start the rollcall, I do not want to prolong this, but I think it would help a lot of the Members if we had an idea from the chairman about his plans tomorrow. I know we will try to get the MX amendment up tomorrow, which I hope will be done. If we can complete that, we will also have the Dixon amendment to deal with the funding level.

Mr. TOWER. Yes. Those are two that we plan to have up tomorrow fairly early in the day. I have high hopes. Those are two major amendments. Once those are completed, we will be able to roll along pretty fast.

There are some other amendments, such as the one dealing with sea-launch cruise missiles, and one relating to NATO, which I believe the Senator from Georgia will offer, and maybe some amendments for reallocation of funds in the defense bill. But it occurs to me that if we can get through these important items, we should be able to finish the bill in a timely fashion.

Mr. NUNN. I thank the chairman. I certainly hope we can complete the bill as soon as possible.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. Andrews], the Senator from Tennessee [Mr. Baker], the Senator from Minnesota [Mr. Durenberger], the Senator from Pennsylvania [Mr. Heinz], the Senator from Wisconsin [Mr. Kasten], the Senator from Delaware [Mr. Roth], and the Senator from Connecticut [Mr. Weicker] are necessarily absent

I further announce that, if present and voting, the Senator from Wisconsin [Mr. Kasten], would vote "yea".

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from Massachusetts [Mr. Kennedy], the Senator from Louisiana [Mr. Long], the Senator from Mississippi [Mr. Stennis], and the Senator from Massachusetts [Mr. Tsongas] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

And the result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—88

Abdnor
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Eagleton
East
Evans
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hecht
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Lautenberg
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—0

NOT VOTING—12

Andrews
Baker
Bumpers
Durenberger
Heinz
Kasten
Kennedy
Long
Roth
Stennis
Tsongas
Weicker

So the amendment (No. 3202) was agreed to.

[The following proceedings occurred after midnight:]

Mr. TOWER. Mr. President, the Senator from Michigan [Mr. Levin] has a technical amendment which he is prepared to offer right now. That will finish the business on the bill for this evening if it can be dispensed with by voice vote.

The **PRESIDING OFFICER**. The Senator from Michigan is recognized.

### AMENDMENT NO. 3203

Mr. **LEVIN**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3203.

Mr. **LEVIN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 80, beginning with line 20, strike out all through the matter on page 93, before line 1, and insert in lieu thereof the following:

**"§ 2318. Planning for future competition**

"(a) To encourage the competitive acquisition of supplies and services to support and maintain a major system during its service life, the head of an agency with responsibility for that system shall ensure that—

"(1) in any competitive solicitation for the award of any development contract for a major system, the following shall be included as evaluation factors, giving due consideration to the purposes for which the system is being procured and the technology to achieve the system's required capabilities:

"(A) proposals to incorporate in the design of the major system, components that are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) proposals to incorporate in the design of the major system, components that are likely to be required in substantial quantities during the system's service life and will permit future competitive acquisitions by the Government;

"(2) in any competitive solicitation for the award of any production contract for a major system, the following shall be included as evaluation factors:

"(A) proposals to identify components in the system that are likely to be required in substantial quantities during the system's service life and whether the technical data for such components will permit future competitive acquisitions by the Government; and

"(B) proposals to identify technical data for sale or license to the Federal Government which the offeror, at its discretion, will identify and separately price so as to permit the Government to competitively acquire future requirements for such components; and

"(3) the evaluation factors specified in paragraphs (1) and (2) of this subsection shall be considered as negotiation objectives when an agency is making a noncompetitive award of a development contract or a production contract for a major system.

"(b) The provisions of paragraph (2) of subsection (a) may be waived in whole or in part if the contracting officer determines in writing that such provisions should not be applicable to such production contract, giving due consideration to the stability of the system's design, or otherwise would not be in the best interests of the United States in attaining the purposes for which the system is being procured, states the reasons therefor, and includes such determination and finding as part of the contract file.

**"§ 2319. Encouraging new competitors to broaden the industrial base**

"(a) Before establishing any prequalification requirement applicable to an offeror or its product which would be considered as an element of responsiveness to a solicitation, the head of an agency shall—

"(1) prepare a written justification stating the necessity for establishing the prequalification requirement and the reasons why free and open competition is not feasible;

"(2) specify in writing and make available upon request all standards which a prospective contractor, or its product, must satisfy in order to become qualified, such standards to be limited to those least restrictive to meet the purposes necessitating the establishment of the prequalification requirement;

"(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a prospective contractor for that contractor to become qualified;

"(4) ensure that (A) a prospective contractor is provided, upon request, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or other methods approved by the agency, and (B) any testing and evaluation services provided under contract to the agency should be provided by a contractor who will not be expected to benefit from an absence of additional qualified sources and who shall be required to adhere to any restriction on technical data asserted by the prospective contractor seeking qualification; and

"(5) ensure that a prospective contractor seeking qualification is promptly informed as to whether qualification has been attained, or in the event qualification has not been attained, is promptly furnished specific information why qualification was not attained.

"(b) Before the head of an agency may enforce any existing prequalification requirement with respect to an offeror or its product, the agency shall comply with the requirements of subsection (a). The head of an agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate is ability to meet the standards specified for qualification.

"(c) In the event that the number of qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of an agency shall—

"(1) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(2) bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, only for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification, and which could reasonably be expected to compete, except that the head of an agency shall bear such costs only if it determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency.

The head of an agency may require a prospective contractor requesting testing and evaluation costs to certify as to its status as a small business concern, and, in good faith, rely thereon.

"(d) Within seven years after the establishment of any prequalification requirement under subsection (a), or within seven years following an agency's enforcement of any existing prequalification requirement pursuant to subsection (b), any such prequalification requirement shall be examined and revalidated in accordance with the requirements of subsection (a) of this section.

"(e) Except in an emergency, whenever the head of any agency determines not to enforce an existing prequalification requirement for a solicitation, the agency may not enforce any such prequalification requirement unless the agency complies with the requirements of subsection (a).

**"§ 2320. Technical data management to foster future competition**

"(a)(1) An offeror submitting a proposal for a contract shall furnish information in the proposal identifying—

"(A) with respect to all items that will be delivered to the United States under the contract (other than items to which paragraph (2) applies) those items for which technical data will not be provided to the United States; and

"(B) with respect to technical data that will be delivered to the United States under the contract, any of such technical data that will be provided with restrictions on the Government's right to use such data for Governmental purposes.

"(2) With respect to items that will be delivered to the United States under a contract described in paragraph (1) with respect to which it would be impracticable to ascertain, at the time the contract is entered into, the technical data relating to such items that will not be provided to the United States with unlimited rights, the contract shall require that the contractor provide identifying information similar to that required to be furnished under paragraph (1) at a time to be specified in the contract.

"(3) The head of an agency shall ensure that the information furnished under paragraph (1) is considered in selecting the contractor for the contract.

"(b) To foster competition for the acquisition of supplies and services to maintain a major system during its service life, the head of the agency with responsibility for the system shall ensure that the initial and all subsequent production contracts for a major system, developed under Government contract, contain appropriate provisions related to technical data, including—

"(1) specifying the technical data to be delivered under the contract, if any, including delivery schedules therefor;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines for the technical data to be delivered under the contract, if any, and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) defining the respective rights of the Government and a contractor or subcontractor regarding any technical data to be delivered under the contract, including therein a definition of the term 'developed at private expense';

"(5) to the maximum practicable extent, identifying, in advance of its delivery, technical data which is to be delivered with restrictions on the Government's right to use such data for governmental purposes;

"(6) requiring the contractor and each subcontractor to be prepared to furnish, within 60 days after a written request directed to the party asserting a restriction, a written justification for any restriction to be asserted limiting the Government's right to use such data for governmental purposes, for as long as such restriction is asserted by the contractor or subcontractor;

"(7) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data in the performance of a contract to furnish a component directly to the Government, except that data protected by patent, licensing agreement or any preexisting agreement involving a subcontractor's performance under a commercial contract, if the same data was made available by the contractor to the subcontractor furnishing that component;

"(8) prohibiting the contractor from limiting, either directly or indirectly, a subcontractor from selling to the Government any component which the subcontractor had previously furnished to the contractor without restriction, except that the contractor may restrict a subcontractor from providing to the Government any component restricted by a preexisting agreement involving the subcontractor's performance for the contractor under its commercial contracts;

"(9) ascertaining and documenting the identity of the manufacturer of a component through the annotation of engineering drawings, the maintenance of lists, or otherwise;

"(10) requiring the contractor to revise any technical data delivered pursuant to the contract to reflect engineering design changes and to deliver such revised technical data to an agency within a specified time;

"(11) requiring the contractor to certify, at the time the technical data is made available or delivered, that the technical data is complete, accurate, and adequate for the purpose for which the technical data is procured;

"(12) requiring the contractor to promptly correct any technical data found to be incomplete, inadequate, or deficient to or promptly furnish complete, accurate, and adequate technical data to the agency; and

"(13) authorizing the head of the agency to withhold progress payments under a contract during any period that the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

The provisions specified in this subsection may be waived in accordance with the single system of Government-wide procurement regulations defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) if the contracting officer determines in writing that any such provision should not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.

"(c) Nothing in this section or section 2318 of this title prohibits an agency from including—

"(1) in any competitive solicitation for the award of a contract, or

"(2) as a negotiation objective when the agency is making a noncompetitive award.

a provision specifying in the contract the date after which the United States shall have the right to use or have used for any governmental purpose all technical data required to be delivered to the United States under contract.

**"§ 2321. Validating proprietary data restrictions**

"(a) To encourage the competitive acquisition of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's right to use for governmental purposes technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or the representative of the Small Business Administration assigned to the procurement center determines such a review is warranted and the contracting officer determines that compliance with the asserted restriction makes it impracticable to competitively procure the required component.

"(b) Upon the written demand of the contracting officer, the contractor or subcontractor, as appropriate, shall submit its justification for the asserted restriction on the Government's right to use such data for governmental purposes certifying to the current validity of the asserted restriction within—

"(1) 60 days, if the contract contains a provision that requires a contractor or subcontractor to be prepared to furnish a written justification for any restriction limiting the Government's right to use for governmental purposes technical data to be delivered under the contract, or

"(2) 180 days, if the contract does not contain such a provision, except that the contracting officer may extend such time limits for a reasonable period for good cause shown.

"(c) Upon a failure to submit any justification pursuant to the requirements of subsection (b), the contracting officer shall, after giving notice to the party asserting the restriction, promptly cancel the restriction on the Government's right to use for governmental purposes technical data for which justification had been requested.

"(d) If after review of the justification submitted pursuant to subsection (b), the contracting officer determines that the justification for the restriction on the Government's right to use the data for governmental purposes does not adequately support the asserted restriction on the technical data, the justification therefor shall be promptly subjected to technical review and audit.

"(e) If after reviewing the findings of the technical review and audit, it is determined that the restriction on the Government's right to use such data for governmental purposes warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(f) If the Government's challenge to the restriction on the Government's right to use for governmental purposes technical data as certified pursuant to subsection (b) is sustained, upon final disposition—

"(1) the restriction on the Government's right to use that technical data for governmental purposes shall be cancelled; and

"(2) the contractor or subcontractor, as appropriate, shall be liable to the Government for the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(d)(2)(A) of title 28, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

(2) The analysis of such chapter is amended by adding at the end thereof the following new items:

"2318. Planning for future competition.
"2319. Encouraging new competitors to broaden the industrial base.
"2320. Technical data management to foster future competition.
"2321. Validating proprietary data restrictions.".

On page 93, beginning with line 1, strike out all through page 96, line 11, and insert in lieu thereof the following:

(b) Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following:

"(4) 'Component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component'.

"(5) 'Major procurement center' means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceding fiscal year.

"(6) 'Major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater, or (C) the system is designated a 'major system' by the head of the agency responsible for the system.

"(7) 'Technical data' means recorded information (regardless of form or method of recording) of a scientific or technical nature, including data resulting from work which was specified and directly funded as an element of performance of a contract from the United States, but does not include—

"(A) computer software;

"(B) financial, administrative, cost or pricing, management data, or other information incidental to contract administration;

"(C) data relating to products, components, or processes developed at private expense; or

"(D) data relating to products, components, or processes developed at private expense and offered for sale to the general public.".

(c)(1) Within one year after the date of enactment of this Act, the head of each agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. At a minimum, the management plan shall address procedures for—

(A) inventorying, indexing, storing, and updating items of technical data into a system;

(B) verifying contractor-imposed limitations on the government's rights to make future use of the data in competitive acquisitions; and

(C) assuring that agency procurement officials and prospective contractors will have timely access to complete and current technical data for the competitive acquisition of supplies and services for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of this Act, the head of each agency shall complete implementation of the management plan required by paragraph (1), and include in the system the available technical data for each currently operational major system within the jurisdiction of the head of such agency.

(3) Not later than eighteen months after the date of enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected agencies for the management of technical data for major systems within the jurisdiction of such agencies. The report shall include an evaluation of the plans.

(4) As used in this subsection, the term "agency" means an agency which is subject to chapter 137 of title 10, United States Code.

On page 99, line 7, strike out "2414", and insert in lieu thereof "2413".

On page 99, line 21, strike out "2414", and insert in lieu thereof "2413".

Mr. LEVIN. Mr. President, this is a technical amendment which was necessitated by the following action. It was intended in committee that four provisions of Senate bill 2489, which is a Small Business Competition Act, be incorporated in toto and verbatim into this pending bill. That was the intention of the committee.

The intention did not quite get carried out perfectly. There were a number of technical errors in transposing the four sections from S. 2489 to the pending bill, S. 2723.

So all this amendment does is make the corrections that are needed in order to be certain that this bill, S. 2723, and these four sections conform as intended to the four sections in Senate bill 2489, which is a Small Business Competition Act, as I indicated, of which Senator WEICKER and Senator DIXON were the principal cosponsors.

I ask unanimous consent, Mr. President, that, if adopted, this amendment be considered as original text for the purpose of any further amendment, because it is a substantial chunk of the bill and as a courtesy to any Senator who might seek to amend it, we should consider it, I think, as original text so it might be open to any further amendment. I do not know of any amendments, but there might be some.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LEVIN. Mr. President, this simply, in other words, will carry out the intentions of the committee. This is a technical amendment totally to make this bill conform to the four sections of the other bill, which we did intend to totally transpose onto the current legislation.

Mr. TOWER. Mr. President, I think everybody on the committee is clear on this one. What the Senator proposes simply carries out the intent of the committee, and therefore, I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate? If not, then the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3203) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### THE ANTISATELLITE AMENDMENT

Mr. DANFORTH. Mr. President, the Senate has undertaken an extended debate about a broad range of arms control measures. I have become increasingly concerned, that in attempts to promote one proposal or another the Senate and the Congress have lost sight of larger principles in our relationship with the Soviet Union. Certainly we can encourage the President to pursue arms control negotiations on all fronts. He must, however, be able to carry to the table the strong and unified support of this Nation. Unfortunately, the Congress has become a platform for the promotion of divisive and, I believe, ultimately counterproductive proposals seeking to push the President into adopting various arms control postures.

The cause of peace is not served by the United States going in several directions at the same time. An active and lively debate does not require the Congress to impose conditions on the administration before we will support its policies. This practice, which has become increasingly common in this Chamber, may express the desires of Congress but it does not bring us any closer to agreements that reduce the threat of war. How can the President effectively negotiate anything with 535 backseat drivers in Congress hounding him to move one way or another? This bickering simply encourages the Soviet leadership to walk away and rely on our own divisiveness to achieve their goals for them.

Last night I voted against the compromise amendment on antisatellite weapons for precisely these reasons. The amendment seeks to impose a moratorium on the testing of a U.S. antisatellite weapon until the President attempts to negotiate limits on these weapons with the Soviet Union. This approach to foreign policy is entirely inappropriate for the U.S. Senate. I share the concern of many of my colleagues about the expansion of the arms race into outer space, and I encourage the President to work with the Soviet Union to reduce the threats posed by this expansion. I do not believe, though, that the passage of this amendment makes an agreement any more likely and, in fact, makes the President's job much more difficult.

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## ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business during which Senators may speak for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## APPOINTMENTS ON BEHALF OF THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GORTON). The Chair, on behalf of the Vice President, and upon the recommendation of the majority and minority leaders, pursuant to the provisions of Senate Resolution 127, appoints the following Senators to serve on the Temporary Select Committee to Study the Senate Committee System: the Senator from Maryland [Mr. MATHIAS], the Senator from Utah [Mr. GARN], the Senator from Wyoming [Mr. WALLOP], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. QUAYLE], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Louisiana [Mr. LONG], the Senator from Montana [Mr. MELCHER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kentucky [Mr. FORD], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. DIXON].

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## NATIONAL AND DULLES AIRPORTS

Mr. MATHIAS. Mr. President, Elizabeth Dole is right to question the premise that National and Dulles Airports must be operated as proprietary activities of the Federal Government, and she has expressed her interest in a proper way. She does not assume that any one other method of operation is best, but suggests that a review of the subject be made by a panel of reasonable people.

We must applaud such a decision because the world abounds with examples of various ways to run great metropolitan airports. The closest to home is the new Baltimore-Washington International Airport [BWI] which is owned and operated by the Maryland State Department of Transportation. Another variation in practice is the Schiphol Airport at Amsterdam which is managed by a private contractor. So the possibilities are infinite and should be carefully considered.

At the same time that Elizabeth Dole announced the management study, she also made a proposal to reduce the annual passenger ceiling at National from the current 16 million to 15.2 million. Anyone who has tried to drive to National on a recent Sunday afternoon must know she is right about that, too. Leaving aside the air safety factor, the ground facilities are clearly saturated. Imposing this cap is an important step toward limiting growth at National and ensuring that Dulles and BWI play an important and growing role in serving the Washington region.

There is, however, one disquieting note in these developments. It is implied that Washington is no different from any other municipality in the Nation.

Washington is the National Capital, the focus of American pride and the place where every American is represented. All of us, the whole 225 million, want it to be a special place. It is not just another American city.

Because it is a special place, it has special problems. It has no Governor or State legislature with broad powers to initiate public projects. It has no industrial base to generate revenue to support capital improvements. It was created by the Federal Government as its Capital and it must be maintained by the Federal Government for that purpose. It is not and never will be just another American city to be treated like all the rest. This sometimes works to Washington's advantage and sometimes it works to Washington's disadvantage, but whether good or bad it is a special relationship and it cannot be ignored.

I hope that when the advisory commission meets to discuss the transfer of the two Washington airports, they will take into consideration that Washington, DC, belongs to all the people. When George Washington chose the site on the Potomac for the Nation's Capital he asked the French military engineer, Charles Pierre L'Enfant, to create a "federal city," a symbol as well as a place, for all Americans.

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## SURVEY OF SOUTH DAKOTA FARMERS

Mr. PRESSLER. Mr. President, a survey was recently conducted in my home State of South Dakota on farmers' views concerning various agricultural and national issues. The survey was based on 480 responses to a randomly selected sample of South Dakota farmers and was conducted by Dr. Mark Edelman and Dr. Larry Janssen, who are agricultural economists at South Dakota State University. The results of the survey were very interesting and several surprises are apparent in the results.

The survey found that only 19 percent of the South Dakota farmers favored the continuation of the present system of Congress and the Secretary of Agriculture making the key decisions on farm policy. Thirty-two percent of the farmers favored an independent board appointed by the President as the farm decisionmaking body and 32 percent supported producers organizing and operating their own management program.

Another very interesting response in the survey occurred on a question about Federal deficits. Sixty-three percent of the farmers surveyed agreed that the Federal budget should be balanced, even if it would mean a substantial cut in all Government programs, including farm price support and income support programs. This illustrates the strong conviction in rural America that we need to balance the Federal budget.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that a summary of the results of the survey be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

### Survey Results

[Answers are in percent]

1. What should be the policy toward production and price supports after 1985? (Check one.)

25.6, keep present voluntary programs with minor revisions.

14.0, have a mandatory set aside and price support program in years of excess supply with all producers required to participate if approved in a farmer referendum.

11.9, re-establish acreage allotments and marketing quotas for each farm as a basis for price supports.

28.5, eliminate set aside, price support, and government storage programs.

8.3, undecided.

8.8, other.

2.9, no response.

2(a) If voluntary price support loans and grain reserve programs are continued, should target prices and deficiency payments also be continued in the 1985 farm bill?

66.7 yes, 21.7 no, 8.8 not sure, 2.9 no response.

(b) If target prices are continued where should they be set compared with 1984? ($3.03 for corn; $4.45 for wheat)?

42.5 higher, 40.6 about the same, 5.2 lower, 8.8 no opinion, 2.9 no response.

3(a) Where should price support loans be set compared with 1984? ($2.55 for corn; $3.30 for wheat).

54.6 higher, 27.3 about the same, 5.4 lower, 9.8 no opinion, 2.9 no response.

(b) Loan rates for all price supported commodities should be based on a percent of the average market price for the past 3-5 years.

4.0 strongly agree, 33.1 agree, 21.0 not sure, 24.4 disagree, 14.0 strongly disagree, 3.8 no response.

4. Should payments for acreage diversion be continued in future programs?

60.0 yes, 27.3 no, 11.0 not sure, 1.9 no response.

5(a) The payment-in-kind program should be used again if large stocks reappear.

16.0 strongly agree, 26.5 agree, 11.7 not sure, 24.8 disagree, 18.8 strongly disagree, 2.3 no response.

(b) The payment-in-kind program is basically unfair to livestock and poultry producers.

22.3 strongly agree, 29.2 agree, 19.0 not sure, 22.3 disagree, 4.4 strongly disagree, 2.9 no response.

6(a) Should a farmer-owned grain reserve be continued?

56.6 yes, 23.3 no, 18.3 not sure, 1.9 no response.

(b) If a grain reserve is continued, which policy below would you perfer?

9.8, no limit on the size of reserve.

17.3, let the Secretary of Agriculture set the limit on the amount.

49.4, set a limit based on a percent of the previous year's use.

20.6 not sure.

2.9, no response.

7(a) To help achieve national and state soil erosion control goals, each farmer should be required to follow recommended soil conservation measures for his farm to qualify for price and income support programs.

28.1 strongly agree, 41.0 agree, 8.3 not sure, 13.7 disagree, 7.9 strongly disagree, 0.8 no response.

7(b) How should federal government funds for soil conservation programs be distributed?

10.4, give funds to all states in proportion to number of farms.

31.3, give funds to all states in proportion to the acreage within each state.

42.5, give more funds to those states with the most severe erosion problems.

8.3, not sure.

6.3, other.

1.3, no response.

8. The Farmers Home Administration was established to provide credit to farmers who could not get credit from other sources. Which credit policy should it follow with present borrowers? (Check one.)

48.5, continue the present policy of not foreclosing unless all repayment efforts have failed.

16.0, provide a moratorium on all foreclosures to keep distressed borrowers operating until the economy improves.

10.0, provide a moratorium on foreclosures only for selected young "deserving" farmers.

14.6, set a stricter policy on delinquent loans and increase the number of foreclosures.

2.9, not sure.

7.3, other.

0.6, no response.

9. Which government policy would you prefer to deal with farm production risks from natural disasters? (Check one.)

29.4, continue present all risk crop insurance where producers pay about 70 percent and the government pays about 30 percent of the cost.

31.7, return to disaster payments where government pays all the cost.

23.1, eliminate all disaster payments and Federal Crop Insurance programs.

9.8, not sure.

4.8, other.

1.3, no response.

10. Check your opinions about the new Federal Crop Insurance program: (Check one on each line.)

(a) 9.4 a good buy, 49.0 expensive, 34.2 no opinion, 7.5 no response.

(b) 13.8 adequate coverage, 40.4 inadequate coverage, 33.5 no opinion, 12.3 no response.

(c) 14.4 easy to understand, 34.4 complicated, 40.6 no opinion, 10.6 no response.

11. Future farm programs should be changed to give most price and income support benefit:

(a) To small and medium size farms with gross annual sales under $200,000: 36.0 strongly agree, 33.3 agree, 6.7 not sure, 7.7 disagree, 4.4 strongly disagree, 11.9 no response.

(b) To small farms only (those with less than $40,000 in gross annual sales:) 20.2 strongly agree, 18.1 agree, 9.4 not sure, 19.8 disagree, 10.4 strongly disagree, 22.1 no response.

12. The present limit on direct payments to each farmer is $50,000 per year. What recommendation would you make for the future?

5.6, increase the limit to ——.

49.0, make no change.

33.5, decrease the limit to ——.

8.9, eliminate the limit completely.

2.9, no response.

13. If milk production is excessive in 1985, payments for production cut-back by dairy farmers should be continued.

6.7 strongly agree, 24.4 agree, 26.0 not sure, 23.5 disagree, 16.9 strongly disagree, 2.5 no response.

14. Who should make the major farm commodity policy decisions? (Check one.)

19.0, continue the present system with Congress and the Secretary of Agriculture.

32.3, have the President appoint an independent board or commission operating under Congressional guidelines with farmers, agribusiness and consumers represented.

32.9, let producers organize, control and finance their own supply management program.

8.5, no opinion.

4.8, other.

2.5, no response

15. How should international trade be organized? (Check one.)

26.5, strengthen the General Agreement on Tariffs and Trade (GATT) to provide a relatively open market for all food exporting and importing countries.

18.1, enter more agreements with food exporting nations to control production and raise prices.

30.0, enter more agreements with food importing nations to insure that the U.S. receives a minimal share of the international markets.

19.8, not sure.

5.6, no response.

16. To increase export sales, the United States should: (Check one for each proposal.)

| | No response | Strongly agree | Agree | Not sure | Disagree | Strongly disagree |
|---|---|---|---|---|---|---|
| a. Not make any great effort beyond previous policy | 11.5 | 1.9 | 6.0 | 9.6 | 39.4 | 31.7 |
| b. Provide more food aid to hungry nations | 9.8 | 18.1 | 42.7 | 14.0 | 12.7 | 2.7 |
| c. Match the export subsidies of our competitors | 13.8 | 11.3 | 31.3 | 28.8 | 12.1 | 2.9 |
| d. Encourage lower trade barriers for food importing nations by lowering U.S. import barriers | 11.5 | 7.1 | 23.1 | 21.3 | 26.5 | 10.6 |
| e. Lower U.S. support prices to be more competitive in the world markets | 10.8 | 4.4 | 15.8 | 21.3 | 36.3 | 11.5 |
| f. Expand farmer financed foreign market development programs | 11.5 | 10.8 | 39.2 | 22.7 | 11.5 | 4.4 |
| g. Establish an international trade marketing board. (Such as the Canadian Wheat Board.) | 10.6 | 14.0 | 52.7 | 18.8 | 2.9 | 1.0 |
| h. Lower federal budget deficits to reduce the value of the dollar and make the U.S. more competitive | 10.2 | 27.5 | 35.4 | 15.6 | 9.0 | 2.3 |
| i. Set up a two price plan with a higher price for commodities used in the domestic market and let exports sell at the world market price | 9.3 | 7.1 | 27.1 | 30.4 | 19.8 | 6.3 |

17. If major changes were required in funding government programs, which would you favor?

37.0, a low "safety net" loan and target price program.

33.3, replace commodity programs with a farm income insurance plan with costs shared by farmers and government.

16.7, other.

13.0, no response.

18. Federal deficits have been running $100 to $200 billion per year. (Check your opinion on each proposal.)

| | No response | Strongly agree | Agree | Not sure | Disagree | Strongly disagree |
|---|---|---|---|---|---|---|
| a. We should keep things as they are and not worry about balancing the budget | 8.3 | 1.5 | 1.5 | 3.8 | 36.7 | 48.3 |
| b. We should reduce the deficit in order to reduce interest rates for borrowers | 5.6 | 39.0 | 44.6 | 6.3 | 2.7 | 1.9 |
| c. We should reduce the deficit in order to reduce the debt burden on future generations | 7.5 | 37.5 | 47.9 | 4.5 | .8 | 1.7 |
| d. Freeze present Federal expenditures and raise taxes | 9.0 | 7.9 | 21.5 | 21.5 | 26.7 | 13.5 |
| e. The Federal budget should be balanced even if it means a substantial cut in all government programs including farm price and income supports | 3.8 | 26.7 | 36.5 | 16.1 | 13.2 | 3.8 |

19. If only limited government funds are available for farm programs, which of the following should get top funding priority? (Check one.)

24.2, increased funding for soil conservation and erosion programs.

24.4, increased funding for price and income support programs.

39.4, increased funding for export expansion and international market development.

7.7, other.

4.4, no responses.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following bills and joint resolutions:

On May 17, 1984:

S.J. Res. 220. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Arts With the Handicapped Week."

On May 21, 1984:

S. 64. An act to establish the Irish Wilderness in Mark Twain National Forest, MO;

S. 597. An act to convey certain lands to Show Low, AZ;

S. 1129. An act to extend and improve the Domestic Volunteer Service Act of 1973, and for other purposes; and

S. 1188. An act to relieve the General Accounting Office of duplicative audit requirements with respect to the Disabled American Veterans.

On May 22, 1984:

S.J. Res. 198. Joint resolution designating April 26, 1985, as "National Nursing Home Residents Day"; and

S.J. Res. 228. Joint resolution to designate the week of May 20, 1984, through May 26, 1984, as "National Digestive Diseases Awareness Week."

On May 24, 1984:

S.J. Res. 252. Joint resolution to designate May 25, 1984, as "Missing Children Day."

On May 31, 1984:

S. 422. An act to amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance;

S. 2079. An act to amend the charter of AMVETS by extending eligibility for membership to individuals who qualify on or after May 8, 1975;

S.J. Res. 94. Joint resolution to authorize and request the President to designate May 13, 1984, to June 17, 1984, as "Family Reunion Month";

S.J. Res. 211. Joint resolution designating the week of November 19, 1984, through November 24, 1984, as "National Family Week"; and

S.J. Res. 239. Joint resolution designating the week of October 21, 1984, through October 27, 1984, as "Lupus Awareness Week."

On June 12, 1984:

S. 518. An act to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; and

S. 2413. An act to recognize the organization known as the American Gold Star Mothers, Inc.

## MESSAGES FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3755) to amend titles II and XV of the Social Security Act to provide for reform in the disability determination process; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. **Rostenkowski**, Mr. **Pickle**, Mr. **Jacobs**, Mr. **Gephardt**, Mr. **Shannon**, Mr. **Fowler**, Mr. **Ford** of Tennessee, Mr. **Conable**, Mr. **Archer**, Mr. **Gradison**, and Mr. **Campbell** as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4325) to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes; asks for a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. **Rostenkowski**, Mr. **Ford** of Tennessee, Mr. **Stark**, Mr. **Pease**, Mr. **Matsui**, Mr. **Fowler**, Mrs. **Kennelly**, Mr. **Conable**, Mr. **Campbell**, Mr. **Moore**, and Mr. **Thomas** of California as managers of the conference on the part of the House.

The message further announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 296. Joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5504. An act to apportion funds for construction of the National System of Interstate and Defense Highways for fiscal years 1985 and 1986, to revise authorizations for mass transportation, to expand and improve the relocation assistance program, and for other purposes.

### ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions;

H.R. 3921. An act to establish wilderness areas in New Hampshire, and for other purposes;

S.J. Res. 261. Joint resolution to provide for the designation of the last week in June 1984 as "Helen Keller Deaf-Blind Awareness Week"; and

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Week."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. **Thurmond**].

At 4:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day."

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4772. An act to grant a Federal charter to the Vietnam Veterans of American, Inc.;

H.R. 5496. An act to amend the Public Health Service Act to rename the National Center for Health Services Research as the National Center for Health Services Research and Medical Technology Assessment, and for other purposes;

H.R. 5565. An act to direct the Architect of the Capitol and the District of Columbia to enter into an agreement for the conveyance of certain real property, to direct the Secretary of the Interior to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on Federal property and direct the Architect of the Capitol to provide the Washington Metropolitan Area Transit Authority access to certain real property;

H.R. 5600. An act to revise and extend the programs of assistance under titles X and XX of the Public Health Service Act; and

H.R. 5603. An act to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol and drug abuse and mental health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

### ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1723. An act to authorize appropriations through fiscal year 1986 for the Great Dismal Swamp, Minnesota Valley, and San Francisco Bay National Wildlife Refuge; and

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. **Thurmond**].

## MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4772. An act to grant a Federal charter to the Vietnam Veterans of America, Inc.; to the Committee on the Judiciary.

H.R. 5496. An act to amend the Public Health Service Act to rename the National Center for Health Services Research as the National Center for Health Services Research and Medical Technology Assessment, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5600. An act to revise and extend the programs of assistance under titles X and XX of the Public Health Service Act; to the Committee on Labor and Human Resources.

H.R. 5603. An act to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol and drug abuse and mental health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; to the Committee on Labor and Human Resources.

## MEASURE HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 5565. An act to direct the Architect of the Capitol and the District of Columbia to enter into an agreement for the conveyance of certain real property, to direct the Secretary of the Interior to permit the District of Columbia and the Washington Metropolitan Area Transit Authority to construct, maintain, and operate certain transportation improvements on Federal property, and direct the Architect of the Capitol to provide the Washington Metropolitan Area Transit Authority access to certain real property.

## ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, June 13, 1984, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 261. Joint resolution to provide for the designation of the last week in June 1984 as "Helen Keller Deaf Blind Awareness Week"; and

S.J. Res. 289. Joint resolution to designate June 18, 1984, as "National Child Passenger Safety Awareness Week."

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3378. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the bank supervisory systems in the group of ten nations plus Switzerland; to the Committee on Banking, Housing, and Urban Affairs.

EC-3379. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 6, 1984; to the Committee on Foreign Relations.

EC-3380. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-146 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3381. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-145 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3382. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-144 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3383. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-143 adopted by the Council on May 15, 1984; to the Committee on Governmental Affairs.

EC-3384. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-142 adopted by the Council on May 29, 1984; to the Committee on Governmental Affairs.

EC-3385. A communication from the Chairman of the D.C. Council, transmitting, pursuant to law, D.C. Act 5-141; to the Committee on Governmental Affairs.

EC-3386. A communication from the Chairman of the D.C. Council, transmitting, pursuant to law, D.C. Act 5-140; to the Committee on Governmental Affairs.

EC-3387. A communication from the Chairman of the D.C. Council transmitting, pursuant to law. D.C. ACT 5-139; to the Committee on Governmental Affairs.

EC-3388. A communication from the Administrator for Information and Regulatory Affairs, Office of Management and Budget, transmitting a letter expressing his opposition to the proposal to provide a partial exemption for the International Trade Commission from the Paperwork Reduction Act; to the Committee on Governmental Affairs.

EC-3389. A communication from the Governor of the Farm Credit Administration transmitting, pursuant to law, a report on the Administration's accounting systems; to the Committee on Governmental Affairs.

EC-3390. A communication from the Chairman of the National Credit Union Administration transmitting, pursuant to law, a report on the Administration's accounting systems; to the Committee on Governmental Affairs.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-701. A resolution adopted by the House of Representatives of the State of Pennsylvania; to the Committee on Agriculture, Nutrition, and Forestry.

"A RESOLUTION

"Whereas, Pennsylvania's rural life is an essential ingredient in the State's varied resources as demonstrated by the fact that Pennsylvania has one of the largest rural populations in the Nation, that 70% of the total landmass and 47 of the State's 67 counties have been classified as rural and that the 3,600,000 population exceeds the combined populations of Pennsylvania cities of 30,000 or more persons; and

"Whereas, The policies of the Federal Government have been detrimental in the exteme to the Farmer's Home Administration which, prior to 1981, provided aggressive leadership in rural development through loans and grants; and

"Whereas, The administration has proposed to eliminate grants for domestic farm laborers, for very low-income housing repair and for mutual self-help housing, despite the fact that America still has an unacceptable level of inadequate and substandard housing; and

"Whereas, The administration has also proposed a $1,000,000,000 reduction in rural housing loans, a $2,000,000,000 cut in low-income housing loans, and a $7,000,000 cut in very low-income housing repair loans, all of which would sharply curtail rural housing and rental assistance for the neediest; and

"Whereas, Pennsylvania has led the Nation for the past decade in reported cases of water-related diseases; almost 900 rural communities in Pennsylvania do not have community sewage systems; and at least another 650 communities do not have water systems. Notwithstanding these facts, the administration has proposed a $20,000,000 cut in water and waste disposal loans and an additional $30,000,000 cut in the community facility loan program, combined with the complete elimination of community fire protection grants, even though several Pennsylvania communities have no fire services of their own; and

"Whereas, The Pennsylvania House of Representatives affirms its belief that the economic vitality of our State's and Nation's farms and rural communities is essential to the continued economic health of the larger society, acknowledges the great contribution in food, fiber and sustenance provided by rural America, and it deplores those drastic reductions in funding of programs so vital to the maintenance and enrichment of rural life and to the development of the agricultural economy; therefore be it

"*Resolved*, That the House of Representatives memorialize the President of the United States and the United States Congress to restore the funding levels for programs that provide for an acceptable standard of living for rural residents and to take all the steps necessary within the power and authority and influence of their offices to maintain loan programs essential to rural communities; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States and to each member of Congress from Pennsylvania."

POM-702. A resolution adopted by the House of Representatives of the State of Pennsylvania; to the Committee on Finance.

"A RESOLUTION

"Whereas, The flood of foreign steel imports continues to have an adverse effect on domestic steel production; and

"Whereas, The decline of the steel industry in Pennsylvania causes great unemployment and attendant hardship for steelworkers, their families, our communities and the economy of Pennsylvania in general; and

"Whereas, Much of the steel imported is made by companies subsidized by foreign governments; now therefore be it

"*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to quickly pass House Resolution No. 5081, the Fair Trade in Steel Act; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-703. A resolution adopted by the Senate of the State of Michigan; to the Committee on the Judiciary.

"SUBSTITUTE FOR SENATE RESOLUTION NO. 337

"Whereas, In 1890, Congress enacted the Sherman Antitrust Act (15 U.S.C. 1 et seq.) to prohibit conspiracies 'in restraint of trade or commerce among the several states or with foreign nations'; and

"Whereas, The United States Supreme Court has consistently held that among practices prohibited by the act is that of 'vertical price fixing' or 'resale price maintenance,' wherein manufacturers dictate the price that wholesalers or retailers must charge for their product; and

"Whereas, In 1975, Congress enacted the Consumer Goods Pricing Act of 1975, Public Law 94-145, revoking the states' authority allow resale price maintenance under 'fair trade laws;' and

"Whereas, Assistant Attorney General in charge of the Antitrust Division, J. Paul McGrath, has publicly stated the intention of the Justice Department to vigorously enforce the 'per se' rule on vertical price restraint; and

"Whereas, In view of the fact that the Antitrust Division of the Justice Department is primarily responsible for the enforcement of federal antitrust laws, that public statement should serve as a model for all federal officials responsible the enforcement of vertical price restraint; and

"Whereas, The manufacturer and the retailer have a right to operate in a 'Free Market' with the ability to contract with each other through establishment of a lawful dealer network or franchise systems based upon the 'Colgate Doctrine'; and

"Whereas, The retail industry is in a constant state of change in order to meet the consumer's changing needs and desires, and the basic concept of a free society and a free economy should dictate that the right of a retailer and a manufacturer to contract between themselves for the supply of a particular product should be an activity un-abridged by unwarranted government intervention or economic threat; and

"Whereas, Vertical price fixing infringes upon the retailer's right to free trade and competition and the consumer's expectation of the best benefits of that competition; now, therefore, be it

"*Resolved by the Senate*, That the members of this legislative body respectfully memorialize the United States Congress and the President of the United States to continue their understanding that the United States Attorney General and all other appropriate federal officials will continue vigorously to enforce the federal antitrust laws, including the prohibition against vertical price restraint; and be it further

"*Resolved*, That copies of this resolution be respectfully transmitted to the Office of the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2324. A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone (Rept. No. 98-512).

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 2491) to establish a system for the consolidation of student loans under title IV of the Higher Education Act of 1965, and for other purposes (Rept. No. 98-513).

By Mr. RUDMAN (for Mr. Laxalt), from the Committee on Appropriations, with amendments:

H.R. 5712. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-514).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

John P. McTague, of California, to be an Associate Director of the Office of the Science and Technology Policy;

Bernadine Healy Bulkley, of Maryland, to be an Associate Director of the Office of Science and Technology Policy;

Clyde A. Bragdon, Jr., of California, to be Administrator of the United States Fire Administration; and

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission for a term of seven years from July 1, 1984.

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly contituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably nomination lists in the Coast Guard and National Oceanic and Atmospheric Administration (the lists appear in the Congressional Records of May 24 and June 4, 1984) and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KASTEN:

S. 2751. A bill to provide for coordinated management and rehabilitation of the Great Lakes, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 2752. A bill to restrain health care cost, restore the solvency of the medicare program, and enhance coverage and benefits under such program; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. Cranston, Mr. Packwood, Mr. Gorton, Mr. Evans, Mr. Wilson, Mr. Goldwater, Mr. DeConcini, Mr. Ford, Mr. Stevens, Mr. Murkowski, and Mr. Thurmond):

S. 2753. A bill to provide for the buy-out of certain contracts for Federal timber; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. RIEGLE (for himself, Mr. Proxmire, and Mr. Sarbanes):

S. 2754. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN (by request):

S. 2755. A bill to amend title V of the Housing Act of 1949 to permit the sale in "as is" condition of inventory housing held by the Farmers Home Administration; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN:

S. 2756. A bill to provide for the striking of a gold medal to commemmorate the 75th anniversary of the Boy Scouts of America; to the Committee on Banking, Housing, and Urban Affairs.

S. 2757. A bill to provide for the striking of a gold medal to commemmorate the 75th anniversary of the Girl Scouts of the United States of America; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. Tsongas):

S. 2758. A bill to provide for the conservation and management of Atlantic striped bass, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON:

S. 2759. A bill to amend chapter 11 of title 38, United States Code, to provide for periods of trial work (comparable to periods of trial work for Social Security Act disability recipients) for veterans assigned service-connected total disability ratings by reason of unemployability; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself and Mr. DeConcini):

S. 2760. A bill to amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself and Mr. Kennedy):

S. Res. 403. Resolution expressing the concern of the Senate over continuing communal violence in Sri Lanka; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. Tsongas):

S. Res. 404. Resolution to join in the Celtic Pride by congratulating the Boston Celtics on winning the 1984 World Championship of the National Basketball Association; placed on the calendar, by unanimous consent.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KASTEN:

S. 2751. A bill to provide for coordinated management and rehabilitation of the Great Lakes; and for other purposes; to the Committee on Governmental Affairs.

(The remarks of Mr. Kasten on this legislation appear earlier in today's Record.)

By Mr. HEINZ:

S. 2752. A bill to restrain health care costs, restore the solvency of the medicare program, and enhance coverage and benefits under such program; to the Committee on Finance.

(The remarks of Mr. Heinz on this legislation appear earlier in today's Record.)

By Mr. Hatfield (for himself, Mr. Cranston, Mr. Packwood, Mr. Gorton, Mr. Evans, Mr. Wilson, Mr. Goldwater, Mr. DeConcini, Mr. Ford, Mr. Stevens, and Mr. Murkowski):

S. 2753. A bill to provide for the buyout of certain contracts for Federal timber; by unanimous consent, referred jointly to the Committee on Agriculture, Nutrition, and Forestry and to the Committee on Energy and Natural Resources.

### BUYOUT OF CERTAIN CONTRACTS FOR FEDERAL TIMBER

Mr. HATFIELD. Mr. President, today I am introducing, along with

Senators **Cranston**, **Evans**, **Gorton**, **Wilson Packwood**, **Goldwater**, **DeConcini**, **Ford**, **Murkowski**, and **Stevens**, legislation designed to prevent the decimation of the independent segment of the western forest products industry, and the severely negative impacts of such a distruption on the communities and workers who rely upon this industry for their economic well-being.

Most small timber companies in the West are heavily dependent upon public timber. They purchase standing timber from the U.S. Forest Service, the Bureau of Land Management or some other agency. Then they either log it or hire a logger to cut the trees, and have the logs trucked to mills for processing into lumber. That process is the backbone of Oregon's economy. The independent companies are intensely competitive and also compete with the giants of the forest products industry. Larger companies often own their own lands, which provide a substantial portion of their raw material, while the independents do not enjoy that advantage.

During the late 1970's, for a variety of reasons which are no longer valid, the forest products industry purchased timber from the Government at prices which, at today's market, mean that the raw material cannot be converted to lumber without incurring terrible losses. In fact, if all the timber purchasers were to go ahead and log that timber and produce the lumber and plywood, they would lose nearly $4 billion. Obviously, that loss is unacceptable and many of the companies will let the trees stand in the forest. The contracts will expire and the Government's policy in that instance is to resell the timber and bill the original purchaser for the damages, which are calculated as the difference between the original price and the new price. With the downturn in the market those damages will be unacceptable to small and medium sized businesses and they will have little option but bankruptcy.

As the other party to those contracts, the Federal Government has two options. It can hold the purchasers feet to the fire, placing them in an untenable position, or it can modify or cancel the contracts. In the 2½ years that I have been involved in this issue, I have urged that the Government be flexible and recognize the devastating impacts of rigid adherence to the contracts. No one gains from inflexibility.

The Government cannot collect its damages from bankrupt companies, workers will lose their jobs, and communities already in precarious situations will be thrust into chaos—all to prove an abstract legal principle that "a contract is a contract."

Mr. President, when two parties to a contract agree, they can jointly modify or cancel a contract. I believe it is in the best interest of the Government to allow purchasers to pay for the cancellation of a portion of these inoperable timber contracts and that is the purpose of the legislation I am introducing today.

I am taking this action following long and difficult discussions within the forest products industry, an industry beset by internal conflict. It is comprised of large companies and small companies who fight over small business programs, of log exporters and domestic processors who fight over export policy, and of several different regions. The West is heavily dependent upon Federal timber. The South is heavily dependent upon private timber. In short, Mr. President, this is an industry which rarely agrees on anything and, until just recently, it has not agreed on the issue of timber contract relief. The measure I am introducing today, however, enjoys broad industry support. It has been endorsed by the Northwest Timber Association as well as the Southeastern Lumber Manufacturer's Association. The Western Forest Industries Association, Industrial Forestry Association, and Southern Forest Products Association have endorsed it. The national industry trade association, which is the National Forest Products Association, has also endorsed the bill. The Western Governor's Association supports it. As a Senator and Governor from Oregon, I have heard a lot from this industry over the past 25 years, but never have I heard such unified support on any legislation.

Mr. President, this bill is not a bailout. It will not resolve all the problems timber purchasers are facing. It will allow purchasers to pay the Government for termination of up to 55 percent of their timber under contract, with a limit of 200 million board feet for any one purchaser. The Government retains the timber, but receives compensation and is then able to resell it. Because of the limitation on the termination allowed, it does not bring the companies out of danger. But it does give them a fighting chance for survival. Mr. President, I ask unanimous consent that the major provisions of this legislation be printed in the Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

### TIMBER CONTRACT LEGISLATION PRINCIPAL PROVISIONS

1. All holders of contracts for the purchase of federal timber ("purchasers") are entitled to "buy out" certain such contracts held with the Secretary of the Interior or the Secretary of Agriculture.

2. Contracts eligible for buy-out are those bid prior to January 1, 1982. A contract already included in a Forest Service multi-sale program or reformed by the Bureau of Land Management pursuant to the President's program of July 1983 can be bought out.

3. A purchaser may buy out 55 percent of his volume in eligible contracts, subject to a maximum of 200 million board feet, and to a minimum entitlement of 15 million board feet or one contract (whichever is greater). (For a purchaser holding more than 27.3 million board feet, 55 percent provides a greater entitlement than the 15 million board feet minimum.)

4. The cost to the purchaser of a buy-out depends on the relationship of his net worth to his projected loss on eligible contracts held. The projected loss is determined by subtracting the current delivered log value from the delivered log cost based on the original bid price. If this loss exceeds the purchaser's net worth, the cost of buy-out will be $10 per thousand board feet. If this loss is between 50 and 100 percent of net worth, the buy-out charge will be 10 percent of the contract overbid (but no less than $10). If the loss is 50 percent or less of net worth, the buy-out charge will be 15 percent of the contract overbid (but no less than $10). Losses will be determined by the agencies, and net worth will be determined by a CPA.

5. The amounts collected through buy-out are authorized to be appropriated to the Secretaries for timber management.

6. Contracts bought out must be returned in full. Contracts already partially harvested may be returned subject to the purchaser completing operations to logical points as determined by the Secretary. The Secretary can reject return of a contract which has been "creamed".

7. Timber from bought out or defaulted contracts will be offered as part of (not in addition to) the normal sale program, and will be given preference for resale in Forest Service timber sales programs.

8. Forest Service timber sales in Region 6 will not exceed 4.3 billion board feet in fiscal 1984.

9. Beginning in fiscal 1985 and continuing until completion of contact extensions granted under the President's program of July 1983 (but at least fiscal 1991), timber sales in Forest Service Region 6 will be set so that the maximum volume of Region 6 timber under contract at the end of each fiscal year does not exceed 12.3 billion board feet. (It is expected that this will be about the volume that will be under contract after the buy-out of sales under this proposal.) The maximum sale volume in any year during this period could not exceed 5.2 billion board feet.

10. The agencies will publish final rules to implement this program within 90 days after enactment of the act.

11. Purchasers must submit buy-out designations within 90 days after publication of final rules.

12. Affiliated concerns will be considered as a single entity for purpose of calculating net worth and buy-out limitations. "Affiliation" will be determined based generally on principles used by the Small Business Administration.

13. Contracts bid prior to January 1, 1982 and not bought out will not be subject to any further extensions except as permitted under the President's program of July 1983.

14. Contracts extended under the President's program will not be subject to reappraisal, additional provisions for calculating default damages, change in basic scaling procedures, or to addition of standard timber contract provisions not in use as of March 1, 1984.

Mr. HATFIELD. Mr. President, of the nearly 22 billion board feet of Federal timber under contract in the West prior to January 1, 1982, this bill will allow the termination of over 13 billion feet, currently valued at over $2.8 billion. It will leave nearly 9 billion feet of the timber purchased prior to 1982 on the books, which leaves the Western companies with a significant problem. I would have proposed a higher level of termination, but this is the agreement reached by the industry and I will support it.

One point should be clear. That is that legislative action is necessary. The administration's answer has been to simply extend contracts, with the inclusion of rather onerous new provisions. That is not the right answer and will only delay the day of contract default. Relief from high priced Federal timber contracts is absolutely necessary in removing the black cloud of economic uncertainty that covers Oregon.

I urge colleagues to support me on this issue of vital importance to many western communities.

Mr. PACKWOOD. Mr. President, I am pleased to join Senators HATFIELD and CRANSTON in introducing this bill to provide timber contract relief vital to the Pacific Northwest. This legislation will provide significant aid to dozens of communities dependent upon a productive timber industry.

The timber and homebuilding industries across the Nation and especially in Oregon have been sluggish in recovering from the recent recession. It is imperative that these industries gain a strong foothold in our Nation's economic recovery.

As a Senator from a State with a timber-based economy, I am well aware of the dismal condition of the forest products industry.

A healthy housing industry is an integral part of a healthy economy. Our Nation's forest products industry is a key component in revitalizing the economy. I believe we should provide timber contract relief to firms so essential to rebuilding the Pacific Northwest's economy.

Mr. President, I think it is time to enact an equitable timber relief bill. Without this bill, there will be a large number of timber sale defaults. There is no doubt that many firms in my State will be unable to pay the damages resulting from defaulted timber sales, and they will go under. Their operations will close down; their workers will lose their jobs. Small timber operators in the Pacific Northwest, who are dependent upon Federal timber, would be hardest hit.

The bill we are introducing today is not a timber bailout but a timber buyout. The Federal Government does not lose money or timber under this bill. Timber under contract would be returned to the Federal Government and resold at a later date.

This bill will enable timber contract holders an opportunity to return up to 55 percent of their timber volume bid prior to January 1, 1982, subject to a maximum limitation of 200 million board feet and a minimum entitlement of 15 million board feet. As I stated earlier, this program is not a bailout but a buyout. The bill would require companies to pay a buyout charge for contracts returned to the Federal Government the amount of which would be determined by the ratio of a company's potential contract losses to its net worth.

Mr. President, the ultimate health of our Nation's economy requires a strong housing industry. This timber contract relief bill will help to insure that the forest products industry can meet the production demands of increased housing starts in the future.

The forest products industry has joined together to develop this compromise. Mr. President, I urge my colleagues to support this timber contract relief bill essential for the survival of our Nation's forest products industry.

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By Mr. RIEGLE (for himself, Mr. PROXMIRE, and Mr. SARBANES):

S. 2754. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

### SECURITIES AND EXCHANGE ACT AMENDMENTS

● Mr. RIEGLE. Mr. President, confidence in the marketplace is being undermined and small- and medium-sized investors are outraged by an increasingly prevalent practice in corporate takeover schemes known as greenmail.

"Greenmail" is a play on the word blackmail and refers to the premium price management is willing to pay a corporate raider to foil a possible takeover, but which the corporation is unwilling to pay to the everyday shareholders of its corporation.

The Disney buy-out is just the most recent example. Disney bought out Saul Steinberg for $325.3 million and Mr. Steinberg walked away with an indicated profit of $31.7 million, plus $28 million for estimated "out of pocket" expenses, as a result of his threatening a takeover, driving up the price of Disney stock and then selling it back to the company.

Other similar successful raiders include the Bass brothers, Rupert Murdoch, Sir James Goldsmith, T. Boone Pickens, Carl Lindner, and Carl C. Icahn.

The greenmail technique has become so rampant that in March alone four major companies paid more than $1.6 billion to buy back shares from unwanted investors. The buy backs included Texaco's purchase of the Bass brothers' 9.9-percent stake for $1.28 billion, Warner Communications' purchase of Rupert Murdoch's 7-percent stake for $180.6 million, St. Regis' purchase of Sir James Goldsmith's 8.6-percent position for $160 million, and Quaker State's buy out of Saul P. Steinberg's 8.9-percent position for $47.1 million.

Other recent buy backs have included Superior Oil's buy out of T. Boone Pickens for $167.2 million, Gulf & Western's buy back from Carl H. Lindner for $210.1 million, and American Can's buy back from Carl C. Icahn for $33.1 million.

Under current law there is nothing whatsoever illegal about these practices where it is possible to make millions upon millions of easy dollars by taking advantage of the existing system.

But the everyday shareholder cannot be a player in the same game and is caught up as a spectator in a contest over which he or she has no control. That shareholder, and the public at large, inevitably lose confidence in the capital markets as the perception increases that a company's shares are being manipulated for the profit of a single raider/investor.

Recently a blue-ribbon tender advisory panel of the Securities and Exchange Commission recommended preventing the practice of greenmail.

The Commission itself supports that recommendation and has forwarded to the Congress a comprehensive package of proposals dealing with tender offer practices in general.

Mr. President, I believe that the Senate Banking Committee and our Securities Subcommittee should consider all the proposals of the Commission and the tender advisory panel.

But the practice of greenmail I believe should be taken up by the Congress separately and be immediately banned. As a result, I am today introducing legislation which would accomplish that purpose.

This legislation, which is taken directly from a recomendation submitted to us by the Securities and Exchange Commission, would prohibit the purchase by a company of its own shares at a price above the existing market price from any person who holds more than 3 percent of the shares and has held them for less than 2 years, unless the shareholders of the company approve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2754

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That

SECTION 1. Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by inserting after subsection (e) the following new subsection:

"(f) It shall be unlawful for an issuer to purchase, directly or indirectly, any of its securities at a price above the market from any person who holds more than 3 percentum of the class of the securities to be purchased and has held such securities for less than two years, unless such purchase has been approved by the affirmative vote of a majority of the aggregate voting securities of the issuer, or the issuer makes an offer to acquire, of at least equal value, to all holders of securities of such class and to all holders of any class into which such securities may be converted."●

By Mr. GARN (by request):

S. 2755. A bill to amend title V of the Housing Act of 1949 to permit the sale in "as is" condition of inventory housing held by the Farmers Home Administration; to the Committee on Banking, Housing, and Urban Affairs.

### SALE OF "AS IS" HOUSING HELD BY THE FARMERS HOME ADMINISTRATION

● Mr. GARN. Mr. President, I am submitting this bill at the request of the Secretary of the Department of Agriculture on behalf of the Farmers Home Administration. The Department is requesting this bill as part of its yearly legislative package even though Congress does not plan to consider housing authorization legislation next year due to the 2-year authorization of housing programs passed last year. Farmers Home has supplied an explanation of the bill and I ask unanimous consent that the explanation be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

### SALE OF FmHA INVENTORY HOUSES "AS IS"

This bill will be welcomed equally by homebuyers, realtors and FmHA as a measure to simplify and speed up the sale, at modest prices, of houses that are in FmHA's possession. These are houses FmHA has acquired through foreclosure or by voluntary conveyance from borrowers who defaulted on their loans. FmHA now has about 12,000 in inventory.

The bill authorizes FmHA to sell such a house in "as is" condition rather than first incurring the trouble, expense and delay of repairing deficiencies, if the buyer will not finance the purchase with an FmHA loan.

At present, the Housing Act requires that every house held by FmHA be fully repaired up to the Minimum Property Standard for a house mortgaged to the government before FmHA offers the house for sale. Insofar as possible, cost of this rehabilitation is added to FmHA's selling price of the house.

Under this bill, FmHA will have to repair only those houses it will sell to families who become FmHA borrowers. A buyer who will not become an FmHA borrower can buy the house "as is" at a lower price and assume responsibility for fixing it up.

This will more rapidly transfer many houses to nonfederal ownership through private buyers or local housing agencies. It will reduce the time that houses stand vacant in FmHA's possession, subject to deterioration or vandalism. It will eliminate an estimated $4 million a year that FmHA must spend to fix up houses destined to be sold to people who are not FmHA borrowers.●

By Mr. GARN:

S. 2756. A bill to provide for the striking of a gold medal to commemorate the 75th anniversary of the Boy Scouts of America; to the Committee on Banking, Housing, and Urban Affairs.

S. 2757. A bill to provide for the striking of a gold medal to commemorate the 75th anniversary of the Girl Scouts of the United States of America; to the Committee on Banking, Housing, and Urban Affairs.

### STRIKING OF GOLD MEDALS TO COMMEMORATE THE 75TH ANNIVERSARY OF THE BOY SCOUTS AND THE GIRL SCOUTS OF AMERICA

● Mr. GARN. Mr. President, it is a pleasure for me to introduce two bills to authorize the striking of gold medals to commemorate the 75th anniversaries of the Boy Scouts of America and the Girl Scouts of the United States of America. Both the Boy Scouts of America and the Girl Scouts of the U.S.A. will be celebrating their 75th anniversaries in 1985 and 1987, respectively.

Over the years, both of these organizations have contributed to the positive development of young men and women in our country. These organizations have helped thousands of young adults to prepare for the victories and defeats we are confronted with throughout all our adult lives. Boys and girls from different backgrounds learn how to work with others under the supervision of their leaders. I would like to commend these organizations for the time and interest they have shown these boys and girls.

Literally millions of young men and women have participated in the vast and well-run programs sponsored by the Scouts. Thousands of volunteer leaders give of their time and energy to help the Scouts develop personal skills and learn to work with others in a structured and supervised setting. It would be impossible to estimate the worthwhile impact these organizations have had on boys and girls and in turn what their contributions have been to this country.

Few organizations in America have achieved such a consistent record of excellence in their programs. From Cub Scouts to Eagle Scouts, Brownies to Cadets, these programs have successfully maintained a level of devotion in quality that continues to this day.

In recognition of the Boy Scouts and Girl Scouts outstanding history and with hopes of their continued success, I request that Congress enact this legislation at the earliest opportunity.

Mr. President, I ask unanimous consent that the full text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

### S. 2756

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to commemorate the 75th anniversary of the Boy Scouts of America, in recognition of their outstanding work in promoting courage, self-reliance and citizenship among boys and young men in America.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, and inscriptions to be determined by the Secretary of the Treasury.

(c) There are authorized to be appropriated not to exceed $25,000 for fiscal year 1986 to carry out the provisions of this section.

SEC. 2. (a) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in the first section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(b) The appropriation used to carry out the provisions of the first section may be reimbursed out of the proceeds of such sales.

SEC. 3. The medals provided for in this Act are national medals for the purposes of section 5111 of title 31, United States Code.

### S. 2757

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to commemorate the 75th anniversary of the Girl Scouts of the United States of America, in recognition of their outstanding work in encouraging self-development, leadership and citizenship among girls and young women in America.

(b) For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(c) There are authorized to be appropriated not to exceed $25,000 for fiscal year 1986 to carry out the provisions of this section.

SEC. 2. (a) The Secretary of the Treasury may cause duplicates in bronze of the medal provided for in the first section to be coined and sold under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal.

(b) The appropriation used to carry out the provisions of the first section may be reimbursed out of the proceeds of such sales.

SEC. 3. The medals provided for in this Act are national medals for the purposes of section 5111 of title 31, United States Code.●

By Mr. KENNEDY (for himself and Mr. TSONGAS):

S. 2758. A bill to provide for the conservation and management of Atlantic striped bass, and for other purposes; to the Committee on Commerce, Science, and Transportation.

### ATLANTIC STRIPED BASS CONSERVATION ACT

**Mr. KENNEDY.** Mr. President, today I am introducing, along with Senator Tsongas, a bill to promote restoration of the Atlantic striped bass. This magnificent fish, the quest of three-quarters of a million east coast anglers and the mainstay of an important commercial fishery, is in danger.

This legislation represents a two-pronged effort to revive the striped bass population. First, it places an immediate prohibition on interstate commerce in striped bass less than 24 inches in length.

Second, the bill mandates the selective imposition of statewide moratoria on striped bass fishing against those Atlantic coastal States which have failed to comply—by the end of this year—with the regional management guidelines developed by the Atlantic States Marine Fisheries Commission [ASMFC].

Since 1973, striped bass landings on the east coast have dropped by 90 percent. This drastic decrease has resulted in the loss of 7,000 jobs in coastal States from Maine to North Carolina and each year it costs the economies of these States approximately $200 million.

The emergency striped bass research study—commissioned 5 years ago at the request of my colleague Senator Chafee of Rhode Island and released last month—strongly recommends that to preserve the striper a temporary but significant reduction in fishing must be instituted.

The study indicates that a number of factors—including overfishing, organochlorine pollution, and acid rain—may be responsible for the decline of the striped bass fishery. Each of these conditions—particularly the acid problem—must be addressed if any long-term restoration plan is to be effective. But the immediate imperative is to avert irreversible damage to the striped bass population, and both scientists and fishermen agree that this can be achieved only if fishing is significantly curtailed for a limited period of time.

Effective management of striped bass is a difficult task, requiring coordination and cooperation among the 12 Atlantic States in whose tidal waters the fish are concentrated. The unique problems associated with managing a coastal migratory species like the striped bass have been recognized at the Federal level since 1942. In that year Congress consented to the formation of the Atlantic States Marine Fisheries Commission by compact among the various Atlantic coastal States. Each State is represented on the Commission, which is recognized today as the sole planning agency for management of all east coast near-shore fisheries.

In 1981 the ASMFC produced an interstate management plan which called for fishing restrictions to allow more "stripers" to reach spawning age. Unfortunately, 3 years have passed since that time and some States have not yet put the Commission's plan into effect. During this period of delay, the situation has grown more serious. Last December, the ASMFC reviewed the latest scientific data and concluded that even if the 1981 plan could be made effective in all States immediately, new, more stringent measures are now required to protect the species.

Today, ASMFC is calling for a 55-percent reduction in striped bass catch beyond the levels proposed in 1981. The new recommendations reflect a scientific consensus on the steps necessary to permit full restoration of the fishery. Fishermen and managers have turned to Congress for action to ensure that the States will not again fail to take the necessary steps. Today we are losing the battle to save the "stripers" and that is why I believe legislation is required.

I want to commend my colleagues Senator Chafee and Congresswoman Schneider of Rhode Island and Congressman Studds of Massachusetts, for their leadership on the striped bass issue.

Senator Chafee's legislation establishes a management regime for all coastal migratory species which are threatened. While I share his concerns that a broad approach may be desirable, I believe that first we should proceed to address the striped bass issue on its own. We know the "striper" is in serious trouble; information is still being developed on other coastal species.

Congresswoman Schneider's bill establishes an immediate striped bass fishing moratorium of at least 3 years. In terms of a moratorium, our legislation takes a different approach which was developed by Congressman Studds. Our bill calls for the selective imposition of statewide moratoria against only those States which have failed to comply with the ASMFC guidelines by the end of this year. This approach will preserve the primary role of State governments in the management of species within State waters, and, at the same time, provide some incentive for States to move quickly to protect the Atlantic striped bass.

Many of the 12 States included in the striped bass interstate management plan have moved effectively into voluntary compliance with both the 1981 ASMFC guidelines and the 1983 emergency recommendations. These States should not be penalized for the leadership they have shown thus far. This legislation will provide the right amount of Federal oversight to ensure that the other States initiate similar efforts.

As I indicated earlier, this bill has another very important element—and one which has not previously been embodied in legislation. It provides for an immediate ban on the interstate sale of striped bass less than 24 inches long.

By restricting the ability to sell immature striped bass, we will significantly reduce the incentive for harvesting the species during this critical period. The ASMFC executive committee believes that this will encourage development of a stable population by allowing more striped bass to spawn at least once.

This legislation is an essential and well-reasoned first step in restoring a very important species. It is a simple, fair approach which preserves the legitimate role of States in the management of coastal species.

Almost 350 years ago, the General Court of Massachusetts Bay Colony enacted what may have been the first conservation law in the New World—a prohibition of the use of striped bass for fertilizer. So it is appropriate that today, as representatives of the Commonwealth of Massachusetts, we take this further action to preserve the Atlantic striped bass for future generations of Americans.

I urge my colleagues to join in supporting this effort, and I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2758

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Atlantic Striped Bass Conservation Act".

#### SEC. 2. PROHIBITION ON INTERSTATE COMMERCE IN UNDERSIZED ATLANTIC STRIPED BASS.

With respect to undersized striped bass harvested in the coastal waters of an Atlantic Coastal State, it is unlawful for any person to—

(1) delivery, receive, carry, transport, or ship in interstate commerce, by any means whatsoever and in the course of commercial activity, any such fish; or

(2) sell or offer for sale in interstate commerce any such fish.

#### SEC. 3. IMPOSITION OF MORATORIA ON STATES WHICH FAIL TO IMPLEMENT OR ENFORCE COMMISSION PLAN FOR ATLANTIC STRIPED BASS.

(a) Coastal State Ability To Enforce Plan.—The Commission shall decide during December 1984 whether each Atlantic Coastal State has taken the actions that are necessary or appropriate to enforce within its coastal waters all regulatory measures necessary to implement fully the guidelines set forth in the Plan. The Commission shall immediately notify the Secretary of each negative determination made by it under the preceding sentence.

(b) Monitoring of Enforcement.—Commencing on January 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each Atlantic Coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by an Atlantic Coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

(c) Notification to Secretary of Results of Enforcement Monitoring.—On June 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretary of the results of the monitoring under subsection (b) of each Atlantic Coastal State.

(d) Secretarial Action After Notification.—Immediately upon receiving notice from the commission—

(1) under subsection (a) that an Atlantic Coastal State has not taken the actions described in that subsection; or

(2) under subsection (c) that the enforcement of the plan by an Atlantic Coastal State is not satisfactory:

the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that Atlantic Coastal State.

(e) Prohibited Acts During Moratorium.—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

(3) to land lawfully harvested Atlantic striped bass within the boundaries of an Atlantic Coastal State when a moratorium declared under subsection (d) applies to that State; or

(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the condition of the striped bass when caught.

### SEC. 4. PENALTIES AND FORFEITURES.

(a) Civil Penalties.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act that is unlawful under section 2 or section 3(e), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $1,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, any history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)-(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpoenas) shall apply to penalties assessed under paragraph (1) to the same extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(b) Civil Forfeitures.—(1) Any vessel or vehicle (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market values thereof) taken or retained, in any manner, in connection with, or the result of, the commission of any act that is unlawful under section 2 or section 3(e), shall be subject to forfeiture to the United States. All or part of the vessel or vehicle may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of Section 310 of the Act of 1976 (16 U.S.C. 1860(c)-(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(c) Enforcement.—The Secretary shall enforce the prohibition set forth in section 2 and the moratorium declared under section 3(d). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of an Atlantic Coastal State in carrying out that enforcement.

### SEC. 5. DEFINITIONS.

As used in this Act—

(1) The term "Atlantic striped bass" means members of the species *Morone saxatilis.*

(2) The term "Atlantic Coastal State" means each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.

(3) The term "coastal waters" means—

(A) all waters, whether salt or fresh, of an Atlantic Coastal State shoreward of the baseline from which the territorial sea of the State is measured; and

(B) the waters of an Atlantic Coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(4) The term "undersized striped bass" means Atlantic striped bass with a total length as measured between the most extreme points of the head and tail of less than 24 inches.

(5) The term "interstate commerce" means commerce between any place in a State and any place in another State, or between places in the same State through another State. The term does not include any transaction authorized by the Federal Government or by any State government for scientific research or enhancement of striped bass culturing activities.

(6) The term "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(7) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(8) The term "fishing" means—

(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(9) The term "Plan" means the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, prepared by the Commission, and all amendments thereto, including interim restoration measures for Chesapeake Bay striped bass stocks as developed by the Atlantic States Marine Fisheries Commission Striped Bass Management Board in December 1983, whether or not such language is formally adopted as an amendment to the Plan of October 1, 1981.

(10) The term "Secretary" means the Secretary of Commerce.

(11) The term "moratorium area" means the coastal waters with respect to which a declaration under section 3(d) applies.

(12) The term "moratorium period" means the period beginning on the day on which moratorium is declared under section 3(d) regarding an Atlantic Coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

### SEC. 6. STATE LAWS.

Nothing in this Act shall be construed to prevent any State from making or enforcing laws or regulations not inconsistent with the provisions of this Act, or from making or enforcing laws or regulations which shall give further protection to the Atlantic striped bass.

### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary or appropriate to carry out the provisions of this Act.

### SEC. 8. EFFECTIVE PERIOD.

This Act shall take effect October 1, 1984, and shall cease to have force and effect on the third anniversary of that date.

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## By Mr. CRANSTON:

S. 2759. A bill to amend chapter 11 of title 38, United States Code, to provide for periods of trial work—comparable to periods of trial work for Social Security Act disability recipients, for veterans assigned service-connected total disability ratings by reason of unemployability; to the Committee on Veterans' Affairs.

### TRIAL WORK PERIOD FOR VETERANS WITH TOTAL DISABILITY RATINGS BASED ON UNEMPLOYABILITY

Mr. CRANSTON. Mr. President, I have today introduced a bill (S. 2759) to establish within the Veteran's Administration service-connected disability compensation program the same type of trial-work period concept that exists under the Social Security Act for disability insurance beneficiaries and for disabled recipients of supplemental security income.

Under the VA's Compensation Program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting from particular disabilities. In general, the ratings are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under longstanding VA regulations—section 4.16 of title 38 of the Code of Federal Regulations—provision is made for assigning to a veteran with a disability or disabilities not ratable as totally disabling a 100-percent disability rating if an individualized determination is made that he or she is unable to secure or follow a substantially gainful occupation as a result of service-connected disability. A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability, known as I.U.'s.

The situation of an I.U. veteran is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the total disability rating could be reduced to the rating that the veteran's disability itself warrants.

In such cases, the prospect of reduced compensation can constitute a strong disincentive to the individual's seeking employment. I believe that it would be wise to reduce that disincentive and thus make it more likely that larger numbers of I.U. veterans would find it advantageous to try to return to work.

Such a program exists for reducing a similar work disincentive under the Social Security Disability Insurance [SSDI] Program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called period of trial work is disregarded for purposes of any determination as to whether he or she ceased to be disabled during that period. The period of trial work gives the individual 9 months, not necessarily consecutive months, during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of benefits even though it turns out that his or her disability prevents employment on a long-term basis.

Specifically, the period of trial work begins with the month in which the disabled individual becomes eligible for SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. The term used in this Social Security Act provision for work is "renders services" and "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary (of Health and Human Services) to be in a type normally performed for remuneration or gain". The implementing regulations (42 C.F.R. section 404.1536(d)) make the following clarification:

> Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services."

I would intend the VA to apply the same concept in implementing the "trial-work period" proposed in the bill.

As I have noted, the 9 months of trial work can occur at any time after the individual becomes entitled to SSDI and can be interspersed over any period of time thereafter, no matter how long. The key is that, after having become entitled to benefits, once the individual has worked in any 9 months, the period of trial work is over.

A nearly identical provision, section 1614(a)(4) of the Social Security Act, incorporates the concept of a trial-work period in the supplemental security income program.

My measure would provide for a period of trial work, derived from the SSDI provision. I believe that this provision would be beneficial both to service-connected disabled I.U. veterans who desire to return to work and to the compensation program. If enacted, the period of trial work should provide an additional useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these disabled veterans in preparing to return to and remain in the work force. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which, based on legislation I authored in the Senate, the Congress revised and updated in 1980, in Public Law 96-466. I would urge the VA to ensure that the trial-work period concept is linked to its efforts to rehabilitate I.U. veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

Mr. President, I urge my colleagues to give this bill careful consideration and support.

This measure is on the agenda of a Veterans' Affairs Committee hearing on VA compensation and other issues scheduled for next Wednesday, June 20. I look forward to getting the reactions of the hearing witnesses to this bill and to working together with other members of the Veterans' Affairs Committee and others interested in the development of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2759

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subchapter VI of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

**"§ 363. Trial period of work for certain veterans with total disability ratings.**

"(a) In the case of a veteran with a service-connected disability, or service-connected disabilities, not rated as total, but with a total disability rating by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities, for the purposes of determining whether such veteran has regained the ability to secure or follow such occupations, any activity performed for remuneration or gain (or determined by the Administrator to be activity of a type normally performed for remuneration or gain) by such veteran during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) For the purposes of subsection (a) of this section, the term 'period of trial work' means the period beginning with the first full month following the month in which the total disability rating was assigned to the veteran and ending with the close of the ninth month, after the beginning of such first full month, in which the veteran performed activity described in such subsection.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new item:

"363. Trial period of work for certain veterans with total disability ratings.".

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By Mr. CRANSTON (for himself and Mr. DeConcini):

S. 2760. A bill to amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes; to the Committee on Veterans' Affairs.

### EMERGENCY VETERANS' JOB TRAINING ACT EXTENSION OF 1984

Mr. CRANSTON. Mr. President, I am introducing today S. 2760, the proposed Emergency Veterans' Job Training Act Extension of 1984. This measure, which is cosponsored by Senator DeConcini, would amend the Emergency Veterans' Job Training Act of 1983, Public Law 98-77, to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such veteran's training program must begin. It would also extend, from 60 days to 90 days, the life of a certificate of eligibility provided to a veteran.

### BACKGROUND

Public Law 98-77 was, after a long and arduous struggle, signed into law by President Reagan—who initially opposed the legislation—on August 15, 1983. This law was derived from provisions of a measure I introduced, S. 992, the proposed Veterans' Emergency Retraining Act, S. 1033, a measure introduced by the distinguished chairman of the committee [Mr. SIMPSON], and H.R. 2355, a measure introduced by the distinguished chairman of the Subcommittee on Education and Training of the House Veterans' Affairs Committee [Mr. LEATH]. Under this law, programs for training and retraining of long-term unemployed Vietnam-era and Korean-conflict veterans are fostered through the use of employer-reimbursement incentives.

As enacted, Public Law 98-77 provided that the program would become effective on October 1, 1983, if funding for it had been appropriated and made available to the VA by that date. However, in recognition of the possibility that funds would not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17 of the measure as signed into law, the program would begin on the date on which funds were made available to the VA for the conduct of the program.

Since the funds for the program—contained in the Further Continuing Appropriations Act for fiscal year 1984, Public Law 98-151, which was signed on November 14, 1983—were not made available to the VA until November 29, 1983, the program became effective on that date.

An additional $75 million for the program was made available in the Supplemental Appropriation Act for fiscal year 1984, Public Law 98-181, which was signed on November 30, 1983. This represented full funding for fiscal year 1984.

However, Mr. President, despite exceptionally high interest in the program—particularly among veterans—the program got off to a very slow start. As of May 28, 177,163 veterans had applied for the program and 137,801 had been certified as eligible. Also as of that date, 16,650 employers had been approved to offer training for 38,060 jobs. This means that jobs are available or could be made available for over 27 percent of those eligible for the program.

Despite this indication of some degree of success for the program, the number of veterans actually placed in training slots has been most discouraging. Only 6,547—just 4.8 percent of those determined eligible—veterans are actually in training under the new program, and only 17.2 percent of the training slots have been filled. As a result, only $28.8 million of the $150 million made available for the program have been obligated.

Mr. President, I am not pleased with the level of success that the program has achieved thus far. However, I continue to believe very strongly that the program can be of invaluable assistance in meeting the needs of long-termed unemployed veterans of the Vietnam era and the Korean conflict. I am concerned that, at the root of the failure of the program to be as successful as I and others believe it can be is the likelihood that the Veterans' Administration and the Department of Labor—the agencies jointly responsible for implementation of the program—have not been as aggressive in carrying out their responsibilities as they should be. In addition, the fact that the date on which the program became effective fell, rather unfortunately, in the holiday season may have prevented many employers from participating in the program at the outset. Finally, Mr. President, the program is a brandnew one, and, as a result, the expertise and experience that could enhance its implementation simply have not existed prior to now.

### PROVISIONS OF S. 2760

Mr. President, as I noted, I believe the program can be of invaluable assistance if given a full chance to achieve its potential. Thus, we are proposing in this bill to extend the period during which a veteran can make application for the program and the period before which a veteran must begin training by 6 months. Thus, instead of the program closing to new applications on November 29, 1984, and requiring veterans to enter training prior to March 1, 1985, the program would close on May 31, 1986, and training would be required to be initiated prior to September 1, 1986.

In addition, the proposal I am making would extend the period of time during which funds already appropriated for the measure will be available. Under current law, the funds appropriated for the program are to remain available until September 30, 1986. Our bill would make the funds available until September 30, 1987, so that payments may continue to be paid to veterans through the 6-month extension period. I want to stress that our measure would not authorize any additional appropriations but would rather simply extend the period of time that funds appropriated would remain available.

Finally, Mr. President, our proposal would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for purposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, to be producing unnecessary and time-delaying paperwork and redtape to accomplish the process of veterans' reapplications. Extending this period to 90 days, as our bill would do, should relieve some of this problem and give veterans a longer period of time in which to seek a training position.

I want to make mention of the fact that this measure is similar to legislation recently reported from the House Veterans' Affairs Committee, title III of H.R. 5398, the proposed Veterans' Education and Employment Amendments of 1984. I look forward to working with my colleagues in both Houses as we pursue this matter.

Mr. President, I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 2760

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Emergency Veterans' Job Training Extension Act of 1984".

SEC. 2. (a)(1) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat 443) is amended by striking out "60" and inserting in lieu thereof "90".

(2) The amendment made by paragraph (1) of this subsection shall apply only to certificates of eligibility issued after the end of the thirty-day period beginning on the date of the enactment of this Act.

(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(c) Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who applies for a program of job training under this Act after May 31, 1985; or

"(2) for any such program which begins after September 1, 1985.".

## ADDITIONAL COSPONSORS

### S. 210

At the request of Mr. HELMS, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 210, a bill to provide legal protection for unborn human beings, and for other purposes.

### S. 1128

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Massachusetts [Mr. TSONGAS] were added as cosponsors of S. 1128, a bill entitled the "Agricultural Productivity Act of 1983."

### S. 1841

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

### S. 1948

At the request of Mr. LUGAR, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1948, a bill to establish a national minimum drinking age of 21.

### S. 2014

At the request of Mr. SASSER, his name was added as a cosponsor of S. 2014, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance in locating missing children.

### S. 2270

At the request of Mr. COHEN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2270, a bill to amend title 18 of the United States Code to prohibit the use, for fraudulent or other illegal purposes, of any computer owned or operated by the United States, certain financial institutions, and entities affecting interstate commerce.

### S. 2423

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2423, a bill to provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

### S. 2470

At the request of Mr. DENTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2470, a bill to provide for the national security by allowing access to certain Federal criminal history records.

### S. 2655

At the request of Mr. PRYOR, the name of the Senator from Louisiana [Mr. LONG] was added as a cosponsor of S. 2655, a bill to provide for a report concerning agricultural exports.

### S. 2679

At the request of Mr. D'AMATO, the name of the Senator from Virginia [Mr. TRIBLE] was added as a cosponsor of S. 2679, a bill to amend title IV of the National Housing Act and the Federal Deposit Insurance Act with respect to brokered deposits.

### S. 2692

At the request of Mr. ARMSTRONG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2692, a bill to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes.

### S. 2719

At the request of Mr. LAUTENBERG, the names of the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. DANFORTH], the Senator from Kentucky [Mr. HUDDLESTON], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

### S. 2750

At the request of Mr. WALLOP, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2750, a bill to permit States to bring suits against the United States to adjudicate disputed land titles.

### SENATE JOINT RESOLUTION 55

At the request of Mr. MATHIAS, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

### SENATE JOINT RESOLUTION 240

At the request of Mr. THURMOND, his name was added as a cosponsor of Senate Joint Resolution 240, a joint resolution relating to the 40th anniversary of the liberation of Rome.

### SENATE JOINT RESOLUTION 246

At the request of Mr. EXON, the name of the Senator from Iowa [Mr. JEPSEN] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution strongly urging the President to secure a full accounting of Americans captured or missing in action in Southeast Asia, and for other purposes.

### SENATE JOINT RESOLUTION 253

At the request of Mr. PRESSLER, the name of the Senator from Massachusetts [Mr. TSONGAS] was added as a cosponsor of Senate Joint Resolution 253, a joint resolution to authorize and request the President to designate September 16, 1984, as "Ethnic American Day."

### SENATE JOINT RESOLUTION 270

At the request of Mr. COCHRAN, the names of the Senator from West Virginia [Mr. RANDOLPH] and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 270, a joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week," and 1984 as the "Golden Anniversary Year of the Duck Stamp."

### SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

### SENATE JOINT RESOLUTION 296

At the request of Mr. D'AMATO, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 296, a joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

### SENATE JOINT RESOLUTION 297

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. PERCY], the Senator from Nebraska [Mr. EXON], and the Senator from Alabama [Mr. DENTON], were added as cosponsors of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

### SENATE JOINT RESOLUTION 306

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to proclaim July 10, 1984, as "Food for Peace Day."

### SENATE CONCURRENT RESOLUTION 121

At the request of Mr. BOSCHWITZ, the names of the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Nebraska [Mr. EXON], the Senator from Florida [Mr. CHILES], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress regarding the nondelivery in the Soviet Union of certain mail from the United States, and for other purposes.

### SENATE RESOLUTION 402

At the request of Mr. DIXON, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of Senate Resolution 402, a resolution opposing certain proposed import restrictions by the European Community on U.S. agricultural products.

### AMENDMENT NO. 3175

At the request of Mr. TRIBLE, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of amendment No. 3175 intended to be proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

### AMENDMENT NO. 3176

At the request of Mr. DOMENICI, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mr. WILSON] were added as cosponsors of amendment No. 3176 intended to be proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

AMENDMENT NO. 3179

At the request of Mr. GLENN, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of amendment No. 3179 proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

## SENATE RESOLUTION 403—RELATING TO CONCERNS OVER INTERCOMMUNAL TENSIONS IN SRI LANKA

Mr. CRANSTON (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 403

Whereas tensions between Sinhalese and Tamil communities in Sri Lanka have resulted in tragic acts of violence;

Whereas the communal violence in Sri Lanka has, since July 1983, resulted in the brutal killing of large numbers of innocent Tamil civilians and has driven tens of thousands of Tamils from their homes;

Whereas Sri Lanka is caught in a tragic cycle of violence involving terrorist acts by Tamil extremists and retaliation, including the killing of Tamil civilians, by Sri Lanka security forces;

Whereas the death toll of Tamil civilians continues to rise, fueling fears of another bloody assault on Sri Lanka's Tamil communities;

Whereas two United States citizens, Stanley and Mary Allen, were kidnapped by Tamil extremists, thus becoming victims of Sri Lanka's escalating cycle of violence;

Whereas communal violence in Sri Lanka harms all its citizens;

Whereas the people of the United States and the people of Sri Lanka are tied together by bonds of friendship and by a shared commitment to democratic ideals: now therefore be it

*Resolved by the Senate of the United States,* That

(1) the Senate deplores acts of violence by any party in Sri Lanka;

(2) the Senate expresses its deep concerns over continuing communal tensions in Sri Lanka;

(3) it is the sense of the Senate that the President of the United States urge the Sri Lankan government to seek actively and without delay a peaceful, political, negotiated settlement of the issues that divide the Sinhalese and the Tamils.

Mr. CRANSTON. Mr. President, His Excellency Junius Richard Jayewardene, President of the Democratic Socialist Republic of Sri Lanka, will be in Washington for an official state visit next week. As one who supports the further strengthening of United States-Sri Lanka ties, I extend a warm welcome to President Jayewardene to our country.

It is my hope that the shadow that clouds our close relations will be lifted. Early this year, I spoke in this Chamber of my grave concerns over the acts of violence that have occurred in Sri Lanka over the years between the Sinhalese and Tamil communities. The intercommunal tensions escalated last July resulting in the tragic murder of innocent Tamils and in over 120,000 people fleeing their homes in terror. As an advocate of nonviolent efforts to end the strife between the ethnic groups in Sri Lanka, I have appealed to the Government of Sri Lanka to pursue steps that would help ensure there be no recurrence of the brutal violence of July 1983. I noted with cautious optimism the convening of the All Party Conference (APC) to address the grievances of the Tamil and other communities. All legal political parties and religious organizations, including representatives of the Tamil community, participated in this conference. One of the issues the APC must tackle is the question of greater Tamil autonomy in the administration of regions where they dominate.

Sadly, more violence has erupted in recent months between the Sinhalese security forces and Tamil extremists, which has led to horrifying retaliatory acts against Tamil civilians. Western diplomats and residents assert that as many as 200 people were killed during the strife in April. There can be no justification for the killing of defenseless civilians. In this explosive situation, if efforts by all parties are not redoubled for a peaceful resolution of the conflict, I fear we will see a replay of the nightmare of July 1983.

Mr. President, it is essential that the Senate make clear its abhorrence of all acts of violence and its firm support for a peaceful solution to the intercommunal conflict in Sri Lanka. I hope that my colleagues will join me in cosponsoring the resolution I offer today expressing the sense of the Senate that the President should urge the Sri Lanka Government to seek actively and without delay a peaceful settlement of the issues that divide the Sinhalese and the Tamils.

## SENATE RESOLUTION 404—CONGRATULATING THE BOSTON CELTICS ON WINNING THE 1984 WORLD CHAMPIONSHIP OF THE NATIONAL BASKETBALL ASSOCIATION

Mr. KENNEDY (for himself and Mr. TSONGAS) submitted the following resolution which was placed on the calendar, by unanimous consent:

S. RES. 404

Whereas on June 12th, 1984 the Boston Celtics prevailed in the seventh and final game of the 1984 championship series to win the National Basketball Association title;

Whereas since 1946, the Celtics have won fifteen world championships, three times as many as any other team in the history of the NBA;

Whereas the Celtics won the right to participate in the championship series this year by winning more games during the regular season than any other team in the NBA;

Whereas "Red" Auerbach, the "Soul" of the Celtics, their past coach and the winningest coach in professional basketball, is retiring this year as General Manager after yet another championship season;

Whereas K.C. Jones has demonstrated in his first season as Head Coach of the Celtics that he is destined to carry on the tradition of champion excellence and Celtic Pride;

*Resolved by the Senate of the United States of America,* That we join with basketball fans in Massachusetts and across the nation in honoring the Boston Celtics players for winning the 1984 World Championship of basketball.

Mr. KENNEDY. I send to the desk a resolution to congratulate the Boston Celtics for winning their 15th National Basketball Association Championship.

Some people say that the Boston Garden needs air-conditioning. But all fans of the Celtics know that the real problem with the Garden is finding enough room to hang all those championship banners.

In my 22 years as a Senator from Massachusetts, one of the regular activities which gives me the most pride and the most enjoyment is asking my colleagues to honor the Boston Celtics. Again this year, we recognize the latest extraordinary achievement of the team that has completely dominated professional basketball for the past generation and that continues to dominate it today.

Last night, the Boston Celtics won their 15th world championship—three times as many championships as any other team in the history of the National Basketball Association. Once again, the Celtics have made basketball history.

The Boston Celtics are consistently champions because they have consistently been able to blend championship talent with that indispensable additional ingredient—championship spirit, the ability to summon that extra ounce of energy and skill when those qualities are most required and when victory is hanging in the balance.

Eight times in the past two decades, the Celtics have played the Lakers in the championship series, and eight times the Celtics have won the championship.

Other teams may have taller players, or bigger scorers, or faster breaks—but the Celtics have something more, a higher determination to win.

And so all Boston is celebrating today. We congratulate Los Angeles, too, for a brilliant season and for a series well played; and if some of the Lakers are wont to say, "Wait 'til next year," we reply: "We'll be there."

This is, of course, a day of joy for the Celtics and their fans, but it is also a time of sadness. For one of the greatest leaders in the game is retiring as general manager. Red Auerbach has been called, and truly is, the "Soul" of the Celtics. Outstanding players have always been part of the Celtics team, and many of them will be long remembered as among the greatest ever to play the game. But no Celtics will be remembered more than Red Auerbach—for his commitment to the team, for his extraordinary skill as a coach, for his ability year after year to mold the finest team the game has ever known.

Although Red Auerbach may officially be retiring as general manager, his heart will never leave the Celtics, and our hearts will always be with him.

I am proud now to pay tribute to the 1984 World Champion Boston Celtics, and I urge the Senate to approve this resolution.

## AMENDMENTS SUBMITTED

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### ARMSTRONG (AND OTHERS) AMENDMENT NO. 3189

Mr. ARMSTRONG (for himself, Mr. COHEN, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CRANSTON, Mr. KENNEDY, Mr. HUDDLESTON, Mr. PRESSLER, Mr. INOUYE, Mr. FORD, Mr. KASTEN, Mr. BRADLEY, Mrs. HAWKINS, Mr. HART, Mr. TRIBLE, Mr. DECONCINI, Mr. BAUCUS, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. SPECTER, Mr. MITCHELL, Mr. EVANS, Mr. LAUTENBERG, Mr. BOREN, Mr. DURENBERGER, and Mr. RANDOLPH), proposed an amendment to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes, as follows:

The amendment of Mr. GLENN (amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

### TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

NEW EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters:

### "CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"Sec.
"1401. Purposes.
"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Entitlement to basic educational assistance for active duty service.
"1412. Entitlement to basic educational assistance for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance allowance.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Entitlement to supplemental educational assistance.
"1422. Determinations of designated personnel categories.
"1423. Payment of supplemental educational assistance allowance.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"1431. Additional amounts of assistance.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"1441. Expiration of periods during which entitlement may be used.
"1442. Suspension of educational assistance.
"1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits.
"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

**"§ 1401. Purposes**

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

**"§ 1402. Definitions**

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

**"§ 1411. Entitlement to basic educational assistance for active duty service**

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subsection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For the purposes of subsection (a)(3)(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate), shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

### "§ 1412. Entitlement to basic educational assistance for service in the Selected Reserve

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1)(A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member is unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsections (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service,

shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

### "§ 1413. Duration of basic educational assistance

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

### "§ 1414. Payment of basic educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

## "SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

### "§ 1421. Entitlement to supplemental educational assistance

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released herefrom, or (ii) is serving on active duty.

### "§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficient numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

### "§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter, who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

## "SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

### "§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerned determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual

## "SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

### "§ 1441. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later.

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulation, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus such additional length of time as the individual demonstrates, to the satisfaction of the Administrator, that the individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

### "§ 1442. Suspension of educational assistance

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

### "§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipmen at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

### "§ 1444. Extension to permit completion of term

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

### "§ 1445. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

### § 1446. Appropriations; administrative expenses; budget function

"(a) Payments of educational assistance allowances under this chapter shall be made from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

### "§ 1447. Reporting requirements

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education and (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

## "CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

### "SUBCHAPTER I—DEFINITIONS

"Sec.
"1451. Purpose
"1452. Definitions.

### "SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death or participant.
"1465. Discharge or release under conditions which bar the use of benefits.

### "SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

"1471. Entitlement; payment.
"1472. Transfer of educational benefits.
"1473. Duration; limitations.

### "SUBCHAPTER IV—ADMINISTRATION

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

### "SUBCHAPTER I—DEFINITIONS

#### "§ 1451. Purposes

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

#### "§ 1452. Definitions

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving on active duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

### "SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

#### "§ 1461. Eligibility

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participation. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

#### "§ 1462. Contributions; matching fund

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense many prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this section as the Secretary concerned considers necessary or appropriate to encourage persons to remain on active duty in the Armed Forces.

#### "§ 1463. Refunds of contributions

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

#### "§ 1464. Death of participant

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

#### "§ 1465. Discharge or release under conditions which bar the use of benefits

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

### "SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

#### § 1471. Entitlement; payment

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapters 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

**"§ 1472. Transfer of educational benefits**

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

**"§ 1473. Duration; limitations**

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

### "SUBCHAPTER IV—ADMINISTRATION

**"§ 1481. Requirements**

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1737, shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

**"§ 1482. Reports; accounts**

"(a) the Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

**"§ 1483. Administrative expenses; budget function**

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veterans' Educational Assistance Program .................. 1401
"30. Career Members' Contributory Educational Assistance Program .. 1451".

### COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403. (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34", and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance."

(c) The third sentence of section 1673(d) of such title is amended by inserting "29," after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29," after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31".

(2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapters"; and

(B) by inserting after clause (4) the following new clause:

"(5) chapters 106 and 107 of title 10;".

### EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

**"§ 708. Educational leave of absence**

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

PRESEPARATION COUNSELING

SEC. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1043. Preseparation counseling requirement**

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for an advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

SEC. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

FUNDING

SEC. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

## MOYNIHAN AMENDMENT NO. 3190

Mr. **MOYNIHAN** submitted an amendment intended to be proposed by him to the bill S. 2723, supra, as follows:

Strike out Section 103(c), and renumber the remaining sections accordingly.

At the end of the bill, add the following new section:

SEC. —. (a) Notwithstanding any other provision of this or any other Act, no funds authorized to be appropriated under this Act shall be obligated or expended for the deployment of an MX missile.

(b) It is the sense of the Congress that efforts to modernize the land-based strategic force should be focused on a small, mobile single-warhead inter-continental ballistic missile.

## ARMSTRONG (AND OTHERS) AMENDMENT NO. 3191

Mr. **ARMSTRONG** (for himself, Mr. COHEN, Mr. HOLLINGS, Mr. MATSUNAGA, Mr. CRANSTON, Mr. KENNEDY, Mr. HUDDLESTON, Mr. PRESSLER, Mr. FORD, Mr. INOUYE, Mr. KASTEN, Mr. BRADLEY, Mrs. HAWKINS, Mr. HART, Mr. DECONCINI, Mr. MITCHELL, and Mr. TRIBLE) proposed an amendment to amendment No. 3179 proposed by Mr. GLENN to the bill S. 2723, supra; as follows:

The amendment of Mr. Glenn (Amendment No. 3179) is amended by striking out all after "NEW" on page 1, line 3, through the end of such amendment and inserting in lieu thereof the following:

### TITLE IV—VETERANS' EDUCATIONAL ASSISTANCE AMENDMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Peacetime Veterans' Educational Assistance Act".

NEW EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 402. (a) Title 38, United States Code, is amended by inserting before chapter 31 the following new chapters:

### "CHAPTER 29—PEACETIME VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—PURPOSES; DEFINITIONS

"Sec.
"1401. Purposes.
"1402. Definitions.

"SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

"1411. Entitlement to basic educational assistance for active duty service.
"1412. Entitlement to basic educational assistance for service in the Selected Reserve.
"1413. Duration of basic educational assistance.
"1414. Payment of basic educational assistance allowance.

"SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

"1421. Entitlement to supplemental educational assistance.
"1422. Determination of designated personnel categories.
"1423. Payment of supplemental educational assistance allowance.

"SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

"1431. Additional amounts of assistance.

"SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

"1441. Expiration of periods during which entitlement may be used.
"1442. Suspension of educational assistance.
"1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits.
"1444. Extension to permit completion of term.
"1445. Program requirements.
"1446. Appropriations; administrative expenses; budget function.
"1447. Reporting requirements.

"SUBCHAPTER I—PURPOSES; DEFINITIONS

**"§ 1401. Purposes**

"The purposes of this chapter are—

"(1) to promote and assist the total force concept of the Armed Forces by establishing a new program of educational assistance to aid in the recruitment and retention of highly qualified personnel for both the Active and Reserve components of the Armed Forces; and

"(2) to assist such personnel in obtaining an education that they might not otherwise be able to afford.

**"§ 1402. Definitions**

"For the purposes of this chapter:

"(1) The term 'basic educational assistance' means educational assistance provided under subchapter II of this chapter.

"(2) The term 'effective date' means the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act.

"(3) The term 'educational institution' has the same meaning provided in section 1652(c) of this title.

"(4) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

"(5) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the Reserve components of the Armed Forces, as required to be maintained under section 268(b) of title 10.

"(6) The term 'supplemental educational assistance' means educational assistance provided under subchapter III of this chapter.

### "SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

**"§ 1411. Entitlement to basic educational assistance for active duty service**

"(a) Except as provided in subsection (b) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date—

"(A) serves at least three years of continuous active duty in the Armed Forces, or

"(B) serves at least two years of continuous active duty in the Armed Forces and agrees to serve at least four years in a Reserve component of the Armed Forces after service on active duty;

"(2) before completion of the active-duty service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the active-duty service described in clause (1) of this subsection—

"(A) is discharged from such service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a Reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

"(b) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not entitled to basic educational assistance under this section.

"(c) For purposes of subsection (a)(3)(A) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1173 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(d) Except as provided in subsection (b) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter pursuant to subsection (a)(1)(A) of this section and who—

"(1) after the effective date serves at least two years of continuous active duty in the Armed Forces; and

"(2) before completion of the service described in clause (1) of this subsection, has received a secondary school diploma (or an equivalency certificate),

shall be entitled to such assistance while such individual is serving a year of active duty that, when completed, will result in such individual meeting the length and continuity-of-service requirement of subsection (a)(1)(A) of this section.

**"§ 1412. Entitlement of basic educational assistance for service in the Selected Reserve**

"(a) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual shall be entitled to basic educational assistance under this chapter if such individual—

"(1) after the effective date serves—

"(A) in any order (i) at least two years of continuous active duty in the Armed Forces characterized by the Secretary concerned as honorable service, and (ii) at least four years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned; or

"(B) at least six years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned;

"(2) before completion of the duty or service described in clause (1) (A)(i) or (B) of this subsection, has received a secondary school diploma (or an equivalency certificate); and

"(3) upon completion of the duty or service described in clause (1) of this subsection—

"(A) is discharged with an honorable discharge, is placed on the retired list, or is transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service; or

"(B) is ordered to or continues to serve on active duty or enters or continues to serve in the Selected Reserve.

"(b) For the purposes of clause (1) of subsection (a) of this section, the continuity of service of a member in the Selected Reserve shall not be considered to be broken—

"(1) by any period of time (not to exceed a maximum period prescribed by the Secretary concerned by regulation) during which the member if unable to locate a unit of a Selected Reserve that such member is eligible to join that has a vacancy;

"(2) by any other period of time (not to exceed a maximum period prescribed by the Secretary concerned under regulations such Secretary shall prescribe) during which the member is not assigned to a unit of a Selected Reserve and which the Secretary concerned, pursuant to regulations which such Secretary shall prescribe, determines should not be considered for the purpose of ensuring continuity of service; or

"(3) by any period of time during which such member serves on active duty.

"(c) An individual who receives a commission as an officer in the Armed Forces upon graduation from one of the service academies or upon completion of a program of educational assistance under section 2107 of title 10 is not eligible for educational assistance under this section.

"(d) For the purposes of subsection (a)(3)(A) and (e) of this section, an individual who, upon completion of such individual's full period of obligated service or upon such individual's discharge under section 1178 of title 10, has received a general discharge shall be deemed to have been discharged with an honorable discharge if the Administrator determines that such individual's discharge was under conditions other than dishonorable.

"(e) Subject to subsection (b) of this section and except as provided in subsection (c) of this section, an individual who has not yet become entitled to basic educational assistance under this chapter by virtue of subsection (a) of this section and who—

"(1) after the effective date serves two years of continuous active duty in the Armed Forces or two years of continuous service in the Selected Reserve during which the individual participates satisfactorily in training as required by the Secretary concerned, or serves any combination of such types of service and the combined service equals at least two years of continuous service;

"(2) before completion of such two years of service has received a secondary school diploma (or an equivalency certificate); and

"(3) following completion of such two years of service has not been discharged or released from such service with a discharge other than honorable discharge or a characterization of such service by the Secretary concerned as other than honorable service,

shall be entitled to basic educational assistance under this chapter while such individual continues to serve either (A) on active duty, or (B) on continuous duty in the Selected Reserve, during which the individual participates satisfactorily in training as required by the Secretary concerned.

**"§ 1413. Duration of basic educational assistance**

"(a) Subject to section 1795 of this title and subsection (b) of this section, each individual entitled to basic educational assistance under this chapter is entitled to (1) one month of educational assistance benefits under this chapter for each month of active duty served by such individual after the effective date, and (2) one month of educational assistance benefits under this chapter for each three months served by such individual in the Selected Reserve after the effective date.

"(b) An individual may not receive basic educational assistance benefits under this chapter for a period in excess of thirty-six months (or the equivalent thereof in part-time educational assistance).

**"§ 1414. Payment of basic educational assistance allowance**

"(a) The Administrator shall pay to each individual entitled to basic educational assistance under this chapter who is pursuing an approved program of education under this chapter a basic educational assistance allowance pursuant to this section to help meet, in part, the cost of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A basic educational assistance allowance under this subchapter shall be paid—

"(1) at the monthly rate of $300 for an approved program of education pursued on a full-time basis; or

"(2) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

### "SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

**"§ 1421. Entitlement to supplemental educational assistance**

"An individual who has established entitlement to basic educational assistance under subchapter II of this chapter by completing three years of continuous active duty after the effective date shall be entitled to supplemental educational assistance under this subchapter if such individual—

"(1) has been determined by the Secretary concerned to be serving in a category of personnel designated under section 1422 of this title;

"(2) has completed an additional three years of continuous active duty in such category; and

"(3)(i) has been honorably discharged or released therefrom, or (ii) is serving on active duty.

### "§ 1422. Determinations of designated personnel categories

"In order to obtain or retain the services of sufficient numbers of personnel in specified skills, the Secretary concerned may designate, in accordance with regulations which the Secretary of Defense shall prescribe, categories of personnel for the purposes of section 1421(2) of this title.

### "§ 1423. Payment of supplemental educational assistance allowance

"(a) The Administrator shall pay to each individual entitled to supplemental educational assistance under this chapter who is pursuing an approved program of education under this chapter supplemental educational assistance pursuant to this section to help meet, in part, the costs of such individual's subsistence, tuition, fees, supplies, books, equipment, and other educational expenses.

"(b) A supplemental educational assistance allowance under this subchapter shall be paid to an individual entitled thereto—

"(1) concurrently with the payment of the basic educational assistance allowance paid to such individual under subchapter II of this chapter; and

"(2)(A) at the monthly rate of $300 for an approved program of education pursued on a full-time basis, or (B) at an appropriately reduced rate, as determined under regulations which the Administrator shall prescribe, for an approved program of education pursued on less than a full-time basis.

### "SUBCHAPTER IV—ADDITIONAL RECRUITMENT AND RETENTION INCENTIVES

### "§ 1431. Additional amounts of assistance

"Subject to the availability of funds appropriated specifically for the purposes of this section, the Secretary concerned may, in accordance with regulations which the Secretary of Defense may prescribe to implement this section, increase the rate or rates of basic or supplemental educational assistance allowance, or both such allowances, payable to an individual on account of active duty service performed in a category of personnel designated under section 1422 of this title if (1) the Secretary concerned determines such action is necessary and appropriate in order to obtain or retain the services of sufficient numbers of qualified active duty personnel in such designated category of personnel, and (2) such action is approved by the Secretary of Defense. In no event may the amount by which such rates are increased under this section exceed $300 a month in the case of any individual.

### "SUBCHAPTER V—GENERAL AND ADMINISTRATIVE PROVISIONS

### "§ 1441. Expiration of periods during which entitlement may be used

"(a) Except as provided in subsections (b) and (c) of this section, the period during which an individual may use such individual's entitlement to educational assistance under this chapter expires at the end of the ten-year period beginning on the later of—

"(1) the date of such individual's last discharge or release from active duty; or

"(2) the last date on which such individual becomes entitled to any such assistance.

"(b) In the case of an individual who, subsequent to such individual's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, the ten-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized.

"(c)(1) In the case of any individual—

"(A) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a physical or mental disability (not including a condition described in paragraph (2)(A) of this section) which was not the result of such individual's own willful misconduct; and

"(B) who applies for an extension of such ten-year period within one year after (i) the last day of such period, or (ii) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such ten-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(2)(A) A condition referred to in paragraph (1)(A) of this subsection and in subparagraph (B) of this paragraph is an alcohol or drug dependence or abuse condition of an individual in a case in which it is determined, under regulations which the Administrator shall prescribe that—

"(i) such individual (I) has received recognized treatment for such condition, or II has participated in a program of rehabilitation for such condition; and

"(ii) such condition is sufficiently under control to enable individual to pursue such individual's chosen program of education under this chapter.

"(B) In the case of any individual—

"(i) who was prevented from pursuing such individual's chosen program of education prior to the expiration of the ten-year period described in subsection (a) of this section because of a condition described in subparagraph (A) of this paragraph; and

"(ii) who applies for an extension of such ten-year period within one year after (I) the last date of the ten-year period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest,

such ten-year period shall not, subject to subparagraph (C) of this paragraph, run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such ten-year period will again begin running on the first day, following such condition becoming sufficiently under control to enable such individual to pursue such individual's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such individual to initiate or resume pursuit of a program of education with education assistance under this chapter.

"(C) An extension of the applicable ten-year period because of such condition shall be limited to the period of time the individual was receiving treatment or the period of time the individual was participating in a program of rehabilitation for such condition plus such additional length of time as the individual demonstrates, to the satisfaction of the Administrator, that individual was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years.

### § 1442. Suspension of educational assistance

"(a) The Administrator shall suspend the payment of educational assistance allowance under this chapter in the case of any individual who is assigned to a Reserve component of the Armed Forces in connection with establishing entitlement to educational assistance under this chapter and with respect to whom a certification has been received from the Secretary concerned stating that such individual is failing to serve satisfactorily in such Reserve component.

"(b) Unless the individual is no longer entitled to such assistance by reason of a provision of law other than subsection (a) of this section, the payment of such assistance shall be reinstated upon receipt of certification from the Secretary concerned that such individual is serving satisfactorily as a member of such Reserve component.

### "§ 1443. Exclusion of certain service for purpose of earning entitlement; bar to duplication of benefits

"(a) For the purposes of this chapter, the term 'active duty' does not include any period during which an individual (1) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (2) served as a cadet or midshipman at one of the service academies, or (3) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(b) A period of service counted for purposes of repayment under section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 3141 note), of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

"(c) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 34, 35, or 36 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs concurrently but shall elect (in such form and manner as the Administrator shall prescribe) under which program to receive educational assistance.

### § 1444. Extension to permit completion of term

"(a) If an individual is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire during a quarter or semester, such period shall be extended to the termination of such quarter or semester.

"(b) If an individual is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period during which such individual may use such individual's entitlement under this chapter would, under section 1441 of this title, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period of extension.

### "§ 1445. Program requirements

"Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title, with the exception of sections 1777, 1780(c), and 1787, shall be applicable to the payment of educational assistance allowances under this chapter.

### "§ 1446. Appropriations; administrative expenses; budget function

"(a) Not withstanding any other provision of law, no payments of educational assistance allowances under this chapter shall be made except from appropriations made to the Department of Defense (in the case of service in a military department) or the Department of Transportation (in the case of service in the Coast Guard) and transferred to the Administrator for such purpose.

"(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall also transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(c) Transfers under subsections (a) and (b) of this section shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(d) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.

### "§ 1447. Reporting requirements

"(a) The Secretary of Defense and the Administrator, not later than February 1 of the year beginning one year after the effective date and annually thereafter, shall each submit to the Congress reports on the operation of the programs provided for in this chapter and chapter 30 of this title.

"(b) The Secretary shall include in each report submitted under this section—

"(1) information indicating (A) the extent to which the benefit levels provided under such chapters are adequate to achieve the purposes of inducing individuals to enter and remain on active duty in the Armed Forces and to enter and remain in the Selected Reserve and of providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) whether it is necessary, for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces and well-qualified personnel in the Selected Reserve, to continue to offer the opportunity for educational assistance under such chapters to individuals who have not yet entered active-duty service; and

"(2) such recommendations for administrative and legislative changes as the Secretary considers appropriate.

"(c) The Administrator shall include in each report submitted under this section—

"(1) information (A) indicating the extent to which the benefit levels provided under such chapters are providing an adequate level of financial assistance to help meet the costs of pursuing a program of education, and (B) concerning the level of utilization of educational assistance and of expenditures under such chapters; and

"(2) such recommendations for administrative and legislative changes as the Administrator considers appropriate.

## "CHAPTER 30—CAREER MEMBERS' CONTRIBUTORY EDUCATIONAL ASSISTANCE PROGRAM

### "SUBCHAPTER I—DEFINITIONS

"Sec.
"1451. Purpose.
"1452. Definitions.

### "SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

"1461. Eligibility.
"1462. Contributions; matching fund.
"1463. Refunds of contributions.
"1464. Death of participant.
"1465. Discharge or release under conditions which bar the use of benefits.

### "SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

"1471. Entitlement; payment.
"1472. Transfer of education benefits.
"1473. Duration; limitations.

### "SUBCHAPTER IV—ADMINISTRATION

"1481. Requirements.
"1482. Reports; accounts.
"1483. Administrative expenses; budget function.

### "SUBCHAPTER I—DEFINITIONS

### "§ 1451. Purposes

"The purposes of this chapter are—

"(1) to establish a contributory educational assistance program to enhance the ability of the Armed Forces to retain on active duty highly qualified men and women; and

"(2) to assist such individuals and their families in obtaining educations that they might not otherwise be able to afford.

### "§ 1452. Definitions

"For the purposes of this chapter:

"(1) The term 'active duty' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

"(2)(A) The term 'eligible person' means any individual who is serving on active duty in the Armed Forces after completing ten years of such active duty.

"(3) The term 'Fund' means the Career Members' Education Account established pursuant to section 1462(a) of this title.

"(4) The term 'participant' means an eligible person who enrolls in the program and makes contributions to the Fund under section 1462(a) of this title.

"(5) The term 'program' means the educational benefits program established by this chapter.

"(6) The term 'program of education' has the same meaning provided in section 1652(b) of this title.

### "SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

### § 1461. Eligibility

"(a)(1) An eligible person is entitled to enroll in the program at any time during such person's service on active duty. Except as provided in paragraph (2) of this subsection, when a person elects to enroll in the program, the person must participate for at least twelve consecutive months before such person may suspend participation in the program or disenroll from the program.

"(2) The provisions of paragraph (1) of this subsection which require at least twelve consecutive months of participation in the program before a participant may suspend participation or disenroll do not apply in the case of any participant who (A) suspends participation or disenrolls because of personal hardship, as defined in regulations issued jointly by the Administrator and the Secretary of Defense, or (B) is discharged or released from active duty.

"(b) A participant shall be permitted to suspend participation or disenroll from the program at the end of any twelve-consecutive-month period of participant. If participation is suspended, the participant shall be eligible to make additional contributions to the program under such terms and conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

"(c)(1) Except as provided in paragraph (2) of this subsection, if a participant disenrolls from the program, the participant forfeits any entitlement to benefits under the program. A participant who disenrolls from the program is eligible for a refund of contributions as provided in section 1463 of this title.

"(2) A participant who has disenrolled may be permitted to reenroll in the program under such conditions as shall be prescribed in regulations issued jointly by the Administrator and the Secretary of Defense.

### "§ 1462. Contributions; matching fund

"(a) Each eligible person enrolling in the program shall agree to have a monthly deduction made from such person's military pay. Such a monthly deduction shall be in any amount not less than $25 nor more than $100 except that the amount must be divisible by five. Any such amount so contributed by the participant and any amount contributed by the Secretary concerned pursuant to subsections (b) and (c) of this section shall be deposited in a deposit fund account which shall be established in the Treasury and shall be known as the 'Career Members' Education Account.' Contributions made by a participant shall be limited to a maximum of $6,000.

"(b) Except as provided in subsection (c) of this section, the Secretary concerned shall deposit in the Fund to the credit of a participant $2 for each $1 contributed by such participant under subsection (a) of this section. Deposits for the first twenty-four months of participation shall be made in the twenty-fifth month after the date on which the first contribution is made by such participant and periodically thereafter.

"(c) Pursuant to regulations which the Secretary of Defense may prescribe, the Secretary concerned may deposit in the Fund to the credit of a participant such amounts in addition to the matching funds deposited under subsection (b) of this section as the Secretary concerned considers necessary or appropriate to encourage persons to remain on active duty in the Armed Forces.

### "§ 1463. Refunds of contributions

"(a) Contributions made to the program by a participant may be refunded only after the participant has disenrolled from the program or as provided in section 1464 of this title.

"(b)(1) If a participant disenrolls from the program before discharge or release from active duty, such participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such participant's disenrollment.

"(2) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded not later than sixty days after the date on which the Administrator receives such participant's application for a refund.

### "§ 1464. Death of participant

"In the event of a participant's death, the amount of the unused contributions deposited in the Fund to the credit of such participant under section 1462 of this title shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under the participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving children of the participant, in equal shares.

"(4) The surviving parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to the participant's estate.

### "§ 1465. Discharge or release under conditions which bar the use of benefits

"If a participant is discharged from active duty with other than an honorable discharge or released from active duty after service on active duty characterized by the Secretary concerned as other than honorable service, the participant is automatically disenrolled from the program and any contributions made by the participant under section 1462(a) of this title shall be refunded to the participant not later than sixty days after the date on which the Administrator receives notice from the Secretary concerned of such discharge or release.

## "SUBCHAPTER III—ENTITLEMENT, TRANSFER, AND DURATION

### "§ 1471. Entitlement; payment

"(a)(1) A participant shall be paid educational assistance in accordance with the provisions of this subchapter.

"(2) a participant shall be entitled to a maximum of thirty-six monthly educational assistance payments (or their equivalent in part-time payments) in addition to any amounts payable in the case of such participant under chapter 29, 31, 32, 34, 35, or 36 of this title.

"(b) Payment of educational assistance under this chapter shall not be made in the case of a participant who is serving on active duty until such participant has participated in the program for at least twenty-four months.

"(c)(1) The number of months of a participant's entitlement shall be the lesser of thirty-six or the number equal to the number of months in which the participant made contributions under section 1462(a) of this title.

"(2) The amount of educational assistance to which a participant is entitled under this section in any month is equal to the excess of—

"(A) the sum of all amounts deposited in the Fund to the credit of such participant under section 1462 of this title before such month, over

"(B) the total amount of such benefits paid out of the Fund under this chapter in the case of such participant before such month,

divided by the number of months of unused entitlement remaining in the case of such participant on the day before the date on which the payment of benefits for such month is made.

"(d) Payment of educational assistance under this chapter in the case of any participant may be made only for periods of time during which such participant or transferee under section 1472 of this title is actually enrolled in and pursuing an approved program of education.

### "§ 1472. Transfer of educational benefits

"(a) A participant may transfer any portion of such participant's entitlement to educational assistance payments under section 1471 of this title to such participant's spouse or child (in this chapter referred to as a 'transferee'). A participant may revoke a transfer made under this subsection at any time.

"(b) Any transfer or revocation of entitlement under subsection (a) of this section shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) Notwithstanding any other provision of this chapter, educational assistance may not be paid under this chapter to a person divorced from the participant on whose service the person's entitlement is based.

### "§ 1473. Duration; limitations

"(a) Educational assistance under this chapter may not be paid to or transferred by a participant at any time more than ten years after the date of such participant's last discharge or release from active duty.

"(b) Educational assistance under this chapter may not be paid to a transferee at any time after the later of (1) the date ten years after the date on which benefits were transferred to the transferee, or (2) the date on which the transferee attains twenty-nine years of age.

"(c) In the event that a participant or transferee has not utilized any or all of such participant's entitlement by the end of the applicable period provided for under subsection (a) or (b) of this section, such participant is automatically disenrolled from the program and any contributions made by such participant remaining in the fund shall be refunded to the participant following notice to such participant and an application by such participant for such refund. If no application is received within one year from the date of such notice, it shall be presumed for the purposes of section 1322 of title 31 that the participant's whereabouts are unknown and the funds shall be transferred as directed in subsection (a) of such section.

## "SUBCHAPTER IV—ADMINISTRATION

### "§ 1481. Requirements

"The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, and 1683 of this title and the provisions of chapter 36 of this title with the exception of sections 1777, 1780(c), and 1787 shall be applicable to the payment of educational assistance under this chapter. For the purpose of such provisions, transferees shall be considered to be eligible veterans.

### "§ 1482. Reports; accounts

"(a) The Secretary of Defense shall submit to the Administrator a report each month showing the name, service number, and amount of the deduction made from the military pay of each participant enrolling in that month, any contribution made by the Secretary concerned under section 1462(c) of this title, and any change in each participant's enrollment or contribution. The report shall also include any additional information the Administrator and the Secretary of Defense consider necessary for the administration of the program.

"(b) The Administrator shall maintain accounts showing contributions made to the Fund by individual participants and by the Secretary concerned as well as disbursements made from the Fund in the form of payments or contributions withdrawn.

### "§ 1483. Administrative expenses; budget function

"(a)(1) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator such funds as may be necessary to cover all expenses incurred by the Administrator in administering this chapter.

"(2) Transfers under paragraph (1) of this subsection shall be made in advance, with necessary adjustments from time to time for overpayments and underpayments.

"(b) Appropriations and expenditures made to carry out this chapter shall be considered for budgetary purposes as appropriations and expenditures made for national defense functions.".

(b) The tables of chapters at the beginning of such title and at the beginning of part III of such title are each amended by inserting before the item relating to chapter 31 the following new items:

"29. Peacetime Veteran's Educational Assistance Program .................... 1401
"30 Career Members' Contributory Educational Assistance Program . 1451".

### COORDINATION WITH OTHER VETERANS' EDUCATION AND TRAINING PROGRAMS

SEC. 403 (a) Section 1508(f)(1) of title 38, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "29 or" before "34" the first place it appears; and

(B) by striking out "chapter 34" the second place it appears and inserting in lieu thereof "either chapter 29 or chapter 34"; and

(2) in subparagraph (B), by inserting "29 or" before "34".

(b) Section 1623 of such title is amended by adding at the end the following new subsection:

"(e) If a participant becomes entitled to educational assistance under chapter 29 of this title, the participant may elect to disenroll from the program under this chapter effective on the first day of the month in which the participant becomes entitled to such assistance.".

(c) The third sentence of section 1673(d) of such title is amended by inserting "29", after "chapter" the second time it appears.

(d)(1) Section 1781 of such title is amended—

(A) by inserting "29", after "chapter" the first time it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or chapter 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31".

(2) Section 1795(a) of such title is amended—

(A) in clause (4), by inserting "29," after "chapters"; and

(B) by inserting after clause (4) the following new clause:

"(5) chapters 106 and 107 of title 10;".

### EDUCATIONAL LEAVE OF ABSENCE FOR ENLISTED MEMBERS OF THE ARMED FORCES

SEC. 404. (a) Chapter 40 of title 10, United States Code, relating to leave, is amended by adding at the end thereof the following new section:

**"§ 708. Educational leave of absence**

"(a) Under such regulations as the Secretary of Defense shall prescribe after consultation with the Secretary of Transportation and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for a period of not to exceed two years for the purpose of permitting such member to pursue a program of education.

"(b)(1) A member may not be granted a leave of absence under this section unless—

"(A) in the case of an enlisted member, the member agrees in writing to extend the member's current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

"(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

"(2) A member may not be granted a leave of absence under this section until such member has completed any extension of enlistment or reenlistment, or any period of obligated service, incurred by reason of any previous leave of absence.

"(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not be paid basic allowance for quarters or basic allowance for subsistence or any other pay and allowances to which the member would otherwise be entitled for such period.

"(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of a member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of time in grade for promotion purposes, but may not be counted for the purpose of completion of the term of enlistment of the member (in the case of an enlisted member).

"(d)(1) In time of war, or of national emergency declared by the President or the Congress, the Secretary concerned may cancel any leave of absence granted under this section.

"(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

"(e) In this section, 'eligible member' means a member of the Armed Forces on active duty who is eligible for basic educational assistance under chapter 29 of title 38 and who—

"(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

"(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"708. Educational leave of absence.".

### PRESEPARATION COUNSELING

SEC. 405. (a) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1043. Preseparation counseling requirement**

"Effective not later than two years after the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act, upon the discharge or release from active duty of a member of the Armed Forces, the Secretary concerned shall provide for individual counseling of that member. That counseling shall include a discussion of the educational assistance benefits to which the member is entitled because of the member's service in the Armed Forces and an explanation of the procedures for and advantages of affiliating with the Selected Reserve. A notation of the provision of such counseling, signed by the member, shall be placed in the service record of each member receiving such counseling.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1043. Preseparation counseling requirement.".

### TERMINATION OF RIGHT TO ENROLL IN CHAPTER 32 PROGRAM

SEC. 406. Section 408(a) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502, 90 Stat. 2383, 2397) is amended—

(1) by (A) striking out "(1)" ' and

(2) striking out all after "Act) after" and inserting in lieu thereof "the effective date provided for in section 407(b) of the Peacetime Veterans' Educational Assistance Act".

### EFFECTIVE DATES

SEC. 407. (a) The amendments made by section 406 shall take effect on October 1, 1984.

(b)(1) Except as provided in paragraph (2), the amendments made by sections 402 through 405 shall take effect on September 30, 1985.

(2)(A)(i) Such amendments shall take effect on October 1, 1986, if the President—

(I) upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(II) not less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(ii) Such amendments shall take effect on October 1, 1987, if—

(I) the effective date of such amendments was postponed pursuant to division (i) of this subparagraph;

(II) the President, upon the recommendation of the Secretary of Defense, makes a determination in accordance with subparagraph (B) that it is in the national interest of the United States for the effective date of such amendments to be postponed until such date; and

(III) the President, now less than ninety days prior to such date, has submitted to the Committees on Armed Services, on Veterans' Affairs, and on Appropriations of the House of Representatives and the Senate written notice of the President's determination, together with a report explaining the justification for it.

(B) In making a determination pursuant to subparagraph (A), the President shall take into account—

(i) the projected costs of carrying out the programs of educational assistance for men and women in the Armed Forces that would be established under chapters 29 and 30 of title 38, United States Code (as added by section 402(a)),

(ii) the Armed Forces' recruitment and retention experiences in the preceding fiscal year and projected recruitment and retention performances for the fiscal year in which such determination is made and the next four fiscal years, and

(iii) other alternatives and their projected costs to enhance such recruitment and retention.

(C) Prior to making a recommendation under subparagraph (A), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (B).

### FUNDING

SEC. 408. (a) During the first fiscal year in which payments of educational assistance are to be made under chapter 29 of title 38, United States Code (as added by section 2(a)), such payments shall be made from funds in the Veterans' Administration readjustment benefits accounts to the extent that funds sufficient for making such payments are not available for transfer to the Administrator of Veterans' Affairs pursuant to section 1446(a) of such title (as so added).

(b) The Secretary of Defense and the Secretary of Transportation, as appropriate, shall transfer to the Administrator of Veterans' Affairs for deposit in such account funds sufficient to reimburse the Administrator for payments made from such account pursuant to paragraph (1).

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## APPOINTMENT OF U.S. BANKRUPTCY JUDGES

### BAUCUS AMENDMENT NO. 3192

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed to amendment No. 3083, proposed by Mr. THURMOND, to the bill (H.R. 5174), an act to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes, as follows:

On page 65, line 15, after "427." insert "(a)".

On page 65, between lines 17 and 18, insert the following:

(b) Section 303(h) of title 11 of the United States Code, as amended by—

(1) amending paragraph (1) to read as follows:

"(1) the debtor is generally not paying a majority, in number and amount, of such debtor's fixed, liquidated, undisputed debts as such debts become due;";

(2) striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(3) as of the date of the filing of the petition, there is a transfer avoidable under section 547 or 548 of this title.".

(c) Section 303 of title 11 of the United States Code is amended by adding at the end thereof the following new subsection:

"(1) If a petition under this section contains the allegations set forth in subsection (h)(1) of this section, the court must dismiss such petition unless the United States District Court for the district in which the petition is filed has entered an order on its docket before the date of the filing of the petition under this section finding that the petitioning creditors have demonstrated by a preponderance of the evidence that the allegations of subsection (h)(1) are true.".

(d) Any petition in any case which is pending on the date of enactment of this section and which is dismissed because of the provisions of subsection (h)(1) or (l) of section 303 of title 11 of the United States Code, as amended by subsection (b) of this section may be refiled to allow for compliance with the hearing requirements of section 303(1) of such title.

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## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

## MATHIAS AND DURENBERGER AMENDMENT NO. 3193

Mr. MATHIAS (for himself and Mr. DURENBERGER) submitted an amendment intended to be proposed to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON FURTHER DEPLOYMENT OF SEA-LAUNCHED CRUISE MISSILES

SEC. 1019. (a) The Congress finds that—

(1) the Soviet Union has yet to return to the strategic arms reduction talks (hereafter in this section referred to as "START") or the intermediate nuclear force reduction talks (hereafter in this section referred to as "INF");

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States had both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth;

Whereas the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a veiw toward the complete elimination of all such weapons from the earth;

Whereas sea-launched cruise missiles equipped with nuclear warheads, could greatly complicate the prospects for such nuclear arms control agreements unless its verification can be achieved; and

Whereas limits on sea-launched cruise missiles equipped with nuclear warheads can be verified by on-site inspections: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the President should, at the earliest possible date—

(1) urge the Soviet Union to return to the START and INF negotiations;

(2) include in the appropriate negotiations a discussion of sea-launched cruise missiles equipped with nuclear warheads with a view toward the complete elimination of such missiles from the arsenals of the United States and the Soviet Union; and

(3) advise the Government of the Soviet Union, that as means of advancing the goal described in paragraph (2), the United States is wishing to accept intrusive, on-site inspection as an integral part of nuclear arms reduction, provided that the Soviet Union will do likewise; and

(4) further advise the Government of the Soviet Union of the willingness of the United States to apply such intrusive verification measures to an interim agreement limiting the deployment of sea-launched cruise missiles pending the implementation of a final START or INF agreement, as appropriate.

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## DOMENICI AND OTHERS AMENDMENT NO. 3194

Mr. DOMENICI (for himself, Mr. BAKER, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. JOHNSTON, Mr. MCCLURE, Mr. PERCY, Mr. MOYNIHAN, Mr. WILSON, Mr. RANDOLPH and Mr. GLENN) proposed an amendment to the bill S. 2723, supra; as follows:

On page 117, strike the text and catchline of Section 1006 and on page 237, strike the text and catchline of Section 331 and insert the following catchline and text:

### "COST-EFFECTIVE FUNDING OF NUCLEAR WEAPONS

(a) The President shall establish a Blue Ribbon Task Group to examine the current procedures used by the Department of Defense and the Department of Energy in establishing requirements for, and in providing resources for, the research, development, testing, production, surveillance and retirement of nuclear weapons. The purpose of the Group's effort will be to recommend any needed change in such procedures.

(b) The Group shall consist of seven members, qualified by reasons of experience and education. The President shall appoint three members and shall designate one member to act as Chairman of the Group. The Majority and Minority leaders of the Senate and the House of Representatives shall each appoint one member. None of these members shall be an employee of the Department of Energy, the Department of Defense, or any contractor employed by either such Department and involved in the research, development, testing, production, surveillance or retirement of nuclear weapons.

(c) Within 90 days of the date of enactment of this Act, the President shall submit the names of those persons appointed to such Group, together with the qualifications of such persons to serve on such Group, and a detailed plan for completing the report required by subsection (e) to the Committees on Armed Services of the Senate and the House of Representatives.

(d) The President shall insure that the Group has complete and timely access to Department of Energy and Department of Defense employees and records pertaining to such procedures.

(e) The Group shall submit a report of their findings and recommendations to the President and the Armed Services Committees of the Senate and the House of Representatives within 180 days of the date of enactment of this Act. Such report shall include any additional or dissenting views that any members of the Group may wish to submit. As a minimum, the study shall include recommendations in the following areas—

(1) ways to improve coordination between the Department of Energy and the Department of Defense to ensure cost-effective implementation of weapon activities and materials production;

(2) cost-effective improvements that can be made in budgeting and management procedures that affect weapon activities and materials production; and

(3) whether the Department of Defense should assume the responsibility for funding current Department of Energy weapon activities and materials production programs."

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## HATCH AMENDMENT NO. 3195

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

### AUTHORIZATION FOR THE PAYMENT OF CLAIMS FOR CERTAIN LOSSES IN HONDURAS

SEC. . (a) The Congress determines that the United States shall pay compensation for all losses, including consequential losses incurred by nationals of the United States as a result of the establishment or operation of the Regional Military Training Center in Honduras.

(b) The Comptroller General of the United States shall receive, investigate, review, settle, and certify for payment claims against the United States for such losses.

(c)(1) The Comptroller General shall determine in the case of each claim filed under this section whether there has been a loss, whether the loss was incurred as a result of the establishment or operation of the Regional Military Training Center in Honduras, and, if so, the amount of such loss.

(2) If the Comptroller General finds in the case of any claim that there has been a loss and the loss was incurred as a result of the establishment or operation of the Regional Military Training Center in Honduras, the Comptroller General shall certify the validity of the claim to the Secretary of Defense and specify the amount to be paid the claimant.

(3) The Comptroller General shall determine each claim filed under this section within 45 days after receipt of the claim.

(d) Upon receipt of a certification from the Comptroller General of a claim filed under this section, the Secretary of Defense shall pay the claimant out of any funds appropriated to the Department of Defense pursuant to an authorization of funds contained in this Act.

(e) Claimants shall submit their claims in writing to the Comptroller General, under such rules as he may prescribe, within one year after the date of the enactment of this Act.

(f) Unless, within ninety days following receipt of payment, a claimant files with the Claims Court a claim for any amounts rejected by the Comptroller General, the payment to any person of an award pursuant to a claim filed under this section shall be in full settlement and discharge of all claims of such person against the United States resulting from the establishment or operation by the United States of the Regional Military Training Center in Honduras.

(g) No claim cognizable under this section may be assigned or transferred, except to the United States.

Mr. HATCH. Mr. President, the purpose of the amendment I am submitting is to resolve a grave injustice to an American citizen caused inadvertently by the establishment of the Regional Military Training Center [RMTC] in Honduras.

More than 1 year ago, the United States Government proposed to the Honduran Government that the United States establish an RMTC in Honduras to train Salvadoran and Honduran Armed Forces, as well as troops from other friendly Central American nations. The present site of the RMTC in northern Honduras is apparently well-suited for its purpose as a training base. However, the land chosen for the base is owned by an American citizen who has operated a large cattle ranch and related industrial plant there for more than 20 years. The result of the establishment and operation of the RMTC on his land has been to totally destroy his entire business operation. Prime grazing land and fences have been bulldozed; cattle have been shot and workers frightened off; water pipes for the packing plant have been blown up; and a large area surrounding an ammunition supply dump set up by the RMTC on his land has been burned.

The American citizen involved has sustained heavy losses and has been forced to close down the entire cattle ranch and industrial plant. His direct and consequential damages and losses, which continue to mount, now total nearly $15 million. Yet neither Honduras nor the United States has moved to compensate him. The U.S. Government has said the responsibility lies with Honduras, but the Honduran Government is unable or unwilling to accept full responsibility. Honduras is dragging its feet on the matter and has indicated that it would not in any event pay adequate compensation.

The amendment I am offering would resolve the injustice to the American citizen by permitting him to file a claim for the value of his losses and of the property itself, which would be paid by the United States. A determination as to the claim would be made by the Comptroller General, who would then certify the amount to the Secretary of Defense for payment out of discretionary funds authorized for the Defense Department.

The United States has a responsibility to its citizens, under the Constitution, to respect private rights in property regardless of where that property may be located. This amendment addresses that responsibility in this case by establishing a procedure for payment of full and fair compensation for all losses sustained by a citizen as a result of the establishment of a military training base on his private property. The amendment is intended to supply a prompt remedy and is not intended to divest the Federal courts of any of their jurisdiction to deal with any aspect of the matter.

I urge the support of my colleagues for this amendment.

Mr. President, I ask unanimous consent that a statement relating to the facts of this case be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

### STATEMENT ON BEHALF OF TEMISTOCLES RAMIREZ DE ARELLANO

Temistocles Ramirez de Arellano, a United States citizen, is seeking compensation for the destruction of his multimillion dollars cattle ranch and related packing, shrimping and fishing operations in Honduras, caused by the establishment and operation of a military training base on his property by the United States and Honduras. The United States planned, financed and constructed the Regional Military Training Center (RMTC) and continues to train Honduran and Salvadoran soldiers on the base and elsewhere on Ramirez's property. Ramirez initially sought to protect his business from ruin, but United States Government officials refused to assist him and instead insisted that he seek redress from the Honduran Government. Ramirez has sought redress in Honduras, but that course has proved futile. The United States Government has the responsibility to compensate Ramirez for his losses.

### A. UNITED STATES-INITIATED ACTIONS CAUSED THE DESTRUCTION OF RAMIREZ'S BUSINESS

In March 1983, the United States Defense Department decided to establish an RMTC to train Salvadoran and other Central American soldiers and selected Honduras for the site. After surveying Ramirez's ranch in March and April, without his knowledge, Defense Department personnel selected his property in May and drew the plans. United States contractors built the RMTC with United States money and managed the base, providing all food and other essential services except security. Since June 1983, when the base began operating, United States Green Berets have trained several thousand Honduran and Salvadoran soldiers.

The United States Embassy first informed Ramirez that his land had been selected for the RMTC in May. Both the United States and the Honduran Government assured Ramirez that only a small designated area of less than 2,000 acres, in the middle of his 14,000 acre ranch, would be used for the RMTC and that he would be promptly and fairly compensated for the use of that land. But those assurances were not honored. By the end of July, the United States training activities had spread well beyond the Designated Area, covering as much as 90 percent of Ramirez's year-round grazing land. The permanent facilities on Ramirez's property include a 1,000-man camp, outbuildings, an ammunition storage area, and firing and mortar ranges.

The military training activities have made it impossible for Ramirez to continue to operate his business. First, prime grazing land and fences were bulldozed. The, cattle were shot by stray bullets from the training exercises and cattle in the occupied areas became undernourished because Ramirez's ranch employees, fearing for their lives, refused to work in areas where training was taking place. United States construction crews blew up water pipes to Ramirez's packing plant, causing costly interruptions of plant activities. For several months, Ramirez continued operating at reduced levels, suffering more than $100,000 in monthly losses. In November, the United States conducted part of the massive joint United States-Honduras Military Maneuvers (Operation Big Pine II) on Ramirez's ranch without his consent. In early February 1984, Ramirez was informed that a naval facility would be constructed on his packing plant property. Finally, Ramirez concluded that he could not continue, and by February 15, he shut down the plant and reduced his employees at the ranch to the minimum number required to maintain security and other essential services.

### B. HONDURAS WILL NOT PROVIDE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION

Ramirez's property has not been legally expropriated under Honduran law. Under the Honduran Constitution and the Law of Forced Expropriation (The Honduran Eminent Domain Authority) private property may be taken for a public purpose only after compensation is paid in accordance with specified procedures. Those procedures were not followed in this case. Although Ramirez has attempted to challenge the taking in Honduras, that has been to no avail.

In December 1983, the Assistant United States Trade Representative for the Americas discussed the Ramirez case with Honduran officials when that country was being considered for special trade benefits under the Caribbean Basin Recovery Act (CBI). That legislation, like other aid and trade programs, provides that no country may be designated for benefits if it expropriates an American's property without prompt, adequate and effective compensation. On the basis of meetings with Honduran officials, the United States Trade Representative and the Department of State informed Ramirez, as well as several Senators and Congressmen who had expressed interest in the case, that Honduras had agreed to negotiate with Ramirez to provide Compensation at fair market value for the taking of ranch land (but none of the other property) until February 6, and if negotiations failed, to submit the dispute over the ranch land to binding arbitration. Each party would pick an arbitrator, and a third, neutral arbitrator would be selected by mutual consent from an internationally-recognized arbitral body. The arbitration was to be concluded and compensation paid, within three months, in accordance with Honduran Law and Honduras' Treaty obligations to the United States.

Based on this understanding, President Reagan designated Honduras as a beneficiary under CBI on December 29. However, when Honduras finally published its petition to the United States for CBI benefits, in Honduran Decree No. 17, that petition did not include a commitment to arbitration with a neutral arbitrator, but rather to a Honduran valuation proceeding limited to consideration of only the ranch land.

On February 7, the United States Embassy in Honduras, believing the Hondurans had committed themselves to arbitration regarding the ranch, sent a diplomatic note to Honduras asking how that Government intended to carry out its commitment to arbitrate and how it would compensate Ramirez for his properties other than the ranch, that is, the packing plant, and the shrimping and fishing operations. Honduran officials insisted that the Honduran Government had never agreed to arbitration, that the United States had mischaracterized their commitment, and that the United States should compensate Ramirez because the United States initiated, planned, constructed and is sharing in the operation of the RMTC. Under pressure from Honduras, the United States Embassy withdrew its February 7 Note and issued a revised Note on February 14, deleting all references to arbitration.

Negotiations continued, by mutual agreement of the parties, until February 29, on which date the Honduran Government declared the termination of the negotiations.

The Honduran valuation proceeding cannot provide Ramirez prompt, adequate and effective compensation for the following reasons:

1. The scope of the proceeding is limited to consideration of the ranch land, which accounts for only approximately one-half of Ramirez's losses.

2. Since the Hondurans have repudiated the arbitration, the third evaluator will be picked if the parties do not agree, according to Honduran law, by a local Honduran judge. Experience suggests that his allegiance will be owed to the Honduran Government.

3. The proceeding will drag on indefinitely, especially since there is no mechanism for decisionmaking if the evaluators do not come to a majority decision.

4. Worst of all, the proceeding will not be binding and final, with compensation paid immediately thereafter. Notwithstanding commitments in Honduran Decree No. 17, the Honduran law of Forced Expropriation authorizes the Honduran Court to review the evaluators' report and issue a decision, subject to appeal. To the extent the Decree is inconsistent with the Law, the latter prevails.

5. There is no source of funding for any award.

#### C. THE VALUE OF RAMIREZ'S BUSINESS

Over the past 22 years, Ramirez developed an integrated Agro-Industrial Complex that has made a substantial contribution to the economy of Honduras. Out of raw jungle, he developed a model cattle ranch, using sophisticated ranch management and breeding methods. He started the Packing Plant at the nearby Port Area of Puerto Castilla, for easy shipment of his produce, and he added fishing and shrimping operations to maximize utilization of the packing plant. He has been the largest employer in the area. A total of 1,500 Hondurans (employees and their families) have been totally dependent on him for their livelihood. His property taxes have accounted for approximately one-third of the city of Trujillo's revenues.

Ramirez estimates that, before the RMTC, his Agro-Industrial Business was worth in excess of $13 million. As a result of the RMTC, Ramirez has not only lost his investment, but incurred substantial losses in cattle value due to premature slaughtering during the seizure of his land, and additional expenses, including severance pay, loss of inventory, loss in accounts receivable, expenses of closing up, and defense expenses. These additional expenses have run as much as $100,000 a month. A detailed accounting Ramirez's losses is attached.

During the negotiation period, Ramirez and the Honduran Government could not agree on the value of the ranch, and the Hondurans insisted that they did not have authority to consider any property but the ranch land. For that, they used an average value of approximately $57 per acre, which bears no relationship to fair market value, since four years ago a large tract of adjacent land, undeveloped by roads or electricity, sold for about $500 per acre. At that $500 per acre rate, Ramirez ranch land would be worth about $7 million, which is consistent with Ramirez's own estimates.

#### D. RAMIREZ'S ONLY REMEDY IS THE UNITED STATES

When Ramirez first learned that the United States had selected his land for the RMTC, he sought help from the United States Embassy in Honduras and the Department of Defense in Washington. Receiving no satisfaction, he sued United States officials seeking an order declaring that the military activity was unauthorized and requiring that the military vacate his property. The District Court dismissed the complaint, which was affirmed on appeal. However, the full appellate Court has agreed to rehear the case. While Ramirez may eventually prevail in the Court, the United States should end this outrageous injustice immediately by promptly compensating Ramirez for his loss.

Ramirez is caught between two Governments, neither one accepting responsibility to compensate him fairly for his loss. Since his land was initially seized, many months ago, he has waited for the United States to assist him. At his Government's urging, he negotiated with the Hondurans for more than three months, until it became apparent he had no remedy to obtain prompt, adequate and effective Honduran compensation. This Government has the responsibility to compensate Ramirez for his loss because of its extensive involvement in the establishment and operation of the RMTC on a United States citizen's land.

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## PERCY (AND OTHERS) AMENDMENT NO. 3196

Mr. PERCY (for himself, Mr. MATHIAS, Mr. PROXMIRE, Mr. BUMPERS, Mr. HATFIELD, Mr. PELL, Mr. HEINZ, and Mr. PRESSLER) proposed an amendment to the bill S. 2723, supra; as follows:

On page 10, line 1, strike out "$4,566,541,000," and insert in lieu thereof "$4,466,541,000, of which not more than $1,527,000,000 may be used for the following program elements of the Strategic Defense Initiative:

(1) surveillance, acquisition, tracking, and kill assessment, (2) directed energy weapons, (3) kinetic energy weapons, (4) system concepts, battle management, command, control, and communications, and (5) survivability, lethality, and subsystems; and ".

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## PRESSLER (AND OTHERS) AMENDMENT NO. 3197

Mr. PRESSLER (for himself, Mr. PERCY, Mr. MATHIAS, and Mr. BOSCHWITZ) proposed an amendment to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

#### REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. . At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each fiscal year beginning after September 30, 1985, and ending before October 1, 1990, but not later than March 15 of the calendar year in which such fiscal year begins, the Secretary of Defense shall prepare and transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the Strategic Defense Initiative, including—

(1) details of all programs and projects included in the Strategic Defense Initiative and administered by any department or agency of the United States;

(2) a clear definition of the objective(s) of the Strategic Defense Initiative;

(3) an explanation of the relationship between that objective(s) and each program and project associated with the Strategic Defense Initiative;

(4) an identification of technology base efforts being conducted by the Department of Defense and the Department of Energy having a relationship to the objective(s) of the Strategic Defense Initiative.

(5) details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs and projects in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs and projects for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

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## WARNER AMENDMENT NO. 3198

Mr. WARNER proposed an amendment to the bill S. 2723, supra; as follows:

On page 68, between lines 6 and 7 insert the following section:

SEC. . (a)(1) Chapter 57 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"1127. Precedence of the Award of the Purple Heart**

"In the case of a member of the armed forces who has been awarded the Purple Heart, the armed force concerned shall afford the Purple Heart a position of precedence, in relation to other awards and decorations authorized to be displayed on the uniform of such member, not lower than that immediately following the lowest position afforded any award or decoration for valor made to such member, or if there is no such award or decoration for valor, the highest precedence."

(2) the table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1127. Precedence of the Award of the Purple Heart."

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## EXON (AND OTHERS) AMENDMENT NO. 3199

Mr. EXON (for himself, Mr. Glenn, Mr. Baucus, Mr. Zorinsky, Mr. Hollings, Mr. Ford, Mr. Chiles, Mr. Melcher, Mr. Sarbanes, Mr. Pressler, Mr. Heflin, Mr. Leahy, Mr. Bradley, Mr. Randolph, Mr. Moynihan, Mr. Cranston, Mr. Hart, Mr. Hatch, Mr. Boschwitz, Mr. Boren, Mr. East, Mr. Levin, Mr. D'Amato, Mr. Long, Mr. Proxmire, Mr. Bingaman, Mr. McClure, Mr. Mitchell, Mr. Roth, Mr. Pell, Mr. Bentsen, Mr. Huddleston, Mr. Percy, Mr. Jepsen, Mr. Specter, Mr. Symms, and Mr. Denton) proposed an amendment to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following Section:

REPORT ON UNACCOUNTED FOR AMERICANS CAPTURED OR MISSING-IN-ACTION IN INDOCHINA

Sec. . (a) The Congress finds—

(1) that the President has declared the issue of 2,489 Americans missing or otherwise unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue with the governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on the issue;

(2) that the United States Congress, on a bi-partisan basis, fully supports these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments;

(3) that the government of the Lao People's Democratic Republic has pledged to cooperate with the United States Government resolving this humanitarian issue, separate from other issues divide our two countries, and has recently taken some positive actions to assist the United States Government in resolving the status of missing Americans;

(4) that during a recent visit by a U.S. delegation to Hanoi, the Government of the Socialist Republic of Vietnam pledged to redouble its efforts to account for those servicemen still missing or unaccounted for in Southeast Asia;

(5) that despite this pledge, the Socialist Republic of Vietnam has repeatedly postponed setting a date for the next series of technical meetings and the transfer to the U.S. government of eight additional sets of remains;

(6) that these repeated postponements risk destroying the progress which has been achieved, and

(7) that the POW/MIA issue is strictly a humanitarian matter which must not be linked to other issues.

(b) The Congress strongly urges the Socialist Republic of Vietnam to set an early date for the next technical meeting and repatriation of remains.

(c) The Congress hereby strongly urges the President—

(1) to ensure that officials of the United States Government consciously and fully carry out this pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina, and

(2) to work for the immediate release of any Americans who may still be held captive in Indochina and the immediate return of all American servicemen and civilians who have died in Indochina whose remains have not been returned.

(d) The President shall submit a report to the Congress on the POW/MIA problem which describes current actions being taken by the Federal government in carrying out subsection (c) of this section. This report shall be submitted within one hundred and eighty days after the date of enactment of this section.

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## ABDNOR AMENDMENT NO. 3200

Mr. ABDNOR proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

Sec. . (a)(1) Section 505(a)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking out "for each of the fiscal years 1984 and 1985" in the matter preceding clause (A) and inserting in lieu thereof "for the fiscal year 1984, and $700,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989 plus the amount authorized in subparagraph (B)";

(C) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(D) by striking out "for each of the fiscal years 1984 and 1985" in clause (i) (as redesignated by this section) and inserting in lieu thereof "for the fiscal year 1984 and $30,000,000 for the fiscal year 1985 and for each succeeding fiscal year ending prior to October 1, 1989"; and

(E) by adding at the end thereof the following new subparagraph:

"(B)(i) Not later than November 15 of each fiscal year (beginning with the fiscal year 1985), the Secretary of Education shall publish in the Federal Register the percentage change in the price index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

"(ii) If in any fiscal year the percentage change published under division (i) indicates an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i) increased by such percentage change, but in no event may the percentage change be more than 5 percent.

"(iii) If in any fiscal year the percentage change published under division (i) does not indicate an increase in the price index, then the amount authorized to be appropriated under subparagraph (A) for the subsequent fiscal year is the amount authorized to be appropriated for the fiscal year in which the publication is made under division (i).

"(iv) For purposes of this subparagraph, the term 'price index' means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.".

(2)(A) Section 505(a)(3) of such Act is amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(B) Section 505(b) of such Act if amended by striking out "fiscal year 1982, 1983, 1984, or 1985" and inserting in lieu thereof "for any fiscal year for which the amount of authorizations is specified in paragraph (1) of subsection (a)".

(b) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "October 1, 1983" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1989".

(c)(1) Section 3(d)(2)(E)(ii) of such Act is amended by striking out "1983 or 1984" and inserting in lieu thereof "1984 and each fiscal year thereafter".

(2) Division (iii) of section 3(d)(2)(E) of such Act is repealed.

Additional cosponsors are:

Senators Abdnor, Pell, Moynihan, Symms, Stennis, Pressler, Sarbanes, Warner, Boren, McClure, Matsunaga, Trible, Huddleston, D'Amato, Zorinsky, Tsongas, Lautenberg, Inouye, Levin, Heflin, Mathias, Melcher, Cochran, Tower, Exon, Johnston, Chiles, Hatch, Pryor, Garn, Thurmond, Dodd, Kennedy, Randolph, Bentsen, Hollings, Riegle, Stevens, Ford, Bradley, Nunn, Bingaman, Baucus, and DeConcini.

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## ABDNOR (AND OTHERS) AMENDMENT NO. 3201

Mr. ABDNOR (for himself, Mr. Melcher, Mr. Moynihan, Mr. Baucus, and Mr. D'Amato) proposed an amendment to amendment No. 3200 proposed by him to the bill S. 2723, supra, as follows:

At the end of the amendment add the following new subsections:

(d)(1) Section 3(d)(2)(B) of such Act is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) the second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h)(1) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.

"(2) Any local educational agency which is eligible to receive payments under subsection (d)(2)(B) and which is making the maximum tax effort permitted under State law shall receive at least an amount under subsection (d) with respect to that local educational agency for any fiscal year which is the product of—

"(A) the amount the Secretary determines to be the average per pupil expenditure in the State during such fiscal year,

multiplied by—

"(B) the number of children served by such agency for such year.".

(e)(1) Notwithstanding any other provision of law, the regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued March 30, 1984, shall not take effect and shall not be used to implement the provisions of that Act. The Secretary of Education shall not issue regulations relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) which are substantially similar to the regulations prohibited by this paragraph.

(2) The regulations of the Department of Education relating to generally comparable local educational agencies and the local contribution rate under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) issued on April 8, 1975, as in effect on July 1, 1983 (34 C.F.R. 222.30) shall be used to implement the provisions of such Act.

"(f)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874 Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

## GOLDWATER AMENDMENT NO. 3202

Mr. GOLDWATER proposed an amendment to the bill S. 2723, supra, as follows:

On page 2 line 18 strike the figure "$3,808,500,000" and insert in lieu thereof the figure "$3,800,600,000".

## LEVIN AMENDMENT NO. 3203

Mr. LEVIN proposed an amendment to the bill S. 2723, supra; as follows:

On page 80, beginning with line 20, strike out all through the matter on page 93, before line 1, and insert in lieu thereof the following:

**"§ 2318. Planning for future competition**

"(a) To encourage the competitive acquisition of supplies and services to support and maintain a major system during its service life, the head of an agency with responsibility for that system shall ensure that—

"(1) in any competitive solicitation for the award of any development contract for a major system, the following shall be included as evaluation factors, giving due consideration to the purposes for which the system is being procured and the technology to achieve the system's required capabilities:

"(A) proposals to incorporate in the design of the major system, components that are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

"(B) proposals to incorporate in the design of the major system, components that are likely to be required in substantial quantities during the system's service life and will permit future competitive acquisitions by the Government;

"(2) in any competitive solicitation for the award of any production contract for a major system, the following shall be included as evaluation factors:

"(A) proposals to identify components in the system that are likely to be required in substantial quantities during the system's service life and whether the technical data for such components will permit future competitive acquisitions by the Government; and

"(B) proposals to identify technical data for sale or license to the Federal Government which the offeror, at its discretion, will identify and separately price so as to permit the Government to competitively acquire future requirements for such components; and

"(3) the evaluation factors specified in paragraphs (1) and (2) of this subsection shall be considered as negotiation objectives when an agency is making a noncompetitive award of a development contract or a production contract for a major system.

"(b) The provisions of paragraph (2) of subsection (a) may be waived in while or in part if the contracting officer determines in writing that such provisions should not be applicable to such production contract, giving due consideration to the stability of the system's design, or otherwise would not be in the best interests of the United States in attaining the purposes for which the system is being procured, states the reasons therefor, and includes such determination and finding as part of the contract file.

**"§ 2319. Encouraging new competitors to broaden the industrial base**

"(a) Before establishing any prequalification requirement applicable to an offeror or its product which would be considered as an element of responsiveness to a solicitation, the head of an agency shall—

"(1) prepare a written justification stating the necessity for establishing the prequalification requirement and the reasons why free and open competition is not feasible;

"(2) specify in writing and make available upon request all standards which a prospective contractor, or its product, must satisfy in order to become qualified, such standards to be limited to those least restrictive to meet the purposes necessitating the establishment of the prequalification requirement;

"(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a prospective contractor for that contractor to become qualified;

"(4) ensure that (A) a prospective contractor is provided, upon request, a prompt opportunity to demonstrate its ability to meet the standards specified for qualification, utilizing qualified personnel and facilities of the agency or another agency obtained through interagency agreement, or other methods approved by the agency, and (B) any testing and evaluation services provided under contract to the agency should be provided by a contractor who will not be expected to benefit from an absence of additional qualified sources and who shall be required to adhere to any restriction on technical data asserted by the prospective contractor seeking qualification; and

"(5) ensure that a prospective contractor seeking qualification is promptly informed as to whether qualification has been attained, or in the event qualification has not been attained, is promptly furnished specific information why qualification was not attained.

"(5) Before the head of an agency may enforce any existing prequalification requirement with respect to an offeror or its product, the agency shall comply with the requirements of subsection (a). The head of an agency need not delay a procurement action in order to provide a prospective contractor with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(c) In the event that the number of qualified sources or qualified products available to actively compete for anticipated future requirements is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of an agency shall—

"(1) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification; and

"(2) bear the cost of conducting the specified testing and evaluation, but excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated, only for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification, and which could reasonably be expected to compete, except that the head of an agency shall bear such costs only if it determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to amortize the costs incurred by the agency.

The head of an agency may require a prospective contractor requesting testing and evaluation costs to certify as to its status as a small business concern, and, in good faith, rely thereon.

"(d) Within seven years after the establishment of any prequalification requirement under subsection (a), or within seven years following an agency's enforcement of any existing prequalification requirement pursuant to subsection (b), any such prequalification requirement shall be examined and revalidated in accordance with the requirements of subsection (a) of this section.

"(e) Except in an emergency, whenever the head of an agency determines not to enforce an existing prequalification requirement for a solicitation, the agency may not enforce any such prequalification requirement unless the agency complies with the requirements of subsection (a).

**"§ 2320. Technical data management to foster future competition**

"(a)(1) An offeror submitting a proposal for a contract shall furnish information in the proposal identifying—

"(A) with respect to all items that will be delivered to the United States under the contract (other than items to which paragraph (2) applies) those items for which technical data will not be provided to the United States; and

"(B) with respect to technical data that will be delivered to the United States under the contract, any of such technical data that will be provided with restrictions on the Government's right to use such data for governmental purposes.

"(2) With respect to items that will be delivered to the United States under a contract described in paragraph (1) with respect to which it would be impracticable to ascertain, at the time the contract is entered into, the technical data relating to such items that will not be provided to the United States with unlimited rights, the contract shall require that the contractor provide identifying information similar to that required to be furnished under paragraph (1) at a time to be specified in the contract.

"(3) The head of an agency shall ensure that the information furnished under paragraph (1) is considered in selecting the contractor for the contract.

"(b) To foster competition for the acquisition of supplies and services to maintain a major system during its service life, the head of the agency with responsibility for the system shall ensure that the initial and all subsequent production contracts for a major system, developed under Government contract, contain appropriate provisions related to technical data, including—

"(1) specifying the technical data to be delivered under the contract, if any, including delivery schedules therefor;

"(2) establishing criteria for determining the acceptability of technical data to be delivered under the contract;

"(3) establishing separate payment lines for the technical data to be delivered under the contract, if any, and authorizing the withholding of payments for failure to make timely deliveries of acceptable data;

"(4) defining the respective rights of the Government and a contractor or subcontractor regarding any technical data to be delivered under the contract, including therein a definition of the term 'developed at private expense';

"(5) to the maximum practicable extent, identifying, in advance of its delivery, technical data which is to be delivered with restrictions on the Government's right to use such data for governmental purposes;

"(6) requiring the contractor and each subcontractor to be prepared to furnish, within 60 days after a written request directed to the party asserting a restriction, a written justification for any restriction to be asserted limiting the Government's right to use such data for governmental purposes, for as long as such restriction is asserted by the contractor or subcontractor;

"(7) prohibiting a contractor from requiring a subcontractor or the Government to pay a fee, royalty, or other charge for the subcontractor's use of any technical data in the performance of a contract to furnish a component directly to the Government, except that data protected by patent, licensing agreement or any preexisting agreement involving a subcontractor's performance under a commercial contract, if the same data was made available by the contractor to the subcontractor furnishing that component;

"(8) prohibiting the contractor from limiting, either directly or indirectly, a subcontractor from selling to the Government any component which the subcontractor had previously furnished to the contractor without restriction, except that the contractor may restrict a subcontractor from providing to the Government any component restricted by a preexisting agreement involving the subcontractor's performance for the contractor under its commercial contracts;

"(9) ascertaining and documenting the identity of the manufacturer of a component through the annotation of engineering drawings, the maintenance of lists, or otherwise;

"(10) requiring the contractor to revise any technical data delivered pursuant to the contract to reflect engineering design changes and to deliver such revised technical data to an agency within a specified time;

"(11) requiring the contractor to certify, at the time the technical data is made available or delivered, that the technical data is complete, accurate, and adequate for the purpose for which the technical data is procured;

"(12) requiring the contractor to promptly correct any technical data found to be incomplete, inadequate, or deficient to or promptly furnish complete, accurate, and adequate technical data to the agency; and

"(13) authorizing the head of the agency to withhold progress payments under a contract during any period that the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.

The provisions specified in this subsection may be waived in accordance with the single system of Government-wide procurement regulations defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) if the contracting officer determines in writing that any such provision should not be applicable to the production contract, or otherwise would not be in the best interests of the Government in attaining the purposes for which the system is being procured, stating the reasons therefor. Such determination shall be made part of the contract file.

"(c) Nothing in this section or section 2318 of this title prohibits an agency from including—

"(1) in any competitive solicitation for the award of a contract, or

"(2) as a negotiation objective when the agency is making a noncompetitive award,

a provision specifying in the contract the date after which the United States shall have the right to use or have used for any governmental purpose all technical data required to be delivered to the United States under contract.

**"§ 2321. Validating proprietary data restrictions**

"(a) To encourage the competitive acquisition of components needed to maintain a major system during its service life, a review of the validity of any restriction on the Government's right to use for governmental purposes technical data furnished under contract shall be initiated by the contracting officer, if the contracting officer, an agency advocate for competition, or the representative of the Small Business Administration assigned to the procurement center determines such a review is warranted and the contracting officer determines that compliance with the asserted restriction makes it impracticable to competitively procure the required component.

"(b) Upon the written demand of the contracting officer, the contractor or subcontractor, as appropriate, shall submit its justification for the asserted restriction on the Government's right to use such data for governmental purposes certifying to the current validity of the asserted restriction within—

"(1) 60 days, if the contract contains a provision that requires a contractor or subcontractor to be prepared to furnish a written justification for any restriction limiting the Government's right to use for governmental purposes technical data to be delivered under the contract, or

"(2) 180 days, if the contract does not contain such a provision, except that the contracting officer may extend such time limits for a reasonable period for good cause shown.

"(c) Upon a failure to submit any justification pursuant to the requirements of subsection (b), the contracting officer shall, after giving notice to the party asserting the restriction, promptly cancel the restriction on the Government's right to use for governmental purposes technical data for which justification had been requested.

"(d) If after review of the justification submitted pursuant to subsection (b), the contracting officer determines that the justification for the restriction on the Government's right to use the data for governmental purposes does not adequately support the asserted restriction on the technical data, the justification therefor shall be promptly subjected to technical review and audit.

"(e) If after reviewing the findings of the technical review and audit, it is determined that the restriction on the Government's right to use such data for governmental purposes warrants challenge, the contracting officer shall issue a final decision pertaining thereto which shall be subject to the provisions of the Contract Disputes Act (41 U.S.C. 601 et seq.).

"(f) If the Government's challenge to the restriction on the Government's right to use for governmental purposes technical data as certified pursuant to subsection (b) is sustained, upon final disposition—

"(1) the restriction on the Government's right to use that technical data for governmental purposes shall be canceled; and

"(2) the contractor or subcontractor, as appropriate, shall be liable to the Government for the Government's cost of technically evaluating and auditing the asserted restriction, and the fees and other expenses, as defined in section 2412(d)(2)(A) of title 28, United States Code, incurred by the Government in challenging the asserted restriction, if the asserted restriction, as certified, is found not to be substantially justified, unless special circumstances would make such awards unjust.".

(2) The analysis of such chapter is amended by adding at the end thereof the following new items:

"2318. Planning for future competition.
"2319. Encouraging new competitors to broaden the industrial base.
"2320. Technical data management to foster future competition.
"2321. Validating proprietary data restrictions.".

On page 93, beginning with line 1, strike out all through page 96, line 11, and insert in lieu thereof the following:

(b) Section 2302 of title 10, United States Code, is amended by adding at the end thereof the following:

"(4) 'Component' means any individual part, subassembly, assembly, or subsystem integral to a major system, which may be replaced during the service life of the system. The term includes spare part and replenishment spare part. The term does not include packaging or labeling associated with shipment or identification of a 'component'.

"(5) 'Major procurement center' means a procurement center that awarded contracts for components other than commercial items totaling at least $150,000,000 in the preceding fiscal year.

"(6) 'Major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (A) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); or (B) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater, or (C) the system is designated a 'major system' by the head of the agency responsible for the system.

"(7) 'Technical data' means recorded information (regardless of form or method of recording) of a scientific or technical nature, including data resulting from work which was specified and directly funded as an element of performance of a contract from the United States, but does not include—

"(A) computer software;

"(B) financial, administrative, cost or pricing, management data, or other information incidential to contract administration;

"(C) data relating to products, components, or processes developed at private expense; or

"(D) data relating to products, components, or processes developed at private expense and offered for sale to the general public.".

(c)(1) Within one year after the date of enactment of this Act, the head of each agency shall develop a plan for the management of technical data received under contracts for the development, production, modification, or maintenance of major systems within its jurisdiction. At a minimum, the management plan shall address procedures for—

(A) inventorying, indexing, storing, and updating items of technical data into a system;

(B) verifying contractor-imposed limitations on the Government's rights to make future use of the data in competitive acquisitions; and

(C) assuring that agency procurement officials and prospective contractors will have timely access to complete and current technical data for the competitive acquisition of supplies and services for the maintenance of the system during its service life.

(2) Within 5 years after the date of enactment of this Act, the head of each agency shall complete implementation of the management plan required by paragraph (1), and include in the system the available technical data for each currently operational major system within the jurisidiction of the head of such agency.

(3) Not later than eighteen months after the date of enactment of this section, the Comptroller General of the United States shall transmit to the Congress a report evaluating the plans of selected agencies for the management of technical data for major systems within the jurisdiction of such agencies. The report shall include an evaluation of the plans.

(4) As used in this subsection, the term "agency" means an agency which is subject to chapter 137 of title 10, United States Code.

On page 99, line 7, strike out "2414", and insert in lieu thereof "2413".

On page 99, line 21, strike out "2414", and insert in lieu thereof "2413".

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## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON THE JUDICIARY

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 13, 1984, in order to receive testimony concerning the following nominations:

#### UNITED STATES CIRCUIT JUDGE

Robert M. Hill, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

#### UNITED STATES DISTRICT JUDGE

Franklin S. Billings, of Vermont, to be U.S. district judge for the district of Vermont.

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California.

James M. Ideman, of California, to be U.S. district judge for the central district of California.

Peter K. Leisure, of New York, to be U.S. district judge for the southern district of New York.

William J. Rea, of California, to be U.S. district judge for the central district of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 13, at 10 a.m., to hold a hearing on arms control overview.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SELECT COMMITTEE ON INTELLIGENCE

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 13, at 10:30 a.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ADDITIONAL STATEMENTS

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## THE SECOND CONGRESSIONAL FAST AND PRAYER VIGIL FOR SOVIET JEWRY

● Mr. CHILES. Mr. President, today I am honored to be a participant in the second congressional fast and prayer vigil for Soviet Jewry. I would like to take this opportunity to congratulate and thank the distinguished Senator from Michigan [Mr. LEVIN] and his distinguished colleague from Pennsylvania [Mr. HEINZ] for their hard work in organizing this fast and vigil.

No one in Congress can be unfamiliar with the downward spiral in Jewish emigration from the Soviet Union. Many, however, may be unaware of the precise, dangerously low levels to which emigration figures have shrunk. Mr. President, the grim figures speak for themselves. In 1983, only 1,315 Jews were able to leave the Soviet Union so that they might freely practice their religion. This figure represents a 98-percent reduction in emigration from 1979. In 5 short years, the Soviet Union has constructed legal and administrative walls, as solid and hard as those of any real prison, around the Jewish population. In the first quarter of this year, only 229 Jews were allowed to emigrate. It appears 1984 will prove a sad replay of 1983.

As the Union of Councils for Soviet Jewry points out, the growth of the Anti-Zionist Committee in the U.S.S.R. parallels the restrictive emigration measures exhibited by that country. We in the Western World know that there are thousands of Jews in the U.S.S.R. who wish to emigrate, yet the Anti-Zionist Committee states that all Soviet Jews that wish to leave have already done so.

The Soviet Union would have us believe that there is no religious persecution of Jews practicing their faith. If that is so, why must so many say their prayers in the darkness of their homes, instead of the light of the synagogue? Why is it a criminal offense for someone like Josef Begun to teach Hebrew in his home? Why are the children of Jews denied higher education and employment opportunities?

We know that the persecution exists. We know that the Soviet Union lies when it denies it. We know that we must speak out, petition, write, and put pressure on the Soviet Union to let these people go, to let them go elsewhere where their human dignity and religious faith cannot be denied.

I reject the notion that the West cannot play a role in changing the repressive practices of the U.S.S.R. Clearly, the West can make a difference. We have in the past, and we can in the future.

With this hope and goal in mind, I am adopting Yakov Mesh, along with his wife Maima and his son Marat, for today's fast and vigil. Yakov has applied for permission to emigrate from the Soviet Union to join the remainder of his family in Israel many times during the last few years. Repeatedly promised by authorities that his family's applications were "soon to be approved," all three have been denied emigration on each occasion. At one point, Yakov's mother asked authorities why the latest petition had been denied. She was told a mistake had been made, and that Yakov, Maima, and Marat could leave in 3 or 4 months. That was over 5 years ago. Clearly, Yakov is a victim of increasingly capricious, vindictive, and repressive emigration policies of the Soviet Union.

Yakov is something of a cause celebre in my home State of Florida. This is largely due to the efforts of Dr. Joel Levin, a Miami physician who has given selflessly of his time and energies working for Yakov's emigration. Joel was responsible for putting together a boxing exhibition to raise moneys for Yakov's emigration processing some time ago. At one point in his life, Yakov himself was a boxer during service with the Army sports section. Joel is once again planning a similar exhibition to draw attention to Yakov's unfortunate situation.

I commend Joel's efforts to get Yakov, Maima, and his now-ailing son Marat out of the Soviet Union. It is my hope that he is successful in his campaign.

As Joel well knows, the hours of effort are long, and the frustrations and disappointments are many, for all who try to help Soviet Jewry. This cannot deter us, however—it should only move us to redouble our labors.●

## SUCCESSFUL COOPERATIVE VENTURE

● Mr. LEVIN. Mr. President, we are all familiar with the plight of many of our older neighborhoods and it is indeed heartening to find an inspiring demonstration of what some people in the city of Detroit have done to improve and revitalize their community.

Through the opening of the Shoppers Co-op True Value Hardware Homecenter in northwest Detroit, we see, and are encouraged by, self-help efforts to create an advantageous project feasible for the entire community.

About 4 years ago, president of League Life Insurance Co., Robert Vanderbeek, was driving along a strip of wasting buildings and vacant lots when the thought "wouldn't it be nice if * * *" wouldn't leave his mind. But "if what?" was the unsolved question. So, League Life Insurance, along with the National Consumer Cooperative Bank, each provided initial seed money totaling $100,000 to hire two expert research firms which did a feasibility and marketing analysis and identified the major intersection of Livernois and Seven Mile as a prime location for a shopping center development.

The next step bringing the co-op closer to its creation, was the formation of the Community Advisory Committee. This committee made thousands of phone calls to recruit their neighbors, went door to door distributing literature, and hosted home and block club information meetings to enlist community support and recruit membership. Within 6 months, the Community Advisory Committee and membership services staff of the co-op raised $125,000 equity required by the National Consumer Cooperative Bank to continue the project. On June 27, 1983, the Livernois Seven Mile Cooperative Services Inc. was licensed by the State of Michigan.

Co-op membership through stock purchases began to grow. From the community's eagerness to improve their neighborhood, co-op membership is now up to 1,400 with investments totaling more than $316,000.

The Shoppers Co-op True Value Hardware Homecenter will have a grand opening on June 16, 1984. The Shoppers Co-op store is one of three major enterprises which constitute a $4 million shopping center project that is also organized as a cooperative. The center when completed later this year will include a full service Farmer Jack Super Market, and a branch of the First Independence National Bank. These three businesses, together with League Life Insurance Co., will cooperatively own and manage the shopping center project.

Attending the grand opening ceremony will be representatives of the Federal, State, and city agencies who helped provide financing for the Shoppers Co-op and the co-op shopping center. Principal among these are the Department of Housing and Urban Development through the UDAG program, National Consumer Cooperative Bank, Detroit Community Economic Development Department, Detroit Economic Development Corp., and the Detroit Economic Growth Corp.

The success of this entire development is based upon community participation and support. Even before the grand opening of their store, the residents of this community have demonstrated emphatically their willingness and their desire to improve their neighborhood by their own efforts.

I would like to take this opportunity to express my pride in this Detroit community for their innovation on creating the Shoppers Co-op True Value Hardware Homecenter and for establishing themselves, not only as a people thinking of the present, but as a people working for the future. This rebuilding program in a great city—a community which has been among the hardest hit with economic recession in recent years—is an inspiring example of individual and group initiative.●

## SUPERFUND AND GROUND WATER CONTAMINATION

● Mr. LAUTENBERG. Mr. President, on June 4, the Committee on Environment and Public Works conducted a field hearing in my home State of New Jersey. The subject of our hearing was the Federal Superfund Program and the growing problem of ground water contamination from hazardous wastes. An important impetus to our holding the hearing on this subject was an excellent series of articles from the Asbury Park Press special report entitled "Troubled Waters." As the authors of these articles point out, too many of us take for granted the quality of water that flows from our taps. Yet, the number of victims of contaminated water grows daily. Over 500 wells in New Jersey have been closed down as a result of chemical contamination in the last few years. A major source of the problem is abandoned landfills and other abandoned hazardous wastesites.

This month, the Committee on Environment and Public Works will be considering legislation to improve and strengthen our Nation's program for cleaning up abandoned hazardous waste sites. It is my hope that the committee will act expeditiously to reauthorize a comprehensive Superfund Program that will, among other things, better protect the vital ground water supplies in New Jersey and other States. In order that reauthorization can be realized this year, the Senate will have to take up Superfund this summer.

The threat to New Jersey's drinking water underscores the need to move forward without delay on a Superfund law reauthorization. This country has only just started the formidable task of cleaning up the thousands of sites that have been identified by EPA and the States. The tragically slow pace of cleanup has frustrated many of our citizens. For some, the proximity of these sites and exposure to hazardous wastes through contaminated water and air have irreversibly altered their lives; children lost to leukemia, families forced to leave their homes or, even worse, unable to leave while they wait for the Government to respond.

The story of one of these families, the McCarthys and the residents of Legler in Jackson Township, NJ, is related in one of the Asbury Park Press articles. Jim McCarthy testified before our committee and recounted the horror of water tainted with 38 chemicals. He told of a daughter lost to a rare kidney cancer at 9 months old and of losing a kidney himself. The township operated a landfill were millions of gallons of liquid wastes were dumped in the 1970's. These wastes found their way to the wells of the 97 families of Legler.

In my State of New Jersey, the most common route of exposure to hazardous chemicals is through contaminated drinking water. Over 60 percent of the drinking water comes from ground-water sources. In the southern parts of the State, the percentage climbs to 90 percent. The New Jersey Department of Environmental Protection estimates that all but 3 of the State's 85 Superfund sites are candidates for ground water contamination.

At the 47 where studies have been completed, all of the sites showed ground water contamination by hazardous chemicals.

Next year, my State is ready to move ahead with cleanup activity at 69 major sites. To do this, the State needs $108 million in Federal funds. This is far in excess of what the $640 million Superfund can promise. Without reauthorization, the fund will run out of money in fiscal year 1985. As a result, more of our citizens will drink, cook, and bathe in contaminated water with eventual costs in personal suffering and in monetary compensation that will far exceed the funds needed for expeditious cleanup.

I ask that a selection of excellent articles from the special report by the Asbury Park Press appear below in the RECORD. It is my hope that the Senate will be able to act on the reauthorization of the Superfund Program before it runs out of money and slows down the critical job of protecting the public from the dangers of groundwater contamination by hazardous wastes.

The articles follow:

### GROUND WATER CRISIS

(By Robin Goldstein)

The dumps are bad enough—the overstuffed landfills and toxic waste sites laced with putrid lagoons. They scar the landscape and remind us of the distressing side of our industrialized modern times.

But as ugly as the dumps themselves are, there is something even uglier happening out of sight, beneath them. A vast number of the nation's waste and chemical disposal sites are located on top of aquifers, the huge underground reservoirs that provide half of the country's population with drinking water.

In countless cases, the chemicals and toxic substances heaped on the dumps seep down through a thin layer of earth and into the underground water system. And once the aquifers are contaminated, it is almost impossible to clean them up. In many cases, the contamination will remain in the underground water long after the dump that polluted it has been removed.

This means the water some of us drink may become irreversibly contaminated and worse yet, toxic.

The most sobering aspect of groundwater contamination is how little officials know about it. According to a recent report by the General Accounting Office in Washington, the "scope and nature" of the pollution is unmeasured, although use of ground water—what the underground aquifers are called—has tripled in the past 30 years.

In New Jersey, the residents in the Legler section of Jackson Township learned firsthand about ground water contamination when 340 of them found their wells laced with cancer-causing chemicals. A court awarded them $15.6 million in damages to compensate for the physical and emotional distress brought on by ground-water contamination caused by a nearby municipal landfill.

The Legler problem underscored the particular threat New Jersey faces. Of the 1,000 or so hazardous waste sites identified by the federal government, nearly a tenth of them are in New Jersey.

Scientists estimate that the nation's ground water—the water that flows through sand and gravel under the surface of the land—is equal in volume to 16 times the amount of water in all the Great Lakes.

The Environmental Protection Agency for the first time last month acknowledged the seriousness of the ground water pollution problem by creating an Office of Groundwater Protection. That office is now reviewing a national ground water "strategy" that concludes that ground water protection is largely a state problem.

The data don't exist to pinpoint how serious a problem underground water contamination is.

The EPA ground water office's new director, Marian Mlay, said that 20 percent of the ground water-fed drinking water supplies in the country are now showing some traces of chemicals and pollutants, although below dangerous levels.

"We want to prevent something more serious," she said.

"Although ground water contamination is a significant and widespread problem, the extent of the contamination is unknown because no comprehensive national data base or monitoring program exists," the GAO reported.

Some scientists feel it is time for EPA to move ahead and for the federal government to take charge of the ground water crisis.

"EPA is not doing a very good job with ground-water," said Dr. Henry Cole, senior scientist at the Washington-based Clean Water Action Project. "The agency's proposed ground-water protection strategy we find to be highly inadequate. It's not mandatory but voluntary for states to follow."

Cole feels an urgency about protecting ground water because it is such a vulnerable resource.

"Underground water is different than surface water, such as streams," he explained. "A stream may move at 20 to 30 miles per hour, which gives pollutants time to disperse. But ground water moves about 10 feet in a month or a year."

As a result, pollutants stay in ground water, undiluted, for months or years, and it is almost impossible to get them out.

"Two years after concentrations of (pollutants) occur in the water, it may be sucked up into someone's well," Cole said.

Ground water contamination can come from many sources, including underground gasoline storage tanks, road salt, pesticides and industrial sites. But an EPA study found the largest polluter of ground water to be hazardous waste sites.

In a 1982 study of 929 hazardous waste sites around the country, the EPA found that ground-water contamination existed at 320 sites and was suspected at 326 other sites. EPA found contaminated drinking water at 128 sites.

This makes ground water contamination a particular concern in New Jersey, which has 100 of the nation's worst-ranked toxic waste sites. Additionally, according to Cole, much of New Jersey is covered with sand and gravel, the kind of porous materials that allow chemicals to seep easily into water supplies.

GAO cites a 1983 EPA statement that 410 of the 546 hazardous waste sites on the Superfund National Priority List have ground water contamination problems.

The EPA and the states joined forces in 1978 to begin studying disposal sites for municipal, industrial, agricultural and mining waste. Of 31,400 sites examined, the study found that nearly 50 percent of them were located over thin, permeable layers of earth that would allow substances from the dump to leach into the water table.

That may, in part, explain the results of a 1981 study by the Council of Environmental Quality, which estimated that there was ground water contamination in at least 34 and possibly 40 states, including all states east of the Mississippi River.

Clean Water Action Project's Cole believes the EPA should not leave such a widespread problem to be dealt with piecemeal by the states. But EPA's Ms. Mlay said that the sources of ground water contamination very so much from region to region that the problem is easier for state and local officials to handle.

The Northeast, for instance has problems with road salt run-off, while agricultural states worry about contamination from pesticides. Many states are beginning to have problems from leaking underground storage tanks for gasoline and other substances. The underground tanks, an innovation to prevent fires about the time of World War II, are now aging and beginning to crack.

Ms. Mlay said that underground tanks are best regulated by local officials.

The GAO points out in its report, however, that EPA has not exercised its authority to set quality standards and testing requirements for ground water. For many chemicals, the EPA has set no standard for how much of the substance can be present in water without posing a danger to health.

"If you have no standards, there is no level of protection," said Clean Water Action Project's Cole. With no national standards, states that want to set their own stringent standards are caught in a dilemma. They may be forced to loosen their own strictures if an important local industry threatens to move to another state where the standards are easier.

The EPA strategy now under review does not set up a broad base of standards. It offers technical assistance to the states in preparing their own ground water programs and sets up categories for underground aquifers, which should get the most protection.

The New Strategy "doesn't come near to solving the problem," Cole said.

But with ground water being threatened by everything from dumps to road salt and from gasoline to pesticides, any solution to the growing ground-water problem has to weave a thin line between environmental concerns and modern reality.

"Our problem is finding a way to protect ground water without closing down the country," Ms. Mlay said.

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### THE IDEA IS TO KEEP NEW JERSEY'S WATER DRINKABLE

(By Erlinda Villamor)

Water, water everywhere, and there's a lot of it to drink in New Jersey from underground sources—if we can only keep it drinkable.

Researchers and state water officials are raising a warning flag over the continued fouling of our ground water, the largest reserve of potable water New Jersey has. It is the source of drinking water for more than 60 percent of the state population.

In Monmouth, Ocean and other southern counties, some 90 percent of the population draws its drinking supply from underground sources.

Some 750 million gallons of ground water per day are pumped out in New Jersey, more than half of it from the Coastal Plain aquifers of South Jersey.

Experts say New Jersey's ground water, in its natural state, is generally very good although in some areas treatment is needed for high acidity, hardness, iron and manganese contents.

But high population and industrial density have polluted much of the water in our aquifers. According to the latest state Water Quality Inventory Report, there are no longer any major aquifers or area of the state untouched by groundwater pollution.

No one has any idea how many of New Jersey's approximately 35,000 potable water wells should not be used at all because of serious contamination.

Since it was formed 13 years ago, the state Bureau of Potable Water has closed down 771 public and nonpublic supply wells as unfit sources of drinking water. Most were found to be heavily laced with organic and industrial chemicals.

Evidence also has surfaced that some of the state's wells have been contaminated with suspected carcinogens, leading to more well shutdowns.

Three years ago, a Rutgers University research team analyzed samples from 670 wells. Sixteen percent of them exceeded standards for one or more of eight volatile organic compounds believed to cause cancer in animals. Water from 31 wells contained chlorinated pesticides and related compounds, which have been banned or restricted because of their toxic nature. Three were so badly contaminated they had to be put out of service.

In another study, scientists commissioned by the state for the Statewide Water Supply Plan looked into their glass of New Jersey ground water and found a bleak picture: more and more public supply and domestic wells contaminated by industrial wastes and spilled chemicals and petroleum products.

Despite a plethora of programs aimed at keeping ground water pristine, the report said, "There has not been a significant improvement in New Jersey's ground water quality."

New Jersey's water pollution control laws are considered among the nation's most stringent. But lack of money and manpower have hampered their implementation, according to a study prepared by five water consultant firms. Efforts to halt ground water contamination, they added, "are limited to responding to, rather than anticipating contamination problems, and to reviewing rather than deciding the feasibility of siting applications."

The State Department of Environmental Protection, the study said, is figuratively drowning in a sea of data collection activities, including surveys, monitoring programs and computerized manifests.

DEP officials therefore uncover a number of problems but are ill-equipped to solve them, the study said.

And it's no empty boast when state water officials say New Jersey has done more studies on water than most other states in the nation.

"We've found more chemicals and more problems in the water than any other states," says Barker Hamill of the Bureau of Potable Water. "Look at our Superfund sites. We've identified more of them than many other states," he added, ticking off a string of state legislation measures and bond issues on water protection.

"Once contamination of groundwater occurs," says Dr. Robert K. Tucker, of the Office of Cancer and Toxic Substances Research, an arm of the DEP, "the pollution is exceptionally persistent and extraordinarily difficult and expensive, if not impossible, to clean up."

Thus far, shutting down wells has been the state's only recourse when toxic and carcinogenic contamination is established.

But geologists say we cannot afford to continue drilling new wells and pumping more ground water. Plentiful though it may be, ground water is not exactly renewable. True, aquifers replenish themselves as water is drawn from them, but they can also lose the ability to store water. The region's aquifers have an excellent recharge rate and storage capacity, but studies have shown that increased pumping and severe contamination are beginning to wreak havoc on them.

The latest Water Quality Inventory Report estimates a loss over the next several decades of from 40 million to 50 million gallons a day (mgd) of potable ground water supplies if the rate of aquifer pollution is not abated.

"This is a substantial portion of the estimated 750 mgd of ground water used daily in New Jersey," says Keith Robinson, of the Bureau of Planning and Standards of the Division of Water Resources, which compiled the report.

Already, in several counties in North Jersey, high usage is straining aquifers and lowering the ground water levels, state water officials say. Researchers report that in parts of other counties such as Morris, Passaic, Hunterdon, Sussex and Warren, rock aquifers are considered poor and may not withstand more well-drilling and pumping.

Some 15 government agencies are involved in monitoring ground water quality, but their efforts are uncoordinated and have not produced any clear idea of the water level and quality, according to five consultants for the statewide Water Supply Plan. For instance, the consultants said, there are no estimates of the capacity of the state's major aquifer systems.

William Althoff, program manager for the state Geological Survey, an enforcement arm of the Division of Water Resources, says ground water problems are not being investigated as quickly as they should be. "We usually get a report when damage has already occurred," he said.

The Geological Survey investigates ground water contamination for the state Spill Fund and the federal Superfund programs.

"Right now we have 350 active ground water investigations," Althoff said. Of these, 22 are in Monmouth County and 23 in Ocean County, he said.

His office's backlog has reached some four dozen pollution problems.

In 1981, Althoff said, the Geological Survey investigated 220 instances of ground water pollution. By the end of last year, there were nearly 350 under investigation.

"It's a severe caseload. Pollution cases are just ballooning. We have nine investigators, which means roughly 39 cases to a person."

Even so, New Jersey's problem of contaminated ground water hasn't reached the point of no return. "The quality of our ground water in general is excellent. It meets national standards for drinking water as well if not better than any other state," says Hamill of the Bureau of Potable Water. In his view, much of the concern over ground-water centers around chemicals for which no standards have been set.

"New Jersey has done much bigger studies than most other states for these chemicals," Hamill says. "The fact that we have found more chemicals in our system doesn't mean we have more of them than in other states."

What is proving more worrisome are health effects of toxic chemicals the Rutgers University team identified in a study of the state's well water. Tucker, the head researcher, warned about the halogenated volatile organic compounds his team found in some of the analyzed wells.

With five of these chemicals—with such tongue-twisting names as tetrachloride, chloroform, dichloroethane, tetrachloroethylene and tricholorethylene—there is evidence from animal tests that they can cause cancer.

The other compounds are chemically similar to known carcinogens, although there is no laboratory evidence that they cause malignancy. Most of these chemicals are used in industry as degreasing solvents. Because they are highly volatile and easily find their way into the environment, these suspected carcinogens move easily with the ground water flow and linger just above it.

"They are the most serious threat to our ground water resources," Tucker said. Their presence in our ground water is linked to the large amount of synthetic chemicals produced and used in the state, he said.

Studies show that landfills are the most substantial source of ground water pollution in New Jersey.

Of the state's 300 registered landfills, only seven are lined. In addition, there are 134 known abandoned landfills and illegal dumpsites that continue to contaminate New Jersey's underground water system.

Studies have shown that an average landfill in New Jersey generates some 18 million gallons of leachate every year. That translates into some seven billion gallons of the toxic brew of chloride, iron, lead, copper, sodium, nitrate, pathogens and other hazardous substances.

Petroleum and chemical spills are a growing threat to ground water supplies. In 1981, the state Division of Waste Management, which is responsible for responding to spills, reported 2,512 spills.

A "significant" amount of such materials seeps underground, DEP officials say.

Ground water pollution is generally more difficult to trace and eliminate than surface pollution. That's why authorities say that minimizing spill incidents is considered so essential.

The state has a spill emergency response plan and a spill prevention program but they are woefully inadequate, according to a report of an investigation by the Public Interest Research Group. The majority of accidental spills reported are caused by underground storage tanks and buried pipelines, especially in industrial parts of the state.

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### A House Without Water Not a Home

(By Susan De Santis)

Gilmer Ulrich, who has arthritis, used to bathe in a hot tub to relieve the pain. Now, she likens her bath to sitting in a tub of red pepper.

Her neighbor, Beverly Kelly, never hesitated to use water for drinking and cooking. But now, she can't differentiate between the water and perked coffee.

Georgette E. Beuth never worried about the purity of her well water. Now, a row of dying mimosa trees makes her wonder about her own mortality.

These are some of the residents of South Union Street in Stafford Township and their fears are justifed.

Chemicals that have caused cancer in animals have been found in their well water.

Tetrachloroethylene, trichloroethylene and dichloroethylene have been detected in at least 100 wells in Stafford Township. In some, the levels were well below the state limit of 100 parts per billion; others had concentrations three times higher.

The State Department of Environmental Protection has said there's no immediate health risk, but warned residents whose wells have high levels of the contaminants not to use the water.

"There's no particular guarantee because next week somebody can do a study to find this thing is much worse," said Barker Hamill, an environmental engineer with the DEP's Division of Water Resources. "But if I had to summarize it, water is safer than people think it is.

"I think for some people, the thought of their water being contaminated is worse than the actual contamination," Hamill said.

Take the experience of Joseph and Beverly Kelly, whose son, Matthew, 3, has never had the pleasure of turning on and drinking the tap water. He knows he must use water from gallon jugs supplied by relatives.

"Here you are jeopardizing your family's health," Mrs. Kelly said. "Is one of your children going to come down with cancer 10 years from now? The threat of cancer is all around us."

"This may be a little thing to them," Mrs. Kelly said of the authorities who have investigated the problem. "But for 30 families to go on like this for a year, at the very least they should get us water right outside our door—not direct us up the street to low-contaminated water that looks like perked coffee after a day or two."

Mrs. Kelly's problems started in June. The Ocean County Utilities Authority began installing interceptor lines at South Union Street, dropping the water table and inadvertently bringing the chemicals to the surface when water consumption resumed.

The source of the chemicals isn't known. Officials believe they could have been industrial byproducts lying dormant below the ground a couple of decades.

"It started way back when with cigarettes," Mrs. Kelly said of her concern for the environment.

"So, I gave up cigarettes 10 years ago. Then, it was one thing right after the other. You hear little bits and pieces. There's too many pressures. It's a constant worry as a parent: How do you protect your kids from being exposed to it?"

About 50 miles away in the Morganville section of Marlboro Township, Frank Dreusicke and his wife, Betty, can identify with the Kelly family. They and sons, Mark, 4, and David, 1, live about a mile from Burnt Fly Bog.

The federal Environmental Protection Agency considers the bog one of the most polluted hazardous waste sites in the country. The 160-acre tract near Spring Valley Road and Tylers Lane is known to contain polychlorinated biphenyls, lead, arsenic and cadmium.

The EPA has promised to spend $7.3 million over the next two years to clean up the bog, but the Dreusickes wonder if they are endangering the health of their family in the meantime.

Dreusicke is a member of the Burnt Fly Bog Citizens Advisory, a group that pressures state and federal officials to clean up the bog.

"I told the committee if I were Rockefeller's son, you wouldn't see me here," Dreusicke said, explaining that if money didn't matter he would have moved away long ago.

"If you are in a life-threatening situation, naturally you are going to leave," Mrs. Dreusicke added.

The Dreusickes live on five acres of property off Spring Valley Road. Outside the windows of their living room, a meandering path and the dense trees obscure all evidence of the proximity of Burnt Fly Bog.

But there are constant psychological reminders of the bog's presence.

Mrs. Dreusicke had a miscarriage between the births of her two sons, and she wonders if pollutants from the bog could have been the cause.

Dreusicke closed his well and paid $1,200 to hook into water supplied by Marlboro Township when tests for lead in his water hovered around the state limit of .05 parts per million.

One part per million is the equivalent of an apple in 2,000 barrels of apples, a very small quantity, indeed.

Dreusicke is careful not to overreact to the test results. He realizes there are certain risks in an industrial society. As a contract administrator for Du Pont in Linden, he sees both sides of the issue.

"They want the best of all worlds," he says of consumers who promote environmental issues, but aren't willing to pay higher prices for consumer goods once pollution control is implemented.

The control of hazardous wastes is a science in its infancy, he adds, and the often-conflicting analyses of health risks can prove baffling to victims of environmental pollution.

"There is no magic test for the four million chemicals," admitted Joseph Przywara, environmental health coordinator for Ocean County.

"In most cases, in these concentrations, they are irritants to the skin," Przywara said of the chemicals found in the Stafford Township wells. "Usually, it affects the liver system or kidney system. We don't know what's going to happen over time."

John Preczewski, an engineer with the DEP's Division of Water Resources, said two deep test wells will be drilled at South Union Street to determine if water can be drawn from a lower aquifer under a layer of clay.

"You're working with something in the dark," Preczewski said. "It's like being blind."

It will be a year next month that Stafford Township residents have been living with polluted water. Stafford Mayor Carl Block admires their patience.

"What goes by as a week for me seems months to them because they have to deal with it day in and day out," Block said.

But he thinks the residents are lucky that something is being done about their problem.

"There's nothing to say that there is not another part of the township with a worse pollution problem that they just didn't discover yet," he said.

Clifford Beuth, who lives with his wife Georgette on South Union Street, is willing to take that gamble. He has put his house up for sale.

Beuth bought the house 20 years ago for $14,000, but the house, with its wood-burning stove, large kitchen and country charm should be worth $65,000 today.

Olga Osusky, real estate agent for Century 21 Parade of Homes in Stafford Township, said she doubts anyone will buy the house until a pure water supply is available.

"One person looked at the house and found out about the water and we have never heard about it again," Beuth said. "I have been trying to build equity in this home for 20 years."

"We're paying taxes on something that isn't worth a dime," Georgette added.

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## LEGLER VERDICT SENT A CLEAR MESSAGE, BUT IT'S NOT OVER

(By Daniel S. Clay)

For 97 families living in the Legler section of Jackson Township, years of fear, frustration and struggle were capped by a shining moment on Nov. 16 when they got the word. An Ocean County jury had awarded them $15.6 million for their suffering as a result of water pollution.

The award was interpreted as a clear warning to government agencies and industries. No longer could they expect to escape punishment after injuring and endangering people by polluting their water.

After years of litigation, the Legler folks and their lawyers had proven that the township's operation of the dump at Homestead Road led to the contamination of their wells, causing them physical and mental anguish.

Barring a successful appeal, the township and its insurance companies will have to pay. And the ruling established a precedent being used in pollution suits in other sections of the country.

The aftermath was expected to be a return to the relative quiet of normal family and community life, a time to put behind the memory of that landfill with the stench and rats and the fouled wells.

The expected serenity was short-lived, though. The federal Environmental Protection Agency has reported that the asbestos level in the municipal water Legler residents now use was relatively high.

In fact, said the EPA, the Legler water system, built after the well contamination, had one of the highest asbestos fiber counts in the state.

So, after staying away from township meetings for a while, some Legler residents are back, raising their voices anew even though authorities maintain there's no proof asbestos in water is as hazardous as airborne asbestos.

Families that had hoped to take the money, sell their homes and move away feel entrapped. There's no market for their homes, and the money has been slow in coming.

The bulk of the jury award must await the outcome of an appeal. Several families, though, have gotten partial payments ranging from a few hundred dollars to $15,000 as settlements with other defendants.

The appeal isn't expected to be resolved before January. Meanwhile, the interest clock on the $15.6 million award is ticking away to the tune of $5,100 a day. It could add another $2 million if the decision stands till the end of this year.

Forty-six other residents of the Legler section have filed a notice that they will be seeking the same compensation for their suffering during the 1972 to 1980 period the landfill was open.

Lawyer Arnold Lakind, Lawrence Township, who helped prepare the Legler case, sees "defendants becoming much more responsive. They acknowledge that people can be hurt and they're much quicker to act."

Example: A month after the Legler verdict, Allied Fisher, a chemical repackaging firm in Bridgewater Township, agreed to pay to hook up 470 homes to the municipal water system as a paratial solution to a problem of several years.

In Niagara Falls, N.Y., Lois Gibbs, president of the Homeowners Association of Love Canal, said the Legler outcome has given residents of the Love Canal new hope in their suit against Hooker Chemical Co.

In that case, 1,300 residents sued the company and the city. Hooker had offered $8 million to settle, she said, but there are almost three times as many people involved, and they are seeking damages for physical injuries.

She said residents are considering a $20 million settlement offer which would include $8 million from Hooker and the balance from insurance companies. If 90 percent of the residents agree, that would end the case.

Anthony Roisman, a former Justice Department lawyer now affiliated with a Washington-based law firm dealing in environmental matters, said corporations have become more serious about how they treat the environment.

He cites a Harvard University study that had taken a strong position on the reliability of evidence linking infant deaths and leukemia to polluted water.

The Legler residents charged, and the jury agreed, that the township was negligent in permitting cancer-causing chemicals to be dumped into the landfill, and that led to contamination of their wells.

Of the $15.6 million. $8 million was awarded to provide medical surveillance, $5 million for what had happened to the quality of life and $2 million for past, present and future emotional distress.

In their suit, Legler residents cited the deaths of three infants from kidney diseases during the years the landfill was open, and they claimed others suffered kidney and liver problems. But a ruling by Superior Court Judge James M. Havey denied them the right to collect for major illnesses and death.

However, that legal door may not be closed entirely, according to lawyer Lakind, who cites a suit in federal court in which damages are being sought for deaths and other kidney diseases caused by water pollution.

Still to be resolved by Judge Havey is how much each Jackson Township insurance carrier and the township itself must pay.

Susan and James McCarthy, Route 571, had planned to take the more than $200,000 awarded to their family and head for New Hampshire. They lost an infant girl to a rare kidney disease in 1975, and they had hoped to go to an area where the environment is clean.

"We felt we were on cloud nine for a couple of months," Mrs. McCarthy said. Then they picked up the newspaper one day and read about the asbestos fibers.

McCarthy, who said he has his own filtration system in his home, said this latest problem convinced him that "you can't trust government to protect the health of the people; you have to protect yourself."

Anthony Massaro, another of the successful plaintiffs, believes the case proves "you can fight city hall and win." And he believes the township is much more concerned about the asbestos problem now than it was about the landfill pollution.

In August 1972, the first load of liquid waste trickled through the porous sand at the new landfill on Homestead Road in Legler. It soon became a torrent reaching 110,000 gallons a day.

The sandy soil was more porous than adjacent areas because the township was using the former site of an ilmenite mining operation.

Tests in October, 1978, showed wells were contaminated. On Nov. 8, 1978, the word went out that well water was polluted. And for the next 17 months, the township supplied residents with 17-gallon drums of water.

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### County: Water OK

Armed with a $98,000 grant, Ocean County spent the last 18 months monitoring its shallow water aquifers.

Results showed no harmful levels of pollutants, except for some elevated chloride levels in coastal wells, says Alan Avery, director of the county's Water Quality Project.

"The sampling showed a very good water quality," Avery reports.

The study was a cooperative effort between the county, the state Department of Environmental Protection and the United States Geological Survey to develop a monitoring program for shallow aquifers used for water supplies.

"We took samples from more than 200 locations in the county in all the aquifer sections, especially the Kirkwood and Cohansey aquifers," Avery said. "Those samples done by the USGS were analyzed by the Ocean County Board of Health and sent to the USGS. The government recommended sampling sites and procedures to follow if the county wanted to embark on its own monitoring system in the future."

Should Ocean County choose to, Avery said, the system would be based on documented samples for comparisons.

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### A Fragile Resource

Too many of us, for too long, have taken for granted the quality of the water that flows from our taps. At a casual glance, water seemed the most renewable of resources.

But water is as vulnerable as it is abundant. Members of 97 families in the Legler section of Jackson Township recently were awarded judgments totaling more than $15 million against township authorities and others who permitted the dumping of cancer-causing chemicals that polluted the private wells that supplied their homes.

Here in New Jersey, a dangerous deficiency exists in safeguards for water users: State government lacks the resources to independently sample and test its 1,450 wastewater plants and 620 water purveyors on any basis that could be called systematic or comprehensive. Most testing that is performed is done by plant operators. And testing laws make no mention of the estimated 200,000 residents who draw their water from private wells.

On the federal level, the U.S. Environmental Protection Agency acknowledged only this year the serious threat to ground water. Last month, the EPA created an Office of Groundwater Protection, but its strategy to date "doesn't come close to solving the problem," according to one scientist. It sets up no broad base of standards for the purity and protection of water sources. Of 546 hazardous waste sites in the United States isolated under the Superfund legislation, 410 have ground water contamination problems. More than 100 of those sites are located in highly industrialized, densely populated New Jersey; there are 600 known toxic waste sites in the state.

The news is not all bad; the quality of ground water in its natural state is excellent. But the latest state Water Quality Inventory Report says no major aquifers or areas of the state remain untouched by ground water pollution.

But the number of wells that yield such water is diminishing, no one knows to what extent.

The problem is not one of knowledge, but of resolve. A great variety of problems exists—polychlorinated biphenyls (PCBs) in fish from coastal waters, bacteria-polluted clams that can cause hepatitis, a variety of inorganic pollutants that infiltrate water supplies, and sewage-borne bacteria that cause or aggravate a variety of ailments, especially in the very young and the ill.

One major trouble spot soon may be alleviated. The federal EPA last month ruled out continued dumping of sewage sludge at an ocean site just 12 miles off Sandy Hook. But it will take the sea years to recover from decades of dumping.

A variety of legislative remedies has been offered, from the federal Superfund law that authorized $1.6 billion over five years to clean up hazardous waste sites, to the proposed renewal, sponsored by Rep. James J. Howard, of the Clean Water Act to help fund new and improved sewage treatment plants. Also being considered is an increased state liquor tax that would generate a billion-dollar trust fund to clean up toxic waste sites, purify contaminated water sources and fund research. Rep. James J. Florio's federal Resource Conservation and Recovery Act, passed by the House and awaiting Senate action, would create a national ground water commission, establish standards for dealing with hazardous waste, and fund ground water research. And in Trenton, the state Department of Environmental Protection is required under a new law to issue a more comprehensive schedule for testing public water supplies.

In the end, public knowledge of the issues, and public resolve, will carry the day—or apathy will. It is a sad phenomenon that water, once abundant, pure and cheap, has become so jeopardized, and potentially so costly. But we must either pay the price for clean water, or face the day when water supplies will be neither abundant nor safe enough to use with confidence whenever we wish.●

## CELEBRATION OF THE 25TH ANNIVERSARY OF TROUT UNLIMITED

● Mr. LEVIN. Mr. President, this month marks the 25th anniversary of Trout Unlimited, founded in Michigan by Mr. George Mason in 1959 as a national trout and salmon resource conservation organization.

Trout Unlimited's special anniversary celebration will be held in Traverse City, MI on June 14-17. Today, more than 35,000 members belong to this organization and many will celebrate the 25th anniversary in Michigan. Trout Unlimited has affiliate chapters in Canada, New Zealand, and Japan.

Trout Unlimited was established by Mr. George Mason, president of American Motors, who loved to fish the Au-Sable River, still a major source of trout. Other fishermen, such as Mr. George Griffith, were concerned about the future of wild trout and made great contributions to the future of Trout Unlimited.

Trout Unlimited works with State and Federal fishery agencies in scientific research and field projects, helps physically clean up streams and lakes, restores degraded trout and salmon habitat, and conducts water quality surveillance programs. This organization also supports maintaining the genetic integrity of unique trout, salmon and steelhead stocks and protecting salmonid habitat by supporting good forestry and agricultural practices.

It is through chapters and councils that Trout Unlimited's conservation is accomplished. Members devote their valuable volunteer time to performing stream improvement projects which benefit the coldwater fishery. They also support local research and work with other groups on projects of common interest.

I commend Trout Unlimited for its 25 years of conservation efforts.●

## CONGRATULATING MARY V. BECK ON 50 YEARS OF PUBLIC SERVICE

● Mr. LEVIN. Mr. President, on June 17, the Ukrainian American community is sponsoring a testimonial banquet honoring a distinguished Ukrainian American and a very special person, Mary V. Beck. In 50 years of service to the American and Ukrainian communities, Mary Beck has been a trailblazer. She was the first woman elected to the Common Council of the City of Detroit; the first woman elected to be the president pro tem of the council; the first woman elected to be the president of the common council and acting mayor of Detroit; and the first woman to be appointed as chairperson of the Wayne County Port Commission. And these are just a few of her firsts.

Although we did not quite serve on the council at the same time, her ability and interest in making government efficient, responsive, and caring were known and admired long after she left. Her tireless efforts to serve the people of Detroit in an individual and meaningful way should be a model for those who seek to hold public office.

Mary Beck's commitment to human rights and the plight of dissidents in Communist countries also demonstrates her concern for people and the difficult challenges they confront. As the executive director of the Ukrainian Information Bureau, she continues to speak out at forums both in this country and abroad on behalf of those who are oppressed and yearn to be free. Her persistence and determination have carved out a special place for her as a spokesperson for the cause of liberty.

This coming Sunday many people will pay tribute to Mary Beck. Today, here is the Senate, I wanted to take this opportunity to let my colleagues know of her long and continuing record of service and to convey to her my warmest congratulations on this celebration of her 50 years of public service.●

## ORDER FOR H.R. 5565 TO BE HELD AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 5565, a bill concerning the relocation of certain Federal facilities in the District of Columbia, it be held at the desk pending further consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

## JOINT REFERRAL OF HATFIELD BILL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Hatfield bill, introduced today, dealing with allowing the buy-out of certain forest service and Bureau of Land Management timber contracts, be jointly referred to the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER PLACING SENATE RESOLUTION 404 DIRECTLY ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 404, congratulating the Boston Celtics, introduced by Senator KENNEDY today, be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator.

Mr. STEVENS. I thank my good friend.

## ORDERS FOR THURSDAY

### ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate recesses this evening, it stand in recess until 10:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. STEVENS. Mr. President, after the time for the two leaders under the standing order, I ask unanimous consent that there be special orders not to exceed 15 minutes each for Senators DOMENICI, PROXMIRE, and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. STEVENS. Mr. President, following those special orders, I ask unanimous consent there be a period for the transaction of routine morning business to not extend beyond 11:30 a.m., during which Senators may speak therein for not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. STEVENS. Mr. President, following routine morning business, it is the hope of the leadership that we will be able to turn to the consideration of Calendar No. 832, which is H.R. 4616 pertaining to restraints in motor vehicles for child seats under a very brief time agreement.

If this is possible, there will be a rollcall vote on that. If it is not possible, it would be the intention of the leadership to return to the pending measure, which is the Defense Department authorization bill.

I might state that the Senate is expected to stay in session very late tomorrow night in the hope of finishing the DOD authorization bill this week. In addition to that, it is fairly apparent that there will in all probability be a rollcall vote before 12 noon tomorrow.

Mr. BYRD. Mr. President, will the distinguished assistant Republican leader yield?

Mr. STEVENS. Yes; I will be happy to yield to my good friend.

Mr. BYRD. Mr. President, the distinguished Senator from Alaska has attempted to clear Calendar Order No. 832, H.R. 4616, for this evening.

I am supportive of the amendment relating to a national drinking age. I want very much to see that amendment adopted. I have attempted to get clearance so that I could go back to the Senator and give him a favorable response. But at this late hour of the night—and at a point several hours before this hour of the night—it became impossible to clear this legislation because so many Senators are not in their offices.

However, I want to assure the distinguished Senator that it will be my intention again in the morning to renew our efforts. I personally feel that we can clear this matter for him. I would like to see it cleared so that no amendments to it would be in order. I would like to see it cleared for a very short time for debate.

I just want to assure the Senator that in the morning, when the telephones are operating and the staffs are in their offices, we will make our run again to see if we can help him get an order in this matter.

Mr. STEVENS. Mr. President, I thank the distinguished Senator from West Virginia. I am very pleased that he is willing to make the effort he has made this evening.

We all understand that last-minute requests sometimes run into temporary snags. We hope to do our best to clear that bill for action tomorrow, if at all possible.

I will state, however, that the understanding we have with the managers of the DOD bill is that they do not wish to have action on the DOD bill interrupted, and that is understandable. If it cannot be cleared by the time we proceed on that bill, we will proceed with the regular DOD bill tomorrow.

Mr. BYRD. If it is cleared, it will be with the understanding that it will be taken up at an early hour.

Mr. STEVENS. Yes.

Mr. BYRD. It should not interrupt action on the DOD bill more than a half hour. I will try to do it in less than that.

Mr. STEVENS. That is the hope on this side. We hope that can be done. I thank the Senator.

## RECESS UNTIL 10:30 A.M.

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to; and at 12:10 a.m., Thursday, June 14, 1984, the Senate recessed until Thursday, June 14, 1984, at 10:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 13, 1984:

### DEPARTMENT OF STATE

John William Shirley, of Illinois, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipoteniary of the United States of America to the United Republic of Tanzania.

### IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. James M. Rockwell, 121-20-9150, U.S. Army.

# HOUSE OF REPRESENTATIVES—*Wednesday, June 13, 1984*

The House met at 10 a.m.

Rev. James W. Lyons, pastor, St. Peter's Church, Volo, IL, offered the following prayer:

*Give thanks to the Lord, for He is good, for his kindness endures forever. Who can tell the mighty deeds of the Lord, or proclaim all His praises? Happy are they who observe what is right, who do always what is just.*—Psalm 106.

O all wise, all loving, and almighty God, we thank You for bringing us out of nothingness, and creating us, we thank You for giving us our families, our relatives, and our friends, we thank You for our citizenship in this great Nation, the United States of America.

Because You have created us and given us countless blessings, You above everyone and everything know how we should think, how we should love, and how we should act.

We therefore pray to You, O Lord of all, that You enlighten the minds and inflame the hearts of our legislators with Your wisdom and love. With Your necessary and merciful help may the laws of our Nation always be a reflection of Your just and loving eternal law.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that Mr. WEICKER, Mr. GORTON, and Mr. BUMPERS be additional conferees solely for consideration of title IV of division B of the House amendment to the Senate amendments to the bill (H.R. 4170) entitled "An act to provide for tax reform, and for other purposes."

## FATHER JAMES W. LYONS

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, I take great pride in being the sponsor of the priest who delivered our profound prayer this morning. He is a remarkable man, having served seven parishes in Illinois and presently in the community of Volo.

He has been a Catholic chaplain in a number of associations. He has degrees from Northwestern, Mundelein, DePaul Universities, and he is a profound student.

In addition to being a theologian, he is both an author and a teacher. In one of his specialities he seems to concentrate on the theology of the Holy Spirit and that of Cardinal Newman.

But, above all, Mr. Speaker, he is a good priest.

On a professional note, I take pride in having him come from my home State of Illinois and pray so eloquently for us all. But on a personal note I take special joy in presenting Father Lyons to the House. His mother and father, Frank and Mae Lyons, were dear friends of my mother and father, Matt and Isabel O'Brien. And after Frank died, my father asked Mae Lyons to come and serve as his secretary and she did for many years.

So I somehow think, Mr. Speaker, that wherever they are, Matt O'Brien and Isabel, Frank Lyons and Mae, took great pleasure in today's opening prayer.

## THE ELBE SUMMIT RESOLUTION

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, today in the time-honored American tradition of bipartisanship in foreign policy, I am joining the Republican leader of the Senate, Senator BAKER, and the Republican chairman of the Senate Foreign Relations Committee, Senator PERCY, in calling on the President to hold a summit meeting with the leader of the Soviet Union.

I do not know who will be our President next spring, but I do know that whoever occupies the White House will have as his overriding task the preservation of peace—a task which is simply not feasible without regular periodic summit meetings between the American and Soviet leadership.

Forty years ago next spring, American and Soviet troops linked up on the Elbe River in Germany in an unforgettable moment of victory over the bloody tyranny of Hitler and his Nazi regime. Today I am introducing the Elbe resolution calling on the President to schedule a serious, well-prepared summit for April 25, 1985—the 40th anniversary of the Elbe River linkup—and to inaugurate an annual summit meeting with the leaders of the Soviet Union. This surely is no panacea, but it is a prudent first step toward a more sane and less dangerous world in this nuclear age.

## THE ECONOMY

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, today's Wall Street Journal contains an article in which two prominent economists of divergent views, Milton Friedman and John Kenneth Gailbraith, predict a 10-percent inflation rate by the end of the year. This is just one more sign that the economy is turning downward.

Interest rates have been rising since March—the prime rate is now 12.5 percent. America's economic growth slowed to just 3 percent in the second quarter, and the April trade deficit soared by 19 percent.

Things are even worse in Wisconsin and the Midwest. The short-lived recovery did little to lift the Midwest and the State of Wisconsin out of the economic hole the area has found itself in for 3 years.

Unemployment remains high at 8.3 percent in Wisconsin. The State lost more than 80,000 manufacturing jobs during the recession.

In Wisconsin's Fourth Congressional District, the situation remains bleak. A number of announced and completed plant closings have put thousands of jobs in jeopardy.

We now face the prospect of higher inflation, increased unemployment, and continued high interest rates. The basic American dream—owning a home—is no more than a wish for millions of Americans. The time has come for definitive action to reduce the deficit, create more jobs, bring down interest rates, and put our economy back on track. Until we take the steps to bring about a real recovery, the Midwest will continue to suffer.

People keep talking about the economic boom. Well, the boom has been lowered on the Midwest.

## PROTECT OUR CHILDREN ACT

(Mr. McCAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCAIN. Mr. Speaker, today, the President of the United State will

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

officially open the National Center for Missing Children. This event marks the culmination of years of effort to nationally coordinate the search for missing children. At this time, I believe it would be most appropriate to introduce legislation that I believe will protect our children from those who abduct, exploit, and even murder them.

There is no need to coddle those who would steal our children from us. It is time to deal with this activity in a manner which fits its heinous nature. The answer is to remove these individuals from society on a permanent basis, so that no other children will be lost to them. I do not feel it is too harsh to say that one who kidnaps a child has forfeited his right for freedom. If we will not stand up for our children, who will?

The Protect Our Children Act will provide for a mandatory life sentence without parole for any nonparent who kidnaps a minor. If a homicide results from such a kidnapping, then this legislation then calls for the imposition of the death penalty.

Missing children are a tragic problem for families in every neighborhood from cities to rural areas. It is a problem that demands the attention of each one of us, and prevention is the answer. The common good of our country demands that we take a strong stand on the problem of violence against our children.

There is no room in our society for people who would abduct or kill innocent children. Support for this initiative shows that we have the courage to fight the battle to protect our children. I ask for your support.

## CALENDAR WEDNESDAY

The SPEAKER. This is Calendar Wednesday. The Clerk will call the committees.

The Clerk called the committees.

□ 1010

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5399, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1985

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-836) on the resolution (H. Res. 520) providing for the consideration of the bill (H.R. 5399) to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5541, PUBLIC BROADCASTING AMENDMENTS ACT OF 1984

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-837) on the resolution (H. Res. 521) providing for the consideration of the bill (H.R. 5541) to amend the Communications Act of 1934 to extend certain authorizations of appropriations contained in such Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3282, WATER QUALITY RENEWAL ACT OF 1984

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-838) on the resolution (H. Res. 522) providing for the consideration of the bill (H.R. 3282) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## ANTISATELLITE WEAPONS

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, yesterday, I addressed the House on the question of seeking negotiations to secure an arms control agreement on antisatellite weapons.

I note with keen interest that last night, the other body adopted an amendment to the Defense authorization bill requiring Presidential certification that the United States is negotiating in good faith with the Soviets to secure a mutual and verifiable agreement with the strictest limitations on antisatellite weapons consistent with U.S. national security interests.

I believe that the House-passed test moratorium is a stronger tool for forcing this administration off dead center on the question of ASAT arms control, and hope it will be upheld in conference. But with this action of the other body, the Congress has clearly expressed its strong support for vigorous pursuit of arms control on this potentially destabilizing issue.

Again, I express my hope that the President will take this widespread congressional sentiment to heart and show a willingness to take the Soviets up on their offer to negotiate an ASAT treaty.

The American people and the Congress want the administration to move ahead on arms control opportunities. The American people will not tolerate excuses; they want action.

## PERIODIC SUMMIT TALKS ON ARMS CONTROL

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker and Members, if we are ever going to achieve some form of meaningful arms control, there must be periodic summit talks between the United States and Russia. That was the advice that Senate Majority Leader BAKER gave to the President; and it is good advice.

Clearly, the world is disappointed that President Reagan did not heed this advice. How long will we go with a buildup of costly and potentially deadly arms without the United States and Russia coming to the table?

Mr. President, you ought to reexamine Senator BAKER's good advice, for what is at stake is peace in the world.

## ON THE BOSTON CELTICS CAPTURING THE NBA WORLD BASKETBALL TITLE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, in the Middle Ages, they were called Keltics—Celtics—the great Irish warriors. Living up to their namesakes last night in Boston Garden, the Boston Celtics captured their 15th world championship banner by smashing the L.A. Lakers, 111-102. In this thrilling series, the Celtics showed the Nation that perseverance, when combined with a multitude of talent and a great coach, is what leads to the glory.

Standing head and shoulders over even his tallest adversaries, however, is perhaps the greatest player that ever lived, Larry Bird. With the sighting of a hawk, the arm span of an eagle, and the humility of an ostrich, Larry Bird has shown the doubters what being a good, clean, professional sportsman is all about.

Cedric Maxwell's performance last night was nothing less than stellar, as well, scoring 24 points against a tough Lakers defense.

I salute the world champion Celtics on their great series victory last night, and join with the people of the State of Massachusetts and the city of Boston in singing their praises.

Mr. LUNGREN. Mr. Speaker, will the gentleman from Massachusetts yield?

Mr. CONTE. Yes; I yield to the gentleman from California.

Mr. LUNGREN. I just wonder—the gentleman is on the Appropriations Committee and I wonder if he has given any thought to a Federal grant to provide air-conditioning at Boston Garden, so that those poor players from the west coast who are used to heat but not humidity might be able to play on an equal playing field next time around?

Mr. CONTE. My warriors do not need air-conditioning. In fact, it's unfortunate that we ever got it here in the Capitol. We would be out of here by now.

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## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman from Michigan [Mr. SILJANDER] is recognized, and the Chair wishes to state that this will be the last 1 minute of the day.

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## H.R. 5432, THE FLAT TAX BILL

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Fortune magazine recently did a comparison article on flat tax bills, JACK KEMP's bill, the Bradley-Gephardt, and my bill, House Resolution 5432. They labeled two concerns against my flat tax bill which I would like to address this morning.

The first one that it would be against is the poor. Well, did they not notice that in the flat tax bill, H.R. 5432, it has a $2,000 exemption for each member of the family for the poor? So an average family of five would have a $10,000 exemption from all taxes. That certainly is not in opposition to the poor.

Point No. 2: It may have a $20 billion loss of revenues, said the Fortune magazine article. No. 1, the economic stimulus of giving up to a 50-percent tax cut to those incomes under $35,000, the fact that our bill, H.R. 5432, has a 3-year amnesty program, and broadening the base of all taxpayers whether they make $1 million or $15,000 in the fact that they will pay equally 10 percent of their income in taxes with some exemptions and deductions.

In fact, we are eliminating most exemptions and deductions which would broaden the tax base.

All that leads to a net gain to the Federal budget, according to a dynamic model of the Heritage Foundation.

So, I ask support of the 10-percent flat tax, House Resolution 5432, a simple and fair tax system.

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## IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 12, 1984, the amendment in the nature of a substitute recommended by the Committee on the Judiciary was considered as an original bill for the purpose of amendment, which is only subject to amendment by the amendments made in order pursuant to House Resolution 519.

Amendment No. 11 is in order at this time.

At this time, without objection, before having the next amendment offered, the Chair now recognizes the gentleman from Kentucky [Mr. MAZZOLI].

There was no objection.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

There was no objection.

Mr. MAZZOLI. Thank you very much.

Mr. Chairman, I take this moment to more or less set the stage for where we are today and where we have been and where we hope to go.

Let me first thank the ladies and gentlemen of the House of Representatives. I think that the diligence and attentiveness and the willingness to spend long hours working on this has enabled us to reach this point. I think last night shows this when, at the very late hour of 10:30, almost 11 o'clock, there were hundreds of Members still here in the Chamber and on the Hill. I think they are serving their constituencies very well by that type of attentiveness and that kind of diligence.

□ 1020

Let me mention that we did have a historic debate. This, of course, is a very difficult issue. Immigration is how America came to be America. Immigration is how we remain a strong Nation and how we will be able to weather the storms of the years ahead into the 21st century.

So, accordingly, things that were said have to be said because they are felt very deeply. We all came from someplace. We all have different backgrounds and therefore we tell our specific stories spanning quite a few years and quite a long Odyssey. Therefore they have to be spoken of in heartfelt terms.

I did note, and I would like to suggest to the House and those who are observing the proceedings of the House, they should note the lack of the ad hominem comment, the very absence of the kind of waspishness and rancor which people said definitely would characterize this debate. They swore that this debate would cause the House to dissolve into rancor and vilification and screaming charges back and forth.

I think those who observe this debate and those who have attended it have found the level of discourse to be eloquent, to have risen to the point, as the gentleman from Kentucky said last night, to have risen to the level of oral history—the history of this great Nation of ours which each of us represents.

Let me at the same time suggest that because the very nature of the problem is emotional, there may be the tendency to add a certain combination of words designed to describe the Member's heartfelt feelings, but at the same time those very words might have a tendency to cause another Member some disquiet and some discomfort.

Let me suggest, as the gentleman from Kentucky who has worked on this subject for 4 years and the gentleman from New Jersey, our distinguished chairman, for scores of years, no one on either side of this issue reaches this point by reason of narrowness or pettiness. We reach this position because we feel strongly on this important subject.

So, I would urge my colleagues, for the remainder of today and tomorrow and however long it takes, to look at the matter with restraint and with calm and with the dignity which has characterized the debate to this point.

Let me once again thank the Chair. I cannot, and I think the House cannot, fully appreciate the diligence, the impartiality, the fairness of the Chair. The gentleman from Kentucky [Mr. NATCHER], one of the outstanding presiding officers in the history of this Chamber, has once again, through 2 very long days, presided with the kind of dignity and competency which marks his tenure in the House. And has, as the gentleman from Kentucky said, made the gentleman from Kentucky proud to be a member of the Kentucky delegation.

The Members of the House would be advised that I, or the gentleman from New Jersey, who is the floor manager of the bill, will advise the House on the amendments which are difficult. Some amendments we can approve and some we will have to reject.

I would hope that the House pays attention. The gentleman from California [Mr. ROYBAL], who is the author of many of the amendments here, is, of course, against the bill and will remain against the bill. Obviously, amendments that the gentleman offers or are offered by others in his behalf should be rejected for the most part. Some might be approved. But for the most part, they are designed to wreck the bill, to wreck its symmetry, to wreck its balance.

I should also remind the House that we begged the gentleman from California [Mr. ROYBAL] to develop a so-called bill, a package, a symmetrical package, something we could look at to see if it had balance and if it had symmetry. But the gentleman refused to do that. He insisted upon breaking his bill up into several parts and introducing all those parts. The Rules Committee deferred to the gentleman and he now can make all his amendments in order.

But I again respectfully recommend to the House, look at the committee version. It begins at Alpha and ends at Omega. It begins at A and ends at Z. It lineally progresses through the whole sweep of immigration reform and I suggest that the gentleman from California's amendment does not have that kind of balance and reach and symmetry.

Let me suggest also that no one should thwart the will of the House. We, by a very strong vote of 291 to 111, approved the rule to allow the bill to be brought up for debate. I would suggest that that very strong vote is an indication, as the gentleman from Kentucky said yesterday, the House has gone strongly on record to do something and on record not to do nothing with respect to immigration reform.

So do not let individual Members thwart the will of the House. We want to work the will of the House and it is only worked by having a final vote on the issue.

The final thing I would recommend, if the Members of the House have a moment to read in the Post this morning an article by the columnist, Mr. William Raspberry, on the issue of immigration reform and specifically on the issue of Simpson-Mazzoli.

Mr. Raspberry does not reach any final conclusion in his article, but he does speculate that there has been an effort made to make the terminology, "Simpson-Mazzoli," a buzz word or a code word for some sort of anti-Hispanic sentiment.

But when you separate the component parts all the polls indicate that the component parts employer sanctions, or legalization, are approved by the great majority of American people.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, I would just lastly conclude that I hope Members will read the article that suggests the bill before the House, H.R. 1510, the immigration reform bill, is a good bill, a solid bill, well thought out. I think it achieves the purposes of immigration reform which is humane and thoughtful and yet, at the same time, effective.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

I just wish that the gentleman would refrain from referring to this bill as immigration reform because there is no immigration reform in the bill.

Mr. MAZZOLI. I reclaim my time.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has again expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank the gentleman for the way in which he has handled the bill, too. I think the gentleman from Kentucky and the gentleman from California have done an excellent job of managing the bill on the floor. We want to thank you.

I would just ask the gentleman whether or not, as we reach midweek, he has any feel for the schedule for the rest of the week so that some of the Members who are getting concerned about schedules would have some idea.

Mr. MAZZOLI. I thank my friend from Pennsylvania.

The gentleman from Kentucky was attempting to reach that, too.

Basically speaking, the gentleman from Kentucky was of the opinion that if the House were to work speedily we could probably finish this bill—it is conceivable—like midevening tomorrow night, 9:30, 10 o'clock. I think we could.

Now that is asking a lot and it is asking a lot of attentiveness and it may require, quite frankly, certain limits on debate on certain areas of the bill.

Now that is to say not lacking fairness and letting everyone have a full opportunity, but there might be some need to put certain limits.

The gentleman from Kentucky feels there are perhaps 10 amendments in this remaining bill, even though we have completed 11 amendments and we have a total of 69 made in order, we have made pretty good progress, 10 of them or so would be probably such that we would have a fair amount of debate. But I think we could finish it. We can certainly finish by Friday, early Friday, say noon Friday, which is what the Speaker of the House, the distinguished gentleman from Massachusetts, had sort of targeted.

It will take cooperation. The gentleman from Kentucky certainly is willing to cooperate in that fashion.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. ROYBAL. I thank the gentleman for yielding.

Now, one of the things that the gentleman forgot to mention was that the compromise bill that I presented was a result of 4 months' work on the part of a cross section of the communities, Hispanic, Asian, church groups, civil rights groups, that sat down for 4 months to work on this bill.

□ 1030

We presented the bill February 22 of this year; but you refused to have hearings on it.

Mr. MAZZOLI. I reclaim my time from the gentleman, and I would explain to the Members of the House and the people who are observing the proceedings, the gentleman from Kentucky requested 2 years ago that the gentleman from California please issue this bill, please bring this legislation to us so that we could look at it. The gentleman did not do so.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. In addressing my friend, the gentleman from California, when the gentleman from Kentucky appeared before the Democratic Caucus and explained where we were in the bill, I recited every instance in which I myself went to the gentleman's office, I myself deferred to the gentleman's seniority and his expertise on this knowledge, and came to him and asked him for his input. I recall the instances where the gentleman appeared before our committee, I recall the instances where the gentleman from Kentucky called the gentleman in order to get information, because the gentleman is an expert in this field, and I want that kind of wisdom and I need that kind of knowledge.

Mr. ROYBAL. Will the gentleman yield?

Mr. MAZZOLI. The gentleman from Kentucky wishes to proceed.

The gentleman from Kentucky remembers vividly that the Speaker of the House of Representatives, the majority leader of the House of Representatives—the gentleman from Kentucky asking the gentleman from California [Mr. Roybal] at the informal meeting of the Rules Committee, would the gentleman please submit his bill as a bill, it would be made in order, it would be given 4 hours of debate, or whatever the gentleman wished. The gentleman refused to issue his bill as a substitute bill. Therefore the House is unable to look at the so-called Roybal bill as a bill. We do not know if it is symmetrical, we do not know if it is balanced, we do not know if it is fair, we do not know if it is humane because we have never seen the Roybal bill.

Mr. ROYBAL. Will the gentleman yield at that point?

Mr. MAZZOLI. Yes; I yield to the gentleman.

Mr. ROYBAL. Of course you do not know, and the reason for that is that you yourself refused to have hearings.

Mr. MAZZOLI. The gentleman is incorrect.

Mr. ROYBAL. The legislation was introduced on February 22.

Mr. MAZZOLI. Mr. Chairman, I reclaim my time.

Mr. Chairman, it is time for the House to proceed. I thank the Chair for his indulgence and the House for its indulgence. All I say is that we have a good bill before you, and try to help your committee.

Mr. LUNGREN. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California [Mr. Lungren] is recognized for 5 minutes.

There was no objection.

Mr. LUNGREN. Mr. Chairman, I am not going to take the full 5 minutes. I just want to say that what we have done in the past and how we got here is of interest to some. The point is that we have a bill before us right now. I would hope that we will deal with each amendment as they come up and not use time on individual amendments to argue other amendments. We will have an opportunity later on today to have the amendment of the gentleman from California to strike sanctions. So, please, let us not argue about whether we should have sanctions or not have sanctions on the other amendments before we get there.

I will be constrained, as I know the gentleman from Kentucky will be, to ask unanimous consent, if not move, that we limit time here if we are going to repeat the same arguments on every amendment in the same section. I believe the Rules Committee has been most generous in giving, as the gentleman from Kentucky has said, every shade of opinion an opportunity to be heard with respect to the major elements of this bill. I would be hopeful that we could finish this bill by tomorrow evening. I have my doubts as to whether that is truly possible. But I should say to the Members who have asked or inquired as to when we might finish it, I think you ought to make plans that we will be here Friday. I think you also ought to make plans that we will be here next week if we are going to take extended periods of time to reiterate arguments that are made on each individual amendment.

I hope the Members would at least grant the level of intelligence and attention to their colleagues that they are due, such that we do not repeat the same arguments each time, believing that Members cannot retain the arguments from one amendment to the next. And if in fact there are requests made for limiting time, I hope it is fully understood that that will not be made in any effort to cut off legitimate debate; but if debate becomes repetitious and if what we are to have is the interim amendments to be used to argue over and over again the ultimate arguments of the final amendments in a section, I will certainly support an effort to cut off debate.

Last, I would say people should be aware that every indication we have from the Speaker and the leadership is that we are going to work on this bill until we finish it. So if Members somehow think we are going to kill this bill by excessive debate—and by that I mean debate that is repetitious and does not go to the amendment before the Members on the floor—they are wrong. All they are doing is a disservice to their fellow Members. I do not want to have Members here on Friday after Friday or Monday after Monday for votes, but I will urge that upon the Speaker, as I know the gentleman from Kentucky will, if that is going to be the will of those who want to defeat this bill.

In other words, if you want to defeat this bill, defeat it openly, on votes, but please do not have an effort to argue and reargue other amendments while a particular amendment that has virtually nothing to do with that argument is before us.

So I hope we can proceed with the next amendment.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New York.

Mr. GARCIA. I agree with the gentleman. I think so far the debate has gone quite well. I think for the sensitivity of this issue that each amendment has been given its full viewing. I believe that those of us who oppose the bill have and will continue to talk on issues of particular concern to us.

I want to express my hope to the gentleman from California and my colleague from Kentucky, that the rules will not be changed somewhere in the middle of the game. I think things are going well right now.

Mr. LUNGREN. If I might reclaim my time, I might just suggest to the gentleman that it is not my intention nor my hope that we go back to the Rules Committee, but I do recall a comment on the floor yesterday, after we had finished 10 hours, and the gentleman from Kentucky suggested we might want to limit further debate, after we had gone for several hours on one amendment, and we were talking about issues that went beyond that amendment, mention was made, "Why are you trying to cut off debate? There is no need to move along."

Well, once you have spent 10 or 11 hours in 1 day, it seems to me to suggest that debate has not been full and vibrant and taken on the issues suggests that someone was not paying attention.

Mr. GARCIA. Will the gentleman yield?

Mr. LUNGREN. Yes; I yield to the gentleman.

Mr. GARCIA. Well, because you are on the other side of the aisle, you are not privileged to the conversation that the Democratic Caucus has had.

The CHAIRMAN. The time of the gentleman from California [Mr. Lungren] has expired

(On request of Mr. Garcia and by unanimous consent, Mr. Lungren was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. I understand that. And if at any time I am invited to attend the Democratic Caucus, I would happily attend that—to listen.

Mr. GARCIA. But going beyond that, I think the second part, regarding the conversation with the gentleman from Texas and the gentleman from California over Social Security, I think maybe that is what you are alluding to. As far as I am concerned, what that did, essentially, was eliminate the 10th amendment. We never even got into the 10th amendment. I think because of the 5 or 10 minutes colloquy they had, we saved debate on one amendment.

Mr. LUNGREN. The only caution I am bringing up is that we are going to have the Coleman amendment that strikes criminal penalties with respect to sanctions. That goes to a type of sanction. It does not go to the question of whether or not we are going to have sanctions. We are going to have an opportunity to debate that. I think it would not do us very much good to stand here and debate the question of whether or not you should even have sanctions when we are going to deal with the Coleman amendment that deals with the type of sanction.

Let us make sure that we deal with that at the time the amendment is up, otherwise we will just be repeating every time around and we will be here at 6 o'clock tonight and never have gotten to the ultimate question.

**Mr. COELHO.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I yield to the gentleman from California.

**The CHAIRMAN.** The time of the gentleman from California [Mr. LUNGREN] has again expired.

(On request of Mr. COELHO and by unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

**Mr. COELHO.** I hope the gentleman is not saying that those of us who feel very strongly about this bill, for whatever reasons we have, do not have a right to go ahead and debate it. We recognize on our side of the aisle that——

**Mr. LUNGREN.** If I may reclaim my time, the gentleman knows that is not what I am suggesting.

**Mr. COELHO.** OK. On this side of the aisle the leadership has said that we are going to finish this bill. So to imply that the people over here who are arguing this and discussing this want to delay the bill so it will not come up is not accurate. The Speaker said we will complete the bill. We will complete the bill. The people who feel strongly about this have every right, and I encourage them to go ahead and debate it as far as they want to and as much as they want. They feel strongly about it. I know that people on your side of the aisle feel strongly about certain issues and have asked for it to be debated, and when they do get the opportunity, do debate it at great length. I do not see anything wrong with it. The rules provide for it.

**Mr. LUNGREN.** If I might reclaim my time——

**The CHAIRMAN.** The time of the gentleman from California [Mr. LUNGREN] has expired.

### AMENDMENT NO. 11 OFFERED BY MR. COLEMAN OF TEXAS

**The CHAIRMAN.** Amendment No. 11 is in order at this time.

Does the gentleman from Texas [Mr. COLEMAN] desire to offer the amendment at this time?

**Mr. COLEMAN of Texas.** I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. COLEMAN of Texas: Page 11, strike out lines 3 through 8.

□ 1040

**Mr. COLEMAN of Texas.** Mr. Chairman, this amendment, contrary to some of the speeches that have gone on this morning, probably will not take that long, because it is extremely simple.

Mr. Chairman, this amendment eliminates criminal penalties from the employer sanctions provisions of the bill. H.R. 1510 provides that a person or entity previously subject to civil penalties in two or more instances shall be fined not more than $3,000, imprisonment not more than 1 year, or both, for each unauthorized alien with respect to which the violation occurred.

I certainly recognize the necessity of removing the financial incentives for undocumented workers to seek employment. But it seems the imposition of criminal penalties creates an unjustifiable burden on business owners. Criminal penalties, as a culmination of repeated violations of the civil penalties, require business people—large and small—across the country to act as immigration enforcement agents. This is completely unnecessary because other deterrents exist.

Existing laws contain various penalties which can deter employers from hiring undocumented workers. Criminal sanctions, for example, are provided under Internal Revenue Code enforcement provisions. Through the enforcement of existing wage and hour laws, stricter monitoring and enforcement of the withholding of Social Security and income taxes, and stricter control over the issuance of Social Security documents, we can discourage employers from hiring undocumented workers. Employers are also subject to Federal and State health and safety regulations.

The maze of Federal regulations imposed upon America's business community is well known to all. It is unreasonable for us to impose additional requirements—immigration law enforcement—upon employers. The shortcomings of our present immigration laws, due to the lack of a comprehensive immigration policy, can better be addressed by existing laws. If we cannot enforce them at the present time, we cannot honestly anticipate that employer sanctions will work or will be adequately enforced.

Criminal sanctions imposed upon employers concern me for another important reason. This has the potential for impacting negatively upon many minority communities across the country. Hispanic and Asian American organizations have voiced their concerns that employers will be reluctant to hire those who appear to be foreign or speak with an accent. Employment discrimination would exacerbate the record high unemployment rates which already exist among the minority populations.

Some argue that documentation proving citizenship or lawful permanent status would be required of all persons making application for employment. This, unfortunately, is not the reality of the situation. Many citizens in my district along the border, for example, are asked to display proof of citizenship based solely on their appearance or language proficiency. Others are presumed to be citizens—again based upon their appearance or command of the English language. I submit that these same assumptions will occur in the workplace to the detriment of many Americans.

For these reasons, I urge may colleagues to support this important amendment.

**Mr. RODINO.** Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, during the course of this debate I know there has been a great deal of acrimony; a great deal of bitterness. I regret that, because I am sure that all of us who are here, each of us recognizes that we have a responsibility to address this problem, to speak out on behalf of what we believe to be the right course of action. If we do not tackle the problem today, we are going to find ourselves continuing the status quo and granting immunity to those employers who are the greatest offenders, the greatest violators, the greatest transgressors. There are people who unfortunately, coming here illegally, become undocumented, and as such, have no recourse if they are threatened with the loss of job or deportation by employers.

The bill that was fashioned by this committee, is a bill that was thought out over a long period of time. I might say that, speaking especially to my friends in the Hispanic community and those who have been so impassioned, and with reason, about the possibility or potential of discrimination, that I though we dealt with that yesterday.

The genesis of this particular provision dealing with civil and criminal penalities came about not as happenstance, and I would like to recite its history. I probably will take more time to speak on this, only because I feel very strongly. The genesis of this arose many years back when I, as a Member of the Congress, found that there was a group of people who were, as I later found them out to be, undocumented. But they happened to be of Portuguese ancestry. Some of them happened to be Slovakians. Some of them were Chinese. All of these people were being herded into a truck and brought to a place where they were working on construction work at substandard wages. I later found that these very same people were living in substandard housing and were being exploited by having to pay excessive rent that they could not afford, and all of this under the threat that if they were to speak out, they would be deported.

It was as a result of this that my interest and concern arose and at that time I developed and conceived the idea of employer sanctions. Always bearing in mind that these were individuals coming from whatever part of the world came because they saw here a land of opportunity where they could find a job.

Those were the people whom we sought to protect. Those were the people who employer sanctions were designed to protect, in order to assure that there might be a disincentive against those employers who were unscrupulously dealing with them, who were dealing with criminal rings to bring them in. This was the genesis of this.

In order to be fair about it, to recognize that there were employers who were decent, who wanted to deal with people properly and decently, and who did not want to really make them work with substandard wages, knowing that they were illegal aliens, I designed at that time, a graduated penalty approach.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. RODINO] has expired.

(By unanimous consent, Mr. RODINO was allowed to proceed for 5 additional minutes.)

Mr. RODINO. I designed, at that time, a tiered approach. The first would be a citation. Just a warning, believing that if that employer were acting in good faith and that he, without knowing, had hired an illegal alien and had not attempted to take advantage of him, because he was an undocumented alien, the citation would be sufficient.

Following that, we set a fine. For the third offense, a criminal penalty. We found that there are actually those who are working with rings, smuggling them in as human cargo. Abusing them, violating them and their human rights.

□ 1050

This is not just in small numbers. This is in large numbers. If my friends and colleagues of the Hispanic community who argue about the potential of discrimination would only be aroused by the knowledge that this is taking place and that this is what sanctions are being directed at, then I am sure they would join with me.

I am saying that while the gentleman from Texas maintains that it is enough that existing laws will be able to deal with the situation, the numbers have been growing, and growing enormously and the abuses continue, the gentleman fails to deal with the egregious offenders, the egregious violators.

I wonder if the gentleman saw some films and saw some docu-dramas of the undocumented worker who was being herded into places, brought in with the assistance of organized crime.

Mr. COLEMAN of Texas. Mr. Chairman, if the gentleman would yield, I would be happy to answer that question.

Mr. RODINO. I will yield to the gentleman from Texas on that point.

Mr. COLEMAN of Texas. Yes, sir; I have. I just wanted to point out that it is still, nonetheless, against the law to transport. That is the law today, a criminal violation of the United States Code, and I would only point out that my amendment does not deal with any other sanctions in the legislation other than those criminal sanctions in H.R. 1510.

I know the gentleman from New Jersey is aware, as the chairman of the most respected committee, perhaps, on the Hill, that of the Committee on the Judiciary, it is not always a good idea to say we are going to begin this process with a criminal sanction. This bill provides 1 year's penalty for each and every, and I quote, "authorized alien with respect to which the violation occurred."

On that point, I would only say to the gentleman from New Jersey that it seems to me that this bill is not something we will have cemented in concrete even if it passes. Assuming it does pass, do we not have the ability in the U.S. Congress, if we see a crying necessity, to add criminal penalties to the bill?

Mr. RODINO. Mr. Chairman, reclaiming my time, we have seen this over a period of years. Twelve years ago I stood on this floor and proposed employer sanctions and the House overwhelmingly, in its wisdom, adopted such employer sanctions. The other body failed to do so.

The number then was a small number, and the unscrupulous employers is what this criminal sanction is addressed to, those who are committing egregious acts, the court would be in a position to determine the type of criminal penalty to be imposed.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. RODINO] has expired.

(By unanimous consent, Mr. RODINO was allowed to proceed for 2 additional minutes.)

Mr. RODINO. The proof that would be presented would show whether the person was one who had been a constant violator or one who had a huge array of human cargo that he was dealing with, and the court would then act accordingly. That is what this is.

If we permit this known violator, and there are a number of them and the data is there, to be able to merely pay the fine, and he has the ability to do so, he is not going to be threatened. He is not going to feel that it is necessary to stop. He will go back and do the same thing all over again. I do not think that we can sit back when we do know that there are those who are violating, abusing, and exploiting these people, smuggling them in, paying smugglers to do so, I think we can do no less than retain this criminal sanction against these violators.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I believe the point of the gentleman from Texas which he is trying to bring out is that we have not tried civil sanctions yet. We have civil sanctions for every other phase of labor law. There is no other type of criminal penalty involved except for this one for labor law, minimum wage and hour standards, not OSHA. I think the amendment of the gentleman from Texas is right.

Twelve years ago we turned down sanctions. Let us try civil sanctions now and then in the future, if the Congress determines we need to move it up to criminal sanctions, we can debate it then. But we have not tried civil sanctions yet.

Mr. DAUB. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, I want to say a few words generally about debate as it has proceeded thus far. I want to say to my colleagues that as someone who, as I think I have made clear, practiced this kind of law for many years, that the debate, as far as I am concerned, has been enlightened.

Second, I want to say that I do not believe that the debate has been as acrimonious as I expected. I think we are proceeding within the framework of some constraint, and I think each Member who is emotionally involved and principally involved is working very hard to measure their words carefully, and I, for one, appreciate that and will try to do the same throughout the debate.

I also want to make the point to my colleagues that for 3 years we have been dealing with this issue generally as a body politic, so there ought not to be too many Members who say at this point in time, "I am not sure what to do. I do not know how I feel. I need more debate. I need to see us beat this horse to death."

I think that if one serves in this body in the beginning, this is one issue that has been dealt with at home and in town hall meetings and in a reading file and in the general discourse between colleagues over the last 3 years, so I would say, therefore, that each Member who speaks on a subject ought to make his point, make his point intelligently, but can indeed summon the courage to do so briefly and we can finish this bill. I think it is that important for the country.

With those general remarks, let me associate myself with the eloquent remarks of our distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO]. He is precisely correct. I practiced this kind of law. I represented corporate employers. I represented those the INS accused of trafficking, of setting up rings for Armenians and Filipinos and all sorts of other ethnic groups from other countries, bringing them to this country for profit, casting them upon the sea of unawareness as to the repression and the discrimination that was going to follow them into any of the jobs that they found.

I want to, therefore, indicate that if anyone watched the debate yesterday between the Hawkins amendment and the Frank amendment, the matter can be quite easily resolved.

Mr. ORTIZ. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I will yield when I finish my statement, and I will certainly look forward to that opportunity for both the gentlemen who are on their feet.

The Hawkins amendment dealt with some discriminatory potential in the committee print. I believe that a fine contribution has been made to improving the bill by adopting the Frank amendment. The difference between the two amendments was simply whether or not we remove the criminal penalties or sanctions in the bill.

I wish to point out, if my colleagues read the two amendments carefully, that those who voted against the Hawkins amendment and for the Frank amendment ought to be consistent, should this matter come to a vote, and if Members voted for the Hawkins amendment, they should vote against this amendment that we are debating now.

Let us talk about sanctions for a minute in their criminal form. As I said in the debate on the rule, in my judgment there will be no more effective way to kill this bill than to delete any of the sanctions, and particularly the criminal sanctions contained in the bill. We need tough, strict, and I want to appeal to my colleagues, expensive sanctions for those who, from a business entity point of view, deal with the trafficking of illegals or undocumenteds and bringing them into this country to our work force.

On page 10 of the bill, we provide for a $1,000 civil penalty if someone has not violated the law prior to that time. We go a step further and provide, in one or more instances, an additional civil penalty, if they break the law again, of a $2,000 fine.

□ 1100

And then we go to the section that the gentleman from Texas [Mr. COLEMAN] wishes to delete on page 11, lines 3 through 8, wherein he suggests that we should eliminate the section that says after they have been caught breaking the law the third time, the judge may fine them up to $3,000, imprison them not more than 1 year, or both, for each unauthorized alien, with respect to violations that occurred with respect to section (C).

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield on that?

Mr. DAUB. In a moment, I will yield.

Mr. Chairman, let me say to my colleagues that what we are trying to do is to achieve as best we can in, at least as discriminatory a way as we can a process that will stem the tide of the influx of the undocumented aliens to our shores. Employers need to know that they cannot break the law a third time.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 2 additional minutes.)

Mr. DAUB. So, Mr. Chairman, in my view it is very easy to dispose of the Coleman amendment, for the reasons that I have stated, and if you are indeed a civil libertarian, and you want to do something about illegal immigration, you must come down on the side, even though a little bit uniquely, for ultimately criminal sanctions for breaching the law of our land with respect to immigration.

Mr. Chairman, I am happy first to yield to the gentleman from Texas [Mr. COLEMAN], the author of the amendment.

Mr. COLEMAN of Texas. Mr. Chairman, the gentleman is not suggesting, is he, that all that the gentleman from California [Mr. HAWKINS] attempted to do yesterday in his amendment was to do what my amendment does?

Mr. DAUB. No.

Mr. COLEMAN of Texas. In other words, the gentleman does not want to equate a Member's no vote against the Hawkins amendment with a no vote on this amendment?

Mr. DAUB. Only on the criminal sanctions point. As to the other parts, as a matter of fact, the Hawkins amendment was quite good. If it had not been for that particular section eliminating criminal sanctions, I would have voted for the Hawkins amendment to begin with.

Mr. Chairman, I thank the gentleman, and may I yield to the next gentleman.

Mr. ORTIZ. Mr. Chairman, if I may, I know a lot has been said about the illegal aliens coming into the United States. I believe we are going about it in the wrong way. There is a lot of red tape and a lot of forms to fill out.

Does the gentleman not agree that the thing to do would be to boost the border patrol and nab them at the point where they are coming in?

Mr. DAUB. Mr. Chairman, may I reclaim my time.

I certainly agree with the gentleman on that particular point, and indeed I intend to vote for the Roybal amendment that increases the authorization for funds. In fact, I think the bill actually, as it is printed, moves us in that direction. I could not agree with the gentleman more.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I am happy to yield to my friend, the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

My question is a very specific question: Who goes to jail? In the event of imprisonment, is it IBM that goes to jail, or is it the manager, or the person that does the hiring that goes to jail? Is there a person that goes to jail?

Mr. DAUB. A person or entity. That is in line 3 on page 10 of the bill.

Mr. BARTLETT. The gentleman is saying that the person that goes to jail is the one who is actually on the front line hiring people. So then, we are giving him an incentive not to hire foreign-born-looking people.

Mr. DAUB. Mr. Chairman, let me reclaim my time so I can answer the question to the best of my ability. This is from my experiences with INS information.

The CHAIRMAN. The time of the gentleman for Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 1 additional minute.)

Mr. DAUB. Mr. Chariman, to finish my answer to the gentleman from Texas [Mr. BARTLETT], the culpability and the intent are the key, and indeed the person completing the transaction, the person we are after, is the one who intentionally breaks this law. And that would be an individual, of course, within the entity, the business entity, that has completed three transactions at least, knowingly and intentionally.

Mr. Chairman, I thank the gentleman for his question, and I yield back the balance of my time.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with some regret that I oppose this amendment offered by my colleague, the gentleman from Texas [Mr. COLEMAN], but in viewing this legislation that is presently before the Committee of the Whole, I believe that by any objective standard we have set out a reasonable course of action for punishment here which gives to an employer acting in good faith every available avenue to prove that he has tried to do his level best and to exonerate him from any penalty whatever.

In the first instance, before anyone is punished, there must be a knowing violation of the law, so knowledge is important on the part of the employer.

In the second instance, we provide in the law an affirmative defense by which the employer can be relieved from any criminal obligation or civil penalty for that matter. We go through the following scenario: If the employer, despite these things, has violated the law and had his first strike at bat, the Attorney General still has to bring him in before he can prosecute him and advise him that he has violated the law.

Then, and only then, if he violates it again, he is given his second strike, a $1,000 fine. And the third strike is a $2,000 fine, and then somewhere far down the road is the suggestion of a criminal penalty for someone who has repeatedly violated the law as to the hiring of undocumented aliens.

It is only in these instances, these extreme instances, when an employer would be called on and subjected to a criminal penalty, and only after there has been some adjudication of guilt. I do not believe this puts an unreasonable burden on the employer who is acting in good faith.

**Mr. COLEMAN of Texas.** Mr. Chairman, will the gentleman yield?

**Mr. DURBIN.** I would suggest to the gentleman, before yielding, that there is no other precedent probably under State law, but certainly under Federal law, where we are so mild in our application of enforceable law as we are to employers in this section, and to take out a criminal penalty for a repeat offender, I think, would take the teeth out of this law when in fact we do want it enforced, and enforced in a manner that will achieve the social goals we are setting out to achieve.

**Mr. COLEMAN of Texas.** Mr. Chairman, will the gentleman yield?

**Mr. DURBIN.** I yield to the gentleman from Texas.

**Mr. COLEMAN of Texas.** Does the gentleman feel that a penalty of $90,000 and/or 30 years in jail is a light penalty?

**Mr. DURBIN.** I certainly do not.

**Mr. COLEMAN of Texas.** If you had 30 undocumented employees and these indeed were the 30th, 31st, 32d, and 33d employees that you had not established a defense for hiring under Simpson-Mazzoli, that is the possible penalty. I suggest that whether or not that court is lenient—the chairman of the Judiciary Committee said the court will know and can properly adjudicate each issue as it comes up that is not what is going to be in the newspaper about XYZ Corp. It will say that the president of the corporation, or the owner, can get up to 30 years in jail and/or a fine of $90,000.

**Mr. DURBIN.** Mr. Chairman, let me reclaim my time.

**Mr. COLEMAN of Texas.** And I would just suggest that it is the wrong way to start out legislation dealing with sanctions against employers.

**Mr. DURBIN.** Mr. Chairman, if I may reclaim my time from the gentleman, I would say that prior to that occurring, this employer will have gone through a long string of notices, a long string of hearings, and a long string of having hired undocumented aliens time and time and time again before that sort of thing would occur.

The employer still has the affirmative defense available to him. In order to have the criminal penalty used against him, it must be proved that he knowingly hired an undocumented alien.

These are not people who are being accidentally penalized. These are people who have demonstrated a pattern of conduct, and after having demonstrated it time and time and time again, the criminal penalty would be applied. In those instances I think quite honestly the employer should be held accountable.

**Mr. COLEMAN of Texas.** Mr. Chairman, if the gentleman will yield and if he has any more time, the gentleman is not suggesting these are aliens, plural, each and every time? That is not what the bill says.

All he has to do is hire one undocumented worker without a defense, and that may occur when he hires a hundred employees, for example, in agriculture, and it may happen with just one. With just one, he can get notice; can he not?

**Mr. DURBIN.** He certainly can get notice, but the gentleman is not suggesting that he would be subject to a criminal penalty the first time he violates the law, is he?

**Mr. COLEMAN of Texas.** No; I am not suggesting that at all, if the gentleman will continue to yield. I am suggesting, though, that it creates a second offense the next time he is caught, the next time he finds that he has hired an undocumented worker without establishing the proper paperwork for a defense. If that occurs the second time, he is into the third time. That can be one undocumented worker each time.

**Mr. DURBIN.** Mr. Chairman, if I may reclaim my time in the interest of bringing this debate to a close, I do believe the employer in good faith who attempts to follow this law will not find himself in the third and fourth instances facing a criminal penalty. The employer who has a pattern of conduct of hiring undocumented aliens can run the risk of criminal penalty, but if we do not stop that kind of wholesale abuse, then there is nothing we are going to be able to do by criminal sanctions that will achieve our social goal.

Mr. Chairman, I yield back the balance of my time.

**Mr. LUNGREN.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment, not enthusiastic opposition, because I think frankly the answer which basically is the Senate provision, lies somewhere between the gentleman's amendment and the bill as it is written.

The Senate provision allows a fine of $3,000, a serious fine, and criminal sanctions where there has been a pattern of practice.

I attempted to get that accepted in the committee and was unsuccessful. Because we do not have that provision, I would have to oppose the gentleman's amendment for a number of reasons. The first is that what we are talking about here is someone who is very far down the line.

□ 1110

Let us just review where we are with respect toward the penalty structure into which this fits. During the first 6 months this law is in effect, there is an educational program going on. Anybody found violating the law, there is no penalty whatsoever. Following that 6-month period of time, the very first time that there is found to be an instance of where someone has hired someone illegally, that person is cited and gets a warning, no penalty whatsoever.

Following that second time, and so conceivably you could have someone during the first 6-month period of time who has violated the law, which is an educational thing; the second time they violate the law they actually get a warning, nothing more than that.

The third time they violate the law, they get a $1,000 civil fine for unauthorized alien hire.

The fourth time they violate the law, they get a $2,000 civil fine for unauthorized alien hire.

It is really the fifth offense—you know, it is articulated as the fourth time around in the bill—that there is a $3,000 criminal fine for unauthorized alien hire or 1 year in jail or both, or the Attorney General may proceed civilly, because under the definition of pattern of practice, having violated the law that many times, would come under the definition of pattern and practice, and then the Attorney General may bring a civil action in the U.S. District Court in which he may ask for relief including permanent or temporary injunction, restraining order or other order against the person or entity as the Attorney General deems necessary, so there is some flexibility here.

I would suggest in those instances where there is a pattern or practice which is, as the gentleman may be concerned about, not really offensive, that what the Attorney General most likely would do is proceed under the pattern of practice section, because the standard of proof is less. In a civil action the standard of proof is not as great as it is in a criminal action.

If the gentleman is so worried about the criminal provisions, I might just point out that you have to prove beyond a reasonable doubt that the individual willfully and knowingly hired the illegal alien, as opposed to the lesser standard under the civil proceedings.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, on that point I think that what we ought to do in this Congress is prove beyond a reasonable doubt that we need these kinds of sanctions before we start opposing them at the outset of the legislation.

The point is, Do we believe that civil sanctions will not work, is that the belief?

Mr. LUNGREN. If I might reclaim my time.

Mr. COLEMAN of Texas. Certainly.

Mr. LUNGREN. I might say that we, after looking at it, felt that we needed a graduated sequence of fines starting civilly and then going to criminal. One of the reasons we did finally go to the criminal provisions is that in the survey of the 20 countries around the world who had not been successful with their employer sanctions, the primary reason they had not been successful was because the penalties were not severe enough. We now find that in France and Germany who have had these on the books unsuccessfully, they have increased their penalties so they are severe. as I mentioned, in Hong Kong it is the same situation.

In a number of States in the United States right now they have attempted to impose employer sanctions and have now added criminal sanctions as well, so it is not some new phenomenon. A number of sovereign States of the United States have already placed it on their books.

As I say, I would prefer the Senate provision which allows the imposition of criminal sanctions where pattern of practice has been established as opposed to the way it is written in the bill before us, but I think we are going too far if we accept the gentleman's amendment, because I think we must have a serious penalty sitting out there at the very end.

I find it very difficult to believe some employers in the situation of being an innocent who does not know that he or she is doing, that the fourth or fifth time along the line they now are visited by the INS and discover for the fourth or fifth time that yes, they do have illegal aliens working for them in a number of instances.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. BARTLETT, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman is a very able member of the Judiciary Committee and has worked with this bill for several years. My question is, Limiting the debate to the United States of America and not the 20 other countries, is the gentleman aware of any other labor laws in this country in which a person goes to jail for violating a labor law? The labor laws work pretty well, do they not? The gentleman does not know of any mimimum wage violations that are violated, or does the gentleman?

Mr. LUNGREN. A number of the States of the Union have now on their books employer sanctions, although there has been a question by the courts whether they have jurisdiction to do that because they are looking to the Federal Government for some authority, which do have criminal sanctions, including the State or the Commonwealth of Virginia; so the answer to the gentleman, in short, is "yes."

Mr. BARTLETT. Of employer sanctions, of criminal sanctions?

Mr. LUNGREN. Yes.

Mr. BARTLETT. For violations of labor laws by the States?

Mr. LUNGREN. Yes.

Mr. BARTLETT. But none by the United States, none by the Federal Government, no criminal penalties?

Mr. LUNGREN. Not being a member of the Education and Labor Committee that is dealing with that in detail, I cannot tell the gentleman; but as I say, a number of States do have similar provisions already on the books.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, obviously the heart of this bill is employer sanctions. The question is as to what kind of sanctions should those be. As the gentleman from California [Mr. LUNGREN] said, I think this is what the gentleman was saying, that we rely primarily on civil sanctions in this bill. We start out with a 6-month grace period. We go to a warning. We go with graduated civil sanctions and when we reach about the fifth offense, which implies repetitive conduct, and I, too, agree with the gentleman that I would like to see a pattern of conduct in the bill, but a judge under the bill has the option, not the requirement, but the option of going with a 1-year jail sentence after repetitive civil actions.

Now, I would first like to ask my colleague from Kentucky, do these sanctions, do these penalties in the bill parallel the Hesburgh Commission on immigration reform; that is, did we add the last sanction, the criminal sanction, come out of the blue or did that come from the Hesburgh Commission?

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for asking that question. This is basically patterned after the Hesburgh Commission report. It has a graduated series of civil penalties culminating only after a series of actions, notices, hearings, and even trials to the point of criminal penalty.

Mr. GLICKMAN. You see, there are a lot of folks in this country who are engaged in a pattern of bringing in undocumented workers, illegal workers, engaging in what I call very, very exploitive conduct. I think there needs to be some criminal sanction on the books. There needs to be some sort of criminal sanction on the books or else the fines that we have got here may be nothing compared—you know, it is just a cost of doing business to have a thousand-dollar fine in some cases.

I am not saying this is the greatest thing in the world to be subject to potential criminal sanction, although you are currently subject if you fail to withhold your employees' Social Security taxes or self-employment taxes and this kind of thing, so there are fines; but really, when you are talking about workers who are often being employed at rates that may be less than the minimum wage and may be otherwise violating Federal wage and hour laws, it is peanuts, a thousand dollar fine, in some cases.

Now, I do not particularly like it, either. I am trying to wrestle with what is the right kind of sanctions that we should deal with, but the heart of the bill is employer sanctions as well as the amnesty provisions. Those are tied together.

It seems to me that without the criminal sanctions we have a tiger with very weak teeth involved in the situation.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I would be glad to yield to my colleague, the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I think the gentleman for yielding.

Let me quickly point out that there have been a lot of erroneous statements about the criminal penalties we are seeking for employers here. It is not the employers who are doing the smuggling. It is not the employers who are doing the transporting of undocumented workers. There are criminal penalties on the books of up to 2 years and/or a $5,000 fine for doing just that, so we do have criminal penalties. Do not say that is peanuts. Those kinds of sentences are imposed almost daily in my district by the Federal court.

I want to say to the gentleman that those laws that we have on the books are being enforced as best we can with the limited number of border patrol and immigration officials that this administration has been willing to request.

I think that it is time that we separate out the issue of smuggling from my amendment.

Now, I heard the chairman of the Judiciary Committee, the gentleman from New Jersey, suggest that what we are trying to do here is get after those people who are doing the smuggling. It is not the employers in business that are always doing the smuggling. Indeed, if they participate in smuggling activities, they too are guilty under current Federal law of that offense and can be sentenced for up to 2 years for a first offense.

Mr. GLICKMAN. But you see, the end of this chain is the job itself and if you do not deal with the receptacle of the situation, just only dealing with the smuggler is an incomplete way of dealing with the problem.

□ 1120

Mr. RODINO. Will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield to the chairman.

Mr. RODINO. I think that is just the point, and the gentleman stated it, but he did not follow it up. He premised the fact that there are those penalties against smugglers, but this is not the case here. We are dealing with the ultimate violation, the misuse of these people and misusing them by violating the law and working them at substandard wages in many cases. And, as I stated before, the judge will be able to sift out those egregious violators.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(On request of Mr. VOLKMER and by unanimous consent Mr. GLICKMAN was allowed to proceed for 3 additional minutes.

Mr. VOLKMER. Will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. I wish to join with the gentleman from Kansas in opposition to the Coleman amendment. I think it is very important to point out that we need this deterrence here as you are talking about to deter the smugglers, but also the employers who utilize them.

I would like to ask the gentleman from Kansas, a member of the Judiciary Committee, if you had testimony in regard to your hearings through the many years of employers paying the smugglers in order to bring the people in.

Mr. GLICKMAN. I cannot answer that specifically. I assume there may be some cases.

Mr. VOLKMER. I mean why else would the person who is bringing them in do it, unless it is for profit? And where does he get the profit from unless from the employer?

Mr. GLICKMAN. I do not know who is being paid. I just know these people are finding themselves in employment and that is the reason why they are being brought in in the first place. And if you begin to squeeze out the employment of these people and they will not come in in as great a quantity, then that is the whole function of this section of the bill.

Mr. VOLKMER. The other thing I think is very important on this, I think is a very necessary deterrent factor, is that they still have to do it knowingly.

Mr. GLICKMAN. That is correct.

Mr. VOLKMER. And, as has been pointed out earlier in the debate, there are protections for those if they follow the requirements or the necessary process in the bill in employing persons that they will not have to worry about it.

Mr. GLICKMAN. That is correct.

Mr. VOLKMER. I thank the gentleman.

Mr. GLICKMAN. The key section is that this criminal penalty is only for a knowing violation and repeated violation.

Mr. VOLKMER. For a criminal activity.

Mr. GLICKMAN. A criminal activity, that is correct.

Mr. KAZEN. Will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Let us look at another side of that coin. All I have heard in debate is how these people are brought in and how they are being offered work, underpaid, mistreated. But let us look at the other side. Has anybody ever stopped to figure that a lot of these people are the ones who seek out the ones that we on the border call coyotes, that they seek them out, and they offer to pay them, to bring them into the United States, and that it is the alien himself who initiates the move into the United States?

Mr. GLICKMAN. The gentleman may be perfectly correct on that. I guess my point, however, is that the key issue in this bill——

Mr. KAZEN. Yes; but let me follow through just a minute.

Mr. GLICKMAN. Yes.

Mr. KAZEN. They are the ones. They are not mistreated in their own country, but they cannot find any work to do. They see their kids starving. They see them going without clothes, nowhere to turn to. They would rather come here and take a chance on being caught and sent back, or being sent to the penitentiary trying to improve their lot rather than stay where they are.

I am telling the gentleman this because I have lived on that border for all of my life. I, too, have practiced immigration law. I have lived among these people. I know both sides of this trade. I have seen it. I have represented people on both sides.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has again expired.

(On request of Mr. KAZEN and by unanimous consent Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. KAZEN. Will the gentleman continue to yield?

Mr. GLICKMAN. I will be glad to yield.

Mr. KAZEN. Let me ask the gentleman this: What punishment is there is this bill for those people who knowingly come into this country illegally?

Mr. GLICKMAN. You mean the aliens themselves?

Mr. KAZEN. Yes, sir.

Mr. GLICKMAN. I will be glad to yield to my colleague from Kentucky.

Mr. KAZEN. What are the sanctions against them?

Mr. GLICKMAN. There are none.

Mr. MAZZOLI. Will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I would say, of course, a person in this United States without documentation is subject to deportation.

Mr. KAZEN. Is that all?

Mr. MAZZOLI. I think that is a pretty severe penalty. You are deported.

Mr. KAZEN. It is not a severe penalty. This is what I am trying to make the point on.

Mr. MAZZOLI. Let me ask would the gentleman suggest in addition to deportation that we fine or jail the undocumented worker?

Mr. KAZEN. There are laws on the books now doing exactly that.

Mr. MAZZOLI. I am asking the gentleman.

Mr. KAZEN. Yes. My answer is "yes."

Mr. MAZZOLI. Send them to jail?

Mr. KAZEN. Yes. If you send the word to all countries that if they come in here, knowingly, illegally, that they are going to be punished and not rewarded by being given work that properly belongs to people who live in this country, yes.

Mr. LUNGREN. Will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague from California.

Mr. LUNGREN. If I might just say, you can bring actions against them that are more than deportation. But the fact of the matter is we send most of them back because we are so inundated with hundreds of thousands virtually on a weekly or monthly basis that you could not possibly prosecute them all.

We have tried focusing solely on the person who comes in here illegally. We have found that does not work. Every single study has shown you need employer sanctions. That is why we are at this point, and I would hope that we would debate the gentleman's amendment and not the general question.

Mr. GLICKMAN. My time has almost run out and I would just say that the heart of this bill is employer sanctions. That is the key to the bill. And you must have criminal sanctions as the last resort, or else the bill has no teeth at all.

For that reason I urge the defeat of the amendment.

Mr. COLEMAN of Texas. Will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield if I have any time.

Mr. COLEMAN of Texas. But it is a $2,000 fine left in there for each unauthorized alien. How can you say that is no teeth?

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Coleman amendment. It should be supported because:

First, existing laws contain various penalties which can deter employers from hiring undocumented workers. Criminal sanctions are provided under Internal Revenue Code provisions. Substantial penalties already exist for use of fraudulent Social Security documents.

Second, employers should not bear the onus of immigration law enforcement. They are already subject to various penalties for failure to withhold Social Security taxes and making other deductions from wages; for violations of Federal health and safety regulations, and so forth.

I think what is so apparent here is here we have arguing on one side those Members of Congress representing border States, three from Texas right here, and New Mexico, and the apparent glaring lack of any kind of understanding of what happens in a border area inhabited by a number of my colleagues.

After all is said and done, and everyone talks about this is an American problem, the fact is that the perception and the facts are that primarily border areas are going to be affected. No question about that—so I would ask my colleagues at least to listen to what border State Congressmen had to say.

I wonder what the authors of the legislation thought what employer sanctions would do to border areas—quite simply, it will cost thousands of jobs. Sanctions will discourage job creation in the border areas. Sanctions will also discourage industry from locating, as well as setting up, twin manufacturing plants.

We have heard so much here about what the effect would be nationally. But in border areas we have had a peso devaluation and the effect would be drastic—no industry is going to move in there.

We have here a situation where we are making the employer the main victim of all ills. It is not the employer's fault. We have already given the employer massive bookkeeping, massive recordkeeping. Now we are giving him penalties. We are giving him a number of punitive measures. And we respect the employer to cooperate?

What are we doing once again about the smuggling? I also wonder if those that drafted this bill, did they ever think that this immigration issue might also be a foreign policy problem? I see very little here in terms of attacking the problem of undocumented workers at the root. Have we talked to Mexico about this issue? Do we have any joint programs with Mexico to deter smuggling or to create jobs at the border to discourage illegals from coming to this country? Have we ever thought that the root of this problem is in Mexico and that Mexico has done very little to help us with this problem? Worse yet, I do not think we have asked them to with any conviction. Mexico sees it as our problem. This is a key foreign policy problem, which we have not discussed with our neighbor.

We talk with Mexico about trade. We help them with their loans and in general have a good partnership with Mexico. But never have we ever discussed the problem of illegal aliens with Mexico as a major bilateral issue? In fact, we hardly ever bring it up in bilateral talks at high levels.

Mr. MAZZOLI. Will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman from New Mexico for yielding.

Let me just suggest two things. One, the committee before you on the judiciary did not have jurisdiction over the foreign policy aspects of what the gentleman has been referring to, so we were unable in our bill, except in the H2 provision, which the gentleman from California [Mr. LUNGREN] advanced and was successful in having an amendment adopted in which Mexico and the United States will consult on the question of temporary workers.

Second, there is later on to be offered and maybe accepted, an amendment by the gentleman from Colorado [Mr. KRAMER] which proposes a people-to-people program with the United States of Mexico to talk over the very problems the gentleman discusses.

Mr. COLEMAN of Texas. Will the gentleman yield?

Mr. RICHARDSON. I yield to my colleague.

Mr. COLEMAN of Texas. First of all I want to associate myself with the remarks of the gentleman from New Mexico. I think he has put the issue in the proper international perspective, with one exception.

● I would say to my good friend from New Mexico [Mr. RICHARDSON] that other Members of this Congress are going to see, should this bill become law, the various effects of enforcement which I spoke about in communities in our area, as soon as we begin the implementation of the Simpson-Mazzoli bill by the beefed up Border Patrol and the Immigration Services in this country. It is not going to any longer be just your community in New Mexico or mine in Texas that is going to be affected.

Probably the largest numbers of undocumented workers in this country are not in your communities or mine, but rather in areas such as Chicago and New York and Philadelphia and Kansas City and Los Angeles and other such places across this land.

When they begin to see that their employers, their business men and women will have the obligation to stand up before a court and accept a fine of not just $1,000 or $2,000 as has been misstated here, but $1,000 or $2,000 for each undocumented worker so employed, I think then they will begin to understand its serious impact. And when such persons are jailed, if my amendment is not adopted, I suspect they will truly realize what they have done.

□ 1130

All my amendment does, and as Mr. LUNGREN has suggested, I do want to get back to my amendment. All my amendment says is, let us find out first whether or not we need criminal sanctions.

I thank the gentleman from New Mexico for yielding.

Mr. ORTIZ. Mr. Chairman, will the gentleman from New Mexico yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. ORTIZ. I thank the gentleman.

Mr. Chairman, just a few moments ago, Chairman RODINO said at this point we are being threatened by loss of jobs. At this point as we talk, we worked so hard to attract industry to the border. We know how devastating it has been. We have a devaluation of the peso and a hard freeze recently.

As we talked to industry, trying to attract them to come to the border, they will not.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. ORTIZ. Mr. Chairman, will the gentleman from New Mexico continue to yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. ORTIZ. And they will not come into our area because they are discouraged by what they see in this Congress by applying sanctions, both criminal and civil sanctions.

At this point I would like to urge my colleagues to support the Coleman amendment.

Mr. RICHARDSON. Mr. Chairman, once again the issue here, what we seem to have done is if we all recognize that the problem is at the root in our relationship with Mexico, what we seem to have done in this bill is simply say this is not our jurisdiction, it is not foreign policy, so we will just have a study, or a people-to-people program. We need more than that—this is a dramatic foreign policy issue that should be discussed politically at the highest levels of government.

My point is that issues relating to undocumented workers and criminal sanctions are an issue of major bilateral importance between the United States and Mexico. And whenever there is an agenda between Secretary Shultz and the Mexican foreign minister, there are all kinds of issues to be discussed; trade, foreign policy, Central America, but when is immigration ever elevated to this level? What has this bill done to engage us in a meaningful dialog with Mexico?

What have we done to promote our foreign policy relationship on this area which is key to this bill? What we are doing, if we pass this bill, we are going to rupture our relations with Mexico, because we have not consulted them; we have gone ahead and taken some sanctions; we have gone ahead and basically said on this issue, "Mexico, once again you are not important. You are not to be consulted.

But had we sat down and had Secretary Shultz raise some of these issues with the Mexican Foreign Minister perhaps we could have avoided this problem, perhaps we would have had joint operations with Mexico and the United States to stop these "coyotes," to stop this kind of trafficking, maybe to even create jobs at the border in a joint cooperative matter.

But instead we are penalizing the employer, we are rupturing our relations with Mexico and we are not attacking the problem.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is no doubt in my mind that the sacred cow of this bill is the sanctions provision which by some stretch of the imagination are being passed on as immigration reform. This bill does not, in fact, address itself to the problems before us.

The reason that these people come to work in the United States is because they are hungry in their own country. In most instances they are starving. The other reason is that we have been involved in Central America with the result that people from El Salvador come to the United States, running away from a government that we support.

When they get here employers who hire them, pay them substandard wages and end up exploiting them.

We have done nothing about the problem, itself. The gentleman from New Mexico is correct. In fact, I have an amendment to this bill that would put in place a commission that would study the problems of immigration in this hemisphere and study, also, the economic conditions of Latin American countries; making the recommendations, after that study, to do something about building up the economies of these nations.

For an example, we destroyed Europe during World War II and then we rebuilt Europe and now we are trading freely with them. We bombed Japan twice and now they are bombing us with Toyotas, with Datsuns and with computers. But we are trading with them.

I do not know of any alien from Japan except students, and tourists perhaps, that are here working in industry because they do not have employment in their own land. They have employment, and in industries that we helped them build.

It seems to me that we can develop the same thing in this hemisphere and do everything possible to do something about the problem that brings these people to the United States; but we have done nothing.

Now in the amendment that the gentleman from Texas has proposed, I find it to have a great deal of merit, for I believe that if the sanctions provisions continue with the criminal penalties, that it will encourage employers to discriminate against Hispanics and other foreign looking individuals.

But on the other hand, I think we had better look very carefully at the language in the bill. It says as follows: "A person or entity which violates paragraph A, section 2, and which has previously been subject to a civil penalty under subparagraph (b) or two or more instances, shall be fined," then it goes on to give the amount.

It is somewhat confusing. Does it mean then that a large company that may in two instances be in violation of this provision, be fined because 2 of his 250 employees happen to be illegals?

I think that what the gentleman is doing is trying to approach that subject matter without considering a pattern of practice and or repeated violations. We cannot put that into the legislation because the rule before us does not permit that.

So I find that the author of this amendment, has no other choice, but to use the method that he is using now in trying to delete from this legislation the criminal provisions.

Now, I ask the gentleman, gentleman from Texas [Mr. COLEMAN], if this is not a correct analysis of his position?

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I will say to the gentleman from California, [Mr. ROYBAL] he has stated it exactly.

Mr. ROYBAL. May I ask the chairman of the committee, is it "two or more instances" fixed so that no matter what happens in conference it is going to remain or is there a possibility that the provisions of the other House may prevail?

Mr. RODINO. Is the gentleman addressing me?

Mr. ROYBAL. Yes. I yield to the gentleman from New Jersey.

Mr. RODINO. I have no crystal ball as to what is going to occur in conference.

Mr. Chairman, I do not know what this House is going to do at this moment, whether or not it is going to adopt the amendment of the gentleman or whether or not it is going to reject the amendment.

Mr. HIGHTOWER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to discuss this Coleman amendment briefly with the author. I, too, am very much concerned about the whole matter of sanctions. I believe that they are important. I believe that we are going to have to pass a bill that will provide for some kind of sanctions but we are very much concerned about the equity that will be practiced after the bill is passed.

This Nation believes in equal justice under the law. We say that, we believe it, we advocate it. We also want equal prosecution and equal protection of the laws. I am concerned that some people in my part of the country, as down in your part of Texas, who have employed people from south of the border for many, many years, probably several generations, have developed practices that bring people in for the harvest season and then go back; some of them go back to south Texas; some of them live across the border.

We do not know; the farmer does not know whether or not they are citizens. And I appreciate the fact that the committee has tried very carefully to put provisions in the bill that will provide protection in this regard to the employer.

But I am concerned that the way I read this is that if over a period of time there are several violations, then, very quickly, you can get to that fourth violation. When you employ many, many people, oftentimes it is on a hurry-up basis, without enough time to check everything out. Perhaps we are not always as careful at crossing all the t's and dotting all the i's as we ought to be. An employer might, without really intending it to happen, get in to a situation where there would be criminal prosecution.

□ 1140

Now I understand that the chairman says that the judge is going to look at each case and determine whether or not there is a pattern. Well, judges are different. Some judges are more hard boiled and short tempered than others.

Does the gentleman see that as a problem with this provision?

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the gentleman for yielding.

I certainly do see that as a problem. I think selective prosecution can be one of the bains of our entire judicial system. I know full well that the gentleman from New Jersey has probably worked more years than some of us have been adults in this regard on such subjects.

The problem of course will continue under Simpson-Mazzoli, perhaps exacerbated in the gentleman's area and mine because that is where the prosecutions, I am certain, will be the largest and the most intense, merely because of the region of the country that the gentleman and I represent.

I wanted to reiterate again the real reason and the real purpose of my amendment. I did not raise the smuggling issue. I think that is a separate issue. It is not relevant to this amendment.

This amendment only says very plainly, let us find out if we need criminal sanctions before we have them in this legislation. This bill is not in concrete. Next year we can put criminal sanction, in if we find that these civil sanctions of $1,000 or $2,000 per unauthorized worker is not sufficient. But I think it would be an awful thing to say by passing this bill we are going to make criminals out of businessmen and women across this land, particularly in the gentleman's and my area. I would hope for equal enforcement by the services who will do the detection and apprehension of undocumented workers, but I am not sure that that will be the case.

Mr. HIGHTOWER. Would the gentleman agree that oftentimes a businessman, when faced with a civil penalty, although he knows that he could defeat it if he took the time and effort and proved that he really did do all the things that were necessary, will often just go ahead and pay a fine and say, "Well, I want to get it out of the way." And that they are scared to death when somebody comes and says, "I am with the Federal Government." They go ahead and concede and then, before they know it, they will be faced with a criminal indictment. I am not wanting to protect the people who are deliberately, for economic gain, trying to hire undocumented people, but those who have to hire temporary workers and have to hire them quickly in order to get their work done and really try to abide by the law.

Mr. COLEMAN of Texas. If the gentleman will yield for one last point, I think that is a good point that he just made. It leads to one other one.

Not all employers abuse and underpay the undocumented worker.

The CHAIRMAN. The question is on amendment No. 11 offered by the gentleman from Texas [Mr. COLEMAN].

The question was taken and on a division (demanded by Mr. COLEMAN of Texas) there were—14 ayes, noes 12.

So the amendment was agreed to.

### AMENDMENT NO. 12 OFFERED BY MR. GARCIA

The CHAIRMAN. Amendment No. 12 is in order at this time.

Does the gentleman from New York [Mr. GARCIA] desire to offer amendment No. 12?

Mr. GARCIA. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows;

Amendment No. 12 offered by Mr. GARCIA: Page 10, after line 2, insert the following new subsection (and redisignate the succeeding subsections accordingly):

"(d)(1) It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

"(2) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, in the interests of moving along and the gentleman has been very helpful in that respect, this side of the aisle has examined the gentleman's amendment and finds it to be a very meritorious one. I am of the opinion that the gentleman from California has also examined the amendment of the gentleman from New York and has found it meritorious and he will be speaking in that respect himself.

I would ask the gentleman from New York if he might describe his amendment and perhaps we could move on to the next one, if it could be done, because it is acceptable.

Mr. GARCIA. Mr. Chairman, this is a simple amendment, but I believe it is important. This amendment would fine employers $1,000 if they require employees to post a violation bond. This bond is in effect a deposit required of workers to be held by an employer in case they are fined for hiring undocumented workers.

These, as far as we are concerned, are reverse sanctions.

In 1971, when President Reagan was the Governor of the State of California, he signed an employer sanctions act. I believe it was called the Dixon-Arnett bill. That does not refer to Mr. DIXON who is presently a Member of this Congress, it is another gentleman.

Requiring employees to post this violation bond was apparently a practice used by some employers.

What this amendment would do would ensure that this does not occur. In addition to the $1,000 fine, this bill would force employers to give back the bond or fee. If the employee cannot be found, the fee would go into the general fund of the Treasury.

I would like to add something else, if I may. Part of my problem with this bill centers on the fact that it does not take into consideration what goes on in the real world. Discrimination does exist. Employers are not above exploiting their employees. They did it in 1972, and they can do it now.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

I will be happy to accept the amendment on this side. I think the gentleman has pointed out the possibility the real world working in a discriminatory fashion. We certainly would not want that as an unintended effect of the bill. So we would certainly accept it on our side.

Mr. GARCIA. I just want to use one quick point so that we understand.

A company in Orange County, in southern California, the Sun Tar Rubber Co., laid off 100-some-odd workers in the month of December 1971. But they conveniently failed to pay their workers their vacation checks, and the first checks that they customarily withheld in deposit, of course, was their Christmas bonus.

The point of this amendment is to make sure that if employer sanctions become the law of the land that we do not revert back to practices that occurred in California, and that employers do not ask for this bond.

I would hope that the minority and the majority on this bill remember this when it comes to conference because I am starting to get concerned that amendments are being accepted here with the thought that once we get to conference they will be eliminated.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I hope the gentleman does not mean by that statement that he considers the leadership of the floor manager of the bill to be casually accepting amendments.

The gentleman from Kentucky and the gentleman from New Jersey and the gentleman from California are carefully considering each amendment and that is why we carefully appreciate the gentleman's contribution and carefully accepted his amendment.

The CHAIRMAN. The question is on amendment No. 12 offered by the gentleman from New York [Mr. Garcia].

The amendment was agreed to.

□ 1150

The CHAIRMAN. For what purpose does the gentleman from Texas [Mr. Kazen] rise?

Mr. KAZEN. I ask unanimous consent, Mr. Chairman, to strike the last word.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. Kazen] is recognized for 5 minutes.

Mr. KAZEN. I thank the Chair, and I thank my colleagues for allowing me this privilege.

Let me, first of all, commend the gentleman from Kentucky [Mr. Mazzoli] for the work he has done on this bill through the last 4 years. He has worked harder than anyone else to bring to this floor a bill which would be acceptable to the majority of the Members of this Congress. He feels that he has done so, and for this I commend him. The mere fact that the end product is not what I would have brought to the floor and which I cannot support does not detract from my admiration for this very able gentleman. He is one of the finest Members of this Congress, and I want to commend him for the long hours that he has put into this project.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, let me salute the gentleman. I deeply appreciate the gentleman's sentiments. I remember when I first came to Congress 14 years ago, the gentleman in the well, my dear friend, was one of the first Members in the senior status to more or less take me off and talk with me and explain some of the situations, and because of my background and heritage and the gentleman's there was much connection. I remember and cherish those days very much. While the gentleman will be finding new pursuits after the end of this year, he will remain very close to me and in my heart for many years to come.

Mr KAZEN. I thank the distinguished gentleman. I feel very kindly toward him, and I have been privileged to serve with the gentleman.

My colleagues, let me just pursue a line of thought that I started a while ago. The reason I took this unanimous consent request was because it does not pertain to any particular amendment, but rather my remarks will go to the entire bill. It seems that the centerpiece of this bill is employer sanctions, that by punishing a prospective employer you will stem the tide of illegal immigrants into this country.

Let me, furthermore, state what my colleague from Texas [Mr. de la Garza] has been saying on this floor, that this is not strictly a Hispanic issue but rather an issue that affects people from all over the world who happen to be in this country illegally.

Now, my contention is that unless there is something in this bill that will deter illegals or people coming into this country illegally, we are going to continue to have them. I do not care what kinds of sanctions, I care not what other provisions you put into this bill to punish a prospective employer, unless you take some action against the individual coming into this country illegally, you are going to continue to have this flow.

I will ask the attention of the distinguished chairman of the full committee, the gentleman from New Jersey [Mr. Rodino] and the chairman of the subcommittee. At the present time there are sanctions against people being in this country illegally, are there not, Mr. Chaiman?

Mr. RODINO. Of course there are.

Mr. KAZEN. All right.

Mr. RODINO. They are misdemeanors.

Mr. KAZEN. They are misdemeanors, but still they can be sent to the penitentiary under those misdemeanor statutes, am I correct?

Mr. RODINO. Yes, sir.

Mr. KAZEN. I have sat in court session after court session in my hometown of Laredo where there have been courtrooms full of illegal aliens being sentenced by a Federal judge. Let me just bring this to your attention, Mr. Chairman, and to the attention of my colleagues, and show you how this thing works. Those of us from the Southwest who have lived with this problem all of our lives are very familiar with the procedures. I do not care what kind of laws you write, when it comes to translating them into practical procedure, they sound a little bit different and they are applied a little bit different.

I had the privilege of practicing before one of my very able friends, the distinguished jurist from Brownsville, TX, Reynaldo Garza, who was the first Mexican-American appointed to the Federal bench in Texas.

The CHAIRMAN. The time of the gentleman from Texas [Mr. Kazen] has expired.

Mr. KAZEN. Mr. Chairman, I very reluctantly ask unanimous consent to proceed for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MAZZOLI. Reserving the right to object, Mr. Chairman—and I certainly shall not object to my dear friend's request to speak on the bill, he has lived with this for many years—I would just like to notify the House that the gentleman from Kentucky will be constrained to object to further requests for unanimous consent to address the House. We have 60 more amendments and the 5-minute rule will continue, so Members will have an opportunity to ventilate the issue.

I withdraw my reservation of objection.

The CHAIRMAN. The Chair would like to point out to the Members of the Committee that unless one of the designated amendments is before the Committee, it requires unanimous consent to speak to the Committee. An amendment has to be before the Committee before motions to strike out the last word are in order.

Mr. KAZEN. This is right, Mr. Chairman, and that is what I am asking for.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. I thank my colleagues for allowing me this privilege.

When that distinguished jurist sat on the bench, time after time I saw him deal with illegal aliens. These happened to be, the majority of them, from Mexico, some from Central America. He would ask them in their own native tongue so that there would be absolutely no misunderstanding, "You knew that you were violating the law when you came into this country without the proper documents?"

"Yes, sir."

"You know that I can sentence you to jail for being here without the proper documents?"

"Yes, sir."

"Well, I want you to know that I am not going to do this. I am going to let you be deported, or I am going to have you deported, send you back to your country, if you promise me that you will never again enter this country illegally."

"Yes, sir."

"Now, do you promise me that you will never enter this country illegally again?"

"Oh, yes."

He said, "Well, I want you to swear to that. Do you raise your hand and swear that you will not come into this country illegally again?"

"Oh, yes, Your Honor, I swear."

He would then say, "OK. Now I am going to swear that if you do come into this country again illegally and if you appear before me on that charge, I promise you that I am going to send you to the penitentiary. Is that understood?"

"Oh, yes."

OK, fine. He said, "You and I have understood each other."

Mind you, Mexico is just across that bridge at Laredo, just like going across Key Bridge or going across Memorial Bridge or the 14th Street Bridge. That is just how far it is. It is no distance at all. No, sir. And in New Mexico and Arizona and in California, it just amounts to taking one step and you are in Mexico.

All right. So they were deported. Lo and behold, 3 months later some of them appeared before him again. The judge looks at his notes and he says, "Wait a minute. Weren't you here on such and such a date?"

"Yes."

"Don't you remember at that time that you promised me that you would never come back illegally, yet you have?"

"Yes, sir, Judge, I sure did."

He said, "You broke your promise, didn't you?"

He said, "Yes."

"You remember that I also promised that I would do something? What was it? Do you remember?"

"Well, Judge, you said that if I came back illegally you would send me to prison."

He said, "Fine. Now, you broke your promise, but I am not going to break mine. I am going to sentence you to serve 3 months," or whatever it is. It is a misdemeanor, as the gentleman from New Jersey said, but a misdemeanor in the Federal court can be served in the penitentiary.

And you know some of these people go back there, and by nighttime they are right back in this country again, as long as there is no deterrent for them to come over here.

What I am saying is that we must provide deterrents. Do not just put it on the backs of the prospective employers who have such a tremendous opportunity for being able to discriminate against people seeking work. And this has been the central theme of those of us who have been fighting this so-called Rodino, now Simpson-Mazzoli, bill for over 12 years on this floor.

If you do not do something to send the message to every country in the world that they are going to be dealt with harshly if they come into this country illegally, all the laws in the world that we pass in this Congress are not going to do the job. When you say that this bill is securing our borders, I say baloney. There is absolutely nothing in this bill, no single provision in this bill, that will secure our border against people who are hungry, people who see us still as a beacon in this entire world, the haven for people who have no other place to go to live in dignity and the comfort which our way of life affords. A country which gives them the opportunities to get along a lot better than they would in their own country. And this is why they seek to enter this country anyway they can.

So I say to you, put in these provisions both for our protection and for theirs if you really want to secure this country's borders against people entering illegally.

□ 1200

### AMENDMENT NO. 13 OFFERED BY MRS. SCHROEDER

The CHAIRMAN. Amendment No. 13 is in order at this time.

Does the gentlewoman from Colorado [Mrs. SCHROEDER] desire to offer amendment No. 13?

Mrs. SCHROEDER. Yes; I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Mrs. SCHROEDER: Page 18, after line 3, insert the following new subsection:

(c) Notwithstanding subsections (a)(2) and (b)(2), the amendments made by this section shall not apply to the employment, recruitment, referral, or utilization of the services of an individual occurring after the end of the three-year period beginning on the first day of the seventh month beginning after the date of the enactment of this Act.

Mrs. SCHROEDER. Mr. Chairman, my amendment is really very simple. It acknowledges that use of employers sanctions is a leap into the unknown. It says that after 3 years the employer sanctions provisions terminate. It does this so that Congress can examine the employers sanction experiment and see:

If it did indeed encourage discrimination as the congressional Hispanic Caucus suspects it will.

If it did place a burden on small businessmen to enforce our immigration laws.

If it did effectively reduce the number of illegal aliens entering the country.

Employers sanctions will result in sweeping changes not only in our immigration laws but also in our employment system. We know that once we enact an omnibus immigration bill, we won't be dealing with immigration for a long time, even if there are some grievous wrongs created by this bill.

My amendment guarantees that we look at the effects of employers sanctions. It is a protection against the potential abuses of sanctions.

The purpose of my amendment is to keep employers sanctions as an experiment, before we institute it as policy. We heard about the GAO report that stated in the countries that had an employers sanctions policy, that policy was not an effective deterrent to stemming illegal employment. If we are to embark on a policy that increases tenfold the likelihood of discrimination, as well as places a burden on the small businesses, we must be assured of its effectiveness. But we are not. Even the proponents of employers sanctions can not promise its effects will not be discriminatory.

It is a 3-year sunset. It also coincides with the second of three mandated reports by the Civil Rights Commission describing the implementation and enforcement of the employer sanction provisions, including a determination of whether it has had a discriminatory impact.

Three years is sufficient time for the collection of how employer sanctions has worked. The Attorney General, together with the Secretary of Labor and the Chairman of the EEOC, is mandated to establish a task force to monitor the discriminatory impact and the effectiveness of employer sanctions. I think information from their monitoring during those 3 years will help us to decide whether to continue employer sanctions.

I would like to remind my colleagues just why many of us are against the establishment of employer sanctions:

### DISCRIMINATION

Sanctions could scare employers to not hire anyone, even American citizens, who looks foreign or speaks in another language. Now, keep in mind the April 1984 Supreme Court decision INS versus Delgado upholding factory raids and selective questioning of workers based in part on ethnicity and appearance. That's very important in my district where Canadian illegals may be taking the jobs, but Hispanics will be harassed.

And don't be fooled that title VII will fully protect these Americans. Not all discriminatory practices are made unlawful by title VII. For example, a statutory exception allows discrimination on grounds of national origin characteristics constitute a "bona fide occupational qualification" reasonably necessary to the operation of the business.

### BURDEN SMALL BUSINESS

To insure that the provisions of employers sanctions are met, employers, small and large, will have to go through a cumbersome verification process. In effect, employers will be enforcers.

### EFFECTIVENESS OF SANCTIONS

The GAO report studied 20 countries and concluded from their experience with employer sanctions, that it is not an effective deterrent. Moreover, 11 States have employer sanctions laws on the books. Not a single conviction has been obtained under California's 12-year-old law. The pattern that emerges in the 11 States is that of consistent failure to enforce employer sanctions statutes.

Mr. Roybal will offer an amendent to strike the sanctions provisions of the bill. I will vote for that amendment. However if employer sanctions is still intact in this bill, then the least we could do is to ensure that it is kept as an experiment. There's too much at stake not to take a measured approach here. We will look at the experience after 3 years, view the evidence, and then decide whether it should be instituted as policy.

I urge you to vote "yes" on my amendment.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. Schroeder] has expired.

(On request of Mr. Edwards of California and by unanimous consent, Mrs. Schroeder was allowed to proceed for 2 additional minutes.)

Mr. EDWARDS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. EDWARDS of California. I compliment the gentlewoman from Colorado on this amendment, and this is one that I would think that the Committee would accept. After all, we have been talking about possible discrimination for more than 20 or 30 hours already on this bill, and there is real concern in the House of Representatives as to whether or not there will be discrimination because of the employer sanctions.

Certainly the sponsors of the bill, Mr. Mazzoli and the gentlemen on the other side of the aisle, are in good faith when they say that the amendment by Mr. Frank and other provisions in the bill are not going to result in discrimination, and if so, then there will be remedies.

However, how do we really know, and if it does turn out in the next 2 or 3 years that there is some discrimination? We know historically that the issue will not be examined. We know that the excuse will be, well, we are going to do oversights very soon, but actually a decade will pass before the issue is addressed.

So I think it is an excellent idea that we mandate another look at employer sanctions in a 3-year period, and I really would hope that the Committee would accept this very useful amendment.

Mrs. SCHROEDER. I thank the gentleman from California, and I would hope so too. As I say, I am in good faith when I say that I am on the other side of employer sanctions, but I think we have had a good faith debate on both sides as to whether or not this will or will not work. I am admitting as a chairman of a committee myself, that I would not have wanted to go back and look at those civil service reforms because there is not a lot of sizzle in doing oversight. Yet, it was very important that we did it, and we did some very key things that made a difference. We discovered all sorts of things we did not foresee. It was important that the law made us do it. I don't think anyone here thinks they have perfect foresight.

I think with the good faith division in this House, over employer sanctions we really owe it to the American people to review our acts 3 years from now when we have cooler heads, and when we have some real hard data on how it works rather than guesses. I thank the gentleman.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this beguiling amendment is the first of the trilogy that we will now be considering. It actually is an issue that came up in the Senate 2 years ago when we were all younger and started considering this matter. We thought at that time that it might gain the support of Hispanics whose position was not so set in concrete at that point, but it did not work. In reality, the more we thought about it, the poorer the idea appeared.

What the sunset does is simply destroy the employers' incentive to allow the sanctions to succeed. I submit if you are opposed to employer sanctions, then you should vote for this amendment, but if you are not opposed to sanctions, it would be a very bad idea.

Those of us who studied this issue in the select committee and then in the subcommittees in the House and Senate since 1981 have been saying that employer sanctions were the most effective enforcement apparatus. If you do not think so, come up with something better.

Well, the something better was adopted yesterday in the Frank amendment. We have now set up an elaborate mechanism to consider and adjudicate claims of discrimination. So that issue is no longer with us. But the 3-year sunsetting simply means that those employers who do hire illegal aliens will continue to do so and take their chances on enforcement actions against them during the next 3 years. It is perfectly patent that it is a gutting amendment.

□ 1210

I would like to introduce a new element into this question on employer sanctions. The GAO report has been mentioned frequently as dealing with experience in other countries, but I had an experience abroad I would like to share with my colleagues.

Last year I had the opportunity to participate in the Seminar on Undocumented Aliens sponsored by the Intergovernmental Committee for Migration in Geneva, an international organization with many participating countries.

ICM Director James L. Carlin pointed out that "irregular migration," a term used at that conference for illegal migration, "tends to inspire negative attitudes towards normal migration." That was his quote.

W.R. Bohning of the International Labour Office, in an expert paper, said that, and I quote, a "major reason for irregularity can be porous or incompatible laws and regulations." He described the legal situation in the United States as "self-contradictory," noting that, "it is not illegal to employ foreigners who are in an irregular situation." The presentations underscored for me that the Immigration Reform and Control Act appropriately makes employer sanctions the centerpiece of immigration law enforcement.

At the end of the seminar, the many participating countries debated and adopted a series of conclusions and recommendations. These statements remarkably reflected a unanimous view. A single country, incidentally, under the ground rules for the seminar, could block the adoption of any conclusion or recommendation.

With this background, the work product of this international meeting assumes particular significance. Some of the results of the discussions—included in a series of statements—are particularly relevant as we debate the efficacy of employer sanctions. The statement on "Specific Motivations and Underlying Causes of Undocumented Migration" includes the following recommendation: "Every effort should be made by countries of origin and receiving countries to eliminate illegal trafficking of labour force. Governments should also exert a greater control over employers to prevent illegal hiring and its negative effects," and that is what we are attempting to do.

The statement on "Undocumented Migrants and the Regularization of Their Status" concludes that—

> [A] program of regularization (another term for legalization) will not by itself prevent the development of further irregular situations. Governments should therefore take additional measures at the same time, which may include the institution or enforcement of immigration and labour laws restricting the entry and prohibiting employment of undocumented migrants.

The essential point here is that H.R. 1510's prohibition on the knowing employment of undocumented workers reflects an international consensus far broader than just the consensus of the Members of the House and Senate who have been dealing with this issue in the Judiciary Committees.

H.R. 1510 attempts to discourage the annual flow of hundreds of thousands of undocumented aliens by removing the major inducement to illegal migration—the magnet that draws people to these shores—the opportunities for employment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for his statement. I think it is important to point out that really my amendment does not mandate that employer sanctions are dead forever and ever.

The CHAIRMAN pro tempore [Mr. BEILENSON]. The time of the gentleman from New York [Mr. FISH] has expired.

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. I think it is important to point out that it does not mean that it is dead. It means that we are mandated to review sanctions and we know how pressed we always are legislatively. I think 3 years from now we will have cooler heads and a greater ability to sort through some of the very painful tension that I feel on both sides of this issue.

We will have 3 years of experience. We will have, yes, the studies that the gentleman has mentioned, plus the GAO studies, plus, I believe, there are now 11 or 12 States that have employer sanctions, and especially California has not found them to be that productive, but we will have that, plus we will have the information as to whether sanctions have been discriminatory or whether the fines are adequate, all those types of things.

I just think that this, in the name of fairness, is a good idea because we really do see a massive schism in this body, and especially between those who are most heavily impacted by implementary sanction. So I really hope that the gentleman could support this, and I think it is a way that would make it much more palatable to people, to know that in the long term we would have to review it and we would have facts, rather than just my guess versus your guess versus other people's guesses, versus my studies, versus your studies, and all that, we would have some really hard data of how sanctions work in America, which is the issue.

Mr. FISH. Mr. Chairman, if I could reclaim my time and respond to the gentlewoman, as you know, it is not your studies or my studies, but the studies that would be part of the law requiring the President to consult with the Congress every 6 months and the task force of the Attorney General and the Secretary of Labor to be looking into these questions.

The questions of fines—adequacy of fines—the questions of discrimination, the questions of cost, are all going to be dealt with in monitoring mechanisms already in this bill. We do not need anything different to find out what route we should take. At the end of 3 years we are supposed to have a report by the President as to the success of this.

I repeat what I said before. This amendment simply destroys the incentive for employers to allow sanctions to work.

The CHAIRMAN pro tempore. The time of the gentleman from New York [Mr. FISH] has again expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FISH I would be glad to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been absolutely brilliant. This is a killer amendment. This is a gutting amendment. The gentlewoman's amendment is tantamount to killing the bill because, in effect, we eliminate employer sanctions, which is one of the two key symmetrical elements in this bill.

The gentlewoman has been opposed to this bill from the very start. All the people who support this and speak for it are opposed to the bill and will vote against the bill regardless of what happens.

I would urge, as the gentleman from New York has eloquently said, that we vote down this amendment and then vote up the bill.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be glad to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Chairman, I do not think I am a killer and a gutter. I think what we are talking about here is looking at sanctions 3 years later when we have more facts.

As I say, the studies, and the reports that the President makes, will be available to guide us. The hard part is to get this body to do the oversight to deal with the facts on how this bill works in America, not how bills work in the Federal Republic of Germany or how bills worked in other places.

America is unique. Border States are unique. The composition of our population is unique. That is why we need those studies from the President to help us make our best legislative judgment as to whether sanctions have, in fact, been beneficial, whether we should continue them, and whether we should change them.

Mr. FISH. That is exactly what we are planning to do.

Mrs. SCHROEDER. That, to me, makes all the sense in the world, and I think the sunset amendment makes sure and guarantees the people of this Republic that we will have a chance to review this experiment with sanctions 3 years later.

Mr. FISH. The sunset, I submit, is not necessary. We will be acting on this report by the end of the third year.

Because I have heard so much about this GAO report, I was pleased to hear the gentlewoman say that experience in the Federal Republic of Germany or in other places does not really concern us.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I will be brief, and I will not take the 5 minutes, but I think it is vitally important to point out that the employer sanctions are the heart and guts of this particular bill. We cannot continue to weaken it. If we do, we are guaranteeing that the bill will not work.

If there is one thing that every Member of this House should be vitally aware of, and I can assure Members that any of us from south Florida and perhaps some of the other border States—and I refer to us as a border State because we are bordering on the Caribbean and we have become the gateway to Central America—there is one thing that we know: that illegal immigration is not a problem that is settling down. It is a problem that is growing, and it is growing year after year.

It there is one way to assure that employer sanctions will not work, it would be by adopting this amendment. By saying so, we will simply say that in 3 years employer sanctions are going to go away. The vast majority of the people who migrate illegally into this country are economic refugees. They are coming here looking for jobs. We have to take away the economic magnet if this bill is going to work.

Mr. Chairman, I urge that this amendment be defeated.

□ 1220

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this amendment makes eminently good sense. As the gentlewoman from Colorado [Mrs. SCHROEDER] has said, it allows us time to get the facts, and in speaking about facts, let me remind the Members of an undeniable fact, of a great transformation that took place yesterday in regard to an amendment which I had the honor to present in behalf of many groups.

Granting that the amendment did more than address the problem of discrimination, that it did deal with the novel mechanism which is presented in H.R. 1510 which has never been tried but which, if this bill is passed and signed, will be tried, granting that leaving that part of the amendment out momentarily and dealing only with the part of the amendment which addressed the problem of discrimination, I was surprised, so surprised that even late last night I went home and began to read from the notes that I had taken of individual Members who spoke against that part of the amendment and who did not even know that discrimination existed or who gave the impression that discrimination did not exist, those who said that if it does, H.R. 1510 would reach it, that we already had in H.R. 1510 adequate machinery to deal with discrimination. We heard the statements of those who said, "Well, it's covered in other legislation, and so we don't need it."

I could go on citing and documenting the position of individual Members in this House who made these statements but who is less than 1 hour later reversed themselves and voted for the identical amendment known as the Frank amendment. Now, whether they got religion, whether they discovered facts that they did not know an hour earlier or what their position was, the statements that they made were not in opposition to the other part of the amendment that probably we would contend would be controversial but on the clear-cut issue of discrimination which they themselves had dealt with an hour earlier. So they reversed themselves.

Now, if individual Members in this House, sound Members, can reverse themselves on a simple issue such as this in 1 hour's time, then probably, if we give them a year or two, they might come in with a much better proposal then H.R. 1510. Based on the experience and based on facts, I submit that this great transformation which took place on a simple amendment yesterday should certainly be the opportunity we shoud give in terms of this, a very, very difficult issue to face, and no one can say what the experience will be and what the facts will bring out.

Mr. Chairman, I support the amendment offered by the gentlewoman from Colorado [Mrs. SCHROEDER] and believe that it is more than justified by recent experience in this House during the last 12 months.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me reflect with the committee for just a few minutes as to where we are on this killer amendment. The gentlewoman's amendment, the 3-year sunset provision which my friend, the gentleman from New York, called alluring, is perhaps alluring, but it is a killer amendment. I told the House I would advise the House when a gutting, killing amendment would be offered, and that is what this is. I would hope that when the vote is called, if a vote is called, the Members of the House will support the committee and the gentleman from Kentucky in voting down the gentlewoman's amendment.

Let me reflect for just a moment. The gentlewoman said she is not excited about employer sanctions. That may prove to be the understatement of the century. The gentlewoman is very much opposed to sanctions, and she is very much opposed to the bill. She has said so freely, and I support that she has a right to that viewpoint. But no amount of changes and no amount of adoption of alluring amendments is going to entice the gentlewoman to be supportive of the bill, nor will the Members who speak in favor of this alluring killer amendment ever be in favor of the bill.

So let me just advise the committee that we are going through a transparent exercise here. Nothing but nothing will make these Members who speak for this particular amendment support the bill.

Second, let me say that we have already adopted, as the distinguished gentleman from California [Mr. HAWKINS] has said, part of his amendment which was renamed the amendment offered by the gentleman from Massachusetts [Mr. FRANK], which suggests that anyone who has a discrimination claim, unintended, of course, under this bill, would have protection. They have a special counsel in the Department of Justice to pursue and redress the remedy for that. Furthermore, we adopted the amendment offered by the gentleman from California [Mr. ROYBAL] last night, which amendment, while the gentleman from Kentucky found it unnecessary, nonetheless adds additional boilerplate which guarantees against the prospect of any ID card or ID system ensuing from this bill.

So we have those additional protections in the bill to guarantee against what the gentlewoman's amendment is designed to address, which is some unintended effect of this bill.

We are taking a kind of a move into a new future, and the gentlewoman's amendment is offered to put some controls on it. We have already adopted some controls to it, and, of course, we will have in just a few minutes another amendment offered by the gentleman from California which has been made in order to strike the whole section anyway. So we have those opportunities.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield to me over here?

Mr. MAZZOLI. Let me just complete this first, if I may, and then I will be happy to yield to the gentleman and also to my friend, the gentleman from Texas.

Mr. Chairman, I would also remind the House that on two separate occasions this type of amendment, a sunset amendment—only in the case of the two earlier versions, it was 5 years—both times was voted down by your Committee on the Judiciary. It was voted down twice, and those were 5-year statutes.

Let me just suggest to the House, with all respect, that if we shorten and truncate this sunset period to 3 years, we are giving this employer sanctions bill even less opportunity to really work. And let us be honest about it. There is a subtle signal here to the employers who grossly misbehave toward undocumented workers to "keep it up because we are really not serious. Three years isn't going to be enough, so keep on misbehaving, keep on discriminating, and keep on subjugating these people, because we will never be able in 3 years to really get a stern enforcement system in place."

So what the gentlewoman's amendment is, it is not only a killer amendment, but what it does is aid and abet those who discriminate against the very people we are trying to help in a later section of our bill which is written to give them legal status in this country.

So I would just respectfully suggest to my friends in the House that this amendment is a killer amendment. It is alluring, as my friend, the gentleman from New York, has said, but alluring or not, it is going to allure you into ruining this bill were you to vote for it.

So, Mr. Chairman, what I say is only this: That I hope and plead with the

House to vote against the gentlewoman's amendment.

Mr. Chairman, I would yield to my friend, the gentleman from New Mexico, but I understand he wants his own time, so I will yield first to my friend, the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have no quarrel with what the gentleman has stated about the factual situation. What I would like to ask the gentleman is this: Should there be those who may yet change their minds on the legislation, with amendments that have been adopted or others that might be adopted, my concern or my question to the gentleman, respectfully, is, what will be the position of the gentleman in conference with relation to the amendments adopted by this House?

The CHAIRMAN pro tempore (Mr. Beilenson). The time of the gentleman from Kentucky [Mr. Mazzoli] has expired.

(On request of Mr. de la Garza, and by unanimous consent, Mr. Mazzoli was allowed to proceed for 3 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, the gentleman from Kentucky will not be chairman of the conference committee, so I cannot directly respond, but the gentleman from Kentucky will presumably be a member of the House conference committee, in which case, of course, it is our effort to support the House position.

There were some amendments adopted so far that the gentleman from Kentucky has opposed, but if that is the will of the House, we will endeavor to support the will of the House to the extent that the conference committee can. But the gentleman from New Jersey, who will be the chairman of the committee, will have to make the final judgment.

Mr. de la GARZA. Mr. Chairman, if the gentleman will yield further, we understand that is the case, but I am sure the gentleman from New Jersey would yield to the subcommittee chairman in the areas of concern to the subcomittee chairman. The response of the distinguished subcommittee chairman is that he will fight, but to what degree? Should we add, to the nth degree for amendments adopted by the House, regardless of whether the gentleman agreed or not, if it became the will of the House to so incorporate them into the legislation?

□ 1230

Mr. MAZZOLI. The gentleman from Kentucky will certainly follow the precedents of the House in the event of being a member of the conference and in the event that the chairman, the gentleman from New Jersey, would yield to me. He will himself be chairman, but if he looks to me for guidance, I will first consult the precedents of the House with respect to the limits within which conferees operate and second, I would certainly within that try to support the position of the House, even if it is against the position of the gentleman from Kentucky; but as I say, ultimately this particular amendment is a killer amendment and it ought to be defeated.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. questions were along the same line. If I understand correctly, and please correct me if I am wrong, the Senate bill contains the criminal sanctions.

Mr. MAZZOLI. That is right.

Mr. BERMAN. The Senate bill does not exclude employers of three or less.

Mr. MAZZOLI. That is right.

The CHAIRMAN pro tempore (Mr. Beilenson). The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. Mazzoli was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, this is the last extension I will ask for, because I think we do really want to move on, but I yield to my friend, the gentleman from California.

Mr. BERMAN. Mr. Chairman, the Senate bill contains the language for the Presidential study, and as I understand it, implementation without congressional approval of the national I.D. system.

I think perhaps only to reiterate the comments of the gentleman from Texas as this bill winds its way through this whole amendment process and people's views about it may change based on sympathy for amendments like the Hawkins-Frank amendment or the Hall amendment or the Lungren amendment, the feeling nags at many of us that in conference committee, much of this will disappear.

Mr. MAZZOLI. Well, may I reclaim my time?

Please do not prejudge the actions of the conferees. We all are interested in returning the best bill possible to the House for ratification.

The gentleman from New Jersey, who will be chairing the committee, is a man of impeccable character, a man of devotion to civil rights and human rights, a man of Olympian knowledge of immigration law, and he will be bringing back to this House nothing that the gentleman will not be proud of. That I can assure the gentleman. More than that I cannot assure the gentleman. I will not be chairman.

The chairman of the conference will return this—the gentleman from Kentucky can assure the gentleman from California that the gentleman from New Jersey, the chairman of the conference (Mr. Rodino), will return to the House a bill that we can all be very proud of and one which supports the general framework of what emerges from the House.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend, the gentlewoman from Colorado.

Mrs. SCHROEDER. I only wanted to say to the gentleman from Kentucky—and I thank the gentleman for yielding—that the gentleman is asking us not to prejudge the gentleman from Kentucky, but I must say that it hurt a bit to sit here and listen to the gentleman prejudge me. The gentleman was doing that as I talked about this amendment.

I want to point out to the gentleman that we have enacted the sunset provisions in many bills. It has been talked about and adopted in many bills. I think it is a legitimate provision.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky has again expired.

(By unanimous consent, Mr. Mazzoli was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, I would like to address the gentlewoman. I do not prejudge the gentlewoman. She was a member of my subcommittee for the first 2 years of my tenure.

Mrs. SCHROEDER. But the gentleman is calling me a killer and a gutter.

Mr. MAZZOLI. The gentlewoman fought me tooth and nail every bit of the way, refused to support our bill, refuses to support it now. Hers is a killer amendment.

Mrs. SCHROEDER. Well, I guess the gentleman will not yield again for my answer and I am sorry for his response.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Schroeder amendment. I think it makes eminent good sense.

I recall one of the major movements in the Congress of the United States in recent years has been sunset legislation. If a new program is enacted and does not work, let us have a fixed termination date. This is a cost-saving and efficient measure. I think there are many bills and programs and issues that this House has dealt with in the last 3 years that have sunset provisions—I do not see this provision as a killer amendment.

I think if you have an academic view toward any problem, if something does not work after a period of time, you get rid of it, and then you improve it.

In a way, I am a little regretful because the gentleman from Kentucky has been very generous and positive in his recent attitude up until his recent statement. He states that the only reason we are supporting this provision is because we are against Simpson-Mazzoli. The gentleman is right. There are about 150 so far that have recorded their votes that have serious problems with Simpson-Mazzoli. Is there anything wrong with that?

We do want immigration reform. There are many of us that felt the Roybal alternative was good. I personally would like to have seen it a little bit stronger so that it could have attracted more support. It is not that we are being obstructionist. We are simply saying that after 3 years, consistent with other provisions of the bill, we will evaluate employer sanctions after 3 years. The Simpson-Mazzoli bill has several provisions that coincide with the Schroeder amendment—first of all there was a 3-year study in which the President was going to report on the I.D. card.

Second, there are three mandated reports by the Civil Rights Commission assessing the implementation and enforcement of employer sanctions within 3 years.

Last, a major provision in this bill calls for the Attorney General, the head of the EEOC, and the Secretary of Labor to get together and have an evaluation of employer sanctions to determine whether they promote discrimination and whether they are effective.

We are talking about landmark legislation on immigration. The last time we dealt with immigration in this House was in 1952 or 1953, close to 30 years ago. We must avoid a once-per-30-year review of immigration laws again. So what's wrong if we come back in 3 years to see if employer sanctions will work.

What we are saying right here is that a provision on employer sanctions affects the entire focus of immigration legislation, of employment practices, and also foreign policy, especially our relations with Mexico. If employer sanctions have proven effective, we can resume them after 3 years.

I think with what this bill does, if passed, the Simpson-Mazzoli bill should be reevaluated because there are going to be a lot of problems with it. The outcry after it is passed will surprise a lot of people.

So if we sit here and say that those of us who are supporting this bill are obstructionists, that is wrong. It is like saying that those of us that question our Central American policy are siding with the enemy—that you are not patriotic. That is not the case.

We want immigration reform, but we want immigration reform that is not discriminatory and that is workable.

This provision is consistent with many acts of Congress. If something does not work, you get rid of it. You evaluate it.

I do not see why the authors of this bill are so absolutely certain and sure that employer sanctions are the end-all-be-all, that they are absolutely foolproof, that they are sacred.

Employer sanctions will result in sweeping changes not only in our immigration laws but also in our employment system. It is wrong to assume that only immigrants or potential immigrants will be affected by this legislation. In fact, every American is potentially affected because of the requirement for employers to check the I.D. of all new hires.

For this reason, and because a wealth of evidence exists against sanctions, it is incumbent upon Congress to move cautiously, if at all, in enacting H.R. 1510.

As Senator KENNEDY commented when he offered a "sunset" amendment to Simpson-Mazzoli in 1982, "* * * the history of immigration legislation in recent decades has been that once a law is enacted, Congress does not act again on immigration for many years."

With this lesson in mind, it is essential for a sunset provision to be attached to Simpson-Mazzoli this year as a protection against the potential abuses of sanctions.

It should be noted that the 3-year time period will coincide with the time period given the President to complete his study regarding the need for a secure identification system.

It also coincides with the second of three mandated reports by the Civil Rights Commission describing the implementation and enforcement of the employer sanction provisions, including a determination of whether it has had a discriminatory impact.

Since the Attorney General, together with the Secretary of Labor, and the chairman of the EEOC, is mandated to establish a task force to also monitor the enforcement and implementation of employer sanctions and to review and investigate complaints of discrimination, the 3-year period would provide sufficient time for the collection of information on how employer sanctions has worked.

Mr. SAWYER. Mr. Chairman, I rise in opposition to the amendment. I do not in any way judge the motivations of the amendment, but bear in mind that we have a 6-month moratorium to begin with, a 6-month educational period.

Then the first violation is just a warning, in effect, called a citation, but nothing happens except a warning. It is really not until 6 months and the second violation that any bad consequence occurs.

Also, it is somewhat offensive to me to view that we are either imposing a quasi-criminal, albeit called civil, fine, and in the Senate bill, if we go with them, a criminal sanction; but saying in effect that it is only criminal within 2½ years. If the violator does it before the 2½ or later than the 2½ years, it is not. I do not know how you can possibly enforce a sunset provision on either a quasi-criminal or criminal sanction.

Now, my main concern about this whole bill is the legalization of illegal aliens without adequate protection for the refilling of the vacuum created in 5 years and end up having the same number of illegals as we have now.

The only possible thing that can do it is employer sanctions. I do not think they are tough enough in this bill, and if we put a sunset provision on the sanctions, we do have in the bill after a 6-month moratorium going in, and a first offense warning, any employer that was making money violating, if he had a sunset there on top of those consequences, would be a darned fool to pay any attention.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. Sure; I yield.

Mr. RICHARDSON. Mr. Chairman, I wonder, the gentleman said he would like tougher sanctions, tougher provisions. I wonder if the gentleman could tell us what he means by that? What is the gentleman suggesting? What he seems to be implying seems rather drastic—perhaps he could clarify his position.

Mr. SAWYER. Yes. I would like to eliminate the 6-month grace or so-called educational period and I would like to take out the first warning and go right to the major civil fines for offenses, starting with the first offense.

I have never heard of a criminal law or a quasi-criminal law that gives an offender one free bite and that is what this does. It is unique in that regard.

I understand why those provisions got into the law. There were many divergent interests involved with this bill and in order to get the requisite support for the bill, the subcommittee has to marshal support from all kinds of interests.

Consequently, I just think the subcommittee already has given away too much in light of the fact that we are going to be asked to validate or legalize this great reservoir of from 3½ million to 12 million illegals already here. And the main screen to stop refilling that so we do not have the same problem 10 years from now or 5 years from now is employer sanctions.

□ 1240

The position on the Border Patrol, you know we only have one Border Patrol for every 12 miles now, and if you add another 1,000 to it, they are not going to stop it. They may make it a little more difficult but they are not going to stop it. And really the employer sanction is it.

I just think the employer sanction is too weak. That is my problem with the act. And, my goodness, if you put a sunset on it and say it is not going to be operative at all for 6 months and then you get one free shot, just a warning, and then you get only a $500 fine the first time out and if you can hold out for 3 years, you are home free; you might as well forget it.

So I just strongly oppose the amendment regardless of what may be the motivation for it. And I yield back the balance of my time.

**Mr. McNULTY.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this bill embraces conventional wisdom and that is probably dispositive of the future of the bill, and that is too bad because one increment of that conventional wisdom is that illegal aliens are choking our welfare rolls and that is not true. And another increment is that illegal aliens are filling up our jails and contributing massively to our crime rate, and that is not true. And another increment is that our schools are being overwhelmed by the children of these illegal aliens, and that is not true.

What is kind of too bad is that it is not both conventional enough and wise enough to know that these people dare taking jobs that our fellow citizens do not want and they are accepting wages that our fellow citizens would not accept and that they are working in conditions that our fellow citizens would not tolerate.

I wonder, have you ever wondered who these people were? Get away from the idea of being overwhelmed by a kind of vaguely terrifying horde of black and red and yellow and most of all brown faces. Who are they?

Let me tell you about four of them. Mr. and Mrs. Moreno, they are the father and mother of Manuel Moreno, the newly appointed young Roman Catholic Bishop of the Diocese of Tucson, one of North America's oldest and most prestigious dioceses. And they came under the fence.

I like to think that they are the legitimate spiritual offspring of Grandfather John Davies McNulty from County Sligo in Ireland, who came at the turn of the century to the trainyards of Springfield, MA, to work for the Boston & Albany Railroad; without wealth, without title, without land, not well fed, poorly clothed, and inadequately educated.

The fourth one would be Grandmother Gallogly, 1 of 13 children who came to Providence, RI, and was not discomforted to work as a maid for the kinds of people whom her forebears had been persecuted by for 800 years, and she led her other 12 here.

If we allow those of you who place such great stock in what we have come to call paying our dues, or serving our apprenticeship, even those who improperly use that philosophy to hold people in bondage, if you were allowed to scrutinize on a case-by-case basis those who do come under the fence, I think you would find in the overwhelming number of instances that they are the ambitious, they are the dedicated, they are the people with dreams, they are the folks that will go the extra mile.

If you were to go out to recruit people to make a healthier America, by and large they are the ones whom you would identify and accept.

So I say in support of this amendment: Why do we who have spent time on the border, in my case 33 years, why is not our view that employer sanctions may not be useful at least partly persuasive to you? Why is that not so and why would you not be willing to revisit this subject 3 years from now when those of us who have had substantial experience with this matter tell you in all candor that this is a program that may well not work, and that the reversal of centuries of culture cannot be accomplished by any mere law?

**Mr. MAZZOLI.** Will the gentleman yield?

**Mr. McNULTY.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** Let me applaud the gentleman's statement. That was beautiful, and I think the people he represents are very well represented.

Just to remind the gentleman, however, despite what might be the general statement about it, under the terms of the bill, without any more than that which is in the bill right now, there will be at least four separate continuing studies reporting, 6 months, 12 months, 18 months, three separate groups continuously, plus, what the gentleman from Kentucky said earlier, the protections added by the adoption of the Roybal amendment and the Frank amendment. So were the gentlewoman's amendment to be voted down, the gentleman can be assured that there will be continuing watchful oversight because we do not want to do anything to hurt the very people he is talking about.

**Mr. McNULTY.** I appreciate that and I applaud the inclusion of those items.

But the fact is that it is this body that should not be compelled to revisit a scenario that may well prove inadequate, and short of that, any committee style of procedure which has a tendency finally to have a life of its own, I tend to distrust.

**Mr. LUNGREN.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat concerned about some of the words of the gentleman who just spoke when he referred to those of you who hold others in human bondage in some sort of way ought to listen to the plea so that we ought to adopt this amendment.

I do not know anybody here who is holding anybody in human bondage. I do not know anybody here who supports this bill and has worked on this bill who somehow believes that we ought not to be sensitive about blacks, about whites, about yellows, about browns.

Frankly, I am a little dismayed that that allegation keep surfacing here. There are some of us who live in border States who also understand this problem and view it in a very different way.

I do not suggest that the gentleman is cavalier in his attitude about Americanism, and I hope we are not suggesting others are cavalier in their attitudes about people of different skin color. And I wish we would stop doing that on this floor. I do not believe it serves any single purpose.

I do not know anybody who has talked about human bondage. Now, having said that, with respect to the amendment that is before us, the question is are we or are we not going to have employer sanctions. That is what it is.

This is definitely a gutting amendment on employer sanctions. It has been pointed out that we went the extra mile with respect to the 6-month period before you even have anything more than an educational program; in other words, it is the first bite at the apple that you get.

This is the easiest, the most phased in, hesitant approach to the situation that we have done on the front end and now some people come along and say let us do it on the other end.

How are we going to have employer sanctions taken seriously unless we have employer sanctions? And to suggest that someone, even before you get the implementation of the bill into serious work, that we are going to cut it off unless Congress takes another action I think is just suggesting that you do not want to be serious about employer sanctions.

I understand the genuine concerns that people have. If they do not want employer sanctions, fine. Those of you who oppose the employer sanctions are going to get three bites at the apple and hopefully by this afternoon sometimes. You get this shot and then you get the next two shots by the gentleman from California.

But this guts the employer sanction provisions substantially.

We have not visited this area in a serious way on this floor in 32 years. What makes anyone suggest we are going to do it from an enforcement standpoint 3 years hence?

**Mr. McNULTY.** Will the gentleman yield?

**Mr. LUNGREN.** If the gentleman is on his feet for me to yield time I will be happy to yield time.

**Mr. McNULTY.** I thank the gentleman.

I spoke earlier about those who are enamored of what has come to be called the paying of dues or the serving of an apprenticeship, and it is and was my claim that there are those who use that theory or that philosophy actually to hold folks in a state of at least semiservitude.

**Mr. LUNGREN.** If I might reclaim my time, the gentleman made the observation couched in the terms of "those of you." I assume you are referring to the people here on this floor and in this Chamber, and I do not think one should question the motivations of other Members here. And all my point is that you and I may disagree very strongly about this and I understand that. But I wish at some point in this debate we would relieve ourselves of the obligation to question the motivations of other Members, and particularly couching it in terms of human bondage or racism or anything like that.

We have a genuine disagreement as to the most effective way to deal with what many perceive as a problem.

□ 1250

And I understand the gentleman's feelings on that, I grant his sincerity and I appreciate the intensity of his sincerity.

It is just my observation that it really does not improve matters for us to suggest that we know what the motivating factor is on the part of other Members. That is the only point I was making.

**Mr. GARCIA.** Mr. Chairman, will the gentleman from California yield?

**Mr. LUNGREN.** I would be happy to yield to the gentleman from New York.

**Mr. GARCIA.** I think that is really the crux of what this debate is all about. I think many of us who have been fighting this bill are not questioning the motives of those of you who are supporting the legislation.

I believe, however, there comes a time when as last night, tempers are somewhat short in the heat of arguments. But as my colleague from Texas yesterday pointed out quite clearly if you looked at the names of the people on that board, as we have during the electronic voting, you will see that those of us who fall into the other category, that is other than the majority, have been consistently voting against this bill.

**Mr. LUNGREN.** I understand that. If I may reclaim my time.

**The CHAIRMAN.** The time of the gentleman from California has expired.

(By unanimous consent, Mr. Lungren was allowed to proceed for 3 additional minutes.)

**Mr. LUNGREN.** I might say to my friend from New York [Mr. Garcia] I represent people of different backgrounds. I do not look at their color when I attempt to represent them here; I do not inquire what their ethnic heritage was. Maybe I was too naive.

When I grew up it was not until I was 13 years old I can recall being able to identify someone by their surname as to their national heritage. Maybe that is a shortcoming on my part.

I grew up in southern California where one of the major minorities are those of Hispanic descent, along with those of Asian descent.

I just thought you grew up with everybody and that is the way people are. I mean, they happen to have a different last name.

So when I try and represent the people, I try and represent them with the concern for everybody there. So I frankly do not look up at that board and see what the surnames of individuals are to take my cue as to how I should represent my constitutents. In my district, when I went to speak to representatives of the black community, they, all of them, without meeting together, decided they wanted to discuss, as one of the first items of priority, the question of immigration reform that was necessary and employer sanctions that were necessary.

Now, the fact that the Black Caucus does not support that does not mean that I should just throw away cavalierly the attitude expressed to people who happen to be black in my district. I owe them that representation.

I spoke with members of the Hispanic community who take a different position from the gentleman from New York. It does not mean my constituents who happen to have a Spanish surname are not sincere.

This country is a mosaic made up of bits and pieces of people from different backgrounds. And I recognize the deep-seated feeling and compassion and strength and force that the gentleman has. But we are Americans as well as being Mexican-Americans or Irish-Americans or Swedish-Americans and I think we are more American than we are Mexican-American or Swedish-American or Irish-American.

**Mr. GARCIA.** Mr. Chairman, will the gentleman from California yield further?

**Mr. LUNGREN.** I would be happy to yield to the gentleman from New York.

**Mr. GARCIA.** It is interesting that you said your age was 13 when you finally discovered the difference between surnames. Because at just about that point in my life, living in the south Bronx, I first heard the word spick.

It was when a large influx of Puerto Ricans first started to migrate to the city of New York.

I found it most interesting that from the ages of 13 through I guess the age of 25 that I suddenly became isolated. The same people that I grew up with, the same people I played ball with, all of a sudden did not want me as part of their team.

In one instance I was asked to leave a particular street.

**The CHAIRMAN.** The time of the gentleman from California has expired.

(On request of Mr. Garcia and by unanimous consent, Mr. Lungren was allowed to proceed for 3 additional minutes.)

**Mr. LUNGREN.** I yield to the gentleman from New York.

**Mr. GARCIA.** I thank the gentleman.

Mr. Chairman, I think this is the crux of what this debate is all about.

I want to emphasize to the gentleman that while I believe that during my lifetime things have improved, and I have a better view of what the legislative process is all about, I think it is nonetheless important that it is understood that this bill will, as far as I am concerned, be discriminatory. Although I speak purely for myself, I also say this as a leader of the community that I represent.

But I believe somewhere down the pike, employer sanctions will affect everybody. Whether they are American citizens or not, whether they look or sound different.

Now I don't know if that is racist or racism. But it seems to me that this bill will not have the same impact on everybody in this country, and that is the reason why we have been fighting as hard as we have. I say this to the gentleman because I think we have tried to listen to each other. I hope you hear what I have said because I have heard what you have said.

**Mr. LUNGREN.** I appreciate the gentleman's remarks. I just want to let him know that my feelings for getting rid of discrimination particularly with respect to members of the Hispanic community compel me to work on behalf of this bill because I view it as a means toward eliminating that discrimination.

So what I am saying to the gentleman is I think we are going to the same end; it is just that we may disagree with means.

I just hope this debate will reflect the question of means and not suggest that somehow we have different motivations; that is all. I thank the gentleman.

**The CHAIRMAN.** For what purpose does the gentleman from Kentucky [Mr. Mazzoli] rise?

**Mr. MAZZOLI.** Mr. Chairman, I rise to more or less assess the potential for further debate and how many additional speakers there are.

Mr. Chairman, I ask unanimous consent that debate on this amendment end in 10 minutes.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I think that the House ought to adopt the Schroeder amendment, because I will tell you, I think that this is an amendment that cuts both ways.

I, too, do not want to be prejudged about my motivations on the Schroeder amendment. When I was staff in the California State Legislature I wrote the first employer sanctions bill of that State. And I have a great deal of concern about sanctions whether they work or not.

I share the concerns of many who have spoken on this floor about discrimination. There is obviously enough concern about discrimination that we had to adopt the Hawkins-Frank amendment.

We now see that employers of less than three can escape this. Mr. FISH read an attorney general's opinion that said that a farmer could insulate himself from the validation by using a farm labor contractor, not the most reputable people in the history of America, and we have seen that now criminal penalties are taken out.

Let me tell you something else about employer sanctions; that is, those who are beating their chests who say they are in favor of employer sanctions; let us wait and see if you are beating your chests when they start enforcing them, because we already have employer sanctions against the exploitation of workers in this country, it is called the Fair Labor Standards Act, and I think I have had more experience with this act than anybody else on this floor.

This provides for criminal penalties for people who systematically do not provide for the minimum wage, for people who systematically run sweatshops, who ask people to work more than the legal hours without overtime.

Do you know how often the criminal penalties have been used? I cannot remember any time that criminal penalties have been imposed. Now you know, the Secretary of Labor carried out a moonlight raid against sweatshops in New York. We have not heard from him since then.

Why? I suspect political pressure started to mount. He went down to Los Angeles, walked around the sweatshops once and has never been back.

But nobody denies the existence of those sweatshops, nobody denies the exploitation of those individuals in manufacturing and in the sweatshop operation, but do you know what? Those sanctions are not enforced, because pressure comes from the employer community, pressure comes from the agricultural community, not to enforce these sanctions.

□ 1300

So if the gentleman here has cited the GAO report saying that employer sanctions will not work and other people say the reason they do not work is because they are not strong enough, I suspect those people who are more strongly in favor of sanctions may want the Schroeder amendment because they find out as the sanctions now exist that they are either unenforceable or there are loopholes in them that will not allow them to be readily enforced.

I think it is imperative because the enforcement of sanctions is a political issue. Once employers, if in fact there is meaningful enforcement—as I state, the one sanction that we now have, not against the hiring of illegals, but against the absolute exploitation of them as human beings, is not enforced by this administration. The enforcement inspections have dropped by another 10,000. The enforcement staffs have been cut. Time and again in those particular regions, mind you, where the exploitation of workers in this country is the greatest, in the Los Angeles western region, in the New York area where the sweatshops are the greatest, in fact, this administration has walked away from that enforcement. You have got to understand that. That is the politics of it.

So what are we going to end up with? We may end up with an enforcement problem. I do not know if sanctions work or not. My attitude against these employers is so strongly felt and so strongly known that I would hope that sanctions would work. But I do not know at the point where you start getting strong enforcement you then will get the discrimination practice. That would be my worry, that is my uncertainty.

But sanctions are not necessarily the determining factor.

As the members of this committee know from me on this bill, we go down later in terms of H-2 workers and others. I would just suggest that this is an important measure for the Congress of the United States to have in the statutory review of the sanctions procedures because this is going to raise the greatest number of political concerns because you have those who have been discriminated, if the sanctions have been too stiff; or you may have the employers who start telling you, "Get the Government off my back." The next thing we will be doing is deregulating sanctions.

But the fact of the matter is that this is the only means by which the Congress can on a mandatory basis revisit this issue. I would hope that the House would allow themselves a little bit of a safety valve in this area of sanctions.

The CHAIRMAN. The Chair now recognizes the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I would like to associate myself with the remarks just made by the gentleman from California and support the amendment sponsored by the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. Chairman, I think that a great deal of discussion has gone on on this subject matter and I believe that it is all to the good. But I would like to refer myself to the remarks made by the gentleman from California [Mr. LUNGREN] just a moment ago when he referred to the fact that we are legislating in an atmosphere of emotionalism. With that I agree. At many times we say things that perhaps would not be said under other circumstances.

For an example, those of us who oppose this legislation for whatever reason, have been branded as obstructionists. We are not here to be obstructionists of this legislation. We just disagree and we disagree on one important point and that is that this is not immigration reform. I firmly believe that it is not, that it has too many other extraneous matters in the bill, matters that have nothing to do with immigration. And because that is my belief and because I or anyone gets up to oppose or favor any particular amendment, is no reason for anyone to say that we are obstructionists. The same thing is true of those individuals on the other side of the aisle and who may be in favor of this bill. We have no right to criticize their intention and we should not.

However, there are differences of opinion. I think those differences of opinion should be expressed. First of all, there are various methods that legislators use to gain their objective. I have been here for almost 22 years. I know that legislation has been presented, as many Members have done that the chairman of the committee just buries, and that piece of legislation will never see the light of day.

Am I then to take the position that because that is done that person is an obstructionist? No, I do not think so, Mr. Chairman. I think that the logic behind this is that this is a method that we have to contend with, that there are means by which such legislation can be brought to the floor. We know that a chairman is a very powerful individual who can do almost as he pleases with regard to legislation, but that is no reason for criticism because this is part of the process.

I sincerely hope that this debate continues, that we do so in disagreement, but do not become disagreeable.

I think, Mr. Chairman, that that is the best way to proceed. I just happen to think that no matter what we do with regard to sanctions that they are going to remain as they are. But, nevertheless, we are going to try, we are going to try to amend the bill to make it more palatable. That is not because we want to obstruct, but because we want to improve the legislation that we know for a fact is going to pass anyway.

The CHAIRMAN. The question is on amendment No. 13 offered by the gentlewoman from Colorado [Mrs. SCHROEDER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. SCHROEDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 274, not voting 22, as follows:

[Roll No. 231]

AYES—137

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
AuCoin
Bartlett
Bates
Berman
Boggs
Bonior
Borski
Bosco
Boxer
Brooks
Brown (CA)
Bryant
Burton (CA)
Carr
Clay
Coelho
Coleman (TX)
Conyers
Craig
Crane, Daniel
Crane, Philip
Crockett
de la Garza
Dellums
Dixon
Downey
Dreier
Dymally
Edgar
Edwards (CA)
Edwards (OK)
Evans (IL)
Fazio
Ferraro
Fields
Foglietta
Ford (TN)
Frost
Garcia
Gejdenson
Gonzalez
Gramm
Hall (OH)
Hall, Ralph
Hall, Sam
Hance
Hawkins
Hayes
Hertel
Hightower
Horton
Howard
Jacobs
Kaptur
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kolter
Kramer
Lantos
Lehman (CA)
Leland
Levin
Levine
Lloyd
Loeffler
Long (MD)
Lowry (WA)
Lujan
Mack
Markey
Martinez
Matsui
McCain
McNulty
Mikulski
Miller (CA)
Mineta
Mitchell
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nielson
Oakar
Ortiz
Ottinger
Owens
Panetta
Pashayan
Patman
Patterson
Paul
Petri
Quillen
Rangel
Reid
Richardson
Roemer
Roybal
Sabo
Savage
Schroeder
Schumer
Shannon
Shumway
Skeen
Slattery
Smith, Robert
Stenholm
Stokes
Stump
Torres
Towns
Udall
Vandergriff
Waxman
Weaver
Weiss
Wheat
Williams (MT)
Wirth
Wolpe
Wright
Wyden
Yates

NOES—274

Andrews (NC)
Annunzio
Anthony
Applegate
Archer
Aspin
Badham
Barnard
Barnes
Bateman
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boland
Boner
Bonker
Boucher
Breaux
Britt
Broomfield
Brown (CO)
Broyhill
Byron
Carney
Carper
Chandler
Chappie
Cheney
Clarke
Clinger
Coats
Coleman (MO)
Collins
Conable
Conte
Cooper
Corcoran
Coughlin
Courter
Coyne
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (AL)
Emerson
English
Erdreich
Evans (IA)
Fascell
Feighan
Fiedler
Fish
Flippo
Florio
Fowler
Frank
Franklin
Frenzel
Fuqua
Gaydos
Gekas
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gore
Gradison
Green
Gregg
Guarini
Gunderson
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hiler
Hillis
Holt
Hopkins
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kastenmeier
Kleczka
Kostmayer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (FL)
Lent
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Long (LA)
Lott
Lowery (CA)
Luken
Lundine
Lungren
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
Mica
Michel
Miller (OH)
Minish
Moakley
Molinari
Montgomery
Moore
Moorhead
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Obey
Olin
Oxley
Packard
Parris
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pursell
Rahall
Ratchford
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland
Rudd
Russo
Sawyer
Schaefer
Scheuer
Schneider
Seiberling
Sharp
Shaw
Shelby
Shuster
Sikorski
Siljander
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stratton
Studds
Sundquist
Swift
Synar
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wise
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (MO)
Zschau

NOT VOTING—22

Andrews (TX)
Burton (IN)
Campbell
Chappell
Dowdy
Erlenborn
Foley
Ford (MI)
Gingrich
Gray
Hall (IN)
Hansen (ID)
Oberstar
Pritchard
Rose
Schulze
Sensenbrenner
Simon
Sisisky
Tallon
Weber
Young (FL)

□ 1320

Messrs. YATRON, McHUGH, and BOLAND changed their votes from "aye" to "no."

Mr. ALBOSTA, Mr. MOODY, Mrs. KENNELLY, Mrs. LLOYD, Mr. DREIER of California, and Mr. NIELSON of Utah changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 14 OFFERED BY MR. ROYBAL

The CHAIRMAN. Amendment No. 14 is in order at this time.

Does the gentleman from California [Mr. ROYBAL] desire to offer amendment No. 14?

Mr. ROYBAL. Yes, Mr. Chairman; I do.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. ROYBAL: Page 3, strike out line 4 and all that follows through page 18, line 3, and insert in lieu thereof the following (and redesignate the succeeding section and conform the table of contents accordingly):

SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT OF LABOR LAWS

SEC. 101. (a)(1) In addition to any other amounts appropriated to the Department of Labor and to the National Labor Relations Board for fiscal year 1984 to enforce the labor laws described in subsection (d), there are authorized to be appropriated $5,000,000 to carry out the plan described in paragraph (2). Amounts appropriated under this paragraph shall be available for expenditure during fiscal year 1985.

(2) The Secretary of Labor, in consultation with the Attorney General and with the Chairman of the National Labor Relations Board, shall develop and transmit to Congress, not later than two months after the date of the enactment of this Act, a plan setting forth the levels of additional personnel and resources within the Department of Labor and within the National Labor Relations Board for fiscal year 1984 necessary to provide for efficient enforcement of the labor laws described in subsection (d), in order to deter the employment of unauthorized aliens and remove the economic incentive for employers who exploit and use such aliens, with particular emphasis on those areas with a concentration of such unlawful activities.

(b)(1) In addition to the amounts otherwise authorized to be appropriated, there are authorized to be to the Department of Labor and to the National Labor Relations Board—

(A) $25,000,000 for fiscal year 1985, and

(B) $30,000,000 for fiscal year 1986, to enforce the labor laws described in subsection (d) in accordance with the plan described in paragraph (2).

(2) For each of fiscal years 1985 and 1986, the Secretary of Labor shall develop and transmit to Congress on a timely basis a revision of the plan established under subsection (a)(2) or under this paragraph in order to carry out the purposes described in subsection (a)(1).

(c)(1) In order not to encourage unlawful employment discrimination or unwarranted government intrusion into the workplace, the Secretary of Labor, in establishing the plan under subsection (a)(2), shall consult with individuals and organizations expert in labor law enforcement, including business, labor, and civil rights organizations.

(2) In carrying out such plan, the Secretary of Labor shall consult with the Commissioner of the Immigration and Naturalization Service in identifying areas where

unauthorized aliens are being employed under conditions in violation of the labor laws described in subsection (d).

(d) The labor laws referred to in this section are the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, and the National Labor Relations Act.

ENHANCED ENFORCEMENT OF LABOR LAWS

Sec. 102. (a) Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

(1) by striking out "section 15(a)(4)" in paragraph (3) and inserting in lieu thereof "paragraph (4) or (5) of section 15(a)";

(2) be redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) inserting "(1)" after "(e)";

(4) by inserting after the first sentence the following: "Any person who willfully violates the provisions of section 15(a)(5) relating to section 11(c) or who, after receiving a notice from the Secretary of a violation of such provisions, knowingly violates such provisions shall be subject to a civil penalty of not to exceed $10,000 assessed by the Secretary."; and

(5) by striking out "In determining the amount of such penalty" in the second sentence and inserting in lieu thereof the following:

"(2) In determining the amount of a civil penalty authorized by paragraph (1)".

(b) The amendments made by subsection (a) shall apply to violations occurring after the date of the enactment of this Act.

Page 20, strike out lines 21 through 25 and redesignate the succeeding subsection accordingly.

Page 31, line 8, insert "and" after the comma.

Page 31, strike out lines 9 and 10.

Page 31, line 11, strike out "(F)" and insert in lieu thereof "(E)".

Page 64, at the end of line 2, insert closing quotation marks and a comma.

Page 64, strike out lines 3 through 6.

Page 69, amend lines 9 through 12 to read as follows:

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is a citizen or national of the United States, who is an alien lawfully admitted for permanent residence, or who is an alien otherwise authorized to be employed in such employment by this Act or by the Attorney General.

Page 74, strike out the sentence beginning on line 8.

The **CHAIRMAN**. For what purpose does the gentleman from Kentucky [Mr. Mazzoli] rise?

Mr. **MAZZOLI**. Mr. Chairman, I rise to inquire; the amendment of the gentleman from California does about the same thing as the previous amendment did. It basically ends employer santions—in fact, this amendment of the gentleman, plus his next amendment. I would wonder if there could be some agreement reached.

Mr. Chairman, I ask unanimous consent that debate on this amendment end by 2 o'clock.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Kentucky?

Mr. **ROYBAL**. Mr. Chairman, reserving the right to object, Mr. Chairman, here is another instance in which we are being charged that any amendment is similar to the one that was just defeated, and the truth of the matter is that it is not.

The amendment that was just defeated only deals with the sunset provisions, and to make a statement or imply that it is the same and it is being proposed only to delay the proceedings is not a correct assumption.

I am, therefore, Mr. Chairman, not really going to object, providing the gentleman can give us at least a reasonable time in which to debate this amendment.

Mr. **MAZZOLI**. I thank the gentleman very much, and I appreciate his willingness to move the bill along. Mr. Chairman, may I revise my unanimous-consent request and suggest that, on the gentleman's amendment No. 14, the House guarantee the gentleman from California 10 minutes of the time, and that the vote occur not later than 15 minutes past 2.

The **CHAIRMAN**. Is there objection to the request of the gentleman from Kentucky?

Mr. **GARCIA**. Reserving the right to object, Mr. Chairman, I reserve the right to object because for those of us who have been dealing with immigration reform, there are two parts to this bill. The part that we object to, Mr. Chairman, is employer sanctions. The parts that we favor very strongly are the amnesty and legalization provisions. To curtail the debate, which is going to affect millions of people, to 45 minutes——

Mr. **MAZZOLI**. Mr. Chairman, if I may, I will revise my unanimous-consent request.

☐ 1330

Mr. Chairman, I have just consulted with my friend, the gentleman from California, who has agreed not to offer his amendment No. 15 and, therefore, I would ask unanimous consent that we guarantee the gentleman from California 10 minutes, and that we vote on amendment No. 14 and forego amendment No. 15 by 2:30, an hour from now.

Mr. **ROYBAL**. Mr. Chairman, I object.

The **CHAIRMAN**. Objection is heard.

Mr. **MAZZOLI**. Would the gentleman help the gentleman from Kentucky; perhaps at 3 o'clock on the gentleman's amendment No. 14?

Mr. **ROYBAL**. Mr. Chairman, this is one of the most important items in this bill. I am reserving the right to object, Mr. Chairman.

Mr. **MAZZOLI**. Mr. Chairman, I withdraw my unanimous-consent request.

The **CHAIRMAN**. The gentleman from Kentucky withdraws his unanimous-consent request.

At this time, the gentleman from California [Mr. Roybal] is recognized for 5 minutes in support of his amendment.

Mr. **ROYBAL**. Mr. Chairman, this amendment is presented in two sections. What it does is to substitute language that is now in the bill, with new language that will result in a different set of sanctions.

What the first section does is to propose that sanctions be imposed against those employers who violate existing law, who violate, for example, the Labor Standards Act, the OSHA provisions, but above all, who violate the Fair Labor Standards Act that is now in place.

This amendment provides for the efficient enforcement of existing labor laws in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens. It is very simple. We are proposing sanctions against employers who violate existing laws.

We have at the present time the Fair Labor Standards Act that is not being enforced. It is being violated almost every day. The reason that these employers hire these individuals is because they work for less, they work under adverse conditions, and the result, of course, is that exploitation takes place.

The products that are produced by these employers, however, compete in the open market and the general public has to pay the same dollar amount as if that product had been produced in a union shop.

So we have a situation then where the employer does in fact, exploit the individual. That individual, Mr. Chairman, comes to the United States because he needs employment, because his country has not provided the employment necessary to make ends meet.

So we have then a dual situation: The individual who comes wants to work, and whatever he gets in the United States is a lot better than what ever he earns in his own country. He works all these many hours by which the employer benefits. Under this amendment, if it were to pass, this would stop. Mr. Chairman, this amendment then provides the necessary funds to enforce the law. Under this amendment, it would cost $125 million a year to enforce the law, but under the langauge of the bill, it would cost $435 million.

Again I would like to point out what is in the text of this amendment, but it is quite apparent that no one wants to listen. The truth of the matter is that this is an attempt to put sanctions where they will do the most good. I do not believe the sanctions against the employer are going to work because they have not worked in

19 countries of the world. We have States in the Union today that have sanctions, and they do not work.

But if we enforce existing law, I think that the possibility of sanctions working is excellent. What it will do is force the employer who is now exploiting by not paying prevailing wages, to see to it that pay and working conditions are proper. This alone will take away from that employer the incentive that he now has to hire the undocumented.

I firmly believe that if Members of this House were to examine very carefully what this amendment will do, they will vote in favor of the amendment. They will realize that existing laws are being violated; that the law now has criminal penalties involved, but that no criminal penalties have been imposed simply because these laws have not been enforced.

I firmly believe that by the enforcement of these laws that the incentive to hire the undocumented will be almost nonexistence. My approach to enforcement, I believe, is more efficient, because instead of embarking on a new and unproved regulatory and legal system in labor enforcement, we put our resources into existing labor laws based on current recordkeeping requirements.

Mr. de la GARZA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, first let me preface that heretofore all that we have heard with regard to undocumented has been the use and possible abuse in the agricultural sector. I have complained that this is not where the majority of the undocumented workers are and this is not where the pervasive abuse is but, rather, it is in the so-called sweatshops in the urban areas.

I would like to mention, and if I might, invite my colleague from California, the author of the amendment to listen: I recently had a discussion with my distinguished colleague from California and asked him about the undocumented, why are not the wage and hour provisions being applied in Los Angeles for example? Why are not the OSHA requirements being applied? Why are not the IRS regulations being applied?

□ 1340

The horror stories which he presented to me, specifically about Los Angeles, gave me great concern. Therefore, I think that he strikes at the need for this type of amendment. His information to me was that apparently there were not enough enforcement officials in the area, and I felt that perhaps there was an insidious use by unscrupulous employers in the urban area.

Mr. Chairman, would the gentleman from California verify the statement that I have made with regard to the nonenforcement of those specific laws?

Mr. ROYBAL. Mr. Chairman, if the gentleman will yield, the gentleman is absolutely correct. There is no enforcement. We find that not only in Los Angeles but in New York, and we find it in other States of the Union.

The program that I am recommending is a program of special enforcement that has already gained some support from this Congress, and that is through a specially targeted enforcement program which is called STEP. We now have that program in the Department of Labor.

The truth of the matter is that they have not had enough funds to really enforce the program. Consequently, these employers have not been subject to any fine of any kind, simply because of lack of enforcement.

Under my proposal, I would make possible the necessary funds, and there is in the proposal $15 million, for example, in 1984, $25 million in 1985, and $30 million in 1986 for the purpose of enforcement.

Now, this will provide an additional staff for this specific purpose. If you take away the incentive that the employer now has to hire the undocumented, then he will not hire them and start looking at the American unemployed as the source of service in whatever industry he happens to be.

This, I think, is the correct way, and what this does is actually substitute the type of sanctions in the bill for an orderly process, using the departments that we now have in place and providing them the necessary funds.

Mr. de la GARZA. Therefore, Mr. Chairman, as to what has been aimed at the agricultural sector about possible abuse and substandard wages and all that, we know that the greater majority are not in agriculture but, rather, are in urban areas, as attested to by my dear colleague, the gentleman from California.

Many times when the argument is made, I have asked the question, "How can you pay less than minimum wage if there is wage and hour inspection of your business? How can you have unsafe sweatshop conditions if there is enforcement of OSHA? How can you not have to deduct the contributions to Social Security or to Internal Revenue for income taxes if there is enforcement of these laws?"

The gentleman from California verifies that in his perusal of the situation they apparently are not being enforced, and this is an attempt then, therefore, to come into where the major problem is with the undocumented taking jobs away from the domestic and lowering the wages, which is in the highly urban areas of the United States.

The CHAIRMAN. The time of the gentleman from Texas [Mr. de la Garza] has expired.

(On request of Mr. Brown of California, and by unanimous consent, Mr. de la Garza was allowed to proceed for 3 additional minutes.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. de la GARZA. I yield to my colleague, the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding.

I have not been as emotionally involved in this debate as some of our colleagues, but I am struck by the remarks of the gentleman from Texas because it verifies the situation that I encounter in my own district, and I think we should realize the complexity of this situation and the variations that exist throughout the United States.

In California we are all aware of the dependence of much of our agriculture on undocumented aliens, and we have heard here, as the gentleman from California [Mr. Roybal] has indicated, about the sweatshop conditions in some of our larger urban areas.

My own district is different from either of these. It is not heavily agricultural, it is not a large urban area, but you cannot walk down the main street of any of the small towns in my district and stop in a restaurant or a laundry or a motel without encountering very readily undocumented aliens who are valuable members of the work force there. I have done this frequently. I have engaged in conversation with these people. I think I am reasonably familiar with the situation, and this is the pattern that occurs in these towns.

They have jobs as dishwashers or busboys, or they are doing the laundry or they are bellhops or something of that sort.

Now, what does this mean in terms of the employer sanction situation? It means that the impact is going to fall upon a host of small business people, and I personally have been deeply concerned about that, because in making inquiries as to the attitude of these people who, one might say, are the backbone of my community, the small business community, they have been uniformly concerned about this. They are aware of the larger problem, but they want to know, "does this sanction provision mean that I am going to have a thousand dollar fine or suffer the possibility of going to jail because I have been using this very reliable person that year after year comes up and offers to work at less wage than some of the domestic employees might be wishing to work for?"

So I am very glad that the gentleman brought this point up to illustrate the variations and the complexity of this problem and the need to give it very serious concern if we are going to do justice in this bill.

Mr. Chairman, I thank the gentleman for yielding.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from California [Mr. BROWN].

Let me add that what the gentleman is going to be doing also is enhancing the working conditions of citizens and legal residents of this country.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, what the gentleman does is, not only is he dealing with the situation as he directs the crux of his amendment to the undocumented, but the fall out will be that if we enforce OSHA, if we enforce Wage and Hour, and if we enforce IRS and social security, he will be doing a great benefit to citizen workers by cleaning up the sweatshops that abound apparently, although I have not seen them, around Los Angeles and many of the other urban areas of the country. I think the gentleman has a twofold purpose here, and his amendment should be supported.

It is a shame that we have to say that we are going to have to apparently push OSHA and the Wage and Hour people that, either for lack of money or personnel, have not done a good job. I do not know whether they have or not, but judging from the testimony of my colleague, the gentleman from California [Mr. ROYBAL], they have not in that area.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I would like to point out to the gentleman from Texas that it is not just my testimony. I am a member of the Committee on Appropriations, and let me tell the gentleman what the Secretary of Labor told the committee.

I asked the Secretary of Labor in one of the committee meetings: "What is the magnitude of the problem with regard to employers exploiting illegal alien workers through noncompliance with the Fair Labor Standards Act?"

His answer: "The result of the STEP program strongly suggests that there is a widespread employment of illegal aliens at less than legal wages."

This is the testimony of the Secretary of Labor who tells the committee that these people are working for less than legal wages.

□ 1350

The gentleman from Texas is correct. What we are trying to do is to provide sanctions, but for those that violate existing law, that those who violate particularly the Fair Labor Standards Act, that is all we are trying to do and I think it is a reasonable approach.

Mr. MAZZOLI. Mr. Chairman, I rise to once again inquire as to the number of Members who want to speak on the gentleman's amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment end at a quarter after 2.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. GARCIA. Reserving the right to object, Mr. Chairman, if I may just proceed, the way it is going, I think really my sense of what is developing is that I think we will probably get to that point anyway. Every time the gentleman brings it up, he just delays us further. I do not know whether there can be that much further debate.

Mr. MAZZOLI. Well, will the gentleman indulge the gentleman from Kentucky? Let us try for a quarter after 2.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mrs. BOXER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very sorry that my friend from the San Francisco area had to object. I think, just as the gentleman from New York said, we are getting very close and I think it is important that we debate, but obviously there are very few people on the floor and we do need to move on.

Let me mention a couple quick things. This amendment of the gentleman from California should be disposed of summarily and without much to do and without a whole lot of rhetoric and hand-arm waving.

This is another killer amendment. If the gentleman really wanted to enforce the labor laws, he would have added that to employer sanctions, but the amendment of the gentleman substitutes enforcement of current law for employer sanctions.

Let the House be understanding of what is going on. The gentleman seeks, as he has from the start, to kill this bill. If this gentleman's amendment is adopted, the bill is killed. It is dead in the water. It goes nowhere.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I must hold my time. I will yield to my friend in due course.

I must suggest, let me just refresh the memory of the House, by a vote of 291 to 111, almost a 3-to-1 vote, the House adopted a rule to consider this bill. The House by a 291-to-111 vote voted to do something, not to do nothing.

If you vote for the gentleman's amendment, you are voting to do nothing, because we will have stopped dead in the tracks.

The House just very recently by a 274-to-137 vote, over a 100-vote margin, beat the offering of the gentlewoman from Colorado, a killer amendment. You beat it by over 100 votes, another statement that the House wants to do something. They do want to keep employer sanctions. They do not want to sacrifice employer sanctions.

The gentleman's amendment sacrifices employer sanctions.

Let me suggest, as the gentleman from California says, if the House were to examine very carefully what the amendment will really do, they will support it.

I would paraphrase that. If the House examines carefully what the gentleman's amendment does, they will definitely reject it, because if they support it, they kill the bill.

I would, without a lot of to do, say that I do want to move on.

I will yield to the gentleman in just a second. I promised my friend from California first; but we do want to move on. We do not want to spend a lot of time. We have some very important amendments coming up.

Mr. Chairman, I would first yield to my friend, the gentleman from California.

Mr. ROYBAL. Mr. Chairman, the gentleman in the well seems to take the position that if anyone brings in an amendment that does not comply with his wishes, that we are either obstructionists or that we do not want to do anything.

Mr. MAZZOLI. Did I say that?

Mr. ROYBAL. That is what the gentleman said.

Mr. MAZZOLI. Mr. Chairman, I reclaim my time and suggest to the gentleman, when have I called him an obstructionist? The gentleman is wrong.

Mr. ROYBAL. Well, the gentleman just called it a killer amendment.

Mr. MAZZOLI. The gentleman from Kentucky reclaims his time. The gentleman from California is wrong. The gentleman from Kentucky has never made that charge.

The gentleman from Kentucky has said—what? That the gentleman from California was implored to offer his amendment, his bill, but the gentleman refused. He said no.

Mr. ROYBAL. The gentleman refused to hear the bill.

Mr. MAZZOLI. Mr. Chairman, I reclaim my time.

The gentleman from Kentucky begged the gentleman over a 4-year period: "Introduce your bill."

The gentleman refused to do it. He was begged by the Rules Committee, by the Speaker of this House, and by the majority leader: "Please put your bill in as a substitute bill."

The gentleman refused and the Rules Committee, bending over backward, indulged the gentleman by giving him in order all his amendments, and that is what we are struggling with today.

I told the House earlier today, we have no idea what the so-called Roybal bill will ever do, because we have never seen it.

One thing I can tell you about the bill before this House, it starts at Alpha and ends in Omega. You may not like it, but it begins at a place and ends at a place.

The gentleman's amendment is a hodge-podge, crazy-quilt series of offerings that does not make any sense, because they are not harmonious. They do not fit together.

Let me proceed by saying just this. The House has said by 100 votes on three separate occasions: "Don't do nothing," and if you vote the gentleman's amendment, you are voting to do nothing.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I promised the gentleman from California I would yield to him, and then I will yield to the gentleman from New York.

I yield to the gentleman from California.

Mr. ROYBAL. Well, Mr. Chairman, again a position is taken that if we propose an amendment, we attempt to do nothing. Let us look at the contents of this amendment. What it does, is in fact impose a different set of sanctions.

Mr. MAZZOLI. Mr. Chairman, I reclaim my time at this point.

Mr. ROYBAL. Mr. Chairman, I understood the gentleman was yielding to me for an explanation.

Mr. MAZZOLI. Mr. Chairman, may I reclaim my time?

Mr. Chairman, may I proceed for 5 additional minutes?

The CHAIRMAN. The gentleman has time. The gentleman controls the time.

Mr. MAZZOLI. Mr. Chairman, I will yield to my friend form California, but further let me suggest just one thing, that the amendment of the gentleman from California supplants employer sanctions. Were it to be supplemental, were it to be additional or complementary, the gentleman from Kentucky would have supported it, but the gentleman supplants, he excises, he eliminates, he crosses out the employer sanctions. That is what the gentleman from Kentucky opposes.

Mr. Chairman, may I proceed and yield to my friend, the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, I would like to say to my colleague from Kentucky, he is absolutely right. He is absolutely right on target. As far as we are concerned, this bill——

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(At the request of Mr. GARCIA, and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. Mr. Chairman, if the gentleman will yield further, as far as we are concerned from day one this is the problem we have had with the bill, employer sanctions.

I have here the rollcall on the Schroeder amendment which was just defeated. We had 137 votes for our amendment and 274 opposed it. We can read the tallies as well as anybody else and we understand that the tide is not going with us. It is clear, but that should not prevent us from continuing to fight for what we believe in.

I get a sense from the gentleman, I could be wrong, that he is saying that we are losing vote after vote and that we should understand the will of the House.

Mr. MAZZOLI. Mr. Chairman, I am just saying this to the gentleman, that I asked unanimous consent of this House to set a limit on debate. I asked it on two different occasions. The gentleman reserved an objection and the gentleman reserved.

All the gentleman from Kentucky is saying, let us move along at a careful, quiet, deliberate pace. That is all this gentleman is asking. He is not snuffing anyone out.

I may later on today ask for further time limits and I hope the gentleman helps me those times.

All the gentleman from Kentucky wants is for the House to do something and by three resounding votes the House already has gone on record to do something.

Mr. GARCIA. Mr. Chairman, will the gentleman yield further?

Mr. MAZZOLI. I certainly shall.

Mr. GARCIA. We are fighting the gentleman, I am fighting the gentleman, and many of us are fighting the gentleman on employer sanctions; but then we reverse hats, and I make that very clear, because we are going to do everything humanly possible to get amnesty and legalization included in this bill. If the Roybal amendment were accepted, chances are we would be satisfied with this bill, and we would be fighting harder for it than the gentleman.

Mr. MAZZOLI. Mr. Chairman, I appreciate my friend from New York. He has made a valuable contribution.

I might remember and just reflect for the House that 2 years ago in 1982 when we took this bill up, the gentleman from New York was very active in the floor debate way late in the night. He told the story then of how his people got to the United States from Puerto Rico. I remember that vividly. It is part of what I have called from time to time the oral history of how American became America and I salute the gentleman. It was a beautiful story and I hope maybe later on we might have a chance to chat about it.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend, the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

I do not think there is any greater gentleman in this House than the gentleman from Kentucky who stands in the well before me today, nor do I think there is a more patient man in this entire House.

I would say, however, that some members have taken several shots now at the employer sanctions. There have been several attempts to try to kill this particular provision. All of them have failed and they have failed by wide margins.

This House has said now on several occasions that we are going to preserve the employer sanctions.

I would again remind those who are continuing to come back with a different type of charade that there are items in this bill of great importance to many of us and you are affecting your credibility by trying the patience of this House over and over again.

I think it is time that we bring about meaningful debate and go about and give the Members of this House an opportunity to vote on the substance of the various provisions that are in this bill.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman very much. He has made a great contribution.

Mr. Chairman, I ask unanimous consent that all debate on this amendment end at a quarter past 2.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. RICHARDSON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that the gentleman from New Mexico be guaranteed 5 minutes, and that all debate end at 20 minutes after 2.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

□ 1400

Mr. GARCIA. I object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would disagree with my good friend from Kentucky, the chairman of the subcommittee, that if this amendment is agreed to that the bill is gutted. That is not true. It will be a lot better bill and I will vote for it. It will be a lot better bill and it will be rid of employer sanctions.

Mr. Chairman, for [illegible] the years I have served here in Congress, I have adamantly opposed employer sanctions. I remain opposed to this unworkable concept for four main reasons.

First, the goal of employer sanctions is to keep illegal aliens from coming into the country. Employer sanctions have failed in this goal anywhere they have been tried, in both the United States and in 20 foreign countries.

Second, employer sanctions are based on the premise that job displacement and depressed wages are caused by undocumented workers. That premise is simply not supported by existing research.

Third, employer sanctions are an attempt to make immigration officials of all of our Nation's employers, all 5 million of them, a job for which they have no training or expertise and for which they should not have to use their limited resources. Yet, under employer sanctions, if employers fail to do this job, they face civil and criminal penalties. This country already faces capital and job flight overseas to other countries. Under employer sanctions, surely this will only increase.

Fourth, existing discrimination in employment, under current laws, is already widely acknowledged. Under employer sanctions, this terrible situation can only get worse. Employer sanctions will inevitably increase employment discrimination against our ethnic communities, communities which, under current law, already bear an onerous burden. The amendment offered by our distinguished colleague from Massachusetts [Mr. FRANK] offers recourse, and I am grateful to our colleague that he offered the amendment and that it was accepted by the House. But it does not prevent discrimination; it merely provides remedy after the fact of discrimination, discrimination which comes from employer sanctions.

Employer sanctions will not work to keep aliens out. What they will do is impose stricter scrutiny against citizens and legal residents who look foreign or otherwise fit immigrant stereotypes, thus creating a second class of citizens. They will inevitably lead to discrimination against Americans. In addition, they will give us an employee verification system with devastating civil liberties consequences.

Now, Mr. Chairman, I come to something that's very important.

It's about the inevitable consequences of legislation that has as its foundation a false concept.

I am reminded of the biblical assertion that a bad tree produces bad fruit.

The basis, the foundation, raison d'etre of the Simpson-May bill is employer sanctions, placing the responsibility for resolving the illegal alien problem on the shoulders of the American employer, rather than on the Federal Government where it belongs.

It's a bad tree that can only produce bad fruit.

Just last night, this House adopted a mandatory employee verification system, a massive computerized system costing up to $2 billion. The bill now says that:

> The Attorney General, in cooperation with the Secretaries of Labor and Health and Human Services, shall establish a method to validate the social security account numbers of individuals applying to be hired, recruited, or referred for employment in the United States.

I shudder at the civil liberties implications of this centralization of personal data by the Federal Government. The fundamental right to privacy is threatened by creating a uniform Federal identification instrument which will serve to implement the Government's already broad police powers to stop, question, and search. The fundamental right to privacy is threatened by creating what amounts to a national population registry; a Government databank through which every individual's personal identity is established and validated. The fundamental right to privacy is threatened through the certainty that this databank will begin to be used to further a wide variety of public programs and policies. It will become both an enormous repository of personal information and a means of tracking and controlling the lives of American citizens. It will facilitate the matching and exchange of data among many different governmental and private record systems.

With this national dossier system, the police will have a blanket invitation to exercise their police powers frequently and to their fullest extent, at the expense of individual privacy. Once the information system is available, the use of it will overwhelm.

These are consequences this country cannot afford. Employer sanctions, a concept which will not accomplish its stated purposes but which will give rise to discrimination and pose a massive threat to civil rights and liberties, is a concept that is simply not acceptable.

You may ask, If employer sanctions will not work, what are you worried about? Well, what I'm worried about is that laws made here in Washington do not translate in their every detail to the American people. It is the broad sweep of the law that permeates the public consciousness. Employers across the land will simply know that they are faced with civil and criminal sanctions if they hire foreigners. They won't know that there are exceptions; they won't know to ask for details; and it's often human nature to not want to take the chance. It is our American citizens and legal residents of color or accent who will pay the price of employer sanctions. It is our society as a whole that will pay the price of the verification system needed to support employer sanctions.

I urge my colleagues to unequivocally reject this unworkable concept and its unaccepted price.

I wholeheartedly support Mr. ROYBAL's amendment to strike employer sanctions from the bill. I urge my colleagues to support this amendment.

Mr. WILSON. Will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. WILSON. The gentleman stated earlier in his opening remarks that employer sanctions had failed in the United States and I believe he said in 24 other countries as well. The gentleman is certainly more familiar than I am with the history of this. But have we ever had employer sanctions in the United States before?

Mr. EDWARDS of California. Yes. We have them in 11 States, including California, and in 19 or 20 foreign countries. I got my information from the General Accounting Office study.

Mr. WILSON. Do they presently exist in 11 States?

Mr. EDWARDS of California. Yes, I believe they presently exist and have not been repealed.

Mr. WILSON. Are they enforced?

Mr. EDWARDS of California. The General Accounting Office report said they are not enforced as well as they could be and perhaps they would work better if they were enforced.

Mr. WILSON. Does the State of California have employer sanctions?

Mr. EDWARDS of California. Yes.

Mr. WILSON. But the Federal Immigration Service would not enforce those standards then, would it?

Mr. EDWARDS of California. They would be enforced by the police agencies of the State of California.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has again expired.

(On request of Mr. WILSON and by unanimous consent Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. WILSON. But the gentleman in the well certainly would not compare a State that had no enforcement abilities with what would be the result with the Immigration Service enforcing them?

Mr. EDWARDS of California. The bill was written by our colleague from California, Congressman MILLER, when he was in the legislature of the State of California, and plenty of money was always provided, plenty of resources were provided. But somehow or another, because of the nature of employer sanctions, there was no enthusiasm, I presume, for enforcing them, as there has not been in any of the States or countries.

Mr. WILSON. Were there criminal penalties with the California law?

Mr. EDWARDS of California. No; there were no criminal penalties.

Mr. WILSON. I am really attempting to get some information here. In the other countries, does the gentleman know, is he familiar with the mechanics and whether there were criminal penalties involved in the other 23 countries he mentioned?

Mr. EDWARDS of California. I am not familiar other than from my perusal of the General Accounting Office study which reported to Senator SIMPSON of the other body. And I might point out to the gentleman from Texas that very strangely this General Accounting Office report is not referred to by the proponents of the bill except in rebuttal to what those of us who are opponents of the bill, or at least of employer sanctions are speaking.

Mr. RICHARDSON. Will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. I think in answer to the question of the gentleman from Texas, I have some statistics. Eleven States have had experience with sanctions and the conclusion is that all of them have been unsuccessful.

Those States are Connecticut, Delaware, Florida, Kansas, Maine, Massachusetts, Montana, New Hampshire, Vermont, and Virginia. And we have California which the gentleman from California [Mr. MILLER], mentioned this State has had sanctions on the books for over 12 years without so much as one conviction being obtained.

□ 1410

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 5 additional minutes.)

Mr. BERMAN. Mr. Chairman, will the gentleman from California yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. BERMAN. I thank my friend and colleague from California. And I would like to respond to the gentleman from Texas' inquiry with respect, most particularly, to the California law.

In 1971, California passed an employer sanction law known as the Dixon-Arnett Act. It made it illegal to knowingly employ illegal aliens in California if that employment had an adverse effect on resident workers.

Specifically, section B attached a fine of not less than $200 or more than $500 for each offense. As with proposals currently before Congress in this legislation, employer sanctions at that time were felt to be the key to reducing unemployment among resident workers as well as ultimately increasing labor law compliance.

For a period of time that law was enforced until initially knocked down as intruding on a federally preempted area. While that decision has been overturned, it really has not been enforced since then.

We have about a 2-year history in California where that law was enforced and many experiences with it which I think point out the danger of, first, thinking that employer sanctions are the answer to the problem, and second, thinking there are not a great deal of negative side effects.

I might just indulge the body for a moment to read some of the history that came out of hearings of the legislature following the period of time when California sought to enforce that law.

> Extensive testimony during the assembly hearings in 1972 revealed as a result of the law undocumented workers of senior employment status were replaced by other illegal aliens at lower ages. Others were forced to pay mordidas; taxes to their employers. Workers were forced to pay $200 to $500; the amount of a fine as a form of bond.

Fortunately, in the House version, we have dealt with that with the adoption of the Garcia amendment although again we still have a conference committee, we do not know that is going to come back to us later.

> There is also evidence that some employers used the law as an opportunity to reduce wages in order to cover the cost of the risk involved. Finally, thousands of workers here legally, citizens of this country, primarily Hispanic surnamed, were fired without any attempt to separate documented and undocumented workers. There are lessons to be learned from this experience. We must recognize that in the individual work site there exists an imbalance of power in employment relationships. As a result, any legislation which focuses on the kind of workers hired will disproportionately adversely affect the workers themselves.

Mr. MILLER of California. Mr. Chairman, will the gentleman from California yield?

Mr. EDWARDS of California. I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I think the gentleman raises an important point because our experience is not just at the State level and our experience is not just with other countries.

The Migrant Labor Contractors Act, which this House passed last year has for some time, the old Farm Labor Contractors Act, has for some time had a prohibition against employing illegal aliens. Section 106 says, no farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

For those who are concerned about the penalties, whether civil penalties will work or criminal penalties will not work, if a farm labor contractor commits a violation of section 106, is liable for fines of not more than $10,000 or sentenced to prison to a term not to exceed 3 years.

Let me tell you that the very farm labor contractors who have these sanctions against them are among the largest suppliers of illegal aliens into this country.

Now there have been a number of convictions under this act but, the reason we are here now is because the tide of illegal aliens to this country has not been stemmed and yet the largest purveyors of illegal aliens are violating the law today; a law that has been on the books for many, many years; with very tough criminal sanctions and penalties against them.

Now, I think you have to ask yourself whether or not you really believe this is going to work because this is the most dramatic law that we have on the books with the largest segment of our economy that uses illegals and in fact, as would be tested in the agricultural community in my State and others, there is no problem getting help from farm labor contractors; many of whom would supply illegal aliens for that purpose.

So we have a law that has been on the books for years which is very direct and has very harsh penalties, including civil and criminal penalties; yet we find out that the tide of illegal aliens to the agricultural communities of the United States of America is greater now than it ever has been.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope to take the total 5 minutes. I thought since everybody referred to California law that they might be interested in what the author of that law had to say when he presented his testimony before our committee. I hope I will not confuse folks with the facts here.

Mr. Arnett, the former member of the California State Assembly, in his testimony said that:

> Those who have suggested that the experience in individual states, that is with respect to employer sanctions argues against including employer sanctions in congressional bills under consideration. Such conclusions are a distortion of the facts, at least in California, and have no substantial evidence whatsoever to support them.

I will not take the time of my Members to go through his entire testimony. He pointed out they were not effective because they were never put into effect precisely because there was court challenge.

Let us be very clear what this amendment does; it throws out employer sanctions, at the same time supposedly improving enforcement of labor condition laws.

That is not what the AFL-CIO asked for in their testimony before our subcommittee when Tom Donohue, testifying on behalf of the AFL-CIO said:

> A legislative prohibition on the employment of undocumented workers backed by substantial and workable sanctions to deter employers from violating that prohibition is the single most important deterrent to illegal immigration.

Althea Simmons, testifying before our committee for the NAACP, expressed support for employer sanctions and noted "The continued influx of undocumented workers has a disparate impact on blacks."

So if you want to remove that sanction which the AFL-CIO testified continually before our subcommittee and the subcommittee on the Senate side, is the most important thing in terms of stemming the tide of illegal immigration as it impacts on jobs of Americans, then vote for this amendment.

Regrettably because of the way this amendment is drawn you cannot get to the point that the gentleman from California makes, which is improvement of labor condition enforcement without knocking out employer sanctions at the same time.

I did not write the amendment. But we had full opportunity to present amendments as we wished, but that is the way the amendment is drawn; it is a either/or proposition.

Mr. MAZZOLI. Mr. Chairman, will the gentleman from California yield?

Mr. LUNGREN. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman. I think the gentleman made a very insightful statement, because if I understand correctly, the gentleman from California [Mr. ROYBAL] could have drafted this amendment to have preserved employer sanctions and added to it this mechanism of enforced labor activity, is that not correct?

Mr. LUNGREN. I do not presume to know what he intended or what he could have done.

The fact of the matter is another amendment could have been presented to us which only went to the addition of protection on labor sanctions.

Mr. MAZZOLI. That is right.

Mr. LUNGREN. We do not have that here. In order to get to that point you have to get rid of the employer sanctions altogether. Sanctions comprise what the AFL-CIO has told us—I repeat that so my friends on the Democratic side might hear that; the AFL-CIO, that is Lane Kirkland, Tom Donohue, appearing on behalf of them—is the singlemost important law enforcement mechanism to attack this problem.

What I would suggest is we might improve labor conditions, which is a worthy goal, but at the same time we do nothing with respect to illegal alien flow in the United States, which is supposed to be the subject of the bill.

Mr. GARCIA. Mr. Chairman, will the gentleman from California yield?

Mr. LUNGREN. I yield to the gentleman from New York.

Mr. GARCIA. I appreciate the gentleman yielding.

I never thought I would see your side of the aisle praising the AFL-CIO.

Mr. LUNGREN. Stick with me and we may see a lot of things this week.

Mr. GARCIA. Some of us on this side are praising the Chamber of Commerce, and the Wall Street Journal.

I really think we have come full cycle. I really marvel at how we can use the various tools at our disposal to get a point across. I thank the gentleman for yielding.

Mr. LUNGREN. I appreciate it. All I did was quote the gentleman from the AFL-CIO verbatim.

Mr. RICHARDSON. Will the gentleman yield on the AFL-CIO point?

Mr. LUNGREN. Sure. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. I understand at one point in the hearings held in the gentleman's subcommittee, the AFL-CIO pointedly said they would take employer sanctions only if the so-called Hawkins amendment was passed.

□ 1420

Am I incorrect, did I read that wrong, has there been a statement of reversal by the AFL-CIO? I think that the gentleman saying that the AFL-CIO blanketly supports employer sanctions may be a little bit incorrect.

Mr. LUNGREN. I do not think I am incorrect on that. Over the last 4 years the AFL-CIO has appeared before us and one of the things they have said every single time is that employer sanctions are essential to dealing with this problem. Those are the words of the AFL-CIO saying it is the single most important, not one of the most important, not 3 on the list of the top 10 big hits, but No. 1, numero uno.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(At the request of Mr. RICHARDSON and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Mr. RICHARDSON. If the gentleman will yield further, I think since we are talking about switching sides, I would like to ask the gentleman——

Mr. LUNGREN. I am not switching sides. I have always been here on this one.

Mr. RICHARDSON. Did the U.S Chamber of Commerce, have they made any statement on employer sanctions?

Mr. LUNGREN. Absolutely and they are wrong.

Mr. RICHARDSON. What did they say?

Mr. LUNGREN. In many cases they do not like employer sanctions as a burden on the employer.

All I can say is that if you want to look at this issue from narrowly defined special interests we will never pass a bill. This is a question of whether the national interest, the overriding national interest, will be paramount in this Chamber as opposed to the very sincere, but narrowly defined special interests, ranging from the Chamber of Commerce and agriculture to many other groups.

Mr. RICHARDSON. Does not the AFL-CIO and the Chamber of Commerce in general represent many employers and many employees? Are they both narrow special interests?

I think we should take credence in what these two groups say. They are both important components in the American employment picture.

Mr. LUNGREN. I agree. That is why I cited the gentleman the AFL-CIO.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to summarize what I think is going on and I totally support the amendment of the gentleman from California. This is similar to sports where you have some sports where you penalize the whole team and you have other sports where you penalize one person when they do something wrong.

Now, as we look at our 5 million-plus employers in America, I do not think anybody believes that every single one of them is doing something wrong. I think we are all perfectly aware of the fact that it is not a handful, it is obviously more than a handful, but there is a certain group of employers, and most people in immigration offices around the country know which employers there are, that are hiring illegals.

Now, why do they do it? Because our labor laws are written so if you want to complain about wages or working conditions, you go down and file a complaint. Obviously that is great for American citizens. It is pretty lousy if you are an illegal alien because your employer could then turn you in if you turned him in.

One of the things that has bothered me in this debate is those of us who feel that the individual penalty approach is correct, which is Congressman ROYBAL's approach and is the fairest approach, we keep getting castigated and we keep getting painted as being people who just want to keep letting the borders be free, letting people pour over and on and on and on.

What we are really saying is that we ought to target it first to the employers that we think are violating the law and take the profit out of their violating the law. If that does not work, then you move to the next step of going after every one.

But I think the amendment of the gentleman from California [Mr. ROYBAL] makes an inordinate amount of sense because it does that. It is a kind of a phased approach. This approach is that you certainly do not let the employers, who are doing this, continue to be able to do it. You make them pay the price by enforcing the labor laws that are there and you make sure that you take the profit out of their hiring illegal aliens.

If we do that a while and you find out that does not work, then you move to the next step.

But I must say if I were an employer in this country I would be a little resentful that because there are a few bad guys everybody has to pay the penalty of keeping all these records, keeping all this paperwork and being made enforcers. They are inundated with so much paperwork already that it is incredible.

We have to face that issue on everything that comes here in this House. We know that every employer is not a polluter, we know that every employer is not a discriminator, we know that every person is not a this or not a that and we so often still pass laws that cover absolutely everybody and aggravate all the good guys also. So the good guys say. "Why am I a good guy guys and end up paying the same penalty as the bad guys do."

This is a very simple amendment that the gentleman is offering and it makes an inordinate amount of sense.

We already have labor agencies that should be enforcing these laws. If we get those labor agencies enforcing the laws against the employers who are violating those laws, then we do not have to go around and harass all the other good guys who have been good all along.

If we do that and then we find out there are still some problems, we can go back and add sanctions. But why do we have to make such a massive approach to it?

I do not think there is a Member here who does not want something done about immigration I also think that we keep missing the point that so many have tried to address. That is, if you are in a country where there is 50-percent unemployment, going to a country with 10 looks pretty good.

As long as there are employers who figure that they can get away with it they will go ahead and try to employ those people and if there is profit in it.

There is one other piece that is so important. When they are employing people and there is profit in it, they are exploiting everybody and that is wrong. They are competing unfairly with our own good guy also.

So this is an approach that takes the profit out of it, uses the people we already have on line, does not penalize the people who have not been violating the law, and I think is one of the fairest solutions around. I really urge Members to try and break out of trying to cast Members of this body as pro or antienforcement and really move toward trying to solve one piece at a time. That is a logical way to get back to where we want to be which is controlling this very difficult problem and really dealing with it in the most effective way we possibly can.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several of my colleagues have dealt with the problems of employer sanctions and their burdensome nature, the fact that even the chamber of commerce opposes them, the fact that they are difficult to enforce. Mr. EDWARDS, I think, alluded to what I consider to be the most important reason for rejecting this provision and that is that he said it would be discriminatory, that it violates civil liberties of all Americans.

I think most of the Members who have listened to this debate, because we have had so many technicalities and so many different legalisms it is becoming very hard to understand.

I would like to, without being facetious, give a concrete example of how I think discrimination might work. I would invite my colleague from California and from Kentucky to respond to me in a constructive way because I am going to pose them a scenario where a potential for discrimination exists.

You have a situation at a manufacturing plant at a border. Assume that I, Bill Lopez, is applying for a job with you and I am using my mother's maiden name, and I am competing with Robert Redford. Both of us want the same job in a manufacturing plant. Both of you look at our qualifications and maybe our qualifications are equal. I will concede that Redford has the edge on the looks department, but assume we are both physically able, we are both able to exercise the same responsibilities equally. I wondered if the gentleman might engage in some kind of dialog with me to determine what would happen; would you give the job to Redford or would you give the job to me?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Knowing the gentleman and his political views versus Mr. Redford's, I would obviously pick the gentleman in the well.

With respect to the impact on this bill, I would say the chances for discrimination are far less than they are presently since we now have blanket application of the paperwork burden to all employers.

Mr. RICHARDSON. Well, I think the gentleman is being sincere in his response, but in reality, if you look at Redford and you look at me, I think that the possibility exists that you will ask me to produce more of an identification card than Redford, that you will ask me to certify that I am more of a citizen than Mr. Redford is because I am not fair-haired and blue-eyed. What if I had a thick accent? Would the gentleman not be safer to pick Redford just to avoid a paperwork or an INS hassle? In essence, because of that edge Mr. Redford has, is that he is not brown-skinned, wouldn't he have the edge for this job?

□ 1430

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I wish the gentleman would have used the example of himself and Ernest Borgnine. It might have made this whole procedure a little bit easier for me. But in any event, to get back to your example, if I understand correctly, this House last night adopted language, or yesterday afternoon, of Mr. FRANK, which says that if you feel you have been discriminated against, you can proceed not just under the bill which has three separate avenues, but in the amendment of the gentleman from Massachusetts you have a special counsel waiting for you to pursue the complaint.

So, first of all, we have mandatory paperwork in all but small employers, and now you have an additional special counsel watching out for your interests, you have the three avenues in the bill. And with all respect to my friend, the gentleman from New Mexico, I do not think any employer is going to play games.

Mr. RICHARDSON. Reclaiming my time; I already lost the job. See, that is what you do not understand. Between Redford and I, I lost the job because I probably look foreign. Yes, I can go with this Frank amendment and appeal the discrimination, but I do not have the job. I already lost it. Many may not have the incentive to appeal.

Mr. MAZZOLI. Let me suggest to the gentleman the worst scenario. The worst scenario is that you may need one person whose name is Rosa Marquez who carries on a lonely battle all the way to the Surpreme court of the land. It may take that. Who knows? What we are saying is that we give that individual the opportunity of pursuing that all the way to the Supreme

Court, with a special counsel assisting him or her every step of the way.

So all I can say to the gentleman is, I will not suggest and I will not attempt to allay his fears and concerns—they are deep-rooted and sincerely felt—all the gentleman from Kentucky is saying is the bill was good, it has now been improved. All I can say is that anyone who has a legitimate and, in some cases maybe, even a suspected problem with discrimination at the job site has these avenues to pursue.

Mr. RICHARDSON. Once again, I would just like to state this for the record: This is a problem primarily that you will see in border areas. This is a problem that you will see with people with foreign accents. You will see it everywhere. And I can tell the gentleman that what we are doing is, we are putting at a disadvantage anybody who is not fair-haired, who looks foreign, who speaks foreign, because of the perception in people's minds. You can talk about the Frank amendment and the Supreme Court and special counsels and going to a lawyer, but the discrimination is in people's minds and you cannot fight that with legalisms. The perception is "I will probably take a risk if I hire a dark-skinned person because he may be illegal. Why do I take the chance?"

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 2 additional minutes.)

Mr. RICHARDSON. I will be glad to yield to anybody who can give me a better answer. The fact that discrimination would occur is based on a perception. Most people who are applying for some kind of discrimination protection, they do not know the legalisms. It is a perception in people's minds, and it is going to cause unemployment, it is going to cause a lot of people to lose jobs simply because they do not look like Jack Armstrong, the All-American boy.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Florida.

Mr. SHAW. The people who have been completely left out of all of this debate—and I have listened carefully to it—all the American workers who are being discriminated against because they are losing jobs to illegal aliens who are coming into this country and working for less. It is generally your minorities, your lowest economic level of people who are getting hurt now. The employer sanctions is going to do more to help them than any other group of people in this entire country, and these are the people that we ought to be concerned about. Two basic classes of people. The people who are already here, we must be concerned about them, and they are losing their jobs. Look at what happened in Miami, with the tremendous influx that that part of the country had, and the jobless rate, and how that translated into riots in the streets. It was a very difficult time.

Mr. RICHARDSON. Reclaiming my time, no one is saying that we should not protect the American worker, and we must. No one is saying that we should not take into account those problems that you raised. I am talking about the American of Hispanic origin, of Asian origin, who happens to speak with an accent. How do you give some kind of protection to that individual? I would like somebody to give me some kind of elucidation of how you are going to avoid protecting that person because the perception in the employers mind that he should avoid the risk of hiring an illegal.

Mr. MAZZOLI. I am surprised at the gentleman. I have been trying to tell him for the last 2 days exactly what is in the bill. The gentleman seems not to want to understand. We have the Frank amendment, which gives you a special counsel. We give you in our bill three separate avenues to pursue. We have in this the Roybal language of last night, which eliminates the idea of ID cards and other such suspect things, which, again, were groundless, but we added that language in there; we have Glickman language in what is left of the strike language of last night that says there will be no ID card.

If the gentleman continues to always refer to perceptions, we will never get anywhere.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by our colleague, the gentleman from California [Mr. ROYBAL], to strike out the imposition of criminal penalties and civil fines on employers who knowingly hire undocumented workers.

Because I strongly believe in civil rights for all Americans, and because I believe all people should be treated with dignity and respect, I am compelled to express my intense opposition to employer sanctions. I recognize and understand what H.R. 1510 attempts to accomplish in proposing employer sanctions. It is hoped that by deterring employers from hiring undocumented workers, the incentives for illegal entry into this country will decrease. However, the ultimate implications of these sanctions is far greater and far more alarming.

The specific procedures set forth in H.R. 1510 would encourage employers everywhere to discriminate against individuals solely on the basis of their accent or their appearance. Given the threat of criminal penalties and disruptive policing activities employers will seek relief simply by avoiding the consequences altogether. Many qualified individuals badly in need of employment will be rejected. Indeed, we will be turning the clock back and fostering an era of discrimination once again.

Mr. Chairman, abuses are already taking place. Let me describe to my colleagues incidents which are occurring in my district in California. In order to apprehend undocumented workers, the INS has transgressed the rights of many Americans. They have approached individuals on the streets of San Jose selecting them for questioning solely on the basis of their appearance—lacking any evidence or basis for assuming they have violated any immigration laws. Is this not a country where individuals may walk down the street without being harrassed or unduely sought after by law officers?

In addition, we are witnessing more and more raids into the workplace. How do the INS agents select their subjects, except by appearance? Employer sanctions can only exacerbate these conditions.

Mr. Chairman, I realize that we can't wipe out prejudice and discriminatory practices entirely through legislation. But I will not consciously institutionalize a system that allows people of this country—be it an INS agent, an employer, or a police officer—to harass or to discriminate against any individual or to predicate enforcement on ethnic background.

Mr. Chairman, I support the amendment to delete employer sanctions from H.R. 1510 and thank the gentleman from California for his efforts to avert discrimination in the American workplace.

Thank you.

Mr. ZSCHAU. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to my colleague, the gentleman from California.

Mr. ZSCHAU. I thank the gentleman for yielding.

Mr. Chairman, I share some of the concerns that the gentleman just expressed and, as a result, have concern about this entire bill. But it seems to me that if one strikes the employer sanction section from the bill, the bill will be gutted. The fundamental assumption behind the bill is that in order to stem the flow of illegal aliens into the country we should remove the economic incentive for coming in. The way the bill attempts to do that is through employer sanctions. I am not sure that such sanctions will work, but if we get rid of them entirely, then we will have done nothing in order to stem the flow of illegal aliens coming into this country. It seems to me for that reason we might as well not have a bill if we are going to destroy this section of the bill.

**Mr. MINETA.** I recognize that, but my problem is that I am afraid the solution is greater in its impact on others than just the problem of trying to solve the inflow of the illegal alien.

□ 1440

I want to yield to my friend from Kentucky [Mr. Mazzoli] but also want to commend him for the work he has done on this bill and the conscientious efforts that he has put forth.

**The CHAIRMAN.** The time of the gentleman from California [Mr. Mineta] has expired.

(On request of Mr. Mazzoli and by unanimous consent, Mr. Mineta was allowed to proceed for 2 additional minutes.)

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. MINETA.** I am more than pleased to yield to my friend.

**Mr. MAZZOLI.** I thank the gentleman for yielding.

We have been seatmates on the Intelligence Committee, and a more delightful, more competent Member of Congress does not exist than my friend in the well, and I thank him for the compliment.

I think the gentleman from California has been very insightful too in his comments, in saying the House has said we cannot any longer do nothing. We have had three separate record votes. By over 100 votes each time, as the gentleman has said. He is not sure of employer sanctions, no one is 100 percent completely confident, which is why we put the Frank language in, why we put the Roybal language in, why we have put the Lungren language in, why we put the Coleman-Hall language twice in.

We are not really sure. We are trying, but one thing the House is very sure about, doing nothing is doing nothing at all. That is why the amendment of the gentleman from California is simply to do nothing, and I would therefore, with great respect to my friend, urge defeat of this amendment.

**Mr. AuCOIN.** Mr. Chairman, will the gentleman yield?

**Mr. MINETA.** I yield to the gentleman.

**Mr. AuCOIN.** I appreciate the gentleman yielding.

Mr. Chairman, I have been listening to the gentleman's remarks. He speaks with experience. And Members who know him know that he is an able and consciencious Member of the Congress. His concern is my concern. My concern is that because of the perceptions that will inevitably be there on the part of those who have to enforce the law, employer sanctions can work against the civil rights of those who appear to be illegal aliens. Appear to be.

The gentleman cited cases in his district in which American citizens who had such an appearance are even now being stopped by INS agents as they drive their cars down the streets. That very same experience has happened to my constituents, who pay their taxes, support their communities, go to church, hold jobs, and are productive citizens.

I do not think this is the kind of country in which we want to take any step in the name of any laudible general public purpose which would exaggerate that problem. The problem needs to be eliminated, not exaggerated.

**The CHAIRMAN.** The time of the gentleman from California [Mr. Mineta] has expired.

(On request of Mr. AuCoin and by unanimous consent, Mr. Mineta was allowed to proceed for 2 additional minutes.)

**Mr. AuCOIN.** Mr. Chairman, will the gentleman yield?

**Mr. MINETA.** I yield to the gentleman.

**Mr. AuCOIN.** I appreciate the gentleman yielding further.

I respect the gentleman who chairs the subcommittee, and I hold no disrespect for those who want to pass this bill; I do not question their motives. But I do question the effect of the employer sanctions in their bill. The gentleman from California [Mr. Mineta] is making a point, and it is a point that I can comprehend clearly because my constituents have been victims in the same manner that his constituents have. Even today.

His point and my point is: The chances for those victims to be further victimized, and those who have escaped harassment to become new victims are greater if this bill is passed with employer sanctions than if this bill is passed with or without employer sanctions.

It really comes down to the question of whether or not we really believe that all of those legal remedies that the gentleman from Kentucky has cited are an adequate safety valve. Sure there are a lot of legal remedies that the gentleman has built into this bill. But I ask the gentleman from Kentucky what class of citizen in the United States will be mired in the courts having to fight for his rights to prove that he is not an illegal alien. To prove that he has been wronged. Is it going to be white, Anglo-Saxon, Protestant-looking people like the gentleman from Oregon who is standing in the well speaking right now? I doubt it. I suspect that those citizens who are going to be constantly mired in the courts, are going to be minorities who already are the tragic victims of discrimination. If anyone thinks it is a picnic to go through the court process to make such a proof, they're very wrong. And if that is anyone's view of a pleasant, fair society, I beg to differ with them.

I appreciate the gentleman's statement. I respect his statement very much.

**Mr. GLICKMAN.** Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, let me go over a few things that I think are important. What we are all trying to do is to find a reasonable, responsible immigration policy. There are several components of that. One is improving our relations with our Central American allies: Mexico, Central America, Latin America, and that means aid to these countries; it means an end to what I call irresponsible military intervention into those countries. It means stimulating their economies so the people will want to stay there.

The word I use is incentive. We have to create an incentive so that people will want to stay where they were born and they will have a productive life. We all know that that is an important part of an immigration policy.

The second part of an immigration policy is a responsibly financed border patrol and immigration service that enforces the law. We know that without both of those parts of the policy, anything we do here is doomed to failure.

The third part of the policy, and that is why I think employer sanctions are so important, is again the word incentive. Which bill, which legislative policy is the most constructive way to remove the incentive for people to want to come to this country in great droves? Well, I talked about the first two parts, which I think are key, and the third part has to be the employer sanctions. If the people know that it is much more difficult to obtain employment in this country, then they will be less likely to come here.

The point that the gentleman from California [Mr. Miller] raised and others as well about beefing up the Fair Labor Standards Act is an important point. I think that those provisions are good. But the fact of the matter is that those changes in that act really protect people who are already here and already being exploited. They do not do anything with respect to the hundreds of thousands who will be coming up here as a result of wanting to come to this country to get a job.

Therefore, I have no problem with beefing up the Fair Labor Standards Act, but that does not deal with the problem. That does not deal with the incentive argument. The incentive argument is we must find a way to remove the incentive for people to want to come here. That is why you have to deal with three parts of the puzzle: You have to deal with revitalizing Central America, you have to deal with beefing up the Border Patrol, and you also have to deal with the issue of why the undocumented votes come here in the first place; because they can get a job here. That is why employer sanctions are so important.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my chairman.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I think that the gentleman has put his finger on what employer sanctions do. That is, to create a disincentive to assure that those people who up until now were able to come in do not continue to do so. Once it is known that there is a law that says that employers who are illegally employing them, will be subject to a sanction the flow of undocumented aliens should stop.

Now, to say that there is the specter of discrimination is always, of course, a valid statement to make. Discrimination will go on and will go on. The gentleman who spoke preceding the gentleman's going to the well, stated that there is discrimination and there will be discrimination. Of course there will be. What we are attempting to do is to remedy a present situation.

We certainly are not encouraging discrimination, and there have been written into the bill, the Frank amendment, which certainly guarantees that if those conditions occur, those conditions would be dealt with. But more importantly I do not see how we can stand here and do nothing, knowing that people are now being exploited, knowing that the employers who have been violating the law with impunity, are the ones who are being given all these kinds of protective arguments. Because once you do away with employer sanctions, you are saying let the present situation continue, and let the employers continue to employ illegally and exploit.

Mr. GLICKMAN. I think my chairman makes an excellent point. I would like to add to that point.

Employer sanctions are tied to the issue of legalization. Not only do we try to provide a disincentive for people to come in, but we tie it with dealing with the millions of people who are here who are being exploited by saying that effective immediately, you people will be granted a new status.

The CHAIRMAN. For what purpose does the gentleman from Kentucky [Mr. MAZZOLI] rise?

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that all debate on this amendment end at quarter past three. I have talked to the gentleman from California.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Let me salute the gentleman from Kansas, one of the really excellent and outstanding members of our full committee, who has a rare ability to dig into a mass of information and come up with the kernel. You have, and I thank you for it.

□ 1450

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague, the gentleman from New Mexico.

Mr. RICHARDSON. I thank the gentleman for yielding.

The gentleman from Kansas, I know he is very active in the foreign policy area. He mentioned that we needed incentives to deal with Central America and the border and Mexico to ameliorate the immigration flow. I would like to ask the gentleman: Why is it that when he talked about incentives, why is it that Mexico and the United States never have immigration on the bilateral agenda to discuss joint incentives to reduce immigration.

Why is it that Mexico has not cooperated with the United States to stem the flow? Why not have an incentive such as creating with Mexico some kind of IMF plan to create border jobs?

The gentleman talks about foreign policy, but this bill simply says let us have a study to see what the problem involves. We know the problem—let's deal with it in partnership with Mexico.

Mr. GLICKMAN. Unfortunately, the jurisdiction of the Committee on the Judiciary does not allow us to enter into bilateral relationships with Mexico. But the gentleman is exactly right. That has to be a key part of this problem.

Mr. RICHARDSON. This is one of the flaws of this bill. This bill does go into a lot of jurisdictions, by the way; the Committee on Energy and Commerce, the Committee on Agriculture. I have heard many members of the Committee on Agriculture say you are dealing with an immigration bill. Why bring agriculture into it? So I believe the jurisdiction excuse is exactly that: a poor excuse.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(On request of Mr. RICHARDSON and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. RICHARDSON. Mr. Chairman, I would like the gentleman, if he could, to tell us if there are any plans for his involvement in having a foreign policy dimension to this problem? Mexico is at the root of the problem. We are not completely to blame, but if the United States does not sit down with Mexico and ask them to at least discuss this, we are in trouble. Mexico sees this problem as a safety valve. They see it as our problem. They do not do anything about it, and we do not lean on them constructively. We have a good enough relationship to start dealing with them on a mature and frank basis.

Why was this dimension not included in the bill in the incentives? The gentleman and the Judiciary Committee have not answered this key question.

Mr. GLICKMAN. I think the gentleman ought to be directing some of those questions to the President of the United States, who has chosen not to pursue that matter with the President of Mexico when he was here.

All I can tell the gentleman is that, again, it is a three-part situation and we are only working on one part here. The other parts have to be worked on just as vigorously.

The CHAIRMAN. The Chair observed the gentleman from New York [Mr. GARCIA] standing, and the gentleman is recognized for 5 minutes.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to make a few points as we get ready to close debate on this very important amendment.

No. 1, in reference to my colleagues in the AFL-CIO, I am going to make a prediction. Ten years from now we are going to find that the employer sanctions are not working. I say that to the AFL-CIO because they have lobbied for this over these past 5 or 6 years. The jobs that are presently being taken are not being taken from union members. They are under the impression that these people are taking jobs away from them. That is not the case.

I would also like to say that I find it most peculiar, as I mentioned to my colleague from California, that I am here defending the chamber of commerce. I believe that the chamber of commerce is correct on this. I think my voting record last year with the chamber of commerce was close to about a 10 or a 12, if it was that high, and my AFL-CIO voting record probably ran about 95 percent.

So we find ourselves wearing different shoes today. I'd like to take a moment to address myself to the employers of America. The employers of America are going to be placed under undue hardship. They will be watched very carefully.

There are people with businesses in Wichita, KS; in New York City; in San Diego, CA, and Portland, ME. They will be scrutinized and asked to fill out forms. They are going to have no understanding of why they are doing this. I would like to tell the employers of America that in their search to make sure that they abide by the law that they please not turn away people who look different or sound different.

That is very important. It is going to be a tremendous temptation for many of these people to do just that, not to take a chance, because they are going to say to themselves, "I am not certain and there is no need of getting involved in something of which I am not sure."

I believe the statement made by my colleague from the State of Oregon [Mr. AuCoin] really hit the bull's-eye. He is a sensitive human being who understands exactly what would take place if we implement employer sanctions. It is those who can least affort it who are going to end up with the civil action suits in the courts in his district in Oregon. I commend him.

Lastly, there has been a great deal of talk here about foreign affairs and about bilateral relations with Mexico. I mentioned before that I visited San Ysidro, on the border between Tijuana and San Diego. I spent a day there talking to the INS officials about 2 or 3 years ago when I was chairing the Census and Population Subcommittee.

One of the saddest things that I saw were the pens where they kept undocumented persons. These pens were filled with people of brown skin. But one of the things that came out of that visit was that, and I say this to my colleagues from New Mexico, many of those people who were in those pens were called OTM's. What does OTM mean? Other than Mexican. There were individuals who were coming up, coming into Mexico from as far south as Peru, from many of the Central American countries, and they were moving through Mexico to come to the border.

So it is a question that affects not only Mexico itself, but many of the other Central American nations. It is important that we understand that. There is poverty, and as long as there is poverty, regardless of how high the walls are, people are going to find their way to the United States.

In closing, I went to San Ysidro with a Catholic priest by the name of Father Sierra. We went into the foothills just south of San Clemente; we visited with persons who had just come across the border. They were sleeping on canvas. We saw them cooking beans in little fires with flies all around. The heat was deplorable, and the mattresses that they had were on the ground, and sopping wet.

All these people wanted to do was to get up at in the morning to go try and get a job for a dollar or $2 cutting lawns or trimming hedges, or whatever the case might be. These people did not come here to take anything away from us. They came here for the dream that our forefathers came for, and it is important that we understand that.

The saddest part of it all is that in order to get from San Clemente to Los Angeles, you have to go up U.S. 5, north on U.S. 5.

The CHAIRMAN. The time of the gentleman from New York [Mr. Garcia] has expired.

Mr. GARCIA. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. The time has been allocated. There will be 15 minutes remaining.

The Chair at this time will recognize the gentleman from California [Mr. Roybal] for 7½ minutes, and the gentleman from Kentucky [Mr. Mazzoli] for 7½ minutes. The gentleman from Kentucky [Mr. Mazzoli] will close the debate.

At this time the Chair recognizes the gentleman from California [Mr. Roybal] for 7½ minutes.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. GARCIA. I thank my colleague for yielding, and I will be very brief.

Mr. Chairman, in order to get from the foothills of San Clemente to Los Angeles, they had to raise between $200 and $500, because on one side of U.S. 5 at that particular point was Camp Pendleton and they could not get through Federal property. The other side was the ocean.

□ 1500

All these people were doing was trying to save their pennies so they could get to Los Angeles for the purpose of finding employment. Now, that is the dream. That is the dream that they had. That is the dream our parents had, our grandparents, and I think those persons are entitled to their dream as well.

I thank my colleague for yielding.

Mr. ROYBAL. Mr. Chairman, there seem to be several Members that want to speak. I will be happy to yield 1 minute to each when the time comes, but at the present moment, I would like again to tell the House what is in this amendment.

This amendment simply substitutes the present language in the bill and places therein language in which sanctions will be imposed against those individuals who violate existing law. It is not a killer bill or a killer amendment. It is an amendment to try to improve the situation. It is also an amendment that I think will clearly clarify the situation with regard to the intentions of the House.

I am going to ask for a rollcall vote on this because I want to know and I think the public should know the position of each one with regard to sanctions.

Now, I have another amendment that I am not going to introduce, Mr. Chairman. That was an amendment that would strike out sanctions; so what was decided is that I would propose a so-called middle ground amendment and that is the amendment that is before the House at the present time.

I think it is a good amendment and I think it would greatly improve the bill. I urge its passage.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. Hance].

Mr. HANCE. Mr. Chairman, I rise in support of the gentleman's amendment. I think this is one of the best amendments presented on this bill. It just makes sense that we should enforce existing laws before we start making radical changes. If that amendment is not going to be adopted, I will tell you what is going to happen in many of the border States. You are going to see widespread discrimination against certain groups of people and there is no question that if someone is trying to make a decision on hiring an individual for a job, if it is someone that has a Spanish surname, then they are going to be at a severe disadvantage. That is the practical aspect of this bill.

This amendment would greatly improve the bill and it would be a step in the right direction.

You cannot build a strong structure on a weak foundation. But that is exactly what this bill is attempting to do. This Roybal amendment remedies this situation.

Part of the problem of undocumented workers is the failure of this Government to enforce the laws presently on the books that are designed to prevent undocumented workers and prevent illegal immigration. If our labor laws and our immigration laws were fully enforced as they should be, the crisis we face with undocumented workers and illegal aliens would be substantially less severe than it is.

Having recognized and acknowledged the shortfall in enforcement of labor laws, it is only logical that we take steps to improve enforcement and compliance. It is not logical to impose on the present, admittedly faulty system of labor laws, a new system of employer sanctions which is accompanied by even more problems. By doing so we simply compound the situation and make it worse. The obvious answer is to enforce the present law, beef up compliance efforts and eliminate the hassles of employer sanctions.

I say again that you cannot build a strong structure on a weak foundation. We should not impose employer sanctions without strengthening existing labor laws.

I urge my colleagues to vote for the Roybal amendment.

Mr. ROYBAL. Mr. Chairman, I thank the gentleman.

I yield 1 minute to the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my statement in the general debate expresses my sentiments on this issue, but basically what the gentleman is trying to do is place the enforcement of the law in the existing agencies and not on prospective employers and an onerous unconstitutional burden on prospective employees, whether they be citizens or not. I think that this is a proper way, it is indeed reform in the immigration process, not novel, but the fact is that present laws are not being enforced.

This is a way to enforce them and not place an undue onerous burden on legal residents or citizens and place the enforcement of the law where it belongs, with the enforcement agencies.

I thank the gentleman for yielding and I ask an "aye" vote on this amendment.

Mr. ROYBAL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Towns].

Mr. TOWNS. Mr. Chairman, I thank the gentleman very much for yielding.

I would like to say to the gentleman from California that we certainly appreciate the gentleman trying to improve this bill. I rise in support of the gentleman's amendment.

People are extremely concerned about the discrimination aspect. I received a call in my office just about an hour ago expressing concern about the fact that this bill in many instances will discriminate against citizens of the United States. That is the concern that he had.

He indicated that he was born and reared in South Carolina in an area where he said that everyone sounds foreign. He would be afraid to try to change jobs if this bill passes. This is somebody that is born in the State of South Carolina and this is the kind of reaction that we are getting.

I represent an area in New York City where 38 percent of the people in my district have Spanish surnames. I am extremely concerned about discrimination and this amendment will address that problem.

I want to let you know, Mr. Chairman, that I rise in support of this amendment. I hope that the Members of this body will recognize the importance of this amendment and support it.

Mr. ROYBAL. Mr. Chairman, it is my pleasure to yield 2 minutes to the gentleman from California [Mr. Hawkins].

Mr. HAWKINS. Mr. Chairman, let me make just one simple point. It seems that the proponents of the bill and the opponents of this amendment are saying that sanctions are now sanctified because of the Frank amendment that "has eliminated discrimination."

But why are people discriminated against? Why will they be discriminated against under this mechanism? In the context of the immigration issue, it is the fear of sanctions, that the employer will reject an individual and discriminate against that individual, and that threat is not removed.

Now, I appreciate the acceptance of the Frank amendment by this body. My committee drafted the amendment and we assert that it is a good amendment. But law is only as good as its observance and enforcement.

However, let me suggest that we have currently the Fair Employment Practice Commission, the Office of Federal Contract Compliance, the Civil Rights Division of the Department of Justice, and now we will have the Frank amendment.

Now, if you think these entities are going to eliminate discrimination, you have another thought coming. Discrimination is a very subtle and a very difficult thing and with all these agencies, only about 5 percent of the victims of discrimination are now helped by these agencies; 95 percent of the victims are helped by private individuals, private suits; so I think that we should not willy-nilly say that there is no need now to tamper with sanctions, because now all of the potential discrimination has been removed from this program. I wish that that were true, but if you saw TV this morning, you would know that the Chief of the Division of Civil Rights of the Department of Justice was the one attacking affirmative action, and in effect the one supporting discrimination, and he is only an example of one of those that you are going to depend upon under this mechanism to end discrimination.

The CHAIRMAN. The gentleman from Kentucky [Mr. Mazzoli] is recognized for 7½ minutes.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. Zschau].

Mr. ZSCHAU. Mr. Chairman, I thank the gentleman for yielding.

I have not made up my mind whether or not I am going to support the bill in its final form. I will have to see what amendments are passed. However, I think it is important for all of us to focus on the fundamentals. The fundamental objective of this legislation was to stem the flow of illegal aliens into the country. The mechanism for that was employer sanctions which are supposed to remove the economic incentive for people to enter this country illegally.

In concert with the employer sanctions, this bill would grant amnesty or legalization to those who have been in this country for a period of time. The legalization program is expected to result in increased costs of Government benefits and services.

I am not sure whether or not the employer sanctions will actually work. I am not sure whether they will indeed remove the economic incentive for aliens to enter this country illegally. But I am sure of one thing: If we pass this amendment and eliminate the employer sanctions, it surely won't work. The economic incentives will still be there and the flow of illegal aliens will continue. However, we will have incurred the costs of the legalization program—we will have paid the costs inherent in this bill and gotten none of the benefits.

For that reason I urge strongly the defeat of this amendment.

Mr. MAZZOLI. Mr. Chairman, I first thank the gentleman for that very insightful and cogent argument in behalf of defeating this amendment.

Mr. Chairman, I yield 1 minute to my friend and the ranking member of the Judiciary Committee, the gentleman from New York [Mr. Fish].

Mr. Chairman, to close debate, I yield myself such time as I might have left.

The CHAIRMAN. The gentleman from Kentucky [Mr. Mazzoli] is recognized for 5½ minutes.

Mr. MAZZOLI. Mr. Chairman, I assure my friends that I will not take the full 5½ minutes.

Let me just once again set the stage and quietly and calmly reflect on where we are. Where we are is we have a killing, gutting amendment, facing this body.

Let me just suggest once again to go back to square one, this House adopted by a vote of 291 to 111 the rule which provided for us to consider the question of immigration reform.

☐ 1510

By a vote of almost 3 to 1 the House went on record as saying we do not want to do nothing. Conversely, the House said by a wide margin, a resounding vote, we want to do something.

If we accept the gentleman's amendment, it is offered to substitute an enforced labor standard for this mechanism of employer sanctions and we will have gutted the bill. We will have done nothing.

So for that reason I ask the House, all of my colleagues, to vote down the gentleman's amendment.

Let me suggest also that by a vote of 274 to 137 we recently defeated another gutting, killing amendment by 140 votes. The House is saying strongly in three successive recorded votes, in each case by overwhelming margins, we do not want to get bogged down, we do want to pass some kind of a bill, and some kind of a bill includes employer sanctions.

Let me say the gentleman from California earlier in the debate suggested that if the House examines very carefully his amendment the House will support it. If the House examines very carefully his amendment the House will reject it by the widest margin of any amendment we have taken up to now because it is clear and patent and transparent.

The gentleman is against the bill. The gentleman has fought this bill every inch of the way. The gentleman wants to kill the bill and to adopt his amendment is to accede to his desires to kill the bill. So I implore the House, do not go the gentleman's way.

Last, I say to my dear friend, the distinguished gentleman from California [Mr. Hawkins] who worries, as we all do, about enforcement of potential discrimination, I assure the gentleman, and allow him to rest easy, that unlike the question of affirmative action, the question of any unintended discrimination claims will not be pursued by the Civil Rights Division of the Justice Department but as the gentleman from Massachusetts' amendment provides, that offered by Mr. Frank, a special counsel sitting separate and apart as an independent operator, he or she will prosecute those claims.

So I think the gentleman is right in worrying about that. I believe the adoption of the Frank amendment and, of course, the Roybal language of last night suggests that we have now tightened the bill.

I yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 14 offered by the gentleman from California [Mr. Roybal].

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. ROYBAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 120, noes 304, not voting 9, as follows:

[Roll No. 232]

AYES—120

Ackerman
Addabbo
Akaka
Albosta
Anderson
AuCoin
Berman
Bonior
Bosco
Boxer
Brown (CA)
Burton (CA)
Carr
Chappie
Clay
Coelho
Coleman (TX)
Collins
Conyers
Crockett
de la Garza
Dellums
Dixon
Downey
Dymally
Edgar
Edwards (CA)
Edwards (OK)
Evans (IL)
Fazio
Ferraro
Fields
Foglietta
Foley
Ford (MI)
Ford (TN)
Garcia
Gejdenson
Gonzalez
Gramm
Gray
Guarini
Hall (IN)
Hall (OH)
Hammerschmidt
Hance
Hawkins
Hayes
Hertel
Hightower
Horton
Jacobs
Jones (NC)
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lantos
Latta
Leath
Lehman (CA)
Leland
Levine
Lewis (CA)
Loeffler
Lowry (WA)
Lujan
Markey
Marlenee
Martinez
Matsui
McCain
Mikulski
Miller (CA)
Mineta
Mitchell
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Oakar
Ortiz
Ottinger
Owens
Panetta
Pashayan
Patman
Patterson
Price
Quillen
Rangel
Reid
Richardson
Roybal
Sabo
Savage
Schroeder
Shannon
Skeen
Slattery
Stark
Stenholm
Stokes
Stratton
Stump
Torres
Towns
Vandergriff
Waxman
Weaver
Weiss
Wheat
Williams (MT)
Wirth
Wolpe
Wyden

NOES—304

Alexander
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Badham
Barnard
Barnes
Bartlett
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonker
Borski
Boucher
Breaux
Britt
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
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Coleman (MO)
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Craig
Crane, Daniel
Crane, Philip
D'Amours
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Dannemeyer
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Daschle
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Donnelly
Dorgan
Dowdy
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Early
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Edwards (AL)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fascell
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Fish
Flippo
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Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Green
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hamilton
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hiler
Hillis
Holt
Hopkins
Howard
Hoyer
Hubbard
Huckaby
Hughes
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Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kleczka
Kolter
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LaFalce
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Madigan
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Pursell
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Shelby
Shumway
Shuster
Sikorski
Siljander
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Studds
Sundquist
Swift
Synar
Tallon
Tauke
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Thomas (CA)
Thomas (GA)
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Udall
Valentine
Vander Jagt
Vento
Volkmer
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Whittaker
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Williams (OH)
Wilson
Winn
Wise
Wolf
Wortley
Wright
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zschau

NOT VOTING—9

Burton (IN)
Campbell
Gekas
Hansen (ID)
Oberstar
Sensenbrenner
Simon
Sisisky
Young (FL)

☐ 1530

Messrs. TAYLOR, RALPH M. HALL, YATES, and SILJANDER changed their votes from "aye" to "no."

Mr. GEJDENSON and Mr. LEWIS of California changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Amendment No. 15 is in order at this time. Does the gentleman from California [Mr. Roybal] desire to offer amendment No. 15?

Mr. ROYBAL. Mr. Chairman, it is my desire not to offer amendment No. 15 at this time.

### AMENDMENT NO. 16 OFFERED BY MR. ROYBAL

The CHAIRMAN. Amendment No. 16 is in order at this time. Does the gentleman from California [Mr. Roybal] desire to offer amendment No. 16?

Mr. ROYBAL. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. Roybal: Page 20, strike out lines 1 through 20 and insert in lieu thereof the following (and conform the table of contents accordingly):

### Part B—Improvement of Enforcement and Services

#### SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE

Sec. 111. (a) Two essential elements of the program of immigration control and reform established by this Act are—

(1) an increase in the border patrol and other enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) Section 404 (8 U.S.C. 1101 note) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 404. (a)(1) In addition to any other amounts appropriated to the Department of Justice for the Immigration and Naturalization Service for fiscal year 1984, there are authorized to be appropriated $80,000,000 for such fiscal year for improved service and enforcement activities. Amounts appropriated under this paragraph shall be available for expending during fiscal year 1985.

"(2) The Attorney General shall develop and transmit to Congress, not later than two months after the date of the enactment of the Immigration Improvements Act of 1984, a plan setting forth the levels of personnel and funding within the Service for fiscal year 1984 necessary to provide—

"(A) for adequate and sufficient border patrol activities, including personnel, equipment, training, and support services,

"(B) for the provision of immigration and naturalization services, including process of applications for legal entry, on a prompt and efficient basis, and

"(C) for an enhanced community outreach program described in section 103(e).

The plan shall incorporate the in-service training program described in section 103(d).

Page 21, strike out line 1 and all that follows up to the matter before line 19 and insert in lieu thereof the following:

"(c)(1) There are authorized to be appropriated to the Department of Justice for the Immigration and Naturalization Service—

"(A) for fiscal year 1985, $700,000,000, and

"(B) for fiscal year 1986, $715,000,000.

"(2) For each of fiscal years 1985 and 1986, the Attorney General shall develop and transmit to Congress on a timely basis a revision of the plan established under subsection (a)(2) or under this paragraph setting forth the levels of personnel and funding within the Service for that fiscal year necessary to provide for the item described in subsection (a)(2) for that fiscal year and to incorporate the in-service training program described in section 103(d).

"(d) In the case of any additional amounts appropriated pursuant to subsections (a) and (c) in addition to the amounts that otherwise would have been appropriated in the absence of this section—

"(1) a significant proportion of such increase shall be used to improve the delivery of immigration and naturalization services, including timely processing of petitions and applicaitons, and

"(2) any increased amounts used for imigration enforcement activities shall be used predominantly for increasing border area patrol and support staff.".

Page 24, after line 8, insert the following new sections (and conform the table of contents accordingly):

TREATMENT OF IMMIGRATION EMERGENCIES

SEC. 115. (a) Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c)(1) The Attorney General shall develop, and may from time to time modify, a contingency plan to provide for the allocation and management of personnel and resources of the Service and other Federal agencies in the event of an immigration emergency. Such plan provide for a prompt, efficient, and coordinated response at the Federal, State, and local levels, for the prompt delivery of assistance and necessary resettlement services, and for prompt assistance to States and localities adversely impacted in responding to any such emergency. In developing such a plan, the Attorney General shall consult with immigration experts and state and local governments.

"(2) The attorney General shall submit the contingency plan to the Committees on the Judiciary of the House of Representatives and of the Senate within four months after the date of the enactment of this subsection.

"(3) If the President determines that an immigration emergency exists and has certified such fact to the Congress, the Attorney General may request necessary and urgent appropriations in a manner consistent with the contingency plan.".

(b) Section 404 (8 U.S.C. 1101 note), as amended by section 111, is further amended by adding at the end the following new subsection:

"(e) There are authorized to be appropriated such sums as may be necessary to carry out section 103(c), which amounts shall be available without fiscal year limitation.".

PROGRAM OF IN-SERVICE TRAINING

SEC. 116. Section 103 (8 U.S.C. 1103), as amended by section 115, is further amended by adding at the end the following new subsection:

"(d)(1) The Attorney General shall provide for such programs of in-service training for full-time and part-time personnel of the Service in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service includes a description of steps taken to carry out paragraph (1).".

ENHANCEMENT OF COMMUNITY OUTREACH WITHIN THE IMMIGRATION AND NATURALIZATION SERVICE

SEC. 117. Section 103 (8 U.S.C. 1103), as amended by sections 115 and 116, is further amended by adding at the end the following new subsection:

"(e)(1) The Attorney General shall enhance the responsibilities of the community outreach program within the Service so that such program, acting in cooperation with the community relations service of the Department of Justice, has personnel located at the district level—

"(A) to assist in the provision of services, particularly naturalization services,

"(B) to provide outreach to deal generally with community problems with the Service arising at the district level, and

"(C) to receive and investigate complaints of abuse of authority by personnel of the Service and to transmit findings thereon to appropriate authorities for disposition or resolution.

"In providing for the functions described in subparagraph (A), the Attorney General may secure the assistance and services of voluntary and community agencies.

"(2) The Attorney General shall provide that the annual report of the Service includes details concerning the progress of the Service's community outreach program in carrying out the responsibilities described in paragraph (1).".

REPORT ON ESTABLISHMENT OF ANTISMUGGLING PROGRAM

SEC. 118. The Attorney General, jointly with the Secretary of State, shall initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent and to prosecute the smuggling of undocumented aliens into the United States and shall report back to the Congress, not later than one year after date of the enactment of this Act, concerning the progress made in establishing such programs. In any such program, major emphasis should be placed on deterring and prosecuting persons involved in the organized and continuing smuggling for profit.

**Mr. ROYBAL.** Mr. Chairman, I would like to make a brief explanation.

This amendment sets forth two essential elements of immigration control and reform. First of all, it increases the border patrol and other enforcement activities of the Immigration Service. It also prevents and will deter illegal entry into the United States.

The second and most important part of this amendment is that it provides the necessary funds to increase the service activities of INS throughout the country.

I think that this is one of the most important items in this bill because it is in effect immigration reform. In providing the necessary funds for the Department of Immigration to do its work, we make it then necessary for this Department to put in place the necessary personnel to service the people of the United States.

There are thousands upon thousands of individuals throughout this Nation who today cannot adjust their status and they could do so if only given the opportunity of an audience with INS.

Mr. Chairman, those of us who know the situation, with regard to the Department of Immigration and their inability to cope with the problem at the present time, know that we do have a good Department of Immigration with a staff that is not large enough and an agency with insufficient funds to do their work.

In the city of Los Angeles, for example, as well as in other large cities of the United States, we find that there are thousands of people almost on a daily basis that try to get some help from the Department of Immigration, but, when they get to that window after lining up all night, they are met by two clerks to take care of thousands. In Los Angeles people sleep on the sidewalk, in a Federal building, Sunday night, in order to be first in line on Monday morning.

That clearly indicates that the Department of Immigration is not serving the general public.

The other thing that this amendment does is provide sufficient funds for border patrol and other enforcement activities. It improves immigration and naturalization service throughout the country, but it also enhances community outreach. My amendment provides for the strengthening of the Community Outreach

Program which is housed in the Adjudication and Naturalization Sections of INS. This program directs the Attorney General to provide personnel at the district level in order to assist in the provision of service, particularly naturalization services.

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Now, this is what the Department of Immigration is supposed to have been doing all these years, and they have not done that because of lack of money and because of lack of personnel. What we do, then, is put money into this process. Under this amendment, we establish an antismuggling program. My amendment would direct the Attorney General, together with the Secretary of State to initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent and to prosecute the smuggling of undocumented aliens into the United States. This is immigration reform. It seems to me that this is an amendment that should be adopted.

I realize, Mr. Chairman, that it is going to be a little expensive. But if we are going to have in place an immigration bill of any kind, we have to provide funds for the Department of Immigration to do their job. They claim that they have lost control of the borders, and they have. And they have done that simply because they have had only the personnel that is necessary to do a halfway job. They are not providing the necessary help for people whose status can be adjusted, simply because they do not have the personnel. And if anyone in this House is in doubt that the Department of Immigration today has the distinction of being the most discourteous department in the entire Federal bureaucracy, just give them a call sometime. The reason for that is that they are so overwhelmed with work that they cannot possibly take a few moments to be courteous to the general public.

I believe, Mr. Chairman, that this money should be appropriated, as authorized under this amendment.

Mr. MAZZOLI. Mr. Chairman, before I get into the substance of the gentleman's amendment, let me once again congratulate the gentleman from Kentucky [Mr. NATCHER] and remind the House that we owe the Chair a debt of gratitude for the very excellent way in which he is presiding. Again, it is 20 minutes to 4 in the afternoon. The gentleman has been in the Chair since 10 o'clock this morning, he was in yesterday and the day before, and continues to give absolutely fair and impartial handling of a very difficult subject matter. I personally want to thank the Chairman for that.

I certainly want to tell the House and the country that we never would have reached this point in this bill were it not for the gentleman from Kentucky, the presiding officer.

Let me also, then, commend the Members of the House.

I want to reflect, for a second. We have now completed one of the three major elements in our bill. We now have employer sanctions in our bill. We have gone beyond that section. We have now set the pattern that this House, which wanted action, has now taken action, and we have employer sanctions, with stern teeth, but with protections to the possibility of unintended discrimination in our bill, to remain in our bill. I salute the courage of the House, I salute the perseverance and the patience of my colleagues, and I salute those who have taken some very, very strong and positive stands in behalf of one of the basic elements of this bill.

Having said that, I wish to salute the gentleman from California [Mr. ROYBAL], who has been a main actor in this important drama. His amendment, amendment No. 16, is, I think, a constructive amendment, and the gentleman from Kentucky, on behalf of the majority, is prepared to accept the gentleman's amendment.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first, let me congratulate the distinguished chairman of the Immigration Subcommittee, the gentleman from Kentucky [Mr. MAZZOLI], for his outstanding and yeoman's job on this legislation. ROM has worked for almost 4 years on this bill, and I am sure that there are many other endeavors directly affecting his district that would be more politically productive. I want to also commend the ranking minority member, the gentleman from California [Mr. LUNGREN], for his excellent work, and the chairman of the full committee, the gentleman from New Jersey [Mr. RODINO], and the gentleman from New York [Mr. FISH] who have worked for years on immigration reform.

Even though I sit next to my colleague, the gentleman from Kentucky, and work with him on a number of initiatives, I could not support the final product when it came out of committee, for any number of reasons, not the least of which is that I do not think this administration and this Congress is really serious about doing something about the enforcement problems that exist in America today. Our borders are absolutely unprotected, violated every day of the week, with a border patrol that is terribly undermanned. We have less than one border patrolman for several hundred miles, and let us face it, it is an absolutely open border.

Mr. Chairman, when this legislation was considered in the 97th Congress, I attempted on numerous occasions in committee and on the floor to point out that action on any immigration reform and control measure must be preceded by a serious commitment on the part of this administration to provide the necessary funds to the Immigration and Naturalization Service to carry out its enforcement responsibilities. At that time I offered an amendment to the then pending bill setting certain appropriation target levels for INS enforcement activities for 3 successive fiscal years, tying employer sanctions and registry data updating provisions directly to those appropriations. I have noted that section 404 of H.R. 510 authorizes substantial funds for fiscal years 1984, 1985, and 1986 to the INS for carrying out the provisions of the bill, and I commend my colleague, the gentleman from Kentucky. We worked on those provisions in the committee, to at least get those provisions in the bill.

I see that the amendment of the gentleman from California [Mr. ROYBAL] authorizes an acceptable level of funding.

Mr. Chairman, I regret that there is many a slip between the authorization and the appropriation process, as my colleagues well know. Even if either one of these authorization provisions were to be adopted, there is no assurance whatsoever that the funding will be forthcoming.

I only have to observe what happened within the last 2 weeks with the State-Justice appropriations bill this year, H.R. 5712. And I wonder if my colleagues will just bear with me. I know that it is a long day. But I would like to make a point that is extremely important.

The Judiciary Committee authorized an additional $20 million to increase the INS, as recommended by the Immigration Subcommittee. The purpose of these added resources was to balance service to the public activities with the enforcement functions, as well as providing a more balanced approach among the enforcement activities to bring the Immigration Service into the 20th century so that we can begin to track who is in this country, what they are doing and when they should be leaving—something we do not have the capability of doing right now—and to beef up our enforcement activities in this country and working with other countries trying to do the same thing.

The budget as submitted to the Congress was directed only to an increase of the border patrol. The committee add-on included funds for inspections, antismuggling and investigations, which were largely ignored in the fiscal 1985 budget. The Appropriations Committee found validity in the Judiciary Committee's action and subsequently included the full amount in its appropriation bill, H.R. 5712. Appropriations went along with us on the need for an additional $20 million.

Mr. Chairman, I am sorry to say that at the last moment of consideration of that bill, the appropriations bill, a motion was introduced providing for a 4-percent cut across the board. Unfortunately, this motion carried with the support of a number of my colleagues on Judiciary who has previously even advocated and voted for the additional $20 million that found its way into the INS appropriation bill. This 4-percent reduction not only wiped out the $20 million but ate $3 million into the basic moneys that are needed and were part of the budget, so we ended up with a loss of $23 million for Immigration and Naturalization for border patrol and other enforcement activities.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. Hughes] has expired.

(By unanimous consent, Mr. Hughes was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. Because we are discussing immigration today, I only mention in passing my disappointment in this action because the 4-percent cut not only hurt Immigration and Naturalization and border patrol but drug enforcement, FBI, the courts. Funding for the entire criminal justice system was decimated by that 4-percent across-the-board cut.

Now, many of my colleagues, the so-called crime fighters who come to this well every week and inquire about the status of crime legislation, are among the members who voted for this 4-percent across-the-board cut.

Now, ladies and gentlemen, the point I am trying to make is that if we are really serious about doing something about our borders, about the number of illegal aliens, whether it be 2 to 6 million or 6 to 10 million—nobody knows—if we are really serious about getting a handle on the immigration problems in this country, then we have got to provide resources to these agencies.

You know, law enforcement is a labor-intensive industry. You need manpower; indepth investigations. You need to secure the border and/or develop initiatives with other countries if we are to do something significant about our problems with illegal aliens.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman.

Mr. SMITH of Iowa. I want to commend the gentleman for his speech and it is about time some people listen to this. There is no need to add to authorizations. To think you are really doing something when you add to authorizations if you are not willing to vote for the money. That is what happened on this 4-percent cut. After 70 different Members came to our committee and asked for add-ons, which we honored; we found a way to do it. Then to come on the floor, most of them, and vote for the 4-percent cut.

Now, if you are not willing to vote for the money, do not vote for the authorization.

Mr. HUGHES. I thank my distinguished colleague who has been a giant in this area of trying to provide the funding that is needed. But, let us face it, I say to my colleagues, we have to have the ingredients; we have to have a number of ingredients in any immigration reform bill. But at the top of the list has to be a commitment to, first of all, do something to protect our borders. You cannot do that unless you provide resources to the Border Patrol, INS, and other investigative officials.

We are granting amnesty to we do not know how many in the bill, and amnesty has to be an important part, I think, of any reform legislation.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. Hughes] has expired.

(By unanimous consent, Mr. Hughes was allowed to proceed for 3 additional minutes.)

Mr. HUGHES. But if you think for 1 minute that we are not going to be back here 3 years from now, granting amnesty again, if this bill carries, then you are kidding yourself. We have not taken the necessary protective measures to seal the borders as best we can and begin doing a decent job of bringing the Immigration Service in from the dark ages into the computer age so we can get a better handle on the immigration practices in this country.

Now, it is not just with the illegal aliens, it is with Immigration Service, period. Do you know how long it takes today to process a routine immigration case? Look at the facts and figures. In many instances it is taking almost 4 years today. Why? Because they are undermanned and overworked. These are people that have waited patiently. They have applied for citizenship legally. They are good citizens; they are employed, and we cannot reach them because we do not have the resources to do so.

In this legislation we are calling upon the Immigration and Natualization Service to do something that is impossible without additional resources. We are asking them to process what could be 10 million illegal aliens under the amnesty provisions. We have not provided enough resources to even provide the basic services that are needed for the people in this country today under the routine immigration and naturalization procedures.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I thank my friend from New Jersey who as long as 2 years ago in our full committee, insisted upon the basic element that unless we increase the Border Patrol and the enforcement activity and provided the money for it, not just the authorization but the appropriation, we were just spinning our wheels.

The gentleman can actually take credit for the fact we are here where we are today by reason of his insistence. While my friend from Iowa is still on the floor, let me pay tribute to the gentleman, the chairman of the State Justice Appropriations Subcommittee. The gentleman endures all kinds of pushing and pulling and when we came to him for help he always delivered help to us. Unfortunately, as the gentleman points out, the floor, for a bizarre, abhorrent reason, voted up a 4-percent cut, but the gentleman provided an additional $25 million to the Immigration Service which we in our authorization committee recommended. I think that is greatly in his honor and I thank the gentleman.

Mr. HUGHES. Well, let me say to my colleague that Neal Smith of Iowa has been a champion in providing the funds. Unfortunately, we have done the country a disservice by not supporting the efforts.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize that we are attempting to expedite the proceedings here, and I should not prolong the debate since it has already been accepted by the committee.

I would simply use a few moments to indicate that I support the amendment. I applaud my distinguished colleague from California for presenting the amendment. I think that it is enormously important; he has characterized it as truly reform in this area, and I concur. I would like to applaud the committee for its wisdom in accepting this terribly important amendment.

Mr. Chairman, in addition to other things, this amendment calls for the Attorney General to provide for an in-service training for full- and part-time personnel of the Immigration and Naturalization Service. It is designed to familiarize INS personnel to better understand and deal with the various immigrant communities. Also, it would enhance community outreach within the INS while improving the ability to receive and investigate complaints of abuse of authority by personnel of the INS.

I regard this amendment as absolutely necessary. We must improve the workings of the INS; we must ensure that it enforces the law, but we must also ensure that when doing its job it does not abuse its authority and violate the rights and dignity of people. We must work to sensitize the INS and this amendment begins to set the foundation for accomplishing this objective.

We have seen and heard various complaints which paint a picture of overzealous enforcement of immigration laws by INS personnel. There have been cases such as the case of Mario Garcia who was the son of a Mexican national legally in San Diego to work and was deported because he looked like an illegal alien. Another example was brought out at a community hearing in Orange County in which Father John Caulfield spoke of immigration raids on English classes at his church's parish. Another example, which resulted in death, deals with the INS chasing a car which eventually was struck by a hay truck and caused the death of 11 people. The legal counsel for the families involved stated that the "agent chased them for 29 miles at speeds up to 100 mph without turning his siren or flashing his lights, and without any attempt to get help from other law enforcement authorities to pull them over."

In my own district, in a sweep entitled "Operation Jobs," the INS terrifed schoolchildren who looked foreign. In an attempt to send a "message" to their parents regarding their immigration status, the children were rounded up, identification was demanded of them, and they were treated roughly. The very name of the operation was meant to divide the community and put an onus on foreign-looking people at a time when unemployment was rampant. This sort of tactic by the INS is totally unacceptable.

These are examples of INS abuse of authority and insensitivity which makes the Roybal amendment imperative. It may not correct all of these abuses but it certainly will begin the process for improving the working relationships between the INS and immigrant communities.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I rise in support of the amendment offered by my colleague from California.

The amendment includes four important parts which, if adopted, would make this bill more feasible, efficient, and most of all, equitable.

First, the amendment provides for the authorization of funds for additional immigration personnel for fiscal years 1984, 1985, and 1986. As a Member who represents El Paso, TX, one of the largest land ports of entry in the Nation, and as the chairman of the Congressional Border Caucus, I am well aware of the consequences for our borders if the INS is not provided with the appropriate level of personnel to do the job outlined in this legislation. Recently, the House passed the Commerce-State-Justice and judiciary appropriations bill for fiscal year 1985. In that bill, funds were provided for an increase of 850 new border patrol personnel, which is necessary just to catch up with the present situation.

Second, the amendment provides for the Attorney General to present to the Congress for approval contingency plans for providing for an emergency immigration situation. This step will ensure that there is a realistic and comprehensive plan; we must make sure that one exists.

Third, the amendment enhances the INS' Outreach Program. Specifically, it requires that the Attorney General establish a training program for all personnel in contact with the public, a program that teaches the constitutional and civil rights and the varied cultural backgrounds of the persons with whom the INS personnel will have contact. Mr. Chairman, we need this language in any immigration reform bill we consider. This language protects the constitutional and civil rights, personal safety, and human dignity of aliens as well as citizens. If we are to provide an immigration law that lives up to the standards of equality and justice that are the foundation of this Nation, we must implement this amendment.

Finally, Mr. Chairman, the amendment recognizes that illegal immigration is fundamentally a foreign policy question. It establishes bilateral discussions with Mexico and Canada to solve the issue of smuggling of undocumented persons into this country. We must seek out the assistance of our friends along our borders. We cannot solve this problem alone. We need their help and this amendment provides the means to achieve that end.

Mr. Chairman, if we are to have real immigration reform, equitable immigration reform, efficient immigration reform, we must pass this amendment. Otherwise we will only be fooling ourselves and the American public.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, the Roybal provision should be adopted. It is far superior to the judiciary version for a number of reasons. It more clearly delineates the areas covered under enforcement and requires the Attorney General to create plans on how to proceed under each program. In this way, Congress can better shape immigration policy under its plenary power and mantain fiscal integrity. Additionally, the Attorney General must develop a contingency plan for an immigration emergency and submit that plan for congressional approval in addition to certification by the President that an emergency exists. Finally, the judiciary version does not recognize the need to have moneys appropriated for inservice training and community outreach programs to improve INS services and reduce problems, complaints, and abuses.

Both sides on this issue feel that the INS needs adequate resources. They are dedicated public servants with an impossible job.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, I rise in support of the amendment offered by our distinguished colleague, Representative Ed Roybal.

Illegal immigration has been of paramount concern to me for many years. Not only are significant numbers of Americans deprived of jobs when there exists a readily available supply of undocumented workers who are willing to accept lower wages and work under horrendously poor conditions, but the employment conditions of many more Americans are adversely affected when there is the possibility that they could lose their jobs to undocumented workers.

As a nation always aspiring to make sure that everyone has an equal opportunity to realize his or her potential, we cannot condone employers who are willing to exploit the integrity of their employees. The presence of large numbers of undocumented aliens has perpetuated working conditions which assault the integrity of people striving to better themselves. So we need to take effective actions that will prevent people from entering this country illegally.

But the effectiveness of many provisions of H.R. 1510, those that are designed to stem the tide of illegal immigration, are unproven and rest largely on hope. While many people believe they will, no one knows for sure whether the employer sanctions provisions in this bill will actually deter people from coming here illegally and in search of gainful work. Nor can we be certain that employers won't play liar's poker with the Immigration and Naturalization Service by hiring undocumented workers and betting that the understaffed INS will not be able to check on them.

This is precisely why this House should adopt the pending amendment offered by Mr. Roybal. It increases authorizations for the INS in order to strengthen the Border Patrol. A strong Border Patrol is the best deterrent to illegal immigration.

Some Members have pointed out during debate on this bill the administration's fiscal year 1985 budget request for 1,000 additional INS agents. I was among the first Members of this House who called on the administration to support additional Border Patrol personnel. But the 1,000 agents requested by the administration are not enough. They will not be able to patrol the borders and also enforce the employer sanctions provisions of H.R. 1510. If the Members of this House are truly serious about reducing illegal immigration, then they will join me in supporting this amendment.

**Mr. REID.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that it is good that the committee has agreed that something like this amendment is necessary. We recognize that the Immigration and Naturalization Service has by law, many responsibilities. It has two major functions; one is to administer immigration laws by assisting those who want to immigrate to the United States or are here already and want to stay.

The second function is to enforce the immigration laws by preventing those who illegally enter into the United States and to expel those who are caught and do not have a legal right to remain. INS provides many other administrative services, but the two I have mentioned are primary and the most important.

The administration of immigration laws by legal applicants is the easier of the two functions, although, as the gentleman from New Jersey indicated, we are tremendously backlogged in the processing procedures. It is not with the legal applicants that we have a real problem, and probably that is not the reason we are here.

Problems in the area are basically management and administrative ones, which the appropriate resources of money, personnel, facilities, and equipment could address. The real problem is the one of enforcement, which includes guarding against illegal entry, investigating, apprehending, and deporting undocumented aliens. This is the responsibility of the Government of the United States. It is not the responsibility of the individual citizens and businessmen and businesswomen of this country to provide immigration services to the country.

If we would stop and understand that we have hundreds of thousands of troops in Central Europe; thousands and thousands of troops in places like Korea, and we are worried of course and read every day on the front page of the newspapers about the problems in Central America. We have 5,000 miles of unfortified borders; 3,000 in the North; approximately 2,000 in the South. We have oceans on the South and West and the East, and for all this in 1982, the approximate budget for this INS was $318 million.

□ 1600

I think the important function of this Committee is to identify and focus on the real problem and the real problems of why we are here. As far as I am concerned, the gentleman from California, who has submitted this amendment, has hit the crux of the problem.

The problem is that we have borders that people can come across at will, and I think that we should do something and recognize the real problem giving the people who are asked to protect our borders the necessary manpower and facilities and equipment to properly police that border. If this were done, many of the problems that we have talked about here the last couple of days, talking about who should police the immigration laws and whether or not we should have amnesty now or later, would all be taken care of if we would give these people the necessary equipment and manpower to police our border.

I again commend the gentleman from California for arriving at the real problem that brings us here.

**The CHAIRMAN.** The question is on amendment No. 16 offered by the gentleman from California [Mr. Roybal].

The amendment was agreed to.

### AMENDMENT NO. 17 OFFERED BY MRS. BOXER

**The CHAIRMAN.** Amendment No. 17 is in order at this time.

Does the gentlewoman from California [Mrs. Boxer] desire to offer amendment No. 17?

**Mrs. BOXER.** I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mrs. Boxer: Page 21, strike out line 21 and all that follows through page 23, line 4, and insert in lieu thereof the following:

Sec. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by inserting "or subsection (c)" in subsection (b)(1) after "subsection (a)",

(2) by redesignating subsection (c) as subsection (d), and

(3) by inserting after subsection (b) the following new subsection:

"(c) Any person who, for the purpose of commercial advantage or private profit, knowing or in reckless disregard of the fact an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved) be fined not more than $10,000 or imprisioned not more than five years, or both.".

**Mrs. BOXER.** Mr. Chairman, I would like to address the gentleman from Kentucky [Mr. Mazzoli] for a moment.

The gentleman was distressed when I objected to a limitation of time, I guess it was about 2 hours ago, and I wanted to explain to the gentleman that for those of us who might not have been on his committee who did not work for 4 years on this particular bill that we are very interested in airing all sides. I wanted the gentleman to understand that that was the reason why I objected.

**Mr. MAZZOLI.** Mr. Chairman, will the gentlewoman yield?

**Mrs. BOXER.** I will be happy to yield to the gentleman from Kentucky if I can reclaim some time later.

**Mr. MAZZOLI.** Certainly. I will get the gentlewoman some more time.

**Mrs. BOXER.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** Mr. Chairman, I want to thank the gentlewoman for that explanation. I very much appreciate it and I accept it in the spirit in which it was offered.

The gentleman from Kentucky has, as the gentlewoman knows, from other contacts we have had and other legislation, always tried to be fair and be balanced in his response. He has always tried to be sure that every side is presented.

The gentleman from Kentucky felt at that point, and I think that the House votes in the meantime have clearly shown, that it was time to move on with the legislative activity, and I thought it was appropriate at that point. It did distress me to see the gentlewoman, who had not been involved in this action to the extent that we have been, to object to the gentleman from Kentucky, but I appreciate what the gentlewoman is saying.

Mr. Chairman, I ask unanimous consent that the gentlewoman from California [Mrs. Boxer] be granted 2 additional minutes.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Kentucky?

There was no objection.

**Mrs. BOXER.** I thank the gentleman for his generosity. I would add that it is precisely because I have not been involved for 4 years that I am interested in hearing all sides of the debate.

Mr. Chairman, my debate does two things, and it is complicated and I hope Members can give it some attention.

First, the amendment restores the Texas proviso language of the existing law.

Second, my amendment changes the penalties for certain persons who transport illegal aliens.

I want to explain the Texas proviso. Under existing law, there is a penalty for harboring illegal aliens. It is a very tough and a very harsh penalty which calls for up to 5 years in prison for each alien harbored. Under the Texas proviso, which is in current law, harboring does not apply to employers. There is specific language that exempts employers from criminal penalties because they are not considered to be harboring when they employ.

Simpson-Mazzoli deletes the Texas proviso, so notwithstanding the fact, Mr. Chairman, that this House voted for the Coleman amendment, which says there will be no criminal sanctions, these criminal sanctions are in essence still in this bill because the Texas proviso is eliminated and, therefore, employers can be accused of harboring by the mere fact that they employ an illegal alien.

These penalties, I want to point out, are harsher than the committee penalties that the Coleman amendment deleted, so the House has already voted against the criminal penalties, so I say to Members, without my amendment, criminal penalties are there, and they are even harsher.

Another amendment that the House voted on was to exempt small mom and pop operations from criminal penalties; as a matter of fact, from all sanctions. With three or less employees, the employer would be exempt. With the Texas proviso deleted, we now have no exemptions for the mom and pop operations, so I want to repeat to Members that without passing my amendment here, the Texas proviso is no longer in the law and now employers will be hit with greater criminal sanctions than they were under the committee bill, and mom and pop operations will be hit with greater criminal provisions than originally in the committee bill.

Now I want to talk about transporting illegal aliens.

Mr. MAZZOLI. Mr. Chairman, will the gentlewoman yield, and I will get her additional time if it is required.

Mrs. BOXER. I would be pleased to yield to the gentleman from Kentucky.

Mr. MAZZOLI. The gentleman from Kentucky is a little bit mystified by the gentlewoman's amendment. Every time the Rodino approach, which began 12 years ago, on employer sanctions came through, it always eliminated the Texas proviso, which was a giant loophole through which people had other people in peonage and other people in servitude.

The harboring amendment, the Texas proviso, really exempts those people from the harboring penalties. Every Rodino amendment that has come down on employer sanctions has struck the proviso, the Simpson-Mazzoli bill strikes the proviso, and if I understand the gentlewoman correctly, she would reestablish the Texas proviso, the exemption for harboring, which means that people could keep other people in slavery, in peonage, and there would be no penalty?

Under the symmetrical part of the Simpson-Mazzoli, we now have employer sanctions under which we could penalize, and we also penalize people under the harboring.

Mrs. BOXER. If I might respond to the gentleman, if he will look at the law as it currently stands, we do not touch any of the language dealing with harboring except the very last sentence, which says:

> *Provided, however,* That for purposes of this harboring section, employment including the usual and normal practices incident to employment shall not be deemed to constitute harboring.

Mr. MAZZOLI. In other words, if you engage in some sort of facade employment with a slave——

Mrs. BOXER. If I might just complete my thought, then I will be happy to engage in a colloquy with the gentleman.

So in essence, what I am saying to the Members of the House is that the Members voted to delete criminal sanctions, but because of the fact that the Texas proviso has been dropped in your bill, criminal sanctions will be applied to employers because we do not protect them in this section, and we are going to put people—and I want to make it clear—in jail not just 1 year for every violation, but up to 5 years for every violation.

What I am suggesting to the gentleman is that I have no problem with this harboring provision, but I think we should add back the Texas proviso.

Mr. MAZZOLI. In other words, may I ask the gentlewoman, does she agree that peonage is right? Does she say that servitude is correct? That is exactly what the Texas proviso permits, a kind of agricultural servitude.

Mrs. BOXER. I am submitting to the gentleman that he is missing the point of my amendment. If you are saying that this should have been out of the law, it has never been out of the law before. What I am suggesting to the gentleman is that by removing it from the law, you are opening up heavier criminal sanctions to employers when this House voted to delete criminal sanctions for all employers.

The CHAIRMAN. The time of the gentlewoman from California [Mrs. BOXER] has expired.

(By unanimous consent, Mrs. BOXER was allowed to proceed for 5 additional minutes.)

Mrs. BOXER. When this House voted to delete criminal sanctions from all employers, when this House voted to exempt mom and pop operations from all sanctions, I am saying as a result of the fact that the Texas proviso is deleted, those criminal sanctions are back into the law under Simpson-Mazzoli, and I think that is a big mistake.

Mr. MAZZOLI. Exactly. They are back in there for harboring. They are back in there for exactly the kind of thing that caused the original harboring law to be passed, and then, of course, strengthened, perhaps, special interests from Texas got the passage of the proviso, but it was used to keep people in peonage. It was used to keep people in the most abject and disgraceful conditions, and there was no way that they could fight back.

What the Rodino bills have always done, dating back to 1972, is strike the Texas proviso and then to install criminal penalties, so we have a two-way street. We have both criminal penalties and sanctions for employing and harboring.

□ 1610

Mrs. BOXER. Mr. Chairman, if I may say this to the gentleman one more time, we do not touch the harboring provisions. All we are saying is what the current law says.

Mr. MAZZOLI. You are restating the Texas proviso.

Mrs. BOXER. Mr. Chairman, I will ask the gentleman if he will let me complete my thought once again.

Mr. MAZZOLI. I am sorry.

Mrs. BOXER. I thank the gentleman.

Mr. Chairman, we are not touching any of the harboring provisions. What we are saying, however, is that all the Texas proviso states is that employment in and of itself is not harboring.

If we do not put back this proviso, what I am telling the Members of the House, if they thought they had just voted for no more criminal sanctions, is that because of this those criminal sanctions are back, and not only are they back, Mr. Chairman, but they are five times greater than they were under the committee's own bill.

Mr. MAZZOLI. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, let me state one last thing, and then I will sit down, and I will get the gentlewoman an additional time.

I am advised by the staff that what harboring means—and the gentlewoman would eliminate criminal penalties for harboring—what harboring means is concealing persons from detection, persons who are here without proper documentation.

Would the gentlewoman permit that to happen, concealment from identification concealment of people who are here without proper papers? Would she condone that?

Mrs. BOXER. No. And I will repeat to the gentleman that he is not explaining my amendment.

My amendment does not touch the harboring provisions. What my amendment does is to clarify the fact that employment per se is not harboring. All those other things in the law still stand.

We are not touching them, and I would submit to the Members of the House that if they thought they voted against criminal sanctions, they did not do it if they do not vote for my amendment.

Mr. WRIGHT. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the distinguished leader of the House.

Mr. WRIGHT. Mr. Chairman, I think I understand precisely what it is that the gentlewoman from California [Mrs. BOXER] is attempting to achieve, and that is to make a distinction which really needs to be made between those truly malicious and evil deeds of the coyotes, the professionals, those who harbor and hide and promote the illicit traffic in human flesh and do hold people in bondage, those who recruit and in so many, many instances mistreat the poor refuse of another land who come here seeking nothing but work, on the one hand, and the innocent individual who simply employs such a person, on the other hand.

Now, what the gentlewoman seeks to do, I think, needs to be done. There are guilty people, and those guilty people need to be punished. These people who make an illicit living, and sometimes a very fancy living, out of exploiting these human creatures do need to be punished, and that is what we seek to define when we say, "harboring," and sometimes harboring under the least human condition, with great numbers of people crowded into small shacks to be hidden from the law enforcement officials. Those people are harboring illegal entrants into this country, they are doing it for profit, and they need to be punished.

On the other hand, there are many innocent individuals whom we sought to protect in our exemption that would allow a person to hire no more than three without having to come under the purview of this statute. That is in harmony with what it is the gentlewoman seeks to achieve, to make the distinction between those who innocently give a decent job at a decent wage to a human being, on the one hand, and those who exploit them cruelly for their own selfish profit, on the other. Is that not correct?

Mrs. BOXER. Yes; and I want to thank the distinguished majority leader for his statement.

The CHAIRMAN. The time of the gentlewoman from California [Mrs. BOXER] has expired.

(By unanimous consent, Mrs. BOXER was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. Mr. Chairman, I will yield in just a moment, but first I just want to respond to the distinguished majority leader and thank him for picking up the essence of this part of my amendment. I have one more part I want to explain. But you point out so clearly, Mr. Leader, that the issue here is that we do not touch the part of the harboring law that you describe. We just clarify it so we are sure that employment per se is not considered harboring. And I want to say that what this House thought it did, which was basically to say no criminal sanctions, will still stand.

Mr. Chairman, I now yield to my friend, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I thank the gentlewoman for yielding.

I rise in support of the gentlewoman's amendment, and I think she makes an important contribution here.

As the gentleman from Texas [Mr. WRIGHT], the majority leader, has pointed out, the clarification that we are trying to make is that there is a distinction between a person who is employed or who gives employment and a person who sought commercial gain in the exploitation in what we would consider the traditional harboring. But we ought to make the distinction, as pointed out by the gentlewoman and by the gentleman from Texas.

The second part of the amendment also goes to people who in good faith efforts seek to help those people seeking political asylum. If that journey to asylum from political torture or imprisonment or harassment is interrupted in the meantime, that person can then be prosecuted under the committee bill. Even if it is later adjudicated, if they are taking the person down to apply for political refugee status and the person is given status, they can still be prosecuted.

I think this is a case where perhaps the committee simply has cast the net a little bit too far. I would hope that the committee would take this amendment, with the recognition that there may be additional refinement that needs to be done, because I think nobody here is for the harboring as we know it in the criminal sense. But I would hope that they would take the amendment from the gentlewoman from California and recognize the two problems and the distinction between harboring and the handling of political refugees. That is an issue in this country that I know the gentleman from Massachusetts [Mr. MOAKLEY] and others have stressed .

I would think that this is one area where the conference should refine the amendment. It is not a question of good faith or bad faith, which we have heard for 2 days, on why the committee takes amendments. This is one the committee should take and see if they can work it out, keeping the intent of what the committee wanted to do and the solution to the problems that the gentlewoman from California has pointed out.

Mr. MARLENEE. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from California [Mrs. BOXER].

I believe that to characterize the gentlewoman's amendment as harboring or holding in bondage is patently unfair. The gentlewoman's amendment is very meritorious, and for those who wish to protect the valid employer against undue harassment in interpreting this law that we undoubtedly will pass, I think it is very necessary. And if the gentlewoman cares to, she could outline for me just exactly and succinctly the points on how that would be protected.

Mr. Chairman, I urge support of the amendment.

Mrs. BOXER. Mr. Chairman, I thank the gentleman from Montana [Mr. MARLENEE].

Mr. Chairman, let me make the point about the second part of my amendment, if I may.

Does the gentleman from Kentucky [Mr. MAZZOLI] wish me to yield? I am happy to yield to the gentleman.

Mr. MAZZOLI. Mr. Chairman, I appreciate what the gentlewoman from California said, and on behalf of the majority, and I think on behalf of the minority, we are prepared to accept the gentlewoman's amendment as it is, without vote, without refinement.

Mr. Chairman, I move the previous question on the gentlewoman's amendment.

The CHAIRMAN. There is no previous question in order at this point.

The gentlewoman from California [Mrs. BOXER] still has 1 minute remaining.

Mr. RODINO. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I am happy to yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentlewoman for yielding.

I believe that the gentlewoman's amendment thrusts in the right direction. I know what she means.

Very frankly, I am a little confounded by the first part of her amendment which does do away with a good deal of the language that we thought might have been important. I would hope that if we do accept this amendment—and the gentleman from Kentucky [Mr. MAZZOLI], the subcommittee chairman, has indicated such—that we could be assured, and I would want to be assured that the gentlewoman would work with us in assuring that what she is intending to do is simply get at those who are the absolute violators here. I think we understand her when she talks about bringing in these people, these smugglers, those who are doing it for commercial profit.

The CHAIRMAN. The question is on amendment No. 17 offered by the gentlewoman from California [Mrs. BOXER].

The amendment was agreed to.

### AMENDMENT NO. 18 OFFERED BY MR. FISH

The CHAIRMAN. Amendment No. 18 is in order at this time.

Does the gentleman from New York [Mr. FISH] desire to offer amendment No. 18?

Mr. FISH. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. FISH: Page 23, strike out lines 22 and all that follows through page 24, line 8, and conform the table of contents accordingly.

(By unanimous consent, Mr. FISH was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from New York [Mr. FISH] is recognized for 10 minutes in support of his amendment.

Mr. FISH. Mr. Chairman H.R. 1510 contains a number of critically needed provisions. One provision that we do not need, however, is section 114. Far from advancing our capacity to deter illegal entry, section 114 will greatly compromise our existing enforcement capability. Section 114 places severe restrictions on INS officers—restrictions greatly exceeding constitutional protections.

My amendment deletes section 114. That provision, added in in the Judiciary Committee markup, requires an Immigration and Naturalization Service officer, who does not have the consent of the owner of the property, to have a "properly executed warrant" in order to enter onto a farm or other outdoor operation—more than 25 miles from the border—to conduct questioning or engage in related activities in the enforcement of the immigration laws.

Under current law, an immigration officer engaged in legitimate law enforcement functions without a warrant can enter onto open lands—but not dwellings—for the purpose of enforcing the immigration laws. Section 114 requires a major change in law enforcement activities by the INS and seriously impairs INS' effectiveness.

Present practice relating to entry by INS officers on open, privately owned lands without warrants rests on a number of Supreme Court cases. In *Hester* v. *United States*, 265 U.S. 57 (1924), the Court decided that the special protection accorded to people by the fourth amendment is not extended to open fields. In *Katz* v. *United States*, 389 U.S. 347 (1967), the Court concluded that "the Fourth Amendment protects people, not places." On April 17 of this year, the Supreme Court in Oliver against United States, reaffirmed that "no expectation of privacy legitimately attaches to open fields."

Section 114 radically changes current law. The effect of section 114 is to reverse a long line of U.S. Supreme Court decisions without the benefit of testimony of the effects on law enforcement of such a major departure from current law.

What effect would section 114 have on law enforcement? INS Commissioner Alan Nelson concludes that the provision "will, in effect, create a haven for illegal aliens in rural, agricultural areas." He also points to the following effects of section 114:

"Employers will be able to 'hide in plain view' aliens who are unlawfully in the United States.

"Illegal aliens will be able to shift or be shifted from one property for which a warrant is secured to another for which there is no warrant and thus escape apprehension.

"It will restrict tracking operations to locate groups of aliens who have entered illegally and traveled more than 25 miles from the border."

Last week, BILL HUGHES, BARNEY FRANK, HENRY HYDE, and I sent a "Dear Colleague" letter to the Members of this body in support of this amendment. The support for the amendment clearly embraces both Democrats and Republicans, liberals, moderates, and conservatives. In our letter, we expressed the belief that "the requirement that law enforcement officials obtain warrants before entering dwellings or buildings is an important one that protects basic values." Open fields are different, however, for a number of reasons. Our letter continues: "But we do not believe these values are in any way endangered by allowing law enforcement officials to pursue violations of the law in open spaces. Historically, there has not been an expectation of privacy in open fields, and we do not believe that respect for the value of privacy requires that we so restrict law enforcement officials."

The subject of imposing warrant requirements on immigration officers is inappropriate for inclusion in an immigration reform and control bill designed to enhance our national capacity to deter illegal entry. Section 114, rather than enhancing that essential purpose of H.R. 1510, will undermine it by offering the prospect of sanctuary to those undocumented aliens who manage to escape the immediate border area. This may serve as a magnet to future illegal entry in addition to making the task of interior enforcement immeasurably more difficult.

The necessity of obtaining warrants before entering open fields will present great problems in practice. An already overburdened court system would be called upon to absorb the tremendous additional workload involved in considering numerous applications for warrants. The difficulties inherent in identifying the owners of specific farms and fields and meeting the requisite evidentiary standard for issuance of warrants often will prove insurmountable. The conclusion is inescapable that enforcement efforts in open areas will be crippled.

It is inconsistent to impose restrictions on immigration enforcement officers that are not imposed on other law enforcement officers. There is no policy justification for saying that persons charged with enforcement of our immigration laws must meet a higher standard than persons charged with the enforcement of other laws. The restrictions incorporated in section 114 will set a very bad precedent for restricting other law enforcement efforts in addition to having a disastrous effect on INS' ability to apprehend illegal aliens who manage to get past the immediate border area.

I urge my colleagues to vote for my amendment which retains current law.

□ 1620

Mr. LUNGREN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some Members may wonder where that radical change came from and who the radical was that proposed it in the full committee that we are now going to strike out. I must confess, I have examined it and found out that I am the radical. I am the one who presented with the gentleman from California [Mr. EDWARDS], an amendment; the odd couple if you ever saw one, presenting a proposal to have the search warrant requirement.

Let me just briefly respond to some of the comments that have been made and I know circulated over the last couple days with respect to this. It is true that the U.S. Supreme Court has upheld the open fields doctrine against fourth amendment challenges in a case that had nothing to do with undocumented aliens. That case involved the growing of marijuana in an open field; however, the Court's admittedly broad resolution of the constitutional question does itself not absolve us from our responsibility to address the public policy issues involved.

The question before us today is whether searches of a place of business in an open field should be treated differently under the law than those that happen to take place within the four walls of a building.

I happen to think that there is not a legitimate basis for us to make such a distinction and therefore rise in opposition to the amendment of my friend and colleague, the gentleman from New York.

The search warrant provisions in section 114 of H.R. 1510 are a reasonable restaint on overzealous enforcement conduct and do not place an unreasonable burden on the INS.

While it is certainly more convenient, and I would admit that very readily, for those in law enforcement not to have to deal with the question of a warrant, convenience is not always the best rationale for good public policy.

Is it really that much of a problem to obtain a search warrant under the circumstances? As a recently released study by the National Center for State Courts indicates, in most cases officers try to get consent from a person whose property they want to search. When officers go to a judge and get a warrant, they usually get what they are seeking, according to the study? In 91 percent of 618 cases studied in which warrants were obtained, officers seized at least some of the contraband, stolen property or other evidence they have sought. In 74 percent of the cases they seized all or most of what they sought. In about one-third of the cases they found more than they expected.

Thus, it is clear that there is no empirical basis for concern about the inconvenience of obtaining search warrants.

In addition, rule 41(c)2 of the Federal Rules of Civil Procedure presently allows a magistrate to take oral testimony for the purpose of issuing a warrant. This merely involves an officer phoning in the required information to the magistrate, who will then tape record the conversation and have it transcribed for review. In other words, the officer does not even have to be present. He can make the phone call from where he is. Presumably they may make contact in the cars in which they go out to the fields.

□ 1630

One of the problems that has been brought to my attention by those in the agricultural community is their concern that if you are going to have a law that does have both civil and criminal sanctions with respect to employers who knowingly hire undocumented workers, that enforcement should be evenhanded and across the board. That was one of the major arguments in my amendment that was adopted yesterday about having the paperwork burden across all employers who have four or more employees.

In other words, the sanctions should be on the basis of equity and not targeted against any specific sector of our economy, although there may be a high percentage of workers in agriculture who have traditionally been here illegally. However, the largest number, 85 percent of those in total who were here illegally work in other than agricultural-related positions.

So what this amendment attempts to do is to suggest that in the situation of employer sanctions, in the context of illegal immigration and illegal workers, that the same requirements that would obtain in a case of illegal workers or alleged illegal workers working in a factory, within four walls, would obtain in a case where it is an open field.

I realize the Supreme Court decision allows an exception to the search warrant provision but there they were dealing with an inanimate object. They were dealing with the growth of marijuana as opposed to human beings, who are the subject of the inquiry in an illegal alien search.

So I do not think that my amendment that had been adopted in the full committee was quite so radical. It did change the law substantially in this regard but just because the gentleman from California [Mr. Edwards] and I join together for this is not a suggestion that it is necessarily radical.

I would hope we would not accept the amendment offered by the gentleman from New York [Mr. Fish].

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New York [Mr. Fish]. I would point out with some pride that other supporters of this amendment are bipartisan and people who can hardly be termed insensitive to the civil liberties of Americans and undocumented aliens. I am speaking of the gentleman from New Jersey [Mr. Hughes] who is chairman of the Crime Subcommittee of the House Judiciary Committee, and the gentleman from Massachusetts [Mr. Frank] who is also an active member of the Judiciary Committee, and the gentleman from New York [Mr. Fish], myself, and many others.

I think the difference, and I regret to disagree with my good friend from California [Mr. Lungren], but the difference is there is no expectation of privacy in an open field. There is in a house, in a structure, in a building. But in an open field where people are congregating, one can hardly have the expectation of privacy.

The purpose of this whole legislative effort is to curb illegal alien entry and presence in the United States. You hobble the Immigration official's efforts to accomplish that if they have to secure, under very difficult circumstances, literally thousands of warrants from rural and part-time magistrates who may or may not be available at the appropriate time.

This is a process that has been held constitutional by the U.S. Supreme Court on more than one occasion. It is the law now.

The provision in the bill which the gentleman from California [Mr. Lungren] was instrumental in getting placed there, is a departure from existing law. And the Fish amendment returns the law to where it is and makes the fulfillment, the attainment of the very purposes of this entire legislation possible.

So I urge the adoption of the Fish amendment and ask my colleagues to listen carefully to the gentleman from Massachusetts [Mr. Frank].

Mr. KAZEN. Will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. KAZEN. Let me ask the gentleman, what protection is there to the owner of a farm that constantly has to put up with Immigration officials on his property day in and day out and particularly during the hot season when perishable products or perishable vegetables have to be picked?

Mr. HYDE. Gee, if I thought we had that many Immigration agents that were that effective, harassing all of the growers in Texas and California, I would be more reassured than I am.

Mr. KAZEN. If the gentleman would wish to accompany me into my district, I will introduce him to growers who have on occasion complained to me of these practices.

If there were some mechanism to protect that man from harassment where there are no illegal aliens working and that the only reason for their actions is to show their presence hoping to deter anyone in the area from employing them. This is one of the methods that is used at a time when perishables have to be harvested.

Mr. HYDE. May I say there is no one I would rather visit the gentleman's district with than the gentleman.

Mr. KAZEN. I appreciate that. My friend would be most welcome.

Mr. HYDE. But for an answer to that, my dear friend from New York is eager to respond.

Mr. FISH. Will the gentleman yield?

Mr. HYDE. I yield to the gentleman.

Mr. FISH. I think this may be responsive to the gentleman. If an Immigration officer or any other Federal law enforcement officer enters on open land without a search warrant and without permission, he subjects himself to a civil action of trespass by the landowner against him.

Mr. KAZEN. Does the gentleman define open field as one that has a fence around it?

Mr. HYDE. I yield to the gentleman from New York for that definitional response.

Mr. FISH. In the last case that was just decided by the Supreme Court in April, the question of fences was relevant and they said that that still did not create any expectation of privacy.

Mr. KAZEN. That is what I am talking about. The law is something the Court has to interpret. This is the law we have passed and they interpreted it. I say it is wrong. We have to give some protection in this bill to any possibility of harassment.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, as my colleague and collaborator in this opposition, the gentleman from California [Mr. LUNGREN] stated, the history of this amendment is that in the last Congress when the Simpson-Mazzoli bill was before the full Judiciary Committee, I offered the amendment and it was narrowly defeated. The gentleman from California [Mr. LUNGREN] in this session did a much better job since he is such a splendid lawyer and adversary, and was able to be victorious in the full committee.

We, of course, are distressed with this assault on a very good amendment. Our good friend from Illinois [Mr. HYDE] says that the provision in the bill requiring a warrant to enter open field's hobbles the INS. I must remind the Members that that is what the fourth amendment is all about, hobbling the police, hobbling the Immigration Service.

The fourth amendment of the Constitution says that the right of the people to be secure in their persons, houses, papers, and effects shall not be violated, which means you are supposed to go and get a warrant. And that means attempts by the INS or the police to enter the house, the back parlor, the woodshed, the barn.

But under the amendment being offered by the gentleman from New York [Mr. FISH], the gentleman from Illinois [Mr. HYDE], and the gentleman from Massachusetts [Mr. FRANK], the minute you step outside into the corral, one foot outside, they can be waiting for you without a warrant. That is stretching—that is kicking the fourth amendment around.

Mr. Chairman, presently, INS agents enter open field property without permission while in search of undocumented aliens. The practice of the INS, upon seeing foreign-looking people in open fields, has been to enter these fields without a search warrant. The presumption seems to be that if you have brown skin and are in an open field, you must be illegal. We must point out the obvious here—that having brown skin is not an illegal activity and that such a presumption must be brought into question.

This practice of the INS involves fourth amendment prohibitions against illegal searches and seizures, fifth amendment rights to freedom from self-incrimination, the right to counsel, guarantee of equal protection under the law, and guarantee of due process.

□ 1640

Various charges have been brought in court against the INS pertaining to unlawful detention and harassment of American citizens, damage to crops, and violation of property rights due to their search practices.

In its service manual, the INS says it derives its authority to enter open fields from its interpretation of an 1922 case, Hester against United States. But that case merely determined that illegal activity in plain view in open fields is not protected by the fourth amendment. Furthermore, Hester concerned seizure of property in an open field, not the people in it.

Others have cited Katz against United States and United States against Oliver to justify this INS practice. But it was Katz that established the legitimate expectation of privacy test. Katz focused on whether "a person . . . (has) exhibited an actual (subjective) expectation of privacy" and whether "that expectation . . . (is) one that society is prepared to recognize as 'reasonable'." Katz against United States held that the fourth amendment protects "people, not places" and protects an individual from governmental intrusion when the individual exhibits an actual and reasonable expectation of privacy.

Finally, in the 1982 Oliver case, the majority opinion states and I quote:

> The fourth amendment does not protect an open field . . . It would protect a person in an open field or a house built there but not the field itself.

That is exactly what the current language is designed to do, clarify and restore to the people in the fields the constitutional protection that the INS says they do not have. Furthermore, in all the cases I am familiar with regarding open fields, the issue in the case revolved around seizure of property, not people. This is true of the April 17, 1984, Supreme Court decision in Oliver against the United States. This decision does not undermine the current language of the bill, for it is within the purview of the Congress to extend the protection offered therein.

The current language in the bill merely requires a properly executed search warrant before the INS could enter a farm or other outdoor operation without the consent of the owner (or agent thereof). It would return to the people the guarantee of protection against unreasonable searches. It should be noted that properly executed search warrants are already required prior to INS entry in other industries. Outdoor operations should be subject to the same enforcement actions and to the same protections as those other industries. This provision would erase the double standard of search applied to factories and outdoor field operations.

The provision already in the bill would not result in greater restrictions on the INS than on other Federal agencies. While such agencies as the FTC and the IRS have certain powers without warrant, even the IRS must get a warrant for obtaining evidence when the investigation reaches the level of criminal penalty. Let me cite one case; this one regards the activities of OSHA. In Marshall against Barlow's Inc., the Supreme Court found that OSHA's warrantless inspection was unconstitutional where consent was not granted. I quote the Supreme Court's decision:

> We are unconvinced . . . that requiring warrants to inspect will impose serious burdens on the inspection system or the courts, will prevent inspections necessary to enforce the statute, or will make them less effective.

The current language is strongly supported by such diverse groups as the American Farm Bureau Federation, the League of United Latin American Citizens, and the American Civil Liberties Union. Unjustified harassment of outdoor operators and workers has become all too common at the INS. It is the responsibility of Congress to legislate clearly to ensure that INS knows that the protection remains to the people, and that the fourth amendment of the Constitution is still a part of the Constitution.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. FISH and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. FISH. Mr. Chairman, will the gentleman from California yield?

Mr. EDWARDS of California. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman.

If I understand the gentleman correctly, what you are trying to do is to seek statutory authority for an Immigration and Naturalization Service officer to do things the Supreme Court has already held on numerous occasions were constitutional?

Mr. EDWARDS of California. Congress can codify the fourth amendment of the Constitution and the Supreme Court can codify it, too, in its decisions, but it is a joint authority we both have. Also, the Supreme Court decision related to property, not to people.

Mr. FISH. Well, does the gentleman feel that the Court bars today, that the Constitution as interpreted by the Court bars INS officers in open fields?

Mr. EDWARDS of California. I believe that the INS today would feel that they have a Supreme Court decision in Oliver backing them up on their decision to trespass in open fields without a warrant.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Fish and by unanimous consent, Mr. Edwards of California was allowed to proceed for 1 additional minute.)

Mr. EDWARDS of California. But that does not mean we cannot legislate.

Mr. FISH. My point is what side is the Court on? I am trying to find out from the gentleman.

If the Court indeed is barring INS officers from going into open fields, then we do not need this amendment, we do not need the language of the bill.

Mr. EDWARDS of California. No; I did not say that. I believe that the Immigration Service will interpret the Oliver decision as saying that they can go into the fields and arrest people as well as confiscate property without a warrant and we are making it very clear in the bill that they cannot do that.

Mr. FISH. I thank the gentleman.

Mr. SAWYER. Mr. Chairman, I rise in opposition to the amendment.

I may say that in one of my rare instances of total agreement with the gentleman from California that it strikes me that you would have to, in effect, use the logic that having brown skin or appearing to be an Hispanic was, in itself, some kind of an illegal operation in order to justify the entry into a field under normal law. And certainly, goodness knows, we have not approached that kind of a situation.

So I would think that if the Constitution, whether it now protects the field or not I think is somewhat beside the point; we can legislate prohibitions beyond what the Constitution prohibits and we do it all the time.

But it strikes me that someone inside a tobacco-drying shed, for example, cannot be apprehended or entry cannot be obtained without a search warrant; it strikes me as somewhat ridiculous that someone in an open field can be, and for no reason other than the fact that they appear to the agent that they might be some kind of a foreigner.

It strikes me that if the persons are obviously engaged in growing marijuana, which can be identified from the road, you have a totally different situation than if somebody who is doing nothing appears to be illegal.

If we protect people in factory buildings, if we protect people in sheds or barns from search without a search warrant, it strikes me as ridiculous that just because they happen to be outdoors on private property, they can be approached without a search warrant.

Now I do not see any insurmountable law enforcement problem. The people in the field obviously have to come out of the field some time and use a public road so they can be apprehended or investigated or checked when they do. If somebody wants to enter upon private property, I find it difficult to distinguish a field from a warehouse or a building or a factory.

The popular belief is that the great bulk of illegal aliens work in agriculture and out in fields whereas apparently the best guesses are that only about 15 percent of them do and that therefore those working in a factory or warehouse ought not to be entitled to any different treatment than those who happen to be outdoors on the same property. I would object to the amendment and support the bill as written.

Mr. MARLENEE. Mr. Chairman, would the distinguished counselor from Michigan yield for a question?

Mr. SAWYER. I yield to the gentleman from Montana.

Mr. MARLENEE. It seems to me that this amendment presumes that I do not have the right to privacy on a field or on private property that I hold fee title to and that it is somehow different than a structure or a building or a factory or some other kind of piece of property.

I think that I have the right to privacy on that piece of property just as much as they do in these buildings.

Now does the bill as it is written protect that right to privacy on private property?

Mr. SAWYER. As the bill is written, it does. It does not prevent them getting a search warrant and going into a building or a barn or a factory, or they can stand around the periphery and wait until the people come out of the field. But they cannot just willy-nilly trespass on private property. I cannot see the difference whether it is in a tobacco-drying shed or standing outside on the ground when they are not apparently doing anything illegal.

□ 1650

Mr. MARLENEE. Well, I have always had a great respect for the counselor's knowledge and protection of private property and rights.

I thank the gentleman.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to speak in favor of the amendment. This is a week in which unusual things have happened. Today is apparently the day that the large agricultural growers have joined the American Civil Liberties Union and have for once become strong supporters of the fourth amendment.

I think that it is a support which supporters of the fourth amendment ought to look at askance.

In the first place, the question has been raised are we saying there is some difference between a building and an open field. Yes. I have become accustomed to learning that things which I had assumed were not controversial were controversial and vice versa. I had not previously thought that from the standpoint of privacy, which is the core value that the fourth amendment attempts to protect, that there was considered to be no difference between something you did in a building with four walls and a ceiling and maybe the shades pulled down and something you did in an open field.

I suggest that the law is full of distinctions between things you can do in the privacy of your home and things you can do out in the open, even if it's your backyard or front lawn. To tell me that you cannot do something in your bedroom because you cannot do it on your front lawn is, I think, a fact to be wrong. Privacy is clearly an important value where we have structures.

Now the question is the argument has been made that we are somehow assuming that most of the illegal aliens who work here are agricultural workers. That is not true. Nothing in this amendment says that.

We are saying that there is a problem particularly because it is the large agricultural growers who have already gotten in this bill and are asking for more in the amendment that is to come from the gentleman from California [Mr. Panetta] for some special programs. They are the ones who are asking for the guest workers. The automobile manufacturers have not asked for the guest workers. The restaurant people have not asked for the guest workers. It is the agricultural people who have said "We want to have a special program. We will give you all these safeguards. We will do this and we will do that. You just cannot check up on us."

I am not opposed to acts of faith. I just do not think that we ought to build important public policies on them quite to that extent. I do not think that we are violating traditional fourth amendment values when we say an open field and a building are somewhat different. I do not think we are being prejudiced when we say that given this push for a guest worker program, et cetera, that there may be some special problems with regard to agricultural labor.

I also think to my friends on the liberal side that there is a problem when we start saying that you are going to need a search warrant to go in an open field. Do we want to say that to protect migrant workers, to see that they have got the sanitary facilities, that there are no children there, that all of those rules and regulations we put through, that you are going to need search warrants? Because if it goes in here, how do you argue against it over there?

We have got a lawsuit pending where OSHA, in my judgment, has shamefully resisted promulgating regulations that are to protect migrant workers in the field. Put them in and then have a search warrent request requirement out in the open field and you are going to vitiate their effect. It is not in there now. People say, "Well, we only want it here, a search warrant. We do not want to require a search warrant for protecting migrant workers."

How long do you think that distinction will last?

If you have a hard time distinguishing between a building and an open field, how are you going to distinguish between an open field and an open field? Because that is what you are going to have to do to maintain that distinction. You are going to be able to say no where it is maybe the growers who may have had people there illegally. You need a search warrant. But if they did not have the sanitary facilities, you do not need a search warrant.

I think that recognizing that there is a difference between an open field and a building, that there have been some special problems with regard to agricultural labor as the agricultural industry themselves have created by asking for this guest worker program, that in fact we will be preserving these rights.

Finally, one of the problems I have when we talk about a search warrant requirement being extended, people say, "Well, a search warrant is not that hard to get." A guy could sit in his car, call the judge, "Hey, I'll have two search warrants, french fries and a coffee to go." He does not even have to leave and go in and talk about it.

You are going to wind up watering down the search warrant requirement. If for purposes of argument we say, "Well, it is not that hard to get," it will not be that hard to get. Pretty soon there will not be much difference between getting you in the open field and walking in on you in your bedroom, but it will not be on conditions that we like.

So I think you are threatening the whole sanctity of the search warrant, undercutting our ability to protect people who are going to be vulnerable in cases of open fields, and, in fact, denying the obvious when we talk about a distinction between a building and an open field.

**Mr. SAWYER.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from Michigan.

**Mr. SAWYER.** I thank the gentleman for yielding.

I did not say you could do in an open field with impunity what you can do in your bedroom. I mean, it is the activity you are engaging in would perhaps have the appearance of either obscenity or illegality or whatever you might have in mind.

But just being out there and appearing to be of Hispanic origin you are not doing anything that you could not be doing in your own home. I think you are entitled to the same protection from apprehension or demanding to show your identification or whatever else it might be.

**The CHAIRMAN.** The time of the gentleman from Massachusetts [Mr. Frank] has expired.

(By unanimous consent, Mr. Frank was allowed to proceed for 3 additional minutes.)

**Mr. FRANK.** My point is that there is a difference between the fourth amendment—it is not just there to protect you in what you are doing at a given time. We would all agree that the fourth amendment is often used to protect people who we wish were not being protected. There are people—and that is the case with any civil libertarian protection. The fourth amendment is there to protect the general interest in privacy and there is an overwhelmingly stronger interest in privacy in a building than outside.

**Mr. HUGHES.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from New Jersey.

**Mr. HUGHES.** I thank the gentleman for yielding.

I think the gentleman has made a very important point and I just marveled as I listened to the ease with which a search warrant could be secured for an open field.

As a practical matter that would be very difficult, particularly if in fact it is a matter of hot pursuit.

How do you describe the property where you have open fields? How do you quickly and with sufficient accuracy describe an open field to secure a search warrant. Such an effort would be defeated where the illegal aliens move to another field. The whole process would have to start over. It would be a practical nightmare

**Mr. FRANK.** I agree with the gentleman. I appreciate the gentleman pointing it out because as chairman of the Committee on Crime, he has shown a concern for effective law enforcement along with the protection of civil liberties.

The point he makes is the point that I am afraid of. The description of how easy it was to get a search warrant, people who are friends of the search warrant requirement, genuine civil libertarians ought to be very wary of that kind of support. A search warrant is not just something you get quickly on a phone call. And you can wind up watering down, with this kind of rhetoric, the requirement for a search warrant.

**Mr. HUGHES.** If a law enforcement agency makes a mistake in describing the field, and you are talking about open fields, does that vitiate the effectiveness of the search warrant?

**Mr. FRANK.** The gentleman knows the answer to that better than I.

**Mr. HUGHES.** Of course.

**Mr. SAWYER.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from Michigan.

**Mr. SAWYER.** I thank the gentleman for yielding.

Here we are not talking about property, we are talking about some people. I have gotten a good number of search warrants, I am sure far more than the gentleman from Massachusetts. I know what you have to put in an affidavit. And you have to put in some probable cause to expect the presence of illegality.

Can you imagine saying that I have seen several people out in that field that have dark hair and brown skin and think they might be Hispanics. Therefore, I think there is something illegal out in the field.

**Mr. FRANK.** No; I cannot imagine that.

**Mr. SAWYER.** That is what you are in effect saying.

If you are doing something illegal out there you have the in plain view rule like some dope in the back seat of a car when they stop the car legitimately they can search because it is in plain view.

**Mr. FRANK.** The gentleman is simply misconstruing what I say.

**Mr. SAWYER.** But there is nothing illegal here.

**Mr. FRANK.** The gentleman has totally misconstrued what I said. In the first place, when I talk about privacy inside and outside, there are things you can do in the home that are perfectly legal, that are perfectly proper, that the gentleman might not even mind watching that you would not necessarily want to do outside.

The point is that this notion that there is no difference between indoors and outdoors——

**The CHAIRMAN.** The time of the gentleman from Massachusetts [Mr. Frank] has again expired.

(By unanimous consent, Mr. Frank was allowed to proceed for 3 additional minutes.)

**Mr. FRANK.** The other thing I wanted to say to the gentleman from Michigan is I am not advocating and I do not know anyone who is that people should be apprehended because they have dark skins and dark hair. In another week I might be at jeopardy under that criterion.

That is not what we are talking about. We are talking about the agricultural growers who are a major reason that this search warrant requirement is in there who want to have a guest worker program and who I think are very skeptical about being checked as they run the guest worker program and they want to have a lot more flexibility with their definition of that than I think is healthy or consistent with the law.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr FRANK. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

I just want to straighten this out because the chairman of the Subcommittee on Crime was talking about the difficulty in rural settings in ascertaining specifically the property lines because of leases and different owners and so forth.

Then along comes my colleague from Michigan who says that probable cause has to be listed, too.

I really think that he knows better than that the probable cause can be the color of the skin and the color of the hair and other ridiculous things like that that obviously would have to be spelled out in far greater detail.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

There are occasions where strange combinations do get together here, as Mr. LUNGREN pointed out earlier. On this occasion McCOLLUM agrees with FRANK. We do agree that this is an entirely necessary change in the law that we have to make to restore it where it should be and that allows for the open field searches.

I think it is impossible for the immigration laws of this country to operate in the area of farming and open fields if you do not have the opportunity to go into open fields and across property lines and onto other owners properties freely. Yet I do understand the fears and concerns that agricultural interests have with the intrusions. It is just unfortunately a necessary part and parcel of the enforcement of any realistic immigration laws if we are going to be able to have those enforced.

So I strongly support the amendment of the gentleman from New York and I encourage its adoption.

□ 1700

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(On request of Ms. FIEDLER and by unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentlewoman.

Ms. FIEDLER. I was wondering if the gentleman could tell me whether or not this particular amendment would apply to those fields, let us say, that are currently being patrolled down at the border.

Mr. FRANK. I would see no exception in it.

I yield to the gentleman from New York.

Mr. FISH. That are currently being what?

Ms. FIEDLER. That are currently being patrolled down at the border, between the United States and Mexico.

Mr. FISH. The coverage of the amendment is 25 miles distance north of the border.

Ms. FIEDLER. So that the gentleman is saying then is that under this amendment there would be a requirement that the law enforcement officers, the Immigration Service, receive an affidavit or a court order in order to go down into that area which is being patrolled, whether it be public or private property?

Mr. FISH. No; I am not saying that. I am simply saying that the provisions dealing with whether or not you need a warrant to go on open lands are determined by geography, 25 miles north of the border. I presume, therefore, that south of that area where you have 40,000 apprehensions a month, that other factors such as hot pursuit are in place because it is not going to be applicable down there.

Ms. FIEDLER. I am concerned as to whether or not there is a delineation between public and private property. Could you please tell me whether there is a delineation in this particular amendment between public and private property?

Mr. FRANK. Taking my time back, you would not need a search warrant on public property; we are talking about private property here.

Ms. FIEDLER. Is that specifically delineated within the amendment?

Mr. FISH. We are only talking about private property.

Ms. FIEDLER. You are only talking about private property. Then there would be no requirement for any kind——

Mr. FRANK. Not a search warrant on public, open lands that I am aware of, no.

Ms. FIEDLER. Therefore, there are no limitations on public land, which makes up, for instance, in the State of California about half of the property in the State of California. But there would be a requirement for the affidavit on private lands?

Mr. FRANK. Yes; the gentlewoman is correct.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I rise in opposition to the amendment offered by my colleague [Mr. FISH] and in support of the bill as reported by the House Judiciary Committee.

Section 114 of the legislation is designed to ensure protection from unreasonable searches for farmworkers, farmers, and other outdoor operations. There has been strong bipartisan support for this provision in both the House Judiciary Committee, where it was reported out by a 2 to 1 margin as well as in the Senate, where it passed by a vote of 62 to 33.

The reason why INS agents are allowed to forgo the usual procedure of obtaining a search warrant is an unfair and, I believe, incorrect and discriminatory interpretation which allows farms and ranches to be placed in a separate category from all other places of business.

The fact that INS agents do not obtain a search warrant to enter agricultural lands has led the INS to concentrate their enforcement activities primarily on agriculture. Nearly 50 percent of all aliens taken into custody were employed on farms. Yet only about 15 percent of the total number of aliens in this country work on farms.

The opponents of section 114 have presented no convincing arguments that a requirement to obtain a search warrant is a deterrent to effective law enforcement.

INS agents are required to obtain properly executed warrants before entering any other workplace. Farmers and their workers are the only groups who do not enjoy this protection of their civil liberties.

I urge retention of section 114 to ensure equal protection from unreasonable, warrantless searches.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know why I have a feeling that we are coming from the sublime to the ridiculous. Let me assure my colleagues that those of us that are quite knowledgeable with conditions out in the field know there is a big difference between an indoor from an outdoor privy. It looks as if it might be unsafe to go out to an outdoor privy and have a comfortable relief without fear of arrest there.

I cannot get too excited about these fine refinements of possible enforcement when I see what has been going on with the existing laws, with fully invested law enforcement officials. From Federal judges to district attorneys to marshals to Border Patrol and customs officials.

I addressed this House during the closing hours, November 18, last year, about a situation, which, incidentally, still prevails, that allowed the district attorney of the western judicial district to permit four incarcerated aliens, who had been held for more than 10 months in the county jail of

Bexar County, simply because he said they were needed as material witnesses in a prospective trial, even though the lawyers involved, including the district attorney, had agreed, in articles of agreement, that the physical presence of these witnesses was no longer needed.

So what does the district attorney do? He releases four of these prisoners to the custody of the Border Patrol who then takes them 90 miles to Uvalde, TX, and leases them out to a rancher. One month later these four workers complain of maltreatment and of being cheated, the rancher called the Border Patrol and said "take them in, they are giving me trouble." The Border Patrol rearrested them, brought them back and placed them again in the county jail.

The district attorney, in the meanwhile, has been rewarded by being appointed a district judge, and defies my protest, when I point out that not only was this a gross violation of human rights, but that it places our country in the position of some day being called to account before a world court of opinion.

Right now, in the county jail of Bexar County, you have at least 100 such prisoners. How many more have continued to be released to be under those conditions? The enforcement officials from the district attorney up and down have continued the practice, even though, I dug out the fact that the jurisdictions for the rest: Arizona, New Mexico, Colorado have entirely different procedures. These jurisdictions accept the laws that we have passed.

I am the coauthor of the amendment in title XVIII that says that any prisoner held for the purpose of being a witness shall be released immediately if a deposition can be substituted for his incarceration. That is not being obeyed in the western district, and, to this day, openly defied.

I should be excited about this passage of this bill when the present, existing laws having direct material bearing on the question before us, illegal immigration, was well as just the plain, humane, legal enforcement of the law, is daily being violated in a gross fashion? I have not heard from anybody despite the fact that I appealed to the proper subcommittee, as well as to the Federal district judges. One of them has been amenable to some consideration, but at this time this sorry, abysmal, inhuman treatment continues today.

With all this wallowing around in pettifogging amendments, such as defining an open field, the next thing we will have to define is the size of a chick sales outhouse in order to make it legal for some suspect to be able to go there safely without the fear of arrest.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate with some rather intense interest. I have a great respect for the gentleman who has proposed this amendment. Of course, this amendment was debated in the subcommittee and the full committee, this year and previous years.

But I have to say the debate today has been extremely good, extremely technical, and extremely legal. However, I find it interesting to hear people talking about agriculture as a different form of business than almost any other business.

It seems to me rather ridiculous to believe that if a manufacturing plant has a building around its machinery and tools, in order for them to be safeguarded, and has a roof because that building needs to be secured and it has doors, that it is entitled to protection under the Constitution. The business, the people who work there, and the building itself cannot be violated without a search warrant having been obtained by the police prior to entry for reasonable grounds given to a court authority.

Yet agriculture, which has business, people are working there, but which may have 100 acres on which they are working, and therefore probably in the course of human history I would believe, has not seen any roof 100 acres big or walls around that big of a plot of land, agriculture is not entitled to that kind of protection.

When did we ever make such a distinction in this country? I agree with the chairman of my Subcommittee on Crime [Mr. Hughes], for whom I have a tremendous amount of respect, a former prosecutor, who knows the difficulty in obtaining search warrants. That yes, it might be difficult to find the lot and block number for a piece of property but there are other ways to describe property to the sufficiency of a court for the purpose of obtaining a search warrant. To say that you would provide protection to a worker who works inside a factory because you need a roof to cover that machinery, but not to a worker or an employer or an owner of a piece of property because they are picking strawberries or any other kind of agricultural commodity is a distinction we have not made in this country previously.

□ 1710

It is wrong. It is the wrong distinction. Let us carry it to its absurdity. Two tobacco fields side by side in South Carolina. One has cheese cloth, as many of my colleagues have seen. Tobacco fields are covered with gauze, cheese cloth. It has a top and it has sides and it has wooden poles holding it up.

Is that a structure within the definition of the law? Maybe it is, because the gentleman from Massachusetts [Mr. Frank], a very valued member of the committee, says that we cannot see what is going on inside and, therefore, it is protected activity and we need a search warrant to get in.

The field next door, growing the same tobacco, but no cheese cloth. We would not need a search warrant to get in.

I defy anyone in this body, including the attorneys in this body, of which I am proud to call myself one, who have ever seen that distinction made in the law. There is no such distinction. Agricultural products, like manufactured products, like service products, are entitled to the same protection, and the employees and the employer and the owners are entitled to that very same protection.

We have a well-crafted piece of legislation when it regards this particular portion of the bill, and I do not think we ought to be tampering with it. The fourth amendment is very clear about the right of being immune from unreasonable and illegal searches and seizures, and the fact that you have not erected a building around your 100- or 500-acre piece of agriculture does not, therefore, disable you from getting the same constitutional protection that everyone else who happens to have built a building is entitled to.

If we start doing this now, we are making a grave intrusion into the constitutional gurantees in this country.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, I would like to say first, as to the distinction between agriculture and manufacturing, in the first place there are areas of enforcement where we do not now need search warrants to go into open fields, for instance, dealing with farm workers and others.

The gentleman underlines my fear that the logic of the argument of the opponents of this amendment is to do that, to restrict areas where EPA and where farm worker enforcers go in.

Mr. SMITH of Florida. Mr. Chairman, let me reclaim my time on that point. I think it is a very valid point.

The CHAIRMAN. Time of the gentleman from Florida [Mr. Smith] has expired.

(On request of Mr. Frank and by unanimous consent, Mr. Smith of Florida was allowed to proceed for 3 additional minutes.)

Mr. SMITH of Florida. I think the gentleman is carrying the emphasis a little too far. When we are talking about EPA or we are talking about OSHA or any one of the other agencies committed to protecting the public, health, and safety laws, child migrant worker laws, et cetera, we are dealing with an ongoing situation. It is not the kind of situation where one is disabled from obtaining a search warrant within a 16- or 18- or 24-hour provision.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I will be happy to yield to the gentleman from Massachusetts.

Mr. FRANK. So the gentleman is defending a search warrant there. I would disagree with him. I think requiring search warrants in those areas will wind up with less protection.

But let me also answer the gentleman's question when he says, How can we differentiate agriculture from manufacturing? Particularly in the area of worker protections, we have, because migrant workers and casual workers and guest workers and seasonal workers are an agricultural phenomenon. We do not have guest workers in an auto plant and a steel plant. It is the agricultural employers themsleves who want separate treatment. They do not want to be under regular labor law. It is the agricultural employers who come to this Congress, and who are going to come more, and say, "Give us special privileges under this bill to bring in seasonal guest workers, but do not check on us. Treat us differently from how we hire, but then treat us the same for enforcement. They are the ones who have made that distinction, both in terms of their work force and in terms of their——

Mr. SMITH of Florida. Mr. Chairman, let me reclaim my time on that point. The gentleman again makes a valid point, but again there is a major distinction to be made and that is that in those areas we are talking about statutory law, and this particular area we are talking about the fourth amendment of the Constitution of the United States.

Mr. FRANK. The Supreme Court has said that this is constitutional, so we are talking statutorily choices.

Mr. SMITH of Florida. It is not exactly. Here we are talking about the search warrant provision in an open field.

Mr. FRANK. Will the gentleman yield for just one sentence? The Supreme Court has said that this is constitutionally permissible in a specific case, so whether or not we impose this here is a matter for statutory choice, because the Supreme Court has left it permissive, up to us.

Mr. SMITH of Florida. But again, we are dealing with a different situation in my estimation and that is the premise from which I am working. We are talking about an intrusion which will then have the effect of treating all workers across the board on a different basis because of the job that they are in and the place where they are working and carving out a very massive exception not based upon health and safety, not based upon the protection of workers, but based upon something else entirely, and that is the fact that they may not be eligible to work.

You know and I know that we have carved out exception after exception when it is based on health and safety, child laws, the protection of those who cannot protect themselves, et cetera. Here we have a very different situation. None of those things are present. We are carving out a major exception in the Constitution.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has again expired.

Mr. SMITH of Florida. I ask unanimous consent to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. MAZZOLI. Mr. Chairman, reserving the right to object, I would like to inquire, if I could, how many speakers there are?

Mr. Chairman, I ask unanimous consent that all debate——

Mr. GARCIA. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, before the gentleman even heard my unanimous-consent request——

The CHAIRMAN. The gentleman from Kentucky has the right to make his reservation and his request. The Chair recognizes the gentleman from Kentucky.

Mr. MAZZOLI. I thank the Chairman. I would ask the gentleman to at least let me make my unanimous-consent request before he would object.

Mr. GARCIA. I am sorry, Mr. Chairman.

Mr. MAZZOLI. I think that would be fair. The gentleman from Kentucky is trying to survey what might happen in the remainder of the afternoon. I just want to respectfully suggest—one, two, three, four; there are four speakers—that the gentleman from Kentucky respectfully asks unanimous consent that all debate on this amendment end in one-half hour, which would be about a quarter of 6, guaranteeing the gentleman from New York at least 5 minutes of that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. GARCIA. Yes; there is. I object, Mr. Chairman.

Mr. MAZZOLI. Further reserving the right to object, Mr. Chairman, may I inquire of the gentleman from New York if the gentleman has any formula that would enable us to perhaps dispose of it? With full debate, could it happen in 45 minutes? Will the gentleman help me?

Mr. GARCIA. If the gentleman will yield, Mr. Chairman, just let me respond to my colleague, the gentleman from Kentucky.

No. 1, we did that before on the employer sanctions and we did run out of time, with three or four members who wanted to participate, and they were curtailed from engaging in colloquy here on the floor.

I think the points being made by my colleague, the gentleman from Florida, my colleague, the gentleman from Massachusetts, and obviously my colleague, the gentleman from New York, are in a colloquy that I think many of us are learning about for the first time, and I would object to it because I think this is a very essential part of this bill.

Mr. MAZZOLI. Further reserving the right to object, may I then, with respect, Mr. Chairman, if I might, continue?

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

The time of the gentleman from Florida [Mr. SMITH] has expired.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. SMITH] have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield to me for just 30 seconds?

Mr. SMITH of Florida. If I may just finish my point, then I will yield to the gentleman for the balance of my time.

Mr. MAZZOLI. Certainly.

Mr. SMITH of Florida. The point is that when we have made these exceptions referred to by the gentleman from Massachusetts, we have done them to perpetuate the enforcement of what we consider to be the health and safety and welfare of the people whom the laws were written to protect, that is, the workers in the field.

Here we are attempting to enforce the law against those people. That has never been the subject of a constitutional exception before. That is the difference. That is very important. Others speakers on this floor have raised the issue of hobbling the law enforcement when it comes to the fourth amendment. The gentleman from California made that very statement.

That is the essentiality, the essence, of the fourth amendment, to make sure this never turns into the kind of state where there is no distinction between helping the people that you write the laws and carve out the exceptions for and punishing those very same people. That is the very essential difference, and I urge my colleagues to be careful in this kind of exception to the fourth amendment.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me perhaps sum up where we are, at least I hope where we are.

First of all, the gentleman from Kentucky supports the amendment offered by the distinguished gentleman from Massachusetts [Mr. Frank], the gentleman from New York [Mr. Fish], and I do so for the basic reasons that the Commissioner of the Immigration Service, Mr. Nelson, has advised us that if a search warrant were to be required for open field work, this would dramatically impair the ability of INS to enforce our immigration laws.

Mr. Nelson, the Commissioner, concludes that this section, which is the search warrant section, will in effect create a haven for illegal aliens in rural agriculture areas and for these reasons would allow employers to hide in plain view undocumented workers who are unlawfully in this country. Undocumented workers would be able to be shifted from field to field and this, of course, would thwart the whole idea of enforcement of our immigration laws.

☐ 1720

Also a search warrant would restrict tracking operations which are used in order to locate undocumented workers.

Furthermore, Mr. Chairman, the Attorney General of the United States advised our committee last year in a letter to the distinguished chairman of our committee, the gentleman from New Jersey [Mr. Rodino], that to extend the warrant requirement as it was proposed—and, of course, as the committee eventually wound up doing—would give rise to a host of enforcement problems, not the least of which is the ease with which workers could be hidden or abscond or be moved from field to field, at least in the 4 to 6 hours it would take to get a warrant.

Furthermore, the search warrant proviso would impair the morale of the activities of the Border Patrol and the other members of the Immigration Service. And, of course, the Supreme Court in the Oliver case, while not specifically on the point for INS officers, does suggest that the open fields doctrine is a valid legal doctrine.

For those reasons, Mr. Chairman, I really support the amendment.

Mr. Chairman, let me suggest further that I think we have had an excellent debate. As the gentleman from Florida said, this is a very important debate. I will not take any further amount of the time of the House, but once again let me ask this: I wonder if the gentleman from New York [Mr. Garcia] would be more disposed now to engage with the gentleman from Kentucky in an effort to see if we can agree upon a time limit.

Mr. GARCIA. Mr. Chairman, if the gentleman will yield, I really think we probably would have been finished with this particular amendment if we did not——

Mr. MAZZOLI. Would the gentleman suggest 15 minutes?

Mr. GARCIA. No; I would really object. I think this is a very important bill, and I believe we can finish with it.

Mr. MAZZOLI. Let me say one thing. I will not move, Mr. Chairman, but let me give notice to the House that the gentleman from Kentucky is empowered under the rule to ask for and to receive a vote on the question of whether or not time limits will be imposed.

The gentleman from Kentucky, I believe, has shown to the House a willingness to hear all sides of the issue. I do not think the gentleman from New York can feel anybody has been thwarted, curtailed, or cut off at the knees. But the gentleman from Kentucky, looking ahead, suggests that the House has much important business scheduled and many Members have important activities. The gentleman from Kentucky will not at this point do more than sit down, but the gentleman from Kentucky may at some point need to move on the matter of seeking time limitations.

Mr. LUNGREN. Mr. Chairman, I ask unanimous consent that debate on this amendment end in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GARCIA. I have a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. GARCIA. Mr. Chairman, if I may, I have objected on two occasions to debate being curtailed.

The CHAIRMAN. For what purpose does the gentleman rise? Does the gentleman move to strike the last word?

Mr. GARCIA. No, Mr. Chairman. I withdraw my point of order.

The CHAIRMAN. Debate on the pending amendment will conclude in 30 minutes.

The gentleman from Texas [Mr. Hightower] is recognized for 5 minutes.

Mr. HIGHTOWER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciated very much the arguments made by the gentleman from California [Mr. Edwards] earlier this afternoon. I wish more of the Members could have heard it. Also I have been interested in this debate and in hearing over and over again our urban friends' discussion of this problem, that is really a rural problem. I feel that I must get up and say something about how this really would affect the rural areas.

Mr. Chairman, the Chairman of the Committee of the Whole House on the State of the Union is from Kentucky, and I am sure the gentleman from Kentucky would know just exactly what I am talking about when I say that the people in the rural areas are just as jealous of their privacy as those in urban areas. The gentleman will have seen some of the signs, like I have seen. Let me educate some of these urban Members a little bit about the signs in the rural areas.

There is a sign "Posted" that means "Keep Moving." Then there is a sign that says, "No Trespassing." That is just a little tougher. Then there is a sign that says, "Keep Out," and that means just exactly that. Then when you get to a sign that says, "Keep Out. This Means You," you had better keep moving.

They are concerned about their privacy, and just because it is an open field does not mean that the landowner thinks any less of that property than a building owner thinks of his property.

It distresses me to think that officers can be required to have a search warrant to walk into a restaurant and go back and talk to somebody who is washing dishes, but if they are out working in a field, they do not have to have that warrant and they can go barging across a field and do whatever they want to do, just because there is no fence or no cover over the top of that field.

The right of privacy is just as important in the rural areas to a person who owns a field, an open space, as it is to someone who owns a building in an urban area.

Then I was very much surprised to hear that, as far as the difficulty in getting search warrants, there ought to be a different standard for rural areas, and that there is fear that if the officers have to go and get a search warrant, the property owner will move his people to another field.

Well, I have had some experience with prosecutions. I served as a prosecutor, and I know that the prosecutor and the law enforcement officers do not go and tell the person who owns the property, "Hey, we are going to be out here with a search warrant in a little while." They would not do that. If the desire is to go and check out the workers in a particular field, they plan it ahead of time. It should be done in a reasonable and system-like manner, and it should be done with a search warrant.

Mr. Chairman, I cannot understand those who say that we should have different rules in agriculture as far as searches and seizures are concerned.

**Mr. MARLENEE.** Mr. Chairman, will the gentleman yield?

**Mr. HIGHTOWER.** Yes; I am happy to yield to my friend, the gentleman from Montana.

**Mr. MARLENEE.** Mr. Chairman, something was said in this regard about what Commissioner Nelson wanted, but I wonder what Commissioner Neslon had to say about the two immigration officers who entered onto a property, a private piece of property in Idaho, within the last 6 months, and they apprehended and handcuffed a young man with dark eyes, dark hair, and dark skin and were about to take him off until the rancher stepped out on his porch with his .45 and said, "You either let that boy go or else you are going to get it right"—you know where.

This is what is in question. He said, "You don't have a warrant to be on this property. This is private property. This boy was out in the corral, and you came and apprehended him."

He said, "You don't have a warrant. You are here illegally. Get off or I'm going to blow you away."

This is the kind of thing the gentleman is alluding to. What we ask for is respect for our private property, and this amendment would destroy that if it were passed.

**Mr. HIGHTOWER.** Mr. Chairman, the gentleman is right. I think it is important to remember that the emphasis early on in this debate has been on the fact that we want to work with civil penalties, and that we want to try to discourage people from hiring illegal aliens or illegal workers.

We heard again and again statements on the matter of penalties. It seems inconsistent to me that we would now say, "Yes, but we are not going to require you to have a search warrant."

**The CHAIRMAN.** The time of the gentleman from Texas [Mr. HIGHTOWER] has expired.

The Chair recognizes the gentleman from New York [Mr. MOLINARI].

**Mr. MOLINARI.** Mr. Chairman, throughout the course of the debate in the last couple of days there has been a great deal said about the need for greater enforcement, and indeed there have been amendments offered to provide for more enforcement officers, and it was said that we need to beef up law enforcement in effect. Here, by virtue of the amendment that has been proposed by the gentleman from New York, we would be doing just that.

To allow the bill in its present form to continue would be contrary to the overall intent of the legislation.

I was very pleased to hear the gentleman from Kentucky [Mr. MAZZOLI], the prime sponsor of the bill, get up and support this amendment. Perhaps being from an urban area, I should apologize for getting up and speaking in favor of this amendment, but I do not think that that really has any bearing.

The present law allows warrantless entry onto open lands by all law enforcement officers in the execution of their duties.

□ 1730

The intent of this bill as I see it is to balance constitutional enforcement with the amnesty provisions of the bill. I have the figures that have been quoted, indicating that a warrant requirement would reduce farm and ranch checks to one-tenth of our present volume and cut visits to construction sites and outdoor operations by one-third; so what we would have would be a significant reduction in law enforcement by the INS under the provisions of the bill as it presently stands.

I think that if we are going to achieve the purposes that we set out to do in this immigration bill, this amendment should be passed. I urge its support.

**Mr. DANNEMEYER.** Mr. Chairman, I rise in opposition to the amendment offered by the distinguished gentleman from New York [Mr. FISH] to strike section 114 of this bill. While I can appreciate the gentleman's zeal to stem the tide of illegal immigration, there are better ways to do that than to deny farm workers the same protection against search and seizure that factory workers enjoy at their place of employment.

Mr. Chairman, a dichotomy exists in current law. On the one hand, the fourth amendment to the Constitution states that people have a right "to be secure in their persons, houses, papers and effects" which, in the case of an employer, has been interpreted to mean his place of business. Yet, on the other hand the courts—and most recently the Supreme Court—have said that law enforcement agents do not have to get a search warrant to enter the "open field" of an agricultural employer, even though that field is, in a very real sense, his place of business. Those arguing the Courts' position make the claim that extending search warrant requirements to "open fields" would not only make law enforcement activities—including the apprehension of illegal aliens—more difficult but would establish a precedent for other outdoor areas. However, there is little evidence to suggest that a "search warrant" requirement would inhibit law enforcement activities; warrants could be obtained quickly and easily over the phone if probable cause to issue the warrant can be shown. Furthermore, trying to compare an individual's lawn with an "open field" is stretching things a bit; a better comparison would be between an "open field" which is producing crops and an industrial facility which is producing consumer goods. In that context, please note that the language of section 114 refers to "farm or other outdoor operation" not to just any field.

With respect to the position of the courts, and especially with respect to the recent decision of the Supreme Court in Oliver against United States (1984), one further point needs to be made. All the courts have said is that the wording of the Constitution does not necessarily require that a search warrant be obtained before an open field is inspected. By no stretch of the imagination have the courts said that an "open fields" search warrant requirement would be unconstitutional. Or, to put it another way, the courts have done nothing that would inhibit the right of Congress—oft exercised in the past—to provide an extra degree of protection for individual rights over and above that which is currently required. Moreover, in this case, there is a very good reason for Congress to provide that extra element of protection, namely the existence of an inequitable double standard that, in essence, says that farm operators are not entitled to the same treatment under the law that factory operators are.

What makes the existence of this double standard especially significant is that H.R. 1510 as reported already contains provisions designed to punish employers who knowingly hire illegal aliens and/or who fail to take appropriate steps to ensure that the workers they do hire are indeed legal. Assuming those employer sanctions provisions are contained in the final version of the bill—as I expect they will be—the problem that opponents of section 114 are concerned about will have been dealt with. So why knock out section 114 which simply ensures that the INS will not get overzealous in its enforcement activities. After all, the INS will still be able to check people coming to and from the open field in question and, if it has good reason to believe illegal aliens are indeed hiding in that field, it can easily get a search warrant. Those powers, coupled with the sanctions themselves, should be sufficient to prevent wholesale employment of illegal aliens in agricultural operations.

Speaking of which, it should also be noted that only 15 percent of all illegal aliens are estimated to be working on farms; the great majority of illegals are working elsewhere, on premises that the INS could not inspect without a warrant. Thus, this amendment misses the mark a little. More to the point, it jeopardizes the delicate balance of interests on which this bill is based. As I need hardly remind my colleagues, more than a few groups are concerned that the employer sanctions provisions of H.R. 1510 may result in a pattern of discrimination against Hispanic Americans. Section 114, however, tends to mitigate that possibility at least insofar as agricultural operations are concerned. The farm operator may still be worried by the prospect of hiring an Hispanic but at least he or she will know that the INS will need to show probable cause before coming on the fields to check Hispanic workers out. And the workers will have less reason to fear that the INS might make a mistake and that they will get in trouble by accident.

In concluding my arguments for retention of section 114, let me make two final points. First of all, when the INS and other law enforcement agents come on to a field full of crops in search of illegal aliens or whatever, it often means that considerable damage is done to the crops and property, especially if a chase ensues. That has been a problem in southern California and I expect it has been a problem elsewhere. Regardless of whether illegal aliens were actually found, the farmowner suffers a considerable loss which is difficult to recover. Thus, it seems to me that the greatest care should be taken before the farmer, who may not be guilty of harboring illegals, is subjected to those searches. Rather than assuming he is guilty, the presumption of innocence should prevail and an "open field search warrant" requirement will help ensure that it does. Also, it should be of some comfort to anyone who might be amnestied by this bill and who wants to work on a farm or to those who come here under whatever temporary guestworker program might be established by this bill. All in all, the pluses of retaining section 114 far outweigh the minuses and I urge my colleagues to keep it in the bill by voting no on this amendment.

The CHAIRMAN. The question is on amendment No. 18 offered by the gentleman from New York [Mr. FISH].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FISH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 233]

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zschau

□ 1740

The CHAIRMAN. Four hundred and ten Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York [Mr. FISH] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 133, noes 285, not voting 15, as follows:

[Roll No. 234]

AYES—133

Alexander
Anthony
Applegate
Archer
Aspin
Bedell
Beilenson
Bereuter
Bethune
Boehlert
Boland
Borski
Boucher
Carper
Chandler
Clinger
Coleman (MO)
Conte
Cooper
Corcoran
Coughlin
D'Amours
Daub
DeWine
Dingell
Donnelly
Duncan
Dwyer
Eckart
Edwards (AL)
Erlenborn
Evans (IA)
Fascell
Fields
Fish
Frank
Franklin
Frenzel
Gibbons
Gradison
Green
Guarini
Gunderson
Hamilton
Harkin
Harrison
Hertel
Hopkins
Howard
Hughes
Hunter
Hutto
Hyde
Jeffords
Johnson
Kasich
Kindness
LaFalce
Leach
Lehman (FL)
Livingston
Lott
Lujan
Madigan
Mazzoli
McCollum
McGrath
McKinney
McNulty
Mica
Michel
Miller (OH)
Minish
Moakley
Molinari
Mollohan
Moody
Moore
Mrazek
Murtha
Nelson

Nowak
O'Brien
Oakar
Obey
Olin
Oxley
Parris
Patterson
Pease
Porter
Pritchard
Pursell
Quillen
Rahall
Ray
Regula
Rinaldo
Rodino
Roe
Rostenkowski
Roth
Rudd
Russo
Sabo
Scheuer
Schulze
Seiberling
Sharp
Shaw
Shuster
Sikorski
Smith (IA)
Smith (NJ)
Solarz
St Germain
Staggers
Stratton
Sundquist
Tauke
Torricelli
Traxler
Udall
Vento
Volkmer
Vucanovich
Walgren
Wilson
Wise
Wolf
Wortley
Yatron
Young (AK)

### NOES—285

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bennett
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boggs
Boner
Bonior
Bonker
Bosco
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carr
Chappell
Chappie
Cheney
Clarke
Clay
Coats
Coelho
Coleman (TX)
Collins
Conyers
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
Daniel
Dannemeyer
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dixon
Dorgan
Dowdy
Downey
Dreier
Durbin
Dymally
Dyson
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IL)
Fazio
Feighan
Fiedler
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gramm
Gray
Gregg
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hightower
Hiler
Hillis
Holt
Horton
Hoyer
Hubbard
Huckaby
Ireland
Jacobs
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leath
Lehman (CA)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowery (CA)
Lowry (WA)
Luken
Lundine
Lungren
Mack
MacKay
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
McCain
McCandless
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
Mikulski
Miller (CA)
Mineta
Mitchell
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Myers
Natcher
Nichols
Nielson
Ortiz
Ottinger
Owens
Packard
Panetta
Pashayan
Patman
Paul
Penny
Pepper
Perkins
Petri
Pickle
Price
Rangel
Ratchford
Reid
Richardson
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Roukema
Rowland
Roybal
Savage
Sawyer
Schaefer
Schneider
Schroeder
Schumer
Shelby
Shumway
Siljander
Skeen
Skelton
Slattery
Smith (FL)
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
Stangeland
Stark
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Valentine
Vander Jagt
Vandergriff
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zschau

### NOT VOTING—15

Bates
Conable
Early
Ferraro
Flippo
Hansen (ID)
Jenkins
Martin (NY)
Neal
Oberstar
Sensenbrenner
Shannon
Simon
Sisisky
Young (FL)

□ 1750

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 19 OFFERED BY MR. DE LA GARZA

The CHAIRMAN. Amendment No. 19 is in order at this time.

Does the gentleman from Texas [Mr. DE LA GARZA] desire to offer amendment No. 19?

Mr. DE LA GARZA. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. DE LA GARZA: Page 24, after line 8, insert the following new section (and conform the table of contents accordingly):

LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS

SEC. 115. Section 271 (8 U.S.C. 1321) is amended by inserting at the end the following new subsection:

"(c)(1) No person described in subsection (a) who establishes to the satisfaction of the Attorney General that such person has acted diligently and reasonably to fulfill the duty imposed by such subsection shall be liable for the penalty described in such subsection, notwithstanding the failure of such person to prevent the unauthorized landing of any alien.

"(2)(A) At the request of any owner or operator of any international bridge or toll road described in subsection (a), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such owner or operator for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

"(B) Proof that any owner or operator has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which such approval is effective) shall be prima facie evidence that such owner or operator acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1)).".

Mr. DE LA GARZA. Mr. Chairman, this amendment deals with international bridges and toll roads on the border between the United States and Mexico and the United States and Canada.

At the suggestion of the Justice Department, we used their language so that the bridges and toll roads may be placed in the same category with vessels and aircraft, so that all would be treated alike.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the subcommittee chairman, the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

The gentleman on this side of the aisle have examined the gentleman's amendment and find it meritorious and will support it.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding. We would be happy to accept the gentleman's amendment.

Mr. DE LA GARZA. I thank the gentleman.

The CHAIRMAN. The question is on amendment No. 19 offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

□ 1800

The CHAIRMAN. Amendment No. 20 is in order at this time.

Does the gentleman from Texas [Mr. COLEMAN] desire to offer amendment No. 20?

Amendment No. 21 is in order.

For what purpose does the gentleman from Kentucky [Mr. MAZZOLI] rise?

Mr. MAZZOLI. Mr. Chairman, I rise, for just a moment, to strike the requisite number of words, to discuss with my colleagues in the House the remainder of the night's program.

The CHAIRMAN. Without objection, the gentleman from Kentucky is recognized for 5 minutes.

There was no objection.

Mr. MAZZOLI. Mr. Chairman, let me, first of all, congratulate the House. We appreciate all the patience and the attention. It has been a long, grueling time, and I salute the men and women of the House for having carefully assessed the situation and for their attendance and for their hard work.

We have reached the point of 6 o'clock tonight, and I would like to perhaps consider what might be the remainder of tonight's business. We have reached, as a result of reaching amendment No. 21, which will be offered by the gentleman from New York [Mr. OTTINGER], the section on adjudication and asylum. We have completed the employer sanction sections, as the gentleman and ladies know, we have completed fraud and misuse of documents, we have completed the section on unlawful transportation, we have talked about the warrantless entry, and now we are in that section dealing with adjudication of the question of asylum and refugee status. We have 21, 22, 23——

The CHAIRMAN. The Chair would like to remind the gentleman that, on amendment No. 20, offered by the gentleman from Texas [Mr. COLEMAN], the gentleman from Texas appeared. The Chair will recognize the gentleman.

Mr. MAZZOLI. Mr. Chairman, may we dispose of amendment No. 20 right now? The amendment offered by the gentleman from Texas [Mr. COLEMAN], amendment No. 20, is agreeable to the minority and the majority side.

### AMENDMENT NO. 20 OFFERED BY MR. COLEMAN OF TEXAS

The CHAIRMAN. Does the gentleman from Texas [Mr. COLEMAN] desire to offer amendment No. 20?

Mr. COLEMAN of Texas. Yes, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. COLEMAN of Texas: Page 24, after line 8, insert the following new section (and insert a corresponding item in the table of contents):

#### ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

SEC. 115. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

Mr. COLEMAN of Texas. Mr. Chairman, this amendment provides for fair and impartial enforcement of our immigration laws. It expresses the sense of Congress that the immigration laws of the United States should be enforced vigorously and uniformly; and in the enforcement of these laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of U.S. citizens and aliens alike.

This is an antidiscrimination statement intended to help address concerns raised by the implementation of H.R. 1510 in particular and the immigration laws of our country in general.

The specter of the Immigration and Naturalization Services' operation jobs is fresh in the minds of many of my constituents along the border. This was an organized series of raids on different workplaces across the country which resulted in the arrests of thousands of undocumented workers. It unfortunately resulted in the arrests of American citizens who appeared to enforcement authorities to be undocumented because of their appearances or language difficulties. Business owners and their patrons complained of harassment in the process. These incidents, reported around the country, raise serious questions of civil rights violations and due process guarantees.

There is a litany of horror stories involving the arrests and detention of undocumented aliens and their families. American citizens and undocumented persons alike have been subject to humiliation, fear, duress, and embarrassment. A recently publicized case in California of a child, a legal resident of the United States, being mistakenly deported to Mexico, is not an isolated incident.

In addition, two Supreme Court decisions handed down April 17 give the Immigration and Naturalization Service wide latitude in searching for and arresting undocumented aliens. In Oliver against United States, the Court reaffirmed its position on warrantless searches of open fields. In another case, INS against Delgado, the Court upheld the legality of factory searches based on warrants with only general information. Under the precedent set by these two cases, American citizens have a very good chance of being detained against their will.

All these examples underscore the necessity of insuring that our civil liberties are not trampled upon.

Some may say that this amendment is not necessary. This feeling, however, is not supported by past abuses and history of unequal treatment.

I urge my colleagues to support this amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman on this side of the aisle and the majority table have examined the gentleman's amendment. It is meritorious, and we accept it.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, we would be happy to accept the amendment on this side.

The CHAIRMAN. The question is on amendment No. 20 offered by the gentleman from Texas [Mr. COLEMAN].

The amendment was agreed to.

### AMENDMENT NO. 21 OFFERED BY MR. OTTINGER

The CHAIRMAN. Amendment No. 21 is in order at this time.

Does the gentleman from New York [Mr. OTTINGER] desire to offer amendment No. 21?

Mr. OTTINGER. Yes, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. OTTINGER: Page 35, line 5, insert ", statutes, or treaties" after "Constitution".

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield? I will get additional time for the gentleman.

Mr. OTTINGER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would once again like to discuss with the House the remainder of tonight's program.

We have now reached the Ottinger amendment, amendment No. 21. We have eight amendments, which would lead us out of title II into title III. There are eight amendments, Mr. Chairman. The gentleman from Kentucky would at this point be inclined to think we ought to be able to complete our work on these amendments by perhaps 8 o'clock and give reasonable time for adequate debate.

I would, therefore, Mr. Chairman, like to make a unanimous-consent request.

The CHAIRMAN. Does the gentleman from New York [Mr. OTTINGER] yield for that purpose?

Mr. OTTINGER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that the debate be concluded on amendments numbered 21, 22, 23, 24, 25, 26, 27, and 28 at 8 o'clock. I might suggest that some of those amendments are acceptable to the committee.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. McCOLLUM. Reserving the right to object, Mr. Chairman, it appears to me—and I certainly respect the efforts the gentleman is trying to make to move this bill, and I want to see it moved as much as he does—it might be prudent to see how this goes for a little while before that limitation is imposed. If we are moving along expeditiously—this Member has two amendments among those—and I would have no objection; but if we get hung up on the first one, it could be impeding. I would prefer that the gentleman would refrain for a while.

Mr. MAZZOLI. If the gentleman will yield, in deference to my friend, the gentleman from Florida, who has been such a great help to the gentleman from Kentucky on this bill, let me withdraw my unanimous-consent request, with this observation: At about 7 o'clock, the gentleman from Kentucky will reassess the situation.

Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. OTTINGER] may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. OTTINGER].

Mr. OTTINGER. Mr. Chairman, this is a perfecting amendment to correct an inequity in the bill pertaining to the right of refugees and aliens to bring class action suits for review of orders of deportation, exclusion and asylum.

Existing law provides for class action jurisdiction where "a pattern or practice of violations of the Constitution or laws of the United States is alleged." H.R. 1510, as adopted by the Judiciary Committee, dropped the words "or laws," although it is unclear from the committee's report why that important phrase was dropped.

After reporting the bill, the committee's intent of preserving asylum-seekers' access to the courts was inadvertently stymied by a decision in the 11th circuit court regarding the rights of aliens. The 11th circuit's decision in Jean against Nelson, stated that excludable aliens "have no constitutional rights with respect to their applications for admission, asylum, or parole." Furthermore, the court disavowed "any language used by (previous) courts that might be read to suggest that excludable aliens have constitutional rights under the fifth amendment with regard to such applications."

This decision makes it virtually impossible to bring any class action suits on behalf of asylum seekers under the bill: The bill would allow class actions only in the case of constitutional violations which the courts have determined no longer apply to aliens, a no-win situation. This inequity is easily remedied by restoring the original language which permits class actions for violations of U.S. laws or treaties as well as the Constitution.

While class action cases have been relatively few, they have provided relief to thousands of asylum seekers, most recently Salvadorans and Haitians. For instance, a recent class action suit on behalf of Salvadorans successfully challenged INS border patrol practices of "physicial and psychological coercion" designed to force Salvadorans to give up their asylum claims and "voluntarily" return to El Salvador. It is crucial that this role of the Federal courts in assuring fair consideration for asylum seekers be maintained.

Significantly, the 11th circuit division, while denying constitutional recourse to asylum-seekers, recognized that courts have "the authority to review the decisions of executive officials in the immigration area to ensure that they have exercised their discretion in accordance with the applicable statutes, regulations and the announced policies of their agencies." They emphasized that, in the context of class actions under present law, the "courts are not powerless to act when government officials have either failed to exercise their discretion or abused it by acting outside the scope of their disputed authority." Thus, the court ruled that the source of an alien's claim to fair consideration is not constitutional, but statutory.

Given the importance of protecting the rights of those seeking legitimate refuge in the United States, it is crucial to provide for class action jurisdiction expressly for violations of law in view of the above-cited decision. If aliens are to receive fair consideration under our immigration laws, it is essential to maintain effective access to a Federal forum to vindicate injustices. My amendment would preserve the available of class action jurisdiction to prevent the misapplication or abuse of our immigration laws, and I urge its adoption.

□ 1810

I would like to point out that class actions save the civil rights organizations that bring these actions vast amounts of money and save the Government vast amounts of money because if these cases have to be brought individually for the thousands of people who may be affected in a particular class, it will really be an undue burden on the court and undue expense to the judicial system.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, one of the great problems that we have today in the whole area of asylum and adjudications deals with the opportunities for lengthening and carrying on the process instead of getting to a final resolution.

We have 170,000-plus cases backlogged today of asylum seekers in our structure. The bill, as it is now structured, attempts to get at some of the mechanical problems of dealing with this. It sets up an administrative law judge system and a U.S. Immigration Board to try to expedite the handling of both the asylum cases and the routine exclusion and deportation matters.

The backlog problems that we see often come from class action suits where individuals get involved in groups to bring about a delay in the process. Whenever you have a class action suit, it stops the entire adjudication process dead in its tracks. Contrary to what the gentleman offering this amendment says, this Member is convinced, and so the statistics indicate, that the process is slowed down by the class action suit; that it would be far preferable for us to allow the individual to proceed with all of his rights intact, which he or she would have whether this amendment carries or not, or whether there were any class actions in the bill or not, with the normal procedures that exist.

There are in the bill procedures for habeas corpus protections and for multiparty suits in the habeas corpus area which has been a traditional area for gaining relief for those who feel they have been wrongfully detained which fact was the primary thrust of a good deal of the litigation that has been going on dealing with the Haitian group. That is still in this legislation; it is an entirely separate procedure which can be used and would be used.

On the other hand, class actions, as I say, by nature, stop the entire process, they clog up the works. So when the committee considered this, though this Member opposed class actions being allowed at all into the bill, the committee allowed them only under a very, very narrow range of consideration and conditions.

One of those was that the actions had to be involved with a challenge to a pattern or practice of violation of the Constitution. That is the very first thing. I think whatever else that you say about it, that is an essential ingredient to maintaining this, if it is to be maintained in the bill.

To broaden it, as the gentleman would do, to include statutes and treaties and so on, allows for a lot of playful tactics that might delay the process. Again, it is one of the great problems we have, we are too litigious; we have got too much litigation going on. We have too many multiple layers in this whole structure today that has caused us this kind of delay and this kind of backlog.

In the process as well, the committee amendment right now would restrict very narrowly the use of class action suits until the exhaustion of administrative remedies occur. Only in very rare cases, and that is where constitutional issues arise and certain other conditions are met, can someone bring a class action suit under the bill as it now reads.

If the gentleman's amendment goes through, as I understand it, that exhaustion of administrative remedies will also disappear as a prerequisite for those things where there is statutory basis and there are treaty bases. So we could have many more class action suits than would be allowed under the bill as it now reads. It is this proliferation that bothers the Member; compels him to, in this case, this Member, to oppose the gentleman's effort to broaden the class action provisions of this particular bill. In fact, with the next amendment that will be coming up, I intend to offer portions of that amendment which would strike the entire class action proceedings from this bill as redundant and unnecessary altogether.

Certainly if we are going to keep class actions, they ought to be kept at a minimum in the area where they are now, which is the area of constitutional concern, which is the area where the committee, in its wisdom, has placed them in a very narrow perspective.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding, and I certainly concur in what the gentleman has said.

When we had our long deliberations, really over 4 years, this was one of the more vexing elements, and I, in my own time, will describe to the House the olympian efforts made by this subcommittee to encompass the rights of these individuals to test legal remedies and to have protections. I will detail specifically the laundry list of elements which we put in the bill at the request of all numbers of groups.

The gentleman is exactly correct; we could not in our feeling, which was bolstered by years of hearings, extend and expand the rights of appeal and all of the other testing activities because to do would add further to the gridlock, and as the gentleman and I very well know, you have 140,000 or 160,000 of the cases pending, gridlocked while events are playing out and we need to move the cases along. The gentleman from New York's amendment does not help us move that process along, and I support the gentleman in opposing the amendment.

Mr. McCOLLUM. Reclaiming my time for a moment, the chairman knows these figures change. We are now up to 170,000 asylum claims. The chairman worked so hard and diligently on this section of the bill, it has received a lot less attention than other sections of the bill have, and yet there is a great deal of importance here. If we really are going to regain control of our borders it is essential that we look at the adjudication section and make it expeditious and speedy.

Mr. BERMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the gentleman from Florida to answer some questions so I could understand this issue better.

Mr. McCOLLUM. I will be glad to answer questions.

Mr. BERMAN. Under present law, as I understand it, we authorize class action suits in asylum cases, based on a pattern or practice of violations of both the U.S. Constitution and our immigration statutes; is that correct? I yield to the gentleman for his response.

Mr. McCOLLUM. There are court decisions which have allowed class action suits to go forward. I know of no statutory authorization of those suits under this particular bill, under this particular law, although there is a general statute on class actions that have been interpreted broadly by the courts to encompass all kinds of measures of things.

Mr. BERMAN. As I understand it, the thrust of the amendment of the gentleman from New York is to preserve those decisions which take the general class action statute and apply it into this situation?

Mr. McCOLLUM. Well the gentleman is trying to make a change in the bill as it now exists, as I understand it, to expand from the narrow constitutional basis that is in the bill to add in the statutory and treaty area. I am not at all convinced you can bring treaties in under any present law. This bill that we have crafted says the procedures here of administrative law judges, U.S. Immigration Board, and the review procedures in the circuit courts of appeals and so on, shall be the sole and exclusive procedure for judicial review. We allow habeas corpus and so on.

What the bill is trying to do is to make sure that this highly abused area from a litigious standpoint is narrowed more so than other areas of the law might be, particularly for class actions because we have such a demand on the system.

Mr. BERMAN. Mr. Chairman, as I understand the amendment, and I think it is important that the body understand the amendment, it simply carries the right of class actions which exists under present law and continues it. The bill seeks to diminish that right in these asylum cases. I think there should be a pretty compelling reason before we want to diminish the rights in these cases, and I also do not understand why the efficiency of the whole system is not protected by allowing on significant violations over a broad category of individuals of our immigration statutes a chance to initiate a challenge to that on a group basis through a class action suit rather than encouraging the individual case-by-case exhaustion of administrative remedies which will in the end result in the same litigation, great deal more expense, and I suggest that the amendment of the gentleman from New York is a good one.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman.

Mr. McCOLLUM. One aspect that the gentleman overlooks is the fact that the bill protects the right from multiparty sort of class-type actions under habeas corpus, which is the bulk of the problems that most people have. That is the detention question if you are retained unconstitutionally against your rights. It seems to this Member that would be the most expeditious method of allowing everything to proceed but at the same time allowing for those grievous cases of constitutional violation to be protected and on a multiple party basis.

Mr. BERMAN. If I may reclaim my time, either the amendment does not particularly add anything, and therefore it is hard for me to understand why the committee would oppose the continuance of the right to class actions that exists under present law, or it is some significant diminution of the rights of these people in which case I think the amendment should be supported and the bill before us changed.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman.

Mr. OTTINGER. What the gentleman says is just absolutely inaccurate. In this bill, on page 53 of H.R. 1510 it says "Nothing in this section shall preclude a class action under section 279 or under section 1331 of title XXVIII of U.S. Code where, (a) the action alleges a pattern of practice of violations of provisions of the Constitution."

☐ 1820

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield, I was discussing that a few minutes ago. I was reading from that.

Mr. OTTINGER. And the existing law says, "Constitutional laws of the United States," and the gentleman said there was no such provision in the law. That is what section 279 says.

Mr. McCOLLUM. We are not talking about that. The gentleman is reading from what is in this bill, and I was referring back, as I did in the discussion with the gentleman from California, to the fact that there are class action laws that exist that courts have interpreted that encompass broad areas.

One of the things, though, if the gentleman will continue to yield, that bothers this Member that is now in the bill—and we put it in here a little bit ago—that would be broadened by what the gentleman is attempting to do, as I understand it, is that courts have required in interpreting class action suits that you have to exhaust your administrative remedies in fact, especially in statutory areas, and that would be broadened by what I understand the gentleman is attempting to do.

Mr. OTTINGER. We do absolutely nothing to exhaustion of the remedies.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

**Mr. OTTINGER.** Mr. President, will the gentleman yield?

**Mr. BERMAN.** I yield to the gentleman from New York.

**Mr. OTTINGER.** Mr. Chairman, we are back to existing law. We do absolutely nothing whatsoever with respect to the requirement for exhausting administrative remedies. All we do is to put back in what this committee took out, and that is that the action can allege a pattern of practice or violation of provisions of the Constitution or the laws of the United States. That is the way the existing law reads.

**Mr. McCOLLUM.** Mr. Chairman, if the gentleman will yield further, I would like to clarify something here.

**Mr. BERMAN.** I yield to the gentleman from Florida.

**Mr. McCOLLUM.** The existing law, as this gentleman understands it, is that you may have class action suits on a variety of things under the statutes that are cited here, that the gentleman just read, but you must exhaust your administrative remedies.

When this committee came along and made the exception for the Constitution that was put in here and narrowed the whole process down, we also allowed for certain exceptions around the exhaustion of the administrative remedies.

**Mr. OTTINGER.** I did not strike those provisions. Those are still in the bill.

**Mr. McCOLLUM.** No; I am not suggesting the gentleman struck those provisions from the bill. What bothers me is that you are broadening current existing law by folding in this amendment onto the bill, statutory and treaty provisions, which under current law you could not get at in a class action suit until you had exhausted the administrative remedies, whereas under this bill you are allowed not to have to exhaust those administrative remedies if you have a constitutional question. And that is the distinction that I think needs to be made.

**Mr. OTTINGER.** Well, we do not affect existing law with respect to the exhaustion of administrative remedies one bit. All we do is to cite that the class actions can be brought as exists under existing law, either under the Constitution, which has now been knocked out by the courts, or the laws of the United States.

The gentleman says he would like to get rid of all class actions, so he is being consistent in leaving only class actions in an area where the courts say there will be no class actions. I happen to think class actions are a very important protection, and we should not complicate the purpose of the law; we should simplify it.

**Mr. MAZZOLI.** Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I hope we are getting near the end of the debate on this amendment. It is an intricate question, but I believe the committee's bill is the preferable approach.

Let me just reflect on this. It was not inadvertently that the Committee on the Judiciary dropped the term, "or laws," from the scope of class action. It was done on purpose, and the gentleman from Florida has pointed out why.

In return for dropping "or laws," we expanded the opportunity for having certain appeals before the administrative remedies were final. But as I mentioned in my earlier statements, I would like to reflect for just a moment on exactly what the Committee on the Judiciary, which has produced H.R. 1510, has included in this bill in the area of asylum and adjudication, provisions which were sponsored by various civil liberties and human rights groups and which we think protect the rights of the individuals who are seeking asylum in this Nation.

First, we create independent administrative officers by removing immigration judges who currently hear these matters from the Immigration Service, and by replacing the Board of Immigration Appeals, who currently are members who serve at the pleasure of the Attorney General, we replace that with the U.S. Immigration Board, an independent agency appointed by the President serving for 6-year terms. Members can only be removed for cause.

Our bill requires special administrative law judges who are especially trained to hear these questions of asylum. So we in effect eliminate—though it has not to our knowledge been exercised—any potential for exercising coercion or authority from the Office of the Attorney General to the immigration officers or from the office of the director of Immigration Service to the immigration officers who hear and adjudicate these questions of asylum.

The second thing the committee did was to abolish the right of the Attorney General to make final decisions on asylum, deportation, and exclusion. Again our bill, H.R. 1510, creates more adjudicatory independence and more objectivity and, of course, more ability to make independent decisions.

The third thing your committee did was to require that asylum cases be only heard by especially trained asylum judges. Currently these cases are being heard by immigration officers. I am convinced that they give an honest effort to adjudicate the cases objectively, but we go one step further. We remove them from perhaps the opportunity of being a little less than totally objective by giving them the independence of being especially trained and being administrative law judges.

The fourth thing your committee did, I would remind the Members of the House, is to give the undocumented or the aliens here, those seeking refuge or asylum, the right to appeal every administrative law judge determination to the U.S. Immigration Board, which once again under our bill is made independent; it is appointed by the President, and they are subject only to be removed for cause, unlike the current U.S. Immigration Board.

The fifth thing your committee did, in order to make sure that questions of asylum are adjudicated speedily but fairly and totally objectively, we mandated speed in the handling of asylum trials. We give certain limits on how long the Government can keep people incarcerated and how long the Government can take before hearing a case and how long the Government can take before it issues its final order. We mandate speedy trials. We prevent a recurrence of the type of long detention which all of us found abhorrent in Khrome North and other places in these United States in 1980 and 1981, after the people came here from Cuba and Haiti.

More specifically, under this bill the asylum hearings must commence within 45 days of the filing of the asylum applications. Decisions have to be made within 30 days of the conclusion of hearings, and if these time limits are violated, the individuals who are incarcerated, who are documented as illegals, as people here wrongfully seeking asylum, would have to be released, and then from that time on they would be free as their case moves further down the line.

The sixth thing your committee did was to expand and codify the rights of asylum applicants, giving them the right to cross-examine witnesses, giving them the chance to present evidence, to have translators available, to have the assistance of counsel, and to object to evidence. These are things not now guaranteed in the law. We put them in our bill.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

**Mr. MAZZOLI.** Mr. Chairman, I will tell my friends in the House that this is the last time I will ask to extend my time.

Now, moving on to the further protections of the individuals' rights, our bill requires the Immigration Service to notify the alien seeking asylum, seeking the official designation of refugee, of the right to counsel before that individual can be summarily excluded.

Now, in the judicial process, we do five or six things here again, all of which were done at the behest of various civil rights and civil liberties organizations. First, we permit full circuit court review of all the asylum determination in exclusion cases, all deportation and exclusion cases. Presently under current law only some of the asylum cases, though all exclusion cases, can be heard through habeas corpus. The second thing is we preserve the right of habeas corpus under the basic habeas corpus statute. That has not changed.

□ 1830

Third, we authorize for the first time the use of class action in habeas corpus, so one of the things we can do here even though maybe there is a limitation under this recent 11th Circuit Court case, it could be this gives additional rights under the habeas corpus section.

We also provide for judicial review of denial of asylum claims in deportation cases.

We allow administrative law judges to determine whether to admit newly discovered evidence in asylum cases, so that we do not only limit it to what you can bring with you. You can develop an entire complete evidentiary case.

Last, we permit class actions prior to exhaustion of administrative remedies, class actions to test out constitutional violations.

All of these, as I say, were done in order to be sure that the person who reaches these shores, who is seeking refuge, seeking solace and succor from dangers back home, from persecution back home, we give them these protections.

The gentleman from New York has a well-intentioned amendment, but what it would do is further add to the gridlock. It would further complicate these cases. It would further pack the pipeline of cases.

I really think it ought to be rejected. In sympathy to the author, it ought to be firmly and flatly rejected by the House and your committee's position should be supported.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not a member of this committee and I will admit a little unfamiliar on the issue. It seems, nonetheless, that what seems to be happening here is the denial of a class action option for Haitians and Salvadorans.

I am wondering if consideration has been given to many of the immigrants' status, the fact that they often do not speak English, the fact that they do not bring passports or visas, the fact that too often they are mesmerized by all the political options or legalisms that they might have.

I have in front of me a letter from the Association of the Bar of New York which basically says that they are extremely concerned about the lack of access that some of these asylees have in terms of Federal courts under the Simpson-Mazzoli provisions.

I would like to yield to my colleague, the gentleman from California, a member of the committee.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from New Mexico.

I would like in the context of what the gentleman has referred to reiterate the point which I now understand better and I think makes more compelling the merits of the amendment of the gentleman from New York.

Existing law allows for class actions in these cases, in cases of violations of constitutional rights or statutory rights.

The committee chose to limit it to constitutional rights, providing some of the other remedies referred to by the gentleman from Kentucky. After the time the committee did that, the 11th circuit came down in the decision of Gene against Nelson and said that excludable aliens have no constitutional rights with respect to their application for admission, asylum or parole. There being and assuming that case is good law and applicable to all the circuits, it certainly is applicable in the 11th circuit, excludable aliens under that decision in the context of this bill have no right whatsoever to class actions, because there is no constitutional right, they have no constitutional right they can assert.

In this case, I think the committee sponsors, I would ask them to be more flexible and allow this amendment to come in by virtue of this 11th Circuit decision and we can analyze it further as the bill winds its way through the process to see if there is some better way to deal with this, but if we do not make this issue now and get this amendment in, we may be left where we have totally excluded these people from their traditional and existing right of class action.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I thank my colleague for yielding.

I think the gentleman from California is absolutely right. I rise in support of the amendment.

It was my amendment in the committee and it was a compromise. We did strike out reference to statutory rights, because we believed that the law probably would be adequate at the time.

The 11th circuit decision has thrown this all into a question. It has undercut the constitutional claim that any class action applicants would make.

Accordingly, I think it is necessary to accept the amendment of the gentleman from New York to really solidify what we had hoped we had accomplished I think in the Judiciary Committee on class actions.

I say that notwithstanding the long litany the gentleman from Kentucky read us about other guarantees, but many of those procedures are not really related to cases, certainly as a class, as they will come up eventually.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to my colleague, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I think this is really a matter of critical importance because it involves the only remedy that is effective to many of these refugees will be available to them, which is a class action that will apply to the group that is affected.

The results of this 11th circuit court case just make an entire nullity of the provision that is in the bill.

Clearly, class actions are something which are permitted in law to expedite rather than delay proceedings.

There is something in the law to reduce the cost to litigants and to the courts. I feel very strongly that if you deny class action rights to this category of refugees, you are going to be denying very important rights indeed and many of those people who are seeking refuge in the United States from persecution will not be able to achieve justice; so I hope that the amendment will be supported.

The CHAIRMAN. The time of the gentleman from New Mexico has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 3 additional minutes.)

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the Chairman, the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding.

I merely rise to state that I believe the gentleman from New York has posed an important amendment which attempts to conform this legislation to a very significant decision by the 11th Circuit in Jean against Nelson. In that case the court said that the constitutional rights of aliens are not as extensive as we thought.

I think in view of the fact that the bill would exclude some of those who might be refugees, I think that it would be necessary that we support this amendment and I am going to support the amendment.

Mr. RICHARDSON. Well, I thank the distinguished chairman. I appreciate his intervention. I am very pleased with what he has said. To me it seems the gentleman's amendment is eminently fair and should be supported.

The CHAIRMAN. The question is on amendment No. 21 offered by the gentleman from New York [Mr. OTTINGER].

The amendment was agreed to.

AMENDMENT NO. 22 OFFERED BY MR. MC COLLUM

The CHAIRMAN. Amendment No. 22 is in order at this time.

Does the gentleman from Florida [Mr. MCCOLLUM] desire to offer amendment No. 22?

Mr. McCOLLUM. Yes; I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. MCCOLLUM:

Page 24, line 15, strike out "(B)(i)" and insert in lieu thereof "(B)".

Page 24, lines 17, 19, and 21, strike out "(I)", "(II)", and "(III)" and insert in lieu thereof "(i)", "(ii)", and "(iii)", respectively.

Page 24, line 23, strike out "subject to clause (ii),".

Page 25, strike out lines 1 through 11.

Page 26, beginning on line 6, strike out "a redetermination excluding an alien under section 235(b)(1(B)(ii) or".

Page 31, strike out lines 13 through 15.

Page 33, line 9, insert "(A)" after "(5)".

Page 33, after line 10, insert the following new subparagraph:

(B) by striking out "The service of the petition" in paragraph (3) and inserting in lieu thereof "In case of judicial review of an order of deportation, the service of the petition";

Page 34, line 20, strike out "(b)(1)(A)" and insert in lieu thereof "(b)(1)".

Page 35, strike out lines 1 through 21.

Page 36, line 7, insert "or" after the comma.

Page 36, beginning on line 9, strike out ", or a redetermination to exclude an alien from entering the United States under section 235(b)(1)(B)(ii)".

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes in support of his amendment.

Mr. McCOLLUM. Mr. Chairman, our immigration laws were not designed to handle the Mariel boatlift when 125,000 Cubans arrived in south Florida in 1980. We still have those same laws today. As a result, we have 170,000 asylum applications pending before immigration judges, compared to as few as 3,800 in 1978. There are only 55 immigration judges and they are required to hear millions of petitions from aliens on all kinds of immigration matters, including asylum, each year. It is no wonder that even routine hearing determinations of status take years, and the opportunities for delay in exclusion and deportation matters are great.

Although this bill makes significant improvements in the system for adjudicating exclusion, deportation and asylum matters by creating an administrative law judge system independent of the Immigration Service and an independent U.S. Immigration Board, the bill as written contains unduly elaborate procedures, and the amendment I am now offering and the one I will offer after this one are designed to streamline the process by creating a fair, yet expeditious, procedure which fully meets the requirements of due process.

The Immigration and Nationality Act provides mechanisms for adjudicating:

First, whether an alien who has entered the United States is deportable, and

Second, whether an alien applying for admission—other than at a U.S. Consular Office abroad—who has not entered the United States, is excludable.

The operating term in determining whether a case is a deportation, as opposed to an exclusion, case, is "entry." Prior to effecting entry, an alien's admissibility is determined through exclusion proceedings; whereas, once entry has been effected, he is placed in the deporation process.

Whether or not an alien has "entered" the United States for the purposes of the Immigration and Nationality Act is not necessarily related to whether or not he or she is actually, physically within the geographic boundaries of the United States. The distinction, with certain exceptions such as parolees, is based on where the alien originally comes into contact with U.S. officials and is apprehended or detained. Generally, if that event occurs at or near the border, the case goes to exclusion; whereas, if the alien manages to enter the United States surreptitiously, and thereafter is apprehended by INS, he will be put into deportation proceedings.

The concerns I have about the adjudication structure in the bill as it now reads can be traced to two sources: The retention of multiple layers of review, which will delay and hinder the workings of the adjudication system, and the failure to maintain the "summary exclusion" provisions of the orginial Simpson-Mazzoli bill.

Under section 121 of the bill, when an alien who is trying to enter the United States comes in contact with U.S. officials and is apprehended or detained at or near the border, and an Immigration Inspector determines that the alien does not present documentation required for entry, does not have any reasonable basis for entry, and does not indicate an intention to apply for asylum, he is excluded from entry into the United States without a hearing. The problem comes from the fact that the bill does not stop at this point. It qualifies the summary exclusion procedure by giving such an alien rights which, in effect, nullify the entire summary thrust of this procedure. Once an Immigration Inspector, after checking with his superiors, decides to exclude an alien for the reasons outlined in the law, the bill requires him to tell the alien that he has a right to be represented by counsel, to have an administrative law judge redetermine the exclusion matters the Immigration Officer has just decided. My amendment would strike this unworkable portion of the bill that requires the Immigration Officer under such circumstances to tell the alien that he has a right to be represented by counsel and to have a redetermination of the exclusion decision by an administrative law judge.

Let's not kid ourselves. We either are going to have a summary exclusion procedure or we're not. We're either going to have a mechanism to be able to deal with future Mariel boatlift situations when they arise or we're not. The bill, as it now stands, pretends to create a summary exclusion procedure, but it fails to do so. By adopting my amendment, we will create a true summary exclusion procedure as was originally intended when Simpson-Mazzoli was first drafted.

For many years, we've had a similar summary exclusion procedure for alien crewmen who jump ship and for stowaways on board ships and planes. The procedure has worked well with these cases, and it is extremely important that we extend the procedure in a workable fashion to all aliens who have not entered the United States, but are apprehended like the stowaways and the alien crewmen when they are attempting to enter the United States. Otherwise, we are going to continue to have an overburdened, overworked, and unworkable adjudication system for processing aliens in exclusion and deportation cases. This is an extremely important part of this bill to regain control over our borders. There has been little discussion of this because it has been overshadowed by the debate on employer sanctions and legalization, but summary exclusion is a critical element in the whole process of regaining control of our borders.

The second portion of my amendment strikes from the bill provisions giving a right to class action suits in the adjudication of asylum, exclusion and deportation matters. After setting forth a procedure for judicial review in such matters, the bill provides an opportunity for an individual to bring a petition for habeas corpus individually or on a multiple party basis, and then also provides for the right to bring a class action suit as was discussed in the amendment of the gentleman from New York [Mr. OTTINGER] which was just debated. My amendment would retain the habeas corpus provisions, but would strike the right to a class action suit.

Once class actions are granted, the entire adjudication process is stopped. Time after time, representatives of asylum seekers have blocked the adjudication system with class action suits. They are not necessary for due process inasmuch as any individual can make the same claims individually and, if he has a matter to which the habeas corpus petition would be applicable, he can bring it on a multiple party basis. All this provision does is add another tool to the hands of those who simply wish to delay and prolong getting final orders of exclusion and deportation and carrying them out.

As it now reads, H.R. 1510 extends an existing stay of deportation in an entirely new area—exclusions. Under the present law, as soon as a petition for review of an order of deportation is filed, the deportation is blocked. I have no quarrel with the stay in deportation cases, but it is entirely inappropriate in cases where the question is exclusion of those who are seeking entry into the United States and have been apprehended at the border. My amendment removes the provision that a stay of deportation automatically attaches to the appeal of an exclusion order. A court could still grant a stay, but it would be in the discretion of the judge, not automatic. An automatic stay without judicial discretion simply encourages frivolous appeals in exclusion cases.

We must provide the tools to expeditiously and fairly exclude aliens who have no color or right to enter the United States when they are apprehended trying to get in. If they have some kind of documents that they claim give them a right to be in the United States, or they are claiming asylum, then certainly we should afford them an opportunity for a hearing before an administrative law judge. But where there is no claim for asylum, no documents presented, and no reasonable basis for legal entry into the United States, we should turn them away summarily just as we do when they approach our embassies and consuls abroad or seek refugee status without meritorious claim. Otherwise, we can never regain control of our borders.

And when somebody has entered the system, he should be given a full hearing and an opportunity for court review, where appropriate, but we should not allow class action suits and automatic stays which are unnecessary to due process and are easily used by those who lack a meritorious case and have only delay on their minds. I urge you to vote for the McCollum amendment to streamline our exclusion procedures.

□ 1840

Mr. RICHARDSON. Mr. Chairman, will the gentleman from Florida yield?

Mr. McCOLLUM. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. I thank the gentleman for yielding.

The concern I have, is that, you are giving the entire power, you are stripping the adjudication process from the asylee and giving immense power to the INS officer. The INS officer is now the judge, the political arbitrator, and you strip the asylee of any rights. This is incredible. Furthermore, I believe that the amendment that was adopted previously supersedes what you are doing.

Mr. McCOLLUM. If I may reclaim my time, I point out to the gentleman that this amendment that I am talking about in summary exclusion deals strictly with that class of individual who has not entered the United States.

He has not set foot in the United States technically. That person would be treated the same way as an individual would be treated abroad who sought refugee status, who sought political asylum, the same way a stowaway or alien is treated.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. McCOLLUM. It is treated exactly the same way as we do all of those other individuals and the Immigration Service does have the first cut on it and I think it is extremely important that we allow the Immigration Service to have that decisionmaking process in those cases.

They have to make the discretion first if there is in fact a claim for asylum or there is a document or any color at all then that person gets into our system, which of course is an additional right that that person does not have overseas. But we are giving them rights under this bill, not taking them away.

Mr. NELSON of Florida. Mr. Chairman, will the gentleman from Florida yield?

Mr. McCOLLUM. I yield to my good friend and colleague from Florida.

Mr. NELSON of Florida. Would the gentleman say that this summary exclusion is a critical element in the whole process of trying to regain control of our borders?

Mr. McCOLLUM. Absolutely. If we do not have this, we cannot regain control of our borders. We can pass all of the laws we want to about employer sanctions; we can get a lot of border patrolmen out there if we want to and we still are going to have the problem of people who come here, pop off a ship or boat, land on our shores; we grab them at the moment they are landing and they get to get into the system and delay and delay and clog it up like the 170,000 asylum applicants we have today.

We need this; we absolutely have to have this as a compromise.

Mr. NELSON of Florida. The appeals process, as the gentleman says, is very clogged. You just gave a figure.

Mr. McCOLLUM. 170,000 asylum cases pending now versus 3,800 back in 1978.

Mr. NELSON of Florida. I thank the gentleman.

Mr. McCOLLUM. I am delighted the gentleman came and made this point very clear.

I yield back the balance of my time.

□ 1850

Mr. OTTINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in the name of making our borders more secure this throws out all judicial protections to anybody seeking refuge in the United States.

What we do is hand over the entire role of judge, jury, in complicated asylum determinations to Border Patrol people who have no background in the law dealing with people, many of them refugees from communism or vicious dictatorships around the world who may have spent months or years traveling to get to the United States where they finally seek to find a land of justice, and they are met at the border or at the airport or wherever it may be by a patrolman and challenged. That patrolman is not likely to understand the immigration laws or what constitutes grounds for asylum, yet he is going to make the final determination. Where there are groups involved this may very well be a mass determination without any opportunity for the person to have his case for refuge from repression heard by anybody who is competent.

Furthermore, this just tosses out the action which the House just took with respect to class actions. I would like to point out that habeas corpus applies to an entirely different set of circumstances. Habeas corpus only applies to somebody who is in detention. With respect to those seeking a refuge in the United States, they are not in detention. Habeas corpus has nothing to do with them so that the class action procedures would have no application.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, without taking too much time, I want to point out that the gentleman from New York is correct in opposing this amendment. I believe that the gentleman from Florida in his zeal to try to expedite the administrative and judicial matters in the immigration field, has sacrificed what we consider to be a very, very necessary adjunct and that is full appellate review and a proper trial of the case.

I think that to give one inspection officer of the Immigration Service the opportunity to decide cases, to throw out class action, which we reinstituted a while ago, and to abolish judicial review of exclusion orders is absolutely, in my judgment, not in keeping with the kind of balance that we are trying to maintain.

We have written a bill here that we hope is worthy of the Judiciary Committee. I know that the gentleman is a very, very conscientious Member. I know that he does not intend any harsh consequences, but I am afraid that this is the way we construe it and I am afraid that as such I am going to oppose the amendment.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

If I might, I would like to make a point that in the summary exclusionary area say a Haitian boatload of people landed on the coast of Florida and they got out and they were not immediately apprehended at the very moment. They ran up and down the beaches a while. Then they would be protected under even my amendment to go through whatever adjudication procedures there might be.

But, if on the other hand, at the moment that boat has entered American waters and comes on up to the coast and we are following it and as soon as it is appropriate we apprehend those folks as they try to come off the boat, then I do not believe, with all due respect to my good chairman, that we ought to give them any more rights than a stowaway or an alien crewman or somebody else who is trying to get here.

That is the real distinction that I think is being made, unfortunately, incorrectly in the bill as it now reads to take the teeth out of summary exclusion. Because we would keep the rights for that hearing if the persons actually were able to land. But where we have been following them around and we are intercepting them as we do with stowaways and so on, it seems to me that the law needs to be consistent and we need to strengthen it in that regard.

Mr. OTTINGER. The gentleman is just giving totally undue powers to an administrative officer who is unqualified to be able to make the decisions that are placed on him.

The CHAIRMAN. The time of the gentleman from New York [Mr. OTTINGER] has expired.

(At the request of Mr. McCOLLUM and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. And is taking away what is just a very vital right of being able to deal with situations in which very, very poor destitute people land on this shore and that is the right to have their case heard in class action rather than the enormously expensive process of having to be heard one at a time. Can you imagine if you were a refugee from communism and you went from one country to another country to another and finally got to the border of the United States and you tried to present your case, you do not speak English and some border patrol says, "Out you go." He does not know anything about you. You do not have any documents in English that he can deal with. I mean it is a completely arbitrary procedure, one which we should not allow.

Mr. McCOLLUM. If the gentleman will yield further, the point is that the way the gentleman describes it is exactly the way we conduct our affairs with regard to the refugee act abroad, we conduct our affairs with regard to alien crewmen, we conduct our affairs with regard to everybody else who has not actually gotten to our borders. Somehow there is some magic. If the difference is between being a stowaway on a ship and we give the immigration inspector the right to say to that stowaway who has never left the ship that he cannot be here because he does not have the documents or whatever, but if that stowaway were to be apprehended after he left the ship, just as he was stepping off the gangplank, we are going to give him a right to a hearing.

Mr. OTTINGER. I will reclaim my time. When a person applies to an embassy for asylum there are people in that embassy who are duly qualified to be able to judge these cases. Those are the majority of cases that occur overseas.

When a person because of the situation in the country where he lives is unable to approach the embassy—and that is so in many cases with violent dictatorial governments—then he has to seek to escape. He has to try to get one way or the other to the United States where he can hope to have his plight heard. This amendment denies him that opportunity.

The gentleman is saying he finally gets to the United States and he can be arbitrarily excluded by somebody who has not got any background to make the decision as to whether he should be granted asylum.

The CHAIRMAN. The time of the gentleman from New York [Mr. OTTINGER] has again expired.

(At the request of Mr. McCOLLUM and by unanimous consent Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. The one point I would like to make is that it is the same immigration officers, the same Service, that make these decisions on political asylum cases, make these same document decisions in places like Thailand today where we take in thousands of refugees. That is their statutory duty to make them. And we do not question their integrity or their ability there and yet we are going to question their ability in this bill in this case.

Mr. OTTINGER. It is not the same person at all because the Embassy in Thailand has adequately trained people to handle these cases. Where border patrolmen, on the other hand, who——

Mr. McCOLLUM. But it is not the Embassy.

Mr. OTTINGER. The border patrolman who has been employed to turn people away is not going to have that experience.

Mr. Chairman, I urge rejection of the amendment.

Mr. McCOLLUM. It is not the Embassy, it is the immigration officials who are over there independently who make that decision.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the committee bill already has expedited exclusion. Section 121 of H.R. 1510 authorizes an examining immigration officer to exclude an individual from entry into the United States without a hearing if he determines that the alien—

> [I] does not present the documentation required (if any) to obtain entry to the United States, [II] does not have any reasonable basis for legal entry into the United States, and [III] does not indicate an intention to apply for asylum under section 208. . . .

This process of expedited exclusion differs dramatically from current law which does not differentiate among aliens in exclusion proceedings. Today an individual denied entry at the border is entitled to a hearing before an immigration judge. The immigration judge's decision in turn can be appealed to the Board of Immigration Appeals. Judicial remedies also are available through a statutory habeas corpus route—beginning at the U.S. district court and then working one's way up within the Federal system.

The Judiciary Committee, at its markup in this Congress, provided that an examining immigration officer must inform an alien of his right to counsel, at no expense to the Government, before the alien can be excluded under expedited exclusion procedures. I believe notification of the right to counsel is an important safeguard that must remain as part of the expedited exclusion process. The McCollum amendment deletes this safeguard.

The charge that our bill prolongs summary exclusion is not meritorious.

The McCollum amendment also eliminates a provision, added by the full Judiciary Committee in the 97th

Congress, to an earlier version of this bill, according an alien the right to an administrative law judge redetermination, of an examining immigration officer's expedited exclusion decision, after a "nonadversarial, summary proceeding in which the alien may appear personally." The language currently in H.R. 1510 retains the concept of abbreviated administrative treatment of frivolous claims in exclusion cases. Section 121, however, safeguards the integrity of the process by according an alien the right to a redetermination by an administrative law judge in a summary proceeding. The McCollum amendment removes this safeguard. Many aliens, of course, will not seek such a redetermination. The very nature of the summary character of the proceeding before an administrative law judge should facilitate quick scrutiny in cases where review is sought.

The process today for all exclusion cases allows a number of layers of both administrative and judicial review. Under section 121, the exclusion process for cases that meet the standards for expedited treatment will proceed much more quickly than under current law—but the essential safeguards of notification of right to counsel and a review by a disinterested adjudicator are part of the system.

We have just expanded class actions. The pending amendment eliminates class actions.

I believe that class action litigation is appropriate under the limited circumstances delineated in section 123. The elimination of the class action provision would detract from the efficient and expeditious adjudication of legal issues and require repeated resort to time-consuming individual actions with the resulting drain on judicial resources. The inability to obtain definitive judicial decisions involving large groups of people will encourage litigation and detract from the capacity of the Federal courts to impose uniform national standards.

Under section 123, the service of a petition for judicial review operates as a stay of the exclusion or deportation of an alien pending determination of the petition by the court, unless the court otherwise directs. The McCollum amendment limits the automatic stay to cases involving judicial review of orders of deportation. I favor the current language because the physical removal of a person from the United States with a pending petition in an exclusion case undercuts the value of the judicial remedy in spite of the fact that an administrative adjudicator may have acted improperly. Section 123 already provides sufficient protection against the possibility that aliens will prolong their stays in the United States by filing frivolous appeals. The service of the petition operates as a stay unless the court otherwise directs—a direction that can be expected in frivolous cases.

The adjudications provisions of H.R. 1510 will indeed streamline the process of removal from the United States. That streamlining, however, must be accomplished in a way that provides appropriate safeguards to individual rights. In my view, our committee struck an appropriate balance between the need to resolve immigration cases more expeditiously and the need to provide basic protections. The McCollum amendment, if I may summarize, disturbs that balance. I therefore urge my colleagues to reject the amendment.

□ 1900

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that all debate on this section end in an hour and a half.

The CHAIRMAN. Does the gentleman from New York [Mr. Fish] yield for that request?

Mr. FISH. I certainly do, Mr. Chairman.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous-consent that debate on all amendments through amendment No. 29 to this section, part C, Adjudication and Asylum, end at 8 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. McCOLLUM. Reserving the right to object, Mr. Chairman, was that an hour and a half, or until 8 o'clock?

Mr. MAZZOLI. If the gentleman will yield, I really meant to say 8:30, which would have been an hour and a half, which would give the gentleman ample time for his amendment.

Let me restate my request.

Mr. Chairman, I ask unanimous consent that debate on all amendments through amendment No. 29 end in an hour and a half, which is 8:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. KAZEN. Reserving the right to object, Mr. Chairman, let me ask the distinguished chairman if at the end of that time he intends to rise?

Mr. MAZZOLI. If the gentleman will yield, Mr. Chairman, I really do not know. I would state to my friend, the gentleman from Texas, that I do not know. I would certainly entertain the thought of doing it. I am hoping we can move this section.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. KAZEN. Mr. Chairman, I am reserving the right to object to get an answer from the gentleman.

Mr. MAZZOLI. I would state to my friend from Texas that I do not know. I would hope that we could maybe go on a little bit further after that hour, but certainly I would entertain it, and I will talk to the gentleman about adjourning at that point.

Mr. KAZEN. At the present time, what is the gentleman's intention, to go until what time?

Mr. MAZZOLI. It is the gentleman's intention to try to finish through amendment No. 29 by 8:30.

Mr. KAZEN. And after that, Mr. Chairman?

Mr. MAZZOLI. I have no way of knowing the sentiments of the House.

Mr. KAZEN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, before the gentleman leaves, may I engage the gentleman in a colloquy by saying that the gentleman from Kentucky is not the chairman of the full committee. The gentleman from New Jersey [Mr. Rodino] is.

Mr. KAZEN. All I wanted was a civil answer, to find out what the gentleman's best guess is.

The CHAIRMAN. The gentleman from New York [Mr. Fish] has the time. Does the gentleman yield for this purpose?

Mr. FISH. To the chairman of the committee, yes, Mr. Chairman.

Mr. RODINO. Mr. Chairman, I would merely respond to the gentleman from Texas, who asked whether or not we intended to rise at 8:30. The answer is "no."

Mr. KAZEN. Mr. Chairman, will the gentleman yield for a question?

Mr. FISH. I yield to the gentleman from Texas.

Mr. KAZEN. What is the intention of the committee for the rest of the evening?

Mr. RODINO. Well, we intend to proceed for a reasonable time after that. I cannot state just when, but a reasonable time would, in all probability, be close to 10 o'clock.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. Mazzoli] renew his request?

Mr. MAZZOLI. Mr. Chairman, I renew my unanimous-consent request.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. Fish] continues to have the time.

Mr. FISH. Mr. Chairman, I have a great fear that some of the erudition in my remarks in opposition to this amendment may have been lost in the intervening colloquy that has taken place here, but suffice it to say that it will all be in the Record for the benefit of the Members tomorrow, and I do ask for a "no" vote.

**Mr. SHAW.** Mr. Chairman, I move to strike the requisite number of words, to speak in favor of the amendment.

Mr. Chairman, I do recognize the limitation of debate, and I will be very brief. But I do want the Members of the House to recognize that this is a most important amendment. One of the big problems that we have in immigration law is the clogging of the courts and the cumbersome procedure that must be followed. This is a most important amendment. It is one that would ease that situation. There is no due process in a court that is overcrowded so that it is totally paralyzed. I think that this would do a lot to alleviate the situation, and I would urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. McCollum].

The question was taken; and the Chairman announced that the noes appeared to have it.

**Mr. McCOLLUM.** Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 235]

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Harrison
Hartnett
Hayes
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Oxley
Packard
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Skeen
Slattery
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (MO)
Zschau

□ 1920

The CHAIRMAN. Three hundred ninety-nine Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair recognizes the gentleman from Florida (Mr. McCollum).

RECORDED VOTE

**Mr. McCOLLUM.** Mr. Chairman, on this amendment I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair reminds the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 208, noes 192, not voting 33 as follows:

[Roll No. 236]

AYES—208

Andrews (NC)
Anthony
Applegate
Archer
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boner
Breaux
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Cheney
Coats
Coleman (MO)
Conable
Cooper
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Darden
Daub
Davis
Derrick
DeWine
Dickinson
Dowdy
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fiedler
Fields
Flippo
Franklin
Frenzel
Gaydos
Gekas
Gibbons
Gingrich
Goodling
Gore
Gradison
Gramm
Gregg
Gunderson
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hefner
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kindness
Kramer
Lagomarsino
Leath
Lent
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
McCain
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McKernan
Mica
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Myers
Nelson
Nichols
Nielson
O'Brien
Olin
Oxley
Packard
Parris
Pashayan
Patman
Perkins
Petri
Pickle
Pritchard
Pursell
Quillen
Regula
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Roth
Roukema
Rowland
Rudd
Sawyer
Schaefer
Scheuer
Schulze
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Smith (IA)
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Wilson
Winn
Wolf
Wortley
Wylie
Yatron
Young (AK)
Zschau

NOES 192

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
AuCoin
Barnes
Bedell
Beilenson
Berman
Biaggi
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Brown (CA)
Bryant
Burton (CA)
Carper
Carr
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
D'Amours
Daschle
de la Garza
Dellums
Dicks
Dixon
Donnelly
Dorgan
Downey
Durbin
Dwyer
Dymally
Eckart
Edgar
Edwards (CA)
Evans (IL)
Fascell
Fazio
Feighan
Fish
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hamilton
Harkin
Harrison
Hayes
Heftel
Hertel
Hughes
Jacobs
Jeffords
Johnson
Kaptur
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Levin
Levine
Levitas
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Natcher
Nowak
Oakar
Obey
Ortiz
Ottinger
Panetta
Patterson
Pease
Penny
Pepper
Porter
Price
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Rinaldo
Rodino
Roe
Rostenkowski
Russo
Sabo
Savage
Schneider
Schroeder
Schumer
Sharp
Sikorski
Slattery
Smith (NJ)
Snyder
Solarz
Spratt
St Germain
Staggers
Stokes
Studds
Swift
Synar
Torres
Towns
Traxler
Udall
Vandergriff
Vento
Walgren
Waxman
Weaver
Weiss
Wheat
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Young (MO)

NOT VOTING 33

Aspin
Bates
Corcoran
Dingell
Early
Ferraro
Fuqua
Hansen (ID)
Hatcher
Hawkins
Howard
Hoyer
Kogovsek
Latta
Leland
Martin (NY)
Moakley
Neal
Oberstar
Owens
Paul
Roybal
Seiberling
Sensenbrenner
Shannon
Simon
Sisisky
Skelton
Smith (FL)
Stark
Whitten
Williams (OH)
Young (FL)

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair desires to make a statement.

Under the unanimous-consent agreement, debate on amendments 23 through 29 will terminate at 8:30 p.m. Pursuant to the rule, however, each amendment is guaranteed 10 minutes of debate, 5 for and 5 against, even if it is considered after the expiration of that limitation.

AMENDMENT NO. 23 OFFERED BY MR. MC COLLUM

Amendment No. 23 is now in order.

Does the gentleman from Florida [Mr. McCOLLUM] desire to offer amendment No. 23?

Mr. McCOLLUM. Yes; I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. McCOLLUM: Page 32, line 13, strike out "section 1331" and insert in lieu thereof "sections 1331, 1361, and 2241".

Page 32, line 14, insert "chapter 7 of title 5, United States Code," after "Code,".

Page 33, amend lines 6 through 8 to read as follows:

(4) by striking out "in the judicial circuit" and all that follows through the end of paragraph (2) and inserting in lieu thereof "in the Court of Appeals for the Federal Circuit;";

Page 33, line 9, strike out "(5)" and insert in lieu thereof "(5)(A)".

Page 33, after line 10, insert the following new subparagraphs:

(B) by striking out "and upon the official" and all that follows through "court is located" in paragraph (3),

(C) by striking out "such official of the Service" in paragraph (3) and inserting in lieu thereof "the Attorney General",

Page 34, line 20, strike out "(b)(1)(A)" and insert in lieu thereof "(b)(1)".

Page 35, strike out lines 1 through 21.

Page 35, line 22, strike out "(2)" and insert in lieu thereof "(2)(A)".

Page 35, line 24, insert "the United States Court of Appeals for the Federal Circuit" after "except".

Page 35, after line 25, insert the following new subparagraphs:

"(B) No application for a writ of habeas corpus shall be entertained and no extraordinary writ shall be directed to any government official or employee and no injunctive or declaratory relief shall be granted with respect to an immigration matter (as defined in subparagraph (e)), other than by the United States Court of Appeals for the Federal Circuit in accordance with this section.

"(C) The Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review all Constitutional issues (including habeas corpus and writs for other extraordinary relief) with respect to immigration matters by petition filed no later than 30 days from the date of the final order of the United States Immigration Board.

"(D) In the case of a petition filed under this section in which the Court finds that a question of fact is presented

"(i) if a determination with respect to that fact was previously made by the Attorney General or an administrative law judge, such determination shall be conclusive if supported in the administrative record by reasonable, substantial, and probative evidence on the record considered as a whole, and

"(ii) if no such determination was made, the Court may provide, in accordance and rules established by the Court in cooperation with the United States Immigration Board, for a hearing before an administrative law judge to make the appropriate findings of fact.

"(E) As used in this paragraph, the term 'immigration matter' means a determination under this Act respecting deportation, exclusion, or asylum (or the custody or detention of an alien associated therewith) or any matter reviewable by the United States Immigration Board.

Page 37, after line 3, insert the following new subsection:

(g)(1) Section 1295(a) of title 28, United States Code, is amended

(A) by striking out "and" at the end of paragraph (9),

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new paragraph:

"(11) of an appeal under section 106 of the Immigration and Nationality Act and to entertain and grant applications for writs of habeas corpus and petitions for relief respecting any immigration matter pursuant to section 106 of such Act."

(2) Section 2441(a) of such title is amended by striking our "Writs" and inserting in lieu thereof "Except as provided in section 1295(a)(11) of this title, writs".

Page 50, beginning on line 6, strike out "Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended" and inserting in lieu thereof "Section 236 (8 U.S.C. 1226) is amended".

Mr. McCOLLUM. Mr. Chairman, while the procedures for handling exclusion, deportation, and political asylum have been vastly improved over the present law, the bill before us fails to create a clearly independent article I court and in its court review procedures leaves the door open for the use of delay tactics by those claiming political asylum and whose primary interest is just staying in this country, not resolving the issues expeditiously and justly. The Select Commission on Immigration Reform recommended an article I immigration court to streamline the process of handling all immigration matters, and I proposed such a court in the early deliberations on the Simpson Mazzoli bill. However, there were fears expressed by a number of key players that this proposal would get bogged down in the article I court debate, which has stymied our efforts at Bankruptcy Court reform and the idea was dropped in favor of the administrative law judge system, which, appears in the bill. Unfortunately, the administrative law judge system set up in H.R. 1510 does not contain the efficiencies that could be obtained under a true court and, consequently, we have left intact the opportunity for those who want to make mischief with our judicial system in the area of immigation to do so by employing several layers of judicial tactics which result in long delays in resolving exclusion and deportation issues.

In order to correct the deficiencies, the amendment I'm offering will consolidate all judicial review of deportation, exclusion, and asylum matters and all requests for habeas corpus and other extraordinary relief regarding immigration matters in the Court of Appeals for the Federal Circuit [CAFC]. Since it is a nationwide court, using the court of appeals for the Federal circuit assures uniformity of decision and would streamline the process, while not diminishing the rights of judicial review.

In recent testimony, officials of the Justice Department have testified that the immigration caseload of recent has expanded beyond their expectation. The largest growth has been in the area of habeas corpus petitions and deportation review petitions, where the Attorney General's Civil Division Office is receiving over 500 petitions a year. A great many of these are political asylum cases. There are now over 170,000 asylum applications pending, whereas there were only 3,800 in 1978.

There is a virtually endless review potentially available to those claiming asylum through the use of habeas corpus petitions in Federal district courts or the seeking of other extraordinary relief in such courts. Under the bill, there will be a limited right to a review of virtually all decisions affecting those aliens subject to exclusion, deportation, and asylum determinations in the circuit courts of appeal around the country. Furthermore, the exhaustion of appeal in this arena does not preclude the habeas corpus petition in the lower Federal courts and an extended review process of those determinations with indeterminable delays just as is found in the handling of criminal cases today.

The key to a constitutional and due process solution to the potential abuses in this area is the placing of exclusive jurisdiction for review and habeas corpus and other extraordinary writ applications in the hands of the new Court of Appeals for the Federal Circuit as is done in my amendment. Under this procedure, all petitions for habeas corpus relief regarding immigration matters would be filed in that single court, and if any hearings were necessary to determine a question of fact, those hearings would be conducted by an administrative law judge under the direction of the court. In this manner, the court of appeals would not be bogged down in fact finding, but the potential for delay inherent in the present system where an asylum claimant can apply to the many Federal district courts would be greatly reduced.

I make no claim that the time for any normal and full appeal in any individual case would be any less by using the Court of Appeals for the Federal Circuit than using the various circuit courts of appeal around the country, but I strongly believe that my proposed consolidation of judicial review into one court will deter frivolous filings and substantially reduce delays involving habeas corpus and other extraordinary relief seeking. When a single court is making uniform decisions applicable to all of the issues raised in asylum, exclusion, and deportation matters, there will no longer be the opportunity for exhausting a straight line appeal and then going into the Federal district courts on a habeas corpus petition and appealing that to a circuit court of appeals and possibly the Supreme Court and then maybe even going back in on some other claim under habeas corpus and trying it all over again. As we all know, that is precisely what has been happening in our criminal justice system that has delayed the carrying out of sentences and kept us from having the swiftness and certainty of punishment in the criminal system necessary to effectively deter crime. It is the same unending cycle of court reinvolvement that my amendment will correct in the immigration area. What we need in immigration, as well as in criminal law, is not only due process, but also swiftness in the process and finality in court decisions.

This amendment is a necessary complement to the administrative law judge system in the bill and is critical if we are going to unclog the backlog of asylum cases and not get into this situation again. I strongly urge my colleagues to vote "yes" for this amendment.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take the 5 minutes.

It is a very simple amendment. This was overwhelmingly rejected in the full Committee of the Judiciary. It borders on being a ludicrous amendment. Let me tell you why. This consigns all appeals from the Board of Immigration Appeals to the Court of Appeals for the Federal Circuit. This court was just created 3 years ago by this body and by the other body. What is it?

It is a Court of Appeals for the Federal Circuit. It is a specialty court. It is the amalgam of the old Court of Customs and Patent Appeals and the Court of Claims, the Court of Claims and Customs and Patent Appeals.

It has never ever handled an immigration or nationality case, presumably never will. It is loaded with jurisdiction and work. It reconciles the differences among the 12 circuits in the country. It is a specialty court.

The gentleman from Florida might as well have given the jurisdiction to the U.S. Tax Court. It has as much competence in this area.

No, indeed, what is in the bill should remain. These cases on appeal if they are to go to a court of appeals, let it be the court of the circuit in which the jurisdiction arose, or the district court; but certainly not this specialty court newly created by the Congress.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes; I yield.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Wisconsin is one of the most enlightened Members in the country on matters of court structure and administration of justice.

While I greatly respect my friend, the gentleman from Florida, who has been a tremendous help to us in our bill, the gentleman from Wisconsin has made a very important statement, a very cogent statement. This amendment was resoundingly rejected at the committee 2 different years.

□ 1940

It really ought to be rejected tonight and I would perhaps even take this moment to ask my friend from Florida that in the event that he sees that there is a disposition against the amendment that he might forego his opportunity perhaps to carry it further.

But I appreciate the gentleman's help and I thank the gentleman for his statement.

Mr. KASTENMEIER. I might say parenthetically that the gentleman from Florida talks about court structure, article I and so forth. There may be some merit in that I think as far as the future is concerned some discussion might well ensue which touches on those points.

But I will tell the membership tonight this is not the solution for this bill or any other bill.

Mr. McCOLLUM. Will the gentleman yield?

Mr. KASTENMEIER. Yes; I yield to the gentleman from Florida.

Mr. McCOLLUM. I respect a great deal the gentleman from Wisconsin, his expertise in the court area, and we have discussed this many times, both in the committee and privately. This gentleman has a great frustration with the fact we cannot get the article I court up. There is no other vehicle but this one as far as a reasonable court to put it in.

The gentleman from Wisconsin understandably feels it is unreasonable to put it there, and we are on the horns of a dilemma as to where to put it.

No, this Member will not press for a recorded vote and does not anticipate winning this tonight. I offered this to get a discussion out here very briefly, because I think it is a very important issue. We should not be fooled, and I do not think most of the members of the committee are, that what we are adopting in the adjudication area is the perfact system. We really have not addressed the system that we probably should be addressing. And while I tried a number of alternatives, none of them seemed to be palatable at this moment in history.

But in the next couple of years I would dearly love to join with the gentleman from Wisconsin and others in crafting a more perfect judicial system for handling immigration, which is an expertise area, and which some court, whether it is the Court of Appeals for the Federal Circuit or not, whether it is a new immigration court, it needs to exist in order to have those constitutional protections that the gentleman from Wisconsin so often advocates, and in which I certainly concur.

Mr. KASTENMEIER. I thank the gentleman for his comments.

Mr. HEFTEL of Hawaii. Will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Hawaii.

Mr. HEFTEL of Hawaii. I want to congratulate you on your cogent presentation as to why this amendment should be rejected. I would like to applaud the Member who offered the amendment for agreeing to withdraw it. He is correct, there is an unsolved problem. The gentleman in the well is correct that this will not solve it and will complicate it and you would rue the day if you ever had this amendment passed.

I thank the gentleman.

The CHAIRMAN. The question is on amendment No. 23 offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment was rejected.

### AMENDMENT NO. 24 OFFERED BY MR. ACKERMAN

The CHAIRMAN. Amendment No. 24 is now in order at this time.

Does the gentleman from New York [Mr. ACKERMAN] desire to offer amendment No. 24?

Mr. ACKERMAN. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. ACKERMAN: Page 39, line 10, insert "(I)" after "if".

Page 39, line 11, strike out "or" and insert in lieu thereof ", (II)".

Page 39, beginning on line 10, insert "is not" before "rendered".

Page 39, line 12, after the comma insert the following: "(III) in the case an appeal to the United States Immigration Board from a denial of an application for asylum has been taken under section 107(b), a decision of the Board is not rendered on the appeal within 60 days of the date the notice of appeal is filed with the Board, or (IV) in the case judicial review of a denial of an application for asylum has been taken under section 106(a), a decision of the reviewing court on the petition for review is not rendered within 30 days of the date the petition is filed with the court,".

Page 39, at the end of line 20, insert the following new sentence: "Nothing in this section shall be construed as allowing for the detention of an alien without a showing that the alien has violated a reasonable condition of the release or that the continued release of the alien would pose a danger to any other person or to the community.".

Mr. MAZZOLI. Will the gentleman from New York yield to the gentleman from Kentucky?

Mr. ACKERMAN. I will be delighted to yield.

Mr. MAZZOLI. I thank the gentleman from New York, one of the outstanding new Members of this body.

The gentleman from Kentucky has examined the gentleman's amendment. I might say also having consulted with the gentleman from Wisconsin, the chairman of the Subcommittee on Courts who works and handles this matter for the Judiciary Committee, as I understand it the gentleman from Wisconsin [Mr. KASTENMEIER] has no objection to this and I therefore would accept it.

I would ask my friend from California, having suggested to my friend from New York that the gentleman from Wisconsin has agreed to the amendment, I wondered about my friend from California.

Mr. LUNGREN. Will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman from California.

Mr. LUNGREN. I must confess to the gentleman that I cannot accept the amendment.

Mr. MAZZOLI. You cannot accept it?

Mr. LUNGREN. I cannot accept the amendment.

Mr. MAZZOLI. I am sorry and thank the gentleman. The gentleman does not accept it and I yield back to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, this amendment deals with the prolonged and sometimes unending detention of those who arrive on our shores, fleeing tyranny and persecution because of race, religion, politics, or nationality and claim asylum in the land of liberty. We in turn throw them in jail.

In jail they can languish and rot with almost no guidelines or clue as to when they can get out.

Presently, under the current law, when a person is in prison after applying for asylum: First, the INS can take forever, that is literally forever with no prescribed limit before having a hearing, and if they have a hearing they can take forever before rendering a decision. And if they take less than forever and render an unfavorable decision, the asylum applicant can renew before the Immigration Court where;

Second, the Immigration Court can take forever before they have a hearing, and they can take forever before rendering a decision. And if they take less than forever and render an unfavorable decision, they can appeal that decision before the Board of Immigration Appeals where;

Third, the Board of Immigration Appeals could take forever before hearing the case, and if they hear the case they can take forever before rendering a decision, and if they take less than forever and render an unfavorable decision the applicant, in certain cases, can appeal to the Federal courts where;

Fourth, the Federal courts can take forever before hearing the case, and if they hear the case they can then take forever before rendering a decision.

Mr. Chairman, the committee is to be commended for bringing reason, humanity, and outside parameters to some of the limitless waits. The bill now says that when a person asks for asylum and is instead detained, the INS must begin the hearings within 45 days and if it does not the bill says the applicant is to be paroled, and after the hearing the bill says the INS must render a decision in 30 days and if it does not then the bill says the asylee is to be paroled.

The bill also says that in the case of an appeal that the newly created U.S. Immigration Board must render a decision within 60 days and if it does not (nothing) the bill is silent.

That is where my amendment comes in. It answers the question by carrying through the same reason evident in the bill and prescribes the same remedy as the committee. If the Board fails to act within the time the bill says they must parole the applicant.

The amendment also says that if the Federal court, which has judicial review in only a limited number of cases, fails to render a decision within 30 days that the Attorney General will parole the detainee until the decision is rendered.

The present detention of Afghans jailed in New York provides a good example of why this amendment is essential; 12 persons who fled their homeland in the wake of the brutal Soviet invasion of Afghanistan are now imprisoned in a U.S. Immigration jail.

Mr. GILMAN. Will the gentleman yield?

Mr. ACKERMAN. Yes; I will, if I can get more time.

Mr. GILMAN. Mr. Chairman, I rise in support of the pending amendment. Having been involved with my colleague from New York in a recent case in which two young asylees were detained for months on end, with no relief in sight, while all procedures were being adjudicated, this amendment addresses a point in which the fault is with the Government, and not the asylee.

The language in H.R. 1510 requires that an individual be released from detention if the INS has not begun a hearing within 45 days of the asylum request, and has not rendered a decision within 30 days after the hearing is completed. However, the bill does not contain release provisions for those cases which may continue on through the appeals process. The amendment before us requires a detainee to be released if there is a determination that the individual is not likely to abscond, and if a decision has not been rendered within 60 days of the date that the notice of appeal has been filed with the Board of Immigration Appeals or within 30 days after a petition for review has been filed with the court. The amendment puts a limit, heretofore unaddressed in H.R. 1510, of 5½ months on the amount of time that the INA can hold refugees seeking asylum if the adjudication process is bogged down and not due to any fault of the refugee. By placing this time limit on the holding of asylees, we can ensure that asylum cases are adjudicated swiftly and in accordance with the law, as well as allowing those asylees who are in no way threats to their communities, to live in this country in the same manner as those who have not been detained. This situation would exist from that 5½-month time limit until a decision has been rendered in each case.

Mr. Chairman, it is important that in addressing the many provisions of this legislation, we maintain a humane attitude to those individuals who have come to this country seeking refuge from political or religious persecution. They willingly undergo the many adjudication procedures that this country requires, and, in many cases, are detained and linger in prisons for months while their cases are being heard. This amendment would place a limit on the amount of time that these asylees could be held while their case is on appeal, when the fault lies with the heavy docket of cases pending before the Federal Government.

Accordingly, I urge my colleagues' support for this important amendment, and commend the gentleman from New York in his perseverance in this human rights issue.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. Certainly I will yield.

Mr. DE LA GARZA. I commend the gentleman for an excellent amendment.

Mr. Chairman, I rise in support of this amendment and commend our colleague from New York for introducing it. It is but a very small step in preventing undue suffering and humiliation for many people who seek asylum in our country. We still have a problem with the basic low on asylum which prevents many people who need a haven from prosecution and perhaps even death in many instances. I ask my colleagues to support the amendment.

The CHAIRMAN. The time of the gentleman from New York [Mr. ACKERMAN] has expired.

(By unanimous consent Mr. ACKERMAN was allowed to proceed for 4 additional minutes.)

Mr. GARCIA. Will the gentleman yield?

Mr. ACKERMAN. I yield to the gentleman.

Mr. GARCIA. I would also like to join my colleagues in congratulating my colleague from New York for an amendment which I think is quite appropriate. After having visited some of the pens and detention centers in New York and various parts of the country, I know that there are people who have been there for months on end and with no release in sight.

The gentleman is to be commended.

Mr. ACKERMAN. I thank the gentleman.

The Afghans are being held pursuant to the INS policy of detaining aliens who enter the country without proper documentation.

Did we expect them to go to a Soviet tank commander and ask for a proper passport?

All of these Afghans have applied for political asylum in the United States on the grounds that they would face persecution or death if they return to Afghanistan, and they have been recognized as refugees by the Department of State's Bureau of Human Rights and Humanitarian Affairs.

Despite this recognition the Afghans remain in detention. Some have been locked up for over 21 months with little prospect for release in the immediate future.

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As I mentioned, the Simpson-Mazzoli bill has taken an important step to rectify prolonged detention and the Judiciary Committee deserves to be commended for its efforts in this area. But it is conceivable that the INS could meet the established deadlines in the initial stages of asylum adjudication processes, but become bogged down during the appeal.

In this case an individual could face the same kind of prolonged detention that exists today and that the bill begins to correct. My amendment completes that process.

Three quick points: First, and very importantly, this amendment takes effect only if the delays are the fault of the Government and not the result of postponing tactics by the asylum applicant.

Second, this amendment in no way stops the detention policy. It merely puts a limit on the amount of time the INS can hold those seeking asylum if the adjudication process becomes bogged down due to no fault of the applicant. With the adoption of this amendment under a worst-case scenario, an asylee could still be held for a maximum of 5½ months. Under the current situation there is no limit at all. Some individuals have been held for up to 2 years while the INS contemplates or fails to contemplate their cases.

Third, this amendment does not call for unconditional parole. As the bill is written, and I quote from the bill:

> The Attorney General shall provide for the release of the alien on parole subject to such reasonable conditions as the Attorney General may establish to assure their presence of the alien at any appropriate proceedings unless the Attorney General has reason to believe that the release of the alien would pose a danger to any other person or to the community.

My amendment is built on this exact provision which is already in the bill and which allows for the imposition of reasonable parole requirements. By adopting this provision, we will make our new asylum procedures slightly more humane.

I would remind Members that we are not talking about putting tens of thousands of people on the streets. At this time there are approximately 1,000 detainees in asylum proceedings, and of those, about 300 are in the appeals processes.

With the discretion that exists in the language I just quoted, the INS will be able to make a rational and informed judgment about detaining those who might flee or present a danger and granting parole to those others whom we can reasonably expect to responsibly await judgment in their case.

Mr. Chairman, I yield back the balance of my time.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment. But I will not call for a recorded vote on this.

I just say to the gentleman, I do believe he has attempted to try to address a problem that we recognize. My real problem with this is setting a period of time which in my judgment may be arbitrary with respect to the limitations on the court system.

The biggest problem we have here is that the executive branch upon which you can place a limit to which they can respond and even the U.S. Immigration Board limit to which they can respond is not necessarily applicable to the judicial branch.

And I would hope that perhaps in conference we might be able to form something that is timely as the Senate version says, but perhaps articulate a time limit that we can find would be reasonable within the Federal court case load. That is the only problem I have with the gentleman's amendment.

I certainly do not want to see Afghan asylees or claimants for asylum from any other country to sit for 2 years while the court system drags on. At the same time, I do not want us to require people to be released before a decision is made merely because the case load is so great, because we may have had an influx of asylees or potential asylees at any one period of time.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. LUNGREN.** I would be happy to yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** Mr. Chairman, I salute the gentleman. This gentleman from Kentucky has had a chance to chat with the gentleman from New York, the author, the gentleman from Wisconsin, the chairman of our Committee on Courts, and I think exactly as the gentleman says, there is a need for us to examine some of the technicalities here and I appreciate the gentleman's decision not to ask for a recorded vote.

**Mr. LUNGREN.** I would just suggest that the gentleman make sure that people on his side yell loudly and we will not need a recorded vote.

**Mr. MAZZOLI.** We on our side are known to have leather lungs and we will have to prove that point when the Chair puts the question.

**Mr. LUNGREN.** I would yield back the balance of my time and would hope we can have a vote.

**Mr. McNULTY.** Mr. Chairman, I move to strike the last word, and I do so only for the purpose of asking my friend from New York a question with respect to the application, if any, if this amendment were to become part of the bill to people who were discharged from the Mariel Prison in Cuba; a number of whom are now in Tucson, Arizona, to their enormous discomfort.

I would like to yield to the gentleman from New York and ask him what applicability, if any, would this amendment have to people who are formerly residents of Mariel Prison.

I yield to the gentleman.

**Mr. ACKERMAN.** I thank the gentleman for bringing up that question. In the first instance, those individuals do not fit under this particular bill. They are excluded, they are in a special case of limbo as it were right now.

And even were that not the case, the Attorney General under this piece of legislation does have the right to declare them a danger to the community and therefore they would also be excludable under the provisions of this bill.

**Mr. McNULTY.** Mr. Chairman and my friend from New York, I find that most comforting, and I thank the gentleman for that answer and would like to support the amendment.

**The CHAIRMAN.** The question is on amendment No. 24 offered by the gentleman from New York [Mr. ACKERMAN].

The amendment was agreed to.

### AMENDMENT NO. 25 OFFERED BY MR. COLEMAN OF TEXAS

**The CHAIRMAN.** Amendment No. 25 is in order at this time.

Does the gentleman from Texas [Mr. COLEMAN] desire to offer amendment No. 25?

**Mr. COLEMAN of Texas.** Yes; I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Mr. COLEMAN of Texas: Page 47, after line 23 insert the following new subsection:

(f) In the appointment of persons to the position of administrative law judge under section 107(c) of the Immigration and Nationality Act (added by this part) before the end of the two-year period beginning on the hearing transition date—

(1)(A) applications shall be accepted at any time before the hearing transition date from individuals acting as special inquiry officers on the date of the enactment of this Act, and (B) such individuals who apply before such date shall be considered to meet the minimum requirements for entrance to the examination for such position (and shall be awarded, in the application process, at least the minimum number of points for persons who otherwise meet such minimum requirements) and shall be given the examination for that position not later than the quarter following the application; and

(2)(A) each individual who is serving as a special inquiry officer on the date of the enactment of this Act and whose name is included on the certificate of eligibles furnished to the Chairman of the United States Immigration Board by the Director of the Office of Personnel Management for that position shall be treated, for purposes of section 3318(b) of title 5, United States Code, as a preference eligible (within the meaning of section 2108(3)(A) of that title) and (B) the Chairman shall take into account (in selecting among persons whose names are on the certificate) the demonstrated abilities and expertise in immigration law of such individuals.

**Mr. COLEMAN of Texas.** Mr. Chairman, this amendment is a fair disposition of the provisions in H.R. 1510 relating to special inquiry officers or immigration judges as they are more popularly known.

Under H.R. 1510, the President nominates members of the U.S. Immigration Board. This Board, when finalized and approved by the other body, is then to provide for interim rules of practice and procedure for itself and administrative law judges [ALJ's] after the hearing transition date which is 45 days after the date the interim final rules are established. The Chairman is then to appoint at least 10 administrative law judges for asylum cases. Individuals acting as special inquiry officers are permitted to conduct proceedings or hearings under the Immigration Act after such transition date for a 2-year period.

In other words, the job of the present special inquiry officer will be replaced by an administrative law judge, and after a 2-year period there are no guarantees that the present immigration judges will be selected for administrative law judge positions.

As you may know, there are only 54 immigration judges across the country who together complete an average of 7,900 cases per month. I am concerned about losing the expertise of these individuals. It would take years to train a new crop of judges to reach the level of experience we have now.

An Office of Personnel Management [OPM] regulation does allow preference for an employee whose specific position is reclassified by legislation. However, since H.R. 1510 abolishes INS special inquiry officers and creates a new board to be staffed by administrative law judges, it is doubtful that INS or OPM would be able to treat this situation in the same manner.

The amendment I am offering addresses this concern. It provides that before the end of the 2-year transition period, these special inquiry officers shall be considered to meet the minimum requirements for entrance to the administrative law judge examination and awards them a minimum number of points. This is permissible even if the administrative law judge registry—from which final qualified candidates are chosen—is closed as it has been for the past 14 months.

At that point the inquiry officer must enter the competitive field and qualify for further consideration by testing whether these individuals possess the required knowledge of rules of evidence and trial procedures, analytical ability, decisionmaking ability, communications ability, judicial temperament, and writing ability.

In the event that the Chairman of the U.S. Immigration Board should choose the name of a qualified inquiry officer after taking the competitive exam, he must follow the OPM procedures with respect to preference eligibility, which the inquiry officers are accorded, if they reach this level, and must be given an explanation of reasons why they would not be chosen.

Finally, the Chairman of the Immigration Board must take into account, in selecting persons for administrative law judge positions, the demonstrated abilities and expertise in immigration law of such individuals.

Thus, my amendment only gives a preference to permit them to enter the competitive examination system. If they are not qualified, they will be weeded out.

I urge my colleagues to support this equitable amendment.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman from Texas yield to the gentleman from Kentucky?

**Mr. COLEMAN of Texas.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank the gentleman who has made a very substantial contribution to our bill.

I salute his knowledge. We talked earlier in the Congress and his knowledge of the subject was very helpful.

The gentleman from Kentucky has examined the amendment, finds it meritorious and agrees to accept it.

**Mr. COLEMAN of Texas.** I thank the chairman for that. Before I yield, if I could, I would only point out that certainly Mr. MOAKLEY of Massachusetts deserves a great deal of credit for working with me on this particular amendment in the Rules Committee.

Mr. Chairman, I would certainly be remiss if I did not compliment the gentleman from Kentucky [Mr. MAZZOLI] and Mr. LUNGREN for permitting me the opportunity as a new Member to fully participate in the hearings of the subcommittee and the Committee on the Judiciary and to Mr. PEPPER for his willingness to permit me to offer these amendments under the rule.

**Mr. LUNGREN.** Mr. Chairman, will the gentleman yield?

**Mr. COLEMAN of Texas.** I yield to the gentleman from California.

**Mr. LUNGREN.** If the gentleman has no more compliments for those of us who are standing, I will promise to support this if we have no further debate.

**Mr. COLEMAN of Texas.** In that event, Mr. Chairman, I ask for the adoption of the amendment.

**Mr. CHAIRMAN.** The question is on amendment No. 25 offered by the gentleman from Texas [Mr. COLEMAN].

The amendment was agreed to.

### AMENDMENT NO. 26 OFFERED BY MR. OTTINGER

**The CHAIRMAN.** Amendment No. 26 is now in order.

Does the gentleman from New York [Mr. OTTINGER] desire to offer amendment No. 26?

**Mr. OTTINGER.** I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. OTTINGER: Page 24, line 9, strike out "AND ASYLUM".

Page 24, strike out line 10 and all that follows through page 26, line 10, and redesignate the succeeding section accordingly.

Page 28, beginning on line 6, strike out "a redetermination excluding an alien under section 235(b)(1)(B)(ii) or".

Page 31, strike out lines 13 through 15.

Page 32, strike out line 4 and all that follows through page 47, line 23, and insert in lieu thereof the following:

### EFFECTIVE DATES AND TRANSITION

SEC. 122. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2) The amendments made by this part shall not apply to any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated or any application for asylum which was filed before the hearing transition date (designated under subsection (c)(1)). In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that administrative law judges may assume and perform such functions of special inquiry officers or immigration officers as may be appropriate and consistent with their duties as administrative law judges.

(b)(1) The President shall nominate the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than 45 days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than 45 days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3) The Board shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and administrative law judges under the Immigration and Nationality Act, after the hearing transition date designated under subsection (c)(1).

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the administrative law judge system, the Board, in consultation with the Attorney General, shall designate a "hearing transition date", to be not later than 45 days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A).

(2) During the period before the hearing transition date, any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an administrative law judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before the date of this Act takes effect.

(2) Under rules established by the United States Immigration Board, with respect to exclusion and deportation cases and applications for asylum pending as of the hearing transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and administrative law judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(3) Any reference in the Immigration and Nationality Act to an administrative law judge shall be considered, before the transition date, to be a reference to a special inquiry officer.

Page 48, line 2, strike out "126" and insert in lieu thereof "123".

Conform the table of contents accordingly.

**Mr. OTTINGER.** Mr. Chairman, this amendment reestablishes current law by striking three sections 121, 123, and 124 of the bill pertaining to inspection and exclusion, judicial review, and asylum adjudication procedures. As these provisions diminish the protections embodied in current law while doing nothing to restrict the flow of aliens into the country, their effect will be disproportionately felt by refugees seeking political asylum in the United States.

Section 121 of the bill, which the amendment strikes, introduces a new "summary exclusion" procedure that would entitle Border Patrol officers to turn back aliens at the border who have no passports or visas, without giving them an opportunity for a hearing and judicial review, guaranteed under current law. This radically new procedure would have serious effects on refugees and may well result in serious abuses of human rights if persons are returned to a country where they face persecution.

As Amnesty International and the U.N. High Commissioner for Refugees have recognized, persons who flee persecution in their home countries frequently have neither the foresight nor the opportunity to obtain passports or visas. Indeed, many times they are literally running for their lives.

Often they reach the United States only after a long and perilous journey. They know little about our legal system and are easily intimidated by uniformed border authorities who are reminiscent of repressive authority figures in their home countries. Even if they are aware of their right to apply for asylum, they seldom do so immediately on arrival, but rather assert such claims only after achieving more secure surroundings.

While the bill expressly recognizes the complicated nature of asylum determinations, this procedure would allow Border Patrol officers to determine whether an alien seeking entry into the United States has any "reasonable basis for legal entry." Border Patrol officers, who have no special legal training, would be asked to make the same determination required of an administrative law judge. Yet the bill mandates that an administrative law judge must undergo special training in such areas as international relations before making these determinations. Allowing Border Patrol officers to make arbitrary and uninformed legal determinations is in direct violation of the U.S. international and domestic legal obligations.

Section 123 of the bill, Judicial Review, could significantly change the nature and extent of judicial review for political asylum applicants. The courts have been instrumental recently in correcting the discriminatory and arbitrary detention of asylum seekers by the Immigration and Naturalization Service, as well as the ideologically motivated and overly restrictive standards that it uses to determine whether or not persons are entitled to refuge in the United States, particularly refugees from non-Communist dictatorships like Haiti and Chile.

The judicial review provisions of the bill would diminish refugees' access to the courts in certain circumstances. For example, the bill limits the scope of judicial review in individual asylum cases by precluding review of whether the facts of the case are supported by substantial evidence in the record. The court's review would be restricted only to questions of application of law and constitutional questions.

Current law provides for full and fair judicial review of administrative determinations. As the Judiciary Committee has noted, in its request:

> The facts support the position that administrative shortcomings, not judicial interference, has caused the enormous backlog in asylum cases.

For this reason, existing law as it pertains to judicial review, should be maintained.

Finally, section 124, which my amendment strikes, establishes a statutory asylum adjudication procedure. To approach political asylum procedures in a bill principally aimed at controlling immigration is fundamentally wrong. Grants of asylum account for only a small portion of aliens entering the United States. Moreover, the human interests at stake in asylum determinations cannot be sacrificed merely in the name of administrative efficiency.

Section 124 is fraught with irregularities and ambiguities which could well cause injustice to asylum seekers. For example, the section sets restrictive limitations on the time allowed to asylum seekers in making their case. The time constraints specified in the bill are not only unrealistic, but they may well result in denial of valid asylum claims causing the return of persons to countries where they face persecution or harm.

The Administrative Conference of the United States strongly recommends against statutorily mandated time constraints on agency actions, claiming that these time limits "tend to undermine an agency's ability to establish priorities and to control the course of its proceedings." Overly restrictive time limitations would encourage, at worst, defaults in making claims with disastrous human consequences. At best, they would promote inefficiency in the form of meritless applications.

The effect of these three sections of the bill would be to restrict, confuse, and obscure necessary humanitarian provisions of our immigration policy. I urge adoption of my amendment to reinstate current law in these areas.

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Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Of course, I will strongly oppose the gentleman's amendment. I would hope that the gentleman, having seen what happened a moment ago, would understand what we are talking about. The gentleman's amendment absolutely strikes what the House committee did. It shows a lack of total regard for what we tried to do. Based on a lot of things, I would hope that the gentleman would just kind of listen, and we hope that we can maybe help the gentleman later. But this amendment is a very bad amendment.

Mr. OTTINGER. I must say that I am not very happy about the characterization of the gentleman from Kentucky. Asylum is a very serious matter.

Mr. MAZZOLI. I understand.

Mr. OTTINGER. I have literally thousands of people in my district who came to New York from places like Chile and Argentina.

Mr. MAZZOLI. I understand.

Mr. OTTINGER. Escaping what would have been certain death. I think those procedures are exceedingly important.

Mr. MAZZOLI. The gentleman simply just wipes out everything our committee did.

Mr. OTTINGER. I was considering supporting the bill, even though many of the things in it bother me.

Mr. MAZZOLI. I appreciate that.

Mr. OTTINGER. But if the gentleman persists, perhaps I will not.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding, and I want to compliment him for offering these amendments. Some of us have been unhappy over the course of these past years at the weakness in the asylum provisions and judicial review provisions, as it is in the current law.

The CHAIRMAN. The time of the gentleman from New York [Mr. OTTINGER] has expired.

(On request of Mr. WEISS and by unanimous consent, Mr. OTTINGER was allowed to proceed for 1 additional minute.)

Mr. WEISS. If the gentleman will yield further, I find it distressing that, under the guise of immigration and naturalization law reform, the committee in fact comes before us and makes an already difficult and bad situation enormously worse. I would hope that this amendment in fact would be adopted to return the situation to the status quo, which is difficult and bad and narrow enough, as it is.

Our Nation has made a historic commitment to shelter the oppressed peoples of the world. Our current laws reflect this commitment by providing important protections to refugees who are fleeing persecution in their homeland.

However, the bill before us today envisions a reduction in these protections and a weakening of our longtime commitment to the victims of political, economic, and religious oppression.

Section 121 of H.R. 1510 provides for the summary exclusion of aliens who arrive at our border without a passport or a visa. This section allows a border inspection official to become policeman and judge in determining the fate of would-be refugees. In some cases, these officials would wield the power of life and death over the arriving refugees.

I believe this section to be in violation of our commitments under national and international law. The Refugee Act of 1980 recognizes our responsibility to ensure that every alien who is present or arrives in the United States has the opportunity to apply for asylum. And when we signed the protocol relating to the status of refugees, ratified in 1968, we obligated ourselves to provide entry to genuine political refugees.

It is true that the border inspection officials are required to advise aliens of their right to legal counsel and to a redetermination by an administrative law judge. But this is not an adequate protection for individuals who arrive in this country tired, hungry, and deathly afraid of uniformed officials who remind them of the oppressive authorities from which they are fleeing. It is too much to expect of these individuals that they will understand official explanations about legal counsel or redeterminations.

In the seventies, when Haitians were arriving in this country in large numbers, church groups collected from one group of detainees affidavits relating to their claims of persecution. The church groups found that many of the Haitians had bona fide claims. Yet when INS officers interviewed the same group through an interpreter a few days later, the Haitians emphatically denied that they intended to apply for asylum. Only later was it discovered that the interpreter had used the Creole word referring to mental institutions rather than political asylum in questioning these refugees.

This is just one example of the kind of abuse that might occur if the right of summary exclusion is granted to border officials.

Section 123 of the bill, dealing with judicial review, is also problematic. This section could significantly diminish access to the courts by refugees. For example, the bill limits the scope of judicial review in asylum cases by precluding review of whether the facts of the case are supported by substantial evidence in the record. The courts have played an extremely important role in recent years in protecting the rights of asylum seekers, and it is essential that access to the courts remain unencumbered.

Finally, the bill's provisions with respect to asylum adjudication are highly disturbing. Strict time limitations are placed upon refugees seeking asylum in our country. Given the extremely vulnerable situation of asylum seekers, who are unfamiliar with our language or our legal system, it is essential that we provide these individuals with enough time to secure legal assistance and present their claims.

The amendment of my colleague from New York would do nothing but retain the current protections which we have seen fit to provide to refugees who come to our country seeking freedom from their suffering. It is essential that we maintain our Nation's historic commitment to these victims of persecution by approving this amendment. I urge my colleagues to join me in support of this essential amendment.

**Mr. OTTINGER.** I thank the gentleman for his excellent statement and I would like to concur very strongly in his remarks.

**Mr. MAZZOLI.** Mr. Chairman, I hope that I am the only speaker to speak against the gentleman's amendment. I think, really, only one speaker is necessary, and I hope we can just move on to another chapter.

What the gentleman from New York in good faith does is just simply strike out everything that your committee has done. He guts our total section on this question of asylum and adjudication. We labored on it, the gentleman from Florida [Mr. McCOLLUM] labored on it, the gentleman from New York [Mr. FISH] labored on it, we did, for 4 solid years, to come out with this bill. The gentleman from Kentucky earlier tonight recited to the House the laundry list of protections for the individual and judicial protections, which we have woven into the law, and the gentleman from New York is obviously a master of this subject and is concerned about the people, and we are very much, ourselves. That is why the bill is before you. It is a good, sensible, sensitive bill. I urge the House to support the committee position, to reject the position of the gentleman from New York.

**Mr. FISH.** Mr. Chairman, will the gentleman yield?

**Mr. MAZZOLI.** I yield to the gentleman from New York, and then I would hope to have a vote.

**Mr. FISH.** In keeping with the gentleman's request that he be the only speaker, I will be brief. As the gentleman says, this strikes all of the provisions providing for summary exclusion that we did spend a considerable amount of time on. I just want to say that, to me, no part of this amendment is acceptable.

**Mr. MAZZOLI.** I thank the gentleman.

**The CHAIRMAN.** The question is on amendment No. 26 offered by the gentleman from New York [Mr. OTTINGER].

The amendment was rejected.

### AMENDMENT NO. 27 OFFERED BY MR. ROYBAL

**The CHAIRMAN.** Amendment No. 27 is now in order.

Does the gentleman from California [Mr. ROYBAL] desire to offer amendment No. 27?

**Mr. ROYBAL.** Yes, Mr. Chairman; I do.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. ROYBAL: Page 47, after line 23, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly):

### ARREST, SEARCH, AND DETENTION AUTHORITY OF SERVICE OFFICERS AND EMPLOYEES

SEC. 126. (a)(1) Subsection (a) of section 242 (8 U.S.C. 1252) is amended—

(A) by inserting before the period at the end of the first sentence the following: "only if such arrest is necessary to ensure the alien's presence in the deportation proceeding or if the alien is a danger to the public safety or national security";

(B) by striking out "in the discretion of the Attorney General" in the second sentence and inserting in lieu thereof "after a bail determination",

(C) by striking out "the amount of not less than $500 with security approved by the Attorney General containing" in the second sentence and inserting in lieu thereof "an amount and subject to",

(D) by striking out "on conditional parole" in the second sentence and inserting in lieu thereof "without bond on such other conditions as the Attorney General may prescribe",

(E) by striking out "in his discretion" in the third sentence and inserting in lieu thereof "in accordance with subsection (i)", and

(F) by striking out "parole" in the third and fourth sentences and inserting in lieu thereof "release without bond".

(2) Subsection (b) of such section is amended—

(A) by inserting ", the specific paragraph or paragraphs in section 241(a) under which deportability is alleged," in paragraph (1) after "charges against him",

(B) by striking out "and" at the end of paragraph (3),

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and

(D) by inserting after paragraph (4) the following new paragraphs:

"(5) proceedings against an alien under this section shall be open to the public unless the alien requests that the hearing be closed to the public; and

"(6) any evidence, including oral or written statements and tangible objects and documents, obtained by the Service may be considered in proceedings under this section, except that any such evidence seized in violation of (or as a result of a violation of) this section or other law may not be considered in such proceedings.".

(3) Subsection (c) of such section is amended by striking out "at the Attorney General's discretion" in the first sentence and inserting in lieu thereof "in accordance with subsection (i)".

(4) Such section is further amended by adding at the end the following new subsection:

"(i)(1) Any person in custody under subsection (a) or (c) shall be entitled to a bail determination in accordance with this subsection without unnecessary delay, and in no event later than 24 hours after the time of arrest or the decision to hold such person in formal proceedings.

"(2) The bail determination shall initially be made by an officer of the Service specifically authorized by the Attorney General to make such determinations.

"(3) In making a bail determination, the following factors shall be considered:

"(A) the length of residence in the United States;

"(B) the ability lawfully to immigrate to the United States in the near future;

"(C) family and community ties in the United States;

"(D) employment history in the United States;

"(E) previous record of appearance or failure to appear in administrative or judicial proceedings; and

"(F) any other factors considered relevant to the likelihood of appearance at proceedings under this section.

"(4) Unless it is determined that a person is a danger to the public safety or national security, any person arrested under subsection (a) shall be released without bond if it is determined that one or more of the following conditions of release will reasonably assure his appearance at deportation proceedings:

"(A) placement in the custody of a designated person or organization agreeing to supervise him;

"(B) restrictions on his travel or place of abode during the period of release; and

"(C) requiring that he report periodically to the Service.

"(5) Any persons dissatisfied with his initial bail determination may apply to an administrative law judge for a de novo bail determination.

"(6) If it appears that there is reasonable cause, the Attorney Geneal may revoke at any time an alien's bond or conditional release and the alien may be returned to custody and detained until final determination of his deportability. Such revocation may be reviewed upon petition of the respondent by an administrative law judge.".

(b)(1) Subsection (a) of section 287 (8 U.S.C. 1357) is amended—

(A) by amending paragraph (1) to read as follows:

"(1)(A) to stop and interrogate without temporarily detaining any alien or person reasonably believed to be an alien as to his right to be or to remain in the United States;

"(B) to stop and temporarily to detain any alien or person reasonably believed to be an alien if the officer or employee also has a reasonable belief, based on specific, articulable facts, that the person so detained is in the United States in violation of this Act.";

(B) by inserting ", based on specific articulable facts," in paragraph (2) after "reason to believe"; and

(C) by striking out "before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States" in paragraph (2) and inserting in lieu thereof "within 24 hours of the time of arrest before the District Director, Deputy or Assistant District Director, head of suboffice, or an administrative law judge for a determination of whether sufficient evidence exists to support the initiation of deportation proceedings, unless the person requests permission to withdraw voluntarily from the United States in lieu of exclusion or deportation proceedings under sections 236 and 242".

(2) Such section is further amended by adding at the end the following new subsections:

"(d)(1) At the time of an alien's arrest with or without a warrant under section 242, the alien shall be provided oral and written notice (in English or in such other languages identified by the Attorney General as likely to be understood by the alien) of the reason for his arrest and the alien's rights under this Act, including—

"(A) his right to remain silent and that any statement made may be used against him,

"(B) his right to be represented by counsel of his own choice, at his own expense, and of the availability of free legal services,

"(C) his right to apply for political asylum and that he may be eligible for asylum if he qualifies as a refugee,

"(D) his right to a deportation hearing before an administrative law judge to determine whether the alien is legally entitled to remain in the United States, and

"(E) that the alien's agreeing to depart from the United States voluntarily waives the alien's right to a deportation hearing.

Before an alien signs a form agreeing to depart voluntarily or otherwise departs under section 242(b) or 244(e), the alien shall be provided the notice described in the first sentence of this paragraph and shall acknowledge in writing receipt of the notice.

"(2) Prior to the commencement of any interrogation of a person in custody under this Act, the person shall be orally advised of his right to be represented by counsel of his own choice, and at his own expense, of his right to remain silent and that any statement he makes may be used against him.

"(e) Any officer or employee of the Service designated pursuant to regulations prescribed by the Attorney General shall have the power to issue a warrant for the arrest of any person reasonably believed by such officer or employee, based on specific, articulable facts, to be an alien unlawfully in the United States.

"(f)(1) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General may search persons or property (including a place of business or residence) upon the authority of a search warrant issued by a United States magistrate or a judge of a district court of the United States for the district wherein the person or property is located or by an administrative law judge. Such a warrant may be issued to search for and seize any person or property that constitutes evidence of the commission of a violation of this Act. A warrant shall issue only upon an affidavit or affidavits or sworn oral testimony establishing the grounds for issuing the warrant.

"(2) If the magistrate or judge is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. Before ruling on a request for a warrant, the magistrate or judge may require the affiant to appear personally and may examine under oath the affiant and any witnesses he may produce and such proceeding shall be of record.

"(3)(A) The warrant, if issued, shall authorize an officer or employee of the Service to search, within a specified period of time not to exceed 10 days, the person or place named for the person or property specified. The warrant shall be served in the daytime unless the issuing authority, by appropriate provision in the warrant and for reasonable cause shown, authorizes its execution at another time.

"(B) The warrant shall designate a federal magistrate, judge, or administrative law judge to whom it shall be returned. The officer or employee of the Service taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The federal magistrate, judge, or administrative law judge shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

"(4)(A) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General may search without warrant persons or perperty (including a business or residence) for the purpose of seizing any property that constitutes evidence of the commission of a violation of this Act or any person present in the United States in violation of this Act, where exigent circumstances exist such that the officer or employee has probable cause to believe that the search will disclose the existence of such evidence or person and that such evidence will be destroyed or such person will abscond before a warrant can be obtained.

"(B) An officer or employee seizing property under subparagraph (A) shall give to the person from whom or from whose premises the property was seized a receipt for the property taken or shall leave a receipt at the place from which the property was seized.

"(5) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General may search without warrant persons or perperty (including a business but not including a residence or dwelling) for the purpose of seizing any person or perperty that constitutes evidence of the commission of a violation of this Act, when the person in lawful custody and control of such property voluntarily consents to such search. Such consent shall not authorize the arrest, search, or interrogation of persons located on the premises unless otherwise authorized under this section.

"(6) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service shall not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States or for activities related to that purpose.".

Mr. ROYBAL. Mr. Chairman, this amendment clarifies INS authority by codifying standards under which INS can carry out its operations. It draws on judicial decisions as well as internal INS regulations and policies. The Immigration and Naturalization Act, however, seems to remain silent on this issue. The truth of the matter is that the amendment before us also addresses itself to include standards of detaining individuals and setting bonds for their release. It addresses itself to include standards for questioning, for arresting and searching individuals. It also deals with a Miranda-type rule requiring that persons in INS custody be advised of their rights. It deals with exclusionary rule for illegally obtained evidence, and it also deals with matters of search warrant requirements for open fields that would be required in the absence of the owner's consent.

Now, the purpose, of course, is to ensure more evenhanded application of applicable standards and to codify standards sufficiently stringent to protect the rights of individuals as subjects to INS personnel action.

What all this means, Mr. Chairman, is that these are matters of great concern. These are things that should definitely be explored over a period of time by the committee itself. I do not believe that matters of this kind can actually be discussed and written into law in the very short time that we have to discuss these amendments. It is my understanding that by 8:30 we are going to cease the debate on this subject. Therefore, we cannot in 20 minutes actually deal with the subject matter that should take perhaps days of hearings and studies by the committee.

So I am going to ask, Mr. Chairman, and I would like to address my remarks now to the chairman of the committee whether or not it would be possible for the committee to study this, to hold hearings on it and then make a report to the House.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, let me salute my friend, the gentleman from California, for having made a very solid, thoughtful offering here, because the gentleman has talked about several matters which are extremely important—the tainted evidence rule, the question about bail determinations. The gentleman brings up the question about search warrant procedure, he brings up the question of Miranda-type advice. These are very, very salient and important points. The gentleman from California is a leader in this body on this whole subject, a leader in the country, really, and I would assure the gentleman that if I am here next year as chairman of this committee, I would be very happy to conduct hearings in the gentleman's own district, hearing witnesses, and I think we could receive and develop a recommendation for this body that I think then could be considered under quieter, more placid situations, and maybe even adopt it.

I thank the gentleman for bringing it up.

**Mr. ROYBAL.** Mr. Chairman, may I now take the opportunity of endorsing the gentleman from Kentucky for reelection.

**Mr. MAZZOLI.** I appreciate that.

**Mr. RICHARDSON.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman from New Mexico.

**Mr. RICHARDSON.** I appreciate the magnanimity. My colleague, the gentleman from California, and I are united on most everything. But I wonder if this is the course that my colleague, the gentleman from California, wants to pursue. I now see why the gentleman from Texas [Mr. KAZEN] was concerned about a time limit. This is an enormously important amendment and provision for the Hispanic community, for minorities, relating to the INS and their powers, and I wonder if my colleague in effect wants just a commitment for hearings. Would the gentleman from Kentucky accept this amendment? Why can we not proceed with the amendment perhaps being accepted rather than being put off for hearings? I respect my colleagues, and I am not going to pursue this extensively, but I wonder why it is that we want to just in a year proceed with hearings.

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**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman for his response.

**Mr. MAZZOLI.** My friend from New Mexico is a very outstanding young Member of Congress, but the gentleman from California has been in this body for many years.

**The CHAIRMAN.** The time of the gentleman from California [Mr. ROYBAL] has expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. ROYBAL was allowed to proceed for 2 additional minutes.)

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman.

**Mr. MAZZOLI.** The gentleman from California is a gentleman of experience and wisdom and he understands the nature of this amendment; it goes to the heart of a lot of matters. There are many, many elements here. The gentleman knows that there is a gestation period in legislation that cannot be ignored. As it takes 9 months to give birth to a baby, it sometimes takes two or three Congresses to give birth to an important piece of legislation, landmark, watershed legislation.

The gentleman from California knows full well being here 22 years, that you do not quickly move in for fear, and I would tell my friend from New Mexico, for fear that on a test vote this might be defeated resoundingly. Perhaps more than we defeated some of the amendments earlier today. That would then cast a very bad light to this type of amendment.

So I would just suggest the gentleman from California is using the wisdom that comes from years of service in this body to suggest that today is not the day for his amendment, but tomorrow might be.

**Mr. ROYBAL.** Mr. Chairman, may I also add to that that we cannot possibly go through this complex piece of legislation in 20 minutes. It was my intention to go through each and every one of these items, and that would have taken a long time. But due to the fact that we have to end all debate in just less than 20 minutes now, we cannot possibly do it.

So there is no other recourse, because once you pass this section of the bill, we cannot come back to it. So there is nothing else that can be done. I think I was fortunate enough in getting at least the assurance that this matter, under the circumstances, would be heard, that hearings would be held throughout the country, and that some recommendation will be made to this House next year.

Now, I think that that is fair enough under the circumstances. But I wish we had the time, Mr. Chairman, but I do not see how we can get to it.

**Mr. RICHARDSON.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman.

**Mr. RICHARDSON.** I respect what the gentleman is saying, but I think what has happened today, this evening we have had a number of provisions that have, I think, made this bill even worse from the standpoint from a lot of people like ourselves.

**The CHAIRMAN.** The time of the gentleman from California [Mr. ROYBAL] has expired.

(On request of Mr. RICHARDSON and by unanimous consent, Mr. ROYBAL was allowed to proceed for 1 additional minute.)

**Mr. RICHARDSON.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman.

**Mr. RICHARDSON.** I just would request that perhaps at least put some materials in the RECORD about this matter. It is extremely important, and it is not in the Senate version, and we are talking about matters that are critical. I know of the time limit and I know we did not have any other options, but I would like, if possible, if the chairman of the subcommittee could give us some gut feeling, I mean, do you think these are good things to do?

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman.

**Mr. MAZZOLI.** The gentleman from Kentucky would respond to only say the gentleman from Kentucky does have the unwisdom at this point of saying he is for or against something about which he is not studied.

The gentleman from Kentucky can say knowing the seriousness of purpose and the good faith offering of the gentleman from California. I can assure my friend from New Mexico, that the gentleman from Kentucky will have exactly the kind of indepth hearings the gentleman needs and give him the opportunity to develop his piece of legislation, and as far as extending in the RECORD, of course that comes in the House, not in the committee, but when the House meets we will ask that permission.

**Mr. DELLUMS.** Mr. Chairman, I rise in support of the amendment.

The amendment would add a new section clarifying powers and authority of INS relating to arrest, search, and detention.

I spoke earlier in support of the Roybal amendment, which provides inservice training, community outreach and investigations of abuse by INS personnel.

In my statement of support for the Roybal amendment I stated that:

We have seen and heard various complaints which paint a picture of overzealous enforcement of immigration laws by INS personnel. There have been cases such as the case of Mario Garcia who was the son of a Mexican national legally in San Diego to work and was deported because he looked like an illegal alien. Another example (see attached article) was brought out at a community hearing in Orange County in which Father John Caulfield spoke of immigration raids on English classes at his church's parish. An example which resulted in death, deals with the INS chasing a car which eventually was struck by a hay truck and caused the death of 11 people. The legal counsel for the families involved stated that the "agent chased them for 29 miles at speeds up to 100 m.p.h. without turning his siren or flashing his lights, and without any attempt to get help from other law enforcement authorities to pull them over."

These are examples of INS abuse of authority and insensitivity which makes this Roybal amendment as important as the first.

While the previous Roybal amendment sets in place a mechanism to improve delivery of service and the training of INS personnel, this amendment provides the clarification needed to ensure that INS can continue to enforce the law while not abusing its authority and violating the rights and dignity of people.

Opponents of this amendment will contend that it will result in curtailing and limiting the powers of the INS. On the contrary, we want to ensure that the INS does not continue to further its image of being anti-immigrant, by not complying with proper procedures for searching, arresting, and deporting persons thought to be illegally in the United States. Again, I must emphasize that the law should be enforced but under no circumstances should the enforcement of the law be one at the expense of people's civil and human rights. I have heard many complaints of persons who are U.S. citizens and because of physical and linguistic characteristics have been searched, arrested, and even deported by the INS.

A good example which illustrates this abuse of power is found in Mendoza against INS 1982 in which the court found that the INS agents only had authority to arrest persons reasonably believed to be illegal aliens who were likely to escape before an arrest warrant could be obtained. 8 U.S.C. § 1257(A)(2). Again, the enforcement interests must be weighed against the two individuals' rights to freedom from oppressive governmental intrusion and to be secure in their persons, and any detention after the investigatory stop must be based on consent or probable cause. Brignoni-Ponce, 422 U.S. at 822.

Roberto Luna presented valid documents of citizenship. The INS agent reasonably discredited their authenticity because of Luna's inability to speak English. The agent was told, however, that Luna could not speak English because he was raised in Juarez, which is right across the border from El Paso. In addition, it could have been determined that he at least understood English and that he was, in fact, the son of the owner of the bar and the cousin of the man who did try to explain to the agent that Luna was a citizen. With this information, the presumption should have shifted back in Luna's favor that the documents were valid and Luna should not have been arrested.

As for Mendoza, it was clear that he was forcibly detained for interrogation until he was delivered into the custody of the EPPD. He was not arrested by the INS, but it is not clear that the INS did not intend to pursue its interrogation of him while he was in the custody of the police department. Defense counsel intimated during Mendoza's cross examination that an INS agent in plain clothes has been seated next to Mendoza at the bar listening to his conversation and, based on that conversation, determined that Mendoza was an alien and/or illegally in the country. Apparently, when the uniformed agents raided the bar, the plainclothes agent signaled other agents to interrogate Mendoza. Defendants did not establish, however, by anything other than negative implication in oral argument of counsel, that there was reasonable suspicion of alienage or illegal presence in the country. The evidence presented at the hearing was inconclusive as to the constitutionality of Mendoza's arrest.

It is precisely for these reasons that I call on my colleagues to support this amendment.

The **CHAIRMAN**. The question is on amendment No. 28 offered by the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The **CHAIRMAN**. Is there objection to the request of the gentleman from California?

There was no objection.

### AMENDMENT NO. 28 OFFERED BY MR. ROYBAL

The CHAIRMAN. Amendment No. 28 is in order at this time.

Does the gentleman from California [Mr. ROYBAL] desire to offer amendment No. 28?

Mr. ROYBAL. Yes, Mr. Chairman; I do.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. ROYBAL: Page 53, after line 22, insert the following new section and insert a corresponding item in the table of contents:

#### STATE AND LOCAL ENFORCEMENT OF IMMIGRATION LAWS

SEC. 127. Section 103(a) (8 U.S.C. 1103(a)) is amended—

(1) by inserting "(1)" after "(a)", and

(2) by adding at the end thereof the following new paragraph:

"(2) Except as specifically authorized by this Act, no officer or employee of a State, county, or other local government law enforcement agency may stop and question, detain or otherwise hold a person solely on the grounds that the person is or may be a deportable or excludable alien.".

Mr. ROYBAL. Mr. Chairman, this is also an amendment that, like all other amendments, requires some explanation, and it is an amendment that, in my opinion, would be one that should be passed by this House.

What the amendment does is prohibit local or State police from stopping, detaining, or other interrogating persons solely for the purpose of determining their immigration status. All that, of course, except as specifically authorized by the Immigration and Naturalization Act.

Now we realize that the immigration laws represent a complex body of law which requires uniform enforcement. I personally think, and I get that opinion from readings from the experts, that local police are not equipped to engage in such enforcement because the arrest standards for State law violations vary from State-to-State. This would mean than that if local police were going to be authorized to do the job of the Department of Immigration, there should be in place a very large training program, which is not possible under the present legislation.

I think that the local law enforcement officers are already overburdened with other enforcement responsibilities, and if they take on this added responsibility the likely result is more abuses and civil rights violations. Now we know that the local police at the present time can under existing law do certain things. Local police may arrest for misdemeanor violations of illegal entry only if they are near the border and actually see that such an entry takes place.

There are some restrictions. What this overall law does is to make it sure that local police are not authorized to do the work of the immigration authorities unless it is specifically authorized by the Immigration and Naturalization Act.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. KAZEN. Is the gentleman telling us that there is such a provision in this bill which authorizes local policy, constables, et cetera to stop a man on the street for the sole purpose of determining whether or not he is in this country legally?

Mr. ROYBAL. There was a great deal of discussion I understand in the Senate provision and that there was an attempt to put into the Senate language a provision whereby local police would be authorized to do just that.

At the present time, the Department of Immigration can contract with local police departments to perform a specific duty with regard to aliens. This language does in no way alter that particular situation. But local police departments at the present time can, under contract and sometimes otherwise do, detain people for the Department of Immigration. This particular amendment would not prohibit that.

Mr. KAZEN. I agree with the gentleman and I applaud him for offering this type of an amendment. This is a Federal offense, the violation of immigration law is a Federal offense, and certainly your local law enforcement officers are not equipped to enforce immigration laws. If you give this power to just any local law enforcement agency; deputy sheriff, a deputy constable, someone who knows absolutely nothing, give him that authority to stop anyone on the street for the sole purpose of determining to his own satisfaction that that person is here legally is bad policy. And certainly if there is anything in this bill that even hints of giving that authority to these people, should not be in this bill, and your amendment should be adopted.

□ 2020

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

Mr. Chairman, I take issue with my dear friend from Texas, and the author of this amendment. I think that this amendment is a bad amendment.

I do not believe there is any way in the world that this immigration law can be enforced without the direct intervention and help of local law enforcement officials. When the gentleman makes a blanket statement that no officer or employee of a State, county or other local government law enforcement agency may stop and question, detain or otherwise hold a person solely on the ground that the person is or may be a deportable or excludable alien, I think when that is done, we are making it such that the manner in which illegal aliens in my part of the country live and the places they live and the manner in which they live, we are going to have the local law enforcement people to help us enforce this law.

The CHAIRMAN. The time of the gentleman from California [Mr. Roybal] has expired.

(On request of Mr. Sam B. Hall, Jr. and by unanimous consent, Mr. Roybal was allowed to proceed for 3 additional minutes.)

Mr. SAM B. HALL, JR. If the gentleman will yield further, I am not in favor of anybody going out here on the street and just hauling somebody in because he does not like the way he looks, but I can envision many instances where it is going to be absolutely necessary for the Federal people to contact the local, especially the local sheriff, deputy sheriffs, city police people, constables. It is going to be absolutely necessary that they utilize those people in helping to try to enforce this bill.

As I understand the gentleman's amendment, he would exclude that. They would not have an opportunity to interfere in any way in the enforcement of this statute. Is that understanding correct?

Mr. ROYBAL. That is not correct. They would not have the authority just to arrest someone simply because they think or they may believe that they are here illegally. That is in violation of the law even today.

But if the arrest or the detention is specifically authorized by the act, then they can do so. There are certain provisions under which they are authorized, and that is through contracting. Then they would be authorized. But this prohibits any local police department from using his authority as a policeman simply to arrest anyone simply because the policeman may suspect that he's undocumented.

Mr. SAM B. HALL, JR. If the gentleman will yield further, suppose that the Federal officials had an all-points bulletin out for some people who were in this country in violation of the law.

The CHAIRMAN. The time of the gentleman from California [Mr. Roybal] has again expired.

(On request of Mr. Sam B. Hall, Jr., and by unanimous consent, Mr. Roybal was allowed to proceed for 3 additional minutes.)

Mr. SAM B. HALL, JR. If the gentleman will yield further, suppose that situation existed where they had put out an all-points bulletin for someone that they were looking for and they came through a small town and a sheriff had that information and saw this car or these people.

Is the gentleman stating that under this amendment he would not have the right, that sheriff would not have the right, to stop and question and determine whether or not that is the person for which an all-points bulletin might have been issued?

Mr. ROYBAL. An all-points bulletin would clearly indicate to me that he had violated some other law other than an immigration law. In that case, yes, he would be able to do it.

Mr. SAM B. HALL, JR. But as I understand the gentleman, he is stating by this amendment that local law enforcement officials or State officials could not, under any circumstances, ever stop and question somebody because they thought they might be deportable or an excludable alien?

Mr. ROYBAL. Yes; because they are not authorized to do the job for the Department of Immigration. The local police are there for a specific purpose, not to enforce immigration law. Therefore, under this provision that local policeman would not do that unless it is specifically specified under the act itself, and there are certain conditions under which that local policeman can, one being, of course, the contract, and the other being an instance where the local police arrest an individual for a violation of a criminal law and then later may check with the Department of Immigration on the status of that individual. On the basis of information provided over the phone, for example, the Service may arrest the individual and may authorize a temporary detention of the individual in question.

Again, the local authorities will be acting on the advice of the Immigration authorities, may have reason to believe that the individual is illegal.

Mr. SAM B. HALL, JR. So if a Federal official came into a small town and enlisted the help and assistance of the sheriff or a local official, then under those circumstances, could the local official, working with the Federal people, stop and question and detain somebody under the grounds that the gentleman has in his amendment?

Mr. ROYBAL. No; I do not think so, unless specified under the act.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Texas [Mr. Sam B. Hall, Jr.] has been very active on this issue in our committee. The view of the gentleman from Texas is that perhaps local law enforcement should have an opportunity to fully enforce Federal immigration laws. That did not prevail. But what did prevail in our committee was clearly the understanding that at certain times cooperative efforts involving Federal, State, and local law enforcement officials are very important and that some areas, some activities, would involve the enforcement of the Nation's immigration laws.

May I ask my friend, the gentleman from California, does the gentleman's amendment suggest that there can be no further State, local, and Federal activities of cooperation in which the Nation's immigration laws would be enforced?

Mr. ROYBAL. No. Definitely not.

The CHAIRMAN. The time of the gentleman from California [Mr. Roybal] has again expired.

Mr. MAZZOLI. Mr. Chairman, I would ask unanimous consent that the gentleman from California [Mr. Roybal] be allowed to proceed for 2 additional minutes, and that is the last I will speak to the issue, and I will quickly bring myself to the point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. The second question, Mr. Chairman. You use the terms "hold and detain," and I understand that in States like Kansas and elsewhere that pursuant to contracts between the Federal Government and State and local law enforcement officials undocumented workers apprehended are detained for a period of time in these particular holding areas, does the gentleman's amendment prohibit that kind of activity?

**Mr. ROYBAL.** It does not.

### PARLIAMENTARY INQUIRY

**Mr. de la GARZA.** Mr. Chairman, I have a parliamentary inquiry.

**The CHAIRMAN.** The gentleman will state it.

**Mr. de la GARZA.** Mr. Chairman, what would be the parliamentary situation with regard to time after 8:30?

**The CHAIRMAN.** At 8:30 there will only be one speech in order, and that speech will be against the amendment for 5 minutes since no Member has yet spoken in opposition. As far as amendment No. 29 is concerned, a 5-minute speech for and a 5-minute speech against. That would be for amendment No. 29.

**Mr. de la GARZA.** Mr. Chairman, would a unanimous-consent request be in order for an extension of time?

**The CHAIRMAN.** A unanimous-consent request would be in order, and if adopted, would take it out of the category that the Chair has just explained to the gentleman.

**Mr. de la GARZA.** I thank the Chairman.

**The CHAIRMAN.** The gentleman from California [Mr. Lungren] is recognized for 5 minutes.

**Mr. LUNGREN.** Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, I am somewhat confused by the amendment. We rejected an amendment that went in the opposite direction when we deliberated in committee and that was one which explicitly gave an assignment of authority to local and State government law enforcement agencies to deal with immigration law.

The current law or current practice is guided right now by the Attorney General's directive. In most cases, it indicates that the INS remains responsible for all arrests for immigration violations, but it does seek cooperation in some instances with local and State governments.

My concern is that this may go too far in the opposite direction. The gentleman said this does not stop the practice of a local jail or penitentiary being used by the INS. I would have to say to the gentleman there is some argument on that.

I made a request of the INS just this afternoon to clarify it and they feel there is some confusion, at least, and they fear that it may limit their authority to do that, first.

Second, this seems to go in the opposite direction of the bill of the gentleman from California [Mr. Roybal] H.R. 4909, which mandated that State and local officials notify the Immigration Service when they were holding someone who they believed to be in violation of the law.

□ 2030

With respect to the question brought up by the gentleman from Texas [Mr. Sam B. Hall, Jr.], in which he said that if there were an all-points bulletin for some excludable alien in the United States, that may or may not be allowed to be followed up on the amendment offered by the gentleman from Texas.

**The CHAIRMAN.** The gentleman from California [Mr. Lungren] will please suspend for just a moment.

The time of the gentleman from California [Mr. Lungren] has expired, but as the gentleman knows, under a unanimous-consent request the gentleman may proceed. Does the gentleman ask unanimous consent to proceed for the balance of his 5 minutes?

**Mr. LUNGREN.** Mr. Chairman, I do not. I would just hope that we could vote on this amendment.

**The CHAIRMAN.** The Chair would like to announce that at this time only a 5-minute speech against the amendment is in order.

For what purpose does the gentleman from Texas [Mr. de la Garza] rise?

**Mr. de la GARZA.** Mr. Chairman, I ask unanimous consent to proceed on this amendment for 3 minutes.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Texas?

**Mr. MAZZOLI.** Mr. Chairman, reserving the right to object, let us make it 5 minutes. The gentleman can have all my time. I have 5 minutes against the amendment.

I would just say, with great respect, that I am against the gentleman's amendment for the reasons my friend, the gentleman from California, indicated, and I hope the House will oppose it.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas [Mr. de la Garza].

**The CHAIRMAN.** Is there objection to the request of the gentleman from Texas?

**Mr. BERMAN.** Mr. Chairman, reserving the right to object, may I suggest that the gentleman amend his unanimous-consent request to extend the time by 15 minutes?

**Mr. LUNGREN.** Mr. Chairman, I would be constrained to object if that is made.

**Mr. BERMAN.** Mr. Chairman, continuing to reserve my right to object, we are moving quickly through these amendments. There are no delaying tactics being used. This is an important issue. Several of us wish to make comments on these issues. Fifteen minutes is not unreasonable.

**Mr. MAZZOLI.** Mr. Chairman, if the gentleman will yield under his reservation of objection to the gentleman from Kentucky, let me say this: We went into this earlier this evening with the intention of trying to limit time. In order that everything is fair here, I would have no objection, if the gentleman would tell the gentleman from Kentucky how many speakers he has and how many minutes.

**Mr. BERMAN.** Mr. Chairman, the gentleman from California is not sure. He knows that he wishes to speak, and he believes that the gentleman from New Mexico also wishes to address the issue.

**Mr. de la GARZA.** Mr. Chairman, the gentlemen can work out their problem. All I needed was 3 minutes.

**The CHAIRMAN.** Is there objection to the request of the gentleman from Texas?

There was no objection.

**The CHAIRMAN.** The gentleman from Texas [Mr. de la Garza] is recognized for 3 minutes.

**Mr. de la GARZA.** I thank the Chair, and I thank the distinguished gentleman from Kentucky [Mr. Mazzoli] for his generous offer, but all I need is 3 minutes.

Mr. Chairman, I want to relate what I think would be a problem in relation to letting local law enforcement officers enforce immigration law.

If I were to put on my boots and my blue jeans and my red flannel shirt and get on a bus from Washington and head for Mission, TX, I would be taken off the bus at every village and hamlet by the local marshal, the local constable, and the local chief of police and asked, "Where are you going, boy?" I would hear this all the way down to Mission, TX.

This is the danger of letting local law enforcement officers, inexperienced in immigration matters and perhaps biased against certain looking types, enforce the law. It is a very dangerous procedure to allow that type of operation.

Now, working in conjunction with immigration officials, there I have no concern, but I assure the Members that this would be an onerous burden on people that look like me. We would be dragged off the bus at every village and hamlet.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. de la GARZA.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** Mr. Chairman, I thank the gentleman for yielding, and I appreciate what the gentleman said, very eloquently stating the need to be careful. The committee bill, not the gentleman's amendment, has language to the effect that there shall be no such action, that local law enforcement officials shall have no individual right to enforce the Federal immigration laws. The only thing that we do not prevent is certain cooperative efforts involving immigration, but we agree with the gentleman that local law enforcement should not have the independent right to enforce the Federal immigration law.

Mr. DE LA GARZA. Mr. Chairman, that needs to be clarified, because it is a very, very dangerous process if we are allowing local law enforcement at any level to enforce immigration law.

Right now I understand that in Texas they have been sued for civil rights violations for stopping people on the street.

But I assure the Members that, under the guise of immigration reform, if we adopt the bill and it allows for local law enforcement to enforce immigration law, a Member of Congress from the 15th District of Texas would not be able to go in blue jeans and a plaid shirt on a bus from here to Mission, TX, without being stopped, I would say, 15 to 20 times and having to identify himself beyond the norm.

Therefore, if it is not clear—and it is not to me—I would support the amendment offered by the gentleman from California.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

For what purpose does the gentleman from Kentucky [Mr. MAZZOLI] rise?

Mr. MAZZOLI. Mr. Chairman, I understand that I have 5 minutes, and this is the last time I will rise. I will use my 5 minutes, and I will yield all of my time. First, I promised my friend, the gentleman from New Mexico [Mr. RICHARDSON] I would yield time to him, and I yield 2 minutes to my friend, the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I thank my colleague, the gentleman from Kentucky [Mr. MAZZOLI].

I think it is an incredibly dangerous situation that we are facing here late at night, after we are tired. It is important that we clarify this.

We cannot have local law enforcement officials involved in the INS job. It would be a massive violation of the rights of American citizens.

The U.S. Civil Rights Commission in September of 1980 recommended as one of its major priorities that Congress should clarify the role of the INS.

Mr. Chairman, I am going to yield 1 minute of my time to a member of the Hispanic Caucus from a border area who is a former sheriff and who is going to, I think, speak of this amendment with a certain degree of authority. I yield to my colleague, the gentleman from Texas.

Mr. MAZZOLI. Mr. Chairman, before the gentleman does that, will the gentleman yield to me for about 30 seconds?

Mr. RICHARDSON. Yes; I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I can yield an additional 30 seconds to the gentleman.

Mr. Chairman, I say to the gentleman once again that I want to remind my friend, the gentleman from New Mexico, that there is nothing in the committee bill that provides for independent local enforcement of Federal immigration law. There is nothing there.

The gentleman has set up a straw man, and he is kicking the straw man to death. There is no such thing. That is why I could not support the gentleman's amendment. There is no such thing in the bill. The gentleman is creating a straw man out of whole cloth.

Mr. RICHARDSON. Mr. Chairman, will the gentleman allow me to continue?

Mr. MAZZOLI. Mr. Chairman, I have yielded my time and I want the gentleman to speak, but I ask him to please speak to what is in the bill. There is nothing in the bill. We are not talking about perceptions or ideas. There is nothing in the bill that permits local law enforcement, carte blanche enforcement of Federal immigration laws. There is nothing there.

Mr. RICHARDSON. Mr. Chairman, we have a difference of opinion. This is why the gentleman from California [Mr. ROYBAL] is offering this amendment.

Mr. Chairman, I yield to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, this is the thing that bothers me. I have been in law enforcement for many years, and I was the sheriff of my county. The thing that bothered me is that we talk about probable cause, the right to go and ask something because you feel you have enough probable cause to interrogate.

Like the committee chairman, the gentleman from Texas [Mr. DE LA GARZA], stated, if we are going to give the right to every law enforcement agency to stop everybody just because they look illegal or they are wearing blue jeans and maybe they happen to be on the heavy side and are dark-complected and have a mustache, are they going to question them because they appear to be illegal aliens because there is probable cause?

This is what really bothers me. When I was sheriff, it was none of the responsibility of local law enforcement to enforce Federal law. We would leave it up to the Immigration and Naturalization Service and the Border Patrol to do their job. This is my concern on this amendment.

Mr. MAZZOLI. Mr. Chairman, I certainly salute the gentleman, who is another outstanding new Member of our body who brings law enforcement credentials to the floor, which is very helpful to us in the debate. But once again I remind my friends in the House that there is nothing in the bill that says in any way that local law enforcement officers can enforce or act under the Federal immigration laws.

Mr. Chairman, I yield whatever time I have left to my friend, the gentleman from California [Mr. BERMAN].

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 3 minutes.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from Kentucky for yielding this time.

I ask the indulgence of the House to regress by unanimous consent. I ask unanimous consent that the time, which is soon to expire, be extended for an additional 8 minutes so we can complete the debate on this amendment. We have moved through a number of amendments today. There are no delaying tactics going on, and it is an important issue.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MAZZOLI. Mr. Chairman, reserving the right to object, the gentleman from Kentucky, I believe, has proved his patience a hundred times. But let me just one more time, if I may have my friend's attention, 5 minutes, and that is the last, because the Chair understands the parliamentary procedure, and the House precedent is that once the unanimous-consent request is agreed to——

Mr. LUNGREN. Mr. Chairman, I will finish this up by objecting. There are Members who have come back here for a vote, and I object.

The CHAIRMAN. Objection is heard.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield under his reservation? Would the gentleman agree to 5 minutes and there would be no more requests?

Mr. BERMAN. Mr. Chairman, I wish to use 5 minutes.

Mr. MAZZOLI. That would be fine. May that be without objection, Mr. Chairman?

Mr. LUNGREN. I object, Mr. Chairman.

The CHAIRMAN. An objection to the request is heard.

### PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

Mr. MAZZOLI. Mr. Chairman, will the gentleman from California yield to the gentleman from Kentucky?

The CHAIRMAN. The gentleman from California [Mr. BERMAN] will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, my inquiry is whether or not I may at this time register an ongoing objection to any requests for unanimous consent to limit the time of debate other than as already provided for in the rule accompanying this bill.

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The CHAIRMAN. The gentleman would have to be in the Chamber, on the floor at the time such requests were made. If he were here present, it would be in order.

Mr. BERMAN. Then, Mr. Chairman, I would just like to manifest my intent at this time, if we are at the point now where we cannot spend another 5 or 10 minutes debating an important amendment, after having gone through as many as we have in the past 2 days, that I intend to object to any request for unanimous consent to limit time.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

Mr. DELLUMS. Mr. Chairman, I rise in support of the amendment.

Both the Attorney General and the INS have attempted to curtail local police practices of enforcing the immigration laws. In a June 1978 press release, then Attorney General Griffin Bell stated that "The responsibility for enforcement of the immigration laws rests with the Immigration and Naturalization Service [INS], and not with State and local police." More than a year prior to that press release, the INS issued a similar instruction to its regional commissioners.

Although the Immigration and Nationality Act expressly authorizes local police involvement in the enforcement of Federal immigration laws in only one instance (8 U.S.C. 1324(C) 1976). Local police departments have not confined their enforcement of those laws to that portion of the statute. This expanded local police involvement has continued, notwithstanding admonitions from the Department of Justice and the Immigration and Nationality Service that enforcement of immigration laws is the reponsibility of the INS. Officers of the El Paso Police Department are known to apprehend aliens and return them to the Mexican side of the frontier. It has also been charged that local police in San Diego continue to attempt enforcement of the immigration laws, and even a former INS district director has acknowledged that local police are continuing to place "immigration holds" on persons suspected of immigration violations.

The U.S. Commission on Civil Rights in September of 1980 recommended that Congress should clarify the Immigration and Nationality Act to specify that immigration laws should only be enforced by the INS. This recommendation was based on extensive findings that local police involvement in enforcing the immigration laws has resulted in violations of the constitutional rights of American citizens and legal residents.

We simply agree with this recommendation.

The CHAIRMAN. The question is on amendment No. 28 offered by the gentleman from California [Mr. ROYBAL].

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 17, noes 29.

Mr. ROYBAL. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

### AMENDMENT NO. 29 OFFERED BY MR. KRAMER

The CHAIRMAN. Amendment No. 29 is now in order at this time.

Does the gentleman from Colorado [Mr. KRAMER] desire to offer amendment No. 29?

Mr. KRAMER. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 29 offered by Mr. KRAMER: Page 54, after line 16, insert the following new part (and amend the table of contents accordingly):

### PART E—PRESIDENTIAL STUDY OF A COLLABORATIVE PEOPLE-TO-PEOPLE PROGRAM BETWEEN THE UNITED STATES AND MEXICO

### STUDY

SEC. 141. (a) The Congress finds that—

(1) increases in illegal immigration from Mexico to the United States encourage efforts to strengthen economic and social relations with people of Mexico and to promote economic revitalization and economic expansion opportunities in Mexico;

(2) not addressing issues relating to illegal immigration from Mexico (such as the 220 percent increase from 1970 to 1982 in the number of illegal Mexican aliens apprehended in the United States) and the social instability in Central America to the south of Mexico (especially Communist influence in that area) may ultimately jeopardize the economic well-being and national security of both the United States and Mexico;

(3) financial stability, economic growth, and prosperity in Mexico would substantially help to address this problem; and

(4) the United States economy and the Mexican economy are inextricably linked to the extent that (A) Mexico is the third largest trading partner of the United States, (B) the United States is the predominant source of Mexico's exports, (C) Mexico is becoming an increasingly important consumer of the United States manufactured goods, machinery, and service, (D) Mexico is the fourth largest source of foreign oil for the United States and is of critical strategic importance as a stable supply of oil, (E) two-thirds of the foreign investments in Mexico are held by United States investors, and (F) United States banks have loaned Mexico an amount equivalent to 30 percent of Mexico's foreign debt.

(b) The President shall study the advisability and practicality of proposing to Mexico the establishment of a collaborative people-to-people program between Mexico and the United States. The President shall explore a program that would—

(1) be a bold new initiative to serve as the ultimate coordinating body of collaborative programs of mutual interest to Mexico and the United States and to create a climate of growth and economic prosperity in Mexico;

(2) contribute to economic development in Mexico, reinforcing measures in the fields of trade, investment, and financial assistance, in order to address current and anticipated needs and developments and to foster self-reliance;

(3) serve as a source of financial and technical assistance to carry out these goals drawing on, encouraging, and coordinating participation of existing United States programs and activities, international assistance programs, overseas programs of United States colleges and universities, programs of the Mexican Government, and any new programs or activities which would be established as part of the people-to-people program;

(4) target assistance based on findings of need in areas such as agricultural productivity, industrial research, building construction, transportation systems, research and development, and energy alternatives, and take into consideration the findings of the United States-Mexico Science and Technology Mixed Commission;

(5) draw extensively on and foster the development of local Mexican business, civic organizations, and labor organizations, and rely on private sector local and foreign initiatives; and

(6) rely on volunteers in a composition which would provide a mixture of workers, advisers, and consultants with skills not sufficiently available in Mexico.

(c) In studying such a people-to-people program the President shall consider how the program should be administered.

(d) Such study shall consider the possibility of the Governments of the United States and Mexico establishing a Mixed Commission for the formulation, orientation, and review of the program. The Commission would meet whenever necessary, alternately in Mexico and the United States. The Commission would meet at the request of either Government and be made up of Mexicans and Americans appointed, through diplomatic channels, whenever a meeting is held. The Mixed Commission would examine matters relating to the execution of the program, determine the plan of activities to be undertaken, examine periodically the program as a whole, and make recommendations to the two Governments. It could also suggest that special meetings be held on a specific project or subject.

(e) The President shall transmit to the Congress the results of the study under this section no later than one year after the date of the enactment of this Act.

Mr. KRAMER. Mr. Chairman, I want to extend my appreciation to my colleagues and the Rules Committee for their cooperation in bringing this matter to the floor. I especially would like to thank Congressmen BARNES, LAGOMARSINO, PEPPER, ROYBAL, MAZZOLI, FISH, and LUNGREN for their efforts in this regard.

I am pleased to note that the House has already demonstrated strong bipartisan support for our people-to-people program with Mexico. Last November, it passed House Concurrent Resolution 196 by voice vote. However, the Senate has not yet taken up this measure, and immigration reform legislation is a logical vehicle to ensure passage of this program. This resolution was supported by colleagues on both sides of the aisle, including the late Representative Clement Zablocki, chairman of the House Foreign Affairs Committee, who stated that "the proposal is clearly worthy of investigation and consideration * * *" and by Representatives MICHAEL BARNES and ROBERT LAGOMARSINO, chairman and ranking minority member, respectively, of the Subcommittee on Western Affairs.

I would also like to add that the people-to-people proposal was included in Congressman Ed Roybal's alternative immigration reform package, H.R. 4909, which the Congressional Hispanic Caucus had originally intended to offer.

The significance of close, cooperative relations between the United States and Mexico cannot be underestimated. Illegal immigrants, many of whom come from Mexico, place a strain not only on there sources of the United States, but also on the relations between our two countries. While it is difficult to obtain reliable figures, it is estimated that there are approximately 1.5 million to 3 million illegal Mexican aliens in the United States. Needless to say, at a time when 8.5 million Americans are out of work, the implications are tremendous. Through the People-to-People Program, we can hopefully create more jobs in Mexico and thus ease the pressures on our borders, in turn leaving more jobs in this country open to Americans.

The people-to-people amendment is aimed at treating the cause, not just the symptoms, of the immigration problem. It is evident that, by creating jobs in Mexico, by contributing to economic development in Mexico and by stimulating investment and financial assistance to address current and anticipated needs and development, illegal immigration can be dramatically reduced.

In addition, recent events in Latin America have underscored the importance of this region to our national defense. Too often, we have paid lip service about the need to improve relations with our neighbors to the south, but waited for a crisis to erupt before taking action. Certainly this was the case in Cuba and Nicaragua. We cannot afford to let this happen again in Mexico.

Let me emphasize that I do not think there is any immediate danger of a Communist takeover in Mexico. At the same time, it would be naive to think that Mexico, given its current and projected levels of poverty and unemployment, is immune from potential Communist activity. I would rather see us act now by using some type of preventative medicine than being forced to react to a major crisis down the road.

Therefore, I urge my colleagues to support the people-to-people amendment to H.R. 1510, which offers a positive solution to these problems by improving Mexico's economy.

Specifically, this resolution would call upon the President to study the merits of proposing to Mexico the establishing of a joint People-to-People Program. Such a study would include looking at how the program might be administered, with particular attention paid to the possibility of the two Governments establishing a joint commission, composed of United States and Mexican representatives appointed through diplomatic channels. This commission, or whatever similar vehicle might be chosen, would be responsible for the formation, orientation, and review of the people-to-people program. As such, it would be the ultimate coordinating body of existing community-level efforts and new people-to-people-type initiatives.

As I envision it, the program would rely on volunteers, employed by the U.S. Government and paid some type of stipend that would cover living costs. The program could potentially involve private organizations as well. Since an important goal would be to foster self-reliance, these American volunteers would work closely with local Mexican businesses, civic organizations, and labor groups, concentrating on such areas as agricultural production, industrial output, transportation, energy sources, construction, and further development of Mexico's infrastructure. Again, let me emphasize that the key is cooperation. For such a program to work, it must be one which is jointly worked out by the Governments of Mexico and the United States; it should not be unilaterally imposed by the United States. By building on the recent meeting between President Reagan and President de la Madrid, who pledged to work together to solve border pollution problems through scientific and educational exchanges, I feel that such a spirit of cooperation is indeed attainable.

In addition, as Mexico's economy improves this will create more opportunities for small business men and women in this country to increase their exports to Mexico.

For all these reasons, I strongly believe it is in our self-interest to promote stability and improve economic conditions in Mexico—and a People-to-People Program of the type I have just outlined would be a major step toward this objective. Thus, I urge my colleagues to join me in supporting this amendment.

Mr. LAGOMARSINO. Mr Chairman, will the gentleman yield?

Mr. KRAMER. I yield to my colleague, the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the gentleman's amendment concerning a People-to People Program between the United States and Mexico.

As has already been pointed out, the House passed last November, House Concurrent Resolution 196, calling upon the President to study the advisability of proposing to Mexico the establishment of a People-to-People Program. I believe this proposal would contribute to increased cooperation between the United States and Mexico and would serve as a useful mechanism to find ways of dealing with the overwhelming immigration issue facing our country.

The only way we are going to have an effective means of controlling illegal immigration into the United States from Mexico is to have the cooperation of Mexico in helping to stem the tide. It will also require greater economic development in Mexico to provide the employment and improved living opportunities to encourage the Mexicans to stay at home. To achieve that will require financial and technical assistance, and the People-to-People Program offers the possibility of serving as the coordinating organization that would make such cooperation work.

I urge my colleagues to give their full support to the gentleman's amendment.

Mr. KRAMER. Mr. Chairman, I thank the gentleman very much for his supportive comments.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. KRAMER. I yield to my colleague, the gentleman from New York.

Mr. GARCIA. I would also like to commend the gentleman form Colorado. I think that on several occasions during the course of this debate we have talked about the root causes of why people come to the United States and I think that discussion has been held and that we have had that discussion every day since we have been on this floor discussing this matter.

I would say to my colleague from Colorado that I would hope that somewhere down the pike, that not only would we extend this to Mexico and approve the gentleman's amendment, but go beyond that to some of the other Central American countries.

It seems to me that most of those people would prefer to stay where they were born, they want to stay there. But the other side of the coin is obviously because of wars in the case of some of the Central American countries, and because of poverty in Mexico, they really have no choice.

But the best way to start is the gentleman's method, and your method is to get them talking.

Mr. MAZZOLI. Mr. Chairman, I would ask that the gentleman from Colorado remain in the well for a moment. I would like to salute the gentleman on a very excellent and a very timely amendment.

The CHAIRMAN. Does the gentleman rise in opposition?

Mr. MAZZOLI. The gentleman rises in support of the gentleman's amendment.

The CHAIRMAN. The Chair would like to advise——

**Mr. MAZZOLI.** Mr. Chairman, the gentleman moves to strike the requisite number of words.

**The CHAIRMAN.** Is there a Member on the floor who rises in opposition to the amendment?

**Mr. THOMAS of California.** Mr. Chairman, I rise in opposition to the amendment.

**Mr. MAZZOLI.** Will the gentleman yield?

**Mr. THOMAS of California.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank my friend from California who has already mastered the intricacy of parliamentary procedure.

I just would take a moment of time to say I salute the gentleman for his very timely and thoughtful amendment. I join with my friend from New York who says this could be extended at some point in time.

I think the gentleman earlier talked about the Caribbean Basin as a very interesting area, and I salute the gentleman and commend him, and I think we have a good amendment.

**Mr. FISH.** Will the gentleman yield?

**Mr. THOMAS of California.** I yield to the gentleman from New York.

**Mr. FISH.** I am very happy to accept the gentleman's amendment.

**Mr. THOMAS of California.** I yield back the balance of my time.

**The CHAIRMAN.** The question is on the amendment No. 29 offered by the gentleman from Colorado [Mr. KRAMER].

The amendment was agreed to.

□ 2050

### ANNOUNCEMENT BY THE CHAIRMAN

**The CHAIRMAN.** Pursuant to House Resolution 519, if amendments Nos. 30 and 31 are both adopted, only the latter shall be considered as having been finally adopted and reported back to the House.

### AMENDMENT NO. 30 OFFERED BY MR. GARCIA

**The CHAIRMAN.** Amendment No. 30 is now in order.

Does the gentleman from New York [Mr. GARCIA] desire to offer amendment No. 30?

**Mr. GARCIA.** Yes; I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 30 Offered by [Mr. GARCIA]: Page 55, strike out lines 3 through 14 and insert in lieu thereof the following:

"(c)(1) In addition to the number of immigrant visas made available under subsection (a), there shall be made available to natives of each of the foreign states contiguous to the United States for each fiscal year a number of immigrant visas not to exceed the number specified under paragraph (2), not more than 26 percent of which may be made available in any of the first three quarters of such fiscal year.

"(2)(A) Except as provided in subparagraph (B), the number of additional visas made available to natives of either of the foreign contiguous states for a fiscal year is equal to 20,000.

"(B) If for a fiscal year one of the foreign contiguous states does not use the full number of additional immigrant visa numbers made available under this subsection, then the number of additional visas made available to natives of the other foreign contiguous state for the following fiscal year shall be increased by the number not used by the other foreign contiguous state for the previous fiscal year.".

**Mr. GARCIA.** Mr. Chairman, I yield to my colleague, the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank my friend for yielding. The gentleman has made an excellent contribution, not only throughout the debate but in this particular offering.

This is an amendment which, I believe, the House had at one time adopted earlier. I see my good friend across the aisle, the gentleman from Nebraska, who is the immigration lawyer.

I accept the amendment and I believe it is an acceptable amendment.

**Mr. FISH.** Mr. Chairman, will the gentleman from New York yield?

**Mr. GARCIA.** I yield to the gentleman from New York.

**Mr. FISH.** I have one question of the gentleman. Would the spillover be subtracted from the worldwide ceiling of 270,000?

**Mr. GARCIA.** The spillover, does the gentleman mean the additional 20,000?

**Mr. FISH.** Yes. That is the only issue there is any doubt about. If you will just answer that question.

**Mr. GARCIA.** The answer is, "No, I do not think it will."

**Mr. MAZZOLI.** That is right, the answer is "no."

**Mr. LUNGREN.** Mr. Chairman, will the gentleman yield?

**Mr. GARCIA.** I yield to the gentleman from California.

**Mr. LUNGREN.** Mr. Chairman, not only do I accept it, I want to congratulate the gentleman for it. We are overturning a bad mistake we made about 12 years ago when we cut in half the admissions from our closest neighbor, Mexico. We addressed it partly in the bill.

The gentleman goes further than that and I salute him, and I think this should have unanimous support.

**Mr. MAZZOLI.** Excellent.

**Mr. GARCIA.** I thank the gentleman.

Mr. Chairman, I will just take 2 minutes.

What the bill does, everybody agreed to the bill nobody really knows what the amendment is about. What the amendment does very simply is it doubles the number of visas for Mexico and for Canada and it places the number or takes it up to 40,000.

The amendment also keeps the extra visas and eliminates the conditions. This amendment assures that the demand for immigrant visas in Mexico and Canada are met by allowing one country to use up the remaining visas.

In summary, Mr. Chairman, I would say that we do have a special relationship with Canada and Mexico. Mexico is one of our largest trading partners and I believe by giving Mexico unused visas or vice versa, we are recognizing the importance of our relationship with our neighbor south of the border.

Mr. Chairman, I yield back the balance of my time.

**The CHAIRMAN.** The question is on amendment No. 30 offered by the gentleman from New York [Mr. GARCIA].

The amendment was agreed to.

### ANNOUNCEMENT BY THE CHAIRMAN

**The CHAIRMAN.** At this time the Chair wishes to make a correction in the statement he has just made: Pursuant to House Resolution 519, if amendments numbered 31 and 32 are both adopted, only the latter shall be considered as having been finally adopted and reported back to the House.

### AMENDMENT NO. 31 OFFERED BY MR. MOORHEAD

**The CHAIRMAN.** Amendment No. 31 is now in order at this time.

Does the gentleman from California [Mr. MOORHEAD] desire to offer amendment No. 31?

**Mr. MOORHEAD.** I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 31 offered by Mr. MOORHEAD: Page 54, after line 18, insert the following new section (and redesignate the succeeding sections in part A and conform cross-references thereto and the table of contents accordingly):

#### NUMERICAL LIMITATIONS

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence shall not exceed in any fiscal year the number equal to (1) 450,000, minus (2) the number of immediate relatives specified in subsection (b) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence and the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d).".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning with fiscal year 1985.

Page 54, line 25, insert "(as amended by section 201(a) of this part)" after "(a)".

Mr. MOORHEAD. Mr. Chairman, my amendment addresses a weakness in this legislation that needs to be corrected. This bill, unlike the Senate bill, does not reform legal immigration. There is no ceiling on legal immigration in this bill and I am offering an amendment to create such a ceiling.

This ceiling is needed because the category of numerically unlimited immediate relatives entering our country is increasing steadily. The rate of immediate relative immigration has grown from 114,000 in 1976 to over 170,000 today. Although I support continued opportunities for immediate relatives of U.S. citizens to enter our country without any numerical limits, I believe some adjustments must be made in the numerically limited preference categories to take into account increases in immigration of immediate relatives in the years to come. This problem will become especially important in view of the millions of aliens who will be given amnesty under this bill.

During Judiciary Committee consideration of this bill, many members voted for my amendment, but it failed after a close vote. I offer this amendment again on the floor because it clearly deserves the attention of the whole House.

My proposal creates a flexible cap on legal immigrant admissions at a level of 450,000 per year. Refugees are not included in this cap. Refugees, however, remain subject to annual ceilings—72,000 in fiscal year 1984—set by the President following congressional consultations.

My amendment also will not limit the number of special immigrants or persons seeking asylum nor will my amendment change the existing preference system. Under my proposal, the number of immediate relatives of citizens issued visas—or otherwise acquiring permanent resident status—in any one year will be subtracted from 450,000 to determine the number of preference visas available the following year. When immediate relative immigration exceeds 180,000, it will trigger reductions below the current 270,000 limit in admissions of less close and nonrelative categories covered by the preference system. This 450,000 level is 25,000 higher than the Senate version. I chose that level so that we would retain the current level of immigration. The 450,000 cap provides a reasonable mechanism for controlling large future increases in persons coming to this country.

Immigration nearly doubles our population growth rate. The problems which may be caused by excessive population growth are well-known. We are no longer the frontier America we once were, with vast undeveloped resources and wide open spaces. We have problems with overuse of natural resources, and damage to the environment. A rapidly growing population makes it more difficult to reduce poverty and unemployment, creates strains on social services and entitlements, and ultimately results, one way or the other, in increased burdens for the American taxpayer.

It is imperative then that we adequately plan for the future by recognizing the need for some kind of ceiling. I am not suggesting that we depart from our traditional principles of hospitality and charity. I am suggesting, however, that we acknowledge, as a practical matter, the consequences of an uncontrolled and steady increase in overall admissions.

I firmly believe that my amendment is generous and flexible. H.R. 1510 provides a review cycle so that we can make a determination every 3 years as to how well the changes we make are working. The "periodic review" mechanism will insure that Congress has a regular opportunity to adjust the ceiling provision, or any other provision for that matter, in the immigration law.

In closing, I would like to repeat that which we all know and which we can be proud of. No other country attracts immigrants as strongly as the United States. No other country approaches the number of legal immigrants accepted. My amendment will not change this.

Ours is a rapidly changing world and it is vital that our immigration policy continue to serve the national interest. In my opinion, this means we must reform legal immigration.

I, therefore, urge my colleagues to consider this matter carefully and vote in favor of my amendment.

□ 2100

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, it is my understanding that in this amendment the ceiling is set at 450,000, but that includes relatives and includes others who could otherwise come into the United States' present system.

I would like to ask the author of the amendment whether or not I am correct in my assuming that the ceiling would be 450,000.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from California.

Mr. MOORHEAD. I thank the gentleman for yielding.

The 450,000 is correct, 25,000 larger than the Senate version.

Mr. ROYBAL. Now, it does include then also relatives?

Mr. MOORHEAD. It includes many categories of relatives, yes. I understand not the very closest.

Mr. ROYBAL. Does it include those who come under the second and fifth preferences?

Mr. MOORHEAD. It is my understanding that it does.

I would like to point out that of the people who come under the family preference this will not cut down the numbers that they are permitted to bring into the country unless it would more than double what has been coming in. It has been about 180,000. that would have to go clear over the 450,000 to destroy the family preference.

Mr. ROYBAL. Would the 450,000 ceiling also include immediate relatives?

Mr. MOORHEAD. It is my understanding that it includes all but the very closest relatives.

Mr. ROYBAL. What it actually does then is to inflate the figure to 450,000, includes immediate relatives, and includes those that would come under the second and fifth preferences.

Mr. MOORHEAD. I do not have in mind immediately what are those two preferences, categories?

Mr. ROYBAL. First of all, would it be possible or would it include, for an example, the parents of the particular person who is in the United States?

Mr. MOORHEAD. It is not going to cut down any of those people because the part that would be reduced would be the ones who come under the latter quotas.

Mr. ROYBAL. Mr. Chairman, I think that this would actually result in a reduction because what is being done now is including in the 450,000 immediate relatives and others that could come into the United States under another process. This amendment would put in place a fixed and firm ceiling that would in fact result in a reduction.

Now the reduction in legal immigration will hurt most of those countries with the largest backlog. Some of those countries were discriminated against by low quotas under the national origin quota system that was in effect in 1968.

For example, the Philippines, Hong Kong, and Korea were penalized. The cap would also worsen the backlog problem for Mexico because Mexico at the present time has a country limitation of 20,000.

Now a reduction in legal immigration affects countries disproportionately and would lead to the perception that we are again reverting to racial and national discrimination in our immigration policy.

I do not think that we as a country should return to that position. It is my understanding that under the existing bill that the formula is much different and that in conference with the other body there will be an extensive discussion with regard to this particular problem.

I oppose the gentleman's amendment as I firmly believe that it is not in keeping with the intent of rational immigration in the United States.

Mr. MOORHEAD. If the gentleman would yield further, actually right today there would be no reductions whatsoever in anything. The only place that there would be a reduction is if the growth of the people coming in under the family preference plan would expand greatly from what it is at the present time.

We do not attempt to change the quotas. If, however, you would go up to the point where over 180,000 people were coming in under the family preference plan, as it has not so far, then you would have to reduce those that were not related to people who are presently in the United States and had the lowest kind of priority.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if a ceiling of 450,000 became law, it should be noted that the United States would still be admitting more immigrants and refugees for permanent residence than the rest of the world combined.

This amendment would not reduce the level of legal immigration to the United States.

It would simply cap it at current levels—actually allowing some room for growth—to keep legal immigration from rising indefinitely.

This amendment would not close the golden door; it would simply allow the United States to make a rational judgment as to how wide we open that golden door.

The United States admits almost as many legal immigrants from Mexico alone, and more legal immigrants from the Carribean alone, as we do from all of Europe.

Now some will contend that we already have a legal immigration ceiling of 270,000 per year.

Such an assertion does not square with reality.

This ceiling applies only to the numerically limited preference system, regardless of how many other people come in.

This might help explain why we admitted 400,000 legal immigrants in 1976; 600,000 in 1978; and 800,000 in 1980.

Bear in mind that this amendment will not affect refugees or immediate relatives of U.S. citizens.

However, by offsetting the number of immediate relatives admitted against the numbers granted preference visas, this amendment does represent a first step toward establishing a coherent policy on legal immigration.

The pressures to migrate to the United States are rising in the developing countries.

Unless we take steps now to exert some kind of control over our legal immigration policy, the figures I have just cited for you may increase astronomically.

If we enact the legalization program provided in this bill, we will be granting legal permanent resident status to between 3 and 12 million illegal aliens, and some estimates run higher.

In our attempt to deal with the problem of past immigration by including amnesty for illegal immigrants already here, we are ignoring the consequences it will have on future immigration.

I am speaking of the phenomenon of chain migration.

Once we make millions of illegal aliens legal residents, they will be eligible to bring in spouses and unmarried sons and daughters under the preference system.

Family reunification is a longstanding goal in this country and one I continue to support.

But if we are suddenly going to have several million people given legal resident status, we must take some time to look at what the impact of that amnesty will be.

How will if affect our ability to provide social services, health care, housing, and above all, jobs, to both our own citizens and the newly legalized aliens?

Can we absorb virtually unlimited legal immigration on top of unhampered illegal immigration? No.

I reiterate that this amendment will not affect refugees or immediate relatives of U.S. citizens.

There is still no limit on the numbers of these people who can join their families in the United States.

Furthermore, Chairman MAZZOLI, Chairman RODINO, and the members of the Judiciary Committee have wisely included a comprehensive reporting requirement to assess the impact of immigration on the United States.

Every 3 years the President will report on the effect of immigration on the economy, labor, housing market, education, foreign policy, environment, resources, and population growth.

This report will also include recommendations on future admissions levels.

Therefore, while this amendment will establish a generous and flexible ceiling on legal immigration immediately, it also, and more importantly, will permit us to alter that ceiling once we have assessed the impact across the broad range of our society.

I urge my colleagues to support this amendment.

Mr. DYMALLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is not my intention to use much time. I simply wanted to ask my friend, the gentleman from California, a question. I was left somewhat puzzled when, in response to a question from the gentleman from California [Mr. ROYBAL], the gentleman said, "It is my understanding," giving me the impression that the gentleman was not quite certain about what he was proposing.

Mr. MOORHEAD. I will give the gentleman the exact answer. There never would be a limitation on immediate relatives of American citizens. If they went above the 450,000 level, the 450,000 level would expand; so there would never be a limitation in that area.

Mr. DYMALLY. I was not so concerned about the actual figures as I wanted to be convinced that the gentleman knew what he was offering.

Mr. MOORHEAD. I know what I am offering.

Mr. DYMALLY. I was left somewhat puzzled when you were not very decisive about your answer to Mr. ROYBAL, leading me to believe that perhaps you were carrying this amendment for someone and you were not quite sure what was in it.

Mr. MOORHEAD. No. I firmly understand what the amendment does. When we get into these various categories of immigration, they get just a little bit complicated at points.

But we do not in any way cover refugees, people coming under the refugee programs. What we do cover are the relatives——

Mr. DYMALLY. I thank the gentleman. I must reclaim my time. I think you made your point.

Mr. RICHARDSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I believe that the Simpson-Mazzoli bill, as we have pointed out, has many problems, but this is one of the strengths, the way the committee has dealt with the issue of family reunification. I think it is a trubute to the chairman of the committee who has had substantial experience and concern for this issue, and I believe that if we look at the whole Simpson-Mazzoli bill, we will see that it is a combination of toughness and compassion, with the toughness part on the employer sanctions and some of the other restrictive measures, and the compassionate part, which deals with family reunification.

I would like to deal with some of the arguments that my colleague from California mentioned. He said that present levels of immigration are too high, adding to problems caused by over-population, such as increased burdens to taxpayers for social services and entitlements, and overuse of natural resources.

However, as the Select Commission on Immigration and Refugee Policy found, and its Chairman Theodore M. Hesburgh stated,

> The research findings are clear: immigrants, refugees and their children work hard and contribute to the economic well-being of our society; strengthen our social security system and manpower capability; strengthen our ties with other nations; increase our language and cultural resources and powerfully demonstrate to the world that the United States is an open and free society. [¶]New immigrants benefit the United States and reaffirm its deepest values . . .

Numerous economic studies undertaken since the Commission concluded its work have made similar findings. As for the so-called drain on our Nation's physical resources, it would be much more effective to reduce our per capita consumption of energy resources, for example, than to restrict future legal immigration by some arbitrary amount. The United States now has the lowest population density of almost any wealthy, industrialized nation in the world (with the exception of Canada and Australia), and has only about 6 percent of the world's populations.

The gentleman raises another question, that the cap is a reasonable limit.

That presupposes that there is a reasonable consensus that 450,000 is the appropriate long-term annual rate for legal immigration. No such consensus exists. In fact, most demographers are now saying that because of our low birth rates and the aging of our native population, we will soon have a deficiency in our working-age population that could be compensated for by increased immigration.

Another argument that my colleague makes is that changes are needed to deal with the problem of large visa application backlogs.

This change will only worsen the backlog problem—currently about a million and a half. Moreover, it will fall most heavily on family preference immigrants, unfairly restricting the rights of Americans to become reunited with their closest relatives. This is clearly counter to our Nation's commitment to fostering family reunification.

A far better approach would be to have numerical limitations large enough to prevent large backlogs.

The last case is that the worldwide cap is fair to all countries.

I think the reduction in legal immigration will hurt the most those countries with the largest backlogs. Some of those countries were discriminated against by low quotas under the national origins quota system in effect until 1968—that is, the Philippines, Hong Kong, and Korea. The cap would also worsen the backlog problem Mexico has experienced since the 20,000 per country ceiling was first made applicable to the Western Hemisphere in 1976. Note that there was no ceiling on Western Hemisphere immigration until 1965. A reduction in legal immigration that affects the disproportionately would lead to the perception that we were again reverting to racial and national discrimination in our immigration policy.

**Mr. FRANK.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand that the amendment is offered seriously and with good intentions. But I hope very earnestly that it is defeated.

I and others on this side have spoken several times earlier during this debate for positions that were not always easy. Supporting a tough sanctions program, knowing that that has got some potential problems, is a difficult decision for many of us. We did it in the context of a view which says not that immigrants are bad, not that we want to restrict immigration further because somehow there is something improper about people coming in, but because we felt the problem of illegal immigration, people coming here outside of a legal status, causes problems. We have crafted, I believe, and the House has been working, and in some cases improving and in others perhaps detracting, but in a serious way legislating on this overall balanced proposal dealing with illegal immigration.

To attach on to this bill aimed at dealing with illegal immigration a provision which will have the effect very soon of limiting legal immigration and particularly of interfering with family reunification will undercut the kind of coalition we need for legislation and I think is a mistake from the standpoint of the legislative process, but it is also a mistake substantively.

We do not have a problem of too many legal immigrants. We do not have a problem caused by people's brothers or sisters or other relatives coming over here under the preferences. I suppose people could take the argument that things began to go downhill when this country began to encounter large-scale immigration, and all of the Navajos and all of the Apaches and all of the Creoles can come in here and say that. For the rest of us, I think it would be a mistake—it is certainly contrary to the evidence—to suggest that there is somehow something adverse to our society about legal immigrants. We are talking now about the people whose right of passage would be restricted by the amendment, not immediately, but as it began to work out. These would be the relatives of American citizens, those particularly who are from groups where there continues to be immigration, Italian-Americans, Portuguese-Americans, Chinese-Americans. Those groups would begin to feel some pain because it would begin to make their family reunification competitive with other forms of immigration.

We have here a bill in which a number of Members have been trying hard in a spirit of compromise, sometimes opposing some very good friends, sometimes confounding, perhaps, people who expect us to behave in one way or another. We have tried to come together in this spirit to produce a bill that will deal with illegal immigration. To attach on to it an amendment which restricts purely legal immigration is I think to penalize people for a problem that does not exist.

I have been on the Immigration Subcommittee since 1981—and I have not seen any argument that says that the people who come over here legally, who apply, who come through the preferences, have in any way, shape or form caused a problem. Immigrants tend to be the more innovative, the more energetic, the more industrious people in any society. The decision to pick up and go to a country where you do not necessarily speak the language, do not have any great ties, I think that shows a certain type of initiative.

I think it would be a mistake for us to suggest that in this bill we are somehow trying to deal with a problem that does not exist, because legal immigrants, people who come over here in the proper way, have not been a problem.

□ 2120

**Mr. THOMAS of California.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman.

**Mr. THOMAS of California.** I want to understand the point that the gentleman is making. When the gentleman says that this amendment would restrict the relatives of citizens, by relative he does not mean immediate family, I assume, sons and daughters. By relatives he means uncles and aunts?

**Mr. FRANK.** Married brothers and sisters.

**Mr. THOMAS of California.** Distantly related relatives; not immediate family.

**Mr. FRANK.** The gentleman may be distant from his brother or sister; when I campaign, I get kind of close to mine because they are pretty good at the business.

I am not talking about distant relatives when we talk about married siblings; I do not think that is distant.

**Mr. THOMAS of California.** No. But you say relatives, clearly citizens, even under this amendment, requesting to bring their mothers and fathers and sons and daughters over would not be restricted, is that correct?

Mr. FRANK. No; I did not suggest that.

Mr. THOMAS of California. I want to understand what relatives meant.

Mr. FRANK. Well, I would be glad to explain to the gentleman what relatives meant. Relatives are generally people where you have similar families, and sometimes it is by marriage and sometimes it is by common ancestry. I am suggesting that no one has documented that there is any problem because we have had too many siblings coming over, and I think, in my own experience, representing the community of southeastern Massachusetts where we have a continuing flow of immigration from Portugal, I think it is very helpful to our community.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

(By unanimous consent, Mr. Frank was allowed to proceed for 3 additional minutes.)

Mr. FRANK. I yield to the gentleman from California [Mr. Moorhead].

Mr. MOORHEAD. I thank the gentleman for yielding.

It has been stated several times that I am reducing immigration. That is absolutely not correct.

Mr. FRANK. I never said that, of course.

Mr. MOORHEAD. The previous speaker did; 450,000 is above what has come in in 1982 and the years that are reported to us. It prevents immigration from going up through the ceiling, but it in no way cuts the immigration of children or parents or spouses.

Mr. FRANK. Again, the other gentleman from California said that. No one that I have heard of alleged that it did cut children and spouses. I do believe that there are perfectly good potential citizens that do not happen to be the children and spouses of current Americans. I appreciate the gentleman acknowledging that I did not say that the gentleman would be reducing the flow.

I did say, I thought fairly carefully, in fact, I was impressed with my discretion in this one, that it would begin to have a compressing effect in the future. I do think that is the problem. I would expect a reasonable growth in the immigration level. I think it is mistaken to argue with regard to legal immigration levels at this time.

This bill is an effort to deal with the problem caused by illegal immigration because when people enter illegally, it is not good for them, and it is not good for society when people are here illegally. It is not an antiimmigrant bill. It is not a repudiation of the American tradition of people coming here and joining together to build this society. By restricting legal immigration, you transform a piece of legislation that was aimed at dealing with a problem that is caused not by immigration, but by its illegality, and you cast aspersions on the whole notion of immigration, which I think is not good public policy, and certainly not good for this bill.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the chairman of the committee.

Mr. RODINO. The gentleman from California has stated that it would not impact adversely on immediate family members.

Mr. MOORHEAD. That is right.

Mr. RODINO. It would impact adversely. It would affect the first preference. It would affect the unmarried sons and daughters of U.S. citizens. It would affect the second preference, spouse, and unmarried and sons and daughters of aliens lawfully admitted for permanent residence. Thousands of permanent resident aliens.

This is the basis of family reunification. This is the policy that we instituted back in 1965 when we rejected the undemocratic, unrepresentative McCarran-Walter Act.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

(By unanimous consent, Mr. Frank was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. RODINO. I thank the gentleman for yielding.

To digress from the problem that we are confronted with here in America of illegal, uncontrolled immigration, and then to attempt to remedy that by dealing with a legal preference system, legal immigration, which has no bearing at all on what the problem really is all about, I believe is to indict a people who have been here, who have family members outside, who are still waiting to be reunited. I think it is out of sorts with what we are attempting to do.

The basis of the family unit is something on which we have built a firm immigration policy. The gentleman would destroy that by setting this cap, even though, at the immediate time he is not adversely affecting it.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. MOORHEAD. It would in no way reduce our present immigration, including refugees, that are nearly 700,000, many times above all the, the closest 17 countries put together. I do not intend to in any way affect the sons and daughters, minor children of American citizens, their spouses, their parents, and the only way it can affect the people that the gentleman talks about is if immigration grew substantially and a few of them, some place, might be peeled off for a year, but there is no way that it is going to do the terrible that the gentleman has recited. There is no way it can do them.

Mr. FRANK. I yield to the gentleman [Mr. Rodino] for his reply.

Mr. RODINO. I thank the gentleman for yielding.

I would like to say that I could agree with the gentleman. I have been working on the problem of immigration for 36 years.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. Frank] has expired.

(By unanimous consent, Mr. Frank was allowed to proceed for 1 additional minute.)

Mr. FRANK. I continue to yield to the gentleman from New Jersey.

Mr. RODINO. On the basis of what I have heard tonight, for the gentleman to say that when he caps at a certain number he does not adversely impact on the policy of family reunification down the line is absolutely not in keeping with the facts.

This amendment would deduct the number of visas issued to immediate relatives in the previous fiscal year from the visas available to other categories. It would cut into family reunification and have the effect of creating further backlogs for sons and daughters of U.S. citizens and relatives of permanent resident aliens, thus dividing families for many years.

Statistics reveal the immediate relative category is issued 160,000 visas per year. Deducting this number from the ceiling would penalize family reunification categories. Future increases in immediate relative visas would lessen the number of family visas issued.

I would note the Select Committee on Immigration and Refugee Policy recommended keeping the traditional free-standing immigration of immediate relatives.

Immigration of immediate relatives should be "free standing" without penalty to other immigrants in the system.

There is no provision of the immigration law more consistent with our humanitarian traditions and sense of obligation to our citizenry than that of allowing our closest relatives family reunification.

I might also suggest to the gentleman that being a member of the present administration, I would point out the Justice Department has been opposed to his amendment; that the State Department has written that it would affect foreign policy. Third, I think it is putting the cart before the horse. That is because what the gentleman is attempting to do is to deal with legal immigration when the problem that confronts us today that we have been attempting to deal with is the problem of illegal entry. I would like to insert at this time letters I have received in support of retaining the structure of existing law allowing a generous and fair system of immigration.

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UNITED STATES CATHOLIC CONFERENCE,
*Washington, DC, June 12, 1984.*
Hon. PETER W. RODINO, Jr.,
*Chairman, Judiciary Committee, House of Representatives, Washington, DC.*

DEAR MR. RODINO: H.R. 1510, the Immigration Reform and Control Act, as reported by the Judiciary Committee includes provisions that the United States Catholic Conference believes necessary in any comprehensive, equitable immigration reform.

Recognizing the historical confluence between U.S. immigration policy and the immediate family and family reunification, the Judiciary Committee wisely deleted changes to the present visa system for family members. Until stability in U.S. immigration policy is attained through control over immigration, and the determination of the family reunification needs of the legalized population revision of the immigration system should be deferred. Therefore, the United States Catholic Conference urges defeat of Amendment #33 and Amendment #34, both of which would eliminate certain brothers and sisters of U.S. citizens from the preference system.

Similarly, the Conference supports the Judiciary Committee's decision to defer any major changes to the present numerical limitations. We, therefore, oppose Amendment #31 and Amendment #32 which would impose admission "caps". The only change in this area that the Conference supports is the immediate increase in visa allocations for lawful immigration from Canada and Mexico, due to the special relationships that we have with our contiguous neighbors. The Conference therefore urges adoption of Amendment #30.

Finally, the Conference repeats its support for the Judiciary-reported provisions which establish an independent U.S. Immigration Board and revise the immigration judge system. This truly independent review authority can give balance and consistency to the application of U.S. immigration policy. Most importantly, these provisions recognize the need to establish a cadre of administrative law judges who are specially trained in international law and relations to adjudicate eligibility for asylum. The horrendous backlog of asylum applications pending before the Immigration and Naturalization Service illustrates the need to properly train sufficient staff to adjudicate these applications. Asylum is a benefit of which the United States can be proud. Applicants for asylum are best served by receiving fair, equitable, and timely decisions on their applications. Amendment #21 and Amendment #24 perfect the Judiciary-reported provisions, and the United States Catholic Conference urges their passage.

The Conference opposes Amendment No. 22 because it would abrogate most of the needed procedural safeguards H.R. 1510 affords to aliens. The Conference also opposes Amendment No. 23. We perceive no valid reason for changing the venue of the appropriate reviewing court, as provided under current law, from the locale of the administrative proceeding or the residence of the petitioner to Washington, D.C. In the Conference's view, such a change would discourage resort to judicial review by making access to the courts more cumbersome, difficult and expensive.

I call for your attention and support for this Conference position.

Sincerely yours,
Rev. Msgr. DANIEL F. HOYE,
*General Secretary.*

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AMERICAN COUNCIL OF VOLUNTARY AGENCIES FOR FOREIGN SERVICE, INC.,
*New York, NY, June 11, 1984.*
Hon. PETER W. RODINO, Jr.,
*Chairman, Committee on the Judiciary, Washington, DC.*

DEAR CHAIRMAN RODINO: With regard to the upcoming immigration reform debate, please be assured of our support for your efforts to protect family unity as the cornerstone of our immigration laws and policies. H.R. 1510, as it currently stands, retains current law in this regard, law which places a premium on the ability of families, particularly the immediate relatives of U.S. citizens, to unite in this country.

We urge Members of Congress to oppose extending our immigration ceiling to include not only immigration under the preference categories but also the entry of immediate family members of U.S. citizens. Representatives Moorhead and Sensenbrenner have both proposed such absolute ceilings on family unity, and their amendments warrant the opposition of the House.

Furthermore, the Moorhead and Sensenbrenner amendments run counter to the recommendations of the bipartisan Select Commission on Immigration and Refugee Policy which voted unanimously (16-0) to continue the "the admission of immediate relatives of U.S. citizens outside of any numerical limitations." That select commission included from this Congress not only the distinguished chairman of the Judiciary Committee, but also its ranking minority member, Congressman Hamilton Fish.

This week, Chairman Rodino, families throughout the country will be watching the debate, anxious that family unification remain the prime thrust of our immigration laws and policies. To this end, Mr. Chairman, we pledge our support.

Sincerely,
DALE S. DE HAAN,
*Chairman, Committee on Migration and Refugee Affairs, American Council of Voluntary Agencies.*

For: American Council for Nationalities Service, American Friends Service Committee, American Fund for Czechoslovak Refugees, Buddhist Council for Refugee Rescue and Resettlement, Church World Service of the National Council of Churches of Christ in the U.S.A., HIAS (Hebrew Immigrant Aid Society), International Rescue Committee, Lutheran Immigration and Refugee Service, Migration and Refugee Services, United States Catholic Conference, Polish American Immigration and Relief Committee, The Presiding Bishop's Fund for World Relief/The Episcopal Church, Tolstoy Foundation, World Relief of the National Association of Evangelicals, Young Men's Christian Association, Young Women's Christian Association.

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THE AMERICAN JEWISH COMMITTEE,
*Washington, DC, June 11, 1984.*
Congressman PETER RODINO, Jr.,
*Washington, DC.*

DEAR CHAIRMAN RODINO: As the Simpson-Mazzoli Immigration Reform and Control Act (H.R. 1510) moves to the floor of the House of Representatives, we write to you because of our concern over attempts to cut back the family reunification provisions of our current immigration law. America's commitment to fair and humane entry preferences for relatives have historically expressed our highest values and have brought to the U.S. newcomers who have enriched our social, economic and cultural life. The provisions currently in H.R. 1510 which allow for immediate entry of parents, spouses, children of citizens and generous admissions for other relatives including brothers and sisters should be supported. Amendments which would curtail family entry should be opposed.

Sincerely,
HYMAN BOOKBINDER,
*Washington Representative.*

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THE AMERICAN JEWISH COMMITTEE,
*New York, NY.*

### STATEMENT ON FAMILIES AND IMMIGRATION POLICY

Family unification, which has traditionally served as a prime goal of United States immigration policy, is in serious danger of being cut back as the Simpson-Mazzoli Immigration Reform and Control Act moves to the floor of the House of Representatives.

The U.S. Senate has passed a version of the Simpson-Mazzoli Bill that would severely limit the ability of brothers and sisters to reunite with their families in the United States. It would also impose a rigid cap on all immigration that would further cut back on opportunities for family unification.

The Bill as it now stands in the House of Representatives retains our current law's humane approach to family unification. It makes no cutbacks in current procedures that allow for immediate entry of parents, spouses and children of citizens and makes generous provision for admission of other relatives, including brothers and sisters.

The House provisions, however, are now under serious attack. Amendments will be offered on the House floor to bring this Bill into conformity with the more restrictive Senate version. Moreover, if the current House language remains intact, the legislation must still go to a House-Senate conference to reconcile the two approaches. At either stage, our country's historic commitment to families could be compromised.

We strongly oppose any cutback in the family unification provisions of our current immigration law. Our historic fair and humane entry preferences for relatives both express our highest values and have brought into the U.S. newcomers who have enriched our social, economic and cultural life. We will work toward preventing any amendments to the House Bill that would curtail family entry and toward assuring that a generous Bill survives the House-Senate conference.

Specifically, we are concerned about the following points:

1. We oppose any cutbacks in admissions of married or unmarried brothers and sisters of U.S. citizens or relatives of permanent resident aliens. In the cultures of newcomers from Europe, Asia, Latin America and Africa, siblings are considered immediate family; to prevent their entry would have devastating effects on their households. Moreover, it would rob the United States of a flow which has proven in the past to provide productive and dedicated citizens for our country. We are committed to retaining the current House version of the Bill which would continue to allow any sibling of a citizen to apply for admission.

2. We oppose the imposition of a rigid cap on immigration to the U.S. The legislation as passed in the Senate includes an inflexi-

ble cap of 425,000 new admissions per year. This limit serves no useful purpose since family-based immigration is by no means out of control and enriches American society. We support the approach of the House which places no artificial and arbitrary limit on entry of immediate relatives of U.S. citizens and retains the current procedure of allocating an additional 270,000 entry slots for other immigrants.

3. We will also strongly oppose any amendments that would compromise the ability of the United States to rescue refugees fleeing from persecution abroad. Proposals to limit refugee admissions were made and defeated in the Senate and House Judiciary Committee. If they arise on the House floor, they must again be rejected.

Immigration reform is needed in the U.S. The urge to change current procedures, however, should not create a backlash that would hurt newcomers who seek to reunite with their families or escape persecution abroad. Support of the House provisions as they now stand will both retain our commitment to family values and assure that American society will continue to benefit from the energy and talent of its diverse immigrant population.

American Committee on Italian Migration.

American Council for Nationalities Service.

American Jewish Committee.

Asian-American Legal Defense and Education Fund.

Church World Service, National Council of Churches.

Cuban National Planning Council.

HIAS (Hebrew Immigrant Aid Society).

Indochina Resource Action Center.

International Rescue Committee.

Organization of Chinese Americans.

Pacific/Asian-American Mental Health Research Center.

Ukrainian Congress Committee of America.

United Hellenic American Congress.

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[From the Christian Science Monitor, June 11, 1984]

## THE UNSEEN EFFECTS OF PROPOSED IMMIGRATION REFORM

(By Gary E. Rubin)

Although Congress is moving closer to passing massive immigration reform, many people have not realized that a version of the legislation in question would disrupt a highly successful program and tamper with fundamental American principles.

The Simpson-Mazzoli Bill, as the package of reforms is known, is most often described as a measure that would curtail future flows of illegal aliens and give legal status to those already in the United States.

While these are important questions for debate, many have not realized that the bill goes much further. By addressing the size and nature of legal as well as illegal immigration, it threatens to alter one of the most successful federal programs of the past three decades, and to meddle with principles basic to American society.

The bill has already passed the Senate and the House of Representatives committee process. It needs only passage by the full House and signature by the President to become law. Floor action in the House is scheduled for this week. Provisions for legal entry to the United States are among the most complex in US law, but the principles that underlie them are relatively simple. Current statutes allow for immigration of parents, spouses, and children of US citizens without numerical limitation and for about 270,000 entry slots for close relatives of legal aliens, brothers and sisters of citizens, and a small number of workers of special skill who take jobs they are uniquely able to fill. In practice, these laws bring about 450,000 newcomers to the US every year.

Our current immigration law stresses family values that have always been paramount in American society. In this way, the US has staked out a position unique in the world. The few other nations that maintain generous immigration policies, such as Canada or Australia, admit people on the basis of both their ties to relatives and the job and educational skills they possess. Only the US holds the importance of families so high that having a parent, spouse, child, or sibling in this country is regarded as by itself sufficient reason to grant entry. In an era of great confusion over family policy, our immigration laws remain one area where the principles for which we stand are given strong and unambiguous expression.

But the US maintains a family-oriented immigration policy for reasons that go beyond abstract principles and goodwill. Evidence from several sources indicates that legal newcomers benefit the US economically, socially, and culturally. The contributions made by prominent individuals like the businessman An Wang or the musician Zubin Mehta are obvious. Less apparent to the general public, but no less important, are the positive benefits to society from the typical Chinese small business man, the Latin skilled worker, the Soviet technician, or the European restaurateur. Research has discovered that legal immigrants equal average US earnings by their third year in this country, and surpass them within five years. Without legal immigrants, we would have less economic productivity and fewer jobs.

The diverse nature of current legal immigration is also important. Over 40 percent come from Latin America, about one-third from Asia, just over 15 percent from Europe, and a small but growing number from Africa. The US is still the place where people from around the globe feel they can realize their dreams, and we continue to benefit from their aspirations and skills.

If legal immigration is so vital, beneficial, and family oriented, why are moves now being made to reduce it? Close analysis of immigration debates will show that pressure to cut back on legal entry arises not from problems with newcomers themselves, but rather from frustration over our inability to curtail illegal immigration. Sharp debate has arisen over how to stop unauthorized flows into the US in a way that is both effective and does not threaten the civil liberties of aliens and citizens. Not finding a satisfactory answer to this challenge, some policymakers have proposed that we at least reduce flows that we do control, which are refugees fleeing oppression and legal immigrants reuniting with their families. Dissatisfaction with our policy toward illegal entry has produced a backlash that threatens all newcomers.

This reaction may be understandable, but it would result in bad public policy. Cutting back on family-based immigration would do nothing to curtail illegal entry. It would, however, deprive the country of an inflow that has proved to be economically and culturally beneficial and numerically controlled. We should vigorously resist efforts to impose arbitrary and unnecessary cuts on family-based legal inflow.

The Simpson-Mazzoli Bill as passed in the Senate does not make this important distinction. It proposes not only to curtail illegal entry but also to impose severe cutbacks on legal, family-based inflow. It would do so both by eliminating current entry preferences for married brothers and sisters of US citizens and by imposing a rigid and arbitrary cap on all immigration that, for the first time, would include parents, husbands, wives, and children of citizens. Neither of these provisions is necessary. As noted before, this inflow now is by no means out of control; and reduction in it would simply limit the many benefits we now gain through legal entry.

If these Senate provisions were enacted, the big losers would be immigrants who now come to join their brothers and sisters in the US. This would deal a severe blow to newcomers from Italy, Greece, Korea, and the Philippines, as well as parts of Latin America. It would also close the possibility of future family-based flows from the Soviet Union and Iran, should these countries become open again for emigration. It would eliminate, in short, some of our most productive sending sources.

The Simpson-Mazzoli Bill, as it now stands in the House of Representatives, does not contain these provisions. It wisely maintains our current policy on legal immigration. As the bill moves to the House floow, however, amendments will be offered to bring it into conformity with the more restrictive Senate version.

These amendments should be defeated and the approach of the House adopted. Family unification is one aspect of our federal law that works as intended and enhances the quality of our national life. We should not tamper with it.

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AMERICAN COMMITTEE
ON ITALIAN MIGRATION,
*New York, N.Y., May 1, 1984.*

Hon. ROMANO L. MAZZOLI,
*House Office Building,*
*Washington, DC.*

DEAR CONGRESSMAN MAZZOLI: A matter of great concern to ACIM has come to our attention. It is our understaning that the Simpson-Mazzoli immigration reform bill is slated for discussion and vote in the House in early May.

This Organization has had some serious reservations regarding certain aspets of this legislation. Nevertheless we decided to support the measure in its main objectives as long as the legal immigration provisions of the 1965 Act remain unchanged. We agree that illegal immigration must be dealt with, but our Organization will not support any tampering with the legal immigration preference system.

We are now seriously disturbed by the appearance on the scene of the Moorhead amendment and the organized effort to seek support for it among members of Congress. We refer to the letter dated April 4th, signed by Congressmen Carlos J. Moorhead and James H. Scheuer, which has recently been circulated.

The Moorhead amendment calls for a "cap" on all immigration including immediate relatives (with the exception of refugees, of course). At the same time it purports to leave the preference system intact. What is not explained is that the practical effect of a "cap" would be to render the preference system ineffective. Visas within the cap would be preempted by immigrants who now receive visas outside the quota limitations, leaving few numbers for the preference category relatives.

ACIM is unalterably opposed to such an amendment and views it as a devious method to foist on the public the very provisions which had made the Simpson-Mazzoli bill unacceptable in the first place.

Our Organization urges you not to vote for the Moorhead amendment or any other measure which could tamper with the preference system. Illegal immigration is the problem; legal immigration is not.

We trust you will give our position the benefit of your consideration.

Sincerely yours,

Rev. Joseph A. Cogo, C.S.

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US-Asia Institute,
*Washington, DC, June 12, 1984.*

Hon. Peter Rodino, Jr.,
*Chairman, House Judiciary Committee, Washington, DC.*

Dear Congressman Rodino: The family reunification provision of the pending immigration bill—Simpson-Mazzoli—is of prime concern to the Asian American community. The tradition of the family as the core of society is an integral part our ethos. We strongly urge that this key provision be retained in any pending immigration legislation.

Five million Asian Americans are unanimous in their support of this concept.

The US-Asia Institute through its Board of Trustees strongly endorses the retention of family reunification.

Sincerely,

Joji Konoshima,
*Director General, International and Government Affairs.*

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League of
United Latin American Citizens,
*Washington, DC, June 13, 1984.*

Hon. Peter W. Rodino, Jr.,
*House of Representatives, Washington, DC.*

Dear Chairman Rodino: On behalf of the League of United American Citizens (LULAC), this country's oldest and largest Hispanic organization, with over 110,000 members in 43 states, I write to express our continued support for reform of our immigration laws in a fair, non-discriminatory manner. While LULAC agrees that certain areas need and deserve attention, one such area which does not require reform is the present legal immigration provisions established to promote family reunification.

Mr. Chairman, while it is indeed unfortunate that the "restrictionist mentality" appears to have prevailed over the past two days, LULAC hopes that the House of Representatives will see the wisdom of not tampering with the family preference system. Central to the concept of a preference system is to promote family reunification. Amendments intended to bring about a change from present law should be resisted at all costs.

LULAC understands that many members of Congress are reluctant to retain the "status-quo" in other areas of immigration, with respect to this area the "status-quo" is more desirable than any of the contemplated changes. For these reasons, Mr. Chairman, we urge you to exercise your capable leadership in order to preserve this area of the law which has benefited virtually all immigrants, old and new.

In closing, LULAC supports your efforts in this endeavor.

Sincerely,

Arnoldo S. Torres,
*National Executive Director.*

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[Telegram]

June 12, 1984.

Representative Peter Rodino,
*House of Representatives, Washington, DC.*

We strongly support the quota preference system in the House version of immigration bill because it preserves and promotes family unity. The House version has been proven to be workable although some categories have lengthy waiting periods.

We urge the House and House conferees to reject the Senate version of preference system because it tends to destory family unity and is too experimental to be workable.

Linda J. Lee,
*Council of Asian American Women.*

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[Mailgram]

June 12, 1984.

Hon. Peter Rodino,
*Washington DC.*

Our state-wide association of Jewish Federation offers its hardy congratulations upon your election in the Democratic party primary for the seat in the 10th Congressional District.

We also wish to inform you of our strong support for your vigorous efforts in opposing legislation which would limit immigration for the purpose of family reunification.

Should this legislation pass it would severely limit emigration possibilities for soviet jews seeking to escape religious persecution and the change to rejoin their relative in the United States.

We urge you to continue your leadership activities to defeat this ill-conceived limitation on immigration.

Meyer Fine,
*Executive Director, Association of Jewish Federation of New Jersey.*

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[Mailgram]

June 12, 1984.

Congressman Peter Rodino,
*Washington, DC.*

Congressman Rodino: We commend you for your leadership efforts in opposing legislative efforts to limit immigration on the basis of family reunification. Immigration for this purpose is vital for Soviet Jews in their efforts to escape religious persecution and rejoin their families in the United States. We strongly support your position on this important matter.

Morton Bunis,
*Chairman, Community Relations Committee, United Jewish Federation of Metro West.*

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Office of the Attorney General,
*Washington, DC, December 9, 1982.*

Hon. Peter W. Rodino, Jr.,
*Chairman, House Judiciary Committee, Washington, DC.*

Dear Mr. Chairman: I am writing to you on the eve of the House consideration of H.R. 7357, the Immigration Reform and Control Act of 1982, to underscore the Administration's unwavering support for its passage in the closing days of this session. Few matters before the Congress are of equal importance. Few laws could contribute as much to our nation's future prosperity and security.

I am writing to you also to express my deep concern regarding certain amendments which may be offered in the course of House consideration of the bill. As I have stated on other occasions, I believe it would be unfortunate were the Congress to undertake at this time significant change of our laws governing the legal admission of immigrants and refugees. The most pressing issues facing us do not concern legal immigration, but accelerating illegal migration and mass asylum. I firmly believe that Congress should concentrate in the few days remaining in this session on these latter problems, which your bill so thoughtfully addresses. For this reason, I strongly urge that consideration of changes in the legal immigration system be deferred for another day.

The Administration also would oppose efforts to eliminate the legalization provisions of the bill. These provisions deal realistically and humanely with the sad fact that more than three million persons entered this country illegally in a time when our immigration laws went unenforced. With the passage of this law, that time of neglect will end. But as a practical matter, we could not now search out and deport all these people, even if we chose to do so. Nor can this great nation long tolerate the existence of a hidden foreign people within our borders, living apart from American laws. The legalization provision of the bill promises an end to this situation. To take it from the bill would undo the essential balance so carefully maintained until now. I recommend that this not be done.

I want to express again my gratitude for your years of work and leadership on behalf of these reforms, and our readiness to do all we can to assist you as the House takes up this important legislation.

Sincerely,

William French Smith,
*Attorney General.*

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U.S. Department of State,
*Washington, DC., September 10, 1982.*

Hon. Peter W. Rodino, Jr.
*Chairman, Judiciary Committee, House of Representatives, Washington, DC.*

Dear Mr. Chairman: In response to your request, I submit this amplification of my testimony of April 20, 1982, and the remarks in our report of May 6 on H.R. 5872 regarding any changes in the legal migration system of the Immigration and Nationality Act.

As you may know, the Interagency Task Force established by President Reagan gave serious attention to the recommendations of the Select Commission on Immigration and Refugee Policy, including those relating to legal migration. It determined that the major problem facing the country with regard to the entry of foreigners is illegal migration and that, in the absence of a clear showing that problems arise from legal migration, any effort to make changes in that system would only detract from the central issue before us. The Administration did not, therefore, recommend any changes in that system and, indeed, in its testimony expressed its concerns about any proposals to change the existing system of legal immigration.

Aside from the domestic ramifications that could stem from the implementation of those proposals (which are not really within the bailiwick of the Department of State), we continue to be concerned about the potentially damaging effects some of the proposed changes in the legal immigration system could generate in our relations with certain foreign states. We would therefore welcome the prospect of a less time-pressured consideration of those proposals and their prospective impacts.

If there are other areas of the legislation about which you would like further comment, please do not hesitate to call upon me.

Sincerely,

Diego C. Asencio.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. MOORHEAD. If legal immigration is growing constantly and it is reaching nearly 800,000 a year, we must control it.

Mr. DAUB. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am going to take my full time; I am going to try to get some clarification into this issue, if I can, during this 5 minutes.

I rise in support of the amendment offered by my colleagues, the gentleman who are concerned about this issue as I am, Mr. Moorhead of California and Mr. Scheuer of New York.

The 1970's became a turning point for the United States with respect to this issue of immigration. It became clear that changes made in our policies for dealing with the influx of immigrants had to be recognized. Those immigrants, of course, were seeking a better way of life. Many months have gone into the preparation of the legislation that is before us this evening. I want to first commend my colleagues for their diligent and well-intentioned efforts. However, this bill contains a lethal combination. In addition to providing no cap on legal immigration, we will be opening the doors to millions of illegal aliens, I submit to you, when we get to the amnesty section of this bill.

This amendment before us will allow us to achieve at the very least some control over legal immigration by setting an annual ceiling of 450,000, approximately our present level for legal immigration. The American people do not support massive immigration.

□ 2130

In repeated public opinion polls, 80 percent of those polled want legal admissions reduced below the 400,000-per-year level. No reasonable person involved in immigration reform wants to stop immigration entirely, but we are concerned about the growing resentment of immigrants and immigration. With over 10 million Americans out of work, and I know this concerns my colleagues because just the other day the House passed legislation to restrict foreign competition in an attempt to preserve American jobs, and with the growing Government deficit that we have, we cannot afford to simply open our doors to all who wish to come here.

The demographics and costs of immigration are staggering. According to the 1979 Justice Statistical Yearbook, 270,000 immigrants were admitted that year under our system of preferences for relatives of American citizens alone. Fully one-third of that number came under the fifth preference category, brothers and sisters of U.S. citizens, and their spouses and children. This is, in my view, chain migration—chain migration—at its very best.

Above and beyond that, 270,000 legal relative immigrant category, we admitted another 218,000 refugees. Once these immigrants achieve permanent residence, he, she, or their dependents become eligible for all the benefits of U.S. citizens—public assistance such as food stamps, AFDC, and SSI.

Additionally, in this same year, and mind you, this is before we commenced this 3-year dialog on immigration reform, in 1979 we documented 1.1 million undocumented aliens apprehended—apprehended—in this country alone. Conservative estimates show that over 800,000—over 800,000—undocumented or illegal aliens have entered this country each year since 1976.

For the sake of argument, I offer findings of several studies. One study found that 29 percent of illegal Dominicans, for example, in New York City alone receive welfare. Another study found that 18.5 percent of a group of undocumented women in Los Angeles were receiving welfare. A study of unemployment insurance applications from aliens in Illinois found 46 to 51 percent of them to be illegal.

I point out these studies only to emphasize that the costs of immigration have not been sufficiently documented for us to make the sweeping reforms that this legislation proposes. We cannot possibly control the costs of illegal immigration if we cannot put a hold on the costs of legal immigration. At a time when Government programs are being pared, this legislation is a further threat to our social service safety net.

We have three options. First, to increase spending for social services; second, to reduce services to our most needy citizens; or third, to control legal immigration.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. Daub] has expired.

(By unanimous consent, Mr. Daub was allowed to proceed for 4 additional minutes.)

Mr. DAUB. I wish to suggest to my colleagues that this final option is not only the most practical, but in light of our growing deficit, in light of our unemployment, it is our only option. We must restore a cap or a ceiling on legal immigration, and I therefore ask you for your support.

Let me summarize a couple of points that have been made in the debate so far.

If you take someone, my colleagues, who is an illegal or of undocumented status, legalize their status, moving them then to the naturalization window 3 to 5 years later, depending upon whether they stay unmarried or not, then grant them citizenship by naturalization, you then, with respect to the argument on family unification, which really is not technically germane to this amendment but might be germane to my amendment No. 34, you look at the function of bringing mother, sister, brother, father, and/or their spouses and their children begotten overseas, and look at a chain migration problem that could amount to as many as 70,000—70,000 who would be able to come here in the next 10 years legally by virtue of amnesty alone if it should be a part of this bill on final passage.

So if Members are interested in doing something about this problem, I suggest that especially for those of my colleagues who support amnesty, they should be willing to support the cap that is proposed by the Moorhead-Scheuer amendment as a way of getting our borders under control.

There are 1.4 million people right now waiting on fifth preference alone. That is the backlog as of June of this year, 1984. I want to call that point specifically to the attention of my colleagues.

So I summarize with the following points: There is no cap of any sort in the committee bill. This, coupled with the legalization program, would create a snowballing multiplier effect that is referred to as chain migration. It is simply too costly, No. 3, and public opinion polls demonstrate that the American people want caps on legal immigration.

We are, my collleagues, a compassionate nation, but the resentment building of immigrants will only be compounded and studies show that people do not distinguish, I am sorry to say, between immigrants on the one hand, and refugees on the other.

We cannot possibly, I say in conclusion to my colleagues, we cannot possibly control the costs of illegal immigration, particulary for States like Florida, Texas, and California, if we cannot control the costs of legal immigration.

I thank my colleagues for their attention.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from Florida.

Mr. McCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, the gentleman used a figure of 70,000 a minute ago with respect to multiples. Did he mean that, or was it 70 million?

Mr. DAUB. Excuse me. I meant 70 million. May I correct the record very emphatically for the gentleman? I appreciate the gentleman's instructive observation.

If there are 6 to 12 million undocumented aliens in the country at the present time, and we go through the process from undocumented status to documented status to legalization to naturalization to sponsorship, we have a chain that is set in effect that would go from 6 million to 12 million that are illegal that would become legal to 70 million by virtue of the preferences if there is no cap placed on the legalization that occurs.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. Daub] has again expired.

(On request of Mr. McCollum and by unanimous consent, Mr. Daub was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. If the gentleman will yield further, I wish to compliment the gentleman on his presentation. I think he has made a very articulate case for a cap, as well as for consideration, at least a predicate for it, of his own amendment coming up on the serious problems we are going to get into unless we do something to think seriously about legal immigration and the fifth preference and family unification.

We just simply cannot put our heads in the sand like ostriches and ignore the problem, as much as we want to continue to allow the door to be open totally. While illegal immigration is the thrust of this bill and is the main problem that concerns this Member, there is no way we should be ignoring legal immigration.

Initially, the legislation in our subcommittee did address some of these problems and was proceeding in that line, but it was taken out in full committee.

I fully support the effort of the gentleman from California to put a cap and I appreciate the gentleman from Nebraska making the points he has made.

Mr. DAUB. I thank my colleague for his help and for his constructive commentary for the record.

Mr. Chairman, I want to say finally that there are a couple of things that are important with respect to the gentleman's point.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. Daub] has again expired.

(By unanimous consent, Mr. Daub was allowed to proceed for 1 additional minute.)

Mr. DAUB. We are not yet to that point where I know the distinguished chairman of the Committee on the Judiciary does have a legitimate concern, where I will admit there could be a squeezing, if you will, up against that $450,000 level. I fully recognize that. But I do not think we should go to conference with the other body, where they have looked at the Hesburgh Commission report, and as well their version, will take us to conference and put is in a tough position.

So I ask for a generous amount of understanding for the point that the two gentlemen are making in offering this amendment, because I think it can help us over a major hurdle later on down the road as we go to final consideration.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman from California.

Mr. MOORHEAD. I thank the gentleman for yielding.

Mr. Chairman, we can, in our committee, if we wish, when the review comes up in 3 years, and if we feel the ceiling should be slightly higher, we can make that raise.

Mr. DAUB. I thank everyone for their attention.

□ 2140

Mrs. BURTON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take 5 minutes. Just let me finish and I will give the floor to the gentleman. I will not take five minutes.

Mr. Chairman, first of all, I think we are mixing up apples and oranges. The two gentlemen who spoke on behalf of the amendment, the gentleman from California and the gentleman from Nebraska, it does not belong in this bill.

As the chairman of the committee said, this is a bill dealing with illegal immigration. Let us deal with that issue.

The amendment of the gentleman from California [Mr. Moorhead] did not pass the committee. Obviously, the committee had ample time to study it and it did not pass the committee.

I think that is an issue that has to be studied. It has to be weighed. It does not belong here. Let us keep it out.

Mr. RODINO. Mr. Chairman, will the gentlewoman yield?

Mrs. BURTON of California. Mr. Chairman, I yield to the chairman of the committee, the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. Mr. Chairman, I thank the gentlewoman for yielding.

The reason why the committee rejected the amendment is that it is an amendment that again departs from the issue that we were studying, that we have studied for a period of years.

It is true, as the gentleman from Nebraska recites, that there will be a need once legalization is in place, and implemented; but what we are dealing with now is a problem that we have studied, illegal immigration.

I would say to the gentleman that it is important that we know what the effects of legalization may be. There is no question that we will deal with legal immigration policy now and hereafter, but it is tremendously important that we not reject the current policy which is one that has been working well and in the interests of this country.

No legal immigrants that I know of have become a burden to the United States. They come in here, they qualify, they work, they produce families. Certainly we should not be indicting them now because there may be others in the future who may be legalized.

Mr. WILSON. Mr. Chairman, will the gentlewoman yield?

Mrs. BURTON of California. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I would like to ask unanimous consent that all debate on this amendment cease in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. Wilson]?

Mr. RODINO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DAUB. Mr. Chairman, will the gentlewoman yield to me, please, for a brief comment?

Mrs. BURTON of California. I yield to the gentleman.

Mr. DAUB. Mr. Chairman, I do appreciate the gentlewoman's contribution and point and particularly to my good friend and distinguished chairman of the Judiciary Committee, let me say that because of the fact this bill is on the floor and being debated by us in recognition of the massive problem of undocumented aliens and because of our concern for trying to get our borders under better control, the very problem itself portends difficulty on the question of what happens to those in a legalized status, for that very reason.

Mrs. BURTON of California. The gentleman is speaking of undocumented aliens who are here in this country already. They are living here. This has nothing to do with preference No. 2 and preference No. 5. I think that these are different issues. It belongs in a separate bill on immigration, period.

Mr. DAUB. Mr. Chairman, if I might have an additional moment from the gentlewoman.

Mrs. BURTON of California. No. I have no more time. I yield back the balance of my time.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes.

I think it is quite important, particularly in light of the statement of the gentlewoman from California with regard to the question of mixing apples and oranges that this thing be brought back into perspective of what we are really talking about. We are not mixing apples and oranges.

This bill has a provision toward the last. We do not know what is going to happen to it, but it is a very important provision that there is going to be a lot of debate on and that is the provision dealing with legalization.

Now, this amendment simply tries to put a cap on immigration and it does contemplate that that provision is going to pass, so I think that it is important that this amendment prevail, that it be passed.

One of the things that we have found out in studying this whole question of illegal aliens in this country is how many are there out there, and none of us know. The estimate ranged all across the board up to astronomical figures.

Under the law, those that can come into the country after legalization goes up proportionately. This simply puts a cap on that figure and I think it is a very important amendment and a very important amendment for that reason.

Therefore, I think that the amendment of the gentleman from California should be passed by this body. I think he is quite right in talking about after we find out and have experience with what we have done and what we have accomplished, we can go back and revisit it. That is what this Congress is all about, but I think just being cautious at this particular point demands that this amendment be passed.

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I would be glad to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, to my friends who have recently spoken and especially my friend, the gentlewoman from California, I would like to point out that this bill is provided to reform the Immigration and Nationality Act of the United States. Section 2, title II, is Reform of Legal Immigration.

I did not provide for the titles of the bill, but reform of legal immigration is one of the major titles that was put into the bill.

My amendment was originally in the bill that was introduced 2 years ago as the bill was introduced. The Senate of the United States has included exactly the same provisions that we have, except that they are at a lower figure than we are, so this is very definitely an issue that is before us, that is before the Congress, and must be considered by the Congress at least in the conference committee with the Senate and should be considered by us here, so that we have partaken of the same kind of discussion that the Senate has had and we are able to deal with them as equals.

Mr. SHAW. Mr. Chairman, I thank the gentleman for his remarks.

I think what we are saying here is not simply that we are just cutting things off, because we are not. All we are saying is that if legalization passes, we are going to go forward with an abundance of caution and I think that is most important.

Mr. LEVIN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I very much oppose this amendment. First of all, I think it could be a killing amendment. If it is passed, it could help to kill this bill.

If the delicate balance in this bill between enforcement against illegal immigration and legalization can be maintained, I intend to vote for the bill, especially if it is surrounded with adequate antidiscrimination provisions; but if we start to get into the issue of legal migration and limits, I think we are placing in jeopardy and for good reason the passage of this bill.

I am opposed to it also because it is a chilling amendment. What it does is to chill for people we do not know, for numbers we do not know, the kinds of dreams upon which this country was built

The gentleman from Nebraska and the gentleman from California say something like this.

"Well, the other provisions in this bill portend a problem."

We have the ability in this Congress to handle problems when they arise.

It has also been said, "Ah, but people don't distinguish"—I did not write down the exact words, but this was the import, that people do not distinguish between legal and illegal migrants.

I will yield to the gentleman and tell me what the gentleman said exactly.

Mr. DAUB. Between refugees, which are a category not counted in the Moorhead amendment, if the gentleman will read it carefully, and the undocumented alien.

Mr. LEVIN of Michigan. All right. We have the ability to make those distinctions. We have the ability to sort out what makes sense and what does not make sense.

I come from a State with heavy unemployment. It is very sensitive to issues of migration, to all kinds of issues of migration and immigration.

□ 2150

But I think the people in the State of Michigan are able to distinguish between legal and illegal migration.

This is a bill that endeavors to get at the issue primarily of illegal immigration into this country. And you say, But what about the chain? Most of us here are part of that chain. We are part of that.

All right, I acknowledge that there is an issue of population growth rates, and I worked with those issues in terms of developing countries for a number of years. There is also an argument that can be made about the question of adequate, appropriate population growth rate in the United States of America. But that requires some serious, open discussions within committee and debate on this floor and not an effort to set an artificial ceiling of 450,000 for the next year, the year thereafter, and a year thereafter.

You have conjured up all kinds of nightmare scenarios as to what might happen if we do not take action. They are pure conjecture.

I think in the end what they do is to appeal to the worst in America instead of the best in America. They appeal to the worst in our history; not to the best in our history. And what they appeal to, again, is to pure conjecture; not as to likely reality.

Mr. DAUB. Will the gentleman yield?

Mr. LEVIN of Michigan. I will be glad to yield.

Mr. DAUB. I certainly want to defer to the gentleman's population growth expertise and certainly coming from a State like Michigan, which has a very high and has had even worse unemployment in the immediate years past, but I want to point out that the intention of this gentleman in supporting the amendment that is before us revolves around the process of what we do in the bill with respect to, for example, subsidizing the welfare and subsistence rolls in States that have problems with those who are undocumented, that are then given, for example, legal status by virtue of the amnesty provision.

I think the gentleman understands that. It is a problem that this bill does deal with.

Mr. LEVIN of Michigan. Let me take back the balance of my time, if I might, and let us deal with that issue when we come to the question of the legalization of illegal immigrants in this country. Do not try to do it by setting an artificial number.

The problem relates to illegal migration. I think the majority of the people in this country——

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent Mr. LEVIN of Michigan was allowed to proceed for 1 additional minute.)

Mr. LEVIN of Michigan. I think the people in this country are willing to stand up and be counted for the process of legal migration into the United States. They know the principle upon which this country was built. They know what has happened in the past with numbers that are plucked out of the air.

Let us talk about population growth rates. Let us talk about environmental problems. Let us talk about economic growth problems. But let us do it in the appropriate context and not in the context of a bill that relates to illegal migration.

There is nothing more dangerous.

Mr. DAUB. Will the gentleman yield briefly to me one more time?

Mr. LEVIN of Michigan. I yield to the gentleman.

Mr. DAUB. I appreciate the gentleman yielding. If I need to I will get him an additional minute or I will try to.

I look at what happened from, say, 1965 to 1980 where our population base in this country went from about 170 million or 180 million to about 235 million. That is an increase of one-third in about a decade and a half.

Mr. LEVIN of Michigan. Would you have cropped that off? Would you have chopped that off?

Mr. DAUB. Of course not. But I want to finish my point.

But since that time we are adding about 1 million illegals or undocumenteds to the population base, and coupling that with amnesty for them gives us a chain problem that is a major consequence that this bill must address.

Mr. LEVIN of Michigan. Talk about it when you get to illegal migration; do not use the issue of illegal migration to chop off legal migrants who want to come into this country and who in the last few years have been making major contributions. And all you need to do is to look around your community and my community and see what is happening.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. Levin] has again expired.

(On request of Mr. Rodino and by unanimous consent Mr. Levin of Michigan was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Will the gentleman yield?

Mr. LEVIN of Michigan. I will be glad to yield to the gentleman.

Mr. RODINO. I think the gentleman is making a point that needs to be made. We have come up with a figure of 450,000. Where this figure came from, I certainly do not know. I must admit as one who has followed this problem of immigration for 36 years, I have yet to be able to—except for the fact that we have had ceilings of 400,000, 450,000, which were, and I must say honestly, and in no way detracting from the ability of this Congress to act with some wisdom, those figures were plucked out of the air. They were not given due consideration.

But the legal preference system that we have been working on since 1965, which was improved upon in 1975 and 1976 when we went to the Western Hemisphere System, all of those beening well designed, projected. All I am saying is that we should not address this subject of legal immigration while we are not able yet to address illegal immigration.

Mr. LEVIN of Michigan. I think the chairman has summed up the case and I hope this House, as late as it is, will listen.

We have been fighting for 50 years over this issue and I do not think at a late hour, without adequate debate that is required, that this House wants to take a backward step.

Mr. MOORHEAD. Will the gentleman yield?

Mr. LEVIN of Michigan. I will be glad to yield to the gentleman from California.

Mr. MOORHEAD. The figures were not plucked out of the air. The figures for annual average legal immigration from 1971 to 1978 were 437,000, slightly below that. The figures have been just below the levels that we had set over the last couple of years. We picked a figure that was 25,000 higher than what the other body picked.

Mr. LEVIN of Michigan. Let me just take back my time and say that if a problem occurs in the next few years we will be here to solve it. Do not try to solve the problems of tomorrow by projections from the past.

If we had done that 10 years ago we would have made a serious mistake.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Let me once again just salute the chairman of the committee, the gentleman from Kentucky [Mr. Natcher]. It is now almost 10 o'clock at night. The gentleman has been in the Chair since 10 o'clock this morning. It is his third straight day. The gentleman continues to preside with an amazing amount of patience and forebearance and I personally think he is an excellent chairman.

The gentleman, as I have said before, makes me proud not just to be a Member of this body but to be a member of the Kentucky delegation.

Let me reflect with my friends in the House for just a few minutes before I address the gentleman's amendment. I want to salute the House on making remarkable progress on this bill. We are at amendment No. 31 by the gentleman from California [Mr. Moorhead].

There are, of course, 69 amendments made in order. But, as the House knows from observing the procedures of the last 2 days, there are amendments that we have conceded on, amendments that we have agreed to. And I look ahead just slightly. There is an amendment by the gentleman from California [Mr. Roybal] who on tomorrow will offer that amendment that we agree to.

There are other amendments.

So, essentially speaking, the gentleman from Kentucky is very pleased with the progress and thanks the leadership for having agreed to keep us here and to get some work done.

I understand that my friend, the distinguished chairman of the committee, will move to rise at 10 o'clock in order that we return to this subject matter tomorrow. But let the gentleman from Kentucky just again say that we are making very good progress. On tomorrow there are a couple of amendments that I think we can accept and a few we can reject, and I think we can move along.

With respect to the remaining few minutes of my time, let me just say that I have the height of regard for the gentleman from California, a distinguished member of our full committee and a Member of great thoughtfulness on all of the issues before us. He has reported to the House tonight an amendment, which while I cannot support it, is a thoughtful amendment. And there are some Members who may have suggested there was some meanness or narrowness about it.

The gentleman's amendment comes from the heart. He deals with the question of whether or not the United States can support the number of people who are here illegally as well as those who enter legally.

I will have to say that the problem, if there is one, and there is a question as to whether there is a problem even with the documented workers and the undocumented aliens, if there is a problem it is with them, not with legal immigrants. If there is a problem, it is not with the family reunification provisions, the immediate family category, it is with the people who enter illegally.

□ 2200

Now, the people who enter without paper are not brigands or highway robbers or pillagers. If there is a problem, it is the problem of illegal entry of undocumented workers in our midst, not the problem of legal entries in the family categories, legal entries in the system of labor preferences.

So I would say that this House really should defeat this amendment in its wisdom, and it is going to take a lot of wisdom, it is going to take a lot of courage, take a lot of fortitude to deal with problems as it has with the employer sanctions, to deal with the question of legalization.

Let the House resolve to overcome the temptation to deal with something which is sort of near at hand, which is the legal entry, in order to really, by sort of another avenue, try to reach the undocumented entry, because I think that is the problem.

We think employer sanctions will help solve some of that problem. We think legalization is an appropriate and moral and practical way to deal with those who are here.

Mr. MOORHEAD. Mr. Chairman, will the gentleman from Kentucky yield?

**Mr. MAZZOLI.** I would at this point yield to my friend, who is a very thoughtful Member of this body.

**Mr. MOORHEAD.** You know, we are not in any way criticizing any legal immigrant to the United States, and we know they are great citizens and we all help them every day in every way we can.

But we are concerned with how many new people we can take during any one year into the United States with the hundreds of thousands that are coming in one way or the other; without destroying the quality of life in this country that is so valuable to each one of us and provide the job opportunities not only for our new citizens but for those who have been here before.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(On request of Mr. DAUB and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

**Mr. MAZZOLI.** I thank my friend from Nebraska.

The gentleman from Kentucky, until coming to Congress, has done very little traveling outside of his home State of Kentucky.

Coming to this body, having a chance to meet people from New Mexico, from Texas, from California, from New York and to travel across this United States has given him an opportunity to see the breadth and depth and beauty of America.

I remember in a recent airplane trip to the gentleman's home area of southern California, I traveled from Washington, DC, over States of expansiveness like the gentleman's State of Nebraska; the beautiful and wide open space, wide open areas.

Now I grant you not all that is arable, I grant you not all of it is inhabitable, but many, many areas are.

I would say with great respect, that the gentleman from Kentucky, not a demographer, not an agronomist, but a person who can use his eyes, can believe that the Nation cannot actually support legal entry.

If we say rightly so we can support and we think we should, in morality and practicality, support legalizing some of those people who have come here to better their lives, then it seems hard for the gentleman to believe that we cannot accept in our midst, with open arms and with graciousness, the entry of those who come to rejoin families, to do our work in the sense of having labor skills and labor talent.

So I only ask the gentleman, he is a man of great intellect and a man of great compassion; I would say to some who might suggest the gentleman has a narrowness, that is not the case, the gentleman has a magnanimity that I think is quite impressive.

I would just say to the gentleman while I oppose the gentleman's amendment and I do hope desperately it does not pass, this is not reflection on my fondness for the gentleman and on my belief that we must revisit the question of legal immigration.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(On request of Mr. DAUB and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

**Mr. DAUB.** Mr. Chairman, will the gentleman from Kentucky yield?

**Mr. MAZZOLI.** I yield to my friend from Nebraska.

**Mr. DAUB.** I could not agree with the last part of your response with yielding to the sponsor of the bill more. I am so very committed to a legalized, legal, orderly immigration policy, given the change in demographics and the very improved attractiveness of our country relative to other parts of the world.

I wonder if the gentleman could inform the membership, did the figure of 450,000 come from the subcommittee after great debate and was not 425 in the original subcommittee version and that was increased to 450,000.

**Mr. MAZZOLI.** I would like to address the gentleman because there was some suggestion from one of the earlier gentlemen that maybe this figure was plucked out of thin air. It was not plucked out of thin air.

The gentleman's figure is one that is documented as being about what is the current legal entry, counting the nonpreferences and the preference system. It is a valid number. The question the gentleman from Kentucky poses is this: This may well be putting the cart before the horse in this sense, if the legalization program is first voted up and I hope that it is, and if it works, and I hope that it does, I hope people do come forward to be legalized, then 5, 6, or 7 years down the road, under the distinguished leadership of my friend from New Jersey, the distinguished chairman of our committee, we must revisit the question of how many legal entrants, what are the family categories; should we change those categories; should we expand or contract them?

I say, only, now we should not get into this whole question. Give it a chance, let the basic bill operate; but do not destroy, let me finally say to the House with whatever emphasis I can summon at this hour of this night, the basic symmetry and balance of this bill, I would say that to retain the balance of the bill 1510, we must not vote up the gentleman's amendment.

The CHAIRMAN. The question is on amendment No. 31 offered by the gentleman from California [Mr. MOORHEAD].

**Mr. RODINO.** Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from New Jersey [Mr. RODINO].

The motion was rejected.

The CHAIRMAN. The question is on amendment No. 31, offered by the gentleman from California [Mr. MOORHEAD].

The question was taken; and the chairman announced that the noes appeared to have it.

### RECORDED VOTE

**Mr. MOORHEAD.** Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 231, not voting 34, as follows:

[Roll No. 237]

### AYES—168

Anderson
Andrews (TX)
Applegate
Archer
Badham
Bateman
Beilenson
Bennett
Bereuter
Bethune
Bilirakis
Breaux
Brooks
Broomfield
Brown (CO)
Broyhill
Bryant
Burton (IN)
Byron
Campbell
Carney
Chandler
Chappell
Chappie
Coleman (MO)
Coleman (TX)
Coughlin
Courter
Craig
Crane, Daniel
Daniel
Dannemeyer
Daschle
Daub
Davis
Dorgan
Dowdy
Dreier
Duncan
Dyson
Emerson
English
Erdreich
Erlenborn
Fiedler
Fields
Flippo
Franklin
Gekas
Gingrich
Glickman
Goodling
Gramm
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hightower
Hillis
Hopkins
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Kasich
Kindness
Kramer
Lagomarsino
Latta
Leath
Lewis (FL)
Livingston
Lloyd
Loeffler
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Marriott
Martin (NC)
McCandless
McCollum
McCurdy
McEwen
McKernan
Mica
Michel
Miller (OH)
Montgomery
Moore
Moorhead
Murphy
Myers
Nelson
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Patman
Patterson
Petri
Pursell
Quillen
Ray
Regula
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rudd
Sawyer
Schaefer
Scheuer
Seiberling
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Slattery
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stratton
Stump
Sundquist
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Vandergriff
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whittaker
Williams (OH)
Wilson
Winn
Wyden
Wylie
Yatron
Young (AK)
Zschau

### NOES—231

Ackerman
Addabbo
Akaka
Albosta
Alexander
Annunzio
Anthony
AuCoin
Barnard
Barnes
Bartlett
Bedell
Berman
Bevill
Biaggi
Bliley
Boehlert
Boggs
Boland
Boner
Bonker
Borski
Bosco
Boucher

Boxer
Britt
Brown (CA)
Burton (CA)
Carper
Carr
Clarke
Clinger
Coats
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coyne
Crane, Philip
Crockett
D'Amours
Darden
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Evans (IA)
Evans (IL)
Fascell
Feighan
Florio
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gore
Gradison
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hamilton
Harkin
Harrison
Hatcher
Hayes
Hefner
Heftel
Hertel
Hiler
Holt
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lipinski
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
MacKay
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McDade
McGrath
McHugh
McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Moakley
Molinari
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Nichols
Nowak
O'Brien
Oakar
Obey
Ortiz
Ottinger
Owens
Panetta
Pease
Penny
Pepper
Perkins
Pickle
Porter
Price
Pritchard
Rahall
Rangel
Ratchford
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Schneider
Schulze
Schumer
Sharp
Sikorski
Sisisky
Skelton
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stokes
Studds
Swift
Synar
Tauke
Torres
Torricelli
Towns
Traxler
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Wheat
Whitley
Whitten
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Young (MO)

NOT VOTING—34

Andrews (NC)
Aspin
Bates
Bonior
Cheney
Clay
Coelho
Dickinson
Early
Fazio
Ferraro
Fish
Foglietta
Ford (TN)
Fowler
Fuqua
Hansen (ID)
Hawkins
Lott
Martin (NY)
Mitchell
Neal
Oberstar
Paul
Savage
Schroeder
Sensenbrenner
Shannon
Simon
Stark
Udall
Williams (MT)
Yates
Young (FL)

☐ 2220

Messrs. LENT, D'AMOURS, VOLKMER, and EVANS of Iowa changed their votes from "aye" to "no."

Mr. McKERNAN and Ms. SNOWE changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Amendment No. 32 is in order at this time. Does the gentleman from Wisconsin [Mr. SENSENBRENNER] desire to offer amendment No. 32?

Pursuant to House Resolution 519, if amendments numbered 33 and 34 are both adopted, only the latter shall be considered as having been finally adopted and reported back to the House.

Amendment No. 33 is in order at this time.

Does the gentleman from Wisconsin [Mr. SENSENBRENNER] desire to offer amendment No. 33?

The Chair recognizes the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Naturalization Act, and for other purposes, had come to no resolution thereon.

## PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF THE COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit while the House is considering bills under the 5-minute rule on Thursday, June 14, 1984.

I have already talked to the minority, the gentleman from Ohio [Mr. KINDNESS] and he is agreeable to this.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. HILER. Reserving the right to object, Mr. Speaker, did the gentleman say the request has been cleared by the minority?

Mr. SAM B. HALL, JR. If the gentleman will yield, yes, I said it has been clearly by the minority. I talked to the gentleman from Ohio [Mr. KINDNESS] about this, and he has agreed to it.

Mr. HILER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## SANDINISTA LOBBYING EFFORTS

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIEL. Mr. Speaker, I rise out of alarm and concern that this House's ability to consider pending legislation is being compromised, and may be the subject of cynical foreign manipulation.

I am reliably advised that the director for North American Affairs of the Nicaraguan Foreign Ministry, Saul Arana, on May 31, bypassed the U.S. Ambassador to Nicaragua, the Secretary of State, and the President, and came direct to the Intelligence Committee with an "Aide Memoire" presenting the Sandinista negotiating position on matters involving the United States. I am further advised that the committee properly and immediately contacted the State Department about this matter.

Arana and the Sandinistas' intent appears to have been to directly influence congressional consideration of further aid to the Contras, the anti-Sandinista freedom fighters who refuse to allow the Sandinistas to pervert the recent revolution in Nicaragua and permanently establish a Marxist dictatorship.

I am submitting the full document for the RECORD, Mr. Speaker, but I do want to highlight two key sections:

The first, in paragraph 9, states that:

> Nicaragua has decided to make known to the Congress of the United States all of the aforementioned points given that it considers that if that body were to succeed in continuing to curb the financing of the counter-revolution, it would contribute in a meaningful (sic) way toward more concrete results in this process of bilateral dialogue between the Government of the United States and the Government of Nicaragua.

This clearly constitutes a lobbying effort on the part of the Sandinistas direct to the Congress against any supplemental assistance for the Contras.

The second item worthy of special attention, Mr. Speaker, is that section of paragraph 6 which states that:

> In reference to the point described as "the process of democratization." The Government of Nicaragua wishes to reiterate that which it has said on many occasions. In the sense that this point cannot be the subject of negotiation because it falls strictly within internal jursidiction and is an indivisible part of our sovereignty, self-determination and independence.

I find it unbelievable that the Sandinistas, faced with a counter revolution provoked by their unwillingness to allow democracy and basic human rights in Nicaragua, refuse to discuss the single key issue—democratization—regardless of to whom they are writing.

This "Aide Memoire," in its entirety, brings to mind some extremely serious questions, Mr. Speaker.

Was this document in fact transmitted to the U.S. Government? And if so, why to the Congress and not through diplomatic channels? And if to Congress, why to the chairman of the Intelligence Committee? And what other Members have been the subject of a cynical Sandinista attempt to manipulate the Congress?

These questions are particularly pertinent, Mr. Speaker, in light of two other recent developments. The first is that I am advised that a congressional staff member—without the knowledge of the Congressman for whom he worked—contacted our committee on the day of final consideration of the defense authorization bill, attempting to gain our agreement to limit U.S. troops in Honduras, had returned from a visit to the Sandinista leadership in Nicaragua just that month.

The other development, Mr. Speaker, is of course the very strong indication that the recent assassination attempt on the life of Eden Pastora, in Costa Rica, was perpetrated by the Sandinistas using an international terrorist sent from Nicaragua.

This coldblooded murder attempt cost the lives of eight people, including an American citizen, Miss Linda Frazier, and untold wounded.

In summary, Mr. Speaker, we have a band of murderers directly interceding with the chairman of the committee of jurisdiction to lobby against intelligence funding. We have a congressional staffer quietly traveling to Nicaragua and returning to attempt to influence the defense authorization bill on behalf of the Sandinista point of view.

What is going on, Mr. Speaker? Why, and how, and to what extent, are these indications of cynical manipulation of, and influence on, this body—and what are we going to do about it?

### "Aide Memoire" Alleged To Have Been Provided by Nicaraguan Foreign Ministry North American Affairs Director Saul Arana to Chairman Boland of the Intelligence Committee, May 31, 1984

1. Nicaragua wishes to reiterate its willingness to enter into sincere and constructive dialogue with the United States. This position has been corroborated by the multiple direct and indirect measures taken and rapproachments attempted by Nicaragua in different opportunities although Nicaragua never received any response that would denote a sign of sincere will and desire by the Reagan administration to sit down and talk.

2. On the contrary, the United States has erroneously interpreted each and every one of the steps taken by Nicaragua as a sign of weakness, assuming that those steps were the product of their policy of pressure (i.e., the escalation of military presence and acts of aggression), which has contributed to aggravate even more the climate of tension existing in the region, thus impairing the efforts to reach the negotiated political solution for which Nicaragua and the group of Contradora nations are working.

3. The Government of Mexico has recently informed Nicaragua that our reiterated efforts to promote a dialogue with the United States appear to begin to find receptivity within the Reagan administration, which has instructed Mr. Harry Schlaudeman to initiate private contacts with a Nicaraguan representative in Mexico City.

4. In spite of the existing situation in relation to Nicaragua. Which is characterized by the escalation of the war of aggression, the mining of the ports, the war by air and by sea, the surveillance flights and the presence of foreign troops in the region, all of which are sufficient reasons not to harbour many hopes regarding the sincerity and credibility of the response transmitted by the Reagan administration. The gesture made by the House of Representatives of the United States Congress when they rejected the request for financing of the counter-revolution, encourages the Government of Nicaragua to make new efforts, to reach an understanding with the administration.

5. Nicaragua wishes to recognize the efforts that the Government of Mexico has made to serve as interlocutor between the Governments of the United States and Nicaragua. In like manner, Nicaragua, in spite of the distrust that has been bred by the negative past experiences, when attempts to negotiate with representatives of the Government of the United States contributed to deepen the climate of skepticism rather than of credibility, wishes to express that it is willing to sit down with the United States in order to talk about topics of mutual interest in an open and unconditional form. Nevertheless, it considers to be indispensable, the presence of a mutual friend of the United States and Nicaragua such as Mexico, which, with its reputation and credibility, would contribute to create and guarantee a minimum of trust in the development of these conversations. Mexico's presence would also guarantee that the outcome of said conversations contribute to better relations between our two nations and to the cause of peace in the region rather than serve as a propagandistic tool for individual purposes.

6. Nicaragua also wishes to reiterate once again its willingness to dialogue and negotiate those points of concern presented by the U.S. administration to the foreign minister of Mexico, which are resumed below: arms build-up; the problem of El Salvador; USSR-Cuba relations.

In reference to the point described as "the process of democratization," the Government of Nicaragua wishes to reiterate that which it has said on many occasions, in the sense that this point cannot be the subject of negotiation because it falls strictly within internal jurisdiction and is an indivisible part of our sovereignty, self-determination and independence.

7. Nicaragua anticipates that the Government of the United States will demonstrate this same willingness to discuss all those points which affect the security of Nicaragua.

8. In consequence with its will to enter into dialogue, the Government of Nicaragua has designated as its representative, Victor Hugo Tinoco, First Vice-Minister of Foreign Affairs, to whom full powers are granted to assume commitments and reach agreements.

9. Nicaragua has decided to make known to the Congress of the United States all of the aforementioned points given that it considers that if that body were to succeed in continuing to curb the financing of the counter-revolution, it would contribute in a meaningful way toward more concrete results in this process of bilateral dialogue between the Government of the United States and the Government of Nicaragua, which would establish the base for mutual understanding favoring detente and peace in the Central American region.

## THE PROGRESSIVE CONSUMPTION TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. Heftel] is recognized for 60 minutes.

● Mr. HEFTEL of Hawaii. Mr. Speaker, a year ago I introduced a progressive consumption tax bill. Today I have reintroduced that bill—with certain changes—to replace the Federal income tax. Since the income tax has played such an important role in the public finances of our National Government, I should like to explain why the new tax I am proposing is needed at this point in our history.

I want to make clear that the principle underlying the income tax—the principle of taxing in accordance with ability to pay—is one I firmly hold to and seek to advance with the progressive consumption tax. As first enacted 70 years ago, the income tax followed that principle and continued to do reasonably well through World War II, when it became the mainstay of the Federal revenue system.

However, in the past several years the income tax has been severely eroded by the granting of tax privileges that have eaten away more and more of its base. The Internal Revenue Code now contains far more than 100 exemptions, exclusions, deductions, and credits. They are called tax privileges but as these special provisions have proliferated—as exempt IRA's were added to the Keogh plans, after expensing of some capital outlays was added to accelerated depreciation, as income tax incentives were given for everything from saving with life insurance to the preservation of historic structures, and so forth, the tax privileges might better be called tax freebies.

The old stereotype of the tax privilege lobby as being the spokesmen for bankers, Wall Street, and big business has long been out of date. It is too narrowly drawn. Now the reasonable expectation of every right-minded group in America—whether the association represents homeowners, the elderly, church ministers, college presidents, physicians, professional athletes, retired military officers and noncoms, artists, inventors, small or large businesses, infant or old industries, State or local governments, or who you will—is that will receive a tax freebie for its members. And the successful record of the tax lobby in the Congress gives them every reason to be confident that it can deliver.

We have come to the point where less than half of the net income received by the people of this Nation is subject to the income tax. If you add the income received surreptiously in the underground economy, only about a third of all personal income is actually reached by the IRS. That third, mostly in the form of salaries and wages, bears the entire burden of the income tax.

Mr. Speaker, we have approached the political limits of the income tax. It is common knowledge that the income tax applies most unequally, that its burden increasingly depends not so much on how large your real income is but on the form in which you receive it. Should we attempt to raise more revenues from income taxation, as the monstrous national deficit requires, we run the risk of driving those who bear the heavy burden into tax evasion. That would be fatal, for voluntary compliance has been the mainstay of our tax system. Without it we would be forced to depend on excises or other forms of sales taxation, where the individual circumstances of the taxpayer do not matter and where justice in taxation cannot be achieved.

The danger to the integrity of the Federal tax system is recognized in the several bills introduced before this Congress to reform the income tax law. The measures introduced by Mr. GEPHARDT and Mr. KEMP would eliminate many, though by no means all, of the tax privileges which now undercut the tax base. In my opinion, however, it is too late to reclaim the income tax. Tax privileges are so firmly set in place that I do not think they can be removed by mere amendment of the income tax statutes.

That is why I have introduced a bill for a progressive consumption tax. It provides a fresh start. It reaches all personal receipts, in whatever form. It provides no special exclusions, exceptions or credits. Of the long catalog of deductions under the income tax, only five are retained: For charitable contributions, large medical costs, uninsured property losses, State/local income taxes, and mortgage interest—on a principal residence only.

Conceptually, the consumption tax differs from the income tax in that it taxes according to how much of the national product the taxpayer uses and not according to how much he contributes to it. The purpose is to encourage savings and investment, on which the growth of the national economy depends.

In form, the consumption tax strongly resembles the income tax. The taxpayer—aided by W-2 and 1099 information returns, as at present—would report the sum of his receipts during the year. From that total—less a standard deduction or the few deductions noted above—he would subtract the amount added to savings or investment during that year. The difference—the amount of receipts not saved—must be the amount consumed. That is the basis of taxation at a progressive rate.

During the past few days the national press has reported on a current proposal of the Brookings Institution that the income tax be replaced by a new form of taxation, a cash flow tax. That is simply the consumption tax under a different name. The details vary in some respects from my bill introduced last November—H.R. 4442—but the cash flow concept is essentially the same as the progressive consumption tax.

The authors of the Brookings Institution proposal, like myself, are concerned lest the new tax shift the tax burden to persons in lower income groups. Their proposals, like mine, raises the personal exemption level. Both proposals define investment to include Social Security contributions, the major form of saving for many low- and moderate-income families. In my bill, the initial tax rate is set at 10 percent, a point below the beginning rate of the income tax.

There are other provisions to insure that low-income groups do not bear an unfair portion of the tax burden under the progressive consumption tax. However, the encouragement of saving under the tax must be balanced by a tax on wealth. It is in the national interest to stimulate investment. However, justice requires that wealth accumulated under the shelter of the progressive consumption measure be taxed after the death of the saver.

Therefore, as an integral part of my proposal the estate tax would be restored to provide a check on the accumulation of wealth and the further growth of family dynasties.

Mr. Speaker, I urge the leadership of the House to set aside sufficient time during this session for an examination of the alternative routes to tax reform which have been placed before us in the Committee on Ways and Means. I am impressed by the advantages of the progressive consumption tax and its apparent administrative feasibility. However, it must be thoroughly analyzed by the committee, along with the other tax reform bills that have been introduced. We must act deliberately, but we must start acting now.●

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## THE FEDERAL RESERVE BOARD AND MONETARY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 60 minutes.

Mr. FRENZEL. Mr. Speaker, during the past few months, the prime rate has increased significantly. It appears that we are starting to experience the long-expected clash between public and private borrowing which, inevitably, is beginning to create upward pressure on interest rates.

As usual, especially during an election year, the Federal Reserve has become everyone's favorate whipping boy. Every time interest rates move up, politicians, who have been unwilling or unable to manage fiscal policy, try to divert attention from that fact by blaming the monetary policies of the Federal Reserve Board.

We would all like to see interest rates come down. However, there are a number of questions and uncertainties about interest rates and monetary and fiscal policy.

Three facts, however, stand out: First, the best way to reduce interest rates is to reduce deficits; second, it would be an unwise idea for Congress to require the Federal Reserve Board to announce immediately every operational and tactical move it is planning in order to carry out monetary goals; and third, the Federal Reserve has consistantly handled monetary policy far more wisely and effectively than Congress has handled fiscal policy.

Many of the Feds more vocal critics would like to see Congress take a more active role in monetary policy. The main complaint, as I believe it has been articulated recently on this floor, is that the Federal Reserve Board, and specifically the Federal Open Market Committee, work in a shroud of secrecy, mysteriously raising and lowering, but mostly raising, interest rates at will. Legislation requiring the Fed to immediately disclose all FOMC decisions would give Congress and others a voice in directing technical Federal Reserve operations. But I believe that politicizing the implementation of monetary policy in this way would be a grave mistake.

Federal Reserve actions should be, and are, accountable to Congress and the Nation. The Congress is ultimately responsible, and clearly has the authority to manage monetary policy if it wants. Thank heavens it has not wanted to do so.

The Humphrey-Hawkins Act requires the Chairman of the Federal Reserve to report twice a year to the Congress on monetary policy and money targets. While the law only asks for semiannual appearances, Chairman Volcker has testified 26 times before the 98th Congress. The Chairman's predecessors did the same. In addition, other Board Members are frequent guests here as well. Certainly, the Federal Reserve is not an organization that is attempting to insulate itself from congressional scrutiny or advice.

However, while Congress should be consulted through regular reports and contacts when determining broad policy guidelines, I question whether each operational and tactical decision by the Open Market Committee should be subject to congressional direction and immediate review. Many needed adjustments would be rendered ineffective, or even counterproductive, if every action is immediately scrutinized, second-guessed and exposed before it is implemented.

Members of the administration and Congress will inevitably be asked to comment on the significance, if any, of each decision. One risk is that operational decisions will become the focus of misleading political debates that should more properly emphasize broader economic questions. The ability to "fine tune" monetary policy would be lost, and intended goals would be preempted by skittish market reactions.

The Open Market Committee is the operational arm of the Federal Reserve. Its goal is to carry out the monetary growth targets determined by the Fed and presented to Congress. Certainly its ability to direct the Fed's monetary activities on the open market is a most powerful tool. Complicating its jobs has been the increasing vagueness of traditional measurements of money because of financial deregulation. Still, for the most part, the Open Market Committee does an exceptional job of putting the money supply within the projected targets. Congressional tampering could only hinder this complex process.

The Federal Reserve Board, and the actions by the Open Market Committee do influence bank reserves, which in turn influence available credit and interest rates. However, blaming the Federal Reserve for high interest rates ignores the source of the problem. Deficits are the true culprit.

Last year, the Federal deficit equaled 6 percent of GNP. Net savings, which translates into available credit, was only a point higher, at 7 percent. What that means is that the Federal Government used up well over half of all available credit. Consequences in 1983 were minimal because private demand for credit was still soft. Government "crowding out" was not too harmful, even though interest rates were still above historical norms. However, this year, with increased competition for credit, there is a strong upward pressure on the cost of that credit.

The Treasury will always get the funds it needs to cover the Federal deficit. The question is whether other sectors of the economy will also get their share. The more rapidly the economy grows, the more it will generate private credit demands, and the greater the risk of rising interest rates. The level of interest is the rationing device for what little available credit remains after financing the debt.

"Monetizing" the Treasury debt through excessive monetary expansion does not solve the problem because it does nothing to lower the excessive deficit. Instead, it only exacerbates our difficulties by breeding an inflationary environment while procrastinating a solution to high deficits.

Maintaining low inflation rates, and low inflationary expectations, should be a basic requirement for a sound monetary policy. Earlier this year, in his Economic Report to the Congress, President Reagan stressed this point. According to the President:

> The only monetary policy that can bring down interest rates, and keep them down, is one that promotes confidence that inflation will continue to decline in the years ahead.

Interest rates will only go down permanently only when the Federal deficit is reduced. A continued expansionary fiscal policy, which has led to record high national deficits, has kept interest rates during the 1980's at record levels. If our current loose fiscal policy were to be combined with an overly loose monetary policy, the inevitable result will be another dose of inflation. One of President Reagan's great successes has been to reduce inflation. We do not need more inflation; we need less.

While neither monetary policies, nor fiscal policies can be made totally independent of each other, the separation of the responsibilities for the two functions has worked pretty well. In my judgment, prudent management would dictate that the Federal Reserve Board remain autonomous from Congress and the political arena.

In the other Chamber, there is a great demand now to create a commission to work on deficit control. That produces a situation in which some parts of Congress demand more economic authority—that of the Fed—while others try to give away what authority Congress now has—fiscal policy.

The No. 1 U.S. priority is that Congress manage to bring fiscal policy under control. Should it ever do so—and it is making modest progress with the first small downpayment—it will then be able to approach monetary policy revision with a base of credibility. At this time, congressional complaints about monetary policy merely highlights Congress' inability to do its own job.

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Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. At this time I would like to yield to the distinguished ranking member of the Banking Committee, the gentleman from Ohio [Mr. Wylie].

Mr. WYLIE. I thank the gentleman for yielding, and I want to express my approval of his taking this special order to present a different view, if you please, on the function of the Federal Reserve and the role of monetary policy on interest rates. May I say that I want to associate myself with the very articulate and well-stated and logical remarks of the gentleman from Minnesota.

Mr. Speaker, I think it does us no good to blame the Fed for rising interest rates. As the gentleman from Minnesota has suggested, Congressmen would be well advised to give priority to dealing with the astronomical budget deficit rather than divert their efforts at reforming the Fed. This is not just my view, may I say.

Last month I had dinner with a group of Columbus, OH, realtors; all started from scratch, all are doing extremely well now. They are not just theorists; they are successful businessmen betting on the future, and they said to a man, "Chalmers, do not get caught up in the politics of blaming the Fed for higher interest rates. If Congress or the administration does this, interest rates will surely rise and kill the real estate market and the housing market. The thrift industry fears a rise in interest rates more than anything."

The Columbus Chamber of Commerce, in a resolution recently, said the same thing and declared that a reduced deficit is the only way to keep interest rates from rising. The Columbus area chamber of commerce adopted a resolution which supported the concept of House Joint Resolution 382, a resolution I introduced, together with Congressman Les AuCoin from Oregon, calling for a Bipartisan Budget Reduction Commission.

On a recent survey I sent to my constituents with 10 items listed, the budget deficit got 50 percent of the votes as our biggest problem facing the Nation.

Mr. Speaker, the Fed simply does not have the tools or the knowledge to manipulate the economy or reduce or raise interest rates at will, at least not for long periods of time. Make no mistake, the public's awareness of interest rate changes and their impact has been greatly heightened recently not just by what they read in the daily press, but more personally by the kind of returns they get on their bank accounts and what changing rates might mean for their monthly payments if they finance their house with a variable rate mortgage.

Consumer attitude surveys, moreover, suggest that most people relate interest rate behavior to the future growth of our economy and, therefore, job opportunities. Interest rates have become a kind of a shorthand expression for good and bad times in the perception of many people.

Simultaneous with a greater popular consciousness of interest rate patterns, there is increasing discussion about the role of the Federal Reserve's monetary policy and the role of fiscal policy on interest rates. There are some people who believe that the Federal Reserve actually sets interest rates pretty much as it chooses, but not many. Most who discuss it would say that changes in interest rates reflect changing expectations about future inflation and the purchasing power of their money.

The gentleman in the well made the point a little while ago that most economists would say that interest rates, like other prices, are determined by the interaction of demand and supply. The relative markets in this instance are the financial markets, and the product in question is loanable funds. Thus, interest rates, the price of credit, are established by forces of demand and supply, the Federal Reserve's effect on interest rates being limited to its influence on the supply side.

So the real important factor here is that interest rates are affected by the demand of the Federal Government in the marketplace, and as the gentleman in the well has suggested, if the Federal Government wants to finance the public debt, it will have the impact of crowding out the private sector by driving up interest rates.

So I think the gentleman has stated the problem very well when he says that we should direct our attention to reducing this huge budget deficit which now faces us and stop blaming the Fed for some of the problems of higher interest rates.

Mr. FRENZEL. I thank the gentleman for his excellent contribution.

Mr. GRADISON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I now yield to the distinguished gentleman from Ohio [Mr. GRADISON], a member of the Committee on Ways and Means.

Mr. GRADISON. I thank the gentleman for yielding, and want to congratulate him and thank him for taking this special order. I certainly want to associate myself with the remarks of the gentleman from Minnesota and the gentleman from Ohio.

Certainly there is no more popular game today than criticizing the Fed.

We all want lower interest rates, declining unemployment, stable prices, and sustained economic growth.

If, as we are told, the misguided policies of one small group, the Federal Reserve, and one person—its Chairman Paul Volcker—are responsible for rising interest rates, it would be an easy matter to lower interest rates overnight.

Unfortunately, the world is not that simple.

Would that we could push a few buttons or change a few faces in Washington and produce interest rates of 6 percent or 7 percent or 8 percent.

I am not sufficiently encouraged by the brilliant record of the Congress in the development of fiscal policy to think that the Congress should also control monetary policy.

Congress wisely recognized its own limitations way back in 1913 and since then has looked to the Federal Reserve to carry out the objectives set by the Congress.

Obviously, the Fed is not perfect, but with the record of huge deficits clear for all to see, Congress is hardly in the position to cast the first stone.

Interest rates, of course, are not set by the Fed alone. There are savers and borrowers out there, domestic and foreign, who also have something to say about this through the impersonal mechanisms of the money markets.

Were the Fed to attempt to reduce interest rates, as it clearly could by flooding the market with liquidity, interest rates could well rise rather than fall as investors' fear of inflation was rekindled by the actions of the Fed.

Clearly, the Fed is not above criticism. But when we criticize it, let's be sure to give the public all the facts and avoid raising false expectations.

The Fed has conflicting goals, set by Congress: stable prices, maximum employment, and moderate long-term interest rates. Hopefully these goals are consistent in the long run, but certainly they are not in the short run.

The Fed's powers are great but they also are limited. They include setting reserve requirements for member banks, establishing discount rates for banks which borrow from the Fed, and buying and selling Government securities in the open market.

The Fed does not directly create jobs, as we found out in the thirties, or control prices, as we found in the seventies.

I don't hear critics of the Fed talk about increasing its powers—and I am not advocating that they be increased—but it is obvious from the economic history of this country since 1913 that there are forces at work much more important than the Fed which impact on interest rates, employment, and economic growth.

We were told during a recent special order that the deficit can be eliminated by cutting spending coupled with economic growth and that is true. But 86 percent of the growth in Federal spending is made up of four items: Social Security, defense, medicare, and interest on the debt. Where are the plans to freeze these items? They do not exist. The unfortunate fact is that most of the increased revenues flowing from economic growth are fueling higher spending—not deficit reduction. That was true in the President's budget and it is true in the congressional budgets. The savers and borrowers who make up the credit markets know this—and the Fed knows it as well. No wonder interest rates are not declining. No wonder they are going up.

The harsh reality is that the fiscal throttle is stuck—pressed to the floor—with unacceptably high deficits out as far as the eye can see. A deadlock exists between the Congress which does not want to cut or freeze domestic spending and the President who does not want to cut or freeze defense spending.

Until this impasse is broken by lower spending or higher taxes or both, I don't think we serve the public well by holding out false hopes of a monetary millennium right around the corner that will usher in a permanent period of sweetness, light and low interest rates.

If it were ever clear that it takes two to tango, it is clear with economic policy that the fiscal policy set by Congress must be in step with the monetary policy set by the Fed.

My message, then, is simply this—don't look at the Fed—or pillory the Fed—without asking why they do what they do and without considering the limited policy choices available to them.

I certainly don't support the fiscal policies set by this Congress—as my voting record indicates—but recognizing what the policies are which Congress in its mysterious wisdom has adopted, laying the blame solely on the Fed for high interest rates is a bum rap. The goal of lower interest rates can be reached, but only if the Congress as well as the Federal Reserve does its part.

□ 2250

Mr. FRENZEL. I wonder if I might ask the gentleman a question. In previous special orders in this House, a number of Members have suggested that there is something nefarious in the fact that the Federal Open Market Committee meetings are closed.

Now, as I understand the powers of the Fed, principally they are the setting of the discount rate which is, of course, done in the broad sunlight and announced immediately, the setting of reserve requirements, which is done in the sunlight and announced immediately, and the only thing that is done in the FOMC that is not announced for—what, 6 or 8 weeks later—is the buying and selling of securities to do what is supposed to be the fine tuning in reaching its monetary goals.

Does the gentleman agree with me that this is hardly operating in the cloak closet of secrecy?

Mr. GRADISON. I agree completely with the gentleman. His point is well taken. While the two powers of the Fed which the gentleman from Minnesota has mentioned do involve very prompt public disclosure because these policies have to be announced if they are going to take effect; that is, the discount rate, the setting of the discount rate and also the——

Mr. FRENZEL. Reserve.

Mr. GRADISON [continuing]. Establishment of the reserve requirements, the operations in the Federal open market are entirely different. Many of these are conditional actions.

The New York Fed which implements the actions which they are given and implements instructions is often, as I understand it, given instructions that if "A" happens, do "B"? "C" happens, do "D"?

Therefore, these do not necessarily involve actions which can be carried out precisely as directed by the Federal Open Market Committee, but do involve an exercise of judgment and in some instances, as I understand it, may involve further canvassing of the views of the Federal Open Market Committee as they go about implementing the decisions which have to be made between meetings of that group.

Therefore, I think that there is a sound rationale for having some time period elapse between the time the decisions are taken and the time they are announced.

Now, whether it should be 6 weeks or 8 weeks or 4 weeks I think is a debatable point, but I certainly do not think it ought to be 10 minutes later.

Mr. FRENZEL. I thank the gentleman.

I yield to the other gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I would like to associate myself with those observations.

I am troubled by the proposal which would release the Federal Reserve policy decisions on the day they are formulated; that is, the Federal Open Market Committee policy decisions. There are some who would suggest that the Federal Open Market Committee deliberations ought to be open to the public, that they ought to do their business in public. I cannot think of more chaos that could be created by that of having people running in and out, saying that they are about to do this or about to do that, increase the money supply or decrease the money supply. Speculators would have a field day.

Mr. FRENZEL. It would be great for the sales of cellular telephones. They would be out of sight.

Mr. WYLIE. Indeed, they would be hanging all over the room outside the Federal Open Market Committee room; but Chairman Burns and Chairman Volcker have both told me that this would interfere with the orderly process and the implementation of its policies, as the gentleman from Ohio suggested, would make it more likely that speculators and others versed in the arcane language of central banking would gain unfair profits and that would result in more rather than less volatility in interest rates.

The Fed currently releases its policy decisions within about 45 days after they make them and that procedure does make the Fed accountable to the public, yet it allows the Fed to carry out its policies effectively and its operations in a manner which bespeaks the expertise of these people and the fact that they do have to make some very, very difficult decisions in a setting where they can use the judgment and the wisdom which they have gained and the fact that they are independent, if you please, as an agency in establishing monetary policy, so I do think the question of the gentleman in the well is very appropriate.

Mr. FRENZEL. Yes; I think it is very important to recall the point made by the other gentleman from Ohio [Mr. GRADISON] that the decisions made are often conditional ones, that we will buy in this condition and we will sell in that condition and the release of that information will simply unchain a horde of speculators who will test all the limits of the announced policy and cause I think at best uncertainty, and at worst chaos in the market.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the gentleman for yielding. I am sorry if under the Speaker's new policy the TV cameras are sweeping the hall, they will show that there is no one on the Democratic side who is prepared to be here and address the very important issue which my colleague, the gentleman from Minnesota, is raising.

Mr. FRENZEL. If I can interrupt the gentleman, the fault is mine. I issued no invitations to anyone. I merely felt it was a good thing to discuss these matters because there have been other evening discussions on them and I thought this group had something more to offer.

Mr. GREEN. Well, I agree with the gentleman and I am glad that he did it.

I would simply like to make a few points. We have a real problem here in the Congress. I think that problem is the fact that the estimates that the economists have given us in the past as we have tried to go about our business have not been very good, and that has made it very difficult for us to legislate. As a result, I think we have dealt a very difficult hand to the Federal Reserve System to try to deal with, which I think is one of the points the gentleman is trying to make this evening.

If you go back to February and March 1981 and you look at the budget proposals that first came from the White House, and those presumably were the best proposals and the best estimates that the supply siders gave us, they suggested that the state of the economy in 1982 would be that you would have a 4- to 4½-percent real growth rate and that you would have a very gradual diminution of the double digit inflation that we had then inherited from the Carter administration.

□ 2200

If you waited until March 3 to look at what the Keynesians offered, you would see that Alice Rivlin of the Congressional Budget Office, and certainly Alice Rivlin is one of the most respected Keynesian economists in this country, offered a projection that you would have a 2- to 2½-percent real growth rate, but that you would have a 9- or 9½-percent inflation rate in 1982. And, of course, the result was we had neither of the above after we enacted the Reagan program and that, of course, has made it very difficult to deal with the economy on the part of the Congress of the United States.

Now, if you go to either side of that debate, the supply siders or the Keynesians, you ask what went wrong. Why were your predictions in February and March 1981 so far off? They will say to you we never expected that Paul Volcker would do what Paul Volcker did. And, of course, they are not really talking about Paul Volcker but talking about the whole Board of the Federal Reserve System.

But that is not really a very satisfactory answer for us in the Congress of the United States because we cannot give a Rorschach test to Paul Volcker every Thursday in lieu of the statistics as to the money supply. And we retain a lot of economists, but at least at the moment we are not retaining a lot of psychologists to probe Paul Volcker's psyche.

But I would like to suggest that even if you believe the complaints of the Keynesians and the supply siders that this simply proves that Paul Volcker did what they did not expect, and believe that demonstrates that monetarism is the answer, that if you look at the monetary theory it does not offer us a lot of help either here in the Congress of the United States because the fact of the matter is that the monetarists tell us not just that the money supply determines the state of the economy but that it is the money supply multiplied by the velocity, and there is no independent measure of the velocity of money that any entity, as far as I know of, measures.

The only way that is found is by dividing the GNP at some succession, and that is debated among the money people, the monetarists after the money supply, and then you get the velocity.

The problem with that, of course, is that first they are debating how long that lag should be and, in any event, it is of no predictive value to us, whereas at one time the velocity of money was assumed to be constant. In fact, as a result of the very substantial change in the financial institutions of this country it is no longer a constant, at least as they make that division, and as a result you can no longer assume that the change in the money supply will, without looking at the velocity, affect the state of the economy.

I go through all that just to say that I think it has been very difficult for us in the Congress to be sure how what we are doing affects what the economy will look like in the future. But the first thing I am sure of as I look at all of this is that when we allow Federal deficits the size we are having, we are giving the Federal Reserve System a very difficult hand to play. And that may be complicated by the fact that the velocity is no longer affected but at any rate it is making it very hard for them.

The second thing that I think is very clear from all of that is that when you have these enormous Federal deficits you have the miracle of compound interest working aginst you and working against you very heavily as the interest rates go up. And so I would thank the gentleman in the well for calling this special order. I think it is very important to make the point that you cannot expect the Fed to solve a problem which is essentially a fiscal problem by trying to play around with the money supply, particularly at the time in which the Congress of the United States has taken to deregulate financial institutions, I think they are very wise actions because there was no way that we were not going to have to deal with this. And I was on the Banking Committee at the time that we took that first major step. But you cannot ask the Fed to pick up after us in this situation. We have really got to solve the problem and we should not dump it in the lap of the Fed.

Mr. **WYLIE**. Will the gentleman yield?

Mr. **FRENZEL**. I yield to the gentleman from Ohio.

Mr. **WYLIE**. I think the gentleman is making an excellent point vis-a-vis the money supply and the targets of money supply and so forth. Some of our colleagues have introduced legislation which would target the money supply to a commodity price index. I think that is a very mischievous provision and I would respectfully disagree with such a suggestion.

If the price of the commodity drops below a certain level, for instance, bank reserves would have to be expanded, thereby creating more money. If the price of the commodity increases above a certain level then the Fed would have less reserve or make less reserves available, resulting in less money and credit in the banking system.

The objective, of course, is to maintain the integrity of our currency and do away with inflation. And the theory is that the Fed must follow some simple and fixed rule in order to achieve the goal of stable prices.

The appeal is obvious, if not workable. There would be a path to a promised land if we could have some sort of a noninflationary simple rule, but unfortunately it has pitfalls.

One of the commodities would be gold, and if the price were fixed at a time when gold was $800 an ounce, I would suspect that interest rates today would be about 25 percent. So if that is one of the items in the basket of commodities, and I think that has been suggested, then interest rates would surely fluctuate more than they have and there would be more uncertainty.

Plus the fact that 43 million ounces of our gold last year of the 30.5 million ounces that were mined, were mined in South Africa and the Soviet Union. I would certainly not want those two bandits determining our monetary policy.

But I do think the gentleman from New York has made an excellent point.

Mr. **GREEN**. If the gentleman would yield on that, I thank the gentleman from Ohio with whom I served on the Banking Committee, very happily. I think he makes the point very accurately that you cannot just look at the money supply; you have to look at the velocity and the velocity has changed very radically and fluctuates because of our changes in financial institutions. And to turn over the control of the quantity of money to countries like South Africa or the Soviet Union as you include gold as the sole commodity against which you relate, or as an important part of the basket of currencies, or if you wanted to include oil to turn over your control to the Mideastern States, that would be a very tragic thing for this country.

I do not think that we can afford to do that.

Mr. **FRENZEL**. I agree with the gentleman. I think we are all graduates of the Banking Committee. It is a pity we did not stay on there to help the gentleman from Ohio in his endeavors, as does the other gentleman from Ohio.

Mr. **GRADISON**. Will the gentleman yield?

Mr. **FRENZEL**. I yield to the gentleman from Ohio.

Mr. **GRADISON**. I thank the gentleman for yielding.

Yes, we are all alumni or active members of the Banking Committee.

I am delighted that the question of relating the money supply to a basket of commodities has been raised because I think it gives us a chance to see the weakness in at least that specific suggestion of how to put monetary policy on some kind of a fixed standard which eliminates human judgment.

My reading of economic history is that commodity prices are far more volatile than what we generally think of as the price level, something like the Consumer Price Index. And I would assume that from a point of view of governmental policy that we are far more concerned to have stability in the prices paid by our citizens and by our businesses and by our Government in the normal day-by-day life, day-by-day events of our lives, than to relate it to what is inevitably, judging by history, a very volatile index. And that volatility is true whether we are talking about the precious metals or whether we are talking about metals which are in another commodity such as minerals which are used for industrial purposes, including but no limited to petroleum. Copper, for example, is a very volatile commodity just to pick one.

To the extent that we were to go on automatic pilot with instructions to the Federal Reserve to relate changes in the monetary supply to this very volatile index, we would actually make the economy, if this is possible, less stable than it is today rather than more stable, and we would defeat our own objective.

The ability of human judgment to enter in would be lost, and not only do these prices fluctuate depending upon the production in the cases already mentioned of gold in the Soviet Union and South Africa, and their willingness to sell the gold and the timing of those sales, or to the activities of exporters of oil, but many of these commodities will change in price tremendously depending upon simple supply and demand factors or on the basis of whether, as in the case of agricultural commodities, or even on the basis of new discoveries, new finds of minerals which over the last century have had an enormous impact on the relative price of such goods.

□ 2310

So I think that very little else need be said. I may have said too much on it already. But I think that the vulnerability of the argument in favor of tying monetary policy to a commodity base is demonstrated by the fact that those who support it will not tell us just what that basket should be.

They are saying somebody else should study that. The Federal Reserve or the Treasury should come up with recommendations of what that commodity base should be. I think that is a pretty intelligent way out of an impossible problem.

Mr. **FRENZEL**. I think the gentleman is dead right. At least under the current system we have the capability to make flexible judgments and to react to differing conditions. If we chose a commodity, be it oil, gold butterfly wings, or used Packard automobiles, we really have hold of that tiger and must go wherever it takes us, wherever direction it may lead.

Mr. GREEN. I am amazed at those who would romanticize the gold era. You would never know from what they tell us that during the gold era we had the Great Depression in the 1870's, another Great Depression in 1892-93, a great panic in 1907, another one after World War II, and the Great Depression starting in 1929, as you move on from the gold standard, you had the great collapse in 1937-38.

These all happened. While it may be that they can draw some line through the price index starting somewhere in the seventies that connects somewhere further on, the roller coaster was just enormous and the debilitation in our economy was tragic, as we all know from what happened in the 1930's.

So to suggest that we ought to go back to that as the way to regulate our economy seems to me to be ignoring economic history.

Mr. FRENZEL. I must agree that the Gold Commission which was created by this Congress reported to us that at least for one commodity the answer was not to go to a commodity base system and one of the members of that committee, Paul McCracken, former Chairman of the President's Council of Economic Advisers in a bygone administration, has been quoted as saying, "If your economic policies are wrong, gold will not help you; if your economic policies are right, you do not need gold."

The gentleman is right. The reason the system did not work for us is because we refused to accept its discipline just as we in Congress cannot make the budget system work for us because we refuse to accept its discipline as well.

I yield to the gentleman.

Mr. WYLIE. The gentleman is making an excellent point again. The Fed needs to be able to look at broader factors in the economy and not just the price of gold or precious metals in determining its policy and ultimately the Fed must be able to exercise some judgment.

But I think tonight what we want to do is to make the point that it is our responsibility in Congress to shoulder the burden of obtaining a satisfactory fiscal policy. It seems to me the task is now up to us and we should approach it confident that given a responsible fiscal policy we will get an equally responsible monetary policy.

But I would also respectfully suggest to all of our colleagues that before Congress asserts itself in the day-to-day operation of our Nation's central bank, that we do everything humanly possible to put our own fiscal house in order; and this to me means reducing budget deficits preferably continuing to reduce Government spending, to reduce pressure on interest rates.

And in my opinion this is the best way to continue to proceed to building the kind of a foundation which will sustain the noninflationary growth and the economic recovery that we are now in. And that is what we all desire.

And I thank again the gentleman for taking the time this evening.

Mr. FRENZEL. Two of you dealt with the question of accuracy, openness, and integrity of the Federal Reserve monetary policy system. It seems to me that the Fed comes to us through its principal officer, tells us what its targets and goals are for the year and then it tries to execute its policies through the year and come close to meeting those targets and those targets are always based reactively on our terrible budget profligacy; and so they are, naturally, forced into a very narrow range of alternatives.

But can the gentleman remember the Fed being anywhere near as far off target as the Congress usually is with its budget? Has the Fed come pretty close to achieving the targets that it sets for itself in its semiannual presentations to the Congress?

I yield to the gentleman.

Mr. GRADISON. The gentleman's question almost answers itself.

The performance of the Federal Reserve with regard to the ranges of monetary standards which they set as their goals a year ahead, have generally, over the last almost 10 years since they have made these very close to being met.

They are certainly a lot closer than the Congress has been. I think, though, that the exercise of the—the congressional exercise of asking the Federal Reserve, indeed directing the Federal Reserve to tell us in advance what these ranges are for various monetary aggregates, has carried with it an implication which I am not sure the Congress clearly understood at the time that this direction was given.

If you tell somebody that you want to know what their ranges are on monetary policy, then that is likely to be a principal goal. That is, they want to get good marks, too. They have told us what those are; if the range is from 4 to 7 percent they would like to come in that range for monetary policy.

I do not think it should be a total surprise to the Congress that the fluctuation in other things, such as interest rates, has been very wide; for a variety of reasons; over the same period of time. But I think one of the reasons is because of the emphasis which the Congress, itself, has made in its direction to the Fed to give us advance information as far as the range within which they hope the monetary aggregates will move as far ahead as 1 year.

I was part of that movement as a member of the Committee on Banking, and in candor, with the benefit of hindsight, I think Congress would have been better to have given the Federal Reserve a greater leeway rather than to have been so specific about what the Federal Reserve was to tell us and, in addition, I think Congress may have made a mistake to direct the Federal Reserve to report on a particular time schedule, because I think that conceivably could be influencing the timing of decisions of the Fed and putting them on a congressional schedule, so to speak, rather than on a schedule related to the needs of the economy.

Mr. FRENZEL. I thank the gentleman.

I can recall every year since I have been in Congress the Fed has come in and made its presentation to the Committee on Banking, the Joint Economic Committee, later to the Budget Committee, often to the Committee on Ways and Means, and to all the pretenders, accounts and no-accounts who have demanded the the Fed present itself before them.

And each time it does this, Congress or the committee, to which the presentation is being made, never objects, does not criticize the targets.

One year later when they come in, everybody says, "Hey, you did a terrible job last year because my economic policies did not work and therefore it must be your fault," forgetting that they have, by inaction, ratified the presentation every year that it is made to us by the Fed.

□ 2320

The time to criticize those policies is at the time of the presentation, not in arrears as we would do to football coaches, schoolteachers, and Congressmen. We should treat the Governors of the Federal Reserve a little more generously.

Mr. GRADISON. If the gentleman would yield, this Member has been a Fed watcher for a long time, at least 30 years. One thing that impresses me in thinking over this time period is not the extent of criticism of the Fed today by the Congress, but how limited it is. In earlier years the Fed was much more roundly criticized for actions which it took, criticized both by the Congress and by the executive branch. Some of the decisions of historic consequence taken by the Fed, such as reaching the accord in 1951, involved breaking long patterns of ending periods of time which extended over many years during which the Fed was truly subservient to the executive branch.

It is hard to realize that at that time the Fed had been acting in concert with the Treasury to put a practical ceiling on long-term Treasury bonds at 2½ percent and keep the interest rate on Treasury bills at about an eighth of

1 percent and that this was done over a great many years.

When the Federal Reserve moved to break away from that pattern, to avoid monetizing the debt, to reduce inflationary pressures, I assure the gentleman from Minnesota and my other colleagues on the floor that the Fed was being criticized much more than it is today. While the criticisms are obviously what attracts the interests of the press and the public, I think what is not said is almost more important today than what is said.

The very fact that we have been able to go through one of the sharpest ups and downs of interest rates that this country has ever seen, a true roller coaster, over the last decade and come through a period of the most severe recession or depression or whatever one chooses to call it of the last few years without Congress changing the basic powers of the Fed, without the Congress changing the terms of office of its members, without the Congress acting in any major way to clip the wings of the Federal Reserve, I think, speaks to the maturity of the Congress. It makes a good campaign speech now and then and Fed bashing is a popular sport, one of the more popular sports of 1984.

But if one listens carefully I think it is interesting and useful to see how few voices are being raised from within the Congress, not how many.

Mr. FRENZEL. I thank the gentleman. I think that is an excellent point.

I would note, however, that when I first came under the tutelage of Mr. WYLIE on the Banking Committee, all of the moans of pain and the wails and the screams about Fed policy being no good that came from Members of Congress of the liberal persuasion.

Over the last more than a decade we have seen that swing and now the principal critics are those who consider themselves conservatives. I am not really sure why that has swung, but perhaps in another time we can discuss that matter.

I yield to the gentleman from Ohio.

Mr. WYLIE. The gentleman is again making a very valid point as did the gentleman from Ohio [Mr. GRADISON] a little earlier that it seems to me that the independence of the Fed does need to be maintained and the Fed does need to have some discretion as far as judgment is concerned as to how it will be guided as far as monetary policy is concerned.

I think what the gentleman from Ohio was talking about a little while ago was prior to October 1979 monetary policy was guided by short-term interest rates. Specifically, Fed funds rates. These funds were highly sensitive and sort of volatile and reserve requirements were based on those overnight Fed funds rate. And when the Fed fund rate drifted up on its target, the Fed would add to the banking system's reserve and so forth.

Well, since then they have based their monetary policy, of course, on monetary aggregates.

What I am suggesting there is that in this process of determining monetary policy and determining whether the money supply should be expanded or whether it should be decreased and so forth, I do think that we need somebody in our central bank, at our central bank level, who does have some discretion to make these determinations and to make shifts in judgment as we go along the way.

But the gentleman a little earlier was making the point that Federal deficits have never been higher before in relation to our gross national product. Moreover, large budget deficits in the past have occurred almost invariably during times of economic slack and not during times of vigorous expansion as they have right now.

So the statistical analyses that deny the upward pressure of deficits on interest rates, therefore, just are not very convincing. So I maintain again that the management of the Federal budget, that is to say, fiscal policy must be the primary determinant of interest rates.

Mr. GREEN. I would just like to make one further point and that is that I think it ought to be a matter of concern to the Congress why the savings rate, the personal saving rate in this country is so much lower than that in most of the other, if not all of the other, major industrial countries around this world.

The fact of the matter is that we have a very, very low personal savings rate. We do not know really why that is true. When I was on the Banking Committee I was in touch with Paul Volcker to ask what research do we have as to why the personal savings rate is what it is in this country.

He told me that the Fed had sponsored some studies of the personal savings rate in this country in the late sixties, that they had looked at those savings rates and that study had not really panned out as the years went on, but as they looked back at the study to see what was wrong with it, they did not have any advice as to how that could be done better. In fact, that study had been done to the best scholarly standards they could think of a decade later.

All they seemed to know and all we seem to know is that when thrift institutions offer pots and pans, they get savings in, but that any major change in the personal savings rate seems to be very difficult to come by.

Several years ago, I think it was in 1981, a group of us were funded by a foundation to go up to Canada on the theory that it was a country with a culture as close to ours as one could find and see why the savings rate was so much greater there for personal savings than it was in this country.

What we found, essentially, was they had very strong tax incentives to do that on the weekend we spent there.

I think a lot of the 1981 tax bill, to some degree, was addressed to that problem. It seemed initially to be working. From October 1981 on, the personal savings rate did increase for a considerable period of time. But it is also true that this recovery took off when the personal savings rate dropped and consumer spending took off.

Now whether that will adjust itself as the recovery goes on, I do not know. But I think we are going to have to look again at the situation we have in this country as to the personal savings rate, what incentives we offer, what detriments we offer, and we are going to have to address that problem.

Mr. FRENZEL. I agree. I think that we all ought to be grateful to our colleagues who have raised the questions of monetary policy and about the actions of the Federal Reserve Board and its Open Market Committee.

Previously, and I hope that the discussion that they have engendered will be a positive one and shed a good deal more light on a policy area that remains Byzantine and mysterious to most Members of Congress.

□ 2330

In the meantime, Mr. Speaker, I would like to thank my colleagues who took part in this special order and say that I hope that evening discussions like this on this subject will continue in the future.

## A PLAN TO ESTABLISH AN INDEPENDENT AGENCY FOR SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

● Mr. PICKLE. Mr. Speaker, I rise today to commend the work of the Congressional Panel on Social Security Organization on the report which they filed yesterday.

Last year, as part of the Social Security Amendments of 1983, the Congress established this panel to study thoroughly the possibility of "* * * removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, * * *"

I think it is important to note that after holding extensive public hearings this nonpartisan panel has reported its findings to the Congress unanimously.

Without attempting to place blame, the panel has concluded that a variety of external and internal factors have contributed to a state of administrative disorientation in the Social Security Administration. In order to respond to these administrative problems, the panel has suggested certain organizational and managerial reforms.

Because it is critically important that our Social Security System be administered in the best possible manner, I believe that careful consideration should be given to the findings of this panel, and I hope to have hearings on their report in the near future.●

## LEADERSHIP LEAGUE OF AND FOR THE BLIND, HONOR SENATOR JENNINGS RANDOLPH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. Rahall] is recognized for 5 minutes.

● Mr. RAHALL. Mr. Speaker, last evening I had the pleasure, along with my colleagues from West Virginia, Mr. Wise and Mr. Mollohan, to take part in a gala ceremony honoring my home State's senior Senator, Jennings Randolph.

As we all know, Senator Randolph will conclude a distinguished public career—that has spanned a half century and the administrations of nine U.S. Presidents—at the end of this Congress, and last night the Affiliated Leadership of and for the Blind of America paid tribute to him.

I would like to say again, as I said last evening, Jennings Randolph has always believed in Government's capacity to promote human dignity, to create an economy that supports rather than undermines families and communities, and to nurture respect for life and to teach compassion by showing compassion.

Throughout his years of dedicated service to his State and Nation, Jennings Randolph has been a sponsor, or leading spokesman, for almost all legislation for crippled children, the handicapped, the blind, and the aged.

Last evening, Senator Randolph touched upon some of these past efforts in his remarks, and I would like to share those comments with my colleagues in the House at this time.

### Remarks by Senator Jennings Randolph, Affiliated Leadership League of and for the Blind of America, 1984 National Delegate Assembly, Gala Ceremony Honoring Senator Randolph

It is gratifying to be here and to share this time with you. The kind words on my activities in behalf of blind citizens are greatly appreciated. I am grateful for your friendship and cooperation as we work to improve opportunities for blind Americans.

We have come a long way. Perhaps a few of you were around back in 1936 when the Randolph-Sheppard Act became law. If so, you may remember the struggle to convince the disbelievers that the program would work. The program did work and has continued to work. Of course, there are challenges from time to time, but challenges are there to be overcome. You made the program work, and your efforts will continue to make the program work. In 1983 the business skills of blind entrepreneurs resulted in a gross income of approximately $297,000,000. A total of 3,677 vendors earned on the average of $17,308.

It was my privilege to be elected to the House of Representatives in 1932 and to the Senate in 1958. During these 40 years, it has been satisfying to see the growth of programs to assist handicapped and blind Americans. It was also my responsibility to chair the Senate Subcommittee on the Handicapped from its establishment in 1972 until the beginning of the 97th Congress in 1981.

Those years saw the enactment of the Rehabilitation Act of 1973, the Randolph-Sheppard amendments of 1974, the Education for All Handicapped Children Act of 1975, and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. As ranking minority member of the subcommittee during the 97th and 98th Congresses, I have continued my concern and efforts for legislation to assist blind and handicapped Americans.

These last few years have brought difficult challenges. During the 1970's, the challenges were also there, but we worked to expand programs, to establish equal opportunities, to recognize equal responsibilities, and to prevent discrimination. The promises in those laws have not yet been met. It is my strong belief, however, that there will come a time when those promises will become reality.

Recently, our challenges have been to preserve those valuable programs. Legislative action has been directed more toward targeting resources on new needs and fine-tuning of existing programs. The recently enacted rehabilitation amendments, and education of the handicapped amendments, contained new initiatives but not on the same scale as those programs of the 1970's. These new initiatives, such as the expanded client assistance programs and transitional services for handicapped youth, are much needed and most valuable.

As we come closer to the 21st century, I have confidence in your willingness to seek out challenges and to overcome them. Your knowledge, your experience, and your fortitude will stand you in good stead as you work to realize the promises of the legislation of the 1970's. Goals may change to reflect a changing world, but you are equal to the challenge.

It has been a joy to counsel with you. I shall cherish always the honor you have given me.●

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hiler) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 60 minutes, on June 14.

Mr. Walker, for 60 minutes, today.

(The following Members (at the request of Mr. Penny) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Pickle, for 5 minutes, today.

Mr. Rahall, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Dannemeyer, prior to the rollcall vote on amendment No. 18.

Mr. Dellums, on two amendments, one numbered amendment No. 27 and one amendment No. 28.

(The following Members (at the request of Mr. Hiler) and to include extraneous matter:)

Mr. Gingrich.
Mr. Dannemeyer.
Mr. Lewis of California.
Mr. Broomfield in two instances.
Mr. Kemp.
Mr. Hyde in two instances.
Mr. Hopkins.
Mr. Daub.
Mr. Conte.
Mr. Denny Smith.
Mr. Paul.
Mr. Sundquist.

(The following Members (at the request of Mr. Penny) and to include extraneous matter:)

Mr. Berman.
Mr. Eckart.
Mr. Downey of New York.
Mr. Hamilton.
Mr. Boland.
Mr. Feighan.
Mr. Bonker.
Mr. Dellums
Mr. Mineta.
Mr. Jenkins.
Mr. Stark in two instances.
Mr. Solarz.
Mr. Ireland
Mr. Volkmer.
Mr. Pease.
Mr. Erdreich.
Mr. Luken.
Mr. Matsui.

## ADJOURNMENT

Mr. RAHALL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 31 minutes p.m.), the House adjourned until tomorrow, Thursday, June 14, 1984, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3541. A letter from the Director, Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority, pursuant to Public Law 93-344, section 1014(e) (H. Doc. No. 98-232); to the Committee on Appropriations and ordered to be printed.

3542. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification of the proposed lease of naval vessels to the Government of Peru, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

3543. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the operations of the Bank during fiscal year 1983, pursuant to the act of July 31, 1945, chapter 341, section 9(a) (88 Stat. 2336); to the Committee on Banking, Finance and Urban Affairs.

3544. A letter from the Secretary of Health and Human Services, transmitting the Social Security Administration 1984 annual report, pursuant to SSA, section 704 (49 Stat. 636) and Public Law 91-173, section 426(b); to the Committee on Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 520. Resolution providing for the consideration of H.R. 5399, a bill to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 98-836). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 521. Resolution providing for the consideration of H.R. 5541, a bill to amend the Communications Act of 1934 to extend certain authorizations of appropriations contained in such Act, and for other purposes (Rept. No. 98-837). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 522. Resolution providing for the consideration of H.R. 3282, a bill to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes (Rept. No. 98-838). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 5835. A bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition; to the Committee on the Judiciary.

By Mr. COELHO:

H.R. 5836. A bill to extend the service area for the San Luis unit of the Central Valley project, California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EVANS of Iowa (for himself, Mrs. Smith of Nebraska, Mr. Roberts, Mr. Leach of Iowa, and Mr. Stangeland):

H.R. 5837. A bill to stabilize farm credit, provide financial assistance to certain borrowers who participate in agricultural commodity programs for meeting increases in real estate mortgage loan payments resulting from increases in interest rates, to help protect farmland values, to reduce surplus commodity production and promote conservation, and for other purposes; to the Committee on Agriculture.

By Mr. FRANK:

H.R. 5838. A bill to provide for a program of assisted higher education for individuals intending to engage in police work; to the Committee on Education and Labor.

By Mr. FRENZEL:

H.R. 5839. A bill to suspend for a 3-year period the duty on amiodarone; to the Committee on Ways and Means.

By Mr. SIMON (for himself, Mr. Edgar, Ms. Kaptur, Mr. Evans of Illinois, Mr. Clarke, Mr. Durbin, Mr. Frank, and Mr. Nielson of Utah):

H.R. 5840. A bill to amend title 38, United States Code, to provide disability and death allowances, compensation, health care, and other benefits to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation; to the Committee on Veterans' Affairs.

By Mr. HEFTEL of Hawaii:

H.R. 5841. A bill to amend the Internal Revenue Code of 1954 to impose a progressive consumption tax, and for other purposes; to the Committee on Ways and Means.

By Mr. McCAIN:

H.R. 5842. A bill to amend section 1201 of title 18 of the United States Code to provide a mandatory life sentence in the case of certain kidnapings of persons who have not attained the age of 18 years, and for other purposes; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

H.R. 5843. A bill to reform the laws relating to former Presidents; jointly, to the Committees on Government Operations, House Administration, the Judiciary, and Post Office and Civil Service.

By Mr. FISH (for himself and Mr. Michel):

H.R. 5844. A bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition; to the Committee on the Judiciary.

By Mr. LANTOS:

H.J. Res. 592. Joint resolution requesting the President to schedule annual summit meetings between the United States and the Soviet Union; to the Committee on Foreign Affairs.

By Mr. OWENS:

H. Con. Res. 320. Concurrent resolution expressing the sense of the Congress that the President should withdraw the determination that the Government of Haiti is making a concerted and significant effort to improve the human rights situation in Haiti by implementing essential political reforms; to the Committee on Foreign Affairs.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1249: Mr. Evans of Iowa.

H.R. 2996: Mr. Lungren, Mr. Markey, Mr. Sunia, Mr. Dorgan, Mr. Sundquist, Mr. Levine of California, Mr. Hyde, and Mr. McCloskey.

H.R. 4136: Mr. Berman and Mr. Sunia.

H.R. 4402: Mr. Kleczka.

H.R. 4465: Mr. Towns, Mr. Eckart, Mr. Waxman, and Mr. Mrazek.

H.R. 4559: Mr. Edwards of California and Mr. English.

H.R. 4966: Mr. Lowry of Washington.

H.R. 4983: Mr. Torricelli.

H.R. 5128: Mr. Nowak.

H.R. 5336: Ms. Oakar, Mr. McKinney, Mr. Leach of Iowa, Ms. Kaptur, Mr. Coyne, and Mr. Lundine.

H.R. 5411: Mr. Schumer, Mr. Fish, Mrs. Johnson, Mr. Mrazek, Mr. Skelton, and Mr. Britt.

H.R. 5529: Mr. Thomas of Georgia.

H.R. 5577: Mr. Matsui, Mr. Martinez, and Ms. Ferraro.

H.R. 5581: Mr. Stark and Mr. Lowry of Washington.

H.R. 5627: Ms. Kaptur and Mr. Crockett.

H.R. 5689: Mr. Torricelli.

H.R. 5690: Mr. Torricelli.

H.R. 5745: Mr. Clay, Mr. Wyden, and Mr. Weiss.

H.J. Res. 174: Mr. Watkins, Mr. Durbin, Mr. Sikorski, Mr. Mica, Mr. Akaka, Mr. Shelby, Mr. Walgren, Mr. Bonior of Michigan, Mr. Seiberling, Mr. Wheat, Mr. Ford of Michigan, and Mr. Moody.

H.J. Res. 491: Mr. Lott and Mr. Marriott.

H.J. Res. 512: Mr. Conyers, Mr. Gingrich, Mr. Coughlin, Mr. Chappie, Mr. Torricelli, Mr. Walgren, Mr. Cooper, Mr. Daschle, Mr. Siljander, and Mr. Morrison of Connecticut.

H.J. Res. 525: Mrs. Hall of Indiana, Mr. Oberstar, Mr. Lantos, Mr. Stratton, Mr. Foley, Mr. Levin of Michigan, Mr. Frenzel, Mr. Fauntroy, Mr. Moakley, Mr. McHugh, Mr. Barnard, Mr. Coats, Mr. Derrick, Mr. Pickle, Mr. Rinaldo, Mr. LaFalce, Mr. Fuqua, Mr. Waxman, Mr. Jacobs, Mr. Stenholm, Mr. Spratt, Mr. Britt, Mr. Solarz, and Mr. Skelton.

H.J. Res. 528: Mr. Early, Mr. Cheney, Mr. Bevill, Mrs. Lloyd, Mr. Gunderson, and Mr. Rose.

H.J. Res. 590: Mr. Madigan, Mr. Craig, and Mr. Moody.

H. Con. Res. 239: Mr. Williams of Montana and Mr. Heftel of Hawaii.

H. Con. Res. 268: Mr. Markey and Mr. Thomas of California.

H. Con. Res. 284: Mr. Weber.

H. Con. Res. 285: Mr. Weber.

H. Con. Res. 301: Mr. Daub, Mr. LaFalce, and Ms. Fiedler.

H. Con. Res. 302: Mr. McGrath, Mr. Wortley, Ms. Kaptur, and Mr. Fazio.

H. Con. Res. 308: Mr. Coelho, Mr. Smith of New Jersey, Mr. Fuqua, Mr. Miller of California, Mr. Pease, Mr. Lipinski, Ms. Kaptur, Mr. Frost, Mr. Robert F. Smith, Mr. Wyden, Mr. Edgar, Mr. Porter, Mr. Crockett, Mr. Weiss, and Mr. Heftel of Hawaii.

H. Con. Res. 312: Mr. Minish, Mr. Porter, Mr. Robert F. Smith, Mr. Torricelli, Mr. Biaggi, Mr. Richardson, Mr. Fish, Mr. Davis, Mr. Crockett, and Mrs. Boggs.

H. Con. Res. 314: Mr. Weaver.

H. Con. Res. 315: Mr. Addabbo, Mr. Bliley, Mr. Cheney, Ms. Fiedler, Mr. Fuqua, Mr. Hopkins, Mr. Smith of New Jersey, Mr. Torres, Mr. Torricelli, Mr. Walgren, and Mr. Wilson.

H. Res. 513: Mr. Ackerman, Mr. Addabbo, Mr. Akaka, Mr. Albosta, Mr. Anderson, Mr.

Aspin, Mr. AuCoin, Mr. Badham, Mr. Barnard, Mr. Barnes, Mr. Bates, Mr. Bereuter, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mrs. Boggs, Mr. Bonker, Mr. Bosco, Mr. Boucher, Mrs. Boxer, Mr. Brown of California, Mr. Bryant, Mrs. Burton of California, Mrs. Byron, Mr. Carney, Mr. Carper, Mr. Chandler, Mr. Coats, Mr. Coelho, Mr. Coleman of Texas, Mr. Conyers, Mr. Cooper, Mr. Corrada, Mr. Coughlin, Mr. Crockett, Mr. D'Amours, Mr. Daschle, Mr. Davis, Mr. de la Garza, Mr. Dellums, Mr. de Lugo, Mr. Derrick, Mr. Dixon, Mr. Dorgan, Mr. Downey of New York, Mr. Durbin, Mr. Dymally, Mr. Early, Mr. Edgar, Mr. Edwards of California, Mr. Feighan, Mr. Foglietta, Mr. Foley, Mr. Fowler, Mr. Frank, Mr. Garcia, Mr. Gejdenson, Mr. Gephardt, Mr. Gilman, Mr. Gingrich, Mr. Glickman, Mr. Gonzalez, Mr. Gore, Mr. Green, Mr. Ralph M. Hall, Mr. Hall of Ohio, Mr. Hamilton, Mr. Harrison, Mr. Hawkins, Mr. Hayes, Mr. Hefner, Mr. Howard, Mr. Hughes, Mr. Hunter, Mr. Hutto, Mr. Hyde, Mrs. Johnson, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. Kindness, Mr. Kogovsek, Mr. LaFalce, Mr. Lagomarsino, Mr. Lantos, Mr. Lehman of Florida, Mr. Lehman of California, Mr. Leland, Mr. Lent, Mr. Levin of Michigan, Mr. Levine of California, Mr. Lewis of Florida, Mrs. Lloyd, Mr. Long of Maryland, Mr. Lowry of Washington, Mr. Lujan, Mr. McCain, Mr. McCloskey, Mr. McCurdy, Mr. McHugh, Mr. McKernan, Mr. McNulty, Mr. MacKay, Mr. Marriott, Mr. Markey, Mr. Martinez, Mr. Mavroules, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell, Mr. Moakley, Mr. Moody, Mr. Moorhead, Mr. Mrazek, Mr. Murphy, Mr. Neal, Mr. Nelson of Florida, Mr. Oberstar, Mr. Obey, Mr. Ortiz, Mr. Owens, Mr. Panetta, Mr. Pashayan, Mr. Patman, Mr. Patterson, Mr. Pepper, Mr. Pritchard, Mr. Quillen, Mr. Ratchford, Mr. Regula, Mr. Reid, Mr. Richardson, Mr. Rinaldo, Mr. Roberts, Mr. Rodino, Mr. Roybal, Mr. Sawyer, Mr. Scheuer, Mr. Seiberling, Mr. Sensenbrenner, Mr. Shannon, Mr. Sharp, Mr. Shelby, Mr. Sikorski, Mr. Simon, Mr. Skelton, Mr. Smith of New Jersey, Mr. Smith of Iowa, Mr. Robert F. Smith, Mrs. Smith of Nebraska, Ms. Snowe, Mr. Stenholm, Mr. Stokes, Mr. Studds, Mr. Sunia, Mr. Swift, Mr. Synar, Mr. Tallon, Mr. Tauke, Mr. Thomas of California, Mr. Torres, Mr. Torricelli, Mr. Traxler, Mr. Udall, Mr. Vento, Mr. Waxman, Mr. Weaver, Mr. Weber, Mr. Weiss, Mr. Whitehurst, Mr. Williams of Montana, Mr. Wirth, Mr. Wise, Mr. Won Pat, Mr. Wortley, Mr. Yatron, Mr. Young of Missouri, Mr. Zschau, Mr. Lowery of California, Mr. Donnelly, Mr. Gregg, Mr. Kolter, Mr. Bonior of Michigan, Mr. Dwyer of New Jersey, Mr. Ireland, Mr. Watkins, Mr. Boland, Mr. Skeen, Mr. Wolf, Mr. Roe, Mr. Vandergriff, Mr. Matsui, Mr. Smith of Florida, Mr. Packard, Mr. Chappie, Ms. Fiedler, Mr. Dowdy of Mississippi, Mr. Beilenson, Mr. Martin of New York, Mr. Volkmer, Mr. Hansen of Idaho, Mr. McKinney, Mr. Kostmayer, Mr. Hoyer, Mr. Brooks, and Mr. Fauntroy.

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## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

### H.R. 3282

By Mr. EDGAR:

—On page 39, strike out line 8 and all that follows through line 24.

—On page 45, strike out line 9 and all that follows through line 25.

—On page 62, strike out line 7 and all that follows through line 19.

—At the end of the bill, add the following new section:

Sec. (a) Section 405 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(f)(1) In carrying out the requirements of subsection (d) of this section the Administrator shall take steps to promote the safe and beneficial use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. After consultation with the appropriate Federal and State agencies and other interested persons, within two years after the date of enactment of this subsection, the Administrator shall—

"(A) issue standards for the inspection and testing of sewage sludge and designate grades and types of sewage sludge which may be safely used for certain, specified purposes based on concentration of pollutants which interfere with safe use and other relevant factors;

"(B) Issue guidelines for monitoring, on a continuing basis, the safe use of sewage sludge for certain, specified purposes.

"(2)(A) The Administrator is authorized to approve scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial use of sewage sludge. For the purposes of carrying out such scientific studies, demonstration programs, and public information and education programs, the Administrator may make grants to State water pollution control agencies, other public or non-profit agencies, institutions, organizations, and individuals.

"(B) In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge."

(b) There are hereby authorized to be appropriated for fiscal year 1985 and ensuing fiscal years such sums as may be necessary but not to exceed $15,000,000.

—At the end of the bill, add the following new section:

#### NATIONAL GROUND WATER COMMISSION

Sec. . (a) Establishment.—There is established a commission to be known as the National Ground Water Commission (hereinafter in this Act referred to as the "Commission").

(b) Duties of Commission.—The duties of the Commission are to:

(1) Assess generally the amount, location, and quality of the Nation's ground water resources.

(2) Identify generally the sources, extent, and types of ground water contamination.

(3) Assess the scope and nature of the relationship between ground water contamination and ground water withdrawal and develop projections of available, usable ground water in future years on a nationwide basis.

(4) Assess the relationship between surface water pollution and ground water pollution.

(5) Assess the need for a policy to protect ground water from degradation caused by contamination.

(6) Assess generally the extent of overdrafting of ground water resources, and the adequacy of existing mechanisms for preventing such overdrafting.

(7) Assess generally the engineering and technological capability to recharge aquifers.

(8) Assess the adequacy of the present understanding of ground water recharge zones and sole source aquifers and assess the adequacy of knowledge regarding the interrelationships of designated aquifers and recharge zones.

(9) Assess the role of land-use patterns as these relate to protecting ground water from contamination.

(10) Assess methods for remedial abatement of ground water contamination as well as the costs and benefits of cleaning up polluted ground water and compare cleanup costs to the costs of substitute water supply methods.

(11) Investigate policies and actions taken by foreign government to protect ground water from contamination.

(12) Assess the use and effectiveness of existing interstate compacts to address ground water protection from contaimination.

(13) Analyze existing legal rights and remedies regarding contamination of ground water.

(14) Assess the adequacy of existing standards for ground water quality under State and Federal law.

(15) Assess monitoring methodologies of the States and the Federal Government to achieve the level of protection of the resource as required by State and Federal law.

(16) Assess the relationship between ground water flow systems (and associated recharge areas) and the control of sources of contamination.

(17) Assess the role of underground injection practices as a means of disposing of waste fluids while protecting ground water from contamination.

(18) Assess methods for abatement and containment of ground water contaimination and for aquifer restoration including the costs and benefits of alternatives to abatement and containment.

(19) Assess State and Federal ground water law and mechanisms with which to manage the quality and quantity of the ground water resource.

(20) Assess the adequacy of existing ground water research and determine future ground water research needs.

(21) Assess the roles of State, local, and Federal Governments in managing ground water quality and quantity.

(c) Membership.—(1) The Commission shall be composed of nineteen members as follows:

(A) six appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives, two of whom shall be members of the Committee on Energy and Commerce, two of whom shall be members of the Committee on Public Works and Transportation, and two of whom shall be members of the Committee on Interior and Insular Affairs;

(B) four appointed by the majority leader of the United States Senate from among the Members of the United States Senate;

(C) eight appointed by the President as follows:

(i) four from among a list of nominations submitted to the President by the National

Governors Association, two of whom shall be representatives of ground water appropriation States and two of whom shall be representatives of ground water riparian States;

(ii) one from among a list of nominations submitted to the President by the National League of Cities and the United States Conference of Mayors;

(iii) one from among a list of nominations submitted to the President by the National Academy of Sciences;

(iv) one from among a list of nominations submitted to the President by groups, organizations, or associations of industries the activities of which may affect ground water; and

(v) one from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with pollution and environmental issues and which have participated, at the State or Federal level, in studies, administrative proceedings, or litigation (or any combination thereof) relating to ground water; and

(D) the Director of the Office of Technology Assessment.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than three of the six members appointed under subparagraph (A) and not more than two of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d) Director and Staff of Commission; Experts and Consultants.—(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the Chief of Engineers and the Director of the Geological Survey are each authorized to detail, on a reimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section. Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e) Powers of Commission.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so, authorized by the Commission, take any action which the Commission is authorized to take by this action.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) Report.—(1) The Commission shall transmit to the President and to each House of the Congress a report not later than October 30, 1986. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsection (b), together with its recommendations for such legislation and administrative actions, as it considers appropriate.

(2) Not later than one year after the enactment of this Act, the Commission shall complete a preliminary study concerning ground water contamination from hazardous and other solid waste and submit to the President and to the Congress a report containing the findings and conclusions of such preliminary study. The study shall be continued thereafter, and final findings and conclusions shall be incorporated as a separate chapter in the report required under paragraph (1). The preliminary study shall include an analysis of the extent of ground water contamination caused by hazardous and other solid waste, the regions and major water supplies most significantly affected by such contamination, and any recommendations of the Commission for preventive or remedial measures to protect human health and the environment from the effects of such contamination.

(g) Termination.—The Commission shall cease to exist on January 1, 1987.

(h) Authorization of Appropriations.—There is authorized to be appropriated for the fiscal years 1984 through 1986 not to exceed $7,000,000 to carry out this section.

By Mr. OBERSTAR:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

### SHORT TITLE

Section 1. This Act may be cited as the "Water Quality Renewal Act of 1984".

### AUTHORIZATIONS OF APPROPRIATIONS

Sec. 2. (a) Section 104(u) of the Federal Water Pollution Control Act is amended—

(1) in clause (1), by inserting after "September 30, 1982," the following: "and not to exceed $22,770,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,";

(2) in clause (2), by striking out "and $3,000,000 for fiscal year 1982" and inserting in lieu thereof the following: "$3,000,000 for fiscal year 1982, and $3,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988"; and

(3) in clause (3), by striking out "and $1,500,000 for fiscal year 1982," and inserting in lieu thereof the following: "$11,500,000 for fiscal year 1982, and $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988".

(b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by inserting after "1982" a comma and the following: "and $75,000,000 per fiscal year for each of the fiscal years 1983, 1984, 1985, 1986, 1987, and 1988".

(c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1982," and inserting in lieu thereof the following: "$7,000,000 for the fiscal year ending September 30, 1982, and $7,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,".

(d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1982" and inserting in lieu thereof "September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988".

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by inserting after "1982," the following: "and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,".

(f) Section 304(k)(3) of the Federal Water Pollution Control Act is amended by striking out "1983" and inserting in lieu thereof "1988".

(g) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $30,000,000 for fiscal year 1983" and inserting in lieu thereof the following: "$30,000,000 for fiscal year 1982, and $30,000,000 per fiscal year for each of the fiscal years 1983, 1984, 1985, 1986, 1987, and 1988".

(h) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $161,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "$161,000,000 for the fiscal year ending September 30, 1982, and $160,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988".

### AUTHORIZATIONS FOR CONSTRUCTION GRANTS

SEC. 3. Section 207 of the Federal Water Pollution Control Act is amended by striking out "and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, not to exceed $2,400,000,000 per fiscal year" and inserting in lieu thereof "for the fiscal years ending September 30, 1982, and September 30, 1983, not to exceed $2,400,000,000 per fiscal year; for the fiscal year ending September 30, 1984, not to exceed $2,400,000,000; for the fiscal year ending September 30, 1985, not to exceed $2,900,000,000; and for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $3,400,000,000 per fiscal year".

### COMPLIANCE DEADLINES

SEC. 4. (a) Section 301(b)(2)(C) of the Federal Water Pollution Control Act is amended to read as follows:

"(C) for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established;".

(b) Section 301(b)(2)(D) of the Federal Water Pollution Control Act is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established".

(c) Section 301(b)(2)(E) of the Federal Water Pollution Control Act is amended by striking out "1984" and inserting in lieu thereof "1987".

(d) Section 301(b)(2)(F) of the Federal Water Pollution Control Act is amended to read as follows:

"(F) for all pollutants (other than those subject to subparagraph (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established.".

(e) The Administrator of the Environmental Protection Agency shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

| Category | Date by which the final regulation shall be promulgated |
|---|---|
| Foundries.................. | June 30, 1984. |
| Inorganic chemicals (phase II). | June 30, 1984. |
| Nonferrous metals forming. | October 31, 1984. |
| Organic chemicals and plastics and synthetic fibers. | February 28, 1985. |
| Pesticides.................. | November 30, 1984. |
| Plastics molding and forming. | September 30, 1984. |
| Nonferrous metals (phase II). | November 30, 1984. |

### INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS

SEC. 5. (a) Section 304 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(l)(1) Not later than one year after the date of enactment of this subsection, the Administrator, in cooperation with the States and after notice and opportunity for public comment, shall publish in the Federal Register a list of all navigable waters in each State for which the Administrator does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a). For each segment of the navigable waters included on such list, the Administrator shall determine the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source. At a minimum, the Administrator shall consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after the date of enactment of this subsection.

"(2) Not later than one year after the date of publication of the list required by paragraph (1) of this subsection, the Administrator, in cooperation with the States, shall issue proposed regulations setting forth, for each listed segment of the navigable waters, an individual control strategy. Each individual control strategy shall produce a reduction in the discharge of toxic pollutants from point sources identified by the Administrator under paragraph (1) through the establishment of effluent limitations under section 302 of this Act and water quality standards under section 303(c)(4)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of promulgation of the final strategy. Not later than 180 days after issuing the proposed regulations, the Administrator shall promulgate each individual control strategy as a final regulation.

"(3) The Administrator shall implement each individual control strategy promulgated under paragraph (2) by modifying or requiring the modification of permits under section 402 of this Act.".

(b) Section 509(b)(1) of the Federal Water Pollution Control Act is amended by striking out "and (F)" and inserting in lieu thereof "(F)" and by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(1),".

### CIVIL PENALTIES

SEC. 6. (a) Section 309(d) of the Federal Water Pollution Control Act is amended by striking out "$10,000" and inserting in lieu thereof "$20,000".

(b) The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in such section 309(d) which have the same monetary amount as the civil penalty established by such section, as amended by subsection (a) of this section.

### STUDY OF EFFECTS OF DAMS ON WATER QUALITY

SEC. 7. Section 516 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(f) The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment and discharge of water by dams. The results of such study, together with any recommendations for the control of such impoundment and discharge, shall be submitted to Congress not later than December 31, 1985.".

### CONTROL OF NONPOINT SOURCES OF POLLUTION

SEC. 8. (a) Title III of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "NONPOINT SOURCE CONTROL IMPLEMENTATION PROGRAMS

"SEC. 319. (a)(1) The Governor of each State shall prepare and submit to the Administrator for his approval, a report which—

"(A) identifies those portions of the navigable waters within the State which, as a result (in whole or in part) of pollution from nonpoint sources, are not meeting applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsection (i); and

"(D) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category or subcategory.

"(2) Each report submitted under paragraph (1) shall be based on available information including, but not limited to, information available under sections 208, 303(e), 304(f), and 305(b) of this Act, and may include all or part of any water quality management program approved under section 208 or 303 of this Act.

"(b)(1) The Governor of each State shall prepare and submit to the Administrator for his approval—

"(A) a plan which such State proposes to implement in the first four fiscal years beginning after the date of submission of such plan for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters; and

"(B) a report which (i) identifies each department, agency, or instrumentality of the United States and each department, agency, or instrumentality of the State which is likely to be engaging in, supporting, or providing financial assistance in each of such fiscal years for any activity or program in the State which, if carried out, would be inconsistent with implementation of such plan in such fiscal years, and (ii) recommends to the Administrator methods by which such Federal department, agency, or instrumentality could modify administration of such activity or program, and describes methods by which such State department, agency, or instrumentality intends to modify administration of such activity or program, so that such activity or program is consistent with, and assists the State in implementation of, such plan.

"(2) Each plan proposed for implementation under this subsection shall specify—

"(A) from among those portions of navigable waters significantly affected by pollution added from nonpoint sources, each portion and land area contributing such pollution with respect to which the State plans to assist, encourage, or require implementation of best management practices and measures in the first four fiscal years beginning after the date of submission of such plan;

"(B) the order in which, and the schedule under which, the State plans to assist, encourage, or require implementation of such practices and measures in such fiscal years;

"(C) from among those categories and subcategories of nonpoint sources of pollution which contribute to each portion specified under subparagraph (A) not meeting applicable water quality standards or the goals and requirements of this Act, the categories and subcategories with respect to which the State plans to assist, encourage, or require implementation of such practices and measures in such fiscal years and the relative contribution of such pollution by category and subcategory of such sources;

"(D) the best management practices and measures the implementation of which the State plans to assist, encourage, or require in each of such fiscal years to reduce pollution resulting from nonpoint sources and to improve water quality;

"(E) the methods, by category and subcategory of such sources of pollution, (including, but not limited to, demonstration, enforcement, technical assistance, education, training, and cost-sharing programs) which the State plans to use to encourage, assist, or require implementation of such practices and measures in such fiscal years; and

"(F) sources of Federal and other assistance (other than assistance provided under subsection (i)) which will be available to each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

"(3) Each plan submitted by a State under this subsection shall be accompanied by a certification of the attorney general of the State or the chief attorney of any State water pollution control agency which has independent legal counsel that the laws of the State provide adequate authority to implement such plan or, if there is not such adequate authority, a list of such additional authority which will be necessary to implement such plan.

"(4) The schedule required by paragraph (2)(B) shall establish for each category and subcategory of nonpoint sources of pollution specified under paragraph (2)(C) an expeditious time period for implementation of best management practices and measures specified under paragraph (2)(D) and shall indicate the estimated dates for implementation of such practices and measures.

"(5) In developing and implementing a plan under this subsection, a State shall, to the maximum extent practicable, utilize local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(6) A State shall, to the maximum extent practicable, develop and implement a plan under this subsection on a watershed-by-watershed basis.

"(c)(1) Any report required by subsection (a) and any plan and report required by subsection (b) shall be submitted to the Administrator during the 270-day period beginning on the date of enactment of this section; except that upon request of the Governor, the Administrator shall extend such period for not to exceed an additional 270 days.

"(2) If a Governor of a State does not submit the report required by subsection (a) during such period, the Administrator shall prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a).

"(d) The Administrator shall consolidate recommendations for modifications of activities and programs submitted by the States under subsection (b)(1)(B) and submit such consolidated recommendations to the appropriate departments, agencies, and instrumentalities of the United States. Each such department, agency, or instrumentality, to the maximum extent practicable and consistent with existing law, shall accommodate such recommendations and shall carry out its own activities and programs in a manner which is consistent with, and will assist implementation of, the plan submitted by the State under subsection (b) and approved by the Administrator under this section.

"(e)(1) Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or plan under this section (other than subsections (i) and (k)), the Administrator shall either approve or disapprove such report or plan, as the case may be. The Administrator may approve a portion of a plan under this subsection. If the Administrator does not disapprove a report, plan, or portion of a plan in such 180-day period, such report, plan, or portion shall be deemed approved for purposes of this section.

"(2) If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that a plan submitted under subsection (b) or any portion thereof is not likely to satisfy, in whole or in part, the goals and requirements of this Act, that adequate authority does not exist, or adequate resources are not available, to implement such plan or portion, that the schedule for implementing such plan or portion is not sufficiently expeditious, or that the practices and measures proposed in such plan or portion are not adequate to improve the quality of navigable waters in the State and to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources, the Administrator shall disapprove the plan or portion thereof with respect to which the Administrator makes such determination. The Administrator shall notify the State of such disapproval and request specific revisions of such plan or portion necessary to obtain approval of such plan or portion. Not later than 90 days after the date of such notification, the State shall submit to the Administrator for his approval under this subsection its revisions of such plan or portion.

"(f) If a State fails to submit a plan under subsection (b) or the Administrator does not approve such a plan, a local public agency or organization which has expertise in, and authority to, control pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a plan which is described in subsection (b) and meets the requirements of subsection (e). After development of such plan, such agency or organization shall submit such plan to the Administrator for his approval. If the Administrator approves such plan, such agency or organization shall be eligible to receive financial assistance under subsection (i) for implementation of such plan as if such agency or organization were a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (i).

"(g) Upon request of a State, the Administrator may provide technical assistance to such State in developing a plan under subsection (b) for those portions of the navigable waters requested by such State.

"(h)(1) If any portion of the navigable waters in any State which is implementing a plan approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute pollution resulting from nonpoint sources to such portion. If, on the basis of information available to him, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or part, of pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the quality of such portion.

"(2) Each State which contributes significant pollution from nonpoint sources to the portion of navigable waters in amounts which contribute to such portion not meeting applicable water quality standards or the goals and requirements of this Act shall submit to the Administrator for his approval a plan referred to in subsection (b) to reduce the level of pollution in such portion resulting from nonpoint sources in such State and to improve the quality of such portion; except that is such State has an approved plan under subsection (b), such State shall revise such plan to reduce the level of pollution in such portion resulting from nonpoint sources in such State and to improve the quality of such portion and submit such revised plan to the Administrator for his approval under this section. Such plan or revised plan shall be consistent with existing Federal and State law. After approval, the State shall implement such plan or revised plan.

"(i)(1) Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting the State in implementing such plan.

"(2) an application for a grant under this subsection in any fiscal year shall be in such form and shall contain—

"(A) an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant; and

"(B) such other information as the Administrator may require.

"(3)(A) The Federal share of the cost of each plan implemented with Federal assistance under this subsection in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such plan; except that the Federal share of those costs of any such plan which are attributable to a watershed area with respect to which the Administrator determines that a significant number of non-Federal, non-State interests of such area are willing and able to enter into agreements to participate in such year in nonpoint source pollution control measures under such plan shall be not less than 50 percent and not more than 60 percent.

"(B) For purposes of this paragraph, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

"(4) No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

"(5)(A) Each State which receives a grant under this subsection in any fiscal year shall submit to the Administrator a written report which describes the activities and programs carried out in the State under such grant and the progress made by such State in meeting the schedule specified under subsection (b)(2)(B).

"(B) No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2)(B).

"(6) Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

"(7) For each fiscal year beginning after September 30, 1986, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to any State which has included effective regulatory mechanisms in an approved State plan under this section and has implemented such mechanisms in the preceding fiscal year. Such mechanisms shall include, but are not limited to, deadlines for implementation of best management practices and enforcement procedures to ensure implementation of such plan.

"(8) There is authorized to be appropriated to carry out this subsection not to exceed $150,000,000 per fiscal year for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. Sums appropriated to carry out this subsection shall remain available until expended.

"(j)(1) Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater for nonpoint sources of pollution.

"(2) An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(3) The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

"(4) There is authorized to be appropriated to carry out this subsection not to exceed $7,500,000 per fiscal year for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989.

"(k)(1) Not later than January 1, 1985, and each January 1 thereafter the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

"(2) Not later than January 1, 1988, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall include—

"(A) an analysis of the effectiveness of plans carried out under this section and of the best management practices and measures utilized under those plans in controlling nonpoint sources of pollution;

"(B) an analysis of the level of State participation in implementing such plans; and

"(C) recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources.

"(l) Not less than 5 percent of the funds appropriated to carry out subsection (i) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.".

(b) Section 304(k)(1) of the Federal Water Pollution Control Act is amended by inserting "and 319" after "208".

### POLICY FOR CONTROL OF NONPOINT SOURCES OF POLLUTION

Sec. 9. Section 101(a) of the Federal Water Pollution Control Act is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that plans for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

### LAKE RESTORATION GUIDANCE MANUAL

Sec. 10. Section 104(h) of the Federal Water Pollution Control Act is amended by inserting "(1)" after "(h)" and by adding at the end thereof the following:

"(2) The Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than one year after the date of enactment of this paragraph a lake restoration guidance manual establishing procedures to guide future State and local efforts to improve water quality in lakes.".

### ELIGIBLE CATEGORIES OF PROJECTS

Sec. 11. (a) The second sentence of section 201(g)(1) of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows.".

(b) Section 201(n)(2) of the Federal Water Pollution Control Act is amended by striking out "$200,000,000" and inserting in lieu thereof "$500,000,000". The amendment made by this subsection shall apply to fiscal years beginning after September 30, 1984.

### FEDERAL SHARE

Sec. 12. (a) Section 202(a)(1) of the Federal Water Pollution Control Act is amended by striking out "55 per centum" and inserting in lieu thereof "65 per centum".

(b) The last sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended—

(1) by inserting after "correction" the first place it appears the following: "or a project to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows"; and

(2) by inserting after "correction" the third place it appears the following: "and project to address such problems".

(c) Section 202(a)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 per centum of the cost of construction thereof.".

(d) The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 per centum of the cost thereof.

(e) Section 202(a)(3) of the Federal Water Pollution Control Act is amended by inserting at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contractors) in any publicly owned treatment works if the Administrator finds that such equipment has not met design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

### AGREEMENT ON ELIGIBLE COSTS

Sec. 13. Section 203(a) of the Federal Water Pollution Control Act is amended by inserting after the second sentence the following new sentences: "Before taking final action on such plans, specifications, and estimates, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not refuse to make payments for the Federal share of those costs of any item specified in such an agreement which are incurred on such project.".

### GRANT CONDITIONS

Sec. 14. (a) Section 204(a)(1) of the Federal Water Pollution Control Act is amended to read as follows:

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) Section 204(a)(2) of the Federal Water Pollution Control Act is amended to read as follows:

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

(c) The amendments made by subsections (a) and (b) of this section shall take effect two years after the date of enactment of this Act.

### USER CHARGES ON LOW-INCOME RESIDENTIAL USERS

Sec. 15. Section 204(b)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph, if the Administrator determines that such system was adopted after public notice and hearing.".

### ALLOTMENT OF CONSTRUCTION GRANT FUNDS

Sec. 16. (a)(1) Section 205(c)(2) of the Federal Water Pollution Control Act is amended by adding after the first sentence the following: "Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1986, 1987, and 1988 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Water Quality Renewal Act of 1984.".

(2) The third sentence of section 205(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,".

(b) Section 205(e) of the Federal Water Pollution Control Act is amended by striking out "and 1985" each place it appears and inserting in lieu thereof "1985, 1986, 1987, and 1988" and by striking out "thirty-three one-hundredths of 1 per centum" and inserting in lieu thereof "two-thirds of 1 per centum".

(c)(1) Section 205(g)(1) of the Federal Water Pollution Control Act is amended by striking out "1985" and inserting in lieu thereof "1988".

(2) Section 205(g) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) The Administrator shall reserve each fiscal year beginning after September 30, 1984, $900,000 from the sums available to the State of New York under this subsection for such fiscal year, $900,000 from the sums available to the State of New Jersey under this subsection for such fiscal year, and $200,000 from the sums available to the State of Connecticut under this subsection for such fiscal year. Sums reserved under this paragraph shall be used by the Administrator to make a grant for each such fiscal year to the Interstate Sanitation Commission established by such States by interstate compact to carry out the functions of such Commission under this Act."

(d) Section 205(l) of the Federal Water Pollution Control Act is amended by striking out "and September 30, 1985" and inserting in lieu thereof "September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988".

(e) Section 205(j)(3) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 50 percent of the amount granted to such State for a fiscal year under this subsection to regional and interstate public comprehensive planning organizations in such State, except in any fiscal year for which the Administrator and the Governor of such State determine jointly that allocation of at least 50 percent to such organizations will not substantially assist in achieving the goals of this Act.".

(f) Section 205 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(l) One-quarter of one percent of any amount appropriated under section 207 of this Act for any fiscal year beginning after September 30, 1984, shall be reserved by the Administrator for carrying out investigations and audits authorized by this Act of projects for which funds are made available under this title.".

(g)(1) The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the "Administrator") shall make a grant from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1985 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city

(2) The Administrator shall make a grant of $2,337,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Ohio for fiscal year 1985 to the owners of the Rocky River Wastewater Treatment Plant in Rocky River, Ohio, for reimbursement of such owners for the cost of construction of such plant.

(3) The Administrator shall make grants from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Pennsylvania for fiscal year 1985 to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatement plant, and to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(4)(A) The Administrator shall make a grant to the Elk Pinch Public Service District, Kanawha County, West Virginia, in amounts not exceeding $3,000,000 from funds allotted to the State of West Virginia under section 205 of the Federal Water Pollution Control Act for fiscal years beginning after September 30, 1984. Such grants shall be for 100 per centum of the cost of constructing the portion of the wastewater treatment works of such district which is not yet constructed and shall be in addition to the Federal share of eligible costs of such project otherwise allowable.

(B) As a condition to receiving a grant under this paragraph, the Elk Pinch Public Service District shall agree to take necessary steps, including litigation, to recover funds from parties against whom such district has claims for damages relating to the planning, designing, constructing, and financing of such wastewater treatment works. Amounts recovered under the preceding sentence, to the extent such amounts do not exceed the amount of grants made under this paragrpah, shall be paid to the Administrator and shall be added to the allotment of the State of West Virginia under section 205 of the Federal Water Pollution Control Act for the first fiscal year following such payment.

(5) Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of Kentucky for fiscal year 1985 to the city of Taylor Mills, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

### GRANTS TO STATES FOR ESTABLISHMENT OF WATER POLLUTION CONTROL REVOLVING FUNDS

Sec. 17. (a) Title II of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "GRANTS TO STATES FOR REVOLVING FUNDS

"Sec. 220. (a) The Administrator shall make a grant to each State of the funds allotted to such State under this section for any fiscal year for deposit in a Water Pollution Control Revolving Fund established by such State under subsection (b)(2) of this section, for providing assistance to municipalities and intermunicipal and interstate agencies for construction of treatment works (as defined in section 212 of this Act) which are publicly owned.

"(b)(1) A grant shall not be made for a fiscal year to a State under this section unless the State has first deposited in the fund established by such State under this section an amount equal to 20 percent of the amount allotted to such State for such fiscal year.

"(2) Each State shall submit to the Administrator annually a certification—

"(A) that upon completion of any project for treatments works for which financial assistance is made available under this section, discharges from such treatment works will meet all applicable requirements necessary to achieve applicable State and Federal water quality standards; and

"(B) that such State will comply with all provisions of this section.

"(3) Each State shall establish a Water Pollution Control Revolving Fund to provide assistance under this section. Such State shall deposit in such fund any Federal funds allotted to such State under this section, any amounts received by such State for repayment of loans made by such State with amounts in such fund, any amounts required to be deposited in such fund under subsection (b)(1), and any additional funds (except for funds received under any other section of this title) which such State wishes to deposit in such fund.

"(c)(1) A State may use amounts in the fund established by such State under this section only to make loans, loan guarantees, payments to reduce interest on loans and loan guarantees, bond interest subsidies, and bond guarantees to municipalities and intermunicipal and interstate agencies.

"(2) In addition, to the extent provided by State law, any State may issue revenue or general obligation bonds using amounts in the fund established by such State under this section as a source of revenue or security for the payment of interest and principal on such bonds, if the proceeds of the sale of such bonds are deposited in such fund. No municipality or intermunicipal or interstate agency shall receive a loan from the fund unless such municipality or agency establishes a dedicated source of revenue for the repayment of such loan.

"(3) A State may provide assistance under this section to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a project for which such municipality or agency is receiving assistance from the Administrator under any other section of this title.

"(4) A State may provide financial assistance from the fund established by such State under this section for any project which is on the State's priority list under section 216 of this Act.

"(d) Notwithstanding any other provision of this section, a State may make assistance available under this section from the fund established by such State under this section to finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works. If the recipient of a grant under section 201(g) of this Act for construction of treatment works receives an allowance under section 201(l)(1) for non-Federal funds expended for such planning and preparation and such recipient has received a loan under this first sentence of this subsection, such recipient shall promptly repay such loan to the extent of such allowance.

"(e)(1) Each State shall annually make a full and complete report to the Administrator concerning the use of Federal funds made available under this section in such manner as the Administrator shall prescribe.

"(2) The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

"(f) The provisions of this title shall not apply to financial assistance under this section, except to the extent provided in this section.

"(g)(1) There is authorized to be appropriated to carry out this section not to exceed $1,600,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

"(2) Sums authorized to be appropriated to carry out this section for any fiscal year shall be allotted by the Administrator in the same manner and in accordance with the same table as if such funds were authorized to be appropriated under section 207 of this Act for such fiscal year. Sums allotted to a State for a fiscal year shall remain available for a grant to such State for the fiscal year for which authorized and for the following fiscal year. Any funds granted to a State for a fiscal year under this section which are not utilized by such State for any of the purposes of this section during such fiscal year and the following fiscal year shall be repaid to the Administrator for reallotment among the other States.".

(b) Section 207 of the Federal Water Pollution Control Act is amended by striking out "and 209" and inserting in lieu thereof ", 209, and 220".

### INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS

Sec. 18. Section 301(k) of the Federal Water Pollution Control Act is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which is otherwise applicable under such subsection,".

### RESEARCH ON EFFECTS OF POLLUTANTS

Sec. 19. (a) Section 104(c) of the Federal Water Pollution Control Act is amended to read as follows:

"(c) In carrying out the provisions of subsection (a) of this section, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.".

(b) Section 104(u) of the Federal Water Pollution Control Act is amended by striking out "and (6)" and inserting in lieu thereof "(6)" and by striking out the period at the end thereof and inserting in lieu thereof the following: "; and (7) not to exceed $2,500,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, for carrying out the provisions of subsection (c) of this section, which shall be in addition to and not in lieu of any other funds available for the purpose of carrying out such subsection.".

### WATER QUALITY CRITERIA

Sec. 20. (a) Section 304(a)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "In developing, publishing, and revising criteria under this paragraph after the date of enactment of this sentence, the Administrator shall consider, among other things, the effects on the ecosystem of (i) water hardness, (ii) pH, (iii) chemical and physical interactions, (iv) persistence of pollutants and the long-term effects of pollutants, (v) sedimentation from chemical reaction of pollutants, (vi) the absorptive properties of sediments, (vii) resuspension, and (viii) bio-uptake.".

(b) Section 304(a)(1) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following: "New or revised criteria under this paragraph should be established so as to provide an ample margin of safety to protect human health and fish and wildlife resources. Whenever, in developing new or revised criteria under this paragraph with respect to a pollutant, the Administrator determines that a well-founded and significant difference of opinion exists as to the latest scientific and research knowledge on the matters referred to in the preceding sentence, the Administrator shall publish a description of such difference of opinion along with the publication of such criteria.".

### PRETREATMENT STANDARDS

Sec. 21. (a) The Administrator of the Environmental Protection Agency shall take such actions as may be necessary to increase the number of employees of such agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

(b) Section 307 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:

"(e) In the case of any new or existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may establish a date for compliance with the applicable pretreatment standard not later than two years after the date for compliance with such applicable standard (1) if the Administrator determines that (A) the innovative system has the potential for industrywide application, and (B) the action will not cause the publicly owned treatment works to be in violation of its permit under section 402, and (2) if the Administrator (or the State, in any case in which the State has a pretreatment program approved by the Administrator) concurs with the proposed action of the owner or operator of such treatment works under this subsection.".

### CRIMINAL PENALTIES

SEC. 22. Section 309(c) of the Federal Water Pollution Control Act is amended to read as follows:

"(c)(1) Any person who—

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army, acting through the Chief of Engineers, or by a State; or

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine or not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than two years, or by both.

"(2) Any person who—

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(b)(8) of this Act or in a permit issued under section 404 of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army, acting through the Chief of Engineers, or by a State; or

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than four years, or by both.

"(3) It shall be an affirmative defense under paragraphs (1)(B) and (2)(B) of this subsection that the introduction of any pollutant or hazardous substance into a sewer system or a publicly owned treatment works was in compliance with all applicable Federal, State, and local requirements which govern the introduction of a pollutant or hazardous substance into a sewer or publicly owned treatment works.

"(4) Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both.

"(5) For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

"(6) For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.".

### ADMINISTRATIVE PENALTIES

SEC. 23. Section 309 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following:

"(g)(1) Whenever on the basis of any information available to him—

"(A) the Administrator finds that any person is in violation of section 301, 302, 306, 307, 318, or 405 of this Act, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by him or by a State, or

"(B) the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary') finds that any person is in violation of any permit condition or limitation implementing any of such section in a permit issued under section 404 of this Act by a State,

he may, after consultation with the State in which the violation occurs, assess a civil penalty of not more than $10,000 per day of violation, except that such penalty shall not exceed a total of $75,000.

"(2)(A) A civil penalty shall be assessed under this subsection by the Administrator or Secretary, as the case may be, by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator or Secretary, as the case may be, shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's or Secretary's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(B) In determining the amount of a civil penalty, the Administrator or Secretary, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, economic savings (if any) resulting from the violation, and such other matters as justice may require.

"(C) The Administrator or Secretary, as the case may be, may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5) The Administrator or Secretary, as the case may be, shall have the authority to issue subpoenas in connection with hearings under paragraph (2) of this subsection and may request the Attorney General to bring an action to enforce any subpena under this subsection. The district courts shall have jurisdiction to enforce such subpenas and impose sanctions.

"(6) Action taken by the Administrator or Secretary, as the case may be, pursuant to this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act, except that any violation with respect to which a civil penalty is imposed under this subsection shall not be subject to a civil penalty under section 309(d) or section 311(b) of this Act.

"(7) When a State has proceeded with an enforcement action relating to a violation with respect to which the Administrator or the Secretary is authorized to assess a civil penalty under this subsection, the Administrator and the Secretary are not authorized to take any action under this subsection if the State demonstrates that the State imposed penalty is appropriate.".

### CLEAN LAKES

SEC. 24. (a) Section 314(a)(1) of the Federal Water Pollution Control Act is amended by striking out "fresh water".

(b) Section 314 of the Federal Water Pollution Control Act is amended—

(1) in subsection (b), by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1), by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2), by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

(c) Section 314 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsections:

"(d)(1) The Administrator shall make grants to States for priority projects for control of nonpoint sources of pollution which are contributing to the degradation of water quality in lakes. The Administrator shall provide an equitable distribution of such sums to the States.

"(2) The amount granted to a State for a project under this subsection shall not exceed 70 per centum of the cost of such project.

"(3) There is authorized to be appropriated to carry out this subsection not to exceed $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. Sums appropriated shall remain available until expended.

"(e)(1) Any State may prepare, and submit to the Administrator for his approval—

"(A) a survey of water quality deterioration in lakes and other waters in such State which has resulted from high acidity which may be due to acid deposition, and

"(B) methods and procedures which may be applied to lakes and other waters in such State to restore water quality, insofar as such quality has deteriorated as a result of high acidity which may be due to acid deposition.

"(2)(A) The Administrator shall make grants to States to carry out methods and procedures approved by the Administrator under this subsection. Such methods may include, but are not limited to, (i) innovative methods of neutralizing and restoring buffering capacity of lakes and other waters that have become so acidic as to endanger game fish species, and (ii) methods of removing from lakes and other bodies of water toxic metals and other toxic substances mobilized by high acidity.

"(B) The amount granted under this section to any State for any fiscal year shall not exceed 80 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this subsection.

"(C) The Administrator shall provide for an equitable distribution of sums appropriated under this subsection among States with approved methods and procedures. Such distribution shall be based on the relative need of each such State for the restoration of water quality which has deteriorated as a result of high acidity which may be due to acid deposition. The amount of any grant to a State under this subsection shall be in addition to, and not in lieu of, any other Federal financial assistance.

"(3) There is authorized to be appropriated to carry out this subsection $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. Amounts appropriated under this subsection shall remain available until expended.

"(f) The Administrator shall submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status and trend of water quality in lakes in the United States, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

"(g) The Administrator shall, in cooperation with the State of Texas, study water quality problems in Lake Houston, Houston, Texas, and undertake such control measures as the Administrator and State determine are necessary to improve water quality. Such study shall include, but not be limited to, the evaluation of the feasibility of regional or consolidated waste treatment facilities and the development of recommendations for the cost-effective control of pollutants entering the Lake Houston watershed. The Administrator shall submit a report of such study and identify such structural or nonstructural controls which were undertaken or are proposed, along with recommendations for further measures, to improve the water quality of Lake Houston, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than two years after the date of enactment of this subsection. There is authorized to be appropriated for fiscal years beginning after September 30, 1984, $10,000,000 to carry out this subsection, to remain available until expended.

"(h)(1) The Administrator shall carry out a demonstration program to restore the biological integrity of acidified lakes and watersheds through liming. The Administrator shall select sites to carry out such program which will enable the Administrator to demonstrate and determine the effectiveness of liming in reducing the acidity of lakes and watersheds and in restoring the biological integrity of acidified lakes and watersheds.

"(2) The Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate reports on the results of the demonstration program carried out under this subsection not later than 90 days after completion of the demonstration program and not later than three and six years after completion of the program. Such reports shall include, but not be limited to, an analysis of the effectiveness of liming in reducing the acidity of lakes and watersheds and in restoring the biological integrity of acidified lakes and watersheds in the long-term and the short-term.

"(3) There is authorized to be appropriated to carry out this subsection not to exceed $25,000,000 for fiscal years beginning after September 30, 1984, to remain available until expended.

"(i) The Administrator, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and in consultation with appropriate State and local agencies, shall conduct a one-year comprehensive study of the Beaver Lake, Arkansas, to identify measures which will optimize achievement of the purposes for which Beaver Dam was constructed while preserving the enhancing the quality of the reservoir's water. Upon completion of the study the Administrator shall undertake a demonstration project at Beaver Lake to determine the effectiveness of measures indentified in such study for preserving and enhancing the quality of the reservoir's water for current and future users. Upon completion of the demonstration project the Administrator shall submit a report of such study and project, along with recommendations for further measures to improve the water quality of Beaver Lake, to the Committee on Public Work and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. Funds appropriated under subsections (c), (d), (e), and (h) of this section shall be available to carry out this subsection.

"(j) The Administrator shall undertake a demonstration project for the removal of silt, stumps, and other obstructions from Greenwood Lake and Belcher Creek, New Jersey. Upon completion of the demonstration project the Administrator shall submit a report of such project, along with recommendations for further measures to improve the water quality of Greenwood Lake and Belcher Creek, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $10,000,000 to carry out this subsection.

"(k) The Administrator shall undertake a demonstration project for the removal of silt and stumps from, and the control of pollution from nonpoint sources in, Deal Lake, Monmouth County, New Jersey. Upon completion of the demonstration project, the Administrator shall submit a report of such project, along with recommendations for further measures to improve the water quality of Deal Lake, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $8,000,000 to carry out this subsection.

"(1) The Administrator shall undertake a demonstration project for the restoration of Alcyon Lake, New Jersey, including removal and disposal of contaminated sediments in the lake. Upon completion of the demonstration project, the Administrator shall submit a report of such project, along with recommendations of further measures to improve the water quality of Alcyon Lake, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $3,500,000 to carry out this subsection.".

### NPDES PERMITS

SEC. 25. (a) Section 402 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(m)(1) The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) A partial permit program under this subsection shall cover at a minimum administraiton of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than five years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b)(1) Section 402(c)(1) of the Federal Water Pollution Control Act is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

(2) Section 402(c) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(4) A State may return administration of its permit program to the Administrator, and the Administrator may withdraw approval of a State permit program under paragraph (3) of this subsection (A) in the case of any approval under subsection (m)(3), the entire permit program being administered by the State department or agency at the time of such return or withdrawal, as the case may be, or (B) in the case of any approval under subsection (m)(4), any phased component approved at the time of such return or withdrawal, as the case may be.".

### AGRICULTURAL STORMWATER DISCHARGES

SEC. 26. Section 502(14) of the Federal Water Pollution Control Act is amended by inserting after "include" in the last sentence thereof the following: "agricultural stormwater discharges and".

### NEWTOWN CREEK, NEW YORK

SEC. 27. The Administrator is authorized to make a grant to the city of New York to install such additional facilities in, and make such modifications to, the Newtown Creek sewage treatment plant as are necessary for the plant to provide secondary treatment. The Federal share of such project shall be 75 percent of the cost of installing such facilities and making such modifications. There is authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1984, which shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

### SAN DIEGO, CALIFORNIA

SEC. 28. (a) For purposes of protecting the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico, upon application of the city of San Diego, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall make grants to such city for construction of a project consisting of—

(1) a publicly owned treatment works in such city to provide primary or more advanced treatment of not less than 60,000,000 gallons of municipal sewage and industrial waste per day for the city of Tijuana, Mexico; and

(2) a publicly owned treatment works in such city to provide primary or more advanced treatment of such amount of municipal sewage and industrial waste per day for such city of San Diego as may be necessary to meet the objectives of the Federal Water Pollution Control Act.

(b) Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the city of San Diego and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under section 201 of the Federal Water Pollution Control Act.

(c) The project authorized by this section shall provide capacity to provide treatment of municipal sewage and industrial waste for the cities of Tijuana and San Diego.

(d) All provisions of the Federal Water Pollution Control Act which are applicable to grants made under section 201(g) of such Act shall apply to grants made under this section to provide treatment of municipal sewage and industrial waste for the city of San Diego.

(e) The Federal share of the cost of construction of the treatment works to provide treatment of municipal sewage and industrial waste for the city of Tijuana shall be at full Federal expense less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

(f) Upon application of the city of San Diego, the Administrator may issue a permit under section 402 of the Federal Water Pollution Control Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this Act if such pollutants have received primary or more advanced treatment. Any permit issued pursuant to this subsection shall not be effective after December 31, 1993.

(g) If the treatment works constructed under this section to provide treatment for municipal sewage and industrial waste for the city of Tijuana has capacity which is no longer necessary to provide such treatment, such capacity may be used to provide treatment for municipal sewage and industrial waste for the city of San Diego.

(h) For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(i) There is authorized to be appropriated to the Administrator to make grants under this section for fiscal years beginning after September 30, 1984, such sums as may be necessary.

### NACO, APIZONA

SEC. 29. (a) For purposes of protecting the economy, public health, environment, and surface and ground water of the community of Naco, Arizona, which are in danger and are being polluted by raw sewage emanating from the community of Naco, Sonora, Mexico, upon application of the city of Naco, Arizona, the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall make grants to such city for construction of a project consisting of a publicly owned treatment works in such city to provide primary or more advanced treatment of not less than 150,000 gallons of untreated sewage emanating from the city of Naco, Sonora, Mexico.

(b) Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the city of Naco, Arizona, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under section 201 of the Federal Water Pollution Control Act.

(c) The Federal share of the cost of construction of the treatment works described in subsection (a) shall be at full Federal expense less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

(d) For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

(e) There is authorized to be appropriated to the Administrator $2,000,000 to make grants under this section for fiscal years beginning after September 30, 1984.

### LIMITATION ON DISCHARGE OF RAW SEWAGE

SEC. 30. (a) After March 15, 1986, the City of New York shall not discharge raw sewage into navigable waters in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily discharge of raw sewage by the city of New York during the 12-month period preceding March 15, 1986 (as determined by the Administrator of the Environmental Protection Agency), except as provided in subsection (b) of this section.

(b) In the event of any significant interruption in the operation of a wastewater treatment plant which is operated by the city of New York, the Administrator of the Environmental Protection Agency may waive the limitations of subsection (a), but only to such extent and for such limited period of time as may be reasonably necessary for such city to resume such operation.

(c) The Administrator of the Environmental Protection Agency shall undertake measures, including modifications of schedules of compliance, to reduce and eliminate at the earliest practicable date, the discharge of raw sewage by the city of New York taking into account any increase in the authorization for grants for construction of treatment works made by this Act and standards and practices which are necessary for the attainment of that water quality which assures protection of public water supplies, protection of the public health, and the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water.

### JEFFERSON COUNTY, KENTUCKY

Sec. 31. The Okolona Sewer Construction District, Jefferson County, Kentucky, shall be permitted to operate the Okolona Sewer Construction District Treatment Works and shall not be required to use any other facility for wastewater treatment, until such time as the West County Wastewater Treatment Plant, Jefferson County, Kentucky, is completed. The Administrator shall issue a permit under section 402 of the Federal Water Pollution Control Act to carry out this section.

### BOSTON, MASSACHUSETTS

Sec. 32. The Administrator of the Environmental Protection Agency is authorized and directed to make grants to the Metropolitan District Commission, Massachusetts, for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements. There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of the fiscal years 1985, 1986, and 1987.

### OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK

Sec. 33. Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York. There is authorized to be appropriated for fiscal years beginning after September 30, 1984, not to exceed $9,000,000 to carry out this section.

### CHIPPEWA TOWNSHIP, PENNSYLVANIA

Sec. 34. In order to protect the public health, environment, and water quality endangered by the destruction of the Chippewa Township, Pennsylvania, sewage treatment facility and the resultant raw sewage discharge into Brady's Run, Pennsylvania, the administrator of the Environmental Protection Agency is directed to undertake such measures as may be necessary (including but not limited to removal of accumulated raw sewage) to restore the quality of the waters adversely affected by such discharge.

### STUDY OF REGULATION OF DE MINIMIS DISCHARGES

Sec. 35. The Administrator of the Environmental Protection Agency shall study the feasibility and desirability of eliminating the regulation of discharges of pollutants into the navigable waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant. The Administrator shall submit a report of such study along with recommendations to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than one year after the date of enactment of this Act.

### STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES

Sec. 36. The Administrator of the Environmental Protection Agency shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reason for each such State's failure to make such obligations. The Administrator shall submit a report of such study to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than two years after the date of enactment of this Act, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

### WATER QUALITY IMPROVEMENT STUDY

Sec. 37. (a) The Administrator of the Environmental Protection Agency shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of, and the costs and benefits associated with, application of best available technology economically achievable pursuant to such section and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act in a cost-effective manner.

(b) Not later than two years after the date of enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

### STUDY OF TESTING PROCEDURES

Sec. 38. (a)(1) The Administrator of the Environmental Protection Agency shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(2) Not later than one year after the date of enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in paragraph (1) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) Biennially after the date of submission of the report under subsection (a), the Administrator shall conduct a state-of-the-art review of the test procedures for the analysis of pollutants established under subsection (a) for the purpose of determining the adequacy and effectiveness of such procedures and shall, based on the results of such review, submit to the committees referred to in subsection (a)(2) recommendations for modifying such procedures to improve their effectiveness.

### STUDY OF PRETREATMENT OF TOXIC POLLUTANTS

Sec. 39. (a) The Administrator of the Environmental Protection Agency shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged through publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, including an evaluation of the extent to which each such strategy identified may be expected to achieve the goals of this Act; and

(5) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each alternative strategy identified in paragraph (4).

(b) The Administrator shall, not later than two years after the date of enactment of this Act, submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

### SULFIDE CORROSION STUDY

Sec. 40. (a) In order to protect the Federal and other investment in treatment works, the Administrator of the Environmental Protection Agency shall conduct a study of the problem of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate this problem, and the range of available options to deal with the effects.

(b) The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies which have observed examples of corrosion, probably caused by sulfides. The Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate within one year of the date of enactment of this Act. There is authorized to be appropriated $2,000,000 to carry out this subsection for fiscal years beginning after September 30, 1984.

### DISCHARGES INTO MARINE WATERS

Sec. 41. (a) Section 301(h)(2) of the Federal Water Pollution Control Act is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,".

(b) Section 301(h)(3) of the Federal Water Pollution Control Act is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge."

(c) Section 301(h) of the Federal Water Pollution Control Act is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) In the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant,".

(d) Section 301(h) of the Federal Water Pollution Control Act is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (b) of this section) and inserting in lieu thereof a semicolon and by adding after paragraph (8) (as so redesignated) the following new paragraph:

"(9) no effluent will be discharged from such works which does not receive primary treatment by screening, sedimentation, and skimming, and treatment for disinfection where necessary, and which does not meet the criteria established under section 304(a)(1) after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged; and". (e) Section 301(h) of the Federal Water Pollution Control Act is amended by striking out the second sentence and inserting in lieu thereof the following: "For the purposes of this subsection, the phrase 'the discharge of any pollutant into marine waters' refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone.".

(f) Section 301(h) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(10) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is an applicable pretreatment requirement in effect, the Administrator shall grant to the applicant removal credits to reflect the consistent removal of that pollutant achieved by the treatment works, provided that the following criteria are met:

"(A) there exists an effluent limitation on the treatment works for the pollutant and the revised requirement will not result in the effluent violating such effluent limitations;

"(B) the revised requirement will not result in interference with the method of disposal or reuse of sludge from the treatment works;

"(C) the revised requirement will not result in a pollutant interfering with the operation of such treatment works; and

"(D) all other criteria of this subsection are met.".

(g) The amendments made by this section shall not apply to any person whose application for a permit under section 301(h) of the Federal Water Pollution Control Act has been tentatively or finally approved by the Administrator on or before the date of enactment of this Act.

### MAINTENANCE OF WATER QUALITY IN ESTUARIES

Sec. 42. Title III of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

### "ESTUARIES

"Sec. 320. (a)(1) In any case where the Administrator determines that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous populaton of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution in more than one State, the Administrator shall convene a management conference. The members of such conference shall include the Administrator, a representative of each of those States which are located, in whole or in part, within the estuarine zone of the estuary for which the conference is convened, a representative of each interested Federal agency as determined appropriate by the Administrator, a representative of any interstate agency having jurisdiction over all or a significant part of the estuary, and representatives of local governments within the estuarine zone as deemed appropriate by the Administrator. In any case in which an interstate agency has jurisdiction over all or a significant part of the estuary, such agency shall be the lead agency for purposes of carrying out this section. The Administrator shall give priority consideration under this section to Long Island Sound; Buzzards Bay, Massachusetts; and Delaware Bay, Delaware and New Jersey.

(2) In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) The purposes of any management conference convened with respect to an estuary under subsection (a) shall be——

"(1) to develop a comprehensive master plan for such estuary;

"(2) to coordinate the implementation of the master plan by the States participating in the conference;

"(3) to recommend priority corrective actions and compliance schedules to address point and nonpoint sources of pollution posing the most serious problems; and

"(4) to monitor the estuary to determine the effectiveness of actions taken pursuant to the master plan.

"(c) The master plan developed pursuant to paragraph (1) of subsection (b) may include, but need not be limited to any of the following standards and practices which are necessary for the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water:

"(1) development of water quality standards for waters within the estuarine zone;

"(2) development of toxicity-based standards for toxic pollutants;

"(3) development of water quality based effluent standards for significant point sources of pollution; and

"(4) development of best management practices to control nonpoint sources of pollution.

"(d) A management conference convened under this section shall be convened for at least five years. Such conference may be extended by the Administrator, and if terminated after the initial five-year period, may be reconvened by the Administrator after any time thereafter, as may be necessary to meet the requirements of this section.

"(e) For purposes of this section the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include the estuarine basin or estuarine watershed, consisting of the estuary and all tributaries that are within that basin or watershed.

"(f) The administrator is authorized to make grants to States and interstate agencies participating in a management conference which has adopted a comprehensive master plan pursuant to this section for the estuary which is the subject of such conference. The amount of the grants to any State or interstate agency for a fiscal year shall, subject to such amounts as are provided in appropriation Acts, be equal to 50 per centum of that State's or agency's cost of implementing the master plan for such fiscal year. There is authorized to be appropriated to carry out this subsection not to exceed $10,000,000 for the fiscal year ending September 30, 1984; not to exceed $30,000,000 for the fiscal year ending September 30, 1985; not to exceed $50,000,000 for the fiscal year ending September 30, 1986; not to exceed $75,000,000 for the fiscal year ending September 30, 1987; and not to exceed $75,000,000 for the fiscal year ending September 30, 1988. Amounts appropriated under this subsection shall remain available until expended.

"(g) There is authorized to be appropriated to the Administrator not to exceed $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, for—

"(1) expenses related to the administration of management conferences under this section;

"(2) grants to State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals for research, surveys, studies, and modeling and other technical work necessary for the development of a comprehensive master plan under this section; and

"(3) monitoring the implementation of a comprehensive master plan by the management conference or by the Administrator in any case in which the conference has been terminated.".

### CHESAPEAKE AND NARRAGANSETT BAYS; NEW YORK AND NEW JERSEY HARBORS; GREAT LAKES STUDY

SEC. 43. Title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new sections:

### "CHESAPEAKE AND NARRAGANSETT BAYS

"SEC. 117. (a)(1) The Administrator shall continue the Chesapeake Bay program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(A) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as 'the Bay');

"(B) coordinate Federal and State efforts to improve the water quality of the Bay;

"(C) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(D) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(2)(A) The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay program (hereinafter in this subsection referred to as 'the plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within one year after the date of enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Payments for such purpose may be made to the States as hereinafter provided, subject to such terms and conditions as the Administrator considers appropriate.

"(B) A State or combination of States, may elect to avail itself of the benefits of this paragraph by submitting to the Administrator a plan including the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in section 101(a) of this Act, he shall approve such proposal and shall finance the costs of implementing segments of such proposal; except that Federal grants under this paragraph shall not exceed 50 per centum of the costs of implementing the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the plan during such fiscal year.

"(C) Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this paragraph shall not exceed in any one fiscal year 10 per centum of the annual Federal grant made to a State under this paragraph.

"(3) Any State or combination of States that receives a grant under paragraph (2) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(b)(1) The Administrator shall, at the request of the Governor of an affected State and after consultation with appropriate Federal and State agencies and other interested persons, make a grant for purposes of assessing the principal factors having an adverse effect on the environmental quality of the Narrangansett Bay (hereinafter in this subsection referred to as the 'Bay'), as perceived by both scientists and users, in conjunction with developing and implementing a management program to improve the Bay's water quality. Payments for such purposes may be made to the States as hereinafter provided, subject to such terms and conditions as the Administrator considers appropriate. Federal grants under this paragraph shall not exceed 50 per centum of the costs of implementing the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the plan during such fiscal year.

"(2) A State may elect to avail itself of the benefits of this subsection by submitting to the Administrator a full and complete description of the program it proposes to establish and administer under State law. The Administrator shall approve each such submitted program, within three months of receipt of such program, if the applicant demonstrates to the satisfaction of the Administrator that the applicant will—

"(A) establish a committee of representatives from various units of Federal, State, and local governments, research and educational institutions, and concerned groups and individuals on the Bay to provide advice on the design and implementation of a management program and to coordinate communication on issues affecting the Bay's water quality;

"(B) review and coordinate Federal and State water pollution abatement efforts that will most efficiently address those principal factors having an adverse effect on the Bay's water quality; and

"(C) undertake, subsequent to an analysis of all environmental sampling data presently being collected on the Narragansett Bay, methods for improving such data collection, particularly with respect to toxic pollutants, establish a continuing capacity for collecting, storing, analyzing and disseminating such data; institute a sampling program where deficiencies are found to exist in present sampling programs; and develop and, as soon as practicable but not later than three years after the date of enactment of this section, implement management practices and measures (including land use requirements) to reduce to the greatest extent feasible pollutant loadings in the Bay and to improve the Bay's water quality.

"(3) Any State that avails itself of the benefits of this subsection shall, not later than two years after receipt of a Federal grant under this subsection and annually thereafter, report to the Administrator on progress made in implementing a management program to improve the water quality of Narragansett Bay.

"(c) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988 to carry out subsection (a)(1);

"(2) $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988 for grants to States under subsection (a)(2); and

"(3) $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988 to carry out subsection (b).

### "NEW YORK AND NEW JERSEY HARBOR AREA

"Sec. 118. (a)(1) The Administrator shall—

"(A) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the New York and New Jersey area (hereinafter in this subsection referred to as 'the Harbor');

"(B) coordinate Federal and State efforts to improve the water quality of the Harbor; and

"(C) determine the impact of natural and man-induced environmental changes on the living resources of the Harbor and on adjacent coastal areas and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of sewage, dissolved oxygen, and toxic pollutants, including, organic chemicals and heavy metals.

"(2)(A) The Administrator shall, at the request of the Governor of a State affected by any interstate management plan relating to the Harbor development pursuant to section 319 of this Act (hereinafter in this subsection referred to as 'the plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan in accordance with such section.

"(B) An affected State or combination of States may, in addition, submit to the Administrator a plan including the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in section 101(a) of this Act, he shall approve such proposal and shall finance the costs of implementing segments of such proposal; except that Federal grants under this paragraph shall not exceed 50 per centum of the costs of implementing the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the plan during such fiscal year.

"(C) Administration costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this paragraph shall not exceed in any one fiscal year 10 per centum of the annual Federal grant made to a State under this paragraph.

"(3) Any State or combination of States that receives a grant under section 319 of this Act or subparagraph (B) of paragraph (2) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the plan developed pursuant to section 319 or subparagraph (B) of paragraph (2). The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(b) There is authorized to be appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988 to carry out subsection (a) of this section.

### "GREAT LAKES CONSUMPTIVE USES STUDY

"Sec. 119. (a) In recognition of the serious impacts that are expected to occur to the Great Lakes environment as a result of a projected fivefold increase in consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Administrator, in cooperation with other interested departments, agencies, and instrumentalities of the United States and the eight Great Lakes States and their political subdivisions, is authorized to conduct a study of control measures which can be implemented to reduce the quantity of Great Lakes water consumed without adversely affecting projected economic growth of the Great Lakes region.

"(b) The study authorized by this section shall include an analysis of both existing and new technology which is likely to be feasible in the foreseeable future and shall at a minimum include the following:

"(1) A review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

"(2) an analysis of the affect that enforcement of other sections of this Act relating to thermal discharges has had on consumption of Great Lakes water;

"(3) an analysis of the affect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

"(4) an analysis of the economic affects on a consuming industry and other Great Lakes interests associated with a particular consumptive use control strategy;

"(5) an analysis of associated environmental impacts, both singularly and in combination with other consumptive use control strategies; and

"(6) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

"(c) There is authorized to be appropriated for fiscal years beginning after September 30, 1984, $4,500,000 to carry out this Act. Sums appropriated under this section shall remain available until expended.

"(d) For purposes of this section, the term 'Great Lakes States' means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.".

### APPLICATION FOR OCEAN DISCHARGE MODIFICATIONS

Sec. 44. Section 301(j)(1)(A) of the Federal Water Polluton control Act is amended by inserting before the semicolon the following: ", except that a publicly owned treatment works which before December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received a modification under subsection (h) of this section, may apply for a modification of subsection (h) in its own right not later than thirty days after the date of enactment of the Water Quality Renewal Act of 1984".

### GREAT LAKES INTERNATIONAL COORDINATION OFFICE

Sec. 45. (a)(1) The Congress finds that—

(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

(C) the Environmental Protection Agency (hereinafter in this section referred to as the "Agency") should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

(2) It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

(b)(1) The Great Lakes National Program Office of the Agency is hereby designated as the Great Lakes International Coordination Office (hereinafter in this section referred to as the "Office"). The head of the Office shall also serve as principal liaison person on Great Lakes matters to the International Joint Commission, United States and Canada (hereinafter in this section referred to as the "Commission").

(2) The Office shall—

(A) develop and implement specific action plans to carry out the responsibility of the United States under the Great Lakes Water Quality Agreement of 1978;

(B) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality;

(C) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to insure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement;

(D) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants; and

(E) serve as the liaison with, and provide information to, the Canadian members of the Commission and the Canadian counterpart to the Agency.

(3) The Administrator of the agency shall ensure that the office should enter into agreements with the various organizational elements of the agency involved in Great Lakes activities in the appropriate State agencies specifically delineating—

(A) the duties and responsibilities of each such element with respect to the Great Lakes;

(B) the time periods for carrying out such duties and responsibilities; and

(C) the resources to be committed to such duties and responsibilities.

(4) The Administrator of the Agency shall, in the Agency's annual budget submission to Congress, include a funding request for the Office as a separate line item.

(c)(1) There are authorized to be appropriated for the purposes of carrying out subsection (b) and for the purpose of carrying out the functions, powers, and duties of the Office not to exceed—

(A) $8,000,000 for fiscal year 1986;

(B) $9,000,000 for fiscal year 1987;

(C) $10,000,000 for fiscal year 1988;

(D) $11,000,000 for fiscal year 1989; and

(E) $12,000,000 for fiscal year 1990.

(2) For the purpose of carrying out section 104(f) of the Federal Water Pollution Control Act there is authorized to be appropriated $10,000,000 for fiscal year 1985. Such funds shall be in addition to and not in lieu of any funds authorized to be appropriated under section 104(u) of such Act.

(d)(1) Within 120 days after the date of enactment of this Act, and at the beginning of each fiscal year thereafter, the Administrator of the Agency shall submit to Congress a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978. The assessment shall show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts anticipated to be expended on Great Lakes Water quality initiatives in the fiscal year to which the assessment relates. The assessment shall also include a report of current programs administered by other Federal agencies which make available resources to Great Lakes water quality efforts.

(2) Within 150 days after the end of each fiscal year, the Administrator of the Agency shall submit to Congress a comprehensive report which—

(A) describes the achievements in the preceding fiscal year in implementing such agreement and shows by categories (including judicial enforcement, research, State coopertive efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality of the Great Lakes, with particular reference to toxic pollutants; and

(C) describes the long-term prospects for improving the water quality of the Great Lakes.

### LIMITATION ON PAYMENTS

Sec. 46. No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

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## H.R. 3678

By Mr. WEAVER:

—Page 305, line 15: Section 1224 is amended by adding at the end of subsection (a) the following:

"Such principles, standards and procedures shall specifically prohibit any Federal water resources agency from preparing, or participating in the preparation of, any regional or river basin plan or any plan for any Federal water and related land resource project which has as the objective the transfer of water from the Columbia River basin to any region or any other major river basin of the country.".

—Page 289, lines 6-7: Strike "the rate of interest that applied at the time the project was authorized." and insert in lieu thereof, "the rate of interest required to compute benefits and costs for new water resource projects.".

H.R. 5798

By Mr. JACOBS:

—Page 28, line 5, strike out "$1,170,000" and insert in lieu thereof "$269,900".

—Page 28, line 5, strike out "$1,170,000" and insert in lieu thereof "$719,950".

# EXTENSIONS OF REMARKS

## ALEXANDER & ALEXANDER: CATALYST FOR LLOYD'S REFORMS

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### HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

*Wednesday, June 13, 1984*

● Mr. MATHIAS. Mr. President, most of us are aware that Lloyd's of London is the insurance center of the world and that what happens there can affect all of us. But few are familiar with what Lloyd's is and how it operates.

I have noted the role of catalyst for insurance reform played by an American company—Alexander & Alexander, an insurance brokerage firm organized in Maryland in 1922. In 1982, Alexander & Alexander acquired Alexander Howden, a London insurance firm, and undertook a responsible role in the British business world. Their efforts will go far to preserve public confidence in the venerable and vital international insurance industry, including Lloyd's of London.

A brief account by Richard E. Stewart, a former New York State insurance commissioner and a former president of the National Association of Insurance Commissioners, and entitled "The Lessons of Lloyd's," appeared in the June issue of Nation's Business. I ask that the article be included in the RECORD.

The article follows:

THE LESSONS OF LLOYD'S

(By Richard E. Stewart)

Lloyd's of London is the world's most famous and, to outsiders, most mysterious insurance market. In a business generally regarded as dull, Lloyd's has enjoyed a reputation for glamour (insuring Betty Grable's legs) and daring (insuring moon shots).

In the last few years Lloyd's has had a different kind of publicity—exposures of funds diverted and profits and losses hidden, disgrace of respected figures, public recrimination. What happens at Lloyd's—the world's largest reinsurance market—affects all of us, because reinsurance is the way exposures to huge property or liability loss are spread across the financial resources of the world.

Many of the good things of modern life require huge investments, and when they go wrong they cause huge damage. Without insurance they would not get done. Without reinsurance they would not get insured.

Alternatives to Lloyd's exist and are growing. But Lloyd's is still so big and so central that its future is of concern to economic development and commerce everywhere.

The public troubles of Lloyd's began when Alexander & Alexander, a large and publicly held American broker, bought a large Lloyd's broker and underwriting manager. Alexander & Alexander conducted routine audits of the Lloyd's broker after the acquisition. The audits revealed the diversion of funds and hiding of profits and losses—a sad chapter in the history of an old institution.

Lloyd's began as a coffee house in 1648; it is a place, not a company. At Lloyd's, in one vast "underwriting room," brokers carry insurance proposals ("slips") around the floor to hundreds of cubicles ("boxes"). In each box sit an underwriter and his assistants.

On any risk of consequence or difficulty, especially when seeking the first ("lead") underwriter's participation, an experienced broker will deal face to face with an underwriter recognized as an expert in such risks. If the lead underwriter accepts a portion, other underwriters will be inclined to follow.

The underwriter at Lloyd's accepts risks on behalf of syndicates of individuals ("names"). Thus, for centuries, Lloyd's has been a marketplace with three participants—brokers, underwriters and names. Until quite recently, the same individual could play all three roles and could also own part of a company that shared in the risks. Rules were few. Crucial matters were governed by shared understanding.

It could not last. The economic recovery that followed World War II generated huge demands for insurance. Lloyd's premiums rose from $190 million in 1946 to $820 million in 1966 and to $5.5 billion in 1980. The number of names grew, too, from 2,422 in 1948 to 21,601 in 1982.

Still the informality of the club persisted, and with it the assumption that everybody would understand how things were done. Anyone who has managed a business with an informal, collegial style through a period of rapid growth does not need to be told what was around the corner.

In the 1970s there were warning signs. Lloyd's was a victim of some tattered insurance scams, generally involving skimming of premiums through repeated reinsurance transactions, leaving the last underwriter holding the bag of a lot of risk for a small premium.

In the late 1970s, several Lloyd's syndicates lost hundreds of millions of dollars by guaranteeing the residual value of mainframe computers when they came off lease. It was a silly bet against International Business Machines' ability to make its own product line obsolete. More important, it was a bet against one of Lloyd's few formal and long-established rules—no financial guarantees. From those two episodes, plus others, the Lloyd's establishment drew the accurate conclusion that the club style and mingled roles of the old, small Lloyd's might no longer suffice.

In 1980, a respected special commission issued the so-called Fisher Report.

Its first conclusion was that Lloyd's needed to act more like a financial institution and less like a place that once served coffee. That led to Parliament's creation of the Council of Lloyd's, most of whose members actively or passively participate in the Lloyd's market.

A second conclusion was that the most obvious potential conflict, the common control of brokering and underwriting, had to be solved structurally by separating the two kinds of firms. Parliament also enacted that recommendation.

The Fisher reforms were enacted before the disclosures following the Alexander & Alexander audits. Those disclosures were of underwriters' siphoning profitable premiums out of their syndicates and into reinsurers they themselves owned—abuses of trust and of outside investors. The pre-Fisher disclosures had been of abuses of common control of brokers and underwriters.

The lessons are clear and quite general. Growth puts more stress on an organization than its insiders feel or respond to. Handling other people's money imposes severer duties than handling one's own. Place temptation before a small group raised to resist it and they probably will; at the very least they will expel from their club those who do not. Keep adding to the temptation and inviting people in, and eventually some will embrace the temptation.

Lloyd's has learned the hard way that it will have to become a more structured institution with more explicit rules, more disclosure and more independent regulation.

Does that mean it's over for Lloyd's? Not at all. What made Lloyd's great was inventiveness, the spirit of risk taking, the efficiency of spreading risk from a single place and the efficiency of professionals' conducting difficult transactions face to face. All those good things can still be done with a rulebook expressing in print what was once a code of honor carried only in the heart.●

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## PERSONAL EXPLANATION

### HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mrs. HALL of Indiana. Mr. Speaker, yesterday and today I was absent due to a death in my family. Had I been able to be present I would have voted the following way on the votes recorded:

Rollcall No. 227, "yea."
Rollcall No. 228, "yea."
Rollcall No. 229, "yea."
Rollcall No. 230, "nay."
Rollcall No. 231, "yea."

Thank you for your understanding and assistance.●

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## MARC MILES BACKS A PRICE RULE FOR MONETARY POLICY

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. KEMP. Mr. Speaker, a brilliant young economist, Marc Miles of H.C.

Wainwright in Boston, MA, has recently published a lucid account on why monetarism failed to provide the economic stability that was promised by its proponents. In this important new book, "Beyond Monetarism," Professor Miles ably focuses on the most pressing issues of the 1980's—finding realistic alternative policies for price stability. It is essential reading for policymakers, business leaders, and indeed all Americans who are concerned with the future of our economy.

I commend to my colleagues the following review of Professor Miles' book by Davis Warsh of the Boston Globe, and urge them to support long overdue efforts to revise our domestic and international monetary systems.

The book review follows:

[From the Boston Sunday Globe, Apr. 15, 1984]

### WHAT LIES BEYOND MONETARISM?

(By David Warsh)

In a dull headline contest a few years ago, the winner was "Earthquake in Chile; not many hurt." Were the contest held today, the same head might win again; it is a classic, after all. But "Monetarism doomed to fail; prominent economist explains why and what can be done about it" would give it a race.

Yet the latter banner, atop a press release which accompanied Marc Miles' new book, "Beyond Monetarism," conceals an interesting stream of thought. For Miles' vision, laid out in good clear prose with plenty of circling-back-again-in-case-he-lost-you, is the monetary policy of Jack Kemp, of Jude Wanniski, of Arthur Laffer and of Robert Mundell. It is the state of the art of supply-sideism.

So what exactly lies "beyond" monetarism? The wealth of technical details that Miles offers notwithstanding, it boils down to the gold standard—perhaps without the gold.

Miles, 36, a University of Chicago-trained economist, is a Rutgers professor, the author of a textbook with Laffer, "International Economics in an Integrated World," and longtime consultant to H. C. Wainwright, the Boston outpost of the supply-side theory.

An engaging man, he is one of a handful of fellows behind the headlines, like Alan Reynolds of Polyconomics, Manuel Johnson of the Treasury Department and David Ransome of H. C. Wainwright, who keep the conversation about "incentivist" policies going in a world far less taken with the skein of throught than formerly. They consitute a kind of second generation, technically more proficient, ready to take over from rhetorical pioneers like Jude Wanniski and George Gilder. Miles is moving to Boston next month to join Wainwright.

According to Miles, it is all very well to talk about the quantity of money as if it were something that came out of a faucet in Washington, but it is essentially unknowable. There are too many ways to create money, and too many nations in which it is created, for the Federal Reserve System ever to be able to smoothly regulate its flow.

In fact, monetarist nostrums, propounded by the likes of Milton Friedman, Karl Brunner and Allen Meltzer, actually increase the volatility of prices and interest rates rather than decrease it, Miles says.

So far he sounds like Frank Morris of the Federal Reserve Bank of Boston and James Tobin of Yale and every other "nonmonetarist" tactician in the country—nearly everyone, that is, but the aforementioned handful of monetarists.

If you can't regulate quantity of a particular thing, says Miles, the alternative is to regulate its price and expect that the quantity will take care of itself. The government already does something of the sort with interest rates. When bond prices go up too far, the government sells from its portfolio; when they go down too far, government buys. The result is a stable level of interest rates—in principle.

This policy doesn't go far enough for Miles. The government should seek to stabilize some second price, defining the dollar in its terms. What second price? Gold is an obvious answer, he says, but its price can be volatile because there is so little of it, he says. The price of some representative basket of goods is equally acceptable, such a plan was propounded by the great American economist Irving Fisher 50 years ago; it has recently been brought back for discussion by Stanford University's Robert Hall.

In this way the Fed would abandon the role of "keeper of quantities," he says, and resume the role of "redeemer of values," for citizens could always trade in their dollars for a fixed quantity of gold or goods. The great thing about redemption is that everybody knows when the Fed plays by the rules, Miles says.

In practice, such a commodity standard requires a stockpile; the government has to be prepared to really make good on its offer to redeem greenbacks, after all. Gold buried in Fort Knox or beneath Wall Street is one thing; but who needs a plywood mountain? Stockpiles can be depleted, and in any event, keeping them is costly. Wouldn't it be nice, Miles says, to have an alternative.

Just such an alternative is the idea of stabilizing index futures, Miles says. The government could attempt to stabilize prices by buying and selling forward contracts on some stock market index. There would be nothing unusual in such an intervention in the forward commodities markets, to insure that gold or a basket of goods be delivered at a certain price a year hence, he says, so why not stabilize index futures; that would get around the stockpile problem, for instead of delivering the goods themselves the government would promise to deliver the cash necessary to buy on a given date the shares that comprise the index.

A drawback, Miles acknowledges, is that index futures are a recent invention for hedging against uncertainty, and are not widely understood. But then most of the tools of monetary policy are beyond the ken of ordinary citizens, he says. "We should forget, once and for all, about slapping more band-aids on the system of controlling the quantity of money," he writes, and concentrate on figuring out a price rule instead.

It may be that this is exactly what is in the back of Federal Reserve Chairman Paul Volcker's mind. He has, after all, spoken about the future when nearly complete price stability is the rule. But the trouble is that it isn't clear that any of this is relevant to the current situation, in which it is Volcker's views on the importance of regulatory reform that are compelling.

In any event, Miles views about the desirability of a commodity standard as a means of achieving monetary discipline are not widely shared (except, perhaps, at the White House.) The conventional view is that fiscal discipline, not monetary restraint, has been the recent problem.●

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## SHERIFF JOHN WHITEHEAD: DISTINGUISHED PUBLIC SERVANT

## HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. FUQUA. Mr. Speaker, five Distinguished Service Awards for public service were presented last evening by the Florida congressional delegation. This is the second successful year for this program and it was my pleasure to accept one of these awards on behalf of Sheriff John Whitehead of Union County in Florida.

It will be an additional honor to present this award to Sheriff Whitehead personally in his hometown of Lake Butler at an early date.

The reason John could not be with us was because he was attending his last convention of the Florida Sheriffs Association as an active sheriff. He has announced his retirement at the end of his present term, ending 32 years as sheriff. He is the dean of Florida sheriffs.

Also recognized were: Robert Hartman of Daytona Beach; Judge Dorcas Drake of Jacksonville; John I. Smith of Miami; and GATE South of Jupiter, a drug awareness program, the award accepted by Nancy Sayler, the executive director.

This award was presented, not because John has served so long, but because he has served so well.

As Sheriff David Harvey of Wakulla County and president of the Florida Sheriffs Association stated, "John Whitehead typifies what our Association stands for in supporting the constitutional office of sheriff. The office of sheriff belongs to the people, we are dedicated to protecting their inherent God-given rights under the Constitution, and John Whitehead has been a bulwark of that effort. He is an inspiration for all of us in the law enforcement profession and has set an example for others to follow."

John served ably as president of the association himself, one of the many highlights in a career that spanned nearly 40 years. At 59, he still has his health and he richly deserves all of the accolades and tributes which have been paid him.

As a matter of fact, he was being honored by the Florida sheriffs at their convention when this award was presented here.

John likes to relate that when he was elected constable of Union County in 1948, his wife didn't vote for him—she wasn't yet 21.

And although people told him that a constable had never been elected sheriff, Whitehead went to the people in 1952 and won the election, the first of eight consecutive elections he was to win for sheriff.

Whitehead explained that once he took office, he hired Albert Sweat as a chief—and only—deputy, and his mother, known to Union County residents as Granny Whitehead, as a bookkeeper. "I knew I could trust my mother," he said.

When elected to his first term, Whitehead was 27, at that time the youngest man elected sheriff in Florida.

"In those days, if you weren't 40 and wore a big hat, you just didn't run," he said.

Seven years later, Whitehead and Sweat were the only two lawmen on the road, while Whitehead's mother or wife would take incoming calls.

Sweat served as Whitehead's chief deputy for 29 years until he stepped down shortly after Whitehead was reelected to his eighth term in 1980.

In a recent interview, Sweat said that he hoped Whitehead would step down after his term, saying that both he and Whitehead have managed to escape injury over the years, and that Whitehead should quit while in good health to enjoy the benefits of being former dean of Florida's sheriffs.

Whitehead has said that when he finally turns in his badge and becomes citizen Whitehead, he plans to go back to the farm and enjoy life. The farm, or old home place, as he has called it, is located near Lake Butler and was where he was reared.

For the first 13 years as sheriff, Whitehead and his family lived in the county jail. His wife and mother often served as jailers while the sheriff and his deputies were out.

John is justly famous for the cookouts he holds on his old home place. He has built a cook shed in a lovely rural setting that has served as the site for hundreds of political and social events. They are eagerly looked forward to by people all over the State.

One of his longtime associates is Sheriff Dolph Reddish of neighboring Bradford County. Dolph told me this last week:

> My father was sheriff for 24 years and I have been privileged to serve the people of Bradford County for 12 years. In those 36 years, John has been sheriff of our neighboring Union County for all but 4 of those years. My father loved him; he is one of my best friends and professionally, on a day-to-day basis, I cannot say enough about his competence.
>
> His cookouts are literally world famous; he is a unique kind of individual, one of a kind. I sure would hate to have to follow him. He is my friend and a person all of the sheriffs of Florida look up to and admire.

Word of the sheriff's intention to announce his retirement circulated among Tallahassee lawmakers before the announcement luncheon held during a regular Lake Butler Rotary Club meeting, prompting action by Gov. Bob Graham.

Unable to send a telegram in time to be read immediately after the announcement, Graham dictated his comments to a typist in Lake Butler, and Circuit Judge John Crews read the Governor's message to 60-odd people present for the retirement announcement. Graham praised the sheriff for operating his office and the post in "the highest tradition of quality law enforcement."

"Florida and Union County thank you," Graham wrote, adding that Whitehead's dedication to the office and the law should be "an example to all."

Saying that he was 3 years old when Whitehead won his first election, Union County Commissioner Sam Johns said, "If he weren't a good sheriff, he wouldn't have stayed for 32 years."

And to whoever wins the job on Election Day, Johns said, "That's a big set of shoes to fill."

Keith Adams, investigator for the State attorney's office in Lake Butler, who has known Whitehead for 25 years—20 years professionally—said the retiring sheriff has a knack of changing and updating his procedures as needed.

And "he never lost sight that the people put him in the office and could take him out," Adams said.

Louie Wainwright, secretary of the department of corrections [DOC], explained that he was starting his career in the DOC at Raiford "as just another employee" at about the same time Whitehead won his first election to the sheriff's office.

"We just hope that his successor is half as good," Wainwright said.

Comments of dedication and fairness also came from the people who work for the sheriff's office, of whom Whitehead said, "A sheriff can't do his job without good employees."

"He is a wonderful boss," said Pauline Bielling. "I feel the same. We'll miss him terribly," added Marion Parrish. Both women work in the sheriff's courthouse office.

Lt. Gary Seay termed the sheriff a "good boss" and Investigator Larry Cochran said the sheriff's expertise and experience have benefited the investigator, making his "12 years (with the department) very interesting and rewarding."

Another neighboring sheriff and close friend, Baker County Sheriff Joe Newmans said this:

> John Whitehead is one of the top public servants, a man who cares about people. I can't say enough good about him. In the nearly 12 years I have served as sheriff of Baker County, no one could possibly have been of more help to me professionally. If there is one individual who typifies all that is good in the law profession, then that person is John Whitehead.

In closing, I want to add that one of the things that sets John apart is his deep sense of loyalty to this friends. If he is your friend, he is your friend. He has so many accomplishments to look back upon, not the least being the Florida Sheriffs Boys Ranch and the Florida Sheriffs Girls Villa. He has made a lasting contribution as a member and official of the Florida Sheriffs Association.

Knowing John, he would ask for no greater tribute than to be recognized for what he is, the best friend a person could ever have. It is one of the rich rewards of my own public service that he has been my friend and I shall ever cherish that priceless gift.●

## BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS SUCCESS IN ANTINARCOTICS WAR

## HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. STARK. Mr. Speaker, one of the very best ways to get at the organized crime and drug trafficking criminals in our society is through a tough enforcement of the Nation's gun laws.

We often forget this fact, and in the war against narcotics, we often concentrate on the role of the Coast Guard, the Customs Service, the FBI, and DEA.

But in point of fact, the Bureau of Alcohol, Tobacco, and Firearms is one of the most effective of the anticrime forces.

The Select Committee on Narcotics Abuse and Control recently polled 100 south Florida law enforcement agencies as to the level of Federal cooperation and assistance in combating narcotics. The poll showed that Federal agencies need to do more to coordinate and cooperate with local and State officials—and it also showed that the Federal law enforcement agencies, the BATF was the most cooperative.

The May 1984 report of the BATF special agent in charge of the BATF Miami district office summarizes the results of the Agency's south Florida task force groups. It is an impressive list of interdiction and disruption of criminal activity. It is also a list that is written with sacrifice: two agents have given their lives in this war against crime, another was critically wounded.

As we consider funding for these law enforcement agencies, I hope we will keep the steady, continuing role of the BATF in mind as a key part of our anticrime and narcotics work.

The data follows:

Department of the Treasury,
Bureau of Alcohol, Tobacco,
and Firearms,
*Miami, Fla., May 1, 1984.*

Memorandum to: Associate Director (Law Enforcement).

From: Special Agent in Charge, Miami District Office.

Subject: Monthly Activity Report, May 1984, Miami Task Groups.

ADMINISTRATION

All four Miami Groups and Ft. Lauderdale are considered Task Force Groups. Fifty-two special agents, four group supervisors, and four secretaries are permanently assigned to these groups.

OPERATIONAL

Investigative Statistics: As of April 30, 1984, after 89 weeks of operation for Groups III and IV, and as of May 1, 1983 (50 weeks of operation for Groups I, II, and Ft. Lauderdale), the following statistics have been compiled:

Criminal Investigations: 821, Cases Written: 211, Arrests: 348, Indictments: 238, Convictions: 177, Defendants: 352, Collateral/Reliefs Completed: 160.

Sentences: 123, Defendants have received the following: Prison Sentences: 1,264 years + 3 life sentences, Suspended Sentences: 33 years, Probation: 122½ years, Fines: $162,000.

Firearms Seized: Title I, 617, Title II, 364; Firearms Purchased: Title I, 110, Title II, 139; Firearms Retained: Title I, 113, Title II, 43; Firearms Abandoned: Title I, 10, Title II, 10.

Total Firearms taken into custody: 1,406 (556 of which are Title II weapons).

Total value of firearms taken into custody: Approximately $331,528, 66 stolen firearms have been purchased or retained.

Title II Transfer Tax Assessment: 9 for $49,672 (since October 1983).●

## DO AS I SAY, NOT AS I DO

### HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DANNEMEYER. Mr. Speaker, parents, politicians, and Presidents often share a common fate: The values they seek to impart are often judged according to the examples they themselves set. History records both words and actions. But no history speaks more loudly than those actions which contradict the words.

Failure to follow through on one's own prescribed course of action—not practicing what we preach, in other words—can result from a variety of causes. In the political sphere, this disparity is sometimes preordained by a conscious effort to deceive the voters: Say one thing to get elected; do the opposite once in office. Much more prevalent is the honest intention to do one thing only to find it subverted by the course of human events.

And then we have the "Boy, did that suffer through the translation" approach, in which policy dictated becomes policy altered. There is a phase of implementation through which all policy decisions must pass, a sort of twilight zone called staff. Needless to say, any similarity between the final product and intention is almost decidedly coincidental. What we see may be what we get, but what we get isn't necessarily what we wanted.

In this spirit, I commend to my colleagues the following article by Louis Rukeyser which appeared in the June 2 issue of Human Events. It is an appropriate commentary on the Presidency as well as a suitable counterpart to those "Let Reagan Be Reagan" buttons that one encounters from time to time.

#### An Economic Speech Reagan Should Make

(By Louis Rukeyser)

The speech President Reagan ought to make about the economy—but probably won't:

"My fellow Americans,

"First, let me apologize. We started much too slowly in 1981. I knew where I wanted to go, but I was taken in by the conventional advice of some fellows who I thought were my friends here in Washington. I, of all people, should have known better!

"If I had listened to those guys when I was running for President, I never would have run in the first place—since their notion seems to be that the ideas I was espousing all along will never catch on with the American people. I'm not sure how those 'advisers' think I got nominated and elected; maybe they think Bob Dole or Howard Baker really won in 1980, and I'm just an imposter.

"Oh, don't misunderstand me: I'm proud of some of the things we did in those early days. We moved swiftly to decontrol oil prices, for example—and, to the total surprise of the old-line Washington crowd, consumer prices promptly came down, as we had said they would. What do you know!

"I'm glad, too, that we moved as successfully as we did to lower income-tax rates. I really think that's an important reason we got such a vigorous economic recovery in 1983 and 1984. To tell you the truth, my only regret is that Congress didn't move more decisively. The 'remedial' 1982 tax increases—with which I foolishly went along—helped assure that the federal government would, in fact, be taking a larger share of the people's taxes that year than it had in 1980. That was foolish, and counterproductive, and I should have said so at the time.

"But I can't escape my own more fundamental failure on the spending side. I did propose many spending reductions in 1981, and we did achieve a number of them, but I didn't go nearly far enough.

"To tell you the honest truth, I'm embarrassed as I can be by the size of these deficits. Just imagine what I would be saying if I were still out of office, and some other President had presided over this much red ink. Why, I can think of a whole bunch of sizzling one-liners I could be reading off those 3-by-5 cards tonight.

"By failing to get the deficits down, as I promised, I have allowed the big-government crowd to get away with blaming it all on the tax cuts. That's just plain silly. Not only did the tax cuts demonstrably help the economy in 1983, but even now the tax level is at least as high as it was when we were producing balanced budgets—and even surpluses—a generation ago.

"So, if you'll give me a second term, I promise to face the facts this time, and let you in on that confrontation.

"Fact One is that every part of the budget is going to have to come under unprecedented scrutiny to eliminate waste and inefficiency, and that most certainly does include defense.

"Fact Two is that there's no way we can ever solve this deficit problem until we get at the authentic root of the problem: the out-of-control government transfer and 'entitlement' programs, and—contrary to what I've suggested up to now—I'm going to be offering specific suggestions to restrain the growth of Social Security and Medicare, which otherwise will point us toward bankruptcy.

"Fact Three is that it's high time to restructure the tax code to discourage consumption and reward savings, and you can be sure that I'll be presenting proposals to do exactly that in 1985.

"Finally, if this makes sense to you, please vote for me—but don't stop there. Make sure that the candidate you support for Congress is on my side in making these changes.

"I should have done more myself, and I promise I will if you re-elect me, but I can't do it all myself—so I need your help twice in November. Give it to me, and I pledge that, this time, I'll give you a clear and consistent economic policy that will turn our country in the direction of freedom and prosperity for generations to come. Honest and truly!"●

## THE SBIR PROGRAM: "SOMETHING TO BE PROUD OF"

### HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. MITCHELL. Mr. Speaker, as chairman of the House Small Business Committee I am pleased to bring to this body a report on one of our most successful small business programs. In June of 1982, after nearly 3 days of debate, the House passed the Small Business Innovation Development Act which established a Government-wide Small Business Innovation Research [SBIR] Program. Public Law 97-219, signed into law in July of 1982, requires each Federal agency with an R&D budget in excess of $100 million to establish an SBIR Program modeled after the highly successful program begun at the National Science Foundation in 1976.

Although small business concerns are competent, cost effective, and skilled in the performance of research and development, and acknowledged leaders in technological innovation, they have been sadly underutilized in Federally funded R&D efforts. Small business receives only 4.8 percent of a $20 billion R&D budget. The purpose of the SBIR program is to increase the opportunity for small business to participate in Government R&D and to stimulate technological innovation.

The program is now into its second year and reports from the various agencies indicate widespread support for this highly competitive research program. Last year, seven hundred proposals were selected for awards from approximately 9,000 proposals submitted. Scientific and technical merit were much higher than anticipated and at least twice as many awards could have been made had funds been available.

I am submitting for the RECORD a letter and factsheet I received from NSF, 1 of 11 agencies which have SBIR programs. Over the past 7 years, NSF has been able to observe the benefits accruing from this innovative small business program. These benefits include new technologies, new businesses, and new jobs for our Nation's economic growth.

The SBIR program is truly something to be proud of.

NATIONAL SCIENCE FOUNDATION,
*Washington, DC, May 25, 1984.*

Hon. PARREN J. MITCHELL,
*House of Representatives,*
*Washington, DC.*

DEAR MR. MITCHELL: What dividends does the nation earn from the Federal Government's investment in basic research?

In an era of budgetary constraints, agencies whose mission it is to fund research—like the National Science Foundation (NSF)—must be responsive to this important question. At NSF, one answer is the Small Business Innovation Research (SBIR) program.

Through the SBIR program, NSF enables small science and engineering firms to fulfill their potential to contribute to the nation's social and economic well-being through technological innovation. The NSF program solicits proposals in basic research and advanced applications across essentially all fields of science and engineering. The objectives of the program are to support high-quality research while also stimulating technological innovation in the private sector and hastening the transfer of technology resulting from government research to the private sector.

The NSF Small Business Innovation Research program, begun in 1976, was the first of its kind and served as the model for the Small Business Innovation Development Act of 1982 (P.L. 97-219). It remains a model of successful cooperation between industry and government in the interest of research, productivity, and economic growth. The three-phased organization of the program is described in the enclosure, along with specific examples of increased employment, new product marketing, and investment growth among NSF's early SBIR grantees. These examples attest to the program's achievement of its primary goal: improving the social and economic return on the federal investment in research.

Sincerely,
RAYMOND E. BYE, Jr.,
*Director, Office of Legislative and Public Affairs.*

Enclosure.

### THE BASIC RESEARCH INVESTMENT AND ECONOMIC PRODUCTIVITY

Competition for awards under the National Science Foundation's (NSF) Small Business Innovation Research (SBIR) program is increasingly keen. As a result of the fiscal year 1982 solicitation, 764 proposals were received from 44 states and the District of Columbia. Over 100 small businesses were granted Phase I funding. In fiscal year 1983, 1186 proposals from 48 states and the District resulted in 102 awards. Eligible companies may have no more than 500 employees. Among NSF's awardees, company size averages from one to approximately 300 employees.

To ensure that all fields of science and engineering are represented in the SBIR program, each NSF research division writes its own topic for inclusion in the annual solicitation document, suggesting subtopics of particular interest to small high technology firms and with potential commercial applications beyond NSF program interests. Like all proposals considered by the Foundation, those resulting from the SBIR solicitation are subjected to outside peer review, largely by university scientists and engineers. Phase I proposals must receive a minimum of three reviews; Phase II proposals average five to six reviews. Proposals are judged principally upon scientific and technical merit. The research divisions are responsible for obtaining reviews and recommending awards. The number of awards made each year is based on available funds.

Phase I of NSF's SBIR program provides up to $35,000 for six months to determine, as much as possible within these limitations, whether the small firm can do high-quality research, and if the project has achieved sufficient progress to justify larger federal support. Phase II is the principal research effort for those projects that appear most promising after the first phase. These awards have averaged $200,000 for one to two years. Phase III is the product or process development phase and involves follow-on private funding from venture capital of large industrial investors to pursue potential commercial applications of the federally-funded research. No government money is provided in Phase III.

As a result of the first SBIR solicitations—in 1977 and 1979—small companies have obtained more than $60 million from private sources to continue the NSF research into industrially relevant applications. Firms that have completed Phase II have increased their employment by more than 125 percent on the average since submitting their Phase I proposals. Also, one-half are coupled with universities, with university scientists and engineers participating as consultants.

Notable examples of the success already demonstrated by NSF's SBIR program follow:

In 1980, NSF funded a proposal from R. F. Monolithics of Dallas, Texas, for theoretical modeling of an innovative unidirectional surface acoustic wave transducer. At the time the firm had five employees. The research resulted in an innovative low-cost, efficient, highly selective band pass filter which has very large potential commercial and military markets. Today the firm has 105 employees and support from 15 venture capital sources.

An award was made to Machine Intelligence Corporation of Sunnyvale, California, in 1979, when the company had one employee, for microcomputer based natural language understanding. The funding came at a critical time. Today the firm employs 70 people and has spun off a subsidiary—Symantec—to pursue the results of the NSF-supported research. Symantec itself has grown to employ 35 people.

Terra Tek, Inc., a small Utah firm, was funded for research on measuring metal fracture toughness. The company went on to develop an instrument to measure the fracture strength of mining and petroleum drill bit components. This instrument is now manufactured in the U.S. by Terra Tek and has sales world-wide. The results also have led to a line of metal fracture toughness instruments for use in many other important fields where such measurements previously were not economically feasible.

A small business in Massachusetts, Collaborative Research, Inc., was funded in 1977 for genetic research to enhance animal protein production four years prior to the Supreme Court decision on genetic patents. This research resulted in $11 million in follow-on investment from a major U.S. chemical firm and led to two very successful public offerings.●

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## U.S. MILITARY FORCES: READY OR NOT?

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, June 13, 1984, into the CONGRESSIONAL RECORD:

### U.S. MILITARY FORCES: READY OR NOT?

Are U.S. military forces ready to wage successfully a prolonged conventional war? Despite huge military spending increases in recent years, the answer is not clear. President Reagan has asserted that years of neglect had left our Armed Forces unprepared. His aim has been to prepare them to fight in any kind of conflict, from counter-insurgency to nuclear war.

However, despite sharp increases in spending for new weapons, the budget share allocated to maintain the readiness of our forces has decreased. As a result, the present defense program could ultimately cost billions but still not yield sufficient net improvement in U.S. military strength. The question, then, is whether all that defense money has been spent wisely.

The combat capability of our armed forces depends upon their ability to: (1) fight effectively at the outset of a full-scale war; and (2) sustain combat until U.S. industry can begin to replace battlefield losses. The Pentagon measures the ability of its forces to accomplish these demanding tasks by four major yardsticks:

(1) Arms and Equipment: More than 40% of the Administration's defense spending has gone for vast quantities of new tanks, aircraft, ships, and equipment. All four Services have received modern weapons which give them greater firepower and mobility, but which sometimes have not yet been produced in sufficient quantities.

(2) Manpower: The size of the armed forces has increased by 82,000 to a total of 2.18 million personnel. Quality is also improving as judged by higher education and aptitude of recruits and improved retention of trained personnel. On the debit side, units are still weakened by shortages of non-commissioned officers and specialists. Also, recruitment and retention rates could decline as recovery from the recession brings some improvement in civilian employment prospects.

(3) Readiness: Major problems remain in training, supply, and transport. Training for Army battalions and flying hours for attack helicopters have been cut. The Air Force's fleet of F-16 aircraft is short of spare parts. All of the Services report major new maintenance backlogs and inadequate quantities of

training ammunition. Yet, less than 25% of the Administration's defense budgets has been spent on improving readiness.

(4) Staying Power: War reserve stockpiles are low in some key categories, such as spare parts, ammunition, and combat rations. Even more important, air and sea transport capacity is only half of what would be needed in an extended war.

My sense is that military readiness has improved, but will remain inadequate until it receives a higher priority in defense spending. Despite the recent upgrade of arms, equipment, and personnel, our military leaders still cite shortcomings in readiness that could cripple our forces in combat. Of even greater concern is inadequate sustainability of our forces which could someday present a President with the terrible dilemma of withdrawal in the face of aggression or early resort to nuclear weapons. To ensure that we are never faced with this unacceptable choice, we must find new solutions for the problems of readiness and staying power of our military forces.

First, we must recognize the link between the extent of our commitments and our ability to fulfill them. This key relationship has too often been ignored or downplayed in recent years. Two U.S. Presidents have committed us to defend the Persian Gulf, but we still lack the forces to back up this pledge. Now, the Administration seems to have begun a large program of military maneuvers, construction, and training in Central America without thorough analysis of the likely impact on our global commitments and force posture. Our forces are spread too thin around the world; we should not take on new military commitments without the most rigorous analysis to assure that our capabilities match our commitments.

Second, the U.S. alone cannot deter Soviet military power. Thus, we must collaborate more effectively with our Allies, particularly in making the improvements in conventional defense needed to raise the nuclear threshold in Europe. We must join with our Allies in developing new defense strategies and in maintaining needed conventional forces. We Americans often don't fully appreciate what our Allies are already doing in our shared defense effort. But, Europeans must recognize that, in an era of budget stringency in the U.S., failure by them to meet agreed-upon defense commitments can only be divisive.

Third, we should adopt different readiness goals for U.S. combat units. Rather than straining to keep all units at high readiness levels, we should give first priority to keeping major U.S. units abroad at top readiness. Units based in the U.S. would maintain a somewhat lower readiness level. There could be a similar system among reserve units, with some ready immediately to reinforce overseas while others would be upgraded over time in the event of an extended conflict.

Fourth, we must realize that there is a trade off between expansion of our forces and their combat readiness and sustainability. In my view, the Administration's emphasis on force expansion has led to underfunding of readiness. Over the past three years, spending for procurement, research, development, and military construction have increased by 86% while accounts associated with operations and maintenance have increased only 30%. Barring a change in emphasis, this bias will increase, since the bulk of spending on new weapons now in the procurement pipeline will occur in the late 1980s. Unless we are prepared for infinite growth of the defense budget, this trend inevitably means lower net rates of readiness and greater vulnerability to surprise attack.

We must begin to allocate our limited defense resources more equitably. The current stress on the "big ticket" defense items at the expense of adequate spending on readiness could ultimately leave us with an enormously expensive state-of-the art military force that is unprepared to fight.●

## A GOLDEN ANNIVERSARY

## HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● **Mr. CONTE.** Mr. Speaker, the Federal Duck Stamp Program was born on March 16, 1934, when President Franklin D. Roosevelt signed the Migratory Bird Hunting Stamp Act into law. Fifty years later, we are celebrating the golden anniversary of one of America's most successful wildlife conservation programs.

I commend the following article from the March 1984, issue of Field & Stream magazine on the history of this remarkable Duck Stamp Program to my colleagues.

### A GOLDEN ANNIVERSARY

(By Linda Holland)

This month, sportsmen and other conservationists throughout the United States are commemorating the fiftieth anniversary of the Migratory Bird Hunting and Conservation Stamp Act, better known as the Duck Stamp bill. Signed into law by Franklin D. Roosevelt on March 16, 1934, the bill called for the issuance of a $1 federal migratory bird hunting stamp, with not less than 90 percent of the funds generated by it to be used for the purchase, development, and maintenance of waterfowl refuges throughout the country. To date, a total of 3.5 million acres of wetlands have been preserved because of Duck Stamps which have raised more than $285 million for the purchase of all or part of 187 National Wildlife Refuges and more than 100 Waterfowl Production Areas. In all, 89 million stamps have been sold, to date.

Although its benefits are obvious now, the Duck Stamp law came about only after a long and difficult campaign for its passage by a few farsighted men. Without the persistence of this small concerned group, our now thriving waterfowl population might well have been mostly a memory.

The idea of some sort of federal stamp that would benefit the then seriously depleted waterfowl resource was first suggested nationally in the July 1920 issue of Field & Stream in a column by Ray Holland, who later served as editor of the magazine from 1924 to 1941. The article called for a fifty cent stamp to be issued by the Department of Agriculture, with the proceeds earmarked to acquire, develop, and maintain federal waterfowl refuges.

The idea itself had originated with four men: George Lawyer, Chief Game Warden under the U.S. Biological Survey, John Burnham, President of the American Game Protective Association (AGPA), Ray Holland, and A. S. Houghton of the AGPA. This group of concerned hunters conservationists, along with other sportsmen and wildlife lovers, had watched the numbers of waterfowl decline at a rapid rate, despite the institution of enlightened game laws and management. They realized that seasons and limits alone could not save the waterfowl. During the first part of the century, 100 million acres of marshlands had been drained for agricultural and industrial use, and as a result waterfowl were vanishing in large numbers.

But obvious as the need for and value of a Duck Stamp seem today, it took fourteen years of crusading to make it a reality. In this Ray Holland and Field & Stream played a crucial role. In the January 1922 issue Holland wrote, "Each day we hear of this lake or that marsh which is about to be drained under the plea for more agriculture. How are we to conserve this territory so necessary to the birds and sportsmen and how are we to secure more money with which to enforce the Federal laws protecting migratory birds? The answer is a federal hunting license. Surely no man would object to paying 50 cents or a dollar for a license to hunt migratory game birds provided he knew that the money obtained by the sale of such licenses was to go into a separate fund, half to be used in enforcing the law protecting the birds he hunts and the other half to be used for outright purchase of lakes and marshes over the country.

Earlier, before joining Field & Stream, Holland had been a pivotal part of the fight to protect waterfowl by law. As a United States Game Warden from 1913 to 1919, he fought for the enforcement of the Migratory Bird Treaty Act of 1916 and the Migratory Bird Treaty Act of 1918, which gave the government the authority to establish seasons and bag limits, outlaw market hunting and spring hunting, and halt the killing of songbirds.

Strange as it may seem today, the Migratory Bird Treaties were no unanimously favored by sportmen back then. Men who shot waterfowl for sport year-round, as well as market hunters, defied the law, and opponents called the legislation an infringement of the states rights. "After all," they declared, "what business does the federal government have telling us we can't shoot our own ducks whenever we please?"

What was needed was a test case that would settle once and for all the rights of the federal government to protect migratory waterfowl. Without this, unrestricted hunting would continue and the migratory bird populations of the future would be jeopardized.

The test came in the form of a lengthy and well publicized Supreme Court case, Missouri vs. Holland, which was instituted when then U.S. Game Warden Ray Holland arrested the Attorney General of Missouri, Frank McAllister, for shooting ducks out of season in the spring of 1919. Supreme Court Justice Oliver Wendell Holmes delivered the decision, which upheld the Migratory Bird Treaty and Enabling Act: "To put the claim of the State upon title is to lean upon a slender reed," he stated. "Wild birds are not in the possession of anyone, and possession is in the beginning of ownership. The whole foundation of the state's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another state and in a week a thousand miles away."

But important as this decision was for the future of waterfowl, it did not solve the problem of dwindling breeding grounds or the enforcement of the hunting laws it upheld. In 1920 Congress had appropriated only $197,000 for the enforcement of the law nationally, and no funds at all had been set aside for migratory bird breeding and nesting grounds.

Clearly without money to buy them, marsh areas would continue to be lost and waterfowl would continue to decline. A federal license might have seemed the obvious solution, but there was concern that issuing licenses and collecting money would simply create a bureaucracy that would take the greater part of the funds and leave little for conservation work.

George Lawyer's idea of a federal hunting license in the form of a stamp to be sold at post offices seemed the best solution, and in 1921 the plan was integrated into the Public Shooting Ground—Game Refuge Bill, which was introduced in the U.S. Senate by Senator Harry New in May of that year. A year and a half later, the bill passed the Senate, but it failed to pass the House and was redrafted for the next session of Congress. Supporters believed that since the bill had failed by only a 10-vote margin in the House, the following year's legislation would prove successful. But at the next session of Congress, it passed the House and failed in the Senate, and again the funding for refuges was shelved. This failure prompted Ray Holland to write in Field & Stream "A wild duck cannot live in the air. A one-gallus man cannot shoot ducks from his front porch. Remember that.

"Conservation from the standpoint of the sportsman has two distinct phases. One deals solely with the protection of different species of game. The other has to do with the perpetuation of areas throughout the country where sportsmen can take a day or two afield in the pursuit of his favorite bird or animal. The two are closely interlaced, one with the other."

On the other hand, there were two lines of opposition to the Duck Stamp bill. Some declared that the fee of one dollar for a federal license would eliminate hunters who had little money. And others claimed that the refuges would simply develop into federally controlled shooting grounds, and no increased waterfowl populations would result.

This latter fear apparently was crucial in the minds of legislators, for when the shooting feature was removed from the legislation, it drew the support of the majority of Congress, and on February 18, 1929, President Calvin Coolidge signed an amended Game Refuge Bill into law.

Unfortunately, the bill had been redrafted not only to cut out the public shooting grounds feature but to eliminate the Duck Stamp license feature entirely, as well. The bill mandated that refuges be purchased by federal appropriations.

Field & Stream immediately predicted that federal appropriations would never be made, and again began lobbying for a federal Duck Stamp license to provide the funds that would save the waterfowl and the sport of hunting them.

The following year, Field & Stream watched both its predictions come true—a shortage of waterfowl and the failure of Congress to appropriate funds. When it became necessary to cut the duck hunting season down to thirty days in order to save the breeding stock, Field & Stream began campaigning for the stamp in earnest, using the slogan "Ducks for a Dollar" to spread the idea. Thousands of questionnaires were mailed to readers of the magazine as well as the other lists of sportsmen. The questionnaire read, "Are you willing to get behind the Field & Stream campaign for a real Game Refuge bill with a Federal tax of $1? (Answer yes or no.)" The thousands of affirmative replies were forwarded to Washington, illustrating that the duck hunters of America were in fact willing to be taxed in order to perpetuate their sport.

But it wasn't till 1932 that a bill was finally introduced requiring waterfowl hunters to buy a $1 federal migratory bird hunting stamp. The bill provided that not less than 75 percent of the money collected by selling the Duck Stamp would be used to acquire, administer, and maintain refuges and breeding grounds. Twenty percent would be used for the enforcement of the Migratory Bird Act, and the remaining 5 percent would be set aside for administrative purposes such as printing and distribution. (Today the amount taken for administrative costs is even more minimal—about 3 percent.)

So there it was, the bill that has proved so vital to waterfowl today. But as often happens, a rush of important legislation in the last session of Congress sent the Duck Bill to the side. Once again Field & Stream had to call on its readers to support the bill.

"For more than nineteen years Field & Stream has been urging on the duck hunters of this country the necessity of a dollar stamp tax to perpetuate the sport of wildfowling. For more than ten years we have listened to sportsmen from coast to coast wail and bemoan the fact that their seasons have been shortened and their bag limits had been cut. We have done our level best to get every reader of Field & Stream who is interested in waterfowl to demand favorable action from Congress on a Dollar Stamp Bill. And yet Congressmen from duck districts have told us that they didn't receive over half a dozen letters despite our efforts.

"If every man who reads this editorial will write his representatives at Washington at once and get his friends to do likewise, there will be no closed season on ducks this year. . . . Bring home to them the fact that the only thing you are asking the Government is the privilege of paying a dollar a year to care of the game that furnishes you healthful recreation and wholesome food."

Finally, on March 16, 1934, after more than two decades of struggle, the so-called Duck Stamp bill was signed into law by President Franklin D. Roosevelt. Featuring the design of J. N. "Ding" Darling, nationally prominent Des Moines Register editorial cartoonist, the first year sales of the stamp totaled 635,001.

It was an idea whose time, at last, had come, but not without additional obstacles in its way. Though its sole purpose was to raise money, many hunters complained that the stamp was impossible to buy. Applications required that each purchaser present an affidavit stating the game killed during the previous year. The form asked the number of days that the hunter had spent shooting game and in what location this hunting had taken place. Many post offices refused to sell the Duck Stamps to individuals who were not hunters, explaining that the stamp could be used only in combination with a state hunting license. About this preposterous bureaucratic edict, Ray Holland wrote in 1935: "Did you buy your Duck Stamp? If you did, you are lucky. Those government boys must have printed a limited edition of this stamp and decided to make it as difficult as possible for the customers to get one, thereby conserving stamps, if not the ducks."

By the following year, however, the purchase of the Duck Stamp was simplified so that anyone might buy a stamp, whether for hunting purposes, stamp collecting, or simply to help the wildlife of the country. However, unexpectedly, 1935-36 Duck Stamp sales slumped to 448,204.

For this reason the 1935 Duck Stamp, "Canvasback Duck Taking Flight," created by Frank Benson, is the rarest in the Duck Stamp series, and the print made of Benson's design, which is rarer still, is worth up to $6,000 today to collectors. Since all the Duck Stamps up to 1942 were destroyed at the end of each duck season, this eight-year span of stamps is the most valuable. Today, a complete collection of Duck Stamps in mint condition can draw as much as $3,500 from serious collectors.

Until the late 1940's, the Interior Department commissioned Duck Stamp designs, and contributions to the series were made by prominent wildlife artists, including Lynn Bogue Hunt ("Greenwinged Teal"), Francis Lee Jaques ("Black Mallards"), and Roland Clark ("Pintail Drake and Duck Alighting"). Throughout subsequent years, a Duck Stamp competition sponsored by the U.S. Fish & Wildlife service has been held, with artists' entries averaging around 1,600 and running as high as 2,099. Today, the artist whose work is selected for the annual Duck Stamp is guaranteed both fortune and fame, for even though he receives nothing but a sheet of stamps from the U.S. government, prints of his design will be eagerly purchased by collectors.

Initially all Duck Stamps were in black and white and were highlighted with one other color, such as orange or purple. In 1959, two additional colors were used in a design by Maynard Reece that featured a Labrador retriever carrying a mallard drake. Incidently, this drawing was the center of controversy that year, when several contestants in the Duck Stamp competition declared that "a dog not a duck, won the contest."

Since its beginning, the price on the Duck Stamp has increased from $1 in 1934, to $2 in 1949, to $3 in 1959, to $5 in 1972, to $7.50 currently. Almost 2 million sportsmen and women purchased the stamp in 1982 and 1983, providing the federal government with $15 million a year for the purchase of critical wetlands.

To celebrate the Duck Stamp anniversary, the U.S. Fish & Wildlife Service is planning a mammoth publicity campaign in hopes of attracting thousands, or better yet millions, of new stamp buyers. Right now, some 91 percent of Duck Stamp purchasers are duck hunters, while the other 9 percent are mostly serious stamp collectors. Fish & Wildlife officials believe there is a tremendous untapped resource of conservationists—fishermen, photographers, big-game hunters, armchair nature lovers, etc. An all-out effort to get them to contribute to this vital conservation program is underway. There are plans for such events as a Duck Stamp Week, a traveling exhibit of past stamps, and a special movie about the refuges. There is also a new pamphlet titled "The Duck Stamp Story," available from Publications Unit, Dept. FS, U.S. Fish & Wildlife Service, Dept. of the Interior Building, Washington, D.C. 20240. Anyone who can't find Duck Stamps at the local post office can buy them by mail from the Postal Philatelic Sales Div., Dept FS, U.S. Postal Service, Washington, D.C. 20265-9997. Duck Stamps bought this way cost $8, and issues for the last three years are available.

In addition, this year the post office will offer a commemorative U.S. postage stamp honoring the fiftieth anniversary of the Duck Stamp, and featuring the original 1934 design, "Mallards Dropping In," by Ding Darling. The Ding Darling Foundation of Des Moines, Iowa, also plans to reissue prints of the original "Mallards Dropping In" as a special tribute.

Over the years Duck Stamps have taken on a life of their own, and it seems hard to imagine a time when their existence was in doubt. Their contribution to the wildlife and wild lands of America has been tremendous, a true grass-roots opportunity for individuals to become directly involved in the preservation of our waterfowl.

This coming fall, as the skies fill with ducks and geese, all who have ever bought a Duck Stamp can take pride in the sight. Readers of Field & Stream can feel a special gratitude, as I do, knowing that more than fifty years ago my grandfather Ray Holland and the magazine fought for something they believed in, so that future generations could know the thrill of wave after wave of waterfowl flying south, etched against the colors of a dawn sky. This age-old spectacle might have been lost forever had it not been for men like George Lawyer, Ray Holland, Ding Darling, and all the thousands of sportsmen-conservationists who understood what they had to lose. Fifty years after the birth date of the Duck Stamp, much remains to be done to ensure the continued survival of the wild creatures and places we now enjoy. May we have the courage and the foresight to recognize the needs of the future, and fight to preserve the legacy handed down to our generation.●

## THE REAL IMMIGRATION BILL

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. BONKER. Mr. Speaker, I call to the attention of my colleagues an article printed in yesterday's Washington Post by Lawrence H. Fuchs, former executive director of the Selection Commission on Immigration and Refugee Policy.

Mr. Fuchs comments on the immigration bill deserve careful reading because they are a reasoned and balanced analysis of what has become a controversial issue.

We cannot avoid controversy and as representatives of districts that reflect the pluralism and diversity of this great Nation, there are bound to be differences. But if this body is to come to rational conclusions it must do its work on the basis of the facts; it must avoid, as Mr. Fuch points out, the "burst of hyperbole" that accompanies heated debate in Congress.

Reference was made to statements by two of our colleagues who have opposing viewpoints, but whose characterization of the immigration bill are extreme.

Just last month I had to deal with horror stories and hyperbole directed against the equal access bill I sponsored, and I can attest that it does not serve our institution or the public interests to stray from the facts of a given issue.

[From the Washington Post, Tuesday, June 12, 1984]

### THE REAL IMMIGRATION BILL

(By Lawrence H. Fuchs)

Ugly misrepresentations about the Simpson-Mazzoli immigration bill have panicked many members of the House into wanting to avoid a vote after five years of hard bipartisan work in crafting the complex reform measure. Twice it has passed the Senate by huge majorities.

Rep. Edward Roybal (D-Calif.) has warned that a section of the bill to punish employers who hire illegal aliens would result in legal aliens having to wear dog tags around their necks. Jesse Jackson has said repeatedly that Simpson-Mazzoli would force aliens to carry passbooks similar to those carried by blacks in South Africa.

The fact is that Simpson-Mazzoli specifically repudiates a national identification card as a means of establishing employee eligibility for lawful resident aliens and citizens. Both Senate and House versions of the bill call for a secure and universal system of employment eligibility, to be put into place after three years, as a means of enforcing sanctions against employers who hire illegal aliens. The identification would be used only when applying for a new job, and by everyone eligible to work—not just aliens.

One can understand Roybal's anxieties, given the history of discrimination against Hispanics in the Southwest. It is also understandable that Mexican American leaders oppose the inauguration of a national policy that would eventually curtail the flow of undocumented workers, with whom they empathize. But that does not justify Roybal's misrepresentation of the bill.

Jesse Jackson, in an unanswered burst of hyperbole, has called the bill "racist." One can understand an attempt to court Mexican-American voters, but it is impossible to fathom how a bill could be called racist which sets up machinery for the president, the GAO, and—as now contemplated in the House bill—the EEOC to make and take special actions to prevent discrimination.

The Select Commission on Immigration and Refugee Policy concluded after two years of study that such a system could actually reduce the amount of discrimination in the work place.

Rep. Kent Hance (D-Texas) sought votes in his state's senatorial primary by campaigning against a provision in Simpson-Mazzoli that would legalize undocumented aliens who have been working in this country continuously since Jan. 1, 1980 (in the Senate version) and Jan. 1, 1982 (in the House bill).

Hance argued that the United States would be encouraging illegal migration, although the 16 members of the select commission unanimously concluded that just the opposite would happen. Because of legalization, the United States would have valuable information on illegal migration sources and routes, smuggler use patterns and employment histories. We could pinpoint enforcement resources and cut down on inefficient raids in neighborhoods and places of employment. Also, by legalizing as many as 2 to 3 million illegal aliens who are already working, we would cut back on an underclass population whose illegality now depresses wages and standards and who often are afraid to obtain health care or go to the police when crimes are committed against them.

Of course, Simpson-Mazzoli is not perfect, but it does the following things: it reaffirms the lawful admission of immigrants at approximately present levels; it endorses the independence of our refugee admissions law and improves the efficiency of our asylum system; it substantially reduces a growing underclass of persons increasingly identified by ethnicity; and it inaugurates a national policy of curtailing illegal migration and visa abuse through a system of employer sanctions which will be linked in three years to a secure and universal system of employment eligibility, probably an upgraded counterfeit-resistant Social Security card.

What would that mean to you? Every time you applied for a new job you would have to produce a Social Security card that could not be forged or transferred easily. If you spoke a foreign language and were eligible to work, you could not be turned away because someone though you were an illegal alien: your worker eligibility ID would protect you. If you were black and you had your card, you could not be passed over for an exploitable illegal alien. If you lived in another country and were thinking of becoming an illegal alien, you would be deterred by the difficulty of obtaining a valid ID.

Since it will take about seven to 10 years for an employer sanctions law to become substantially effective, why not begin now? Protect the open front door; close the back door. Lawful immigration is good for the country. Illegal migration and visa abuse are not.●

## DEFENSE AUTHORIZATION BILL

### HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DENNY SMITH. Mr. Speaker, the high deficits threatening this Nation portend a great danger to our internal security—a danger as real as external threats to our national security.

Responsible Members of Congress face many challenges in balancing these threats and one of those challenges came when this body considered H.R. 5167, the fiscal year 1985 Defense Authorization bill.

I am a strong supporter of the need to maintain a national defense for our country that is second-to-none, yet voted no to increasing the defense budget by 7 percent in fiscal year 1985. No area of the Federal budget can be allowed to continue the uncontrollable growth that is bankrupting our Nation for generations to come.

For 3 years I have advocated that the Congress simply freeze Federal spending across the board to bring the deficit down rather than continually increasing nearly every spending program. Had we done this in 1981, we would be enjoying a balanced budget today.

Increasing any portion of the Federal budget while deficit spending continues to cripple economic recovery is unthinkable. Because Congress continues to spend like there's no tomorrow, interest rates are on the rise again and threaten the economic survival of my State whose economy is very interest-sensitive.

We cannot put one portion of the Federal budget above scrutiny and declare it sacrosanct. For the worker in Oregon whose job is threatened by deficit spending—for the worker in Oregon whose job was lost to high interest rates—I voted no on the 1985 Defense Authorization bill.●

## ITC DECISION ON FOOTWEAR UNJUSTIFIABLE

### HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. JENKINS. Mr. Speaker, I request the support of our House colleagues in cosponsoring H.R. 5791, the American Footwear Act of 1984. This legislation may be the only salvation for our domestic footwear industry. The bill would impose a ceiling on foreign shoes to no more than 50 percent of the domestic market establishing a limit of 400 million pairs of shoes per year.

Last week, the International Trade Commission unanimously denied a plea by America's footwear manufacturers for import quotas for a 5-year period. Their decision is baffling and unjustifiable.

Only one out of three pairs of shoes sold in America in 1983 was made in America. Almost 27,000 shoe and allied workers have lost their jobs in 1983 and unemployment in the shoe industry was 18.7 percent. These figures are staggering and devastating to the future of the American footwear industry.

The Footwear Industries of America, United Food & Commercial Workers International Union/AFL-CIO, Amalgamated Clothing & Textile Workers Union/AFL-CIO [The Footwear Trade Action Coalition] has pursued administrative remedies under section 201 and section 301 of the Trade Act of 1974. Yet, they have been denied administrative relief under these laws. It is unexplainable how the ITC could not find that our domestic industry is being injured when imports have captured 70 percent of the market.

This is a low-wage, labor-intensive industry employing many women and minorities often located in small, rural communities where no other employment is available. My footwear workers wonder if their plant will be the next one to close.

We cannot turn our backs on this industry so vital to our Nation. I urge my fellow colleagues to cosponsor the American Footwear Act of 1984.●

## IN MEMORY OF CHANCELLOR TOMAS RIVERA

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. BROWN of California. Mr. Speaker, last month the University of California at Riverside lost its chancellor, when 48-year-old Tomas Rivera died suddenly of an apparent heart attack. Rivera's service as chancellor was significant for a number of reasons. He had the distinction of being both the first minority, and the youngest person, to ever head a UC campus.

But I believe his personal achievements are even more impressive than his professional ones. Tomas Rivera brought to the campus a perspective that was unique among his peers. Born in 1935, he was raised in Texas by his parents, who were laborers and cooks. He said, "Up to the time I started teaching, I was part of the migrant labor stream that went from Texas to the Midwest. I lived and worked in Iowa, Minnesota, Wisconsin, Michigan, and North Dakota." Taught his native Spanish as a child, Dr. Rivera did not even begin to understand English until he was in the fifth grade.

From these humble beginnings in a haphazard succession of barrio schools, he somehow found the inspiration to continue his education and to devote his life to that profession. Starting out as a multilingual teacher in the public schools of San Antonio, TX, Tomas worked his way up to associate dean in the College of Multidisciplinary Studies at the University of Texas, and finally to chancellor at UCR.

Along the way he became writer, editor, and poet. He spoke Spanish, English, and French, and worked as his own translator for two of his best-known works: "And the Earth Did Not Part" and "Always and Other Poems." In 1970, he received the Quinto Sol Prize for Literature.

He believed the purpose of a UC education was an ambitious one—to teach students to think, research, and write, and to graduate students prepared for the real working world outside its protective walls. A tall order, but for a man whose life bridged two cultures, two lifestyles, and three languages, he must have believed anything is possible. We will miss him.

THE SEARCHERS

We are not alone
after many centuries
How could we be alone
We search together
We were seekers
We are searchers
and we will continue
to search
because our eyes
still have
the passion of prophecy.

TOMAS RIVERA.●

## GOOD ADVICE TO CONGRESS FROM ALABAMIANS

### HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. ERDREICH. Mr. Speaker, during the early part of this second session of the 98th Congress, I asked the people of the Sixth District of Alabama, as I did during the first session, to share their opinions with me on major issues facing our State and Nation by responding to my second annual congressional questionnaire.

I thank the over 5,000 residents who took the time to answer and return their questionnaire response cards. My 1984 congressional questionnaire covered a broad range of issues—deficit reduction, trade issues, the environment, jobs creation, defense—and input from those whom I represent in Washington is vital to me as I cast votes and put forth initiatives that will best serve Alabama and the Nation.

Those who responded to my congressional questionnaire clearly favored action by Congress to bring Federal spending under control and reduce the budget deficit that threatens to reverse the progress that has been made to achieve a broad economic recovery. Seventy-three percent of those who responded favored across-the-board cuts in Federal Government spending. While those for and against defense spending cuts were almost evenly divided, 87 percent of those responding favored cuts in domestic spending. Seventy-eight percent of respondents support an amendment to the U.S. Constitution requiring the Federal budget to be balanced except in time of national emergency, and an overwhelming 86 percent favored a pay-as-you-go budget proposal that would require the Federal Government to pay for any spending above last year's level.

I have sponsored a balanced budget amendment and a pay-as-you-go approach that would take away the Government's credit card, and I am pleased that the majority of those responding approve of these efforts to stop Federal red ink spending.

Respondents to my congressional questionnaire also felt that action was needed to obtain relief from subsidized foreign imports. Also, 87 percent favored legislation I have sponsored that would reorganize U.S. Government trade activities and expand our participation in international trade and investment (and this could be done at no additional cost to the taxpayer).

While no clear position was voiced on the issue of acid rain, 79 percent supported increased Federal regulation of the disposal of hazardous and nuclear waste, and 60 percent favored increasing the acreage of Alabama's Sipsey Wilderness.

Several questions on my congressional questionnaire focused on defense matters. While 73 percent felt that withdrawal of our military forces from Lebanon was proper and necessary, there was a closer split regarding Central America, with 60 percent in support of providing U.S. military assistance. An overwhelming 84 percent wanted to see negotiations begin on arms reduction between the President and the new Soviet leaders. My constituents and I feel this Nation must pursue every effort to obtain arms reductions.

Again, I would like to thank those who answered and returned my second annual congressional questionnaire. Their views and opinions serve as a valuable guide for me, and I would like to share the views of my constituents with my colleagues in Congress. These comments are certainly good advice for Congress to follow, and the responses to each question are printed below:

### CONGRESSMAN BEN ERDREICH'S CONGRESSIONAL QUESTIONNAIRE

| | Percentage | |
|---|---|---|
| | Yes | No |
| Since 1980, Federal deficit spending has more than tripled, starting at $58 billion, almost doubling to $110 billion in 1982, and climbing to $195 billion in 1983. Current forecasts project the deficit to remain about $184 billion for 1984. For 1985, the Administration proposes $61.8 billion in new spending outlays. The Administration's budget also shows a reduction in revenues, due to the 1981 tax cut, of $121 billion, and proposes a 1985 deficit of $180 billion. To reduce this red-ink level, would you favor: | | |
| 1. Across-the-board cuts in Federal government spending? | 73 | 27 |
| 2. Cuts in defense spending? | 52 | 48 |
| 3. Cuts in domestic spending? | 81 | 19 |
| 4. A combination of restraint on Federal spending and new tax increases? | 58 | 42 |
| 5. A one-year across-the-board freeze on Federal spending? | 62 | 38 |
| 6. Postponing tax cuts scheduled to go into effect until the deficit is lowered? | 50 | 50 |
| 7. A tax-cut cap for those with income over $50,000 coupled with some spending reductions? | 50 | 50 |
| 8. Postponement of tax indexing (to begin in 1985) until the deficit is lowered? | 50 | 50 |
| 9. An amendment to the U.S. Constitution requiring the Federal budget to be balanced except in time of national emergency? | 78 | 22 |
| 10. A "Pay-As-You-Go" budget proposal that would require the Federal government to pay (not borrow) for any spending above last year's level? | 86 | 14 |
| As we work for broader economic recovery in Alabama and across our nation, Congress will face a wide range of issues in 1984—from environmental protection to unfair foreign competition, from quality education for our children to military involvement abroad. Do you favor: | | |
| 11. Laws to close U.S. markets to subsidized imports? | 58 | 42 |
| 12. Reorganizing U.S. government trade activities into one agency if it were done at no additional cost to the taxpayer? | 87 | 13 |
| 13. Increased Federal funding for job training? | 30 | 70 |
| 14. Federal legislation to deal with the "acid rain" problem by requiring coal-burning industries to cut emissions into the atmosphere, even if it meant higher costs passed on to the consumer? | 53 | 47 |
| 15. A nationwide electrical utility fee (of less than $1 per month for an average residential customer) to pay for "acid rain" clean-up? | 42 | 58 |
| 16. Delaying any "acid rain" legislation until further scientific studies are completed? | 58 | 42 |
| 17. Increased Federal regulation of the disposal of hazardous and nuclear wastes? | 79 | 21 |
| 18. Increasing the acreage of Alabama's Sipsey Wilderness? | 60 | 40 |
| 19. Withdrawing American military forces from Lebanon? | 73 | 27 |
| 20. Providing military assistance in Central America? | 60 | 40 |
| 21. Negotiations on arms reductions between the President and the new leaders in the Soviet Union? | 84 | 16● |

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## REMEMBERING POW-MIA'S

## HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. ECKART. Mr. Speaker, with the burial of the Unknown Serviceman of the Vietnam war this past Memorial Day, we honored all who fought in Southeast Asia, including the 2,489 servicemen whose whereabouts are still unknown.

In his address at the Memorial Day service at Arlington Cemetery, President Reagan stated that "Our dedication to their cause must be strengthened * * * We write no last chapters, we close no books, we put away no final memories." I wish to insert in the CONGRESSIONAL RECORD a tribute written by two of my constituents, the wife of a disabled Vietnam veteran and a Gold Star Mother. This poem expresses for all of us our deep concern for missing servicemen.

The poem follows:

### CAN WE FORGET?

Help Freedom ring for POWs, MIAs, it's time to get them out.
Too much time has passed us by, of that there can be no doubt.
We must investigate the fate of nearly two thousand five-hundred men.
And find out if they're dead or alive, if passed on, how and when.
Factors on U.S. spending per hostage, both in Vietnam and Iran,
Shows the comparison so overwhelming . . . How Do We Price Each Man?
To free each civilian hostage in Iran, 3½ Million Dollars was used,
But only $70 per war prisoner * * * government spending was certainly abused.
With all the fuss and recognition, to get Iranian Hostages home at last,
The lack of concern for S.E. Asian captives, leaves us totally aghast.
Did we honor and strive to keep our men best? Or did self-centered interest reduce them to less?
The Soliders we sent to the Vietnam War, did we make them wonder what they went there for?
And if one single person awaits our arrival, to bring them home from tortorous survival
Will it again make us remorseful of all these wasted years when our leaders did Not see POW, MIA tears?
Our War Heroes have not been forgotten, by their family and their friends.
We Will Not give up on any one of them, The Bitterness Must End.
We must all seek the plight of loved ones, who gallantly served our Nation.
Isn't Freedom what our Country boasts as it's first and primary foundation?
These men were raised with American Ideals, by their Fathers and their Mothers.
And some of these missing men could be your Husband, son, or Brother.
Let's remember the scars of our wonderful men
Who saw death in the turmoil of a foreign land.
And often recall, lest we tend to forget
Our own land can taste the horror of war, yet.
Our hearts have been pierced, with the arrow of anguish, bitterness and despair.
We need this arrow removed from us, bringing every man home is our earnest prayer.
Our hearts will never rest easy, until we know our loved ones' fate.
Once we know if they're living captives, or if they've entered God's Golden Gate.
If your baby were abducted, would you just give up all hope?
And would you say, "forget him, it's the easiest way to cope?"
Of course, this is absurd, he is your flesh and your blood, part of you.
Our minds will not rest easy until we Know The Absolute Truth.
"I gave him Life . . . His Country gave his death", said one Gold Star Mother.
His love of Country cost him Life, he died for his Sisters and Brothers.
For such a Great, Rich Country as Ours To Be Held on a Short Leash,
We Must Demand To the Very Last Man, Our Prisoners Release.

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Patricia J. Andry, Wife of a Disabled Vietnam Veterans and Muriel A. Bargar, Gold Star Mother.

This poem is gratefully dedicated to Specialist 4 Richard M. Bargar (1949-1968) (Reproduction of this poem in full or in part is prohibited without written consent by the authors.)●

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## INAUGURAL ADDRESS DELIVERED BY PRESIDENT JOSE NAPOLEON DUARTE OF EL SALVADOR

## HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. BROOMFIELD. Mr. Speaker, in his inaugural address, President Jose Napoleon Duarte launched the newly elected Salvadoran Government on the right foot with a blueprint for a strong and unified democracy dedicated toward peaceful accommodation with warring factions inside and outside his nation.

It was my privilege to travel with Secretary of State George Shultz, our distinguished colleague Congressman JACK MURTHA, the President pro tempore of the Senate STROM THURMOND, Senators JESSE HELMS and PAUL TSONGAS, former Senator Bob Griffin of Michigan, and others to witness the beginnings of El Salvador's first freely elected government in 50 years.

President Duarte's historic speech above all was a call for solidarity among the Salvadoran people in rededicating themselves to the struggle to preserve their fledgling democracy.

But he also endorsed the Contadora group's efforts at peace in the region and extended an olive branch to El Salvador's external enemies.

He pledged to fight tirelessly to eradicate the death squads from his homeland and to control the abuses of authority and the violence of the extremes wherever they occur.

He promised during the course of his 5-year term to confront the problems of poverty, hunger, and social injustice by drawing together Salvadorans from all walks of life in a social compact bound by the principles of equality, justice, and majority rule.

The alternative, he said, is "a totalitarian and atheist dictatorship in which the human being is stripped of his most elemental rights" in a struggle aided by the Marxist governments of Nicaragua, Cuba, and the Soviet Union.

Mr. Speaker, I commend the following excerpts from President Duarte's inaugural speech to everyone interested in the cause of freedom in this hemisphere and the survival of democracy in El Salvador.

The excerpts follow:

### Inauguration Address Delivered by President Jose Napoleon Duarte at the Sports Palace in San Salvador

Salvadorans, all Salvadorans, those who hear me here or are outside and especially the 5 million Salvadorans who await a better destiny for our fatherland with faith. In the face of the immense responsibility that has been given to the government that begins today, I want to start this first address to the nation by imploring divine help, with humility and recognition, in facing the many problems that overwhelm us, asking God for the necessary wisdom and strength to permit us to find the just reply that our fatherland's problems demand and success in our search for justice and happiness.

The significance of this unique unprecedented, and new historic moment in our fatherland is that it is the product of the unmistakable and iron will of all of the Salvadoran people, who on two consecutive occasions—26 March and 6 May 1984—went massively to the polls to freely elect their legitimate rulers.

Today, hope is strengthened in the darkness of despair. Today, a light if lit in the long night of horror being experienced by El Salvador. Today, the loud shout of happiness is heard amid tears and sorrow. The delicate plant of democracy is being born in our fatherland today. The seed of democracy was planted by the Salvadoran people with extraordinary effort. It was watered with their tears and blood and fertilized with Spartan heroism. This seed began to successfully germinate under the firm decision of the revolutionary government junta in the March 1982 elections for deputies. Today, when it has been born, it is up to us to protect it, surrounding it with all possible faith, so that it will flower with the wonders of all colors and so that we will permanently harvest the fruits that we all desire. Today, a great national effort culminates and the path to a gigantic undertaking begins.

The achievement of democracy has never been easy for any people throughout mankind's history. El Salvador, all of its people, have paid a high price for it. That is why our first recognition must go to the people of yesterday and today, expecially all who were persecuted, deprived of their freedom, exiled from the homeland, or lost their lives. My deep recognition goes out to all of them.

In a very particular way I wish to address all who kept their faith in democracy in the most adverse conditions, and who went to vote in the three democratic elections that we have held in the 80's.

The Armed Forces—The People's determination and faith would never have been enough to ensure that their will would be respected without the firm and determined position taken by our Armed Forces. On 15 October 1979, the Armed Forces chose their course in accordance with the responsibilities and functions that the political Constitution specifies for them, and initiated the nation's democratic development on three differenct occasions. Overcoming all obstacles and temptations, they have guaranteed the free exercise of suffrage. Our civilians have seen with increasing admiration how the immense majority of the soldiers, guards, and policemen protected and cared for the voters and guaranteed the results of the elections. On behalf of the civilian sector, my deepest recognition goes out to the Armed Forces for this marvelous epic.

The friendly countries—To the friendly countries that accompany us on this occasion, represented by high-ranking and distinguished dignitaries such as our country has never before seen, I wish to express the sincere gratitude of all of our people for the faith that has been shown, the solidarity that all of this represents for us, and the cooperation received throughout these ill-fated years to see that democracy in El Salvador can become a daily reality and not a mere rhetorical concept.

The Central Electoral Council (CCE)—I also wish to repeat my satisfaction with and the homeland's gratitude to the CCE, which includes representatives of five political parties, who were equal to their responsibility, did all that was humanly possible, and remained immune to internal and external pressures and decisions.

The political parties—It is also a good time to mention the necessary participation of the various political parties in the recent elections. Without them, democracy could not function. The homeland's undying recognition goes to all of the leaders and candidates, all party members and voters.

The Christian Democratic Party (PDC)—Democracy implies obedience to the decisions made by the majority and respect for the minority. The honor, the immense honor of being the recipient of the people's will has fallen to the PDC. The genuine banners that are a part of the PDC ideological platform have been adopted by the majority of our people. The people have given me and the PDC a historic mandate and the political authority to continue the search for justice and freedom. They have ratified, accepted, and confirmed the position we have held for 23 years, as well as our performance in the revolutionary government junta. The people have made us their leaders and we will fulfill this mandate. My profound gratitude, then, to my companions in the struggle, the Christian Democrats, to the supporters of the political parties that accompanied us in this struggle, and to all voters who made it possible for democracy, justice, and freedom to triumph.

Why did we vote? When over 80 percent of the Salvadoran people turned out to vote, it was not only because of their profound faith in the democratic system and in freedom. At the bottom of their hearts, each Salvadoran has also expressed, in voting, his profound desire to achieve peace and to create the necessary conditions for all of us to have work, the means for a decent life, and access to products in accordance with the potentials of each of us.

Salvadorans, we must bravely, frankly, and realistically acknowledge the fact that our homeland is immersed in an armed conflict that affects each and every one of us; that this armed conflict has gone beyond our borders and has become a focal point in the struggle between the big world power blocs. With the aid of Marxist governments like Nicaragua, Cuba, and the Soviet Union, an army has been trained and armed and has invaded our homeland.

Its actions are directed from abroad. Armed with the most sophisticated weapons, the Marxist forces harass our Armed Forces and constantly carry out actions intended to destroy our economy, with the loss of countless human lives and the suffering of hundreds of thousands of Salvadorans. For its part, our Army has been considerably enlarged, it has received better training, and it is imbued with a profound patriotic commitment to defend the people and to keep us from falling into the hands of Marxist subversion, which seeks to establish a totalitarian dictatorship in our homeland.

I receive the Presidency directly from the people, because democracy has triumphed and the Constitution prevails. Therefore, the Armed Forces are fulfilling their specific mission with upright discipline, changing the course of history, leaving behind the sad past when the Armed Forces were used as a tool of repression by the political groups who controlled power while the opposition that struggled for justice and freedom was subjugated.

For its part, my government will make efforts to promote a climate of security and confidence that will permit us, as a prior step, to begin as soon as possible a national dialogue among all democratic forces and majority sectors so that together we can draw up a formula of peace that will be the faithful reflection of the real feelings of the Salvadoran people and that will be vigorously supported so that no one can doubt that such a formula is a genuine decision and an expression of the will of all of the people and that should be turned into a common, energetic, and supreme effort capable to overcoming all obstacles and of achieving the great objective of peace. For this purpose, we will appeal to the law, international solidarity, patriotic responsibility, and, when circumstances demand, to the legitimate right of defense.

The social pact. When we told the Salvadoran people that we were convinced that there is indeed a solution for El Salvador, we were not speaking in vain, senselessly, or least of all, demagogically, because in the face of the grave problems confronted by our homeland, we Christian Democrats—faithfully following the democratic, pluralistic, and participational path—proposed a social pact to our people so that together we might establish a government that rules. In other words, we are proposing to them this government, which today comes into institutional life, committed to all Salvadorans, and unafraid of the judgment of history because it is legitimate, because it obtained political power through the correct path, because it will rule with the people, because it has men and women who are capable, prudent, honest, dedicated, intelligent, and basically gifted with the courage that the national situation demands to achieve our most cherished interests.

This social pact, the essential basis of our government plan, which was overwhelmingly ratified by our people in the most beautiful and exemplary democratic feat ever performed in Latin America, has been called upon to materialize in our history the participation marked by solidarity of all sectors of Salvadoran society so that, at last, together, without bitterness or fear, in a climate that leaves no room for distinctions of any kind, we may work together to achieve peace, full democracy, and social justice.

These in turn can offer us the common good and the participation of the majority, values for which these great Salvadoran people have always fought; values on which misguided, impatient, and frustrated sectors even claim to support themselves, and which they have used as the primary reason for their struggle to obtain by means of blind and irreconcilable violence that which we are achieving peacefully as a majority. Those sectors do not realize that they are being treacherously used to establish an all-embracing dictatorship at all levels of the social structure, a totalitarian and atheist dictatorship in which the human being is stripped of his most elemental rights. These minority sectors are joined by others which, also by means of terror, stubbornly seek to return to a system of privileges which no longer have either a place or a reason for being in this new and emerging society, which has been called upon to grow deep roots.

For this reason I urge both sectors to abandon their violent stands and adopt the social pact so that together we may create a suitable climate so the peasants, the workers, the artisans, the small businessmen, in short, the sectors traditionally excluded from economic, social, political, and cultural development in El Salvador, may find and enjoy the betterment they yearn for in their lives and their work and for their descendants. Only in this way can we overcome the crisis. Only in this way can we achieve peace, the peace for which the people voted bravely, the peace that the innermost recesses of our nationality claim, the peace that the people conceive of not as a mere absence of armed violence but as an environment resulting from a system where there is no room for structural violence based on anachronistic forms of participation in the economic, social, political, and cultural life of our country.

My government will promote the practice of democracy by encouraging the various political institutions to participate actively and with confidence in the activities inherent in the new, emerging pluralistic system, so that this system is not merely the result of rigid and vertical decisions made at the top and directed at the base of the social pyramid, but is instead the flexible and balanced result of an interrelation among the people, their political parties, and their government. To this end, my government will broadly encourage the free expression of ideas and the social and individual rights guaranteed in our Constitution.

Foreign policy. It is precisely here that the social pact goes beyond the homeland's frontiers because words can convince, but the example set by an entire people has impact, and the peace we long for and which we are sure we will obtain will go beyond the limits of the Paz and Goascoran Rivers, the Lempa and Torola Rivers. Like a valuable seed, it will have a firm and irreversible influence on the region because Central America, from the Usumacinta River to Darien, shares the ideals of both Bolivar and Morazan of facing the future together. For this reason my government, the first government freely elected by all Salvadorans in 50 years believes that it foreign policy must be both a reflection and a projection of its domestic policy. For this reason, we will respect the fundamental principles of international law that regulate the relations among civilized peoples, promoting a foreign policy characterized by total independence and the establishment of diplomatic and commercial relations with all countries, as long as this benefits our interests, as long as our principles are respected, and as long as this contributes to safeguarding our independence at all levels.

At the regional level, we now have all the moral solvency to endorse and give our support to the Contadora Group's efforts in the search for a political solution leading to levels of detente which smooth the way to peace, democracy, and social transformations with all the forces seeking these objectives.

Salvadoran people, in the election my party won 54 percent of the vote; in my government, in my administration, I intend to obtain the support of all, especially those who have not yet joined the democratic process. However, I will not disappoint my people to gain the support of the extremists on either side. Neither will I negotiate the mandate of my people to accept international assistance or the cooperation of any one country.

In 5 years, when I turn the presidency over to my successor, I aspire to have him receive a different country. I request your support and aid in these 5 years, which will be crucial. I ask you not to judge my government in advance or to deprive me of the chance to confront problems, because any delay may mean the death of a human being, the suffering of a mother, or the hunger of a child. The poverty and the problems are real, but together we can resolve them. The people's will elected me; their hope and faith will sustain me. When my people demand that I put an end to the death squads, to the violence, and to the foreign intervention, these demands are a challenge for me. I ask you to give me your support and strengthen our decision to work together, not apart. Let us all join the social pact. Let us seek the common points, let us plant the seed of faith, and we will harvest the fruits of democracy.●

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## ABOUT THOSE PAPAL TELEVISION SPOTS

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. HYDE. Mr. Speaker, a recent column by Michael Novak in the Washington Times regarding the Catholic bishops' use of a voice-over by Pope John Paul II in their dramatic television commercial abhorring nuclear weapons points out several important distortions and crucial omissions in the use of the Pope's statements on the subject. Mr. Novak points out that: "The glory of the Catholic tradition is moral realism, its prudence, its reasoned consideration of means." Unfortunately, in editing their spot, these virtues were left on the cutting room floor. I commend Mr. Novak's critique to the attention of my colleagues:

[From the Washington Times, June 5, 1984]

### About Those Papal Television Spots

(By Michael Novak)

The U.S. Catholic bishops have issued a television spot on nuclear weapons which rivals the spot that an embarrassed Lyndon Johnson speedily recalled in the election campaign of 1964. That anti-Goldwater spot showed a little girl and a mushroom cloud.

For 60 seconds, the new bishops spot pictures U.S. missiles and war-planes, scenes either taken from or very like those of ABC's *The Day After*, a little girl gathering flowers, a mushroom cloud. Over these scenes come the unmistakable voice of Pope John Paul II, expressing the "solemn wish" that nuclear weapons never be used.

That wish is common to every moral person. There is nothing unusual or new in what the pope says. Nonetheless, the pope's words are distorted in two important ways.

First, the United Nations address from which they are taken runs to 22 printed pages. The TV spot rips a few stark sentences from their context, dangerously oversimplifying the pope's teaching. One sentence comes from Page 11, another from Page 12, another from Page 21.

Crucial sentences are omitted. For example, from where is the war likely to start? What are the deep roots of war? On page 12, John Paul II dares to answer quite clearly ". . . the spirit of war, in its basic primordial meaning, springs up and grows to maturity where the inalienable rights of man are violated."

This crucial sentence would, in fairness, require comparative photos of the many large new nuclear weapons of the U.S.S.R., which dwarf in size those of the West. Comparative photos are absent. This sentence is absent.

Secondly, Pope John Paul II has sharply criticized pacifists and staunchly defended the present need for nuclear deterrence. One sentence on each point would have represented his realism. The Catholic bishops' spot ignores these crucial parts of his teaching.

A staff member for the U.S. bishops conference asserts that the pope's taped words were spoken at the United Nations in 1979, while President Carter was in office. In any case, the spot was not produced while President Carter was in office. It was not issued during the presidential election campaign of 1980. It has appeared only during the election campaign of 1984.

Nonetheless, like President Carter before him, President Reagan has eloquently spoken to the same point made by the pope: the "solemn wish" that such weapons never be exploded. Indeed, more than any president before him, President Reagan has proposed not only arms control talks but arms *reductions* talks. This is an important advance since 1979. Valid proposals sit today on the table in Geneva. As of June 1, the Soviets will have been away from the negotiating table for 163 days.

President Reagan has been obliged to negotiate, not with one, but with three Soviet leaders in just over three years: a failing Leonid Breshnev, an ill Yuri Andropov (who was incommunicado with terminal illness for nearly a year), and now Konstantin Chernenko. It takes two parties to negotiate.

The same staff spokesman for the bishops blandly told Channel 9 in Washington that the pope's words were addressed to all nations, not solely to the United States. Alas, as we have seen, the words used in this spot distort the full papal teaching.

But the pictures used in the spot do so more shamelessly still. Relentlessly, the photos display U.S. deterrent forces in high visibility. Purportedly, Soviet weapons are also shown; the viewer will have to strain to identify them.

Further, there is no hint in this spot that today's political impasse began in 1979, even as the pope was speaking, when the Soviets frightened Europe—and perhaps the pope—with the emplacement of large SS-20s aimed at European cities.

Thus do the U.S. bishops descend to crude propaganda, in the name of morality. The staff member rationalized that the purpose of the spot is moral, not political. Political circumstances, the timing, and the lineage of the Goldwater spot make that claim disingenuous. Moreover, the only moral question is how to prevent nuclear war. On this crucial moral point, the spot is silent.

The glory of the Catholic tradition is its moral realism, its prudence, its reasoned consideration of means. None of that tradition is represented in this spot.

The blatant appeal of this spot is anti-intellectual. It trivialized the moral realism of Pope John Paul II. It demeans the complex message of the U.S. Catholic bishop's own letter on nuclear war. It establishes a poor precedent for televised spots by religious leaders of any persuasion on any subject, by appealing to raw emotion and minimizing the role of reason.

If this were politics, it would be demagoguery. If it were morality, it would be crude emotionalism. If it were religion, it would be that of false fear and false guilt. If it were journalism, it would be universally denounced.

We may hope that the bishops will have the decency of Lyndon Johnson, who withdrew a similar spot 20 years ago.

(Michael Novak is a resident scholar at the American Enterprise Institute.)●

## THE 3-PERCENT MEDICAID PENALTY AND THE BURDEN ON THE STATES

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DOWNEY of New York. Mr. Speaker, for several years, State and local governments have been struggling under a serious burden imposed by the Reagan administration cost-cutters. In 1981 Federal funds for medicaid were reduced in order to encourage the States to cut their own medicaid costs. This medicaid penalty was to last for 3 years and should expire at the end of this fiscal year. But the President's fiscal year 1985 budget proposed to continue the medicaid penalty at 3 percent for another 3 years. This would have meant that the Federal Government would have contributed only 47 percent of the costs of a State medicaid program, instead of the 50 percent which was envisioned when medicaid began.

Fortunately, the first budget resolution which the House passed did not contain this onerous provision. The House restored the Federal Government's role as a full and equal partner in medicaid. However, as we go to conference on the budget, we find that the resolution passed in the other body contains the 3 percent penalty.

What will the continuation of the 3 percent medicaid penalty mean?

For the States it will mean an increased cost for medicaid programs of $562 million in fiscal year 1985, and a total loss of $1.3 billion for the 3 years it would be in effect. The State of New York would probably lose an estimated $79 million in the first year. New York City would have to pay out an additional $28 million in the first year, and $38 million in each of the following two years. Suffolk County, NY, would face an estimated increased cost for medicaid programs of $4.74 million. Needless to say this would present a great burden on the local county government.

In addition to the increased costs of medicaid programs, there would be other effects of continuing the penalty. Due to the penalty, medicaid programs at the State level were kept to low rates of growth over the past 3 years. The medical expenditure targets allowed for no real rates of growth to meet the increased need for services due to the sharp rise in the number of people living in poverty, due to the other budget cuts enacted in 1981. For example, the number of children reportedly living at or below the poverty level increased by 18 percent from fiscal year 1980 to fiscal year 1982, but the number of medicaid recipients grew by only 4 percent in this period. New York City officials estimate that 18,000 children lost medicaid eligibility in 1982 despite their need for medical assistance.

Mr. Speaker, medicaid is critically important for children. It is the largest public health program for children. Fifty-five cents of every public health dollar spent on children comes from the medicaid account. Babies born to mothers who receive medicaid services through pregnancy are 25 percent less likely to be low birth weight babies and therefore they require less hospital care after birth. If you want to save money, then maintaining medicaid may be the best way to do it. But as a result of the cut in Federal funds for medicaid the trend has been in the opposite direction. There has been less prenatal care, and it has been provided at a later stage in the pregnancy.

The 3-percent penalty was intended to encourage the States to reduce their own medicaid costs, and Mr. Speaker, the States have responded to that encouragement. Why penalize them any further? Between fiscal year 1981 and fiscal year 1983 State cost control initiatives have reduced medicaid cost increases to 13.8 percent. During the same time, costs in the federally administered medicare program increased by 34.5 percent. The States have attained better results in cost containment. They have had to work hard to do so, and they have had to restrict their services. People have suffered in the process. Despite these efforts, most States have not been able to meet fully the targets set in 1981 by the cost-cutters. It seems unreasonable to demand more by continuing the penalty, especially when compared to the Federal Government's own feeble record in the same area.

Mr. Speaker, today we should be beginning the Conference on the Budget Resolution with our colleagues in the other body, and of course the Conference on Reconciliation has been meeting for the past week. I strongly urge my fellow conferees to hold to the House position. State and local governments can no longer afford to pay the 3 percent medicaid penalty. They should not be asked to. It was a temporary, if costly, expedient. The States responded in good faith. They expected the penalty to end this year. And it should.●

## TO HONOR DR. V. NORSKOV OLSEN

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. LEWIS of California. Mr. Speaker, it is with great pride and feeling that I ask the Congress to join me, along with family, friends and colleagues, in honoring Dr. V. Norskov Olsen. On June 30, 1984, this truly remarkable man will retire from the presidency of Loma Linda University. As a distinguished theologian and church historian, Dr. Olsen has become a most valuable and effective administrator, creating a new image at the university by emphasizing "the spirit of the place."

In his youth, Dr Olsen intended to become a landscape gardener in his home city of Copenhagen, Denmark. He completed an apprenticeship and joined his father and his uncles in setting up a gardening business. After noticing his proficiency with the spoken word, a local conference minister convinced young Norskov to become a ministerial intern. Dr. Olsen went on to study for 4 years at Danish Junior College, and was later ordained—at that time he was the youngest man ever to be ordained in Europe.

Before joining the staff at England's Newbold College in 1954, this venerable humanitarian worked as a pastor and an evangelist, helping to organize several small Adventist churches while the armies of Germany scoured Europe. Taking a 1-year leave of absence to study at the Princeton Theological Seminary, Dr. Olsen returned to Newbold College as its president in 1960. He worked diligently toward strengthening the college's ties with the Adventist junior colleges in Europe as well as the theological seminary in the United States.

Dr. Olsen joined the faculty of Loma Linda University in 1966 after completing two doctorates; the first, at the University of London, the other, a doctor of theology degree, at the University of Basel in Switzerland. He was named chairman of the department of religion and later became dean of the college of arts and sciences. Then, in 1974, this respected educator was elected president of the university. Dr. Olsen's administration at Loma Linda has been based upon his own philosophical ideologies. He feels that discipline and development of purpose are as important to the learning process as is the mastery of the subject. This outstanding leader has successfully conveyed these ideals to his faculty; his words have been an inspiration to all who have heard them. This erudite scholar has worked to make Loma Linda University a Christian fellowship as well as a seat of great learning.

Mr. Speaker, I take great pride in commending to my colleagues Dr. V. Norskov Olsen, a remarkable gentleman, who has, through his dedication and his selfless years of hard work and careful planning, made an outstanding contribution to his community, the State, and the Nation.●

## THE WATER QUALITY RENEWAL ACT OF 1934

### HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. MINETA. Mr. Speaker, I would like to express my support for the efforts of the gentleman from Minnesota [Mr. OBERSTAR] to strengthen H.R. 3282, the Water Quality Renewal Act of 1984.

The bill reported out by the House Committee on Public Works and Transportation is a good first step toward renewing our Nation's commitment to the goal of fishable, swimmable waters. I am particularly pleased with the bays and estuaries program, "toxic hotspots" cleanup, nonpoint-source pollution control, construction grants, and the clean lakes program. Hard work and careful thought were put into this bill by Members, committee staff, and other interested parties, and I commend all these participants for bringing the Clean Water Act before the House.

Yet, there are several provisions in H.R. 3282 which weaken current law and which must be modified. I would like to see the House pass a strong bill this year, and, thus, I join Mr. OBERSTAR and other Members in recommending that the following sections be changed:

First, Ten-year permits: H.R. 3282 extends the term of industrial discharge permits from 5 to 10 years. In practical terms, this would freeze pollution control requirements for a decade. The current Clean Water Act allows the regulating agency when it issues permits to incorporate revised water quality standards, new sludge disposal requirements, and other improvements in a more timely manner than the 10-year provision proposed in H.R. 3282.

Second, Electroplater Deadlines: The electroplating industry is the first major industry facing toxic controls issued by EPA. Electroplaters are the largest industrial dischargers of toxic metals into sewage treatment plants, and they have had 5 years to comply with pretreatment standards. H.R. 3282 would extend their pretreatment deadline by at least another year, and thus unfairly penalize the many companies that have already complied or will comply in the next few months. Congressional treatment of this first standard sends an important message to all industries covered by the program. If Congress rewards those who defy the law, it will be harder to get voluntary compliance with other pretreatment standards.

Third, Integrated Facilities: Integrated facilities are dischargers which combine wastes from several separate industrial processes into one waste stream. These discharges typically include large amounts of toxic pollutants, including lead, chromium, cyanide, copper, and zinc. H.R. 3282 postpones compliance with the first pretreatment standard for these facilities for up to a year, and, in conjunction with the deadline extension for electroplaters, integrated facilities with electroplating processes will gain an extra year and a half to comply. The public health will continue to be threatened from exposure to toxics.

Fourth, Unreclaimed Mines: The committee-passed bill enables reopened unreclaimed mines to avoid pollution controls currently required under the Clean Water Act and the Surface Mining Control and Reclamation Act. H.R. 3282 specifies that only new wastewater must be treated to meet allowable effluent limitations. Mine operators would be free from the cleanup of nearly all their water pollution since it is virtually impossible to separate new effluent from the drainage caused by earlier mining of now-abandoned sites.

In addition to the four concerns mentioned above, there are several other provisions in H.R. 3282 which should be deleted or modified to make this reauthorization of the Clean Water Act the strongest possible bill. It is my deepest belief that H.R. 3282 must reflect a clear congressional intent to clean up water pollution.

The other areas which could use a second look are: Collector sewers, pretreatment for conventional pollutants, stormwater runoff, Alaska pulpmills, and protection for ground water from nonpoint source pollution.

Along with supporting these revisions to the clean water bill, I am developing an amendment to encourage EPA to issue testing standards for toxic pollutants. Many industrial dischargers who try to comply with effluent guidelines find themselves hindered by proposed test procedures which fluctuate and are inconsistent. My amendment would ensure that EPA acts quickly to publish standard testing requirements.

I urge my colleagues to join me in supporting a strengthening package of amendments to the Clean Water Act. As I mentioned, H.R. 3282 is a good first step, but it needs further refinement to ensure that the House pass effective legislation to protect the public health.●

## FRANKLIN RUNYON SOUSLEY MEMORIAL

### HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. HOPKINS. Mr. Speaker, I was honored on June 3, 1984, to participate in a ceremony honoring one of Kentucky's greatest World War II heroes.

U.S. Marine Corps PFC Franklin Runyon Sousley of Elizaville, KY, was one of the five marines and one Navy medical corpsmen who raised the American flag over Mount Suribachi on February 23, 1945, during the historic struggle for Iwo Jima. It was the famous photograph by Joe Rosenthal that captured and immortalized this historic moment and, of course, inspired the Marine Memorial here in Washington at the edge of Arlington National Cemetery.

Mr. Speaker, the ceremony in which I participated was to dedicate a 10-foot, 10-ton black marble memorial near the grave of Franklin Sousley that carries an inscription telling the story of Iwo Jima, a biography of Sousley, and a carving of the actual flag-raising scene. There will also be a clear vault adjacent to the monument that contains sand from the island of Iwo Jima. The memorial also carries the words of Adm. Chester W. Nimitz, describing the heroism during the fighting on this tiny Pacific island: "Uncommon valor was a common virtue."

Franklin Sousley entered the Marine Corps in January 1944 and, upon completion of training, was assigned to the 5th Marine Division. He sailed for Iwo Jima in January 1945 and landed with his company on February 19, 1945. It was, of course, on February 23, 1945, that the inspiring flag-raising event took place atop Mount Suribachi. While PFC Sousley survived the landing of the fight for Mount Suribachi, he was killed 1 month later during the fighting for Kitano Point on the northern end of Iwo Jima.

Sousley was first buried on Iwo Jima, but his body was returned to the United States in 1948 and interred in Elizaville in the family cemetery.

The honor we bestowed on this special day to a Kentucky native was very much the hard work and dedication of another Kentuckian, and a marine, Shirley T. White of Cynthiana, KY. MSG White is a member of the Marine Corps Reserve and serves as the training noncommissioned officer, 1st Military Police Company, 4th Service Support Group, 4th Marine Division, U.S. Marine Corps Reserve, in Lexington, KY.

MSG White told the story at the dedication ceremony of his initial visit to the small family cemetery some 4 miles southwest of Flemingsburg 2 years ago, searching for Sousley's grave. The grave was so difficult to find it was not until his third trip that Shirley White was able to locate it. He reported this final discovery was one of the most disappointing moments of his life, as he found marking this hero's final resting place only the original small, flat Veterans' Administration grave marker.

The result of that disappointing discovery was the first step that led to the dedication of the polished black monument on June 3. As MSG White said: "Being a member of the Marine Corps, I felt responsible for correcting this oversight."

To help make this a reality, MSG White created a nonprofit organization and raised $20,000. It is very much due to his hard work and dedication to the memory of a fellow marine that we owe a deep sense of gratitude.

Mr. Speaker, we were also very honored to have with us on this special day the mother of Franklin Sousley, Mrs. Goldie Price. Mrs. Price has been a lifelong resident of Fleming County, KY, and has played an active role in planning the monument that now honors her son and others who raised the flag over Iwo Jima. We are grateful to Mrs. Price for her cooperation and assistance in this long overdue effort.

Mr. Speaker, it was this young Kentuckian's silent message of courage, dedication, and devotion to country that inspired millions of Americans in World War II, and continues to be an inspiration to millions more today. I was honored to participate in this ceremony honoring this brave young marine who gave his life for his country and the freedoms we enjoy today.●

## A LITTLE BIT OF LIFE

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. HYDE. Mr. Speaker, I have read a lot of literature on the subject of abortion, but seldom have I encountered a more moving and effective example of excellent writing than the piece by Ann M. Ferguson, which I am pleased to share with my colleagues.

The article follows:

A LITTLE BIT OF LIFE

She is curled up and floats freely in her temporary home. She feels warmth and motion and is lulled through her senses. She is a fully formed miniature and her sex has been identifiable for two weeks. Complex systems such as cell structure, intricate ligament coordinates, and muscle tone for weight lifting and bearing have all been set into their lifetime pattern. They now need only enough time without any outside threat to develop their full potential.

The design for her future has already been drawn. She will be dark-haired, her eyes will be blue, her figure will be of average proportions, but she will be long-limbed and turn heads when she wears slacks or shorts. She will probably wear running shorts often; her bone structure, when combined with her metabolism and blood pressure, promises a coordination and stamina which will answer a track coach's prayer.

Her future is full of possibilities. Her background might propel her toward music or art. Or, if she leans more toward her paternal influences, she could follow medicine or the law. Her grandfather discovered a test which has saved lives for thirty years.

Her free-floating haven is suddenly invaded by a clear fluid; she convulses. Her perfectly-formed, miniature body writhes and twists at the burning contact with the saline solution. The haven has become a death chamber.

The white-coated man strips the rubber gloves from his hands and speaks to the woman. He tells her she should expel the tissue within two hours and can return home a short time later.

She asks him when she can start running again. He tells her next week and reminds her to see the cashier as she leaves.●

## MINORITY REPRESENTATION IN THE FEDERAL RESERVE SYSTEM

### HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. MITCHELL. Mr. Speaker, during the markup of the Federal Reserve Bank Directors Act of 1984, I expressed my concern over the lack of minority participation in the Federal Reserve System. I indicated that I could only think of one black who had served as chairman of a Federal Reserve Bank. After the markup of the bill, I received the following letter from Paul A. Volcker, Chairman of the Federal Reserve System.

DEAR PARREN: My staff brought to my attention the concern you expressed at the markup of the Federal Reserve Bank Directors Act of 1984 about representation of minorities on the Boards of Directors of the Federal Reserve Bank and Branches. I want you to know that the Federal Reserve Board takes very seriously its responsibility to ensure that minorities and women, which have been underrepresented in the past, are fully represented on the Boards of the Reserve Banks and their branches.

I was told your understanding is that there may be as few as one black on head office boards. In fact, there are six, and 17 on head office and branch boards together. Last year, you may recall, a black was chairman of the Richmond Bank. Other minorities and 28 women now serve on head office and branch boards.

I do not want to suggest we are satisfied. Our continuing policy is to expand the participation of minorities and women on Reserve Bank Boards. H.R. 5278, which would increase the number of Class C directors, will better enable us to expand the variety of backgrounds on the boards generally.

Of course, I was pleased to receive Chairman Volcker's correspondence. Like the Chairman, I am not satisfied, but I am happy to learn that some improvement has been made.●

## THE WORLD CHAMPION BOSTON CELTICS

### HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. BOLAND. Mr. Speaker, they've done it again, folks. Did anyone really doubt that they would? The Boston Celtics gained their 15th National Basketball Association [NBA] title last night, rewarding an ecstatic crowd in Boston Garden and proving once again that the enigma known as "Celtic Pride" is for real. This sense of pride goes much deeper than the players in the green and white; it goes deeper than Bird, Maxwell, Parish, Henderson, and Johnson. Its 18,000 fans packed into the second floor of a broken-down train station in 100-

degree heat. It's the sense of history behind the Boston Celtics, men like Bob Cousy and Bill Russell, John Havlicek and Tommy Heinsohn. It's the drive to excel before a Boston crowd and press which demands a winner.

There were many heroes in last night's 111-102 victory over the Los Angeles Lakers, a victory which continued a string of successes which the Celtics have enjoyed against the Lakers in the NBA finals. The performances of Gerald Henderson and Cedric Maxwell and the coaching skills of K.C. Jones immediately come to mind, but I think that most observers would agree that the man who meant the most to the Celtics last night, as he has all season, was Larry Bird. In my judgment, Larry Bird is the greatest player in the game today and his unanimous selection as the most valuable player in the playoffs was the crowning touch to an extraordinary year.

Mr. Speaker, the Celtics' championship season brought excitement to millions of fans who enjoy the game of basketball. For those of us from Massachusetts, the hoisting of the 15th NBA championship banner to the heights of Boston Garden has a special meaning, but I think that everyone who appreciates excellence in sports admires the way in which the title was won. I want to offer my congratulations to Red Auerbach, K.C. Jones, the players, and all of the members of the Celtic organization for their achievement.●

## MAKING THE SOVIETS REMEMBER

### HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. GINGRICH. Mr. Speaker, many people in Western Europe and America seem to have forgotten the Soviet atrocities of the recent past. The military takeovers of Hungary, Czechoslovakia, Poland, Afghanistan, and the shooting down of the Korean airliner wouldn't be forgotten, we told the Soviets. They have, however, been swept under the rug, even in the short time since the September 1983 shoot down of KAL 007, and it seems many Westerners are more comfortable ignoring the Soviet past.

Congressman ELLIOTT LEVITAS of Georgia has introduced legislation to make sure the latest Soviet outrage isn't forgotten soon. H.R. 5784 would rename the section of 16th Street in front of the Soviet Embassy here in Washington after Soviet dissident Andrei Sakharov and House Concurrent Resolution 317 would express the sense of the Congress that cities in the United States with Soviet diplomatic embassies or missions also rename the streets in front of the missions after the great Soviet dissident.

This will serve as a constant reminder to both the Soviets and the free people of the world of what Andrei Sakharov stands for: Peace, freedom, and human rights.

The Soviet Union has attempted to suppress one of its most decorated civilian heroes. Why? Because he has dared to reveal the horrors and abuses imposed by the Soviet Government upon their own people.

He has also been outspoken in his opposition to the Soviet military buildup and Soviet actions in the rest of the world. Regardless of Mr. Sakharov's present condition, which no one has been able to confirm, there is a definite need to remind the world of how the Soviet Union treats its citizens.

Mr. Sakharov isn't an average citizen, however. He was awarded the Nobel Peace Prize in 1975, but the Soviets consider him a traitor for his peaceful views.

The Sakharov tragedy reveals a lot about the Soviet rulers and how they treat their people. If the Soviets can't trust or convince their people, how good can their word be in international agreements? Before making peace with the world, they first must make peace with their own people.

After every Soviet outrage, there are the typical denunciations of the Soviet Union. But these are at best short lived and quickly forgotten. This time it must be different.

I urge my colleagues to cosponsor H.R. 5784 and House Concurrent Resolution 317. "Andrei Sakharov Avenues" will force the Soviets, both in the embassies and in the Soviet Union, to constantly see that we won't forget Andrei Sakharov.●

## A TRIBUTE TO THE PACOIMA COMMUNITY YOUTH CULTURE CENTER INC.

### HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. BERMAN. Mr. Speaker, I would like to commend the Pacoima Community Youth Culture Center, Inc., for its service to young people and its contributions to the community.

The center was founded in 1977 by Mrs. Jane McGlory with help from Vera Oden as an extension of the Pacoima Choir. Inspired by the death of Mrs. McGlory's son, who died of a drug overdose, the center's initial objective was to divert youngsters from drugs and to provide a positive alternative to those who had been resorting to "street crime" as a way of life. Within a year of its establishment, the center's all volunteer staff and its newly created board of directors expanded the operation to include music education, a theater and drama workshop, a health and nutrition program, youth Christian services, sports and recreation, arts and crafts, social and community services, and counseling and referral.

While continuing to provide assistance in its original areas, the center has developed a series of additional programs: Job development, community awareness and involvement and others. Beginning next year, the center will present its first scholarship, the William C. Thompson III Memorial Scholarship, in memory of Mrs. McGlory's late son.

I applaud the center for its commitment to the needs of young people and its invaluable service to the community, and I wish them continued success in the years ahead.●

## IN HONOR OF BURTON A. GREGORY'S 80TH BIRTHDAY

### HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. MOODY. Mr. Speaker, on June 20, 1984, Burton A. Gregory of Orlando, FL, will be 80 years young. People just meeting "Burt" for the first time are surprised at his age, because he looks to be more around 65 to 70 years of age. If you ask him how he remains looking so young, he will respond, "by working so hard all of my life." Burt's philosophy is: "A working body will remain fit and healthy longer than a lazy body."

Burt was born in Shelby, NY, on June 20, 1904. He is the son of Rice and Henrietta Gregory of Medina, NY. Burt's ancestors came to America from England in 1633 and settled in Vermont. In the early 1800's, as pioneers they migrated to western New York. Being the only son of four children, Burt worked hard during his childhood helping his father run the family farm. His father, being a strict disciplinarian, taught him the value of working hard for what you want.

Burt bought his own farm in 1938, and, when he married the lovely Gertrude "Gert" Bell of Albion, NY, she joined him on the farm. Burt worked hard on his farm, with the help of his faithful and loving wife and five daughters, Sandy, Millie, Tricia, Judy, and Bonnie. It was a hard life, working from sunup to sundown, but Burt never complained as it was his farm and he loved the work.

In 1950 Burt started taking his family to Florida for a vacation during the winter, and in 1951 he bought a vacation home where they could spend the winter months in Florida. This started a procession of purchases until

Burt owned 14 homes in Florida. He would work the farm in the summer and maintain his houses in the winter. After all of his daughters grew up and left home, Burt sold the farm and devoted his time to taking care of his Florida houses and to being a landlord. Burt and Gert maintained their houses themselves, painting inside and out, repairing roofs, repairing plumbing and carpentry work, and everything else needed to keep them in good shape. The neighbors thought nothing of seeing Burt, even at age 76, hard at work on the roof of one of his houses. In 1981, Burt and Gert sold their rental properties and now only take care of their beautiful home on Rock Lake in Orlando, FL. But, even now, if you pass their home you may see Burt up on the roof hard at work.

We all join Burt's loved ones and friends in wishing him many more years of good health and happiness.●

## TAX REFORM WITHOUT OIL AND GAS REFORMS: AN IMPOSSIBILITY

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. STARK. Mr. Speaker, this morning's papers report that Treasury Secretary Donald Regan has given hints that the administration's tax reform proposals will not propose the elimination of the extraordinary tax breaks for the oil and gas industries.

Tax reform without major reforms in oil and gas is like a sandwich without bread.

It is a contradiction in terms. Calling something tax reform which does not touch oil and gas is as absurd as the term "rightwing intellectual."

Any administration plan which starts by throwing out reform of oil and gas won't be worth the paper it is written on. Not only is oil being depleted, but trust in the Nation's tax system will be depleted if we do not include oil, gas, and all other sectors in a comprehensive reform of the tax laws.●

## MORRICE, MI'S 100TH ANNIVERSARY CELEBRATION

### HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. CARR. Mr. Speaker, on June 15, 16, and 17, the village of Morrice in Shiawassee County, MI., will celebrate the 100th anniversary of its incorporation.

Morrice was platted in 1877, and by 1880 had a population of about 250, a flour mill, stave and heading factory, two hotels, a hardware and implement store, and a general store. There was a railroad depot on the Chicago & Port Huron Railroad in Morrice at that time. A century later, in 1980, 733 people lived in the village.

In 1884, 23 votes were cast in Morrice's first election, in which Dr. H. P. Halsted was elected village president, and the village's expenses in its first year amounted to $223. Telephones were first installed by Jasper Cady in 1903, and electric lights were introduced in 1906. In its early years, Morrice boasted four churches, representing the Catholic, Presbyterian, Baptist, and Methodist denominations.

Mr. Speaker, I know that you and all my colleagues in the U.S. House of Representatives join me in sending the people of Morrice, MI, my best wishes for the celebration of the centennial of the village, and for many future years of prosperity and happiness.●

## H.R. 5081

### HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. FEIGHAN. Mr. Speaker, yesterday the International Trade Commission made an important decision for the American steel industry, American workers, and the American economy.

By affirming the fact that the dumping of foreign steel is a major cause for the decay of our own steel industry, the ITC has taken a major step forward in the fight to rebuild the U.S. steel industry and revitalize the U.S. economy.

The next step is to resolve the question of what remedy is needed. I suggest immediate passage of the Fair Trade in Steel Act of 1984. By establishing quotas that limit steel imports to 15 percent of the domestic market for 5 years, this bill will give our domestic industry time to generate capital and modernize its facilities. It doesn't legislate long-term protectionism, but it does give a temporary respite to the steel industry. And it sends a clear signal to foreign companies that are flooding our market with cut-rate steel.

The ITC has determined that these practices are unfair. It's time for Congress to put some teeth into that ruling by passing H.R. 5081.●

## CONGRESSIONAL COMMITTEE CHAIRMEN FROM SOUTH DAKOTA, 1889-1913

### HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DASCHLE. Mr. Speaker, I insert the following paper by Dr. Philip Grant of Pace University entitled "Congressional Committee Chairmen from South Dakota, 1889-1913" in the CONGRESSIONAL RECORD:

On November 2, 1889, South Dakota was admitted as the 40th State of the Union. Between the ratification of statehood on that date and the formal adjournment of the 62d Congress on March 4, 1913, the Nation was destined to address itself to a substantial number and wide variety of serious domestic and foreign policy questions. Among the major domestic issues were railroad regulation, the protective tariff, conservation of natural resources, dissolution of monopolies, the severe hardships occasioned by the panics of 1893 and 1907, the conferring of statehood on eight additional territories, and the spirited deliberations over adoption of the 16th (Income Tax) and 17th (Direct Election of Senators) amendments to the Constitution. The principal international issues included Hawaiian annexation, American participation in the Spanish-American War, acquisition of Puerto Rico and the Philippine Islands, and the diplomatic negotiations culminating in the construction of the Panama Canal.

During the 23 years and 4 months between November 1889 and March 1913 the various members of the House of Representatives and U.S. Senate from South Dakota, like their colleagues from other States throughout the country, were vested with the responsibility of attempting to settle the numerous problems confronting the Nation. Seven of these gentlemen were designated as chairmen of standing committees of Congress between 1889 and 1913.

Four illustrious South Dakotans occupying chairmanships of committees between the attainment of statehood and 1913 were John A. Pickler of Faulkton, Charles H. Burke of Pierre, Albert B. Kittredge of Sioux Falls, and Robert J. Gamble of Yankton. Pickler, Burke, Kittredge, and Gamble enjoyed the obvious advantage of being associated with the political party which dominated the legislative and executive branches of the National Government throughout nearly all of the eventful period from 1889 to 1913.

Pickler had served his political apprenticeship in the Dakota Territorial Legislature. Elected as one of South Dakota's two Congressmen at Large in

November 1889, he was reelected to three additional terms and had the distinction of polling the highest number of votes of any statewide candidate in 1890 and 1892. Pickler was chairman of the Committee on Invalid Pensions between 1895 and 1897, a responsibility which involved investigating the legitimacy of numerous disability claims of private citizens for financial compensation from the Federal Government.

Burke launched his tenure in public service as a member of the South Dakota House of Representatives in 1895. He was elected to the first of seven terms in Congress in 1898. Burke was chairman of the House Committee on Indian Affairs between 1909 and 1911. In 1906 he authored the Indian Reorganization (Burke) Act, a landmark statute profoundly affecting the welfare of the various Indian tribes. Burke climaxed his active political career as the Republican nominee for the U.S. Senate in 1914. In 1921 he was appointed by President Warren G. Harding as Commissioner of Indian Affairs, in which capacity he continued until the administration of President Herbert Hoover.

Kittredge spent 12 years in the South Dakota Senate before his appointment in 1901 to fill an unexpired term in the U.S. Senate. During his 8 years in the Senate he chaired the Select Committee on Standards, Weights, and Measures (1901-03), the Committee on Patents (1903-07), and the Committee on Interoceanic Canals (1907-09). Particularly interested in Central America and the Caribbean, Kittredge between 1906 and 1909 was one of the Senators most conspicuously involved in urging legislation to expedite completion of the Panama Canal.

Gamble was a member of one of South Dakota's pioneer political families. Prior to becoming a candidate for Congress, he had been district attorney for the Second Judicial District of Dakota Territory and a member of the territorial council. Gamble served in the House of Representatives from 1895 to 1897 and 1899 to 1901. During the latter 2 years he was chairman of the Committee on Expenditures on Public Buildings. In 1901 Gamble voluntarily relinquished his seat in the House and was elected to the first of two terms in the U.S. Senate. While in the Senate, he presided over the Committees on Indian Depredations (1901-03), Transportation Routes to the Seaboard (1903-09), Enrolled Bills (1909-11), and Indian Affairs (1911-13).

Three other individuals from South Dakota who chaired committees in Congress during the years from 1889 to 1913 were Senators James H. Kyle of Aberdeen, Richard F. Pettigrew of Sioux Falls, and Coe I. Crawford of Huron. Kyle, Pettigrew, and Crawford were both formidable political figures and diligent legislators.

A former member of the State senate, Kyle served in the Senate from 1891 to 1901. During his first Senate term, he authored the bill designating Labor Day as a Federal holiday. Kyle was chairman of the Committee on Education and Labor, 1897-1901. He was also chairman of the National Industrial Commission between 1898 and 1901, a panel established by Congress to initiate a detailed investigation of the multitude of economic problems plaguing the Nation at the end of the 19th century. In the summer of 1901 Kyle became the first South Dakota Senator to die in office.

Prior to the realization of statehood, Pettigrew served both in the Territorial House of Representatives and the Territorial Council as well as Dakota's Delegate in Congress. Pettigrew, entering the Senate immediately after South Dakota became a State, was chairman of the Committee on Indian Affairs, 1895-1899, and the Select Committee on the Transportation and Sale of Meat Products, 1899-1901. Although ostensibly a Republican, he constantly dissented from the programs advocated by presidents of his party. Harshly critical of the currency policies of President William McKinley, Pettigrew ardently supported a free silver plank at the 1896 Republican National Convention and bitterly denounced the Gold Standard Act of 1900. He also emerged as an outspoken leader of the anti-imperialist bloc in Congress, opposing the annexation of the Hawaiian Islands, the acquisition of the Philippines, and the establishment of an American protectorate over Cuba.

Crawford began his public career as prosecuting attorney of Hughes County, after which he served successively in the Territorial Council, the State Senate, and as Attorney General. In 1906 he was elected Governor, defeating his Democratic opponent by a 48,709 to 19,923 margin. After one term as South Dakota's chief executive, Crawford was elected to the U.S. Senate. He was chairman of the Committee on Expenditures in the Department of the Interior, 1909-1911, and the Committee on Claims, 1911-1913. Closely aligned with Senator Robert M. LaFollettee of Wisconsin, Crawford firmly opposed the tariff and conservation policies of President William Howard Taft and strongly favored the Federal income tax, the direct election of U.S. Senators, the establishment of a postal savings system, and comprehensive regulation of the railroads.

Between 1889 and 1913 not a single South Dakota congressmen served more than 12 consecutive years in either the Senate or House of Representatives. Unlike the neighboring States of North Dakota, Minnesota, Iowa, and Nebraska, the South Dakota electorate denied its congressman the opportunity to accumulate sufficient longevity to attain positions of prominence and power. Among the Senators from these contiguous States who served a minimum of four terms were Porter J. McCumber of South Dakota, Knute Nelson of Minnesota, and William B. Allison of Iowa. These gentlemen were to be chairmen of the Committees on Finance, Appropriations, and the Judiciary. As in the Senate, South Dakota's Members of the House generally lacked the seniority to wield influence. Elected to at least 10 terms were such individuals from nearby States as Representatives Andrew G. Volstead of Minnesota, Gilbert N. Haugen of Iowa, and Moses P. Kinkaid of Nebraska. Volstead chaired the House Committee on the Judiciary, while Haugen and Kinkaid respectively presided over the Committees on Agriculture and the Committee on Irrigation of Arid Lands.

Although South Dakota was supposedly a Republican State between 1889 and 1913, the leaders of the Republican Party were often perplexed by the State's unpredictable political behavior. In 1892 South Dakota cast 37.8 percent of its vote for the Populist Presidential candidate, a somewhat eccentric gentleman who ran on a platform construed as radical by the standards of the late 19th century. Four years later South Dakota not only voted for Democrat Williams Jennings Bryan, but also elected a Populist Governor and two Populists to Congress. Finally, in 1912 South Dakota was the only State in the Nation where Theodore Roosevelt, the nominee of the Progressive ("Bull Moose") Party, actually received a majority of the ballots. In addition to these defections from the Republican Party in Presidential contests, three of South Dakota's Congressmen were frequently antagonistic to Republican policies. Kyle, initially elected to the Senate by a coalition of Populists and Republicans in the Legislature, was openly sympathetic to Populist ideas throughout the first half of his decade in Congress. Probably the most independent Member of the Senate, Pettigrew eventually affiliated with the Democrats. Crawford was nearly always at odds with his regular Republican colleagues on Capitol Hill. Considering that South Dakota's attachment to the Republican Party was so tenuous, it should not have been especially surprising that certain of its Congressmen were not rewarded with choice committee assignments.

The seven South Dakotans who chaired committees of Congress between 1889 and 1913 were spokesmen for a State which had been an integral part of the American frontier. While serving at different intervals and disagreeing in political philosophy, these gentlemen compiled admirable records in public life. Although comparatively small in population, South Dakota produced a respectable number of committee chairmen during its first quarter century of statehood.●

## ADVISORY COUNCIL OF RELIGIOUS RIGHTS IN EASTERN EUROPE AND THE SOVIET UNION

### HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

*Wednesday, June 13, 1984*

● Mr. MATHIAS. Mr. President, the recent ordeal of Andrei Sakharov and his wife, Elena Bonner, reminds us of the obligation which we all have to speak out for the protection of human rights around the world. Over the years they have shown, through their courage and determination, that even the most powerful nations can be held accountable by its citizens. As one of their friends, Lev Kopelev, observed, Sakharov has demonstrated "how one man—one very ill, very weak man, who has already had two heart seizures, a very modest man, a very calm man—can be stronger than this superpower, with all its millions of soldiers and hundreds of thousands of policemen and millions of party members . . ."

Recently a unique organization was founded by the distinguished Senator from Illinois, the chairman of the Senate Foreign Relations Committee, Mr. PERCY, to underline the commitment of both public and private U.S. citizens to this cause. The group is known as the Advisory Council on Religious Rights in Eastern Europe and the Soviet Union, and its other founders include two former Presidents, Gerald Ford and Jimmy Carter, and four former Secretaries of State, Dean Rusk, William Rogers, Cyrus Vance, and Alexander Haig, Jr.

It was my privilege to transmit to the meeting of the North Atlantic Assembly last month, a statement by Senator PERCY which both describes the work of the Advisory Council, and articulates the importance of such collective efforts. As one who has been deeply committed to the promotion of human rights for many years, his words are of special significance.

Mr. President, I ask that Senator PERCY's statement for the North Atlantic Assembly, be printed in the RECORD.

The statement follows:

### RELIGIOUS RIGHTS IN EASTERN EUROPE AND THE SOVIET UNION

(By Senator Charles H. Percy)

My fellow parliamentarians, I ask your indulgence as I seek to focus attention on a serious problem which concerns us all—the difficult and worsening situation for religious believers in Eastern Europe and the Soviet Union.

The right of the individual to follow the dictates of his or her own conscience in the free practice of religion rests at the heart of the American democratic tradition. Thomas Jefferson, an early champion of freedom of religion in the United States, said in 1807:

"Among the most inestimable of our blessings is that of liberty to worship our Creator in the way we think most agreeable to His will; a liberty deemed in other countries incompatible with good government and yet proved by our experience to be its best support."

In the Western world, we recognize that the individual possesses certain inherent and inalienable rights, and our systems of government exist to protect those rights. We believe that all people—whether they live in the free world or in Eastern Europe and the Soviet Union—possess the inalienable right to religious freedom, and we know that international law affirms our position.

In November of last year, I held a Senate hearing in Chicago, Illinois, on the protection and promotion of human rights in Eastern Europe and the Soviet Union. At that time, ten experts on the topic testified before the Senate Foreign Relations Committee and expressed their concern about the systematic abuse of religious rights in Eastern Europe and the Soviet Union. I sent a copy of that hearing record to the Ambassador of each member nation of the North Atlantic Assembly, and I appreciated the letters of support which I received in response. As many of your Ambassadors stated upon reading the printed hearing record, the protection and promotion of human and religious rights is a top priority for our governments, and a cooperative éffort is essential in order for our endeavors to have their maximum impact.

Following that hearing, I conducted the inaugural meeting of the Advisory Council on Religious Rights in Eastern Europe and the Soviet Union, a group I founded together with former Presidents Ford and Carter and former Secretaries of State Dean Rusk, William Rogers, Cyrus Vance and Alexander Haig, Jr. The members of the Advisory Council are mostly from my state of Illinois where there is a deeply felt interest in religious rights in Eastern Europe and the Soviet Union. I believe that not only parliamentarians must join together, but also private citizens, religious leaders, and former political leaders who still carry clout in their own countries. Such collective efforts are intended to demonstrate to the governments of Eastern Europe and the U.S.S.R. that our commitment to greater religious freedom is interfaith, bipartisan and enduring.

In a world where nations have openly pledged to respect their international commitments, emigration must be freely permitted and so must be the right to practice religion. Sadly, the world situation today is far different. The human rights situation in the Soviet Union is by all accounts worse today than at any time in the past decade, and the rights of religious believers in many countries of Eastern Europe are seriously curtailed.

The emigration of Soviet Jews and other national minorities, including ethnic Germans and Armenians, is dangerously low so that only a handful is allowed to emigrate. Some famous cases of Soviet Jewish prisoners of conscience are well known in the United States. Individuals such as Anatoliy Shcharansky, who recently passed the midpoint of his ordeal, Ida Nudel, Alexander Paritsky, Iosef Begun, and others have won sympathy and support in the court of world opinion. Other lesser known cases, such as that of Oleg Radzinsky who has suffered in prisons and a psychiatric institution since he was denied permission to emigrate to Israel in 1979, exemplify the plight of many Soviet Jews who apply for exit visas. Only 1,315 Jews were allowed to join their families outside the Soviet Union in 1983, a dramatic decrease from the 34,758 who emigrated only ten years earlier and the 51,000 of five years ago.

Other religious groups in the Soviet Union also experience severe hardship. The Baptist Times of March 1, 1984, has reported that several leading Baptists have been sentenced to new terms of confinement in camps before the completion of their original terms. Those receiving the added terms are members of the Council of Churches of Evangelical Christians-Baptists, the umbrella organization for unregistered Baptists in the Soviet Union.

Soviet Pentecostals also receive particularly harsh treatment, and Russian Orthodox believers are inhibited from free practice of their faith. Sergei Khodorovich, the chief administrator of the Russian Social Fund which gives aid to the destitute families of those who have been imprisoned for their beliefs, is now suffering harsh treatment in prison for his actions. Also, Anatoly Michelson, age 65, a former Soviet citizen currently living in the U.S., has sought for 27 years without success to bring his wife and daughter to the United States to join him. That is the longest such family separation in American history.

In the Baltic States, where the struggle for human rights is associated with mass nationalistic and religious aspirations, the Soviets have repressed religious believers. In Lithuania, the persecution of Catholic priests is increasing. The leaders of the Catholic Committee for the Defense of Believers' Rights, Rev. Alfonsas Svarinskas and Rev. Sigitas Tamkevicius, were both tried and sentenced to long prison terms last year.

Balys Gajauskas, a 57-year-old Roman Catholic veteran of anti-Soviet resistance in Lithuania, who had served 25 years in a Soviet labor camp by 1973, was rearrested in 1977. He was subsequently sentenced one year later to ten years in a strict regime labor camp, to be followed by five years of internal exile, and he currently suffers from deteriorating health.

Vytautas Skuodis, a Chicagoan by birth and a committed Roman Catholic, was tried in December 1980 and sentenced to seven years in a labor camp and five years' exile for his work in support of the Lithuanian national and religious movement, and his membership in the Catholic Committee for the Defense of Believers' Rights in Lithuania and the Lithuanian Helsinki monitoring group.

In Estonia and Latvia abuses continue as well. Lidija Lasmane-Doronina, a Latvian nurse and Baptist activist, who has served several terms in camps and prisons for nationalist activities and possession and dissemination of samizdat poetry, was sentenced to five years in a labor camp and three years of internal exile for "anti-Soviet agitation and propaganda," following a nine-day trial last September.

In Eastern Europe, the situation for religious believers varies from country to country, but problems exist in all. The situation in Czechoslovakia is worsening with respect to the churches. In particular, the Government of Czechoslovakia has refused to reach an agreement with the Vatican on filling the vacant bishoprics of the Roman Catholic Church in Czech and Slovak dioceses. In recent weeks, Cardinal Tomasek has taken a more vocal, active stance in defense of the rights of Roman Catholics.

In Romania, the government has on several occasions made gestures toward greater respect for religious rights and then has retracted the promises and cracked down on religious believers. Baptists are particularly harassed and their religious rights are seriously restricted. Many of the two million ethnic Hungarians, most of whom are Catholic and Hungarian Reformed believers, desire more religious opportunities. While emigration is permitted in numbers, still there are many more religious believers in Romania who would like the opportunity to emigrate.

In Poland, religious fervor is as strong as ever, as religious believers struggle against government suppression. The recent battle to allow crucifixes in the schools, and the public opposition to the transfer of popular priests from their parishes to rural areas, demonstrate the depth of religious feeling with which the Polish Government must contend.

Although the constitutions of the Warsaw Pact states provide for freedom of religion both for the individual and for religious groups or sects, in practice the laws of these states are highly restrictive. Religious groups are not provided legal recognition, and religious repression exists throughout Eastern Europe.

While this brief overview points out only a few of the many problems experienced by religious believers in Eastern Europe and the Soviet Union, it is clear that the situation is very serious and demands our constant attention and collective action.

The Committee on Education, Cultural Affairs and Information of the North Atlantic Assembly has demonstrated its concern for the violation of human rights in the East, and every effort which this Committee has made to publicise the plight of religious groups there has served an extremely important purpose. I thank you for this opportunity to address you and to convey my concerns and those of religious leaders in the United States.

In each of the cases that I have mentioned—the plight of Jews and Christians in the Soviet Union, the harassment of Lithuanian Catholics and other Baltic believers, and the suppression of religious belivers in Czechoslovakia, Romania and Poland—I urge you as fellow parliamentarians to continue to make your own appeals. I hope that you would consider the specific cases which I mentioned today in making future appeals to the governments of Eastern Europe and the Soviet Union. Of course, there are many more who must be remembered. I urge you to raise these and other cases in your own parliaments, to consider interfaith efforts as well as joint government and private sector programs, and to continue raising religious rights concerns at every opportunity in your committee and in every appropriate international forum. I hope that you will perserve in this fight.

In the United States Senate—together with my colleague and senior Democrat on the Foreign Relations Committee, Senator Claiborne Pell—I have introduced a resolution concerning the infringments of religious freedom by the Governments of the Warsaw Pact states. The resolution cites the several international agreements to which the Warsaw Pact states are signatories which provide guarantees for religious freedom. These include the Universal Declaration of Human Rights, adopted by the U.N. General Assembly in 1948, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the same body in 1981, and the Final Act of the Conference on Security and Cooperation in Europe. We must continue to point out the failure of the governments of Eastern Europe and the Soviet Union to live up to these agreements, and, on this score, we must work together in the United Nations and in the Conference on Security and Cooperation in Europe.

If the deplorable religious rights record of these countries is raised constantly and made known to a wider audience in the United States, in Western Europe, in the peace movements and among the socialist and communist parties of the West, perhaps we will have some impact. In the case of emigration from the Soviet Union, the Soviet government may find that the embarrassment to their leadership and to their international standing is not worth the benefits which they believe flow from their restrictive policies. Indeed, constant monitoring and private and public appeals seem to be the only levers available for the near future. There is strength in numbers, and together we can present a strong front in the struggle for human rights.

On behalf of all those who are denied their religious rights everywhere, I commend your own diligent efforts in this important area.●

## THE CALL FOR SOVIET NEGOTIATIONS

### HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DASCHLE. Mr. Speaker, this morning's news reports carry, on the one hand, a message of hope for the future but, on the other hand, some discouraging news as well. The hopeful news is that senior leaders of the Republican Party have realized that ignoring a problem simply won't make it go away. As a consequence, they have taken a constructive, courageous step in making a public plea that the President put aside his reluctance to meet with the Soviet leadership, if for no other reason, as one of the parties to the request said, than to find if there isn't some way to avoid blowing all of us up. I commend these leaders for their sensible, nonpartisan step.

At the same time, Mr. Speaker, I am discouraged by the administration's absolute refusal to honor this request, generated from the leadership of its own party. The current President is the only one since the end of World War II who has not even seen fit to meet with our most powerful adversary, to seek out methods whereby coexistence, if not friendship, can be maintained. This continual lack of willingness to meet and talk makes it more and more difficult to attain any movement at all on substantive tension-easing actions.

Mr. Speaker, this administration is fond of quoting President Kennedy in defense of some of its policies. In that light, I would call to its attention one other quote of the late President's—"We must never negotiate out of fear, but we must never fear to negotiate." It is my sincere hope that the administration will rethink its position, and agree to the request of its own party leaders.●

## DON'T RULE OUT LOWER TAXES

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. PAUL. Mr. Speaker, in the Washington Post this morning, Secretary Donald Regan indicates that the administration has ruled out a flat-rate income tax. Secretary Regan calls the flat-rate tax a snare and a delusion that is both unfair and inefficient. Despite such a stinging indictment, Treasury Department aides said that the Secretary didn't mean he or the administration were against a flat tax.

While one would hope the administration would indeed be against a reform it considered unfair and inefficient, the most likely conclusion regarding the Secretary's remarks is that he doesn't understand the concept of a low, flat-rate income tax. Such a proposal can hardly be called unfair and inefficient, especially compared to the current madness.

The advantages of a low flat-rate income tax ar twofold. It applies the same rate to all citizens and is thus consistent with the principles of equal treatment under the law. It also enables Americans to retain a greater portion of their earnings, by reducing revenues ot Government and forcing cuts in spending. The latter, of course, can only be achieved with a rate of 10 percent or less. Our current system, as well as the Bradley-Gephardt proposal, violates the principle of equal treatment.

The current system of confiscatory rates which enables Government to take from those who produce and earn, in order to redistribute to a bureaucracy and special interests, reaches the heights of unfairness. And while it may be efficient for Congressmen and proponents of a welfare-warfare state, it certainly causes tremendous distortions in the economy and in individual lives. There is no such thing as a neutral tax, but a lower tax comes closer than a higher tax, and a tax with no deductions causes less distortion than a system with myriad exemptions and credits.

The reform the American people are demanding is tax reduction. They would much prefer a complex system with low rates, to a simple one with high tax rates. I urge my colleagues to support an equal rate, a low tax rate, and a simple system. While this would require restoring limits on Government's role in the lives of the American people, it would be a big step toward guaranteeing that future generations live in a free society.

I remind my colleagues of a statement by 19th century economist J. R. McCulloch, who warned:

> The moment you abandon the cardinal principle of exacting from all individuals the same proportion of their income or of their property, you are at sea without a rudder or compass, and there is no amount of injustice or folly you may not commit.

We have certainly committed much injustice and folly since 1913, with tax rates going as high as 91 percent. But certainly a free and decent society such as ours is meant to be can begin restoring limits on the power to tax. The desire for fairness and efficiency demands it.●

## KAZUO TAKECHI HONORED

### HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. DAUB. Mr. Speaker, Mr. Kazuo Takechi of Omaha, NE, has been awarded the prestigious Fifth Class of the Order of the Sacred Treasure by the Government of Japan for his distinguished contributions to the promotion of friendship and deepened understanding between Japan and the United States. The award also recognizes his protection of the rights and interests of Japanese and Americans of Japanese descent.

The Order of the Sacred Treasure is conferred twice a year by His Majesty, the Emperor of Japan, upon a foreign or Japanese individual who has rendered extraordinary service toward the promotion of closer friendship and bonds between Japan and a foreign nation.

Mr. Takechi was born in Kochi, Japan, in 1913 and emigrated to the United States in 1930. He is a founding member of the Japanese American Citizens League, adviser to the Omaha Sister City Association, an honorary member of the Omaha Chapter of Ikebana International, the Committee on Foreign Relations, and the Downtown Rotary Club in Omaha.

He is also one of Omaha's most respected and admired businessmen, and it is a distinct privilege for me to take this opportunity to share his exceptional achievement with my colleagues.●

## ANOTHER HONOR FOR DR. A.G. GASTON

### HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. ERDREICH. Mr. Speaker, I would like to call to the attention of my colleagues in Congress a company in the Sixth District of Alabama, which I represent, whose outstanding record, both in business and civic responsibility, has earned it a citation by Black Enterprise magazine as Insurance Company of the Year.

The Booker T. Washington Insurance Co., one of the oldest black-owned savings and loan institutions in the Nation, grew from a fledgling family-run burial company in Birmingham over 60 years ago to a multimillion dollar enterprise with 14 offices throughout the State of Alabama with assets of almost $25 million.

The founder of the Booker T. Washington Insurance Co., Dr. Arthur George Gaston, better known as "A.G.," has become somewhat of a legend in Alabama. A.G., who will be 93 years old on the Fourth of July, still oversees the daily operations of his business empire, and has steadfastly maintained his company's philosophy of sharing with the community. The company has invested its assets in eight other service-oriented businesses, including Smith & Gaston Funeral Services, the A.G. Gaston Home for Senior Citizens, A.G. Gaston Gardens, a 75-unit apartment complex for the elderly and handicapped, Citizens Federal Savings and Loan Association, the eighth largest black-owned savings and loan in the Nation, the Booker T. Washington Fire Insurance Co., the Booker T. Washington Broadcasting Co., the Vulcan Realty and Investment Corp., and the Booker T. Washington Business College, which offers clerical and business administration courses.

In addition, the Booker T. Washington Insurance Co. has helped finance the construction and renovation of many black churches in the Birmingham area, made major annual contributions to black colleges in Alabama, and was a major contributor during the drive to start an affiliate of the Boys Club of America in Birmingham.

A.G. Gaston has been a pioneer, philanthropist and activist in the community he has so faithfully and ably served. I commend him on the outstanding accomplishments that the Booker T. Washington Insurance Co. has achieved, and its most deserving recognition by Black Enterprise magazine as Insurance Company of the Year.●

## CALL TO CONSCIENCE FOR SOVIET JEWS

### HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. MATSUI. Mr. Speaker, as part of the Call to Conscience for Soviet Jews, I would like to call your attention to the continued difficulties experienced by Solomon Yosifovich Alber and his wife Evangelina Alber.

Solomon Alber, a mathematician and physicist, was director of a computer research laboratory when he applied for visas so that he and his family could emigrate. Because of the request, Solomon was demoted and Angelina lost her job as a pathologist. On June 23, 1976, the New York Times reported that the Albers' 15-year-old son Mark had become the target of an officially inspired campaign of threats and violence. In 1980, when Mark passed the mathematics exams to enter the University of Moscow, he was denied admission. He is currently attending an institute for railway engineering, one of the few institutions to which Jews are admitted.

The situation has become even more grave in the last year since Elena is suffering from a serious pulmonary condition. A Swedish doctor who recently saw her confirmed the gravity of her situation.

While I have written letters both to the Albers and to Soviet officials on the Albers' behalf, I have yet to receive any response. Nevertheless, I am hopeful that through our various efforts here in Congress and through citizen efforts on the local and national level, the Albers and other Soviet Jews will at last receive humane treatment and be given permission to emigrate from the Soviet Union.●

## COMMENDING NORTHEAST MISSOURI STATE UNIVERSITY

### HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. VOLKMER. Mr. Speaker, I rise today in order that I might congratulate Northeast Missouri State University in Kirksville, MO, on its innovation and excellence in the field of higher education.

Through its value-added model of assessment, Northeast Missouri State University has proven that it is committed to the goals of higher education.

Value-added is a program composed of tests and surveys which are designed to measure and contrast a student's change from year to year. The

**results from this study are used to provide information to enhance significant positive changes in a student's knowledge, attitudes, values, and thinking skills. Northeast Missouri State University has one of the few comprehensive testing programs in the Nation.**

**Northeast Missouri State University has received the American Association of State Colleges and Universities' highest honor, the G. Theodore Mitau Award for its innovative approach to measuring student accomplishment. I add my praise to theirs as I commend President Charles McClain and NMSU on their fine achievements.●**

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 14, 1984, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

### JUNE 18

9:30 a.m.
Finance
Oversight of the Internal Revenue Service Subcommittee
To hold oversight hearings on the impact of the Federal tax system on basic industry, investment industry, and service industries.
SD-215

Judiciary
Constitution Subcommittee
To hold hearings on issues relating to the deportation of a certain individual.
SD-226

2:00 p.m.
Labor and Human Resources
To hold hearings on S. 2687, proposed Youth Employment Opportunity Wage Act.
SD-430

3:00 p.m.
Select on Ethics
Closed business meeting.
S-205, Capitol

### JUNE 19

9:30 a.m.
Labor and Human Resources
To resume oversight hearings on certain allegations involving the International Brotherhood of Boilermakers.
SD-430

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Finance
To hold hearings on S. 1915, to repeal the capital gains tax on disposition of investments in U.S. real property by foreign citizens.
SD-215

Judiciary
Juvenile Justice Subcommittee
To hold oversight hearings to review the recent Supreme Court decision relating to pretrial detention of juvenile offenders.
SD-562

Judiciary
Administrative Practice and Procedure Subcommittee
To hold oversight hearings on congressional access to reliable agency information.
SD-226

### JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the proposed sale of Conrail by the Department of Transportation.
SR-253

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1734, to revise the scope of the copyright limitations on the performance of a nondramatic musical work on a coin-operated phonorecord player (jukebox).
SD-226

Labor and Human Resources
To continue oversight hearings on certain allegations involving the International Brotherhood of Boilermakers.
SD-430

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the District of Columbia school system.
SD-138

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Finance
Health Subcommittee
To hold oversight hearings to review a General Accounting Office study on program changes in the Maternal and Child Health Block grant program.
SD-215

Veterans' Affairs
To hold hearings on proposed legislation to provide for veterans' compensation.
SR-418

Select on Intelligence
Closed briefing on intelligence matters.
S-407, Capitol

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
SD-226

### JUNE 21

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business matters.
EF-100, Capitol

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on certain provisions relating to the transfer of the consumer protection function of the Civil Aeronautics Board, of proposed legislation and H.R. 5297, Civil Aeronautics Board Sunset Acts of 1984.
SR-253

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 463, to limit the amount of severance taxes imposed by States on oil, natural gas, and coal.
SD-215

Labor and Human Resources
To hold hearings on S. 2501, the substance of S. 2502, and S. 2503, bills to provide for greater use of competitive medical plans and preferred provider arrangements.
SD-430

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Frank K. Richardson, of California, to be Solicitor, Department of the Interior.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Indian Affairs
To hold hearings on S. 2480, to restore mineral and grazing rights on certain lands in North Dakota to the Three Affiliated Tribes of the Fort Berthold Reservation, and S. 2663, relating to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota.
SR-485

2:00 p.m.
Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold hearings on S. 2127, proposed Federal Advisory Committee Act Amendments of 1983.
SD-342

### JUNE 22

9:00 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 817, S. 1069, and H.R. 555, bills to authorize the Federal Energy Regulatory Commission to approve the inclusion in the rate base of a public utility of the costs of construction work in progress.
SD-366

9:30 a.m.

*Environment and Public Works

To hold hearings on proposals for establishing appropriate levels of lead in gasoline, including S. 2609.

SD-406

Judiciary

Constitution Subcommittee

To hold hearings to examine the impact of the proposed equal rights amendment on family law.

SD-226

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings on measures to provide import relief to the domestic nonrubber footwear industry, including S. 2731, American Footwear Act of 1984, and amendments to section 201 of the Trade Act of 1974.

SD-215

2:00 p.m.

Finance

Health Subcommittee

To hold oversight hearings on Medicare home health care benefits and the difficulty interpreting the intermittent care rule.

SD-215

### JUNE 25

10:00 a.m.

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

### JUNE 26

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold oversight hearings on issues of religious freedom.

SD-562

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings on the implementation of the Lacey Act Amendments (Public Law 97-79), to control international trade in wildlife.

SD-406

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold oversight hearings on the status of college athletic programs.

SD-430

2:00 p.m.

Labor and Human Resources

To hold hearings on drug export reform policy.

SD-430

### JUNE 27

9:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on amendment No. 2807, proposed Wildlife and the Parks Act of 1984, to S. 978, to provide financial assistance to States for wetlands conservation.

SD-406

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold oversight hearings on the implementation of the Voting Rights Act.

SD-226

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on Senate Concurrent Resolution 56, to express the sense of the Congress in opposition to further expansion of cargo preference requirements.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Finance

International Trade Subcommittee

To hold hearings on the state of the U.S. automobile industry, focusing on the competitiveness of the industry, effects of the Japanese auto export restraints, and the future of international trade in autos.

SD-215

Judiciary

Administrative Practice and Procedure Subcommittee

To resume oversight hearings on Congressional access to reliable agency information.

SD-562

Labor and Human Resources

Handicapped Subcommittee

To hold hearings to review recommendations to improve services for the mentally retarded.

SR-428A

### JUNE 28

10:00 a.m.

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2561, authorizing funds for fiscal year 1985 to facilitate the transfer of computerized training programs of the Federal Government to the private sector and to State and local governments for use in manpower training programs.

SD-430

### JULY 10

9:30 a.m.

Labor and Human Resources

To hold hearings on the practice of defensive medicine by the medical profession in an effort to avoid malpractice suits and its effects on the quality of medical care.

SD-430

### JULY 26

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings to discuss whether tax law should encourage employers to provide certain fringe benefits.

SD-215

### JULY 27

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To continue hearings to discuss whether tax law should encourage employers to provide certain fringe benefits.

SD-215

### JULY 30

9:30 a.m.

Finance

Taxation and Debt Management Subcommittee

To resume hearings to discuss whether tax law should encourage employers to provide certain fringe benefits.

SD-215

### SEPTEMBER 18

9:30 a.m.

Labor and Human resources

Labor Subcommittee

To resume oversight hearings to examine the scope and impact of certain occupational diseases.

SD-430

11:00 a.m.

Veterans' Affairs

To hold hearings to review the legislative priorities of the American Legion.

SR-325

## CANCELLATION

### JUNE 14

9:30 a.m.

Judiciary

Immigration and Refugee Policy Subcommittee

Business meeting, to mark up pending private relief measures.

SD-234

# HOUSE OF REPRESENTATIVES—*Thursday, June 14, 1984*

The House met at 10 a.m.

Rabbi Richard M.E. Marcovitz, Congregation B'nai Israel, Pittsburgh, PA, offered the following prayer:

America is a miracle. The determination of human beings to live as free people. For two centuries this miracle has endured; 207 years ago today, the Stars and Stripes, our flag was accepted as the symbol of this land.

In the language of our Biblical patriarchs, the word for "banner" and the word for "miracle", "nays" are one and the same. May the miracle that is America, as symbolized by that star-emblazoned banner, ever serve as a beacon for all peoples who long for freedom. May this country be both blessed by God and be a blessing to the world as we strive for a blessed and eternal peace.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## RABBI RICHARD M.E. MARCOVITZ

(Mr. COYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COYNE. Mr. Speaker, our guest Chaplain for today is Rabbi Richard M.E. Marcovitz of the Congregation B'nai Israel in Pittsburgh.

Rabbi Marcovitz is a graduate of the University of Pennsylvania, where he majored in sociology and religious thought. He also graduated from Gratz College, the oldest Hebrew teacher training college in the United States. He is the recipient of an M.S. degree in education from Duquesne University and has attended the Jewish Theological Seminary of America.

He is active in a wide variety of religious and secular affairs, Rabbi Marcovitz has served as chairman of the Tri-State Association of Conservative Rabbis. He is the immediate past chairman of the Rabbinic Fellowship of Greater Pittsburgh, and is a member of the Montefiore Hospital's Committee for Protection of Human Subjects. His work on behalf of Israel bonds has earned him honors from the State of Israel. Concern for the rights of Soviet Jews has led him to work with the Pittsburgh Conference on Soviet Jewry, where he serves as vice chairman of the executive board.

Rabbi Marcovitz and his wife, Marilyn, are the parents of five children. I know I join my colleagues in expressing appreciation to Rabbi Marcovitz for leading us in prayer this morning and in welcoming him and his family to Washington.

## MAJOR BREAKTHROUGH ON EFFORT TO BAN "COP KILLER" BULLETS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, today I am pleased to report a major breakthrough in my nearly 5-year crusade to outlaw armor-piercing "cop killer" bullets. Last night, I introduced a new version of my bill to ban these awesome projectiles and to impose harsh penalties on criminals who use them.

This new legislation, H.R. 5835, was developed jointly by the U.S. Treasury and Justice Departments; it has the support of the law enforcement community; and even the NRA has informed the administration they will not oppose it.

I am confident this new legislation will break the impasse on this critical issue, without compromising the original intent of the cause—namely, better police protection. Consider, for example, that this new bill defines armor-piercing bullets by the harder metals they are made from, rather than by a standard of penetration.

Further, it contains language which clearly states that any ammunition primarily intended to be used for sporting purposes would not be affected in any way.

Mr. Speaker, I urge, in the strongest possible terms, that this new "cop killer" bullet legislation receive expeditious treatment, and I call on the more than 180 cosponsors of my previous bill, H.R. 953, to join me as cosponsors of this viable and effective alternative.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 477

Mr. CROCKETT. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Resolution 477.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## GI EDUCATION BILL

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, the Chaplain today pointed out in his prayer that this is Flag Day, honoring our flag on June 14. I might say that June 14 is rich in accomplishments for our great Nation.

I would point out that on D-day at Normandy 40 years ago in June we had a massive and successful undertaking by our Nation. That was on June 6, 40 years ago.

Mr. Speaker, on June 22 it will be the 40th anniversary of Congress passing the GI education bill. President Roosevelt signed this bill on June 22.

The GI education bill has meant so much to all Americans. On June 21 in the House Chamber we will be having, I hope, a number of Members with 1-minute speeches talking about the GI education bill and what it meant to Americans and America. We hope the Speaker will be lenient and that we can have enough time to have 1-minute speeches commemorating 40 years ago on June 22 when we had the GI education bill implemented.

## PINNING LABELS

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, recently, some Members of the minority have complained about being associated with the John Birch Society. I can understand their feelings, given the extreme views of that organization.

And considering the limitations of Member ratings by ideological groups like this one, I am almost reluctant to share the following information with my colleagues.

But according to a Birch Society publication called Review of the News, a recent voting analysis shows that several of the so-called conservative opportunity groups have very high ratings.

For example, the gentleman from Georgia received a 76-percent rating, over 30 points above the House average. The gentleman from Pennsylvania rated a perfect 100 percent.

Now, let me point out that no Member is responsible for his or her

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

rating by this or any other group. These ratings are not objective, and they serve no useful purpose.

But there's an important lesson here, and the rightwing youth wing should learn it. They have been pinning labels on Democrats for several months now, and they should recognize how offensive their accusations have been.

By the way, I received a negative rating—I didn't agree with the Birch Society on a single vote.

## ACTION ON FISCAL 1985 BUDGET RESOLUTION

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, nearly 10 weeks ago the Members of this House passed a first concurrent budget resolution which will begin to restore this Nation to a sound economic footing. From that time until mid-May we waited for our colleagues in the other body to complete action on their resolution.

While we were waiting interest rates went up.

Yesterday we had our first meeting on the budget conference; and, unfortunately, it was suggested that we would proceed no further until there was some agreement on the issue of spending caps.

Mr. Speaker, never in the course of my tenure on the Budget Committee nor in the history of the budget process as it currently has existed have we ever attempted to resolve what is essentially an enforcement issue before we determine the spending levels under which we will abide.

Let us stop the posturing. I suggest, Mr. Speaker, that we come to the conference table in earnest and let us complete our long-delayed action on the fiscal year 1985 budget so that we can reduce our deficits.

The American people will not wait any longer. And while we fiddle about the conference, interest rates are burning.

## ELECTION AS MEMBER OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. MICHEL. Mr. Speaker, by direction of the Republican conference, I send to the desk a privileged resolution (H. Res. 523) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 523

*Resolved*, That Representative Thomas F. Hartnett of South Carolina be and is hereby elected to the Committee on Merchant Marine and Fisheries.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## DAIRY MONTH

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, June is Dairy Month. For this reason I would like to take this opportunity to salute the thousands of men and women who provide this country with nutritious milk and cheese. These are the individuals who rise at 5 a.m. every morning to milk the cows and retire at 10 p.m. after hours of late-night plowing. These are the individuals who give us the needed calcium and vitamins to maintain good health. I am speaking of the backbone of American agriculture—the dairy farmer.

With the advent of the 1985 dairy bill drawing near it is important that this Congress does not forget the dairy farmer. I am proud to call many dairy farmers my friends and regard them as the epitome of what this country stands for: hard work and productivity.

When talking to my friends I have found that a key word in the dairy farmers vocabulary has become promotion. Promotion for the dairy industry means creating a bigger demand. The dairy industry is making great strides in the area of product promotion and dairy education. We now have a 36-member National Dairy Promotion Board that has just recently met to expand the horizon of the industry.

Dairy promotion will create a reawakening of Americans to the good taste of milk and cheese. It will provide the opportunity for the people of this country to see the free enterprise system at work from the working man's perspective. I for one am excited over the prospects that promotion will offer to this vital area of our agricultural community.

I urge all my colleagues to help in this effort by making your constituents aware that June is Dairy Month and while you are at it enjoy a nice, cool glass of milk.

□ 1010

## BAIL REFORM ACT OF 1984

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, I am very pleased to introduce the Bail Reform Act of 1984 which was approved yesterday by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice by a vote of 9 to 5. This strong bipartisan support for bail reform is a laudable indication of the recognition of the need to protect our communities from crime that I believe exists in the House of Representatives.

The most important change in the bail system proposed by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice's bill is that it allows the judge to detain a defendant prior to trial when the defendant poses a danger to the community. This will be a tremendous improvement over existing law which requires that these dangerous persons be released to the streets prior to trial.

A tragic event in my home State of Michigan illustrates the danger that our constituents face without this legislation. On November 29, 1982, George Gibbs was charged with armed robbery of a credit union. Despite the dangerousness of the offense and the fact that Gibbs was a suspect in four other robberies, the judge did not have the legal authority to consider the defendant's danger to the community. As a result, Gibbs was released after posting $2,500. Four days later, Gibbs robbed a nearby bank and shot a local police officer.

Mr. Speaker, the Senate passed a companion version, S. 215, on February 3, 1983. I look forward to swift consideration of the Bail Reform Act in the full committee and in the full House in this Congress and I urge your support for this important and vitally necessary crime legislation.

## IMPORTANT REFORM OF BAIL LAWS

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeWINE. Mr. Speaker, I would like to join my colleague from Michigan in saluting the work of our subcommittee in reporting out this very important reform of our bail laws.

This is an area of the law that the general public is not fully aware. People in my district are shocked when I tell them current Federal law does not allow a judge to consider a person's dangerousness when setting bail. They can't believe that if a judge is certain the person is a danger to society and a genuine risk of further violent acts if out on bail and is just as certain though that the person will show up for trial, the judge is unable to refuse bail. The sole criteria for bail is risk of flight. My constituents are outraged that their community cannot be protected from these violent people. In fact, the career criminal with a long record of showing up for trial has actually built a record on which he can demand release on bail.

This bill which we reported out corrects this perverse situation. This legislation allows a judge to consider a person's dangerousness to society when setting bail for a person charged with a violent, drug, or capital offense. The judge is able to refuse bail if after a hearing with all parties present he determines the person a danger to society if released on bail.

Mr. Speaker, I do not think more important legislation has come before our committee in this Congress. I urge my committee chairman to schedule this bill for markup as soon as possible.

Finally, Mr. Speaker, I want to thank and salute my subcommittee chairman, the gentleman from Wisconsin, for scheduling this legislation and allowing the subcommittee to work its will. The time has come for bail reform.

## FOR A FLAT RATE TAX

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, it is high time that we in Congress got around to cutting tax rates and making taxes fair and simple.

The American people are correct. The American people recognize that our tax system has been often unfair for the average American, and often tilted toward the rich.

The national scandal represented by hundreds of Americans earning $200,000 or more, paying no income tax will not be blinked away. The more complex the tax law the more rewarding task for high powered, ingenious lawyers and accountants.

Raising the individual exemption will help the lower income persons. But middle income Americans should benefit most.

The bill will maintain home mortgate interest deductions and charitable contributions.

The biggest bonanza will be to eliminate the annual April 15 nightmare. We'll get rid of the big stack of forms and pile of instructions. Does that sound good?

## THE EXCHANGE RATE

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, today, foreign producers of goods and services enjoy an enormous competitive advantage over producers in the United States simply as a result of our overvalued dollar. Protectionist pressures are understandably rising. Our workers and firms cannot be expected to bear this grossly unfair burden indefinitely.

A 30-percent overvaluation of the dollar effectively imposes a 30-percent tax on goods produced in my Iowa district—and in yours—and provides a 30-percent subsidy to competing foreign imports. In fact, the dollar has appreciated by almost 60 percent since 1980 against the Federal Reserve's index of foreign currencies.

While no one knows exactly where exchange rates should be, almost everyone, including the administration, recognizes the dollar is significantly overvalued and that a carefully crafted policy response is required. Eleven years of experience with so-called floating exchange rates, have demonstrated unanticipated difficulties.

This overvaluation is costing us markets and jobs, and building up enormous foreign financial obligations for the future.

I have introduced House Joint Resolution 585, which is a modest, but important first step in addressing our vitally important exchange rate problems. I am proud to have both the National Association of Manufacturers and the AFL-CIO supporting this joint resolution, and I urge my colleagues to examine House Joint Resolution 585 and to lend your support.

## NATIONAL CHILD SUPPORT LEGISLATION

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, I would like to remind my colleagues that Sunday is Father's Day—the day when we give special tribute to dads—the men who stand tall in the eyes of their children.

Unfortunately, Mr. Speaker, as this House has learned during the past year, all is not well with fatherhood in America. Shamefully, millions do not stand tall but abandon their children financially.

They are scofflaws on child support. Some flee across State lines to escape their parental responsibilities.

But, help for these children is on the way.

Within 1 year of the day I first spoke on this subject and introduced national child support legislation both this House and the other body have passed strong bills to fundamentally reform the system. It is good legislation. It puts teeth in child support enforcement.

Soon the conference committee will report the bill. Unfortunately not in time to celebrate Father's Day—but soon.

No longer will parents be able to abuse the system and mock their legal and moral obligations.

I think Congress can be proud of a job well done.

Mr. Speaker, millions of children can sleep better this Father's Day.

## SPORTS IN LAS VEGAS

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, Sportscaster Howard Cossell once said, "Sports is the toy department of human life." If that is true, then my district certainly is the world's largest toy chest.

The sporting events that take place in southern Nevada fill record books for everything from the annual PGA Tournament, which this year will offer the world's largest purse of more than $1 million to the Western Bass Fishing Tournament to the World Series of Poker.

We host national and international competition for weight lifting, gymnastics, tennis, volleyball, and more. Each year auto enthusiasts enjoy the Caesar's Grand Prix, the Mint 400, and the Frontier 500.

Also deserving praise are the athletic teams that call Las Vegas "home." Our community proudly supports its own nationally ranked UNLV Rebels baseball and basketball teams, the Las Vegas Stars Triple-A baseball team and a future major Indoor Soccer League franchise.

This potpourri of athletic activities offers entertainment, recreation, and community togetherness. With this enthusiasm for sports—team or individual—Las Vegas will continue to produce an environment for outstanding athletes and fans—"sure bets" for competitive excellence.

□ 1020

## EQUAL-ACCESS LEGISLATION SHOULD BE RECONSIDERED

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, on May 15 of this year I was 1 of 270 Members of Congress who voted in favor of the equal-access bill. The bill failed to gain the two-thirds majority needed by only 11 votes.

Mr. Speaker, it is clear the majority of this body wants equal access legislation passed. It is also clear the majority of the people of this country want this legislation passed.

I respectfully request that the Speaker ask the Rules Committee chairman to hand down another rule on this bill so it can be reconsidered during this session of Congress.

As a legislative body, we should heed the wishes of the American people and pass this very important legislation.

## PERSONAL EXPLANATION

Mr. BOLAND. Mr. Speaker, on rollcall No. 229 on the amendment offered by the gentleman from Massachusetts

[Mr. FRANK] to H.R. 1510, I was unavoidably detained on Intelligence Committee business. Had I been present, I would have voted "aye."

## IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER pro tempore [Mr. DONNELLY]. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

□ 1022

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 13, 1984, the amendment in the nature of a substitute recommended by the Committee on the Judiciary was considered as an original bill for the purpose of amendment, which is only subject to amendment by the amendments made in order pursuant to House Resolution 519.

### AMENDMENT NO. 34 OFFERED BY MR. DAUB

The CHAIRMAN. Amendment No. 34 is in order at this time.

Does the gentleman from Nebraska [Mr. DAUB] desire to offer amendment No. 34?

Mr. DAUB. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 34 offered by Mr. DAUB: Page 60, after line 8, insert the following new section (and redesignate the succeeding section, and conform the table of contents, accordingly):

LIMITATION OF FIFTH PREFERENCE STATUS TO UNMARRIED BROTHERS AND SISTERS AND REALLOCATION OF VISAS FROM FIFTH TO SECOND PREFERENCE

SEC. 205. (a)(1) Section 202(e) (8 U.S.C. 1152(e)) is amended—

(A) by striking out "26 per centum" and "24 per centum" in paragraphs (2) and (5), respectively, and inserting in lieu thereof "40 per centum" and "10 per centum", respectively, and

(B) in paragraph (5), by striking out "to qualified immigrants" and all that follows through the end of such paragaph and inserting in lieu thereof the following: "to qualified immigrants—

"(A) who are the unmarried brothers or unmarried sisters of citizens of the United States who are 21 years of age, or

"(B) who—

"(i) are the married brothers or married sisters of United States citizens at least 21 years of age and

"(ii) had a petition filed on their behalf for preference status by reason of the relationship described in section 203(a)(5) not later than the priority date (as determined by the Secretary of State to be in effect as of the date of the enactment of this subparagraph) for petitions filed for such preference status on behalf of natives of foreign states and dependent areas to which this subsection is not being applied.".

(2) Section section 203(a) (8 U.S.C. 1153(a)) is amended—

(A) by striking out "26 per centum" and "24 per centum" in paragraphs (2) and (5), respectively, and inserting in lieu thereof "40 per centum" and "10 per centum", respectively, and

(B) in paragraph (5), by striking out "to qualified immigrants" and all that follows through the end of such paragraph and inserting in lieu thereof the following: "to qualified immigrants—

"(A) who are the unmarried brothers or unmarried sisters of citizens of the United States who ae 21 years of age, or

"(B) who—

"(i) are the married brothers or married sisters of United States citizens at least 21 years of age and

"(ii) had a petition filed on their behalf for preference status by reason of the relationship described in this paragraph not later than the priority date (as determined by the Secretary of State to be in effect as of the date of the enactment of this subparagraph) for petitions filed for such preference status on behalf of natives of foreign states and dependent areas to which section 202(e) is not being applied.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1984. When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1984, makes application for admission, his admissibility under section 212(a)(20) and (21) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

Mr. DAUB. Mr. Chairman, we began our third day of consideration on this very important question of what the House of Representatives wishes to complete so that we can go to conference to make progress and the American people deserve that progress on getting our borders under better control. We can do that.

I wish first to take time to simply thank all of my colleagues for the terrific job that as a body we have been doing together to move so very carefully, but procedurally very correctly and promptly along the trail to get to the result that I am hopeful for.

The debate yesterday undertook a very radical change. We moved from talking about civil liberties and rights to talking about sheer numbers, a necessary and correct emphasis for debate, which I would like to continue this morning.

Such emphasis will more correctly frame the tenor of our debate as we move toward the legalization provisions of this legislation.

For that reason, let me take a few moments to describe the amendment that I have offered and the reasons why I have offered it. This amendment will limit the fifth preference category under our preference system for relatives of U.S. citizens to unmarried brothers and sisters. Presently eligible brothers and sisters can be married. However, in an effort to make some atonement for the reduction in numbers allowed under this category from 24 to 10 percent, we have increased the second preference category for spouses and children from 26 percent up to 40 percent. Now that is a significant point, because had the gentleman from Wisconsin [Mr. SENSENBRENNER] been in the Chamber to offer his amendment No. 33, and I think indeed a well-intentioned amendment that ought to be mentioned briefly, his amendment would have more severely limited fifth preference. My amendment actually makes a better adjustment of the percentage and shifts it to second preference. So we keep the numbers.

I think we should, out of great respect for the physical dilemma that our good friend, Mr. SENSENBRENNER, faces with his hospitalization from his injury from an accident, recognize his great contribution as a member of the committee to this debate on the question of how we limit numbers in the future based upon the proposition of legalization.

Now I do know what concerns this amendment raises over the issue of family reunification. For that reason, let me simply say that my intention here is not to jeopardize that in any way. My intention here is to lead this body to consider what this legislation, as a whole, means for our country 20 years down the road.

Now I think we are capable here today of considering that. First of all, if we allow the legalization provisions in this bill to prevail, while placing no limits on legal immigration, we must be considering additional ramifications. While some Members yesterday declared that legal immigrants seldom take advantage of public assistance, studies have shown that both legal and illegal immigrants do sometimes rely upon public assistance, at least to the extent that U.S. citizens, native born, rely to the same extent on public assistance. In other words, studies have shown that whether one is legal or illegal, naturalized or a citizen, or undocumented, the proportion of reliance on public assistance for each of those populations is about the same.

My point is that regardless of predicting the likelihood for this, regardless of whether we can assess today what those numbers might be in the future, by virtue of our increasing population we will be increasing the load on our public assistance system.

I think we can probably all agree on that today.

So if, and I put the words in quotes, "family unification" is our goal, which is more fair, allowing one citizen perhaps someone legalized under amnesty provisions contained in the bill, to petition to bring in a number of relatives or allowing a greater number of individuals to bring in a few family members.

□ 1030

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 5 additional minutes.)

Mr. DAUB. So, with a finite number fixed in preference categories, we must draw the line somewhere. Now, are we better off allowing, as this amendment would do, more spouses and more children of U.S. citizens, the nuclear family, if you will, or allowing fewer numbers so that a few can bring in their so-called extended family?

Now, that is, I think, a fair statement up to this point of what my amendment seeks to do. Let me remind my colleagues that this amendment is consistent with the Hesburgh Commission as well as what the other body has seen fit to do in their legislation. Legal residence is one of the most valuable things that the United States can offer someone from another country. This tremendous benefit of U.S. residence and U.S. citizenship, given the millions who are starving worldwide, as well as the millions who seek to live here in this great country, amounts to being generous, in my judgment, by allowing an immigrant not only to come here himself or herself but we are allowing that person to bring his or her nuclear family along with them at some future point, let alone the possibility of that member's extended family being included.

National opinion surveys—Gallup, Roper, Lance-Tarrance, and others—have consistently shown that the general public wants some kind of limits on both legal and illegal immigration. And since legal immigration alone now seems to be running well over 600,000 per year—617,000 in fiscal year 1982, to be precise—one might think that reducing legal admissions of siblings might be a sensible place to begin to examine the problem.

Now, with a finite number of fixed numbers for the preference categories, we must draw the line, in my judgment, somewhere. If we grant amnesty, what will happen to the present backlog? With only 270,000 being allowed per year now, how are we going to manage those explosive numbers? The fifth-preference category alone amounts to 64.6 percent of the total number of registrants in terms of the active current positions. That is a backlog, as of June, of over 1.4 million people already waiting, approved under fifth preference.

My amendment takes the reduction in fifth preference from 24 percent to 10 percent and adds that reduction back into the sixth preference, immediate relatives, increasing that category from its current 26-percent level up to 40 percent.

It is my intention at some point in this debate—I wish to serve notice on my colleagues—at some early point in this debate, Mr. Chairman, to withdraw this amendment. It is my intention at some early point in this debate this morning to withdraw this amendment. I want to explain why I wish this body to grant that unanimous-consent request. I have agonized over the problem we face. I have had extensive conversations with four gentlemen whom I respect so very much, who have worked so hard on this bill, the distinguished chairman of the full committee, Mr. RODINO, the distinguished subcommittee chairman, Mr. MAZZOLI, who must have the indebtedness of all of us for his labors and his absolute consistent and tenacious advocacy for this bill from the full committee, and indeed as well, I must say, with equal vigor, the great guidance and support and counseling that I have received from the ranking minority member on the full committee, Mr. FISH, in this matter, as well as his colleague and helper on the subcommittee, Chairman LUNGREN of California.

The reason I think it is wiser at this point to withdraw the amendment is that I think the point has been made; we need at some near term point to establish some limitation on these massive numbers, the massive numbers that are created potentially by the movement of 6 to 10 million undocumented aliens to the legalization process, and from that point to the naturalization process, and from that point to the citizenship window, which brings them into a position where, if no limits are proscribed, a potential for 70 million people to come to this country in the next 10 years. Now, that is an amount of people, a load on our sled here, that will kill the goose that lays the golden egg.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 2 additional minutes.)

Mr. DAUB. So for that reason I believe that we can avoid some of the arguments that ought not to be aimed at this particular legislation but aimed at the question of amnesty and have a fuller and more complete, perhaps a more germane, debate at that time.

I wish to indicate that my intention to withdraw the amendment is predicated upon conversations which I have had with the chairman of the committee, and for purposes of establishing that particular part of the record, I would be happy to yield to my good friend and distinguished chairman of that committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding. The gentleman in the well is to be commended, first of all, and I express my personal appreciation for the statement he has made. The statement he has made is based on his personal knowledge and intimacy of the ramifications and implications of this bill, his personal involvement in immigration matters, and it is not without a great deal of search on his part that he makes the statement because in fact we have had these conversations. I respect him genuinely for the attitude he has expressed.

I would like to point out that the House, I think, is better informed because of the statement the gentleman has made.

The Committee on the Judiciary, and this gentleman especially, has not been unaware of the consequences and the implications of what might occur should the House adopt legalization, and the full impact of all of this on our country's national interest insofar as immigration is concerned.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 3 additional minutes.)

Mr. DAUB. Mr. Chairman, I continue to yield to the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

I would like to point out that we struggled long and hard to deal with this subject, to grapple with it, because we are confronted with enormous problems when we consider the admission of refugees, immigration, under our preference system which was worked out with some vision, some foresight. As a result, I some time ago expressed the idea, and I have expressed it in many, many circles that maybe we ought to have an immigration policy that takes into account all of these factors. So it is for that reason that I point out, first of all, to the gentleman the language in the bill which calls for a report on immigrant admissions and impacts. It is a very extensive, comprehensive kind of report that we are demanding in the bill, to include a requirement that the President shall transmit to the Congress not later than January 1, 1987, not later than January 1 of every third year thereafter, a comprehensive report on the impact on the economy, labor market, housing market, and a host of factors that I feel are necessary to consider.

Now, I do not feel that it is necessary for me to point out that should we go to conference, we have in mind not merely to consider this but to consider the question of what kind of mechanism can we best employ which will give us a handle for what the gentleman says is what we need to do down the line without at this time disturbing what is the current system.

Mr. DAUB. Let me explain my time and thank the gentleman for his contribution to the intent of my request for a colloquy with him. I want to redefine what he has just said, if I might ask him this question: Am I assured, is this body assured by the chairman of the Judiciary Committee, that in conference he will seek to install in the final bill a mechanism that will lead us to getting some form of clear definition to limitation on numbers?

Mr. RODINO. That is clearly my objective.

Mr. DAUB. I thank the gentleman for his contribution.

☐ 1040

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. DAUB was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I will yield to the gentleman who got me my time and observe others on their feet, and would try to accommodate them if they wish to accomodate me.

Mr. McCOLLUM. I wish to congratulate the gentleman from Nebraska for his amendment, and understand completely the rationale for his decision to request in a few moments the leave to withdraw it.

I think that the chairman has made a very important statement with regard to the situation, and I respect that especially because I understand his great interest and concern over family unification and the area of legal immigration.

The point I want to make while the gentleman's amendment is still on the floor with him though, is the fact that notwithstanding whether we adopt legalization or not, whether it stays in the bill or not, we do have problems with the issue in the future of numbers because of the fifth preference. Because of the growing numbers of brothers and sisters, married or unmarried, and the fact is that by this growth they have begun to crowd out the seed immigrants who have no relatives here. It may be there needs to be innovative legislative efforts in this area in order to accommodate in the future for those immigrants that we always traditionally had come over here who had no relatives, who have some special skills, things to offer and so on.

But because of the growth of the unmarried and married brothers and sisters and the family unification emphasis of the fifth preference, that is indeed a long-term serious problem, and while I concur in the withdrawal of the amendment today and perhaps the inappropriateness of considering it, I particularly respect the chairman and his attention to this for the future because in my district, in all of the country, I think it is a growing problem of concern to Members who hear about that.

Mr. DAUB. I want to thank the distinguished gentleman from Florida [Mr. MCCOLLUM], a member of the Judiciary Committee who is as knowledgeable as anyone on this floor with respect to these very specific matters and has ably articulated better than I have the real concern we share for that fifth preference problem particularly.

I want to say to my friend why should brothers and sisters in distant lands be awarded a special visa?

The CHAIRMAN. The time of gentleman from Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 3 additional minutes.)

Mr. DAUB. Why should brothers and sisters in distant lands be awarded special visa preferences merely because one of the family decided to move to the United States and then decided to become a U.S. citizen. Or, become a U.S. citizen merely because a resident of some country came here to have a citizen child born in this country for purposes of accomplishing the same thing. So, I think the gentleman makes a good point and I concur in the very helpful commitment that the chairman has made to the effort in the conference on this very bill, and I appreciate the gentleman's contribution.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the chairman.

Mr. RODINO. First of all, I want to express my appreciation too for the statement made by the gentleman from Florida. I would like to add also to what the gentleman has just now stated. Had we always stayed with a formula that might have been just married brothers and sisters, some of us who are here now might not have been here. I think that that is an important consideration.

So the kind of new seed immigration that we have talked about has been important. But I think we have to, as the gentleman has already agreed to do, look at a mechanism that will take all of these factors into account.

Mr. DAUB. Mr. Chairman, reclaiming my time, let me say while I, of course, have personal experience in my family with the fifth preference and relative status immigration to this country, legally, I point that in the last 3 years since we have been debating this particular bill with the prospects of amnesty, there have been concerted efforts to bring in 1 person who will bring in 69 others to avoid and perhaps abuse the thing that you hold so dear. So I think that is the kind of thing that we need to look at in the conference.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman.

Mr. SCHEUER. I would like to address a question to the very distinguished chairman of the full committee, if I might.

Will this report that will enlighten the Congress, from the administration, include such matters as the level of nonimmigrant overstayers of the visitor visa variety and the student visa variety? Will it include information on the condition of our borders? On the need, if there is a need, for additional surveillance? Additional manpower? Will it include the information about whether we are dealing adequately with the coyotes who are engaged in this despicable commerce in human bodies across the border.

Will it, in other words, give us concrete information on the levels?

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 3 additional minutes.)

Mr. DAUB. I continue to yield to my friend from New York [Mr. SCHEUER].

Mr. SCHEUER. Will it give us an overview of the condition of illegal immigration and the component parts of that problem so that Congress can deal with that intelligently in the future?

Mr. DAUB. I yield to the chairman for his response.

Mr. RODINO. In response to the gentleman's question, I am hopeful that it does just that, because the very factors that you point out are also the necessary ingredients for us to find out what we need to do with our immigration problems.

I do not want to see the day when we are so overwhelmed with the problem of immigration that this Congress may, and I know that it is considered humane, but it may decide, my God, let us close these borders. I think that those are necessary factors to be considered so that we continue our traditional, humane immigration policy but the interests of the people that we bring here are protected; the interests of this country are protected.

I commend the gentleman because I know what his concerns have been all of the time, and hopefully, that whatever input we can bring to this, and I can bring personally, will be part of that process.

Mr. DAUB. Let me reclaim my time. I want the gentleman from New York to know of my great respect for his efforts on the amendment yesterday that he helped coauthor. I appreciate his concern for this very pressing problem, particularly, I say to the chairman of the full committee, the point that the gentleman raised about illegals as they relate to overstays. I think that is a very serious area that can be addressed in conference as a result of your commitment here on the floor today.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman.

Mr. SCHEUER. One of the problems on overstayers is that we have no control of people who exit the country. If you are an overstayer, a visa overstayer in England, a cop comes to see you at your residence about 2 or 3 days after your visa has expired because they have a computer of who is leaving the country, and if you have not left the country, a patrolman shows up, very politely, and asks you to go down and see the Home Secretary.

In this country, we have no control who leaves the country, and therefore, we have no idea of whether people who come in for 6 months or a year on a student visa, a business visa, a visitor's visa whether they are overstaying or not, and that is a fatal flaw in the information and the data that our Government has and that our Congress has. We must remedy that.

Mr. DAUB. The gentleman makes a very important contribution to the record, and I thank him for it.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman.

Mr. LUNGREN. I want to thank the gentleman for bringing this subject up and want to say that on this side of the aisle, we will work with the chairman and the commitment he has made to the gentleman for us to begin to address this question in conference. It is something we must address. I understand the concerns raised by the chairman, and shared by the gentlemen from Nebraska.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has again expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 3 additional minutes.)

Mr. DAUB. Mr. Chairman, I continue to yield to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. This is something that legitimately concerns many people in this body, and I would hope that the fact that we are going to address it in conference will persuade some Members who may have some questions about whether they should support part of the legalization program that in fact the program, we will hopefully to vote for, is worthy of continued support.

Mr. DAUB. Let me summarize my time so that others may get their own time; I think that is now what is preferable to move this debate along.

I really understand the problem; I understand the potential for discussions on Ukrainians or on South Africans or on Ethiopians or on Mexicanos, Chicanos, Latinos. I understand the Asian questions, the free immigration of Soviet Jewry, proposition that could be raised and the Helsinki accords, I understand all those things and as they fit into the refugee problems that the chairman a moment ago talked about.

Let us not dilute the comity that I think we can achieve on this subject in this debate at this point by exploding the debate beyond the confines of a concern for that fifth preference problem that we have all so carefully addressed this morning as a result of my amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. DAUB. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding. Of course one way to keep the comity intact would be for the gentleman to ask unanimous consent to remove his amendment, and I would suggest that he might after reasonable time for the speakers. Because the gentleman is making a very important contribution to the debate, and I think he has established rapport with our distinguished chairman, the gentleman from New Jersey [Mr. RODINO] so that, indeed, when the conference, of which he will be chairman on the House side, meets, we will indeed try to work in the final language that the gentleman is looking for.

I would expect that that would be certainly the desire of the House conferees.

□ 1050

Mr. DAUB. I appreciate the gentleman's wise and carefully chosen and tactful words, tactful words always. It is appreciated. He and I have talked about this particular issue, and I understand I have the subcommittee chairman's commitment to the same commitment that the chairman has made as a conferee. I do appreciate it very much.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the debate and the colloquy which we just heard are very important, and I commend the gentleman from Nebraska for raising the question that he has presented in the nature of his amendment and I think that the response from the chairman of the subcommittee and the chairman of the full committee are extremely constructive.

But I think in making the record on this particular amendment, there are two other points that should be made, and the gentleman from Nebraska, in his last comments, alluded to one of them, but I want to emphasize it.

I am very concerned that if we adopt an amendment of the sort which was proposed to be offered that we would be viewed by many people around the world as placing ourselves and this Nation in violation of our solemn undertakings in the Helsinki Final Act.

We have repeatedly and correctly and properly made a point that the Soviet Union has consistently violated its same undertakings under the Helsinki Final Act by prohibiting the emigration of people from the Soviet Union, not just Soviet Jews but Christians, Pentecostals, ethnic Germans and others to reunify with their families.

The reunification of families is one of the major points of the Helsinki Final Act. I will quote from portions of it.

> REUNIFICATION OF FAMILIES
>
> The participating States will deal in a positive and humanitarian way with the applications of persons who wish to be reunited with members of their family.

Now, those words form the basis of a solemn undertaking that we have entered into and have respected, and I think it would be unfortunate, as we deal with the problem of illegal immigration, to raise the question in the minds of people around the world for whom we speak that we are backtracking on our commitments under the Helsinki Final Act. I would hope that nothing that is done in consideration of this piece of legislation or any other piece of legislation could be viewed as our backtracking on that very solemn commitment.

The second point, and I have discussed this with the gentleman from Nebraska, if I could have his attention, it is my understanding that the gentleman from Nebraska has computed what the number of potential applications could be under fifth preference in the event the legalization or amnesty provisions are adopted. Could the gentleman inform me as to what that calculation resulted in?

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the opportunity to say two things, first something general, briefly, in 30 seconds, and then answer to the best of my ability the gentleman's specific question.

It is not this gentleman's intention, by offering the amendment today, to in any way breach the important values that we both share on family reunification with respect to those who have an oppressed circumstance who may seek asylum and/or become a political refugee. I am concerned about how we define that person who comes here illegally, who is already in the country in an undocumented status, who by virtue of no restrictions whatsoever, is able to give status to others beyond brother and sister.

Mr. LEVITAS. I understand.

Mr. DAUB. So it is not my intention to divide those who have other circumstances, and it is actually one of the reasons, from our conversation last night, that I carefully considered the attempt to work out a better parameter in the conference with the gentleman from New Jersey than to proceed now on what may be uncharted waters, because in answer to the gentleman's specific question, the numbers are hard to predict, and I am the first one to admit that. We know they will be massive, but we do not know whether 2 million will come forward if amnesty were to be granted or whether 5 million would come forward, and we do not know what the multipliers might be of that, although I think from my experience that they will be quite suffocating relative to our ability to handle the public assistance requirements that that might allow.

So to be careful about that, I join with the gentleman in what he has said and want to be associated with his remarks.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. Levitas] has expired.

(By unanimous consent Mr. Levitas was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. I will try to conclude within the 2 minutes.

Mr. Chairman, the last point that the gentleman from Nebraska has just stated raises another very important question and I will not at this time get into the entire question of amnesty, but I say to my colleagues that the issue raised by the gentleman in the amendment which he proposed is directly linked to the question of how this body will come down on the question of amnesty, because we are now talking about not just the people who would be directly affected by the legalization, about which there is tremendous controversy and I do not think we have seen controversy on this floor yet that we will see when we get to this point, but it will also extend and have implications far beyond those individuals, and I think it is extremely important that as we go through the rest of this legislation and give it careful consideration that we not fail to see where we are headed in terms of such decisions as amnesty.

Mr. DAUB. If the gentleman will yield further, let me say that I share fully the last point that the gentleman has made, and it needs to be, as I said earlier, a part of that great debate a little later in this bill.

Mr. MAZZOLI. Mr. Chairman, I rise just for the purpose of inquiring perhaps about the number of speakers on the issue and what the gentleman's intention is who is going to withdraw his amendment.

Mr. DAUB. Mr. Chairman, it is my intention to do so, and I see no further speakers on this side of the aisle.

Mr. MAZZOLI. Mr. Chairman, may we have just by agreement a unanimous consent that we conclude this debate in 15 minutes?

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mrs. BOXER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I would like to compliment the gentleman from Nebraska for the thing he is going to do in a few minutes, which is to withdraw this amendment. I thank the gentleman for that.

I want to thank the chairman of the committee for working with the gentleman from Nebraska so we could reach this point.

If there is anything that our immigration policy should stand for it is for reunification of the family. We in this body hold the esteem of the family in very high regard. Indeed, many of the things we do here are to preserve the family. This body just set up the Select Committee on Children, Youth and Families. The idea is that we want to see that family strengthened.

So anything that we should do in this body to undermine the family, and I do not care whether it is an Italian family or a Jewish family or a Hispanic family or an Asian family or an Irish family: anything we would do to hurt that family is not in the best interests of America and is not in the best interests of the children of the world.

So I think by withdrawing this amendment and giving a little more careful consideration to the way we go, we are going down the right road.

I would like to engage in a brief colloquy with the chairman of the full committee, the gentleman from New Jersey [Mr. Rodino] if I might.

Mr. Chairman, I would like to ask just a couple of questions. The statement has been made by the subcommittee chairman that certain things are going to be taken into conference and I am not clear exactly what is going to be taken into conference. For purposes of the Record today, could the gentleman tell us what it is your understanding that you would be taking into conference vis-a-vis the request of the gentleman from Nebraska.

Mr. RODINO. If the gentlewoman will yield, first of all, the gentlewoman is aware of the fact that in the bill, and there has been no dispute, that the report required takes in a considerable amount of information that deals with the question of what is going to happen as a consequence of the actions that we take, what is happening now, and that is all as a result of a concern with wanting to set some outer limit mechanism which I think we need, and sadly need in this country, to be able to determine what our immigration policy is going to be to continue to make it humane, to continue to assure that it is a land of asylum, et cetera, without bringing about the terrible situation that sometimes occurs when we find ourselves with this problem where people will say, "Cut off all immigration."

□ 1100

That has been a concern of this gentleman for many, many years, and the gentlewoman knows that, although she is very young. But even before, I have been fighting the problem of possibly having this House, out of a concern for national security and national interest and with immediate passions, cut off, as has happened in other countries, all immigration. I think we need a certain kind of flexible policy, taking into account population growth, economic indicators, consequences of our legal preference, and all of that, and that becomes an important part of it. I would hope that we could reach that objective which the gentlewoman is talking about, which is the mechanism I have always had in mind throughout my experience when I have spoken on immigration.

Mrs. BOXER. Mr. Chairman, if the gentleman will allow me to be a little more specific in my question, let me ask this.

Mr. DAUB. Mr. Chairman, if the gentlewoman will yield, please forgive me for interrupting. I note that there are two other speakers, with a time of 15 minutes. I will not ask for any time myself, but I hope we can give 5 minutes to each of the other Members.

Mrs. BOXER. Mr. Chairman, I have not even reached my 5 minutes yet.

I just wanted to ask the chairman of the committee this further question: Specifically, regarding the second and the fifth preference, is it the goal of the committee to preserve the second and fifth preference at this time?

Mr. RODINO. At this time, yes.

Mrs. BOXER. Mr. Chairman, I thank the gentleman.

And last, will family reunification continue to be a guiding principle in any reevaluation of our preference system?

Mr. RODINO. Mr. Chairman, will the gentlewoman restate that?

Mrs. BOXER. I say, will family reunification continue to be a guiding principle in any reevaluation of our preference system?

Mr. RODINO. I would hope that it is the core, but we have got to remember, as has been pointed out, that there could come a time when it may become overwhelming. But we must take into account the core element of family reunification and recall what the gentleman has stated regarding our commitment at Helsinki, I think that it is important.

The CHAIRMAN. The time of the gentlewoman from California [Mrs. Boxer] has expired. The time is allocated.

Mr. DAUB. Mr. Chairman, we have to be concerned that each Member has his or her time.

The CHAIRMAN. The gentleman from California [Mr. Dymally] is recognized for 5 minutes.

Mr. DYMALLY. I thank the Chair.

Mr. Chairman, first I want to compliment the gentleman from Nebraska [Mr. Daub] for withdrawing his amendment. I was very impressed with his eloquence 2 nights ago about his extended family, but was somewhat frightened by his notion that some 70 million people would descend upon us, if we did not have a cap on legal migration. I felt last night like putting on my Superman coat and flying to the ports of entry and stopping everybody from coming to the United States for fear they may take my job. So I am reassured with the understanding that the gentleman from Nebraska now wants to have a study, on the second and fifth preferences.

Mr. DAUB. Mr. Chairman, will the gentleman yield briefly on that point?

Mr. DYMALLY. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I appreciate the gentleman's yielding.

I, too, have felt like putting on my Superman suit and then thought better of it after looking at my sad frame and decided the better way was to use the mechanisms given to me by the good Lord to try to work out problems like this. I thank the gentleman for his comment.

I would point out that my amendment would have preserved fifth and second preferences. We did not attempt in any way to remove any potential for its use.

Mr. DYMALLY. Mr. Chairman, I thank the gentleman very much.

I want to make another comment which may not be directly related to this amendment. While listening to the debate on the Simpson-Mazzoli bill, I have become convinced about the commitment of the members of the committee, even though we disagree in some areas. Some of us have had some horror experiences, not with the committee's deliberation, but with the INS; and somehow we seem to carry that fear over to the committee. I want the members of the committee to know that, even in some areas where we disagree, I am impressed with their commitment to preserve what is best in our immigration laws.

Let me add one more comment. I was so charged up with this notion of losing the fifth preference that I had my speech all made up, so I must give a little bit of it. One part of it is this: The President is famous for telling stories. I want to tell a couple today. My stories are true.

Recently, the Committee on Science and Technology held hearings about the Federal role in university research. A new member was presiding for the chairman, and he said to the witness: "Don't you think that we have too many of these foreign graduate students coming over here; should we put a stop to that?"

The witness said, "No; I am one of them."

The witness was a foreign graduate student who became president of Cornell University.

In another meeting of the Science and Technology Committee, three of the five American Nobel laureates this year were foreign born—one from Canada, one from France, and one from India.

Here are some other notables. The fifth preference elimination would deny our favorite diplomat, Dr. Kissinger, from bringing his lost brother from Germany, if he had one as I do in Venezuela. It would prevent Dr. Wang from bringing his brother from China. It would prevent some of the Members of Congress from bringing their lost brothers from Europe, or wherever they are, if they had any.

I found my brother, after 34 years, in Venezuela. The elimination of the fifth preference would say that I could not bring him over here if he wanted to come.

So I really thank the gentleman for leaving it up to the committee to study this very important issue; and I want to express my thanks to the committee for crafting what in some areas has been a good measure.

Mr. Chairman, our fear is not with the committee's deliberation or its final product. Our fear is with some of the horror stories that we have experienced with the INS.

Mr. DAUB. Mr. Chairman, will the gentleman yield briefly?

Mr. DYMALLY. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I will not take more than what is left of the gentleman's 5 minutes to say that I share his concern, and I know the committee does on both sides of the aisle.

I have represented people who have been engaged in that net of fear because of the problems that have occurred with the INS and the IRS and the Customs folks and others. I do not think it was intentional, even on their part, but the web gets weaved from time to time, and it is unfortunate. But we need to have mechanisms to provide assurances that these things will not occur in the future.

Mr. Chairman, I thank the gentleman for his contribution to the record.

Mr. DYMALLY. Mr. Chairman, I thank the Chair and the members of the committee, and I yield back the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from California [Mr. Mineta] for 5 minutes.

Mr. MINETA. Mr. Chairman, I appreciate the comments of the gentleman from Nebraska [Mr. Daub] who is going to be, as I understand it, seeking unanimous consent to withdraw his amendment. But I do want to ask a question, and I believe the chairman of the committee, the gentleman from New Jersey [Mr. Rodino], would probably be the best to answer this.

I feel that we ought to stay with the position of the committee on this issue, and frankly, knowing what is in the Senate bill on this issue, I still have some reservations and strong paranoia and suspicions about the other body's intent. So again, because of my trust and confidence in the chairman of this committee on the House side, as well as in our fine colleague, the gentleman from Kentucky [Mr. Mazzoli] and the gentleman from Nebraska [Mr. Daub], I really do want some assurances relative to family unification.

I think family reunification is still a strong basic premise of our immigration laws. It is a basic premise for many Americans to want to pursue family reunification.

As Members may know, current law provides this so-called fifth preference to assist brothers and sisters of U.S. citizens in obtaining visas to join their siblings here. This provision is directly linked to the underlying premise of our immigration laws—family reunification. To abolish or even to scale back this preference would be to step away from that basic premise.

This is not a new issue. We have discussed the preferences before. But the Judiciary Committee has given us a bill that leaves the preference system intact, and I urge my colleagues to follow the committee's lead.

The preferences play an important and useful role in reuniting families. Why oppose that? Immigrants who come here under the preference have stable families intact and awaiting them, ready to offer economic and social assistance to ease the transition to life in this Nation.

Let me remind the Members that this is not a provision that affects some special or small groups. Everyone from Americans of Asian ancestry to those with roots in Europe and other parts of the Western Hemisphere have a direct and immediate concern for the preference.

The fifth preference is a vital and necessary part of our immigration laws. There is no problem with it. There is no need to adjust or narrow it.

But I do not want to let this opportunity pass by, and I just again want to set the record straight and have this kind of legislative history.

Mr. Chairman, I would be more than pleased to yield to the committee chairman for a further explanation, because he said, "at this time." And so I hope that the strong feelings on this may not just be for "at this time." I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want the gentleman to know that this is an area in which I have labored over many, many years. I feel it within my innards, that this is the core of our whole immigration policy.

Nonetheless, we are aware of the fact that down the line—and I am not talking about today, tomorrow, or 3 years from now—we have got to take a look and to provide the kinds of mechanisms that would in the future assure that even those people are not endangered, that those people are provided the kinds of opportunities that this country can provide and not say to the rest of the world that we cut off everything.

☐ 1110

So for the foreseeable future as I see it, I think that with the study that is required, with the kind of flexible mechanism that it is revolving around, and taking into account all these things and remembering that that is a core problem, we move around with that.

I think the gentleman from Nebraska has stated how strongly he feels, because even his amendment which he was going to offer, which he is going to withdraw, is an amendment which would secure and recognize family reunification.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I appreciate my friend from California, a distinguished Member of this body, participating in the discussion of this very important issue. I can tell the gentleman that if the gentleman from Kentucky is a member of the conference committee, and I would hope and expect to be, that the gentleman from Kentucky will fight strongly to be sure that the House position on this question is maintained.

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I want to be concerned about what the gentleman who was on his feet just said relative to fighting for the House position. I do not want that to be misunderstood that that in any way dilutes the potential for a mechanism to be placed within the law in conference.

Mr. MINETA. Mr. Chairman, if I might reclaim my time, I think that is the position that bothers me. If we stayed with the chairman's position of saying that that is something we ought to study outside of this legislation, then I would have more assurances about the direction we are going in, but if in conference all of a sudden this commitment is going to be disregarded and we go to a study, then I would have problems. That is why I think if this subject matter is outside the conference and the committee decides to pursue this subject, I think that is a legitimate way to go.

Mr. DAUB. Mr. Chairman, will the gentleman yield one more time?

Mr. MINETA. I would be pleased to yield to my friend, the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I thank the gentleman very kindly for yielding, because I appreciate the contribution the gentleman is making to be sure we have an understanding on this matter better. I know it concerns the gentleman as it does me.

In the category of brothers and sisters, the fifth preference, the backlog of more than 700,000 people is just simply waiting for their visa.

Mr. MINETA. Absolutely.

Mr. DAUB. The group is so large that if we are not careful later on, I do not know whether 2 years from now, 5 years from now or 10 years from now, if we are not careful we are going to be issuing a bunch of paperwork, I say to my friend, the gentleman from California, and we are going to frustrate the unification issue that the gentleman seeks to preserve, because it will simply be a piece of paper and there will be no chance of that unification whatsoever.

The CHAIRMAN. The time of the gentleman from California [Mr. Mineta] has expired.

Mr. MOORHEAD. Mr. Chairman, I ask unanimous consent that the gentleman may have 1 additional minute.

The CHAIRMAN. All time has expired.

The Chair recognizes the gentleman from Nebraska [Mr. Daub] for a unanimous consent request.

Mr. DAUB. Mr. Chairman, I ask unanimous consent that amendment numbered 34, for which debate thereon has expired by time limitation, be withdrawn at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

AMENDMENT NO. 35 OFFERED BY MR. ROYBAL

The CHAIRMAN. Amendment No. 35 is now in order.

Does the gentleman from California [Mr. Roybal] desire to offer amendment No. 35?

Mr. ROYBAL. Yes, I do, Mr. Chairman, and the amendment is at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 35 offered by Mr. Roybal: Page 62, after line 10, insert the following new subsection:

(f) Section 244(b) (8 U.S.C. 1254(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States did not meaningfully interrupt the continuous physical presence.".

Mr. ROYBAL. Mr. Chairman, this amendment amends the provisions of the Immigration and Nationalization Act dealing with suspensions of deportation. To be eligible for suspension of deportation an individual must prove continuous physical presence in the United States for a period of 7 years. This amendment would clarify that the requirements allow brief absences during this 7-year period; that is, absences that do not meaningfully interrupt the continuous physical presence.

Now, the reason for that is to express the intent of Congress that the requirement not be literally or strictly construed in light of the recent Supreme Court opinion that did so. The practical result of the Supreme Court's opinion is to nullify the suspension of deportation provision, a result that the Congress could not have intended.

The more personal result is that the long-time residents of this country are being denied legal status unfairly on the grounds that they may have only briefly made an innocent trip to outside the borders.

Now, this, Mr. Chairman, very frequently happens. There are people in the United States who cross the borders either into Mexico or into Canada only perhaps for a night out. Well, under the Supreme Court's decision that would have to be considered, as an interruption in the person's continuous physical presence.

Now, in that case, the Court stated in effect that if an individual stepped outside the U.S. boundary at any time during the 7-year period for however brief or unintentioned absence from this country, that individual could not be said to have met the requirements of continuous physical presence.

This was not the intent of Congress when the legislation was passed. The administration does not agree with the Supreme Court, and what we are doing with this amendment is simply clarifying the matter and making it quite clear that it is the intent of Congress to make it possible for an individual to be able to physically leave the country in a temporary way and that absence not be a meaningful interruption of his continuous physical presence.

I believe, Mr. Chairman, that this amendment is noncontroversial.

**Mr. FRANK.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman from Massachusetts.

**Mr. FRANK.** Mr. Chairman, I appreciate the gentleman yielding.

I am glad that he filed this amendment. I have filed it as a separate bill. I think it can be broadly supported on all sides.

So the Members will understand what happened, the Supreme Court issued an opinion giving very strict construction to this language, which was in fact stricter than the Immigration Service itself wanted to take and we have discussed this with the Immigration Service. While I could not say they have signed off on the exact language of the gentleman from California, the Immigration Service told us in a subcommittee meeting that they are convinced of the need to make some change.

Now, there is nothing in the Senate bill on this issue, because the Supreme Court opinion we are talking about, the name of which I cannot pronounce, came after the Senate had acted, so what we expect to do if we can get this amendment in, we will then work with the Senate and with the Immigration Service.

What we want to say is that if you had no intention of breaking your residence, but if you left on a brief vacation or a family problem, that should not make you start from scratch from the present. That had always been the way it had been interpreted sort of by the INS and others and we really mean to be able through this amendment to work with the Senate and the INS to get the law back to where we thought it was before the Supreme Court decision.

I thank the gentleman for yielding.

**Mr. RODINO.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman from New Jersey.

**Mr. RODINO.** Mr. Chairman, I merely want to reiterate what the gentleman from Massachusetts has stated. I think it was never the intent of the Congress when it adopted this kind of legislation that a brief visit that could not have been avoided should have been prejudicial to that individual.

As a matter of fact, we have sometimes taken action in the committee, through private legislation, to cure that problem.

So I thank the gentleman and I applaud him for his amendment.

**The CHAIRMAN.** The time of the gentleman from California has expired.

(At the request of Mr. Mazzoli, and by unanimous consent, Mr. Roybal was allowed to proceed for 1 additional minute.)

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman.

**Mr. MAZZOLI.** Mr. Chairman, I thank my friend, the gentleman from California, for yielding.

Having examined the amendment and having had discussions with the distinguished chairman earlier, this is certainly a good amendment and subject to, as we talked earlier, changing the words somewhat, I think the gentleman has made a very constructive contribution and I thank him.

**Mr. GARCIA.** Mr. Chairman, will the gentleman yield?

**Mr. ROYBAL.** I yield to the gentleman from New York.

**Mr. GARCIA.** Mr. Chairman, first, I also would like to congratulate my colleague, the gentleman from California.

Those of us who have constituents with families in places like the Caribbean, there is no question that this amendment goes a long way in making sure that loved ones are together in times of need. I have had difficulty over the years sometimes getting that permission for people to travel, to visit their loved ones when they are ill or somebody dies.

I think that the amendment of the gentleman from California really will alleviate a great many of those problems and I thank the gentleman for yielding.

□ 1120

**Mr. LUNGREN.** Mr. Chairman, I move to strike the requisite number of words.

I will not take the entire 5 minutes. I rise to say I support this amendment in the context of the explanations that we have received from the gentleman from Massachusetts [Mr. Frank] and the chairman.

There is something we have to do here. Those of us who live in the southern California area particularly, understand the importance of clarifying this legislation.

I am not sure this is the precise language we want to end up with, but this gives us an opportunity to fulfill the goal as established by the gentleman from California. So we rise in support of the amendment.

**The CHAIRMAN.** The question is on the amendment offered by the gentleman from California [Mr. Roybal].

The question was taken; and the Chairman announced that the ayes appeared to have it.

**Mr. MARLENEE.** Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

**The CHAIRMAN.** Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 238]

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chapple
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Coyne
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)

Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Shumway
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Valentine
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

☐ 1130

The CHAIRMAN. 408 Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Montana [Mr. MARLENEE] for a recorded vote.

Does the gentleman from Montana [Mr. MARLENEE] insist upon his request?

Mr. MARLENEE. I demand a recorded vote, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 4, not voting 18, as follows:

[Roll No. 239]

AYES—411

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bedell
Beilenson
Bennett
Bereuter
Berman
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conable
Conte
Conyers
Cooper
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin
Levine
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Rudd
Russo
Sabo
Sawyer
Schaefer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Sisisky
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weaver
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NOES—4

Applegate
Latta
Paul
Taylor

NOT VOTING—18

Bates
Biaggi
Coyne
Dickinson
Ferraro
Fuqua
Hansen (ID)
Harrison
Heftel
Jeffords
Johnson
McDade
Oberstar
Savage
Scheuer
Sensenbrenner
Simon
Torres

☐ 1140

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 36 REPORTED BY THE COMMITTEE ON AGRICULTURE AND OFFERED BY MR. DE LA GARZA

The CHAIRMAN. Amendment No. 36 reported by the Committee on Agriculture is in order at this time.

Does the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] desire to offer amendment No. 36?

Mr. DE LA GARZA. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 36 reported by the Committee on Agriculture and offered by Mr. DE LA GARZA: Page 63, line 22, strike out "Secretary of Labor" and insert in lieu thereof "Attorney General".

Mr. DE LA GARZA. Mr. Chairman, the fourth Agriculture Committee amendment would delegate to the Attorney General, rather than the Secretary of Labor, the authority to issue regulations governing the aggregate period H-2 workers may stay in the United States.

It was the view of the Agriculture Committee that while the Department of Labor was the proper agency to certify the need for H-2 workers, the Attorney General—acting through the Immigration and Naturalization Service—was in a better position to determine how long the workers could stay once admitted. This amendment would place responsibility in an agency that historically is responsible for the immigration policy of the Nation. Moreover, the change authorizing the Attorney General to issue such regulations brings the bill into conformity with existing procedures and regulations.

Mr. Chairman, Mr. MORRISON of Washington was the sponsor of the amendment in the committee. At this time I yield to the distinguished gentleman from Washington for further explanation of the amendment.

□ 1150

Mr. MORRISON of Washington. I thank the gentleman for yielding.

Mr. Chairman, this is the first of a series of several amendments that relate to the H-2 program, an existing process utilized by a number of employers, not just in agriculture but throughout America, to allow the use of foreign workers under rather restrictive conditions.

In our hearing held by the Agriculture Committee, testimony indicated to us concern about a change in the Judiciary Committee version of H.R. 1510, a change in a long-standing procedure concerning the length of stay of H-2 workers, or at least how that length of stay was to be determined.

The present law and also the Senate version of this bill specify that the Department of Labor certifies employers who, upon application, may use H-2 workers for a certain period of time. That period of time is tied to the need of that individual employer, and this is appropriate. We do not argue at all with that. We say that the Department of Labor is the appropriate agency to make that measurement because it relates to the requirements for labor.

Again, present law and the version of this bill that comes to us from the Senate both provide that the Department of Labor certifies, upon application from an employer, the use of H-2 workers for a certain period of time. The Department of Labor should measure the need for workers and how long they should stay in relationship to a certain job.

What the Agriculture Committee is saying in this particular amendment is that the length of the stay of the H-2 worker himself is another matter, and that should remain, as it has through the years, in the hands of the Immigration and Naturalization Service. They are the experts on this. They have always been responsible for the length of stay, as far as I know, in all of the nonimmigrant programs that exist; whether you are a student or a citizen of some other country and here for some purpose, the INS has always determined length of stay.

Now, the bill in front of us changes this long-standing procedure as it relates to labor. We would like to change this authority back to the Attorney General, working through one of his agencies, the INS.

We could not find a good reason for this change, Mr. Chairman, and we would argue that we should leave it like it is. The point I am trying to make and that we make from the Agriculture Committee amendment is that we agree that the Department of Labor should measure the need for workers and judge the labor requirements of individual employer applicants, including the time of work on a specific job. But what you will find is occurring, and with great logic, is that INS is aware of several approved labor certifications and deciding that rather than send a worker back to his native land and then have him be retransported to another job in the same vicinity, that they will establish a modified length of overall stay for the worker. Even under this extended stay, the Department of Labor continues to establish the length of time on an individual job which has been certified under the H-2 program.

So again, INS is best equipped to determine when those nonimmigrant workers should return to their home country, and our amendment very simply states that as it currently exists in law.

I urge the adoption of the amendment, Mr. Chairman.

Mr. DE LA GARZA. Mr. Chairman, I urge the adoption of the amendment, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is the first time that we will now encounter the problem of combining the concerns that people have over domestic labor, and foreign labor in this country, and immigration reform. Unfortunately, I believe that both of these items, labor law requirements of this country and immigration reform, have been merged in this legislation.

And here we have the situation where the Department of Labor historically has made a determination in this country about the need for foreign workers. There are guest workers. They come here legally. They come here for a specific economic purpose, which is to meet the demand of the growers in a particular crop and in a particular region of the country. We are not talking about illegal aliens.

And the situation is this: that these are legal workers that we allow to come into the country to meet an unmet need in a specific crop or a specific region of the country.

During that process, a grower or an association of growers will make application to the Department of Labor for these workers. Then the Department of Labor will make a certification that these workers first, are needed, second, that they will not have an adverse impact on domestic labor, or the job opportunities for American workers, and third, that they will be paid a wage so that the wage base of American workers will not be eroded.

After that finding, they also make a determination of how long these guest workers will be needed to meet the needs of the application of the growers or the association of the growers.

What we now see is an effort to take the Attorney General, who is responsible for issuing the visas, and letting the Attorney General determine the length of stay. What you would set up in motion at that point is something where you are simply talking about apples and oranges, if you will. You already have a Department of Labor certification that the need for these workers is real and it is for a specific period of time; therefore, the visa should flow. In some cases, workers are brought into regions for particular purposes. They might be brought into Florida to cut cane, into the Carolinas and Virginia and elsewhere to harvest apples or to Michigan to harvest apples, and to California for various crops that we have, or Texas or Arizona. Why would you conceivably want a length of stay that is longer than the certified need for those workers?

And by keeping the Department of Labor involved in this length of stay, the Department of Labor that has the expertise to talk about the impact and to certify the impact on American workers, to certify the need in terms of the length of stay, and to divorce these two situations I think, to me, does not make a great deal of sense. I think for the greatest protection of American workers—and I will remind you throughout the discussion we will have through the next few hours, there are many American workers, people who are either citizens of this country or residents of this country legally, who desire this work, not only in my State but in other States, who are unemployed currently in double digit numbers. And so the question really around this whole discussion over the next couple of hours is whether or not we are going to make a determined effort to provide those jobs to American workers to get them off the unemployment rolls, to get them of the welfare rolls, to get income into their families, or whether we are going to have a kind of ambiguous abstract guest worker program.

But this effort is the opening salvo. I just do not believe that we ought to stray from the Senate's bill, from the House bill, or what has historically been the situation in this country, that the Department of Labor, with its expertise, with its knowledge, with its historical involvement in this program, be divorced from setting the length of stay that these workers will be here to meet the economic needs and demands of the growers of the various regions of the country, and I would hope that the House would turn down this amendment.

□ 1200

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman.

Mr. THOMAS of California. I thank the gentleman for yielding.

My understanding is that this simply changes the bill back to current law. Despite what may or may not occur over the next several hours in terms of amendments that would significantly alter the H-2 program, this amendment would apply to the current H-2 program. Is that correct?

Mr. MILLER of California. Right.

Mr. THOMAS of California. Could the gentleman tell me how many farm laborers came into, for example, the State that we share, California in 1983, 1982, 1981, in recent years?

Mr. MILLER of California. I do not have the exact number, but it is a very small number on California.

Mr. THOMAS of California. I can give you the exact number; it is 562 in 1982. They were all sheepherders. There are no H-2 farm laborers in California working on any perishable vegetables or crops as the gentleman indicated in terms of all of the jobs that are being taken by these H-2 workers from people who are unemployed and want jobs.

Mr. MILLER of California. If I can reclaim my time, let me suggest that the discussion of this issue will not begin and end in the State of California. There are some 10,000 to 12,000 workers that are brought into Florida.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. They are brought into the State of Florida at the same time that we have Haitian refugees who have an experience in cutting cane who are public assistance and are denied these jobs. So let us not try to make it all end and begin in that State.

Second, let us remember and examine the reason we are here today, and the reason there are no H-2 workers in California is that the industry made a conscious decision to use illegals. So it is the use of the illegals that places no requirements on the farmers to go through the H-2 program, because they have no showing of need, because they are meeting their needs by the employment of illegal workers or resident workers.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield.

Mr. THOMAS of California. I thank the gentleman. Does the gentleman say that the entire reason that growers not just in California but in other areas of the United States have used illegals is because that was a conscious desire on their part to evade the law, or is there any recognition on the part of the gentleman that the H-2 program, in terms of the way it is structured, is so cumbersome that there are instances in which it cannot be utilized.

Mr. MILLER of California. I would find trouble with the gentleman's argument due to the fact that some 98 percent of all the applications that have been applied for have in fact been approved by the Department of Labor on a timely basis for those growers. I would say on my time, that I am well aware of the problems and later we will discuss Mr. ERLENBORN's amendment, my amendment that deals with the H-2 program, and we provide mechanisms to address those grievances that have been had in the H-2 programs. So I think in terms of the evidence and the history, that we are on very solid ground at this point.

Mr. THOMAS of California. If the gentleman will continue to yield, can the gentleman give me a number of workers who are currently brought in under the farmworker category in the H-2 program?

Mr. MILLER of California. I think it is around 18,000.

Mr. THOMAS of California. That is 18,000 for the entire United States?

Mr. MILLER of California. I think that is probably correct.

Mr. THOMAS of California. Including all of the agriculture of Florida with all of the sugarcane, the apples that you indicated are in New York?

Mr. MILLER of California. That is correct.

Mr. THOMAS of California. All of the agriculture in Texas, and all of the agriculture in all of the other States in the United States? Less than 20,000 under the H-2 program?

Mr. MILLER of California. To the great astonishment of the gentleman from California, the answer is "Yes."

But again, I will say on time, that this bill is finished, and if this bill is signed into law, we are now proposing to make it illegal for the hiring of illegal workers. That would dramatically change the form and the nature of the marketplace. I would suggest again that we can well certify what has happened in our State with respect to American citizens and resident farmworkers who are not working and those jobs are currently being taken by illegals.

Mr. THOMAS of California. If the gentleman will yield for one last time.

Mr. MILLER of California. Sure.

Mr. THOMAS of California. I thank the gentleman for yielding. We were admonished last night not to talk about what was going to occur in the future in terms of what this bill may or may not bring about.

The gentleman from California [Mr. THOMAS] rose to address the gentleman from California [Mr. MILLER] based upon the amendment before us, and I think we are wisely admonished not to assume certain things are going to happen either in the next few years or either the next few hours. I was addressing the amendment that is before us. I thank the gentleman for yielding.

Mr. MILLER of California. With all due respect to the gentleman from California, I will engage in the debate that I seek to engage and desire to engage in, and it is very crucial because the premise under which a number of amendments that we will be addressing in the next couple of hours is based upon the testimony in the Agriculture Committee, in the Labor and Education Committee, and in the Judiciary Committee is based upon speculation upon what will or will not happen. It is relevant and pertinent to the debate that we will engage in over the next couple of hours. So let us not prescribe one another's debate.

We have spent a great deal of time on the floor in the last 3 days responding to one another's characterizations. Let us deal with the items that are here. I would ask that we not provide for the length of stay of these workers be determined by the Attorney General; I would hope that we would have that done by the Department of Labor, which has the expertise, and I ask that the House reject this amendment.

Mr. BERMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think I would like to use the first few minutes of my allotted time to give my own overview of where we are right now.

This legislation is being offered, perhaps most importantly, it is suggested, to prevent the continuing displacement of American workers with undocumented workers who crossed our border illegally. It is so ironic that we are now debating a series of provisions which expand tremendously the potential for bringing in imported workers to displace, undermine, undercut the jobs, the wages, and the working conditions of American workers in agriculture.

My own personal view is that the legislation before us, as it is written, is very, very bad because of, those provisions. In fact, many of the things in the legislation to recommend it are outweighed in my mind, by virtue of this section on guest workers. For that reason, I am opposed to the bill.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman.

Mr. LUNGREN. Does the gentleman support our employer-sanctions section?

Mr. BERMAN. The gentleman will make a decision on the bill after we complete all the amendments.

Mr. LUNGREN. No, I understand that. I was just wondering whether the gentleman supports the employer-sanctions provision as an effort to protect American jobs.

Mr. BERMAN. I say this; I had grave concerns about the employer sanctions because of the factors of discrimination and the experience in California. I have seen action taken in this House, in the last few days, that make me less nervous than I was before about the employer sanctions. If I were sure that, and reviewed one more time, the antidiscrimination features, and the recordkeeping features which the gentleman has brought into this bill on employer sanctions and the protections against the kind of abuses we have seen in California during the period of time when California's employer sanctions were working, and if we stripped this bill of the insulting expansion of the imported guest-worker programs in the bill and offered by some of the amendments which we will be debating later today, and if we plugged up the loopholes in the legalization program so we truly had an adequate and progressive and humane and compassionate and meaningful legalization program, I would be willing to talk to you further.

Mr. LUNGREN. If the gentleman will yield further, in other words, the gentleman will reverse the vote he had yesterday taking our employer sanctions?

Mr. BERMAN. The gentleman will look at the bill as a total package.

Mr. LUNGREN. I thank the gentleman.

Mr. BERMAN. But the package that is before us now is seriously defective for many reasons, but most particularly the section we are getting into now.

So, coming back to the point I was trying to make the legislation that passed out of the Judiciary Committee is defective, and I would like to cite the comments of a very great leader in this body, the chairman of the Judiciary Committee, that he made in a Law Review article, which I agree with particularly as it applies to agriculture.

□ 1210

The gentleman said in 1974:

> Whatever future amendments the Congress may make in immigration law, it must not lose sight of the fact that its first responsibility is to protect workers from adverse foreign competition.

The present bill is bad. We will face some amendments down the road, the amendments proposed by the ranking minority member of the Committee on Education and Labor which make it worse. We will face amendment No. 42 proposed by the Committee on Agriculture, which is a total disaster and which will absolutely destroy the effort to unionize and improve the wages and working conditions of farm workers in this country, and most particularly in the State from which I come, California.

The one beneficial change on existing law in this bill is eliminated by this particular amendment because this particular amendment eliminates the change made by the Committee on the Judiciary which transfers the determination of how long the H-2 visas should be granted from the Attorney General, who has no expertise or basis for determining worker shortages, to the Secretary of Labor. The Secretary of Labor is the person to be making that determination. They have the determinations of work force needs around the country. The Attorney General is not that person.

Mr. Chairman, I would ask for a "no" vote on this amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unamimous consent, Mr. BERMAN was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Texas, the chairman of the committee.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I only ask for the time so that we may know the figures relating to the H-2's that we will be dealing with in the amendment, if the gentleman would oblige me.

The Department of Labor informs us that, for fiscal year 1976, there were a total of 29,778 H-2's. I asked about Mexico. Mexico had 761 for that year.

In the year 1977, the total was 27,760, and from Mexico there were 977.

In the fiscal year 1978 the total was 22,832, and from Mexico there were 1,189.

In the year 1979 the total was 15,487; from Mexico, 950. They do not have the data for 1980. Something happened to the computer.

In 1981 they do not have a breakdown for H-2 but the sum total of all the H's, including H-1, H-2, and H-3, was 44,770. And then for 1982 and 1983 they do not have any figures.

I thank the gentleman for allowing me to put the numbers in the RECORD that we will be talking about as we deal with H-2's.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to my colleague, the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to point out that there was a statement made by the gentleman from California [Mr. LUNGREN] to the gentleman in the well concerning a vote yesterday having to do with employer sanctions and I wanted to clear it up.

I know what the press said, but that was not an amendment that was offered that we voted on yesterday to strike employer sanctions. In fact, it contained provisions with respect to Labor and OSHA and other laws and stricter enforcement and recordkeeping and there was a $10,000 penalty assessed against an employer in that very same bill. So there was no such elimination of employer sanctions in the vote we cast yesterday and I do respect the gentleman's willingness to take an entire look, as I think many of us are doing, at the entire proposal when we finally finish it.

Mr. BERMAN. I thank the gentleman from Texas and I agree with his comments.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, the comments of the gentleman from Texas cause me to respond further to the remarks of my colleague, the gentleman from California [Mr. LUNGREN].

The amendment I supported was to substitute a meaningful and effective and well-funded labor law enforcement program to deal with the sweatshops and the exploitation in the fields as a preference for the employer sanctions language. The fact is, everything is linked together.

I must point out that those strong advocates of the free marketplace and letting the supply and demand of labor determine wage rates seem to blind themselves to their fundamental philosophical precepts when it comes to serving the needs of agriculture. All of a sudden it is farm workers, and imported, affecting that basic determiner that they adhere to so much in so many other areas of the economy.

Again, I repeat my position that I urge a "no" vote on the amendment.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Washington.

**Mr. MORRISON** of Washington. I thank the gentleman for yielding.

Mr. Chairman, I just want to make sure as we conclude the debate on this particular amendment that we understand that the Committee on Agriculture is attempting to restore the status quo in which the Department of Labor does determine the length under a certified application, determines the length of that particular job, but it is the Immigration and Naturalization Service which has historically determined the total length of stay of the worker involved. An H-2 worker may well be transferred from the first approved job to another certified job in the immediate area. It is efficiency in the use of labor. It just makes commonsense to leave that authority as it is.

**Mr. BERMAN.** Mr. Chairman, if I may reclaim my time in order to ask the gentleman from Washington a question, the gentleman accurately describes the effect of this amendment.

The question that I would ask is: Why should not the same individual who is determining needs at a particular place also determine the needs of the community or of the country for that particular kind of imported farm worker, the extent of the stay?

**The CHAIRMAN.** The time of the gentleman from California [Mr. BERMAN] has again expired.

(On request of Mr. MORRISON of Washington and by unanimous consent, Mr. BERMAN was allowed to proceed for 1 additional minute.)

**Mr. MORRISON** of Washington. If the gentleman will yield further, as we received testimony in the committee, we found that the Department of Labor, appropriately doing their job, certified the need in a certain area for the completion of a certain job and, say, it lasted for a month. But the Immigration and Naturalization Service, which actually monitors the involvement of the nonimmigrant in the field, would then know that immediately following the completion of that job was another one, also certified by the Department of Labor. Why force that one H-2 worker to return to his country of origin and then come back?

All we are saying is let INS oversee this whole procedure as approved in various segments of time and with certain numbers of workers by the Department of Labor. That is the way it has been for years and we say if it works, do not fix it.

**Mr. BERMAN.** Mr. Chairman, if I may reclaim my time, on this particular amendment I urge the House to stick with the Committee on the Judiciary and ask for a "no" vote.

**The CHAIRMAN.** The question is on amendment No. 36, reported by the Committee on Agriculture and offered by the gentleman from Texas [Mr. DE LA GARZA].

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 20, noes 10.

So the amendment was agreed to.

### AMENDMENT NO. 37 REPORTED BY THE COMMITTEE ON AGRICULTURE AND OFFERED BY MR. DE LA GARZA

**The CHAIRMAN.** Amendment No. 37, reported by the Committee on Agriculture, is in order at this time.

Does the chairman of the Committee on Agriculture desire to offer amendment No. 37?

**Mr. DE LA GARZA.** Yes, I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment No. 37 reported by the Committee on Agriculture and offered by Mr. DE LA GARZA: Page 65, after line 17, insert the following new clauses:
>
> "(iv) In no instance shall the Secretary of Labor require adjustments respecting the wages of nonimmigrants described in section 101(a)(15)(H)(ii)(a) to be applied retroactively.
>
> "(v) In determining a prevailing wage rate in an area in order to make a certification described in clause (i)(II) for a petitioner, if the increase in such rate for a year (over such rate for the previous year) is more than five percentage points above the rate of increase in the consumer price index for all urban consumers (U.S. city average) during such period, upon the request of the petitioner the Secretary of Labor shall provide for a redetermination of the prevailing wage rate in the area based upon a new survey of the wages prevailing in the area and occupation concerned."

**The CHAIRMAN.** The gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes in support of his amendment.

**Mr. DE LA GARZA.** Mr. Chairman, the fifth Agriculture Committee amendment relates to the calculation of the adverse effect wage that is used in the administration of the H-2 and Transitional Nonimmigrant Agricultural Workers Programs. The amendment would make two changes in these provisions.

I would like to preface my remarks by explaining that in the administration of the wage provisions of the H-2 and transitional programs, the Department of Labor makes a determination of the wage that must be paid for the particular job in an area so that the wages of domestic workers would not be adversely affected. This wage is referred to as the adverse effect wage.

The Agriculture Committee amendment would, first, prohibit the Secretary of Labor from making retroactive adjustments in the wages of H-2 and transitional agricultural workers. The reason for this is that in the past, on occasion, after the H-2 workers have been paid and have returned to their country of origin, the Labor Department has recomputed the adverse effect wage and required higher wages to be paid retroactively. This has caused hardship to the employers, particularly when the employees are no longer in the area of employment and can only be located with difficulty, if at all.

The second change that would be made by the amendment relates to the wage surveys that are used in the determination of the adverse effect wage. In the past, the Department of Agriculture made quarterly wage surveys that were used in the calculation of wage rates for agricultural workers under the H-2 program. Unfortunately, this has been discontinued, and the Department now makes only an annual survey. The change that would be made by the committee amendment would be to require the Secretary of Labor under certain conditions to provide for a redetermination of the prevailing wage rates in an area based upon a new survey of the wages prevailing in the area and occupation concerned.

The use of annual survey information under current practice could well result in distortion of wage computations. The effect of the committee amendment is merely to require that the most recent and up-to-date wage information be used in appropriate cases. In order to avoid unnecessary requests for redetermination, the committee amendment limits the change to cases where the increase in wage rates computed by the Department of Labor is more than 5 percentage points above the rate of increase in the Consumer Price Index for all urban consumers during the given period.

Mr. STAGGERS, a distinguished member of the Agriculture Committee, was responsible for introduction of the amendment in the Agriculture Committee, and I would like to yield to him at this point for further explanation of its provisions.

□ 1220

**Mr. STAGGERS.** Mr. Chairman, today I offer an amendment which I believe will be a remedy to an inequitable situation. The problem stems from changes in methodology and subsequent delays by the Department of Labor.

I have small- to medium-size fruitgrowers in my district who utilize the H-2 program often. Last year, at the time the Agriculture Committee was considering H.R. 1510, some growers in my district brought to my attention an unfair situation which was causing them great financial burden.

The first part of my amendment would prohibit the Secretary of Labor from retroactive application of the wage rate for H-2 workers.

The retroactive application of the wage rate is an unfair occurrence and should be prohibited.

The Department of Labor determines what the adverse effect wage rate will be in a certain area. Since 1962 the Department of Labor used the U.S. Department of Agriculture's farm wage rates survey which was done on a quarterly basis. This method was used until 2 years ago, when the USDA no longer continued to do the farm wage survey quarterly. Rather, thay began to do it yearly. For these 2 years, the Department of Labor was phasing out the use of the USDA's survey. Thus, the Department of Labor was in need of another survey on which to base their adverse effect wage rate computation. The Department of Labor did not come out with a new regulation on how to compute the adverse effect wage rate until September 1983. This lack of foresight by the Department of Labor should not be just cause to penalize the growers who in some cases had been ordered to pay wages to the H-2 workers retroactively. The growers in my district cannot absorb such a financial burden and should not be penalized for a mistake made by the Department of Labor.

I have no quarrel if the Department of Labor comes in and establishes a new adverse effect wage rate and then expects growers to pay the new wage from that day forward. I strongly object, however, to the Department of Labor being able to apply the wages retroactively. It's simply not fair, and I urge the Members to consider the hardship this procedure has on a small grower. The purpose of the adverse wage rate is to prevent adverse effects on the wage of domestic workers similarly employed rather than simply the prevailing wage. To penalize the growers for delays by the Department of Labor will not prevent the adverse effects on domestic workers but will hurt the growers who are operating in good faith.

The second portion of my amendment would provide that if the adverse effect wage rate increased 5 percent over the Consumer Price Index in 1 year, the grower could request the Department of Labor to recompute the wage rate based upon another survey in that area. I offer this as a safety mechanism for growers. I have already explained the problems which the Department of Labor was having in determing the adverse effect wage rate. If the wage rate jumps 5 percent over the CPI in 1 year, it would be quite unusual and therefore suspect. Only at this point could the grower request that another survey be done in the area.

I believe that the 5-percent figure is quite fair, since it is such a high one. The likelihood of this occurring is slim, and in effect would demonstrate that something is wrong with the survey. Although there is no nationwide survey, taking the data from my district, historically the increases of the adverse wage rate over and above the increases in CPI has been less than 1 percentage point a year.

Therefore, I urge the adoption of my amendment.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from West Virginia [Mr. STAGGERS] for that explanation, and I yield to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think our colleague, the gentleman from West Virginia [Mr. STAGGERS], raises a very important point with this amendment, and that is that the Department of Labor failed in its duty to properly promulgate an adverse wage rate on a timely basis, and as a result of that, both growers and workers were penalized. Both of them ended up losing money, and it is a situation that should not be recreated.

However, I am concerned about the language as it is currently drafted, and unfortunately we have made an attempt to improve the language but the rules of the House does not allow that under the procedure under which this bill is being considered. I note that the Senate bill has language on the point which is put forth by our colleague, the gentleman from West Virginia [Mr. STAGGERS].

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(On request of Mr. MILLER of California, and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, I continue to yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I would hope that the gentleman from Texas [Mr. DE LA GARZA] would consider withdrawing this amendment, with the full understanding that myself and the Judiciary Committee and others understand the problem that was created, not by the growers or by the workers, but by the Department of Labor, and that we would seek to work with the language that is presented in the Senate bill which has already passed.

I think that that would be the manner in which we could most directly address this problem, in fairness to both the workers, because of the untimely promulgation of the adverse wage rate, and the farmers who are trying to seek out and find those individuals that it would be owed to.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from California [Mr. MILLER].

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from West Virginia.

Mr. STAGGERS. Mr. Chairman, I appreciate the concern of the gentleman from California [Mr. MILLER], and with his assurances, that does alleviate some of my problems.

The problems that I do have, which have been very well stated, are with the changes of methodology and the delays.

I would ask the gentleman from Kentucky [Mr. MAZZOLI], because of the concerns I have in conference, is he aware of the problems we are having in West Virginia?

Mr. MAZZOLI. Mr. Chairman, I have been attending the gentleman's debate and trying to understand it. The gentleman from Kentucky is certainly not an expert in many fields, and this happens to be one of them. But the gentleman from Kentucky, knowing of the gentleman's own conditions and knowing the concerns of the chairman of the committee, the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from California [Mr. MILLER], will assist the gentleman to the extent we can in the conference and thereafter in trying to attend to the problems of the gentleman's State.

Mr. DE LA GARZA. Mr. Chairman, we thank both the gentleman from California [Mr. MILLER] and the distinguished subcommittee chairman, the gentleman from Kentucky [Mr. MAZZOLI] for their generous cooperation.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I would just like to make this inquiry of our committee chairman and suggest that perhaps part of the problem evidenced by the gentleman from West Virginia is that the U.S. Department of Agriculture has gone from a quarterly analysis of wage rates to an annual analysis, and I presume that is a matter of a shortage of funding.

Perhaps if the next amendment passes authorizing additional funding to the U.S. Department of Agriculture for this responsibility, that would help the Department of Labor avoid the problem which has occurred as evidenced in the amendment coming up next.

Mr. DE LA GARZA. Mr. Chairman, the gentleman is eminently correct, because the wage scale study is done by the Department of Agriculture.

Mr. Chairman, with the assurances and the cooperation of the two distinguished gentlemen, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Amendment No. 37 is withdrawn.

### AMENDMENT NO. 38 REPORTED BY THE COMMITTEE ON AGRICULTURE AND OFFERED BY MR. DE LA GARZA

The CHAIRMAN. Amendment No. 38 reported by the Committee on Agriculture is in order at this time.

Does the chairman of the Committee on Agriculture desire to offer amendment No. 38?

Mr. de la GARZA. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 38 reported by the Committee on Agriculture and offered by Mr. de la Garza: Page 70, line 15, strike out all that follows the first period and immediately after line 15 insert the following:

"(7) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities as set forth under the provisions of this Act.".

The CHAIRMAN. The gentleman from Texas [Mr. de la Garza] is recognized for 5 minutes in support of his amendment.

Mr. de la GARZA. Mr. Chairman, the sixth Agriculture Committee amendment is a simple one and, I hope, noncontroversial. It merely authorizes appropriations commencing in fiscal year 1984 to enable the Secretary of Agriculture to carry out his responsibilities under the bill.

Added responsibilities have been given to the U.S. Department of Agriculture [USDA] under the bill reported by the Judiciary Committee and the amendments of the Agriculture Committee. These include responsibilities in the administration of the H-2 and transitional agricultural labor provisions and the Special P Program for seasonal agricultural workers. However, no funding has been authorized for the Department of Agriculture for this purpose, although both the Department of Labor and the Department of Justice have been authorized additional funding under the bill.

Mr. Morrison of Washington was the sponsor of this amendment in the committee, and at this time I would like to yield to him for further explanation of the amendment.

Mr. MORRISON of Washington. Mr. Chairman, I thank the committee chairman for yielding.

Hopefully, we have made the point that we are placing additional responsibilities on the Department of Agriculture. It is interesting to read back through history and find that there does exist some overlapping authorities and responsibilities between the Department of Labor, the Attorney General, and the U.S. Department of Agriculture under the existing H-2 Program, and it only seems to make sense to us that if we are going to give additional authority, as the Judiciary Committee bill does, to the Department of Agriculture, this amendment is necessary. They seem to take care of the Department of Labor and the Attorney General's Office, but leave out any additional funding for the Department of Agriculture, and it just seems logical again that this authority be included.

Mr. Chairman, I urge the adoption of the amendment.

Mr. de la GARZA. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 38 reported by the Committee on Agriculture and offered by the gentleman from Texas [Mr. de la Garza].

The amendment was agreed to.

### AMENDMENT NO. 39 REPORTED BY THE COMMITTEE ON AGRICULTURE AND OFFERED BY MR. DE LA GARZA

The CHAIRMAN. Amendment No. 39 reported by the Committee on Agriculture is in order at this time.

Does the chairman of the Committee on Agriculture desire to offer amendment No. 39?

Mr. de la GARZA. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 39 reported by the Committee on Agriculture and offered by Mr. de la Garza: Page 76, line 4, strike out all that follows the first period and immediately after line 4 insert the following:

"(7) The provisions of subsections (a) and (c) of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

Mr. de la GARZA. Mr. Chairman, the seventh Agriculture Committee amendment is one that would preempt State law that may regulate the admissibility of nonimmigrant workers under the H-2 and transitional nonimmigrant agriculture worker programs. The amendment was prompted by questions raised by legislation pending in a State providing different standards for admissibility of nonimmigrant workers. It was the position of the Agriculture Committee that these programs that are traditionally and necessarily Federal in nature not be restricted or otherwise affected by State laws or local regulations or ordinances.

Mr. Chairman, Mr. Morrison of Washington was responsible for this amendment in the Committee on Agriculture, and I would like to yield to him at this time.

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Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding.

I wish we could say that this amendment was not necessary. The Senate saw fit to include it in their version of the bill.

I can report that in the State of Washington, and I believe in 30 other States, there are existing antidiscrimination laws on their books that prohibit employers from asking the questions necessary to determine whether workers are legally in the United States and can legally work in that particular employment. We do have a conflict between existing State law and what is necessary under H.R. 1510, particularly as it relates to the H-2 program and the transitional program which may remain in the bill.

The amendment is very simple. It clarifies Federal preemption. The goal is to eliminate costly litigation, and I urge its adoption.

The CHAIRMAN. The question is on amendment No. 39 reported by the Committee on Agriculture and offered by the gentleman from Texas [Mr. de la Garza].

The amendment was agreed to.

### ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 519, if amendments numbered 40 and 41 are both adopted, only the latter shall be considered as having been finally adopted and reported back to the House.

### AMENDMENT NO. 40 OFFERED BY MR. ERLENBORN

The CHAIRMAN. Amendment No. 40 is now in order.

Does the gentleman from Illinois [Mr. Erlenborn] desire to offer amendment No. 40?

Mr. ERLENBORN. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 40 offered by Mr. Erlenborn: Page 62, strike out line 12, and all that follows through page 77, line 24, and insert in lieu thereof the following (and conform the table of contents accordingly):

H-2 WORKERS

Sec. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by inserting "(a) in agricultural labor or services included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1954, or (b) in any other labor services" after "temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than nine months in any calendar year, except (A) in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1983, has recognized require a longer period, and (B) that the Secretary of Labor may grant an extension of certification if he determines that extenuating circumstances indicate that such an extension is in the public interest; or

"(2) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during the period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section.",

(2) by inserting "(1)" after "(c)" in subsection (c), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor.

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the area of employment similarly employed.

The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute (as defined by regulations prescribed by the Secretary), or

"(ii) with respect to an employer if the employer during the previous two-year period employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer (I) at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or (II) if the Secretary has assessed a civil penalty against the employer for failure to comply with such a term or condition has failed to pay the penalty.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that the application be filed more than sixty-five days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall require a forty-five-day recruitment period as a test of availability of domestic workers;

"(iii) the employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)) for approval and if it does not, such notice shall include the reasons therefor and (if a sufficient period remains for a forty-five-day recruitment period) shall permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iv) the Secretary of Labor shall make, not later than twenty days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A) if the employer has complied with the criteria for certification, including criteria for the recruitment of eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary, except that the terms of such a labor certification remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply or are referred to the employer.

"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's or user's behalf does not relieve the member or user of any liability under this section unless the association—

"(i) is the sole employer of all such aliens and all similarly employed United States agricultural labor of all the members or users it represents, and

"(ii) the association has demonstrated (through a sufficient liability bond or otherwise) to the Secretary of Labor sufficient financial resources to absorb any liability that might reasonably occur for violation of any conditions required by the certification.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A).

"(ii) The Secretary of Labor shall expeditiously, but in no case later than seventy-two hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not able, willing, available, or qualified, the burden of proof is on the employer to establish that the individuals referred are not actually able, willing, or available or are not qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is a national of the United States, an alien lawfully admitted for permanent residence, or an alien otherwise authorized to be so employed by this Act or by the Attorney General.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) The Secretary of Labor, in consultation with Attorney General and the Secretary of Agriculture, shall issue regulations implementing the amendments made by this section. In developing those regulations, the Secretary of Labor shall establish standards for all persons employed under temporary agricultural labor certifications provided by these amendments which assure that wages and working conditions of aliens will not adversely affect similarly employed United States workers. In carrying out this responsibility, the Secretary of Labor shall establish employment standards which are at least comparable to those under the current regulations and which, among others, guarantee the provision of housing, transportation, meals, workers' compensation, and accurate payroll records and written pay-stubs, by employers who are provided certifications to import temporary alien workers for temporary agricultural jobs. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall report to the Congress not later than eighteen months after the effective date on recommendations for improvements in the temporary alien worker program amended by this section, including recommendations—

(1) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(2) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign workers have been requested, and

(3) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Government of Mexico and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act.

[Conforming Amendments:]

Page 17, beginning on line 4, strike out ", 101(a)(15)(O), 214(c), and 214(e)" and insert in lieu thereof "and 214(c)".

Page 31, line 9, strike out ", (M), or (O)" and insert in lieu thereof "or (M)".

Page 89, beginning on line 23, strike out "classified as a nonimmigrant under section 101(a)(15)(O) or".

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman from Illinois [Mr. ERLENBORN] is recognized for 8 minutes.

Mr. ERLENBORN. Mr. Chairman, this amendment is offered as a compromise between amendment No. 2 from the Committee on Education and Labor to H.R. 1510 and the H-2 provision of the Judiciary bill.

My amendment is offered to allow some flexibility by the administrative agencies responsible for enforcement of this legislation in the H-2 program. In addition, my amendment treats employers seeking H-2 workers fairly and equitably while offering adequate labor standards protection to foreign workers and continued strong labor standards protections to domestic workers. It is designed to ensure that our crops get planted and picked.

My amendment is consistent with parts of the Education and Labor Committee's amendment No. 2 by:

First, reinserting the existing language of the law on which certification is based in the definitional section (the Judiciary Committee bill struck this language without explanation);

Second, redefining "agricultural employment," as defined in the Fair Labor Standards Act, and denying the Secretary of Labor regulatory authority to so define employment;

Third, prohibiting employment of H-2 workers for longer than 9 months, with exceptions, including "grandfathered" occupations, and permitting the Secretary of Labor to grant an extension of a certification if he determines that extenuating circumstances indicate that such an extension is in the public interest;

Fourth, providing that the Department of Labor shall be consulted in determining certification and admission of H-2 workers;

Fifth, requiring a fee for processing applications for certification as does the Judiciary bill. I am amenable to having such fees applied toward reimbursement of the cost of processing applications for certification;

Sixth, providing by statute that labor standards be established by regulation of the Secretary of Labor with consultation. However, rather than "codifying" any of the present regulations regarding the labor standards protections, my amendment provides that labor standards be comparable to those under current regulations. In my opinion, the "comparable" language allows more flexibility in regulatory writing than does the language "at least as effective as," which is part of the committee amendment. Flexibility is particularly important in view of changes in procedures the whole bill will bring about;

Seventh, allowing an employer to pay a penalty where it has not complied with the terms of a labor certification, thereby qualifying the employer for future certification;

Eighth, giving the Secretary of Labor regulatory writing authority, in consultation with the Attorney General and the Department of Agriculture.

Ninth, taking into consideration that an association may be acting as the employer. In such a case, the association would be responsible in place of an employer where the association is the employer. This proposal attempts to protect against any fly-by-night association by requiring sufficient financial resources for any liability. This Congress, the Committee on Education and Labor adopted this proposal, so the committee amendment is consistent with my amendment.

My amendment is different from the committee amendment No. 2 in the following regards:

First, my amendment follows the "able, willing, and qualified" language of the Judiciary bill. I am concerned that if this language is stricken, the courts will give the striking meaning that was not intended. Besides, it is plainly apparent that domestic employees must be able to work and willing to work before an employer is denied the opportunity to acquire H-2 workers who are able and willing.

Second, my amendment requires an application to be filed no more than 65 days before the employer's date of need of workers and allows the Secretary of Labor a 45-day recruitment period. The Department of Labor informs me a 45-day recruitment period would be sufficient, but that a 30-day period, as in the Judiciary bill, is too short. To require an employer, particularly an agricultural employer, to ask for workers more than 65 days before date of need, or "more than 80 days" as in the Education and Labor Committee amendment, will be requiring a guessing estimate, considering all factors in agriculture—that is weather, crop and other variable conditions—where there are more variables than constants. My amendment attempts to compromise between the two committees. Both the Department of Labor and agricultural growers inform me they can accommodate to my amendment.

Third, my amendment, consistent with the Judiciary bill, allows a certification to remain effective only if the employers continue to accept domestic workers up until the time the aliens depart for work with the employer. Otherwise, the employer may have to hire over 100 percent of his needs. The language does not preclude the employer from hiring domestics; it just does not require this add-on to the work force when workers are not needed. The Education and Labor Committee amendment permits the Secretary to prescribe regulations as to this issue. I believe this is one of the areas that should be statutorily defined, particularly since former regulations required an employer to hire through 50 percent of the contract period.

Fourth, in my amendment, as noted, I require the Secretary of Labor, in consultation with the Attorney General and the Department of Agriculture, to establish employment standards which are at least comparable to those under current regulations. In this regard, I believe that, since all current regulations may not be applicable in their present form, the flexibility that is needed in regulatory writing is provided with this comparable language. Furthermore, I believe the language of my amendment is strong enough to protect both domestic workers and the potential influx of H-2's which some people expect. Because of the unknown results of employer sanctions and amnesty provisions, the law will require some flexibility in the regulatory and administrative processes. This proposal, in my opinion, is not as strict as the Education and Labor Committee's language that standards must be "at least as effective as" current standards and, further, require particular housing standards. While not being as strict as the committee amendment, my amendment is stronger than the Judiciary bill, which does not mention labor standards, as such Again, my amendment is a compromise.

My amendment does not contain the harsh requirements of the proposals put forth by the Education and Labor Committee. For instance:

First, I would not require that labor standards be a prerequisite to the Attorney General allowing admission of H-2's. The Attorney General's authority is a safety valve for the failure of the Department of Labor to act in an expeditious manner, or for that matter, to act in an arbitrary manner. With such a requirement, the committee amendment imposes restrictions on the Attorney General similar to the demands of the Department of Labor's certification process. The Attorney General, or the courts, may not be able to offer relief where relief may be needed. In other words, the Nation may need work done, agriculture will need crops planted and picked, and these needs should be met despite possible hangups in the administrative process.

Second, my amendment does not contain a private right of action. It is my understanding that a private right of action is not needed to protect domestic workers since the employment offer, if accepted, becomes an oral contract, enforceable under current contract law. Furthermore, many foreign countries, particularly the British West Indies, contract with employers in order to police the employers' job offers. Therefore, those countries can enforce those contracts against growers in this country. Labor standards are not the proper area to be enforced by private rights of action. Labor standards regulations are just the type of proper issues to be investigated and enforced by the Department of Labor, as it already does under the Migrant and Seasonal Agricultural Worker Protection Act. Another Federal statutory right of action should not be created.

Third, my amendment does not create another redundant and costly commission to study these immigration issues. After all our hearings and studies we do not need another commission to confuse the issues. The commission proposal should be rejected.

Fourth, as noted, my amendment is not as strict in the promulgation of standards as the committee amendment, particularly "housing."

Fifth, as previously stated, my amendment is more considerate of the growers in that it does not require them to file a petition for workers so long before the date of need that they would be unable to estimate their need with precision.

My amendment does not have a limited agricultural transition program. In the 97th Congress, the committee required a cap on admissions of H-2's unless the Department could certify it could enforce the program. This Congress, the cap has been substituted by the transitional program. Although an improvement, it is not the answer. The transitional program only lasts 3 years, it continues to use illegals, and it is probably not enforceable. With the transitional program, we are only postponing for 3 years the growers' attempt to substitute some type of labor for their agriculture crops. After deliberation, I do not think the transition program is a good idea. Although the Judiciary bill has an agricultural labor transition program, most agricultural growers have now realized this is not the answer to their needs. My amendments leaves the agriculture transition program to resolution at another time.

Mr. Chairman, I urge adoption of my amendment over the Education and Labor Committee Amendment No. 2 sponsored by the gentleman from California [Mr. MILLER]. In effect, it codifies into law the current regulations. It does not leave sufficient flexibility, would be unworkable, it would not provide the workers needed to bring in the crops, and would drive up the costs of agricultural commodities to the public.

My amendment does, however, provide more needed protections than does the Judiciary Committee version, and as a compromise between the overly liberal and the overly stringent, I think it should be adopted.

Mr. LUNGREN. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, it is with some regret that I rise in opposition to the amendment offered by my colleague, the gentleman from Illinois. He is known as one of the most distinguished Members of this body, the ranking member of the Committee on Education and Labor, and I think we would all agree his presence will be sorely missed when he retires at the end of this Congress.

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However, having said that, I must state categorically that this amendment does not come close to addressing the need for a streamlined H-2 program that will be workable in the Western United States. There is no doubt in my mind that this amendment is preferable to that which will be offered following by the gentleman from California [Mr. MILLER].

But to suggest that this amendment is a compromise is to suggest that you can compromise with something that is entirely unworkable and something I think that we have developed on the Judiciary Committee which is workable.

The major reason that I am concerned about this is because the H-2 provision, albeit existing on the books for some time, and albeit apparently workable in some areas of the country, is demonstrably not workable in the southwestern portion of the United States.

The best estimate is that we have about 300,000 workers in agriculture at the height of the harvest season in California and Arizona. The highest number we have ever had of H-2 workers in that industry in recent years is 700, a work force of 300,000 of whom only 700 have come in under H-2 provisions, and the best estimate is that at least 50 percent, if not up to 70 percent, of those working in that area are here illegally.

So what we are talking about is a program that has supplied 700 people out of a total need of perhaps 170,000.

The amendment offered by the gentleman from Illinois merely offers to make sure that the regulations are not made even more onerous than they already are now, which have already proven to be unworkable.

With the adoption of the employer sanctions already in this bill, it is critical that we do not put those in the agricultural sector of our economy in a position of either having to violate the law consciously or going out of business if they are unable to find domestic workers to harvest the crops that feed the people of our country.

I believe a streamlined H-2 program would provide an opportunity to replace some of the dependency on undocumented workers that are beyond the protection presently of our labor laws. Unfortunately, a major deficiency of the amendment before us concerns the relegation of the Department of Agriculture to a minor role in a program that will have a major impact on the shape of our agricultural sector in the future.

Under section 214(c) of the Immigration and Nationality Act, the amendment would, for all intents and purposes, exclude the Agriculture Department from consultation with the Attorney General as to the admission of temporary foreign agricultural workers. Instead, the amendment codifies the current practice which has resulted in sole reliance on the Department of Labor.

While no one would deny the Department of Labor a consultative role, it is imperative that this body go on record to insure that the Agriculture Department will have a role in the process, not the only role, but a role which it presently is denied.

Similarly, under the amendment, the Department of Labor would have the lead authority in issuing regulations concerning the implementation of the H-2 program arising out of the legislation before this body.

While no one would deny that that Department should indeed play a role, it is imperative that the Attorney General, acting through the Commissioner of INS, continue to have final authority over the shape and contours of an H-2 program that is, and will continue to be, largely regulatory. In that role, the Attorney General should have the discretion to consult with both the Departments of Labor and Agriculture in order to receive the expertise from both Departments concerning their respective areas of concern.

Another matter addressed by the amendment involves the codification of employment standards that are at least "comparable to those under the current regulations." While I appreciate the intent to clarify the language that is presently in the Education and Labor Committee bill, the amendment to be presented following by the gentleman from California [Mr. MILLER], I must at the same time emphasize that the language in this amendment is flawed for similar reasons. This ties the hands of the Secretary of Labor regardless of the situation that may arise under an H-2 program that may take on a different character as the Western United States goes through the transition of an undue reliance on undocumented labor to domestic and H-2 temporary foreign workers.

We might like to say that we can close off the border completely and we will not have those workers. But if you look at least since 1880, we have had temporary workers.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. We are dealing with an unknown future that should not be ladened with the rules of a program that heretofore have proven to be irrelevant to my part of the country.

As the dimensions of the new program become more apparent, there may be justification for more restrictive regulations, just as there may be justification for greater flexibility in others. But I would argue that there has been a demonstrated need for greater flexibility based on the fact that this program has not worked in the southwest portion of the United States. And if this amendment were to be adopted, we would not be able to respond to such exigencies and, in fact, we would place ourselves in the same inflexible situation that we are confronted with at present.

Most significantly, the amendment would have the effect of completely eliminating the transition program to assist agricultural employers in diminishing their reliance on unauthorized workers over a 3-year period.

While I support the Panetta-Morrison approach, and have tried to get that in legislation, that is not presently before us. A similar concept is also embodied in the bill in the other body and has had wide support. I am talking about the transition program.

I might even add here that the senior Senator from Massachusetts, who has studied this issue in the other body, has seen the wisdom of having a transition program. And this amendment would even knock out that proposal which is supported by the senior Senator from Massachusetts.

The transition program is an attempt to move in the direction of foreclosing the employment of undocumented workers in agriculture without creating an abrupt disruption of production that would serve the interests of no one. Even the draconian amendments offered by the Education and Labor Committee contain a type of transition program.

While I am not necessarily weeded to the version of the program contained in H.R. 1510, the concept is meritorious and should be retained in the bill.

Mr. Chairman, if we are to reduce the reliance of the agriculture sector in the West on a sub-rosa pool of labor, it is imperative that we adopt a program that has at least some prospect of working. It only makes sense to give that department of the Federal Government whose jurisdiction is going to be most heavily impacted a prominent role in what its shape will be. An uncertain future must not be burdened by the legal strictures that have failed in the past. The transition to a legal work force, subject to the protection of our laws, must be maintained. I urge that we reject the amendment.

At the same time, I would say that the gentleman from Illinois' amendment is a vast improvement over the amendment to be dealt with following this amendment. Nonetheless, what we have in the bill before us from the Judiciary Committee is a compromise.

I will admit readily we took many of the suggestions from the agricultural community. That is because we asked them to come before us with the complaints they had from the previous bill. When you have something that is not working and you want to get people to get on board to work with the program, it makes some sense to sift out those recommendations that they have given you that make a good deal of sense and try to enact them into the legislation. That is what we have done.

The gentleman from Kentucky [Mr. MAZZOLI] has worked closely with me on this and I would hope that we would not lose the compromise that is contained in the Judiciary Committee bill with respect to H-2 workers.

We have protections for those workers. What we create is some flexibility.

When the gentleman suggests that all we need is 65 days for application because the Department of Labor said that is all that they can handle, it points out the problem. The reason why H-2 does not work in my part of the country is that you need less than 65 days in which to try to determine when your crops are going to be available for picking. That is one of the major reasons it does not work. And to say that because the Department of Labor says they cannot handle it means that the bureaucracy is going to determine what the law is going to be makes no sense when in fact the law has proven that it is not effective because of the bureaucracy we have already developed.

Mr. THOMAS of California. Will the gentleman yield?

Mr. LUNGREN. I will be happy to yield to the gentleman from California.

Mr. THOMAS of California. I want to compliment the gentleman on his statement because he is precisely on target in terms of the problem with the present H-2 program.

Either we have to compel ourselves to believe that every person who is engaged in agricultural activity, who employs workers is consciously attempting to evade the laws of the United States, and purposefully seeks out illegal aliens in order to do that, or it seems to me the reasonable person might come to the conclusion that perhaps the structure under which we are currently operating is not very good.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has again expired.

(On request of Mr. THOMAS of California and by unanimous consent Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. THOMAS of California. The gentleman mentioned the 65-day figure from planting to harvest time. A number of row crops, for example, mature between 90 days and 120 days.

If this legislation is to do what its supporters purport that it will do, and that is allow the United States to regain control of its borders, there is no one that I know in agriculture that does not say that they have had to meet their economic needs with whatever was available.

□ 1250

Unfortunately, what ever was available to a great degree were nondocumented aliens. If this legislation is going to do what they say that it is going to do, there has to be a change in the farm worker program. The current H-2 program is unworkable.

Unfortunately, my colleague from Illinois, in terms of his offering does not in my opinion fully understand the kind of agriculture that we are engaged in in the Southwest or I am sure he would have had examined his amendment and altered it to fit that pattern.

The gentleman from California's [Mr. MILLER] amendment, although he is from California, I think clearly in terms of his approach is interested in structuring a farm labor program to accomplish his own particular ends.

The committee, I believe, has tried to loosen up the H-2 program but in examining the options, those that will be examined and perhaps voted on over the next few minutes, the only one in this gentleman's opinion that meets the needs of agriculture if in fact the bill is going to do what it says it is going to do is the Panetta-Morrison amendment.

But I want to compliment the gentleman from California in terms of pointing out the predicament that those people who are engaged in agriculture, not just in California but a number of other States, will find themselves in, if this bill does become law and does what its supporters purport it to do.

Mr. LUNGREN. I thank the gentleman for his comments. I might point out that the Senate does not have the flexibility that we have drafted in the Judiciary Committee bill. So it is not something that we can work out in conference. It is something we have to vote on here on the floor.

Mr. BERMAN. Mr. Chairman, will the gentleman from California yield?

Mr. LUNGREN. I yield to the gentleman from California.

Mr. BERMAN. I appreciate the gentleman yielding. For totally different reasons, I share his opposition to this amendment.

Mr. LUNGREN. I thought so. I appreciate the gentleman's position.

Mr. BERMAN. But his comments in defense of the present language in the H.R. 1510 cause me to rise to ask him some questions.

I would like to look at a particular area and understand what was the thinking of your subcommittee in proposing language which changes the authority of the Department of Labor to certify or suspend in the event of a strike under present law.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Lungren was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. If I might just say to the gentleman, I think the debate we are having right now would be far more appropriate on the following amendment when we discuss the differences between the Miller approach and our approach, and I would be happy to engage the gentleman in a discussion at that time.

I think it gets us off the debate on this particular amendment since the gentleman shares my concern that we ought not to adopt the Erlenborn amendment, although from a different perspective.

So if we could wait and discuss it in that context, I think it would be better for the Members to hear.

Mr. BERMAN. I appreciate the gentleman's position. I disagree with it because I think it is important as we join in opposition to this amendment to understand it, perhaps, even greater deficiencies in H.R. 1510 in some of these areas.

Mr. LUNGREN. I am afraid if you and I keep talking, I might convince you to support the amendment.

Mr. BERMAN. No; there is no way that can happen.

Mr. LUNGREN. So we should go to the Miller amendment where we can engage in that dialog.

Mr. BERMAN. If the gentleman chooses not to yield.

Mr. LUNGREN. I will be happy to discuss it in the context of the next amendment.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Thank you very much.

Very briefly, and with the greatest of fondness for my friend from Illinois [Mr. Erlenborn] who, to the House's great loss, will be leaving this Chamber at the end of this Congress, I have to rise in opposition to the gentleman's amendment.

As I have said earlier in the first part of this discussion, the gentleman from Kentucky is not an expert in many fields, one of which happens to be agriculture. So I cannot speak with much background or much particular knowledge in the field.

But I think the gentleman from California [Mr. Lungren], my valued associate on the subcommittee, has said it best; we tried our best to balance the very great differences which appeared in all the testimony which came before our committee. We believed during the hearings and we believe today that when employer sanctions work there will be a diminution of the available labor in agriculture. If there is not a new pool of labor made available, then not only do the people of the United States suffer a potential loss of their food and fiber, but to a great extent the people of this world suffer the loss of their food and fiber.

So we therefore said if the employer sanctions work and labor is reduced, what do we do? Do nothing? That is certainly not acceptable. Then what do we do? Well, we came up with a plan to modernize, streamline, update H-2 mechanism which would not have worked in many parts of the United States.

In what fashion do we update and modernize and streamline this program? We had reams of testimony given, going everywhere from tightening up, as the the gentleman from California, Mr. Miller's amendment will do, which will be offered shortly, to basically making this a wide-open guest worker program.

Your committee endeavored, Mr. Chairman, and whether we have been successful remains to be seen, we endeavored mightily to come up with a middle of the road program so that everyone had a piece but no one had too many.

The growers are present in the bill, but the growers do not get their own way totally. Agricultural labor is involved in this bill, but they do not get their way completely.

With respect to the transition program which the gentleman from California talked about, which the gentleman from Illinois' amendment would strike, we said in this interim period when we are moving from a program in which undocumented labor is readily available to the new program in which you will have to be documented or U.S. citizens; there must be an easy phase-in program.

We said, well, a transition program is needed. So we have a program in our bill which provides in the first year you are able to use 100 percent of the undocumented that you have had in the last full year before the program is effective, then 66 percent, then 33 percent and that is it.

This is maybe faulty and has flaws in it; but it is an effort to move the great agricultural community of this Nation, to which we owe great debts, one time of history to another position in another time of history.

And that is where we are. The gentleman from Illinois, who is a master of the subject and an articulate Member of this body, has a good-faith offering which parallels in time sequence and activity much of what the committee has done.

The one major element that I think is different and would cause the gentleman from Kentucky to have to regretfully oppose the gentleman's amendment is the striking of the transition program.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I would be delighted to yield to my friend.

Mr. ERLENBORN. I thank the gentleman.

One of the beatitudes is, "blessed be the peacemakers." I am certain that has in contemplation one in my position, having positioned himself between two contending forces to try to fashion the compromise he finds he is being fired on from both sides.

Now in hopes that maybe I could duck and not be hit by one side or the other and as a matter of fact maybe get a little help from one side, let me reiterate the parliamentary situation.

My amendment, should it be adopted, would be wiped out if the amendment subsequently to be offered by Mr. Miller were to be adopted.

So let me suggest that I think Mr. Miller and those of our Education and Labor Committee who want the strict H-2 provisions would also, if they were faced with having not that but either the Erlenborn compromise or the Judiciary provisions, would like mine better.

So let me just suggest that I will duck. I do not think the gentleman from California [Mr. Miller] even intended to take part in this debate but in case he does or he is talking to his friends, I will duck and see if his shot aimed at me might miss and hit you.

In other words, I am suggesting what we ought to do is adopt this, and Miller might win.

□ 1300

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, I tell my good friend from Illinois [Mr. ERLENBORN] whose presence I will personally very much miss when he decides to follow other pursuits that the gentleman now knows how the gentleman from Kentucky has felt for the better part of the last 4 years—in the middle, between opposing forces—all of whom are shooting, hitting not the opposing forces but only the gentleman from Kentucky.

I would also say that the gentleman from Illinois, my dear friend, and I were in my very first Congress—the gentleman reflected on that yesterday or the day before—I will not take but a moment to say that in my first Congress, Mr. Chairman, as a brand new Member of this body, I was on the Education and Labor Committee, chaired by our distinguished dean of the Kentucky delegation, Mr. PERKINS. The gentleman from Illinois was then a fairly junior member of the committee and yet an influential member, and he and I coauthored an amendment which carried in the committee and then, on the House floor on a fairly important, quite vigorously debated issue. That particular legislative activity remains indelibly printed in my mind over the years. When the gentleman, who has made many contributions to the body, leaves, much of the work he has done will remain to the betterment of the country. I salute the gentleman.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge defeat of the Erlenborn amendment for a number of reasons and because of the tremendous changes it, as well as the language before us in the bill, makes in existing law, all of them to the detriment of domestic farmworkers, migrant workers, the people who perhaps are the least able in our country and in our society to take this kind of a legislative beating.

I would like to outline some of the concerns I have with this amendment.

Under present law H-2 admissions are allowed only when unemployed persons capable of performing such labor or services cannot be found in this country.

The amendment before us eliminates the references to the country and ties it down instead to the specific community. In effect, what this does is eliminate the obligation of the grower to recruit workers from other parts of the country. A large Virginia farmer, who feels that there is a shortage of domestic workers in his area, has no obligation to do anything to recruit the workers from Florida or from Texas or from other parts of the country to come and work for him before he can go out and get the H-2 workers, the imported foreign workers, and with all of the implications for unemployment in agriculture that that portends.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

What the gentleman says is accurate, that we would require that those who would be available be from the community because that is generally where they would be recruited from. It is not very realistic to expect people from Alaska to move to Florida for 2 weeks to pick strawberries or something.

In addition, the Education and Labor Committee amendment does not include the words "able and willing." It just says "capable."

Now does the gentleman believe that if someone is capable of picking crops, but is neither able nor willing to do so, that the fact that they exist should prohibit the importation of workers who are capable, able, and willing? In other words, because they are capable of doing it, but they are not going to do it, should we then let the crop rot in the field?

Mr. BERMAN. I thank the gentleman from Illinois for his comments.

Reclaiming my time, that is a criticism, maybe justified and maybe not, I do not know, of amendments we will be considering after these.

My concern is the comparison with existing law and the comparison of the amendment of the gentleman from Illinois with existing law, the comparison of H.R. 1510 with existing law. The fact is existing law is far better in this area than either the existing bill we have before us or this amendment.

I would also suggest that that is what migrant farm labor and the trail of migrant farm labor is about. It is workers in a particular geographic area moving from crop to crop and when the harvest or planting season ends in that particular crop, moving to another part of the country. It has been a well-documented trail. There has been much legislative efforts, many of them by the gentleman from California [Mr. MILLER], many at the State and local levels, in recent years, to try to improve the wages and the working conditions and the health and safety standards for these people. Now we have an amendment which, in a sense, cuts off the obligation of agriculture to recruit these people before they go out and import workers from a foreign country to come in and fill their particular harvest need.

The general theme of the bill, this amendment, other amendments we will be considering later, is to say when there is a risk—and there certainly is risk here for both farmer and farmer worker—put it all on the farmworker; take care, insulate, insure the grower. I do not think that a body which prides itself on fairness in trying to strike a proper balance should be striking that particular balance.

Mr. THOMAS of California. Mr. Chairman, would the gentleman yield briefly on that point briefly because I seek areas in which I find agreement with the gentleman from California and this is one.

Mr. BERMAN. I yield to the gentleman from California.

Mr. THOMAS of California. I thank the gentleman for yielding.

It has to do, I think, with again simply an ignorance of what the occupation of agriculture worker in the United States today is. For example, in California, take one crop, onions, which are grown from the southern border with Mexico, in Imperial County, to the northern border of California in Oregon, Siskiyou County. That is a distance of 900 miles, a distance equivalent from northern Florida to approximately Massachusetts on the east coast. We have a crop that is harvested from June until late October.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has again expired.

(At the request of Mr. THOMAS of California and by unanimous consent, Mr. BERMAN was allowed to proceed for 3 additional minutes.)

Mr. THOMAS of California. And that when you are designing a program, whether it be under a modified H-2 program or a revised program, people really have to understand and appreciate the distance that migrant workers travel, when in fact they remain in the same State or if it is going to be defined as a region. I support the gentleman on that point.

Mr. BERMAN. I thank the gentleman and I look forward to the gentleman's opposition to the number of amendments, including amendment No. 42, the Panetta/Morrison amendment, which do not deal with this problem.

A second criticism I have of the Simpson-Mazzoli legislation, H.R. 1510, and of the amendment before us now is the incorporation of the Department of Agriculture as an agency with a role in promulgating regulations designed to protect the rights of these workers. I suggest that is a Department of Labor function. I would suggest that the reason agribusiness wants the Department of Agriculture involved in that is to dilute and modify and weaken those protections. I would suggest that is another significant and meaningful weakness in this amendment, in H.R. 1510 versus existing law.

Even in the housing area there are concerns with this amendment and very grave concerns with existing law.

Under present law, the grower must provide housing without charge to H-2 workers.

Under H.R. 1510, the Mazzoli amendment, the grower may substitute for that obligation reasonable housing allowance instead of the housing itself.

The result and the consequence of this particular change and the Erlenborn amendment allows the Department to come up with regulations which would substitute a housing allowance for actually providing housing, the consequence of that shifts the burden to the H-2 worker for finding housing and locating housing. If past experience is any guide in this area, we can be assured that as a result of this H-2 workers will join others in agriculture in sleeping in fields and in groves as a result of an assertion—not necessarily substantiated—but simply the assertion by the grower that housing is unavailable and that he or she is going to substitute a housing allowance for that.

□ 1310

I could go on and on, and in the course of all of this I will. All of this is to say that the amendment before us is a tremendous weakening of existing law and it should be defeated.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as one who participated during the course of debate in the Judiciary Committee concerning these particular provisions that relate to H-2, it was my idea from the very beginning that we should not have dealt with the problem of H-2's, that the regulations that presently exist should have been the regulations which would have governed the question of H-2 workers.

In the interest of attempting to bring about a bill, I did not pursue, in the Judiciary Committee, what I had then drafted, and that was a proposal which would have meant striking any reference to H-2 workers.

I became aware, as discussions went on, that Education and Labor, which has also jurisdiction over this measure, and which was a proper committee to be considering this, would be dealing with it; and at the time I became aware of the fact that the gentleman from Illinois was attempting to effect a middle ground, recognizing that most of the problems pertain to problems that affect the Department of Labor.

I think the gentleman sought to effect this compromise, and I want to commend him, because I believe that while I do not disdain the work of the Judiciary Committee, which attempted to deal with this situation, nonetheless I think that the gentleman from Illinois comes closer to the approach that I would have taken, although not nearly what I would have wanted.

For that reason, I not only want to commend him for the effort that he has made, but I state that his amendment would be an improvement. I would hope that those who are concerned with whether or not we are going to adopt the kinds of provisions that will be protective of both labor and industry would be supportive of the Erlenborn amendment.

I think that the gentleman has stated it correctly, he was caught between crossfires, attempted to bring about something that I think is very reasonable. We will be going to conference. I think it would be a fine position to be with in the event the Miller amendment is not adopted.

For that reason, I would support the Erlenborn amendment.

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is not anyone I respect more than the gentleman from Illinois [Mr. ERLENBORN], who is my ranking minority member on the committee on which I serve, and it is with great difficulty that I find myself in opposition to him. We work together for common causes so much that, to find myself now speaking out against an amendment of his, is difficult. But I must do so.

In my district—and I represent a significant farming district in coastal southern California—year round we are raising perishable crops, and this compromise amendment simply does not meet the needs and the requirements for my farming to continue to exist in southern California.

First, it calls for and requires that an employer look across the country in order to make certain that there is not available the domestic labor throughout the country. Labor requirements in my district come up within a few days, sometimes 400 or 500 employees are needed within a few days, and they cannot possibly look across the country. They must be able to look only within their neighborhood, within their region.

Second, I think it is important to note that there is no transition period. And of all of the programs that require the time to work into, this very complicated process for agriculture across the United States should have a transition period. This does not allow that 3-year period that is inherent in the bill itself.

Third, the Judiciary Committee's version contemplates a balanced H-2 regulatory structure in which the Attorney General, after consultation with the Secretary of Labor and the Secretary of Agriculture, shall provide for all H-2 regulations.

This amendment would give the Department of Labor lead agency, and I believe that this would create significant problems in the agricultural industry.

Perhaps last I should mention that it calls for 65 days of leadtime before you would be able to request and receive employees.

In a matter of 3 or 4 days, the scheduling of employees in the strawberry or winter tomatoes or in the avocado or citrus industry that I deal with, or cut flowers, the weather can change the need for employees within a matter of 3 or 4 days. You are talking about hundreds of employees. They are temporary employees who may only be needed for a week or two, and then they need to be able to move to another crop within the area.

This would preclude that from happening and it would completely make it impossible for farming in my community and my area to be able to exist.

Furthermore, it is a year-round program, and this calls for only 9 months instead of the 11 months, which would further complicate the process.

Reluctantly I oppose my ranking minority member whom I admire, but I must do so, and I would ask all of the Members to vote against the amendment.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have said on various occasions during this debate that the bill before us is not immigration reform. I have also said that this bill is directed to the benefit of a special interest in this country.

The truth of the matter is that it is not immigration reform simply because of title II of this bill. This title II deals only with the problems of labor and agriculture. These are subject matters that should be debated under another bill being proposed or brought to this House by either the Committee on Labor or the Committee on Agriculture.

But we now have a situation where we have inserted into an immigration bill, subject matter that deals only with agriculture. If the rule permitted I would move to strike out title II altogether, and then we would have in place what could be a reasonable immigration bill.

The amendment that is being proposed now is simply an amendment that puts in place a new Bracero Program. As you probably remember, this was a program that was first initiated during World War II. It was an emergency program, because most of us were out fighting a war. More than 15 million men entered the service at that time. We needed help and Mexico came to our assistance and sent us 500,000 men per year. They came to this country to help us cultivate our soil, to help us produce the food that was necessary to feed our people, to feed our Army, that like all armies fights on its stomach. All these things were necessary.

The war ended, but the Bracero Program continued, and it was not until 1964 that it was finally ended.

For more than 20 years we had a Bracero Program in this country, and then when we started to look into the situation with regard to their living and other conditions, we found that the contract under which they entered had been violated. I was a social worker at that time, and saw firsthand the abuses, and exploitation that ruined the program. When I came to Congress I was one of those who did everything possible to end the program, and that program was ended.

This proposal, however, is exactly the same as the Bracero Program of 1942. What this amendment does is carry forward the Bracero Program standards for determining if domestic workers are available under his proposal. The bracero language reads as follows:

> That sufficient domestic workers who are able, willing and qualified are not available at the time and place needed to perform the work for which such workers are to be employed.

□ 1320

The language of the Erlenborn amendment is very similar, only words are changed around. It reads as follows:

> Not sufficient workers who are available, able, willing and qualified, and who will be available at the time and place needed to perform the labor or service involved in the petition.

It is exactly the identical language. What we will have under this amendment if it passes, is another bracero program without the restrictions that the original Bracero Program had. I do not know what the restrictions are if any with regard to a physical examination. I think that everyone that comes into this country should have a physical examination. The proof of the pudding is that at the present time we have an increase in the incidence of tuberculosis. We had already licked tuberculosis. We had already solved the problem, but the increase of TB cases endangers the lives of the American public.

I believe that a physical examination should be provided. I also believe that health insurance should be made available and that the matter of housing should be determined. But I do not think that that can be done in debate by this body. I think it should be done between the two countries; let them sit down at the negotiating table and enter into a particular treaty or agreement in which both our and their workers will be protected. But above all, where the American public will be protected.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have heard on this issue of H-2 workers from a good deal of the interest of labor, a good deal of the interest of the western agricultural community and of course from our own distinguished committee chairman and subcommittee chairman on the Immigration and Judiciary Committees, but I wish to present for a few moments a perspective from the Southeast, from Florida, where the H-2 program that we are debating amending here today has in fact been operating and has had some great deal of use and practice.

In the area particularly of sugarcane growing, there has been a great use of this program. Most people, I do not think until debate started unless they were from a heavily agricultural area, and even then many of those probably have never heard of the H-2 program because it has not been that widely used. This program of temporary workers was designed and is in fact today being utilized in south Florida in the agricultural industry where simply there are not American laborers willing to do the work. Sugarcane growing is a very hard and very heavy and very tough thing to do as far as harvesting it is concerned. American labor traditionally has not been willing to go out and do that kind of hard labor in the marketplace.

Unfortunately that is true of some other agricultural labor as well. Though we do have American workers willing to do the work more in other agricultural harvesting. I would suspect if there were not as many illegals in here today in the agricultural marketplace as there are, that we would have a great deal wider use already of the H-2 program. It is for that reason that so many people from the agricultural community asked us on the Immigration Subcommittee and the Judiciary Committee when we began work on this bill to broaden and make more practical the use of this program in order that they might be able to have a fallback position when the illegals which they currently are relying on are no longer available to them.

So in that context I have great concern about what happens to this program. Both from the standpoint of the bill and the work product that has gone on in my committee, and also from a Florida perspective and an agriculture perspective.

There are certainly employers in Florida in the area of citrus groves, for example, who have not made use of this in recent years because of the attendant cost, but also there are those who have been able to get, quite frankly, some illegal labor, and they do have that, and they know it, and I know it, and you know it, and they will not have it after this bill becomes law.

There are problems though, as much as I respect the gentleman from Illinois and his efforts here, there are problems with his amendment that I would like to address. It is far better, as others have said, than what would be offered by the Education and Labor Committee next but it does have some attendant problems. While it does recognize the willing and able status, I just emphasized that a moment ago in the area of sugarcane and there are other areas, where we just do not have labor willing and able to do it, not just capable.

But it does strike the transition program that many in the agriculture community that are not now using this program believe is necessary, and it also makes some things pretty tough on those who want to use it and have been using it.

An amendment for example that was adopted that is in this bill now out of the Judiciary Committee that I proposed, would be stricken by the Erlenborn amendment; of course, it would also be stricken by the next amendment. That is the provision that provides for a de novo hearing in the case of new evidence after an employer has had labor certification denied the first time and he comes along and circumstances have changed during the course of his application, and he wants to go back in and present that evidence at a redetermination hearing. Until my amendment was adopted and under the present law, he had no right to have a de novo hearing to present that new evidence.

That would be stricken by the Erlenborn amendment, and I think that is a very bad thing to do to this bill and an unfortunate one. In addition to that, the time links that are involved are critical as far as I am concerned and agriculture in Florida is concerned. The period in the bill as it now stands for the stay in the United States is 11 months. Mr. ERLENBORN would take this back to 9 months. The extra 2 months is critical. The longer that we can allow toward 1 year for someone to stay, the more flexible, the more economical it is for agriculture to use the overseas labor with the migrant type of forces that play here.

We have had others describe how difficult it is for seasonal situations to be adjusted and for States like California, for the great mileage to be covered for different occupational uses of that labor once it is here. Eleven months is much more reasonable to the harvest even of surgarcane than the 9-month period based on the seasons when the harvesting occurs and the other work that is being done.

I also object, though I understand the rationale from the perspective of the Department of Labor, to the lengthening from the committee's time of 50 to 65 days to file for workers in advance of need. The agriculture community has emphasized to me time and again the absolute necessity of getting down the shortest time possible closest to harvest for their filing for this labor.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has expired.

(By unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. Time and again we have been presented the problem of getting down to a time that is short enough so that agriculture can go out on seasonal crops in particular, make a judgment and determination based on the labor market as it looks then, based on how full the harvest is, how much bounty there is going to be, how many strawberries are there going to be, how many oranges are there going to be, what is the best crop estimate, is it going to be too dry, are a lot of them going to fall off the trees or whatever. They do not know that. So they really need to be able to file for temporary worker use much closer to the time of harvest than even the 50 days that is in our bill in some cases. But at least let us stretch the length of time in this regard in favor of the agriculture employer. It really has very little to do with any questions of equity other than the discomfort of the Department of Labor and if we need to give the Department of Labor a little bit more manpower to deal with this problem, then let us appropriately adjust the bill in that connection.

Let us make the H-2 Program workable and realistic. In order to do that, I think we have done as best as you can do in the current bill as it now exists from the Judiciary Committee.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCOLLUM] has again expired.

(On request of Mr. HUNTER and by unanimous consent, Mr. McCOLLUM was allowed to proceed for 1 additional minute.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. HUNTER. I appreciate the gentleman yielding.

Mr. Chairman, I find myself constrained to oppose Mr. ERLENBORN's amendment. I think that our farmers have to plan in advance but they sometimes do not have that extra time when they see that their crop is going to be perhaps larger than they thought it would be. Perhaps it is going to require, because of weather, a certain treatment that it otherwise would not require and I think that the change in increasing the certification filing time from 50 to 65 days is a very critical element; one which justifies the defeat of this amendment.

Mr. McCOLLUM. I thank the gentleman.

I just want to emphasize that, while the gentleman from Illinois' amendment is far better than one that would come after it, I do not believe that either one of them should be adopted. They should both be defeated because the bill as it now exists is the best compromise, is a compromise indeed, and is workable, and it is the first time that we have had an H-2 Program that is truly workable for the vast majority of the agricultural community.

Mr. ROBINSON. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman.

Mr. ROBINSON. Mr. Chairman, I thank the gentleman for yielding.

I also reluctantly and very respectfully rise in opposition to the Erlenborn amendment.

Mr. Chairman, I have great respect for my distinguished colleague from Illinois, and for his effort to make a constructive contribution to the language of this complex bill in regard to the H-2 Temporary Worker Program.

As a Representative of a district which has been obliged for many years to place reliance in the H-2 Program in order to obtain sufficient workers to get fruit crops harvested, I am obliged, however, to rise in opposition to the pending amendment.

I speak from the standpoint of agricultural producers who must resort to temporary importation of workers because, over many years, they have been unable to recruit sufficient harvest workers in the domestic labor market through their own earnest efforts or the parallel efforts of the U.S. Employment Service.

I should emphasize that this is not a matter of trying to obtain so-called cheap labor. The adverse wage effect rate imposed by the Department of Labor, plus transportation, housing, and other costs, make importation of harvest labor a very expensive proposition, but the producers of perishable crops must have competent labor in sufficient numbers at harvest time.

The overwhelming majority of agricultural producers want to hire their labor legally. They don't want to be involved knowingly with illegal aliens. This is why the provision of the amendment deleting the transition period contained in the Judiciary Committee version of the bill would be damaging to the effort of growers to conform to new procedures in the bill designed to tighten, over time, protections against even inadvertent hiring of illegals.

Of even greater concern to agricultural producers is the apparent deletion, in the gentleman's amendment, of the role of the Department of Agriculture in advising the Attorney General as to the justification of H-2 actions in specific labor shortage situations, and the apparent continuation of the present system in which the Department of Labor is the key, and, de facto, the controlling agency in H-2 application determinations. The Judiciary Committee language, which would be modified by the pending amendment, is far more reasonable, in that it would assign action responsibility to the Attorney General after consultation with both the Secretaries of Labor and Agriculture.

I thus urge the defeat of the pending amendment.

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Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words. I think that the attempt that has been made by my colleague, the gentleman from Illinois [Mr. ERLENBORN] our ranking member on the Committee on Education and Labor, is indeed a valiant one. I think the comments from the various sides of the aisle have shown the hazards of running this gamut here.

I oppose this amendment, because while I do believe that it is superior to the language that is included in the current bill before us, I still believe that it falls far short of the desired goals that many have already talked about on this floor and I will not be redundant in that effort.

But I think clearly with respect to the crucial test as to the preentry determination to be made as to the need and to the availability of the need for these workers, guest workers, and the availability of American workers, this falls short. It also, I believe, falls short in the assurances that the current labor standards that have grown up by regulation over a period of years will, in fact, be maintained, and especially in respect to the area of housing, to provide that adequate housing will in fact be provided for these guest workers.

As we continue in this debate, I want Members of Congress to continue to focus on that term. These are guest workers. These are guests of our country who we have invited in to take care of an economic task that is necessary to the well being of the agriculture community in this country. I just feel that the amendment falls short on that purpose and provides that those determinations are not as stringent as they need be.

At this debate continues, I think Members will become more aware that the subtle changes in languages, while we say that they merely do this or they merely do that, are very carefully crafted because they have a historical perspective, they have a history in law and regulation, and we must be careful about that, but we will go more into that in the next amendment.

I would hope that the House would reject the amendment offered by the gentleman from Illinois [Mr. ERLENBORN].

The CHAIRMAN. The question is on amendment No. 40 offered by the gentleman from Illinois [Mr. ERLENBORN].

The amendment was rejected.

### AMENDMENT NO. 41 REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR AND OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. Amendment No. 41, reported by the Committee on Education and Labor, is in order at this time.

Does the chairman of the Committee on Education and Labor desire to offer amendment No. 41?

Mr. MILLER of California. Mr. Chairman, standing in place of the chairman of the committee, I do desire to offer that amendment on behalf of the committee.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 41 reported by the Committee on Education and Labor and offered by Mr. MILLER of California: Page 62, strike out line 12 and all that follows through page 77, line 24, and insert in lieu thereof the following (and conform the table of contents accordingly):

### H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a) (8 U.S.C. 1101(a)) is amended by inserting "(a) in agricultural labor or services included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1954, or (b) in any other labor or services" after "temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences:

"An alien may not be admitted to the United States as a nonimmigrant—

"(1) under section 101(a)(15)(H)(ii)(a) for an aggregate period longer than nine months in any calendar year, except (A) in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1983, has recognized require a longer period, and (B) that the Secretary of Labor may grant an extension of certification if he determines that extenuating circumstances indicate that such an extension is in the public interest;

"(2) under section 101(a)(15)(H)(ii)(a) unless the employment standards established under subsection (c)(2)(B) have been met with respect to the employment of the alien; or

"(3) under section 101(a)(15)(H)(ii) if the alien was admitted to the United States as such a nonimmigrant within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.",

(2) by inserting "(1)" after "(c)" in subsection (c), and

(3) by adding at the end of subsection (c)(1), as so redesignated, the following:

"For purposes of this paragraph the term 'appropriate agencies of Government' means the Department of Labor.

"(2)(A)(i) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(I) there are not sufficient qualified workers available in the United States to perform the labor or services involved in the petition, and

"(II) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed,

and unless, in the case of nonimmigrants under section 101(a)(15)(H)(ii)(b), the Secretary of Labor has issued such a certification.

"(ii) The Secretary of Labor shall require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification. Such fees and all penalties collected pursuant to this subsection shall be applied toward reimbursement of the costs of processing applications for certifications under this subsection, of making determinations of violations of this subsection, and of assessing and collecting such penalties.

"(B) The Secretary of Labor shall establish employment standards, with respect to employment of nonimmigrant workers under section 101(a)(15)(H)(ii)(a) and of eligible individuals in job opportunities for which a certification under subparagraph (A) is sought, which—

"(i) assure that wages and working conditions of aliens will not adversely affect similarly employed United States workers, and

"(ii) are at least as effective as those under the regulations in effect on May 1, 1983, and

"(iii) guarantee the provision by employers of housing, transportation, meals, workers' compensation, health insurance, and accurate payroll records and written paystubs, except that with respect to housing, an employer must, at his option, either provide adequate and safe housing without charge to the worker or certify to the Secretary of Labor that the employer has secured adequate and safe housing in the proximate area of employment and will offer the housing without charge to the worker.

"(C) The Secretary of Labor may not issue a certification under subparagraph (A)—

"(i) if there is a strike or lockout in the course of a labor dispute (as defined by regulations prescribed by the Secretary) or

"(ii) with respect to an employer if the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer has not complied (other than for technical reasons) with the terms of a labor certification, or, if the Secretary has assessed a civil penalty for failure to comply with such a term, that the employer has failed to pay the penalty.

No employer may be denied certification under clause (ii) for more than three years for any violation described in such clause.

"(3)(A) In the case of an application for a labor certification for a nonimmigrant described in section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor shall require that the application be filed at least 80 days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall require a 60-day recruitment period as a test of availability of domestic workers;

"(iii) the employer shall be notified in writing promptly after the date of filing if the application does not meet the standards (other than that described in paragraph (2)(A)(i)(I)) for approval and if it does not, such notice shall include the reasons therefor and permit the employer an opportunity to resubmit promptly a modified application for approval; and

"(iv) the Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in paragraph (2)(A)(i) if the employer has complied with criteria for certification, including criteria for a recruitment period of at least 60 days for eligible individuals as prescribed by the Secretary, and if the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services, except that such a labor certification shall remain effective only if the employer continues to accept for employment, until the end of such period as the Secretary provides in regulations, qualified eligible individuals who apply or are referred to the employer.

"(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services. The filing of such a petition or application on a member's or user's behalf does not relieve the member or user of any liability under this section unless the association—

"(i) is the sole employer of all such aliens and all similarly employed United States agricultural labor of all the members or users it represents, and

"(ii) the association has demonstrated (through a sufficient liability bond or otherwise) to the Secretary of Labor sufficient financial resources to absorb any liability that might reasonably occur for violation of any conditions required by the certification.

"(C)(i) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2)(A)(i).

"(ii) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of importing a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified or available, the burden of proof is on the employer to establish that the individuals referred are not actually available or are not qualified because of employment-related reasons as shown by their job performance.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, $15,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such non-immigrants (and other eligible individuals employed by the same employers) and alien seasonal agricultural workers under section 214 of the Immigration Reform and Control Act of 1983 are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection and section 214 of the Immigration Reform and Control Act of 1983.

"(6) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1984, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this subsection and under section 212(a)(14).

"(7)(A)(i) Any person aggrieved by a violation of this subsection or any regulation under this subsection with respect to aliens classified as nonimmigrant workers under section 101(a)(15(H)(ii) may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies.

"(ii) The Secretary may bring an action in any court of competent jurisdiction to prevent and remedy violations of this subsection and regulations thereunder. The right under clause (I) to bring an action with respect to a violation shall terminate upon the Secretary's filing an action respecting the violation under this clause and such appropriate relief on behalf of the workers affected by such violation under this clause, unless such action is dismissed without prejudice on motion of the Secretary.

"(B)(i) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this subsection, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this subsection.

"(ii) A worker who believes that he has been so discriminated against may, within 180 days after such discrimination occurs, file a complaint with the Secretary of Labor alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of clause (i) have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of clause (i) and order all appropriate relief, including rehiring or reinstatement of the work, with back pay, or damages.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(d) The Secretary of Labor, in consultation with the Attorney General and, in connection with agricultural labor or services, the Secretary of Agriculture, shall issue the regulations implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall first be issued, on an interim or other basis, not later than the effective date.

(e)(1) There is established a commission (hereinafter in this subsection referred to as the "Commission"), to be composed of 11 members, five to be appointed by the Secretary of Labor, five to be appointed by the Speaker of the House of Representatives, and one to be appointed jointly by the Secretary of Labor and the Speaker of the House of Representatives. In appointing individuals as members, the Secretary of Labor and the Speaker shall provide for the appointment of individuals who are representative of Government, academia, agricultural workers, labor organizations, and agricultural employers of nondomestic workers and shall make such appointments in a manner that provides for balanced representation of all interests. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments to the Commission shall first be made within 30 days of the date of the enactment of this Act. Members shall be appointed to serve for the life of the Commission.

(2) The Commission shall study and review the temporary worker program described in section 214(c) of the Immigration and Nationality Act as it applies to agricultural employment, and shall specifically review—

(A) the standards described in section 214(c)(2)(A) of the Immigration and Nationality Act for the certification respecting temporary foreign agricultural workers, including whether or not there should be a requirement that such a certification be actually issued by the Secretary of Labor before a petition to import such a worker may be approved.

(B) whether or not there should be a statutory or other specific limit on the number of such workers who may be imported in any period;

(C) whether or not payments equivalent to the taxes otherwise imposed under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act should be made by the employers of such workers;

(D) whether or not 60 days is a proper length of time to require recruitment of domestic workers before importation of such foreign workers;

(E) the appropriate length of time an employer should be required to accept domestic workers after petitions with respect to such foreign workers have been approved; and

(F) the standards used for determining proficiency or productivity in establishing whether or not domestic workers are qualified with respect to employment.

(3) The Commission shall report to the Congress not later than 15 months after the effective date on its review and on recommendations for improvements in the temporary alien agricultural worker program amended by this section, including specific legislative rcommendations—

(A) on the matters specifically reviewed under paragraph (2),

(B) assuring maximum recruitment of available domestic labor and, in times of labor shortage, assuring access to nonimmnigrant workers,

(C) improving the timeliness of decisions regarding admission of temporary foreign agricultural workers under the program,

(D) removing any current economic disincentives to hiring United States citizens or permanent resident aliens where temporary foreign agricultural workers have been requested, and

(E) improving the cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign agricultural workers.

(4)(A) Members of the Commission who are not officers or employees of the Federal Government are entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. All other members shall serve without additional pay.

(B) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(5)(A) Six members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(B) The Chairman and Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(C) The Commission shall meet at the call of the Chairman or a majority of its members.

(6)(A) The Chairman of the Commission, in consultation with the Vice Chairman, is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(B) The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(7)(A) The Commission may, for the purpose of carrying out this subsection, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(B) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this subsection. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(C) The Commission may accept, use, and dispose of gifts or donations of services or property.

(D) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(E) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(8) The Commission shall cease to exist 18 months after the effective date.

(f) It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 214(c) of the Immigration and Nationality Act and of the transitional seasonal agricutural worker program under section 214(e) of such Act.

Page 90, after line 2, insert the following new section (and insert a corresponding item in the table of contents):

### AGRICULTURAL LABOR TRANSITION PROGRAM

SEC. 214. (a) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall promulgate rules and regulations for the implementation of an agricultural labor transition program. The program shall be effective on the first day of the seventh month beginning after the date of enactment of this Act and shall last three years from the effective date.

(b) During the first year of the transition program, an agricultural employer, except as provided in (c), (d), and (e) of this section, may, as provided by regulation, employ up to 100 percent of his seasonable agricultural worker need with transitional workers. During the second and third years of the program, the employer may employ up to 67 percent and 33 percent, respectively, of his seasonable agricultural worker needs with transitional workers.

(c) Nothing in this section shall permit transitional workers to replace available United States workers or legal foreign workers admitted under the Immigration and Nationality Act.

(d) All workers employed under the provisions of this section shall be fully protected by all Federal and State laws and regulations governing the employment of United States migrant and seasonal agricultural workers.

(e)(1) An undocumented alien in the United States shall be eligible to be a transitional worker under the provisions of this section if the person is employed or has been employed as a seasonal agricultural worker in the United States for at least 90 days during a period of time after January 1, 1980.

(2) An undocumented worker shall not be eligible to be a transitional worker and may not be registered under this section if the person is deportable for any reason other than those described in section 241(a)(2) and (9) of the Immigration and Nationality Act, or on the basis, under section 241(a)(1) of such Act, or being excludable at the time of entry under paragraph (19), (20), or (26) of section 212(a) of such Act. Only persons employed as transitional workers and registered as such by the Attorney General during the first year of the program shall be eligible during the second and third years.

(f) To employ transitional workers under the provisions of this section, an agricultural employer must—

(1) notify the Attorney General of the employer's intention to participate in the transition program within 12 months from the effective date of this section, and

(2) provide to the satisfaction of the Attorney General a numerical count of the numbers of seasonal agricultural workers employed during the immediately preceding 12 month period by the employer.

(g) After an employer begins participation in the agricultural labor transition program the employer shall provide, upon request, to the Attorney General a numerical count of the number of transitional workers employed and the total number of seasonal agricultural workers employed by the employer.

(h) Any eligible employer under the transition program who employs nonimmigrant alien agricultural workers under the provisions of section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall provide wages and working conditions as required by section 214(c)(2)(A)(i)(II) of such Act to all similarly employed workers of that employer.

(i) Agreement by an alien to be a transitional worker shall not preclude that alien from eligibility under the legalization provisions of title III.

(j) The Attorney General may require by regulation, as a condition of participation by an employer in the transition program, the payment of a fee to recover the reasonable costs of processing registrations under the transition program.

[Conforming Amendments:]

Page 17, beginning on line 4, strike out ", 101(a)(15)(O), 214(c), and 214(e)" and insert in lieu thereof "and 214(c)".

Page 81, line 9, strike out ", (M), or (O)" and insert in lieu thereof "or (M)".

Page 89, beginning on line 23, strike out "classified as a nonimmigrant under section 101(a)(15)(O) or".

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 5 minutes in support of his amendment.

Mr. MILLER of California. Mr. Chairman, the amendment that I am proposing to the committee amendment is an effort to try and deal with the realities of the situation that is before us.

It has been said several times over the past several days that what we are engaging in is landmark legislation, precedent-setting legislation, monumental legislation, and I think to a great extent all of those statements are true because we will be changing the very nature of the makeup of the landscape of the United States of America. With the provisions of this law, with the sanctions, with the legalization program, the nature and the composition of the United States of America undoubtedly will change.

With respect to how the labor demands of the agricultural community in this county will be met, very serious questions have been raised and will continue to be raised. I think it is very clear in most people's minds, in the minds of the Members of this House and in our constituents' minds, that the continued flow of illegal aliens is now unacceptable and this legislation is about struggling with an effort to stem that tide.

It is also very clear that a good portion of the illegal aliens who come for employment opportunities from Mexico, from the Caribbean, and from other countries, come and end up working in the American agricultural industry. I think we must understand that once we make the employment of those individuals illegal, we change the nature of the agricultural work force.

So the task that is before us is to structure a program that meets both the needs of our guests, the guest worker, of the foreign workers, of American workers, and of the farmers so that we do not diminish the capacity of the American agricultural industry to produce, as it has in the past, nor do we render an injustice to those who we have invited to the shores of this country to work, as many have said in the past days, to do tasks that no American wants to do, that no American wants to work in the heat of today to pick the crops, that no American wants to work in the cold to prune the crops, that no American wants to be on call to meet the demand of 72 hours, no American wants to travel the breadth of this Nation in their automobile to look for a job in one crop after another.

So we have remedied that in two ways. We have remedied that by the use of illegal aliens, who say, "Compared to what my situation is in my home country, I will do those things that Americans will not." We have remedied that by providing the H-2 program that we refer to as the guest worker program.

A good part of the American agricultural industry has chosen not to involve themselves with the H-2 program, and my colleagues have suggested that, therefore, it does not work. Well, there have been few, if any, applications from the Southwest United States for this purpose, and yet we have also seen that it works fairly well in Florida, not as well as it might, and I agree that there should be changes in it.

But what is central to this effort is whether or not the drive for immigration reform will be a drive that culminates in bringing back one of the worst periods of history in this country, and that was when this country used foreign workers at a time when we had what we called the bracero program. We brought people to this country. We asked them to engage in tasks that, again, people said that American workers would not do. I must also suggest to my colleagues that at the time of the bracero program, study after study suggested that it was not the question that workers would not do this; it was the question of the levels of compensation for which those workers would go to work.

The question is really at this point whether or not we will go back to the bracero programs. That is a very harsh charge, and it is a charge that many people on this floor do not enjoy, but I think it is the reality of the situation, because the language in the amendments of the committee and the amendment that will be offered later by the gentleman from California [Mr. PANETTA] and the gentleman from Washington [Mr. MORRISON] in fact borrows the language for the determination of whether or not foreign workers can come to these shores. It is the language from the bracero program.

I do not know whether the legalization of the current people who are in this country who are undocumented workers will cause them to flee the fields, to flee the sweatshops, and to seek better employment, employment where they are organized, employment where they have benefits, employment where they do not have to work in those conditions.

**The CHAIRMAN.** The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

**Mr. MILLER of California.** There is a lot of speculation that that will happen and, therefore, farmers will not be able to meet their labor demands as legalization takes place.

I think that what the Miller amendment tries to offer is a structure which can deal with those uncertainties. What we do is adopt the transition program for the beginning, the same transition program that was adopted by the U.S. Senate and very similar to what the House Committee on the Judiciary has adopted, and we say to those farmers, "Those of you who have relied on illegal aliens, we will provide you basically a 3-year period in which you can make the transition from the use of illegals. Next year you can use 100 percent of those people. You can ask them to come back and go to work for you, the following year roughly 66 percent, and then one-third of those people, and then none."

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And during that time we will recognize that we must create a farmworker program that is structured to meet the varied demands of American agriculture, and we will provide for a commission so we can address the problems that have been raised in my subcommittee with respect to the H-2 programs, and we can in fact design a program that will provide for the needs of American agriculture during that 3-year period of time.

But also, more importantly, for those people who will come in additional numbers under the guest worker program, we are going to assure their countries, the Government of Mexico and the governments of the Caribbean and elsewhere, that those people will not be exploited when they come to this country, that we will provide health and safety regulations, that we will provide working conditions which are humane, and that we will provide housing for those people, because we obviously recognize that they are our guests and they come here to do these tasks. And we seek to make sure that the body of law that has grown up over the last 20 years out of the horror stories of the bracero program, the body of law that has been refined by both growers and workers in the H-2 program, is in fact retained, because we would require that the Secretary of Labor promulgate regulations that are at least as effective as the current ones so that we protect those rights.

I think that what we have in this situation is in fact a real compromise. It is a compromise that allows us to go from today's situation where in parts of the country the bulk of the employment and employment opportunities is met by the use of illegal aliens, undocumented workers, to a point where we will move to where that work will be done by domestic farm workers. And many of my colleagues in the Congress do not understand that we have resident domestic farm workers in this country who now are currently unemployed in many parts of southern California and elsewhere, and these jobs are being taken by illegal aliens. One of the hopes of immigration reform is that, as we change that, those jobs will be available to American workers.

One of the crucial tests that we try to maintain in the Miller amendment is a certification process by the Secretary of Labor that there first is a need for these guest workers to come to this country—under the current illegal program, obviously no one need show that—and that in fact American workers will not be hurt by the bringing to our shores of the guest workers from these other countries. That is a process that has been used for many years to make sure that we do not take part in an activity that jeopardizes the opportunities for Americans to participate in employment opportunities, and at the same time to see that the need is legitimate, and also to protect the rights of guest workers.

Now, we do not know whether we are going to need all these guest workers. The Judiciary Committee has received testimony and statements by some of its members that we will need 150,000 to 200,000 of these people. The Immigration Reform Commission chaired by Father Hesburgh suggested that there would be a slight increase, and that the H-2 program should be retained. As to statements on the floor today, I do not know how much credibility we want to give them, but they run somewhere the statement that there will be no need for workers to maybe half a million. You can pick your numbers.

The point is that the complexion and the makeup of the work force in American agriculture is going to change.

**The CHAIRMAN.** The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

**Mr. MILLER of California.** Mr. Chairman, let me just conclude by saying this: I think it is as fundamental as the tenets of our Constitution that as we change the nature of this work force and when we invite people to come to this country, we must understand that we must learn from the history of what has gone before, and when we adopted less than adequate standards and less than adequate health and safety measures, in fact workers were exploited.

Housing is going to come up in this discussion. Let me tell the Members that it is crucial. Even the bracero program demanded that the farmer make available to the worker housing at that site. Other amendments to the committee bill cloud the issue of housing. Some of them require you to give the money to the contractor, and some say it will sort of be made available.

That is crucial, because let me finally say to the Members that if they do not think that is a matter of justice, if they do not think this is a matter of dignity to farmworkers, they should visit the southern portion of my State where people have been sleeping in the canyons and they have been sleeping in the open with their families because there is no housing. We estimate that the shortage of housing in California for these farmworkers is in the hundreds of thousands.

I do not know what is going to happen to those communities, and I do not know if we are going to go to the situation that we have looked at in terms of basically slavery camps that the Wall Street Journal and others have discussed in some areas. I would hope that we do not go to that.

But those are the crucial questions that are presented. It is a matter of social justice for those whom we invite to come and work on our crops, because I remind the Members that each and every time they come they are turning a profit for those who grow, and I think it is important to understand that we cannot ask them to come here under conditions that are less than adequate, conditions that are less than what we would accept for our very own constituents, because let us remember what the term is. The term is "guest worker," and it is important that we in fact not let the body of law dissipate that has grown up to protect these people and that many, many growers have been able to use for many years and now throw it away somehow in the name of immigration reform.

Mr. LUNGREN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must say that I agree with many of the statements made by the gentleman who just preceded me in the well, the author of the amendment. I recognize that there is a need, if we are going to have immigration reform, to somehow deal with the question of those foreign workers and the numbers that will be established at the period of time when we actually come upon it that they are needed. As he has indicated, no one in this Chamber wishes to subject these individuals to inhumane treatment.

But in response to the gentleman's allegation that the bill before us would somehow take us back to a period of shame in our Nation's history, that is, the old Bracero Program, I would suggest to the gentleman that we do not have to go back anywhere: we can talk about the Bracero Program that exists today. It is called illegal immigration. It has caused many, hundreds of thousands, if not millions, of illegal aliens to come across our borders to work in areas where work is available to them, and although only 15 percent of that total, it is estimated, finds itself in agriculture, it is a very large number. When I said to the gentleman that somewhere between 150,000 and 170,000 may be needed, I was speaking about what the present circumstances are in just two States of the Union, California and Arizona.

So I would suggest that when we look at this program, one of the things we must concern ourselves with is having an H-2 program, yes, that has protections, reasonable protections for the workers, but at the same time one that is not so inflexible that the law will continue to be circumvented as it has been since we rid ourselves of the Bracero Program almost 20 years ago.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I agree with the statement that the gentleman made, and that is why, as his committee has grappled with this problem and as the Senate has grappled with this problem, recognizing the need to have both portions in a program that meet the needs of American agriculture, all three have turned to a transitional program so that we would have experience.

The gentleman will find this hard to believe, but this is a rather conservative approach to the problem, so that we have some experience before we impose the solution. I think what we have, with the 3-year program that the committee has come up with and that the Senate and this amendment comes up with, is a means to provide the availability so that we can have that, so that we can continue the discussions about how to make an H-2 type program available to Western growers to the extent that it is available to Florida growers. And even there it has some problems. I would have some problems that domestics are not having a fair chance, but that is neither here nor there.

We are not talking about a rigid, structured program that goes into effect tomorrow or the day after tomorrow.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman's comments on that, and I do not disagree in any respect with the fact that he has a transition program in here. I applaud him for it. We did not have it in the previous bill.

It is in this bill, based on the work that was done at the University of California funded by the Department of Agriculture, which, of course, recommended a 5-year program. We have got it down to a 3-year program, which, I think, is too bad; nonetheless there is also going to be available an H-2 program, and if we are going to have an available H-2 program, it seems to me what we ought to do is try to take a lesson out of some of the mistakes of the past which have not made it applicable in the past to the largest number of people working in agriculture.

□ 1350

If that is a fact, and it seems to me no one has suggested it is not, that somehow the H-2 program has not been applicable and that is at least a contributing factor to the large number of illegal aliens working in agriculture today, it behooves us to make some changes. The gentleman does make some changes with respect to current regulations, but unfortunately he goes in the opposite direction to make it more rigid, to make it more difficult.

In fact, I would suggest it takes it in a direction which would make it less likely that the H-2 program would work and therefore far more likely that the transition program would be extended, or if we adopt the full guest worker program to be presented after this amendment by the gentleman from California [Mr. PANETTA] that would be utilized in much larger numbers than would otherwise be the case.

I do not want the guest worker programs to be utilized extensively. I would like to have them limited as much as possible and the H-2 provisions are certainly more limited than the absolute guest worker program; but if you are going to make the H-2 program difficult, if not impossible, by those you are aiming at, then you are basically saying, "Let's expand the overall guest worker program we have, either the transition program or the other one to be adopted."

That is the fear that I have. It serves no purpose whatsoever to create an H-2 program that is unworkable, believing that we are going to therefore protect those workers who will come under it if in fact virtually no one is going to come under it, as is the case at the present time.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield on that point?

Mr. LUNGREN. I would be happy to yield.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. MILLER of California, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding, and I do so because I want to make sure where we agree and where we disagree, not that I expect complete agreement, but in the characterization of the amendment.

We recognize those problems. I have had a series of hearings on H-2 programs and recognize the problems that exist. That is why we allow the Secretary of Labor to promulgate new regulations, but to make sure that those regulations are at least as effective at protecting the rights of these workers around the crucial areas of food, housing, transportation, safety, and what have you.

When we talk about the numbers, again nobody knows for a certainty what is going to happen, but there are roughly 2½ million farm workers in this country, the vast majority of whom are domestic, who are citizens, who are legal residents of this country.

Mr. LUNGREN. Well, Mr. Chairman, if the gentleman will allow me to reclaim my time just to respond to that, in fact the best estimates are at the height of the harvest season, a majority of those who are working in California and Arizona are not domestics, are not American citizens, are not permanent residents.

Mr. MILLER of California. I understand and we will not get into the full sociological discussions of why people choose to pick illegals to do the work, but the fact of the matter is that there are many, many citizens and legal residents of this country who seek to do that work and are denied that opportunity.

I would make a rash assumption that if those job opportunities opened up in their fields of expertise and endeavor, they would indeed become employed because now they are waiting to become employed. It is not all black or white.

Mr. LUNGREN. Mr. Chairman, if the gentleman will let me reclaim my time.

Mr. MILLER of California. Sure.

Mr. LUNGREN. We had an experience not too far outside my district just 2 years ago in Santa Anna, CA, where the immigration agents went through the strawberry fields as they were picked at the harvest season. After that news was out, we had local residents who did flock to those strawberry fields to begin to try berry picking. According to an article from the Fresno newspaper, most quit the first day. Only 4 of the 20 new pickers who showed up at SF Farms on Wednesday came back to work on Thursday. During the peak harvest a good worker could make as much as $12 an hour, and generally they averaged between $7 and $8 an hour.

So we can argue about it. The fact of the matter is that most likely we are going to continue to have some reliance on foreign workers. As much as the gentleman and I would not like that to happen, that is probably going to be the case. We have had it at least since 1880 in our part of the country and now it is over other parts of the United States.

The question is, Are we going to have a program that works? Are we going to fool ourselves as we did when we got rid of the Bracero Program and said that we got rid of the problem?

We said we had an H-2 program in effect and that would take care of it. It has not taken care of it, as much as the gentleman's good intentions and my wishes that it would. It has not, and so the question is not that the gentleman and I are aimed at a different end, it is a question of the means.

Let me just give some examples with respect to the gentleman's amendment. We, recognizing the historical usage of people who are here illegally——

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. In H.R. 1510, we allow the period to be specified by regulations of the Secretary of the Department of Labor, which presently now really extends to 11 months. The gentleman's amendment limits it to 9 months, unless there are emergency circumstances shown.

We allow the filing required to be done by no more than 50 days. The gentleman's amendment says that it had to be done by 80 days in advance. We changed it to no more than 50 because we heard testimony that that would fit the needs of agriculture. We shortened the time because historically that is the time that has been necessary, one of the major reasons they have not used it.

So those are the types of changes we made. We touched the areas of housing. We touched the areas of working conditions and so forth. We require that housing be made available, but if there is other housing available, then we require that a housing allowance be given to the workers so they can have that housing payment as they wish, only in those areas where housing is otherwise available to them.

We have tried to adapt ourselves to that in a way that will make it workable as opposed to giving pristine conditions that will not be met and leave us in the same situation we have now.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield further?

Mr. LUNGREN. Certainly.

Mr. MILLER of California. Would the gentleman like to run a side-by-side comparison of the vacancy factors in California in housing and the demands that this program has put on them? Would the gentleman like to discuss that? If that is true, you know, in the situation in California, why are people sleeping in canyons and in the fields?

Mr. LUNGREN. Because they are here illegally. They have no protections under the law. The precise reason for this section of the bill is to confer legality to them so that if they are maltreated, if they are mistreated, they then can make the complaint without worrying about being all the way to Mexico before their complaint is heard.

The question is——

Mr. MILLER of California. The question is whether you are going to provide them with something up front.

Mr. LUNGREN. The question is do you confer legality upon them under a reasonable program where they can bring complaints, or do you structure a program that is so inflexible that you will have a continuation of the present situation where they will be living in open fields and will not come to us with complaints because they will reveal themselves as being here illegally. And then we will not have solved the problem.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to yield.

Mr. MILLER of California. One of the central questions raised, has the gentleman read the amendment?

Mr. LUNGREN. Certainly.

Mr. MILLER of California. Because the gentleman understands that that is the reason that we put the commission in there, for purposes of resolving those issues, but at the same time not throwing out the protections on housing, not throwing out the protections that these workers realize. That is the exact purpose and that is why we allow the Department to promulgate these regulations.

Mr. LUNGREN. I would just answer the gentleman in this way. The gentleman sets up a commission that would do a study while this program is to go into effect. We tried to make some changes that were reflective of the testimony that we had received about the inadequacies of the program at the present time. The Congress is required to continue to look at this. We can revisit this at any time. But why doom it to failure at the very beginning by following the pattern that we have had in the past?

Mr. SAM B. HALL, JR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to engage the author of the amendment in one or two questions, if I might.

Mr. MILLER of California. Yes.

Mr. SAM B. HALL, JR. I am concerned about language on page 231 dealing with the gentleman's amendment. I notice on page 230 of the committee print that the Secretary of Labor shall require an application to be filed 80 days before the employer requires labor or services and then there will be a 60-day recruitment period in which the person tries to find if there might be available workers to do this work without going into the nonimmigrant area.

Now, over on page 231, of the print you bring in the fact that we have an association that will be dealing on behalf of the farmers or users. It states on line 13:

> "(B) A petition to import an alien as an nonimmigrant described in section 101(a)(15)(H)(ii)(a), and an application for a labor certification with respect to such an alien, may be filed by an association representing agricultural producers which use agricultural labor or services.

Now, here is the part that bothers me:

> The filing of such a petition or application on a member's or user's behalf does not relieve the member or user of any liability under this section unless the association—
>
> "(i) is the sole employer of all such aliens and all similarly employed United States agricultural labor of all the members or users it represents.

□ 1400

As I understand it, the association represents the farmers who are also designated as users. I assume that more or less applies to both.

Suppose the application is filed by the association on behalf of these people and something is done improperly by the association, and something is done which may cause liability to the member, because it says on lines 18 and 19, "The filing of such a petition on a member or user's behalf does not relieve the member or user of any liability."

My question to the gentleman is what type of liability is the farmer or user still caught under if the association does something improperly?

**Mr. MILLER** of California. Will the gentleman yield?

**Mr. SAM B. HALL, JR.** I yield to the gentleman from California.

**Mr. MILLER** of California. It depends on the status of the association under the bill. If the association is the sole employer of those individuals they absorb that liability.

**Mr. SAM B. HALL, JR.** Will the gentleman repeat that?

**Mr. MILLER** of California. If you will look at line 21 the question is whether or not that liability will go to the association or to the members as a determination of whether or not the association is the sole employer of those individuals.

**Mr. SAM B. HALL, JR.** If the gentleman would further follow me, as I read line 21 on page 231, it says that the liability will be on the member or user unless that association is the sole employer.

**Mr. MILLER** of California. Correct.

**Mr. SAM B. HALL, JR.** Of all such aliens. Of all such aliens and all similarly employed U.S. agricultural labor of all of the members or users it represents.

**Mr. MILLER** of California. Because either the association is used for the intents and the purposes of the law and it is real in its purpose or conceivably it is being used to evade intents and purposes of the law.

We are not going to allow you to do indirectly what you cannot do directly with respect to liability.

This tracks, in fact, what we do under the Migrant Farm Labor Contractors Act which is we do not let people escape liability under the provisions of that act by using a farm labor contractor to shield them.

I would suggest that it is one of the concerns that was raised a couple of days ago in the debate on this floor with respect to the letter that the gentleman from New York [Mr. FISH] wrote about whether or not with respect to sanctions a labor contractor could insulate fully the farmer as an employer from any failures to verify or what have you.

So this is a continuing problem where you have an intermediary that acts as the legitimate agent of the farmer, in some cases the growers or what have you, and in some cases where they are used as a shield to prevent liability, that goes to that relationship.

I would expect in the contest of liability you would have to look behind the organization to determine whether or not this was for legitimate purposes or otherwise, just as you have to do many other times.

**Mr. SAM B. HALL, JR.** I would further ask the gentleman, it appears to me in the context of this reading, that the association could be a group of persons who make a contract to go out and find workers for these users or farmers. Is that not correct?

**The CHAIRMAN.** The time of the gentleman from Texas [Mr. SAM B. HALL, JR.] has expired.

(By unanimous consent Mr. SAM B. HALL, JR., was allowed to proceed for 4 additional minutes.)

**Mr. MILLER** of California. In many instances, in fact, that is what is done, that an association makes an application on behalf of sugarcane growers or peach growers, or apple growers, or what have you. They put in what their demands are going to be at the time they are going to need those people and they ask for a certification.

**Mr. SAM B. HALL, JR.** Yes, but I understand you are not saying that the farmers or users could be one and the same as the association, are you?

**Mr. MILLER** of California. No. That is the test that is set up.

**Mr. SAM B. HALL, JR.** So if you have a contractual relationship——

**Mr. MILLER** of California. Either you have a legitimate, valid contractual arrangement with the association or you do not. Either they stand in your stead for that purpose or they do not. We do not need the association contracting for workers and the farmers then contracting for additional workers.

**Mr. SAM B. HALL, JR.** As I read this, this only covers where the association is working on behalf of the farmers or users in trying to get people to come in and work. Is that a correct statement?

**Mr. MILLER** of California. That is correct.

**Mr. SAM B. HALL, JR.** If they are working, if they have employed an association to do this work for them on some sort of a contractual basis, fee basis or whatever, and the association in trying to acquire people to work for these farmers or users does something that is not proper, as I read it those farmers and users are still under some sort of liability, unless the association is the sole employer of all aliens.

What area does it cover, that they are the sole employer of all aliens in that part of the country or throughout the United States, or what?

**Mr. MILLER** of California. I would assume if it was the Virginia Apple Growers Association they would not be covered for liabilities in Texas. It is the area covered by the association.

**Mr. SAM B. HALL, JR.** But if the gentleman would futher respond, that does not relieve the member or user of liability under this section unless the association, No. 1, is the sole employer; that is the association we are talking about now, not the farmers or users, unless the association is the sole employer of all such aliens.

**Mr. MILLER** of California. Right. Which refers to the alien under section 101A15H2A.

**Mr. SAM B. HALL, JR.** I am sorry?

**Mr. MILLER** of California. Which refers to the employees in the previous section, subsection B, the H-2 worker. Those are the aliens we are talking about.

**Mr. SAM B. HALL, JR.** No, sir. That is not the point I am trying to make. The point I am trying to make is that unless this association is the sole employer of all such aliens and all similarly employed U.S. agricultural labor of all the members or users it represents. Now let us stop there for a moment.

If this association does not come under that exception that is listed on line 20, page 231 of the print then your farmers or users are going to be subjected to some kind of liability.

My question is what is that liability that the farmers or users will be subjected to?

**Mr. MILLER** of California. It is for violations of the act.

**Mr. SAM B. HALL, JR.** Yes, but the association is the one.

**Mr. MILLER** of California. Either the association is the employer of the people or the farmer is. Either the association under the test outlined on page 231 is the employer of these individuals for the purpose of enforcement of this act and actions against them, or the employer or the farmer, the grower, if you will, is the employer of these people. One or the other, but you have to be able to affix liability.

In some cases growers use associations. In some cases growers contract individually for this purpose.

That is the question, and the liability runs to the provisions of the act. There is no other explanation. That is what it does.

**Mr. CORRADA.** Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment presented by my good friend from California which tightens up the H-2 program to ensure a continued source of labor for agricultural employers without undermining the rights and welfare of domestic as well as foreign workers.

The H-2 program was envisioned to permit an employer to import alien workers in the likelihood of an employer's labor shortfall arising from insufficient qualified U.S. workers. It was devised at a time when national unemployment rates were minimal and in some areas of the country, nonexistent. The national unemployment problem has deescalated in recent months but has not been resolved. Many areas across the Nation are still experiencing severe unemployment problems. Our responsibility to our own unemployed demand our careful consideration of programs affecting job opportunities for American workers. The Miller amendment proposes a revision to the H-2 program which would ensure that domestic workers will not suffer adverse impacts due to foreign labor while providing a legal avenue for the recruitment of foreign labor when needed.

The current program is in urgent need of this revamping. American workers including those residing in Puerto Rico should be the main target for these seasonal jobs and not foreign workers. The Miller amendment reaffirms this crucial preference by requiring a nationwide test of availability before a labor certification for foreign workers can be issued. It also would codify current regulations requiring applications for H-2 workers to be filed at least 80 days prior to the date of need, with a 60-day minimum recruitment period. The Judiciary Committee version would reduce the 80 days to 50 days with no minimum recruitment period which seriously compromises efforts to recruit qualified domestic workers and rescue our own unemployed.

The Miller amendment also provides additional sorely needed safeguards to protect all workers concerned from substandard working conditions and mistreatment. Adequate and safe housing free of charge for foreign workers would be required as well as employment standards that are at least as effective as those contained in current regulations. These safeguards would also yield the very positive effect of more closely equating the monetary obligations of employers for foreign workers to that of domestic labor. This is of paramount importance to tackle current financial incentives in hiring and firing practices.

Mr. Chairman, the amendment would also establish a commission which would develop regulations to fine tune the H-2 program. I believe all the revisions the amendment proposes to be in line with the objectives for which the H-2 program was created.

I urge my colleagues to vote for the passage of this amendment which strengthens the character of the H-2 program to prevent undue hardship on our employers and our unemployed.

□ 1410

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from Kentucky [Mr. MAZZOLI] rise?

Mr. MAZZOLI. Mr Chairman, I would inquire about the remaining debate on the amendment.

Mr. Chairman, I ask unanimous consent that debate on this amendment be ended in 15 minutes.

Mr. BERMAN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment because I believe that this amendment would definitely improve the existing H-2 program. For one thing, it will establish an 11-member commission to study and recommend specific statutory and regulatory language for the improvement of the H-2 program of this country.

The amendment also provides that foreign workers could be admitted only if unemployed domestic workers cannot be found.

Now, as we examine the language in the bill, we find that the language in the bill does just the opposite. The Mazzoli bill undercuts, I believe, and removes existing statutory bases of the H-2 program which provide a preference for domestic workers.

Under the existing H-2 program, guest workers can be allowed into this country only if employed persons capable of performing such labor or services cannot be found in this country.

The truth of the matter is that the Mazzoli bill removes this language. The effect will be to undercut a series of cases which provide a priority for domestic workers.

I think that this is one very important part of this legislation; that in this instance the amendment before us does in fact protect the domestic worker. If the domestic worker is not available, then under the H-2 program they can bring in people to come into the United States for a specific purpose.

If the Mazzoli version prevails, then that language would be stricken.

Now, the committee also restricts the meaning of agricultural labor and services to its current definition; the Judiciary Committee would allow expansion of the current definition.

The one thing that I think is important with regard to this amendment is that it deals with not only the problems of the H-2 worker but it actually puts in place a system whereby these H-2 workers can come into the United States.

We should protect the American worker and someone said a little while ago that we are going to have these people come in, we will be in need of H-2 workers no matter how long we live and that is perhaps the truth.

But if this is going to take place, I think it should take place in an orderly manner.

Now the Miller amendment actually does that. We should definitely support this amendment if, for no other reason, for that reason alone. And that is the protection of the American worker in the United States.

If that worker is not available to perform that specific duty for that specific emergency, then the H-2 program would take place and they would be able to bring in people from other parts of the country.

Mr. Chairman, I yield back the balance of my time.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. MAZZOLI. Before the gentleman starts, could the gentleman inquire whether there are any other speakers on the amendment? If not, would the gentleman indulge me in just suggesting that we end debate in 10 minutes, 5 for the gentleman [Mr. BERMAN] and 5 for the gentleman?

The CHAIRMAN. Does the gentleman yield for that purpose?

Mr. BERMAN. I yield to the gentleman from Kentucky.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MAZZOLI. Mr. Chairman, in light of the advice from the gentleman from California, may I amend my request and ask unanimous consent that debate on this amendment end in 15 minutes?

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROYBAL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from California [Mr. BERMAN] is recognized for 5 minutes.

Mr. BERMAN. Thank you, Mr. Chairman.

We are now at a point in this bill where we have two choices; to keep the language reported by the Judiciary Committee with all of its defects with respect to a new and expanded and guest-worker program with standards seriously undermined or a substitute proposal as offered by Mr. MILLER, the gentleman from California; that would, while maintaining an H-2 program and establishing a transition program, provide some of the basic protections contained in existing law. •

And I would strongly implore the body to support this amendment as a last chance to correct the very serious defects in the whole guest-worker proposal that is before us now.

If this amendment passes and if we are able to defeat the Panetta-Morrison amendment, then we will have come a long way from when this whole process started. As part of making the point as to why this amendment should be adopted, I would like to review a few more of the changes between the present proposal, H.R. 1510, Simpson-Mazzoli, and the existing law.

We have already pointed out that the obligation to recruit workers and to find workers around the country is eliminated under the Mazzoli legislation. We have already pointed out that the Mazzoli legislation brings into the regulatory process the Department of Agriculture at the request of agribusiness as a way of diluting and weakening the standards promulgated by the Department of Labor for the benefit of H-2 workers themselves.

It has already been discussed, the major change in the obligation that the employer that seeks to recruit H-2 workers, provide them with housing and allows that employer to substitute a housing allowance without regard to the vacancies and housing situation in that particular community.

Several new issues. For some reason which has not yet been explained, the Mazzoli legislation dramatically weakens the ability of the Department of Labor; it eliminates the ability of the Department of Labor to suspend certification in the case of a strike or lockout.

If permanent workers on a particular farm decide to withhold their services, a right we have acknowledged in this country for many, many years, and the H-2 workers are already there, they can be used as strikebreakers in that particular labor dispute because under the Mazzoli legislation before us, the Department of Labor no longer has the authority to suspend that certification.

□ 1420

That is a very major change in existing law, a very, very dramatic undermining of the balance between labor and management and totally contrary to all that we have done in other areas with respect to collective bargaining.

Another fundamental difference between the Mazzoli legislation and what the Miller legislation proposes is the Mazzoli legislation's proposal that growers need only accept U.S. workers until the H-2 worker departs for work. Under present law, growers must accept qualified U.S. workers who seek employment until 50 percent of the contract period elapses. The recruitment periods and the obligations of the grower to recruit domestic workers are changed dramatically by the Mazzoli legislation from existing law. No minimum recruitment period is required whatsoever by the grower before he can immediately press the button to bring in the H-2 workers.

Current law limits visa periods to a maximum of 11 months for H-2 workers with 6 months being the average term.

The Mazzoli legislation before us now totally eliminates any statutory limit and grants the Secretary of Labor full discretion to determine the length of the workers stays.

I could go on, and on, and on. All I suggest is that in a bill which is designed to prevent the displacement of American jobs through the use of employer sanctions and a bill that provides a legalization program which assumes that the undocumented workers who are here now and who have established the continuing-residence requirement of that program will be continuing to work in this country, there is no need and in fact it is totally contradictory and hypocritical to now expand tremendously and weaken the protections for imported foreign workers.

I would ask for an aye vote on this amendment.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Well, I thank the gentleman for his observation and I, too, urge that the Miller amendment be adopted.

In addition, does not the amendment provide an important preference for domestic workers that is retained in the law rather than in the present bill so that there must be a nationwide test of availability before labor certification for foreign workers can be issued?

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(At the request of Mr. EDWARDS of California and by unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. The gentleman from California is correct. That is one of the major improvements in this amendment over the bill before us. Present law has that requirement. This amendment has that requirement, but the bill before us does not.

Mr. EDWARDS of California. And lastly, does this amendment also not create a new important requirement that prior to any employer certification the Secretary of Labor must certify that labor standards which are provided by this amendment have been compiled with?

Mr. BERMAN. The gentleman is correct.

Mr. EDWARDS of California. And that is not in the bill.

Mr. BERMAN. That is not in the existing bill before us.

Mr. EDWARDS of California. I think it is very important that the amendment be adopted.

Mr. BERMAN. I thank the gentleman from California and I again remind the body this is the last chance. There is no further amendment coming along that gives us a chance to improve the defects in the present bill. I strongly urge an "aye" vote.

Mr. MAZZOLI. Mr. chairman, I move to strike the requisite number of words.

Let me suggest to all who have been observing who, like the gentleman from Kentucky, happen not to come from States in which we have H-2 workers, they must be very much befuddled and completely bedazzled by all of the data and information and the request periods and the certification periods. If any of my colleagues were insomniacs I am sure you are no longer an insomniac, you have long since been put to sleep.

Let the gentleman from Kentucky endeavor to explain as simply as the gentleman can where we are right now and why the gentleman hopes the vote would be "no" on the amendment offered by my friend from California.

When your Committee on the Judiciary was tasked with the immigration reform, it was faced with this dilemma. When employer sanctions are imposed and the supply of undocumented labor is curtailed, then what happens to the growers of this great land, the growers who provide the food and fiber for us and for the world?

Well, unfortunately, many of the growers have become dependent upon stores of undocumented labor. So if employer sanctions work, the supply of labor ends and we have no food and fiber. Well, of course, your Judiciary Committee said that is untenable, that cannot be.

So we say you have to do something. You must supplement, supplant, supply an alternative source of labor. What do we do? We could have done a guest worker program somewhat along the lines of the old Bracero Program. We could have said anybody is welcome, let everybody come in and so forth.

As we all know, the Bracero Program was much abused and it deserved the vilification and the eventual demise that it received 20 years ago.

Or your committee could have and was urged to take a very restrictive view, somewhat along the lines of the amendment of my friend from California, which would make the existing labor laws, which do provide under the H-2 program for the entry of some documented foreign labor, less workable, make it full of paperwork, red tape, a lot of ins and outs. We say that is not right either because growers and agricultural interests do need workers.

Let me just try to set the stage.

The Committee on the Judiciary, as we always do, try to do around here, tried to groove, down the middle between the very loose approach urged on us by some agricultural organizations, which would have been perhaps tantamount to a bracero program, uncontrolled and unfair to the worker and the other side urged upon us by some agricultural labor groups which would have been so restrictive as to be really not usable.

So your Committee on the Judiciary fashioned a middle-of-the-road approach which is in the bill today.

Now, interestingly enough, today the first vote we had was on the Erlenborn amendment, from my distinguished and good friend from Illinois [Mr. ERLENBORN]. Interestingly enough, the first vote was peculiar in that it cast your committee's position as the loose or more flexible position, as more or less the agricultural position, because Mr. ERLENBORN in his amendment struck one part of our amendment, the transitional program, which helps growers move from an unnecessary and perhaps wrongful reliance upon undocumented labor to the new system in which you will have documented labor or U.S. citizens. This gives the growers a chance to make a smooth transition.

Because Mr. ERLENBORN's amendment struck the transition program his amendment became cast as the middle ground between our bill, which has a transition and therefore is sort of an agricultural amendment, and the amendment of the gentleman from California [Mr. MILLER] which is more restrictive, the agricultural-labor amendment.

Now as the House knows and as the viewers know the House has defeated the Erlenborn amendment. So where are we right now? Your committee position is once again the middle ground position. It is once again the same proper, normal and usable and workable system, grooving right down the middle. We have taken the postion that growers and agricultural interests do need a supply of labor and they will need a transition program to carry them from today to tomorrow.

□ 1430

That is in the committee position. It happens also to be in my friend's amendment, but it is in the committee position.

The committee position, I might say, is better than the gentleman's position for perhaps a couple of other reasons, which I will try very briefly to talk to my friends about, because, like I say, next to a good set of sleeping pills, this is the most soporific matter that we can probably get into in this entire debate.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. MAZZOLI. I hate to take this time, and I will try not to turn the viewers and the people off. But essentially speaking, the middle ground position of the Committee on the Judiciary, the position that I fervently hope the House supports, says that the final approval of H-2 regulations that set the numbers of people who can come in is done by the Attorney General.

The gentleman from California would have that decision made by the Secretary of Labor.

Another thing that distinguishes our position from the position of the gentleman from California is that in the House committee position we consult the Secretary of Agriculture. Interestingly enough, the current law and, for the most part, the gentleman's amendment, excludes the Secretary of Agriculture from decisions which, after all, involve agriculture.

So our bill puts the Secretary of Agriculture into the picture, where the Secretary really should be.

In Kentucky where I grew up, in the city with asphalt and concrete around, I have no idea of growing seasons, but, in any event, I am told that the farmers and growers need more time before harvest, more flexibility to accommodate changing climatic conditions, changing harvest patterns, before assessing their labor needs. So what we have done in our bill is to give the grower 50 days before the time of harvest, which gives the growers a little better opportunity, it gives them a little more flexibility.

The gentleman's amendment gives 80 days, which puts the growers in a little bit less advantageous position about estimating the actual harvest and the need for their workers and a determination of how many workers are needed.

Those are two or three things which the gentleman from Kentucky hopes the people in the House who are not, as the gentleman from Kentucky is not, expert in the field realize. First, on this issue your House committee position is the moderate workable position. The amendment of the gentleman from California is less workable, a little more inflexible, a little more rigid.

Finally, I would tell my friends, who, like myself, have been bedazzled and certainly confused by this debate, that your committee went through this, your committee took the heat from one side and the other for 4 years, and came up with this formula. I hope the House will support the committee.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend, the ranking minority member on the committee.

Mr. FISH. Mr. Chairman, I would just like to confirm the many months that we spent together in hearings and meetings and in making compromises in which neither labor nor agriculture was given everything they wanted as we fashioned this part of the bill.

Is it not fair to say that the amendment offered by the gentleman from California introduces great rigidity into a program that has operated quite well under two different administrations, Democrat and Republican, and is it not fair to say that by placing so many specific provisions in the statute that this amendment would preclude any flexibility at the very time we are trying to get American agriculture to shift away from illegal workers to legal workers and to American workers?

Mr. MAZZOLI. Certainly, the gentleman makes a very correct statement. The committee's position may not be perfect, and the gentleman from California brings much more knowledge to bear on the subject than the gentleman from Kentucky does, but I do believe our committee bill, based on the 4 years of work, does represent a more workable position.

Mr. MILLER of California. Mr. Chairman, will the gentlman yield?

Mr. MAZZOLI. I yield to my friend, the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I would just like to say that the gentleman has constantly portrayed this amendment as the one with more paperwork redtape.

Ninety-eight percent of the growers who have made application under this program have in fact been granted the employees necessary. And to suggest that somehow the committee bill is vastly superior because the application can be made within 50 days, all of the testimony on this floor has been that it is a 2- or 3-day period of time when the decision has to be made. So 50 days over 80 days has no significant bearing on the problems that have been raised. And that is exactly why we drafted the commission to address those problems as this program expands into other agricultural areas.

Finally, let me say, since the gentleman from New York [Mr. FISH] asked the gentleman to characterize the provisions of this bill, the provisions of this bill that we seek to protect is existing law that has grown up over the years through regulations, with growers and workers and others commenting and going through the administrative law proceedings. And this is the body of law that has been arrived at because of the terrible injustices on both sides.

The question is whether or not that is going to be preserved. Neither the Morrison amendment nor the committee bill preserves that body of law. It preserves something like that body of law, something similar to it, but not that body of law that is central to the justice of these people.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has again expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Let me salute my friend from California, who wages a very important fight on behalf of agricultural labor. I think if the gentleman were not in this Congress, the situation for migrant workers, as well as for the undocumented, would be much worse, and I salute the gentleman. If the gentleman from Kentucky would ever be invited to the gentleman's verdant State, I would like to come with the gentleman and see the people in the area he represents. I salute the gentleman.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. I just want to assure the Members that in most areas of agriculture the H-2 program does not work, has never worked, that we see the committee compromise that is in front of us as perhaps being tolerable. It is an improvement. It certainly is not what we would choose. The Miller amendment in front of us now is unworkable, from my point of view, and I urge the Members to vote no on the Miller amendment.

Mr. MAZZOLI. I thank the gentleman.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Texas [Mr. SAM B. HALL, JR.] for purposes of discussing this amendment that we are about to discuss. I feel that there have been a lot of Members who have not adequately read this amendment and need some further explanation.

I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I would like to just request that the Members in their offices who are getting ready to come over here to vote on this amendment go to page 231 and page 232 and read this amendment.

Now, I would like to address one additional question to the author of this amendment, if he is here.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SAM B. HALL, JR. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that all debate on this amendment end at quarter to 3, in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. SAM B. HALL, JR. Addressing my inquiry to the gentleman from California, the author of this amendment, we have already discussed what problems I have on a preceding page.

Now, as I understand it, on page 232, it says, on line 15:

> If the employer asserts that any eligible individuals who have been referred are not qualified or available, the burden of proof is on the employer to establish that the individuals referred are not actually available or are not qualified because of employment-related reasons as shown by their job performance.

My question is this: If the association furnishes men to these farmers to work and the farmers say, "We don't think these people are qualified to do this type of work," as I read the gentleman's amendment, the burden of proof is on that farmer or entity to prove that the person is not able to work.

First, let me ask the gentleman this: Who does the farmer have to contact to show that this person is or is not qualified to work?

Mr. MILLER of California. It is the same policy that is embodied in the committee language, and it goes back to the previous conversation the gentleman had, you have to determine who is the employer at that point. And if the employer for the purposes of the guest worker is the association, the association must meet that test. If the employer is in fact the farmer at that point, that employer—grower is a better word than farmer—the grower in that case would have to meet that test.

Mr. SAM B. HALL, JR. If the farmer says that this person is not qualified and the association is the one who is paying the labor, can the association compel the farmer to take that person to work if the farmer says that that person is not qualified to do the work?

Mr. MILLER of California. I would assume that the farmer would have that right, and I would assume that the association is familiar enough with their industry to make those determinations.

But what we are trying to prevent is what has historically happened in the past, where domestic workers, American citizens, have been rejected because there is a whole list of reasons why people would perfer to have either illegals or H-2 workers, and they have been rejected out of hand. I have personally investigated those situations, and in fact the existence of black lists have been found by our committee, where people who were ready, willing, and able to work at that moment, who had a history of being able to to that particular job, were rejected right out of hand. So that is the question we are going to. That is part of the process you have got to go to to protect the jobs of the American workers. The committee has recognized that, and we have recognized that.

Mr. SAM B. HALL, JR. That is not the question I am asking the gentleman. I am talking about when the association has sent people to the farmers to work.

Mr. MILLER of California. There is nothing here that mandates the farmer to take any worker that cannot meet the demands of that farmer.

Mr. SAM B. HALL, JR. Well, why is that burden of proof——

Mr. MILLER of California. That is an arrangement between the farmer and that association.

Mr. SAM B. HALL, JR. Why is the burden of proof put on the farmer if he is not required to take the worker?

Mr. MILLER of California. It is on the employer, which goes back to your previous discussion.

Mr. SAM B. HALL, JR. Well, the farmer is the same as the employer in this instance that I am talking.

Mr. MILLER of California. No, it is not. We just established that 20 minutes ago with the gentleman that they are not the same. You have to meet the test.

□ 1440

Mr. SAM B. HALL, JR. Well, you have got over here on page 231 that the filing of such a petition does not relieve the member or user. I am assuming the member or user would be a farmer.

Mr. MILLER of California. Depends on the next paragraph.

Mr. SAM B. HALL, JR. The next paragraph makes no mention of anything other than a member or user. I am assuming that an association, furnishes labor to farmers or members who are users. Is that not correct?

Mr. MILLER of California. That is correct.

Mr. SAM B. HALL, JR. Why would the burden of proof be placed on that farmer or user to prove to somebody that he does not want these people if you cannot make him take it in the last sequence?

Mr. MILLER of California. You read it one way, and I read it another way, and I believe you are reading it incorrectly. I have asked the question now five different times.

Mr. SAM B. HALL, JR. Well you have not given the answer that I think ought to be given.

I suggest that this amendment be voted down; it is a bad amendment any way you cut it.

The CHAIRMAN. The Chair at this time will recognize the gentleman from California [Mr. MILLER] for 2½ minutes, and the gentleman from Kentucky [Mr. MAZZOLI] for 2½ minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I think as we come to the end of this debate, the issue is the same as it was when we started out: Either this Congress is going to go on record to preserve a body of law that has evolved over a 20-year period of history to protect guestworkers, to protect foreign workers who come to our shores to carry economic tasks that Americans say they will not do or somebody suggests that they will not do, and we are going to give these people the dignity and the rights that we would expect for our own constituents and our own citizens. Either we are going to learn from the history of this program, and we are going to reject the direction that the Judiciary Committee has taken; we are going to reject the direction that the Panetta-Morrison amendment goes, which starts out by using the same determination to bring those people to this country as the Bracero Program did in the fifties.

Now that was a sorry history of this country, and my amendment is workable, it is flexible, it tolerates the changes in the marketplace, it works for those farmers that now use it, it does not work for those who have never used it because they have wanted to use illegal aliens.

So the question is simply this: As we provide an H-2 program, are we going to provide a program of justice or are we going to rewrite a new chapter in this country and a history of sorrow, a history of shame, and I defy anyone to go out into that community and look at the conditions today, remember the conditions of the past, and ask yourself whether you think the Judiciary Committee bill or the Panetta-Morrison bill that is about to be discussed, is equal to the task that need be done. I will tell you that it is not.

I have investigated these communities, I have talked to these workers, both foreign and domestic, I have lived with them, I used to pick crops with them, and I shared that misery. I am telling you that this community, absent this body of law, will exploit them this year, next year and the following year. So what we are talking about here is simple social justice.

This amendment is supported by the AFL-CIO, the Catholic Conference, the people who have gone out and investigated this program. I think it is very clear from those who have had hands-on experience of the exploitation of these individuals, this amendment is crucial.

I would say that there are a lot of things that have happened in this bill, but this is the one where we get down to the human impact of these unfortunate people that have no other rights than the rights you are about to give them.

The CHAIRMAN. The time of the gentleman from California has expired.

The Chair now recognizes the gentleman from Kentucky [Mr. MAZZOLI] for 2½ minutes.

Mr. MAZZOLI. Thank you, Mr. Chairman.

Let me salute the gentleman from California, who is one of the real ardent and articulate voices on behalf of people who cannot raise their voices for their own best interests.

The gentleman stands in Congress always working to try to protect the people and I congratulate him. I think that kind of a voice is one we have to listen to.

Let the gentleman from Kentucky once again try to set the stage. The gentleman from California's most ardent and most important comments were not directed against the committee bill, of course, but directed against the Panetta amendment which comes up later. So to that extent, who knows? We may wind up in agreement on some aspects of that, but the gentleman's amendment is directed to a guestworker program which is not in the committee bill. What the gentleman was saying, I think basically, is that he does not believe our committee bill is sufficient. For those who were listening or watching a moment ago, the gentleman from Kentucky said that your Judiciary Committee was tasked with the responsibility of developing immigration reform through employer sanctions. If this reform works, and we think it will, it will curtail the flow of undocumented labor. Then do we leave agricultural growers hanging on a thread? Do we let the food and fiber on this Nation go unharvested? Obviously not.

What do we do? We do not want to go to a guestworker program; we do not want to return to bracero days. Those were discredited and deservedly so. What does your committee do? It tries to go right down the line between the complaints and requests of agricultural labor interests and the complaints and requests of agricultural labor, trying to go right down the middle, as best we can, to let everybody be in the bill and yet let nobody control the bill. That, I tell the ladies and gentleman of the House, is where we are today. Your committee bill is right down the center with a program that is workable, that is fair, humane, and that protects the very people that my friend from California wants so much to protect.

I urge you, even though you may not have not been able to follow the nuances, I know I have not, in every little detail and subtlety of the differences between the programs, just remember one thing: Your committee studied for 4 long years; it has produced a product which we think is workable and we urge your support of the committee position.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman.

Mr. FISH. This gentleman supports the committee and a "no" vote is the right vote.

The CHAIRMAN. The question is on amendment No. 41 reported by the Committee on Education and Labor and offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 256, not voting 13, as follows:

[Roll No. 240]

AYES—164

Ackerman
Addabbo
Akaka
Anderson
Annunzio
Applegate
Barnes
Beilenson
Bennett
Berman
Boggs
Boland
Boner
Bonior
Borski
Boxer
Britt
Brown (CA)
Bryant
Burton (CA)
Carper
Clay
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
D'Amours
Daub
de la Garza
Dellums
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Evans (IL)
Fascell
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Glickman
Gonzalez
Gray
Green
Gregg
Guarini
Hall (IN)
Hance
Hawkins
Hayes
Hertel
Howard
Hoyer
Hubbard
Jacobs
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Lehman (FL)
Leland
Levin
Levine
Lipinski
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
McCloskey
McDade
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nowak
Obey
Ortiz
Ottinger
Owens
Patterson
Pease
Pepper
Perkins
Price
Rahall
Rangel
Ratchford
Reid
Richardson
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Russo
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sikorski
Simon
Slattery
Smith (FL)
Solarz
Stark
Stokes
Studds
Swift
Torres
Torricelli
Towns
Udall
Vandergriff
Vento
Walgren
Waxman
Weiss
Wheat
Williams (MT)
Wilson
Wirth
Wise
Wolpe
Yates
Yatron
Young (MO)

NOES—256

Albosta
Alexander
Andrews (NC)

Andrews (TX)
Anthony
Archer
Aspin
AuCoin
Badham
Barnard
Bartlett
Bateman
Bedell
Bereuter
Bethune
Bevill
Bilirakis
Bliley
Boehlert
Bonker
Bosco
Boucher
Brooks
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Clinger
Coats
Coelho
Coleman (MO)
Conable
Cooper
Corcoran
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel
Dannemeyer
Darden
Daschle
Davis
Derrick
DeWine
Dickinson
Dicks
Dorgan
Dowdy
Dreier
Duncan
Durbin
Edwards (AL)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IA)
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Foley
Fowler
Franklin
Frenzel
Fuqua
Gekas
Gibbons
Gilman
Gingrich
Goodling
Gore
Gradison
Gramm
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Heftel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Lloyd
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mazzoli
McCain
McCandless
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
McNulty
Mica
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Myers
Natcher
Neal
Nelson
Nichols
Nielson
O'Brien
Olin
Oxley
Packard
Panetta
Pashayan
Patman
Paul
Penny
Petri
Pickle
Porter
Pritchard
Pursell
Quillen
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Roth
Roukema
Rowland
Rudd
Sawyer
Schaefer
Schulze
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Sisisky
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stenholm
Stratton
Stump
Sundquist
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Traxler
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weaver
Weber
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wolf
Wortley
Wright
Wyden
Wylie
Young (AK)
Young (FL)
Zachau

### NOT VOTING—13

Bates
Biaggi
Breaux
Courter
Ferraro
Hansen (ID)
Harrison
Jeffords
Oakar
Oberstar
Parris
Sensenbrenner
Stangeland

□ 1500

Messrs. PRICE, CARPER, CONTE, and LEHMAN of Florida changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

### AMENDMENT NO. 42 REPORTED BY THE COMMITTEE ON AGRICULTURE AND OFFERED BY MR. PANETTA

The **CHAIRMAN**. Amendment No. 42 reported by the Committee on Agriculture is in order at this time.

Does the chairman of the Committee on Agriculture desire to offer amendment No. 42?

Mr. **PANETTA**. Mr. Chairman, I am the chairman's designee on that amendment, and I offer the amendment.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 42 reported by the Committee on Agriculture and offered by Mr. PANETTA: Page 90, after line 2, insert the following new section (and insert a corresponding item in the table of contents):

### NONIMMIGRANT SEASONAL AGRICULTURAL PROGRAM

SEC. 214. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 204(b) and 211(a)(2) of this Act, is further amended by striking out "or" at the end of subparagraph (N), by striking out the period at the end of subparagraph (O) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(P) an alien having a residence in a foreign country which he has no intention of abandoning who is coming to the United States for a period of not longer than 11 consecutive months to peform services or labor in seasonal agricultural employment (as defined in section 3(3) of the Migrant and Seasonal Agricultural Worker Protection Act) in the production of perishable commodities (as defined in regulations of the Secretary of Agriculture).".

(b) Section 214 (8 U.S.C. 1184), as amended by section 211(b) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) under section 101(a)(15)(P) during the five-year period beginning on the most recent date (if any) on which the alien violated (as determined by the Attorney General) a term or condition of a previous admission as such a nonimmigrant or who enters the United States unlawfully after the date the program under subsection (f) first takes effect."; and

(2) by adding at the end the following new subsection:

"(f)(1)(A) The Attorney General, in consultation with the Secretary of Agriculture and the Secretary of Labor, shall by regulation establish a program (hereinafter in this subsection referred to as 'the program') for the admission into the United States of nonimmigrants described in section 101(a)(15)(P). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2)(B), on the issuance of nonimmigrant visas for such nonimmigrants by agricultural employment region. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(P) in accordance with the preference system established under paragraph (2)(C).

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area (other than by regions established under subparagraph (C) within which an alien may be employed or limit the type of agricultural employment, within the production of perishable commodities, the alien may perform.

"(C) For purposes of administering the program, the Attorney General shall designate not more than ten agricultural employment regions within the United States.

"(2)(A) Each person who employs individuals to perform agricultural employment (including an association of such persons and a person who contracts for the performance of such employment) in the production of perishable commodities may submit to the Attorney General, at such time and in such manner as the Attorney General specifies, an application specifying, for each month concerned and for the agricultural employment region in which the person is located, (i) the total number and qualifications of agricultural workers required in the production of perishable commodities in each month and (ii) the type of agricultural work required to be performed by these workers. The person may also include a statement indicating a preference as to country of nationality of aliens (or names of particular aliens) desired to perform labor in any such month.

"(B)(i) Based upon such petitions, taking into consideration the historical employment needs of agricultural employers and the availability of domestic agricultural labor, and after consultation with the Secretary of Agriculture and the Secretary of Labor, the Attorney General shall establish a numerical limitation, by month and by agricultural employment region, on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(P).

"(ii) If an agricultural employer (or association or representative thereof) establishes that extraordinary and unusual circumstances have resulted in a significant change in the employer's need for seasonal agricultural workers specified in the application or in the availability of domestic workers who are able, willing, and qualified to perform seasonal agricultrual employment, the employer may apply to the Attorney General (in such form and manner as the Attorney General shall provide) for an increase in the numerical limitations otherwise established under clause (i) to accommodate such emergency need. The Attorney General shall make a determination on such an application within 72 hours of the date the application is completed. To the extent the application is approved, the attorney General shall provide for an appropriate increase in the appropriate numerical limitation.

"(C) Nonimmigrant aliens who are subject to the numerical limitations specified in this paragraph shall be allotted nonimmigrant visas as follows:

"(i) Visas shall first be made available to qualified nonimmigrants specifically identified in petitions submitted under paragraph (2)(A).

"(ii) Visas shall next be made available to qualified nonimmigrants who have previously been employed in seasonal agricultural employment in the United States, providing priority in consideration among such aliens in the order of the length of time in which they were so employed.

"(iii) The remaining visas shall be made available to other qualified nonimmigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State.

A spouse or child of such a nonimmigrant is not entitled to a visa or such status by virtue of such relationship, whether or not accompanying or following to join the nonimmigrant, but may be provided the same status as such a nonimmigrant if the spouse or child also is a qualified nonimmigrant to perform seasonal agricultural employment in production of a perishable commodity.

"(3)(A)(i) The Attorney General shall approve an application submitted under paragraph (2)(A) authorizing a person to employ a nonimmigrant described in section 101(a)(15)(P) if—

"(I) the person is a producer, and the nonimmigrant is to be employed in the production, of perishable commodities (as defined by the Secretary fo Agriculture under such section),

"(II) the application complies with the provisions of paragraph (2)(A) and sets forth the need for such nonimmigrants,

"(III) the person has not employed or petitioned for a nonimmigrant described in section 101(a)(15)(H)(ii)(a) in the production of perishable commodities at the time when an application on behalf of the person is pending or approved under this subsection, or during any previous period during which the employer had an application approved under this subsection, and

"(IV) the person is not disqualified under subparagraph (C).

"(ii) Except as provided under subparagraph (C), a person who is determined not to be eligible under clause (i) (other than because of subclause (IV) thereof) is entitled to an expedited review of the determination by the Attorney General.

"(B) Any person whose application to employ a nonimmigrant described in section 101(a)(15)(P) has been approved shall—

"(i) make a good faith effort to recruit in the area of intended employment willing and qualified domestic agricultural workers to perform agricultural employment in the production of perishable commodities until the date any nonimmigrants under section 101(a)(15)(P) admitted to the United States to perform such employment report to work,

"(ii) provide for such wages and working conditions (including conditions respecting the furnishing of housing) as do not adversely affect the wages and working conditions of workers in the United States similarly employed,

"(iii) provide (if the employment is not covered by State workers' compensation law), at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers' employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(iv) not employ a nonimmigrant described in section 101(a)(15)(P) if there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such employment,

"(v) not employ a nonimmigrant described in section 101(a)(15)(P) for services other than seasonal agricultural services in the production of perishable commodities, and

"(vi) be permitted, in complying under clause (ii) with applicable conditions of employment respecting the furnishing of housing for such nonimmigrants and at the person's option, in lieu of arranging for suitable housing accommodations, to substitute payment of a reasonable housing allowance to the provider of such housing, but only if such housing is in the proximate area of employment.

"(C) If the Attorney General determines, after opportunity for a hearing, that an employer has participated under the program and has violated a provision of subparagraph (B) or any other provision of this Act, the employer shall be disqualified from future eligibility under the program for a period of not longer than three years.

"(D)(i) It is unlawful for a person or other entity to hire, or recruit or refer, for employment in the United States a nonimmigrant alien described in section 101(a)(15)(P) unless the person or entity has an application approved under paragraph (3) with respect to the hiring of the alien.

"(ii) A person or entity that violates clause (i) shall be subject—

"(I) in the case of a person or entity which has not previously been determined (after opportunity for judicial review) to have violated such clause, to a civil penalty of up to $1,000 for each alien so hired,

"(II) in the case of a person or entity which has previously been determined (after opportunity for judicial review) to have violated such clause in only one occasion, to a civil penalty of up to $2,000 for each alien so hired, or

"(III) in the case of a person or entity which has previously been determined (after opportunity for judicial review) to have violated such clause in more than one occasion, to a civil penalty of up to $3,000 for each alien so hired.

"(4) An alien admitted as a nonimmigrant under the program is not eligible for any program of financial assistance under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government.

"(5)(A) Funds appropriated under subsection (c)(5) shall be available for the purposes (i) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(P), and (ii) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

"(B) The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consulates in foreign countries in which aliens are likely to apply for nonimmigrant status under the program.

"(6) The Attorney General, in consultation with the Secretary of Agriculture and the Secretary of Labor, shall report to Congress semiannually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program.

"(7) The provisions of this subsection preempt any State or local law on the same subject.

"(8)(A) The Attorney General shall establish by regulation a trust fund the purpose of which is to provide funds for the administration and enforcement of the program and to provide a monetary incentive for nonimmigrants participating in the program to return to their country of origin upon expiration of their visas under the program. The Attorney General shall promulgate such other regulations as may be necessary to carry out this paragraph.

"(B) In the case of employment of a nonimmigrant described in section 101(a)(15)(P)—

"(i) the employer shall provide for payment into the trust fund established under this section of (I) an amount equivalent to the amount of excise taxes which the employer would pay under the Federal Insurance Contributions Act with respect to such employment if it were considered employment for the purpose of such Act, and (II) an amount equivalent to (and in lieu of) the amount of excise taxes which the employer would otherwise pay under the Federal Unemployment Tax Act with respect to such employment, and

"(ii) there shall be deducted from the wages of the nonimmigrant and paid into such trust fund an amount equivalent to the amount of excise taxes that the employee would pay under the Federal Insurance Contributions Act with respect to such employment if it were considered employment for the purposes of such Act.

"(C)(i) Amounts described in subparagraph (B)(i) paid into the trust fund shall be used for the purpose of administering and enforcing the program.

"(ii) Amounts described in subparagraph (B)(ii) paid into the trust fund with respect to a nonimmigrant shall, upon application by the nonimmigrant at the United States consulate nearest the nonimmigrant residence in the country of origin, be paid to the nonimmigrant if the nonimmigrant demonstrates his or her compliance with the terms and conditions of the program.".

(c) The Attorney General, in consultation with the Secretary of Agriculture, the Secretary of State, and the Secretary of Labor, shall promulgate all regulations implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing such amendments shall first be issued, on an interim or other basis, not later than the first day of the seventh month beginning after the date of the enactment of this Act.

(d) It is the sense of Congress that the President should negotiate with representatives of the governments of labor source countries to establish bilateral advisory commissions in order to consult with and advise the Attorney General regarding—

(1) the regulations to be promulgated,

(2) the monthly and annual numerical limitations to be established,

(3) the entry, and preference, and visa issuance systems to be established, and

(4) problems arising under the program established,

under section 214(f) of the Immigration and Nationality Act.

(e)(1) The first sentence of section 204(a) (8 U.S.C. 1154(a)) is amended by inserting before the period the following: ", except that no petition for a preference immigrant under section 203(a)(3) or 203(a)(6) may be filed respecting an alien who is a nonimmigrant described in section 101(a)(15)(P)".

(2) Section 212(a) (8 U.S.C. 1182(a)) is amended by striking out the period at the end of paragraph (33) and inserting in lieu thereof a semicolon and by adding at the end the following new paragraph:

"(34) Aliens admitted as nonimmigrants under section 101(a)(15)(P) who fail to be continuously employed or actively seeking employment in agricultural labor or services in the production of perishable commodities (as defined for purposes of section 101(a)(15)(P)) in accordance with the usual and customary employment patterns and practices.".

(3) Section 244(b)(2)(A) (8 U.S.C. 1254(b)(2)(A)), as added by section 212(c)(2) of this Act, is amended by striking out "or (M)" and inserting in lieu thereof ", (M), or (P)".

(4) Section 245(c)(4) (8 U.S.C. 1255(c)(4)), as inserted by section 212(b) of this Act, is amended by striking out "or (O)" and inserting in lieu thereof ", (O), or (P)".

(5) Section 248(4) (8 U.S.C. 1258(4)), as added by section 213(d) of this Act, is amended by inserting "or (P)" after "101(a)(15)(O)".

□ 1510

(By unanimous consent Mr. PANETTA was allowed to proceed for 5 additional minutes.)

The CHAIRMAN. The gentleman from California [Mr. PANETTA] is recognized for 10 minutes.

Mr. PANETTA. Mr. Chairman, as all of us have recognized in the debate on this bill, this is probably one of the most difficult and emotional and controversial issues to face the House perhaps in the last 4 years. There are legitimate problems that must be faced, and we cannot ignore the responsibility to try to deal with these problems.

One of those problems is obviously millions of illegal workers who today are bought and sold, who are exploited on all sides, who live in fear of sweeps and deportation, who are taking jobs from domestic workers. No one, it seems to me, can stand up and justify the existing situation. It is intolerable and it must be dealt with.

That is the responsibility that faces all of us now as we try to deal with this very difficult immigration bill, because the solution to that problem involves a series of contradictions. We want to be fair, but we want to be strong. We want to be comprehensive, but we want to be specific. We want to be tough, but we want to be compassionate. We want to enact penalties, but we want to avoid discrimination.

We want to legalize, but we do not want to open the door.

All of those contradictions exist here, and for those reasons there is obviously a great deal of concern on all sides about whether this bill will work. And we have all reflected those concerns in the course of our votes.

But despite this, it seems to me we have to give the benefit of the doubt to the authors of this legislation. It can work and it can work right, to restrict undocumented workers from coming into this country. If that is to happen, if it is to work, then it seems to me the legislation has to recognize some basic realities.

One of those realities is the nature of the perishable crop industry in this country. Those crops are extremely sensitive to changing weather conditions. You cannot pin down at what exact moment a perishable crop is ready for harvesting. It must be picked within a short period of time at that point and it sometimes can be only a few hours that a grower has in order to salvage that crop.

The second point is that the perishable crop industry in this country happens to be a substantial industry. Production today is valued at almost $23 billion in the perishable crop area, and that area hires over 1 million workers at the present time. It pays about $4 billion in wages. It is an important industry to the people that are part of it and to the consumers of America that are part of that industry as well.

My State of California is the single largest producer of perishable crops. Forth-five percent of the Nation's supply is raised in the State of California. There are 25,000 farms that are involved here.

I am not talking about huge farms. Sure, there are those. But 90 percent of the farms in the perishable crop industry are small farms, 38 acres, 50 acres, 100 acres, 200 acres, compared to the 500 and 1,000 acres that exist in other areas. These are basically small farmers that are involved with perishable crops.

The third reality is that this is an area that is labor intensive. Some mechanization has developed for the purpose of picking these crops but, very frankly, it is basically labor intensive. In order to pick these crops you need workers.

The fourth reality is that this very diversified industry has had to rely largely on foreign workers to harvest the crops. You may not like it and it may not be a good idea, but that is the reality we deal with. That industry has relied to a large extent on foreign workers and it is a history that goes back for many years in this country, back to before World War I.

In World War I there was a program that was initiated for that purpose. In World War II as well as the H-2 Program, a work force was built in for the perishable crop industry that began with Italians, Pilipinos, with Asians and Mexicans and Hispanics all working in the field.

My father, when he first came to this country, worked in the field with his brothers because that was the nature of the jobs that were required in the perishable crop area.

It has not been the kind of work, unfortunately, that has attracted large numbers of domestic workers. There are all kinds of reasons: wages, the kind of work that is involved here. It is not pleasant work. Believe me, I have done it. It is not pleasant work. It is tough work.

So for all those reasons there is this reliance on foreign workers. Even when there was an effort to shut down use of foreign workers it continued. When the Bracero Program was brought to a close, did that stop the use of foreign workers? Absolutely not. We went into the massive illegal immigration problem that continues to supply the workers in the fields.

Today 50 to 80 percent of many of the crews are illegal. That is a reality that we have to deal with.

Thus, if this bill works, and it terminates or substantially reduces the number of undocumented workers who enter this country, then those who are involved in the perishable crop industry face a choice: Hire domestic workers if they are available, if they are qualified, if they are there. If not, perhaps hire illegals, undocumented workers, or lose the crop. Those are the choices that are going to face farmers in this area.

The point, it seems to me, is to construct a bill that will not force that kind of choice between hiring illegals or losing your crop. That is not what we should be about in developing this legislation.

The choice ought to be this: Hire domestic workers or hire legalized foreign workers in a program that provides safeguards, that provides protections, that provides the kind of security that is not available to the undocumented workers who now work in the field.

That, frankly, is the purpose of the amendment that is now before the House. I believe tht the authors of the bill recognize the need to have this safety valve, this foreign worker program, and indeed, by statute they build it in with regards to the H-2 Program.

My amendment does not start anything with regard to use of a guest worker program. The reality is that the bill that is before the House basically adopts by statute the H-2 Program which is a foreign worker program.

The committee on page 62 states the following:

> When Americans are not available, not willing or not qualifed to fill certain temporary jobs, then this program, H-2, must operate effectively so that employers will have workers.

So the question is not whether or not there will be a guest worker program or a foreign worker program. That is not the question at all. The question is whether that program is workable and adaptable to the needs of the perishable crop industry. That is the concern that we have with regard to the H-2 proposal that is in this bill.

The gentleman from Kentucky, who I have a great deal or respect for, himself has admitted that he is from the concrete and asphalt of Louisville, and the gentleman in the other body who is the cosponsored of this legislation comes from the plains of Wyoming. So the question is, do they understand the realities that face the perishable crop industry.

There are two basic problems that are not dealt with here, two very basic problems. One is that under the bill as it is now provided, H.R. 1510, employers must file 50 days in advance of the date of need. In the Senate bill I believe it is 80 days. In the House bill it is 50 days in advance of need.

You can only pick up the workers on that date and put them to work on that date.

□ 1520

You cannot pick them up earlier or later. You must pick them up at that time.

Now if there is rain, if there is frost, if there is drought, if there is heat, if there is cold, if there is any of the weather conditions that impact on that crop, there is no way you can predict when that crop is going to be able to be picked. There is no way. That is the reality of perishable crops.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. If the crop ripens early because there is a heat wave and the tomatoes come in early and the workers are not there because you cannot pick them up earlier, you have lost the crop. If there is a cold wave and the crop is delayed for a week or 2 weeks, the responsibility is to pick up the workers and have them stay there and pay them and have them around, without having to work to pick the crops, at a substantial cost to the employer and frankly not very much help to those that are employed.

My amendment provides for a 72-hour expedited process in emergency and extraordinary circumstances. So that when a farmer is faced with that situation, he can appeal to the Attorney General for workers and that appeal must be acted on within 3 days.

That kind of flexibility is absolutely essential to the perishable crop industry and unfortunately not a part of the bill.

My amendment would provide that.

The second problem relates to the reality of how perishable crops ripen in certain areas. If you have tomatoes come in in a particular area, or cherries or apricots, they basically come in around the same time.

Under the H-2 program what has to happen is if you have 10 growers, 10 growers have to apply, 10 growers have to get separate crews, 10 growers have to go down and pick up let us say 200 workers each and bring them in. That is 2,000 workers for one area because each grower must use one group of workers and return them.

That just does not work.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield at that point?

Mr. PANETTA. Just briefly.

Mr. ANTHONY. I thank the gentleman.

The point he is making, right now in my State of Arkansas, my district, the tomato growers are in the exact predicament that you are talking about, trying to quickly harvest because of the heat to make sure they can get in a crop.

I just want to rise in strong support of the gentleman's amendment, and to let him know it is a problem that not just exists in California; it is a problem that exists also in Arkansas. It is a good amendment and it ought to be passed.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I know we are going to engage in a colloquy, but I would like to complete my statement.

Mr. MILLER of California. This goes to the accuracy of the point, that the same people who cut cane in Florida also pick apples in the part of the country further north.

Mr. PANETTA. If a crew is to be brought in, it makes some sense to rotate that crew in regions where similar crops are in fact ripening at the same time, rather than having 10 or 20 growers each go and get separate work crews. It makes sense and it applies to the realities of the perishable crop area.

The purpose of my amendment therefore is to try to complement the H-2 program currently in the bill and to try to make it adaptable to perishable crops. My amendment retains and strengthens all of the protections that are provided for under the H-2 program as presented in the bill.

Domestic workers have first preference for all available jobs and employers are required to recruit domestic workers and to hire willing and qualified domestic workers that may be recruited by the Department of Labor.

Let me tell you this, assuming we have legalization adopted here and I guess that is a question mark; but assuming we have legalization and everybody stays in the field, there will not be a need for foreign workers to come into this country, because there will be a domestic work force.

If the domestic work force is organized in this country and gets its act together, it can literally prevent any foreign worker from coming into this country. So let us not use the argument that we are opening the door here.

The first preference and priority is to hire domestic work. That is a requirement. Employers have to recruit. The Attorney General has to establish that domestic workers are not available and the employer has to continue to recruit for domestic workers up until the day that those crops are picked.

Second, the program cannot be used to break a strike or a lockout. I know there has been some concern about that. We have language in here that makes very specific that those workers cannot be used for the purposes of breaking a strike or a lockout.

The foreign workers are free to join labor unions if they wish within the period of time that they are located in the country. It provides for wages and working conditions that do not adversely affect the wages and working conditions of domestic workers, so that they cannot undercut the wages, nor can they undercut the working conditions with cheap labor.

Employers must apply the same working conditions and wages that apply to domestic workers. And labor law protections apply to these workers, something that does not happen today with undocumented workers at all.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. The Fair Labor Standards Act would apply. The Migrant and Seasonal Agricultural Worker Protection Act would apply. OSHA would apply, and the State statutes that impact on farmers would also apply.

So we are applying the same standards that we would apply to domestic workers and the pay would be equivalent in terms of social security deductions, unemployment deductions, and workmen's compensation.

If an employer violated any of these provisions he would be prevented from participating for 3 years. And let me tell you that 1 year of failure to participate in this kind of a program would mean total loss for that individual. That is serious.

Second, it would provide for penalties up to $3,000 per violation.

In addition, workers who are involved in perishable crops would be free to change employers within a limited area, something that does not apply to the H-2 program. So that if an employer in fact does not treat that worker fairly, that worker can move to another employer. That is not the case with regard to H-2.

Mr. Chairman, I realize that the issue of foreign workers is a controversial issue, because I think it sets off a mind set of attitudes and feelings that the situation is either all good or all bad. It depends on our emotions and our philosophies and I think you will hear many of those arguments presented today.

But I ask you to consider this: The brutal realities of the present system involve wholesale exploitation of undocumented workers and there are no protections; there are no protections at all. And that is what is happening today.

President de la Madrid, when he came before the Congress said, "Give me a temporary worker program with protections for human rights and for labor rights."

And that is the purpose of the amendment that is before this body, to try to adapt the H-2 bill so that it responds to the needs that I have described. We need not return to the abuses of the past. We need not accept the abuses of the present.

What we need to do is to develop solutions that are reasonable, that are workable and that ultimately are in the best interests of the consumer; of the domestic worker; and most of all of the foreign worker. I urge you to adopt this amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I will be pleased to yield to the gentleman.

Mr. MILLER of California. I think there is a couple of things that need to be clarified about the gentleman's amendment. And that is the suggestion that there must be a demonstrated need as to the needs for these workers. If the gentleman is familiar with his language, he will understand that the decision for granting the application of the farmers for these workers is in fact based upon the application of the farmer, that there is no requirement other than that the Attorney General consider the availability of domestic workers.

□ 1530

But that decision is based upon the application of the farmers for the number of workers that the grower says that he needs and the historical use of workers in that area. That ends the legal requirements.

So if you said you needed 500 people who worked in the fields last year and you make application for 500 people this year that ends the legal requirement after that determination has been made. Correct?

Mr. PANETTA. If I could respond to the gentleman, the gentleman needs to read the amendment and I am sure he has done so a few times. The Attorney General, first of all, has to establish a limit and a number and determine the need for foreign labor.

Mr. MILLER of California. Based upon what?

Mr. PANETTA. In the first section he has to make that determination based on the availability of domestic agricultural labor.

Mr. MILLER of California. Based upon?

Mr. PANETTA. On the available domestic labor and that is something he works out in conjunction with the Secretary of Labor and the Secretary of Agriculture.

Mr. MILLER of California. How do you know that?

Mr. PANETTA. Two, after the applications come in the employer has the continuing responsibility, as provided under section B(i) to make a good faith effort to recruit in the area of intended employment willing and qualified domestic workers.

Mr. MILLER of California. After the application has been approved.

Mr. PANETTA. There is a continuing responsibility to recruit.

Mr. MILLER of California. After the applications unlike the current law where that determination, that certification, must be made prior to that.

Mr. PANETTA. If the gentleman—if I may regain my time—if you make a condition, you make a condition. The gentleman would like to argue that whoever is going to enforce this condition might play games with it.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has again expired.

(At the request of Mr. MILLER of California and by unanimous consent, Mr. PANETTA was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. There is a continuing responsibility on the employer to continue to recruit.

I might point out that in the H-2 precertification process what concerns me, very frankly, is that once the certification is granted by the Department of Labor, that is it. That is it. I think you need to force recruitment right up until the day when the individual is prepared to get the workers.

Mr. MILLER of California. Let me say to the gentleman again that is not the case. Under the current precertification process in the H-2 program a domestic worker, American worker, can show up at the job site until half of the crop is picked and be entitled to that job.

Under the gentleman's case, once the crop starts to be picked they are precluded from consideration for that purpose.

The good faith effort to look for those workers is after the application has been submitted and approved he will engage in this process. He already has lined up the work force, a work force that he has nominated. Under the gentleman's provisions the farmer nominates people by name who have worked for him previously, if he can, and has brought them here.

Mr. PANETTA. But if the gentleman's suspicions about the intent of this were correct, why is there any need to include a recruitment condition at all? Just leave the condition out and say absolutely no recruitment required.

But the fact is we do have a condition in here that recruitment has to continue. That has to be enforced by the Attorney General.

Mr. MILLER of California. Let me suggest that that same requirement existed in the previous program in the fifties and was not met.

Mr. PANETTA. And I might point out to the gentleman it was the Department of Labor that was responsible for implementing that program.

Mr. MILLER of California. Would the gentleman like to go to court and argue good faith. The season will be over at that point.

Mr. PANETTA. Well, I guess if we always base laws on the fact that administrations are not going to enforce those laws, then we would not have very much business here in the House.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Louisiana.

Mr. HUCKABY. I thank the gentleman for yielding.

I would like to ask the gentleman when the guest workers come in the gentleman said he would be able to move from one farm to another farm in harvesting perishable crops. Would a time limit under the gentleman's amendment be specified before he came in as to how long he would be able to stay?

Mr. PANETTA. That is correct.

Mr. HUCKABY. Would he have to have specified in advance the area he would be working in or the various farms where he would be working?

Mr. PANETTA. That is correct. That individual has a restricted visa for a set period of time and he could only work for those employers who had applied and were qualified, and he is limited to agricultural work in perishable crops in that area.

Mr. HUCKABY. And it would have to be in that area and it would all have to be arranged in advance?

Mr. PANETTA. That is correct.

Mr. HUCKABY. And once that expired he would have to go home rather than going to another area to seek additional work?

Mr. PANETTA. That is correct.

Mr. HUCKABY. Mr. Chairman, I rise in support of the gentleman's amendment and I want to thank him for the outstanding work he has done in its behalf.

Mr. MORRISON of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during these past few days I think all of us have gained, if we needed to, respect for the gentleman from Kentucky, the chairman of the subcommittee. Quite often he has talked about amendments that have been before us as killer amendments. That has become part of our vocabulary this week.

I want to assure all the Members that this amendment, offered by the gentleman from California [Mr. PANETTA] and myself, is not a killer amendment as far as the judiciary print of this bill is concerned.

It is complementary. It adds a new program. It does not strike anything from the measure in front of us. It adds a new program that works in conjunction with the existing H-2 program. We have debated H-2 now for the last several hours. We know that it does not work for a number of people.

This proposal, which we might as well for abbreviation purposes call H2P, because that is how it is designated in the law, is very restrictive. It is restricted to limited time. Every month, even after workers are in an area the Attorney General has to review the numbers that will be allowed to remain. It is limited in numbers, limited to regions, limited to perishable commodities, and it is limited to areas where there are insufficient local workers.

There is flexibility in this program and this is the difference with the H-2 program, flexibility for both workers and employers. I speak for the small farms in the Northwest. They are family farms. There are basically no Government support programs for these farms. They keep our export markets alive around the world. In fact, we see this program as being much more efficient than the H-2 program because it allows workers within a region to move from employer to employer once they have been certified and are able to utilize the same workers.

This proposed amendment has a unique feature. Mr. PANETTA mentioned it very briefly, but let me emphasize it. It makes this program work; the worker can move on. If he is dissatisfied with the wages, if he is dissatisfied with the housing, if he does not like the working conditions, he can move on. That did not exist in the Bracero Program. It does not exist in H-2. It is unique and I think gives this particular proposal an opportunity to work and get away from such descriptions as exploitation of labor and other negatives which none of us support.

Under the H-2 program, once you have been certified by the Department of Labor as an employer and these foreign workers sent to you, you have little incentive to be a good employer. Those workers are tied to you. They cannot leave. As a result, they have not objected to any abuse or misuse that has occurred.

So this has incentive, incentive for employers to be the very best because they want those workers to come back in subsequent years if they continue to need them.

My basic question to everyone here is: Do we want immigration policy to work? Obviously we have gone through a number of hours of exchange on this floor and the votes would indicate to me that, yes, we like what the Judiciary Committee has done. This adds to it; complements it. And speaking again on behalf of a number of small farmers, the flexibility of this program, giving them a legal alternative to hiring illegal workers is absolutely essential if we are going to remove the economic magnet that has been bringing workers here for a number of years.

By the way, this program also works for domestic workers. Let me tell my colleagues why, because once application is made for this program, the farmer, who has made application, has to aggressively recruit domestic workers who are willing to work on that farm. Otherwise, his application will not be approved. This is an opportunity that domestic workers currently do not have. They can be disregarded and many of them are all too often.

On behalf of agriculture, there are only 2 percent of us left who actually live on America's farms. Under this bill the committee has given us a 3-year transition for agriculture under employer sanctions. During that transition, let us see how many of America's newly legalized workers stay in agriculture. Let us give assurance to thousands of small farmers out there who have kept us all very well fed through the years that there is a future, there is a prospective labor supply if local workers are not available.

It will take those 3 years to build the housing, to set up the facilities that are going to be required under this H-2P amendment. We can work out the regulations and details during that time.

All I am asking my colleagues on behalf of agriculture is to provide the flexibility of the H-2 program, and make this new immigration policy work for the family farm in America.

I urge the adoption of this amendment.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. MORRISON of Washington. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment and to associate myself with the gentleman's remarks as well as the remarks of the gentleman from California.

Mr. Chairman, as Members of the House of Representatives, we have been elected to guarantee the rights of the citizens of the State which we represent, and the citizens of the country as a whole, and to serve the best interests of consumers and producers. The Panetta-Morrison amendment, in my opinion, fulfills both of these goals.

The Immigration Reform and Control Act, which we are debating this week, seeks to stem the tide of illegal immigration which has become an uncontrollable problem. The effects of the influx of illegals is extremely evident to me as a Representative from California. The Panetta-Morrison amendment is compatible with the goals of the Immigration Reform and Control Act in that it maintains the protections, and preserves the requirements, as outlined by the H-2 program. It preserves the right of America's citizens to work and allows foreign labor to be employed only if there is a need.

H.R. 1510 assumes by granting amnesty to the illegals already in the United States that the labor needs of the perishable commodity industry will be met. The H-2 program would supplement any additional labor needs.

However, what we must realize is that the H-2 program is totally unsuitable to the perishable commodity industry. The H-2 program cannot provide the number of workers needed by growers quickly enough. The loss of crops will result in shortages for the consumers who in turn will pay higher prices for commodities. Additionally, related industries such as transportation will suffer.

The flexibility of the Panetta-Morrison amendment will allow foreign workers to move from grower to grower within restricted agricultural growing areas.

Forty-five percent of the fresh fruits and vegetables produced in the United States come from California, generating revenues of $6 billion to farmers, workers, and consumers in the United States. Let us not jeopardize these revenues and impair the success of our agricultural industry by failing to adopt the Panetta-Morrison amendment. Please support this amendment which assures domestic workers rights by providing that foreign labor be used only if sufficient domestic workers are unavailable, and provides the flexibility that is essential to the perishable commodity market by allowing workers to move from one grower to another.

☐ 1540

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from California some questions about the amendment.

My first question concerns whether the Attorney General is required to set up this program even if he determines that there is no need for the program.

Now, if you look on page 246 it says:

> The program shall include the imposition of monthly and annual numerical limitations.

And if you look on page 248, paragraph (B)(i), on line 13, it says:

> . . . the Attorney General shall establish a numerical limitation, by month and by agricultural employment region, on the issuance of non-immigrant visas to aliens.

My question is, first, Is the Attorney General required to set up this program, and second, What if he determines there is no need, that there are, in fact, sufficient domestic employees or other people other than this program? What would his requirement be in those cases?

Mr. PANETTA. I refer the gentleman to the first language in that paragraph on page 248, paragraph (B)(i), that based upon such petitions as have been presented, taking into consideration the historical employment needs of the agricultural employers and the availability of domestic agricultural labor, he will then establish the limitations.

It would seem to me that if there are available domestic workers and that is so determined by the U.S. Attorney General in conjunction with the Departments of Labor and Agriculture, that there is no need then to allow any foreign workers to come into an area, and he does not have to establish any number at that point.

Mr. GLICKMAN. I think that is a fairly critical point then. What we are saying is that if there is a finding that there are enough domestic folks here already to work in the area then there is no requirement that the Attorney General allow any foreign workers to enter the United States to work in that area.

Mr. PANETTA. That is correct. The gentleman is correct.

Mr. GLICKMAN. Now, my second question is: What is the relationship between the Secretaries of Agriculture and Labor?

We have here an Attorney General who is going to run an agricultural program, and I am not sure how well the Attorney General does with the existing Department of Justice programs. I guess I would ask my colleague, who is an extremely competent Member of this body, what is the status of this consultation between Cabinet Secretaries? Is there in fact a veto by the Secretaries of Labor or Agriculture? I would like to see somebody who knows something about agricultural issues helping to make these decisions, in reality.

Mr. PANETTA. If the gentleman will yield, it has been a problem in this area. This has been viewed as perhaps a worker program and therefore the Department of Labor ought to have jurisdiction, it has been viewed as an agricultural program and therefore the Secretary of Agriculture ought to have jurisdiction. I think, as the chairman of the Judiciary Committee has pointed out time and time again, this is immigration policy we are dealing with, an immigration issue, and the U.S. Attorney General has responsibility for immigration matters. It was our view that that responsibility ought to be retained by the U.S. Attorney General who deals with all other immigration issues and not sent to the Department of Labor or the Department of Agriculture.

At the same time, it was our feeling that he ought to consult very closely with the Secretary of Labor and the Secretary of Agriculture.

As a matter of fact, in this amendment there is provided some $10 million for the Department of Labor to conduct a search for domestic workers under this program. So we are requiring the Secretary of Labor to go out nationwide, to determine whether there are sufficient domestic workers.

Based on that, it seems to me that the U.S. Attorney General ought to rely on the input from the Secretary of Labor as well as the Secretary of Agriculture.

Mr. GLICKMAN. The third question is that you designate these limitations by agricultural employment regions, and then in the amendment it also provides that there shall be no more than 10 regions.

I wonder if the gentleman might tell us what the regions are. Would they be as large as a State? Would they be smaller, perhaps defined in terms of particular perishable commodities?

Mr. PANETTA. It was our view that we wanted it limited to those regions that have need. We do not want the workers who are coming in to be able to move across the country or into varying regions, so it is our intention that the U.S. Attorney General will have the discretion to keep those regions as tight as possible, depending on the need. If he, in fact, finds an area, for example the San Joaquin Valley, where crops may be coming in at one time, he could in effect designate that as one region.

Mr. GLICKMAN. The next question is one that the gentleman from California [Mr. MILLER] raised, and I think it is important to get a specific answer.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 3 additional minutes.)

Mr. GLICKMAN. The issue of exploitation of workers. There has been indicated great concern about this, and there was a reference to the Bracero Program of earlier days.

I wonder if the gentleman could outline specifically what protections those nonimmigrant workers would have under this proposal that might be different than what they would have, let us say, under the H-2 program? Anything extra special here? Anything that gives those people protection? There has been a lot of concern here about the fact that we may be starting a program that we did away with some time ago because of the potential for abuse.

Mr. PANETTA. Well, this gentleman shares all of those concerns and feels that we ought to include the protections that the committee has included with regards to the H-2 program for recruitment, for retaining wages and working conditions similar to domestic workers, for requiring State workman's compensation.

It also provides that foreign workers cannot be used for purposes of breaking a strike or a lockout. It provides that they cannot be used for other than work in the perishable crop industry in that limited agricultural area.

Mr. GLICKMAN. I assume for perishable agricultural areas only.

Mr. PANETTA. For perishable agricultural use.

There is one thing I would like to add to that, if I might, which I think is extremely important, and that is the ability of the employee to go between employers. Under the H-2 program he is assigned to a single employer. That was the way the Bracero Program worked. He was assigned to a single employer. He could not move from that employer. Whatever the working conditions, whatever the abuses, whatever the degree of housing that was provided, he could not move. In this program the flexibility is there for the worker to move between employers, and I think that is an extremely important protection that we ought to provide to foreign workers.

Mr. GLICKMAN. Let me just ask one more question, and then I will yield.

If the basis of this amendment, the premise, is a potential shortage of workers—and I think the gentleman made that case fairly clear—I wonder why there was perhaps no attempt to sunset this provision after, let us say, 3 to 5 years. It looks like a sunset would be particularly appropriate in this kind of an amendment.

Mr. PANETTA. Well, there is always a question about whether or not we sunset the basic law that we are dealing with. It was our concern that if you sunset a program like this, there really is not the opportunity to begin to organize it, that there would not be sufficient effort to get behind making this program workable.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has again expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. What we do provide in the amendment is that the Attorney General every 6 months shall report to the Congress as to how this program is working, so that we in the Congress can in fact maintain oversight over this program to determine whether it is working effectively and whether it is being enforced the way we intend it to be enforced.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague, the gentleman from Washington.

Mr. MORRISON of Washington. I thank the gentleman for yielding.

The gentleman from California actually made the point I was most interested in, and that is that this program is unique in that if you are an employer in need of employees and you have made application, you have gone through the expense of providing adequate housing, and met all requirements, the worst words that you could hear in the world from an employee is, "I quit." And they leave and move on to other work.

This is a significant factor that automatically corrects many of the problems with past or present guestworker programs and needs to be built into this discussion.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not usually reject compliments quite so emphatically, but when my friend from Washington described this as an amendment which was complimentary to the bill, it is a compliment which I have to emphatically forswear.

The amendment would certainly turn me from support of the bill into an opponent, and I suspect it would others. I do not mean to say that because that is the case it is somehow illegitimate to offer; I do think it would be an awful overreach on the part of the agricultural growers who have not been doing so badly on this bill.

What we have here is a bill which attempts to deal will illegal immigration. As I understand what my friend from California and others have said, the large agricultural or maybe the medium-size agricultural employers have said that they really cannot get along without illegal immigrants.

□ 1550

What we are told is that this bill, this is relevant to this bill because we have an industry in American that has depended to a certain extent on people who are here illegally. If we are going to get serious about people not being here illegally, they have to find some way that these people can still be here with no change in their status, except that we no longer call them illegal. Their status would not otherwise be greatly improved.

When people talk about temporary agricultural workers, there are a lot of these agricultural workers under this bill who will spend more time in America than the average Member of Congress. As I understand it, without commenting on the travel habits of some of my colleagues, under this bill you can come here and be a temporary worker in America for 11 months out of the year; 1 month out and you are OK. As I said, there are Members of Congress who would not quite make it under this.

This bill basically says to the agricultural employers the rules that apply to everybody else do not apply to you. You cannot have to worry; other employers who want to get people in here who do not qualify under the regular rules, we have something called labor certification. People have been through that, it is very difficult to get labor certification to show that nobody else in the country can do the job. Getting labor certification is harder than winning an election. You have got to prove that that is the only one that is available.

Not under this bill; not for the agricultural workers. They will just have the Attorney General say once a year, once a month, we need a whole bunch of them, and if people can come in, and if you are an agricultural worker you can give preference to your friends by naming them. As I understand it under this amendment, the private growers will be able to establish preference under the visas here. They will say these are good people and we want them in here so they can come in ahead of everybody else. It is a delegation of power to private employers to give preferences in the visa system unlike anything I have ever heard of. They can virtually import for 11 months out of the 12 a foreign work force. The problem with the foreign work force is this: It is a foreign work force. These are not bad people; they are good people, they are hardworking people. I am not in any way denigrating them. What I am saying is if we have a need for these kind of workers, if they are the only ones who can do the job, then let us have them come in and be Americans like the rest of us. Let us not have them come in like domestic help, and let them come in and clean, and cook, and wash, and they go home for the night, or pretend that they go home for the night because they are here for 11 months but they cannot vote, and they cannot participate, and they cannot be citizens. They are not second-class citizens; they are third-class people, because they are not even citizens.

You are bringing in these people and you are saying forget the immigration laws, everybody you have got to wait in line, you have got preferences, you have got visas, you have got quotas, but if you are in the agricultural business only you can bring them in. Yesterday we were told that the agricultural business was just like every business. Remember when we were doing search warrants? Some of us said that you should have a different requirement for an open field than a building. When we were talking about search warrants, then agriculture was like everything else. Overnight, agriculture became different because we have a different amendment. Now, agriculture, which was just like everybody else from the standpoint of law enforcement, is unlike everybody else from the standpoint of having a virtual total exemption from the immigration laws of this country. This amendment gives agricultural growers the right at will to bring large numbers of people back and forth not to be our neighbors, not to be our friends or our fellow citizens, to be our hired help with no rights, with just the ability to come in, get paid, and go back home again.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the chairman.

Mr. RODINO. I thank the gentleman for yielding.

I think that the gentleman has pointed out one of the flaws in this bill. Is it not possible that those individuals who qualify as agricultural workers, who pay their own way to come in, could come in for 11 months and not work?

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. PANETTA. I thank the gentleman for yielding.

I find it very interesting that the gentleman uses the 11-month requirement because in effect that is a maximum. Under the H-2 program, it is also an 11-month requirement. The reality is the U.S. Attorney General will establish a time period of 30 days, or 40 days, or 60 days depending on the need in that particular area. The visas are to be limited to that.

What we have done is we have established a maximum period just as the H-2 has established a maximum period of 11 months.

Mr. FRANK. I would say to the gentleman and I take from the fact that he did not answer the chairman that the chairman was correct, that there is no requirement that they work. So here are these people, they spend 11 months in the country, they do not have to work very hard and they are under no control. They are looking more and more like Congressmen every day.

The point though, with regard to the gentleman, is that I did not pick the 11 months; the gentleman picked the 11 months; There is a difference between 8 months and 11 months; 8 months is partial and I was not crazy about the H-2 program. But when you say that these people can come here for 11 months out of 12, the same individual, and they can come in, they can be named by the employer, they can wander around. I have no objection to these people being here. I want to again state I claim no Apache blood whatsoever. I am not here to tell anybody else they cannot come to America. I think immigration has been a great benefit to America.

What I object to is a class of people being brought here in the form of economic subjugation in the sense that they have no political rights. They spend 11 months out of the 12. If we need these people, let us let them come.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. RODINO. Again, I would like to point out, and the gentleman, the sponsor of the bill may respond to this, because it is an immigration problem. If the individual, as I read the bill, applies as an agricultural worker, he may come here and never work a day of that 11 months.

I would like to know whether or not there is any assurance that that person is coming in to fill what the bill is supposed to be all about, and that is provide work for certain employers.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. PANETTA. On page 257 of the amendment, section 34, it states very specifically that those who are admitted who fail to be continuously employed or actively seeking employment in agricultural labor or services in the production of agricultural commodities will in fact not be permitted to work within the country. There is a requirement for continuing work in the agricultural area.

Mr. FRANK. I yield to the chairman for his response.

Mr. RODINO. That is not the question I asked. The question I asked is whether or not that person will actually be fulfilling the sole reason for his coming here.

Mr. FRANK. You talk about administrative difficulties, you have these people brought in and I do not know any agency of the Government that is going to be competent to supervise whether people were or were not actively seeking the work. Again, as I say, I do not object to their presence, I just object to this totally extraordinary category of immigration that has been set up.

I yield to the gentleman from California.

Mr. PANETTA. The reality is that there is no guarantee for H-2 or for any other program that that in fact is going to be the case. There really is not. Under H-2, however, what you do is you have a crew that is put into a bus, dragged up to a particular field, put to work in that field, and dragged back. Now, is that somehow a better program than bringing the workers into an area and allowing them to rotate?

Mr. FRANK. I would say to the gentleman if it was not better for the workers and worse for the management, and I think we have a zero sum here, the growers would not be pushing so hard for this one.

I want to add the central point that has to be emphasized again, because I think people are forgetting economics. We are told there are no Americans ready to do it. That ignores economics. There is not a fixed pool of people ready to do *x* work. Wages and working conditions are relevant. What you are saying now is the committee bill has a transition program that is more generous than I like. The committee bill has a transition program and it has an H-2 program, but it is transitional. What you are saying with the amendment of my friend from California and my friend from Washington is, there will never be Americans ready to do it. We will just write off the fact of Americans being able to do any substantial part. We will guarantee in fact that they will not because we will have that unlimited source of visitor competition that will come in so the chances of raising the wages in that area will never be very high. You will have a permanent Marxist army of the unemployed across the border able to come in here, again, not as citizens, not as fellow human beings with full rights, but just as that group of domestics that come and go. Maybe they will not do windows, but they will do everything else.

□ 1600

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 4 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, the gentleman in the well has just hit upon a fundamental point of this amendment, and that is that the wage base and the determination whether or not American workers, domestic residents, will, in fact, be available or not available to harvest these crops will not be based upon a wage base determined in the United States of America. It will be determined based upon a wage base in Mexico, in Haiti, in Jamaica, in the Dominican Republic, in the rest of the Caribbean and Latin America, because as long as what you can offer those workers to come here is superior to what they can earn at home, as long as there is an opportunity for employment here as opposed to home, then this certification process is automatic, because under those conditions, there is no American who wants to do the work at that time. There is no domestic labor market because, in fact, you are competing against a foreign labor market, a foreign labor market that is assured and in continuous supply by the nomination of the grower who brings that individual here.

So the gentleman is quite correct. We put together that scenario and that is an automatic certification for the right of these people to come here by the Attorney General upon the nomination of the particular grower. I think Members must understand how fundamental that is to the depression of wages and working conditions in this agricultural labor market, because there will be no comparison to the domestic agricultural market under these conditions. It will be the same conditions that apply in the current illegal market. I think the gentleman has raised a very fundamental point.

Mr. FRANK. I thank the gentleman.

I am about to yield back, Mr. Chairman, but let me stress again that all of this under this amendment will be true only for the agricultural sector. It will give the most extraordinary set of exemptions from economics, from competition, from immigration law, only to the agricultural sector.

I agree that I have sometimes had some disagreements with some of my friends in the agricultural community, but I have never seen an overreach quite as impressive as this one.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I will yield to the only gentleman from California I have not yet yielded to in this debate.

**Mr. PASHAYAN.** I thank the gentleman for yielding.

Mr. Chairman, I would just make one point with my friend, the gentleman from Massachusetts. There are some farmers, at least in California, who employ a domestic force for the year around. They are the large farmers because they have very large-scale operations. They operate thousands of acres. There a few of them. They are the farmers who can afford the housing and can afford to have a permanent work force the year around.

I noticed early in the gentleman's remarks that he seemed to combine, in his premise, the fact that small farmers and large farmers might operate the same. In this regard, they do not.

**Mr. FRANK.** I thank the gentleman for pointing that out.

**Mr. PASHAYAN.** The point I am making is this: The benefit of this amendment goes most forcefully to the very small farmer who needs a work force only 2 or 3 weeks, at the most, out of a year. The small farmer, with husband and wife, 2 or 3 children, who operate 30, 40, 50, or 90 acres, of which there are thousands in the San Joaquin Valley, they are the ones who cannot afford a permanent work force, domestic or foreign, because they do not need the workers more than several weeks a year. They are the ones who are the primary beneficiaries of this amendent. I should just like to point that out to my friend.

**Mr. FRANK.** I appreciate that. I would say that it would seem to me that they could hire domestic workers as well as others, and the 11-month factor in this is one that makes me think it is aimed at more than just people who need people a couple of weeks.

**Mr. RUDD.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this good amendment offered by the Agriculture Committee to create a nonimmigrant seasonal guest worker program. It will enhance and make this a better bill.

It provides the additional flexibility required by producers of perishable crops that the existing H-2 program does not provide.

The amendment still requires employers to make every effort to recruit U.S. workers to fill employment opportunities, and to provide wages and working conditions that do not adversely affect those of U.S. workers at all.

The problem is that the existing H-2 program would require notice by employers at least 50 days in advance of need. While this standard may be acceptable for other industries, producers of perishable crops are unable to predict such conditions as weather, or precisely when crops will be ready for harvest. If they have petitioned for workers, they would be required to pay them whether they could work or not.

Furthermore, under H-2, these workers could not move to another employer who could use their skills.

The committee amendment addresses these concerns very well by allowing the Justice Department to determine on a monthly and annual basis the number of workers to be admitted, and allows migration by workers among employers so that crops can be harvested on a timely basis. Workers would be admitted according to a preference system: First preference given to experienced individuals identified in grower applications; second, to qualified individuals with previous U.S. work experience; and third, to other qualified workers.

Workers would be allowed to remain in the United States for not more than 11 months.

It also provides incentives for the worker to leave the country at the specified time by requiring that amounts equal to the Social Security and unemployment insurance contributions which would be required of U.S. workers be deposited into an account on behalf of the foreign worker to be provided to that worker at the time of departure. It also provides for additional monitoring of workers by the Immigration and Naturalization Service.

Because of these good ideas, the amendment is a good amendment and I urge adoption of the amendment.

**Mr. GONZALEZ.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am opposed to the so-called guest worker program authorized by the pending bill, and I am even more opposed to the pending amendment. The farmworker program created in the bill itself is odious, but this amendment would even offend a slave driver.

People who wanted slaves would at least buy them; this amendment is a rent-a-slave device.

The amendment does not even provide the skeletal labor protections that existed under the infamous bracero program, which this Congress terminated 20 years ago.

The old Bracero Program at least required employers to provide a written contract to their workers, so that they might know what the wages and working conditions would be. The amendment language doesn't even offer that shred of solace to imported foreign workers.

Braceros were supposed to get a guaranteed wage, guaranteed by two governments, a guaranteed amount of work; they were supposed to get decent housing, and their tools and meals were to be provided at reasonable cost. But the amendment language does none of these things. It clearly allows employers to pay pennies an hour, to set up company stores and all the other sweatshop devices of the 19th century. It would create conditions for farmworkers that would make those farmworkers envy slaves—because slaves at least might expect to be kept alive, to be housed, and fed, and clothed. But braceros are not valuable property; they are disposable tools, to be used and discarded. So the amendment would not assure any shred of decency or compassion—no minimal wage, no housing, no reasonable food, no protection against wage gouging. The amendment will create the vilest, most evil working conditions possible, conditions in which exploitation of the worst kind would be the order of the day, for the workers would have no recourse, no rights, not even in theory. The old Bracero Program was evil. The present temporary farmworker program is evil. But this language makes those look like the age of enlightenment.

What a cruel hypocrisy it is that we are working on a bill to protect this country from a supposed flood of cheap labor, and in the midst of it we find provisions that guarantee an endless flood of cheap and cruelly exploited foreign workers to lay food on our tables. There is no way to justify this, not when we have successfully met farm labor needs without rented slaves for 20 years; not when we have millions of unemployed; and not when the rent-a-slave program would appall the conscience even of a 19th-century slaveowner.

□ 1610

**Mr. DANNEMEYER.** Mr. Chairman, I move to strike the requisite number of words.

**Mr. DENNY SMITH.** Mr. Chairman, will the gentleman yield?

**Mr. DANNEMEYER.** I yield to the gentleman from Oregon.

**Mr. DENNY SMITH.** Mr. Chairman, I rise in support of the Panetta-Morrison amendment. I represent a district with significant agricultural interests that require seasonal workers to harvest time-sensitive crops. To the farmers I represent, this is probably the most critical amendment to be offered to the immigration bill. Without it, I fear the consequences of this legislation on the agricultural economy of the Northwest. It could mean disaster for perishable fruit and vegetable growers. Family farms that have operated for generations will have crops rotting in their fields.

The Panetta-Morrison amendment was carefully drafted to protect both the domestic work force and the foreign worker. It would only take effect if the number of domestic workers is inadequate. Foreign workers must be paid a wage that does not adversely affect the wages of American workers.

This amendment represents a needed safety net to ensure that an adequate work force is available to pick perishable crops. The cherries, strawberries, pears, and apples are just some of the fruits you enjoy that are grown in the West. Getting these products to market is an important and sensitive task. For western growers, a few days, and in some cases, a few hours, can separate a profitable year from economic disaster. Timing is everything during harvest season. When the fruit is ready to be picked, the farmers must have workers on hand to do the job.

Experience has shown that while domestic workers apply for jobs as pickers, few keep them. A couple of years ago during the height of the recession, many Oregonians found themselves without jobs. One farmer from Forest Grove, OR, related a story to a local newspaper which characterizes the situation in the Northwest during harvest time. After reports of a mass arrest of undocumented workers in his area, 126 U.S. citizens showed up on his farm looking for jobs. Within 10 days, only eight were left employed. The farmer, Glen Walters, was quoted as saying:

> Some quit within the first hour, some worked the whole day, a few worked the whole week. Some even walked out without coming up to my office for their pay. I can't operate a business that way.

Over time, the Northwest has become dependent on the migrant farmworker who travels from farm to farm, following the crops ready for harvest. Many of these workers return to the same farms year after year, often bringing a relative or friend from Mexico to work too. These temporary foreign workers have become a reliable and experienced work force.

The H-2 program is not a solution for western growers. Because timing is so critical to perishable fruit and vegetable growers, farmers can't wait for a bureaucracy to act if domestic workers aren't available. The H-2 program has worked well in some parts of the country, but it won't work in the West. It's too inflexible and cumbersome. The Panetta-Morrison amendment, which was tailored to meet the special needs of western growers and their workers, provides flexibility while protecting workers.

The use of temporary foreign workers is an integral part of agriculture in the West. Without these workers, disaster would strike farms in my State.

As Members of Congress, we represent a vast country with diverse economic conditions. My Northwest colleagues and I share a problem that is unknown in urban and industrialized communities which are represented by other Members.

I urge my colleagues who represent these other areas to be sensitive to the unique conditions which face western growers. They need this amendment and your support. I urge you to vote in favor of the Panetta-Morrison amendment.

Mr. DANNEMEYER. Mr. Chairman, I rise in strong support of the Panetta-Morrison amendment.

My perspective of that support may be a little different than that of some Members in this Chamber. I represent an urban area of southern California—wall-to-wall people. I can drive from one end of my district to the other in traffic in about 45 minutes. The things we grow there are grown in our gardens in our backyards. We do not hire farm labor, but a lot of people who live in my district are people who work in different industries and who are indispensable to the functioning of our economy, including agriculture.

Let me share with the Members certain thoughts with respect to what the status of the law is today and where we close our eyes to the problem. We may have eliminated the Bracero Program in 1964 or 1965, but we have not stopped the influx on the magnet that has brought workers here continually since. And let me relate to the Members what has happened to these illegal workers who have continued to come into our Nation, including California and other States.

They are nonpersons. Where they live, they are preyed upon by the vultures in our society who know that if they break into their homes, or their shacks where they live and steal from them, or deprive their persons of liberty, or abuse them, or what have you, the probability is they are not going to say anything. Why? Because they are in the trap that if they complain to the authorities, like any one of us would, they are going to be shipped right out of the country; they are going to be separated from their families, their status, and their jobs.

This status that exists today cannot go on. We need some means whereby we establish human rights for these workers that are attracted into this country by the magnet of our economy that brings them here and out of the deprivation that they are sustaining in Mexico and Central America, where the unemployment rate is so high that if any one of us were living there today as a young man or woman, we would probably be following these people north for a chance at least for a job.

So I beg the Members to consider these facts of human rights for these victims who today are ignored in our culture. They are stepped upon. The suggestion that the H-2 program can be expanded to serve this need is specious. It will not work. There is no way in the world in 50 days that you are going to manage the number of workers you would need for harvesting a crop, whatever it is.

Everybody in this Chamber knows that California produces lots of things, including a lot of the produce and fruits and nuts that we consume in America. We need the agriculture of our State, of course, for the functioning of not only California but the United States.

Finally, let me observe that when you read the list of organizations that are supporting this, this is not limited to California, or New Mexico, or Arizona or Texas, the border States. This goes to the Agriculture Commissioners of Illinois, Florida, North Carolina, Pennsylvania, Oregon, and Washington, which have all joined in their support of this amendment. It has the support of organizations like the American Farm Bureau, the National Grange, the California Cattlemen's Association, the National Council of Agricultural Employees, the National Food Processors Association, the American Seed Trade Association, the National Grocers Association, the California Grape & True Fruit League, and so on.

You ask the question, who is opposed to it? The people who are opposed to it are the same people who got rid of the bracero program in 1965 and have been closing their eyes ever since, the people who want to deprive human rights to these people and human rights to these workers.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I disagree with the gentleman on some of the specifics of this program, because I think to be fully respectful of human rights, we should allow these people not simply physically to work here but to have other rights.

Do I take it correctly—and I mean this very seriously—from the gentleman's quite moving description of the plight of these people who have been driven to our shores by a desire to better themselves and their families, with the gentleman's respect for their human rights and his compassion, that that means the gentleman will be a full supporter of the legalization provisions of the bill which is a way to give them their full human rights?

Mr. DANNEMEYER. Mr. Chairman, the genlteman's speech is eloquent, but I lost him on that one term. The legalization of what?

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

(On request of Mr. FRANK, and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. Mr. Chairman, the gentleman said what? The legalization of what?

Mr. FRANK. Well, in this bill there are provisions to have a process by which we would legalize those who have come here.

Mr. DANNEMEYER. The amnesty?

Mr. FRANK. Yes.

Mr. DANNEMEYER. All right, the amnesty.

Mr. Chairman, may I reclaim my time? I looked at this issue very carefully. Sanctions bothered me, but I concluded that sanctions and amnesty are inseparable because if we think it through, if we adopt sanctions and we do not give anmesty, if we follow the law, the day after we have sanctions we are not going to have anybody working because that employer cannot establish that the worker who is there has legal status to be employed, and we will have a tremendous disestablishment through our whole economic system. The two go together.

Mr. FRANK. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's saying this, and I take it that he agrees with us that the program some of us call legalization and others call amnesty is a sensible part of the overall scheme and is dictated by a respect for human rights that the gentleman is mentioning?

Mr. DANNEMEYER. Mr. Chairman, I will respond this way: I do not like amnesty because, frankly, it says to somebody who broke our law, "We are going to forgive you."

But look, we are in a mess. This is a progmatic institution of legislation where we have to give and take and modify all the conflicting demands.

I think that the gentleman from California [Mr. PANETTA], in his analysis in his opening comments, was eloquent. We have a serious problem on our hands, and I am prepared to accept amnesty and sanctions along with the distinguished gentleman's amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, let me salute the gentleman from California [Mr. DANNEMEYER]. I think the gentleman has made an absolutely remarkable statement, one of true intellectual honesty. He is giving the harbinger of a debate which is yet to come.

And I mean that very seriously, I say to the gentleman from California. It is a harbinger of the debate to come. The gentleman is the first one in the House to perceive the absolute identity, the absolute connection, if one is intellectually able to pursue this to the completion, between employer sanctions and some form of legalization.

Mr. Chairman, I salute the gentleman. The gentleman has added much to the conduct of the House debate in these years that he has been here.

The CHAIRMAN. The time of the gentleman from California [Mr. DANNEMEYER] has expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield further, I apologize for asking for further time, and I will not take much more of the time of the House. But the gentleman from California [Mr. DANNEMEYER] has stood up for a lot of very important things, not all of which he has had a lot of support on, but the gentleman has always been intellectually honest, and he is intellectually honest on this issue.

Mr. DANNEMEYER. Mr. Chairman, I thank my colleague, the gentleman from Kentucky, for that statement, and I yield back the balance of my time.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was touched by the remarks of the prior speaker, the distinguished gentleman from California [Mr. DANNEMEYER], with regard to his deep concern for human rights, and I know that he is sincere. I have a very small amendment coming up down the road a ways that will attempt to clarify what I consider to be human rights issue, and I hope the Members will look at it carefully when that time comes.

I do want to say a word or two about the Panetta amendment. I have made no secret of the fact that I have some problems with this bill, particularly with regard to the sanctions provisions. I am in support of the amnesty provisions, and I would like to see a bill that is workable, even though I may not be able to support it.

I have had some concern from the beginning that we were not clear on what the problem was that the bill sought to address, and I still have that feeling. I am inclined to think that the Panetta amendment improves our concept of the problem, although it is not, in my opinion, a completely satisfactory amendment.

I was one of those who opposed the bracero program. I am not convinced that the provisions in the Panetta amendment will guarantee a superior program. I am not sure that any language in a piece of legislation will do that.

If I vote for the Panetta amendment—and I may do that—it is more out of a recognition that the nature of agriculture in California as well as in other parts of the country, has changed substantially in the last 20 years, rather than my faith in the power of protective language in any piece of legislation.

□ 1620

Now, let me go back to the point I made about this bill not being clear in the problem which it was attacking. We are not sure how many illegal aliens we have in this country. It is somewhere between 2 and 12 million people, we think. We are not sure whether their influence is good or bad. We think it is bad because they are not here legally and that, per se, indicates that it is bad.

In the case of agriculture, an industry of deep concern to me and all the other Representatives from California and other agricultural States, I do not think the bill reflects a clear understanding of the utilization of illegals in the agricultural industry. I do not think that the bill addresses in a satisfactory way the real problems of agriculture.

Let me make more specific what I mean. There are some industries in which it is necessary and proper to use illegals on a year-round basis. You can predict your needs in advance and plan to meet them. Agriculture, as the gentleman from California [Mr. PANETTA] pointed out, is considerably different. Farmowners begin to have a need for labor in certain crops in the southern part of the State in the early part of the year and then that need changes and you have a situation where you have additional needs in different crops in the central and northern parts of the State and then still different needs in Oregon and Washington later on in the year. The agricultural work force may follow this changing pattern, if they wish, or follow some part of it, or they may remain in one area and seek nonharvest or even nonagricultural work. The amount of labor needed, and its exact timing, is subject to many variables.

It is a plus for the Panetta amendment that it recognizes this problem and seeks to develop a more reasonable and flexible system. I am attracted to it because of that.

There is another aspect of this problem of the undocumented worker which has not been referred to at all here, and that is, we do not understand anything about these workers. We have no good scientific studies that show who these people are, where they are from, what their backgrounds are, how long they stay in this country, what their motivations are—and we are, in a sense, legislating in the dark because of that.

We do not know whether they have a positive or a negative impact upon taxes, upon public costs, or a number of other things.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for an additional 5 minutes.)

**Mr. BROWN** of California. One of the things that led me to intercede in this debate was a statement by our distinguished collegue, the gentleman from Massachusetts, about the fact that these illegals have no rights in this country and that the guest workers under the Penetta program would have no rights here.

I have talked to many of these undocumented workers, both here and in Mexico, and I have talked to scholors and others who have studied them sufficiently to know that many of them are not seeking either citizenship, an American life style, or any of the other goals we sometimes assume of them. Some of them come up here to earn money to support the their families and pay the mortgage down in Mexico. They only want to come up here for 6 months out of the year and then they want to go back and be with their families on their own farms. They may or may not return next year. That, to them, is a preferred lifestyle.

In a sense, we are being presumptuous to think that all of these people are so obsessed by the glitter of American lifestyle that they want to come up here and be a part of it on a permanent basis. Many of them prefer to maintain a base in Mexico, to live with their own families and neighbors in their own society. One of the values of the Panetta amendment is that it does allow for this possibility.

It has, of course, compensating problems that need to be corrected. But in order to legislate in a constructive and knowledgeable way, we should understand the subject matter that we are dealing with, and one of the flaws in this bill is that it does not accurately reflect, particularly in this area of farm labor, a full understanding of the factual situation with regard to either the employer or the migrant laborers, these so-called illegals who come to this country and make such an important contribution to the welfare of our economy.

I have taken the floor in order to point this out and to express the hope that we would do a better job of trying to understand these facts.

Mexico spends 10 times as much trying to understand this immigration problem as we do and we are a Nation of 225 million people with tremendous scientific resources and they are a poor impoverished country that sometimes does not know where their next dollar is coming from. Yet they have devoted tens of millions of dollars to try to understand this phenomenon and we do not even go to the trouble of learning what they have learned about the root causes of this problem and how to correct them.

That is the fundamental flaw in this bill. It is not based on an understanding of what the root problems, and the causes of those problems, really are. Consequently, it does not deal with those problems in a long-term way that would make it a successful piece of legislation.

I have come to the conclusion for a number of reasons that the Panetta amendment is an improvement over the present language of the bill, and shows a better understanding of the needs of agriculture than the present language of the bill. I want to commend him for his work. However, the underlying flaws of this legislation are so great that I am hesitant to even try to improve on it.

**Mr. THOMAS** of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Washington [Mr. PRITCHARD].

**Mr. PRITCHARD.** Mr. Chairman, I thank the gentleman for yielding.

The truth of it is that we do not know what is going to happen. I think everyone can agree, we do not know exactly what is going to happen after this bill comes into law, but we do know that the people that produce perishable products are in a very risky business and if there is not adequate labor—if there is not adequate labor and we do not know this, I think it makes sense to have a safety net for that industry, and that is really all we are talking about here. We do not know what the labor field will be at that point. We know that it is risky, it is marginal. Most of them are small farms and if there is not an adequate supply, then it makes sense to have a safety net, and that is all we are doing here. If you do not have adequate labor, you can go and get it.

I think it makes sense, and let us remember this. This group of producers of perishable products is an important part of America. In our town, we do not grow apples, but we ship them out to the Orient. It is one of the products that we can sell overseas, so I think we ought to take a little care of this very marginal business when we make a fundamental change in our labor situation.

So I think it makes good sense to support the Panetta-Morrison amendment.

**Mr. THOMAS** of California. Mr. Chairman, I thank the gentleman.

I do want for a few minutes to underscore the point that the gentleman from California [Mr. PANETTA] made so eloquently when he took the well to speak on his amendment, and that was in terms of his genuine concern of dealing with reality. Some of us, I believe, have taken the well and engaged in perhaps creative fiction in terms of trying to make a point.

I would ask the Members as they are preparing to make a decision on this amendment, if you have not read the amendment, to read it, because there are a number of red herrings that have been brought up.

One, this does not displace domestics. In fact, domestics are required to be exhausted. It is in the amendment. Read it.

They are not strike breakers. Page 252 of the committee print clearly points that out.

It is not slave labor. Take a look at page 251 of the committee print. Take a look at the provisions that have been provided in this amendment. Do not listen to those who want to make debating points. Listen to those who want to deal with reality.

Much has been made about the fact that we had a bracero program and how horrible it was and that this is a recreation of the bracero program. Nothing could be further from the truth.

Let us remind ourselves that at the same time we had a bracero program in this country there were American citizens legally, segregated. We are not returning to that frame of mind and any suggestion that we are I think smacks of an attempt to paint this particular amendment in a way in which it does not do service to those who indicate those kinds of characteristics.

In fact, I am concerned about those who are working so hard to help these individuals, as has been the case in the past, that they will ultimately harm them, because if you close the door, as the H-2 program in the bill, will do what you have done is effectively signaled a requirement to move to even more mechanization, higher costs, significant economic damage, not just to the producers, but to vast segments of this economy, as the gentleman from California [Mr. DANNEMEYER] indicated in terms of his community, and ultimately we will wind up doing damage to these individuals.

Let me say to my friend, the gentleman from Massachusetts, as to why you need 11 months when apparently the harvest is only a couple weeks and to some others, including my friend, the gentleman from Kentucky, in terms of how our agriculture works. Let me take just a couple minutes to talk about California, because I am most familiar with California in terms of the way in which agriculture, we are talking about perishable fruits and vegetables, a small segment of agriculture. We are not talking about alfalfa. We are not talking about a number of permanent crops here. We are talking about just perishable crops.

□ 1630

California is about 900 miles long, north to south. If you transpose it to the east coast we are talking about a distance from approximately the north of Florida almost to Massachusetts. Obviously you have a significant time frame in terms of growing.

Let us take a couple of crops so that you can get an understanding of what we are talking about. Most of you are familiar with broccoli, broccoli's planting season is from September 1 in a given year to August 31.

The CHAIRMAN. The time of the gentleman from California [Mr. Thomas] has expired.

(By unanimous consent Mr. Thomas of California was allowed to proceed for 5 additional minutes.)

Mr. THOMAS of California. You can plant broccoli from September 1 to August 31. That is all year round. You harvest broccoli from January 1 to December 31. That is all year round. And you do it from Imperial County, which is against the border of Mexico to the south, to Monterey County, which my colleague from California [Mr. Panetta] represents, approximately three-fifths of the way up the State. That is 500 miles.

Clearly when you are harvesting every day somewhere in California literally over a 500-mile span, it is a few weeks here, a few weeks there, a few weeks here, a few weeks there, but it is in fact a 12-month period.

The same for cabbage, harvested January 1 through December 31. Cauliflower harvested January 1 through December 31. Celery the same, lettuce, from January 1 to December 31, a crop which from plant to harvest is about 103 days, a little more than 3 months, 12 months of the year, from Imperial County in the south of California to Contra Costa County that the gentleman from California [Mr. Miller] is familiar with, 600 miles away. It is all harvested in a 2-week period, yes, each crop as it ripens, but it ripens year round over a 600-mile area.

Onions; let me spend a minute on onions. For onions they are not year round, they are harvested from April 1 to October 31, but they are grown from Imperial County at the Mexican line to Siskiyou County on the Oregon line over 900 miles. To plant onions and irrigate onions takes a small working crew. But to harvest onions takes hundreds and hundreds of people.

First you have to dig them up. Then you put them in sacks in the field. You let them dry for several days. They you go back to that field, unload those gunny sacks, take those onions in bulk, take them to the packing plant and repack them. Hundreds of people, but only for a couple of weeks at a time, 900 miles, the length of California, starting in April in Imperial County and ending up in late October in Siskiyou County.

This is why you need this amendment. The H-2 provision in this bill which clearly showed a lot of thinking did not however fully understand agriculture in a number of areas in the United States. If you say you can only bring in a worker for one job and send them back, it simply does not work. One worker, one employer, one job does not meet the needs of agriculture in California.

I think if you will examine the Panetta-Morrison bill carefully you will find, yes, in this unique industry this amendment meets the needs. But it meets the needs of agriculture with those workers fully protected.

Beware of the red herrings. Beware of the argument that it displaces domestics. Beware of the argument that it creates strike breakers, and especially put aside the argument that we are dealing with slave labor.

What we are dealing with is an amendment which solves a very difficult problem.

Mr. KAZEN. Will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Texas.

Mr. KAZEN. I appreciate the gentleman's information and those of us who come from the Southwest, from agricultural areas, know exactly what he is talking about.

There are two things that disturb me about the Panetta amendment, and I am trying to understand it. I have an open mind on it. I have been siting here all during the debate listening to all of the debate. In the first place, the distinguished chairman of the committee, the gentleman from New Jersey [Mr. Rodino] asked the gentleman from California [Mr. Panetta] a question a while ago that apparently was not answered, and that remained, that stuck in my mind.

I want to ask you the same question. What guarantee do we have that that person is going to be employed when he comes in?

Mr. THOMAS of California. On page 257 of the committee print there is a requirement that they come in with an understanding for employment. But also understand, in opposition to the H-2 program, that under the Panetta amendment is is possible for an employee, a nonimmigrant employee, to move from employer to employer so that if they are dissatisfied at one point they can move to another so they may not be continuously employed. But they must be seeking employment. They must be either employed or actively seeking employment. If they are not doing either of those they are in violation of the agreement by which they came into the country and they can be sent back.

Mr. KAZEN. Even then, if the gentleman will yield for a second question, what protection has the grower got that when you as a worker come to work for me that you will in effect work for me and not leave me the second day after you come in?

Mr. THOMAS of California. That is one of the points that I want to make sure we understand in this bill, because what it is is an advantage to the worker, not to the employer.

The CHAIRMAN. The time of the gentleman from California [Mr. Thomas] has again expired.

(On request of Mr. Kazen and by unanimous consent, Mr. Thomas of California was allowed to proceed for 2 additional minutes.)

Mr. THOMAS of California. Let me just make the point that the characterization that this is worse than the bracero program, which was a slave labor program, simply is not true because it does give an opportunity for the nonimmigrant worker, if they are dissatisfied with the way in which the employment conditions have been represented or presented or the way in which they are treated, they can move on. But they have to be actively seeking employment.

So it is not totally structured as an employer amendment. It is an attempt to take a real problem and deal with it realistically, understanding the needs of the workers and the needs of the employers. I think that it provides a very reasonable overall structure as opposed to the H-2 program in H.R. 1510 which simply does not provide the mechanics necessary to deal with the problem.

Mr. LUNGREN. Will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. LUNGREN. What the gentleman is pointing out is that in contradistinction to the bracero program, this individual would come here as a free actor in the marketplace of jobs in this area of crops. So the price of his labor will be established by whatever the market is and the conditions will be there. He will be here legally. His status confers upon him an ability to go and seek those jobs as long as he is confined to that area. So he is not an indentured servant, as it was in the old bracero program.

Mr. THOMAS of California. I think if anyone will examine the amendment they will find that there are any number of specified requirements in terms of protections, insurance, and so forth, which are required to be provided by the employer.

Mr. KAZEN. Will the gentleman yield further?

Mr. THOMAS of California. I yield to the gentleman from Texas.

Mr. KAZEN. I am not arguing the protection of the worker or anything else. I am trying to understand what the amendment does.

I as a grower will apply for 50 people to come to help me raise my or harvest my onions. I go to the trouble of making the application and of assuring the Attorney General, or whoever it is that I apply to, that I have work for 50 people and that I need them within 5 days.

**Mr. THOMAS of California.** And there are no domestics available to do the job, and you made a good faith effort to go and look for them.

**Mr. KAZEN.** That I met all of the requirements.

**The CHAIRMAN.** The time of the gentleman from California [Mr. THOMAS] has again expired.

**Mr. KAZEN.** Mr. Chairman, may I be recognized to strike the requisite number of words?

**The CHAIRMAN.** The gentleman from California [Mr. EDWARDS], a member of the committee, will be the next Member recognized.

**Mr. RODINO.** Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. THOMAS] be given 2 additional minutes.

**The CHAIRMAN.** Is there objection to the request of the gentleman from New Jersey?

There was no objection.

**Mr. RODINO.** Will the gentleman yield to me?

**Mr. THOMAS of California.** I yield to the gentleman from New Jersey.

**Mr. RODINO.** I would like to ask the gentleman from California to respond to the question that was asked of him by the gentleman from Texas. I do not believe, at least to this gentleman, I do not believe there was a response, except to say that the person who was brought over is expected to work and if he does not he is going to be deported. When does this take place?

**Mr. THOMAS of California.** It is not specified in the bill other than that he must be employed or seeking active employment.

I am quite sure that the Attorney General in establishing the procedure by which people are brought in under the amendment will establish time limits and regulations which will deal with this.

**Mr. RODINO.** He may still then be here for a period of 11 months without being deported?

**Mr. THOMAS of California.** If he is employed or actively seeking employment and clearly given the kind of crop activity that I have discussed, there will be periods when he will not be actively employed but he will be seeking active employment within the region that has been established by the Attorney General.

□ 1640

**Mr. RODINO.** Will the gentleman yield again?

**Mr. THOMAS of California.** Certainly, I yield to the distinguished chairman of the Judiciary Committee.

**Mr. RODINO.** Who is going to be monitoring this; to know that he is working and then to establish the fact that the gentleman is not complying so that the Attorney General may recommend his deportation?

**Mr. THOMAS of California.** The amendment indicates that the Attorney General is to set the program up and I am sure that the Attorney General, himself, will not be the one doing it; there will be a structure established which will monitor it.

But those are to be established under regulations under the authority of the Attorney General. That is in the amendment.

**Mr. RODINO.** If the gentleman will yield again.

**Mr. THOMAS of California.** Does the chairman say what we want is specificity down to the question of who the supervisor is of an individual who is allowed under this law in terms of whether or not they are employed?

**Mr. RODINO.** No; if the gentleman will allow me to respond.

**Mr. THOMAS of California.** I yield.

**Mr. RODINO.** No; that is not what I expect, but neither do I find any assurance that there will be compliance that the person is not able to come here and just stay here without working at all.

**The CHAIRMAN.** The time of the gentleman has again expired.

(On request of Mr. MARTINEZ and by unanimous consent, Mr. THOMAS of California was allowed to proceed for 2 additional minutes.)

**Mr. MARTINEZ.** Through the debate it has been stated time and time again and nobody has gotten up to contradict that statement, that the grower would designate who he wants to come.

**Mr. THOMAS of California.** No; that is not correct. What occurs under the amendment, if you will examine the language, is that a request can be made. If an individual has been employed in the past and has been an excellent employee, then why pick someone in a random way who may or may not be useful employee?

The regular procedure allows for the opportunity of requesting individuals and if the Attorney General deems it reasonable, it is appropriate. There is nothing automatic; you cannot designate, you do not automatically get who you ask for; only a request can be made.

I yield back the balance of my time.

**Mr. EDWARDS of California.** Mr. Chairman, I move to strike the requisite number of words.

Thank you, Mr. Chairman. Mr. Chairman, I rise in opposition to the amendment offered by my good friend and colleague from California [Mr. PANETTA].

Mr. Chairman, there are very few of us who were here in the House of Representatives when we had the old bracero program. I see the gentleman from Texas [Mr. WRIGHT] and so forth, Mr. GONZALEZ, and we had a great deal of trouble getting rid of it. It was largely known throughout the country, throughout the world, indeed, as an infamous program.

For example, it started in 1951 with 190,000 guest workers; braceros, and by 1960 there were 247,000.

Each bracero made an average of $65 per week; the housing he was provided was referred to as "chicken coop" housing. Out of the $65 a week, $12.50 was deducted for this housing; 9 and 10 people lived in each shack and that came out of the $65.

There was a movie made, "Poverty in the Valley of Plenty," that dealt with the conditions under which the braceros had to live. And I might say one of the applicants who was considered for the starring role was our fellow Californian, who is now the President of the United States.

Incidentally, smuggling went on anyway, because the people bringing in the braceros were making a profit and so they would add to the program by smuggling more braceros.

And when we were trying to get rid of the program here in Congress the word was there is no possible way that American agriculture could survive without the bracero program.

Well, I regret to say that from what I read of the amendment that we are debating now, it smacks of the Bracero Program. It allows in a half million guest workers in addition to what the bill provides, the Simpson-Mazzoli bill.

**Mr. PANETTA.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** Yes; I yield to the gentleman.

**Mr. PANETTA.** There is absolutely no figure like that anyplace at all as to what those numbers will be. The U.S. Attorney General will have to establish what that number is, based on his analysis of the domestic work force.

**Mr. EDWARDS of California.** Well, in response to the gentleman, the bracero program started out in 1951, modestly at 190,000. By 1960 it was half a million and the country is a lot bigger now and I just would imagine that all of the estimates that I have seen up to half a million.

**Mr. MARTINEZ.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** I yield to the gentleman from California.

**Mr. MARTINEZ.** I thank the gentleman.

Yes; please bear with me. An estimate was made here I think, is contradicted by the bill as written here. I asked the question if that grower would have the preference of choosing what alien or foreign worker he would want to bring in.

Page 247, line 1:

> These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(P) in accordance with the preference system established under paragraph (2)(C).

If you look then on the next page, 248, line 5, you see:

> The person may also include a statement indicating a preference as to country of nationality of aliens (or names of particular aliens) desired to perform labor in any such month.

I submit to you that that does give the grower the right to choose.

Further on the other page it says, "visas shall first be made available to qualified, nonimmigrants specifically identified in petitions submitted under paragraph 2(a)." I submit my colleague from California was wrong; that the grower does have the right to designate which alien, from what country, will come and under that jurisdiction he could also then subsequently reject that person off of his list with no preference, so as to blackball him because he did not submit himself to the working conditions and wages of that particular individual.

Mr. EDWARDS of California. I would like to respond first to the gentleman from California [Mr. MARTINEZ].

It is true that the bill does provide, the amendment provides that an employer can specify the nationality of the worker he desires and it also permits the employer to specify the individuals to whom are given visas.

Further, preference as to the issuance of the visas will be given to those workers who have been specifically requested.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 3 additional minutes.)

Mr. EDWARDS of California. So when we say that these workers have freedom from their employers, that is illusory; because these employees, these people coming from other countries will be largely dependent on the good graces of the employer, otherwise he will not get a visa in the future years.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Yes, I yield to my friend from California.

Mr. PASHAYAN. The essence, I believe you shall agree, the essence of the bracero program was a bondage, and that is to say that the employer had the power to have the employee dismissed from the country. That was the genesis of the abuse.

Sure the contract might say a certain amount of wages for a certain amount of hours' work, but the employer would gratuitously add so many work hours after that because he had the power to have the employee dismissed.

That power, that bondage is entirely lacking in this bill. The employee, once admitted by the Attorney General, is admitted for a given length of time. He can quit the employer. It is the absence of that bondage—which was the essence of the bracero program—in this bill that I think really makes the statement that this is like the bracero program untenable.

And I ask the gentleman really to consider that, and I should like to see what he has to say on that point. This program does not have the bondage between the employer and the employee that the Bracero Program had and in fact the bondage that was the essence of the Bracero Program.

Mr. EDWARDS of California. I strongly disagree with the gentleman's views on the comparison between this program and the Bracero Program because in a number of ways this is more restrictive and has more bondage than the Bracero Program.

With the Bracero Program, you could sign a contract in advance so that the worker coming from a foreign country under the Bracero Program would have the benefit of a contract.

□ 1650

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

The gentleman's point is exactly on target. In fact, what you have is something that historically has always been used in the history of American labor, in the history of these kinds of programs. It is you provide a worker that has a tenuous, tentative, questionable status and that is the best worker you can find.

One of our colleagues said the worst phrase that a farmer can hear is "I quit."

The worst phrase that a worker can hear who is here from another country is "Go home."

What you have set in motion here is the grower personally selecting worker, by worker, by worker. Let me tell my colleagues he can quit, he can go elsewhere.

I took our committee, we went to Florida, and we examined the blacklist that existed among the growers in that area where they discussed who did well, who tried to organize, who complained.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

(At the request of Mr. MILLER of California and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 4 minutes.)

Mr. MILLER of California. And that is the very essence of what this amendment does.

Our colleague, Mr. FRANK, was right. This comes after a transition program. This comes after a change, a liberalizing of the H-2 programs. This is additive. This creates a whole new pool of labor that has really no rights, clearly less rights in terms of protection than the Bracero Program gave those people. There is no question about it. The protections of those workers under this program is less than what existed under the Bracero Program.

Now as to their status. We have gone from braceros, to illegals, and now we are back to another employee that owes their very existence in this country to that employer.

I so deeply appreciate that this amendment gives them the right to collectively organize, or to strike, or do whatever they want, but let me tell my colleagues they will never visit this country again for that association because that is simply the pragmatic situation within the labor market. You have created the perfect employee if you buy this amendment.

I think that is why the Judiciary Committee turned down a similar amendment like this in its consideration. And that is why the Senate has turned down this amendment. But only the House in its wisdom somehow can once again create these unfortunate people who have no real legal status within the borders of the United States of America.

We will be embarking and I am delighted that I have oversight over this program, because once again, we will witness the creation of the horror stories of stripping people of their human dignity and that wonderful salad that my colleague from California described from border to border will be subsidized with the misery of these people because there is no other way the reality of this marketplace works because this worker has no status but for the good will of his employer. And do not act up. And do not speak out, and do not complain, and do not organize because these are temporary—these are not the permanent workers that my colleague has referred to who work year round—who come there to achieve an economic chore.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to my chairman, the gentleman from New Jersey.

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, I believe that the gentleman from California (Mr. MILLER) touched on a point that I would like to be clear on.

Is there anything—and I am directing the question actually to the sponsor of the bill—in this bill that would require that the employer or the prospective employer, once that individual gets here with a visa, is going to be required to employ him or can he then reject him and say: "I don't need him any more?"

Mr. PANETTA. If the gentleman will yield to me.

The gentleman has to understand the realities that we are talking about. Growers are not going to ask for workers just to get rid of them. The point of having these workers come in is to pick essential crops that are ripening. It would be to a grower's disadvantage not to use the workers that the Attorney General has given him the opportunity to use. That is the whole point. You cannot argue that there is all kinds of subterfuge here, when in fact the whole point is to be able to make use of the workers for the purpose of picking perishable crops.

**Mr. RODINO.** If the gentleman will yield further, the gentleman has half answered the question, I believe, yes, the prospective employer will request people.

**The CHAIRMAN.** The time of the gentleman from California [Mr. EDWARDS] has again expired.

(At the request of Mr. RODINO and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

**Mr. RODINO.** If the request is for a number of people that have been determined to be essential and then it is found on the part of that employer that instead of the 50 that he may have conceived were necessary, he only needs 25 and there are 50 here, what does he do with the other 25?

**Mr. PANETTA.** Let me ask the gentleman under the H-2 program if he asks for 50 employees——

**Mr. RODINO.** It is a contractual obligation in the H-2 program. And he pays for their transportation. He pays for whatever other services there are so therefore he has already incurred an obligation.

In this case, the person who comes here pays his own way and is on his own.

**Mr. PANETTA.** If the gentleman will continue to yield, I think again that Members can read all of the distortions they want into this. I would hope that they would also understand the tremendous violation of rights that goes on under the present process and that what we are trying to do here is to take a step toward a legalized system that will in fact protect rights. That is the whole point.

The reality is that in this situation, the Attorney General specifies a period of time and a limited number of workers within a limited region. That means that there are a number of crops coming in, in that region. There is employment available and indeed the workers have to seek that employment under the terms of the amendment.

We offer to the employee the opportunity to be able to make those decisions. We do not tie them to an employer. You cannot have both sides of this. You cannot argue the deprivation of tying them to an abusive employer and then give them the opportunity to select what employer he is going to work for, and say somehow that is wrong. That is a correction on the present system.

**Mr. PASHAYAN.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** I yield to the gentleman from California.

**The CHAIRMAN.** The time of the gentleman from California [Mr. EDWARDS] has again expired.

(At the request of Mr. PASHAYAN and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 4 additional minutes.)

**Mr. PASHAYAN.** I thank the gentleman for yielding.

Under the bracero program the contract of employment and the passport, the visa of entry, in effect were one instrument and that instrument was under the sole authority and control in effect, of the employer. And therein lay the bondage that the employer held and exerted over the employee. From that bondage there came the abuses that the gentleman in the well has so eloquently expressed.

I should like to ask the gentleman in the well: Where in this bill is there the same melding together of the contract of employment and the power of the employer to dismiss the employee from the United States of America? Where in this bill does that exist? I think the gentleman shall find it does not exist.

That was the essence of the bracero program and I think really it is a misnomer to say, since that essence does not exist in this bill, that this is a redoing of the bracero program.

But I should like to ask to the point, Where does that bond exist? Where are the two melded? Where is the employer given the power of dismissal over an employee by force of contract?

**Mr. EDWARDS of California.** Well, in response to the gentleman, I do not defend either program. I do not think the bracero program was worth anything. I am not really enamored of the program that is described in this amendment.

However, I would like to point out that under the amendment that we are considering now the employer has this immense control over the worker because he has control over the visa.

**Mrs. BURTON of California.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** I yield to the gentlewoman from California.

**Mrs. BURTON of California.** I thank the gentleman.

For 4 days we have been here debating how to curb, how to curb, mind you, and I will say it for a third time, how to curb getting people into the country coming in illegally.

Is it not true that when we get the so-called guest workers, the braceros, that they stay here, they do not go back and they become the illegal people in this country?

That is a known fact from the time of the braceros.

I would like the gentleman from California [Mr. PANETTA] to answer that question.

**Mr. PANETTA.** I am sorry. I did not hear the question.

**Mrs. BURTON of California.** The question was we have been 4 days debating and talking about how to curb illegals getting into the country, particularly from Mexico.

During the Bracero Program in the sixties, these people who came in as braceros to work in the agricultural areas stayed here and stayed illegally. They did not go back when their contract was over.

□ 1700

Is it not a fact that if we bring people in again under your program, that we will bring more illegals in the country?

**Mr. EDWARDS of California.** I yield to the gentleman for his response.

**Mr. PANETTA.** I am not quite sure how to respond to the gentlewoman because the fact is that I think what we are trying to do here is correct a situation in which there are tremendous numbers, 8 to 10 million undocumented workers in this country. That is the whole purpose of this legislation. It is a reality that we have to recognize.

The purpose of this legislation is to develop a workable program that provides protections so that people that do come in to work will have those protections. Also, I might add to the gentlewoman, the program requires that employers search out domestic workers before they rely on foreign workers.

**Mrs. BURTON of California.** How are you going to stop these people from staying here? During the bracero program they stayed here; that is how we got so many illegal workers in the country.

**The CHAIRMAN.** The time of the gentleman from California [Mr. EDWARDS] has again expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

**Mr. MILLER of California.** Mr. Chairman, will the gentleman yield?

**Mr. EDWARDS of California.** I yield to the gentleman.

**Mr. MILLER of California.** The gentlewoman has raised the same point that the chairman of the committee, Mr. RODINO, has raised. That is, while there is great beating of the breast over here about the fact that the employee can walk away from the employer at any time, Mr. RODINO's concern and the one you have raised is yes, they will walk away and they will enter the illegal market once again.

What you have is you have created a wick, if you will, to siphon people into this country because they are designated by the employer and if there is not enough people to designate by the employer, then there is other categories down the road to supply this labor demand. If these people decide that after 11 months they can find employment elsewhere, they can hide themselves once again, we do not know whether sanctions are going to work or not. Let us assume sanctions do work; we are already dealing with people who made the conscious decision to violate the laws of this country, to come here, to hide, to do anything they could to get a job, and I think that is the issue that is raised by Mr. RODINO. That this may be one of the larger gaps in the border that we are trying to secure with this piece of legislation.

Mrs. BURTON of California. Mr. MILLER, you answered my question, thank you.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I urge the adoption of the Panetta-Morrison amendment to set up a flexible guestworker program to harvest perishable crops. This program would be complementary to the amended H-2 Temporary Worker Program provided in the bill. The Panetta-Morrison amendment was carefully drafted and approved by the House Committee on Agriculture, and it is critically needed by the growers in California so that high-quality fruits and vegetables can be picked in a timely manner and delivered to the consumer.

Forty-five percent of the total annual agriculture sales from California are perishable crops.

Without an adequate labor force for harvesting perishable crops, the price to the consumer for tomatoes, lettuce, grapes, and other time-sensitive agricultural products will go sky high.

Many growers of fruit in the Eastern States have been able to use the H-2 Program with success, even with the long delays involved in getting approval for the temporary workers, because their crops can be harvested within a longer period.

But, Mr. Chairman, when a perishable crop is ready to be picked, the grower has to move fast. The Panetta-Morrison amendment would allow the grower to request and receive foreign workers with only 72 hours' notice.

The program would not be a repetition of the old bracero program, which tied the workers to one employer. The bracero program used in this country in the late 1940's through the early 1960's did not provide appropriate wage-and-hour and labor-standard protections for the workers.

The Panetta-Morrison amendment, however, would tie the wages of foreign workers to those of similarly employed domestic workers. It would require that workmen's compensation and adequate housing be provided.

The Secretary of Agriculture would determine how many foreign workers could be admitted and the specific agricultural regions where they would be allowed to work. No foreign workers would be admitted unless the Secretary of Agriculture determined that the supply of domestic workers was insufficient to handle the harvest. So both domestic and foreign workers would be protected.

The foreign workers would not be just a cheap source of labor, Mr. Chairman, since their wages, would be tied to those of local agricultural workers, and the average wage in California for this type of work is over $5 per hour.

The foreign workers under this program would be admitted for one purpose—to pick perishable crops—and that would be specified on the visa they would receive.

Employers would be required to deduct from wages and contribute to a trust fund, established by the Attorney General, an amount equal to what would ordinarily be the employees' FICA tax—social security tax. The money collected for each worker would be given to him after he returned to his home country.

Mr. Chairman, I have received many telegrams and letters from growers of perishable crops in California, and one from the Governor of California, urgently requesting passage of this amendment. It is endorsed by the major agriculture organizations. The growers need it. The American consumer needs it. I urge all my colleagues to support it.

Mr. Chairman, I had prepared a statement the substance of which has been covered in the 2 hours that we have been debating this amendment and I will not get into that, but I have had direct, personal experience with the Bracero Program that has been discussed. I represent a high-intensity agricultural area with very fragile commodities that have to be shipped on an immediacy basis. The Coachella Valley some 50 miles north of Mexico in the eastern part of southern California.

The Bracero Program with all of its problems, created one of the finest things in northern Mexico that has ever taken place. I would liken it to a Marshall plan in reverse. These people came up in the 1940's and the 1950's to California, the other areas of the country, worked and learned trades, crafts and returned to their families over a period of time after they had sent a great deal of money home.

My personal experience in northern Mexico serving on a commission for 7 years in Ciudad Obregon, Hermosilla, Guaymas, Las Mochas, Guadalaja, and San Quintin, many other locations, where there are now intensive crops. The foreman, the man in the tool shed repairing the tractors and the farm implements, many of whom were former braceros learned their trades in the United States and were able to sell that particular skill to an employer or in many cases they are their own entrepreneur.

So I do not think the Bracero Program was all that bad because nobody put a gun to a person's head and said you have got to go to California, or to Texas, or to another State. These people were looking for some way of feeding their family and trying to get ahead rather than living a day-to-day existence.

Sure, some of them lived in privation; some of them were taken advantage of, but many of them were not. So today we have this kind of a situation where there is the beginning of a middle class particularly in the northern States of Mexico and the beginning of that middle class was the bracero program.

Many of the entrepreneurs in the Coachella Valley, truckers, farmers, and labor contractors started as braceros. That program gave people an opportunity in Mexico to come to the United States legally and earn something more than somewhere around $4 a day to gain a little revenue, to gain a little capital to go back and to create for themselves what it was they wanted.

If they have 5 hectares because of land distribution, the bank would loan them the money because they have some expertise in farming. They could buy the 5 hectares next to them, and this is what has happened in the 1950's and the 1960's that is represented in the 1970's which we now have in Mexico.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman.

Mr. LUJAN. I want to congratulate the gentleman on the statement that he is making. It seems to me that with this amendment everybody wins.

First of all, the immigrant wins because he can come into this country on a legal basis and can compete for the top dollar in the industry. So that is good for the immigrant that might come in.

The country wins because the person is here on a legal basis, and so we do not have all of the problems of the illegal immigration.

Third, the employer wins because the employer gets a work force and does not have to worry about all of the sanctions that are in this legislation. So it would seem to me like this is an ideal solution and an ideal amendment that we could all support.

**Mr. McCANDLESS.** If we are going to impose sanctions on employers, we must provide them with a source. I speak primarily of agriculture now, we must provide them with a source of labor beyond that available in the areas where you have the perishable commodities and the movement, migratory concept. If we do not provide them with some source to take up the slack when needed, then we are going to be right back in the catch-22 situation. We are currently experiencing why you do not have an H-2 on the west coast; that is because you have so many people knocking on your door wanting to work who are illegal, and there is no requirement that you have to find out whether they are or not before you employ them, the employers do not bother with the H-2 program.

The H-2 program on the east coast is used because you are picking apples in New York and you know about when the apples are going to be harvested, so the West Indies and the H-2 process unfolds. We have too much of a perishable situation within the agricultural sector of California that you cannot do that, as my colleagues have alluded to earlier.

**The CHAIRMAN.** The time of the gentleman from California [Mr. McCandless] has expired.

(On request of Mr. Martinez and by unanimous consent, Mr. McCandless was allowed to proceed for 2 additional minutes.)

**Mr. MARTINEZ.** Mr. Chairman, will the gentleman yield?

**Mr. McCANDLESS.** I yield to the gentleman.

**Mr. MARTINEZ.** I hope that the gentleman in recognizing something is not giving credit to the bracero program. What he is recognizing is great perseverance on a kind of a people that have learned to endure great suffering, great abuse at the hands of the growers at the time of the bracero program, to overcome that and attain something for themselves and their subsequent families. There were many millions of people involved in the bracero program and a great portion of those stayed here in the United States to leave the fields and to work in foundries and other kinds of hard industry, and where they were able to earn enough of a living to have children born here and raise them to be professionals, and to be even maybe Congressmen here, I think that is what you should paying tribute to.

The perseverance of those people to even though they suffered through that and endured, that they overcame. This program here that is described is going to put these people into that same kind of a situation. I am wondering why, since we do have an H-2 program, that that is not used by the California growers? I suggest that it might be, it is easier to hire illegals.

**Mr. McCANDLESS.** Because of what has been said earlier about the fact that you do not know what the weather on any particular day or week of the month might be when you are going to need the labor, and the inflexibility of the H-2 program for these very perishable crops which in many cases, are no longer growing in California. They are growing in Mexico because they are labor intensive.

□ 1710

There used to be a little town in Imperial County called Niland. It was the tomato capital of the world. I venture to say if there is an acre of tomatoes grown there, the acre would be comprised of backyards collectively. The reason why: It was labor intensive. The Bracero Program went out. Tomatoes are now grown in Mexico; therefore, they are not trucked in California, they are not shipped in California, they are not picked in California and they are not packed in California, which gave jobs.

**Mr. BERMAN.** Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

We have had in recent years the Chrysler bailout and the Wheeling Manufacturing bailout and the Lockheed bailout. I would suggest to this body that whether you agreed or disagreed with those different legislative decisions, one of the purposes was to help the workers. Here we have an enormous bailout, an enormous bailout of agribusiness, and most particularly California agribusiness, a multibillion-dollar business, and to the contrary, with tremendous, tremendous negative consequences for the workers in California.

We have heard from proponent after proponent of this amendment about how terrible the present situation is and that the undocumented workers in California and other parts of this country are being exploited by their employers, the growers. This has been the basis for proposing amendments like this.

Now we will have a Government-sponsored program with minimal protections which will provide the same growers with a work force that I think can fairly be called, much like the gentleman from Texas did earlier, a slave work force, and I will explain why, because those are very emotionally charged words and I think I have an obligation to explain my position.

The gentleman from California [Mr. Pashayan] earlier said he is tired of hearing that this is like a bracero program. He is basically right; this is not like a bracero program. This is much, much worse than a Bracero Program, and I will now take a few minutes to enunciate why.

The gentleman from California, the sponsor of the amendment, Mr. Panetta, says there is a preference for U.S. workers, but the language of his amendment removes every obligation of U.S. growers to recruit American workers once the first P-worker, as they call them now, the Panetta workers, come into the United States. Once these workers are here, there is no preference for U.S. agricultural workers during the entire period of time that these workers are here, which can be up to 11 months total in their visa.

In the old Bracero Program, there was an obligation which continued, as an approval of any application for foreign workers, for domestic recruitment. As I indicated, that does not exist in this bill. Under the Bracero Program, Public Law 78, the Department of Labor must certify there is a shortage of U.S. workers. Under the Panetta amendment that is not the case. There is no provision for certification by the Department of Labor or any other governmental agency as to the availability of U.S. workers. Under the old Bracero Program, the Department of Labor was required to certify that there will be no adverse effects on U.S. working conditions. Under this amendment, it provides generally that employers offer wages and working conditions that will not adversely affect U.S. working conditions.

But there are no specific requirements that are set out and no certification requirement is mandated, and when the gentleman from California says that all work protections and current H-2 programs are in this amendment, it just is not so. There is no written contract. There is no specification of any specific H-2 protections.

The only requirement is that regulations be promulgated, now no longer by the Secretary of Labor, but with the support and the participation of the Secretary of Agriculture there will be regulations promulgated which must not have an adverse effect on domestic workers' wages.

None of the other regulations, the regulations relating to contracts, the regulations relating to housing, the regulations relating to conditions of employment, are carried over into this. They exist in the H-2 program.

**Mr. MORRISON of Washington.** Mr. Chairman, will the gentleman yield?

**Mr. BERMAN.** I yield to the gentleman from Washington.

**Mr. MORRISON of Washington.** I thank the gentleman for yielding.

Mr. Chairman, housing is there, just as it is in H-2. Minimum wage and hour requirements are there, just as they are under the proposal.

**Mr. BERMAN.** Mr. Chairman, if I may reclaim my time and just respond to those two points: One, the H-2 program has regulations covering a wide variety of areas. The Panetta amendment provides that the Secretaries of Agriculture and Labor promulgate regulations that have no adverse effect on domestic workers. It does not say one word about the other regulations. It provides, instead of guaranteed housing, it provides for a housing allowance without regard to the availability of housing.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I would just point out that on this housing thing, again, you cannot compare this to the current situation and the illegals; you must compare this to the H-2 program that basically has been working, and that is that housing is required.

What you do here is, you can pay a housing allowance to the provider of housing, whether or not the person gets to live there. You can pay it to a farm labor contractor, whether or not the housing is available.

This is a loophole that is designed to escape the one burden that most employers do not want to deal with, and that is safe and sanitary housing. That was required under the Bracero Program and it is not required under this program. Something sort of like housing is required.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. PANETTA. The gentleman has seen that housing under the Bracero Program. Is the gentleman saying that that is decent housing?

Mr. MILLER of California. Do not compare it to the bracero program; compare it to the H-2 program where this is a prerequisite to bringing foreign workers to this country. It is a different situation.

Mr. PANETTA. If the gentleman will yield further, the gentleman has also seen the housing under the H-2 program and condemned the quality of that housing and I agree.

Mr. MILLER of California. And I have also seen the people sleeping in the fields in southern California. Why do you not require safe and sanitary housing?

Mr. PANETTA. What we require in this instance——

Mr. MILLER of California. You do not require it.

Mr. PANETTA. Is decent housing and an allowance.

Mr. MILLER of California. You do not require decent housing.

Mr. PANETTA. That is correct.

Mr. MILLER of California. You require housing, or something like housing, to be made available by those wonderful people, farm labor contractors.

The CHAIRMAN. The gentleman in the well, Mr. BERMAN, controls the time.

Mr. BERMAN. I thank the Chairman. I was not certain of that.

The Bracero Program requires that U.S. workers be hired after the season has begun, the old Bracero Program which this is being compared to and which I suggest this is much inferior to. The Panetta amendment has no requirement. U.S. workers, as I did mention earlier, must be recruited only until the foreign workers arrive.

Foreign workers under the old Bracero Program, growers were prohibited from using foreign workers if they also employed undocumented workers. Under the Panetta amendment there is no such requirement.

I would like to turn to the colloquy earlier between Mr. MILLER of California, Mr. EDWARDS of California, and Mr. PASHAYAN.

The fact is that this situation is just incredible in terms of where we stand with our labor protections for all of the workers in this society. The Attorney General will get from the growers a list of the workers they prefer. There will be no written contract protecting the wage rates, protecting any of their conditions of employment.

It is said, "Well, they have the right to unionize." But next year, when that worker wants to come back to that farm, or in the case of many areas of California where many, many growers are in one association and, therefore, may be the only place of employment for that individual, and this individual has talked to a union organizer, has complained that he has not received the wages he was promised, has complained about having to sleep under a tree, all the grower has to do is tell the Attorney General next year that he is submitting a list of names that does not include that particular troublemaker.

I am not saying that every grower will utilize this. I am not saying that most growers utilize this. But long ago we decided that, as a government, and as representatives of people in this society, we had an obligation to provide certain kinds of minimum standards and protections. Nothing in this amendment approaches that level of protection.

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Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, let us suppose that we had a requirement for a contract in the Panetta amendment. How does that guarantee that the worker the gentleman is talking about would be invited back next year to work?

Mr. BERMAN. It does not guarantee he will be invited back next year.

Mr. PASHAYAN. That is the point the gentleman is making now.

Mr. BERMAN. It does guarantee perhaps that there will at least be an agreement by which the conditions which he was verbally promised will be met by that employer.

Mr. PASHAYAN. Mr. Chairman, does the gentleman not understand that under the bracero program it was that very contract the gentleman is talking about that created the bondage and that gave the employer the sword of authority over the employee whether or not that employee would be allowed to remain in the United States?

Mr. BERMAN. I understand that that is the argument and the thrust of the argument.

Mr. PASHAYAN. Does the gentleman suggest that we go back to that?

Mr. BERMAN. I understand that is the argument of the proponents of the Panetta amendment. I suggest to the gentleman that even more intolerable than the bondage created by that contract is the bondage and the fear of ever expressing a position when the grower has the unilateral ability to knock that person off the list of future hires.

Mr. PASHAYAN. But the gentleman has not explained how a contract would correct that situation.

Mr. BERMAN. What I am suggesting is that the H-2 regulations in effect now, as much as I have a problem with the H-2 regulations——

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. PASHAYAN, and by unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California. First let me yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I would like to make a request by unanimous consent that no more than six more Members from California speak on this amendment.

The CHAIRMAN. The gentleman would have to answer his own question.

The gentleman from California [Mr. BERMAN] has 1½ minutes remaining.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the difference here is that the grower has control over the visa. That is over the visa, over the very existence of the person being in the United States, because if he is not nominated by that grower, the answer is, yes, that is right, the grower nominates for the visa.

Mr. PASHAYAN. But he can still quit and remain in the United States for the given length of time.

Mr. MILLER of California. Only once.

Mr. BERMAN. Mr. Chairman, may I reclaim my time in order to close my remarks?

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I would like to make one final statement and then turn the microphone over.

All right, I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, if my colleague, the gentleman from California, would engage in a colloquy and answer a question, How is that corrected under the other system? The gentleman is saying that there is supposed to be some system whereby an employee would be guaranteed——

Mr. MILLER of California. Because that employer, under the other system, if you will, if the gentleman will listen—if that employer-employee relationship does not work out under the H-2 program, that employee can be fired and have his wages paid and go back to Jamaica, or Mexico, or elsewhere. That employee has the right to come back under the program, in his existence in this country, and then sign a contract with another grower.

Mr. PASHAYAN. So does he under this.

Mr. MILLER of California. Oh, no, no, no, because the visa right does not exist.

Mr. PASHAYAN. He has the right to.

Mr. MILLER of California. No, he does not, because the visa does not exist without the good graces of the authority. Wishing it to be so will not make it so.

The CHAIRMAN. The time of the gentleman from California [Mr. BERMAN] has expired.

(On request of Mr. THOMAS of California, and by unanimous consent, Mr. BERMAN was allowed to proceed for 2 additional minutes.)

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I am trying to understand the gentleman's argument. My understanding of his argument is that since the grower can request a particular individual to come into the nonimmigrant status, this somehow in future years allows him to prevent this individual from coming in.

Mr. BERMAN. No, the gentleman misunderstands my comment.

Mr. THOMAS of California. Would the gentleman make his comment again, please?

Mr. BERMAN. The fact is that the growers are going to request the workers that they know, and as much as possible they are going to submit a list of names they want to come in, and that is going to become——

Mr. THOMAS of California. The gentleman agrees that there is no——

Mr. BERMAN. Let me finish. If I may reclaim my time, let me finish answering the question.

Mr. THOMAS of California. All right.

Mr. BERMAN. You have people here who do not have any rights under the National Labor Relations Act. There are no unfair employment practices, there is no chance to ever do anything with the Fair Labor Standards Act. There is none of the basic protections that you have, and the moment they try to utilize whatever remedies are available to them, all of a sudden that person comes on the list of people who are not going to be requested again.

Now, with respect to one grower, maybe that is not a big problem, but under the Bracero Program—and I suggest it will happen again—we saw growers unite into associations which in effect became agents of what will now be under this, a Government-sponsored hiring hall, and these people will be blacklisted for exercising rights that we would give to any American citizen.

Mr. THOMAS of California. Mr. Chairman, if the gentleman will yield, given the plot thesis mentality with which he approaches these provisions, I can certainly understand why he is creating these very serious problems which to most of us in dealing with the bill realistically are not there. I understand now, in terms of the plot mentality, why he perceives the language in this way when I could not. I appreciate the gentleman's clarification.

Mr. BERMAN. Mr. Chairman, if the gentleman will allow me to reclaim my time, I think history is a pretty good guide to what, unfettered by the traditional regulations provided by law and protections provided by law, people will do under certain economic circumstances.

Mr. WORTLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Panetta-Morrison amendment.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I rise in strong support of the Morrison-Panetta amendment.

Mr. Chairman, I strongly urge support for the Morrison-Panetta amendment that would create a seasonal foreign worker program that addresses the needs of growers of perishable commodities. If immigration reform legislation passes in its current form, without providing a legal mechanism through which growers can have an adequate supply of foreign labor, when and in the amount needed, thousands of growers of perishable crops throughout this Nation, including hundreds of fruit growers in Hood River and Medford, OR, will face economic disaster. Their problem is a simple one. Without a sufficient number of domestic workers, they cannot harvest highly perishable crops in time to save them from rotting. Without a marketable crop, they have lost their livelihood.

The producer of perishables is characteristically a family farmer with less than 50 acres. They do not have the resources to hire a personnel department to handle all the redtape necessary to try to deal with complex Government programs such as the H-2 program that cannot, in any event, guarantee them a work force of foreign workers when they are needed. Without this amendment, they will be forced out of business and thousands of rural communities that have built up around them will also suffer. The likely results of this sad occurrence are threefold. Perishable crop production will end up concentrated in the hands of a few large corporate farming operations that can weather labor shortages or afford to struggle with the H-2 program. Fewer farmers means less competition and higher prices to the consumer.

The second consequence will be that farmland that has heretofore been used for specialty crops will be diverted to other types of agriculture that can be mechanically harvested and is less labor intensive. This will result in fewer perishable crops, using land for less than its highest and best use and increased production of grains and other commodities of which there is an abundance.

The third likely result is that many growers will transfer their farming operations outside of the country where labor is plentiful. This not only deprives this country of the multiple economic benefits of these farms but also means that consumers will increasingly buy fresh fruits and vegetables imported from other countries at higher costs and at inferior quality.

It is evident that the Morrison-Panetta amendment is vital to the economic well-being of this Nation. It benefits all of society without hurting domestic workers of any other segment of it. I think that this point is particularly important to stress, this amendment will not result in the displacement of any domestic workers. Employers must make every effort to recruit domestic workers up until the day aliens report to work. In conclusion, let me emphasize seven points about the Morrison-Panetta Amendment:

First, it protects domestic workers;

Second, it provides a legal means for workers to come in to the United States;

Third, it serves the agricultural industry by providing a stable and reliable work force;

Fourth, consumers will benefit from passage of this amendment;

Fifth, the agricultural industry will benefit from passage of this amendment;

Sixth, workers will benefit from passage of this amendment; and

Seventh, the entire Nation will benefit from passage of this amendment.

I hope you will join me in supporting it.

Mr. SHUMWAY. Mr. Chairman, will the gentleman yield?

Mr. WORTLEY. I yield to the gentleman from California.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong support of the pending amendment.

Mr. Chairman, I rise to add my voice to those supporting the Panetta-Morrison seasonal agricultural worker amendment to the Immigration Reform and Control Act (H.R. 1510). This new program is of vital importance to the producers of perishable crops who must rely upon large numbers of highly mobile foreign workers to harvest their crops due to the unavailability of domestic workers. The program will complement the existing and proposed H-2 program by establishing a temporary worker program strictly limited to perishable commodities.

Unlike single crop States, California's multicrop farming economy is a cornucopia of over 250 different commodities—at least 100 of these crops are tender and perishable, each with a different harvest season. The growers of such crops cannot develop a stable, year-round work force because they simply don't have stable, year-round work to offer. Unfortunately, it is impossible to secure enough domestic labor to do the part-time migrant work. In fact, a pilot program to recruit local labor through the California Employment Development Department failed to attract enough workers. Half of those who did show up were illegal aliens.

While the existing and proposed H-2 program may adequately serve the labor needs of some agricultural commodities such as tobacco, sheep and sugar cane, it does not provide the flexibility needed to provide delicate crop industries with an adequate harvest labor force on short notice. Indeed, even the relaxed 50-day H-2 notification period in the bill before us is still too restrictive. For example, the harvesting of fresh tomatoes, boysenberries, strawberries, table grapes, and cherries must be done by hand within a few days of maturity. Often, maturity cannot be predicted more than a day or two in advance due to uncontrollable circumstances, such as variations in the weather.

Worker protections are specifically provided for in this amendment to prevent another Bracero Program. In fact, this amendment will help to eliminate any exploitation of illegal farm workers which currently exists. Employers who abuse the programs will be dealt with severely. In addition, the program would only be triggered if sufficient local labor did not exist to perform the temporary harvesting jobs. No American workers would be displaced.

As stated by several of my colleagues, the objective of the plan is simply to insure that perishable fruits and vegetables are harvested. It does not reflect plantation mentality. At present, at least 50 percent of the field hands on these farms are illegal aliens. Failure to pass this amendment will only dry up the work force which will definitely cause a significant loss in productivity. This will quickly result in acreage reductions that will only bring about a surge in consumer prices corresponding to shortages of supply.

Mr. WORTLEY. Mr. Chairman, the existing H-2 temporary worker program is too rigid and unworkable to address the special needs of the perishable crop industry. For the most part, the perishable crop producers have not had sufficient numbers of domestic workers to handle the production and harvesting of their products. Instead, they rely on undocumented aliens for their labor needs.

This amendment will provide for a seasonal agricultural worker program which will be complementary to the H-2 program and which would be used only in those instances in which the supply of domestic labor proves inadequate to meet the demand.

It includes full protection for American labor, domestic workers, and it affords fair wages and working conditions to foreign workers which are not available in the current illegal labor force.

If growers of perishable crops are not able to hire the workers they need when necessary, they will be forced to shift into less labor-intensive crops which can be mechanically harvested. Corn, wheat, and soybeans will be grown in place of perishable crops at a time when the domestic and the world markets cannot absorb the increased production. In turn, prices for perishable fruits and vegetables will skyrocket.

Who will be the loser? The American consumer will be the loser.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield so I may make a unanimous consent request?

Mr. WORTLEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I will get more time for the gentleman.

Mr. Chairman, just to kind of get an idea of where we are on the amendment—and I know it is an extremely important one—I wonder if the gentleman from Kentucky would be presumptuous to perhaps ask to know how many Members are thinking of talking about the issue. If they would stand up, we might assess the situation.

Of course, on that basis, Mr. Chairman, obviously Members are trying to "hoke up" the project.

May I suggest, Mr. Chairman, that perhaps all debate on this amendment end at 6 o'clock?

Mr. Chairman, I make that as a unanimous-consent request.

Mr. LEHMAN of California. Mr. Chairman, I object.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MAZZOLI. There was an objection, Mr. Chairman.

The CHAIRMAN. All right, objection is heard.

Mr. MAZZOLI. Mr. Chairman, may I withdraw that and rephrase the request, with the help of the gentleman from California?

How about 6:30? May I just say this: Let me just say that the unanimous-consent request of the gentleman from Kentucky is that we cease debate on the Panetta amendment at 6:30.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. LEHMAN of California. Objection, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The gentleman from New York [Mr. WORTLEY] is recognized.

Mr. WORTLEY. Mr. Chairman, in the interest of moving these proceedings along, I think I have made my point, and I would just like to urge adoption of the pending amendment.

Mr. MAZZOLI. Mr. Chairman, if the gentleman needs more time, I would ask unanimous consent that he have 2 additional minutes.

Mr. WORTLEY. Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Washington. Mr. Chairman, before the gentleman does that, would the gentleman yield so that I might take advantage of a minute or two of the time he has?

Mr. WORTLEY. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I would like to take this opportunity to reply briefly to the question raised by the gentlewoman from California [Mrs. BURTON] because I am not sure she did get the full answer that is provided in the bill.

The question was, What happens to the worker who may qualify, who comes to the country and chooses not to do anything and in fact just sits out the time of that visa?

First of all, it is a limited visa. We anticipate there will be a monthly checkup at the local INS office. They would be required to check on whether that person is working or not, and after that month has gone by, if there is no need for the worker, or if that person is not working or not seeking work, then there will be a requirement that they exit from the country. We must remember that this is a limited visa. You can pull the string on it at any time if people are not complying with the rules.

□ 1730

Also, remember, employer sanctions. I trust that the committee's bill will work, and we are denying this person, once illegal, from having the opportunity to work anywhere. The visa will not qualify them to work anywhere except for the qualified and certified producers of perishable products where there is a shortage of domestic labor.

Also, we have not talked this evening in the debate at all about the cash incentives. There is a cash incentive for people to return to their native country. This will add up to a sizable amount. The employer puts in the equivalent of social security, puts in the equivalent of unemployment compensation, creating a trust fund that pays the cost of enforcement and administration of this plan. We never had that under the Bracero Program. From this fund comes a cash incentive when the worker returns after his visa does expire back to his native country. It is handled through the U.S. Consulate.

I think it is a unique proposal that will provide extra cash for workers when they get back to their native land and, of course, encourage them to stay with the ground rules under the program. If they do not live by those rules, they are disqualified for 5 years.

I think we have built in sufficient penalties to make sure there is compliance with the provisions of this plan that they will seek work and will abide by the requirements, not displace local workers, and have a number of protections that have been berated here in the last few minutes of debate.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS of Illinois. Mr. Chairman, I rise in opposition to the Panetta amendment. I do so with reluctance because of my sincere respect for the gentleman from California with whom I serve on the Agriculture Committee.

However, I believe that this amendment is bad news and bad law. It provides even fewer protections than the bracero program of the 1940's.

The bill already would establish a permanent large-scale "Guest Worker" Program to import 350,000 to 400,000 temporary workers, thereby expanding and streamlining the current H-2 regulatory program administered by the Department of Labor. Under the Panetta amendment, an additional 500,000 to 1 million temporary guest workers would be imported to work for producers of perishable agricultural commodities.

Both of these are contrary to our attempts to reform our immigration laws and to stem the tide of undocumented aliens taking the jobs needed by Americans.

This amendment is yet another attempt to codify the existing exploitation of nonresidents and noncitizens. These provisions will increase unemployment among American migrant farmworkers and deteriorate further the deplorable working, housing, and health conditions facing migrant workers today.

I believe we must be concerned with passing legislation which will import hundreds of thousands of temporary foreign workers while at the same time we do very little to effectively improve the conditions confronting these workers.

We must also be concerned that this amendment provides even less protection for guest workers than past programs. While the Panetta amendment does impose some requirements on those who wish to participate in the program, these requirements are unenforceable and ambiguous, and provide no workable mechanism to ensure compliance.

The issue of temporary workers has no business in this immigration legislation. It makes little sense for the left hand to be working to stop the flow of undocumented aliens, while the right hand is systematically bringing in thousands of workers who will develop ties to this country and depress American wages. To include such provisions in this bill is an affront to the unemployment which currently exists in this country.

Therefore, I urge my colleagues to oppose the Panetta amendment.

Mr. ANDERSON. Mr. Chairman, I rise in opposition to the amendment offered by our colleague, Representative LEON PANETTA.

It appears that Mr. PANETTA's amendment may be approved by this House, but I would caution my colleagues that it poses significant threats to the integrity of those persons who would be admitted as class "P" guest workers. It also will increase the likelihood that guest workers will extend their stay in this country beyond the authorized date, meaning that this country may continue to be overwhelmed by large numbers of undocumented aliens.

The Panetta amendment establishes a guest worker program tailored to fit the needs of growers of perishable crops. It would not replace the H-2 program but rather is a supplement to it. The amendment creates a new "P" visa category, with the letter "P" denoting the visa holder as a guest worker authorized to harvest perishable crops.

My opposition to this amendment is not predicated upon any desire to subject growers of perishable commodities to hardship. I understand the special problems with which growers of perishable crops must contend. And while the gentleman's amendment does represent a valid attempt to address growers' special needs, it fails with respect to its treatment of guest workers and in providing safeguards against its becoming a magnet for illegal immigration.

Under the gentleman's amendment, guest workers would be admitted into this country for an 11-month period. Rather than placing these guest workers under the employ of a specific grower, guest workers would be admitted into a certain region and would be free to roam within that region, enabling them to follow the progress of the harvest. They would be able to seek employment with any certified grower in the region. Yet no grower would be responsible for seeing to it that the guest workers return to their native countries. Under the amendment, the guest worker alone is responsible for returning to his native country.

Mr. Chairman, I simply do not believe that the effect of this amendment will lead to anything but exploitation of guest workers and another massive influx of undocumented aliens. If a grower is not held personally responsible for the working conditions and the timely return to their native countries of an identifiable group of guest workers, there really is no way to prevent worker exploitation and illegal immigration.

The gentleman says that economic incentives will lure guest workers back to their native countries. The economic incentives are reimbursement of salary deductions equivalent to FICA taxes, and the possibility of exclusion from participating in the program for several years if the guest worker's return to his native country is not timely. I submit to those of us who really desire to stem the tide of illegal immigration that these incentives are minimal at best.

The real incentive to economic gain is remaining in the United States. Once here, it is likely that many guest workers will realize how much more there is to gain by staying here, even if it means forfeiting the recoupment of those salary deductions and future participation in the program. Even with employer sanctions, many of these guest workers will blend into the mainstream and find employment.

In this respect, I do not see how this amendment can contribute to a sound and humane policy to reduce illegal immigration. And while I respect the earnestness of my colleague from California, I must urge our colleagues to join me in opposing his amendment.

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, in listening to the debate and seeing the participants in the debate, it has come to my attention that we are hearing more from sidewalk experts and urban farmers than we are from those who have been involved in farming and those of us who represent farmers.

In my district, the farmers are raising 25 percent of the nation's strawberry crop. Twenty-five percent of the citrus crop of this Nation is raised within my district. Forty percent of all the tomatoes that are raised in this country are raised in my district, and 80 percent of the avocados. I could go on and on. It is one of the major perishable crop areas of the country, and almost all of this is done with hand labor. Very little of it is done with mechanical equipment. The planting, the spraying, the staking up and tying up of tomatoes, the irrigating, the picking, the packing, is all done by hand labor.

They are also all highly risky and highly vulnerable and subject to the elements; to the weather and other uncontrollable impacts.

My farmers will not survive under the H-2 program. What will happen to those crops? The prices will go up and we will feel it here in Washington and in Chicago and in New York and across this country and my farmers will disappear simply because they cannot compete with foreign prices and the end result is that they cannot survive.

We talk about making second-class citizens out of the alien labor that comes into this country. I suspect that while we are trying to prevent that from happening we are making second-class citizens out of the farmers of this country and particularly the farmers of perishable crops. All we need is protection for them to allow them to continue what they do best. They are the backbone of our free enterprise system.

So I strongly support the amendment. I recognize that the H-2 program is a good program in parts of the country, but it certainly will not work in my part of the country.

I think it is important to reemphasize that this program, this amendment, does not replace the H-2 program. The H-2 program will remain intact in all parts of the country where it will work, but where it does not work then we need this alternative. The Panetta-Morrison amendment is an alternative for those who raise perishable crops. That is all it is, is an alternative. It does not replace the H-2 programs.

Furthermore it should be stated my farmers have no inclination to exploit the labor pool that comes from across the borders, no more under the Panetta amendment than they would under the H-2 program.

So to fear that there will be some kind of grave slave program entered into in this country just simply does not exist.

If you want to know my opinion, more devastating are the conditions that these aliens live under right now under the present program, far more devastating, than the Bracero Program, and I am not defending the Bracero Program, but the worst labor conditions that our alien labor pool has ever experienced, we are now experiencing under the present program.

They live under the most subhuman conditions that they have ever done, even including the Bracero Program. We can do better than that. We must do better than that, but we cannot destroy the farmers of perishable crops. The H-2 program will wipe out farming in my district.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I would be happy to yield.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

The gentleman knows, my good friend, the gentleman from California, that he represents an area, a good portion of which used to be my district before the last reapportionment, so I am well aware of the type of perishable crops that we grow in that area.

It seems to me, as the gentleman from New Mexico [Mr. LUJAN] said, that everybody wins on this program, because people are coming here seeking jobs. Yes, they are jobs that we might not like, but they are jobs that are a step up for a lot of people that do not have any economic advantage whatsoever and starting at the bottom of the ladder they are getting someplace.

□ 1740

Our country wins and the agricultural business of our country wins.

We could bog this amendment down with a whole lot of legalistic jingoism and all of that, but let me tell the Members, and I thank the gentleman for yielding to me, that we just have a couple or three choices, because we have perishable crops out there that need to be picked.

The CHAIRMAN. The time of the gentleman from California [Mr. PACKARD] has expired.

(On request of Mr. BADHAM and by unanimous consent, Mr. PACKARD was allowed to proceed for 3 additional minutes.)

Mr. BADHAM. We have about three different choices, because we have crops out there that are important to our economy. They are important to the ancillary jobs that are provided by shipping, packing, transporting. They are important to the export, to the balance of trade. They are important to the foodstuffs of this Nation. That all goes together.

So the crops are going to be picked. Now, either they are going to be picked by legal domestic workers, if we can find them, and we have not been able to find them, or they are going to be picked by legal, under this amendment, legal guest workers who are aliens. Or they are going to be picked by illegal aliens like they are now.

I would think that the Members of this body would take to heart rather than nitpicking this amendment to death by legalistic terminology, come to the conclusion that the alien workers are either going to be legal or they are going to be illegal. Let us think of their well-being, and let us think of their welfare, because there will be alien workers picking our crops to be sure. They will be running and hiding and subject to sweeps. And talk about discrimination and ill feelings and ill treatment and lack of human rights and lack of dignity, because they will be here, they have been here since the Bracero Program has been here and they will continue to be here.

Or we can have under the Panetta-Morrison amendment a legal system where alien workers can come in, and they will come in because they want to come in. They need the money. They want the increase in income for their own economic well-being, and they can come in legally, they can hold their heads high and even become citizens, or go back to their native country with a bigger wad of money in their pockets.

That is good for America. It is good for our neighbors to the south. And I thank the gentleman for yielding.

Mr. PACKARD. I thank the gentleman for his fine contribution.

Let me conclude by merely saying that our choice is either having an illegal program and, believe me, the farmers will have the workers, and if you impose upon our farmers a program that is not implementable they will remain in the illegal status, or pass this very vital amendment.

I urge my colleagues to support the amendment, to vote for it, and give an alternative to the farmers of perishable crops.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield to me?

Mr. LEHMAN of California. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would like to ask unanimous consent, but first I would just like to get an idea of how many more speakers would be allocated time.

If everyone really wants to speak, then I thank the gentleman.

Mr. LEHMAN of California. Mr. Chairman, I rise to express my strong support for the Panetta-Morrison amendment to this bill, and I want to speak a little bit on a personal basis.

I am one of those people who was born and raised on one of those small farms in central California that will be greatly affected if this legislation passes.

My father still today farms grapes, I think presently on 40 acres in the Sanger area. The average farm in my district is only 40 acres.

I am really amazed at some of the myths in the air being propagated by people who I believe really do not know much about agriculture and the nature of the relationship between farmers and their employees. I think we ought to dispel ourselves of the myth that these people who are working for us are naked, browbeaten, chained indentured servants, captured like Kunta Kinte, forced into slavery by insensitive, vicious farmers who have no respect for their fellow man. That is really not the agriculture that I know about or am familiar with, and I reject and resent that notion because it goes to the very character of the people who farm in this country.

Mr. LEWIS of California. Will the gentleman yield?

Mr. LEHMAN of California. I yield to my friend from California.

Mr. LEWIS of California. I thank my colleague for yielding.

I want to make sure I heard correctly what you said at the beginning of your statement. I think I heard earlier that the gentleman from California [Mr. LEHMAN] was opposed to this amendment. Did the gentleman say that he supported this amendment? Did the gentleman say he opposes the amendment?

Mr. LEHMAN of California. I am in support of this amendment.

Mr. LEWIS of California. I congratulate the gentleman.

Mr. LEHMAN of California. I thank the gentleman and I will remember that.

I hope everyone heard Mr. BROWN's comments earlier today because I think he really had some important things to say about the real nature of this problem.

I have had throughout my life much association with people who were braceros at one time and maybe undocumented workers or maybe illegal aliens later, and they are usually, in most cases, not the kind of people and not the kind of citizens that have been talked about here.

I know or knew many families that owned farms in Mexico, that came up here to work in the off-season and sent money back home to help on the farm down there.

If you go into any post office or drugstore in a rural part of California on a weekend you will probably find thousands of dollars in money orders and gifts going back to Mexico from people who work here.

The real answer to the distinguished gentleman from New Jersey, Mr. RODINO's question about these people coming here and not working for 11 months out of the year is that those people, believe it or not, unbelievable as it may seem, actually come here to work. We do not have to worry about them or that. The people who would be affected by this legislation are the people who come here to work.

The people who do not come here to work are not covered by this bill because the employer sanctions are not going to hurt them anyway. We are talking about people who want to come here and work and we are telling them that we want to help them and the way we are going to help them from being exploited is to take their jobs away from them.

That is ludicrous.

What about this question that has been brought up this afternoon of whether or not employers ought to have some say-so over who they hire? What an outrageous notion in 1984 that an employer ought to have some say-so about who comes in and works on his ranch. Obviously the employer ought to have some say-so over that. Obviously he ought to be able to say that person did a good job last year and I would like to have him back. And, more than that, it is usually the employee who wants to come back and work at the same place. His family knows where he is. That is much easier. He knows the neighborhood. He is familiar with the turf. He is the one who in most instances will benefit from being able to go back to the same vicinity and work.

It is those of us who want to take that right away from him who are condemning him to a kind of slavery by saying he no longer will have that ability.

The plain fact is, and I will state this unequivocally, the failure to include the Panetta-Morrison language in the final version of this bill will make it almost impossible for growers of specialty commodities such as peaches, plums, nectarines, grapes, and other perishable crops to obtain workers to harvest their crops.

Let me explain just one problem in this bill from my own experience, and it just deals with just one small aspect of it.

The CHAIRMAN. The time of the gentleman from California [Mr. LEHMAN] has expired.

(By unanimous consent Mr. LEHMAN of California was allowed to proceed for 5 additional minutes.)

Mr. LEHMAN of California. That deals with the particular crop that my family farms, grapes, and we make raisins. Once every 4 or 5 years a big cloud comes over the valley and wipes out our crop, or threatens to wipe out our crop after the harvest. We do not know 50 days in advance, or 10 days in advance, or any time in advance of the weather report what is going to happen. Yet the night that that happens we need thousands of people in the fields to save that crop.

Under this bill we will not have the ability to get those people there. At least with the Panetta version, which I do not think is perfect myself, at least with that we have a 72-hour ability to get people in there, and that is just one instance. There are many more and I will not take up all of the House's time naming them.

The work that many of these so-called illegal aliens, and I really do not like that term either, because these are human beings currently perform in California are, very frankly, those that most Americans will not perform. They are physically demanding jobs that require long hours of demanding work. They are often performed out of doors and in less than perfect weather conditions. For whatever reason, it is impossible to find enough domestic workers who will do this work and nothing in this bill will change that fact.

□ 1750

Displaced industrial workers who are concentrated in the Northeast cannot fill the labor needs of farmers in the Southern and Western States. Most Americans in high school, in college, simply are not willing to accept farm employment as a summer job or internship possibility. Farmers do not want to discriminate against American workers. They would love to hire them. The plain fact is they cannot because they will not take these jobs. You can go anywhere in my district at harvest time and you will see signs saying "Pickers Wanted" everywhere, but few domestic will apply or attempt to get those jobs.

It is because of these factors the growers of these specialty crops have had to turn to undocumented workers at the present time to do most of their harvesting.

If the bill is passed, as it is currently written, we will be cut off from this supply of labor with no suitable alternative. We look very foolish in my district for even debating getting rid of the people who put the food on our table and not replacing them with anything.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I would like to congratulate my friend and colleague from the Central Valley of California for his very knowledgeable statement. His experience in the field of agriculture is well known to all of us. I think he comes at this from a very humanitarian perspective as well. He is speaking from the kind of practical experience that I am afraid many of our colleagues on this side of the aisle just have not had.

It has been my experience that the gentleman is coming at it from a very realistic perspective. We do not have labor force available through State department of labor services, we do not get the kinds of numbers, we do not get the quality, we do not get them in a timely way when we need them in order to make sure that we bring in our crops in a very short harvest season.

I would simply like to underscore the gentleman's comments and do what I can to help him make certain that we enact the Panetta-Morrison amendment.

Mr. LEHMAN of California. I thank the gentleman for his statement.

Many of my colleagues have expressed their fear that the Panetta amendment will establish another Bracero Program with all of the abuses that went with it. This is simply not true. The amendment includes a long list of safeguards against employer abuses similar to those provided for in the H-2 program as reported in the Judiciary Committee version of the bill.

These include requirements that employers make a good faith effort to recruit domestic workers whenever possible before hiring foreign workers. Also included are requirements that foreign workers receive workers compensation insurance, decent housing and working conditions, and a livable wage.

In short, the potential for abuse in the H-2 Program is very tightly limited by the Panetta amendment. Again, I find it interesting that the same Members on the floor who state they want to protect these workers start by saying they want to take their jobs away from them. That is not protection.

The Panetta amendment protects organized labor by prohibiting the hiring of foreign seasonal workers to fill positions opening up by a strike or lockout.

Also the work search provisions require that any jobs be offered to American workers before H-2 workers can be certified by the Attorney General.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

I do not disagree with the thrust of the gentleman's comments regarding the desires and the instincts of the American farmer, at least the grower that I have come to know and at much part through the gentleman in California.

The CHAIRMAN. The time of the gentleman from California [Mr. LEHMAN] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. LEHMAN was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman.

May I also ask the indulgence of the Chamber and of the House in making this next motion. It is in an effort to expedite the proceedings of this bill. I think the Members will be very happy with the eventual outcome. The gentleman from Kentucky, if permitted, will explain what we are doing.

Mr. LEHMAN of California. Mr. Chairman, I yield back the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

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## FURTHER SCHEDULE FOR CONSIDERATION OF IMMIGRATION AND NATIONALITY ACT

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

Mr. MAZZOLI. Mr. Speaker, let me very quickly thank all of my colleagues for the wonderful attentiveness and for the excellent work we have done. The work of the House has been expedited excellently by the cooperation of all. Furthermore, I think those who have watched the debate from the Chamber and those who have observed the debate would have seen what I consider to be one of the excellent debates in the history of the House.

We have, as I said earlier many times, established a piece of oral history about how America came to be America. I think it adds to the dignity and credit of this body.

Mr. Speaker, in an effort to help the Members with weekend travel plans, the gentleman from Kentucky has in connection with the gentleman from New Jersey [Mr. RODINO], our chairman, and the gentleman from California [Mr. LUNGREN] and, I might say, with the great help of the majority leader, the gentleman from Texas [Mr. WRIGHT] developed this following pattern for the further disposition of the bill, H.R. 1510.

If the gentleman from Kentucky's unanimous-consent request is not objected to, the unanimous consent would permit the amendments—my colleagues have the amendment list—numbers 46, 47, and 48, which are the three amendments dealing with legalization formula—to be put off until Tuesday next to become the first order of legislative business on Tuesday.

Furthermore, if the gentleman's request is not objected to, we would then go back into the Committee of the Whole. We would continue proceedings on the bill for the remainder of the day dealing with the H-2 program.

Now, as I view the clock we are close to 6 o'clock. I think we are winding down debate on the Panetta amendment. I would hope that the House could dispose of the Panetta amendment. If the Panetta amendment is voted up, Mr. MILLER of California has in order two amendments he may or may not offer, but they are in order.

If the Panetta amendment is voted down, the two Miller amendments are not in order and that would then end the House's business for today.

On tomorrow, at 10 o'clock, the House would continue consideration of this bill starting with amendment No. 49 of the gentleman from New York [Mr. OWENS], proceeding down the list of amendments.

Now without specifying which, the gentleman from Kentucky has already talked to many offerors of amendments and agreed to accept many of their amendments and the gentleman from California has agreed as well.

In effect, we could continue business on tomorrow. We cannot guarantee the Members there would not be votes, but the likelihood is there would be few votes. There would be business done. We would continue consideration of our bill, but on matters that are not dealing directly with the question of the legalization.

Mr. Chairman, at this point I yield to our distinguished chairman, the gentleman from New Jersey [Mr. Rodino].

Mr. RODINO. I thank the gentleman for yielding.

I would like to have the subcommittee chairman make clear that if we do continue under such a unanimous-consent request in the order that the gentleman is now suggesting that on tomorrow or thereafter we do not proceed beyond amendment No. 61.

Mr. MAZZOLI. I appreciate the gentleman saying that.

As I have looked over these amendments, that would be approximately 10 intervening amendments between the No. 49 where we would begin tomorrow and the gentleman's amendment, which is No. 62.

I am fairly confident that on Friday we would not get that far. I would assure the gentleman that if we get that far, if I am floor manager, I would move that the Committee rise.

Mr. RODINO. Rise at 61. So that when we would resume——

Mr. MAZZOLI. The fact of the matter is I would move to rise at no later than amendment No. 60. Because we would not under the arrangement take up the McCollum amendment prior to next Tuesday.

Mr. RODINO. That is correct. So following that then we would begin with section 301, the legalization section on Tuesday.

□ 1800

Mr. MAZZOLI. Exactly.

I thank the gentleman.

Mr. Chairman, I yield to my friend, the gentleman from California [Mr. Lungren].

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, I think we ought to put Members on notice that this is no guarantee that votes will not be taken tomorrow. It is an effort, because of an expression of concern by some that they did not want to miss what some would consider to be the key votes on the whole question of legalization if they had to be somewhere else tomorrow. So that is why 46, 47, and 48, which go to the question of what the legalization formula ought to be, and then the McCollum amendment, which goes to the question of whether we will have legalization, will be guaranteed not to be considered or voted tomorrow. They will be held over until Tuesday. Other amendments, however, not articulated here, starting with amendment numbered 49 through 60 will be subject to consideration upon which votes may be taken, if requested by Members who are present.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Texas.

Mr. de la GARZA. I thank the gentleman for yielding.

Mr. Speaker, first, let me commend the gentleman for the excellent and fair manner in which he has managed the bill to this point.

On behalf of the Committee on Agriculture, our involvement, except for individual Members, would finish today.

Mr. MAZZOLI. Right.

Mr. de la GARZA. So we would have no objection to the suggested agenda that the gentleman has.

Mr. MAZZOLI. I thank the gentleman very much, and I do appreciate his help.

I now yield to the gentleman from Texas [Mr. Sam B. Hall, Jr.] a member of the committee.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

With reference to amendment No. 45—and I have already mentioned to the gentleman I was not going to offer that, and I have told all sides, but when the gentleman mentioned the numbers a moment ago, he omitted that—I would like at the proper time to be able to make a certain pronouncement about that and make some entry into the Record.

Mr. MAZZOLI. I am sorry, and I apologize to the gentleman. Indeed amendment No. 45 will be called by the Chair, and there will be discussion of that amendment.

Mr. Speaker, I yield to the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Speaker, it is my understanding, then, that the gentleman proposes to go through amendments numbered 49 to 60.

Mr. MAZZOLI. No more than that. It depends on the workflow, but certainly no more than that.

Mr. ROYBAL. That is tomorrow, Friday.

Mr. MAZZOLI. If we can do that much there would be no more tomorrow. We may not finish it all, but no more than that.

Mr. ROYBAL. Then on Tuesday we come back to amendments 46, 47, and 48.

Mr. MAZZOLI. Precisely.

Mr. ROYBAL. That, then, does in fact comply with the rule.

Mr. MAZZOLI. Yes, I would assure the gentleman that it does.

Mr. ROYBAL. I just want to be sure that it does comply with the rule that was voted upon.

Mr. MAZZOLI. The gentleman from Kentucky can assure the gentleman from California, his friend, that it does comply with the rule.

Mr. ROYBAL. I thank the gentleman.

Mr. MAZZOLI. Mr. Speaker, I yield to my friend, the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Speaker, I would like to ask the gentleman, and I know this may be a difficult question: Tomorrow we start at 10 o'clock.

Mr. MAZZOLI. Yes.

Mr. RICHARDSON. The gentleman is very knowledgeable about these amendments and he knows the controversy that might be generated. Can the gentleman estimate how many of these amendments would involve recorded votes and how many votes Members might miss if they were absent tomorrow?

Mr. MAZZOLI. The gentleman from Kentucky considers that of the intervening amendments between number 49, including 49 through 60, 8 of them are acceptable to both sides of the committee. Now, it does not mean that the offerer may not ask for a vote. But 8 of those intervening 10 or 12 are acceptable. I would suspect that we could complete our work by probably noon tomorrow, and I anticipate that there may not be any votes. I can assure the gentleman that if the offerers of those amendments which are already approved by this committee do not call for votes, the gentleman is protected except for perhaps one or two at best.

Mr. RICHARDSON. I commend the gentleman for this new schedule.

Mr. MAZZOLI. I thank the gentleman.

Mr. Speaker, I yield to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. Mr. Speaker, to make it clear, as I understand it, we will proceed, then, to the conclusion of the Panetta-Morrison amendment; we will then conclude amendments 43 and 44 if they are offered, Mr. Hall has indicated he will not offer 45, and that will be the end of our business tonight?

Mr. MAZZOLI. The gentleman is correct. It ends our business tonight and, of course, with some dispatch we could end at an early hour.

Let me take this moment to just salute the Members of the House. There have been long nights. There have been four or five long nights in a row. The Chair, the gentleman from Kentucky [Mr. Natcher] has done a superb job. Staff has done an excellent job. They have been carrying around these huge notebooks all the time and yet they seem to find the exact paper at the right moment. It has been just a great pleasure to work with everybody. We are making wonderful progress on a very tough piece of legislation.

Therefore, the gentleman from Kentucky now, Mr. Speaker, makes the unanimous-consent request that amendments numbered 46, 47, and 48 to the bill (H.R. 1510) be postponed for consideration until Tuesday next, to become the first order of business on that day.

The SPEAKER pro tempore. To become the first order of business upon the resumption of the sitting of the Committee of the Whole under the terms of the rule.

Mr. MAZZOLI. Precisely.

Mr. BERMAN. Mr. Speaker, reserving the right to object, are 46, 47, and 48 king of the mountain amendments?

Mr. MAZZOLI. It says king of the mountain, on page 3, yes. The gentleman is correct.

Mr. BERMAN. I thank the gentleman for his courtesy.

Mr. MAZZOLI. Mr. Speaker, I restate my unanimous-consent request.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. MAZZOLI] asks unanimous consent that amendments numbered 46, 47, and 48 be postponed for consideration until Tuesday next and that they be in that order, the first order of business, when the Committee resumes sitting under the Committee of the Whole for the further consideration of the bill (H.R. 1510).

Is there objection to the request of the gentleman from Kentucky?

There was no objection.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to make an announcement. The Chair will then designate the House resolved back into the Committee of the Whole.

The Chair would like to announce that it will be the intention of the leadership tomorrow, after the consideration of such amendments as may be considered in the Committee of the Whole, which should be concluded quite considerably before 3 o'clock, to take up consideration of two rules, on tomorrow, Friday, before our adjournment, they being the rules on H.R. 3678, water resources authorization and H.R. 3282, Water Quality Renewal Act, and to adjourn, having completed this business, by 3 o'clock tomorrow.

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## REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5813, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1985

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 98-839) on the resolution (H. Res. 524) waiving certain points of order against consideration of the bill (H.R. 5813) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

□ 1810

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment in the nature of a substitute recommended by the Committee on the Judiciary was considered as an original bill for the purpose of amendment which is only subject to amendment by the amendments made in order pursuant to House Resolution 519.

Pending was amendment No. 42 offered by the gentleman from California [Mr. PANETTA].

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I have a couple of unanimous-consent requests.

I ask unanimous consent that the gentleman from California [Mr. LEHMAN] be recognized for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that all debate on the Panetta amendment conclude by 7 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. ROYBAL. Mr. Chairman, reserving the right to object, I would like to know, first of all, how many Members there are who wish to speak.

I say that, Mr. Chairman, because last night the same motion was made and all debate stopped at 8:30. There was a long amendment that had to be presented that I withdrew, simply because we only had 20 minutes for that presentation.

I do not want to see anyone deprived of any time they may have.

Mr. MAZZOLI. Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman from California [Mr. LEHMAN] is recognized for 5 minutes.

Mr. LEHMAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I speak, I would yield to the gentleman from California [Mr. Bosco].

Mr. BOSCO. I thank the gentleman for yielding.

Mr. Chairman, I wanted to join in the gentleman's defense of the growers of our country, and in my own belief that they have been grossly mischaracterized here on the floor. It is interesting to know that this House has not shown the same lack of mercy for everyone. We specifically excluded from sanctions under this bill those who are fortunate enough to be able to hire illegal immigrants for household help, or for small business, or for help in small restaurants, but it does not seem that we are willing to provide the same type of mercy for those who provide the food in our country, and yet, those are the people who are most in need of help when the time comes.

When the sugar level in grapes reaches a certain point, thousands of tons of grapes have to be picked right away. Yes, I might say that someone who simply lost household help, could probably go out and find domestic household help much faster than could the grape grower.

Mr. Chairman, I rise in support of the Panetta-Morrison amendment because it represents a fair way to mitigate the damages of this piece of legislation, both for guest workers and those who depend on their work to pick perishable crops. I would say to begin with, that those of us who live in harmony and friendship with guest workers from south of the border greatly resent many aspects of the Simpson-Mazzoli bill which will violate the civil liberties of legal and illegal residents of this country without resolving the underlying problems that cause immigration pressures. We recognize that guest workers come here to work not because they want to leave home, but because they have to leave to support their families. Each of us in the Congress would do the same if our families were faced with starvation at home.

Nevertheless, it appears that we must now lessen the hardship created by this legislation, and the amendment before us helps in many ways. First, it provides timeliness and flexibility for the employer, and requires that he first attempt to recruit domestic labor. It has been our experience on the north coast of California, where we pick grapes, pears, apples, and other perishable crops, that adequate supplies of domestic labor simply do not exist. Moreover, because these crops come ripe unpredictably and must be harvested in a matter of hours, the supply of labor must be immediate and sufficient. This amendment will provide greater speed and flexibility in recruiting foreign labor

In addition, the amendment before us provides safeguards for the worker, and, unlike the present H-2 program, allows the worker to leave one employer and be hired by another readily. This right to switch employers ultimately provides the best safeguard against abuses in wage and working condition standards.

Mr. Chairman, the amendment before us meets the needs of workers and employers alike, and would prevent the serious hardship to both that the legislation before us would otherwise create.

Mr. LEHMAN of California. I thank the gentleman for his statement.

Mr. Chairman, I just want to close by expressing my gratitude to the gentleman from Kentucky [Mr. MAZZOLI] who has bent over backwards to meet with my constituents, he has been out in my district, I hope he enjoyed the hospitality, because we enjoyed having him.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman.

Mr. MAZZOLI. I would say to the gentleman that I remember my wonderful trip to the gentleman's district. The gentleman is fortunate because he represents some of the most wonderful people in this United States.

Mr. LEHMAN of California. I thank the gentleman, and we look forward to having the gentleman back again under very good circumstances.

Mr. Chairman, I just want to finish by making one statement that I think is what I feel is fundamentally wrong with the approach in this bill. That is that the entire thrust is predicated on the assumption that the farmers will react in the worst possible manner and show the worst possible faith and then remedies that assumption by punishing them in advance. That is wrong, and I think it ought to be rejected by this body with the adoption of the Panetta-Morrison amendment.

● Mr. STARK. Mr. Chairman, I oppose the amendment of the gentleman from California [Mr. PANETTA].

The ability of growers to bring in large blocs of foreign labor will simply continue the high unemployment rates and poverty among so many of America's unskilled workers and migrant farm groups.

The amendment talks of being sure that the wages paid to this foreign labor pool do not adversely affect the wage and working conditions of workers in the United States similarly employed.

There is no way that this cannot depress wages for American farmworkers. For example, each fall the New York State Department of Labor conducts a survey to determine that the actual piece rates being paid in the apple growing regions of the State. This is reported to the U.S. Department of Labor in the Domestic Agricultural In-Season Wage Report. This determines the prevailing wage rate among apple growers in the various regions. The wage report for the Hudson Valley shows that for at least 4 years, H-2 users have paid from 5 percent—1977—to 11 percent—1979—less than their nonuser neighbors. With differentials such as this, you can bet a bushel of apples to a doughnut that the growers will have an awfully hard time finding domestic workers.

People say they want to restore control of our Nation's borders through immigration legislation. The Panetta amendment punches a hole through the border wide enough to run a commuter train.

I urge its defeat.●

● Mr. HAYES. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. PANETTA].

I believe my colleagues on both sides of the aisle share my concern that jobs be made available to our domestic workers and just as importantly, that working conditions be humane. It seems to me that what this amendment will do is bring in guest workers, give them temporary status while they work and live under questionable conditions, then force them to leave the country, that is, if they can be located. All this will do is develop a class of servants with no ability to get into the tract to gain citizenship. The amendment offers no standards for wages or decent working conditions for the guest workers.

I am concerned about this proposal because we have learned that previous guest worker programs, both in this country and in Europe have tended to encourage undocumented immigration of foreign workers who then refuse to return to their countries. Bringing in groups of workers by this method would only create an added burden on our already taxed unemployment rolls. I do not see how this proposal can be beneficial to our country and our citizens. Furthermore, it may prove to be seriously detrimental to the foreign workers themselves. The proposal offers no protections in housing, living conditions or even the assurance of the jobs that these people are seeking. I am concerned for the loss of jobs to our domestic workers and for the future of the thousands of vulnerable foreign workers who could end up existing here under substandard conditions. I urge this body to defeat this amendment.●

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to add my compliments to the manager of this bill, Mr. MAZZOLI, and to the ranking Republican, Mr. LUNGREN, and to you, Mr. Chairman, for the way this bill has been handled. This is a very complicated, very difficult issue. It has not been easy; I know that many of us are awaiting the final result of this legislation before we decide how we are going to cast a vote on it.

Mr. Chairman, as a Representative of a district and State with a substantial amount of perishable crop production, I can assure you that there is no matter as vital to the needs of the thousands of small farmers engaged in this endeavor than the passage of the Morrison-Panetta amendment. I am not going to dwell on the workings of this amendment, as it has been ably outlined by its two sponsors. Instead, I would like to take a few minutes to point out that this amendment is also critically important to the foreign policy of this Nation.

I am sure that most of us would agree that there is nothing of greater concern to this country at this time than developing and maintaining an effective policy toward Mexico. The economic challenges currently facing Mexico are of particular concern. In his recent visit to this country, President de la Madrid addressed this problem and the need for cooperative solutions. He also addressed the problems of immigration.

In his address several weeks ago to a joint session of this Congress, President de la Madrid expressed the following:

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman.

Mr. MAZZOLI. Mr. Chairman, may I, for the purpose of moving the bill along in order to get the Members to the planes and out, may I ask those who want to speak on the bill please to stand?

The CHAIRMAN. If a limitation is ordered. Does the gentleman make a unanimous-consent request?

Mr. MAZZOLI. Mr. Chairman, the gentleman from Kentucky makes a unanimous-consent request that those who seek to speak on the Panetta amendment please rise so that the Chair might observe for the gentleman from Kentucky how many there are.

The CHAIRMAN. The Chair observes nine Members standing.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that all debate end at 7 o'clock which is 5 minutes per speaker.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, when President de la Madrid stood here before us, one of the things he said was, and I quote:

> In particular, I would like to refer to the problem of undocumented workers. My country is convinced that temporary immi-

grants who work in the United States make a significant contribution to the development of border States and, therefore, to the prosperity of the overall American economy. Mexico has an ongoing interest in the full respect for their human and labor rights.

I commend and wholeheartedly agree with President de la Madrid's public recognition of the importance of the temporary workers to the prosperity and economic well-being of the border States of our two nations. The Morrison-Panetta amendment reflects both the past and the future importance of temporary workers. Furthermore, I concur with President de la Madrid's statement that the labor and human rights of such temporary workers must be protected under law.

The Panetta-Morrison amendment provides for both a seasonal worker program and strong labor protections for both domestic and foreign workers. Additionally, it provides for the establishment of a bilateral commission between the United States and Mexico and other countries to assure that the well-being of Mexican workers is maintained under the provisions of this act.

In my opinion, the Panetta-Morrison amendment is a workable solution to a matter of great concern to both our countries. Like our friend from New Mexico [Mr. LUJAN] said, it provides a legal process through which Mexican workers can come into the United States for employment purposes and benefits the economies of both nations. It protects these workers from the exploitation that, unfortunately, is inherent in the present situation. In providing these protections, I submit, it meets the stated goals of President de la Madrid.

Criticism of the Panetta-Morrison amendment by some groups in the United States is, in my opinion, based on the misconception that it is simply a return to the old Bracero Program of the 1950's. These objections are not based on fact.

Without the Panetta-Morrison amendment, this immigration legislation, with its employment disincentives, will mean American farmers will not have the labor force to harvest their crops and that Mexican citizens will not have the employment opportunities to enter the United States, earn money and return to their homes in Mexico.

For these reasons, I believe the Panetta-Morrison amendment is important to provide a solution to our countries' mutual economic needs and to further an effective foreign policy.

The CHAIRMAN. The time of the gentleman from California [Mr. LAGOMARSINO] has expired.

Members standing at the time of the unanimous consent will be recognized for 5 minutes each.

The Chair now recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I think my views on this provision have become well known throughout the afternoon here. I still strongly believe that this amendment fails to provide the kinds of protection that we as a nation owe these guest workers; owe those individuals who harvest our crops, who provide the fiber to the rest of this Nation and to much of the world. I do not think the issue is much more complicated than that.

Time and again individuals have said that these are the very same protections that exist under current law. If they were, then why did they change them? They in fact have been changed, and in many instances, these protections are less than what farmworkers have enjoyed in the past, and have still suffered under horrendous conditions.

I would hope that the House would reject this amendment, however, I do not believe that that is what is going to happen. I think that we will look back and we will find out that this was one of the more tragic times because it is not easy to visit an issue of this magnitude or of this emotionalism with respect to the Members of Congress and our constituents.

□ 1820

But I would hope that we would reject it because I think we will do a great disfavor to those individuals who harvest our crops.

I would also hope that we would fully understand, if we do not reject it, what we are doing. We are placing into the laws of the United States of America the ability to provide less than adequate protections for those individuals. These are individuals who have not suffered lightly in the agricultural history of our country. They have moved from status to status. We have tried various means of dealing with them, and I do not even know if the very tough regulations I have tried to draft and tried to put into effect would have accomplished my desired goals to see the same social justice we expect for our constituencies that we talk so much about extended to those individuals who come here.

So it is with some sadness that I think we have to ask the House to reject this kind of effort, and I would hope that this does not again open a chapter of history in this country that will take a very long time to close, as have the past chapters in history when we have provided the means, unfortunately, by which individuals workers can be exploited.

Some Members have suggested that if one did not come from an agricultural area, somehow one could not understand this. Let me say that all we need to do is study labor history in this country and elsewhere to understand that where the opportunity exists someone will fill that vacuum. And for those Members who have suggested that the illegals have been exploited, that the braceros were exploited and others were exploited in this effort, I remind them that they are the very same Members that we are now going to call on for their very best endeavors and efforts not to have that happen again.

But I am very concerned that the efforts in the Panetta amendment simply do not meet the American requirements of social justice, none of which would pass this legislation. In fact, the laws which protect our constituents are far stronger and far more comprehensive than any of the laws that we are extending to these individuals. Almost every law that has been extended for protection of these workers by the Panetta-Morrison amendment in fact has gaping loopholes that do not address themselves to these workers, to these participants.

One of my colleagues was describing the avocados and again this great salad that is made in California. Almost all those individuals would be exempt from the protection of the Fair Labor Standards Act under this amendment and would be exempt from protection under the labor laws that we demand as a right for our constituents.

I think in fact what we have done is created a second class not of citizenship but simply of status of human dignity and status of human rights, and I am very sorry to see that the House would again go down this very dark path in the year of 1984.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

The Chair now recognizes the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I am very pleased in one way that the gentleman from California [Mr. PANETTA] is involved in this amendment because to me it is the height of irony, because for so long I have thanked God that the gentleman from California [Mr. PANETTA] was in this Chamber with us because he is the one who has cared about the unfortunate people in our country. He is the one who has brought to this Congress programs to make sure that we wipe out hunger in this country.

So as I look at it, and obviously in disagreement with this fine gentleman, who is my good friend and my colleague, I thank God that he created these programs because we are going to see more hunger in America as a result of this.

I have been discussing with my colleagues from various States today what these guest workers will be paid.

As we know, there is no minimum wage in this particular law, and the answers are coming back: $2 an hour, maybe less, maybe a little more. There are no guarantees. In certain States there may be a minimum wage, but in other States there is none.

So I would like to know what these Panetta workers are going to be like, what their lives are going to be like, and what it is going to mean to have this whole class of citizens being created.

But a more fundamental question that I think needs to be asked—and this is why I hope we will vote this down—is that I do not know exactly what we are doing here. In part of this bill which I support we are talking about legalization. We are talking about amnesty so that we can legalize the workers who are here. Now what we are doing is creating a whole new influx of workers to compete for jobs with these very people we are legalizing. So I stop and ask myself, what are we doing in this situation?

The only thing we are doing is creating more competition for these people and for American workers, with very few advantages for these new workers.

I asked questions about the health and safety of these workers, and I listened very carefully to the gentleman from California [Mr. BERMAN] in his remarks, where he brings out that in contrast to other programs, there are no guarantees about health care.

Is it all going to come onto the counties? Is it going to come onto the county hospitals? Are we giving to counties funds to take care of those poor people?

Mr. BERMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. BOXER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentlewoman for yielding.

I think the point the gentlewoman is making is a very important one. We heard earlier from our friend, the gentleman from California [Mr. LEHMAN], about the fact that the only goal here is to let the grower get the workers that he needs to harvest the crop, that the issue here is availability of farmworkers. If that were the only goal of this legislation, it would carry over all of the protections that we would expect for domestic workers, for these same H-2 workers.

But as the gentlewoman has indicated and as has been pointed out by a number of speakers, the language of the Panetta amendment fails to cover any regulatory protections for H-2 workers except for those which would have an adverse impact on wage. There is nothing with regard to housing, nothing with regard to health, nothing with regard to conditions of employment, and nothing with regard to rights to remedy grievances.

Mr. Chairman, I thank the gentlewoman for yielding.

Mrs. BOXER. Mr. Chairman, I thank the gentleman from California [Mr. BERMAN].

In conclusion, I hope we will vote this amendment down because I do not think what we are doing makes sense. We are creating another class of workers. We are already giving the growers another pool of workers who will be legalized. We are expanding the H-2 program in the bill. By taking this action, we are creating another class of citizens that I do not think we will be able to take care of, and I do not think it helps America at all.

The CHAIRMAN. The time of the gentlewoman from California [Mrs. BOXER] has expired.

The Chair now recognizes the gentleman from California [Mr. TORRES].

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding.

Lest anyone in this House believes that the 45-member California delegation is not the largest, I am here to say that it is, in fact, the largest delegation here. Mr. Chairman, I rise in support of the Panetta-Morrison amendment to the immigration reform bill. This amendment will create a new seasonal agricultural worker program.

My interest and support for this issue is objective. My district is primarily suburban—not agricultural. However, this is an issue of great importance to the State of California. Forty-five percent of the total annual agriculture sales from the State involve perishable crops. Unfortunately, the producers of these crops, which cannot be mechanically harvested, do not have an adequate or dependable supply of domestic farmworkers to meet their needs. No one needs to be reminded that farm products are the State's largest industry. Most California agricultural products are highly perishable and a matter of days can literally cost thousands of dollars in lost revenue.

Panetta-Morrison would make available the large number of workers needed to harvest these crops only if domestic labor is unavailable. This amendment does not establish another bracero program. Used in the 1950's and 1960's, that program did not provide the wage and hour and labor standard protections available under this language. Whereas workers were once tied to a particular producer, along with any abuses he wished to initiate, they now have the freedom to move from one grower to another, taking into consideration the possible changes in harvest time from one field to the next. This amendment does not provide a cheap source of labor to be exploited by growers. In California alone, the average wage for farm fieldhands is $5 an hour. The amendment provides for an adverse effect wage rate which ties the wages of foreign workers to those of similarly employed domestic workers.

The amendment has the support of our Governor and the State agriculture industry. It is logical, easily managed, and will provide a much needed element to our State economy. I urge its adoption by the House.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentlewoman from California [Mrs. BOXER] raised a very important health issue. I have a notice of testimony that was given during the Secretary of Labor's field sanitation hearings. We have testimony which concluded that the Surgeon General found that some 800 to 1,000 field workers are killed annually and another 80,000 to 90,000 are injured by pesticides, contributing to the already high mortality rate for infections and preventable diseases.

Mr. TORRES. Mr. Chairman, I rise in opposition to the Panetta-Morrison amendment, and I do so because I have followed in this country the sorry history of the guest worker programs in these days, namely, the so-called bracero program. I should indicate that I have also followed guest worker programs across the world, with the kinds of experiences the French and the West Germans have had with their guest workers from Turkey and Spain and with the kinds of problems that those guest workers have created for those nations.

I rise to oppose this amendment because I believe that it indeed is another extension of exploitation of workers. Bracero Programs in the 1940's and in the 1950's were a dismal failure as a solution to the problem of large-scale illegal entry. The Bracero Program was finally terminated in 1964 as a result of mounting concern about its adverse impact on domestic workers.

□ 1830

Let me say while I have the floor here that I know from personal experience the dismal failure of those programs. I, too, grew up in the fields picking crops. I picked onions, and I picked beets, and I picked grapes. I worked in those vineyards with braceros side by side. I saw the squalor. I saw the unsanitary conditions. I saw the intimidation. I saw the exploitation, but there was a difference. At night I went home, to the home of my relatives where I stayed and I slept on clean sheets and I had a hot meal.

Yes, I have heard here today from one of my colleagues that we provided opportunities for young Mexicans from northern Mexico to come here and work, students and others, and that these same people are now farmers and small ranchers, store owners, doctors, and lawyers.

Yes, we did provide those opportunities to young people of Mexico and other countries, but while we can be altruistic and generous, I think we should also provide the same opportunities for our own people. I think we can provide opportunities for the people of Mexico in a different way, by different types of bilateral agreements, but we should be generous again to our own people, to our own migrant workers who live in squalor, who live under unsanitary conditions. We should provide opportunities for them as well.

I think the bottom line of this legislation is simply that we are trying to legislate and undermine the movement of American farmworkers to organize themselves, to have the kind of dignity that they need for collective bargaining, to be in the forefront of the economic opportunities of other Americans.

I want to simply echo, I want to echo the comments of my colleague, the gentleman from California [Mr. MILLER] to say that this will be a sorry day in American history if we allow this Chamber, this House, to go on record legislating against the efforts of Americans who pick our crops and put food on our tables.

The CHAIRMAN. The Chair now recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I have waited a little while to come before the Chamber to address this question. I am neither from California nor an urban expert, but I do have some very strong concerns about this matter.

I have listened very carefully to the two preceding speakers this evening who, without my knowing about it, began the subject of the remarks that concern me the most and that is about the conditions in which these workers are all working, the guest workers, the domestic workers, as the gentleman from California mentioned.

I think that we have to recognize that what we are doing here is going from an H-2 program of 40,000 people to a committee version, to 350,000 to 400,000 guest workers, and now a Panetta amendment with no specified maximum, but people have said already that it could go up to over a half million.

I would like to suggest that perhaps that is the most salient reason to reject this amendment.

In trying to incorrectly close the door to illegal aliens, we are now opening, through the guest worker provisions, the whole side of the building for reasons that are totally unclear to me.

If the legalization provisions are adopted, literally millions of migrant workers will become citizens and then we will have this incredible provision that I hope will be rejected.

The fact of the matter is that no matter what we do, whether it is H-2, whether it is H.R. 1510, whether it is the Panetta version, we have shameful and unacceptable working conditions among field workers, an issue I am not sure has been addressed by anything in this entire bill.

The Secretary of Labor held hearings on May 25 of this year about proposed field sanitation standards for the 4 million agricultural workers. When I mentioned one statistic a few minutes ago, the distinguished chairman of the Agriculture Committee said that that was way out of line. I submit to you that what he said was way out of line. When I quoted the testimony that stated that the Surgeon General had found that some 800 to 1,000 field workers each year are killed, 80,000 to 90,000 are injured by pesticides annually, contributing to an already higher mortality rate for infections and preventable diseases; and when I said that migrant workers have a life expectancy of 49 years, no matter where they come from, it seems to me that this is a relevant unspoken problem, the lack of action on which is a travesty.

I hope sincerely that the Panetta amendment will be rejected, because it is redundant, and I hope that we will do something about the plight of these migrant workers whose conditions have been too little addressed in this measure.

The CHAIRMAN. The Chair now recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, following up on the comments of the gentlewoman from California, I, too, want to say, thank God that Mr. PANETTA is in this body and that he has offered this amendment. If he had not, he would not be able to feed all those hungry and starving and poor people that he has been given credit for legislating to help, so I, too, am pleased that he is in this body and that he has offered this amendment.

I rise in support of the amendment. We do well when we talk about issues that we know about because we grew up under those conditions. Sometimes we live in fantasyland as rural people like myself when we try to talk about what goes on in a city because we visited it, as well as city people who occasionally visit the country with some grandiose ideas of what happens there.

I represent one county, for instance, where there are more fruit trees than there are people. I represent another county where fruitgrowing is a very important part of that economy.

Now, in the past, of course, there was no problem on the Goodling farm because the six Goodling kids, and their mother, and father, and grandparents could harvest most every crop that we had, including all the fruit, unless we got caught in a season where we had a hot spell and all of a sudden all the fruit became ripe at the same time; but then we could count on the farmers who lived close by because it was in between a harvest that they may have had. In turn, of course, they knew they could count on us to come help them if it was time to get the hay in before the rainstorm came to destroy it.

That has all changed. Now it is the migrant labor force that we must depend on because, of course, as has been mentioned many times, these are crops that must be harvested just at the right time and we never know when the right time is until a couple days before that time.

So I am glad that we have this provision offered by the gentleman from California [Mr. PANETTA].

Let me say a word about the migrant workers in my district. We have heard a lot about who can come, who does not come and who selects them. Let me say, it is a mutual admiration society. We have more migrant workers that want to come to my area than we can use because of the fine experience they have there. So not only do our people benefit because they have an opportunity to bring back those who have done well, but those migrant laborers come because they have received a good experience in our particular district. And if that does not happen, we have a law to make sure that that one bad apple in the barrel is dealt with; so it is a mutual admiration society and they come, knowing that they will receive above minimum wages for their efforts. And for anyone to say, "Well, why don't you use the labor that is available in your own area?" Let me give you another personal experience. The only reason the Goodling Fruit Farm continued is that before my Dad died, each year the last few years he put his pension that he received from the Congress of the United States into keeping it afloat. He had to use domestic labor because he was too small to bring in a migrant force. When I go out there the domestic workers come down at noon with the truck or with the trailer and the tractor and the three or four domestic workers might have 10, 20, 30, or 40 bushels of apples on that trailer. Can you imagine how much those apples would cost if someone had to purchase them according to the expense it cost to produce them? You could not afford to buy them. You could not feed those hungry people that the gentlewoman from California was talking about.

So again, I rise in strong support of an amendment that makes good sense. It not only protects those who are coming into this country, it protects those who are in this country as citizens and it protects those who depend on our agriculture production throughout the world in order not to starve.

□ 1840

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Thank you, Mr. Chairman.

I must confess that with or without this amendment I have deep reservations and serious problems with this bill, but I do believe that this amendment is, however well intended, perhaps one of the least desirable amendments that we have discussed in the course of the past several days.

In the course of this debate, we have discussed this amendment and a number of people have alluded to the days of the Bracero Program and have talked about how this amendment could essentially recreate a number of the abuses of the Bracero Program.

And I think those are points that are extremely well taken and need to be remembered. But, unfortunately, I think based upon an analysis that I have seen of the specific language in the statute that govern even the Bracero Program, Public Law 82-78, versus the language of this particular amendment, that a number of important protections that were available to the workers at least on paper even under the Bracero Program are not available under this amendment.

Several of these have been alluded to already, but a number have not. I would like briefly to spend the time that I have trying to spell out a number of those protections that in fact were on the books under the Bracero Program and would not be in the books if this amendment were to pass.

First of all, one should fairly ask and the question has been asked in the course of this debate whether domestic recruitment is in fact a prerequisite to approval of application for foreign workers as in fact it was under section 503-3 of the Bracero Program.

Under this amendment, in fact, such recruitment is not required until after application for foreign workers has been approved, which is hardly the time to require such recruitment.

Second, must the Department of Labor under this amendment certify that there is a shortage of U.S. workers which was required under the Bracero Program, itself, under section 503 subsection 1?

In this bill there is not only no such requirement by labor, but there is no such requirement by any other governmental agency as to the availability of U.S. workers.

Third, must labor be asked to certify that there will be no adverse effect on U.S. working conditions as was required even under the Bracero Program? In this bill, although there is some general language, there is no specific language; no specific requirements set out and no certification requirement is in fact mandated.

In the Bracero Program, foreign recruitment was governed by an intergovernmental agreement under section 501. There is no such requirement under this amendment. Even under the Bracero Program, foreign workers were guaranteed subsistence expenses while traveling to the work site. There is no such requirement under this amendment.

Under even the Bracero Program, an essential element of it was that foreign workers were guaranteed a written contract. Under this amendment no such written contract would, in fact, be required. Even under the Bracero Program foreign workers were guaranteed employment for a minimum period of time, whereas under this amendment there is no such requirement.

Under the Bracero Program, the Department of Labor was authorized to set a special minimum wage above the prevailing rate if necessary to avoid adverse wage effects; there is no such requirement under this program. Even under the Bracero Program, the discredited Bracero Program, the foreign workers were guaranteed employer-provided housing. Under this program, under this amendment, no such requirement is provided, although the grower may give the workers a daily allowance, but they would have to locate their own housing.

Even under the Bracero Program, foreign workers were guaranteed that tools and equipments would be provided without charge. There is no such requirement under this program.

Are foreign workers guaranteed meals—would be provided at cost—as they were under the standard working contract within the terms of the Bracero Program? Under this amendment, no such requirement obtains.

Is there express recognition of the alien's right to organize and bargain as there was under the Bracero Program? Not in the Panetta amendment. These rights are guaranteed even under the Bracero Program. These rights do not exist in this amendment.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, obviously the rumbles of the trains are rolling and it is difficult to come up here and oppose a gentleman as distinguished as Mr. PANETTA in this body. This amendment described by him sounds reasonable.

The program reduces Government involvement and limits protections for foreign and domestic workers. Specifically—

First, the Panetta amendment provides even fewer protections than the Bracero Program of the forties, fifties, and sixties, which was highly criticized for its adverse effect on domestic and foreign workers.

Second, past guestworker programs of this kind both here—bracero—and in Europe have been found to spur undocumented immigration on the part of foreign workers who simply don't return home.

Third, in an effort to encourage foreign workers to return home, the amendment would require contributions to a trust fund that could not be given back to an alien until he returned to his home country. However, these contributions may not be sufficient to induce aliens to leave the United States.

Fourth, foreign workers could be admitted for up to 11 months at a time. This is another reason why it is foolish to believe that they will return home and seek legal reentry to the United States the next year.

Fifth, there is no ceiling on the number of foreign workers to be admitted. The numbers could range from 150,000 to 500,000 yearly, which would cause severe competition with domestic workers.

Sixth, domestic workers wouldn't have to be recruited until after an employer's application for foreign workers had been approved. Even then, there is no means set out in the amendment for enforcing the recruiting requirement.

Seventh, recruitment of domestic workers would only have to be done locally. Thus, domestic workers available outside a local area of recruitment might not be made aware of job opportunities.

Eighth, domestic workers displaced by temporary workers will be disproportionately Hispanic. Additionally, Hispanics in urban areas will be vulnerable to the competition of the displaced rural workers who move to cities seeking employment.

Ninth, since the Panetta amendment doesn't guarantee foreign workers a minimum period of employment, a large pool of foreign workers in the United States will begin to compete with one another and with domestic workers. This will ultimately depress farm wages and working conditions.

Tenth, although Panetta provides that wages and working conditions for foreign workers should not adversely affect the wages and conditions for domestic labor, there is no standard established to measure such adverse effect.

Eleventh, foreign workers would enter the country without guaranteed employment or a contract with any particular employer. Consequently, they could spend a considerable amount of money to get here and find no jobs once they arrive.

Twelfth, there is no standard for determining whether housing that an employer provides a foreign worker is adequate.

Thirteenth, although employers could be penalized for violations of the program, no mechanism is set out in the Panetta amendment to carry out this enforcement provision.

Fourteenth, foreign workers would be ineligible for Federal legal services.

□ 1850

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Chairman, we have been listening now to debate for 4 full days. I am sure that this is the most confusing debate that we have ever had in this House, at least in the last 20 years.

In one instance we tell the American people that Simpson-Mazzoli is immigration reform. We tell them that this legislation is designed to stem the flow of the undocumented and to gain control of our borders.

Then we tell the American people we are going to do all of this by imposing sanctions on the employer. No consideration was given to the effects deriving from those sanctions. What will it do to the Hispanic, for example, and other minority groups? It was thoroughly discussed here in this House, but no one listened. So the amendment was adopted.

Now after all of this was done, we come back and tell the American people we did not really mean that, we did not really mean that we wanted to stop people from coming into the United States. So what we are going to do under the guise of immigration reform, in an immigration bill, is to provide you with an H-2 program. Now that was H-2 program No. 1. Not this one that we are talking about, but the first H-2 program.

Well, I opposed that program because I felt that there were not enough safeguards to protect domestic workers and for other reasons.

But now comes H-2 program P. Now H-2 program P does not mean perfect. P, I suppose, means Panetta. We have now a situation where we know that people under this program will be coming into the United States, but we do not know how many. What we do know is that there are no enforcement standards in this proposal. We do not know exactly what is going to happen insofar as the health is concerned of the individual or of the American people. We do not know anything about field sanitation because someone else is going to make those determinations.

But who is this someone else?

Let me read to my colleagues what the amendment says.

It says: It is the sense of Congress that the President should negotiate with representatives of the governments of labor source countries to establish bilateral advisory commissions in order to consult and advise the Attorney General regarding first, the regulations to be promulgated.

In other words, a foreign country is going to tell us what to do.

Then it goes on to say second, the monthly and annual numerical limitations to be established; third, the entry and preference and visa-issuance system to be established and the problems arising under the program that are established.

In other words, they are going to tell us about it.

But one thing I am glad about and that is that they are at least going to discuss some of the problems that will arise from this amendment. The truth of the matter is that one thing that we do know and that is we did have a Bracero Program, that at least 500,000 men came in every year. We also know that over a period of more than 20 years, 4½ million men came to the United, States. We know that they were men between the ages of 17 and 37. We know that they came here and worked hard, but babies were also born. These men did not get up early in the morning, at 5 o'clock in the morning, and work until 5 in the afternoon and then immediately go to bed. They married here; children were born here in the United States.

I am bringing that to your attention because the same thing is going to happen with the men who come into the United States under this program. One cannot fight human nature. The truth of the matter is that children will be born. We will have to provide for their schooling. Then when the time comes, if it ever comes, we will send all these children back to their country of origin and make them the illegal aliens that we will send to Mexico and to the other countries as we did under the Bracero Program.

I would like to bring that to the attention of the House because you just cannot escape reality. These men are coming in, they are not going to go back to their country. They are going to remain here.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. Mazzoli] to close debate.

Mr. MAZZOLI. Mr. Chairman, may I again tell my friends in the House what a wonderful job you have done. How proud I am to have worked with you because we have done a monumental job against high odds, against the estimates of a lot of very talented observers of the legislative process. We have been able to make a very, very fine effort on a very difficult piece of legislation.

I am glad that my friend from California [Mr. Thomas] is on the floor because earlier today when the gentleman from Kentucky must have been in the back talking to someone else, the gentleman was talking about onions and the fact that the gentleman from Kentucky does not know much about onions coming from the city part of Kentucky.

Well, I will tell my friend something. I have a better one than that—all you ever wanted to know about hogs and were afraid to ask.

In 1978, one of our former Members, Congressman Mike Blouin, had a little program in which he invited city Members to come to his farming area of Iowa.

I remember once going to Iowa with Mike. He got us up in the morning and we put on our blue jeans, and tied the bandana around our neck, and went out there to the milking parlor. We get behind the cows, and start slapping them, and try to move them here and there, and feed them, and trying to milk them at the same time. After that we had a press conference.

Then we went over to the hog farms, down the road, 20 miles away. I did not realize why they asked me to bring a big pair of rubber overshoes until I got to the hog farm. Then I realized what they were for—you wear them. They give you a big wide scoop like a coal shovel. You take that big wide scoop and you go into the middle of what looks like brown earth but is not. We shoveled it.

So, anyway, when I got finished with that, I told my friend, Mike Blouin, that this city boy from Kentucky learned an awful lot more about hogs than he ever really wanted to know.

I tell my friend from California, he taught me a lot more about onions than I really wanted to know.

Let me in passing say to my friends I have had a chance to visit with some of the growers who have been at times mischaracterized in this debate. The people whom I have visited in California, in the gentleman's district, are delightful, wonderful people.

I have had a chance to go Visalia to visit with the people in that area and have a nice visit in the remodeled train depot. I have visited my friend, Leroy Gianini, whom I met out there. We have had lots and lots of interesting times with, if my memory is correct, the Sarobian family, and Mr. and Mrs. Kaprelian.

Let me just say that while growers are not perfect the growers are so very important to America. They are not perfect and that is why you have a gentleman like Mr. Miller from California who observes the growers who exploit their people. That is why we have farm labor laws.

The amendment of the gentleman from California [Mr. PANETTA] is not a mean-spirited offering. However, it is an offering which I oppose. It is an offering which I hope does not pass. It comes from the heart of a man trying to deal with a problem: How do we in America grow what we need to grow, how can we serve these farmers who are so vital to America. How can we help them help themselves?

We have different views. We have seen the different views ventilated today. Whatever the vote is, the committee will live with it.

Let me just suffice it to say, and I will yield back the balance of my time, that the gentlemen and gentlewomen who support or oppose this amendment are in each and every way trying to do the best thing. Whatever happens we think we can deal with.

I would just say, Mr. Chairman, again it has been an elevating debate, an interesting debate.

I yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 42 reported by the Committee on Agriculture and offered by the gentleman from California [Mr. PANETTA].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PANETTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 172, not voting 33, as follows:

[Roll No. 241]

AYES—228

Alexander
Andrews (NC)
Anthony
Archer
Badham
Barnard
Bartlett
Bateman
Bedell
Bereuter
Bethune
Bilirakis
Billey
Bosco
Boucher
Brooks
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carper
Chandler
Chappell
Chappie
Cheney
Coats
Coelho
Coleman (MO)
Conable
Corcoran
Coughlin
Coyne
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dorgan
Dowdy
Dreier
Duncan
Dyson
Edwards (AL)
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Fazio
Fiedler
Fields
Fish
Flippo
Foley
Fowler
Franklin
Fuqua
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Harkin
Hatcher
Hefner
Heftel
Hightower
Hiler
Hillis
Holt
Hopkins
Horton
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jones (NC)
Jones (TN)
Kasich
Kemp
Kramer
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lungren
Mack
MacKay
Madigan
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
McCain
McCandless
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
Michel
Miller (OH)
Molinari
Montgomery
Moore
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Neal
Nelson
Nichols
Nielson
Olin
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Petri
Porter
Pritchard
Pursell
Quillen
Rahall
Regula
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Roukema
Rowland
Rudd
Sawyer
Schaefer
Schulze
Shaw
Shumway
Shuster
Siljander
Sisisky
Skeen
Slattery
Smith (IA)
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Stump
Sundquist
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Whitten
Winn
Wortley
Wylie
Yatron
Young (FL)
Zschau
Williams (OH)
Wilson
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Young (AK)
Young (MO)

NOES—172

Ackerman
Addabbo
Akaka
Albosta
Anderson
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Barnes
Beilenson
Bennett
Berman
Bevill
Biaggi
Boehlert
Boggs
Boner
Bonior
Bonker
Boxer
Britt
Brown (CA)
Bryant
Burton (CA)
Carr
Clay
Clinger
Coleman (TX)
Collins
Conte
Conyers
Cooper
Dellums
Dixon
Donnelly
Durbin
Dwyer
Dymally
Eckart
Edgar
Edwards (CA)
Erdreich
Evans (IL)
Fascell
Feighan
Florio
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gejdenson
Gephardt
Gonzalez
Green
Hall (IN)
Hamilton
Harrison
Hawkins
Hayes
Hertel
Howard
Hoyer
Hughes
Johnson
Jones (OK)
Kaptur
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Lehman (FL)
Leland
Levin
Levine
Lipinski
Lloyd
Long (MD)
Lundine
Markey
Martinez
Mazzoli
McCloskey
McDade
McKinney
McNulty
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Natcher
Nowak
Oakar
Obey
Ortiz
Ottinger
Owens
Patterson
Pease
Penny
Pepper
Perkins
Pickle
Price
Rangel
Ratchford
Ray
Reid
Richardson
Ridge
Rinaldo
Rodino
Roe
Rostenkowski
Roth
Roybal
Russo
Sabo
Savage
Schneider
Schroeder
Schumer
Seiberling
Sharp
Shelby
Sikorski
Skelton
Smith (FL)
Smith (NJ)
Solarz
Stark
Stokes
Stratton
Swift
Synar
Torres
Towns
Udall
Vandergriff
Vento
Walgren
Waxman
Weaver
Weiss
Wheat
Williams (MT)

NOT VOTING—33

Bates
Boland
Borski
Breaux
Clarke
Courter
Crockett
Dingell
Downey
Early
Ferraro
Frenzel
Garcia
Gray
Guarini
Hansen (ID)
Hansen (UT)
Hartnett
Hubbard
Jeffords
Lujan
Marlenee
Marriott
Mavroules
O'Brien
Oberstar
Paul
Scheuer
Sensenbrenner
Shannon
Simon
Studds
Wolf

☐ 1910

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Studds against.

Mr. O'Brien for, with Mr. Downey of New York against.

Mr. Lujan for, with Mr. Guarini against.

Mr. Hansen of Utah for, with Mr. Gray against.

Messrs. YOUNG of Alaska, FOGLIETTA, RINALDO, and CARR changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Amendment No. 43 is in order at this time. Does the gentleman from California [Mr. MILLER] desire to offer amendment No. 43?

Mr. MILLER of California. I do not, Mr. Chairman.

The CHAIRMAN. Amendment No. 44 is in order at this time. Does the gentleman from California [Mr. MILLER] desire to offer amendment No. 44?

Mr. MILLER of California. I do not, Mr. Chairman.

The CHAIRMAN. Amendment No. 45 is in order at this time. Does the gentleman from Texas [Mr. SAM B. HALL, JR.] desire to offer amendment No. 45?

Mr. SAM B. HALL, JR. Mr. Chairman, I wish to make a statement with reference to withdrawing amendment No. 45.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. SAM B. HALL, JR.] is recognized for 5 minutes.

There was no objection.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. SAM B. HALL, JR. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that the gentleman will make a statement on this amendment and then withdraw it by unanimous consent. There will be no vote, therefore, called on the amendment, and it might be good for our colleagues to know that no further votes are anticipated for the rest of this evening.

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Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SAM B. HALL, JR. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Texas for yielding.

Mr. Chairman, very briefly, amendment No. 45 of the gentleman from Texas [Mr. SAM B. HALL, JR.] will be discussed and withdrawn, at which point the gentleman from Kentucky will move that the Committee rise, which will end our work for tonight.

On tomorrow, we will consider the bill, H.R. 1510, and consider only the amendments numbered 49 through 60 or those of which we can dispose. Then the gentleman from Kentucky will move that the Committee rise to end our business tomorrow on this bill.

The next consideration of this bill, H.R. 1510, will occur next Tuesday, at which time we will begin with amendment No. 46, the amendment of the gentleman from California, the amendments on legalization, and we will proceed sequentially through the remainder of the bill on next Tuesday.

Mr. Chairman, I thank the gentleman from Texas [Mr. SAM B. HALL, JR.], and if it is in order, I would ask unanimous consent that the gentleman be restored his time.

The CHAIRMAN. The gentleman from Texas [Mr. SAM B. HALL, JR.] is recognized.

(By unanimous consent, Mr. SAM B. HALL, JR., was allowed to proceed for an additional 3 minutes.)

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. SAM B. HALL, JR.] is recognized for 8 minutes.

There was no objection.

Mr. SAM B. HALL, JR. Mr. Chairman, I will not offer my amendment that would have required foreign engineers compliance with the same foreign residence requirements mandated for all other foreign students: namely, upon completion of their studies, they will have to leave the United States for 2 years.

I do this with reservation as I question the wisdom of a policy that grants unlimited access of foreign engineering students to the U.S. job market. The question continues to arise in my mind as to how many American graduates will be displaced as the result of the unlimited waiver position included in section 212 of this bill.

Too, the unlimited access of foreign engineering students to the U.S. job market serves to inhibit the typically American process of upward social mobility on the part of America's poor. Equality of opportunity is a keystone of Federal education and employment policy. The problems facing minorities and the handicapped in science and engineering can only be compounded by the easy access of foreign students to our job market, as is provided in H.R. 1510.

Though the United States has traditionally accommodated immigrants of exceptional merit and ability in their professions, H.R. 1510 establishes no restrictions on the numbers of foreign students studying in the exempted fields who, upon graduation, will be allowed to take jobs and residency in the United States. It is one thing to reserve a numerically small category for persons of exceptional professional or scientific merit, renowned in their fields, and offering signficant contribution to the national interest if they immigrate to the United States. It is something altogether different to create a significant channel for immigration of trained professionals into the United States of a magnitude that will deprive developing countries of the highly skilled persons they need, and threaten the employment prospects of American students graduating from our engineering schools.

The Attorney General, if he deems it to be in the public interest, may waive the 2-year residency requirement for 1,500 individuals a year who have been offered a teaching position at a college or university teaching in his field in the natural sciences, mathematics, computer sciences, or engineering.

An additional 4,500 individuals a year with terminal degrees in the natural sciences, mathematics, computer sciences, or engineering may receive a waiver from the Attorney General to accept a research or technical position from a U.S. employer in his degree field.

Finally, Mr. Chairman, it is my hope that the Congress will work to correct flaws in the systems of labor certification administered by the Department of Labor. This system, which was instituted as a protective device for American workers, has not served to prevent aliens from being hired under conditions in contradiction to immigration law and under conditions which adversely affect the wages and working conditions of American employees. The intent of the system is beyond reproach; the realities of the system are beyond belief.

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

## ANNOUNCEMENT BY THE MINORITY LEADER

Mr. MICHEL. Mr. Speaker, I wish to inform the House of a change in the membership of the Republican objectors for the Private Calendar. The change is required because of the resignation of the gentleman from Virginia [Mr. BLILEY]. The following Members will be the official objectors for the Private Calendar for the remainder of this Congress: the gentleman from Wisconsin [Mr. SENSENBRENNER], who, incidentally, today underwent some surgery again as a result of that unfortunate exit from his home that was burning; the gentleman from Colorado [Mr. BROWN]; and the gentleman from Ohio [Mr. DEWINE].

## COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was, without objection, referred to the Committee on Appropriations:

There was no objection.

COMMITTEE ON PUBLIC
WORKS AND TRANSPORTATION,
*Washington, DC, June 6, 1984.*

Hon. THOMAS P. O'NEILL,
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects May 10, 1984:

LEASES

525 Market Street and 120 Howard Street, San Francisco, CA.

550 Kearny Street, San Francisco, CA.

Minerals Management Service, Anchorage, AK.

1720 Peachtree Street, Atlanta, GA.

5331 and 5333 Westbard Avenue, Bethesda, MD.

1275 Market Street, San Francisco, CA.

Internal Revenue Service, Los Angeles, CA.

CONSTRUCTION

Border Inspection Facility, El Paso, TX.

Border Station Inspection Facility, Lynden, WA.

Border Station Facility, Sumas, WA.

REPAIR AND ALTERATION

Interior Building, Washington, DC.

U.S. Post Office/Courthouse, San Antonio, TX.

U.S. Post Office, Manchester, NH.

U.S. Post Office/Courthouse, Scranton, PA.

Blair House, Washington, DC.

U.S. Courthouse, Los Angeles, CA.

JFK Federal Building, Boston, MA. Patrick V. McNamara Federal Building, Detroit, MI.

J. C. Kluczynski Federal Building, Chicago, IL.

Anthony J. Celebrezze Federal Building, Cleveland, OH.

Fort Worth Federal Center No. 5, Fort Worth, TX.

Federal Building, Asheville, NC.

Appraisers Building, San Francisco, CA.

U.S. Post Office/Courthouse, Oklahoma City, OK.

District Heating System, Washington, DC.

Auditors Building, Washington, DC.

Federal Building, Des Moines, IA.

Federal Building/Courthouse, Las Vegas, NV.

Federal Building/Courthouse, Lafayette, LA.

G. H. Fallon Federal Building, Baltimore, MD.

U.S. Post Office/Federal Building, Lansing, MI.

U.S. Courthouse and Customhouse, St. Louis, MO.

Federal Building/Courthouse, Utica, NY.

Moorhead Federal Building, Pittsburgh, PA.

Cabell Federal Building/Courthouse, Dallas, TX.

Fort Worth Federal Center, No. 1, Fort Worth, TX.

Federal Building, Los Angeles, CA.

Denver Federal Building, Lakewood, CO.

Archives Building, Washington, DC.

Department of Health and Human Services North, Washington, DC.

Howard Street Parking Facility, Detroit, MI.

Federal Building, New York, NY.

5000 Wissahickon, Philadelphia, PA.

Post Office/Courthouse, Alexandria, VA.

Pentagon, Arlington, VA.

Hawthorne Federal Building, Hawthorne, CA.

Federal Building/Customhouse, Denver, CO.

Federal Records Center, East Point, GA.

Federal Building/Courthouse, Peoria, IL.

U.S. Post Office, Fort Wayne, IN.

U.S. Courthouse, Wichita, KS.

U.S. Post Office/Customhouse/Courthouse, Louisville, KY.

U.S. Post Office/Courthouse, Sioux City, IA.

The original and one copy of the authorizing resolutions are enclosed.

Every best wish.

Sincerely,

JAMES J. HOWARD,
*Chairman.*

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## GENERAL LEAVE

Mrs. JOHNSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York (Mr. KEMP).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

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## THE INCOME AND JOBS ACTION ACT OF 1984

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HAYES. Mr. Speaker, the crisis of unemployment in our society has continued to have a devastating effect on an increasing number of American families for over 45 years. As of April 1984 over 8.8 million of our citizens were out of work, and estimates of those whose lives have been disrupted, directly and indirectly, by unemployment and underemployment during the last 12 months range as high as 71.2 million.

Although current Bureau of Labor Statistics figures indicate that there has been a slight improvement in the jobless rate, those figures fail to include the many men, women, and young people who have exhausted their unemployment benefits or who have become so discouraged that they have discontinued their search for jobs.

With joblessness among women, young people, ethnic minorities, immigrants, senior citizens, and residents of urban ghettos and areas which have suffered disproportionately from industrial decline, reaching well over twice the national average, it is obvious that new and innovative strategies and a new spirit of cooperation between Federal, State, and municipal governments and the private sector are needed in order to attack this critical problem and restore the lost hopes of millions of Americans.

It is with this thought in mind that I, along with my distinguished colleague, Congressman JOHN CONYERS, JR., have introduced H.R. 5814, the Income and Jobs Action Act of 1984.

This much needed legislation reformulates for the 1980's the spirit embodied in the economic bill of rights of President Franklin D. Roosevelt and legislation sponsored by my distinguished congressional Black Caucus colleague, AUGUSTUS F. HAWKINS among others: That every American citizen is entitled to a good job at decent wages or—in the absence of the above—an income adequate to ensure a decent standard of living.

The Income and Jobs Action Act of 1984 is a wide ranging program to rebuild America by bolstering the mass purchasing power of men and women working at good wages. It is designed to complement other existing initiatives to provide jobs for the jobless, food for the hungry, homes for the homeless, hope for small businesses and family farmers and an end to inflation causing deficit.

Under H.R 5814, business, labor, the unemployed, voluntary groups, women, and minorities would develop income and jobs planning in our neighborhoods, cities, and counties. These efforts would be supported by Federal action to lower interest rates, expand needed private and public works services, reduce the work and provide improved incentives for all private sectors and local and State governments.

It is our intent by introducing the Income and Jobs Action Act of 1984 to provide the kind of security and purchasing power that will lead America to more responsible growth, an improved quality of work and environment, increased efficiency by capital and labor, more opportunities for small businesses and stable business profits. A summary of H.R. 5814 follows:

### THE INCOME AND JOBS ACTION ACT: SUMMARY

This "call-to-action" bill has six sections. It begins with a short title and statements of two fundamental rights. This is followed by sections on conversion, locally-rooted general planning and a financial program. These would create conditions under which the two rights may be freely exercised.

### SEC. 1. SHORT TITLE: "THE INCOME AND JOBS ACTION ACT"

This is an Action Act because it can be used to inspire constructive activity throughout the country to—

(1) Get a President and a Congress committed to work together for genuine and sustainable recovery based on good jobs and income, and

(2) Prepare a full package of all the many measures—both private and public, local and state as well as national—required to carry out the act's aims.

When and if passed, moreover, the bill provides immediate action by transferring one percent of military spending to conversion planning.

Why "Income" before "Jobs"? Because income from a good job at decent wages is personally and socially preferable to income from transfer payments. But if jobs at decent wages are not available, then adequate income must be supplied.

The long title refers to a full employment society rather than economy. This stresses the social, ethical, moral and political—as well as economic—aspects of income-jobs planning and action.

### SEC. 2. THE RIGHT TO EARN A LIVING

(a) Every adult American able and willing to earn a living through paid work has the right to a free choice among opportunities for useful, productive and fulfilling paid employment (part- or full-time) at decent wages or self-employment.

This commitment reformulates for the 1980's Franklin D. Roosevelt's 1944 "right to a useful and remunerative job" and the "right to full opportunities for useful paid employment at fair rates of compensation" in the Hawkins-Humphrey Act of 1978.

The next subsection requires all federal agencies to work together to attain and maintain "conditions under which all adult Americans may freely exercise this right."

Sec. 2(c) prohibits the Federal Reserve Board (and other regular or "independent" agencies) from ever again using "recession, stagnation, or involuntary unemployment to reduce wages and salaries or inflation".

### SEC. 3. THE RIGHT OF THOSE UNABLE TO WORK FOR PAY

(a) Every adult American unable to work for pay has the right to an adequate standard of living that rises with increases in the wealth and productivity of the society.

This principle is already embodied in unemployment compensation, public assistance, food stamps, rent subsidies, and other transfer payments to the poor—but in distorted form.

Distortion One: Many recipients are now regarded "unemployable" even though they are or would be employable if certain minimum conditions—decent job opportunities (including part-time ones), child day care, relevant job training or education, etc.—were met. Section 3(b) clarifies this dangerous misunderstanding.

Distortion Two: the income received is often inadequate. Section 3(c), therefore mandates an adequate standard of living, defining adequate as the Bureau of Labor Statisitics' "moderate level of living . . . for an urban family of four."

### SEC. 4. CONVERSION PLANNING

One percent of the Department of Defense's annual appropriations are to be transferred every year to a new Conversion Planning Office set up in the Executive Office of the President.

This office will promote two closely related kinds of conversion: (a) from military to civilian and (b) from civilian sectors (auto, steel and many others in which employment has been and/or will be declining because of labor-displacing technologies, high interest reates and Third World austerity) to areas of needed civilian expansion.

### SEC. 5 LOCALLY BASED PLANNING

This section provides for President-Congress cooperation in planning and implementing a staged program to carry out the intent of the previous sections.

This is to be done in a manner "designed to prevent or counterbalance any undue concentration of Federal or corporate power." Thus the government will actively foster non-federal planning for sustainable recovery and full employment by—

(1) town, city, county, and State governments and their agencies in urban, suburban, and agricultural areas of the country, and

(2) small and large business enterprises; labor organizations and trade unions; the unemployed; nonprofit, voluntary and cooperative organizations (including neighborhood, tenant and home owners' associations and corporations); women; and racial and ethnic minorities. This means inclusive, rather than exclusive partnerships locally and nationally.

Improved Federal incentives (guarantees, loan, contracts, tax deductions, etc.) would be provided for all of the above. Incentives for larger corporations would be conditioned on "their living up to well-defined standards of corporate responsibility." Thus appropriate advance notice, termination payments, etc. may be required of a company before it decides to "close, substantially reduce, or relocate its operations."

Also, quick action is mandated to create productive jobs through reductions in real and nominal interest rates, the provision of desperately needed private and public works and services, and voluntary work sharing.

Longer-range measures include (1) the expansion of voluntary part-time employment with fringe benefits, (2) staged reductions in paid working time (with the average work week in manufacturing cut to 35 hours) with no corresponding loss in wages, (3) other steps to cope with technological unemployment, (4) improved education and training of managers, technicians, the employed and the unemployed, and (5) measures to control inflation.

### SEC. 6. FINANCIAL PLAN

The program mandated in this bill would be financed not only by the one percent transfer of military appropriations but also by such large resource shifts as (1) reductions in the military budget itself, (2) reducing or eliminating wasteful tax loopholes, (3) reducing both real and nominal interest rates, (4) the more appropriate use and direction of the enormous sums in public and private pension funds, and (5) the creation or promotion of private and public development banks, particularly in neighborhoods and other areas of high unemployment and poverty.

The bill requires a careful distinction between gross and net outlays. This takes into account both spending decreases when people move from unemployment compensation or public assistance to payrolls and the increased revenue received when they then pay taxes. Thus if a gross outlay of $100 million results in (a) $30 million less in transfer payments and (b) $20 million more in payroll and income taxes, then the net outlay is only $50 million. The regular use of such estimates—now not provided by the Office of Management and Budget or in appropriation measures—will make budgeting more rational.

## SOVIET JEWRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. KEMP] is recognized for 60 minutes.

● Mr. KEMP. Mr. Speaker, I want to thank all my colleagues in the House and Senate, and my good friend from New York [BOB MRAZEK], for participating in the second Congressional Fast and Prayer Vigil for Soviet Jewry. Most particularly I'd like to acknowledge the efforts of Lynn Singer, Carole Abramson and Bob Arsenault of the Union of Councils and the Long Island Committee for Soviet Jewry, and Mark Levin of the National Conference of Soviet Jewry and all those who took part in the vigil and helped to make it such a tremendous success.

It was gratifying to find so many familiar faces as well as some new ones among those who observed this important occasion. We all joined to show our support for our less fortunate colleagues in the Soviet Union, Republicans and Democrats, liberals and conservatives. This is an issue on which we are all united. Today also marks the 217th anniversary of the flag of our country. In Hebrew, the word for flag or banner is "nays." And that word also means miracle.

It is truly a miracle that we are able to gather together to speak out on behalf of our brethren who do not live under the same great flag of freedom as we do. And it is a blessing that we are able to do so. God has blessed America, and it is this blessing which imposes a heavy obligation on us to work to see that others share our blessing and our good fortune in living in a country which recognizes the uniqueness of each individual person.

As Elie Wiesel, noted Holocaust spokesman and author says, "indifference to evil is evil." If we do not speak out for these prisoners of conscience, they will have no voice. It is our blessing, and our obligation, to speak for them. For to stand silent in the face of evil would be evil itself.

Today I particpated on behalf of Vladimir Feltsman, a brilliant pianist who was recipient of many coveted international awards and whose future was assured—until he applied for permission to emigrate to Israel. The very day that Vladimir filed his application, his name was deleted from posters around the capital advertising his appearance as soloist with the Moscow Philharmonic, his recordings were pulled from shelves of record stores and were prohibited from being played on the air. Since then, Vladimir has been restricted to giving concerts in small towns on out-of-tune pianos, or in the tiny apartment he shares with his wife and infant son.

Last year, when I visited the Soviet Union, Joanne and I had the pleasure of attending one of the concerts in his apartment. What a crime to restrict this tremendous talent to such limited audiences when the whole world should have the opportunity of hearing him. It was to that end that I and the entire House leadership introduced a resolution expressing the sense of Congress that Vladimir Feltsman be permitted to travel to the United States to accept an engagement at the Kennedy Center. This bill was passed unanimously by both Houses in November and forwarded to Ambassador Dobrynin. There has been no reply.

Thus Vladimir Feltsman and his wife, Anna, and their child, join half a million other prisoners of conscience in the Soviet Union who are punished, harassed, not permitted to work in their fields and deprived of their basic human rights. All this for having committed the crime of being Jewish in the Soviet Union.

We must continue to show our support, as we are doing today, for individuals like Vladimir Feltsman, Andrei Sakharov, Yelena Bonner, Ida Nudel, the Slepaks, Anatoly Shcharansky, Yosef Begun, and the half million others who have applied for permission to emigrate. It is actions like today's vigil which exert pressure on the Soviets to observe minimal standards of humanity 14 years ago, after the notorious Leningrad trials, the strong demonstration of protest by other countries succeeded in commuting the sentences of two of the defendants from death to 15 years. We achieved a major victory at that time and we must continue to pursue others victories on behalf of human lives and human rights.●

● Mr. MRAZEK. Mr. Speaker, this is the Second Congressional Fast and Prayer Vigil for Soviet Jewry. As was the case last year, I'm pleased and proud for the support our colleagues in the House and Se[illegible] have lent to this cause. Almost [illegible] Members of Congress will participate in today's activities, sending a clear message from Capitol Hill that the oppression of Soviet Jews will not be ignored by this body, nor by the American people.

In our great country, it is not difficult to become complacent on the subject of freedom. We speak as we please, worship as we please, and are free to come and go as we please. Other than economic realities, virtually nothing constrains us from living the lives we desire within the boundaries of civilized behavior.

This unparalleled social structure has only one drawback. For most of us, it makes comprehension of a totalitarian state that much more difficult. We can't imagine a government which would silence criticism, punish individuality, and imprison on the basis of expressions of conscience.

Yet, just an airplane ride away, men and women are imprisoned for their beliefs and incarcerated for crimes fabricated by a paranoid state. Families are torn asunder simply because they desire unity in spirit with those sharing a common heritage. In the face of international human rights agreements and the unspoken code of humanity, thousands of Soviet Jews remain prisoners within their own land.

For the past several years, Soviet Jews have become undeserving pawns in an international battle of wills. As relations have chilled, the souls of innocent men, women and children are frozen. The ability of this body to help change this tragic reality is beyond question, and it is our responsibility to exact this change.

The figures do not lie. Since 1979, Jewish emigration from the Soviet Union has declined steadily. Applications to leave the country are ensnared in redtape by design. Those who protest are jailed, or stripped of their livelihoods and forced to suffer through an endless waiting game to breathe free.

Beyond this, even those who wish to live out their lives in their native land are harassed in their careers and their religion. The Soviet state encourages flight from oppression, then cruelly denies it.

You'll notice that many of us participating in today's statement against intolerance carry the name of a Soviet refusenik that we have adopted for a day. It is possible to debate whether we are worthy of the brave souls we sponsor, but let us assume that our spirit of commitment can join with those we honor to bring added strength to their cause. Let us hope, in the words of Robert F. Kennedy, that:

> Each time a man stands up for an ideal or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope * * * and crossing each other from a million different centers of energy and daring those ripples build a current that can sweep down the walls of oppression and resistance.●

● Mr. FASCELL. Mr. Speaker, it is a privilege to participate with our colleagues today in the second annual "Congressional Fast and Prayer Vigil for Soviet Jewry." I commend Representatives MRAZEK, PORTER, LANTOS, and KEMP and Senators LEVIN and HEINZ for organizing this year's event and I pledge my continuing support for the aims of the Prayer Vigil. Expressions of congressional concern for Soviet Jews, such as today's fast and vigil, are vital to demonstrate to Soviet authorities our deep and abiding commitment to this cause.

I would like briefly to call the attention of our colleagues, Mr. Speaker, to the plight of my adopted Soviet Jewish family, Maria and Vladimir Slepak. Vladimir, a radio and television engineer, Maria, a physician, and their two sons, Aleksandr and Leonid, first applied to emigrate in 1970 to rejoin Maria's mother in Israel. After 8 long years of refusals, the parents hung a banner on the balcony of their Moscow apartment proclaiming their plea to emigrate. For this act, Vladimir, a member of the Moscow Helsinki Monitoring Group, was convicted of "malicious hooliganism" and sentenced to serve a 5-year term of internal exile. Maria, who received a suspended sentence, joined him in Siberia, where they lived under difficult conditions. Returning to Moscow in December 1982, Vladimir and Maria have continued their efforts to emigrate, now to rejoin their sons who were finally allowed to leave and the grandchildren they have never seen.

Mr. Speaker, as Chairman of the Helsinki Commission which monitors Soviet compliance with the human rights provisions of the 1975 Helsinki accord, I feel a special affinity toward those Soviet citizens, like Vladimir Slepak, who took upon themselves the thankless task of monitoring their government's adherence to the Helsinki pledges. I know I speak for all members of the Helsinki Commission—and for many, many others in the Congress—when I reaffirm our determination to continue our efforts until the human rights of the Slepaks and the thousands of Soviet Jews seeking to emigrate are finally respected. While I hope another Fast and Prayer Vigil for Soviet Jewry will not be necessary next year, I know that we are all prepared to come back year after year, if that is what is required, to convince the Soviet Government to allow freedom for Soviet Jews.●

● Mr. BARNES. Mr. Speaker, today, June 14, marks the Congressional Prayer and Fast Vigil for Soviet Jewry, and also the 14th anniversary of the Leningrad trials, and the imprisonment of 11 Soviet dissidents. This Vigil demonstrates not only our determination here in this Congress to continue fighting for the rights of Soviet Jews, but also a reconfirmation of the bonds that unite us with those in the Soviet Union who cherish freedom.

This Congressional Prayer and Fast Vigil is a symbol of solidarity in the cause for recognition of and respect for human rights in the Soviet Union. But also, for me, it is a time for understanding better the personal, day-today struggle of a young man named Alexander Pevzner, a refusenik that I have been helping since my first term in Congress.

Alexander Pevzner has tried unsuccessfully or 5 years to emigrate. Alexander's parents live in the United States and they have tried for years to be reunited with their son and his family. I continue to appeal to Soviet officials to reconsider their denial of his request.

I know that Alexander will continue to have hope, as long as we in the free world continue our work on his behalf, and for those like him, who should be able freely to leave the Soviet Union. We in Congress must continue our most sincere efforts to help these families. We must be persistent in our call upon the Soviet Union to change their unnecessarily restrictive emigration policies that have so tragically prevented families like the Pevzners from being together.

We have a responsibility, as Members of Congress, to continue protesting the oppressive and unfair treatment of Soviet Jews and others who are powerless to change their unfortunate situation.

Today, as we unite in sympathy with the Soviet Jews, I hope that soon—with our help and vigilance—Alexander Pevzner and others like him will be successful in their search for freedom.●

● Mr. DONNELLY. Mr. Speaker, I am honored to participate in today's Congressional Vigil for Soviet Jewry.

Soviet Jews are being subjected to unprecedented persecution and state-sponsored harassment. While 51,320 Soviet Jews were allowed to emigrate in 1979, the peak year, only 1,315 were permitted to emigrate in 1983. This year shows no improvement, in fact, the situation is getting worse. Reports reaching us from the refusenik community in the Soviet Union indicate that the level of physical harassment is escalating to a frightening extent. Confinement in psychiatric hospitals is evidence of this most ominous trend.

Nadezhda Fradkova has applied to emigrate to Israel since 1978. Her appeal has been repeatedly rejected, and she has been unable to find work in her field of mathematical linguistics since her first application to emigrate 6 years ago. On May 2, Nadezhda was detained by three KGB agents who took her against her will to a psychiatric hospital in Leningrad. She was put in a ward for mental patients who are particularly violent and require constant observation. She was subjected to frequent interrogations about her personal life and her reasons for wanting to emigrate from the Soviet Union. Finally, she was released on May 5. Now that Nadezhda has been admitted to a psychiatric hospital, she risks further forced hospitalization because she is now considered a "psychiatric case."

Alexander Maryasin, who lives in Riga, the capital city of the Soviet-occupied country of Latvia, is a refusnik I have taken a personal interest in, and have attempted to correspond with. Unfortunately, it is apparent that my mail has never gotten through the Soviet censors. Alexander, his wife, Leah, and their daughter, Fania, have applied for emigration visas without success since 1974. Their other daughter, Rita, emigrated in 1973, and since then Alexander has been out of work, and Fania was expelled from university studies. On numerous instances, this fine family has been subjected to abuse and harassment simply because they have expressed a legitimate wish to emigrate from the Soviet Union.

Today's Congressional Vigil for Soviet Jewry sends a strong, clear message to Soviet Jewish families that their plight is utmost in our minds, they have not been forgotten, and we will use every avenue to press for their legitimate right to emigrate. Likewise, today's Vigil sends a strong and clear message to Soviet officials that the stepped-up campaign of harassment against the Jewish community in their country is abhorrent to the civilized world, and serves as an impediment to better relations between our nations.

In closing, let me commend my colleagues for organizing the Vigil. It is important that we reemphasize our untiring commitment to the just cause of Soviet Jewry, especially at this most bleak time.●

● Mr. WAXMAN. Mr. Speaker, today marks the 14th anniversary of the Leningrad trials—the date when 11 Soviet citizens were arrested when frustrated in their attempts to emigrate legally from the Soviet Union, they attempted to seize an airplane to dramatize their plight and the plight of so many of their fellows.

In connection with the anniversary of those arrests and the subsequent trials, we today join in the Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

By doing so we call attention to the plight of thousands of Soviet Jews and to the thousands of other Soviet citizens who seek to avail themselves of the rights the Government of the Soviet Union committed itself to in the 1947 Universal Declaration on Human Rights, the 1966 International Convention on Civil and Political Rights and the 1975 Helsinki agreement.

The refusal of the Soviet Union to adhere to these obligations continues to contribute to the sad state of relations between our two nations.

As recently as 4 years ago, in 1979, some 51,320 Jews were allowed to emigrate from the Soviet Union. Since that time, the number has steadily declined until today it is hardly even a trickle. In January of this year only 88 were granted exit visas, in February 90, in March 51 and in April 74.

This is bad enough, Mr. Speaker. But concurrent with the refusal to adhere to agreements to provide exit visas to assist the reunification of families, the Soviet Government has instituted blatant policies of repressive anti-Semitism and harassment directed toward those of its citizens who seek to maintain their faith and their cultural identity.

This harassment, which includes arrest and imprisonment as well as the loss of jobs and the denial of medical treatment, is not directed at people who threaten to overthrow the Soviet system, but against people whose only "crime" is to wish to join families in other countries or who wish to teach their children and themselves the rich heritage of their past.

The unfortunate state of the relationship now existing between this country and the U.S.S.R. effectively precludes the possibility of bilateral negotiations that would ameliorate the situation of Soviet Jews. But it does not, it must not, deter us from expressing our outrage at the policies of the Soviet Government or our support for the victims of those policies.

● Mr. SCHEUER. Mr. Speaker, today is the Second Congressional Fast and Prayer Vigil for Soviet Jewry. I am greatly heartened by the active demonstration of solidarity for this important cause by many Members of Congress and wish to express deep appreciation to my colleagues on both sides of the aisle for their participation today.

The need for this call to conscience is unfortunately all too clear. It is no secret that in spite of the efforts of public officials and citizens of the United States, and in spite of the universal condemnation of the U.S.S.R.'s denials of emigration rights, Soviet Jewish emigration continues to decline precipitously. In 1983, Soviet emigration dropped to its lowest level in more than a decade. Only 1,315 Jews were allowed to emigrate last year, 50 percent fewer than in 1982 and 97 percent fewer than in 1979. This downward trend has continued with just 303 Jews having been permitted to leave the U.S.S.R. in the first 5 months of this year.

The right of Soviet Jews to emigrate from the U.S.S.R. is based on three international documents to which the Soviet Union is a signatory: the Universal Declaration on Human Rights of 1947, the International Convention on Civil and Political Rights of 1966, and the 1975 Helsinki Agreement. The Soviet Government, however, has largely refused to honor these international treaty obligations. According to Soviet law, each Jew applying for emigration must have an invitation (vizov) from Israel. Although more than 600,000 vizovs have been sent to Soviet Jews who have expressed a desire to emigrate since 1968, less than half of that number have actually received permission to emigrate from the Soviet Union.

While the plight of prominent refuseniks such as Ida Nudel, Anatoly Shcharansky, Dr. Alexandre Lerner, and Yuri Federov and others have received worldwide recognition for their courageous opposition to Soviet repression, the hundreds of thousands of other refuseniks awaiting exit visas are no less courageous for their persistent, although less publicized, efforts to emigrate. I would like to take this opportunity to bring the attention of my colleagues to one such case.

I recently received a letter from Georges Ullmann of Great Neck, NY, on behalf of the Khomak family of Kischinev, Nachman Khomak, an electical cable technician, retired in 1973. On July 18, 1977, Nachman submitted his first emigration application along with his wife Soibla and daughter Bella. Three months later, they received a refusal for "regime considerations." In April of 1978, Bella applied separately for permission to leave the Soviet Union. After numerous refusals and scores of appeals, Bella was finally permitted to emigrate to Israel in January 1979.

Nachman and Soibla Khomak are retired pensioners over the age of 70. Both are in poor health. Last January, the Nachman's were invited by the Soviet visa bureau to submit new applications for exit visas. With renewed hope, the Nachman's diligently prepared the documentation necessary for visa applications, only to be denied once again 2 months later.

The agony and suffering endured by the Khomak family is indicative of the plight of Jews throughout the Soviet Union who desire nothing more than to be granted their right to emigrate and join relatives in Israel. I plan to issue an appeal to Soviet officials on the behalf of the Khomaks in the near future and I would welcome the support of my colleagues in this effort.

As Members of Congress, we have an obligation to call upon the Soviet Union to abide by its treaty commitments and uphold basic human rights so that the Khomaks and the many others who share their predicament may emigrate and finally be free from harassment and persecution. Our continued support is essential for these tormented Soviet citizens who are punished daily for the "crime" of wanting to live freely as Jews.●

● Mr. WEISS. Mr. Speaker, I would like to thank the sponsors of today's special order for the Fast and Prayer Vigil for Soviet Jewry.

I am fasting today for Victor Brailovsky, a refusenik who has recently been released from 3 years of internal exile in the Soviet Union. Brailovsky, a scientist, was sentenced for what Soviet officials called fabrications which defame the Soviet state and social system. The "fabrication" for which he was prosecuted was his accusing the Soviets of anti-Semitism.

Victor Brailovsky's arrest and exile—and the decade of persecution he has suffered at the hands of Soviet authorities—initially stem from his seeking the right to emigrate.

Since applying for an exit visa in 1972, Victor Brailovsky's telephone and mail service has been curtailed, his apartment placed under KGB surveillance, and both he and his wife, Irina, have been fired from their jobs. On November 13, 1980—2 days after the opening of the Madrid Conference—Victor was imprisoned. In June 1981, he was sentenced to 5 years of internal exile.

Victor Brailovsky was released from exile in March of this year. Considering the hardships of living in isolation under the extreme weather conditions in Soviet Central Asia, he is in relatively good health.

Yet, Victor's future is still uncertain. Since returning to Moscow, he has been unable to find employment as a scientist. If he remains unemployed, he could be rearrested for "parasitism."

Victor Brailovsky is only one of the more than 20,000 refuseniks in the Soviet Union. But his hardships are theirs; and his suffering and the suffering of the other 400,000 Soviet Jews who seek the right to emigrate are shared by all of us in this body today. For the sake of Victor Brailovsky and the Soviet Union's 2½ million Jews, I urge Konstantin Chernenko and other Soviet leaders to ease the harsh plight of Soviet Jewry and permit them the right to emigrate.●

● Mr. PORTER. Mr. Speaker, I am pleased to participate in this special order today and to commend my distinguished colleague and friend, Congressman ROBERT MRAZEK of New York for organizing the Second Congressional Fast and Prayer Vigil for Soviet Jewry. Today, on the steps of the Capitol, we were joined by many of our colleagues in expressing our solidarity with the oppressed peoples of the Soviet Union.

We were pleased that our colleagues in the House, Congressman JACK KEMP and Congressman TOM LANTOS, and in the Senate, Senator CARL LEVIN and Senator JOHN HEINZ, cosponsored the Fast and Prayer Vigil. I was also pleased we could be joined in our effort by my dear friend, Lynn Singer, president of the Union of Councils for Soviet Jews. I traveled to the Soviet Union with Lynn in 1982 and it was her commitment to Soviet Jews that really inspired the formation of the Congressional Human Rights Caucus, now over 200 members strong.

It was inspiring to me that against the backdrop of the U.S. Capitol, an edifice that for so many people around the world represents freedom, over 180 Members of Congress joined in support of oppressed Jews in the Soviet Union.

Today, we expressed our solidarity with Soviet Jews by fasting from sunup to sundown, and we stood on the steps of the Capitol during the prayer vigil in the hopes that our prayers for our friends in the Soviet Union, heroes like Andrei Sakharov and Yelena Bonner, Anatoly Shcharansky, Ida Nudel, Ari Volvovsky—for whom, specifically, I prayed and fasted today—and thousands of others will one day soon be allowed to live where they wish and enjoy the freedoms we, here in the United States, have enjoyed since the founding of our Republic.

In fact, it is sometimes hard for those so familiar with freedom to imagine life without it. You can describe the freedoms that we take for granted as something analogous to the food we eat. We take for granted our right to eat daily, yet by having fasted today, we feel something of what it must be like to live as a freedom-starved Jew in the Soviet Union.

For years, Members of Congress have watched with great concern and sadness as the doors to freedom have been slammed shut in the faces of Soviet Jews. Since 1979, the number of exit visas granted Soviet Jews has slowed to a mere trickle. This past winter, over 100 Members of Congress joined in writing a letter to the new leader of the Soviet state, Mr. Chernenko, expressing our concern over the treatment of Soviet Jews, the denial of exit visas, and the prevalence of government-sanctioned anti-Semitism. We had hoped that a new Soviet leader might mean a new policy that might open the door to emigration.

In addition, I met for almost 2 hours with a representative of the Soviet Ambassador at their Embassy here in Washington requesting actions regarding specific refuseniks and prisoners of conscience.

We heard no formal response to our letter from the Kremlin nor was any positive response received from the Ambassador. Instead, their inactions spoke louder than any words could have. Under Mr. Chernenko, they continue the same policy of curtailing emigration and persecuting the innocent.

Today, is a significant date in the history of the repression of Soviet Jews. Fourteen years ago, 11 courageous Soviet citizens, who were frustrated after using all available legal channels to appeal the decision by Soviet authorities to reject their applications for exit visas, resorted to desperate means to leave their oppressive homeland.

These 11, including 9 Soviet Jews, were arrested and charged with attempting to hijack a Soviet aircraft on June 15, 1970, at Leningrad's Smolnii Airport.

The Soviets planned the trials of these 11 to be show trials, and apparently decided that there would be no semblence of justice for these who the rest of the world saw as living symbols of a repressive system. The world community was dismayed at the sentences handed down. Two, both Jews, were sentenced to death and the other nine were given harsh prison terms.

Appeals were soon launched by outraged governments and peoples around the world. They based their arguments in defense of these individuals on the grounds that they had wished only to exercise their legal right to emigrate and that the restrictive policies of the Soviet Union were at fault. Although the campaign to reduce their sentences began quietly, soon an international outcry was heard. The protests, some of which were headed by some of my colleagues in the Congress, told the Soviets that we will not stand by and watch the persecution of Soviet Jews. The Congress didn't stand by during the Leningrad trials without protesting.

Today, we refuse to stand by idly. And tomorrow we will continue our fight against Soviet oppression.

The Soviet Government was shocked by the reactions of the international community in support of these Leningrad prisoners. As a result of these strong protests, the death sentences were commuted to prison terms and the lengthy prison terms were reduced. Today, only 2 of the original 11 remain in prison, and one, Alexei Murzhenko, is scheduled to be released from prison tomorrow, June 15, 1984. And let us say something positive when the Soviets do respond with a measure of humanity to world opinion and pressure, and I do.

And today, we stood on the steps of the Capitol and fasted to express our solidarity with the cause of Soviet Jewry. We turn to the Soviets and promise we will not give up our fight on behalf of our brethren in the Soviet Union. We express our hopes and dreams that one day soon, we will see our friends from the Soviet Union living in freedom.●

● Mr. MORRISON of Connecticut. Mr. Speaker, today, I join many of my colleagues in the House and Senate who are participating in this year's Congressional Prayer and Fast Vigil for Soviet Jewry. I am participating in this vigil to bring attention to the terrible plight of nearly 500,000 Soviet Jews who have been denied the right to emigrate from the Soviet Union.

As you may know, today marks the 14th anniversary of the infamous Leningrad trials of 1970. During these trials, 11 Soviet dissidents were unjustly tried and jailed in a case that riveted international attention on the cause of human rights in the U.S.S.R. One of these men, Iosef Mendelevich, who has subsequently been freed, has come to Washington from Israel to participate in this demonstration. I welcome his presence.

This year, like last year, I will be fasting in support of Iosef Begun, a Soviet Jewish activist and teacher of Hebrew. Begun's case was first brought to my attention in 1983 through letters sent to me by several youngsters in my district who attend the school at Congregation Mishkan Israel in Hamden, CT. I pledged to write to Begun on a regular basis as part of the congressional "adoption" program.

Years ago, while achieving prominence in the field of technical sciences, Begun taught himself Hebrew. He later fought for the legalization of Hebrew teaching, and in 1971, applied for an exit visa, which was denied him. Ever since then, Begun has been harassed by the Soviet authorities; he has been arrested and exiled twice on charges of very dubious validity.

The third time Begun was arrested, he was charged with "anti-Soviet agitation and propoganda" under article 70 of the Russian Criminal Code, often applied to Jewish activists in the past. Begun received the harshest sentence possible for conviction under article 70. It was a sentence that further showed the desire of the Soviet authorities to impose absolute cultural uniformity on all aspects of Soviet culture.

The most recent information I have been able to obtain concerning Mr. Begun is that he has been placed in the Perm Camp Complex, forced-labor facilities in the Ural Mountains, where winter temperatures fall as low as 45 degrees below zero.

Such blatant disregard for human rights must not go unnoticed and unopposed. The plight of Soviet Jews demands our constant action. I urge my colleagues to join me in showing their commitment to the human rights of Soviet Jews by participating in this year's Congressional Prayer and Fast Vigil for Soviet Jewry in every way they can.●

● Mr. LEVIN of Michigan. Mr. Speaker, today marks the 14th anniversary of the Leningrad trials, when 11 Soviet citizens were sentenced for planning to commandeer a plane and escape from the Soviet Union. Two were condemned to death, but due to the worldwide outcry, their sentences were commuted to hard labor.

The trials remind us of the severe punishment facing those in the U.S.S.R. who seek to attain full cultural and religious freedom and to be allowed the opportunity to emigrate. Today, as we meet for a prayer vigil, we demonstrate our solidarity with those tried at Leningrad and with countless other Soviet Jews who continue to seek to express their own culture and religion.

I would like to draw special attention to one of these families in the Soviet Union today, Abe Stolar, his wife Gita, and son Miknail. Born in Chicago of Russian immigrant parents, in his teens, Abe Stolar went with his parents when they moved the family back to the Soviet Union in 1931. As a result of his history, he holds dual citizenship and currently carries with great pride an American passport.

In 1974, Stolar, with his wife and son, applied for permission to emigrate to Israel. Permission was granted and the family received exit permits. However, immediately before boarding the plane, the family was detained on the pretext that Mrs. Stolar's work in a chemical laboratory 7 years earlier had exposed her to government secrets. Since then, their repeated applications to leave have been refused.

Unfortunately, this tragic situation is all too common. Like the Stolars, thousands of Soviet Jews endure uncertainty and harassment while waiting in limbo for permission to emigrate. Although they face their increasing isolation within the U.S.S.R. with courage and patience, they need to know that the outside world still cares about their plight. The fast and vigil today serve to remind us of their suffering, and to show them that they have not been forgotten. On this day, we must renew our commitment to support them and continue our efforts to assist them in their quest for religious and cultural freedom.●

● Mr. CONTE. Mr. Speaker, let me take this opportunity to express my support for the second Congressional Fast and Prayer Vigil for Soviet Jewry. This vigil is an ongoing symbol of our concern for the plight of Soviet Jews whose persecution has continued. During the past several years, I have personally pressed for the release and humane treatment of many Soviet Jews, including Mr. Viktor Brailorsky, Ida Nudel, Lev Elbert, Anatoly Shcharansky, and Yelena Bonner. Most recently, I have supported Andrei Sakharov, whose condition is still unknown today.

Continued support for these persecuted people is most important. Since 1979, there has been a sharp decline in the number of Jews who have been allowed to emigrate from the Soviet Union. The timing of the prayer and vigil is especially important this year because it coincides with the 14th anniversary of the ill-famed Leningrad trials. During this event, 11 Soviet dissidents were tried and imprisoned for speaking out against the Soviet state. The Leningrad trials provided the world with another example of a blatant human rights violation by the Soviet Union.

Currently, there are two remaining prisoners; all others have been released due to constant pressure by Congress and other concerned organizations. Of the two remaining prisoners, Alexi Murghenko, is scheduled for release tomorrow, June 15. However, there are reports that he will be given an additional term based on warrantless charges. The message of this vigil must be clear to the Soviet Union: Alexei Murghenko must be released. Also, others suffering a similar plight must be allowed their basic freedoms, including the right to emigrate.

This vigil also coincides with the inhumane treatment of Andrei Sakharov and his wife, Yelena Bonner. With the recent national and international exposure, everyone is familiar with the plight of Dr. Sakharov and his family. His wife, Yelena Bonner, is suffering from a severe heart condition and is denied an exit visa for medical treatment in the West. To protest this inhumane treatment, Dr. Sakharov has been on a hunger strike since May 2. The condition of the couple is still unknown, with speculation that Sakharov has died and that Bonner's health is worsening.

Just today, I was successful in adding language to the report for the fiscal 1985 District of Columbia appropriation bill that directs the District government to rename a portion of 16th Street NW., between L and M Streets, home to the Soviet Embassy, as "Andrei Sakharov Avenue." Sakharov has inspired millions and is a symbol of the refusenik movement in the Soviet Union. Thousands of Jews and others in the Soviet Union are inhumanely treated and want to emigrate. I will submit, for the RECORD, a letter I wrote to Soviet Ambassador Dobrynin on June 12 regarding the plight of Andrei Sakharov and his wife.

Mr. Speaker, the Soviet Government can be assured that this tragedy will not go unnoticed by the Congress and the American people.

HOUSE OF REPRESENTATIVES,
*Washington, DC, June 12, 1984.*

Hon. ANATOLY DOBRYNIN,
*Ambassador Extraordinary and Plentipotentiary, Union of the Soviet Socialist Republics, 1125 16th Street NW., Washington, DC.*

DEAR AMBASSADOR DOBRYNIN: World attention has focused on the plight of Andrei Sakharov and his wife Yelena Bonner who are both barred from leaving Gorki. I respectfully request that you personally investigate and provide verifiable information to the American people concerning Sakharov's health and safety, and allow Yelena Bonner to seek medical attention in the country of her choice.

On May 31, Australia's foreign minister, Bill Hayden and West German foreign minister, Hans Dietrich Genscher tried to intervene on their behalf but were both warned to let the subject lie. Accounts have surfaced that Sakharov's health has worsened or that he may have died as a result of his hunger strike that he had begun on May 2. Soviet authorities have published conflicting accounts which have claimed that Sakharov is feeling well, yet no one has heard from him. The most recent reports have indicated that Sakharov has died.

Meanwhile, Yelena Bonner, who has sought to obtain medical care in the West, has been denied the right to travel. She has suffered several minor heart attacks and serious eye problems. She is in dire need of prompt medical attention. Again there are conflicting reports as to whether she is getting the medical attention she needs. Also Soviet authorities have made warrantless criminal charges against Bonner, accusing her of anti-Soviet activities. We question the validity of these charges when all that she desires is to obtain medical treatment in the West.

In a period of increasing world tension, such persecutions could have serious repercussions. If Andrei Sakharov or Yelena Bonner were to die, not only would Soviet and United States relations worsen, but also world opinion would charge the Soviet Union with murder. The image of the Soviet Union would be further tarnished by such inhumane treatment of the couple. They would become martyrs at the expense of your country. If the Soviet Union were to allow Bonner to travel to the West for treatment, the costs would be low and the benefits would be high.

I ask that you look with compassion at their plight and intercede to allow Bonner to travel to the West. Also, I ask that you allow concerned parties throughout the world, to know of the health of both Sakharov and Bonner. As a country that is a signatory to several international human rights agreements, it seems that verification of their condition is the least that could be done, especially if Western concerns are unwarranted. Any response to this issue would be welcomed.

Your attention to this matter is greatly appreciated. With best wishes, I am

Cordially yours,
SILVIO O. CONTE,
*Member of Congress.*●

● Mr. MACK. Mr. Speaker, as part of the Congressional Call to Conscience Vigil for Soviet Jews, I would like to take time to reflect on the right of Soviet Jews to emigrate from the Soviet Union.

Mr. Speaker, it is apparent, as we debate the current legislation on immigration, that one freedom Americans tend to assume for all people around the world is the freedom to emigrate. So close is this freedom to our national spirit that when Emma Lazarus wrote her inscription for the Statue of Liberty she called upon the nations of the world to send "your tired, your poor, your huddled masses yearning to breathe free" and "the wretched refuse of your teeming shore."

The spirit of openness contained in these passages says much about us as Americans. It says first of all that we are a land of immigrants. And it also says that we naturally expect that those who desire to leave their country and go to another will be allowed to do so.

Unfortunately, not everyone is allowed this opportunity. In the Soviet Union, the freedom to emigrate has been integrated into one of the most perverse political systems ever to darken the human record. What we in the United States assume as a natural inalienable right is flagrantly disregarded in the Soviet Union and, what is even worse, is used for political purposes.

On August 1, 1975, in Helsinki, Finland, the heads of 32 European nations, the Soviet Union, the United States and Canada signed the Helsinki agreement which declared their mutual "respect for human rights and fundamental freedoms." This document stated that "in the field of human rights and fundamental freedoms, the participating states will act in conformity with the purpose and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field including inter alia the International Convenants on Human Rights, by which they may be bound." One of the many principles laid down in the Universal Declaration of Human Rights was that "everyone has the right to leave any country, including his own, and to return to his country."

Following the signing of this document, Leonid Brezhnev urged that the principles of Helsinki be "put to practical use and made a law of international life not to be breached by anyone." He also said that: "We note with deep satisfaction that . . . these principles are imbued with respect and care for man, so that he can live in peace and look forward to the future with confidence."

And yet, during the intervening period, the Soviet Union has made a mockery of the Helsinki proceedings. In 1975, 13,221 Jews were allowed to emigrate. This rose to a level of 51,320 in 1979. However, since then, that level has been steadily reduced to a level of 9,447 in 1981, 2,688 in 1982, and 1,314 in 1983. What's more, in the first 3 months of this year, only 229 Jews have been allowed to emigrate from the Soviet Union.

In truth, the Soviet Union is a "Prison of Peoples", and the captor of each individual who would come under its sway. It is, in short, the enemy of the eternal basis of the spirit—freedom.

But, one might ask, why is it that the Jewish people, in particular, want to leave the Soviet Union? Well, Mr. Speaker, let me answer by listing a bill of particulars by no means complete in scope.

### BILL OF PARTICULARS

(1) Soviet Jews are denied equal ethnic rights guaranteed to all other nationalities by Soviet law.

(2) All centers of Jewish culture have been closed.

(3) Jewish publishing houses and Jewish printing presses have been closed. All Yiddish type face has been melted down.

(4) The entire Jewish educational system has been dismantled.

(5) Teaching Hebrew and Yiddish is not allowed.

(6) It is impossible to buy any books on Jewish history.

(7) It is impossible to find a copy of the Bible.

(8) Jewish prayer books have all but vanished.

(9) Rabbis have been eliminated from the Soviet Union.

(10) Less than 60 synagogues remain but few function much of the time. Those who attend are fearful the KGB will break up services—which it often does. KGB agents come to services disguised as congregants.

(11) Religious calendars, indispensable guides to religious observances, cannot be published.

(12) Prayer shawls and other Jewish devotional articles are not allowed to be produced.

(13) Almost no contact with Jewish co-religionists is allowed. This is in contrast to the experiences of other faiths in the Soviet Union: Eastern Orthodox, Protestant, Catholic, and Moslem.

(14) Jewish cemeteries are regularly desecrated. Jewish gravesites have been bulldozed.

(15) Virulent anti-Semitism is everywhere. Jews and Judaism are constantly the target of anti-Semitism in the media.

(16) Young Soviet Jews are deprived of getting any kind of Jewish education and religious instruction.

(17) Soviet Jews can no longer get good jobs in the USSR.

(18) Those Jews who have jobs are liable to lose them immediately upon applying for emigration visas.

(19) For Jewish activists, arbitrary arrest, beatings, and interrogation are common.

(20) Due process for Jews in court proceedings which are emigration-related is next to nonexistent.

(21) Civil rights, social rights—the right to work, cultural rights, freedom of education—have been taken from Soviet Jews. In denying these human rights Soviet authorities are blatantly violating the Helsinki agreement, accepted international law, its own internal legal system and the minimum decent behavior of civilized people.

Mr. Speaker, these, and numerous others, are the reasons Soviet Jews want to emigrate from the Soviet Union. And, Mr. Speaker, this is what atheistic Soviet communism thinks about human rights.

Mr. Speaker, the United States would be false to its own political values and traditions if it stood silent in the face of this wanton political oppression. Running throughout the American political character is the theme that America occupies a special place in the hard march of mankind. As Cushing Strout has shown in "The American Image of the Old World," the self-image of America is that of a land of virtuous simplicity untainted by tyranny, injustice, and vice. Our Founding Fathers—Benjamin Franklin, Thomas Paine, Thomas Jefferson, John Adams, Alexander Hamilton, and others—all believed that it was America's destiny to be the repository and the exemplar of human freedom. Even in recent times, President Truman declared that it was the policy of the United States to "defend free peoples everywhere" and President Kennedy announced to the world that the United States was going to defend freedom around the globe. Throughout our tradition—and influencing our foreign policy—is the belief that America's future is linked with the future of other peoples and other nations around the world—people who would similarly be touched by those unquenchable fires of freedom.

Mr. Speaker, in closing let me say that this House should never cease to speak out against Soviet repression. The 1984 Congressional Call to Conscience Vigil for Soviet Jews, under the chairmanship of Representative LAWRENCE COUGHLIN, Pennsylvania, acts as a beacon of hope for those many Jewish people longing to emigrate from the U.S.S.R. Let us be true to our traditions and continue to show our support for these victims of political oppression. Let us, once more, reaffirm the fact that America—the land of freedom—remains the "last best hope for mankind."●

● Mr. FISH. Mr. Speaker, today the Second Congressional Fast and Prayer Vigil for Soviet Jewry epitomizes the frevent desires of concerned citizens to see an end to the persecution of Jews in the Soviet Union. We Members of Congress are demonstrating our unity and our steadfastness to force the Soviet Union to allow its Jewish residents the freedom to emigrate by participating in this vital effort.

Anti-Semitism is experiencing a wave of renewal in the Soviet Union. The Soviet state-sponsored anti-Zionist committee is attacking Jewish cultural efforts with a new vigor. Soviet leaders have officially sanctioned anti-Semitic campaigns. Refuseniks are often restricted in university enrollment, suffer the loss of their jobs, and are denied access to necessary medical treatment. Arrests of Jewish community leaders are common for acts such as teaching unofficial Hebrew classes, holding seminars in science and mathematics, and celebrating Jewish holy days.

Considering this oppression, it is not surprising that Jews in the Soviet Union are echoing the cries of their brethren 40 years ago. But unlike the cries of their predecessors, they do have somewhere to seek refuge, somewhere to live free from religious and social persecution. Yet this elusive promise of freedom has been reduced or eliminated for many, as Jewish emigration from the Soviet Union has reached its lowest point in 10 years. Indeed, there has been a 98-percent decline in Jewish emigration since 1979, when 51,320 Jews were allowed to leave. In 1983, only 1,314 Jews were given permission to emigrate. Today, under Secretary-General Chernenko this trend continues as for the first 4 months of 1984, only 303 people were permitted to leave.

Although we continue to fight for emigration rights for prominent refuseniks such as Ida Nudel, Anatoly Shchransky, and Victor Brailovsky, Soviet authorities are pursuing ever more repressive and overt anti-Semitic policies. But these cases are symbols of the strength and nobility of those who seek cultural and religious freedom * * * who will not be silenced.

And we must not be silent. To answer the Soviet Union's deliberate policy of eliminating Jewish culture, history, and religion, our words and actions must expose persecution, demand basic rights, and give heart to Soviet Jews.

It is with great pride today that I don the badge of my commitment to the emancipation of Soviet refuseniks. Yet as I stand before you, in the comfort and security of the United States, Venjamin and Bella Livshitz are in Lithuania, denied the simple pleasure of spending the few remaining years of their lives together with their children in Israel.

Venjamin and Bella Livshitz, age 75 and 70, respectively, and their two children, Alla and Louise, asked permission to leave the Soviet Union in 1971. Venjamin and Bella were denied exit visas on grounds of having had access to sensitive military information. The information was gained by Venjamin, apparently before 1948, when he retired at an early age. The war left him a semi-invalid with chronic heart disease.

Over 30 years have passed since Venjamin Livshitz left the army. Deteriorating health and limited physical stamina have forced him to remain at home. Strong chest pains have confined him to bed for months at a time. Today he cannot move because of the pain in his joints and spine. His wife Bella has not been able to work since undergoing two serious operations 20 years ago, during which a kidney was removed. Now glaucoma prevents her from even writing letters to her children.

It is difficult for me to understand what possible reason the Soviets could have to fear that an elderly invalid couple could pose a threat to Soviet security by emigrating to Israel. It is not very likely that Mr. Livshitz remembers or is even concerned with whatever outdated and irrelevant military information he may have been exposed to 40 years ago. He and his wife think only of spending their remaining years with their children and grandchildren, all of whom live in Israel. To grant this simple request for reunification would be a demonstration of the most elementary humanitarian concern.

America has long been a symbol of freedom for the persecuted peoples of the world. We must lead the way against oppression, against social and religious persecution, against the denial of human rights.●

● Mr. McGRATH. Mr. Speaker, last year the Congress began a tradition of lending tangible support to the struggle of Soviet Jewry by holding a Call to Conscience Fast and Prayer Vigil. It is with pride that I once again participate in this event which focuses attention on these prisoners of silence; human beings a society attempts to eliminate from within while denying their existence to the rest of the world.

Support for this year's Call to Conscience is especially urgent. Within the past 18 months a government sponsored Anti-Zionist Committee has been established in the Soviet Union, anti-Semitic articles have appeared in state publications, and virulently anti-Semitic books have been critically acclaimed and recommended in the Soviet media. The Government has stepped up its attack on the Israeli Government and its policies, no doubt in part to further ostracize those who wish to emigrate there. Emigration has plunged to its lowest level since 1963. Only 1,314 Soviet Jews seeking exit visas were permitted to leave.

During last August's recess I visited with approximately 30 refuseniks. I believe the story of one young man, Iosif Radomiselsky, is representative of the plight of all those struggling for freedom.

I met Iosif in Leningrad where he lives with his elderly and infirmed parents who are also refuseniks. He is trained as a computer engineer. However, since 1979 when he first applied for permission to emigrate to Israel, he was forced to leave his career employment and has only been permitted to work at odd jobs on a part-time basis. Currently he works as a hospital orderly.

His August 1979 refusal was based on his studies at the Leningrad Military-Mechanical Institute. He was refused at 6-month intervals since that time until December 1982. It was then that Iosif received a final refusal, notification that he will never be granted permission to emigrate, and that he may not reapply for an exit visa. At 30 years of age the prognosis for the remainder of Iosif's life is as a pariah of Soviet society.

Remarkedly Isoif is undaunted. He is self-taught in Hebrew and teaches the language, and Jewish history and culture to others in the Leningrad refusenik community. He is harassed at work, and the hospital at which he is employed is under pressure to fire him. He lives with the knowledge that at any time he may be arrested on trumped up charges as a result of his activism. Yet, Iosif Radomiselsky has no fear.

He radiates a love of freedom and the Jewish tradition he has labored to keep alive. His mind is quick, his sense of humor irresistable, and his courage inspiring. Despite cultural deprivation, the Jewish spirit flourishes among the refuseniks of Leningrad, in large part due to Iosif's leadership.

While I am participating in this year's fast and vigil on behalf of Iosif, there are two other Soviet dissidents most deserving of our attention. I feel a special kinship to Alexei Murzhenko and Yuri Fiodorov, the two remaining prisoners of the Leningrad Trials. For the past 2 years I have written to my adopted prisoners of conscience, Alexei and Yuri, on a regular basis. Their courage and resolve throughout their 14 year ordeal has been quite remarkable.

Mr. Speaker, as many of our colleagues are aware, Alexei is scheduled to be released from prison tomorrow. We in the West hold our breath, knowing that although the release date has been set, Alexei's prison sentence may be extended as a result of fabricated allegations on the grounds of bad behavior.

No matter what course Alexei's fate takes, I am certain that he like the thousands of other Soviet refuseniks will know of this demonstration in support of their continued to struggle to gain their freedom.

Soviet attempts to extinguish a yearning for freedom have been ruthless and massive. A oneness to the past among this remarkable group of refuseniks has beaten the odds against Soviet terror. Iosif Radomiselsky, Alexei Murzhenko, Yuri Fiodorov and all their brethren have our respect, our prayers and our awe.●

● Mr. GEKAS. Mr. Speaker, this day marks the 14th anniversary of the tragic Leningrad Trials, which resulted in the conviction of 11 Soviet dissidents, including nine Jewish refuseniks who had been denied permission to leave the Soviet Union.

The sad record of the Soviets has not improved since that time as far as their treatment of Soviet Jews. Instead of devoting one evening to congressional discussion of this issue, we would properly need several months to accurately describe the totality of the indignities perpetrated by the Soviet Government at the expense of Soviet Jews. The complete lack of religious freedom and absence of basic human rights in that nation will certainly go down as a horrible chapter in the history of the world, and future generations will look back on these Soviet regimes with disdain.

It has been very difficult to combat the undeclared war of the U.S.S.R. that has been waged against Soviet Jews. Dr. Andrei Sakharov is a lonely warrior whose courageous struggle cannot be praised too much. There are many others, or course, who are suffering in the U.S.S.R. in the name of freedom for Soviet Jewry. They are inded an inspiration to those of us in other parts of the world searching for some crack in the powerful Soviet armor, and they provide many people with the all-important feeling of hope that has kept them going in the Soviet Union.

Our efforts today during the Congressional Prayer and Fast Vigil for Soviet Jewry, and during this special order, are intended to focus attention on the misdeeds of the Soviet Government in this regard. We are reminding them (and other nations around the world) of that terrible travesty of justice in Leningrad 14 years ago today, and we are once again making them aware of our demand that the human rights of Soviet Jews be respected.

Let us pray that the Soviet Government will listen.●

● Mr. BROWN of California. Mr. Speaker, today, June 14, 1984, marks the Second Congressional Fast and Prayer Vigil for Soviet Jewry. I would first like to commend the many people who have given their time and efforts to organize today's events. This date has been chosen in remembrance of the 11 men—9 Soviet Jews—desiring to leave Russia who were arrested at Leningrad's Smolnii Airport and charged with attempting to hijack a Soviet aircraft.

The trials of these 11 men were intended to set examples for others desiring to emigrate. Nine men were sentenced to lengthy prison terms. Two, both Jews, were sentenced to death. The international community reacted strongly to the harsh treatment and sentences. Appeals were launched in support of the Leningrad prisoners. As a result of the Western protests, the death sentences were commuted to prison terms, and the length of prison terms for the other men was reduced. Today, only two of the original participants remain in prison. One, Alexei Murzhenko, is scheduled to be released on Friday.

However, the oppression of those desiring to emigrate from the U.S.S.R., especially refuseniks, continues. The Soviet Union has committed itself to three international agreements: The Universal Declaration on Human Rights (1947), the International Convention on Civil and Political Rights (1966), and the Basket III of the Commission on Security and Cooperation in Europe Final Act (Helsinki Agreement 1975). Yet the Soviet Government refuses to adhere to these international obligations.

In order to apply for emigration, each Soviet Jew must have an invitation from Israel. Since 1968, over 600,000 invitations have been sent to Soviet Jews who expressed a desire to emigrate. Yet, only 263,851 have been granted permission, and the rate of emigration is decreasing. While 51,320 Jews were allowed to emigrate in 1979, only 1,314 were granted permission in 1983. Since 1979, there has been a 98-percent reduction. This year, under the reign of the new Secretary-General Konstantin Chernenko, even fewer have been allowed to leave the country. Emigration was limited to just 88 Jews in January, 90 in February, 51 in March, and 74 in April.

The denial to emigrate is not the only disturbance that Jews face in the Soviet Union. The Government has sanctioned anti-Semitic campaigns. Refuseniks—Jews denied permission to emigrate—are often subjected to restrictions on university enrollment, removed from their jobs—highly trained professionals are given work as unskilled laborers or denied work completely—and denied access to necessary medical treatment. Leaders of the Jewish community have been arrested for promoting Jewish culture through Hebrew classes and seminars on science and mathematics, and for celebrating Jewish holy days. Refuseniks soon learn that their past emigration applications make them vulnerable to increased harassment. Many have been sentenced to prison terms and exile in Siberia.

As part of my individual efforts to assist Soviet Jews, I have adopted a refusenik from Moscow, Mark Nashpitz. Mark was a dentist before he submitted his application to emigrate. Now, he has been labeled a refusenik and suffers greatly, being denied the right to work in his profession. He has served a prison sentence for this crime. Other Members of Congress have also chosen to become individually involved with members of the refusenik community and will speak of their "adopted refuseniks" tonight. It is our hope that this increased congressional interest will bring greater attention to the troubles of the Soviet Jewish community.

Mr. Speaker, I truly admire these people who, knowing full well the consequences of their actions, continue to maintain and practice their strong religion. The oppression of a people based soley on their religious beliefs cannot be allowed to continue unprotested, not in the U.S.S.R., or in any other country. Today, on the steps of our Nation's Capitol, Members of Congress and concerned citizens once again sent the message to the rest of world that this treatment must be stopped.

I would like to urge my colleagues, the President, and our international neighbors to join us and speak out against the mistreatment of Soviet Jews. In Congress we continue to support this community through resolutions, letters to the Soviet Embassy and Soviet Government, and letters to refuseniks. It is my hope that next year, when the anniversary of the Leningrad arrests arrives, we can greet the day with good news for the Soviet Jewish community and the refuseniks we have mentioned here today.●

● Mr. HERTEL of Michigan. Mr. Speaker, earlier today, I participated with pride in the Congressional Fast and Prayer Vigil for Soviet Jewry. Standing on the Capitol steps, this sense of pride was mingled with undertones of gratitude, sadness, frustration, and repugnance.

Gratitude—that my colleagues and I, as American citizens, were able to congregate without fear of persecution for standing up for our beliefs, unlike millions of Soviet Jews, who have either been silenced by the Soviet Government or persecuted for their religious affiliation.

Sadness—for the hundreds of thousands of Soviet Jews who presently seek to emigrate from the Soviet Union, yet have been denied their inherent right to do so. And, for the millions of their fellow men, women, and children, who have, for decades, been harassed, beaten, imprisoned, stripped of human dignity, and murdered.

Frustration—at the unresponsiveness of the Soviet Government to worldwide pleas for the release and more humane treatment of Soviet minorities. Last year at this time, in retort to the fallacious claim by his government that "all Jews who wish to emigrate have been permitted to do so", I appealed to Secretary Andropov to open the doors to those who longed to escape the tyranny they faced within his country. The response: A ban on emigration and stepped-up efforts to punish dissidents. Today, under Mr. Chernenko, emigration has dwindled to a mere trickle, with only 303 exit visas issued to Soviet Jews during the first 4 months of this year.

Repugnance—at the callous treatment of its minorities, who find themselves caught between the desire to practice their religious beliefs in the Soviet Union and their need to live in a more democratic society. Repugnance, too, at the recurrent Soviet violations of the Helsinki accords and the U.N. Declaration of Human Rights. These treaties, signed by the U.S.S.R., recognize emigration as a fundamental human right.

The refusenik I honor today, as in the past, Stella Goldberg, is one of those trapped within this oppressive society. She has sought, unsuccessfully, to join her husband in Israel since 1970. Her husband, Viktor Yoran, a concert cellist, defected to the West while on tour in 1969. Such an act is considered to be of a criminal nature and is punishable as such. Thus, Stella Goldberg, her son, and her mother-in-law have been relegated to "nonperson" status—denied employment, labeled as parasites and traitors to the state, and subjected to interrogation by Soviet authorities. They are, however, among the lucky few, who are not physically tortured, imprisoned, or exiled to Siberia. Still, they must endure the psychological trauma inherent to being a refusenik, as well as the pain of a separation imposed by a barbarous government. It is important that the United States—a nation predicated on democratic and humanitarian ideals—insist upon Soviet compliance with the Helsinki accords and the U.N. Declaration of Human Rights, thereby permitting Stella Goldberg and her family to be reunited with her husband in Israel.

There was one other feeling interposed with that of the pride I felt at today's vigil: hope. Alexei Murzhenko, one of the two remaining Leningrad prisoners, is scheduled to be released tomorrow. Were it not for the indignation expressed by free people around the world at the Soviet's original sentences for those Soviet citizens who attempted to leave their repressive country, we would not be witnessing this joyous event. The survivors of the Leningrad trials represent what can be accomplished if we denounce Soviet repression. It is my hope that, by consistently conveying our disapproval of the Soviet Government's disregard for human rights, we pave the road to freedom for those who refuse to relinquish their pursuit of the political and civil liberties we, too often, take for granted.●

● Mr. BORSKI. Mr. Speaker, I rise to join my colleagues in this special order for the Second Congressional Fast and Prayer Vigil for Soviet Jewry.

Today, we are reaffirming our commitment to focus attention on the plight of the Jewish community in the Soviet Union, and to demand that justice prevail. We stand in solidarity with the refuseniks.

Tragically, the situation in the Soviet Union is growing worse. In 1979, over 51,000 Jews were allowed to emigrate from the U.S.S.R. Last year, Jewish emigration dropped to little more than 1,300. This represents nearly a 98-percent decrease.

Conditions for those hoping to emigrate are deteriorating rapidly. Soviet authorities are increasing their already strong pressure on Jews who wish to emigrate. Outrageously, the Soviet Government maintains that only a few remain who wish to leave. We realize that is untrue; it is a lie. There are over 400,000 Jews who have begun the difficult and dangerous process required to leave the Soviet Union. I would like to call attention to one refusenik in particular.

### KIM FRIDMAN

Kim Fridman, a radio engineer living in Kiev, applied for permission to emigrate to Israel in 1972. He received his first refusal in January 1973 because of his alleged classified work in the Kiev Radio Plant where he had access to secret documents. He had left this plant in 1969 in anticipation of applying for permission to emigrate. A number of his colleagues who worked with him at the plant were given permission to emigrate some years ago.

Between the years 1974-76, a monthly seminar on Jewish culture was conducted in his apartment. He also taught Hebrew. Kim was arrested several times, interrogated by the KGB and harassed for his teaching.

In 1976, Kim's wife, Henrietta, and daughter, Victoria, were allowed to emigrate to Israel. Victoria married and has a young daughter. Kim received additional refusals to his applications for emigration in 1978 and 1979.

On March 18, 1981, he was arrested and charged with alleged "parasitism." After a 2-month confinement in Kiev's Lukianovka Prison, he was brought to trial on May 19 and sentenced to 1 year in a labor camp.

According to the National Conference on Soviet Jewry, Kim, who suffers from heart disease and has not been able to hold a steady job since 1979, worked as a bookbinder whenever his health permitted. A coworker could have testified to this fact, but because of KGB threats, was afraid to appear as a witness at the trial. However, the prosecutor found it difficult to present evidence that Fridman was unemployed for as short a period as 2 months. His lawyer expressed surprise that a person was tried on "parasitism" charges when it could not even be shown that he was out of work for 2 months. He added that in all his wide experience as a lawyer, he had never encountered a similar case. The prosecutor reprimanded him harshly, saying that he did not comprehend "what kind of trial" was involved.

Fridman's appeal against the sentence was rejected.

Kim was released following completion of his 1-year labor camp sentence on March 27, 1982. He returned immediately to his former Kiev residence and in June 1982 was again refused permission to leave. Courageously, Kim continues to work toward receiving an exist visa.●

● Mr. DWYER of New Jersey. Mr. Speaker, I would like to add my voice to those participating in the Second Congressional Fast and Prayer Vigil for Soviet Jewry. Let this vigil serve as a constant reminder of the condemnable injustices being practiced today thorughout the world.

We, in the United States, must continue our unswerving commitment to those suffering from the aberration of human rights. During this day, let us honor those brave souls who suffer at the hands of tyrannical governments and pledge ourselves to alleviate their conditions as soon as humanly possible.

The trials and imprisonments of Soviet rights activists, along with the continued harassment of Russians attempting to join their families abroad, time after time, display flagrant disregard of the Helsinki accords. Yet, despite this gloomy picture, the citizens of the Soviet Union remain strong and steadfast in their desire for freedom. This desire is demonstrated in the actions of the Leningrad prisoners. The trials and lengthy prison terms prompted international outcry. As a result of Western protests, the original death sentences were reduced to prison terms.

Once again, I would like to take this opportunity to single out the Rozenshtein family. The family has been denied permission to emigrate since 1974, yet they relentlessly refuse to give up hope. Grigory and Natalia, along with their two sons, Mikhail and Efraim live in a constant state of torment and danger, indeed they are not alone.

Our efforts today testify to the courage of those prisoners of conscience who share with us the hope that the claims of political and cultural bondage will some day be broken and the freedoms we cherish will be realized.●

● Mr. LOWRY of Washington. I would like to thank the gentleman from California, Mr. LANTOS, the gentlemen from New York [Mr. MRAZEK and Mr. KEMP], and the gentleman from Illinois [Mr. PORTER] for the time and energy they have put into this important effort. We gather today with a combination of sadness at the pain and suffering of our friends in the Soviet Union and deep admiration for the courage and fortitude they continually demonstrate.

For my friends the Elbert family, the past year has seen many hardships. In May of last year, Lev Elbert was sentenced to prison camp on charges of refusing to report for reserve military service. He refused the highly unusual order out of concern that the authorities would permanently deny him permission to emigrate by claiming that he had access to military secrets. Curiously, this same reason for refusal was used when he first sought permission to emigrate, based on his earlier service in a unit which built swimming pools, but it was later dropped.

In August 1983, while he was in the labor camp, charges of drug use were brought against him. In protest, Lev's wife Inna fasted for 6 weeks. The charges were eventually dropped due to insufficient evidence. I believe that efforts by many of us in this body, and many other Americans, helped lead to this positive outcome. It was during this time that I enjoyed the opportunity to meet with Inna's brother, Dr. Aleksandr Mizrukhin, who was visiting this country from Israel. In December, Inna was fired from her job on the grounds of "absenteeism." She had a small heart attack and is in poor health. Early this year, Lev's appeal of his sentence was denied.

Most recently we have received disturbing word that Lev and Inna's son Carmi has been subjected to attacks at school. Reports indicate that one of his schoolmates hit him with an iron pipe and others have shouted anti-Semitic slogans and taunts at him. These very disturbing incidents remind us that, like any violation of human rights, the current anti-Semitic campaign in the Soviet Union is above all wrong because it hurts individual human beings. I have today sent a telegram of support to the Elberts. I salute them and support them in their valiant struggle for human dignity.●

● Mr. LANTOS. Mr. Speaker, last week President Reagan and a small group of us from the Congress were in Normandy at Omaha Beach and the American military cemetery. Forty years ago when the landing in Normandy took place, we thought that the systematic persecution of Jews in Europe would come to an end with the crushing of Hitler's regime.

But it still goes on in the Soviet Union—state-sponsored, state-supported persecution of Jews carried on with the highest blessings of the Soviet Government. Recently there has been a sharp increase in the number of highly inflammatory anti-Semitic reports in the Soviet press, loss of jobs by those who apply to emigrate, and inhumane restrictions on Jewish university enrollment. This official persecution is frighteningly reminiscent of the beginning of Nazi terrorism, legitimized by the Nurenberg laws.

The plight of Jews in the Soviet Union is unquestionably linked to the overall United States-Soviet relationship. In recent years the situation of Soviet Jews has deteriorated by alarming proportions. Since 1968 a total of 263,851 Jews have emigrated from the Soviet Union. Emigration peaked in 1974 at the height of détente and again in 1979 during Carter's administration. Since 1979, however, emigration has declined by 98 percent and it is now at a monthly average of 76 emigrants—the lowest level in over 16 years.

Yesterday I introduced the Elbe Resolution. At the Elbe River 40 years ago next April the Soviet and American troops met up at the end of World War II. My resolution calls on the American President—be it Walter Mondale or Ronald Reagan—to meet with Secretary-General Chernenko on the 40th anniversary of the Elbe linkup. The first item on their agenda should be human rights in the Soviet Union, and specifically the persecution of Soviet Jews.

The large support by Members of Congress for today's prayer and fast vigil proves our determination to persist as long as discrimination, persecution, and abuse of human beings in the Soviet Union continues. At this time I would like to thank Lynn Singer of the Union of Councils for Soviet Jewry for her assistance in organizing the vigil.

It is our hope and prayer that the persecution of Soviet Jews will come to an end, that there can again be a meaningful and substantive cooperation between the Soviet and American people.●

● Mr. SMITH of Florida. Mr. Speaker, many of my colleagues and I are gathering on the Capitol steps to symbolize our solidarity with the Soviet Jewry movement. In addition we are fasting to draw attention to the plight of Soviet Jewry and others who wish to emigrate. We send an important message to the Kremlin; that we will persist to bring human rights violations to their attention until the abuses and harassments of Soviet Jews are terminated and Soviet Jews wishing to emigrate are allowed to do so. I, along with many of my colleagues, have relentlessly sent constant and consistent messages to Soviet officials expressing our chagrin in their handling of human rights.

Soviet Jewish emigration has declined significantly. Not since 1979 have the gates been let open to allow Soviet Jews the freedom to emigrate in large numbers. In recent years, Soviet Jews have been subjected to harassment, intimidation, and other abuses. Soviet officials have increased their attacks against Jews and Jewish heritage. Our perseverence has riveted the eyes of the world to each denial of emigration and the international outcry has made a sizable impression on the Soviet Union. And yet, our work is not completed. We must continue to denounce the Soviet Union's disregard for and denial of human rights.

Today, I would again like to bring to my colleagues attention the case of my adopted refusenik, Dr. Yuri Tarnopolsky of Kharkov, Ukrainian, U.S.S.R. Yuri Tarnopolsky, his wife Olga, and daughter Irina have been waiting over 4 years to emigrate to the State of Israel. Tarnopolsky was fired from his job as a research chemist after his family applied for an exit visa in 1979. Out of frustration and angry at being stripped of his professional standing in the academic community, he began a hunger strike on October 1, 1982, to protest the denial of his emigration visa. His hunger stike failed to persuade the Soviet officials to grant him and his family the freedom to emigrate. He was forced to end his 40-day hunger stike on November 9, 1982, when his health deteriorated and he suffered a loss of sight in his right eye.

On March 16, 1983, he was arrested and formally charged under article 190-1 of the Criminal Law Code of the Russian Soviet Federated Socialist Republic [RSFSR]. This law makes criminal the "systematic circulation in an oral form of fabrications known to be false which defame the Soviet state and social system* * *" This charge carries a maximum sentence of 3 years in prison, or 1 year of correctional tasks, or a 100 rubles fine.

Having now served 1 year of his 3-year prison term in a labor camp in Chita Province, U.S.S.R., Tarnopolsky is reported to have begun in February 1984 another hunger strike to protest the denial of visitation rights by his wife. His health impairments, which include a weak heart, gallbladder trouble, and poor eyesight, have made it difficult for him to complete his work quota in the mine near the camp complex. His punishment was being denied visits from his wife Olga, whom he has not seen in 10 months.

At the end of my remarks, I will share for my colleagues' benefit a copy of a letter obtained by the National Conference on Soviet Jewry, translated from Russian, that Yuri Tarnopolsky wrote to his wife in Kharkov. His letter outlines the inhumane treatment, harsh prison conditions, and unfair practices that are typical in the Soviet Union.

Mr. Speaker, in addition to my adopted refusenik Yuri Tarnopolsky, whose case I have just highlighted, I would like to further direct my colleagues' attention to cases of less-publicized Soviet Jewish refuseniks. These Soviet Jews may be unfamiliar to the general public, but their plight is just as serious as the plight of better known refuseniks such as Ida Nudel, Lev Elbert, or Anatoly Shcharansky.

Grigory Goldshtein, a physicist from Tbilisi, has been awaiting permission to emigrate since 1971. He quit his job at the Mendeleyev Meteorological Institute so he would not be denied an exit visa on the grounds of "secrecy." However, he repeatedly has been denied an exit visa because of his "access to secret information." Most recently, he was accused to "taking advantage of his position" at the Central Bureau of Statistics and was informed his file was transferred to the local prosecutor. He faces a new 3- to 5-year prison sentence for "parasitism" and "anti-Soviet slander". The KGB have also informed Goldshtein that his activism has made him a political personality, and he may never receive his visas.

Mikhail Beizer of Leningrad is one of the few teachers of Jewish history and culture in the Soviet Union. He has led unofficial tours of Leningrad's Jewish sites. He has applied and been refused permissions to emigrate to Israel five times since 1979. He was recently threatened with arrest by Soviet authorities if he fails to "discontinue his activities."

Viktor Brailovsky, a computer scientist from Moscow, first applied to leave the Soviet Union with his family in 1972. Since their first denial, the Brailovskys became activists in the Jewish emigration movement. In 1973, Brailovsky along with eight other scientists held a 17-day hunger strike to protest the nonexistence of free emigration for Soviet Jews. He also played a major role in refusenik seminars for unemployed Jewish scientists awaiting permission to emigrate. Brailovsky was arrested in 1980 after orchestrating 237 refusenik signatures on a letter to then Soviet President Brezhnev. He was charged with "circulation of fabrications known to be false which defame the Soviet state and social system." He was sentenced to 5 years of internal exile, was released this spring, has returned to Moscow, and is awaiting an exit visa.

Naum Meiman, a 73-year-old mathematical physicist, has been waiting for his exit visa since 1974. He was refused permission due to the alleged secrecy of his work, despite the fact that the Director of the Institute of Theoretical and Experimental Physics confirmed that since 1955 Meiman's work has been published in open Soviet scientific journals. The statement was written on the condition that Meiman retire, which he did. He became an activist in the human rights movement and in the Helsinki Monitoring Committee along with Shcharansky and Sakharov. Meiman suffers from a gallbladder condition and weak heart, and his wife Ina is gravely ill and could receive better treatment outside the Soviet Union if allowed to emigrate.

Nadezhda Fradkova, a 36-year-old mathematical linguist, has been waiting for an exit visa since 1978 to join relatives in Israel under the Soviet Family Reunification Act. She was denied on the grounds that her father is involved in "secret work" that may have been divulged to her. However, if her father did indeed give away state secrets, he would have been incarcerated by the Soviets a long time ago. Soviet denials of her exit visa have made her very desperate. She has undertaken several hunger strikes and has recently been hospitalized in serious condition as a result of a life-threatening hunger strike. She has written many letters of protest including one to the International Red Cross claiming that she was being injected with harmful drugs. Soviet authorities said if she did not discontinue her activities that she would be detained in a psychiatric hospital. She is currently being force-fed and given shots and is under a 24-hour guard.

All these cases: Tarnopolsky, Goldshtein, Beizer, Brailovsky, Meiman, and Fradkova deserve our utmost attention. These refuseniks' only crime was making the decision to seek out and fight for their Jewish identity. Now, only a small handful of refuseniks may get out. But through our continuous united efforts, the tide may be reversed.

Least of all, we cannot forget these people who have given up their careers friends, and homes to fight for what we in the United States hold dear—life, liberty, and the pursuit of happiness—and which we also take for granted. Our gathering on the Capitol steps today gives strength to our efforts on the behalf of Soviet Jewry and hopefully one day soon our vigil to grant them the freedom to emigrate will have ended.

[Translated from Russian]

### LETTER BY YURI TARNOPOLSKY TO HIS WIFE IN KHARKOV

APRIL 2, 1984.

DEAR ALYONUSHKA: On 20 November last year the administration of the camp received a telegram from Moscow instructing them to cancel my meeting with my wife. On the same day a laughable pretext was found and the instructions were carried out a few days later. On 8 December 1983 I warned the camp administration that I will declare a hunger-strike if I will not be allowed to hold the meetings which were due to me in January. The month of January passed and I declared a hunger-strike on 1 February 1984. I went to work on the first day, I did not go to work on the second and the third day because I did not feel well and on the fourth day I went to work but had to come back.

The conditions at work are such that I did not feel well there even when I was not on hunger-strike. The crowded room was heated by a red-hot iron stove while our feet were freezing. I felt suffocated because of the heat and lack of air and was forced to go outside, where the weather was freezing. I constantly told the doctors about my having felt ill at work.

On 4 February I was sent to the punishment cell (solitary confinement) for having allegedly refused to go to work. The term of punishment was 7 days. I was held in the punishment cell all alone and I continued my hunger-strike. The cell is a small concrete room with a concrete floor. An especially powerful heater heated the air to an unbearable temperature. There was absolutely no inflow of fresh air. During the day the heating was turned off and the heat turned into a freezing cold. During those days the temperature fell to 39 degree C. The wooden bunk was lowered only during the night for sleeping. One could only sit on concrete inclined pedestals constructed in that way in order to make them uncomfortable to sit on. One could lie on the floor, in a layer of icy air. Warm underwear was taken away from me (although it was not taken away from other prisoners) and I was only wearing a pajamas' type shirt. I was thus held in the exact kind of conditions which, as the doctors knew, I found especially hard to bear and which were detrimental to my health.

Since the first day of my incarceration in the punishment cell I periodically felt that I was going to faint and was forced to lie down on the cold concrete floor, waiting for my heartbeat to go back to its normal pace. I was then beginning to freeze and had to sit down until the moment when the weakness of my heart made me lie down again. This continued during the night as well as the hot air I had to breathe when lying on the wooden bunk made me suffocate. Every day I had to fight for the right to get hot water and for the cup for drinking which the guards tried to take away from me.

On the first day I told the doctors that keeping a man on a hunger-strike in such conditions is a deliberate attempt to destroy his health. I did not know it then that this was called "torture." This torture took place under daily medical supervision which took the form of measuring my blood pressure.

Since the beginning of the hunger-strike, i.e. from 1st of February, I was subjected daily to psychological pressure by representatives of the administration. It consisted mainly of threats. Thus, on 8 February the director of the camp and another man who introduced himself as a procurator talked to me and the conversation ended by the director's threat that they organize a beating for me by the prisoners. The procurator supported the threat.

On 11 February, the seventh and the last day of my stay in solitary confinement and on the eleventh day of my hunger-strike, I found out about Andropov's death. I declared that I was discontinuing my hunger-strike. I ate a piece of bread as otherwise I could not have left the cell. I had no more strength left and was lying on the floor most of the time. I was allowed to leave the punishment cell in the evening.

Prisoners did all they could for me: They helped me wash and shave (I could not do this myself), they prepared clean clothes and bed-clothes for me; they collected some food for me and even some sheets. However, the impossibility to stop the hunger-strike gradually lead to my having suffered pains in the stomach, nausea and back pains for two weeks. There were also disorders in urination. On 13 February I had to go back to work.

I would like to ask that all the above is to be considered my complaint addressed to the International Red Cross and protesting against the cruel treatment which had taken the form of depriving me of a meeting with my wife and the use of torture for the purpose on making me give up my demand for the meeting and making me stop my hunger-strike.

In my statement written to the director prior to the hunger-strike I wrote that I protest against barbaric cruelty which expressed itself in the fact that my wife was not allowed to see me despite the fact that she travelled 6,000 kilometers in order to see me for two hours.

After the hunger-strike I sent a statement to the procurator in which I wrote the following. In response to my hunger-strike protesting against the cruelty, I have been subjected to an even more cruel treatment which could not be qualified as anything but torture. Everything that happened to me since 1979, when I submitted my application for emigration from the U.S.S.R. in accordance with Soviet and international law, completely contradicted legality, humanism and common sense and was a series of actions of increased cruelty, arbitrariness and absurdity. I also stated that this increased cruelty acquired a form that threatened my health and my life.

In view of the fact that I did not receive any replies to my statements I sent on 21st March another statement addressed to the procurator. I wrote in it that I will not be resolved in the near future. I wrote that the resumption of my hunger-strike would pursue the following purpose: To clarify whether the policy of cruel repression directed against Jews wishing to leave the U.S.S.R. in accordance with Soviet and international law is continuing.

I became convinced on the basis of my own experience that the cruelty of the authorities, in regards to repressions against Jews has no limit. I'd like my own fate to be of assistance to the world public in its understanding of this question under the conditions when there has been a change of leadership in the U.S.S.R. and when new hopes have been appearing there.

I appeal to the world public with the above-mentioned statements and request that everything possible be done in order to put an end to the shameful and barbarian refusal (of the authorities to allow us to emigrate). I appeal for assistance in my reunification with my wife and daughter. The authorities separated us, referring to the principle of reunification of families. My crime consisted solely of my having already appealed to the world public, of having told the truth about the "state of refusal" and the dangerous character of mass moral destruction which it has acquired. I appeal for preventing its turning into physical destruction.

I intend to resume my hunger-strike on 25 April.

From 27 February to 12 March I was in the district prison hospital from which I was released with the diagnosis "hypertension of 2nd degree". My blood pressure was absolutely normal before the arrest.

I would also like to say that the prisoners in the camp are being held in iron cages covered on the top by an iron net, like the ones used for animals in a zoo. A cage is adjacent to living quarters housing some 300 men (two detachments). The cage is smaller than the living quarters and there is hardly enough space in it for standing there. The construction of this zoo for human beings started last year. Contacts between prisoners in different cages is forbidden. There are six such cages in the camp. One is not allowed to work. The camp has an extremely poor reputation in the district because of the harshness of its regime. I shall refrain from describing the regime and the administration. The easiness of work should not mislead anyone.

I hereby conclude the official part of my letter which can be quoted and published anywhere, both in full and in part, under my name.●

● Mr. ERDREICH. Mr. Speaker, I rise today to join my colleagues who are participating in the Second Congressional Fast and Prayer Vigil for Soviet Jewry. The fast and prayer vigil marks the 14th anniversary of the infamous and notorious Leningrad trials, which due to the imprisonment of 11 Soviet dissidents, 9 which were Jewish refuseniks, brought international attention on Soviet human rights violations.

Soviet Jewish emigration has declined 98 percent since 1979 when 51,320 Jews were allowed to leave the Soviet Union. Since the rule of Secretary-General Chernenko, the monthly Jewish emigration totals have plummeted to 88 in January, 90 in February, 51 in March, and 74 in April 1984. In addition to the denial to emigrate, Soviet Jews face anti-Semitic campaigns which are officially sanctioned, not to mention the added harassment of those who wish to protest the policy and are often imprisoned or exiled internally.

On this special and very important day, I wish to bring to the attention of my colleagues and the authorities of the Soviet Union the plight of three families that I am sponsoring, the Boris Ghinis family, the Mikhail Kazanovich family, and the Antanas Vausa family. These three families, two of whom are Jewish and the other of Lithuanian descent, have all had to endure hardships in their plight to emigrate. They all have been denied emigration for years and I want it to be known that Soviet human rights violations affect a cross-section of Soviet citizens who wish to emigrate.

These intolerable policies of the Soviet Union are abhorred by all of us in the free world. It is important for us to continue to speak out against these policies until the Soviet Union adheres to the international treaty obligations it committed itself to and respects the human rights of all its citizens.●

● Mrs. BURTON of California. Mr. Speaker, today marks the sixth anniversary of the Leningrad trials, trials at which Soviet Jews were persecuted and sentenced to prison for trying to exercise their right to emigrate.

Mr. Medelevich, one of the nine Jewish refuseniks imprisoned at the Leningrad trials, spoke to us this morning at our Prayer Vigil for Soviet Jewry. Since his release in 1981, and his subsequent arrival in Israel, Mr. Mendelevich has devoted himself to freeing Soviet Jews, an endeavor that must be recognized and praised. He serves as a symbol of the plight of Soviet Jews and as a remainder that we must continue to cry out against the abuses of the oppressive Soviet system.

There are still thousands of Jews waiting to emigrate, but the Soviet Government has prohibited them from leaving the country, and continues to punish them. Alexei Murzhenkok and Yuri Fiodorov are two such Jews. Both of these men were imprisoned at the Leningrad trials along with Mr. Medelevich.

Mr. Murzhenkok is scheduled to be released from prison on June 15, 1984; however, there are indicators that his sentence will be extended because of so-called bad behavior. This type of action is typical of how the Soviet Union deals with Jewish citizens. Many Jews are not allowed to work in their professional fields or hold jobs of any kind because they are concerned with human rights and wish to emigrate. Under the current rule of Mr. Chernenko the Jewish emigration totals have been extremely low, his government has allowed only 50 to 80 Jews to leave the country each month.

We must today, and every day, remember the continuing injustices suffered by Soviet Jews, and focus our efforts to remedy this horrible situation.●

● Mr. FAZIO. Mr. Speaker, I rise as a participant in the Second Congressional Fast and Prayer Vigil for Soviet Jewry. On this 14th anniversary of the Leningrad trials it is important that we remember not just the 11 men who were the victims of that injustice, but also the millions of Soviet Jews who have been denied the right to emigrate from the Soviet Union. Those within the Soviet Union who have chosen to protest this policy are often imprisoned or exiled internally.

Specifically, I rise for one such individual, Fyodor Parasenkov, a Ukrainian. I am participating in the Fast and Prayer Vigil for Soviet Jewry on his behalf. Mr. Parasenkov, as some of you may remember from a "Dear Colleague" in March 1983, was sent to a Soviet psychiatric hospital in 1974 after suggesting a program of economic reform to the Soviet Government. This detention is a blatant violation of the Soviet Constitution, the Helsinki accords, and the Universal Doctrine of Human Rights. It is important for Soviet President Chernenko to remember a statement he made in 1981, "The Constitution makes it a duty of officials to examine citizens' proposals and requests within established time limits, to reply to them and to take appropriate action. Persecution for criticism is prohibited." Because Mr. Parasenkov is still being held, I find it necessary to issue an appeal to President Chernenko on his behalf. I plan to gather signatures from my colleagues on a letter to the Soviet President requesting the release of Parasenkov. By expressing our interest in the cases of specific individuals such as Mr. Parasenkov whose rights are being disregarded, we are emphasizing the depth of our concern better than any general condemnation of Soviet human rights policy ever could.●

● Ms. KAPTUR. Mr. Speaker, today I am joining with many of my colleagues as a participant in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry. The fast and prayer vigil mark the 14th anniversary of the notorious Leningrad trials. The trials resulted in the imprisonment of 11 Soviet dissidents, and focused international attention on Soviet human rights violations.

This day of fasting and prayer will send a strong signal to the Soviet Union—it will show the Soviet Government that the United States will not accept the injustices suffered by millions of Soviet Jews. I believe there is a renewed sense of urgency to act on behalf of Jews in the Soviet Union. Soviet Jewish emigration plummeted from a peak of 51,320 in 1979 to 2,688 in 1982. Then, a new nadir was reached in 1983, when only 1,315 Jews were allowed to join their families outside the Soviet Union. Moreover, there is a new and frightening wave of anti-Semitism in the Soviet Union. The Soviet state-sponsored anti-Zionist committee is attacking Jewish cultural efforts with a new vengeance.

This Congressional Fast and Prayer Vigil today reminds Soviet Jews that Members of the House of Representatives are aware of their tragic situation, and that we care and want to do everything within our power to help them. I would like to share with others the plight of Lev Blitshtein, one among millions of Soviet Jews who has been denied the right to emigrate from the Soviet Union by the Soviet Government.

Last year I also participated in the Congressional Fast and Prayer Vigil on behalf of Lev, and I am deeply saddened to be here again to tell his story.

Lev Blitshtein was a national authority in the fields of breeding and meat processing in the Ministry of Meat and Dairy. In August 1974, he and his family applied to leave the Soviet Union. After 6 months of waiting, they were refused permission to leave. The only reason given was that Lev knew "too much about the time for storage of canned meats" and "how to make sausage * * *." OVIR, the Soviet emigration department, said the Blitshteins would receive permission to leave in 1 year. Knowing the experience of many other refuseniks, the Blitshteins were wary of OVIR's promise.

Lev then began to write letters to various Soviet officials about the plight of his family. The only answer he received was a strong warning from the KGB to "* * * stop writing or you will be repressed." This warning from the KGB proved to be true. Lev lost his job, his phone was disconnected, his apartment was bugged, and frequently his mail was not delivered.

In another attempt, Lev asked OVIR if his wife, Buma, and his children, Boris and Galina, could apply separately from him. Again, Lev's request was turned down. OVIR told him, however, that since "* * * it is not humane to separate families," Lev and his wife should divorce. In July 1975, Lev and Buma were divorced. Buma and Boris reapplied, and received permission to leave the Soviet Union. They left in October 1975, and Galina was able to leave in January 1976.

In January 1976, Lev was again refused permission to leave the Soviet Union, and he was told to wait 1 year before reapplying. This is a violation of the Soviet's public pronouncements that they will review each case every half year. The Blitshtein's separation is also a direct violation of the Kremlin's signature on the Helsinki agreement, which affirms the right of reunification of families.

Since January 1976, Lev has repeatedly applied for a visa and has repeatedly been turned down. He has become a central figure in the Moscow refusenik community. Although he assumes that he will never get out of the country, he is said to be the most highly spirited refusenik, and the one who keeps the community going. Lev said that he considers himself "one of the lucky ones, because his family is living in freedom." He has a picture of this grandchild, who he thinks he will never see. I marvel at Lev's spirit and stamina, being able to consider himself "one of the lucky ones" when he is probably forever to be separated from his loved ones.

Mr. Speaker, on this special day, let us all recall the words of Leviticus 25:10 which have meant so much to us as Americans—"Proclaim liberty throughout the land and to all the inhabitants thereof." Let us further commit ourselves to seeing that these words come to life for all Soviet Jews.●

● Mr. DOWNEY of New York. Mr. Speaker, I am honored to participate in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

Fourteen years ago the eyes of the world were abruptly turned to 11 Soviet men who where arrested at the Smolnii Airport in Leningrad. Unable to withstand continuous denials of their legal right to emigrate by the Soviet authorites, these men were forced to take desperate measures to flee their oppression. While only 2 of the original 11 remain imprisoned, they have been joined by scores of Soviet Jews who are trapped in the enigmatic life of the refusenik. These men and women simply wish to live out the cultural lives of their forefathers. I would like to address my remarks to the case of Josef Begun, a prisoner of conscience who in the face of the oppressive curtain imposed by Soviet authorities, has devoted his life to bringing the light of Jewish culture and tradition to his fellow Soviet Jews.

Josef Begun has been subjected to continuously more arduous abuse from the Soviets since 1971 when he applied for an exit visa. Following his application, Begun lost his hob as a mathematician and began teaching Hebrew. Arrested in 1977, he spent a year in Siberia because authorities did not consider his work as a Hebrew teacher legitimate employment. He was arrested again in 1978 and began a hunger strike. His condition at his trial was so poor that he had to be physically supported by officers and he continuously lost consciousness. He was sent back to Siberia for 3 years and upon his release from exile he was forbidden to return to Moscow. In 1982 he was arrested for an unprecedented third time for teaching again and was sentenced to 7 years of hard labor.

Josef Begun has been persistent and forceful in his attempts to educate his fellow Jews. Since the Leningrad trials our eyes have been riveted to the condition of Soviet Jews. We have been and must continue to be forceful and persistent in our efforts for Soviet Jews. We must continue to raise our collective voices and let the Soviets know that we will not be silent until there is an end to the nightmares suffered by Soviet Jews and they are allowed to emigrate freely.●

● Mr. LEHMAN of Florida. Mr. Speaker, today I join with our colleagues who are participating in the Second Annual Congressional Prayer and Fast Vigil for Soviet Jewry. The purpose of this event is to make the public aware of the increasing persecution of Soviet Jews whose only request is to live with their families in the place of their choosing. The best way to understand the struggle of the large number of refuseniks, approximately 500,000, is to look at the characteristic plight of some individual refusenik.

Viktor Brailovsky, whom I have symbolically adopted for today's vigil and for whom I have expressed concern for several years, represents the frustrating process Soviet Jews contend with in their search for religious freedom and the right to emigrate. Mr. Speaker, I would like to share with my colleagues a sample of Viktor's struggles in the past dozen years so that we all can be reminded of our moral responsibility to do what we can to help relieve him and all other refuseniks from Soviet persecution.

Viktor and his wife Irina, both well-respected doctors of computer science, applied for permission to emigrate from the Soviet Union in 1972. The following year they were informed that their request was denied because, according to the government, Irina had had access to secret information as a computer scientist at Moscow University. That same year, Viktor and eight other scientists held a 17-day hunger strike to protest Soviet policies on emigration.

In 1974, Viktor was imprisoned for 15 days for attempting to hold an international session of the Moscow Seminar of Jewish Scientists, an organization he helped found. Later that year Viktor was granted permission to leave but he refused it since the rest of his family was denied emigration visas. Even when, in 1978, a university official said that the school had no objection to Irina's emigration, the government still refused to grant her permission to leave.

Viktor was arrested again in 1980 and questioned about his publication of a cultural journal entitled "Jews in the U.S.S.R." Undaunted by previous harassment by the KGB, Viktor joined 237 fellow refuseniks in signing an appeal to President Brezhnev demanding exit visas for all refuseniks. Viktor was then arrested for a third time. In this case, however, he was tried and convicted for allegedly defaming the Soviet Union. Viktor recently finished serving his 5-year sentence of internal exile and now may again face possible arrest for being an "unemployed parasite" of the Soviet State.

I would like to emphasize, Mr. Speaker, that this is merely a brief history of Viktor's continual oppression by the Soviet state since the day he expressed his desire to emigrate. Added to the official mistreatment are the social ostracism, employment blacklisting, repeated searching of his home, and other forms of harassment that refuseniks must endure from one day to the next.

These factors exacerbate the emotional as well as physical strain a refusenik family must bear. Additionally, while serving his sentence, Viktor did not receive treatment for his liver ailment resulting in the considerable deterioration of his health.

We all must, in light of these worsening circumstances, continue to protest against the mistreatment of Soviet Jews and work even harder to improve their situation in the Soviet Union and their prospects for emigration. Congress has in recent years and months intensified its efforts but we cannot do so alone. This administration continues to refuse to open a dialog with the Soviets on the major issues such as nuclear disarmament. This failure to communicate has adversely affected any improvement in this area of human rights.

I hope that our colleagues will urge this administration to explore ways out of this impasse. I for one will do what I can to urge the Soviets to comply with their international agreements so that refuseniks may have the right to live how and where they choose.●

● Mr. AuCOIN. Mr. Speaker, it is with a deep sense of regret and a spirit of hope that I join my colleagues in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

I say regret because I wish there was no need for us to be standing here today. I say hope because I remain hopeful that with our continued commitment and demonstration of protest we can right the injustices being perpetuated against Soviet Jews.

This vigil marks the 14th anniversary of the notorious Leningrad trials which resulted in the imprisonment of 11 Soviet dissidents, including 9 Jewish refuseniks and focused international attention on Soviet human rights violations.

The trials of these 11 men were nothing more than window dressing and the men were sentenced to lengthy prison sentences. Two of the Jews were sentenced to death.

But the international outcry against the Soviet Government's action was so loud and so strong that we made the Soviets think twice about their actions. Appeals were launched on the grounds that these men had wished only to exercise their right to emigrate and that the policies of the Soviet Government were wrong. Collectively our voices were heard and the death sentences were commuted to prison terms and the lengthy prison sentences were reduced. Today, only two of the original participants remain in prison, and one, Alexei Murzhenko, is scheduled to be released from prison this week.

That comes as good news. Yet, there are countless others who will remain behind and need our help.

I would like to call attention to Mark Terlitsky, one man whose personal tragedy symbolizes the struggle of Soviet Jews. Mr. Terlitsky was the chief architect for the Moscow government buildings. He has been waiting nearly 10 years to emigrate from the Soviet Union. And he still waits. Years ago, he redesigned Brezhnev's apartment. Terlitsky was refused an exit visa in 1976 for "possession of secret information." After his refusal he was demoted to a draftsman, and soon after was dismissed altogether. He has not been able to find work since and his wife has also lost her job. Each time Terlitsky reapplies to emigrate, he is refused.

So the Terlitsky family sits in the U.S.S.R. wondering how many more years they will have to wait and how much more they will have to suffer. As difficult as Mark Terlitsky's plight is, it is not an unusual one for a Soviet Jew. There are over 400,000 Soviet Jews who desperately want to emigrate but who are denied their freedom.

Despite its professed commitment to the human rights conditions agreed to during the Helsinki Final Act—which guarantees an individual's right to freedom of religion, cultural practices, and emigration—the Soviet Union continues to deny even the most fundamental liberties to these citizens.

Last year was the grimmest yet for Soviet Jewish emigration. Only 1,314 Jews were granted exit visas, less than half the number permitted to leave in 1982, and a decline of 98 percent from the number allowed to leave in 1979.

Restrictive measures toward emigration have gone beyond merely limiting the number of exit visas. In 1983, the Soviets mounted a deliberate campaign of anti-Semitism and attempted to convince the world that Soviet Jews no longer desire to emigrate.

Such policies of restrictive emigration and active discrimination cannot go unchallenged. While we continue to push for the release of Anatoly Shcharansky, Josef Begun, Lev Elbert, Andrei Sakharov, and other long-term refuseniks, we must not lose sight of the fact that for each of these men, there are hundreds of thousands who yearn to leave the Soviet Union. We must not lose sight of the Kremlin's efforts to eliminate every vestige of Jewish culture.

As long as the voices of these brave men and women are silenced, we must be their voices and take up their cry of protest. I hope that we can intensify our involvement by working for more prisoners of conscience, by writing more letters and by speaking out against the Soviet's disregard for fundamental human rights at every opportunity.

As Members of Congress this should be the purpose of our vigil—to strengthen and deepen our resolve to serve the cause of Soviet Jewry.●

● Mr. ADDABBO. Mr. Speaker, the issue of Soviet Jewry is not a partisan matter. It is not one to be confined to the Soviet Union. Our concern is for human freedoms. This is a subject of concern to every Member of Congress, to every American, to every individual on the face of this Earth.

As this is an election year, we find ourselves asking "Are we better off?" In this country, the answers might vary depending on our party alliances. But, if one forwarded this question to a Jew in the Soviet Union, the answer would be uniformly disturbing.

The number of Soviet Jews that have been granted exit visas has dropped significantly over the last 4 years. We know that historically Soviet Jewry and emigration are tied to Soviet-American relations. Statistics show that in 1979, when we were talking to the Soviets, and they were waiting on us to approve the SALT II treaty, the emigration of Soviet Jews was at an alltime high—51,230 Soviet Jews emigrated during that year.

Since 1979, as Soviet-American relations have deteriorated, so has the level of emigration. The figures speak for themselves—1980, 21,471; 1981, 9,447; 1982, 2,688; 1983, 1,314. The numbers for the first 4 months of 1984 are even more appalling. Only 303 Soviet Jews have been allowed to leave. That means in 1979 more people left the Soviet Union in 2 days than have been allowed to leave during the first 4 months of this year.

What can we do. We can join hands in and put real pressure on both the Soviet and American leaders to resume arms control talks. There is no question that this is the No. 1 priority not only for improving the condition of Soviet Jews but for all free peoples of the world. The administration has chosen a path that strains the possibility of arms talks. They have hurt Soviet-American relations and endangered the plight of Soviet Jews as a result.

We must continue to speak out. Speak out for arms control, speak out for Soviet Jews. It was only in the last 15 years that the issue of Soviet Jewry has gained world attention. In 1970, a group of Moscow and Leningrad Jewish activists plotted the hijacking of an empty plane. They were arrested and sentenced to death. The world expressed outrage over the severity of the sentences and the Soviets reduced the punishment. World opinion caused most of the Leningrad activists to be granted exit visas after they finished serving their sentences. At the time, the Soviets and Americans were slowly trying to improve relations.

Much has changed since then. The policies of the Soviet Union toward their prisoners has changed as well. They are not allowing prisoners to emigrate after serving sentences. The Soviets have become more rigid and inhumane in their treatment of refuseniks and prisoners of conscience. They have made it clear that once a person expresses a need to emigrate, their position in society is confiscated. Men, women, and children are treated as outcasts and punished by their government.

As Americans able to practice any religion we choose, we must step up our support for those denied their religious freedoms. We must campaign for the freedom of oppressed Jews in the Soviet Union. Recent intelligence reports tell us that the Soviet media has enlisted an anti-Zionist campaign. The Soviet news frequently refers to Israel's leaders as Nazis. This open expression of hatred is frightening even for the Soviet Jews who do not wish to emigrate.

The Soviet Union is a country with one-fifth of the world's Jewish population—2.5 million Jews live there. When we hear the Soviets compare Jewish leaders to Nazis, and refuse to allow Jews to leave for any reason, including emergency health care, we have reason to step up our campaign.

Each year my office makes hundreds of appeals on behalf of Soviet Jews. We know that there are many more Soviet Jews waiting to be heard. Our work is to promote the rights of Soviet Jews by increasing the world appeal for their cause.

This year we must continue to draw world attention to the Jews in the Soviet Union. We know they are not better off than last year. We know they are much worse off.

One reason that keeps turning up is that Soviet-American relations are at an all-time low. And if this is the case, we must do something about it.

The issue of arms control is not just one that threatens the security of Americans, it's one that brings us all here today to stand up as part of a vigil for Soviet Jewry and call on the President of the United States and Secretary General Chernenko to improve relations between our two countries.●

● Mr. TORRICELLI. Mr. Speaker, as we mark the Second Congressional Fast and Prayer Vigil for Soviet Jewry, I want to call attention to the plight of Aleksandr Panaryev, a young Soviet Jew who has been seeking for years, along with his family, to emigrate to Israel. Aleksandr Panaryev's case in many ways typifies the discriminatory and repressive treatment suffered by Jews and others in the Soviet Union who seek nothing more than to exercise their right to emigrate to the country of their choice

The name of Aleksandr Panaryev is not a household word like those of Andrei Sakharov, Anatoly Shcharansky, and other persecuted champions of human rights. But he too has been harassed and punished because of his beliefs, and he too deserves our sympathy and help.

Aleksandr Panaryev, like many young Soviet Jews, has found himself caught in a poignant Catch-22 predicament. Soviet Jews who answer their army callup and enter military service frequently find that their emigration applications are delayed or refused because of their alleged access to state secrets. Yet those who do not wish to serve in the military for fear of jeopardizing their emigration applications are labeled as unpatriotic and are often arrested. Aleksandr Panaryev was arrested in April 1983 and sentenced to a year of forced labor. He was released in April 1984 but is in danger of being arrested again. In the meantime, he and his family—along with thousands of their fellow Soviet Jews and members of other minority groups—are being denied their right to emigrate and remain trapped in the Soviet Union as Moscow's crackdown on emigration continues unabated.

The suffering of Aleksandr Panaryev and the others like him are tragedies of major proportions in and of themselves. But I am also concerned—and so are many of my colleagues in the Congress—about the impact of these events on an international climate that has grown more and more uneasy during the 1980's as mistrust between the two superpowers has deepened. Systematic Soviet denial of the basic rights of Jews and others exacerbates tensions between East and West and makes it more difficult to promote better understanding between the two superpowers.

Events like today's vigil are important because they signal to the Soviet leadership the depth of the concern felt by the American people and their elected representatives in Congress about restrictive Soviet policies on emigration and Moscow's inhumane treatment of Jews and members of other minority groups. It is impossible for the American people and the Congress not to take these issues into account when we address the range of concerns that comprise United States-Soviet relations. It is impossible, given our strong feelings about these basic questions of human rights and human dignity, for us not to have second thoughts about how to proceed in many areas of mutual concern at a time when the Soviet Government is violating the Helsinki accords by denying many of its citizens their fundamental rights.

In the name of human decency and international cooperation and peace, it is essential that the Soviet authorities grant to Soviet Jews like Aleksandr Panaryev and his family, and to members of other minority groups as well, their rights not only to emigrate to the country of their choice, but also to practice their religious faiths and to live free from official harassment, intimidation, and discrimination.●

● Mr. ORTIZ. Mr. Speaker, America is a country with a rich tapestry of religious and cultural heritages that have combined to make this country unique and wonderful. Whether it is Mexican Americans celebrating Cinco de Mayo, Chinese Americans observing the Chinese New Year, Italo-Americans celebrating St. Joseph's Day, or any of the other religious and cultural holidays, we have retained and treasured our traditions. We have not felt threatened by this diversity; rather, we believe that these observances enrich our society.

Unfortunately, not all countries encourage their citizens to keep these religious and cultural traditions alive. The Soviet Union has distinguished itself as one of the most intolerant regimes in the world. The Soviets do not view cultural and religious diversity as a strengthening factor for their society. Instead, any group that strives to keep its languages and traditions alive suffers the consequences from a totalitarian regime devoted to sterility, conformity, and cultural and religious subjugation. Soviet Jews who attempt to teach Hebrew, the language of their forefathers, are harassed, arrested, and threatened. Those who persist in teaching Jewish religious philosophy and cultural lore may lose their jobs and income and face internal exile. Applicants for emigration to Israel, the homeland that has meant freedom for oppressed Jews around the world, are guaranteed years of harassment because of their desire to leave the Soviet Union. Often their requests for an exit visa are lost in a tangle of bureaucratic redtape designed to block the visa application without ever formally denying it. Trumped up charges dog a dissident and applicant for the rest of his or her life.

Normally, the granting of visas and passports is a matter of internal concern and foreign governments do not meddle in these matters. Soviet policy, however, is of immense interest to the international community because the Soviet Union is a signatory to three international treaties guaranteeing the civil and human rights of their people. We in the West have the right and responsibility to ensure that these agreements are adhered to completely by all signatories.

In the past, the Soviet Union has permitted as many as 51,000 Soviet Jews to emigrate to the West each year. Beginning in 1980, however, the number began to decline, and now only a select few are permitted to leave.

Congress has repeatedly and continually conveyed to the Soviet Government our deep concern about the plight of Soviet Jews, including those who seek to emigrate, those who would emigrate were it not for officially sanctioned recrimination, and those who would remain in the Soviet Union but want to observe freely their religious and cultural practices.

Moreover, we have continually expressed our belief that international treaties signed by the Soviet Union should be adhered to completely. This matter was raised during the recent meeting of the Helsinki Conference in Madrid, where the plight of Soviet Jews was discussed with the Soviets. We must ensure that this issue continues to be raised at every appropriate forum and in our diplomatic dealings with the Soviet Government.

Congress plays an important role in focusing attention on Soviet Jewry by our participation in events such as the vigil held today. I pledge my support for Soviet Jews who wish to exercise their rights and I will continue to do whatever I can to improve their situation. I urge my colleagues to devote their full efforts to this undertaking as well. By working together, we can ensure that the Soviets never underestimate the commitment of the American people to freedom in all countries.●

● Ms. FIEDLER. Mr. Speaker, today, I join with many of our colleagues to participate in the annual Congressional Fast and Prayer Vigil for Soviet Jewry. This is a necessary and important act, reaffirming our commitment to freedom for all peoples, not only those that elected us, but those who have no voice as well.

The Soviet Union reveals its true nature in its treatment of Jews, minorities, and dissidents. We have seen, in recent years, the worst repression since Stalin. The Jewish people in the Soviet Union are not alone in suffering this repression. The people of the Baltic States, Ukrainians, Christians, Moslems, ethnic Germans, and many others wish the same freedoms as Soviet Jewry. We remember their struggles today as well. Part of any dealing we have with the Soviets must include efforts to secure rights for the oppressed peoples within the Soviet Union.

The Soviets do pay attention to what we say and do. They may not like this Congress, but they still cannot ignore us. When I started signing letters to the Soviet Ambassador, and speaking out against Soviet policies, I started receiving, in my district office, lots of interesting material from the Soviet consulate in Los Angeles. When I, along with our colleagues, send letters to the Soviet Embassy, we get no response, but things like this show us that they do read these letters. By applying the light of world opinion to the Soviet treatment of their Jewish population, we hope to prevent such treatment in the future.

We do not want the Soviets to ignore what we do today. We must let them know that we cannot have business as usual if they make their business repression.

I have introduced House Resolution 260, calling on the Soviet Union to release Lev Shapiro and his family. Lev Shapiro is a refusenik. He lives in the curious twilight world of a nonperson in a totalitarian regime. Yet he still has not abandoned his hope of joining the rest of his family in Israel. This year has not been good for Lev Shapiro. Repression has increased for all refuseniks, and he has not escaped. When he was meeting with two foreign visitors, the police arrived, and they were all hauled off, interrogated, and finally, released. The message to Lev Shapiro, and to all Soviet Jews, was a clear one—talk to outsiders and you will suffer for it. I believe it was because the Soviets knew that we, in the U.S. Congress, knew about Lev Shapiro and cared about him that he was released and that he did not disappear after a trial of the sort that has become too familiar in recent years.

Our achievement here has been a negative one—we have helped keep Lev Shapiro from being arrested—but I think this, by itself, would justify all we have done on his behalf.

Lev Shapiro is typical of the refuseniks in what he has suffered. He is also typical in that we can help make his life better by showing that we care.

I have cosponsored House Concurrent Resolution 100, which called upon the Soviet Union to end its forced labor policies and which hopes to prevent the importation of goods made by forced labor in the Soviet Union—Soviet lumber is largely the product of convicts, including prisoners of conscience. I cosponsored and helped pass House Resolution 67, calling for the release of Anatoly Shcharansky, House Resolution 150 and House Resolution 450, designating Solidarity Sunday, in solidarity with Soviet Jewry, and other legislation.

The Soviets do not respect weakness or irresolution. We need to get their attention and use whatever leverage we possess on behalf of the rights of Soviet Jewry. They cannot speak out for themselves in freedom, so it falls to us to speak as loudly and clearly as we can.●

● Mr GILMAN. Mr. Speaker, I thank my colleagues, Mr. Porter, Mr. Mrazek, Mr. Kemp, and Mr. Lantos for arranging this special order this evening so that we can focus our thoughts on Soviet Jewry.

Today's Fast and Prayer Vigil for Soviet Jewry has special significance because it sends yet another signal to the Soviet Government that the citizens of the free world will never forget those who are less fortunate than themselves.

The Soviet Union must understand that the passage of time does not give their crimes credibility nor does it make what is unjust more palatable. The sense of outrage that we in Congress feel will not subside until Soviet Jews are allowed to speak out to travel and emigrate from the Soviet Union freely.

The Soviets must be made to adhere to the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, and the Helsinki Agreement—all of which they are signatory to.

Unfortunately, over the years it has become apparent that in the field of human rights, the Soviets have not fulfilled their responsibilities. The plight of Soviet Jewry and the urgency of our message has been symbolized by the incarceration of Anatoly Shcharansky. This young prisoner of conscience is presently serving a 13-year prison term for daring to speak out for individual human rights and for committing the crime of wanting to be reunited with his wife, Avital, in Israel.

In addition to Anatoly, over 400,000 Soviet Jews continue to struggle for religious freedom and the right to emigrate. These courageous men and women fight for those very rights that we are ensured of simply through birth in a free nation. It is our responsibility to show our respect and appreciation for our freedom by remembering those who are not free.

Although the struggle is an ongoing one, we will succeed. Today, we are joined by Yosef Mendelevich, who stands with us in freedom after being imprisoned in the Soviet Union. As you know, Mr. Mendelevich was 1 of a group of 11 refuseniks who were participants in the Leningrad trials. After repeatedly attempting to gain visas, these men, through desperation, were arrested while trying to hijack a Soviet aircraft.

Soviet officials attempted to use these trials to make a dour political statement, and as a result, the men were given lengthy prison terms. Two of the men were sentenced to death. Fortunately, instead of gaining sympathy for the Soviet Government, the entire incident galvanized the international community in support of the Leningrad prisoners. People well understood that these men simply wanted to exercise their legal right to emigrate.

As a result of intense pressure from the West, the death sentences were commuted to prison terms and the long prison terms have been reduced.

Yosef Mendelevich, who was allowed to emigrate to Israel in 1981, gives us faith that our struggle is not in vain. Since his arrival in the West he has campaigned for the release of the two remaining prisoners.

Today, one of the prisoners, Alexei Murzhenko is scheduled to be released from prison. We wish him well and pray that someday he will be able to enjoy a life of freedom by joining us in the West.

In August 1961 the Soviet Union erected the Berlin wall, dividing East and West Berlin. When the oppressed people behind the Iron Curtain read the party line in their newspapers they were told that the wall was needed to keep Westerners from swarming into East Germany. But those people knew the truth. We, here in Congress, challenge Soviet officials to be truthful to their people and not deny them for false reasons the freedom to travel—the right to be reunited with their families. Let Soviet refuseniks emigrate to the countries of their choice. For the time being, through our letters of protest and our raised voices we will let all around us know that the struggle goes on. We have not forgotten the cause of Soviet Jewry, and we will never forget.●

● Mr. ROE. Mr. Speaker, I rise today on this solemn occasion of the Congressional Prayer and Fast Vigil for Soviet Jewry to once again focus our attention on the tragic and appalling situation facing the Jews of the Soviet Union. I would like to take this opportunity to thank my colleagues Congressmen Kemp, Lantos, Mrazek, and Porter for organizing this special order.

This June marks the 14th anniversary of the infamous Leningrad trials. These trials, in 1970, were a historic event in Soviet Jewry's struggles to leave the Soviet Union; 11 people were charged with treason; their only desire was to emigrate from the Soviet Union. The impact of the trials and the cruel sentences were intended to frighten other Soviet Jews, heighten anti-Semitism in the Soviet Union, and point out the vigilance of the Soviet judicial system. Although most of the 11 defendants are free now, they owe their freedom to the worldwide pressure that was brought to bear on the Soviets because of the cruelty and severity of the original sentences meted out to the defendants. It was precisely because of the international reaction to the trials that the sentences were reduced from death to prison terms ranging from 7 to 15 years.

Mr. Speaker, I recently had the privilege of attending a communitywide meeting in my district at which Yosef Mendelevich, one of the 11 defendants of the Leningrad trials, was the featured guest. He told the assembled crowd that the American public must keep up the pressure on the Russians to allow thousands of Soviet Jews to leave Russia. Mr. Mendelevich said that last year 40,000 Soviet Jews asked to leave Russia and that 400,000 more had applied for visas for the first time. He noted that increased emigration of Soviet Jews is linked to outcries and pressure from the West.

The issue of Soviet Jewry must stay in the forefront of our activity here, for the sad and tragic fact is that in April 1984, only 51 Jews left the Soviet Union. The total for the year is only 280. This terrible situation has been exacerbated by the rapid rise of anti-Semitism in the Soviet Union. In Government publications, Israel and Zionism are equated with the Nazis and Nazism. The Hebrew language has been outlawed. Jews have been fired from their jobs, and Jewish homes have been raided by the police to seize religious material. The Soviet authorities are even preventing mail and prepaid packages from the West from reaching the Jews of Russia.

In the face of this ongoing tragedy, we must double and redouble our efforts to focus world pressure on the Soviet Union to allow their Jewish citizens to emigrate and to bring to an end this vicious anti-Semitic campaign. We must make it clear to the leaders of the Soviet Government that their attempts to silence the Jews of Russia will not go unnoticed and unprotested here in Congress. We must let the leaders in the Kremlin know that we are outraged over their treatment of the Jews of Russia, and we must also let the Jews of Russia know that we do care and that we have not forgotten them and their struggles. It is only by means of pressure on the Soviet leaders that Jewish emigration will increase and the Jews of Russia will not have to live in constant fear of losing their jobs, their heritage, and their lives.

Mr. Speaker, this special order is intended to call attention to what is happening today in the Soviet Union. It is my fervent hope and prayer that a year from now there will be no need for this special order and that the Jews of the Soviet Union will be free to emigrate and free to practice Judaism and free to enjoy their rich cultural heritage.●

● Mr. PATTERSON. Mr. Speaker, I rise to commend my colleagues for organizing this special order to coincide with our Congressional Prayer and Fast Vigil for Soviet Jewry.

Today we fast and pray for those Jews and refuseniks who are being denied basic human rights and who are suffering religious persecution in the Soviet Union. I cannot overstress the importance and significance of participating in today's vigil. According to one of the greatest theologians of the 20th century, Dietrich Bonhoeffer: "The world is, in fact, so ordered that a basic respect for ultimate laws and human life is also the best means of self-preservation."

There are those who truly believe that the Holocaust never existed and who deny the 6 million murders of the Jewish population. This, however, is folly. Against folly, we have no defense. Today the Soviet Union insists that there is no longer a substantial number of Jews who wish to emigrate. This, I emphasize, is not folly. This is intentional deception. Against such injustice we must act. The truth is that there are still Jews who wish to leave the Soviet Union.

To us in the West, the abuses that prisoners of conscience suffer seem almost incredible. So incredible that we may be tempted to deny them as impossible. We made this mistake during the Holocaust. To the victims of Nazism of yesterday and to the victims of persecution in the Soviet Union of today, the suffering is real.

Presented with the injustices in the Soviet Union we are faced with the crisis of action versus inaction. During World War II, we were inactive for too long. Today we act. We act as private citizens and as public servants. I therefore applaud those Congressmen and Senators who are participating in this year's Congressional Prayer and Fast Vigil for Soviet Jewry.

I would like to add a note of caution, however. The Nazis did not create anti-Semitism, nor did the Soviets, they have only exploited it. Today we fast for the preservation of human life threatened by prejudices. Tomorrow we must combat the real issue: anti-Semitism.

They say history repeats itself; I say: "Never Again!"

Thank you, Mr. Speaker.●

● Mr. YOUNG of Florida. Mr. Speaker, today I participated in the Second Annual Congressional Prayer Vigil for Soviet Jewery on behalf of the millions of Soviet Jews who are being denied the right to emigrate from the Soviet Union by the Soviet Government.

Each participant in the vigil was asked to adopt and pray for a refusenik, a Soviet Jew who has been refused permission to emigrate. I participated in today's vigil on behalf of Nadezhda Fradkova, who has been a refusnik since 1978 when she first applied to emigrate to Israel from the Soviet Union.

Following 5 years of denial, she protested by beginning a hunger strike on March 1, 1983. Soviet Jews throughout her nation and the world learned of her brave struggle and supported her cause by circulating petitions urging the Soviet Government to allow her to emigrate to Israel. Her hunger strike continued until April 13, 1983, when Soviet police broke into her apartment and took her away to a hospital where she was drugged and fed intravenously to end her hunger strike.

Following her release from the hospital, the Soviet KGB continued to threaten Nadezhda and her friends. After her appeals for freedom to Soviet President Andropov were ignored, she began another hunger strike on December 24, 1983. The KGB again took her away to force-feed her and end the hunger strike. According to information from her friends, she was taken to Leningrad Psychiatric Hospital No. 9 on January 7 of this year.

Nadezhda has since been released from the hospital, but she remains no closer to freedom despite her courageous efforts, the work of her friends, and the interest of people, newspapers, and governments throughout the world.

Her case is similar to the millions of Soviet Jews who are being persecuted by the Soviet Government. It is their plight and continued brave struggles to be free to worship as they choose that we pay tribute to today during the prayer vigil. The number of Soviet Jews who have been allowed to emigrate in recent years has declined dramatically. Compared to 1979, when 51,320 Jews were allowed to emigrate from the Soviet Union, only 1,314 were given permission to emigrate last year. Emigration totals for January through April show that even fewer Soviet Jews are being allowed to emigrate this year.

Requesting permission to emigrate subjects Soviet Jews to many forms of harassment. In addition to repeated denials for freedom, Soviet Jews, such as Nadezhda, are punished by restrictions on Jewish university enrollment, the loss of their jobs, and the denial of necessary medical treatment. Jewish community leaders have been arrested by Soviet police for promoting Jewish cultural identity through unofficial Hebrew classes, seminars on science and mathematics, and celebration of Jewish holy days.

In Nadezhda's case, although she has a degree in mathematical linguistics, she has been unable to find a job in her field. To survive, she has had to find odd jobs such as babysitting or cleaning houses.

The Evening Independent newspaper of St. Petersburg, FL, which I represent, has followed and publicized Nadezhda's struggle for freedom. The Independent has also been at the forefront of efforts by the American people to communicate with Soviet Jews who continue to be denied permission to emigrate by the Soviet Government. The newspaper's project, called "The Lifeline Letters," has received national and international attention and support. Following my remarks are two of the many editorials, columns, and articles the newspaper has devoted to this project.

Newspapers have followed the Independent's lead in printing lists of names of Soviet citizens who have been persecuted because of their religious beliefs. Readers have been encouraged to write these people to express support and hope in their efforts to gain freedom.

My colleague from Florida, DANTE FASCELL, the distinguished chairman of the Foreign Affairs Committee and the Commission on Security and Cooperation in Europe, has supported the Independent's project and has closely monitored Nadezhda's situation.

Mr. Speaker, the prayer vigil today is a solemn reminder that not all people of the world, especially in the Soviet Union, are free to worship as we are in the United States. The brave efforts of those people such as Nadezhda and the Soviet Jews should be an inspiration to all Americans and we must keep them in our thoughts and prayers.

We must also support projects such as the Independent's "Lifeline Letters" which provides support to the persecuted Soviet people throughout the year. It is through this type of work that Soviets such as Nadezhda Fradkova someday will realize their dreams of being allowed to emigrate to a place where freedom of worship is a sacred liberty.

[From the Evening Independent, Nov. 28, 1984]

## Your Letters Can Make a Difference

### ISSUE: THE LIFELINE LETTERS

We have joined the ranks of those who write letters to persons of belief behind the Iron Curtain, and today we're urging you to do the same.

The profound simplicity of it escapes most of us. But with a simple letter, you can save a life.

The life is that of people persecuted for their beliefs. In their own homelands, they have become objects of harassment and derision, been denied housing, education and employment opportunities, just because they choose to believe in God in their own way.

The letter you write becomes a lifeline of hope. The police state scurries at the light it casts into the lives of believers. We know from personal accounts that the more letters a persecuted person is sent, the less likelihood there is of a sentence to a Siberian labor camp or some other persecution.

The source of this labor of love is the National Interreligious Task Force on Soviet Jewry, a coalition of the American Jewish Committee and the National Catholic Conference for Interracial Justice. Their efforts are not unlike those of Amnesty International, writing letters to help preserve the existence of someone oppressed by a government—with one crucial difference: None of the names we begin publishing today are political prisoners or merely prisoners of conscience.

These names are of persons arrested for their faith. Some of the official charges against them include:

"Possession of religious literature."

"Member of an unregistered church."

"Parasitism."

"Unauthorized business venture, producing and distributing unofficial religious literature."

"Harming the interests of the republic abroad."

"Unworthy of the high calling of a Soviet student."

"Obstructing state supervision of churches and religious societies."

"Organizing children in church."

These charges seem strange to us, especially at the American season of holy days. They serve to challenge us to vigilance of our own religious freedom, which was at least one of the reasons those *Mayflower* passengers came to these shores.

But, in many nations, the religious oppressed are caught between two compelling forces—trapped on the one side by freedom-choking systems, yet not free to simply bow the knee to the state because they're also captive to their God.

The contrast in lifestyles cannot be put more plainly than it was just last week by Lyuba Vashchenko, one of the "Siberian Seven" finally released from the Soviet Union and now residing in Idaho: "In Russia, I would not be able to go to college because I am a Christian. Here, I was granted a scholarship."

But The Lifeline Letters project is not intended to compare political systems nor engage in discussions of philosophy. It is a person-to-person plan to aid the religious oppressed.

It is sponsored locally by the Tampa Bay Chapter of the National Conference of Christians and Jews, which is calling upon all persons of faith to get involved. Indeed, many Pinellas County residents already have begun writing such letters after reading or hearing the remarks of William Gralnick of the American Jewish Committee.

Our role is simply to make it easier by using our free press to publish the names and addresses of persons persecuted for their religious convictions.

The names we have been provided are of persons inside the Soviet bloc of nations. To be sure, the lists we publish are not the only persons being crushed by the state for their religious beliefs. But they are the ones whose names we have access to at this time. We see no reason to deny a lifeline to these persons just because we don't have the names of all the world's religious persecuted.

Ironically, the so-called closed society that is the Union of Soviet Socialists Republic does accept mail, and so do the nations under its domination. Indeed, the more letters, the less likely each is to be censored, according to U.S. Rep. C. W. Bill Young, R-Madeira Beach, a member of the Joint Permanent Select Committee on Intelligence whose column on that subject will be published here Tuesday. Obviously, even police states have budget limits.

We admit it does give us some delight to picture an army of censors in Leningrad wading through mail postmarked: St. Petersburg!

### WORD POWER

Americans always have known words are power and the encouraging words of a friend beyond purchase. But words of help from one whose only motive is simple caring may be best of all.

Words can make a difference. If we didn't believe that, we'd be in the wrong business. So today, as never before, we're inviting—no, we're urging—you to discover that your words can make a difference in your world: Write a letter to someone in the Soviet Union.

By undertaking this task, we have hope that we will be joined by individuals, groups and newspapers in other communities. It's a simple thing a free people and a free press can do together.

If it promotes a new understanding of the familyhood of us all, that will be nice. If it helps save one life or alleviate the suffering of just one soul, it will be worth every effort, at least worth a letter.

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[From the Evening Independent, May 18, 1984]

## Fradkova's Ordeal Calls for U.S. Action

Nadezhda Fradkova was released from a Leningrad psychiatric hospital March 17. Unfortunately, she still isn't free.

Fradkova wasn't in the hospital because she is mentally ill; she was there because she is a Jew who wants to leave the Soviet Union and live in peace.

Officials have told her she cannot go, but Fradkova won't give up. Three times she used a hunger strike to dramatize her determination to depart Russia or die trying. Twice she was dragged from her apartment and taken to a hospital where she was force-fed. Already in a hospital when she began the third fast, she was drugged and force-fed.

Her first hospitalization, during which hospital officials denied any knowledge of her and a KGB agent sat at her beside, ended after protests began pouring in from the United States. The second hospitalization, during which she was overpowered by drugs and harassed by anti-Semitic doctors who supposedly were treating her, ended after news organizations—ranging from the Evening Independent to the Voice of America—took up her cause and publized her plight.

We've been telling you about Fradkova since Nov. 28 when the Independent's Lifeline Letters project began. Her case may be dramatic, but she is just one example of the thousands of people in Soviet Bloc countries who are persecuted because of their religious beliefs.

And the persecution never stops.

Occasionally Fradkova is able to talk on the telephone with a friend who lives in Massachusetts. Her tales of continuing harassment lead one to wonder why the Soviet officials just don't let her go.

All she wants is to be free, regardless of her religion. In this country we enjoy that privilege, that precious birthright called liberty, every day but frequently take it for granted and forget how many people literally are dying for a taste of freedom.

Though Fradkova is out of the hospital, she reports she still is surrounded by KGB agents. In April when she met her father in Moscow to obtain a document needed for her emigration request, agents picked her up and took her to the train station where they put her on a train to Leningrad.

An agent stayed with her throughout the trip, questioning the validity of her internal passport. Fradkova said she finally tore up the document in disgust, leaving her without the identification papers so vital for life in the Soviet Union. And she did not get what she needed from her father.

She was followed and her apartment was watched for a week after that incident, but Fradkova then reported the authorities apparently forgot about her. The respite didn't last long.

On May 2 she was arrested while in line at a fast-food restaurant, accused of arson at the train station, strip-searched, questioned and taken to a psychiatric hospital. She was held for three nights, brought before the hospital commission and finally released.

"They told her there was no Jewish problem in the Soviet Union and that the 'normal' reaction is to adjust to life rather than cause trouble such as she is doing," says a report on Fradkova by the Action for Soviet Jewry Inc. of Waltham, Mass. "They told her that she is 'abnormal' because she causes trouble."

At last report, Fradkova had obtained the paper she needed from her father but had been told by authorities that she would have to begin the emigration application process all over again.

Why, when she has had an ongoing emigration application for six years? Why, when authorities consider her "abnormal?" Why, when her religion makes her an object of scorn? Why, when she cannot find work because of her wish to leave and is branded a "parasite" on the state?

Why won't they just let her go?

But the Soviet system doesn't work that way. Fradkova's only hope is that pressure from the outside will convince the authorities that keeping her is more trouble than it is worth.

U.S. Rep. Dante Fascell, D-Miami, as chairman of the House Foreign Affairs Committee and the Helsinki Commission, is one of our country's most knowledgeable leaders in the area of human rights violations.

We urge U.S. Rep. C.W. Bill Young, R-Maderia Beach, to take Fradkova's case to Fascell and seek his help in convincing the Soviet goverment to allow her to emigrate.

She has suffered enough in the name of freedom.●

● Mr. MOLINARI. Mr. Speaker, on the occasion of this Second Memorial Congressional Fast and Prayer Vigil for Soviet Jewry, we really need to step back and ask ourselves some of the most basic questions about what it is that has brought so many of us together again. Why does a government prevent its citizens from voluntarily leaving its borders? Why do so many residents of the Soviet Union actively, and sometimes desperately, seek to leave that country?

To answer these questions, one only has to look as far as the contrasting situation in our own country. I find it ironic that this week the House of Representatives is considering a major piece of immigration legislation that focuses on, among other things, establishing a ceiling on the vast numbers of immigrants allowed to come to the United States every year. These are people who see the United States as a great country, full of opportunity and respect for the basic human rights that many of them lack in their countries of origin. In other words, we are trying to decide how to accommodate the thousands of people who want to share in the many benefits America has to offer.

The Soviet Union, on the other hand, faces our dilemma but in reverse. The Soviets set ceilings on those who want to leave. Ceilings are not even the worst product of Soviet immigration policies. Many of those who prefer to leave are subsequently incarcerated under the pretext of hooliganism, slander, or treason. What are their real crimes? Crimes against the state, such as teaching Hebrew, desiring medical attention abroad, and talking to foreigners.

Is it any wonder that as many as 500,000 Soviet Jews have indicated their desire to leave the Soviet Union? If anything is symptomatic of a failure of a system to safeguard the rights and guarantee the freedom of its people, it is certainly these vast numbers of faithful who want nothing more than to rejoin families, worship as they choose and otherwise live under a system which respects their humanity.

The Soviets would have us believe that the fact that Jewish emigration has dropped from 51,320 in 1979 to 1,315 in 1983 is simply a reflection of the numbers of Jews who want to leave. Nothing could be further from the truth. These numbers are but some of the signs of changing Soviet attitudes. Anti-Semitic propaganda, active discrimination in education, cultural repression and harsh prison sentences for refuseniks are some additional telltale signs that those drastically reduced emigration figures reflect a policy of strangulation.

The conclusion that we can draw from the mere 50 Jews allowed to leave the Soviet Union this past March, and the worsening atmosphere of anti-Semitism, is that the Soviet leadership is devoid of any semblance of compassion or humanity. What is observed is a personality that is cold, aloof, and insensitive to the most basic of human needs and aspirations. Such a personality can only crumble under the weight of its own heartlessness. Perhaps what we do here today will help toward awakening some in the Politburo to the reality that a system built on the disregard for the rights of individuals will not long survive in a world that respects and enforces the primacy of the human spirit.●

● Mr. WOLF. Mr. Speaker, I am joining my colleagues in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

The fast and prayer vigil mark the 14th anniversary of the notorious Leningrad trials. The trials resulted in the imprisonment of 11 Soviet dissidents, including 9 Jewish refuseniks, and focused international attention on Soviet human rights violations.

The fast and prayer vigil demonstrate the support of the Congress for the release of Alexei Murzhenko and Yuri Fiodorov, the two remaining prisoners of conscience from the Leningrad trials. I am also participating on behalf of Evgeny Yakir, a Soviet Jew.

Soviet Jews in general and Jewish refuseniks in particular are being victimized by the current deterioration in relations between the Soviet Union and the West, and it is our duty to call upon the Soviet Government to end this injustice. Millions of Soviet Jews are being denied the right to emigrate from the Soviet Union by the Soviet Government. Those within the Soviet Union who choose to protest the policy are often imprisoned or exiled internally. This is so, even though the right of Soviet Jews to emigrate from to which the Soviet Union is based on three international documents the Soviets have committed themselves: the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, and the Helsinki Agreement of 1975.

Since 1979, when 51,320 Jews were allowed to emigrate, there has been a 98-percent decline in Jewish emigration. In 1983, only 1,314 Soviet Jews were given permission to emigrate. The downward trend has continued in 1984 under the reign of Secretary-General Chernenko with monthly Jewish emigration totals of 88 in January, 90 in February, 51 in March, and 74 in April.

As a participant in this vigil, I urge the Soviet authorities to adopt a more flexible policy on emigration and to abide by the basic international standard of human rights spelled out in the international documents to which they are a party.●

● Mrs. JOHNSON. Mr. Speaker, today marks an infamous date in the long history of the struggle of Soviet Jewry to retain their identity in the face of persecution. It is the fifth anniversary of the Leningrad trials, during which seven Soviet Jews were tried and convicted for various crimes against the state. The word crime, however, is a misnomer for their actions were simply an exercise of the basic human freedoms that we, as Americans take for granted. For Soviet Jews, however, these charges reflect the growing anti-Semitic attitude of the Soviet Government.

The conditions under which the Soviet Jews must exist continue to deteriorate. Emigration is at a record low, only 5 percent of the emigration rate of 1979. Serious criminal charges, as well as daily harassment by the KGB, have increased dramatically against Soviet Jews. An illustration of these practices can be readily seen in the case of Felix Kochubievsky, my adopted refusenik.

An educated man working as an electrical engineer, he applied for permission to emigrate to Israel in 1978 with his wife. Emigration was denied because he had handled classified material in his line of work. Later, in 1982, he was arrested and convicted of defaming the Soviet state by promoting the growth of the U.S.S.R.-Israel Friendship Society. He was sentenced to 2½ years in a labor camp. He has since had an appeal turned down by the Supreme Court in Moscow. Still in the labor camp, his health is failing rapidly, and he receives little medical care.

This is but one case among thousands. The Soviet leadership's goal is complete annihilation of the Jewish heritage within the boundaries of the U.S.S.R. Since international communication is almost completely cut off between Soviet citizens and the rest of the world, the Soviet Jews are often unable to express to anyone the anguish and frustration they endure. My colleagues and I stand here today to speak for them through this special order. We, as advocates of human rights, must be the voice of these oppressed people. Our hope is that, through gestures like these and regular correspondence with Soviet Jews, we may be able to force the Soviet Government to lift the yoke of persecution from the shoulders of its Jewish citizens.●

● Mr. LAGOMARSINO. Mr. Speaker, once again we focus discussion on the Soviet Union's brutal repression and subjugation of its citizens, and specifically their cruel practices and policies toward Soviet Jewry. We have seen two new leaders assume control in the Kremlin in the last 3 years, with a worsening of the conditions under which this group must live following each change.

Mr. Speaker, facts are facts. The Soviet Union is an atheistic, totalitarian society that regularly discriminates against all wishing to practice their faith. The names of individuals denied the opportunity to travel abroad and reunite with their families in the West is long and, unfortunately, growing. Many of the names are familiar—Samuel Klinger, Vladimir Khailo, Ida Nudel, Zachar and Tatyana Zunshine, Rimma Bravve, Victor Brailovsky—while it is obvious that there are numerous new additions to that list in recent months.

Jews in the Soviet Union live in a dark world, Mr. Speaker, with no rights and no personal liberties. They are castigated, exiled, imprisoned, or worse for simply wishing to study or practice their religion or return to their homeland and reunite with their families. The conditions under which this group must live are unconscionable to most Americans, indeed most civilized individuals.

There are serious indications that the situation has worsened recently as well. According to the State Department's Country Reports on Human Rights:

> Jewish emigration in 1983 was 51 percent below 1982 and 98 percent the peak year of 1979 . . . In April the "Anti-Zionist Committee of Soviet Citizens" was established under the chairmanship of Col. D.A. Draquinskiy, the commander of a military school whose students include PLO officers. The authorities new propaganda line, espoused by the Committee, asserts that the Jewish population "problem" has been solved since any Jews who wanted to leave the Soviet Union have already done so; that unofficial Hebrew teaching is a disloyal act; and that so-called international Zionism makes common cause with the world's most reactionary political movements, including fascism, in a mortal struggle against the Soviet Union . . .

So the pattern of repression, the pattern of discrimination, the pattern of subjugation, torture, imprisonment, exile and murder continues. The free world and freedom-loving people everywhere cry out in one voice in opposition to the Soviets' policy toward the Jews in that country. International attention will forever be focused on the issue, and rightly so. This Congress, like others before it, will continue to pressure the brutal rulers of that country to change their policies.

While our ability to influence events in a closed society like the Soviet Union is minimal, we must continue, and we will continue, to join in solidarity with the Jews in the Soviet Union.●

● Mr. **KRAMER.** Mr. Speaker, I rise today in support of this year's Congressional Prayer and Fast Vigil for Soviet Jewry. Earlier today, I had the opportunity to participate in the Congressional Vigil and I extend my sincerest appreciation to all my colleagues who attended this event.

I would also like to welcome Yosef Mendelevich to the United States, and I extend my admiration to Mr. Mendelevich's for his courageous fight for freedom. He is certainly a symbol of moral courage to all people who believe in "liberty and justice, for all." Mr. Mendelevich has shown that he will not forget his Jewish heritage, nor will he abandon hope for freedom.

As President Reagan stated during a meeting with various Jewish leaders last year, "We will not, as Western democracies did four decades ago, turn a deaf ear to distant pleas for help." The issue of Soviet Jewry is of high priority to this Congress, and the administration. We have repeatedly stated that our concern for human rights in general, and Soviet Jewry in particular, is integral to our national interest and remains a major focus of our foreign policy.

In the last few years, we have witnessed a constant decrease in the number of Jews permitted to emigrate from the Soviet Union. The fact that levels of emigration have plummeted and that the instances of harassment and denial of exit visas have increased clearly signify the intensification of Soviet repression and arbitrary treatment of Soviet Jews. Jews are still denied opportunities to gain higher education. They are prevented from securing good jobs, and they are thwarted from studying their own culture and the Hebrew language. Clearly, anti-Semitism is rampant in the Soviet Union.

The inhumane actions of Soviet authorities violate both the spirit and the letter of the Helsinki accords as well as other relevant international agreements to which the Soviet Union is a signatory.

The issues of emigration and human rights should remain high on the agenda in all relevant forums, including the conference of security and cooperation in Europe's follow-up meeting and the United Nations Commission on Human Rights. The rapidly deteriorating situation, however, indicates that new avenues must be explored to ameliorate the plight of Jews in the Soviet Union. We must encourage further participation of our Western allies and neutral and nonaligned nations in this effort.

America has long been a symbol of freedom for the oppressed peoples of the world. It is important that we reaffirm our commitment to this basic principle at this critical time for Soviet Jews. With the recent change in power in the Soviet Union, now would be a timely opportunity to renew our efforts. By expressing our concern today at the congressional vigil, I think our efforts have been strengthened and the fight for Soviet Jews can march on.●

● Mr. **LENT.** Mr. Speaker, today, June 14, marks the Second Annual Congressional Prayer Fast and Vigil on Behalf of Soviet Jewry. Over 200 Members of Congress participated in a voluntary fast from sunrise to sunset to focus attention on the Soviet Union's official policies of violating the human rights of its Soviet Jewish citizens, denying them the basic freedom of practicing the religion of their choice in the land of their choice.

Lynn Singer, president of the Union of Councils for Soviet Jews, and Carole Abramson, president of the Long Island Committee for Soviet Jewry, are to be commmended for their part in helping make the Congressional Prayer Fast and Vigil a success.

My own participation in this meaningful protest has a special significance. I am fasting and joining in the prayer vigil in the name of Ida Nudel, the prisoner of conscience of my Fourth Congressional District on Long Island. For 12 long years, Ida Nudel has sought to secure a visa to join her sister in Israel. She is courageously persistent in her objectives to Soviet persecution and steadfast in her efforts supporting fellow Soviet prisoners of conscience and refuseniks. However, her efforts to win freedom have brought only harsher persecution. Ida Nudel was sentenced to 4 years in exile in the harsh wastelands of Siberia. Her crime was displaying a banner from her Moscow apartment balcony saying, "KGB Give Me My Visa."

After her release, Ida finally settled in the small town of Bendery. However, the Soviet officialdom has prevented her from receiving her mail, and has questioned and threatened her repeatedly. Suffering from a chronic heart condition, Ida has been warned not to leave Bendery for the medical treatment she so desperately needs or she would be jailed. The Soviet KGB secret police have her activities under constant surveillance and use high-pressure tactics designed to prevent her from observing religious holidays and from associating with other Jewish refuseniks.

On Ida's behalf, I continue to write weekly letters to Soviet President Chernenko demanding her release and earlier this year organized a congressional protest to the Soviets in which more than 90 of my colleagues joined. I will continue these efforts until Ida Nudel is permitted to emigrate to Israel.

We join together today for the sake of Ida Nudel and all the other brave men and women in the Soviet Union who have long suffered under the Kremlin's officially sanctioned policies of abuse, harassment, and persecution of the cruelest sort. We in the West who are blessed with freedom and who enjoy legal protection of our basic human rights must never forget those who are denied the same rights and freedoms. We must help in their struggle for freedom.

We pray that our vigil will increase awareness to their plight and marshall increasingly vigorous support for Soviet Jewry.●

● Mr. FLORIO. Mr. Speaker, on this day, as we commemorate the 14th anniversary of the arrests of the Leningrad Eleven by the Soviet Government, I would like to join my colleagues in reflecting upon the plight of Soviet Jewry. It is only with the constant reminder of cases such as the Leningrad trials that we can have any hope of pressuring the Soviet Government to improve human rights conditions.

The plight of the Leningrad Eleven, a group of nine Soviet Jews and two non-Jews, is symbolic of the fate of many Soviet people that find themselves so disillusioned and frustrated with the repression of the Soviet regime that they can no longer bear to live there. For this reason, they risk their well-being and their livelihoods in publicly declaring their desire to emigrate from the Soviet Union to lands free of persecution and repression. They seek basic human rights—the freedom to practice their religious and cultural traditions, to speak their conscience, and to exercise the fundamental human rights accorded to every individual. Their wish to flee the Soviet Union for countries that are free of this sort of repression is so fervant that they have the courage to face the ostracism that inevitably follows once an individual declares his frustration with the Soviet regime and requests permission to leave.

Fourteen years ago, 11 such individuals whose lives had become so intolerable they could no longer bear to live under such conditions, made plans to commandeer a small plane. They were arrested by the KGB before they could carry out this desperate plan and they were tried and sentenced. Nine were sentenced to prison terms which they subsequently served. Two, however, whose only actual crime was to plan this action, were sentenced to death. Because of the large volume of public and international protest at the unjust sentence, the Soviet Government "relented" and sentenced the 2 to 15 years of "special regime"—the harshest punishment. All but 2 of the 11 prisoners have been released due to international pressure. One of the two remaining prisoners is scheduled to be released tomorrow.

Despite their release, Mr. Speaker, the battle for human rights for Soviet Jewry has not been won. To the contrary, we have a long road ahead of us as we continue to struggle for the fundamental rights that the Soviet Jews have long been denied. Today, a large number of my colleagues will be participating in the Congressional Prayer and Fast Vigil for Soviet Jewry. I would like to join with them in bringing attention to the plight of nearly 500,000 Soviet Jews who have expressed a desire to emigrate from the Soviet Union only to be flatly denied. I urge my colleagues to never allow the memory of the Leningrad trials to fade nor the courage of the Leningrad Eleven to be forgotten.●

● Mr. DAUB. Mr. Speaker, I am privileged to have this opportunity to join my colleagues in this special order on behalf of Soviet Jews and in particular to publicly call attention to the plight of Ilya Katz and his family.

I consider it a privilege, yet a responsibility, to speak on behalf of the Katz family, knowing that they cannot speak for themselves.

Refuseniks since 1979, the Katz family was denied permission to emigrate to Israel on grounds of insufficient kinship. Like so many refuseniks, since permission to emigrate was denied, Ilya Katz, his wife, and their two daughters have been unable to secure employment in their fields of training and thus have been deprived of sufficient means to support themselves.

While the present situation for the Katz family and other Jews in the Soviet Union is bleak, our continued outcry will help to demonstrate to Soviet leaders that we will not let their treatment of Soviet Jews to silently continue, unprotested.

I would like to applaud my colleagues who have joined me today in this effort; I do not believe our efforts go unnoticed by Soviet leaders. Our united voices can keep this issue before the world and the plights of those like the Katz family before the eyes of those who choose to ignore their cries for freedom.●

● Mr. GREEN. Mr. Speaker, I rise in support of this special order and I would like to commend my distinguished colleague Congressman **Kemp** for his effort in bringing this order to the floor.

The injustices that are occurring today in the Soviet Union are increasing in scope and intensity. Not since the days of Stalin has the human rights situation in that country been so serious. As I speak, one of the Soviet Union's most distinguished scientists, Andrei Sakharov, is being held in an unknown place and under unknown conditions simply because he dared to fight for one of the most basic human rights of all—competent medical care for his wife, Yelena Bonner.

Minorities, and especially Jews, have been the subject of discrimination throughout Russian history. However, this discrimination has become worse since the Communists came to power. Today, Jewish emigration has been virtually halted. In 1984 only 303 Jews were allowed to emigrate from the U.S.S.R. and those that remain are subjected to ever inceasing repression. For example, receiving material from a foreign source is treated as "anti-Soviet agitation" and can result in the persons being sentenced to 10 years or more in a labor camp.

For those Jews still in the U.S.S.R., communications with their friends and relatives has become more important as the repression has increased. Yet, the Soviets are increasing their harassment of the international mail system—the most important link that dissident groups have with the outside world. The Soviets are consistently "unable" to deliver mail to certain groups and as of August 1, 1984, will refuse to accept parcels on which duty has been prepaid. As I said in a statement submitted to the hearing of the Subcommittee on Postal Operations held on June 11, 1984, in New York on this matter, the Soviets are violating the international postal regulations and the Helsinki accords in their refusal to deliver the mail.

Mr. Speaker, what can we do as Members of Congress and as human rights advocates to help those Jews still trapped in the Soviet Union? First, I think it is important that we speak out. We must let Soviet Jews know that they are not forgotten. Second, we can all write to the Soviet authorities expressing our concern and outrage about specific cases of abuse. Third, as the "adoptee" of two political prisoners, Seymon Gluzman and Ida Nudel, I urge all Members to "adopt" an individual prisoner and fight for his or her case.

Mr. Speaker, as beneficiaries of a free society we all have the duty to fight a system that denies medical care to its citizens simply because they dare to speak their minds and treats individuals as mere pawns to be used at will by the authorities.●

## CAMSCAM III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. **Lott**] is recognized for 60 minutes.

● Mr. LOTT. Mr. Speaker, on May 15 and June 7 I took two special orders on the Speaker's new TV panning policy of the House Chamber during special orders which was instituted without notice or consultation with the minority on May 10. In the first special order I trace the historical development of the House broadcast system with emphasis on who should control the cameras and what they should show. The House ultimately voted to support the Speaker's desire for a House owned and operated broadcast system over a network pool operated system, mainly due to concerns that the broadcasters would distort our proceedings by panning the empty seats or showing reaction shots rather than focusing on the Member speaking at all times. Opponents of a House owned and operated system feared it would be viewed as subject to political manipulation and censorship. As one of our colleagues succinctly put it at the time: "Those who make the news should not manage the news," or man the TV cameras, for that matter.

In my second special order I discussed my attempts to have this issue aired before the Committee on Rules which has jurisdiction over the House broadcast rule, and the rejection by our committee chairman and subcommittee chairman of this request on grounds that this was being looked at by the Democratic Caucus Committee on Organization, Study and Review, and the Speaker's Advisory Committee on Broadcasting.

The problem with the former review is that any recommendations are more likely to be presented to the caucus in January as part of the recommended House rules for the 98th Congress, and thus would not have the benefit of hearings, deliberation or amendment by the Rules Committee, nor of any minority participation. The problem with the latter review is that the Speaker's Advisory Committee has been defunct since the 96th Congress. The committee was appointed in the 95th Congress and consisted of the gentleman from North Carolina [Mr. ROSE], the gentleman from Texas [Mr. BROOKS], the gentleman from Louisiana [Mr. LONG], and one Republican, the gentleman from Michigan [Mr. Stockman]. However, the advisory committee was not reappointed in the 97th or 98th Congress, even though the Republican leader submitted a nominee to replace Mr. Stockman at the beginning of the 97th Congress. I am attaching to this special order an exchange of correspondence to document this point.

Nevertheless, the Speaker and the two Rules Committee members, Chairman PEPPER and Chairman LONG, with whom I corresponded, have all referred to this advisory committee as if it has been in existence all along. The fact is, only Mr. ROSE has continued to operate on an advisory basis to the Speaker on the operation of the broadcast system.

In this special order I would like to discuss the evolutionary development of the broadcast advisory committee concept. In the 94th Congress, the Rules Committee's Ad Hoc Subcommittee on Broadcasting reported House Resolution 875, recommending that broadcasting of House proceedings be provided by a network pool, gavel to gavel. In its initial report, the subcommittee also recommended the appointment by the chairman of the Rules Committee of a broadcast advisory board to assist the committee in its responsibilities to supervise, review, study, and coordinate, on a continuing basis, the broadcast coverage of our proceedings. The Board would be comprised of Rules Committee members, and the majority and minority leaders would serve as ex officio, nonvoting members.

Prior to going to the full Rules Committee with its resolution, the subcommittee was prevailed upon by then Majority Leader O'NEILL, acting as an agent of Speaker Albert, to make further changes in the resolution, one of which dealt with the Broadcast Advisory Board. Under that change, the Board would be appointed by the Speaker and placed under him to assist him with his broadcast responsibilities. However, the Board would be completely bipartisan, consisting of the majority and minority leaders, and four Members appointed by the Speaker, two from the majority party and two from the minority party. According to the subcommittee's supplemental report on House Resolution 875:

> The bipartisan composition of the Board is intended to reflect the institutional rather than political interests in permitting broadcast coverage of House floor proceedings.

The report went on:

> Moreover, the bipartisan makeup of the Board should help to allay any public suspicion of manipulation or control over the broadcast operation for political or partisan purposes. Finally, it must be emphasized that the Board will only be acting in an advisory capacity to the Speaker, and that ultimately the final decision-making powers rest solely with the Speaker.

Despite various changes made in the resolution at the further request of the majority leader, the Rules Committee recommitted the resolution to subcommittee on March 24, 1976, for further study, on a 9-to-6 rollcall vote.

The Ad Hoc Subcommittee on Broadcasting subsequently drafted a new resolution, House Resolution 1502, which included a sense of the House provision that coverage be provided by a network pool. The subcommittee print on the resolution discussed the other options for coverage as well. The resolution left intact the language establishing the bipartisan Broadcast Advisory Board under the Speaker. No further action was taken on the resolution by the Rules Committee in the 94th Congress.

In the 95th Congress, the Speaker instituted a 90-day, closed-circuit test of live television coverage of House proceedings on March 15, 1977. The test was to be conducted by the Select Committee on Congressional Operations. On that same day the House voted 398-10 for a question of privilege resolution offered by Representative Anderson of Illinois, requiring the Rules Committee to evaluate the test and report to the House its findings and recommendations. The select committee completed its test on September 15, 1977, and on September 27 issued its report, "Televising the House," in which it recommended that closed-circuit coverage continue through the 95th Congress, and that the Architect proceed to purchase equipment for a permanent system with a view to going public at the beginning of the 96th Congress. The select committee did not specifically recommend the creation of a broadcast advisory group to assist the Speaker, but said the Speaker should be permitted to "delegate any or all or any part of the operating responsibility to such officer, committee or other entity of the Congress as may be appropriate."

On October 6, 1977, Representatives LONG of Louisiana, Sisk, and BROOKS, introduced House Resolution 821 to amend House rules to authorize the Speaker to devise and implement a broadcast system for the coverage of the legislative proceedings of the House and to delegate any of his responsibility for the implementation of the system "to such legislative entity as he deems appropriate." The Rules Committee held 2 days of hearing on the resolution in October, and on October 25 reported my substitute resolution (H. Res. 866) which did not amend House rules, but authorized the Speaker to continue with the development of the system, required the Rules Committee to study and report by February 15, 1978, on alternative systems for providing broadcast coverage, and, after the receipt of that report, authorized the Speaker to make such coverage available to the public. The resolution further authorized the Speaker to delegate any of his responsibilities to "such legislative entity as he deems appropriate." That resolution was adopted by the House, 342-44 on October 27, 1977.

The February 15, 1978, Rules Committee report recommended that the House operate its own broadcast system, and that the Speaker delegate to an existing or new committee the responsibility for "implementing and coordinating the actions * * * for management, oversight, and improvement of all activities and policies connected with audio and visual coverage and broadcasting of House floor proceedings."

The report went on to note that while House Resolution 866 gave the Speaker full and complete authority over all decisions concerning the broadcast coverage, "Given the magnitude of the task * * * it is clear that the Speaker has neither the time nor the staff to manage it out of his own office." The report listed the various responsibilities which should be performed by such an entity, including general oversight and coordination of the broadcast system; periodic review of broadcast policies, quality, problems, and costs; adjudication of any complaints raised by Members, broadcasters or the public concerning any aspect of the broadcast coverage; providing full public disclosure of all broadcast coverage operations; and development and promulgation, with the Speaker's approval, of rules and regulations concerning all matters within its jurisdiction.

If the Speaker should decide on creating a new committee for these purposes, the report went on, it should only be in existence for 2 or 3 years, after which time its functions should be transferred to a permanent committee or entity of the House. And, quoting from the report:

> Concerning the relationships between the Speaker and the committee, we recommend that he delegate all administrative, oversight, and managerial responsibility to the panel, subject to his affirmative approval on major decisions and his negative veto on all others.

The Speaker did create his Advisory Committee on Broadcasting in 1978, consisting of three Democrats and one Republican—a far cry from an earlier Rules Committee's subcommittee recommendation that it be bipartisan. The advisory committee apparently focused during the remainder of the 95th Congress and 96th Congress on decisions concerning the establishment of a permanent House broadcast system using the most modern equipment and color TV cameras. The House had voted on June 14, 1978, 133-249, against an amendment to the legislative appropriations bill offered by Representative Anderson to prohibit the use of funds for the purchase of a House broadcast system; it subsequently voted 235-150 for an amendment by Representative Benjamin to prohibit the use of funds for a broadcast system operated by anyone other than House employees—thus finalizing the debate over who should control the cameras.

Mr. Speaker, the point of this special order history on the historical development of the Speaker's Advisory Committee on Broadcasting is to emphasize that there was strong sentiment on the Rules Committee in both the 95th and 96th Congresses for a permanent, bipartisan advisory body on broadcasting to assist the Speaker. It was not considered either politically or practically appropriate that the broadcast operation be run out of the Speaker's office. The Speaker would still retain ultimate control over the system, but would rely heavily on his advisory group to oversee the operation of the system, handle complaints, and establish rules and procedures for the system's management.

As I have already indicated, even the 3 to 1, Democrat to Republican group has not been in existence for the last two Congresses to assist the Speaker—only its former chairman, Representative Rose, has remained on the job as an adviser to the Speaker on the broadcast system. When the Speaker instituted his new TV panning policy of the Chamber during special orders on May 10, he did not consult with the nonexistent bipartisan advisory committee. He did not even ask the advice of its one remaining adviser. As the Speaker informed the House during his 1-minute speech on May 14, and I quote:

> Three o'clock on that afternoon, I notified Charlie Rose; nothing in the rules says that I have to notify you. Courtesy probably said that I should have * * *

The Speaker went on to indicate that he had no idea who was up first for special order that day, but he instructed Representative Rose that, "Starting today, we are going to show * * * the full, wide screen" during special orders.

The Speaker also informed the House that he "had already talked with my members and I had planned on my side to have an ad hoc committee to look into what has been going on and to look into changing the rules." When the Republican leader then asked whether the minority would be represented on that group, the Speaker replied: "Well, we are the majority; it is our responsibility to see that this House is run in a fair and adequate manner and that is what we try to do * * * I am sure if you want to appoint a committee of your members to look into it * * *."

On the following day, the Speaker wrote a more conciliatory letter to the Republican leader in which he said, "I will be happy to consult with you in the future." He made reference to the Democratic Caucus Committee which was "reviewing our rules regarding the televising of floor proceedings." And his letter went on:

> Normally, I rely on the Speaker's Advisory Committee on Broadcasting to provide me with recommendations regarding the House broadcasting. This is a bipartisan committee. However, the Republican seat has been vacant since David Stockman resigned from Congress. You may want to fill that vacancy now.

Mr. Speaker, as the correspondence attached to this special order will show, the Speaker refused to appoint the Republican nominee submitted by our leader to replace Mr. Stockman at the beginning of the 97th Congress, so such bipartisan consultation and advice could not have been available to the Speaker, even if he had asked for it from his defunct advisory committee.

On May 16, Representative Michel responded to the Speaker's letter of the previous day in part as follows:

> I would also like to express our desire to have representation on any House body that will be charged with considering or actually making further changes in the broadcast system. The other day on the Floor, you seemed to be saying that an ad hoc committee made up exclusively of Democratic members would be formed to look into broadcast coverage issues. Minority members should be equally represented in any such deliberation.

Mr. Speaker, I think the history of the House broadcast rule clearly shows that such bipartisan participation in the operation of the broadcast system was intended from the outset. The lack of such minority party participation due to the termination of the bipartisan advisory committee is what led to the outbreak of partisan furor when the Speaker made his unilateral decision to pan the Chamber only during special orders. I hope we will get back to basics and the original intent of the Rules Committee in restoring bipartisan cooperation in the operation of this system. I continue to believe that the Rules Committee has a legitimate role to play in this restoration process as well.

At this point in the Record, Mr. Speaker, I include the exchange of correspondence on the Speaker's Advisory Committee on Broadcasting:

House of Representatives,
*Washington, DC, May 18, 1984.*

Hon. Trent Lott,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

Dear Trent: Per our conversation regarding the appointment to the Speakers Advisory Committee on Broadcasting, I am attaching my March 5, 1981 correspondence to Mr. Michel requesting that Bill Thomas be appointed to this Advisory Committee. Also attached are Mr. Michel's letters to Mr. Thomas and the Speaker.

I assumed that this appointment had been made until my House Administration Committee staff received an inquiry about six months later. My staff director called the Speakers Office to see if Mr. Thomas had been appointed and was informed that the Speaker had not made any appointments to the Advisory Committee. No one approached me in 1983 about an appointment to this board.

I hope this information is helpful. Please let me know should you require additional details.

Best regards,

Bill Frenzel.

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House of Representatives,
Committee on House Administration,
*Washington, DC, March 5, 1981.*

Hon. Robert H. Michel,
*The Capitol*
*Washington, DC.*

Dear Bob: Per our recent conversation regarding the appointment to the Speakers Advisory Committee on Broadcasting, I have talked with Bill Thomas about serving on this advisory board and he is willing to do so.

Your approval of Congressman William M. Thomas to this Advisory Committee will be appreciated.

Best regards,

Bill Frenzel,
*Ranking Minority Member,*
*Committee on House Administration.*

March 12, 1981.

Hon. Thomas P. O'Neill, Jr.,
*Speaker of the House of Representatives, the Capitol, Washington, DC.*

Dear Mr. Speaker: I understand Rep. William Thomas has been suggested for appointment to the Speaker's Advisory Committee on Broadcasting, and I just wanted to let you know I have no objection to his selection.

Sincerely,
Robert H. Michel,
*Republican Leader.*

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March 12, 1981.

Hon. William M. Thomas,
*House of Representatives,*
*Washington, DC.*

Dear Bill: You recently had a conversation with our good friend Bill Frenzel about the possibility of your serving on the Speaker's Advisory Committee on Broadcasting, and he has advised me of your willingness to serve in this capacity.

I have notified the Speaker of my approval of this decision and hope you will find your service on this Committee worthwhile.

Sincerely,
Robert H. Michel,
*Republican Leader.*●

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## BALTIC STATES FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. Annunzio] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, June 14 marks yet another anniversary of the Soviet occupation of the Baltic States. Forty-four years have passed since 1940 when Lithuania, Latvia, and Estonia were overrun by the Communists and, subsequently, forcibly annexed into the Soviet Union.

June 14, 1940 was just the sad beginning of years of systematic terror and massive deportation by the Communists. First, the intellectuals and politically active citizens were executed, and then, the peasants and others who desired only to live in peace. Tragically, thousands of people in Lithuania, Latvia, and Estonia were uprooted from their native lands and driven savagely to Siberian labor camps where many more perished of starvation, disease, and exposure. The Soviets imposed harsh restrictions on religious practices, customs, and use of native languages on the remaining citizens. Although the Nazi invasion interrupted these "russification" efforts, when the Communists regained control in 1944, they reoccupied the Baltic States and the deportations continued. Another 445,000, or 10 percent of the entire Baltic population, were deported in 1948 and 1949.

Today, Baltic citizens are struggling within the Soviet Union for their right to freedom, justice, and self-determination. The Soviets are attempting to destroy the identity of these peoples with violence and force. They have ordered that Russian be taught in all kindergartens, day care centers, and secondary schools. Religious activities and beliefs are rigidly supervised. In the middle schools, military training is part of the required curriculum. Communist propaganda and threats are used to influence young people, and their activities are monitored and scrutinized for their adherence to party objectives.

Although the Soviets have been brutal in their persecution of the people of Lithuania, Latvia, and Estonia, they have been unable to crush the spirits of the proud people of these countries and their desire to live in freedom and human dignity. At this point in the Record, I would like to include an excerpt from an article appearing in the March-April 1984 Bulletin of the "Antibolshevik Bloc of Nations" which outlines the barbaric conduct of the Communists against the citizens of the Baltic States.

The article follows:

### RUSSIFICATION OF THE BALTIC REPUBLICS

(By Kaja M. Kool, Rima V. Silenas, and Roberts Inveiss)

The topic of concern is the russification of the Baltic Republics, which were illegally incorporated into the Soviet Union during World War II. Throughout this discourse vagaries of the term "russification" will be explored. The main focus will deal with the present state of affairs and future implications in the Baltic Republics.

Russification can be considered a process within sovietization. Whereas sovietization of the ideal "soviet" man is the goal and encompasses all peoples within the Soviet Union, including Russians, russification aims to create Russians out of non-Russians and therefore deals only with independent and unique cultures within the Soviet Union. Sovietization is the production of a new culture using the Russian culture as a foundation. Russians suffer fewer consequences (such as the need to learn another language, etc.) because of this foundation. Other nations and/or cultures that have been incorporated into the Soviet Union are expected to conform to the Russian basis, the result being russification. In the Baltic Republics, russification is implemented through the following:

1. forced relocation of (Baltic) people away from their homelands
2. colonization by Russian immigrants
3. gradual elimination of (Baltic) tongues and all ethnic traditions
4. establishment of Russian as the offical language in government employment and in place names
5. prohibition against artistic portrayals of ethnic themes
6. job discrimination against (Balts)
7. reduced financing of (Baltic) schools
8. erosion of traditional mores and values

The essence, therefore, is forced unification under a Russian umbrella, with the ultimate goal being the "internationalization" of all Russian republics into a modern "soviet" nation. The fact that such a policy exists contradicts the general, official attitude in the Soviet Union that integration has already been completed amongst the republics.

That the regime fosters Russification seems to be an indication of its continued inability to reply on the loyalty of the non-Russian population of the USSR. The mass media have been promoting ideas and practices intended to lead to a transfer of loyalties from the local to a wider Soviet entity. Efforts to wean the Baltic societies away from their relative cultures and traditions and to inculcate "international" meltingpot values—often little more than vulgarized versions of Russian customs, or at least perceived as such by the Baltic population—have been continuous since 1940.

It should be noted that the Baltic Republics are not the only ones affected by this policy; the continuing and intensive russification drive includes all non-Russian republics in the European half of the Soviet Union. The latest wave of russification, begun in the late 1970's, appears to be an "effort designed both to elicit more support for the regime from the Russians and to cope with effects of a population explosion in Central Asia on the Soviet manpower pool."

Touching upon the continued need for a policy of russification, Yuri Andropov, Secretary General of the Communist Party, now deceased, in an address celebrating the 60th anniversary of the Soviet Union in December 1982, called the rising national consciousness and self-assertion of "Soviet Multination Polity" a "negative phenomenon".

For the peoples of the Baltic Republics, cultural honor is at stake. Located as a buffer zone between the West and Russia, they are innundated by immigrants from the entire Soviet Union; at the same time they are exposed to a steady stream of Western influence through radio and television broadcasts and ties with relatives in the Western diaspora. Complete russification is not possible as long as native culture and language remain in a growing and competitive position. Yet Communist Party policies "undermine the institutional framework or infra-structure of native language and cultural maintenance and advancement." Ukrainian educator Mrs. Nadia Svitlychan, who left the USSR in the fall of 1978, explains that Soviet authorities imbued the different nations with an "artificial feeling of 'Soviet' patriotism, engendered the fascist myth of the exclusivity and superiority of all things Soviet, and ruthlessly dealt with any and all manifestations of national, i.e. non-Russian, patriotism." August Voss, the First Secretary of the Latvian Communist Party, explains the "need to inculcate in a Latvian the notion that he is not only a Latvian but, first and foremost, 'a Soviet man, a Soviet patriot, a Soviet internationalist'." As a consequence, the Soviet system openly maintains the attitude that there is no neutral media or organization within the Soviet Union. Accordingly, all agencies, from the Party down to the factory and neighborhood, focus a large part of their efforts and activities on political education.

Political socialization appears to be the main means of building the support necessary to stabilize and preserve the socio-economic system. For any nation this includes the transmission of a value system and attitudes. In comparison to the United States, which socializes its youth through childhood and adolescence under the assumption that this is sufficient, the Soviet socialization process continues throughout the entire lifetime. Whereas in the United States a sum of parts, i.e. different cultures, creates the whole fabric of American society, the Soviet system is based upon the assumption that the Soviet culture is homogenous. The Soviet citizen is socialized through an ordered sequence of learning processes, versus the extensive but far more casual information flow in the United States. As a consequence, any problems concerning the nationality issues in the Soviet Union have been officially toned down and "pigeonholed" under the label of hooliganism up to the present. It seems to be that within the republics, "the dissent of Soviet citizens leads to repression, which in turn leads to further dissent, in a 'vicious circle'." Yet an underground survives and is a main source of our information regarding the inside story.

The proud people of Lithuania, Latvia, and Estonia are continually being denied personal freedoms, and I was glad to add my name as a cosponsor to House Concurrent Resolution 192, a bill calling for the U.N. Human Rights Commission to discuss this most important matter at the 40th session of the Human Rights Commission. Similar legislation was approved in the House of Representatives, and a copy of House Concurrent Resolution 192 follows:

### H. CON. RES. 192

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas the United States has adhered to the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and other relevant instruments relating to human rights;

Whereas the United States has supported the Declaration of Granting of Independence to Colonial Countries and Peoples, adopted by the United Nation's General Assembly in Resolution 1514 (XV) of December 14, 1960, and has taken note of the resolution on the question of the Baltic States, adopted by the European Parliament in its session on January 13, 1983, in Strassbourg, France;

Whereas the three Baltic republics, Estonia, Latvia, and Lithuania, did not become member republics of the Soviet Union voluntarily, but rather were occupied militarily and subsequently incorporated by force into the Soviet Union and have since been governed by governments approved by, and subservient to, the Government of the Soviet Union; and

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent republics of Estonia, Latvia, and Lithuania: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress that—

(1) the United States, as a member of the United Nations, should fulfill its obligations, on the basis of the appropriate international instruments, to promote and encourage respect for human rights and fundamental freedoms in Estonia, Latvia, and Lithuania;

(2) the President, acting through the Secretary of State and the Permanent Representative of the United States to the United Nations, should take all necessary steps to bring the question of self-determination of the Baltic States before all appropriate forums of the United Nations, especially before the next session of the United Nations Human Rights Commission as a priority topic under agenda item 9 entitled "The Rights of Peoples to Self-Determination and its Application to Peoples Under Colonial or Alien Domination" and to discuss specifically in those forums—

(A)(i) the continued reports of widespread violations of human rights and fundamental freedoms in Estonia, Latvia, and Lithuania, including the freedom of expression, the freedom to worship according to the dictates of one's own conscience, the freedom to celebrate one's cultural heritage, and the freedom to choose one's place of residence, and

(ii) the persecution of persons seeking to exercise such rights;

(B) the United States most profound concern that the people of Estonia, Lativa, and Lithuania be granted the right to self-determination, to choose their own form of government, their own economic, political, and social system without any outside intervention, subversion, coercion, or constraint of any kind; and

(C) a political resolution of the situation in Estonia, Latvia, and Lithuania on the basis of—

(i) the withdrawal of Soviet troops from these states,

(ii) respect for the independence, sovereignty, and territorial integrity of Estonia, Latvia, and Lithuania, and

(iii) strict observance of the principle of nonintervention by one soverign state in the internal and external affairs of another sovereign state.

SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the President.

Mr. Speaker, I am privileged to join with Americans of Lithuanian, Latvian, and Estonian descent in the 11th Congressional District of Illinois, which I am honored to represent, and all over this Nation, in commemorating the 44th anniversary of Baltic States Freedom Day. The sad fate and memory of the victims of Communist persecution shall never be forgotten as we hope and pray that democracy will ultimately triumph over this tyranny, and the sovereignty of these three nations shall one day be restored.●

## LAW ENFORCEMENT PROTECTION ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, I rise today to introduce a most important piece of legislation which would regulate the manufacture and importation of armor-piercing ammunition—and provide for stiff mandatory sentences for those who would use such ammunition during the commission of a felony.

The support for this legislation is evidenced clearly by the cosponsors with which I join in the introduction of this legislation—support from leadership on both sides of the political spectrum, and support of all interested groups.

The Treasury and Justice Departments have worked long and hard to craft language which is succinct, effective, and enforceable while clearly recognizing the rights of law-abiding gun owners and sportsmen to be free of burdensome government regulation.

The effort has now been completed with assistance and support from the International Association of Chiefs of Police, the Fraternal Order of Police, the National Association of Police Organizations, the National Sheriffs' Association, the National Organization of Black Law Enforcement Executives, the Police Research Forum, and the National Rifle Association and other sportsmen's groups.

I commend all concerned parties in their tireless work in support of the Nation's police and urge the expeditious passage of this legislation with the unanimous support it deserves.●

## THE OMNIBUS MEDICARE REFORM ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 10 minutes.

● Mr. PEPPER. Mr. Speaker, for some time I have been concerned about the Medicare Program. The elements of my concern include the cost of benefits provided by the program to seniors, the cost to the taxpayer, the number of essential health services not provided by the program and the cost of these to the beneficiaries, and the extensive evidence of fraud, waste, abuse and inefficiency in its operation. With the Congressional Budget Office's projection last year that the Medicare hospital insurance trust fund could be bankrupt within 5 years, all of these concerns were elevated.

On September 29, 1983, I introduced legislation, H.R. 4040, to begin to address the structural problems of Medicare—those relating to the services authorized and the manner of their delivery. This legislation would address the fundamental problems of Medicare by allowing providers more flexibility and providing incentives to operate efficiently.

Earlier this year, on February 7, 1984, I took the floor to address the immediate problem posed by the projected hospital insurance fund bankruptcy. At that time I delineated several cost-saving measures which could be adopted by Congress without adding to the burden borne by seniors. These cost-saving proposals would not only prevent the projected medicare shortfall, they would provide a significant Medicare surplus.

I am pleased to say several of these measures, provisions dealing with laboratory charges and the intensity of services, have been favorably considered by Congress and are the subject of review by the conference committee.

Today, with my colleagues, Mrs. BURTON, Mr. STOKES, Mr. OWENS, Mr. TOWNS, Mr. MITCHELL, Mr. SOLARZ, Ms. OAKAR, Mr. COLEMAN, Mr. FORD, Ms. COLLINS, Mr. FASCELL, Mr. DERRICK, Mr. **Minish**, Mr. **Ratchford**, and Mr. **McNulty**. I am presenting a comprehensive reform package which embodies and extends these previous actions. The nine bills in this package: First, provide the cost savings necessary to ensure Medicare's continued solvency; second, extend services by allowing hospitals, doctors and other providers to organize more efficiently; third, provide authority for flexible benefit packages which would extend services to the elderly without increasing cost; fourth, encourage physician assignment; and fifth, address the largest single gap in the Medicare Program by establishing a limited medicare long-term care benefit.

Mr. Speaker, I have prepared a summary of the bills in this package. I include it and the full text of the legislation following these remarks:

### SUMMARY OF OMNIBUS MEDICARE REFORM PACKAGE

#### COST-SAVING PROPOSALS

1. Churning, or the sale and lease back of facilities and capitalized equipment, is one of the most persistent problems faced by the Medicare program. In February the General Accounting Office found the acquisition costs associated with the purchase of a number of hospitals by a hospital chain resulted in increased program costs of $55.2 million. This included increased interest and depreciation costs associated with the transfer of ownership. There were no improvements to the facility. Nor was any increased capacity for services generated. The result of these transfers is that Medicare is repeatedly paying for the same facilities and equipment at an ever increasing rate.

This drain on Medicare would be eliminated by the enactment of legislation which provides that the depreciable basis of any item or structural currently under Medicare will be frozen at its depreciated value as of the date of enactment. In the future, the depreciable base of any asset would be its value as of the date initially recognized by Medicare without regard to transfers of ownership.

2. The current hospital reimbursement system includes an add-on to the projected market basket for "intensity of services." The rationale for payment is that it covers changes in technology and changes in the type and mix of patients. Hearings of the Subcommittee have demonstrated that much of the existing and new technologies in question are employed without adequate review to assess their safety and efficacy. Dr. Arnold Relman, editor, New England Journal of Medicine, told the Subcommittee some 15 to 20 percent of total health costs should be avoided if unnecessary and useless technologies were not employed.

This bill would eliminate the statutory intensity of services add-on and replace it with a provision calling for reimbursement of new technologies only when they have been reviewed by the Office of Health Technology Assessment or a successor agency and found through appropriate clinical trials to be safe and effective for their intended purpose.

3. Under the diagnosis related group (DRG) payment system, hospitals are paid fixed amounts for each DRG category into which they can categorize a patient. To the extent their costs are below the DRG payments they can keep the difference. If the costs exceed the allowance, the hospital must find a way to absorb the loss.

The adoption of this methodology assumed the Health Care Financing Administration had the expertise to assure equitable calculation and allocation of DRGs. It is now clear significant modifications will have to be made to this system to avoid "windfall" profits for some hospitals and unjustified underpayments to others.

The modification required by this legislation would permit hospitals to retain 50 percent of the differences between their actual, reasonable Medicare costs and the total of their DRG allowances. Hospitals whose allowable costs exceed their total DRG allowances would be reimbursed by 50 percent of those excess costs but not more than 10 percent above their DRG allowances. In other words, a hospital whose costs exceed its DRG allowance by 20 percent or more would receive a maximum of ten percent of their allowable costs in addition to the DRG reimbursement. Medicare would recover half of any windfall profit generated by hospitals coming in below the DRG rate.

4. Another area where the efficiency of the Medicare program can be improved is by ending the manipulative exploitation of reimbursement associated with hospital outpatient care. At present, outpatient care is not subject to the DRG limits so hospitals have an incentive to load up their outpatient departments. They also have an incentive to take the DRG allowance and then discharge patients to further care—at an additional cost to Medicare—in their outpatient department.

To cure this deficiency, this legislation requires the Secretary to develop a methodology for including outpatient care under the DRG system.

#### STRUCTURAL REFORMS

5. This bill would encourage physicians participating in Medicare to accept assignment by providing incentives for them to do so. A prospective payment will be made to physicians who agree to accept assignment for all patients. Payment for the first month is to be made on an average of the Medicare payment to physicians over the previous year. Subsequent payments will be adjusted upward or downward to reflect the difference, if any, between the previous month's prospective payment to the physician and the physician's actual billing for that same month. All new physicians entering the program (as of January 1, 1985) will be required to accept assignment as payment in full as a condition of participating.

6. Under this proposal, the Health Care Financing Administration would be given authority to enter into prepaid contracts with preferred provider organizations. In order to be eligible to contract with the Department, the PPO will be required to meet requirements pertaining to the accessibility and quality of services, marketing materials and practices, provider relationships, and financial viability.

Payment of PPOs will be based on a formula similar to that established for HMOs under TEFRA, with the rate related to the service delivery package offered. But in no event will payments made under this act exceed 95 percent of current expenditures (based on the AAPCC). The PPO would be required to offer all the existing Medicare services. In addition, the PPO may offer such other services as it deems cost-effective and beneficial so long as the services are disclosed in the negotiating process and agreed to by HCFA.

7. The Freedom of Choice HMO concept to be demonstrated under this proposal calls for the testing of HMOs designed to address the problems that have traditionally inhibited HMO growth. These include the lock-in provisions, access, accountability and quality concerns. These concerns will be addressed by offering beneficiaries a continuing choice of receiving services within and without the HMO based on the beneficiaries' evaluation of the relative quality, convenience and cost of these alternatives.

HMOs choosing to participate in the demonstration projects will receive payment based on the 95 percent adjusted average per capita cost for Medicare beneficiaries established by TEFRA. Medicare beneficiaries enrolled in the demonstration will continue to have the freedom to use any Medicare provider they choose. The HMO would be required to reimburse for these services out of the funds generated by the capitated rate.

The HMOs would be required to make available to beneficiaries enrolled in the demonstration all the traditional Medicare services through their panel of providers and such other services as the HMO deems beneficial and cost effective. Based on current practices, these services should include preventative care, eye care, eye glasses, foot care, and other services not now provided by Medicare.

Beneficiaries enrolled in the demonstration will have the option of continuing their present relations with specific providers or receiving more comprehensive and less expensive services through the HMO. If the beneficiary chooses the continuance of their present relation and service patterns, they can for all intents and purposes ignore the HMO involved in the demonstration. The only discernible difference for these beneficiaries is that the payment of these services will be charged to the HMO.

If the beneficiary opts to receive services from the HMO, however, they will be eligible to receive an extended benefit package. They will also not have to pay deductible and coinsurance amounts.

If the theory behind this demonstration is that the option to opt out of the HMO will address lock-in concerns of beneficiaries and encourage HMOs to maintain quality. Beneficiaries would be encouraged to use the HMO's service by the availability of increased services and out-of-pocket cost savings. The HMO would save on enrollment fees and receive an opportunity to demonstrate its services. The program would save 5 percent of Medicare cost associated with those beneficiaries involved in this demonstration.

8. This bill provides for the designation of 20 regional centers for the treatment of Alzheimer's disease and related disorders. These centers, to be designated by the Secretary based on an evaluation of proposals, will be responsible for providing a central facility for the diagnosis, evaluation, and counseling of patients and families with Alzheimer's disease and related disorders, develop standards of care for treatment of these diseases, provide training for professionals and nonprofessionals in the diagnosis and treatment of these diseases, develop cost-effective methods for treatment of patients with Alzheimer's disease and related disorders, and develop a comprehensive program for treatment including both acute and long-term care.

Each center will receive funds not to exceed $1 million to support the teaching, training, staffing and research elements of the program. Funding for services will be provided on a capitated rate based on and in lieu of services to which the beneficiary would otherwise be eligible under Titles XVIII, XIX, and XX of Social Security or under the Older Americans Act.

9. This measure would establish a tax check off, similar to that used to designate contributions to the presidential campaign fund, for health research. Funds designated would be directed to the National Institutes of Health and apportioned according to the preference of donors for specific research. These contributions would supplement those generated by the appropriations process.●

## RULES OF PROCEDURE OF THE SELECT COMMITTEE ON AGING

(Mr. ROYBAL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● **Mr. ROYBAL.** Mr. Speaker, the Rules of Procedure of the House Select Committee on Aging, adopted on February 23, 1983, in the 1st session of the 98th Congress, are published below to afford the public, interested parties, and witnesses before this committee an opportunity to be apprised of the rules of procedure of the committee. The publication of the committee rules reaffirms their application to committee hearings, meetings, and other procedures and will, in this instance, serve to inform potential witnesses of the rules of the committee with respect to a hearing which will be conducted on July 26, 1984, concerning the 1981 White House Conference on Aging.

### RULES OF PROCEDURE—SELECT COMMITTEE ON AGING

### INTRODUCTION

The permanent Select Committee on Aging was established on October 2, 1974 when the amendment to H. Res. 988, the Committee Reform Amendments of 1974, was adopted by the House. The amendment was subsequently incorporated in the Rules of the House of Representatives as Rule X, 6(g), which reads as follows:

(g) There shall be in the House the permanent Select Committee on Aging, which shall not have legislative jurisdiction but which shall have jurisdiction—

(1) to conduct a continuing comprehensive study and review of the problems of the older American, including but not limited to income maintenance, housing, health (including medical research), welfare, employment, education, recreation, and participation in family and community life as self-respecting citizens;

(2) to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist the older American in taking a full part in national life and which will encourage the utilization of the knowledge, skills, special aptitudes, and abilities of older Americans to contribute to a better quality of life for all Americans;

(3) to develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of aging; and

(4) to review any recommendations made by the President or by the White House Conference on Aging relating to programs or policies affecting older Americans.

The Honorable Wm. J. Randall of Missouri was appointed the first Chairman of the new Select Committee on Aging by Speaker Carl Albert on February 6, 1975.

The Honorable Edward R. Roybal succeeded as Chairman on February 8, 1983 having been appointed by Speaker Thomas P. O'Neill, Jr.

In keeping with House rules that committees with membership of 20 or more members have at least 4 subcommittees, the following subcommittees have been established:

Subcommittee No. 1—Retirement Income and Employment, Mr. Roybal, Chairman, Mr. Shumway, Ranking Minority Member.

Subcommittee No. 2—Health and Long-Term Care, Mr. Pepper, Chairman, Mr. Regula, Ranking Minority Member.

Subcommittee No. 3—Housing and Consumer Interests, Mr. Bonker, Chairman, Mr. Hammerschmidt, Ranking Minority Member.

Subcommittee No. 4—Human Services, Mr. Biaggi, Chairman, Mrs. Snowe, Ranking Minority Member.

### RULES OF PROCEDURE

### *Rule No. 1*

Except where the terms "full committee" and "subcommittee" are specifically referred to, the following rules shall apply to the *Select Committee on Aging* and its subcommittees as well as to the respective chairmen.

The rules of the committee shall be subject to amendment at any time.

[See House Rule XI, 1.]

### *Rule No. 2*

The regular meetings of the full committee shall be held on the *first Thursday of each month at 2:00 p.m.*, except when the Congress has adjourned or recessed. The chairman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the committee may be requested by members of the committee in accordance with the provisions of House Rule XI, 2c(2). Subcommittees shall meet at the call of the subcommittee chairmen.

Every member of the committee or the appropriate subcommittees, unless prevented by unusual circumstances, shall be provided with a memorandum at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays) prior to each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for the appearance of any witnesses. The minority staff shall be responsible for providing the same information on witnesses whom the minority staff may request.

[See House Rule XI, 2(b).]

### *Rule No. 3*

A majority of the members of the full committee and each of the subcommittees shall constitute a quorum of the committee or subcommittee for the purpose of convening meetings, conducting business, and voting on any matter: Provided, That the chairman of the full committee may determine that one-third of the members of the full committee shall constitute a quorum of the full committee at any meeting for such purpose (other than for the reporting of any measure or recommendation, and voting on the authorization of subpoenas and on the closing of hearings and business meetings to the public) if he gives written notice to that effect to the members prior to the meeting. Any committee member present at a committee meeting may make a point of order that a quorum is not present under the conditions set forth above, but a quorum shall be deemed present unless a member objects to the transaction of business because of the lack of a quorum. Two members shall constitute a quorum to taking testimony and receiving evidence. A majority of the members of the committee must approve any report, or any staff study containing policy recommendations, and the chairman is empowered to obtain that approval in any appropriate manner, including by polling members of the committee in writing, provided, that the proposed report or staff study has been available to the members of the committee for at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays). The chairman, with the consent of the ranking minority member, may waive the 3 calendar day notification requirement. Proxies shall not be used to establish a quorum. If the chairman is not present at any meeting of the committee or subcommittee, the ranking member of the majority party on the committee or subcommittee who is present shall preside at that meeting.

[See House Rule XI, 2(h).]

### *Rule No. 4*

Every investigative report shall be approved by a majority vote of the committee at a meeting at which a quorum is present. Supplemental, minority, or additional views may be filed in accordancce with House Rule XI, 2(1)(5). The time allowed for filing such views shall be 3 calendar days (excluding Saturdays, Sundays, and legal holidays) unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. A proposed report shall not be considered in subcommittee or full committee unless the proposed report has been available to the members of such subcommittee or full committee for at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such proposed report in subcommittee or full committee. The chairman, with the consent of the ranking minority members, may waive the 3 calendar day notification requirement. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the subcommittee or full committee prior to the consideration of the proposed report in such subcommittee or full committee.

### *Rule No. 5*

A member may vote by proxy on any measure or matter before the committee and on any amendment or motion pertaining thereto. A proxy shall be in writing and be signed by the member granting the proxy; it shall show the date and time of day it was signed and the date for which it is given and the member to whom the proxy is given. Each proxy authorization shall state that the member is absent on official business or is otherwise unable to be present, and shall be limited to the date and the specific measure or matter to which it applies; and, unless it states otherwise, it shall apply to any amendments or motions pertaining to that measure or matter.

*Rule No. 6*

A rollcall of the members may be had upon the request of any member.

*Rule No. 7*

The committee staff shall maintain in the committee offices a complete record of committee actions including a record of the rollcall votes taken at committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alteration, additions, or defacements.

[See House Rule XI, 2(e).]

*Rule No. 8*

There shall be *Four (4)* subcommittees with appropriate party ratios which shall have assigned or fixed jurisdictions.

[See House Rule XI, 1(a)(2).]

*Rule No. 9*

The chairman and the ranking minority member of the committee shall be ex officio members of all subcommittees. They are authorized to vote on subcommittee matters; but, unless they are regular members of the subcommittee, they shall not be counted in determining a subcommittee quorum other than a quorum for the purpose of taking testimony.

*Rule No. 10*

Except as otherwise provided by House Rule XI, 5 and 6, the chairman of the full committee shall have the authority to hire and discharge employees of the professional and clerical staff of the full committee and of subcommittees subject to appropriate approval.

After approval by the majority caucus, the authorization for the creation of new positions shall be approved by a majority vote of the committee, a quorum being present.

*Rule No. 11*

Except as otherwise provided by House Rule XI, 5 and 6, the staff of the committee shall be subject to the direction of the chairman of the full committee and shall perform such duties as he may assign.

*Rule No. 12*

The chairman of the full committee will announce the date, place, and subject matter of all hearings at least 1 week prior to the commencement of any hearings, unless he determines that there is good cause to begin such hearings at an earlier date. In order that the chairman of the full committee may coordinate the committee facilities and hearing plans, each subcommittee chairman shall notify him of any hearing plans at least 2 weeks in advance of the date of commencement of hearings, including the date, place, subject matter, and the names of witnesses, willing and unwilling, who would be called to testify, including, to the extent he is advised thereof, witnesses whom the minority members may request. The minority members shall supply the names of witnesses they intend to call to the chairman of the full committee or subcommittee at the earliest possible date. Witnesses appearing before the committee shall, as far as practicable, submit written statements at least 24 hours in advance of their appearance.

A subcommittee holding hearings in the field may investigate matters that are within the committee's jurisdiction, whether or not the matter being investigated falls within the jurisdiction fixed for that subcommittee.

[See House Rule XI, 2(g), 2(j), and XI, 3(f)(2).]

*Rule No. 13*

Meetings for the transaction of business and hearings of the committee shall be open to the public unless closed in accordance with Rule XI of the House of Representatives.

[See House Rule XI, 2(g).]

*Rule No. 14*

A committee member may question a witness only when recognized by the chairman for that purpose. In accordance with House Rule XI, 2(j)(2), each committee member may request up to 5 minutes to question a witness until each member who so desires has had such opportunity. Until all such requests have been satisfied, the chairman shall, insofar as practicable, recognize alternately on the basis of seniority those majority and minority members present at the time the hearing was called to order and others on the basis of their arrival at the hearing. Thereafter, additional time may be extended at the direction of the chairman.

*Rule No. 15*

Investigative hearings shall be conducted according to the procedures in House Rule XI, 2(k). All questions put to witnesses before the committee shall be relevant to the subject matter before the committee for consideration, and the chairman shall rule on the relevance of any questions put to the witness.

*Rule No. 16*

A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

*Rule No. 17*

When approved by a majority vote an open meeting or hearing of the committee or a subcommittee may be covered, in whole or in part, by television broadcasts, radio broadcasts, and still photography, or by any such methods of coverage, subject to the provisions of House Rule XI, 3. In order to enforce the provisions of said rule or to maintain an acceptable standard of dignity, propriety, and decorum, the chairman may order such alteration, curtailment, or discontinuance of coverage as he determines necessary.

[House Rule XI, 3.]

*Rule No. 18*

The chairman of the full committee shall:

(a) make available to other committees the findings and recommendations resulting from the investigations of the committee or its subcommittees as appropriate;

(b) submit to the Committee on the Budget views and estimates, as appropriate, required of standing committees by House Rule X, 4(g); and

(c) prepare, after consultation with subcommittee chairmen and the minority, a budget for the committee which shall include an adequate budget for the subcommittees to discharge their responsibilities. After approval by the majority caucus, a majority of the members of the committee must approve the budget, and the chairman of the committee is empowered to obtain that approval in any appropriate manner, including polling members of the committee in writing.●

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. JOHNSON) to revise and extend their remarks and include extraneous material:)

Mr. COLEMAN of Missouri, for 60 minutes, June 15.

Mr. CONTE, for 15 minutes, today.

Mr. LOTT, for 60 minutes, today.

(The following Members (at the request of Mr. MRAZEK) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. COYNE, for 10 minutes, today.

Mr. PEPPER, for 10 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. GAYDOS, for 60 minutes, June 18.

Mr. MURTHA, for 60 minutes, June 18.

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## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. JOHNSON) and to include extraneous matter:)

Mr. BILIRAKIS.

Mr. BROOMFIELD.

Mr. PORTER.

Mr. SENSENBRENNER.

Mr. MARRIOTT.

Mr. LEACH of Iowa in two instances.

Mr. RITTER.

Mr. CONTE.

Mr. KRAMER.

Mr. KEMP.

Mr. MCCANDLESS.

Mr. HYDE in two instances.

Mr. WHITEHURST.

Mr. YOUNG of Florida in three instances.

Mr. FIELDS.

Mr. MACK.

Mr. BADHAM.

Mr. LENT.

Mr. SMITH of New Jersey.

(The following Members (at the request of Mr. MRAZEK) and to include extraneous matter:)

Mr. TORRICELLI.

Mr. COELHO.

Mr. MARKEY in two instances.

Mr. DASCHLE in five instances.

Mr. PEASE.

Mr. BONER of Tennessee.

Mr. MORRISON of Connecticut.

Mr. DYSON.

Mr. FLORIO in two instances.

Mr. FRANK.

Mr. LUKEN.

Mr. STARK in three instances

Mr. CLARKE.

Mr. HOWARD.

Mrs. BYRON.

Mr. BRITT.

Mr. Waxman.
Mr. Bates in two instances.
Mr. Ackerman in three instances.
Mr. Chappell.
Mr. Shannon.
Mr. de Lugo.
Mr. Rangel.
Mr. Moody.
Mr. Traxler.
Mr. Ortiz.
Mrs. Schroeder.
Mr. Fauntroy.
Mr. Downey of New York.

## SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day"; and

S.J. Res. 296. Joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

## BILL PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on June 13, 1984, present to the President, for his approval, a bill of the House of the following title:

H.R. 3921. An act to establish wilderness areas in New Hampshire, and for other purposes.

## ADJOURNMENT

Mr. COELHO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Friday, June 15, 1984, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3545. A letter from the Acting Secretary of State, transmitting notification that during the month of May the Commodity Credit Corporation made payments to the U.S. creditors on credits guaranteed by the CCC for which payments had not been received from the Polish People's Republic, pursuant to Public Law 97-257, section 306; Public Law 98-151, section 101(d); to the Committee on Appropriations.

3546. A letter from the Executive Associate Director for Budget, Office of Management and Budget, transmitting notification that the appropriation to the Veterans' Administration for compensation and pensions for the fiscal year 1984 has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

3547. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification of the proposed lease of naval vessels to the Government of Peru, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

3548. A letter from the Chairman, District of Columbia Retirement Board, transmitting the Board's fiscal year 1983 annual report, pursuant to Public Law 96-122, sections 162 and 164(a)(1)(A); to the Committee on the District of Columbia.

3549. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a) (92 Stat. 993); to the Committee on Foreign Affairs.

3550. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for John W. Shirley, Ambassador-designate to the United Republic of Tanzania, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

3551. A letter from the Secretary of Commerce, transmitting a report on the activities of the Inspector General for the period October 1, 1983 through March 31, 1984, pursuant to Public Law 95-452, section 5(b); to the Committee on Government Operations.

3552. A letter from the Assistant Secretary for Administration, Smithsonian Institution, transmitting the 1983 annual pension report of the Smithsonian Institution and the Woodrow Wilson International Center for Scholars, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3553. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting notification of the proposed minor revisions to be made to a previously submitted proposal to establish new systems of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3554. A letter from the Chairman, National Credit Union Administration, transmitting a report on the Administration's compliance with the requirements of the internal accounting and administrative control system during the fiscal year ended September 30, 1983, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3555. A letter from the Director, Office of Personnel Management, transmitting the annual report on the financial status of the U.S. Civil Service Retirement System as of September 30, 1983, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3556. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a report on the Agency's compliance with the requirements of the internal accounting and administrative control system during the fiscal year ended September 30, 1983, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3557. A letter from the Director, U.S. Information Agency, transmitting a report on the Agency's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3558. A letter from the Governor, Farm Credit Administration, transmitting a report on the Administration's compliance with the requirements of the internal accounting and administrative control system during the fiscal year ended September 30, 1983, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3559. A letter from the Secretary, Department of the Interior, transmitting a copy of the bidding system to be used for the western Gulf of Mexico, sale 84 on the Outer Continental Shelf, pursuant to the act of August 7, 1953, chapter 345, section 8(a)(8) (92 Stat. 640); to the Committee on Interior and Insular Affairs.

3560. A letter from the Assistant Secretary of the Treasury for Legislative Affairs and the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition; to the Committee on the Judiciary.

3561. A letter from the Executive Director, Naval Sea Cadet Corps, transmitting an annual report and financial audit for the fiscal year ending March 31, 1984, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

3562. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the committee's special report entitled, "The Exclusive Economic Zone of the United States: Some Immediate Policy Issues"; to the Committee on Merchant Marine and Fisheries.

3563. A letter from the Acting Administrator, General Services Administration, transmitting copies of two lease prospectuses, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

3564. A letter from the Acting Administrator, General Services Administration, transmitting copies of prospectuses proposing Federal building projects at 1500 and 2306 E. Bannister Road, Kansas City, MO; and in Lufkin, TX, pursuant to Public Law 86-249, sec. 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

3565. A letter from the Acting Administrator, General Services Administration, transmitting a lease prospectus proposing the consolidation of the International Trade Commission (ITC) in Washington, DC, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation.

3566. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report to the Chief of Engineers on Carolina Beach Inlet, NC, pursuant to a resolution adopted by the House Committee on Public Works and Transportation on December 11, 1969; to the Committee on Public Works and Transportation.

3567. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report to the Chief of Engineers on the Crescent City Harbor, CA, pursuant to a resolution adopted by the House Committee on Public Works and Transportation on May 10, 1977; to the Committee on Public Works and Transportation.

3568. A letter from the Executive Secretary, Department of Defense, transmitting a report on the amounts spent with small and other business firms for the period October 1983 through January 1984, pursuant to SBA, section 10(d) (15 U.S.C. 639(d)); to the Committee on Small Business.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 524. Resolution waiving certain points of order against H.R. 5813, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-839). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3130. A bill to authorize amendments to certain repayment and water service contracts for the Frenchman unit of the Pick-Sloan Missouri River Basin program; with amendments (Rept. No. 98-840). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1135. A bill to consent to the Goose Lake Basin Compact between the States of California and Oregon. (Rept. No. 98-841). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5740. A bill entitled, the "Barrow Gas Field Transfer Act of 1984" with an amendment (Rept. No. 98-843). Referred to the Committee of the Whole House on the State of the Union.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5426. A bill to designate certain National Forest System Lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes, with an amendment; referred to the Committee on Agriculture for a period ending not later than June 15, 1984, for consideration of such provisions of the amendment as fall within that committee's jurisdiction pursuant to clause 1(a), rule X (Rept. No. 98-842, Pt. I). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself, Mr. Dingell, Mr. Wright, Mr. Michel, Mr. Coelho, Mr. Foley, Mr. Lott, Mr. Vander Jagt, Mr. Ford of Michigan, Mr. Conte, Mr. Sharp, Mr. Craig, Mr. Murtha, Mr. Ritter, Mr. Sam B. Hall, Jr., Mr. Weber, Mr. Daniel, Mr. McGrath, Mr. Richardson, Mr. Stump, Mr. Montgomery, Mr. Pashayan, Mr. Carr, Mr. Hunter, Mr. Traxler, Mr. Kemp, Mr. Mollohan, Mr. Kasich, Mr. Rose, Mr. Bilirakis, Mr. Breaux, Mr. Shaw, Mr. Kildee, Mr. Martin of New York, Mr. Coleman of Texas, Mr. Rudd, Mr. Patman, Mr. Burton of Indiana, Mr. Tauzin, Mr. Ridge, Mr. Volkmer, Mr. Hartnett, Mr. Luken, Mr. Schaefer, Mr. Slattery, Mr. Hansen of Idaho, Mr. Obey, Mrs. Johnson, Mrs. Lloyd, Mr. Walker, Mr. Dyson, Mr. Courter, Mr. Fazio, Mr. McCain, Mr. Murphy, Mr. Emerson, Mr. Fields, Mrs. Vucanovich, Mr. Ritter, Mr. Spence, Ms. Fiedler, Mr. Petri, Mr. Valentine, Mr. Nielson of Utah, Mr. Corcoran, Mr. Sawyer, Mr. Stangeland, Mr. Albosta, Mr. Roth, Mr. Mack, Mr. Morrison of Washington, Mr. Bedell, Mr. Fish, Mr. Murphy, Mr. Ford of Tennessee, Mr. Marlenee, Mr. Swift, Ms. Kaptur, Mr. Bryant, Mr. Rahall, and Mr. Hertel of Michigan):

H.R. 5845. A bill to amend chapter 44 of title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition; to the Committee on the Judiciary.

By Mr. BOUCHER (for himself, Mrs. Martin of Illinois, Mr. Conyers, Mr. Edwards of California, Mr. Seiberling, Mr. McCollum, Mr. Synar, Mr. Glickman, Mr. Frank, Mr. Crockett, Mr. Smith of Florida, Mr. Berman, Mr. Hyde, Mr. Kindness, Mr. Conte, Mr. Horton, Mr. Bevill, Mr. Whitehurst, Mr. Archer, Mr. Lagomarsino, Mr. Madigan, Mr. Pritchard, Mr. Rinaldo, Mr. Miller of California, Mr. Simon, Mr. Applegate, Mr. Won Pat, Mr. Skelton, Mr. Stump, Mr. Albosta, Mr. Bereuter, Mr. Porter, Mr. Solomon, Mr. Stenholm, Mr. Tauke, Mr. Gramm, Mr. Brown of Colorado, Mr. Daub, Mr. Dwyer of New Jersey, Mr. Emerson, Mr. Hartnett, Mr. Oxley, Mr. Wolf, Mr. Ackerman, Mr. Durbin, Mr. Olin, Mr. Owens, Mr. Reid, Mr. Ridge, Mr. Sisisky, Mr. Moody, and Mr. Kasich):

H.R. 5846. A bill to amend title 18, United States Code, to improve collection and administration of criminal fines, and for other purposes; to the Committee on the Judiciary.

By Mr. BARNARD (for himself, Mr. Darden, Mr. Fowler, Mr. Gingrich, Mr. Hatcher, Mr. Jenkins, Mr. Levitas, Mr. Ray, Mr. Rowland, and Mr. Thomas of Georgia):

H.R. 5847. A bill to authorize funds for the Carl Vinson Institute of Government; to the Committee on Education and Labor.

By Mr. BETHUNE:

H.R. 5848. A bill to amend the Housing and Community Developoment Act of 1974 to prohibit the consideration of the age of housing in determining area eligibility and project selection under the urban development action grant program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BIAGGI:

H.R. 5849. A bill to amend title VII of the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of a cancer history; to the Committee on Education and Labor.

By Mr. MURPHY:

H.R. 5850. A bill to provide for the continuation of certain rail freight service by Conrail, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BROWN of Colorado:

H.R. 5851. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Cache la Poudre River in Colorado for potential addition to the National Wild and Scenic River System; to the Committee on Interior and Insular Affairs.

By Mr. COUGHLIN (by request):

H.R. 5852. A bill entitled the "Health Care Cost Containment Act of 1983;" to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 5853. A bill to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc.; to the Committee on the Judiciary.

By Mr. LEACH of Iowa (for himself, Mr. Evans of Iowa, Mr. Evans of Illinois, and Mr. Harkin):

H.R. 5854. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to guarantee certain outstanding agricultural loans which are modified by private lenders, and for other purposes; to the Committee on Agriculture.

By Mr. MARRIOTT (for himself, Mr. Hansen of Utah, and Mr. Nielson of Utah):

H.R. 5855. A bill to amend title 28, United States Code, to provide a remedy against the United States for damages to certain individuals resulting from nuclear tests at the Nevada test site and for other purposes; to the Committee on the Judiciary.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5856. A bill to amend title XVIII of the Social Security Act with respect to denying additional capital-related costs associated with the churning of hospital assets; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5857. A bill to amend title XVIII of the Social Security Act to limit the increase in hospital costs to the increase in the marketbasket of hospital costs and for other purposes; to the Committee on Ways and Means.

By Mr. PEPPER, (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Derrick, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5858. A bill to amend title XVIII of the Social Security Act to rationalize the payment amount under the DRG-payment system; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5859. A bill to provide for development of a methodology for payment for hospital outpatient care under the medicare program based on the diagnosis-related group in which patients' treatment is classified; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5860. A bill to amend title XVIII of the Social Security Act with respect to payment for physicians' services; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Derrick, Mr. Minish, Mr. Ratchford, and Mr. Biaggi):

H.R. 5861. A bill to amend title XVIII of the Social Security Act to permit negotiated rates with preferred provider organizations under the medicare program and to permit group health care payors to provide for alternative rates with providers of health care; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Derrick, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5862. A bill to provide for an intra-HMO competition demonstration project; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Fascell, Mr. Derrick, Mr. Minish, Mr. Ratchford, Mr. McNulty, Mr. Biaggi, and Ms. Snowe):

H.R. 5863. A bill to provide for the designation of 20 regional centers for the treatment of Alzheimer's disease and related dementia and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

By Mr. PEPPER (for himself, Mrs. Burton of California, Mr. Stokes, Mr. Owens, Mr. Towns, Mr. Mitchell, Mr. Solarz, Ms. Oakar, Mr. Coleman of Texas, Mr. Ford of Tennessee, Mrs. Collins, Mr. Minish, Mr. Ratchford, Mr. McNulty, and Mr. Biaggi):

H.R. 5864. A bill to amend the Internal Revenue Code of 1954 to establish the National Institutes of Health Medical Research Trust Fund and to allow every individual to designate that $1 of his income tax payment shall be paid into such trust fund; to the Committee on Ways and Means.

By Mr. SAWYER (for himself, Mr. Fish, Mr. Moorhead, Mr. Hyde, Mr. Kindness, Mr. Mazzoli, Mr. Sam B. Hall, Jr., Mr. Lungren, Mr. Sensenbrenner, Mr. McCollum, Mr. Shaw, Mr. DeWine, Mr. Gekas, Mr. Won Pat, Mr. Marriott, Mr. Robinson, Mr. Lagomarsino, Mr. Rinaldo, Mr. Frenzel, Ms. Fiedler, Mr. Coughlin, Mr. Weber, Mr. Dreier of California, Mr. McKinney, Mr. Daniel, Mr. de Lugo, Mr. Rahall, Mr. Bartlett, Mr. Stump, and Mrs. Johnson):

H.R. 5865. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

By Mrs. SCHROEDER:

H.R. 5866. A bill relating to the administration of polygraph examinations and prepublication review requirements by Federal agencies; to the Committee on Post Office and Civil Service.

By Mr. SHANNON:

H.R. 5867. A bill to authorize the Commandant of the Marine Corps to erect a memorial; to the Committee on House Administration.

By Mr. TAUKE (for himself and Mr. Evans of Iowa):

H.R. 5868. A bill to amend the Energy Policy and Conservation Act for the purpose of establishing a Strategic Petroleum Corporation within the Department of Energy; to the Committee on Energy and Commerce.

By Mr. MICHEL:

H. Res. 523. Resolution electing Representative Hartnett of South Carolina to the Committee on Merchant Marine and Fisheries; considered and agreed to.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 5869. A bill for the relief of Naum S. Bers; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 5870. A bill for the relief of Jin Hee Park; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 287: Mr. McCandless.

H.R. 1351: Mr. Wortley.

H.R. 2566: Mr. Rahall.

H.R. 2837: Mr. Bedell.

H.R. 2996: Mr. Donnelly, Mr. Emerson, Mr. Hansen of Idaho, Mr. Richardson, Mr. Gekas, Mr. Nowak, Mr. Jacobs, Mr. de Lugo, Mr. Bevill, and Mr. Corrada.

H.R. 4571: Mr. Robinson.

H.R. 4764: Mr. Morrison of Washington.

H.R. 4877: Mr. Britt.

H.R. 4937: Mr. Siljander.

H.R. 5075: Mr. Frank.

H.R. 5141: Mr. Rinaldo and Mr. Conyers.

H.R. 5143: Mr. Boucher.

H.R. 5150: Mr. Torricelli.

H.R. 5432: Mr. Mack, Mr. Packard, Mr. Lagomarsino, Mr. Bilirakis, Mr. Solomon, and Mr. Hartnett.

H.R. 5477: Mr. Torricelli.

H.R. 5526: Mr. Torricelli.

H.R. 5571: Mrs. Johnson and Mr. Boehlert.

H.R. 5611: Ms. Kaptur.

H.R. 5640: Mr. Fauntroy, Mr. Crockett, Mr. Wheat, and Mrs. Schroeder.

H.R. 5641: Mr. Denny Smith and Mr. Staggers.

H.R. 5730: Mr. Wilson and Mr. Kolter.

H.R. 5754: Mr. Horton.

H.R. 5791: Mr. Martin of New York, Mr. Sundquist, Mr. Hubbard, and Mr. Jenkins.

H.R. 5799: Mr. Hoyer, Mr. Bilirakis, Mr. Winn, Mr. Mitchell, Mr. Nichols, Mr. Durbin, Mr. Regula, Mr. Roe, Mr. Brown of California, and Mr. Kolter.

H.R. 5835: Mr. Ford of Michigan, Mr. Shaw, Mr. Thomas of Georgia, Mr. Pepper, Mr. Towns, Mr. Bryant, Mr. Walgren, Mr. Akaka, Mr. Rinaldo, Mr. Mitchell of Maryland, Mrs. Schroeder, Mr. Borski, Mr. Corrada, Mr. Moakley, Mr. Stokes, Mr. Fauntroy, Mr. Moody, Mr. Seiberling, Mr. Britt, Mr. Martin of New York, Mr. Sabo, Mr. Murphy, Mr. Miller of California, Mr. Vento, Mr. Solarz, Mr. Porter, Mr. Scheuer, Mr. Won Pat, Mr. Jeffords, Mr. Molinari, Mr. Edgar, Mr. Guarini, Mr. Rowland, Mr. Hayes, Mr. Waxman, Mr. de Lugo, Ms. Mikulski, Mr. Whitehurst, Mr. Green, Mrs. Schneider, Mr. Wise, Mr. Addabbo, Mr. Donnelly, Ms. Boxer, Mr. Ackerman, Mr. Pritchard, Ms. Kaptur, Mr. Wylie, Mr. Owens, Mrs. Hall of Indiana, Mr. Bonior of Michigan, Mr. Dymally, Mr. Studds, Mr. Lehman of Florida, and Mr. Wirth.

H.J. Res. 174: Mr. Guarini, Mr. Markey, Mr. Torricelli, Mr. Dwyer of New Jersey, Mr. Long of Louisiana, Mr. Tallon, Mr. Wolpe, Mrs. Collins, Mr. Skelton, Mr. Rudd, Mr. Frenzel, Mr. Jones of North Carolina, Mr. Badham, Mr. de la Garza, Mr. Roemer, Mr. Hamilton, and Mr. AuCoin.

H.J. Res. 281: Mr. Cheney, Mr. de la Garza, Mr. Skeen, and Mr. Emerson.

H.J. Res. 385: Mr. Daub.

H.J. Res. 418: Mr. Chandler, Mr. Coelho, Mr. Derrick, and Mr. Shannon.

H.J. Res. 472: Mr. Anderson.

H.J. Res. 482: Mr. Kostmayer, Mr. MacKay, Mr. Weaver, Mr. Frank, Mr. Whitehurst, Mr. DeWine, Mr. Mavroules, Mr. Durbin, Mr. Rinaldo, Mr. Kasich, Mr. Applegate, Mr. Young of Missouri, Mr. de la Garza, Mr. Kolter, and Mr. Wirth.

H.J. Res. 491: Mr. Broyhill, Mr. Carper, Mr. McKinney, and Mr. Rinaldo.

H.J. Res. 540: Mr. Durbin.

H.J. Res. 543: Mr. Gradison, Mr. Applegate, Mr. Skeen, Mr. Taylor, Mr. Coleman of Missouri, Mr. Evans of Iowa, Mr. Clinger, and Mr. Oxley.

H.J. Res. 545: Mr. McKernan, Mr. Ray, Mr. Lungren, Mr. Purcell, Mr. Britt, Mrs. Collins, Mr. Livingston, Mr. McCloskey, Mr. Hightower, Mr. Goodling, Mr. Edgar, Mr. Martinez, Mr. Biaggi, Mr. Daub, Mr. Akaka, Mr. Stangeland, Mr. Wolf, Mr. Horton, Mr. Waxman, Mr. Reid, Mr. Loeffler, Mr. Stokes, Ms. Oakar, Mr. Richardson, Mr. Rangel, and Mr. Hughes.

H.J. Res. 546: Mr. Rostenkowski, Mr. Florio, Mr. Rudd, Mr. Erdreich, Mr. Britt, Mr. Hutto, Mr. Duncan, Mr. Neal, Mr. Hamilton, and Mr. Markey.

H.J. Res. 572: Mr. Vandergriff, Mr. Smith of Iowa, Mr. Whitley, Mr. Ackerman, Mr. Feighan, Mr. Tauke, Mr. Sabo, Mr. Frenzel, and Mr. Hammerschmidt.

H.J. Res. 573: Mr. Bevill, Mr. de la Garza, Mr. Duncan, Mr. Britt, Mr. Applegate, Mr. Kramer, Mr. Akaka, Mr. Winn, Mr. Chappie, Mr. Fuqua, Mr. Smith of New Jersey, Mr. Wortley, Mr. DeWine, Mr. Erdreich, Mr. Wright, and Mr. Murphy.

H. Con. Res. 217: Mr. McGrath, Mr. Smith of Florida, Mr. Evans of Illinois, and Mr. Skelton.

H. Con. Res. 218: Mr. McGrath, Mr. Smith of Florida, Mr. Evans of Illinois, and Mr. Skelton.

H. Con. Res. 247: Mr. Goodling.

H. Con. Res. 277: Mr. Lewis of California, Mr. Daniel B. Crane, and Mr. Badham.

H. Con. Res. 312: Mr. DARDEN, Mr. HORTON, and Mr. HAYES.

H. Con. Res. 315: Mr. D'AMOURS, Mr. HANSEN of Idaho, Mr. HORTON, Mr. HUNTER, Mr. KASICH, Mr. KOLTER, Mr. MINISH, Mr. MOODY, Mr. SILJANDER, Mr. TALLON, Mr. WHITLEY, and Mr. DE LA GARZA.

H. Res. 147: Mr. HAMMERSCHMIDT.

H. Res. 448: Mr. PHILIP M. CRANE, Mr. FISH, and Mr. EMERSON.

H. Res. 518: Mr. LAGOMARSINO, Mr. HILER, Mr. BROYHILL, and Mr. GREGG.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 477: Mr. CROCKETT.

## PETITIONS, ETC.

Under clause 1 of rule XXII, the following petition and papers were presented, as follows:

383. The SPEAKER presented a petition of the council of the city and county of Honolulu, Hawaii, relative to claims by Native Hawaiians; which was referred to the Committee on Interior and Insular Affairs.

# SENATE—*Thursday, June 14, 1984*

*(Legislative day of Monday, June 11, 1984)*

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious God, here is the most powerful deliberative body in the world—perhaps in history. The Members work hard for long hours—often at great personal sacrifice. Hundreds of laws are passed yet little changes. The family continues to disintegrate. Divorce, alcoholism, drug abuse, poverty, crime, violence, wars increase epidemically. The birth rate is highest among 9 to 15 year olds. Hundreds of thousands of babies are aborted. Teenagers seek fulfillment in alcohol and drugs. Drunk driving and suicide take more and more teenage lives.

Thank Thee, Father, for faithful public servants who, despite disappointment and seeming futility, devote themselves to public responsibility. Keep the Senators from discouragement. Help them discern, behind the physical and the temporal, the spiritual warfare which is designed to frustrate, divide, and destroy. Strengthen them against all that dibilitates and sustain them in their dedication. In the name of Him, incarnate love, who suffered total rejection and abuse from His contempories. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are three special orders this morning, so that, together with the time allocated to the two leaders, will probably consume an hour or thereabouts, and there will be a brief period then for the transaction of routine morning business because there is an order for the Senate to resume consideration of the Department of Defense authorization bill at 11:30 a.m.

Notwithstanding that, Mr. President, if we can clear a short time agreement for another bill—that is, the child restraint in motor vehicles measure, which is H.R. 4616—the leadership on this side would be willing to do that. I have not yet had an opportunity to check with staff and see if that arrangement will clear or not.

But, in any event, we will be on the Department of Defense authorization bill sometime at or shortly after 11:30 a.m.

Mr. President, once again I have not yet had an opportunity to consult with the chairman of the committee to ascertain his preference on the length of the session today. But I can report this: the managers, I believe, and I know the chairman of the committee indicates that he wants to finish this bill tonight. And, given the issues still remaining, I can almost guarantee that we will be in late, very late, almost surely later than we were last evening. But I will consult with the two managers and the minority leader and I will have another announcement to make a little later in the morning on an estimate of the time the Senate will be in session.

Mr. President, I believe that is all I have this morning. I ask unanimous consent that I may reserve 1 minute of my time under the standing order for my use anytime during the balance of this calendar day.

The PRESIDING OFFICER [Mr. WILSON]. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I offer the minority leader my remaining time, less 1 minute, if he would like to have it this morning.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. I may or may not utilize the additional time or even my own time.

I am trying to get an agreement worked out which will allow for a brief time at least, or maybe at least a reasonable length of time, on the child restraint bill. I am very interested in the amendment that would raise the drinking age to 21 years. Just as soon as I can get that agreement on my side, I will inform the distinguished majority leader so that we can press forward with it.

Mr. BAKER. Mr. President, I thank the Senator. I, too, am very interested in that amendment. I hope that both sides can clear that measure so that we can do it in a brief time.

May I say, Mr. President, that I should have said earlier that I do anticipate a rollcall vote on that measure if it is cleared, and there will be many other rollcalls during the course of the day, I believe.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

## FLAG DAY

Mr. BYRD. Mr. President, on June 14, 1777, the Continental Congress adopted as the official flag of the United States a design of 13 stars and 13 stripes. To celebrate that legislative stroke, June 14—today—is annually observed as Flag Day across our country.

The attitude of Americans toward the Stars and Stripes occasionally puzzle foreign observers. Aside from providing an elaborate and comprehensive set of legal rubrics governing the flag's design and treatment, Americans react with deep emotion, sincere respect, and even religious enthusiasm to the display of their flag. Where the British and Canadian flags, for instance, are largely regarded by citizens of Britain and Canada respectively as decorative symbols, our American flag is accorded a degree of sacredness and veneration usually reserved in many countries only for objects of divine faith.

But since the Revolutionary War, the American flag has stood for unity in a heterogeneous nation of broad interests, varied cultural and ethnic backgrounds, and sometimes conflicting regional loyalties. During the revolution even, when the British Crown interpreted the rebels as one force, several State militias marched under diverse banners that implied primary allegiances to this, or that original colony, or the other rather than to the idea of one nation. The Stars and Stripes became one of the earliest means of asserting the central purpose among the Thirteen Colonies of independence and freedom for all of the Atlantic Seaboard of then-British North America.

Today, the American flag plays a role in our national life somewhat paralleling that role represented by the reigning monarch in Britain. Presidents and Congresses come and go, subject to the limitations of tenure, changes in popular attitudes, and decisions of the ballot box. But the Stars and Stripes remains—the embodiment, in war and peace alike, of American sovereignty and endurance. So powerful is the flag's position in our national life that our national anthem hails

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the Stars and Stripes as the British anthem salutes the Queen.

So I know that all of our colleagues will want to join me in recognizing the significance of Flag Day and in remembering the principles for which our flag stands and the heritage that it represents.

## RECOGNITION OF SENATOR DOMENICI

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

## S. 2761—A BILL FOR THE RELIEF OF THE WHITE SANDS RANCHERS OF NEW MEXICO

## SENATE RESOLUTION 405—TO REFER S. 2761 TO THE CHIEF COMMISSIONER OF THE U.S. COURT OF CLAIMS

Mr. DOMENICI. Mr. President, today I introduce legislation to correct a longstanding injustice to a number of American citizens. This inequitable treatment has continued for well over 40 years and in my mind ranks with some of the great injustices between this Nation and its private citizens.

The facts are simple. During World War II the Defense Department needed an area for military weapons testing. They chose a place called White Sands which is part of the Tularosa Basin in New Mexico. One day the military arrived at ranchhouse after ranchhouse on the basin and told the occupants that their land was needed for the defense of this Nation and that after the end of the war the land would be returned. Finally, they were told the land was needed immediately and they would have to move. To point out what this really means, I would like to quote a former White Sands ranching family member, Mrs. Laura E. McKinley of Alamogordo, who wrote me a very moving letter outlining her life for the past 40 years.

Laura states:

> On February 12, 1942, when we started trailing our cattle, and trucking our belongings, the weather was cold, sleety and windy. Trailing 450 head of cattle and some horses during that kind of weather was a trying experience; some calves were born on the trip to our new location at Engle, New Mexico, and we had to truck these calves and some weak cows. Even then we lost some calves and a few cows. There was no way we could get the government to let us postpone moving until April or May. We were not paid any moving expenses at all.
>
> We had a son four years old, and I was expecting another child. There was no suitable place for us to live on the ranch we had leased, so we rented a home in Truth or Consequences, New Mexico, first and later moved to Las Cruces.

In closing, Laura writes:

> The White Sands Missile Range has been great for all the towns nearby, but it should not have been established at the expense of one hundred and ten ranchers. Many of the ranchers are dead and their families are carrying on in our effort to receive payment for our ranch units. I will still pray this will come.

I quoted the ending of her letter because that is why I introduce this legislation today.

I have been searching for a way to get this problem solved. We had a detailed hearing in the appropriate subcommittee here in the U.S. Senate, and I will refer to that later. Some excellent legislation on this issue has been introduced in the House by the distinguished Congressman, Joe Skeen, who represents that area. Yet I am very concerned that until today, I could not say that I could see some light at the end of the tunnel.

The issue is complex. After the episode that I have just described and during the 40-some years, different ranchers and their families have been treated differently. Some are dead, some have paid inheritance taxes assuming they had a valuable ranch, even though they had not been on it for years. Some were paid a lot of rent. Some were paid a settlement, which they thought was a settlement in full.

Many have gone to court. Courts have ruled differently. In some instances, courts have ruled statutes of limitations apply and whatever their rights were are gone. I have been looking for some way to once and for all do equity and fairness for these ranchers. I recognize the Government has done a very serious wrong here. I am one who thinks this Government for the most part does an admirable job with reference to human rights and decency and having very high goals. It just gnaws on me that we cannot find a way to fix this situation.

Forty-two years later, many feel that the ranchers who were supposed to get their land back in 1946 but didn't, who were supposed to rent their land to the Federal Government but instead saw it seized and condemned, and finally were told they would be reimbursed in a manner which every agricultural expert in New Mexico agrees is not the way ranches are bought and sold in the West, should be helped.

Last November the Public Lands and Reserved Water Subcommittee of the Senate Energy and Natural Resources Committee held oversight hearings on this issue. I was convinced by those hearings that the cause of the White Sands ranchers is a just cause and I think any review of that hearing record will show others that there has been an inequity. The question is, How do we solve it?

As a matter of fact, GAO witnesses indicated to the subcommittee that never had they seen the Government acquire land in the manner used for White Sands. Regarding the manner in which appraisals were conducted, several agriculture experts testified that no ranches would be sold in that manner. Basically, the question revolves around the issue of the carrying capacity of a ranch versus the conventional method, which deals with a per-acre price.

In the West ranches are bought and sold on a per-animal unit basis. This is done because almost without exception ranches are made up of private land, State land, and Federal land. Ranchers own their private land and lease out as much State and Federal land as they can. This gives them a ranching unit, and that unit is bought and sold in the real estate market based on how many cattle the rangeland will carry; that is, how much land the entire ranching unit will carry.

However, as I have publicly stated for over a year, the real question in these cases does not really revolve around legal issues but rather whether or not a group of loyal American citizens were treated fairly by their Government over the course of the past 40 years.

It would seem to me that the legislation is necessary because the Federal Government was indecisive in what they wanted to do with the White Sands ranchers.

In fact, they acted differently with reference to many of them. Promises were made that were not kept. Commitments were made that were broken. Over all, they were treated shabbily.

In 1942, they were forced off their ranches to help the war effort. After the war they were allowed to return to their ranches for a short period and then were forced off again. The Government did not know if it wanted to purchase the ranches in fee, and came up with something called a lease and suspension agreement, another strange hybrid.

Then almost 30 years later, the Government decided that it needed to acquire complete ownership of the land. In other acquisitions, such as at the MacGregor Range, the Department of Defense came in and purchased the ranches outright over a few years time and, for the most part, this allowed the owners to purchase other ranches if they wanted to. In the case of the White Sands ranchers, they were given a few thousand dollars each year under these lease and suspension agreements and local lending institutions refused to allow them to use their White Sands properties as collateral to purchase other ranches. So they were caught in a situation which placed them in a state of suspended animation for the past 30 years.

The question of equity in this case revolves around the issue of the privilege of being granted a Federal grazing permit by the Bureau of Land Management and whether there is a financial value associated with that privilege. In some cases, the courts did not recognize the value of the grazing permit to these ranchers when they were seeking just compensation. However, I am informed that in the late 1930's, lending institutions began attaching a value to these permits for purposes of financing ranchers and for purposes of the purchase and sale of ranches.

As a matter of fact, before I came to the Senate, as an attorney, I recall handling transactions where two major ranches were sold and there is no question when the ranching units were sold the permits had a value and were included in the total sale price, even though it is generally understood that they are permits.

They have received significant continuity over the years and, as a consequence, they have value. Furthermore, I have been told by many ranchers that the Internal Revenue Service certainly has attached a value to those permits over the years for estate taxes and that some of those in the White Sands case may well have been forced to pay taxes on something other Government agencies said had no tangible value.

What I am saying is that even with this lease arrrangement, when one of the old ranchers died, the entire ranching unit was valued by the Internal Revenue Service. They valued the ranching unit as I have described it, giving a significant value to the permits, both State and Federal.

I pass on to this body the comments of Mrs. Alice Lee Cox, of Las Cruces, NM, who is not only involved in this issue but who is also a good friend. She and her husband, Hal R. Cox, who passed away a few years ago, represent a real pioneer family from southern New Mexico.

After outlining the many upheavals and changes in plans by the Defense Department, Mrs. Cox states:

> Our lives were changed drastically by these upheavals. When we were forced from the ranch, we borrowed money from a friend in El Paso and bought an alfalfa farm in Blythe, California. We were not farmers, did not want to make our home away from New Mexico, sold it, and went head over heels in debt to buy a ranch near Hillsboro, New Mexico. Hal's health began to fail, so we sold the ranch there and moved to Las Cruces, where he died November 2, 1980, at the age of 87.
>
> A few years ago we asked permission to take a favorite niece and nephew, who had never seen our ranch, to visit it for an hour or so. Permission was granted under the condition that we be met at the gate by security guards, who accompanied us every step of the way.

You see, she still considers that property there on White Sands as her property, even though she gets a rental because the Federal Government claims they are temporarily using it.

This is part of the legacy of Hal Cox. As Alice continues,

> Hal's father and mother had settled on this ranch in 1886, having traveled overland in a covered wagon from south Texas. This ranch is where Hal grew up, where we anticipated spending the rest of our lives together.

Almost 2 years ago on one of these ranches, frustrated by years of inaction, he "took back" his ranch by force. After several days of negotiations he left the Missile Range vowing to return if the Federal Government did not pay him market value for his ranch. Under the laws of this Nation what he did was wrong. But, one can also understand what he did, and, again, that is what is really at stake here.

Mr. President, I ask that a letter dated January 17, 1984, from the Department of the Army and an article from the U.S. News & World Report, dated February 13, 1984, entitled "Is Uncle Sam a Cruel Landlord?" be made a part of the RECORD.

Mr. President, the letter from the Department of the Army, dated January, 17, 1984, is addressed to the Honorable JAMES A. MCCLURE, chairman, Committee on Energy and Natural Resources, U.S. Senate. It is in response to a question propounded to the Department of the Army in the hearings I referred to. In the letter they have included all the names of all 110 ranchers who were on the ranch when the U.S. Army 40-plus years ago began the episode which I have described here in a few words. I hope it will not take many more years to do justice to the injustice which has occurred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
*Washington, DC, January 17, 1984.*

Hon. JAMES A. MCCLURE,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Reference is made to the hearing of November 15, 1983 before the Subcommittee on Public Lands and Reserved Water, Senate Committee on Energy and Natural Resources. During the hearing, you requested additional information with regard to payments made to landowners by the Department of the Army for property acquired in connection with the White Sands Missile Range, New Mexico.

Enclosed is a chart which outlines the payments made, by ownership, from 1942 to October 1, 1983. The figures are based on the best information available as records of some payments made during World War II no longer exist. Payments for fee title (Column A), leasehold interests (Column B), and improvements (Column C) are shown. The total for payments under Columns A, B and C is shown in Column D.

Prior to the acquisition of fee title to lands within the White Sands Missile Range, it was necessary at various times to acquire leasehold interests in both State and privately-owned properties. Voluntary leases were entered into by most of the owners before 1970. From 1942 until 1970, the Government also paid compensation for withdrawn public domain lands used by the owners under permits issued by the Department of the Interior, Bureau of Land Management pursuant to the Taylor Grazing Act (43 U.S.C. section 315). Ultimately, it was determined that the former holders of grazing permits had been fully compensated. The annual payments to permittees ceased after June 30, 1970.

Due to the adverse reaction of many owners after the cessation of payments for public domain lands in 1970, efforts by the Government to obtain voluntary leases were seriously hampered. The filing of leasehold condemnation proceedings became necessary. We have set forth specific information as to these proceedings on the chart for your further information.

Leasehold condemnation cases were filed against 64 ownerships. Nine cases proceeded to trial before a land condemnation commission, three of which were settled after a successful appeal by the Government in each case. The 55 remaining ownerships settled prior to trial. The annual rental figures either agreed to by the parties or awarded by the commission are provided.

Column B on the chart includes the sum of the rental payments made for the voluntary leasing of private and State-owned lands, compensation for withdrawn public domain lands paid prior to 1970 and leasehold condemnation settlement amounts and awards.

In addition to the payments reflected on the chart, approximately $1,022,000 has been paid to the State of New Mexico for lands it did not lease to third parties. Accordingly, as of October 1, 1983, existing records indicate a total of $20,754,846 in payments.

Sincerely,

PAUL W. JOHNSON,
*Deputy Assistant Secretary of the Army.*

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### IS UNCLE SAM A CRUEL LANDLORD?

If you think your landlord is tough, consider the plights of these tenants:

Residents of 4,700 housing units, mostly scattered across the West, were slapped with rent increases that in some cases reached nearly 100 percent.

Some New Mexico ranchers are still fighting to get more money for land they were forced to vacate 42 years ago.

About 100 people who invested up to $50,000 apiece in fancy houseboats had to petition Congress to avoid being evicted from Lake Allatoona, Ga.

The landlord? In each case, Uncle Sam.

The federal government owns and manages millions of acres of parks, forests, wilderness areas and other lands. Washington assumes the role of landlord by providing housing for employes and permitting livestock grazing, mining, recreation and other activities on its properties. Like any landlord, the government has run into its share of controversies, problems and complaints.

Nearly 200 employes of the National Park Service sued the government in 1983 over rent hikes on housing, much of it in remote areas. The suit complains that monthly rent paid by the average ranger at Yosemite National Park, who earns $16,558 a year, rose to $300 from $155. The increases were ordered after the Office of Management and Budget ruled that the government will not subsidize housing for civilian workers.

Some landlord-tenant fights involving Washington drag on for decades.

In 1942, the Army gave nearly 150 ranchers in New Mexico two weeks to get off their own land and the grazing land they leased from Washington, so the acreage could be used as a bombing range during World War II.

When the war ended, the land was turned into the White Sands Missile Range. The Army, however, continued to tell the ranchers for years that the need for their land was temporary and paid them only small sums for the loss of their property and grazing rights. Then, in the early 1970s, the Army decided to buy the ranches outright.

The ranchers complained that the government used a formula that ignored established practice and did not include the value of the federal grazing permits. Most ranchers pocketed the payments, but some have taken this case to Congress.

One of them, A. D. Helms, describes his 42-year ordeal: "The government took away my ranch on two weeks' notice. They never paid me either enough to live on or to get a replacement ranch, and finally they rigged it so that my lease lands were treated as worthless. We are old and very tired, waiting in vain for our dream of returning to our ranch to be fulfilled."

The Army maintains that through various payments made to the ranchers over the years it has "paid for this property several times over."

### SIMMERING BATTLE

Descendants of slaves in Georgia are still fighting to regain farms wiped out in 1943 when the government said it needed the land for an emergency air base. The 80 families who had quietly farmed and fished on a former plantation near the coastal community of Harris Neck were paid an average of $10 an acre, with one family getting only $2.44 an acre for its 157 acres.

After the war, the farms became part of a 2,687-acre national wildlife refuge. Now, the families would like to get back portions of the refuge that the government leases out for grazing. Says the Rev. Edgar Timmons, a descendant of the original settlers: "We want to create a relatively small community, a quiet place with maybe an oyster factory, a little grocery store, small-scale farming and crabbing."

The U.S. Fish and Wildlife Service tells them nothing can be done "within the framework of the law." Efforts to get Congress to change the law failed.

More successful were six couples who in 1941, through a surveyor's error, bought land in Oregon that included a 3.11-acre tract owned by the Interior Department. Over the years, they paid $20,000 in taxes on it. The government discovered the mistake in 1959, setting the stage for a long battle over clear title to the homes.

In 1983, the government offered to sell the couples the land at its current value—$45,000. Now retired, they have only modest incomes, so Congress stepped in to hand over the tract to them. But it had to do so over the veto of President Reagan, who contended that the U.S. is not responsible for mistakes made by others.

Some fights have erupted because, say tenants, the government can be a capricious landlord. Example: For years, the Army Corps of Engineers allowed individuals to keep houseboats on Georgia's Lake Allatoona. Some owners invested as much as $50,000 in elaborate retreats.

Then, in 1980, the corps decided the houseboats were not a proper use of a public recreational facility and ordered them off. The owners got Congress to forbid the corps from throwing the boats out until 1990 at the earliest.

### UP IN THE AIR

In Jackson, Wyo., residents worry that Uncle Sam will take away their airport. The Jackson Hole Airport became part of the Grand Teton National Park when the park was expanded in 1950, and environmentalists argue that there is no place for a jetport in a national park.

Notes Ralph McMullen of the local chamber of commerce: "It's a real pain having it on federal land, because that makes us subject to the political whims of whichever administration is in power. One administration says destroy it; the next one says let's keep it."

The West is the locale for many disputes over government land because Washington controls so much acreage there—including nearly 90 percent of Nevada and 43.5 percent of Arizona.

The Bureau of Land Management (BLM), manager of 283.3 million acres, is a perennial foe of ranchers in a multitude of disputes over burning underbrush, cutting trees, digging ponds and determining how many cows can graze on how many acres of land leased by cattle ranchers.

Some environmentalists complain that the BLM has permitted overgrazing on government lands, resulting in severe loss of topsoil and the transformation of vast stretches into dust bowls. While acknowledging problems in the past, a BLM official says ranchers now "realize their own livelihoods are at stake, so they're trying not to overgraze their allotments."

Many Westerners blame environmentalists—particularly those in the East—for their landlord-tenant problems with the government. Says rancher Jim Kemp in San Diego County, Calif.: "Even if we had been here 150 years, if we don't have a Ph.D. in wildlife biology, no one's going to listen to us."

Hundreds of miles to the east, preservation of the environment prompted the government's 1966 decision to acquire most of Beverly Shores, Ind., for the Indiana Dunes National Lakeshore. The town, situated amid scenic sand dunes 40 miles east of Chicago, is bitterly divided over the move. Says one resident, "There are two kinds of people in Beverly Shores—those who are for the park and those who are against it."

One against it is Ed Nicholson, who was forced to sell his home of 31 years for $43,000 plus relocation expenses. Nicholson says he had to spend $73,000 on a new home and says: "The way I look at it, it cost me $30,000 to lose my home."

For their part, government officials claim they often are forced into the role of the hardhearted landlord by people who have no business on federal land in the first place.

BLM officials have cracked down on squatters who set up housekeeping on federal lands near Medford, Oreg. In another case, elderly people seeking refuge from Northern winters have been parking trailers along the lower Colorado River in Arizona and California and staying there until spring. Litter is a major problem at such sites.

In the Southeast, the Corps of Engineers counts at least 1,000 encroachments each year by private citizens on federal land. "Many of the encroachments are not intentional at all—from building an addition on a house that goes over onto government land to building a patio and barbecue pit on federal land without permission," says corps spokesman Rob Holland.

Intentional or not, the corps strictly enforces rules to keep government land open to the public.

Holden Beach, N.C., built a new city hall on land where the government had the right to dump dredged material. City leaders, say corps officials, took a "calculated risk that they would build and we would not spoil." The issue was settled in 1981 when the city gave the government substitute land.

### SWITCHING LOTS

Land trade-offs have solved a number of other disputes. Arizona and the federal government swapped 200,000 acres—the state getting land it wanted for urban expansion and recreation, and Washington getting acreage inaccessible or unusable to the state. When Utah finally got title to land Washington had owed it for nearly a century, the state selected parcels with an eye to mineral development, municipal expansion and recreation use.

Selling some of the vast tracts owned by Washington seemed to the Reagan administration to offer a relatively painless way to reduce the national debt. But surplus-land sales last year netted only 195 million dollars, far short of the 1.23-billion-dollar goal.

A major factor behind the lackluster sales was the realization by ranchers that they could lease land for grazing much more cheaply than they could buy it. The National Resources Defense Council says regulations set grazing fees on federal land as low as one eighth the rates charged for private acreage.

Offering bargains such as these is one reason Uncle Sam, with all his faults, is likely to remain a landlord for a long time to come.

PAYMENTS MADE BY THE DEPARTMENT OF THE ARMY AT WHITE SANDS MISSILE RANGE BY OWNERSHIP (1942-83)

| Owner | Payment for fee | Leasehold payments [1] | Leasehold condemnations | | | | | Separate payments for improvements | Total |
|---|---|---|---|---|---|---|---|---|---|
| | | | Private acres | State owned acres | Annual rental [2] (included under B) | Settled by parties | Court award | | |
| | (A) | (B) | | | | | | (C) | (D) |
| 1 Aguilar, Pete | $9,675.00 | $18,045.03 | 77.40 | 0 | $100.00 | x | | $1,782.00 | $29,502.03 |
| 2 Baca, Barbarita | 103,306.00 | 45,659.84 | 800.00 | 160.00 | 367.50 | x | | 23,621.50 | 172,587.34 |
| 3 Black Hills Ranch | 198,610.00 | 249,097.15 | 3,587.83 | 3,320.00 | 6,107.50 | x | | 31,451.00 | 479,158.15 |

PAYMENTS MADE BY THE DEPARTMENT OF THE ARMY AT WHITE SANDS MISSILE RANGE BY OWNERSHIP (1942–83)—Continued

| Owner | Payment for fee | Leasehold payments ¹ | Leasehold condemnations | | | | | Separate payments for improvements | Total |
|---|---|---|---|---|---|---|---|---|---|
| | | | Private acres | State-owned acres | Annual rental ² (included under B) | Settled by parties | Court award | | |
| | (A) | (B) | | | | | | (C) | (D) |
| 4. Bradford, Vivian | 0 | 0 | | | | | | 19,305.00 | 19,305.00 |
| 5. Bruton, Albino | 25,600.00 | 62,164.00 | 640.00 | 640.00 | 880.00 | X | | 9,319.00 | 97,083.00 |
| 6. Bursum, H.O., et al | 475,000.00 | 930,964.82 | 6,570.27 | 30,832.35 | 26,124.83 | X | | 185,575.00 | 1,591,539.82 |
| 7. Cain, E. Lois | 136,350.00 | 133,328.24 | | | | | | 80,918.00 | 350,596.24 |
| 8. Cain, Leonard | 41,005.06 | 448,973.26 | 640.0 | 14,725.11 | 9,732.50 | X | | 75,248.00 | 565,226.32 |
| 9. Clayton, Vera | 76,383.00 | 7,556.81 | | | | | | 15.00 | 83,954.81 |
| 10. Cox, Hal R | 196,075.00 | 246,469.88 | 3,081.85 | 1,296.09 | 5,765.27 | X | | 109,470.00 | 552,014.88 |
| 11. Crockett, F O | 0 | 89,761.26 | 0 | 1,660.03 | 1,143.75 | X | | 52,600.00 | 142,361.26 |
| 12. Crockett, Lloyd | 0 | 138,596.88 | 0 | 2,882.49 | 1,587.50 | X | | 53,277.00 | 191,873.88 |
| 13. Danley, Maldeno G | 140,000.00 | 279,710.62 | 2,125.29 | 4,481.86 | 5,050.00 | X | | 51,967.00 | 471,677.62 |
| 14. Danley, Ona | 85,000.00 | 106,123.70 | 562.29 | 640.00 | 756.25 | X | | 11,345.00 | 202,468.70 |
| 15. Deppen, Robert | 102,000.00 | 5,367.41 | | | | | | 350.00 | 107,717.41 |
| 16. Dewberry, Ralph T | 100,000.00 | 40,647.28 | 1,720.00 | 640.00 | 1,530.00 | X | | 21,301.00 | 161,948.28 |
| 17. Dugman, Eva H.W | 0 | 4,000.00 | 0 | 800.00 | 400.00 | X | | 0 | 4,000.00 |
| 18. DIZ Livestock Co | 10,000.00 | 265,293.90 | 156.72 | 7,711.03 | 3,900.00 | X | | 56,865.00 | 332,158.90 |
| 19. Dosing, George | 600.00 | 90.00 | | | | | | 0 | 690.00 |
| 20. Dosing, Margaret | 0 | 450.00 | 3.00 | 0 | 45.00 | X | | 0 | 450.00 |
| 21. Fite, William D | 0 | 1,600.00 | 320.00 | 0 | 160 | X | | 0 | 1,600.00 |
| 22. Foster, Claude | 0 | 102,973.00 | 0 | 1,295.92 | 1,312.50 | X | | 24,000.00 | 126,973.00 |
| 23. Fraley, Betty, et al | 0 | 89,151.64 | 0 | 636.81 | 881.25 | X | | 40,624.50 | 129,776.14 |
| 24. Gallegos, Lupita R | 31,200.00 | 8,823.62 | | | | | | 0 | 40,023.62 |
| 25. Gardenhire, Montie | 112,900.00 | 38,633.54 | | | | | | 4,000.00 | 155,533.54 |
| 26. Gaume, Anna Lee (Bruton, Ella) | 18,000.00 | 254,364.62 | 450.68 | 4,137.67 | 2,907.67 | X | | 81,998.00 | 354,362.62 |
| 27. Gilbert, Jesse R | 5,000.00 | 557.70 | | | | | | 0 | 5,557.70 |
| 28. Gilliland, Genevra W | 30,646.00 | 153,509.82 | 854.33 | 3,232.54 | 3,368.75 | X | | 26,144.00 | 210,299.82 |
| 29. Greer, Allie | 65,714.00 | 103,923.50 | 1,997.22 | 1,280.00 | 1,946.25 | X | | 9,850.00 | 179,487.50 |
| 30. Groom, Earle | 7,725.00 | 357.37 | | | | | | 0 | 8,082.37 |
| 31. Gullion, Jesse | 13,335.00 | 300.00 | | | | | | 0 | 13,635.00 |
| 32. Hammett, Beth G | 0 | 500.00 | 40.00 | 0 | 50.00 | X | | 0 | 500.00 |
| 33. Hanna, Ralph (mineral owner ³) | 300.00 | 0 | | | | | | 0 | 300.00 |
| 34. Hardin, Lois | 0 | 30,800.00 | 2,560.00 | 2,084.32 | 3,080.00 | X | | 0 | 30,800.00 |
| 35. Harriet, Michel | 280,156.00 | 924,719.14 | 1,838.71 | 33,571.78 | 73,328.55 | X | | 143,129.00 | 1,348,004.14 |
| 36. Harvey Investment Co | 0 | 0 | | | | | | 4,858.00 | 4,858.00 |
| 37. Hatcher, Thelma | 17,950.00 | 472.00 | | | | | | 0 | 18,422.00 |
| 38. Headen, Charles | 25,134.00 | 1,880.00 | | | | | | 0 | 27,014.00 |
| 39. Hearn, Frances A | 45,650.00 | 70,227.94 | | | | | | 12,000.00 | 127,877.94 |
| 40. Helms, Arthur D | 60,600.00 | 104,834.48 | 1,438.36 | 856.70 | 1,797.50 | X | | 30,250.00 | 195,684.48 |
| 41. Henderson, Andy | 80,000.00 | 256,092.95 | 2,876.04 | 3,837.56 | 4,523.75 | X | | 51,233.00 | 387,325.95 |
| 42. Henderson, Myrtle A | 40,250.00 | 210,583.30 | 1,232.07 | 3,122.82 | 4,187.50 | X | | 26,325.00 | 277,158.30 |
| 43. Henderson, Roy L | 1,600.00 | 33,081.17 | 40.00 | 640.00 | 478.75 | X | | 6,332.00 | 41,013.17 |
| 44. Hobson, Phillip F., et al (mineral owner ³) | 1,150.00 | 0 | | | | | | 0 | 1,150.00 |
| 45. Horne, A.M., estate | 18,000.00 | 480.00 | | | | | | 0 | 18,480.00 |
| 46. Insall, Frances | 13,000.00 | 400.00 | | | | | | 0 | 13,400.00 |
| 47. Irvin, Tracy | 10,000.00 | 375.80 | 20.00 | 0 | 25.00 | X | | 0 | 10,375.80 |
| 48. Isaacks, Jefferson J | 0 | 21,802.68 | 0 | 1,235.16 | 693.75 | X | | 6,868.00 | 28,670.68 |
| 49. Isaacks, Robert L | 109,992.52 | 43,119.64 | | | | | | 15,939.00 | 169,051.16 |
| 50. Johnson, J.C | 0 | 1,550.00 | 119.52 | 0 | 154.96 | X | | 0 | 1,550.00 |
| 51. King, Louise K | 54,200.00 | 3,682.03 | | | | | | 190.00 | 58,072.03 |
| 52. Kercher, Raymond J., et al (mineral owner ³) | 1,400.00 | 0 | | | | | | 0 | 1,400.00 |
| 53. Lewis, Helen E | 24,000.00 | 24,483.10 | | | | | | 2,277.00 | 50,760.10 |
| 54. Love, A.F | 8,600.00 | 118,547.30 | 172.85 | 1,921.40 | 1,440.71 | X | | 51,113.00 | 178,260.30 |
| 55. Love, Robert L | 15,600.00 | 480.00 | | | | | | 0 | 16,080.00 |
| 56. Marschall, John H | 104,990.00 | 5,486.50 | | | | | | 180.00 | 110,656.50 |
| 57. Martin, Willard F (Martin Co., estate) | 10,830.00 | 191,316.70 | 180.43 | 4,996.85 | 3,932.61 | X | | 42,743.00 | 244,889.70 |
| 58. McDonald, Carmen | 160,000.00 | 197,686.23 | 640.00 | 4,468.34 | 6,165.00 | | X | 4,000.00 | 361,686.23 |
| 59. McDonald, Dove | 160,000.00 | 252,747.04 | 640.00 | 0 | 6,165.00 | | X | 1,000.00 | 413,747.04 |
| 60. McDonald, Laura (McMurray, Kathryn, ex.) | 16,600.00 | 423,870.75 | 473.79 | 9,362.57 | 5,793.70 | X | | 65,110.00 | 505,580.75 |
| 61. McFarland, Helen | 34,400.00 | 1,316.87 | 80.00 | 0 | 80.00 | X | | 0 | 35,716.87 |
| 62. McKinely, Laura | 3,000.00 | 283,355.10 | 80.00 | 6,422.43 | 4,062.50 | X | | 63,194.00 | 349,549.10 |
| 63. McKinely, Weldon | 0 | 53,930.96 | 0 | 1,280.00 | 960.00 | X | | 7,620.00 | 61,550.96 |
| 64. Middleton, Gayle | 38,000.00 | 199,705.26 | 1,000.00 | 3,678.32 | 3,197.50 | X | | 35,551.25 | 273,256.51 |
| 65. Moales, Wayland | 49,500.00 | 1,650.00 | | | | | | 0 | 51,150.00 |
| 66. Morris, H.O | 1,205.91 | 4,042.79 | | | | | | 0 | 5,248.70 |
| 67. Moss, William | 0 | 3,800.00 | | | | | | 1,890.00 | 5,690.00 |
| 68. New Mexico Property Appr. Dept | 0 | 1,880.00 | 629.79 | 0 | 188.00 | X | | 0 | 1,880.00 |
| 69. Oliver, G.B | 53,984.00 | 81,637.19 | 640.00 | 2,917.88 | 1,781.25 | X | | 30,947.00 | 166,568.19 |
| 70. Owens, Kenneth H. (mineral owner ³) | 175.00 | 1,650.00 | 220.00 | 0 | 165.00 | X | | 0 | 1,825.00 |
| 71. Parchman, Wilma | 15,600.00 | 480.00 | | | | | | 0 | 16,080.00 |
| 72. Patten, Andrew M., Estate (mineral owner ³) | 1,504.00 | 0 | | | | | | 0 | 1,504.00 |
| 73. Potter, Nellie | 76,400.00 | 97,411.87 | 2,158.12 | 313.71 | 1,157.50 | X | | 60,634.00 | 234,445.87 |
| 74. Pratt, Yukala H | 0 | 480.00 | 40.00 | 0 | 48.00 | X | | 0 | 480.00 |
| 75. Quesenberry, Geo. R | 27,150.00 | 87,542.34 | 718.60 | 2,642.73 | 1,442.15 | X | | 52,101.00 | 166,793.34 |
| 76. Ray, Walter | 35,000.00 | 800.00 | | | | | | 0 | 35,800.00 |
| 77. Ritch, William G | 39,500.00 | 357,639.13 | 758.29 | 14,955.23 | 12,137.00 | | X | 7,300.00 | 404,439.13 |
| 78. Ritch, Winnie | 29,500.00 | 11,600.00 | | | | | | 1,305.00 | 42,405.00 |
| 79. Robertson, Lupe B | 0 | 2,935.38 | | | | | | 0 | 2,935.38 |
| 80. Rogers, Lee M. (mineral owner ³) | 1,100.00 | 0 | | | | | | 0 | 1,100.00 |
| 81. Sanders, Geneva | 67,431.00 | 212,524.54 | 1,520.00 | 5,884.43 | 3,630.00 | X | | 74,162.00 | 354,117.54 |
| 82. Shores, Henry | 330,000.00 | 161,867.61 | 640.00 | 0 | 8,736.00 | | X | 28,000.00 | 519,867.61 |
| 83. Sidwell, George B. (mineral owner ³) | 801.00 | 1,400.00 | | | | | | 0 | 2,201.00 |
| 84. Skimore, Frank S. (mineral owner ³) | 400.00 | 0 | | | | | | 0 | 400.00 |
| 85. Slates, Burton R | 20,000.00 | 500.00 | | | | | | 0 | 20,500.00 |
| 86. Smith, Clay L | 20,006.20 | 48,310.75 | 638.90 | 640.00 | 718.75 | X | | 13,443.00 | 81,759.95 |
| 87. Smith, Dwight (mineral owner ³) | 400.00 | 0 | | | | | | 0 | 400.00 |
| 88. Smith, Robert M. (mineral owner ³) | 2,500.00 | 4,592.00 | | | | | | 0 | 7,092.00 |
| 89. Smith, William G | 18,500.00 | (⁴) | | | | | | 0 | 18,500.00 |
| 90. Spears, Margaret | 42,450.00 | 2,323.36 | | | | | | 0 | 44,773.36 |
| 91. Spencer, Truman A | 675,000.00 | 1,482,170.33 | 10,153.17 | 111,425.73 | 45,017.40 | X | | 191,884.00 | 2,349,054.33 |
| 92. State of New Mexico (mineral owner ³) | 199,452.89 | 0 | | | | | | 0 | 199,452.89 |
| 93. Story, Anna | 28,440.00 | 183,295.20 | 800.00 | 960.00 | 1,690.00 | X | | 44,629.00 | 256,364.20 |
| 94. Stuart, Edward | 0 | 640.00 | 162.52 | 0 | 64.00 | | X | 0 | 640.00 |
| 95. Terry, Vera E | 0 | 400.00 | 39.88 | 0 | 40.00 | X | | 0 | 400.00 |
| 96. Tucker, Roy E | 36,240.58 | 51,175.50 | 798.87 | 479.02 | 881.25 | X | | 12,700.00 | 100,116.08 |
| 97. Virden, Tillman | 31,850.00 | 4,155.24 | 636.23 | 0 | 250.00 | X | | 1,680.00 | 37,685.24 |
| 98. Voyde, Lydia | 44,000.00 | 2,013.05 | | | | | | 0 | 46,013.05 |
| 99. Walters, Ann I | 0 | 36,600.00 | | | | | | 7,032.00 | 43,632.00 |
| 100. Warner, Minnie | 34,400.00 | 1,316.68 | | | | | | 0 | 35,716.68 |
| 101. Williams, C.V. (Mrs.) | 11,500.00 | 250.00 | 20.00 | 0 | 25.00 | X | | 0 | 11,750.00 |
| 102. Wilson, Charles P | 40,000.00 | 5,415.22 | 100.00 | 0 | 202.50 | X | | 180.00 | 45,595.22 |

PAYMENTS MADE BY THE DEPARTMENT OF THE ARMY AT WHITE SANDS MISSILE RANGE BY OWNERSHIP (1942-83)—Continued

| Owner | Payment for fee | Leasehold payments [1] | Leasehold condemnations | | | | | Separate payments for improvements | Total |
|---|---|---|---|---|---|---|---|---|---|
| | | | Private acres | State-owned acres | Annual rental [2] (included under B) | Settled by parties | Court award | | |
| | (A) | (B) | | | | | | (C) | (D) |
| 103. Withers, Estella E., et al | 184,711.00 | 337,067.92 | 126.67 | 3,708.56 | 12,089.38 | | X | 88,728.000 | 610,506.92 |
| 104. Withers, Ivan | 29,440.00 | 0 | | | | | | 0 | 29,440.00 |
| 105. Wood, Eva H | 0 | 35,044.00 | | | | | | 8,085.00 | 43,129.00 |
| 106. Wood, H.A | 32,890.87 | 131,407.70 | 839.62 | 1,511.20 | 1,853.66 | X | | 32,865.00 | 197,163.57 |
| 107. Wood, John H | 35,000.00 | 67,056.58 | 640.00 | 964.03 | 902.50 | X | | 17,628.00 | 119,684.58 |
| 108. Wood, J.P | 75,000.00 | 109,608.97 | 1,360.00 | 1,283.58 | 1,528.75 | X | | 45,290.00 | 229,898.97 |
| 109. Wolf, Dale | 66,000.00 | 168,148.76 | 1,790.87 | 2,131.67 | 2,456.25 | X | | 77,000.00 | 311,148.76 |
| 110. Wright, Paul | 18,000.00 | 623.20 | 30.04 | 0 | 40.00 | X | | 0 | 18,623.20 |

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[1] Includes the total of payments received per ownership under lease and suspension agreements covering public domain lands (circa 1942-70), and payments made after 1970 by virtue of voluntary leases or court awards in leasehold condemnation cases of both private and State-owned lands. The figures include payments for the leasing or condemnation of minerals.

[2] Includes yearly rental payments for both the fee lands of the owner and lands available for leasing to the owner from the State of New Mexico.

[3] Payments made by ownership for minerals which have been severed and conveyed separately from the surface ownership.

[4] Included under Isaacks, Robert L.

**Mr. DOMENICI.** Mr. President, today I introduce a private bill and a resolution. Under the rules of the Senate, the resolution will be referred to the Senate Judiciary Committee. If that committee and the Senate see fit to do what the Senator from New Mexico asks of them and the resolution is agreed to, a private bill will be referred to the Chief Commissioner of the Court of Claims.

Mr. President, the Commissioner then will proceed in accordance with the provisions of sections 1492 and 2009 of title 28 of the United States Code and report thereon to the Senate at the earliest practicable date, giving such findings and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claimant, legal or equitable, against the United States or a gratuity and the payment, if any, legal or equitable, due from the United States to the claimant.

We have found that this is available to these New Mexicans.

If this court inequity makes the requisite findings, then Congress could pass the private bill, if it sees fit, which will then have established within it what the U.S. Court of Claims determines to be equitable relief for each and every one of these ranchers or their successors in interest.

I think this is the most practical solution to the problem. I hope I can get the resolution agreed to, and I hope that later on they will make the equitable findings and that then the Congress of the United States will pass a bill which would be a private bill but which would then include what the court finds is equitable relief and we will end this terrible episode.

Mr. President, I want to close by saying that I have been most appreciative of the help that the Judiciary Committee staff have given us in trying to resolve this issue because it is so complicated and difficult. You solve one piece and it seems to never end.

I hope that in the not too distant future, this will be the remedy and today will start the day of just the few months required for findings and conclusions, and to see equity done in behalf of these very loyal people.

Mr. President, I ask unanimous consent that the text of the bill and the resolution be printed in the RECORD.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 2761

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, a sum, to be determined, to individuals described in section 2. The payment of such sum shall be in full settlement of any claim for full and fair compensation by such individuals against the United States for the loss of real property, grazing privileges, and the value of mineral claims resulting from the actions of the United States in acquiring land for the White Sands Missile Range.

SEC. 2. The individuals to whom payments shall be made under this Act are individuals (or heirs or assignees of individuals) who owned ranching units in the area of the White Sands Missile Range, New Mexico, and whose ranching units (or a portion of whose ranching units) were taken for war and national defense purposes after 1941 and are now part of that missile range. The Secretary of the Army or the head of such other agency as the Secretary of the Treasury may determine shall provide a list of the names of such individuals to the Secretary of the Treasury.

SEC. 3. No part of the amount appropriated by the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 4. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

S. RES. 405

*Resolved,* That the bill (S. 271) entitled "A bill for the relief of White Sands ranchers of New Mexico" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

## RECOGNITION OF SENATOR PROXMIRE

The **PRESIDING OFFICER** [Mr. GOLDWATER]. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

**Mr. BYRD.** Mr. President, will the Senator yield to me?

**Mr. PROXMIRE.** Yes.

**Mr. BYRD.** Mr. President, I ask unanimous consent that I may retrieve the 8 minutes which remain under my leadership time.

The **PRESIDING OFFICER.** The Senator has 8½ minutes.

**Mr. BYRD.** I thank the Chair.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BYRD.** Mr. President, I yield 3 minutes of that time to Mr. PROXMIRE and I yield 4 minutes of the time to my distinguished colleague [Mr. RANDOLPH].

Mr. President, will the Senator from Wisconsin allow me to proceed for 1 minute on my own time?

**Mr. PROXMIRE.** Yes, Mr. President.

## TIME LIMITATION PROPOSAL—H.R. 4616

**Mr. BYRD.** Mr. President, I had indicated to the assistant Republican leader last evening that we would try hard to get an agreement with reference to the child restraint bill. I have been able to do that. I indicated to the distinguished majority leader just a little while ago I would continue the effort. I now have an agreement which I can offer. I have to leave the floor, but I want the majority leader to know that I am prepared on this side to agree to a 10-minute limitation on the bill itself, equally divided, and with only one amendment to be in order, which would be the amendment relating to a national minimum drinking age of 21. It would be 20 minutes equally divided on that amendment.

I am prepared at any time to enter into that agreement and I thought I should inform the majority leader that we are ready on this side to proceed.

I thank the distinguished Senator for allowing me to proceed.

Mr. PROXMIRE. I thank the Senator.

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## WHAT'S WRONG WITH UNILATERAL NUCLEAR DISARMAMENT?

Mr. PROXMIRE. Mr. President, what is wrong with unilateral nuclear disarmament? Unilateral disarmament is a morally alluring copout. It is a renunciation of the sinful world. It is an embrace of the decent kind, generous life that should be. It is a rejection of all the mean, vicious, violent, selfish, hate-filled truth in the world that is. Too bad, but life is not fair. Sometimes life is good and generous. Sometimes it is evil. Would that we could wave a wand and vanquish the evils. We cannot. Unfortunately, we have no real alternative except to cope with life as it is. We cannot abolish nuclear weapons. We cannot remove from mankind the knowledge or the material or facilities for making nuclear weapons. For all the future years mankind dwells on this planet, he and she will have to live with the prospect that human life could vanish in a nuclear war at any time. That is a terrible fact of life. But it is a fact as sure, as certain, as the air we breathe and the Sun that gives us light and warmth. We have to accept nuclear weapons. We cannot abolish them.

So does that leave unilateral nuclear disarmament as a helpless, hopeless cause? Why is unilateral nuclear disarmament any more hopeless or unrealistic than the smashingly successful nonviolent resistance of Mahatma Gandhi and others that won the independence of India from the iron military rule of the British empire? Why is unilateral nuclear disarmament a feebler cause than the astonishing American civil rights progress won by the Reverend Martin Luther King and others by civil disobedience in the face of the opposition of the overwhelmingly dominant American white majority with its total monopoly of military force?

Consider: How were these previous victories for great moral progress by nonviolence won? What kind of power to change had to be won over? In both cases—India's independence and Americans civil rights progress—those who held power were vulnerable, in fact, highly vulnerable to popular moral persuasion. Both the United Kindom and the United States are democracies serving an elecorate informed by a free press. In both cases, both governments could change their policy radically and dramatically with no risk to the Government or the constituency the Government served.

On the other hand, could the U.S. Government—any U.S. Government—unilaterally reject nuclear weapons without a sure and certain popular repudiation and without an immense increase in risk for our country from armed-to-the-nuclear-teeth adversaries? Would that we could; but we cannot.

It reminds me of the observation made of an erratic, very wild Brooklyn Dodger pitcher, named "Rex Barney." Barney had a sizzling fastball—possibly the fastest pitch ever, but he could walk batters by the bundle. Bob Cooke, a New York sportswriter once observed, "Rex Barney would be the league's best pitcher if the plate were high and outside." Well, unilateral nuclear disarmament would be the world's best idea if every country were a democracy with a free press.

Unilateral nuclear disarmament by the United States unfortunately would not stop the catastrophe of nuclear war. Our intelligence services flatly predict that unless we stop nuclear weapons proliferation, more than 30 nations will have nuclear arsenals by the year 2000, 16 short years from now. Would U.S. unilateral nuclear disarmament prevent this proliferation? No way. We would simply be handing over political leadership and especially antiproliferation leadership to other nations. We would lose the very real leverage we now have for negotiating both an end to the arms race and the full cessation of nuclear arms proliferation. As long as the United States has awesome nuclear arms power, much of which is in vulnerable, the U.S.S.R. has a sharp incentive to return to the bargaining table and negotiate an end to the arms race. This country as the supreme free world nuclear arms power and the world's No. 1 trading Nation, has the basis for negotiating an end to nuclear arms proliferation and enforcing that negotiation. Statewide referendums and professional public opinion polls have documented the emphatic public support for these negotiations. They can be achieved without political risk to the American Government that achieves them and they can sharply reduce the risk of nuclear war that haunts informed people throughout the world. Unilateral nuclear disarmament will not succeed. Mutual, comprehensive verified nuclear arms negotiations will.

## VIGIL FOR SOVIET JEWRY

Mr. PROXMIRE. Mr. President, today marks the 14th anniversary of the arrests which led to the imfamous Leningrad trials. During the Leningrad trials, 11 Soviet dissidents, including 9 Jewish refuseniks, were tried and sentenced in a case that again brought the problem of Soviet human rights violations to international attention.

Under Soviet law, the planning of a crime is as serious as the execution of one. Hence, the 11 were arrested by the KGB for planning to commandeer a small plane to flee the country. Nine were sentenced to prison terms and the other two were to be executed. Those sentenced to death elicited a world protest which prompted a congressional response. The pressure placed by these organizations enabled their prison sentences to be reduced to 15 years special regime, the harshest form of prison punishment.

These 11 individuals, frustrated with the human rights situation in the Soviet Union, were simply trying to practice their religious and cultural freedom, and to be allowed to emigrate.

As a result of a cooperative effort from Congress and other concerned bodies worldwide, all but two prisoners have been released. One of the two prisoners, Alexi Murzhenko, is scheduled for release tomorrow. However, it is not uncommon for an individual to receive an additional sentence on charges of bad behavior.

Mr. President, today Members of the Senate and House are participating in a fast from sunup to sundown, and a prayer vigil to show solidarity for those tried at Leningrad. It is most important that we continue our strong support for the plight of the Soviet Jews and the innumerable others in similar situations.

The Leningrad trials, of and by themselves, do not constitute genocide as defined in the Genocide Convention. Yet, the many examples of human rights violations committed by the Soviet Union illustrate the widespread discrimination and hatred that persists today. These mistreatments of a country's own citizens are reminiscent of those occurring in Nazi Germany prior to World War II, and are conducive to creating an environment in which genocide could occur.

As I have stated many times before, Mr. President, the Genocide Convention condemns the heinous act of genocide and makes it an international crime. With respect to those 11 individuals tried at Leningrad and in keeping with America's tradition as a champion of human rights, I urge the Senate to take immediate action and ratify the Genocide Convention.

## RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. Mr. President, does the Senator wish me to yield time? I have time also that I may yield to the Senator from Michigan or the Senator from West Virginia.

Mr. LEVIN. I ask unanimous consent to yield 4 minutes of my time, Mr. President, to the Senator from West Virginia [Mr. RANDOLPH].

The PRESIDING OFFICER [Mr. GOLDWATER]. The Senator from West Virginia is recognized for 4 minutes or a little more.

Mr. RANDOLPH. I thank the Chair. I remember the night before last that the present Presiding Officer of the Senate, Mr. GOLDWATER, spoke, as always, in a manner of helpfulness. When the majority leader said that he was going to recess the Senate at 9 o'clock, I recall his quick comment, "You are 1 minute over already." So I do listen to him always when we are together with our colleagues in the Senate.

## THIS IS OUR FLAG DAY

Mr. RANDOLPH. Mr. President, last year, I gave extended comment because I wanted, on June 14, 1983, to call attention to that date as Flag Day.

Earlier today, in the Chamber, the able minority leader, my colleague from West Virginia [Mr. BYRD], discussed Flag Day. Because of a meeting, I could not listen to those remarks. I am sure they were well prepared and given in a meaningful manner.

This year, I decided I would call attention to our remarks of last year. Today, I shall talk for a brief time.

West Virginians have a sense of their State history and the background of our beginning. It was on June 20, 1863, that West Virginia became the only State to join the galaxy of States by the proclamation of Abraham Lincoln.

Our statehood, I repeat, came into being with the signature of Abraham Lincoln. No other State was brought into the Union in such a manner. Those were in the difficult days of the Civil War.

I mention the relationship of Abraham Lincoln to the State of West Virginia. His mother, Nancy Hanks, was born in the hills of our State, in the tiny hamlet of Antioch, between Keyser and Romney, county seats of Mineral and Hampshire Counties.

Abraham Lincoln, during his administration, participated in the dedication of a structure constructed while he was President. He had been asked to participate with the raising of an American flag. As you know, Abraham Lincoln in his speeches, spoke briefly, but in very, very eloquent and very meaningful words. On that occasion, the flag was to be raised over a building, a U.S. Treasury structure of that day. I say to the Presiding Officer and to those who are guests that it was not a very big building because our deficit, of course, was not very large at that time.

I repeat, as I have said, his 38 words on that occasion. He said:

> I have been assigned to raise this flag. This I will do, if there is no default in the machinery. And after I have raised the flag up, it will be for the people to keep it up.

Had he spoken 1,000 words or unnumbered words, the Great Emancipator could have said nothing more meaningful than these words.

I have made a study of the speeches and the comments of the Presidents of the United States. I have determined, with the help of others who have shared this work, that the shortest speech ever made by a President of the United States was this one.

Perhaps there is a sense of sadness in what I say because throughout America there shall not be the number of flags flying today that there should be. I am not critical. I recall, when in Norway, driving through the countryside years ago, I said to the driver of the car:

> I notice in front of every house or home there is a flagpole and the flag is flying. What event are you celebrating today?

He quickly responded:

> We're not celebrating a special day. In Norway, we fly our flag every day.

It is not an overstatement of mine, shared perhaps by others, to hope that symbolism has a value because it calls us back often to the fundamentals, to the beginnings, to the strengths of this country loved by Lincoln and served by him. Hopefully, in our individual service in this body, we may contribute more and should contribute more, to the well-being of the Republic and to the betterment of people.

## RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. The Senator from Michigan [Mr. LEVIN] is recognized for not to exceed 14 minutes.

Mr. LEVIN. I thank the Chair and my friend. I was delighted as always to listen to the words of our friend from West Virginia. This place will not be the same without him.

## THE PLIGHT OF SOVIET JEWRY

Mr. LEVIN. Mr. President, today happens to be the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry. I was thinking, as my friend from West Virginia was speaking, how appropriate it is that it happens to fall on our Flag Day, which symbolizes freedom not just to us but all the world.

Mr. President, many of us in the Senate and the House will participate today in a midday prayer vigil on the west front of the Capitol.

We are fasting from dawn until dusk to highlight the plight of Soviet Jews. Today has been chosen for the date of this event because it marks the 14th anniversary of the notorious Leningrad trial. By remembering that trial, we hope to call world attention to the plight of Soviet Jews, especially the dismal emigration rates from the U.S.S.R.

We will be honored to have Iosef Mendelevich join us at the prayer vigil today. Mr. Mendelevich was 1 of the 11 defendants in the Leningrad trial. That trial is recognized as a historic turning point for Soviet Jews because it was one of the first times world-wide attention was focused on their plight. It has been 14 years since Mr. Mendelevich and his 10 codefendants, both Jewish and non-Jewish were convicted for their attempt to commandeer an airliner to reach freedom in the West. Their attempt was an act of utter desperation. Most of those involved had struggled for years to leave the Soviet Union but with no hope of success. The leader of the group, Mr. Kuznetsov, was certain that the attempt would fail and would lead to their imprisonment. But since their actual objective was to bring international attention to the plight of Soviet Jewry and anti-Semitism within the Soviet Union, they were not deterred by the unlikely chance for success.

In 1970, the Leningrad trial brought about an international reaction so strong that the Soviet Government reduced defendants' original sentences from death to prison terms. Today, 2 of the original "Leningrad 11" remain incarcerated in harsh labor camps in ill health.

This Second Annual Congressional Fast and Prayer Vigil commemorates the courage and fortitude of the 11 daring people, such as Iosef Mendelevich. All of these victims have suffered terrible hardships but they lost neither their courage nor their sense of purpose. Mr. Mendelevich became a devoutly Orthodox Jew in prison. While there, he courageously taught Jewish history and Hebrew to his fellow Jewish inmates, and observed Jewish dietary laws and holidays. Although his work schedule was grueling, he worked overtime so that he would not have to work on the Sabbath. Alan Dershowitz tells in his book of a poignant incident involving Mr. Mendelevich that took place on Passover in prison.

> Mendelevich secretly conducted a Seder, using a small piece of a dried flower for matzoh. When the time came for making

the traditional sandwich of matzoh and bitter herbs, there were, of course, no bitter herbs. But that did not stop Mendelevich, who recited: "The bitter herb is a symbol commemorating Jewish suffering. Here we need no symbol. We swallow the reality of our suffering every day."

Although the courage and suffering of Iosif Mendelevich are inspiring, neither is uncommon. The kind of suffering he endured in 1970 still exists today in the U.S.S.R. Jews in the U.S.S.R. are not free to educate their children in their religious and cultural history. Jewish schools are forbidden. The printing of Hebrew books is considered criminal. The teaching of Hebrew is punished by imprisonment, and the training of religious leadership for the Jewish people is prohibited in the Soviet Union.

We in the Western World must come to the aid of the Soviet Jews. The only hope that these prisoners of conscience have is emigration to Israel or the West. In 1979, more than 51,000 Jews emigrated from the Soviet Union. Since then, the figures have decreased by 98 percent. In 1983, only slightly more than 1,000 Soviet Jews were allowed to emigrate. This trend must be revered.

One way to assist Soviet Jews is to adopt a refusenik. I have adopted Boris Rifkin and his family, on whose behalf I have been working for 5 years. This family had been attempting to emigrate for many years before that. In the spring of 1981, his children, Boris, Jr. and Luba, and their mother, Dina, were finally granted emigration visas. Boris, Sr., however, was not allowed to leave. In order for the children and wife to be granted their passage to freedom, Boris and Dina were required to get a divorce. Their dilemma exemplifies the sacrifices so many are willing to make to obtain emigration visas. Since moving to the Detroit area, Boris' children have been petitioning the Soviet Union to grant Boris an exit visa. I will continue to work on Mr. Rifkin's case. It is my sincere hope that I can soon attend the second wedding of Boris and Dina.

We must reaffirm to Soviet leaders that we are dedicated to the cause of human rights, and that until Soviet citizens can emigrate to free soil, Americans will not be silent. The great historian Simon Dubnor said, as he was about to be executed by the Nazis, "The greatest crime is silence . . . Record everything, record . . ." And Edward Kuznetsov said, after he was freed,

> Publicity is the air and water which keeps the prisoners alive. Unknown prisoners die every day in the camps. But they do not dare let a prisoner die if he is known in the West.

These statements prove that we can help. The American Government and its people can aid Soviet Jews by keeping stories of their plight on the front pages of our newspapers. We should mention this problem every time we have discussions with the Soviets. We must send clear signals to the Soviets that they can improve relations with us by going back to the policy of allowing more of their citizens to emigrate. We convey these messages by actively participating in demonstrations of support like today's Congressional Fast and Prayer Vigil, in which many of us will participate in the hope of helping many Soviet citizens, Jew and non-Jew alike, who seek their freedom.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 2 minutes each.

## OWEN BIEBER AND LEE IACOCCA ADDRESS THE ISSUE OF AMERICA'S INDUSTRIAL FUTURE

Mr. KENNEDY. Mr. President, no economic issue is of greater longrun importance than rebuilding competitiveness and ensuring jobs for American workers. In that regard the American automobile industry has served as a primary example of both what to do and what not to do.

We have learned that when workers, management, and government sit down together and bargain across the range of wage, price, and policy issues that effect the industry good things can happen. We have also learned that there are no single simple answers. Recently two of the leading figures in the industry have addressed themselves eloquently to the industry's future and suggested the kinds of new bargains that are necessary. Owen Bieber and Lee Iacocca do not agree on everything. But, both recognize that the future of the industry is still very much up for grabs and that they and the Government have a lot of work left to do. And most importantly they both recognize that an approach employing cooperation and reciprocity is essential.

Mr. President, I believe that Mr. Bieber and Mr. Iacocca have pointed the way to the kind of industrial strategy that our country needs if we are to ensure prosperity for our children. Their comments are about the automobile industry, upcoming contract negotiations, and trade policy decisions—but they have implications that stretch much further. All of us who are concerned about the future would do well to read these two speeches and ask ourselves "How can government best do its part."

Mr. President, I ask unanimous consent that Mr. Bieber's and Mr. Iacocca's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

### PREPARED REMARKS OF L.A. IACOCCA, CHAIRMAN OF THE BOARD, CHRYSLER CORP., AT THE LEAGUE OF WOMEN VOTERS NATIONAL CONVENTION, DETROIT, MI, MAY 15, 1984

Thank you, Ms. Robbins. And good morning, ladies . . . and ladies.

I was tempted to open this talk by thanking all of you for coming to Detroit to visit me. But that seemed a little presumptuous, so I'll just say, "Welcome to Detroit. The city is honored and privileged to have you here." And for those of you who follow the great game of baseball—I hope you'll come back again in October for the World Series!

It's the right time, and the right place, for you to be meeting. The right time, because we're in the midst of a Presidential election campaign; the right place, because "Smokestack America" has an awful lot at stake in this election, and Detroit's right smack in the middle of Smokestack America. And yours is a forum uniquely qualified to hear out the issues, and I want to raise a few today. Because what our government does, or chooses not to do, will be critical to the lives of millions of Americans over the next four years.

Your founders were not cynics or fatalists. They knew government was important. They knew that government policies made a difference. They knew that if these policies were intelligent and effective and fair, that government could be a positive force—that it could help create a better future for everyone.

In the 65 years since the League was founded, you've helped give millions of women the tools to get involved and choose a better future.

But you've done even more than that. By registering voters, by helping voters understand the public issues, by promoting discussion of government policies, by sponsoring televised debates among Presidential candidates—you've helped give all Americans more meaningful choices. You've helped improve American democracy.

You've helped all of us cast our votes on the basis of something more than a family habit, or a candidate's haircut—on something more than clever symbols or empty slogans.

Nothing could be more important because the very essence of democracy is that the voters make an informed choice.

They can't just accept what the so-called experts tell them. They've got to deal with the facts in the real world.

Well, the real facts about Detroit and the auto industry and government policies that affect us are pretty hard to get these days. On the surface, things look just great. This is a city that has literally risen from the ashes over the past 18 months. And we are all proud of—and grateful for—that fact.

We, at Chrysler, are particularly proud.

We had a brush with death; the Wall Street Journal, along with a lot of others even said we should die with dignity. Right or wrong, we chose not to. That we made it through the graveyard is due to the efforts of a lot of people, our suppliers, bankers, dealers, employees, cities, states, our federal government.

But, mostly to the goodwill and the support of the American people. Given a chance and given a choice—they opted to help save a company and a lot of jobs by buying what they believed to be pretty good products, even though the company that built them might not be around.

So we should be pretty pleased, as we meet here today. But we're nervous, and the laughter is restrained, because some major issues remain unresolved. One of them is the subject of industrial policy, which you asked me to speak about today . . . which must mean it's on your minds as well. But, before I get into that, I think I should set the record straight and get rid of some of the phoney issues, first.

Let me get to the ones that are on the front pages and the TV screens right now, and put them aside. The first one we read and hear about is that Detroit's profit levels are excessive, and due only to "voluntary" Japanese restraints. The next one is that Detroit's prices have gone up 40-60 percent (pick your number), due to the same restraints. The third one is that we're lining our pockets with over-the-moon bonuses, as a result of the first two.

Well, I'm not going to devote a lot of time to defending the auto industry today—you've got more important things on your agenda. But let me get the record straight, and then get on with it.

First, prices. Chrysler didn't get healthy (and I didn't get rich) because we jacked up prices while protected by a shield against Japanese products. We got healthy because we got efficient; we built good products and the market improved. Period!

For the record, Chrysler's prices (equipment adjusted) in the subcompact, small specialty and compact segments . . . where the Japanese do 94 percent of their volume . . . went up, during the first three year restraint period by three percent. Three percent! Over three years! (McDonald's hamburgers went up 9 percent during that period!)

Our total car prices, in aggregate, went up eleven percent, because we brought in some new, higher priced models like the front-wheel-drive New Yorker, which doesn't compete with Japanese cars—just GM cars.

During that same period, the auto industry's aggregate prices went up by 12 percent. Japanese car prices went up by 15 percent. The Consumer Price Index went up by 17 percent. Newspaper prices by 24 percent, fuel prices by 27 percent, and a ticket to the Tiger games by 28 percent (although I have to admit the quality improved).

And our 3 percent on small cars didn't include the cost of our 5-and-50 warranty or the cost of our free automatic transmission offer on our subcompact and compact cars at $439 a pop. So anybody who says we're gouging in our pricing is just plain wrong.

Sure, consumers are buying a heftier mix of luxury cars, and automatic air conditioning and six-speaker stereos . . . and average purchase price has gone up from the recession period . . . but that's not Detroit's pricing, folks—that's the beloved free market at work! (I can't let the free traders work both sides of the street on me!)

Then there's profits. I used a chart at my last press conference—I call it the "Red Sea" chart, and I didn't part it, believe me, I just tried to swim through it. The chart is full of red ink, and it covers my five years at Chrysler. What it says is that even after the $700 million profit we turned in last year (a record), and the $706 million profit in the first quarter of this year (a real record!), I'm still in the hole $1.9 billion!

So, if we can keep flying high, by mid 1985, Chrysler will have managed to break even for the entire six-and-one-half year period of my peerless leadership!

Big deal . . . I saw Boone Pickens on TV, he raided an oil company, lost the take-over struggle, and came on the tube with his drawl and said, "I guess I lost." He made $700 million that night!

What will we use these "obscene" profits for? First, we've got to fund a UAW wage settlement of $1.1 billion over the next 18 months, as a payback, if you will, for some of the sacrifices our workers made. And I have to come up with $9 billion in capital investments in new products and facility modernization over the next five years—just to stay competitive, to retool for the highest quality products in the world.

And we'd like to pay our shareholders a modest dividend, for their patience over the past few years. I've always thought that's what you're supposed to do with profits in a free enterprise system . . . reinvest in the business, increase your productivity, improve your products and give the owners a return on their investment.

I'm not going to touch executive compensation with a ten-foot pole. But I have to wonder if the so-called auto moguls are at the top of the heap even in this town. A couple of years ago the Detroit Red Wings were bought for $10-12 million by a pizza king, and last year the Detroit Tigers were bought for $43 million . . . by another pizza king. And they ain't even Italian!

The truth is, we're walking on eggs. We don't know whether we're supposed to be proud, or ashamed, of the turnaround. We got clobbered when we lost money and we get clobbered when we make a profit. The other day I suggested that "maybe we should have a long range plan to break even . . . then nobody would get mad!"

But I'm not mad . . . I'm worried. I'm worried about the real issues. What are they; isn't the recession over?

Well, there are some ominous clouds on the horizon.

Interest rates, which brought the housing industry, the auto industry and the whole economy to its knees, are inching up again. If the prime goes past 13-14 percent, watch out!

The United Auto Workers are gearing up for the most critical labor negotiations this country has seen in many years. They'll hit GM and Ford this fall, at a time when the industry's profits are at record levels. If all sides forget the bitter lessons we're supposed to have learned over the last five years, watch out!

The twin badges of our economic shame . . . the budget deficit and the trade deficit . . . continue out of control. We're shipping our jobs overseas and hocking our kids' futures. And, in my opinion, we're chipping away at the Federal deficit boulder with a blunt chisel!

The truth is, our national deficit is our national scandal. We're heading for a trillion dollar deficit—give or take a few billion—in the next five years. We picked up a deficit that big once before. It took us a few years—1776 through the fall of 1981 (I looked it up).

Think of it. It took us 206 years—during eight wars, two depressions, a dozen recessions, two space programs, the opening of the West, and the terms of 39 Presidents!

And now we're going to duplicate that feat in (5) years, while we're at "peace" and during a period of so-called economic "recovery." And the Administration and the press are busy doing a war dance about car prices and auto bonuses! Talk about recognizing your priorities!

That trillion dollars comes to $15,000 in new debt for every one of America's 13 million working families. Every one of them could buy a pretty fancy new car for that . . . and at least they'd have the car! In my book, the boys in Washington—and I mean all of them—get an "F," a flunking grade, on the deficit. If they don't get serious about it and I mean right now—watch out!

And then there's the trade deficit. Did you know that America, in the 15 years from 1956 through 1970, accumulated a $60 billion trade surplus! People were buying American products, from American workers, around the world. It was a golden decade . . . and a half.

Well, last year we set a new kind of record. We achieved a $60 billion trade deficit—in one year! And now we're on the way, this year, to double that record . . . while "restraining" the Japanese to a measly two million cars!

And what are we doing about it? We're talking about turning them loose for another million or so cars in 1985, while we negotiate about a litte extra access to their protected markets! Talk about recognizing your priorities! Have we all gone crazy? Do we understand the price we pay for those kinds of imbalances?

Since 1974, we've lost 2½ million American jobs to foreign competition. If this year's trade deficit goes past $100 billion—and I guarantee it will; it's hitting $10 billion a month like clockwork—another million American jobs will bite the dust in one year. In April alone, the Japanese trade surplus was $3 billion with the United States—mostly from car and truck exports. And that's before the quotas get lifted and the Japanese really turn up the ratchet. If that happens . . . watch out! So the government gets another "F" or flunking grade for its trade policies.

I have to ask: what was all the suffering of the last (4) years all about? Not for just a one-or-two-year uptick (I hope) and then back to the same old habits of sky-high interest rates and double digit unemployment. Did we go through all the pain, all the misery, from 1979 to 1983 just to wind up starting out down the same road again . . . and continuing to lose our basic industries, and their jobs, to unfair foreign competition?

Let me be specific about that unfair competition in the car business. It's the result of industrial policy . . . somebody else's industrial policy. It amounts to $1600 per car on every Japanese car sold in this country.

That sixteen-hundred-dollar advantage is not because of greater Japanese efficiency. It's not Japanese workers doing calisthenics and then marching to the factory singing the national anthem. It's not even Japanese "cheap labor;" that's largely a myth anyway.

No. That sixteen-hundred-dollar advantage is just two things: currency . . . and taxes.

First: the Japanese yen is under-valued by at least 15 percent (any everybody agrees on that). That alone gives every Japanese car an automatic cost advantage of at least nine hundred dollars.

Second: when a Japanese car is put on a boat for the United States, the Japanese Government rebates the commodity tax to the manufacturer: that's about another seven-hundred-dollar advantage for every car. (That means a Tokyo housewife pays $700 more for her Toyota than the San Francisco housewife for the same car—its price drops like magic as soon as it hits the dock!)

Now, all of this adds up to a lot of money.

During the period of so-called restraints, the Japanese auto companies made $9 billion. By the way, the U.S. auto companies lost $6 billion during the same period, but forget that.

Do you know how much of that Japanese auto profit came from the U.S. market? Nine billion dollars—or 100 percent! Do you know how much of it came from the funny yen-dollar ratio and the commodity tax rebates? Nine point four billion dollars . . . more than 100 percent. Some "restraint," huh? Talk about picking a chicken clean!

Last month the Japanese Agriculture Minister said he could not expand U.S. beef and citrus exports to Japan. He said "the Japanese beef and citrus industry is vital to the country's food supply," (and, get this) "and vital to our national security."

If I got started on the subject of who's paying for their defense, I could go on all day. And that, by the way, is the root of the problem of the two countries' tax structure and the reason Japan can rebate their commodity taxes on automobiles.

Our forefathers, in Europe, play hard ball on this issue. England and Germany allow the Japanese 10 percent of their issue. England and Germany allow the Japanese 10 percent of their markets. France allows three percent. Italy—I love those Italians—says 2,000 per year, any kind you want to ship! Why? Because they think it's fair.

Now, I'm a realist: I know we can't go that far . . . and I know you're against the quotas. Let me tell you something that may surprise you—so am I. All I've said . . . all I've ever said . . . is get rid of the $1600 per car unfair Japanese advantage . . . what I call the unlevel playing field in Japanese American trade . . . and we'll play them straight up.

Now, that would be an Industrial Policy . . . to neutralize Japanese industrial policy. And it wouldn't be our first one. Anyone who's familiar with Washington knows that Washington is "Subsidy City." And each subsidy adds up to an "Industrial Policy." We've got hundreds of them.

Start with the Federal Loan Guarantees (I'm sort of expert in this area). We weren't the first; there were $409 billion in loans, guaranteed, before I went to Washington to ask for my measly billion-five guarantee. And now, under a conservative Republican, we're up to over $500 billion in guarantees (off the balance sheet) just four years later. That's an industrial policy.

Defense—the military. I used to be in this business. Military contractors are a 100 percent protected industry. (And they're the only ones left, by the way.) The Japanese can't play in this, by law; no bids from foreign countries accepted. Profits—lots of profits—even spare parts profits—guaranteed. Hell, I sold my protected battle tank business and kept cars. I should have sold the car business and kept the tanks . . . it was easier. That's an industrial policy. Eisenhower even warned us of that one. He called it the military-industrial complex—beware!

Then take agriculture—my favorite. Taxpayers pay $50 billion a year to help private farmers, many of whom are large, rich corporations. In the Thirties, United States agriculture was an unmitigated disaster. Now it's the marvel of the world. In fact we feed much of the world.

What made the difference? It wasn't just good climate and good soil and hard working farmers—we had all those in the Thirties and we still had Okies and dust bowls. No—it was the government's conscious decision to make agriculture a winner at whatever the cost.

It was rural electrification, and irrigation, and TVA's, and county agents, and agricultural schools, and land banks, and credit programs, and PIK payments—$10 billion last year just for that, to pay you not to plant. But man, did it work! (I mean woman, did it work!)

Now all our government policies have one thing in common: they daily affect the industrial life of America. But they are confusing. They are uncoordinated. And they're very often conflicting.

So let's be honest. We don't want to admit it but we do have industrial policies. We have them all over the map. We have them for farmers and bankers and defense and even for housing. But what we don't have is an industrial industrial policy.

As a result, we're moving too fast to write smokestack America off, without any conception of the human and social consequences. There are 155 thousand laid-off auto workers outside this building who haven't been called back, and probably won't be; and 60 thousand more rubber workers in towns like Akron and 266 thousand more steel workers in places like Lackawanna, New York, and Johnstown, Pennsylvania, in the same boat.

Their jobs, and their lives, have been ripped out from under them, and it's a cruel hoax to be talking to them about high-tech and service industries.

We cannot afford to become a nation of video arcades, drive-in banks and McDonald's hamburger stands . . . we can't just take in each other's laundry and sell microchips to the world. And, by the way, the biggest microchip customers of all are right here, in Detroit, in good old smokestack America.

Did you know that IBM's (3) biggest customers (ex-defense) are GM, Ford, and Chrysler? That we use more robots, (CAD-CAM) and computers than anybody else. There is an onboard computer on every car we build, and in our more exotic models there are (5) computers!

So you obviously can't sell silicon chips by the pound in your local supermarket. They're worthless unless you put them to work, to reduce emissions, or give you more miles per gallon, or give you precision and quality in the way you build a car.

So, you see, there is no such thing as high-tech versus low-tech, or winners versus losers.

I'm sorry, but I don't have much time for the economists and futurists sitting comfortably in some think-tank telling us about structural adjustments and readjustments. And I get damn mad when I hear them say that the whole industrial workforce has got to be retrained, because the country's got no choice but to let our basic industry and its jobs move offshore.

There has to be a better answer.

I've tried to use the Chrysler turnaround as a good, constructive example of an industrial policy that worked . . . that added to choice and competition in the marketplace and saved a few hundred thousand jobs. I thought it was a good example, because it worked; because it showed that when everybody got together and contributed something, a minor miracle could be pulled off.

There was what we called "equality of sacrifice" from all the constituencies—in this case, the government . . . labor . . . management . . . dealers . . . suppliers . . . banks—and because there was an objective, and a plan, and tough running rules, an apparently irreversible situation was reversed.

I still think it's a good example of sound industrial policy. And most of the audiences I've spoken to seemed to agree. But the bottom line is that it hasn't seemed to make any difference. The term "industrial policy" is still considered to be a dirty word—another phrase for socialism—by too many people who remain concerned about ideology, and not about results.

Well, I'd like to try again. I have a suggestion. I suggest that we draw from the Chrysler experience . . . from the lesson of equality of sacrifice . . . and we try to apply it on a broader scale.

I think the time has come for Mr. Brock, and the other trade and economic experts to call the domestic auto manufacturers and the UAW together for a little conference on whether we want to get this thing off dead center. We've had enough rhetoric and enough finger-pointing. It's time for some action!

To get some, I'm prepared to bring some specific proposals to the party. Let me tick them off for you. I'll start with prices and executive compensation, since Mr. Brock chose to make these the centerpiece of his industrial policy for the auto industry.

First, prices. I'll freeze Chrysler's U.S.-built small-car prices now, for as long as it takes, if the Administration will commit to leveling the playing field.

Second, compensation. That's not really an issue with me. We don't even have a bonus plan yet; in fact Chrysler management hasn't had a bonus in seven years. But if our stockholders do approve a plan, I'll commit to restraint. What's restraint? I don't know; maybe 50 percent, for top management, of what GM and Ford paid themselves. I think that's pretty responsible given the fact that our management worked to generate almost a billion dollars in operating profit last year.

Now, let me throw out a third—because it's not just consumers that need to be protected . . . but jobs. To compete, we're going to have to send them offshore like there's no tomorrow. I would say to our union: "if you'll show some restraint in your demands, I'll freeze the buying I do outside of North America—at the current level right now (and I'm using less than the others)."

In our business, that's called outsourcing. And a moratorium for a year or two would slow down the shipping of jobs overseas.

I would expect, in return, that UAW agree to modify some of its work rules that keep us from being more competitive. I would expect it to agree to tie wage increases to productivity and quality improvements. I would expect it to get serious about trimming medical costs that now are averaging about $600 a car. I'm not talking about concessions or roll-backs. I just want to know what labor will bring to the party.

And then comes the biggest challenge of all, and that one I make to our government. Are you willing to address the unfair playing field . . . yes or no? Are you willing to take on the $1,600 year/tax disadvantage as the price for eliminating quotas, moderating prices to the consumer and preserving American jobs?

I'd like to find out. I'd like to find out where the Administration, and the leaders of both parties, really stand on jobs and prices and fair trade. And where GM, Ford and the UAW stand—and what they're willing to contribute. Maybe we should all get together and talk it over. I'm ready, if you are.

This is not a protectionist proposal. This is a fix-the-fundamental-problems-that-got-us-into-the-soup-proposal.

I think the American people deserve to know where everybody stands. We're talking about 2 million jobs, and the people whose jobs are at stake really deserve to know.

Haven't we had enough talk? Haven't we had enough posturing? Haven't we had enough confusion? Don't we want something to happen?

I don't know what would happen . . . I don't know if everybody would come. But I'd like to find out who would, and who wouldn't. I'd like to either get the rhetoric toned down and get something underway, or really pin the tail on the right donkey, once and for all.

The League can help. You'll be sponsoring the Presidential debates this summer, for which I applaud you. I urge you to ask the President and the Democratic candidate, point blank, where they stand on the issue of automotive jobs and automotive-related jobs . . . and the Japanese trade situation and the tilted playing field.

If they're not ready to address these issues, let them say so now . . . so the voters of this country will know, before the election. We can't let them cop out, or say it's much too early—that we should wait till after the election. Baloney! That's what an election is for—to choose between alternative plans.

And let me add one more thing: if the candidates for this country's next Administration are not ready to stand up and say what they think on the subject—if they really believe that jobs are irrelevant—then the hell with it. Let the quotas come off, now—I'll compete.

Because I'm ready to compete. That's exactly what we've been doing at Chrysler for the last (3) years.

And, let me put the record straight on what we did do during those (3) years.

We paid off the loan guarantees seven years early, and we paid the government a profit of $311 million!

We called back 36 thousand workers, and we averted the possibility of 600 thousand more being put out to pasture permanently.

We led this industry's conversion to front-wheel-drive; as a result, we improved our average fuel economy to 27 miles per gallon. Today, we're the only one of the Big Three who's meeting the fuel economy standards, which are the law of the land.

We improved our quality by over 24 percent, and we offered the American consumer a 5-year, 50,000-mile warranty. No charge.

We improved our productivity; we used to build 10 cars per employee; now we build 19 cars per employee.

We cut our costs by $2 billion and cut our break-even point in half in the process. We got rid of our deficit!

We've been busy as beavers. So, I'd like to walk into the next Congressional leadership meeting and ask, "Hey, what have you guys been doing for the last (3) years?"

Have you cut your deficits? On April 1, 1981 (when voluntary restraints were started) your budget deficit was still $43 billion. Now, as of 1984, it's $177 billion. The trade deficit was $19 billion . . . now it's $93 billion.

Has the undervalued yen problem been fixed? No way. Today, the yen is at 230 to the dollar—in the spring of 1981 it was 226 to the dollar.

Has the Japanese commodity tax rebate problem been fixed? No, the issue isn't even being discussed.

In other words, gentleman, has Washington done a single damn thing to level the playing field and get rid of the $1600 per car unfair Japanese advantage—in (3) years? The answer is no!

I think I should turn to Mr. Brock and say, "Mr. Ambassador—I think we've been had!"

So, how much additional time does this Administration and Congress need to get its problems straightened out? I'm willing to give them some breathing room, just as they gave this industry some breathing room. How much do they need? A year? Three years? What's the plan? What is their position on jobs in smokestack America?

I'm tired of the ideological debate . . . of the abstractions . . . of the finger-pointing. I'm tired of disjoined, irrational, ad hoc industrial policy. Where does everybody stand? What are we waiting for?

I'm ready, Mr. Reagan and Mr. Brock. I'm ready, Mr. Bieber. I'm ready, Ford and GM. Let's get on with it.

### REMARKS BY UAW PRESIDENT OWEN BIEBER, NATIONAL GM COUNCIL, PITTSBURGH, PA, MAY 30, 1984

Thank you, Don.

It's a real pleasure to be back with the General Motors Council—some territory that's pretty familiar to me.

I just want to take a moment to congratulate brother Ephlin on the fine job he's doing as director and to say how much I'm looking forward to working with him, with the top committee, and with all of you as we move through these coming negotiations.

You know, it's always a challenging round of talks when we go to GM and Ford. But this year, I believe, is going to be one of the toughest, most complex set of negotiations ever in the history of our union.

Because brothers and sisters, I believe the future of our bargaining power in the auto industry—and therefore the future of our union—are on the line this summer and fall. The fact is that the courses of action we choose during this round of talks will determine our fate for the next decade.

And if our job wasn't already tough enough, now we've got to contend with the almost unbelievable stupidity of top management in taking those outrageous salaries and bonuses and stock options. The unfortunate fact is that their arrogance and creed and short-sightendness are hurting us, because so many people group the union together with management and condemn the whole lot of us.

So just for the record today, I want to say what I've been saying over and over again for the past several weeks. The compensation deals the auto executives have cut for themselves are outrageous and irresponsible, and I condemn them along with every other thinking American.

But the really outrageous aspect of their actions is that by taking their obscene compensation packages, they are sending the entirely wrong message about the auto industry to Washington and the American public and, yes, the world.

The fact is that the reports of the huge profits and executive compensation are distracting attention from what is really happening in the industry. And they threaten to divert us from the most critical issue in this round of talks and that's job security.

I want to talk for a minute about why that's so and what's happening behind the headlines.

First of all, we still have more than 90-thousand workers on indefinite layoff from just the five major U.S. auto companies. Tens of thousands more have lost their recall rights and aren't counted in that number—including more than 44-thousand at general motors. Tens of thousands more of our members are still unemployed from the parts and supplier companies.

We've lost [illegible]70-thousand jobs in auto since 1978—a 23 percent decline.

And the fact of the matter is that all of the major U.S. auto companies are poised to take hundreds of thousands more jobs out of the U.S. in the next few years.

What's keeping them here now is the voluntary restraint agreement on Japanese imports that has been in place since 1981. The Restraint agreement currently holds the number of Japanese cars that can be imported into the U.S. to 1.85 million.

What most people don't know is that GM lobbied hard last year to have the restraint agreement lifted so that it could bring 200-thousand Isuzus and 100-thousand Suzukis from Japan. That wasn't some plan for far off in the distant future. GM wanted to bring those cars into this country this year.

As it is, even with the restraint agreement, GM will import 30-thousand Isuzus and 17-thousand Suzukis this year. In fact, the first of those Suzuki Sprints are being introduced in California this very day even as we meet here.

GM also has plans to import, up to 100-thousand small cars from its Korean affiliate, Daewoo. And it is going to import about 60-thousand El Caminos from Mexico.

As for Ford . . . it is moving to import 160-thousand cars from Europe and Mexico.

And Lee Iacocca has said that if GM and Ford take their small car production abroad, Chrysler will increase the number of its captive imports.

You really have to pause for a minute to realize the magnitude of this potential shift. Small cars presently account for 40 percent of the U.S. market. The U.S. companies have roughly half of that 40 percent—and they are planning to move virtually all of that production to foreign countries.

If they do—if we don't find a way to stop them—we're going to lose roughly 500-thousand U.S. jobs in the next two to five years.

And small cars are only part of it—all of the companies have plans for increased outsourcing of parts. And, my friends, the Japanese are poised to descend upon this market and scoop up an even greater market share for themselves if Reagan lifts the restraint agreement, and if the Republicans block the content bill in the Senate.

Yet all the flap about auto company profits and executive compensation is distracting attention from these facts. Most people—and I'm afraid a lot of our members—figure it must be back to those good old days in Detroit when there were plenty of jobs and there was nowhere to go but up.

But we can't let ourselves be distracted away from the issue of job security.

Based on all the resolutions we received for the collective bargaining convention, job security was certainly the key concern reflected in those resolutions.

At the same time, our members at Ford and GM deserve to make progress.

They haven't had a wage increase aside from COLA in nearly three years. The profits justify increases. Our productivity justifies increases—and we're going to get wage increases for our members.

Inflation has eroded pensions, and it's time to do something for our current and future retirees.

The profit sharing concept is in place, but we've got to improve the formula in this set of negotiations.

UAW members helped make the recent profits possible—the workers deserve a fair share—and we're going to get a fair share at the bargaining table this fall.

But the more important point that we have to be clear on here today is that if we go for money without finding a way to deal with job security, then we will have done only half the job for our members.

Sure Owen Bieber could be a hero for a short time—Don Ephlin could be a hero—all of us in this room could be heroes for a short time if we come back to the members with lots of money.

But if we do that—if we let the companies divert our attention from job security and the future of our union—we will have failed in our responsibility to our members and to the Nation.

It's not only small car jobs and parts jobs we're talking about. It's true, those jobs are at immediate risk. But once they've stripped us of those small car and parts jobs, the bigger cars and trucks and vans will be next.

The El Caminos GM plans to bring from Mexico are not small cars. Nissan has said publicly it's ready to ship enough big cars to this country to compete nationwide in that market segment, and the other Japanese manufacturers are not far behind.

The hard reality is that if we lose control over 40 or 50 or 60 percent of the market, none of us will be safe no matter what we're building, and our overall bargaining power will be weakened.

We've seen it happen in the shoe and clothing industry, TV and radio industry, and we are seeing it happen in steel and rubber.

And, our industry and our union are not immune from this fate either.

So sisters and brothers, I'm not exaggerating when I say that these negotiations are absolutely crucial to the future of vehicle production in the United States and all the jobs that flow from it, and the very existence and basic strength of our union.

But more than that, these negotiations are about the future of American industry and the American economy. Because nothing we do at the collective bargaining table takes place in a vacuum.

Right now there are forces at work in our Nation in Washington and in corporate America that would willingly export our industry and the jobs that go with it. They would move the work wholesale to Japan and Korea and Mexico in the name of cheaper prices for consumers, and to hell with the workers.

They forget that workers are consumers, too.

That's why we've got to be about the job of fighting for our industry and our jobs and the economic strength that flows into the U.S. economy from both.

Walter Reuther said many times—and I'm quoting—"we will make collective bargaining meaningful only as we relate it to the broader community and the central challenge we face in the whole of our community and society."

Walter's words were true when he spoke them 20 years ago, and they're true today.

And the challenge we as trade unionists face in 1984 is finding a way to maintain a strong industrial base for America, and to preserve the good jobs and the economic strength that goes with it.

So we've got to keep job security center stage, and our answers can take many forms. We discussed them at the special collective bargaining convention.

There are pension improvements to encourage retirements.

There's shorter worktime, higher premium pay and compensatory time off for overtime.

And we've simply got to step up to the excessive overtime issue—we've got too many members still unemployed to be working the huge number of overtime hours that the companies are scheduling.

Of course, our counterpart union, IG Metall, is on strike right now at a number of locations in Germany seeking shorter worktime. I've sent a message of support on behalf of our union to the workers there. And we must stand with them in our efforts to curb overtime and shorten worktime this year.

Those are steps we can take to increase the number of available jobs. But none of those will deal with the wholesale job loss we face if the restraint agreement is lifted and if Reagan and the Republicans kill the content bill in the Senate.

Because there will be no overtime and no shorter worktime for the hundreds of thousands of members who won't be working any more.

And significant pension improvements will be much harder to finance unless we keep the jobs.

So while those measures can help if we retain the production, they won't solve our problem of keeping the production here.

To do that, we've got to look at other solutions.

The letter we negotiated in 1982 prohibiting plant closings due to outsourcing was, I believe, a useful document. We must look for ways to strengthen and extend those prohibitions.

We can look at employment guarantees with reductions only through attrition.

We can impose greater costs on the companies for laying people off, which is the concept that underlies the G I S program.

Another way to go at it would be to negotiate content requirements into our agreements.

But make no mistake about it . . . the companies—and especially GM—will fight us tooth and nail on content language in our contract—and any other meaningful job security arrangements—because GM wants to bring those cars from abroad. They don't care who builds their cars or where they make their profits.

But we care, and I think the people of America care.

And all of this obviously relates back directly to what is happening in Washington on content and the restraint agreement.

Let me bring you up-to-date on content first. That bill is presently before the Senate Commerce Committee which of course is Republican controlled along with the rest of the Senate. I testified on the legislation along with Lane Kirkland two weeks ago today, and I've been in lots of meetings with Senators on both sides of the aisle.

I can tell you, that committee is not going to give us a favorable report on the bill. And if we can get it to the floor, the Reagan administration and the Republicans probably have the votes to beat us.

However, we need to go all out to bring that measure to a vote. I think we should at least make every Senator go on record with his or her vote so that the people will know where they stand before that election. After all, poll after poll shows that the public is with us on content.

Trade Ambassador Brock has said publicly the restraint agreement should be lifted, and others in the Reagan administration agree. They're looking for any reason to lift those restraints, and they could care less about the job loss.

And we should see Ambassador Brock's outburst over executive compensation for what it was. The Reagan administration has never complained about executive compensation in any other industry. Hell, their whole economic program is designed to increase the wealth of the already wealthy. And in any case, the horse was already out of the barn and on down the road.

No . . . that salvo was aimed at us . . . and at building pressure and public sentiment against us before our negotiations. It was a set up.

Now if I've painted a tough picture this morning, it's because that's where we are. Those are the facts that confront us, and I'm not going to stand up here and tell you everything is rosy and that these negotiations are going to be easy because it's not rosy and they won't be easy.

But neither is the picture totally bleak. And I've got confidence in the collective skill and intelligence in this room to find a way through this thicket.

So let me run a couple of scenarios by you, and since we're looking at hard realities, let's do what I believe would be the disaster scenario first.

Let's say we forget about job security and simply go for the money package. Let's assume GM, for example, could be forced to agree to a rich settlement that doesn't deal with job security. What would happen?

Well, we'd be the suckers . . . because we'd have played right into GM's hands. The American consuming public would turn against us, as would sentiment in Washington. The Reagan administration would condemn the greedy auto workers, and use that settlement to go full tilt to lift the restraint agreement, and to beat us on content once and for all.

Our members, the union, and our Nation would be losers all the way around.

GM would then be free to bring its Isuzus and Suzukis from Japan and we'd lose those jobs almost immediately. Ford and Chrysler would move to step up their captive imports, and those jobs would go. And the Japanese would seize the opportunity to increase their U.S. market share, and we will have decimated our jobs, our bargaining power and our union.

We will have been short-sighted suckers. GM would get what it wants. The Reagan administration would get what it wants. The Japanese would get what they want. And the American consumers will turn their backs on us.

And not only would the public blame us—our members would blame us—you, me, Don, the entire leadership.

And rightly so. Because we would have cast off the mantle of leadership they bestowed on us . . . we would have refused to deal with a future we can see so clearly.

Not a pretty picture.

But, let's consider for a moment a different scenario in which we play our cards smart.

Let's say we win an agreement that includes adequate and respectable increases that represent equity in wages and pensions and profit sharing. At the same time we force the companies to agree to content requirements or other specific restrictions on outsourcing, along with provisions that enhance the long term job security of our members in other ways such as shorter worktime. Plus we fight for—and win—restraints on prices to the advantage of consumers in this country.

Suddenly you have quite a different picture. The Reagan administration and our opponents don't have the ammunition to use on us to kill the restraint agreement or to finally beat back content.

To the contrary, we have the ammunition to go to Washington and say we've been responsible to the American public and the American consumer, and to possibly win an extension of the restraint agreement and to continue the fight for content.

GM would be unable to import all those cars from Japan. The same would be true for Ford and Chrysler. And we'd keep those jobs.

In fighting for price restraint, we'd be fighting for the kind of America we as consumers all want to share in. And lower prices would mean more sales of the cars we build and more jobs for our members. We would also win the consumer support for the products we build.

Brothers and sisters, this last agenda is the right agenda. This is the agenda that will prove us to be leaders in this union because our members will make economic progress, but more importantly, we will have saved our jobs and our union, and we will have done the right thing for our Nation.

To carry out this agenda we have to be ready to fight as hard for meaningful job security as we are for economic equity.

Now I'm not going to go into bargaining looking for a fight. I hope and believe we can find a way to settle without a fight.

But either way, we've got to be ready to fight if we have to. And just as importantly, we've got to be ready to fight smart.

That means we have to look at all our fighting options to win this historic struggle if we can't reach an agreement by September 15. A corporate-wide strike is but one of the steps we should be prepared to take if the companies fail to address our basic needs at the bargaining table.

For instance, some of you will recall that we've used so-called hit-and-run strikes at GM in the past, and they've been successful.

But in the past several years, because of the difficult times and the pressures of high unemployment and Reagan's recession, workers across the country have been forced to adopt new strategies and tactics for defending themselves and winning.

There are examples in our own union where workers have found new ways to confront tough bargaining situations, and some of those struggles are going on right now.

But we should decide our strategy and our timing. We should be flexible and creative and smart.

Creative strategies and tactics and the kind of bargaining program we've got to pursue this year require strong leadership from all of us. They will require teamwork in the leadership and solidarity in the ranks as never before.

They will require each of us to go out and organize our members—to prepare them to fight if we have to, and to educate them about the forces at work against us.

All of us must show leadership and carry the message that money without job security will be a hollow victory. We may win a few more pennies in the short run, but we'll lose the jobs in the long run if we don't keep our focus where it belongs.

And there's another place we've got to keep our attention focused as we move through bargaining . . . and that's the political arena.

All of the hostile economic and political forces at work on us in these negotiations only make it more imperative that we go out and work harder than ever to defeat Ronald Reagan and to elect Walter Mondale.

Since taking office, Ronald Reagan has done everything in his power to weaken unions and to notch back the living standards of the workers of this Nation.

He's stacked the National Labor Relations Board with anti-union labor haters. The result has been a string of rulings that strike at the very heart of the collective bargaining process and worker rights under law.

He's undermined OSHA and workers are being injured and killed as a result.

He broke PATCO, and he's on the side of every employer who is out to bust a union.

But most of all, he has kept unemployment high enough to severely weaken workers and unions. It's a simple but powerful strategy.

Ronald Reagan and his Republican allies in Washington knew that if they drove unemployment high enough for long enough and kept the number of decent jobs few enough, they'd force people to cross picket lines and break strikes to provide for their families.

They've done it, and it's working. We still have almost nine million people looking for a job in this country—7.8 percent unemployment—and labor throughout the country is taking a beating as never before since the thirties.

Workers are being hurt in all industries from steel to trucking to aerospace, and especially in small plants where they can be most easily replaced by strike breakers.

The result is that our standard of living in this country is being eroded. And our response has to be we can't stand no more. Reagan must go in '84.

On the other hand, Fritz Mondale is with us. He supports content and he was instrumental in passing the Chrysler loans. He supports our fight to maintain our good jobs in basic industries. And he's with us on the whole range of issues that bear on our lives and the future for ourselves and our families.

I believe we can elect Walter Mondale if we really go all out this fall. I don't kid myself or you, it won't be an easy fight, but it can be won.

And it must be won. Because until we get rid of Reagan and retake Democratic control of the Senate, we're going to continue to face a hostile climate in Washington on both the restraint agreement and content.

Ronald Reagan and his Republican cronies don't care about our jobs or the future of our U.S. auto industry.

As far as they're concerned, when profits recover, the economy has recovered.

So we've got to keep our attention on politics as well as bargaining as we move through these negotiations. And we need to do our best to keep the public on our side as well.

That's why I've been talking about price restraint—and even price reductions—in view of the big profits. Those profits are big enough to give the workers—our members—what they deserve and to hold the line on prices. Holding prices down will mean we can sell more cars, which means more jobs.

I think we've got to follow Walter Reuther's example and talk about the companies sharing with workers and consumers.

We've got to tell our side of the story to the public. And we're going to use TV and radio to do that.

We want to tell the public that in 1982, when this industry was down, UAW members sacrificed to return the industry to health and to keep jobs in America. Now the industry is profitable again, and it's only fair that UAW members share in the fruits of their sacrifices and labors.

But most importantly, we want to keep good jobs in the U.S. and Canada for U.S. and Canadian workers. And we know that we do that by building the highest quality cars that people can buy at affordable prices. We want to tell them that's what we're about in this union.

But brothers and sisters, I have no illusions. These will be the most difficult and complex negotiations we've engaged in for decades—maybe the most difficult ever.

None of this can succeed unless each of you do your job. Because it's out in the locals that we will win or lose.

You've got to carry the message on job security. You've got to explain that we can't let ourselves be suckered by the promise of a few more pieces of silver without winning more job security. You've got to educate and lead. You've got to organize.

We at the international will be working with you using our publications like solidarity and ammo. We'll carry our message to our members and the public with TV and radio. And I'll be speaking out at every opportunity.

Brothers and sisters, this UAW is the greatest union in the world because we're tough, we're smart and we know how to win.

We're not going to fall into their trap this year. We're going to be militant about job security . . . we're going to be creative and we're going to win.

This is not 1982. The situation is different in this year of 1984, and we're going to seize the initiative and set the agenda for our future.

That agenda is job security and a just economic settlement and together—by being creative and with hard work and dedication from each of us—we'll carry it out and we'll win in 1984.

Thank you.

## IN SUPPORT OF THE SECOND CONGRESSIONAL FAST AND PRAYER VIGIL FOR SOVIET JEWRY

Mr. GLENN. Mr. President, the plight of Soviet Jewry demands the attention of all people who love liberty and justice and respect human rights.

In the U.S.S.R., anti-Semitism may be traced from the religious programs of the czars to Stalin's campaign to destroy Jewish culture to present Soviet policies of harassment. Today, Soviet Jews face a new crisis: Emigration is at a virtual standstill. In 1979, Jewish emigration reached a highpoint of 51,320. In 1982, the number plummeted to 2,688. From January until April of this year, only 303 Soviet Jews have been permitted to emigrate—an appalling denial of basic human rights.

As unsettling as these statistics are, it is even more disturbing to learn of the great hardships confronting Soviet Jews who merely apply for exit visas.

Their first step is to obtain an invitation from first degree relatives—immediate family members—residing outside the Soviet Union. But these contacts with hopeful relations are frequently made impossible by an inscrutable state system. Mail stops and telephone lines are severed. Visa applicants are frequently threatened and even dismissed from work. The families of prospective emigrants became outcasts and their children are tormented and assaulted in school. Many Soviet Jews are arrested, imprisoned, or exiled. Also, Soviet officials frequently fabricate charges as reasons for denying emigration applications. More recently, the Soviet Union has informed many Jews that they will not accept further applications—a flagrant violation of the Helsinki accords.

Mr. President, we must recognize the vicious turn that Soviet policy has taken. Severe constraints have been placed on the Soviet Jewish community's ability to worship and enjoy its rich cultural heritage.

I heartily support the second Congressional Fast and Prayer Vigil for Soviet Jewry on June 14 as a means of expressing our deep concern and solidarity with the continuing plight of millions of Soviet Jews. June 14 marks the anniversary of the infamous Leningrad Trials which saw the imprisonment of nine Jewish activists. Their only crime was the belief that Jewish identity and dignity must be consistently maintained. A system which systematically oppresses its Jewish community and nonviolent dissidents such as Andrei Sakharov justifiably deserves our contempt.

The shocking legacy of anti-Semitism in the Soviet Union must be ended once and for all. Persecution of the Jewish people must be extinguished not only in the Soviet Union, but throughout the world. As Americans, we must continue to stand up for the basic principles of human rights and religious freedom by which this Nation was created.

## THOUGHTS ON SOVIET JEWRY

Mr. SARBANES. Mr. President, it is now 14 years since the great human drama of the Leningrad hijacking in June 1970, the event which first defined the Soviet Jewry movement and brought it to the attention of the world. At the time it happened, the event was little understood and indeed little was known about it. On June 22, 1970, the New York Times reported:

> Twenty persons were reported today to have been arrested in Leningrad in what the Soviet authorities have called an attempt to seize a Soviet airliner.
>
> Details of the arrests, which were said to have taken place last week, are still incomplete, and there are many rumors in Moscow concerning the events.

Six months later 11 defendants, 9 of them Jewish, were tried and found guilty of planning a hijacking. Two were actually sentenced to death, the others were given long prison terms. Throughout the free world protests erupted against the sentences, against the travesty of justice that the trials represented; in Moscow, Andrei Sakharov led a courageous citizens' protest movement. Confronted with such vigorous international condemnation, the Soviet court commuted the death sentences to 15 years in labor camps and shortened the original labor camp sentences.

The Leningrad incident, whose 14th anniversary we observe today, served as the starting point of the movement to ensure unrestricted emigration from the U.S.S.R. for Soviet Jewry. Looking back, we can see clearly the roots of that brave, desperate act. The men and women who participated in the hijacking were young—many just out of school. Many had been part of the early dissident movement, had already been in prison for candestine publishing activities, and in fact had first met one another in prison. The triumphant Six-Day War in 1967 inspired their pride in being Jewish, inspired them to learn or in some cases teach Hebrew, inspired them to practice their religion more openly. They were inspired to think of living freely as Jews, to dream of Israel. Finally, they were inspired to apply for exist visas.

The way out of the Soviet Union has never been easy for Soviet Jewry. Since 1970, emigration figures have risen and fallen in waves. The consequences of applying for an exit visa are many: Dismissal from employment, ostracism and harassment, the risk of punitive military service, the precarious existence to which refuseniks are condemned, the constant threat of arrest and imprisonment on trumped-up charges. But since 1979, the high water mark for Soviet Jewish emigration, these consequences have grown more severe. The "Anti-Zionist Committee of the Soviet Public" is only a thin disguise for the most virulent anti-semitism. International mail and telephone communications have been restricted; beginning August 1, prepaid parcels will no longer be accepted. At just the time when life for the refuseniks is being made ever more intolerable, emigration has dropped to the lowest levels ever recorded. If the current rate continues, fewer than 1,000 Soviet Jews will leave the U.S.S.R. in all of 1985.

Today, Mr. President, our thoughts dwell on the thousands upon thousands of Soviet Jews who are denied the right to practice their religion, to observe the traditions of Judaism, to emigrate: the Prisoners of Conscience, the refuseniks, the visa applicants and the would-be visa applicants. Many of them have names familiar to us—Slepak, Brailovskii, Nudel, Shcharansky, Begun; but many, many more are less well known. Whoever they are, wherever they may be, they share the indomitable courage, determination and faith that has marked the Soviet Jewry movement from the beginning. They are an inspiration to us. We will not forget them.

## SECRETARY ELIZABETH DOLE CONGRATULATED ON AIRPORT POLICY

Mr. BAKER. Mr. President, it is an uncommon occurrence in this city for a solid member of our Federal establishment to voluntarily invoke the wrath of his or her colleagues on any given issue, much less one which is unusually near and dear to our hearts and minds. That is precisely what has transpired, however, regarding the continuing controversy about the proper roles of Dulles and National Airports in servicing our local community, and it is my sincere belief that Secretary of Transportation, Elizabeth Dole, is to be heartily congratulated on her courageous persistence in attempting to deal with what may be, at best, described as a prickly problem.

I'm sure I needn't recount the particulars of this issue for those who are listening. It should instead suffice to say that the facets of the dispute include every element common to airport management around the country along with a spoonful of federalism thrown in for measure. Secretary Dole's insistence that the Washington area's airports should mirror the management relationship to local governments which every other airport in the country enjoys is bound to be hugely popular in the neighborhoods of Washington, Virginia, and Maryland which border the flight paths of National. And it is sure to be as thoroughly unwelcome among the airlines and those members of the community who rely on the convenience available from a nearby urban airport.

But Mr. President, let me hasten to point out that no conclusions should be drawn from the Secretary's recommendation that future airport policy be derived from a cross section of the local community and governing bodies. Her suggestion is a sound one, legally, logistically, and politically. The 15-member Commission which she suggests is broadly based, including not only locally elected officials and airlines representatives, but also several members of the Federal community, to insure that the interests and needs of those who choose to serve are adequately protected. Thus, any legislation which may eventually emerge from the Commission's recommendations is certain to take into account all angles of each concern, be it safety, noise, parking, or any other of the myriad which surrounds efficient airport management.

### SENATOR WARNER APPOINTED COMMISSION MEMBER

Along that line Mr. President, I would like to take this opportunity to announce that my appointment to the Commission is Senator JOHN WARNER of Virginia whose suitability to the task and familiarity with the matters at hand is unrivaled among our Senate colleagues. Representing, as he does, a variety of the interests at issue, Senator WARNER is certain to bring an equanimity of perspective to the Commission which is not only useful but will prove to be, I believe, especially necessary in dealing with a topic which evokes strong feelings on all sides.

Again, Mr. President, let me congratulate Secretary Dole for her courage, foresight, and leadership in this area. Her guidance is to be admired, and her judgement is proper and correct. And I wish Senator WARNER the best in his efforts to resolve these issues.

(The following proceedings occurred later in the day and are printed at this point by unanimous consent.)

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## BOSTON CELTICS CONGRATULATED

Mr. KENNEDY. Mr. President, this is a matter that has been cleared by the majority leader and minority leader. I ask unanimous consent to temporarily lay aside the pending business, and I also ask unanimous consent that for a period not to exceed 2 minutes, with no amendments in order, the Senate proceed to the consideration of Senate Resolution 404 to honor the Boston Celtics.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I have to object until the Senator from California can come to the floor.

Mr. LEAHY. I do not think he wants to.

Mr. WARNER. Unless my distinguished colleague would allow the record to reflect that his remarks can be included at such a place as to appear as if he were present and had the opportunity to rebut the distinguished Senator.

Mr. KENNEDY. I would, of course, welcome some explanation by the Senator from California.

Mr. WARNER. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The resolution will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 404) to join in the Celtics Pride by congratulating the Boston Celtics on winning the 1984 world championships of the National Basketball Association.

The Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, some people say that Boston Garden needs air conditioning, but all the fans of the Celtics know that the real problem with the Garden is finding enough room to hang all those championship banners. In my 22 years as Senator from Massachusetts, one of the regular activities which gives me the most pride and the most enjoyment is asking my colleagues, including the Senator from California, to honor the Boston Celtics. We congratulate Los Angeles for a brilliant season and for a series well played. If some of the Lakers are wont to say "Wait 'til next year," we reply, "We'll be there."

I am proud now to pay tribute to the 1984 world champion Boston Celtics and I urge the Senate to approve this resolution.

Mr. President, I ask unanimous consent to have printed in the RECORD editorials from the Boston Herald and the Boston Globe.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Boston (MA) Herald, June 14, 1984]

### CELTS' 15TH TITLE: HOW SWEET IT IS!

The heck with being humble—Let's Gloat!

The greatest, gutsiest basketball team in the world plays in our town, does it not? The stogie-smoking genius who put this team and its 14 championship forerunners together labors and lights up here, does he not? And the most fervent sports fans in all creation root for and support both of the above, do they not?

To all three questions the answer has to be a unanimous, joyous shout that yells "Yes!"—in capital letters, yet. That's why today's parade and civic celebration at City Hall Plaza deserves to be the biggest, happiest, Boston has ever seen—and that in no way gives short shrift to any of the ones held in years past for the Celts, Bruins and Red Sox in their championship seasons.

It's not just that our guys beat the Los Angeles Lakers, who happen to be a pretty fine team in their own right; it's the way it was done, by a club that had to out scramble, out-fight, out-shoot, and out-do a squad that some experts said had more skill than they did—and who got it done because they had more heart.

Jack Nicholson, a fine actor but a bummer at basketball games, probably won't agree with that, but no matter. Folks in this part of the east coast, who watch games in an arena draped with championship flags, are better judges of roundball excellence than a man who's had to be satisfied with second-best on the west coast.

Kareem Abdul-Jabbar, in no way a loser despite being on the short end of the seventh game score, best summed up what we've been trying to convey in all these paragraphs.

"They say in sports the best team usually wins," he declared in the Lakers' locker room. "They were better, give them credit. If they say (as many of the Celtics did) that we had more talent on paper. It doesn't matter now. They were the best."

He was right, so today—and as long as the spirit moves us—let's all do what those who back winners are entitled to do.

Let's gloat!

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[From the Boston (MA) Globe, June 14, 1984]

### THE FIFTEENTH FLAG

Aesthetes prattle about the game as if it were a ballet performed in sneakers—all those lean, sinewy forms flexing on the parquet floor and leaping to the frontiers of gravity.

There were certainly moments in the championship series when the L.A. Lakers choreographed fast-break passages that transformed basketball into an ethereal competition in grace. But the yeomen in green, the troupe that impresario Red Auerbach gathered together and the unflappable K.C. Jones directed, played the game a different way. They made it the dramatic equivalent of war.

From an album of unforgettable images, none was more telling than the picture of Kareem Abdul-Jabbar slumping on the losers bench for the ultimate time-out of the seventh game, when the Lakers' doom was already inscribed in the record books and the denizens of Birdland were dancing in the aisles. At that moment, the expressive giant looked as grim as an Iraqi prisoner of war in Iran.

The victorious warriors were hugging each other in exultation: Kevin McHale wrapping his endless arms around Dennis Johnson and lifting him off the floor; the irrepressible M.L. Carr whooping with joy and communing with all the true believers from courtside to the northern reaches of Maine. They acted, these winners, as if they were ready to hitch a few West Coast bodies to their chariots and drag them around the walls of Boston Garden.

The local heroes had fought from the opening tap to the giddy finale as if they were defending kith, kin and the ancestral gods. Connoisseurs of the hoop sport knew these Celtics could not match the laid-back Lakers for flash and figure. The turnaround jump shots of James Worthy gave the enemy superiority in the air. The precision passing of Magic Johnson would guide the Laker planes like high tech radar. And Kareem's unstoppable sky hook would do the damage of an Exocet missile.

The Celtics overcame all those weapons with the athletic equivalent of a people's war. When they lost Game 3 by 33 points, Larry Bird said they played like sissies. The hick from French Lick had learned to think like Arnold Auerbach—like a street fighter. He and his buddies won two overtime games and a steambath brawl by jumping over fences and defending themselves with garbage-can covers.

They also had a coach they loved and respected and at the very end everybody could see that K.C. Jones, that quiet man who first came here in the Russell dynasty, had taught them to love and respect each other.

This was the only kind of war men should fight or follow.

● Mr. CHAFEE. Mr. President, on behalf of the citizens of the State of Rhode Island, I extend congratulations to Red Auerbach and the Boston Celtics on their unprecedented 15th NBA World Championship. Their 111 to 102 seventh-game defeat of the Los Angeles Lakers was an exciting culmination to one of the greatest series in the history of professional basketball. The Celtics have now reestablished their reputation as one of the most successful franchises in professional sports.

Both the Celtics and their California counterparts proved themselves as the strongest backetball teams in the Nation. Kareem Abdul-Jabbar, the NBA's all-time leading scorer, and his Laker teammates deserve praise for what was a great season and a great final series.

The Celtics have faced the Lakers, the best-of-the-West, eight times for the world championship. Eight times they have emerged victorious. Each time that the final series has reached a seventh game, the Celtics have come out on top.

For Mr. Auerbach, the engineer of the Celtics dynasty, this win was particularly special. The former coach and current general manager will be relinquishing many of his responsibilities in Boston now that the season is over. Red, a Washington native, will remain as President but will be spending more of his time with his family. All of Rhode Island thanks Red Auerbach for the many exciting successes he has brought to the Celtics and New England in the last two decades.

We are proud of the 1984 World Champions, and we look forward to seeing them in the championship again next year.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 404) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 404

Whereas on June 12, 1984, the Boston Celtics prevailed in the seventh and final game of the 1984 championship series to win the National Basketball Association title;

Whereas since 1946, the Celtics have won fifteen world championships, three times as many as any other team in the history of the NBA;

Whereas the Celtics won the right to participate in the championship series this year by winning more games during the regular season than any other team in the NBA;

Whereas "Red" Auerbach, the "Soul" of the Celtics, their past coach and the winningest coach in professional basketball, is retiring this year as General Manager after yet another championship season;

Whereas K.C. Jones has demonstrated in his first season as Head Coach of the Celtics that he is destined to carry on the tradition of championship excellence and Celtic Pride: Now, therefore, be it

*Resolved*, That the Senate of the United States of America joins with basketball fans in Massachusetts and across the Nation in honoring the Boston Celtics players for winning the 1984 World Championship of Basketball.

## MAYOR RAY FLYNN—THE POLITICS OF CIVILITY IN BOSTON

**Mr. KENNEDY**. Mr. President, the city of Boston has the Celtics to be proud—and a lot more besides. We also have an outstanding mayor, Ray Flynn, who understands the tensions of the times, and who knows that the divisive politics of racial and ethnic polarization will only make our urban problems worse for all the people of the city. Mayor Flynn's comfortable qualities of leadership are bringing Boston together in a new era of cooperation, healing, and understanding. The extraordinary successes he has had in his first few months in office are hopeful signs for a brighter Boston future.

Today's New York Times contains an eloquent column by Anthony Lewis that makes this point about Mayor Flynn and skillfully captures the essence of his appealing qualities of tolerance and positive leadership. Boston is proud of Ray Flynn, and I ask unanimous consent that Mr. Lewis' article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### POLITICS OF CIVILITY

(By Anthony Lewis)

BOSTON, June 13.—The Mayor of Boston, Raymond L. Flynn, keeps in shape by running. He was in Washington the other day for a meeting of the Democratic Platform Committee, of which he is a member, and at the end of the day he ran a few miles.

"I got into a poorer part of the city, mostly black," he said here the next day. "I saw these kids playing basketball, so I stopped and played with them. Then we talked, and I told them how I played basketball in high school—how I came from a poor family and went into politics.

"You could see that just that little bit of encouragement meant something to them. That's what we should all be doing, whatever we are: encouraging people."

In just about any other politician that story would be too good to be true—to be believable. A white Irish politician stopping to play basketball with black kids, and trying to make them feel better about their lives? But the people of Boston know by now that it is true of Ray Flynn. Here is another running incident he described.

"Sometimes my schedule is so tight I have to get up real early to do my training. One Saturday in February I got up at 4, and it was bitter cold. I ran to the Newton firehouse and back, about 22 miles.

"As I passed Kenmore Square I saw these two men from Public Works clearing up from the student parties the night before, and on the way back I saw them again: two black men. I stopped and thanked them for the good job they were doing for the city. After I got back here and had a shower I found out their names and addresses. I got $5 gift certificates from MacDonald's and sent them with letters to their wives.

"One night I was in a neighborhood meeting in Roxbury. A woman came up and thanked me. I didn't really know what she meant, but I said, 'Thanks. I was glad to do it.' But she pulled on my shirt sleeve and told me she meant the letter and the McDonald's certificate. 'You know,' she said, 'this man gets to work 45 minutes early. He shows your letter everywhere. He's never felt so good in his life.'

"I tell you that because it's my belief that if you treat people with respect, it matters. We have a serious financial problem. We don't have the money to give people the services they deserve. But we are going to make people feel good about themselves."

The most striking thing about Ray Flynn's five months as Mayor is the attention he has devoted to the racial tensions that have disfigured Boston for years. His number one priority is obviously tolerance among the Irish and blacks and others who have their tight little neighborhoods in this highly ethnic city.

One of the first things he did was to see that the widow of a black hospital worker killed by the police years ago got the $800,000 she was due in a Federal civil rights judgment—a payment that the predecessor administration of Kevin White had refused to make. Mayor Flynn handed the check to her personally. When white youths harassed a black family, he rushed to the neighborhood. He has more prominent black appointees than any previous mayor of Boston.

All of that surprises people because Ray Flynn comes from South Boston, an Irish working-class area that bitterly resisted school busing. And he was part of that resistance as a state legislator and city councilor. Ten years after the Federal court order, he still thinks busing was wrong—"I didn't think it would improve education for black or white"—but he says it is time to move on.

How did his people in South Boston feel about what he was doing as Mayor? I asked.

"They disagree with different things I do," he said, "but they think I believe in what I'm doing. And it's hard to be angry at someone if you think he's honest.

"A lot of blacks in this city think whites are getting all the services because they're white. A lot of whites think blacks are getting all the services because they're black. I walked in here with the firm belief that neither was getting much of anything.

"If you convince them you're going to be fair and consistent—'Look, we have this much—.' People think I am consistent, and that seems to be the key: equitable treatment for everybody."

Ray Flynn is a populist, but without the demagogic overtones that word often carries. Everything is low-key, unassuming, without ego. He never asks, "How'm I doin'?" He wants to know how you are doing. He never tries to get attention by provocation. His aim is civility and he has reestablished a tone of civility in Boston.

It is the politics of symbolism to a great extent so far, but symbols do matter. When he has gone to a racially troubled neighborhood, the trouble has stopped. For the people who have been touched by his modest presence, the symbol is reality.

## THE 84TH BIRTHDAY OF FRED WARING

**Mr. SPECTER**. Mr. President, this week we celebrate the 84th birthday of one of America's greatest musicians.

On June 9, 1900, Fred Waring was born. For more than 50 years, Mr. Waring set a standard of excellence and innovation in music composition.

**From his first appearances in his college days, Fred's music has delighted and excited music lovers across the country. His band, the Pennsylvanians, toured extensively, playing at colleges, vaudeville houses, and eventually in Hollywood as they starred in America's first musical motion picture, Syncopation.**

**Fred's unique work began a movement that caused popular music to become recognized as a distinctive American art form. Since then he has continued to revolutionize the music of our country with countless new styles and innovations. Today the "King of the Road" is still influencing the musical world as he both teaches in his choral music workshop and continues to find new talent. He is, as he has always been, an inspiration to musicians and audiences everywhere.**

## ASK ME ABOUT MIKE WARREN

Mr. BURDICK. Mr. President, on Memorial Day, May 28, 1984, a very touching article appeared on page A19 of the Washington Post. I would like to commit that article to the permanent RECORD of the Senate. The author, Dr. David Harrington, served as a Marine Corps infantry platoon commander with Echo Co., 2d Battalion, 26th Marine Regiment, during the so-called "Seige of Khe Sanh."

It was 16 years ago this month that the Khe Sanh Combat Base was razed and abandoned. The specter of Vietnam casts a long shadow. Perhaps Dr. Harrington has helped us accept that.

Mr. President, I ask unanimous consent that David S. Harrington's article, "Ask Me About Mike Warren * * * even if it hurts both of us," appear in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### ASK ME ABOUT MIKE WARREN

On Memorial Day, I remember Michael Jay Warren. We met on a chilly, rainy morning in November 1967 in Phu Bai, Vietnam. The day before, my first in country, had been difficult. No matter how hard I had tried to "look cool, act cool, be cool," I failed miserably.

A second lieutenant in Stateside fatigues, unarmed, confused and carrying a too-full duffle bag just did not blend in well. Like a tow truck approaching a stranded motorist, Mike greeted me with a firm handshake, a friendly "welcome aboard" and a warm smile.

He understood my discomfort immediately. Later, he was to kid me often: had I been in a firefight or on a binge on my way from the airport? As he walked with me to requisition combat equipment, I found myself relaxing. At each stop, he'd introduce me, state my need (boots, fatigues, canteens, etc.) and make sure I was given the best available. His command presence, his experience and his ease with others all impressed me. Could I measure up? Would we be friends?

At lunch that same day, Mike and I shared more about ourselves: his upbringing of Presbyterian stock in Moline, Ill., and mine Irish Catholic in Dorchester, Mass. The Marine Corps was definitely not a career for either of us; more to the point, the status of Marine Corps officer gave us each a chance to go places far beyond the confines of our youths. Vietnam was a hurdle we needed to overcome. How high a hurdle? Mike worried. He'd had a close call. The idea of his death struck me as ridiculous. I was the one to worry. Mike had done well in combat and would be transferred in a while to a safer staff job.

Our time together was all too brief. I remember a day, in mid-January 1968, when our company had been sent out to secure an area in front of Khe Sanh. My platoon was to establish a defensive position in eight-foot elephant grass along a deep ravine! I was furious, cursing out stupid staff officers who constantly endangered us with unreasonable assignments.

Mike walked into my platoon command post just as I was finishing my last string of epithets. He held up the latest issue of Stars and Stripes for me to read the headline: "Paris Peace Talks Stalled: Debate Shape of Table." Mike analogized diplomats, tables and Paris to staff officers, ravines and Khe Sanh. He laughed at the irony. From there, we were off talking about France and Europe, even planning to drive around Europe together.

Our last conversation took place while sitting in elephant grass outside Khe Sanh. The night was dark, chilly and damp: typical of the monsoon season in that part of Vietnam. Mike recalled the fun times at Coe College yet fretted about a career direction. He was fond of a young woman back in Moline, but worried that he was too young and inexperienced for marriage. He was happy to be leaving our infantry company, but wondered whether we would keep in touch.

Mike was committed to our friendship. Several times he managed to send us socks, beer, extra whatevers. He had a sixth sense for the shortage of the week and knew several helicopter pilots who were willing to make an extra trip for him. I got a couple of notes: he was fine but missed the excitement and the friendships. Seven weeks after Mike's transfer, the morning helicopter let off a Marine returning from the rear with a note for me from the company first sergeant. "Lt. Harrington", he wrote, "I regret to inform you that Lt. Warren was killed last night in a helicopter crash. Top." Just like that Mike was gone.

His parents, Clarence and Ruth Warren, wrote, "Lt. Harrington, Mike did not write often. We have him home with us. But we know so little of what his life was like those last few months. Could you tell us something more?" I involved the whole company in this project: we collected pictures of Mike, and many of us wrote notes. We mailed our large manila love letter to the Warrens. A few weeks later, they wrote back, "Thank you all so much for your kind words and pictures. It will always be so important to us that Mike had so many friends."

In mid-January 1969, while I was on my way back to Vietnam for a second tour, my plane landed at Quad Cities Airport. Clarence and Ruth met the plane. Mike had his dad's physique and his mom's warmth and ease. Each of us worked hard to keep our emotions in check. As I set down my bag, a small one this trip, in Mike's room, his mementos blurred through my tear-filled eyes.

Ruth came up to the room to suggest plans for the evening: "David, there's a high school basketball game tonight. It's Mike's old high school team. We've been ticket-holders for years. We'll have dinner afterwards. Would you mind wearing your uniform? Are you hungry enough for a hot dog now?"

Was I impressed! In Boston, the public high schools had old uniforms, small gyms and poor attendance. Here in Moline, the gymnasium was bright and large, the crowd filled every seat; the band played as cheerleaders pranced. Spectators, mostly family friends, came over to say hello; Clarence and Ruth swallowed their pain and smiled. "We are delighted David could be here with us," Ruth said over and over.

Suddenly, as if one, the crowd hushed, stood and faced one end of the gym where, as the building darkened, a single spotlight shone on the American flag. Everyone sang. Immediately afterward, as we all sat down, the spotlight glared in my eyes; the announcer's voice boomed in my ears: "Lieutenant David Harrington, would you please stand? Ladies and gentlemen, Lieutenant Harrington, a friend of Mike Warren, is visiting with Clarence and Ruth. Would you give him a warm round of applause?"

I don't know who won the game, even though I pay attention to such things. I do know dinner the next night was rough. Clarence took out maps, pictures and letters and wanted me to retrace Mike's footsteps. Clarence and I left the room several times. Only Ruth persevered.

A year and a half later, I stood in the receiving line at my wedding in another Midwestern city. As my attention drifted momentarily, my gaze moved down the line and fell on Clarence and Ruth. Suddenly, I was overcome with unimaginable pain. Only the tears in Ruth's eyes and her gritty smile helped me pull myself together.

The legacy of what Mike and I had in Vietnam is unfulfilled if left only to Mike's name etched in gold letters on a black granite slab of the Vietnam Memorial and to my moving on with my life. However, Memorial Days since Mike died have only served to sharpen the personal pain of the memory and the loss.

Somehow, I cannot lump Mike's death into a memory of our war dead. War's cost must remain personal, painfully so, to deter us from it. This year's dedication of the Tomb of the Unknown Vietnam Soldier is more threatening. Will this serve to make more distance between us and those who died in Vietnam, between Vietnam and the wars of the '80s?

Mike and I cannot let go of each other. Nor do we want to. However, the effort to maintain our friendship strains me. I'm alive. Mike's realities cannot develop and change alongside mine.

Is our dilemma that of all Americans after Vietnam: either forget about it or be damned to wallow in it? I would prefer to understand and accept what happened as well as to learn and to grow from the experience. To do that, I realize, means I must share my experience as fully as I can with you and invite your interest and questions. Ask me about Mike Warren, even if it hurts both of us. Beyond that, we must work through the implications, both personal and societal, of the Vietnam experience. I cannot understand and accept Grenada, Lebanon and El Salvador. My reasons go far beyond what happened to Mike Warren. But that is a start.

This Memorial Day, as on all since 1968, a picture of Mike and me, well worn by now, sits on my dresser. As on the day we first met, his helmet and flak jacket are on straight and buttoned; I'm unshaven, without a helmet, and my flak jacket is open. This year, as last, I will visit with him at the Vietnam Memorial. But I can't call Mike long distance and tell him how I feel: how all of us have lost something in the aftermath of Vietnam and the divisiveness of the '60s. Perhaps it was the capacity to care for each other in a special way. This Memorial Day, Mike and I thought that our friendship might do for you what it did for us: we were enriched with a deep understanding of the value of human life and I with an understanding of the absolute cost of its loss in wars of any kind.●

## TOXICS THREATEN GREAT LAKES

Mr. KASTEN. Mr. President, one of the most pressing problems associated with the Great Lakes is toxic pollution. Yesterday I introduced legislation which will provide for comprehensive environmental management of the Great Lakes. Today I will focus the Senate's attention on one of the greatest threats to the Great Lakes. It is also one of the least understood. That is the pollution of the lakes with toxic materials.

All too often, fishermen are reeling in fish whose bodies are contorted and full of gross and protruding tumors. Wildlife managers have documented a dramatic increase in deformities of fish-eating birds as well. These deformities are caused by toxic chemicals which are concentrated in the bodies of these species.

Man is directly threatened by toxic pollution of the Great Lakes. By being at the top of the food chain, man receives the highest dosage of toxic materials when he eats contaminated species. In fact, less than 1 month ago the Food and Drug Administration [FDA] proposed regulations that would prevent human consumption of up to half of the fish caught in the Great Lakes.

The Lake Michigan sports fishing industry in Wisconsin alone is estimated to contribute over $10 million to the local economy. Yet the most valued sports fish, trout and salmon, are the most contaminated. The proposed FDA regulations would prohibit eating lake trout and large salmon. In addition, any woman who hopes to bear children is advised not to eat small salmon or whitefish, rainbow trout and walleyes.

One of the problems associated with cleaning up the toxic contamination of the Great Lakes is that we do not fully understand how these toxic materials reach the lakes. Some chemicals, such as dioxin and PCB's, entered the lakes from industrial discharge. It is now believed, however, that the greatest source of toxic pollution of the Great Lakes is deposition or fallout from toxic air pollution. Identifying the source of problems, such as this, is one of the greatest management problems facing the Great Lakes.

Legislation I introduced yesterday will provide a comprehensive framework to manage problems such as this. Today I highlighted only a single problem facing the Great Lakes. There are many more which need our immediate attention. The Great Lakes are the most valuable water resource of our Nation. We must act now to assure their protection.

A recent article published by the National Wildlife Federation highlights the problem of toxic contamination of the Great Lakes. Mr. President, I ask unanimous consent that a copy of "Toxic Chemicals Contaminate Great Lakes Fish" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### TOXIC CHEMICALS CONTAMINATE GREAT LAKES FISH

(By Laurie Baker Walden)

Bill Bale eats fish 365 days a year. Whether Lake Michigan brown trout or Kalamazoo River walleye, fish has been the backbone of his diet for years. Bale is a lifelong Michigan resident and a sport fisherman. At 22, he is also owner of Bale's Sporting Goods, a Douglas, Mich., a store that specializes in fishing tackle.

He is well aware that the state health department has warned against the consumption of more than one meal per week of Lake Michigan trout, carp, catfish and salmon. Bale also knows the state has recommended that many Kalamazoo River fish should never be eaten. Fish from these waters have been contaminated with polychlorinated biphenyls (PCB), a suspected human carcinogen.

Bale, however, ignores the warnings. "I've eaten fish every day and it doesn't bother me," he said. "I know that chemical contamination of fish is a problem, but I just don't know if it is as extreme a problem as people say it is."

Throughout the Great Lakes, anglers like Bale are wondering if the latest scourge of the lakes—toxic chemical contamination—is a legitimate threat or simply the object of public hysteria.

The National Wildlife Federation (NWF), its Great Lakes affiliates and the NWF Great Lakes Natural Resources Center in Ann Arbor, Mich., are trying to convince anglers that consuming contaminated fish could indeed cause health problems. They are also working to stop the flood of chemicals entering these vast lakes which hold 95 percent of the nation's surface freshwaters.

NWF and its affililates cite many causes for concern:

—Dioxin levels as high as 695 parts per trillion (ppt) have been found in the Tittabawasee and Saginaw Rivers, tributaries to Lake Huron's Saginaw Bay. The federal Food and Drug Administration (FDA) has advised against consuming fish containing more than 50 ppt.

—As much as 10,000 pounds of the industrial chemical PCB may be entering Lake Michigan annually.

—Current programs designed to clean up the 18 most polluted Great Lakes "hot spots" are inadequate according to the Water Quality Board of the International Joint Commission (IJC), the U.S.-Canadian panel that advises both governments on water pollution issues.

None of the five Great Lakes is immune to toxic contamination, here caused primarily by municipal and industrial discharges, waste disposal sites, atmospheric deposition, combined sewer overflows and urban and agricultural land runoff. Some of the lakes, however, are in better shape than others.

Superior, Huron and Michigan, the largest lakes, are cleaner than lakes Erie and Ontario because their huge volume makes them capable of diluting chemical contaminants. In addition, they generally drain less populated and more rural regions.

Lake Superior is the largest and cleanest, and the only Great Lake without toxic hot spots identified by the IJC.

On the other hand, Lake Ontario is severely polluted by its tributaries, the Niagara and Buffalo Rivers. High levels of PCBs and mirex have been found in American eel and coho salmon in the lower Niagara River.

Sections of Lakes Michigan and Huron, contaminated by certain outfalls, have been designated toxic hot spots by the IJC. Two of these hotspots, Lake Huron's Saginaw Bay, and Lake Michigan's southern Green Bay, support fish containing PCBs that routinely exceed FDA limits. Another source of contamination of Saginaw Bay has been dioxin, allegedly originating from Dow Chemical Company, in Midland, Mich.

In 1960 Lake Erie was written off as the "dead" Great Lake. Its "demise" was caused by eutrophication. An overabundance of nutrients, such as phosphorous, spurred the rapid growth of algae and starved lake fish of oxygen. But controls on the flow of harmful nutrients caused a dramatic comeback. Now the lake's prime curse is chemical contamination, especially from mercury in the St. Clair and Detroit Rivers.

Although many contaminants found in the Great Lakes have been banned or restricted in the United States, they are still turning up in fish. Congress ordered an end to the production of PCBs in 1976, but many sources of PCBs, such as electrical transformers, are still in use and "bleed" the chemical in the environment. Dieldrin, another stable substance, has not diminished in concentration since its ban in 1974.

NWF and its affiliates see these conditions as frightening testimony to the persistence of dangerous chemicals. Some federal and state fisheries experts, however, are more optimistic and point to the overall improvement in Great Lakes water quality.

For instance, DDT levels in fish dropped at the rate of 25 percent per year within a year after several Great Lakes states banned the pesticide in the late 1960s. The national ban came in 1972. According to some estimates, the DDT levels in fish have now dropped by 95 percent. And PCB levels, although not showing as rapid of a decline, still have decreased from 60 to 70 percent.

"I think the lakes astounded everyone in their ability to recover," said Wayne Willford, section chief for physiology and contaminant chemistry for the U.S. Fish and Wildlife Service's (FWS) Great Lakes Fishery Laboratory in Ann Arbor. "These lakes tend to cleanse themselves much more rapidly than people believe."

What is the effect of these toxic chemicals on the roughly three million anglers that annually fish the Great Lakes and the 37 million residents in the region?

The risk posed from eating contaminated fish is far greater than from drinking contaminated water since these contaminants are more concentrated in fish. A human would have to drink water from the Great Lakes for 1,000 years to equal the amount of

PCBs consumed in a single one-pound serving of fish contaminated with PCBs at 5 ppm, according to John Black of Roswell Park Memorial Institute in Buffalo, N.Y.

Even though there have been no scientifically documented human deaths from consumption of contaminated fish or major fish kills in the Great Lakes region, NWF contends the potential health effects are enormous.

The toxicity of PCBs has been known since 1968 when thousands of Japanese consumed rice oil contaminated with high levels of the chemical. Five people died and others exhibited symptoms including spontaneous abortion, hair loss, smaller infant birth weights and skin color changes.

The effect of DDT on human health is not clear, but the pesticide has been linked to population declines in bald eagles and other raptors. By disrupting the birds' calcium producing mechanism, DDT causes them to lay thin-shelled eggs which often break prematurely.

Dioxins have been known to cause severe liver damage and skin cancer in rats. However, the impact on humans is not as well defined. A 1976 industrial explosion in Seveso, Italy, which released a cloud of dioxin, left hundreds of dead birds and small animals. Nearby residents complained of nausea and skin ailments.

Scientific evidence indicates that toxic substances may also have a detrimental effect on fish populations. High tumor rates have been documented in all of the Great Lakes except Lake Superior, according to Richard Smith, the U.S. Fish and Wildlife Service's associate director for research and development. Skin tumors have appeared in white suckers, brown bullheads and freshwater drum while liver tumors have been found in brown bullheads. "We know that true carcinomas [malignant tumors] shorten lifespans, but we don't know how much nor what the ultimate effect is on reproduction," he said, testifying at a September Congressional hearing on cancerous fish.

In addition, Canadian scientists have found goiters in nearly all of Lake Erie's coho salmon, reports John C. Harshbarger, director of the Smithsonian Institution's Registry of Tumors in Lower Animals. Because 75 percent of the embryo die, he said, the fish cannot maintain their population and must be repeatedly stocked.

Despite these ominous signs, the overall Great Lakes sport fishing industry is thriving. What was a fledgling industry 20 years ago is now a billion dollar business.

Besides there being more fish, more anglers than ever are joining today's Great Lakes fishing boom because of the cleaner-looking water. "The appearance of the water makes people think it has improved, even though toxic pollution is invisible," said Carl Reinke, chairman of the Saginaw Bay Advisory Council, a Michigan United Conservation Club (MUCC) affiliate that advises the public on water quality matters.

Ten years ago, he said, the bay waters were covered with algae and dead fish—the result of eutrophication. With that problem now under control, the water has become deceptively clearer.

Many Great Lakes states have imposed health advisories warning against the consumption of certain contaminated fish. A spokesman from the Indiana Department of Natural Resources said he's noticed that charter fishing boat reservations are often cancelled during the few days after a state public health advisory is issued. Soon, afterwards, however, the public's fear ebbs and the charter business returns to normal.

"The advisories are based on test of laboratory animals," Bale said. "And I just don't think I consume as much proportionately as those rats and mice that were tested."

NWF and its Great Lakes affiliates have been trying to convince anglers to pay attention to state health advisories and to the toxic contamination problem in the Great Lakes. While the lakes are now in better condition than two decades ago, NWF insists there is still a long way to go.

"The lakes are recovering in terms of the more well-known pollutants such as phosphorus," said Mark Van Putten, "but a much greater commitment is required to research and solve the problems of toxic contamination."

"We're faced with the age-old question of 'how clean is clean?'"

Now, anglers like Bill Bale must decide if they are willing to change their ways, and the public at large must decide just how clean it wants the Great Lakes to be.

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## NATHANIEL OWINGS

Mr. MOYNIHAN. Mr. President, Nathaniel Owings, one of the country's great architects, and great spirits, died yesterday. I first knew Nat Owings in 1962 when he was selected by President Kennedy as chief architect of the plan to redevelop Pennsylvania Avenue. He became and remained a dear friend and great teacher.

Nathaniel Alexander Owings leaves his own monuments. They speak more eloquently than words of his talent and his great energies. I ask unanimous consent, nonetheless, that obituaries appearing in today's New York Times and Washington Post be inserted in the Record at this point.

There being no objection, the obituaries were ordered to be printed in the Record, as follows:

[From the New York Times, June 14, 1984]

### Nathaniel Owings, 81, Dies; Early Skyscraper Advocate

(By James Barron)

Nathaniel A Owings, a founder of the architectural firm of Skidmore, Owings & Merrill, died yesterday at his home in Santa Fe, N.M. He was 81 years old.

Mr. Owings considered the skyscrapers that were his firm's specialty a natural celebration of American grandeur. His reputation did not rest on his ability as a designer or urban planner, but on his ability to be what he called "the catalyst," the person in his firm who ironed out differences among clients, contractors and planning commissions.

Mr. Owings also claimed credit for the idea of placing a skyscraper on a small part of a downtown lot, as the firm did with Lever House and Chase Manhattan Plaza, both in Manhattan.

He presided over more than $3 billion worth of construction in his career, from beaverboard pavilions at Chicago World's Fair that led to the John Hancock tower in Chicago, the Crown Zellerbach building in San Francisco and Lever House in Manhattan. He also headed the team that drew plans for the redevelopment of Pennsylvania Avenue in Washington.

But while his firm produced buildings that the general public considered stark and modern, his own design philosophy was traditional.

"I feel that the hope for the future lies in going back to the roots of man, where we do not depend on systems or formulas but on a corps of myth, fable and miracle," Mr. Owings said. "We can do this through living in harmony with the laws of nature, not the contrived plastic ones of man."

As a young architect he idolized Raymond Hood, who designed the RCA Building in Rockefeller Center. More than 50 years later, Mr. Owings recalled the thrill of his first glimpse of the 70-story skyscraper: "You have this tall tree, this knife edge, presenting its narrow dimension to Fifth Avenue. It is breathtaking."

On Mr. Hood's recommendation Mr. Owings was hired to design the concession stands at the 1933 Century of Progress Exposition in Chicago. But the Depression forced deep cuts in the construction budget, and Mr. Owings was paired with another young architect, Louis Skidmore. They were told to build pavilions for more than 500 exhibits at minimum cost using lightweight, mass-produced materials.

"Skid and I took the fair over," Mr. Owings said in 1968. "We had to devise solutions, use the simplest materials—we built the pavilions out of beaverboard."

The two young architects got along, and in 1936 they formed their own partnership. "We would build only in the vernacular of our own age," they declared. The architectural engineer John O. Merrill joined the firm as a limited partner in 1939. The firm's operations were decentralized, with Mr. Owings' initial responsibilities centering on the Chicago office.

The firm's first commissions included buildings at the New York World's Fair in 1939, a hospital in Petoskey, Mich., and a paper mill for the Kimberley-Clark Corporation in Neenah, Wis.

But the partnership's big break came in World War II, when they were hired to build a secret town for 75,000 residents—Oak Ridge, Tenn., where the atomic bomb was developed.

That project led to others for the Government, including a $152.5 million commission in 1954 for the Air Force Academy near Colorado Springs. There, Mr. Owings and his associates supervised 40 general contractors on a 17,900-acre site. Mr. Owings' principal role in the project was to mediate differences between members of a Senate appropriations subcommittee and Air Force officers, some of whom had misgivings about what they thought were the firm's unacceptably modern designs.

Mr. Owings said that one of the most significant assignments was Temporary Commission on Pennsylvania Avenue in Washington. Appointed by President Kennedy in 1962 and reappointed by later administrations, Mr. Owings drew the master plan for remodeling Pennsylvania Avenue from the White House to the Capitol. His idea was to turn it into the ceremonial boulevard that the French designer Pierre L'Enfant had intended when he laid out Washington in the 18th century.

Mr. Owings won the American Institute of Architects' Gold Medal, the group's highest award, in 1983 for "most distinguished service to the architectural profession and to the institute." He was a fellow of the Institute and an honorary life member of the Sierra Club.

Mr. Owings wrote two books—"The American Aesthetic," in 1969, and "The Spaces in Between: An Architect's Journey," in 1973.

He is survived by his wife, Margaret; a son, Nathaniel, of Bozeman, Montana, and three daughters, Jennifer Dewey of Santa Fe, Natalie Prael of Los Alamos, N.M., and Emile Caposi of Novato, Calif.

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[From the Washington Post, June 14, 1984]

### N.A. Owings, Force in City's Design, Dies

Nathaniel Alexander Owings, 81, a founder of one of the nation's most prestigious architectural firms and a leading force in the design of Washington over the last two decades, died yesterday at his home in Jacona, N.M. The cause of death was not immediately disclosed.

In addition, Mr. Owings took part in the design of, among other structures, the Sears Tower and John Hancock Center in Chicago, the Union Carbide Building and Lever House in New York, the Hartford Insurance Building in San Francisco, the Air Force Academy in Colorado and the Maj Terminal at King Abdul Aziz International Airport in Jeddah, Saudi Arabia.

A cofounder in 1936 of the architectural and engineering firm of Skidmore, Owings & Merrill, Mr. Owings developed special ties to Washington after he was selected by President Kennedy in 1962 to head a special Advisory Council on Pennsylvania Avenue. He played a major role in devising the first plan to rejuvenate "the nation's first street."

Mr. Owings also headed the President's Temporary Commission on Pennsylvania Avenue, formed by Lyndon Johnson in 1965, and until two years ago was vice chairman of the Pennsylvania Avenue Development Corp. (PADC), established by Congress in 1972 with wide-ranging powers to carry out a revised Avenue plan. He resigned his position with PADC in January 1982 in a policy dispute with Max N. Berry, chairman of the corporation.

Mr. Owings told a reporter at the time that he resigned because he foresaw "the Avenue . . . becoming a super development; it's going to become another Rosslyn."

"We're not looking at it any longer as the main street for the nation between the president's house and the Congress," Mr. Owings said. "We're looking at it as an immediate economic situation."

He also was closely connected to the plans for refurbishing the Mall that began to take shape in the mid-1960s. These plans eventually led to the closing of Washington and Adams drives along the Mall and to the construction of Constitution Gardens, the informal park along Constitution Avenue between the Washington Monument and the Lincoln Memorial that replaced the "temporary" buildings that had occupied the site since World War I.

Among achievements here he considered most significant, he listed the reflecting pool at the east end of the Mall, completed in 1972, "because it looks good there and it solved an urban problem."

Mr. Owings said once of Washington that he considered it "the most beautiful city in the United States," but added quickly that he had no favorites, because "each has its own fascinating beauty. No two are alike."

"As I get older things get clearer for me," Mr. Owings said in a recent interview. "The things I'm proudest of are two—The Avenue in Washington and the 72 miles [of California's Big Sur coastline] which are now in pristine condition." In the early 1960s, he headed a successful fight to prohibit a multilane freeway along that coast, where he also had maintained a home for many years.

Born in Indianapolis, Mr. Owings received a bachelor of science degree from the Cornell University College of Architecture in 1927, and after a number of early commissions, he became involved in the planning for "A Century of Progress," the 1933 Chicago World's Fair.

He went through a radical change of mind late in his career, disavowing the skyscraper concept the fair had featured, and making what he called "a one hundred percent change" in his attitudes concerning the early plan for Pennsylvania Avenue. This had called for widespread demolition of existing buildings along the Avenue, including, among many others, the Washington and Willard hotels.

"I feel like a reformed hunter," he quipped at a public meeting on the District's height limitation in 1971. "We should create a nonbuilding program for all of our cities," he said, "and open up our spaces, get rid of the automobile in our downtown centers and encourage human activities . . . . If the future is going to be anything like what we're doing today, then I'm glad I'm 70 years old." He was 68 at the time.

For most of the last 30 years, Mr. Owings had divided his time between the cliffside house he designed for himself at Big Sur and his adobe home at Jacona.

An admirer of northern New Mexico's architecture, he did not favor preservation for preservation's sake.

In the mid-1970s, he oversaw creation of a downtown master plan for the Museum of New Mexico in Santa Fe, which included the razing of the 19th century Hewett house to make way for a state museum of Indian arts. The plan triggered a conflict in which he was pitted against preservationists, who eventually won.

"I feel that the hope for the future lies into going back to the roots of man—where we do not depend on systems or formulas but on a corpus of myth, fable and miracle," he once said. "We can do this through living in harmony with the laws of nature—not the contrived, plastic ones of man."

Mr. Owings is survived by his second wife, Margaret, and four children.

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Mr. **STENNIS**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The **PRESIDING OFFICER**. The Chair, in his capacity as a Senator from the State of Arizona, asks unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is closed.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The **PRESIDING OFFICER**. The hour of 11:30 a.m. having arrived, the Senate will return to the business of the Department of Defense authorization bill.

Mr. **DANFORTH**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

## H.R. 4616—CHILD RESTRAINT SYSTEMS IN MOTOR VEHICLES

Mr. **BAKER**. Mr. President, I have consulted with the manager of the bill on this side—and I am referring to the Department of Defense authorization bill—and with certain Senators who are interested in trying to get to the drunk driving bill, so-called, which is H.R. 4616, and a time agreement.

I wish to report, Mr. President, that at this point we cannot do that. However, I do not believe that the problems are insuperable. I think we can, before this day is out, in all likelihood get to that bill on some sort of limited time basis and pass it, and I favor that.

But, rather than chew up time now on trying to negotiate away the differences and get a final clearance, I recommend to the managers that they go on with debate on the Department of Defense bill while we negotiate on the other matter, and then at some time around 1 p.m. we will canvass the situation again and see if we can get the bill up at that time.

Mr. **BYRD**. Will the distinguished majority leader yield?

Mr. **BAKER**. Yes, I yield.

Mr. **BYRD**. Mr. President, I am sure the distinguished majority leader is doing the best he can. I will state again that we on our side are ready to enter into an agreement that would limit time on the bill itself to 10 minutes, 20 minutes, 30 minutes, whatever, and agree that there will be only one amendment with 10 minutes, 20 minutes, or 30 minutes on that amendment. When the majority leader is ready to put the request, I will be happy to join with him.

Mr. **BAKER**. I thank the minority leader.

Mr. **WEICKER**. Will the majority leader yield?

Mr. **BAKER**. Yes.

Mr. **WEICKER**. So it is fully understood as to what is causing the delay, I do not want anybody to feel that there is objection to the matter that is proposed to be brought before the Senate. Rather, it is that this Senator feels that action required of the States should be even further strengthened by other recommendations in the Presidential report, that is, mandatory sentencing or mandatory loss of license for drunk drivers.

Let us understand why the delay—not to defeat this measure, but indeed to make it even stronger in its application against the drunk driver.

Having said that, I feel that Senator LAUTENBERG, Senator DANFORTH, and myself can sit down and arrive at an agreement. This matter can be disposed of very rapidly.

**Mr. BAKER.** Mr. President, I thank the Senator from Connecticut.

It appears clear to me that there is a very strong sentiment in support of this matter, and that we are likely to get a limited time agreement as the minority leader has described.

I wish to at this point express my thanks to the minority leader for clearing this matter. I am grateful for that. I hope we will be able to do the same thing on this side in the next few minutes.

**Mr. QUAYLE.** Mr. President, I want to thank the majority leader in behalf of Mr. TOWER. I am sure we can get the unanimous-consent agreement worked out later today in a short period of time. It is absolutely essential that we get on with the DOD bill. We have to finish that bill today. So I think it is prudent.

I thank the majority leader, and hopefully we can get on with the DOD bill now.

**Mr. MATHIAS.** Mr. President, would the majority leader yield for a brief request?

**Mr. BAKER.** Yes.

**Mr. MATHIAS.** When you approach the question of the time agreement on the drunk driving bill, I hope we allot enough time for amendments which will broaden the scope of the bill. It is not fair to dump all of the blame on the kids. They have their share. They ought to bear that share. But drunk driving is spread all across the whole spectrum of debate.

**Mr. BAKER.** Mr. President, I thank the Senator, and I observe that the remarks of the Senator from Maryland seem to meet with smiling approval from some of our more senior pages.

Mr. President, I yield now to the Senator from Missouri.

**Mr. DANFORTH.** Mr. President, I appreciate the help of the majority leader, and I would hope that he might be open to further participation in these negotiations. We thought we had the package pretty well put together last night. We came very, very close to getting unanimous consent for a very short time. I am aware of the fact that we do have the defense authorization bill on the floor, and that any setting aside of that for whatever amount of time sometimes is not desired by the Senator from Texas. We seem to have a kind of avalanche of possible amendments coming on. I hope that we can check it.

**Mr. BAKER.** Mr. President, I thank the Senator.

Mr. President, I thank all Senators.

I now yield to the Senator from New Jersey.

**Mr. LAUTENBERG.** I thank the majority leader.

I, too, would like very much to try to resolve the issues. It is an important piece of legislation on the matter of drunk driving with all its aspects. I invite the comments of the Senator from Connecticut, and the Senator from Maryland.

I think we should work very hard to get this passed quickly. We have a bill that is coming over from the House that is complete in its form, and I urge my colleagues to get together, try to resolve our differences so that we can come here, and very quickly dispose of this important piece of legislation.

I thank the majority leader.

**Mr. BAKER.** Mr. President, I thank the Senator from New Jersey. I hope sincerely that we can work this out in short order.

Mr. President, I would urge the managers of the bill to go forward.

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## OMNIBUS DEFENSE AUTHORIZATION, 1985

The **PRESIDING OFFICER.** The clerk will report the pending business.

The bill clerk read as follows:

A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense, and for other purposes.

The Senate resumed consideration of the bill.

The **PRESIDING OFFICER.** The Senator from Indiana.

**Mr. QUAYLE.** Mr. President, am I correct that the pending business is the Department of Defense authorization?

The **PRESIDING OFFICER.** The Department of Defense authorization bill is the pending business.

**Mr. QUAYLE.** Is there any pending unanimous-consent request?

The **PRESIDING OFFICER.** None has been laid down that the Chair knows of.

**Mr. QUAYLE.** Is there any pending amendment?

The **PRESIDING OFFICER.** None.

**Mr. QUAYLE.** Mr. President, it is my understanding that the Senator from Illinois will be offering a motion to recommit. We will debate that. Then after that, it is our hope, and perhaps our anticipation that we will be able to get on with MX amendments. These are the two major amendments that we have to deal with today. There are other amendments. I encourage Senators. It is now 5 minutes until 12. It is going to be a long day, and a long night. But we are going to finish this bill.

Chairman TOWER, I believe the ranking member, and everyone else is on board to finish this bill. I encourage Senators to start bringing their amendments over. After we dispose of the Dixon amendment, hopefully we will be on with the MX amendments.

I thank the Chair. I thank the Senator from Illinois.

I yield the floor.

The **PRESIDING OFFICER** [Mrs. KASSEBAUM]. The Senator from Illinois is recognized.

### MOTION TO RECOMMIT

**Mr. DIXON.** Madam President, I want to thank my distinguished friend from Indiana.

At this time, Madam President, along with Senators KENNEDY and FORD, I move to recommit the bill, S. 2723, to the Committee on Armed Services with instructions that the committee report the bill back to the Senate within 5 days, not counting any days on which the Senate is not in session, after the day on which this motion is agreed to, with such changes as may be necessary to authorize a total new budget authority for defense-related programs for fiscal year 1985 of not more than $293.7 billion.

Madam President, I ask to be heard on the motion.

The **PRESIDING OFFICER.** The Senator from Illinois.

**Mr. DIXON.** Madam President, I offer this motion to reduce the effective growth rate in defense spending to 5 percent in the defense authorization bill.

The dollar effect of this motion, Madam President, will be to reduce our outlay for defense from $299 to $293.7 billion.

This approach is consistent with my earlier efforts, along with those by some of my colleagues, to contain defense spending. Several of us tried to convince the Armed Services Committee that a 5-percent increase in defense spending is entirely adequate to meet our national defense needs. Unfortunately, we did not succeed.

Now, I realize the distinguished chairman, and some other members of the committee, will argue that this bill has been carefully considered by the Armed Services Committee. I am a member of that committee, and we have given this bill an extensive hearing. In my view, however, the final price tag—$299 billion—still is too high, despite our efforts in the committee.

The full Senate is the final arbiter on everything which takes place in this Chamber. For that reason, I feel that my colleagues should have the opportunity to indicate, through my proposed motion, whether they favor limiting the growth rate for defense to 5 percent. Such a position will bring the figure for defense spending down to $293.7 billion—a bottom line figure that others and I supported in committee.

Madam President, I support a strong national defense—a defense second to none. I campaigned in 1980 for a strong defense, and I have been supportive of programs and projects to strengthen our defense since coming to the Senate.

However, we must be prudent. We must balance our defense needs against other needs in this country. We must pay careful attention to our human needs.

Above all else, Madam President, we must remember that our vote on the defense authorization bill will not be cast in isolation. It is but one of many important votes on authorizations and appropriations we make this year.

As I said on February 1 of this year, we are dealing with administration proposals that substantially increase spending for defense, while cutting domestic programs of great importance to Illinois and numerous other States.

Although we are dealing here today with defense spending, we must all be cognizant of cuts in education, cuts in nutrition programs, cuts in health plans, and cuts generally across the spectrum of social programs. I have seen firsthand, in my State, the negative effects of hunger upon our unemployed, our senior citizens, and our children.

These reductions are especially harmful to Illinois, Madam President, where we still have an unemployment rate of 9.1 percent—well above the national average; 92 of our 102 counties exceed the national unemployment rate. Among the most adversely affected are: Gallatin County, with 24.5 percent; Calhoun County, with 23.9 percent; Alexander County, with 23.1 percent; Pope County, with 22.8 percent; and Pulaski County, with 20.9 percent. In East St. Louis, in my home county of St. Clair, it has been estimated that more than half of the people are unemployed or underemployed. None of us in good conscience, Madam President, can condone 50-percent unemployment anywhere in this great land of ours.

In offering this motion, Madam President, I am saying that we must balance our obligations to a strong defense against our obligations to our citizens generally.

An increase in defense spending of 5 percent seems reasonable to me. Such an increase would allow us to maintain the current defense effort, and then some. It would also allow us to continue some of the vital domestic programs endangered by the administration's budget.

Madam President, how do we trim the authorization bill back from $299 to $293.7 billion? My motion is designed to answer that question by placing the matter back before the experts in this field—the Armed Services Committee.

Adoption of this motion will notify our country that the Senate of the United States is willing to balance both our national defense interests and our domestic programs.

In short, Madam President, $293.7 billion is an adequate level at which to fund the national defense. It is an equitable allocation, in view of the budgetary constraints imposed upon us at this time.

Without doubt, Madam President, all of us in this body desire to discharge our responsibility to provide funds for a strong defense. We must, however, attain that objective in an evenhanded manner within the constraints of our overall economic situation. I am firmly convinced that the Armed Services Committee can achieve the goal targeted in my motion, which I now ask my colleagues to consider.

Madam President, every time we talk about our national defense, somebody says, "But we have to keep up with the Russians."

I do not trust the Russians. Nobody here trusts the Russians. Everybody here agrees that we have to compete with, and have a national defense equal or superior to, the Soviet Union, the other great superpower.

I would like to call the attention of my colleagues in the Senate to the Washington Post of this morning, Thursday, June 14, 1984, entitled "Soviets Sped Rate of Military Spending in '83, Pentagon Says."

It is not some liberal group in the country, not some fuzzy-headed person in some university. It is the Pentagon. And what does the Pentagon say? "Unfinished DIA Study Cites Growth of 3 or 4 Percent a Year." Three or four percent a year.

I want to read from that for you, Madam President.

And I ask unanimous consent that the article to which I am referring be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. Madam President, the article states:

> The Defense Department yesterday released preliminary results of an unfinished study showing that the Soviet Union increased military spending at a greater rate last year than during the previous 6 years.

Just think, last year they spent more than during the previous 6 years.

> According to the Defense Intelligence Agency's preliminary estimate, the Soviet defense budget grew at a rate of 3 or 4 percent from 1982 to 1983.

Then listen to this:

> Between 1976 and 1982, such budgets grew about 2 percent each year, U.S. intelligence officials have said.

Again, this is not some fuzzy-headed liberal someplace, but the intelligence officials of the defense apparatus of the United States of America saying that over a 6-year period, the Soviet Government has increased its expenditures for its own national defense 2 percent most of the time and 3 or 4 percent the rest of the time.

Now listen to this:

> Defense Secretary Caspar Weinberger directed DIA to release their estimates after hearing their preliminary report several weeks ago, a senior Defense official said.
>
> Asked whether the release was timed to coincide with this week's Senate debate on the U.S. defense budget request for fiscal 1985, the official said, "It's hard to find a time during the year these days" when the military budget is not being debated.

How true.

But, again referring to the article, we are spending more, if this evidence is true, on our national defense than the Soviet Union every year.

This administration asked for 13 percent originally—13 percent while they are cutting every domestic program in America. The "rose garden accord" cut it to $299 billion. I say to my friends, the best estimate is that this represents 7.5-percent growth—7.5-percent growth while educational programs are dying, while nutritional programs have been abandoned, while the hungry are still hungry in the major cities of America, while the farmer is failing on the American farm, while unemployment in my State is 9.1 percent and 509,000 Illinoisans who want to work cannot find jobs. And they want 7.5 percent, more than three times what the Russians are spending.

Madam President, I say 5 percent is very generous. I say to my colleagues that 5 percent is enough to take care of the obligations of a strong national defense.

Madam President, this morning, I went to a hearing of the Banking Committee. We heard Chairman Volcker continue to talk about high interest rates. Why? Because the deficit is too high and growing. He continued to talk about our trade deficit problems. Why? Because our deficit is growing.

Here is the one single opportunity every lady and gentleman of this Chamber will have, the one single opportunity in this session of the U.S. Senate that every Senator will have to, in one fell swoop, save $5.3 billion while not hurting a thing—$5.3 billion, Madam President, while still keeping a strong national defense; national defense growing at the rate of inflation plus 5 percent. This is twice what the Soviet Union will spend this year; growing at the rate of 5 percent, hundreds of times more than most other nations of the world are spending.

I know that the votes are probably not here to do this, but I want to say this for the record: I was raised in a family where my father taught me that the truth will fit anyplace. And the truth is that when the Senate of the United States, in short moments now, defeats this motion, the Senate of the United States will have, by that vote, gone on record as saying we Senators support a no-growth or cut policy for every domestic program and we support increasing our national defense commitment at the expense of every American, at a rate of more than twice the growth of the other competitive superpower, the Soviet Union.

Madam President, I suggest that with any thinking American, that will be a very, very difficult position to embrace.

I say this in conclusion: I support a strong national defense. I am prepared to go back to the Committee on Armed Services as the newest kid on the block and vote to cut $5.3 billion out of a $299 billion program, which we can well afford, and bring us back with a national defense superior to the Soviet Union's, while ensuring to Americans generally the consciousness of this Congress of our deficit problems, our high interest rate problems, and our obligations to American taxpayers generally to do the responsible things.

Biting the bullet is not just biting the bullet on a program you do not like. Biting the bullet is biting the bullet on all programs—not just on the Food Stamp Program you do not care for. It counts as a similar dollar when they cut it out of a program you love. This program demands cutting. This program reeks with excesses against the rest of the budget. It screams out to the country our disregard for the obligation we took when we came to this place.

I say to my colleagues, this motion may be defeated, but the day will come when we shall all see that continuing this policy is absolutely destructive of the kind of thing that is best for this great Nation.

I thank the Chair and my colleagues and renew my motion.

Exhibit 1

[From the Washington Post, June 14, 1984]

### Soviets Sped Rate of Military Spending in 1983, Pentagon Says

(By Fred Hiatt)

The Defense Department yesterday released preliminary results of an unfinished study showing that the Soviet Union increased military spending at a greater rate last year than during the previous six years.

According to the Defense Intelligence Agency's preliminary estimate, the Soviet defense budget grew at a rate of 3 or 4 percent from 1982 to 1983. Between 1976 and 1982, such budgets grew about 2 percent each year, U.S. intelligence officials have said.

Defense Secretary Caspar W. Weinberger directed DIA officials to release their estimates after hearing their preliminary report several weeks ago, a senior defense official said.

Asked whether the release was timed to coincide with this week's Senate debate on the U.S. defense budget request for fiscal 1985, the official said, "It's hard to find a time during the year these days" when the military budget is not being debated.

The Reagan administration asked Congress for a 13 percent increase in defense spending for fiscal 1985, adjusted for inflation. Under congressional pressure, that request was reduced to 8 percent and is being debated on Capitol Hill. Estimates of Soviet military spending, always uncertain because little information is officially released in Moscow, have been controversial for two years since a CIA estimate that Soviet military spending had leveled off since 1976.

Critics of the Reagan administration's military buildup cited such estimates, but Weinberger maintained that Soviet military spending has not slackened and said the dispute between the CIA and DIA about the rate of growth is merely of academic interest.

In fact, the DIA last year estimated that Soviet spending had grown considerably faster than the CIA estimate of 2 percent. The CIA has not completed its assessment of Soviet spending in 1983 and did not participate in the Pentagon briefing for reporters.

During the briefing, defense officials who asked not to be identified said increases in Soviet spending during 1983 were mostly in procurement.

They said the increase was due more to the complexity and cost of weaponry than to increased production.

They said that in about 40 instances in which Soviet weapons were surveyed, production increased in 16 areas, decreased in 10 and remained about the same in the other 14 classes of weapons.

But, while the Soviets produced few jet fighters, for instance, those they did produce—including MiG31 Foxhounds and MiG29 Fulcrums—were, like advanced U.S. jets, more capable and more expensive than previous models. As a result, procurement costs probably increased about 5 to 10 percent, the official said, noting that the estimate is based on an examination of only half of the Soviet procurement budget.

"The complete workup of dollar and ruble costs will not be finished for several months," a senior official said. "We do have full confidence in these preliminary figures, but they are not final."

U.S. weapons procurement increased from $79.7 billion in fiscal 1983 to about $86 billion this fiscal year, or about 8 percent. For fiscal 1985, the administration is seeking an increase to $107.6 billion, or about 25 percent, and, for fiscal 1986, it anticipates spending about $124 billion for weaponry.

Mr. **QUAYLE** and Mr. **KENNEDY** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Indiana.

Mr. **QUAYLE**. Madam President, I ask for the yeas and nays on the motion.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. **QUAYLE**. Madam President, I shall respond very briefly to my good friend from Illinois on a couple of points. One, as far as biting the bullet, I know my good friend knows there has already been a reduction in defense spending from the $313 billion originally proposed down to the $299.5 billion that is presently before the Senate. So there has been a reduction and there has been a cutback. As the Secretary of Defense said, these cutbacks are done at risk. So I do not think there is any suggestion around here that defense spending has not, in fact, been cut back. It has.

This idea that there is some sort of outrageous excessiveness within the defense budget—perhaps the Senator from Illinois or others can go ahead and maybe we shall get into this debate and pinpoint specific programs that will reduce it this $5 billion. But we have already been through this charade of whether we are going to have 8 percent or 10 percent or 7 percent or 5 percent or 4 percent of defense spending. We have gone through that. The Senate has voted in the budget process on a number of occasions that the Senate is going to stay at the figure of $299.5 billion. We have voted on that.

This amendment is just a rehash of the whole budget debate that we have had. It does not specify what programs are going to be cut. It does not specify where these reductions are going to be done. It is going to take it back to the committee, where the Senator from Illinois comes from and this Senator and other Senators on the Armed Services Committee, to go through and come up with these reductions. I suggest to the Senator that we have already done that. We have already gone through this. We have had a number of hearings.

I would like to point out to my friend that there is some sort of implication that we are going to resolve the interest rates and the deficit problem by going from 7.5 percent down to 5 or 5.5 percent defense budget, save $5 billion that is really a very small fraction of the budget deficit. Where we are going to resolve that budget deficit is not going to be in the Defense Department or national security, but through the budget process, the deficit reduction package. That is where that issue takes place.

There may be some point—although I am not suggesting that perhaps we are going to balance the budget as such just by cutting defense, or that we are going to have economic recovery, although defense spending and national security certainly provides jobs—whether or not in our respective States—that it is going to provide economic expansion just by reducing the defense budget. I think it is important that we understand the perspective and the totality of where we have been in the last two decades as regards national defense. As a percentage of gross national product in the years 1955 to 1960, we spent on national defense about 9 to 10 percent. We spent on entitlement programs at that time about 5 or 6 percent. Take the time period from 1955 to 1960 to 1984 and with this, as the Senator from Illinois says, excessive defense budget as a percentage of GNP, we are spending 6.5 percent.

In other words, over the last couple decades as a percentage of the gross national product, defense spending has been reduced—some would reduce it even further—but entitlement programs have gone from the 4 or 5 percent range up to about 12 percent of the gross national product. So I suggest to those who are really serious about this deficit reduction package or the deficits that I am concerned about that you are not going to do it by gutting the national defense bill. We have done that for a couple decades and that is the reason we have to have an unusual period where we spend more for defense than perhaps many would like.

I think that former Secretary of Defense Harold Brown said it best when the Senator from Illinois talks about the Russians only spending only 3 or 4 percent. The problem is as he put very aptly, "When we build, they build; when we stop, they build." That is what has happened and that is where we are. If we think we are going to cure any kind of economic problem by going back to 5 percent, I think that is simply misleading. This Senate has voted on it. This is a budget debate. On a budget debate we just pick numbers out of the air, 5 percent, 10 percent, you name it, here we go, flip a coin. And that is what we are doing on this amendment. We have voted on it time and time again and this Senate has stood fast at $299.5 billion. I hope it does the same again today by defeating the motion to recommit by the Senator from Illinois.

Mr. GOLDWATER. Will the Senator yield?

Mr. QUAYLE. I yield to the Senator from Arizona.

Mr. GOLDWATER. Madam President, we are going through the same political poppycock that we go through every year. Every year since I have been here somebody has gotten up and suggested a meat-ax approach to a budget that has been studied and studied and studied. I do not know how many man-hours the Armed Services Committee has put on this bill. I cannot even relate the number of meetings my Tactical Warfare Subcommittee has had, the number of hours that the military men have spent away from their jobs on Capitol Hill.

Now, the Senator from Illinois talks about the Russians. I do not give a hoot what the Russians spend. The man that is going to tell me what is proper military spending for this country is a man who wears a uniform or is employed in the Pentagon who knows something about this subject. I do not care if the Russians spend five times as little. I think if we are smart we can avoid war all over this world, and we have not been too smart if we keep up the approach the Senator from Illinois is suggesting. This is nothing but a political play. Madam President, what is the Senator going to suggest? The B-1 has 65,000 people working on it. Does he want to cut them out of work? Talk about unemployment in Illinois. You start cutting this and you do not know what unemployment is. Does the Senator want to cut out those OA-37's that we so generously gave to the Air National Guard in Illinois? We can save a little money if we do that. Oh, we can save money if you get close to home—about 5,000 employees I would judge are employed on just three fighter planes each, the F-16, the F-15, and the F-18.

This kind of an approach, Madam President, has been tried and tried and tried. I want to hear specifics. I would like to get up and debate the B-1 or the MX or some other weapon system that some Senator takes exception to, but to stand up and say we can save 5 percent, the Senator himself voted for this amount of money. Why did he not sound off in the committee and say, "Oh, that is too much money. I am not going to vote for it." The Senator voted for it. And he is not even running for reelection this year. I do not know what political advantage there can be to him offering this kind of an approach. Now, if a fellow is up for reelection, it makes, I guess, a little horse sense back home to say, "Oh, I voted to cut this thing $5.9 billion."

Madam President, we have been through this. The Constitution charges us to defend our country, and that is the No. 1 job we have. We have invented welfare. We are a welfare state now. And from what I hear around here, everybody's money is going to go to the support of welfare, the hell with defending this country.

I do not like that attitude, Madam President. When I came to the Senate, I held my hand up and I swore to defend the Constitution of the United States against all enemies, foreign and domestic. Now, I have done a little bit of work against the foreigners but I do not like to get to war domestically to protect our Constitution.

Madam President, this kind of an approach to our budget just does not make sense. For example, 60 percent of all the money the Senator is talking about goes to pay the troops, goes to feed the troops, goes to buy their uniforms. And we are going to suggest a little increase in pay. Now, if the Senator from Illinois would like it known back home that he is opposed to paying the troops anything, he is opposed to feeding them, he is opposed to putting them in the proper uniform, that is up to him.

Madam President, this is a very, very, very bad motion and I think the Senate should support its earlier decision. I do not think we should deviate now from its stated position on defense as reflected in the first concurrent budget resolution.

Let me end by adding one figure that is of great interest. The Senator cited the percentage figures of the money spent on national defense at 6.7. That is about the same as George Washington spent on the Revolution. Now, we are getting in a bad fix when we want to go back and compare ourselves with the armies that had to fight the British. I do not know how long we are going to have to put up with this stuff. I wish we could get through with all this headline hunting, political grabbing, and let us get on with the job of defending our country. Let us not send a bill back to the Armed Services Committee that has been heard and heard and heard up and down and around the brook.

Madam President, this is a bad approach and I am going to vote against it. I hope everybody in this Chamber makes it very plain to those people who want to take this kind of a meat-ax approach that you are not going to get away with it.

Mr. KENNEDY and Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, first of all, I welcome the opportunity to cosponsor this motion with my colleague on the Armed Services Committee, Senator DIXON. I had offered a similar amendment in the Armed Services Committee during the consideration of this bill.

Madam President, at the outset I reject the argument that has been presented in opposition to the motion of the Senator from Illinois that suggests if you are for a 5-percent real growth, you are not interested in the national security of this country. Nonsense, Madam President, nonsense.

Are those who oppose the motion we are offering today trying to suggest we are not concerned about out national security or national defense? I reject that on its face. The House of Representatives, Madam President, in its budget resolution has 3.5 percent real growth for defense. Are they less interested in the security of the United States? Do the Members of the House of Representatives not know as much about national security as Members of the U.S. Senate who are resisting the motion? Are they less interested in the security of this country?

Madam President, on its face that kind of argument really has no place in this debate. I hope we are going to get away from citing the percentages of what we were doing in the 1950's and 1960's—I am familiar with them—on national security and national defense. We did not have a medicare program in the 1950's and early 1960's. We did not have nutrition programs in the 1950's and early 1960's. To use the budgets of the 1950's and early 1960's as a measuring device to talk about the amount to be devoted to our national security and national defense is basically meaningless, unless those same individuals are going to offer an amendment to repeal medicare, nutrition programs, all of the health programs. If you want to do that, then come in on this debate but otherwise let us get away from those old slogans and old arguments.

The motion of the Senator from Illinois has as its basis a more meaningful purpose than has been recognized by those who have opposed it.

The purpose of this amendment is to try to build a national consensus for spending for national security over a period of time so that those who are charged with responsibility in this area can have a sense of predictability and certainty concerning the amount of resources we are going to spend for the security of our country. I prefer a figure lower than 5 percent. Others here prefer a higher figure.

Would it not be wonderful, for a change, to be able to agree on a figure for a period of years, recognizing the long leadtime it takes to develop weapons systems and so many other programs that are essential for our security, and say that within these parameters of 5-percent real growth, we will be able to make balanced and considered judgments that are really in the interests of our national security?

Madam President, this is a responsible amendment. What we are proposing is that the bill be recommitted to the Armed Services Committee and revised to provide 5-percent real growth and that the subcommittees—including the subcommittee which the Senator from Arizona chairs and on which I serve as the ranking minority member, the Tactical Warfare Subcommittee—be permitted to make judgments as to what is essential and necessary if we are going to have a 5-percent real growth in this military budget. That is a responsible way of dealing with it.

When those of us who offer various amendments on the MX or on the Star Wars Program or other defense programs debate those issues, as we have debated them on the floor, we hear: "Well, you don't really understand the total context of these particular weapons systems within our security and defense needs."

What we are trying to say is this: Go back to the committee that has the knowledge, has the know-how, has the understanding of these particular issues. Have them make a judgment and then report back, meeting this 5-percent real growth.

Madam President, the House Armed Services Committee in the House of Representatives recommended about 5.8-percent real growth. The House of Representatives in its budget resolution has 3.5 percent. If we accept the amendment that is being offered today, at 5 percent, it should be pointed out that we will have actually doubled, since 1980, the resources we are expending on national security and national defense. It has gone from $145 billion in 1980 to $294 billion with this amendment, double, over the last 5 years.

Let no one think that if this motion is not accepted, we have not doubled the amount of resources we have committed. Let everyone understand that if we accept this motion, we will still be adding some $30 billion over what was expended last year—$30 billion even with the acceptance of this motion.

So, Madam President, I strongly support this motion. Having been in the Senate for some 20 years I have seen dramatic increases in defense expenditures one year, significant reductions in another year, with a dramatic roller-coaster effect, depending virtually upon the whim of the moment. I do not think that is a sound approach to allocating resources for this Nation in meeting our national security needs; and I do not think that thoughtful men and women within the Defense Establishment or those who have been outside of it and who have the benefit of hindsight would think so, either.

The purpose of this amendment is to begin to establish some benchmark by which this Congress, this Senate, and this administration can begin to set in motion a figure which has the support of the country, Republican and Democrat alike, which can be agreed upon with the House of Representatives, and to be the figure which we can set for the future, to meet the most important national security needs of this country.

The bill before us authorized $299 billion for defense spending—7-percent real growth using CBO's nonpartisan economic projections.

Under the President's more optimistic assumptions, this bill represents 8.3-percent real growth.

The level of spending authorized by the committee is not necessary to assure our national security.

Unrealistically high defense budgets threaten to bankrupt our economy and ensure continuation of $200 billion deficits far into the future.

This increase is also unjustified in light of the dramatic real reductions in spending for vital domestic needs—health, education, the environment and basic human services.

Our motion would continue a steady level of predictable growth, rather than perpetuate the roller coaster of high spending followed by sharp cut backs.

The 5-percent real growth is what we envisioned in last year's budget resolution and is higher than the real growth of less than 4 percent actually appropriated last year.

We can achieve 5-percent real growth without sacrificing the readiness of our forces.

We spend a lot of time talking about percents of real growth—4 percent, 5 percent, 7 percent. It's important to recognize the magnitude of our increase.

Even at 5 percent, as our motion proposes, defense spending will have more than doubled since 1980—an increase of $148 billion. Our motion would allow an increase of nearly $30 billion over last year's appropriation—ample funds for orderly modernization and increased readiness.

At a time when we are actually cutting back other important programs, surely it is reasonable to hold defense to a $30 billion increase.

The committee would be free to make its own, informed judgments as to where the cuts should come.

O&M has already been reduced considerably—to 6.7-percent real growth. In contrast, this bill provides 15-percent real growth for RDT&E, 9.9-percent real growth for DOE weapons programs, and 9.1-percent real growth in procurement.

Programs that follow under our strategic committee were cut only about 4.4 percent, while conventional tactical and seapower programs were cut from 7.5 percent to 8 percent below the President's budget request.

We could make substantial reductions in costly and unneeded strategic programs—like the Star Wars Program which experiences more than 50-percent real growth in this bill.

Opponents of this motion may argue that the committee has already made substantial reductions. But the reductions were made from the President's wildly over-inflated proposal for 13-percent real growth.

Many of the reductions made thus far are simply bookkeeping changes—almost one-third fall into this category.

Twenty-one percent of the so-called cuts are merely financing changes as the result of more up-to-date cost estimates.

Another 11 percent undistributed reductions—where the committee has not made any specific proposals for cuts.

Each of us can identify promising areas for savings. For example the Navy will be procuring no less than nine different types of new and used aircraft—some at quantities as few as six. The Air Force has eight aircraft lines open.

I think we all know that, when all is said and done, the level of real growth in defense spending will not exceed 5 percent. The time is now to make these realistic reductions, rather than force some across-the-board cuts in a continuing resolution.

Madam President, I hope that the motion of the Senator from Illinois is agreed to.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Madam President, I should like to take a few minutes to speak in opposition to the amendment offered by the very able Senator from Illinois. I wish to associate myself with the remarks that have been made by the Senator from Arizona [Mr. GOLDWATER], and I should like to take a moment or two of the time allotted to me to put into perspective what I think is being lost, perhaps, by not seeing the forest for the trees.

The President of the United States, the Chief Executive, who is responsible for the national security of this country, originally suggested a budget of $313.4 billion. That was reduced to $299 billion. Now they seek to reduce it to $293.7 billion—from 7 to 5 percent.

As Senator GOLDWATER has pointed out, the prime responsibility of the Federal Government is national defense. There is no other level of government in the American federal system that has that responsibility. State and local governments do have the responsibility in other areas, be it welfare, education, roads, whatever; and to some degree we can share that responsibility. But the fact remains that the prime responsibility of national defense rests with the U.S. Congress and the Federal Government here in Washington; and if we do not provide it, it will not be done.

I do not agree with the notion that you can put national defense on a constitutional par with your so-called social programs or other types of programs. That simply will not wash constitutionally; because, if you look at article I, section 8, we are given the responsibility of providing national defense.

In 1960, we spent 49 percent of the Federal budget on national defense. Today, we spend 28 percent. The deficit has not been caused by expansion of military spending but by spending in other areas; namely, of the type the Senator from Illinois mentioned, the entitlement programs, the uncontrollables. They account for 65 percent of the Federal budget. It is those programs, with all due respect to them, that are the principal cause of the deficit. It has not been the growth of defense spending, which has declined dramatically.

In 1960, we spent 12 percent of the gross national product on national defense. Today, we spend 6 percent. Is the threat any less in the world today than it was then? No. It is greater. That is the unyielding reality of international relations today in terms of the growth of Soviet power in the world, whether it is recognized by the distinguished Senator from Illinois or not.

The Secretary of Defense, Mr. Weinberger, has said that the threat is genuine, it is real. The Chairman of the Joint Chiefs of Staff, General Vessey, has said that if the current trends continue, there is no question that the Soviet Union will eclipse the United States in strategic and conventional capability.

And that will represent instability in the world and be the greatest encouragement to Soviet adventurism through its surrogates, be it Cuba in Central America, or in Africa, or in Asia or the Middle East, or wherever it is. A weak America is the single greatest contribution to instability and the potential for war in our time of anything that I can think of.

An America that is perceived and does in fact have the preeminent first rate military capability strategically and conventionally will be the single greatest contribution to peace, freedom, and security in the world. It is our responsibility to provide that.

We are all familiar with the old statement that Santayana made that if you do not learn from history, you are bound to repeat it. I think we are repeating it today. This debate reminds me, if you will go back to the 1930's, of the debate in the U.S. Senate. It reminds me of Winston Churchill's statement about the gathering storm. In the 1920's and 1930's, the United States took on a posture of really allowing itself to degenerate into a third-rate military power in terms of defense capability. It took the posture of isolationism. And did that bring us peace and stability and freedom in our time? No. It brought us the greatest war we have ever known in our history at a great cost of human life, not only to our own people, but to peoples throughout the world.

The other day in Normandy when they celebrated the landing at Normandy and the enormous price we paid in young American blood, I do not know of a more dramatic illustration of the fact that if we in the 1980's retreat into a shell of military weakness and isolationism, we invite the same disaster in this decade that that Congress, that was naive and lacking perception, stumbled into in the 1930's.

I am not questioning anyone's loyalty to national defense. I am not questioning anyone's loyalty to this country. But I am questioning their judgment about the imperative need for this country to maintain and to restore the imbalance that has been allowed to occur over recent decades in our defense capability, our defense credibility, as it is perceived in the world. And the Senator from Illinois, with all due respect to him, will be contributing, if this amendment passes, to that perception in the world of a weak and impotent America that is unwilling and unable to assume its leadership as the prime and key leader in the free world.

I wish to disassociate myself with any effort in the Senate to repeat the folly and the error of the 1930's because as the young British did in that time who fought for isolationism in the great Oxford debate when they said, "The proposition was we will not fight for king or country," they did end up fighting for king and country, and they paid a heavy, bloody price for it because they refused to confront the great totalitarian menace at that time which was fascism and nazism and the great totalitarian threat to the free societies in our time is communism. It is in the Soviet Union and her surrogates that we face a real and genuine challenge, and I hope this Congress and I hope the American people will not repeat the follies of the twenties and thirties, and I commend the President of the United States for perceiving that, and as Chief Executive he is trying to provide the leadership to restore the defense credibility of the United States and our perception of strength and vision and will and leadership in the world.

And that more than any other single factor will give us the very thing we all seek, namely peace, freedom, and stability, but you will not get it through self-enforced weakness, isolationism and, in effect, the path I think we are now following of unilateral disarmament, or at least we are stumbling into it piecemeal by continuing to reduce our defense budget.

Defense today is not cheap. As Senator GOLDWATER noted the other night, you do not fight or head off or prevent the next war with the technology of the last war, and we live in a highly technological age and I regret that it is expensive. But you must have the MX missile, you must have the B-1 bomber, you must have the Trident submarine, you must have that triad as a strategic deterrent to Soviet nuclear capability. Then you must have your conventional forces and they must be effective and paid well and have a striking capability. That does not come cheap.

But then freedom has never come cheap, and I keep coming back to the same point I made at the outset of our remarks. It is the prime responsibility, as Senator GOLDWATER has rightly said, under the U.S. Constitution that we and we alone in the American federal system, this Senate, this House, provide for the national defense, and we have not been doing it in recent decades, and the President is correct. We must now restore that imbalance, and the proposal by the Armed Services Committee is an effort to try to do that.

I regret that the Senator from Illinois, for whom I have the profoundest respect, would be a part of an effort to watch this continued deterioration; and I think unwittingly, unwittingly, not intentionally, he will be contributing to, and those who support this amendment, the foolishness, to the folly, to the naivete of the twenties and the thirties, and the price we shall pay for it will be enormous in terms of the blood of our youth, I fear.

So I want to make the record as clear as I could, Madam President. I am strongly opposed to this amendment and I hope our colleagues will reject it not only by a majority vote, but by an overwhelming majority vote so that the message will go out to the land and through the world that this country is not abdicating its leadership in terms of defense, strength, vision, and understanding of the kind of great threat that we face in our time.

I close on this remark: In the 20th century, the two great threats to the democratic heritage and tradition that all of us on both sides of the aisle love, cherish, and respect, the two greatest threats to it have come from totalitarianism of the right, fascists and Nazis, and today it comes from totalitarianism of the left in the nature of communism. They share the same goals. They share the same ends. They merely have differing rationales. But they shall be judged by their fruit, and their fruit is Dachau, Auschwitz, and Buchenwald in the case of the Nazis; and it is Gulag in the case of the Soviet Union, and that is a legacy I do not care to leave to my children or my grandchildren, let alone to the rest of those in the world who cherish human freedom and human dignity.

And the linchpin in preventing that from occurring is a strong national defense in this country and a country of will and vision, and the current defense budget is the minimal that we can make in contributing to that perception.

Again I beg my colleagues to vote against the amendment of the very able Senator from Illinois.

I thank you, Madam President.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Madam President, I yield to the Senator from Kentucky.

Mr. FORD. Madam President, I appreciate the Senator from Minnesota yielding. I ask unanimous consent that he may yield to me on the basis that he would regain the floor when I finish my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the Chair and I thank my friend from Minnesota.

I would like to make two quick points. We have heard loud voices today about the percentage of GNP now going to defense. It is like 10 percent of a dime and 5 percent of a dollar. That is exactly what the GNP was when they referred to it and what the GNP is today.

Second, we hear a great deal that if we do not vote for $299-plus billion for defense, we become isolationists. Well, those who call us isolationists are the very ones that are trying to exclude imports into this country. They are becoming isolationists. They do not want other countries to sell and they do not want fair or free trade. But then they begin to call those who would like to reduce the expenditure of the Federal budget isolationists, and I resent it.

I am not one who wants to weaken this country as it relates to defense. The thing that disturbs me most is that we are locking ourselves into the largest expenditure in the history of the world. And when we do that, it is like a vee. It starts out little, but it gets big.

I think that those who cry so loud today, that in a few short years the burden of financial expenditure in this area will cause a rebellion by the taxpayers and then you will vote and I will vote as our constituency tells us or we will not be here to exercise our constitutional rights.

So, Madam President, this Nation is faced with a deficit. We have lots of problems. This will not solve any one, but it certainly will help if we put it on a sound foundation. We do not need it on sand.

Madam President, this Nation is faced with a $200 billion Federal deficit—a staggering and, indeed, sobering figure. As representatives of the American people, we in the Congress must take strong steps to curb Government spending and balance the budget.

Over the last 3½ years, the only real cuts made in the budget have been aimed at the least vocal, the most vulnerable segment of the population—those in need. Fully 50 percent of the Federal spending cuts have been directed at that 10 percent of the budget going toward means-tested benefit programs. Perhaps many of these cuts were necessary, but we should not loudly beat our breasts about cutting Government spending while entitlements, interest and defense costs continue to soar.

As a percentage of GNP, social security and medicare are the only major domestic spending programs which have increased over the past 3 years. Yet, in spite of those increases, overall spending on domestic programs has declined as a percentage of GNP and will continue to decline in the years ahead. In contrast, defense and net interest payments continue to eat up greater and greater amounts of our gross national product.

So far defense spending has escaped the budget cutters' knife. To the contrary, it has increased 43 percent.

The figure in the Department of Defense authorization bill before us is $299 billion which allows a real growth of 7 percent. In the name of fiscal responsibility, this figure can and must be reduced. The motion before us to recommit the bill would permit just that. By asking for a 5-percent real growth rate, it would reduce our budget authority for defense from $299 billion to $293.7 billion, a savings of $5.3 billion which can be returned to the Treasury as a deficit reduction.

The committee report on S. 2723 states that the net impact of the bill is a reduction of $14.4 billion from the President's $313.4 billion request for national defense. This self-congratulation is a false one, however, for it is not even based on the "rose garden" figures and I think anyone in the Budget Committee will tell you that they will not be the final budget figures for fiscal year 1985. After all, the House-passed DOD authorization bill is approximately $292 billion.

It is my understanding that several of our colleagues on the Armed Services Committee itself, men who are far better versed on the subject of defense spending than myself, are advocates of a 5-percent real growth rate. No one in this Chamber, least of all those who support the pending motion, wishes to weaken our national defense. But it is our firm opinion that defense spending can be cut by $5.3 billion without jeopardizing our defense posture; $293.7 billion is certainly sufficient to sustain our strategic programs while strengthening our conventional defense. We simply must be more prudent about selecting candidates for our increasingly tight defense dollars.

Who can make these choices better than those experts who are members of the Armed Services Committee, the body to which this legislation would be referred for revision?

Let us face facts. The real growth rate for defense spending is going to be lower than the 7 percent in the bill before us. And the correct place to make them is at the authorizing level.

Madam President, everyone wants a strong national defense, and few would argue that defense spending must not rise. But we cannot pay for a national defense that we cannot afford, one that will, in the long run, bankrupt our economy and rob this Nation of its resources.

I urge my colleagues to support the motion to recommit.

Mr. TOWER. Will the Senator yield, with the permission of the Senator from Minnesota?

Mr. FORD. Yes.

Mr. TOWER. I just want to set the record straight on one thing. I happen to be a very staunch advocate of doing what is necessary and spending what is necessary to fund our requirements for national defense. But I am certainly not a protectionist.

I believe the Senator from Kentucky suggested that some of us suggested that reducing defense spending is a new isolationism or is pursuing the isolationist course. But the fact is I am certainly not a protectionist. I certainly believe in free trade.

I am one of those who has always advocated that we must buy more military hardware from our allies, because they buy about eight or nine times as much military hardware from us as we buy from them. And we have to establish a two-way street for the cohesion of NATO, for rationality and cooperation in our forces.

I do not know who the Senator from Kentucky was talking about when he suggested that those of us who are strong defense advocates or advocating high spending for defense are protectionists. I certainly am not.

I happen to be a Southerner. My great grandfather was in the gray line—what they were fighting for was free trade. They were not wealthy, so they did not worry about the slave trade, that did not matter. But they did believe in free trade. They sold cotton. They did not want to have to buy Yankee manufactured goods for the price the Yankees wanted to stick them for it. So I come from a long line of free traders, I would assure the Senator from Kentucky.

**Mr. FORD.** I do appreciate the distinguished Senator from Texas making those remarks. It is obvious the shoe does not fit. But it is also obvious that he has not been listening very well to the debate in this Chamber because those who condemn those of us who might want to reduce it some are accusing us of being isolationists.

I am very pleased that the distinguished Senator from Texas is not of that mold and I thank him for making that statement public.

I yield the floor.

**Mr. BOSCHWITZ** addressed the Chair.

**The PRESIDING OFFICER** [Mr. HUMPHREY]. The Senator from Minnesota.

**Mr. BOSCHWITZ.** Mr. President, I had no idea when I yielded that we would refight the course of the Civil War and also become involved in trade issues. We all have different opinions. I know my friend from Kentucky is a great advocate of importing tobacco, so things vary from issue to issue.

However, I would like to talk with my friend from Illinois about some of the statistics of the defense budget because sometimes it is hard to tell whether or not we have spent enough for defense or not.

I recently wrote an article that appeared in the Wall Street Journal. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### WOULD WE BE CUTTING THE CARTER DEFENSE BUDGET?

(By Rudy Boschwitz)

Everybody knows that Ronald Reagan is far more hawkish that the Carter-Mondale team. Why, just look at those defense budgets! Is there doubt left in anyone's mind that President Reagan is spending much more than Carter-Mondale ever asked for? Or that every year that he's been in office Mr. Reagan has asked for more than the year before?

Think again.

In January 1981—just before he left office—President Carter gave us his 1982-1986 budget proposal (five-year planning spans are used). In the following table, we see what Mr. Carter asked for in defense, what was actually spent by Mr. Reagan in 1982 and 1983, and what Mr. Reagan most recently (after some negotiation) asked for in 1984, 1985 and 1986.

(All the figures in this article are "outlays"—the amounts actually spent or to be spent—and are "nominal" because no inflation adjustment [nor any other kind of adjustment] has been made.)

DEFENSE OUTLAY REQUEST

[In billions]

| | 1982 | 1983 | 1984 | 1985 | 1986 | 5-year total |
|---|---|---|---|---|---|---|
| Carter | 184 | 210 | 238 | 268 | 299 | 1.199 |
| Reagan | 187 | 210 | 238 | 266 | 295 | 1.196 |

Believe it or not, Ronald Reagan's defense requests are less than Jimmy Carter's. But to be fair we should really compare those defense requests Mr. Carter made in January 1981 with Mr. Reagan's requests made just two months later in March 1981. That comparison would look like this:

DEFENSE OUTLAY REQUEST

[In billions]

| | 1982 | 1983 | 1984 | 1985 | 1986 | 5-year total |
|---|---|---|---|---|---|---|
| Carter (January 1981) | 184 | 210 | 238 | 268 | 299 | 1.199 |
| Reagan (March 1981) | 189 | 226 | 256 | 304 | 343 | 1.318 |

It should also be noted that for most of the five years, Mr. Carter projected a higher rate of inflation than did Mr. Reagan in his initial estimate. That is to say, the Carter numbers would be a shade higher for the same amount of defense and this should be scaled back a bit for a direct comparison with the Reagan numbers.

Even calculating it this way—more objectively, perhaps—Ronald Reagan initially asked for only 10% to 15% more for defense than Jimmy Carter did. That's hardly the common perception.

Here's another popular notion: Each year President Reagan has asked for more for defense than he did the year before. In fact, each year President Reagan has asked for less. To some degree this reflects downward estimates for inflation but the fact remains: Comparing similar years, in each year that he has been in office, President Reagan has lowered the amount he requested to outlay for defense. The following are the five-year defense requests Mr. Reagan has made at the outset of each budget year:

AMOUNT OF REQUEST

[In billions]

| Year budget request made | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|---|---|---|
| 1981 | 189 | 224 | 254 | 304 | 343 | | | |
| 1982 | [1] 187 | 221 | 253 | 292 | 332 | 364 | | |
| 1983 | | [1] 210 | 245 | 265 | 323 | 254 | 386 | |
| 1984 | | | 238 | 264 | 295 | 330 | [2] 363 | [2] 395 |

[1] Actually spent

[2] Our estimate

As the table shows, for a similar year President Reagan has never increased a defense outlay request from one year to the next. Take 1986. In 1981 he requested $343 billion for 1986. In 1982 he reduced that request to $332 billion. In 1983 he requested $323 billion and more recently the 1986 request became $295 billion. As you look from top to bottom of this chart, every figure goes down.

Why did both presidents want to spend more on defense? Both were obviously concerned about the external threats to our nation. I also believe both recognized that defense spending had languished. The following chart traces defense outlays for the 16-year period from 1968 through 1983.

You'll notice, of course, that defense spending stood almost absolutely still for seven years beginning in 1968. Those were the years of Vietnam. The money was being spent there—not on research, development and a more modern defense establishment.

Indeed if defense expenditures had kept pace with defense inflation, in 1976 we would have spent $137 billion, not $89 billion as we actually did.

And despite the pickup in defense spending in the last few years, if the defense inflation index had been applied we would have spent $241 billion in 1983, not $210 billion. So even spending $210 billion in 1983 has not kept up with inflation.

Most startling of all is the additional amount that would have been spent during those 16 years (from 1968 through 1983) if in each year the figure spent had been adjusted upward just to cover inflation. While I don't suggest that would have been advisable over those 16 years, an additional $5-18 billion would have been spent on defense.

That's what I believe both Jimmy Carter and Ronald Reagan had in mind as they both made the defense-spending requests of recent years. Both were cautious and believed the freedoms of our country need to be protected to be preserved.

**Mr. BOSCHWITZ.** That article compared the spending that President Carter proposed in the 1982, 1983, 1984, 1985, and 1986 budgets and that which President Reagan has either spent or proposes to spend at this time.

As you know, Mr. President, we operate here on fiscal year that begins on the 1st of October and that the President always gives us 5 years' worth of figures at the very beginning of the calendar year. So President Carter, as he was leaving office in early 1981, gave us the 1982, 1983, 1984, 1985, and 1986 budget requests for defense and everything else.

It is interesting to note that President Carter's requests exceed the actual spending by this President, President Reagan, or the requests he has made. That is certainly not the impression that one would get if one read the press. But it is interesting to note that President Carter asked for larger defense numbers than either President Reagan has spent in 1982 and 1983 or than he has asked for in 1984, 1985, and 1986.

Now it is quite true that President Reagan has assumed lower interest rates of inflation in making his request, so that the numbers have been lowered somewhat because of the lower inflation assumption.

So let us go back and take a look at what President Reagan requested in March of 1981, approximately 1½ months after President Carter left office. There you see that indeed President Reagan asked for more than President Carter did, but by exactly 10 percent. And that is the high point that President Reagan has had in his defense request, exactly 10 percent over President Carter.

I make these points because, during the course of the debate as I have listened to it, there has been a good deal of talk about the growth rate, twice the growth rate of the Soviet Union. The distinguished Senator from Massachusetts said that we should have a 5-percent real growth rate in an ongoing way. I remind my friend from Massachusetts that when we have had votes on that proposal in the Senate, he has voted against it.

I am not sure that one can make a comparison between the United States and the Soviet Union. During the course of this debate, the senior Senator from Arizona pointed out that about 60 percent of our defense budget goes to the feeding, clothing, housing, and paying of the people in the services. When you look at the defense budget of the Soviet Union, you really have difficulty making a comparison of how much they spend because all of their personnel are not recruits in a volunteer army but rather theirs are draftees, often almost pressed into the service. As a result they spend about 20 to 22 percent of their entire defense budget on the clothing, housing, paying, and feeding of their people in the service.

So, in any case, to make the comparison and to put things in proper perspective it is important to note that this President, President Reagan, despite what one reads in the press, has asked for less for defense than his predecessor, President Carter.

There is another popular notion, Mr. President; that is, that each year President Reagan has been in office he has asked for more for defense than he did the year before. If we were to ask our colleagues, and if we were to ask the public, if President Reagan in each year asked for more for defense than he did the year before, almost unanimously it would be stated yes, the President has asked for more for defense each year that he has been in office.

In point of fact, in each year that President Reagan has been in office, he has asked for less. In January of each year a President makes a 5-year request. If you look at the request made by President Reagan in early 1981, in early 1982, 1983, and 1984, you will find that the request for any given year has gone down. That, too, should be taken into account when one is making an assessment of what this President is spending for defense.

For instance, in 1981 the President, President Reagan, asked for $343 billion to be spent in 1986. His latest request for 1986 is $295 billion. In each year the number came down. To some degree that is a reflection of inflation coming down as well. But the fact remains that in each year that the President has been in office he has asked for less for outlays for defense for any given year.

It is also important, I say to my friend from Illinois, to look at defense figures over a period of years. Much has been said about the percentages of the gross national product spent on defense by ourselves and the Russians. To the best of our knowledge, they are spending 14 or 15 percent of their gross national product on defense. We, as has been mentioned, are spending about 6.7 percent of our gross national product. Of course, our gross national product is a good deal larger; I believe 2½ times as large as theirs. On the other hand, their spending is mostly directed to equipment, research and development while our spending is mostly directed to the personnel involved. Also it is interesting to note the trends. Without confusing figures by introducing too many, if you look at the 1950's, you will see that we spent just a little over 11 percent of our gross national product on defense. To some degree that was a result of the Korean conflict. But also it was the last time that there really was a consensus in this country to spend money on defense. That was back in the 1950's during the Presidency of Eisenhower, and to no small degree dependent upon General Eisenhower, President Eisenhower, and the trust people had in him.

So in the fifties we spent about 11 percent of our gross national product on defense. In the sixties the average was 8.6 percent of our gross national product on defense. Then it began to trail down until it got to 4.9 percent in the middle or late seventies, and then a reversal took place once again—a reversal, Mr. President, that began not in this administration, but in the last half of the Carter administration.

It is interesting to note, Mr. President, that there is not often a consensus in a democracy to spend money on defense. It would be wonderful if we could do as the Senator from Massachusetts has suggested, that we plan for defense, that we put it onto a regular track, that we give it a 5-percent real growth, and we allow it to grow at 5-percent real for a number of years. But there is simply nothing in the history of a democracy that would suggest that there would be such an ongoing consensus. My friend from Massachusetts would be on the floor next year suggesting that we reduce it once again. If we could get an ongoing formula type approach to the defense budget of 5-percent real growth for a period of years and lock that in, indeed that might be a very acceptable approach to the problem of defense. However, the reality of it is that in a democracy the consensus to spend money for defense comes and goes, and in my judgment, is probably now in the process of waning once again.

As the distinguished Senator from North Carolina pointed out, in the twenties and thirties there was not a consensus in this democracy or in the democracies of Europe to spend money for defense. What happened in the Second World War was that 75 million, perhaps 85 million, people were lost during that period. People did not listen, as the Senator from North Carolina pointed out, to Winston Churchill and to others. They did not listen to President Roosevelt who tried to reemphasize the necessity of defense, as the thirties came to an end. The consensus that existed for defense, during the Second World War, faded immediately after the Second World War and then returned to some degree with the Berlin blockade. Of course, during our police action in Korea, it continued during the fifties, perhaps because of the presence of President Eisenhower.

Then the consensus for defense just tailed off further and further and continued to do so for about 15 years in this country. There was a great deemphasis on defense. That trend could not be reversed. The consensus to spend money on defense did not return until approximately the middle of President Carter's term. It returned with a vengeance after the invasion of Afghanistan. Indeed, President Carter stepped up his requests for defense very markedly after that event in the last two budget proposals that he made.

When there is a consensus to spend money on defense, Mr. President, when that consensus exists in a democracy, you must do it because that consensus comes and goes, and when it exists, if that democracy is to sustain the defenses that are needed to exist in a turbulent world, that money must be spent.

It is not a desire to be foolish with respect to defense spending. It is just a desire to be cautious in a turbulent, risky, dangerous type of world.

One final set of numbers, Mr. President, since I see my friend and colleague from Virginia has risen and also wishes to speak. I direct this also to my friend from Illinois. If you make a study of these defense outlays, and start in 1968, you will find that even today at the rate we are spending we are not keeping up with inflation. For many years there was absolutely no adjustment to defense spending at all. In 1968, defense outlays were $79 billion; 7 years later in 1974, they were still $79 billion, with no adjustment for inflation whatsoever.

If we had adjusted for inflation we would have spent in 1983, $241 billion, not $210 billion as we did in defense outlays. Indeed, during that 16-year period from 1968 through 1983, if we had just adjusted the defense spending figure each year for inflation, had just gone up for inflation during that 16-year period, we would have spent $548 billion more than we did.

I am not suggesting we go back and spend that additional money. I do not think that there would be a consensus in this body or in the Congress to do so. But, nevertheless, we have not kept up with inflation in this body or in this country on defense spending.

But more than anything else, Mr. President, it is not often in a democratic country that the consensus to spend money on defense comes together. When that consensus does come together, it is important to spend the money, to defend the democracy, to defend the freedom that is so worth defending before that consensus wanes. I see that consensus waning.

So I will oppose my good friend from Illinois, whom I really treasure as a friend and whom has voted for certain defense systems that are necessary for this Nation, and whom I so admire.

Mr. President, the defense of our democracy is the issue. We spend money on defense, and we must continue to do it. We have freedoms worth preserving. That is why I will oppose the distinguished Senator from Illinois.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I did not have an opportunity to have a colloquy with my distinguished friend from Massachusetts, but I would like to have a colloquy with the distinguished Senator from Illinois.

It seems to me we are losing sight of the central question. I will put a question to my colleague from Illinois.

Given the fact that in the 1960's we spent somewhere between roughly 40 and 50 percent of our GNP on defense and now in the eighties the budget is roughly 28 percent, is the world today more secure than it was in the 1960's to justify a reduction in defense that we have seen? What is it that has occurred since the 1960's into the 1980's in terms of the global strategic balance of power that justifies a reduction in defense?

Mr. DIXON. I do not think the world is more secure. I think we have great problems out there. We have a responsibility to have a good, strong national defense. But I do not think that is a fair analysis, to take the GNP then and GNP now and rationalize it. There is now a much greater GNP compared to what it was in the 1960's.

I have some figures that will shock you about how we spent compared with other periods in the national experience. For the information of my warm friend from Virginia, whom I greatly admire, and who makes a great contribution to this Nation in his service on the Armed Services Committee, I will say we are spending more money now than we have spent at any time in our national experience except for the Civil War, which my friend referred to when he talked about his grandfather standing in the long gray line. I have those figures, and I will supply them.

Mr. WARNER. The simple question is, is the world safer today than in the 1960's?

Mr. DIXON. I said I was concerned about it. I believe the motion I have suggested, and the final number suggested, $293.7 billion, is adequate to meet those responsibilities.

Mr. WARNER. The question, for the third time, is, is the world more secure today than in the 1960's?

Mr. DIXON. It certainly is not more secure. I think we have problems today as we had then. We need a strong national defense and this Senator supports it. The characterization by some that I do not, I reject out of hand. My voting record shows that I do.

Mr. WARNER. Given the response of the distinguished Senator from Illinois that the world today is less secure than it was in the 1960's, comparably speaking, I ask the Senator, did not the United States in the 1960's have a more superior military force—naval, sea, and air—than did the Soviet Union?

Mr. DIXON. Well, I think the United States still does. I think we had then, and I think we have now. I think we spend more, comparably, than they do now, as we did then. I would support meeting those requirements for our national security purposes.

Mr. WARNER. The Senator has answered the question. We did have a more secure growth in the Military Establishments in the 1960's than we do today. Given the fact that the world is less secure, with less Military Establishments in the 1980's than in the 1960's, what is it that justifies accepting such cuts as proposed by the Senator from Illinois?

Mr. DIXON. I think the fact is that the amount of growth that I have suggested to my friend from Virginia and other colleagues is adequate for this year. It is a 5-percent increase. It is $30 billion more than last year. And it is greater than the Soviet investment at this time and for the past several years in their own national defense. I would argue it is adequate.

The Senator from Virginia, whom I greatly admire, could make just as passionate an argument that we ought to be spending twice what we spend when we spend $299 billion. That logic would follow.

Mr. WARNER. Mr. President, the Senator from Illinois does diligent work on the Armed Services Committee. I must say that the defense budget is put together not by politicians but by thousands and thousands of civil servants, who each year sit down and assess the security interests of the United States and those of our allies and put together a composite program, which program is recommended to the President of the United States who, in turn, comes to the Congress for the funds that he deems are necessary in that particular fiscal year.

I ask the Senator from Illinois, what is it the Soviets have done in the last 12 years that gives him a feeling of a sense of security that we can now back off of the estimate of this nonpolitical bureaucracy that has established the necessity for this particular budget?

Mr. DIXON. The Soviets have not done anything that makes me not think we should have a strong national defense. But I am suggesting one at $293.7 billion. Those fine people that my friend talks about, the services that bring their budgets to the President, brought one in higher than the $313 billion that he finally suggested. The $313 billion he saw would not float, it was much too high. He cut it to $299 billion. You still have not cut it enough. If those fine people had set the defense figure, even the Senator from Virginia would not have voted for that defense figure that they sent to the President of the United States, and I think my friend knows that.

Mr. WARNER. In conclusion, I acknowledge and appreciate the Senator from Illinois making two strong points: first, this Nation had a stronger military in the 1960's than it does today; that the world indeed was more secure in the 1960's than it is today. I fail to follow the logic of my distinguished colleague from Illinois of any justification whatsoever, given the trend line, that we should take a further cut in defense at this time.

Mr. DIXON. May I say to my friend that the services brought to the President a sum of money more than the first sum that he recommended. Does my friend know? Of course, he knows. Just as does the distinguished chairman from Texas. The first suggestion by the President was $321 billion with no cuts, but that was lower than the services wanted. Then he cut it to $313 billion. Cap Weinberger said, "You have cut my heart out at $313 billion."

But in the Rose Garden, they cut it to $299 billion.

I am only saying there is no magic figure. Maybe my $293.7 billion is not the magic figure, but every one of these figures is a substantial growth in the investment in our national security interest over last year, and greater than what the Soviet Union has done in the past 6 years.

Mr. WARNER. Mr. President, I thank my friend.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I simply want to remind my colleagues that if this motion is agreed to it will vitiate everything we have already done, and we have had amendments on the floor for 5 days. If we go back to committee and start from square one, then, in fact, every subcommittee of the full committee would be allocated certain reductions which they would be beholden to incorporate into their subcommittee recommendations to the full committee.

There was very spirited debate in the committee over which systems should be cut, which systems should be produced in greater numbers, and, of course, even those who advocated reduced spending were debating the relative merits of where the cuts should come. The fact is, I think everybody was right. We should not have had to make reductions in any areas, in my view. We were in the business of picking and choosing between and among validated military requirements.

The Senator from Michigan wanted to cut strategic systems and fund more M1 tanks. An M1 tank is a fine system. I wish we could fund them at a rate of 840 a year. But given budgetary constraints, we cannot.

I wish we could, because we would modernize our conventional forces earlier. But the fact is when you have to choose between validated military requirements, you have to make some tough decisions.

Many argue that we spend too much on strategic and not enough on conventional. Some say we fund military hardware at the expense of operation and maintenance and readiness. The fact is, if we were not operating under these budgetary constraints, everybody's concerns about what our military needs are could be satisfied. There is nothing magic about the number 299 except that it is probably as low as we could go and, in the words of the President, fund the military without taking unacceptable risk. We take some risks, but we call them acceptable risks.

The Rose Garden compromise has been referred to. I was one of the participants in those deliberations. I urged the President to accept reduction from $313 billion to the figure that was finally arrived at. I can tell my colleagues the President was enormously reluctant to come down to that figure because he feels very strongly his responsibility for the security of the United States of America. As a matter of fact, I think he feels that more strongly than any other of his responsibilities. I think it is proper that the President should be the man in this country who worries most about adequate security for the people of the United States of America. He is the only one who is elected to represent all of us. The rest of us represent select constituents.

The fact is that $299 billion is not an unreasonable amount when you consider that, last year, in the budget resolution adopted by the Senate, believe me, there were many who wanted to go to a higher figure than that. A very large minority—almost a majority—wanted to go to a higher figure than the budgeted projection of $297 billion as to what our requirement would be for this year. When you consider the fact that we underfunded last year's budgeted amount, which is $269 billion, by over $4 billion, you can say, well, what we should have done this year is take the $297 that is projected for this year and add the $4 billion that we docked defense last year under the budget sequence. That would take us to $301 billion. Two hundred and ninety-nine billion dollars is not an unreasonable figure.

What we have to understand, Mr. President, is that a great deal of money is spent on military pay, on other personnel costs, personnel activities. A great deal is spent on day-to-day operations and training. Military hardware is not, standing alone, the biggest portion of the military budget. The attitude generally seems to be that if we would just not fund some of these expensive systems, we would make enormous savings on defense.

I think that people are deluded into believing that we could really save far more than we can. The fact is if we did not fund any of the programs authorized in this bill, the outlay savings would be—this might surprise a lot of people. The outlay savings would be only $8 billion; $8 billion, that is all, in outlay savings.

I know that perhaps the average citizen thinks we spend far more on defense than we actually do. Some people think we spend 50 percent of our budget on defense. In fact, if we fully funded everything, we would spend less than 30 percent—around 28 or 29 percent of our budget. In percentage of GNP, it is under 7 percent, much lower than it was during the Kennedy administration.

The fact is that, during the decade of the 1970's, defense was underfunded by the magnitude of about 20 percent, a decrease in real terms, while nondefense spending got up over 100 percent. It is nondefense spending that has been driving the deficit.

I think everybody who looks at the budget would understand that even if we made substantial cuts in defense, if entitlements go unchecked, eventually, the escalation of entitlement costs in national budget would overtake whatever savings we make in defense.

I remind my colleagues that a dollar spent for defense is the only dollar the Federal Government spends that benefits every citizen equally from the standpoint of the product it produces. That product is his security against his external enemies.

I know we are all concerned about the budget. We are all concerned about cost overruns and waste in the Defense Department, and we should be concerned about it. As chairman of this committee, in the few months remaining to me, I can assure everybody that I am going to do everything I can to get a handle on cost overruns in any aspect of defense, and devote my attention to trying to devise more efficient ways of doing things so we can save money on defense. I do not believe in waste, either.

I do recall a remark made by Mr. McIntyre, who was Director of the Office of Management and Budget during the administration of Jimmy Carter, when he said that he decided he would grade all the Federal spending agencies on the efficiency and the economy with which they spent their money. He said that he gave the Department of Defense a "C." He flunked all of the other spending agencies.

Back in the days when we were underfunding defense, nobody paid much attention to how the defense dollar was being spent. We were underfunding it and nobody was concerned about high defense spending. If fact, we developed some wasteful spending practices in those days. Now that the real increases are coming into view, the public is concerned about it.

I would have to say I do not believe the press overall does a balanced job of covering defense. When there is a failure of a weapons system, a defense failure, a cost overrun, it gets big headlines, big stories with all the gory details. When a system performs perfectly, is under cost and ahead of schedule in terms of initial operating capability, little or nothing is said about it. So the American people do not really get a balanced presentation.

The M-1 tank that my friend from Michigan advocates so ably was pilloried by the press in story after story. I do not think there has yet been a fair story written by the press on the M1 tank, outside perhaps of the military journals or trade journals, but not in the regular newspapers. What the press says now about the M1 is that while it might probably have been correct that there were some problems with it, it did not really condemn the system because its pluses were greater than its minuses. And it does add a new dimension to our capability for waging conventional warfare.

I hope my colleagues will not vote for directing what is tantamount to a meat-ax cut. It is not quite as bad, and I must commend the Senator from Illinois for this, because he did not offer an amendment that simply calls for a reduction of $5.4 billion in the defense bill. That is a meat-ax cut. That is irresponsible. He did take the responsible course of moving to return it to the committee so the committee can decide specifically where those cuts would come from and eventually, the Members of this body would have to vote on it.

If you included the base closure in somebody's State, he would vote for that base closure with great trepidation. He would probably be somebody's lameduck like me if he did because that is a very difficult thing to do. I remember what RUSSELL LONG often says when we are considering tax measures. Russ is wont to say, when people advocate tax increases:

> What they really mean is don't tax you, don't tax me, tax that fellow behind the tree.

That is about the way it is with defense cuts—do not cut the things in my State, in my constituency, but, boy, there is a bunch of fat out there in the other 49 States that is just waiting to be lopped off of the defense budget.

I implore my colleagues not to force this bill back to committee, force us to reconsider what has already been carefully considered, and force us to still make further difficult and draconian decisions regarding validated military requirements.

I yield to my distinguished colleague from Nebraska.

Mr. EXON. I thank the chairman of the committee. I am going to be very brief and to the point because I would note that we were in session until midnight last night, started I think at shortly after 10 o'clock today, and we have not accomplished a great deal. I hope we can get moving so we can leave before 3 or 4 o'clock in the morning.

I appreciate the fact and generally agree with the distinguished Senator from Illinois as to what he is trying to do, but I am going to oppose, and I hope that my colleagues will oppose, the motion that he has offered as much as I think it is in good faith for this reason. Simply stated, let us look at the fact. If we refer this back to committee as has been suggested, we are 5 more days down the pipe from getting this bill completed. We all know that we only have a limited number of legislative days left as presently scheduled. Therefore, I think the move which has been recommended by the Senator from Illinois would be one that would not bear fruit and I wish we would get on with the proposition at hand.

The Senate should know that this Senator from Nebraska tried to make additional cuts in the committee but the committee worked its will. I have more argument with the way the money is being spent at the 7½-percent level of increase after inflation than I do on the total. But I have simply said from the beginning that this Senator at least supports a real increase of defense in the 5- to 6-percent area now.

Where are we and what is the realistic situation on which we are about to vote? The House of Representatives has recommended a real increase of between 3 and 4 percent on defense. The House Armed Services Committee is around a 5-percent real increase and we are in the Senate at about 7.5 percent.

What that means, Mr. President, is let us go on and make some additional reductions in specific items—and we will have a chance to do that on some other amendments that I understand are going to be brought before our body—but if we go in at 7.5 percent and if the House is somewhere between 3 and 5 percent, it is very clear to me that the compromise is going to be somewhere around a 5- to 6-percent real increase in defense. I believe we need that bargaining room in conference.

While the chairman of the committee, my distinguished friend from Texas, might not agree, I would be very surprised if we came back with much more than a 6-percent real increase as a maximum after conference with the House of Representatives, which in the end would get us back very close to the 5 or 6 percent which I think my friend from Illinois, and certainly this Senator from Nebraska, feels is necessary given the situation that we face with the continued adventurism and expansionism of the Soviet Union. Therefore, I hope we can vote very soon to reject this motion.

Mr. DeCONCINI. Mr. President, I support the motion of my distinguished colleague from Illinois to recommit the Defense Authorization Act to the Armed Services Committee with instructions to reduce the outlay for defense to equal a 5-percent real growth rate in defense expenditures. I have supported and always will support a strong national defense. However, there is a point at which limits must be placed on the growth of any budget. A judgment must be made to determine how much money is really needed for the security of our Nation. It is up to the Congress and the President to make the judgment.

It is my view that the bill as reported by the Armed Services Committee exceeds the level of expenditure required for our Nation's security. We have spent many years now, going back to the Carter administration, in rebuilding our Nation to a position of strength. We have succeeded to a substantial degree in accomplishing that rebuilding. I do not endorse an end to this growth. I do not believe that we can once again neglect our Armed Forces. I do believe that the $293.7 billion that would be authorized as a result of the passage of the motion to recommit is an appropriate allocation of our Nation's resource toward the maintenance of our national defense.

Our Nation's budget faces many demands, domestic and international. A 5-percent growth rate in defense spending will result in significant improvements in our national security. Furthermore, the $5.3 billion in savings that such a growth rate represents will be another big step toward stabilizing our country's serious economic condition. A judgment must be made on all spending levels, limits must be imposed. I urge my colleagues to support the motion to recommit.

Mr. DIXON. Mr. President, I am ready to close if everybody has had their opportunity.

The PRESIDING OFFICER. Is there further discussion?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in strong opposition to the motion to recommit the defense authorization bill. The purpose of this motion is to further reduce the defense budget by $5.3 billion. This motion is unnecessary and unwise. We have already cut $14 billion from the defense budget.

Mr. President, the Committee on Armed Services has spent several months reviewing the defense budget request and the bill that we have reported to the Senate calls for only about 3-percent increase over what President Carter recommended for fiscal year 1985.

If this motion passes we will spend only about 1 percent more on our national defense in fiscal year 1985 than President Carter would spend had he been reelected.

Mr. President, I would like to make a few comments about recent Soviet actions that I feel mitigate against further reductions:

Increased power projection exercises in the Caribbean;

A strategic nuclear war fighting exercise with coordinated multiple launches of interncontinental ballistic missiles, intermediate range ballistic missiles and submarine launched ballistic missiles;

A large-scale naval exercise, the scope of which surprised our intelligence community;

Amphibious warfare fighting exercises in Southeast Asia;

Elevation of the violence in Afghanistan with new terror bombing of the civilian population plus new variants of lethal chemical weapons;

Increased military support for Nicaragua, and

Wholesale cheating on arms control agreements.

If anything, these actions are an argument for further increases in defense spending. If we cut the budget further, are we also going to name which defense commitments we will forsake?

Mr. President, if we really want to save defense dollars, we should remove Davis-Bacon restrictions from military construction projects, close unnecessary military bases here in the United States, and pursue other avenues which will not weaken our fighting strength. I urge all my colleagues to oppose this motion to recommit the bill.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **DIXON** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Illinois is recognized.

Mr. **DIXON.** May I say in closing in connection with my motion that I know it is never necessary for a Senator to say he has the highest regard for all those who have opposed him in connection with an undertaking on the floor, but I agree that every one of the Members who has opposed my position is a Member who in good faith is disposed to support another position with which he or she has the same devotion that I have to my position. It has been suggested that some of us who want to cut defense are not ready to do the responsible things in other places. Mr. President, I did not just come to the floor to cut the defense budget. This motion would refer it back to committee where the final figure would be $293.7 billion, a cut under the Rose Garden figure of $5.3 billion but a real increase after inflation this year of 5 percent.

Some have talked about entitlements. This Senator supported the Hollings freeze. This Senator voted for the Kassebaum-Biden freeze and for other attempts to save money that did in fact make substantial impact on entitlement programs. Senators ought to understand that some of us have done difficult things like voting to reduce food stamps, voting to reduce housing commitments, and voting to do a great many other things which are painful to us but necessary when there are substantial budgetry constraints.

I supported my friend, the distinguished chairman of the Armed Services Committee, yesterday in connection with the question on the GI bill, not because I am not for a GI bill, I am, but because I thought the price was too high given our budgetary problems.

I want to make two points in closing. It is not just the Senator from Illinois who feels this way. It is not just people on this side of the aisle who feel this way.

Mr. President, about 2 weeks ago, a great many representatives of chambers of commerce groups in my State came to Washington, as I am sure they do from every other State, and they met with me and discussed their serious concerns about our budgetary deficit.

I want to particularly mention the fact that when the chamber of commerce group from Jacksonville, in central Illinois, came to see me, one man, speaking for the Chamber, said:

> Senator, I want you to understand this. Almost every person in this group that is here visiting with you is a Republican. Almost every person in this room visiting with you is a committed fiscal conservative. And every one of us wants you to know that we think the defense expenditures requested by the administration here, in the context of what has taken place up to this time on the floor of the Senate and in the Congress generally, is much too high.

So I say to my colleagues on the other side, and throughout this hall, that it is my profound belief that the point of view being expressed here by this Senator is the point of view supported in the country by a great, great, great many people of deep conservative fiscal persuasion who believe that the cuts should come.

I want to close by referring to the March 1984 edition of "Business and National Security Trendline." I will place it in the Record. I want to read some statements on page 7 of that publication and place in the Record a list of outstanding businessmen in the country, many of whom are members of the Fortune 500, who support this magazine. They support the point of view of this magazine, which supports the point of view of the Senator from Illinois.

I read four short quotations:

> Defense, plus interest on the federal debt, will consume over 80% of general revenues from 1983 to 1989.
>
> At the current rate of growth, defense spending will total one-half trillion annually by 1992.
>
> In constant dollars, this year's defense budget outlays now exceed all defense budgets since World War II, including even the peak defense budgets outlays of the Korean and Vietnam Wars.
>
> The projected FY '89 defense budget will exceed even World War II defense budgets, in constant dollars, becoming the largest since the Civil War.

This is a shocking circumstance that I think requires the careful consideration of the Senate.

Mr. President, I ask unanimous consent to have this material printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Business & National Security Trendline, March 1984]

### "Star Wars" Proposals Beginning To Take Shape

Outer space weaponry is no longer simply a vague notion: two recent events have moved the United States closer to a weapons race with the Soviets in space. The Air Force has now completed an initial test of a prototype anti-satellite (ASAT) weapon, the first milestone in the Administration's vast scenario for creating an armada of such space weapons.

In a related development, the recently unveiled FY 1985 defense budget requests $1.8 billion for "strategic defense initiatives," the formal designation for Star Wars. That $1.8 billion figure is expected to rise to $25 billion by FY 1989. And Defense Undersecretary Richard DeLauer has characterized the long run costs as "in the trillions."

In addition to ASAT, the Star Wars plans also envision a high technology ballistic missile defense (BMD), which supporters believe would protect the country from nuclear attack. BMD is said to be a feasible method for reducing the likelihood of a Soviet first strike: with an impenetrable shield surrounding our nation, nuclear-tipped missiles would be useless. The U.S. and the U.S.S.R. would then have the incentive to eliminate their offensive nuclear missiles, BMD supporters maintain.

Others note that although the idea of a purely defensive strategy has a certain initial appeal, it is unsound and would be massively expensive. In the first place, the idea of a Soviet first strike is coming under increasing criticism from scientists and experts who say it is operationally and technically impossible. (An article by scientists Matthew Bunn and Kosta Tsipis in the November 1983 *Scientific American* summarized a wide range of scientific objections to the "first strike" concept.) Other respected scientists have reported that the Star Wars weapons concepts themselves are technologically unsound, even if there were a first strike threat. Hans Bethe, a Nobel Laureate and an expert on missile defenses, testified before Congress that "the technologies required for a defense of our population against nuclear armed ballistic missiles are far beyond the state of the art, and in most instances, are unlikely ever to work effectively. In contrast to this, countermeasures [against missile defenses] that are cheap and already known to work exist in abundance." In addition, developing Star Wars would involve surmounting at least eight major scientific problems, *each* of them "equivalent to or greater than the Manhattan project," according to Defense Undersecretary DeLauer. Even then, the Star Wars defense would offer little protection from low-flying cruise missiles and bombs placed aboard commercial shipping and aircraft.

In the unlikely event that ASAT's and BMD did ever work, they would undoubtedly provoke the Soviets into deploying counter measures. Star Wars skeptics note the parallels between BMD and a previous weapons concept, multiple warheads on missiles, which was supposed to have been the big defensive breakthrough during the

1970s. Then, in response to a perceived Soviet missile threat, the U.S. added "multiple independently targeted re-entry vehicle" (MIRVs), i.e., multiple warheads, to its missiles. The Soviets simply followed suit. Both sides soon found themselves less secure after spending billions. Former Secretary of State Henry Kissinger, once an ardent backer of multiple warheads, regretted the go-ahead decision in his memoirs. "I wish we had thought through more carefully the consequences of MIRVing," he lamented.

Like MIRVing, embarking on the Star Wars weaponry may well produce unforeseen consequences. One likely consequence: an anti-satellite weapons race that would threaten the communications satellites vital to modern civilian and military activities in all advanced nations. Anti-satellite weapons would ultimately give both the US and the USSR the capability to destroy each other's satellites in a crisis, which would disrupt communications and could easily escalate into all-out war. The most reasonable, cost-effective way to secure these vital satellites is to negotiate verifiable limits on the weapons that threaten them. Ironically, the development of the BMD portion of Star Wars would almost certainly violate the 1972 Anti-Ballistic Missile Treaty, a keystone of the existing arms control framework between the US and USSR.

The controversy over Star Wars spending is heating up in Congress. An amendment to last year's defense authorization bill, sponsored by Senator Paul Tsongas (D-MA), bans the testing of ASAT's against targets unless the President certifies that such tests are necessary to prevent "irreparable damage" to national security, and also certifies that the US is negotiating in good faith to produce a treaty banning ASAT's. But this year's defense budget asks for more ASAT funding—shifting back to Congress a key responsibility in deciding the fate of the Star Wars program.

### Air Force Promotes Competition in Engine Purchase

The Air Force set a major precedent in February by deciding to split a multi-billion dollar engine contract between two competing manufacturers, and to renegotiate the contract annually based on contractor performance. General Electric was awarded an Air Force contract to build 120 engines for the F-15 fighter aircraft; competitor Pratt & Whitney, a division of United Technologies, will build 40 engines for the plane. The overall Air Force buy of the engines will total an estimated $17 billion over the replacement cycle. Like other branches of the service, the Air Force has tended to rely on noncompetitive, "sole source" contracts in the past. The new, more competitive approach will give the Air Force important leverage over quality control and cost containment throughout the multi-year purchasing cycle, promising significant budget savings. Exact percentages of the contractor split will be re-negotiated next year, and again in future years, the announcement added.

The Air Force said that GE won the lion's share of the initial contract because—

The GE engine "was assessed to be lower in overall support costs;"

GE offered an "outstanding" plan to permit other companies to compete for spare parts contracts; and

GE offered "an excellent warranty."

The Air Force decision comes as a blow to Pratt & Whitney, long the principal supplier of engines for Air Force fighters. Previous models of Pratt & Whitney F-15 engines had developed severe problems, however.

The Pratt & Whitney engines are produced in Connecticut, and the Air Force announcement drew sharp reactions from members of the Connecticut Congressional delegation, several of whom vowed to overturn the decision and force the Air Force to buy the Pratt & Whitney engines on a sole-source basis. In a letter to Air Force Secretary Verne Orr, BENS President Stanley Weiss commended the Air Force for applying sound business principles to the engine purchase. BENS will oppose any Congressional efforts to overturn this important precedent.

### Of Milk and Battleships

Air Force attempts to save the taxpayers some money on milk purchases have hit a snag. The problem: the short-sighted habit of many members of Congress of thinking more about defense contracts for their constituents than about America's genuine defense needs. The current example comes from Senator Ted Stevens (R-AK). Learning that the Air Force's Alaska Command had found a way to save $200,000 by buying milk in Seattle rather than in Alaska itself, Stevens, Chairman of the Senate Defense Appropriations Subcommittee, cancelled hearings on the Air Force budget. "If the Air Force wants support," Stevens told defense officials, "let them go to Dan Evans and Slade Gorton." (Evans and Gorton, both Republicans, are the two Senators from Washington state.)

The episode recalled a similar one last year by House Defense Appropriation Subcommittee chairman Joseph Addabbo (D-NY). Addabbo "postponed" hearings on the Navy budget while the Navy decided whether to berth a battleship group near his district. The Navy chose the New York site.

These situations are particularly unfortunate because they involve chairmen of defense-related subcommittees, who should be setting an example for the rest of Congress of putting national defense needs above parochial concerns.

### Aegis Means Shield in Greek

At the Department of Defense, Aegis means a shipboard radar and missile defense system. Caspar Weinberger, the Secretary of Defense, calls Aegis the "centerpiece" of the Navy's defense against cruise missiles and aircraft attacks. Aegis will be mounted aboard two classes of Navy ships:

CG 47 (USS Ticonderoga) class cruiser. Of the 26 planned, 1 has been delivered, 12 are under construction, and 13 are anticipated for FY 85-89. The estimated total acquisition cost is $28 billion.

DDG 51 (USS Arleigh Burke) class destroyer. Of the 60 planned, 1 is budgeted for FY 85, with a price-tag of $1.3 billion. The estimated total acquisition cost is $49 billion.

These two classes of ships will be the bulk of the future surface combatant Navy well into the next century. At $77 billion, they will absorb much of the Navy's resources. So, much is riding on Aegis.

The question is: Does Aegis work? Is it a good investment? Operational testing, to see how well the system works under real-life conditions, only began on the Ticonderoga in April, 1983. The results were classified. By the time of the next tests in September 1983, the Navy had already gotten a go-ahead for the construction of 8 more CG 47 type ships. The September test results were also classified. Instead, the Navy extolled Aegis' earlier *developmental* tests, done under controlled, laboratory-like conditions, which Aegis passed. But Representative Denny Smith (R-OR), a former business executive and a fighter pilot in Vietnam, wanted to know what happened when Aegis was moved "out of the laboratory," away from the scientists and into the real world of Naval officers, fog, and salt spray.

After much prodding by Smith, the Navy coughed up the results of the two classified operational tests. Smith kept the secrets but let it be known that the ship couldn't do what the Navy said it could.

From sources other than Smith, the press was able to extract the test results. These results have not been denied by the Navy. Here they are—

The first test, held in April: 16 targets presented, 4 shot down; at low altitude (where an Exocet-type missile would attack), 4 presented and 0 shot down.

For five months, the project managers worked to correct the system's deficiencies. Then came the second test, held in September: 6 targets presented, 2 shot down; at low altitude, 3 presented and only one shot down.

It should be noted that in neither test was Ticonderoga placed in the realistic combat situation of having *several* low flying missiles attacking simultaneously.

*In other words, multi-billion dollar Aegis-equipped Navy ships would not be safe from the Argentine Air Force, or for that matter, from anyone with a relatively inexpensive Exocet missile.*

(Aside: before the results became public, Secretary of the Navy John Lehman bragged about the Aegis/Ticonderoga combination that ". . . all operational requirements have been met or exceeded . . . the Ticonderoga establishes an entirely new level of sea-borne anti-air warfare capability . . . *further production is entirely justified by the ship's performance*" [emphasis added].)

The taxpayers have paid a high price so far for Aegis, and more than $70 billion more is at stake. Yet unless the problems are ironed out and the ships demonstrate that they can do the job, a higher—and much more terrible—price may be paid by the sailors who will depend on these ships.

BENS commends Rep. Denny Smith for his tenacity in exposing this problem before it is too late to stop. BENS will support legislation that Smith intends to propose halting further funding ($4.4 billion this year) for Aegis ships pending demonstrated success in rigorous, extensive operational testing. BENS members should write their Senators and Representatives urging them to contact Rep. Denny Smith (R-OR) and support his measure to get real defense value for our tax dollars.

### Denver Hosts BENS/BRONS Event

Nearly 100 business leaders turned out on February 7 for a speech by BENS President Stanley A. Weiss before Denver's Business Roundtable on National Security. Weiss' call for business executives to take an active role inpromoting an effective, affordable defense and reducing the risks of nuclear war drew considerable attention in the Denver business press, and generated dozens of new members for BENS and BRONS. Denver-area business executives interested in taking part in BRONS should contract John Barton at (303) 773-3737 or John Kness at (303) 329-4818.

### OFFICER INFLATION

In 1945, as World War II was drawing to a close, the Navy had one Admiral for each 130 ships, while the Army Air Force (forerunner of the Air Force) had one General for each 244 aircraft. By 1981, there was an Admiral for every 2 ships and a General for every 21 aircraft. That's one of the findings of *The Officer Inflation Report*, a recent study by the Washington-based Project on Military Procurement. The Pentagon's total of 1,073 top military officers has remained stable, even as the number of soldiers has declined, and more military personnel have been shifted to such functions as purchasing equipment, public relations, and lobbying. At the same time, layers of senior officers have accumulated in the field, and the military's reaction cycle has been slowed by an order of magnitude, the study charges. Commenting on these trends, analyst Edward Luttwak noted:

"The military has become civilianized in the sense of emulating at higher cost the things that civilians can do better—but not concentrating on the things civilians cannot do, which are to train combat leaders to study tactics, and prepare strategies."

The cost impact of this can be substantial. In the first place, top military officers are highly paid. Congressional Budget Office auditors found that when various allowances and compensations are included, Air Force Generals are making substantially more than the U.S. Secretary of State, and Army Lt. Colonels are making substantially more than the Secretary of the Army or a U.S. Congressman. Another key cost factor is that top officers are entitled to uniformed support staff. This has implications not only for salary and pension costs, but for the number of military personnel who are drawn away from field activities.

The study recommends that the services return to earlier, more manageable ratios of flag-rank officers to enlisted personnel. Such a goal could encourage the retention of officers more concerned with battlefield strategy than bureaucratic strategy.

### BUDGET UPDATE

The federal budget, a document of several thousand pages, cannot be easily summarized in a single article. Stories based on the budget, particularly the defense budget, appear throughout this issue of Trendline. Here are some key facts about the budget and its accompanying five-year projections.

From 1984 to 1989, Social Security and Medicare will actually be subsidizing the rest of the budget. This is because both programs will be taking in more revenue than they are disbursing in outlays, and the law requires the funds to be invested in governmental securities.

Defense, plus interest on the federal debt, will consume over 80% of general revenues from 1983 to 1989.

Defense outlays will increase from $210.5 billion in 1983 (53.8% of general revenues) to $409.1 billion in 1989 (61% of general revenues). Defense outlays will increase 94% over the 5-year period.

At the current rate of growth, defense spending will total one-half trillion annually by 1992.

The magnitude of the proposed defense budgets can best be understood in historical context:

In constant dollars, this year's defense budget outlays now exceed all defense budgets since World War II, including even the peak defense budgets outlays of the Korean and Vietnam Wars.

The projected FY '89 defense budget will exceed even World War II defense budgets, in constant dollars, becoming the largest since the Civil War.

There are growing indications that the disarray in the DOD budget is deeply systemic. Briefing the House Budget Committee, DOD's own famed budget analyst Franklin Spinney warned that:

DOD plans for future outlays are based on assumptions about future budget growth for which there are no historic parallels;

Operating budgets are chronically underestimated:

An unrealistic proportion of future budget growth is being allotted to procurement;

Procurement planning itself is based on excessively optimistic assumptions about falling prices;

Neither Congress nor the Pentagon responds to budget shortfalls by cancelling programs with ballooning costs; and

DOD has been diverting funds from planned budget growth in existing programs to new program starts.

The effects of such poor budget planning with such colossal dollar amounts involved, Spinney and others believe, will be a budget crunch in the late '80's which shakes the foundations of the economy—unless there is an overhaul soon in the way defense funds are budgeted and spent.

LESS BANG FOR THE BUCK

| Systems | Years | Units purchased | Unit costs (millions) |
|---|---|---|---|
| Aircraft (fixed wing) [1] | 1976 | 516 | $15.9 |
|  | 1984 | 688 | 27.1 |
| Missiles (air & ground launched conventional) [2] | 1976 | 61,678 | $.04 |
|  | 1984 | 74,084 | 12 |
| Tracked combat vehicles (tanks, armored personnel carriers etc.) [3] | 1976 | 2,055 | $.6 |
|  | 1984 | 2,643 | 1.5 |

[1] Units up 33% Unit prices up 70% (on average).

[2] Units up 20% Unit prices up 300% (on average).

[3] Units up 28% Unit prices up 150% (on average).

### STUART SPEAKS OUT ON THE DEFICIT

The Feburary issue of *Enterprise*, the flagship publication of the National Association of Manufacturers [NAM], was devoted to the federal deficit. NAM requested that BENS submit an article on defense spending and the deficit. Responding for BENS was Robert Stuart, a NAM member who is Chairman of the Finance Committee (and former GEO and Chairman) of National Can Corporation in Chicago. Stuart raised a number of important issues, among them:

"I'm not an expert on strategy, but common sense tells me that we can't try to be all things to all people militarily and still remain credible and solvent. We have to begin talking about strategic priorities and linking them to spending priorities.

Copies of the article are available from the NAM Communications Department, 1776 F Street, NW; Washington, DC 20006, or from BENS.

### SQUEEZE PLAY ON WARRANTIES

As reported in the December *Trendline*, Congress passed a law late last year requiring DOD to get warranties on the equipment it buys. BENS has supported this common-sensical, business like approach to military procurement. And shortly after the law was signed, Air Force Secretary Verne Orr noted proudly how a warranty was saving the Air Force $3 billion on an engine contract.

But sometimes a law doesn't quite seem to be a law. Less than two months after the warranty law was signed, DOD inserted some fine print into the back of a request for supplemental military construction funds (a program area unrelated to warranties) which would repeal the entire warranty law. After a Capitol Hill outcry, DOD backpedaled. Defense Secretary Caspar Weinberger testified before the House Budget Committee that he "absolutely" supported the warranty law and hopes to make it work. Next, DOD sent Congress its proposed FY 85 budget; once again, a provision repealing the warranty law was buried in the back pages.

The law's chief Senate sponsor, Senator Mark Andrews (R-ND), passed DOD for clarification. In a highly-charged session before the Senate Armed Services committee, dozens of defense contractor lobbyists appeared in opposition to the warranty law. One DOD witness, Admiral Steven White, chief of Naval Materiel, said the law was appropriate and could work. (White's views are believed to reflect those of Navy Secretary John Lehman.) But all other DOD witnesses attacked the law and demanded that it be gutted.

Since that hearing, high-level defense officials have been calling on Congressmen, trying to build support for repeal. Defense contractors and subcontractors have been flooding Capitol Hill with mail, asserting that they would be unable to provide DOD with the same warranties they provide for private sector customers. (In one spectacular example, a subcontractor who manufactures fuel rods for nuclear reactors aboard submarines wrote his Congressman that he would be unable to warranty the rods.) It bears repeating that warranties will help surface true procurement costs in advance; give DOD leverage to force contractors to back up their promise; eliminate the practice of botching the job the first time and coming back later for "get well" money (as for example with Lockheed's C-5 transport plane); improve the quality of competition, as contractors strive to offer better warranty provisions (as recently occurred with the Air Force's F-15 engine contract—see page 1); save the taxpayers countless billions (former Deputy Secretary of Defense Paul Thayer said that re-doing poorly performing equipment has been driving costs up 30%); and assure that our soldiers, sailors, and pilots possess the best, most reliable equipment possible.

Congress is deciding this issue now, and BENS members should speak out on behalf of that vast majority of the business community which wants an effective, affordable defense. Leading the fight to protect warranties are Senator Mark Andrews (R-ND) in the Senate, and Representative Mel Levine (D-CA) in the House. Tell your Senators and Congressman you oppose the gutting or repeal of Section 794 of the Department of Defense Appropriation Act of 1984 (the technical title of the warranty law).

### CONGRESS MAY MOVE TO HALT TRANSFERS OF NUCLEAR MATERIALS

Legislation scheduled to come before Congress would tighten Congressional control over nuclear proliferation. A central issue is which countries may reprocess spent nuclear fuel. Such reprocessing produces high quality plutonium which can be used to make nuclear weapons. The world-wide growth in reprocessing is increasing the chances that terrorists could steal plutonium and make nuclear weapons, or that nations now without nuclear weapons could build them.

The focus of the current debate is the pending transfer of 200kg of reprocessed US-origin plutonium from France to Switzerland. Never before has the US permitted such weapons-grade material to be transferred to a non-nuclear weapons state. Opponents of the transfer see it as an ominous precedent and warn of future pressure for similar transfers from countries like South Korea and Taiwan. While the State Department appears ready to allow at least this first transfer, Congress will apparently try to head off the move though through legislation that would give the United States greater say over the use and handling of the nuclear materials it provides to other countries. BENS will support amendments tightening those controls.

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### Nuclear Anti-Aircraft Weapons?

In testimony before Congress last year, Rear Admiral W. J. Holland, director of Strategic and Theater Nuclear Warfare for the Chief of Naval Operations, disclosed that despite five years of R&D funding, the Navy had not yet "come to grips" with how to use the nuclear version of the SM2 anti-aircraft missile. A major part of the problem is that it would be impossible to secure the Presidential approval necessary to use a nuclear weapon in the short decision time available to fire an anti-aircraft missile. Congress refused to fund the weapon last year. But this year the nuclear SM2 is back in the budget. The Navy's new rationale is that the anti-aircraft missile might be able to destroy planes bearing nuclear-armed cruise missiles or the missiles themselves. Critics note that such planes could be destroyed with conventional weapons, and that there would be no way to know whether any cruise missiles aboard them were nuclear or conventional. Still, the Navy continues to push for the weapon.

Thus, it appears that the Navy has worked 5 years on a weapon which lacks a plausible scenario for use, and which would actually preclude Presidential involvement in a decision regarding use of nuclear weapons. It's a classic example of the overheated procurement process pushing aside strategic considerations.

BENS will vigorously oppose restoration of funding for this weapon.

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### Short Takes

The proposed FY 1985 Defense Department budget calls for spending $400 million a year on 400 civilian employees to "get the DOD message across." Capitol Hill sources point out that these 400 civilians are used principally to defend the size of the defense budget, with hundreds of relevant military officers "on call' to them.

American soldiers returning from Grenada have been complaining that the new standard issue Army fatigue uniform is too hot, too heavy, too easily wrinkled, too slow to dry, and generally too sloppy-looking. Complaints about the uniform originally began cropping up two years ago, and the Army said then it was developing a new light weight fatigue uniform for warmer climates. Nevertheless, current Army contracts call for spending another $227 million on the heavier uniforms. The total cost, including money already spent, would then come to $432 million. So the Army will acquire 13.5 million of the hot, sloppy uniforms—9 sets for every soldier.

At the insistence of Congress, the Army recently tested six anti-armor weapons against one another. The winner was a Swedish entry, the AT-4. (See *Trendline*, December, 1983, p. 4) Finishing last in the field of six was a 1960's vintage Army weapon called the LAW, or light anti-tank weapon. This year's Army budget calls for $37 million for unspecified anti-armor weapons. Pentagon rumors are that the Army wants to spend the $37 million to try to "fix" the LAW. If so, it would in all probability continue a decades-long practice of equipping the American infantry with expensive, ineffective antiarmor weapons—which was the concern that gave rise to the competitive tests in the first place.

Sentiment in Congress is shifting toward a so-called stretch-out of the Defense Department budget. Stretch-out simply means spreading out purchases over more years to lower annual costs. Stretch-outs ignore whether programs should be cancelled or spending procedures reformed. They merely cut short-run costs. There are two major drawbacks to the "stretch-out" approach: (1) stretch-outs invariably increase total program costs, often by 50% or more, since overhead and fixed costs are spread over a smaller number of units per year; (2) stretch-outs don't really address key problems like choice of equipment and procurement waste. Deficit worries are finally getting legislators to focus on defense spending in a serious way, but stretch-outs simply postpone DOD's adoption of clear strategy choices and improved procurement practices.

Seen any 5% loan money lately? If you could borrow at 5%, you could make money, right? The United States "loans money at 5% to foreign governments wishing to buy weapons.

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### Book Examines Impact of Military Spending on U.S. Economic Performance

Arguments about the impact of military spending on the U.S. domestic economy have raged through government reports, the business press, and academic research for years. Someone has finally gone through all this material and presented it in a readable way. That someone is economist Robert W. DeGrasse, Jr. in his valuable new book *Military Expansion, Economic Decline* (M. E. Sharpe, 247 pp., $25h, $11.95p).[1] As the book's title suggests, DeGrasse has a point of view, which is that large military build-ups harm the civilian economy. He is, however, scrupulously fair in acknowledging opposing views, and his tempered prose never strays far from what he can fully document.

Documented the book is, with literally hundreds of references cited, dozens of interesting tables, and sixty-three pages of less interesting statistical appendices.

DeGrasse's main concern is the "opportunity cost" of current and projected levels of military spending. The book weighs the costs and benefits for civilian innovation, productivity, and economic growth of such spending. DeGrasse's data suggests that those opportunity costs may be very large. For example, the percentage of highly skilled employees required to fulfill military contracts is way above the civilian average. At the same, there is a shortage of engineering graduates. Military contractors holding "cost-plus" agreements with the Pentagon can pay whatever is necessary to hire engineers. DeGrasse sees this as a hidden factor behind both wage inflation and skill shortages in civilian engineering.

In a comparison of 17 western industrial democracies, the U.S. ranked *first* in defense spending as a percentage of Gross Domestic Product (GDP), last in productivity growth in manufacturing industries, last in fixed investment as a share of GDP, and last in capital growth in manufacturing. DeGrasse believes there is a relationship between this poor growth record and factors like the engineering "brain drain" into the defense industries. Summing up the data from a series of comparisons between the U.S. and other nations, he writes:

"A nation which spends a larger share of GDP on weapons and soldiers than other nations is likely to experience less investment and productivity growth."

Conclusion: "The competitiveness of a nation's manufactured goods may be eroded by a heavy military burden."

The economic benefits that defense spending does generate are highly specialized, DeGrasse maintains. In 1979, ten manufacturing industries accounted for a 65% of all military purchases. Even in the depths of recent recession, capacity utilization and order backlogs remained very high in those defense-impacted industries, well above national averages.

One of the most absorbing parts of DeGrasse's book is his lengthy case study of military investments in the semiconductor industry. Among the conclusions:

"The end-product developed for military use have had few commercial applications. Those that have usually were significantly redesigned for the commercial market."

"The military's role as a 'first-user' has become increasingly irrelevant, given the rapid application of commercial applications for semiconductor technology."

"Military research has not often supported projects that led to significant innovation."

The moral of the semiconductor industry study is ultimately the same as the moral of the book: Military spending is a common sacrifice. It ought to be justified solely on the basis of defense needs, not on the basis of supposed economic benefits.

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[1] The book is an expansion and updating of a report DeGrasse previously published for the Council of Economic Priorities.

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Josh S. Weston, President & Chief Executive Officer, ADP, Inc., Clifton, New Jersey.

John H. Whitaker, President & Chief Executive Officer, Whitaker Cable Corp., North Kansas City, Missouri.

Theodore Williams, President, Bell Industries, Los Angeles, California.

Harold Willens, Founder, Factory Equipment Corporation, Los Angeles, California.

Mortimer B. Zuckerman, Chairman, Boston Properties, Boston, Massachusetts.

Mr. DIXON. Mr. President, I renew my motion to refer this DOD authorization bill to the Armed Services Committee for 5 days, excluding nonworking days, and to report back to the Senate with a $293.7 billion DOD authorization bill, 5 percent actual growth over inflation, for this year.

Mr. TOWER. Mr. President, this impressive list that Senator DIXON has just provided for the RECORD simply proves that many, many members of the business community are myopic and shortsighted and capable of viewing defense in a narrow, parochial perspective, and nothing more.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I will vote against the Dixon motion with some reluctance, because I voted for the 5-percent level in committee.

I voted for a resolution on the budget that was at the 4-percent level. So in terms of what I believe the national interest requires in fiscal policy, I think that the 7 or 7.5 percent is a very high level for defense, given the current fiscal situation in our country.

However, I also made my votes on the budget resolution and in committee with the idea in mind that we would do much more cutting on the domestic side than we have done. So I am willing to have a lower defense budget. I am unwilling to see defense increasingly pay the lion's share of the price to get Government spending down.

If we are really going to do something about the deficit, it is going to require a sacrifice from far more than just the defense arena. I must say that it also will require more revenue.

The primary reason why I shall vote against the Dixon motion at this point is that, as the ranking minority member of the committee, I feel some sense of loyalty to the precedent we have had in the past. In the past, I remember very well, when Senator Muskie was chairman of the Budget Committee and Senator STENNIS was chairman of the Armed Services Committee, we always tried to adhere to the Senate-passed first concurrent resolution in our Armed Services Committee. We did not try to anticipate the level that would come back in conference.

As we are voting today, we are indeed anticipating the conference level from the first concurrent resolution. If we do that, we are going to be playing a guessing game every year in what is already a very difficult kind of procedure among the authorizing bill, the budget resolution, and the appropriating committee, where we are getting caught more and more waiting for the Budget Committee, but trying to stay ahead of the appropriating committee. And we are in more and more danger that the committee with expertise on national security will not be relevant.

For that reason, if we get into a situation where we are anticipating the level that may come back from the budget conference—and none of us knows when that is going to come back—if that is imposed as a precedent on the authorizing committee, then I think we are in great danger of simply not being able to function as an authorizing committee.

For those reasons, I will vote, reluctantly, against the motion of the Senator from Illinois. I think he has made a very strong case in terms of the fiscal policy of our country. I congratulate him for the motion. It certainly is in order. But I feel some obligation to the history we have adhered to in the past in this area, and I feel a keen obligation to make certain that our authorizing committee continues to be relevant. I do not believe it can be relevant if we have to wait, in effect, for the conference on the budget or if we have to guess where the conference may come back.

I understand that the appropriating committee will begin to meet next week. If they are to have guidance from us and if we are to serve as a ceiling, we have to pass this bill and try to get an early conference. So I shall support the Senator from Texas on this motion.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, Members know of my concern that we move this matter as soon as possible. Notwithstanding, I have not sought to make tabling motions until it is pretty clear that the debate has been exhausted on major issues.

I gather from the conversations I have had informally with Members that that is the case now, and at this point then I move to table the motion to recommit with instructions and ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the motion to recommit with instructions.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—55

Abdnor
Armstrong
Baker
Boren
Boschwitz
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
Durenberger
East
Evans
Exon
Garn
Glenn
Goldwater
Gorton
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Roth
Rudman
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—43

Baucus
Bentsen
Biden
Bingaman
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cranston
DeConcini
Dixon
Dodd
Eagleton
Ford
Grassley
Hart
Hatfield
Hollings
Huddleston
Inouye
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Simpson
Stafford
Tsongas
Weicker

NOT VOTING—2

Andrews
Percy

So the motion to lay on the table the motion to recommit was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, the Senator from Ohio is here and prepared to offer an amendment which I believe is noncontroversial. We have reviewed the matter and will accept it on this side. I do not expect it will take a great deal of time.

I see that Senator LEAHY is here, and there are others here who are interested in the MX amendment. I will advise my colleagues that we will be attacking the piece de resistance here in a few minutes, I think probably the most controversial and perhaps most critical issue we have on the bill.

I want to advise them that if they are interested in the MX they should hang around for the debate because it promises to be a lulu.

If my friend, who has been ready to present his amendment, will forebear, we will proceed with the Senator from Ohio.

Mr. LEAHY. I am willing to let the distinguished chairman go ahead with a noncontroversial amendment.

Mr. President, I have never had an amendment referred to as a piece de resistance before. I am so stunned that I could not begin right at the moment anyway.

### AMENDMENT NO. 3206

(Purpose: To make certain provisions of law applicable to long-term leasing and charter of aircraft and vessels permanent)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum], for himself and Mr. Levin, proposes an amendment numbered 3206.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following:

Sec. . (a) Section 1202 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 697), is amended—

(1) in subsection (b), by inserting "or in any Act enacted after the date of the enactment of this Act" after "this Act"; and

(2) in subsection (c)(1), by striking out "fiscal year 1985," and inserting in lieu thereof "fiscal years 1985, 1986, and 1987,".

(b)(1) Section 2401(c) of title 10, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation "(c)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(2) Funds available to the Department of Defense may not be used to enter into any contract under this section, the term of which is for 3 years or more, inclusive of any option for contract extension or renewal, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, that imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the United States exceeding 50 percent of the original purchase value of the vessel, aircraft, or vehicle involved for which the Congress has not specifically provided budget authority for the obligation of at least 10 percent of such termination liability.".

(2) Section 2401(f) of such title is amended by striking out "90 days after the date of enactment of this section" in the second sentence and inserting in lieu thereof "October 31, 1984".

Mr. METZENBAUM. Mr. President, in the last 2 years the Department of Defense has developed a rather ingenious method to expand the Navy and Air Force—the Department has gone into the business of selling tax shelters.

How does it work?

Instead of buying ships and planes, the Department has been leasing them—and using operations and maintenance funds to do so. These are the dollars Congress appropriated to keep our military hardware in working order.

What is wrong with this process?

Plenty.

For one thing, it circumvents the congressional appropriations and authorizations process. And it is a process that inflates costs to the American taxpayer by millions, if not billions, of dollars. This is so because the leasing deals involve very substantial tax writeoffs to the shelter investors. This is simply not the way in which our Government should do business.

The Navy and Air Force have already entered into a number of these deals. According to the Secretary of Defense, five leasing programs for planes and ships specifically constructed for the Defense Department are currently being funded out of operation maintenance funds. In addition, 76 commercially available planes and ships are being leased. These include Lear jets, cargo ships, and tankers.

I do not question the need for this equipment. But I am concerned that the Department of Defense is not using cost-effective methods to acquire them.

According to the Joint Committee on Taxation, the TAKX cargo ships were acquired at a ridiculously high price. In fact, the committee estimates that it cost the Navy more than a quarter of a billion dollars more than it would have cost to purchase them outright. The same pattern pertains to the other DOD long-term leasing programs.

Congress has already addressed this subject. Last year, as part of the defense authorization bill, Senators Cohen, Levin, and I authored an amendment to restrict these activities. And the tax bill, now in conference, will remove the generous tax subsidies from these transactions.

But even without the tax subsidies, I am concerned that without appropriate controls, the Department will continue its practice of leasing instead of purchasing equipment even when the purchase option is less expensive.

My amendment addresses these concerns in four ways.

First, it will extend for an additional 2 years the requirement that the Secretary of Defense submit a written report to Congress on the leasing of defense equipment.

Second, it will make permanent the provision of law that is set to expire at the end of this fiscal year that prohibits the Department from guaranteeing tax benefits or paying the legal fees of private contractors who challenge IRS actions.

Third, it makes permanent an existing prohibition on contracts that involve substantial termination liabilities.

Fourth, it mandates that OMB and Treasury issue guidelines for determining under what circumstances the Department of Defense may use lease arrangements.

Last year Congress mandated that these agencies issue guidelines by December 24, 1983. Unfortunately, they have not yet acted. The Office of Management and Budget in a letter dated June 12, 1984, assures me that these guidelines will be issued by October 31, 1984.

Mr. President, I ask unanimous consent that the letter from the OMB be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Office of Management and Budget,
*Washington, DC, June 12, 1984.*

Hon. Howard Metzenbaum,
*U.S. Senate,*
*Washington, DC.*

Dear Senator Metzenbaum: The Office of Management and Budget will issue guidelines for determining under what circumstances the Department of Defense may use lease or charter arrangements for aircraft and naval vessels by October 31, 1984. I know that we are already later than the initial deadline. Much work has been done on many of the difficult technical questions involved in these guidelines and they will be complete by October 31, 1984.

The guidelines will describe the criteria to be used in comparing the costs of leasing versus buying assets. In that regard, the guidelines will make it clear that those criteria apply to short-term leases when it is anticipated that the government will continue to use the asset after the initial lease expires.

Sincerely,

J. Gregory Ballentine,
*Associate Director for Economic Policy.*

Mr. METZENBAUM. This amendment mandates that the OMB act by that time. In addition, it is my understanding that the chairman of the Armed Services Committee will write to the OMB and request that we be kept apprised of the status of these guidelines.

Mr. President, I believe that this amendment is necessary to prevent the Defense Department from leasing equipment that would be less expensive to purchase. And I understand that the managers of the bill are prepared to accept it.

Mr. TOWER. Mr. President, last year, Senators Dole, Cohen, Metzenbaum, and Levin introduced an amendment to the fiscal year 1984 Defense authorization bill that limited the authority of the Department of Defense to enter into long-term leases for aircraft and naval vessels.

The amendment that Senator Metzenbaum now proposes is fully consistent with the provision overwhelmingly supported by the Senate last year. For that reason, I am prepared to accept this amendment.

There is, however, one problem area in last year's provision to which I would like to draw attention and express congressional concern. Last year, the Congress directed the Office of Management and Budget and the Department of the Treasury to issue guidelines for determining under what circumstances the Department of Defense may use long-term lease or charter arrangements for aircraft and naval vessels. These guidelines were to be issued within 90 days after enactment of the Defense Authorization Act, 1984.

I am disappointed by the failure of OMB and Treasury to comply with this congressional directive. Nearly 1 year has passed, and the guidelines have not been issued.

On Tuesday, June 12, 1984, I received a letter from the Office of Management and Budget which contained a commitment to issue these much needed guidelines by October 31, 1984—the date specified in Senator METZENBAUM's amendment. I am pleased that OMB has now made a commitment to issue these guidelines by a date certain.

While I am pleased with OMB's commitment, I want to make certain that OMB clearly understands the importance that the Senate attaches to development of these guidelines. Accordingly, I have written a letter to OMB that requests reports on August 31 and September 30, 1984, on the status of development of these guidelines.

Mr. President, I ask unanimous consent that my letter of June 13, 1984, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
*Washington, DC, June 13, 1984.*

Mr. J. GREGORY BALLENTINE,
*Associate Director for Economic Policy, Office of Management and Budget, Executive Office of the President, Washington, DC.*

DEAR MR. BALLENTINE: Thank you for your letter of June 12, 1984 concerning guidelines to be issued by the Office of Management and Budget for determining under what circumstances the Department of Defense may use lease or charter arrangements for aircraft and naval vessels.

As you know, the use of long-term lease and charter arrangements by the Department of Defense is an issue of continuing congressional interest. Concerned Members of the Senate are disappointed by the failure of the Office of Management and Budget and the Department of the Treasury to issue within 90 days after enactment of the Defense Authorization Act, 1984, the requested guidelines for lease and charter arrangements.

I am pleased by the commitment contained in your letter that the Office of Management and Budget will issue these guidelines by October 31, 1984. Reflecting congressional interest in this effort, I request that you provide the Senate Committee on Armed Services with a report on the status of this effort on both August 31 and September 30, 1984. I would also request that you provide a copy of these reports directly to Senator Metzenbaum who has taken a special interest in leasing and charter arrangements by the Department of Defense.

Sincerely,

JOHN TOWER.

**Mr. TOWER.** Mr. President, as I previously stated, I am prepared to accept the amendment offered by the Senator from Ohio.

**Mr. LEVIN.** Mr. President, I commend my friend from Ohio for his continued pursuit of this critical area. The amendment he offered last year put into permanent law a number of the aspects of his amendment, but there were some that were not made permanent as a result of our action in conference. His amendment this year, among other things, will make permanent those provisions in last year's amendment which were only left applicable after the conference of the 1984 bill. This provision has proven very useful to Congress. I commend him for pursuing it. I know of no objection on this side.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment No. 3206 was agreed to.

**Mr. METZENBAUM.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. LEAHY.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. METZENBAUM.** Mr. President, I express my appreciation to the managers of the bill for their cooperation and acceptance of the amendment.

### AMENDMENT NO. 3207

**Mr. LEAHY.** Mr. President, I send an amendment to the desk on behalf of myself and Senators LEVIN, BUMPERS, GLENN, BIDEN, MITCHELL, KENNEDY, HART, SASSER, BINGAMAN, SARBANES, and HOLLINGS, and ask for its immediate consideration.

**The PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. LEVIN, Mr. BUMPERS, Mr. GLENN, Mr. BIDEN, Mr. MITCHELL, Mr. KENNEDY, Mr. HART, Mr. SASSER, Mr. BINGAMAN, Mr. SARBANES, and Mr. HOLLINGS, proposes an amendment numbered 3207.

## TITLE I—PROCUREMENT

### PART A—PROCUREMENT

### AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft, missiles, weapons, and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $3,808,500,000.

For missiles, $3,328,800,000.

For weapons and tracked combat vehicles, $4,738,000,000.

For other procurement, $5,564,500,000.

For Army National Guard equipment, $50,000,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriations Acts—

(i) $60,500,000 to be derived from amounts available for fiscal year 1988 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation; and

(ii) $131,200,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation.

(b) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft and EH-60A aircraft, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be canceled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(c) None of the funds appropriated pursuant to the authorization of appropriations in section 101 may be obligated or expended for the Division Air Defense System until—

(1) initial production testing of such system has been completed;

(2) the Secretary of Defense has reported to the appropriate committees of the Congress the results of the testing and has certified to the committees that continued production of the Division Air Defense System is in national interest; and

(3) a period of at least 30 days has elapsed after the day on which the committees have received the report and certification.

(d) Section 107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 620) is repealed.

### AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft, weapons (including missiles and torpedoes), shipbuilding and conversion, and other procurement for the Navy as follows:

For aircraft, $11,144,700,000.

For weapons (including missiles and torpedoes), $4,531,960,000.

For shipbuilding and conversion, $12,198,200,000.

For other procurement, $5,387,400,000.

For Navy Reserve equipment, $20,000,000.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated to the Navy for shipbuilding and conversion for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(A) the sum of $442,600,000 to be (i) derived from amounts available to the Navy for fiscal years 1981 through 1984 and which remain unobligated, and (ii) used for the overhaul and conversion of the battleship U.S.S. Missouri; and

(B) the sum of $30,000,000 to be (i) derived from amounts available to the Navy for fiscal years 1982 and 1983 for shipbuilding and conversion remaining available for obligation, and (ii) used for the naval nuclear reactor training program.

(b) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,846,081,000.

(c) The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d)(1) Except as otherwise provided in this subsection, funds may not be obligated or expended for the procurement of the KS-158 low altitude aerial reconnaissance camera for the Marine RF-4B aircraft for the fourth year under the terms of the multiyear contract entered into by the Navy for such cameras.

(2) The Secretary of the Air Force shall conduct evaluation tests of the CA-810 aerial reconnaissance camera to determine the suitability of such camera for high speed, low altitude aerial reconnaissance missions. The Secretary shall complete such tests not later than November 1, 1984.

(3)(A) If, on the basis of the tests referred to in paragraph (1), the Secretary of the Air Force determines that the CA-810 camera failed to meet or exceed any Navy requirements for a high speed, low altitude aerial reconnaissance camera, the Secretary of the Navy may procure additional cameras under the multiyear contract referred to in paragraph (1).

(B) If, on the basis of the tests referred to in paragraph (1), the CA-810 camera meets or exceeds all Navy requirements for a high speed, low altitude aerial reconnaissance camera, the Secretary of the Navy may not procure additional cameras under the multiyear contract referred to in paragraph (1), but shall conduct a competitive procurement for any additional high speed, low altitude aerial reconnaissance cameras to be procured by the Navy for the RF-4B aircraft.

(4) If the evaluation of the CA-810 camera is not completed by the Secretary of the Air Force by November 1, 1984, as a result of any delay attributable to the manufacturer of such camera, as determined by the Secretary of the Air Force, the Secretary of the Air Force shall terminate the evaluation and the Secretary of the Navy may procure additional cameras under the multiyear contract referred to in paragraph (1).

(c)(1) The Secretary of the Navy may establish and maintain an alternative source or sources for the procurement of a common aircraft ejection seat for the F/A-18, T-45, and F-14D aircraft, and the A-6E Upgrade aircraft.

(2) This subsection shall constitute for purposes of clause (17) of section 2804(a) of title 10, United States Code, the authority for the Secretary of the Navy to negotiate contracts for the procurement of ejection seats referred to in paragraph (1) from an alternative source or sources.

### AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $27,385,100,000.
For missiles, $8,619,900,000.
For other procurement $9,075,600,000.
For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader, or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-1B bomber aircraft or the Advanced Technology Bomber aircraft.

(c) Funds appropriated pursuant to the authorization of appropriations in subsection (a) may be used to procure not more than 0 operational MX missiles.

(d) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in subsection (a), to the extent provided in appropriation Acts, $76,000,000, to be derived from amounts available for fiscal year 1984 for the advance procurement of E-3A aircraft.

### AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for the Defense Agencies in the amount of $1,207,000,000.

### CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 105. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended by striking out "fiscal year 1984" both places it appears and inserting in lieu thereof "fiscal year 1985".

## PART B—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

### AUTHORIZATION OF APPROPRIATIONS

SEC. 116. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $4,627,710,000.

For the Navy (including the Marine Corps), $9,394,608,000.

For the Air Force, $13,975,507,000.

For the Defense Agencies, $4,566,541,000, of which $59,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1985 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

(c)(1) The Secretary of the Army shall proceed with the competitive development of a Joint Tactical Missile System having the following design goals:

(A) A maximum range of 200 kilometers.

(B) A payload at maximum range of 1,000 pounds.

(2) In the development of the Joint Tactical Missile System, the Secretary of the Army shall make maximum use of proven missile technology with the objective of completing the competitive development of the system by July 1, 1987.

(3) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives in writing on the progress of the development of the system referred to in paragraph (1) on the first day of January of 1985, 1986, and 1987.

(d) Not more than 20 percent of the funds appropriated for the undersea target surveillance research and development program may be obligated or expended until a contract for the full-scale engineering development of the CV ASW helicopter has been awarded and the Secretary of Defense has notified the Committees on Armed Services of the Senate and the House of Representatives that such contract has been awarded.

## PART C—OPERATION AND MAINTENANCE

### AUTHORIZATION OF APPROPRIATIONS

SEC. 118. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expense, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army, $18,755,118,000.
For the Navy, $25,895,326,000.
For the Marine Corps, $1,648,169,000.
For the Air Force, $19,608,600,000.

Mr. LEAHY. Mr. President, the amendment that the Senators and I are offering would delete $2.622 billion for production of the MX missile in fiscal year 1985 and would then transfer a portion of the savings, $1.4 billion, into underfunded nonnuclear equipment and readiness programs.

For some years, I have been concerned that our defense budgets have become overbalanced toward nuclear weapons. This overemphasis on nuclear programs has forced the Pentagon and the Congress to underfund less glamorous—but I would argue far more important—programs to maintain and improve conventional force readiness.

Direct challenges to this country's interests are more likely to come from conventional rather than nuclear means. It is fashionable to argue that nuclear forces actually absorb only a small fraction of the defense budget, 12 percent or 15 percent or 20 percent, depending on who is doing the calculations. Yet 15 percent of a $300 billion defense budget represents an enormous sum, tens of billions of dollars.

It is also argued that cancellation of a nuclear program saves only relatively small amounts in outlays. Again, the short-term gain from a program cancellation may well be small against the whole defense budget in 1 year. Over the life of a major system such as the B-1 or the MX, however, savings can run into $25 billion or more.

In my estimation, the MX missile is perhaps the premier case of defense priorities gone astray. I wonder how many of us even remember that the MX was originally conceived, designed, and developed to be a mobile, survivable solution to the looming vulnerability of the Minuteman ICBM?

Congress once insisted that the MX not be deployed in vulnerable silos, we demanded that it be based survivably. We knew it made absolutely no sense to put it in silos where it could not survive. Some of the most prominent Members of the Senate strongly criticized basing modes for the MX that would not be survivable.

After all this, after 30 basing modes were devised and rejected, after never-ending briefings, so many that some of us could repeat them in our sleep, hearings, meetings and discussions with every kind of expert—we are asked to ignore all that. We are asked to forget that putting the MX in already targeted Minuteman silos was turned down earlier as too dangerous, not good for U.S. security. After years of hearing that a superaccurate MIRV's ICBM with a hard target kill capability based vulnerably is the worst thing we could do, we are being asked to do it.

Somehow, what we are saying, Mr. President, is that we show our commitment to a strong defense by paying billions of taxpayers' dollars for a weapons system that all of our experts, Republican and Democrat, all our military experts have said is not survivable and should be based some way differently than the way we are doing it. After all that irrefutable proof, we still end up saying we are going to spend billions of dollars of the taxpayers' money because now we call it something different. It is no longer the MX; it is the Peacekeeper.

Mr. President, I support a strong defense. The taxpayers of this country are willing to pay for it, even in times of runaway deficits. But the American people justifiably demand that their tax dollars be spent on weapons which make them safe and more secure. There is no way I can justify to the people of Vermont a vote for the MX missile after all I have learned about how dangerous it is to us, how useless it is in defending this country against the real threats we face, and how much money it takes away from genuine defense needs.

Over a year ago, Secretary of Defense Weinberger and Gen. John Vessey, the Chairman of the Joint Chiefs of Staff, testified before the Appropriations Committee on the MX. I was struck by statements they made to the effect that we were considering a "launch under attack" doctrine as a means of ensuring that MX missiles were not destroyed in their silos. They told the Appropriations Committee that MX in silos would be vulnerable "if we ride out an attack."

What we are saying is we are going to spend billions of dollars to build a weapons system, put it somewhere where it is going to be highly vulnerable, and justify it by saying if we think we are under attack, we shall fire it off. Mr. President, does this really make any sense at all? What it means is that we are putting the United States on a hairtrigger readiness and once we think that we sense an attack against our missiles, we had better fire them.

That means if we make a mistake, if our computers go awry, if somebody reads a signal wrong, then we are going to fire our missiles and ensure we are engaged in world war III, the ultimate war.

Mr. President, without going into matters of a classified nature, but just referring to what has been in the open press, we know that those mistakes have been made in the past. We know that our warning systems have told us of impending attacks when none were there. What happens, when we have our defense so based, if we get that kind of signal? Then we have got to fire because with a first-strike capable weapon like the MX, the United States inevitably is going to be faced with a very dangerous choice: We can adopt the preemptive strike policy that I was talking about before, meaning that if we believe nuclear war is imminent, we will launch our vulnerable missiles first, or we can build a launch-under-attack capability. That means giving increasing authority to lower and lower and lower levels of command, or to computers, and we will have to rely far more on early warning systems to determine when enemy missiles have been launched. We are going to have to build computers into launch control mechanisms, and the human element in decisionmaking that may mean life or death for this entire Nation is going to be cut back sharply because there will be no time whatsoever to think.

From the point of view of Moscow, a vulnerable MX with hard target kill capabilities can only be seen as a critical element in an overall American plan to gain a first-strike capability against their land-based ICBM's, the heart of their nuclear deterrent force. Their reaction is predictable, and we are seeing it now, a new, 10-warhead MX-type ICBM, the SS-X-24.

There are those, of course, who say the Soviets already have an MX, the SS-X-18 or the SS-X-24, regardless of what we do. The Soviet military bureaucracy has built in vested interests and sacred cows, and it is going to grind on with new programs. The Soviets have shown either abysmal stupidity or technological backwardness, or a combination of the two, in relying so heavily on silo-based ICBM's. While more than two-thirds of our deterrent forces are survivable, the same percentage of Soviet strategic weapons will be vulnerable.

And so what do we do, Mr. President? We have a situation where we decide for our security to put ourselves on a hair-trigger readiness, and the Soviets try to build a mirror image and decide for security they will put themselves on hair-trigger readiness, and then of course the debate will be how much of a hair trigger. So we will close the window of hair triggerness instead of the window of vulnerability, and we will get closer and they closer and we closer and they closer until we are down to seconds, until we are down to a point where, quite obviously, Mr. President, even the slightest mistake on either side triggers nuclear war.

There are those who say we are building a peacekeeper. Mr. President, it is not peace of the secure, it is peace of the grave. That is what we are doing. What we are doing is substituting the specter of a nuclear arms race for the security of nuclear arms control. If nobody else is going to move us down the path of arms control, then do we not have a responsibility as Senators to do that? Mr. President, I say that we can go into just about any part of this country and hear people speak of their desires, their needs, and their wishes for arms control. I do not care whether they are Republicans, Democrats, independents, conservatives, liberals, east, west, north, south, wherever they are in this country. People want to see real arms control. The people of this Nation, if given a choice or a chance to vote for arms control packages, would vote for them. Instead, when you come down to the ultimate arms control package, treaties, there are only 100 people in the United States who get to vote on such a matter, the 100 men and women of this body. And during the debates going on in the House of Representatives and the Senate, there are only 535 of us now who can vote to bring some kind of sanity to the arms race.

Certainly, if we are reflective of the people who sent us here to represent them, we would do so.

The point I want to make is that American force posture decisions should be made on the basis of our analysis of what protects our security while reducing the risk of a cataclysmic nuclear exchange. Instead of being mesmerized by a succession of Soviet missiles and obsessed with the idea that we must match them no matter how many missiles and warheads we already have, we ought to decide what, from our point of view, makes the most military sense.

We have other options for modernizing the U.S. strategic deterrent in ways that do not increase the risk of nuclear war. We are deploying air-launched cruise missiles. Even though I oppose it as not cost-effective, we are building the B-1 bomber. The advanced technology or Stealth bomber is coming later in this decade. The Trident II sea-launched ballistic missile, which would give us survivable hard-target capabilities, is nearing the initial testing stage. Beyond that, by the early 1990's, we will have the small, mobile, single warhead ICBM as an option for modernizing the land-based leg of the strategic triad.

So no one should be fooled into thinking maintaining strong nuclear forces depends on building the MX. It does not. The hard truth is that we do not need it; it wastes money, and it makes a nuclear exchange more, not less, likely.

That is really the sum of the MX.

One last line of argument I would like to deal with is the proposition that the MX is needed for arms control.

Well, the MX was defended last year as necessary as part of a deal to make the present administration more serious about arms control. Unfortunately, that ploy did not pan out; the Soviets withdrew from the strategic arms talks. The administration got the go-ahead on MX production and gave absolutely nothing, absolutely nothing on arms control.

On the second arms control argument for the MX, the one we hear more often now is that we must produce it to make the Soviets serious about a new agreement.

Mr. President, the drawback to this defense of the MX is that the administration has never intended to bargain it in the START talks. Let us listen to what our chief negotiator said. Ambassador Rowny has repeatedly declared that while he needs the MX to negotiate in Geneva, he does not mean to trade it for limitations on Soviet missiles. The MX is not a bargaining chip to be put on the table as negotiating capital. If it is not a bargaining chip, what is it?

The latest arms control justification for the MX is that by demonstrating American resolve and determination to compete, the Soviets will be sufficiently impressed to negotiate seriously. Again, the deficiency in this argument is that a decision last year to produce 21 MX missiles was followed by collapse in negotiations. The Soviet START proposal contained no special demands for limits on the MX. I understand under their proposal the United States could have been deploying hundreds of MX missiles. What kind of a bargaining chip? What kind of a bargaining chip, Mr. President? We say we will have 100 MX or maybe we will negotiate with the White House and we will have 50, or maybe we will negotiate with the White House and we will have 30, or maybe we will negotiate with the White House and we will have 20. The Soviets do not care. We can have 100, we can have 200, we can have 300. Bargaining chip? Certainly not to them. It must be a bargaining chip only among various factions in Congress and in the White House.

I do not seek an arms control agreement with the other body or with 1600 Pennsylvania Avenue. I should like to see our country have an arms control agreement with the Soviet Union. They certainly do not care how many MX we build. Thus, out the window goes the MX as a bargaining chip.

I believe that what impresses Soviet political and military leaders and negotiators is not bargaining chips or demonstrations of resolve, but militarily effective weapons designed to meet American strategic requirements.

Whatever else we may think of them, in matters of nuclear weapons and arms control, the Soviets are serious people. We have got to be equally serious in dealing with these matters, and stop being hauled back and forth because of ideological preoccupations or arid strategic theories.

If the debates and actions in the Senate and the House have demonstrated one thing over the last several years, it is that there is no consensus in the United States for deploying the MX missile. We have come up with all sorts of strange compromises, fences, and reports. All have one thing in common: They allow us to avoid making a tough, but necessary decision to kill a big nuclear program.

Nobody has ever testified that the MX, based the way we are talking about basing it, is a survivable weapon and thus makes sense for the purpose for which it is designed. Nobody wants to face up to that and say, "If it doesn't work, why continue to build it?" Instead, they say: "Maybe we will build a few less or a few more, whether people are happy with us or sad with us. We will base it on whether somebody comes to Geneva on such and such a date or does not. We will base it on whether this Member of Congress or that Member of Congress will go for it." Nobody bases it on whether we will vote for it because it will work or will not work.

We should talk to the people in our States and find out how they would vote.

The supporters of this amendment believe the time has come to stop the production of the MX missile, and transfer at least some of the savings to needed conventional force upgrades, especially in the area of readiness. Senator Levin, a distinguished member of the Armed Services Committee, helped us put together the list of conventional force add backs. He will explain in detail the rationale for particular items.

Let me just summarize for my colleagues what the focus of the conventional forces improvements would be. They are concentrated heavily in operations and maintenance improvements, including $261 million for Navy ship overhauls, and property and depot maintenance for the Army and the Navy. O&M improvements account for some $442 million of a total of more than $1.4 billion.

We propose to shift $719 million to improvements in active service equipment. This includes an additional C-5B for Air Force strategic airlift, antitank munitions, tactical aircraft spares, airbase survivability, and tactical aircraft modifications. For the Navy, we would restore one fleet hospital, and Phoenix and Standard missile buys for ship defense against air attack. Army improvements would include restoring deployable medical systems and support equipment for better treatment of wounded, personnel survivability equipment, and field maintenance and repair equipment.

The National Guard and Reserve would receive $92 million in force upgrades, primarily improvements in ground attack antiarmor capability, aircraft survivability, and avionics.

None of these programs is especially newsworthy, but all are important to the services in improving readiness. The money put into these programs would do more to strengthen the defense of the United States than the entire $2.6 billion going into production of the MX next year.

Mr. President, I ask unanimous consent that two important articles describing serious readiness deficiencies in the military services and the need for the kinds of upgrades and improvements contained in this amendment be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, May 14, 1984]

## U.S. FORCES MAY LACK RESOURCES TO CARRY ON A WAR, OFFICERS SAY

(By Richard Halloran)

Washington, May 13.—The 17th Tactical Fighter Squadron at Shaw Air Force Base in South Carolina is a hotshot outfit by almost every measure. But senior Air Force officers say it is officially rated not ready for sustained combat.

The 17th, the newest fighter squadron in the Air Force, is led by a veteran of the war in Vietnam. More than half its pilots are rated experienced, and its younger fliers are considered among the best in the service. It has most of the trained technicians it is authorized to have.

The 17th Squadron is fully equipped, with the last of its 24 F-16 fighters delivered recently. Each pilot logs more than 20 hours of training sorties a month. Skilled ground crews maintain the planes under the watchful eyes of senior sergeants. Morale seems high.

### SHORTAGE OF SPARE PARTS

But the 17th has in its war reserves only 60 percent of the spare parts considered necessary for sustained battle and has thus been rated not ready for combat, the senior officers said. The squadron could fight in the early days of a war but without more spare parts, it might have to be grounded quickly.

The 17th Tactical Fighter Squadron is not alone. Rather, it reflects uneven combat capacities in many other Air Force squadrons, Army and Marine Corps battalions and Navy ships, despite three years of rapidly rising military spending.

That conclusion arises from recent conversations with more than 100 squadron, battalion and ship officers and noncommissioned officers, those who would bear the brunt of battle if the United States went to war.

All those combat leaders asserted that the arms, equipment and personnel of their units had steadily improved in the last three years. At the same time, many cited deficiencies in training and war reserves that they said could cripple their forces in combat.

Those assessments were supported in large measure by the military high command in Washington and by senior officers of the unified four-service combat commands in testimony before Congress and in other public statements.

At issue are two closely related measures of capacity to be ready to fight a war and sustain combat. The degree of readiness, in Pentagon parlance, measures a unit's ability to fight on the first day of a full-scale war with conventional arms against a well-armed, well-trained adversary. The degree of sustainability measures a unit's capacity for continuing to fight effectively until American industry can produce weapons, ammunition and supplies as fast as they are consumed on the battlefield.

Recent wars in the Middle East show that consumption rates can be tremendous.

Military planners thus estimate that the forces should have on hand 60 to 90 days' supply of ammunition, parts and supplies to fight, for instance, a Soviet invasion of Europe, a North Korean attack on South Korea, or an Iranian attack on Saudi Arabian oilfields.

The Reagan Administration, in presenting its 1985 military budget to Congress, has said its military spending has been balanced and that the armed forces are more ready for war and for prolonged conflict than when President Reagan took office in 1981.

### 39 PERCENT IMPROVEMENT ASSERTED

At that time, Mr. Reagan said he was "appalled" by what he had seen: "American planes that could not fly and American ships that could not sail for lack of spare parts and trained personnel, and insufficient fuel and ammunition for essential training."

This year, when Defense Secretary Caspar W. Weinberger submitted his annual report to Congress, he asserted, "Today, three years later, 39 percent more of our major military units are categorized as fully or substantially ready for combat."

Mr. Weinberger did not specify how many units had been ready in 1981 nor how many were ready today. Those figures are classified, although they have occasionally become public knowledge.

Since Mr. Weinberger's report, however, the degree to which the armed forces are ready to fight and to sustain conventional war has been increasingly disputed in Congress and the press.

### MANY GUNS, FEW BULLETS

Some Congressmen, mainly Democrats, have argued that too much has been spent on weapons but not enough on ammunition and spare parts, contending, in effect, that the Administration has bought too many guns and not enough bullets.

In addition, Pentagon documents finding their way into the press have suggested that the Army and Air Force have fallen in readiness ratings, while other official reports have said the Navy has a critical shortage of missiles, torpedoes and other munitions.

At the request of Mr. Weinberger, the Chairman of the Joint Chiefs of Staff called a news conference in March to assert, "the force is simply far more ready than it was three years ago to do the things that the taxpayers of this country expect."

"I would tell you that we have better people," said the Chairman, Gen. John W. Vessey Jr. "They're armed with more and better equipment; their training has been improved and they have better support behind them. The maintenance backlogs are down, the ammunition supplies are up, spare parts are improved, the strategic mobility has improved."

### MORE MONEY THAN NEEDED

Still another view came in late April from Representative Les Aspin, Democrat of Wisconsin, a senior member of the Armed Services Committee, who asserted in a statement that operations and maintenance, a key element in readiness, "may well have been overfunded."

Mr. Aspin, regarded as a critic of military spending, contended, "It looks like the Administration is asking for more money than needed to operate everything at a tempo that will keep the forces ready to act in an emergency."

The colonels and captains, sergeants and petty officers interviewed in the field, as well as military and civilian officials in public testimony in Washington, have cited these deficiencies:

Insufficient ammunition: All the forces were said to lack enough ammunition for training and for prolonged combat. Military leaders said there were shortages of pistol and machinegun bullets, tank and artillery shells, and a variety of missiles, torpedoes and bombs.

Inadequate supply of spare parts: Most combat leaders said they had enough parts, with occasional shortages, to train and operate properly. But senior officials reported shortages in war reserves they said would be needed to sustain the battle in a prolonged war.

Shortages of noncommissioned officers: Although the number of officers has increased, military leaders cited shortages of infantry squad leaders or tank commanders, technicians in ship crews and electronics specialists in combat units.

Insufficient transport to sustain forces in protracted conventional war: Gen. Thomas M. Ryan Jr., head of the Military Airlift Command, told Congress that air transport capacity was 33.6 million ton-miles a day, while an estimated 66 million ton-miles a day would be needed in an extended war. Sea transport is similarly short of stated goals.

### CHIEFS CITE SHORTAGES

"Notwithstanding gains made by the services," the Joint Chiefs of Staff said in their annual report to Congress, "Shortfalls in authorized end-strength, senior grade enlisted personnel, spare parts, munitions, training funds, chemical defense, survivable command, control, and communication systems, and intelligence-support capabilities continue to inhibit readiness."

"Ammunition shortfalls are the most critical problem in materiel sustainability," the chiefs added. "Commanders continually identify inadequate ammunition resources as a major constraint on their combat capabilities."

Since January 1981 the Reagan Administration has poured money into new arms and equipment. Mr. Weinberger got from Congress a small addition to the Carter Administration's 1981 proposed budget for weapons and equipment to bring it to $57.6 billion, as measured in 1985 dollars.

After that the Defense Secretary persuaded Congress to approve big increases in 1982 and 1983 and a smaller increase to $89.1 billion for the fiscal year that ends Sept. 30. The increase for new arms and equipment is by far the largest expansion in the military budget.

### QUALITY OF PERSONNEL

The size of the armed forces has increased by 82,000 men and women, to 2.18 million this year. Military leaders say the quality of the force has steadily improved as recruits have been able to meet higher standards and more experienced people have been retained.

Improvements in training, operations and maintenance, however, appear to have been uneven. A Pentagon report shows a 15 percent decrease in the readiness of Air Force squadrons and a 25 percent decrease in readiness by Army battalions over the past three years.

At the same time, the report says the number of Navy ships rated combat-ready has doubled. Those figures were averaged to get the 39 percent increase in readiness cited by Mr. Weinberger in his annual report, Pentagon officials said.

Finally, the capacity to sustain combat was reported as lagging in comparison with the acquisition of weapons. The budget for ammunition, spare parts and other items in war reserve stockpiles has risen from $8.3 billion in 1981 to $10.8 billion in 1984, a much slower growth rate than that for weapons and equipment.

### SOURCES OF IMBALANCE

The apparent imbalance in changing combat capabilities seemed to stem from several sources. One was restrained military budgets under President Carter. A second has been the emphasis on new weapons under President Reagan.

A third has been cuts made by Congress. Its members have long shown little support for operations that bring little spending to home districts or unglamorous items like ammunition for war reserves, which is made in relatively few places.

In annual reports to Congress, field commanders cited deficiencies. Gen Wallace H. Nutting of the Army, who heads Air Force and Army units within the United States, testified that low levels of combat readiness in his command "remained virtually unchanged" over the past year.

"Army forces report equipment and personnel shortages as the primary degrading factors," the general said, "and Air Force units continue to report deficits in war readiness spares kits as the major problem."

### NAVY "STRETCHED THIN"

The Atlantic commander, Adm. Wesley L. McDonald, said his forces were "stretched so thin that very little surge capability exists for rapid response to crises." Inadequate supplies of munitions, he said, "remain the most serious detriment to current war-fighting capability."

Adm. William J. Crowe Jr., whose Pacific Command has forces in Korea, Japan, the Philippines and the Indian Ocean, told The Armed Forces Journal that his first concern was "whether we have enough ammunition, enough spare parts, enough oil in the right places, enough consumables and sustainables for a protracted conflict out here."

Gen. Bernard W. Rogers, the American commander in Europe, told Congress his command would be "simply unable to sustain its conventional forces in combat for long" and still have "manpower, ammunition, and war reserve matériel to replace losses."

Fifteen percent of the United States military forces are based in Europe. The deputy American commander there, Gen. Richard L. Lawson of the Air Force, gave more details, saying, "Battalion field training days, aircraft flying hours and ship steaming time are well below the level where we can feel confident."

"Some munition stocks, most notably air-to-air missiles, naval munitions, and specialized, high-technology munitions, are well below our required stockage, to the point where they could be classified as war-stoppers," General Lawson said.

At Shaw Air Force Base, the 17th Tactical Fighter Squadron was formed in October 1982, with 18 F-16 fighter and 16 pilots. Since then it has come close to full strength, with 24 planes and 30 pilots and most of the ground crew.

Lieut. Col. Benjamin D. Smith, who flew combat missions in Vietnam, commands the 17th, and Lieut. Col. Scott W. Pilkington, who flew Phantom fighters for six years before going to Shaw, is the operations officer.

Capt. Charles Simmons and 16 other pilots are rated "experienced," each having had more than 500 hours of flying time in the F-16. First Lieut. John Brandon and 12 others are rated "inexperienced," but Lieutenant Brandon has already had 450 hours in the F-16.

"The inexperienced guys we're getting now are the best I've ever seen," said Colonel Pilkington, who has been in the Air Force since 1968.

### 275 IN MAINTENANCE UNIT

The maintenance unit has 275 airmen, most of them experienced enough to hold middle-grade noncommissioned rank. The Air Force demands that 75 percent of a squadron's planes meet the criterion of being capable of going on a mission on a given day. The 17th ranges from 83 percent to 90 percent.

Senior Master Sgt. Gerald G. Arruda said he had on hand 90 percent of the spare parts the squadron needed. But he added, "We don't always have what we need, or they don't always come in on time." He said parts for landing gear and aviation electronics were sometimes troublesome.

MILITARY BUDGETS, 1981–84

[Budget authority for each fiscal year, in billions of constant 1985 dollars, adjusted for anticipated inflation]

| | 1981 | 1982 | 1983 | 1984 | Percent growth, 1981–84 |
|---|---|---|---|---|---|
| Personnel, retired pay | $68.3 | $71.0 | $72.7 | $75.1 | 10.0 |
| New weapons, equipment | 57.6 | 70.4 | 85.7 | 89.1 | 54.7 |
| Military construction | 27.7 | 29.9 | 30.7 | 31.7 | 14.4 |
| Maintenance, spare parts | 18.3 | 20.6 | 22.9 | 26.2 | 43.2 |
| Transport, logistics | 17.3 | 19.3 | 18.8 | 18.8 | 8.7 |
| Operations, training | 15.8 | 17.6 | 18.3 | 19.0 | 20.3 |
| War reserve stockpile | 8.3 | 11.3 | 10.4 | 10.8 | 30.1 |
| Total | 213.3 | 240.1 | 259.5 | 270.7 | 26.9 |

Source: Department of Defense.

Backing up the flight-line maintenance crews are several shops for repairing electronic equipment, weapons and engines. Chief Master Sgt. James B. Hall, who supervises engine overhauls, has been working on engines for 23 years.

With all that, the 17th Squadron is rated by the Joint Chiefs of Staff as not ready for sustained combat because it lacks vital spares for the F-16 engines, electronics and weapons. High-powered machines like F-16 fighters wear out some parts quickly.

### ENTIRE FLEET IS SHORT

Moreover, senior officers said, the Air Force is short of spare parts for the entire fleet of F-16's. A few squadrons of F-16's, like the 19th Tactical Fighter Squadron next door at Shaw, have been made ready for combat by draining spare parts from other squadrons.

Lieut. Gen. Leo Marquez, the Air Force chief of logistics, told Congress that no fleet of aircraft was entirely ready or able to sustain combat. The fleet of C-5 transports will be the first to be able to sustain operations fully, he said, but not until 1988.

The Air Force's comptroller, Lieut. Gen. George M. Browning, told Congress that the backlog of maintenance done by specialists in depots leaped from $23 million in 1983 to $317 million this year and that the backlog of maintenance on facilities such as hangars and barracks rose from $653 million to $718 million.

In the swamps and scrub pine of Fort Stewart in Georgia, the Army's 24th Infantry Division (Mechanized) prepares for possible battle in the deserts around the Persian Gulf. It is the heavy arm of the Central Command, formerly known as the Rapid Deployment Force.

The division's chief of staff, Col. Daniel R. Schroeder, is quietly enthusiastic. "We are so much better off today than we were a couple of years ago," he said. He cited new tanks that can fight at night, artillery fire control devices, and rocket launchers.

The officer in charge of absorbing new equipment into the division, Lieut. Col. James H. Askew 3d, said the division had received 54 new systems over the last three years and would bring in 33 more this year. Among them are antitank missiles, helicopters, laser devices to mark artillery targets, trucks, warning devices for foot soldiers, radios, radar, antiaircraft missiles, and filters for gas masks.

Colonel Askew has set up a center to train key soldiers on the new weapons. Instruction runs from half a day on new trucks to 17 weeks for a rocket launcher, culminating in a live firing exercise. He said he had been given enough time and money to train the troops properly.

But the officer in charge of regular training, Lieut. Col. James R. Childs, said the constant coming and going of soldiers was "the biggest distractor that we have." He said the turnover averaged 13 percent a month in the division.

The amount of training ammunition is insufficient, he said, and this is compounded by the turnover. No sooner was a tank gunner trained, for instance, than he left and a new gunner had to be trained. One tank gun shell for training costs $135.

A tank commander, Sgt. Leon B. Graves, said his crew did not get enough shooting on the range. "That's where the fun is," he said, "putting steel on steel downrange. That's what counts in what we do."

A battalion commander, Lieut. Col. Douglas B. Campbell, said that supplies of spare parts had increased but that pilots in his helicopter unit still did not get enough flying time because shortages had not been completely overcome. They did have enough fuel he said.

### SHORT ON MECHANICS

One company was hampered because its motor pool had only 8 of 12 authorized mechanics, said the motor sergeant, Staff Sgt. Rashid A. Charania. A neighboring company was short 5 mechanics, according to First Sgt. William D. Lovett.

The executive officer of an artillery battalion, Maj. Raymond M. Chapman, said the battalion's self-propelled howitzers had enough fuel so that gunners could practice on maneuvers and enough spare parts to keep most guns operating but not enough ammunition to train properly.

Sergeants who command tanks were unanimous in criticizing Fort Stewart as a training ground. They said they had little open-area in which to train for desert warfare. But the division plans to clear 2,500 acres so that tanks can practice maneuvers.

The division sent tank crews to the desert in Egypt last summer in Operation Bright Star. "That was the best training I ever had," said Specialist 4 Bruce J. Dutton, a gunner. Other crews will go to Fort Irwin, in the California desert, for maneuvers in September.

### NOT ENOUGH SERGEANTS

But it is more expensive to ship tanks and crews such distances to train than to train at a home base. Officers said the division had been posted at Fort Stewart because it was close to the port of Savannah, from which forces could be deployed overseas.

Asked about experienced personnel, the division's operations officer, Lieut. Col. Ronald R. Leonard, said that "we don't have sufficient senior grade NCO's" but that schooling for middle-grade noncommissioned officers was preparing them for senior positions.

The annual report to Congress by the Secretary of the Army, John O. Marsh Jr., and the Chief of Staff, Gen. John A. Wickham Jr., also noted the shortage of sergeants. They said 18 of about 70 Army units were not ready for combat because of personnel shortages. In April 1981, 35 units were rated not ready for combat, they said.

The Army leaders reported shortages in war reserves of repair parts, cold-weather clothing, body armor, helmets, medical items, tank and artillery ammunition and Hawk air defense missiles. They said it would take one to two years for contractors to turn out enough to sustain Army forces in combat.

### MARINE DIVISION MODERNIZING

From another pine forest, around Camp Lejeune in North Carolina, the Second Marine Division has deployed troops to guard the Beirut airport and to take part in the invasion of Grenada.

At the same time, the division has been modernizing. "This year, the Marine Corps is picking up more weapons than at any time since World War II," said the training officer, Lieut. Col. Donald F. Anderson.

The division has been reorganized so that infantry battalions have been reduced marines to 822 from 913 but have had their firepower increased with more machine guns, grenade launchers and antitank weapons. Some weapons have been delivered, others are on the way.

Marine artillery has been equipped with new 155-millimeter howitzers. An artillery regimental commander, Col. Larry R. Williams, said he had enough ammunition to train crews on the new guns but was worried about future supplies because of high costs. He also said his regiment was short of staff sergeants.

In Washington, the Marine Corps chief of logistics, Lieut. Gen. Harold A. Hatch, told Congress that the Corps would be able to fill only 32 percent of what is considered its ammunition needs by the end of 1985.

### BACKLOG IN MAINTENANCE

In war reserve stocks, the Marine Corps objective is a 60-day supply, General Hatch said. By the end of this year, the Corps will have only a 27-day supply and combat rations for only 30 days, he said. A backlog of specialized maintenance, nearly eliminated in 1983, will be back up to $6.5 million by September, he said.

Marine Corps commanders say they have the few good men they seek. Lieut. Col. Edwin C. Kelley Jr., who led the relief force to Beirut after the suicide bombing last October that killed 241 Americans, said he has good young officers in his battalion.

Sgt. Maj. Victor J. Guerra Jr. said the battalion was short of corporals and sergeants because some had transferred and others had gone to school to learn new skills. "But we'll make some of our own," he said.

Division Sgt. Maj. Arthur R. Cowan said the quality of marines had improved because "we put a lot of marines out of this division in the last couple of years." He estimated that 4,000 of the division's 19,600 marines had been discharged for failing to meet standards.

He also said marines had been easier to train after Beirut and Grenada. "Today you may be reading about it, tomorrow you may be doing it," sergeants tell trainees. "Certainly that's an attention-getter," said Sergeant Major Cowan.

### NAVY CITES SHORTAGES

The Navy, despite higher readiness ratings, says it has significant shortages that a Deputy Chief of Naval Operations, Vice Adm. James A. Lyons Jr., told Congress would not be overcome until 1989.

The aircraft carrier Independence returned to Norfolk recently after supporting the invasion of Grenada, sailing off the coast of Lebanon and taking part in an exercise near northern Norway.

As he prepared his ship to return to sea in several weeks, Capt. William A. Doughtery Jr. said that deploying ships got first crack at munitions and supplies. "I want to go with a full bag," he said. "I'll demand it, and I'll beg, borrow or steal to make it happen."

But "somebody has to pay for it," he noted, and other ships with lower priorities will have to do without. Some deploying ships pick up munitions and supplies from returning ships, a process the Navy calls "cross-decking."

### LITTLE TORPEDO PRACTICE

"Cross-decking of some categories of weapons to complete loadouts for our deployed forces still occurs in a number of important ordnance areas," Admiral Lyons said. "Inventories are improving, but they are not yet at levels to prevent this action."

The captain of a destroyer, Comdr. A.R. Brittain Jr., runs what sailors on the waterfront consider a good ship. But he said he would like to have 10 percent more fuel for training, a little more ammunition when he deploys, and a few more rated seamen.

Similarly, the captain of the submarine Cincinnati, Comdr. Robert E. Hawthorne Jr., has most of what he needs in experienced officers and sailors, spare parts and torpedoes. But his submarine may fire only eight practice torpedoes a year because of the expense.

A Navy spokesman in Washington said it was impossible to determine the cost of firing those training torpedoes. Senior officers added that submarines like the Cincinnati would go to war with a full load of torpedoes but that there were not enough for a second load.

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[From the Los Angeles Times, Mar. 7, 1984]

## PENTAGON DISPUTES REPORT ON READINESS FIGURES

(By Robert C. Toth)

WASHINGTON.—The Pentagon acknowledged Tuesday that the unit readiness ratings for the Air Force and Army have decreased since 1980 but contended that more stringent management standards for measuring readiness are to blame.

Despite the figures, the overall combat capability of the military services has improved substantially over the last three years, Gen. John W. Vessey Jr., chairman of the Joint Chiefs of Staff, told a news conference.

The manpower, training, equipment and support for all services have increased significantly since 1980, which "all adds up to a force far readier than three years ago," Vessey said in response to reports that readiness has dropped despite the Reagan Administration's record military buildup.

Vessey said that, if an Army unit does not have the latest M-1 tank or an Air Force squadron the latest F-15 or F-16 fighter plane, they are classed as not combat ready—even though, with older M-60 tanks and F-4 fighters, they were categorized as ready in 1980.

He credited some of the improvement to increased funding during the final years of the Jimmy Carter Administration as well as increased funding, amounting to $632 billion, during the Reagan Administration.

Vessey denied any political purpose in appearing publicly to deny the thrust, if not the figures, in news reports about reduced readiness under Reagan. But his press conference apparently was intended to prevent readiness from becoming an important issue in the 1984 presidential election campaign, as it was in 1980.

Vessey's appearance followed a Washington Post story Monday that reported that 25% fewer Army units and 15% fewer Air Force units are certified as combat ready now compared to 1980, while Navy readiness had increased more than 100%.

This appeared to conflict with Defense Secretary Caspar W. Weinberger's annual report to Congress last month in which he contended that "39% more of our major military units are categorized as fully or substantially ready for combat" compared to 1980.

Lawrence J. Korb, an assistant defense secretary who appeared with Vessey, did not deny the figures reported in the Post, but he explained that the 39% improvement in readiness that Weinberger cited was an average of the Navy's huge increase with the Army and Air Force declines.

Pentagon officials said privately that, although both sets of percentages are correct, they are also misleading without a deeper understanding of the changing standards of readiness in recent years and a more detailed examination of the significant components of readiness.

The Army, for example, has adopted the M-1 tank since 1980 as the standard weapon for tank units, Vessey said. Units that have not yet received the new M-1s are classed as not combat ready, he explained.

Similarly, Vessey said the Army units whose readiness dropped 25% were divisions, which are large groupings of up to 18,000 men. However, he said, readiness among the smaller units, such as battalions that make up those divisions, was up substantially in three categories and the number of battalions in the "not ready" category had been reduced to 78% from 86%.

Navy readiness has risen because Navy standards have remained essentially unchanged, Vessey said. He indicated that the service claims a radical rise in readiness because it has achieved all of its manpower goals for its ships.

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[From the Boston Globe, Mar. 7, 1984]

## GENERAL DENIES FORCES ARE LESS COMBAT-READY

(By Fred Kaplan)

WASHINGTON.—Gen. John W. Vessey, chairman of the Joint Chiefs of Staff, yesterday denied recent press reports that the Army and Air Force are less ready for combat now than they were three years ago—but did so in a way that cast doubt on brighter pictures of military readiness that have been presented to the Congress by Defense Secretary Caspar W. Weinberger.

Monday's Washington Post cited internal Pentagon documents as reporting that 25 percent fewer Army units, and 15 percent fewer Air Force units, were considered "fully or substantially" combat-ready in the fall of 1983 than in the fall of 1980.

The story appeared to reinforce the view of many critics, both in and out of the Pentagon, that the Reagan Administration's defense budgets devote too much money to expensive weapons systems and not enough to parts and supplies needed to operate and maintain those weapons, to keep them ready for combat.

### FORCE IS "FAR READIER"

At a press conference yesterday, Vessey stated, "That is not correct . . . We have better people, they're armed with more better equipment, their training has been improved, and they have better support behind them . . . All that adds up to a force that's far readier than the force of three years ago."

Asked about the figures cited in the Post story, Vessey replied, "I didn't read the newspaper account. I read the headline."

He said that the news story's numbers were based on the US military's official readiness reporting system, which is simply "a management tool . . . It is not a system to be used to describe the readiness of the force."

For example, Vessey continued, when an Army unit receives new M1 tanks, it takes a while for the soldiers to adapt and learn how to use them properly. In the meantime, they receive low readiness ratings. Moreover, the rating system would now gauge readiness on a standard assuming possession of M1 tanks. Therefore, units that have not yet received the new tanks are given lower readiness ratings, even though they may have been judged "ready" by the old standard.

However, when asked what Weinberger meant when he told Congress last month that the number of combat units "at least substantially ready" has increased by 39 percent since 1980, Vessey replied, "I'm not sure where that 39 percent came from."

### DIFFERENT RATINGS CITED

Lawrence Korb, assistant secretary of defense for manpower, confirmed to reporters after the press conference that Weinberger's figure came from the same set of ratings that Vessey had, only minutes earlier, said could not be used to describe the readiness of the force.

Moreover, Korb said that the number referred to all of the armed services, that the Navy's readiness ratings rose substantially over the past three years—mainly due to increases in personnel—and that, as the Post reported, Air Force and Army ratings declined. The positive Navy numbers and the negative Air Force and Army numbers, he said, add up to 39.

The vague, often confusing nature of these numbers is compounded by the fact that, according to Vessey and Korb, the Navy's readiness-reporting system is different from the Army's and Air Force's.

Korb further noted that the Army numbers refer to readiness of divisions. Emphasizing the positive, Korb said that if battalions, the smallest Army unit, were examined instead, the number of units that are "ready" to some degree rose from 78 percent in December 1980 to 86 percent in December 1983.

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### 10 BIGGEST HARDWARE PROGRAMS GET 11 PERCENT OF FY 1985 DEFENSE REQUEST

(By Millard Barger)

Of the $305-billion DoD is asking from Congress for Fiscal Year 1985, some 11%—$34.8-billion—is earmarked for development and production of 10 hardware programs, half of them for the Air Force. the Navy claims four of the remainder, and one item—10th on the list—belongs to the Army. Collectively, the prices of the big 10 account for a quarter of all funds sought by DoD to cover RDT&E and procurement in FY 85.

Eight of DoD's top 10 FY 85 weapons programs appeared on the FY 84 list. Only the C-5B and the Trident II strategic missile are new to the list this year. As was the case in the FY 84 request, the B-1B multirole bomber is the program with the biggest ticket. While the total cost of the program increased 20% from FY 84's planned spending, the Air Force plans to buy more than three times as many aircraft as is FY 84.

Still, at $8.2-billion, the B-1B's FY 85 cost is mnore than one-and-a-half times that of the M-X Peacekeeper strategic missile, runner-up for the second straight year. In FY 85, DoD hopes to acquire virtually double the number of Peacekeepers it funded in FY 84, yet the M-X budget request grows only $746-million.

Together, these two strategic programs account for 38% of the entire ticket for big 10 items. Adding the other three USAF programs on the list—the F-16 Falcon, the F-15 Eagle, and the C-5B Galaxy—gives the Air Force 63% of the top 10's price tag.

USAF intends to bring 150 F-16s into the force in FY 85, six more than in FY 84, but the total charge will be almost 60% greater. The 10C-5Bs requested for FY 85 will come as a better bargain that the six scheduled in FY 84. The Air Force intends to purchase its FY 85 Galaxies at an average savings of almost $123-million each. The Service wants 48 F-15s in FY 85, an increase of 12 from FY 84, but the average cost jumps nearly $2.5-million.

The Navy's four requests, the same number as last year, swallow the lion's share of the remaining big 10 funding. Its most expensive FY 85 programs—the CG-47 Aegis-equipped cruiser, SSN-688 Los Angeles-class nuclear attack submarine, F/A-18 Hornet, and Trident II missile amount to $11.1-billion.

While the Navy's FY 85 plan proposes acquiring the same number (three) of CG-47s as in FY 84, it expects procurement costs to drop an average of $25-million per vessel. However, to buy the same complement of F/A-18s (84) as in FY 84, the Service anticipates FY 85 expenditures to increase by $370-million. The Navy plans to add four attack subs to the fleet in FY 85, one more than it funded in FY 84, but the average price of each sub will run almost $50-million higher.

The Army's lone program is the M-1 Abrams main battle tank. Although the least expensive of FY 85's big 10 at a proposed $1.9 billion costs, it would have ranked ninth on the FY 84 chart at that amount. The Army intends in FY 85 to buy 120 fewer vehicles that it funded in FY 84, but the new tanks will be more costly by an average of $470,000 apiece.

THE "BIG 10" HARDWARE PROGRAMS

[Numbers of units and millions of current-year dollars]

| Program and service | Planned FY84 funding | | Proposed FY85 funding | | Projected FY86 funding | |
|---|---|---|---|---|---|---|
| | Number | Amount | Number | Amount | Number | Amount |
| B-1B, Air Force | 10 | $6,861.7 | 34 | $8,220.6 | 48 | $5,967.1 |
| M-X Peacekeeper, Air Force | 21 | 4,142.3 | 40 | 4,888.2 | 48 | 3,685.3 |
| F-16 Falcon, Air Force | 144 | 2,655.7 | 150 | 4,228.8 | 216 | 4,699.2 |
| CG-47 cruiser,[1] Navy | 3 | 3,268.3 | 3 | 3,194.0 | 3 | 3,326.9 |
| SSN-688 attack submarine,[1] Navy | 3 | 2,079.3 | 4 | 2,965.4 | 4 | 2,914.9 |
| F/A-18 Hornet, Navy | 84 | 2,335.1 | 84 | 2,705.8 | 102 | 2,916.4 |
| Trident II missile,[2] Navy | | 1,473.2 | | 2,254.0 | | 3,006.5 |
| F-15 Eagle, Air Force | 36 | 1,633.8 | 48 | 2,296.4 | 60 | 2,565.6 |
| C-5B Galaxy,[1] Air Force | 4 | 1,367.1 | 10 | 2,189.8 | 16 | 2,568.8 |
| M-1 Abrams tank, Army | 840 | 1,783.6 | 720 | 1,867.4 | 720 | 2,092.2 |

[1] Procurement funds only.

[2] RDT&E and long-lead procurement funds.

[3] Source: Secretary of Defense's FY 85 "Annual Report to the Congress." Funds are for RDT&E and procurement only unless noted.

**Mr. LEAHY.** Mr. President, the requirements to increase readiness far exceed what we seek. However, I certainly recognize that we cannot afford to do everything in defense. That is why my cosponsors and I propose to pay for these improvements through terminating MX production.

I also ask unanimous consent that two editorials against the MX from Vermont newspapers, be printed in the RECORD at this point.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Bennington Banner, May 17, 1984]

### NEW DOUBTS ON THE MX

Until now, backers and opponents of the MX did not agree on much, but they did see eye to eye on a couple of points. One was that the proposed new weapon was big enough and accurate enough to destroy the Soviet Union's land-based missiles right in their silos.

Supporters of the MX saw this as an advantage. Opponents said it was a disadvantage: A multi-warhead missile that is as accurate as the MX will inevitably be seen by the Kremlin as a first-strike weapon, they said, especially since the United States has given up on previous plans to make the MX invulnerable to Soviet attack. The MX, critics said, is strictly a "use it or lose it" arsenal item.

This is about how the debate stool until last week, when the General Accounting Office (Congress's investigative arm) issued a couple of interesting reports on the MX. According to one of these reports, the Soviet Union in the last five years has increased the blast-resistance of its missile silos to such an extent that even an MX hit would not be able to put them out of commission.

There are many officials in Washington, to be sure, who question the accuracy of the information on which the GAO report is based. But, be that as it may, the GAO—which is reported to have relied on U.S. Air Force data—has raised an interesting point: Even if the Soviet silos are not now ready to withstand an MX attack, what is to keep the Soviets from making them so during the several years that are likely to pass before the MX is actually operational?

That possibility puts the MX debate in a different light altogether. Once the MX is no longer seen as a silo-busting, potential first-strike weapon, it looks less destablizing to its critics but also less appealing to its supporters. The logical question, then, is whether the MX makes more sense than a far less costly modernization of the existing Minuteman missiles. Another alternative is an array of smaller, "midget man" missiles that would be so mobile and numerous as to defy a pre-emptive attack.

Considerations like these should be weighed by the House this week when it votes on a bill that would end funding for actual production, as opposed to research and design, of the MX. Such a block of funds was advisable back when it was still assumed the MX would be the decisive weapon it was originally billed as. A halt to production is even more advisable now that Congress cannot even be sure that the missile will be able to perform the one mission for which it was designed.

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[From the Burlington Free Press, Apr. 28, 1984]

### APPROVAL OF MX MISSILE WILL ESCALATE ARMS RACE

The rhythm of the nuclear arms race is alarmingly predictable: The Soviet Union develops a more sophisticated weapons system and the United States must respond with its own advanced weaponry.

As the arsenals grow, the threat of nuclear war increases. To some, it appears only a matter of time before the awesome weapons will be unleased and the world reduced to a nuclear cinder. But there seems to be no way to put an end to the madness until the two superpowers are willing to sit down at the bargaining table and work out solid agreements on the control of strategic weapons.

Under existing conditions, that is but a faint hope. Neither the Reagan administration nor the Soviet hierarchy under President Konstantin U. Chernenko is making the necessary overtures toward arms talks. Indeed a greater gap between Washington and Moscow has developed since Chernenko took power. The likelihood of a thaw is remote.

The coming House debate on the Reagan defense budget could send yet another signal to the Kremlin of American intentions, because lawmakers will be asked to approve an appropriation for building 30 MX missiles, intercontinental weapons that would be aimed toward Soviet cities and missile silos. Last year, the House came within 13 votes of rejecting the administration's proposal to begin production of the weapons and the Senate gave its assent after a filibuster by Sen. Gary Hart, D-Colorado, in what was considered the first step in his bid for the Democratic presidential nomination. This year, the House Armed Services Committee overrode the number to be produced from 40 to 30, saving $450 million. With pressure for further cuts in the defense budget, the floor debate in the House might well result in the elimination of the MX program.

President Reagan is a staunch supporter of the MX and already has called some members of the House committee to solicit their support for its construction. And Secretary of Defense Caspar Weinberger has cited the need for the so-called "Peacekeeper" to counterbalance Soviet intercontinental ballistics weapons. He has claimed that it is necessary to "maintain our nuclear deterrence."

Opponents question the need for the system in light of the existing weapons and contend that the United States now has enough strategic strength to deter the Soviets from launching an attack on this country. Even more sobering is the fact that MX missiles in hardened silos could lead to the pre-emptive strike against American sites by the Soviet Union.

As it stands now, the United States has a formidable force that acts as a deterrent against Soviet aggression and adding more weapons will merely ensure a similar response by Moscow.

To prevent further escalation of the arms race and the threat of a nuclear holocaust, Russian and American leaders must be persuaded to sit down at the conference table to work out agreements on the control of strategic arms.

Mr. **LEVIN**. Mr. President, the purpose of this amendment is, simply put, to strengthen our national security by making necessary improvements in our conventional military forces and to prevent further weakening of our fiscal security by spending scarce tax dollars on an unneeded, dangerous, and certainly not cost-effective strategic nuclear weapons system.

This amendment eliminates all production funds in fiscal year 1985 sought for the MX Missile Program—some $2.6 billion. It proposes to reinvest $1.4 billion of these funds into 26 unglamorous but critically important, combat readiness and nonnuclear Conventional Forces Programs.

The remainder of the funds saved by our amendment—$1.2 billion—represents a reduction in the staggering deficits which threaten our future economic well-being.

The increased spending our amendment proposes for these Conventional Forces Programs is militarily justifiable and represent responsible priorities for our defense budget. The reduction proposed for MX production eliminates a militarily unjustified procurement program and establishes the proper defense priorities for this Nation.

We need the increased conventional programs in this amendment. They benefit both the active and Guard and Reserve Forces, improve our nonnuclear capabilities, and raise the nuclear threshold. We do not need the MX production, because the missile is dangerously destabilizing. It does not add to our security. Quite the opposite: it contributes to our insecurity. It is a highly accurate, fixed-silo nonsurvivable nuclear weapon with multiple warheads. It represents the worst of all nuclear weapons worlds.

Our amendment adds funds for ammunition, spare parts, hospitals, depot maintenance, ship overhauls, real property maintenance, tactical aircraft modifications, common support equipment, ambulances, truck loaders, shop equipment, bridging equipment, airlift aircraft, and so forth.

There is a National Guard/Reserve package for digital avionics systems upgrades for Guard tactical reconnaissance jets, smokeless engine kits for Guard F-4D aircraft, and 30-mm antitank pods for Guard A-7 ground jets.

Funds also are added for research and development in such important conventional areas as better airbase survivability, improved soldier support and survivability, and upgraded combat feeding, clothing and equipment.

None of these 26 programs has a powerful constituency to save them from budget cuts when the administration or Congress decides that we must indeed show some restraint relative to the defense budget or when the administration and Congress pay for nuclear weapons or for the big ticket procurement entitlements at the expense of the unglamorous conventional forces.

We have added a great deal to the defense budget in the past 4 years, but we have not added wisely when we continue to pay for programs like the MX missile at the expense of needed conventional programs. Our amendment tries to restore prudence to our defense budget.

There should be little doubt that MX missile procurement should be eliminated in fiscal 1985. Just listen to the words of two of our Nation's former top military leaders.

Retired army general and former Chairman of the Joint Chiefs of Staff Maxwell Taylor has said the following about the MX:

> An essential weapon should perform its function at a tolerable cost. At the moment, one cannot be sure of the total cost of the MX system. Estimates vary from the Administration figure of $26 billion to as much as $50 billion. Given the Pentagon's record for overruns, the latter figure is the more probable. I find that it fails to qualify as essential because of the uncertainty regarding its survivability, the unlikelihood of the first strike threat it is designed to counter, the unpredictable dollar cost and the existence of apparently better and surer ways of accomplishing the purposes of the MX.

Former Chief of U.S. Naval Operations, retired Adm. Elmo Zumwalt, has said about the MX, "The huge expenditure required would be better used for non-nuclear weapons."

Mr. President, there also should be little doubt that these readiness improvements which our amendment contains are needed.

The claims presented by the administration in its recent special report on improved readiness are dramatically undercut by the following statements from both the top readiness official in the Pentagon, Assistant Defense Secretary Lawrence Korb, and high-ranking military officers:

The Assistant Secretary for Manpower, Installations, Logistics, Dr. Korb said in a February 17, 1984, memorandum to Defense Secretary Caspar Weinberger:

> Finally, we must recognize that all of our readiness-related programs are not fully funded despite our pronouncements about the high priority we accord to readiness in Defense resource allocation.

And he said:

> Backlogs of maintenance and repair activities will now continue to plague us.

Assistant Secretary Korb's memo of February 17, 1984 stated that the DOD budget allocation priorities leave us with "underfunding of spares procurement in virtually every service, as well as some unfinanced maintenance backlogs that will remain at end fiscal year 1985."

Mr. President, our amendment contains funds to eliminate the unfinanced backlogs in Army depot maintenance as well as in Navy ship overhauls.

Secretary Korb also declared to an Air Force Association symposium just last October that:

> I think that it is clear that we can do better with our readiness and sustainability accounts. . . . Up front, the forces assigned to our Unified Commanders are not as sustainable as they should be and will not be for the foreseeable future.

In this same speech, he said that our Armed Forces were in "a dangerously low sustainability posture."

Lt. Gen. Howard Stone, Chief of Staff of our European Command in NATO, testified before our committee in February that in his command "some munition stocks, most notably air-to-air missiles, naval munitions, and specialized, high technology munitions are well below our required stockage, to the point where they could be classified as war stoppers."

And that means war "losers," Mr. President.

The General Accounting Office also draws a different conclusion on the overall trends in our war fighting capability than does the administration.

I just quote two paragraphs from the GAO's recent letter to Senator NUNN, our committee's distinguished ranking minority member:

> Based on our analysis, we believe the information provided by Defense points to an imbalance among the four functional areas which comprise military capability. Progress made in the force structure, modernization, and personnel readiness areas is not matched by progress in other readiness areas—namely, equipment condition and equipment/supplies on hand—and in sustainability.
>
> In summary, Defense presented information showing progress has been made in the force structure and modernization areas, and in personnel readiness. However, improvement in these areas can be offset by deficiencies in other areas. In our view, continuing readiness and sustainability problems should not be overlooked by the Con-

gress in evaluating our military capability and future defense budget requests.

Mr. President, GAO's conclusion from the Defense Department's report is that deficiencies still exist in the area of readiness and sustainability, and these areas have not received the same emphasis as the other areas of the defense budget over the last few years. In addition, GAO implies that these deficiencies can offset the improvements that have occurred in other areas.

The Army, for instance, has a long list of readiness problems, and we should all be aware of what it is that we are not funding adequately and are allowing to continue.

The Army has shortfalls in its ability to mobilize enough skilled manpower. It has Reserve components that fail desired readiness standards, especially in the combat service support forces.

It has critically low war reserve stocks to replace expected combat losses, especially ammunition.

It has insufficient chemical warfare decontamination equipment.

There are shortages of experienced NCO's in the combat and intelligence troops.

There are serious shortfalls in the logistics over the shore equipment delivery capabilities so important to our Rapid Deployment Forces.

The Army has a continuing depot maintenance backlog, even though this administration pledged 2 years ago to reduce such backlogs to zero at that time.

It has major shortages for supporting systems and equipment, including battlefield recovery, ammunition handling and distribution, and petroleum distribution equipment.

There is insufficient individual clothing and equipment to outfit the required number of recruits upon mobilization, and probably not enough money in the fiscal year 1985-89 defense program to buy enough.

Even now, the Army has a $1.6 billion backlog in facilities maintenance and repair, with no reduction to manageable levels expected until the end of fiscal year 1989.

There are major shortages in Reserve and National Guard equipment, even at the end of fiscal year 1985-89 program.

There is a shortage of more than 50,000 tactical vehicles, even after the fiscal year 1985 program.

Finally, the Army has a $1.25 billion set of deficiencies in laid-away ammunition production base facilities and equipment, according to the GAO, with only about $150 million in the Army's fiscal year 1986-90 plans to begin addressing it.

We still have other major readiness problems as well, Mr. President:

The financial depot maintenance backlogs for fiscal year 1985 are almost twice as high as they were in fiscal year 1981, after excluding inflation and after DOD declared 2 years ago it would totally eliminate these backlogs;

While Navy surface ship personnel readiness has dramatically increased due to congressional pay initiatives and a poor civilian economy, readiness deficiencies in supplies/equipment on hand and training have remained relatively constant;

Supply readiness has declined sharply in the Army;

The number of Army divisional forces/separate brigades assigned higher personnel and equipment readiness requirements has plummeted from 19 in fiscal year 1980 to 4 in fiscal year 1983—a 79-percent fall; and

Monthly flying hours per crew for the Navy's frontline tactical combat and ASW aircraft have, with few exceptions, fallen between 4.6 percent and 22 percent from fiscal year 1982 to fiscal year 1985.

Mr. President, our amendment addresses many of these problems, and we will be a stronger nation if it is adopted.

Specifically, let me outline some of the many changes in this defense authorization that we are proposing—the many add ons that we are proposing for very needed conventional capabilities.

First, in the area of operations and maintenance improvements, we would add $116 million for Army depot maintenance. This would eliminate the unfinanced fiscal year 1985 backlog for overhauls and maintenance of 500 armored personnel carriers, 110 tanks, and other equipment, thus increasing readiness.

We would add $65 million to Air Force real property maintenance. This would reduce the fastest growing backlog among all services.

We would add $261.8 million for Navy ship overhauls. This would eliminate the unfinanced 1985 backlog. It would overhaul one cruiser and two amphibious cargo ships.

So there is a total in the area of operations and maintenance improvements of $442.8 million.

In the active convention forces improvements category, for the Air Force, we would add $51 million to restore the Gator antitank munitions. This would restore more than 1,000 new antitank mines to reduce the Soviet Warsaw Pact armor advantage which they have over us and will continue to have over us for a long period of time.

By adding $158.5 million, we would restore one C-5B transport aircraft in 1985 and advance procurement for an additional one in 1986. This would give us an additional needed long-range airlift enhancement.

We would add $78.6 million to restore tactical aircraft spares. These are replenishment spares for peacetime training and wartime combat sustainability.

We would restore $10 million for the C-130 airlift spares. These are also replenishment spares for wartime sustainability for high-priority tactical airlift.

We would restore $65 million for military vehicles to replace overage cargo trucks, ambulances, loaders, and water distributors, and so forth. These are unglamorous readiness items, Mr. President, but they are vital and they can make the difference between success and failure in a conventional war.

We would restore $56.8 million for common ground equipment—again unglamorous support equipment—to maintain and operate combat aircraft.

We would restore $44.4 million for tactical aircraft modifications. These would upgrade aircraft to counter the improving threat and to reduce maintenance requirements.

We would restore $3 million to enhance our airbase survivability research and development account. This would give us better means to protect and repair airbases to maintain aircraft sortie generation.

In the Navy and Marine Corps, we would restore $25 million to restore one fleet hospital. This would prevent a delay of several years in the fielding of a 500-bed unit for the care of conventional war casualties. The Navy is 74-percent short of its requirement in this area.

We would add $50 million to restore the Phoenix missile buy. This would buy 60 more missiles for the Navy's top fighter, the F-14, to defend aircraft carriers. The Navy is 77-percent short of its requirement in this area.

Mr. President, the amendment would add $16 million to restore the standard missile procurement. This would buy 50 more medium range surface to air missiles to defend ships against Soviet air attacks.

We would add $200 million to restore Navy tactical aircraft modifications. These would upgrade aircraft to counter improving threats and also to improve maintainability.

We would add $8.3 million to restore the armored vehicle launched bridge. This would buy 13 sets that are needed to permit cross-country movement by our marines. The marines now have zero percent of this requirement; zero percent.

We would add $6 million to restore tracked vehicle spares and repair parts—unglamorous items—to maintain operating capabilities of Marine combat vehicles.

For the Army, we would add $44 million to restore deployable medical systems. This would buy 11 MASH units and other hospitals to increase soldier survivability and recovery.

We would add $30 million to restore combat medical support equipment; unglamorous hospital equipment except when you see it on television, but absolutely essential in the real world to make sure that our soldiers who are wounded have a reasonable chance of recovery.

We would add $13 million to restore truck-mounted shop equipment. These are mobile repair shops for field maintenance to improve readiness. The Army is seriously short in this requirement.

We would add $10 million to buy improved 2.75-inch rockets. These are 14,100 longer range antipersonnel munitions for attack helicopters.

We would add $3.1 million to restore research and development for soldier support and survivability improvements. This would prevent at least a year's delay in developing better, more combat capable chemical protective suits and stronger helmets against small arms fire, and so forth.

We would add $3.3 million to restore research and development for combat feeding, clothing, and equipment upgrades.

For the Guard and Reserve, we would buy digital avionics systems to upgrade the Air Guard tactical reconnaissance aircraft. That would cost us $22 million. It would upgrade 40 aircraft with improved target location capabilities.

We would buy smokeless engine kits for the Guard's F-4D's with $36.5 million. That amount would fully fund kits to eliminate exhaust smoke to reduce vulnerability to air defenses.

Last, we would buy 30 millimeter antitank gun pods for the Guard A-7 ground attack aircraft, for $33.3 million. This would buy the most lethal air antitank weapon for about one-third of those Guard A-7 jets which still do not have these weapons needed to support ground troops.

Mr. President, all in all, we can fund all these needed conventional programs and we can do much more to improve our military capabilities if we will make the decision not to invest any further funds in an MX missile program which, when it was first proposed, everybody conceded would only be deployed if it could be deployed in a survivable basing mode. It cannot be. Now we are putting billions of dollars into the ground in a system which does not add to our security, while we are underfunding all the unglamorous combat readiness items that I have listed and more.

I have gone through that list and taken the time of our colleagues to do it so we can get a feel for what we are not buying. Around here, we hear much about what we are buying. And we have arguments back and forth, and there are arguments, which are understandable, about whether we ought to buy the B-1B bomber, or whether we ought to buy the MX, or nuclear aircraft carriers, or many other weapons. And those arguments are legitimate, and reasonable people can certainly differ.

But we also should understand, Mr. President, what we are not buying when we invest in weapon systems like the MX. We are not buying the unglamorous items that are essential to survival and success on a real world battlefield, not a battlefield where thousands of nuclear warheads have annihilated both sides in the conflict. Whether or not a soldier lives or dies could depend on whether or not there is a hospital unit available to him; whether or not his weapon has been maintained, whether or not there is a spare part for his tank or his armored personnel vehicle. That is the real world of conventional combat.

And it is in that world that we are shorting our fighting forces. We are shorting them by billions. We are shorting them because we are investing in systems like the MX which will not contribute to our security.

I hope the Senate would adopt this amendment so we can invest billions where they might do us some good in a real military sense and take the funds away from a system which cannot, under any conceivable scenario, contribute to the security of the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER [Mr. COCHRAN]. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that additional materials relative to the conventional forces improvements that we are proposing be inserted into the RECORD in full.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### ARMY DEPOT MAINTENANCE—ADD $116 MILLION

Eliminates unfinanced backlog for fiscal year 1985 in overhauls/spares procurement for unglamorous materiel maintenance; would overhaul 500 APC's 110 M60 tanks, 121 helos, 58 radios, 12 Vulcan air defense guns, etc.; Immediately improves readiness through increased availability of critical items; saves costs by doing work in fiscal year 1985 instead of fiscal year 1986.

To be overhauled:

22 OH-58 Aircraft.
250 M113 Personnel Carriers.
60 M60 Series Tanks.
15 M60 Tank Conversions.
20 AH-1S Helicopters.
AH-1S Helicopter Secondary Items.
Pershing II Missile Secondary Items.
AH-64 Helicopter—Contractor Logistics Support.
Other Secondary Items.
37 UH-1H Helicopters.
22 OH-58 Helicopters.
20 AH-1S Helicopters.
250 M113 Personnel Carriers.
50 M60 Series Tanks.
12 Vulcan Air Defense Guns.
58 AN/TRC-145 Radios.
Generators, Calibration, Other Communication items.

Additional benefits are derived from less field maintenance on a depot candidate which is still operable and cost savings which accrue when work is performed in fiscal year 1985 rather than fiscal year 1986 which is more expensive.

### AIR FORCE REAL PROPERTY MAINTENANCE—ADD $65 MILLION

Amendment restores $65 million to AF real property maintenance account which was part of original budget request but was later cut by AF in "deficit reduction" package.

Cut was pennywise and pound foolish, since insufficient maintenance and repair funds ultimately lead to need to spend much more money replacing entire buildings.

AF's backlog of real property maintenance and repair has been growing the fastest of all the services. The original fiscal year 1985 request, before this $65 million was cut, represented a 63 percent increase in the backlog since fiscal year 1980.

In fact, in only 1 year in the last 7 (fiscal year 1982) has the AF's real property maintenance backlog decreased.

Without our amendment, the Air Force actually will be spending less in fiscal year 1985 to reduce its real property maintenance backlog than it spent in fiscal year 1983 and it will spend in fiscal year 1984. That's progress in exactly the wrong direction.

Proper real property maintenance not only is a more cost-effective expenditure of defense dollars but it has a direct impact on the combat readiness, quality of life and morale of our forces.

The Congressional Budget Office recently concluded that real property maintenance costs in DOD will continue to rise faster than the rate of inflation because our military installations simply are aging faster than we can repair or replace them. If we do not begin restraining the growth in these backlogs now, the problems only will become larger and more expensive in the future, with even greater impacts on combat readiness and morale.

### NAVY SHIP OVERHAULS—RESTORE $261.8 MILLION

Eliminates financial ship overhaul backlog for first time since fiscal year 1982 by funding overhaul of two amphibious cargo ships and one nuclear cruiser; the aging amphibious ships are important to our limited life capability and the nuclear cruiser is one of our few major surface combatants with relatively unlimited endurance; these overhauls would increase fleet readiness.

The overhaul for the nuclear cruiser was part of the original fiscal year 1985 budget request; the amphibious cargo ship overhauls were left unfunded.

All three should be funded in fiscal year 1985 to prevent the ship overhaul backlog from growing.

Deferring these overhauls to fiscal year 1986 only exacerbates the funding problems we will have next year in the entire budget.

More overhauls scheduled for next year probably will have to be delayed.

When Navy Secretary Lehman appeared before Congress, he testified: "The chronic problems of long backlogs of ships and aircraft awaiting overhaul will be effectively eliminated if the fiscal year 1985 readiness requests are appropriated by Congress."

Passage of this amendment is the only way we can actually eliminate the financial backlog for overhauls and make the Secretary's claim a reality.

Our combat readiness would increase.

It only makes good fiscal sense to properly maintain what we already have—with which we will fight the wars of the near future—before we buy new ships which will not be available to us for 5-10 years.

Despite the Secretary's claim, DOD offered up as a budget cut the overhaul of the nuclear cruiser, and never volunteered funding for the two amphibious cargo ships.

We should restore proper budget priorities by funding these overhauls.

### Restore $51 Million to Gator Antiarmor Munitions for Air Force

Restores 1,074 mines to fiscal year 1985 program, which still would bring us to only 10 percent of inventory objective; this new conventional munition permits minefields to be laid by air, thus allowing longer range interdiction of enemy troops and armor; without this restoration, unit costs increase and prior investments in R&D and facilities go underutilized; Gator has important role in reducing Soviet WP tank edge.

The Gator is an anti-armor mine system. This munition includes both anti-armor and anti-personnel mines that are used to produce an air-delivered minefield. The anti-tank mines are capable of penetrating the belly armor of currently deployed tanks.

This new conventional munition will play an important role as an anti-armor munition. With the fiscal year 1985 buy, we will have only 10 percent of our total inventory objective of this munition.

There is a large growth in this program from fiscal year 1984 to fiscal year 1985, as there is in other Air Force munitions programs. But we have known for several years that this growth was coming. Let's not fall into the trap of pushing needed investments in munitions sustainability to the out-years; the out-years never seem to materialize.

This really isn't an affordability issue, it's a priority issue. The real question is whether we are going to give improved conventional munitions sustainability the priority it should have in this budget relative to other big-ticket strategic programs of questionable value.

### Programs To Enhance Airlift—Strategic and Tactical—and Tactical Aircraft Modifications

Restore 1 C-5B Strategic Transport Aircraft and adv. procurement for 1 more in fiscal year 1986: +$158.5M; Increases long-range airlift capability to deploy troops and heaviest equipment (tanks helos, etc.); needed to reduce large shortfall in present transport capabilities.

Restore tactical aircraft spares: +$146.2M; Buys spares needed to maintain readiness and sustainability of our tactical combat aircraft during peacetime and early phase of conflict; permits sufficient flights for aircrew training, etc.

Restore C-130 airlift aircraft spares: +$10.9M; Restores unjustified reduction in replenishments spares needed to sustain this important tactical airlift capability in early phases of conflict (results in purchase of more C-130 War Reserve Spares Kits-WRSK).

The Committee report on the need for C-130 airlift spares had this to say about how important the C-130 spares are: "Procurement of replenishment spares is directly related to the readiness and sustainability of the airlift force. The peacetime segment of this account, Peacetime Operating Stock (POS), supports the individual aircraft flying hour programs. There are two wartime segments: War Readiness Spares Kits/Base Level Self-Sufficiency Spares WRSK/BLSS) and Other War Reserve Material (OWRM). WRSK/BLSS are the stocks that the Air Force uses to transition into war and to fight for the first 30 days. OWRM are stocks required to sustain the forces at wartime levels after WRSK/BLSS is exhausted and until production can satisfy war-time consumption.

"The Air Force has placed high priority on the procurement of airlift replenishment spares in an effort to improve the sustainability of the current fleet of airlift aircraft."

Unfortuantely, despite the AF's high priority for this program, the Committee cut $10.9M from it. Congress should restore these funds to increase the readiness and sustainability of our tactical airlift fleets.

### Air Force Readiness Program Improvements

Restores procurement of cargo trucks, ambulances, fire trucks, tractors, armored cars, loaders, water distributors, cranes, etc.: +$65.3M; Permits replacement of overage military and special purpose vehicles needed to maintain combat readiness and personnel safety; etc.; present vehicles uneconomic operate and repairs.

Restore purchase of Common Ground Equipment: +$56.8M; Provides procurement of unglamorous, readiness support equipment needed to maintain and operate combat aircraft; permits replacement of old, costly-to-maintain equipment.

Restores aircraft modifications: +$44.4M; Permits modification/modernization of many aircraft during regular overhaul cycles to allow them to keep up with improving threat aircraft and to improve their maintainability and combat effectiveness.

These funds for Tactical Aircraft Mods are to continue to permit the integration of the new Advanced Medium Range Air to Air Missile into the F-16, which will significantly increase its capabilities as an interceptor and air superiority fighter. Even with delays in the AMRAAM program, this integration effort must continue to enable the Air Force to avoid even further delays in deploying upgraded F-16s.

The funds also will permit improvements to the Inertial Navigation Systems of the F-4 aircraft as well as improve the engine maintenance and repair capabilities for the A-10 Close Air Support/Ground Attack aircraft, the mainstay of our Air Force's anti-tank capabilities so needed by our Army in Europe in a NATO war.

### Combat Medical Readiness Improvements/Restorations Needed To Provide Proper Care for Wounded Soldiers and Sailors and Marines

We should not sacrifice the lives of our military men and women on the alter of unneeded strategic nuclear weapons.

Restore procurement of one fleet hospital for the Navy, +$24.9M; prevents delay of several years in fielding one, 500-bed hospital needed to care adequately for casualties in a conventional war; fleet hospitals are field hospitals which treat wounded sailors/Marines from ships under attack and combat units ashore; prevents delay in procurement of one hospital for several years. Navy 74 percent short of requirement.

Restore Deployable Medical Systems Funds for Army, +$44M; buys Mobile Army Surgical Hospitals (MASH) for rapid surgical care of wounded near battle area; closeness to front increases soldier survivability/recovery chances. Also buys other hospitals. (Total of 11 more bought.)

The $44.0 million reduction in FY 85 imposed by committee has the following impacts:

a. Defers modernization of existing capability even further into the outyears to include beyond the proposed FY 86-90 program.

b. Defers the ability to support a minimum 15 day evacuation policy into the 1990s resulting in lost manpower to Theater commanders in the event of conflict.

c. The following chart provides a comparison between the projected procurement schedule before and after reduction: (The reduction column is displayed in the FY 86-90 POM Tables.)

| | Fiscal year 1985–89 FYDP—1985 | Budget reduction—1985 |
|---|---|---|
| Mobile Army Surgical Hospital | 8 | 4 |
| Combat Support Hospital | 4 | 2 |
| Evacuation Hospital | 10 | 10 |
| Field Hospital | 1 | 0 |
| General Hospital | 6 | 2 |
| Total | 29 | 18 |

d. The resources identified in this line represent the Army's, program to procure standard DOD tactical shelters and electrical generators for combat hospitals. These include the following (5) five specific items:

1. Electrical Generator/Environmental Control System;
2. Shelter, Tactical, 2-sided, Expandable;
3. Tent, Extendable, Modular, Personnel 8-Section;
4. Shelter, Tactical, 1-sided, Expandable;
5. Tent Extendable, Modular, Personnel, 2-Section.

Restores funds for Combat Medical Support Equipment, +$30.9M; buys basic essentials for care of wounded stretcher tables, hospital equipment, etc.

The resources identified in this line represent the Army's program to procure medical equipment (unit cost $3000 or greater) for combat medical units, primarily combat hospitals. Examples of medical equipment items programmed under this line include:

a. High Capacity X-Ray System;
b. Low Capacity X-Ray Systems;
c. Sterilizers (various types);
d. Defibrillators;
e. Monitor, Patient vital signs;
f. Blood Gas Analyzer.

2. The $30.0 million reduction in FY 85 imposed by the Committee has the following impacts:

a. Defers modernization of existing capability even further into the outyears to include beyond the FY 86-90 POM.

b. Defers the ability to support a minimum 15 day evacuation policy into the 1990s resulting in lost manpower to Theater commanders in the event of conflict.

### Restore Phoenix Air-to-Air Missile Procurement— +$50 Million

The Phoenix missile is an integral part of the main weapon system which defends our aircraft carriers—the offensive power of our fleets—from attacks by Soviet backfire bombers and cruise missiles. This is the F-14 high performance interceptor aircraft.

Armed with long range Phoenix missiles, the F-14 has the capability to track and target multiple Soviet targets and try to kill the backfire bombers before they launch their missiles to attack the carriers. Unless the bombers are killed before they launch their missiles, the survivability of our aircraft carriers is significantly decreased.

The Phoenix missile is the Navy's best and longest range air-to-air missile, but the fleet currently is 77 percent below its inventory requirement.

Senior Navy admirals have testified to the Armed Services Committee that one of their greatest concerns and largest obstacles to accomplishing their mission is the lack of sufficient numbers of weapons—missiles, rockets, bombs, and ammunition.

Adm. Wesley MacDonald, Commander in Chief Atlantic Fleet said: "Ordnance deficiencies remain the most serious detriment to my current warfighting capability."

Adm. William Crowe, Commander in Chief, Pacific Command stated: "My highest priority is ammunition. * * * I would, of course, like to see more investment in this area. * * * Simply put, our ammunition deficiencies will not be corrected easily or quickly."

The Phoenix and F-14 are the Navy's best defense against the Soviets. We should not be cutting back on the procurement of these essential missiles, which will enable us to fight longer in any sea war. Without this procurement, each carrier will have to go to war with fewer Phoenix missiles, which degrades its combat readiness and sustainability.

### Restore $200 Million for Navy Tactical Aircraft Modifications—Restore $6 Million for Marine Corps Tracked Vehicle Spares/Repair Parts

Navy Modifications. The Committee recommended a reduction of $200.0 million to the aircraft modification program. This program is designed to retrofit performance, reliability and flight safety modifications into operating fleet aircraft. The action is a 10.4% cut in the program and would delay introduction of these improvements to aircraft now operating world wide.

The Aircraft Modification program funds incorporation of technical improvements which substantially modernize the operational capabilities; improve the maintainability, reliability, and safety; and extend the service life of aircraft which have entered the fleet. Budget estimates and authorization requests include funds for modernization/conversion programs undertaken in lieu of procurement of new aircraft in order to maintain an effective, responsive force level.

In order to fulfill inventory requirements, it has become mandatory to operate many older aircraft beyond their originally programed service life and update their weapon systems so that they remain capable of continued effective operation in new threat environments.

Only essential modifications or changes which are necessary to satisfy the most urgent operational requirements are included in this $200 million restoration.

Restore tracked vehicle spares and repair parts, +$6M; unglamorous readiness item needed to maintain operating capabilities of many tracked vehicles upon which Marines rely for firepower and mobility.

### Restore $16 Million for Needed Fleet Air Defense Surface to Air Missiles—Restore $8.3 Million for Marine Armored Bridging Equipment

Restore Standard MR-1 surface to air missile procurement, +$16M; buys 50 more of these medium range surface to air missiles carried aboard surface ships to defend themselves and aircraft carriers against attacks by Soviet bombers/missiles; fleet is about 35 percent below requirement.

Restore funds for purchase of Armored Vehicle Launched Bridge (AVLB), +$8.3M; permits purchase of 13 AVLB sets needed to support cross country troop movements without delay by providing capability to cross large barrier ditches and rivers/streams without combat engineer construction; Marines currently have 0 percent of their requirements.

### Restore $13 Million for Army Truck Mounted Maintenance Equipment

Restore Truck Mounted Shop Equipment, +$13M; buys mobile repair shops for field maintenance to increase readiness and return to combat of damaged equipment; Army seriously short of requirement.

The Organizational Repair Truck consists of a mobile shop, with folding sides and rear opening type body mounted on a 5-ton chassis. The shop contains such items as a lathe, valve seat grinder, valve refacing equipment, electrical drill and a welder. The shop set is intended to provide hand and machine tools and work space for military personnel performing intermediate forward and limited intermediate rear maintenance.

The FY 85 President's Budget submission was for a quantity of 170 for $39.9 million.

The $13 million reduction will delay replacement of overage assets. The requirement for this shop set remains the same. The reduced quantities will have to be made up in subsequent years.

### Restore Three Important R&D Programs for Soldier Survivability and Airbase Survivability

(a) Restore R&D for Soldier Support/Survivability Improvements for Army, +$3.1M; prevents at least year's delay in developing better, more combat capable chemical protective suits, stronger helmets, vs. small arms fire, etc.

The Soldier Support/Survivability program provides for development to protect and sustain the individual soldier. Program includes clothing and equipment to protect against enemy threats; chemical, ballistic, flame, laser weapons, and physical environmental extremes. Items developed assure compatibility of the soldier's clothing and equipment with new weapon systems, and improve the soldier's survivability and effectiveness on the battlefield.

Proposed reduction (44 percent of program) will delay one year or more the following programs essential to improved protection and sustainment of the indidvidual soldier.

a. Aircrew Combat Uniform—needed to improve functional operation of helicopter and fixed wing aircraft by enhanced comfort for extended flights with space for carrying items needed for routine flight and survival situations. Current uniform has significant deficiencies.

b. Individual Microclimate Conditioning System—necessary to provide the ground soldier with the capability to perform tactical missions while wearing chemical protective clothing. Without this system, ability to operate in combat before becoming a heat stress casualty will be reduced.

c. Integrated Combat Vehicle Crewman (CP) Helmet—needed to provide better acoustic protection, impact protection, integrated communications, off-vehicle capability for filtering air, and added casualty reduction against ballistic hazards. Current helmet and protective mask combination have deficiencies which degrade performance of crew members in a chemical environment.

d. Lightweight Crew Shelter—needed to provide capability for weapon systems crew to carry in the vehicle a lightweight, quickly erectable shelter that provides protection against chemical threats. No shelter providing this capability presently exists in the Army.

(b) Restore R&D for Combat Feeding, Clothing & Equipment Upgrades for Army, +$3.3M; prevents 1+ year delay in developing/fielding better desert warfare boots, aircrew cold weather suits, etc.

The Combat Feeding, Clothing and Equipment program supports development of various combat support items to meet critical physical and survival needs of the individual soldier. Specifically the program addresses specialized clothing and equipment; shelters; chemical, biological, ballistic, flame, acoustic, countersurveillance and environmental protection; and food, and food service systems.

Proposed reduction (52 percent of program) will delay one year or more the development and fielding of the following projects required by the individual soldier to improve protection and subsistence essential to survivability on the modern battlefield.

a. Combat Footwear for Desert Environment—needed to provide better traction, reduced discomfort from heat, and not allow sand to penetrate. Current boot lasts 6-8 weeks in a desert environment.

b. Aircrew Clothing System, Cold Weather—needed to improve aircrew operations in regions of intermediate and extreme cold weather.

c. Aircrew Uniform Integrated Battlefield—needed to provide the aircrewmen with added protection and improve capability to operate. Existing chemical protective suit is bulky, flammable, contributes to heat stress and doesn't interface with the cockpit.

(c) Restore Airbase Survivability R&D for Air Force, +$3.0M; develop better means to protect, repair airbases to maintain sortie generation.

### Guard/Reserve Conventional Forces Improvements—Increases to Three Important Programs

(a) $22.8 million added to procure and install digital avionics sytems to upgrade Air National Guard RF-4C tactical reconnaissance aircraft to give them better target location capabilities:

Last year SASC and Congress approved $16M to modernize 40 Guard RF-4Cs in RDF. This amendment would continue this modernization for 40 more Guard RF-4Cs with other missions and pay for new digital avionics systems for the aircraft.

Last year, SASC received ample testimony from Air Guard Chief as to need for continued modernization. He said: "The aircraft must have this avionics update to be maintainable, survivable, and effective in combat during (the late 1990s)."

The ANG is assigned more than 50 percent of the manned tactical reconnaissance forces of the United States Air Force (USAF); no change is programmed in the out years.

The 155 ANG RF-4C's are viable tactical reconnaissance platforms beyond the year 2000, but are limited to daytime operations due to obsolete avionics. To effectively accomplish their assigned combat mission, particularly during night/adverse weather conditions, ANG aircrews need new avionics for use in the ANG RF-4C's.

Active RF-4C units have been modernized with an up-to-date digital avionics system.

Current ANG RF-4 avionics mean time between failure (MTBF) is 16 hours. New avionics MTBF is 261 hours. Thus, a 1,600 percent increase in reliability can be expected with the new systems.

If the entire ANG RF-4 fleet were equipped an approximate annual reduction of 2,000 maintenance manhours could be achieved—saving nearly $4 million per year.

Installation could reduce ANG RF-4 sorties lost due to avionics factors from 10.6 percent to 1.1 percent.

Active force F-4/RF-4s are equipped; adding the system to ANG aircraft would allow an interoperability of avionics/navigation systems, common maintenance and a single logistics chain.

F-4D Smokeless Engine Kit: The enemy's job of attacking our aircraft is made immensely easier if the aircraft's engines smoke. The cost of such smoking engines, in terms of human lives, was demonstrated in Indochina, where losses of aircraft with smoking engines were reported to be three times higher than losses of smokeless aircraft. Programs to fund "Smoke Kits" for F-4D aircraft, almost all of which are in the Guard and Reserves, have been rejected by the Air Force for several years. The cost to properly modify one F-4D is $83,000; the entire program would cost $36.5 million. In fiscal year 1984, a small program was started to "desmoke" National Guard and Reserve F4s. The program needs to be more fully funded and accelerated.

30-mm Anti-Tank Gun Pods: The Air Force currently plans to equip less than half of the Guard A-7 ground attack bombers with 30-mm anti-tank gun pods. The 30-mm gun has been demonstrated to be perhaps the most lethal air anti-tank weapon available today and is relatively inexpensive. The entire A-7 force should be equipped with these weapons to enable the Air Guard to fulfill its most important air mission: ground support. The cost per pod is approximately $350,000; each aircraft requires two pods. Total cost would come to roughly $100 million. Our amendment accomplishes one-third of this program and maintains needed progress in it.

Mr. LEVIN. I thank the Chair, my friend.

Mr. BINGAMAN. Mr. President, as a cosponsor of this amendment, I wish to add my voice to those of my distinguished colleagues who see no compelling argument for funding the procurement of more MX missiles. Indeed, I believe that we made a fundamental mistake when last year we started down the road of deploying the MX missile in vulnerable silos, and I would have supported an even stronger amendment to cancel the entire MX Program, and shift some of the savings to our conventional forces, especially to the readiness and sustainability of these forces and the full 5.5 percent pay raise for the military proposed by the President.

The Senate, and, indeed the Nation, has debated the merits of this strategic weapons system in all its permutations and incarnations. We have been through the arguments, pro and con, a multitude of times, and I am sure that by now we all understand the issue.

For me the fundamental question is whether the deployment of the MX missile in a vulnerable basing mode makes a sufficient contribution to our national security to warrant its enormous cost. And I would note that that cost is ballooning as the MX's proponents who have varying degrees of enthusiasm for MX hammer out agreements among themselves that barely keep the program alive by stretching it out. In the Armed Services Committee we cut MX production in half and saved only $550 million out of the $4.7 billion requested for MX procurement, development, and military construction, or 12 percent of the total.

What of MX's contribution to our national security? Even the missile's supporters acknowledge that as a second-strike weapon, the MX is useless and a waste of funds. Years ago, when basing modes were first discussed, everyone agreed that to place the missiles in Minuteman silos would not be militarily useful. Our deployment of a vulnerable MX is ultimately destabilizing, and reduces, rather than adds to our national security. This would not be the case, if the MX had a basing mode which guaranteed it a certain survivability, since then its second-strike capability would deter a Soviet first strike. For that reason, I have not opposed the MX's first cousin, the Trident II missile, which can be justified militarily.

The last ditch argument now used to justify the MX is that we need it as a bargaining chip with the Soviets and that we should not reward the Soviets for leaving the START talks. But how many bargaining chips do we need for a negotiation in which this administration is ultimately as uninterested as the Soviets? The Soviets are not going to give up much as the bargaining table for a missile which has so little military utility and such divided support here. The Soviets are undoubtedly far more concerned about Trident II, our Stealth bomber, our cruise missile programs, and our ASAT and ballistic missile defense research. I would note that the MX arms control argument took on preposterous dimensions in the earlier debate in the House, which at one point tied the MX program to the Soviets returning to the START talks.

There remains no rational argument I can find to support further procurement of the MX and I will therefore vote to eliminate its funding. An additional merit of the amendment as proposed is that it will add funds to conventional weapons programs which have been neglected as the administration overemphasized strategic weapons modernization. There must be a sensible balance between our nuclear and conventional forces in order to optimize our defense capability. Too often, we have considered our nuclear programs as inviolate to cuts but there are candidates for savings in the nuclear area with MX at the head of the list and unsatisfied needs on the conventional side. Every one of the proposed restorations represents a validated military requirement, which we will forgo if MX production is funded. This amendment goes some distance in redressing the imbalance between our nuclear and conventional forces, and I am pleased, as a cosponsor, to vote for it. I urge my colleagues to do likewise.

Mr. GLENN. Mr. President, once again we meet in this Chamber to consider something that has been considered for a number of years. I first raised the question of the feasibility of the MX and whether we should go ahead with it just a few days short of 4 years ago in this Chamber. The exact date was July 2, 1980. I rose at that time because I thought that the proposal for the MX was not the best deterrence at the cheapest cost which is what we are talking about. What we want is for the Soviet Union to know that we have a guaranteed retaliatory capability in case they were considering making war on the United States of America. Whatever system we go to which gives that best deterrence at the cheapest cost has to be perceived by the Soviet Union as being something that is invulnerable to any first strike that they might have.

Some years ago, we decided that the missiles that we wanted in the future generation of missiles in this country would be ones that would have a more accurate guidance system, they would have a greater throw weight capability, and they would be provided shelter to guarantee that they could get out and get on with their mission in case they were ever needed.

So the MX was proposed with a new guidance system, and larger throw weight, but that last part of being able to guarantee that they could get out and get going was left wanting because as the Soviets in turn have increased their own accuracies—the megatonnage has gone up on their warheads per warhead—our missiles in turn have become more vulnerable. We still have well over one-half of our retaliatory missile systems in submarines, cruising largely undetectable below the ocean's surfaces ready to go. They are I think probably the finest weapons system that we have to guarantee that there will never be a Soviet first attack on the United States.

Having said that, then we move to the ICBM's on land base which are a little over one-fourth of our stockpile of deliverable nuclear warheads. What do we do at this point? Instead of having a maneuverable capability, we tie it down to a fixed silo more vulnerable to Soviet attack. Fixed silos can be used as targets, which would be long since established because we are not forcing the Soviets to figure out new coordinates to shoot with the way we are going with the MX missile. We are now going to put them back into the same old silos that we said were vulnerable to begin with—1,054 land-based ICBM's that we said were so vulnerable that we had to have a new missile system. But then we decide on a 192,000-pound MX, and put it back in the same old holes that we said were too vulnerable to begin with.

Mr. President, I said 4 years ago in this Chamber—and I have said repeatedly since then every time MX has come up—that that just does not make much sense. If we want to truly give the best deterrence at the cheapest cost, then it seems to me that we want to give as infinite a number of aim points as we possibly can to the Soviet Union so that they must perceive they could not possibly under any circumstances hope to knock out our deterrence, our responsive, retaliatory capability.

But that is not the direction we are going. In that debate on the Senate floor 4 years ago, rereading that RECORD you will find that I advocated at that time going to a small, mobile, probably single-warhead mobile, that could be kept on Federal lands most of the time but be maneuverable on those considerable Federal lands that we have in the western part of this country. I stated at that time, Mr. President, that if a crisis time arose in this country where we felt we really were coming up to a wartime situation, then we could deploy those small mobiles across the interstate highway system or other highways in this country, or on other Federal lands in other parts of the country. In effect, what I was saying was that we give an infinite manueverability to our missiles much as the submarines have at sea. We give a land-based infinite maneuverability and that means that the Soviets could not possibly under any circumstance conceive that they could target every single spot where there might be missiles that could come back at them if they were stupid enough to try and think they could knock out the retaliatory capability of this country with a first strike.

It is what I have advocated for a long time, Mr. President, that we stop the MX, not waste any more money on it, and go to a small mobile, maneuverable mobile, that can be kept off the highways of the country during most of their times, and hope that they never have to get off of those Federal lands. But if indeed war does come and we need that retaliatory capability, we would be blessed well glad that we had that capability to outmaneuver where the Soviets could not hit.

Why do we think that the Soviets are so much concerned about the Pershings in Europe? I can tell you why. It is because they do not know where to target. They do not know what target or where to target in case a war starts. The Pershings in Europe are kept in missile parks. They are occasionally deployed out on the highways down the roads to other launch points or can launch at any point along the route. If they choose to stop, they can do so. Guidance systems are updated at that point. That means there is an infinite number of points the Soviets would have to try to hit. They cannot do that. They cannot guarantee they can hit them all.

It is the same thing with the SS-20's that we are concerned with in the Eastern bloc countries. They can maneuver. They are out on the roads. Where can we shoot them? That is why we are so concerned about the SS-20's. We keep pointing that out, now that there are up to 400 of them deployed, we estimate.

Why we tie ourselves to a specific, already targeted geographical spot when we have the option to go a different direction that gives us a better deterrent at a cheaper cost just to me does not make sense.

Once we get started on one of these programs, they are exceedingly difficult to turn off. Originally we were going to provide for 200 MX missiles. Then people, many people, including myself, were very concerned about the vulnerability of those 200. So then the proposal came up with the multiple protective shelter, the racetrack pattern, the protective shelters, the pea in a pod concept, where there would be a number of protected shelters for each missile and the Soviets supposedly would not know which holes the missiles were in. Each one of these would be protected. They would be hardened sites.

Well, then we had difficulty making the sites hard enough to really get the kind of protection they would need. So we let that go by the board.

Plus the people out in the West where some of those racetrack patterns and multiple protective system shelters were going to be put did not like the idea of them being the target at ground zero in case there was going to be another war. I do not blame them for feeling that way.

But with a small mobile, we have infinite flexibility and it has to give the best deterrence at the cheaper cost because it is a cheaper system than any other we have been able to devise.

I do not want to see us waste money on the MX. I thought for a long time it was wasted. Those 200 that were going into the multiple protected shelters were supposed to somehow make the Soviets recognize that we had a new accuracy, a new throw weight capability that was going to be awesome, and this would somehow move them to the bargaining table. They were going to feel that they had to come to the bargaining table because we had gone ahead or would be willing to build beyond that 200, that it would be so awesome they would see the error of their ways and this would bring them in to the bargaining table.

Mr. President, they did not come to the bargaining table. They were not scared to death. They had their SS-18's and 19's and all the other numbers that we could reel off here and give the capabilities of. So they were not overly awed by 200 missiles. I am sure they were impressed that we would have an accuracy improved which would be better than their accuracy. On the other hand, they did not see fit to come to the bargaining table.

So then, because of congressional wishes, they said they would reduce it to 100, they were going to save money. Once again, it was 100, reducing our threat to the Soviets who did not come to the bargaining table yet at that point.

Now we are down to arguing over whether 40, 21, or 15, as the House bill provides, are going to bring the Soviets to the bargaining table, and the President keeps repeating, "Yes, we need this as a bargaining chip because the Soviets have to be forced to the bargaining table."

I would submit, Mr. President, that if 200 MX missiles in hardened silos did not bring the Soviets to the bargaining table, 15, 21, or 40 going back in the same old soft holes that our other missiles have been in all these times, no hardening, whether it is 15, 21, or 40, is hardly enough to scare the Soviets into coming to the bargaining table when 200 hardened silos did not do that job.

For all these reasons, Mr. President, I just disagree with the whole concept of the MX, when we have another option which gives a better deterrence at a cheaper cost.

For the last 4 years we have been debating this. It is still the case today and the main thing that has changed is that we are now talking about even smaller numbers.

Last year we pushed rather hard on this and finally got agreement to go ahead with mobile. I would say that I think the emphasis on the mobile over at the Pentagon has been considerably less than on the MX. I do not think it has received the priority some of us had hoped it would have. They talked about it in the report that accompanies this bill out of the committee. We have been talking now, according to the Pentagon, about possibly providing protective shelters for the small mobile along with the MX. In other words, someone is now enough hesitant about the small mobile over there, even though we pushed them into studying it more, that they are now talking about putting it back, into the silo again, which would defeat the purposes of the small mobile, to me. That just does not do the job.

The value of the mobile is it can be in an infinite number of eight points in case any other power is thinking about attacking this country. They cannot possibly barrage the whole United States of America sufficiently to knock out every place that there might be a retaliatory small mobile waiting to hit them back. The Soviets are best deterred once again at the cheapest cost.

That is the reason I have opposed the MX consistently over the last few years and will continue to oppose it. I think we do need a new guidance system. We need better accuracies. We have seen those accuracies come down considerably to a very small area. Unfortunately, the Soviets have been able to do the same think except by our best estimates, they are not yet quite as accurate as we are. I will add that we are both becoming sufficiently accurate that the differences between the two are becoming academic. I think we no longer are going to be able to say we are protected by virtue of the fact that the Soviets are not as likely to hit us in the same spot. Even if they put on 10 warheads, they would have to put it in a particular spot so that particular spot is obliterated. Their accuracies are becoming much better.

That means anything more than 150,000 pounds, like the MX, is going to have to sit on one spot and that spot is going to become more attractive to the Soviets in case they are thinking about a hit. We need a stabilizing influence. The small mobile is that kind of stabilizing influence because it means that no planner in the Kremlin can possibly go in to his bosses in the Kremlin and say, "We have them all located; this is the day; we really can knock out the whole U.S. ICBM fleet if we just attack today."

They cannot do that if we have the small mobile. They cannot do it now because of the sub fleet, too, but why immobilize, in effect, and set up as permanent fixed targets any new ICBM's we wish to place on land?

It seems to me we should be getting the greatest flexibility we possibly could get.

I repeat, Mr. President, I rose to ask my colleagues to oppose the MX production. I think it is a mistake. I know there are those in this body who want neither the MX nor the small mobile. I feel that the small mobile does, as part of the triad, give us that additional element of flexibility that is a deterrent to the Soviets, so I favor it.

I think we should finally and at last, after 4 years of debating this, knock out the MX that I did not feel was going to do the job correctly at 200; it is going to do the job even less well at 100. Now we are down to 40, 21, or 15, depending on what we come up with here. I think if it was not doing the job at 200, it is certainly not going to do it at one of these reduced amounts. I hope my colleagues will join me in trying to finally and at last put it to rest and get on with a better deterrent, a more maneuverable retaliatory response which is a better deterrent—that is encouraging the production and deployment of the small mobile.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. KENNEDY addressed the Chair.

Mr. WARNER. Mr. President, the Senator from Massachusetts has a very important item, and I am eager to hear about it. I wonder if the Senator from Ohio could remain a while so we could have a colloquy?

Mr. KENNEDY. Mr. President, I shall be glad to withhold and permit the Senator from Virginia to inquire of the Senator from Ohio. I appreciate his courtesy.

Mr. WARNER. Mr. President, I have the highest respect for the Senator from Ohio. Indeed, he has devoted much of his professional career in the Senate to the subject of deterrence. There were several comments made by our distinguished colleague from Ohio which give me some pause. I wonder if we might refine them for the benefit of our colleagues following this debate.

I share the highest expectations for the small missile, but I think we should be forthcoming in advising our colleagues that it is the early nineties before we could expect that the research and development could be completed and that we would have, should we say, a course to follow toward development. Would the Senator concur in that?

Mr. GLENN. Not necessarily, Mr. President, That is a debatable point, I think. We certainly cannot say it in open session here, but I have had briefings that indicated that if this is really the way we want to go, the small mobile, we could move it back into the eighties; not too far into the eighties, but we could actually have it available in the eighties.

I know the figure most accepted by most people is some time in the early nineties, as the Senator from Virginia said. But that is a point that is debated among the experts, that if we did away with the MX, and that is what we are really trying to develop, I think we could do it and have the small missile available in the late eighties.

Mr. WARNER. In the Subcommittee on Strategic Weaponry of the Committee on Armed Services, we have expressed this time and time again, year after year. While indeed it is a debatable item, in my humble judgment, the preponderance of evidence is that we are moving as a nation as expeditiously as possible toward the introduction of the small missile. Indeed, the Scowcroft Commission Report, which I shall refer to momentarily, I think confirms that it is likely to be the early nineties.

Mr. GLENN. If I may add, Mr. President, I think as long as it receives only the priority it has right now, I would agree completely with the Senator from Virginia. I think it is how we consider it.

Mr. WARNER. I think Congress has consistently in the past 18 months proffered its full support, despite maybe the administration's hesitation, to upping that priority, adding that funding. But the experts in the Pentagon and elsewhere have continued to come back and advise us that the funding for the small missile is adequate, and it is being paced not by funding, but by technology.

Again, moving to another aspect of this debate, the distinguished Senator from time to time referred to the whole of the United States as if it were possible to have the mobile system operational in the whole of the United States. I am sure the Senator did not mean to leave the impression that indeed it was the whole of the United States and that the interstate highway system is likely to be the artery through which the mobile systems would flow. Rather, all the programs contain the deployment to existing Federal properties and indeed the military properties.

Mr. GLENN. That is one of the questions we also debated 4 years ago, as I recall. What we have right now is a proposal that this be based on Federal lands because we hope that will give an area that would be sufficient to provide a maneuver area that would give a tremendous number of raiding points. But you have the option then of using it as an SS-20 is used in the Soviet Union, as we asked the Europeans to base the Pershing. It is available in a crisis situation where you might want to disperse your raid point even further to go out on highway systems or to have a system that is not even necessarily wedded to highway systems. You could have a large tracked vehicle or a large-tired vehicle that can go off the highway, even, but that is less likely. But the whole concept of the mobile, whether it is the SS-20 in the Soviet Union or the Pershing in Europe, is that it could, in a crisis situation where we really need it for survial, go anywhere.

I say that I am not proposing that we get out and have these running up and down the highways of the country all the time, now. I am saying in a crisis situation, if you have that kind of flexibility of maneuver, that is exactly the doubt that is put in the Soviet mind, that is the perception in the Soviet mind that you have that, and that they cannot possibly hit all the targets where this mobile missile might be. That is the reason I favor it.

Mr. WARNER. Mr. President, I beg the differ with my colleague that we can rely much on the crisis mode to open up the highway system. Indeed, our own civilian population may seek the highway system as a means to try, in some way or other, to provide protection for themselves. We do not know. There is so much uncertainty should that crisis arise, with respect to the highway system.

Mr. GLENN. May I ask the Senator from Virginia, who is certainly an expert in these areas, what would he advise the people of Europe. Should they accept these missiles? Should they accept the Pershing missile, since the basic mode for it is that it is out going down the highways of Europe for dispersal in any crisis situation? Should we tell them no, you should not accept them because your civilians may, once in a while, see a missile out there some place?

Why do we ask them to accept it? We know the Soviets accept that same kind of manuverability on their soil that gives us such pause and such difficulty in our planning. How can we ask the Europeans to do this and at the same time say we would never, under any crisis circumstances, ask the people of this country to accept that same kind of minimal risk of dispersal?

Mr. WARNER. Indeed, that is something we hope never occurs, such a crisis.

But I think for purposes of planning in the immediate future, the operational concept is to restrict the mobile systems to the Federal properties.

Moving on the third and last point, the Senator on several instances referred to a cheaper system for the small mobile, but the calculations that we have received in our committee indicate, beginning with the warheads, you are going to have to miniaturize certainly initially the guidance system which is now in the MX, and that is an expensive transition. Then you have to have one guidance system per warhead as opposed to one guidance system in the MX for 10 warheads. That is an expense.

The comparable man/woman power situations with the two systems are that the fixed MX system is relatively less manpower oriented compared with the mobile system. And lastly, you have a very expensive concept just on the drawing boards at this time with respect to the hardened launcher. So the aggregate of these new elements indeed I do not believe allows the argument that this is going to be a cheaper system.

Mr. GLENN. If you make it a true mobile and you figure crews really maneuvering with this that could be supported, and communications systems, and so on, it does get more expensive, but particularly if you are talking about confining it to Federal lands all the time, then I think your expenses—at least the expenses I was briefed on not too long ago—go down considerably. I did not bring the specific figures to the floor with me. I think the briefings I had were classified anyway so I could not use some of these specifics.

But regardless of whether it is cheaper or not, to me it is a better deterrent because they do not know where to aim, they do not know what to shoot at. With the MX they have already had those coordinates of the old silos into which we are going to put these new MX missiles. Now, they have had those coordinates figured out for many years. We do not even make them go through the slide rule computations of figuring out a new aim point.

Mr. WARNER. I am glad the Senator comes to that conclusion because we have reached a common ground. I think it is a better situation, but there is a transition between the state of the art that we now have and this mobile. That is the problem.

I should like to lastly address the attention of the distinguished Senator to the Scowcroft Commission Report and first just ask generally if the Senator agrees with their conclusion and, if not, what would he proffer as a more concrete solution. I quote from page 15:

> The development effort for such a missile—

that is, a small one—

> need not and should not be burdened with the uncertainties accompanying a crash program; thus its timing can be such that competitive development is feasible.
>
> Decisions about such a small missile and its basing will be influenced by several potential developments: the evolution of Soviet strategic programs, the path of arms control negotiations and agreements, general trends in technology, the cost of the program, operational considerations, and the results of our own research on specific basing modes. Although the small missile program should be pursued vigorously, the way these uncertainties are resolved will inevitably influence the size and nature of the program.

Mr. GLENN. I did not bring a copy of the Scrowcroft Commission Report with me, nor did I prepare a critique of it for this particular debate. But I think we do wonderous things in this country when we put our mind to it and put a priority on a particular project. I think the estimates of time that would be necessary to make a small mobile work are not insurmountable in moving that date back into the eighties. We need no new technological breakthroughs. It is an engineering matter. It is a matter of putting enough time and people on it to make certain that we do have the kind of vehicle we want. We do not need to invent anything new. We do not need a whole new concept or technology developed.

I note in the committee report, however, on the Scrowcroft Commission letter to the President dated March 21, 1984, it says:

> For the current and anticipated environment, a planned deployment of 100 missiles is appropriate.

The committee report goes on to say, right after that:

> While this deployment plan does not provide the desired degree of survivability, on balance, the committee believes it essential that deployment proceed to achieve the December 31, 1986 initial operational capability.

So the committee in its reports says that it does not achieve the desired degree of survivability by its very nature, and so why go ahead with that? Why not come up with something that does get survivable so that we will really have something that the Soviets know is not a paper tiger, is not something that they can shoot at and knock out, is not an even more attractive target than that which we are giving up, so it becomes a priority target in case war starts. It just seems that we are well advised to go to a mobile that really is a better deterrent.

Mr. WARNER. Mr. President, I thank the Senator for the opportunity of conducting this dialog. Of course, the reason for going forward with the MX is counterforcing balance, and the Senator is well aware of that argument. Indeed, all of our systems have a measure of vulnerability, even the submarine system, and it is a question of quantifying relative vulnerabilities. I think the Senator from Ohio is not suggesting we depart from the sound principle of the triad; it is just that we are all somewhat disappointed that we could not achieve a higher degree of invulnerability with the MX system.

Mr. GLENN. I have not proposed that we depart from the triad system at all. I have backed that concept here and have repeatedly voted for it because I think it does give us the best deterrence.

Mr. WARNER. I certainly concur with the Senator.

Mr. GLENN. I thank the distinguished Senator, and I yield the floor.

Mr. KENNEDY. Mr. President, before I make the case in opposition to the MX missile, I want to make a brief comment about the exchange between the Senator from Virginia and the Senator from Ohio. First of all, I believe that any fair reading of the Scowcroft Commission report and any reasonable evaluation of the position which was assumed by the members of that commission would lead one to believe that it was outlining a basic arms control bargaining position for the United States over the period of the next several years. That bargaining position would include a commitment by the United States to deploy the Midgetman.

The recommendation of that report must be viewed in the current context, in which no negotiations are taking place with the Soviet Union. Yet, the U.S. Congress is still being asked to deploy the MX—which is very vulnerable and expensive.

Mr. President, one of the points that has been made in the exchange between the Senator from Virginia and the Senator from Ohio is that the MX was meant to be an interim missile between the current Minuteman missile and the future Midgetman missile. But the fact is, as all of us on the Armed Services Committee understand and as the Members of this body understand, the D-5 missile will be brought onstream by the late 1980's. For all practical purposes, the D-5 missile, which will be used in our submarine force, has virtually the identical characteristics as the MX in terms of its offensive capability.

I am opposed to the MX. In the Armed Services Committee, I offered an amendment to eliminate all funding for the MX. I rise now to support the amendment of the Senator from Vermont, which would eliminate the funding for the MX and provide half of that funding to improve the readiness of U.S. conventional forces. I think this position is a worthwhile and commendable one for the Senate to take.

Mr. President, 3 years ago, the Senate of the United States rejected the idea of placing the MX missile in existing silos. Why did we do that? Because at that time, we knew that it was foolish to spend billions of dollars on a new missile that would be every bit as vulnerable as the old one.

But today, that is precisely what we are being asked to do. Nothing has happened since 1981 to change this situation. The idea of putting MX missiles in existing silos is as silly today as it was 3 years ago.

But today, we are being asked to authorize the expenditure of billions of dollars for a weapons system that makes no sense. It makes no sense no matter how you look at it.

### THE MX MISSILE MAKES NO SENSE MILITARILY

It is true that the MX missile is a bigger, more accurate, more potent weapon than any that we have today in our nuclear arsenal. But that doesn't make the MX necessarily more desirable. Because this missile will be just as vulnerable to attack by the Soviets as its predecessor, the MX adds nothing whatsoever to our ability to retaliate after an attack from the Soviet Union, and on that score, the MX is no different from the Minuteman. Thus, after spending these billions of dollars, we will not be one bit more secure than we are right at this moment. The money would be better spent to modernize our conventional forces and to improve the overall readiness of our military.

### THE MX MISSILE MAKES NO SENSE STRATEGICALLY

Because of this missile's vulnerability and because of its increased accuracy, the MX will be preceived by the Soviet generals as being a first-strike weapon—which is destabilizing. And because this missile can be destroyed by an attack by the Soviets, the MX will be perceived by our generals as a missile that must be launched on warning—which is also destabilizing. Thus, after spending billions of dollars on these missiles, we will actually be less secure than we are right now.

The MX missile makes no sense economically. At a time of $200 billion deficits, we should be spending our money with care, and we should not be spending vast sums of money on weapons systems that add nothing to our security and do nothing for our defense.

The MX missile makes no sense as a bargaining chip. I opposed this missile before it became a bargaining chip, after it became a bargaining chip, and I oppose it today, when there are no bargains to be had and no chips to be bargained. The negotiations are nonexistent. Last year, this missile was sold to the Congress as something that we would give up in exchange for comparable reductions by the Soviet Union. But we are not talking to the Soviets, the Soviets are not talking to us, and there are no deals to be made. It makes no sense to spend billions to buy a chip to play in a game when there is no game in town.

Today the Senate must decide whether to prolong the misery of MX or whether to retire the missile once and for all. The MX is a missile without a mission, a weapon without a home and a bargaining chip without a negotiating table.

I share the view of many of my fellow Senators that the MX was a fateful decision for America to make when we first debated MX, but it is not too late to recover our common sense.

The MX is not just one more weapons system in a long line of weapons sytems, not just on more issue in a long line of complex defense issues that we are dealing with in this legislation. The MX is, instead, a radical departure from deterrence and from rational defense policy. As we prepare to cross the MX threshold, we are entering the brave new nuclear world of first-strike and launch-upon-warning.

### THE MISSILE IS VULNERABLE

When the Senate Armed Services Committee recommended funding 21 MX missiles, it contended that the MX was the only short-term solution to redress the imbalance in prompt, hard-target kill capability. But even the proponents of MX concede that deploying MX missiles in existing Minuteman silos will leave these missiles completely exposed to Soviet attack. Evidence from the Air Force shows that, by the time MX is to be deployed in the late 1980's, Soviet improvements in missile accuracy will enable them to destroy 99 percent of our fixed-silo-based missiles—including MX. The Air Force believes that—at most—one MX missile will survive a preemptive Soviet attack. Because of this extreme vulnerability, the MX does not redress any nuclear imbalance, real or perceived.

### THE MISSILE HAS NO REAL MISSION

The General Accounting Office has recently called into question the offensive capability of the MX. To comply with the congressionally mandated deployment date of December 31, 1986, the Air Force must begin production of major components of the MX before they have been fully tested and before the system has completed flight testing. Because of this tight schedule, the MX cannot be adapted to overcome changes in the nature of the missile's primary targets. Indeed, such changes have already occurred; according to the GAO and the Air Force, the Soviet Union has increased the hardness of the majority of its missile silos by a factor of three since the time that the MX began full scale development. This is a major change in precisely the threat that this missile was designed to overcome. It is fair to say that the MX cannot be counted on today to accomplish its original mission.

### THE MISSILE IS A USELESS BARGAINING CHIP

Another justification for funding the MX is that it will induce the Soviets to negotiate in good faith at the bargaining table. However, as the MX is useless as a deterrent and its only utility is as a first-strike weapon, it is difficult to see how it could possibly advance negotiations. Proposing the MX as an incentive for a Soviet return to the bargaining table is consistent with the administration's policy of complaining about the Soviet military buildup while conducting one of its own—peace through superiority is an idea that contradicts decades of bipartisan support for arms reductions. Any additional first-strike capability is destabilizing and can only heighten mistrust, accelerate the arms race and make arms control more difficult to achieve. A President truly committed to serious arms control does not ask for destabilizing first-strike weapons.

### AND THEN THERE IS MIDGETMAN

Some supporters of the MX admitted that the MX itself makes no sense, but that we need it as a stepping stone to get to the new generation of small mobile missiles for the future—the so-called Midgetman. I agree that Midgetman could lead both the Soviet Union and the United States to a more realistic nuclear balance by reducing reliance on destabilizing multiple warhead missiles like the MX. However, support for the senseless MX will not help us to obtain the sensible Midgetman.

The Air Force has expressed a preference for MX over Midgetman, and continues to press for construction of the MX. The Air Force has also shown its reluctance to pursue Midgetman by inflating the small missile's cost, by pushing back the date of its initial operating capability, and by quietly expanding its size to a point where it may be too large to be mobile. Outside experts, such as Dr. Richard Garwin, have argued that the Midgetman could, with proper effort, become operational within months of the MX's date. As long as we give the go-ahead to MX, Midgetman will only be pushed further into the background. If we want Midgetman, then let us vote for Midgetman and put the expense and danger of MX behind us.

### WHAT ABOUT THE MX AND OUR NATIONAL WILL?

There are those who continue to argue that a vote in favor of MX, regardless of its strategic utility, is a vote in support of our "national will." But when we put vague expressions of "national resolve" above commonsense in an area as vitally important as the nuclear arms race, then we are truly heading toward catastrophe. Let us build national will; but let us build it with sensible weapons systems and defensible causes. The best way to develop a national consensus on the defense is to put the MX behind us.

The MX is a missile without a mission and a weapon without a home. The Air Force considered over 30 different basing modes for the MX before recommending that the new missiles be deployed in existing Minuteman silos. These basing modes may demonstrate the ingenuity of our scientific community, but they also show that despite all the years and all the studies, no one yet knows what to do with this missile.

The MX is a dangerous and expensive first-strike weapon that will weaken deterrence and fuel the nuclear arms race, instead of advancing arms control. The MX makes no strategic sense: It will not spur the administration to adopt a more flexible negotiating position; it will not lead to the development of less dangerous and less threatening systems; and it will not encourage the Soviet Union to return to the negotiating table. I urge the Senate to end the MX nightmare once and for all, and return to the path of a sensible and serious arms control policy.

When the first MX comes off the production line, we will have to live with it, as well as with the problems it creates for our national security. Let us have no illusions: No matter how it is packaged and explained to the American people, deployment of the MX is a needless and expensive escalation of the arms race that will make arms control even more remote than it is today.

Three years ago, we rejected placing the MX in existing silos. The only thing that has changed between then and now is our resolve to do what we know is right. The time has come to put the MX out of its misery. We should accept this amendment and prohibit any further funding for this dangerous and unnecessary nuclear weapon.

Mr. WARNER. Mr. President, I wonder if my distinguished colleague from Massachusetts would kindly stay for a question?

Mr. KENNEDY. Yes.

Mr. WARNER. Mr. President, he referred to the fact that—I think I have his quote here—"there is no gain in talks going on now. Consequently, why would we need any chips to play in such a game?"

But I am certain that my distinguished colleague would agree that the Soviets are not willing to come to the table at this present time simply because they do not want to allow the perception that Ronald Reagan on the eve of the election is capable of sitting down and trying to negotiate, although he has expressed a willingness, and indeed, I believe tonight he will address the Nation on that very subject.

What is the answer to the question that cancellation of the MX program will indeed reward the Soviets for having unilaterally departed from the negotiating table?

Mr. KENNEDY. Mr. President, I will respond to that question by reviewing very briefly the overall position of this administration on arms control and the position of this President on the arms control agreements which have been reached by the United States and the Soviet Union since the end of World War II.

I hope you understand that this President has opposed every single arms control agreement that has been approved by the Senate, and negotiated by Republican and Democratic Presidents alike, in the past two decades. Every single one.

The President has had ample opportunity to propose a realistic arms control agreement to move the United States, the Soviet Union, and the whole world away from the possibility of a nuclear confrontation and nuclear war.

I had the good fortune to be invited by the chairman of the Foreign Relations Committee to listen to Mr. Gene Rostow explain what the administration's position was on START, when it first began negotiating in Geneva.

I ask anyone who attended that meeting, Republican or Democrat, whether they were satisfied with his explanation. I ask my friend from Virginia, who I respect and who has been an active member of the Armed Services Committee on this issue, to take the time and read through that explanation. There was no realistic proposal placed upon the table in Geneva at that time.

I ask my friend from Virginia: Why did this administration refuse to follow up on a comprehensive test ban treaty with the Soviet Union after the previous administration had virtually reached agreement with the Soviet Union on the most important negotiating issues.

So my answer to the Senator from Virginia is that in evaluating the position of this President on the issue of arms control, in reviewing the record of this administration on arms control agreements, the fact of the matter is that is has refused to table a proposal that said: Let us end the arms race now before it ends the human race. The Soviet Union can destroy the United States several times over; the United States can destroy the Soviet Union several times over. If half the arsenals of either country were used in any kind of nuclear conflict, then we would have a nuclear winter that would destroy all human life in this world. Why doesn't the administration propose a mutual verifiable freeze, and then reductions, and challenge the Soviet Union and challenge the world to see if we cannot take meaningful steps to end the arms race?

Mr. WARNER addressed the Chair.

Mr. KENNEDY. I do not know if I still have the floor or the Senator from Virginia has the floor. It is all right either way.

The PRESIDING OFFICER [Mr. SPECTER]. If the Senator has yielded the floor, the Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I wish to state at the outset that I share my distinguished colleague's views with respect to the professional capabilities of Mr. Rostow. I have the privilege of knowing that eminent American slightly and, to this day, I maintain a dialog with him on the subject of arms control.

But the Senator from Massachusetts also mentioned that the President at this time reposes great trust and confidence in Paul Nitze and General Rowny, and both are still there posed and ready to return to the negotiating table in the event the Soviets would make an offer.

Initially, during the course of the talks, there was little progress. But the reason the talks broke down, as the Senator from Massachusetts knows full well, is that our European allies together with the United States stuck with the commitment to go ahead with the deployment of the cruise and Pershing missiles that we had agreed on several years ago to deploy. And that, indeed, broke the will of the Soviets to return to the negotiating table.

During the hiatus, the President proferred again the willingness—to use his own words—everything is up for consideration should they express a willingness to return to the negotiating table.

I ask the Senator a further question. Did I understand my colleague to say that it was his judgment the United States had violated any of its arms control agreements?

**Mr. KENNEDY.** Well, the answer to that, as the Senator from Virginia understands very well, is no.

My point in my earlier remarks was that based upon the progress of previous administrations, there were a number of opportunities for meaningful progress in the whole area of arms control, including comprehensive test ban, which this administration refused to pursue.

Now, quite frankly, I had wished that the Carter administration had built on the Vladivostok accord that had been reached by President Ford. I expressed that hope and expressed it around the country, but unsuccessfully. But at least I maintained a consistent position with regard to the importance of building upon a previous administration's arms control efforts.

I feel very strongly that this administration has missed important opportunities for arms control progress.

I do think that this administration bears a responsibility in this key area of what I think is life and death on this planet. This is the point I was making in the earlier comments.

**Mr. WARNER.** Mr. President, I certainly concur with my distinguished colleague's view that we are dealing with the most serious of questions and, indeed, life and death on the planet. But I should like to inquire of him, wherein does he find the present tabled proposal in both START and INF to be unreasonable as a starting point?

**Mr. KENNEDY.** The basic point, as the Senator from Virginia knows, is that our initial position in the START talks was that the Soviets should make a huge reduction of their land-based systems and we would make some reductions in our land-based system. That was the initial formula.

The Senator from Virginia understands very well that 75 percent of the Soviet Union's nuclear arsenal is land-based and only 25 percent of that of the United States is land-based. So, on its face, this proposal was going to be rejected.

Now there are those that can say, "Well, it is an opening position. It was subject to negotiation." But what many of us have urged this administration to do and what the American people have urged their President to do is to recognize that we have the capability of mutual destruction in this world. And recognizing that any first strike, whether by the United States or the Soviet Union, is going to bring about national suicide, then why not go ahead and say to the Soviets: "We recognize that you are ahead in land-based missiles. We are ahead in the sea-based and as well as in the air-based weapons. Therefore, let's go for a verifiable freeze and then move toward reductions."

I think that would have been a good deal simpler. It would have been more comprehensive and it would have provided, I think, a more responsible opportunity for constructive negotiation.

I would just add that I am not alone in my characterization of the various proposals that have been made by this administration. The former Secretary of State, Alexander Haig, himself, has called them unreasonable. Can the Senator from Virginia tell me why Mr. Haig thought they were unreasonable?

**Mr. WARNER.** I have had some dealings with the former Secretary of State ever since he was a colonel and I at this time do not wish to attribute any high measure of credibility to that observation.

Mr. President, I thank the distinguished Senator from Massachusetts for the opportunity to have a clarification of his position. We are ready to proceed with a resolution of this amendment.

I see our distinguished colleague from Colorado rising.

**Mr. HART.** Mr. President, a history of the MX missile is indeed an interesting one. I think it is important to put the history of the debate over this system into some sort of historical perspective. For 10 years, through 30 proposed basing modes, under three Presidents, the Congress has been asked to support and authorize this missile system. For much of that time, supporters of the MX have tried to argue that the MX was a vital strategic asset necessary to ensure the survivability of the land-based leg of the U.S. nuclear triad. Yet, as each one of the potential basing modes was considered in turn, it was demonstrated that the MX would not satisfy the fundamental requirement of survivability.

Mr. President, as the Senate well knows, throughout the history of the evolution of the nuclear deterrent in this country, at least one of the key requirements was that we were able to produce successive generations of nuclear weapons systems that achieved stability by their ability to survive a Soviet first strike.

The current incumbent President campaigned, as we all recall, on an issue called the window of vulnerability, arguing that the previous administration had led this country into a dangerous and precarious situation because it had permitted the key land-based leg of the nuclear triad to become vulnerable. Increased Soviet accuracy could target silo-based ICBM's, it was argued, and therefore something had to be done to make that key land-based leg survivable. His administration would solve that problem, Reagan promised.

It got him elected—1981 went by, no solution. One whole year—1982 went by. No solution; a second year. And then we came to the spring of 1983, after, following what seems to be a pattern, the appointment of a commission.

The Scowcroft Commission was to decide where to put the MX. It surveyed all of those 30 basing modes and, lo and behold, came back to the one that everyone agreed made no sense, and that was to put a 10-warhead, 190,000-pound missile in the very silos that this President said were vulnerable.

So much for survivability. And if the land-based missiles were vulnerable in 1979 and 1980, how much more vulnerable are they today? So what is the solution of the Scowcroft Commission, quickly embraced by the current administration? Sure enough, to put 100 or 200, 10-warhead, MIRV'd ICBM's first-strike war-fighting missiles in vulnerable silos. For the first time in more than 30 years, this Nation has consciously made the decision to produce and deploy a new nuclear weapons system and put it in the place we knew the Soviets could successfully target. I ask you, what is the logic of that?

The logic is that we gain a bargaining chip, producing these 100, 10-warhead, heavy ICBM's. We are going to scare the Soviet Union so much that they would race to the bargaining table, throw down their arms. Thus, we would achieve a nuclear arms control agreement favorable to us and unfavorable to them. We would frighten the Soviets so much that they they would unilaterally or bilaterally take down the major leg of their deterrent, their land-based missiles, which we felt were a threat to us. Therefore, the MX would have fulfilled its proposed mission.

Has that happened? We are now more than a year beyond the Scowcroft Commission; 16 months, 17 months. The Senate approved the MX last year. The House approved the MX last year, unfortunately. I have not seen the Soviets racing to the bargaining table. Indeed, for the first time in almost 20 years there are no active arms control negotiations going on in the strategic area.

So much for the bargaining chip theory. Indeed, I would challenge the proponents of the MX missile and the administration's position to show one time in the history of this country's arguments, quarrels, and negotiations with the Soviets where a buildup on our side has led to a builddown on the Soviet side. It has not happened. That is not the way it works.

So, Mr. President, what is being proposed here is to continue with a missile system which every thoughtful individual in the U.S. Senate and in this country knows to be a destabilizing, nonsurvivable missile system. This is at the cost, I might add, of $30 billion or more, which we do not have, at the cost of modernization, at the cost of the readiness of our conventional forces, and at the cost of an increased deficit that is going to wreck this Nation's economy. All of this is in the vain hope that building these 100 or 200 missiles is going to scare the Russians to death, and they are going to come to the bargaining table in a fashion they have never done before—cowering, and, they are going to make concessions that no one in his right mind believes that they are prepared to make.

Mr. President, there has not been one argument made on the floor of the Senate in the 3 or 3½ years of this administration, or the year and a half since the Scowcroft Commission report, that this missile system enhances survivability or enhances stability. That is because that argument cannot be made.

Every thoughtful person knows that if we build this missile, and we put it in silos, it moves us closer to nuclear war, not farther away. It enhances first-strike capability. It enhances warfighting capability. It decreases survivability, and, therefore, it decreases stability in the nuclear balance.

I challenge anyone who is a proponent of this missile to make one argument that this missile increases stability in the nuclear arms race. I challenge any individual supporting this missile to explain how it achieves the bargaining chip that this administration says it does.

Mr. President, over 20 years ago, President John Kennedy made several momentous decisions on military spending that are now almost forgotten. He cancelled the B-70 bomber and a number of other systems that he found to be strategically obsolete. And he channeled defense spending into more flexible conventional forces and a greatly improved submarine missile fleet, a fleet that is now the backbone of this country's strategic deterrent. I think we face a similar momentous decision today, and we are about to go once again in the wrong direction.

The best bargain this country could make is to bring the long and checkered history of the MX to a close by deleting its funding and by allocating our precious defense dollars to where the deficiencies really lie; that is, adequate retention of our skilled military personnel, and the needed readiness in our conventional forces that this administration has been undermining.

If this country wants to worry about security, it ought to worry about the number of combat ready conventional units that have declined under this so-called military buildup of this administration. In its mad race for missile systems and nuclear weapons that do not increase this Nation's deterrent, do not increase our security, and do not increase the stability of the nuclear balance, the administration has actually made us less—not more—prepared for our own defense.

I hope once in this debate today that something will happen that did not occur in 2½ weeks of debating this issue last summer: That is, that one proponent of this system will take the floor and make the argument either that this missile as a bargaining chip is going to lead to real nuclear arms control, or, second, that production and deployment of this missile system will increase stability and survivability of this Nation's nuclear deterrent. But we all know neither of those arguments can be made, because the logic does not exist.

I yield the floor.

The **PRESIDING OFFICER**. The Senator from Tennessee is recognized.

Mr. **SASSER**. I thank the Chair. Mr. President, we are here again to debate the issue of the MX, a system that would alter the historic policy of deterrence which has been the foundation of our defense policy now for over 30 years. The deployment of the MX missile in a preexisting, previously targeted and vulnerable Minuteman silo moves this country toward the doctrine of launch on warning or launch under attack. Such a policy is wedded to the dangers of destabilization, and accidental nuclear way.

Mr. President, the policy of deterrence that has existed over the last 30 years has been founded upon the premise that the United States would launch its missiles only after nuclear detonations had taken place here. That deterrent policy meant the deployment of survivable systems that provided us with sufficient capability to engage in a second strike. This is a policy that I have supported during my time in the Senate because it provided a sound basis for a defense which maintained stability, security, and reduced the risk of an accidental nuclear war.

While in the Senate I have supported systems that strengthen the policy of deterrence. I supported the modernization of the air leg of our triad through the B-1 bomber; I supported the modernization of our sea leg through the Trident and the D-5 program; and I supported the modernization of the land leg by supporting funds for the research and development of a smaller intercontinental ballistic missile. However, Mr. President, I cannot in good conscience support a system that undermines the basic concept of our historic policy of deterrence. The MX in unsurvivable, pretargeted silos is just such a system.

The history of the MX has been one of a missile in search of a home. It was conceived after it was determined that our Minuteman missiles and silos were unsurvivable from a Soviet attack. However, as basing mode after basing mode was studied, then discarded, it became apparent that any large, land-based MIRV'd missile in silos was inherently vulnerable. Clearly an alternative scheme was necessary if these MIRV'd systems were to avoid the risk of early destruction.

Then the Scowcroft Commission comes along, charged with finding a suitable basing mode to protect our MIRV'd arsenal. Instead, it decided that the best alternative was the placement of the MX missile in silos that the Air Force had already determined were vulnerable, yet this basing mode was made the most expedient solution. The MX in Minuteman silos was envisioned by the Commission as the bridge to a more stable force of small ICBM's. The consequences, however, have been that the MX has only served as a bridge to the doctrine of launch under attack—launching on warning. A truly dangerous doctrine.

The MX missile in unsurvivable silos can only be maintained on a hair trigger, ready to be launched at the time that a warning of a Soviet attack has been certified. This means that there is less than 15 minutes in the interval during which a decision to launch is made. Unless fired before they are hit, the missiles will be destroyed. In essence, this is a use-them-or-lose-them doctrine.

Mr. President, let me share with my colleagues, as I did during last year's debate, the testimony that the military construction appropriations subcommittee received from Gen. Kelly Burke, the Air Force Deputy Chief of Staff, in June 1981, regarding the issue of placing our nuclear forces on the hair trigger by putting MX missiles in vulnerable silos. Here is his statement:

> I think that it creates in a crisis situation a rather dangerous circumstance, a destabilizing situation of stating with certainty that we have our finger on the trigger and if you blink, we are going to let go, which, in turn, will encourage the Soviets to get into

the same posture. It would, I think, add addition deterrent, but it would also, I think, add the destabilizing effect of a potentially dangerous situation. If we have an MX in a silo and an announced policy that our finger is on the trigger, then I think that has the force to force the Soviets to get a little closer to the trigger. I think, when things get very tense, when there is a crisis underway, there at least a remote chance of inadvertence, of mistake, of miscalculation.

Therefore, Mr. President, it is obvious that if MX were vulnerable in Minuteman silos in 1981, they are certainly still vulnerable, if not more so, today. In its current deployment MX undermines stability by placing both forces on the hair trigger.

However, despite the facts, the Senate is here again today debating a system that will eventually cost $30 billion yet contribute little or nothing to security. Faced with an attack, less than 10 percent of the MX's could survive. This is substantially less than the other two legs of our triad force. Therefore, Mr. President, the MX in its current deployment is seriously flawed and is only operational when supported by the flawed strategy of launch under attack.

Mr. President, some will argue today that we should have the MX because the world would be a more dangerous place without it. Some will say that the recent actions of the Soviet Union warrants the procurement of the MX. No. That is not the case. The MX was a bad idea last year and it is a worst idea this year. If anything the world has only grown more dangerous since the Senate last debated this issue and in an unstable world, we should not add to it an unstable weapon. The MX in Minuteman silos is an unstable weapon.

Mr. President, the purpose of this amendment is clear and simple. A vote to delete the MX with a movement of its funds into conventional forces is a vote for stability and enhanced deterrence.

The MX in the Minuteman silos actually creates insecurity rather than more security. It moves us down the road toward a launch-on-warning or launch under attack policy, one which is new to the United States of America and one which I think is dangerous and prone to nuclear war by miscalculation.

So by voting for the MX in its current deployment we move one step closer to the day when the MX might trigger a nuclear holocaust if by chance we are given false warning of a nuclear attack or if there is a nuclear incident precipitated by some third party.

I say to my colleagues, that is clearly not an acceptable strategic nuclear deterrence policy.

Mr. President, a nuclear hair trigger spells a clear and present danger for this country and the world. We must turn away from that danger now and vote against procurement funds for the MX.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I do not know how many times this makes now that we have debated this matter. Each time I had personally thought it would be the last time. As far as I can see, this is the last time we have any real opportunity to stop production of the MX missile.

Before talking about the MX, I would like to make a couple of observations.

I have been speaking in high school graduations in my State more than ever before this year, and the reason I have been is because I have increasingly discovered that the young people of this country are not participating in the political process. Now some may blame the educational system for that. You could say that this has become such a "me, too" generation, everybody is doing his own thing. But in any event, in order to try to pique the curiosity of our young people about the political system and try to encourage them to get involved, I made a few studies and I discovered two or three things.

No. 1, I learned from my distinguished colleague from West Virginia [Mr. RANDOLPH] that of all the nations on Earth that allow their people the opportunity to vote, only little Colombia in South America has a smaller percentage of its eligible people voting than the United States.

Think about that, Mr. President: The United States, the very behemoth of the North. Colombia is the only nation where fewer of its eligible voters actually vote than the United States, out of all the nations of the Earth that allow their people to vote at all.

Why is that relevant? The reason it is relevant is that it suggests the majority of our eligible voters think the system is no longer responsive to them and that it is no longer relevant to their lives. That leads me to this point: Here we are debating whether or not to build 100 missiles, each with 10 warheads—1,000 warheads in all, and all of which are much, much more powerful than the bomb we dropped on Hiroshima. We are talking about the survival of the planet Earth and the survival of civilization, and yet we have maybe five Senators on the floor. And this is the biggest crowd that has been here all day.

Mr. President, is it any wonder that the people who come to the U.S. Senate from all over the United States say, "What on Earth is going on here? I thought this was a parliamentary deliberative body."

You say, "Well, I am unhappy and I am sorry about that, but we are only debating about whether civilization is going to survive or not anyway." So no wonder they are discouraged. I am discouraged. But it is an institutional problem more than it is a personal problem. As long as the Senate continues to operate as it "always has," nothing is going to change. And I might say that, on occasion, we actually do have high water marks around here.

The other afternoon, we had a closed session. We were here to have a presentation, with the public and the press excluded, about the possibility of building an antisatellite weapons system, and it was a presentation made mostly by the Senator from Virginia [Mr. WARNER]—a slide presentation, the whole thing. Every Senator was in his seat and we had a good debate.

Maybe everybody was here and maybe the debate was high level because there was nobody to pay much attention other than just the Senators. There was no reason for anybody to perform; there was nobody to perform for. But there is absolutely no reason why the Senate does not debate all of its major issues—at least its major issues—in that kind of deliberative setting.

It was instructional. The questions asked by the Senators were high level, they were intelligent, and they got good answers. They may have agreed or disagreed, but at least it was, I thought, a fine debate.

That is a process thing I am talking about, not the substance of whether we are going to go forward with the MX missile.

It is not easy for any Senator to just keep fighting and fighting against something he feels makes no sense. The MX missile makes no sense from a cost standpoint, it makes no sense from a vulnerability standpoint, it makes no sense from a deterrent standpoint, and it makes no sense from an arms control standpoint.

Mr. President, we have been on this defense budget now all week—started last week. I know the majority leader wants to finish tonight or tomorrow; I do not see how that is going to be possible; maybe it is. But on this MX missile and this defense budget, we are talking about two things. No. 1, is the defense budget too large? That is a legitimate debate on which reasonable, sensible people can agree and disagree. I personally think the defense budget is too high; it is getting more than its share of the deficit.

The other thing is: Is the deficit weakening the country or is it strengthening it? If we have an economic apocalypse in this country, as some economists say we are going to have, there is not going to be that much to defend. But my point is, the most hawkish Senator in the U.S.

Senate, in my opinion, will not disagree with the biggest dove in the U.S. Senate on the $305 billion defense budget any more than $10 billion to $15 billion worth of difference; not any two Senators on either extreme in this body.

So this debate, not just on the MX but on the whole defense question, is not a debate between the patriotic and the unpatriotic. It is not a debate between those who favor a strong America and those who want us to disarm no matter what. Of 14½ years in public life, I have yet to meet a person who says he does not believe in a strong America, or that he wants a weak America. There is not a person in this body whose patriotism I question, whose concern for a strong defense that will deter any adversary is any greater or any less than any other Member's. So nobody should jump under his desk for fear that he is going to be called a dove or that he is weak on defense. There is not a soul in this body who favors a weak America.

So the question is not just how many dollars we are going to spend on defense. The debate here is what we are going to get for our dollars. So nobody should be worried.

Most of us remember the Vietnam war. On hindsight, we all know that Lyndon Johnson made a fatal mistake. He told the American people that we could fight the Vietnam war, go forward with all the social programs of the great society, and not raise taxes. Why that made any sense to anybody at the time is beyond me. On hindsight, it makes no sense at all. My guess is that if you went back and looked at the Congressional Record, you would find that a few Senators stood on the floor and said, "Mr. President, this is nonsense. You cannot fight that war, you cannot spend that amount of money and have all these social programs at the same time. It is fiscally irresponsible. You either must discontinue the war, stop those social programs, or raise taxes. You cannot do it all three ways."

And we went forward and we all know it was a bad mistake, it was fiscally irresponsible, and we have been paying the price for it ever since.

And with the utmost respect to the President of the United States, I never believed that you could cut taxes by $750 billion and increase defense spending to almost the magnitude of $2 trillion, all in a period of 5 years, and balance the budget. But there were a lot of people in this body who disagreed with that and said we could. I am not denigrating anybody because it turned out that we have these $200 billion deficits. But in my opinion, it was a mistake.

I want to say, "Mr. President, you cannot have this defense budget and you cannot have the spending programs that even you have submitted to us without raising taxes. And if you do not want to raise taxes, then you must cut spending, and that includes defense."

Can that be done in keeping with a strong America and a strong defense? The answer is yes.

(Mr. STAFFORD assumed the chair.)

Mr. BUMPERS. I say that without equivocation or reservation. I say these things about what happened in the Johnson administration because we should learn something from them. I have a speech I make quite often in which I ask why our public officials never tell us what they really think until they leave office. All these exit interviews that Senators and Presidents do when they leave office are just dynamite. I cannot help but think how wonderful it would have been if President Eisenhower had made his great military industrial complex speech in his first inaugural address instead of his farewell address 8 years later.

I think about Admiral Rickover, who served this country so well as our Navy atomic expert. I always had the impression, quite frankly, that Admiral Rickover thought plutonium ought to be sold in service stations. But when the President of the United States, Ronald Reagan, finally said, "Admiral, your time is over, you must go," Admiral Rickover held an interview, he testified before committees, and he said, "What insanity this is to keep building three atomic weapons a day. Why do you continue to build all of these weapons?" I cannot help but think how great it would have been if Admiral Rickover had said that 10 or 20 years ago.

Then there is the great exit interview of Gen. David Jones, who was Chairman of the Joint Chiefs of Staff and a man of immense integrity and intelligence, a man whom I personally liked very much. I did not have a personal relationship with him, but when he testified before our committees I admired his candor, I admired his obvious knowledge. And so when David Jones retired as Chairman of the Joint Chiefs of Staff he held an interview, and if you do not mind me embellishing just a little bit, he said: "It is impossible to do effective, efficient, sensible defense planning the way the Joint Chiefs of Staff operate." He said: "I sat there as chairman of the Joint Chiefs of Staff refereeing interservice fights day after day. If I gave the Navy $2 billion, I had to give the Air Force $2 billion, and if I gave the Air Force $2 billion, I had to give the Army $2 billion, and the Marine Corps always was willing to take a little less so that we would give them $500 million."

Well, I thank and applaud the distinguished ranking member of the Armed Services Committee, Senator Nunn, because he has not been sitting around doing nothing. He is developing his own legislation to reorganize the Joint Chiefs, which the House of Representatives has already done on their bill, to give the Chairman of the Joint Chiefs of Staff some leeway in determining what our defense needs are, what our missions are likely to be, and how we can best fulfill those missions.

So, Mr. President, that brings me down to the debate at hand. Where does the MX missile fit in our strategic posture? I favor the Trident submarine; I favor the D-5 missile; I favor the cruise missile; I favor the Stealth bomber. Those things make sense to me. I have never understood why it is, when we have not built a bomber in 30 years, that all of a sudden we are going to build two in 5 years, each at a cost of somewhere between $20 billion and $40 billion. The B-1 is a separate issue and I guess that one has already gone. I fought that one until I got tired of it.

Incidentally, I will never forget Secretary Weinberger making my case for me. He came to Capitol Hill one day and he testified before the Armed Services Committee. They asked: "Mr. Secretary, do you think the B-1 will penetrate the Soviet Union? Do the Soviets have a look-down-shoot-down capability yet on low-flying aircraft?" And he said: "Well, I wouldn't send any mother's son in this country into the Soviet Union in that airplane after 1990."

He went back to the Pentagon, and the Air Force generals got a hold of him and said: "Mr. Secretary, you have just killed the B-1 bomber." And so the next day he called a press conference and said: "I was only kidding." And so the B-1, like the MX, developed a life of its own—in a vacuum, in isolation to our strategic forces and what we really ought to be doing.

So here we are with the MX missile. Where does it fit? What is the strategic threat from the Soviet Union to the United States? We have 550 Minuteman III's in silos. President Reagan, in 1980, stated the proposition that by 1983 there was going to be what he called a window of vulnerability. To all the Pollyannas and the novitiates, that meant that in 1983 the Soviet Union would have the ability to knock out all 550 of our ICBM's and we would be left with no retaliatory capability.

It is no secret that as of this moment the Soviet Union can indeed destroy practically all of our ICBM's that are sitting in silos. They are already targeted. So from a vulnerability standpoint what do we get when we put the MX in silos that are already targeted? What we get is another missile that is targeted by the Soviet Union.

**Mr. LEAHY.** Will the Senator yield on that point?

**Mr. BUMPERS.** I yield.

**Mr. LEAHY.** We actually even get a worse deal. Before they were targeting a missile with three warheads; now with the same effort they can knock out a missile with 10 warheads.

**Mr. BUMPERS.** The Senator is absolutely right. The MX is a bigger missile and has 10 warheads instead of the 3 warheads on the Minuteman III that it is going to replace. So obviously it is a much more attractive target. But the most important point is it is vulnerable, it is vulnerable, it is vulnerable.

The other afternoon some of us met with General Scowcroft, and it was the Scowcroft Commission which General Scowcroft headed up that said we ought to build 100 MX missiles. I have immense respect for General Scowcroft, but I had the impression as I read the Scowcroft Commission report that what he was talking about and what the Commission was talking about was let us build a bridge from now to the Midgetman, the small, one-warhead, mobile missile, and 100 of these MX missiles with 10 warheads will not be perceived by the Soviet Union as a first-strike weapon but 200 of them would. That is an item on which reasonable men again can disagree. I personally think that the Soviet Union is not really very frightened of the MX. I do think they see it as a first-strike weapon. And I think, insofar as they see it as a first-strike weapon, it is definitely destabilizing and certainly lowers the threshold for nuclear war and further exacerbates a hair-trigger situation.

I think if the Soviet Union were all that frightened of that weapon, they would not have put a proposal on the table in the START talks that would allow us 680 MX missiles. Not 100, but 680. That used to be classified, but now it's not. If I were a Soviet strategic planner, I would divinely wish to say to the United States: "We hope you will put MX's, if you are going to modernize, in every one of your silos and slow down either the development of the Stealth or the Trident," I would divinely wish it.

Mr. President, let me tell you something. That is from a targeting standpoint. But do not overlook the fact that the Soviets do, indeed, see it as a first-strike weapon.

What is it going to cost? The Pentagon says that, at least by 1991, the Soviet Union will have the ability to destroy 99 percent of these MX missiles. So if we build 100 MX missiles at a cost of $30 billion and we get into a war and the Soviets launch a preemptive first strike and destroy 99 of our MX missiles, we will have one remaining missile that costs $30 billion; and that translates into $3 billion per warhead. Think about this. Think about the insanity of what we are doing here and compare it with what we could be doing.

I will repeat that: If the Pentagon is correct, that in 1991 the Soviet Union can destroy 99 MX missiles and leave us with 1, that 1 missile will have cost us $30 billion, or $3 billion per warhead—not per missile, but per warhead.

You can build a Trident submarine and a half, fully equipped, with 24 missiles, with 8 warheads on each missile, or 192 warheads on a D-5—192 D-5 missile warheads—for $2 billion; and we are opting for an MX which gives us just one warhead and costs 50 percent more.

I come from Arkansas, where, as we say: "You don't have to be broke out with brilliance to know that's dumb."

The beautiful part of it is that when you put them on the Trident submarine, the Trident submarine is invulnerable. The Soviets have done their very best in the START negotiations to constrain the D-5 missile and the building of Trident submarines because they cannot destroy them. They know they do not know where our Tridents are.

Why, in the name of all that is good and holy, would we spend $3 billion for one warhead that has survived, instead of spending 33 percent less money for 192 warheads?

So, I have covered the vulnerability of the missiles, and I have covered the cost of the missiles.

When it comes to arms control, the President said: "I want this missile as a bargaining chip." Even when the START talks were still going, before the Russians walked out, many of us tried our best to get the President to tell us this: "What are you going to bargain for? You want the MX for a bargaining chip. What are you willing to give up? What do you want the Soviets to give up in exchange for our giving up the MX?"

I invite any Senator in the U.S. Senate to answer the question, because the President of the United States refused to answer. Now we have no talks going.

It is very difficult for me to understand how we could conceivably think it is a bargaining chip now, when there is nobody to bargain with. There is no leverage in the MX.

Do you know something that really confounds me about arms control and our own proposal? Do you know what the proposal made by the President of the United States at the arms talks was? It was that we reduce the number of warheads on both sides to 5,000. Think about that for a moment. But let me tell you what that means. Suppose we deploy 1,000 warheads on top of the MX missile, and the Soviets suddenly say: "Mr. President, we think your proposal is wonderful. Where do we sign?"

We say: "Just sign right here. We're not going to renege on our deal. We are both going down to 5,000 warheads."

Do you know what that means? I will tell the Senator what that means. You will not only have to dismantle your Minuteman missiles and warheads; you will have to dismantle maybe six or seven survivable submarines, if you are going to keep the vulnerable MX.

If we get to the point where the Soviets accept our proposal and we still agree to it, even if we are going to dismantle a lot of Minuteman missiles, which we have just modernized, we still will have to dismantle six or seven submarines, with their 1,000 warheads, which are invulnerable, in order to keep the MX, which is vulnerable, simply because we just got through building it. What kind of arms-control sense does that make to anybody?

Why, in the name of all that is good and holy, are we going to build a vulnerable missile which, according to our own arms proposals, means we will have to dismantle survivable warheads in order to keep it?

I did not just wake up and dream this up. I am giving you factual figures in my argument against going forward with the MX.

**Mr. LEAHY.** Mr. President, will the Senator yield?

**Mr. BUMPERS.** I yield.

**Mr. LEAHY.** Mr. President, I ask for the yeas and nays on the amendment.

The **PRESIDING OFFICER.** [Mr. GORTON]. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. BUMPERS.** Mr. President, I am not going to quote all the Senators in this body who in the past had criticized putting MX in silos. I did that once before. I do not want to cause any undue embarrassment or problems for Senators. It is a temptation to quote a lot of Senators who now think the MX is the greatest thing since night baseball but who, 2 years ago, were saying that this was the most stupid idea they had ever heard of.

What has happened from the time Members of this body whom we respect the most on defense issues were saying, one after another, "Surely, the President has lost his mind, talking about putting the MX missiles in existing silos which are already targeted"? The same Senators are going to march in here in the next hour and vote "No" on this amendment, or vote "Yes" on tabling this amendment. I ask them what changed their minds. I do not know what it is, because nothing has changed about the reasons why we should not build the MX. It does not have a single redeeming military value. It does not increase our deterrence. It is not a bargaining chip. It is vulnerable.

And the cost at a time when we are facing an economic calamity because of deficits is staggering.

Mr. President, others have spoken before me and have talked about what this amendment does. For those who I hope are listening in their offices, this amendment does not just delete the funds for MX. There is $2.6 billion in the budget. The House of Representatives has already virtually torpedoed the MX. There is $2.6 billion in this bill for producing the MX, and what we are saying is take half of that and put it on the deficit. Reduce the deficit. And take the other half and put it where General Rogers, the commander of all NATO forces in Europe, says he desperately needs the money.

It is not strange that we have just a 30-day supply of ammunition? If the Soviet Union for reasons which only they could know should decide to invade Western Europe tomorrow and they come across the border in those great hordes with tanks and all their manpower, our NATO allies have just a 10-day supply of ammunition and, as Senator NUNN has said, they run out about the time we get there, and we have a 30-day supply here and in Europe.

And the Joint Chiefs of Staff say it is unthinkable that we could stop a Soviet invasion of Europe with less than a 90-day supply of ammunition, and we have a 30-day supply.

But they say we have to have the MX and we have to have the B-1, and we have to have all these other exotic weapons systems.

What does that mean?

First of all, it means that we are going to use nuclear weapons, either tactical or strategic. If the Soviet Union comes across Western Europe and we run out of ammunition, there is not a Senator in this body who doubts for a moment that nuclear weapons are going to start falling, and once the first one falls, the war is on and, as the bumper sticker says, when you see one nuclear war, you have seen them all.

It is almost that old saw, for the want of a nail, a shoe was lost; and for the want of a shoe, the horse was lost, and for want of a horse, a kingdom was lost.

I am certainly not interested in a long, prolonged conventional war with the Soviet Union, but I do not want American boys to run out of ammunition if that unhappy day ever occurs.

People who are not familiar with this subject will say, "Why in the world do we not have a 90-day supply if that is what General Rogers says he has to have"?

It is not that simple. Do you know what it costs to increase the amount of ammunition from the 30-day supply to a 40-day supply? Fifty-five billion dollars.

That is the reason we cannot get the Pentagon interested in ammunition. It costs too much, and they want the B-1 and the MX.

You know what they want. They remind me of John L. Lewis, one time just before he went into a negotiation for the coal miners with the coal operators. Someone said, "Mr. Lewis, what do you want"?

He said, "Gentlemen," in that great stentorian voice, "I can sum it up in one word—more."

When you ask the Pentagon what they want, it is more. Why do they want it? Well, it is already being built, it is too late to turn back. And so forth.

The Senator was here when this happened. We built an antiballistic missile out in North Dakota on a one-vote margin in the Senate. Go back and look at the record on that debate. One vote.

Some Senators said it will not work. Others said it would. And others said, "I am not about to go home and tell my constitutents I voted against something the Pentagon wanted."

So we built it. It cost $6 billion and we started dismantling it the day we finished it, just as I got to the Senate. I got to vote to dismantle a $6 billion system—that is about like a $20 billion system today—that was just being finished.

These things take on a life of their own and they are just impossible to stop. They do not have to make any sense. They do not have to fit into the pie. They do not have to fit into any comprehensible strategic planning. We make them fit even though they do not make much sense.

Three weeks ago the New York Times did a very comprehensive article. It was on May 14, and I invite all Senators to read it. They found that there were more aircraft squadrons in the United States that were not combat ready today than 3 years ago.

How does that grab you? Combat ready means full scale, ready to fight 1 full day when the war starts. Go back and read the article.

And the commander of those tactical fighter squadrons tells us in effect, "Do not talk to me about the MX missile. Send me some spare parts."

Talk to General Rogers, and he says, "Do not talk to me about the MX missile. Send me some ammunition."

Well, there just is not much sex in ammunition. That is why. It is this MX missile we have to get built.

So, as I say, it takes on a life of its own, and it does not matter how badly our military needs something that is ten times more likely to be useful.

I hope to God that all we ever have on the face of this Earth is a conventional war, and I pray that we do not ever have that. But if we do, can you picture General Rogers saying, "I am sorry. We lost that war because we only had a 20- or 30-day supply of ammunition"?

So, that is what our amendment does. It takes half or a little more than half of the money we save here and it puts it into what we call readiness items—ammunition, spare parts, flying time to train our pilots, steaming time especially in the Indian Ocean and around the Persian Gulf, which is hotter than a firecracker.

If you are really concerned about the defense of this Nation, spend the money to defend it. Here is a chance to do it. And if you are really concerned about the deficits which are going to bring about an economic calamity in this country and an apocalypse, then vote for this amendment and reduce the deficits by $1.3 billion.

Everyone is so concerned about the deficits as long as we do not have to do anything about them.

Mr. President, this is a whole separate argument. I have favored the bilateral freeze and the production and deployment of nuclear weapons not because I think it is the greatest idea in the world, but almost out of frustration, because you cannot convince me that as long as we continue to build three nuclear weapons a day and the Soviet Union continues to build three a day we are not moving inexorably toward the nuclear holocaust. When I see the ASAT weapon being built, when I see the President proposing an antiballistic missile system which almost every scientist in this country says will not work, I know that we are moving inexorably toward a situation where all bets are off.

The only constraint right now on an unbelievable nuclear arms race is the President very thoughtfully saying 2 years ago we will continue to abide by the SALT I and II treaties as long as the Soviet Union does. That is not much but it is all we have.

And we are moving toward the violation of the treaties we have, the antiballistic missile treaty, and SALT II and SALT I.

When we get to the point where all bets are off and there are no limits, where do you think that takes us? I believe in the end to the nuclear arms race for a simple reason. I think if we do not end the arms race, it is going to end us.

But my children deserve more and your children deserve more. There is not any reason for your voting on an issue in the Chamber ever without thinking about their future and what it does to them.

I believe in the bilateral freeze on the production and deployment of nuclear weapons because I think peace is preferable to war. And I think life is infinitely preferable to death. That is not complicated.

There are two things I have done in the past 2 or 3 weeks—and I will close on this. This is Harry Truman's 100th birthday. The publishers have come out with a paperback edition of "Plain Speaking," which is one of the greatest books I have ever read.

Did you know that Harry Truman was lower in the polls on the day he left office than Richard Nixon was? Do you know why? Because he did not put everything off until after the election. He called a spade a bloody shovel.

A woman came running up to him one time and said, "Oh, Mr. President, you are going to mongrelize the races with all these civil rights ideals of yours. What on earth are you trying to do to us?"

President Truman said, "Madam, I have got a plan and it has been working and I believe it will continue to work. I have a lot of confidence in it." And he reached in his pocket and pulled out a copy of the U.S. Constitution and handed it to her.

Well, Harry Truman said an interesting thing. The reason I am talking about this is because I am back reading that book again and it means much more to me now than it did the first time. But Harry Truman said, "You know people talk of how terrible some of these strong Presidents were." He said, "It occurs to me that the country has gotten in trouble because of weak Presidents." He said, "I always called them the way I saw them and I was willing to take the political risk of whatever that was."

He said, "You know, the Civil War could have been averted. There were a lot of men and women in the South that were ready to abolish slavery. But we had four successive Presidents leading up to the Civil War who kept catering and pandering to the mob who demanded those States' rights which involved keeping their slaves."

Harry Truman said, "If we had had a couple of strong Presidents before the Civil War that said, 'Let's work this out; we are going to abolish slavery and somehow or other we can avert this war,' it could have been done."

But, no, the politicians were catering to the clamor of the crowd.

The other thing I have just done was to read a wonderful book about Lee, the great Southern general. The author, for some strange reason I do not know though I sure am grateful, just sent me a book entitled "Lee, the Last Years." It is the life of Robert E. Lee, from the time he surrendered at Appomattox until he died as president of what is now Washington and Lee University.

Lee did not have much use for politicians. And the reason he did not is because of what Harry Truman said about those Presidents we had leading up to the Civil War.

Lee was brought to Washington to testify. There was still a question of whether or not Robert E. Lee was going to be tried for treason and be hanged. He came to Washington and they began to ask him incriminating questions. They decided he was too hot to handle, but he got a statement in before they turned him loose and said, "Go back to Lexington." He said, "I really think that a lot of this could have been avoided if it had not been for the politicians." He said, "The Civil War could have been averted if we had just had a few men of forbearance and good will."

We are talking about something so monumentally greater than the most destructive war this country has ever known, the Civil War. It is beyond our imagination. But there is not anything about it that could not be salvaged and saved and prevented by a few men of good will and intelligence and forbearance.

Mr. President, I yield the floor.

### THE MX MISSILE AND U.S. MILITARY PRIORITIES

**Mr. BIDEN.** Mr. President, I am pleased to cosponsor and support this amendment to eliminate the $2.6 billion requested for production of the MX missile and to reinvest $1.255 billion in urgently needed improvements in our conventional forces, including the Guard and Reserve.

We are taking this approach for strategic, security, and budgetary reasons. The MX missile program as proposed by this administration is vulnerable, wasteful, unnecessary, and potentially quite destabilizing. Far from adding to our security, it makes us less secure, for only a handful—and perhaps as few as one—of these missiles could be expected to survive a Soviet first strike. Faced with such vulnerability, the President would have to put our forces in an immediate response posture. In a crisis, in a few minutes, on the basis of fragmentary and perhaps ambiguous information, he would have to decide whether to launch those missiles and thus a nuclear holocaust or to lose them if Soviet weapons perform with the capabilities we fear they have. That agonizing dilemma is avoidable if we do not produce or deploy the MX.

Canceling the MX is not unilateral disarmament, but recognition of that weapon's failure to meet its original design goal of survivability. Even without the MX, we would have several thousand surviving nuclear warheads which could be used to devastate the Soviet Union. In fact, an unclassified report by the Congressional Budget Office concluded that the MX would provide only between 1 percent and 5 percent of U.S. hard target warheads available for retaliation in the event of a Soviet attack in the 1990's. Thus, the MX offers only an illusion of strength.

Viewed from the Kremlin, however, the MX constitutes a serious first-strike threat against a substantial number of Soviet military targets. Soviet planners would react to our capabilities—rather than to our declared intention never to strike first with strategic weapons—by putting some of their own forces on a hair trigger, thus escalating the chances of inadvertant nuclear war.

If we want to add to our military strength, as I do, we should be putting greater emphasis on our nonnuclear forces, for they are the ones most likely to be called upon to protect U.S. interests, either by deterring or defeating a potential enemy. Our amendment does just that, by reinvesting $1.255 billion in readiness improvements, in underfunded programs needed to sustain and support our troops in a conflict, and in some equipment for the long-neglected Guard and Reserves.

Though these sums are small compared with the needs of our conventional forces, our amendment signals a change in priorities which I have been fighting for for many years. Instead of more nuclear overkill, I believe we should have a robust, flexible, combat-ready force that can prevail on land, sea, and air.

Our amendment addresses another matter of priorities as well, budget priorities, for it provides a net reduction in budget authority of $1.367 billion even after funding some conventional force improvements. That is a modest but quite useful reduction in this year's Federal budget, and it will save us additional billions in future years. It makes no sense to spend $26 billion, or more likely close to $30 billion, on an ineffective weapon system which reduces our security. The MX is no bargaining chip for arms control talks, for the Russians would undoubtedly be glad to see us pour such sums into vulnerable missiles rather than into survivable strategic weapons like the Trident submarine and Stealth bomber, or into a stronger Navy and more capable strategic airlift.

Mr. President, for these many reasons, I urge my colleagues to adopt this amendment and change our military priorities.

### THE MX BASING MODE IS WRONG

**Mr. DIXON.** Mr. President, I want to make it clear why I shall be voting against the MX appropriation. My position has been consistent: I am not against the MX; I am against the MX with the present basing mode.

As I have said in other debates on this floor, this issue of the deployment of the MX missile presents many of us with a dilemma.

I have long supported the concept of this missile as a logical and defensible step in our national security effort.

But for just as long a time, I have maintained that the basing mode for this missile must be mobile or deceptive. To make this extraordinary expenditure of funds, only to place the missile in the totally vulnerable, precisely targeted Minuteman silos, has always seemed to me an unacceptable proposal.

It just makes no sense to me to vote for the MX if we put that weapon in soft silos in our Western States, where their locations are already known to the Soviets. Such vulnerability is simply inviting disaster. The Soviets can very easily pinpoint and destroy our MX system in soft silos.

I cannot in good conscience vote for a proposal which says, "Put the MX where everyone knows where it is, and where it cannot be protected." That approach is a terrible waste of money, and a total waste of a weapons system that would otherwise offer a strong defense for our Nation.

It is my firm conviction that the American people want a basing mode offering deceptivity and mobility or at least, in the alternative, deceptivity of mobility. Unfortunately, the proposal we have before us today doesn't even come close to that view.

In short, Mr. President, with a mobile or deceptive basing mode, I could support the MX.

With the basing mode presented to us here, I cannot do so. For that reason, I shall once again vote against the MX.

Mr. SPECTER. Mr. President, I am voting against the amendment to delete funding for the MX missile because, at this time, I believe it is important not to eliminate all activity on the MX in the context of the Soviet Union's withdrawal from the Geneva arms reduction talks. The authorization in this bill is only a half step since funding will have to be completed in the appropriations process before the MX program can go forward.

Last year, I voted in favor of authorization for the MX as part of an arrangement where President Reagan took significant steps on arms reduction including commitments to support builddown, retaining the Scowcroft Commission as a permanent disarmament body and the beginning of work on the new Midgetman single warhead mobile missile. Later in 1983, I voted against appropriating funds for the MX program because it was my view, at that time, that the United States should be taking more affirmative steps on promoting arms reduction talks with the U.S.S.R. For the same reason, I voted in late 1983 in favor of the mutually verifiable nuclear arms freeze.

In my judgment, the international climate is substantially different at this time because of the Soviet's withdrawal from Geneva talks. The President has recently repeatedly stated his willingness to discuss nuclear arms reduction with the Soviet Union. President Reagan's personal appeal for support for the MX at this stage is compelling as he seeks this extra measure of strength and congressional support as an inducement to bring the Soviets back to the bargaining table.

The whole concept of armaments as a basis for deterrence raises subtle psychological factors as a matter of judgment and feel for U.S.-U.S.S.R. relations based on a wide variety of factors. After studying the matter intensely and talking to people about this subject, including thousands of Pennsylvanians at open house/town meetings over the past 3½ years, it is my considered judgment that the MX missile program should not be abandoned at this time.

Mr. THURMOND. Mr. President, I would like to voice my opposition to the pending amendment. Four administrations have requested funds for the MX missile and Congress has continually approved such requests.

We have received testimony from numerous defense experts from both Democratic and Republican administrations concerning the necessity for this weapon system.

In fact, President Reagan assembled a bipartisan group of these experts chaired by LTG Brent Scowcroft and after careful study, the recommendation of this group was to proceed with the MX missile.

The Senate Armed Services Committee has already reduced the administration request of 40 missiles to 20 missiles—and I doubt the wisdom of that, but it was done—and the House of Representatives had tied MX production to Soviet willingness to return to the negotiating table.

We are giving the Soviets more by not negotiating; if we have any hope for realistic arms control then we need to proceed with the programs that give us some leverage over the Soviets. The MX is one of these programs.

The distinguished Senator from Arkansas, who just spoke, spoke about Robert E. Lee and about the politicians interefering that helped to bring on the war between the States. Well, in this case, who is for the MX missile? I would remind him not only the President of the United States is for it, not only the Defense Department is to it, not only the chairman of the Armed Services Committee, Senator TOWER, is for it, and not only Mr. NUNN, the ranking member is for it, but I would remind him that the Joint Chiefs of Staff—they are the military people, they are supposed to be the experts—the Joint Chiefs of Staff favor this missile. The Joint Chiefs of Staff are opposed to the amendment by the distinguished Senator from Arkansas.

Now I do not know who you are going to follow. Are you going to follow the Senator from Arkansas and some of these people who say we do not want it or are you going to follow the experts who are supposed to be the experts—the finest we have in this country—the Joints Chiefs of Staff? I think we could well follow them in this matter. They make mistakes. Everybody makes a mistake. But their judgment is that we need this missile.

This missile will give the perception that the United States means business in dealing with the Soviets. It will help the President in his hand in dealing with the Soviets by letting the Soviets know that the Congress of the United States is back of him in the steps he takes to try to get to the negotiating table.

This missile will help the President of the United States. It will help our President, President Reagan, to get the Soviets to the negotiating table. He may not be able to do it this year because it is an election year. My judgment is, if we go forward with the MX missile and the defense programs that President Reagan has recommended, that the Soviets will come to the negotiating table after this election is over, if not before.

Mr. President, I hope the Senate will see fit to defeat this amendment. I do not know whether a motion to table is going to be made or not. I hope there will be. But, in any event, it seems to me that this is a wise step to go forward, as the Armed Services Committee has recommended, and defeat this amendment.

Mr. GOLDWATER. Mr. President, I sat here for quite some time today listening to the statements by different Members of the body. I heard a lot of political talk, a lot of condemnation of the President for not pressing forward with talks with the Russians. I heard a little bit about the cost of the missile. Once in a while, I would hear some comment made that made some sense as to why the missile was not needed.

Mr. President, I do not want to delay this at any great length. But I have lived with this missile, the MX, for some time. I will admit that we started out on the wrong basis. It was called the MX without explaining to the American people, or even to the Members of the Congress, that what we were doing in effect was replacing an old missile with a new one. It is like a hunter who has used a shotgun for many, many years and the shotgun begins to wear out. So he buys a new one. Not that our Minuteman missiles were wearing out, but it was felt—and felt rightly—that at the time it was within reach when we needed a new missile. So this was called the MX for no particular reason.

Then it got into a lot of trouble about basing mode. I have to admit that those who criticized the basing mode episode were absolutely correct. There was no need to go through that. I remember them looking, for example, in my own State in the middle of one of the most desolate deserts in the country for a site to put these missiles. It would have required water for

50,000 people. We do not have that kind of water out there. The Air Force and the Army should have known it. So we went through that long period of indecision.

Mr. President, all we are asking for is a replacement for the Minuteman missile, a modernized missile. Criticism is made that the Minuteman silos might not be acceptable for this MX.

Let me say something. We have never had any definite, provable, proof of the accuracy of the Soviet missiles. We have never even had proof of the accuracy of our own missiles, if we want to get down to the nitty-gritty of it. We think we can hit a target as small as the cover for a missile silo. I have my grave doubts about that. We have made simulated tests in the United States. We have never even test-fired a missile with a simulated warhead. So we are not so sure what our own missiles will do. We do not have the ability to correctly interpret or intercept the findings about the Russian missiles. But I am not going to stand here and say that these missiles will not hit their target, but I think far, far too much is made of the fact that they have to hit something about as big as this Chamber, and fly 5,000 miles to do it. That is quite a feat, if it can be done.

Mr. President, a lot has been made about what we are spending on strategic missiles. I want to go back to the days of my old friend, President Jack Kennedy, when we were spending nearly 25 percent of our Department of Defense funding on strategic weapons. That has now gone down to about 11.9 percent. In fact, it went from almost 25 percent in 1962; it dropped in 1966 to 10 percent, and it has never gone much above that ever since. So we are not spending, as some of the opponents intimate and say, vast sums of money on strategic nuclear weapons. We are spending more money on conventional weapons, which I think frankly is a proper procedure.

I want to read something that Gen. John Vessey, who is chairman of the Joint Chiefs, said on May 3 of this year. Speaking on this subject, he said:

> At the same time, it is fair to say that as we have discussed this matter (of fencing strategic nuclear programs and taking defense cuts out of conventional defense programs) with every one of our CINCs. Each CINC has told us that the number one priority is to go ahead with the strategic nuclear modernization, but there comes a point when you may have to slow all of it in order to keep a reasonably balanced program . . . We are not at that point with this program.
>
> You are at the point in strategic nuclear programs where we are marching along. Modernization is going ahead. The Joint Chiefs agree modernization needs to go ahead. If we start to cut it again, we induce the same sort of inefficiencies in those programs that we induce in any other programs by cutting them.

While it does not have any particular application to what we are debating here, I can cite the B-1 as a perfect living example of what happens when this body and the other body take it unto themselves, along with the urging of the President, to stop the production of a weapons system. The B-1 has been stopped completely once. It has been slowed down four times. What we are looking at today is a bomber that started out to be $27.5 million a copy that is now—who knows? It might be $200 million; it might be $225 million before we are through with it. But you do not start these things, stop them, have a new Congress come in and start them again, or have a new President come in and stop them again. The end result is the instability that I have heard so much about today, the instability insofar as what our potential enemies, whoever they might be—I do not point the finger solely at the Soviets and say they are our only potential enemy with nuclear force. I think any country in this world can develop a nuclear weapon. It is not that difficult. I have recited this before, but I asked Dr. Teller one day how long it would take him to teach me how to make a nuclear noise.

He said if you could get a square centimeter of fissionable material, and we could hide in the kitchen for 2 or 3 hours, I think we could make a slight noise. In other words, he could teach me in a few hours how I might become acquainted with the intricacies of making an atomic weapon.

In summing this up, Mr. President, I continue with the statement of Gen. John Vessey:

> It is the view of the Chiefs and the CINCs that without a strategic nuclear force that deters war effectively, which makes it very clear to the Soviets that they can't threaten war or try blackmail with strategic nuclear superiority, that the rest of our defense programs probably are not going to be nearly as effective as they ought to be.

I hope along with many, many Members of this Congress and many, many Americans that the time is coming when we might be able to see ourselves sitting down with a new generation of Soviets; younger men because the older generals are dying. They are leaving the service. They are being replaced by young men of much, much higher education than those who preceded them. Maybe they can see the same as we see, that these are expensive weapons, that if we want to make progress, we can make progress. We are trying to make progress, and again, we are turned down by exploring the avenues of space for defensive use by this country.

Mr. President, I hope that we do not turn down the MX program. I have put in the RECORD today an editorial out of the Wall Street Journal. I guess I should not mention it because it mentions a remark that I made the other night about a cookie farm, and everybody around the country will think that is the craziest thing Senator GOLDWATER ever said. I have said a lot of them. But when I was a boy, if we wanted to insult another young man, we called him a cookie. It meant he was a sissy or a weakling. When we said a cookie picnic, or a cookie farm, or a cookie party, it meant when a bunch of weaklings or a bunch of sissies got together. I will have to admit the other night when I was expounding I was getting pretty mad, and I was afraid I might say something I would regret, and my wife would give me hell about it. So I used the expression "cookie farm." I have received more cookies since that time. I am loaded. I am going to go out and have a big picnic this weekend, if we ever get out.

But this body has actually been doing for the Soviets, if they are our enemy, exactly what they would have us do. We stopped our operations in space. We are now playing with the idea of stopping a missile. We are talking about sending a defense program back to the committee for further work. I cannot think of anything better than having Chernenko on one of these bills as a cosponsor because we are doing his work for him.

I think this body ought to wake up and realize that our first job is to defend this country and not to work for those people who would destroy this country. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Earlier during this discussion, Senator HART, Senator BUMPERS, Senator LEAHY, Senator SASSER, and others have challenged the supporters of the MX to give their justification for how it increases stability in the relationship between the United States and the Soviet Union. Over and over we have heard the answer, Mr. President, of the importance of the MX as a bargaining chip.

The fact of the matter is, Mr. President, as we know as a result of the declassification of various start proposals that were tabled in Geneva, that the Soviet Union was prepared to let the United States build as many as 680 MX missiles.

I think that is a good indication of how frightened and how scared the Soviet Union is about this particular weapons system.

The rationale, the justification, that has been used time and again throughout this debate that the MX was going to be used as a chip to force the Soviet Union to bargain is simply not accurate. The sum and substance of the argument of those who support this particular missile, Mr. President, is reduced to: "We have been talking about deploying it for 10 years and we made the decision a number of years ago to go ahead and, therefore, we have to really go ahead with it or we will not show our national resolve or national determination."

Mr. President, that kind of logic is not good defense policy.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, as a candidate for President of the United States, Ronald Reagan claimed that the Carter administration had failed to eliminate the Soviet threat to our land-based missiles. He said that unless that threat was eliminated by making our land-based missiles invulnerable again, we risked a situation in which we would be susceptible to Soviet intimidation and unable to prevent Soviet adventurism. He said that President Carter's proposal to build 200 MX missiles and house them in a deceptive system, was not foolproof enough to do the job. He suggested that this failure seriously undermined our national security.

But Mr. Reagan since taking office has had no success in developing a feasible basing method for this missile which would make it, in fact, invulnerable. After more than 1 year of impractical alternative suggestions, the Scowcroft Commission was appointed to come up with a basing method which would make this new missile invulnerable and thus enhance our national security.

The Scowcroft Commission enhanced our security by the simple tactic of finding that the "window of vulnerability", which was such a useful compaign slogan, did not exist. But the Commission was unable to suggest how the MX would be made invulnerable.

So, reasoning that a nonexistent threat did not need to be protected against, the Commission recommended that we build only 100 of the missiles and speed up development of a small, single warhead replacement missile which could be either mobile, or produced and based in such quantity that a first strike could not knock it out. The Commission also recommended that we continue ongoing efforts to protect land-based missiles and negotiate reductions in the number of nuclear warheads.

There have been many high-level studies and recommendations since the MX was first proposed over 10 years ago. However, the Scowcroft Commission's Report was noteworthy because of the "about face" policy for which it argued. It deemphasized the problem which the MX is supposed to answer: the alleged vulnerability of U.S. land-based intercontinental ballistic missiles to a Soviet strike.

For a full 13 years—since the Strategic Air Command outlined the need to develop an advanced missile which would survive an attack of accurate and powerful Soviet missiles—the United States Government has been vigorously seeking a new system which would provide U.S. land-based missiles with the degree of invulnerability which the Minuteman ICBM force traditionally enjoyed.

The threat was called the "window of vulnerability." The administrations of Richard Nixon, Gerald Ford, and Jimmy Carter each attempted to "close it" by spending billions of dollars developing a missile which could be moved rapidly and thus would avoid being targeted accurately by our superpower adversary.

Candidate Ronald Reagan campaigned on the theme that his opponent had failed to eliminate the threat to the land-based component of our strategic system.

Ronald Reagan as President has had no more success in dealing with the invulnerability problem than did his predecessors. What sets him apart, however, is his decision to place the powerful new weapon in the very same silos whose increasing vulnerability had heretofore driven us to seek a survivable new missile.

The President's plan runs counter to logic.

As early as 1976, the Congress concurred with the Air Force's view that the MX should be developed solely to counter the growing problem of ICBM invulnerability. Accordingly, the conference report on Fiscal Year 1977 Defense Authorization Act stated:

> The rationale behind the development of a new missile system, MX, is to provide a land-based survivable strategic force. The development of an alternate basing mode as opposed to a fixed- or silo-based mode, is the key element in insuring this survivable force. Providing a survivable system should be the only purpose of this effort; none of this program's funds shall be expended in fixed- or silo-basing for MX.

In May 1977, the Senate Committee on Armed Services reaffirmed its concurrence with the view that the single purpose of MX was to insure ICBM survivability in the future. That report said:

> In recommending support of the requested $134 million for MX this year, the committee reaffirms its conviction that our deterrent depends on the continued survivability of our Triad of strategic forces. Providing a survivable system should be the only purpose of the MX program.

In 1981, President Reagan wanted to place the MX in Minuteman silos on an interim basis, while his administration and the Congress identified and agreed upon a permanent basing arrangement. This effort was blocked when my colleague, Senator COHEN, successfully offered an amendment barring this stopgap measure.

I supported the Cohen amendment in 1981 because I also agreed with Senator TOWER, the chairman of the Senate Armed Services Committee, who stated that "* * * by stuffing the MX's into fixed silos, we are creating just so many more sitting ducks for the Russians to shoot at—it is of little use to us unless the Soviets are convinced that it can survive an attack."

The chairman was right in 1981. His comment on the costs and benefits of MX deployment in Minuteman silos is just as relevant today.

Mr. TOWER. Will the Senator yield for a question?

Mr. MITCHELL. If I may finish my remarks, Mr. President, I shall be glad to yield.

In January 1981, the President's Secretary of Defense, Casper Weinberger, voiced the opinion that a vulnerable MX would accomplish little: "* * * simply putting it [the MX missile] into the existing silos would not answer two or three of the concerns that I have; namely, that these are well known and are not hardened sufficiently, nor could they be, to be of sufficient strategic value to count as a strategic improvement of our force."

The Secretary's concerns are just as valid in 1984 as they were in 1981.

The then Air Force Chief of Staff, Gen. Lew Allen, agreed with the Secretary: "* * * an essential feature of the MX deployment is that the basing mode be survivable. One does not obtain that through placing it in Minuteman silos. Therefore, I do not favor such a deployment."

Senator DOMENICI expressed a similar view: "By placing our most advanced strategic weapon—the MX—in silos which belong to an earlier era of nuclear technology, the President has reduced—perhaps even eliminated—the usefulness of the MX."

According to the Senate Strategic Forces Subcommittee chairman [Mr. WARNER]: "The MX would be too vulnerable to a Soviet first strike under that arrangement [MX in existing silos] * * *."

If it made no sense in 1981 to put MX missiles in vulnerable silos—as Senators TOWER, DOMENICI, and WARNER, General Allen, and Secretary Weinberger then emphasized—it makes even less sense now.

Despite that history, last year President Reagan persuaded a majority of the Congress to support initial production of the MX missile on the grounds that its production would proceed apace with the development of the new, smaller missile. In the meantime, it would also be an incentive at the START talks to demonstrate our determination and will to the Soviet Union, so that they would be encouraged to negotiate. It was also said that U.S. credibility with our allies would be undermined unless we went ahead.

Thus, in the space of less than 1 year, the rationale for the MX changed from a military rationale, in which the MX was a weapon that would maintain deterrence and prevent nuclear war, to a psychological rationale to reassure our allies and prod the Soviets toward serious negotiation. A majority of the Congress bought that line last year, and the MX was approved.

This year, in the absence of any negotiations with the Soviets, the rationale for the MX has again changed. Today, the President says that eliminating this weapon would reward the Soviets for walking out of the Geneva talks or, alternatively, that without it, there is nothing to induce them to return to the negotiations.

Mr. President, this has been a confusing record of policy reversals and changes in rationale in support of this weapons system. What it demonstrates is that there is not a serious effort, a serious interest in this administration in meaningful arms control. The President's first arms control proposal, which demanded that the Soviets give up weapons of importance to them in exchange for no comparable action by us was, not surprisingly, rejected. The Soviets' clearly stated intention of ending negotiations in the face of NATO deployments was carried out. The President's continued rhetorical attacks on the Soviet system and its shortcomings have had no effect other than to increase Soviet intransigence.

The action in the House of Representatives—which provides for 15 missiles contingent on nonmovement in negotiations—shows that the political fallout of appearing to "reward" the Soviets is a potent one. After 3 years in which the Congress used the MX to encourage the administration to negotiate realistically with the Soviets, we have now reached the point where the administration is using Soviet intransigence to threaten the Congress.

This zig-zagging ought to be persuasive proof that it is well past time that we examine our weapons purchases with military criteria in mind, not the perceived state of mind of the Soviet Union nor the perceived political needs of an election year.

Militarily, the MX missile fails every test. Nuclear weapons have no purpose except to deter the use of other nuclear weapons. Deterrence means that a weapon must provide a credible threat of retaliation. The MX provides no such threat.

The administration is proposing to build 100 MX missiles and place them in the Minuteman III silos. If two missiles are needed to eliminate each silo, the Soviet Union would have to use just 200 of their warheads in a first strike to destroy the entire MX deployment. And since the new missile is going into existing silos, the Soviets would not even have to retarget their missiles. So the MX contains nothing that makes it more survivable and it fails the test of an effective deterrent.

The second element of any strategic nuclear weapon is that it must add to our deterrent capability. Our nuclear strategy rests on the ability to deter an aggressor. And to deter means to create a fear of retaliation to an attack. It does not mean to create a fear of attack in the first place.

The American nuclear strategy is not a war-fighting strategy; it is a deterrent strategy. The United States plans no nuclear war; we plan only to prevent a nuclear war. Preventing nuclear war in this age means preventing the Soviets' from initiating a nuclear war, since we do not intend to do so. Contrary to the apparent doctrine of the Soviets, our policy has never been to use nuclear weapons as a means of intimidating others or of gaining advantage for our own objectives.

Our reliance on deterrence—that is, on retaliatory threat, rather than initiated threat—rests on our understanding of our own best interests. It rests on the truest understanding of our Nation's security.

But the MX missile, because it combines the fastest, most accurate and powerful nuclear warheads with a totally vulnerable basing mode, is not a deterrent weapon. It is the quintessential use-it-or-lose-it weapon whose only practical use is in a first strike or an immediate response to a warning of attack.

The rationale stated so often here of demonstrating our will or our determination appears to be the only basis on which we are being asked to approve this costly and militarily pointless weapon.

But if we spend our Nation's resources to buy a weapon that adds nothing to our deterrence, we are not displaying will or determination or even commonsense.

Despite the enormous increase in our military spending in the last several years, essential elements of our conventional forces remain underfunded and unequipped. And those conventional forces are the forces upon which we rely to face the immediate threats which unfortunately abound.

In the European theater, the Soviet Union has an immense advantage in armoured equipment, primarily tanks. Yet antitank weapons have been cut from our defense budget this year. Threats to world peace are occurring in areas far removed from our shores and we need to maintain a ready fast airlift capacity. Yet the spare parts needed to sustain our C-130 airlift capacity are underfunded this year. Our Nation's security has always rested on our geographic location and on our untrammeled access to sea lanes. At a time when Iraqi and Iranian missiles are attacking ships in the Persian Gulf, our own Navy is short of the Phoenix missiles it needs to protect our carriers. Recent reports on the crucial question of readiness have shown that even though substantial improvements have occurred in conventional forces, readiness is not substantially improved.

Yet the strength, readiness, and credibility of our conventional forces are the first line of our defense, for they are the means by which we respond to military threats around the world. It is in the effectiveness and use of those conventional forces that our will and determination are likely to be judged, not on whether or not we can afford to pay for one more very expensive piece of nuclear hardware.

We cannot project our will and determination by making defense decisions that run counter to our own security interests. But that is exactly what the MX would do.

Both the Soviet Union and the NATO allies know that as an open democracy, there is a limit to the extent of peacetime military spending that the American people will tolerate. That is increasingly more evident in the face of massive budget deficits. So anyone can readily see that by forcing the expenditure of $20 billion for this useless system, we deprive other components of our Armed Forces and, not so coincidentally, we contribute to undermining the national consensus on improving our defenses.

The claim that we cannot abandon the MX because to do so will reward the Soviets in some fashion shows the same misreading of the Soviets that this administration has displayed since taking office. If the MX serves no valid military purpose for ourselves—and it quite clearly does not—then there is no reason for the Soviets to feel either rewarded or punished by our internal debate over it.

Instead of recognizing this obvious fact, the administration has again revived the discredited theory of incentive and reward as though Soviet arms negotiations could be moved along in that fashion to a satisfactory conclusion.

I believe they cannot.

The claim made in last year's debate that the MX represented a bargaining chip in the negotiations has been disavowed by the President himself, by our chief negotiator, and by the Director of the Arms Control Administration. The President has said he would not abandon it. Ambassador Rowny repeated several times in a television interview last month that the MX is no bargaining chip, that it is not "something you put it up or take it out. We have no intention, if we build these MX's, to give them up, you see. They're necessary * * *" He said that supporters of the MX were wrong in characterizing the MX as a bargaining chip.

The military rationale for the MX missile as a survivable land-based component of our forces has been destroyed by this administration's decision to put it into fixed silos.

The political rationale for the MX, as an inducement or a threat to which the Soviets will respond, has been demonstrated to be ineffective.

What the President is now doing, with this talk of rewarding the Soviets for their intransigence, is making the MX into yet a third kind of psychological weapon, this time one aimed at ourselves. If we persuade the American people to believe that our decisions on our own defenses are tied to Soviet behavior, we will lock ourselves into a weapons system that adds nothing to our deterrent, diverts needed money from conventional force improvements, and gives the Soviets a virtual veto over our military decisions. This is, in my judgment, shortsighted. We should develop weapons to protect our Nation's security based on the threats we face and the capacity of the weapons, not on some perceived Soviet reaction to our decisions.

While the MX missile based in Minuteman silos fails to solve the problem for which it was intended, it succeeds in moving the United States closer toward adoption of a new policy concerning the way the United States would react to Soviet actions during a period of heightened international tension. If the vulnerability of our land-based missiles is as great as we have been led to believe for the last decade, the United States will be denied its ability to inflict unacceptable retaliatory damage on the Soviets, unless it launches its missiles on a warning of a Soviet attack.

The former Defense Director of Program Analysis and Evaluation, Mr. Russell Murray, has put the problem this way:

> The MX, in silos and unable to ride out a Soviet attack, would be useful to us only if we intend to rely on the highly unreliable and immensely dangerous policy of launch-on-warning, or if we intend to initiate thermonuclear war. The decision to build a weapon that would be as devastating in a first strike as it would be useless in retaliation marks a fundamental and ominous change in national security policy.

I believe that effective and lasting arms control will not magically result from the deployment of two new land-based missile systems, and a reduction in warheads will not be achieved while both superpowers substantially expand the number of land-based warheads in their arsenals.

I believe in a strong America. Plainly, American military strength plays an important role in deterring aggression. But maintaining, even improving, our strength is not inconsistent with reaching fair, balanced, verifiable agreements with the Soviet Union to halt the increase in nuclear weapons and bring about a reduction of such weapons.

We are overprepared to fight a nuclear war, but we are underprepared to defend ourselves against a conventional attack. Rather than escalate the nuclear arms race by pouring billions of dollars into ever-more nuclear weapons, we should be paying attention to the less glamorous aspects of conventional defense.

There is no security for anyone, anywhere, in a continuing escalation of the nuclear arms race. Our national interest will best be served by improving our conventional defenses while we engage in meaningful negotiations to achieve a fair, balanced, and verifiable agreement to first halt the increase and then bring about a reduction in nuclear weapons.

Over $20 billion to deploy the full MX missile complement ultimately in existing Minuteman silos cannot in my view be justified. Indeed, it will be a colossal waste of the American taxpayers' money. I believe the pending amendment should be approved.

Mr. TOWER. Will the Senator yield for a question?

Mr. MITCHELL. I yield the floor, but I will be glad to try to answer the Senator's question.

Mr. TOWER. The Senator was talking about sitting ducks. Of course, if the MX is a sitting duck, our entire Minuteman III force is a sitting duck. Does the Senator believe that force exchange ratio is an unimportant equation?

Mr. MITCHELL. I am sorry; I cannot hear the Senator.

Mr. TOWER. I said does the Senator believe that force exchange ratio is not an important equation in deterrence? I take it that is the thrust of the Senator's remarks, the force exchange ratio is not important.

Mr. MITCHELL. I cannot understand the word. The "force exchange ratio"?

Mr. TOWER. Force exchange ratio.

Mr. MITCHELL. And the question is do I believe that it is important?

Mr. TOWER. Yes. The implication is that the Senator does not believe the force exchange ratio is an important element in deterring the Soviet attack against us. Is that correct?

Mr. MITCHELL. It may be a factor, but I think in this case it does not justify going forward with the MX.

Mr. TOWER. Why? Then the Senator suggests that force exchange ratio is unimportant; that the Soviets will not calculate how much of our force will be remaining if they launched a first strike against us, in determining whether or not to launch such an attack, is that correct? That they discount force exchange ratio altogether? Does the Senator believe the Russians discount that? Does he believe that they would in effect commit nuclear suicide by disregarding force exchange ratio?

Mr. MITCHELL. I believe that that is certainly a factor, but they are much more likely to be influenced by the other elements of our nuclear defenses, as the Scowcroft Commission itself indicated.

Mr. TOWER. I do not think the Senator answered the question.

Mr. MITCHELL. Well, the Senator keeps imputing to me the implication that force exchange ratio is unimportant. I have said it is clearly a factor. I believe, however, that the principal factor in terms of their decision would be the capacity to retaliate by these other than land-based missiles. That is exactly what the Scowcroft Commission said.

Mr. TOWER. If we had a force that regardless of how decimated resulted after a first strike through modernization of greater capability to respond, would that not be a deterrent?

In other words, do you think the Russians would launch a first strike against us if they knew they would have to accept an unfavorable force exchange ratio?

Mr. MITCHELL. No, I do not believe they would.

Mr. TOWER. All right, you have made my point. Now let me go on to say——

Mr. MITCHELL. I do not believe I have made your point.

Mr. TOWER. Yes, I think you did.

Mr. MITCHELL. I think the force exchange ratio exists with respect to other than our land-based missiles and the MX.

Mr. TOWER. There are other aspects of it. That is why we have a triad.

Mr. MITCHELL. That is right.

Mr. TOWER. But the Russians might have to make some pretty tough choices. The fact is that if you have more capable systems with more warheads, even if much of your force is decimated, that which survives is going to be more capable.

Mr. President, the fact is that the MX will be deployed in vulnerable silos, just as the Minuteman III is now. If you have to make an argument against the MX, you have to make the same argument against our entire Minuteman III force. You might as well dismantle the whole thing.

The fact is that if the Soviets can destroy 90 percent of our land-based systems, if indeed those that survive are more capable, or some of those that survive are more capable than Minuteman III, that really raises the force exchange ratio somewhat in our favor and serves as a deterrent.

Mr. MITCHELL. If the Senator will yield——

Mr. TOWER. I will not yield. The Senator would not yield to me for a question. I will yield after I have completed my statement.

Much has been made of launch on warning. I think we have to make a distinction between launch on warning and launch under attack.

Launch on warning means that if you get some sort of signal, maybe even from human intelligence or from communications intelligence or signal intelligence, that the Soviets are about to attack, you launch. I do not think anybody advocates that.

We can determine very clearly if the Soviets have launched an enormous force against us and it is due to arrive at a given time. That would be launch under attack, and it might be only seconds before the missiles arrived which we launched. That is launch under attack.

I would never suggest that we launch unless we have gone beyond a shadow of any reasonable doubt that a first strike is about to arrive on the American Continent.

A lot has been said about bargaining chips. Most of us who talk about the value of the MX from the negotiating standpoint do not use the term "bargaining chip." That is the term that the detractors of the MX use most of the time. What we say is that it enhances our negotiating posture.

It may be that we would not deal away the MX in a negotiating session with the Soviets. But the fact that we possess it might mean that they would be more willing—I say might, and I do not say with certainty, because there are no certainties in this world—but I think it probably would mean that they would be more willing to negotiate limitation; and probably the systems that we would want to give away first, the chips that we would throw across the table, would be the Minuteman II, then the Minuteman III, and, last, the MX.

I do not see how the case could be made that improving the capability of our missile, even though we do not improve its survivability, is an inhibition on our ability to negotiate or reduces the likelihood that we could negotiate an arms agreement with the Soviet Union.

There is nothing in history or experience that suggests that if we act in unilateral restraint, the Soviets will respond, will be more willing to negotiate, and that we would be likely to get an agreement. Quite the contrary, in a most dramatic example, the United States finally—after much debate, bitter and rancorous debate—by a marginal vote in Congress, arrived at the decision to go into a full-scale development and engineering and deployment of a ABM system. Once we had begun that deployment, the Russion began to negotiate seriously, and we got an ABM agreement. That is history.

Those of us who were here and participated in that long debate over the ABM remember very clearly what happened. We remember very clearly the warnings, which are very similar to those we hear today: That if we proceeded with this, it would be destabilizing; it would enhance the prospect of nuclear war. It did no such thing. It resulted in an agreement that exists today.

There is nothing in history or experience that gives us any degree of certainty that imposing restraints on our President, prodding our President to negotiation and saying, "We will deny you the systems until you begin to negotiate, and when we begin to negotiate, you don't need them any more"—that that is going to lead to real arms reduction.

Boy, if that is not playing Russian roulette with the security of the United States of America, I do not know what is.

They keep talking about escalation. If you listen to congressional debate, you would think that the United States is responsible for the arms race; that because we modernize a system, we are escalating the arms race.

Some say that the Russians just follow us: Monkey see, monkey do. That is so much bunk. Again I will use the often quoted statement of Harold Brown, Jimmy Carter's Defense Secretary, who could hardly be called a super hawk, who could hardly be called an enemy of arms control, who said: "When we build, they build. When we don't build, they build."

We decreased our Nation's resources, in real terms, substantially in the decade of the 1970's, while the Soviets engaged in a relentless arms buildup and surpassed us in terms of urgent, hard target kill, represented by their intercontinental ballistic missile force.

That is what happened when we acted with restraint.

When we canceled the B-1, what did they do? No response. They continued to build Backfires and develop the next generation follow-on bomber to the Backfire. That was the Soviet response, not one of coming to the conference table and saying: "You have acted with restraint. We want to respond in kind."

When the United States possessed a nuclear monopoly, even under severe provocation, we did not attack the Soviet Union. We could have wiped them out. We did not do it.

Our restraint is historic. It has not been matched or reciprocated by the Soviets.

What kind of fools are we to think that if we keep suggesting to the world that our President is not serious about arms negotiations and therefore we have to prod him, we have to browbeat him, we have to mandate him, do you think the Russians do not exploit that? No, they are fellows of good will. They are just worried about their own security.

If they are just worried about their own security, why have they built a navy that is far beyond what is required by them to defend their own country, a force projection capability, a sealane interdiction capability, which is far beyond what they require? Why have they done that?

Could it be that they wanted to spread their influence over the world with a military threat? I think that is apparent.

Who demobilized after World War II? The Russians? No. We did. We did. We all came home. Millions of us came home. Our mothers wanted us home. We wanted to go home. We came home. Did the Soviets demobilize? No. What is the first thing they did? They violated the Yalta-Tehran accords by imposing political puppet governments in Eastern Europe through the force of arms.

Who escalated the arms race? Who started NATO? Us? No. The Russians started it by threatening Western Europe. That is why the Western countries got together.

We are not the ones who escalated the arms race. They started it. They started it, and they know they can beat us at it because there is no restraint on them.

Does the Supreme Soviet say to Mr. Chernenko, "You cannot have another SS-20 until you start negotiating with the Americans and then you cannot have it because perhaps then we will arrive at some sort of negotiation that will make the SS-20 unnecessary."

They act with no restraint.

Do they have the popular restraint? Oh, yes, there are a lot of people in this country who wants us to disarm, who think if we removed the destablizing weapons from our own inventory the Soviets may respond in kind and the world will be safe.

Is there any popular opinion in the Soviet Union that influences them? No, there is not. They act without restraint.

We are not the escalators. But we better have the prudence to do what is necessary to defend ourselves and to deter the Russians from ever thinking that they can think the unthinkable, and that is they can undertake a nuclear war with acceptable risk to themselves.

Mr. President, I move to table the amendment of the Senator from Vermont, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Vermont.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. AN-

DREWS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

The PRESIDING OFFICER [Mr. TRIBLE]. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 55, nays 41, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—55

Abdnor
Armstrong
Baker
Boschwitz
Byrd
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dole
Domenici
East
Evans
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Pressler
Quayle
Randolph
Roth
Rudman
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—41

Baucus
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Cranston
Dixon
Dodd
Durenberger
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hollings
Huddleston
Humphrey
Inouye
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Riegle
Sarbanes
Sasser
Stafford
Tsongas
Weicker

NOT VOTING—4

Andrews
Bentsen
Chafee
Percy

So the motion to lay on the table amendment No. 3207 was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3208

(Purpose: To prohibit the deployment of the MX missile in favor of a system of small, single-warhead ICBM's)

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes amendment No. 3208.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, beginning with line 7, strike out all down through line 19 and insert in lieu thereof the following:

For missiles, $8,879,900,000.

For other procurement, $8,959,300,000.

For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader, or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-1 bomber aircraft or the Advanced Technology Bomber aircraft.

(c)(1) Notwithstanding any other provision of this or any other Act, no funds authorized to be appropriated under this Act shall be obligated or expended for the deployment of an MX missile;

(2) It is the sense of the Congress that efforts to modernize the land-based strategic force should be focused on a small, mobile single-warhead inter-continental ballistic missile;

Mr. TOWER. Mr. President, before the Senator proceeds, would he yield for a question? This is on the MX, is it not?

Mr. MOYNIHAN. That is correct.

Mr. TOWER. I thank the Senator for being agreeable to coming up on the heels of the other MX amendment. I hope, if there are other similar amendments, they could follow the Senator from New York. I think it is good if we can see the MX amendments all together so that everyone understands we are on the same subject. I hope we will be able to do that on some other matters, too, so we can take it up by subject matter. I think that would be a way for Senators to operate so that we can have more assurance about what is going on in the debate.

I inquire at this time whether the Senator would forbear further. If there are any other Senators intending to offer amendments on the MX issue, can they do so after the amendment of the Senator from New York?

Mr. CHILES. I have an amendment, Mr. President.

Mr. TOWER. Would the Senator from Florida be amenable to coming up with the amendment after the Senator from New York?

Mr. President, the Senator already indicated that he would be amenable. So I think the Senators can be on notice that the next two amendments deal with this same vitally important subject.

I thank the Senator for yielding.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, the Senate finds itself at this point in almost exactly the situation we were in on July 26, 1983. We have just voted today, as we voted then, on a proposal to strike the funding for the procurement and deployment in Minuteman silos of the MX missile, and not to replace that with any other strategic modernization program.

The vote last year was 41 to do that, and 58 not to do that. The vote this year, a few moments ago, was 41 to 55. Last year the similar amendment was offered by Senator HART with a number of cosponsors, of which I was one. This year it was proposed by Senator LEAHY, with a similar array of cosponsors.

Following the vote last year, I offered an amendment having essentially to do with the strategic deployment question. My amendment stated simply that no funds authorized in the pending legislation would be used actually to deploy the MX in the Minuteman silos. I spoke, and others spoke, to the detrimental consequences to America's strategic posture of such a decision. I said then—I would say tonight—that, from the time Americans learned the Soviets had developed the capacity to deliver a nuclear bomb to the United States, a policy of deterrence has guided both our thinking about how to build nuclear weapons and our planning as to how to avoid nuclear war.

The central theory of deterrence is the proposition that war is deterred by making it clear that war cannot succeed. This is to be accomplished by deploying our nuclear weapons in ways that make them invulnerable to a first strike by an adversary—in this case clearly the only serious one being the Soviet Union. Being invulnerable to that first strike, the United States is in a position always to strike back in force if attacked. That is the theory of deterrence; the doctrine that war is to be deterred by making it clear that war cannot succeed.

This doctrine emerged during the administration of President Eisenhower and has been followed with great faithfulness by every President who has succeeded him until the present. It was precisely in order to sustain deterrence that the decision was reached that we had to leave the Minuteman silos of the high plains of the United States. With the advancement of Soviet technology, these Minuteman sites—we came almost 15 years ago to know—were increasingly vulnerable to a devastating first strike by Soviet missiles.

If I may offer a personal recollection, Mr. President, it happens that I was a member of the President's Cabinet during the time when the distinguished Secretary of Defense, Melvin Laird, found it to be his recurrent, sometimes uncertain but increasingly persistent, duty to inform the Cabinet that the Soviets were developing large land-based missiles with a degree of range and accuracy such that our Minuteman fields, originally immune to such a first-strike attack, were becoming very much so. Secretary Laird would conclude each such report by noting that, if this persisted, if this pattern of Soviet tests and the apparent accuracy of the tests was confirmed, we would have to leave those Minuteman fields, and find another missile that might be deployed in a deterrent mode such as the original Minuteman had been.

So it was decided—reluctantly, with no great rush to judgment—that a new missile would have to be developed, and deployed in a manner comparably invulnerable as the previous one.

It is the fact that our land-based missiles today are those which were ordered up, as you might say, under Dwight D. Eisenhower. We have not been mindless in our quest for new nuclear innovation; much less has there been a massive nuclear deployment by the United States over the past 30 years. But, finally, the decision was made to modernize, and the new missile, the new "M," was called X because it was experimental; and we set out to design it and to deploy it.

What we designed, Mr. President, could be called a treaty missile—much as during the 1920's and 1930's following the London naval treaties and the Washington Naval Conference, nations which had agreed to limitations on the number and size of their ships found it necessary to put more and more firepower into the same sized hulls. The pocket battleship was an example of that phenomenon, and became known as a treaty ship.

The MX is a missile that responds to the fact that the SALT agreements limit the numbers of missiles that either side can have, and so it became necessary to put as much power into them as was possible. It became a very valuable target with 10 warheads, and each of those warheads with almost 10 times the power of the warhead that was first exploded over Hiroshima.

So we designed that missile in this mode, and then set out to find a way to deploy it.

For 10 years, Mr. President, this missile wandered literally in the desert. The Air Force, with ingenuity, with conviction, and with sincerity, has sought ways in which it could be deployed in a deterrent mode, which is to say a mode not vulnerable to a first strike; 32 modes were considered. Each one turned out to have some insuperable shortcoming—such as President Carter's proposal for a racetrack scheme that might have worked had the citizens—and perhaps especially the Senators—of Nevada and Idaho been willing to see their States dug up for the purpose.

But they were not so disposed, as one might have predicted they would not be and, I do not doubt, ought not be.

Then, in the aftermath of an inquiry into this seemingly insoluble problem, a distinguished Commission was appointed by President Reagan, headed by Gen. Brent Scowcroft, the former National Security Adviser to President Ford, a man of the greatest integrity and respect in this field. He was asked what to do about the seeming dilemma that we had to get out of the Minuteman silos and we could not find a place to deploy the new missile. His Commission submitted a report in April 1983, which stated that "deterrence is essentially defensive in nature;" called for the establishment of modernization of our land-based force, focusing on a single-warhead small ICBM, to which the name "Midgetman" has been appended; and clearly, throughout the text of the report, made clear that this is by far the preferred approach.

The Scowcroft Commission proposed that we move as rapidly as possible to the deployment of a single-warhead small ICBM of approximately 15 tons. It became known as Midgetman. It is a wholly feasible missile. The Commission thought it might be deployed as early as 1992. General Scowcroft has recently given a group of interested Senators his judgment that 1991 would not force the issue in any particular manner. The Midgetman is out there; we can reach out and touch it. It has the virtues of a deterrent weapon: It is widely dispersed. It can be mobile. We are getting out of those holes which have been the basic tactical vulnerability of the fixed ICBM, as technology has made for a vastly more accurate missile on the other side and on our side as well.

The anomaly of the Scowcroft Commission Report, however, is that, even while stating the absolute need to proceed with a small, mobile, single-warhead missile, in an apparent mood of resignation, the Commission suggested that we also build and deploy the MX missile in those very Minuteman silos which, because they had become vulnerable to a first stike, had caused us to realize that we must get out of there.

In committee hearings, the Joint Chiefs were queried about the seeming contradiction in this decision. Our most senior military leaders were asked: if these missiles go into those silos, will they not invite a first strike by the Soviet Union? We and the Soviet leadership both know that the MX can destroy them. We both know that the Soviets, in turn can destroy the MX. We both know that the United States could be in a position of using them in a situation of crisis before the Soviets do so. Indeed, General Vessey, a military officer who has won the respect and regard of this body, did say when asked about this question last year: "Well, the Soviets have no assurance that we will ride out the attack." For which there is a translation, which we know as the policy of launch on warning.

I see my friend from Arizona is on the floor. There is no person in this body for whom I have greater affection and respect. I think he would agree with me that the doctrine of deterrence has not only kept the nuclear peace because of its inherent stability over the generation in which he has been so much involved in the defense of this Nation, but that it has had the overwhelming importance of contributing to what is termed crisis stability. In a situation of international uncertainty, the leaders of the Soviet Union know what to expect from us. Major periods of uncertainty, and potentially grave instability, such as we witnessed as recently as the Lebanon crisis, are recurrent.

The Soviets have always known that it was their choice whether to commence a nuclear exchange, that we were under no compulsion to do so, that our doctrine was rather to respond. They have never had to ask themselves: is the U.S. thinking that they are about to start something, so the Americans will feel they had better launch their Minuteman, so Soviet security requires a preemptive launch on warning. No; we've not yet found ourselves in this situation which, with pungency and directness, the military has described as use them or lose them.

It was this concern, this commitment to the enhancement of strategic stability, that has led a number of us to agree with the Scowcroft Commission report of March 21, 1984, that:

> The first goal of nuclear arms control efforts should be to ensure that the nature of the forces on each side does not provide a military incentive to strike first with nuclear weapons in a crisis.

The Commission went on, in this final report to the President, to say:

> The most destabilizing aspect of concentrating a large proportion of one's force in multiple independently targeted reentry vehicles—MIRV's—on ICBM's is that they make it possible to destroy ICBM's with numerous warheads at a cost to the attacker of only one or two warheads.

The Commission report went on to say that unless we "reduce the ratio of warheads to targets * * * there could be a premium on striking first."

That is exactly the kind of premium for instability we do not want and need not accept, which is why I prayerfully plead with this body not to bring it about.

Here stands a Senator—I doubt there are any save such as I in this body—altogether committed to the doctrine of deterrence, altogether committed to the necessity to build a small, mobile, 15-ton, single-warhead missile such as the Scowcroft Commission recommends. It will be the first land-based missile of its kind designed and deployed since the 1950's. Nobody can accuse the United States of over much proliferation in these matters.

It happens that also in the 1950's, this Nation commenced to build the interstate and defense highway system which, in a crisis, offers the means to deploy these missiles if that moment should ever come—of course, the fact that that moment could come is the defense against coming.

The amendment I offer states simply that, while we have a number of the MX missiles now ordered and under construction, we shall not deploy them in Minuteman silos. We will not put ourselves on that 10-minute hair trigger. This is the view of so many persons of experience and respect in foreign affairs and strategic matters that it is almost unnecessary to ask the Senate to hear further repetition. I will cite one august authority, Prof. McGeorge Bundy, who testified to the Senate Committee on Appropriations with such persuasiveness against this MX in Minuteman decision. He said that—

> The very worst way to deal with the Soviet ICBM force would be to duplicate it. Let us simply consider how unstable the balance of terror would be today if our present strategic forces were the same as those of the Soviet Union. The existence of two, large, vulnerable MIRVed ICBM forces, each on a hair trigger, would be much more dangerous than the relatively stable balance we have today. It is important to make it completely clear in this current process of decision that we have no such intention.

For Mr. President, if we do deploy MX-in-Minuteman, whatever our intention, we have made a decision which can only be judged by our adversaries as based upon that intention.

Mr. Bundy continued:

> Once we build 100 MX-in-Minuteman, they will become too precious to trade at any price the Russians would accept * * *

He concluded by saying:

> We need only what we need, as President Eisenhower used to say, and what we need is a varied and survivable force with varied and survivable capabilities. Except for MX-in-Minuteman, all our existing modernization programs contribute to that basic requirement.

All of them—the new strategic bomber, the new submarines including the Trident class with its D-5 missile. These are deterrent weapons. They are made for crisis stability and they have kept the peace.

And so once again, Mr. President, just about 11 months after having done so last year, I again ask the Senate to consider an amendment that would refocus our strategic force modernization effort in a stability-enhancing direction.

There are those who would stop weapons projects altogether in hopes that the Soviets will follow our example. They will not follow our example. When we build; they build. When we stop building; they keep building.

There are others who hope that by matching the Soviet buildup of large weapons with potential first strike applications we can somehow intimidate them. They will not be intimidated, Mr. President.

All we can hope to do is what we have done, which is to make clear that our doctrine is always to keep the nuclear peace by insuring that there can be no successful prosecution of nuclear war.

As I stated a year ago and I state again today, war is deterred by making it clear that war cannot succeed.

If the Chair would indulge me, I have two final comments. With respect to the Midgetman, which we should move ahead with—steadily, directly, energetically—let us, even so, not devote so much effort to this such that, in order to get a small mobile missile deployed, we end up with a large and not very mobile missile.

It is the fact that by using systems already available for larger weapons we could hasten the day in which a smaller one would be deployed. It would not be that much smaller and in consequence would lose all the strategic advantages of mobility. An extra 12 months on the end of this period to get what we want and need will serve us no wrong.

Second, I hope it would be clear, and perhaps this is an unavailing hope, but I hope it would be clear that those of us who criticize the MX as deployed to be deployed, in the Minuteman silos, are not simply finding yet another case for avoiding the deployment of a new land-based missile system. We are not. It has been observed, and I think justly, of some frequent critics of the defense program that they are always for the next weapon system available but not for the one immediately available.

The Midgetman, I wish to emphasize, is immediately available. Work is being done on it now. We can deploy it in 5 to 6 to 7 years. In the meantime, we have a situation in our triad sufficient to maintain the stability of the nuclear standoff and to indicate to the Soviets which way we are going.

It happens also that this choice comes before us at a time—and this is my final thought, Mr. President—when the Soviets appear finally to be going in the same direction. It is well known to this body that the Soviets are developing and deploying two new, small, mobile missiles their SS-24 and SS-25. The very numbers of course suggest how many different varieties they have developed while we have stayed with essentially the same ICBM's since the late 1950's. President Kennedy deployed the Minuteman.

I doubt that we will ever get the Soviets to take those missiles out of their silos. They are sunk cost you might say in several senses of the term. They are the symbol of their nuclear force. But they do not work forever, they do not last forever. And if by watching our performance they come to judge that in fact there is greater strategic security to be got out of the mobile, small, single warhead missile, the time may come—I do not expect to see it, but the time could come—when both have deployed their forces in deterrent modes. That would be an enormous advance for mankind. It is an advance which we can at least take the opportunity to make possible by deciding tonight not to provide funds to deploy the MX missile in the Minuteman silo. Let us rather heed McGeorge Bundy.

Mr. President, I conclude by noting that I have sought to present this argument with an even greater sense of urgency than I did a year ago. Then it seemed possible that we might stop altogether this fateful decision. We did not. But it is not yet too late. We can still do so, and I very much hope we will make the judgment this evening to do so.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to my distinguished friend from Florida.

Mr. CHILES. Mr. President, I have listened with interest to the remarks of the Senator from New York.

I walked on this floor a year ago and became infected, listening to the remarks of the Senator from New York. I had voted for MX on every occasion until that time. On that day, July 26, I had voted against an amendment that at that time would have stopped the MX, and the Senator from New York at that time made—as he has made tonight—a very persuasive argument as to why MX in its present configuration, in the Minuteman holes, is a destabilizing weapon, is not a true deterrent, and does not improve the triad.

Therefore, while I think the Senator from New York was not for trying to unilaterally stop the weapon at this time or kill it, he was saying that we need to go slow, we need to continue the development and research, that it looked like the Midgetman was the better alternative, and he would delay the final step that had to be made.

I was one of the Senators who switched and voted with the Senator from New York. I believe we had 43 votes, which at that time was a sort of high-water mark.

Mr. MOYNIHAN. Indeed, I remember that, with gratitude for the Senator's timely support.

Mr. CHILES. Again I have listened to his remarks. I find myself more uncomfortable this year, after supporting the MX and working for something along the lines of what the Senator is talking about, which would terminate the program, which would allow us to continue the program but at the same time to force a faster track for the Midgetman, to see if it is not really the viable alternative, and would leave MX as a bargaining chip.

I wonder if the Senator would consider joining in an amendment I have. Cosponsors are Senator JOHNSTON, Senator GRASSLEY, Senator EXON, and Senator BENTSEN, as well as some other Senators who supported MX in the past. Will the Senator consider allowing me perhaps to substitute my amendment for his and to join forces and see if we could bring some sanity into the debate we have here, in an attempt to try to strengthen the triad and strengthen the ability of this country to have a very strong deterrent?

Mr. MOYNIHAN. I take that to be an invitation. And my answer is yes. I will join forces with any Member of this body who is concerned that we not take the potentially fatal decision to deploy a 10-warhead intercontinental ballistic missile in a silo already targeted by Soviet missiles, with Soviet warheads already directed against them.

I am familiar with the Senator's proposal. It is my understanding it is consistent with the amendment I have offered. I wonder if he might expound upon it a bit further.

Mr. CHILES. I should like to expound at length when I start discussing it. Basically, it would allow for the missiles we have, which I voted for in 1984; that you continue all your flight testing, you continue all development, and go forward with those particular missiles. It would not add additional missiles on top of that for 1985. It would allow the production to stay intact.

Mr. MOYNIHAN. The production line.

Mr. CHILES. That is right, the production line. So that if it is necessary to go forward with this missile, if there is some reason why the Midgetman looked like it would not be the answer, by allowing the production line, you stay on track, and you have the so-called bargaining chip that the MX would provide. At the same time, it would save approximately $2 billion.

Mr. MOYNIHAN. That used to be a sum in this body.

In a sense, the Senator is saying, "Let us go forward with the Midgetman and hold the MX as a backup to be considered again if at some point it seems worthwhile, or if we have problems which we do not now anticipate."

Mr. CHILES. That is correct.

Mr. MOYNIHAN. If the Senator wishes to offer his amendment in the nature of a substitute——

Mr. CHILES. In effect, it would be a perfecting amendment.

Mr. MOYNIHAN. I would be honored to join him in that matter, and I would think it a wise measure. I hope we can do so.

Mr. GOLDWATER. Mr. President, will the Senator yield for an observation?

Mr. MOYNIHAN. I am happy to yield.

Mr. GOLDWATER. Mr. President, what I am about to say does not indicate that I will support any of these amendments. I just want to compliment my friend from New York. I have sat here the whole day listening to the debate on the MX. Your speech was not a political speech. You made some very sensible suggestions, suggestions that would not be difficult to find fault with. I just want to compliment you on not having gotten into the political this, that, and the other thing of why has not the President done this or that.

We are in the process of trying to figure out ways to defend our country; and I, as a member of the committee, want to thank the Senator for making some darn good suggestions.

Mr. MOYNIHAN. Mr. President, such a statement from the Senator from Arizona is a great honor. I thank him for his unfailing courtesy to the Senator from New York. Perhaps we might get a vote out of that. [Laughter.]

Mr. President, if the Senator from Florida wishes me to yield to him at this time, I will be happy to do so.

Mr. CHILES. I thank the Senator from New York, and I thank him for his support of the perfecting amendment that the Senator from Florida is going to propose.

The PRESIDING OFFICER. The Senator from Florida is recognized.

### AMENDMENT NO. 3209

(Purpose: To strengthen the land-based element of the strategic triad by promoting competitive evaluation of new small ICPM alternatives with a restructured MX program)

Mr. CHILES. Mr. President, on behalf of myself and Senator GRASSLEY, Senator JOHNSTON, Senator MOYNIHAN, Senator EXON, Senator BENTSEN, and Senator HOLLINGS, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mr. CHILES], for himself and Senators MOYNIHAN, JOHNSTON, HOLLINGS, GRASSLEY, EXON, AND BENTSEN, proposes an amendment numbered 3209 as a perfecting amendment to the Moynihan amendment numbered 3208.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "missiles," and insert the following: $6,819,900,000.

For other procurement, $8,959,300,000.

For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader, or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-1 Bomber aircraft or the Advanced Technology Bomber aircraft.

### PROMOTION OF TRIAD EFFECTIVENESS

(c)(1) Congress remains committed to improving the effectiveness of the strategic triad. In order that Congress may consider appropriate alternatives for strengthening the land-based element of the strategic triad and ensure its effectiveness in the future, not more than $3,070,600,000 of the funds appropriated pursuant to an authorization of funds in this Act may be used for development of the new small mobile intercontinental missile system and MX-related activities, in the following amounts:

(A) $596,000,000 for the development and maintenance of a ready production line for the MX missile.

(B) $1,716,300,000 (which sum is authorized to be appropriated in section 116) for research, development, testing, and evaluation of the MX missile in missile silos.

(C) $200,000,000 for the flight testing of the 21 MX missiles for which funds were appropriated for fiscal year 1984.

(D) $200,000,000 for the acquisition of support and other equipment as may be necessary to permit deployment of MX missiles in fiscal year 1985, in the event that funds for the production and deployment of additional MX missiles are provided after the date of the enactment of this Act.

(E) $358,300,000 (which sum is authorized to be appropriated in section 116) for research, development, testing, and evaulation of a new small mobile intercontinental missile.

(2) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be obligated or expended for the procurement of any MX missiles in addition to the 21 MX missiles authorized for fiscal year 1984.

(3) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be obligated or expended for the operational deployment of any MX missiles.

(4) In conjunction with submission to Congress of any request after the date of enactment of this Act for funds for the procurement or operational deployment of MX missiles, the President shall submit to the Committees on Armed Services of the Senate and House of Representatives a written report containing his assessment of the future requirements of the strategic triad of the United States and of the prospective alternatives for developing the most effective land-based intercontinental missile force to meet projected future needs. The President shall include in such report a comparison and evaluation of the various alternatives, including the MX missile and a new small, mobile intercontinental missile, with respect to the following:

(A) The ability to maintain a high degree of survivability in light of current and projected threat environments through the year 2000.

(B) The impact on developing an overall land-based missile force with a lower ratio of warheads to launchers, thus enhancing stability by creating a potential exchange ratio which is unattractive to an attacker.

(C) The degree to which current and projected international conditions require the development of particular alternatives, including the momentum, level of effort, and likely future directions of the Soviet Union's strategic programs.

(D) The progress of efforts to develop more feasible and effective basing modes for land-based intercontinental missiles.

(E) The cost and the ability of the United States to pursue multiple alternatives without impinging on expenditures for the development of a new small, mobile intercontinental missile system.

**Mr. CHILES.** Mr. President, I have long been a strong supporter of the triad defense—deterrent defense, I would say—it has long been our policy to protect ourselves against nuclear attack from any enemy. I believe that is a viable concept. It has served us well over the years. I think it can continue to serve us well.

It is very important that we have a strong leg of that triad to be a land-based missile system.

We need to recognize that we do not know how long our bombers will be a creditable delivery system. We do not know how long we can rely on the bomber leg. We think at this time that the submarine leg is in good shape, but if we have erred before, it has been on the side of failing to understand that the Russians could catch up much quicker than we anticipated in their defensive technology. At the same time, while we do not think they would be able to track and stop our submarines, that is something we never know. We do not know in what year they will be able to do that.

So far, I think a creditable land system is very necessary. For that reason, Mr. President, I strongly supported the development of MX. When we found that the Russians had caught up so quickly in their ability to point and aim their missiles, and knowing that they had tremendous, heavy throw weight in their missiles to start with, when it became apparent that in the mideighties they were going to have some kind of first-strike capability, a creditable first-strike capability, there was reason for this country to be alarmed, reason for us to go forward and try to come up with an answer for that.

MX was to be that answer. I supported the intital concept. I supported every provision to provide adequate funds for that concept.

I will have to say that I was a strong supporter until the decision was made that you were going to take that MX missile and you were going to stick it into a Minuteman hole which we know is vulnerable, which we know we cannot protect sufficently to insure that that weapon is going to be survivable.

So we find ourselves with a very, very expensive weapon, a very accurate weapon, it appears to be, but then we are going to turn around and put it in a vulnerable hole, and it does not make sense.

I thought, "We will never do that," when it happened. I thought, "Certainly I am not going to support that," but we found ourselves in the debate last year, and before we got to that debate, we had the Scowcroft Commission and that Commission said:

> We recognize that there are problems; we recognize that there are vulnerabilities, but we are going to develop a certain number of these MX's; at the same time, we are going to start developing a midget missile single warhead capable of being hidden, capable of being mobile, or else able to be hidden, and we will really go into that direction.

Now, I was onboard as long as we were discussing racetrack or other means, not dense pack—I was not on board for that, because that did not appear to be a concept that we never know whether it worked until we shot it off, and there were all kinds of problems to consider, but even for some of the expensive solutions I was ready to go, but then we decided no, we are not going to stand the political heat or we are not going to stand the expense and so we are going to tuck it into that Minuteman hole.

I had a tough, tough time voting against stopping the MX last year, but I did not vote that way because I did not want to unilaterally stop. I thought what kind of signal would that be to send to the Russians. I think there were very strong arguments to be made in that regard. I did not want to send that signal. What do we do until we know whether we have a credible backup that is going to give us the triad again, and we know that with Midget there are some problems. We anticipate that those problems can be solved but to know that we are going to have the accuracy, to know that we are going to be able to deliver it is certainly a problem. Again, Midget seems to certainly need an arms control agreement that would limit the number of warheads so that we will be able to limit some of the Midgetmen if we had to build the numbers that will be necessary. Without an arms agreement we know it is going to be very expensive because every missile will have its own aiming device.

You do not get the economies that you would get with MIRV'ing missiles and also, of course, you have the security problems that go with that missile if you are going to put it out anyplace in which you are going to have it be mobile.

We have the further problem of if you needed to build that vast number of missiles, you simply do not have enough military reservations to house those missiles.

So then there will be a political problem of where you put the Midget missiles and how you deal with that.

I just have to recognize that while now everyone finds fault with the MX, if you did away with the MX, will everyone start finding fault with the Midget? Will it then be the target on the block? And so I have been trying to determine how can we go parallel, recognizing that the Midget seems to be the best bet now, given the problems that we have in basing the MX, but how can we go forward to not give up MX, but at the same time, send the message to the Pentagon that: we want you to speed up on Midget, we want you to really go forward on that. That looks to be the best thing.

Because of that, Mr. President, the amendment that we are talking about proposing would allow all of the testing, development flight testing and development and all of the research that we have been doing on the MX and so the present MX's that are authorized in the 1984 bill, the 21 missiles, would not be affected by my amendment. You could go forward, and we provided the money to go forward in the plans that were presented how you would deal with those 21 missiles.

What we have said, Mr. President, is that it does not make sense to add another 21, 15, or 40 missiles on top of that while we are going through this development and flight testing stage and while we are saying that we are going to Midget.

Now, the original proposition of the Scowcroft Commission was that we were going to have 100 missiles by 1992 and at that time Midget would be ready and MX would give us the bridge, and we would take off on Midget.

Under any figures that we have now, we are not going to have 100 in 1992. We will be lucky to have 40 in 1992 because the President has now signaled a willingness to take only 15 in the House amendment, and we know that is going to be slowed down, and so we are going to have that kind of bridge.

So does it make sense to be spending all of the money in procuring additional MX's when you could be putting some of that thrust into Midget and keep MX viable? How do you do that?

In searching around, one of the things we were told is you need to keep the assembly line hot. You need to keep the ability of the assembly to keep going. That is going to cost $600 million, and in the amendment I have, it provides funding for that, because that really is your chip and that is your credible thing that if something happens with Midget or if you were talking about arms control talks, here we are standing ready to go forward anytime that we want to turn on that line, and at the same time we are testing, flight testing, developing, we are going forward with the additional 21 missiles, and we are sending that signal to the Pentagon, "Go forward as fast as you can with MX."

We had testimony by Bill Perry, who said by the year 1989, you could have Midget if you went forward on a full-scale basis. Well, that would certainly be before you could have any kind of number of MX's deployed, and it seems to me, Mr. President, it would make sense to go that way.

In going that way, we would save $2 billion.

So certainly I look at this from the budgeter standpoint, but more than that I look at this that we would be building again that credible triad, and that to me is the most important thing that I am talking about.

I do not think that those of us who are sponsoring this amendment want to disarm. I do not think that we want to send any kind of signal that we are disarming.

I think we want to send the strongest signal that we can, that we are persuaded that the triad is the way to go, and that is the direction in which we should be going forward at all possible speed.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. CHILES. I yield to my distinguished friend from Louisiana who is a cosponsor of this amendment who I know suffered some of the same concerns last year as we agonized through these votes, and we have talked many, many times on that and in yielding I wish to thank him for his help in constructing this amendment and in guiding me as to what he thought was the direction in which we should be going.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Florida.

You know, Saul on the road to Damascus, saw the light and was converted.

Mr. President, my conversion has not been so complete. The light is not so clear, and the change is not so dramatic as that which occured to Saul.

But there has been a change in my thinking on this question of the MX, and I wish to share that with the Senate.

First of all, I say it is not a complete change because this amendment has the great utility and the great advantage of keeping all of the strong points that I have heard proffered for the MX because the MX at bottom is a bargaining chip; or, to use the terms that General Scowcroft, for which I have such great admiration, uses, he says it is a bridge to the small mobile missile. Whatever bridge means in that context, I have not been quite able to figure out.

But if the MX is a bridge, then this amendment would keep that bridge.

Mr. President, the first question I asked myself before I got on this amendment was the question of do we need an MX, and I am not nearly so learned in matters of strategic weapons as some of my colleagues, so I approached it on a rather simplistic basis, and I thought to myself stragegic weapons are divided into first-strike and second-strike weapons for the sake of simplicity. A first-strike weapon obviously is that which you can hit the other guy with if you are going to hit him by surprise. No one ever thought that the United States was going to take a first strike, but I guess we want some first-strike weapons just in case, just maybe to frighten or scare the Russians.

It is the second-strike weapons upon which our total strategy is based, the mutually assured destruction strategy, that is, you want to have weapons so that if the other guy thought about hitting you first, you would be able to deal to him unacceptable damage.

Mr. President, I do not know how many first-strike weapons you need, but we have over 20,000 nuclear weapons total if you include the tactical weapons and we are bumping on the underside of 10,000 nuclear weapons in our strategic category.

Now, is that enough? Well, it is a little bit hard to put yourself in the place of a Russian, but if you want to figure whether that is enough, reverse the tables and figure that they had 10,000 strategic nuclear weapons—which they do, or right at it—and figure that you are the policymaker in the United States, figure whether that is enough to frighten you.

Well, 10,000, that is about 100 per State. My State of Louisiana is about an average size. So that would be about 100 weapons for Louisiana. Well, that would give you about 5 or 10 of those weapons in New Orleans and all of its suburbs. You could have one for the World's Fair alone. You could ring Baton Rouge, and Shreveport, Alexandria, and Lake Charles with several weapons. You could have the military bases and all the little bitty small towns, Dry Prong, Bastrop, and all the little places. You could make a sender of the State of Louisiana with 100 nuclear weapons.

Now I do not know the geography of Russia that well but I know you could deal unacceptable damage to the Russians with 100 nuclear weapons as a first strike.

The MX, Mr. President, where does it fit? Is it first strike or second-strike? Well, it was designed initially as a second-strike weapon. We had the racetrack out there and that was to give us that ability to respond to a first strike to us. But somewhere along the line, we decided we could not do that—the politics in Utah and Nevada, and the cost, and all those things. We know that long story. I think it was probably the right decision; maybe not. But for good or for evil, we made that decision. So now the MX is only a first-strike weapon.

So I ask you do we need more first-strike weapons? Is 10,000 strategic nuclear weapons not enough? No one has ever suggested that in the wildest state of imagination.

To be sure, Mr. President, the concept of a strategic triad does have a certain synergism to it so that, when used in combination, certain weapons become second-strike weapons because you cannot hit them all at the same time.

For example, if you have the Russian subs off the coast that hit first at our airfields, then perhaps in that context ICBM's become a second-strike weapon because you cannot take them out with submarine-based missiles because they are not accurate enough.

But that fine point does not exist in the argument here because MX adds nothing to the Minuteman when it comes to the synergism of the strategic triad. So you are just faced with a pure and simple question of whether or not we need more first-strike weapons. And I think the answer is so clear that it thunders at you. Of course, we do not need more first-strike weapons.

Now there are a lot of things we need in this country for our defense, but additional first-strike weapons are not in that category.

Moreover, first-strike weapons which are lucrative targets—and this has 10 MIRV's instead of 3, as the Minuteman has—are indeed just that. They are more lucrative, more tempting, and more destabilizing for that purpose.

So what we have, Mr. President, is a system, originally designed for another purpose, which has only one purpose now as a weapon and that is a first-strike weapon.

Our amendment, Mr. President, does serve a second purpose, and that is one of a bargaining chip.

Mr. President, I was sitting here talking to my distinguished colleague from New York about bargaining chips. I have been here only a dozen years and I have heard the term "bargaining chip" on just about every weapons system that has come along.

I have heard it about the Trident submarine when I voted for the third Trident submarine back in 1974, if I recall the year correctly. It was to be a powerful bargaining chip. I have heard it certainly about this weapons system. On just about everything that comes along on new weapons system, we hear the words "bargaining chip." But look at the record, Mr. President, the only bargining chips that have worked are those that have not been built but have been threatened to be built.

The only example that I can really think of and the most successful was the ABM system, which we threatened to build but did not build. Only then were we able to achieve the treaty with the Soviet Union.

Once something is built, it is never disassembled, it is never thrown away, unless we figure it is obsolescent or unless we figure it does not do us any good anyway. Then we disassemble it. And we have some of the weapons in that category right now. Some of the tactical nuclear weapons in Europe ought to be disassembled and thrown away already. The 155 millimeter Howitzer is in that category. They have very little bang for the buck, very little bang, period, and they ought to done away with. That kind you can bargain away.

What this amendment, therefore, does, Mr. President, is put us in the posture really to bargain with the Soviet Union. If indeed a bargaining chip ever was a viable strategy, then this amendment gives us that strategy because it keeps the line hot.

It gives you $200 million for inflight testing. It gives you $1.7 billion for research and development total. It gives you $200 million for deployment of 10 missiles, if the Congress approves. It takes about 2 years to build one of these missiles. And this only gives you, therefore, a lag time of about 6 months, because that is sort of the startup time when you keep your line hot.

So, Mr. President, my conversion has not been complete. In the first place—I hate to admit this, but I guess we do it all the time in the Senate—we have to vote yes or no, but sometimes we vote yes with the confidence factor of about 51 percent. The late, great Scoop Jackson used that phrase with reference to the MX to me. And that was rather persuasive to me. I thought if he could be persuaded 51 percent, maybe that put me over the edge as well. My confidence in the MX as originally conceived is now less than 51 percent.

But this amendment, Mr. President, gives us, I think, the chance to have your cake and eat it too. If you think we need more first strike weapons, this gives you the surge ability to get them quicker. If you think it has some possibility as a second strike weapon, because they cannot take out all of our weapons—as the distinguished Senator from Arizona says, there has been no proof that they can take out all of our weapons. And maybe they cannot and maybe in that sense some small percentage would be a second strike, then again you have the surge capability to get that MX.

But most important, Mr. President, it puts you in the posture to have a bargaining chip without buying it, at least without paying the full price; of having a bargaining chip at the only time when a bargaining chip can work. That is when you have a demonstrated resolve, a demonstrated ability to build it but you have not yet built it. It is the only amendment I think, Mr. President, that really makes sense in this day of strategic madness.

And I hope my colleagues will support this amendment which keeps the bargaining chip and which saves the money.

Mr. DURENBERGER. Mr. President, I wonder if the Senator from Florida would yield to me.

Mr. CHILES. I yield.

Mr. DURENBERGER. Mr. President, I cannot recall an issue which has been redefined quite as often as the MX missile—even renamed. Coming to grips with the terms of debate is a little like trying to catch a greased pig, for the design, the price, and the justification of the MX missile system have changed on almost a monthly basis, over the last several years.

A weapon system which was originally designed to provide security during the so-called window of vulnerability is now being endorsed as a symbol of national resolve. A program which anticipated some 200 missiles has now been reduced to 100. This year's request has been cut from 40 to 21 by the Armed Services Committee, and to 15 by the House. At this rate of geometric regression we ought to be at about 1¼ in 3 years, and perhaps at a midget in 4. We have gone through countless proposals for basing the weapon. They have been recounted here this evening, and this afternoon. Now we have returned to square one with plans to place the MX in fixed site silos, something which only a few years ago we were told was the least desirable of possible options.

The essence of the Scowcroft Commission recommendation was simply this: every alarmist forecast offered in support of the MX was discredited by the Commission. The fundamental reason we were given for investing these tens of billions into the system was our national honor. The secondary reason was to provide leverage to our negotiators as the builddown is implemented. At best, in other words, the MX was being offered as the "stick" which is to accompany the "carrot" of de-MIRV'ing our force by a builddown. At worst, the MX was being offered as a way to let us avoid proclaiming that the emperor has no clothes.

Mr. President, now that the terms of debate have shifted to things like the builddown, it seems to me the case for MX is weaker than it ever was. The weapons system is incompatible with the logic announced by the Commission and the President—the logic of builddown. So the issue seems quite simple. If you accept the builddown as a path to security, you cannot support the MX as the horse that you ride. If you believe the MX is needed for our security, then you cannot have a builddown. The builddown proposal which President Reagan made on October 4, 1983, anticipates that for each new warhead deployed on a land-based ICBM, two existing warheads will be destroyed. Through this devise the force postures of each superpower would be systematically de-MIRV'd over a period of time with the result that the ratio between warheads on one side and targets on the other will decrease. Over time, therefore, we can obtain modernization as needed while also getting genuine reductions in overall warhead levels and at the same time reducing any possible incentive for a first strike.

A first strike is most likely when through MIRV'ing a nation can launch a few of its missiles against the entire arsenal of its opponent, thereby disarming the opponent while holding in reserve additional force for later use. So when the builddown reduces the warhead-to-launcher ratio, it acts to underwrite crises stability.

As Senators know, the builddown proposal was by no means readily adopted by the President or the Defense Department. It took considerable time, considerable study, and considerable work by some of our colleagues here, and by people in the administration before the President made that Rose Garden speech. But the effort paid off. I think we would all agree that the result is a far better President, a far better negotiating posture, and a far better set of plans for arms control and national security than we began with.

Mr. President, my problem is that I simply do not understand how to square the logic of the builddown with the MX missile because if we eventually build the 100 missiles we have called for, we will have added 1,000 warheads to our arsenal.

That means we need to destroy 2,000 warheads in return and a quick look at our existing force posture demonstrates that means the elimination of every one of 450 Minuteman II missiles that are in our arsenal, along with 517 of the 550 Minuteman III missiles. The result would be a land-based leg made up of 133 land-based ICBM's, certainly an attractive and vulnerable target for Soviet planners. And if we then decided at that point to add the Midgetman missile, the situation would become not much better. So some have suggested that the way out of the dilemma is simply to pull warheads out of our fleet of submarine-launched ballistic missiles.

Mr. President, I cannot imagine a worse idea. If we were to build the MX in order to destroy the most survivable element of the triad, the Russians would certainly start plotting over there in Moscow this move on our part and, of course, the situation would only get worse as we added the B-5 missile to the fleet necessitating still more builddown.

So to me, Mr. President, the case is fairly clear; that the full complement of 100 MX missiles is simply not sensible at least as long as we adhere to a policy of builddown. What is the answer, then? Is it to reduce the ultimate purchase of MX missiles? That appears to be the path on which we are now headed. But this is not a better idea because, if we reduce the size of our MX arsenal in such a way as to become compatible with the builddown, we then lose all of the military justifications—justifications I did not happen to accept in the first place—that have been offered by the MX.

Imagine, for instance, that we bought a total of 40 MX missiles. That would be 400 warheads meaning we needed to destroy 800. This is something we do by eliminating all 450 Minuteman II missiles along with 117 Minuteman III missiles leaving us a net arsenal surviving of 533 ICBM's compared with today's 1,000. The tradeoff might prove acceptable to some since the ICBM fleet would at least be large enough to complicate Soviet targeting. But would we really have gained anything in terms of net surviving firepower? I think not. And the situation would become even more foolish, if the size of the MX arsenal were to decrease.

So, at bottom, Mr. President, it seems that we face an impossible situation. So long as we remain committed to the builddown we cannot buy large numbers of MX missiles. Small numbers of MX missiles are simply a waste of money from everyone's standpoint. In short, it is either builddown or it is MX. But it cannot be both.

I have not bothered to discuss the points I have raised often in the past about the MX. I will not belabor you, Mr. President, nor my colleagues in the Senate with a lengthy discussion of some of the destabilizing arms balance potentials of the MX because others have done that. But I would request at this point, Mr. President, unanimous consent that I be included as a cosponsor of the amendment by the Senator from New York, and the perfecting amendment by the Senator from Florida.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, let me conclude by endorsing the comments of those of my colleagues who have put forward the two amendments that we have before us and those of their cosponsors who will follow. It is the first time that I will have put myself in the position of supporting any spending for the MX missile but the reality on the basis of the votes taken here today is that we need to deal in a more practical sense with the future of arms control and national security.

I would remind my colleagues, Mr. President, as I conclude, that this body has played a very substantial role in moving our country toward the builddown proposal. The question we now face on these amendments is whether we intend to stick to those guns? If you believe in the builddown, I urge you to join your colleagues from New York, Florida, from Iowa, and from the rest of this country in supporting their amendment.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DURENBERGER). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to address questions to the distinguished Senator from Florida, who is the author of this amendment.

I have in hand a document entitled "Talking Points." I am sure the Senator is familiar with it. It apparently is a background document prepared to assist those who are considering the amendment. The pages are not numbered, but if the pages were numbered, my first question would be addressed to page 3.

Mr. CHILES. I have not been given the privilege of having one of those. The Senator might well understand how that happens, but if he will read it to me, there may be something familiar in it. If not, I will try to get prepared.

Mr. WARNER. I do not know the origin, but, nevertheless, let us see what we can do to have a meeting of the minds.

On the third page, the last paragraph reads:

> It—

And I presume that refers to the amendment—

> will provide a total of $1 billion in the MX procurement account allocated in the following manner: $600 million to maintain a ready or "hot" MX production line. Should Congress approve production of missiles beyond the 21 missiles approved in fiscal year 1984, this line would be able to produce missiles with a program slippage of no more than 6 to 12 months. At the present, it takes more than 2 years to build one MX missile.

The specific question goes to what is the definition of a ready or hotline?

Having spent some time in the Department of Defense, I am fully familiar with the usual definition of the term "hotline," but I am not sure, since we are stopping production here, what the $600 million directed funding would do.

Mr. CHILES. Primarily, that is the figure we were given by the Defense Department experts that would be necessary if we were not going to sort of shut down the MX; if you were going to keep the production viable so that you could start. It looks like from the way the direction is going down, the 1984 missiles to be procured are not on schedule. I think there might be something further said about that in debate, so I do not really want to go into that. Chances are it will be necessary for the line to be working on the 1984 missiles. In any event, what we were attempting to do was to keep the ability to continue to produce missiles, if it appeared that that was going to be something that had to be done, if for some reason the Midgetman was not going forward.

As the Senator knows, the whole scope of the Scowcroft Commission, which was the basis, I think, on which we went forward with the MX last year, was that we were going to use MX as a bridge. So we were going to produce 100 MX's by 1992. Then we would be ready to go forward with Midgetman.

Now we see that that bridge that General Scowcroft's Commission constructed is not going to be viable because there is no way that we could have 100 missiles by 1992.

What we are saying is that the bridge can still be done. It can be done at an expense of $600 million, which we are talking about in this bill, to keep the production going. Again, it sort of keeps your viable chip.

But you are saving $2 billion that you are not sticking into a procurement account by saying that you are going to produce another 21 missiles.

Mr. WARNER. My understanding is that the amendment calls for $1.7 billion to continue R&D. So there is no curtailment in the R&D funding. Is that correct?

Mr. CHILES. That is correct. It would be the same figure, $1.7 billion.

Mr. WARNER. And of the $2.6 billion requested in the committee bill for procurement, that would be reduced by $1.6 billion, if we added up the $600 million and the $400 million.

Mr. CHILES. By about $2 billion, the way we figure it. We have rounded off, so the Senator's figures may be more accurate.

Mr. WARNER. Again, I am looking at this document. I do not mean to ascribe any authenticity to the document.

Mr. CHILES. You would have $600 million for the hotline, $200 million available for deployment of the 10 authorized missiles to be deployed, and $200 million for the operational testing of the other $84 million.

Mr. WARNER. That is $1 billion.

Mr. CHILES. That is right, Mr. President.

Mr. WARNER. That comes out of the procurement account?

Mr. CHILES. That is right.

Mr. WARNER. So if you took a billion dollars out, that leaves $1.8 billion as opposed to the two the Senator has represented.

Mr. CHILES. Mr. President, my understanding was that the Senator had approximately $2 billion in the procurement account and we would be taking out a billion dollars—no, I stated that wrong.

I think what the Senator is referring to is the numbers that are left in.

Mr. WARNER. Let us try once again. Putting aside the 1.7 R&D, the bill has 2.6 for procurement. The Senator represents that his amendment will require $600 million to maintain a "hotline." I would like to come back to that.

Then there is $200 million to permit work to continue on operational inflight testing, then $200 million to permit deployment of the 10 missile program. So 6 plus 2 is 8 plus 2 is 10, $1 billion, so subtracting the 2.6 from the $2 billion leaves 1.4. I am trying to correlate that with the $2 billion savings represented by the sponsors of the amendment.

Mr. CHILES. I would get an answer for the Senator right now, but I do not have the paper he is talking about, I am sorry.

Mr. WARNER. Again, looking to this document entitled "Talking Points," the document reads:

> This amendment would keep MX a viable program but would delay further production and deployment.

Let us dwell on the words, "delay further production." How does one delay further production, yet maintain a hotline?

Mr. CHILES. Well, Mr. President, the Air Force said to the committee that the amount of $600 million would be the amount necessary to keep the production lines in readiness so that we could, on short notice, begin to produce again.

Mr. WARNER. What would the workers be doing on that line?

Mr. CHILES. I think for an interim period of time, they are going to be working on 1984 missiles, because they are way behind in those.

Mr. WARNER. So the words "further production," would mean any missiles beyond the 21 in the 1984 bill. In other words, it may be, as we say—we are talking about the number of missiles in 1984. That would stop and there would be no additional missiles beyond that. Is that correct?

Mr. CHILES. In the amendment, we do not provide for additional procurement funds for 1985.

Mr. WARNER. So "futher production" is to be interpreted as meaning no production beyond the completion of the 21st missile now authorized under the 1984 act.

Mr. CHILES. Until further production would be authorized, yes, Mr. President. At the same time, you are keeping the line open there, so if you decided Midget would not be feasible, if for some reason, you decided to change your basic mode on the MX, you would be able to begin production.

Mr. WARNER. So again, the $600 million would be for purposes of completing the cost of the production of the 21 missiles authorized in 1984?

The difficulty this Senator has is that presuming the $600 million for the production of the 21 missiles. This amendment calls for an addition of $600 million. I am not able to reconcile the funds authorized to be appropriated last year for the purpose of 21 missiles, presumably fully funded, and the need for $600 million in addition.

Mr. CHILES. Basically, what I am trying to say is we have two things that we can do: One, it keeps the line that is available ready if we decided to provide additional procurement funds. At the same time, it is also there to take up the slippage the AGO report now indicates is going to be necessary in the 1984 period.

Mr. WARNER. Mr. President, I understand the Senator's report to maintain skilled workers, presumably qualified, although there are raised in my mind serious doubts about whether we can maintain quality control in the rest of the tests that are necessary to meet the standards set by the Department of Defense. But I am still not sure what the actual workers are doing on that production line after the 21st missile is completed.

Mr. CHILES. Of course, we said that they are working on the existing 1984 missiles.

I say to the distinguished Senator from Virginia that part of this came from General Scowcroft, who said one of the most important things that would be necessary in the MX, even if we were to limit the production figures, would be to keep the availability of the hot production line so we would have that as a viable alternative in case something was going wrong with MX, or Midget, and also so that that would add validity to the bargaining chip that you would have in any kind of arms negotiations.

Mr. WARNER. There is no correlation between the production line of the MX and Midgetman. They would be totally separate.

Mr. CHILES. The only correlation there is we are keeping those missiles parallel, the ability to go in either direction. If Midget works out, fine. That is your bridge. If it does not work out, you then have a production line that you can go back and produce the MX.

Mr. WARNER. Well, the production line for the Midgetman would have workers and dies and jigs and the like.

Mr. CHILES. Absolutely. We are not talking about the same production line.

Mr. WARNER. They are totally separate.

Mr. CHILES. Absolutely. It is the ability to go in either direction——

Mr. WARNER. The Senator means as a nation, the ability to reach the fork in the road and then decide which way to go.

Mr. CHILES. Exactly.

Mr. WARNER. I understand that concept, Mr. President, but I come back to what you do with $600 million in 1985 authorization appropriations for the production line now producing 21 fully funded under the 1984 act.

Mr. CHILES. It would be fine if you were on schedule and could do that, but the GAO indicates that there is a problem of slippage and they will not do this.

Mr. WARNER. The $600 million is for potential slippage.

Mr. CHILES. It could be, yes, Mr. President.

Mr. WARNER. Mr. President, I have the highest regard for—I am not sure I have the highest regard. I frankly cannot understand this thing, in all fairness. I am highly perplexed.

I would like to give it consideration, and perhaps I shall just have to sit down and get quiet and study it a little bit further.

Mr. President, I yield the floor. Seeing no Senator seeking recognition——

Mr. EXON. Mr. President, will the Senator withhold?

Mr. WARNER. I withhold. I yield the floor.

Mr. EXON. Mr. President, I have been listening to the debate on the amendment offered by the Senator from Florida. When I talked with him about this earlier today, I was pleased to join as a cosponsor of the amendment. It is not necessary, Mr. President, for me to go into any great detail about any change of heart on the part of the Senator from Nebraska.

The Senator from Nebraska has been against the MX ever since October 2, 1981, when the decision was announced to literally turn upside down all of the strategic planning of two former Presidents and all their military advisers. A decision was made that we were suddenly going to do away with the multiple-basing mode which was the heart and soul of why the MX was developed in the first instance. Why was the MX developed? We have to go back to that, it seems to me, when we talk about the future of the MX and how the Midgetman could fit in as a competitor, if you will, for the MX. I really think that above everything else the amendment offered by the Senator from Florida says that we will speed up the production of the Minuteman and make a choice eventually as to whether we want to go ahead with the MX as such or whether we want to go ahead with the Midgetman, which many of us prefer. But I do not have to apologize because I supported the MX very avidly during those times when it was designed to be in multiple protective shelters. The reason we developed that in the first place as I asked in a rhetorical fashion a few moments ago was that we had determined supposedly that the Minuteman II's and Minuteman III's were vulnerable in their silos and therefore we had to develop a new system that would be truly survivable as a deterrent.

It seems to me that when we changed our strategic planning and said that we were going to put it into vulnerable Minuteman silos, it defeated the whole purpose of the MX in the initial instance. It does not make any sense to this Senator, and I am a strong defender of this Nation and have avidly supported almost all of the weapons systems that have been advanced. I find myself, interestingly enough, possibly on opposite sides of the fence on this particular matter with my great friend and colleague from Virginia, who is the chairman of the Strategic and Theater Nuclear Forces Subcommittee, which shows we do have some independence of thought. If there is one thing I think is great about this body, despite all the time we seemingly waste, it is that we do have some independence of thought. And while I am not certain I am right that the MX is a mistake as presently planned for basing, I recognize that there are excellent people who do not agree with me and I recognize that I might not be right. I think I am right, though, and I believe that a wrong can be righted if we would adopt the amendment offered by the very thoughtful Senator from Florida.

What this actually does, then, bottom line, is to simply say that we have agreed to slow down the deployment of the MX missile. And when I say "we," I mean the Armed Services Committee of the House of Representatives and the comparable committee in the Senate that my friend from Virginia and I have the honor of serving, both have in conjunction with the President of the United States agreed that we are going to measurably slow down the deployment of the MX missile.

Now, if that is going to happen, what the amendment of the Senator from Florida says is that we must have some misgivings. If we do not have misgivings about the MX in the present deployment mode, then why are we not going ahead full scale with the original proposal, or at least a proposal that has been offered by the Scowcroft Commission and endorsed by the President of the United States.

Mr. President, there is grave concern, as you have heard expressed by my friend from Florida, and by others who have supported the MX in its present vulnerable silos. They voted for it. They have changed their mind. I would simply say that I hope every Member of the Senate recognizes that while this proposition might be defeated—and I hope it will not be because I think it is a very constructive amendment—it is in one way the best of all worlds. It simply says that we will go ahead, not stop the production line, not stop the MX in its tracks, go ahead, I believe, under the amendment and deploy 10 MX missiles. Is that correct?

Mr. CHILES. That is right.

Mr. EXON. We would go ahead with the deployment of the 10. So we are not shutting down the production line. We are not stopping the deployment of at least 10 of the so-called Peacekeepers. But what we are doing is reducing the cost——

Mr. WARNER. Will the Senator yield? The Senator says we are not stopping the deployment?

Mr. EXON. We are going ahead—this amendment would allow the deployment of 10.

Mr. WARNER. Allow the deployment of 10.

Mr. EXON. Right.

Mr. WARNER. Under what conditions?

Mr. EXON. Under the conditions, as I understand it, that presently exist.

Mr. WARNER. I fail to read that from the amendment. I hand the Senator the amendment and ask if he would be kind enough to point out the provision that would allow 10 missiles under the existing plan.

Mr. EXON. I have not studied the amendment. I suspect that the Senator who introduced his amendment would be able to answer.

Mr. CHILES. I think the answer is there is nothing under the amendment which says no, so you go under the 1984 provision which authorizes the deployment of 10 missiles. We do not change it.

Mr. EXON. I think the answer to the Senator's question is that we are not changing the present authorization, not changing it in any fashion. Therefore, they would continue to be deployed. But if I might continue, after answering that question, I would simply say the bottom line of this is simply that we would proceed with the deployment of 10 as presently authorized; that we would——

Mr. WARNER. Mr. President, will the Senator yield? I do not wish to interrupt. The Senator will kindly tell me if I am.

Mr. EXON. I will be glad to yield——

Mr. WARNER. I will read the provision——

Mr. EXON. If I could continue my statement, then I will be glad to yield to the Senator from Virginia. I did not interrupt him. I did not ask him any questions when he was making his statement and I am sure that he will be kind enough to accord me the same opportunity.

Mr. WARNER. Certainly. I apologize to the Senator.

Mr. EXON. It seems to me, Mr. President, in this particular case, as I say for the third time, the bottom line is that we would allow the production line for the MX to stay operational. Therefore, as General Scowcroft has said, we would have that as a deterrent, or another way of explaining it would be that if we make a decision later on that the Midgetman would not be the answer, we could very quickly produce more of the Peacekeeper missile and put them in the vulnerable holes that now hold Minuteman III's.

What it also does is encourages more rapid research and development and the deployment of the Midgetman in a much shorter period of time than now planned, therefore placing the Midgetman in a competitive position with the MX and at some later appropriate date we would be in a position to make a determination as to which of these missiles we feel would be in the best national security interests of our country.

I think the amendment is a good one. I will be glad to try to respond to any questions that anyone has, and with that I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. If my distinguished friend would be so kind—and I apologize for any interruption—I now have before me the amendment. I am reading from page 2 and I quote paragraph 3, which states:

> None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other act may be obligated or expended for the operation or deployment of any MX missiles.

The question is: How does the Senator interpret that phrase—really, it is a full sentence—to permit the deployment of 10 MX missiles under the 1984 authorization?

I repeat it for the purpose of all those listening and it is a very clear, well-drawn, clear use of the English language:

> None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other act may be obligated or expended for the operation or deployment of any MX missiles.

My interpretation of that is that those authorized by the 1984 act for deployment would be blocked by this subsequent act of the Congress should it be adopted.

Mr. EXON. Mr. President, there may be drafting language that should be changed. At least, when this was discussed earlier——

Mr. CHILES. Mr. President, there may be some conflict here. If the Senator looks at subsection (D), he will see this:

> $200,000,000 for the acquisition of support and other equipment as may be necessary to permit deployment of MX missiles in fiscal year 1985, in the event that funds for the production and deployment of additional MX missiles are provided after the date of the enactment of this Act.

So we are providing specifically funds to allow you to deploy.

It may be that the Senator is offended by the language that says "or any other act." I think you have already permitted it in this act, and I would be happy to strike it.

Mr. WARNER. You giveth with one hand and taketh away with the other.

Mr. CHILES. What we are saying in subsection (3) is that after those 1984 funds and after the $200 million, there would not be deployment without further speaking of Congress.

Mr. WARNER. Again, the Senator is able to read as clearly as I can. Paragraph 3, in terms of a literal meaning of the English language, to me, proscribes any funding by any prior act.

Mr. CHILES. I beg the Senator's pardon?

Mr. WARNER. To me, the clarity of paragraph 3 completely proscribes any funding for deployment.

Mr. President, unless the Senator wishes to respond, I will suggest the absence of a quorum, so that, in a cooperative spirit, we can examine this together and give my colleagues a fair opportunity to provide an explanation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and the nays on the Chiles amendment in the second degree.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, the Senator from Florida is prepared to make a clarifying amendment if there is some concern on the other side, if that would be objected to. I am satisfied that subsection (D) allows and sets forth the $200 million. It is allowed for the acquisition of support and other equipment for the deployment of the existing 10 missiles. The Senator from Florida is willing to do that either way the Senator from Virginia would like that clarified. If the Senator from Virginia does not desire that clarifying amendment, I will be glad to let him go forward with his debate.

Mr. WARNER. Mr. President, before we address the clarification of that section, I wonder if the Senator from Florida will enlighten the Senator from Virginia with respect to how the production line is kept hot without the continuation beyond 21. Are the workers to play pinochle?

Mr. CHILES. I say to the Senator that the production line is kept hot the same way the production line is kept hot now.

Under the GAO report, 12 percent of the funds having been obligated, zero percent has been expended, and yet we are in production of the missile. So we have a production line. We would keep the production line hot the same way it is being kept hot now.

Mr. WARNER. After the 21st missile is completed, what takes place?

Mr. CHILES. Can the Senator tell me when the 21st missile would be completed?

Mr. WARNER. Pending the date of the 21st missile being completed, I repeat the question: How would you expend the additional $600 million?

Mr. CHILES. Pending the date they are completed, we do not have to spend it. It is unobligated funds, just as all the other funds in the pipeline of DOD, the billions of dollars we have. But what we have done is to provide that the funds will be there, that we can keep this going if we desire to do it.

Again, the Senator from Florida was following what General Scowcroft, who is pretty knowledgeable in this field, said would be a reasonable thing to do. That is exactly what we were trying to do.

Mr. WARNER. The records we have indicate that the 21 missiles authorized under the 1984 act would be completed and the production line finished with them in the fiscal year 1986 or early 1987.

Mr. CHILES. I do not think that would match with what the GAO says we now have in regard to the way it is going.

That is a plan, I say to my good friend from Virginia, but when you look at the fact that only 12 percent of the funds that were set up have been obligated and zero has been expended, I would say that is a plan that proceeded too fast.

Mr. WARNER. I say to my good friend from Florida, I do not have the funding profile against the timeframe with me, but at some point in time, and I still believe it is in the 1986-87 timeframe, those missiles authorized to be produced under the 1984 act would be completed.

Mr. CHILES. Let us take the figure of the Senator from Virginia as 1987. At that time Congress would have from 1984 to 1987. That means that we would have 2 or 3 years to look at the situation to determine if we thought Midget was going forward, if we thought it was doing everything it said, if we thought that is where we should put our eggs. On the other hand, if we felt there were problems with the Midgetman, if there had been no arms control talks, if there was no way, if we decided that we wanted to go base MX in any more reliable basing mode we could turn around and do that. But at the same time the sort of funds would be there.

As the Senator from Virginia knows, if you do not provide some funds and at least provide a BA, an authorization for those funds, then someone would say you have to stop everything around here and then you are killing MX and you do not have a viable bargaining chip. Because of that I think is why General Scowcroft said for goodness sakes go ahead and put in the budget authority for the dollars so that you would keep the production line hot.

We thought that was sound advice and we decided to follow that.

It is kind of like saying what does the soldier do when he is not fighting the war? We know that we provide the money for the salaries. We know that we provide the funds all the time, yet the soldiers do not fight all the time.

Mr. WARNER. Mr. President, I say to my dear friend from Florida, there is a great distinction between keeping a U.S. service person in a state of readiness and keeping a production line hot with civilian workers playing pinochle waiting the outcome of the decision by Congress. That, to me, is the grossest type of inefficient expenditure.

Mr. CHILES. I wish the Senator would say that to General Scowcroft. Maybe it would be better if the Senator makes that kind of statement to him.

Mr. WARNER. I put a second question to my good friend from Florida. Where in the record—and my distinguished colleague, Mr. EXON, is here in the Chamber also—of extensive hearings conducted by the Armed Services Committee or any other committee is there a scintilla of factual testimony to the effect that we can begin to accelerate the Midgetman missile? Time and time again that question has been propounded and the witnesses have replied that budgetary considerations are not the constraints, that it is technical limitations.

Mr. CHILES. I would just say to my distinguished friend from Virginia that I did not have the opportunity to sit in all the Armed Services hearings. He perhaps has greater information than I have. I can only tell him two people who I consider distinguished in the field who have said that they think you could make some acceleration of the Midgetman missile, and that is General Scowcroft and Bill Perry, the only two I know of, but I think they are both distinguished people and experts who have worked in this area.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. WARNER. I yield to the distinguished chairman.

Mr. TOWER. Mr. President, General Scowcroft's name has been invoked here. There were some rumors floating aroung about what General Scowcroft said to a group of Senators, and I called him seeking clarification. I talked to him at 3:55 this afternoon. I do not know whether anyone else talked with him since. Maybe someone has.

He said to me what he had said is this:

That there is nothing magic about the number 100 MX missiles. Substantially more might conceivably be viewed as a first strike capability. But much less than that would be an expression of weakness and lack of confidence.

He said if we are to produce 21 then all 21 and all that we produce should go to the field and to do less would be an expression of weakness.

He said the worst thing to do would be to kill production.

If anyone thinks that this maintains the viability of the MX program, then they are mistaken. This amendment would kill the program.

I wish to quote a statement made by Harold Brown before the Armed Services Committee on April 18, 1983, just a little over a year ago. He said:

> Remember, we said in the early 1970's that we would modernize with the new missile, the MX, in the late seventies. In the mid-seventies we said we would do it in the early 1980's. In the late seventies we said we would do it in the mid-1980's.
>
> And so to say that the U.S. will modernize in the early 1990's with a strong single warhead missile if you do not do the MX deployment at all in the meantime is just not going to be believable. I will not believe it and I doubt that anyone else will either.

Mr. President, I move to table the Moynihan amendment.

Mr. CHILES. Mr. President, will the Senator withhold?

Mr. TOWER. I withhold a moment.

Mr. CHILES. There were a few Senators on the side of the proponents of the amendment who wish to speak, and I hope that the Senator will not make that motion until they have had an opportunity.

Mr. TOWER. I would be delighted to withhold.

I understood we had two or three quorum calls and there has been a hiatus in the debate. I did not want to foreclose any Senator. So I will withhold.

Mr. CHILES. I thank the Senator.

Mr. TOWER. I think we should get to a vote in a reasonable period of time. If there are other Senators who wish to speak I would be glad to give them an opportunity to do so.

Mr. CHILES. I thank the distinguished Senator from Texas for providing that opportunity.

I would say that there have been a couple quorum calls but basically they have not been long and they have been just allowing Senators from either side to speak.

I know the Senator from Iowa has expressed a desire to speak, and I certainly did not want the debate cut off. He is a cosponsor of the amendment, and I wanted him to be able to speak.

I see that he is approaching the Chamber now.

Mr. MOYNIHAN. Mr. President, as the Senator from Iowa prepares his remarks, may I simply state for the record a brief passage from the report of the President's Commission. It states that the design of such a missile, to say that Midgetman as we described it, hardened against nuclear effects, can be achieved with current technology. There is no more important fact with respect to this issue of when we can have a small 15-ton mobile missile than the fact that we know how to build it and if we know how to do so, we can do so in a very short space of time, a period as I said earlier, that we can reach out with our hands and touch.

Mr. President, I yield the floor. I see the Senator from Iowa is here.

(The VICE PRESIDENT assumed the chair.)

Mr. GRASSLEY. Mr. President, if you will remember, the last time I addressed the Senate on the subject of defense expenditures, it was as part of the debate that we had on the budget freeze and, of course, we were talking about an across-the-board budget freeze, not just the freeze on defense. But most of the debate centered upon the area of defense.

At that time, if you recall, I was arguing that there were several structural problems in the way that the Defense Department does business and also by implication the way most departments of Government do business, that we should have a period of time when we are not shooting a moving target so that that target is stopped so that in fact after that target is stopped, then we can look at it and see why we always have programs costing more than they were projected to cost, always underestimating the cost of programs, and then constantly running up large deficits and then you know the end result of that on the entire overall budget is we borrow money.

Well, the situation in this debate, in a smaller more isolated part of the budget and in support of the Chiles amendment, is a little bit the same way. I do not know whether the Senator from Florida used this as one of his arguments, but if he did not I want to say so and if he did I want to repeat it.

I am not sure that we really know whether we need the MX and we need some time to come to that conclusion. The public at large does not know really what the MX is costing. And since we do not exactly what it is costing and we need to get a handle on that, for whatever arguments the Senator from Florida used for a 1-year period of time, I would like to say to you that we need a period of time for more than one reason, but the reason I want to emphasize is just simply cost and what the overrun on it is going to be and get that under control before we move ahead if we make a decision we do in fact need the MX missile.

I would like to point out to you that of all the money we are spending on the MX missile, only one out of five of those dollars, and possibly even less than that, goes to the MX based on the evidence I have here; only one out of five of those dollars goes to the national defense. The rest goes to pure waste. And I am willing to state what I mean by pure waste.

Of course, some of it, legitimately so, goes to profit. Maybe in some instances we could argue, compared to the domestic side, too much of it for profit, and maybe for even a lot of other areas.

I have come at most of this defense debate not as a member of the Armed Services Committee, because I am not, but as a member of the Senate Budget Committee. And for that reason I have had an opportunity to work with Senator CHILES closely on many things.

At this time, I would like to throw my support behind the amendment of the Senator from Florida, Mr. CHILES, who also happens to be the ranking minority member of that Senate Budget Committee that I serve on.

You have heard me say so many times about my concern that I have expressed in recent months about the enormous waste and inefficiency in the defense budget, not to mention the poor structure and management which leads to that inefficiency and which I argue that we ought to take some time to study and to correct. I just use the MX program this time as one more example of that.

It is unusual that cost information revealing gross inefficiency is uncovered by the Congress. What we normally see here in our debate and in all the stuff we study are symptoms of a problem. On last year's defense authorization bill, you will remember, I hope, that I raised the point that about half of the buy of the B-1 absorbed 80 percent of those funds. I raised suspicions about it. And, of course, at that time we passed an amendment to recertify the program's true cost.

Now, the General Accounting Office on this point has not yet verified the reestimate of the program by the Secretary of Defense. That is as you maybe would guess, because either the cost data are not available or we do not have it or there is not enough access to it.

This year, I would like to say in regard to this issue now before us, we see the same phenomenon unfolding on the MX. The Senate committee bill has reduced the buy from 40 to 21, or reduced it by one-half. Yet the funding has been reduced only by 10 percent.

Mr. President, I would like to ask you, as well as all the Members here, why this has to be this way; how this can happen that we reduce so much in production and so little in cost?

If we want to know the answers to these questions, we have surely learned by now that we have to dig and dig and dig and we have to come up with this information ourselves rather than relying upon getting it from the bureaucracy. The Defense Department has not and will not volunteer this information.

In the last year, I think I have done my life's share of digging. I dug out information directly from defense contractor plants. What I found is incredible. And this was dug out in regard to the MX program.

I want to emphasize for anybody who might be paying attention that I am using the contractors' own information. I am not using something from the Defense Department or something from the Congressional Research Service or something from CBO or from OMB, but based on the contractors' own data from 14 different contractors working on the MX missile.

The MX missile program has absorbed hundreds of thousands of labor hours of pure waste. The range of inefficiency on this program reaches from 12 times what it should normally take in order to do the specified work by the contractor. And that, I want to repeat, is gauged by the contractors' own data, not my data. Moreover, there is some question as to whether or not these figures should not even be higher than what the contractors presented to us.

Mr. President, I would like to crystallize this point that I am trying to make. I am making a comparison between the amount of time that it should take to do specified work on the MX compared to what time it actually does take, again, using the contractors' own standards.

Now, any business in the private sector would in fact go out of business, would not be in business, if the inefficiency rate were as much as 50 percent above the standard. In some parts of the MX missile program, inefficiency on this program is not just 50 percent higher than the standard, not just 100 percent higher than the standard, but it can be as much as 1,200 percent higher than that standard.

I suggest to you that if you were going to buy a Sony TV set where the same labor inefficiency rate was applied, instead of paying for a $400 TV set, you would be charged $65,000 for that TV set.

Now who in the world would ever be foolish enough to pay $65,000 for a color TV set? Yet that is the kind of gross waste and inefficiency that we are asking the taxpayers of this country to absorb in this defense program. And, hence, a period of time to look at these problems is entirely justified to get the program under control, to get the taxpayers' money's worth. Then if, in the process, this system is used instead of the Midgetman, if this system is needed, then move forward with it. But let us move forward in the manner where we are in fact getting the taxpayer's money's worth, in fact where the defense contractors are building this system in the period of time they themselves set as a standard.

The numbers contained in these documents—and I would like to parenthetically say at this point that I am willing to show these documents to any Member that wants to look at them. I am not going to let them be copied at this point. I do not care to have staff go through them. But if you want to see what I am looking at here, I will give you some examples. I am not going to list these 14 contractors because I am not here to make a particular defense contractor look bad. I am not here to make any one person in the Defense Department look bad. But I am here to suggest to my colleagues that we have a problem, a very serious problem.

Here is one contractor. On the items they were building that should cost 370 standard hours in the second quarter of fiscal year 1983, it did not take 370 hours to build it. But they expended 5,050 hours. Let us take another contractor, because as I said there are 14 of them.

Here is one. The total standard hour for this part was 36,847 hours, and they expended 68,316 standard hours.

Mr. SYMMS. Would my colleague yield?

Mr. GRASSLEY. I would like to continue until I get done.

Mr. SYMMS. I want to ask a question on that particular point.

Mr. GRASSLEY. The chairman is suggesting that he wants to hurry this up. I am the last speaker.

Mr. SYMMS. I wonder if my friend would let me ask him one question about that point of 68,000 hours versus 40.

Mr. GRASSLEY. I will yield for the question.

Mr. SYMMS. My question is when you look at this chart showing the so-called "arms race," you see there really has not been an arms race in the seventies. It has been all one sided, and the Soviets have been building, building, and building. During the 1970's, the United States added only 1 new strategic system, the Trident I SLBM, while the Soviets deployed over 30. I hear the Senator's point about costs, and we are all concerned with high costs. But what is the relevance of that point of 40,000 hours versus 68,000 hours vis-a-vis what the needs of the security of the United States is? Is that what we are talking about? Is it going to save any costs in the future to stop, and halt the production now? I think we should look into those cost expenditures. Indeed, if these amendments pass, I think we will find that the unit cost and the system cost of the MX will rise significantly.

Mr. GRASSLEY. The answer to your question is we are never going to make that up being this inefficient. That is what it amounts to.

Mr. SYMMS. So we are going to stop now, and that is going to make it better?

Mr. GRASSLEY. The point of the matter is on any of these, we are talking about productivity. You yourself in the private sector have said so many times, and I have heard you in the Senate Finance Committee say we have to have tax policies that encourage investment, research, and increase the productivity. I am telling you that if we do not get more productivity out of the defense industry, we are never going to be able to defend this country. If the private sector was as inefficient, this whole country would be busted.

Mr. SYMMS. My good friend, I say you know and I know that if you think we are never going to get caught up by being that inefficient, how are we going to get caught up by making it more inefficient by stopping production in the middle of the process? Why do we not go in and correct the excess cost problems? Are you for or against the MX? That is the question. Being for these amendments is being for increasing the cost of the MX.

**Mr. President, I would like to make the following brief points on why America needs the MX ICBM:**

**First, the Soviets now have deployed as of today 5,300 warheads for intercontinental ballistic missiles equivalent to or better than those on the MX in terms of yield and accuracy. Thus the Soviets already have a 5,300-to-0 advantage in MX-type warheads.**

**Second, MX will add only 700 new warheads, if all 100 now planned are deployed by 1989.**

**Third, it would require 4,500 MX warheads for the United States to have a first strike counterforce capability. Only 700 net additional MX warheads does not provide this capability, even when combined with 1,650 Minuteman III warheads. In fact, the United States would need 4,500 MX warheads to have a first strike counterforce capability.**

**Fourth, by fiscal year 1989, when 100 MX's are planned to be deployed, the Soviets will probably have over 8,000 ICBM warheads. Thus the Soviet advantage in MX equivalent warheads will grow.**

**Fifth, fast year alone, the Soviets deployed 1,000 MX equivalent warheads, which is 300 more warheads than would be added by MX deployment through 1989.**

**Sixth, the Soviets now have a 3-to-1 numerical advantage in ICBM warheads, and a 6-to-1 advantage in counterforce capability, giving the Soviets a clearcut first strike capability.**

**Seventh, the Soviets already have strategic nuclear superiority. They have 1,000 more intercontinental nuclear delivery vehicles than the United States and 1,000 more total missile and bomber warheads, as the second chart shows.**

**Eighth, finally, the Soviets have three times as many hard targets, which are three times as hard, as the United States. This factor means that the Soviets not only have a 6-to-1 counterforce advantage, but they also could shoot at fewer and much softer targets than the United States can shoot at in the Soviet Union. Thus the Soviet first strike counterforce superiority is even greater when the differing target sets are considered.**

**Ninth, the number of U.S. nuclear warheads has declined since 1964 by one-third, moreover, the megatonnage of our strategic warheads is now only one-fourth, one-quarter, what it was in 1964. And the command, control, and safety of our nuclear arsenal has greatly increased since then. In contrast, both the number and the megatonnage of Soviet nuclear warheads is growing.**

**Tenth, there has not been a strategic arms race during the 1970's. The chart shows that during the 1970's, the United States introduced no new strategic systems, zero, while the Soviets introduced 30 new systems in the same period.**

### THE SOVIETS HAVE SEVEN "MX EQUIVALENT" MISSILES, AND ALL OF THEM VIOLATE SALT I OR II

Mr. President, President Reagan stated at his informal press conference on Monday, May 14, 1984, that the Soviet Union is now flight-testing two new ICBM's, the MIRV'd SS-X-24 and SS-X-25, and have others under development. President Reagan's last statement is what is most signficant. There are now reports that the Soviets have three new ICBM's under development, two previously projected using liquid propellants, and most recently one with solid propellants.

Mr. President, I shall ask that one recent newspaper article be printed in the RECORD. It is from the Baltimore Sun of Sunday, May 13, 1984. It was the lead front page story, by Charles Corddry, entitled "Soviet Plans Giant Missile, Report Says." The article makes several significant points relevant to the vote on MX today.

First, it is now revealed for the first time that the Soviets have yet another new ICBM, dubbed by some intelligence experts the SS-X-26, which will evidently replace either the huge SS-17, SS-18, or SS-19 ICBM's carrying MIRV warheads. What is most significant about this first report of the new SS-X-26 is the fact that it is believed to use solid propellants. The new SS-X-26 will be the third Soviet new type ICMB, but SALT II allows only one. The Soviets have already told us that their SS-X-24 MX equivalent is there one allowed new type ICBM, but the SS-24 is being illegally encrypted. Their new SS-25 is their second new type ICBM, and it is illegal in at least three ways under SALT II. The SS-X-26 will be their third new type ICMB, also illegal. It too will probably also be encrypted, still another violation.

It will probably be quite easy to prove that the SSX-26 is a new type ICBM, because it evidently has solid propellants. Solid propellants reportedly can be detected readily by national technical means of verification, and reportedly, cannot be masked by encryption of electronic missile telemetry signals. SALT II's article IV specifies that a new type ICBM is defined by eight characteristics in distinguishing it from existing ICBM's, including type of propellant. If the SS-X-26 is designed to replace after the liquid designed to replace either the liquid propellant SS-17, SS-18, or the SS-19, and if it uses solid propellants, this will be a clear cut SALT II violation which will be readily detected on its first flight test.

Second, the Soviets now already have five MX equivalent missiles. These include 818 SS-19, SS-18, and SS-17 MIRV'd ICBM's, carrying almost 6,000 warheads. There are reports that each SS-18 carries 14 warheads, instead of the 10 allowed by SALT II, which would add over 1,000 more warheads for a total of 7,000 Soviet ICBM warheads. They also have the SS-24 MX equivalent ICBM, each reported to carry 10 MIRV warheads. This missile will reportedly be deployed in both silos and on railroad cars. Thus an initial deployment of about 200, carrying 2,000 warheads, can be estimated. This deployment would make 9,000 Soviet ICBM warheads. And now the Soviets are about to test their huge new SS-X-26, which would be their fifth MX equivalent ICBM and their third new type ICBM, two more than SALT II allows.

The Soviets already have deployed over 3,850 new warheads since SALT II was signed in 1979. The number of their warheads targeted against the United States has increased by a factor of about 75 percent since 1979. Indeed, the Soviets have been deploying over 1,000 ICBM MIRV warheads per year during the last few years, which is more warheads each year than the United States would deploy in its entire program of 100 MX's with only 700 net additional warheads, beginning in late 1986 and expected to be completed by as late as 1989. Thus by 1989, the United States would have 2,800 ICBM warheads, compared to as many as 9,000 for the Soviets.

And now we find that critics of the MX are even attacking it on the ground that because its throw-weight and range have been constrained in order to comply with the unratified SALT II Treaty, the MX is somehow an inferior missile. This is the height of irony. The U.S. MX is constrained to comply with SALT II, while the Soviets have seven MX equivalent ICBM's, all of which violate SALT II or SALT I.

The SS-25 and SS-X-26 violate article IV of SALT II allowing only one new type ICBM. The Soviet heavy SS-19 ICBM violates or circumvents article II of the SALT I Interim Agreement which prohibits heavy ICBM's from replacing light ICBM's. And the SS-24's full encrypton violates SALT II's Article XV. The SS-18 has also been illegally encrypted in tests during 1978 and 1979, and probably carries 14 MIRV's each, when only 10 are allowed. All the new Soviet ICBM's would presumably also be fully encrypted, in violation of SALT II. The SS-17 and SS-19 are likewise being encrypted in violation of SALT II.

There are reports of still more Soviet MX-equivalent ICBM's to come. The latest edition of Soviet Military Power for April 1984 also projects liquid fuel follow-ons to the SS-18 and SS-19.

This would make a total of seven Soviet ICBM's which are equivalent to the U.S. MX, and can be seen to violate SALT, either because of their probable or actual encryption or because of their probable or actual characteristics.

Thus it is fair to conclude that all seven Soviet MX equivalent ICBM's violate SALT, while the U.S. MX has been reduced in capability in order to comply with the unratified SALT II Treaty.

In sum, the Soviet MX equivalent ICBM's which violate SALT I or SALT II are as follows:

First, SS-17—encryption.

Second, SS-18—14 warheads and encryption.

Third, SS-19—heavy ICBM and encryption.

Fourth, SS-24—encryption. (SS-25—2d new type, RV to throw-weight ratio, and encryption.)

Fifth, SS-X-26—3d new type and encryption.

Sixth, and Seventh, Probable liquid propellant SS-18 follow-on and SS-19 follow-on—both probable encryption and new types.

The editorials follow:

### Soviet Plans Giant Missile, Report Says

(By Charles W. Corddry)

WASHINGTON.—The Soviet Union is believed to be developing a gigantic new intercontinental missile, comparable in size to its existing SS-18, that carries up to 10 nuclear warheads, according to an intelligence report circulating in the government.

The report, still subject to further analysis and confirmation, says the missile is believed to have rapid-firing, solid-propellant rocket motors instead of the liquid-fueled engines powering the SS-18, at present the largest missile by far in either superpower arsenal.

The reported new weapon has not yet been flight-tested, according to the analysis circulating in government quarters.

Sources, who confirmed the report's existence and requested anonymity, said such a development would violate the terms of the 1979 strategic arms limitation treaty (SALT II). The pact was never ratified by the United States, but both Washington and Moscow say they abide by its terms.

The treaty allows each side to flight-test and deploy a single new type (the term "new type" being carefully defined) of intercontinental ballistic missile.

The Soviet Union already has notified the United States that its new type, as allowed by the treaty, is the SS-24, a weapon reckoned here to be the equivalent of the American MX.

The MX missile, expected to face a stiff new challenge soon in the House but not in the Senate, is to carry 10 warheads, as does the most heavily equipped version of the SS-18. But the lifting power of the Soviet rocket is such that it could carry up to 25 warheads.

Sources here said there is some evidence that the Russians are making the SS-24 mobile on rail tracks, somewhat in the way that was once envisioned for the MX.

U.S. analysts believe Moscow also has a second new type in its SS-25 rocket. The Soviets contend that weapon is an upgraded version of the existing SS-13, as permitted by SALT II. But American analysts say it exceeds the allowances for modifications.

Subject to further evaluation of the new report, some government sources said an improved behemoth of SS-18 size may be—or may be claimed to be—a modified SS-18.

Mr. GRASSLEY. The point is you are shooting at a moving target. You never find time. You sit here in these debates for a week, make these decisions, and say we have got problems. Everybody admits we have problems, but nobody ever corrects the problems. We have to correct these problems.

In other words, I guess we would say whether it is in regard to this or anything else we have a lot to learn about running the fiscal affairs of this Nation, Mr. President. The numbers contained in these documents I have before me are incredible, as I hope you would agree. We thought spare parts pricing was bad. It is just as bad if not worse on the entire weapons systems. There is no excuse for this, Mr. President, not when we find irrefutable evidence such as in these documents.

The Congress, of course, is ultimately responsible for this waste occurring, particularly when we know it is there and we do not do something about it. It is up to us when the information like this is uncovered to correct it. We must do so. The only language any bureaucracy understands is basically money.

Mr. President, I believe that this amendment offered by the Senator from Florida makes sense. It gives us time to study alternatives, and, more important, to study cost trends of the MX. I know that this is not the kind of thing that we who are professional politicians like to see, particularly in an election year. We would rather close our eyes, and wait for it to go away. But it is not going to go away. It has been going on for too long. It is right here for everybody to observe, and for everybody to review.

I intend to pursue matters like this in forums where it is appropriate—where I am a member of committees where I can do this—because it will serve to provide, for instance, the Budget Committee with more complete information needed for better decisionmaking. The Budget Committees are intended to be macro-planning committees, yet we have been making decisions at macro level without knowing how the macro is connected to the micro.

Instead, we have been acting on information that is false and misleading. The results have been larger deficits, costlier goods and services, and fewer goods and services than planned. This is a serious problem, and it is the kind of information which no Member in this body can refute. Furthermore, the information comes from the contractors themselves. I am making my case based upon the contractors date. I commend the Senator from Florida for taking this reasonable step in light of the evidence that I have, and in the face of intense political pressure. I know his motives are good and admirable from his position on the Budget Committee as ranking member. He is taking a position that is thoroughly responsible. I want to applaud him for his efforts, and urge my colleagues to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield briefly to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Texas.

Mr. President, I would like to speak briefly about an issue which is very important to us. Almost a year ago today, many of us debated long and hard on this question. I voted reluctantly to support the MX missile. I would like to explain my thoughts at that particular time.

Last year, we developed a tentative consensus from the report of the Scowcroft Commission. This consensus was based on a three-part package that called for deployment of 100 MX missiles as an interim step, a bridge to a smaller, new missile with one warhead. And, for the first time, we linked this program to a new arms control strategy aimed at limiting warheads rather than missiles.

I believed last year that this consensus, however tentative, was an important development. It offered possibilities to move us toward nuclear stability, which the Scowcroft Commission set out as our primary objective.

As part of that consensus, I was willing to support funding for the MX missile. I believed this would strengthen the President's hand in negotiating with the Soviets. And I believed that a consensus tying the MX to new arms control initiatives would encourage the President to move ahead in talks with the Soviets.

Since that vote last year, the President has put forward a new arms control proposal. However, our relations with the Soviets have deteriorated further. The Soviets have walked out of arms control talks in Geneva and their rhetoric has steadily turned from tough to bitter.

Here in the Congress, last year's consensus seems more fragile than ever before. The House of Representatives has effectively withdrawn from that consensus, and we will decide soon whether the Senate will do the same.

Senator CHILES' amendment is a thoughtful one. It has much to offer. It is not an anti-MX vote. I also say to my mind Senator GRASSLEY, who has spent a great deal of time, effort and thoughtful consideration on budget concerns regarding defense has given thoughtful consideration to this. But I would also say, Mr. President, that it changes the consensus at a most difficult time.

Soviet leaders have made very clear that they will not return to the negotiating table soon. They are waiting, as one put it, to see what emerges from the social forces of the West. We should all keep in mind that we are a key social force of the West.

Under these circumstances, I cannot abandon the consensus that I was part of last year. I have disagreed—sometimes strongly—with some of the rhetoric the President has used toward the Soviet Union, but I do not believe he has acted in bad faith.

I believe we cannot afford to return to the kind of divisive arguments of the past that unraveled our thinking rather than knitting it together in a long-term strategy that sets nuclear stability as its key goal.

Most of all, I believe we must not reward the Soviet Union for its intransigence in Geneva. If they find that their silence is rewarded with growing confusion and widening rifts in the West, then we may never again force a strong and effective arms control agreement. This would be a disaster of the first order.

I will concede that the MX many flaws. I think everyone here would agree that large, land-based missiles with multiple warheads sitting in fixed silos are not the solution to our strategic problem. The Scowcroft Commission clearly said so. But abandoning this program at this time—under these circumstances—also is not a solution. It is a step backward. It is a step away from any clear consensus among ourselves and our allies.

Much as I might wish to abandon this program, I am not willing to do so now. One of the great strengths of our society is free and open debate, a full airing of our differences.

There are valid disagreements on this issue. Reasonable persons can differ sharply about what we should do. I do not question the intentions or the motives of those who oppose the MX. I agree with many of their concerns.

However, I think two things are important here. One is whether we can demonstrate resolve in the face of apparent Soviet intransigence. The other, even more important to me, is whether we can forge a consensus among ourselves and then hold to it. Last year, we made a decision on this issue. Now we must decide whether to hold to that decision or whether to again change course. I believe we must move ahead with this program, and with our efforts to resume arms control talks with the Soviets.

Whatever the flaws of our present strategy, it is better than no strategy at all.

Mr. TOWER. I yield to the Senator from California for the purpose of making a statement.

Mr. WILSON. Mr. President, yesterday arguments were made that the United States should not vigorously but with only timorous caution pursue even a research program in strategic defense technology. It was argued, Mr. President, that strategic defense initiatives will prove provocative and be destabilizing.

Instead, the critics of strategic defense argue that we must continue to rely upon the deterrent of mutually assured destruction. They tell us that we must rely upon offensive weapons of destruction as the best hope of inhibiting both the Soviet Union and the United States from ever engaging in a first strike misadventure.

But today, Mr. President, many of those same critics of strategic defense technology argue that the MX program upon which the United States has embarked must also be abandoned because it too will prove destabilizing.

Presumably those who champion an offense-based deterrent understand that inherent in the concept of mutually assured destruction is the requirement for an offensive capability which, if it is to succeed in mutually inhibiting both sides from engaging in a first strike, must be a capability based upon three legs. This tripartite offensive capability, commonly described as the triad, is based upon the ability to launch offensive intercontinental ballistic missiles from the air, from the sea, and from the ground.

Yet those who argue either for total elimination of the MX program or urge this amendment which achieves effectively the same thing are engaged in converting the triad into a dangerous two-legged stool. They are giving us a prescription for a pratfall.

Pratfalls may be funny upon a vaudeville stage, but not upon the stage of national security.

But, no, say the proponents of this amendment, they do not intend such mischief. No, they protest that they are fully mindful of the necessity to preserve the triad.

They would have us do so by accelerating development of the Midgetman missile, though they cannot be certain how much an unspecified effort would in fact advance the date of operational readiness and deployment. Nor can they begin to be certain as to how to advise us as to the markedly increased costs of attempting such acceleration.

Perhaps, Mr. President, the proponents of this amendment should seek guidance from the Scowcroft Commission. In recommending development of the smaller mobile missile, the commission has also wisely counseled us that:

> . . . It is neither necessary nor wise to move precipitously in that direction. In part, this is because time is required to develop such new systems properly, in part it is because continued efforts on our current strategic programs are needed to encourage the Soviets to move in a stabilizing direction.

What we have been advised by the experts, Mr. President, is that to place the MX guidance system upon single-warhead mobile missiles, as would be required for Midgetman acceleration, would enormously increase the cost of the Midgetman program. Time will be required to develop a less expensive guidance system for the new missile.

We are also advised by the experts that notwithstanding the increased expenditure accompanying efforts to accelerate development of Midgetman, such efforts will produce a saving of only about a year in bringing the mobile mission program on line.

So let us not be deluded. This amendment would scrap the present program of deployment of the Peacekeeper and substitute a pallid provision that would only keep the MX production line standing on one foot but produce no missiles. It would indeed convert the triad into a dangerous two-legged stool during the critical period for implementation of the Scowcroft Commission recommendations by pursuing only the second half of them while defaulting upon the first.

During that critical period, Mr. President, in which this amendment would permit the deployment of no more than 10 Peacekeeper missiles, the ground-based capability of the U.S. triad would continue to be the existing Minuteman missiles which the Scowcroft Commission has urged us to replace with 100 MX missiles.

Yes, Mr. President, the essential third leg of our triad will continue to be the Minuteman—the Minuteman which will be no less vulnerable and no more survivable than the MX missile, the Minuteman which is desperately in need of improvements which MX will bring in accuracy, speed of retargeting, reliability and payload flexibility. In all of these categories, Mr. President, the MX represents a vast improvement over our aging Minuteman force.

Finally, Mr. President, let us consider the implications of this amendment upon the bargaining power of our arms control negotiators. Moments ago, my distinguished friend and colleague from Kansas stated eloquently that she would oppose this amendment. She stated that it was her wish to strengthen the hand of the President of the United States and not to reward Soviet intransigence at the arms control talks. The wisdom of her judgment, Mr. President, is echoed in statements of those who have reason to know best what is required for American arms control negotiations to succeed in achieving strategic security and peace for us and our allies—and indeed peace even for our enemies, and for all our children.

Ambassador Rowney, our distinguished chief negotiator at the START talks, has said both publicly and privately that if the bargaining power of the MX is taken from him by the Congress, the President might as well bring him home.

This painful truth is seen with equal clarity by the truly remarkable and courageous Andrei Sakharov. In the words of his long-time friend, Stanford University scientist and fellow arms control advocate, Sidney Drell, Sakharov is "a brilliant physicist, an eloquent and brave spokesman for human rights, and a stirring example of the freedom and dignity of the human spirit."

The citation for the Nobel Peace Prize awarded Sakharov in 1975 declares him to be "the spokesman for the conscience of mankind." Honored in the Soviet Union as the father of their hydrogen bomb, Sakharov was driven by conscience and concern for the lack of human rights in the Soviet Union. Courageously he has spoken out, giving voice to his fear that a lack of democratic institutions within the Soviet Union threaten the unleashing of a terrible nuclear exchange.

In an open letter to Dr. Drell, Sakharov speaks to us with a compelling wisdom of "The Danger Of Thermonuclear War."

> You consider it necessary to achieve a restoration of strategic parity in the field of conventional arms. Now take the next logical step—while nuclear weapons exist it is also necessary to have strategic parity in relation to those variants of limited or regional nuclear warfare which a potential enemy

> could impose, i.e., it is really necessary to examine in detail the various scenarios for both conventional and nuclear war and to analyze the various contingencies. It is of course not possible to analyze fully all these possibilities or to ensure security entirely. But I am attempting to warn of the opposite extreme—"closing one's eyes" and relying on one's potential enemy to be perfectly sensible. As always in life's complex problems, some sort of compromise is needed.
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> Of course I realize that in attempting not to lag behind a potential enemy in any way, we condemn ourselves to an arms race that is tragic in a world with so many critical problems admitting of no delay. But the main danger is slipping into an all-out nuclear war. If the probability of such an outcome could be reduced at the cost of another ten or fifteen years of the arms race, then perhaps that price must be paid while, at the same time, diplomatic, economic, ideological, political, cultural, and social efforts are made to prevent a war.
>
> Of course it would be wiser to agree now to reduce nuclear and conventional weapons and to eliminate nuclear weapons entirely. But is that now possible in a world poisoned with fear and mistrust, a world where the West fears aggression from the U.S.S.R., the U.S.S.R. fears aggression from the West and from China, and where China fears it from the U.S.S.R., and no verbal assurances and treaties can eliminate those dangers entirely?
>
> I know that pacifist sentiments are very strong in the West. I deeply sympathize with people's yearning for peace, for a solution to world problems by peaceful means; I share those aspirations fully. But, at the same time, I am certain that it is absolutely necessary to be mindful of the specific political, military, and strategic realities of the present day and to do so objectively without making any sort of allowances for either side; this also means that one should not proceed from an a priori assumption of any special peace-loving nature in the socialist countries due to their supposed progressiveness or the horrors and losses they have experienced in war.
>
> The history of the pacifist campaigns against the deployment of missiles in Europe is telling in many respects. After all, many of those participating in those campaigns entirely ignore the initial cause of NATO's "dual decision"—the change in strategic parity in the 1970s in favor of the U.S.S.R.—and, when protesting NATO's plans, they have not advanced any demands on the U.S.S.R.
>
> * * * it seems very important to me to strive for the abolition of powerful silo-based missiles at the talks on nuclear disarmament. While the U.S.S.R. is the leader in this field there is very little chance of its easily relinquishing that lead. If it is necessary to spend a few billion dollars on MX missiles to alter this situation, then perhaps this is what the West must do.

Mr. President, there is no more passionate advocate for arms control than Andrei Sakharov. It is clearly his most fervent wish that nuclear-arms-control talks succeed in reducing the nuclear threat to mankind.

And, Mr. President, Sakharov is telling us not just to keep the MX production line open, not to deploy only 10 MX missiles. He is telling us that to be successful at the bargaining tables, the United States must have something to give up. Mr. President, the pending amendment would give away our bargaining power now—not as Sakharov admonishes us, in a bargained for exchange in which the Soviets match our arms reduction.

Mr. President, let us honor this brilliant and courageous man who is willing to suffer internal exile in Gorki in perhaps the one truly meaningful way we can. Let us heed his clear admonition. Let us recognize that it is necessary to spend a few billion dollars on MX missiles to alter the existing threat. The pending amendment ignores Sakharov's admonition. It is well intended but misguided. It would impair rather than advance the cause of arms reduction.

It must be defeated.

### THE MX MISSILE

Mr. **MATHIAS**. Mr. President, in the past I have voted to grant the President's request for funds to develop and procure the MX missile. In a large measure my support represented the great personal confidence I reposed in the chairman and members of the President's Commission on Strategic Forces and my respect for their judgment as expressed in their report issued in April 1983.

While I did not agree with every particular of the report, I found that on the whole it was both reasoned and reasonable, informed and knowledgeable, and carefully balanced. In addition, it obviously tried to create a position that was broad enough and central enough to encourage the formation of a national consensus. I think that a consensus is highly desirable and was willing to adjust my own position to help make that possible.

One of the balancing elements of the Scowcroft Commission report was the emphasis it placed on the importance of arms control at a time when we proposed a program of arms modernization. The same kind of imagination and vigor invested in one effort was prescribed for both. The creativity and energy devoted to inventing arms should be equaled by the creativity and energy devoted to limiting arms.

The logic of that proposal was inescapable, and I supported it. I voted for the MX and the President prevailed. Procurement of the MX began.

But the other side of the bargain has not been fulfilled. There has been very little creativity exhibited in the field of arms control and arms limitation. The balanced policy recommended by the Scowcroft Commission has been lost.

In commenting on the state of arms-control policy in Washington, I am not forgetful of the state of arms-control policy in Moscow. Enormous obstacles to progress have been erected by the Russians, ranging from empty chairs to heavy rhetoric.

In all of this, President Reagan must feel a deep sense of disappointment because his goals of reduction and limitation of nuclear arms seem so elusive. But the administration is not acting to attain the goals that the President has enunciated.

There are three aspects to the arms-control problem, as there are to most human endeavors—past, present, and future.

Whatever may be said about denying results to current Soviet intransigence, it should not be an excuse for not keeping our word. The Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty are old business negotiated in an earlier period. They are carried as unfinished business on our ledger. To finish those jobs by ratifying the treaties would be the final answer to the taunts that Americans are unreliable and tricky.

The present agenda for arms control is obviously dimmed by the shadow of Russian policy. But such a situation demands a higher degree of creativity and ingenuity, and not a retreat into a position of rigid immobility. To achieve an arms-control agreement, we must propose terms of mutual interest. There must be skill and dedication in casting and recasting the language. If such efforts are going forward they must be carried by a prototype Stealth airplane, because they are not visible.

The future of arms control looks dimmer than either the past or the present. The planned deployment of nuclear-armed, sea-launched cruise missiles threatens all current systems of verification. A commitment to "Star Wars" takes the arms race out of this world and perhaps out of our ability to restrain and limit. Arms control may become so difficult as to be impractical.

As we consider the current situation, it seems to me that the promise exacted from the administration by the Scowcroft Commission has not been kept. The support of arms control and limitation has not equaled the support given arms modernization.

We made a deal and the Congress delivered on its side. The administration has yet to deliver. When it does, in any one of several appropriate ways, I would reconsider, but for now I cannot support further procurement of the MX missile.

Mr. **SIMPSON**. Mr. President, my deep interest in the MX missile system evolves from national perspective as well as the more parochial one. The people I represent in Wyoming will be among those presently most directly affected by the MX—as it is deployed in existing Minuteman silos under the command of F.E. Warren Air Force Base at Cheyenne.

I am very proud to state that Wyoming has always very willingly participated in the Nation's defense. Warren Air Base was activated on July 4, 1867, as Fort Francis E. Warren. In the 1800's it was a cavalry post and it has changed its primary function a number of times in the intervening years, but it has never lessened in its resolve to be at the vanguard in providing for the Nation's defense. Neither have the people of Wyoming.

I can assure you that I have the same rich, strong, emotional, moral, and human feelings that have been expressed to me about the MX by many hundreds of my fellow Wyomingites. I feel the same ambivalence—the same tearing of loyalties—the same difficulty with the weighing of the continuing assessment of our national and personal priorities.

I have heard from a great many of long established organizations and the newly emerging groups who state to me that they oppose MX deployment because they "are horrified by nuclear weapons and their destructive power," and because they want the prospect of peace, not war, for their children and their grandchildren. So do I. Does anyone not want that? Every person in this Chamber and surely nearly every sensible soul in our Nation wants that. But when we probe beyond the well-meaning slogans and the catch phrases, I find there is much more to assuring the peace of the world than simply commending it to those who would destroy us—just as one would not reasonably hope to reduce crime by disbanding or reducing law enforcement agencies.

I do hear so very clearly those expressions which are often presented to me that we must take the first step in arms reduction—that we must at some point say "enough is enough" and that we must move toward weapons reduction even if it means placing us, initially, at risk. Ah, if only that could but be an effective way to reduce the world's supply of nuclear arms and the daily threats to our existence and our cherished way of life. But the adversary we are dealing with in the Soviet Union does not quite share our regard for human rights. Its stated support for arms reduction does not quite carry the same meanings as we attach. History has certainly shown us that we cannot and must not base our defense on the simple assurance that they will follow our lead. That would be negligently naive.

A May 26, 1983, letter to the President of the United States, which I joined in signing, says, in part:

> We wish to emphasize that our support for releasing fiscal year 1983 funds does not represent a consensus on the need to deploy 100 MX missiles in Minuteman silo launchers. Rather, yesterday we affected our part of an agreement with your administration to proceed with a military controversial program in exchange for a strong commitment to proceed seriously and immediately with a reformulation of the U.S. START proposal, a meaningful guaranteed build-down proposal, development of a more survivable, small, single-warhead ICBM, and creation of a bipartisan, durable arms control panel.
>
> . . . two factors will bear heavily on our position on these and any subsequent steps in the MX program: The administration's continued sincerity in developing and implementing a framework for weapons modernization and arms control—in particular, its attitude and actions on the build-down proposal—and developments in arms control negotiations with the Soviet Union.

The administration indeed "seriously and immediately" pursued those objectives. It laid every one of them on the table—just as we requested. The President also made every valid effort to bring the Soviets back to the bargaining table including various offers and concessions—and for that we got the bums' rush, the cold shoulder, and a pouting pullout from the Olympics. Are we now to generously give up on the MX in order to cheer the Kremlin on for those smarting jabs to the jaw? I suggest that form of a response might be somewhat dull witted and naive. I feel we can continue to pursue verifiable arms reduction negotiations with the Soviet Union and I believe that production and deployment of the MX missile—under present circumstances—is a necessary and vital move in encouraging that process to come to fruition.

On the issue of cost, no one has ever shielded from the public the cost of MX production. It is expensive. It is expensive to protect and defend this generous and remarkable country. It is an unfortunate but certainly very real fact that the Soviets are really not particularly impressed by weakness—they are, however, impressed and perplexed by a nation with the willingness, the guts, and the ability to defend itself. They have a pretty good track record of overwhelming those nations who don't possess those attributes.

I do not support each and every defense increase that may come down the pike. That is not true now and it never has been. I voted consistently against increases in the defense budget for there is indeed "waste" there and I did so again today—and I even supported a recent proposal of my fine friend Senator NANCY KASSEBAUM to freeze all increases in Federal expenditures at 1984 budget baseline levels. All of them. I just believe that now we must commit those resources and render those fiscal sacrifices that are absolutely required in order to preserve our remarkable society. We must match the commitment to the scope of the real threat. No more than that is required. No less than that is required. I believe that at this time, with all factors considered, support of the next installment of MX missiles is appropriate—indeed is required.

Mr. SPECTER. Mr. President, I am voting against tabling the Moynihan-Chiles amendments, because I believe they add a desirable balance to our land-based ICBM's. These amendments retain important aspects of the MX program while curtailing MX production funds with use of such funds for the Midgetman missile.

Given our huge deficits, choices must be made in our nuclear forces, and there is much to recommend accelerated development of the Midgetman which may turn out to be significantly preferable to the MX which has the appearance of a potential first-strike weapon in the absence of a satisfactory basing mode.

It is not an easy decision as to retention of any of the MX program, but I was persuaded to do so for reasons set forth in my floor statement on my vote against the Leahy amendment. In the light of the alternative pursued by the Moynihan-Chiles amendments, I believe our national interests would be best served by retaining certain aspects of the MX, but diverting significant funding to the Midgetman to achieve a better balance on our ICBM systems.

Mr. TOWER. Mr. President, I move to table the amendment of the Senator from New York.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DECONCINI (when his name was called). Mr. President, on this vote, I have a live pair with the distinguished Senator from Texas [Mr. BENTSEN]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

On this vote, the Senator from Arizona [Mr. DECONCINI] is paired with the Senator from Texas [Mr. BENTSEN].

If present and voting, the Senator from Texas would vote "nay" and the Senator from Arizona would vote "aye."

The VICE PRESIDENT. Are there any other Senators in the Chamber who wish to vote?

The yeas and nays resulted—yeas 48, nays 48, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—48

Abdnor
Armstrong
Baker
Boschwitz
Byrd
Chafee
Cochran
Cohen
D'Amato
Danforth
Denton
Dole
Domenici
East
Evans

Garn
Goldwater
Gorton
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Jepsen
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Quayle
Roth
Rudman
Simpson
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—48

Baucus
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Chiles
Cranston
Dixon
Dodd
Durenberger
Eagleton
Exon
Ford
Glenn
Grassley
Hart
Hatfield
Hollings
Huddleston
Humphrey
Inouye
Johnston
Kennedy
Lautenberg
Leahy
Levin
Long
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Stafford
Tsongas
Weicker

NOT VOTING—3

Andrews
Bentsen
Percy

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, for

The VICE PRESIDENT. The Senate being equally divided, the Vice President votes in the affirmative, and the motion to table is agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. QUAYLE). Without objection, it is so ordered.

Before the Senator proceeds, the Senate will come to order.

Mr. COHEN. Mr. President, in a few moments, I intend to offer an amendment that would call for a 5.5-percent across-the-board pay increase for those in the military services. I have not as yet had an opportunity to talk with my cosponsor, Senator KENNEDY, and, pending that conversation, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. COHEN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The bill clerk continued the call of the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Before the Senator proceeds, the Senate will come to order.

### AMENDMENT NO. 3210

Mr. COHEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine [Mr. COHEN], for himself and Mr. KENNEDY, Mr. MATSUNAGA, and Mr. BIDEN, proposes an amendment numbered 3210.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 25, line 8, strike out "4 PERCENT" and insert in lieu thereof "5.5 PERCENT".
>
> On page 25, strike out lines 14 through 21 and insert in lieu thereof the following:
>
> (b) The rates of basic pay and the basic allowance for subsistence for members of the uniformed services are increased by 5.5 percent effective January 1, 1985.
>
> At the end of the bill, add the following new section.
>
> "SEC. —. Notwithstanding any other provision of this bill, the authorizations contained in Part A of this bill are reduced by .6%".

Mr. COHEN. Mr. President, last evening, it was suggested that the Senator from Colorado, Mr. ARMSTRONG, and the Senator from Maine had offered a politically attractive amendment. Of course, "politically attractive" was a code word, apparently, because the Washington Post interpreted that as being politically inspired; namely, that several of us who are running for reelection obviously had been politically inspired to offer a GI bill.

I do not know how many bills have been adopted into law which were politically unattractive. I should like to have the chairman of the Armed Services Committee catalog for me at some time how many bills have been passed into law that were politically unattractive.

However, tonight I should like to offer an amendment that, like the Armstrong proposal of yesterday, is of great substantive merit, but it is politically unattractive.

I say "politically unattractive"—and that alone should gather the support of the Senator from Texas—because it has the strong support of the Secretary of Defense. What more could the chairman of the Senate Armed Services Committee ask for? It is a politically unattractive amendment supported by the Secretary of Defense.

At last, we have substance over superficial appeal; we have principle over politics; we have security over expediency; we have readiness and reliability over rhetoric. I do not see the Senator from Texas here to lend his support for this politically unattractive measure which is supported by the Secretary of Defense, so I will proceed until such time as the Senator appears.

Mr. President, yesterday during the debate on the GI bill which several of us offered, I outlined the reasons why I believe it is a mistake to cut corners in compensation for military personnel. The experience of the late 1970's should have taught us a lesson that we would not want to repeat.

It is difficult for me to understand why we would allow ourselves to go down the same misguided path of personnel program reductions when we know from the very recent past that such a course leads almost certainly to disaster. At a time when the defense budget is rising to record levels, how can we justify shortchanging service personnel? The most advanced weapons in the world will do us little good if they do not have the qualified young men and women needed to operate them.

For this reason, Senator KENNEDY and I are offering today, along with Senator MATSUNAGA and Senator BIDEN, an amendment calling for a 5.5-percent across-the-board pay increase for our men and women in uniform. This pay raise is necessary if our service personnel are going to avoid slipping either further behind their civilian counterparts in comparability.

As I noted at the outset, the Secretary of Defense, Casper Weinberger, twice in the last month has told the Armed Services Committee that the military pay raise is his No. 1 priority, and we should not ignore his request.

I am going to quote now from the Secretary's letter. He said:

> I believe that it is absolutely essential that military personnel receive the 5.5 percent pay raise that we are seeking.

That is what the Secretary told the Armed Services Committee in his May 23 letter.

I quote further:

> Military pay raises have been capped at 4 percent for the past two years. We are already 5.5 percent behind private sector pay, and the 5.1 percent growth in private sector pay over the last year would broaden the gap.

Secretary Weinberger went on:

> The severe recruiting and retention problems of the late 1970's are a graphic reminder of what happens when military pay lags far behind private sector pay. A third consecutive military pav raise cap will start us down that road again. For example, the 3.5 percent raise proposed by the HASC, by our

> estimates, would result in up to 30,000 fewer careerists by fiscal year 1989 without a make-up.
>
> This Administration, from the President on down, is committed to preventing a repeat of that mistake. I urge you to support our efforts to pay our military personnel at fair and competitive levels by increasing military pay by 5.5 percent in fiscal year 1985.

That is the Secretary of Defense on record in favor of the increase, citing the commitment of the President of the United States to that particular goal.

That message from Secretary Weinberger was, unfortunately, not heeded by the Armed Services Committee. Rather, pay was capped at 4 percent for most personnel, and it was frozen altogether for E-1's with less than 4 months of service.

In taking these actions, the committee made a serious error, one which will, I fear, come back to haunt us, within the next few years. Efforts to recruit and retain adequate numbers of top quality people for our Armed Forces will be undercut badly and the viability of the All-Volunteer Force itself could be endangered if we allow these false economies to go uncorrected.

I am deeply troubled that the lesson of the late seventies has apparently not been learned. We cannot expect to meet our manpower requirements if we reduce incentives to serve.

Unfortunately, the rationale used for capping and freezing pay is the same one used when similar actions were taken in the midseventies. It is argued today, as it was argued then, that the services are meeting their manpower goals, outlay reductions must be found, and military pay is an area where we can achieve those savings quickly and with minimal risk.

As we should have learned, however, the risk is not minimal. Those of us who have followed this issue recall those same arguments from less than a decade ago. We remember when pay was capped, when the GI bill was terminated, and when recruit advertising funds were slashed, all of us looking to make short-term dollar savings. The result was devastating. Our manpower situation deteriorated so badly that the Army Chief of Staff, Edward (Shy) Meyer—you will recall him. He was Chief of Staff and is now retired and, therefore, I am told, has less credibility than he had as the Chief of Staff. But at that time, when he did have credibility, he referred to his hollow army and the Chief of Naval Operations Thomas Hayward was telling Congress of a hemorrhage in the Navy's ranks.

The services were falling short of their recruiting goals, and the quality of those recruits dropped precipitously. Worse, the exodus of quality noncommissioned officers caused serious readiness shortfalls, hampering the ability of our services to fulfill their missions.

Congress responded a few years ago with increases in basic pay aimed at restoring the comparability to civilian compensation which service personnel had been promised a decade before. We also approved increases in other special pays and incentives. The result has been the healthy manpower situation which we have today.

It would be especially tragic if, once again, the All-Volunteer Force's success would be permitted to encourage efforts to undermine it. Apparently forgotten are the problems of less than 5 years ago, when calls for a return to the draft were being made in the same corridors where decisions had been made which directly contributed to the decline of the All-Volunteer Force. So we cap pay, we terminate the GI bill, we cut the advertising for recruitment, and then we say the All-Volunteer Force is a failure, let us go back to conscription.

Those of us who said we could restore the AVF's health by again providing fair pay and removing the disincentives to serve were, fortunately, proven right. The AVF has prospered, and the quality of today's force is, by most reports, the best in the Nation's history.

But there are still warning signs on the horizon, ones which the committee acknowledged at the same time that it chose to ignore them. I repeat, warning signs the committee itself foresees, and at the same time, chose to ignore. The committee's report language makes a persuasive case for the 5.5-percent increase requested by the President and the Secretary of Defense.

Let me quote from our own report:

> However, it is not clear how long the military services will be able to sustain the current recruiting momentum. As the economy improves and the unemployment rate drops, the services will face increasing competition for 18-21 year olds. The Services also must deal with the demographic reality that the size of the 18-21 year old youth population will decrease by approximately 15 percent between fiscal year 1983 and fiscal year 1992. Earlier this year, General John Wickham, the Army Chief of Staff—

I assume he has credibility, as long as he is still in the service—

> testified that the Army had experienced a 22 percent decline in the first quarter of fiscal year 1984 compared to last year in the number of young people coming into Army recruiting stations to take the military entrance exams. General Wickham suggested that this 22 percent reduction "may be a harbinger of an upturn in the employment opportunities" for young people.

Well, that is the report language of the Armed Services Committee. So they cite it as a very potential problem, and then chose to ignore it.

In the face of this well-stated argument for adequate pay, it is difficult to understand a decision to cap pay and again freeze it for the top quality recruits Congress continues to call for through the quality standards we mandated in fiscal year 1981 and extended again this year. Congress must be willing to accept responsibility if the services have a hard time meeting these recruiting standards. It must also bear responsibility if potential career personnel choose to leave the service, as they did a few years ago because they can simply no longer afford to make the sacrifices required of them and their families.

And if they have given up on these promises of next year, we will be back with a 5.5-percent pay raise, only to find that Congress once again cuts it below that.

We need look no further than last month's unemployment statistics to see why we cannot be overly sanguine about the service's ability to recruit and retain quality individuals. The unemployment rate dropped to 7.5 percent, the lowest in 3½ years. This drop has been reflected in growing recruiting problems. In addition to the 22-percent decline which General Wickham alluded to in those taking entrance tests, Gen. Maxwell Thurman, the Army's Vice Chief of Staff—I assume he has credibility; he is still in the service—General Thurman told the Veterans' Affairs Committee that the Army is having a similar drop in new contracts.

In fact, the Active Army accomplished only 88.3 percent of its recruit contract mission in May, after achieving only 93.6 percent of its goal in April. The decline is clearly on the wall. The May shortfall represents the fifth month that the contract mission has been missed. Army officials have said that they will begin to experience accession mission shortfalls in the first quarter of fiscal year 1985—the last quarter of this calendar year—if this trend continues.

These troubling warning signs argue forcefully against a third consecutive year of pay caps and a second straight year of freezing recruit pay. Recruiting and retention will be increasingly difficult if we reduce the tools available to recruiters and military career counselors.

A reduction in the military pay raise is especially debilitating in that it is not an isolated action. A number of "quality of life" military construction programs remain unfunded, some special pay changes requested by the administration were not approved by the committee, and efforts to reinstitute effective GI bill educational benefits were once again thwarted on the Senate floor just yesterday.

In addition, service personnel and their families continue to pay out of their own pockets a substantial portion of the cost of moving when they receive their permanent change of station [PCS] orders. The committee recommended appropriation of funds for an increase in the PCS allowance, and I am hopeful that this change will be made.

It is important to emphasize, as Secretary Weinberger did in his letter, that even with a 5.5-percent pay raise, service personnel would remain 5.1 percent behind their civilian counterparts in compensation. A reduction to a 4-percent raise would drop them even further behind.

If the pay cap results in the loss of 30,000 careerists by the end of fiscal year 1989, as the Defense Department suggests could happen, we will pay far more to replace these needed NCO's in the future than we would through the modest pay increase at this time. Former Secretary of Defense Melvin Laird estimated that the Department of Defense saves $25,000 for each first-termer retained, saves $60,000 for each second-termer retained, and saves $125,000 for each third-termer retained. Better to provide the few extra dollars represented by the 5.5-percent increase now than to have to pay that heavy price later.

If the AVF is to achieve continuing success, it cannot afford the kind of roller coaster ride which Congress seems intent on providing for it. What is needed is a consistent policy, one which provides fair compensation, comparable to that of the civilian sector. Our men and women in uniform make great sacrifices on their Nation's behalf. They deserve to be treated equitably.

It is important to emphasize that we are talking about a whole panoply of individual actions that are being taken which send a signal to service men and women that we are not going to measure up to the commitments that we have made. That is the reason Senator KENNEDY and I and others are on the floor this evening, to make sure that we call this to the attention of our colleagues.

This is something the Department of Defense wants very badly. It is something that our top military personnel say we need to keep that high quality up. It is something that the President of the United States supports. So we can choose to ignore the President's recommendations, we can choose to ignore the Secretary of Defense, we can label this, as I have labeled it before, politically unattractive—after all, DOD wants it. I think it not only has great merit, but I think it is imperative that we have to measure up and pay our service personnel if we expect to attract them and retain them.

Mr. President, promises of "catch up" raises are not enough. We cannot tell them, like Red Sox fans tell themselves, that we will be back next year. Every year we come back, there is another pay cap there. Every year, they fall further behind. Every year the families take a look at the bottom line and they say, "We can't make it anymore. We can't make it anymore."

Navy personnel find they are staying longer out at sea, and when they come back, their wives say, "You could work for Bath Iron Works and make twice the money, and be home every night for dinner, so why don't you leave?" And that is what they are going to start doing.

I yield to the Senator from West Virginia.

**Mr. RANDOLPH.** Mr. President, the able Senator from Maine presents a well-reasoned and, frankly, past-due action which he hopes the Congress will take in relation to a more adequate pay for the members of the Armed Forces of the United States.

If he feels that he could ask his conscience whether another sponsor could properly be included, I would want to serve in that capacity.

**Mr. COHEN.** Mr. President, I thank the Senator for his comments. I ask unanimous consent that the Senator from West Virginia, Mr. RANDOLPH, be added as a cosponsor.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. COHEN.** Mr. President, let me try to conclude this. As I said, promises of "catch up" raises are not enough. This is especially so when service personnel learn year after year that the pay increases they have been told they can expect are reduced significantly by the time they actually receive them.

And we cannot ignore the detrimental impact of freezing E-1 pay again. If this is implemented, it will mean that E-1 pay will not have been increased since October 1, 1982—and that it will not be increased until at least October 1, 1985.

This is all too reminiscent of what took place during the period of the draft, when pay of those in the lowest ranks was at unacceptedly low levels.

From 1946 to 1964, E-1 pay rose from $75 a month to $78 a month. Let me repeat those figures. From 1946 to 1964, E-1 pay rose from $75 a month to $78, an increase of $3, in 18 years. It was this situation which caused the late Representative L. Mendel Rivers to push for cost-of-living raises in military pay.

If we have a gap of 3 years or longer in recruit pay increases, the job of those recruiters is going to be that much more difficult: a smaller demographic pool, according to the Senate Armed Services Committee report; an improved economy, which the President predicts and we are seeing; lower unemployment; and rising youth wages, coupled with a pay freeze to make the achievement of recruiting goals an insurmountable challenge.

Congress has an obligation to our men and women in uniform. We cannot allow to happen what took place only a few short years ago. Recruit pay should not be frozen, and pay for all personnel should not be capped. Those who support these efforts must be prepared to accept the consequences of these actions when the All-Volunteer Force does encounter the problems that we have had in the past.

Simply saying that we can address the growing disparity between civilian and military pay at some later point is not good enough. Fair compensation for the sacrifices of military life should not be a budgetary matter, but a humanitarian one as well.

A failure to provide that fair pay now is simply not right and will, I fear, have repercussions which are going to come back to again haunt this body in the not too distant future. That is why I hope my colleagues will support the Cohen-Kennedy amendment, a pay increase of 5.5 percent. It is consistent with the administration's request, consistent with that of the Secretary of Defense, consistent with that of our top generals, and consistent with equity.

It is needed by the young men and women serving in this country's behalf, and I hope it will win the Senate's approval.

I yield the floor, Mr. President.

**The PRESIDING OFFICER.** The Senator from Massachusetts.

**Mr. KENNEDY.** Mr. President, I rise to support my President on the issue of the pay raise for 1985. There may be a number of issues in which I differ with President Reagan but Mr. Reagan is absolutely right on this issue. I hope our colleagues are going to follow the position which has been so well stated by the Senator from Maine. I want him to know, and others to know, that there will be hopefully a number of the Members on this side of the aisle that will join in a bipartisan way to indicate our strong support for the military personnel of this country.

Mr. President, earlier in the day we addressed the issue of the percentage of real growth for the national defense of this country. Some of us argued at that time that we ought to set that limit at 5 percent, and that we ought to consider within that 5 percent the recommendations of the Armed Services Committee. The fact of the matter is, Mr. President, that the measure that we have before us this evening provides for a 7.5-percent real growth. But when it comes to the most important aspect of our military needs we are providing not just zero growth but actually a negative growth. I am talking about the military personnel who serve in the Armed Forces of our country.

We will spend a great deal of time, and have spent a great deal of time talking about various weapons systems. We will do so I am sure later this evening, and into the next few days. But the fact is, Mr. President, whatever weapons systems this country has—and we have many—no weapons system is more important than the quality of our military forces—the men and women, their training, their attitude, their moral, their dedication to this country and as a member of the Armed Services Committee. The Senator from Maine and I have been impressed by the testimony that we have received that has indicated that the moral, the standard, the quality, and the training for those that are in the Armed Forces of our country today is at an all-time high.

That has been indicated time in and time out in the testimony.

But we cannot get away from the fact, Mr. President, that this body dealt with issue of pay, in 1980 and 1981 as a result of the concern of those in the military services about the lack of enlistments and reenlistments in the Armed Forces.

So this body took into consideration a number of different measures.

I see the Senator from South Carolina on the floor now. I remember when he offered an amendment dealing with this issue that was targeted to certain groups within the certain services. We took action in 1980 and 1981. But since that time, there has been a significant deterioration in the commitment of this body on the issue of pay increase.

The fact remains, Mr. President, if the Senate should accept the amendment of the Senator from Maine, and myself, we will still not have kept up with the real employment cost index assessment about what is necessary or what is comparable in the civilian sector for our economy, and the ECI has been the best test for reaching a judgment on that comparison.

Mr. President, I know there will be a number of arguments that will be made that are in opposition to this amendment. Some will say that really we are doing fine with regard to the quality of individuals and the numbers that we are attracting to the services.

The Senator from Maine has outlined the recent statistics. They bear underlining here this evening.

The fact is the number to visits of Army recruiting centers are down by some 22 percent—as the Senator from Maine has pointed out. We are in the fifth month in a row of declining contract arrangements for the Army in relation to the mission goal, the key indicator which is used by the military in terms of military personnel.

The fact is those that say we are doing fine just have not taken into consideration the most recent statistics. Some will note, Mr. President, that we are providing an offset to consider this particular amendment. Some may say this is unsatisfactory to offset the cost of this amendment—which is approximately $600 million—by a reduction in the procurement account by six-tenths of 1 percent and putting that into undistributed reductions.

That means that the military services will make the judgments about where those particular cuts will be made in an account of some $100 billion. This is 0.6 of 1 percent. It is a procedure which has already been used by the Armed Services Committee to save $1 billion. All we are doing is adding 0.6 of 1 percent in procurement to make it $1.6 billion out of $100 billion procurement. Some will say, well, we need belt tightening across our society, including those that serve in the military.

Mr. President, the fact of the matter is we have not kept pace not only in the pay area, but we have not kept pace in moving allowances. We have not kept pace in housing allowances, and a number of other areas in which military personnel are already asked to sacrifice—and sacrifice they have.

Mr. President, we are fortunate in our Nation to have an extraordinarily dedicated group of men and women who serve in the Armed Forces of our country. They are patriotic. They are skilled. They are talented, and they are professional. I believe that unless this body is going to accept this amendment we will be undermining our commitment and our responsibility to them, and our ability to maintain the very best of those personnel in the military establishment of our country; to attract the best that would want to serve in their country.

I think the argument is best presented by the chairman of the Tactical Warfare Subcommittee, Senator GOLDWATER, who in a recent article said:

> Every year, Congress is faced with the continuing battle to make ends meet. Unfortunately, most of the proposed solutions would have their greatest impact on the worst possible area—people. In today's All Volunteer military, the most sobering thought is, what would happen to the quality and character of the military if these benefits are reduced or eliminated?

Senator GOLDWATER has stated it well and accurately. I do not think there is anything that we could possibly add that would summarize the case any more effectively.

### PAY RAISE

Mr. President, when it comes to the defense budget, everyone is talking about what level of real growth should we have 3 percent, 5 percent, 7 percent.

But when it comes to providing for the men and women in our Armed Forces, we seem to forget all about real growth.

Instead, we seem unwilling even to allow them to stay even with inflation.

During the 1970's military pay lagged behind private sector pay raises. Severe recruiting and retention problems resulted from these limits on pay.

In 1980 and 1981 Congress approved significant pay raises to achieve comparability with private sector pay, 11.7 percent in 1980 and 14.3 percent in 1981. By 1981 we had comparability.

Since 1981 military pay has again fallen behind comparability. At the present time military pay lags 5.5 percent behind civilian pay increases.

For fiscal 1985, we need a 5.1-percent pay increase so that military pay will not fall even further behind civilian pay. According to the economic cost index, which is the best measure of comparability, civilian pay will increase by 5.1 percent; 5.5 percent will allow for a slight catch up to make up for some of the lost ground over the last three years.

The pay raise included in this bill is 1.1 percent below the comparable rate of pay increase in the private sector.

Ever since 1981, military pay has been falling further and further behind.

In fiscal year 1983 we needed an 8.1-percent pay raise—to keep up with inflation—but only provided 4.0 percent.

In fiscal year 1984 we needed 5.6 percent to keep from falling even further behind—and again we provided only 4 percent while providing no raise for E-1's with less than 4 months service as well as reduction in the variable housing allowance.

During the last few years, we have not had serious recruiting and retention problems—because the deep recession and high unemployment have limited private section options.

As the economic climate changes, we will begin to experience serious problems again if we continue to shortchange the military in pay.

The danger facing us is not speculative. As the committee itself observed in its reports:

> However, it is not clear how long the military services will be able to sustain the current recruiting momentum. As the economy improves and the unemployement rate drops, the services will face increasing competition for 18 to 21 year olds. The services also must deal with the demographic reality that the size of the 18 to 21-year-old youth population will decrease by approximately 15 percent between fiscal year 1983 and fiscal year 1991. Earlier this year, Gen. John Wickham, the Army Chief of Staff, testified that the Army had experienced a 22-percent decline in the first quarter of fiscal year 1984 compared to last year in the number of young people coming into Army recruiting stations to take the military entrance exams. General Wickham suggested that this 22-percent reduction "May be a harbinger of an upturn in the employment opportunities for young people."

In fact, the latest figures for May raise a serious warning flag. May's active army contract mission was only 88.3 percent of mission goal compared with 93.6 percent in April. This is the fifth month that the contract mission

**has been missed, and if this trend continues, the Army will begin to experience accession mission shortfalls in the first quarter of fiscal year 1985.**

**These alarming trends are a clear warning that the problems is not in the future, but with us now.**

**As I said earlier, our colleague, and the chairman of our Subcommittee on Tactical Warfare, Senator GOLDWATER, recently captured the essence of the problem in a recent article:**

> Every year, Congress is faced with the continuing battle to make ends meet. Unfortunately, most of the proposed solutions would have their greatest impact on the worst possible area—people. In today's all-volunteer military, the most sobering thought is, what would happen to the quality and character of the military if these benefits are reduced or eliminated?

**The Army Research Institute has concluded:**

> If the jobless rate declines as fast as the administration projects, without corresponding increases in military pay or education incentives, the Army could miss its recruiting goal for male high school graduates by 34,000 (or almost 35 percent) by fiscal year 1985.

**But rather than avert the crisis before it arrives, we are helping to bring it on. Our amendment will help put us back on the right course again.**

**Our amendment would not increase the size of this defense bill. To pay for the pay raise—a cost of $600 million—we propose a modest reduction—six-tenths of 1 percent—in the procurement accounts—which are slated to exceed $100 billion this year.**

**Procurement in this bill will increase by nearly $15 billion—9.5 percent real growth. Even with this amendment, procurement will still be at $100 billion—8.9 percent real growth over the 1984 level.**

**It seems only reasonable to limit real growth for procurement to 8.9 percent in order to prevent military pay from experiencing not real growth—but actually a real decline, which is what will happen under the 4-percent pay raise in this bill.**

**I know that some of my colleagues will say that this is the wrong way to cut the bill—that this is a meat ax approach. I want to respond by pointing out that this is exactly what the committee itself has done by including undistributed reductions in the bill.**

**Let me give some examples: Modification of aircraft—Navy, $200 million undistributed reduction; Aircraft support—Navy $100 million undistributed reduction; Other procurement—Air Force, $110 million undistributed reduction; and so on. All together in the procurement accounts, the committee has proposed a total of over $1 billion in undistributed reductions.**

**An undistributed reduction—which the committee supports—is identical to what we are doing here.**

**The bow wave of procurement threatens to drown us. When we obligate money for procurement this year, we lock ourselves into spending far into the future.**

**Approved but unspent funds have gone from $96 billion in 1981 to $239.9 billion this year.**

**By next year, 40 percent of the defense budget will be uncontrollable—spending of already-obligated funds.**

**Moderately the 9.5-percent real growth in procurement is a prudent way to assure steady, planned growth and not crowd out urgent readiness requirements—such as operations or maintenance.**

Under this bill, procurement gets 9.5 percent real growth, while O&M is held to only 6.6 percent real growth.

If we do not act now, it will be even harder to preserve room for readiness in the budget later.

Mr. COHEN. Mr. President, there has been mention about what is going to take place in the very near term unless we take the kind of action we are recommending now.

I would like to repeat for the benefit of those on the floor now who were not here before, and I hope to distribute this letter to the Members who will be coming in during the course of the evening, a couple of lines from Secretary Weinberger's letter to the chairman of the Armed Services Committee.

> DEAR JOHN: On May 14, I sent you a list of the most important items that should be restored from the House Armed Services Committee markup of the fiscal '85 authorization act. A number one item on that list was the military pay raise. I believe it is absolutely essential that military personnel receive the 5.5 percent pay raise that we are seeking.

So for anybody who has any doubts about this, the No. 1 issue for the administration about what was done in the House was to correct those inequities and increase the pay raise to 5.5 percent. It has the support of the President, the Secretary of Defense, and all of those who are in the uniformed military. They support the 5.5-percent across-the-board increase. I hope our colleagues will take that into account.

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, I rise to express my opposition to the amendment offered by the Senator from Maine.

The Armed Services Committee has recommended that the basic pay and subsistence allowance of military personnel be increased by 4 percent on January 1, 1985. In making this recommendation, the committee decided that a pay raise for brand new recruits or E-1's with less than 4 months of active duty could not be justified.

During its consideration of the fiscal year 1985 Defense authorization bill, the committee had to make many difficult choices among competing defense needs. Although they have always enjoyed the committee's support, military pay and benefits were among those areas of the defense budget that had to be scrutinized for savings. The result of the committee's review was a recommendation that the pay raise request of 5.5 percent could be reduced to 4 percent without endangering military recruiting and retention. The Armed Services Committee approved that proposal by the wide margin of 13 to 5.

Mr. President, the chairman of the Armed Services Committee will address the importance of the large amount of savings that would result from the committee's recommendation. I would just like to emphasize that the $806 million in savings would be extremely difficult to achieve elsewhere in the defense budget.

As chairman of the Manpower and Personnel Subcommittee, I respectfully oppose Senator COHEN's amendment not only because it would eliminate a large pool of savings but also because it is unnecessary. The Congressional Budget Office has estimated that reducing the military pay raise from 5.5 percent to 4 percent would have an extremely small effect on recruiting and retention.

As chairman of the Manpower and Personnel Subcommittee, I can add to the Congressional Budget Office's estimates by saying that surveys have shown time and time again in the past years that recruits entering the service do not have the slightest idea of what they are getting paid. It has no effect on the reasons for whether they enter the service or their reasons for considering the service initially and signing up.

Certainly, pay does have an effect on retention. As we all know, several years ago we did pay some great heed to that in a targeted bill on which those in my subcommittee stood all alone in this Congress with regard to the opposition, resistance from the Pentagon, resistance from the White House, and resistance from various associations who said:

> No, we do not want a targeted pay raise. We want to have it across the board. Keep it the same all the way around. It will not work.

We went ahead with that targeted pay raise and now everyone knows what the results are. I can point out in spades that we have indications that the morale today is higher than it has ever been. The recruitment people are still filled up with their quotas and have people standing in line. The retention is higher than it has been in the entire history of the all-volunteer service.

I would further point out that the CBO has forecasted that the supply of high-quality recruits would only be between 1 and 2 percent smaller in each fiscal year if the pay raise were 4 percent instead of 5.5 percent.

The retention effects of a 4-percent raise are similar. The enlisted career force would only be 1 percent smaller by fiscal year 1989. Therefore, reducing the pay raise request to 4 percent would not appear to jeopardize the recruting and retention gains that the Congress has worked so hard to achieve.

The amendment offered by the Senator from Maine would grant the higher 5.5 percent pay raise to recruits with less that 4 months of active duty service. For 2 years now, the Armed Services Committee has concluded that a pay raise for these new recruits is not warranted. Last year, this particular recommendation of the committee was sustained by wide margins in two separate votes on the Senate floor.

During the first 4 months of active duty, a recruit lives under very restricted conditions while undergoing basic training. At the same time, however, he is earning $573.60 in basic pay each month. His food value is estimated to be about $100 a month. His rent is estimated to be somewhere between $250 to $300 a month. His medical care and insurance would cost about $50 a month if he was to provide it and pay for it on the outside. Clothing is worth about $25 a month. So we have benefits worth somewhere in the neighborhood of $525 a month plus a $573 a month. So we have a 17- or 18-year-old basic recruit, which is the age group that most of them enlist at, making approximately $1,100 a month.

We find that many in the same age group, if they were to go to work on the outside, so to speak, at minimum wage, would have a total income of $536 a month. They would then have to pay for the rent, pay for their food, and pay for their medical expenses. I would suggest that $1,100 a month for basic training recruits in the first 4 months of active duty is pretty good pay.

Moreover, upon entering the military, he could qualify for an enlistment bonus of $5,000 to $8,000. Then, he can immediately begin to make contributions to an educational assistance fund which the services will match on a 2-for-1 basis. Finally, after the first 4 months of active duty, a recruit receives about a 4-percent pay raise before receiving additional pay raises, as he is rapidly promoted from pay grade E-1, to E-2, to E-3. This generous package of pay and benefits is more than enough to compensate a young man for his service during basic training.

Denying a pay raise to brand new recruits would have even less effect on recruiting and retention than reducing the pay raise from 5.5 to 4 percent. Several studies and surveys conducted for the Army Recruiting Command have consistently shown that the amount of entry-level pay is only a minor consideration in a highly qualified young man's decision to join the military. In fact, many potential recruits grossly underestimate the level of a recruit's pay. Much more important factors are the opportunity for skill training, educational assistance, and, thank goodness, a resurgence in this country today and this national renewal that is taking place today of good old-fashioned patriotism.

Mr. President, my colleagues and I on the Armed Services Committee have worked hard to improve the pay and benefits of our military personnel. In 1982, we fashioned an innovative pay raise that targeted pay raises as high as 17 percent to badly needed senior enlisted personnel. Just last year, the committee and the full Congress authorized a 4-percent military pay raise, even though the administration recommended no pay raise at all. This year, the committee has concluded that substantial savings of more than $800 million can be realized without undermining the progress we have made. Therefore, Mr. President, I urge my colleagues to support the Armed Services Committee's position by opposing Senator COHEN's amendment and supporting the committee proposal that I point out was passed and supported by the Committee on Armed Services by a wide margin of 13 to 5.

I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, as the ranking member of the Manpower and Personnel Committee, I support the amendment of my distinguished chairman of that subcommittee, who did an excellent job, in my view, throughout the hearings.

Mr. President, we have been debating all day long the opportunities to save money in a variety of ways. I want first to say that while all of us would like to do more for our military folks, it ought to be observed that what we are doing in this DOD authorization bill is better than we have done for Federal civilian personnel. We are recommending, first of all as a subcommittee and then as a committee, a 4-percent increase in military basic pay. We are also raising to 4 percent the increase for E-1's after the first 4 months of active duty.

Incidentally, Mr. President, there was a very spirited debate in the subcommittee on that matter, and we finally agreed to increase E-1's after the first 4 months of active duty, along with all other military personnel, to a basic 4-percent increase.

Mr. President, there have been a lot of speeches around here today about trying to save money, on both sides of the aisle. It is always popular to talk about saving money, but never very popular to do it. Every subject we talk about is the one that is of the highest priority where we ought not to save any money. I would like to say that this amendment, even though they suggest that it be taken from procurement, will save the Government $716 million if rejected. Three-quarters of a billion dollars will be saved if we vote to reject this amendment and to stick with the subcommittee and the full committee's full report, indicating a 4-percent increase for military personnel.

In the view of the subcommittee chaired by my distinguished friend from Iowa, the committee on which I am a ranking member, and in the full committee, the 4-percent pay raise will still allow the military services to maintain their current momentum in recruiting and retention. If it has not already been said, I might say CBO shares this opinion. CBO has estimated that reducing the fiscal year 1985 pay raise from 5.5 percent to 4 percent would have almost no impact on recruiting and retention.

I suggest to everybody here that will not improve our recruiting and retention policies in the military and will spend, in addition, three-quarters of a million dollars if we adopt this amendment.

Let me say in conclusion that there are very seldom situations in which saving money is popular. I have said that before. We had full hearings in the subcommittee and, after a careful examination of it, the majority voted to stick to the 4-percent increase. That is generous against what we are doing for our civilian employees.

My colleague and friend, the chairman of the subcommittee, has pointed out that this very same question came before the full committee, the Armed Services Committee. In the Armed Services Committee, on a vote of the committee, we rejected this amendment overwhelmingly, 13 to 5. I suggest that this is one of the significant opportunties for all of us to show that we are sincere about doing something to materially reduce Government expenditures.

The rejection of this amendment will save $716 million this year while, at the same time, I urge, being very generous to our military personnel. I urge my colleagues on this side to vote against this amendment.

Mr. KENNEDY. Mr. President, may we have the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COHEN. Mr. President, let me offer just a few comments here while there are no other Members on the floor who seek to address this issue.

It has been suggested recently that if you reject this amendment, you save some $716 million. That is totally incorrect. We have provided for an offset. As a matter of fact, if you take into account the offset, we still are spending $1 billion more under the procurement account than the President even requested. So we have gone over the procurement account even after you take into consideration the reductions we are providing here, a 0.6-percent reduction.

What we have, Mr. President, is the Army recruiting problems appearing on the horizon. They expect a shortfall by the end of 1984. The Department of Defense estimate is a 30,000 careerist drop by 1989. Mel Laird, the former Secretary of Defense, has stated the cost of replacing a soldier. He estimated that $25,000 is saved for each first-termer retained; $60,000 for each second-termer retained; and $125,000 for each third-termer retained. Better we provide the few extra dollars represented by the 5.5-percent increase now than to have to pay a much, much heavier price later.

The offset still provides a billion dollars more than the DOD budget request in May, and it saves the same amount as the Jepsen-Dixon provision.

Mr. President, we have a chance to vote on something that is meritorious, that is substantive, that might be politically attractive if only, in the words of the chairman of the Senate Armed Services Committee, because it is supported by the Department of Defense, supported by the President of the United States. If you want to go on record as being in favor of those who support a strong military capability, you will vote for this amendment.

Mr. President, I yield the floor.

Mr. JEPSEN. Mr. President, I have a few closing comments, at which time, if there is no one else desiring recognition, I shall put in a quorum call. I am advised that the chairman of the Committee on Armed Services will be here forthwith to make a tabling motion.

Mr. President, I suggest that those of us who are standing fast on the proposal as it came out of the committee, the recommendation that was supported by the committee by a wide margin, are no less interested, nor has that been implied here in the welfare or the morale of the men and women of our armed services.

I know every Senator is vitally concerned about the state of readiness, about the morale of the men and women in our armed services. This Senator is a veteran and was an enlisted man and then later returned as a commissioned officer on a Reserve basis. I had a son who was in Vietnam as an enlisted man, and I have a son-in-law who is currently a recruiting sergeant. I am neither unfamiliar, nor unsupportive, nor unsympathetic, nor insensitive to the morale of the men and women in our services.

Mr. President, we have in the services today the highest level of patriotic young men and women we have ever had in our peacetime history. We have $806 million in savings that we would provide in these times which might have to be used in years to come to provide some form of compensation for our volunteer service. But at the present time this has been, after a large number of hearings and after a great deal of research, on a judgment basis carefully arrived and considered to be adequate.

Mr. President, with that I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THE NEED FOR A 5.5-PERCENT MILITARY PAY RAISE

Mr. BIDEN. Mr. President, I am pleased to cosponsor and support this amendment to increase military pay by the full 5.5 percent requested by the administration. This pay hike is needed for fairness to our men and women in uniform and for a full-strength volunteer force.

In the past 2 years, military pay caps have eroded the comparability with civilian wages which is necessary to assure high levels of recruiting and retention. In the short run, there have been few problems, because the depressed state of the economy made military service even more attractive. But in the long run, if we continue to deny military personnel an adequate cost of living pay boost, we will lose tens of thousands of experienced people and we will have increased difficulties luring qualified young people into uniform.

Holding down military pay is a shortsighted policy which makes a return to a draft more likely and which drives talented people out of the services and into less demanding, more remunerative civilian jobs.

Although I disagree with the size and shape of this defense budget, I do agree with Secretary Weinberger that the full 5.5-percent pay raise is absolutely essential. Indeed, it is the Secretary's No. 1 priority.

The $600 million cost of this full and fair pay raise can be accommodated within the Armed Services Committee's bill and even within a much lower total, especially by cutting funds for wasteful and unnecessary programs like the MX missile and B-1 bomber.

Since our defense debates so often focus on hardware, we tend to neglect the fact that people are the backbone of our military strength and preparedness. We need to attract, and keep, the best people in military service. And we must remember that even the most patriotic motivations have to be buttressed by adequate pay and benefits.

In my judgment, Mr. President, approval of this amendment will show that Congress puts people first and that we want to compensate our men and women in uniform fairly for the rigors and sacrifices of military service.

If we delay now, we will find the costs even higher in the future—and so, too, will be the risks to our national security.

Mr. TOWER. Mr. President, let me note that the proponents of this measure are correct when they say that this is a zero sum game so far as budgetary authority is concerned, because the amendment does provide that there will be a six-tenths of 1 percent reduction in procurement accounts to offset the cost of the 1.5-percent increase.

However, what is not noted is the fact that it is a net loss in terms of outlays. If we are worried about the deficit and if we are trying to apply some downpayment on the deficit for fiscal 1985, this is not the way to do it; because procurement has a low rate of spendout, about 14 percent, whereas pay has a higher rate of spendout, about 98 percent. So, actually, it means that you are adding more to the deficit next year with a fast spend-out item.

Those who want to impose restraints on spending to get the deficit down in fiscal 1985 had better vote against this amendment, because it means an escalation of outlays and a reduction in the amount that can be applied to the deficit.

Mr. President, I move to table the amendment of the Senator from Maine——

Mr. COHEN. Mr. President, will the Senator withhold?

Mr. TOWER. I will withhold always to accommodate my dear friend from Maine, but I will not give up the floor. [Laughter.]

Mr. COHEN. I thank the Senator from Texas.

Let me say to my good friend that no one is more concerned about the size of the deficits than the President of the United States. I think you probably agree with that. You have stated your support for the President on this floor for the past week—and I assume perhaps into the next week. The President of the United States is as concerned and as committed as you are or any other Member of this body to lowering that deficit. No one is more committed to having a strong military capability than is the Senator from Texas or the President of the United States. But the President of the United States has specifically requested this as his No. 1 priority item—the 5.5 across-the-board pay increase.

So if you really want to support the President, who is committed to lowering the deficit, if you want to support the President, who is committed to a strong national defense, you will vote for this amendment and against the Tower tabling motion.

Mr. TOWER. Mr. President, the Senator from Maine, as usual, is enormously eloquent.

The Senator from Texas fundamentally supports this administration in all major policy matters. That does not mean that he is bound to agree with every recommendation and request made by the administration.

Mr. COHEN. Just the No. 1 recommendation.

Mr. TOWER. I believe the Senator from Texas has the floor.

Quite frankly, I do not really believe that the administration regards this 1.5-percent increase over what the committee authorized as a number one priority.

Mr. COHEN. If the Senator will yield——

Mr. TOWER. I believe the Senator from Texas has the floor.

Mr. COHEN. I should like to submit for the RECORD——

Mr. TOWER. The Senator from Texas has the floor, and the Senator has not yielded.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. TOWER. I might further note that the Armed Services Committee reserves the right, when confronted with the necessity of reducing defense spending, even after having taken the testimony of the Department of Defense as to its recommendations as to where these reductions should come from, to make its own judgments.

In this particular instance, considering the fact that an additional 1.5 percent after taxes does not mean all that much to the average military person, it would not provide that much of an additional incentive.

May I note that the Armed Services Committee has always taken initiatives in pay raises. Back in 1980, we took an enormous initiative, and, absent the administration recommendation, increased pay substantially. That put us on the road to better recruitment and better retention.

However, it was the judgment of the committee—an overwhelming judgment, I might add—that this is not necessary and would not accrue that much in benefit to the service personnel.

I submit that providing them with modern weapons that make them more combat effective and more survivable in combat is also very great in importance. There are some who say, "Let us pay the soldiers everything. Let us raise their pay constantly. But let us not give them any weapons to fight with, because that is a destabilizer." The Senator from Texas does not subscribe to that view.

The Senator from Texas, therefore, moves to table the amendment of the Senator from Maine, and I ask for the yeas and nays.

Mr. COHEN. Mr. President, will the Senator withhold, so that I may put this in the RECORD?

Mr. TOWER. I yield for that purpose.

Mr. COHEN. Mr. President, I ask unanimous consent to have printed in the RECORD the letter of the Secretary of Defense, dated May 23, so that the Members will understand that, if they vote against this amendment, they are rejecting the Secretary of Defense and the President of the United States.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
*Washington, DC, May 23, 1984.*

Hon. JOHN G. TOWER,
*Chairman, Armed Services Committee,*
*U.S. Senate, Washington, DC.*

DEAR JOHN: On May 14 I sent you a letter containing a list of the most important items should be restored from the House Armed Services Committee (HASC) markup of the fiscal year 1985 Defense Authorization Act. The number one item on that list was the military pay raise. I believe that it is absolutely essential that military personnel receive the 5.5 percent pay raise that we are seeking. Military pay raises have been capped at 4 percent for the past two years. We are already 5.5 percent behind private sector pay, and the 5.1 percent growth in private sector pay over the last year would broaden the gap. The 5.5 percent pay raise would match this growth provide a small incremental catch-up from where we are today.

The severe recruiting and retention problems of the late 1970s are a graphic reminder of what happens when military pay lags far behind private sector pay. A third consecutive military pay raise cap will start us down that road again. For example, the 3.5 percent raise proposed by the HASC, by our estimates, would result in up to 30,000 fewer careerists by fiscal year 1989 without a make-up.

This Administration, from the President on down, is committed to preventing a repeat of that mistake. I urge you to support our efforts to pay our military personnel at fair and competitive levels by increasing military pay by 5.5 percent in fiscal year 1985.

Sincerely,

CAP.

Mr. TOWER. Mr. President, I renew my motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS announce that the Senator from North Dakota [Mr. ANDREWS] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON, announced that the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. EAGLETON], the Senator from Colorado [Mr. HART], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—49

Abdnor
Boren
Boschwitz
Burdick
Chafee
Chiles
Cochran
Danforth
Dixon
Durenberger
East
Evans
Exon
Garn
Goldwater
Gorton
Grassley
Hecht
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Tower
Trible
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—45

Armstrong
Baker
Baucus
Biden
Bingaman
Bradley
Bumpers
Byrd
Cohen
Cranston
D'Amato
DeConcini
Denton
Dodd
Dole
Domenici
Ford
Glenn
Hatch
Hatfield
Hawkins
Hollings
Huddleston
Inouye
Kasten
Kennedy
Lautenberg
Leahy
Levin
Long
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Thurmond
Tsongas

NOT VOTING—6

Andrews
Bentsen
Eagleton
Hart
Percy
Stennis

So the motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I would like now to inquire of the distinguished chairman and ranking member as to their outlook for the progress of this bill this evening and tomorrow.

May I inquire first of the chairman, is there another amendment that will require a rollcall, or perhaps more than one amendment, that the Senator thinks we can deal with this evening?

Mr. TOWER. We expect one, perhaps two more.

Mr. BAKER. Mr. President, let me also ask the managers whether or not there is any possibility that we can finish this bill this evening?

Mr. **TOWER**. I think it is becoming increasingly apparent that we will not.

### ORDER FOR RECESS UNTIL 10 A.M.

Mr. **BAKER**. I regret that, Mr. President, but I agree with the Senator. And after consulting with the chairman, the ranking member, and the minority leader I think it was clear that while we have invested a lot of time and late hours on this bill that we are not going to finish it tonight. We will continue, however. As the chairman has suggested, we have another vote or two that we can do. So we will be here a little while longer. But we must also be here tomorrow.

So, Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock a.m. on tomorrow.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I would like to bring up one other subject as well. I know we will work as long and as hard as we can. But would it be possible for the managers on either side when we reach the end of our rope tonight to lay down an amendment that would be pending when we return in the morning?

Mr. **TOWER**. I think I can assure the majority leader that that can be done; one on which a rollcall vote will be required.

Mr. **BAKER**. I thank the Senator. I can assure Senators then that there will be votes tomorrow. It may be that tomorrow will not be a long day. We are going to work as long as we possibly can. But Senators should know that there will be votes on this bill during the day tomorrow. Beyond that, Mr. President, I would like to also suggest that we may have reached the place in consideration of this measure where maybe we ought to explore the possibility at least trying to do what we have done successfully in many other cases; that is, to identify the amendments that remain, perhaps to try to clear unanimous consent agreement that only listed amendments would be in order, and then to try to establish a time certain for final passage of this measure.

Could I inquire of the minority leader if he has any views on that subject at this time.

Mr. **BYRD**. Mr. President, I cannot clear a time certain for final passage. I cannot clear that tonight. I would be happy to work toward that end tomorrow morning, and then confer with the distinguished majority leader as to what we find. That is about the only answer I can give the majority leader.

Mr. **BAKER**. Very well. Mr. President, I thank the minority leader, and I am especially grateful to him for volunteering that tomorrow he would explore that possibility as I understood his statement. I will do the same through our clearance process on this side. Senators should know then that it is possible that tomorrow during the day the leadership on their side might seek a unanimous-consent agreement for a time certain to finish this bill. Nor could I clear such an agreement tonight. So I will not presume to make such a request now. But let me say to Senators who are here, and who may be listening, that it is imperative that we finish this bill. I am advised by the two managers—and I believe they are together on this point—that for a variety of reasons it is virtually essential that we finish this bill some time on Tuesday. We have got to get the authorization done before the appropriation bills are marked up. In order to leave staff time enough to perform their functions, and meet the schedule, it is almost essential that we finish this bill on Tuesday.

So let me say one other thing. I hope Senators will cooperate on this side—as we will request clearance for a time certain to finish this bill, I would imagine on Tuesday at some time—by limiting their amendments, and limiting time on amendments so that we can make it fit in the available time.

Let me also say something that I never liked to say; that is, I fully expect that, if we need to do it, we will be in around the clock on Monday, Monday night, and Tuesday in order to finish. I have discussed this matter at length with the two managers. They have agreed that since we cannot finish tonight it would not be productive to try to stay in all night tonight, and tomorrow, but rather to do the best we can; and, while we are doing it, to explore the possibility of a unanimous-consent agreement for a time certain to finish on Tuesday during the day, or during the evening.

Mr. **NUNN**. Would the majority leader yield for just a brief comment that I would hope might facilitate the schedule that the majority leader has laid out? If we could make use of Monday morning, if Senators who know they are going to be here on Monday morning who have amendments—and some of those amendments do not require rollcall votes, but even on those that do—if we could get debate on those amendments starting rather early Monday morning, then we might be able to avoid an all-night session Monday night. I think we could utilize that time very well. If there is a rollcall vote that is demanded, or there is a rollcall vote that is needed, we could have the debate on Monday morning. Then, if Senators are worried about not having a full attendance for the rollcall, we could have a delayed rollcall that afternoon.

### ORDER FOR RECESS UNTIL MONDAY, JUNE 18, 1984, AT 10 A.M.

Mr. **BAKER**. Mr. President, I thank the Senator.

I agree wholeheartedly with him. I would be willing if the two managers think it is useful, and the minority leader does not disagree, to bring us in at an unusually early hour on Monday, say, at 10 o'clock. We usually do not come in until 11, get on the bill until 12, and the like. But I agree. If we can decrease the likelihood that we will have to stay up all night Monday night, we ought to do that. So let me put another unanimous-consent request now. I ask unanimous consent, Mr. President, that when the Senate completes its business on tomorrow that the Senate stand in recess until the hour of 10 o'clock on Monday next.

The **PRESIDING OFFICER**. Is there objection? Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I would propose another unanimous-consent request later after we explore the requirement of the time for special orders, and the like; that we might be on this bill early Monday morning, say at 10:30 or thereabouts. But I will not put that request at this time.

Mr. **BYRD**. Mr. President, if the majority leader will yield.

Mr. **BAKER**. Mr. President, I am happy to yield the floor.

Mr. **BYRD**. I thank the majority leader. I would like to ask that I be present before any consent order is entered as to time on any amendment. I do not particularly intend to oppose but I want to be here. That is made because there is a danger, if we are not careful, that nongermane amendments can come in before a vote on an amendment when the time is laid out. Nongermane amendment will not be debatable. It will have to be voted on one way or the other before the vote occurs on the amendment. I just want to be here to protect against any such amendments. I will be in my office. I may not have the squawk box on. But I want to be sure that I am contacted before such an agreement is entered.

Mr. **BAKER**. Mr. President, I think the minority leader knows that I will consult with him before any such an agreement is entered into. I am sure the two managers will do as much. The minority leader is absolutely right. There are dangers that have not always been recognized, and that we have not always acknowledged, of this sort. But there are ways to protect ourselves. I will join with the minority leader in seeing that the order means what it says, and does what we intend. So from that standpoint, I join him in urging that the two managers, as I am sure they would in any event, would not put requests in respect to time limitations on amendments or the bill unless the two leaders are conferred with first.

Mr. **TOWER**. Mr. President, would the majority leader yield?

**Mr. BAKER.** I yield.

**Mr. TOWER.** Mr. President, I must say the Senator from Texas was remiss in that respect a day or two ago. I did propound a time agreement on an amendment of 1 hour without consulting the minority leader.

I am not sure I consulted the majority leader, as a matter of fact. I was remiss. I apologize for that. I think the Senator from West Virginia is absolutely right, that he should be present and should be consulted. I will endeavor so to do.

**Mr. BYRD.** I thank the Senator.

**Mr. BAKER.** Mr. President, if I may conclude by summarizing, I expect we will have at least one more vote tonight. We will probably be here another hour or thereabouts. There is an order for the Senate to be in at 10 o'clock tomorrow. We have an amendment on which there will be a vote when we return. I hope we can be on the bill early, say, at 10:30. We will do as much as we can tomorrow, though it is unlikely we will finish tomorrow.

We will resume Monday. We will shop for a unanimous-consent agreement to limit amendments to those listed, and for a time certain for final passage on Tuesday. If necessary, we will be in around the clock on Monday and Tuesday in order to finish this bill.

Mr. President, I hope that we might proceed with the further consideration of the amendment.

**The PRESIDING OFFICER.** The Senator from Wisconsin.

### AMENDMENT NO. 3183

**Mr. PROXMIRE.** Mr. President, I ask that my amendment which is at the desk numbered 3183 be called up and read, and I ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 3183.

**Mr. PROXMIRE.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

> On page 41, strike out lines 1 through 20. Renumber the following sections accordingly.

**Mr. PROXMIRE.** Mr. President, I would accommodate the manager of the bill. I am willing to agree to a time limit of 20 minutes on the side.

Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the time on the amendment proposed by the Senator from Wisconsin be limited to 40 minutes, equally divided between the Senator from Wisconsin and the Senator from Arizona, and I further ask unanimous consent that no amendments in the second degree be in order to the amendment.

**The PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

The Senator from Wisconsin.

### A PAMPERED FEW

**Mr. PROXMIRE.** Mr. President, there is a national security crisis at hand. I am speaking now of a subject that demands a full page of language in this fiscal year 1985 Defense authorization bill. I have reference to a subject to which more language is addressed than for antisatellite warhead testing; to which more attention is paid than restrictions on the B-1 bomber program or a study of the MX missile.

This bill before us authorizes the end strength of all our active military forces in exactly seven lines of language. But it requires 20 lines of explanation for this national security subject.

What is this high priority national security issue that requires our attention? What subject is it that has the Pentagon hierarchy in such a state of alarm that they must seek immediate redress in statutory language?

Have the Russians invented and deployed a new space based ABM? Have they developed a new submarine of greatly improved capabilities? Are we falling behind in the comparative statistics of relative defense spending? Why are the Pentagon "lobbyists" so concerned over this Proxmire amendment?

Ah, Mr. President, what we have here is an issue that strikes close to home—very close to home. This No. 1 legislative priority is no less than a change in the permanent United States Code to authorize home-to-work chauffeured services for the Pentagon hierarchy. Specifically, this bill will create a special exemption in the law, applying only to the Pentagon, so that the Joint Chiefs of Staff, the Deputy Secretary of Defense, and the Under Secretaries of Defense can be chauffeured to and from home every day at a cost to the taxpayers of hundreds of thousands of dollars annually.

These poor, pampered Pentagon plutocrats are facing a threat worse than anything presented in the national security threat briefings. They are facing a deadline applied by the Comptroller General of the United States that they will have to give up their chauffeured services as of the first day of the 99th Congress.

Why will they have to give up this privileged position in life? Because they are in violation of the law—right now, today. The Comptroller General issued an opinion last year stating that all agencies must follow the law—including DOD. And the law states that only a handful of Federal officials are specifically given the authority to enjoy home to work chauffeuring.

Title 31, section 638(a) of the United States Code restricts the use of Government automobiles to "official purposes" only and "official purposes" does not include door-to-door chauffeur service. The only exceptions provided in the law are for the President, the Secretary of a Department, but not under secretaries or assistant secretaries, a doctor on outpatient duty, individuals in field service, and our diplomatic personnel abroad.

So very soon, all those who have been violating the law, including many in the Pentagon, will have to come in compliance. That is why this special exemption is contained in this bill. The Pentagon hierarchy just could not stand the thought of giving up their special privileges.

Let us listen a minute to their wails of complaint. Excuse No. 1: A chauffeured automobile enables me to conserve my valuable time and be more productive.

Excuse No. 2: I must often attend early morning and late night meetings and public transit is often unavailable.

Excuse No. 3: My use of a chauffeured automobile is in the Government's interest.

Well, each of these excuses has been examined in detail by the Department of Justice. In a 1979 opinion, the Justice Department found each of these excuses invalid. The Department concluded: "Nothing in (the law's) text, background, or prior interpretation supports a reading so contrary to its plain meaning."

This study even made a few suggestions to the poor, overworked bureaucrat needing chauffeur service:

> A senior official may lengthen his or her working day, if necessary, by coming earlier, leaving later and living closer to the office. Using government transportation instead is a matter of personal convenience.

And what does this all cost? Right now the Department of Defense gives door-to-door chauffeured service on a regular basis to 12 people, the Secretary of Defense, the Deputy Secretary of Defense, the two Under Secretaries of Defense, the Secretaries of the Army, Navy, and Air Force; and the Joint Chiefs. The Pentagon also gives chauffered service to some 48 other officials on a less frequent basis.

With a total of 60 individuals eligible, the Pentagon runs the biggest and busiest chauffeur service in Government. In 1982 the Pentagon calculated that the average cost for a civilian chauffeur was $35,290 and $15,980 for a military driver. The average annual cost for the cars is over $4,000. So, this little provision in this bill will cost the taxpayers in the neighborhood of $320,000 if civilians are used and about half that if military personnel are used.

Mr. President, people may scoff at that amount of money. But it is a symbol and it is the kind of spending that our people will understand.

Believe me, they understand it in Wisconsin, just as they understand when the Pentagon pays $10 for a bolt that should cost 50 cents.

This is the kind of thing, as we all know, that people do understand, and it enrages us.

Of course, I have not added inflation to these figures or any real growth increment which the Pentagon always insists on.

Mr. President, I recognize that this is as much a symbolic amendment as a financial—although I will not dismiss a third of a million dollars as an unworthy savings. But what we have here is the appearance of "let them eat cake." While virtually every other segment of our society faces budget cuts or restrictions, the Pentagon brass leads a different life—exempt from the need to economize; exempt from budget cuts; exempt from current law.

This double standard should be brought to a halt. My amendment strikes the committee language and thereby disallows the chauffeured driven service for these eight officials.

Mr. President, I reserve the remainder of my time.

Mr. GOLDWATER. Mr. President, I rise to oppose this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, I usually find myself in concert with the Senator from Wisconsin in trying to cut down the cost of Government, but I think this is a rather foolish way to approach it. Let me start off my dissertation by reminding the Senate that we lease 19 vehicles and own 4 and they are used as follows:

Vice President BUSH, chauffeurs.

Dr. Cary.

Larry Smith, the Sergeant at Arms, he has a chauffeur but does not use him.

Don Massey, Assistant Sergeant at Arms.

Pat Griffin, secretary to the minority.

Howard Greene.

Bill Hildenbrand.

Stuart Balderson, the financial clerk of the Senate.

The majority leader, chauffeur.

The minority leader, chauffeur.

Majority whip, chauffeur.

Minority whip, does not use automobile much at all and does not use a chauffeur.

President pro tem, chauffeur.

Limousine for Senators with chauffeur.

Disbursing office.

Three cars used by the post office for use in running mail.

One car is used by the Senate Computer Center.

One Blazer, owned by the Senate.

One step van, owned by the Senate.

One club wagon which is used by the Senate Service Department, owned by the Senate.

One 1979 general delivery truck, owned by the Senate.

DOMICILE TO DUTY TRANSPORTATION

Mr. GOLDWATER. Mr. President, title 31, United States Code, section 1344 restricts the expenditure of funds for motor vehicle transportation to official purposes and specifically provides that an official purpose does not include "transporting officers or employees of the Government between their domiciles and places of employment * * *" except for the following named individuals, the President; the heads of executive departments; and principal diplomatic and consulate officials.

Interpretations of this statutory language by DOD General Counsel and State Department Legal Adviser held that the phrase "heads of executive departments" was synonymous with "principal officers of executive departments." This interpretation was relied upon to allow domicile to duty transportation for Deputy Secretary of Defense, Under Secretaries of Defense, Chairman of the Joint Chiefs of Staff, and the Chiefs of Staff.

That has been changed, Mr. President.

In a decision issued on June 3, 1983, the Comptroller General rejected the prior State and DOD interpretations and held that no one other than the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force could be permitted domicile to duty transportation.

In the decision and in subsequent correspondence with DOD General Counsel, the GAO agreed not to question continued use of vehicles for domicile to duty transportation for the Deputy Secretary of Defense and the Joint Chiefs for the remaining term of the present Congress.

Mr. President, this was discussed rather thoroughly in the full committee hearing and the committee believed that it is appropriate to permit the use of Government vehicles to provide domicile to duty transportation to certain offficals in the Department of Defense in addition to those authorized that transportation under title 31, United States Code, section 1344. Therefore, the committee has included a provision to authorize the providing of domicile to duty transportation for the following defense officials: Deputy Secretary of Defense; Under Secretaries of Defense; Chairman, Joint Chiefs of Staff; Chief of Staff of the Army; Chief of Naval Operations; Chief of Staff of the Air Force; and Commandant of the Marine Corps.

Mr. President, let me remind my colleagues that these gentlemen I have mentined spend almost 10,000 hours a year on this Hill testifying. If we could eliminate half of that, we would more than pay for the cost of these automobiles. Each of these officials, I remind my colleagues, is entrusted with tremendous executive responsibility for out national defense, and each official must be able to exercise the duties of his office at a moment's notice at any time day or night. The American people have the right to expect that when a member of the Joint Chiefs should be making a military decision that he is available to do so, instead of sitting in traffic on the highway while driving himself home from the Pentagon.

Mr. President, I think this is sort of being penny-wise and pound-foolish when we ourselves in this body own or lease 23 vehicles and at least seven or eight officers of the Senate have drivers. I admit that some do not use the drivers. But if we want to save money where it can be really saved, let us eliminate all the transportation for the Senate. I drive to work. I have been doing it for 30 years. I think it would be nice to have a chauffeur, but I kind of like driving along that Potomac. It is a beautiful drive at night.

Mr. President, I oppose this amendment. I do not think it is necessary and I think it would work a real hardship on those people that we depend on.

We are not depending on a bunch of corporals and sergeant here, we are depending on men who are going to spend this $299 billion we are talking about. That is one big responsibility.

To have these men who have to work from 7 o'clock in the morning until late at night then have to drive themselves home and be available at any time of the night to traipse back to their office, or to come over here for committee meetings, I just do not think is right.

Mr. President, I reserve the remainder of my time, but I do oppose this and very strenuously.

Mr. DENTON and Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. How long does the Senator want?

Mr. DENTON. Three minutes.

Mr. WARNER. Two minutes.

Mr. CHAFEE. Two minutes.

Mr. GOLDWATER. I yield to each.

Mr. DENTON. Mr. President, in my great respect for the Senator from Wisconsin and his long efforts to economize, I appeal to him on this basis: Is he aware that in the case of the chairman of the Joint Chiefs and the chiefs of the military services, the Nation requires, by necessity and by administrative procedure, that each of those gentlemen be within 3 minutes of communication with the Pentagon in connection with their transcendent responsibilities with respect to the discussion of the SIOP?

I am not interested in appealing on the basis of the civilian involved, that the Secretary of Defense is the principal one involved, although I would make a case for the deputy, since he falls in the chain of the chairman, the Secretary and the President. Here we are talking about four service chiefs and a chairman who are involved with decisions on what to do about pushing the button, what to do about major decisions which involve the safety of the world and the security of the United States. I do not think that the Senator would intend that they be without the capability to respond to that necessity of 3 minutes' communication. Actually, I think that is too long a time.

I ask the Senator, before I oppose his amendment, if he would consider excluding the four military men, the service chiefs, and the chairman from his amendment?

Mr. PROXMIRE. Mr. President, I must resist that, may I say to my good friend, they can physically respond now. They can use the very, very large number of cars the Pentagon has on official business day and night, any time. They are always in communication.

Mr. DENTON. With telephones?

Mr. PROXMIRE. Certainly. They can have telephones, or radio, or other communication equipment in their own car. Thousands of Americans do. Nothing in my amendment would affect that.

Mr. DENTON. With telephones which would permit them to conform to the law, the necessity of communicating with SIOPS?

Mr. PROXMIRE. I am not sure I understand the Senator's position. They can have communication equipment with them constantly at all times. That does not require chauffeurs or Government-provided limousines.

Mr. DENTON. If they have to drive their own automobiles, they are not. That is the only basis on which I deal with it. If he does not, I simply am going to oppose his amendment.

May I offer this, Mr. President? There is a duty officer now among the four Chiefs who acts in place of the chairman and Joint Chiefs. They are now assigned on the basis of quarterly assignments. Right now, P.X. Kelley, Commandant of the Marine Corps, is acting for the chairman.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DENTON. I am asking a question now, Mr. President, I am not making a speech.

Mr. GOLDWATER. Mr. President, we have two former Secretaries of the Navy here. I think it would be well to hear from both of those. I yield to my friend, the Senator from Virginia [Mr. WARNER].

**[The following proceedings occurred after midnight:]**

Mr. WARNER. Mr. President, I thank my distinguished colleague from Arizona.

Mr. President, it was a privilege for me to serve for many years as the deputy to my distinguished colleague from Rhode Island, and between the two of us we have I think 10 years of service in the Department of Defense. We worked side by side with the very men who are the subject of the amendment we are now considering. Without going into the specifics, I hope that the Members of the Senate would entrust and repose in us to say, without giving the details, that this amendment is unsound and it should be rejected.

I yield to my distinguished colleague.

Mr. CHAFEE. I second what the distinguished Senator from Virginia said, and I think we should get on with it.

Mr. GOLDWATER. Mr. President, I have no more argument. I would be very glad to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I will be finished shortly. I only have 2 or 3 minutes more.

Mr. GOLDWATER. Then I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, the Senator from Alabama makes a very good point. I understand that. But the fact is that these officers are constantly in touch, in communication, and this does not require them to have a chauffeur to drive them to and from work regularly every night. In fact the chauffeur drops them off at home at 7 or 8 at night and picks them up in the morning. The chauffeur doesn't sleep in the limousine. He goes home. If an emergency should occur in the middle of the night, the general or Under Secretary could come back to work far more quickly in his own car without waiting for the chauffeur.

Mr. President, I think what we should keep in mind is that these chauffeurs and limousines have been badly abused in our Government.

A couple of years ago the head of the Veterans' Administration was a man named Max Cleland. The head of the Veterans' Administration had been permitted to have limousines in the past. Max Cleland rejected his limousine, although he was a man who had lost both his legs and his arm in Vietnam, falling on a grenade to save his comrades. It was very difficult and painful for him to drive his car, but he did it. It seems to me, if the head of the Veterans' Administration, representing veterans from all over the country, can make that kind of a sacrifice, able-bodied men, including the top generals of our military forces, top generals and admirals should be able to get along without being carried from home to work and back every day by a limousine, and a chauffeur at a cost of thousands of dollars.

This is the kind of expenditure that our people can really understand. Providing chauffeurs every day to take these people from home to work, as has been pointed out by the General Accounting Office, is a clear violation of the law. The only way they could be accommodated is by 20 lines of exceptions in the law. I hope under these circumstances the Senate will see its way fit to deny this wasteful expenditure.

Mr. NUNN. Will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. Yes, indeed.

Mr. NUNN. Will the Senator consider a possible compromise of leaving the bill as it is with the military representatives who are in the chain of command and who would, I think, regret if they were stuck in a traffic jam on Shirley Highway when a war broke out and could not be found. Will the Senator accept that?

Mr. PROXMIRE. Will the Senator specify which he is talking about?

Mr. NUNN. It would be the service chiefs and the chairman of the Joint Chiefs.

I am just suggesting we eliminate the three civilians; they are not in the chain of command, and have a compromise and take the services and leave them where they are.

Mr. PROXMIRE. All right. I will be happy to modify my amendment.

Mr. NUNN. I am just suggesting that.

Mr. DENTON. Mr. President, the Senator from Arizona has yielded his time to me. I am agreeable with that. I am interested not in who gets what luxury. I am willing to eliminate that. We are talking about operational exigencies of transcendent importance. If they drive their private automobiles, you should not require them to buy a telephone. That is the only way they are going to be able to communicate.

Mr. PROXMIRE. No. No. The Federal Government can and should buy them a phone, a radio, whatever they require for emergency communications. But, Mr. President, there is a technical problem. Unless the Senator from Arizona would agree to a unanimous-consent request to modify my amendment, I cannot do it.

Mr. TOWER. Mr. President, I object to the modification.

Mr. GOLDWATER. Mr. President, we discussed this in the committee at great length. It has been a long time changing, and we decided to change it. I see no reason for us changing any of this language unless we also want to change the 23 cars the Senate drives around, and God knows how many the House drives around.

I might remind my friend from Wisconsin that most of these commanders live just a short distance from the Pentagon. It is not a case of driving all over Virginia and Washington.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MATTINGLY). Does the Senator from Wisconsin yield back his time?

Mr. GOLDWATER. Mr. President, I yield 1 minute to my freind from Texas.

Mr. TOWER. Mr. President, I think this amendment is outrageous. It is one of these mischievous things that perhaps sounds good. I suppose a lot of people would think, "Well, I have to drive to work. Why shouldn't that dad-burned admiral have to drive to work."

That is hardly the point. This is one of these demagoguing amendments, in my view. It perhaps was not intended that way by the Senator from Wisconsin, but in my view that is what it is. I drive to work, and I am delighted to drive to work. However, I believe that the Chief of Naval Operations, the Chief of Staff of the Army, the Chief of Staff of the Air Force, and certainly the chairman of the Joint Chiefs ought to have available to them Government vehicles.

The amendment of the Senator from Wisconsin would prohibit them even using a Government vehicle if they drove it themselves from home to work. I think that is taking it too far. I hope the Senate will treat this amendment with the kind of deference it deserves by walloping it good.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. I yield back the remainder of my time, if my friend from Wisconsin does.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I move to table the amendment of the Senator from Wisconsin, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Wisconsin.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Colorado [Mr. HATCH], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 85, nays 6, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—85

Abdnor
Armstrong
Baker
Baucus
Biden
Bingaman
Boren
Boschwitz
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jepsen
Johnston
Kassebaum
Kennedy
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—6

Bradley
DeConcini
Kasten
Lautenberg
Proxmire
Simpson

NOT VOTING—9

Andrews
Bentsen
Hart
Inouye
Laxalt
Moynihan
Packwood
Percy
Stennis

So the motion to lay on the table Mr. PROXMIRE's amendment (No. 3183) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, we have some amendments that can be rapidly disposed of and then I believe it is the intention of the Senator from West Virginia to lay before the Senate an amendment which will become the pending business for action tomorrow morning on which there will be a rollcall vote.

Mr. President, on June 8 the Senator from West Virginia proposed an amendment establishing Competition Advocates General. The Senator from Indiana [Mr. QUAYLE] recommended two modifications to that provision which the Senator from West Virginia graciously accepted. One of these modifications established two tests by which an agency may waive submission of a noncompetitive procurement to the Competition Advocate General—in the case of a highly classified program or for reasons of extreme emergency. Reviewing the record of June 8, it has come to my attention that it is not clear whether these two tests must both be met or whether either can be met for the waiver to be issued. It was clearly the intention of the Senators from Indiana, West Virginia, and Michigan, who were involved in this matter, that the tests were separate and that if either test were met, the waiver could be obtained. Therefore, Mr. President, I ask unanimous consent that subsection (c)(3) of amendment No. 3164, as modified, be further modified to insert after the semicolon at the end of subsection (c)(3)(a) the word "or." This will have the effect of making either test a satisfactory basis for the issuance of a waiver.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I remove my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3213

(Purpose: To correct clerical errors in title 10, United States Code)

Mr. TOWER. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment corrects clerical errors in title 10, United States Code.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. TOWER] proposes an amendment numbered 3213.

**Mr. TOWER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 146, between lines 7 and 8, insert the following new part:

### PART K—CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

#### AMENDMENTS TO CORRECT CLERICAL ERRORS IN TITLE 10, UNITED STATES CODE

SEC. 1201. Title 10, United States Code, is amended as follows:

(1) Section 125(a) is amended by striking out "section 401 of title 50" and inserting in lieu thereof "section 2 of the National Security Act of 1947 (50 U.S.C. 401)".

(2) Section 138(g) is amended by inserting "(22 U.S.C. 2795 et seq.)" after "Chapter 5 of the Arms Export Control Act".

(3) Section 139 is amended—

(A) by striking out "thirty" both places it appears and inserting in lieu thereof "30"; and

(B) by striking out "ninety" and inserting in lieu thereof "90".

(4) Section 175(c) is amended by inserting a comma after "Reserve Affairs".

(5) Section 177(a)(1) is amended by striking out "sec. 29-1001" and inserting in lieu thereof "sec. 29-501".

(6) Section 191(a) is amended by striking out "such use in" and inserting in lieu thereof "such use is".

(7)(A) Section 264 is amended by striking out "Reserve components" in subsection (b) and inserting in lieu thereof "reserve components".

(B) The heading of such section is amended to read as follows:

"**§ 264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves**".

(C) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"264. Reserve affairs: designation of general or flag officer of each armed force; personnel and logistic support for Reserves.".

(8) Section 280 is amended by striking out "5597,".

(9) Section 374(a)(3) is amended by striking out "(19 U.S.C. 1202)".

(10) Section 378 is amended by striking out "prior to the enactment of this chapter" and inserting in lieu thereof "before December 1, 1981".

(11) Section 630(2) is amended by striking out "eighteen-month" and inserting in lieu thereof "18-month".

(12) Section 633 is amended by striking out "twenty-eight" and inserting in lieu thereof "28".

(13) Sections 634 and 635 are amended by striking out "thirty" and inserting in lieu thereof "30".

(14) Section 636 is amended by striking out "thirty-five" and inserting in lieu thereof "35".

(15) Section 637(a) is amended—

(A) by striking out "twenty" in paragraph (2) and inserting in lieu thereof "20"; and

(B) by striking out "twenty-four" in paragraph (3) and inserting in lieu thereof "24".

(16) Section 673c(b)(1) is amended by inserting "of this title" after "or 673b".

(17) Section 680(a)(2)(D) is amended by striking out "Reserve Officer" and inserting in lieu thereof "reserve officer".

(18) Section 701(g) is amended—

(A) by striking out "sixty-day" and inserting in lieu thereof "60-day";

(B) by striking out "ninety-day" and inserting in lieu thereof "90-day"; and

(C) by striking out "one hundred and fifty" both places it appears and inserting in lieu thereof "150".

(19)(A) Section 1034 is amended by striking out "member of Congress" and inserting in lieu thereof "Member of Congress".

(B)(i) The heading of such section is amended to read as follows:

"**§ 1034. Communicating with a Member of Congress**".

(ii) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

"1034. Communicating with a Member of Congress.".

(20) Section 1035(b) is amended—

(A) by striking out "per centum" and inserting in lieu theeof "percent";

(B) by striking out "Act" and inserting in lieu thereof "subsection"; and

(C) by striking out "ninety" and inserting in lieu thereof "90".

(21) Section 1040(a) is amended by striking out "thirty" and inserting in lieu thereof "30".

(22) The heading of section 1077 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(23) Sectioin 1079(e) is amended by striking out the period at the end of the matter preceding clause (1) and inserting in lieu thereof "as follows:".

(24) Section 1087(b)(2) is amended by inserting "(42 U.S.C. 1395c et seq.)" after "the Social Security Act".

(25) Section 1216(b) is amended by striking out "of this section".

(26) Section 1401a(f) is amended by striking out "prior to the effective date of this subsection" and inserting in lieu thereof "before October 7, 1975".

(27) Section 1464(c) is amended by striking out "section 1466" and inserting in lieu thereof "section 1465(c)".

(28) Section 1465(c)(1) is amended by striking out "(A)".

(29) Section 1586 is amended—

(A) in subsection (b)—

(i) by striking out "thirty" and inserting in lieu thereof "30";

(ii) by striking out "of this section" after "subsection (c)"; and

(iii) by striking out "of this subsection";

(B) in subsection (c)—

(i) by striking out "thirty" and inserting in lieu thereof "30";

(ii) by striking out "ninety days" both places it appears and inserting in lieu thereof "90 days";

(iii) by striking out "ninety-day" in paragraph (5) and inserting in lieu thereof "90-day";

(iv) by striking out "of this subsection" each place it appears in paragraphs (3), (4), and (5);

(v) by striking out "such" in paragraph (5); and

(vi) in paragraph (6)—

(I) by striking out "of this subsection" after "paragraph (1)"; and

(II) by striking out "of this subsection," after "as applicable,";

(C) by striking out "of this section" in subsections (d), (e)(1), and (g)(1); and

(D) by striking out "of this subsection" in subsection (e)(2).

(30) Section 2002(b) is amended by striking out "For the purposes of this section, the word" and inserting in lieu thereof "In this section,".

(31) The item relating to section 2003 in the table of sections at the beginning of chapter 101 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(32) Section 2031(a) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 13, 1964".

(33) Section 2107(b) is amended by aligning the second sentence flush with the left margin.

(34) Section 2233 is amended—

(A) by striking out "subsection (c) of this section" in subsection (a) and inserting in lieu thereof "to subsection (c)"; and

(B) by striking out "or Territory, Puerto Rico, or the District of Columbia" both places it appears in the second sentence of subsection (b).

(35) Section 2381(c) is amended—

(A) by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)"; and

(B) by striking out "section 481(a) of that title" and inserting in lieu thereof "section 201(a) of that Act (40 U.S.C. 481(a))".

(36) The heading of section 2394a is amended to read as follows:

"**§ 2394a. Procurement of energy systems using renewable forms of energy**".

(37) Section 2577(a)(1) is amended by striking out "purposes" and inserting in lieu thereof "purposes".

(38) Section 2668(a)(10) is amended by striking out "section 961 of title 43" and inserting in lieu thereof "the Act of March 4, 1911 (43 U.S.C. 961)".

(39) Section 2672a is amended—

(A) by designating the first sentence as subsection (a);

(B) by striking out "operation" in such sentence and inserting in lieu thereof "operational";

(C) by designating the second sentence as subsection (b); and

(D) in the fourth sentence—

(i) by striking out "provision will" and inserting in lieu thereof "section shall"; and

(ii) by striking out "Armed Services Committees" and inserting in lieu thereof "Committees on Armed Services".

(40) Section 2675(b) is amended by striking out "thirty" and inserting in lieu thereof "30".

(41) Section 2687 is amended—

(A) by striking out "one thousand" in subsection (a)(2) and inserting in lieu thereof "1,000";

(B) by inserting "(42 U.S.C. 4321 et seq.)" in subsection (b)(2) after "National Environmental Policy Act of 1969";

(C) by striking out "sixty" in subsecton (b)(4) and inserting in lieu thereof "60"; and

(D) by striking out "three hundred" in subsection (d)(1)(B) and inserting in lieu thereof "300".

(42)(A) The heading of section 2734a is amended to read as follows:

"**§ 2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements**".

(B) The item relating to such section in the table of sections at the beginning of chapter 163 is amended to read as follows:

"2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements.".

(43) Section 2777(c) is amended by striking out "of this section".

(44) Section 2822(b)(3) is amended by striking out "section 2833" and inserting in lieu thereof "section 2832".

(45)(A) Section 2857(b)(1) is amended by striking out "use of" and all that follows through "the potential for" and inserting in lieu thereof "use of such forms of energy has the potential for".

(B) The amendment made by subparagraph (A) shall take effect as if it had been included in the amendments made by section 801 of Public Law 97-321.

(46) Section 3579(a) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(47) Section 5897(b)(5) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(48) The item relating to chapter 661 in the table of chapters at the beginning of subtitle C is amended to read as follows:

"661. Accountability and Responsibility .......... 7861".

(49) Section 7227(a) is amended—

(A) by striking out "routine" both places it appears and inserting in lieu thereof "Routine";

(B) by striking out "miscellaneous" and inserting in lieu thereof "Miscellaneous";

(C) by striking out the semicolons at the end of clauses (1) and (2) and inserting in lieu thereof periods; and

(D) by striking out "; and" at the end of clause (3) and inserting in lieu thereof a period.

(50) Section 7421(b) is amended by striking out "naval petroleum reserves numbered 1 and 2" and inserting in lieu thereof Naval Petroleum Reserves Numbered 1 and 2".

(51) Section 7422(b) is amended by striking out "of this section".

(52) Sections 7426(a), 7431(b)(1), and 7431(c) are amended by inserting "of this title" after "section 7422(c)".

(53) Section 7430 is amended—

(A) by striking out "of this section" in subsection (d)(4);

(B) in subsection (g)(2)—

(i) by striking out "thirty days" and inserting in lieu thereof "30 days"; and

(ii) by striking out "thirty days" and inserting in lieu thereof 30 days"; and (C) by striking out "of this section" both places it appears in subsection (1)(4).

(54) Section 7572(b)(1)(B) is amended by striking out "onboard" and inserting in lieu thereof "on board".

(55) Section 8851(c) is amended by striking out "of this section".

(56)(A) Sections 2127(b), 2388(c), and 6154 are amended by striking out "section 3324(a) and (b)" and inserting in lieu thereof "subsections (a) and (b) of section 3324".

(B) Section 7522(b) is amended by striking out "Section 3324(a) and (b) of title 31 does" and inserting in lieu thereof "Subsections (a) and (b) of section 3324 of title 31 do".

(57) Section 9512(b)(1) is amended by inserting "App." after "49 U.S.C.".

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. Tower].

The amendment (No. 3213) was agreed to.

Mr TOWER. Mr. President, I believe the Senator from Maine [Mr. Mitchell] has an amendment that can be disposed of expeditiously.

AMENDMENT NO. 3214

(Purpose: To express the sense of the Congress with respect to survivors of the drilling ship *Glomar Java Sea*)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. Mitchell], for himself and Mr. Cohen, proposes an amendment numbered 3214.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

SURVIVORS OF THE "GLOMAR JAVA SEA"

SEC. 1019. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship *Glomar Java Sea* was reported missing during stormy weather at its drilling site ninety-six kilometers off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of forty-six of the eighty-one crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the *Glomar Java Sea*, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the *Glomar Java Sea* survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within twenty miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to request the Secretary General of the United Nations to seek the cooperation of the Government of Vietnam with the Governments of the United States, the People's Republic of China, the United Kingdom, Singapore, Australia, Canada, and the Philippines in ascertaining the fate or locations of the forty-six crewmen of the sunken United States registered vessel *Glomar Java Sea*.

Mr. MITCHELL. Mr. President, this morning the "CBS Morning News" and the "Today Show" each carried stories concerning the possibility that there may exist in Vietnam survivors from the sinking last October of the *Java Sea*, a drilling vessel owned by the Global Marine Corp. of Houston.

According to CBS, attorney Douglas Pierce, the father of a member of the *Java Sea's* crew, is now in the Philippines saying that his son Jonathan and five other Americans from that ship are alive and are being held in a Vietnamese prison.

Though all of this is denied by the Government of Vietnam, Mr. Pierce offers evidence which suggests that the story in his letter may be true. Specifically, Mr. Pierce emphasizes:

That at least one *Java Sea* lifeboat got away from the sinking mother vessel and was sighted;

That 9 probably 11 SOS signals are reported to have been received, with the last one coming from about 14 miles off the Vietnamese coast; and

That in the salvage operation which has occurred since the October tragedy, the bodies of only 35 crewmen have been found.

While it may seem fantastic that 8 months after the sinking of the *Java Sea*, possible survivors may exist in Vietnam, Members of the Senate should be aware that many crewmen families have good reasons to believe that their loved ones, in fact, may be alive.

On March 22, I introduced, with Senator Cohen, a concurrent resolution which, if approved, would express the view of Congress that the President should take further action concerning the *Java Sea* incident. specifically, the resolution calls on the President to request the United Nations Secretary General to assist the United States in obtaining Vietnam's full cooperation in determining what has happened to the 46 people who have not yet been located. A similar resolution has been introduced in the House and is cosponsored by over 100 Members.

It is this resolution, now cosponsored by 17 Senators, in addition to myself and Senator Cohen, that we now propose as an amendment to the pending bill.

Quite simply, the goal of the amendment is to obtain the information necessary to put this horrible incident behind us.

Unless further actions are undertaken, nagging questions will remain.

Mr. President, this is a noncontroversial sense-of-the-Senate resolution that has been cleared on both sides.

Mr. COHEN. Mr. President, I am pleased to join my colleague, Senator Mitchell, today in submitting this amendment calling for intensified efforts to determine the fate of as yet unaccounted for crewmembers of the U.S. registered oil drilling ship *Glomar Java Sea*.

After *Glomar Java Sea* sank in the South China Sea during Typhoon Lex last October 25, the families of the 81 men who were on the ship lived with uncertainty over their fate. A search effort several months ago succeeded in recovering more than 30 bodies.

This left the fate of more than half the members of the crew uncertain. Repeatedly over the last several months, there have been tantalizing hints that there were survivors of that disaster. Two 30-foot lifeboats launched from the *Glomar Java Sea* have not been located. The sea currents in the area of the South China Sea are such that wreckage from the ship, and any lifeboats from the ship, would likely have been washed onto the shores of Vietnam. And indeed, a British search helicopter received a distress signal, giving the identification number of *Java Sea*, from approximately 14 miles off the Vietnamese coast.

But the Government of Vietnam refused to allow search aircraft from the United States, or indeed those of any of the nations concerned—China, Singapore, and the Philippines—to scour any closer than 20 miles from the Vietnamese coast. The Government of Vietnam further claimed that they undertook several searches of the relevant area and turned up nothing—no lifeboats, no wreckage, no survivors, no bodies.

But rumors persisted that the Government of Vietnam was not telling the truth in this matter, that at least a few men did survive the sinking and were being held inside Vietnam. A few days ago, a refugee from Vietnam said that he had personally seen six of the men from the ship; according to this man, these survivors are being held in a Vietnamese prison camp at this very moment.

What is the truth about the men of the *Java Sea*? Several months ago, in an attempt to discover the fate of these men, we wrote to administration officials, including President Reagan and Secretary of State Shultz. We were assured that our country was doing everything that it could to determine the fate of these men. Ambassador W. Tapley Bennett, Jr., Assistant Secretary of State for Legislative and Intergovernmental Affairs, told me that: "we have no independent evidence confirming or disproving that there are survivors of the sinking. The Vietnamese Government has denied repeatedly that it is holding any survivors. We share your deep concern, and assure you we will vigorously pursue any lead that offers hope of locating survivors."

The measure we are submitting today will, we hope, give added support to the international search effort that took place after the sinking of the *Java Sea*. What the amendment does specifically is express the sense of the Congress that the President should instruct our delegation to the United Nations to request the Secretary General to seek the cooperation of the Government of Vietnam with the United States, the People's Republic of China, the United Kingdom, Singapore, Australia, Canada, and the Philippines in ascertaining the fate or whereabouts of the crewmen still unaccounted for. This amendment will, I believe, give a clear demonstration of the ongoing commitment and concern of the Congress. Vietnamese officials and officials of the other countries which have joined us in trying to learn what happened to these men will know that we are united in our determination to know the truth about what happened to these men.

I know that none of us will be satisfied until each of these men's fate is accounted for. This is a difficult goal. It took over 4 months before the searchers were able to account for any of the missing men from the sinking. But we cannot ignore the essential human dimension that is involved. The families of the men still missing have been in anguish for over 7 months now. They want to know—we all want to know—the fate of their loved ones.

My special awareness of this human dimension has been through the courageous example of the wife of one of the crewmembers. Linda Reynolds, of Kennebunk, has been working with my office, and Senator MITCHELL's since the ship, with her husband Russell on board, capsized in the October typhoon.

Mrs. Reynolds, the mother of 2-year-old twins, believes that some of the crewmen may have been on the lifeboats and could have made it to the Vietnamese coastal waters. She has shown great determination in her contacts with our offices and with the State Department, as she seeks the answer of what happened to these men and tries to learn whether they might have survived the typhoon's winds and made it safely to Vietnam. As I mentioned earlier, there are strong indications that some of the crewmen may well have done exactly that.

We must not rest until we can account for all of the 81 men who served on the *Glomar Java Sea*. If there is any possibility that any of these men survived this tragic incident, we must pursue that possibility with every resource and through every channel we have available to us. Most importantly, we must have adequate reassurances from the Vietnamese Government that any of the crewmen who may have survived the sinking will be reunited with their families as soon as is humanly—or should I say, humanely—possible.

The **PRESIDING OFFICER**. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment [No. 3214] was agreed to.

### AMENDMENT NO. 3215

Mr. **WILSON**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 3215.

Mr. **WILSON**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 8, strike out "$8,959,300,000" and insert in lieu thereof "$8,939,300,000".

On page 9, between lines 2 and 3, insert the following:

"(e) not more than $145,000,000 is authorized for procurement associated with the Consolidated Space Operations Center".

On page 9, line 26, strike out "$13,972,507,000" and insert in lieu thereof "$13,992,507,000".

On page 11, between lines 10 and 11, insert the following:

"(e) $345,764,000 is authorized to assure the earliest practicable launch of the Space Shuttle from Vandenberg Air Force Base."

Mr. **WILSON**. Mr. President, my amendment authorizes an additional $20 million in Air Force research and development funds for the space shuttle program, which would restore the total authorization for this program to the levels originally requested by the Department of Defense. Based on information now available to the Armed Services Committee, full funding of the original request is necessary to prevent a slip in the schedule of the first space shuttle launch from Vandenberg Air Force Base, which would adversely affect important Department of Defense payloads. Offsetting funds for this purpose have been identified from Air Force other procurement associated with the consolidated space operations center. This amendment would reduce the $31 million previously recommended for authorization for the shuttle operations planning complex to $11 million. I am assured by the Department of Defense that this reduction will not have an adverse effect on shuttle operations and planning complex schedules that now appear achievable. Mr. President, I understand that this amendment is agreed to on both sides and move adoption of the amendment.

Mr. **NUNN**. Will the Senator yield for a brief question?

Mr. **WILSON**. Yes.

Mr. **NUNN**. As I understand the amendment, it does not add any money to the bill but roughly is a shifting of $20 million from one account to another account and really is to correct a technical error that was made in interpreting some of the bill language. Is that correct?

**Mr. WILSON.** My friend from Georgia has an absolutely correct understanding.

**Mr. NUNN.** I thank the Senator. I have no objection.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from California [Mr. Wilson].

The amendment No. 3215 was agreed to.

### AMENDMENT NO. 3185

(Purpose: To express the sense of the Congress relating to certain burdensome restrictions on the personal vehicles of members of the Armed Forces stationed in Japan)

**Mr. LEVIN.** Mr. President, I call up my amendment numbered 3185 and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. Levin] proposes an amendment numbered 3185.

**Mr. LEVIN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

### PERSONAL VEHICLES OF UNITED STATES MILITARY PERSONNEL IN JAPAN

Sec. 1019. (a) The Congress finds that—

(1) the Government of Japan does not permit members of the Armed Forces of the United States to take their vehicles into Japan for their personal use while assigned to a duty station in Japan unless such vehicles are modified to satisfy certain requirements of the Government of Japan;

(2) as a result of the restriction referred to in clause (1), members of the Armed Forces typically need to sell their personal vehicles before departing the United States to report to a duty station in Japan, to purchase vehicles in Japan for personal use while stationed in Japan, to sell such purchased vehicles before departing Japan to return to the United States, and to purchase vehicles in the United States upon the return;

(3) members of the Armed Forces incur a substantial financial burden in connection with the repeated sales and replacement of personal vehicles;

(4) the United States permits members of the Armed Forces of foreign nations to bring unmodified vehicles into the United States for their personal use while assigned to duty stations in this country; and

(5) the United States provides a substantial contribution to the defense of Japan and the waters surrounding Japan.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President, acting through the Secretary of Defense and the Secretary of State, should enter into negotiations with the Government of Japan for the purpose of obtaining the agreement of such government not to require the modification of the personal vehicles of members of the Armed Forces of the United States brought into Japan for their personal use while stationed in Japan.

(c) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of State shall transmit to the Congress a written report on the actions taken as a result of subsection (b). The report shall include—

(1) a description of the negotiations carried out with the Government of Japan, if any; and

(2) a description of the other actions the Government of the United States can reasonably take to obtain the agreement described in subsection (b).

**Mr. LEVIN.** Mr. President, this amendment would seek to correct a rather anomalous, almost bizarre situation where our service personnel assigned to Japan are, as a practical matter, unable to bring their automobiles over to Japan, even though they are helping to defend the islands.

The Japanese Government has certain stringent air-quality control measures which they apply to our servicesmen's automobiles. The cost of correcting the automobiles is such that, as a practical matter, they cannot take their automobiles over there.

We have 50,000 American troops helping to defend Japan and its waters. We think the Government of Japan ought to be willing to allow our soldiers to bring in their cars just the same as we allow all foreign members of the military forces of all foreign countries stationed in the United States, to bring in their cars and to be exempt from auto emission and safety standards here.

There are about 40 million vehicles in Japan that are owned by the Japanese. If every single member of the armed services wanted to bring in a car, it would constitute one-tenth of 1 percent of the vehicles on the Japanese highways. In other words, it would be a drop in the environmental bucket.

We think Japan ought to reciprocate our hospitality in welcoming the military forces of foreign countries with exceptions from these standards for automobiles. What this amendment does is ask the Secretary of State to sit down with the Japanese and seek to negotiate a modification of the Japanese requirements so that our personnel, who again are helping to defend the Japanese islands and the surrounding oceans, will be allowed to take in their automobiles.

**The PRESIDING OFFICER.** Is there further debate?

**Mr. LEVIN.** Mr. President, I understand this has been cleared on both sides of the aisle.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Michigan [Mr. Levin].

The amendment, No. 3185 was agreed to.

**Mr. LEVIN.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. EXON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3216

(Purpose: To limit procurement set-asides in certain circumstances)

**Mr. LEVIN.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. Levin] proposes an amendment numbered 3216.

**Mr. LEVIN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 92, between lines 22 and 23 insert the following:

"§ 2322. Limitation on Set-asides"

"The head of an agency shall not authorize the use of a set-aside for exclusive small business participation

"(a) in the case of the Foreign Military Sales Program, where the foreign government specifies the sources qualified to meet the requirement and only one of those sources is a small business concern, or

"(b) in the case of a prequalification requirement, where only one small business concern has met the standards for qualification.".

On page 93, before line 1, insert at the end of the items in the table of sections "§ 2322. Limitation on Set-asides".

**Mr. LEVIN.** Mr. President, the amendment I am offering has been cleared on both sides of the aisle. It would limit the use of a set-aside for small businesses in those relatively few instances where competition among small businesses is not possible.

As a member of the Armed Services, Small Business, and Governmental Affairs Committees, I have been a supporter of increased competition for Government procurements to increase opportunities for small business participation. I also support the Small Business Set-aside Program, which is intended to help small business concerns obtain a fair share of the Government's procurements by providing an opportunity for small businesses to compete.

Section 15(d) of the Small Business Act establishes as the priority the award of contracts under the set-aside program to small business concerns located within labor surplus areas where it is determined "that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonably prices." The phrase "sufficient number of eligible concerns" has been interpreted to mean "two or more small businesses," and has been extended to set-asides where the small business concerns are not located in labor surplus areas. To my knowledge, nothing in the Small Business Act or its legislative history provides authority for a set-aside where only one business is permitted to make an offer on the set-aside portion.

However, section 19.502-3(a)(5) of the Federal Acquisition Regulations (FAR) has been interpreted to allow a set-aside even though only one business concern can respond. I think this provision has no basis in the Small Business Act and is contrary to the intent of the set-aside program as established in that act because its effect is to guarantee that a sole-source award will be made.

The amendment I am offering—which, again, has been cleared on both sides of the aisle and I understand with the chairman and ranking members also of the Small Business Committee—would prevent the head of an agency or procuring activity from using a set-aside, where competition among small business concerns for a government requirement is precluded. The prohibition would apply where, under the FMS program, the foreign government specifies the sources qualified to meet the requirement and only one of those sources is a small business. It would also apply in cases where a military department has established a prequalification requirement and only one small business concern has met the standards for qualification. It should be noted that this amendment is prospective, and thus would not apply to any existing contracts awarded under this section of the FAR.

It is my belief that this amendment will correct an unintended anticompetitive effect of the set-aside program.

Mr. NUNN. Would the Senator yield for a brief question?

Mr. LEVIN. I would be happy to.

Mr. NUNN. I understand the Senator is saying a foreign government specifies only two concerns, one of them a large company, one is a small company, and the set-aside applies I believe to half of the contract. That means there is no competition at all on that half. Is that correct? Or there would have been no competition on that one-half of the set-aside?

Mr. LEVIN. There would be no competition on the portion of the set-aside, if there is only one small business that is bidding. That is not the purpose of the set-aside program which is to stimulate competition among small business, and by its description at the time it was adopted it is intended to promote competition among small businesses. If there is only one that is bidding, it would mean you would have a sole-source contract unintendedly achieved.

Mr. NUNN. I agree with the Senator. I agree with his amendment as I understand it. But I have one other question. What about the other half of that? Is that other half going to be automatically not set aside because the large business was not eligible for a set-aside, but was that other one-half of the contract just for the specific case going to be bid between the two companies, the small and the large, or was it going to be since the large business is getting half and the small business getting half?

Mr. LEVIN. The intention is to produce competition among more than one bidder. So both would be able to bid.

Mr. NUNN. So both of them would have been able to bid?

Mr. LEVIN. That is the intent.

Mr. NUNN. There would be no restriction of competition? There would simply be a broadening of competition?

Mr. LEVIN. Exactly.

Mr. NUNN. Does this admendment apply generically across the board, domestic as well as contracts that would come under the small business set-aside?

Mr. LEVIN. I think under this particular amendment it only applies to FMS, but I happen to support it in a much more generic way because I think the purpose again is that we stimulate competition. I would have no objection to its being broadened to the other.

Mr. NUNN. This is just foreign military?

Mr. LEVIN. It is because that is the more closely related to the section and the title in this bill.

Mr. NUNN. I know the Senator is very effective and active in the small business arena community. This may be a matter the Small Business Committee wants to take a look at to determine whether there are terms in domestic instances where we are basically by setting aside a program ending up with a sole-source contract without competition?

Mr. LEVIN. I think we ought to. I would not want to broaden it tonight without the Small Business Committee participating.

Mr. STEVENS. Mr. President, what is the effective date of the Senator's amendment?

Mr. LEVIN. The date the act was signed.

Mr. STEVENS. It would apply to 1984 funds?

Mr. LEVIN. It would apply to contracts which have not yet been entered into. It is prospective only by its terms.

Mr. STEVENS. It would seem to this Senator that that could well enterrupt existing procurement and provide a process underway with 1984 funds. It is an 1983 authorization. Would the Senator consider making that amendment effective beginning with October 1?

Mr. LEVIN. It is intended to be prospective only. I think in effect if this bill were signed before October 1, as my friend is suggesting, it would not apply until October 1 in any event.

Mr. STEVENS. It is this Senator's feeling that there is procurement underway under the existing regulation, and it would take time for the amendment of the Senator to be really put forth, to amend regulations, and this could actually delay procurement underway now. I would have no objection if it were effective beginning in the next fiscal year. But as we are entering the balance of really the windup of this fiscal year, it would seem to me it would be a deterrent to effective management of the funds that have already been provided for 1984.

Mr. LEVIN. I wonder if my friend from Alaska might, in order to allow the time for any regulations, agree that it be effective 30 days after the signing of the bill. Would that give enough time for the purpose? If not, I have no great objection to it being effective October 1.

I do think it ought to be effective as soon as practically possible. If a 30-day provision does not meet the needs that were set forth by the Senator from Alaska, I have no problem with the October 1 effective date.

Mr. STEVENS. It is late at night, I know. But it just seems to me that there is really a period of gestation for the change that the Senator is suggesting to become meaningful. I am not arguing with the change. I think there is an administrative cost of going back and rebidding. There have been set-asides made. They are ready to be awarded. We have got the funds for 1984. I would urge you to make it apply beginning with fiscal year 1985 which would be October 1, 1984.

Mr. LEVIN. I have no objection. I can either send a modification to the desk to do that now, write it out, or we can take care of that I think in conference with the permission of the chairman and ranking members of the committee; either way that is the easiest.

Mr. STEVENS. That is agreeable with me. I think we ought to make sure that we do not complicate the 1984 procurement process.

Mr. LEVIN. If the chairman and ranking members of the committee would agree, we could take care of it in conference. If not, we can write out an amendment now to modify it.

Mr. NUNN. If the Senator from Michigan with his usual diligence and alertness can assure us that he will attend to that, and bring it to our attention, I would be delighted to agree with that. We may have other matters that dominate our attention in conference.

**Mr. LEVIN.** Whatever diligence I have left I will apply to this matter and bring it to our attention in conference, if that satisfies my friend from Alaska.

**Mr. STEVENS.** It certainly does.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Michigan [Mr. LEVIN].

The amendment (No. 3216) was agreed to.

**Mr. LEVIN.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. WARNER.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. LEVIN.** Mr. President, I thank the chairman and ranking member, my friend from Alaska.

### AMENDMENT NO. 3217

(Purpose: To require the Secretary of the Navy to supplement the environmental impact statement of the Navy regarding the proposed transfer of military and civilian Navy personnel from Virginia to Washington, DC, with additional pertinent information)

**Mr. WARNER.** Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3217.

**Mr. WARNER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

SUPPLEMENTAL INFORMATION TO THE ENVIRONMENTAL IMPACT STATEMENT OF THE NAVY ON THE PROPOSED TRANSFER OF CERTAIN PERSONNEL

SEC. . In addition to any other requirements regarding an environmental impact statement prepared by the Secretary of the Navy in connection with any proposed transfer of military and civilian personnel of the Department of the Navy from Arlington County, Virginia, to the Washington Navy Yard in Washington, D.C., the Secretary of the Navy shall also prepare as a supplement to such impact statement a detailed analysis with respect to the following matters:

(1) The socio-economic impact on the area from which the transfer is proposed to be made.

(2) The impact of the proposed transfer on the traffic capacity of bridges over the Potomac River and the Anacostia River.

(3) The impact of the proposed transfer on shuttle requirements of the Department of Defense.

(4) The overall impact of the proposed transfer on the area from which the transfer is proposed to be made and on the area to which the transfer is proposed to be made, taking into consideration all other planned moves of personnel by the Navy to the Washington Navy Yard and by all other agencies of the Government.

(5) The impact of such proposed transfer, and all other planned transfers to the Washington Navy Yard, on both present and potential parking capacity in the vicinity of such facility.

(6) The impact of the proposed transfer on communications and security requirements of the Navy.

(7) The impact of the proposed transfer on supporting and servicing contractors and the impact that the movement of such contractors will likely have on public and private facilities in the area from which they move and the area to which they move.

**Mr. WARNER.** Mr. President, this is a very simple amendment that is cleared on both sides. It merely provides that the Department of the Navy in its current work on the environmental impact statement relating to the possible transfer of some naval officers now located outside the Washington Navy Yard into the Washington Navy Yard, expand the EIS to include other additional considerations.

Mr. President, in 1972, while Secretary of the Navy, I implemented a now longstanding Navy policy to disperse personnel throughout the Washington area.

At that time, the old main Navy tempos on Constitution Avenue were demolished to make room for a park and many Navy personnel were transferred to northern Virginia, largely in rented space in Crystal City.

In July 1981, the Navy announced that it would begin studying a proposal to relocate personnel from seven locations in northern Virginia to the Washington Navy Yard where new office buildings will have to be constructed.

I felt then that moving back to Washington could be a costly move and one which would adversely impact upon available transportation.

It seemed unwise to contemplate forcing more than 18,000 additional people into the rush-hour traffic jams we already have on the Potomac and Anacostia River bridges.

Not only would it be a hardship on them, it would worsen the situation for hundreds of thousands of Virginia and Maryland commuters who already use those bridges. Subway transportation remains uncertain.

Mr. President, in the first session of the 98th Congress, the Navy released its draft environmental impact statement on the proposed move.

At this time, I remain unconvinced that this move would be in the best interests of all concerned.

The environmental impact statement, in my judgment, falls short of adequately addressing several important factors which could be heavily impacted should the move to the Navy Yard be effected.

Mr. President, I believe that a majority of my colleagues in the Senate would agree that one must have all of the facts available before making a judgment which will, most assuredly, impact on literally thousands of lives and cost millions of dollars.

Quite simply, my amendment calls on the Navy to supplement the environmental impact statement to address some very important, previously unanswered questions.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Virginia [Mr. WARNER].

The amendment (No. 3217) was agreed to.

**Mr. WARNER.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. NUNN.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. WARNER.** Mr. President, I wish to thank the distiguished chairman and ranking minority member for their help on this amendment.

### AMENDMENT NO. 3204—PENDING BUSINESS

**Mr. NUNN.** Mr. President, I ask unanimous consent that the amendment No. 3204, which was offered by the Senator from West Virginia [Mr. BYRD], be made the pending business when we resume consideration of this bill in the morning.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

### OPPOSITION TO MOTION TO RECOMMIT

**Mr. SPECTER.** Mr. President, I voted against recommitting the DOD authorization bill to committee for further cuts although I agree that the spending levels in the bill should be reduced in certain areas. There will, however, be further opportunities for such reductions as the full Senate considers additional amendments for cuts in specific programs and especially in the House-Senate conference. Since the spending levels recommended by the House are substantially lower than those of the Senate committee, there will virtually certainly be significant reductions in conference.

If the bill were recommitted, we could not complete Senate action in time for conference and final passage before Congress recesses June 29 for nearly 1 month. Meeting that deadline is essential if we are to preserve an effective and orderly and properly "to provide for the common defense." Delays arising from recommitment, even for a brief period, are unacceptable under these circumstances.

### WALLOP AMENDMENT TO THE WARNER AMENDMENT (NO. 3186)

● **Mr. EVANS.** Mr. President, I join my colleagues in opposition to this amendment. I do not oppose Senator WALLOP's intent in proposing it; no one in the Senate wishes to constrain the President's ability to act in the national security interests of the United States. However, I do not believe that this amendment is necessary. The Warner amendment as it currently reads does not prevent the President from acting in accordance with our national security requirements. If the Wallop amendment is adopted it will undermine the bipartisan support for the Warner amendment which is crucial for its passage here tonight in the Senate, and for its effectiveness as a statement of the Senate's will on ASAT and arms control.

The compromise achieved by my colleagues Senators WARNER, TSONGAS, NUNN, PRESSLER, and EXON represents a balanced response to the concerns of Senators on both sides of the issue we have been debating today. With an issue as complex and difficult as antisatellite weapons and their limitations through arms control negotiations, it is essential that the Senate make its intent absolutely clear, both to the administration and the Soviet Union. I believe the Warner amendment does this. It succeeds in expressing the Senate's will on antisatellite weapons testing and ASAT arms control without in any way undermining the President's ability to protect and preserve the national security of the United States.●

## ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business during which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMEMORATING THE CENTENNIAL OF THE INSTITUTE OF ELECTRICAL & ELECTRONICS ENGINEERS

Mr. WARNER. Mr. President, recently, the largest technical professional organization in the world celebrated its centennial.

The Institute of Electrical & Electronics Engineers [IEEE], with more than 230,000 members in over 120 countries, dates its inception to the formation of the American Institute of Electrical Engineers [AIEE] on May 13, 1884.

Then, as now, progress was accelerating in all areas for application of electrical technology.

The AIEE was initially formed in response to plans for an international electrical exhibition to be held by the Franklin Institute in Philadelphia later that year.

The AIEE quickly became recognized as the representative organization for American electrical engineers.

The AIEE's major interests were wire communications and light and power systems.

In the early 1900's, the growing interest in wireless communication led to the formation of a national society in 1912, the Institute of Radio Engineers.

Sharing many members in common and with the growth in applications of electronics rapidly removing their distinctions, the AIEE and IRE merged in 1963 to form the present IEEE.

Today it is taken for granted that America is a high-technology society.

As we look back over the last 100 years, we see that developments in electricity and electronics have been at the forefront of our continuing technological revolution.

Radio, radar, transitors, television, computers, and countless other devices have revolutionized our world.

In virtually all of these, AIEE, IRE and later IEEE scientists and engineers led the way.

The defense of our Nation and the Free World now depends heavily on technology developed and implemented by some of the most talented and respected scientists and engineers in the world, many of whom are IEEE members.

It was my privilege to have received training in electronics at U.S. Navy schools during World War II, so I have a special interest in this field.

We in Congress have also benefited directly from the IEEE.

IEEE members have testified before many committees not only on technology issues but also on diverse topics such as pensions, education, patents, software copywriting, and age discrimination.

For over a decade now, the IEEE has annually sponsored a Congressional Fellows Program that has provided competitively selected technical professionals an opportunity to serve in member and committee staff positions.

This program has proven invaluable to many of us over the years.

Currently there are three IEEE congressional fellows serving on Capitol Hill.

Mr. George F. Swetnam, Jr., is working on the staff of Senator BILL BRADLEY, Mr. Joseph A. Edminister, Esq., is working on the staff of Congressman DENNIS ECKART, and Lt. Col. Guy L. Copeland, USA, is working on my staff.

IEEE congressional fellows are able to make important contributions based on their technical and professional training and experience.

In turn, they gain insights to the legislative and regulatory process that are invaluable to the future contributions they make in their professions and for the IEEE.

I salute the IEEE as it commemorates its centennial through many scheduled events this year.

IEEE members have an unsurpassed record of contribution to the greatness of America and the advance of world progress.

We look forward in awe to the many potential technology advances just over the horizon.

If the next 100 years are as exciting as the last, even today's science fiction writers will have trouble predicting what lies in store for us.

Wherever the advance of technology leads us, it is apparent that the IEEE membership, as in the past, will continue to be at the forefront.

## IN MEMORY OF ERNEST W. McFARLAND

Mr. DeCONCINI. Mr. President, last week the State of Arizona lost one of its great citizens, statesman, and outstanding civil leaders when Ernest W. McFarland passed away.

Ernest McFarland was indeed a great public figure in my State and our Nation. He embodied all that Arizona stands for; he was a true pioneer. He came to Arizona 65 years ago with $10 in his pocket and a strong desire to become involved in State politics. Ernest McFarland served first as assistant attorney general and then as Pinal County attorney and Pinal County superior court judge. By starting on lower levels of State government, he was able to understand the needs of the people of Arizona. All who knew him claimed that he was a true individual and believed that everyone should be treated as such.

When Ernest McFarland moved on to the U.S. Senate in 1940, and became the majority leader not long after, he never forgot the peopole who not only placed him in office, but trusted him as a true friend. For this, we, the citizens of Arizona, are deeply grateful and indebted. Throughout his prestigious career in the Senate, he sponsored numerous bills and amendments. He coauthored the GI bill of rights soon after World War II, which insured that servicemen returning home would be treated fairly and with just respect.

Upon returning to Arizona to begin a long career in some of the highest ranking positions, Ernest McFarland continued to speak out about national issues in which he was concerned. He served two terms as Governor, then moved on to be elected to the Arizona supreme court in 1964 and was named chief justice in 1968. Leaving public office in 1970 to open a private law practice in Phoenix never stopped Earnest McFarland from becoming involved in prominent issues and giving advice to leaders not only in Arizona, but the entire Nation. Never before had one man held so many high ranking offices, and it is doubtful that anyone will accomplish so much for so many again.

He was an outstanding citizen in all respects. He contributed to Arizona the McFarland Historical State Park, which is the permanent home of the papers and memorabilia this great legislator accumulated over his many years. It was a generous and much appreciated act that the people of Arizona will not soon forget. To sum up in a few words all that Earnest McFarland has done would be impossible, but it should be noted that he will be greatly missed, and his memory will be preserved for all to admire.

## CONGRESSIONAL FAST AND PRAYER VIGIL

**Mr. BOREN.** Mr. President, today I joined my colleagues as a participant in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry. Many Soviet Jews and Christians have had their human and religious rights violated by the Soviet Union.

I participated particularly on behalf of Naum and Fiana Kogen and Zacher Zunshine. Senator CARL LEVIN and I met the Kogens while on a trip to Russia 5 years ago. The Kogens have been denied permission to emigrate, despite the fact that they have followed all of the proper procedures for applying for immigration, and despite their very poor health. I am pleased that the Jewish community in Oklahoma City has adopted Naum and Fiana for help, correspondence, and prayers. Zunshine was arrested a few months ago for anti-Soviet behavior. This unacceptable behavior was limited to a formal request to Soviet authorities for permission to emigrate. Zunshine has been singled out for special attention by several members of the Jewish community in Tulsa, OK.

Recently, I placed telephone calls to several Soviet officials to express my personal concern about Zunshine's case. Conviction for a simple act of requesting permission to emigrate could set a dangerous precedent in Soviet treatment of Jews and Christians.

Soviet Jews and Christians are being victimized by the current deterioration in relations between the Soviet Union and the West, and it is incumbent upon us to call upon the Soviet Union to end this injustice. We must not forget these brave people who are being persecuted in the Soviet Union. Denying liberty to any individual diminishes the concept of freedom and its protection for all humanity.

When I returned from Russia in 1979, I organized a letter-writing campaign on behalf of Jews and Christians whom Senator LEVIN and I met during the trip. I received several thousand letters, largely from Oklahomans, asking Soviet authorities to give these persons permission to emigrate and turned over the letters to Soviet officials here in Washington.

I am very pleased that since my trip in 1979, members of two families with whom Senator LEVIN and I met have been allowed to emigrate. These families had lived in the basement of the U.S. Embassy in Moscow for over 7 years. They had fled there for fear of their lives after refusing to curtail the practice of their own religion.

Millions of other Soviet Jews and Christians are being denied the right to emigrate from the Soviet Union by the Soviet Government. By participating in today's Fast and Vigil for Soviet Jewry, I hope that I can contribute in a small way to helping to win the freedom to emigrate for the Kogens, for Zacher Zunshine and for countless others. The Government of the Soviet Union could make a great contribution to the cause of peace in the world and to restoring a more constructive dialog with the West by taking compassionate and humane action in cases like these.

## DEATH OF MIKE MAPES LEAVES THE NATIONAL PEACE ACADEMY CAMPAIGN WITH IRREPARABLE LOSS

**Mr. MATSUNAGA.** Mr. President, it is with great regret and deep sorrow that I rise to inform my colleagues of the death, earlier this week, of Milton C. "Mike" Mapes, the executive director of the National Peace Academy Campaign and a former special counsel to the Senate Interior Committee—now the Committee on Energy and Natural Resources.

Born in New Haven, CT, Mr. Mapes was a graduate of the U.S. Naval Academy in Annapolis. He earned an LL.B. degree at Yale Law School and was a member of the bars of the District of Columbia, Oregon, and the U.S. Supreme Court. Mike, as he was called by his multitude of friends, also earned a master's degree in Soviet area studies from American University and a master's degree in political science from the University of Maryland. His career included 4 years of sea duty with the Navy during the Korean conflict, the private practice of law in partnership with his wife, Jane Richardson Mapes, and 11 years as an executive with the Agency for International Development [AID], in addition to service with the Senate Committee.

Mike Mapes joined the staff of the newly organized National Peace Academy Campaign in 1977 and became its executive director in 1979. During his tenure, the private, nonprofit organization's membership increased from a few hundred to its current 42,000, in chapters throughout the country.

Mr. President, as Chairman of the U.S. Commission on Proposals for the National Peace Academy Campaign, and, later, as a principal sponsor of legislation to create a U.S. Academy of Peace, I became personally acquainted with Mike and frequently worked with him and members of the campaign on matters relating to this important and historic legislation. I can think of no one more dedicated to the cause of world peace and more committed to the development of methods of nonviolent conflict resolution than was Mike. And, yet, Mike, a veteran and attorney, was a most pragmatic and practical person who recognized the need to educate members of Congress and the American public about the need for a focussed federal investment in peace—about the need for a national peace academy. He worked hard to achieve this objective through the National Peace Academy Campaign and, especially during the last 18 months after he learned that he was afflicted with leukemia, he impressed all who knew him with his courage and dedication to the cause.

Personally, I believe that there could be no better memorial to Mike Mapes than the establishment of a U.S. Academy of Peace and I hope that his many friends in Congress and throughout the country will rededicate themselves to this effort. I extend to Mike's beloved widow, Jane, his two sons, his mother, and the other members of his bereaved family, my heartfelt sympathy and condolences.

## MESSAGE FROM THE HOUSE

### ENROLLED JOINT RESOLUTIONS SIGNED

At 6:5" p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day"; and

S.J. Res. 296. Joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

## MEASURE HELD AT THE DESK

The following bill was ordered to be held at the desk for not to exceed 10 calendar days, by unanimous consent:

H.R. 5504. An act to apportion funds for construction of the National System of Interstate and Defense Highways for fiscal years 1985 and 1986, to revise authorizations for mass transportation, to expand and improve the relocation assistance program, and for other purposes.

## ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, June 14, 1984, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day"; and

S.J. Res. 296. Joint resolution to designate June 14, 1984, as "Baltic Freedom Day."

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

**EC-3391.** A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on one new deferral and a revision to one previously reported deferral; jointly, pursuant to the order of January 30, 1975, to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on the Budget, and the Committee on Foreign Relations.

**EC-3392.** A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of June 1, 1984; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

**EC-3393.** A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on one new deferral; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources.

**EC-3394.** A communication from the Secretary of the Navy transmitting a draft of proposed legislation to exempt the Secretary of Defense from the contract award report requirement in two additional instances; to the Committee on Armed Services.

**EC-3395.** A communication from the President and Chairman of the Export-Import Bank transmitting, pursuant to law the fiscal year 1983 annual report of the Bank; to the Committee on Banking, Housing, and Urban Affairs.

**EC-3396.** A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report on policy issues involving the exclusive economic zone of the United States; to the Committee on Commerce, Science, and Transportation.

**EC-3397.** A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, a report on a time extension on the appeal in Potomac Electric Power Company against the Baltimore and Ohio Railroad Co., et al., to the Committee on Commerce, Science, and Transportation.

**EC-3398.** A communication from the Secretary of the Interior transmitting, pursuant to law, notice of a leasing system sale No. 84 in the Western Gulf of Mexico to be held in July; to the Committee on Energy and Natural Resources.

**EC-3399.** A communication from the Acting Administrator of GSA transmitting, pursuant to law, prospectuses for alterations in certain Federal buildings during fiscal year 1985; to the Committee on Environment and Public Works.

**EC-3400.** A communication from the Acting Administrator of GSA transmitting, pursuant to law, a lease prospectus for space in Washington, D.C.; to the Committee on Environment and Public Works.

**EC-3401.** A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report of foster care and adoption assistance; to the Committee on Finance.

**EC-3402.** A communication from the Chairman of the U.S. International Trade Commission transmitting, pursuant to law, the 35th report on the operation of U.S. trade agreements during 1983; to the Committee on Finance.

**EC-3403.** A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1984 annual report of the Social Security Administration; to the Committee on Finance.

**EC-3404.** A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to June 11, 1984; to the Committee on Foreign Relations.

**EC-3405.** A communication from the Acting Secretary of State, transmitting, pursuant to law, a report on payments made by the Commodity Credit Corporation to U.S. creditors on credits guaranteed by the CCC for which payments had not been received from the Polish People's Republic during May 1984; to the Committee on Foreign Relations.

**EC-3406.** A communication from the Director of the Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide more equitable benefits for spouses and former spouses under the Civil Service Retirement System, and for other purposes; to the Committee on Governmental Affairs.

**EC-3407.** A communication from the Director of the United States Information Agency, transmitting, pursuant to law, a supplement to their first report regarding an evaluation of the system of internal accounting and administrative controls; to the Committee on Governmental Affairs.

**EC-3408.** A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report on the activities of the Office of Inspector General, Department of Commerce for the period October 1, 1983 through March 31, 1984; to the Committee on Governmental Affairs.

**EC-3409.** A communication from the Plan Administrator of the Eighth Farm Credit District Employee Benefit Trust, transmitting, pursuant to law, the annual report of the trust's pension plan for 1983; to the Committee on Governmental Affairs.

**EC-3410.** A communication from the Assistant Secretary of the Smithsonian Institution (Administration), transmitting, pursuant to law, the annual report on the pension plan of the Teacher's Insurance and Annuity Association/College Retirement Equities Fund for 1983; to the Committee on Governmental Affairs.

**EC-3411.** A communication from the Chief Scout Executive of the Boy Scouts of America, transmitting, pursuant to law, the 1983 annual report of the Boy Scouts of America; to the Committee on Labor and Human Resources.

**EC-3412.** A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the status of the Small Business Export Development Assistance Program; to the Committee on Small Business.

**EC-3413.** A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms for October 1983 through January 1984; to the Committee on Small Business.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Appropriations, with amendments:

H.R. 5753. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-515).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 296. A bill for the relief of Ramzi Sallomy and Marie Sallomy (Rept. No. 98-516).

S. 516. A bill for the relief of Barbara Crisp, Sean Anthony Crisp, and Andrea Leech (Rept. No. 98-517).

S. 1414. A bill for the relief of Rebecca Lynn Higgins (Rept. No. 98-518).

S. 2729. A bill for the relief of Jean Willhelm Willrich (Rept. No. 98-519).

H.R. 3131. A bill for the relief of Marina Kunyavsky (Rept. No. 98-520).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 796. A bill for the relief of Bassam S. Belmany (Rept. No. 98-521).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 1140. A bill for the relief of Patrick P. W. Tso, Ph.D. (Rept. No. 98-522).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 396. A resolution to express the sense of the Congress that January 27 through February 2, 1985, should be observed as "National Meat Week."

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment and with a preamble:

S.J. Res. 55. Joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 270. Joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp."

S.J. Res. 297. Joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

S.J. Res. 306. Joint resolution to proclaim July 10, 1984, as "Food for Peace Day."

By Mr. WEICKER, from the Committee on Small Business:

Report to accompany the bill (S. 2489) to amend the Small Business Act to enhance competition in Government procurement (Rept. No. 98-523).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Robert M. Hill, of Texas, to be U.S. circuit judge for the fifth circuit;

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California;

James M. Ideman, of California, to be U.S. district judge for the central district of California;

William J. Rea, of California, to be U.S. district judge for the central district of California;

Peter K. Leisure, of New York, to be U.S. district judge for the southern district of New York;

Franklin S. Billings, Jr., of Vermont, to be U.S. district judge for the district of Vermont;

Layn R. Phillips, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years;

John D. Tinder, of Indiana, to be U.S. attorney for the southern district of Indiana for a term of 4 years; and

Joseph Wentling Brown, of Nevada, to be a member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1986.

By Mr. Hatch, from the Committee on Labor and Human Resources:

Frank C. Casillas, of Illinois, to be an Assistant Secretary of Labor;

Albert Lee Smith, Jr., of Alabama, to be a member of the Federal Council on the Aging for a term expiring December 19, 1985; and

The following-named persons to be members of the Board of Trustees of the Harry S. Truman Scholarship Foundation for term expiring December 10, 1989:

Anita Miller, of California; and

Elmer B. Staats, of the District of Columbia.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject ot the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 2761. A bill for the relief of the White Sands ranchers of New Mexico; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself and Mr. Stevens):

S. 2762. A bill entitled the "Barrow Gas Field Transfer Act of 1984"; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 2763. A bill to amend title 13, United States Code, to provide for grants to State and local governments to assist in eliminating census undercounts, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PERCY (by request):

S. 2764. A bill to authorize U.S. participation in the International Jute Organization; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself and Mr. Jepsen):

S. 2765. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to guarantee certain outstanding agricultural loans which are modified by private lenders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself, Mr. Biden, Mr. Moynihan, Mr. D'Amato, Mr. Baker, Mr. Stevens, Mr. Kennedy, Mr. Laxalt, Mr. Hatch, Mr. Dole, Mr. Grassley, Mr. Denton, Mr. Specter, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Baucus, Mr. Heflin, Mr. Percy, Mr. Kasten, Mr. Nickles, Mrs. Hawkins, Mr. Pressler, Mr. Pell, Mr. Hollings, Mr. Boschwitz, Mr. Stafford, Mr. Chiles, Mr. Zorinsky, Mr. Jepsen, Mr. Humphrey, Mr. Ford, Mr. Trible, Mr. Levin, Mr. Lautenberg, Mr. Heinz, Mr. Cochran, Mr. Hart, Mr. Lugar, Mr. Domenici, Mr. Simpson, Mr. Goldwater, Mr. Bradley, Mr. Matsunaga, Mr. Gorton, Mr. Wilson, Mr. Dodd, Mrs. Kassebaum, Mr. Murkowski, Mr. Abdnor, Mr. Nunn, Mr. Quayle, Mr. Warner, Mr. Cranston, Mr. Packwood, Mr. Randolph, Mr. Garn, Mr. East, Mr. Hatfield, Mr. Danforth, Mr. Armstrong, Mr. Proxmire, Mr. Johnston, Mr. Evans, Mr. Chafee, Mr. Long, Mr. Cohen, Mr. Wallop, and Mr. Tower) (by request):

S. 2766. A bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition; to the Committee on the Judiciary.

By Mr. D'AMATO:

S. 2767. A bill for the relief of Douglas and Maureen Wilkie; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. Bingaman, Mr. Percy, Mr. Pell, and Mr. Baker):

S. 2768. A bill to provide for the education in the United States of certain students of limited financial means from developing countries; to the Committee on Foreign Relations.

By Mr. HELMS:

S. 2769. A bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes; to the Committee on the Judiciary.

By Mr. MELCHER (for himself and Mr. Abdnor):

S. 2770. A bill to protect consumers franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes; to the Committee on the Judiciary.

By Mr. LEVIN:

S.J. Res. 310. Joint resolution to designate the week beginning September 16, 1984, as "National Osteopathic Medicine Week"; to the Committee on the Judiciary.

S.J. Res. 311. Joint resolution to designate the week of October 13, 1984, through October 19, 1984, as "National Independent Laboratory Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Res. 405. Resolution to refer the bill (S. 2761) entitled "A bill for the relief of the White Sands ranchers of New Mexico" to the Chief Commissioner of the United States Court of Claims for a report thereon; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. Baker, Mr. Byrd, and Mr. Ford):

S. Con. Res. 122. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; to the Committee on Rules and Administration.

By Mr. DURENBERGER:

S. Con. Res. 123. Concurrent resolution relating to payment of attorneys' fees to the family of Baby Jane Doe; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2761. A bill for the relief of the White Sands ranchers of New Mexico; to the Committee on the Judiciary.

(The remarks of Mr. Domenici on this legislation appear earlier in today's Record.)

By Mr. MURKOWSKI (for himself and Mr. Stevens):

S. 2762. A bill entitled the "Barrow Gas Field Transfer Act of 1984"; to the Committee on Energy and Natural Resources.

### BARROW GAS FIELD TRANSFER ACT

Mr. MURKOWSKI. Mr. President, today I rise with my colleague, Senator Stevens, in the introduction of the Barrow Gas Field Transfer Act of 1984. This legislation proposes to transfer certain natural gas fields near Barrow, AK, from the Federal Government to the North Slope Borough, the unit of local government encompassing Barrow and the majority of the Alaska's North Slope.

Under the provisions of the Naval Petroleum Reserves Production Act of 1976, the Department of the Interior is obligated to supply the community of Barrow with natural gas at "reasonable and equitable rates." As a consequence of that provision, the Government has subsidized the operation and maintenance of those fields at a cost of approximately $6 million per year.

Several years ago, the Department of Interior initiated discussions with the North Slope Borough to transfer the responsibility for providing gas to the residents from the Federal Government to the borough. After months of negotiations, an agreement was finally reached and signed on September 22, 1983. This agreement is not self-executing, however, and Congress must confirm the agreement prior to October 1, 1984. This legislation will accomplish that goal.

An identical companion version of this bill, H.R. 5740, has already been introduced in the House of Representatives. Hearings have been held by the Public Lands Subcommittee of the Committee on Interior and Insular Affairs.

Yesterday, the full committee ordered the legislation reported to the House, and we anticipate that the House will adopt the legislation and send it to the Senate early next week.

The House hearings have demonstrated that there is broad support for this legislation, and there should be. Everybody wins under this approach, Mr. President.

The taxpayer wins because the Federal obligation to provide natural gas to the community of Barrow at subsidized rates is extinguished.

The residents of Barrow win because they will be able to exercise a higher degree of control over their energy future. The Federal Government is clearly not in the natural gas business, and cannot be expected to act in the best long-term interests of Barrow's gas consumers.

The Department of Interior, the North Slope Borough, the Arctic Slope Regional Corp. and the Ukpeagvik Inupiat Corp. have all endorsed this approach. In light of the merits of the bill and the broad, unanimous support that this bill enjoys, it would be my hope that the Senate will act with great haste to enact this measure into law.

By Mr. BINGAMAN:

S. 2763. A bill to amend title 13, United States Code, to provide for grants to State and local governments to assist in eliminating census undercounts, and for other purposes; to the Committee on Governmental Affairs.

### CENSUS AWARENESS AND ACCOUNTABILITY ACT OF 1984

● Mr. BINGAMAN. Mr. President, today I am introducing a bill which addresses the problems associated with the undercounting of minorities by the Census Bureau. The bill calls for the creation of a census awareness program to increase citizen awareness on the importance of the census in order to reduce undercounts.

Over 100 billion dollars' worth of governmental funds are distributed based upon census information. However, there is a serious question as to the reliability of the population data which is used. According to authorities, a serious undercount of the actual numbers of minorities now exists. The Census Bureau estimates that as much as 1 to 2 percent of the entire population was missed in 1980, with the highest concentration among minorities. Approximately 4.5 percent of those not counted in 1980 are black and 3.5 to 4 percent Hispanic. This undercount acts to shortchange cities and States where there are large concentrations of minority citizens.

My legislation, which is similar to legislation introduced in the House by Congresswoman KATIE HALL of Indiana, the chairwoman of the Subcommittee on Census and Population, H.R. 5720, is designed to assist in correcting this problem. Congresswoman HALL's subcommittee has held a series of hearings on the problems associated with the census undercount receiving testimony from mayors, statistical experts, Census Bureau representatives, and others. According to the testimony, nearly every State and many large cities spent hundreds of thousands of dollars in 1980 in an attempt to increase citizen awareness of the need to participate in the census. Efforts to reduce the undercount were also made by the Census Bureau. Yet despite these efforts, while the total number of persons uncounted in the 1980 decennial census decreased, the number of minorities uncounted in comparison to nonminorities remained approximately 4 to 1; no change since the 1970 census.

As more information is known about how our population is changing, even greater efforts must be made to improve the accuracy of population information. The proportion of minority groups, particularly foreign-born is growing at a rapid pace. Between 1970 and 1980 our foreign-born population rose from slightly under 10 million to more than 14 million, 6 percent of the total population. Approximately 10 percent of our central city population were foreign-born in 1980.

The Hispanic population is also growing at a rapid pace, representing about 6.4 percent of the total U.S. population in 1980. The Census Bureau reported 9 million Hispanics in 1970 and 14.6 million in 1980, a 61-percent increase since 1970. While this is considered the most accurate ever count it is believed to be significantly lower than actual totals. Other minority groups are in a similar situation despite the efforts of the Census Bureau to reach these groups.

It is obvious that, despite the efforts of State and local governments and the Census Bureau, more needs to be done to get to the root of the reasons for the undercount.

According to testimony of Arnoldo S. Torres, national executive director of the League of United Latin American Citizens, there are several reasons for the undercount, including fear, hostility and apathy among minority citizens. Mr. Torres and others believe, however, that steps can be taken to improve accuracy through greater promotional campaigns directed at the existing negative preceptions. Assurances of confidentiality also must be maintained and local, State, regional and national efforts must be made to address the problems of undercounting. Of course, if possible current methodologies must continue to be improved.

The Census Awareness and Accountability Act of 1984 addresses these needs and is a necessary step toward the reduction of the Census undercount which now exists. It authorizes the creation of a 5-year Census Bureau grant program to State and local governments to plan, develop, and operate State and local minority advisory committees intended to increase citizen awareness and cooperation for compiling population data necessary to complete the 1990 decennial census. Funding levels for the program would be set at $20 million for fiscal years 1986-89 and $50 million for fiscal year 1990, subject to annual review and appropriations. The bill further instructs the Director of the Bureau of the Census to issue rules and regulations to govern distribution of all appropriated funds. The Secretary of Commerce is also required to report to Congress prior to the 1990 census on intended procedures for correcting undercounting or overcounting.

I hope this legislation will receive thorough and prompt consideration of the Senate. The 1990 census is only a little more than 5 years away. As the importance of the census and population data increases steps must be taken to improve its accuracy. The undercount, while it can not be eliminated, it can be minimized and compensated for. I hope my colleagues will join me in supporting this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2763

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Census Awareness and Accountability Act of 1984".

SEC. 2. Section 141(f) of title 13, United States Code, is amended

(1) by striking out "and" at the end of the paragraph (2); and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) not later than 18 months before the appropriate census date, a report containing the Secretary's determination concerning the procedures, if any, for estimating and adjusting for any overcount or undercount in any tabulation of total population by State or other geographic area which may occur in such census (including the estimated total cost and the projected timetable for carrying out any such procedures, and the characteristics of any population groups particularly affected by or involved in the overcount or undercount); and

"(4) after submission of a report under paragraph (1), (2), or (3) of this subsection and before the appropriate census date, if the Secretary finds new circumstances exist which necessitate that the subjects, types of information, questions, or procedures (or any cost estimate, timetable, or population description accompanying such procedures) contained in the report so submitted be modified, a report containing the Secretary's determination of the subjects, types of information, questions, or procedures (or accompanying matter) as proposed to be modified.".

SEC. 3. (a) Title 13, United States Code, is amended by inserting after section 141 the following new section:

"§ 141a. Grants

"(a) The Secretary shall establish a program to provide grants to States and local units of general purpose government in order to promote activities designed to minimize the extent of any undercounts which may occur in the decennial census of population conducted under section 141(a) of this title in 1990.

"(b) Grants under this section may be made only if appropriate written application is submitted at such time, in such manner, and complete with such information, as the Secretary may by regulation require.

"(c) The Secretary shall consult with the Director of the Census in making a determination with respect to any application under this section and in otherwise carrying out the requirements of this section.

"(d) A grant under this section—

"(1) shall be paid from sums available under subsection (e) of this section; and

"(2) shall be made in such amount as may be approved by the Secretary, except that—

"(A) in each of fiscal years 1986, 1987, 1988, and 1989, not more than $500,000 may be awarded with respect to any State (including any local units of general purpose government within such State) in such fiscal year; and

"(B) in fiscal year 1990, not more than $1,000,000 may be awarded with respect to any State (including any local units of general purpose government within such State) in such fiscal year.

"(e) There are authorized to be appropriated $20,000,000 for each of fiscal years 1986, 1987, 1988, and 1989, and $50,000,000 for fiscal year 1990, in order to carry out this section.

"(f) For purposes of this section—

"(1) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands; and

"(2) the term 'local unit of general purpose government' has the meaning given such term under section 184 of this title.".

"(b) The analysis for chapter 5 of title 13, United States Code, is amended by adding after the item relating to section 141 the following new item:

"141a. Grants.".●

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By Mr. PERCY (by request):

**S. 2764. A bill to authorize U.S. participation in the International Jute Organization; to the Committee on Foreign Relations.**

### U.S. PARTICIPATION IN THE INTERNATIONAL JUTE ORGANIZATION

Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to authorize U.S. participation in the International Jute Organization.

This legislation has been requested by the Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with an analysis of the bill and the letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs to the President of the Senate dated May 31, 1984.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 2764

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized to maintain membership of the United States in the International Jute Organization.

DEPARTMENT OF STATE,
*Washington, DC, May 31, 1984.*

Hon. GEORGE BUSH,
*President of the Senate, U.S. Senate.*

DEAR MR. PRESIDENT: As you know, this Administration prefers to find trade and market-oriented solutions to the problems of development whenever possible. For that reason we were pleased to sign the International Jute Agreement in 1983. Our adherence to this agreement is in line with our pledge at the 1976 UNCTAD Conference to examine the problems of developing country commodities for possible solution through international cooperation. In this agreement we believe we have the potential to enhance the competitiveness of an important developing country export, while avoiding shortsighted attempts to interfere with pricing in its normal markets. The International Jute Organization was brought into force provisionally on January 9, 1984 to implement the International Jute Agreement, with a small secretariat located in Dhaka, Bangladesh.

Bangladesh and India, in particular, sought international cooperative measures which would shore up, and hopefully improve, the market position of jute and jute products. Jute provides important exports for both countries, and to a lesser extent, for Thailand and Nepal. This natural fiber is the basis of an industry which is highly labor intensive, but which faces strong pressures from synthetic fibers in many of its traditional applications. Our interests in this relatively poor and politically complex area of the world we believe amply support this fledgling effort to maintain and perhaps increase present economic activity and employment based on jute.

For these reasons, I hereby transmit a bill to authorize the President to maintain membership of the United States in the International Jute Organization. Annual cost to maintain our membership is expected to be approximately $115,000.

The Office of Management and Budget has advised that there is no objection to the submission of this legislation to the Congress, and that its enactment would be in accord with the program of the President.

With cordial regards,

W. TAPLEY BENNETT, Jr.,
*Assistant Secretary, Legislative and Intergovernmental Affairs.*

### ANALYSIS OF THE BILL

This Bill authorizes the President to maintain United States membership in the International Jute Organization which entered into force provisionally on January 9, 1984. The secretariat of the organization is in Dhaka, Bangladesh. The United States signed the Agreement on June 24, 1983 and declared its provisional application on September 20, 1983.

The International Jute Agreement, from which the organization originates, is a new type of commodity agreement. It is devoted to improving the product competitiveness of the various types of textiles, bagging and carpet backing which are made from jute, rather than to influencing the market through any form of price intervention. The International Jute Organization will sponsor voluntarily funded projects in research and development, market promotion and cost reduction. The projects will primarily be of benefit to the principal jute exporters Bangladesh, India, Thailand and Nepal.

The U.S., one of several consumer nation participants, is the world's largest importer of jute and jute products, taking 10 15 percent of total exports. The U.S. participated in the negotiation of this agreement based on a formal commitment made at the 1976 UNCTAD Conference. There we agreed to enter into discussions aimed at identifying, on a case by case basis, appropriate international measures to assist developing countries in improving their positions in certain commodity markets. This is the first such agreement which will not involve market intervention, but rather product and marketing improvements.

Permanent legislative authorization of this nature is consistent with 22 U.S.C. 262 and 2672 relating to United States participation in international congresses, conferences and organizations. Annual cost to maintain our membership is expected to be approximately $115,000.

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By Mr. GRASSLEY (for himself and Mr. JEPSEN):

**S. 2765. A bill to amend the Consolidated Farm and Rural Development Act to require the Secretary of Agriculture to guarantee certain outstanding agricultural loans which are modified by private lenders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.**

### AGRICULTURE DEBT RESTRUCTURING ACT

● Mr. GRASSLEY. Mr. President, today I am introducing the Agriculture Debt Restructuring Act of 1984. This bill represents the product of efforts originating with a proposal by Iowa State University agriculture economists who recognize that major action will be necessary to protect Iowa's economy, which is heavily dependent upon agriculture, from the severe credit pressures on our farmers and small businesses. Iowa State University's Prof. Neil Harl came to Washington several weeks ago to talk to members of the Iowa delegation about his proposal. Since then a number of the delegation have been reviewing and developing this proposal. This particular bill is also being introduced in the House by Congressman JIM LEACH. Also, Senator ROGER JEPSEN, who has mobilized his Joint Economic Committee to analyze this initiative, is joining me today as a cosponsor. Other members of the Iowa delegation join us in this effort and we are looking for support from our colleagues from other parts of the country. The farm credit problem is not something limited to Iowa.

Notwithstanding the fact that interest rates have fallen during the last 3 years, they remain too high. These high interest rates are having a profoundly adverse impact on farmers and small agribusinesses, who unlike most other businesses, are unable to pass the costs on. As land prices plummet, agriculture lenders have become uneasy and less willing to extend the necessary credit to farmers. The squeeze has become unbearable and serious action must be taken, not only by Government, but by private lenders as well. This legislation embodies a major step in this direction.

I view this legislation as a focal point for continued discussion and development. I look forward to hearings by the Senate Agriculture Committee that I expect will be initiated by Senator JEPSEN. I realize that there may be need for revision and am open to any and all positive recommendations. My request to my colleagues is that they give every consideration possible to working with Senator JEPSEN and myself as we attempt to find solutions to resolve a very serious agriculture economic crunch. We have to keep in mind that if we can help banks like Continental Illinois work out of their problems, we ought to be able to step in and help America's agriculture sector, which we all know constitutes the backbone of our country. I urge your support and welcome your cosponsorship.●

By Mr. THURMOND (for himself, Mr. BIDEN, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BAKER, Mr. STEVENS, Mr. KENNEDY, Mr. LAXALT, Mr. HATCH, Mr. DOLE, Mr. SIMPSON, Mr. GRASSLEY, Mr. DENTON, Mr. SPECTER, Mr. METZENBAUM, Mr. DECONCINI, Mr. LEAHY, Mr. BAUCUS, Mr. HEFLIN, Mr. PERCY, Mr. KASTEN, Mr. NICKLES, Mrs. HAWKINS, Mr. PRESSLER, Mr. PELL, Mr. HOLLINGS, Mr. BOSCHWITZ, Mr. STAFFORD, Mr. CHILES, Mr. ZORINSKY, Mr. JEPSEN, Mr. HUMPHREY, Mr. FORD, Mr. TRIBLE, Mr. LEVIN, Mr. LAUTENBERG, Mr. HEINZ, Mr. COCHRAN, Mr. HART, Mr. LUGAR, Mr. DOMENCINI, Mr. GOLDWATER, Mr. BRADLEY, Mr. MATSUNAGA, Mr. GORTON, Mr. WILSON, Mr. DODD, Mrs. KASSEBAUM, Mr. MURKOWSKI, Mr. ABDNOR, Mr. NUNN, Mr. QUAYLE, Mr. WARNER, Mr. CRANSTON, Mr. PACKWOOD, Mr. RANDOLPH, Mr. GARN, Mr. HATFIELD, Mr. DANFORTH, Mr. ARMSTRONG, Mr. PROXMIRE, Mr. JOHNSTON, Mr. EVANS, Mr. CHAFEE, Mr. LONG, Mr. EAST, Mr. COHEN, Mr. WALLOP, and Mr. TOWER) (by request):

S. 2766. A bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor-piercing ammunition; to the Committee on the Judiciary.

### LIMITING MANUFACTURE AND IMPORTATION OF ARMOR-PIERCING AMMUNITION

Mr. THURMOND. Mr. President, at the request of the administration, I am pleased to introduce today a bill which will limit the manufacture and importation of "armor-piercing bullets." Joining me in this bipartisan enterprise are many of my distinguished colleagues, including the ranking minority member of the Judiciary Committee, Senator JOSEPH R. BIDEN, JR., the two distinguished Senators from New York, DANIEL PATRICK MOYNIHAN and ALFONSE D'AMATO, the distinguished majority leader, Senator HOWARD BAKER, and the able assistant majority leader, Senator TED STEVENS.

Mr. President, the bill which I am introducing today is the product of long and careful study by the administration, the Committee on the Judiciary, and other interested parties. In March of this year, the Criminal Law Subcommittee of the Judiciary Committee held hearings on the complex and seemingly unresolvable problem of armor-piercing bullets. During that hearing, the committee heard testimony about the difficulties in fashioning a definition of armor-piercing bullets that would strike an appropriate balance between the legitimate concerns of both law enforcement personnel, and law-abiding hunters and sportsmen. The subcommittee also heard testimony about the need to provide strong Federal penalties for those who use or carry firearms and possess armor-piercing bullets while committing a violent felony. Furthermore, witnesses urged legislation which would minimize the availability of potentially dangerous ammunition to those bent upon criminal misuse.

Mr. President, the bill which I am introducing today, on behalf of the administration and my many distinguished colleagues, would define "armor-piercing ammunition" as solid projectiles or projectile cores constructed from specified metals. Projectiles which the Secretary of the Treasury finds to be "primarily intended to be used for sporting purposes" are specifically excluded. This ammunition could not be manufactured or imported, except under very limited circumstances.

First, armor-piercing ammunition could be manufactured or imported for the use of Government agencies. Specifically, this is intended to cover law enforcement or intelligence agencies. Alternately, armor-piercing ammunition could be manufactured for exportation only. As a result, after the effective date of this act, manufacturers and importers will no longer be permitted to sell armor-piercing ammunition to licensed dealers. Finally, manufacturers and importers of armor-piercing ammunition would pay the same license fee as those who manufacture or import destructive devices, such as explosives—$1,000 per year. This is considerably more than the current fees of $10 and $50.

In addition to the restrictions on manufacturing and importing such ammunition, the bill would provide mandatory penalties for using or carrying a firearm and possessing armor-piercing ammunition during the commission of a violent felony. Probation, parole, and concurrent sentences with respect to those penalties would be prohibited. These penalties are similar to those which were endorsed by the Judiciary Committee, by a vote of 14 to 1, in S. 914, the Firearms Owners Protection Act, and passed by the Senate in S. 1762 in February.

Mr. President, this bill codifies in many respects a commendable initiative by the administration. This bill will limit the proliferation of ammunition which might be sought by persons determined to engage in crime at all costs, but which has no legitimate sporting purpose. I believe that it achieves an infinitely fair balance between the legitimate interests of law enforcement and sportsmen.

Mr. President, this delicate equilibrium was achieved as a result of considerable hard work and devotion to the public interest. The administration, and particularly the Treasury and Justice Departments, are to be highly commended for grappling with the difficult definitional problems posed by this bill. The National Rifle Association and various police organizations, such as the International Association of Chiefs of Police and the Fraternal Order of Police, have vigorously pursued their respective points of view, resulting in this responsible accommodation of their interests. The distinguished ranking minority member of the committee has been very concerned about this issue and we have worked together since our committee considered it in connection with the McClure-Volkmer bill. Finally, Senator D'AMATO has pursued a fair resolution of this issue for some time and successfully urged interested parties to get together. Senator MOYNIHAN has introduced his own legislation, and is a welcome cosponsor of this measure.

Mr. President, as chairman of the Committee on the Judiciary, I intend to schedule this bill for consideration by the committee at the earliest opportunity. Once the committee has acted, I am hopeful that the full Senate will endorse its recommendation as soon as possible.

Mr. President, I ask unanimous consent that the bill which I am introducing today, along with the rest of the submission by the administration, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2766

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A), and a new subparagraph (B) is added to section 921(A)(17) to read as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary finds is primarily intended to be used for sporting purposes. The term 'solid' in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances."

Sec. 2. Section 922(a) of title 18 of the United States Code is amended by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation or armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation."

Sec. 3. Subparagraph (A) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

Sec. 4. Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year."

Sec. 5. Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year."

Sec. 6. Section 924(c) of title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b) by adding a new paragraph (3) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of this paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission."

Sec. 7. The amendments shall take effect on the date of enactment of this Act, except that sections 3, 4, and 5 shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

DEPARTMENT OF THE TREASURY,
*Washington, DC, June 13, 1984.*

Hon. GEORGE BUSH,
*President of the Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, "To amend Chapter 44, Title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition."

The purpose of the proposed legislation is to limit the manufacture and importation of armor piercing ammunition to the military and other Federal, State and local governmental agencies who may have legitimate needs for this ammunition. The bill would also set a mandatory penalty on the possession of this ammunition during the commission of a violent felony.

A detailed analysis and a comparative type showing the changes that would be made by the proposed bill are enclosed for your convenient reference.

It would be appreciated if you will lay the proposed legislation before the Senate. An identical proposal has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of the proposed legislation would be in accord with the program of the President.

Sincerely,

BRUCE E. THOMPSON, Jr.,
*Assistant Secretary (Legislative Affairs).*

ROBERT A. MCCONNELL,
*Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.*

### ANALYSIS

The proposed bill would amend several provisions of Chapter 44, Title 18, United State Code, relating to ammunition.

The purpose of the proposed legislation is to limit the manufacture and importation of armor piercing ammunition to the military and other Federal, State and local governmental agencies who may have legitimate needs for this ammunition. In addition, the bill would also set a mandatory penalty on the possession of this ammunition during the commission of a violent felony. Specifically, the proposed legislation would (1) define "armor piercing ammunition" so as to cover all materials now in use for the manufacture of armor piercing ammunition, (2) ban the importation and manufacture of armor piercing ammunition, except for use by the Government or for exportation; (3) set $1,000 license fees for manufacturers and importers of armor piercing ammunition; and (4) set mandatory sentences for persons who during and in relation to the commission of a violent felony use or carry a firearm and are in possession of armor piercing ammunition capable of being fired in that firearm.

The Gun Control Act of 1968 (18 U.S.C. Chapter 44) does not place any restrictions on the various types of armor piercing ammunition in use in the United States today. Although a form of armor piercing bullet was manufactured as far back as 40 years ago, only in the past few years has there been a great deal of publicity about armor piercing ammunition and concern about the safety of law enforcement officers.

Protective vests or vests composed of soft body armor are part of the protective equipment issued to roughly one-half of the nation's 570,000 sworn police officers. The wide availability of armor piercing ammunition could diminish the effectiveness of the protective armor. Therefore, the proposed bill would require the manufacture and importation of this type of ammunition, as well as impose a mandatory penalty for the possession of the ammunition during and in relation to the commission of a violent felony.

Section 1 of the proposed bill would amend section 921(a)(17), Title 18, to add to a definition of "armor piercing ammunition." The general characteristics of ammunition which are specifically designed and marketed to pierce armor involve a solid projectile or a hard bullet core, a relatively large propellant charge, and consequently, high muzzle velocity. The proposed bill would define the ammunition as a solid projectile or solid projectile core made from tunsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The proposed definition would cover all of the specifically designed armor piercing ammunition which is currently known to exist. The definition excludes three specific types of ammunition. (1) shotgun shot required by Federal or State regulations for hunting purposes, (2) frangible projectile designed for target shooting, and (3) any projectile which the Secretary finds is primarily intended to be used for sporting purposes. The proposed definition would: (1) define the term to cover all materials which could be used for the manufacture of armor piercing ammunition, and thus avoid the administrative burden of testing every type of ammunition on the market; (2) define the term in a way that can be easily understood and applied by industry; and (3) exempt ammunition capable of penetrating soft body armor from prohibition against manufacture and importation where such ammunition is determined by the Secretary to be designed for sporting purposes.

Section 2 of the proposed bill would amend section 922(a), Title 18, to ban the importation or manufacture for the sole purpose of exportation, or the manufacture and importation of armor piercing ammunition for the use of the United States or any State or local government.

Sections 3 through 5 of the bill would amend sections 923(a) (1) and (2), Title 18, to set a licensing fee of $1,000 per year for manufacturers and importers of armor piercing ammunition.

Section 6 of the bill would impose a mandatory prison sentence of not less than 5 years for an individual who during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm. This mandatory sentence would be in addition to the punishment provided for the commission of the violent felony and could not be served concurrently with any other sentence, including that imposed for the violent felony. Moreover, a person sentenced under the section shall not be given a suspended sentence, placed on probation, or be eligible for parole during the term of imprisonment.

Section 6 of the bill would also define the term "violent felony." The term means a felony which may be prosecuted in a court of the United States and that has as an element the use, attempted use, or threatened use of physical force against the person or property of another. It would also include any other felony which may be prosecuted in a court of the United States that by its nature, involves the substantial risk that physical force against another person or property may be used in the course of its commission.

Section 7 establishes the effective dates for the various sections of the bill. Sections 3, 4, and 5 (the license fee provisions) take effect approximately 90 days after the date of enactment; the others take effect immediately upon enactment.

This proposal was developed in response to a valid concern among law enforcement officials, legislators and the general public that certain types of armor piercing ammunition are readily available on the commercial market and that this ammunition poses a severe threat to law enforcement officers. The proposed bill meets these concerns without restricting or interfering with the legitimate use of firearms for hunting, trap or skeet shooting, formal or informal target shooting or gun collecting.

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### COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY PROPOSED BILL

Changes in existing law proposed to be made by the bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underscored):

### TITLE 18—UNITED STATES CODE

### CHAPTER 44—FIREARMS

* * * * *

**§ 921. Definitions**

(a) As used in this chapter—

* * * * *

(17) *(A)* * * *

*(B) The term "armor piercing ammunition" means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary finds is primarily intended to be used for sporting purposes. The term "solid" in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances.*

* * * * *

**§ 922. Unlawful acts**

(a) It shall be unlawful—

* * * * *

*(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation.*

* * * * *

**§ 923. Licensing**

(a) * * *

(1) If the applicant is a manufacturer—

(A) [of destructive devices or ammunition for destructive devices, a fee of $1,000 per year;] *of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;*

* * * * *

(C) [of ammunition for firearms other than destructive devices, a fee of $10 per year.] *of ammunition for firearms, other than ammunition for destructive devices or armor piercing* ammunition, a fee of $10 per year.

(2) If the applicant is an importer—

(A) [of destructive devices or ammunition for destructive devices, a few of $1,000 per year; or] *of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee $1,000 per year; or*

(B) [of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of $50 per year.] *of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.*

* * * * *

**§ 924. Penalties**

(c) Whoever—

(1) * * *

(2) carries a firearm unlawfully during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five years and, notwithstanding any other provision of law, the court shall not suspend the sentence in the case of a second or subsequent conviction of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony[.], *or*

*(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of this paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use or threatened use of physical force against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission.*

* * * * *

Mr. BIDEN. Mr. President, today we are introducing a bill which will assist the 528,000 law enforcement officers in this country. The bill is intended to limit the availability of armor-piercing bullets that are capable of penetrating bullet resistent vests worn by police. The intent of this legislation is to establish a uniform national law restricting the manufacture and importation of the killer bullets. Additionally, the bill will set a mandatory penalty on the possession of this ammunition during commission of a violent felony.

Last year Senator MOYNIHAN introduced S. 555, the Law Enforcement Officers Protection Act of 1983. The thrust of that legislation is incorporated in the bill we are introducing today. Senator MOYNIHAN is to be commended for his diligent work on this issue and should be given much of the credit for originally bringing this matter to the attention of the Senate.

As the ranking member of the Judiciary Committee I joined with several of my colleagues in holding a hearing on this matter in March. It became clear at that time that there was a problem with the definition used in the bill and that additional technical adjustments were necessary if the legislation was to move in Congress.

It was my contention that a compromise position that would get these bullets off our streets and not infringe on the legitimate rights of hunters and sportsmen had to be found. At the hearing I asked the Treasury Department representatives to begin working on a new definition that would be based on the voluntary request they currently make of ammunition importers and manufacturers, not to deal in armor piercing bullets. My comment at the hearing was:

> * * * I would like you to send us with precision what you ask manufacturers to do, how you determine who the manufacturers are and what you say to them when you determine who they are * * *

The bill we are introducing today is the culmination of the Treasury and Justice Departments' work to develop a new definition. This bill is now supported by all law enforcement groups, the National Rifle Association, and Handgun Control, Inc. It should move quickly through Congress.

In the mid-1970's, the protective material called Kevlar, a registered trademark of E.I. du Pont de Nemours & Co. proved extremely successful as a soft, lightweight body armor. Between the period of 1975 to 1978, 255 police officers wearing bullet-resistant vests were shot in gun battles. The soft body armor saved the lives of 250 officers; the 5 who lost their lives were shot in unprotected areas. Current estimates are that close to 600 law enforcement officers are alive today because of bullet-resistant vests.

I am proud to say that last year the E.I. du Pont de Nemours & Co. stopped the sale of Teflon coating to ammunition makers that produce or are developing armor-piercing bullets. Teflon fluoropolymer has proven to be a necessary product in the production of certain armor-piercing bullets.

The specific purpose of this legislation is to limit the manufacture and importation of armor-piercing ammunition to the military and other Federal, State, or local governmental agencies who may have legitimate needs for this ammunition. In addition, the bill would also set a mandatory penalty on the possession of this ammunition during the commission of a violent felony. Specifically, the proposed legislation would: First, define "armor-piercing ammunition" so as to cover all materials now in use for the manufacture of armor-piercing ammunition; second, ban the importation and manufacture of armor-piercing ammunition, except for use by the Government or for exportation; third, set $1,000 license fees for manufacturers and importers of armor-piercing ammunition; and fourth, set mandatory sentences for persons who during and in relation to the commission of a violent felony use or carry a firearm and are in possession of armor-piercing ammunition capable of being fired in that firearm.

During the past year seven States—Alabama, California, Illinois, Kansas, Minnesota, and Rhode Island—have enacted their own laws banning such bullets. The major police organizations that include the Fraternal Order of Police, International Brotherhood of Police Officers, and International Union of Police Officers have all called for a ban on this type of ammunition.

On behalf of the men and women in the law enforcement community across this country I believe we must now move forward on this legislation as quickly as possible.

Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleagues, Senator BIDEN and Senator THURMOND, in introducing legislation to ban the manufacture or import of armor-piercing ammunition, and to establish mandatory penalties for the possession of such ammunition during the commission of violent Federal felonies.

Congressman MARIO BIAGGI and I have been working to pass such legislation for the past 2½ years. Indeed, the bill we introduce today embodies most, but not all, of the provisions of that legislation, S. 555/H.R. 953. We introduced these measures at the beginning of the 98th Congress, to ban the manufacture, sale, importation, and criminal use of armor-piercing handgun ammunition. This new legislation prohibits the manufacture and import of such bullets, and also includes mandatory jail terms for the use of such bullets in a crime. This measure does not preclude the sale of armor-piercing bullets, and imperfection I likely will address with an amendment. This bill also provides that police forces, the military, and other agencies of national security may have access to this ammunition.

The new measure also provides an alternative definition of armor-piercing ammunition based on its physical properties: "* * * solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium, copper, or depleted uranium."

The new legislation explicitly excludes from this definition "* * * shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary finds is primarily intended to be used for sporting purposes."

I am confident that this definition will effectively ban the most common and dangerous of the armor-piercing bullets, without interfering in any way with the legitimate activities of America's sportsmen and legitimate gun owners.

I would like to say a few words about the background of this issue, as well as the history of this legislation. In the mid-1970's, police officers gained a significant measure of protection from the proliferation of illegal handguns: the Du Pont Co. had announced the development of a synthetic fiber, Kevlar, which was both strong enough to stop most bullets and light enough to be worn comfortably under a uniform. By 1974, policemen across the country began wearing bulletproof vests containing 18 layers of Kevlar. Since that time, these vests have saved the lives of more than 400 officers. Between 1974 and 1983, the number of law enforcement officers killed in the line of duty declined by 43 percent.

But, with great dismay, both police and Congress discovered that certain bullets could penetrate these bulletproof vests. These small caliber, pointed bullets, usually made of brass, steel, or another hard metal, differ from regular ammunition in two chief respects: their rapid speed of travel, and their capacity to retain their shape on impact. In a test conducted by the California State Police, one of these bullets—the apple-green, Teflon-coated KTW bullet—penetrated four standard bulletproof vests—72 layers of Kevlar—and 5 Los Angeles County phone books placed behind the vests. In the hands of a criminal, this ammunition renders useless the bulletproof vests that have saved so many police officers' lives.

These bullets quickly earned the moniker "cop killer bullets," because they have no other conceivable purpose. Armor-piercing bullets were developed originally for use by law enforcement officers themselves, shooting at cars and barricades. The police, however, soon discovered that these bullets are too unpredictable to use safely: their hardness and speed increase the ricochet effects, endangering bystanders as well as police themselves. Hunters immediately spurned them, discovering that traditional lead ammunition stopped game far more effectively. The high cost of armor-piercing bullets proved prohibitive for target shooters. Nobody wants these bullets—except those who would shoot police officers. And so we have come to call these bullets cop killers.

A crisis of confidence quickly developed among police officers, with the knowledge that their vests could be rendered useless by readily available handgun ammunition. And so it was that Congressman BIAGGI and I introduced legislation in the 97th Congress to ban the manufacture, importation, sale, and criminal use of cop killer bullets. We followed in the 98th Congress with the introduction of S. 555 and H.R. 953. Our legislation in time received the endorsement of every major police organization in the country, including the National Fraternal Order of Police, the International Association of Chiefs of Police, the National Association of Police Organizations, the National Sheriffs' Association, the International Union of Police Officers, the National Organization of Black Law Enforcement Executives, and the Federal Law Enforcement Officers Association, as well as hundreds of State and local enforcement agencies. In my home State of New York, dozens of groups have rallied behind this legislation. Just recently, this bill received the unanimous endorsements of the council of the city of New York and the Assembly of the State of New York.

I regret that the administration opposed the letter and intent of this legislation for 2½ years, before announcing this week its intention to support the legislation I am introducing today. In those 2 years, we have lost valuable time in the effort to halt the proliferation of cop killer bullets. But the perseverance of the many supporters of this legislation apparently, and finally, has reaped consensus. At recent hearings on S. 555 and H.R. 953—March 7, 1984, in the Senate, and May 17, 1984, in the House—a wide range of experts testified in favor of our bills. At the House hearing, only the administration and the National Rifle Association spoke against the bill. I frankly could not understand the arguments of either group against a ban on cop killer bullets; and I am grateful to discover anew that the congressional hearing process can serve as a forum to express, and resolve, unwarranted concerns over important legislation.

Our Nation's police officers have asked, pleaded, for this legislation. I urge my colleagues in the Senate to give it to them.

I ask unanimous consent that the following items be printed in the Record in the order in which I list them, at the conclusion of my remarks:

First, the resolutions of the council of the city of New York and the Assembly of the State of New York.

Second, the attached newspaper editorials.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Amended Res. No. 664-A

By Council Members Michels and Samuel; also Council Members Dryfoos, Friedlander, Gritzer, Maloney, Messinger, Alter, Albanese, Crispino, Dear, Eisland, Ferrer, Foster, Gerges, Leffler, Manton and O'Donovan—

Whereas, New York City police officers have been equipped in recent years with protective vests; and

Whereas, this body armor was designed to be bulletproof and has saved the lives of many police officers; and

Whereas, criminal elements have been utilizing KTW and other types of bullet capable of piercing these vests; and

Whereas, these bullets defeat the best means of protection for members of the New York Police Department; and

Whereas, there is no legitimate recreational use for these bullets since they tend to wound rather than kill hunting game; and

Whereas, these bullets are not used by police officers because they have limited stopping power and have a greater tendency to ricochet and injure innocent bystanders; and

Whereas, 18 states have banned armor-piercing bullets; and

Whereas, several localities, including Brookhaven, N.Y., have also responded to this threat by banning this anti-personnel ammunition; and

Whereas, Rep. Marion Biaggi has introduced a bill, H.R. 953, sponsored by over 150 Members of Congress, which would outlaw the manufacture, import and sale of these bullets, as well as impose stiffer penalties for felons who have used these bullets in the commission of a crime; and

Whereas, Sen. Daniel Patrick Moynihan has introduced a companion bill, S. 555; and

Whereas, a similar bill (Intro. 253) banning armor-piercing bullets within the City of New York has been introduced in the City Council; therefore, be it

*Resolved*, that the Council of the City of New York calls upon the United States Congress to expeditiously act on the passage of H.R. 953/S. 555; and be it further

*Resolved*, that in the meantime the Council of the City of New York will hold hearings on Intro. 253 to bring attention to the danger posed by these bullets; and be it yet further

*Resolved*, that copies of this resolution be sent to Rep. William J. Hughes, chairman of the House Subcommittee on Crime, to Sen. Storm Thurmond, chairman of the Senate Judiciary Committee, to Sens. Daniel Patrick Moynihan and Alfonse D'Amato and to the entire congressional delegation from New York City.

Adopted.

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### State of New York—Legislative Resolution

Whereas, Armor-piercing "cop killer" hand gun bullets are among the weapons used by bank robbers, gangsters and drug dealers in thousands of crimes committed against citizens of New York state each year; and

Whereas, These teflon-coated KTW bullets can penetrate the protective vests worn by police officers and bank guards, and can maim or kill innocent persons; and

Whereas, These bullets are easily obtained in many gun shops across New York state and the country; and

Whereas, Banning the manufacture, importation and sale of ammunition that can penetrate the most common police vest, when fired from a handgun with a barrel less than five inches long, would save a great many lives in New York state and across the country; and

Whereas, The Secretary of the Treasury of the United States would be able to designate the specific ammunition to be banned; and

Whereas, New York State Congressman Mario Biaggi and Senator Daniel P. Moynihan have submitted legislation (H.R. 953; S. 555) before the Congress of the United States, which amends the Act that may be cited as the "Law Enforcement Officers Protection Act of nineteen hundred eighty-three"; and

Whereas, Numerous cities, counties, states and organizations including the Police Conference of New York, Inc., the Metropolitan Police Conference of New York State, Inc., the Fraternal Order of Police, The International Brotherhood of Police Officers, The International Union of Police Associations and the National Association of Police Organizations have endorsed this legislation; now, therefore, be it

*Resolved*, That this Legislative Body pause in its deliberations to memorialize the United States Congress to ban armor-piercing handgun ammunition from here on; and be it further

*Resolved*, That copies of this resolution, suitably engrossed, be transmitted to Congressman Mario Biaggi and Senator Daniel Patrick Moynihan.

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[From the Olean Times Herald, May 31, 1984]

### Ban "Cop-Killer" Bullets

The National Rifle Association opposes legislation which would halt the manufacture of "Cop-killer" ammunition.

This is the armor-piercing kind which can easily rip through the protective body vests police use.

The cartridges in question are handgun rounds with hard metal jackets which can travel at high speed and maintain their shape on impact. They slice right through body armor.

This kind of ammunition was once commonly used by police departments, because it could penetrate through auto metal and stop criminals.

But most police departments have halted official use of such armor-piercing bullets, because they are likely to go beyond the intended target.

Now law enforcers want Congress to bar the manufacture and importation of such bullets, except for the military and police.

The NRA fears that such a ban would be a "foot in the door" toward additional restriction, and says almost any bullet could be classified as armor-piercing under certain conditions.

Those favoring such legislation say this is not so, and that such bullets are identifiable.

Rep. Mario Biaggi, a New York Democrat, was a policeman for 23 years and was shot 10 times in the line of duty.

He says the NRA opposition is "nothing but a knee-jerk reaction based more on paranoia than on any semblance of reason."

We agree that there should be a ban on such ammunition to afford our police greater protection. Sportsmen have no legitimate need for such ammunition.

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[From the New York Daily News, Mar. 12, 1984]

### NRA Dead Wrong in Stand on Deadly Bullets

(By Jerry Kenney)

The image of the sportsman, the average law-abiding hunter and target shooter, is going to suffer greatly from a puzzling decision by the National Rifle Association. This august (until now) organization, which claims to be the "voice" of law-abiding gun owners in the U.S., is opposing a bill by Reps. Mario Biaggi and Sen. Daniel Patrick Moynihan that would ban the production, import, sale and private use of armor-piercing bullets.

Hunters and target shooters have traditionally been known as sportsmen and most of them are members of the NRA. They stand by the organization in most of its decisions, particularly in the campaign against gun control. But the stand the NRA is taking in the name of its many millions of members to allow the production and sale of ammunition that has no logical use except to penetrate armor and bullet-proof vests is an outrage.

If the NRA thinks its membership supports this stand, it is sadly mistaken. I am a member of the NRA and I support most of its policies, although the organization does go off the deep end now and then. But all the NRA members who don't speak up against this particular policy will share the responsibility for every policeman killed by one of these bullets.

The bullets, as Rep. Biaggi stated, are nothing but cop-killers. Their sole purpose is to penetrate protection that ordinary bullets won't, the bullet-proof vest worn by cops.

"I'm all for the NRA when it comes to hunting and target shooting and the legal use of guns," Biaggi said. "But they have the impression any regulation on these bullets is an encroachment on their bailiwick. It is not. Hunters, target shooters have no use for ammunition of this type. So why is the NRA going to such lengths to make it legal?

"We're talking about bullets that are only used by criminals to kill cops. They have no legitimate purpose. So maybe we should question the sincerity of the organization. It's goal is supposed to be to protect the citizen. With this stand, they are protecting the criminals and not only jeopardizing the citizens, but the police as well."

If Biaggi could get his message to all members of the NRA, I suspect there would be a large-scale uproar. The NRA has enough internal problems, having just bounced Neal Knox, its executive director for Legislative Action allegedly for speaking contrary to the policy line. So anyone who thinks the NRA is one, big unified movement, is wrong.

A dumb move like this could split the NRA in half. Its directors may sit up there in D.C. and dictate policy, but when the dues-paying members who support them find out where they are being led, they won't follow for long. If nothing else, the NRA is losing a lot of credibility with its opposition to the Biaggi-Moynihan proposal.

When I receive those fancy appeals for donations to fight the gun ban in Morton Grove or anywhere else, I'm going to check if the organization has changed its policy on the cop-killer bullets first. I think a lot of other NRA members are going to do the same.

The NRA published a story in one of its publications taking Handgun Control Inc., to task for "educating criminals" about the availability of armor-piercing ammunition. All HCI, which I happen to think is out in left field on the whole gun issue, did, was expose the dangers of the cop-killer bullets. If the NRA thinks criminals need the HCI to educate them on what's available for their murderous activities, the NRA has lost touch with reality. The NRA goes so far as to say if any cops are killed by these bullets, HCI will have to share the responsibility.

This is a marvelous piece of reverse logic. It seems to me if the NRA doesn't support a ban of the bullets, it will share the responsibility for the damage. That responsibility will trickle down to all its members, anyone who displays an NRA sticker on his car windshield or wears an NRA hat or carries an NRA card. And don't think NRA members want it on their consciences. I know I don't.

I am 100 percent in favor of enforcing existing gun laws. I'm convinced if these laws were enforced, gun crimes would be cut significantly. New anti-gun laws are coming along every day. Even New York City's which requires a mandatory jail sentence for anyone committing a crime with a gun, doesn't work—because it isn't enforced.

But until we get criminals into jails, I can't see any sense in giving them more and better ammunition to make their life of crime easier, put citizens' lives in jeopardy and make cop's jobs that much harder and more dangerous.—

[From the New York Times, Feb. 1, 1984]

### BAN THE BAD BULLETS

When the police searched the Long Island home of David Schwartz, a bank robbery suspect, they found a dismaying armory containing one especially chilling store of ammunition. Among gun parts and tools, scopes, knives and a machete, they came upon 32 armor-piercing handgun bullets, the kind that can penetrate the protective vest worn by police officers.

There is no legitimate use for such "cop-killer" bullets. Why then do they remain available to the public? Because measures to ban their sale have been stalled in Congress for nearly two years while the Reagan Administration claims to be learning how precisely to define them in law. It's a phony issue raised by the National Rifle Association, apparently to block any ban.

More than half the nation's police officers wear flexible, lightweight vests that protect them against common handgun ammunition. But the vests don't protect against the super-hard handgun bullets that have been turning up for several years in gun shops—and in the possession of suspects like David Schwartz. They are believed to be common ordnance for warring—and well-vested—Florida gangsters and drug dealers.

A bill sponsored by New York's Representative Biaggi and Senator Moynihan would ban the manufacture, importation and sale of ammunition that penetrates the most common police vest when fired from a handgun with a barrel less than five inches long. Strongly supported by police groups, the measure should have sailed through Congress with the blessing of a law-and-order Administration. But the gun lobby objects that some hunting rifle ammunition might also penetrate a police vest if fired from certain handguns.

That's a red herring. The Biaggi-Moynihan bill allows the Treasury Secretary to designate the specific ammunition to be banned. The armor-piercing handgun ammunition popular among criminals is well known and is not used by hunters. If necessary, the bill could be amended to prohibit any ban on common hunting ammunition.

The Administration, however, bowed to the N.R.A.'s complaint and ordered the National Institute of Justice and Bureau of Standards to compose a more precise definition of armor-piercing hand-gun bullets. That put the bill on hold.

The agencies were to report last summer, but have not so far released any findings. Some officials contend they've made progress in the search for a definition, but that the matter remains under review. Meanwhile, the Administration offers an insipid substitute in its crime bill. It would punish use of the bullets only in Federal crimes—excluding most murders, armed robberies and assaults.

Congress should no longer tolerate delay. If Justice has an improved definition, let it be written into the Biaggi-Moynihan bill. If not, let the definition stand. It's time to bring this bill to a vote.

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[From the Binghamton (NY) Sun-Bulletin, Feb. 21, 1984]

### SHOOT DOWN THESE BULLETS

The National Rifle Association doesn't like having its firepower limited. Like the Defense Department, which continuously clamors for more and bigger nuclear bombs and other weaponry despite already being capable of blowing the globe to bits, the NRA doesn't include the word overkill in its vocabulary.

During the past year, the NRA has been trying to shoot holes in a bill that would make it illegal to manufacture, sell or use handgun bullets that are coated with Teflon or other plastics, a treatment that gives the bullets the ability to pierce armor or other such protective coverings.

The bill, which is sponsored in Congress by two New Yorkers, Sen. Daniel P. Moynihan and Rep. Mario Biaggi, is intended to protect members of law enforcement agencies from criminals using the armor-piercing bullets.

Congress should pass the bill this time around. Sportsmen and targetshooters will not be hurt by the bill unless they come upon some game wearing a bullet-proof vest or their present ammunition is bouncing off road signs.

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[From the New York Daily News, Feb. 20, 1984]

### BITING THE BULLET

There's a bill pending in Congress to outlaw the manufacture, sale and ownership of handgun bullets coated with Teflon or plastic. The reason is simple: These slugs give criminals a big advantage over police officers because they can penetrate bullet-proof vests.

The measure, sponsored by Sen. Daniel Moynihan and Rep. Mario Biaggi, is a good one, and it ought to be adopted promptly. There's absolutely no reason on earth why these bullets should be in circulation for private use.

It's no surprise that the National Rifle Association is screaming that the Moynihan-Biaggi bill is a violation of the rights of its members. The NRA has been fighting all attempts at gun control for years.

But it hasn't a leg to stand on by opposing this one. No member of the NRA needs ammunition that can penetrate armor. Regular bullets fill the bill for target practice and killing predatory animals. Nine states, including Texas, Oklahoma, Alabama and Florida, have outlawed the cop-killing slugs, and it's high time that Congress imposed a nationwide ban.

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[From the Independence (KS) Reporter, Feb. 15, 1984]

### BAN THE BULLETS

Although Kansas is one of nine states that has already banned cop-killer bullets, Handgun Control Inc., headquartered in Washington, D.C., is carrying on a nationwide campaign seeking public backing for what is known as the Moynihan-Biaggi Law Enforcement Officers Protection Bill, now in the congressional hopper.

Despite the fact the National Rifle Association, that continually opposes any regulations on guns or ammunition, is against this bill the law enforcement community is lending solid backing to the legislation. The bill has no bearing on hunters or other sportsmen.

What are cop-killer bullets? Well, they're made of hard steel or brass and are often coated with Teflon or plastic. These bullets have five times the penetration power of conventional lead bullets. They resist the flattening or mushroomming effect of conventional bullets. When fired from a handgun they will penetrate bullet-proof vests and in fact, tests show such bullets will go through several vests and keep right on going.

Consequently, due to the very effectiveness of such ammunition, it's no surprise that police throughout the nation are fighting to have this bill passed. In 5 years bullet-proof vests have saved 400 officers' lives and nearly half of such officers wear them.

Up to the present time only Kansas, Oklahoma, Alabama, Rhode Island, Illinois, California, Florida, Texas and Indiana have banned this ammunition, but other states are considering such controls while the federal bill is being considered.

Law-abiding, concerned citizens will agree with Rudolph W. Giuliani, associate attorney general, who stated: "I continue to believe that any further delay (in banning the bullets) is a tragic mistake." The fate of the bill is yet unknown, but it's difficult to believe that Congress could possibly reject a measure that would give added protection to the guardians of our society.

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[From the Arizona Republic, Mar. 11, 1984]

### COP-KILLERS' HELPMATE

There's no conceivable reason why anyone should go out and buy armor-piercing handgun bullets unless he wants to kill a police officer.

Deer don't wear armor, nor do doves.

Police officers sometimes wear lightweight vests that can stop conventional handgun bullets. And many a cop owes his life to his vest.

Conventional handgun bullets flatten on impact because of their hollow-point or soft-metal composition. Armor-piercing bullets are something else. Usually made from brass or steel, they maintain their shape on impact.

The Senate Judiciary Committee is now considering a bill that would ban the sale of armor-piercing bullets. It has the backing of the International Association of Chiefs of Police and the Fraternal Order of Police.

In fact, it has the backing of just about everyone except the Mafia, assorted terrorist gangs—and the National Rifle Association.

A NRA official, Warren Cassidy, testified before the committee that his organization considered the bill as "nothing other than one more attempt to separate law-abiding gun owners and the nation's sportsmen from their firearms and ammunition."

Eosh.

What would a law-abiding citizen do with armor-piercing handgun bullets? It's useful only to criminals.

The NRA has the same kind of mentality as those civil-liberties groups that fight hanging the Ten Commandments on a classroom wall because, they say, it would be the first step to making the United States a theocracy. It simply has no sense of proportion.

If the bill would save one cop's life, Congress should pass it. And every member of the NRA, who isn't an extremist, should tell his congressman and senator so.

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[From the Pittsburgh (PA) Post-Gazette, Feb. 16, 1984]

### STOPPING HARD BULLETS

Those who want to outlaw manufacturing in the United States of KTW bullets claim that these so-called "cop-killers" are dangerous weapons in the arsenals of outlaws. But defenders of KTW bullets say that there is no convincing evidence that bullets made of steel or brass coated with teflon have become generally accessible to criminals. If these bullets pose a theoretical danger to police, the manufacturer argues, police agencies are also the bullets' primary customers. Besides, precautions have been taken to assure that no one except a police agency acquires them.

Criticism of these hardened bullets evokes a sense of alarm. But Congress needs to do more homework on this controversy before it proceeds with efforts to enact federal legislation outlawing them completely.

The basic facts about the KTW bullet—named after the last initials of its three inventors (Kopsch, Turcus and Ward) are compelling. Made of hard metal, it can penetrate barriers that would stop softer lead bullets which are mashed upon impact. Consequently, the KTW can also penetrate protective vests that many officers are adopting as a standard part of the police uniform on the meanest streets of many American cities.

The idea that American policemen should be exposed to this additional danger is surely repugnant to most citizens. Nine states have banned them (Pennsylvania has not). And an impressive lineup of law-enforcement associations cited in a brochure circulated by Handgun Control Inc. also suggests that America's policemen don't like the idea of having these bullets in the barrels of the guns of criminals.

But does a KTW danger to law enforcement really exist? Hearings of the U.S. Senate criminal law subcommittee, chaired by Sen. Paul Laxalt, scheduled for next month need to weigh that crucial aspect of this controversy in relation to legislation for a federal ban on penetrating bullets sponsored by Sen. Daniel Moynihan and Rep. Mario Biaggi. Proponents of the legislation say that two Florida policemen were killed and that a Maryland state trooper was permanently disabled by hard-metal slugs. Defenders of the bullet say that those isolated events happened years ago and that those bullets were never recovered.

More to the point, the manufacturer argues that sale of the bullets is now rigorously controlled under informal guidelines worked out by the Treasury Department's Bureau of Alcohol, Tobacco and Firearms. Penetrating bullets are not advertised, and their sales are strictly limited to American police departments or international police agencies certified to receive exported goods by the U.S. State Department. As part of the arsenal in fighting terrorism, penetrating bullets appear actually to be defended by police.

So the federal government needs first to determine how much danger to police is posed by penetrating bullets. Then legislation should be drafted that ratifies the U.S. Treasury's efforts to make sure that penetrating bullets are sold only to police agencies. Controls may need to be tightened, but proponents of a federal ban on the manufacture of penetrating bullets haven't yet made a very convincing case.

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Mr. D'AMATO. Mr. President, I am pleased to join today as an initial cosponsor of this important legislation to effectively ban the manufacture and importation of armor-piercing ammunition—also known as cop killer bullets except for the military and other Government agencies which may have legitimate needs for this ammunition. This carefully drafted bill is the result of many months of study and effort. I have been working particularly closely with the Departments of Treasury and Justice over these past months to ensure the continued effectiveness of the protective vests worn by roughly half our Nation's 570,000 sworn police officers.

Existing soft, lightweight, body armor can effectively stop most of the handgun bullets posing a threat to our Nation's law enforcement officers today. These Kevlar vests have been credited with saving the lives of more than 400 police officers.

However, there is a class of handgun bullets that is able to pierce this armor. Such bullets are generally constructed of the metals we include in the definitional section of our bill.

It would be unconscionable not to move quickly to pass this legislation because it is urgently needed to ensure the continued effectiveness of the lifesaving vest worn by our finest and most heroic public servants.

Section 1 of this bill defines the "armor piercing ammunition" we seek to limit as a solid projectile or solid projectile core made from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. This definition covers all the specifically designed armor-piercing ammunition now known to exist.

In addition to the provisions limiting the manufacture and importation of this ammunition, the penalty provisions are of central importance. Section 6 imposes a mandatory prison sentence of not less than 5 years for an individual who during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor-piercing ammunition capable of being fired in that firearm. This mandatory sentence would be in addition to the punishment provided for the underlying felony and could not be served concurrently with it.

The definitional section is the key to this legislation. By defining the substances used in the armor-piercing ammunition we intend to cover, we can avoid interfering with the legitimate use of firearms for hunting, target practice, or gun collecting.

The fact that we introduce this legislation with the support of the major police organizations, the National Rifle Association, and the Gun Owners of America gives me great hope that we can pass this legislation. With the assistance and leadership of Senators THURMOND, BIDEN, and MOYNIHAN and Congressman BIAGGI, I am confident that this bill will become law this year.

Mr. DENTON. Mr. President, I am pleased to join my distinguished colleague from South Carolina, Mr. THURMOND, as an original cosponsor of a bill which will amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor-piercing ammunition. The bill strikes an appropriate balance between the need to make our law enforcement officers as safe as possible and the need to maintain the second amendment rights of law-abiding citizens.

The bill would limit the manufacture and importation of armor-piercing ammunition to the military and other Federal, State, or local government agencies who may have legitimate needs for this type of ammunition. Additionally, the bill would provide for a mandatory penalty on the possession of armor-piercing ammunition during the commission of a violent felony. Specifically, the bill would:

First, set up a definition of armor-piercing ammunition which excludes sporting ammunition;

Second, make illegal the manufacture and importation of armor-piercing ammunition, except for use by the Government or for exportation;

Third, set up a $1,000 licensing fee for manufacturers and importers of armor-piercing ammunition; and

Fourth, set up a minimum mandatory sentence of not less than 5 years for persons who use or carry armor-piercing ammunition during the commission of a violent felony.

Mr. President, the bill was engendered out of a concern among law enforcement officials, legislators, and the general public at large that certain types of armor-piercing ammunition are readily available on the commercial market and that such ammunition poses a severe threat to the safety of our law enforcement officials. The bill addresses these concerns without restricting or interfering with the legitimate use of firearms for hunting, trap or skeet shooting, formal or informal target shooting, or gun collecting. The bill restricts the misuse of armor-piercing ammunition without impacting on sporting ammunition.

Mr. President, I commend Senator THURMOND for sponsoring the legislation, and I urge my remaining colleagues to join as cosponsors.

Mr. NICKLES. Mr. President, I am pleased to join Senator THURMOND and Senator BIDEN, the distinguished chairman and ranking minority member of the Senate Judiciary Committee, in being an original sponsor of the administration's proposal to regulate the manufacture and importation of armor-piercing ammunition, more commonly known as cop-killer bullets. I welcome this bipartisan approach which will effectively address a very serious problem now facing our Nation's law enforcement officers.

Oklahoma has been a leading State on this issue; 2 years ago, the Oklahoma State Legislature passed a bill which was signed into law to ban these bullets. I am glad to see the Congress follow Oklahoma's lead, and I am hopeful that this legislation will also be enacted into law. I see this bill as assisting the efforts of State and local jurisdications in their efforts to halt the widespread distribution and use of these deadly bullets.

There are over half a million law enforcement officers in our nation, and half of those make regular use of bulletproof vests. FBI statistics have shown that the use of such vests since 1974 has resulted in a significant decline in the number of law enforcement officers killed in the line of duty. However, this encouraging progress is threatened by the use of these bullets in the Commission of a violent felony.

I am glad to note that this bill, which has been carefully drafted, will in no way infringe upon the right to bear arms of millions of law-abiding citizens in this country. An analysis of this bill will indicate that it is narrowly written so as to regulate the manufacture and importation only of armor-piercing ammunition for those few legitmate uses of these bullets and to set mandatory sentences for those who use or carry such ammunition in the commission of a violent felony.

Our Nation's law enforcement officers deserve our praise and suport for their continual dedicated efforts to protect us. This legislation is one small way to indicate our support and to let them know that we appreciate the dangers inherent in their work.

Mr. BOSCHWITZ. Mr. President, I am very pleased to be joining as an original cosponsor of this legislation to limit the manufacture and importation of so-called cop-killing bullets. This legislation would permit military and law enforcement officers to have access to cop-killer bullets. A mandatory additional prison sentence of at least 5 years would be imposed for an individual who uses or is in possession of cop-killer bullets during the commission of a violent felony.

The development of bulletproof vests in the 1970's provided law enforcement officers with a great deal more protection than they had previously. These vests have been credited with saving the lives of some 400 law enforcement officers. FBI statistics indicate that the number of law enforcement officers killed in the line of duty declined between 1974—when such vests were first made available to police departments—and 1981. However, the vests have been rendered virtually useless against cop-killer bullets.

These high velocity, small caliber, pointed bullets, made of hard alloy or steel-jacketed lead, were not developed for legitimate commercial use. Rather, they were used in the perpetration of criminal acts. Tests have shown that the most powerful of these bullets can penetrate the equivalent of four bullet-proof vests.

It is well known that law enforcement is a particularly dangerous and unappreciated occupation. We have entrusted law enforcement officers with the tremendous responsibility of protecting us from acts of violence. I believe it is our duty to protect the approximately 250,000 officers who, even with bullet-proof vests, everyday face the danger of being injured or killed.

I feel this bill will be an important step in helping to protect law enforcement officers who have dedicated their lives to protecting the citizens of this country.

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By Mr. MATHIAS (for himself, Mr. BINGAMAN, Mr. PERCY, Mr. PELL, and Mr. BAKER):

S. 2768. A bill to provide for the education in the United States of certain students of limited financial means from developing countries; to the Committee on Foreign Relations.

### UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES ACT

● Mr. MATHIAS. Mr. President, roughly a generation ago the distinguished chairman of the Senate Foreign Relations Committee, Senator Fulbright, shepherded through the Senate the Mutual Educational and Cultural Exchange Act of 1961, otherwise known as the Fulbright-Hays Act. In doing so, he persuaded Senators to accept a simple, but important proposition: international exchange programs are a key factor in U.S. foreign policy. As Senator Fulbright observed, it had previously been as if the words "educational exchange" were something that had to be sneaked into this historic building through the backdoor.

Today about 80,000 people around the world take part in the educational cultural and scientific exchanges sponsored by the U.S. Government, and it is widely acknowledged that of the resources employed in the pursuit of U.S. foreign policy objectives, few have been as quietly effective as the educational and cultural affairs aspects of American diplomacy.

In 1983, the U.S. Advisory Commission on Public Diplomacy reported that USIA's educational exchange and international visitors programs serve the long-term security interest of the United States by promoting mutual understanding between Americans and the citizens of other countries and by exposing foreign scholars and leaders to American institutions and values. The Commission endorsed the view that the Fulbright program is not a national luxury. It is a national imperative that must be attended to.

More recently, the Carlucci Commission on Security and Economic Assistance recommended to the Secretary of State an expansion of exchanges as a cost-effective means of developing human resources and providing future foreign leaders with exposure to American ideas and values. To quote from their report:

> Over the years, scholarship and fellowship programs that bring foreign students to the United States to study have proved to be a very effective, inexpensive means of providing foreign assistance to the less developed countries. In addition to providing recipients with education and professional training, these programs foster closer rapport with the United States and provide future leaders and managers with knowledge of American beliefs and views. They also have important indirect political benefits.

As the value of these programs has become well-known, so has the inadequacy of U.S. Government funding for these programs. In May 1983, the House Foreign Affairs Committee noted:

> This Nation has virtually ignored the need for development of strong exchange programs with the lesser developed nations, while America's ideological rivals are increasing their efforts in these areas.

Similarly the Senate Foreign Relations Committee reported in 1983 that while funding for the exchange programs of the USIA had declined by 40 percent since 1965, Soviet bloc spending for comparable programs has increased and vastly exceeds U.S. efforts. A USIA study showed that in 1982, the Soviet Union and allies provided 102,400 scholarships for study. By contrast, USIA and USAID funded less than 9,000 students.

Although reliable statistics on this subject are limited the message is clear: the United States must do more to bring foreign students, particularly those from developing countries, to the United States. It is in this spirit that I am introducing the U.S. Scholarship Program for Developing Countries Act, along with Senators **BINGAMAN**, **PERCY**, **PELL**, and **BAKER**.

A similar program was recommended by the National Bipartisan Commission on Central America. Citing the long-run cost of having so many potential leaders educated in Soviet bloc countries, the Commission called for a program of 10,000 government-sponsored scholarships to bring Central American students to the United States. The Commission also noted that in addition to the number of scholarships offered by the respective governments, the distinguished feature between Soviet and American educational strategy was the targeting of students from lower income families by the Soviets. Accordingly the Commission advocated careful targeting of future U.S Government scholarships to the region, to insure that educational opportunities in the United States were no longer limited to students from families with relatively high incomes.

But the problems recognized by the Bipartisan Commission are clearly not unique to Central America. In 1982, approximately 37,000 students from Africa were educated in the Soviet Union and Eastern Europe, at Government expense. In the United States fewer than 3,000 students came from Africa under Government sponsorship. Similar figures are available for Asia, and the Middle East, while on a worldwide scale the Soviet bloc countries educated more than seven times as many students from developing countries as the United States Government.

In addition the students coming to the United States from the developing countries tend to represent only a small privileged sector of the society. According to the USIA, the vast majority of them are from affluent backgrounds, identified with ruling elites and not necessarily representative of the forces of changes in their native countries.

Mr. President, as the nations of the world become more closely intertwined economically, technologically, and politically, the security and prosperity of the United States has come to depend more and more on the mutual understanding of the peoples of the world. At the same time, the developing countries have come to occupy a more central position than ever before in determining world stability. Too few Americans realize that growth in exports accounted for almost three-quarters of growth in U.S. GNP during the last economic expansion and that almost 40 percent of U.S. exports go to the developing world. This intersection of the economics of the industrialized and developing worlds has profound implications for our definition of national security.

The legislation I am introducing today recognizes the importance of expanding our ties with these nations, as well as the benefit that education brings to the countries themselves. The bill authorizes and directs the President to create an undergraduate scholarship program to bring students of limited financial means from developing countries to study in the United States. It is not intended to be a substitute for urgently needed increases in U.S. resources devoted to either development or to existing scholarship programs. The purpose is to fill in the existing scholarship network.

Currently the Agency for International Development provides academic and technical training for developing countries. However its legislative mandate directs it to undertake programs of a developmental nature, rather than programs of a political and cultural nature. Consequently academic training supported by AID takes place primarily at the graduate level, while its technical training programs normally involve midcareer individuals working in fields having a direct impact on the development of their countries.

This emphasis upon postgraduate and professional training is a major reason why current U.S. programs have not reached the lower and middle economic classes in the developing countries. The Fulbright program, for example, which is the largest single U.S. Government program for foreign students, is devoted exclusively to bringing post graduates, lecturers, and researchers to the United States. In most developing countries few families can afford the luxury of post graduate study.

Coordination between the program I am proposing, the Fulbright, and the AID programs will be essential to produce the optimum educational and political benefits to developing countries and the United States. Different countries will have different educational needs. The legislation recognizes this by providing the administering agency—the Bureau of Educational and Cultural Affairs in USIA with maximum discretion in determining what are the educational requirements of a given country. U.S. missions abroad are empowered to create an appropriate selection mechanism, in consultation with foreign governments and subject to the approval of the Board of Foreign Scholarships.

The bill follows the approach of the Fulbright-Hays Act and does not specify the level of funding or number of scholarships. In every country, policy choices will need to be made as to the appropriate balance between technical training and the academic training provided by these scholarships. I do, however, anticipate a request for new funds in the budget for fiscal year 1986, once the administration has reviewed its scholarship priorities around the world.

Mr. President, as debate on this bill progresses I expect to hear a good deal about what the Soviets have done in the scholarship field. Clearly the level of Soviet activity indicates that they have determined there are very real, foreign policy benefits to their educational activities in the Third World. But let me say at the outset that I reject any attempt to label this expansion of our educational commitment to the developing countries as an instrument of East-West conflict. There must not be any deviation whatsoever from the concepts which have guided our exchange programs over time. The overriding objective remains one of building lasting links and mutual understanding between the United States and other countries. In the words of Senator Fulbright:

> In the field of international relations the purpose of education is the civilizing and humanizing of relations between nations in ways which are within the limits of human capacity. . . . Far from being a means of gaining national advantage in the traditional game of power politics, international education should try to change the nature of the game, to civilize and humanize it in this nuclear age.

I ask unanimous consent that the text of the bill be printed in the **RECORD**.

There being no objection, the bill was ordered to be printed in the **RECORD**, as follows:

### S. 2768

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "United States Scholarship Program for Developing Countries Act.".

### DEFINITION

SEC. 2. For purposes of this Act, the term "institution of higher education" has the same meaning as given to such term by section 1201 (a) of the Higher Education Act of 1965.

### STATEMENT OF PURPOSE

SEC. 3. The purpose of this Act is to establish an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for study at American institutions of higher education.

### FINDINGS AND POLICY

SEC. 4. The Congress finds and declares that—

(1) it is in the national interest for the United States Government to provide a stable source of financial support to give students in developing countries the opportunity to study in the United States, both to improve the range and quality of educational alternatives, to increase mutual understanding, and to build lasting links between those countries and the United States;

(2) providing scholarships to foreign students to study in the United States has proven over time to be an effective means of creating strong bonds between the United States and the future leadership of developing nations and, at the same time, assists nations substantially in their development efforts;

(3) study in United States institutions by foreign students enhances trade and economic relationships by providing strong English language skills and establishing professional and business contacts;

(4) students from families of limited financial means have in the past largely not had the opportunity to study in the United States, and scholarship programs sponsored by the United States have made no provision for identifying, preparing, or supporting such students for study in the United States;

(5) it is essential that the United States citizenry develop its knowledge and understanding of the developing countries and their languages, cultures, and socioeconomic composition as these areas assume an ever larger role in the world community;

(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by Soviet-bloc governments to students in developing countries, and that this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

(7) an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities; and

(8) the Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education.

### PROGRAM AUTHORITY

SEC. 5. (a) The President is authorized and directed, acting through the Bureau of Educational and Cultural Affairs of the United States Information Agency, to provide by loan or grant for citizens and nationals of developing countries, who have completed their secondary education but who would not otherwise have an opportunity to study in the United States due to financial limitations, to study, beginning with the academic year 1985-1986 or any academic year thereafter, at an American institution of higher education.

(b) To encourage students to use their training in their countries of origin, half of each payment to a student shall be in the form of a loan with repayment to be forgiven upon the student's prompt return to his or her country of origin for a period of no less than the equivalent of the years spent studying in the United States plus one.

(c) Before allocating any of the funds made available to carry out this Act, the President shall consult with United States educational institutions, educational exchange organizations, United States missions, and the governments of participating countries on how to implement the guidelines specified in section 6.

### GUIDELINES

SEC. 6. Programs under section 5 shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961, all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity.

(2) United States missions shall design ways to identify promising students in secondary educational institutions, or who have completed their secondary education, for study in the United States. These missions shall develop and strictly implement specific economic need criteria. Grants or loans available under this Act may only be provided to students who meet the economic need criteria.

(3) Programs financed under this Act shall utilize educational institutions in the United States and in developing countries to help participants in the programs acquire necessary skills in English and other appropriate education training.

(4) Each participant from a developing country shall be selected on the basis of academic and leadership potential and the economic, political, and social development needs of such country. Such needs shall be determined by each United States mission in consultation with the government of the respective country. Scholarship opportunities shall emphasize fields that are critical to the development of the participant's country, including agriculture, civil engineering, communications, social science, education, public and business administration, health, nutrition, environmental studies, population and family planning, and energy.

(5) The programs shall be flexible in order to take advantage of different training and educational opportunities offered by universities, postsecondary vocational training schools, and community colleges in the United States.

(6) The programs shall be flexible with respect to the number of years of undergraduate education they would provide but in no case shall students be brought to the United States for a period less than one year.

(7) Adequate allowance shall be made in the scholarship grant for the purchase of books and related educational material relevant to the program of study.

(8) Further allowance shall be made to provide adequate opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(9) The scholarship program created by this Act shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

### AUTHORITY TO ENTER INTO AGREEMENTS

SEC. 7. The President is further authorized to enter into agreements with foreign governments in furtherance of the purposes of this Act. Such agreements may provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purposes of administering programs under this Act.

### POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS

SEC. 8. (a) The Congress urges the Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961, in implementing programs authorized under that part, to increase assistance for undergraduate scholarships for students of limited financial means from developing countries to study in the United States at American institutions of higher education. To the maximum extent practicable, such scholarship assistance shall be furnished in accordance with the guidelines contained in section 6 of this Act.

(b) The Congress urges the President to take such steps as are necessary to expand the opportunities for Americans from all economic classes to study in developing countries.

### ESTABLISHMENT AND MAINTENANCE OF COUNSELING SERVICES

SEC. 9. (a) For the purposes of assisting foreign students in choosing fields of study, selecting appropriate institutions of higher education, and preparing for their stay in the United States, the President may make suitable arrangements for counseling and orientation services abroad.

(b) For the purposes of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements by contract or otherwise for the establishment and maintenance at educational institutions in the United States attended by foreign students of an adequate counseling service.

### BOARD OF FOREIGN SCHOLARSHIPS

SEC. 10. The Board of Foreign Scholarships is directed to advise and assist the President in the discharge of programs authorized by this Act, in accordance with the guidelines set forth in section 6. The President is authorized to provide for additional necessary secretarial and staff assistance for the Board as may be required under this Act.

### GENERAL AUTHORITIES

SEC. 11. (a) The public and private sectors in the United States and in the developing countries shall be encouraged to contribute to the costs of the programs financed under this Act.

(b) The President shall seek to engage the public and private sectors of developing countries in programs to maximize the utilization of program participants upon their return to their own countries.

(c) The President is authorized to provide for publicity and promotion abroad of the scholarship program provided for in this Act.

### ENGLISH TEACHING, TEXTBOOKS, AND OTHER TEACHING MATERIALS

SEC. 12. Wherever adequate facilities or materials are not available to carry out the purposes of section 6(3) in the participant's country and the President determines that the purposes of this Act are best served by providing the preliminary training in the participant's country, the President may, by purchase, contract, or other appropriate means, provide the necessary materials and instructors to achieve such purpose.

### FUNDING

SEC. 13. (a) Except as provided in subsection (b), funds to carry out the provisions of this Act for a fiscal year shall be available only from appropriations made to the United States Information Agency for such fiscal year.

(b) None of the funds appropriated to the United States Information Agency for the fiscal year 1984 or 1985 to carry out section 102(a)(1) of the Mutual Educational and Cultural Exchange Act of 1961 may be available to carry out the provisions of this Act.

### REPORTING REQUIREMENT

SEC. 14. Not later than one year after the date of enactment of this Act, and at intervals of one year thereafter, the President shall submit to the Congress a report on activities carried on and expenditures made pursuant to this Act.●

● Mr. BINGAMAN. Mr. President, I am pleased today to join my distinguished colleagues, Senators BAKER, MATHIAS, PELL, and PERCY in introducing the U.S. Scholarship Program for Developing Countries Act. This legislation establishes an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for courses of study at American institutions of higher education.

I would like to commend my friend from Maryland, Senator MATHIAS, for his leadership of this effort. The bill represents close collaboration of our respective staffs in developing the idea of an international scholarship program for developing nations. Throughout the bill's development, we worked closely with the U.S. Information Agency, the Agency for International Development, the American Council on Education, the National Association for Foreign Student Affairs, the International Educational Exchange Liaison Group, the Institute of International Education, and the National Association of State Universities and Land Grant Colleges.

Students from families of limited financial means have historically not had the opportunity to study in the United States. Further, scholarship programs sponsored by the United States have made no provision for identifying, preparing, or supporting such students for study in the United States. Giving students in developing countries the opportunity to study here both improves the ranges and quality of educational alternatives and builds lasting links between those countries and ours. The majority of the more than 330,000 foreign students in the United States are here at their own expense and tend to be from affluent backgrounds. Therefore, they do not fairly reflect the prevailing social and economic conditions of their own countries of origin.

The scholarship program created by this legislation will substantially benefit the United States. Not only would it permit foreign students to become better acquainted with our society, but it would allow us to learn more about other countries. This would have a direct benefit in expanding our knowledge base of other countries and enhance our ability as a nation to compete in the world marketplace.

In expanding our scholarship programs to foreign students, we would be following other nations which have acted in a similar way to expand their international sphere of influence. The Soviet Union and the governments of Eastern Europe and Cuba offered in 1982 approximately 102,400 scholarships to students in developing countries compared with only 8,200 sponsored by U.S. Government programs. Total foreign student programs in the Soviet Union and in Eastern Europe almost doubled between 1978 and 1982. The Soviets utilize their exchange programs to convey a favorable image of Soviet politics and life, to enhance the perceived importance of local Communist parties, to create cadres of bloc-trained workers in areas essential to the national development of the students' native countries, and to expand long-range opportunities for trade and exports. The disparity in the number of scholarships offered by the Soviet-bloc and by the United States results in many of the potential future leaders of the developing world being educated in Soviet-type environments.

The National Bipartisan Commission on Central America reiterates the need to increase our international scholarship program. The Commission recommended that the "United States expand economic assistance for democratic institutions and leadership training," by establishing a program of 10,000 U.S. Government-sponsored scholarships to bring Central American students to the United States. If this bill is adopted, I plan to urge the President to make Central and Latin America the first priority of the program.

This legislation directs the President to provide loans or grants to citizens and nationals of developing countries to study at American institutions of higher education beginning with the academic year 1985-86. Students will be brought to the United States for a period of not less than 1 year, and will be selected on the basis of academic and leadership potential, and the economic, political, and social development needs of their country. Financial incentives are provided to ensure that the students return to their countries of origin to use their training.

The bill further provides that U.S. missions will develop and implement need criteria and identify students for the program on the bases of merit and need. Educational institutions here and in the participating countries will assist participants in acquiring necessary skills in English and other appropriate training. Scholarship opportunities will emphasize fields that are critical to the development of the participants' country such as agriculture, civil engineering, communications, education, public and business administration, health, nutrition, energy, and environmental studies.

The act will provide for adequate counseling services at educational institutions in the United States and for counseling and orientation services abroad. The majority of foreign students in the United States who are on their own generally receive inadequate opportunities for home hospitality and acculturation as part of their educational program. The public and private sectors in the United States and in the developing countries will be encouraged to contribute to the costs of the total program. Funding for the program will be included in appropriations made to the U.S. Information Agency.

Mr. President, I firmly believe that now is the proper time to improve the range and quality of educational alternatives to students of developing nations and to build lasting links between the peoples of those countries and the United States. Peace and stability to countries either currently engaged in strife or likely to be so engaged in the future, should be enhanced through this cooperative effort. This program will complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities. It will enhance trade and economic relationships by increasing our understanding of their cultures and societies. Therefore, this legislation will have a positive impact on both our foreign policy as well as on the future development of many countries throughout the world.

Mr. President, I believe this is important legislation designed to promote the interests of this country and the development of many other countries whom we have a vital interest in helping. I hope it will receive prompt and favorable action by the Senate.

On June 10, 1984, the Washington Post published an article by columnist Jack Anderson which raises several points relevant to this bill. I ask unanimous consent that a copy of the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SCHOLARSHIPS, NOT SOLDIERS

(By Jack Anderson)

Maybe the best way to win friends and influence governments in Central America is in the classroom rather than on the battlefield, with the pointer instead of the bayonet.

At least the Soviets seem to think so. The Soviet bloc has been offering scholarships to 14 Central American students for each one who is invited to the United States to study. "Over five years," a U.S. Information Agency report states, "the Soviet bloc has increased total exchanges with Central America sevenfold."

"The long-term effects of student exchanges can be significant. Literally thousands of foreigners who studied at our service academies, for example, went on to positions of military and civilian leadership in their countries. At least 25 became heads of state.

A year ago, I quoted a secret, high-level inter-agency study which argued that the scholarship programs could be increased and improved for "only a fraction of the $23 million cost of one F15 fighter, but the payoff to our national security, broadly and properly defined, could be much greater.

Since that study, the military forces seem to be marching on a treadmill in Central America, but the cerebral conflict has worsened. The story is told in USIA memos and embassy cable traffic, reviewed by my associate Dale Van Atta.

There is dismaying evidence that the Soviets are processing Latin Americans through their training system by the thousands and returning them to their countries as Marxist sympathizers and agitators.

Soviet-educated, Marxist-indoctrinated students are infiltrating the professions throughout Central America. A USIA report from Costa Rica, for example, warns: "The first returning graduates from the U.S.S.R. are entering the professions in Costa Rica, and some Costa Ricans believe that the United States should match the Soviets in the number of scholarships awarded.

The Soviets are also raising their recruitment standards. From the Dominican Republic comes this confidential diplomatic report: "Soviet recruitment efforts in the Dominican Republic have shifted from the working class to middle- and lower-middle class youth, who are better prepared academically to succeed in the U.S.S.R."

For an on-the-scene assessment, the U.S. Information Agency's associate director, Ronald L. Trowbridge, took a swing through Central America in April. An aide who accompanied Trowbridge offered this telling observation on the Nicaraguan portion of their trip:

The heightened Soviet-bloc scholarship effort in the region was dramatized for me in the Managua airport, where I watched a group of about 150 Nicaraguan youths waiting excitedly for an Aeroflot flight to take them to Cuba or beyond.

The Russians, of course, are masters of indoctrination. In Nicaragua, the Soviet technique can be seen at its most insidious in "Los Carlitos," a 148-page primer for preschoolers. It tells the story of Carlos Fonseca, the heromartyr of the Sandinista revolution. One expert on child education said the kindergarteners who were exposed to the book would assume that the Sandinista junta, not the family, should be the central focus of their lives.

The Nicaraguan primer is no syrupy "Dick and Jane." Under "D" for "Defensa," for example, the tots are told: "Brave militiamen parade in the square. They all have guns in their hands. The militiamen belong to the people. The people are ready for defense. The militiamen are defending the fatherland. Long live the militiamen!"

The letter "F" illustrated by "Fusil" (gun). The letter "Q" is presented as part of the word "Yanquis" (Yankees). "Sandino fought the Yanquis,'" the primer declares. "The Yanquis are always vanquished in our country."

The USIA has asked Congress for $43 million for student scholarship funds and books next year. The proposed increase in scholarships for Central Americans—from just 18 this year to 2,700 over the next five years—would still be peanuts by Soviet standards.●

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**By Mr. HELMS:**

S. 2769. A bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes; to the Committee on the Judiciary.

### CABLE-PORN AND DIAL-PORN CONTROL ACT

● Mr. HELMS. Mr. President, I am today introducing the Cable-Porn and Dial-Porn Control Act, the purpose of which is to eliminate the use of cable television and interstate telephone service for the transmission of obscene, indecent, and profane material.

Mr. President, I was most gratified when the Senate on January 30 adopted my amendment to crack down on pornography trade by organized crime. That amendment, as part of the Comprehensive Crime Control Act, S. 1762, then passed the Senate on February 2 and was sent to the House of Representatives where it has not yet been acted upon.

Needless to say, I hope that the House will delay no longer in passing that measure. In any event my pornography trafficking legislation is only the first step in the battle to curb the explosion in pornography this Nation has experienced in recent years. Further amendments in current law are needed to deal with innovations in the distribution of pornography, particularly in the areas of cable television and interstate telephone service. That is why I am introducing the Cable-Porn and Dial-Porn Control Act today.

Mr. President, we all recognize that the purpose of government is to secure justice for its citizens. We normally think of this as the duty to protect life, liberty, and property, to enforce contracts, to provide assistance to the needy in certain cases, and to promote the common good.

While these are the things usually associated with justice, justice—or more precisely social justice—there is also the responsibility to secure public morality. Government is obligated, for the protection of young and old alike, to remove as far as may be possible public vice and the cultivation of vice for profit. That is what pornography is, and for the sake of justice government must never appear to condone it.

Mr. President, I make these comments because so many people think of social justice only in the distorted terms of redistribution of wealth and extending special legal immunities to particular interest groups. It is worth noting that in the outpouring of media commentary on social justice, there is rarely any mention of the palpable social injustice done by massive and increasing amounts of pornography in society. Frankly, we in Congress make the same mistake when we spend inordinate time enacting all manner of social programs while ignoring a root cause of social malaise such as insidious pornography.

Can we expect to have well-adjusted and responsible citizens when the exploitation of human sexuality has become a multibillion-dollar business and thus exposure to pornography is nearly unavoidable? Can we expect to encourage happy and peaceful family life when invitations to promiscuity and violence abound in popular art forms? Can we expect to conquer the social pathologies of venereal disease, adolescent pregnancy, abortion, high divorce rates, child abuse, and pederasty when vile and degrading depictions of illicit sex acts are never farther away than the television set, the telephone, the local movie theater, or the mail box?

I think not, Mr. President. And I do not think any of us has to look very far to see the victims of the insidious social injustice of widespread pornography. That is why it is imperative for the sake of justice and the moral and physical health of our society that the Government do a better job in restricting the circulation of obscene materials.

The essential problem with pornography is that it degrades the dignity and worth of human beings by presenting a false picture of human sexuality. It portrays sexuality as an end in itself, totally removed from its proper and normal place as a means in marriage for conjugal love and the procreation of children. Pornography demeans because it rejects the true meaning of sexuality. It degrades womanhood.

Mr. President, there is a meaningful principle that is reflected in our most ancient cultural tradition, one that binds human sexuality inseparably to marriage and sees its fruition in the family. This is the moral and spiritual context for sexuality, and when it is removed from such context, great injury is invariably done both to the individuals involved and to society at large.

Mr. President, in recent times pornography has been condemned as a particular offense against women. Pornography is the crass exploitation of women and femininity for the illegitimate pleasure of men.

But, Mr. President, that is only a part of the truth. The whole truth is that pornography not only offends against women, but it also constitutes an offense against men and children, and against human dignity and common decency as well. In short, it is a scourge to society.

Mr. President, the bill I am introducing today accomplishes two major goals. First, it expands section 1464 of title 18 of the United States Code to cover the transmission of obscene, indecent, or profane material on television and cable television in addition to the section's current coverage of such material on radio. Second, it amends section 223 of the Communications Act of 1934 to prohibit the use of interstate telephone service for the transmission of obscene messages and establishes heavy penalties for transmitting such messages for commercial purposes. Let me now explain in detail some of the major problems and how these provisions will help remedy them.

### CABLE TELEVISION

Mr. President, it is no secret that the illict sex industry has in recent years invaded American living rooms through cable television. While some communities have sought to restrict cable porn, legal restraints on such material have been few and generally ineffective.

For example, my office has received reports that in New York City the vilest type of pornography is exhibited on public access cable channels. Depictions of nudity and sexual intercourse, I am told, are commonplace. Violent rape, explicit homosexual activity, actual violence toward animals, and other degrading scenes have also been shown. The natural reaction to such public pornography is to assume that it must be against the law. But the truth is that there is a basic omission in the law.

The Federal statute that has been used to restrict the uttering of language by radio communication is section 1464 of title 18 of the United States Code. It has been interpreted to apply to both radio and television, and it states:

> Whoever utters an obscene, indecent, or profane language by means of radio communication shall be fined not more than $10,000 or imprisoned not more than 2 years, or both.

According to correspondence I have received from the Justice Department, this statute is not understood to apply to the transmission of obscene material over cable television. The Department has also expressed uncertainty over whether other provisions of title 18 of the United States Code, specifically sections 1462 and 1465 relating to interstate transportation of obscene material, apply as well. Thus, although there are Federal criminal penalties for uttering obscene language by radio transmission, there are no corresponding penalties for transmitting obscene material by cable television.

In addition to this lack of Federal criminal enforcement authority, Mr. President, the Federal Communications Commission has, as a practical matter, virtually no regulatory authority to curtail the transmission of obscene material by cable television. The only authority the Commission now has in this area is to prohibit obscene or indecent material when it is originated by an individual cable system operator. If it comes from anywhere else, as virtually all of it does, then the FCC has no authority.

Mr. President, I ask unanimous consent that correspondence to me from the Justice Department and the Federal Communications Commission regarding these matters by printed at this point in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

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U.S. DEPARTMENT OF JUSTICE,
*Washington, DC, May 24, 1984.*

Hon. JESSE HELMS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HELMS: This is in response to your letter of April 26, 1984, to Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs, concerning the applicability of 18 U.S.C. 1464 to cable television.

Section 1464 provides: "Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than $10,000 or imprisoned not more than two years or both." This provision was taken from Sections 326 and 501 of the Communications Act of 1934 (47 U.S.C. 326, 501). The Communications Act created the Federal Communications Commission and gave it jurisdiction over all forms of "wire communication" and "radio communication." These terms are defined in 47 U.S.C. 153 as follows:

(a) "Wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(b) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

By its terms 18 U.S.C. 1464 is limited to broadcasting by means of "radio communication." It seems clear that a cable-caster which originates programming in its own studio and transmits wholly through a closed cable system would not be covered by 18 U.S.C. 1464. Furthermore, the statute penalizes only one who "utters any obscene, indecent, or profane language." On its face the statute would not cover the transmission of pictures.

The issue of whether the government can regulate under present law the content of communications by means of this relatively new technology is far from clear, and we have undertaken a study of the matter. For instance, the fact that cable-casters receive signals from satellites by way of antennas before transmitting them by cable (or, for that matter, the fact that individual subscribers may now receive signals directly at their homes by means of privately purchased dish antennas) suggests that the "radio communication" definition may apply to this aspect of the industry. It may also be that 18 U.S.C. 1462 or 1465, which prohibit the interstate transportation of obscene material, may apply. Certainly we are in need of a better understanding of the technology of this industry before these questions can be resolved, and, as stated above, we are in the process of acquiring this information.

We shall be pleased to advise you of the results of our study after it has been concluded.

Sincerely,

STEPHEN S. TROTT,
*Assistant Attorney General,*
*Criminal Division.*
By:
VICTORIA TOENSING,
*Deputy Assistant*
*Attorney General.*

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FEDERAL COMMUNICATIONS COMMISSION,
*Washington, DC, May 14, 1984.*

Hon. JESSE HELMS,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HELMS: This is in reply to your letter of April 24, 1984, seeking certain information.

You ask the following questions:

1. Is the FCC authorized to regulate the transmission of obscene, indecent or profane material over cable television?

2. Is the FCC authorized to regulate, does it regulate, or does it plan to regulate the same with respect to scramble broadcasting, multipoint distribution systems and direct broadcast satellite operations?

The answer to your first question is a qualified "yes." The Commission adopted a rule in 1972 that prohibits the transmission of obscene or indecent material during time when the operator of a cable television system originates programs. 47 C.F.R. § 76.215. The rule does not contain the word "profane." The Commission sought clarifying legislation in 1976 as to its authority in the cable television/obscenity area. The Commission's report to Congress and accompanying legislation are found in Volume 122 of the Congressional Record, starting at page 33,359 (September 29, 1976). Congress did not enact the bill.

If a cable television system transmits programs found obscene that originate from another source, such as a television broadcast station, the Commission would proceed against the station instead of the cable system. In addition, the rule would not apply if the programming in question were not subject to the editorial control of the system operator. 47 C.F.R. § 76.5(w). Even though the Commission cannot act in such cases, that does not mean that the cable television system or the cable network could not be held accountable for obscene transmissions. For example, at least one state, Utah, adopted legislation that sought to prohibit the transmission of pornographic or indecent material on cable television systems. That statute highlights one of the very difficult problems in legislating in this area. The U.S. District Court for Utah, when reviewing the statute, acknowledged that the states could regulate in this area if the laws enacted are consistent with the U.S. Supreme Court's definition of obscenity, as set out in *Miller* v. *California*, 413 U.S. 15 (1973). The District Court found the Utah law unconstitutional because it prohibited the transmission of material that did not fall within the Supreme Court's definition of obscenity and that was, therefore, within the protection of the first amendment. *Home Box Office* v. *Wilkinson*, 531 F. Supp. 987 (D. Utah 1982). The courts have reached the same result with respect to city ordinances. See *Community Television of Utah Inc.* v. *Roy City*, 555 F. Supp. 1164 (D. Utah 1982); *Cruz* v. *Ferre*, 571 F. Supp. 125 (S.D. Fla. 1983).

The Commission has not received any complaints requiring formal enforcement action under its cable obscenity rule. This undoubtedly follows from the applicability of the rule only to cable system originations and from the very narrow definition of obscenity under the *Miller* case, and the even narrower definition of indecent language set out in *F.C.C.* v. *Pacifica Foundation*, 438 U.S. 726 (1978). Also, the number of obscenity/indecency complaints from cable subscribers is considerably smaller than similar complaints from nonsubscribers. That is not surprising, because there are many more off-the-air television viewers than cable subscribers. Moreover, adult programming is often offered by cable television systems as a special channel or tier that is available for an extra fee. Those subscribing to such pay channels would not be likely to complain as to content of the programs presented.

As to your second question, the Criminal Code (18 U.S.C. § 1464) prohibits the broadcast of obscene, indecent or profane material. As a part of the Criminal Code, the statute can be enforced by the Justice Department. Further, the Commission shares enforcement of the statute because the Communications Act grants us authority to revoke a broadcaster's license or to assess fines for violations of section 1464. 47 U.S.C. §§ 312(a)(6) and 503(b)(1)(D). The Commission has imposed fines for violations of the obscenity statute, but each case involved a radio licensee. There have been no cases involving television programs generally or scrambled television programs such as provided by an over-the-air subscription television station.

Those holding licenses in the multipoint distribution service (MDS) are considered common carriers, which are not subject to the broadcast obscenity statute. Nevertheless, the Commission has initiated a rulemaking proceeding in Docket No. 83-989 dealing in part with the Commission's role as to obscene transmissions over MDS facilities. One of the questions to be considered there is the extent, if any, to which the carrier should be held accountable, in contrast to the entity that hires the carrier's services. I have enclosed a copy of our Notice of Inquiry in Docket No. 83-989. You may find paragraphs 22-28 of that document helpful.

Direct broadcast satellite (DBS) licensees have the choice of operating as a broadcast or a common carrier service. Those that elect the broadcast route would be subject to section 1464 of the Criminal Code. The same questions now under consideration in Docket No. 83-989 can be raised as to DBS operators electing to operate as common carriers. The analysis that will be provided in Docket No. 83-989 should apply in substantial measure, if not equally, to common carriers licensed to provide a DBS service.

As an individual, of course, I share many of your concerns. As a member of the federal agency that licenses the various services mentioned above, and that is obligated to carry out the no-censorship provision of the Communications Act (47 U.S.C. § 326) and the freedom of the press and of speech clauses of the first amendment to the Constitution, I have serious reservations as to the extent the Commission should have a role in this area. In addition, as mentioned above, one of the difficulties in this area is determining what is legally obscene or indecent. Part of the Supreme Court's definition requires reference to "local community standards," determination that this Commission is ill equipped to make. For these reasons, the Commission adopted legislative recommendations in 1981 (FCC Track II Legislative Proposals, September 17, 1981) looking toward deletion of the revocation and forfeiture provisions of the Communications Act as to obscenity and indecency. Such a deletion would have left enforcement of the obscenity statute to the Justice Department or to local officials who can make judgments as to local community standards. Congress did not make the recommended changes. Accordingly, as long as the statutes are retained in the Communications Act, the Commission will impose sanctions where warranted, or will defer to local officials or the Justice Department, as may be appropriate.

I hope this is helpful.

Sincerely,

MARK S. FOWLER,
*Chairman.*

Mr. HELMS. Mr. President, what this correspondence, from the Justice Department and the FCC, shows is that there is a glaring anomaly in Federal law. While the transportation and transmission of obscene material in interstate commerce is generally prohibited for printed matter, radio, and broadcast television, cable television—perhaps the most rapidly expanding means of communication today—has been left virtually untouched. In short, Federal law has not kept up with new technology.

Mr. President, my bill will close this gap in the law and apply our traditional moral standards and criminal penalties to this new medium. The bill expands section 1464 of title 18, consistent with existing Supreme Court cases in this area, to cover not only transmission of obscene, indecent, or profane language by radio communication, but also the transmission of obscene, indecent, or profane material, as well as language, over both broadcast television and cable television.

Specifically, my bill leaves in place the current criminal penalties for the uttering of indecent or profane language by means of radio communication—that is, up to a $10,000 fine, or up to 2 years imprisonment, or both.

In several other respects it expands and upgrades current law:

First, instead of explicitly covering only the uttering of obscene, indecent, or profane language by radio communication, under my bill, the statute would also cover the same by broadcast television and cable television. Thus, both major forms of television communication would now be covered explicitly for the first time.

Second, in addition to covering the uttering of obscene, indecent, or profane language, under my bill the statute would also cover the distribution of obscene, indecent, or profane material. Until now only language, not pictures or other material, has been covered.

Third, my bill increases the maximum fine for violations against the obscentiy provisions from $10,000 to $20,000. Because obscene matter is today the worst part of the problem, it deserves a higher penalty.

Fourth, my bill very specifically defines "obscene language or material" and "indecent language or material"—all in accord with recent Supreme Court decisions. These definitions should remove any possible vagueness problems. (Prior case law on the meaning of "profane" was deemed sufficient.)

Fifth, my bill also includes a provision that allows the States and localities to enact stricter penalties or different kinds of penalties against the proscribed material, so long as such State regulation is not inconsistent with the Federal provisions.

Mr. President, all these provisions taken together should effectively remove radio, broadcast television, and cable television as means for the communication of obscene, indecent, or profane materials. These provisions are are also meant to include future developments in technology that involve radio or television in any manner, including the use of satellite transmission.

### INTERSTATE TELEPHONE SERVICE

Mr. President, late last year Congress passed a new authorization act for the Federal Communications Commission. That legislation amended section 223 of the Communications Act of 1934 which prohibits obscene and harassing telephone calls in interstate communications.

Such amendments were directed at the so-called dial-porn or dial-a-porn situation in which businesses lease telephone services for the purpose of making pornographic messages available for a fee to any caller—local or long distance. Pornographic magazines such as Penthouse and High Society have sponsored this type enterprise, and countless children throughout the country have used it.

In response to such exploitation of children, many public officials and others sought to have the FCC enforce the former section 223. When the FCC failed or was unable to respond under the prior law, Congress passed amendments to section 223.

Mr. President, the amendments were made in hopes of clarifying the section's application to the dial-porn situation. Unfortunately, the amendments were hastily drafted and passed, and they have made section 223 all but useless in getting rid of the dial-porn problem.

The main flaw in the amendments is the safe-harbor provision that effectively sanctions commercial telephone pornography and that does not really protect children from this scourge. Subsection (b)(2) provides:

> It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons 18 years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

This provision has proved in practice a gaping loophole in the law and has rendered the statute ineffective in providing sufficient protection for children.

The 1983 amendments have managed to produce the following disastrous effects:

First, for the first time in American history the dissemination of obscenity is legalized and sanctioned. The statute explicitly legalizes the transmission of obscene or indecent remarks to adults who consent to hear the message. To base obscenity law on a "consenting adult" theory completely contradicts the philosophy of other Federal laws prohibiting the importation, mailing, broadcasting, and interstate transportation of obscene matter. The traditional idea has been that, in order to serve the common good, the channels of commerce should not be open to breaches of public morality.

Second, even when minors take advantage of a dial-porn enterprise, there is a complete defense to the criminal penalties for the provider if he followed the FCC guidelines designed to restrict access for minors. Instead of working to protect the minors, this aspect of current law immunizes the smut peddler. As a practical matter, it is virtually impossible to prevent minors from calling or to distinguish a minor from an adult caller, and the law ought to recognize this reality.

Third, obscene recordings and telephone calls are legalized, as long as they are made for noncommercial purposes. Thus, an individual who offers obscene calls as a "hobby" would be exempt from prosecution in many situations.

The purpose of my bill's amendments to section 223 is to cure these defects. It eliminates the safe-harbor provision so that obscene material may not be transmitted by telephone to minors or adults, consenting or unconsenting.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2769

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Cable-Porn and Dial-Porn Control Act".

SEC. 2. (a) Section 1464 of title 18, United States Code, is amended to read as follows:

**"§ 1464. Broadcasting, telecasting, or cablecasting of obscene, indecent, or profane language; distributing obscene or indecent material by means of radio, television, or cable television**

"(a) Whoever knowingly utters any obscene language, or distributes any obscene material, by means of radio, television, or cable television communication shall be fined not more than $20,000, or imprisoned not more than two years, or both.

"(b) Whoever knowingly utters any indecent or profane language, or distributes any indecent or profane material, by means of radio, television, or cable television communication shall be fined not more than $10,000, or imprisoned for more than two years, or both

"(c) As used in this section, the term—

"(1) 'obscene language' or 'obscene material' means any language or material respectively which—

"(A) the average person, applying contemporary community standards for radio or television, would find, taken as a whole, appeals to the prurient interest;

"(B) depicts or describes, in a patently offensive way (i) an ultimate sexual act, normal or perverted, actual or simulated, (ii) masturbation, (iii) an excretory function, (iv) a lewd exhibition of a human genital organ, or (v) flagellation, torture, or other violence, indicating a sado-masochistic sexual relationship; and

"(C) taken as a whole, lacks serious literary, artistic, political, or scientific value;

"(2) 'indecent language' or 'indecent material' means a depiction or description of (A) a human sexual or excretory organ or function, (B) nudity, (C) an ultimate sexual act, normal or perverted, actual or simulated, (D) masturbation, (E) flagellation, torture, or other violence, indicating a sado-masochistic sexual relationship, which under contemporary community standards for radio or television is presented in a patently offensive way; and

"(3) 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire or satellite, or produce or provide such language or material for distribution.

"(d) Nothing in this section is intended to interfere with or preempt the power and right of the several States, including political subdivisions thereof, over franchises or to regulate in this area as to obscenity, indecency, or profanity, within their respective jurisdictions, in a manner which is not inconsistent with this section.".

(b) The analysis of chapter 71 of title 18, United States Code, is amended by deleting "1464. Broadcasting obscene language." and inserting in lieu thereof "1464. Broadcasting, telecasting, or cablecasting of obscene indecent, or profane language; distributing obscene or indecent material by means of radio, television, or cable television.".

SEC. 3. (a) Subsection (b) of section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended to read as follows:

"(b)(1) Whoever—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent, regardless of whether the maker of such comments placed the call, or

"(B) knowingly permits any telephone facility under such person's control to be used for any purpose prohibited by subparagraph (A),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.

"(2)(A) In addition to the criminal penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1)(A) or (1)(B) for commercial purposes shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purpose, or

"(ii) by the Commission, after appropriate administrative proceedings.

"(3)(A) Either the Attorney General, or the Commission or any attorney employed by the Commission who is designated by the Commission for such purpose, may bring suit in a district court of the United States to enjoin any act or practice which allegedly violates paragraph (1)(A) or (1)(B).

"(B) Upon a proper showing that, weighing the equities and considering the likelihood of ultimate success, a preliminary injunction would be in the public interest, and after notice to the defendant, such preliminary injunction may be granted. If a full trial on the merits is not scheduled within such period, not exceeding 20 days, as may be specified by the court after issuance of the preliminary injunction, the injunction shall be dissolved by the court.".

(b) Subparagraph (A) of paragraph (1) of subsection (a) of section 223 of the Communications Act of 1934 is repealed.

(c) Subsection (c) of section 8 of the Federal Communications Commission Authorization Act of 1983 is repealed.●

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By Mr. MELCHER (for himself and Mr. ABDNOR):

S. 2770. A bill to protect consumer franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes; to the Committee on the Judiciary.

### FAIR COMPETITION IN THE AUTOMOBILE AND TRUCK MARKETPLACE

● Mr. MELCHER. Mr. President, I am today introducing for myself and Senator ABDNOR a bill which I hope will serve not only as vehicle to shed light on the current practices of domestic automobile manufacturers in providing large discounts to fleet purchasers of their automobiles and trucks, but will also ensure fair competition in the automobile and truck marketplace. During the past several years about 15 to 20 percent of the American automobile manufacturers' production has been sold to leasing companies and other fleets. There is, of course, nothing wrong with this magnitude of sales to fleets. The fleets have a need for these vehicles and the marketplace supplies them.

It is our understanding, however, that the domestic manufacturers are providing subsidies or discounts to these companies sometimes in excess of $1,000 per vehicle. These fleet discounts are available only to a select group of businesses but not to franchised new car dealers for resale to individual consumers. These fleet assistance programs take many forms. Cash payments to fleets, free options, direct discounts, guaranteed resale value, and advertising payments are among the types of fleet subsidies that are currently being utilized by the domestic manufacturers.

This differential, of course, must be made up. In effect, the American new car buyer helps subsidize the fleet purchaser. Further, these progams cannot be justified on the basis of volume. The average dealer in the United States cannot buy cars as cheaply as the smallest fleet even though he might individually buy many, many more vehicles and even though franchised dealers in the aggregate clearly purchase far more units.

Some estimates suggest that these subsidies might well amount to hundreds of millions of dollars. That is not a small piece of change for the consumers of this Nation to pick up, and with a potential economic impact of that magnitude, I certainly think that this issue deserves further exploration. To my knowledge only the manufacturers know the number of vehicles that are being subsidized and the total dollar value of the subsidization. This vital information could be brought to light in congressional hearings.

Other questions are equally important. If acquisition costs for fleets are below the price at which small business dealers can obtain vehicles, does this create an unfair fleet price advantage over consumers? If these subsidy programs are creating a preferred class of customers, does this not result in large corporations paying less for their vehicles than consumers? If fleet vehicle orders are given preference over new car dealer orders, does this not create an unfair situation to both consumers and small business dealers? These are just a few of the many, many questions that must be explored in order to determine if the current program of fleet subsidies by the domestic manufacturers constitutes a discriminatory practice which injures both consumers and small business dealers. I hope that the bill which we are introducing today will serve as a vehicle for a congressional hearing in which the facts surrounding fleet subsidies can be fully aired.

I would add that one other problem must also be aired. That is the so-called practice of bootlegging. This is the simple practice of having the manufacturer sell the car to fleet purchasers at special discounts not available to dealers and in turn having the fleets sell the cars to private purchasers in direct competition with new dealers. This is clearly unfair competition and numerous examples of it have already begun to surface around the Nation. The practice is so potentially lucrative that it is highly likely that it will increase.

Summarized briefly, our bill would do the following:

First, prohibit a manufacturer from selling to any person or automobile dealer any automobile at a price which is lower than the price at which the same model is sold to its franchised automobile dealers during the same time period;

Second, prohibit a manufacturer from imposing restrictions on some of the persons purchasing automobiles that are not imposed on all purchasers;

Third, prohibit a manufacturer from providing to some ultimate purchaser of automobiles a rebate, discount, refund, and so forth, that is not offered to all other ultimate purchasers of the same model during the same time period; and

Fourth, provide an exception for sales to Federal, State, and local governments and the traditional sales to the Red Cross.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 2770

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## TITLE I—AUTOMOBILES

### DEFINITIONS

SECTION 101. As used in this title—

(1) The term "automobile" means any vehicle (including any van or station wagon) which has a gross vehicle weight of less than 10,000 pounds and which—

(A) has 4 or more wheels;

(B) is propelled by fuel; and

(C) is manufactured primarily for use on public streets, roads, and highways.

(2) The term "truck" means any vehicle which has a gross vehicle weight of 10,000 pounds or more and which—

(A) has 4 or more wheels;

(B) is propelled by fuel; and

(C) is manufactured primarily for use on public streets, roads, and highways.

(3) The terms "automobile manufacturer" and "manufacturer" means—

(A) any person who manufactures, assembles, or imports new automobiles; and

(B) Any person primarily engaged in the sale or distribution of new automobiles for resale.

Such term includes any person (other than an automobile dealer) owned or controlled (directly or indirectly) by a person who manufactures, assembles, or imports automobiles.

(4) The term "automobile dealer" means any person primarily engaged in the sale or distribution of new automobiles or new trucks to ultimate purchasers.

(5) The term "ultimate purchaser" means, with respect to any new automobile, the first person who purchases such new automobile for purposes other than resale.

(6) The term "sales period" means any period of time during which a new automobile is sold or leased, or offered for sale or lease, by the automobile manufacturer at a certain price.

(7) The term "price" means the amount paid, or to be paid, to the manufacturer by the person purchasing or leasing a new automobile from the manufacturer. Such term also includes—

(A) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit provided directly or indirectly by the manufacturer in connection with such sale or lease, and

(B) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit which is provided by the manufacturer to the ultimate purchaser of such automobile in connection with the purchase by such ultimate purchaser of such automobile.

Such term shall not include any amount which is separately stated in connection with the sale of an automobile by the manufacturer to a purchaser in any State to the extent that such amount is attributable to any device or equipment installed in such automobile for purposes of compliance with air pollution emission control requirements applicable in that State.

(8) The term "incentive" means—

(A) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit provided directly or indirectly by the manufacturer in connection with the sale or lease by the manufacturer of a new automobile, and

(B) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit which is provided by the manufacturer to the ultimate purchaser of an automobile in connection with the purchase by such ultimate purchaser of such automobile.

(9) The term "designated regional incentive sales period" means any period of time designated by an automobile manufacturer under section 103 of this Act for purposes of a qualified regional incentive sales program. No such period may be less than 14 days.

(10) The term "designated region" means any area within the United States which is designated by an automobile manufacturer under section 103 of this Act for purposes of a qualified regional incentive sales program. No such area may be smaller than the smallest standard Metropolitan Statistical Area determined under the most current United States census data.

### UNFAIR PRICE DISCRIMINATION

SEC. 102. (a) No automobile manufacturer may sell or lease any new automobile in interstate commerce, or offer to sell or lease any new automobile in interstate commerce, to any person (including an automobile dealer) during any sales period at a price which is higher than the lowest price at which any other new automobile of the same model, similarly equipped, is sold or leased, or offered for sale or lease, by the automobile manufacturer during that sale period.

(b) No automobile manufacturer may offer any incentive in connection with the sale or lease in interstate commerce of any model of new automobile unless all automobile dealers authorized by the manufacturer to sell that model have been notified, in advance, of such incentive and unless such incentive remains in effect for at least 14 days.

### EXCEPTIONS

SEC. 103. (a) Section 102 shall not apply to a sale or lease of, or an offer to sell or lease, any new automobile to—

(1) a automobile manufacturer;

(2) an employee of the manufacturer who is not an automobile dealer,

(3) any department, agency, or instrumentality of the United States or of a State or local government, or

(4) the American Red Cross.

No offer to sell to an entity referred to in paragraphs (1) through (4) of this subsection shall be taken into account for purposes of subsection (b)(2) of this section.

(b)(1) Section 102 shall not apply to a sale by the manufacturer of, or an offer by the manufacturer to sell, any new automobile to any purchaser if such sale or offer by the manufacturer is part of a qualified regional incentive sales program for any designated region.

(2) A sale by the manufacturer of, or offer by the manufacturer to sell, a new automobile is part of a qualified regional incentive sales program for a designated region if—

(A) all automobiles of the same model, similarly equipped, sold or offered for sale by the automobile manufacturer in the designated region during the designated regional incentive sales period are sold and offered for sale at the same price;

(B) all automobiles sold by the automobile manufacturer in such designated region during the designated regional incentive sales period are delivered by the automobile manufacturer to the purchaser in such designated region; and

(C) all automobile dealers which are located in such region and authorized by the automobile manufacturer to sell the model of automobile concerned are notified in advance of any incentive offered by the automobile manufacturer in connection with the sale or lease of such model and any such incentive remains in effect in such region for at least 14 days.

(c)(1) Section 102 shall not apply to any extension of credit by any person owned or controlled by an automobile manufacturer to an ultimate purchaser for the purchase of any new automobile if—

(A) such ultimate purchaser provides written certification to the automobile manufacturer that he has not purchased more than 5 automobiles manufactured by such automobile manufacturer during the preceding 12 months; or

(B) the terms on which such credit is extended are necessary to compete with credit available to such ultimate purchaser from any other source engaged in the business of extending credit.

(2) Section 102 shall not apply to any extension of credit by any person owned or controlled by an automobile manufacturer to an automobile dealer for purposes inventory financing.

(d)(1) No automobile which is exempt from any provision of section 102 by reason of this section shall be taken into account in determining whether any other automobile has been sold or leased or offered for sale or lease in violation of any provision of section 102.

### ENFORCEMENT

SEC. 104. (a) Any person may bring an action against any automobile manufacturer to require compliance with any requirement of this title. In any such action, the court may, in its discretion—

(1) issue such orders as may be necessary to require compliance with such requirement;

(2) award punitive damages to plaintiff; or

(3) take action under both paragraphs (1) and (2). In determining the amount of any punitive damages awarded under paragraph (2), the court shall take into account the number of automobiles sold in violation of this title and the amount by which the price at which such automobiles were sold is different from the price at which such automobiles would have been sold if sold in compliance with this title.

(b) Where appropriate, the court may award attorneys fees to a prevailing plaintiff in any action brought under this subsection.

(c) An action under this subsection may be brought in any appropriate United States district court.

### ANTITRUST LAWS

SEC. 105. Nothing in this title shall repeal, modify, or otherwise affect the application of any provision of the antitrust laws of the United States.

### PREEMPTION OF STATE LAW

SEC. 106. No provision of this title shall be construed to preempt or supercede any provision of State law except to the extent that the provision of State law is inconsistent with a provision of this title.

## TITLE II—TRUCKS

### DEFINITIONS

SEC. 201. As used in this title—

(1) The term "truck" means any vehicle which has a gross vehicle weight of 10,000 pounds or more and which—

(A) has 4 or more wheels;

(B) is propelled by fuel; and

(C) is manufactured primarily for use on public streets, roads, and highways.

(2) The term "automobile" means any vehicle (including any van, station wagon) which has a gross vehicle weight of less than 10,000 pounds and which—

(A) has 4 or more wheels;

(B) is propelled by fuel; and

(C) is manufactured primarily for use on public streets, roads, and highways.

(3) The terms "truck manufacturer" and "manfacturer" means—

(A) any person who manufactures, assembles, or imports new trucks; and

(B) any person primarily engaged in the sale or distribution of new trucks for resale. Such term includes any person (other than a truck dealer) owned or controlled (directly or indirectly) by a person who manufactures, assembles, or imports trucks.

(4) The term "truck dealer" means any person primarily engaged in the sale or distribution of new trucks or new automobiles to ultimate purchasers.

(5) The term "ultimate purchaser" means, with respect to any new truck, the first person who purchases such new truck for purposes other than resale.

(6) The term "sales period" means any period of time during which a new truck is sold or leased, or offered for sale or lease, by the manufacturer at a certain price.

(7) The term "price" means the amount paid, or to be paid, to the manufacturer by the person purchasing or leasing a new truck from the manufacturer. Such term also includes—

(A) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit provided directly or indirectly by the manufacturer in connnection with such sale or lease, and

(B) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit which is provided by the manufacturer to the ultimate purchaser of such truck in connection with the purchase by such ultimate purchaser of such truck.

Such term shall not include any amount which is separately stated in connection with the sale of a truck by the manufacturer to a purchaser in any State to the extent that such amount is attributable to any device or equipment installed in such truck for purposes of compliance with air pollution emission control requirements applicable in that State.

(8) The term "incentive" means—

(A) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit provided directly or indirectly by the manufacturer in connection with the sale or lease by the manufacturer of a new truck, and

(B) any rebate, discount, refund, promotional service, additional equipment, or any other inducement or benefit which is provided by the manufacturer to the ultimate purchaser of a truck in connection with the purchase by such ultimate purchaser of such truck.

### UNFAIR PRICE DISCRIMINATION

SEC. 202. (a) No truck manufacturer may sell or lease any new truck in interstate commerce, or offer to sell or lease any new truck in interstate commerce, to any person (including a truck dealer) during any sales period at a price which is higher than the lowest price at which any other new truck of the same model, similarly equipped, is sold or leased, or offered for sale or lease, by the truck manufacturer during that sales period.

(b) No truck manufacturer may offer any incentive in connection with the sale or lease of any model of new truck in interstate commerce unless all truck dealers authorized by the truck manufacturer to sell that model have been notified, in advance, of such incentive and unless such incentive remains in effect for at least 30 days.

### EXCEPTIONS

SEC. 203. (a) section 202 shall not apply to a sale or lease of, or an offer to sell or lease, any new truck to—

(1) a truck manufacturer;

(2) an employee of the manufacturer who is not a truck dealer,

(3) any department, agency, or instrumentality of the United States or of a State or local government, or

(4) the American Red Cross.

No offer to sell to an entity referred to in paragraph (1) through (4) of this subsection shall be taken into account for purposes of subsection (b)(2) of this section.

(b) Section 202 shall not apply to any incentive offered or provided by a truck manufacturer in connection with any truck component manufactured by such truck manufacturer to the extent that such incentive is necessary to compete with an incentive available in connection with the purchase of a comparable component from any other source.

(c)(1) Section 202 shall not apply to any extension of credit to the ultimate purchaser of any truck by any person owned or controlled by a truck manufacturer if—

(A) such ultimate purchaser provides written certification to the manufacturer that the has not purchased more than 5 trucks manufactured by such manufacturer during the preceding 12 months; or

(B) the terms on which such credit is extended are necessary to compete with credit available to such ultimate purchaser from any other source engaged in the business of extending credit.

(2) Section 202 shall not apply to any extension of credit by any person owned or controlled by a truck manufacturer to a truck dealer for purposes of inventory financing.

(d) No truck which is exempt from section 202 by reason of this section shall be taken into account in determining whether any other truck has been sold or leased or offered for sale or lease in violation of any provision of section 202.

### COMPANY OWNED DEALERSHIPS

SEC. 204. (a) No truck dealer which is owned by a truck manufacturer may sell or lease any new truck in interstate commerce, or offer to sell or lease any new truck in interstate commerce, to any person at a price which is lower than the price at which that truck was sold by the truck manufacturer to such truck dealer.

(b)(1) Whenever any truck manufacturer has a branch or division which is primarily engaged in the sale of trucks to the ultimate consumer, such branch or division shall be treated for purposes of this title as truck dealer which is a person separate from such manufacturer.

(2) No person deemed to be a separate truck dealer under paragraph (1) may sell or lease any new truck in interstate commerce, or offer to sell or lease any new truck in interstate commerce, to any person at a price which is lower than the price at which that truck would be sold by the manufacturer if the manufacturer were making such sale in accordance with the requirements of section 202.

### ENFORCEMENT

SEC. 205. (a) Any person may bring an action against any truck manufacturer to require compliance with any requirement of this title. In any such action, the court may, in its discretion—

(1) issue such orders as may be necessary to require compliance with such requirement;

(2) award punitive damages to plaintiff; or

(3) take action under both paragraphs (1) and (2).

In determining the amount of any punitive damages awarded under paragraph (2), the court shall take into account the number of trucks sold in violation of this title and the amount by which the price at which such trucks were sold is different from the price at which such trucks would have been sold if sold in compliance with this title.

(b) Where appropriate, the court may award attorneys fees to a prevailing plaintiff in any action brought under this subsection.

(c) An action under this subsection may be brought in any appropriate United States district court.

### ANTITRUST LAWS

SEC. 206. Nothing in this title shall repeal, modify, or otherwise affect the application of any provision of the antitrust laws of the United States.

### PREEMPTION OF STATE LAW

SEC. 207. No provision of this title shall be construed to preempt or supercede any provision of State law except to the extent that the provision of State law is inconsistent with a provision of this title.●

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By Mr. LEVIN:

S.J. Res. 310. Joint resolution to designate the week beginning September 16, 1984, as "National Osteopathic Medicine Week"; to the Committee on the Judiciary.

### NATIONAL OSTEOPATHIC MEDICINE WEEK

● Mr. LEVIN. Mr. President, today I am introducing a joint resolution to establish the week beginning September 16, 1984, as "National Osteopathic Medicine Week". My colleague from Michigan, Congressman FORD, has already introduced this resolution in the House.

Osteopathic medicine has been practiced in the United States since 1874. There are now over 20,000 osteopathic physicians [DO's] practicing medicine in this country. While an osteopathic physician receives training in many respects to that of a medical doctor, osteopathic medical schools have historically placed greater emphasis upon training DO's to treat the whole person. The profession has also emphasized treatment of families in small communities. Nearly 40 percent of the osteopathic physicians in the country work in communities of less than 20,000 people and over 90 percent of all practicing DO's provide primary care.

Sixteen percent of the osteopathic physicians in the United States practice in my own State of Michigan. My State is also fortunate to have more than 30 of the Nation's 200 osteopathic hospitals. Michigan State University College of Osteopathic Medicine is one of the leading schools of medicine in the country and my State also houses the Nation's first freestanding osteopathic hospital which provides psychiatric treatment for children and adolescents, the Michigan Osteopathic Medical Center [MOMC].

Mr. President, of special significance this year is that 1984 is the golden anniversary of the American Osteopathic Hospital Association, which represents the osteopathic hospitals. For over 100 years, members of the osteopathic profession have devoted themselves to providing basic health care services to American families who live in the small towns and rural areas of our country.

I urge my colleagues to cosponsor this resolution which provides a unique opportunity for the Congress to commend osteopathic physicians for making an important contribution to providing quality health care to Americans.●

By Mr. LEVIN:

S.J. Res. 311. Joint resolution to designate the week of October 13, 1984, through October 19, 1984, as "National Independent Laboratory Week"; to the Committee on the Judiciary.

### NATIONAL INDEPENDENT LABORATORY WEEK

● Mr. LEVIN. Mr. President, I am introducing today a joint resolution to designate the week of October 13, 1984, through October 19, 1984, as "National Independent Laboratory Week."

The more than 3,000 independent laboratories in the United States represent a valuable national resource. These independent laboratories serve manufacturers, Government agencies, trade associations, engineers and architects, shippers, buyers, sellers, farmers, lawyers, homeowners, and many others. Independent laboratories test literally everything from A to Z, from air to zinc: aircraft-missile parts, bridges, crops, concrete, drugs, electrical appliances, food, metals, military components, noise, plastics, steel, water.

Independent, third party opinions and data are an integral part of the American legal, industrial, and business systems. Independent opinions and reports are prima facie more credible because they are inherently objective and free from conflict of interest. This fundamental belief in the value of the independent, third party role has led to the development over the past 100 years of the independent testing laboratory profession.

As defined by the American Council of Independent Laboratories, the national association of these companies, an independent laboratory provides professional testing, analysis, inspection, sampling, investigation and/or related consultation services to the public in the fields of engineering and the sciences. Independent laboratories produce objective unbiased reports that are independent of any influencing factors which could prejudice the judgment or action of the laboratory's management or employees.

The typical independent laboratory is a privately held small business founded by an engineer or scientist entrepreneur. His or her commitment to professional standards is reinforced by business realities; he or she learns that reliability, responsibility and emphasis on quality constitute sound business practice as well as ethical behavior. The profit motive inclines the independent laboratory to be innovative and efficient. These laboratories are typical of the small technical businesses that several studies have found to be the primary source of U.S. innovation and productivity.

In recent years, the work of independent testing laboratories has been particularly important in improving the U.S. environment and enhancing the quality of U.S. products. Many independent laboratories are certified by the U.S. Environmental Protection Agency and its State counterparts for testing drinking water. They also test wastewater for governments and industry as part of the national effort to clean up our rivers, streams, and lakes. Further, they are deeply involved in programs to monitor air quality and protect against unsafe levels of contaminants in the atmosphere. Consumer product testing and construction-related quality assurance programs are also major areas of activity of independent laboratories. Manufacturers and building designers hire these third party experts to monitor production and ensure that proper standards and specifications are met. In these and other ways, the Nation's independent laboratories contribute significantly to the health, safety, and quality of life of all U.S. citizens.

Independent laboratories are also creating jobs. Figures obtained recently from the U.S. Bureau of Labor Statistics reveal that these firms have been creating new jobs at more than double the rate of U.S. industry as a whole. Between the years 1974 and 1981, the average growth in total jobs throughout industry was 23 percent. Over the same period, independent laboratories (SIC codes 7391 and 7397) realized a job-growth rate of more than 50 percent—from 93,000 employees in 1974 to 141,000 employees in 1981.

The U.S. Senate should recognize the important contributions U.S. independent laboratories have made and the vital role they continue to play. Therefore, because the members of the American Council of Independent Laboratories will be holding the 47th annual meeting of their association in Washington, from October 13 to 18, 1984, I urge my colleagues to join me in designating the week of October 13, 1984, be declared National Independent Laboratory Week.●

## ADDITIONAL COSPONSORS

### S. 203

At the request of Mr. INOUYE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 203, a bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are permitted to travel on such aircraft.

### S. 563

At the request of Mr. CHILES, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 563, a bill to reform the laws relating to former Presidents.

### S. 911

At the request of Mr. CHILES, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 911, a bill to establish a commission to make recommendations for changes in the role of nonparty multicandidate political action committees in the financing of campaigns of candidates for Federal office.

### S. 1531

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1531, a bill to encourage the use of public school facilities before and after school hours for the care of school-age children and for other purposes.

### S. 1841

At the request of Mr. THURMOND, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

### S. 2358

At the request of Mr. PROXMIRE, the names of the Senator from Washington [Mr. GORTON] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2358, a bill to prohibit the U.S. Synthetic Fuels Corporation from making new awards of financial assistance before the comprehensive strategy, as set forth in the Energy Security Act, is approved.

### S. 2366

At the request of Mr. ROTH, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 2366, a bill to require custodians of public money to deposit funds not later than 3 business days after the date of receipt, and for other purposes.

### S. 2374

At the request of Mr. STAFFORD, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 2374, a bill to extend the authorization for 5 years for the low-income home energy assistance program, for the community services block grant, and for the Head Start Program, and for other purposes.

### S. 2423

At the request of Mr. THURMOND, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2423, a bill to provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

### S. 2436

At the request of Mr. GOLDWATER, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 2436, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

### S. 2456

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. MOYNIHAN] was added as cosponsor of S. 2456, a bill to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine.

### S. 2644

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2644, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity, resulting from changes made in 1977 in the benefit computation formula, between those levels and the benefit levels of persons who became eligible for benefits before 1979.

### S. 2650

At the request of Mr. KASTEN, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2650, a bill to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles create a substantial risk of injury to children.

### S. 2679

At the request of Mr. D'AMATO, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 2679, a bill to amend title IV of the National Housing Act and the Federal Deposit Insurance Act with respect to brokered deposits.

### SENATE JOINT RESOLUTION 55

At the request of Mr. MATHIAS, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

### SENATE JOINT RESOLUTION 246

At the request of Mr. EXON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution strongly urging the President to secure a full accounting of Americans captured or missing in action in Southeast Asia, and for other purposes.

### SENATE JOINT RESOLUTION 272

At the request of Mr. MURKOWSKI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution recognizing the anniversaries of the Warsaw Uprising and the Polish resistance to the invasion of Poland during World War II.

### SENATE JOINT RESOLUTION 287

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 287, a joint resolution to authorize and request the President to designate January 27, 1985, as "National Jerome Kern Day."

### SENATE JOINT RESOLUTION 293

At the request of Mr. WILSON, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Washington [Mr. GORTON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alabama [Mr. HEFLIN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. HATCH], the Senator from Idaho [Mr. SYMMS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Iowa [Mr. JEPSEN] were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate July 17, 1984, as "Spanish American War Veteran Day."

### SENATE JOINT RESOLUTION 309

At the request of Mr. BENTSEN, the names of the Senator from Kansas [Mr. DOLE], the Senator from Georgia [Mr. NUNN], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. WEICKER], and the Senator from North Dakota [Mr. ANDREWS] were added as cosponsors of Senate Joint Resolution 309, a joint resolution authorizing and requesting the President to designate January 1985 as "National Cerebral Palsy Month."

### SENATE CONCURRENT RESOLUTION 105

At the request of Mr. BUMPERS, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Massachusetts [Mr. TSONGAS], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Concurrent Resolution 105, a concurrent resolution expressing support for the United States to pursue vigorously any outstanding arms control compliance concerns through appropriate confidential channels, and at the same time to continue to carry out its obligations and commitments under, and otherwise continue to abide by, the provisions of existing strategic arms agreements.

### SENATE CONCURRENT RESOLUTION 115

At the request of Mr. BRADLEY, the name of Senator from Illinois [Mr. PERCY] was added as a cosponsor of Senate Concurrent Resolution 115, a concurrent resolution expressing the sense of Congress that the International Olympic Committee should establish a permanent facility for the Olympic games, to insulate the games from international politics.

### SENATE CONCURRENT RESOLUTION 117

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution relating to the promotion of technological innovation in computer software and the protection of computer software.

### SENATE CONCURRENT RESOLUTION 121

At the request of Mr. BOSCHWITZ, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. LEVIN], and the Senator from Illinois [Mr. PERCY] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress regarding the nondelivery in the Soviet Union of certain mail from the United States, and for other purposes.

### SENATE RESOLUTION 294

At the request of Mr. RIEGLE, the names of the Senator from Nebraska, [Mr. EXON], the Senator from California [Mr. WILSON], the Senator from Tennessee [Mr. SASSER], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. HUDDLESTON], and the Senator from Idaho [Mr. McCLURE] were added as cosponsors of Senate Resolution 294, a resolution expressing the sense of the Senate that the Government of the Soviet Union should allow Igor V. Ogurtsov to be released from exile and allowed to emigrate to the West without renouncing his views, and for other purposes.

### SENATE RESOLUTION 402

At the request of Mr. DIXON, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of Senate Resolution 402, a resolution opposing certain proposed import restrictions by the European Community on U.S. agricultural products.

### AMENDMENT NO. 3053

At the request of Mr. GORTON, the names of the Senator from Iowa [Mr. JEPSEN], the Senator from Arkansas [Mr. BUMPERS], the Senator from South Dakota [Mr. PRESSLER], the Senator from Illinois [Mr. PERCY], the Senator from Arkansas [Mr. PRYOR], the Senator from Missouri [Mr. EAGLETON], the Senator from Alabama [Mr. DENTON], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of amendment No. 3053 intended to be proposed to S. 2537, a bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

### AMENDMENT NO. 3175

At the request of Mr. TRIBLE, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of amendment No. 3175 intended to be proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

### AMENDMENT NO. 3199

At the request of Mr. EXON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of amendment No. 3199 proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

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## SENATE CONCURRENT RESOLUTION 122—PROVIDING FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. MATHIAS (for himself, Mr. BAKER, Mr. BYRD, and Mr. FORD) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 122

*Resolved by the Senate (the House of Representatives concurring),* That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 21st day of January 1985.

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## SENATE CONCURRENT RESOLUTION 123—RELATIVE TO PAYMENT OF ATTORNEY'S FEES TO THE FAMILY OF BABY JANE DOE

Mr. DURENBERGER submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 123

Whereas: (1) Baby Jane Doe was born on October 11, 1983, in New York, with an incompletely formed spine, a small head (representing a lack of brain development), and multiple other impairments;

(2) The family of Baby Jane Doe was confronted with a decision whether to have surgery performed to close her spine or to treat it with antibiotics, both medically reasonable courses of treatment;

(3) Baby Jane Doe's doctors advised her parents that she would be paralyzed from the waist down and in constant pain if surgery were performed to close her spine;

(4) Her family, in consultation with their doctors, decided to forego surgery for the baby;

(5) After receiving a confidential tip about the family's decision, an individual whom the family had never met, A. Lawrence Washburn, commenced litigation in the New York State Courts with the objective of compelling surgery;

(6) Washburn initially convinced the New York court to appoint a guardian ad litem for the baby to determine if the family and hospital had neglected the child. The New York State Department of Child Protective Services found no evidence of neglect after reviewing the child's first nine days of hospital records;

(7) Washburn then dragged the parents through litigation in every level of the New York State Court system and was unsuccessful at every stage;

(8) Washburn appealed to the United States Supreme Court, but was denied a hearing. He then went back to the District Court in New York and instituted a class action on behalf of Baby Doe and 300 other babies he alleged were victims of infanticide. His arguments were dismissed and he was fined $500;

(9) After successfully defending themselves against Washburn in the New York State Courts, the Federal Government, the U.S. Justice Department, got into the act;

(10) The Justice Department's theory was novel—they alleged that the decision to forego surgery was a violation of Section 504 of the Rehabilitation Act and maintained that the hospital had discriminated against Baby Doe on the basis of her handicap;

(11) The Justice Department initially requested that the United States Surgeon General investigate Baby Jane Doe's first nine days of hospital records to determine if a violation of Section 504 of the Rehabilitation Act had occurred and the hospital had discriminated against the baby;

(12) After the U.S. Surgeon General had determined that there had been no discrimination against Baby Jane Doe, the U.S. Justice Department commenced a legal action against the hospital in the U.S. District Court, alleging a violation of Section 504 and seeking all the baby's medical records;

(13) The family of Baby Doe requested to intervene in that action in order to protect their civil and constitutional rights and the Justice Department did not object;

(14) The Justice Department brought in a number of attorneys to litigate this matter in U.S. District Court shortly thereafter;

(15) The U.S. District Court decided that the Government had acted beyond their authority and denied the Justice Department access to Baby Jane Doe's medical records;

(16) The family, by then burdened not only by the decisions on behalf of their handicapped newborn and the "5" step court abuse by Washburn, but the cost of defending itself from the effect of the novel experiment with Section 504 by their own Government, brought a motion to have attorney's fees assessed against the Justice Department for approximately $53,000.00;

(17) The Justice Department not only challenged this amount, but also opposed payment of any attorneys' fees. The Court has not rendered its decision on that question;

(18) Following Justice's loss in U.S. District Court, an appeal was taken to the Second Circuit Court of Appeals and the decision of the District Court was affirmed;

(19) After the Second Circuit had issued its ruling, the family again filed for attorneys' fees in the amount of $25,368.75;

(20) The Justice Department, once again, refused to pay reasonable attorneys' fees to the family;

(21) Thereafter, the Justice Department requested that the entire Second Circuit conduct a hearing in banc and that request was unanimously denied;

(22) Following the Second Circuit Court's denial of a rehearing in banc, the United States District court, on May 23, 1984, ruled that the Federal Government had no authority to issue Baby Doe regulations pursuant to Section 504 of the Rehabilitation Act;

(23) On June 8, 1984, the Second Circuit Court of Appeals denied the family's request for payment of attorneys' fees in the amount of $25,368.75;

(24) The family of Baby Jane Doe has incurred over $150,000.00 in medical and legal fees since the birth of Baby Jane Doe and anticipate it will take them a lifetime to pay these expenses;

(25) In addition, Baby Jane Doe is expected to necessitate extensive medical care and treatment throughout her life which will require this family to incur additional expenses: Now therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that:

(1) The United States Government has abused its obligation to protect life in the case of Baby Jane Doe. In the first days of the child's life society and Government worked to affirm the rights of the child. The family's decisions were affirmed;

(2) After the Government had discharged its obligation to protect life, the U.S. Justice Department came along with an experiment in interpreting Section 504 of the Rehabilitation Act as a new form of government protection;

(3) These parents were forced to help finance Justice's experiment when Justice refused to pay for their forced co-experimentation;

(4) The Baby Jane Doe case is in no sense of the word a typical civil rights case which should be subject to the usual rules governing an award of attorneys' fees to prevailing defendants;

(5) The usual restriction on the recovery of attorneys' fees by defendants in civil rights actions should not be used to punish an innocent party who has been singled out to serve as the subject of experimental litigation;

(6) A more liberal policy for awarding attorney's fees to prevailing defendants is warranted when the government acts as the plaintiff and the defendant becomes a test model for future interpretation of the law;

(7) An award of attorneys' fees to the family of Baby Jane Doe will not deter the Justice Department from pursuing future civil rights cases;

(8) This family should not be penalized for having advanced their civil and constitutional arguments by intervening in the case;

(9) Requiring the family to pay the costs of litigating this matter against the Federal Government will deprive Baby Jane Doe's family of badly needed resources;

(10) Baby Jane Doe and her family deserve to begin their lives together—free of governmental interference and the crushing burden of these legal fees;

(11) The Federal Government should, and must, demonstrate its compassion for this family and restore faith in the role of government in society by assuming the costs of reasonable attorneys' fees for the family in the United States District Court and the Second Circuit Court of Appeals.

● **Mr. DURENBERGER.** Mr. President, the second circuit court of appeals denied the request of the family of Baby Jane Doe to assess attorneys' fees against the Department of Justice after the family prevailed in that court. I am very disappointed by the second circuit's ruling and believe that the Congress should act to remedy this situation.

Baby Jane Doe's family was made the subject of an experiment by the Justice Department to ascertain the extent to which they could carry enforcement of section 504 of the Rehabilitation Act. this family was, in effect, forced into litigation in the Federal courts despite their earlier successes at all levels of the New York court system against an individual, whom they had never met, who alleged they had neglected and abused their child. The family entered the Justice Department's litigation in an effort to protect their civil and constitutional rights. They had no alternative.

After prevailing against the Justice Department in the U.S. district court, they were then forced to litigate this matter before the second circuit court where they again prevailed. At both levels of the Federal court system the family requested that the Justice Department pay their reasonable attorneys' fees. Each time, Justice opposed their request.

Mr. President, Baby Jane Doe's family has incurred over $150,000 in medical and legal fees and expects that amount to climb. The family has taken the baby home, she is doing quite well, but she will always necessitate costly medical care.

I am disappointed not only by the second circuit court's decision, but also by the action of our Government in refusing to pay this family's attorneys' fees. This family deserves to begin their life together—free of governmental interference and the crushing burden of these legal fees. I believe the Federal Government should, and must, demonstrate its compassion for this family and restore faith in the role of Government in society by assuming the costs of reasonable attorneys' fees for the family.

I urge my colleagues to join me in this sense of the Congress resolution demonstrating our commitment to help this deserving family.●

## SENATE RESOLUTION 405—TO REFER THE BILL S. 2761 TO THE COURT OF CLAIMS

**Mr. DOMENICI submitted the following resolution; which was referred to the Committee on the Judiciary:**

S. Res. 405

*Resolved*, That the bill (S. 2761) entitled "A bill for the relief of White Sands ranchers of New Mexico" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

## AMENDMENTS SUBMITTED

### OMNIBUS DEFENSE AUTHORIZATION ACT, 1984

### BYRD (AND WARNER) AMENDMENT NO. 3204

**(Ordered to lie on the table.)**

**Mr. BYRD (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes; as follows:**

On page 128, between lines 12 and 13, insert the following new section:

COMMISSION ON MERCHANT MARINE AND DEFENSE

SEC. 1019. (a) There is hereby established a commission to be known as the "Commission on Merchant Marine and Defense" (hereinafter in this section referred to as the "Commission").

(b) The Commission shall study problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the United States merchant marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base of the United States to meet the needs for both naval and commercial ship construction and repair in time of war or national emergency. Based on the results of the study, the Commission shall make, as provided in subsection (g), such specific recommendations, including recommendations for legislative action, action by the executive branch, and action by the private sector, as the Commission considers appropriate to foster and maintain a United States merchant marine capable of meeting national security requirements.

(c)(1) The Commission shall be composed of seven members, as follows:

(A) The Secretary of the Navy (or his delegate), who shall be the chairman of the Commission.

(B) The Administrator of the Maritime Administration (or his delegate).

(C) Five members appointed by the President, by and with the advice and consent of the Senate, from among individuals of recognized stature and distinction who by reason of their background, experience, and knowledge in the fields of merchant ship operations, shipbuilding, the steel industry, maritime labor, and defense matters are particularly suited to serve on the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under paragraph (1)(C) without regard to section 5311(b) of title 5, United States Code. Members appointed under such subsection shall be appointed for the life of the Commission.

(3) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The Commission shall meet at the call of the Chairman.

(d) Each member of the Commission appointed under subsection (c)(1)(C) shall be paid at a rate equal to the daily equivalent of the rate of basic pay payable for level IV of the Executive Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the business of the Commission. Other members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e)(1) The Commission may (without regard to section 5311(b) of title 5, United States Code) appoint an executive director, who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The Commission may appoint such additional staff as it considers appropriate. Such personnel shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(3) The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the executive branch and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f)(1) The Secretary of the Navy and the Administrator of the Maritime Administration may detail personnel under their jurisdiction to the Commission to assist the Commission in carrying out its duties under this section.

(2) The Secretary of the Navy and the Administrator of the Maritime Administration may provide to the Commission such administrative support services as the Commission may require.

(g) Not later than each of September 30, 1985, September 30, 1986, and September 30, 1987, the Commission shall submit to the President and to the Congress a report containing its findings of fact and its conclusions on the problems relating to the matters specified in the first sentence of subsection (b). Each such report shall include the specific conclusions of the Commission on the adequacy of the maritime and shipbuilding resources available to the United States to meet the requirements for national action relating to such matters in the event of multiple and sustained crises, as those requirements are specified in the latest annual report of the Secretary of Defense to the Congress on the national defense posture. Each such report shall further include, based upon those findings and conclusions, the recommendations of the Commission as specified in subsection (b). Each such report shall be prepared without any prior review or approval by any official of the executive branch (other than the members and staff of the Commission).

(h) The Commission shall cease to exist 90 days after the date on which the final report of the Commission under subsection (g) is submitted to the President and the Congress.

(i) There is authorized to be appropriated for fiscal year 1985, $1,500,000 to carry out this section during such fiscal year.

### GORTON AMENDMENT NO. 3205

**(Ordered to lie on the table.)**

**Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 2723, supra, as follows:**

On page 128, between lines 12 and 13, insert the following new section:

COMPLIANCE WITH CERTAIN LIMITATIONS PRESCRIBED IN THE SALT II TREATY

SEC. . (a) In the event that the seventh Trident class nuclear submarine is given sea trials during fiscal year 1985, the President shall take such action as may be necessary to insure continued compliance on the part of the United States with the limitation on nuclear warheads, prescribed in the Treaty Between the United States and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, signed at Vienna, Austria, on June 18, 1979 (also known as the "SALT II Treaty"), of 1200 launchers of intercontinental ballistic missiles armed with multiple, independently targetable re-entry vehicles (MIRVed ICBMs) and launchers of submarine-launched ballistic missiles armed with multiple, independently targetable re-entry vehicles (MIRVed SLBMs) unless—

(1) the subceilings prescribed in the SALT II Treaty on MIRVed weapon systems have been superseded by a subsequent agreement between the United States and the Soviet Union;

(2) the President determines and notifies the Congress in writing that the Soviet Union has failed to comply with the limit of 820 launchers of MIRVed intercontinental ballistic missiles or the limit of 1200 launchers of MIRVed intercontinental ballistic missiles and submarine-launched ballistic missiles prescribed by the SALT II Treaty; or

(3) the President determines and notifies the Congress in writing that it is not in the interest of the United States to remain in compliance with those terms of the SALT II Treaty described in this subsection.

(b) It is the sense of the Congress that any action by the Soviet Union which subverts or violates existing arms control agreements or understandings between the United States and the Soviet Union would have serious implications for the security of the United States. The Congress, therefore, urges and requests the President to carefully monitor the Soviet Union's compliance with such agreements and understandings, to address his concerns regarding noncompliance by the Soviet Union through all available channels, and to apprise the Congress of those concerns as he considers appropriate.

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## METZENBAUM (AND LEVIN) AMENDMENT NO. 3206

Mr. METZENBAUM (for himself and Mr. LEVIN) proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following:

SEC. . (a) Section 1202 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 679), is amended—

(1) in subsection (b), by inserting "or in any Act enacted after the date of the enactment of this Act" after "this Act"; and

(2) in subsection (c)(1), by striking out "fiscal year 1985," and inserting in lieu thereof "fiscal years 1985, 1986, and 1987,".

(b)(1) Section 2401 (c) of title 10, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation "(c)";

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(2) Funds available to the Department of Defense may not be used to enter into any contract under this section, the term of which is for 3 years or more, inclusive of any option for contract extension or renewal, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, that imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the United States exceeding 50 percent of the original purchase value of the vessel, aircraft, or vehicle involved for which the Congress has not specifically provided budget authority for the obligation of at least 10 percent of such termination liability.".

(2) Section 2401(f) of such title is amended by striking out "90 days after the date of enactment of this section" in the second sentence and inserting in lieu thereof "October 31, 1984".

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## LEAHY (AND OTHERS) AMENDMENT NO. 3207

Mr. LEAHY (for himself, Mr. LEVIN, Mr. BUMPERS, Mr. GLENN, Mr. BIDEN, Mr. MITCHELL, Mr. KENNEDY, Mr. HART, Mr. SASSER, Mr. BINGAMAN, Mr. SARBANES, and Mr. HOLLINGS) proposed an amendment to the bill S. 2723, supra, as follows:

On Page 2, line 11, strike out all through Page 11, line 21, and insert in lieu thereof, the following:

### TITLE I—PROCUREMENT

### PART A—PROCUREMENT

#### AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft, missiles, weapons, and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $8,808,500,000.

For missiles, $3,328,800,000.

For weapons and tracked combat vehicles, $4,738,000,000.

For ammunition, $2,524,800,000.

For other procurement, $5,564,500,000.

For Army National Guard equipment, $50,000,000.

(2)(A) There are hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(i) $60,500,000 to be derived from amounts available for fiscal year 1983 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation; and

(ii) $131,200,000 to be derived from amounts appropriated for fiscal year 1984 for procurement of weapons and tracked combat vehicles for the Army remaining available for obligation.

(b) The Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of UH-60A aircraft and EH-60A aircraft, and for the execution of the CH-47D aircraft modernization program. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be canceled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(c) None of the funds appropriated pursuant to the authorization of appropriations in section 101 may be obligated or expended for the Division Air Defense System until—

(1) initial production testing of such system has been completed;

(2) the Secretary of Defense has reported to the appropriate committees of the Congress the results of the testing and has certified to the committees that continued production of the Division Air Defense System is in national interest; and

(3) a period of at least 30 days has elapsed after the day on which the committees have received the report and certification.

(d) Section 107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 620) is repealed.

#### AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft, weapons (including missiles and torpedoes), shipbuilding and conversion, and other procurement for the Navy as follows:

For aircraft, $11,144,700,000.

For weapons (including missiles and torpedoes), $4,531,960,000.

For shipbuilding and conversion, $12,198,200,000.

For other procurement, $5,387,400,000.

For Navy Reserve equipment, $20,000,000.

(2) There are hereby authorized to be transferred to, and merged with, amounts appropriated to the Navy for shipbuilding and conversion for fiscal year 1985 pursuant to the authorization of appropriations in paragraph (1), to the extent provided in appropriation Acts—

(A) the sum of $422,600,000 to be (i) derived from amounts available to the Navy for fiscal years 1981 through 1984 and which remain unobligated, and (ii) used for the overhaul and conversion of the battleship U.S.S. Missouri; and

(B) the sum of $30,000,000 to be (i) derived from amounts available to the Navy for fiscal years 1982 and 1983 for shipbuilding and conversion remaining available for obligation, and (ii) used for the naval nuclear reactor training program.

(b) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons) in the amount of $1,846,081,000.

(c) The Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for the purchase of CH-53E aircraft. Such contracts may include an unfunded cancellation ceiling. If funds are not made available for the continuation of such a contract in subsequent fiscal years, the contract shall be cancelled and the costs of cancellation shall be paid as provided in section 2306(h)(5) of title 10, United States Code.

(d)(1) Except as otherwise provided in this subsection, funds may not be obligated or expended for the procurement of the KS-153 low altitude aerial reconnaissance camera for the Marine RF-4B aircraft for the fourth year under the terms of the multiyear contract entered into by the Navy for such cameras.

(2) The Secretary of the Air Force shall conduct evaluation tests of the CA-810 aerial reconnaissance camera to determine the suitability of such camera for high speed, low altitude aerial reconnaissance missions. The Secretary shall complete such tests not later that November 1, 1984.

(3)(A). If, one the basis of the tests referred to in paragraph (1), the Secretary of the Air Force determines that the CA-810 camera failed to meet or exceed any Navy requirements for a high speed, low altitude aerial reconnaissance camera, the Secretary of the Navy may procure additional cameras under the multiyear contract referred to in paragraph (1).

(B) If, on the basis of the tests referred to in paragraph (1), the CA-810 camera meets or exceeds all Navy requirements for a high speed, low altitude aerial reconnaissance camera, the Secretary of the Navy may not procure additional cameras under the multiyear contract referred to in paragraph (1), but shall conduct a competitive procurement for any additional high speed, low altitude aerial reconnaissance cameras to be procured by the Navy for the RF-4B aircraft.

(4) If the evaluation of the CA-810 camera is not completed by the Secretary of the Air Force by November 1, 1984, as a result of any delay attributable to the manufacturer of such camera, as determined by the Secretary of the Air Force, the Secretary of the Air Force shall terminate the evaluation and the Secretary of the Navy may procure additional cameras under the multiyear contract referred to in paragraph (1).

(c)(1) The Secretary of the Navy may establish and maintain an alternative source or sources for the procurement of a common aircraft ejection seat for the F/A-18, T-45, and F-14D aircraft, and the A-6E Upgrade aircraft.

(2) This subsection shall constitute for purposes of clause (17) of section 2304(a) of title 10, United States Code, the authority for the Secretary of the Navy to negotiate contracts for the procurement of ejection seats referred to in paragraph (1) from an alternative source or sources.

### AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Sec. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $27,385,100,000.

For missiles, $8,819,900,000.

For other procurement, $9,075,600,000.

For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader, or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-1B bomber aircraft or the Advanced Technology Bomber aircraft.

(c) Funds appropriated pursuant to the authorization of appropriations in subsection (a) may be used to procure not more than 0 operational MX missiles.

(d) There is hereby authorized to be transferred to, and merged with, amounts appropriated for procurement of aircraft for the Air Force for fiscal year 1985 pursuant to the authorization of appropriations in subsection (a), to the extent provided in appropriation Acts, $76,000,000, to be derived from amounts available for fiscal year 1984 for the advance procurement of E-3A aircraft.

### AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

Sec. 104. Funds are hereby authorized to be appropriated for the Defense Agencies in the amount of $1,207,000,000.

### CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Sec. 105. Effective on October 1, 1984, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended by striking out "fiscal year 1984" both places it appears and inserting in lieu thereof "fiscal year 1985".

## PART B—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

### AUTHORIZATION OF APPROPRIATIONS

Sec. 116. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $4,627,710,000.

For the Navy (including the Marine Corps), $9,394,608,000.

For the Air Force, $13,975,507,000.

For the Defense Agencies, $4,566,541,00, of which $59,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1985 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

(c)(1) The Secretary of the Army shall proceed with the competitive development of a Joint Tactical Missile System having the following design goals:

(A) A maximum range of 200 kilometers.

(B) A payload at maximum range of 1,000 pounds.

(2) In the development of the Joint Tactical Missile System, the Secretary of the Army shall make maximum use of proven missile system technology with the objective of completing the competitive development of the system by July 1, 1987.

(3) The Secretary shall report to the Committees on Armed Services of the Senate and the House of Representatives in writing on the progress of the development of the system referred to in paragraph (1) on the first day of January of 1985, 1986, and 1987.

(d) Not more than 20 percent of the funds appropriated for the undersea target surveillance research and development program may be obligated or expended until a contract for the full-scale engineering development of the CV ASW helicopter has been awarded and the Secretary of Defense has notified the Committees on Armed Services of the Senate and the House of Representatives that such contract has been awarded.

## PART C—OPERATION AND MAINTENANCE

### AUTHORIZATION OF APPROPRIATIONS

Sec. 118. (a) Funds are hereby authorized to be appropriated for fiscal year 1985 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army, $18,755,118,000.

For the Navy, $25,895,326,000.

For the Marine Corps, $1,648,169,000.

For the Air Force, $19,608,600,000.

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## MOYNIHAN AND DURENBERGER AMENDMENT NO. 3208

Mr. MOYNIHAN (for himself and Mr. DURENBERGER) proposed an amendment to the bill S. 2723, supra, as follows:

On page 8, beginning with line 7, strike out all down through line 19 and insert in lieu thereof the following:

For missiles, $8,879,900,000.

For other procurement, $8,959,300,000.

For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-7 bomber aircraft or the Advanced Technology Bomber aircraft.

(c)(1) Notwithstanding any other provision of this or any other Act, no funds authorized to be appropriated under this Act shall be obligated or expended for the deployment of an MX missile;

(2) It is the sense of the Congress that efforts to modernize the land-based strategic force should be focused on a small, mobile single-warhead inter-continental ballistic missile.

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## CHILES (AND OTHERS) AMENDMENT NO. 3209

Mr. CHILES (for himself, Mr. MOYNIHAN, Mr. JOHNSTON, Mr. HOLLINGS, Mr. GRASSLEY, Mr. EXON, Mr. BENTSEN, and Mr. DURENBERGER) proposed an amendment to amendment No. 3208 proposed by Mr. MOYNIHAN to the bill S. 2723, supra, as follows:

Strike all after the word "missiles," and insert the following:

$6,819,900,000.

For other procurement, $8,959,300,000.

For Air National Guard equipment, $20,000,000.

(b) None of the funds appropriated pursuant to any authorization of appropriations contained in this or any other Act may be obligated or expended for the sole source procurement of a strategic weapons loader, or the modification of an existing strategic weapons loader, in order to meet the performance requirements for the B-1 Bomber aircraft or the Advanced Technology Bomber aircraft.

### PROMOTION OF TRIAD EFFECTIVENESS

(c)(1) Congress remains committed to improving the effectiveness of the strategic triad. In order that Congress may consider appropriate alternatives for strenghtening the land-based element of the strategic triad and ensure its effectiveness in the future, not more than $3,070,600,000 of the funds appropriated pursuant to an authorization of funds in this Act may be used for development of the new small mobile intercontinental missile system and MX-related activities, in the following amounts:

(A) $596,000,000 for the development and maintenance of a ready production line for the MX missile.

(B) $1,716,300,000 (which sum is authorized to be appropriated in section 116) for research, development, testing, and evaluation of the MX missile in missile silos.

(C) $200,000,000 for the flight testing of the 21 MX missiles for which funds were appropriated for fiscal year 1984.

(D) $200,000,000 for the acquisition of support and other equipment as may be necessary to permit deployment of MX missiles in fiscal year 1985, in the event that funds for the production and deployment of additional MX missiles are provided after the date of the enactment of this Act.

(E) $358,300,000 (which sum is authorized to be appropriated in section 116) for research, development, testing, and evaluation of a new small mobile intercontinental missile.

(2) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be obligated or expended for the procurement of any MX missiles in addition to the 21 MX missiles authorized for fiscal year 1984.

(3) None of the funds appropriated pursuant to an authorization of appropriations contained in this or any other Act may be obligated or expended for the operational deployment of any MX missiles.

(4) In conjunction with submission to Congress of any request after the date of enactment of this Act for funds for the procurement or operational deployment of MX missiles, the President shall submit to the Committees on Armed Services of the Senate and House of Representatives a written report containing his assessment of the future requirements of the strategic triad of the United States and of the prospective alternatives for developing the most effective land-based intercontinental missile force to meet projected future needs. The President shall include in such report a comparison and evaluation of the various alternatives, including the MX missile and a new small, mobile intercontinental missile, with respect to the following:

(A) The ability to maintain a high degree of survivability in light of current and projected threat environments through the year 2,000.

(B) The impact on developing an overall land-based missile force with a lower ratio of warheads to launchers, thus enhancing stability by creating a potential exchange ratio which is unattractive to an attacker.

(C) The degree to which current and projected international conditions require the development of particular alternatives, including the momentum, level of effort, and likely future directions of the Soviet Union's strategic programs.

(D) The progress of efforts to develop more feasible and effective basing modes for land-based intercontinental missiles.

(E) The cost and the ability of the United States to pursue multiple alternatives without impinging on expenditures for the development of a new small, mobile intercontinental missile system.

### COHEN (AND OTHERS) AMENDMENT NO. 3210

Mr. COHEN (for himself, Mr. KENNEDY, Mr. MATSUNAGA, Mr. BIDEN, and Mr. RANDOLPH) proposed an amendment to the bill S. 2723, supra, as follows:

On page 25, line 8, strike out "4 percent" and insert in lieu thereof "5.5 percent".

On page 25, strike out lines 14 through 21 and insert in lieu thereof the following:

(b) The rates of basic pay and the basic allowance for subsistence for members of the uniformed services are increased by 5.5 percent effective January 1, 1985.

At the end of the bill, add the following new section—

"Sec. . Notwithstanding any other provision of this bill, the authorizations contained in Part A of this bill are reduced by .6 percent".

### HATCH AMENDMENT NO. 3211

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2723, supra, as follows:

At the end of page 239 add the following new section:

STUDY OF MILITARY DRESS AND APPEARANCE REGULATIONS AND RELIGIOUS REQUIREMENTS OF MEMBERS OF THE ARMED SERVICES

Sec. . (a) In an effort to augment religious freedom in the Armed Services, to the greatest extent possible, consistent with requirements for discipline and uniformity, the Secretary of Defense shall form a Joint Service Study Group, to consist of two representatives from each Service appointed by the Chief of each Service, and four nonmilitary citizens, one to be selected by the Chief of Chaplains of each of the four services, to conduct an objective study concerning the dress and appearance standards for members of the Armed Services.

(b) Such study shall focus on necessary changes in military regulations to reasonably accommodate the interests of members of the Armed Services in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The views of nonmilitary representatives of major religious organizations concerning religious dress and appearance requirements shall be presented to the Study Group in written or oral testimony and included in the study.

(c) Upon completion of the study the Study Group shall recommend to the Secretary of Defense such changes in military regulations necessary to reasonably accommodate the interests of members of the Armed Services in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The Secretary of Defense shall issue changes in military regulations pursuant to these recommendations to become effective no later than January 1, 1985.

(d) A report of the findings and recommendations of the study group, together with proposed changes in military regulations shall be submitted to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1985.

## COLORADO RIVER SALINITY LEGISLATION

### BOREN AMENDMENT NO. 3212

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the bill (H.R. 3903) to authorize the Secretary of Agriculture to develop and implement a coordinated agricultural program in the Colorado River Basin as follows:

On page 4, after line 25, insert a new section as follows:

Sec. 6. Section 107B(e)(8) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by striking out "1984 crop" and inserting in lieu thereof "1984 and 1985 crops".

● Mr. BOREN. Mr. President, today I am submitting an amendment to H.R. 3903, the Colorado salinity bill. The amendment I am submitting will require the Secretary of Agriculture to permit haying and grazing of acreage diverted under the 1985 wheat program at the option of each State.

The Secretary of Agriculture announced earlier today the provisions of the 1985 wheat program. Once again, the administration has failed to recognize the devastating economic climate America's wheat producers are confronting. Once again, the Secretary could have announced a more attractive program—one that would lead to greater farmer participation and ultimately to lower Government costs.

The Nation's wheat producers are facing another year of declining prices. Wheat ending stocks are estimated to rise to 1.47 billion bushels, the second highest level on record. With stocks this high, the average wheat price is estimated to be no higher than $3.30 per bushel this year, compared to $3.50 in 1983-84.

Mr. President, the Secretary says he needs more flexibility to operate our commodity programs. Yet, for the past 2 years, due to the Secretary's refusal to use his discretionary authority, Congress has had to step in and legislate our commodity programs. This spring, when Congress legislated the basic provisions of the 1985 wheat program, we again gave the Secretary the authority to make the program more attractive. Again, it appears that the Congress must legislate each and every specific provision.

The amendment I'm offering today will increase participation in the 1985 wheat program without costing the Government anything. This provision, alone, will increase participation in Oklahoma by 15 to 20 percent. This provision is the only thing that allows Oklahoma farmers to make any money when participating in acreage-reduction programs. With the parity price of wheat over $7 per bushel and a market price of only $3.30, our wheat producers need every penny they can get just to break even.

It is imperative that the 1985 wheat program be as attractive as possible. This amendment will help to make the program more attractive and in the long run, particularly, more fiscally responsible. I urge my colleagues to support this amendment.●

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### TOWER AMENDMENT NO. 3213

Mr. TOWER proposed an amendment to the bill S. 2723, supra, as follows:

On page 146, between lines 7 and 8, insert the following new part:

PART K—CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

AMENDMENTS TO CORRECT CLERICAL ERRORS IN TITLE 10, UNITED STATES CODE

Sec. 1201. Title 10, United States Code, is amended as follows:

(1) Section 125(a) is amended by striking out "section 401 of title 50" and inserting in lieu thereof "section 2 of the National Security Act of 1947 (50 U.S.C. 401)".

(2) Section 138(g) is amended by inserting "(22 U.S.C. 2795 et seq.)" after "chapter 5 of the Arms Export Control Act".

(3) Section 139 is amended—

(A) by striking out "thirty" both places it appears and inserting in lieu thereof "30"; and

(B) by striking out "ninety" and inserting in lieu thereof "90".

(4) Section 175(C) is amended by inserting a comma after "Reserve Affairs".

(5) Section 177(a)(1) is amended by striking out "sec. 29-1001" and inserting in lieu thereof "sec. 29-501".

(6) Section 191(a) is amended by striking out "such use in" and inserting in lieu thereof "such use is".

(7)(A) Section 264 is amended by striking out "Reserve components" in subsection (b) and inserting in lieu thereof "reserve components".

(B) The heading of such section is amended to read as follows:

**"§ 264. Reserve affairs: designation of general or flag officer of each armed forces; personnel and logistic support for Reserves".**

(C) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"264. Reserve affairs: designation of general or flag officer of each armed forces; personnel and logistic support for Reserves.".

(8) Section 280 is amended by striking out "5597,".

(9) Section 374(a)(3) is amended by striking out "(19 U.S.C. 1202)".

(10) Section 378 is amended by striking out "prior to the enactment of this chapter" and inserting in lieu thereof "before December 1, 1981".

(11) Section 630(2) is amended by striking out "eighteen-month" and inserting in lieu thereof "18-month".

(12) Section 633 is amended by striking out "twenty-eight" and inserting in lieu thereof "28".

(13) Section 634 and 635 are amended by striking out "thirty" and inserting in lieu therof "30".

(14) Section 636 is amended by striking out "thirty-five" and inserting in lieu thereof "35".

(15) Section 637(a) is amended—

(A) by striking out "twenty" in paragraph (2) and inserting in lieu thereof "20"; and

(B) by striking out "twenty-four" in paragraph (3) and inserting in lieu thereof "24".

(16) Section 673c(b)(1) is amended by inserting "of this title" after "or 673b".

(17) Section 680(a)(2)(D) is amended by striking out "Reserve Officer" and inserting in lieu thereof "reserve officer".

(18) Section 701(g) is amended—

(A) by striking out "sixty-day" and inserting in lieu thereof "60-day";

(B) by striking out "ninety-day" and inserting in lieu thereof "90-day"; and

(C) by striking out "one hundred and fifty" both places it appears and inserting in lieu thereof "150".

(19)(A) Section 1034 is amended by striking out "member of Congress" and inserting in lieu thereof "Member of Congress".

(B)(i) The heading of such section is amended to read as follows:

**"§ 1034. Communicating with a Member of Congress".**

(ii) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

"1034. Communicating with a Member of Congress.".

(20) Section 1035(b) is amended—

(A) by striking out "per centum" and inserting in lieu thereof "percent";

(B) by striking out "Act" and inserting in lieu thereof "subsection"; and

(C) by striking out "ninety" and inserting in lieu thereof "90".

(21) Section 1040(a) is amended by striking out "thirty" and inserting in lieu thereof "30".

(22) The heading of section 1077 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(23) Section 1079(e) is amended by striking out the period at the end of the matter preceding clause (1) and inserting in lieu thereof "as follows:".

(24) Section 1087(b)(2) is amended by inserting "(42 U.S.C. 1395c et seq.)" after "the Social Security Act".

(25) Section 1216(b) is amended by striking out "of this section".

(26) Section 1401a(f) is amended by striking out "prior to the effective date of this subsection" and inserting in lieu thereof "before October 7, 1975".

(27) Section 1464(c) is amended by striking out "section 1466" and inserting in lieu thereof "section 1465(c)".

(28) Section 1465(c)(1) is amended by striking out "(A)".

(29) Section 1586 is amended—

(A) in subsection (b)—

(i) by striking out "thirty" and inserting in lieu thereof "30";

(ii) by striking out "of this section" after "subsection (c)"; and

(iii) by striking out "of this subsection";

(B) in subsection (c)—

(i) by striking out "thirty" and inserting in lieu thereof "30";

(ii) by striking out "ninety days" both places it appears and inserting in lieu thereof "90 days";

(iii) by striking out "ninety-day" in paragraph (5) and inserting in lieu thereof "90-day";

(iv) by striking out "of this subsection" each place it appears in paragraphs (3), (4), and (5);

(v) by striking out "such" in paragraph (5); and

(vi) in paragraph (6)—

(I) by striking out "of this subsection" after "paragraph (1)"; and

(II) by stiking out "of this subsection," after "as applicable,";

(C) by striking out "of this section" in subsections (d), (e)(1), and (g)(1); and

(D) by striking out "of this subsection" in subsection (e)(2).

(30) Section 2002(b) is amended by striking out "For the purposes of this section, the word" and inserting in lieu thereof "In this section,".

(31) The item relating to section 2003 in the table of sections at the beginning of chapter 101 is amended by striking out the semicolon and inserting in lieu thereof a colon.

(32) Section 2031(a) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 13, 1964".

(33) Section 2107(b) is amended by aligning the second sentence flush with the left margin.

(34) Section 2233 is amended—

(A) by striking out "subsection (c) of this section" in subsection (a) and inserting in lieu thereof "to subsection (c)"; and

(B) by striking out "or Territory, Puerto Rico, or the District of Columbia" both places it appears in the second sentence of subsection (b).

(35) Section 2381(c) is amended—

(A) by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)"; and

(B) by striking out "section 481(a) of that title" and inserting in lieu thereof "section 201(a) of that Act (40 U.S.C. 481(a))".

(36) The heading of section 2394a is amended to read as follows:

**"§ 2394a. Procurement of energy systems using renewable forms of energy".**

(37) Section 2577(a)(1) is amended by striking out "puposes" and inserting in lieu thereof "purposes".

(38) Section 2668(a)(10) is amended by striking out "section 961 of title 43" and inserting in lieu thereof "the Act of March 4, 1911 (43 U.S.C. 961)".

(39) Section 2672a is amended—

(A) by designating the first sentence as subsection (a);

(B) by striking out "operation" in such sentence and inserting in lieu thereof "operational";

(C) by designating the second sentence as subsection (b); and

(D) in the fourth sentence—

(i) by striking out "provision will" and inserting in lieu thereof "section shall"; and

(ii) by striking out "Armed Services Committees" and inserting in lieu thereof "Committees on Armed Services".

(40) Section 2675(b) is amended by striking out "thirty" and inserting in lieu thereof "30".

(41) Section 2687 is amended—

(A) by striking out "one thousand" in subsection (a)(2) and inserting in lieu thereof "1,000";

(B) by inserting "(42 U.S.C. 4321 et seq.)" in subsection (b)(2) after "National Environmental Policy Act of 1969";

(C) by striking out "sixty" in subsection (b)(4) and inserting in lieu thereof "60"' and

(D) by striking out "three hundred" in subsection (d)(1)(B) and inserting in lieu thereof "300".

(42)(A) The heading of section 2734a is amended to read as follows:

**"§ 2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements".**

(B) The item relating to such section in the table of sections at the beginning of chapter 163 is amended to read as follows:

"2734a. Property loss; personal injury or death: incident to noncombat activities of armed forces in foreign countries; international agreements.".

(43) Section 2777(c) is amended by striking out "of this section".

(44) Section 2822(b)(3) is amended by striking out "section 2833" and inserting in lieu thereof "section 2832".

(45)(A) Section 2857(b)(1) is amended by striking out "use of" and all that follows through "the potential for" and inserting in lieu thereof "use of such forms of energy has the potential for".

(B) The amendment made by subparagraph (A) shall take effect as it it had been included in the amendments made by section 801 of Public Law 97-321.

(46) Section 3579(a) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(47) Section 5897(b)(5) is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

(48) The item relating to chapter 661 in the table of chapters at the beginning of subtitle C is amended to read as follows:

"661. Accountability and Responsibility .......... 7861".

(49) Section 7227(a) is amended—

(A) by striking out "routine" both places it appears and inserting in lieu thereof "Routine";

(B) by striking out "miscellaneous" and inserting in lieu thereof "Miscellaneous";

(C) by striking out the semicolons at the end of clauses (1) and (2) and inserting in lieu thereof periods; and

(D) by striking out "; and" at the end of clause (3) and inserting in lieu thereof a period.

(50) Section 7421(b) is amended by striking out "naval petroleum reserves numbered 1 and 2" and inserting in lieu thereof "Naval Petroleum Reserves Numbered 1 and 2".

(51) Section 7422(b) is amended by striking out "of this section".

(52) Sections 7426(a), 7431(b)(1), and 7431(c) are amended by inserting "of this title" after "section 7422(c)".

(53) Section 7430 is amended—

(A) by striking out "of this section" in subsection (d)(4);

(B) in subsection (g)(2)—

(i) by striking out "thirty days" and inserting in lieu thereof "30 days"; and

(ii) by striking out "thirty day" and inserting in lieu thereof "30-day"; and

(C) by striking out "of this section" both places it appears in subsection (1)(4).

(54) Section 7572(b)(1)(B) is amended by striking out "onboard" and inserting in lieu thereof "on board".

(55) Section 8851(c) is amended by striking out "of this section".

(56)(A) Sections 2127(b), 2388(c), and 6154 are amended by striking out "section 3324 (a) and (b)" and inserting in lieu thereof "subsections (a) and (b) of section 3324".

(B) Section 7522(b) is amended by striking out "Section 3324 (a) and (b) of title 31 does" and inserting in lieu thereof "Subsections (a) and (b) of section 3324 of title 31 do".

(57) Section 9512(b)(1) is amended by inserting "App." after "49 U.S.C.".

## MITCHELL (AND COHEN) AMENDMENT NO. 3214

Mr. MITCHELL (for himself and Mr. Cohen) proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

### SURVIVORS OF THE GLOMAR JAVA SEA

Sec. 1019. (a) The Congress finds that—

(1) on October 26, 1983, the United States registered oil drilling ship Glomar Java Sea was reported missing during stormy weather at its drilling site ninety-six kilometers off Hainan Island in the South China Sea and was found sunken near its drilling site on November 1, 1983;

(2) no evidence has been found of forty-six of the eighty-one crewmen, including citizens of the United States, or of the lifeboats which, reportedly, were launched from the Glomar Java Sea, despite an intensive cooperative search involving United States military search and rescue aircraft and commercial vessels;

(3) the Chairman of the United States Coast Guard Marine Board of Investigation has concluded that it is possible that crewmembers of the Glomar Java Sea survived and drifted into waters near the coast of Vietnam; and

(4) the Government of Vietnam has refused to allow an independent search for the possible survivors to be conducted in waters within twenty miles of such coast.

(b) Considering the findings set out in subsection (a), it is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to request the Secretary General of the United Nations to seek the cooperation of the Government of Vietnam with the Governments of the United States, the People's Republic of China, the United Kindom, Singapore, Australia, Canada, and the Philippines in ascertaining the fate or locations of the forty-six crewmen of the sunken United States registered vessel Glomar Java Sea.

## WILSON AMENDMENT NO. 3215

Mr. WILSON proposed an amendment to the bill S. 2723, supra, as follows:

On page 8, line 8, strike out "$8,959,300,000" and insert in lieu thereof "8,939,300,000".

On page 9, between lines 2 and 3, insert the following:

"(e) not more than $145,000,000 is authorized for procurement associated with the Consolidated Space Operations Center."

On page 9, line 26, strike out "$13,972,507,000" and insert in lieu thereof "$13,992,507,000".

On page 11, between lines 10 and 11, insert the following:

"(e) $345,764,000 is authorized to assure the earliest practicable launch of the Space Shuttle from Vandenberg Air Force Base."

## LEVIN AMENDMENT NO. 3216

Mr. LEVIN proposed an amendment to the bill S. 2723, supra, as follows:

On page 92, between lines 22 and 23 insert the following:

**"§ 2322. Limitation on set-asides"**

"The head of an agency shall not authorize the use of a set-aside for exclusive small business participation—

"(a) in the case of the Foreign Military Sales program, where the foreign government specifies the sources qualified to meet the requirement and only one of those sources is a small business concern, or

"(b) in the case of a prequalification requirement, where only one small business concern has met the standards for qualification.".

On page 93, before line 1, insert at the end of the items in the table of sections "§ 2322. Limitation on Set-asides".

## WARNER AMENDMENT NO. 3217

Mr. WARNER proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

### SUPPLEMENTAL INFORMATION TO THE ENVIRONMENTAL IMPACT STATEMENT OF THE NAVY ON THE PROPOSED TRANSFER OF CERTAIN PERSONNEL

Sec. . In addition to any other requirements regarding an environmental impact statement prepared by the Secretary of the Navy in connection with any proposed transfer of military and civilian personnel of the Department of the Navy from Arlington County, Virginia, to the Washington Navy Yard in Washington, D.C., the Secretary of the Navy shall also prepare as a supplement to such impact statement a detailed analysis with respect to the following matters:

(1) The socio-economic impact on the area from which the transfer is proposed to be made.

(2) The impact of the proposed transfer on the traffic capacity of bridges over the Potomac River and the Anacostia River.

(3) The impact of the proposed transfer on shuttle requirements of the Department of Defense.

(4) The overall impact of the proposed transfer on the area from which the transfer is proposed to be made and on the area to which the transfer is proposed to be made, taking into consideration all other planned moves of personnel by the Navy to the Washington Navy Yard and by all other agencies of the Government.

(5) The impact of such proposed transfer, and all other planned transfers to the Washington Navy Yard, on both present and potential parking capacity in the vicinity of such facility.

(6) The impact of the proposed transfer on communications and security requirements of the Navy.

(7) The impact of the proposed transfer on supporting and servicing contractors and the impact that the movement of such contractors will likely have on public and private facilities in the area from which they move and the area to which they move.

## AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1985

## EXON AMENDMENT NO. 3218

(Referred to the Committee on Appropriations.)

Mr. EXON submitted an amendment intended to be proposed to the bill (H.R. 5743) making appropriations for Agriculture, Rural Development, and related agencies programs for fiscal year ending September 30, 1985, and for other purposes, as follows:

On page 28, line 4, strike: "$2,070,000,000" and "$150,000,000", and insert in lieu thereof: "$2,370,000,000" and "$450,000,000" respectively.

Mr. EXON. Mr. President, I am proposing an amendment to the Agriculture appropriations bill for fiscal year 1985 which has been received in the Senate and seeks to increase the farm operation loan money by $300 million.

Today, we face the necessity to save a major and basic industry: agriculture and the American family farmer. The economic health of U.S. agriculture continues to deteriorate. Farming is no longer the stable, secure business venture it once was. Of special interest is the serious problems surrounding the ability of our family farmers to obtain the necessary credit to continue operation. As my colleagues will remember, the U.S. Department of Agriculture recently published a report on the decline in land values across this Nation. This decline is directly related to the current difficulties our farmers are having obtaining sufficient credit to continue operating.

The amendment I am proposing today would simply add an additional $300 million to the operating loan program. In my view, this is the first increment of at least a 3-year, $1 billion program. These loans are made to farmers and ranchers for costs incident to reorganizing a farming system for more profitable operations, for a variety of essential farm operating expenses and farm supplies. In other words, to allow our family farmers the necessary capital to continue in operation. These additional funds are critically necessary if there is to be enough money to go around during these extremely critical times in our agriculture sector.

## NOTICES OF HEARINGS

### COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the

Senate Committee on Small Business will hold a full committee markup on S. 2375, a bill to improve the operation of secondary market for loans guaranteed by the Small Business Administration, on June 20, 1984, at 10 a.m., in room 428-A Senate Russell. For further information, please contact Mike Haynes, chief counsel of the committee staff at 224-8487.

### SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing regarding Outer Continental Shelf leasing activities has been scheduled before the Subcommittee on Energy Conservation and Supply for Tuesday, June 26, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or wish to submit written statements for the hearing record should write to the Subcommittee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information regarding this hearing you may wish to contact Mr. Allen Stayman of the subcommittee staff at 224-2366.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to consider the nomination of Frank K. Richardson, to be Solicitor of the Department of the Interior.

The hearing will be held on Thursday, June 21, beginning at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For further information regarding this hearing, you may wish to contact Mr. Gary Ellsworth at 224-5304.

### SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water on Thursday, June 28, beginning at 9 a.m. in room SD-366 of the Dirksen Senate Office Building to consider the following bills: H.R. 2889, to amend the National Historic Preservation Act, and for other purposes; S. 2692 and H.R. 2962, to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes; and H.R. 2838, to authorize the Secretaries of the Interior and Agriculture to provide assistance to groups and organizations volunteering to plant tree seedlings on public lands, and for other purposes.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

Because of the number of people expected to testify, witnesses will be placed in panels and oral testimony will be limited to 3 minutes. Witnesses are asked to provide the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the committee rules, and 75 copies on the day of the hearing.

For further information regarding this hearing, you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

### SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on June 21, 1984, beginning at 10 a.m., in Senate Russell 485, on the following bills: S. 2480, a bill to declare that the United States holds mineral rights in certain lands in trust for the Three Affiliated Tribes of Fort Berthold Reservation in North Dakota; and, S. 2663, a bill pertaining to the inheritance of trust or restricted land on the Sisseton-Wahpeton Reservation.

Those wishing additional information should contact Paul Alexander or Peter Taylor of the committee at 224-2251.

## AUTHORITY FOR COMMITTEES TO MEET

### SUBCOMMITTE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, June 14, at 9:30 a.m., to hold a hearing on S. 1128/H.R. 2714, the Agricultural Productivity Act of 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 14, at 10 a.m., to hold a hearing to consider pending treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTE ON ENERGY CONSERVATION AND SUPPLY

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy Conservation and Supply, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, June 14, at 10 a.m., to hold a hearing on S. 2370, a bill to provide for the distribution to States of certain amounts resulting from enforcement of the Emergency Petroleum Allocation Act of 1973, and for other purposes; and to oversee existing weatherization programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### SOVIET JEWRY ON THE 14TH ANNIVERSARY OF THE LENINGRAD TRIALS

● Mr. KENNEDY. Mr. President, my colleagues and I have joined together today to mark the 14th anniversary of the Leningrad Trials. We all know the facts surrounding this incident; 11 Soviet citizens were arrested, tried, convicted, and received outrageous sentences; 2 of the 11 were sentenced to death, and for what? For devising a plan by which they could leave forever a system which robbed them of their basic human rights. Severe international pressure was brought to bear on the Soviet Union and, thankfully, the sentences were commuted. Only 2 of those 11 are still imprisoned—Alexei Murzhenko and Yuri Fiodorov—and Murzhenko is scheduled for release tomorrow. Let us hope that he is released, and that he is permitted to live his life free from the fear that the least misdemeanor—the least infraction or questionable interpretation of Soviet laws—will find him back in prison.

As United States-Soviet relations have deteriorated, so has the situation for Soviet Jews. We have all watched as the figures for Soviet Jewish emigration have fallen drastically over the past 5 years. For all intents and purposes, emigration by Soviet Jews has come to a halt. I take strong exception to the Soviet claim, via the officially sanctioned Anti-Zionist Committee, that this precipitous decline in emigration is due to the so-called fact that all Jews wishing to leave have done so. How can that be when approximately 400,000 Jews still in the Soviet Union have requested, or have already received, from friends and relatives in Israel, a vyzov—the first document necessary to begin the arduous emigration process?

This assertion, as well as the very existence of the Anti-Zionist Committee, displays an alarming turn in Soviet treatment of the Jewish community. Anti-Semitism is on the rise in that country. It is manifested in print and in vicious cartoons; in television and radio broadcasts; and in the treatment of individuals within the Jewish community. The most prominent case in point is the recent treatment of Yelena Bonner by Soviet authorities. Depicted in the Soviet media as a Zionist agent who managed to manipulate her husband, Mrs. Bonner has now been confined to Gorky along with him. If the authorities are trying to remove Dr. Sakharov from the public eye by placing more emphasis on the alleged misdeeds of his wife, they are sadly mistaken. The world is watching them both, and is eager to see that they receive the medical treatment that both of them have been so diligently seeking.

Our thoughts today also turn to Anatoly Shcharansky, Ida Nudel, Iosef Begun, and Vladimir Slepak; to Alexander Lerner, Nadezhda Fradkova, and Victor Brailovsky; and to the countless others who have been denied their rights in the Soviet Union.

Not all Jews living in the Soviet Union have sought emigration. There are undoubtedly thousands who, if given the opportunity to live in peace, to have equal access to education, to be free to teach their youth in the Judaic tradition, and to openly practice their religion, would choose to stay in the land where their fathers, and their fathers before them, have lived. But, at this point in time, there is harsh treatment of the Jews.

Mr. President, international pressure has worked in the past, and it must be used again and again to gain concessions from Soviet authorities in the realm of human rights. Words alone are not enough. We need a forum for concrete diplomatic negotiations; we need to shift the recent emphasis in American foreign policy away from our overreliance on the military answer as opposed to the political solution; we need to recommence the dialog between Moscow and Washington if any real progress is to be made in the area of United States-Soviet relations.

To this end, I urge the Reagan administration to take seriously Soviet President Chernenko's recent call to begin negotiations on the use of antisatellite weapons. We have an advantage in this area, and the Soviets want something from us—namely, a ban on the use of antisatellite weapons. And we want something from them—heightened respect for human rights in the Soviet Union, and a willingness to recommence Jewish emigration. There is room for give and take on both sides. That is what diplomacy is all about.

There is no time like the present. And we in the Senate must do what we can to encourage the initiation of serious negotiations between the United States and the Soviet Union, negotiations that will result in greater respect for the rights of the Jews in the Soviet Union.●

## SOVIET JEWRY

● Mr. BRADLEY. Mr. President, I would like to express my strong support for this year's Congressional Prayer Vigil and Fast for Soviet Jewry.

The vigil highlights the plight of nearly 500,000 Soviet Jews who have asked only to emigrate from the Soviet Union and who have had their requests denied. It is appropriate that this event take place on the 14th anniversary of the Leningrad trials.

Since 1979, there has been a drastic decline in the number of Soviet Jews who have been allowed to emigrate. Today, emigration has slowed to a mere trickle. Only 300 Soviet Jews have been allowed to emigrate so far this year; during the last 5 years, Jewish emigration has declined by 98 percent. Refuseniks have also been subjected to anti-Semitic sanctions including loss of jobs, denial of medical treatment, and restrictions on education. We have all been disturbed to see the deterioration in the condition of Andrei Sakharov.

Emigration is a right guaranteed by International law. The Soviet Union is a signator of the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, and the Helsinki agreement. We must insist that those agreements be enforced.

We know that the Soviet Union has reponded to world opinion. The Leningrad trials of 1970 showed that international outcry could help the plight of Soviet Jews wishing to emigrate. I hope today's vigil and fast will help mobilize public opinion and draw attention to this issue. I urge my colleagues to join me today in support of Soviet Jews seeking their rights to emigrate.●

## 25 YEARS OF LOYAL SERVICE

● Mr. JOHNSTON. Mr. President, all of us in the Congress, and elsewhere in Government, take a certain pride in knowing that whatever our capacity, we are performing a service for our country. Yet, at certain points, the service of some of us becomes so noteworthy that it deserves public mention.

Such is the case with my administrative assistant and good friend, David Batt. Today, June 15, marks David's 25th anniversary in Government service. These years include 2½ years in the Air Force, 17 years as an employee of Congressman Joe D. Waggonner of Louisiana and 5½ years as my administrative assistant.

Throughout those 25 years, David has demonstrated the diligence, the competence, and the warm, friendly personality for which he has become widely known. David's contributions in these years are too numerous to mention, but the universal respect which he receives in the Halls of Congress stands as a tribute to his effectiveness and his commitment to public service.

We are fortunate to have people like David Batt in this country. Those of us around him are fortunate to know him and to have shared in his work.

Congratulations to David on 25 years of loyal, dedicated service.●

## A COOKIE FARM

● Mr. GOLDWATER. Mr. President, the other night, in what I feel was a justified fit of pique, I commented that the Senate was becoming "a cookie farm." Probably very few Members of the Senate and members of the press understood that remark because not many of them are my age.

When I was a young boy in school, one of the various insults we would hurl at each other would be "he is a cookie," meaning he was a weakling or sissy. A cookie farm is a place where weakness could be the primary commodity. I hope that clears up the meaning of "a cookie farm," and it might be advantageous for those people who have read or will read the Wall Street Journal editorial on Thursday, June 14 commenting on the use of that term.

I could not agree more with the Wall Street Journal and its observation that our Congress is more and more not doing the work that the Soviets are praying and hoping that we will not do and even encouraging us not to do. The first job we have under the Constitution is to provide for the defense of our country. If you sit in the Senate, as I do, you would soon begin to wonder how many Members understand that? Or, how many Members respect that? Followed by a feeling, frankly, where in the devil are we going? What are we trying to do? Constantly, I am amazed at the Republican Senators who repeatedly overlooked our constitutional duty and joined with the opponents of defense in trying to make our Armed Forces even weaker than many of the members of the press would like them to be. I believe we have armed strength and I believe we should work to stay that way.

I ask that the editorial entitled, "The Cookie Farm," be printed at this point in my remarks.

The editorial follows:

[From the Wall Street Journal, June 14, 1984]

### THE "COOKIE FARM"

On Sunday, the world got its first detailed look at the evidence leading Italian investigators to the conclusion that the Russians were behind the shooting of Pope John Paul II. On Monday, Chief Russian Konstantin Chernenko demanded that the U.S. subject itself to yet another intrigue by agreeing immediately to ban testing of anti-satellite (ASAT) weapons—which the Soviets have already tested and deployed. On Tuesday, the U.S. Senate moved with alacrity to give Mr. Chernenko exactly what he demanded. At that point, an exasperated Sen. Barry Goldwater said, "This place is getting to be like a cookie farm."

Today the Senate will get a chance to give Mr. Chernenko even more than he has so far asked when it votes on whether to deploy the Tomahawk cruise missile, and important new deterrent to Soviet nuclear attack. The House already has voted no. The cookie farm teems with activity.

Probably it's the heat. Retiring Sen. Baker and endangered Chuck Percy went to the White House before the Tuesday vote to demand that Mr. Reagan rush off to Moscow to figure out some way "not to blow each other up." (Sen. Percy, remember, trooped off to Moscow between Mr. Reagan's election and inauguration to open arms negotiations with the Soviets, reporting afterward that he tried to assure them the incoming president was not a "warmonger.") As the Senate votes this week on the president's military budget, the dominant mood seems to be that if the Russians won't give us solid disarmament agreements, by golly, we'll disarm all by ourselves.

The ASAT vote bars the Pentagon from spending to test anti-satellite weapons unless the president certifies that he is "endeavoring, in good faith" to negotiate limitations on such weapons. In other words, Mr. President, you should not only go to Moscow, but go hat in hand and agree to anything that looks like arms control whether or not it endangers world security. Mr. Reagan already said in a report to Congress in April that "no arrangements or agreements" on ASAT systems "have been found . . . that are judged to be in the overall interests of the U.S. and its allies."

The Soviets already have at least two facilities that could attack U.S. satellites with laser and radar beams; they also have ASAT missiles and "killer" satellites. They have tested these systems against their own "dummy" satellites, and have even jammed and blinded U.S. satellites. Moreover, the Soviets are developing a large, manned space station that is expected to be equipped with kinetic-energy and directed-energy weapons; the first part of this orbiting battle station could be launched as early as next year.

The Senate is expected to turn today to the Tomahawk cruise missile, which is ready for deployment on U.S. naval vessels. A House-approved binding amendment, sponsored by Rep. Les Aspin, halts deployment of any sea-launched cruise missile until the president, the director of Central Intelligence and the Joint Chiefs of Staff certify a "high confidence" method of verifying whether such a missile is carrying a nuclear or conventional warhead. The only way to do that is to put someone on a ship with a Geiger counter.

Aside from the verification difficulties, what is the logic of holding the U.S. to a limitation that doesn't affect the Soviets? They currently have operational seven different types of sea-launched cruise missiles, six of which can carry nuclear as well as conventional warheads. Several are capable of attacking not only other ships but also land targets. The SSN-19, for instance, when switched to a land attack mode, can extend its range by two to three times to around 1,500 kilometers by flying at subsonic speeds. More-advanced Soviet systems are in the offing.

President Reagan badly needs to do something to bring Congress to its senses on these issues. Probably he ought to proclaim that he has been seeking verifiable agreements, and therefore will provide whatever certifications Congress demands. On the cruise missile, in particular, he ought to certify that yes, there is a foolproof method of verification, called on-site, on-demand inspection, and that we can have verifiable agreements as soon as the Soviets let us take a Geiger counter up to each of their cruise missiles. Pending some such shakeup, what is going on in the U.S. Congress is not some sort of sinister sellout, but a totally mindless fixation on arms control. Congress insists in arms control even when the Soviets don't cooperate. They don't ever cooperate unless they see some advantage, they routinely violate agreements if they can gain an edge. Yet congressional dreamers still peddle the nonsense that the Soviets will respond if only the U.S. makes the right gestures. We have never seen a cookie farm and we are not even sure what it is, but merely from the sound of it Mr. Goldwater somehow conjured up the right image for a Senate that refuses to face reality.●

## ADVANCE NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification has been received.

Interested Senators may inquire as to the details of this advance notification at the office of the Committee on Foreign Relations, room SD-423.

The notification follows:

Defense Security Assistance Agency,
*Washington, DC, June 12, 1984.*

Dr. Hans Binnendijk,
*Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.*

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

Philip C. Gast,
*Lieutenant General, USAF, Director.*●

## ISIDOR PAIEWONSKY

● Mr. JOHNSTON. Mr. President, on Saturday, March 24, the St. Thomas-St. John Chamber of Commerce honored an extraordinary individual for his 40 years of service to the chamber and to the people of the Virgin Islands.

Isidor Paiewonsky is a genuine Renaissance man, simultaneously a historian, a businessman, and an activist on behalf of the Virgin Islands to whose betterment he has devoted his life. He knows the stories of the islands and shares them with the readers of the newspaper for which he writes a column. He is a spokesman for economic commonsense, working tirelessly to develop the islands' tourism industry while protecting them from measures which would threaten their fragile economy. As a preservationist, he has left his mark on the Charlotte Amalie Historic District.

But he is also a 20th-century man, aware that "Progress * * * is respect for God's handiwork as it is reflected in the natural beauty around us." During his 22 years on the planning board, he committed himself, in his own words, to planning and building "so that man's efforts fit into the natural scheme of things."

If the measure of a man is the mark he has made on the world, Isidor Paiewonsky looms very large in the islands he loves. The Daily News of the Virgin Islands has devoted an editorial to his accomplishments. I ask that its full text be printed in the Record.

The text follows:

### Man for All Seasons

Isidor Paiewonsky: businessman, historian, environmentalist, community activist, philanthropist, story-teller par excellence, preserver of the past, watchdog for the future.

In these roles and others, Isidor Paiewonsky has contributed immensely to the betterment of the Virgin Islands community.

And so it was fitting that the St. Thomas-St. John Chamber of Commerce chose to honor him last weekend for his 40 years of service to that organization and his countless contributions to the people of these islands.

We feel a special sense of pride in the honors bestowed upon this man, for he is part of The Daily News family. For 11 years he has been writing his History Corner. Few people realize the lengths to which he goes to unearth still-hidden bits of our past, present them to Virgin Islanders of today and preserve them for Virgin Islanders of tomorrow. In doing so he makes an incalculable contribution to all of us.

But regardless of his ties to this newspaper, we would feel a special sense of satisfaction in the chamber's decision to honor Isidor Paiewonsky. He demonstrates qualities that we wish were evident in more people in these islands: the courage to speak out even if his views are unpopular, a desire to right what he sees as wrongs, a passionate commitment to the free-enterprise system, a willingness to listen as well as espouse his own views, a realization that good aesthetics make good economics.

In his speech before 400 friends and well-wishers at Saturday night's dinner-dance, Paiewonsky called upon the business community to organize politically to make its weight felt in the upcoming senatorial election. We think he's got a good idea.

The business community could deliver thousands of crucial votes to people who have a similar commitment to strengthening the job-producing private sector, particularly people who know what it is to meet a payroll and could be counted upon to deal responsibly with the fiscal crisis facing these islands.

We don't believe that what's good for any given business is necessarily good for the Virgin Islands, to paraphrase an infamous line. But given the enormous problems confronting us, especially on the financial front, we believe we would benefit from the business community exercising more political interest and more political clout.●

## HEALTH CARE COSTS

● **Mr. DURENBERGER.** Mr. President, the American Medical Association's annual meeting will begin this Sunday, June 17, 1984 in Chicago. Dr. Joseph Boyle, the new president of the AMA, faces the challenge of providing leadership to physicians at a time when the health care system—both in financing and delivery of service—is rapidly changing.

The rising cost of health care services has forced all buyers to focus on price. Today's physician will be required—out of economic necessity—to be more cost conscious in the management of patient care. At the same time, the quality of care will become increasingly important as buyers shop for the best quality care at the best price.

Change is never easy. The new attention to price presents an immediate challenge to Dr. Boyle and the AMA in developing a leadership role for physicians in the evolving health care system. I look forward to working with Dr. Boyle and other physicians on future health policy issues.

I would like, Mr. President, to submit for the Record an article about Dr. Boyle and the AMA written by Allan Parachini that appeared in the Los Angeles Times on June 10, 1984. I would also like to submit for the Record another Times article describing the Louis Harris survey on physician and patient attitudes about the American health care system. The survey outlines yet another challenge to physicians today—patient attitudes and expectations.

The articles follow:

### Californian Joseph Boyle to Head "New-Look" AMA

[He Says Americans Must Try to Avoid the Crunch of Limited Resources, Rationed Health-Care Services]

(By Allan Parachini)

Dr. Joseph Boyle, internist and specialist in chest disease, steps momentarily out of his office in a medical building adjoining the Hospital of the Good Samaritan, returning a few minutes later with a document in his hands and a cigarette in his mouth.

He sits down behind the desk, piled high with the paper work of a successful practice that began in 1954, oblivious to a seeming contradiction between his views as the president-elect of the American Medical Assn. and the ciagarette he has just lit.

When Boyle takes the office of president a week from Wednesday, he will step into one of the most powerful positions to which a doctor can aspire outside the federal government. He will hold office for a year as the first Californian to serve as president since Dr. Malcolm Todd, a Long Beach surgeon, did so a decade ago.

Boyle has been a fixture in organized medicine, first in California and later nationally, since 1962. He has held all of the top positions of the Los Angeles County Medical Assn. and California Medical Assn. and already has served for two years as chairman of the AMA's powerful board of trustees.

And as a smoker—recent polls have concluded that only 17 percent of doctors in general, and 12 percent of physicians in Boyle's specialty, still haven't given up tobacco—Boyle will confront what he says is a reality Americans must face if they hope to stave off the rationing of health-care services: Among other things, people need to take more direct responsibility for their own health.

#### LIMITATION OF RESOURCES

Clearly, according to the overwhelming weight of medical opinion, that includes not smoking.

"There is going to be some sort of limitation put on resources (available for health care) in the future, but we don't have to have a collision that will lead to services just not being available to some people at some times," is the way Boyle put it. Boyle specifically contends that rationing of health services, a possibility many health-care observers see as almost inevitable, can be avoided.

"It will be important for us to return to something people have given up, or had taken away from them, and that is the responsibility for the consequences of their actions," Boyle said.

If such life-style change does not come voluntarily, however, Boyle argues, something more unpleasant is likely to be imposed. Limiting access to health care will be the major medical-policy battle of the 1980s and 1990s, most experts agree. At stake is the system of private practice with which most Americans seemingly are comfortable.

Even many advocates of revolutionary change have backed away in the last few years from proposals for a publicly funded American national health service, similar to a program in existence for years in Great Britain, out of a belief that neither patients nor their physicians in this country would accept such a radical change.

But the existing American system has become ever more costly. In 1982, health-care costs rose above 10 percent of the total gross national product for the first time and the inflationary trend has defied most attempts at more than momentary moderation. Cash-strapped businesses and government programs have demanded a far more effective reining in of medical bills, and the pressure for change has risen apace.

Sitting behind the clutter desk in front of an X-ray viewing screen, Boyle winced slightly at his cigarette.

#### A VERY DUMB THING

"It is not a very smart thing to do," he said after a pause. "It is a very dumb thing, as a matter of fact. It is something that I need to stop, no question about it. I am probably relying on my ancestors (he comes from a family generally free of cancer) more than I should."

A fellow AMA official, Dr. John J. Coury, said Boyle's colleagues have urged him to quit smoking. Coury, a Port Huron, Mich., surgeon who is the current chairman of the AMA board and who has known Boyle for 15 years, noted that Boyle voted with the majority when, a few years ago, the AMA moved to outlaw smoking at all of its functions, including board meetings.

Born in Jersey City, N.J., Boyle, who turns 60 this November, came west in the early 1950s to finish his residency training at a Navy hospital in Oceanside and at the Long Beach Veterans Administration Medical Center, after medical school at Temple University in Philadelphia. He has been here ever since. He shares a common background with most AMA presidents: His academic and scientific research credentials are limited and he has, instead, a strong background in private practice, the constituency with which the AMA has always identified most strongly.

Boyle and his wife of four years, Marilyn, live in North Hollywood. Between them, they have 10 children—all by previous marriages and all of them adults.

He has a reputation among AMA colleagues for being intelligent and so quick to grasp complex issues that he sometimes loses patience with other members of the board of trustees who require more time to master them. His sense of humor is restrained, but at the same time, he indulges passions for his hobbies: photography and golf.

On the golf course, he is known to play with a vengeance, even though he did not start playing frequently until three or four years ago—just after he underwent successful surgery in which cataracts on both eyes were removed and new lenses implanted. The cataract surgery gave Boyle personal experience with an aspect of medicine with which many doctors are unfamiliar, according to Dr. James H. Sammons, the AMA's executive vice president.

"He is like many people who have visual problems and undergo this kind of surgery," said Sammons. "It just makes their whole lives different."

Boyle takes office as president of the AMA at a time when, both its allies and many of its foes agree, the association is making a concerted and generally successful effort to present a less doctrinaire and strident, more flexible, pragmatic and conciliatory face.

Unlike a growing body of opinion among health-care economists and policy makers—typified most recently by "The Painful Prescription: Rationing Hospital Care," a report published within the last few weeks by the Brookings Institution in Washington—Boyle believes rationing of health care in the U.S. can be avoided.

But he predicts that the Medicare program of health-care services for the aged will have to impose some sort of limitations if it is to survive financially very far into the next decade.

The limit probably would take the form of a "means test" that would deny Medicare benefits to people with income above a predetermined level, even if they have contributed all their working lives to the Social Security system that finances Medicare.

The times have diminished the AMA's dominance of its traditional turf somewhat and, despite improvements in its membership rolls, the association remains a minority organization, representing only 47 percent of the 505,000 doctors who practice in the United States. But it remains by far the largest and still one of the most influential medical organizations in the nation.

This evolutionary AMA has begun to establish that it stands ready to swim with—as opposed to simply trying to struggle against—the current of public opinion and health policy.

### DEALING WITH TODAY'S WORLD

"I don't think there was ever a time when there was a sudden flip from one (philosophy) to another," Boyle said. "Gradually, it became generally recognized that while what was done in the past may have been right or wrong, it doesn't matter now. We've got today's world to deal with.

"(That realization) created a body of leadership that knew you had to be a part of the game if you were going to be allowed to play. If you wanted to come in and simply pound your hand on the table and say, 'I'm right because I'm right,' people would say, 'Fine, just don't get stuck on the doorknob on your way out.' It's just that simple."

Boyle is possibly the first member of a new generation of AMA leaders to assume the presidency. He began his ascendancy by winning election to the board of trustees in 1974 and 1975 during a crisis that nearly saw the demise of the association as it has traditionally been known.

In that two-year period, the association awoke to a nightmare, realizing that the AMA was not the impregnable, indisputable voice of American medicine, the embodiment of the kindly, family doctor whose advice was trusted and taken, largely without question, by patients.

"It was incredible," Boyle recalled of the first realizations, in 1974, that the AMA was in deep trouble, with its survival possibly in doubt. "The board walked in one October morning and were told not only that they were bankrupt but that they were borrowing $1 million a month just to meet the payroll.

"It was the first time anybody knew anything about it. You know, it was the old story: One atom bomb can ruin your whole day. It was just poor management."

### BREACH OF SECURITY

In addition, the AMA discovered that the security of its own confidential files had been breached by what turned out to be several sources who leaked thousands of pages of internal AMA documents to news outlets and law-enforcement agencies. The purloined papers included memoranda that linked the AMA to questionable dealings with the U.S. Postal Service in which the association got improper favorable treatment on rates for its journals and other publications.

Almost overnight, the AMA embarked on a massive retrenchment, raising dues and laying off dozens of employees. Whole AMA divisions disappeared. Red ink for 1974 alone totaled $3.5 million. Membership went into a sharp decline and, before things bottomed out, the AMA saw its market share of representation of American doctors slip to 39 percent.

A new generation of idealistic young physicians who started college at the height of the Vietnam war protest movement flocked out of medical schools and residency programs. The young doctors found the AMA too conservative and too unwilling to work actively to improve public health. They refused, by the thousands to join up.

Worse, perhaps, the perception of the AMA changed in Washington and other seats of power. The association's lobbying clout waned and, for a few years, it seemed to have lost control politically over many of the key issues that most concerned doctors.

But by the end of the 1970s, the bitter-tasting medicine had begun to have an effect. To manage its way out of the crisis, the AMA named Sammons, a blunt-talking but politically astute Texas family physician, as its executive vice president. Sammons functions as the association's chief operating officer.

"The only time they've been extremely active was on the very narrow sense of protecting the doctor's pocketbook (when the Federal Trade Commission sought authority, against AMA opposition, to investigate anti-competitive practices by physicians) and not the American public's health."

Whatever their opinion of the AMA, most observers agree that a significant alteration in the American health-care system is imminent because the development of new medical technology is quickly outstripping the ability of the existing economic system to pay for new technology. Involved are such developments as heart-bypass and transplant surgery, more sophisticated body-replacement parts, coronary-care units, improved cancer therapy, the still-experimental artificial heart and such things as the nuclear magnetic resonance and computerized tomography scanners.

Sammons had headed the AMA's powerful American medical Political Action Committee, whose influence has grown since Sammons took over. In 1983, Common Cause said the committee invested $6.3 million in congressional campaigns alone during a three-year period.

An old-guard AMA leadership was pushed aside to be replaced by a more moderate group that realized that the association could not simply write off an entire generation of physicians.

"I think it's probably true that the AMA became more flexible and pragmatic," said Paul Rogers, a Washington lawyer who served, as a Florida Democrat, as chairman of the House subcommittee on health before he retired from Congress in 1978. The trend has continued, Rogers said in a telephone interview. As a Washington lawyer, Rogers has continue to represent clients involved in health-care-policy issues since he left the House.

"I think, for instance, (state medical groups') recent (positions) on doctors voluntarily holding down their fees as a way of trying to adjust to public reaction to the high cost of medicine . . . I think that you're beginnng to see some things like that and you're not seeing (as much) resistance from the AMA to some new methods of health-care delivery."

One observer who does not hold a flattering view of the AMA is U.S. Rep. Henry Waxman (D-Calif.), the current chairman of the subcommittee Rogers used to head. Waxman said he has seen little of Boyle that establishes him as an individual, as opposed to simply being a mouthpiece for the AMA.

Worse still, asserted Waxman, "I see no indication they (the AMA) are moderating and that they are less strident when it comes to the critical issues.

"I think practicing physicians have the mistaken notion that the AMA represents organized medicine. It doesn't. What the AMA does is represent the very narrow special economic interests for certain doctors."

Far from moving to a position of public-health leadership, the AMA, Waxman contended, ignored massive cuts in a wide variety of federal health programs imposed by the Reagan Administration. The AMA stood mute when the President cut $20 million from a program to vaccinate children, Waxman said.

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[From The Los Angeles Times, June 10, 1984]

## DOCTORS DIFFER ON NEED FOR HEATH CARE CHANGE

(By Allan Parachini)

There is a wide gulf separating the opinions of doctors and their patients on how well the American health care system works, with doctors believing that the existing system works "pretty well" more than twice as often than the people they treat, according to a Louis Harris survey.

Moreover, physicians who head organized medical groups tend to be even less in agreement with the feelings of the public than doctors in practice, the survey found. And members of the American Medical Assn. are less likely to question the direction of the health care system than doctors who don't belong to the AMA.

Fewer then half—48 percent—of all doctors, versus just 21 percent of the general public, agree with the assertion that the existing health care system "works pretty well" and that it requires "only minor changes." The Harris organization called the conclusions of doctors and the public "strikingly different."

Among conclusions that may be drawn from the new poll is that doctors who join the AMA—47 percent of the nation's physicians are members—have quite a different outlook on their profession than doctors who stay out.

But while the gap between doctors in general and the public is great, the separation is even more pronounced for leaders of medical groups—68 percent of whom agreed with the positive statement about the health care system. Far more AMA members agreed with the statement than doctors who don't belong to the nation's largest organized medical group.

### SURVEY OF PRACTICING DOCTORS

The new Harris survey, released late last week, is the second such poll conducted by the Harris organization for the Equitable Life Assurance Society. Last year, the polling group compared the attitudes of physician leaders and the public.

This year, struck by the disparity of opinion in the first survey, Equitable sent Harris researchers out again to gauge the attitudes of practicing doctors—with special attention paid to the differences in attitudes between

AMA members and doctors who don't belong to the AMA.

In the latest Harris poll, 500 physicians were questioned, 53 percent of whom are AMA members and 46 percent of whom are not. (The survey did not account for the other 1 percent). The sample was balanced geographically and by age, specialty and type of practice. Of the total, 66 percent of the physicians were in private practice.

Among other key findings of the survey were these:

There is a similar difference between the public, physician leaders and doctors about whether fundamental changes are needed in the American health care system, and there is a corresponding gap between the beliefs of AMA members and nonmembers. Of physicians-at-large, 48 percent agree basic changes are needed, compared to just 32 percent of the leadership of medical societies and 50 percent of the general public. AMA members believed basic change is necessary far less frequently—43 percent versus 54 percent—then nonmembers.

While few physicians—8 percent of those in practice—believe a lack of price competition in the health care system has contributed "very much" to increasing medical costs, 44 percent of the public, but only 4 percent physician leaders, share the view. AMA membership seems to portend a difference of opinion, as well. While only 5 percent of AMA members believed a dearth of competition has driven up costs, more than twice that number 11 percent—of non-AMA members agreed.

Almost no physicians agree with a statement that there is so much wrong with the American health care system that it needs complete restructuring, but 25 percent of the general public did concur. No physician leader agrees and only 3 percent of physicians-at-large feel that way.

A majority—59 percent—of doctors believe the costs of hospitalization are too high and large majorities believe seven specific factors are responsible: Increasing use of new technology; the more rapid aging of the population; the proliferation and higher costs associated with malpractice suits; increased availability of government program such as Medicaid (Medi-Cal in California) and Medicare; increased use of private health insurance; overuse of laboratory tests by doctors, and unnecessary hospitalizations.

While doctors and the public agree on some possible cost-control tactics, such as requirements for a second opinion for nonemergency surgery and a system of some kind to discourage duplication of expensive hospital technology in the same geographic area, there are also areas of wide disagreement.

### DIFFERENCES ON PRICE CONTROLS

For instance, 61 percent of the public, 13 percent of practicing doctors and only 7 percent of physician leaders agree that government price controls of doctor and hospital fees are desirable. And 76 percent of the public, 37 percent of practicing doctors and 32 percent of medical leaders concur that fees should be set in advance, based on standardized payments for all patients with the same problem.

In all, concluded the Harris survey, "physicians are out of step with the nation on many key issues.

"They are less critical of the status quo, much more likely to believe that the health care system is price competitive and much less willing to accept alternatives to the traditional fee-for-service, doctor-patient relationship than the public, hospital administrators, employers, union leaders or insurance executives.

"However, practicing physicians are more likely to see the need for change than are their elected leaders."

James T. Glynn, Equitable's vice-president for marketing, said the new survey of doctors may help to "clearly define what the real issues are rather than us just surmising where the physicians will resist change."

Glynn said several of the results surprised Equitable officials. The biggest shock, Glynn said, was the finding that a near-majority of doctors believe basic changes are needed in the existing system.●

## SECOND ANNUAL CONGRESSIONAL FAST AND PRAYER VIGIL FOR SOVIET JEWRY

● Mr. LAUTENBERG. Mr. President, I wish to express my continuing concern today over the injustices suffered by Soviet Jews and to announce my participation in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

Boris and Rita Aizenberg are Soviet refuseniks who were denied exit visas in 1979, 1980, and 1981. In typical Soviet fashion, the Aizenberg's were not accorded the decency of an explanation for the decision which effectively severs them from close family members who have already emigrated to Israel.

Instead of permission to leave, or a reason why they could not leave, the Aizenberg's were assaulted by the harrassment and ostracism which has come to be expected, and which has been courageously endured, by thousands of Jewish people who seek permission to leave the Soviet Union.

As a consequence of their request, Rita Aizenberg lost her job as an engineer and she remains today unable to secure any meaningful employment. Their daughter, Irina, was expelled from a Soviet university and she too found herself unemployed.

Mr. President, just a few short weeks ago, international attention was focused on the outrageous Soviet refusal to permit Dr. Andrei Sakharov, or his wife, Dr. Yelena Bonner, to emigrate to the West. The international community was particularly distressed due to Dr. Bonner's pressing need for specialized health care unavailable to her in the Soviet Union.

Thus, it is quite clear that religious, political, and personal repression are not unique to the Aizenberg family. The themes of oppression and internal exile are, unfortunately, old and familiar ones which continue to persist in the Soviet Union. The story of Boris and Rita Aizenberg is one of many which captures and depicts the plight of those in Russia who dare to seek permission to emigrate anywhere; let alone Israel.

Although a grave disappointment, it is of little surprise to the free world that the Soviets have virtually closed the door on Jewish emigration. This is undeniable in view of the unhappy fact that Jewish emigration has declined 98 percent since 1979. It is against this background Mr. President, that I am proud to join with a number of my colleagues as a participant in the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry.

It is incumbent upon us, both as spokesmen for the free world and as advocates of the principle of freedom, to support today's vigil and to call upon the Soviets to modify their inhumane policies.●

## NEW TELEPHONE SERVICE FOR ALABAMA

● Mr. DENTON. Mr. President, I bring to the attention of the Senate a new long-distance telephone service that will soon be offered in Alabama.

Brindlee Mountain Telephone Co., an independent telephone company located in Arab, AL, has signed with Satellite Business Systems an agreement under which Satellite Business Systems will build a national network Earth station in Arab to connect with Brindlee Mountain Telephone Co.'s toll switching facility. Brindlee Mountain will be joined in offering the service by SCI-Net, a subsidiary of SCI Systems, Inc., located in Huntsville, AL.

The services made available will be provided to resellers and independent telephone companies throughout the State.

The arrangement is unique because it will provide communications services to rural Alabama that have not been offered before. It will also provide those services to the public at a lower price than is not available.

I believe that Alabama will greatly benefit from the arrangement, which was made possible by the divestiture of AT&T. Although I have concerns about some of the aspects of the divestitute, the arrangement is an example of how the public will benefit from competition.

I want to commend all of the parties involved. I especially want to commend Sid McDonald, president of the Brindlee Mountain Telephone Co., for his active role in bringing about the new service. I have known Sid for some time, and I recognize that the latest arrangement is just another example of his foresightedness. He has always been concerned about improving all aspects of life in his community and in the State. Sid has built Brindlee Mountain Telephone Co. into what is generally recognized as one of leading independent telephone companies in the Southeast.

I ask that an article from the Huntsville Times be printed in the RECORD.

The article follows:

[From the Huntsville (AL) Times, June 13, 1984]

### AREA FIRMS PLAN NEW STATE LONG-DISTANCE PHONE SERVICE

(By Peter Cobun)

Huntville's SCI Systems Inc. and Brindlee Mountain Telephone Co. in Arab will jointly offer new long-distance telephone service to Alabamians at rates 10 to 20 percent lower than AT&T's WATS rates, the firms said today.

An SCI subsidiary, SCI Net, is now completing construction of a $10 million, statewide microwave network connecting Huntsville, Arab, Birmingham, Montgomery and Mobile, to be managed by Brindlee, an independent phone company.

The new system was announced in Washington today by the two companies.

Brindlee will use the facilities of Satellite Business Systems (SBS), a nationwide communications firm owned by IBM, COMSAT and Aetna Life and Casualty Co. SBS is installing an satellite "earth station" in Arab to interconnect Brindlee's toll-switching facilities with SBS' nationwide system.

The earth station in Arab will make possible small town access to major, low-cost, long-distance telephone service other than AT&T, the firm said.

Long-distance calls will be transmitted by satellite from Arab to any of 30 existing SBS earth stations nearest the call's destination. With stations already in the nation's 20 largest metropolitan areas, SBS plans to extend its network service to 50 metropolitan areas this year, and to 100 by 1985.

The earth station in Arab will be the first in the nation not located in a metropolitan area.

SBS now operates three orbiting communications satellites, and a fourth is scheduled for launch by the Space Shuttle Discovery.

In a press briefing late Tuesday, Sid McDonald, owner of the Brindlee Mountain phone company, said the new long-distance service will be available for Huntsville and Birmingham in August, with service for Montgomery and Mobile to become available later.

McDonald said re-sellers and independent telephone companies throughout Alabama will be able to provide customers with service to any telephone number at any time in the 48 contiguous states, Puerto Rico and the U.S. Virgin Islands.

"We are excited about this opportunity to offer Alabamians quality, low-cost, long-distance telephone service," added McDonald "through the advanced technology and management of Brindlee Mountain Telephone, SBS and SCI."

Delta Communications, Inc., a WATS (Wide Area Telephone Service) re-seller owned by Brindlee and SCI Net, will act as the marketing arm for the new telephone service.●

## THE PASSPORT PROBLEM

● **Mr. PELL.** Mr. President, in the last few years the strength of the dollar and the advertising campaigns of foreign tourist boards have encouraged Americans to travel abroad, particularly during the summer season. The increase in foreign travel by Americans is reflected in the rising demand for passports. Whereas approximately 3 million passports per year were issued in fiscal years 1979-81, 3.6 million were issued in fiscal year 1982. In fiscal year 1983 the number jumped to 4.2 million, and it is estimated that this year's total will be about 4.7 million.

The skyrocketing demand has had its greatest impact on the processing of applications during the peak season—March through July—when the influx of applications is the heaviest. Passport agencies, presently 13 throughout the United States, process applications according to the date of departure and try to issue the passport within 10 days after an application is received. In recent years, agencies have had more and more difficulty meeting this goal during the peak season. In fiscal years 1979-81, the longest time to issue a passport, on the average, was 3 to 4 weeks. In March and April of this year, the average was 6 to 7 weeks. Currently it is 5. Delays such as this are both annoying and troublesome, especially when one is trying to finalize travel plans.

To cope with the spiraling demand for passports, the Department of State has instituted 6-day workweeks, set up evening shifts, and transferred applications from agencies with backlogs to those without during peak seasons. In addition the Department has been expanding and automating passport agencies. In spite of this good faith effort, demand continues to exceed processing capabilities during the peak periods. Presently, the nationwide backlog of applications is 280,000 per week—75 percent of the number of applications processed by an average agency in an entire year.

This season, the problem of delays has been particularly severe in the Northeast corridor, a region encompassing most of New England and upstate New York. An unusually heavy flow of applications before the start of the peak season, when additional staff is hired, created a backlog in the Boston agency which services this area. Although Boston, has traditionally been one of the best processing agencies, it fell behind this year and by late April had a backlog triple that of its weekly processing capability. As a result, applicants from New England, including many Rhode Islanders, have experienced the frustration of waiting nearly 2 months for a passport. To provide some relief to the Boston agency, the State Department has decreased Boston's area of coverage by permanently shifting the New York applications to a new processing center in New York State. However, other steps, such as computerizing the Boston agency as soon as possible, must be taken in order to prevent a recurrence of this situation during next year's peak season.

The State Department expects that the demand for passports will continue to increase and estimates that 6 million passports will be issued in fiscal year 1987. As one who has long been an advocate of foreign travel and exchanges as a means of developing understanding between peoples of the world, I am delighted that a growing number of Americans are interested in traveling abroad. As Members of Congress, we have a responsibility to our constituents to see that passport applications are processed efficiently and expeditiously. I believe that we must do all that we can to assist the State Department's effort to cope with the rising demand for passports. In particular, we must make sure that the Department has all the necessary resources to deal effectively with this problem. I am working closely with the Department on this matter because I do not believe that Americans should have to endure interminable delays in obtaining a passport.●

## FEDERAL DAMS

**Mr. DECONCINI.** Mr. President, the May 1984 issue of Constructor, a monthly magazine published by the Association of General Contractors, contains an excellent article on the subject of Federal dams.

The integrity and soundness of our Federal dams has always been a very important issue to this Senator and to thousands of citizens across the Midwest and the West growing increasingly concerned about the possibility of dam failure. Dams represent a vital component in our Nation's infrastructure and like many public projects, are in desperate need of attention. Legislation authorizing additional Federal funds for safety modifications to existing reclamation dams must be considered by the Senate before the close of this session. I urge the leadership to schedule time for debate on this issue to allow critical safety corrections to move forward.

Mr. President, I ask that the full text of the Constructor article be printed in the RECORD.

### DAMS AS A PART OF AMERICA'S INFRASTRUCTURE

(By John E. Carlson)

Dams provide for many purposes in the United States. They provide water for irrigation and sustaining life; they impound water for improved navigation and flood control. They sometimes are sources for developing hydroelectric power, and, sometimes, they provide recreational opportunities.

A Corps of Engineers report on the safety of non-federal dams indicates that there are over 65,586 non-federal dams in the country which are higher than 25 feet or impounding more than 50 acre feet of water. Of the hundreds of thousands of dams, these could be called significant dams. In addition to these there are approximately 3,000 federal dams in this category.

The Corps' report also indicates that of the significant non-federal dams, approximately 8,800 are classified as high hazard. A dam is classified as high hazard not because it is structurally unsafe but because if it did fail the dam has a great potential to do damage to human life and property. However, the Corps' report does indicate that of these high-hazard dams, more than a third are rated unsafe.

The loss of a dam could severely affect a community. The greater impact of a dam failure is the possible loss of life and devastation to downstream development. However, a community is also adversely impacted economically when a dam fails either through loss of power, loss of water supply or loss of recreational benefits.

These facts underline the fact that America needs its dams—all of them large and small. The fact is alarming that approximately a third of America's non-federal high hazard dams are rated unsafe by the Corps of Engineers. The loss in the event of a failure or failures would be high. This sample of unsafe dams is large enough to presume that a third of all non-federal dams are unsafe. Failure of these dams, while not threatening any lives, would be costly economically. Returning the unsafe dams to a safe condition would not only greatly reduce the chances of loss of life but also ensure that the economic benefits will not dissipate due to a dam failure.

No estimate exists for the cost of upgrading the non-federal dams to a safe condition. The Bureau of Reclamation has done an inventory of its dams to ascertain how many are unsafe and what the cost would be to repair them. The Bureau determined that 48 of its dams are unsafe with the cost to upgrade them to a safe condition being $650 million. This is an average investment of $13.5 million per dam. AGC in its report entitled "America's Infrastructure: A Plan to Rebuild" estimates that $83.5 billion is needed to bring all dams and reservoirs to a safe condition and to satisy all of America's water resource needs.

Methods to finance dams' improvements, both public and private, must be addressed. Given the tens of thousands of dams existing in the United States for a multitude of purposes, development of one single recommended funding mechanism is impossible. Funding mechanisms must be developed for each class of owner (including governmental agencies) and each purpose (including hydroelectric, flood protection, water supply and irrigation).

For federal dams, the vendible products of a dam could be sold at a fair market price or at a price which recovers the federal investment in the dam, whichever is less. Beneficiaries of the flood control or recreation could be assessed for a fair portion of the development of a dam.

Energy generation, water supply and irrigation prices could be determined from the cost of the project. Flood control and recreational benefits, however, even if they are the primary benefits created by the dam, are more difficult and subjective to determine. Flood control beneficiaries could be assessed an amount that is equal to a portion of the taxes generated by the development within the area protected by the flood control structure and 100 year flood line. Recreational beneficiaries could be assessed increased fees for park access, use of boat ramps, registration of pleasure craft, hunting and fishing licenses, concessions and rental of concession facilities.

For private dams, since private dams exist for the intended benefit of the owner, funding mechanisms can vary greatly.

This issue of Constructor looks, in part, at the need for dams, why dams fail, dissects a recent dam failure, and courtesy of the Bureau of Reclamation, looks at the new technology being developed to avert dam failures. It reinforces the need to improve this segment of America's infrastructure.

### WHY DAMS FAIL—SOME HISTORICAL EXAMPLES

Ruins of early irrigation dams dot the landscape of ancient Egypt and Persia—vestiges of civilizations which once flourished in the arid region. The art of dam building is at least 6,000 years old; it was first practiced by Persian Kings, then by Egyptian Pharoahs in the Mid-East.

Dams were important strategic landmarks in the arid Mediterranean dominions. The region near the pyramid of the Labyrinth, Egypt (the cradle of Western civilization in 1700 B.C.), was divided into two kingdoms: the Hyksos of Lower Egypt and the Egyptians of Upper Egypt. A common thread between the two kingdoms was the Nile River, which was dammed at the contiguous border of the two countries for basin irrigation purposes. By capturing Lower Egypt's frontier fort and breaching two sizeable earth dams, the King of Upper Egypt produced a catastrophic famine in the time of Joseph; a drought lasting for three years. Retaking of the fort and restoration of the water barrier brought the famine to an end and thereby returned prosperity to the Lower Nile.

Few dam failures are caused by sudden and deliberate acts of man, however. Neglect is the major factor in deterioration of a dam, leading to incremental degradation of embankments, spillways and other crucial components. Neglecting a dam after the structure has been affected by natural phenomena—such as floods, rockslides, and earthquakes, is a sure invitation to disaster.

Following the decline of the Roman empire, many concrete and masonry dams built by Roman engineers fell into ruin from lack of maintenance. Roman water structures were unparalleled for their durability and design sophistication, but like a building which loses its roof in a storm, dams which sustained flood damage along spillways or embankments were weakened and more vulnerable to later natural calamities. Proserpina Dam at Merida, Spain is a notable exception. Repairs on Proserpina in 1617, 1689, 1791 and 1942 have allowed this structure to provide water (by Roman aqueduct) to the town for nearly 2,000 years. Built about 100 A.D., this classic dam is 62 feet high, 1,400 feet long, of concrete encapsulated by masonry. Upstream stone buttresses and downstream earth backfill overlaid with masonry spillways stabilized and protected the structure against flood surges. The Romans were the first to use combinations of innovative dam construction techniques such as stepped spillways, dam face buttressing and intake towers to control reservoir levels.

Causes of failure. Each dam failure is unique and different, due to a variety of factors—topography of the watercourse, intensity of the precipitating disaster (flood, earthquake, etc.) and type of construction. Buttress dams usually fall in a domino fashion, as each buttress successively collapses. A concrete gravity dam may fail suddenly, but be damaged only where the area of greatest stress occurred. An earth/rock embankment dam failure may be relatively slow, with erosion progressively wearing down the face until great quantities of water pour through the breach.

There are three general types of dam failures:

1. Structural—caused by weak foundation, excessive water pressure, loss of strength, sliding or settlement, cracks.

2. Seepage—caused by pervious dam foundation or embankment, leaking seams or conduits, internal erosion, soluable material.

3. Hydraulic—caused by overtopping, wave erosion, spillway scour, embankment or abutment slides, blocked or broken gate and outlet mechanisms.

Some specific examples of dam failures and their causes follow.[1]

### BUFFALO CREEK TAILINGS DAM (WEST VIRGINIA)

Failed: February, 1972.

Causes: Unconsolidated fill, seepage erosion, slumpage of downstream face, overtopping.

Buffalo Creek was not an engineered dam. It consisted of low grade coal, sand, shale, timber and metal scrap dumped by a mining company over 25 years. Originally, the waters of Buffalo Creek filtered through the loose fill. In 1960, however, the company began using the reservoir as a settling pond to reduce pollution. The finer material tended to seal the embankment, and the water level subsequently rose. Two more upstream embankments were added during the 1960s, after federal inspections called attention to the unsafe condition of the dam, resulting in a stepped series of three poorly constructed water barriers. The dams also were without spillways or cut-offs except for one 24 inch diameter steel pipe for overflow.

Four inches of rain had fallen in the three days before the dam break. Storm run-off greatly increased the reservoir level behind the third dam, until it was overtopped at 8:00 on the morning of February 26. A burning refuse bank then exploded on the lower dam, probably due to internal steam pressure, which released a further deluge of water and debris. Within a span of 15 minutes, about 400 acre-feet of sludge and water poured down the Buffalo Creek valley. The town of Saunders was totally wiped out, 4,000 people were left homeless and 125 people died.

Court depositions later indicated that the mining company had acted too late to prevent the flooding—about an hour before the failure, an employee had put out a call for contractors with bulldozers to create an emergency spillway, however, before any heavy equipment could arrive, the situation had deteriorated beyond hope.

### ST. FRANCIS DAM (CALIFORNIA)

Failed: March 12, 1928.

Causes: Abutment movement, geological inadequacies, seepage at foundation, cracks in face.

In the hills north of Los Angeles stands a single concrete monolith; the sole remaining section of the 205 foot high St. Francis Dam. The failure in this case was not due to the strength of the dam, but of weaknesses in the surrounding rock formations which had measured compressive strengths as low as 550 pounds per square inch.

Seepage at the dam's foundation began at the initial impoundment of water in San Francisquito Canyon. Two weeks before the catastrophe, flow near the abutment increased substantially and drains were installed, but the Southern California water system inspectors found the structure to be "not hazardous."

At 11:57 pm, the lights in Los Angeles flickered briefly. A break had occurred in a power transmission line further down the canyon. At the powerhouse downstream from the dam, a worker awakened as windows rattled and houses shook. He hurried outside in the face of a flood wave nearly 60 feet high—as the roof of a building washed toward him, he scrambled up on top of it for a brief but turbulent ride downstream. Bumping against a canyon wall, he was able to climb out of the waters without serious injury. He wandered until morning in a frantic search for his family, but found nothing. The company settlement at the powerplant had vanished, and its inhabitants had been swept away to their deaths.

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[1] Source for examples of dam failures: Robert B. Jansen, *Dams and Public Safety—A Water Resources Technical Publication*, U.S. Department of the Interior, 1980.

Collapse of the massive concrete structure was sudden and without warning. Discharge of 500,000 cubic feet per second caused a flood wave reaching depths of 120 feet, causing disaster all along the Santa Clara River. Three hours after the break, the waters slammed into slumbering Santa Paula, Calif. In all, 450 people were killed.

Investigators later admitted it was a testament to human skill that the concrete dam held together for two years without failing, and testimony to human folly that the dam was placed where it was bound to fail.

### CANYON LAKE (RAPID CITY) DAM (SOUTH DAKOTA)

Failed: June 9, 1972.

Causes: Spillway clogged with debris, overtopping/inadequate spillway, embankment erosion, soil saturation from rainfall.

Rain started falling in the late afternoon of June 9 over Rapid City, intensifying after nightfall to a rate approaching three inches an hour. Normal annual precipitation in the Rapid Creek watershed was 14 inches, more or less. With no chance for absorption, rainwater accumulated rapidly in the Black Hills, quickly filling all streams and low-lying areas. Floodwaters rose rapidly in Canyon Lake, lapping against the earth rim of the 20 foot high earth fill dam, constructed in 1938 by the Works Progress Administration.

Firemen were dispatched at 10:00 pm to warn citizens of an impending flood. On the shore of Canyon Lake, one fireman went into a house as it was being torn from its foundation, rushed up onto the roof and held on as the dwelling was washed across the reservoir. The structure caught on some trees on the crest of the dam, and from that vantage point, the fireman watched the failure of the embankment. The first flood wave was held back by the earth-fill restraining barrier, but a second, larger surge overtopped the dam and began scouring the spillway. Just as a breach occurred, the roof section dropped down onto a portion of the dam which was still intact enabling the horrified firemen to crawl up the abutment to safety.

Half of the town of Rapid City was destroyed. Two-hundred forty persons lost their lives and 5,000 were left homeless. National Guardsmen, sent in for rescue operations, had limited mobility due to 5,000 wrecked automobiles strewn through downtown streets. Eighty blocks of streets and nine bridges were destroyed, along with approximately 1,500 buildings. Total property damage—$60 million.

The severe thunderstorm of June 9 would have caused some flooding regardless of the condition of the Canyon Lake Dam. However, the dam may have survived if its spillway capacity had been upgraded and properly maintained. Ironically, the Pactola Reservoir, only 15 miles upstream, was unaffected by the storm. This 230 foot high BuRec-owned earth dam, completed in 1956, has come under increasing scrutiny since the Canyon Lake disaster.

Preventing dam failures. The political solution for unsafe water barriers has often been "breach the dam and eliminate the problem." Of course, this drastic solution is usually unacceptable since dams contribute huge calculable benefits to the neighboring civilization. Better technology and more ambitious public works projects create a higher standard of living; and a higher standard of living carries with it increased risks. Careful engineering and skillful construction can reduce the hazards of these projects to acceptable levels, providing there is a periodic inspection and maintenance program to protect their structural integrity.

Corrective measures taken to repair an unsafe dam normally involves removal and reconstruction of some of the dam's components. The most fundamental remedial measures are:

Spillway improvements. Spillways sized for the probable maximum flood (PMF) will allow sufficient discharge to prevent overtopping. Inadequate spillway capacity is the most frequently mentioned problem on unsafe dams. When the spillway of an existing dam is reconstructed, careful attention must be given to "clean" channels which will not snag debris, protection against erosion and undermining and non-corrodible gates and valves.

Foundation improvements. Movement of foundations due to settlement, or shifting and sliding at abutments due to the cumulative weight of the dam and impounded water, can be detected and protective work undertaken before a failure occurs. Remedial construction on concrete dams would consist of additional drains, rock reinforcement or buttressing. On earth dams, construction to compensate for a weak foundation or extreme hydrologic pressure may consist of deep drain trenching, relief wells, flattening of slopes and replacement and recompaction of material.

Embankment/core improvements. Seepage through a dam is the primary indicator of an unsafe condition. Internal water movement carries away fine and soluable material, softening the core and possibly causing small conduits which could lead to piping and partial washouts. Seepage can be controlled by adding an impervious blanket on the floor of the reservoir, installing foundation cut-offs (if not already functioning properly), waterproofing joints with chemical admixtures (or by replacement of waterstops), and grouting of voids.

Earth embankment dams are especially susceptible to internal degradation by seepage, which could cause erosion or sliding of the downstream face. Liquefaction, the saturation of zoned gradations of the embankment which will then act like a liquid when shaken (by earthquake or explosion), will undermine the stability of the dam. Reconstruction with better fill (higher-density) material and scrupulous attention to compaction of each lift will alleviate the dangerous condition.

(John E. Carlson is vice president of Sundt Corp., Tucson, Ariz., and chairman of AGC's Bureau of Reclamation Committee.)

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### Anatomy of a Dam Failure

(By Jeffrey Beard)

Steve Cashman awakened early the morning of July 15. In the pre-dawn light he walked up the slope from his campsite to prepare a fire for a camper's breakfast. Just the previous afternoon, he and his companion, both from Hilbert, Wisconsin, had hiked through the mountain foliage along the River Trail up from State Highway 34, stopping at nightfall to make an encampment.

Weather in the Rockies had been perfect for outdoor recreation that week in July 1982—typically crisp, cool nights with temperatures in the 40's and daytime highs in the 80's. As the morning sun's glow appeared over the mountain forest, Cashman busied himself on the high ground, gathering twigs and listening to what he thought were gusts of wind through the tall evergreens and sounds of a rushing mountain river.

Soon after his arising, the roar of the river became more audible—like the rumble of a freight train over a railroad bridge. Cashman abandoned his activities upon hearing loud cracking noises upstream; then watched in horror as a 30-foot wall of water cascaded down the mountain toward the campsite. His companion, still dozing below in his sleeping bag, was swept down the valley in a thunderous torrent of broken trees and mud, while Cashman clambered up some rocks barely out of reach of the floodwaters.

Lawn Lake was originally a large natural pond draining into the Roaring River near Loveland, Colo. In 1903, an earthen dam was constructed on the water body to provide irrigation water for farmers on the Colorado high plains. Original storage and recharge rights were granted to the Farmer's Irrigation Ditch and Reservoir Company in 1912 for containment of 760 acre-feet of water. The dam was well-constructed with compacted earth fill, rip-rap facing and a three foot diameter steel pipe outlet originally 12 feet below the crest. At some point during its 79 years of existence, the dam had been enlarged to what Colorado State officials listed as 1,276 acre-feet maximum impoundment capacity, with a "normal" reservoir content of 8[illegible]7 acre-feet.

"The probable cause of failure on the 24 foot high dam was piping," according to state inspectors.[1] Piping is a form of erosion where water pushes its way through cracks or other passageways, enlarges the opening and eventually creates a breach in the structure. The inspectors' report stated "There is no evidence that water overflowed the top of the dam. It appears that the level of water in the reservoir was about three feet below the crest." However, the inspectors found evidence of improper enlargement of the dam. "An organic, clay and silt seam, approximately 12 inches thick, was found running through the dam midway between the dam foundation and crest," said the report. This could indicate that the owner, sometime in previous years, had placed soil directly atop grass growing on the dam, instead of grubbing and removing soil down to consolidated fill to provide a proper seal.

Dams require periodic inspection and maintenance to preserve their structural integrity. Records show that the Lawn Lake Dam was inspected four times over the last 31 years, and not at all after 1978. Trees and bushes had been growing on sections of the dam face, thereby weakening the embankments. Seepage through sand and organic seams may have caused sloughing on the downstream face. There were rodent holes, approximately six inches in diameter, 12 feet below the dam crest, probably caused by marmots or badgers. And a University of Florida student visiting the park the morning of July 8 observed "three farmer types" struggling with a corroded valve on the dam "cursing and fuming" because it was stubborn. The workers told the visitor the valve was "tricky" and they were unable to get it to work the way it should.

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[1] Estes Park Trail Gazette, July 21, 1982.

Driving by himself after sunrise on July 15, Stephen Gillette began his 70-mile trash collection route through Rocky Mountain National Park. He had started his route an hour earlier than usual because so many of the garbage trucks owned by A-1 Trash Service were mechanically disabled from heavy use during the tourist season.

When he reached Horseshoe Park at the Lawn Lake Trailhead, he heard a noise "like a jet airplane crashing. Then I saw trees being thrown in the air like toothpicks and realized it wasn't a plane." [2] Gillette jumped into his truck and raced to the nearest emergency phone two miles away. His call was received by the Park Service at 6:23 am.

Authorities later admitted that Gillette's quick thinking gave them precious moments to alert campers and evacuate the downstream area of Estes Park before the floodwaters thundered through.

At Park Service Headquarters, the dispatcher began a series of warning calls that probably saved many lives. The local sheriff's office, police department and park rangers mobilized to notify all people on either side of the river—telling vacationers and residents to get out of the area. Estes Park Radio station KSIR learned of the dam failure on a police radio scanner, and after confirming the report, gave continuous updates on the flood starting at 7:00 am.

The flood plain along Roaring River is narrow and steep, dropping about 2,500 feet from Lawn Lake to an intersection with Fall River 4.5 miles away. Floodwater from Lawn Lake flowing at nearly 8,000 CFS (three million gallons plus per minute) were slowed somewhat at a large meadow known as Horseshoe Park located immediately downstream from the junction of the two rivers, leaving a wide brown gash like the track of an avalanche. From Horseshore Park, the floodplain along Fall River traverses another 6.5 miles to downtown Estes Park, descending about 1,100 feet in elevation.

The Fall River through and above Estes Park is typical of mountain streams. It has heavy vegetation along the banks of the channel, a cobbled stream bed, large rock outcroppings, steep channel slopes and has the potential for high water velocities. The climate of the region is best described as high-altitude and semi-arid with some attendant ramifications: sudden and violent thunderstorms, heavy snowpacks, flash floods and the critical need for storage reservoirs. Flooding on Fall River is not unusual—high water has been recorded there seven times since 1949.

Damages from the 1965 flood were the result of encroachment upon the river channels and blockage of the river through the central business district. And although current federal regulations discourage it, many public facilities remain in the Fall River Floodplain. On July 15, 1982, development along the flood plain was again victimized by a river out-of-control. Aspenglen campground is accessible by a single road which became impassable due to floodwaters. A fish hatchery operated by the State of Colorado sustained heavy flood damage. Both of these facilities are located on the Fall River between the Cascade Lake Dam and the City of Estes Park.

By 7:15 am, park rangers had notified all campers in the Aspenglen campground of the impending flash flood. "Everybody decided to leave their campsites for higher ground," said Park Information Director Glenn Kaye of the 200 persons registered at the National Park. "But after the initial surge, two campers, Bridget Dorris of Arlington, Texas and Terry Coates of Peoria, Illinois, decided, against the warnings of other campers, to go back and retrieve their belongings."

Immediately upstream of the campground, Cascade Lake Dam was absorbing huge volumes of floodwater. The restraining barrier and 10 acre-foot reservoir, owned by the City of Estes Park, was overtopping by 7:20 am. At 7:42 am, the second dam failure of the morning occurred, sending another surge of water crashing down through Aspenglen toward Estes Park. The two campers were probably working at their campsites at 7:43 am when the torrent struck. Their bodies were found five days later in a muddy quagmire 1.5 miles downstream.

The disaster of July 15, 1982 could be characterized as a fair weather flood. Brief, but of unprecedented severity. It washed away bridges, destroyed road systems, inundated 177 businesses and flooded 108 homes. It also destroyed a hydroelectric plant, fish hatchery and caused three confirmed deaths. At the west end of Estes Park near the beginning of the downtown business corridor, flood waters could not pass under a bridge clogged with debris and instead flowed over the structure and down Elkhorn Avenue through the central part of town. The waters rose up to six feet deep in many of the downtown stores, 2.5 times the estimated 500 year flood depth.

Just below the town of Estes Park is the Olympus Dam and reservoir, part of the Bureau of Reclamation's Colorado—Big Thompson Project. About 7:15 am. BuRec's Bob Berling was notified that the Lawn Lake Dam had failed, and immediately initiated actions to absorb floodwaters into Lake Estes. Knowing the size of Lawn Lake, Reclamation experts realized that with proper releases, the Olympus Dam reservoir (Lake Estes) would be able to contain the flood surge. First, water entering the reservoir from the West Slope Reservoirs was shut off, then releases to the Olympus Tunnel/Power system were increased to its maximum carrying capacity of 575 cubic feet per second. Releases to the river were maintained at 420 cubic feet per second.

At 9:15 am, peak inflow to Lake Estes was 6,000 cubic feet per second. The lake captured nearly 700 acre-feet of water and an enormous amount of debris (trees, silt sections of buildings, etc.), raising the elevation of the reservoir to within two feet of holding capacity at 7,473 feet above sea level. Fortunately most of the debris lodged at the south shore of the reservoir away from the dam's radial gates, allowing the gates to operate freely.

By afternoon, the Bureau decided to contract out the clean-up work for the reservoir, citing the usual quick response of local contractors to procurement needs. By evening, the work had been bid and was awarded to Donkehm Construction Company of Fort Collins. A second contract was awarded July 29 to Varra Companies, Inc. (AGC) of Broomfield for the removal of sand, gravel and rock which was used to enlarge an existing levee adjacent to the inlet area. These two projects were essential in restoring the water quality of lake Estes, a multi-purpose reservoir used for recreation, water supply and hydropower.

Total dollar losses from the Lawn Lake/Cascade Dams' failure as estimated by Federal Emergency Management Agency officials:

| | |
|---|---|
| Private Business Sector | $17,200,000.00 |
| Home and Personal Property | 1,570,000.00 |
| Rocky Mountain National Park | 4,980,000.00 |
| Agricultural Losses | 2,550,000.00 |
| Public Facilities | 4,130,000.00 |
| Total | $30,430,000.00 |

The town of Estes Park and Larimer County participated in an intergovernmental Flood Hazard Mitigation Report in response to the July 22 disaster declaration by the President of the United States. The hazard mitigation team made recommendations which are universally applicable to communities downstream from dams:

A. Design Standards and Mapping.—Structures in areas susceptible to floodwaters should be designed and constructured to pre-determined standards. More accurate floodplain mapping will delineate inundation zones for developers.

B. Minimize Flood Recurrence.—Any flood-lessening measure as opposed to actions that accommodate flooding. Examples include: dam safety and inspection program; streambank and channel clearing; slope reduction; debris removal.

C. Hazard Warnings.—Warning and evacuation plans; and coordination of all resources to lessen the effect of the disaster (public sector leadership and private sector participation—Red Cross, individual volunteers, contractors with heavy equipment, etc.).

D. Structural Measures.—Approaches that address the inevitability of flooding and offer a degree of physical protection. This involves elevation, floodproofing, new construction and reconstruction of existing structures.

This article is based on reports published in the following newspapers and government reports: "Post Flood Recovery and Progress Report," January 15, 1983, by FEMA Region VIII Intergovernmental Hazard Mitigation Team; "The Lawn Lake Dam Failure," December, 1982, by Wayne J. Graham and Curtis A. Brown, Bureau of Reclamation; "Report of the Bureau Response to Lawn Lake Dam Failure," August 3, 1982, by Robert L. Berling/BUREC; "Rocky Mountain Region; Report on Dams," August 1982, by Ronald E. Hermance/National Park Service; "Lawn Lake Dam Failure & Fall River Flood," August 6, 1982, by the Town of Estes Park and Larimer County, Colo.; and accounts published in Estes Park Trail Gazette, Denver Post, Boulder Daily Camera, Rocky Mountain News, Salt Lake Tribune, and The Washington Post.

Other high dams in the U.S. include: No. 15—Hoover, 221 feet, Nevada, 1936; No. 18—Dworshak, 219 feet, Idaho, 1972; No. 19—Glen Canyon, 216 feet, Arizona, 1964; No. 22—Auburn, 210 feet, California, Engineered but unfunded.

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[2] Source: Robert B. Janse, "Dams and Public Safety—A Water Resources Technical Publication," U.S. Department of the Interior, 1980.

MAJOR DAM DISASTERS OF THE PAST CENTURY

| Dam | Country | Year | Approximate No. of lives lost |
|---|---|---|---|
| South Fork | U.S.A. | 1889 | 2,200 |
| Valparaiso | Chile | 1888 | [1] 100 |
| Walnut Grove | U.S.A. | 1890 | 150 |
| Bouzey | France | 1895 | [1] 100 |
| Austin | U.S.A. | 1911 | 80 |
| Bila Desna | Czechoslovakia | 1916 | 65 |
| Lower Otay | U.S.A. | 1916 | 30 |
| Gleno | Italy | 1923 | 600 |
| Eigiau-Cowdry | Wales | 1925 | 15 |
| St. Francis | U.S.A. | 1928 | 450 |
| Zerbino | Italy | 1935 | [1] 100 |
| Malpasset | France | 1959 | 420 |
| Vega DeTera | Spain | 1959 | 144 |
| Oros | Brazil | 1960 | (2) |
| Kuala Lampur | Malaya | 1961 | 600 |
| Hyokiri | South Korea | 1961 | 250 |
| Baldwin Hills | U.S.A. | 1963 | 5 |
| Vaiont | Italy | 1963 | 2,600 |
| Zgorigrad | Bulgaria | 1966 | 95 |
| Hanaksagar | India | 1967 | 100 |
| Sempor | Indonesia | 1967 | 200 |
| Buffalo Creek | U.S.A. | 1972 | 125 |
| Teton | U.S.A. | 1976 | 20 |
| Machhu II | India | 1979 | 2,000 |

[1] Plus.
[2] Unknown.

A DIRTY DOZEN

[12 of the most unsafe dams in the U.S. (not ranked)]

| Dam | Location and owner | Problem | Cost to repair |
|---|---|---|---|
| Candidates: | | | |
| 1. Jackson Lake Dam | Wyoming, Bureau of Reclamation | Foundation | $82.0 million. |
| 2. Waltonville Lake Dam | Illinois, Town of Waltonville | Structural | Unknown. |
| 3. Lake Harmony Dam | Missouri, Prop. Assoc. of L. Harmony | Stability | Unknown. |
| 4. Veaucluse/Flat Rock Dams | South Carolina, Graniteville Manufacturers | Structural | Unknown. |
| 5. Waterbury Dam | Vermont, Corps of Engineers | Seepage | Unknown. |
| 6. Casitas Dam | California, Bureau of Reclamation | Foundation | $5.0 million. |
| 7. Haiku Dam | Hawaii, Maui Irrigation Co. | Seepage | Unknown. |
| 8. Mod Branch Dam | West Virginia, City of Welch | Structural | Unknown. |
| 9. Dugan Lake Dam | Indiana, W.M. Dugan | Stability | Unknown. |
| 10. Marian Lake Dam | Missouri, Lake Sherwood Estates | Seepage | Unknown. |
| 11. Rye Patch Dam | Nevada, Bureau of Reclamation | Foundation | $4.0 million. |
| 12. Lake Chateau Dam | Missouri, Lake Chateau Inc. | Seepage | Unknown. |

Source: Based on inventories by the U.S. Army Corps of Engineers, Bureau of Reclamation, and various State dam officials.

WHERE ARE THE HIGHEST DAMS IN THE WORLD?

| Name | Country | Type | Height (feet) | Completion | Status |
|---|---|---|---|---|---|
| 1. Rogun | U.S.S.R. | Earth | 1,082 | 1985 | Under construction. |
| 2. Nurek | U.S.S.R. | Earth | 1,040 | 1986 | Under construction. |
| 3. Grand Dixence | Switzerland | Gravity | 935 | 1962 | Operational. |
| 4. Inguri | U.S.S.R. | Arch | 892 | 1985 | Under Construction. |
| 5. Chicoasen | Mexico | Rockfill | 866 | 1980 | Operational. |
| 6. Vaiont | Italy | Arch | 860 | 1961 | Operational after Landslide. |
| 7. Mica | Canada | Earth | 794 | 1973 | Operational. |
| 8. Sayan-Shushen | U.S.S.R. | Arch | 794 | 1980 | Operational. |
| 9. Mauvoisin | Switzerland | Arch | 777 | 1957 | Operational. |
| 10. Chivor | Columbia | Rockfill | 776 | 1975 | Operational. |
| 11. Oroville | U.S.A. | Earth | 770 | 1968 | Operational. |
| 12. Chirkey | U.S.S.R. | Arch | 758 | 1975 | Operational. |

Source: Robert B. Jansen, "Dams and Public Safety—A Water Resources Technical Publication," U.S. Department of the Interior, 1980.

## RESPONSIBILITIES OF FEDERAL AGENCIES INVOLVED WITH DAMS

(By David A. Johnston)

U.S. Army Corps of Engineers: The Corps of Engineers has some degree of responsibility or jurisdiction for five categories of dams: 1) structures the Corps plans, designs, constructs and operates; 2) dams the Corps designs and constructs but others operate and maintain; 3) dams owned by other agencies in which flood control storage has been provided at federal expense; 4) dams for which the Corps issues permits; and 5) dams which the Corps covered in its inventory and inspection work under the National Dam Inspection Act.

The Corps has sole responsibility for the safety of the dams in category 1 and shares the responsibility in category 2. The owners and agencies are responsible for safety of dams in categories 3 and 4. Owners and state officials have the responsibility in category 5.

The Corps issues permits for the construction of nonfederal dams of the nation's waterways, but does not provide an independent engineering review. Unless another federal agency requires inspection of the dam, the permit requires the owner to operate and maintain the structure.

The following five agencies are within the Department of Agriculture.

Agricultural Research Service: Provides support services through research programs in hydrology and hydraulics and uses dams in specific research studies.

Farmers Home Administration: Provides loans and grants.

Forest Service: Has a degree of administrative control over more than 15,000 dams, with some direct responsibility for planning, design, construction and maintenance. The Forest Service also regulates dams operated by private owners on FS-administered land. The owner designs, contracts for and operates these dams and the Forest Service reviews and approves activities relating to dam safety.

Rural Electrification Administration: Provides loans and loan guarantees for dams for hydroelectric generating plants and thermal electric plants.

Soil Conservation Service: More than 25,000 dams have been built with some form of assistance from the SCS, as part of its programs to assist landowners and users in the conservation and enhancement of soil, water and related resources. SCS does not actually own dams, but does operate cost-sharing programs under the Watershed Protection and Flood Prevention Act and the Resource Conservation and Development program. SCS also provides technical assistance to individuals and groups. However, for "nonproject" dams in which SCS had only a technical assistance role, the agency does not monitor inspections and therefore cannot maintain an assessment of those structures' condition.

SCS requires that state conservationists base continued technical and financial assistance on a state's progress with its own dam safety program.

Where failures and deficiencies occur and SCS becomes involved, an engineering report is prepared "to improve procedures for future design and construction," according to SCS's report an implementation of the Federal Guidelines for Dam Safety.

Federal Energy Regulatory Commission: Authorized under the Federal Power Act to regulate and license nonfederal hydroelectric projects, issuing licenses to private individuals and corporations, states and municipalities. According to the most recent figures available, FERC has regulatory authority over more than 1,200 dams.

The following eight agencies are within the Department of Interior.

Department of the Interior: The Bureau of Reclamation, Fish and Wildlife Service, National Park Service, Bureau of Indian Affairs and Bureau of Land Management all own dams, and all have direct project responsibility for planning, design, construction, and operation/maintenance. In addition, the U.S. Geological Survey, Bureau of Mines and Office of Surface Mining have regulatory and support functions related to dams.

The Bureau of Reclamation controls some 240 reservoirs impounded by more than 300 dams and dikes in 17 western states.

Mine Safety and Health Administration (MSHA): MSHA enforces regulations on the disposal of mine and mineral processing wastes within impoundments, and has guidelines for design of dams suitable for such impoundment. MSHA periodically inspects the more than 1,100 dams associated with mining operations in the United States.

Nuclear Regulatory Commission: At nuclear power plant sites, the NRC regulates dams whose failure could result in a radiological risk to the public health and safety.

Tennessee Valley Authority: TVA has complete responsibility for the planning, design, construction, operation and maintenance of dams for navigation, flood control and generation of hydroelectric power. TVA generally performs all its construction work with its own forces, a situation AGC has been working to remedy since the 1930s.

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### TECHNICAL TERMS IN DAM CONSTRUCTION

Abutment: That part of the valley side against which the dam is constructed. Right and left abutments are those on respective sides of an observer when viewed looking downstream.

Acre-Foot: The volume of water that would cover one acre one foot deep or 43,260 cu. ft. or 325,851 gallons.

Active Storage: The volume of the reservoir that is available for use either for power generation, irrigation, flood control, or other purposes. Active storage excludes flood surcharge.

Aqueduct: An artificial way of conveying water, i.e., by canal, pipe, or tunnel; hence the expressions "connecting aqueduct" and "diversion aqueduct."

Arch Dam: Variations include arch centerline, angle arch, radius arch, crown cantilever, double curvature, fillet, etc. A concrete or masonary dam that is curved in plan so as to transmit the major part of the water load to the abutments.

Batter: Angle of inclination from the vertical.

Berm: A horizontal step or bench in the sloping profile of an embankment dam.

Blanket: An impervious layer placed on the reservoir floor. In the case of an embankment dam the blanket may be connected to the impermeable element in the dam.

Buttress Dam: Variations include multiple arch, flat slab, solid head, diamond head, etc. A dam consisting of a watertight upstream face supported at intervals on the downstream side by a series of buttresses.

Cofferdam: A temporary structure enclosing all or part of the construction area so that construction can proceed in the dry. A diversion cofferdam diverts a river into a pipe, channel, or tunnel.

Core (Impervious Core) (Impervious Zone): A zone of material of low permeability in an embankment dam; hence the terms central core, inclined core, puddle clay core, and rolled clay core.

Crest of Dam: The crown of an overflow section of the dam. In the United States, the term crest of dam is often used when top of dam is intended. To avoid confusion, the terms crest of spillway and top of dam should be used for referring to the overflow section and dam proper, respectively.

Crib Dam: A gravity dam built up of boxes, cribs, crossed timbers, or gabions and filled with earth or rock.

Culvert: A gallery or waterway constructed through any type of dam, which is normally dry out is used occasionally for discharging water; hence the terms scour culvert, drawoff culvert, and spillway culvert.

Cutoff: An impervious construction by means of which seepage is reduced or prevented from passing through foundation material.

Cutoff Trench: The excavation to be filled later with impervious material so as to form the cutoff. Sometimes used incorrectly to describe the cutoff itself.

Drainage Wells (Relief Wells): Vertical wells or boreholes usually downstream of impervious cores, grout curtains, or cutoffs, designed to collect and control seepage through or under a dam so as to reduce uplift pressures under or within a dam. A line of such wells forms a drainage curtain.

Drawdown: The resultant lowering of water surface level due to release of water from the reservoir.

Embankment Dam (Fill Dam): Other variations include homogenous earthfill, hydraulic fill, rockfill, zoned, rolled fill, etc. Any dam constructed of excavated natural material or of industrial waste materials.

Earth Dam (Earthfill Dam): An embankment dam in which more than 50 percent of the total volume is formed of compacted fine-grained material obtained from a borrow area.

Fetch: The straight line distance between a dam and the farthest reservoir shore. The fetch is one of the factors used in calculating wave heights in a reservoir.

Filter (Filter Zone): A band or zone or granular material that is incorporated in a dam and is graded (either naturally or by selection) so as to allow seepage to flow across or down the filter without causing the migration of material from zones adjacent to the filter.

Flood Plain: An area adjoining a body of water or natural stream that has been or may be covered by flood water.

Gate: In general, a device in which a leaf or member is moved across the waterway from an external position to control or stop the flow.

Gravity Dam: A dam constructed of concrete and/or masonry that relies on its weight for stability.

Headrace: A free-flow tunnel or open channel that conveys water to the upper end of a penstock.

Heel of Dam: The junction of the upstream face of a gravity or arch dam with the foundation surface.

Intake: Any structure in a reservoir, dam, or river through which water can be drawn in to an aqueduct.

Membrane (Diaphragm): A sheet or thin zone or facing made of a flexible impervious material such as asphaltic concrete, plastic concrete, steel, wood, copper, plastic, etc. A cutoff wall, or core wall, if thin and flexible is sometimes referred to as a diaphragm wall or diaphragm.

Overburden. All earth materials that naturally overlie rock.

Parapet Wall: A solid wall built along the top of a dam for ornament, for the safety of vehicles and pedestrians, or to prevent overtopping.

Penstock: A pipeline or pressure shaft leading from the headrace or reservoir to the turbines.

Precast Dam: A dam constructed mainly of large precast concrete blocks or sections.

Probable Maximum Flood (PMF): The flood that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are possible in the region.

Probable Maximum Precipitation (PMP): The maximum amount and duration of precipitation that can be expected to occur on a drainage basin.

Pumped Storage Reservoir: A reservoir filled entirely of mainly with water pumped from outside its natural drainage area.

Reservoir (Man-Made Lake): An artificial lake, basin, or tank in which water can be stored.

Riprap: A layer of large uncoursed stones, broken rock, or precast blocks placed in random fashion on the upstream slope of an embankment dam, on a reservoir shore, or on the sides of a channel as a protection against wave and ice action. Very large riprap sometimes is referred to as armoring.

Rollcrete: A no-slump concrete that can be hauled in dump trucks, spread with a bulldozer or grader, and compacted with a vibratory roller.

Seepage: the interstitial movement of water that may take place through a dam, its foundation, or its abutments.

Seepage Collar: A projecting collar usually of concrete built around the outside of a pipe, tunnel, or conduit, under an embankment dam, to lengthen the seepage path along the outer surface of the conduit.

Sill: (a) A submerged structure across a river to control the water level upstream. (b) The crest of a spillway.

Slope: Inclination from the horizontal. Expressed in percent when the slope is gentle; in this case also termed gradient.

Slurry Trench: A narrow excavation whose sides are supported by a slurry made of mud, clay, or cement and mud filling the excavation. Sometimes used to describe the cutoff itself.

Spillway: A structure over or through which flood flows are discharged. If the flow is controlled by gates, it is considered a controlled spillway; if the elevation of the spillway crest is the only control, it is considered an uncontrolled spillway.

Fuse Plug Spillway: A form of auxiliary or emergency spillway comprising a low embankment or a natural saddle designed to be overtopped and erroded away during a very rare and exceptionally large flood.

Ogee Spillway (Ogee Section): An overflow in which the cross-section of the crest, downstream slope, and bucket forms an S or ogee curve.

Primary Spillway (Principal Spillway): The principal or first-used spillway during flood flows.

Shaft Spillway (Morning Glory Spillway): A vertical or inclined shaft into which flood water spills and then is conducted through, under, or around a dam by means of a conduit or tunnel.

Side Channel spillway: A spillway in which the crest is roughly parallel to the channel immediately downstream of the spillway.

Siphon Spillway: A spillway with one or more siphons built at crest level.

Stilling Basin: A basin constructed so as to dissipate the energy of fast-flowing water, e.g., from a spillway or bottom outlet, and to protect the river bed from erosion.

Toe of Dam: The junction of the downstream face of a dam with the ground surface. Also referred to as downstream toe.

Waterstop: A strip of metal, rubber, or other material used to prevent leakage through joints between adjacent sections of concrete.

Weir: A low dam or wall built across a stream to raise the upstream water level. Termed fixed-crest weir when uncontrolled. Types of weir include broad-crested weir, sharp-crested weir, drowned weir and submerged weir.

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## New Technology for Dam Repair and Modification

(By Billy J. Brink)

The Bureau of Reclamation is actively engaged in many facets of new technology related to safety of both new and existing dams, including the modification and repair of existing structures. Several projects describing technological innovations recently used by the Bureau are described in this article.

Inadequate spillway capacity is one of the primary reasons some Bureau dams require rehabilitation and modification. With advances in the fields of hydrology and meteorology and an increased streamflow and runoff data base, the probable maximum flood a dam must safely withstand may increase substantially over the original design flood. This is especially true for older dams. If design analysis indicates that a spillway is not adequate to safely pass the updated flood, modifications must be made.

The Bureau is also involved in enlarging dams and reservoirs to meet increasing downstream water demands to provide additional flood control capacity in reservoirs, and to develop greater hydroelectric generation capabilities. One of the major difficulties in raising a dam is modifying the spillway to function adequately at higher reservoir levels.

An alternative that should be considered for these modification needs is the use of a labyrinth spillway. These spillways are particularly well suited for rehabilitation of existing structures because the developed crest length can be greatly increased for a given width. This increased crest length allows passage of a greater design flood. A free overflow labyrinth spillway provides reservoir storage capacity equal to the traditional gated structure, which requires manual or mechanical operation. In addition, labyrinth structures may be built economically, provided an adequate foundation is available. This design was incorporated in the modification of the spillway at Ute Dam in New Mexico, resulting in an estimated savings of $20,000,000.

### INCREASED SPILLWAY CAPACITY FOR SAFER DAMS

Dam safety concerns have renewed interest in the use of fuse plugs as an economical alternative to installing gates in auxiliary spillways. A fuse plug is an embankment designed to wash out in a predictable and controlled manner when flow capacity in excess of the normal capacity of the service spillway and/or outlet works is needed. An uncontrolled overflow spillway with a high crest elevation would serve the same purpose; however, the uncontrolled spillway would have to be very wide to pass a large flow. A fuse plug controlled auxiliary has the advantage of developing deeper flow after the embankment is washed away, thus allowing the spillway channel to be narrower. Several methods are now available to provide spillway capacity for infrequently occurring floods. One of the most common and least expensive alternatives is to provide flood surcharge. Additional surcharge space, however, may not be available for several reasons: development along the reservoir shoreline, raising the dam crest may be impracticable, or additional reservoir head could result in damaging flows to existing waterway structures. Another alternative is to provide an auxiliary spillway. Constructing a fuse plug across the auxiliary spillway would restrict the operation of the waterway to floods of infrequent occurrence, much the same as the installation of gates. In many cases, auxiliary spillways with fuse plug embankments can provide an economical alternative to passing all of the flow through concrete structures. The fuse plug embankment is designed to preclude use of the auxiliary spillway during minor floods.

Another method of providing emergency spillway capacity for embankment dams involves the use of flexible membrane-lined emergency spillways. The membrane industry in the United States and abroad now offers a wide range of materials for consideration. Although limited work has been done by others in this field, the results appear promising.

The Bureau of Reclamation has begun an investigation on the use of flexible membranes as a low-cost means of constructing emergency or auxiliary spillways for a variety of low-head structures, including embankment dams. With increased experience and knowledge, consideration can be given to higher head structures. The purpose of this investigation is to define design and construction guidelines and materials requirements.

A field study has been started and construction is expected to be completed in 1985. It will involve installation of 262-foot-long, 36-mil hypalon flexible membrane lining on a spillway at Cottonwood Dam, located near Grand Junction, Colo., at an elevation of 10,000 feet. A study program will follow the installation to evaluate the design, field performance, and materials used.

### OTHER METHODS FOR IMPROVED DAM SAFETY

In many cases, raising an existing dam is the best method for improving its safety and may provide other benefits. Lake Sherburne Dam, located in northern Montana, was constructed by the Reclamation Service, between 1914 and 1921, to provide reservoir storage for irrigation of project lands. The embankment is a rolled earthfill structure consisting of high density gravelly clay. Prior to a recent modification, the dam had a structural height of 85 feet and crest length of 900 feet. The reservoir formed behind the dam had a total capacity of about 90,000 acre-feet.

Original designs included an 8,000 $ft^3/s$ concrete overflow spillway to pass floodflows. During construction, slide movements on the unstable abutment above the spillway forced abandonment of the spillway, leaving only the 2,000 $ft^3/s$ outlet works for reservoir discharge. It was recognized that additional discharge capability was needed and in 1961, an overflow spillway was added to the outlet structure. This increased reservoir discharge capacity to approximately 4,200 $ft^3/s$.

Using new procedures and updated hydrometeorological data, a new probable maximum flood for the watershed above the dam was developed. This flood would have a peak reservoir inflow of 32,700 $ft^3/s$ and five-day volume of 69,000 acre-feet. Routing the flood through the reservoir and outlets indicated that the existing dam could be overtopped by as much as 1.6 feet. Because this overtopping would cause dam failure, corrective measures were necessary. Modification of the existing structures was chosen as the least costly alternative since it would provide the necessary protection against dam failure without reducing project benefits. Based on significant cost advantage, raising the crest with a retaining wall of reinforced earth and precast concrete panels was selected as the most practical method of structural modification. This would require no modification to the stilling basin structure and only one season to construct.

### MONITORING DAM SAFETY

The Bureau has long recognized the importance of instrumentation in the design, construction, and operation of dams under its jurisdiction. During the last five years, an increased emphasis has been placed on the timely use of instrumentation data for surveillance and analysis of its structures. In 1978, centralized responsibility for instrumentation data gathering functions for concrete and embankment dams was instituted. Since the new equipment still relied on manual input of hand-recorded data transmitted by mail, a program was developed to provide electronically gathered data, automatic transmittal of any out-of-limit warning values, and, on demand, a record of all the latest structural behavior data from Bureau dams.

This dam monitoring automation program encompasses a wide range of areas, from landside surveillance to embankment and concrete dam instrumentation throughout the western United States. To meet these diverse requirements, a system was designed which would provide for the distribution of sensor data within each structure. Data monitors were strategically located and linked to a master station which would gather the information for transmission. A terminal was supplied at the master station to allow the operator to monitor data, program sensors, and perform diagnostics throughout the system. Each data monitor has a miniterminal attached, which allows the operator to perform local scanning and calibration of sensors.

Telephone transmission of data from the master station at the dam to outside locations was selected as the most universal means of data distribution. Microcomputers interfaced to the telephone system at the regional and design offices can peform data request, receipt, storage, and presentation functions.

### CAUSES AND STUDIES OF DAM FAILURE

Overtopping of earth embankments is a common cause of dam failure. To study the nature and modes of failure resulting from overtopping, the Bureau is conducting model studies in its hydraulic laboratory. These studies will investigate various methods for preventing or delaying dam failure such as slope protection, a hard capped crest, various slopes, and toe erosion.

In addition to the above studies, the Bureau has an active research program, a part of which is specifically directed to improved repair methods and to other dam safety considerations. These studies include concrete repair, protective coatings, prevention of cavitation, cement and chemical grouting, dynamic analysis of structures, liquefaction of soils, flood flow routing and reducing spillway damage.

As the age of Bureau structures increases, it is expected that other technological innovations will be used by the Bureau of Reclamation in the repair and maintenance of its facilities.

(Billy J. Brink is a physical scientist and research coordinator of the Division of Research and Laboratory Services, Bureau of Reclamation, Denver, Colo.)

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### DAM PROJECTS ON THE EDGE OF OPTIMISM

Federal budgetary pressures have slowed construction of locks and dams while new mechanisms for water projects financing have been examined. This downward trend in dam construction has been realized at all levels. The U.S. Corps of Engineers and the Bureau of Reclamation have decreased their respective budgets by 1.25 percent every year for 30 years. In Congress, House and Senate members have not approved an omnibus water resource authorization bill in seven years.

But the turnaround in dam spending may be near. Rep. Robert Roe (D-N.J.) and Senator James Abdnor (R-S. Dak.) have both introduced omnibus water project authorization bills (H.R. 3678, S. 947). Rep. Roe's bill would authorize nearly $15 billion in federal water projects during the next 10 years for more than 150 new or expanded projects. To offset the cost of the bill, Rep. Roe is proposing to deauthorize more than 300 other projects considered environmentally unsafe or no longer essential, representing a savings of over $11 million.

If Roe's bill does pass, a multitude of benefits could be realized: flood control, water supply, irrigation water for farmers, recreation and hydroelectric power. If the bill or a similar measure does not get through Congress, floods and droughts, which periodically plague parts of the country, are likely to continue.

Severe flooding along the Colorado River and the Great Salt Lake last spring no doubt increased the pressure for dam construction, especially on flood control projects. Total U.S. flood damage sustained in FY 1983 was slightly over $4 billion, well above the average of $1.5 billion. According to the U.S. Army Corps of Engineers' Annual Flood Damage Report, only one other year, 1972, recorded greater damages of $4.5 billion. During FY 1983, approximately 200 lives were lost in flood-related incidents primarily in the Lower Mississippi River Valley and Southern Gulf states.

While some regions were plagued by floods last year, others were hit by droughts. The hot and dry weather conditions during last summer caused significant monetary losses to the agricultural community, the Corps reported. The losses in corn and soybean crops alone are estimated to be in the billions of dollars.

Although the nation's natural supply of water appears to be more than adequate to meet the needs of its present population, the real problem is not inadequate quantities of water nationwide, but in the fact that good quality water is not always available at specific times and places.

Nearly every state has identified water supply problems. Localized problems of inadequate surface-water supply have been identified by the U.S. Water Resources Council in its second national water assessment in every region of the country. However, 17 of the 106 subregions they looked at have or will have a serious problem of inadequate surface-water supply by the year 2000, the Council predicts.

In other areas of the country, groundwater overdraft has been underway for a number of years, complicated by inadequate planning for long-term consequences of the loss of groundwater supplies. Moreover, the discharge of groundwater has resulted in poor quality groundwater. According to the Council, groundwater levels are declining from 7 to 10 feet per year in areas such as the High Plains, central Arizona and parts of California.

While these reports indicate that the nation's dam structures are far from being completed, there is additional pressure to repair or replace existing dams that are beginning to show their age. The nationwide inspection for some 9,000 non-federal dams undertaken by the Corps found that about one-third or nearly 3,000 dams are unsafe because of inadequate spillway capacity, unstable structural components, seepage or inoperable components.

The fiscal year 1985 budgets of the three primary agencies responsible for construction and maintenance of dams—The U.S. Army Corps of Engineers, the Interior Department's Bureau of Reclamation and the Agriculture Department's Soil Conservation Service—all are asking for increases in their maintenance budgets. The Corps of Engineers' operations and maintenance expenditure, for example, is much greater than its general construction budget. The budget request for fiscal year 1985 for operation and maintenance is nearly $1.3 billion while for general construction it is $874 million.

Repairing the nation's water infrastructure has also received widespread attention in Congress. Both houses have reported out bills that would amend the Reclamation Safety of Dams Act of 1978 which authorizes $100 millon for dam safety repair. The House bill authorizes an additional $650 million for safety improvements for western dams while the Senate bill calls for an additional $550 million.

Federal funds are also likely to go toward completing projects already started. The Bureau of Reclamation is seeking federal dollars in fiscal year 1985 to complete the Central Arizona Project, authorized in 1968, which will pump water out of the Colorado River, up some 1,000 feet and across 300 miles through a system of aqueducts and reservoirs to house taps and irrigation sprinklers near Phoenix and Tucson. Besides completing the Central Arizona Project, the Bureau of Reclamation is also hoping to complete the $2 billion Auburn Dam in Auburn, Calif. The project was halted in 1975 after an earthquake occurred, 41 miles north of the site.

This is increasingly the kind of contract the three main agencies intend to award. Other likely projects, the Corps claims, are hydroelectric facilities. The Corps, now the single largest U.S. hydroelectric power producer, has completed a study which identified about 2,000 sites that have potential for future hydro-electric development. In all, the Corps identified 1,948 economically feasible projects with no overriding environmental, social or other economical constraints that would preclude development. Of these sites, 1,407 have existing dams and 541 are underdeveloped. The areas they see the most promising: the Pacific Northwest; Rocky Mountain states such as Colorado, Utah and Wyoming; Eastern Pennsylvania; Michigan; and Wisconsin. In the Pacific South, the creation of reservoirs for hydropower could be a real benefit if water supply was added as a purpose of each facility, the Corps noted. The North Atlantic, the most promising area for hydropower, has a number of dams in need of replacement because of high hazard ratings from the Corps. Furthermore, in the South Atlantic, major emphasis is being placed on the restoration and retrofitting of Soil Conservation Service impoundments and on several small-scale hydro facilities, particularly abandoned dams from 19th century textile mills in the Western Carolinas and Northern Georgia.

The report adds that although construction activity right now on hydro facilities is minimal, there are a number of large-scale multiple-purpose projects which are now in various stages of planning and design, and many of these are expected to proceed to construction. "A conservative forecast is that a large percentage of existing dams will be retrofitted with hydroelectric power facilities and that the construction of new dams will continue, although perhaps at a slower rate than experienced over the past 30 years," the report concluded.

Many see the tilt in dam construction dependent on the success of cost sharing—the amount that state and local beneficiaries spend for each project's cost. In all 14 new construction starts, the Corps has proposed in its FY 1985 budget, that all have local and state sponsors pay for a greater share than they have historically. Funds totaling $32 million are budgeted in FY 1985 to finance the second year requirements of the 12 projects the Corps proposed in FY 83 and

FY 84 budgets, and $3 million is budgeted to finance the first-year requirements of two new starts for FY 1985. The total project cost for the 14 new starts is expected to be $631 million.

One area apparently not affected by the cost-sharing requirement is recreational facilities. Approximately $22 million have been authorized to recreational facilities through FY 1984, and an additional $25 million is included in the FY 1985 budget. All work is being undertaken at 100 percent federal cost and is expected to be completed by FY 1988.

Even if state and local funding is guaranteed, contractors interested in dam construction will not likely see increases in their market unless the seven-year stalemate in Congress ends. Rep. Roe's bill stands the best chance for passage, particularly those seven key projects he has identified as critical. They are:

Replacement of the Gallipolis Locks and Dam on the Ohio River (Ohio and West Virginia).

Replacement of Oliver Lock and Dam on the Black Warrior-Tombigbee River (Alabama).

Replacement of Winfield Locks and Dam on the Kanawha River (West Virginia).

Replacement of Lock and Dam 8 on the Monongahela River (Pennsylvania).

Construction of a second lock (600 feet long) at Lock and Dam 26 on the Mississippi River (Alton, Ill.).

Construction of a second lock at Bonneville Lock and Dam on the Columbia River (Oregon and Washington).

As the 1984 election draws near, there might be more support for a water resources bill. As a Corps spokesman put it: "Dam construction can't be held back much longer."

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### INCENTIVE TO REBUILD . . . OWNERS CAN GET LOW-INTEREST LOANS IN SOME STATES

Because dams deteriorate over time and the decline is usually unnoticed, it can be a shock for an owner to suddenly find, after an inspection, that his dam needs major repairs in order to meet state or national safety requirements. But in some states, the regulatory authorities making those inspections are offering a way to ease the financial burden.

Joseph J. Ellam is chief of the Division of Dam Safety within Pennsylvania's Department of Environmental Resources. He is also head of the new National Association of Dam Safety Officials in Pennsylvania and a growing number of other states, Mr. Ellam says, states are offering grants and low-interest loans to public and private owners for dam repairs. Pennsylvania's $300 million water facility loan program was created out of a bond issue. It offers loans at 8 percent interest for dam repair and upgrading of associated distribution systems. The loan program provides valuable assistance to owners such as Pennsylvania Gas and Water Company, 16 of whose dams were found in need of a total of $21 million in repairs. Municipalities are also among the owners taking advantage of the program, Mr. Ellam says.

He credits the program for an increase in dam rebuilding in Pennsylvania. In 1983, 44 permits for such construction were issued by his office. By the end of March 1984, 26 had been issued already for the year.

The Division of Dam Safety, and counterpart agencies in other states that have such loan programs, usually negotiate a consent agreement with owners whose dams have been found unsafe, and establish a schedule for the needed repair.●

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## BALTIC FREEDOM DAY

● Mr. RIEGLE. Mr. President, today marks the third consecutive year in which the Senate has designated June 14 as Baltic Freedom Day. As the author of the legislation which called on the Congress to pay tribute to the Baltic nations in 1982, I am pleased to join Senator D'AMATO as a cosponsor of this year's resolution commemorating Baltic Freedom Day.

Mr. President, in the many years that the Congress has lent its voice to those of the citizens in this country and the world in calling upon the Soviets to grant to the peoples of the Baltic States of Latvia, Lithuania, and Estonia the freedom that was taken from them, the situation has not improved.

The 44 years since the Molotov/Ribbentrop Pact "gave" the Baltic States to the Soviet Union have seen increasing efforts by the authorities there to Russify the Baltic people. The Baltic people have had to endure the forced relocation away from their homelands and an all-out assault against the traditional values of family and religion which they hold so dear. The native languages of Latvia, Lithuania, and Estonia, as well as the ethnic traditions unique to each group are slowly being eliminated as the Russian language and traditions are imposed on the Baltic people.

Despite these hardships, the Baltic peoples continue to fight to retain their national identity. Amnesty International reports that the Soviet authorities "continue to imprison members of non-Russian nationalities who protest against what they consider an official policy of Russification." Today, in Latvia, as in Lithuania and Estonia, the KGB has intensified its campaign against real and perceived dissents. Reports of terror, repression, and other human rights violations against minorities in the Soviet Union are so commonplace that they rarely make the news in the West. We hear, however, from recent Soviet emigres, that terrorism in the Baltic States is on the rise.

Still, resistance to Soviet rule remains, as it has for decades, the dominant factor of political life in the Baltic States. Citizens of Latvia, Lithuania, and Estonia remain defiant, and continue to demonstrate their opposition to repressive Soviet policies.

Dissidents who have made their way out of the Soviet Union to the West report that one of the most critical contributions those of us here can make to the efforts of those fighting for their freedom, is to speak out publicly on their behalf. We in the West have the unique opportunity to remind the Soviet authorities of the commitments they have made, as a signatory to international treaties and accords, to upholding the fundamental human rights of their citizens.

And so, Mr. President, today I join with my colleagues in the Senate in expressing support for the aspirations of the Baltic people to regain the freedom they once enjoyed, and in calling upon the Soviet Government to respect the sovereignty of the Baltic nations of Latvia, Lithuania, and Estonia.●

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## VIGIL FOR SOVIET JEWRY

● Mr. RIEGLE. Mr. President, I am pleased to join Senator LEVIN and Senator HEINZ and my other colleagues in observing the plight of Soviet Jews through participation in the Congressional Fast and Prayer Vigil. The occasion of the 14th anniversary of the infamous Leningrad trials brings us together for this vigil. These trials, in which 11 Soviet dissidents, including 9 Jewish refuseniks were tried and imprisoned, focused international attention on the continued denial of human rights in the Soviet Union.

Despite their signing the Helsinki accords and other solemn agreements, the Soviet Government continues to blatantly violate the fundamental human rights of its citizens. One of the groups which has suffered greatly from the repressive policies of the Soviet Union is the Soviet Jews.

Article 52 of the Soviet constitution guarantees freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Unfortunately, restrictions still apply to Soviet Jews.

Despite these legal protections, the Jews face a daily struggle as they try to maintain their religious identity. A vicious media campaign is being conducted which is directed specifically against Judaism. Although more than 2½ million Jews live in the Soviet Union, the Kremlin prohibits the existence of Jewish schools. Parents find it difficult to teach their children Judaism because they themselves often lack the necessary knowledge and have no sources of authority to turn to for guidance. The absence of synagogues, rabbis, and religious books present additional obstacles to Jews in the Soviet Union seeking to practice their religion.

Discrimination also exists in higher education, where admission of Jewish students into graduate school has dropped dramatically. Many teachers have been subjected to arbitrary arrests, searches, and seizures. They have been slandered in the press, threatened with prosecution and been forced to undergo interrogation.

In addition to these violations of the rights of Soviet Jews, there is another which is even more distressing. That is, the Kremlin is now trying to sever the link between Jews living in the Soviet Union and their relatives and friends abroad. Tens of thousands have applied for permission to emigrate from the Soviet Union to join their families in Israel and elsewhere, only to have their requests denied. Over the past few years, the number of those permitted to emigrate has declined dramatically. In May of this year, only 109 Soviet Jews emigrated from the Soviet Union, which is less than would have left on a typical day in 1979.

Mr. President, the dismal emigration figures, accompanied by reports of increasing persecution of these people, clearly indicate that the plight of Jews in the Soviet Union is worsening. •

The issues of emigration and human rights were key topics of discussion when I, along with several other Members of the U.S. Senate, met with Chairman Andropov in the Soviet Union last summer. We shared with the Soviet leader the concern of the American people for those—many of them Jews—who seek to emigrate and cannot; for those who have pleaded publicly for peace and for adherence to the Helsinki agreement, and who have been persecuted or jailed. As part of our appeal, we left individuals letters with Chairman Andropov requesting relief on behalf of some lesser-known dissidents seeking permission to emigrate.

Although the response to my own appeals on behalf of my constituents has not been encouraging, I believe that we must continue to pursue every diplomatic effort in an effort to awaken the Soviet Government to the reality that the fundamental human rights of its citizens cannot be ignored.

And so, Mr. President, today I join in speaking out against the intolerable oppression of Jewish people in the Soviet Union. It is my hope that today's Congressional Prayer Vigil and Fast will again focus the world's attention on the injustices endured by these courageous people, and will bring closer the day when the Soviet Government truly honors its commitments to protect the human rights and freedoms of all its citizens.●

## BALTIC FREEDOM DAY

● Mr. PRYOR. Mr. President, June 14 has been set aside as "Baltic Freedom Day" so that we can take time to remember the fate of the many thousands of Estonians, Latvians, and Lithuanians who have been force to yield their liberty and independence to the Soviet Union.

Today is also an occasion to be thankful for the freedoms we enjoy in the United States, something which we can easily take for granted. We should also pause today to express the U.S. continued opposition to the Soviet Union's illegal occupation of the Baltic States.

We might well add to the list of Soviet victims Poland, Afghanistan and Eastern European countries like Hungary and Czechoslovakia, all of which have suffered the heavy oppression of the Soviets.

Many citizens of the Baltic States chose to flee their homes and settle in the United States, where they have become respected citizens. In Hot Springs, AR, an active Lithuanian American community has kept alive memories of the homeland, and I know that today their thoughts have turned to the sad history of their country of origin, which was torn between the world's worst tyrants—Hitler and Stalin.

The Lithuanian American community in Hot Springs is a constant reminder to me that while tyranny can conquer territory, it cannot conquer the spirit of a proud people.●

## CONFEREES ON H.R. 4170

Mr. STEVENS. Mr. President, I ask unanimous consent that the conferees on H.R. 4170, Omnibus Deficit Reduction Act of 1984, be changed with respect to the Governmental Affairs Committee jurisdiction:

For subconference 6, concerning civil service issues, the minority conferees would be Senators EAGLETON, CHILES, and BINGAMAN.

For subconferences 7 and 11, concerning titles XV and XVI, the minority conferees would be Senators EAGLETON, CHILES, and LEVIN.

The PRESIDING OFFICER. Withour objection, it is so ordered.

## BILL HELD AT DESK—H.R. 5504

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill H.R. 5504, the Surface Transportation and Uniform Relocation Assistance Act of 1984, be held at the desk for a period not to exceed 10 calendar days.

Mr. President, I make this request in order to allow formulation of a unanimous-consent agreement to provide for joint referral of H.R. 5504 to the several Senate committees with jurisdiction over portions of the bill.

THE PRESIDING OFFICER. Without objection, it is so ordered.

## CORRECTIONS IN ENROLLMENT OF H.R. 1149

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the House Concurrent Resolution 316 to make corrections to the enrollment of H.R. 1149, the Oregon wilderness bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the House concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 316) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1149.

The House concurrent resolution was considered and agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ORDERS FOR FRIDAY

### ORDER FOR RECESS UNTIL 10 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate stands in recess today, it reconvene tomorrow morning at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF SENATORS KASTEN AND PROXMIRE

Mr. STEVENS. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized under orders for not to exceed 15 minutes each: Senators KASTEN and Senator PROXMIRE.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that, following the time for the special orders tomorrow, there be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. STEVENS. Mr. President, following the time for routine morning business just provided for, the Senate will resume consideration of the pending business, the DOD authorization bill.

### PENDING BUSINESS

Mr. NUNN. Mr. President, will the Chair give us the pending business tomorrow morning after the period for morning business?

The PRESIDING OFFICER. The pending business will be to resume consideration of S. 2723 and the pending question will be amendment 3204, the amendment of the Senator from West Virginia [Mr. BYRD].

Mr. NUNN. I thank the Chair.

## RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Friday, June 15, 1984.

The motion was agreed to and, at 12:53 a.m., the Senate recessed until Friday, June 15, 1984, at 10 a.m.

# EXTENSIONS OF REMARKS

## NEW PUBLIC OPINION POLL FINDS SIGNIFICANT SUPPORT FOR IMMIGRANTS AND REFUGEES

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### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. SOLARZ. Mr. Speaker, I would like to bring to the attention of my colleagues the recently released results of a new survey, "A Survey of Public Attitudes Toward Refugees and Immigrants," conducted for the U.S. Committee for Refugees by the professional opinion research firm of Kane, Parsons & Associates, Inc.

This survey, to date, is the most indepth poll ever taken on the subject of refugees and immigrants. The results show that contrary to the widespread perception here in Washington, there is still substantial public sentiment to admit both refugees and immigrants to the United States.

Both U.S. refugee and immigration policy are currently under discussion. Congress will soon begin the annual process of consultation with the administration to set responsible refugee admissions levels. In light of the timeliness and importance of the USCR survey, I urge my colleagues to read the following summary of the results.

Mr. Speaker, I submit this summary on "Public Attitudes Toward Refugees" to be reprinted in today's RECORD.

#### PUBLIC ATTITUDES ON REFUGEES

The next few months will bring to decision several national policy discussions that have substantial implications for refugees throughout the world. The Congress is considering reauthorization of the Refugee Act of 1980, including provisions that may affect the viability of refugee resettlement in the U.S. In August, the Administration will consult with the congress on the levels and sources of refugees to be admitted to this country in FY 1985. In addition, the Congress is currently considering a major revision of national immigration law which may directly or indirectly affect decisions regarding admission of refugees to the United States.

In each of these discussions, much has been made in Washington's perceptions of American public opinion. However, until now, assessments of public opinion regarding refugees have been derived almost exclusively from the inclusion of a few general immigration-related questions in polls that cover public opinion on a variety of topics.

Under a research grant from the Rockefeller Foundation, the U.S. Committee for Refugees (USCR), has sought to improve the base of knowledge on public opinion in this area by undertaking a more comprehensive survey of public attitudes on immigrants and refugees than has heretofore been available. The principle finding of the USCR survey is that the widely held belief that the U.S. public is solidly against admission of refugees and immigrants to the U.S. is a superficial conclusion and, in fact, wrong on many counts.

USCR engaged the opinion research firm of Kane, Parsons and Associates, Inc. to conduct a survey by telephone of a national sample of 750 adults from the full range of socio-economic levels. Enough Blacks and Hispanics were included to bring the total number of completed interviews for each of these groups to one hundred. The 20-minute interviews were conducted in February 1984 and yielded data which are accurate to 4-5 percentage points.

No prior study of public attitudes on these issues is as comprehensive and reliable. Congress and others interested in the development of sound national policy will do well to study the full range of the survey's findings.

Although many insights are provided by the poll results, the major findings can be summarized rather simply:

1. Contrary to the perception that the U.S. public is solidly antagonistic, there is substantial public sentiment to admit both refugees and immigrants. When asked in the abstract if the number of foreigners coming to the U.S. should be curtailed, much of the public responds generally in the affirmative. When, however, asked specifically about admitting ten particular types of refugees or immigrants to the U.S., the majority of those surveyed chose to admit each one. This finding holds for the full range of people surveyed, including those often described as "threatened" by the admission of refugees. Thus public attitudes on these issues are more complex and positive than superficial polling has shown.

2. Most members of the public do not know the difference between refugees and other immigrants, the numbers in the various categories of people who come from elsewhere to live in the U.S., or where they are coming from.

3. The more accurate knowledge a person has regarding refugee/immigrant issues, the more willing the person is likely to be to support a generous refugee/immigrant admissions policy.

4. Regardless of a person's attitudes concerning generous or restrictive admissions policy, the overwhelming majority of those interviewed considered the issue as one of moderate to low importance compared with other major national policy issues.

Each of these finding will be discussed further here, but the general conclusion is inescapable. While the citizenry is confused about the national policy debate in this area, there is more positive sentiment within the American public on refugees than is generally acknowledged in Washington. Thus, the lack of positive leadership on these issues at a national level has set up the possibility that, by superficially misreading the attitudes of the U.S. public, our political leaders are in danger of adopting short-sighted, negative refugee and immigration policy.

#### PUBLIC UNDERSTANDING OF THE ISSUES

The public is clearly confused about refugees. The poll results show, for example:

Ninety-one percent of survey participants characterize themselves as either not well informed and/or having no opinions on the issue of admitting refugees to the United States.

More than half are not aware that important differences exist in the meaning of the terms "refugee" and "immigrant".

Only eighteen percent are aware that fewer refugees have entered the U.S. over the last decade than immigrants or undocumented aliens.

Fifty percent mistakenly believe that Mexico is one of the largest sources of refugees coming to the U.S.

Fifty-seven percent make no association between persecution for political beliefs and refugees.

From this complex of data it is clear the public lacks a basic, accurate perception of the core facts regarding refugees and their admission to the U.S. Persecution for political and religious reasons is the key to distinguishing refugees from other migrants under both U.S. and international law. Refugees have consistently been the smallest percentage of the three major categories of persons coming to the United States to stay. Mexico is not a source of refugees, but rather is a major source of both documented and undocumented immigrants. It is thus clear that the bulk of the public, when speaking about "refugees", is not using the term in a technical sense as is the case in most Washington discussions. Individuals will often answer a question if asked. But because the public's knowledge level about refugees is quite low, the answers will tend to be unreliable. There are no appreciable differences between Whites, Blacks or Hispanics in these findings.

#### PUBLIC SENTIMENT ON ADMITTING REFUGEES AND IMMIGRANTS

It is a widely acknowledged reality in public opinion research that differences often exist in the way survey respondents characterize their opinions depending on how a question is asked, particularly if asked in abstract rather than specific terms. Thus it is not surprising that, if asked if he supports freedom of speech for all Americans, the average citizen would respond affirmatively. However, many of those same individuals, if asked if they support freedom of speech for communists, would respond negatively. This disparity in responses suggests a major concern in relying on the opinion polling about refugees and immigrants done prior to this study. It is clear that virtually all prior polling has been of the general, superficial variety and thus, has consistently tended to show only public support for curtailment of immigrant and, by implication, admission of refugees.

By doing a more comprehensive interview, however, dramatically different results are obtained. Participants in the USCR poll were asked to assume they were U.S. immigration officials with the power to decide if particular people should be admitted to the U.S. to stay. They were presented with ten

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

case examples fitting the characteristics of refugees and immigrants, with a mixture of backgrounds and reasons for seeking admission. An extract from the table of poll results is attached which demonstrates the wide variety of cases considered.

The most noteworthy finding is that a majority of those interviewed chose to admit the applicant in every case. They showed a positive reaction regardless of the nationality or other characterstics of the applicant, or whether the reasons for seeking admission related to family reunification, flight from persecution, or desire to improve the quality of life.

The generosity and openness of the American people remain strong. This is not a startling finding. What is disconcerting, however, is the way some opponents of admission of refugees and immigrants to the U.S. have convinced many policymakers that the U.S. public is solidly against admission.

What is needed is positive leadership to build the public's knowledge of the issues and capture the spirit of the persistent, underlying openness and generosity of the American people. Those who would move to curtail admission of refugees to the U.S. are not entitled to cite the will of the people as justification for their narrowness.

It is, of course, true that a respondent's choice to admit a particular person cannot be construed to indicate he would opt to admit indefinite numbers of similar cases. The point is, however, that positive leadership, unfettered by extremism from any side, will find public support for enlightened policy on refugee admissions.

### THE IMPACT OF KNOWLEDGE

While it is true that the public's level of knowledge and understanding on refugee issues is low, it is equally true that the more accurate a respondent's specific knowledge of refugee issues is, the more likely he will be to react favorably toward admission of refugees and immigrants.

The poll included an index of knowledge about refugees and immigrants based on eight factual items from different points in the questionnaire. Of those respondents who scored low as to knowledge, 72% agreed, most very strongly, with the general statement that too many foreigners were coming to the U.S. to live, while only 20% disagreed. Of those respondents who were scored high as to knowledge, only 46% agreed, while 50% disagreed and the intensity of feeling of those who agreed was noticeably less. This raises the distinct possibility that much opposition to admission of both refugees and immigrants is heavily grounded in ignorance of the issues and their implications.

Often in our nation's past our leaders, with unsophisticated public support, have adopted policies or engaged in practices that our people in retrospect view with regret, even shame. A combination of positive national leadership and improvement of the public's understanding of issues regarding both refugees and immigrants can help avoid such mistakes at this point in our history.

### THE IMPORTANCE OF THE ISSUE

Respondents in a public opinion poll almost always rate the importance of the issue about which they are being queried as high. This is because they individually are seldom queried in a professional survey and, therefore, tend to presume that the issue must be important ("or why would you ask?"). In considering the salience of particular issues, therefore, it is the matter of comparative rating of the issues that is important (i.e. "compared to what?").

Although there are fringes on all sides of this issue and some, particularly the less informed, describe the admission of refugees and immigrants to the U.S. as a serious issue, for most it is a matter of comparatively moderate to low importance, clearly below major issues such as unemployment, the plight of the poor, the threat of communism and protecting the environment. This further contradicts the conventional Washington wisdom on this issue.

### CONCLUSIONS

In the last several years the U.S. government has dramatically reduced its admission of refugees and has seen much of the rest of the world follow its lead. Similarly, policymakers have been besieged by a highly vocal minority seeking to curtail the U.S.'s historic position as a nation receptive to refugees and immigrants.

Few knowledgeable persons familiar with U.S. immigration and refugee policy would take the position that there is no room for improvement. Many, however, fear an overreaction based in part on a misreading of public attitudes is possible, and perhaps already occurring.

The USCR poll demonstrates conclusively that much of the public continues to place great value in reunifying families divided by borders and providing haven for those who suffer persecution and seek new opportunity. It sees legitimacy in all these goals and takes pride in the historic role the U.S. has played in this regard.

This is a message that has not been heard often enough, particularly in Washington. The fact that public sentiment is not solidly negative, is confused, and in fact improves with knowledge provides the basis and a challenge for policymakers who themselves harbor generous instincts to provide the positive leadership that has often been lacking in the immigration and refugee debates of the last several years. In our past history a lack of positive national leadership on these issues has sometimes permitted the fostering of negative, self-fulfilling prophecies. Clearly, more research is needed because public attitudes on immigrant and refugee admissions are complex. Nevertheless, and notwithstanding characterizations to the contrary, the American public appears prepared to support responsible, responsive public policy concerning refugees and immigrants. (June 8, 1984.)

[Attachment]

TABLE 16.—RESPONDENTS' JUDGMENTS AS TO WHO SHOULD BE ADMITTED TO THE UNITED STATES

[In percent]

| | Base sample | Blacks | Hispanics |
|---|---|---|---|
| A man from England who wants to come to the United States to be with his daughter who immigrated here 10 years ago: | | | |
| Should be admitted | 82 | 71 | 81 |
| Should not be admitted | 10 | 18 | 11 |
| Not sure | 8 | 10 | 8 |
| A Jew from the Soviet Union facing persecution because he is Jewish: | | | |
| Should be admitted | 79 | 68 | 66 |
| Should not be admitted | 14 | 26 | 25 |
| Not sure | 7 | 6 | 9 |
| A man from Taiwan who wants to come to the United States to be with his daughter who immigrated here 10 years ago: | | | |
| Should be admitted | 75 | 67 | 72 |
| Should not be admitted | 16 | 24 | 22 |
| Not sure | 9 | 9 | 6 |
| An Iranian student wants to be allowed to stay here permanently. He fears he will most certainly be shot if he goes home because of his past opposition to the Khomeini government: | | | |
| Should be admitted | 67 | 72 | 55 |
| Should not be admitted | 23 | 18 | 36 |
| Not sure | 9 | 10 | 9 |
| A man from El Salvador comes from a town in which many people were killed by fighters from both sides of that country's civil war. He fears that if he is forced to return to El Salvador he will be in great danger: | | | |
| Should be admitted | 66 | 64 | 72 |
| Should not be admitted | 24 | 23 | 24 |
| Not sure | 10 | 13 | 4 |
| A person with job skills very much in demand in the United States: | | | |
| Should be admitted | 64 | 69 | 62 |
| Should not be admitted | 27 | 24 | 31 |
| Not sure | 8 | 7 | 6 |
| A Vietnamese who fled that country by boat after being persecuted for his past association with U.S. policy: | | | |
| Should be admitted | 61 | 53 | 58 |
| Should not be admitted | 30 | 34 | 41 |
| Not sure | 9 | 13 | 1 |
| A man from Mexico who wants to start a new life for himself in this country: | | | |
| Should be admitted | 57 | 62 | 61 |
| Should not be admitted | 32 | 28 | 34 |
| Not sure | 11 | 10 | 5 |
| A man from England who wants to start a new life for himself in this country: | | | |
| Should be admitted | 52 | 52 | 51 |
| Should not be admitted | 37 | 38 | 41 |
| Not sure | 12 | 10 | 8 |
| A former factory worker from Poland who was active in that country's Solidarity movement seeking liberalization of the Communist regime. Although he will be in no physical danger if he returns to Poland, he may never get a job there because of his past political activity: | | | |
| Should be admitted | 52 | 43 | 45 |
| Should not be admitted | 37 | 44 | 49 |
| Not sure | 11 | 13 | 6 |
| Base | 750 | 100 | 103 |

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## FLORIDA'S 10TH DISTRICT SPEAKS OUT ON EDUCATION

### HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. IRELAND. Mr. Speaker, during the past several months I asked my constituents for their opinion on the recommendations of the National Commission on Excellence in Education.

The responses clearly indicate the desire for cooperation among Federal, State and local officials as well as teachers, students and parents. Of the recommendations of the commission, the most prevalent responses to my questionnaire indicated that the following were most important—

State and local high school graduation requirements should be strengthened and, at a minimum, students must be required to complete the "Five New Basics" curriculum;

Teacher preparation should be improved and teachers should be required to meet high educational standards and demonstrate competence in an academic discipline, and

Citizens should hold educators and elected officials responsible for providing the leadership necessary to achieve educational reform. Citizens, in turn, must provide the fiscal support and stability necessary to bring about these reforms.

We are facing an important crossroads in America's development into the technological age. This is the unique time to examine the issues, to develop our ideas about what America needs to do to meet this challenge head-on and then, to work together as government leaders, educators, scientists, labor leaders, corporate executives, retired citizens, small business men and women to make things happen.

Toward achieving this end, last year the State of Florida adopted an impressive educational reform package that established my State's commitment to quality education and educators.

But, despite the progress we have made, the U.S. educational system still has a long way to go. And, I think the responses of my constituents indicate that this is much too important a matter to be left to someone else—we are all responsible.

I agree with the areas chosen by my constituents for "tightening up" the system. But, we have to remember what it will take to accomplish some of these reforms.

In the first place, academic excellence has to supersede all other goals. That may mean that athletic teams and other extracurricular activities have to take a back seat to college preparation and vocational education. We send young people to college who can't read, but who can shoot the eyes out of the basket from 30 feet. What happens to them when they are 22 years old, graduated from college, not good enough for the pros, and still can't read?

Next we have to look at our vocational programs. I personally believe that these curriculums are among the most important we offer. Our vocational education programs need to be upgraded, made equal with college preparatory courses, and offer a variety of skills training.

In addition, vocational education teachers require specialized training unlike that offered to other teachers. They should be subject to stringent qualifications criteria and merit pay structures similar to those affecting other teachers. These teachers can, and often do, make the difference between individuals who are productive or not in our society.

Effective vocational education requires the development of a partnership between communities, civic organizations and, most importantly, business. Business knows what its needs are today and what skills will be required in the future.

Educators should be invited to factories and other business concerns to see, first hand, what is going on. A recent report about Florida's business climate stated that one-third of Florida's firms utilize specially tailored training programs in vocational schools. Over 50 percent of the manufacturers recruited vocational school graduates.

But, despite this obvious willingness of business to employ individuals with vocational education backgrounds, the same study reports that half of those responding felt that vocational schools and institutions of higher education were not providing an adequate quality or quantity of potential employees.

A final point made by this study was that 70 percent of the respondents felt that the work ethic was not adequately reinforced in our schools. This concept, I think, brings us back to my original point. The work ethic is extremely important, but neither it nor the performance of our students is the sole responsibility of our schools. It is up to all of us to work together to insure that the United States has the best educational system in the world.●

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## QUESTIONS ABOUT THE UPCOMING ELECTIONS IN GUATEMALA

## HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. PEASE. Mr. Speaker, controversy surrounding the current electoral process in Guatemala, that will culminate on July 1 with elections for a constituent assembly, demonstrates the cynical attitude of the country's military regime toward allowing the establishment of a freely elected government. While the rightwing death squads and security forces are directing a tragic pattern of indiscriminate killings and abductions of civilians, political party leaders, and activists are facing Government-sponsored intimidation and violence that undermines Gen. Oscar Mejia Victores' commitment to a political opening.

Widespread reports of the military's past reliance upon electoral fraud to empower its chosen candidates have left many Guatemalans highly skeptical about their country's political system and the efficacy of the upcoming election. In all likelihood, the July 1 vote in Guatemala will not present a step toward democratic rule if current conditions persist. Members of the country's moderate Christian Democratic Party have already suggested that the military plans to fix the election in order to give ultra-right-wing parties a majority of the assembly seats.

I wish to introduce into the RECORD a staff report by the Council on Hemispheric Affairs, prepared by David B. Lawrenz of that research organization. I hope that this report will be of use in evaluating the authenticity of Guatemala's political opening and perhaps lead those who supported the recent House action authorizing $105 million in military and economic assistance to that country to rethink the basis of their votes.

The staff report follows:

### POLITICAL VIOLENCE AND FRAUD RUMORS THREATEN LEGITIMACY OF GUATEMALAN ELECTIONS

(A Council on Hemispheric Affairs staff report by David B. Lawrenz, Research Associate)

Political sources in Guatemala have informed the Council on Hemispheric Affairs (COHA) that the country's military government is currently laying plans to rig the July 1 Constituent Assembly elections. According to these reports, Gen. Oscar Mejia Victores' regime intends to fix the balloting so that a coalition of two extreme rightwing parties, the Authentic Nationalist Central (CAN) and the National Liberation Movement (MLN), will capture a majority of the 88 deputy seats in the Assembly. The scheduled fraud will give the rightist Union of the National Center (UCN) the second highest number of deputies, and the moderate Guatemalan Christian Democratic party (DCG) will be allowed to capture third place.

Given the history of electoral scandals in Guatemala since 1970—the military has imposed the past four presidents through fraud—the impending fixed balloting will underscore the bankruptcy of the country's "political opening."

But an electoral scandal also will likely kill the Reagan administration's efforts to normalize ties with one of the hemisphere's worst and most consistent human rights violators. As U.N. Ambassador Jeanne Kirkpatrick—whose sympathy for a series of Guatemalan military governments has hardly been concealed—noted in early May, clean elections on July 1 will be essential in determining the course of future U.S. aid to the Central American country. While the House of Representatives recently authorized the full $105 million in military and economic aid that the White House had requested for Guatemala for the next two years, continuing political violence and a fraudulent election in that country could easily doom final congressional approval of this assistance.

### ELECTORAL PROCESS MARRED BY VIOLENCE FROM THE START

The level of political violence and intimidation of party leaders has been extremely high since Gen. Mejia confirmed last September that he would follow the electoral timetable established by his ousted predecessor, Gen. Efrain Rios Montt. The schedule calls for the Constituent Assembly elected in July to take power by August and draw up a new constitution. Presidential elections are slated for an as-yet unannounced date in early 1985.

The Enfoprensa news agency recently quoted political sources in Guatemala who accused government forces of having killed or abducted 57 political leaders and activists over the past seven months. Official attacks and harassment have been targeted against party figures from the far right to the moderate left. Moderate leaders, such as Alejandro Maldonado Aguirre, head of the mildy conservative National Renewal Party

(PRN), also have received death threats. In February, Venicio Cerezo Arevalo, Secretary General of the Christian Democratic party, revealed that the government was plotting to murder him.

Reports also indicate that the military government has been conducting a systematic campaign to force citizens to register for the July ballot. Security forces made an estimated 5,000 arrests in the first quarter of the year, and those people lacking proper registration papers have apparently been singled out for particular harassment.

### SELLING A BAD ELECTION

Despite this ominous pattern of pre-election terror, the Guatemalan military government is working hard to pass the July 1 ballot off as a sign of its commitment to the return of democratic rule. Having witnessed Washington's elation over the tainted, CIA-influenced presidential vote in El Salvador and the subsequent overwhelming congressional approval of massive supplementary military aid for that country, the Guatemalan military is anxious to convince U.S. legislators that it is on a similar track of democratization.

Foreign Minister Fernando Andrade was dispatched to Washington soon after the House's vote authorizing aid to Guatemala to discuss the upcoming elections with congressional leaders and State Department officials. Speaking at a May 22 press conference in Washington, Andrade assured his audience that the Constituent Assembly elections "will permit genuine consultation with the people" of Guatemala, and asserted that the military government will "give all people a free and unpressured opportunity to vote" on July 1.

The foreign minister noted that the Supreme Electoral Tribunal, which the Rios Montt government established in June 1983, will guarantee the military's non-interference in the balloting. He sought to drive home his claim regarding the Electoral Tribunal's autonomy by pointing out that the country's independent Supreme Court chose the Tribunal's members, most of whom are lawyers.

Despite Andrade's assurances that the electoral process will proceed independent of government interference, Electoral Tribunal president Arturo Herburger has stated that the army will take part in registering voters and in counting ballots. A Christian Democrat official responded to this decision by predicting that "we are on the eve of a fraud typical for elections in recent years." Members of the Electoral Tribunal have also complained about military intimidation and interference in their official activities.

### OMINOUS OUSTER OF SUPREME COURT PRESIDENT

Events in the past month seem to indicate that, contrary to Andrade's pledge that the "honorable" members of the Electoral Tribunal will oversee the elections without pressure from the military, the Mejia regime is fully capable of intervening in that body's duties. In an action that must be interpreted as an ominous signal to the Tribunal, Gen. Mejia removed Supreme Court president Ricardo Sagastume on May 3, after the judge issued 157 writs of habeas corpus on behalf of persons believed to have been kidnapped by security forces. Sagastume, who filed the writs at the request of the Guatemalan Human Rights Commission and against the executive branch's clearly expressed wishes, declared after his removal that "military and policy leaders had pressured him to keep the system of justice from functioning independently." During the May 22 press conference, Andrade, who has a well-established reputation for being an apologist for a series of military regimes, claimed that "there was no political consideration whatsoever" in Sagastume's firing.

Reaction to the ouster of Sagastume was strong within Guatemala's judicial system. Two members of the Electoral Tribunal and 16 judiciary officials, including Supreme Court and Court of Appeals magistrates, quit their posts in protest of the judge's removal.

Voter absenteeism could also cast a dark cloud over the first state of Guatemala's transition to democratic rule. An average of only roughly 40 percent of registered voters actually cast ballots in the last three presidential elections. Although government officials have stated that 2.7 million Guatemalans are registered for the July polling, up from the 2.3 million eligible to vote in the March 1982 presidential elections, political leaders have already predicted that the Constituent Assembly balloting could involve the "greatest abstention in the country's history."●

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## HIRE-A-VET MONTH

### HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 13, 1984*

● Mr. SUNDQUIST. Mr. Speaker, efforts are now being taken by many departments in the Federal Government to encourage businesses to hire and train Korean and Vietnam veterans.

Under the new Emergency Veterans' Job Training Act, signed by President Reagan, direct reimbursements are being offered to employers as incentives to hire and train deserving veterans with increasingly complex technological skills needed to compete in today's job market. This program can pay up to $10,000 of a veteran's starting salary during training periods in growth or technology-based industries. If efficiently undertaken, an estimated 40,000 to 50,000 will find jobs in these fields.

Reinforcing the President's actions, Secretary of Labor Donovan has declared June 1984 as "Hire-A-Vet" month. Also, the U.S. Department of Labor will conduct a nationwide campaign to increase the hiring of jobless Korean and Vietnam veterans. Other local and national organizations will sponsor seminars, receptions, veteran job clinics, and a comprehensive multimedia campaign in an effort to persuade employers to involve themselves in this program.

Mr. Speaker, because our Korean and Vietnam veterans are so deserving of our efforts and because the hiring and training of our veterans will have such a positive effect on our economy, I encourage my colleagues in Congress to join me in proclaiming June 1984 as "Hire-A-Vet" month.●

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## BIRMINGHAM'S CITIZEN PARTICIPATION PROGRAM: ONE OF THE BEST IN THE COUNTRY

### HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. ERDREICH. Mr. Speaker, I am pleased to inform my colleagues in the House that the city of Birmingham, which I am honored to represent, has recently been cited as having one of the top citizen participation programs in the country. As my colleagues know, citizen participation is a key element in the successful operation of a community development program, and I would like to take this opportunity to commend the city of Birmingham and its citizens on this achievement.

The city's program consists of 95 neighborhoods, covering the entire population, each of which elects its own neighborhood officials and makes spending recommendations on community development and other Federal funds in the neighborhood. As these neighborhoods have become active in these programs, they have also expanded their roles and become involved in a wide range of other neighborhood issues, such as zoning changes, traffic control, anticrime programs, transit routing and scheduling, cleanup campaigns, and even local fundraising events for other neighborhood services and improvements.

These neighborhood groups also are assigned specific staff members in city hall to coordinate neighborhood activities and to provide support services. Thus, the citizens have ready access to city officials and program information, yet they maintain, through their independent neighborhood elections and meetings, the necessary autonomy to be a truly grassroots effort and organization.

I would like to enter into the RECORD an article from the Birmingham News announcing this achievement, as well as excerpts from Citizen Participation, a publication of Tufts University, which made the award.

In closing, Mr. Speaker, I would like to commend the elected officials of the city, Mayor Richard Arrington, Jr., and the members of the City Council, who have strongly supported this program.

[From the Birmingham News, May 23, 1984]

### CITY'S BLOCK GRANT PROGRAM RECEIVES NATIONAL ACCLAIM

(By Sherrel Wheeler)

Birmingham is one of the top 12 Community Development Block Grant administrators in the country, according to a study published in Citizen Participation magazine.

The magazine is a publication of Tufts University's Lincoln Filene Center for Citizenship and Public Affairs in Medford, Mass.

Birmingham gives exceptional opportunities for citizens to help determine the allocation of block grant money, the study reported.

Birmingham also was cited for its method of providing 93 neighborhood associations with their own budgets and staffs.

"We're ecstatic," Birmingham Community Development Director Bob Land said Tuesday when he learned of the recognition. "That is an elite group and we're pleased to be included in it."

This is the first time in the nine years of Birmingham's Community Development program that it has been recognized nationally for its grant administration, said Land.

He said he did not know that Birmingham was being considered in the national study and said the department did not have to submit any special reports for the study.

"Our community development department helps neighborhoods with projects ranging from the establishment of neighborhood corporations to cleanup campaigns," Land said. "After receiving such high recognition, we have to continue to look for ways, to make the department's services even better," Land said.

[From Citizen Participation]

### CDBG PARTICIPATION THE 12 BEST

(By Aaron Gornstein)

It is one of the top 12 communities which we selected after a review of over 75 cities recommended by national community development organizations, researchers in the field, citizen participation advocates, and published sources. In each of these cities, we examined six critical questions:

(1) Is there a strong day-to-day commitment from city policy-makers to an important citizen role in the program? A genuine commitment should include a significant allocation of city resources—especially staff time, funding, and direct access to city officials. Without such a commitment, any formal structure is irrelevant.

(2) Is there a free flow of useful information to citizens, and is there easy access to program documents and other important information? This information is fundamental if citizens want to understand how CDBG works and at what points in the process they can get involved.

(3) Has the city set up a democratic process where citizens can channel their needs and ideas to the city early in the process and establish a broad consensus on program priorities? In some cases, working with a formally recognized neighborhood or city-wide advisory committee is effective, while in other cities working more informally with neighborhood groups and other community organizations is more appropriate.

(4) Do city staff provide technical assistance to citizens and community groups? Such assistance—especially in preparing proposals and understanding program regulations—is critical if citizens are going to propose realistic solutions to neighborhood and city-wide problems.

(5) Do neighborhood organizations receive CDBG funds to operate programs and administer projects? By delivering physical, economic, or social service programs in their own neighborhoods, citizen groups can tailor projects to meet specific needs, and obtain more resident involvement and commitment in the process.

(6) Finally, is the city open to citizen monitoring and evaluation? If the city fully cooperates with citizens in review of the CDBG program, it can be held accountable for its actions, and allow the participation process to change and grow as citizen needs and concerns mature.

All of the leading CDBG programs have gone far beyond even the most stringent of federal standards and have overcome most of these federal meanderings. Where strong CP programs were once established, the local community—organized citizen groups and individual citizens—have come to expect the opportunity to participate and now insist that high participation standards be maintained.

The staff of Birmingham's Community Development Department provides technical assistance to both neighborhood advisory groups and the Citizen Advisory Board (CAB). They assist in such areas as developing and maintaining contact with residents, notifying the groups of program changes, transmitting requests to city departments, and conducting resident surveys. The city provides staff support to the 23-member CAB to help research policy issues or assist the subcommittees in interpretation of program guidelines and legal requirements.

In each city, the best results are obtained when such technical assistance is closely shaped by the expressed needs of the citizens themselves.

"Neighborhood staff need to be able to speak for the neighborhoods without having their funds cut off," said Ben Greene, Chairperson of Birmingham's Citizen Advisory Board. "We need to cooperate with the city when possible, but confront them when necessary."

The future of CDBG, and of the citizen role within the program, is by no means certain. In the cities where participation has been the strongest, including the 12 communities reviewed here, commitment to effective participation seems to be real and lasting. But in many other cities, removal of federal mandates has shifted priorities away from participation. In every community it is clear that only continuing alertness by concerned citizens and responsive officials can keep productive participation efforts alive and well.

Thank you Mr. Speaker.●

## J. PAUL NEWTON OF JEFFERSON, MD, CITED FOR BRAVERY

### HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mrs. BYRON. Mr. Speaker, it is with pleasure I extend into the RECORD, an article from the June 13 Washington Times, detailing the feats of J. Paul Newton, a resident of my congressional district.

Mr. Newton, without regard to his own safety jumped in front of an oncoming train to rescue a woman lying on the tracks. After he lifted her up, they fell back onto the platform just before the train arrived.

Mr. Newton is an employee of the General Accounting Office. To him and 20 other Americans and Canadians recently honored for similar acts of valor, I extend my gratitude and best wishes.

I include the article at this point.

### MARYLAND MAN A HERO FOR DARING RESCUE

(By Amy Stromberg)

It was like a scene out of "The Perils of Pauline," complete with a woman prostrate on the train tracks and a speeding train coming around the bend.

And, like a take from "Butch Cassidy and the Sundance Kid," mild-mannered J. Paul Newton tossed aside his briefcase and his government-worker persona and did the right thing.

Mr. Newton, 38, of Jefferson, Md., jumped in front of an oncoming train and the woman lying on the tracks at the Silver Spring railroad station, narrowly escaping being hit by the double-engine commuter train rushing toward him early in the morning of March 12, 1982.

Until Monday, more than two years later, when he was given the Carnegie Heroism Fund Commission Award, Mr. Newton had received little thanks for his courageous act.

Yesterday, Mr. Newton sat at his desk in the Government Accounting Office in Washington and pieced together the events of that morning.

"I picked her up by the waist. I remember that she didn't seem to weigh anything, or at least I don't remember any weight.

"I kept seeing the train from the side of my eye. It seemed like something out of 'Butch Cassidy and the Sundance Kid.'

"I picked her up, and we fell back onto the platform. The train stopped right after that. I thought to myself, 'Boy, that was a close one,' and before I knew it there was a crowd around me . . .

"I usually don't get on at that station, but that morning my wife had to go to the doctor and we thought it would be easier to go to Silver Spring. We were waiting on the platform when someone said, 'Look at that,' and I turned around and saw this woman crawling around on the train tracks. I thought she had dropped something and was looking for it.

"Then I saw the train coming around the bend. It was early—about 6 a.m.—and the train had its lights on. And for whatever reason, I tossed my briefcase aside into the bushes and ran up there. I kept hoping the train would stop, but it didn't.

"The woman apparently wanted to commit suicide, and I understand she was taken to a hospital for observation.

"The engineer tried to take my name, but he was shaking too much to write.

"Then we got on the train and headed on our way," he said, "and we made it to work on time."

Mr. Newton is now father of a 2-year-old. His wife, Cheryl, was six months pregnant on the day of the rescue.

"I turned my back because I couldn't look. It was really close," Mrs. Newton said.

"I've never considered him a hero," she said, "but he's the type that's always there if someone trips and falls."

Mr. Newton's friend and colleague at the GAO, John McIlwaine, was on the train that came to a screeching halt when conductors realized people were on the tracks. Though he rode the train with Mr. Newton this Tuesday, his friend had not told him about the Carnegie Award.

I've always thought of Paul as a logical and level-headed person," said Mr. McIlwaine, "and I guess if someone's about to be killed it's only logical to try to save them."

The prize of $2,500 in cash and a medal also was given to 20 other Americans and Canadians for other acts of heroism.

The only major criteria for a Carnegie award is that the person risked his or her life in trying to save someone else and that the incident did not happen more than two years ago, said a spokeswoman for the commission.

Mr. Newton received his nomination from the U.S. Park Police Special Forces, the spokeswoman said.

"Would I do it again if I was in the same situation?" Mr. Newton said. "I probably would.

"But it's not something you should do everyday."●

## BOYCOTT OF NESTLE CO. ENDED

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. WAXMAN. Mr. Speaker, the international boycott of the Nestle Co. over its infant formula marketing practices ended 5 months ago. It ended when agreements were reached between the Infant Formula Action Coalition and the Nestle Co. concerning the company's compliance with the World Health Organization's International Infant Formula Marketing Code.

For the information of Members, I request that the following statements from the principal parties to this historical agreement be printed in the RECORD at this point.

STATEMENT BY RAFAEL D. PAGAN, JR., PRESIDENT, NESTLE COORDINATION CENTER FOR NUTRITION, INC.

We welcome the decision by the INBC to end its boycott of Nestle's products.

The infant formula controversy has gone for a long time and there have been many misunderstandings on both sides. Since it was passed in May, 1981, Nestle has looked to the WHO Code as the normative standard for the marketing of infant formula in the Third World.

When that Code was passed, it meant different things to different people, and there was great disagreement as to exactly what procedures actually implemented the letter and spirit of the Code.

As you know, Nestle issued instructions to its field personnel on how to implement the Code in March of 1982 and in May of 1982 established the Nestle Infant Formula Audit Commission to monitor our implementation of the Code and to investigate any allegations that the company was in violation of the Code. This Commission, chaired by former Senator Edmund Muskie has been remarkably effective in fulfilling a role unique in the business world.

The Commission made recommendations to Nestle as to how it could clarify its instructions to make them more clearly in line with the Code and Nestle accepted those recommendations in October of 1982.

Throughout this process Nestle has worked closely with WHO and UNICEF and many of our decisions were reached only after extensive consultations with these agencies.

Now we have just concluded an extensive review of four areas of our marketing instructions in consultation with WHO, UNICEF and NIFAC. They have been most helpful in these discussions and have agreed to assist the company in several areas where definitions and implementation are particularly difficult.

Our process of implementing the WHO Code has been a consistant one throughout the past three years, but it should be clear that this is a process that takes time, and it has just barely gotten underway.

Nestle's commitment to the WHO Code is and has been firm. We will continue to work closely with WHO and UNICEF. We have asked those organizations, and all concerned parties, to help us work with governments to urge them to adopt the WHO Code, for only then will it have a real impact on the Third World.

Now that the public controversy stage of this issue seems to be over, we should all turn our attention and efforts to fighting the real problems of the Third World—contaminated water, ignorance, poverty and inadequate health care.

Thank you.

STATEMENT OF DOUGLAS A. JOHNSON, NATIONAL CHAIRPERSON, INFANT FORMULA ACTION COALITION (INFACT)

The hope and commitment of virtually millions of people around the world have brought us to this amazing day. The hard work and deeply shared dedication of a 6½ year struggle has brought us to this amazing day. And this day brings the children of the Third World a compelling promise: that a giant has changed its ways.

All of us on this platform—Nestle, the INBC, and INFACT—believe we have something to celebrate today. The signing of the joint statement yesterday represents a truly historic event in the struggle for "Health for All by the Year 2000." It was perhaps even more important than the passage of the WHO International Marketing Code itself, because it represented the Code's transition from an urgent moral mandate to the accepted business practice by the largest and singly most important actor in the world.

These changes have not come easy. They have developed over time. They have needed many voices, both outside and, I am sure, inside the company. But at last, they have come.

Nestle has moved forward to become a model for the whole industry, a model which creates a new standard of corporate behavior. This will protect the health and lives of infants around the world from the abuses of marketing at any cost. In this commitment our interests and Nestle's have become parallel.

The Code must be implemented in effective national programs, and we have pledged to continue and expand our efforts in this behalf. But Nestle's leadership must also be followed by other companies, especially those of the U.S. These companies have relished sitting in the sidelines during the 6½ year Nestle Boycott, and the responsible commitments won from Nestle have been unfairly exploited to expand their market share. These companies would like to see this amazing day remain invisible, out of the public eye, to obviate scrutiny of their abusive marketing practices. Today we are serving notice on these companies: now they move to center stage. Nestle's competitors will be the focus of our attention at the upcoming International Strategy Conference in Mexico City. We will announce our new campaign after that meeting.

On this day, January 26, 1984, INFACT is suspending all boycott related activity against the Nestle Company. Grocery store campaigns to remove Nestle products from the shelves in Boston, Chicago, and throughout the U.S. are suspended. Pickets are removed from Nestle restaurants. The volunteer activist committees that have taken INFACT's work into the smallest towns and the largest cities across the U.S. are being called and informed of this agreement. Endorsers are receiving the INBC recommendation for consideration at the Mexico meeting. We will urge our colleague activist organizations building the Nestle Boycott in Canada, West Germany, England, Sweden, Norway, Finland, France, New Zealand and Australia to support the INBC recommendations.

Our field monitors will closely watch the implementation steps taken by Nestle. We believe the commitments are sincere, and will be implemented.●

## FLUSHING MERCHANTS ASSOCIATION HONORS MURRAY SIEGEL

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. ACKERMAN. Mr. Speaker, on Wednesday, June 20, the Flushing Merchants Association will honor a highly deserving businessman—Murray Siegel—at its annual dinner-dance, at Terrace on the Park, in Flushing Meadows-Corona Park, Queens County, NY.

Each year, the Flushing Merchants Association selects one person from among the local business community to receive the Good Citizenship Award for Community Participation and Leadership. As a former member of the board of directors of the Flushing Merchants Association, I consider the selection of Murray Siegel as this year's award recipient most fitting and appropriate.

Murray Siegel, a dear friend of mine and a devoted supporter of charitable causes, is indeed deserving of the Good Citizenship Award. Murray has developed his small dry goods store into one of the largest clothing shops in Queens County. He has generously devoted his time and energy to the people of Queens for over 30 years. He has assisted nearly every community organization in Flushing, supporting hospitals, youth groups, and senior citizens homes.

Murray has also been very active in the Rotary Club of Flushing, particularly the Rotary's Gift of Life Program, which helps provide life-saving heart surgery for needy children from around the world. Murray has given hundreds of young patients from Korea, Peru, Mexico, and Uganda, who would otherwise have died without these critical operations, a second chance to live a normal life.

Mr. Speaker, I ask all of my colleagues in the Congress of the United

States to join me in congratulating Murray Siegel, and in commending the president of the Flushing Merchants Association, Paul Kapchan, for his great efforts to foster good will among our friends in Queens.●

## THE ELKS HONOR AMERICA ON FLAG DAY

## HON. ROBIN C. BRITT

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BRITT. Mr. Speaker, today is Flag Day, the day all Americans take the opportunity to pay tribute to the symbol of our country. I think it only appropriate to mark this very special occasion by saying a few words about our flag and about a national organization that each year observes this day in an inspirational way, the Benevolent & Protective Order of Elks.

The Elks are the first and only fraternal body to require formal observance of Flag Day, having so moved back in July of 1908. This unique distinction is to be commended.

As I speak here today, scores of Elks lodges across this Nation, including those in my congressional district, the Sixth District of North Carolina, are marking this day with patriotic observances that remind us all that we live in a country in which a great legacy of freedom has been passed to us by our forebears at great cost.

Last year I participated in a Flag Day observance at an outstanding Elks lodge in my district. I was moved by that ceremony, and wish to include parts of it in the CONGRESSIONAL RECORD:

### PRAYER

Almighty God, Creator and Ruler of the world, we look unto thee in this hour of patriotic observance of the birthday of the American Flag, asking Thy blessing upon the Flag, the institutions and people of these United States. For all that the Flag of our country represents both at home and abroad we thank Thee, and that through all our history as a nation, it has been an ensign of freedom, liberty and opportunity, we praise Thy name, God of our fathers and our country. And through the ages yet to come may this Flag stand to all peoples over whom it may wave as the banner of liberty, freedom and enlightenment. May this service deepen in each of us our sense of loyalty to our country and its institutions, and enable us to be better patriots, truer citizens, and more loyal Americans, to Thy glory and to the honor of this great Republic. Amen.

### THE FLAG: ITS HISTORY

Heraldry is as old as the human race. The carrying of banners has been a custom among all people in all ages. These banners usually contain some concept of the life or government of those who fashion them.

The evolution of the American flag marks the progression of the government of the American people.

From the landing of the Pilgrims, in 1620, until 1775, the flag of England was the flag of the Colonists of America.

In 1775 the Pine Tree Flag was adopted for all colonial vessels, and this was the banner carried by the continental forces in the Battle of Bunker Hill.

The Southern colonies from 1776 to 1777 used the Snake Flag.

In the latter part of 1775 the Continental Congress appointed a committee to consider the question of a single flag for the thirteen colonies. That committee recommended a design of thirteen alternate stripes of red and white, with an azure field in the upper corner bearing the red cross of St. George and the white cross of St. Andrew. John Paul Jones, the senior lieutenant of the flag ship "Alfred," hoisted this flag to the masthead on December 3, 1775, and one month later it was raised over the headquarters of General Washington at Cambridge, Massachusetts, "In compliment," as he wrote, "to the United Colonies."

This flag, called "The Congress Colors" and "The Grand Union," was never carried in the field by the continental land forces, but it was used by the Navy as its exclusive ensign, and was the first American flag to receive a salute of honor, a salute of eleven guns from the Fort of Orange in the Dutch West Indies.

In response to a general demand for a banner more representative of our country, the Congress on June 14, 1777 provided—

"That the flag of the United States be thirteen stripes of alternating red and white; and that the union be thirteen stars, white on a blue field, representing a new constellation."

It is generally believed that in May or June of 1776 a committee consisting of George Washington, Robert Morris and George Ross commissioned Betsy Ross, a Philadelphia Quakeress, to make a flag from a rough design they left with her. It is said that she suggested that the stars should have five points, rather than six.

This starry banner was first flown at Fort Stanwix, called Fort Schuyler at that time, near the city of Rome, New York, on August 3, 1777, and was under fire three days later at the battle of Oriskany, August 6, 1777, during a British and Indian attack.

The first official salute to the Stars and Stripes was given on February 14, 1778 by France, on the French coast, when the *Ranger*, under command of John Paul Jones, was saluted by the French fleet.

This flag, then carried by the *Ranger*, was made by the young women of Portsmouth, New Hampshire from strips of their best colored silk dresses and the white wedding gown of a recent bride.

It is said that this same *Ranger*'s flag was flown by Jones' ship, the *Bon Homme Richard* in its thrilling fight by moonlight, upon the high seas, with the British frigate *Serapis*. When the *Serapis* struck her colors the immortal fame of John Paul Jones was insured as the intrepid defender of the youthful republic.

The original thirteen Stars and Stripes represented the original thirteen colonies. In 1795 two additional Stars and Stripes were added to represent admission to the Union of Vermont and Kentucky. Under this banner of fifteen Stars and Stripes we fought the War of 1812. It was sight of it flying over Fort McHenry, on September 14, 1814, that inspired Francis Scott Key to write what was to become our national anthem, "The Star Spangled Banner."

Miss Margaret Young, who cut the stars for that particular banner, subsequently became the mother of Henry Sanderson, the Grand Exalted Ruler of the Order of Elks in 1884.

The Congress on April 14, 1818, adopted a resolution that on and after July 4, 1818, the number of stripes should be thirteen and that the blue field should carry one star for each of the twenty states in the Union and that a new star should be added for each new state thereafter admitted.

### RESPONSE

The Stars and Stripes, Flag of the United States of America! The worldwide hope of all peoples who, under God, would be free to live and do His will.

Upon its folds is written the story of America—the epic of the mightiest and noblest nation in all history.

In the days when peoples of the old world groveled in abject homage to the heresy of "The devine right of kings," a new constellation appeared in the western skies, the Stars and Stripes, symbolizing the divine right of all men to life, liberty, happiness and peace under endowment by their Creator.

To what man is given words adequate to tell the story of the building of this nation? That immortal story is written in blood and sweat, in heroic deeds and unremitting toil, in clearing of primevil forests and in burgeoning of vast wastes of prairies where once the wild coyote and buffalo roamed. Onward swept this empire of the Western world, spanning wide rivers heedless of its onward march, leaping vast mountain ranges, leaving in its path villages and farms, factories, and mines, till at last this giant nation stood astride the continent of the West, from Atlantic to Pacific, grasping in either hand horizons of the rising and the setting sun.

This is the heritage of the people of these United States. It has been re-purchased by each succeeding generation and must be re-won by each succeeding generation until the end of time, lest it too shall pass like the Medes and the Persians, and the ancient empires of Greece and of Rome.

No longer are the oceans, to our east and to our west, moats that securely guard our castle walls. Distance in space and in time is now effaced. East is West, and their intercommunication is instant. Rich argosies of the air now traverse oceans and uncharted skies and fleets of air artillery taking wings in the morning may, with swift and stealthy flight, by night rain death and destruction upon unsuspecting people thousands of miles away.

"The price of liberty is eternal vigilance." What was won at Lexington and Concord and Bunker Hill had to be re-purchased at Ticonderoga and Yorktown.

What John Paul Jones achieved upon the high seas in the War of Independence had to be re-purchased by Commodore Perry on Lake Erie in the War of 1812.

The prestige of Admiral Dewey's victory at Manila Bay in 1898 was re-won by the naval battles in the seas about the far-distant archipelagoes and atolls of the Pacific, after the perfidious sneak attacks upon Pearl Harbor and Manila in 1941 had summoned our country to assume its role in World War II.

What our troops achieved under the Stars and Stripes at Chateau-Thierry and Flanders in World War I, their sons were required to re-purchase in World War II in the bloody trek across northern Africa, on the beachheads of Europe and in the Battle of the Bulge.

The Flag our American boys raised at Iwo Jima was the same Flag later raised in defense of far-off Korea.

This is indeed "One World" of many nations. Man's inventive genious has brought them closer together, but only in time and in distance. Nearness is not oneness. Common ideals and principles alone can unite them.

The Stars and Stripes is the symbol of true world unity. "In God We Trust" is its motto.

The modern world, in the vanity of its scientific and technological achievements, may forget God; and when men forget their Creator their own creations will be turned upon them. The atom and hydrogen bombs, the creations of modern science, encase the potential holocaust of nations.

Only love, true love of our fellowmen, can contain these world-destroying implements. The emblem and token of that love is the Stars and Stripes, symbol of the American way of life, obedience under law.

"Our Father's God, to Thee,
Author of liberty,
To Thee we sing.
Long may our land be bright
With freedom's holy light.
Protect us by Thy might
Great God our King."●

## NORTH DAKOTA STILL IS THE UGLY DUCKLING OF WETLANDS PRESERVATION

### HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. CONTE. Mr. Speaker, I have made no secret of my opposition to the Garrison diversion unit water project in North Dakota. As my colleagues are well aware, I have worked for many years to prevent and halt the construction of this Dust Bowl era project on the grounds that it would effectuate environmental havoc, economic brigandage and international diplomatic nightmares. I am never surprised to find a new argument to press my point on the need to fundamentally revise this project. When I do, I feel an obligation to present it for the consideration of my colleagues.

The uncertainty of Federal commitment to Garrison led the North Dakota Legislature to enact a 1977 law that seriously impeded the efforts of the U.S. Fish and Wildlife Service to pursue its wetlands acquisition goals in the State of North Dakota for nearly 7 years. On March 7, 1983, the U.S. Supreme Court overturned the State law, clearing the way for the Federal Government to accelerate its wetlands acquisition drive. It is clear, however, that before significant construction on phase I of the Garrison project even began, the project was directly responsible for the loss of invaluable wetland acreage.

The article which follows was published in the Minneapolis Tribune on March 18, 1984. Entitled "North Dakota Is Still the Ugly Duckling of Wetlands Preservation," it tells the sad story of what has happened during the past 7 years in the State which has been blessed with the Nation's best duck-producing wetlands.

Contrary to one contention made in the article, the U.S. Fish and Wildlife Service did, in fact, acquire approximately 19,318 acres in fee and 113 through easement between 1977 and 1984. The official Fish and Wildlife Service goal is to acquire another 340,000 acres. We have a long way to go before we turn this ugly duckling tale into a swan story. We must continue to seek reasonable and responsible alternatives to the present Garrison diversion project. And we must work to reverse the trend of wetlands loss in North Dakota and throughout the country.

### NORTH DAKOTA STILL IS THE UGLY DUCKLING OF WETLANDS PRESERVATION

(By Ron Schara)

It's such a sad story.

The best duck-producing wetlands in the nation lie within the borders of North Dakota.

And an unbelievable story.

Since 1977, the U.S. Fish and Wildlife Service—the agency responsible for the nation's wetland-acquisition efforts—has not bought a single acre of those valuable wetlands and only recently acquired a preservation easement on a mere 113-acre tract.

And it's a story of politics.

Miffed over setbacks in the Garrison Diversion Project, the North Dakota Legislature passed a law in 1977 effectively halting the federal agency's wetlands program. Although three federal courts, including the U.S. Supreme Court, overturned the law, the U.S. Fish and Wildlife Service has not resumed wetlands purchases, apparently for fear of upsetting North Dakota officials.

And it's a story of frustration.

Congress long ago determined that wetlands preservation was in the nation's interest. The supreme court, in its decision last March, said the protection of migratory birds was "a national interest of very nearly the first magnitude.

Yet, the wetlands impasse continues. As one North Dakotan put it, a privately owned wetland in North Dakota can be drained of water, filled with junk cars, polluted with chemicals or sold for development.

"The only thing a landowner cannot do with his wetlands is assure that they will be preserved through sale to the Fish and Wildlife Service. This is one thing the governor and the legislature will not tolerate, "Gary Pearson wrote in an editorial in the Jamestown Sun.

It wasn't always this way.

In 1960, when Congress authorized the use of duck-stamp money to preserve wetlands, the Fish and Wildlife Service eagerly sought the wetlands of North Dakota and a few other states, including South Dakota and Minnesota. Nature made the decision. Where the wetlands are, where the ducks are, just happens to be where North Dakota is.

It was agreed that the federal agency would attempt to acquire or purchase preservation easements on 1.5 million of the estimated 2 million acres of wetlands in North Dakota. Waterfowl experts figured that acreage was needed to sustain the duck population.

The goal has not been reached. The federal agency has bought about 217,000 acres of wetlands and has protective easements on about 758,000 acres. Federal wildlife refuges in the state contain another 200,000 acres.

Of course, only one wetland easement has been obtained in the last seven years. And 15,000 to 20,000 wetland acres reportedly are being drained or destroyed annually.

Is there room in this story for hope?

Robert Jantzen, director of the U.S. Fish and Wildlife Service, thinks there is. "We want to and we will continue our (wetlands) program in North Dakota," he said the other day.

But, Jantzen said, he is not interested in another "fire fight" with North Dakota officials "because nothing gets done then as we've seen."

"We do have willing sellers, that's not a problem."

Jantzen said his agency is attempting to reach an understanding with state officials. Some of the controversy over the wetlands acquisition program was caused by the federal agency's failure to cooperate with state agencies and farmers, he said.

"I am hoping we can get started again in North Dakota by next year," Jantzen said. If the impasse continues. Jantzen indicated, the federal agency may be forced to use stronger measures to carry out the will of Congress.

"Well," a man said. "If North Dakota won't allow duck stamp money to be spent to preserve its wetlands maybe North Dakota shouldn't have a duck-hunting season."

It's not a dumb idea.●

## BLACK ACHIEVERS OF 1984

### HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. LUKEN. Mr. Speaker, as Representative of the First Congressional District of Ohio, I ask my colleagues to join with me in saluting the Young Mens Christian Association of Cincinnati Black Achievers of 1984 on the occasion of the 6th annual awards dinner on June 15, 1984.

This program began in Cincinnati in 1979 for the purpose of developing and cultivating youths throughout Cincinnati in the areas of communications, self-awareness, college life, and family life. These are areas vital to the development of our youth today. The black achievers serve as positive role models through voluntary interaction with the youths year round. They work closely with the YMCA in projects which stimulate the surrounding communities as well as the youths.

The purpose of the program is a commendable one. Our future depends on our young people and I am proud to salute the black achiever adults and students who have made significant contributions to the business and industries of Cincinnati. I also commend the businesses who, through their financial contributions, make this program a success. I salute you and wish you much continued success in the future.

I salute the following black achievers of 1984:

Carnell Anderson
Charles Bell, Jr.
David K. Brown
Charles V. Douglas
Denise Eaton
Shirley A. Echoles
Mitch A. Fraser
Barbara A. Gilbert
Donald Graham
Billy Grant
Harriette E. Harrington
Milton W. Hinton
Jacqueline Hinton-Cravanas
Algertha Howard
Harry Howard
Vernon L. Jackson
Charles James
Barbara M. Johnson
Lawrence Johnson
Patricia Johnson
Brenda E. Key
Carolon Jones
Peter K. Knox
George E. Larry, Jr.
Kathye E. Lewis
Carolyn Lindsay-Cooper
John Lomax
Ray D. Lotts
James E. Lowry
Renee M. McCollough
Larcine J. McDonald
Darryl L. Mobley
Larry B. Munday
Cheryl Murphy
Edward L. O'Neal
Pamela L. Page
Henry J. Partridge
Harvey M. Pickrum, PhD
David L. Poignard
Shari Lynn Smith-Johnson
Regina E. Sofer
Debrah Storms
Ronald Thigpen
Garland Thurman
Linda F. Tuck
Mark D. Walton
Clarence F. Warren
Debbye C. Williams
Mrs. Denise J. Williams
Harry J. Williams
Tyrone S. Williams
Stephen A. Wilson
Sally B. Ziegler●

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## CORPORATE CONTRIBUTIONS CANNOT COMPETE WITH BUDGET CUTS

## HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. FLORIO. Mr. Speaker, one of the tragic results of the administration's war on the welfare system has been the severe cutback in Federal funds for the poor, the handicapped, the elderly, and the needy. The loss of funding has not, unfortunately, been limited to Federal programs. To the contrary, it has extended to nonprofit charitable organizations—the very organizations that would be called upon to help those that could not be given adequate assistance by our Nation's Federal programs.

Mr. Speaker, at the outset of the Reagan war on Federal social programs, we were repeatedly assured that the "truly needy" would not suffer and that any gaps in the safety net would be plugged by the efforts of charitable organizations and private sector initiatives. The nonprofit charitable organizations—also victims of the Reagan round of budget cuts—have not only been unable to fully substitute the Federal services that were cut, but also have had trouble replacing their Federal funding with money from the private sector. Companies have continued to donate to these charities at an increased rate of $500 million since 1980. However, requests for more contributions from more organizations have also dramatically increased and this fact has outweighed any increased aid the private companies have been able to provide. The administration has trimmed nearly $4 billion a year from direct aid to these nonprofit organizations that include local legal aid clinics, health and other community service clinics. Companies noted for their charitable contributions have been able to come up with $3.1 billion in contributions. This is a remarkable figure but it still cannot fully compensate the organizations for the loss of crucial Federal funding.

Several companies in my State of New Jersey have truly demonstrated humanity and compassion and are to be congratulated for their contributions to nonprofit organizations. These companies include Allied Corp. of Morris Township, Prudential Life of Newark, Johnson & Johnson of New Brunswick, CPC International of Englewood Cliffs, American Cyanamid of Wayne, Ingersoll-Rand Co. of Woodcliff Lake, and Union Camp of Wayne. All of these companies have made contributions ranging from $1 million to $7 million. This is truly a commendable gesture.

However, I would like to emphasize for my colleagues that the Reagan expectation that the private sector could indeed make up for the loss of Federal funding has been proven miserably wrong at the expense of millions of needy people throughout this Nation. No welfare program was left unscathed by the Reagan spending cuts. This double punishment inflicted upon this Nation's needy is a deplorable act. The poor have not only been punished by cuts in the Federal social programs but they have also been punished by the cuts in aid to the nonprofit organizations that could offer them help they so desperately need.

I commend the following article that appeared in the record of Bergen County recently to the attention of my colleagues and I ask my colleagues to join me in urging this administration to demonstrate some compassion for our Nation's needy.

[From the Bergen County (NJ) Record, May 20, 1984]

### AID CUTS PUT A STRAIN ON CORPORATE DONORS—STRETCHED BY DEMAND, BUDGETS ARE LOSING THEIR "GIVE"

(By Ron Stepneski)

Besieged by requests for charitable contributions in the wake of federal cutbacks, many New Jersey companies are finding that the needs of worthy causes have outstripped their means of fulfilling them.

"I was flabbergasted by the increase in the number of requests," said Joseph Ellicott of CPC International Inc. in Englewood Cliffs. "The government cut back on its largess, and a lot of little organizations had nowhere else to turn. We can't give to them all."

Most officials say they doubt that corporate contributions can offset Reagan administration budget cuts in aid to nonprofit groups.

Corporate donations totaled $3.1 billion last year—a $500-million increase over 1980—but the president and Congress have chopped about $4 billion a year from direct aid to nonprofit groups, such as local legal aid, health, and other community service clinics.

The Urban Institute, a nonpartisan public policy research group in Washington, estimates that corporate gifts have made up only about a quarter of the federal cuts. Meanwhile, the institute says, government cutbacks have increased the need for charitable services.

"Corporations will be able to take up part of [the federal budget cuts], but not a lot," said Fred Schnue of the American Association of Fund-Raising Counsel, a New York-based trade group of fund-raising advisory firms.

Indeed, corporate giving represents only a small part of the $64.93 billion collected by charities from all sources in 1983, according to the association. Individuals gave $53.85 billion. Private foundations not connected with businesses ranked a distant second, giving $3.46 billion last year.

#### ROOM FOR GROWTH

American corporations increased their contributions last year by 5.1 percent, but that trailed an overall giving increase of 8.1 percent, possibly because of the lingering effects of recession in the first half, officials say.

Still, some observers, such as Chemical Bank and the Taft Corporate Information System, which tracks company giving, believe that corporate contributions could increase at a rate of 9.5 percent a year to $5.5 billion by 1988.

Fund-raisers say there's plenty of room for growth. Only about 30 percent of all U.S. companies give to charity, and many of them give only token amounts.

"Corporate giving is the fastest-growing sector of the philanthropic world, rising from $750 million in 1970 to $3 billion last year," the YMCA's campaign director, Frank Whitley, said at the New Jersey Conference on Philanthropy earlier this month in Parsippany.

"They can give five times as much as they did in the last decade," Whitley said. "Keep raising the sights. Keep the heat on. The money is there."

Bergen Record Corporation Chairman Malcolm Borg, another conference speaker, echoed Whitley's call to continue the push for corporate gifts.

"Individuals have most of their assets tied up," said Borg, who headed Hackensack Medical Center's $5.6-million Second Century capital fund drive last year and has helped raise more than $30 million for other causes over the years. "If you want to raise the big dollars, you must go to the corporations."

Large companies often make impressive contributions, but some are reluctant to disclose them for fear of receiving more applications or incurring their stockholders' ire. The Taft Corporate Directory and the Mitchell Guide are two much-used fund-raising reports that publish actual or estimated corporate donations.

#### NEW JERSEY LEADERS

Leaders in New Jersey include firms such as Allied Corporation of Morris Township, which gave $7 million last year to causes and organizations around the nation; Prudential Life Insurance Company of Newark

($6.4 million); and Johnson & Johnson Company of New Brunswick ($5.4 million).

Top donors in Northeastern New Jersey include CPC International of Englewood Cliffs ($2.5 million); American Cyanamid Company of Wayne ($2 million); Ingersoll-Rand Company of Woodcliff Lake (more than $1 million); and Union Camp Corporation of Wayne ($1 million), according to published and company reports.

Companies can donate up to 10 percent of their pretax profits in exchange for a tax deduction, although many give only about 1 percent, officials say.

About 11 corporate giving clubs, where members donate 2, 5, or even 10 percent of pretax profits, have sprung up elsewhere in the nation, but they represent a small minority of companies.

Members such as the Dayton-Hudson Corporation, a retailing chain in Minneapolis, say giving 5 percent of profits sets an example for other businesses.

"The way our shareholders look at it, the money would go to taxes otherwise," said Vivian Stuck of the Dayton-Hudson Foundation. "This way, it's contributed to better the community—and that's good for business."

Other 5-percenters, such as Elton B. Stephans of the Birmingham, Ala., Corporate Giving Club, say American companies owe help to their communities.

"There's not enough tax money to do all the good things that need to be done in a community," said Stephans, who is chairman of Ebsco Inc., a $300-million conglomerate with a subsidiary in Tenafly. "So, if you don't plow money back, they don't get done."

### OTHER FORMS OF HELP

Some firms also improve their image by sponsoring fund-raising events or donating executive time and services for special projects.

"We feel we have an obligation as a corporate citizen to the community where we operate to meet objectives of that society and make the community a good place to live and work," said James Tobin of the Paramus-based Becton, Dickinson, and Company, which deals in medical supplies.

A number of firms have full-time professionals to process requests for contributions. However, some say they receive more requests than they can handle or more than they can follow to see if their donations are effective.

As a result, some northeastern New Jersey companies—including Thomas J. Lipton, CPC, Ingersoll-Rand, and The Record—have studied the possibility of establishing an intercompany committee to determine the most serious needs and recommend funding priorities.

"We probably need a corporate grant clearinghouse," said Ellicott of CPC, which distributes about $1.25 million domestically and a similar amount abroad. "We can't help everybody and, right now, there's no way to tell who's hurting and what needs to be done."

The beneficiaries of corporate generosity range from universities and cultural centers to hospitals and community activities. For example:

A-P-A Transport of North Bergen gave $50,000 to Spectrum for Living in Hackensack to help it build a $3-million home for the handicapped in Closter. Officials say it was one of about 150 large and small companies that gave some $250,000 in money and services for the home, which opened last year.

Mutual Benefit Insurance Company and other firms donate about $2,000 a year to fund a boxing program for 100 underprivileged youngsters in Newark. Mutual Benefit's Al Wickens, who helped start the program, says it teaches children discipline and competitive values they'll remember when they grow up.

The Ridgewood YM/YWCA raised $286,000 from 32 companies in a $2.5-million fund drive to add a second pool, health fitness center, and other facilities. The Oak Street organization serves some 30,000 people.

The Hackensack Health and Hospital Foundation raised about $1 million from some 120 firms in its successful $5.6-million capital building drive for the Hackensack Medical Center.

While there is no clear breakdown on donations to northeastern New Jersey causes, one guide is local United Way campaigns, which fund a number of organizations.

In Bergen County, more than 400 companies gave about 34 percent of the $2.3 million raised in the 1984 United Way campaign. The money went to 62 organizations, ranging from the Red Cross and Boy Scouts to the Catholic Youth Organization and Jewish Family Service.

In Passaic County, 315 corporate contributions represent about 37 percent of the $1.9 million raised this year by United Way to fund 55 local groups.

Some firms establish foundations or charitable trusts which they fund from their profits to maintain the level of their contributions in lean years, when profits fall.

The foundations are launched with an initial endowment, and firms can receive a tax deduction by giving them part of their profits each year. Subsequently, a company can give away parts of its endowment, earnings on the fund, or both.

Some connect annual giving to a fixed percentage of pretax profits. Still others simply attempt to increase their donations each year, while trying to balance their responsibility to meet social needs with that they owe their shareholders.

"First, you have to think, 'Is it fair to the shareholders that you're using the money for this purpose?' " said David Craig, managing director at BOC International Inc. in Montvale.

"The reason we give is that we believe that it's better for private organizations to do this service work than to have it done by the government," he added. "Second, we like to set an example for our employees."

In most cases, corporate contributions go primarily to educational institutions through direct grants or programs that match employee gifts. Health, welfare, social services, community programs, and the arts are generally the second most popular recipients.

By contrast, individuals last year gave the bulk of their contributions—some $31 billion—to churches and other religious organizations, followed by $9.15 billion to hospitals and health care organizations and $9.04 billion to schools.

Some firms, such as the Newark-based Mutual Benefit and Prudential insurance companies, target cities where they are located for the majority of their grants.

"Organizations in the suburbs do a better job getting support than a city like Newark," said Mutual's contributions director, Livingstone Goodman of Mahwah. "When the federal programs were cut off, we wanted to step in."

Others set guidelines that reflect the company's own activities. Hoffman-La Roche Inc., a Clifton drug company, focuses on health and science programs. These range from instructing high school science teachers in the latest technological advances to bringing the New Jersey Nets to a Boy's Club for seminars on health.

Such focused giving makes it easier for a firm to see its impact on areas it deems important. It also means rejecting applications that fall outside the guidelines, and that simplifies donation procedures.

Some executives donate time and talent to head philanthropic causes. Allied Corporation Chairman Edward Hennessy, for example, agreed to head Fairleigh Dickinson University's capital fund drive, to which the company donated $300,000.

Allied was named Corporate Donor of the Year this month by the New Jersey chapter of the National Society of Fund-Raising Executives. The diversified chemical firm doubled its annual contributions to $7 million after acquiring Bendix Corporation last year. About $850,000 of the total is distributed in New Jersey.●

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## CHI LUU—AN EXTRAORDINARY YOUNG MAN

## HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to an extraordinary young man, Chi Luu, of Elmhurst, in Queens County, NY.

Chi Luu is a courageous Vietnamese refugee who fled his native Saigon 5 years ago. When he arrived in the United States in November 1979, he could not speak a word of English. Today, Chi Luu is fluent in English and is about to pursue an advanced degree in electrical engineering.

Mr. Speaker, 2 weeks ago, Chi Luu was hailed as the valedictorian of the City College of New York. The 25-year-old student addressed 1,700 graduates and their guests at the City College commencement ceremony, and gave thanks to his family, the college faculty, and to his new country.

Indeed, the story of Chi Luu's academic success, despite his initial language barrier, is an impressive one. His dream to come to the United States to study freely was not easily realized, however.

In 1975, with the fall of Saigon, most of the Luu family's possessions were claimed by the Communists, and Chi Luu's father, Khanh, the president of a steel manufacturing company, was sent to prison for 13 months. Because of his father's status, Chi Luu was denied admission to college in Saigon.

The family pleaded to leave the country and was granted conditional permission to depart. Unlike his parents, Chi Luu did not want to gamble on the chance that the Vietnamese immigration officials would actually allow the family to emigrate, and opted for passage to Malaysia in a 35-foot fishing boat with 120 other refugees.

Chi Luu and the other boat people survived the 5-day, 6-night sea journey to Malaysia. The refugees were waylaid en route to America at the Pulau Bidong refugee camp. Luu endured 5 long months there of miserable living conditions and very little food, with 40,000 other refugees. Luu watched many people die of starvation and sickness before he was finally set free to fly to New York via Los Angeles.

The young refugee's struggle was far from over when he was reunited with his family in Elmhurst, NY. Luu's inability to speak English prevented him from being accepted to the academic program of his choice—the nationally recognized engineering program of the City College of New York. Luu was admitted to LaGuardia Community College, a 2-year institution in the City University of New York, where he studied for 3 months before reapplying to City College. A school official intervened on Luu's behalf, and permitted him to enter the college on the stipulation that Luu enroll in an intensive remedial English class.

The young Vietnamese student's perseverance during this 4 years at City College earned him a nearly perfect 3.98 overall cumulative index and a perfect 4 in his major, electrical engineering. He was accepted to five graduate school programs for advanced study, and has decided to attend the Massachusetts Institute of Technology, in Boston, where he was offered a fellowship. He hopes to enter a high-technology industry after he completes graduate school.

Mr. Speaker, I ask all of my colleagues in the U.S. Congress to join me in congratulating Chi Luu for his outstanding academic achievements, and for his personification of the American dream.●

## HUMAN RIGHTS SITUATION IN HAITI

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. OWENS. Mr. Speaker, yesterday I introduced a resolution expressing the sense of the Congress that the President should withdraw the determination that the Government of Haiti is making a concerted and significant effort to improve the human rights situation in Haiti by implementing essential political reforms. I have taken this action in light of recent events in Haiti which show a blatent disregard for human life, human rights and political rights.

On May 5, 1984, President-for-Life Jean-Claude Duvalier of Haiti reiterated guarantees of freedom of the press and respect for human rights. This was obviously for American consumption as the foreign aid authorization bill was coming to the House and the Secretary of State was due to make his 6 months report on the human rights situation in Haiti. On May 10, 1984, the Haitian Government decreed an immediate halt to all political activity. This did not deter the Secretary from reporting on the progress toward human and political rights in Haiti on May 14, 1984.

On May 27, 1984, the Associated Press reported that the Haitian military and police had quelled riots in the northwestern city of Gonaives. The civilian disturbances began in response to the beating to death of a pregnant woman. This is hardly the behavior of a government which is working toward improvement in the human rights situation.

The time has come, Mr. Speaker, to say enough is enough. We cannot continue to certify or report on human rights progress in countries which produce speech material on one hand, and then proceed to reverse themselves on the other. The situation in Haiti is desperate. Not only do the people suffer from severe poverty with all of its attendant misery, but they are also subjected to ongoing brutality at the hands of their Government. This may not be a situation which we can alter, but is is hardly one that we should bless with certifications of progress in the areas of human and political rights.

I urge my colleagues to support this resolution as an expression of our collective dismay at the tragic situation in Haiti.●

## HOUSE JOINT RESOLUTION 485 NATIONAL BIRDS OF PREY CONSERVATION WEEK

### HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. RITTER. Mr. Speaker, recently I introduced legislation designating October 7 to 13, 1984 "National Birds of Prey Conservation Week." This legislation has the support of the National Wildlife Federation, the Audubon Society, and the Pennsylvania Sportman Federation. Thus far, over 80 Members of the House of Representatives have joined me in cosponsoring this important resolution—a resolution which will help promote public interest in the protection of these ecologically significant birds.

The designation of "National Birds of Prey Conservation Week" will cause the public to recognize the value of these birds in wildlife communities and spawn support for the management of their habitats and the preservation of important hawk migration outlooks. These birds play an important role in the ecosystem because they are a key segment of the food chain which is sensitive to environmental changes. Protection of these birds is crucial if a balanced ecosystem is to be maintained.

In the past, the public has not recognized the significance of these birds and in 1982, 40 of the 53 birds of prey species were listed by one or more State conservation agencies as endangered, extirpated, threatened, or of concern. The creation of "National Birds of Prey Conservation Week" would direct the public toward esthetic appreciation of these splendid birds and encourage people to understand why the preservation of these birds is so vital.

Every autumn, over a million birdwatchers observe hawks, falcons, owls, and even the great bald eagle, the symbol of our Nation, on major raptor flyways scattered across the country. It is clear that the public attitude regarding birds of prey is changing to one of appreciation and understanding. I feel that the designation of a week in observance of birds of prey will promote public interest in the protection of these animals, and I urge your cosponsorship of this resolution.●

## COMPENSATION TO VICTIMS OF RADIATION FALLOUT

### HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. MARRIOTT. Mr. Speaker, today I am reintroducing a bill to remedy a situation of great injustice. For 30 years the Federal Government has failed to behave responsibly, and it is now time for Congress to take matters into its own hands. The recent U.S. district court decision assisted 10 of the 1,500 individuals who developed cancer from the radiation clouds hovering over southwestern Utah. Judge Jenkins decision gives credence to what my bill will do—which is only to allow those victims living downwind of the Nevada test site who can demonstrate a reasonable likelihood of having received a particular dose of radiation from the fallout a means to be compensated for the lethal dosage they incurred. It was time this Government's record of disgrace be cleared.

Between January 1, 1951, and July 31, 1962, the U.S. Government exploded a series of nuclear bombs. These tests were open atmospheric tests producing radioactive fallout clouds. Following a number of individual shots, fallout clouds were tracked through southeastern Nevada, southwestern Utah, and Arizona.

These were not unpopulated areas. Rather, there were at least 170,000 men, women, and children who lived within the shadow of the testing. They breathed the air that carried the radioactive fallout, drank the milk and ate the beef contaminated by the radioisotopes deposited on the ground and ingested by the cows. Throughout it all, the Government told these people that the radioactive fallout posed no harm.

Since that time, the health effects resulting from the atmospheric testing has become apparent. The incidence of cancer in these areas is extraordinarily high. The rate for leukemia alone tripled between 1950 and 1967. Familes involved have been decimated by the radioactivity to which they were exposed. One southern Utah man I know of lost his wife and nine other close relatives due to cancer, a highly improbable occurrence statistically.

The U.S. Government can no longer afford to ignore the plight of these patriotic American citizens who unwittingly became victims of our nuclear testing program.

My bill proposes a remedy. It is a simple attempt to deal in a fair and equitable yet scientific way, with the painful results of actions undertaken during an unusual period in American history.

This bill amends Federal tort claims procedures, acknowledging the Federal Government's compassionate and inherent responsibility to these citizens. It presents a reasonable solution to the difficult to accept, yet unavoidable problem of direct causation of the part of our Government.

We know certain cancers are produced by radiation exposure. Clinically, we cannot distinguish whether or not one particular case was caused by radiation exposure and another was not. But, the overwhelming fact remains that the incidences of these cancer-types are increasing in the areas where our Government performed nuclear testing. And the only conclusion we can draw, the only inherent and decent action we can take, is to accept that evidence and provide a remedy.

This is not to say we are providing blanket compensation to all cancer victims. Radioepidemiological studies can tell us what the probabilities are that any given cancer in a population was caused by radiation exposure. My bill would enable the court to use this evidence in determining those victims having the highest likelihood of their cancer caused by exposure to the Nevada testing fallout. The evidence, compiled in table form, considers all the relevant factors of age, sex, cancer type, years from exposure on onset of cancer, and dose pursuant to section 7(b)(2)(B) of the Orphan Drug Act (Public Law 97-414) which passed last Congress.

The legislation also attempts to make old and current information regarding dose levels from the fallout available to plaintiffs. It requires The Secretary of Energy to publish charts giving environmental exposure levels for the different geographic areas involved.

I believe the recent U.S. court decision gives this issue a third-party credibility. My bill continues along this line and proposes a reasonable solution to a serious problem that should have been taken care of years ago. I urge my colleagues to support this legislation which only attempts to do what is fair, right, and just.●

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## PRESIDENT REAGAN RIGHT IN ENDORSING DRUNK DRIVING LEGISLATION

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. PORTER. Mr. Speaker, I applaud President Reagan and Secretary Dole. Yesterday, they endorsed the concept contained in legislation passed by the House to attack the Nation's drunk driving problem by pushing the States, through withholding portions of Federal highway funds, to raise the minimum drinking age to 21.

The drunk driving slaughter on our highways is horrendous, with nearly 25,000 people killed and hundreds of thousands injured each year. Young people, with only 8 percent of the drivers, amount to 25 percent of the fatalities. Blood borders between States with differing drinking ages, attracting young people to death and injury, will be closed by this legislation and that will help to reduce the carnage.

Though the measure's approach was a prime recommendation of the Presidential Commission on Drunk Driving—and was contained in legislation I introduced in the House 8 months before their recommendation—the President was required to swallow hard and reject his philosophical inclination to leave this matter to the States, in order to endorse it. Many of us share that philosophy and had to do the same, but the severity of the problem and State inaction has changed our minds, too.

Now it's up to the Senate, and I urge all Americans who care about the drunk driving slaughter on our Nation's highways to let their Senators know they want this legislation passed.

I applaud President Reagan for his commitment to sign it when it is.●

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## H.R. 5504

### HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. HOWARD. Mr. Speaker, I would like to reply to some jurisdictional concerns raised by the Energy and Commerce Committee regarding three sections of H.R. 5504. The Energy and Commerce Committee believes that sections 119, 129, and 206 involve provisions within its jurisdiction.

Section 119 requires two studies by the Secretary of Transportation—a study of railroad-highway grade crossing needs and the responsibility of railroad and highway authorities in addressing these needs and a study of improvement and maintenance needs for certain highway bridges which cross railroads. In performing the first study, the Secretary is to consider the results of the demonstration programs being conducted under section 129.

Section 129 provides for demonstration programs involving Conrail and the inspection and servicing of protective devices at crossings on that railroad.

Section 206 would establish regional university transportation centers to study several modes of transportation. The Office of the Secretary, National Highway Traffic Safety Administration, Research and Special Programs Administration, and the Federal Railroad Administration would all be involved through representation on a national advisory council.

The Committee on Public Works and Transportation agrees that since the demonstration programs provided for in section 129 involve railroad-owned signal devices on railroad rights of way, the Energy and Commerce Committee would share jurisdiction over that section. Similarly, the Energy and Commerce Committee would share jurisdiction over section 119 to the extent it involves a study of the improvement and maintenance needs of similar signal devices and to the extent the study considers the results of the demonstration programs involving such devices conducted under section 129.

The committee also agrees that section 206 requires the involvement on a national advisory council of certain agencies or offices of the Department of Transportation which the Energy and Commerce Committee has sole or joint jurisdiction over. Those offices or agencies include the Office of the Secretary, the National Highway Traffic Safety Administration, the Research and Special Programs Administration, and the Federal Railroad Administration. Thus, to this extent, and to the extent that the university transportation centers established by this section study railroad issues, the Energy and Commerce Committee would share jurisdiction over this section.

The committee recognizes the jurisdictional interest of the Energy and Commerce Committee in these provisions and appreciates that committee's cooperation in allowing for expeditious consideration of this important bill. In recognizing this jurisdictional interest of the Energy and Commerce Committee, the Public Works Committee is not, however, recognizing—nor is the Energy and Commerce Committee claiming—any jurisdiction over the traditional rail-highway crossing programs authorized under the basic Federal-Aid Highway Program or section 203 of the Federal-Aid Highway Act of 1973, as amended.●

## FREEZING TEXTILE, APPAREL, AND FIBER IMPORTS AT 1983 LEVEL

## HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, June 14, 1984*

● Mr. CLARKE. Mr. Speaker, Tuesday, I joined with 47 Members of the House in introducing legislation which will freeze textile, apparel, and fiber imports at 1983 levels while allowing a growth rate of 1½ percent for each of the 4 following years. The bill also includes a provision which requires that the U.S. Department of Commerce implement an import licensing system under which all textile imports can be more easily monitored.

Last year the U.S. textile trade deficit reached a record $10.6 billion—15 percent of the Nation's total trade deficit. It is estimated that total 1983 imports displaced 740,000 domestic textile jobs. My own State of North Carolina has already suffered a loss of more than 55,000 textile jobs. Textile imports through April of this year have increased by 49 percent over the same period in 1983. The fate of millions of Americans are at stake if we do not begin to confront the problem that textile imports are causing here at home.

The economy of North Carolina and many other States is very dependent on a healthy textile industy. Any steps that can be taken to prevent the loss of textile jobs are important.

Low wages, subsidized interest rates, and restrictive trade barriers threaten our ability here in the United States to compete with our foreign competitors. Unless we take forceful action like that contained in H.R. 5823, the Textile Employment and Fair Trade Act of 1984, we could face the loss of this most important and productive American industry.

I commend the leadership of the Congressional Textile Caucus for bringing this matter to the attention of the American people.

Mr. Speaker, it is my hope that hearings can be held on this bill in the near future so that we can begin to address this most pressing national concern.●

## WHAT DID YOU EXPECT, MR. PRESIDENT?

## HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, June 14, 1984*

● Mr. STARK. Mr. Speaker, yesterday, the Washington Post reported that the President of the United States has decided to let the Soviet Union keep their "Mickey Mouse system" if they want to.

Today's Washington Post reports that the Soviets have decided to rev up their "Mickey Mouse system" in response to the President's military spending increases.

The Defense Intelligence Agency [DIA] reports that the Soviet Union increased its military spending by 3 to 4 percent in 1983. Before we in Congress are presented with the new technicolor threat briefing on this Soviet "escalation," I have to ask the President: What did you expect the Soviets to do?

To quote the Post:

> U.S. weapons procurement increased from $79.7 billion in fiscal 1983 to about $86 billion this fiscal year, or about 8 percent. For fiscal 1985, the administration is seeking an increase to $107.6 billion, or about 25 percent, and for fiscal 1986, it anticipates spending about $124 billion for weaponry.

Anyone—any fool—could have anticipated the Soviet reaction to Mr. Reagan's buildup.

Yes, there is a Soviet threat. It is real. And threats yield responses, military responses. President Reagan's threat has, predictably, led to a Soviet military response.

I have another question for the President: Where do the bravado and the missile-rattling end in a nuclear age? Maybe I can answer for the President in absentia, with a recent quote of his own: It ends with "the Peace of the Grave"—for all humanity.●

## WISHING WILL NOT MAKE IT SO

## HON. WM. S. BROOMFIELD

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
*Thursday, June 14, 1984*

● Mr. BROOMFIELD. Mr. Speaker, I question the judgment of those who suggest that Soviet-American summit meetings become annual events dictated more by the calendar than by the sincere interest of the superpowers.

Summit meetings should be serious business reserved for the purpose of ratifying only the most important and substantive decisions of state.

The United States currently has a number of detailed proposals on the table for reducing nuclear and chemical weapons stockpiles and troop levels in Europe—all of which have been rejected by the Soviets.

Summit meetings without purpose, without serious agenda, without sincere intent risk inflated expectations which can become dangerously self-fulfilling in the glare of worldwide media attention.

To hold summit meetings by the calendar the way we mark national holidays threatens to destroy the credibility of our most important remaining tool for resolving superpower differences.

Mr. Speaker, there is no substitute for sincerity in dealing with a nation which flaunts international agreements, shoots down civilian airliners, and is attempting to conquer Afghanistan by armed force.

The world's hopes for substantive talks between the United States and the Soviets leading to meaningful, verifiable agreements to control the spread of nuclear weapons rest upon the sincerity of the superpowers.

Wishing will not make it so.●

## THE AGRICULTURAL DEBT RESTRUCTURING ACT OF 1984

## HON. JIM LEACH

OF IOWA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, June 14, 1984*

● Mr. LEACH of Iowa. Mr. Speaker, I am today introducing legislation to allow financially strapped farmers in certain circumstances to stretch out current debt obligations at more manageable interest rates.

Modeled after an approach suggested by Prof. Neil Harl of Iowa State University, the legislation, which is being introduced in the other body by Senator GRASSLEY, calls for Federal guarantees of certain farm debt in exchange for a voluntary transfer of 10 to 20 percent of debt obligations from lending institutions to the Federal Government.

The bill is far from ideal, but it must be understood that the farm problem stands today as a domestic monetary crisis of profound proportions. As Prof. Mike Boehlje and Bob Jolly of Iowa State University point out, any farmer with a debt-to-asset ratio above 30 percent can within a very short period move from a substantial asset position to bankruptcy. Without an inflationary safety net to arbitrarily bolster assets, the impact of high real interest rates on farmers and the broader agribusiness community cannot be exaggerated.

Statistics tell the tale. For 1982, the last year for which figures are available, U.S. farm debt stood at $216.3 billion, with Iowa's farm debt accounting for the most of any State in the Union: $17.5 billion. A 1-percent rise in interest rates therefore adds more than $2 billion to the cost of farming in America and robs Iowa farmers alone of approximately $175 million in income.

For years farm indebtedness seemed high for many individual operators of the land, but as a national statistic there existed a higher asset-to-liability ratio in agriculture than just about any sector of the American economy. Now, because of sustained high real interest rates and a precipitous decline in land and equipment values, a quantum jump has occurred in the number of farmers who have financial liabilities which equal or exceed their assets. Hope still exists that somehow double-digit interest rates can be surmounted by a good harvest and better prices in the fall, but fear is mounting throughout the Farm Belt that the local bank, or PCA, or Federal Land Bank is only waiting for this year's harvest to foreclose.

Since recorded time, weather has been the biggest variable in agriculture. Good weather meant good times and vice versa. Today, with investment requirements—capital—far surpassing the family income component—labor—in American agriculture, the effects of governmental policies have for the first time become a greater variable for farmers than weather. Inflation, interest rates, currency ratios, trade barriers, and governmental incentives or disincentives for production have greater impact on farm prosperity than the wind and rain. The farmer is at the mercy not only of the elements but of governments that have god-like powers to determine individual destinies.

The Congress in the past several years has increased USDA funding levels for a variety of farm assistance programs. But while the Government has been generous to some sectors of the agricultural community, those farmers most in need have been those least assisted and, more often than not, negatively impacted. The PIK program, for instance, by pushing the price of grain up, hurt livestock producers, many of whom could not participate meaningfully in an acreage set-aside based on demonstrable grain yields. More important, however, than the divisions between the haves and have-nots that have been accentuated in the agricultural community by Government programs is the impact that abstract and sometimes arbitrary Government policies have on the lives of individual farmers. Despite substantial increases in farm programs in recent years, direct Federal assistance has not come close to compensating farmers for deficit-created distortions in the marketplace.

Washington-dictated economic policies are costing the United States agricultural sales, but as consequentially, where trade is taking place the overvaluation of the dollar means that farmers receive less for the goods they produce. If fair currency ratios existed, approximately 75 cents would be tacked onto the price of a bushel of corn and $1.70 to the price of a bushel of soybeans, and if the deficit could be eliminated as a factor in raising interest rates, the cost of production on farms would be dramatically lower. A livestock feeder simply has no reasonable prospect of earning a fair return on investment if the cost of interest exceeds the cost of feed.

The detrimental effects of capricious Federal fiscal policies have, of course, been exacerbated by last year's drought, one of the severest of the past century. I have asked farmers who remember the 1930's what the differences are between the 1934 and 1936 droughts and last year's disaster. In the 1930's, I've been told, the crop result was similar: few cobs per acre, few kernels per cob. But what makes last year's problem more severe is the nature of modern farming. In the 1930's farming involved minimal investment. Today, the expense of putting in a crop is so massive that a crop failure jeopardizes the livelihood, not just a single year's effort, of many farmers. And, unlike in the 1930's, when most farmers lost their farms but somehow managed to stay on the land as renters, there is every likelihood that in the next year large numbers of farm families will be evicted from their homes and foreclosed on their livelihoods—all at a time when realistic work alternatives in the region are nonexistent.

According to some experts, as many as 10,000 farmers will be forced off the land in the next 18 months in Iowa alone. If this trend continues, the possibility of bank or Government ownership of massive amounts of farmland cannot be ruled out.

To avoid this prospect, it is imperative we develop a new spirit of public-private sector cooperation. What is needed now is a stretch-out of debt at manageable interest rates—a workout for the family farmer, not a bailout for overextended land speculators. The Government cannot and should not create a 100-percent safety net for 100 percent of the farm community. However, if we are to avoid a collapse of the farm economy and the demise of the rural lifestyle as we know it today, it is vital that farmers be allowed to stretch out their loans at manageable interest rates. In this respect, the situation is analogous to the international debt crisis. Unless prudent restructuring steps are taken today, the international monetary system may collapse tomorrow. Likewise in agriculture. Unless reasonable debt restructing takes place on the family farm today, many family farms may disappear tomorrow.

The legislative proposal Senator GRASSLEY and I are introducing requires sacrifice from everyone involved, but there are potential rewards for society at large. Under our bill, the borrower and lender are to work out voluntarily a loan stretchout such that the extension plus the original term of the loan do not exceed 20 years. If the county committee of FmHA certifies that the farmer has a credible chance of surviving and approves his application for this program, the lender takes a 10- to 20-percent writedown on the unpaid principal of the loan and in return the FmHA guarantees 90 percent of the remainder. The interest rate the farmer pays on the rescheduled loan is negotiable, but the rate can be no higher than 3 percentage points higher than the discount rate of the Federal Reserve Bank for the region in which the lender is located. The Government receives the 10- to 20-percent writedown as payment for guaranteeing the loan, with interest accruing on this portion at the average rate the Government paid on funds it borrowed in the previous year. Borrowers who enter this program cannot incur more debt beyond what is necessary for operating capital for the duration of the loan restructuring program unless specifically authorized by the county FmHA committee after 2 years of consistent loan repayment.

The approach outlined is not radical. It is neither a bailout nor giveaway. It represents a modest effort to structure a program with risks and benefits for everybody. Farmers who qualify get a chance to avoid bankruptcy and work off their debts, but they must accept restrictions on their ability to incur further debt. Lenders must take a 10- to 20-percent loss on the loan, but in exchange they get a Government guarantee on 90 percent of the rest and they have the option of selling the loan to FmHA at the end of the original term of the loan. The Government takes a risk guaranteeing the loans but could potentially make a profit if loan repayments exceed loan losses.

An analogy here might be made to the Chrysler situation, in which the Government guaranteed 1.2 billion dollars' worth of loans to a single company and in exchange received warrants for Chrysler stock. When Chrysler turned around and began making money, the Government sold the stock warrants and made a $300 million profit. The loan guarantee—for which the Government never put up a dime—proved to be a successful gamble on the long-term viability of Chrysler. The case for a similar approach in agriculture is far more compelling.

Government policymakers must face the question of what policies make sense in a free enterprise, limited Government framework and at the same time recognize that at issue is the omnipotent question of how many farmers are to survive. My own view is that the debt-induced migration of families from agriculture represents a national hemorrhage that must be stemmed. For the sake of the family farm and a rural way of life, the Federal Government must reorder its priorities. Compassion should be the order of the day, and the best way to reflect this compassion is for lending institutions to restructure current debt burdens and for Congress to commit to the agricultural community that the lack of fiscal discipline at the Federal level that caused the high interest rates and overvalued dollar in the first place will not be continued. From an agricultural perspective, the best Federal Government is not one that does more for farmers, but one that does a lot less against.

The farmer can't continue to take it on the chin much longer, or we as a society will find ourselves experimenting with Government and bank ownership of our agricultural assets. The Soviet experience should be reminder enough of the need to act now to avoid an irrational experiment with collectivization a decade hence.●

## DR. GEORGE LOEWENSTEIN—A SENIOR CITIZEN IN ACTION

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BILIRAKIS. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues one of my outstanding constituents, Dr. George Loewenstein. Dr. Loewenstein, who is 94 years old, has not let his age or physical condition stop him in his search for truth and justice. He reinforces what I have always known and that is that our seniors have much to contribute and we should be paying special attention to their experiences and guidance. I call to your attention an article which discusses Dr. Loewenstein's activities on behalf of his adopted nation.

The article follows:

[From the Clearwater Times, Feb. 20, 1984]

### AT 94, DOCTOR KEEPS A FINGER ON WORLD PULSE

(By Bob Andelman)

CLEARWATER.—"I swim everyday. I exercise everyday. I don't smoke. I don't drink. I'm blind, nearly deaf. I'm an active old man. I'm 94."

So says Dr. George Loewenstein.

Despite World War I injuries to his head and right leg, Loewenstein appears full of vigor as he moves briskly about his home in the Top of the World condominium complex, eager to talk about any one of a dozen subjects of current interest.

For the 20th year, Loewenstein is leading an eight-week series of forums sponsored by the Foreign Policy Association, a nonprofit education organization based in New York.

The series is entitled Great Decisions 1984 and is free to the public. About 65 people attended the first session Jan. 30 at the Clearwater Public Library and discussed with Loewenstein the topic, "USSR Under Andropov: Hard Choices for Moscow and Washington."

More than 200,000 Americans participate annually in Great Decisions programs at colleges, universities, YWCAs and libraries across the country, according to Beryl Samuel, manager of sales and circulation for the Foreign Policy Association, now in its 30th year. Forums are coordinated in the various localities by unpaid volunteers such as Loewenstein, she said, and seek to educate and involve citizens. . . .

The Clearwater forums begin with a 20-minute nonpartisan introduction by Loewenstein followed by class discussion.

"The people like it, what I say. I have no political ambitions. I don't mix in politics; it's very hard for a European to understand the two-party system when he's honest," Loewenstein said.

Mrs. Samuel spoke highly of Loewenstein. They have become friendly in telephone calls and correspondence, although they have never met.

* * * * *

When he isn't lecturing, Loewenstein works eight hours a day writing, painting and sculpting. His home is filled with busts he has created by hand, including one of his friend Albert Einstein. Living room walls are lined with his own paintings of outdoor scenes, covered wagons and family portraits. He has just finished writing a book described as a witness' report of the destruction of health reforms in Germany's first republic, where his career began.

Loewenstein has been both a war hero and a victim of war. The German army awarded him the Iron Cross during World War I. And just before World War II the Nazis caused Loewenstein, then a prominent public health official, to go into hiding.

Presidents Truman, Eisenhower, Kennedy, Nixon, Ford and Reagan all have sent personally inscribed photos to Loewenstein. Most of them also sent certificates recognizing his service to this country or humanity.

He also received the United Nations 1978 Peace Medal. And other citations from many countries and organizations clutter a multitiered trophy cabinet and the walls in nearly every room of his home.

There are also photos of Konrad Adenauer (chancellor of the Federal Republic of Germany 1949-63), Albert Schweitzer and Einstein, his friend and occasional mentor.

Loewenstein is listed in dozens of general, medical and civic volumes of Who's Who.

He had a notable career as a doctor of internal medicine in Germany and then as director of public health in Berlin from 1920 to 1933.

During Germany's Weimar Republic in the 1920s and early '30s, Loewenstein wrote many of his 300 medical papers and five books and was instrumental in developing the theories of eugenics Hitler later twisted into designs for a pure, master race.

Loewenstein envisioned young preparing for marriage by discussing family medical histories with a counselor. "If you had any diseases, like epilepsy, he (the counselor) would say, 'Marry, but don't have children' . . . Then came the Nazis. They said your health belongs to the state. Tuberculosis, tumors—everyone who was in poor health and costing the state money had to be terminated—social Darwinism.

"When the Nazis came to power they appeared in my office," he recalled. The year was 1933. Because Loewenstein had not joined the Nazi party and had a Jewish grandmother, "I had to walk on my hands and knees to a public place. They spit into a pot of soup and forced me to drink it. Then they beat me up. On my birthday." He was 43.

For six years Loewenstein "lived in hiding" in Berlin while his wife attempted to arrange emigration papers. He was a fugitive involved with the anti-Nazi Fourth Reich. His wife was not a fugitive and enjoyed freedom of movement.

As a young boy in Germany, Loewenstein had met Einstein while rowing. The preeminent physicist took an interest in the young man before fleeing Germany and later helped secure the necessary papers to help Loewenstein emigrate to England and then the United States in 1940. He still has the letter Einstein wrote to Illinois Sen. Adolph Sabat requesting congressional aid. Sabat was a cousin of Loewenstein's wife.

"I started here with nothing. No money—just one suitcase of clothing." After World War II, Loewenstein began a private practice in internal medicine in Chicago moving to Maine before retiring in 1958.

Since moving to Florida almost 15 years ago, Loewenstein has busied himself at different times as health officer for Pinellas County, lecturer at Morton F. Plant Hospital and the Clearwater campus of St. Petersburg Junior College and cofounder of a public library in Aripeka, where he lived before moving to Clearwater.

Today he is a strong advocate of "state regulated health care" but deplores the notion being associated with socialism.

"Don't write that I'm a Communist—I'm absolutely against that. I'm a Republican," he said. "I saw the mistake the social system is committing, taking the power of the single person to stand on his own two feet by hand-outs."

Computers have alarmed Loewenstein. While he marveled at their capacity for teaching and doing work, the doctor said he sees a potential for 20 to 30 percent of the work force being displaced in 20 years.

"I love the computer. Today I would not say 'become a doctor,' (but) 'become a computer expert.' But whether it is a good future for the masses, I don't know. You need the brain."

Loewenstein and his wife Hansi, 85, both Quakers, celebrated their 60th year of marriage Nov. 23, 1983. They became U.S. citizens in 1945. He credits her more than any other factor in making his long life enjoyable.

Neither husband nor wife takes medication of any kind, only vitamins.

The couple had two children, twins, a boy Peter and a girl Ruth. Peter died 11 years ago in his sleep from exhaustion. They have one grandchild with another on the way and three great-grandchildren.

"He's absolutely remarkable," said Mrs. Ruth Gallagher of her father. She finds his mental and physical prowess at 94 to be overwhelming. You name the subject matter, he knows it. . . . Up to about two years ago, he could outwalk me. I finally overtook him.

"My hope, if I get that old, is to be equally active. I'll never be famous or get to meet the people and do the things he has, but I want to be active," she said.

Mrs. Gallagher, executive director of the North Hampton, Massachusetts Visiting Nurses Association, said she had followed Dr. Loewenstein's footsteps into the medical profession. Her brother was a physician, and her own son is a nurse.

Most of the men in Loewenstein's family have been doctors, with the exception of his father. "They tended patients into their 90s," he said.

"I keep my brain going. Otherwise, I'll get old. No depending on anyone.

"Old people," he advised, "help yourselves."●

## THE STORY OF SYPHORN PHAN, A CAMBODIAN REFUGEE

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. FRANK. Mr. Speaker, I am submitting for the RECORD the high school graduation speech made by one of my constitutents, Syphorn Phan of Brookline, MA. Mr. Phan is a Cambodian refugee. His speech to his high school class not only documents his struggle and success against very long odds, but also serves to remind Americans of the privileges and opportunities we have in this country.

Mr. Phan is an inspiration to us all, and his experience should remind us of the tremendous contribution refugees have made and are making in the community. These refugees, who have suffered from the greatest injustices on this planet, are now a source of our Nation's most fervent idealism. The basis of our stength is that we continue to be a haven of freedom in this world, giving the world's outcasts reason to hope and the opportunity to grow. We all have reason to be proud of Mr. Phan, and he in turn has given us reason to be proud of our country.

The speech follows:

#### GRADUATION SPEECH FOR BROOKLINE HIGH SCHOOL CLASS OF 1984

Dr. Charles Slater our superintendent, Dr. Robert B. McCarthy our principal, esteemed teachers of our faculty, fellow students of Brookline High of the class of 1984, parents, friends and invited guests, I was born in Cambodia. I attended Phnom Pen Elementary School and 3 years of high school. On April 17, 1975, the Communists took over and forced all our people to leave their houses and the cities and to stay in the forest. Schools were closed, the libraries were destroyed, and the books were burned. I left my house with my family for an uncertain destination. There were a lot of people on the road along which we were traveling.

After 10 days of walking, we were asked to leave the road and continue our walking toward the forest. Approximately 200 km from the main road, we were allowed to settle down and find something to make our huts. The conditions in which we were forced to live were deplorable, not worthy of a human being. No consideration was made for our human dignity and much less to further our education. Remember I was a high school boy in these circumstances.

At that time I was separated from my family and was forced to live in a tree to protect myself from dangerous animals, insects, and especially from poisonous snakes. Many persons got sick and others died. There was not enough food, no medicine, no clothing no mosquito netting to preserve us from malaria. Life was so hard and miserable under the Communists that some committed suicide. And I was so physically reduced by such maltreatment that death would have been welcomed. Most everyone was in this condition.

I thought if I could only continue with an education and be able to improve myself, how happy I would be. But, of course, under the Khmer Rouge (that is, the Communist Cambodians) all of this was impossible! I cannot tell how sick in body I got, and I was put in one of their so-called hospitals that was without medicine, trained nurses, or doctors. It was a place to die!

I was beaten in prison with no real charges against me, only that I was a Cambodian to be dispensed with. Finally I escaped through the forest and to a camp located in Thailand. There, I met the openhearted Americans who offered me hopes of bettering my life and sponsoring my education and studies, which I was so eager and desirous to pursue. These Americans persuaded me after I found my mother and brothers, for we had been separated, to come to the United States, the land of liberty and opportunity.

And now I am among you wonderful Americans. I am very happy to be back in School. I like Brookline High School very much because it has inspired me and all of the students to strive for the highest scholastic standards and achievement. My experience in Brookline High is that our superintendent, principal, and esteemed teachers are of the highest quality and they have filled me with admiration always.

I consider it a privilege to have been able to study here because I have been offered every opportunity to excel and to achieve excellence in learning that which the Khmer Rouge had denied me. I am proud of being a graduate of Brookline High because of the high standard and of the instructions given to us here. And I am sure that I speak the sentiments of the whole class of 1984.

What wonderful opportunities the United States offers to young people to better themselves by schooling. May Brookline High School always maintain the inspiring standard of education which has helped me so much and my fellow students. Real education as given here makes man free and gives that freedom which every man and woman desires and seeks. I take this opportunity to thank profusely, in my name and in the name of my classmates, our worthy superintendent, principal, and esteemed teachers. I thank you.●

## FLUSHING MERCHANTS ASSOCIATION HONORS JOSEPH MEHRAN

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. ACKERMAN. Mr. Speaker, on Wednesday, June 20, the Flushing Merchants Association will honor a highly deserving businessman—Joseph Mehran—at its annual dinner-dance, at Terrace on the Park, in Flushing Meadows-Corona Park, Queens County, NY.

Each year, the Flushing Merchants Association selects one person from among the local business community to receive the Paul Lippman Memorial Award. As a former member of the board of directors of the Flushing Merchants Association, I consider the selection of Joseph Mehran as this year's award recipient most fitting and appropriate.

Joseph Mehran, whom I am very proud to call my friend, has worked long and hard to further the development of the Flushing area. The owner of many businesses and commercial properties, including the Venus Furniture Store, Parr Furniture Store, and Fox's Gift Shop, Joe has been a leading force behind the revitalization of the Flushing business community. As a member of the Downtown Flushing Development Corp., he has helped to change the face of the neighborhood, from rows of vacant storefronts and decaying buildings, to a hub of thriving shops and commercial ventures.

His accomplishments here are many, and I can think of no one more deserving then Joe for the distinguished honor of the Paul Lippman Memorial Award. Its namesake, the first president of the Flushing Merchants Association some 52 years ago, would indeed be proud of this honoree, who has encouraged many new businesses to join the organization and contribute to the quality of life in Flushing.

Mr. Speaker, I ask all of my colleagues in the Congress of the United States to join me in congratulating Joe Mehran, and in commending the president of the Flushing Merchants Association, Paul Kapchan, for his great efforts to foster good will among our friends in Queens.●

## NAMIBIA'S MILITARY, ECONOMIC, AND POLITICAL IMPORTANCE TO THE UNITED STATES

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### HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. FIELDS. Mr. Speaker, on May 21, U.S. Secretary of State George Shultz met for the first time with internal political party leaders from Namibia, who have joined together in a multiparty conference to seek independence for their country. Namibia, formerly known as South West Africa, continues as a territory administered by the Republic of South Africa pursuant to a 1920 League of Nations mandate. South Africa, the United States, and the United Nations have all agreed that Namibia should be independent, and the Namibian people should have a right of self-determination.

Up until now, the United Nations has insisted on designating SWAPO—South West Africa People's Organization, a Soviet-backed terrorist organization based in Angola, as the sole and authentic representative of the Namibian people.

In April of this year the South African Prime Minister announced that after waiting 6 years for the United Nations, Third World leaders, and the United States and its allies in the Western contact group—France, Great Britain, West Germany, Canada—to implement U.N. Resolution 435 calling for Namibian independence, South Africa would not stand in the way of the people of Namibia achieving independence through some national reconciliation and unity structure upon which they could agree, provided they included SWAPO, and everyone else agreed on it.

In pursuance of this goal, the multiparty conference leaders visited President Eyadema of Togo, President Houphouet-Boigny of Ivory Coast, the Foreign Minister of Gabon, and high officials of Senegal, as well as President Kaunda of Zambia, all of whom expressed strong support for the multiparty conference leadership.

After the multiparty conference leaders came to Washington and visited with Secretary Shultz, who gave them great encouragement and support, and then they went to New York and met with United Nations Secretary General Perez de Cuellar, who offered them the same support and encouragement.

In this connection, I recently read an article entitled "Namibia's Military, Economic and Political Importance to the U.S.," which appeared in the Lincoln Review, a quarterly journal published by Jay Parker and his associates, who is a well-known black political leader, businessman, and intellectual. Because this article collects and restates the U.S. foreign policy position as enunciated by Secretary Shultz, Under Secretary of State Lawrence Eagleburger, and our U.N. Ambassador Jeane Kirkpatrick, I believe it would be worth while for my colleagues to become more familiar with the importance of achieving independence for Namibia without letting it fall under the control of the Soviet bloc, as has happened to so many other former colonial areas in Africa. The article is reprinted herewith:

### NAMIBIA'S MILITARY, ECONOMIC AND POLITICAL IMPORTANCE TO THE UNITED STATES

(By Carl Shipley)

[Footnote reference incomplete]

Addressing a recent meeting of the Organization of African Unity, Secretary of State George Shultz said, "The Administration attaches great importance to our relations with Africa. Namibian independence under internationally acceptable terms constitutes one of our principal foreign policy objectives. . .and I might say in connection with southern Africa and in connection with the apartheid system, I would say unambiguously, unequivocably, and with no qualifications whatsoever, that the system of apartheid is unjust and unacceptable." [1]

Namibia (Sough West Africa) has become a major battleground in the East-West struggle to turn back Soviet empire expansionism in southern Africa. The ritual and rhetorial issue is Namibian "independence." The real issue is a terrorist campaign by the Soviet-surrogate guerrilla forces of SWAPO (South West Africa People's Organization) to seize control of Namibia by force.

U S. Ambassador Jeane Kirkpatrick told the Overseas Press Club "Our principal goal, as we have stated repeatedly is independence for Namibia. . . . We desire independence for all African states, indeed for all the states in the world, among which we would like to see an authentically independent Namibia. That is not our only goal. Namibia has the largest known uranium deposits in the world, and a second goal we have is to prevent this mineral-rich territory from being permitted to slide into the Soviet sphere of influence, which has expanded markedly in Africa. A related strategic goal is to keep the vital waterways around Namibia out of hostile hands. A third goal we think about in connection with Namibia is that dealing with the problem of Namibia should not inhibit our good relations with surrounding African nations or our good relations with our allies with whom we associate on this problem, in the Western Contact Group."

Under Secretary of State Lawrence Eagleburger recently assured the National Conference of Editorial Writers, "The quest for Namibia's independence remains for this (Reagan) Administration . . . a key object of American diplomacy."

Why should an independent Namibia and the elimination of racism be principal foreign policy objectives of the U.S.? The answer is to be found in part in the Soviet "resource war" to destroy the U.S. technological base by controlling the strategic minerals in southern Africa. American foreign policy in any administration is the hardheaded business of looking after our national interest, and promoting it at every opportunity.

Namibia, generally known as South West Africa, was first colonized by Germany in 1884. It is a vast 318,216 square miles, semiarid territory in the southwestern part of the African continent, bordered by the Atlantic Ocean on the west, by Angola on the north, by Zambia on the northeast, by Botswana on the east, and by South Africa on the south. It is twice the size of California. It has a populaton of about one million persons, comprised of 12 major tribal or population groups who speak 8 languages and 29 dialects, and who range in socio-economic development from the stone age to sophisticated professionals in business and industry.

The Union of South Africa, then a British colonial territory, took South West Africa from the Germans in 1915 in World War 1. In 1920 the League of Nations mandated Namibia to South Africa, which itself became independent of Great Britain in 1961.

Since 1966 the people of Namibia have increasingly sought independence, along with the other former colonial areas in Africa. In 1978 the five Western members of the United Nations Security Council—United States, France, Canada, West Germany and the United Kingdom—agreed with the Republic of South Africa on a plan for settlement of the question of Namibia.[3]

Implementation of the settlement plan has been delayed by the refusal of the Soviet-backed government of Angola to remove some 30,000 Cuban soldiers from along Namibia's northern border, and refusal of the United Nations to demonstrate its impartiality in the independence process by withdrawing its designation of SWAPO (South West Africa People's Organization) as the "sole and authentic" representative of the Namibian people.[4]

SWAPO is a Soviet-sponsored terrorist group based in southern Angola,[5] just across Namibia's northern border. Armed, financed, trained, and advised by the Soviets, SWAPO, once a local liberation group, is now a Soviet-surrogate,[6] serving as a proxy terrorist force to murder and abduct Namibian civilians in a campaign to seize control of Namibia as the next target in the Soviet "resource war" to cripple the U.S. industrial base.

Namibia is not only the gateway to further military penetration of southern Africa by the Soviets, but it is also a rich mineral storehouse. It has the largest uranium mine in the world, and vast resources of minerals.[8]

According to a current report of the U.S. Congressional Budget Office, "The United States is a net importer of 64 'strategic and critical' minerals and metals (defined as those needed to supply the military, industrial, and civilian needs of the U.S. during a national defense emergency and whose supplies are dependent on imports).[10] . . . U.S. import dependence is almost total for minerals such as chromium, cobalt, manganese, bauxite, and the platinum group, (rhodium, palladium, platinum, ruthenium, osmium, and iridium). Moreover, U.S. dependence on imported minerals is increasing . . . dependence on foreign minerals creates risks for the U.S. economy and for national preparedness in the event of war." [11]

According to Walter E. Williams, Professor of Economics, George Mason University, Fairfax County, Virginia, the U.S. relies on foreign imports "for 92 percent of its chromium, 98 percent of its manganese, 97 percent of its cobalt, and 91 percent of its platinum group metals." [12] It takes nearly a thousand pounds of cobalt to build just one jet engine.

Apart from being the natural military gateway for ultimate Soviet control of southern Africa, Namibia itself has enormous mineral reserves, among which are copper, arsenic, cadmium, lead, silver, tin, tungsten, uranium, vanadium, zinc, gem and industrial diamonds, lithium, pyrite concentrates, salt, sulfur, cement, and some think as much oil and gas as the Arabian peninsula.[13]

Rear Admiral Robert Hanks has testified before a committee of Congress:

"It has been said that there are two great 'treasure houses' in our modern industrial world. The first is the Persian Gulf where the bulk of the globe's petroleum energy is to be found and without which Western economies could not survive. The other lies in southern Africa. Here, the indispensable commodities are minerals and metals equally essential to the modern industrial process. Complete stoppage or even a significant reduction in the flow of these 'treasure house' materials to the United States, the nations of western Europe, and to Japan could generate economic and, therefore, political catastrophe." [14]

U.S. Ambassador J. William Middendorf has pointed the finger at Soviet strategy in the resource war, saying the Soviets "are following a policy of resource diplomacy or resource blackmail, which is aimed at denying the increasingly import-dependent West the resources it needs for survival . . . starting with oil and proceeding to other strategic raw materials." [15]

The mineral resources war has been the subject of a great deal of writing and debate during the last decade. Various committees of the U.S. Congress have inquired into the rapidly deteriorating mineral resource position of the Soviet Union as it becomes more industrialized, and the vulnerability of the U.S. and NATO countries to economic and diplomatic blackmail at the hands of the Soviet-bloc or the third world as our industrial need for more, not less, critical minerals increases while our position as a world power diminishes.

To discover the origins of the Soviet threat to Namibia and southern Africa requires a review of Soviet doctrine as far back as Lenin. From the beginning it has been basic to the Soviet idea of revolutionary class struggle and ultimate Soviet world domination that capitalism would collapse if deprived of the raw materials in the former colonial areas.

In 1973 Soviet leader Brezhnev stated officially, "Our aim is to gain control of the two great treasure houses on which the West depends—the energy treasure house of the Persian Gulf, and the mineral treasure house of Central and Southern Africa."

Once the West is robbed of the resources of the former colonial countries, and denied access to critical minerals and other raw materials flowing from the third world to the industrialized nations, according to Marxist-Leninist theory, the free enterprise system will disintegrate and a joyous world will embrace Communism as a welcome alternative to a failed economic structure.

The long-standing Soviet policy of using so-called local "liberation groups," "freedom-fighters" and other self-appointed outlaw organizations which resort to the lynch-law of terrorism instead of the democratic process as the road to political power is a practical method of advancing Soviet empire national interest.

After all, is it not better for the Soviets to arm, train, and finance the black insurgents of SWAPO to murder and abduct the black civilians of Namibia in the name of "freedom" than for Soviet soldiers to plant the land mines and trigger the Soviet AK-47 rifles?

How much more convenient for the Soviets to provide the guidance and support for the black MPLA to seize control of Angola in 1975, and suppress the local black population with a Soviet-style dictatorship from then until now.

It is far more efficient for the Soviets to back the FRELIMO terrorists of Mozambique and convert them into Soviet-proxies than to bear the burden of having Russian soldiers killing black Mozambicans.

Most Americans are unfamiliar with Namibia, and have little knowledge of the strategic importance this far away area has for them. They do not comprehend that Soviet control of Namibia means that ultimately the Soviets or their SWAPO and other Marxist surrogates will control all of southern Africa and the mineral resources there.

A Soviet take-over in Namibia will allow Cuban soldiers, armed with Soviet weapons and transported in Soviet-made armored cars, tanks, and aircraft to establish bases in Namibia. The international airport at Windhoek can accommodate the largest Soviet air-borne troop carriers to bring more soldiers from Cuba to southern Africa.

Namibia is a high plateau, more than a mile above sea-level. The terrain is flat, no mountains, no rivers, and few natural obstacles to the advance or movement of Cuban soldiers, Soviet-armored vehicles and tanks, or other Soviet-bloc surrogate soldiers.

Control of Namibia's deep water seaports on its Atlantic coast would give the Soviets virtual command of the sea lanes from the Middle East around the Cape of Good Hope, across the south Atlantic, and up Africa's west coast to Europe. Once Namibia is firmly in the grasp of SWAPO, neighboring Botswana will be easy prey, and the final assault on the rest of southern Africa itself, the central Soviet target, can begin.

This development would almost of necessity involve the U.S. in direct military action. The U.S. cannot afford to let the Soviets take over Namibia at any cost. As stated by Frank Barnett, president of the National Strategic Information Center:

"At present, the U.S. defense industry's operations and the economic viability of the United States rest on the importation of some two dozen non-fuel minerals. The country is more than 90 percent dependent on 13 of them (chrome cobalt, manganese, tantalum, platinum group metals, mica, strontium, graphite, bauxite-alumina and fluorspar) and more than 5 percent dependent on another 13. "Without access to reliable foreign supplies of raw materials, the United States cannot make tanks, bombers, missiles, jet engines, machine tools, computers, television equipment, crankshafts, gears or drilling bits—just to begin the list. Consumer interest would be crippled just as surely as defense production.

"South Africa's strategic position alone, quite apart from its mineral resources, makes it of vital importance to the United States and the West. Some 25,000 ships pass the Cape (Good Hope) yearly, about half of which call at South African ports. These vessels carry 90 percent of Western Europe's oil, 70 percent of its strategic minerals, 20 percent of U.S. oil imports, and 25 percent of Western Europe's food. And the extensive South African railway network currently moves a large proportion of mineral production not only of South Africa, but also Zaire, Zambia, and Zimbabwe."

South Africa itself has the world's largest known deposits of gold, platinum group metals, chrome, manganese, vanadium, and fluorspar, and is well-endowed with antimony, asbestos, coal, copper, diamonds, iron, lead, limestone, mica, nickel, phosphates, titanium, uranium, vermiculite, zinc, and zirconium. Recently, U.S. studies have recognized America's vulnerability to a foreign cut-off of key minerals arising from an unstable or hostile situation, as well as how such a development would affect U.S. consumer, industrial and national defense production.

In its January 1982 edition, the naval-oriented magazine *Sea Power* reported that a recent study: ". . . confirms what defense analysts know all too well but the American press, public and Congress are only belatedly starting to realize; that the United States faces a potential mineral crisis which will grind American industry to a screeching halt and create worldwide economic chaos . . . The Soviet Union, having achieved military parity with the U.S. virtually across the board—and military superiority in a number of areas—now may be attempting to gain monopolistic control of a number of key strategic metals and minerals without which the United States and its free world allies would be militarily helpless."

A growing number of American leaders in public life and in the business and academic communities have begun to stress the strategic role of Namibia as the next target of Soviet empire penetration in southern Africa. They have related the importance of the area to the West's general economic and production cycles.

World prosperity is linked closely with prosperity in Africa. Soviet destabilization and support of terrorists like SWAPO in Namibia, MPLA in Angola, and FRELIMO in Mozambique makes Western efforts to relieve economic misery in the area much more difficult. More than 50 percent of the population in Africa today lives below the so-called basic human needs line. Since 1956, 70 government leaders in 29 African states have been eliminated by assassination, dismissal, purge, military intervention and coups d'etat. Today 32 African states are ruled by one-party dictatorships, nine countries are under military rule, and instability and poverty are common features of life. Most people hope Namibia will not be drawn into this abysmal morass.

The hopes of the people of Africa's front-line states and the people of Namibia for independence have been long deferred. Namibia is the last colonial area in Africa, and upon independence will become the 53rd country of that continent.

But Namibian independence is now hopelessly enmeshed in the West's efforts to turn back the tide of Soviet empire expansionism in southern Africa. It's problems are both internal and external. Each year the Republic of South Africa contributes $250 million to the Namibian budget. That is 50 percent of Namibia's annual budget. No other country in the world helps support Namibia. Upon independence who will provide this large annual deficit—the U.S. taxpayer, the British, or the Soviets? There are no volunteers at present, and the proponents of Namibian independence turn a blind eye to the economic reality—Namibia does not have a viable internal economic infrastructure to support independence, or an army, a navy, schools, agencies of government, public institutions, hospitals, railroads, telephone and communications and transport and road system. Perhaps 90 percent of the population lives a tribal or nomadic existence, engages in subsistence farming, or works in the extractive industries and agriculture.

The second problem is ethnicity. There is no homogeneous group of Namibians sharing a common culture, language, history, social customs, and theory of democratic government. Instead there are numerous tribal and ethnic groups which speak different languages, have different degrees of cultural development, have separate histories and traditions, and engage in inter-tribal rivalries and hostilities which seriously impede nationhood and political unity. Political leaders elected or selected by their ethnic constituencies will not subordinate their power or tribal concerns to any other ethnic majority. Consensus government is all they will accept. A lack of any tradition of democratic processes or election procedures makes transition from territorial status to democratic society a long jump indeed.

It is into these troubled waters that the Soviets have cast their hook and line, baited with SWPO's false promises of an easy life, jobs and education for all when Namibia is independent and free from South Africa's administrative control. The economic chaos and disaster that have been the by-product of Soviet-surrogate control in Angola and Mozambique seem to make no impression on the mass of Namibians. They are led to believe in the Soviet-sponsored hoax that a SWAPO take-over will bring an end to the drought, a balanced budget, a chicken in every pot, a Mercedes in every garage, and a college degree without study. Soviet-directed SWAPO propaganda has encouraged these cruel delusions and raised false hopes.

Namibia's external problem is simply the continued threat of Soviet control through their surrogate SWAPO terrorists, backed by the 30,000 Cuban soldiers in Angola. Namibia's internal political leaders have said repeatedly there can be no U.N. supervised fair and free election in Namibia as long as the U.N. recognizes SWAPO as the only representative of the Namibian people, or Cuban soldiers remain in Angola. As they put it, they will not participate in any election "rigged" by the United Nations as a cosmetic device to install a SWAPO government in Windhoek. They refuse to participate in any election which is structured as a vehicle to establish Soviet-surrogate dictatorship and control in Namibia such as occurred in 1975 in Angola after it achieved independence from Portugal only to be delivered into the iron grip of a Soviet-puppet. As they see it, they are not going to jump or be pushed "from the frying pan into the fire." They will not accept Soviet hegemony camouflaged in the false plummage of "independence."

Namibia's strategic importance to the U.S. and the West gives that country strong allies in its struggle to avoid being a pawn in the East-West conflict, or being delivered to the Soviets by the appeasers, collaborationists, accommodationists, and others who remain deaf, dumb and blind to the Soviet mineral resource war, and the lessons of Vietnam, Afghanistan, Angola, Mozambique, Ethiopia, and the long parade of other countries that the Soviets have dragged behind the "iron curtain" in their ceaseless strategy of expansionism toward world domination. Shall Namibia be the next victim?

FOOTNOTES

[1] Remarks by George P. Schultz, Secretary of State, 20th Anniversary of The Organization of African Unity, Washington, D.C. May 25, 1983. Ambassador Jeane Kirkpatrick at the Overseas Press Club, 1981; Under Secretary of State Eagleburger, 1983.

[2] U.S. Ambassador Tapley Bennett, Permanent Representative of U.S. to NATO, before American Chamber of Commerce, Brussels, Belgium, May 17, 1983.

[3] United Nations Security Council Resolution 435 (1978).

[4] U.N. General Assembly Resolution 31/146, 20 December 1976.

[5] "Soviet, East German and Cuban Involvement in fomenting Terrorism in Southern Africa," Report of Chairman of Subcommittee on Security and Terrorism, 97th Congress, 2nd Session, November 1982 (U.S. Senator Jeremiah Denton (Ala.).

[6] Southern Africa: Soviet Front Organizations, ANC, SWAPO, SACP," Backgrounder, South African Embassy, Minister of Information, Washington, D.C. August 1983.

[7] Heritage Foundation Report, April 8, 1982.

[8] Congressman Paul Findley, Congressional Record, Tuesday, December 30, 1980; Congressman Floyd Spence, Congressional Record, Friday, December 5, 1980; Congressman Jack Fields, Congressional Record Wednesday May 19, 1982; and Thursday November 12, 1981; See also Res. 20, 63rd National Convention of the American Legion, Honolulu, Hawaii; September 1-3, 1981; Congressman Dan Crane, Congressional Record Thursday October 1, 1981; U.S. Senator Mark Andrews, Congressional Record, Wednesday August 19, 1981; Congressman Larry McDonald, Congressional Record, Tuesday June 16th, 1981, and Tuesday December 9, 1980; Thursday December 16, 1982; See Miller, Fine, McMichael, "The Resource War in 3-D—Dependency, Diplomacy and Defense," Pittsburgh, Pa., World Affairs Council of Pittsburgh, 1980; "The West, Japan and Cape Route Imports," Institute for Foreign Policy Analysis, (1982) Cambridge, Mass., by Charles Perry.

[9] Strategies and Critical Materials Stockpiling Revision Act of 1979 (Pub. Law 96-41).

[10] "Strategic and Critical Nonfuel Minerals: Problems and Policy Alternatives," Congress of the U.S., Congressional Budget Office, August 1983.

[11] "Strategic Minerals: The Economic Impact of Supply Disruptions," James T. Bennett and Walter E. Williams, The Heritage Foundation, 1981.

[12] "The Mineral Industry of the Territory of South West Africa," U.S. Department of Interior, Bureau of Mines Yearbook, 1980.

[13] "Nonfuel Minerals Policy Review," Oversight Hearing, Subcommittee on Mines & Mining, U.S. House of Representatives, September 18, 1980.

[14] "A Strategy for the Coming Resource War," Ambassador J. William Middendorf, Leeds Castle, Kent, England, July 1980.

[15] Part III, Hearing on "Global Mineral Resources," Committee on Interior, Subcommittee on Mines, U.S. House of Representatives, September 18, 1980.

[16] LUPRA, Statement of General Alexander Haig, Jr.

[17] "The Soviet Threat to Southern Africa," Dr. Brand Fourie, South African Ambassador to the U.S., speech, January 27, 1983. ●

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## NEW ARMOR-PIERCING "COP KILLER" BULLET BILL

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BIAGGI. Mr. Speaker, a number of Members have requested copies of my bill, H.R. 5835, which I recently introduced to outlaw armor-piercing cop killer bullets that can penetrate the bulletproof vests worn by police. This new legislation was developed jointly by the U.S. Treasury and Justice Departments and has the support of the law enforcement community. I view this measure as a viable and effective alternative to previous legislation I authored on this issue (H.R. 953). I am confident it will enjoy swift passage through the Congress and I urge my colleagues to join me as cosponsors of this vital police-protection initiative. At this time, Mr. Speaker, I wish to insert the full text of H.R. 5835:

H.R. 5835

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 921(a)(17) of Title 18 of the United States Code is designated as section 921(a)(17)(A), and a new subparagraph (b) is added to section 921(a)(17) to read, as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium, copper, depleted uranium. The term shall not include shotgun shot as required by Federal or state environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting, or any projectile which the Secretary finds is primarily intended to be used for sporting purposes. The term "solid" in the first sentence of this paragraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances."

SEC. 2. Section 922(a) of Title 18 of the United States Code is amended by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or

"(B) the manufacture of armor piercing ammunition for the sole purpose of exportation."

SEC. 3. Subparagraph (A) of section 923(a)(1) of Title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

SEC. 4. Subparagraph (C) of section 923(a)(1) of Title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year."

SEC. 5. Subparagraphs (A) and (B) of section 923(a)(2) of Title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year."

SEC. 6. Section 924(c) of Title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b) by adding new paragraphs (3) and (4) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein." For the purpose of this subsection, the term violent felony means—

"(a) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use or threatened use of physical force against the person or property of another, or

"(b) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission.".

SEC. 7. These amendments shall take effect on the date of enactment of this Act, except that sections 3, 4, and 5 shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.●

## REGAN SHOULD HAVE HEEDED KAUFMAN

### HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. PEASE. Mr. Speaker, I take this opportunity as a representative of an area in our country that saw unemployment as high as 23 percent last year and that still lags far behind the economic recovery that may be occurring in other parts of the Nation to bring to your attention an article in the June 3 Washington Post by Hobart Rowen.

Mr. Rowen states that:

> Secretary Regan can repeat as many times as he wishes that there is no solid evidence of a "link" between budget deficits and high interest rates, but nobody outside of the Treasury Department believes it.

I can assure you, Mr. Speaker, that the people in Ohio are true believers in linkage. Looking at interest rates on home mortgages and automobile loans and at tax increases attempting to diminish Federal and State budget deficits, these people have learned the hard way that there is a link between budget deficits and interest rates.

It is obvious that in spite of the administration's claim that it supports Congress' efforts to make a $140 billion downpayment this year on your skyrocketing Federal budget deficit, we certainly are not seeing very much leadership on the deficit issue from the White House.

As a conferee on the spending portion of H.R. 4170, the Tax Reform Act of 1984, I can tell you that our job would be made much easier if we could hear from President Reagan on the importance of expeditious enactment of H.R. 4170. Without the President's leadership, Congress' efforts to raise revenue and to close loopholes and restrict abusive tax shelters are made a hundredfold more difficult.

Secretary Regan may ignore the recent increases in interest rates, but the workers of Ohio and their families will not be able to do the same, as the purchase of consumer durables decreases and their job security becomes more tentative.

As economists and business and government leaders around the country continue to anticipate potentially severe economic disruption in 1985 without quick action to reduce the budget deficit this year and a promise to continue next year, I urge President Reagan and his Secretary of the Treasury to act without further delay.

### REGAN SHOULD HAVE HEEDED KAUFMAN

(By Hobart Rowen)

For more than a year now, Treasury Secretary Donald T. Regan has been predicting that interest rates would come down. And although he's been dead wrong—interest rates have been advancing sharply—he's still at it, implying that the huge, impersonal financial markets don't know what they're doing.

On "Meet the Press" just a month ago, Regan took a free swing at economist Henry Kaufman—and struck out. Kaufman had predicted a sharp rise in interest rates, with "spectacular advances" in 1985, unless some action was taken to cut the federal deficit right away.

A panelist said to Regan, after quoting Kaufman: "Now the stock market [which dropped sharply] appeared to take Mr. Kaufman seriously. Do you.?"

"No, I never have," was Regan's gratuitous and ill-advised comment. "But if from his point of view—I don't know where he sees those interest rates coming in like that. He may be predicting a Democratic victory, I don't know."

Kaufman was basing his forecast not on a Democratic victory, but on the sound assumption that the Reagan administration and Congress will produce no more than a $140 billion "down payment" on the huge federal deficit. Much of this is done with mirrors: Up to $100 billion of that "saving" is already toted up within the existing budget proposal.

As Kaufman said in remarks that triggered the "Meet the Press" discussion, the down payment—which President Reagan will oversell at the London summit—"would cure very little."

What Kaufman argues for is action that would cut the deficit up-front—this year, instead of 1986 or 1987—as the proposed down payment is scheduled to do.

"Regrettably, Washington is more content with style than substance," Kaufman told the Texas Bankers Association. "When other arms of stabilization policy forfeit their responsibility—particularly in a deregulated and innovative financial system—the reliance on interest rates as a disciplining force will again produce very high yields, damaging virtually every sector of the economy."

We can see from what's happened in the past month how persistent Kaufman was, and how much better off the nation would be if its Treasury secretary had the wit to take him seriously.

A month ago, when Kaufman talked to the Texas bankers, the prime rate was 12 percent, and the 30-year Treasury bond rate 13 percent. That represented an increase in the prime rate from 10.5 percent, and the long-term bond rate from less than 11 percent a year before.

Now, in the short space of a month, the prime rate is at 12.5 percent and could go higher. And a virtual collapse of the bond market has boosted long-term interest rates to within a fraction of 14 percent.

In an interview with this reporter on May 31, Kaufman predicted that the prime rate will go to 13.5 or 14 percent by the end of this year. He repeated his forecast that the long-term bond rate eventually will exceed its August 1981 peak of 15.25 percent.

Kaufman sees the nation threatened by "a loosening of credit standards," evidenced not only by weakening confidence in the banking system but also by "massive short-term borrowing by business," and the willingness of home buyers to take on variable-rate mortgages.

"Years ago, Americans were conservative, and wanted to know the costs they were taking on," he said. "But here we are in a world in which the financial system is not as sound as it was a decade ago, and we are still trying deregulation."

The whole system of variable (floating) rates, Kaufman told me, poses a new threat: If there is a cap placed on the rate, the lender will be squeezed if the general level of interest rates raise; if there is no cap, the borrowers will suffer.

Thus, borrowers and lenders are making a massive bet, as they move more and more into variable-rate lending, that any interest rate rise will be modest, brief, and then painlessly retreat. That's the view that the Reagan political team is trying to sell, and Kaufman, for one, doesn't buy it.

Only the future will tell who's right. But so far, Kaufman's grim scenario seems to be on schedule. Financial markets have been stunned by a continuous stream of bad news: the Continental Illinois bank disaster, the overhanging Third World debt crisis that threatens some defaults and the growing threat of war in the Persian Gulf.

But underlying it all is the conviction that nobody in Washington—in either party—will move to cut the deficit, which guarantees high interest rates. Secretary Regan can repeat as many times as he wishes that there is no solid evidence of a "link" between budget deficits and high interest rates, but nobody outside of the Treasury Department believes it.

There is a growing lack of confidence in Treasury Secretary Regan among financial experts. He not only has been persistently wrong on the interest-rate trend, but also has been like a weather vane in frequently contradictory comments of Federal Reserve policy.

The markets—however critical they may have been of the Fed in the past—at this point don't blame the Fed for high interest rates. Their concern is that the Fed will knuckle under to the administration, and issue a mountain of paper money to finance the deficit.●

## ULTRASOUND FILM SHOWS UNBORN CHILD'S REACTION TO ABORTION

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. SMITH of New Jersey. Mr. Speaker, I would like to bring to the immediate attention of my colleagues an article in today's Washington Times by syndicated columnist Joseph Sobran about a new film that sheds light on the violence of abortion and the pain imposed by the procedure on the unborn baby.

According to Mr. Sobran, the movie is of an actual abortion and utilizes untrasound techniques to film the child's movements, reactions, and response to a routine suction abortion.

Here's what Mr. Sobran says in his column about the film:

> Abortions have been filmed before, but this one was different. Usually you see the fetus only after it has been killed. This film, using new sonographic techniques, shows the outline of the child in the womb thrashing to resist the suction device before it tears off the head. Then you see the dead child dismembered and the head crushed. Then the parts are sucked out.
>
> Nobody who sees this film will speak again of "painless" abortion. The doctor who performed the abortion couldn't bear to watch the film to the end . . .

Mr. Speaker, I have always maintained that most of those who promote the proabortion line have never adequately focused on the reality of the abortion procedure. Like the doctor who performed the abortion but who couldn't bear to watch the film to the end, most, when confronted with the truth, recoil from the violence inherent in the procedure. After all who of my colleagues can truly support injecting salt into unborn children as required by one method. Who of my colleagues can truly support dismembering helpless infants.

But we seem to have an uncanny ability to avoid reality around here, Mr. Speaker, and that simply will not do when the lives of millions of children are at stake. The truth must be squarely faced and it must be faced now.

Mr. Sobran's article is compelling and must reading. I commend it to my colleagues.

#### DOCTOR COULDN'T BEAR TO WATCH

(By Joseph Sobran)

Dr. Bernard Nathanson used to be an abortionist. He ran the largest abortion clinic in the Western world and personally performed more than 5,000 abortions before he began to ask what he—and we—were doing. Then, at considerable sacrifice, he changed his mind and turned against legal abortion.

Dr. Nathanson was also among the founders of the National Abortion Rights Action League. He left that behind, too, and exposed its conscious strategy of targeting the Catholic Church for a pro-abortion hate-campaign.

At the recent national Right to Life convention, held in Kansas City, MO, Dr. Nathanson showed a movie. Anyone who thinks *The Texas Chain-Saw Massacre* was violent hasn't seen this one. It is a film of an abortion.

Abortions have been filmed before, but this one was different. Usually you see the fetus only after it has been killed. This film, using new sonographic techniques, shows the outline of the child in the womb thrashing to resist the suction device before it tears off the head. Then you see the dead child dismembered and the head crushed. Then the parts are sucked out.

Nobody who sees this film will speak again of "painless" abortion. The doctor who performed the abortion couldn't bear to watch the film to the end. He rushed out of the room where it was shown and never performed another "procedure," though he had performed several thousand before.

You might think that abortionists are callous, bloodthirsty men, but this is not necessarily true. They have relatively little contact with the fetuses they kill. Usually it falls to the attending nurses to assemble all the dead parts and make sure nothing has been left in the womb to decompose and poison the mother. For this reason, nurses tend to resent their role in abortion (the doctor, after all, gets the lion's share of the money, anyway), and many of them eventually refuse to assist any more.

New advances in techniques of monitoring the behavior of the unborn only confirm what common sense should tell you: abortion hurts. The nervous system is in place as early as eight weeks after conception, and pain is certainly felt by the 14th week.

After President Reagan raised the issue of fetal pain last January, Dr. Ervin Nichols, of the proabortion American College of Obstetricians and Gynecologists, said: "We are unaware of any evidence of any kind that would substantiate a claim that pain is perceived by a fetus." One wonders if any possible evidence would make a difference to an organization of men who get rich by assuming the opposite. Is there any evidence, after all, to support the presumption that a fetus feels no pain whatever?

Another abortion advocate has been quoted as saying, more candidly, that the pain of the fetus simply doesn't matter. What matters is the pain of the mother.

Abortion advocates are going to have to make up their minds whether a fetus suffers or whether they just don't care. Until now they have had it both ways. But now they must either face the evidence or say stoutly that the evidence doesn't move them. The evidence itself is clear enough.

One wonders, though, why the burden of proof should be on the anti-abortion forces. The nervous system obviously develops well before birth—that is, well within the time frame during which abortion is legal. A creature that grows, squirms and kicks clearly has feelings of its own. To deny this is unintelligent and unfeeling. We should want to prevent even the outside chance that dismembering a fetus causes it the sort of agony we can easily imagine.

The pro-abortion forces have used a series of evasions to secure their position. They have said that the issue is theological, that nobody knows when life begins, that fetuses don't suffer. At every step they have demanded that their opponents provide the proof.

Well, Dr. Nathanson has provided the proof. Will they respond honestly, or will they take refuge in some new evasion?●

## ADMINISTRATION CONFUSION ON THE FLAT TAX

### HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. DASCHLE. Mr. Speaker, some months ago, I inserted in the RECORD, for the information of my colleagues, a copy of an outline of a speech by John Chapoton, the Treasury Department's chief tax expert. That speech discussed a number of possible approaches to tax reform which the Treasury Department might recommend in its study due this December, conveniently after the election. Today, I would like to continue this informational effort by the inclusion of a story in the Washington Post of June 13.

The story reports on a speech by Treasury Secretary Donald Regan, in which the Secretary is quoted as saying that the so-called flat tax is, and I quote the Secretary, a "snare and a delusion." He went on to say that "a flat tax, I think, is out of the question." Secretary Regan indicated that the reason for his opposition to the flat tax was that it would raise the tax burden on the low end of income earners.

Since, however, the flat tax is a favorite fundraising ploy of many of the President's new right supporters, a hasty correction of the Secretary's comments was soon made. According to the story, "Treasury Department aides later said that Regan didn't mean that he or the administration were against a flat tax." Now, I don't know where anybody else learned the English language, but when someone calls something a "snare and a delusion," this doesn't sound like an outright endorsement to me.

It appears to me that the truth is that no matter what the political rhetoric, the administration is, in fact, opposed to the flat tax. I just wish that they would say so and be done with it.

The article follows:

#### REGAN RULES OUT FLAT TAX AS PART OF REFORM PLAN

(By Jane Seaberry)

Treasury Secretary Donald T. Regan yesterday ruled out a flat tax as part of the administration's tax reform plan and hinted that whatever reform is proposed would retain deductions for interest payments, charitable contributions and oil, gas and mining industries.

Regan's remarks before a conference of the American Stock Exchange seemed to contradict other administration officials who have said that no tax reform option has been ruled out. President Reagan, however, has said that the mortgage interest deduction would be retained.

Regan said yesterday that a flat tax "is a snare and a delusion" and that it would raise the tax burden on the low end of income earners. "A flat tax, I think, is out of the question" because it is unfair and inefficient, he said.

A flat tax would tax all workers at the same rate and would allow few, if any, deductions.

"What would happen if there was a flat tax with no deduction for interest?" Regan asked rhetorically. He also referred to the impact on churches, synagogues and museums if contributions were not deductible, and questioned the fate of extractive industries if tax breaks for them were eliminated.

Extractive industries, such as oil and gas drilling, mines and other businesses that take natural deposits from the earth, are given a special tax break for depletion of their resources. In fiscal 1984, such tax breaks were worth $2.4 billion.

Treasury Department aides later said that Regan didn't mean that he or the administration were against a flat tax, but that such a tax would be difficult for Congress to pass.

Treasury officials have maintained that no tax reform option has been ruled out in its quest to design a tax reform initiative requested by President Reagan in his State of the Union address this year. The department is in the midst of public hearings on various tax reform proposals and has told witnesses no decisions have been made yet on a tax plan.

One witness at a hearing last week in Washington accused the Treasury Department of already ruling out a flat tax. That charge was denied by Treasury officials. Many of the public witnesses last week said they favored a flat tax without exemptions and deductions because they feel it is unfair for some people to get special tax breaks and deductions and that such tax-avoiding techniques favor the rich.

Other options the administration said it was studying are a value-added tax or a type of national sales tax, a modified flat tax that would tax large groups of workers at different rates, and a consumed income tax that would reward saving and tax income used for purchases.

In other remarks, Regan said real growth in output would be between 5.5 and 6.0 percent this year, up from the most recently revised administration forecast of 5.0 percent. Regan said the economic expansion would continue at least into late 1985 and early 1986.

He said the recovery so far has been stronger than normal, so the durability of the expansion should be stronger than the average recovery of 36 months.●

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## IF YOU CONQUER CANCER, ARE YOUR TROUBLES REALLY OVER?

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation to address a problem affecting a distinct group of Americans—those who have conquered cancer but still suffer its consequences in the form of employment discrimination.

My bill is entitled the "Cancer Patients Employment Rights Act." It would amend title VII of the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of a cancer history. This unique but extremely disturbing problem was initially brought to my attention by Sarah Splaver Ph.D., president of Cancer Hopefuls for Mutual Support [CHUMS]—an organization which serves as a national coalition of cancer survivors and their families and friends.

It is estimated that in our Nation today there are a total of 5 million Americans with some form of a cancer history and it is further estimated that about 25 percent of these individuals are victims of some form of employment discrimination. This can take various obvious and subtle forms ranging from outright job denial, wage reduction, exclusion from and reduction in benefits dismissal and promotion denial.

In the days and months ahead I intend to put some more specific information into the RECORD on this problem I begin by printing the entire text of the bill I have introduced today.

H.R. 5849

To amend title VII of the Civil Rights Act of 1964 to prohibit employment discrimination on the basis of a cancer history

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as the "Cancer Patients Employment Rights Act."

SEC. 2. (a) The Congress finds that—

(1) more than 800,000 individuals in the United States are diagnosed annually as having cancer, and of this number approximately 400,000 will be cured;

(2) as both the number of individuals in the United States are diagnosed as having cancer and the percentage who are cured increases, the number of living individuals with a cancer history increases, to the extent that the American Cancer Society estimates that 5 million people in the United States have a cancer history with approximately 3 million with a history of five or more years since diagnosis; and

(3) approximately twenty-five percent of all individuals with a cancer history are victims of cancer related employment discrimination, including job denial, wage reduction, exclusion from and reduction in benefits, dismissal and promotion denial.

(b) The purpose of this Act is to—

(1) discourage employment discrimination against an individual based on such individual's cancer history;

(2) encourage employers to make reasonable accommodations which assist the employment of an individual with a cancer history;

(3) increase public recognition of the employability of individual having a cancer history; and

(4) encourage further legislation designed to prohibit discrimination against individuals with cancer histories in areas other than employment discrimination.

SEC. 3. Section 701 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsection:

"(1) The term "cancer history" means the status of any individual who has, or has had cancer, or who is diagnosed as having, or having had cancer. For the purposes of this subsection the term "cancer" means any disease characterized by uncontrolled growth and spread of abnormal cells.".

SEC. 4. Section 704 of title VII of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection—

"(c)(1) It shall be an unlawful employment practice for an employer, employment agency, or labor organization to—

"(A) require, as a condition of employment, an employee or prospective employee with a cancer history to meet medical standards which are unrelated to job requirements, or to require such employee or prospective employee to submit to a medical examination or reveal any medical information unless such examination or information is necessary to reveal qualifications essential to job performance; or

"(B) reveal any confidential medical information concerning such an employee or prospective employee without the express written consent of such employee or prospective employee.

"(2) It shall be an unlawful employment practice for a labor organization to require a member or potential member with a cancer history to submit to a medical examination or reveal any medical information relating to cancer history without the express written consent of such member or potential member.

"(3) It shall be an unlawful employment practice for an employer to fail to make a good faith effort to explore whether reasonable accommodations may be made for an employee or prospective employee with a cancer history which would enable the employee or prospective employee to fulfill the job requirements. Whether an accommodation is reasonable shall be determined according to the facts and circumstances of the particular case. Factors relevant to the determination of reasonableness include administrative costs, cost of the physical accommodations, the cost of disruption of existing work practices, the size of the employer's business, and the safety of existing and potential employees.

"(4) Notwithstanding any other provision of this title, it shall not be an unlawful employment practice for an employer to fail or refuse to hire, or to discharge or classify, an employee or prospective employee with a cancer history if—

"(A) the employer demonstrates that such employer is unable to reasonably accommodate an employee or prospective employee to enable such employee or prospective employee to fulfill the job requirements without undue hardship to the employer; or

"(B) the employee or prospective employee is unable to perform the job requirements in a manner which would not endanger the safety of such employee, prospective employee, or others, regardless of the availability of reasonable accommodations.".

SEC. 5. (a) Sections 703(a)(1), 703(a)(2), 703(b), 703(c)(1), 703(c)(2), 703(d), and 703(e)(1) of title VII of the Civil Rights Act of 1964 are each amended by striking out "or national origin" each place it appears and inserting in lieu thereof "national origin, or cancer history".

(b) The sentence beginning "Notwithstanding any" in section 703(h) of such title is amended—

"(1) by striking out "or national origin" the first place it appears and inserting in lieu thereof "national origin, or cancer history"; and

"(2) by striking out "sex or national origin" and inserting in lieu thereof "sex, national origin, or cancer history".

(c) Section 703(j) of such title is amended—

(1) by striking out "or national origin" the first place it appears and inserting in lieu thereof "national origin, or cancer history";

(2) by inserting after "national origin" the second place it appears the following: ", or persons with any cancer history,"; and

(3) by inserting after "national origin" the third place it appears the following: ", or persons with such cancer history,".

(d) The center heading of section 703 of such title is amended by striking out "Or National Origin" and inserting in lieu thereof "National Origin, or Cancer History".

Sec. 6. Section 704(b) of title VII of the Civil Rights Act of 1964 is amended by striking out "or national origin" each place it appears and inserting in lieu thereof "national origin, or cancer history".

Sec. 7. The sentence beginning "No order of the court" in section 706(g) of title VII of the Civil Rights Act of 1964 is amended by striking out "or national origin" and inserting in lieu thereof "national origin, or cancer history".

Sec. 8. (a) Section 717(a) of title VII of the Civil Rights Act of 1964 is amended by striking out "or national origin" and inserting in lieu thereof "national origin, or cancer history".

(b) Section 717(c) of such title is amended by striking out "sex, or national origin" and inserting in lieu thereof "sex, national origin, or cancer history".

Sec. 9. The amendments made by this Act do not affect any right, remedy, obligation, or responsibility under the Rehabilitation Act of 1973.

Sec. 10. This Act and the amendments made by this Act shall take effect at the beginning of the sixth month after the month in which this Act is enacted.●

## WHAT THE FLAG MEANS TO ME

## HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. KOSTMAYER. Mr. Speaker, students who attend the Nativity of Our Lord School, St. Josephs/St. Robert School, Leary Elementary School, Willow Dale Elementary School, Davis Elementary School, Klinger Junior High School, and Log College Junior High School in Bucks County, PA, were recently asked to respond to the statement "What the Flag Means to Me" in an essay contest. The contest was open to students in grades four through nine.

Mr. Speaker, today on Flag Day I would like to include in the Congressional Record the winning essays in this contest and ask that they be reprinted below:

### "What the Flag Means to Me"

When I look at our American flag many things come to mind. I think of Francis Scott Key sitting on a rock writing the "Star-Spangled Banner" and hoping that at the end of the long Battle of 1812 he would see that, "Our flag was still there." I also think of the stories my grandfather told me about when he was wounded during World War II. They remind me of all the men and women who risked their lives in the past 200 years for the freedom we have today.

The flag represents people past and present who are willing to give up so much to pass on the dream of freedom.

Tara McCartney,
*Grade 4, Nativity of Our Lord School.*

### What the Flag Means to Me

Back in 1776 we had to fight against England to get freedom of religion, speech, and press so we could do what we wanted. Men had to give up their lives so we could have freedom in our country. Whenever I look at the flag I remember the fight. Some people just hang flags up for decoration and after that just throw them away, but other people honor it as they should.

Now we have a flag in almost every school in the United States. On June 14th we have a day called Flag Day. On that day we give honor to our flag. People hang American flags out the window and parades are held in different cities all over the country. The flag is our symbol of freedom. I'm proud to be an American, so should you.

Jerry Kochanski,
*Grade 4, Nativity of Our Lord School.*

### "What the Flag Means to Me"

When I see the flag it reminds me of the innocent people fighting and dying in a war. It reminds me of the Civil and World Wars. It also reminds me of the people who participate in wars to keep that flag flying high and proud and it reminds me about the honor I should give to my country. The stars remind me of the States we fought for to make up this beautiful country. They also remind me of the Presidents trying to make peace in the world. The flag reminds me of the many trying to fight starvation, crime, and pollution, etc. There is a lot of fighting in this world but always our United States Flag will fly with honor and grace and always I will give it my complete adoration.

Nicole Musto,
*Grade 6, St. Josephs/St. Robert School.*

### "What the Flag Means to Me"

To me the flag is a symbol of all the people in this country. It represents the countless numbers who have lived, worked and died to keep our country free. I think of the early pioneers, patriots, the cowboys, soldiers and explorers who have been a part of its history. Sadly I remember the men who have died in all wars: The Revolutionary War, War of 1812, the Spanish American War, the First and Second World Wars, Korea, and Vietnam. Many good men died so that I could be free to write this composition.

The stars in our flag are for the 50 states and the red and white stripes represent the 13 orignial colonies. When I look at the flag it makes me happy and proud to be an American.

Michael Hottinger,
*Grade 7, St. Josephs/St. Robert School.*

### "What the Flag Means to Me"

Our flag has symbolized the United States for over 200 years, even longer than the first Government of the United States. It has endured along with the principles of our Constitution. The basis of our Government, written in the Constitution, has been one of the most sturdy and long lasting in history. Through many tests, our Government has survived, retaining its dignity and fundamental of service for and by the people.

One of the basic precepts of the Government of the United States is freedom. The freedom of speech and religion which were so highly valued by the colonists are taken for granted by many American citizens today. The flag represents to me these freedoms for which divisions occurred, emotional pain felt, and lives were lost. These great strengths of our country, consistency and freedom, are the meanings behind the flag to me.

Patricia Chapman,
*Grade 8, Nativity of Our Lord School.*

### "What the Flag Means to Me"

To me the flag represents a country rich in opportunity, freedom, and liberty. A country in which blacks, whites, Jews, and Christians should be given equal opportunity.

It represents the 50 States and the Thirteen Original Colonies.

The flag represents the people of our country as well. When it is flown in someone's yard it shows that they honor and respect their country, its ideals, and the flag that symbolizes it.

When I see a flag, it often reminds me of all the women and men that suffered for our country. It also sometimes reminds me of George Washington and his army who bravely fought the British. The flag also reminds me of Thomas Jefferson and the other men that wrote the Declaration of Independence.

We should be thankful that we live in this country and can call the grand old flag our own.

Rebecca Eickhoff,
*Grade 4, Leary Elementary School.*

### "What the Flag Means to Me"

The flag of the United States means freedom to me. A freedom to have the right to my own opinion. A freedom to vote for government representatives.

The flag of the United States means peace of mind that comes from living in America. We have no wars going on in our country. We have plenty of food and plenty of shelter.

The flag means a promise of the future for me growing up in a peaceful country. All these ideas are important to me. The flag reminds me of the many different colors of the people that live under it.

Michael Bender,
*Grade 5, Willow Dale Elementary School.*

### "What the Flag Means to Me"

### "THE COUNTRY BEHIND THE FLAG"

Our flag means very much to me. It represents freedom, justice—and to me—one of the most beautiful countries of the world.

This summer it also represents the country holding the Olympic Games—the time when all countries and people unite with peace.

Our flag stands as a reminder of our dreams. Dreams of total human equality; dreams of world peace; dreams of everyone in the world living as one.

But we must remember not to take all of what we have for granted. We have fought hard for these freedoms. We have earned them well. We even have our flag on the North Pole and the moon. That must mean something to us.

Our flag means a lot to me, as it should to every American and do them proud.

JESSICA CORMIER,
*Grade 6, Davis Elementary School.*

"WHAT THE FLAG MEANS TO ME"

Patriotism, nationality, and dignity are what the flag symbolizes to me. The flag shows people of other countries who we are and what we stand for. The stars symbolize how many States we have today, and the thirteen stripes represent our Thirteen Original Colonies. Our flag of stars and stripes, to me, symbolizes diversity—people of different races and religions who have come and settled in this land in the pursuit of a better way of life. The colors of our flag are bold showing our independent and assertive initiative. Our flag does not have a simple emblem or insignia, but then we are not a simple nation. We are complex and constantly evolving. Our flag is a beacon of hope to many around the world.

MIRANDA ELLIS,
*Grade 7, Klinger Junior High School.*

"WHAT THE FLAG MEANS TO ME"

The flag of the United States of America has more meaning than just being an indication of our country. It reminds me of our part in the building of our great nation.

The stars alone memorialize how the early Americans created the fifty states—each separate in its own way, yet all unified under the Constitution.

Suspended high in the air, waving and cracking in the wind, the flag gives a sense of supremacy, since our country is above all others because of our great freedom and opportunity.

The spirit of America is reflected in the lively colors and design in our banner. Without that driving spirit among present and past generations, this nation would not be what it is today.

The flame of hope we try to keep burning in our hearts always. But when optimism and enthusiasm are gone, we can look at the flag and remember the fighting people who overcame all obstacles to make this nation what it is.

CRAIG STRIMEL,
*Grade 8, Log College Junior High School.*

"WHAT THE FLAG MEANS TO ME"

When I see the flag, I immediately think of the country behind it. The flag symbolizes the United States' history, its people, and their ideals. I must admit when I see the flag daily I tend to take it for granted, along with the freedoms it represents. It is when I see the flag at places other than my familiar surroundings that I appreciate our country. Over an embassy it symbolizes a small part of our country and its work to create worldwide peace and to help fellow humans. On the moon it represents our future and the promise it holds for us in places other than our planet. At a ball park, it signals the freedom we have to enjoy ourselves without restrictions. And lastly, on a soldier's coffin, the flag shows me someone was willing to give his life in order to defend our country and its liberty. That is when I realize how privileged I am to live in the country that our beautiful flag flies over.

BRIDGET CLEFF,
*Grade 9, Log College Junior High School.*

I commend the winners for their hard work. I commend their teachers and both the Warminster Chamber of Commerce and Warminster Township for sponsoring this Flag Day essay contest.●

## SOVIET HARASSMENT OF BALTIC PEOPLE EXTENDS TO VISITORS OF THE OCCUPIED COUNTRIES

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. YOUNG of Florida. Mr. Speaker, it was 44 years ago today that the Soviet military marched on the Baltic States of Lithuania, Estonia, and Latvia, depriving the people of these countries their freedom and ethnic heritage.

The Soviets to this day continue to harass the Baltic people and have extended their harassment to tourists visiting the Baltic States. Last week a Latvian-American tour operator was detained for 2 days in Estonia by Soviet customs officials.

The Soviet KGB, which is routinely assigned to provide clandestine surveillance to Baltic visitors, was behind this latest incident. The mission of the KGB officers is to frighten and discourage tour directors from bringing future groups to the area.

Soviet leaders fear that the Baltic people's inexhaustible desire for peace will be fueled by meetings with American tourists to the region. The Soviets also are afraid that the Baltic people will pass along, through visitors, the truth about Soviet repression and denial of freedom.

Following my remarks is a June 12, 1984, story from the Christian Science Monitor of the lastest KGB harassment of Baltic tourists. It says a great deal about the Soviet leaders who feel the need to watch over visitors to the country and to discourage future visitors from making the trip. One can only wonder what the Soviets are trying to hide and compare their treatment of tourists with the freedom visitors to our country are accorded and the welcome they receive.

The story follows:

[From the Christian Science Monitor, June 12, 1984]

USSR PUTS HEAT ON "TOURISTS" TRAVELING TO BALTIC REPUBLICS

(By Eric Lettlander)

STOCKHOLM.—The detention of a Latvian-American tour operator by Soviet customs officials last week in Tallinn, Estonia, points to increasing Soviet nervousness about so called "ethnic tourism" to the Baltic republics.

Latvia is visited every year by some 3,000 tourists of Latvian descent, according to Soviet statistics. This summer, a large number of tourists planning to visit Latvia from overseas will also attend a Latvian song and cultural festival in Münster, West Germany. The latest incident may be a warning that nationalist sentiments from the festival shouldn't be imported to Latvia.

The tour operator, Biruta Sereda, of San Mateo, California, was briefly held in Tallinn. She was prevented from leaving the Soviet Union with a group of more than 40 Latvian-American tourists while returning from Latvia via the Estonian capital. Mrs. Sereda plans to have several groups going to Latvia before the festival.

Her group returned unaccompanied by ferry to Helsinki, where several tourists alerted US diplomats and news agencies.

Mrs. Sereda was released two days later. She told business associates in Helsinki that the reason she had missed returning on schedule was the time required by customs officials to catalogue gifts and jewelery she was taking out of Latvia.

Members of the tour group also reported that Mrs. Sereda was ill and fainted during what they said was a very intensive customs search.

Sources familiar with the incident, however, suggested that the California-based tour operator was apparently "set up" by the Latvian KGB in a case typical of the way the Soviet police and intelligence service "wages psychologial warfare" against tour operators and tourists who speak Baltic languages.

At the same time, frequent travelers to Latvia said the thorough customs search reflected an unprecedented worry by Soviet authorities about items tourists may be taking out.

One Western diplomat, recently in Leningrad, also spoke of intensive border searches, suggesting the Soviets are more wary of all travelers, not only emigre tourist.

The informants said that once the tour operator had been isolated from her group and frightened and exhausted by the "brutal" customs search, an anonymous young Latvian official showed up, and professing to "save" her from the Tallinn customs officials, started to politely ask her whether any foreign secret services were paying her to operate tours to Latvia.

According to tourists who have undergone similar "discussions," the Latvian official most likely referred to details of the tour operator's activities in Latvia that could only have been obtained by clandestine surveillance and cautioned that her business could be terminated by offending the authorities. The official, in effect, implied he was the tour operator's KGB "case officer," but never disclosed his name or occupation.

For a number of tour operators such as Mrs. Sereda, for whom trips to Latvia comprise their main business activity, such a veiled threat "amounts to blackmail," according to one source.

Because of economic interests and personal ties with Latvia that are often involved, incidents with tour operators are usually downplayed, and the KGB activities can be repeated against other persons since they receive virtually no publicity.

Sources familiar with such incidents also said the US and other Western diplomats tend to categorize such cases simply as rough treatment by Soviet authorities rather than see them as part of a deliberate compaign in an esoteric conflict between the KGB and emigrés.

When questioning tour operators, Latvian KGB operatives often pose as officials of a "visa department" located on Henri Barbiss St. in Riga. They sometimes invite tourists for coffee and cakes, claiming to be checking up on tourists' welfare in tourist services, but officials of the same department detained and harshly interrogated a Latvian mother and daughter from Sweden in early 1983.

Sources in Mrs. Sereda's tour group said the operator may already have been called for polite questioning while in Riga. The authorities were apparently worried about the large number of younger tourists with the group and may have inquired whether any of them held anti-Soviet views.●

## FAMILY VIOLENCE, A NATIONAL PROBLEM

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mrs. SCHROEDER. Mr. Speaker, the Congressional Caucus for Women's Issues, of which I am co-chair, has long supported legislation to combat the invidious, and often invisibile, horror of family violence.

All available statistics point to a dramatic increase in the number of women and children being brutalized in the United States. Approximately 1.8 million women are battered each year. Over 1.4 million children were abused or neglected in 1982, a 9.2 percent increase over 1981.

We are proud that a provision to provide prevention, shelter and training programs has passed the House. We sincerely hope that the Senate will not delay approving this urgently needed program.

Representative GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families, is to be commended for convening the committee on June 14 to hear testimony on this critical issue. His opening remarks document the growing problem and the urgent need for Federal assistance, and I bring them to the attention of my colleagues.

Congressman MILLER's remarks follow:

#### OPENING STATEMENT OF CHAIRMAN GEORGE MILLER

This morning, the committee will address "Violence and Abuse in American Families." It is a subject we have touched on many times in our first year's assessment, but today we will take our first concentrated look at this growing national crisis that touches all regions, all races and all economic groups.

I'd especially like to offer greetings to Senator Ted Stevens of Alaska, who is leading the legislative initiative in the Senate to address spouse and elder abuse. As you are aware, the House has already approved the "Family Violence Prevention and Services" proposal which I introduced, which many members of this committee helped to fashion, and which every member of this committee supported.

We will hear from a courageous woman who was beaten as a child and battered as a wife. But with the help of a shelter and its services, she has been able to end the cycle of violence in her life.

We will also hear from the supervising executive of the ABC movie, "Something About Amelia"—an unparalleled initiative by a network that graphically demonstrated the effects of sexual abuse not only on the child but on the family as a whole. Millions of current and former victims of incest have sought help for the first time as a result of this program.

We will conclude with representatives of law enforcement organizations, which serve as critical links in addressing the problem of family violence, and from members of the private, non-profit human service sector who, recognizing the increasing numbers of family violence and abuse victims, have stepped up their efforts to respond.

Members of the Select Committee on Children, Youth, and Families have crisscrossed this nation, listening to testimony from private citizens and public officials assessing current conditions among families and children. We know the seriousness of the family violence issue.

In Utah, between 1982 and 1983 alone, there was a threefold increase in confirmed cases of child abuse. In Maine, reports of child maltreatment increased 166 percent between 1976 and 1980, and reports of sexual abuse increased 42 percent.

The committee also heard of similar increases in New York, Michigan, and California. Unfortunately, we also heard about the impact of recent federal budget cuts. In Los Angeles, as the number of child abuse cases increased 46 percent between 1978 and 1982, the number of workers available to handle the cases declined 18 percent.

In my own community of Contra Costa County, California, where child abuse referrals have increased 131 percent between 1978 and 1983, the number of cases accepted for investigation has declined by nearly one-third. All too often, a child who is too old, or not bloodied up enough, just does not get help.

Not all family violence is targeted at children. In the San Francisco Bay Area, a three-day crime watch revealed that 39 percent of all assaults, attempted murders, and completed murders are related to family violence. Nationwide, the Center for Women Policy Studies reports more than 1 million abused women seek medical help each year, while 20 percent of visits to emergency rooms by women are due to battering.

These findings indicate a shocking rise in the incidence of family violence, while at the same time, the federal resources devoted to its prevention, and to assisting its victims, have been irrationally reduced. Fortunately, there is a legislative vehicle already in place which can reverse that trend. There is nothing partisan about this issue. It is clearly one that has aroused intense interest in both parties. Those of us exposed to this issue want the House and the Senate to move together soon. My legislation, and the bill introduced by Senator Stevens, as well as the extension of the expired child abuse program, should be enacted into law this year. We have already delayed far too long.

Even the Administration, which has consistently tried to prevent and diminish any federal role in assisting the victims of family violence, has voiced concern about the dimension of the problem. The Surgeon General, Dr. C. Everett Koop, has consistently stated that violence on our streets and in our homes is of "epidemic" proportions. The Bureau of Justice Statistics just released a special report on family violence which concluded:

"Considering that during a 9-year period 4.1 million victimizations committed by relatives have been reported to a government agency (either police, the Bureau of Justice Statistics, or both), and that a substantial number of these occurred at least three times during a 6-month period, it is apparent that *family violence is a significant problem of large, and currently ill-understood proportions.*" (Italic for emphasis.)

The committee invited Lois Herrington, the Director of the Attorney General's Task Force on Family Violence, to tell us today what the task force has learned. Although Mrs. Herrington declined to appear today, we await the report of the task force with deep interest.

We all wish there were no need to be here this morning to hear, once again, about family violence. But we don't know all we need to know about the cause of violence, nor have we yet recognized, at the federal level, the enormity of the preventable and treatable pain inflicted on millions of our citizens, both children and adults.●

## THE NEW POLITICS OF INEQUALITY

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. WAXMAN. Mr. Speaker, I would like to call to the attention of my colleagues a fascinating new book, "The New Politics of Inequality," by Thomas Byrne Edsall. In his book, Mr. Edsall, a reporter for the Washington Post, analyzes the political shifts that have occurred in recent years and the effects they have had on economic policies and budgetary programs.

In exploring the reasons for the shifts and explaining how one area impinges on another, Mr. Edsall arrives at conclusions which will be of considerable interest to Members of this body as well as to everyone interested in the development of public policy.

For those Members of the House who may have missed it, I include the following review of the book by Robert Lekachman, who teaches economics at the City University of New York.

The article follows:

[From the Washington Post, June 10, 1984]

#### THE ORIGINS OF THE REAGAN REVOLUTION

(By Robert Lekachman)

For Democrats the temptation is strong to explain 1980's electoral calamity as a tale of personality—Reagan's charisma and Carter's lamentable shortage of that quality. Thomas Edsall, who covered the budget wars first for the Baltimore Sun and then for this newspaper, has written a cool analysis of trends in voting patterns, union power, and the fortunes of the two major parties which should lay to rest the consoling notion that after Reagan the country will reinstate the Democrats as the normal majority party.

Democratic troubles were for a time disguised by Watergate which increased the party's congressional majority in 1974 and 1976 and propelled Jimmy Carter into the White House. But as Carter's frustrations revealed, slow growth diminished congressional ability to reward blue-collar workers, minorities, and low-income families—the most loyal elements of the Democratic coalition. Carter got nowhere with welfare reform and comprehensive health coverage. At the moment in November 1978 when Congress enacted the Humphrey-Hawkins Balanced Growth and Full Employment Act, it was a dead letter. In the same year, Congress passed "the first major tax bill since the 1930s that did not skew benefits toward those at the bottom and middle of the income spectrum." Indeed supply-siders like Paul Craig Roberts date the beginning of their triumph from this measure which sharply reduced levies on capital gains.

How could a heavily Democratic Congress stray so far from the New Deal-Great Society tradition? As Edsall demonstrates in meticulous detail, Congress reacted not only to diminish tax resources but also to shifts in its members' constituencies and sources of campaign funding. Many of the post-Watergate winners ousted Republicans in suburban districts heavily populated by Yuppies unsympathetic to unions and their social agenda. Unions which in the 1950s represented more than a third of the labor force have steadily lost membership and now enroll little more than a fifth of American workers. Edsall highlights the situation by inspection of the financial consequences of a vote shift on common situs legislation between 1975 and 1977 by 11 Democrats. Congress passed but President Ford vetoed the measure which would have allowed a single striking construction union to picket all entrances to a building site. The 11 who switched were the margin between victory and defeat in 1977. In the 1976 election, labor contributions to their campaign totaled $166,987. Displeased unions gave only $97,820 in 1978. However, the ubiquitous corporate PACs almost doubled their gifts—$177,208 in 1976 and $346,293 in 1978. None of the 11 in other words needed to display a profile in courage while deserting labor backers.

Other bad things were happening to the Democrats. I can only note them here. Republicans were learning to target campaign funds toward states and districts where money particularly at the beginning and in the concluding days of campaigns makes a crucial difference. More and more they were uniting as a coherent ideological party of the affluent. By contrast, internal divisions among their opponents deepened beginning with the Vietnam War which the AFL-CIO supported to the end and other important elements in the party opposed. Affirmative action set blacks and Jews at odds. The interests of suburban and blue-collar Democrats diverged.

Possibly worst of all, Republicans who used to give an excellent imitation of the British Tories whom Walter Bagehot called the stupid party suddenly became the custodians of new ideas. Conservative intellectuals, based in the American Enterprise Institute and the Hoover Institution among other think tanks, and conservative journals, notably Irving Kristol's the Public Interest, patiently dissected liberal programs and offered such free-market substitutes as school vouchers, the nagative income tax, metering of pollution, and cost-benefit analysts. Imperceptibly the New Deal and Great Society came to seem frayed and tired.

Edsall, who clearly deplores the upward redistribution of income and wealth and the damage inflicted upon programs targeted to low-income and working-class groups, does not offer much hope of quick reversal of the Reagan revolution. If, somewhat against the odds, Democrats turn out enough new voters among blacks, women, and Hispanics whose declining election participation is one source of their troubles, Mondale or Hart will have enormous difficulty in undoing the Reagan damage to social programs. A legacy of this administration is an enormous deficit which dictates spending prudence and unpopular tax increases.

This first-class book—the best single explanation of Reagan's success that I have encountered—leaves me with a question and a hope. How much longer must we wait for a party as clearly ideological on the Democratic left as the Republicans now are on the conservative right? My hope is that Reagan will by 1988 at latest succeed where others have failed to turn this trick.●

# SENATE—*Friday, June 15, 1984*

(*Legislative day of Monday, June 11, 1984*)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*Honor thy father and thy mother; that thy days may be long upon the land which the Lord thy God giveth thee.*—Exodus 20:12.

Father in Heaven, Sunday we celebrate fathers. Bless those in the Senate who are fathers. Grant that we may appreciate the importance of fatherhood in preserving family and home, in preparing children and youth for life. Help us to realize that however we may succeed in life—no success compensates for failure as fathers. To fail in a career is a one generation problem—to fail as a father is to affect generations to come. Father God, help us to take seriously our responsibility as fathers and to give priority to that opportunity. In Jesus' name. Amen.

## RECOGNITION OF THE MAJORITY LEADER

The **PRESIDENT** pro tempore. The majority leader is recognized.

Mr. **BAKER**. Mr. President, I thank the Chair.

## RESERVATION OF LEADERSHIP TIME

Mr. **BAKER**. Mr. President, I ask unanimous consent that both the time allocated to the majority and minority leaders less that which I may use this morning may be reserved for our respective use at any time during the course of this day.

The **PRESIDENT** pro tempore. Without objection, it is so ordered.

## SENATE SCHEDULE

Mr. **BAKER**. Mr. President, I remind Senators that at 11 a.m. we will resume consideration of the Department of Defense authorization bill and there is an amendment pending, the Byrd amendment, on which a rollcall vote is expected. The leadership on this side also expects other rollcall votes during the course of today.

May I repeat what I said last evening in colloquy with the minority leader and the two managers. We have been on this bill a while, and I think the time is right for us to consider the possibility of establishing a time certain for final passage.

It would be my hope that during the course of today—if not today, then early Monday—both sides might be able to explore that possibility. The leadership on this side will request staff here to construct a proposed form of unanimous-consent agreement that would provide for only certain amendments to be in order as listed and a time certain for final passage on Tuesday next.

Obviously, I do not have the list of amendments but the reason for making this statement is so Senators who may be within earshot will be aware of it and may wish to identify their amendments to the cloakroom on the Republican side, and if the minority leader chooses to do so I would welcome any such list from him.

I think it is essential that we pass this bill, Mr. President, and get it to conference as soon as possible. I am advised by both managers that in order to do that we must finish the bill on the floor sometime during the day on Tuesday.

Mr. President, I have no further need for my time at this point. There are two special orders. I see the distinguished junior Senator from Wisconsin is present, but while we ascertain the order of business for today I will in a moment suggest the absence of a quorum. In the meantime, let me point out that there are two special orders today and that after the execution of the special orders there will be a time for the transaction of routine morning business until 11. At 11, as previously ordered, the Senate will resume consideration of S. 2723, at which time the Byrd amendment, which is numbered 3204, will be the pending question.

Now, Mr. President, the time for the two leaders is reserved. I yield the floor so that the Chair may continue with the order of business.

## RECOGNITION OF SENATOR KASTEN

The **PRESIDENT** pro tempore. Under the previous order, the Senator from Wisconsin [Mr. KASTEN] is recognized for not to exceed 15 minutes.

## BUREAUCRATIC MAZE OF GREAT LAKES MANAGEMENT

Mr. **KASTEN**. Mr. President, among the biggest obstacles to cleaning up the Great Lakes is cutting through the bureaucratic maze of agencies responsible for lakes management.

While the Great Lakes are one of the most spectacular of our Nation's natural resources, there is no group with a systemwide perspective on the Great Lakes. Instead, a variety of State and Federal agencies have a piecemeal approach to lakes management.

Eight States border the Great Lakes. Those States—Wisconsin, Minnesota, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York—all have State agencies responsible for lakes management. In addition, there are over a dozen Federal groups with responsibilities for the Great Lakes.

Unfortunately, these groups do not coordinate their efforts on data collection or management. In fact, the various agencies often do not know what other groups are doing. This has resulted in wasted financial resources and the deterioration of this tremendous natural resource.

In data collection alone, this bureaucratic maze has resulted in several problems. First, there are great gaping holes in research on the Great Lakes. In other cases, there is often duplication of research on a given issue. Finally, separate groups may collect data that is reported or collected in such a form that it cannot be compared. These three basic problems have prevented the development of a good basic data base on the conditions of the Great Lakes.

The "Save the Lakes Act," S. 2751, will correct these problems. It will provide for a coordinated data collection and reporting. In addition, it will provide for a comprehensive management program of the Great Lakes.

Mr. President, in 1982 the Comptroller General issued a report to Congress identifying the need for coordinated efforts to manage the Great Lakes. I ask unanimous consent that a portion of the report entitled "A More Comprehensive Approach Is Needed To Clean Up the Great Lakes" be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

### A MORE COMPREHENSIVE APPROACH IS NEEDED TO CLEAN UP THE GREAT LAKES

Despite spending millions of dollars on water pollution control, the United States is finding it difficult to meet the comprehensive objectives of its Great Lakes Water Quality Agreement with Canada. Although the lakes are cleaner, the United States is not fully meeting its agreement commitments.

GAO is recommending that the Congress and the Environmental Protection agency Administrator take steps to improve U.S. efforts to clean up the Great Lakes and meet water quality agreement commitments.

### DIGEST

The United States and Canada have an agreement to develop and implement programs and other measures to protect the water quality of the Great Lakes. The Great Lakes Water Quality Agreement has comprehensive objectives to improve Great Lakes water quality and requires a substantial U.S. commitment. GAO found that, although the lakes are cleaner, the United States is finding it difficult to meet agreement commitments and that to do so will require greater focus and direction of existing efforts.

U.S. efforts have been hampered by the (1) lack of effective overall strategies for dealing with Great Lakes water quality problems, (2) lack of knowledge about the extent of pollution problems and the impact of control programs, and (3) need for improved management of Great Lakes pollution cleanup activities.

GAO made this review to determine if the United States is meeting the objectives of the Great Lakes Water Quality Agreement because (1) a 1975 GAO report showed the United States needed to make a greater commitment to support water quality agreement objectives and (2) the new 1978 agreement is very comprehensive and requires a substantial United States commitment.

In the United States, both Federal and State agencies are responsible for Great Lakes cleanup efforts. The Department of State and the Environmental Protection Agency (EPA) are the two Federal agencies most involved with the water quality agreement. GAO's review was necessarily confined to U.S. Great Lakes water quality efforts. Canadian efforts referred to herein are based on reports published primarily by the International Joint Commission—the permanent U.S.-Canadian body responsible for advising both Governments on Great Lakes water pollution matters.

### *Municipal Pollution Sources*

The agreement goal of December 31, 1982, for adequate treatment of all municipal sewage discharges to the lakes will not be met. For example, 31 percent of the municipal dischargers on Lake Erie and 32 percent of those on Lake Ontario will not be under control until sometime after 1982. Furthermore, according to the International Joint Commission, only 64 percent of the sewered population in the U.S. portion of the Great Lakes Basin was receiving adequate treatment, compared with 99 percent of the Canadian sewered population. Reasons cited for not meeting the agreement goal include unrealistic timetables for constructing facilities, problems in obtaining and using Federal grant funds, and lack of municipal officials' support for construction activities. Budget reductions also could set back the already extended dates for completing municipal projects in the Great Lakes Basin.

Discharges from combined sewers (sewers that carry municipal wastewater along with storm runoff) continue to be a major source of pollution to the lakes, but little funding has been directed to controlling these discharges. Of 51 specific problem areas on the Great Lakes, 20 had serious combined sewer overflows. Structural solutions to controlling combined sewer problems are costly—$8 billion according to one EPA estimate. But unless combined sewer overflows are controlled, existing municipal sewage treatment programs will not be fully effective.

### *Phosphorus Control*

Phosphorus contamination—a prime factor in lake eutrophication (aging)—is a major problem facing the Great Lakes, particularly Lakes Erie and Ontario. Phosphorus inputs to the lakes from municipal treatment plants are being reduced. However, about 41 major U.S. treatment plants may not meet the agreement's phosphorus limitations because of plant equipment availability problems and/or operational difficulties.

Efforts to control phosphorus pollution from other sources, such as high-phosphate household detergents, have been controversial. Research to resolve uncertainty about the nature and extent of overall phosphorus controls may not be undertaken because a coordinated Great Lakes research program does not exist.

### *Toxic Pollution*

The U.S.-Canadian agreement recognized the extent of toxic pollution of the lakes and required the two Governments to meet specific toxic control objectives. However, the problem has yet to be addressed comprehensively. Information is lacking about the nature, extent, and source of toxic pollution, and the activities necessary to provide the information have been limited. Also, U.S. toxic control programs are very new and their effectiveness is not known.

### *Nonpoint Pollution Sources*

In some areas, nonpoint (diffused) sources, such as agricultural, forestry, and urban runoff, deposit the major portion of pollutants entering the lakes. However, State and areawide plans to address nonpoint pollution problems have not been comprehensive and may not be completed. Federal funding for new planning has been cut off. Projects to control nonpoint pollution have not been extensive, and implementation of control mechanisms developed are site specific.

Without more attention to nonpoint sources and a coordinated strategy and plan for dealing with them, the Great Lakes water quality objectives may not be achieved even if all other sources of pollution are completely controlled or eliminated.

### *Water Quality Monitoring*

Accurate, reliable data describing existing water quality conditions and trends, how pollution occurs, and the effect of eliminating sources of pollution is essential to control efforts. But current water quality monitoring is not providing the data needed to address questions about toxic, nonpoint, and phosphorus pollution problems.

Specific U.S. monitoring efforts have been hampered by a lack of funds. In addition, the International Joint Commission has yet to endorse the Great Lakes International Surveillance Plan, advocated by the agreement as the basic model for monitoring activities in the Great Lakes Basin. The Commission is not sure whether the plan is effective and can be implemented.

### *EPA's Responsibilities*

EPA has broad responsibilities for carrying out programs and activities to implement agreement objectives and coordinating the Great Lakes activities of many Federal and State agencies. EPA's Great Lakes National Program Office has been frustrated in its efforts to ensure that U.S. agreement commitments are met because it does not have the visibility, authority, or resources needed to meet its responsibilities.

### *Recommendations to the Congress*

GAO recommends that the Congress, in consultation with the Secretary of State and the Administrator, EPA, determine whether (1) the Great Lakes Water Quality Agreement objectives and commitments are overly ambitious and (2) sufficient funding to meet agreement objectives and commitments can be provided, given current economic and budgetary conditions. GAO also recommends that the Congress pass legislation currently pending to establish a Great Lakes research office in the National Oceanic and Atmospheric Administration to coordinate and carry out needed research activities.

Mr. PROXMIRE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. KASTEN]. Without objection, it is so ordered.

## RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

## WHY DOES NUCLEAR PROLIFERATION POSE THE MOST SERIOUS THREAT OF NUCLEAR WAR

Mr. PROXMIRE. Mr. President, nuclear war will not come from a deliberate, premeditated, unprovoked attack by the Soviet Union. We have been devoting most of the billions of dollars we pour into our nuclear arsenal to deter such an attack. But we have virtually ignored a far more likely source of nuclear war. Such a war probably will not come from an accident, a mistake by one of the two nuclear superpowers reacting with a nuclear counterattack to a false warning. Both superpowers have built elaborate and highly efficient, failsafe measures to prevent such an accident. Both have steadily improved command and control. No matter how strained and hostile the relations between this country and the Soviet Union may become, an awareness on both sides of the utter catastrophe for each of a nuclear exchange will bring prompt communications between the two chiefs of state if there is any threat of a nuclear clash.

Does this mean that the prospect of nuclear war is remote? Unfortunately, the answer is an emphatic and certain "No." The grim and terrible fact is that the world will—not possibly or probably, but certainly—suffer a nuclear war within the next 20 years unless we stop the spread of nuclear arms now. Why is the prospect of nuclear war certain if the two nuclear superpowers will not initiate it? After all, do not Russia and the United States have far more nuclear power than all the other nations in the world combined? Of course, we do. But what keeps the peace between these two nations, both armed to the teeth with nuclear weapons that become less vulnerable, more unstoppable and more surely and totally devastating with each passing month? The answer is the absolute assurance that neither country could emerge as an organized society from a nuclear war between the two.

Now, on the other hand, what will keep a nuclear-armed Iran from devastating Iraq, or a nuclear-armed Libya, led by Qadhafi, from using its nuclear arsenal to destroy any nonnuclear power it chooses to pick on? By 16 short years from now, any one of the 25 new nuclear powers, which our military intelligence predicts will be in existence then, could strike at anytime, anywhere.

But would such a war, not involving the United States or the Soviet Union, become a disaster for America? The answer is, yes, absolutely, yes. How could it hit us? In three ways. First, any one of the small nuclear powers could direct a terrorist to deploy a nuclear device within one-half mile or so of the Capitol and fire it when the President of the United States was delivering his State of the Union Address. That one act would totally decapitate our Government. The President, the Vice President, the entire Cabinet, the Supreme Court, the Joint Chief of Staff, the top military officers of our Government, the Diplomatic Corps, and the full Senate and House attend the President's address. When the nuclear device is fired, the Capitol would disappear and with it all of our top Government officials. Who would be left to retaliate? And how would any new Government know where to strike? With proliferation, the nuclear devices could come from any of a number of sources.

Second, a number of distinguished international scientists have recently found that even a relatively small nuclear war could trigger a worldwide nuclear winter. The soot and smoke from burning cities could shut out the Sun throughout the world for weeks and reduce the temperature throughout most of the Earth to far below 0 °F., even in the summer. Plants and animals would die. Much of mankind, including many Americans, would perish from famine.

Third, a nuclear war erupting among smaller countries could spread quickly and unpredictably. Any intervention or even prospective intervention by a superpower could bring a nuclear attack on that superpower. As Churchill said of the danger of nuclear war, "We can't account for a madman armed with nuclear weapons in his bunker on the last day of the war."

Mr. President, the time has come for this country to get serious about stopping nuclear proliferation. This country has been reliably reported to have sold heavy water—essential for nuclear weapons production and useless for any other purpose—to Argentina, nuclear materials with inadequate safeguards to India and to other countries. Our President has just negotiated the transfer of a peaceful nuclear technology to the biggest Communist country in the world, China, and with pathetically inadequate safeguards against China's converting or selling the processed plutonium byproduct for military purposes.

Why do we do this, Mr. President? There is no gain to this country—not more favorable trade, not more jobs, not more profits that can begin to justify the careless risks we continue to take in proliferating nuclear weapons. We must end this cavalier spread of nuclear weapons on our part. But that is not enough. We must use every bit of diplomatic and economic power we have to persuade other countries—including the French, the Swiss, the West Germans, the Chinese, and others—from proliferating nuclear weapons. It is no exaggeration to say that the survival of this country and possibly mankind itself is at stake.

## D-DAY AND THE JEWISH HOLOCAUST REMEMBERED

**Mr. PROXMIRE.** Mr. President, we are reminded this month of our participation in the greatest military assault in the history of mankind—the allied invasion of Normandy known as D-day.

On June 6, 1944, over 200,000 allied personnel, 130,000 of whom were Americans, landed on the beaches of northern France. Through the collective effort of American, British, Canadian, and French forces, the beginning of the end of Hitler's attempt to establish his Thousand Year Reich was initiated.

As thousands of veterans from the armies that fought World War II flood back into France for their 40th anniversary of Operation Overlord, there have been plenty of nostalgic encounters. Americans who took part in the battle for Normandy have been reunited with French families they helped liberate.

What we are seeing this month is no casual glance at the past, for the sacrifice on that day was anything but casual. The legend of D-day has drawn the United States into a fascinated look back to June 1944.

Why do so many people look to D-day in search of inspiration for the present? The answer is obvious: it offers a lesson in keeping the peace.

But D-day also shows what had to be done to stop a madman like Adolph Hitler, who was able to rise to power and transgress the international norms of decency.

D-day also marked the beginning of the end of another tragic event, the systematic extermination of Jews and Gypsies by the Nazis.

The United States should once again join other nations of this world in the collective effort to eradicate the crime of genocide.

President Reagan and seven other heads of states dedicated a monument to the Americans who fought on D-day. Its inscription reads:

> This Monument erected by the United States of America in humble tribute to its sons who lost their lives in the liberation of these beaches on June 6, 1944.

But as Abraham Lincoln once said of a different battlefield:

> . . . In a larger sense, we can not dedicate—we can not consecrate—we can not hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. . . . It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced.

Nowhere, Mr. President, do these words ring more true than to the unfinished business of ratifying the Genocide Convention.

It is the duty of this Nation today to ensure that the brave men who died on the beaches of Normandy did not die in vain.

It is the duty of this Nation to ensure that the murder of 6 million innocent civilians is never forgotten—and never repeated.

And it is the duty of the Senate to provide the leadership to make sure genocide never happens. The Senate should display the same spirit and courage that the men on the beaches of Normandy displayed 40 years ago.

The Senate should act now, and ratify the Genocide Treaty.

I yield back the remainder of my time and yield the floor.

## ROUTINE MORNING BUSINESS

**The PRESIDING OFFICER.** Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each.

## INITIATIVE SOVIET STYLE

**Mr. GOLDWATER.** Mr. President, yesterday during the course of debate I discussed the changes that are taking place in the Soviet military, natural and normal changes that are also taking place in the military forces around the world, and because they are natural and normal it is very easy for not only ourselves but for everyone to overlook the changes and what these changes might mean.

I called the attention of the Senate to the fact that the old Russian commanders, the generals, et cetera, were dying, or retiring, and coming up in their places are younger men, far better educated in an academic sense than were the older people, better trained militarily, although probably without any better native instinct for fighting than the Russian older generals had.

Mr. President, I think we have to keep aware of this because while in a way this is a welcome change it can also bring some dangers. History will show us that when this similar thing has taken place before, particularly in countries where they have developed a strong military system such as Russia has, the young people on their way up through the ranks and through the positions of high command have had a tendency to say at some time: "We have all of this power. Why don't we use it?"

That forms a danger in that they might someday be tempted to try a war where the Russians historically have stayed away from war. Strangely the wars that we have fought we have found the Russians to be our allies and the wars they have fought we have found ourselves as they allies.

The danger I refer to is that of the younger people, when they become a little bit older, and in command of military forces, might be tempted, as I say, to use this power. I do not think this is going to happen. I hope it does not happen because the whole history of the Soviet Union and Russia has been not to fight a war unless their own heartland or homeland were threatened and we have seen them fight to the death to protect the land that lies within the boundaries of Russia, and I think they would do it again.

What effect does all of this have on us? I think during the course of this debate we have heard a little bit, not enough, about the training of our own men, the enlisted men and the officers. I personally feel that there has never been a time in the history of our military forces where we have had as well trained officers and enlisted men as we have, when we realize that our enlisted men are now mostly class IV, or high school graduates, when we look at the growing long list of college graduates who are officers, officers with more than just their basic degrees, I think we will realize how fortunate this country is in having the leadership that we have, but we cannot let this just rest.

I happen to be chairman of the Board of Visitors of the Air Force Academy and it has been a great, thrilling experience for me down through the 28 years of that school's existence to watch the quality grow, the strength grow, and the dedication grow among these young people.

Mr. President, I have often said that the quality of our men—and now I have to include women because we do have women within our fighting forces—the quality of these people is the one great advantage that the United States has and has always had throughout the history of the times when we have been forced to go into conflict.

Our people have initiative. You can say what you like about the Americans. You can call some of them uneducated. Call some of them dumb. Call some of them lazy. But I have never seen an American who did not have initiative. And how important is that to the subject I am addressing myself to?

It is important in that an American does not require constant leadership unlike in the armed forces of Russia and the armed forces of other countries, not completely. For example, the same type of initiative we find in England, we find to a large extent in the Greman forces, and other countries of the world. But an American always has the ability to take that one more step forward. An American can repair his own rifle. He can keep his vehicle running. He can make his own repairs on aircraft. The naval person down to the lowest seaman knows what to do when something is not going right. This is not true across the board in other countries in military institutions of this world.

I have just read a very interesting article on this subject and I think it would be apropos to put it in the RECORD, particularly at this time when we are debating the Department of Defense budget.

Mr. President, this article appeared in the "Military Review," which is the professional journal of the United States Army. It is entitled "Initiative Soviet Style," written by Maj. Richard Armstrong, of the U.S. Army.

I think it is so interesting when applied to the thinking that we have to constantly do relative to our forces, what we can do to keep them good, what we can do to make them better, if we have to, that I ask unanimous consent to have this article printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### INITIATIVE SOVIET STYLE

(By Maj. Richard N. Armstrong, U.S. Army)

Men in battle still remain the ultimate consideration in modern warfare. Despite the ever-increasing technical sophistication and lethality in the weapons of war, man continues to determine when, where and how to apply these weapons, and it is man that moves forward in the face of battle. Nonetheless, men in battle have had to adjust to the impact of technical advances on the modern battlefield. The increased range of destruction by weapons necessitates ever-widening deployments in the forces for battle. The mechanization of armies has increased speed, maneuver and the spatial dimensions of tactical operations. This increased dispersal and mobility of battle formations has required greater dependence upon the individual attribute of initiative in military leadership.

Assessments of a military system's leadership and the characterization of its initiative become very important. In this regard, Western armies have identified to a Western satisfaction the qualities and inadequacies in what they think of as leadership and initiative. But Soviet concepts do not match these conclusions and, therefore, cannot be judged by the same criteria.

The Soviet military system is believed to be based upon a harsh, rigid discipline which produces soldiers who are relatively efficient in the use of their weapons but are unimaginative, hidebound and inflexible in their fighting ability. With this belief comes the stereotype of a Soviet tactical leadership whose ability to perform only routine tasks efficiently is vulnerable to counteraction by more imaginative and agile-thinking individuals of Western democratic societies. This supposed inability has become the taproot assumption for a Soviet command structure that is tactically inflexible when faced with a changing situation. According to Western analysts, concentration on rote battle drill tactics compensates for missing initiative.

This assumption of Soviet initiative creates many of the apparent ambiguities exhibited by Soviet tactical doctrine. These ambiguities exist as a result of the failure of Western observers to objectively understand the various elements of Soviet tactical doctrine and pedagogy. This qualification is not to say that the Soviet system has identified the only correct methodology, but it must be considered within the context of the overall Soviet military system.

The Soviet perception of initiative influences their beliefs concerning what traits can be taught, the structure of training methods and the expectations of results from that training. By examining these beliefs, one can understand with greater clarity how the Soviets prepare and apply tactical doctrine based on a diametrically opposed concept of initiative.

First, it is necessary to determine what the Soviets mean by initiative. Second, we must seek to reconcile the paradoxes that arise in examples that seemingly demonstrate the Soviet lack of initiative to Western observers: the use of operational norms and the conduct of rote battle drills.

The oversimplified and inconsistent myth of the Soviet soldier's performance on the battlefield has been largely inherited from World War II. This notion of poor leadership and tactical inflexibility in the Soviet military establishment has been strongly influenced by many German accounts of Soviet operations on the Eastern Front. With a partial view of history, current popular understanding for the German military defeat on the Eastern Front is a historical version largely based on the writings of the surviving German generals.

These German military leaders believe their defeat was caused by severe weather during the invasion into Russia. Adolf Hitler's no-withdrawal edict and the Soviet use of "vast hordes" during the retreat to Berlin. German observations stressed a particular lack of initiative in Soviet leadership evidenced by an inflexibility in its methods: senselessly repetitive attacks, rigidity of artillery fire and selection of lines of attack and movement without regard to terrain. There is little willingness in German accounts to ascribe military prowess to Soviet leadership for their victory.

This German assessment of Soviet performance must be viewed with skepticism. Even the German generals have acknowledged that the top Soviet leadership did not demonstrate a lack of initiative or flexibility during the last years of the war. The German blitzkrieg caught the Soviet army in the aftermath of Joseph Stalin's purges. Stalin's systematic destruction of the Soviet High Command between 1937 and 1939 had a fateful influence on the Soviet army of 1941. Three of five marshals of the Soviet Union, all 11 deputy commissars of defense, 13 of 15 army commanders, 57 of 85 corps commanders, 110 of 195 division commanders and all of the military district commanders of May 1937 were shot or disappeared without trace during this period. In total, some 35,000 officers were either dismissed, imprisoned or executed during those two terrifying years.

In addition, the Red army was in the throes of restructuring and re-equipping its forces. The reorganization was a process of reform that required two to three years to complete. Despite an estimated Soviet tank strength of 20,000 in June 1941, some 60 percent were undergoing repair or servicing when the Germans invaded. By the end of 1941, Soviet leadership and tactical units were nearly expended to thwart the invasion. Soviet tactics were born of desperation. Red army survival depended upon correcting deficiencies in combat experience on the part of many tactical handling of formations. In a directive from the Soviet General Staff, a review process was established that:

Chose the most capable officer in each field army to study and summarize war experience.

Established systematic information collection, analysis and publication of war experience for the indoctrination of troops in reserve and second-echelon units.

Ultimately resulted in *Stavka* (general headquarters staff) orders being issued as precise direction for the conduct of battle.

With tremendous sacrifice and growing skill gained through costly experience, the Soviet army took the strategic initiative during the winter of 1942-43. By 1944, the Soviet advance on Berlin was limited primarily by logistical not tactical considerations. Few German generals wrote about this latter period of the war. However, the general officers who wrote of 1941-42 have been offset by other survivors who did not write their memoirs after the war—the staff officers who put together the operational estimates and summaries.

As a general conclusion in the summaries from 1944-45, the Soviets were capable of fighting and did fight in accordance with the theoretical principles as expressed in their official tactical manuals and directives. The German operational summaries called attention to the increasing flexibility of Soviet commanders in the conduct of breakthrough operations. The coordinated use of tanks, artillery and air units—that is, the use of combined arms—replaced the exclusive commitment of massed infantry.

The credibility of the German critiques is further damaged by some German commanders' comments on the "Russian knack for improvisation." This improvisation ranged from making engines run with virtually no tools to quickly grasping the superiority of certain combat methods and overcoming the greatest weather and terrain difficulties. It is hard to reconcile an inflexible and unimaginative character with an ability to improvise. Rectifying the distortion lies in not judging the enemy in stereotype. S.L.A. Marshall, a noted combat historian, observed that "improvisation is the essence of initiative in all combat just as initiative is the outward showing of the power of decision."

US Army Field Manual 100-5, Operations, describes initiative as a subordinate's independent act within the context of an overall plan. Commanders are expected to deviate from the expected course of battle without hesitation when opportunities arise. The Soviets, too, recognize that dynamic maneuver, rapid deployment and sharp changes in situations will place great demands on commanders in modern combat. Their writings continually stress the need for initiative and creativity at the lower levels of command as well as at higher echelons. The initiative of a commander is officially defined as:

(1) A creative, informal solution by a subordinate commander (commanding officer) during an operation (or battle), which is part of a mission assigned to him, and the readiness to take a calculated risk in connection with such a solution. The initiative of a commanding officer (commander) consists in striving to find the best method of fulfilling the assigned mission, in utilizing favorable opportunities, and in taking the most expedient measures promptly, without awaiting orders from one's immediate superior.

(2) The ability to impose one's will on the enemy in the course of an operation (or battle).

This Soviet concept of inititative on the battlefield is more narrowly defined and structured when compared to a Western perception. In other Soviet writings, some aspects of the definition are expanded for emphasis, such as "in taking daring decisions and firmly carrying them into effect without waiting for instructions." Or, initiative is the opposite of inertia, indifference and an uncaring attitude toward the job. Initiative is the ability of a leader to include creativity in the performance of his duty, and this requires a readiness to take a risk, bear the responsibility for consequences and experience great stress. Creativity—for our purposes—may be defined as the development of uncommon or unusual but appropriate responses to situations. Initiative and creativity are inseparably linked.

Soviet military writers provide examples of the desired initiative from past experiences. In 1944, for example, a battalion commander detected the enemy withdrawing from the defensive trenches. Although there was still 30 minutes left until the end of the artillery barrage, the commander sent his men into the assault and reported his decision to the regimental commander. When the army commander learned of the decision, he immediately ordered the fire to be lifted and all of the first-echelon divisions to attack.

Since all armies preparing for modern combat acknowledge the need for quick, innovative decisions at all levels of command, we must look at where the Western and Soviet concepts of initiative differ. The difference lies in the means of creating a leadership with the requisite qualities. While Western armies wait to promote leaders who demonstrate initiative, the Soviets believe that the individual leader can be taught initiative.

This divergence in the perception of the limits to teaching a quality like initiative springs from a fundamental difference within contemporary psychology about the roles of conscious and unconscious mental activities. In the West, Freudian and other influences have promoted a view of the conscious realm of the mind as subordinate to the unconscious. The unconscious is perceived as the principal determinant of behavior. Mental activities are difficult to evaluate by means of empirical tests and testable predictions. Intelligence, mental abilities and talents are generally perceived as traits with limits that are largely inherited, and intellectual functions such as creativity and initiative are included among these innate qualities. It follows that initiative and creativity cannot be taught.

On the other hand, Soviet psychology, "without denying the role of the unconscious in human mental activity, considers the conscious as the leading determining factor" in the human mind. Soviet psychologists agree that Ivan P. Pavlov demonstrated the relation of consciousness to nervous activities of certain areas in the cerebrum. Pavlov's work in conditioned reflexes established the physiological nature to the accumulation of knowledge and the formulation of skills and abilities.

If the individual differences in the neurophysiological prerequisites for creative activity vary within certain, often comparatively small limits, then the type of thinking and its creative "mechanism" are formed as a whole by training and education, by the structure of labor activity, and by the specific historical conditions characteristic for the period, class, or social group.

Thus, the psychological premise underlying Soviet military training is to ensure that:

". . . the structure of thought always corresponds to the structure of reality, the process of training and education must include conditions which help to form creative thinking."

For the Marxist state, man is shaped through education and the influence of his environment. Initiative and creativity can be developed in the individual.

The physiological conception of learning provides the scientific basis for Soviet military education which relies on the data and conclusions of general and military psychology for working out the process of instilling in soldiers skills, abilities and habits. Without understanding the role of the environmental perspective in the Soviet military education system, observers would perceive a basic contradiction in the Soviet command—doctrine which continues to ask for initiative and creativity but permits independent decisions only within the seemingly narrow confines of precise, detailed plans and orders.

In demonstrating initiative under combat conditions, the Soviet leader's thoughts:

". . . should provide a rapid transition from the reflective-cognitive stage of mental activity (elucidating the mission and judging the situation) to a constructive-creative one (decision-making, the aim and plan of action in the battle or operation)."

This is nothing more than considering his various courses of action in U.S. military parlance.

Creativity involves synthesis—the ability to make connections that order observations or ideas in meaningful ways. Developing this synthesis, or "creative mechanism," in Soviet jargon requires a training environment structured to provide the proper conditions to form such a mental process that lends itself to military application, and this must be combined with sufficient breadth of education. Breadth of education makes it possible to successfully use ideas from related areas of knowledge and to apply that knowledge effectively in varying situations.

Herein lies the importance of military history and past combat and exercise experiences in the development of Soviet tactical doctrine. Quantitative studies and lessons learned of past military experiences provide the basis for the structured training and for the application of derived tactical doctrine to battlefield situations. An important aid in this process is the establishment of operational norms that serve as touchstones for decisionmaking.

In US Army literature, norms are seen as mathematical prescriptions for proper action. These quantified standards are used to determine the allocation of weapon systems, march intervals, frontages, rates of march and a multitude of other tasks. They are based on historical analyses of exercises and wars and on the results of predictive gaming models. The usage of norms can be distinguished from that of Western nations not only by the pervasive permeation of training literature and procedures but also by a greater systematic, empirical use of past experiences in developing numerical standards for virtually every aspect of planning and operations. The Army's Soviet Army Operations handbook exemplifies the Western interpretation of this heavy use of norms as summed up in the following quote:

"Primarily, there is no provision for the unexpected. When initiative is seen in terms of finding a correct solution within normative patterns, a sudden lack of norms may place a commander, at whatever level, in an unexpected and perilous situation."

A study of human judgments under uncertainty has shown that people rely on a limited number of assumptions which reduce the complex tasks of assessing chances and conclusions to simpler judgmental operations. In general, these assumptions are quite useful, but sometimes they lead to severe and systematic error. The study reveals that, in many situations, people make estimates by starting from an initial value that is adjusted to yield a final answer. The initial value, or starting point, may be implied by the formulation of the problem, or it may be the result of a partial computation. In either case, adjustments are typically insufficient. That is, different starting points yield different estimates which are biased toward the initial values. This phenomenon is called "anchoring."

Anchoring was demonstrated by asking a group of students to estimate the percentage of people in the United States who are age 55 or older. The students were given initial values—that is, starting percentages—that were selected randomly. Then, they were told to adjust these arbitrary starting points until they reached their best estimate of the correct percentage. Those students whose initial value was too high ended with higher estimates than those who started with an estimate that was too low and vice versa. The students consistently made insufficient adjustments from their initial values. The conclusion of the study was that a better understanding of the speculative formulations or biases could improve judgment and decisions in situations of uncertainty.

Tactical commanders must deal with dynamic situations that will create a large measure of uncertainty, and they must continually review their estimates in response to changes in the situation or receipt of additional information. Ideally, there should be a direct correlation between changes in the situation and the revision of the initial estimate. The implications of the human judgment study suggest that we cannot expect commanders to change their judgments enough. Once their estimates are made, their thinking becomes anchored and moves along a narrow spectrum from that point.

The Soviets intend for learned norms to anchor the tactical leader's judgment on the probable optimum solution in lieu of some arbitary starting point. With the fluidity and confusion that will certainly exist on the future battlefield, the combat leader cannot rely upon being able to make immediate correlations between rapid changes in the situation and his prior estimate of the course of battle. Norms serve as a means to simplify the commander's ability for evaluating the effectiveness of their operations by reducing complex information to a manageable form. Norms are constantly reviewed and modified in the light of improved technology and evolving doctrine, thus keeping the Soviet leadership current and achieving a high degree of uniformity in performance.

To the Soviets, initiative is not an innate quality in the combat leader. It is developed through a process of combat studies. Initiative is not an untutored individual response based on some individual notion founded in "native wit." It is, rather, recognizing the relationship of situational factors to studied norms and making decisions that will solve the problem or accomplish the tactical mission. Soviet Major General P. Kunitski has written that "initiative has nothing in common with superficiality recklessness, or dare-devil stuff." Such distrust of the adequacy of native wit is not completely foreign to Western military thought. While professing the innateness and importance of imagination and initiative, Marshall cautions that:

". . . initiative is a desirable characteristic in a soldier only when its effect is concentric rather than eccentric: the rifleman who plunges ahead and seizes a point of high ground which common sense says cannot be held can bring greater jeopardy to a company than any mere malingerer."

Where does one develop the common sense? The implication here is that some sort of knowledge can be learned that will promote a correct initiative. This is the essence of the Soviet position.

Relying on historical precedent, General V. Merimsky, deputy chief of the Main Administration of Combat Training of the Ground Forces in 1978, described successful combat command in World War II as that which is achieved through a commander's creative approach based upon a:

"Thorough understanding of the nature of modern combat, the role of man and technology in warfare, the knowledge of the requirements of the regulations, the organization and tactics of the probable enemy, the capabilities of friendly troops, their armament and technology, and the methods of controlling the troops."

To cope with the modern battlefield, an officer must no only be well-trained in his specialty but also must develop what the Soviets term,"shtabnaya kulture" or "staff culture." Staff culture is the sum total of knowledge and skills of an officer necessary for staff work. It includes the ability to collect information in a short time, to analyze the situation and to accurately state conclusions from an estimate. In addition, an officer must be able to execute operational-tactical estimates, coordinate and organize forces for combat missions and effectively utilize contemporary technical means of control.

The dilemma portrayed by Soviet observers seems to be that Soviet officers—despite the rapidity of the developing situation, the "fog of war" or the absence of orders—must act only in obedience to orders, regulations and prescribed operational norms. Developing staff culture enables an officer to understand the general situation, appreciate the operational principles governing his forces and those of superior commanders and outwit the enemy.

This appreciation of the overall picture enables the subordinate to make correct military decisions in anticipation of orders that have not been received from higher echelons because of chaos and confusion on the battlefield. Unless the tactical leader does what the senior commander requires and contributes to a successful mission, the Soviet officer's actions are useless. This concept is very similar to the German concept, Auftragstaktik, which holds a subordinate commander responsible for endeavoring at all times to carry out the mission concept of his superior whether he has orders or not.

Like the uniformity and concentric effort achieved within the individual through operational norms and training, concentric efforts of units at the lower echelons, particularly battalion and below, are established and reinforced by the use of battle drills. These drills at the tactical level are well-rehearsed.

Western assessments of the Soviet transition from march orders to combat formations characterized the highly standardized drill as a substitute for initiative. Such a rote battle drill is predictive and vulnerable to the unexpected. These shortcomings may be disadvantageous. However, the appraisals neglect to assess battle drill within the context of Soviet tactical doctrine and ignore the enhancing possibilities of battle drill at the lower echelons.

Drill, as it has evolved in modern warfare, became significant with the growing importance of firepower on the battlefield. This development in the conduct of the battle demanded a greatly heightened degree of control on the battlefield itself: control of movements, control of fire and self-control. Such control led to the innovation of coordinating the use of combined arms to achieve a maximum effect with maneuver and firepower. The refinement of firepower and the speed of modern weapons systems created a demand not only for clear-sighted and quick-witted commanders but also for the integrated structure of hierarchical control and instantaneous, disciplined response.

For the Soviets, all elements in their concept for combat are inseparably connected with the combat formation which is created exclusively for the attainment of the goal of the combat. Colonel A. A. Sidorenko, a well-known Soviet military spokesman, explains:

"Conformity of the combat formation with the concept for combat is achieved by that deployment which assures the concentration of efforts on the main axis, execution of the necessary maneuver, build-up of efforts in the course of combat, and, in the final account, absolute performance of the assigned combat mission."

A key tenet of Soviet operational art is the tempo of operations. The ability to maintain the momentum of the operation has placed a tremendous demand on the capability of Soviet forces to conduct continuous operations and for the leadership's planning not to delay the continuous tempo of offensive operations. This emphasis on tempo directly impacts on effective troop-control sustainment within the context of spatial operations.The correlation of forces and means with the factor of space leads to ensuring that tactical doctrine works effectively. What is essential to the doctrine is a rapid concentric effort of all of the combat elements. One can begin to appreciate the doctrinal impact of the battle drill for the attack from the march and in the meeting engagement as it pertains to the application of combat power and the quick execution of tactical decisions.

As noted previously, Soviet military psychology and pedagogy strive to conform the training environment to the realities of combat. The rote battle drill significantly adds structure to a protentially stressful and confusing situation. Conclusions in past research by the West on the behavior of men in battle were that effective training could provide a high degree of self-confidence and tend to reduce the intensity of fear reactions once the soldiers began to carry out a plan of action in ways made familiar by their training.

The initial movement of troops into combat under fire is a confusing and chaotic moment. The individual soldier is experiencing an extreme moral-psychological shock from the noise and rapidity of weapons fire, exhaustion and emotional stress. Battle is potentially demoralizing when it differs substantially from the soldier's mental image. This demoralization can have a direct and adverse effect on performance.

Here, again, the battle drill gives the small-unit commander the model or touchstone to begin his activities. Battle drill for the junior leaders inculcates a sense of confidence in that they can state facts and correct errors. It produces self-confidence in the officers and confidence in the officers by the men.

From the application of operational norms and well-rehearsed battle drill, the tactical commander is extremely aware of how well his troops can cope with time-and-space factors. The Soviet commander has some grasp of the effectiveness of his unit in quantitative terms.

The firm awareness of the unit's capabilities in terms of the time-and-space factors serves to cut down on some of the unnecessary planning time and the time to convey the manner of its execution. If one had to devise the scheme of maneuver and the phased actions, to convey this concept to the subordinate leaders, to receive subordinate acknowledgment of the plan and to ensure the orchestration of this activity, it would be much more time-consuming. Consequently, the battle drill at the lower echelons greatly speeds up the decisionmaking and execution process.

At the battalion level, the Soviet commander has less of a staff to assist him in the execution of his mission than in the US battalion. It is a tremendous assistance to the commander to be able to know where his subordinate units are located at any given time during the execution of a tactical maneuver. As much as the burden for the successful execution of the operation rests upon his shoulders, the Soviet commander must be able to immediately contact his subordinate elements to impress his direction and changes of orders in a given situation. This precise knowledge of subordinate positions and abilities allows the commander to affect the battle decisively.

In conjunction with this basic drill, it is the normal Soviet practice to instruct commanders on serveral alternatives which are developed and refined by constant study and practical exercises. Based on the research of past experience, a few such well-learned alternatives will solve most of the battle situations likely to be encountered and, with little difficulty, most officers could make these minor adjustments to accommodate unexpected situations.

This practice of reducing each battlefield situation to a few alternatives is probably very realistic and pragmatic. Realistically, there will simply not be enough time for a small-unit commander to make a completely new plan for every operation on the battlefield. Pragmatically, the pace and destruction of combat on the future battlefield will create a tremendous amount of chaos and confusion.

The commander who can count on a reliable execution of a known scheme of maneuver despite the confusion and combat stress on the part of the soldiers will be able to direct the tactical forces at his disposal faster than the decisionmaking and execution process of an improvising opponent. Soviet military planners believe the advantages of originality are offset by the loss in surprise and time that allows the enemy to prepare or recover. Consequently, for the Soviets, speed and surprise and the resultant shock on the enemy are considered to yield better dividends in the long run than versatility and ingenuity.

Above battalion level, Soviet operations and tactics are not designed for rote battle drill. The regiment is the first level for a combined arms force structure. This flexible force structure allows a much greater degree of initiative for the regimental commander. There is a corresponding increase in flexibility of force structure and latitude for initiative with each higher echelon.

In World War II, German operation staff officers and commanders discovered Soviet army and front commanders to be very flexible and capable. Many of the Soviet army commanders had been army commanders for several years, providing a very experienced and seasoned leadership to these higher commands. A cursory review of Soviet upper echelon operations on the Eastern Front and in Manchuria reveals that the Soviets readily used multiechelon or single-echelon forces depending upon the situation.

The point to be made is that the battle drill at battalion and below is a choice for tactical considerations rather than a substitute for initiative. Since Soviet tactical doctrine is offensive, there can be less tolerance for an initiative by Western standards. While on the offensive, one has the initiative because things are being made to happen, and the course of action is being determined. On the other hand, if one plans to fight a defensive doctrine, then a greater reliance has to be placed on individual initiative to wrest the initiative from the attacker.

Initiative within the limits of the battle drill is that effort which complements the end objective. It could include the use of terrain defiles on the approach march or the identification of a flanking route into the enemy position.

This limit is similar to the tolerance for individual initiative that is wanted from a blocking lineman in football. Based on the offensive play, the lineman does not have a wide range of choice for the opponents to be blocked. The lineman must block a designated opponent at a given point for the play to work. Initiative for the lineman is the selection of techniques that result in a quick block and its decisiveness in taking the opponent out of play. The battle drill for the lower echelon units is the limited technique that must be accomplished quickly and decisively for the tactical play of higher echelons to be successful.

Western appraisal of the use of operational norms and the rote battle drill has been to characterize it as a crutch used to prop up a leader and a tactical system in which the ability to act innovatively has been stifled. Training in the operational norms and well-rehearsed battle drill is viewed as indoctrination in a regimented and inflexible system which a commander must use, and the corollary is that the commander will be at a loss when in a situation for which there is no norm.

US Army doctrine is very comfortable with the Soviets' highly practiced battle drill and echelonment system. This predisposition to stereotype Soviet doctrine and leadership capabilities makes the formulation of US tactical doctrine easier because of the paradigm. We can tailor our doctrine to a well-defined, sharply limited field of possibilities.

But we have a burden to understand Soviet values and methods on Soviet terms, and being judgmental contributes little to real understanding. Initiative in combat is far too complex to lend itself to a simple, stereotype explanation. No army in history fought with absolute initiative and courage in every battle, just as no army was unthinking and cowardly in every battle. Initiative will vary from soldier to soldier, from situation to situation and from time to time. Beware if we expect more from men in battle lest we are surprised as were the Germans of 1945.

**Mr. GOLDWATER.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

**Mr. BAKER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

## EXTENSION OF ROUTINE MORNING BUSINESS

**Mr. BAKER.** I ask unanimous consent, Mr. President, that the time for morning business may be extended long enough to accommodate the time that the minority leader and I may use to handle the wrap-up, which will not be very long, and that no time limitation apply against the two leaders.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

## THE CALENDAR

**Mr. BAKER.** Mr. President, there are a number of things that are cleared for action by unanimous consent on this side which I would like to identify for the minority leader, if I may, to see if he can approve all or any part of these measures.

Mr. President, let me run through them quickly. Calendar Orders 750, 849, 875, 880, 903, 920, 942, 945, 969, 972, 978, 983, 984, 985, 986, 987, and 992 have been cleared for action of one character or another on this side.

**Mr. BYRD.** Mr. President, from my side of the aisle, I have no objection to proceeding as the distinguished majority leader has outlined.

**Mr. BAKER.** Mr. President, I thank the minority leader.

## RESCHEDULING OF METHAQUALONE

The bill (H.R. 4201) to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

## CORPORATION FOR PUBLIC BROADCASTING

The Senate proceeded to consider the bill (S. 2436) to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes which had been reported from the Committee on Commerce, Science and Transportation with an amendment to strike all after the enacting clause and insert:

S. 2436

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1983,"; and

(2) by inserting "$50,000,000 for fiscal year 1985, $53,000,000 for fiscal year 1986, and $56,000,000 for fiscal year 1987," immediately after "1984,".

SEC. 2. Section 393(c) of the Communications Act of 1934 (47 U.S.C 393(c)) is amended by striking the first sentence.

SEC. 3. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C) is amended—

(1) by striking "and 1986, an amount" and inserting in lieu thereof "1986, 1987, 1988, and 1989, an amount";

(2) by striking "and" after "fiscal year 1985,"; and

(3) by inserting ", $238,000,000 for fiscal year 1987, $253,000,000 for fiscal year 1988, and $270,000,000 for fiscal year 1989" immediately before the period at the end thereof.

The amendment was agreed to.

**Mr. GOLDWATER.** Mr. President, S. 2436 would authorize appropriations for the Corporation for Public Broadcasting [CPB] for fiscal years 1987, 1988, and 1989, and for the Public Telecommunications Facilities Program [PTFP] for fiscal years 1985, 1986, and 1987. S. 2436 contains no other substantive amendments to existing law, except one. Section 2 of the bill would delete the requirement that 75 percent of PTFP funds be allocated for areas of the country receiving new service. Although new service is still top priority in the grantmaking process, removing the requirement will give PTFP greater flexibility to replace existing and aging telecommunications "hardware." Thus, S. 2436 is basically a straight appropriations authorization measure.

The funding levels to be authorized for CPB in S. 2436 would be $238 million, $253 million, and $270 million for each of the 3 fiscal years; 1987, 1988, and 1989; for PTFP, $50 million, $53 million, and $56 million for each of the 3 fiscal years, 1985, 1986, and 1987.

I, along with most of my colleagues on the Subcommittee on Communications, introduced the bill, S. 2436, on March 19. On March 26, I chaired the hearings on the bill conducted by my Subcommittee on Communications. And, on April 10, the Committee on Commerce, Science, and Transportation ordered unanimously that S. 2436 be reported favorably with a technical amendment in the nature of a substitute text. Today, this bill enjoys the sponsorship of not only myself but 51 other Senators.

The Corporation for Public Broadcasting [CPB] was authorized to be established as a private, nonprofit corporation by the Congress, acting upon the report and recommendations of the Carnegie Commission on Educational Television, in 1967. It was "* * * created to facilitate the development of public telecommunications and to afford maximum protection from extraneous interference and control." The first finding and declaration by the Congress in the Public Broadcasting Act provides that "* * * it is in the public interest to encourage the growth and development of public radio and television broadcasting, including the use of such media for instructional, educational, and cultural purposes." It is in this context and mindful of the multiple objectives that CPB is authorized to achieve that S. 2436 should be considered and should be acted upon favorably by the Senate.

Unfortunately, notwithstanding this praiseworthy declaration, since 1981, there has been no "growth" and little "development" in public broadcasting. Quite the contrary, there is growing evidence of retrenchment and backsliding as advance funding in the pipeline dries up. In 1981, the authorization level was cut by 40 percent, from $220 to $130 million; the appropriation, by 25 percent, from $172 to $130 million. In fact, there will not be too much "growth" or "development" even at the $238 million level to be authorized for fiscal year 1987. What the $238 million represents is only 20 percent of the public broadcasting system's revenue needs. For the remainder, the system must look to a mix of State and local government support, business grants, and viewer support—in this last category, public broadcasting ranks second only to the United Way in the success of its individual solicitations. Moreover, the $238 million Federal funding level for fiscal year 1987, as well as the levels for fiscal years 1988 and 1989, will enable public broadcasting to do no more than maintain "current services" at the fiscal year 1982 level. In short, the funding levels proposed in S. 2436 are neither excessive, nor are they a panacea for all of the current financial needs of public broadcasting. At best, these levels will arrest the erosion that the earlier, deep cuts inflicted upon the system and will stabilize the system only at the 1982 service level.

Of equal importance is the authorization in S. 2436 for the Public Telecommunications Facilities Program [PTFP]. This program provides grants for telecommunications "hardware." It has made the growth of public television service possible. Unfortunately, this "hardware" is both aging and fast becoming, if not already, obsolescent. As one who has been in the radio business all my life, I can tell my colleagues in the Senate that equipment obsolescence is an on going problem—what you make one afternoon is no good the following morning. I, for one, therefore can truly appreciate the magnitude of the equpment replacement problem currently confronting the public broadcasting system. The deletion of the statutorily mandated 75-percent set-aside for new service, as provided for in S. 2436, should help in addressing this problem.

But, perhaps the most important element of the Federal support that S. 2436 represents is the forward authorization, advance-year appropriation concept for CPB. It is this concept, unique to Federal funding, which has given public broadcasting the opportunity to plan; to grow in a stable environment; and most important to be insulated from potential interference with programming through unexpected reductions in appropriations. And, I might add, it is a concept which has been endorsed by every Congress since it was inititated in 1975 and then reaffirmed, as recently as 1981.

S. 2436, therefore, is a tool or vehicle to sustain the existence of public broadcasting to meet a critical national need. That need is for programs that the commercial marketplace cannot realistically be expected to provide or does not provide—quality programming for everyone, including children, minorities, women, the elderly, the handicapped, and the homebound.

Notable, of curse is CPB's service to children, which is the first priority established by is Board of Directors under the leadership of its current chairman. "Sesame Street," "The Electric Company," "Mr. Rogers," "Reading Rainbow," and "3-2-1 Contact" are but a few examples of such excellent television programs. And, in the field of public affairs, there is "The MacNeil-Lehrer News Hour," "Morning Edition," and "All Things Considered." No such comparable programming is available "ad-free" over the commercial media. No doubt, the premier quality of public broadcasting could be affected very adversely if we, in the Congress, fail to meet our obligation to fund the system adequately. As the new president of the Public Broadcasting Service observed in Phoenix this week, if public TV's revenue sources dry up, then "ultimately, public broadcasting will have to look at advertising as a source of revenue." I, for one, trust this final recourse will not be forced upon this system. We all could be the losers.

Now, in all candor and honesty, I must advise my colleagues that the administration is opposed to the funding levels proposed in S. 2436. But the President, himself, has given a firm commitment to excellence in education, which appears to override this opposition. As the President observed in his State of the Union message:

> * * * every family has a personal stake in promoting excellence in education. * * * Excellence must begin in our homes and neighborhood schools, where it is the responsibility of every parent and teacher and the right of every child.

The President continued:

> Our children come first. * * * Schools are reporting progress in math and reading skills. But we must do more * * * and we must encourage the teaching of new basics * * *.

Mr. President, public broadcasting is a powerful vehicle for the advancement of balanced quality programming and "excellence in education," both for young people and adults. I urge my colleagues in the Senate to support passage of the bill. S. 2436.

**Mr. PACKWOOD.** Mr. President, I am pleased to join with Senator GOLDWATER, the sponsor of S. 2436, in bringing this public broadcasting reauthorization bill to the floor.

This bill, in short, reauthorizes operation of the Corporation for Public Broadcasting for fiscal years 1987, 1988, and 1989, and reauthorizes the National Telecommunications and Information Administration's Public Telecommunications Facilities Program for fiscal years 1985, 1986, and 1987.

The funding levels set by S. 2436 are substantially higher than those authorized by Congress in 1981. In 1981, we cut back on Federal support for public broadcasting as part of our overall Federal belt tightening. At the same time, we encouraged altenatives to Federal funding, and allowed public stations to raise money through commercial ventures; 3 years of experience has demonstrated that alternative financing structures are not developed to the point where they can substitute for strong Federal support for public broadcasting. Therefore, while the funding levels set by S. 2436 may appear to be high, these levels are needed.

This bill has a great deal of support. It was reported out of the Commerce Committee by a unanimous vote. Over half the Members of the Senate are cosponsors of the bill. Finally, this bill has wide public support—Americans value the quality programming alternatives made available to them by public broadcasting.

I look forward to speedy passage of S. 2436.

**Mr. HOLLINGS.** Mr. President, I want to express my strong support for S. 2436, legislation authorizing funds for the public broadcasting system. This bill properly ensures that we will have a strong public broadcasting system for the rest of the decade.

I know many people who are very concerned about the type and variety of information the public receives today from commercial broadcasters. Public broadcasting has clearly demonstrated that it can and does provide an important source of alternative programming for the people of our Nation. It meets needs that have yet to be satisfied and might well never be in the marketplace.

Public broadcasters have done their job well. They are responsive to their communities' needs. They provide important information that both informs and entertains. They deserve our continued support as contained in S. 2436. I urge its passage.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the bill passed.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## INDIAN EDUCATION ACT REAUTHORIZATION OF 1984

The Senate proceeded to consider the bill (S. 2619) to extend programs under the Indian Education Act through fiscal year 1985, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

On page 2, line 13, strike "$7,200,000" and insert "such sums as may be necessary".

On page 2, line 18, strike "$2,300,000" and insert "such sums as may be necessary".

On page 3, line 1, strike "$1,000,000" and insert "such sums as may be necessary".

On page 3, line 12, strike "$3,000,000" and insert "such sums as may be necessary".

On page 3, after line 13, insert:

SEC. 6. Section 303(b) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(b)) is amended to read as follows:

(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (a) of this section for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance to—

(1) schools on or near reservations, or

(2) schools located in the State of Alaska, which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

SEC. 7. Section 423(a) of the Indian Education Act (20 U.S.C. 3385b(a)) is amended by inserting "psychology," after "medicine," in the second sentence.

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Indian Education Act Reauthorization of 1984".

### INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

SEC. 2. Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(1)) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

### ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 3. Section 1005(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3385(g)) is amended to read as follows:

"(g)(1) For the purpose of making grants under the provisions of this section (other than subsection (e), there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1985.

"(2) For the purpose of making grants under subsection (e), there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1985. The sum of the grants made to State educational agencies under subsection (e) in any fiscal year shall not exceed 15 percent of the sums appropriated for such fiscal year.".

### INDIAN EDUCATION ACT

SEC. 4. (a) Section 422(c) of the Indian Education Act (20 U.S.C. 3385a(c)) is amended to read as follows:

"(c) There is authorized to be appropriated such sums as may be necessary for fiscal year 1985 to carry out the provisions of this section.".

(b) Section 423(a) of the Indian Education Act (20 U.S.C. 3385b(a)) and section 442(a) of such Act (20 U.S.C. 1221g(a)) are each amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

### ADULT EDUCATION ACT

SEC. 5. Section 316(e) of the Adult Education Act (20 U.S.C. 1211a(e)) is amended to read as follows:

"(e) For the purpose of making grants under this section there are hereby authorized to be appropriated such sums as may be necessary for the fiscal year 1985.".

SEC. 6. Section 303(b) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(b)) is amended to read as follows:

(b) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (a) of this section for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance to—

(1) schools on or near reservations, or

(2) schools located in the State of Alaska, which are not local educational agencies or have not been local educational agencies for more than three years, in accordance with the appropriate provisions of this title.

SEC. 7. Section 423(a) of the Indian Education Act (20 U.S.C. 3385b(a)) is amended by inserting "psychology," after "medicine," in the second sentence.

The amendments were agreed to.

Mr. ANDREWS. Mr. President, I am very pleased that the Senate is now taking up the reauthorization of the Indian Education Act. I urge my colleagues to join me in supporting this bill, and, by doing so, supporting quality education for Indian people.

I should like to clarify one point in the bill, and that is that the Senate Select Committee on Indian Affairs, which held a hearing on S. 2619 and ordered the bill reported favorably to the floor, does not intend that section 6 authorize funding for any fiscal year beginning before September 30, 1984.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as amended.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## WASHINGTON DULLES INTERNATIONAL AIRPORT

The bill (S. 2483) to rename Dulles International Airport in Virginia as the "Washington Dulles International Airport," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2483

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), known as the Dulles International Airport, shall hereafter be known and designated as the "Washington Dulles International Airport". Any law, regulation, map, document, record, or other paper of the United States in which such airport is referred to shall be held to refer to such airport as the "Washington Dulles International Airport".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## STUDY OF FEDERAL AVIATION ADMINISTRATION RULES AND REGULATIONS

The Senate proceeded to consider the bill (S. 197) to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) The Secretary of Transportation shall, in the interest of health and safety, and in the interest of promoting and maintaining a superior United States aviation industry, commission an independent study by the National Academy of Sciences. The study shall determine whether civil commercial aviation industry practices and standards and Federal Aviation Administration rules, regulations, and minimum standards are nondiscriminatory and at least in conformance and parity with nonaviation standards, practices, and regulations for the appropriate maintenance of public and occupational health and safety (including de facto circumstances) in relation to airline cabin air quality for all passengers and crew aboard civil commercial aircraft.

(b) In conducting the study, special and objective considerations shall be given to the uniqueness of the environment onboard civil commercial aircraft. The study shall focus on all health and safety aspects of airline cabin air quality, including but not limited to—

(1) the quantity of fresh air per occupant and overall quality of air onboard;

(2) the quantity and quality of humidification;

(3) onboard environmental conditions and contamination limits, including exposure to radiation;

(4) emergency breathing equipment, including toxic fume-protective breathing equipment;

(5) measures, procedures, and capabilities for detecting and extinguishing fires and the removal of smoke and toxic fumes within safe pressurization limits and practices to assure valid medical advice concerning the health effects of air travel;

(6) safe pressurization of the aircraft, considering the broad range of cardiopulmonary health of the traveling public, and dissemination of information to the medical profession and the general public of current pressurization limits and practices to assure valid medical advice concerning the health effects of air travel;

(7) the feasibility of collection and dissemination by the aviation industry, the Federal Aviation Administration, or any other private or governmental organization of a data base of medical statistics and environmental factors relating to air travel, including but not limited to, maintenance and operation records and procedures of aircraft, in an effort to assess the adequacy of aircraft systems, design, regulations, standards and practices relating to airline cabin air quality from the standpoint of health and safety, and for the purpose of issuing Federal Aviation Administration administrative advisory circulars and airworthiness directive regulations to correct any deficiencies disclosed;

(8) the adequacy of current preflight and inflight health and safety instructions for air travelers that relate to airline cabin air quality, including but not limited to, life safety procedures during inflight fire, smoke, and toxic fume emergencies; and

(9) a comparison of foreign industry practices, regulations, and standards.

(c) In conducting the study, special care shall be taken to assure that all existing studies, recommendations, data, and state of the art technology relevant to the health and safety aspects of airline cabin air quality are considered.

(d) In conducting the study, the National Academy of Sciences shall consult with and solicit the views of academic experts, representatives of airline labor, the aviation industry and independent experts and organizations.

(e) The study shall include such recommendations for legislative, regulatory, and industry changes as the National Academy of Sciences determines to be advisable for promotion of health and safety in relation to airline cabin air quality.

SEC. 2. The Secretary of Transportation shall submit a copy of the study, as it was prepared by the National Academy of Sciences, to the Congress within eighteen months after the date of enactment of this Act. At such time the Secretary shall also set forth such comments on the matters covered by the study and such recommendations for legislative, regulatory, and industry changes as the Secretary determines to be necessary.

SEC. 3. There is authorized to be appropriated not to exceed $500,000 for the fiscal year commencing October 1, 1984, to carry out the study authorized by this Act. Such funds shall remain available for obligation until expended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed as amended.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## HAZARDOUS MATERIAL TRANSPORTATION ACT AMENDMENTS OF 1984

The bill (S. 2706) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

**Mr. DANFORTH.** Mr. President, today we are considering S. 2706, legislation to reauthorize the hazardous materials transportation programs of the U.S. Department of Transportation [DOT]. The Hazardous Materials Transportation Act of 1974 [HMTA] provides the primary legislative authority for DOT's hazardous materials programs.

DOT is responsible for regulating the safety of hazardous materials transportation in or affecting interstate commerce, including international movements. Under the HMTA, DOT promulgates regulations governing shipper and carrier operations, packaging and container specifications, handling, labeling, and incident reporting. State and local laws are preempted to the extent they are inconsistent with this Federal law.

DOT issues advisory opinions on determinations of consistency and is responsible for the enforcement of the hazardous materials regulations. DOT also is responsible for evaluating risks and establishing a central reporting and data system to facilitate emergency response to hazardous materials transportation incidents.

Hazardous materials transportation is an essential function for the operation of numerous industries in this country, but many potentially serious risks are associated with this type of transportation. It has been estimated that roughly 4 billion tons of hazardous materials are shipped in the United States each year. While this type of transportation is generally safe relative to other types of transportation, a single hazardous materials transportation incident can, nevertheless, have severe and far-reaching consequences.

During the 98th Congress, the Senate Commerce Committee has conducted two hearings on the issue of hazardous materials transportation. At these hearings, concerns have been raised as to the effectiveness of the existing regulations and programs, the need for increased funding for State and local emergency response efforts, the need for increased coordination and information dissemination between the various levels of government, and the need for improved enforcement of the Federal hazardous materials transportation regulations. The efforts of the Hazardous Materials Transportation Coalition to find legislative solutions to address these problems were also noted.

Mr. President, these issues need to be carefully examined. In April 1984, at a hearing conducted by the Commerce Committee's Surface Transportation Subcommittee, I was pleased to learn that DOT is exploring means by which improvements in the current regulatory system can be made. I am anxious to see the outcome of these efforts.

While DOT is undertaking these efforts, it is important that continued funding be authorized for the DOT hazardous materials transportation programs now in place. The bill we are considering today provides an authorization for fiscal years 1985 and 1986 for the Department of Transportation's hazardous materials transportation programs carried out pursuant to the Hazardous Materials Transportation Act of 1974. The bill provides an authorization of $7.5 million for fiscal 1985 and $8 million for fiscal 1986 for these DOT programs.

Mr. President, I urge my colleagues to join me in supporting S. 2706, the "Hazardous Materials Transportation Act Amendments of 1984."

The **PRESIDING OFFICER.** The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2706

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Hazardous Materials Transportation Act Amendments of 1984".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) while the transportation of hazardous materials can create severe hazards to the public safety, such transportation is nonetheless essential to commerce;

(2) in the interest of uniformity, the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.) provides for the preemption of State and local governmental regulation of hazardous materials transportation to the extent that it is not consistent with Federal requirements and regulations;

(3) despite this preemption, when serious hazardous materials incidents occur, State and local governments necessarily have the primary responsibility for emergency response;

(4) increased coordination and greater consistency between the Federal Government and State and local governments would assist in the prevention of hazardous materials transportation incidents and in the overall ability of State and local governments to respond to such incidents; and

(5) the National Hazardous Materials Transportation Advisory Committee should specifically and carefully examine problems associated with information dissemination from the Federal Government to State and local officials and the need for increased coordination among the various levels of government.

(b) The purposes of this Act are to—

(1) authorize appropriations for fiscal years 1985 and 1986 for the Department of Transportation to carry out its functions with respect to the transportation of hazardous materials; and

(2) authorize cooperative action between the Secretary of Transportation and established private agencies in performing the Department's emergency response functions.

REAUTHORIZATION OF HAZARDOUS MATERIALS PROGRAMS

SEC. 3. Section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking "and" after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", not to exceed $7,500,000 for the fiscal year ending September 30, 1985, and not to exceed $8,000,000 for fiscal year 1986".

REPORTING SYSTEM AND DATA CENTER

SEC. 4. Section 109(d) of the Hazardous Materials Transportation Act (49 U.S.C. 1808(d)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) Nothing in this subsection shall be construed to limit the authority of the Secretary to enter into a contract with a private entity for use of a supplemental reporting system and data center operated and maintained by such entity.".

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the bill passed.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1985

The Senate proceeded to consider the bill (S. 2606) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1985, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert:

*That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1985".*

*SEC. 2. There are authorized to be appropriated for fiscal year 1985, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) the following sums.*

*(1) For general administration, including—*

*(A) the Working Capital Fund,*

*(B) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration, and*

*(C) financial assistance to joint State and joint State and local law enforcement agencies engaged in cooperative enforcement efforts with respect to drug related offenses, organized criminal activity and all related support activities, not to exceed $10,000,000, and to remain available until expended:*

*$83,384,000 of which not to exceed $128,000 may be used for the Federal Justice Research program and shall remain available for such purpose until expended.*

*(2) For the United States Parole Commission for its activities: $8,778,000.*

*(3) For general legal activities, including—*

(A) miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration,

(B) not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(C) advance of public moneys under section 3324 of title 31, United States Code,

(D) not to exceed $98,000 which may be transferred from the "Alien Property Funds, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia, and

(E) the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals: $202,524,000.

(4) For the Antitrust Division for its activities: $47,041,000.

(5) For the Foreign Claims Settlement Commission for its activities: $1,011,000.

(6) For United States attorneys, marshals, and trustees, including the payment of rewards and the purchase of evidence and payments for information: $414,833,000.

(7) For support of United States prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital and to other appropriate health care providers for the care, diagnosis, and treatment of United States prisoners and persons adjudicated in Federal courts as not guilty by reason of insanity at rates that in the aggregate do not exceed the full cost of the services: $58,240,000.

Amounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General. Following agreement on or completion of any federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed operating costs for the period of time specified in the cooperative agreement.

(8) For fees and expenses of witnesses, including—

(A) contracting for expert witnesses according to the procedure similar to that authorized by Section 904 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 544);

(B) expenses incurred for the use of facilities required as command posts in the protection of witnesses, including official phone calls made from command posts; and

(C) planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: $40,988,000.

(9) For the Community Relations Service for its activities, including assistance provided under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) to individuals who are Cuban and Haitian entrants within the meaning of paragraphs (1) and (2)(A) of section 501(e) of such Act: $34,128,000 of which $27,561,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary to provide assistance under subparagraph (B).

(10) For the Federal Bureau of Investigation for its activities, including—

(A) acquisition, collection, classification, and preservation of identification and other records and their exchange with, and for the official use of, duly authorized officials of the Federal Government, of States, of cities, and of other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies,

(B) payment of rewards,

(C) payment of travel and related expenses for immediate family members of employees, including costs of expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the United States, and assignment in a legal attache post outside the territory of the United States,

(D) not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General:

$1,123,963,000 of which not to exceed $23,000,000 may be used for automated data processing and telecommunications, not to exceed $1,000,000 may be used for undercover operations, and shall remain available for such purposes until October 1, 1986, and of which not to exceed $13,000,000 may be used for constructing and equipping new facilities at the Federal Bureau of Investigation Academy, Quantico, Virginia, and not to exceed $10,000,000 may be used for research related to investigative activities, and shall remain available for such purposes until expended. Notwithstanding sections 3302 and 9701 of title 31, United States Code, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes which shall represent the cost of furnishing the service; and not to exceed $13,500,000 of such fees shall be credited to the appropriation for the Federal Bureau of Investigation, to be used for salaries and other expenses incurred to so process such records. No fee shall be assessed in connection with the processing of requests for criminal history records by criminal justice agencies for criminal justice purposes or for employment in criminal justice agencies, as defined in title 28, Code of Federal Regulations, section 20.3.

(11) For the Immigration and Naturalization Service, for expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including—

(A) payment of rewards and purchases of evidence and payment for information,

(B) not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General,

(C) planning, acquisition of sites, and construction of new facilities and construction, operation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto and to remain available until expended, subject to the limitations of section 1252(c) of title 8, United States Code, and section 4003 of title 18, United States Code,

(D) research related to immigration enforcement,

(E) contracting with individuals for personal services abroad: Provided, That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management,

(F) a uniform purchase allowance not to exceed $400 per annum, in accordance with procedures established by the Attorney General for members of the Border Patrol of the Immigration and Naturalization Service who are required by regulations or statute to wear a prescribed uniform in the performance of official duties,

(G) payment of expenses related to the purchase or lease of privately owned animals for official use and expense related to the maintenance of animals so used (whether donated, leased, hired, or purchased), and

(H) assistance provided under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) to individuals who are Cuban and Haitian entrants within the meaning of paragraphs (1) and (2)(A) of section 501(e) of such Act:

$574,539,000 of which not to exceed $400,000 may be used for research and shall remain available for such purpose until expended, and not to exceed $100,000 may be used for the emergency replacement of aircraft upon the certificate of the Attorney General.

(12) For the Drug Enforcement Administration for its activities, including—

(A) payment of expenses not to exceed $70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General,

(B) payment of rewards,

(C) payment of travel and related expenses for immediate family members of employees, including expenses incurred for specialized training and orientation in connection with a transfer to Puerto Rico, other territories and possessions of the United States, and assignment in a post outside the territory of the United States,

(D) research related to enforcement and drug control, to remain available until expended,

(E) not less than $13,329,000 for State and local task forces which coordinate the enforcement of drug investigations, primarily heroin trafficking, with selected State and local law enforcement agencies, and

(F) not to exceed $1,700,000 for the purchase of evidence and payment for information (PE/PI), to remain available for expenditure until October 1, 1986:

$300,848,000 of which not to exceed $1,200,000 may be used for research and shall remain available for such purpose until expended.

(13) For the Federal Prison System for its activities, including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions, and not to exceed $200,000 for inmate legal services within the System,

(B) payment of rewards,

(C) assistance provided under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) to individuals who are Cuban and Haitian entrants within the meaning of paragraphs (1) and (2)(A) of section 501(e) of such Act, and

(D) entering into contracts with governmental or private organizations or entities for the safekeeping, care, and subsistence of *persons held under any legal authority: $580,218,000.*

*(14) For Organized Crime Drug Enforcement for the detection, investigation, prosecution, and incarceration of individuals involved in organized criminal drug trafficking not otherwise provided for: $96,905,000 of which not to exceed $2,559,000 may be used for the Presidential Commission on Organized Crime. Notwithstanding any other provision in law, there is authorized payment in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative organized criminal drug enforcement and regulatory activities. The Attorney General shall deliver an annual report to the President, the Judiciary Committees and the Appropriations Committees of the Senate and the House of Representatives not later than March 31 of each year, evaluating the results of this program, and any organized crime drug enforcement activities of other offices, divisions and agencies in the Department of Justice.*

*SEC. 3. Sums authorized to be appropriated by this Act may be used—*

*(1) under regulations issued by the Secretary of State, for benefits authorized under paragraphs (5), (6), (8), and (9) of section 901 and under section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4081(5) et seq.),*

*(2) for per diem allowances for an employee who serves in a law enforcement capacity and for members of his immediate family and/or transportation expenses in accordance with regulations prescribed under section 5707 of title 5, United States Code, by the Administrator of the General Services Administration or his designee, when necessarily occupying temporary living accommodations at or away from the employee's designated post of duty because of a threat to life or property or because law enforcement or investigative interests may be compromised,*

*(3) payment of interpreters and translators who are not citizens of the United States, and*

*(4) for antiterrorism training for dependents of Department of Justice personnel who will be stationed abroad on the same basis as Department of State personnel.*

*SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations issued by the Attorney General.*

*(b) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5, United States Code.*

*(c) Sums authorized to be appropriated by this Act to the Department of Justice may be used, in an amount not to exceed $65,000, for official reception and representation expenses in accordance with distributions, procedures, and regulations issued by the Attorney General.*

*SEC. 5. Travel advances issued to special agents of the Department of Justice engaged in undercover activities from sums authorized to be appropriated by this Act shall be deemed to be Government funds within the meaning of section 3527 of title 31, United States Code.*

*SEC. 6. There are authorized to be appropriated for fiscal year 1985, such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.*

*SEC. 7. Notwithstanding the second paragraph relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (Public Law 92-544; 86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used in fiscal year 1985 for the purposes described in such paragraph.*

*SEC. 8. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—*

*(1) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration by this Act may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),*

*(2) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration by this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,*

*(3) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and*

*(4) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,*

*only upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on FBI Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, if designated by the Attorney General, a member of such Review Committee), that any action authorized by paragraph (1), (2), (3), or (4) of this subsection is necessary for the conduct of such undercover operation. Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.*

*(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.*

*(c) If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director, the Administrator, or the designee of the Director or of the Administrator determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General of the United States. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.*

*(d)(1) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1985, and—*

*(A) submit the results of such audit in writing to the Attorney General, and*

*(B) not later than one hundred and eighty days after such undercover operation is closed, submit a report to the Congress concerning such audit.*

*(2) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—*

*(A) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,*

*(B) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and*

*(C) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained, with respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on FBI Undercover Operations, such report shall contain a detailed description of the operation and related matters including information pertaining to—*

*(i) the results,*

*(ii) any civil claims, and*

*(iii) identification of such sensitive circumstances involved,*

*that arose at any time during the course of such undercover operation.*

*(e) For purposes of subsection (d)—*

*(1) the term "closed" refers to the earliest point in time at which—*

*(A) all criminal proceedings (other than appeals) are concluded, or*

*(B) covert activities are concluded, whichever occurs later,*

*(2) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation and the Drug Enforcement Administration, and*

(3) the terms "undercover investigative operation" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(A) in which—

(i) the gross receipts (excluding interest earned) exceed $50,000, or

(ii) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(B) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that subparagraphs (A) and (B) shall not apply with respect to the report required under paragraph (2) of subsection (d).

Sec. 9. (a) Without regard to the provisions of section 3302 of title 31, United States Code, and section 881(e) of title 21, United States Code, the Drug Enforcement Administration is authorized to set aside 25 per centum of the net amount of money realized from the forfeiture of assets seized by it under any provision of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), to be available in amounts as specifed in appropriations Acts for obligations and expenditure only for the purpose of paying awards of compensation with respect to such forfeiture; and to pay, totally within its discretion, such awards to any entity not an agency or instrumentality of the United States, or to any person not an officer or employee of the United States or of any State or local government, that provides information or assistance which leads to a forfeiture referred to in subsection (a). Such awards can be made in any amount up to 25 per centum of the amount realized from the forfeiture, or $150,000 whichever is lesser, in any case, except that no awards shall be made based on the value of the contraband. The authority of the Administrator of the Drug Enforcement Administration to pay an award of $10,000 or more shall not be delegated.

(b) The amounts credited under this section shall be made available for obligations until September 30, 1986.

(c) The remaining 75 per centum of the net amount of money realized from the forfeitures referred to in subsection (a) shall be paid to the miscellaneous receipts of the Treasury: Provided, That the authority furnished by this section shall remain available until September 30, 1986, or upon creation of a Drug Asset Forfeiture Fund in the United States Treasury, whichever is sooner, at which time any amount of the unobligated balances remaining in this account, accumulated before September 30, 1986, shall be paid to the miscellaneous receipts of the Treasury: And provided further, That the Drug Enforcement Administration shall conduct detailed financial audits, semiannually, of the expenditure of funds from this account and—

(1) report the results of each audit, in writing, to the Department of Justice; and

(2) report annually to Congress concerning these audits.

Sec. 10. (a) The Attorney General shall perform—

(1) periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropriations authorized by this Act, and

(2) annual specific program evaluations of selected subordinate organizations' programs,

as determined by the priorities set either by the Congress or the Attorney General.

(b) Subordinate Department of Justice organizations and their officials shall provide all the necessary assistance and cooperation in the conduct of evaluations described in subsection (a), including full access to all information, documentation, and cognizant personnel, as required for such evaluations.

(c) Completed evaluations performed under subsection (a) shall be made available to the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, and to other appropriate committees.

(d) The Attorney General's annual report on Department of Justice activities shall be made available to the Committees on the Judiciary of the Senate and the House of Representatives, and other appropriate committees, within five months after the end of the fiscal year to which it pertains.

Sec. 11. (a) During the fiscal year ending September 30, 1985, the Attorney General is authorized to accept and utilize, on behalf of the United States, any gift, donation, or bequest of real or personal property for the purpose of aiding or facilitating the work of the Department of Justice. No gift may be accepted—

(1) that attaches conditions inconsistent with applicable laws or regulations, or

(2) that is conditioned upon or will require the expenditure of appropriated funds unless such expenditure has been authorized by Act of Congress. Gifts from foreign governments may be accepted only pursuant to the Foreign Gifts Act, 5 U.S.C. 7342.

(b) The Attorney General shall promulgate rules for accepting gifts pursuant to this provision, to ensure, among other things, that no gifts are accepted under circumstances that will create a conflict of interest for the Department of Justice.

(c) Gifts of property no longer required for the Department of Justice for its needs in the discharge of its responsibilities shall be reported to the Administrator of General Services for disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

(d) Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Attorney General.

(e) For the purpose of Federal income, estate, and gift taxes, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

Sec. 12. Notwithstanding the provisions of section 1342 of title 31, United States Code, the Commissioner of the Immigration and Naturalization Service is authorized during the fiscal year ending September 30, 1985, to accept voluntary and uncompensated services to assist the Service in information services to the public. Persons providing voluntary services shall not be used to displace any Federal employee and shall not be considered Federal employees for any purpose except for the purposes of chapter 81 of title 5, United States Code (relating to compensation for injury), and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

Sec. 13. During the fiscal year ending on September 30, 1985, the Attorney General is authorized to make payments from the Salaries and Expenses, General Legal Activities appropriation of the Department of Justice for expenses necessary to host, on an alternating basis, the annual meeting of the General Assembly of INTERPOL, and to periodically sponsor INTERPOL conferences on emerging topics of international crime.

Sec. 14. Each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, other appropriate committees, and the ranking minority members thereof, not less than fifteen days before—

(1) reprograming of funds in excess of $250,000 or 10 per centum, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives,

(2) reprograming of funds in excess of $500,000 or 10 per centum, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and the House of Representatives,

(3) any reprograming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of making significant program changes and committing substantive program funding requirements in future years,

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted,

(5) creation of new programs or significant augmentation of existing programs,

(6) reorganization of offices or programs, and

(7) significant relocation of offices or employees, including the closing of ports of entry and border stations.

Sec. 15. Notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 State. 1810), funds authorized to be appropriated under this Act may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

Sec. 16. (a) The Attorney General shall transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement, in fiscal year 1985, of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional, or

(2) determines that the Department of Justice will contest, or will refrain from defending, in fiscal year 1985, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required under subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a)(1) or makes the determination specified in subsection (a)(2). Each such report shall—

(1) specify the provision of law involved,

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional, and

(3) in the case of a determination specified in subsection (a)(2), indicate the nature of

the judicial, administrative, or other proceeding involved.

(c) During fiscal year 1985 and notwithstanding any other provision of law, in any case in which the Attorney General determines that the Department of Justice will refrain from defending or will contest the constitutionality of any statute or provision of law, or in which the Attorney General determines that the Department of Justice will bring, or authorizes the bringing of, an action challenging or contesting the validity of any statute or provision of law, the Attorney General shall not proceed in the name of the United States, but only in the name of the agency or department on whose behalf the Attorney General appears, or the President if the Attorney General appears on the President's behalf.

SEC. 17. Section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687(c)) is amended by striking out "April 1, 1984" and inserting in lieu thereof "September 30, 1986".

SEC. 18. None of the sums authorized to be appropriated by this Act may be used for any activity the purpose of which is to overturn or alter the per se prohibition of resale price maintenance, in effect under the Federal antitrust laws, except that nothing in this section shall prohibit any employee of the Department of Justice from presenting testimony on this matter before appropriate committees of the House of Representatives and the Senate.

SEC. 19. Unless otherwise provided in any statute of the United States enacted after the date of the enactment of this Act, none of the sums authorized to be appropriated by this Act may be used to transfer any attorney position from the Antitrust Division of the Department of Justice to any office of any United States Attorney or to pay the salary of any attorney occupying any such position so transferred after April 1, 1983.

SEC. 20. Part II of title 28 United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—GENERAL AUTHORIZATIONS—
DEPARTMENT OF JUSTICE

"Sec.
"576. General authorizations.

**"§ 576. General authorizations**

"(a) The Attorney General or his designee is authorized to make payments from Department of Justice appropriations for—

"(1) the purchase of insurance for motor vehicles and aircraft operated in official Government business in foreign countries; and

"(2) attendance at meetings to be expended for such purposes in accordance with the regulations issued by the Attorney General.

"(b) The offices, divisions, and subdivisions included in the general administration area of the annual appropriation of the Department of Justice are authorized to make payment from their appropriations for the hire of passenger motor vehicles.

"(c) The offices, divisions, and subdivisions included in the general legal activities area of the annual appropriation of the Department of Justice and the Antitrust Division are authorized to make payments from their appropriations for—

"(1) the hire of passenger motor vehicles; and

"(2) necessary accommodations in the District of Columbia for conferences and training activities.

"(d) The fees and witness activity of the annual appropriation of the Department of Justice is authorized to make payment from its appropriation for—

"(1) expenses, mileage, compensation, and per diem of witnesses in lieu of subsistence, as authorized by law; and

"(2) advance of public moneys.

No sums authorized to be appropriated shall be used to pay any witness more than one attendance fee for any one calendar day.

"(e) The Community Relations Service of the Department of Justice is authorized to make payments from its appropriation to pay for the hire of passenger motor vehicles.".

SEC. 21. Section 106 of the Act of March 14, 1980 (94 Stat. 97; 22 U.S.C. 1622(f)), is amended to read as follows:

**"§ 106. Administrative support and services to Foreign Claims Settlement Commission of the United States by the Attorney General**

"The Commission is authorized to make payments from its appropriation for—

"(1) rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad;

"(2) maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties;

"(3) advances of funds abroad; and

"(4) the hire of motor vehicles for field use only.".

SEC. 22. (a) Section 568 of title 28, United States Code, is amended to read as follows:

**"§ 568. General authorizations**

"Appropriations for the United States attorneys and marshals are available for—

"(1) the purchase of firearms and ammunition and the attendance at firearms matches;

"(2) the lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year including acquisition of vehicles seized and forfeited to the United States Government for official use;

"(3) the supervision of the United States prisoners in non-Federal institutions;

"(4) the bringing to the United States from foreign countries person charged with crime; and

"(5) the acquisition, lease, maintenance, and operation of aircraft.".

(b) Section 548 of title 28, United States Code, is amended to read as follows:

**"§ 548. Salaries**

"Subject to sections 5315-5317 of title 5, United States Code, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.".

SEC. 23. Chapter 301 of title 18, United States Code, is amended by inserting after section 4011 the following new section:

**"§ 4012. Support for United States prisoners in non-Federal institutions**

"The Attorney General or his designee is authorized to make payments from the support for United States prisoners in non-Federal institutions appropriation for entering into contracts or cooperative agreements for only the reasonable and actual cost to assist the government of any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, and the acquisition of equipment, supplies, or materials required to improve conditions of confinement and services of any facility which confines Federal detainees, in accordance with regulations to be issued by the Attorney General and which are comparable to the regulations issued under section 4006 of this chapter.".

SEC. 24. Chapter 33 of title 28, United States Code, is amended by inserting after section 537 the following new section:

**"§ 538. General authorizations**

"The Federal Bureau of Investigation is authorized to make payments from its appropriation for—

"(1) expenses necessary for the detection and prosecution of crimes against the United States;

"(2) protection of the person of the President of the United States and the person of the Attorney General;

"(3) such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General;

"(4) purchase for policy-type use without regard to the general purchase price limitation for a current fiscal year and the hire of passenger motor vehicles;

"(5) acquisition, lease, maintenance, and operation of aircraft; and

"(6) purchase of firearms and ammunition and attendance at firearms matches.

None of the sums authorized to be appropriated for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.".

SEC. 25. Section 6 of the Act of July 28, 1950 (64 Stat. 380; 8 U.S.C. 1555), is amended to read as follows:

**"§ 6. Immigration and Naturalization Service general authorities**

"The Immigration and Naturalization Service is authorized to make payments from its appropriation for—

"(1) advance of cash to aliens for meals and lodging while en route;

"(2) payment of allowances to aliens, while held in custody under the immigration laws, for work performed;

"(3) payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies;

"(4) purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire for passenger motor vehicles;

"(5) acquisition, lease, maintenance, and operation or aircraft;

"(6) payment for firearms and ammunition and attendance at firearms matches;

"(7) refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money;

"(8) payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; and

"(9) acquisition of land as sites for enforcement fences, and construction incident to such fences.".

SEC. 26. The Drug Enforcement Administration is authorized to make payments from its appropriation for—

(1) the hire and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year.

(2) payment in advance for special tests and studies by contract.

*(3) payment in advance for expenses arising out of contractural and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503(a)(2) of the Controlled Substances Act (21 U.S.C. 873(a)(2)).*

*(4) publication of technical and informational material in professional and trade journals and purchase of chemicals, apparatus, and scientific equipment.*

*(5) necessary accommodations in the District of Columbia for conferences and training activities.*

*(6) acquisition, lease, maintenance, and operation of aircraft.*

*(7) contracting with individuals for personal services abroad, and such individuals shall be not regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.*

*(8) payment for firearms and ammunition and attendance at firearms matches, and*

*(9) payment for tort claims when such claims arise in foreign countries in connection with Drug Enforcement Administration operations abroad.*

*Sec. 27. Chapter 303 of title 18, United States Code, is amended by inserting after section 4043 the following new section:*

***"§ 4044. General authorizations***

*"The Bureau of Prisons is authorized to make payments from its appropriation for—*

*"(1) purchase and hire of law enforcement and passenger motor vehicles;*

*"(2) compilation of statistics relating to prisoners in Federal penal and correctional institutions;*

*"(3) assistance to State and local governments to improve their correctional systems;*

*"(4) purchase of firearms and ammunition and medals and other awards;*

*"(5) purchase and exchange of farm products and livestock;*

*"(6) construction of buildings at prison camps and acquisition of land as authorized by section 4010 of title 18, United States Code;*

*"(7) Federal Prison Industries, Incorporated, to make such expenditures, within the limits of funds and borrowing authority, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase and hire of passenger motor vehicles;*

*"(8) planning, acquisition of sites and construction of new facilities, and constructing, remodeling and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended, and the labor of United States prisoners may be used for work performed with sums authorized to be appropriated by this subsection; and*

*"(9) carrying out the provisions of sections 4351 through 4353 of this title relating to a National Institute of Corrections, to remain available until expended.".*

*Sec. 28. Section 4204(b) of title 18, United States Code, is amended by adding at the end thereof the following new paragraph:*

*"(9) make payment from the appropriation for the Commission to hire passenger motor vehicles.".*

*Sec. 29. The table of chapters for part II of title 28, United States Code, is amended by inserting after the item relating to chapter 37 the following new item:*

*"38. General authorizations........................ 576".*

*Sec. 30. The table of sections for chapter 37 of title 28, United States Code, is amended by amending the item relating to section 568 to read as follows:*

*"568. General authorizations.".*

*Sec. 31. The table of sections for chapter 301 of title 18, United States Code, is amended by inserting after the item relating to section 4011 the following new item:*

*"4012. Support for United States prisoners in non-Federal institutions.".*

*Sec. 32. The table of sections for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 537 the following new item:*

*"538. General authorizations.".*

*Sec. 33. The table of sections for chapter 303 of title 18, United States Code, is amended by inserting after the item relating to section 4043 the following new item:*

*"4044. General authorizations.".*

The amendment was agreed to.

Mr. THURMOND. Mr. President, I am pleased to voice my strong support for S. 2606, a bill to authorize appropriations for the Department of Justice for fiscal year 1985, as reported by the Committee on the Judiciary. At the request of the administration, I introduced this bill on April 30, 1984, on behalf of myself and the ranking minority member on the committee, Senator Joseph R. Biden, Jr.

Last year, the Department sent two bills to Congress. The first primarily authorized appropriations for fiscal year 1984. The second would have enacted into the United States Code various authorities which traditionally have been part of the annual authorization bill. It also included some new provisions. The request for this change in approach stemmed from serious concern on the part of the administration that authorizing legislation for the Department had not been enacted since fiscal year 1980, except on a continuing basis. There was even a lapse in that continuing authorization during 1982, with considerable confusion and disruption.

Since we also felt great concern and frustration about the authorization situation, Senator Biden and I carefully examined the proposals relating to permanent authority. Our goal was to minimize the disruptive effects of the annual authorization process on the Department, while preserving the important oversight responsibilities of this committee. When the fiscal year 1984 authorization bill was reported last May, the committee adopted an amendment, which I offered, along with Senator Biden. That amendment provided appropriations ceilings for fiscal year 1984, created permanent authority for routine, noncontroversial activities of the Department, and retained annual authority for sensitive Department activities and any new requested functions.

The bill, with that amendment, passed the Senate without objection last summer. The House leadership was prepared to accept our bill with few changes last November. Unfortunately for our chief Federal law enforcement agency, which was, and continues to be in desperate need for the authorities included in the amendment, the bill could not be considered on the floor of the House in the closing hours of the first session of this Congress.

The committee amendment to S. 2606 preserves the approach which Senator Biden and I proposed last year. It authorizes dollar levels and provisions which are new or which involve areas important to the committee's oversight for fiscal year 1985 only. Thus, only annual authority is provided for emergency expenses and provisions relating to undercover operations.

For example, among the new provisions recommended by the Department and the committee are those relating to certain expenses incurred by Department personnel and their families due to temporary relocation because of threat to life, and undercover operations by the DEA. The amendment essentially adopts the dollar levels recommended by the administration with some of the following major differences:

First, it would provide $10 million for the multistate intelligence units which the committee has funded in the past.

Second, it would provide $10 million for operations of the U.S. Trustees Pilot Program in fiscal year 1985, and would reauthorize the existing pilot program through September 30, 1986.

Third, it would retain a separate line item and $97 million for the Organized Crime Drug Enforcement Program. It does not transfer OCDE funds to individual agencies, as recommended by the Department.

Fourth, it adds $1.5 million to continue the FBI hostage rescue team.

Fifth, it restores $3 million in proposed cuts to the DEA.

Otherwise, it adopts the following major initiatives recommended by the administration:

First, it includes a program increase of 1,000 positions and $43.6 million for a major Southern border enforcement initiative.

Second, it expands the organized crime drug enforcement initiative to establish a 13th task force covering the Florida-Puerto Rico-Virgin Islands area.

Third, it contains a major tax litigation initiative of 150 positions and $8.3 million for the Tax Division and the U.S. attorneys to combat abusive and delinquent tax practices.

Fourth, it continues the administration's effort to infuse additional resources into the FBI Foreign Counterintelligence Program to combat terrorism and other threats to domestic security.

Fifth, it further increases the capacity of the Federal prison system with an additional $74.5 million.

Sixth, it contains new funding of $65 million for improved technology in various operations throughout the Department.

Seventh, it provides for law enforcement coordinating committee/victim-witness coordinators in each judicial district.

Eighth, it expands the Department's Environmental Enforcement Program.

Ninth, it authorizes $13 million for expansion of the FBI Academy to jointly house the FBI Headquarters Engineering Section and the DEA's Research and Engineering Program.

The amendment includes the traditional language which requires notice to the Judiciary Committee of reprogrammings and other major changes in Department operations, and makes those requirements permanent. It requires the Attorney General to send his annual report on Department activities to Congress within 5 months after the end of the fiscal year. The Attorney General would also be required to report annually on the operations of the Organized Crime Drug Enforcement Program.

I want to thank Senator BIDEN, the ranking minority member of this committee, and his staff for closely cooperating with me to achieve this compromise, which was reported by the committee in a timely manner, and without objection. I believe that it accommodates the concerns of the Department, while facilitating the important oversight responsibilities of the Judiciary Committee. If enacted, S. 2606 will be the first authorization bill for the Justice Department enacted in 5 fiscal years and I believe that it is a good one.

Mr. BIDEN. Mr. President, I am happy to join with Chairman THURMOND in asking the Senate to pass S. 2606, the Department of Justice authorization bill for fiscal year 1985. We have once again worked in a bipartisan manner to move forward on an important piece of criminal justice legislation.

The Department of Justice has not had a new authorization bill enacted since fiscal year 1980. That has caused periodic lapses in authority to carry out important and necessary law enforcement activities.

As the ranking member of the committee I was pleased to see that this year's authorization request did not include budget or position decreases like we have seen in the past. This request recognizes the need for increased funds across the board for criminal justice agencies and was unanimously agreed to by the members of the Senate Judiciary Committee.

Additionally, this bill will continue the assistance for joint State and local law enforcement agencies engaged in drug and organized crime investigations. It also includes $3.6 million in funds the administration had proposed to cut in the Drug Enforcement Administration.

I would hope my colleagues join us in passing the Department of Justice authorization bill as a further indication of our resolve to attack the crime and drug problems of this Nation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as amended.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## ELIMINATION OF RESTRICTIONS ON FREE FLOW OF TRAVEL LITERATURE

The resolution (S. Res. 373) to seek the discontinuance of certain practices restricting the free flow of travel literature from the United States, was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

Whereas Americans traveling abroad represent a significant source of income to the countries they visit and foreign visitors to the United States make significant contributions to domestic interstate commerce;

Whereas the benefits of international tourism are maximized by the free exchange of travel literature on a worldwide basis;

Whereas a 9 percent surcharge is levied on travel literature sent into Canada from the United States, while there is no such fee on promotional travel literature sent by Canada into the United States;

Whereas this type of travel literature, which describes tourist attractions in the United States, is distributed free of charge on a worldwide basis;

Whereas the United States travel and tourist industry and the United States economy are adversely affected by any restriction on promoting travel opportunities in the United States; and

Whereas previous attemps to restore the ability of the United States travel and tourism industry freely to promote United States travel destinations have been unsuccessful: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President should direct the Secretary of Commerce to seek the discontinuance of practices that restrict the free flow of travel literature to Canada from the United States; and be it further

*Resolved*, That the Secretary of Commerce is urged to present this issue to the Tourism Policy Council, pursuant to the requirements of the National Tourism Policy Act (22 U.S.C. 2121 et seq.), and seek the Council's recommended course of action.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## RELIEF OF HARVEY E. WARD

The bill (H.R. 3221) for the relief of Harvey E. Ward, was considered, ordered to a third reading, read the third time, and passed.

## MEASURE INDEFINITELY POSTPONED

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar Order No. 972, Senate Concurrent Resolution 86, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PERSECUTION OF BAHA'IS IN IRAN

Mr BAKER. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. PERCY. Mr. President, today the Senate votes on House Concurrent Resolution 226, condemning the persecution of the Baha'is in Iran. Last week the Foreign Relations Committee unanimously passed this resolution. Given the plight of the Baha'i community, I believe it is time for the full Senate again to go on record as objecting strenuously to the treatment of this peaceful religious minority. The House passed an identical resolution on May 22, and, together, our message will be strong.

Since the rise of the Ayatollah Khomeini in 1979, the Baha'i community in Iran has been subjected to cruel and escalating persecution. Since the Khomeini government took power, 175 Baha'is have been executed for the crime of their faith, and many others continue to suffer systematic oppression and torture. According to Baha'i leaders in the United States, the persecution appears to be entering a new and sinister phase.

I know many Baha'i people because the Baha'i headquarters in the United States is located just two blocks from my house in Illinois. The Baha'i community in the United States fully supports this resolution. They believe that it is crucially important at this time to focus international attention on the severe situation for their coreligionists in Iran. By passing this resolution, the Senate will make public its absolute condemnation of Iran's persecution of the Baha'is.

Mr. MATHIAS. Mr. President, during this year's commemoration of Maryland's 350th anniversary, I have often been reminded that the first settlers of our State came to this country to establish a haven of religious toleration. Unfortunately, intolerance continues today in many places of the world.

The persecution of the Baha'is in Iran is a tragic case that calls for our support for House Concurrent Resolution 226, which condemns the Iranian Government's treatment of the Baha'is.

Since the Khomeini regime took power in 1979, the Government of Iran has embarked upon a conscious policy of persecuting those of the Baha'i faith in the country of its birth.

More than 175 Baha'is have been executed by the Khomeini regime. Many of those executed were elected leaders of Baha'i assemblies, the governing bodies of this religious faith, which has no clergy but elects its leaders to direct the affairs of the community. Women and teenage girls have been hanged for their religious faith. Indeed, the proof that the persecution is based solely on religious differences is seen in the fact that almost all of those executed were offered their freedom, and restoration of jobs and possessions, if only they would renounce their faith and embrace Islam.

The administration has issued two public appeals on behalf of the Iranian Baha'i community, and continues to work in the United Nations Human Rights Commisssion to secure collective appeals against the actions of the Khomeini regime.

The results of these efforts have been modest. But it is my sincere hope that in passing this resolution today we will send a strong signal to the civilized world the we cannot tolerate mindless persecution of a community of innocent men and women.

Mrs. KASSEBAUM. Mr. President, the authors of this resolution should be commended for the leadership that they have exercised on this most important humanitarian issue. Nowhere is the repugnance of the radical regime in Iran more apparent than in its vicious and indefensible persecution, if not genocide, against the Baha'i people in that country. This is religious persecution in its most virulent form. Neither racial nor cultural differences distinguish Baha'i Iranians from their Shi'ite Moslem countrymen. It is purely on the basis of religious intolerance that Baha'is in Iran are persecuted, tortured, and killed.

From time to time, history has witnessed the kind of intolerance and genocide that the present Iranian regime is visiting upon its own Baha'i population. However, when brutality of this type has been exposed to the world's eye, history also shows us that no regime that engages in such abuses can last for long. This is why the authors of Senate Concurrent Resolution 86 deserve our praise. They are bringing ongoing abuses to our consciousness. They are providing the first necessary step to bring pressures to bear on the perpetrators of the practices we condemn.

In conclusion, Mr. President, let me state that I do not believe that this issue is a matter of exclusively Christian or Jewish concern against Moslems. In point of fact, this issue is of concern to all people of all religious faiths. Persecution against any one group affects us all, for it is all too easy or any of us to become the next victim if we only stand by while the rights of others are abused.

Mr. HEINZ. Mr. President, I am deeply gratified by the actions of the Senate Foreign Relations Committee in bringing this resolution, House Concurrent Resolution 226, to the floor, and I urge all of my colleagues to join in condemning the Iranian Government for the continued persecution of the people of the Baha'i faith. This resolution is identical to Senate Concurrent Resolution 86 introduced by Senator PERCY and myself last November.

As the war between Iran and Iraq intensifies our attention is necessarily focused on that strategic yet volatile corner of the world. We must not, however, let that conflict divert our attention from an international tragedy which has befallen a small, peaceful religious minority in Iran—the Baha'is.

The rise of the Ayatollah Khomeini in the 1979 Islamic revolution initiated escalating hatred and hardship for the peaceful Baha'i community in Iran. Over 170 Baha'is—men, women, and even teenage girls—have been executed by the Khomeini regime, ostensibly on criminal charges. But in truth these innocent people were publicly hanged because of their dedication to the Baha'i faith.

Members of the Baha'i community have been denied their basic human rights. Their religion is not recognized by the Khomeini regime, and every attempt is made to convert Baha'is to Islam through the threat of officially sanctioned persecution. For refusing to embrace the religion of the ruling government, thousands have been arrested and tortured, losing their property and jobs. Holy sites have been confiscated and desecrated.

On May 2, 1984, the House Subcommittee on Human Rights and International Organizations held a hearing on the "Religious Persecution of the Baha'is in Iran." The record of that hearing demonstrates the horror which is being inflicted upon the Baha'is of Iran. Since Senator PERCY and I introduced Senate Concurrent Resolution 86 on November 14, 1983, over 20 more individuals have been executed. Countless others have faced torture in order to elicit false confessions that they were members of the CIA or agents of Zionism who were attempting to overthrow the regime. In addition, the record reveals that some 700 Baha'is, including children, are being held in Iranian prisons. Because access to these victims is strictly limited by the regime, their fate is uncertain and precarious.

Mr. President, Senate Concurrent Resolution 86 calls attention to the tragic and unjust persecution of this religious minority. The resolution condemns the Khomeini regime's actions against the Baha'is and reaffirms our solidarity with the Baha'is people. The resolution also calls on the President to take an active role in persuading the Iranian Government to halt the destruction of this peaceful community.

I am pleased that 67 Members of the Senate are cosponsors of Senate Concurrent Resolution 86 and that it is supported by the State Department on behalf of the Reagan administration. In a recent letter to the chairman of the Senate Foreign Relations Committee, CHARLES PERCY, the State Department acknowledges that resolutions in multilateral bodies and in international media serve as a brake on the Iranian regime and prevent even more egregious actions that might be taken out of the glare of world publicity.

Let me urge each of my Senate colleagues to add his or her support to this important resolution, House Concurrent Resolution 226. Together, this body can send a clear signal directly to the Iranian regime that we have noted and that we condemn these outrageous violations of internationally accepted standards of basic human rights.

Mr. President, I ask unanimous consent to insert into the RECORD a recent Newsweek article, "Death Inside Khomeini's Jails," which is an eyewitness account of torture and execution in Iran.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### DEATH INSIDE KHOMEINI'S JAILS

Safely away from Ayatollah Khomeini's jails, a survivor sat in a London office last week describing the torments she had endured. She was a woman in her early 40s, a mother of three. She was also a Bahai, a member of a religious faith that Iran's Islamic leaders consider a heresy. Since the overthrow of the shah, they have relentlessly persecuted the country's 300,000 Bahais arresting them, confiscating their property and, sometimes, when they refuse to recant their religion, executing them. To use the woman's name would jeopardize the lives of relatives still in Iran. But the story she told Newsweek's London bureau chief Tony Clifton seemed as credible as it was bleak. Excerpts:

I worked for the National Iranian Oil Co. in Shiraz. About two years ago I was taken before two mullahs who questioned me for four hours. They tried to convince me I should recant and convert to Islam. They told me that if I did not recant I would be dealt with according to "Islamic law." I said I could not. About 10 days later I was summoned again. They asked who my family and friends were and for the names of other Bahis. One said, "Don't think you're just going to lose your job—from now on you'll be followed everywhere."

And then I was sacked, for being "a follower of the misleading sect of Bahaism." Bahais were not allowed to leave the country. But I didn't want to leave—I hadn't done anything wrong. At the end of 1982, four Revolutionary Guards came to our house and took me. My three-year-old boy ran after me crying, "I want my mummy!" A guard just threw him aside.

They drove me to the Sepah military prison in southern Shiraz. When we came to the courtyard they blindfolded me. I was led into a room and a voice said, "What's the charge?" and someone replied, "Bahai." There seemed to be other men in the room and they cursed me: "Your father was a dog." "Your ancestors were animals." "You're a racial degenerate." This went on for two hours. Afterward, I was taken to another room where a woman stripped me and searched me. Then I was taken to a cell.

The cell was about 10 feet square. It was in semidarkness, lit only by two dirty windows in the ceiling. There were about 40 women of all ages in it, most of them Bahais. But some were political prisoners. A small number were there for civil crimes. We were squeezed together standing up, and when we tried to sleep at night we had to lie on our sides, because if we lay on our backs or stomachs we took up too much room. I was there almost two months. During that time, women were taken out and tortured and then brought back. There was never a time when someone was not groaning or screaming or lying unconscious next to you.

I will always remember Nusrat Yaldoi, a Bahai woman I knew. They tried to force her to recant, and the guards whipped her with wire cables. Because she was a woman they had covered her back with a cotton chador, because it would have been immodest for them to see her bare back. The wires had torn her back to shreds, so that you could see the bone, but they had also torn the chador to shreds and the pieces of rag had been whipped into the raw flesh on her back. They whipped her until she was unconscious and threw her in the cell. Then another group of guards came in and said they needed Yaldoi for her trial. We all said she couldn't be tried because she was unconscious. They just dragged her by the arms, with her feet trailing on the floor. Later she told us that when they were beating her they said they would stop if she would go on radio and television to publicly deny her faith and to say that the Bahais spied for Israel. She was in the cell for 55 days without medical attention. Finally she was taken away and hanged with nine other women who had also refused to recant.

I was never tortured myself, but I was questioned endlessly, sometimes for 12 to 14 hours at a time. They tried to get me to reveal the whereabouts of other Bahais and where Bahai funds were hidden. Sometimes I would be blindfolded and stood against a wall, and suddenly the guards would cock their rifles as though they were about to shoot me. Once, they blindfolded me and took me downstairs to a room that must have been a torture chamber. I could hear someone being whipped, and could hear screams and groans. Someone said to me, "This will happen to you if you don't tell us what we want to know." Then one day I was taken into a courtroom. The guards had my three-year-old son. I hadn't seen him since they arrested me. They let him sit on my knee. One of the men said, "Here's your son. You can keep him with you, and have your home and pension back. All you have to do is recant. If you don't—we'll take you out and hang you." I still refused.

Torture: It was common practice to put pressure on you through your family. One day the prison guards came for another Bahai woman, a young hospital nurse from Shiraz named Tahirin Siyavashi. They told her that her husband, Jamshid, had recanted. When they brought him to see her, two guards had to support him because he couldn't walk: he had been whipped and his toenails pulled out. Jamshid told her that he had been condemned to death, but that he had not recanted and that she must not do so either. Two days later they hanged him.

Last year they hanged Tahirin Siyavashi too. The youngest of the nine Bahai women hanged was Muna Mahmadnijhad. She was 17. Her father had been tied face down on a bed and flogged for refusing to disclose the names of other Bahais. He told her to cooperate with the authorities so that they would not beat her too. But of course she was so young she didn't know anything. So they hanged him, and they hanged her as well. She was only a high-school student and had never done any harm to anyone.

Then they released the survivor. She thinks she was freed because she was a high Bahai offical in Shiraz. "I think they believed that if they let me go, they could keep a watch on me and wait for me to lead them to our people who were in hiding." Instead, she made her way safely out of Iran. She still carries a photograph of Tahirin Siyavashi. "The last thing she said to me was, 'Go and tell everyone what they're doing to us.' And so I'm telling you, now."

Mr. PELL. Mr. President, the resolution before us, House Concurrent Resolution 226, concerns the plight of the Baha'is in Iran. Without a doubt, the treatment of the Baha'is is the most serious of many appalling human rights abuses in Iran today, and of the most egregious human rights violations anywhere. I commend my colleagues from Pennsyvlania, Senator Heinz, for offering this timely resolution and for his efforts to secure its passage.

The Khomeini regime has, in effect, made adherence to the Baha'i faith a crime. In August 1983, Iran's Revolutionary Prosecutor General effectively banned all Baha'i religious activity. In Iran, it is now a crime for the Baha'i to participate in a social welfare organization, to operate a business corporation, or to teach the faith, even by parents to children at home. Baha'i shrines and cemeteries have been desecrated and Baha'i women, whose marriages are not recognized by the regime, have been branded prostitutes.

Since Khomeini took power more than 170 Baha'is have been executed. The victims have included men, women, and even children. Over 700 Baha'is are imprisoned in Iran today. Torture of the Baha'is—including the whipping of prisoners with metal cables, the pouring of boiling water on prisoners, and severe beatings—is commonplace.

We should harbor no illusions about the probable fate of Iran's Baha'is. I would like to quote a brief extract from an interview given by Hojjatol-Islam Qazi, a religious judge and president of the Revolutionary Court of Shiraz.

> The Iranian nation has arisen in accordance with Koranic teachings and by the will of God has determined to establish the Government of God on earth. Therefore, it cannot tolerate the perverted Baha'is who are instruments of Satan and followers of the devil and of the super powers and their agents, such as the Universal House of Justice of Israel. It is absolutely certain that in the Islamic Republic of Iran there is no place whatsoever for Baha'is and Bahaism.

Of the seriousness of the regime's intention to eliminate the Baha'is from Iran, there can be no doubt. Hojjatol-Islam Qazi's comments came as the Shiraz Court sentenced 20 Baha'is to death.

The treatment of the Baha'is in Iran is all too reminiscent of the treatment of the German Jews in the early stages of Hitler's Reich. If a full-scale genocide is to be avoided, the world community must keep international attention focused on Iran's treatment of the Baha'is. Resolutions, such as the one we are about to pass, are a useful tool in insuring that the vilest crime of all—genocide—does not occur in the dark.

Mr. SARBANES. Mr. President, last year in Iranian Prosecutor General published an edict which defines as "criminal acts" the teaching and religious activities of the Baha'i faith, in effect outlawing the formal practice of the Baha'i religion and placing in jeopardy the employment, education, property and even the lives of the Baha'is themselves. This edict does not represent a departure from the established policies of the Khomeini government in Iran; it merely carries those policies forward, to establish a new framework for the oppression and persecution of persons of the Bah'ai faith.

The policies of oppression and persecution are well documented. In the House of Representatives, the Subcommittee on Human Rights and International Organizations of the Foreign Affairs Committee held hearings in May 1982, and again in May of this year to document the tragic situation of the Baha'is. the Senate Foreign Relations Committee is scheduled to receive further testimony in hearings on June 26.

We have learned from the bitter experience of this century that the persecution of a vulnerable people must not be ignored. The approximately 300,000 Baha'is now living in Iran are indeed vulnerable, and House Concurrent Resolution 226 speaks out in their defense by condemning the Iranian policies of persecution and calling for international cooperation on behalf of the Baha'is. As Elie Wiesel has so eloquently reminded us, the opposite of love is not hate but indifference. Our respect for human rights and human dignity, indeed our own self-respect as a free nation will not permit us to remain indifferent.

Mr. DODD. Mr. President, I rise in strong support of House Concurrent Resolution 226, regarding persecution of members of the Baha'i faith by the Government in Iran. Along with a majority of my colleagues, I am a cosponsor of this resolution, and I hope that the Senate will pass it in timely fashion.

The Baha'i faith was founded 140 years ago in Iran. While I am not myself any great expert on the finer points of religious doctrine, I think an outside observer would agree that the most striking feature of the Baha'i religion is the emphasis placed on tolerance. Live and let live. The road the Baha'i have faced has been a hard one, but they have stuck to that basic principle. That is why what is being done to them now is particularly ironic—and especially painful.

There are now some 300,000 Baha'i in Iran. Their very existence as an organized religion, the passage of their faith to their children, is illegal. Since 1979, 170 prominent Baha'i have been executed in Iran for their beliefs. Last August, Iran's Prosecutor General declared that all Baha'i teaching and organized religious activities were criminal activities. Revolutionary guards, the brown shirts of the Khomeini regime, have the authority to enter any Baha'i home at will. More than 300 Baha'i homes have been destroyed.

Recently, Iran's Minister of Works and Social Affairs officially instructed commercial and industrial institutions not to pay the salaries of the Baha'i on their staff. More than 10,000 Baha'i have simply been dismissed, without warning, without justification; their incomes erased, their hopes wiped out. Baha'i students have been expelled from colleges and secondary schools because of their religion. And, in most places in Iran, it is impossible for a child of Baha'i parents to obtain even an elementary school education.

These statistics are accurate, but they are not the whole story. We have reliable accounts of the horrible truth. We have heard of the Baha'i woman whose husband was executed by firing squad—which then demanded payment to cover the cost of the bullets. We know about the Baha'i woman who gave birth and was killed by a fanatic mob, who took her child from the murdered mother to be raised according to Khomeini's brand of Islam—and we wonder at the fate of that child, what the future will hold. We know about the Baha'i prisoners who have died in custody, tortured to death because they refused to confess to fantastic crimes they did not commit. And we know what such confessions would be used for—justification for more persecution of the Baha'i, and the other luckless victims of Iran's Islamic Republic.

Mr. President, there is a word for this kind of wholesale atrocity. The word is "genocide." The August 1983 edict against the Baha'i reminds me of nothing so much as the Nuremberg laws of a half-century ago. We cannot allow this to go on without protest. We know that, at this time, there is little we can do to aid the Baha'i in Iran, but as Dr. Firuz Kazemzadeh, a distinguished constituent of mine, a Yale professor and the secretary of the Baha'i Assembly in America, has said "It is more difficult to kill, more difficult to torture, in broad daylight."

That is why passage of House Concurrent Resolution 226 is so important. My good friend and colleague, Senator HEINZ, and Congressmen YATRON, PORTER, STARK, and LEACH as well, deserve credit for pressing this matter in Congress. We must shine the light on the persecution of the Baha'i. This resolution does three things: First, it states that Iran will be held responsible for the crimes against the Baha'i; second, it condemns the efforts of the Iranian Government to destroy the Baha'i by making their religious practices illegal; and third, it urges the President to work with the appropriate governments, and with the United Nations, to provide aid and comfort to the Baha'i, both those within Iran and those who have managed to escape. These are sound goals, and I urge my colleagues to support them by prompt passage of House Concurrent Resoution 226.

Mr. GLENN. Mr. President, as a cosponsor of Senate Concurrent Resolution 86, the Senate companion to House Concurrent Resolution 226, I join my colleagues in condemning Iran's persecution of its Baha'i religious minority. While the peaceful Baha'i community has been persecuted in Iran for well over a century, the current Iranian Government has fiercely rekindled its oppression of the Baha'is. Since the establishment of a fundamentalist, Shi'ite theocracy in Iran in 1979, well over a hundred Baha'is have been executed, several hundred have been imprisoned, and the safety and civil rights of the more than 300,000 Baha'is living in Iran have been seriously threatened. An ominous development is the Iranian Government's banning of Baha'i administrative institutions which paves the way for future arrests of thousands of individuals who serve on Baha'i spiritual assemblies. The Iranian Government has created conditions which theaten the very survival of the Baha'i faith in Iran.

Only a few months ago, the Congress committed itself to the establishment of a memorial here in the Nation's capital to serve as a reminder of the millions who perished in the Holocaust during World War II. The goal of this memorial was not only to remind us of this terrible era of persecution, but to serve as a warning to be vigilant against the persecution that continues in our own time. As citizens of the world's oldest democracy, we are committed to the universal rights of the individual and specifically to the freedom to worship without fear of oppression. We are deeply committed to the belief that the Baha'is should have this same freedom.

While this resolution may do little to ease the persecution of the Baha'is in Iran, it would be unconscionable for the Congress to be silent in the face of this great injustice. We call upon the administration to work with our allies and all other members of the international community on behalf of the persecuted Baha'is of Iran.

● Mr. MURKOWSKI. Mr. President, I want to take this opportunity to address an important human rights issue. The persecution of the Iranian Baha'is by the Khomeini regime is perhaps one of the worst human rights violations in the world today. I feel compelled to speak out against this persecution.

Not a week passes without an act of sheer barbarism and religious oppression occurring in Iran, and the Baha'is are a key target. Already, more than 60 people storekeepers, artisans, teachers, government employees, doctors, a university professor have been lynched by mobs, or executed by revolutionary firing squads. At least 190 people have been brutally murdered by the Iranian Government since the Government takeover in 1979. Hundreds of Baha'is have been dismissed from jobs; thousands more have lost their homes and possessions. More than 700 Baha'is have been imprisoned, charged by the Iranian Government with trumped up charges such as cooperation with Zionism, spying for imperialist powers, corrupting the Earth, and warring with God.

This persecution is based upon theological differences between the Shi'ite Islams in control or Iran, and the Baha'is, an Islamic offshoot. The Baha'is, because of these differences, are considered heretical. Their religion is not even formally recognized in the Iranian constitution, as other non-Islamic religions are.

As this attitude conflicts with those established in our Constitution and is foreign to the American concept of human rights. Steps have been taken by the U.S. Government to alert the rest of the world in the Baha'is search for a solution. The U.N. Human Rights Commission has passed four major resolutions concerning the persecution, and the United States has supported each one. The Voice of America has included mention of the persecution in its Persian language broadcasts. The Secretary of State and the President has issued statements calling attention to the persecution and requesting international support. The process has begun.

It is obvious that further action must be taken to combat this persecution. The 300,000 Baha'is in Iran are aware of this. The State Department and the President are aware of this. Congress has begun to act. On May 22 the House passed a resolution condemning this persecution and calling on the President to work with appropriate foreign governments in forming an appeal to the Khomeni regime. The Senate Foreign Relations Committee has passed this measure, and I understand the Senate will take it up within the next week. Finally, the Foreign Relations Committee will be holding a hearing on June 26 which will address the plight of the Baha'is.

These efforts must continue. The Baha'is cannot be forgotten. Thank you, Mr. President.

### BAHA'I PERSECUTION MUST STOP

**Mr. PRESSLER.** Mr. President, I rise in support of this resolution condeming the persecution of the Baha'is in Iran. I have been a cosponsor of this measure in the Senate and a consistent critic of the Khomeini regime's treatment of the Baha'is. I urge my colleagues to join me today in support of this important measure.

The Baha'i religion has members in 152 independent nations. It was founded in the 19th century as an offshoot of Shi'ite Islam. This faith is not considered to be a branch of Islam today.

Baha'is represent the largest religious minority in Iran. Their 350,000 members make up slightly less than 1 percent of the Iranian population. Because of the relatively progressive ways of the Baha'is, they have come under severe persecution by Iranian authorities. They are often branded heretics and are condemned for having ties with Israel and the West.

Since 1979, over 170 Baha'is have been executed because of their religious beliefs. Thousands more have been jailed, with approximately 700 in custody at this time. All organized Baha'i activities are lableled criminal acts and Baha'is who refuse to reject their religion for the ways of Islam are subject to execution.

In addition, thousands of Baha'is have been dismissed from their jobs because of their faith. Their children have been expelled from schools. Places of worship have been confiscated and homes destroyed.

Mr. President, the Baha'is of Iran have been systematically denied virtually all freedom and opportunity. By anyone's measure, their human rights continue to be trampled upon. In particular, their freedom of religion is effectively nonexistent. The Iranian Government must be convinced that these atrocities are unacceptable and cannot be tolerated. To this end, the U.S. Government—and, indeed, all governments of the world—should direct themselves. This action of the U.S. Congress should inspire other nations, many of whom have closer ties with Iranian authorities than does the United States, to increase pressure on Iranians with whom they do business to stop official and private atrocities against the Baha'is.

**Mr. BOSCHWITZ.** Mr. President, I am pleased to add my own sentiments to those of the members who have spoken before me today in support of Senate Concurrent Resolution 86, expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran. It's easy to become jaded these days to the many examples we read and hear about of torture, persecution, and killings, but the situation faced by the Baha'i community is of a scope that makes some response a moral necessity.

Since the 1979 Islamic revolution, the Baha'i community has come under increasing pressure from the theocratic regime which rules that unfortunate country. The Baha'is have had to face an escalating series of personal hardships, hardships which are the result not of individual prejudice but of a systematic governmental policy which has as its goal the elimination of this world religion, which the fundamentalists in Teheran consider a heretical sect.

Evidence of the governmental nature of the persecution which the Baha'is currently face is plentiful. Baha'i shrines and cemeteries have been violated, their property rights have been ignored or revoked, they are being systematically excluded from social services, and practice of their religion has been outlawed by the Prosecutor General.

More frighteningly, these measures have recently been supplemented by widespread killings. Hundreds have been executed, while countless others have been the victims of extra-judicial killings. Indeed, the situation has reached the point where, as the distinguished ranking member of the Senate Foreign Relations Committee, Senator Pell, has observed, the word "persecution" has arguably be supplanted by the word "genocide."

I recognize that, in the face of the monstrous horror which we confront here, our weapons seem pitifully inadequate. And yet I would urge the Senators not to underestimate the value of resolutions of this sort. As Prof. Firuz Kazemzadeh [Gah-zem-zah-day] has argued in urging action on this bill, "It is more difficult to kill, more difficult to torture in broad daylight."

Men love the darkness, Mr. President, because it hides their deeds. This amendment sheds light on the dark deeds of a despotic regime. I don't suggest that our responsibility ends there, but it certainly begins there. I ask, then, for the adoption of this beginning, a first step toward the return of some degree of light to the Baha'is in Iran.

The concurrent resolution (H. Con. Res. 226) was considered and agreed to.

The preamble was agreed to.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL DUCK STAMP WEEK AND GOLDEN ANNIVERSARY YEAR OF THE DUCK STAMP

The joint resolution (S.J. Res. 270) designating the week of July 1, through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp", was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

### S.J. Res. 270

Whereas on March 16, 1934 Congress enacted the Migratory Bird Hunting Stamp Act authorizing the sale of Migratory Bird Hunting and Conservation Stamps, commonly referred to as duck stamps;

Whereas under that Act any person sixteen years of age or older who hunts ducks, geese, swans, or brant is required to carry a current duck stamp and duck stamps may also be purchased by nonhunters interested in conservation;

Whereas the funds generated from the sale of duck stamps under that Act are placed in a migratory bird conservation fund to be used for the acquisition of migratory bird refuge and waterfowl production areas;

Whereas the Migratory Bird Hunting Stamp Act has created a continuing source of funds for waterfowl habitat acquisition and restoration;

Whereas waterfowl hunters and others interested in the conservation of our Nation's wildlife resources have contributed more than $270,000,000 toward the acquisition of three million five hundred thousand acres of waterfowl habitat through the purchase of duck stamps;

Whereas an estimated four hundred fifty thousand acres of wetland habitat continue to disappear each year under the pressure of human development;

Whereas wetlands are vital not only for waterfowl, but also for a multitude of wildlife species, commercial and recreational fisheries, water purification, groundwater recharge, and flood control;

Whereas the current goal of the Fish and Wildlife Service is to preserve another one million six hundred thousand acres of key wetland habitat by 1986 to help maintain waterfowl populations; and

Whereas celebration of the "Golden Anniversary Year of the Duck Stamp" and "National Duck Stamp Week" will serve to increase awareness of the significant contribution a duck stamp purchaser makes to the conservation of wetland resources, and to encourage participation of other concerned Americans: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of July 1 through July 8, 1984, is hereby designated as "National Duck Stamp Week" and that 1984 is designated as the "Golden Anniversary Year of the Duck Stamp". The President is authorized and requested to issue a proclamation—

(1) commemorating the fiftieth anniversary of the Migratory Bird Hunting Stamp Act;

(2) commending the many American sportsmen and conservationists who have played such an important part in the preservation of our Nation's ducks and geese through the purchase of the duck stamp;

(3) commemorating the efforts of the United States Fish and Wildlife Service to conserve wetland habitat;

(4) highlighting the annual loss of thousands of acres of wetlands that threatens the valuable waterfowl and other natural resources that depend upon this habitat; and

(5) calling upon the people of the United States to observe such year and such week and to participate in the duck stamp program.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## VETERANS' PREFERENCE MONTH

The joint resolution (S.J. Res. 297) to designate the month of June 1984 as "Veterans' Preference Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. Res. 297

Whereas the principle of providing preference in Federal civilian employment for veterans of the Armed Forces was first established in law in 1865 when Congress provided such a preference for Civil War veterans with service-connected disabilities;

Whereas the enactment of the Veterans' Preference Act of 1944 on June 27, 1944, was a landmark in the national policy of veterans' preference in civil service employment and has been strengthened since by law, Executive orders, and regulations providng such preference for veterans and the spouses, surviving spouses, and parents of certain veterans;

Whereas veterans' preference and career merit principles are inseparable and integral parts of the Federal civil service personnel system;

Whereas veterans' preference is a partial recognition of the great debt of gratitude that the Nation owes to its veterans of service in the Armed Forces; and

Whereas it is appropriate to establish the month of June 1984, the fortieth anniversary of the enactment of the Veterans' Preference Act of 1944, as Veterans' Preference Month to honor the men and women who have served the United States in the Armed Forces: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the month of June 1984 is hereby designated as "Veterans' Preference Month". The President is authorized and requested to issue a proclamation calling upon the departments and agencies of the United States and interested organizations and groups to observe such month with appropriate programs, ceremonies, and activities.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

**Mr. BYRD.** I move to lay that motion on the table. The motion to lay on the table was agreed to.

## FOOD FOR PEACE DAY

The joint resolution (S.J. Res. 306) to proclaim July 10, 1984 as "Food for Peace Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and preamble are as follows:

S.J. Res. 306

Whereas the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) was signed into law by President Eisenhower on July 10, 1954;

Whereas the Public Law 480 program (also known as the food for peace program) has received strong and bipartisan support from every President and Congress during the past thirty years as a versatile tool to use the abundant agricultural productivity of the United States to combat hunger and malnutrition abroad, expand export markets for United States agricultural commodities, encourage economic development in developing countries, and promote in other ways the foreign policy of the United States;

Whereas over three hundred million tons of agricultural commodities and products thereof valued at about $34,000,000,000 have been distributed to more than one hundred and fifty countries under the Public Law 480 program since its inception, substantially reducing world hunger and improving nutritional standards;

Whereas the Public Law 480 program has served as an example to other nations and encouraged them also to help meet food needs abroad by making available agricultural surpluses or cash donations for such purposes; and

Whereas the people of the United States remain dedicated to the high goals and purposes of the Public Law 480 program and committed to continuation of its important work: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That July 10, 1984, the thirtieth anniversary of Public Law 480, is hereby proclaimed as "Food for Peace Day", and the President is requested to issue a proclamation calling upon the people of the United States and Federal and State governmental agencies to commemorate Food for Peace Day with appropriate ceremonies and activities.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

**Mr. BYRD.** I move to lay that motion on the table. The motion to lay on the table was agreed to.

## NATIONAL MEAT WEEK

The resolution (S. Res. 396) to express the sense of the Senate that January 27 through February 2, 1985, should be observed as "National Meat Week," was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 396

Whereas the term "Meat" comprises a broad category of food products, including beef, pork, lamb, and veal;

Whereas meat is a wholesome and nutritious food, one of the most valuable sources of vitamins and minerals in the human diet and a high-quality source of protein;

Whereas meat provides substantial amounts of the nutrients that people need to consume every day, such as vitamin B-12, riboflavin, thiamin, iron, and zinc;

Whereas the United States meat industry is continually striving to respond to changes in dietary patterns and consumer food preferences through product innovation and to contribute to a healthful diet by disseminating nutritional information;

Whereas the meat industry's annual sales of $70,000,000,000 make it the largest single component of United States agriculture;

Whereas the meat industry provides jobs for thousands of United States citizens; and

Whereas during the week of January 27 through February 2, 1985 the United States meat industry will conduct educational programs to highlight the positive contribution of meat to the American diet: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that January 27 through February 2, 1985 should be designated as "National Meat Week" and that all citizens should be encouraged to observe such week with appropriate ceremonies and activities.

Sec. 2. The Secretary of the Senate shall transmit copies of this resolution to the President and the Secretary of Agriculture.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the resolution was agreed to.

**Mr. BYRD.** I Move to lay that motion on the table.

The motion to lay on the table was agreed to.

## PAUSE FOR THE PLEDGE OF ALLEGIANCE

The Senate proceeded to consider the bill (S.J. Res. 55) to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities, which had been reported from the Committee on the Judiciary with an amendment:

On page 2, line 7, strike "June 14," and insert "June 14, 1985."

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time.

The joint resolution was read the third time and passed.

The preamble was agreed to.

The joint resolution, as amended, and the preamble, are as follows:

S.J. Res. 55

Whereas by Act of the Congress of the United States, dated June 14, 1777, the first official flag of the United States was adopted; and

Whereas by Act of Congress, dated August 3, 1949, June 14 of each year was designated "National Flag Day" and the Star-Spangled Banner Flag House Association in Baltimore, Maryland, has been the official sponsor since 1952 of National Flag Day for the United States; and

Whereas on June 14, 1980, the Star-Spangled Banner Flag House Association developed a national campaign to encourage all Americans to pause for the Pledge of Allegiance as part of National Flag Day ceremonies; and

Whereas this concept has caught the imagination of Americans everywhere, and has received wide citizen support and recognition, there has now been created the National Flag Day Foundation, Incorporated, to plan the Nation's Flag Day ceremonies: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress of the United States recognizes the pause for the Pledge of Allegiance as part of the celebration of National Flag Day throughout the Nation, and urges all Americans to participate on that day by reciting in unison the Pledge of Allegiance to our Nation's Flag, at seven o'clock post meridian eastern daylight time on June 14, 1985, and be it further

*Resolved,* That the Congress shall transmit a copy of this resolution to the National Flag Day Foundation, Incorporated, in Baltimore, Maryland.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## RELIEF OF MARINA KUNYAVSKY

The bill (H.R. 3131) for the relief of Marina Kunyavsky, was considered, ordered to a third reading, read the third time, and passed.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the bill passed.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1983

**Mr. BAKER.** Mr. President, I now ask the Chair lay before the Senate a message from the House on H.R. 4325, child support enforcement amendments of 1983.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

*Resolved,* That the House disagree to the amendment of the Senate to the bill (H.R. 4325) entitled "An Act to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

*Ordered,* That Mr. Rostenkowski, Mr. Ford of Tennessee, Mr. Stark, Mr. Pease, Mr. Matsui, Mr. Fowler, Mrs. Kennelly, Mr. Conable, Mr. Campbell, Mr. Moore, and Mr. Thomas of California be the managers of the conference of the part of the House.

**Mr. BAKER.** Mr. President, I move that the Senate insist on its amendments and agree to the conference requested by the House and the Chair be authorized to appoint conferees on the part of the Senate.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to, and the Presiding Officer [Mr. KASTEN] appointed Mr. DOLE, Mr. PACKWOOD, Mr. ARMSTRONG, Mr. GRASSLEY, Mr. LONG, Mr. MOYNIHAN, and Mr. BRADLEY conferees on the part of the Senate.

## PUBLIC BUILDINGS AUTHORIZATION ACT OF 1984

**Mr. BAKER.** Mr. President, may I inquire of the minority leader if he can clear for action at this time Calendar Order No. 925.

**Mr. BYRD.** Mr. President, that matter may proceed. I will have an amendment on behalf of Mr. MOYNIHAN which I believe has been cleared.

**Mr. BAKER.** Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 925.

The **PRESIDING OFFICER.** The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2635) to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1985.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

### AMENDMENT NO. 3219

(Purpose: To authorize funding for the Pension Building renovations)

**Mr. BYRD.** Mr. President, on behalf of Mr. MOYNIHAN, I send an amendment to the desk and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. MOYNIHAN, proposes an amendment numbered 3219.

**Mr. BYRD.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 19, strike "$2,227,802,000" and insert in lieu thereof "$2,234,302,000";

On page 3, line 13, strike "$226,404,000" and insert in lieu thereof "$232,904,000"; and

On page 3, after line 18, insert at the appropriate place:

"District of Columbia, Pension Building ........ $6,500,000".

**Mr. MOYNIHAN.** Mr. President, the Committee on Environment and Public Works continues its efforts to treat rationally the annual program of the Public Buildings Service of the General Services Administration. S. 2635 complies with the processes set out in S. 452 and its predecessor bills, legislation to restructure public buildings activities of the Federal Government.

The Public Buildings Service is no small matter. S. 2635 authorizes $2.3 billion for fiscal 1985 and affects all executive agency personnel.

While the PBS entitled its fiscal year 1985 statement "Strategic Directions for the New Public Buildings Service," there remains little that is new. The Senate's repeated efforts to achieve a truly new Public Buildings Service have not been met. We see again this year that too many Federal employees work in leased space. We still lack a 5-year plan from PBS. We still have opportunity to purchase but virtually no purchasing.

S. 452, in my opinion, is more needed than ever. That bill, again this year, awaits action in the House. And without such legislation, I fear we will continue to see a marked lack of oversight by the Congress of an activity which needs close monitoring and stern encouragement to improve its ways.

For example, this year we did not receive even a complete public buildings management plan for fiscal year 1985 and the succeeding 5 years. In 1981 and 1982, we received professional-looking plans shortly after the Congress convened. This year we received little but a list of projects, the same old promises, and excessive process.

We have a strategic directions document for fiscal year 1985. It is in its own words "not a traditional 5-year plan." The excuse should sound familiar: "the data is not available."

S. 452 would require that an annual and 5-year plan be submitted to the Congress no later than 15 days after Congress convenes each year. It would also require GSA to submit a detailed annual report on its activities by February 1 of each year.

A look at the proposed fiscal year 1985 budget provides other urgent reasons for enacting S. 452. Once again, we see the budget for scheduled leasing is going up, from $847 million in 1984 to $865 million in 1985. What makes this increase more disturbing is that it comes in a year when the total amount of space leased is expected to decline. Admirable as that decrease is—and GSA is to be commended for it—the fact that it is accompanied by an increase in expenditures points up the problem of locking ourselves into leased office space arrangements.

At the same time, we see that funding for significant construction, purchase, and major repairs is like the ever-receding horizon: It is always just ahead, but we never reach it. Moneys are accumulating in the Opportunity Purchase Program. We will soon have more than $130 million, and these moneys should be used while, as we are told by the experts from GSA, we are looking at a soft market.

I am especially concerned that in looking to purchase buildings that every consideration be given to older buildings and to buildings which convey the importance and seriousness of Government work.

With these points in mind, and with the unfinished business of true oversight still before us, I support S. 2635. I also support the inclusion of an amendment designed to continue the renovation of the Pension Building, a most unique asset in our Nation's inventory of Federal buildings. I am joined by my colleague, Senator RANDOPLH, in this proposal.

In 1980 Congress adopted legislation (Public Law 96-515) directing the restoration of the Pension Building in Washington, DC, by the GSA. The restoration was intended to preserve one of the city's most historic buildings, essentially restore it to its original grandeur and prepare it as a home for the National Building Museum.

Over the past 3 years the Congress has appropriated a total of $6.8 million to begin this work. In 1981 $2.4 million was appropriated to replace the entire roof over the Great Hall of the building. An appropriation of $1.75 million was provided in 1982 to carry out the design of the total restoration projects. Last year an additional $2.65 million was appropriated to accelerate the renovation in certain parts of the building. This work is expected to be completed by the end of 1984 and to prepare the building to host a Presidential inaugural ball in 1985.

Completion of the total project is estimated to cost an additional $29.5 million.

The reported bill contains no authorizations to continue restoration of the Pension Building in fiscal 1985. The amendment will correct this deficiency.

In its original budget submission for 1985, GSA had requested the full amount necessary to complete the Pension Building restoration. This amount was disallowed by the Office of Management and Budget and the document ultimately transmitted to the Congress contained no proposals relating to the Pension Building.

Senator RANDOLPH and I believe that restoration work should continue on what is one of the Nation's most unique examples of 19th century architecture. The Pension Building, indeed, is 1 of only 22 structures in Washington, DC, designated as a class I landmark building, a classification not enjoyed by such better known facilities as the Jefferson Memorial and the Old Post Office.

We acknowledge that legislation has been proposed (S. 2605) which, if enacted, would alter the existing statutory conditions for restoration of the building and its occupancy by the National Building Museum. It is highly unlikely that any action on this proposal will be taken by the Congress.

Our concern is that there be no break in the restoration program while this other issue is considered. So as not to prejudice the outcome of these deliberations, the $6.5 million authorized by this amendment should be committed to those items in the restoration plan that are not specifically intended to prepare it for occupancy and use by any specific entity or Government agency. The moneys should be used to complete work on basic institutional systems: Fire protection and emergency egress, exterior safety and waterproofing, basic safety and health, and certain minimum general occupancy repairs as contained in the overall restoration plan.

This amendment to S. 2635 authorizes $6.5 million for this purpose from the Federal Building Fund. The total authorization in the bill is increased to $2.234 billion, a level still within the anticipated revenues of the building fund. The addition of funds to continue work on the Pension Building, therefore, will not result in a reduction of other projects.

Mr. President, in closing I would like to commend the exemplary leadership provided on this, and so many other matters, by our distinguished chairman, Senator STAFFORD, and the chairman emeritus, Senator RANDOLPH.

Mr. RANDOLPH. Mr. President, I join my colleagues on the Committee on Environment and Public Works in supporting S. 2635, the Public Buildings Authorization Act of 1984. This measure represents the Committee's directions to the General Services Administration concerning its conduct of the Public Buildings Program during fiscal 1985.

It also reflects our continuing belief that this program should be subject to annual review and authorization by the full Congress. While the Public buildings Act of 1959 permits a piecemeal approval of projects at any time during the year, our Committee 5 years ago rejected that approach. Since that time the Senate has on three occasions enacted comprehensive legislation which we developed and which would totally restructure the Public Buildings Progam. The keystone of that reform is provison for an annual authorization such as that embodied in S. 2635.

Last autumn, the Senate adopted S. 452, the current reform bill, and that measure is now pending before the House of Representatives. We are hopeful that before the conclusion of the 98th Congress the restructuring of the Public Buildings Program can be completed.

Mr. President, S. 2635 authorizes spending for all of the activities of the Public Buildings Service. Like several of my colleagues, I continue to be concerned about the substantial amounts that are spent for leasing of Government offices and other facilities. Both GSA and our Committee agree that the trend should be in the opposite direction, toward more Government-owned space. I am gratified that the amount of leased space will decline slightly next year even though the monetary obligation will increase. This suggests that greater effort must be made to construct new buildings and to obtain existing buildings which might be available in the private sector.

The opportunity purchase program was initiated last year by GSA to take advantage of a substantial amount of office space available for purchase in Washington, DC, and other cities. This situation arose because of the recession and overbuilding in a number of communities. It was felt to be a golden opportunity for the Government to acquire office space at reasonable prices. The idea was sound but unfortunately little progress has been made. Acquisition of only one building has been completed under the Opportunity Purchase Program although some others are pending. In the past 2 years funds have been shifted from direct Federal construction to the Opportunity Purchase Program. It is important that GSA vigorously pursue this program, for I seriously doubt that the current glut of office space will last for much longer.

Mr. President, I earnestly join with my able colleague from New York [Mr. MOYNIHAN] in offering an amendment to provide $6.5 million for one of the most historic structures in our National Capital City, the Pension Building. This century-old building was rescued from decades of neglect 3 years ago and steady progress has been made in the early stages of its restoration. It is crucial that we provide the resources to continue this work to restore the Pension Building to its former grandeur.

A comprehensive plan has been prepared and the funds authorized for 1985 would continue basic restoration and such portions of the restoration plan as relate to life and fire safety. I believe it is imperative that this work continue.

Mr. President, I commend the deep concern and careful attention that is given to public buildings matters in our committee by our capable chairman, Senator STAFFORD, and by Senator MOYNIHAN. Their work on this subject reflects their concern with the physical environment in which the Government carries out its responsibilities. They believe as do I, that the functions of the Federal Government should be housed in buildings that reflect the strength of our American heritage and the freedom of our people. They also believe that the Public Buildings Program must be conducted in an orderly, businesslike fashion, ever mindful that it like other Government activities, is supported by the American taxpayer. I fully concur in this basic philosophy of Senator STAFFORD and Senator MOYNIHAN, and I associated myself with them in their leadership.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 3219) was agreed to.

Mr. **STAFFORD**. Mr. President, S. 2635 is the Committee on Environment and Public Works' fifth such annual bill to provide authorization of appropriations to the Public Buildings Service of the General Services Administration. Consistent with the committee's reform initiative as passed by the Senate in S. 452, the "Public Buildings Act of 1983," the bill provides comprehensive monetary authorizations for the public buildings program of GSA in fiscal year 1985, including line item amounts for specific construction and repair and alteration projects.

S. 2635 authorizes $2,227,802,000 in new obligational authority from the Federal Buildings Fund for fiscal year 1985, an aggregate amount identical to the budget request. The principal differences between S. 2635 and what GSA has proposed consists of the addition of three projects: First, construction of phase II of the Pavillion in the Old Post Office in Washington, DC; second renovation of the Federal Building in Las Vegas, NV, to provide additional courtroom space; and third, repair of the exterior plaza of the McNamara Federal Building in Detroit, MI, to forestall additional deterioration—and a decrease of $4.6 million for design and construction services.

Authorization amounts for the seven basic program activities of GSA are included in S. 2635 as follows:

First, $91,877,000 for construction and acquisition of facilities;

Second, $226,404,000 for repairs and alternations;

Third, $53,572,000 for design and construction services;

Fourth, $865,000,000 for the rental of space;

Fifth, $694,598,000 for real property operations;

Sixth, $117,040,000 for program direction; and

Seventh, $178,911,000 for purchase contract payments.

Mr. President, a primary goal of the public buildings program is to lessen reliance on expensive leased space to house Government functions. GSA has approached this goal from three directions: First, to improve space utilization by gradually reducing the allotment per Federal employee to 135 square feet; second, to repair and alter vacant space and reclaim it for Federal agencies; and, third, to acquire additional Government-owned space through what is termed the opportunity purchase program. Of the $91,877,000 identified above for the construction and acquisition of facilities, $70,217,000 is allocated for such opportunity purchases, that is, for the purchase of high quality commercial office buildings at a reasonable cost relative to their current market value. Judicious selection and acquisition of such buildings can increase the inventory of Government-owned space without the long leadtime typically associated with Federal construction.

For fiscal year 1985, new construction focuses on border stations, highly specialized facilities obtainable by no other means. These projects are at the following locations and amounts:

| | |
|---|---|
| Texas: El Paso | $6,893,000 |
| Washington: Lynden | 2,386,000 |
| Washington: Sumas | 4,618,000 |

The additional new construction project contained in S. 2635 to provide expansion of the Pavilion at the Old Post Office in Washington, DC consists essentially of foundation and basement work, extension of utilities, and paving in the adjacent Internal Revenue Service courtyard at an estimated cost up to $10,000,000—$2,000,000 from public and $8,000,000 from private funds.

Renovation of the Old Post Office has resulted in an extremely popular example of the implementation of the Cooperative Use Act, the mixed use of a Federal building for Government offices and private commercial and cultural purposes. Since its official opening in September 1983, the Pavilion at the Old Post Office has been patronized at a level which has severely taxed its capacity. Expansion of commercial development into the adjacent IRS courtyard after construction of a suitable facility will relieve the pressure on the cooperative-use space in the Old Post Office itself and provide an additional source of long-term rental revenue for GSA.

The line-item repair and alteration projects included in the bill fall into six categories of program needs. First among these is the category of Health and Safety which includes the following buildings and renovations costs:

| | |
|---|---|
| San Francisco, CA, Appraisers Building | $9,711,000 |
| Denver, CO, Federal Center No. 20 | 6,210,000 |
| Washington, DC, Health and Human Services, North Building | 1,504,000 |
| Philadelphia, PA, Federal Building, 5000 Wissahickon Avenue | 2,635,000 |
| Arlington, VA, Pentagon Building | 4,602,000 |

The obligational authority requested for renovation of the Denver Federal Center Building No. 20 provides for the completion of the second phase of this project to permit the relocation of hazardous Food and Drug Administration laboratories from the Federal Building-U.S. Customhouse in downtown Denver to safer, newly designed laboratory space. The committee authorized $10,087,000 for this project as a part of the fiscal year 1983 program.

The glazed terra cotta facing of the Appraisers Building in San Francisco is deteriorating and potentially hazardous. Its replacement and the installation of a fire sprinkler system are the major work items to be accomplished with the funds authorized for this building.

Fire safety equipment installation is the major component in each of the remaining three projects in the Health and Safety category. In addition, the Federal Building in Philadelphia requires asbestos removal.

Vacant space alterations is the second category of repair and alteration projects. There are three such projects at the following locations and renovation costs:

| | |
|---|---|
| Sioux City, IA, Post Office Courthouse | $809,000 |
| New York, NY, Federal Building, 201 Varick Street | 1,508,000 |
| Pittsburgh, PA, Post Office Courthouse | 8,672,000 |

Renovation of the vacant space permits the relocation of Federal agencies from leased space into a Government-owned building, ultimately reducing leasing costs. In the cases of the Pittsburgh Post Office-Courthouse and the Sioux City, IA, project vacant postal workspace would be converted for office use. Proposed work in the Varick Street Federal Building in New York would prepare this space for occupancy by the Department of Labor.

The third category of repair and alteration projects is constituted by basic repairs, work essential to the preservation of the value and continued use of significant Federal assets. Work items typically include roof repair or replacement; elevator rehabilitation; structural reinforcement; heating, ventillation, and air conditioning system renovation; and plumbing and electrical system repairs. Included in the basic repairs category are the following buildings at the indicated renovation costs:

| | |
|---|---|
| Denver, CO, Building No. 810 | $8,590,000 |
| Washington, DC, Archives | 4,696,000 |
| Washington, DC, Auditors | 8,980,000 |
| Washington, DC, Interior | 4,131,000 |
| Des Moines, IA, Federal Building | 3,038,000 |
| Detroit, MI, Federal parking facility | 1,832,000 |
| Detroit, MI, McNamara Federal Building | 1,532,000 |
| Kansas City, MO, Federal Building | 907,000 |
| Forth Worth, TX, Warehouse No. 5 | 710,000 |

In this list, only the McNamara Federal Building is not included in the GSA request for 1985. The committee has added $1,532,000 for repair of the exterior plaza of the McNamara Federal Building in Detroit because postponement of this repair may lead to substantial additional costs. The plaza suffers progressive deterioration with each succeeding winter season.

Only one project falls into the fourth category of the repair and alteration program—Special Program Needs. Naval Intelligence Command No. 1 located in Suitland, MD, requires renovation to convert it to a secure facility for handling classified information. $8,809,000 in obligational authority is needed for this work.

The fifth category of repairs and alterations serves the U.S. courts. As the space requirements of the judiciary increase, it is often necessary to construct new courtrooms and ancillary facilities in existing Federal buildings. There are two projects of this type for inclusion in the fiscal year 1985 program. GSA has found the obligational authority for court-related renovations in the Alexandria Post Office-Courthouse requested as a part of the fiscal year 1983 program to be inadequate to complete the project; $1,370,000 in additional obligational authority has been requested for repairs and alterations for fiscal year 1985.

S. 2635 also includes $1,123,000 for the construction of a new courtroom and related facilities in the Federal Building in Las Vegas, NV. GSA first sent a prospectus describing this project in February 1982, and continued postponement could hamper the work of the judiciary.

The final category of the repair and alteration program, Renovation of Historic Buildings, is occupied by a single project—Blair House. On August 5, 1982, the committee approved a prospectus for the renovation of the Blair House complex for $7,020,000. Reexamination of some of the requirements for building circulation, safety, and guest accommodations has increased the maximum obligational authority required for the project to $9,000,000. GSA received an appropriation for $2,000,000 for fiscal year 1984 and in requesting an additional $6,611,000 in obligational authority for fiscal year 1985—$389,000 for design is included in the aggregate amount requested for design and construction services.

One component of GSA's public building program which is to receive separate funding for the first time in fiscal year 1985 is design and construction services. This component contains all of the costs associated with the design, management, and inspection or repair and alternation or new construction projections. GSA requested $58,227,000 for this purpose. Of this amount $13 million is to design projects for which full construction funding will not be needed until after fiscal year 1985. The bill authorizes $53.6 million for design and construction services, which is $4.6 million less than the budget request. This reduction reflects the belief that GSA should complete important projects which have been delayed before commencing a large number of new projects.

Mr. President, I commend the bill to my colleagues.

Mr. RANDOLPH. Mr. President, I join my colleagues on the Committee on Environment and Public Works in supporting S. 2635, the Public Buildings Authorization Act of 1984. This measure represents the committee's directions to the General Services Administration concerning its conduct of the Public Buildings Program during fiscal 1985.

It also reflects our continuing belief that this program should be subject to annual review and authorization by the full Congress. While the Public Buildings Act of 1959 permits a piecemeal approval of projects at any time during the year, our committee 5 years ago rejected that approach. Since that time the Senate has on three occasions enacted comprehensive legislation which we developed and which would totally restructure the Public Buildings Program. The keystone of that reform is provision for an annual authorization such as that embodied in S. 2635.

Last autumn, the Senate adopted S. 452, the current reform bill, and that measure is now pending before the House of Representatives. We are hopeful that before the conclusion of the 98th Congress the restructuring of the Public Buildings Program can be completed.

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The opportunity purchase program was initiated last year by GSA to take advantage of a substantial amount of office space available for purchase in Washington, DC, and other cities. This situation arose because of the recession and over-building in a number of communities. It was felt to be a golden opportunity for the Government to acquire office space at reasonable prices. The idea was sound but unfortunately little progress has been made.

Acquisition of only one building has been completed under the Opportunity Purchase Program although some others are pending. In the past 2 years funds have been shifted from direct Federal construction to the Opportunity Purchase Program. It is important that GSA vigorously pursue this program, for I seriously doubt that the current glut of office space will last for much longer.

Mr. President, I earnestly join with my able colleague from New York [Mr. MOYNIHAN] in offering an amendment to provide $6.5 million for one of the most historic structures in our National Capitol city, the Pension Building. This century-old building was rescued from decades of neglect 3 years ago and steady progress has been made in the early stages of its restoration. It is crucial that we provide the resources to continue this work to restore the Pension Building to its former grandeur.

A comprehensive plan has been prepared and the funds authorized for 1985 would continue basic restoration and such portions of the restoration plan as relate to life and fire safety. I believe it is imperative that this work continue.

Mr. President, I commend the deep concern and careful attention that is given to public buildings matters in our committee by our capable chairman, Senator STAFFORD, and by Senator MOYNIHAN. Their work on this subject reflects their concern with the physical environment in which the Government carries out its responsibilities. They believe as do I, that the functions of the Federal Government should be housed in buildings that reflect the strength of our American heritage and the freedom of our people. They also believe that the Public Buildings Program must be conducted in an orderly, businesslike fashion, ever mindful that it, like other Government activities, is supported by the American taxpayer. I fully concur in this basic philosophy of Senator STAFFORD and Senator MOYNIHAN, and I associate myself with them in their leadership.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2635

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Public Buildings Authorization Act of 1984".

SEC. 2. No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by Congress or obligated by the Administrator unless it has been authorized by Congress in accordance with this Act.

SEC. 3. (a) No public building construction, renovation, repair, or alteration shall be commenced unless an appropriation has first been made in the same fiscal year for which such appropriation is authorized and for the estimated cost of completion of such construction, renovation, repair, or alteration.

(b) Beginning in fiscal year 1986, no lease shall be entered into unless the authority to enter into contracts has first been made for the maximum cost of such lease over the entire term in such amounts as are specified in annual appropriations Acts and in the fiscal year for which such lease is authorized.

SEC. 4. There is hereby authorized to be appropriated for fiscal year 1985 not to exceed in the aggregate the amount of $2,234,302,000 from revenues and collections deposited into the fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), for the real property management and related activities of the Public Buildings Service of which:

(a) Not to exceed $91,877,000 shall be available for fiscal year 1985 as follows:

(1) For construction of public buildings (including funds for sites and expenses) at the following locations and maximum construction costs:

| | |
|---|---|
| District of Columbia, Old Post Office (Internal Revenue Service Courtyard) | $2,000,000 |
| Texas, El Paso, Border Station | 6,893,000 |
| Washington, Lyden, Border Station | 2,386,000 |
| Washington, Sumas, Border Station | 4,618,000 |

(2) $1,000,000 for construction of public buildings of less than ten thousand gross square feet of space;

(3) $3,063,000 for deficit balances relating to fiscal year 1982 construction projects;

(4) $71,917,000 for purchase of sites and buildings at the following locations and maximum acquisition costs:

| | |
|---|---|
| Virginia, Newport News, Post Office-Courthouse | $1,700,000 |
| Other selected purchases including options to purchase | 70,217,000 |

(b) Not to exceed $232,904,000 shall be available for fiscal year 1985 as follows:

(1) For renovations, alterations, and repairs of public buildings at the following locations and at the following maximum project costs of $1,000,000 or more:

| | |
|---|---|
| California, San Francisco Appraiser Stores | $9,711,000 |
| Colorado, Denver, Federal Center numbered 20 | 6,210,000 |
| Colorado, Denver, Federal Center numbered 810 | 8,590,000 |
| District of Columbia, Archives | 4,696,000 |
| District of Columbia, Auditors | 8,980,000 |
| District Columbia, Blair House | 6,611,000 |
| District of Columbia, Health and Human Services, North Building | 1,504,000 |
| District of Columbia, Interior | 4,131,000 |
| District of Columbia, Pension Building | 6,500,000 |
| Iowa, Des Moines, Federal Building | 3,083,000 |
| Maryland, Suitland, Naval Intelligence Command numbered 1 | 8,809,000 |
| Michigan, Detroit, McNamara Federal Building | 1,532,000 |
| Michigan, Detroit, parking garage | 1,832,000 |
| Nevada, Las Vegas, Federal Building | 1,123,000 |
| New York, New York, 201 Varick Street | 1,508,000 |
| Pennsylvania, Pittsburgh, Post Office Courthouse | 8,672,000 |
| Pennsylvania, Philadelphia, 5000 Wissahikon Avenue | 2,635,000 |
| Virginia, Alexandria, Post Office, Courthouse | 1,370,000 |
| Virginia, Arlington, Pentagon | 4,602,000 |

(2) $140,805,000 for renovations and repairs of public buildings at project costs of less than $1,000,000 including the public buildings at the following locations and maximum project costs:

| | |
|---|---|
| Iowa, Sioux City, Post Office, Courthouse | $809,000 |
| Missouri, Kansas City, 1500 E. Bannister Road | 907,000 |
| Texas, Fort Worth, warehouse numbered 5 | 710,000 |

(3) $9,000,000 for alterations of leased buildings, the maximum cost for a single building being less than $250,000.

(c) Notwithstanding the provisions of section 3(a) of this Act, not to exceed $53,572,000 shall be available for design and construction services.

(d) Not to exceed $865,000,000 shall be available for fiscal year 1985 as follows:

(1) $25,700,000 for rental increases due to lease expirations and for expansion space, and

(2) $839,300,000 for payments in fiscal year 1985 to provide for space under lease prior to fiscal year 1985, including increases in operating costs and taxes.

(e) Not to exceed $694,998,000 shall be available for fiscal year 1985 real property operations.

(f) Not to exceed $117,040,000 shall be available for fiscal year 1985 program direction.

(g) Not to exceed $178,911,000 shall be available for fiscal year 1985 for payment of principal, interest, taxes, and any other obligation for public buildings acquired by purchase contract.

SEC. 5. (a) Funds appropriated under section 4 of the Act for construction, renovation, repair, or alteration shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided*, That construction, renovation, repair, or alteration has commenced in the same fiscal year which funds are made available.

(b) Commencement of design using funds authorized pursuant to section 4(c) of this Act for projects authorized by sections 4(a) and (b) shall be regarded as complying with the provisions of subsection (a) of this section.

SEC. 6. Ten per centum of the funds made available pursuant to this Act to the Public Building Service for renovation, alteration, and repair of public buildings and for payment of leases on buildings shall be available for repair or alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from emergency building conditions or changing or additional programs of Federal agencies. Funds for such projects may not be obligated until thirty days after the submission by the Administrator of an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The explanatory statement shall, among other things, include a statement of the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORITY FOR THE PRESIDENT'S COMMISSION ON ORGANIZED CRIME

Mr. BAKER. Mr. President, next, I propose to take up Calendar No. 946, if the minority leader is agreeable.

Mr. BYRD. Mr. President, we have no problem.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 946.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 233) to authorize the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information.

The **PRESIDING OFFICER.** Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the resolving clause and insert:

### TAKING OF TESTIMONY AND RECEIPT OF EVIDENCE

SECTION 1. The Commission established by the President by Executive Order 12435, dated July 28, 1983 (hereinafter in this joint resolution referred to as the "Commission"), may hold hearings. The powers authorized by this resolution shall be limited to the purposes set forth in section 2 of that Executive order. The Commission, or a member of the Commission or member of the staff of the Commission designated by the Commission for such purpose, may administer oaths and affirmations, examine witnesses, and receive evidence.

### SUBPENA POWER

SEC. 2. (a) The Commission, or any member of the Commission when so authorized by the Commission, shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of information relating to a matter under investigation by the Commission. A subpena may require the person to whom it is directed to produce such information at any time before such person is to testify. Such attendance of witnesses and the production of such evidence may be required from any place within the jurisdiction of the United States at any designated place of interview or hearing. A person to whom a subpena issued under this subsection is directed may for cause shown move to enlarge or shorten the time of attendance and testimony, or may move to quash or modify a subpena for the production of information if it is unreasonable or oppressive. In the case of a subpena issued for the purpose of taking a deposition upon oral examination, the person to be deposed may make any motion permitted under rule 26(c) of the Federal Rules of Civil Procedure.

(b)(1) In case of contumacy or refusal to obey a subpena issued to a person under this section, a court of the United States within the jurisdiction of which the person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application by the Attorney General, issue to such person an order requiring such person to appear before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose, there to give testimony or produce information relating to the matter under investigation, as required by the subpena. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(2) The Commission is an agency of the United States for the purpose of rule 81(a)(3) of the Federal Rules of Civil Procedure.

(c) Process of a court to which application may be made under this section may be served in a judicial district wherein the person required to be served is found, resides, or transacts business.

### TESTIMONY OF PERSONS IN CUSTODY

SEC. 3. A court of the United States within the jurisdiction in which testimony of a person held in custody is sought by the Commission or within the jurisdiction of which such person is held in custody, may, upon application by the Attorney General, issue a writ of habeas corpus ad testificandum requiring the custodian to produce such person before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose.

### IMMUNITY

SEC. 4. The Commission is an agency of the United States for the purpose of part V of title 18 of the United States Code.

### SERVICE OF PROCESS; WITNESS FEES

SEC. 5. (a) Process and papers issued pursuant to this resolution may be served in person, by registered or certified mail, by telegraph, or by leaving a copy thereof at the residence or principal office or place of business of the person required to be served. When service is by registered or certified mail or by telegraph, the return post office receipt or telegraph receipt therefor shall be proof of service. Otherwise, the verified return by the individual making service, setting forth the manner of such service, shall be proof of service.

(b) A witness summoned pursuant to this resolution shall be paid the same fees and mileage as are paid witnesses in the courts of the United States, and a witness whose deposition is taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

### ACCESS TO OTHER RECORDS AND INFORMATION

SEC. 6. (a)(1) The investigative activities of the Commission are civil or criminal law enforcement activities for the purposes of section 552a(b)(7) of title 5, United States Code, except that section 552a(e)(3) shall apply after the termination of the Commission.

(2) The Commission is a Government authority, and an investigation conducted by the Commission is a law enforcement inquiry, for the purposes of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq). Any delay authorized by court order in the notice required under that Act shall not exceed the life of the Commission, including any extension thereof. Notwithstanding a delay authorized by court order, if the Commission elects to publicly disclose the information in hearings or otherwise, it shall give notice required under the Right to Financial Privacy Act a reasonable time in advance of such disclosure.

(b) For the purposes of section 2517 of title 18, United States Code, and as limited by subsection (c), the members and members of the staff of the Commission are investigative or law enforcement officers, except that in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(1) of such title, such disclosure may be made only after the Attorney General or the Attorney General's designee has had an opportunity to determine that such disclosure may jeopardize Federal law enforcement interests and has not made that determination, and in the case of a disclosure to or by any member or member of the staff of the Commission of any of the contents of a communication intercepted under section 2516(2) of such title, such disclosure may be made only after the appropriate State official has had an opportunity to make a determination that such disclosure may jeopardize State law enforcement interests and has not made that determination.

(c)(1) A person to whom disclosure of information is made under this section shall use such information solely in the performance of such person's duties for the Commission and shall make no disclosure of such information except as provided for by this joint resolution, or as otherwise authorized by law.

(2) A disclosure or use by a member or a member of the staff of the Commission of the contents of a communication intercepted under chapter 119 of title 18 of the United States Code may be made solely in the course of carrying out the functions of the Commission as such functions were established by Executive Order 12435, dated July 28, 1983.

### FEDERAL PROTECTION FOR MEMBERS AND STAFF OF THE COMMISSION

SEC. 7. Conduct, which if directed against a United States attorney would violate section 111 or 1114 of title 18, United States Code, shall, if directed against a member of the Commission or a member of the staff of the Commission, be subject to the same punishments as are provided by such sections for such conduct.

### CLOSURE OF MEETINGS

SEC. 8. The functions of the President under section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 10(d)) shall be performed by the Chairman of the Commission.

### RULES AND PROCEDURES OF THE COMMISSION

SEC. 9. (a) The Commission shall adopt rules and procedures (1) to govern its proceedings; (2) to provide for the security of records, documents, information, and other materials in its custody and of its proceedings; (3) to prevent unauthorized disclosure of information and materials disclosed to it in the course of its inquiry; (4) to provide the right to counsel to all witnesses examined pursuant to subpena; and (5) to accord the full protection of all rights secured and guaranteed by the Constitution of the United States.

(b) No information in the possession of the Commission shall be disclosed by any member or employee of the Commission to any person who is not a member or employee of the Commission, except as authorized by the Commission and by law.

(c) The term "employee of the Commission" means a person (1) whose services have been retained by the Commission, (2) who has been specifically designated by the Commission as authorized to have access to information in the possession of the Commission, and (3) who has agreed in writing and under oath to be bound by the rules of the Commission, the provisions of this resolution, and other provisions of law relating to the nondisclosure of information.

### EFFECTIVE DATES OF RESOLUTION

SEC. 10. This joint resolution shall take effect on the date of enactment and shall remain in effect until the expiration of the Commission, including any extensions thereof, or two years whichever event occurs earlier.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the bill be advanced to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 548, which is a companion measure on this subject, and which is at the desk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 548) authorizing the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BAKER. Mr. President, I move to strike all after the enacting clause and insert the text of Senate Joint Resolution 233, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar No. 946, Senate Joint Resolution 233, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SEQUENTIAL REFERRAL OF S. 2625 AND S. 2626

Mr. BAKER. Mr. President, if the minority leader can clear this, I propose to sequentially refer S. 2625 and S. 2626.

Mr. BYRD. Mr. President, that matter has been cleared on this side.

Mr. BAKER. Mr. President, I ask unanimous consent that once the Judiciary Committee reports S. 2625, Act for Rewards for Information Concerning Terrorist Acts, and S. 2626, Prohibition Against the Training or Support of Terrorist Organizations Act of 1984, they be sequentially referred to the Foreign Relations Committee for a period not to exceed 30 calendar days, excluding Senate recesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STAR PRINT OF SENATE REPORT 98-491

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate Report 98-491 be star printed to reflect changes which I now submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

## STAR PRINT OF S. 2014

Mr. BAKER. Mr. President, I ask unanimous consent that S. 2014 be star printed to italicize material beginning on line 14, page 18, and as otherwise described in the paper which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZING TESTIMONY BY STAFF OF SENATOR MATHIAS

Mr. BAKER. Mr. President, I have a resolution, for myself and the distinguished minority leader, in respect to authorizing testimony by a staff member of a certain Senator, and I ask unanimous consent that the Senate proceed to the consideration of that resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 406) to authorize testimony by staff of Senator MATHIAS.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this resolution would authorize five members of the staff of Senator CHARLES McC. MATHIAS, JR., to testify before a Federal grand jury in the district of Maryland in response to a request from the U.S. attorney for that district. The U.S. attorney believes that these members of Senator MATHIAS' staff may have information relevant to an investigation into possible violations of Federal criminal statutes prohibiting impersonation of Government employees. At issue are possible false assertions of employment in Senator MATHIAS' office. At Senator MATHIAS' request, these Senate employees would be authorized to assist the grand jury by testifying concerning all matters that are not privileged.

S. RES. 406

Whereas, the United States Attorney for the District of Maryland has informed Senator Mathias that certain members of his staff may have information relevant to a Federal grand jury investigation in the District of Maryland of possible violations of Federal statutes;

Whereas, the United States Attorney has requested that those members of Senator Mathias' staff provide testimony to the Federal grand jury;

Whereas, the staff members who may have relevant information are Linda Strine, Elsie Simons, Ronalyn Meyer, Dorothy Savage, and Tessa Turner;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judical process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees of the Senate concerning information acquired in the course of their official duties is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

*Resolved*, That Linda Strine, Elsie Simons, Ronalyn Meyer, Dorothy Savage, and Tessa Turner, are authorized to testify before the Federal grand jury in the District of Maryland in response to the request by the United States Attorney, except concerning matters for which a privilege from testifying should be asserted.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AUTHORIZING TESTIMONY BY FORMER EMPLOYEE JAY HOWELL

Mr. BAKER. Mr. President, I have now been handed another resolution in respect to authorization of testimony, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 407) to authorize testimony by a former employee of the Subcommittee on Investigations and General Oversight of the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this resolution would authorize a former employee of the Subcommittee on Investigations and General Oversight of the Committee on Labor and Human Resources to testify before a Federal grand jury in the Middle District of Florida in response to a request from the U.S. attorney's office for that district. In the course of subcommittee work in the area of child pornography, the employee became aware of possible criminal violations of Federal child pornography statutes. The current grand jury investigation resulted from the subcommittee's referral of the information it had obtained. At the request of Senator HATCH, the chairman of the committee, and Senator HAWKINS, who chaired the former subcommittee, the former Senate employee would be authorized to assist the grand jury by testifying concerning all matters that are not privileged.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 407) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 407

Whereas, the Office of the United States Attorney for the Middle District of Florida has informed the Committee on Labor and Human Resources that a former employee of the Subcommittee on Investigations and General Oversight of the Committee may have information relevant to a Federal grand jury investigation in the Middle District of Florida of possible violations of Federal statutes;

Whereas, the Office of the United States Attorney has requested that the former employee provide testimony to the Federal grand jury;

Whereas, the former employee who has relevant information is Jay Howell;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the testimony of employees or former employees of the Senate concerning information acquired in the course of their official duties is needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

*Resolved*, That Jay Howell is authorized to testify before the Federal grand jury in the Middle District of Florida in response to the request from the Office of the United States Attorney, except concerning matters for which a privilege from testifying should be asserted.

## EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, may I inquire of the minority leader if he would be prepared to consider all or any part of the Executive Calendar, and I especially invite his attention to the first four nominations on page 5, which are Calendar Nos. 644, 645, 646, and 647, and Calendar No. 653 on page 6 of today's Executive Calendar.

Mr. BYRD. Mr. President, the four nominations on page 5, beginning with the Executive Office of the President and continuing through the Federal Communications Commission, and the nomination under Calendar No. 653 on page 6, these being the nominations that have been alluded to by the distinguished majority leader, there is no problem on this side.

Mr. BAKER. I thank the minority leader.

## EXECUTIVE SESSION

Mr. BAKER. Mr. President, then I ask unanimous consent that the Senate now go into executive session for the purpose of considering those nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

## EXECUTIVE OFFICE OF THE PRESIDENT

The assistant legislative clerk read the nominations of John P. McTague, of California, and Bernadine Healy Bulkley, of Maryland, to be Associate Directors of the Office of Science and Technology Policy.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

## FEDERAL EMERGENCY MANAGEMENT AGENCY

The assistant legislative clerk read the nomination of Clyde A. Bragdon, Jr., of California, to be Administrator of the U.S. Fire Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

## FEDERAL COMMUNICATIONS COMMISSION

The assistant legislative clerk read the nomination of James H. Quello, of Virginia, to be a Member of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

## THE JUDICIARY

The assistant legislative clerk read the nomination of Franklin S. Billings, Jr., of Vermont, to be U.S. district judge for the District of Vermont.

Mr. STAFFORD. Mr. President, I am delighted to have the opportunity to commend to the Senate the confirmation of Franklin S. Billings, Jr., as a Federal judge for the District of Vermont.

Franklin S. Billings, Jr., has had a distinguished career on both the trial and appellate benches in Vermont. At present, he serves as chief justice of the Vermont Supreme Court.

He will bring great distinction to the Federal bench along with his experience and wisdom and judicial temperment.

In addition to his outstanding judicial service, Justice Billings has given unselfish service to his community, his State, and his country. He has been a village trustee, town agent, selectman, planning commission member, school director, library trustee, and moderator in his hometown of Woodstock, Vt. He was a member of the Vermont House of Representatives and is a former speaker of that body.

When I served as Lieutenant Governor of Vermont, Bill Billings was the secretary of the State senate, and was my executive assistant when I served as Governor of Vermont.

He also served his country with distinction, having been with the 6th Armored Division under the British 8th Army during World War II.

I am proud to have recommended Justice Billings for appointment to the Federal bench, and I have been gratified by President Reagan's nomination of this distinguished Vermonter and by the recommendation of the Judiciary Committee that he be confirmed by the Senate.

I urge my colleagues to vote for the confirmation of Justice Billings as a Federal judge for the District of Vermont.

Mr. LEAHY. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I am happy to yield to my colleague from Vermont.

### NOMINATION OF FRANKLIN S. BILLINGS AS FEDERAL JUDGE FOR THE DISTRICT OF VERMONT

Mr. LEAHY. Mr. President, one of the most important responsibilities a U.S. Senator has is the review of nominees for the Federal bench. Federal court judges are ultimately responsible for understanding and interpreting the laws we make here in Congress, whenever citizens decide to go to court to question the meaning or effect of our laws.

It is with this responsibility in mind that I rise to express my pleasure at the nomination of Franklin S. Billings to become a Federal district judge for Vermont. As a member of the Judiciary Committee and a Vermont Senator, I reviewed the committee's file on Justice Billings, and when I was finished my only thought was that I have rarely seen a record of a person so dedicated to public service throughout a career.

I first came to know Justice Billings when he was Speaker of the Vermont House and I was a young attorney just out of law school. His zeal for overseeing a fair and effective legislative process was carried over to Franklin Billings' later duties as a trial judge in Vermont and thereafter as an associate, and finally Chief Justice of the Vermont Supreme Court.

On the Supreme Court Justice Billings has been a judge's judge. He is scholarly and careful—as any judge should be. But he took to the highest court in Vermont much more. He brought with him practical wisdom, without which the law can often fail to produce justice. He excelled as a trial judge, and that excellence served him well in an appellate review function. He was at home with a trial record and never forgot either the strengths or limits of trial advocacy.

Any judicial system will work best when there is harmony and understanding between the trial and appellate levels of the bench, and during his term as chief justice, he has brought his own broad experience to bear on this delicate relationship—with magnificent results.

As he testified before the Judiciary Committee on June 13, 1984, the trial judge faces many challenges in both the State and Federal judicial systems. But I know that Franklin Billings is very much up to the challenge of serving Vermont on the Federal district bench. Federal laws are often long, complex, and intellectually demanding. He has the qualities to interpret and apply them with wisdom and restraint.

If I were not so personally well acquainted with Franklin, I would still have a very good hunch about his prospects for success because of the history of his predecessor, Judge James S. Holden. Judge Holden also served as Chief Justice of the Vermont Supreme Court before assuming his position on the Federal district court, and he retires with a truly distinguished record of service to the people of the State, to his fellow judges, and to the bar.

Judge Holden will be a formidable example to follow, but I know of no one better suited to the job than Franklin S. Billings. I wish him every success, and know that he will achieve it.

Mr. President, I express my appreciation to both the distinguished majority leader and the distinguished minority leader for helping expedite the confirmation of the Justice Billings or Chief Justice Billings of our State court to now become our Federal district judge in Vermont.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent now that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the minority leader for his cooperation.

Mr. BYRD. Mr. President, I thank the majority leader.

## VOTING PRACTICES IN THE UNITED NATIONS

Mr. WILSON. Mr. President, American citizens have the right to know that their tax dollars are being spent well and wisely. This is most certainly the case with foreign assistance. The chairman of the Foreign Operations Appropriations Subcommittee [Mr. Kasten] has provided us with a tool that can assist us in that determination. He is responsible for legislation that requires a report on voting practices in the United Nations, which shows that many nations who purport to be our friends, who are perfectly willing to accept our foreign aid, consistently vote against the United States in the U.N. on matters when their own interests are not at stake, but where ours are.

Mr. President, we provide foreign aid for many reasons, strategic, humanitarian, political. A nation's voting record should not be the only criterion, but it should certainly be taken into account. I commend the Senator from Wisconsin for his actions in this area, and I ask unanimous consent that an editorial on this matter from my hometown newspaper, the San Diego Union, be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

### U.N. Hypocrites

Legislation introduced last year by Sen. Robert Kasten requires the U.S. State Department to keep track of U.N. voting practices and report the results back to Congress. The Wisconsin Republican, who chairs the Senate subcommittee that considers foreign aid requests, suspects that many of our so-called friends, are whipsawing us in the feckless international forum. And the initial U.N. tally confirms his suspicions.

Most of the Third World nations that accept American financial assistance and other preferential treatment from this country have consistently opposed our foreign aid positions in the United Nations. In fact, statistics show they voted against the United States almost 80 percent of the time.

Specifically, these ingrates have resisted U.S. efforts in the United Nations to condemn the Soviet invasion of Afghanistan, preferring instead to pass anemic resolutions calling for the withdrawal of "all foreign troops" from the beleaguered Asian country. Yet many of these Third World delegates denounced the United States for its rescue operation in Grenada. Moreover, they readily invoked a gag rule that prevented the United States or Grenada from even presenting the facts.

Another glaring example of this selective outrage saw the U.N. General Assembly score American assistance to South Africa and El Salvador. Meanwhile, the Security Council couldn't summon the courage to condemn the Soviet Union for shooting down a Korean airliner where 269 innocent lives were lost. Guyana and Zimbabwe—key swing votes in the Security Council, and U.S. foreign aid recipients—refused to support the condemnation.

Clearly, something is wrong when countries accept billions of Americans dollars each year, and then turn around and slap us in the face when the chips are down in a crucial U.N. vote. A conspicuous case in point is Egypt, which annually receives more than $2 billion in U.S. aid and then votes against us 75 percent of the time.

Which brings us back to Sen. Kasten, who says Congress should not only continue to expose this double standard but should scrutinize future foreign aid requests with an eye toward reducing or eliminating assistance to those recipients that regularly oppose us in the U.N. We think this is a splendid idea, inasmuch as it would concentrate the minds of these hypocrites on the consequences of their actions.

## THE 40TH ANNIVERSARY OF THE JUNE 6, 1944, D-DAY INVASION

Mr. THURMOND. Mr. President, I recently had the distinct honor of leading the Senate delegation composed of Senator John W. Warner, Senator Lowell P. Weicker, former Senator Howard Cannon, and myself to the ceremonies commemorating the 40th anniversary of the D-day invasion in Normandy, France. We joined the House of Representatives delegation led by Congressman Sonny Montgomery in Paris on June 4, and returned to Washington on June 6, following President Reagan's address at the U.S. Cemetery at Colleville Sur Mer.

Mr. President, as a veteran of that invasion force serving with the 82d Airborne Division, I was touched by the warm welcome given us by our French hosts and their solemn respect for an endeavor that marked the beginning of the end of World War II.

During our stay, we had occasion to visit several of the famous battle sites and participate in ceremonies commemorating the bravery of the thousands of Americans who fought in Normandy. On June 5, we visited Pointe Du Hoc where the 2d Ranger Battalion scaled sheer cliffs under withering German fire. We also visited St. Mere Eglise where men of the 82d Airborne Division participated in some of the most desperate fighting of the entire invasion. This brought back many memories for me because I landed in a glider on June 6, 1944, just outside the town of St. Mere Eglise. I am sure that this also evoked strong memories for Congressman Sam Gibbons because he parachuted into Normandy with the 101st Airborne Division on D-day. During the evening of June 5 we participated in the unveiling of a new monument at Utah Beach, dedicated to the men of VII Corps who fought there 40 years ago.

The ceremony at Utah Beach was directed by Brig. Gen. John W. Donaldson, who is the officer-in-charge of the European Office of the American Battle Monuments Commission. Maj. Gen. A.J. Adams, the Secretary of the American Battle Monuments Commission, delivered appropriate introductory remarks.

He was followed by Secretary of the Army, John O. Marsh and Gen. "Lightning Joe" J. Lawton Collins. Both gentlemen spoke eloquently; Secretary Marsh from the vantage point of what the events of 40 years ago say about our commitment to freedom today, and General Collins from the view of the commanding general of VII Corps during the invasion on June 6, 1944.

On June 6, the Senate and House delegations were present at the U.S. Cemetery at Colleville Sur Mer, better known in this country as Omaha Beach, for President Reagan's inspiring address.

Mr. President, any American who visits that cemetery with the more than 9,000 white crosses and Stars of David will be profoundly moved by the experience. It is eloquent testimony about our form of Government—that we fight to liberate and not to conquer—because the only land we asked for were places to bury our honored dead and erect monuments commemorating a valiant struggle.

The people of this country can be proud that we have twice answered the call to protect freedom and help liberate our European friends, and we have twice prevailed. Let us rededicate ourselves to the concept of a strong alliance of the democracies, so that we may never have to pay such a price again.

Mr. President, I ask unanimous consent that President Reagan's remarks, those of Secretary Marsh, General Collins, and General Adams, and a list of the House delegation be printed in the Record.

There being no objections, the material was ordered to be printed in the Record, as follows:

### Remarks of the President to Assembled Veterans at Pointe Du Eoc, Cricqueville, France

The **President**: We're here to mark that day in history when the Allied armies joined in battle to reclaim this continent to liberty. For four long years, much of Europe had been under a terrible shadow. Free nations had fallen, Jews cried out in the camps, millions cried out for liberation. Europe was enslaved and the world prayed for its rescue. Here, in Normandy, the rescue began. Here, the Allies stood and fought against tyranny in a giant undertaking unparalleled in human history.

We stand on a lonely, windswept point on the northern shore of France. The air is soft: but 40 years ago at this moment, the air was dense with smoke and the cries of men and the air was filled with the crack of rifle fire and the roar of cannon. At dawn, on the morning of the 6th of June, 1944, 225 Rangers jumped off the British landing craft and ran to the bottom of these cliffs. Their mission was one of the most difficult and daring of the Invasion: to climb these shear and desolate cliffs and take out the enemy guns. The Allies had been told that some of the mightiest of these guns were here and they would be trained on the beaches to stop the Allied advance.

The Rangers looked up and saw the enemy soldiers, the edge of the cliffs shooting down at them with machine guns and throwing grenades. And the American Rangers began to climb. They shot rope ladders over the face of these cliffs and began to pull themselves up. When one Ranger fell, another would take his place. When one rope was cut, a Ranger would grab another and begin his climb again. They climbed, shot back and held their footing. Soon, one by one, the Rangers pulled themselves over the top and in seizing the firm land at the top of these cliffs, they began to seize back the Continent of Europe.

Two hundred and twenty-five came here. After two days of fighting, only 90 could still bear arms.

Behind me is a memorial that symbolizes the Ranger daggers that were thrust into the top of these cliffs. And before me are the men who put them there.

These are the boys of Pointe du Hoc. (Applause.) These are the men who took the cliffs. These are the champions who helped free a continent. These are the heroes who helped end a war.

Gentlemen, I look at you and I think of the words of Stephen Spender's poem. You are men who in your "lives fought for life . . . and left the vivid air signed with your honor."

I think I know what you may be thinking right now: Thinking "we were just part of a bigger effort: everyone was brave that day." Well, everyone was. Do you remember the story of Bill Millin of the 51st Highlanders? Forty years ago today, British troops were pinned down near a bridge, waiting desperately for help. Suddenly, they heard the sound of bagpipes, and some thought they were dreaming. Well, they weren't. They looked up and saw Bill Millin with his bagpipes, leading the reinforcements and ignoring the smack of the bullets into the ground around him.

Lord Lovat was with him—Lord Lovat of Scotland who calmly announced when he got to the bridge: "Sorry I'm a few minutes late," as if he'd been delayed by a traffic jam, when in truth he'd just come from the bloody fighting on Sword Beach which he and his men had just taken.

There was the impossible valor of the Poles who threw themselves between the enemy and the rest of Europe as the invasion took hold. And the unsurpassed courage of the Canadians who had already seen the horrors of war on this coast. They knew what awaited them there, but they would not be deterred. And once they hit Juno Beach, they never looked back.

All of these men were part of a rollcall of honor with names that spoke of a pride as bright as the colors they bore: The Royal Winnipeg Rifles, Poland's 24th Lancers, the Royal Scots Fusiliers, the Screaming Eagles, the Yeomen of England's armored divisions, the forces of Free France, the Coast Guard's "Matchbox Fleet" and you, the American Rangers.

Forty summers have passed since the battle that you fought here. You were young the day you took these cliffs; some of you were hardly more than boys, with the deepest joys of life before you. Yet, you risked everything here. Why? Why did you do it? What impelled you to put aside the instinct for selfpreservation and risk your lives to take these cliffs? What inspired all the men of the armies that met here?

We look at you, and somehow we know the answer. It was faith and belief; it was loyalty and love.

The men of Normandy had faith that what they were doing was right, faith that they fought for all humanity, faith that a just God would grant them mercy on this beachhead—or on the next. It was the deep knowledge, and pray God we have not lost it, that there is a profound, moral difference between the use of force for liberation and the use of force for conquest. You were here to liberate, not to conquer, and so you and those others did not doubt your cause. And you were right not to doubt.

You all knew that some things are worth dying for, one's country is worth dying for; and democracy is worth dying for, because it's the most deeply honorable form of government ever devised by man. All of you loved liberty; all of you were willing to fight tyranny; and you knew the people of your countries were behind you.

The Americans who fought here that morning knew word of the Invasion was spreading through the darkness back home. They fought—or felt in their hearts, though they couldn't know in fact, that in Georgia they were filling the churches at 4:00 a.m., in Kansas they were kneeling on their porches and praying, and in Philadelphia they were ringing the Liberty Bell.

Something else helped the men of D-Day: Their rockhard belief that Providence would have a great hand in the events that would unfold here; that God was an ally in this great cause. And, so, the night before the Invasion, when Colonel Wolverton asked his parachute troops to kneel with him in prayer he told them. Do not bow your heads but look up so you can see God and ask His blessing in what we're about to do. Also that night, General Matthew Ridgway on his cot, listening in the darkness for the promise God made to Joshua: "I will not fail thee nor forsake thee."

These are the things that impelled them; these are the things that shaped the unity of the Allies.

When the war was over, there were lives to be rebuilt and governments to be returned to the people. There were nations to be reborn. Above all, there was a new peace to be assured. These were huge and daunting tasks. But the Allies summoned strength from the faith, belief, loyalty and love of those who fell here. They rebuilt a new Europe together.

There was first a great reconciliation among those who had been enemies, all of whom had suffered so greatly. The United States did its part, creating the Marshall Plan to help rebuild our allies and our former enemies. The Marshall Plan led to the Atlantic Alliance—a great alliance that serves to this day as our shield for freedom, for prosperity, and for peace.

In spite of our great efforts and successes, not all that followed the end of the war was happy, or planned. Some liberated countries were lost. The great sadness of this loss echoes down to our own time in the streets of Warsaw, Prague, and East Berlin. Soviet troops that came to the center of this continent did not leave when peace came. They're still there, uninvited, unwanted, unyielding, almost 40 years after the war.

Because of this, allied forces still stand on this continent. Today, as 40 years ago, our armies are here for only one purpose—to protect and defend democracy. The only territories we hold are memorials like this one and graveyards where our heroes rest.

We in America have learned bitter lessons from two world wars: It is better to be here ready to protect the peace, than to take blind shelter across the sea, rushing to respond only after freedom is lost. We've learned that isolationism never was and never will be an acceptable response to tyrannical govenments with an expansionist intent.

But we try always to be prepared for peace; prepared to deter aggression; prepared to negotiate the reduction of arms; and, yes, prepared to reach out again the spirit of reconciliation. In truth, there is no reconciliation we would welcome more than a reconciliation with the Soviet Union, so together, we can lessen the risks of war, now and forever.

It's fitting to remember here the great losses also suffered by the Russian people during World War II: 20 million perished, a terrible price that testifies to all the world the necessity of ending war. I tell you from my heart that we, in the United States do not want war. We want to wipe from the face of the earth the terrible weapons that man now has in his hands. And I tell you, we are ready to seize that beachhead—we look for some sign from the Soviet Union that they are willing to move forward, that they share our desire and love for peace, and that they will give up the ways of conquest. There must be a changing there that will allow us to turn our hope into action.

We will pray forever that some day that changing will come. But for now, particularly today, it is good and fitting to renew our commitment to each other, to our freedom, and to the alliance that protects it.

We are bound today by what bound us 40 years ago, the same loyalties, traditions, and beliefs. We're bound by reality. The strength of America's allies is vital to the United States, and the American security guarantee is essential to the continued freedom of Europe's democracies. We were with you then; we are with you now. Your hopes are our hopes, and your destiny is our destiny.

Here, in this place where the West held together, let us make a vow to our dead. Let us show them by our actions that we understand what they died for; let our actions say to them the words for which Matthew Ridgway listened: "I will not fail them nor forsake thee."

Strengthened by their courage, heartened by their valor, and borne by their memory, let us continue to stand for the ideals for which they lived and died.

Thank you very much and God bless you all. (Applause.)

### Text of Remarks by the President at United States-French Ceremony Commemorating D-Day at Omaha Beach, Colleville Sur Mer, France

We stand today at a place of battle, one that 40 years ago saw and felt the worst of war. Men bled and died here for a few feet or inches of sand as bullets and shellfire cut through their ranks. About them, General Omar Bradley later said: "Every man who set foot on Omaha Beach that day was a hero."

No speech can adequately portray their suffering, their sacrifice, their heroism. President Lincoln once reminded us that—through their deeds—the dead of battle have spoken more eloquently for themselves than any of the living ever could, that we can only honor them by rededicating ourselves to the cause for which they gave a last full measure of devotion.

Today, we do rededicate ourselves to that cause. And at this place of honor, we are humbled by the realization of how much so many gave to the cause of freedom and to their fellow man.

Some who survived the battle on June 6, 1944, are here today. Others who hoped to return never did.

"Someday, Lis, I'll go back," said Private First Class Peter Robert Zanatta, of the 37th Engineer Combat Battalion, and first assault wave to hit Omaha Beach. "I'll go back and I'll see it all again. I'll see the beach, the barricades, and the graves."

Those words of Private Zanatta come to us from his daughter, Lisa Zanatta Henn, in a heart-rendering story about the event her father spoke of often: The Normandy Invasion would change his life forever," she said.

She tells some of his stories of World War II, but says for her father "the story to end all stories was D-Day."

"He made me feel the fear of being on that boat waiting to land. I can smell the ocean and feel the seasickness. I can see the looks on his fellow soldiers' faces, the fear, the anguish, the uncertainty of what lay ahead. And when they landed, I can feel the strength and courage of the men who took those first steps through the tide to what must have surely looked like instant death."

Private Zanatta's daughter says: "I don't know how or why I can feel this emptiness, this fear, or this determination, but I do. Maybe it's the bond I had with my father . . . All I know is that it brings tears to my eyes to think about my father as a 20 year old boy having to face that beach."

The anniversary of D-Day was always special for her family; and like all the families of those who went to war, she describes how she came to realize her own father's survival was a miracle.

"So many men died. I know that my father watched many of his friends be killed. I know that he must have died inside a little each time. But his explanation to me was 'You did what you had to do and you kept on going.' "

When men like Private Zanatta and all our Allied forces stormed the beaches of Normandy 40 years ago, they came not as conquerors, but as liberators. When these troops swept across the French countryside and into the forests of Belgium and Luxembourg, they came not to take, but to return what had been wrongly seized. When our forces marched into Germany, they came not to prey on a brave and defeated people, bu to nurture the seeds of democracy among those who yearned to be free again.

We salute them today. But, Mr. President, we also salute those who, like yourself, were already engaging the enemy inside your beloved country—the French Resistance. Your valiant struggle for France did so much to cripple the enemy and spur the advance of the armies of liberation. The French Forces of the Interior will forever personify courage and national spirit; they will be a timeless inspiration to all who are free, and to all who would be free.

Today, in their memory, and for all who fought here, we celebrate the triumph of democracy. We reaffirm the unity of democratic peoples who fought a war and then joined with the vanquished in a firm resolve to keep the peace.

From a terrible war, we learned that unity made us invincible; now, in peace, that same unity makes us secure. We sought to bring all freedom-loving nations together in a community dedicated to the defense and preservation of our sacred values. Our alliance, forged in the crucible of war, tempered and shaped by the realities of the post-war world, has succeeded. In Europe, the threat has been contained, the peace has been kept.

Today, the living here assembled—officials, veterans, citizens—are a tribute to what was achieved here 40 years ago. This land is secure. We are free. These things were worth fighting—and dying—for.

Lisa Zanatta Henn began her story by quoting from her father, who promised he would return to Normady. She ended with a promise to her father, who died 8 years ago of cancer: "I'm going there . . . Dad, and I'll see the beaches and the barricades and the monuments. I'll see the graves and I'll put flowers there just like you wanted to do . . . I'll feel all the things you made me feel through your stories and your eyes. I'll never forget what you went through, Dad, nor will I let anyone else forget—and Dad, I'll always be proud."

Through the words of his loving daughter—who is here with us today—a D-Day veteran has shown us the meaning of this day far better than any President can. It is enough for us to say about Private Zanatta and all the men of honor and courage who fought beside him four decades ago: We will always remember. We will always be proud. We will always be prepared, so we may always be free.

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### Remarks by the Honorable John O. Marsh, Jr., Secretary of the Army

We are grateful to France for the gift of land so we might place here this memorial to a common endeavor.

There is a stillness about a battlefield where great causes were fought. President Lincoln spoke of it at Gettysburg and called it "hollowed ground."

Those who fought here and lived shall age. But the agelessness of those who died here is a spirit we sense. It carries us back in time to days when we were young.

Stillness and tranquility prevail in marked contrast to battle. An attitude of reverence comes naturally. We talk in quieter tones and move less swiftly. This is the tribute beneficiaries give even when only dimly aware of causes decided by others. But knowing some debt for their resolution is owing.

For mile after mile along this coast a price was paid by those who waded with a rising tide from the English Channel to gain a foothold and by those nearby who in darkness before dawn made their assault from the French skies.

This monument stands not just as a tribute to their deeds to remember, but as a memory to youth that did not grow old.

It stands here on the shores of France, in the Province of Normandy, to vouchsafe my Country's commitment to a great cause.

We sought no empire, nor the lands of others, save but a place of ground near the beaches where they fell, and there to bury our dead,—like Flanders, Freedom's silent requiem.

In victory we unleashed no vengence upon our foe. Rather we helped rebuild a ravaged land.

It stands both as a pledge to the values of our past, and to our hope for the future.

To a world that is at peace—to a world that is guided by truth—to a world that is free.

This pledge of values and hope, this great Army, and my Country will defend.

When this occasion is past, and we have gone, and tides ebb and flow.

When the sounds of the Channel are the only sounds in a place of beauty and loneliness.

When the cry of the gulls and the winds across the sands break the stillness of a battleground.

Then the waves that wash gently on the beaches of Normandy will remain an everlasting tribute to what my Countrymen did here.

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### Remarks by J. Lawton Collins, USA (Ret.)

No words can adequately embellish the memory of the sacrifice which our brothers in arms made here. Many brave men landed on these shores: They knew that they faced danger, and were willing to suffer injury or death for the ideals of freedom. We came to assist in liberating France of oppression. This brave and good nation gave generously of its men and treasure in the cause of American independence. French men of arms under General La Fayette and Admiral De Grasse, stood together with Washington at Yorktown, where the final battle of America's freedom was fought. We have never forgotten that, and we have tried since to repay that debt with interest. I believe that the men who died here have an honored place in heaven. They were immersed in waters of the channel, fought bravely in a just cause, and gave their lives so that we might enjoy the blessings of liberty. We cannot embellish the memory of their sacrifice with mere words. We can only keep it bright and alive in our hearts and pass it on to future generations. Vive La Liberte! Vive La France!

### General Adams Remarks at Utah Beach

Mr. Ambassador, Secretary Marsh, General Collins and Distinguished Guests.

This new federal monument at Utah Beach in Normandy, France is our nation's tribute to those who landed here 40 years ago—their leader General J. Lawton Collins and the men of VII Corps and those of the Navy and Air Force who supported the operation.

I want to take this opportunity to acknowledge the dedicated efforts of the European Office of the American Battle Monuments Commission who caused our plans to become reality: To General John Donaldson for his leadership; to Colonel Jacques Cordonnier and his staff for their engineering effort; and to Mr. Jean Chatard for his horticultural guidance.

The construction program from beginning to end, to include the detailed coordination with the local mayors and citizens, was the responsibility of Mr. Phil Rivers, Superintendent of the Normandy American Cemetery.

Lastly, I would like to thank the French Government and General Imbot, Chief of Staff of the French Army, for assisting us in today's dedication.

Thank you.

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### House Delegation

Rep. G. V. (Sonny) Montgomery (D-MS), Chairman.

Rep. Ike Andrews (D-NC).

Rep. Robert E. Badham (R-CA) and wife, Anne.

Rep. Tom Bevill (D-AL) and wife, Lou.

Rep. Beverly B. Byron (D-MD).

Rep. Sam Gibbons (D-FL) and wife, Martha.

Rep. Sam B. Hall, Jr. (D-TX) and wife, Madeleine.

Rep. John Paul Hammerschmidt (R-AR) and wife, Virginia.

Rep. Marjorie S. Holt (R-MD) and husband, Duncan.

Rep. Tom Lantos (D-CA) and wife, Annette.

Rep. Delbert Latta (R-OH) and wife, Rose Mary.

Rep. John T. Myers (R-IN) and wife, Carol.

Rep. Bill Nichols (D-AL) and wife, Carolyn.

Rep. Harold Rogers (R-KY) and wife, Shirley.

Rep. Toby Roth (R-WI) and wife, Barbara.

Rep. Sam Stratton (D-NY).

Rep. Chalmers P. Wylie (R-OH) and wife, Marjorie.

Rep. Robert A. Young (D-MO).

There being no objection, the statement was ordered to be printed in the Record, as follows:

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## CONSUMER PRODUCTS SAFETY COMMISSION RECOGNITION DAY

Mr. THURMOND. Mr. President, on May 11, 1984, the Consumer Products Safety Commission held its annual "Recognition Day" ceremony. Under the very capable leadership of its distinguished Chairman, Nancy Harvey Steorts, the Commission has made remarkable progress toward the goal of safer products in the marketplace.

On this most recent "Recognition Day," Chairman Steorts described several outstanding accomplishments by the Commission during the past year. Among these are a highly successful liaison with voluntary standards groups; systematic handling and processing of consumer complaints; correction of defects and improvement of products through recalls; and, development of a cooperative education system to disseminate product information to consumers.

Mr. President, these are but a few of the accomplishments of the Consumer Products Safety Commission which Chairman Steorts addressed in her remarks on the recent "Recognition Day." It is gratifying to see a Government agency carry out its mission in an effective, cooperative and reasonable manner. In order that other interested persons may have an opportunity to review the work of the Consumer Product Safety Commission during the past year, I ask unanimous consent that a copy of the statement by Chairman Steorts be included in the Record and I commend it to my colleagues.

The statement follows:

### Recognition Day Statement

(By Chairman Nancy Harvey Steorts)

#### INTRODUCTION

It is indeed a pleasure to once again be a part of the U.S. Consumer Product Safety Commission's Recognition Day ceremonies. This event, I feel, has been a highlight of each year's activities. This is the time of year we focus on you, our dedicated, outstanding employees.

Next on the program we will be presenting this year's special awards. The Commission has reason to be very proud of each of you. It is always most difficult to make the selection as CPSC has in its family 613 outstanding employees, all of whom are working diligently on the mission of safer products in the marketplace.

#### BACKGROUND

Since becoming Chairman, I have seen vast changes in this agency—changes in attitude, philosophy and spirit. These changes have resulted in an impressive list of accomplishments.

I am well aware that it was a very unsettling time for the agency about I came on board. The reduction in budget and the subsequent reduction in personnel were difficult, however, I think we all accepted the challenge and a new beginning was realized.

When I went before the Senate Committee on Commerce, Science and Transportation for my nomination hearings I carefully laid out my plans for revitalizing this Commission, and making it an agency to be revered by all. Much of this has been carried out through the dedicated efforts of this collegial body.

Looking back four of these stand out in my mind. At that time in 1981, I said,

1. "We must remember that our resources are very limited and therefore we should analyze the entire program and focus only on those areas which truly pose an unreasonable risk of injury."

This has been accomplished through reorganization and a more careful analysis of activities.

2. "It is critical that CPSC set a few appropriate priorities and proceed to move in those situations where the marketplace has not been able to resolve the problem itself."

This has been accomplished through the establishment of a priority setting process that limits fully-funded projects to those which are totally viable.

3. "There is an important distinction to be made between a strong and effective information and education program versus regulation by press release, or the dissemination of inaccurate, misleading or confidential data."

This has been accomplished through the establishment of a strong media office that fully backgrounds the press on Commission activities, the development of a final rule on 6(b), and the creation of effective education and information programs.

4. And finally, "There is a need to work with industry in a cooperative manner rather than in an adversarial environment."

This, too, has been accomplished. There is now an understanding that it is far easier for the Commission to work with industry than against, just as it is important for industry to work with us instead of against us.

You, each of you, should be pleased with your accomplishments. Working together as a team we have been able to achieve much. You should also be proud of the many project accomplishments that have occurred over the past few years.

## ACCOMPLISHMENTS

What are some of our accomplishments which have made the Consumer Product Safety Commission the Number 1 agency it is?

### *Voluntary standards*

A close working relationship has been established between this agency and all of the major voluntary standards groups which has resulted in the development or improvement of more than 40 different consumer products. Here are some highlights.

Chain Saws.—Currently out for public comment, this standard should nearly eliminate kickback fatalities and reduce injuries. Already 80 percent of the consumer chain saws now being produced meet the standard.

UFAC.—Again, after years of work the Commission and the Upholstered Furniture Industry have developed a cooperative working arrangement to improve the fire safety of furniture. Effective July 1, 1983, UFAC introduced new requirements covering improved welt cords and interior fabrics. UFAC's goal is that over 80 percent of new furniture be resistant to cigarette ignition.

Electric Blankets.—Because of a series of tests conducted by the Engineering Sciences staff several substantial improvements were made in the design of electric blankets. There is 100 percent Compliance in this field.

ANSI/CPSC.—A coordinating committee for the American National Standards Institute and the Commission was established. This committee has served as a unique and invaluable mechanism for improving the overall support of the voluntary standards process.

### *A process to handle consumer complaints*

For the first time since the Commission was formed all consumer complaints and completed investigations are now shared with individual manufacturers to ensure they are aware of information the Commission has on their products. In addition, a consumer complaint confirmation process has been implemented to improve the reliability of this information.

### *Protecting the consumer through recalls*

During the past decade, CPSC has received 1,337 reports of possible safety defect from manufacturers, distributors and retailers. These reports have resulted in 1,284 recalls or other corrective action involving more than 204 million product units, most of which have been arranged through voluntary cooperation with industry.

During the last three years, the Product Safety Assessment function within the Emerging Hazards Programs has responded to more than 1000 requests for the evaluation of individual brands of consumer products.

Outreach issued twenty-four "safety-alerts" on recalls and other products hazards that have been produced and distributed across the country.

Important Recalls:

Indoor Gym House.—Creative Playthings replaced as many as 200,000 Gym House Ladders after three children had strangled on the top step.

Crib Headboards.—Because two models of Bassett cribs were involved in seven deaths the manufacturing firm agreed to an extensive recall between 1978-1980. After learning of two additional deaths during 1983, the company agreed to a second effort to notify the public.

Promotional Toys.—On October 26, 1982 the Commission received a complaint about a possible choking hazard from some Playmobil toys that were being distributed by McDonald's. After discussions, the company agreed to halt distribution and 30 million items were recalled almost overnight.

### *Advanced budget handling*

Over the last few years this directorate has automated its budget/planning process and allowance notice system. It has prepared the extensive support material for the budget hearings and done superior work developing Commission Budget and Operating plans.

### *Creative education and information*

Over the past few years an emphasis has been placed on cooperative, industry/Commission coordinated programs and other specialized programs to get consumer product safety information out to the appropriate American citizens.

Holiday Toy Safety Campaigns.—For each of the past three years, the Commission has worked closely with the Toy Manufacturers of America to sponsor a joint National Holiday Toy Safety Campaign just prior to the holiday season.

Poison Prevention.—In addition to a highly successful national awareness campaign during Poison Prevention Week, the Commission, through its Regional Offices, sponsored 39 Pharmacist Seminars.

Chemicals in Schools.—In collaboration with the Council of State Science Supervisors, 50,000 copies of a booklet on chemical hazards in school laboratories have been distributed to high school science labs.

Electrical Safety.—The 1984 National Electrical Safety Awareness campaign the first of its kind, was created through the cooperative efforts of a 30-member industry committee, the Commission and the General Federation of Women's Clubs. Approximately 550,000 copies of the electrical audit checklist were printed and distributed in the first 3 months of the program.

Smoke Detector Program.—It is estimated that over 2,237,000 smoke detectors have been given away or sold since the Commission initiated its collaborative efforts in October 1982 with state-and-local government and private organziations.

Laboratory Tours.—The Engineering laboratory has conducted more than 100 tours for consumers, consumer groups, industry, State and local Government officials, congressional staff, media and schools, illustrating priority projects and consumer product safety testing.

Conferences– During the past three years the Commission has held two National Product Safety Conferences. The first of its kind, the 1982 conference brought together approximately 400 industry and consumer-leaders, and the 1984 conference brought together a cross-section of public and private groups, focusing on state/local government activities. The theme for each was cooperation and working together for product safety.

### *Health sciences*

In the area of Chemical Hazards, the Commission has been involved in three significant areas.

Indoor Air Quality—This active program has investigated combustion products of unvented gas and kerosene heaters which led to a voluntary standard on emissions for kerosene heaters. It also conducted a study of 40 homes in Oak Ridge, Tennessee which has provided information on general indoor air pollution.

Formaldehyde—Not only did the Commission lead interagency activities on the evaluation of health effects of formaldehyde, it has worked with other agencies on exposure data and health effects information, caused the reduction of use of this substance in school biology laboratories, and greatly diminished future exposure of consumers to formaldehyde from UFFI.

Nitrosamines and DEHP—These two potent animal carcinogens that are used in childrens products have been under investigation by the Commission. Industry has been voluntarily cooperating to lower nitrosamines and the Commission plans to convene a CHAP, Chronic Hazard Advisory Panel, on DEPH.

### *Improved administration*

There has been increased staff productivity through automation. For example, our automated personnel system and property managment system are touted by the Office of Management and Budget as "models" for other agencies.

CPSC was the first agency to receive approval under the new guidelines for its Commission Accounting System.

Administration has also achieved substantial reduction in the Common Cost budget which resulted in a saving of $406,000 in rent; $117,000 in telephone; $110,000 in periodicals and subscription; and $165,000 in postage.

### *Efficient economic support*

The Directorate of Economic Analysis has consistantly provided studies, reports, data and impact analyses and other backup work that has helped in rule making, voluntary standards, and recall actions.

Of particular interest is the development of a specially formatted computer data base incorporating existing CPSC chemical data with that of NIOSH and the Clinical Toxicology of Commercial Products. This system provides information on chemicals in consumer products.

### *Significant legal and compliance actions*

The Office of General Counsel drafted and issued a final rule implementing information disclosure procedures under section 6(b) of the Consumer Product Safety Act. The rule analyzed the comments of over 30 major manufacturers and consumer groups.

Following the Chicago Tylenol poisonings the Food and Drug Administration implemented a requirement that over-the counter drugs have tamper-resistant packaging. The Commission tested these new package designs. Preliminary tests showed they did not meet our standard for Child Resistant Closures. When informed of this the McNeil Company and the parent firm Johnson & Johnson suspended manufacture. Then after meeting with CPSC changed the cap so it would meet our standards.

The Commission has agreed to a settlement in a major timeliness action against Robertshaw for failing to report a defect in its Unitrol control valves. The Company has agreed not only to pay a $90,000 penalty but to pay a $50 bounty for any Unitrol valve and $100 bounty for defective valves.

The Commission filed a timeliness action against Honeywell seeking a $1.5 million civil penalty, the largest ever requested by the Commission. The case alleges that Honeywell failed to report defect in a combination control valve used on LP gas furnaces.

The Commission initiated an administrative action against Sears Roebuck and Company and the Roger Company alleging 220,000 garden roto tillers presented a substantial product hazard by locking in reverse. In February 1983, in a joint press release the Commission and the firms announced a settlement including an expanded advertising campaign.

*Field*

The Regional offices have provided outstanding cooperation. It is well-managed, and has made significant achievement to the Commission's compliance, investigation and outreach activities.

SUMMARY

What do all these accomplishments mean? Simply, that because of this Commission the American citizen has safer products in his or her life. For this coming year and years after, I predict that this safety factor will continue to increase.

In addition to the work of this Commission, there is a new sense of cooperation developing in the marketplace among manufacturers, retailers and consumers. It's an important partnership.

From a profit point of view, it no longer pays to put together an unsafe product and face the possibility of lawsuits and mandatory regulation including years of legal hassles. For the same reason, retailers don't want unsafe products on their shelves. And obviously, consumers want to know that the products they use and put into their children's hands won't cause harm. Product safety has become good business and it's everybody's business. Product safety today is becoming institutionalized.

The Commission was lauded for its work last year by President Reagan, who said, "The Tenth anniversary of the Consumer Product Safety Commission provides me with a most welcome opportunity to commend its contribution to making consumer products more safe and increasing the well-being of their users."

THE FUTURE

Today the Consumer Product Safety Commission is a stable, viable agency filled with outstanding, professional people and based on a good collegial system. This is the basis for a real team that believes that together we can make a safer marketplace. In the future I expect that there will be even more challenges, new ideas, new approaches.

It is my pleasure and honor to serve as your Chairman and to work with such a distinguished group of colleagues. Thank you for your support.

## IN RECOGNITION OF BALTIC FREEDOM DAY

**Mr. BYRD.** Mr. President, on August 23, 1939, two dictators signed a secret treaty. In that document, Stalin and Hitler agreed that the Baltic States would belong to the Soviet "sphere of influence."

Shortly after the outbreak of World War II, "mutual assistance pacts" were forced on Latvia, Estonia, and Lithuania, citing the prevention of allowing the Baltic area to become a base of operations for Great Britain as their raison d'etre. These pacts granted the Soviet Union rights of maintenance of ports and military facilities in the Baltic States, but contained specific assurances that the parties to the agreements would respect each other's sovereignty regarding internal affairs.

On June 14, 1940, the Lithuanian Prime Minister was called to Moscow and presented with an ultimatum. The Soviet Union had assembled some 600,000 Red army troops on the borders of Latvia, Estonia, and Lithuania. Thus were the political independence, territorial integrity, and way of life of the peoples of the Baltic States destroyed.

The year that spanned June 1940, and June 1941, was one of terror for the peoples of the Baltic States. Arrests began immediately in June 1940, and thousands were murdered outright. Prisoners not executed were transferred to "slave labor" camps in the Soviet Union.

Baltic "enemies of the people" included members of farmers' unions, owners of businesses, real estate owners, active staff of newspapers and magazines, clergymen and active members of religious organizations, public officials, judges, and lawyers. All of these and often the members of their families were destined for the bleakest regions of the Soviet outland.

Many people simply disappeared, summoned to interrogations or called by supervisors to their places of employment, never to be heard from again. Some were snatched in full public view, while others were awakened by a knock on the door in the dead of night and spirited away from their families forever. The mass deportations had the objectives of removing all leaders and intellectuals from the captive nations, breaking the back of any resistance movement, and physically and spiritually weakening the nations. The huge mass deportations began during the night of June 14, 1941. Cattle wagons and stock cars awaited the deportees. The people were crammed together so that they could scarcely move, and a hole in the floor served as a toilet. In Estonia, some 60,000, in Latvia, over 34,000, and in Lithuania 75,000 people were murdered, arrested or deported in 1940-41.

Despite the terrifying brutality unleashed on these small Baltic States, there was resistance. But, the deportations had so successfully depleted and devastated the populations that it could not triumph.

From July 1941 to October 1944, the Baltic States were occupied by German forces, after the German attack on the Soviet Union, and were ruled by a provisional German Government. After reconquest of the Baltic States by Soviet forces, the Soviet regimes were again installed in the countries, and deportations were begun, again. During the period 1945-1952, over 500,000 more citizens of the Baltic States were deported to the Soviet Union.

The Baltic peoples were the first in the free world to see the unmasked face of Communist brutality and disregard for the sovereignty of nations and the sanctity of human life. They were not the last. Most recently, we have seen again that brutal face unmasked in the hills of Afghanistan. Like the brave people of the Baltic States, the spirit of the Afghan freedom fighters cannot be crushed, despite the occupation of their homelands, and the murder of their populations.

It is fitting that we stop and reflect, today, 44 years after the Soviet-initiated deportations and murder of the peoples of the Baltic States, on the spirit of freedom that still permeates those sons and daughters of Latvia, Estonia, and Lithuania, and their descendants in America, Canada, Australia, and in the other countries of the world to which many of them sought refuge. The passage of time does not right a wrong nor legitimize what is illegitimate and abhorrent in terms of human decency. By remembering these tragic events today, we are reminded of our special place in the world as the ultimate beacon of hope to all captive peoples, and we join with them in their struggle to resist tyranny.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SYMMS, from the Committee on Environment and Public Works, with amendments:

S. 2527. A bill to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes (Rept. No. 98-524).

By Mr. SYMMS, from the Committee on Environment and Public Works, without amendment:

S. Res. 408. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2527.

S. Res. 409. Resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2527.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1578. A bill to clarify the application of the Federal antitrust laws to local governments.

By Mr. SYMMS, from the Committee on Environment and Public Works, without amendment:

S.J. Res. 312. Joint resolution to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 2769. A bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes; to the Committee on the Judiciary.

By Mr. MELCHER (for himself and Mr. ABDNOR):

S. 2770. A bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. DENTON):

S. 2771. A bill to protect the internal security of the United States against international terrorism by making the use of a firearm to commit a felony by foreign diplomats in the United States a Federal felony; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2772. A bill to abolish the U.S. Synthetic Fuels Corporation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SYMMS, from the Committee on Environment and Public Works:

S.J. Res. 312. An original joint resolution to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes; placed on the calendar.

By Mr. GARN (for himself, Mr. PROXMIRE, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. CHILES, Mr. CRANSTON, Mr. D'AMATO, Mr. DODD, Mr. EXON, Mr. GORTON, Mrs. HAWKINS, Mr. HECHT, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. LAUTENBERG, Mr. LAXALT, Mr. LEAHY, Mr. LUGAR, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. TRIBLE, Mr. TSONGAS, Mr. TOWER, Mr. WEICKER, and Mr. WILSON):

S.J. Res. 313. Joint resolution to designate the week beginning on October 7, 1984, as "National Neighborhood Housing Services Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 406. Resolution to authorize testimony by staff of Senator MATHIAS; considered and agreed to.

S. Res. 407. Resolution to authorize testimony by former employee of Subcommittee on Investigations and General Oversight of Committee on Labor and Human Resources; considered and agreed to.

By Mr. SYMMS, from the Committee on Environment and Public Works:

S. Res. 408. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2527; to the Committee on the Budget.

S. Res. 409 An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2527; to the Committee on the Budget.

By Mr. BAKER (for Mr. HEINZ (for himself, Mr. GLENN, Mr. DOMENICI, Mr. GRASSLEY, Mr. WARNER, Mr. PERCY, Mr. HOLLINGS, Mr. SARBANES, Mr. CHILES, and Mr. PRESSLER)):

S. Con. Res. 124. A concurrent resolution expressing the sense of the Congress that the Senior Companion Program be commended on its 10th anniversary for its success in providing volunteer opportunities for older Americans; to the Committee on Labor and Human Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself and Mr. DENTON):

S. 2771. A bill to protect the internal security of the United States against international terrorism by making the use of a firearm to commit a felony by foreign diplomats in the United States a Federal felony; to the Committee on the Judiciary.

### USE OF A FIREARM TO COMMIT A FELONY BY A DIPLOMAT

● Mr. DENTON. Mr. President, I rise today to join my distinguished colleague from Pennsylvania, Senator SPECTER, as cosponsor of a bill that will help to protect the people of the United States against terrorist acts by making it unlawful for a foreign diplomat to use a firearm to commit any act constituting a felony under Federal or State criminal law.

I deplore the fact that the bill is even necessary. Until recently, the general conduct of and toward diplomats was of the highest order. Unfortunately, however, certain foreign countries no longer wish their diplomats to conduct themselves in accordance with the responsibilities, privileges, and immunities provided by the Vienna Convention.

Five years ago, Iran held 52 of our diplomats captive for 444 days. Our embassies abroad have been the targets of violent terrorist attacks. The atrocious, despicable act that led Senator SPECTER and me to introduce the bill was the machinegun killing in London, by a supposed Libyan diplomat inside the Libyan Embassy, of a British policewoman. Eleven people who were peacefully demonstrating outside the Embassy were wounded in the same hail of gunfire.

The British were powerless to do anything but let the murderer leave the country, because he was protected by the diplomatic immunity afforded by the Vienna Convention. But as the Dothan Eagle, a paper in my home State of Alabama, pointed out in an editorial at the time of the London incident:

> The Vienna Convention was for gentlemen. The rulers of nations of the likes of Libya, Cuba, Iran, Nicaragua, Bulgaria and, yes, Russia are not gentlemen, hence they do not play by the rules.

Because the rules are no longer followed by some people, we need to protect ourselves against violent acts perpetrated under the protection of diplomatic immunity by diplomats from renegade states.

Our bill will go a long way toward reaching that goal. I urge my colleagues to support it.

I ask unanimous consent that the Dothan Eagle editorial to which I referred, entitled "Another Civilized Country Finds Out Libyan 'Diplomats' Are Terrorists," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### ANOTHER CIVILIZED COUNTRY FINDS LIBYAN "DIPLOMATS" ARE TERRORISTS

The dictator Moammar Khadafy of Libya, the Kremlin stooge who alit from a camel to become a self-proclaimed "colonel," complete with a uniform bedecked with medals, is still in the business of dispensing terrorism, but his latest bloody episode has cost his country the recognition of another of the world's civilized nations.

Great Britain severed diplomatic relations with Libya Sunday after a standoff that began April 17 when a submachine gun was fired from a window of the Libyan embassy in London. The shots killed Constable Yvonne Fletcher and wounded 11 Libyan exiles who had been demonstrating outside the embassy against the regime of Col. Khadafy.

Libyan embassy officials, protected by the the gentlemanly rules of the 1961 Vienna Convention on Diplomatic Relations, refused to surrender the murderer. Now the diplomatic break, specifying that the Libyans must vacate the embassy and leave the country by midnight Sunday, means that there will be no justice for the slaying of a policewoman on the London streets.

Britons, and others in the civilized world, are aghast that diplomatic immunity has been turned into a charade. We in the United States, while aghast, aren't exactly surprised. We have seen it happen firsthand from "diplomats" to the United Nations. The Vienna Convention was for gentlemen. The rulers of nations the likes of Libya, Cuba, Iran, Nicaragua, Bulgaria and, yes, Russia are not gentlemen, hence they do not play by the rules but, instead, twist them to achieve their goals.

Britain, the civilized country, abides by the rules of diplomatic immunity and will not rush the embassy and bring on more bloodshed. The "diplomats" will simply walk out and go home. British officials say they will be searched for weapons, but their diplomatic pouches will not be touched, not even X-rayed to find the killer's gun.

There is some speculation that the Libyans won't leave peacefully. The official Libyan news agency said embassy personnel have cabled Col. Khadafy pledging "to defend our principles and aims . . . or die in the process." If it comes to that at the Sunday midnight showdown, we trust British police will accommodate them.

This business of diplomatic immunity will cease to be a cloak behind which terrorists can hide when other civilized nations take the step Great Britain took. The United States took the same step some time ago.

Where there is no diplomatic recognition there can be no immunity.

When that day comes, terrorists can be dealt with as the Israelis deal with them.●

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**By Mr. HUMPHREY:**

S. 2772. A bill to abolish the U.S. Synthetic Fuels Corp., and for other purposes; to the Committee on Energy and Natural Resources.

### ABOLISHING THE SYNTHETIC FUELS CORPORATION

● Mr. HUMPHREY. Mr. President, today I am introducing legislation that would abolish the U.S. Synthetic Fuels Corp. [SFC]. Similar legislation has been introduced in the House by Representative JAMES T. BROYHILL.

Over the past 4 years, the SFC has offered nothing to justify its continued existence. Established in 1980, with the questionable mission of promoting the commercialization of synthetic fuels, the SFC has little to show for its efforts and the hundreds of millions of dollars it has committed to synfuels projects. Perhaps more questionable than the Corporation's mission has been the record of its management. Plagued by continual turmoil among its personnel, the SFC has had trouble functioning on a day-to-day basis, much less preparing to dole out billions in the pursuit of uncertain technologies.

The troubles at the Corporation have become even more apparent over the past several months. Shortly after the Corporation announced plans to commit nearly $7 billion to various synfuels ventures, the SFC President, Victor Thompson, resigned on April 27. The Thompson resignation was particularly significant in that it left the Corporation without the legally required quorum on its Board of Directors, thus paralyzing the Corporation.

A few weeks later, President Reagan proposed a reduction of $9 billion from the $14.1 billion presently available to the Corporation. The President has also asked for the establishment of a new market test provision for all future Government-backed synthetic fuels ventures. This legislation has since been introduced in both Houses.

While the President's initiative is clearly a step in the right direction, we cannot stop there. In an era with deficits that total hundreds of billions of dollars, we simply cannot afford to let an ill-conceived SFC blunder away billions more.

A few weeks ago, the New York Times argued in an editorial that, "The Synthetic Fuels Corporation has been a waste of money." I agree. Clearly, we cannot afford to waste any more.

Mr. President, I ask unanimous consent that the text of the bill, and an editorial which appeared in the New York Times on May 30, 1984, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### S. 2772

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States Synthetic Fuels Corporation (hereafter in this Act referred to as the "Corporation") shall be abolished 90 days after the date of enactment of this Act.

SEC. 2. (a) During the period between the date of enactment of this Act and the abolition of the Corporation under the first section of this Act the Board of Directors of the Corporation shall diligently pursue all necessary steps to achieve the orderly termination of the Corporation's affairs on or before the end of such 90-day period.

(b) During the 90-day period described in subsection (a) of this section the Corporation shall not enter into any legally binding commitment whose duration extends past the end of such 90-day period.

SEC. 3. (a)(1) Upon the abolition of the Corporation under the first section of this Act the responsibility for administering any remaining legally binding commitments of the Corporation shall transfer to the Secretary of Energy, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation under title I of the Energy Security Act.

(2) For the purposes of this Act, the term "legally binding commitment" shall not include any nonbinding pledges of assistance or letters of intent.

(b) In administering the legally binding commitments of the Corporation entered into before the date of enactment of this Act under the authority of title I of the Energy Security Act, the Secretary of Energy shall not enter into any additional legally binding commitments or any extensions of such existing commitments.

SEC. 4. (a) Upon the date of enactment of this Act, all funds, except those described in subsection (b), which have been appropriated to the Energy Security Reserve in the United States Treasury for the purposes of the Corporation shall be deposited into the general fund of the Treasury as miscellaneous receipts.

(b) There shall be retained in the Energy Security Reserve until expended or clearly no longer required—

(1) $740,000,000 for projects with respect to which the Corporation has, before the date of enactment of this Act, entered into legally binding commitments;

(2) $30,000,000 for administrative expenses of the Corporation during the 90-day period immediately following the date of enactment of this Act, and for administrative expenses of the Secretary of Energy after such 90-day period with respect to responsibilities transferred to such Secretary under this Act; and

(3) such sums as are necessary to fulfill obligations made before February 8, 1982, by the Secretary of Energy with respect to projects funded under the Defense Production Act of 1950 or under the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 5. (a) The United States Synthetic Fuels Corporation Act of 1980 is repealed.

(b) This section shall take effect 90 days after the date of enactment of this Act.

[From the New York Times, May 30, 1984]

### THE SIN IN SYNFUELS

Does America need subsidized synthetic fuels? In 1980 Congress was sure it did, and created the Synthetic Fuels Corporation to hurry along production of substitutes for scarce oil and natural gas. Four years later scarcity has turned to glut, and the corporation has little to show for its efforts beyond a record of bad management and a whiff of scandal.

The Reagan Administration is pressing, with bipartisan support, to narrow the corporation's mission and cut its funding by half. Mr. Reagan is on the right track. Congress might even be tempted to go a step further, dumping the corporation altogether and shifting control of its projects to the Energy Department.

The right answer to potential energy crises like the present turmoil in the Persian Gulf is natural fuel, stored in the strategic petroleum reserve, not synthetic. But there's still a solid case to be made for synthetic fuel development and it would be a pity if the rationale for subsidizing it were discredited along with the subsidizers.

Congress gave the Synthetic Fuels Corporation $15 billion with little guidance other than a goal of producing 500,000 barrels of liquid and gas fuel a day by 1987. Perhaps no managers could have spent so much wisely and quickly. But the second-raters appointed by the Reagan Administration clearly had little idea of how to do it—and even less about the propriety of handing out cash to companies in which they had an interest.

The corporation's defensible investments, in developing medium-scale coal gasification and shale oil plants, were inherited from Energy Department planners. There seems to have been no particular logic to the corporation's subsequent investments in virtually useless or technologically redundant facilities—except the bureaucratic urge to commit $15 billion before Congress had second thoughts. Mr. Reagan now wants to reduce the corporation's spending authority to about $7 billion and limit subsidies to projects that could produce synthetic fuel at competitive prices.

It makes sense to stop scattering subsidies for the development of technologies already well understood, like heavy oil extraction. There's also no point in investing in obviously uneconomic technologies, like conversion of peat to alcohol. And it makes little sense to subsidize the construction of facilities to produce synfuels in large volume. No standby capacity can conceivably make enough fuel to offset oil lost in a short-term emergency. That's the job of the strategic petroleum reserve.

But there could be a big payoff in modest research and development of efficient coal gasification and oil shale extraction technologies. With synfuel technologies perfected, ready to go at any time of longer-term shortage, private industry could respond rapidly and minimize the dislocations in the economy.

At most, that effort can be conducted by a trimmed-down corporation with new management and senior staff. Better still, the synfuel program could be moved into the Energy Department, which has had experience and some success in R&D. The Synthetic Fuels Corporation has been a waste of money. Synthetic fuels aren't.●

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**By Mr. GARN** (for himself, Mr. PROXMIRE, Mr. ARMSTRONG, Mr.

Bentsen, Mr. Boschwitz, Mr. Chafee, Mr. Chiles, Mr. Cranston, Mr. D'Amato, Mr. Dodd, Mr. Exon, Mr. Gorton, Mrs. Hawkins, Mr. Hecht, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Huddleston, Mr. Lautenberg, Mr. Laxalt, Mr. Leahy, Mr. Lugar, Mr. Pell, Mr. Pryor, Mr. Riegle, Mr. Sarbanes, Mr. Trible, Mr. Tsongas, Mr. Tower, Mr. Weicker, and Mr. Wilson):

S.J. Res. 313. Joint resolution to designate the week beginning on October 7, 1984, as "National Neighborhood Housing Services Week"; to the Committee on the Judiciary.

### NATIONAL NEIGHBORHOOD HOUSING SERVICES WEEK

● Mr. GARN. Mr. President, I am introducing a joint resolution calling for the proclamation of a "National Neighborhood Housing Services Week" October 7-13, 1984, and to urge my colleagues to support this joint resolution which will significantly strengthen a national network of neighborhood revitalization programs at work in 200 neighborhoods throughout the country.

Neighborhood Housing Services [NHS] is the largest neighborhood-based network of private-public partnership at work in our country today. Their mission is to revitalize neighborhoods for the benefit of those currently living and doing business there and they now have a 12-year track record of success. To date, they have generated over $2 billion in reinvestment back into these neighborhoods, neighborhoods that were previously being written off. These neighborhoods are now being turned around into sound, vibrantly healthy places in which to live and do business by local Neighborhood Housing Services partnerships.

At the heart of each NHS is a working partnership of residents, local business leaders, and local government representatives who contribute hundreds of volunteer hours each year through their work with NHS. These programs are supported by voluntary contributions. Broadened public awareness is critical for their expanded service. This joint resolution calling for a "National Neighborhood Housing Services Week" would do much to bring about this increased awareness of their work, as well as recognize and encourage the thousands of volunteers who are contributing their time, energy and resources through NHS to improve the quality of life for lower income families in communities throughout America.

You may already be familiar with NHS. Back in 1978, in recognition of their success in reversing decline and revitalizing neighborhoods, we created Neighborhood Reinvestment Corporation to help expand the Neighborhood Housing Services network throughout the country, and more recently, the Advertising Council, Inc., selected Neighborhood Housing Services as one of their national public service advertising causes.

I hope the Senate will join me in encouraging and expanding this work by adopting this joint resolution calling for a "National Neighborhood Housing Services Week." Passage of this resolution will significantly strengthen an effective neighborhood revitalization effort which is saving hundreds of neighborhoods—a priceless resource which billions of dollars could not replace.●

● Mr. D'AMATO. Mr. President, I rise today to add my name as an original cosponsor of this joint resolution which designates the week of October 7, 1984, as "National Neighborhood Housing Services Week."

Neighborhood Housing Services [NHS] works diligently to revitalize our communities across this country. This organization, consisting of a national network of locally funded, autonomous self-help programs, has touched the lives of over 2 million Americans in 195 neighborhoods.

Each local program requires the cooperation of three integral components: residents, business leaders, and local government officials. This partnership has promoted the beneficial interplay of public and private sectors at the local level, and efficient utilization of local volunteer time, and, most importantly, the development of self-reliant, healthy neighborhoods.

One of the main functions of NHS has been its consistent reinvestment of neighborhood development funds. Under its supervision, over $2.4 billion has already been reinvested in our local neighborhoods. NHS also provides loans for nonbankable residents, renewing hope and optimism by reaching out to those who are shunned by banks. Thus, Neighborhood Housing Services supports the very backbone of our communities.

An increased public awareness of NHS valuable services is, however, integral to further development of the organization and the further development of our communities. It is in the strength of these vital communities that one sees the strength of the Nation as a whole. With the goal of promoting increased awareness of NHS services and in due recognition of their invaluable contributions, I urge my colleagues to speedily enact this joint resolution.●

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## ADDITIONAL COSPONSORS

### S. 557

At the request of Mr. Symms, his name was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1954 to implement a flat rate tax system.

### S. 1910

At the request of Mr. Pressler, the name of the Senator from Kansas [Mrs. Kassebaum] was added as a cosponsor of S. 1910, a bill to adapt principles of the Administrative Procedures Act to assure public participation in the development of certain positions to be taken by the United States in international organizations, and for other purposes.

### S. 2131

At the request of Mr. DeConcini, the name of the Senator from Colorado [Mr. Hart] was added as a cosponsor of S. 2131, a bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador and other countries.

### S. 2429

At the request of Mr. Hatfield, the name of the Senator from Washington [Mr. Gorton] was added as a cosponsor of S. 2429, a bill to amend the Tariff Schedules of the United States to increase the duty on certain shelled filberts.

### S. 2436

At the request of Mr. Goldwater, the names of the Senator from Connecticut [Mr. Dodd] and the Senator from Illinois [Mr. Dixon] were added as cosponsors of S. 2436, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

### S. 2719

At the request of Mr. Lautenberg, the names of the Senator from Nebraska [Mr. Exon], the Senator from Maine [Mr. Mitchell], the Senator from Michigan [Mr. Riegle], and the Senator from Michigan [Mr. Levin] were added as cosponsors of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

### S. 2744

At the request of Mr. Heinz, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 2744, a bill to amend the Social Security Act to protect beneficiaries under health care programs of that act from unfit health care practitioners, and to otherwise improve the antifraud provisions of that act.

### S. 2753

At the request of Mr. Hatfield, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2753, a bill to provide for the buy-out of certain contracts for Federal timber

### S. 2766

At the request of Mr. Thurmond, the names of the Senator from Connecticut [Mr. Weicker], the Senator from Michigan [Mr. Riegle], the Senator from Montana [Mr. Melcher], the Senator from Minnesota [Mr. Durenberger], the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Andrews], and the Senator from Kentucky [Mr. Huddleston] were added as cosponsors of S. 2766, a bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition.

### SENATE JOINT RESOLUTION 297

At the request of Mr. Thurmond, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

### SENATE CONCURRENT RESOLUTION 100

At the request of Mr. Mitchell, the names of the Senator from Iowa [Mr. Jepsen], the Senator from Alabama [Mr. Heflin], the Senator from Washington [Mr. Evans], and the Senator from Virginia [Mr. Trible] were added as cosponsors of Senate Concurrent Resolution 100, a concurrent resolution concerning the drilling ship Glomar Java Sea.

### AMENDMENT NO. 3204

At the request of Mr. Byrd, the names of the Senator from Virginia [Mr. Warner], the Senator from Maine [Mr. Mitchell], the Senator from Wisconsin [Mr. Kasten], the Senator from Georgia [Mr. Nunn], the Senator from Ohio [Mr. Glenn], the Senator from South Carolina [Mr. Thurmond], the Senator from West Virginia [Mr. Randolph], the Senator from Maine [Mr. Cohen], the Senator from Virginia [Mr. Trible], the Senator from Alaska [Mr. Murkowski], the Senator from Alaska [Mr. Stevens], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of amendment No. 3204 proposed to S. 2723, an original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

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## SENATE CONCURRENT RESOLUTION 124—RELATING TO THE 10TH ANNIVERSARY OF THE SENIOR COMPANION PROGRAM

Mr. BAKER (for Mr. Heinz, for himself, Mr. Glenn, Mr. Domenici, Mr. Grassley, Mr. Warner, Mr. Percy, Mr. Hollings, Mr. Sarbanes, Mr. Chiles, and Mr. Pressler) submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

### S. Con. Res. 124

Whereas the 10th anniversary of the Senior Companion Program, one of the Older American Volunteer Programs administered by the ACTION Agency, will be observed during 1984;

Whereas older American volunteers constitute a major untapped resource for addressing community needs;

Whereas the Senior Companion Program provides a volunteer peer support system, with a stipend for each volunteer, utilizing the experiences, wisdom, and skills of low-income persons over the age of 60 in providing personal services and friendship to the frail, isolated elderly;

Whereas the Senior Companion Program provides opportunities for older Americans to be involved as responsible, knowledgeable members of their communities while remaining independent, self-confident, and productive well into their own later years; and

Whereas the Senior Companion Program enables the frail elderly at risk of institutionalization to be cared for in the more satisfactory independent living setting of their own homes, resulting in substantial financial savings to individuals and taxpayer-financed health care provision programs: Now, therefore be it

*Resolved by the Senate (the House of Representatives concurring).* That the Senior Companion Program is commended on its 10th anniversary for its success in providing volunteer opportunities for older Americans to utilize their experience and abilities as caregivers to the frail elderly in their communities.

● Mr. HEINZ. Mr. President, I am proud to offer today, along with nine cosponsors a concurrent resolution expressing the sense of the Congress that the Senior Companion Program be commended for the program's success in providing volunteer opportunities for older Americans.

This year marks the 10th anniversary of the Senior Companion Program [SCP], one of the Older American Volunteer Programs administered by the ACTION Agency. This program provides opportunities for older Americans to be involved as active, responsible members of their communities while remaining independent, self-confident, and productive well into their own later lives. In the decade since its enactment, the Senior Companion Program has demonstrated that volunteer participation in human services is not only a necessary component toward meeting community and national needs, but a viable means of enriching and rewarding the lives of older persons as well.

Mr. President, over 5,000 volunteers in 90 Senior Companion Programs across the country provide personal services to vulnerable, frail older persons. Volunteers typically serve 20 hours per week and receive a small stipend, transportation assistance, an annual physical examination, insurance benefits, and meals when serving as volunteers. But Senior Companions give to others much more than they receive in monetary or material compensation. These volunteers enable chronically disabled elderly at risk of institutionalization, those who are more frail and more dependent than their able-bodied counterparts, to be cared for in the comfort and convenience of their own home. In addition, Senior Companion volunteers make regular visits to nursing homes and other institutions to offer their friendship, support, and encouragement to the residents. For many residents, the moments spent with senior volunteers represent the single, most vital source of hope and faith in days darkened by loneliness and despair.

Over the next few decades, the demand for long term care services will increase dramatically as the number of persons age 85 and older grows larger. The work senior volunteers do complements, in a very real sense, our efforts to promote less-costly alternatives to institutionalization by discouraging feelings of dependency on the part of the frail elderly and encouraging independence in all aspects of life. The Senior Companion Program represents a vital link between professional health care providers and the frail elderly in meeting this challenge for expanded health care services in our communities.

As chairman of the Senate Special Committee on Aging, I am proud to sponsor this concurrent resolution to proclaim our appreciation for the skills and dedication of Senior Companion volunteers, and to recognize a decade of achievement by the Senior Companion Program to serving the needs of frail, isolated elderly with a spirit of enthusiasm and respect.●

● Mr. GLENN. Mr. President, I am pleased to cosponsor this concurrent resolution recognizing the Senior Companion Program on its 10th anniversary. I urge my colleagues to join me in commending the nearly 5,000 volunteers who serve through 85 projects nationwide. These wonderful and dedicated older Americans are a valuable resource to our country.

The Senior Companion Program is one of the Older American Volunteer Programs administered by the ACTION Agency and authorized by the Domestic Volunteer Service Act of 1973. The program is designed to provide part-time volunteer opportunities for low-income persons age 60 and over who provide supportive services to vulnerable, frail older persons. The volunteers primarily service homebound, chronically disabled older persons in order to assist them to live independently in their own homes. Senior Companions also provide services to institutionalized older persons.

The Congress indicated its strong support for the successful Senior Companion Program this year when it reauthorized the Older American Volunteer programs for an additional 3 years. Increased authorization levels for the Senior Companion Program were included to permit an expanded training component in home health and related services.

This week marks the national celebration of the Senior Companion Program's 10th anniversary. The program is honoring 162 dedicated volunteers who have served continuously for the past 10 years. Many volunteers and local project directors traveled to Washington to participate in the celebration, which included a congressional luncheon and an awards ceremony. I was particularly pleased that several Ohio volunteers and project directors could attend the events in Washington this week. Mrs. Eula Griffin of Cincinnati and Mrs. Helen West of Caldwell attended as representatives of the Senior Companion Volunteers in Ohio. Bertie Domineack of Cincinnati and Rose Marie Thomas of Marietta are project directors who attended. All Ohioans appreciate these woman and their fellow workers for their many years of service of the Senior Companion Program.

Senior Companions in Ohio and across the Nation have provided valuable volunteer services to older Americans. I hope we celebrate many more anniversaries of this important program.●

## SENATE RESOLUTION 408—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. SYMMS, from the Committee on Enviroment and Public Works, reported the following original resolution; which was referred to the Committee on the Budget:

### S. Res. 408

*Resolved*, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2527, a bill to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Committee on Environment and Public Works met and made a good faith effort to report S. 2527 prior to the May 25, 1984 reporting deadline for fiscal year 1985 authorizations. However, due to circumstances beyond their control, the Committee was unable to report this bill prior to May 25, 1984.

Pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 2527 as reported by the Committee on Environment and Public Works.

## SENATE RESOLUTION 409—ORIGINAL RESOLUTION REPORTED WAIVING THE CONGRESSIONAL BUDGET ACT

Mr. SYMMS, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on the Budget:

### S. Res. 409

*Resolved*, That section 303(a) of the Congressional Budget Act of 1974 is hereby waived with respect to the consideration of S. 2527, the Federal-aid Highway Act of 1984.

Sec. 2. This waiver is necessary so that multi-year highway legislation may be considered by the Senate. Highway authorizations are contract authority which when enacted create new spending authority. To consider this multi-year highway bill such a waiver is required by section 303(a).

## AMENDMENTS SUBMITTED

## PUBLIC BUILDINGS SERVICE AUTHORIZATION ACT

### MOYNIHAN (AND RANDOLPH) AMENDMENT NO. 3219

Mr. BYRD (for Mr. Moynihan) proposed an amendment to the bill (S. 2635) to authorize appropriations for the Public Building Service of the General Services Administration for fiscal year 1985; as follows:

On page 2, line 19, strike "$2,227,802,000" and insert in lieu thereof "$2,234,302,000";

On page 3, line 13, strike "$226,404,000" and insert in lieu thereof "$232,904,000"; and

On page 3, after line 18, insert at the appropriate place:

"District of Columbia,
Pension Building .............. $6,500,000".

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### DURENBERGER (AND DOLE) AMENDMENT NO. 3220

Mr. DURENBERGER (for himself and Mr. Dole) proposed an amendment to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes; as follows:

Strike out line 21 on page 55 through line 5 on page 57 and insert in lieu thereof the following:

STUDY OF LINKAGE OF CHAMPUS WITH MEDICARE

Sec. 163. The Congress finds—

(1) that costs of providing medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) have escalated rapidly in recent years;

(2) that new and innovative methods for control and containment of CHAMPUS costs must be explored; and

(3) that the adoption by CHAMPUS of a prospective payment system like that utilized by Medicare may offer significant savings by CHAMPUS.

Therefore, the Secretary of Defense and the Secretary of Health and Human Services are directed jointly to study the possible effects of the adoption by CHAMPUS of a prospective payment system such as that utilized by Medicare. The study also shall address the advisability and feasibility of statutorily linking provider participation in Medicare with participation by CHAMPUS and whether such a linkage is needed in order to insure adequate provider participation in CHAMPUS if CHAMPUS were to adopt a prospective payment system and address the changes that might be expected in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community, including private, public, non-profit, and teaching facilities, if such a system were adopted. The Secretaries shall report their findings to the Committees on Armed Services of the Senate and House of Representatives, the Senate Finance Committee, and the House Ways and Means Committee before March 1, 1985, and such report shall include recommendations on changes believed to be appropriate in the CHAMPUS system of reimbursement and on the need for and appropriateness of a linkage between CHAMPUS and Medicare.

### NUNN (AND OTHERS) AMENDMENT NO. 3221

Mr. NUNN (for himself, Mr. Warner, Mr. Bradley, Mr. Hollings, Mr. Sasser, Mr. Percy, Mr. Gorton, Mr. Cohen, Mr. Exon, Mr. Lugar, Mr. Quayle, Mr. Pressler, Mr. Heinz, Mr. Pryor, Mrs. Kassebaum, Mr. Lautenberg, Mr. Kennedy, Mr. Chiles, Mr. Ford, Mr. Inouye, Mr. Bingaman, Mr. Roth, Mr. Leahy, Mr. Levin, Mr. Heflin, Mr. RIEGLE, Mr. Cranston, Mr. Abdnor, Mr. Cochran, Mr. Evans, Mr. Durenberger, Mr. Hart, Mr. Nickles, Mr. Dixon and Mr. Matsonaga) proposed an amendment to the bill S. 2723, supra; as follows:

At the appropriate place insert:

Since an increasing number of scenarios, including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a state sponsored threat, could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Union of Soviet Socialist Republics, situations that neither side anticipated, intended, or desired;

Since there has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons;

Since this proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great;

Since the current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities;

Since Senators Jackson, Nunn, and Warner sponsored an amendment adopted by the Senate to the 1983 Department of Defense authorization proposing certain confidence building measures;

Since President Reagan, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Union of Soviet Socialist Republics and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union covering:

(a) The addition of a high speed facsimile capability to the direct communication link (hotline);

(b) The creation of a joint military communications link between the United States Department of Defense and the Soviet Defense Ministry;

(c) The establishment by the United States and Soviet Governments of high rate data communication links between each nation and its embassy in the other nation's capital.

Since the establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations thereby enhancing the security of both the United States and the Soviet Union;

Since these centers could serve a variety of functions including: (a) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties; (b) maintaining close contact during nuclear threats or incidents precipitated by third parties; (c) exchanging information on a voluntary basis concerning events that might lend to the acquisition of nuclear weapons, materials, or equipment by subnational groups; (d) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and (e) establishing a dialog about nuclear doctrines, forces, and activities;

Since the continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers: Now, therefore, be it

Declared—That the Senate of the United States commends the President for his announced support for the aforementioned confidence building measures, and his initiation of negotiations which have occurred and urges the President to pursue negotiations on these measures with the Government of the Soviet Union, and to add to these negotiations the establishment of nuclear risk reduction centers in both nations, to be operated under the direction of the appropriate diplomatic and defense authorities.

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## STENNIS (AND OTHERS) AMENDMENT NO. 3222

Mr. STENNIS (for himself, Mr. NUNN, Mr. COCHRAN, and Mr. WARNER) proposed an amendment to the bill S. 2723, supra; as follows:

On page 5, between lines 4 and 5, insert the following: For Marine Corps Reserve equipment, $20,000,000.

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## WARNER (AND OTHERS) AMENDMENT NO. 3223

Mr. WARNER (for himself, Mr. HELMS, and Mr. EXON) proposed an amendment to the bill S. 2723, supra; as follows:

On page 54, between lines 14 and 15, insert the following new section:

### CLARIFICATION OF TAX TREATMENT OF CERTAIN ALLOWANCES

SEC. 160b. (a)(1) Chapter 7 of title 37, United States Code, is amended by adding at the end thereof the following new section:

**"§ 431. Tax treatment of basic allowance for quarters and basic subsistence allowance.**

"In determining whether any deduction allocable to basic allowance for quarters (including any variable housing allowance, station housing allowance, or similar allowance) or basic subsistence allowance is allowable under the Internal Revenue Code of 1954, such allowance shall not be considered as exempt from income taxes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

**"431. Tax treatment of basic allowance for quarters and basic subsistence allowance.".**

(b) For the purpose of determining whether any deduction allocable to any rental allowance paid to a minister of the gospel as part of the compensation of such minister is allowable under the Internal Revenue Code of 1954, such allowance shall not be treated as exempt from income taxes.

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## HATCH AMENDMENT NO. 3224

Mr. HATCH proposed an amendment to the bill S. 2723, supra; as follows:

At the end of page 239 add the following new section:

### STUDY OF MILITARY DRESS AND APPEARANCE REGULATIONS AND RELIGIOUS REQUIREMENTS OF MEMBERS OF THE ARMED SERVICES

SEC. . (a) In an effort to augment religious freedom in the Armed Services, to the greatest extent consistent with requirements for discipline and uniformity, the Secretary of Defense shall form a Joint Service Study Group, to consist of two representatives from each Service appointed by the Chief of each Service, and four nonmilitary citizens, one to be selected by the Chief of Chaplains of each of the four services, to conduct a study concerning the dress and appearance standards for members of the Armed Services.

(b) Such study shall focus on the interests of members of the Armed Services in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The views of non-military representatives of various major religious organizations concerning religious dress and appearance requirements will be presented to the Study Group in written or oral testimony and shall be included in the study.

(c) Upon completion of the study the Study Group shall recommend to the Secretary of Defense any changes in military regulations which may be necessary and appropriate to reasonably accommodate the interests of members of the Armed Service in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The Service Secretaries shall issue changes, as appropriate, in military regulations pursuant to these recommendations to become effective no later than January 1, 1985.

(d) A report of the findings and recommendations of the study group, together with any changes made in military regulations, shall be submitted to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1985.

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## SPECTER AMENDMENT NOS. 3225 THROUGH 3227

Mr. SPECTER submitted three amendments intended to be proposed by him to the bill S. 2723, supra; as follows:

### AMENDMENT NO. 3225

On page 118, strike out lines 10 through 17 and insert in lieu thereof the following:

SEC. 1007 (a) section 2392 of title 10, United States Code, is repealed effective October 1, 1984.

(b) The Secretary of Defense shall carry out in each fiscal year, beginning with fiscal year 1985, a program under which the Department of Defense, in order to endeavor to relieve economic dislocations and provide employment in labor surplus areas in the United States, shall be authorized to pay a price differential on nonstrategic contracts awarded by the Department of Defense. Under such program, the Secretary of Defense shall award contracts to individuals or firms in labor surplus areas (as defined and identified by the Department of Labor) if the Secretary determines—

(1) that the awarding of the contracts will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that the award of the contracts will be made at reasonable cost to the United States; and

(3) that the price differential to be paid under the contracts will not exceed 2.5 per centum.

(c) The total value of contracts awarded by the Department of Defense in carrying out this section shall not be less than $12,000,000,000 in any fiscal year.

(d) Not later than April 15, 1986, and each year thereafter, the President shall submit a report to the Congress on the implementation and results to that date of the program authorized by subsection (a). Each report shall include an assessment of the costs and benefits of the program.

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### AMENDMENT NO. 3226

At the appropriate place in the bill, add the following new section:

### SENSE OF THE SENATE RESOLUTION URGING AN EARLY AND UNCONDITIONAL SUMMIT

Whereas, the nuclear arms race continues at an increasing pace between the United States and the Union of Soviet Socialist Republics, diverting massive resources, raising the risk of nuclear war, and increasing dissension within American society and the Atlantic Alliance.

Whereas, technological advances are now enabling the superpowers to extend the arms race to space and are complicating arms control tasks on earth.

Whereas, nuclear arms talks have been abandoned by the Soviets after their effective rejection of all U.S. proposals for reductions.

Therefore be it now resolved that:

1. It is the Sense of the Senate that the President of the United States and the leader of the Soviet Union should meet as soon as possible to negotiate nuclear arms reduction, stabilization and control, with effective verification, and if such a summit meeting is rejected by the Soviets for the coming Fall, then the President of the United States should make it his first priority following the United States Presidential elections in November 1984, to seek such a summit meeting, without preconditions or assurance of success.

2. The Secretary of the Senate is hereby directed to communicate this Resolution to the President of the United States and to the Secretary of State for forwarding to the Soviet Government.

### AMENDMENT No. 3227

On page 118, strike out lines 10 through 14 and insert in lieu thereof the following:

SEC. 1007. (a) Subsection (a) of section 1109 of the Department of Defense Authorization Act, 1983 (10 U.S.C. 2392 note), is amended—

(1) by striking out "Defense Logistics Agency" in the second sentence and inserting in lieu thereof "Department of Defense"; and

(2) by striking out "fiscal years 1983 and 1984" each place such matter appears and inserting in lieu thereof "fiscal years 1984 and 1985".

## NOTICES OF HEARINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 2762, the Barrow Gas Field Transfer Act of 1984. The hearing will be held on Friday, June 22, beginning at 10 a.m. in room SD-562.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Witnesses should provide the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee, and 75 copies on the day of the hearing.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

## ADDITIONAL STATEMENTS

### THE AMERICAN STEEL INDUSTRY: MYTH VERSUS REALITY—IV

● Mr. HEINZ. Mr. President, today I present the fourth in a series of brief statements which will appear periodically in an effort to elevate the level of debate on the crisis in the American steel industry.

I would like to discuss the role of labor in the American steel industry. Often those unfamiliar with the industry hold steelworkers primarily responsible for its problems: they are overpaid, underworked and uninterested in helping the industry to survive. Such generalizations distort the reality of the steelworker's situation, yet are often accepted by policymakers as facts. The dedication of labor to helping the steel industry survive is usually overlooked or underestimated.

The current debate over steel import quotas and the critical state of the steel industry is growing in intensity in the Congress and the executive branch. The International Trade Commission's determination of injury for over 70 percent of the steel industry has helped to focus the public's attention on the problem. Therefore, I am offering some further myths and realities about the industry to help provide a common set of facts from which we can all work.

#### MYTH

Improvements in the American economy during the past few years have positively affected the employment situation in the domestic steel industry.

#### REALITY

According to the American Iron & Steel Institute, in 1977 the total blue and white collar employment in the U.S. steel industry stood at 452,000. By the end of 1983, the total number of jobs equalled only 243,000, a decrease of 210,000 jobs or 46 percent the total number employed in 1977. There has not been a significant improvement in 1984.

American steel consumption has increased due to the economic recovery, yet foreign competitors have increased their share of the U.S. market at the same time by selling at artifically low prices. For example, in the first 2 months of 1984, consumption rose by 5 million tons, with imports accounting for more than 40 percent of the increase. According to Lynn Williams, United Steelworkers' president:

> Steelworkers are not being recalled and unless some relief is afforded from the surge of imports, no end to their suffering is in sight.

Over 100,000 steelworkers have been laid off for so long that they have exhausted State unemployment compensation and contractual supplemental unemployment benefits.

#### MYTH

Few layoffs can be directly attributed to imports.

#### REALITY

Section 221 of the 1974 Trade Act allows for trade adjustment assistance for workers if the Secretary of Labor is able to determine that imports have contributed importantly to their unemployment. Between January 1, 1977, and June 1984 over 153,000 steelworkers have qualified under this provision for assistance. According to the United Steelworkers' president, Lynn Williams:

> No single cause other than imports is responsible for the layoff, cumulatively, of 153,000 steelworkers.

#### MYTH

Steelworkers have been unwilling to make any wage and benefit concessions in order to save their jobs or to help the industry.

#### REALITY

In early 1983, the United Steelworkers signed a 41-month agreement with the major integrated producers to substantially reduce wage and benefit costs. The 10.9-percent wage reduction is perhaps the deepest cut in labor's history, except for the 1979 Chrysler-UAW agreement.

The agreement's essential provisions are:

> Decrease in wage rates by $1.31 per hour, restored in roughly equal increments on February 1, 1984, 1985, and 1986.
>
> Reduction in Sunday premium pay from 1½ time to 1¼, to be restored on February 1, 1986.
>
> Full suspension of the cost of living clause for the agreement's first 17 months; during the next year, it will not be triggered until the Consumer Price Index (CPI) rises by 4 percent, and in the final year until after the CPI rises by 1.5 percent.
>
> Elimination of one holiday and all vacation bonuses and the Extended Vacation program which gave an average 1.3 weeks of additional vacation per employee per year.

This agreement led to a net reduction in employment costs of $2.20 per hour after the subtraction of a 50-cent-per-hour increase in SUB [supplementary employment benefits] contributions, and exclusive of the effects of COLA [cost-of-living adjustment].

At the beginning of 1983, employment costs were $26.12 per hour worked, on the average. However, this figure was artifically high because it included insurance and other benefits for many of the laid-off employees. By January 1984, many of these benefits were terminated. Thus, the terminated benefits and the negotiated reductions lowered employment costs to $21.08

per hour, a savings of 20 percent or $5 per hour.

### MYTH

Labor has refused to take any steps to help the general health of the industry.

### REALITY

Labor is very active in helping companies to increase output per hour and lower the cost of making a ton of steel. For example, the unions have supported the formation of labor-management participation teams which increase the amount of employee involvement in production decisions. Lynn Williams, of the United Steelworkers, has seen results in the form of improved quality, more efficient use of energy, material and personnel, and less waste and downtime.

At individual locations, local unions working with the plant's management have cooperated in the reduction of crew sizes and the modification of work rules in the interests of both sides. The experts have predicted an improvement in output in the range of 10 to 15 percent per man-hour.

The industry's problems require a comprehensive steel policy developed by Congress and the President in order to reestablish competitiveness. Labor has aggressively pursued self-help measures through reductions in benefits, wage concessions, and close cooperation with management. What is needed is a temporary shelter from the crippling impact of unfairly traded imports; an umbrella that will provide protection while the industry continues taking steps to help itself. It is to this end that I have proposed the Fair Trade in Steel Act of 1984, S. 2380. Without temporary assistance it is clear that the American steel industry will not be able to manage the massive capital investment required to insure its long-term survival.●

## PRIORITY ISSUES FACING THE SMALL BUSINESS COMMUNITY

● Mr. PRYOR. Mr. President, the National Federation of Independent Business [NFIB], the largest of the small business organizations, ran a very timely and very large advertisement in yesterday's Washington Post with the headline, "Sometimes it Really Does Take an Act of Congress!" The ad goes on to outline the six problems currently being faced by the small business community which can only be solved through congressional action.

The matter of telephone access charges for small businesses with more than one phone line is the first of the priority issues listed in the NFIB ad. My colleagues should recall that the Senator from Wisconsin [Mr. KASTEN] and I circulated a letter urging other Senators to join us in requesting FCC Chairman Mark Fowler to delay imposition of access charges on small businesses with multiple phone lines, in order to explore more equitable alternatives. Many small business operations need more than one line to do business, yet most of the calls made are intrastate, rather than interstate. While the FCC has exempted at this time other infrequent long distance users, small businesses will bear the brunt of these charges.

The NFIB ad also calls for reform of the bankruptcy laws, the renewal of the Equal Access to Justice Act, the reestablishment of the Paperwork Reduction Act and the legislative veto, and finally, the opportunity to effectively compete for Government contracts.

I urge my colleagues to give their attention to these fundamentally important pieces of legislation during the remaining weeks of the 98th Congress. Mr. President, I ask that the text of the NFIB ad from yesterday's Washington Post be printed in the RECORD.

The text follows:

[National Federation of Independent Business]

### SOMETIMES IT REALLY DOES TAKE AN ACT OF CONGRESS

America's small businesses are facing a tough situation. They're struggling with six problems that can be solved *only* through an act of Congress.

But, Congress isn't acting, and time is running out. If Congress doesn't do something in the next few days, the simple solutions to these problems will be delayed until after the elections . . . after the new Congress is seated . . . and after the new members learn their way around the Capitol.

By then, it may be too late. A lot of America's small businesses will be *out* of business. And, then, the solutions won't be so simple.

1. Put Telephone Access Charges on "Hold." Most small firms need several phone lines to do business. Although virtually all small business calls are made close to home, a Federal Communications Commission order now requires multi-line users to pay a monthly, per-line charge for "access" to interstate phone service. The FCC has seen fit to exempt customers with only one phone line from these charges. Fairness demands that multi-line small businesses be given the same consideration extended to these other infrequent long-distance users.

2. Reform Bankruptcy Laws. (H.R. 5174). The present bankruptcy laws are far too lenient. They allow individuals and businesses to declare bankruptcy to get out of repaying debts that they are perfectly capable of paying. A number of proposals now before Congress would revise the nation's bankruptcy laws to make them stronger and more equitable.

3. Renew the Equal Access to Justice Act. (S. 919, H.R. 5479). This law gives individuals and businesses a fair chance to fight government legal proceedings against them. In the past, businesses often faced a no-win situation by going to court with a federal agency. Even if they won the case, they could be forced into bankruptcy by high legal fees. This law requires federal agencies to pay attorney fees and other expenses unless the government position is determined to be "substantially justified." The problem: if Congress doesn't reauthorize the Equal Access to Justice Act this year, it will expire.

4. Re-establish Paperwork Reduction (H.R. 2718). By the government's own conservative estimates, the nation's businesses will pay the equivalent of 730,000 full-time workers to do nothing but take care of federal government paperwork. And, yet, Congress allowed the federal Paperwork Reduction Act to expire eight months ago.

5. Reinstate the Legislative Veto (S. 1080). Small-business owners view the legislative veto as a way to return control of the regulatory process to their elected representatives. Before it was struck down by the Supreme Court a year ago, the legislative veto gave Congress the final say over rules and regulations written by un-elected bureaucrats in federal agencies. An amendment currently before the U.S. Senate would reinstate the legislative veto in compliance with the Supreme Court decision.

6. Increase Competition on Government Contracts (S. 2489). No doubt you've read about the federal government paying hundreds or even thousands of dollars for spare parts that should cost only a few cents. The problem is competition—or a lack of it. The government gives one contractor an exclusive contract to provide all the spare parts for a particular piece of equipment. With no competition, the contractor can charge any amount for spare parts. Congress could bring down these costs by adding competition to the system for buying spare parts.

Yes, there are times when it really does take an act of Congress to get even a simple job done. That's why we're asking the 535 members of the U.S. House and Senate to cast aside politics for the remaining days of the 98th Congress and take the action necessary to get these six important jobs done.●

## PERTUSSIS VACCINE

● Mrs. HAWKINS. Mr. President, on June 13, Wyeth Laboratories, a subsidiary of American Home Products, announced that it has ceased production and distribution of the pertussis vaccine. While I can understand the reasons that led to Wyeth's decision, this announcement concerns me because it further exacerbates an already precarious situation in the United States that threatens the continued supply of vaccines to combat childhood diseases.

Since 1968, the number of licensed manufacturers of vaccines in the country has dropped 50 percent, from 37 to 18. The number of licensed vaccine products has dropped 60 percent, from 385 to 150. At the present time, of the 26 licensed vaccine establishments, only 18 actually produce vaccines for sale in the United States; 8 of the 18 are American pharmaceutical companies which hold 70 percent of the vaccine product licenses in this country.

Of the licensed vaccines in the United States, 20 of the 51 have no producer, 18 have only 1 producer, 7 have 2 producers, and only 6 vaccines have 4 or more. On paper, pertussis, the vaccine for whooping cough, appears to have several producers. In reality, however, two of the producers of pertussis vaccine are State health departments which produce only enough for sale within their own boundaries and one of the pharmaceutical producers of the pertussis vaccine, and Connaught Laboratories, which was forced to dramatically increase the price of their product to cover the liability increases from potential lawsuits.

The decision of Wyeth Laboratories to cease production of the pertussis vaccine is particularly disturbing to me. Wyeth had been at the forefront of research efforts to develop a safer vaccine for pertussis. Wyeth had contacted with Takeda, Inc., the Japanese manufacturer of an acelluar pertussis vaccine to distribute the Japanese vaccine in the United States. Wyeth is currently undertaking the necessary human clinical trials needed to meet the Food and Drug Administration's requirements for distribution in the United States. Although no final decision has been made by Wyeth regarding the continuation of their research efforts into the safety and efficacy of using the Japanese pertussis vaccine in the United States, it appears that much more extensive testing is needed. It may be that in foreign countries, the expense of testing may affect Wyeth's decision whether to continue their research efforts.

I met with officials of Wyeth Laboratories shortly before they announced this decision. Although I am upset and concerned about the effect that their decision will have on the cost and availability of childhood vaccines, I can understand the reasons for their decision. I have held four separate hearings on this subject of childhood immunization over the last 2 years. The introduction of S. 2117, the National Childhood Vaccine-Injury Compensation Act was motivated out of concern that if a administrative system to compensate child victims of adverse reactions to vaccines is not implemented, not only do the children suffer, the entire U.S. supply of vaccine production is threatened.

Just a few weeks ago on May 3, 1984, I asked the Department of Health and Human Services if they were prepared to take over the responsibility of producing childhood vaccines if the manufacturers decide to stop producing. Dr. Brandt, Assistant Secretary of Health at HHS replied that:

> We are not prepared to begin to produce the vaccines. We have no evidence from my conversations with all of the vaccine manufacturers that there is any threat of that on the horizon, by any stretch of the imagination. We have not seen an immediate threat by any manufacturer to withdraw from the vaccine market.

During those hearings, I also asked Dr. Brandt why the Public Health Service had not established a consolidated Federal contract for the purchase of DPT vaccine as they had for measles, mumps, rubella, and polio. The administration replied that historically the two major reasons for not purchasing DPT under consolidated contracts was that until very recently the price of DPT vaccine had been low enough that the cost-savings achieved by a consolidated Federal contract were not warranted, and that with three manufacturers of DPT, an award of a single Government contract may prove to be a disincentive to the unsuccessful manufacturers. However, the administration replied that because of interest from State health offices, they have issued a request for proposals for the purchase of diptheria, tetanus, and pertussis vaccines under a consolidated Federal contract, both for the vaccine stockpile which they are presently establishing and for continuing use in the grant program. However, the current budget request for the childhood immunization program does not contain any funds that could be expended for this purpose. Therefore, when the Labor, HHS, Education Appropriation bill comes before the full Senate for our consideration, I plan to offer an amendment to increase the funding for child immunization efforts to provide sufficient funding for these purposes.●

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## THE WAYWARD PRESS

● Mr. GOLDWATER. Mr. President, the press, the media, electronic visual or printed, continues to bring down grave doubts about their accuracy among the American people.

There are times when I think the first amendment is roundly and soundly abused but, most of the time, I think it is a necessary part of our Constitution.

It would be a wonderful thing if the press, generally, could emulate Henry Luce, who founded Time magazine, and make the points of news, not exaggerate them, make them up, or change them.

An editorial appearing in the Government Executive points out the need for this better than I ever could. So, I ask to have that editorial printed in the Record.

The editorial follows:

### The Wayward Press

(By C.W. Borklund)

Back last May 7, Time magazine published an "Essay" which, in the English language, is another way of saying, "editorial," i.e., according to Webster's, "an analytic or interpretative literary composition usually dealing with its subject from a limited or personal point of view." The "Essay" was all of that.

But why the editors of Time, which once—when Briton Hadden and Henry Luce founded it a half century ago—prided itself on including all the principal facts in its editorially summarized reciting of the week's news, would broadcast to its millions of recipient/readers that one of its reporters is not only uninformed but aggressively proud of that journalistic calamity . . . well, the point they're trying to make escapes us.

Title of this particular vitriolic memorandum was 'The Case Against Star Wars Weapons." It starts off a puzzlement because the alleged author (actually, we have learned, he got advice and counsel from a lot of other people) is listed on the magazine's masthead as "Diplomatic Correspondent." Now, having a guy in that line of inquiring reportage discourse at length in self-appointed expertise about weapons technology and the White House decision-making process—the two issues raised in the editorial—strikes us as about the equivalent of our trying to instruct medical interns in the art of brain surgery.

The author, himself, makes our point. Skipping lightly (the only way to handle it without losing your sense of humor) over this masterpiece of near-fiction:

Claim.—"The idea (for the Space Defense Initiative) had been planted in Reagan's mind by his friend and frequent adviser Edward Teller, the Hungarian-born superhawk, often described as the father of the hydrogen bomb, whose bold and controversial ideas have occasionally led some of his fellow physicists to moan, 'E.T., go home.' "

Fact.—With all due respect to Dr. Teller, whom we admire as we do a great many people in all philosophical/political walks of life for their forthrightness (even while disagreeing frequently with some of the ideas some of them advance), that's giving a small, if prestigious voice in the choir, credit for being the featured soloist.

As anybody with the ability to dial the correct telephone number in either the White House or the Pentagon (and Time has several of those) could have learned almost as easily as punching 555-1212, Teller, by himself, did not inspire President Ronald Reagan's public call in the Spring of 1983 for a ballistic-missile-nuclear-warhead defense. The Joint Chiefs of Staff did.

To track a little history: as far back as when we interviewed him during his last year as California Governor, he asked, in sum, "On nuclear weapons, why aren't the military doing what they've always done before, developing a defense against their own weapons?" From what we've heard talking to many of the same people who are close acquaintances of his, he's raised the question, off and on, ever since.

When he became President, many of those same people—especially the ones with expertise not only in military strategy but in space technology (Donald Graham, Bernard Schriever, Presidential Science Advisor Jay Keyworth are sufficient examples to support the point)—urged him to move on the program. Much like Jack Kennedy's advisors, not the close-buddy personal ones but the technical experts, urged him to launch the Apollo program and advocated the Space Shuttle to Richard Nixon.

Claim.—"Calling for an all-out program, along the lines of the Manhattan Project which developed the atom bomb (subtle conjuring up of Satan there) to develop a defense system in space, he (envisions) a network of orbiting sensors that would detect a Soviet attack as soon as it was launched, then trigger giant remote-control ray guns that would destroy attacking rockets or their warheads before they could do any damage."

Fact.—That's entirely an invention of the "Essay" author. (As an aside, it continually amazes us how many columnists, most of the time hypercritical of a Presidential program, routinely claim they know what he's thinking when the closest they've ever gotten to the man himself was during a White House press conference.)

First off, the U.S. Defense Support Program (a satellite) has been able to detect a Soviet ICBM or IRBM booster firing up in Siberia or Eastern Europe or wherever since 15 years ago. At the American end of an aggressor's warhead trajectory, the Army proved in the mid-1960's that a "bullet" could indeed knock down another "bullet" on re-entry into the atmosphere. What the Space Defense Initiative (SDI) envisions, simply put, is a whole series of barriers between launch and re-entry (as Defense Secretary Caspar Weinberger repeated for about the 20th time during the last 12 months in Government Executive's May, 1984-dated issue) which raise convincing skepticism in the Kremlin's mind about the likelihood of their launching a pre-emptive first strike.

Claim.—"In December, with no fanfare, Reagan approved $26 billion over the next five years for research into a Strategic Defense Initiative."

Fact.—A year ago, Defense Deputy Secretary of Defense Dick DeLauer pointed out, in essence, that more than half that $26 billion was already in the budget, working on developments needed anyway but, in effect, would contribute to the envisioned nuclear-warhead defense. To suggest that the budget proposal came as a surprise shows what kind of trouble a magazine can get into when it asks an ought-to-be student to play professor.

Claim.—"Strictly on technical grounds, experts all across the ideological spectrum doubt that space-based ray guns would work well enough to vindicate Reagan's vision."

Fact.—Having announced, wrongly, what the system is, that claim is automatically a self-fulfilling prophecy. However, we will agree that, since the President's announcement, all manner of people have jumped out of the woodwork, pushing their favorite "gold watches," are both hurting orderly development of the SDI program and playing into the hands of the anti-SDI emotionalists in the process.

On the other hand, as NASA (National Aeronautics and Space Administration) Deputy Administrator, Dr. Hans Mark—a brilliant physicist in his own right—said, in February 1984, Government Executive—due to the work of "two towering geniuses of 20th-century physics, Albert Einstein and Niels Bohr (for the theories of relativity and quantum mechanics)" the world's engineers (including ominously Soviet ones) now know certain things can be done.

One, he said, is building a ballistic missile defense. While the engineering challenges may be mind-twisting, he concluded, "Whether you can do it or not is simply a matter of whether or not you're willing to make the investment."●

## AN INDEPENDENT NATIONAL ARCHIVES

● Mr. **PRYOR**. Mr. President, I want to take this opportunity to reiterate my strong support for S. 905, a bill to create an independent National Archives and Records Service [NARS]. I am a cosponsor of this important legislation and I'm hopeful that it will soon be brought before the full Senate for consideration.

S. 905 has been favorably reported from the Senate Committee on Governmental Affairs, of which I am a member, and enjoys broad bipartisan support, with 46 sponsors. I would urge my colleagues to carefully examine this legislation and to consider adding their names to the list of cosponsors.

Currently the statutory responsibility for the archival and records management functions of the Government belongs to the General Services Administration [GSA]. Unfortunately, this relationship has not been a desirable one. I believe that is because the missions of GSA, as the purchaser and landlord for the Federal Government are too fragmented to fully meet the needs of the Archives, the protector of our Government's precious historical records.

Mr. President, this bill has the almost universal support of the experts in the field—historians and archivists—who have indicated again and again that an independent Archives and Records Service will bring about a vast improvement in the preservation and use of these documents.

I believe the words of former Archivist James Rhodes, in testimony before the Governmental Affairs Committee on the need for an independent Archives, are of significance:

> The central problem is that many of the objectives, priorities, and motivations of GSA and NARS are simply incompatible. There is no way that an agency dedicated to encouraging scholarly research and other educational and cultural objectives can function effectively as a subordinate component of a business-oriented conglomerate whose primary responsibilities are for construction and maintenance of public buildings, procurement of supplies, and management of motor pools and stockpiles of strategic materials.

Finally, I'd like to mention that 1984 is the 50th anniversary of the creation of the National Archives. I think it is therefore appropriate that the Senate this year take action to protect and foster the heritage of our public documents. We owe it to future generations of Americans to devote professional, specialized attention to the pages of our past.●

## RAYMOND BALOUSEK—AN UNSELFISH ACHIEVER

● Mr. **LEVIN**. Mr. President, I would like to take this opportunity to call to the attention of my colleagues an outstanding individual, Raymond Balousek, a pioneer in the visual communications industry for 52 years.

Ray is chairman and chief executive officer of Producers Color Service, Inc., a multimillion dollar company whose film and video facilities are known and respected across the Nation.

Ray has been involved in Michigan industry since 1932 when he became a member of the pioneering group of men that worked at the Jam Handy Organization in the 1930's and 1940's. His personal contribution to the community began in 1956 when he established a motion picture film laboratory which then expanded to the existing facilities, including the PCS Video Communications Division and Technidisc, one of the few companies in the world involved in the high technology of manufacturing optical laser discs.

Through these corporations donating their services for public service announcements, Ray has made substantial contributions to worthwhile charities such as preventing child abuse, the American Red Cross, Visiting Nurses Association, Leukemia Foundation, American Cancer Society, and Junior Achievement. Ray was also heavily involved in the campaign to enhance and promote the image of the city of Detroit.

Raymond Balousek has contributed to the Michigan community by creating equal employment opportunities not only through his four facilities, but for thousands of freelance people involved in the film and television industry. He has made available to Detroit, the Midwest, and the Nation a wide array of state-of-the-art technology and professional experience and has pledged his life to meeting the changing needs of technology in the film and video industry and serving humanity through his trade.

I am pleased to recognize this outstanding citizen and his contributions.●

## CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is closed.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The **PRESIDING OFFICER**. The clerk will state the pending business.

The legislative clerk read as follows:

> A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense, and for other purposes.

The Senate resumed consideration of the bill.

### AMENDMENT NO. 3204

The **PRESIDING OFFICER**. The pending question is amendment No. 3204 offered by the minority leader and the Senator from Virginia [Mr. WARNER].

The minority leader is recognized.

Mr. **BYRD**. Mr. President, this amendment would establish a 3-year commission to study the defense-related aspects of our maritime resources.

It is now apparent that for the benefit of both cloakrooms I do not anticipate using more than 15 minutes, certainly less than 20, after which I will be ready for a vote, if the cloakrooms would indicate that for our respective colleagues.

**Mr. BAKER.** Mr. President, will the minority leader indicate whether he intends to ask for the yeas and nays.

**Mr. BYRD.** Yes. I intend to ask for the yeas and nays.

**Mr. BAKER.** I thank the Senator.

**Mr. TOWER.** If the minority leader would yield, I doubt that our response to the presentation of the distinguished minority leader will be in excess of 5 minutes. Therefore, I think that Members should expect a vote in 20 to 25 minutes.

**Mr. BYRD.** I thank the distinguished manager of the bill.

Mr. President, if the majority leader would like, I will attempt to get the yeas and nays at this point.

**Mr. BAKER.** Mr. President, I think that would be a good idea and I would join the minority leader in the request.

**Mr. BYRD.** I thank the majority leader.

Mr. President, I withdraw that request momentarily. I want to make one last change.

Mr. President, both Mr. WARNER and I want to modify the amendment. On page 2, line 2, the word "seven" be changed to "five", so that line 2 would read in part, "The Commission shall be composed of five members." Then on page 2, line 8, under paragraph (c), the first word "five" be changed to "three," so that the amendment would read "Three members appointed by the President." On page 2, line 21, subparagraph 3, the word "four" at the beginning of line 21 be changed to the word "three," so that it would read "Three members of the Commission."

**Mr. WARNER.** Mr. President, I am in agreement with the modification.

**Mr. BYRD.** I thank the Senator from Virginia.

The **PRESIDING OFFICER.** The amendment is so modified.

The amendment (No. 3204), as modified, reads as follows:

On page 128, between lines 12 and 13, insert the following new section:

### COMMISSION ON MERCHANT MARINE AND DEFENSE

SEC. 1019. (a) There is hereby established a commission to be known as the "Commission on Merchant Marine and Defense" (hereinafter in this section referred to as the "Commission").

(b) The Commission shall study problems relating to transportation of cargo and personnel for national defense purposes in time of war or national emergency, the capability of the United States merchant marine to meet the need for such transportation, and the adequacy of the shipbuilding mobilization base of the United States to meet the needs for both naval and commercial ship construction and repair in time of war or national emergency. Based on the results of the study, the Commission shall make, as provided in subsection (g), such specific recommendations, including recommendations for legislative action, action by the executive branch, and action by the private sector, as the Commission considers appropriate to foster and maintain a United States merchant marine capable of meeting national security requirements.

(c)(1) The Commission shall be composed of five members, as follows:

(A) The Secretary of the Navy (or his delegate), who shall be the chairman of the Commission.

(B) The Administrator of the Maritime Administration (or his delegate).

(C) Three members appointed by the President, by and with the advice and consent of the Senate, from among individuals of recognized stature and distinction who by reason of their background, experience, and knowledge in the fields of merchant ship operations, shipbuilding, the steel industry, maritime labor, and defense matters are particularly suited to serve on the Commission.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under paragraph (1)(C) without regard to section 5311(b) of title 5, United States Code. Members appointed under such subsection shall be appointed for the life of the Commission.

(3) Three members of the Commission shall constitute a quorum, but a lesser number may hold hearings. The Commission shall meet at the call of the chairman.

(d) Each member of the Commission appointed under subsection (c)(1)(C) shall be paid at a rate equal to the daily equivalent of the rate of basic pay payable for level IV of the Executive Schedule for each day (including traveltime) during which the member is engaged in the actual performance of the business of the Commission. Other members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e)(1) The Commission may (without regard to section 5311(b) of title 5, United States Code) appoint an executive director, who shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule.

(2) The Commission may appoint such additional staff as it considers appropriate. Such personnel shall be paid at a rate not to exceed the rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(3) The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the executive branch and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f)(1) The Secretary of the Navy and the Administrator of the Maritime Administration may detail personnel under their jurisdiction to the Commission to assist the commission in carrying out its duties under this section.

(2) The Secretary of the Navy and the Administrator of the Maritime Administration may provide to the Commission such administrative support services as the Commission may require.

(G) Not later than each of September 30, 1985, September 30, 1986, and September 30, 1987, the Commission shall submit to the President and to the Congress a report containing its findings of fact and its conclusions on the problems relating to the matters specified in the first sentence of subsection (b). Each such report shall include the specific conclusions of the Commission on the adequacy of the maritime and shipbuilding resources available to the United States to meet the requirements for national action relating to such matters in the event of multiple and sustained crises, as those requirements are specified in the latest annual report of the Secretary of Defense to the Congress on the national defense posture. Each such report shall further include, based upon those findings and conclusions, the recommendations of the Commission as specified in subsection (b). Each such report shall be prepared without any prior review or approval by any official of the executive branch (other than the members and staff of the Commission).

(h) The Commission shall cease to exist 90 days after the date on which the final report of the Commission under subsection (g) is submitted to the President and the Congress.

(i) There is authorized to be appropriated for fiscal year 1985, $1,500,000 to carry out this section during such fiscal year.

**Mr. BYRD.** Mr. President, will the majority leader ask for the yeas and nays?

**Mr. BAKER.** Mr. President, if the minority would do that, I would join in.

**Mr. BYRD.** I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. BYRD.** Mr. President, it is now apparent that both our sealift assets and our shipbuilding base are inadequate to meet the demands imposed by a global war. Recent studies done in the executive branch indicate that the national security implications of the Nation's maritime capacity could be profound. This is particularly true, according to a summary prepared by the Department of the Navy, during the so-called surge phase of a conflict—that is, during the early phases of deployment of combat forces and their logistical support needs. During this critical early period of a conflict, the conclusion has been reached by the Navy that the "current capability * * * meets only about half of the requirement for dry cargo carriage." The Nation's commercial fleet must be relied upon to provide some of the required tonnage, but the Nation's militarily useful commercial fleet is declining at a precipitous rate.

Furthermore, during a conflict, when ship repair and new construction demands are imposed on our shipyard infrastructure, those resources are projected to be inadequate to meet the demands created by a global wartime scenario.

Mr. President, it has been my consistent position that a strong industrial base, and a strong steel industry as a central part of that base, is essential for our national security. Our industrial base must be revitalized if we want to be fully prepared to meet our national security needs. This Commission would examine one dimension of our national security requirements, and I believe will illustrate the need for a stronger shipbuilding industry—it will, I believe, identify the additional industrial resources we will need to remain strong as a nation.

The United States has, over its history, prided itself as a great maritime nation. Indeed, given our widening global commitments, a healthy maritime infrastructure is absolutely essential to our ability to defend our vital interests and to work with our allies in promoting free world interests.

The legislation before us funds the national defense aggressively. But the entire defense buildup the Reagan program has represented will be ineffective unless we can mobilize and sustain our forces fast enough and long enough to turn back an aggressor without resorting to nuclear war.

Sealift is critical to our ability to prosecute any conventional conflict. Ships would deliver, during any war or national emergency, about 95 percent of all dry cargo and more than 90 percent of all petroleum products. U.S.-flag merchant ships together with ships under government control today would be insufficient to support a Vietnam-sized contingency. Nearly 500 ships were required to support U.S. operations in Vietnam. Today, the combined U.S. private fleet useful for military purposes comprises about 244 general cargo ships. If one adds to this the 180 ships in the mothballed National Defense Reserve Fleet—most of which were built prior to 1946—the total is less than 500. In addition, it should be noted that only 29 of those reserve vessels could put to sea in less than 10 days.

The British experience in the Falklands conflict confirms the lesson that substantial and readily available sealift is critical to the success of military operations on far-flung shores. The Navy conducted an indepth inquiry into the lessons we should learn from the British experience in the Falklands, that study concluded that:

> * * * vast quantities of munitions and other consumables are required for sustained combat, and this is a major concern for U.S. planners. The lack of any single item could influence dramatically a conflict's outcome. * * * While the U.S. Navy has developed plans in conjunction with the Maritime Administration to use merchant ships from trade and the Ready Reserve Force, more effort is required to develop aviation, self-defense and other "naval" systems for merchant ships so employed.

Mr. President, I am concerned that the natural linkage between national security and maritime policy has not been given the priority it deserves. Would the Nation be able to sustain a major war in the Persian Gulf? President Reagan has stated that American policy is to keep the gulf open. If we are engaged by an adversary in the gulf and a conflict develops, could we sustain the logistical system adequate to prevail? Suppose, at the same time, we are drawn into a second conflict in the European theater or in the Far East. Can anyone assure me that we could sustain those operations—and particularly if that should include a war at sea which demands major ship repair and shipbuilding programs on an expeditious basis in the United States?

The purpose of this amendment, which has been offered by Mr. WARNER and me, is to address this question in a thorough way by a high-level Commission. The Commission is directed to study the problems relating to the transportation of cargo and personnel during a time of war or national emergency. It is to assess the capability of our merchant marine to meet those transportation needs, and the adequacy of the shipbuilding and repair base in the United States. Furthermore, the Commission is to match up the trends in our maritime resources with the objectives laid out in the annual report to the Congress by the Secretary of Defense. If the Persian Gulf is judged to be vital to American national interests, for instance, the Commission would make an assessment of the adequacy of our maritime base to deliver on that commitment. The full range of the official policy guidance of the Secretary of Defense on the Nation's essential commitments, then, would be compared with our ability to deliver on those commitments without going to nuclear war.

Based on the results of the study, the Commission would be directed to make specific recommendations to the Congress, for legislative action, to the executive branch, and to the private sector as it sees fit. The goal is to define what is appropriate to foster and maintain a U.S. merchant marine capable of meeting national security requirements.

I note, Mr. President, that a similar amendment has been passed by the House to that body's version of the Defense authorization bill. The amendment which Mr. WARNER and I join in offering today is similar to the House provision, except that the Commission I am proposing would have a 3-year life. Considering the problems that are afflicting our maritime base, I think it appropriate that such a Commission be given an opportunity to assess whether its initial recommendations are having the desired effect, and to suggest further action when those effects become known. In addition, the House Commission's mandate does not require detailed attention to the specific commitments as outlined annually by the Secretary of Defense, although I am sure the authors of the House language intended that such attention be devoted to the range of commitments as outlined by the Secretary annually.

The Commission would be composed of five members, including the Secretary of the Navy, the Administrator of the Maritime Administration, and three members appointed by the President of individuals of stature in the fields of merchant-ship operations, shipbuilding, steel industry, maritime labor, and defense matters who would be particularly suited to serve on the Commission.

Mr. President, it is clear to me that we do not have a maritime policy in this Nation which relates clearly to our national security requirements. I note that in a letter from Secretary Weinberger to Secretary Dole of April 24, 1984, Secretary Weinberger states his concern over the "decline of the U.S. maritime industries over the past several years" and that this decline "has generated significant interest in the merchant marine's capability to support the President's national security objectives." Secretary Weinberger suggests in this letter that the two Departments "jointly develop a statement of national maritime requirements" which would be used "for determining the adequacy of current U.S. maritime policy * * *." Secretary Weinberger goes on to state that with Secretary Dole's help, they "could establish an administration policy that would assure our overall national security." In a fact sheet accompanying the Secretary's letter, Secretary Weinberger suggests that "it is essential that all national security requirements * * * be identified before program and legislative proposals are developed." I find these statements rather disturbing, Mr. President, in that I would have thought such maritime requirements would have been an integral part of Secretary Weinberger's planning process when he formulates his budget and posture statement annually. How else can one guarantee that commitments which are stated, interests which are judged vital to the Nation can be effectively defended? Commitments given must be credible—we must be able to deliver on them.

How else can one guarantee that commitments which are stated, and interests which are judged vital to the Nation, can be effectively defended? Commitments given must be credible, and we must be able to deliver on them.

Mr. President, I thank Mr. WARNER for joining with me in offering this amendment. I thank the distinguished manager of the bill, Mr. TOWER, and the ranking member, Mr. NUNN, who have expressed support for the amendment as well. I urge that the Senate adopt the amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I want to commend the distinguished minority leader for taking the initiative. I think it is a vital initiative that must be taken. At the change of command ceremony between retiring Admiral Hayward and incoming Chief of Naval Operations, Admiral Watkins, I devoted my entire address to this very subject. As a matter of fact, the distinguished minority leader has expressed some of the same thoughts far more eloquently, I might add, than I did at the time. I think it is time that we try to arouse an awareness in the public consciousness of the fact that there is a deficiency in considering overall maritime capabilities as a part of national security policy. In fact, we have neglected our merchant marine. And anyone who knows anything about seapower will tell you that combatant vessels are not enough, that you must have a merchant marine to complement that combatant capability. We have established as a matter of national policy that we are going to a 600-ship Navy recognizing the fact that the United States depends on the sealanes of communication all over the world. It seems to me it nets us little to develop a combatant Navy that is capable of defending those sealanes of communication if we do not have the maritime capability to utilize those sealanes of communication. I think that this is a very instructive step.

The distinguished minority leader has alluded to the Falklands experience. I note that the British were able to muster some 50 merchant vessels to provide the logistical support and the combat support for their efforts in the Falklands. We are told by the British that was about the maximum they could marshal and employ; that if they had any further requirements, they would really have been in some difficulty; and, the fact is, the British have a larger merchant marine than the United States. So if we think in those terms, then what the minority leader has said about the Falklands experience is particularly pertinent. We had better learn that lesson.

So I want to commend the minority leader for his initiative and commend my distinguished colleague, Senator **Warner**, who is a valued subcommittee chairman on the Armed Services Committee, who has always had a great interest in maritime affairs, for having come forth with this amendment. I certainly intend to support it, and would urge my colleagues to do likewise.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in my brief career in the Senate one of my greatest privileges has been my association with the distinguished minority leader on several pieces of legislation, and now this effort on behalf of what I would regard as an extremely important goal in our overall national defense policy. The deficiencies in the American merchant marine could well be the Achilles' heel of any military operation that we may be forced to conduct in the defense of our Nation.

Indeed, I commend the distinguished chairman of the Armed Services Committee. I was present at Annapolis when the Senator from Texas gave his remarks at the change of command of the Chief of Naval Operations, and indeed, he did at that time, as have many others, set forth the problems with respect to the American merchant marine as they relate to any military operations of a major scale that this Nation may undertake at some future time.

This is a subject that I worked on as Secretary and Under Secretary of the Navy for over 5 years while in the Department of Defense. I remember so well the end of World War II, when the U.S. merchant fleet was the largest in the world. However, in the years since 1950 there has been a steady decline in the merchant marine, and shipbuilding and repair base as elements of our U.S. seapower.

This decline and its impact on defense-sealift capability has been the subject of much concern among military planners who understand the critical necessity for our ability to move large numbers of men and supplies long distances if we are to demonstrate an ability to respond to any number of emergencies worldwide.

We must always remember that the first line of the United States today is a forward-deployed defensive network.

This amendment will create a commission to study the defense-related aspects of the U.S. Merchant Marine and our shipbuilding and repair mobilization base.

Based upon its study, the commission will make specific recommendations to the President and to the Congress for legislative, executive, and private-sector actions to enhance the capabilities of the maritime industry to satisfy national security requirements.

This language is included in the House version of the Department of Defense authorization bill, H.R. 5167, and is based on legislation introduced in the House by Representative **Charles Bennett** of Florida.

Previously, I introduced companion legislation in the Senate. Now I join with my distinguished colleague from West Virginia in this bill as amended today to reflect certain recommendations that I put forward.

In their military posture statement for fiscal year 1984 the Joint Chiefs of Staff said:

> Successful response to global contingencies depends upon sufficient mobility assets to project combat forces rapidly and sustain them in the theater as long as necessary to meet U.S. objectives. In general, airlift will transport deploying forces during the early days of a crisis until sealift begins to arrive. These movements will include personnel and equipment to use prepositioned stock. As the crisis progresses, sealift will provide the vital sustaining power for deployed forces, and will ultimately account for 90-95 percent of the total cargo delivered over an extended period.

The military strategy of the United States is one of forward deployment. We use the oceans as barriers and as avenues for protecting our interests abroad.

To accomplish this, we must depend on overseas allies, forward deployed military forces and the mobility to respond to crisis around the world.

The JCS 1984 posture statement goes on to say that:

> Ships from the U.S. Merchant Marine represent the single largest domestic source of this sealift. The U.S. relies on the nation's merchant marine as a strategic resource.

For the deployment of U.S. forces, the United States must depend on U.S flag shipping.

The British operation in the Falklands was dramatically dependent upon sealift capability provided by their merchant fleet. It is interesting that the ratio in the Falklands campaign between British warships and British merchant ships was four merchant ships for every British warship. Indeed, we recall with somewhat of a tinge of romantic nostalgia that the British had to take the *QE II* out of passenger service and reconfigure it very quickly as a troop transport in that engagement.

This Commission will also have the responsibility of investigating our ability to construct and repair vessels during a national emergency.

That is a very important provision that the minority leader and I have included in this bill. If we are to have a merchant marine afloat, we must have the facilities ashore to repair those ships as well as construct new ones in the time of need.

This includes not only the shipyards and ship repair facilities, but the supplier base required to efficiently manufacture equipment, supplies, and spare parts for the merchant fleet.

In my judgment, this Commission, representing the broadest of experience and expertise in the maritime, military and economic matters affecting the U.S. flag fleet, the maritime unions, and our shipyards, can contribute to a resolution of the problems that have beset the U.S. maritime industry, and, therefore, the sealift capability of the U.S. Armed Forces.

Mr. President, I strongly encourage our colleagues to give it wholehearted support.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I too would like to commend the Senator from West Virginia, and I would ask the Senator from West Virginia if he could add me as a cosponsor to this amendment which I think is an enormously important step forward in putting the spotlight on the deficiency, and perhaps even a critical deficiency in our ability to sustain our forces abroad. Will the Senator from West Virginia permit me to be a cosponsor?

Mr. BYRD. I would be delighted. I ask unanimous consent that Mr. NUNN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, the Senator from Georgia will be added as a cosponsor.

Mr. NUNN. I thank the Senator from West Virginia. I would say further, Mr. President, that I have cosponsored on one occasion and sponsored on one occasion a bill that was initiated in the House by Congressman CHARLIE BENNETT, who has taken a vigorous lead in this subject. The Senator from Virginia has taken a vigorous lead in this subject. I think it is very important and I believe this Commission will be able, hopefully, to come forward with some ideas about what we do about a problem that we all acknowledge is very serious, and a problem that is growing. I think the dialog here this morning has been enlightening. I hope our colleagues will focus on that dialog, because the revelations about the British dependency in the Falklands on merchant ships, the revelations the Senator from West Virginia made about the comparison of our capability today when it is compared to what we had in the 1970's, late 1960's, when we were engaged in Vietnam, I think is also a very revealing disclosure. I think the dialog has been very helpful.

So I urge our colleagues to support this amendment.

Mr. BYRD. Mr. President, again, I thank the distinguished Senate majority and ranking manager for his support and for his cosponsorship. I ask unanimous consent that the name of Mr. MITCHELL and Mr. KASTEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, with the concurrence of the minority leader, I should like also to add the names of the Senator from Maine [Mr. COHEN] and the junior Senator from Virginia [Mr. TRIBLE] as cosponsors. I ask unamimous consent that either of those Senators may be permitted at an appropriate time today to submit for the RECORD their statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I join in recognizing the value of the contributions the minority leader and the ranking manager, the Senator from Georgia [Mr. NUNN], have made to this matter.

Mr. MURKOWSKI. Mr. President, may I be added as a cosponsor?

Mr. BYRD. We would be delighted to have the name of the Senator from Alaska also. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The names of Senators GLENN, THURMOND, and RANDOLPH, were added as cosponsors of the amendment (No. 3204), as modified.

Mr. BYRD. Mr. President, I thank the manager of the bill [Mr. TOWER] for his eloquent support of this amendment. I also thank the distinguished Senator from Virginia [Mr. WARNER] again for joining as a cosponsor, the leading cosponsor, of this amendment. I also thank Mr. WARNER for his kind remarks included in his overall statement of support of the amendment.

Mr. WARNER. Mr. President, again, I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the distinguished senior Senator from Alaska [Mr. STEVENS] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate?

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. DANFORTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Arizona [Mr. GOLDWATER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Iowa [Mr. JEPSEN], the Senator from Nevada [Mr. LAXALT], the Senator from Maryland [Mr. MATHIAS], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Kentucky [Mr. FORD], the Senator from Colorado [Mr. HART], the Senator from Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii [Mr. INOUYE] would vote "yea."

The PRESIDING OFFICER [Mr. GORTON]. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 80, nays 5—as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—80

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dixon
Dodd
Dole
Durenberger
Eagleton
East
Evans
Exon
Garn
Glenn
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Helms
Hollings
Huddleston
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Randolph
Roth
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NAYS—5

Humphrey
Proxmire
Quayle
Rudman
Symms

NOT VOTING—15

Andrews
Boschwitz
Danforth
Domenici
Ford
Goldwater
Hart
Heinz
Inouye
Jepsen
Laxalt
Mathias
Metzenbaum
Percy
Riegle

So the amendment (No. 3204) as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that any Senator who wishes to do so—and Mr. WARNER joins me in this respect—may add his name as a cosponsor of the amendment which was just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the name of the Senator from Mississippi [Mr. STENNIS], who has been interested in the defense and merchant marine areas for his entire career, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, Senator STENNIS has an amendment now that we would like to take up. We also have an amendment on risk reduction, which has been cleared. The Senator and I have discussed it, and I hope we can take it up next. The second amendment will require a rollcall vote. I see the Senator from New Jersey on the floor. I suggest that we proceed to the Senator's amendment, followed by the Nunn-Warner amendment.

Mr. WARNER. If the distinguished ranking minority Member and Mr. STENNIS will agree, can we accommodate one Member on my side who has to catch an airplane in 30 minutes?

Mr. NUNN. About how long will it take?

Mr. DURENBERGER. I will not take more than 3 minutes.

**Mr. NUNN.** I ask the Senator from Mississippi if that meets with his approval.

**Mr. STENNIS.** Yes.

AMENDMENT NO. 3220

**Mr. DURENBERGER.** Mr. President, I send an amendment to the desk.

**The PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. DOLE, proposes an amendment numbered 3220.

**Mr. DURENBERGER.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Stike out line 21 on page 55 through line 5 on page 57 and insert in lieu thereof the following:

STUDY OF LINKAGE OF CHAMPUS WITH MEDICARE

SEC. 163. The Congress finds—

(1) that costs of providing medical care under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) have escalated rapidly in recent years;

(2) that new and innovative methods for control and containment of CHAMPUS costs must be explored; and

(3) that the adoption by CHAMPUS of a prospective payment system like that utilized by Medicare may offer significant savings by CHAMPUS.

Therefore, the Secretary of Defense and the Secretary of Health and Human Services are directed jointly to study the possible effects of the adoption by CHAMPUS of a prospective payment system such as that utilized by Medicare. The study also shall address the advisability and feasibility of statutorily linking provider participation in Medicare with participation by CHAMPUS and whether such a linkage is needed in order to insure adequate provider participation in CHAMPUS if CHAMPUS were to adopt a prospective payment system and address the changes that might be expected in the CHAMPUS patient workload and the CHAMPUS aggregate payment levels to various segments of the provider community, including private, public, non-profit, and teaching facilities, if such a system were adopted. The Secretaries shall report their findings to the Committees on Armed Services of the Senate and House of Representatives, the Senate Finance Committee, and the House Ways and Means Committee before March 1, 1985, and such report shall include recommendations on changes believed to be appropriate in the CHAMPUS system of reimbursement and on the need for and appropriateness of a linkage between CHAMPUS and Medicare.

**Mr. DURENBERGER.** Mr. President, most of us do not think of the Defense authorization bill as a natural forum of deciding important national health policy issues. Yet, section 163 of this bill amends the medicare program—our health care program for the elderly and disabled—in an attempt to contain CHAMPUS costs.

The stage was set for this action in last year's Defense Authorization Act, when the Senate receded to the House on a provision that allows CHAMPUS to utilize medicare payment methods. As my colleagues know, a new medicare prospective payment system for hospitals was instituted last October. This payment system, based on diagnosis-related groups, or [DRG's], is being phased in over 3 years. It is a program designed for medicare, and it should not be extended to CHAMPUS.

Medicare's payment amounts under prospective payment reflect the historical cost of services provided to a beneficiary population whose inpatient care needs are very different from those of CHAMPUS beneficiaries. Of the medicare population, 37 percent are age 75 and older, 53 percent are age 65 to 74, and 10 percent are totally disabled. Nationally, the average length of stay for most DRG category patients age 65 or older has exceeded that of patients under age 65 by almost 4 days. It is these substantial and, to taxpayers, costly differences that should be examined before extending the new medicare systems to CHAMPUS recipients.

Section 163 of this year's authorization bill only compounds the problem. In amending title XVIII of the Social Security Act, the authorization bill would require that hospitals and other institutions which participate in medicare would also have to participate in CHAMPUS. Not only would they be required to participate in CHAMPUS, but they would be required to accept, as payment in full for services provided to a CHAMPUS beneficiary, the amount that medicare would pay had the hospital services been provided to a medicare beneficiary.

In other words, hospitals that participate in medicare would be forced to accept CHAMPUS beneficiaries at medicare payment rates. This is a hasty move. If CHAMPUS wants to develop a prospective payment system, it should be based strictly on the cost experience of its own beneficiaries. Furthermore, participation in medicare should not be tied to participation in CHAMPUS. A CHAMPUS payment system should stand on its own; hospitals should be free to accept or reject any proposed rates. A competitive, price-sensitive hospital market will develop only if purchasers like medicare, CHAMPUS, Blue Cross, commercial insurers, and HMO's negotiate and establish their own payment rates with hospitals.

My amendment directs the Secretary of Defense and the Secretary of Health and Human Services to study the issue of prospective payment for CHAMPUS and any possible linkage between CHAMPUS and medicare. Their findings shall be reported to the Congress by March 1, 1985. This is the only sensible way to proceed: Get the information first, and then make a decision.

In conclusion, I express my appreciation to the Committee on Armed Services, its leadership and staff, for their sensitivity to the issues of health care cost containment as well as the quality of care for members of the armed services and their families. We are all in this issue together, and the sponsors of this amendment, Senator DOLE and I, appreciate this cooperation.

Mr. President, I believe this amendment has been cleared with the majority and minority staffs.

**Mr. WARNER.** We have cleared this amendment, Mr. President.

**Mr. NUNN.** Mr. President, I have no objection to the amendment.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 3220) was agreed to.

**Mr. WARNER.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. NUNN.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. NUNN.** Mr. President, I say to the Senator from Virginia that we have a request. I ask the Senator from Mississippi for his attention. We have a couple of Members who will have to leave about a quarter to 1. We have one more rollcall vote of which I know. We cannot give assurances that we will not have more than one. That would be on the risk reduction proposal. I hope the amendment by Senator STENNIS will not require a rollcall vote. That remains to be determined.

I suggest to my colleagues that if we can take the risk reduction proposal up now, which I do not believe will be controversial but will require a rollcall vote, we might complete that and start the rollcall vote about a quarter to 1, which would accommodate a couple of Senators.

**Mr. WARNER.** Mr. President, I concur in the observation of the Senator from Georgia that Members have schedules to meet, and I am agreeable, if the Senator from Mississippi is.

**Mr. STENNIS.** Entirely so.

**Mr. WARNER.** Mr. President, it is my understanding that we will now proceed with the Nunn-Warner amendment.

**Mr. NUNN.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. NUNN.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

### AMENDMENT NO. 3221

(Purpose: Expressing the support of the Senate for the expansion of confidence building measures between the United States and the Union of Soviet Socialist Republics, including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers)

Mr. NUNN. Mr. President, I send a Senate resolution to the desk and ask that it be considered in the appropriate section of the bill as an amendment.

The PRESIDING OFFICER. As an amendment to this bill?

Mr. NUNN. As an amendment to this bill.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Georgia (Mr. NUNN) (for himself, Mr. WARNER, Mr. BRADLEY, Mr. HOLLINGS, Mr. SASSER, Mr. PERCY, Mr. GORTON, Mr. COHEN, Mr. EXON, Mr. LUGAR, Mr. QUAYLE, Mr. PRESSLER, Mr. HEINZ, Mr. PRYOR, Mrs. KASSEBAUM, and Mr. LAUTENBERG) proposes an amendment numbered 3221.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Since an increasing number of scenarios, including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a state sponsored threat, could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Union of Soviet Socialist Republics, situations that neither side anticipated, intended, or desired;

Since there has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons;

Since this proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great;

Since the current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities;

Since Senators JACKSON, NUNN, and WARNER sponsored an amendment adopted by the Senate to the 1983 Deaprtment of Defense authorization proposing certain confidence building measures;

Since President Reagan, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Union of Soviet Socialist Republics and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union covering:

(a) The addition of a high speed facsimile capability to the direct communication link (hotline);

(b) The creation of a joint military communications link between the United States Department of Defense and the Soviet Defense Ministry;

(c) The establishment by the United States and Soviet Governments of high rate data communication links between each nation and its embassy in the other nation's capital.

Since the establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations thereby enhancing the security of both the United States and the Soviet Union;

Since these centers could serve a variety of functions including: (a) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties; (b) maintaining close contact during nuclear threats or incidents precipitated by third parties; (c) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups; (d) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and (e) establishing a dialog about nuclear doctrines, forces, and activities;

Since the continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers: Now, therefore, be it

*Declared*, That the Senate of the United States commends the President for his announced support for the aforementioned confidence building measures, and his initiation of negotiations which have occurred and urges the President to pursue negotiations on these measures with the Government of the Soviet Union, and to add to these negotiations the establishment of nuclear risk reduction centers in both nations, to be operated under the direction of the appropriate diplomatic and defense authorities.

Mr. NUNN. Mr. President, I shall try to abbreviate my remarks, but I do not want to diminish the importance that I attach to this subject.

I rise in support of this amendment, a resolution supporting the creation of nuclear-risk reduction centers. This resolution is cosponsored by many Senators. The original cosponsors are Senators WARNER, BRADLEY, HOLLINGS, SASSER, and myself, as well as Senators PERCY, GORTON, COHEN, EXON, LUGAR, QUAYLE, PRESSLER, HEINZ, PRYOR, KASSEBAUM, LAUTENBERG, CHILES, FORD, ANDREWS, INOUYE, BINGAMAN, ROTH, LEAHY, LEVIN, HEFLIN, RIEGLE, CRANSTON, ABDNOR, COCHRAN, EVANS, DURENBERGER, and HART.

Mr. President, Senator WARNER, myself, Senator BRADLEY, and our late and beloved colleague, Senator Jackson, have worked on this matter for a long time. Also, Senator PERCY has worked very carefully with us as well Senator PELL and others of the Foreign Relations Committee.

This resolution is the result of several years of study. In 1981, after a hearing we had had in closed session in the Armed Services Committee, I asked the Strategic Air Command, then under the command of General Richard Ellis, to undertake a study of the dangers of accidental nuclear war triggered by a third party. By third party I mean someone other than the two superpowers. The SAC study concluded that there are real and growing dangers in this area. Most of the study was classified. Some portions of it have been released. It showed that the United States and the Soviet Union may not have the capability to determine, in some instances, the country of origin of a third party attack and do not have adequate warning and detection systems to deal with unconventional type attacks.

In 1982, Senator JOHN WARNER, the late Senator Henry Jackson, and I introduced an amendment to the Defense Authorization Act requiring the Defense Department to evaluate several proposals aimed at reducing the risk of nuclear confrontations. Later that year, Senator WARNER and I organized the Working Group on Nuclear Risk Reduction.

I ask unanimous consent that the report of the Working Group, along with the text of S.Res. 329, the letter that Senator WARNER and I sent to the President in November 1983, and the Senate Foreign Relations Committee Report, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr President, In early 1983, a Defense Department study prompted by the Jackson-Warner-Nunn amendment was released. It recommended that the existing United States-Soviet "hot line" be upgraded with a facsimile link, that an additional communications channel be installed between the Pentagon and the Soviet Defense Ministry, and that high speed communications links be established between each Government and its Embassy in the other's capital. These proposals were endorsed by President Reagan in May 1983. They are now the subject of discussions between the two Governments.

With but few exceptions, the United States and the Soviet Union have been able to avoid confrontations entailing the risk of nuclear war. There are compelling reasons, however, for concern about the ability of the two nations to avoid nuclear crises in the future.

The global ideological and political struggle between ourselves and the Soviet Union is superimposed on an increasingly fractious and troubled world. International and national conflicts—particularly in the Third World—offer tempting opportunities for military or political exploitation and often lead to the involvement of the great powers on opposing sides of these disputes. In certain circumstances, such interventions have the potential to escalate to nuclear confrontations.

There are an increasing number of circumstances that could precipitate the outbreak of nuclear war that neither side anticipated nor intended, possibly involving other nuclear powers or terrorist groups. There has been a relentless dispersion of the know-how, equipment and materials necessary to fabricate nuclear devices.

This spread of nuclear know-how, equipment and materials also suggests a rising danger of nuclear terrorism. While the specific risk that in any one year any particular subnational group or rogue national leader might acquire a nuclear device is, no doubt, a low probability, the cumulative risk covering all such groups over 10 or 20 years may be very great indeed. Once in the hands of such an individual or group, the potential for lawlessness would be unlimited—including extortion, revenge, or an attempt to trigger a nuclear conflict between the superpowers.

In our view, the dangers implicit in this partial catalogue of potential nuclear flashpoints indicates the necessity of the two great powers initiating discussions aimed at establishing an explicit and comprehensive system for the prevention and containment of nuclear crises.

The proposals put forward by President Reagan are positive steps toward the development of a comprehensive system to assure the avoidance of nuclear confrontations. But there are also crucial political aspects to the problem of preventing nuclear crises. These elements can be addressed only through more comprehensive arrangements involving the designation of particular representatives and facilities in both nations that would be assigned specific responsibilities for presenting nuclear crises.

To begin, the United States and the Soviet Union might agree to establish separate national nuclear risk reduction centers in their respective capitals. These centers would maintain a 24-hour watch on any events with the potential to lead to nuclear incidents.

The nuclear risk reduction centers would have to be linked directly—both through communications channels and organizational relationships—to relevant political and military authorities. Thought might also be given to the assignment of liaison officers to the counterpart center in each capital. If this practice proved successful, it might be possible at some future time to move toward jointly manned centers in the two capitals of both our country and the Soviet Union.

An alternative arrangement would envision the creation of a single center, staffed by military and civilian representatives of the two nations, at a neutral site. Such an arrangement might facilitate closer cooperation between the United States and the U.S.S.R., but at the cost of diminished access between the surveillance center and the two Governments themselves at least this could be considered. This and other trade-offs between these two potential arrangements require more study.

Each center would be manned by a series of watch officers who would report through normal military and political channels. In addition, each side would designate a specific high level official to direct its center and to carry out those specific negotiations and exchanges of information as were agreed to in establishing the centers. Procedures would be established to assure that in the event of an emergency, the designated representatives would have direct access to each nation's highest political authority.

Direct communications links would be established between the two centers. These should definitely include print and facsimile channels. Consideration might also be given to the establishment of voice, and perhaps even teleconferencing facilities, as well. There are obvious dangers in such real-time communications, including the greater difficulty of intragovernmental coordination and a greater risk of imprecision or misunderstanding, but these may be offset by the far more rapid exchange and large amounts of information which would become possible. All of these things must be considered.

The establishment of these centers could contribute significantly to a reduced risk of nuclear incidents. They could be used for a range of functions, most of which would take place routinely in normal times, and would be designed to reduce the danger of nuclear terrorism, to build confidence between the two sides, and to avoid the build-up of tensions that could lead to confrontation. It would probably be best to define the functions of the nuclear centers narrowly at first, expanding them as experience demonstrated the value of the enterprise.

Among the potential functions of the centers would be the following:

First, to discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons;

Second, to maintain close contact during incidents precipitated by nuclear terrorists;

Third, to exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons, or the materials and equipment necessary to build weapons, by subnational groups.

Fourth, to exchange information about military activities which might be misunderstood by the other party during periods of mounting tensions;

Fifth, to establish a dialog about nuclear doctrines, forces, and activities;

Mr. President, this proposal is not an instant formula for solving all the problem areas in U.S.-Soviet relations. Our nations will continue to have important differences—political differences, human rights differences, economic differences, arms control differences, and differences in a host of other areas.

Despite these significant differences, our nations do have certain mutual interests. At the top of that list should be the prevention of accidental nuclear war, war by miscalculation, or war triggered by a third country or terrorist group. This proposal represents an important step toward achieving that goal—a goal that is vital for the future of the entire world. I hope that my colleagues will join the cosponsors of this resolution in supporting the creation of nuclear risk reduction centers.

### EXHIBIT 1

### Senate Resolution 329—Relating to Nuclear Risk Reduction Centers

Mr. NUNN. (for himself, Mr. Warner, Mr. Bradley, Mr. Hollings, and Mr. Sasser) submitted the following resolution; which was referred to the Committee on Foreign Relations:

### S. Res. 329

Whereas, an increasing number of scenarios, including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a state sponsored threat, could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the U.S. and the U.S.S.R., situations that neither side anticipated, intended, or desired;

Whereas, there has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons;

Whereas this proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great;

Whereas the current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities;

Whereas Senators Jackson, Nunn, and Warner sponsored an amendment adopted by the Senate to the 1983 Department of Defense Authorization proposing certain confidence building measures; and

Whereas President Reagan, responding to Congressional initiatives, proposed the establishment of additional and improved communications links between the U.S. and the U.S.S.R. and other measures to reduce the risk of nuclear confrontation and has initiated discussions at a working level with the Soviet Union covering:

(a) The addition of a high speed facsimile capability to the direct communication link (hotline);

(b) The creation of a joint military communications link between the U.S. Department of Defense and the Soviet Defense Ministry; and

(c) The establishment by the U.S. and Soviet governments of high rate data communication links between each nation and its embassy in the other nation's capital.

Whereas the establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations thereby enhancing the security of both the United States and the Soviet Union;

Whereas, these centers could serve a variety of functions including: (a) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties; (b) maintaining close contact during nuclear threats or incidents precipitated by third parties; (c) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by sub-national groups; (d) exchanging information about U.S.-U.S.S.R. military activities which might be misunderstood by the other party during periods of mounting tensions; and (e) establishing a dialogue about nuclear doctrines, forces and activities; and

Whereas the continuing and routine implementation of these various activities could be facilitated by the establishment within each government of facilities, organizations and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head-of-state with responsibilities to manage such centers. Now, therefore, be it

*Resolved*, That the Senate of the United States commends the President for his announced support for the aforementioned confidence building measures, and his initiation of negotiations which have occurred and urges the President to pursue negotiations on these measures with the Government of the Soviet Union, and to add to these negotiations the establishment of nuclear risk reductions centers in both nations.

### RISK REDUCTION CENTERS

Mr. **Nunn**. Mr. President, as in morning business, I rise to introduce a resolution on behalf of Senator Warner, Senator Bradley, and myself, as well as Senator Hollings and Senator Sasser expressing the support of the Senate for the expansion of confidence-building measures between the United States and the Soviet Union. Specifically, we encourage the establishment of nuclear risk reduction centers in both Washington and Moscow.

We live in a world that has grown more dangerous as the knowledge, equipment and materials necessary to build nuclear weapons have proliferated throughout the globe. In such a world, the danger of a nuclear confrontation between the superpowers has multiplied dramatically. Such a confrontation could be triggered by misjudgement, miscalculation or accident. It could be precipitated by the deliberate act of a terrorist group or a nation that possesses nuclear weapons.

Under these conditions, the superpowers have a clear, mutual interest in monitoring nuclear activity and taking positive steps to insure that any nuclear incidents that occur do not lead to a confrontation.

Senator Warner, our late beloved colleague Senator Jackson and I have been concerned about this problem for several years. In early 1981, I requested that Gen. Richard Ellis, then commander of the Strategic Air Command, undertake an evaluation of the possibility of a third party triggering a superpower nuclear exchange under a variety of scenarios. This SAC evaluation showed that there are real and developing dangers in this area.

In 1982, Senator Warner and I joined with Senator Jackson in introducing an amendment to the Defense Authorization Act requiring the Defense Department to evaluate several proposals aimed at reducing the risk of nuclear confrontations. Early last year, a DOD study required by this legislation recommended that the existing U.S.-Soviet hotline be upgraded with a facsimile link, that an additional communcations channel be installed between the Pentagon and the Soviet Defense Ministry, and that high speed communications links be established between each government and its embassy in the other's capital. These proposals were endorsed by President Reagan in May 1983 and are under active negotiations with the Soviet Union.

Senator Warner and I also organized a working group on nuclear risk reduction in November 1982 to examine alternative means of reducing the risk of nuclear war. This group is composed of a number of outstanding experts in the national security and intelligence arena. They include: Gen. Richard Ellis, former SAC Commander, Dr. William Hyland, Adm. Bobby Inman (Ret.), Dr. William Perry, Dr. Donald Rice, Dr. James Schlesinger, Gen. Brent Scowcroft (Ret.), and Dr. Barry Blechman. The working group's report, which was released on November 23, 1983, emphasized the increasing number of scenarios that could precipitate the outbreak of a nuclear war that neither side anticipated or intended, possibly involving other nuclear powers or terrorist groups. To address that risk, the report proposed the establishment of nuclear risk reduction centers in Washington and Moscow to maintain a 24-hour watch on any events with the potential to lead to nuclear incidents. These centers would be designed to reduce the danger of nuclear terrorism, to build confidence between the two sides and to avoid the buildup of tensions that could lead to confrontation.

Mr. President, I request that the report of the working group along with the accompanying letter from Senator **Warner** and myself to President Reagan be printed in the **Record** at this point.

There being no objection, the material was ordered to be printed in the **Record**, as follows:

U.S. Senate,
Committee on Armed Services,
*Washington, DC, November 23, 1983.*

The **President**,
*The White House, Washington, DC.*

**Dear Mr. President**: We understand that there have already been working level discussions with Soviet representatives in Moscow on your May 24, 1983 proposals to upgrade the "Hot Line" and to create new communications channels between the U.S. and U.S.S.R. We applaud this attempt to improve our ability to communicate quickly and effectively with Soviet leaders. If implemented successfully, these could be important steps toward a better capability to avoid or, if necessary, to control nuclear crises.

As you know, in late 1982 we organized a working group to examine methods of reducing the risk of nuclear war. The group's members have considerable experience at the highest levels of our government; they include General Richard Ellis (Ret.), Mr. William Hyland, Admiral Bobby Inman (Ret.), Dr. William Perry, Dr. Donald Rice, Dr. James Schlesinger, General Brent Scowcroft, and Dr. Berry Blechman. The working group has been meeting regularly, and has previously provided you with our comments on the DOD report which was the basis for the May 24 announcement. We would like to now provide you with our report on ways to establish a more comprehensive nuclear risk reduction system.

We believe that, in addition to the communications links mentioned above, it would be beneficial to explore with Soviet leaders the possibility of establishing a more comprehensive nuclear risk reduction system, featuring the establishment of independent centers in the two capitals. The outlines and functions of such a system are described in the attached report of the working group which we co-chair. We respectfully commend it to your attention.

The 1971 U.S.-Soviet "Accidents Measures" Agreement provides for consultation between the two nations on proposals that would reduce the risk of accidental nuclear war. We would suggest, therefore, that the establishment of a nuclear risk reduction system be proposed under the terms of the 1971 Treaty in the Standing Consultative Commission—the agreed forum for discussions related to the agreement. There would be several advantages to raising it in that body, not least of which would be its confidentiality.

We are looking forward to continued close cooperation with you and your administration to further develop, evaluate and implement steps to reduce nuclear risks.

Sincerely,

Sam Nunn.
John W. Warner.

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### A Nuclear Risk Reduction System

(Report of the Nunn/Warner Working Group on Nuclear Risk Reduction)

With but few exceptions, the United States and the Soviet Union have been able to avoid confrontations entailing the risk of nuclear war. There are compelling reasons, however, for concern about the two nations' ability to avoid nuclear crises in the future.

The emergence of the U.S. and the U.S.S.R. at the end of the Second World War as the only two remaining great military powers virtually assured a continuing national rivalry that would dominate global politics. The fundamental antagonisms in values and objectives between the United States and the Soviet Union continue to make certain that, regardless of their common recognition of some shared interests (such as avoiding nuclear war), the relationship will remain competitive for many years to come.

The global ideological and political struggle between ourselves and the Soviet Union is superimposed on an increasingly fractious and troubled world. International and national conflicts—particularly in the Third World—offer tempting opportunities for military or political exploitation and often lead to the involvement of the great powers on opposing sides of these disputes. In certain circumstances, such interventions have the potential to escalate to nuclear confrontations.

The 1973 crisis in the Middle East vividly demonstrated how quickly, and how far such situations can escalate. The two great powers' involvement began with emergency transfers of weapons, shifted rapidly to the use of their own air and naval forces to protect those shipments, and ended with mutual threats of direct military intervention to protect their respective clients. At the height of the crisis, there were even hints that such interventions might include, or eventually escalate to, the use of nuclear weapons.

There are an increasing number of circumstances that could precipitate the outbreak of nuclear war that neither side anticipated nor intended, possibly involving other nuclear powers or terrorist groups. There has been a relentless dispersion of the know-how, equipment and materials necessary to fabricate nuclear devices. In addition to the five declared nuclear powers, two more nations—India and Israel—are assumed to be in a position to assemble a weapon on short notice, and may already have covert stocks of nuclear devices. India, of course, has already detonated one device.

These threshold nuclear powers may be joined by at least one, and possibly two, more nations (Pakistan and South Africa) before the end of this decade. Perhaps as many as five others (Argentina, Brazil, Iraq, South Korea and Taiwan) could be in a similar position before the year 2000. Still other countries, such as Germany, Japan and Sweden, have the financial, industrial, and technological potential to fabricate nuclear weapons; they lack only the political will to do so.

At the request of Senator Nunn, General Richard Ellis, when he was commander of the Strategic Air Command, undertook an evaluation of the possibility of a third party triggering a superpower nuclear exchange under a variety of scenarios. Unfortunately, this SAC evaluation showed that there are real and developing dangers in this area.

The spread of nuclear know-how, equipment, and materials also suggests a rising danger of nuclear terrorism. While the specific risk that in any one year any particular sub-national group or rogue national leader might acquire a nuclear device is, no doubt, a low probability, the cumulative risk covering all such groups over ten or twenty years may be very great indeed. Once in the hands of such an individual or group, the potential for lawlessness would be unlimited—including extortion, revenge, or an attempt to trigger a nuclear conflict between the superpowers.

In our view, the dangers implicit in this partial catalogue of potential nuclear flashpoints indicates the necessity of the two great powers initiating discussions aimed at establishing an explicit and comprehensive system for the prevention and containment of nuclear crises.

### RECENT PROPOSALS AND STUDIES

In 1982, Senators Sam Nunn (D-Ga), John Warner (R-Va), and the late Senator Henry Jackson (D-Wa), introduced an amendment to the Defense Authorization Act requiring the Defense Department to evaluate several proposals aimed at reducing the risk of nuclear confrontations. Later that year, Senators Nunn and Warner organized the Working Group on Nuclear Risk Reduction.

In addition to the two Senators who serve as co-chairmen, the working group includes eight former civilian and military officials and technical experts. William Hyland, a senior associate at the Carnegie Endowment, serves as the group's Secretary. The other members are James Schlesinger, the former Secretary of Defense; Brent Scowcroft, President Ford's National Security Advisor; General Richard Ellis, former Commander of the Strategic Air Command; Bobby Inman, formerly Deputy Director of Central Intelligence; William Perry, formerly Under Secretary of Defense for Research and Engineering; Don Rice, President of the Rand Corporation; and Barry Blechman, a senior fellow at the Georgetown Center for Strategic and International Studies.

In early 1983, a Defense Department study prompted by the previously mentioned legislation was released. It recommended that the existing U.S.-Soviet "Hot Line" be upgraded with a facsimile link, that an additional communications channel be installed between the Pentagon and the Soviet Defense Ministry, and that high speed communications links be established between each government and its embassy in the other's capital. These proposals were endorsed by President Reagan in May. They are now the subject of discussions between the two governments.

The proposals put forward by President Reagan are positive steps toward the development of a comprehensive system to assure the avoidance of nuclear confrontations. But there are also crucial political aspects to the problem of preventing nuclear crises. These elements can be addressed only through more comprehensive arrangements involving the designation of particular representatives and facilities in both nations that would be assigned specific responsibilities for preventing nuclear crises.

### NUCLEAR RISK REDUCTION CENTERS

To begin, the United States and the Soviet Union might agree to establish separate national nuclear risk reduction centers in their respective capitals. These centers would maintain a 24 hour watch on any events with the potential to lead to nuclear incidents.

The nuclear risk reduction centers would have to be linked directly—both through communications channels and organizational relationships—to relevant political and military authorities. Thought might also be given to the assignment of liaison officers to the counterpart center in each capital. If this practice proved successful, it might be possible at some future time to move toward jointly manned centers in the two capitals.

An alternative arrangement would envision the creation of a single center, staffed by military and civilian representatives of the two nations, at a neutral site. Such an arrangement might facilitate closer cooperation between the U.S. and the U.S.S.R., but at the cost of diminished access between the surveillance center and the two governments themselves. This and other trade-offs between these two potential arrangements require more study.

Each center would be manned by a series of watch officers who would report through normal military and political channels. In addition, each side would designate a specific high level official to direct its center and to carry out those specific negotiations and exchanges of information as were agreed to in establishing the centers. Procedures would be established to assure that in the event of an emergency, the designated representatives would have direct access to each nation's highest political authority.

Direct communications links would be established between the two centers. These should definitely include print and facsimile channels. Consideration might also be given to the establishment of voice and perhaps even tele-conferencing facilities, as well. There are obvious dangers in such "real-time" communications, including the greater difficulty of intergovernmental coordination and a greater risk of imprecision or misunderstanding, but these may be offset by the far more rapid exchange of large amounts of information which would become possible.

The establishment of these centers could contribute significantly to a reduced risk of nuclear incidents. They could be used for a range of functions, most of which would take place routinely in normal times, and would be designated to reduce the danger of nuclear terrorism, to build confidence between the two sides, and to avoid the build-up of tensions that could lead to confrontation. It would probably be best to define the functions of the nuclear centers narrowly at first, expanding them as experience demonstrated the value of the enterprise.

### POSSIBLE FUNCTIONS OF THE NUCLEAR RISK REDUCTION CENTERS

Among the potential functions of the centers would be the following:

First, to discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons. Among the contingencies that might be explored would be unexplained explosion of a nuclear device, a terrorist threat to explode a nuclear weapon unless certain demands were met, the discovery that a nuclear weapon was missing, and similar possibilities. The discussion of these contingencies could provide a script which might be followed should the event actually occur. Although neither side could be expected to commit itself to follow these scripts under all circumstances, the existence of such an agreed routine might facilitate appropriate actions.

Second, to maintain close contact during incidents precipitated by nuclear terrorists, thus facilitating cooperative actions to defuse the incident, and specifically, to avoid the danger that the explosion of a nuclear device by a terrorist group might lead to a nuclear confrontation between the great powers.

Third, to exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons, or the materials and equipment necessary to build weapons, by sub-national groups. Obviously, care would have to be taken in any such exchange to avoid compromising intelligence sources and methods. Still, this type of U.S.-Soviet cooperation would clearly be in their mutual interest, and could increase both nations' ability to contain any such threats. There have been precedents for cooperation between the two as concerns the spread of nuclear weapons, and there is also precedent in the Standing Consultative Commission established by the 1972 SALT Agreements for the confidential exchange of technical and sensitive information.

Fourth, to exchange information about military activities which might be misunderstood by the other party during periods of mounting tensions. At times of mounting political tensions, the existence of independent nuclear risk reduction cents might facilitate the exchange of information about military activities which might otherwise by misinterpreted and contribute to escalating suspicions and fears. Such an exchange of information would have to be made on a voluntary basis. Even so, such an exchange could help to dampen the more extreme fears and actions that could otherwise result from international conflicts. Such a system would, of course, require checks and safeguards against the possibility that disinformation would be deliberately or accidentally fed into it, leading to confusion or delays in decision-making.

Fifth, to establish a dialogue abot nuclear doctrines, forces, and activities. These exchanges might include the notifications required under the 1971 "Accidents Agreement" and any future arrangements requiring the prior notification of missile flight tests and strategic exercises. But they could go beyond this to include discussions of any strategic practices of the two sides which implicitly raise a danger of misinterpretation or misunderstanding. Consideration also could be given to using this forum to maintain an agreed data base on the strategic forces of the two sides, a necessary element for virtually any strategic arms control agreement.

### PROSPECTS AND POSSIBILITIES

A strong foundation has been laid for the proposals in this report. There have been more than 20 bilateral and multilateral treaties and agreements to which both the U.S. and U.S.S.R. are parties, that establish requirements for exchanges of information, the prior notification of certain events, the establishment of special communications links, the designation of representatives to negotiate technical aspects of the two nations' nuclear relationship, and cooperation on proliferation issues. The 1972 Incidents at Sea Agreement, which has all but eliminated what had been frequent and dangerous confrontations between the two great powers, is an excellent example of what can be accomplished.

But what already has developed on an ad hoc basis is far from comprehensive in its coverage of potential problems. Moreover, the actual use or implementation of these agreements has been limited. The current system is particularly deficient in that it does not deal adequately with the growing danger of nuclear terrorism.

We suggest that by establishing the nuclear risk reduction system described in this report, the ability of both nations to contain escalation would be greatly enhanced. The proposal deserves serious consideration by the governments of the U.S. and U.S.S.R. and by the citizens of both nations.

Mr. NUNN. Mr. President, the resolution we are submitting today calls on the President to adopt the concept of nuclear risk reduction centers and to negotiate the establishment of such centers with the Soviet Union. These centers could serve the following functions:

First, to discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons;

Second, to maintain close contact during incidents precipitated by nuclear terrorists;

Third, to exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons; or the materials and equipment necessary to build nuclear weapons, by subnational groups;

Fourth, to exchange information about military activities which might be misunderstood by the other party during periods of mounting tensions;

Fifth, to establish a dialog about nuclear doctrines, forces, and activities.

The rationale for and a detailed discussion of the centers is contained in the report I have entered in the RECORD.

The resolution also confirms the support of the Senate for the President's efforts to date and urges the President to continue negotiations on these confidence-building measures with the Soviet Union. These measures include:

First, the addition of a high-speed facsimile capability to the direct communications link generally known as the hotline;

Second, the creation of a joint military communications link between the U.S. Department of Defense and the Soviet Defense Ministry.

Third, the establishment by the United States and the Soviet Governments of high rate data communication links between each nation and its Embassy in the other's capital.

Mr. President, I would like to commend Senator WARNER for his active participation and leadership in this area. I would also like to commend the members of the Working Group on Nuclear Risk Reduction who studied this critical issue carefully and formulated a practical and reasonable set of recommendations.

I would hope that the President will receive our recommendations with the same open-minded and positive approach he followed on the previous confidence-building measures. We have worked with the executive branch in a cooperative manner in this area, and they have been very responsive.

I hope that the Senate will join us in this effort to move forward toward the establishment of these nuclear risk reduction centers that will help to reduce the risk of nuclear conflict.

Mr. WARNER. Mr. President, it has been my privilege to be associated with my distinguished colleague from Georgia in well over a year's work in this area.

Indeed, we would be remiss if we did not advise our colleagues that the late Senator Jackson was a cosponsor with us of the initial piece of legislation in 1982 which gave rise to the initiation of this project.

Mr. NUNN. Mr. President, I thank the Senator from Virginia. I think that is a timely and appropriate remark. The late Senator from Washington also was a cosponsor of the amendment which was passed on the authorization bill which gave rise to the Defense Department study and some of the present proposals in this direction.

I am delighted that the Senator from Virginia called that to the attention of this body.

Mr. WARNER. Yes.

Mr. President, Senator NUNN and I are delighted today to have joining in this effort Senator BRADLEY, Senator HOLLINGS, and others.

In the four decades since the end of World War II, the global ideological and political struggle between the United States and Soviet Union has steadily increased in scope and intensity. While this is regrettable, it is fact.

These fundamental antagonisms, in values and objectives, foster a relationship that will remain divisive and competitive for the foreseeable future.

International and national conflicts, particularly in the third world, have offered tempting opportunities for military or political exploitation and have led to various levels of tension and confrontation between the superpowers.

There are a number of potential scenarios that could suddenly escalate tensions and the risk of nuclear confrontation between the United States and the U.S.S.R. They include possible misjudgment, miscalculation, and misunderstanding, or the possession by terrorists of nuclear arms. These represent situations neither side anticipate, intend, or desire.

Today, there are five nations that have declared a nuclear military capability. Before the end of this century, this group could be enlarged by the addition of seven or more. While this proliferation is recognized, the threatening proliferation arises from the gradual dispersal of the knowledge, equipment and materials necessary for the fabrication of nuclear devices to an unknown number and classification of groups or State-sponsored entities.

The latter proliferation, coupled with the spread of terrorist activities, poses the greatest potential for a means of extortion, revenge or threat upon a superpower or superpowers. It is within this category of potential risk, tensions or confrontations that the proposed confidence building measures provide the greatest benefits directly to the superpowers and indirectly to the other nations of the world.

Against this background, the late Senator Henry Jackson, Senator SAM NUNN, and myself introduced in 1982 an amendment to the Defense Authorization Act which required the Defense Department to evaluate several proposals aimed at increasing confidence between the United States and the U.S.S.R. and reducing the risks of nuclear confrontation. Subsequently, Senator NUNN and I organized a working group on nuclear risk reduction to explore additional confidence building measures.

This nonpartisan, professional working group is unique in my experience. William Hyland, of the Council on Foreign Relations, serves as the group's secretary. Other members are James Schlesinger, former Secretary of Defense; Brent Scowcroft, a national security advisor to the President; Gen. Richard Ellis, former commander of the Strategic Air Command; Bobby Inman, former Deputy Director of Central Intelligence; William Perry, formerly Deputy Secretary of Defense for Research and Engineering; Don Rice, president of the Rand Corp.; and Barry Blechman, a senior fellow at the Georgetown Center for Strategic and International Studies.

During the spring of 1983, a Defense Department study, in response to our legislation, was released. It recommended that the existing United States-Soviet hotline be upgraded with a facsimile link; that an additional communications channel be installed between the Pentagon and the Soviet Defense Ministry; and that high-speed communications links be established between each government and its embassy in the other capital. These proposals were endorsed by President Reagan in May.

These confidence building measures are now the subject of discussions between the two governments at the working level. To date, they have been productive; there is hope.

In November, the working group on nuclear risk reduction released its report concerning recommending the establishment of national nuclear risk reduction centers in the respective capitals of the United States and the U.S.S.R. Potential functions of the centers would be as follows:

First, to discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons.

Second, to maintain close contact during incidents precipitated by nuclear terrorists.

Third, to exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons or the materials and equipment necessary to build weapons by subnational groups.

Fourth, to exchange information about military activities which might be understood by the other party during periods of mounting tensions, and .

Fifth, to establish dialog about nuclear doctrine forces and activities.

Mr. President, this resolution expresses the support of the Senate for the expansion of confidence building measures between the United States and the U.S.S.R. that I have listed and urges the President to continue pursuing negotiations on these confidence building measures with the Soviet Union.

We must seek every opportunity for areas of agreement and ways to reduce risks associated with our relationship with the Soviet Union.

Mr. President we are hopeful that all of our colleagues will join us on this resolution because it provides, in my humble judgment, a basis for a measure of understanding at a very early opportunity between the United States and the Soviet Union. Irrespective of the disappointing result thus far with respect to other aspects of arms control, this provides an opportunity to go forward.

At this point, I yield to my distinguished colleague from New Jersey for a brief comment.

Mr. BRADLEY. Mr. President, I am pleased to join Senator Nunn and Senator Warner as an original cosponsor of this resolution proposing the establishment of nuclear crisis centers. Not only can the centers serve a crucial function in crisis management and in the avoidance of accidental nuclear war, they may also be a step toward a more constructive environment for other bilateral negotiations.

Let me give you a hypothetical scenario that points up the need for a nuclear crisis center.

A small group of religious fanatics in a Middle Eastern country somewhere on the border of the Soviet Union has convinced itself that the Russian atheists intend to quash their religious sect. The group is prepared to go to any length to preserve their religious beliefs. Unbeknownst to the Soviet Union, the sect has illicitly obtained the ability to detonate a crude atomic weapon. At a time coinciding with heightening East-West tensions, the sect hijacks a local propeller aircraft and drops its bomb on a small Soviet border town not far from a Soviet military installation. In the resulting confusion the Soviets assume the bomb was dropped by a U.S. Air Force plane. The Kremlin orders retaliation.

Improbable? Yes. Impossible? No. As the number of countries that possess nuclear weapons grows, the number of people who understand the basic mechanics of nuclear devices increases as well. In addition to American, Russian, British, French, Chinese, and Indian scientists and officials, many suspect that officials in Pakistan, South Africa, Israel, Argentina, Brazil, Iraq, South Korea, and Taiwan may have or will obtain nuclear weapons capabilities within this decade. Keeping this knowledge out of the hands of unpredictable governments—Libya comes to mind—small groups and terrorist organizations will become even more difficult. We must prepare for this dangerous possibility.

If anything like my hypothetical scenario ever occurs, the future of our world as we know it could depend on instantaneous communications between the United States and the Soviet Union. That capability does not now exist. In fact, the current communications link between the White House and the Kremlin consists of 20-year-old teletype machines printing at 30 words per minute.

We must fill that void. The resolution Senators NUNN, WARNER, and I introduce today would do just that.

To enable responsible officials from both superpowers to prepare for and respond to any event with even the potential to lead to a nuclear incident, we should establish two nuclear crisis centers, one in Washington, D.C., and one in Moscow. These centers must be linked together by the most current communications systems, certainly including voice, print, and facsimile capabilities and perhaps including teleconferencing capabilities. The centers would be staffed 24 hours a day by Government and military officials and would be tied directly to political and military authorities in both countries. A Soviet liaison officer would be assigned to the Washington crisis center and an American liaison officer would be assigned to the Moscow center.

These nuclear crisis centers would serve several functions. First, the centers would jointly decide in advance on actions to be taken in the event of an unexplained nuclear explosion, a terrorist threat to explode a nuclear device, or the discovery that a nuclear device is missing. Second, the centers would follow and jointly attempt to defuse events of this type when they occurred. Third, the centers would explore ways to stop the spread of nuclear weapons technology.

In addition to these immediate needs, the nuclear crisis centers could begin to lay the foundation for other confidence building measures that could reduce the chances of nuclear war: Advance notification of any troop movements within 300 miles of borders, for example. Information exchange between the United States and U.S.S.R. has worked in the past: As early as 1945 the Berlin Quadripartite Agreement coordinated air traffic in the vicinity of the divided city; the 1972 Incidents at Sea Agreement has nearly eliminated what has been frequent confrontations between naval vessels; and the 1975 Helsinki agreement now requires notification of certain military maneuvers within 150 miles of East-West borders. It can work again.

Despite the Soviet's recent ceremonious departures from nuclear and conventional arms control negotiations, now is a particularly important time to initiate such an effort. The establishment of nuclear crisis centers is so clearly in the interest of both the Soviet Union and the United States that agreement ought not be difficult to achieve. Unlike many bilateral negotiations, this agreement is readily perceived as a positive sum game: both parties win. If the negotiations on nuclear crisis centers succeed, they might set the stage for superpower agreement on other nuclear nonproliferation and confidence building efforts, now stalled. They may even create an attitude more conducive to realistic arms control talks.

To live in this dangerous world is to know that we must at least talk to our fellow inhabitants, next door and around the ever-shrinking globe. We should resume discussions with the Soviets, concentrating first on areas of clear mutual interest: nuclear crisis centers, other confidence-building measures and nuclear nonproliferation. As we make progress on these, we will make opportunities to advance the cause of eased tensions, arms reductions and peaceful resolution of disputes. Someday, world neighbors may live in peace.

I urge my colleagues to support this resolution.

[Calendar No. 843; Report 98-128]

## NUCLEAR RISK REDUCTION CENTERS

May 3 (legislative day, April 30), 1984.—
Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

[To accompany S. Res. 329]

The Committee on Foreign Relations, to which was referred the resolution (S. Res. 329) expressing the support of the Senate for the expansion of confidence building measures between the United States and the Union of Soviet Socialist Republics, including the establishment of nuclear risk reduction centers, in Washington and in Moscow, with modern communications linking the centers, having considered the same, reports favorably thereon with an amendment and recommends that the resolution as amended do pass.

### PURPOSE OF THE RESOLUTION

The purpose of the resolution is to express the support of the Senate for the expansion of confidence building measures between the United States and the Union of Soviet Socialist Republics, including the establishment of nuclear risk reduction centers, in Washington and Moscow, with modern communications linking the centers.

### COMMITTEE ACTION

Senate Resolution 329 was introduced on February 1, 1984, by Senator Nunn, with Senators Warner, Bradley, Hollings, and Sasser as original cosponsors, and was referred to the Committee on Foreign Relations. Committee members who have cosponsored Senate Resolution 329 include Senators Percy, Lugar, Kassebaum, and Pressler. On April 4, Senator Percy chaired a committee hearing on the resolution. Testimony was received from Senators Nunn and Warner, and from Dr. William Hyland, editor of "Foreign Affairs," and Dr. Barry Blechman, of the Georgetown University Center for Strategic and International Studies.

On April 10, the committee met for the purpose of marking up Senate Resolution 329. The committee approved without objection an amendment by Senator Pell stating that the centers should be operated under the direction of appropriate diplomatic and defense authorities. The committee then approved Senate Resolution 329 as amended without objection by voice vote.

### COMMITTEE COMMENTS

In 1982, Senators Nunn, Warner, and Jackson introduced an amendment to the fiscal year 1983 defense authorization bill requiring the Defense Department to evaluate several proposals aimed at reducing the risk of nuclear confrontations. On April 11, 1983, Secretary Weinberger submitted a report to the Congress in response to this amendment. The report, titled "Direct Communications Links and Other Measures to Enhance Stability," announced that the Secretary had decided to propose four specific risk reduction proposals to the President:

The addition of a high-speed facsimile capability to the Hotline;

The creation of a Joint Military Communication Link between the United States and U.S.S.R.;

The establishment by the United States and Soviet Governments of high rate data links with their embassies in the capital of the other; and

Agreement among the world's nations to consult in the event of a nuclear incident involving a terrorist group.

On May 24, 1983, President Reagan announced that he had accepted all four recommendations and urged the Soviet to examine them carefully. Several rounds of talks on these proposals have been conducted, and on January 16, Secretary Weinberger announced that "significant progress" had been achieved toward an agreement on upgrading the Hotline. The Soviets have, however, been cool to the idea of establishing direct military communications links or improving embassy communications systems.

One possible initiative cited in the 1982 amendment, but not acted on by the administration, was that of establishng "crisis control centers." In its April 1983 report, the Defense Department concluded that the idea of a multilateral crisis control center located in a neutral nation was infeasible and that it was premature to propose bilateral United States/Soviet centers. The Defense Department did not, however, completely rule out the creation of United States/Soviet crisis control centers, noting that: "Over time, our experience with operating a JMCL (Joint Military Communications Link) might allow us to pursue the idea of a crisis control center, by indicating ways in which we could reduce the risks involved in it to an acceptable level." Some of the risks identified by the Pentagon include the opportunities for Soviet espionage and disinformation activities and the creation of a "cumbersome, extra layer in the national and international decision processes, retarding action just when speed was most imperative." The DOD report also expressed concern that a United State/Soviet crisis control center would "provide a clear and legitimate channel for automatic consideration of any crisis—including those in which Soviet participation would serve to heighten, rather than reduce, tensions."

On November 23, 1983, a Working Group on Nuclear Risk Reduction, which Senators Nunn and Warner had established a year earlier, released its report and recommendations. Members of the Working Group included Lt. Gen. Brent Scowcroft (USAF, retired), Dr. James Schlesinger, Dr. William Hyland, Dr. Barry Blechman, Rear Adm. Bobby Inman (USN, retired), Dr. William Perry, Dr. Donald Rice, and Gen. Richard Ellis (USAF, retired). In its report, the panel commended the administration for proposing the four specific confidence building measures. Nevertheless, the group faulted the administration for not embracing the concept of a United States/Soviet crisis control center, declaring that there are "crucial political aspects" to controlling crises which can only be addressed through "more comprehensive arrangements involving the designation of particular representatives and facilities in both nations that would be assigned specific responsibilities for preventing nuclear crisis."

As a first step, the group called for the establishment of 24-hour-a-day nuclear risk reduction centers in Washington and Moscow. The centers would be directly linked to the appropriate political and military authorities in each nation, with direct communications links between the two centers. The group suggested that as a first step toward jointly manned centers, liaison officers be assigned to the counterpart center in each capital.

Senate Resolution 329 formally endorses this proposal and outlines five possible functions which the centers could perform:

Discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

Maintaining close contact during nuclear threats or incidents precipitated by third parties;

Exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

Exchanging information about United States/Soviet military activities which might be misunderstood during a crisis;

Establishing a dialogue about nuclear doctrines, forces, and activities.

In a letter to Chairman Percy dated April 3, the State Department took note of the four confidence building measures already proposed by the administration which, in its view, would, taken together, "contribute significantly to the fulfillment of the functions of a nuclear risk reduction center as described in Senate Resolution 329." In general, the letter took the position that the administration would prefer to defer adding a nuclear risk reduction center proposal to the current United States/Soviet negotiating agenda on confidence building measures until these other "first steps" had been more fully explored.

While the committee fully appreciates that negotiations with the Soviets in this important area must be carefully and prudently developed, it agrees with the view expressed by Senator Nunn during the April 4 hearing that there are compelling reasons for concern about the ability of the two superpowers to avoid nuclear crises in the future. In light of the growing number of regional conflicts around the world, each with the potential to draw the superpowers into direct confrontation, time may well be running out if the United States and U.S.S.R. are to act in advance to put in place an effective crisis avoidance system. The urgency which the committee attaches to acting on the nuclear risk reduction center proposal is heightened by the increasing occurrence of state-sponsored terrorism and, particularly, by current strains in the United States/Soviet relationship. In summary, the committee believes that the establishment of nuclear risk reduction centers could make a very positive contribution toward lessening the dangers of nuclear war, and it urges the administration to develop, in full consultation with Congress, specific proposals toward this end.

During consideration of the resolution on April 10, Senator Pell proposed an amendment which added language stating that the centers should be operated under the direction of appropriate diplomatic and defense authorities. In introducing his amendment, Senator Pell stated that since the highest diplomatic skills could be involved in the operation of the center, it is important that both diplomatic and defense officials be involved in the operation of the center. In addition, Senator Pell said that he hoped the committee report on the resolution would reflect the committee's view that, since very sensitive discussions and, even, negotiations could be the responsibility of the centers, the U.S. center should be under the direct authority of the Secretary of State and that the State and Defense Departments, as well as other agencies, should assign their most qualified personnel to operate the center.

Senator Percy agreed that the amendment made it clear that the State Department would be fully involved in the operation of any nuclear risk reduction center established pursuant to this resolution and praised the amendment as a constructive addition to the resolution. The chairman also noted that Senators Nunn and Warner had no objection to the amendment. In his April 4 testimony, Senator Nunn emphasized that the Working Group had purposely avoided the question of which government agency would have jurisdiction over the center, believing that this decision would have to evolve in the course of negotiations both in the Government and with the Soviets. However, he also said it was obvious that "you would have to have both the diplomatic elements of our governments as well as the military elements represented in some fashion." The committee respects the views expressed by Senators Nunn and Warner on this issue and certainly does not want to embroil the resolution in bureaucratic infighting that could complicate or delay implementation of the proposal. Nevertheless, the committee believes that were the centers assigned the range of responsibilities outlined in Senate Resolution 329, the U.S. center should be operated under the authority of the Secretary of State.

### COST ESTIMATE

In accordance with rule XXVI paragraph 11(a) of the Standing Rules of the Senate, the committee finds that there will be no budgetary impact from the passage of this resolution.

### REGULATORY IMPACT AND CHANGES IN EXISTING LAW

In accordance with rule XXVI, paragraphs 11(b) and 12 of the Standing Rules of the Senate, the committee concludes that there will be no regulatory impact from the passage of this joint resolution. There will also be no repeal or amendment of existing law.

Mr. NUNN. Mr. President, I thank the Senator from Virginia and the Senator from New Jersey for their diligent work in this area and for their leadership. I know that at this point in time they would like to both make a statement.

Mr. WARNER. Mr. President, I ask unanimous consent that those Senators not presently listed as cosponsors may add their names throughout the course of the day as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, throughout my years here in the Senate, it has been my privilege to work with my distinguished colleague from Georgia on many joint efforts, but none has given me greater challenge or, indeed, satisfaction than the subject of nuclear risk reduction centers and those related topics which hopefully reduce tensions and build a greater sense of confidence between the two superpowers.

We have been joined in this effort over the past 2 years now by a very distinguished group. Among that group are Gen. Richard Ellis, Mr. William Hyland, Adm. Bobby Inman, Dr. William Perry, Dr. Donald Rice, Dr. James Schlesinger, Gen. Brent Scowcroft, Ambassador Richard Ellis, and Dr. Barry Blechman. The very able staff assistance has been provided by

Mr. Arnold Punaro, Col. John Campbell, and Mr. Bill Hoehn.

Mr. President, Senator NUNN and myself and others are adding to the military authorization bill what is basically the content of Senate Resolution 329 which was the subject of extensive hearings in the Foreign Relations Committee and received the consideration of members of that committee, particularly the chairman, Mr. PERCY, and the ranking minority member, Mr. PELL. I will insert my statement before that committee at the end of my current remarks.

The resolution, now in the form of an amendment, expresses the support of the Senate for the expansion of confidence-building measures between the United States and the Soviet Union.

Mr. President, this resolution, now an amendment, comes at a very critical time in the relationship between the United States and the Soviet Union, particularly when the proliferation of nuclear technology and, indeed, the possession of nuclear weapons is expanding throughout the world at a frightening rate.

This amendment urges the President to continue pursuing negotiations with the Soviets on such measures and to add to these negotiations the establishment of nuclear risk reduction centers in both nations.

Mr. President, under the guidance of President Reagan and Secretary of State Shultz, there have now been three working-level negotiations with the Soviets on this subject. Thus far, those negotiations have largely been confined to technical matters to upgrade the communications. Nevertheless, those negotiations represent progress in this area.

It is my fervent hope and, indeed, my expectation that following the November elections this framework of negotiations, as well as others, can proceed with greater attention and a larger measure of accomplishment between the United States and the Soviet Union.

When I spoke to the Senate earlier this year in support of Senate Resolution 329, I referred to the political struggle which has existed between the United States and the Soviet Union since the end of World War II. The differing objectives and values of the two countries will be likely to continue into the foreseeable future, resulting in a continuation of the competitive environment which currently exists. This is an unfortunate situation. Nevertheless, it is a matter of fact.

Neither the United States nor the Soviet Union desire a nuclear confrontation. However, there are many conceivable scenarios, as outlined by my distinguished colleague from Georgia, where misjudgment, miscalculation, misunderstanding, or terrorist possession of nuclear weapons could lead to heightened tension or a disastrous mistake.

Proliferation of nuclear arms and increased terrorist activity throughout the world cause our greatest concern. Today there are five nations with declared nuclear capability. The number of nations in this category could increase to more than seven, or perhaps even a dozen, by the end of the century.

The increased nuclear capability in the world, coupled with the considerable expansion in terrorist activity, represents the primary basis for this proposed legislation.

In 1982, the Senator from Georgia [Mr. NUNN], the late Senator Henry Jackson, and I cosponsored an amendment to that year's defense authorization bill which ultimately led to Senate Resolution 329. The Defense Department, in response to that original amendment, conducted a study and released a report recommending a number of improvements to the present system that could reduce nuclear risk.

One of the principal accomplishments was the upgrading of the technology in the famous hotline. I recently visited, as I have may times throughout my career in the Department of Defense, the hotline facilities. I was pleased to learn that the technology which, in my judgment, was outdated, is not being updated and we are now privileged to have a far better communications system between the United States and the Soviet Union. That will soon be completed.

During the period 1970-72, it was my privilege to represent the United States as principal negotiator at the incidents at sea negotiations, negotiating sessions were alternately held in Moscow and Washington, DC. In May 1972, I executed, as Secretary of the Navy, the executive agreement on behalf of the U.S. Navy, and Admiral Gorshkov, my counterpart, signed on behalf of the Soviet Union.

I mention this history only to cite an example of how the United States and Soviet Union can reach mutual understandings predicated on safety. The Incidents at Sea Agreement has been in effect since 1972 and is regarded worldwide as an effective, working maritime-military safety measure. Each year, senior military and civilian officials of the United States and U.S.S.R. meet, alternating between the two capitals, to review naval operations within the framework of the agreement. While there is no effort to shroud their annual meetings in secrecy, few persons are aware of the important, precedent setting exchange. A valuable perspective of this agreement recently appeared in the Washington Post and is, below, made a part of today's RECORD.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Washington Post entitled "Navies Keep Superpower Diplomacy Afloat" and my testimony before the Committee on Foreign Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 8, 1984]

### HIGH SEAS DIPLOMACY CONTINUING

(By Rick Atkinson)

When a new U.S. target drone splashed into the Pacific Ocean last month during gunnery exercises, Navy officers were flabbergasted to see sailors aboard the Soviet spy ship Balzam scoop up the 1,000-pound aircraft and stow it beneath a tarpaulin on deck.

"When the Russians were asked to give it back, their first response was, 'What drone?'" one Pentagon official said. "Then they said they didn't understand the word 'drone'."

The incident May 4 off southern California had all the makings of an ugly Cold War confrontation. Some State Department officials were incensed enough to urge a demarche, a serious diplomatic counterpunch, according to one senior administration official.

Instead, the standoff was resolved through "bridge-to-bridge" negotiations between the Balzam and the guided-missile cruiser USS Leahy. On May 6, after dissecting the sophisticated but unclassified drone, the Soviets dumped the pieces into a dinghy and cast it adrift for recovery by the U.S. warship.

"They were killing time while they were photographing it. We would have done the same thing," an officer said. "They might have thought it was a secret missile. Boy, were they disappointed."

As relations between the United States and Soviet Union have plunged from cool to icy, contacts between the superpower navies have remained, if not chummy, at least civil, despite dozens of abrasive encounters in the past year.

In sharp contrast to the moribund negotiations on strategic and theater nuclear weapons, senior admirals from both navies meet punctually once a year in Washington or Moscow to talk out their grievances under the little-known Incidents at Sea Treaty signed in 1972. U.S. sources described the 1984 session, which concluded last week in the Soviet capital, as cordial, constructive and professional.

U.S. officials contend that the quiet navy-to-navy diplomacy has prevented some hackle-raising episodes—including at least two recent collisions at sea—from escalating into a crisis.

"We're basically in contact with the Soviet navy on a daily basis throughout the four oceans," one senior U.S. official said. "The Soviets have made it very clear that they believe in the Incidents at Sea agreement. They want it to continue. They want it to work. They want to live up to it."

Nevertheless, superpower jockeying for mastery of the high seas has been marked on both sides by what one officer calls "polite harassment."

The Soviets, for example, persistently complain that U.S. P3 Orion airplanes harry Soviet submarines with "sonobuoys," devices dropped near the subs to track them with loud sonar signals. "The pinging really drives them crazy," one official said.

Other Soviet gripes include protests over annoying smoke markers dropped by U.S. planes near Soviet surface ships, as well as the inert concrete or wooden "bombs" dropped by American planes during practice runs.

The United States has complained about the Soviet practice of shining searchlights on the bridges of U.S. ships, which temporarily blinds the crew. The Soviets also frequently buzz U.S. aircraft carriers, disrupting landing and takeoff operations. During the Vietnam war, Navy officers say, Soviet trawlers persistently cut in front of U.S. carriers trying to swing into the wind to launch bombing missions.

On Feb. 28, a secret U.S. message warning Navy commanders not to provoke their Soviet counterparts also advised that showing "timidity or deference" in the face of Soviet harassment was "inappropriate," according to a U.S. official.

Once a small and simple coastal defense force, the Soviet navy has grown in the past 15 years into a global armada from the Caribbean to the Baltic to the northern Pacific.

Because the oceans aren't getting any bigger, as American officers like to point out, the chance of contact between the fleets has increased. Last week, for example, the Soviets had 45 navy ships in the Mediterranean and the United States 28, according to Pentagon figures.

Frequently, the encounters are calculated. In addition to using each other as unwitting partners in naval exercises, both sides also spend a great deal of time and effort shadowing one another for intelligence-gathering purposes. Some Navy aviators allege that they have become friendly enough with Soviet fliers to exchange addresses and become pen pals.

Among more serious recent encounters, according to defense sources:

On the night of March 21, 1984, a Soviet Victor I-class submarine shadowing the aircraft carrier USS Kitty Hawk in the Sea of Japan rose to periscope depth and was run over by the 80,000-ton carrier.

The collision punched a $2 million hole in the carrier's bow that was patched with a concrete plug at the U.S. base at Subic Bay in the Philippines. Workers found pieces of the submarine's propeller imbedded in the Kitty Hawk's hull.

The sub, with a "diagonal crease across its hull," limped home to Vladivostok under Soviet escort at 2 mph. Although the fate of the submarine commander is unknown, the senior U.S. official speculated that the blunder was "non-career-enhancing."

In a previously unreported incident Feb. 18, 1984, the destroyer USS David R. Ray was in the Black Sea near Novorossiysk, U.S.S.R., when a Soviet plane fired cannon rounds into the ship's wake and a Soviet helicopter swooped within 30 feet of the deck while taking photographs of the destroyer.

Although the U.S. ship did not feel threatened, the Soviet action "is considered a violation of the spirit of the Incidents at Sea agreement," according to U.S. documents.

On Oct. 31, 1983, the frigate USS McCloy was towing a sonar listening device on an underwater sled west of Bermuda when suddenly the cable went slack. On Nov. 2, a P3 flying out of Jacksonville, Fla., spotted a new Soviet Victor III-class nuclear submarine, longer than a football field, barely moving on the surface toward Cuba.

Navy officials believe that while the submarine was shadowing the McCloy, the sonar cable got snarled in the submarine's propeller. Although the damaged sub took away some of the cable, the United States got both close-range acoustical data and "great photos of the sub on the surface," one officer said, adding, "I'd say we got the better part of that deal."

On Nov. 17, 1983, the destroyer USS Fife and the Soviet guided-missile frigate Razyashchy collided in the Arabian Sea, leaving two 15-foot "scuff marks" on the Fife. The destroyer had been maneuvering with the aircraft carrier USS Ranger and was being shadowed by the frigate, which had earlier barely missed colliding with another American ship.

On April 2 this year in the South China Sea, the frigate USS Harold E. Holt was shadowing the Soviet carrier Minsk. When the Holt disregarded a request from the Minsk to stand clear, the Soviets fired eight flares, three of which hit the U.S. ship.

"Probably we were as much at fault as the Soviets on that one," a senior U.S. official acknowledged.

Navy officials draw a distinction between incidents that result from either overzealous or incompetent seamanship and those that appear politically motivated, such as the harassment of U.S. ships searching for the downed Korean Air Lines Flight 007 last year.

Soviet ships periodically sliced in front of the American vessels, disrupting the search patterns in what U.S. officials believe was obnoxious behavior directed from Moscow.

"Except for the Sea of Japan period, which covered the KAL 007 recovery efforts, if you take that period out, the number of incidents has really decreased," a U.S. official said. "Each year we've seen basically a decrease."

Despite the increasingly crowded seas, the number of potentially dangerous incidents has declined from more than 100 in one year in the late 1960s to about 40 in the past year. Roughly half of those were considered provocative enough for the United States or Soviet Union to summon the other's naval attache to complain formally, as the Pentagon did after the drone episode last month.

When the incidents are considered in greater detail at the annual Incidents at Sea meetings, both sides come armed with photographs and videotapes in an effort to prove their cases, like nautical barristers.

"When we may be in error, that's recognized, as [it is] when they may be in error," a U.S. official said.

*Mea culpas* notwithstanding, the odds of collecting cash damages for maritime blunders are virtually nil, according to Pentagon officials.

When asked if Moscow had been asked to pay the $2 million repair tab for the Kitty Hawk this spring, one officer shrugged, "If we presented them with a bill, they would just throw it out."

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### Testimony of Senator John Warner

Mr. Chairman and Members of the Committee: I deeply appreciate the opportunity to testify before you today on a vital topic confronting the leadership of both the United States and the Soviet Union.

Any possibility of a nuclear confrontation between the great powers is justifiably the source of growing concern to the peoples of the world, especially American and Soviet citizens.

To seek technically feasible and politically acceptable means for reducing the risks of such a confrontation is an obligation of great importance to all. It is encouraging to see both public and private support growing daily for means to reduce tensions.

I do not intend to imply that the responsibility of the Legislative branch in any way intrudes on the prerogatives and authority of the Executive branch. The Constitution clearly defines the President's authority in such areas. But Congress does have a duty.

The Soviet Union is well aware of the workings of our government and the interactive roles of the Legislative and Executive branches. They understand the implications of Congressional support or lack thereof. A case familiar to all was that of the SALT II Treaty ratification process.

Today, the United States and the Soviet Union live in an increasingly troubled world. Nuclear technology is proliferating. Terrorism, sometimes state supported, is proliferating. Concurrently, conflicts in the Third World offer tempting opportunities for exploitation which, in turn, often lead to superpower involvement.

The cumulative impact of these trends is an increasing risk occasioned by the ever-increasing number of scenarios which could spark a nuclear confrontation between the Soviet Union and the United States.

For example, a terrorist group might acquire a nuclear weapon through crude fabrication, theft, or allege falsely possession of such a weapon. Such power in the hands of terrorists or a rogue national leader could be used for extortion, revenge, blackmail, confrontation or conquest. Terrorists might be tempted to use a nuclear weapon in a manner which would lead a superpower to believe the other had initiated such an action. While the probability of such an event today may be limited, the potential for this class of incidents is growing.

About twenty months ago, our late colleague, Senator Scoop Jackson, along with Senator Sam Nunn and I, were exploring areas in which steps might be taken to reduce the risk of nuclear confrontation through mistake or miscalculation between superpowers. We felt that promising prospects are to be found in the area of what is termed Confidence Building Measures.

One of our first legislative actions on this subject resulted in proposals to upgrade the so-called "hotline" to provide high speed data and facsimile transmission using modern equipment. As you may know, the equipment in that system is installed, among other places, in an unimposing small room in the Pentagon. I was briefed there recently and can represent that it still consists of a very basic, early 1960's vintage equipment, unchanged from that present when I served in the Pentagon in the early 1970's.

The Administration, part on its own initiative and part as an outgrowth of our legislation, is now undertaking to modernize the existing (hotline) scope of communications in the existing facilities. Further, they are holding discussions with the Soviets, at a technical working level, to explore expanding the scope of communications and other matters as recommended by the Secretary of Defense in his report to the President on Confidence Building Measures.

Following our legislative initiative, the working group mentioned earlier by Senator Nunn was formed. The group, after studying the issue for nearly a year, concluded that the creation of centers devoted to the reduction of nuclear risk had substantial merit. I believe that our report has been provided to the Committee and I would ask that it be included in the record of today's events.

Such centers, located both in Moscow and in Washington, would maintain a 24 hour watch on any events with the potential for nuclear crises. Such centers would have a far more extensive communications capability than exists today, and could include liaison officers, Soviet and American, working jointly in each center.

It is our view that the establishment of these Nuclear Risk Reduction Centers could significantly reduce the level of risk and confrontation in the event of a nuclear incident. We foresee a range of useful functions they would carry out on a daily basis to counteract potential threats of nuclear weapons (actual or alleged) in regional conflicts.

Beyond that, they would serve as invaluable arenas for the type of interpersonal and official communication so vital to building understanding and confidence in the intention and ability of each government to reduce tensions and avoid nuclear confrontation.

Senate Resolution 329 is an extremely important expression of the support of the Senate for the expansion of Confidence Building Measures in general and the establishment of Nuclear Risk Reduction Centers in particular. I believe it is a measure that should enjoy wide support.

During 1970 and 1972 I was privileged, as a member of the Navy Secretariat, to serve as the principal negotiator, and eventual U.S. signatory, on the Incidents at Sea Agreement. The pact between the United States and Soviet Navies has been effective in reducing tensions, confrontations, and accidents between our respective naval forces operating on the surface and in the air over international waters.

In the beginning there was little hope of achieving this agreement, the first of its type in naval history. Through perserverance and a desire of each government to act in its own self-interest, we succeeded. There are some parallels between this achievement and the goals set forth in Resolution 329.

Mr. Chairman, members of the Committee, I thank you for inviting me to address this critically important topic and urge my colleagues to join on this resolution.

Mr. WARNER. Mr. President, I yield to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, as an original cosponsor of this resolution, I rise in strong support.

How can we—the United States, the Soviet Union, the world—avoid nuclear war? The very existence of nuclear weapons on both sides capable of surviving a first strike has deterred either side from choosing to use nuclear weapons. Our hope, our prayer, and our determination is that both sides will continue to be deterred. Indeed, in the opinion of most, a premeditated nuclear attack by either side is not the most likely path to nuclear war.

The most likely path is through a sudden, unanticipated crisis; a Soviet-American confrontation which could generate such tension and fear that nuclear war could result. In 1914, a relatively minor incident, the assassination of an archduke in the Balkans, escalated into a world war. The First World War resulted from miscalculation, misunderstanding, and bureaucratic confusion. It could happen again.

Deterrence and arms control both require confidence in some measure of human rationality. But rational actors, by definition, will not resort to nuclear war. What we are talking about today is irrationality. Crisis control alone deals with the irrational and falliable nature of mankind.

The unexpected, accidental, or irrational paths to nuclear war are too numerous to list. State terrorism—Colonel Qadhafi's Libya—could unleash a nuclear explosion. Subnational terrorists—a PLO faction perhaps—could steal a weapon. Religious fundamentalist groups—the Moslem Brotherhood, for example—could use a nuclear weapon as blackmail. The list goes on.

In fact, I first became aware of this threat and our vulnerability during a series of 14 classified hearings in 1980 on the geopolitics of oil that I vice chaired with the late chairman of the Energy Committee, Senator Henry Jackson.

If an unexplained nuclear explosion occurs, both the United States and Soviet Governments will be under enormous pressure to react. Was the bomb exploded by a third nation, a terrorist group, or the result of an accidental missile launch? Or has one side intentionally launched the first of a wave of nuclear strikes?

It would be the ultimate tragedy if world war III—very likely the final world war—were triggered by mistake. If there is any way to avoid it, we must.

The establishment of nuclear crisis centers in Moscow and Washington is one way to reduce the chances of accidental nuclear war. That we do not now have the capability to communicate quickly and fully with the Soviets today is tantamount to negligence. We must remedy this situation.

Nuclear crisis centers in each capital, linked by the most sophisticated communications systems, could serve a variety of risk-reduction and confidence-building functions. The crisis centers could:

Establish a set of technical procedures which the U.S. and U.S.S.R. would carry out before or during crises to defuse tensions; the KAL 007 tragedy might have been avoided in this way;

Adopt procedures for coping with unexplained nuclear detonations; such procedures could signal peaceful intent in times of heightened expectation of war; these are known as "Hands Off Holsters" signals;

Maintain close superpower contact during nuclear threats by third parties or terrorists; and

Exchange information on nonproliferation safeguards, nuclear doctrines, and force structure.

Senate Resolution 329 urges the President to add nuclear crisis centers to the agenda of United States-Soviet negotiations. Indeed, the nuclear crisis center could be the proposal that would break the logjam in our discussions with the U.S.S.R. If the President meets with President Cherenko in the near future, I would hope, since it is so clearly in the mutual interests of both countries, that nuclear crisis centers would be at the top of the agenda. Establishing nuclear crisis centers is in the interest of both parties and agreement ought not be difficult to achieve. Agreement here could set the stage for discussions of more difficult issues.

Mr. President, perhaps the most likely path to nuclear war today is through a crisis that escalates out of control due to miscalculation, misunderstanding, or accident. The establishment of nuclear crisis centers is one small step that could reduce that risk.

I urge my colleagues to support this resolution.

Mr. NUNN. Mr. President, I would like to respond just briefly. The Senator from New Jersey has done an outstanding job in this area. He has been a very effective spokesman both in the Senate and out on the circuit where he has such a wide, national following. And he has stimulated a great deal of interest in this proposal and support for this proposal both here in the Senate and throughout the country. I thank my colleague from New Jersey for his outstanding leadership.

Mr. WARNER. If the Senator would yield, I would like to associate myself with the remarks of the Senator from Georgia with respect to the Senator from New Jersey. While Senator NUNN, I, and the late Senator Jackson have been working on this for some time, we welcome the contribution by Senator BRADLEY and others. The original cosponsors consisted of Senator NUNN and myself, Senator BRADLEY, Senator HOLLINGS, and Senator SASSER. Since that time a number of colleagues have joined. At this time, Mr. President, I ask unanimous consent that I be allowed to amend the cosponsors list to reflect the full list in accordance with the document I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I would like to make one other point. I do not want to hold this up. It is truly regrettable today that this vote is going to come when Senator PERCY, the chairman of the Foreign Relations Committee, must be away from the Senate, because Senator PERCY has been one of our most fervent supporters of this proposal. He has not only been a cosponsor, but he has accommodated the authors of this proposal, Senator

WARNER, myself, and Senator BRADLEY in appearing before his committee. He has spent hours and hours perfecting this proposal. He gave us the time in the committee when he had many other pressing matters. He deems this to be a very important part of a constructive dialog with the Soviet Union, and Senator PERCY deserves a great deal of credit for having this resolution in the form it is today, and for the ability of the authors to get it to the floor of the Senate. So I thank the Senator.

Mr. PERCY. Mr. President, 1 year ago I took the Senate floor to commend Senators NUNN, WARNER, and our beloved colleague, the late Henry Jackson, for the leading role they played in prompting the administration to propose a series of innovative confidence building measures with the Soviet Union, including upgrading the Hotline Communications System between Washington and Moscow.

As a result of the Nunn/Warner/Jackson amendment to the fiscal year 1983 defense authorization bill, President Reagan proposed four specific nuclear risk reduction measures to the Soviet Union:

The addition of a high-speed fascimile capability to the Hotline;

The creation of a joint military communication link between the United States and the Soviet Union;

The establishment by the United States and Soviet Governments of high rate data links with their Embassies in the capital of the other; and

Agreement among the world's nations to consult in the event of a nuclear incident involving a terrorist group.

Several rounds of talks on these proposals have been conducted, and on January 16, Secretary Weinberger announced that "significant progress" had been achieved toward an agreement on upgrading the Hotline. The Soviets have, however, been cool to the idea of establishing direct military communications links or improving embassy communications systems.

One possible initiative cited in the 1982 amendment, but not acted on by the administration, was that of establishing crisis control centers. In its April 1983 report the Defense Department did not, however, completely rule out the creation of United States/Soviet crisis control centers, noting that: "Over time, our experience with operating a JMCL [Joint Military Communications Link] might allow us to pursue the idea of a crisis control center, by indicating ways in which we could reduce the risks involved in it to an acceptable level."

On November 23, 1983, a working group on nuclear risk reduction, which Senators NUNN and WARNER had established a year earlier, released its report and recommendations. Members of the working group included Lt. Gen. Brent Scowcroft (USAF, retired), Dr. James Schlesinger, Dr. William Hyland, Dr. Barry Blechman, Rear Adm. Bobby Inman (USN, retired), Dr. William Perry, Dr. Donald Rice, and Gen. Richard Ellis (USAF, retired). In its report, the panel commended the administration for proposing the four specific confidence building measures. Nevertheless, the group faulted the administration for not embracing the concept of a United States/Soviet crisis control center, declaring that there are crucial political aspects to controlling crises which can only be addressed through more comprehensive arrangements involving the designation of particular representatives and facilities in both nations that would be assigned specific responsibilities for preventing nuclear crisis.

As a first step, the group called for the establishment of 24-hour-a-day nuclear risk reduction centers in Washington and Moscow. The centers would be directly linked to the appropriate political and military authorities in each nation, with direct communications links between the two centers. The group suggested that as a first step toward jointly manned centers, liaison officers be assigned to the counterpart in each capital.

The amendment, which is identical to Senate Resolution 329, formally endorses this proposal and outlines five possible functions which the centers could perform:

Discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

Maintaining close contact during nuclear threats or incidents precipitated by third parties;

Exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

Exchanging information about United States/Soviet military activities which might be understood during a crisis;

Establishing a dialog about nuclear doctrines, forces, and activities.

In a letter which I received in April, the State Department took note of the four confidence building measures already proposed by the administration which, in its view, would, taken together, contribute significantly to the fulfillment of the functions of a nuclear risk reduction center as described in Senate Resolution 329. In general, the letter took the position that the administration would prefer to defer adding a nuclear risk reduction center proposal to the current United States/Soviet negotiating agenda on confidence building measures until these other first steps had been more fully explored.

I fully appreciate that negotiations with the Soviets in this important area must be carefully and prudently developed. However, I strongly support the view expressed by Senator NUNN during the committee's April 4 hearing on this resolution that there are compelling reasons for concern about the ability of the two superpowers to avoid nuclear crises in the future. In light of the growing number of regional conflicts around the world, each with the potential to draw the superpowers into direct confrontation, time may well be running out if the United States and U.S.S.R. are to act in advance to put in place an effective crisis avoidance system. The urgency which I attach to acting on the nuclear risk reduction center proposal is heightened by the increasing occurrence of State-sponsored terrorism and, particularly, by current strains in the United States/Soviet relationship. In summary, I believe that the establishment of nuclear risk reduction centers could make a very positive contribution toward lessening the dangers of nuclear war, and I urge the administration to develop, in full consultation with Congress, specific proposals toward this end.

During the committee's markup of the resolution on April 10, Senator PELL proposed an amendment which added language stating that the centers should be operated under the direction of appropriate diplomatic and defense authorities. In introducing his amendment, Senator PELL stated that since the highest diplomatic skills could be involved in the operation of the center, it is important that both diplomatic and defense officials be involved in the operation of the center. In addition, Senator PELL said that he hoped the committee report on the resolution would reflect the committee's view that, since very sensitive discussions and, even, negotiations could be the responsibility of the centers, the U.S. center should be under the direct authority of the Secretary of State and that the State and Defense Departments, as well as other agencies, should assign their most qualified personnel to operate the center.

The Pell amendment makes it clear that the State Department should be fully involved in the operation of any nuclear risk reduction center established pursuant to this resolution. I would note that in his April 4 testimony, Senator NUNN emphasized that the Working Group had purposely avoided the question of which Government agency would have jurisdiction over the center, believing that this decision would have to evolve in the course of negotiations both in the Government and with the Soviets. However, he also said it was obvious that "you would have to have both the diplomatic elements of our governments as well as the military elements represented in some fashion." The Foreign Relations Committee respects the views expressed by Senators NUNN, and WARNER on this issue and certainly would not want to embroil the resolution in bureaucratic in-fighting that could complicate or delay implementation of the proposal. Nevertheless, the committee did express in its report on this resolution its view that were the centers assigned the range of responsibilities outlined in Senate Resolution 329, the U.S. center should be operated under the authority of the Secretary of State.

Mr. President, the Foreign Relations Committee passed Senate Resolution 329 unanimously on April 10. I commend Senators NUNN and WARNER for their leadership on this initiative and urge the adoption of this amendment.

Mr. PRYOR. Mr. President, I would like to commend this afternoon Senator NUNN and Senator WARNER for bringing this matter to the Senate. I think truly it is one of the most important things that we are doing on this military authorization bill today. And I think that certainly there is no doubt there is a danger of an accidental exchange between the superpowers, and a triggering of that attack could very well come from a third country by mistake, by accident, by miscommunication and miscalculation.

Mr. President, once again I thank the two very distinguished Senators for sponsoring this legislation, and bringing it to the attention of the Senate.

Mr. President, I am proud to be a cosponsor of this amendment, and I'd like to say that our colleagues Senator NUNN and Senator WARNER deserve a great deal of credit for their work on nuclear risk reduction. These two Senators have been pursuing a solution to this urgent danger for the past several years, and we should all be grateful for their efforts.

Prevention of nuclear war is the single most important issue which we, as national leaders, must address. Many of our constituents are terrified at the prospect of nuclear war and are demanding action; others may not be as aware of the dangers we face, and it is our responsibility to articulate the nuclear danger and assume leadership on this issue.

Our efforts must take several directions: moving away from tactical nuclear weapons, maintaining a nuclear balance that will deter an exchange, reducing the stockpile of nuclear arms, and reducing the risk of a nuclear mistake.

Let there be no doubt: There is a danger of an accidental exchange between the superpowers, and a triggering attack could very well come from a third country.

In 1979 there were 78 warnings of possible attacks, and that number has been rising. There have been two major alerts in the past 4 years, one arising from a faulty computer chip.

Possible causes of false alerts include hardware and software problems, human error, and the effects of solar activity on our electronic network. Falling satellites may be mistaken for missiles.

There is also a growing possibility of a deliberate attack from a third country. We believe that 16 or 17 countries now have a nuclear capability, and with the geometrical growth in nuclear know-how, that number could increase dramatically by the end of the century. We have all read newspaper stories of undergraduates who have designed a nuclear device with the aid of unclassified, easily available materials. This relatively easy access to nuclear technology, recent examples of irrational national leaders and a rise in religious fanaticism suggest a number of frightening scenarios which could shatter the current 40-year period of nuclear restraint.

The United States and Soviet Union have violently differing views on economic and political systems, personal freedom and geopolitical goals. But we have one thing in common: both nations are prime targets for a nuclear attack.

The progress of civilization and years of restraint have not prevented the renewed use of morally repulsive chemical weapons, and so some Third World nations may not shrink from the use of nuclear devices notwithstanding their unspeakably horrible effects. Nor is it inconceivable that a malicious and irrational movement may seek to trigger an exchange between the United States and the U.S.S.R. by, say, attacking a Soviet city in the expectation that the Soviets would automatically retaliate against the United States on the presumption that the attack originated in this country.

This shared danger has prompted discussions between the two nations on how to forestall this sort of terrifying possibility by establishing strategic confidence-building measures.

The amendment we are considering today praises President Reagan for his efforts in this area and endorses recommendations for further safeguards, including upgrading the Hotline, creating a communications link between the U.S. Department of Defense and the Soviet Defense Ministry, and establishing risk reduction centers in each capital.

By these means, the two countries would be able to: Exchange information about planned nuclear activities which might be subject to misinterpretation; establish procedures to follow in case of a crisis; coordinate Soviet and United States action in case of a nuclear terrorist attack; provide information on nuclear proliferation, as the Soviets have already done in at least one case; and expand to other military information sharing, such as the exchanges already taking place on ship movements and other military activities.

The consequences of a nuclear exchange are too cataclysmic to risk a mistake, and I don't believe it is possible to have too many safeguards.

President Reagan deserves high praise for his efforts to increase nuclear information sharing, and I would like to encourage him to expand our contacts with the Soviet Union at all levels. It is precisely because we distrust the Soviets that we must open up all possible lines of communication with them and try to defuse potential superpower confrontations in Central America, the eastern Mediterranean, Persian Gulf, or other trouble spots around the globe.

Mr. NUNN. Mr. President, I thank my colleague from Arkansas for his leadership on behalf of this proposal. I know he has made numerous speeches on it, and I know he generated a great deal of support, because I felt some of it myself.

Mr. President, for the benefit of my colleagues who I know need to depart, this dialog as far as I am concerned will talk about 1 more minute, and then we will be prepared to go to rollcall vote.

Mr. President, I want to particularly acknowledge the assistance of Doug Bennett, who was then the director of the Roosevelt Center, in sponsoring a working group to deliberate on this proposal, and on many other proposals that are designed to have the superpowers begin to work together to avoid the possiblity of war by accident or miscalculation. Doug Bennett exhibited great leadership in this respect, and he is to be thanked for his efforts. The other members of the group, I think, are probably the group with the highest level of governmental experience and expertise, and have the widest respect of any group I have ever been personally associated with; this group did a study. The study was a tremendous help in refining and adjusting this proposal.

The other members of the group included Gen. Richard Ellis, retired, who was at one point head of our Strategic Air Command; Mr. William Hyland, Adm. Bobby Inman, Dr. William Perry, Dr. Donald Rice, and Dr. Jim Schlesinger. I also want to particularly thank John Campbell on Senator WARNER's staff, Arnold Punaro of my staff, Bill Hoehn on my staff, and Bob Bell on Senator PERCY's staff for their superb interests in this respect. Again I want to thank my colleague from Virginia. He has already said how much he enjoyed working on this proposal. I believe as the years go by that the Senator from Virginia and I will continue to work on many other proposals, but I think we will look back on this as one that we are most proud of. I wish our colleague from Washington State could be here today, because he, too, was there at the very outset.

Mr. WARNER. If the Senator would yield, Mr. President, I express my deepest appreciation for his remarks.

Mr. NUNN. I again want to thank the Senator from New Jersey for his outstanding leadership on this. I think all of us will see as the years go by, hopefully, that this is the beginning of an idea of mutual cooperation between the two superpowers that do not have a lot to coordinate and cooperate about. But if we do not have a mutual interest in preventing war by accident or miscalculation, then there is very little hope for any kind of mutual interest. But I submit that we do.

Mr. President, I would ask for the yeas and nays.

Mr. WILSON. Would the Senator yield?

Mr. NUNN. I yield to my colleague from California.

Mr. WILSON. I thank my friend from Georgia. I have a question to direct to him and to the Senator from Virginia. Because of the enormous importance which we always attach to the success of such efforts, I must confess to a little jurisdictional jealousy. Since I do not serve on the Foreign Relations Committee, my question is, will the Armed Services Committee be holding hearings? Specifically, will the subcommittee of the Senator from Virginia be holding hearings next year to allow the Armed Services Committee the opportunity to monitor the implementation of this legislation?

Mr. WARNER. Mr. President, I assume because of the importance of this matter, the chairmen of those committees would arrange for hearings and joint jurisdiction.

Mr. WILSON. I think, given our responsibilities on the committee, that would be almost imperative.

Mr. NUNN. Mr. President, reluctantly, I suggest the absence of a quorum. We have another Senator who wants to be heard on this.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I rise today to ask for the Senate's support in adopting Senate Resolution 329 which was introduced in February of this year by Senator Nunn, Senator Bradley, and me.

The resolution was at that time referred to the Senate Foreign Relations Committee where it was favorably reported on May 3d.

The resolution expresses the support of the Senate for the expansion of confidence building measures between the United States and the Soviet Union. It urges the President to continue pursuing negotiations with the Soviets on such measures and to add to these negotiations the establishment of nuclear risk reduction centers in both nations.

In February, when I spoke to the Senate in support of the resolution, I referred to the political struggle which has existed between the United States and the Soviet Union since the end of World War II.

The differing objectives and values of the two countries will likely continue into the foreseeable future, resulting in a continuation of the competitive environment which currently exists. As I noted in February, this is an unfortunate situation; however, it is a fact.

Neither the United States nor the Soviet Union desire a nuclear confrontation. However, there are many conceivable scenarios where misjudgment, miscalculation, misunderstanding or terrorist possession of nuclear arms could lead to heightened tension or a disastrous mistake.

Proliferation of nuclear arms and increased terrorist activity throughout the world cause our greatest concern. Today, there are five nations with declared nuclear capability. The number of nations in this category could increase to more than seven by the end of this century.

The increased nuclear capability in the world, coupled with the considerable expansion in terrorist activity, represents the primary impetus for this legislation.

In 1982, my good friend from Georgia, Sam Nunn, and the late Senator Henry Jackson and I cosponsored an amendment to that year's defense authorization bill which ultimately led to Senate Resolution 329. The Defense Department, in response to that original amendment, conducted a thorough study and released a report recommending a number of improvements to present systems that would reduce nuclear risk.

The Department recommended the existing United States-Soviet hotline be upgraded with a facsimile link; that an additional communications channel be installed between the Pentagon and the Soviet Defense Ministry; that high-speed communications links be established between each Government and its Embassy in the other capital; and that there be agreement among the world's nations to consult in the event of a nuclear incident involving a terrorist group.

President Reagan endorsed these recommendations in May 1983, and initial discussions between the two nations are currently underway to establish possible areas of agreement.

In late 1982, as the Defense Department was initiating its study, Senator Nunn and I organized a nonpartisan working group consisting of highly experienced and professional authorities to conduct a further investigation of the nuclear risk reduction issue.

In November of last year, the working group submitted its report. The panel commended the administration for proposing the four specific confidence building measures but, in addition, recommended the establishment of United States and Soviet nuclear risk reduction centers.

As discussed in the Foreign Relations Committee report, there are five possible functions which the centers could perform, including:

First, discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

Second, maintaining close contact during nuclear threats or incidents precipitated by third parties;

Third, exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

Fourth, exchanging information about United States and Soviet military activities which might be misunderstood during a crisis; and

Fifth, establishing a dialog about nuclear doctrines, forces and activities.

Mr. President, this resolution expresses the Senate's support for the expansion of confidence building measures between the United States and the U.S.S.R. The resolution has been favorably reviewed by the Senate Foreign Relations Committee with one amendment, by Senator Pell, which I fully endorse.

The resolution provides a considered and positive approach to nuclear risk reduction and I would ask the Senate to support this resolution as a means of moving forward in our relationship with the Soviet Union.

Mr. BYRD. Mr. President, I congratulate the authors of this amendment, the distinguished senior Senator from Georgia, who is the ranking Democratic member of the Armed Services Committee, Mr. Nunn, and the distinguished senior Senator from Virginia, Mr. Warner, for this contribution to arms control.

It is no secret that relations between the United States and the Soviet Union have plummeted to a dangerously low level. Arms control between the two superpowers during this administration has so far resembled a barren wasteland. Vituperative and bellicose characterizations and attacks have unfortunately been the coin of the realm on the part of both the Soviet leadership and the Reagan administration for over 3 years. I am talking about both sides; not just one side, but both sides. The actions by the Soviets, directed not only at the

United States but at the world community at large, have been the height of irresponsibility for too long—they continue their barbaric occupation of Afghanistan, they have awarded a medal to the Soviet fighter pilot—imagine that—they have awarded a medal to the Soviet fighter pilot who shot down an unarmed Korean airliner, they have engaged in a series of foolish and dangerous brushes with U.S. naval warships on the high seas, they have continually violated the waters of neutral nations like Sweden with submarines, and they continue to keep the level of tension in the European theatre high by announcing the implacement of medium-range missilry in East Germany and Czechoslovakia.

In connection with the shooting down of the Korean airliner, Mr. President, it is no secret—everyone knows this—that the Soviet Union refused to let our ships and the ships of other countries into the suspected waters so that the search might go forward for the wreckage and for the bodies and for the "black box" that would have told the world what the facts were with reference to the tragic shooting down of that unarmed airliner.

I do not recall that the Soviets issued any apologies to the families of the persons who were shot down. I may be wrong in that, but at least that is my recollection that they did not. And they did not offer to pay, and, as a matter of fact, I think they rejected the suggestion that they pay any compensation to the families of the victims.

They continue to attempt to bully NATO, as is evident in the statement by Soviet Defense Minister Dmitri Ustinov on May 20, 1984. He announced the continuation of deployment of their Soviet medium-range ballistic missile, the SS-20, targeted at Western Europe. Furthermore, he stated that the Soviet Union had increased the number of missile-carrying submarines deployed off the coasts of the United States. It is puzzling, indeed, to decipher what the Soviet Government thinks it will gain by these tactics of intimidation.

The Soviets are a brutal adversary. Since we inhabit the world together, and since we both possess the means to destroy the world with our nuclear weaponry, we must, however, do business with the Soviets. It will not advance our causes, and it will not infuse our allies and our friends with confidence, merely to ape the Soviets and match bellicosity for bellicosity. Many of our colleagues believe the Reagan administration has done little to advance the cause of businesslike arrangements in the field of arms control by its incessant rhetoric about the Soviet menace. So we have rhetoric for rhetoric, both sides contributing to the poisoning of the atmosphere in such a way that meaningful discussions are most difficult to come about. And so there is certainly a case to be made that this administration has not pursued the achievement of arms control agreements with the businesslike determination that the subject deserves, and the administration has contributed heavily, as I have stated, to the poisoning of the international atmosphere.

It is for this reason that this amendment is to be welcomed. It is perhaps not going to alter the state of relations with the Soviets dramatically or overnight. But it focuses on an extremely important aspect of the situation that now prevails between the leadership of the superpowers—the importance of reducing the potential for misunderstandings about the activities of the other party, and the need for immediately available communications to forestall hostile actions which might result from such misunderstandings.

I would note, Mr. President, that along with Senators NUNN and WARNER, the late distinguished Senator from the State of Washington, Mr. Jackson, was an author of the original legislation in 1982 which started the ball rolling on this updating of our communications links with the Soviets in time of crisis. It is a measure of Senator Jackson's wisdom that he saw the great need for reducing misunderstandings—misunderstandings which could result in a catastrophe no sane person desires. There have been few Senators in the history of this body who understood the nature of the Soviet threat as well and who was more skeptical about what he perceived as one-sided arms control agreements. Yet, he also knew the importance of good and fast communication in a world which could sit at the business end of a hair-trigger gun.

I also note that this amendment contains a provision calling for the establishment of nuclear risk reduction centers in Washington and Moscow which, among other things, would address the question of nuclear terrorism by third countries or parties. Regardless of the wide differences in philosophy and practice between our Nation and the Soviet Union, we should logically share a deep concern over nuclear blackmail by terrorist groups, or the use of nuclear weapons by irresponsible third powers. We must face realistically the possibility of the use of these weapons by misguided or even deranged individuals, Joint action by the United States and Soviet Union to remove such threats may be needed some day. The establishment of a mechanism to address this possibility now seems to me to be vital

This legislation, then, is a valuable and solid contribution to advancing peace in the world. It has my full support.

Mr. WARNER. I am always willing to engage the Senator from Georgia. That is a subject that might well consume the balance of the day and on into the night. In deference to the staff of the Senate that have been here since way into the night last night, perhaps as late as 3 o'clock, it may be the better part of wisdom to defer to the leadership. I think they have other plans for the Senate.

Mr. NUNN. Mr. President, I thank the Senator from West Virginia for his support of this proposal, and also I think his remarks particularly his recitation of some of the brutal actions taken by the Soviet Union, and his conclusion that both sides have used too much strong rhetoric in recent years—that in spite of our tremendous distrust of the Soviet Union, with good cause we still must communicate are very timely, and an important observation of where we stand today in arms control and in our relationships. So I thank the Senator for his important remarks, and I appreciate very much his support for this proposal.

Mr. WARNER. I also thank the distinguished Senator from West Virginia. I do believe in fairness that the President's rhetoric and other efforts have been indeed moderated in the interest of peace and stability.

Mr. BYRD. I hope so, Mr. President.

The distinguished managers are ready to proceed with other amendments on this legislation.

Mr. NUNN. I thank the Senator from West Virginia. I hope now we can go to a rollcall vote.

Mr. WARNER. Mr. President, I also express my appreciation to the Senator from West Virginia [Mr. BYRD].

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. DANFORTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arizona [Mr. GOLDWATER], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Iowa [Mr. JEPSEN], the Senator from Nevada [Mr. LAXALT], the Senator from Maryland [Mr. MATHIAS], the Senator from Illinois [Mr. PERCY], the Senator from Texas and [Mr. TOWER].

I further announce that, if present and voting, the Senator from Minnesota [Mr. BOSCHWITZ] would vote yea.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from Colorado [Mr. HART], the Senator from

Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Michigan [Mr. RIEGLE].

I further announce that, if present and voting, the Senator from Hawaii [Mr. INOUYE] would vote "yea".

The PRESIDING OFFICER [Mr. COCHRAN]. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 82, nays 0—as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—82

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dixon
Dodd
Dole
Eagleton
East
Evans
Garn
Glenn
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Helms
Hollings
Huddleston
Humphrey
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Levin
Long
Lugar
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Randolph
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—18

Andrews
Boschwitz
Danforth
Domenici
Durenberger
Exon
Ford
Goldwater
Hart
Heinz
Inouye
Jepsen
Laxalt
Mathias
Metzenbaum
Percy
Riegle
Tower

So the amendment (No. 3221) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from New Jersey [Mr. LAUTENBERG] be added as consponsors of this nuclear risk reduction amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wish to express my profound appreciation to all Senators who have joined us in the spirit of this amendment. I am optimistic that in the years to come, they will look back upon this as a first act leading toward a better understanding to reduce tensions between the United States and the Soviet Union. I hope they will feel that they have shared in this landmark decision.

Mr. President, as indicated by the leadership, there will be no more rollcall votes today. The distinguished Senator from Georgia and I will remain here until such time as necessary to handle other matters relating to this bill which have been cleared on both sides.

The distinguished Senator from Mississippi has waited most patiently throughout the morning to present his amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3222

Mr. STENNIS. I thank the Senator from Virginia.

Mr. President, in the bill as reported by the committee are two or three items which relate to our Reserve Forces concerning equipment, what we call small items of equipment: $50 million for the Army Guard, $20 million for the Air Guard, and $20 million for the Naval Reserve. Mr. NUNN and I have an amendment, which proposes to add $20 million for the Marine Corps Reserve. I call up the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. STENNIS], for himself and Mr. NUNN, proposes an amendment numbered 3222:

On page 5, between lines 4 and 5, insert the following: For Marine Corps Reserve equipment, $20,000,000.

Mr. STENNIS. Mr. President, this is part of a program of a few years whereby the Armed Services Committees of the Senate and the House have been looking at the proposition of getting more adequate small items supplied to all our reserve forces. It has proved to be, I think, a very popular and a very profitable program with respect to encouraging membership in these reserve units, to really put forth their very best. It treats them the way they should have been treated all the time, as I see it.

At one time, I described these products that we propose to buy: Give them something that still has the factory paint on it. Make them feel that they belong, that they have the best, that they have the modern weapons, rather than something that has been largely used up and worn out by the regular services.

And these matters have, as I said, continued for 2 or 3 years and proven highly profitable in the morale and they are actually needed. There are no big expensive items in it. It relates to matters like radio sets of various kinds, maintenance kits, switchboards, telephone sets, and a few machine guns here.

I am reading now from those that are proposed to go into this Marine Reserve unit.

I trust that this will receive the favorable response from the membership, Mr. President, and take its place, along with other items that are in this same program that will be taken up, of course, in conference with the House of Representatives who have an interest in some items themselves.

Mr. NUNN. Mr. President, I commend the Senator from Mississippi not only for sponsoring this amendment but for his years of being at the very forefront of pursuing diligently the kind of Reserve program that this Nation needs and deserves. To bring about that kind of program the Senator from Mississippi has been the leader on the Senate side and I think in Congress in trying to get funds for the purpose of purchasing critical items that our Reserves otherwise would not get.

Mr. President, the purpose of this amendment is to provide a modest amount of discretionary funds—$20 million—to the Marine Corps Reserve to be used to purchase critical items of equipment that, in their judgment, will provide the most military capability for the money.

The committee recommended comparable funding approval for the Army National Guard, the Air National Guard, and the Naval Reserve. Since the time the committee acted on this bill, it has learned of some particular shortages in the Marine Corps Reserve that need to be satisfied. The $20 million requested is the same amount provided to the other Reserve components. At this time, the Marine Corps Reserve is the only service for which the committee approved no specific funds. This amount will provide almost 1,000 pieces of new equipment for the Marines.

These are not glamorous items of equipment, but they are critical to day-to-day readiness of the Marine Corps Reserve. Some of the items that have come to the attention of the committee include radio sets, water distribution equipment, water purification units, and fuel dispensing systems. Again, these are not glamorous items, as I mentioned, but they are the types of equipment needed to shoot, move, and communicate. I ask unanimous consent to have printed in the RECORD at this point a list of critical items that might be purchased with the discretionary funds provided by this amendment. This list was provided by the Marine Corps and has been validated by them as unmet requirements.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1985 ADDITIONAL PMC REQUIREMENTS

| TAMCN and nomenclature | Quantity | Cost |
|---|---|---|
| A1795, Radio set, AN/GRC 193 | 42 | $1,497,972 |
| A1935, Radio set, MRC 138 | 22 | 1,078,000 |
| A2065, Radio set, AN/PRC-104 | 97 | 1,552,000 |
| A0004, Maint kit, MK-1823 | 10 | 100,000 |
| A2505, Switchboard, SB-3614 | 12 | 480,000 |
| A2635, Telephone set, TA-838 | 196 | 156,800 |
| E0994, MK-19 machinegun, 40mm | 200 | 2,000,000 |
| E0960, M249 machinegun, SAW | 300 | 915,000 |
| D1212, M936 truck wrecker, 5T | 28 | 4,934,972 |
| B2600, Water Distribution Equipment | 6 | 45,432 |

FISCAL YEAR 1985 ADDITIONAL PMC REQUIREMENTS—Continued

| TAMCN and nomenclature | Quantity | Cost |
|---|---|---|
| B2604, Water purification unit reverse osmosis | 6 | 1,128,000 |
| B0685, Fuel System, amphib assault | 2 | 2,526,000 |
| B1135, Helicopter expedient refueling system | 3 | 312,000 |
| B0675, Fuel dispensing system tac air | 2 | 1,520,000 |
| B0921, Generator set, MEP 112A | 4 | 76,000 |
| B1016, Generator set, MEP 115A | 4 | 152,108 |
| B2467, Tractor, RT, wheeled | 2 | 295,652 |
| Total | | 20,032,936 |

Mr. NUNN. Mr. President, the Marine Corps Reserve is not constrained to buy these items, as I understand the amendment, if there are equipments of higher priority in their judgment, but at least this gives us an idea of some of the critical shortages that are there.

I also commend the distinguished senior Senator from Mississippi [Mr. STENNIS] for his untiring efforts over the years on behalf of the Guard and Reserve. Much of the committee's package was at his instigation as is this amendment today. He continues to focus on this highly important area of improving Guard and Reserve capabilities, and I want to commend him for these efforts.

Mr. WARNER. Mr. President, I also wish to commend our distinguished senior Senator from Mississippi, the former chairman for many years of the Armed Services Committee, for taking this initiative. No Member of the Senate watches out for the interest of the Guard and Reserve with more sincerity and diligence than our distinguished and beloved friend from Mississippi.

If I might share in just a brief reminiscence, of events during World War II when I served in the Navy. Thereafter, I joined the Marine Corps Reserves in 1949 and eventually served in Korea with the Marines. But during the years prior to service in Korea I trained many summers with the Marines, and we used what we call hand-me-down equipment.

Mr. STENNIS. Yes.

Mr. WARNER. They were the most ragged pieces of uniforms. Even some elements of that equipment were kept by the Marines since World War I. We compensated, of course, in the Marine Corps with the spirit as we call Semper Fi. We overcame the deficiencies and I know full well from first-hand experience the needs of the Marine Corps Reserve for equipment.

The marines have had to scrounge around and get those bits and pieces they need, oftentimes, I may say, stealing it from the Navy, to provide for their Reserve training.

As Members of the Senate begin to put more and more emphasis on the Reserve and the Guard as an essential element for our readiness posture in national defense and indeed my distinguished colleague from Georgia and myself time and time, joined by Senator STENNIS and others, have taken initiatives to strengthen the Guard and Reserve, including, of course, the Marines.

This is a particular important piece of legislation. I commend my dear friend from Mississippi for this initiative. This side accepts it.

Mr. STENNIS. Mr. President, I certainly thank the Senator from Virginia for his remarks and those of Senator NUNN. They both contributed to these programs, and I think that it spells out in part that we are going to have to turn to and should turn to these Reserve units more and more. Their assignments will be more and their recognition and their supplies will be more.

I thank both Senators.

Mr. WARNER. I just have one clarification to my distinguished colleague from Mississippi. It is the understanding that the equipment sought with this authorization will be restricted to the list enumerated by the distinguished Senator from Mississippi and the distinguished Senator from Georgia. Is that correct?

Mr. STENNIS. Yes. That is the general purpose of listing it here. The Senator from Georgia put the final touches on this list I am sure. He will respond to that.

Mr. NUNN. Yes. The list we have came from the Marine Corps. I used the word "discretionary." I do not mean that to imply that they could go beyond the list that we have attached here to be part of the report, but they could decide on the number of items within that list and would not have to spend the money in the exact accordance with the way we have multiplied the number of items times the funds per units.

Mr. WARNER. I thank the Senator from Georgia for that clarification, joined in by the Senator from Mississippi.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Virginia [Mr. WARNER] be added as cosponsors of the amendment relating to Marine Reserve equipment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Mississippi.

The amendment No. 3222 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, last evening I offered an amendment which was accepted relevant to small business set-aside, and I inadvertently misstated one aspect of it in response to a question from my friend from Georgia who was floor managing the bill for the minority, and we are working on a clarifying colloquy which I will offer on Monday, but I did want to alert any readers of the RECORD that there was an inadvertent misstatement by myself last night of one portion of that particular amendment on the small business set-aside, and I thank my friends for their understanding of this, and we will get back to it on Monday.

Mr. NUNN. I thank my colleague from Michigan and I recall the dialog we had on that, and it may be an important item, as far as the Small Business Committee is concerned. I look forward to continuing the dialog in that so we can clarify the RECORD on Monday.

Mr. President, we have a provision in this bill that relates to the construction of military vessels or major components of military vessels in a foreign shipyard.

Senator TOWER and I have discussed this at length. We have a couple of key questions in interpretation of this provision that we have dicussed in the committee.

Mr. TOWER. Mr. President, Congress has long been concerned about maintaining an adequate shipbuilding capability in the United States. This concern was formalized in the Defense Authorization Act, 1983 which amended chapter 633 of title 10, United States Code, by adding section 7309 to prohibit the construction of a U.S. naval vessel or the major component of the hull or superstructure of a U.S. naval vessel in a foreign shipyard.

A provision in the fiscal year 1985 defense authorization bill reported by the Senate Committee on Armed Services would expand the scope of this prohibition to include all U.S. military vessels. The majority of the committee believed that the intent of Congress was that tall major U.S. shipbuilding efforts by the Department of Defense should be undertaken in American shipyards. The use of the term "military vessel" would clarify the intent of Congress. If the provision recommended by the committee is enacted. The major shipbuilding efforts of each military department, not just those of the Department of the Navy, would be covered by this restriction.

Section 7309 does, however, provide that the President may authorize exceptions to this prohibition when he determines that it is in the national security interest of the United States to do so. There is one aspect of a possible Presidential determination of U.S. national security interest that should be clarified, and that relates to the goals of enhancing the rationalization, standardization, and interoperability of the military forces of the North Atlantic Alliance.

I know of no one in the U.S. Congress who is more knowledgeable or who has taken greater interest in the policies and programs of NATO than the distinguished ranking minority member of the Senate Committee on Armed Services, Senator **Nunn**. In particular, Senator **Nunn** has consistently played a critical role in improving NATO defense cooperative efforts.

In fact, Senator **Nunn**, in cooperation with our former colleague, Senator John Culver, is responsible for the two major congressional policies on NATO defense cooperation. The Culver-Nunn amendments of 1976 and 1977 put the Congress clearly on record as favoring efforts to enhance NATO rationalization, standardization, and interoperability.

The 1976 amendment states in part:

> It is the policy of the United States that equipment procured for the use of personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty should be standardized or at least interoperable with equipment of other members of the North Atlantic Treaty Organization. In carrying out such policy the Secretary of Defense shall, to the maximum feasible extent, initiate and carry out procurement procedures that provide for the acquisition of equipment which is standardized or interoperable with equipment of other members of the North Atlantic Treaty Organization whenever such equipment is to be used by personnel of the Armed Forces of the United States stationed in Europe under the terms of the North Atlantic Treaty.

With respect to the prohibitions on foreign construction of U.S. vessels contained in section 7309 of title 10 and the President's authority to authorize exceptions when he determines that it is in the national interest to do so, it is the view of this Senator that the Culver-Nunn amendments would justify a Presidential determination on the grounds of enhancing NATO rationalization, standardization, and interoperability.

I would like to ask the Senator from Georgia if he shares this view.

**Mr. NUNN.** Mr. President, I appreciate the opportunity to clarify this important issue.

I fully agree with the views of the chairman of the Committee on Armed Services. You quoted that crucial policy statement enacted by the 94th Congress regarding standardization and interoperability in NATO. I would only add that it took us a second year to add the following provision to law which is crucial to our purposes here today:

> (2) Whenever the Secretary of Defense determines that it is necessary, in order to carry out the policy expressed in paragraph (1) of this subsection, to procure equipment manufactured outside the United States, he is authorized to determine, for the purposes of Section 2 to title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a), that the acquisition of such equipment manufactured in the United States is inconsistent with the public interest.

As the distinguished chairman will recall, this paragraph was inserted in order to make it perfectly clear that interoperability and standardization in NATO procurement would be in the national interest and would be sufficient reason for exclusion under the so-called Buy America Act.

Section 7309 of title 10, and the amendments thereto proposed in this bill, parallel the Buy America Act. It is important to note that rationalization, standardization, and interoperability [RSI] in NATO is no less critical now than it was in 1976 when we first passed the Culver-Nunn amendment. NATO's defensive capabilities could be substantially improved by an expanded and more dedicated RSI effort. The duplication of effort in NATO and current lack of interoperability wastes resources committed to defense by NATO member states.

NATO collectively continues to outspend the Warsaw Pact, but we don't achieve the maximum capability for the dollars expended because of continuing inefficiencies, too often bred by sentiments of local protectionist ones, that impede RSI efforts must be put aside if the alliance is to provide a credible conventional deterrent.

Given the importance of NATO RSI, a Presidential determination to except the prohibitions of section 7309 of title 10 on the basis of fulfilling NATO RSI goals would clearly meet the criterion of being in the U.S. national interest. Since 1978, the Congress has set a precedent for such a determination by providing for exceptions to various Buy America restrictions when the goals of NATO standardization and interoperability would benefit.

Mr. President, I thank Senator **Tower** for raising this important issue and for providing me the opportunity to present my views.

**Mr. TOWER.** Mr. President, I fully concur with the remarks of the Senator from Georgia. I appreciate his clarification of this issue, and I laud his continuing efforts to strengthen the North Atlantic Alliance.

**Mr. WARNER.** Mr. President, I thank the distinguished Senator from Texas.

It is my understanding that the final matter that we will now cover is an amendment to be offered by the Senator from Virginia relating to the housing allowances for military and the members of the clergy.

### AMENDMENT NO. 3223

(Purpose: To clarify congressional intent with respect to the tax treatment of basic allowance for quarters and basic allowance for subsistence, and any rental allowance provided to ministers)

**Mr. WARNER.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Virginia [Mr. **Warner**] for himself and Mr. **Helms** and Mr. **Exon**, proposes an amendment numbered 3223.

**Mr. WARNER.** Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

> On page 54, between lines 14 and 15, insert the following new section:
>
> CLARIFICATION OF TAX TREATMENT OF CERTAIN ALLOWANCES
>
> Sec. 160b. (a) (1) Chapter 7 of title 37, United States Code, is amended by adding at the end thereof the following new section:
>
> **"§ 431. Tax treatment of basic allowance for quarters and basic subsistence allowance**
>
> "In determining whether any deduction allocable to basic allowance for quarters (including any variable housing allowance, station housing allowance, or similar allowance) or basic subsistence allowance is allowable under the Internal Revenue Code of 1954, such allowance shall not be considered as exempt from income taxes.".
>
> (2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:
>
> "431. Tax treatment of basic allowance for quarters and basic subsistence allowance.".
>
> (b) For the purposes of determining whether any deduction allocable to any rental allowance paid to a minister of the gospel as part of the compensation of such minister is allowable under the Internal Revenue Code of 1954, such allowance shall not be treated as exempt from income taxes.

**Mr. WARNER.** Mr. President, I ask unanimous consent that the cosponsors of this amendment be Mr. **Helms** and Mr. **Exon**.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. WARNER.** Mr. President, I am offering this amendment in order to clarify and make explicit the longstanding intent of Congress regarding the tax treatment of tax-exempt allowances for housing and subsistence which are paid to our service personnel and rental allowances for parsonages which are paid to ministers.

The Treasury Department recently approved and then delayed until January 1985, implementation of a revenue ruling that would require members of the clergy to reduce their deductions for tax-deductible housing expenses to the extent that they are covered by tax-free allowances.

Mr. President, I believe they made an incorrect analysis in that case and now appear to be on the verge of extending it to a group of Americans that are watching the debate on this bill with great interest.

As many of my colleagues fully appreciate, the Internal Revenue Service is currently considering extending that ruling to our military personnel.

Language approved by the Senate for the Budget Deficit Reduction Act, if accepted in conference, would have delayed implementation of any such ruling for both groups until 1986.

Unfortunately, even if the conference committee had accepted the Senate's position, we would still be doing a disservice to millions of our service people and ministers who are waiting resolution of this matter.

The amendment I offer today addresses the plight of these two groups who are so vital to our society.

I fully support maintenance of the status quo for them; not because a benefit is justified—it is—but because it is demonstrably more cost effective for the Government.

In the case of the ministers, their salaries and allowances are paid by the tax-deductible contributions of the members of their respective congregations.

Any loss to the minister due to additional taxes he must pay as a result of Revenue Ruling 83-3 will inevitably be made up by increased contributions from members of the congregation.

Those contributions are, of course, deductible.

Since each increment of increase paid to the minister will be taxable, the before-tax contribution will exceed the total cut that is made up for him.

As a result, the increase in deductible contributions may well exceed the new tax revenue gained from the minister and the Treasury could experience a new loss in revenue.

Mr. President, I raise this issue today, on this bill, because I consider the situation urgent for our uniformed service members due to the frequency with which they move and face rent-or-buy decisions.

For that reason, any delay seriously exacerbates their concerns.

Career-service members must consider tax treatment of their allowances when they are reassigned and forced to make a rent-or-buy decision.

Literally hundreds of these decisions are being made daily.

Without a prompt resolution of this issue, the men and women of our Army, Navy, Marine Corps, Air Force, and Coast Guard must assume the worst.

Secretary Weinberger recently wrote Secretary Regan and pointed out this fact.

He also noted that this particular benefit issue, unlike any other under current consideration, would have immediate impact on take-home pay.

The more than 272,000 current military homeowners would suffer a permanent pay cut of from 4 to 6 percent, depending on many individual factors.

Those faced with a rent-or-buy decision in the future would also face that cut if they buy.

That can only be a powerful disincentive to homeownership for them.

For some current homeowners it could, literally, mean bankruptcy.

Recently, I asked the Department of Defense for their assessment of the impact if such a revenue ruling is implemented for our military personnel.

General Chavarrie's reply indicates a significant, negative impact on morale and retention.

Mr. President, I ask unanimous consent that my question and General Chavarrie's answer be printed in the RECORD at this point.

I also ask unanimous consent that Secretary Weinberger's letter to Secretary Regan be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### IMPACT OF PROPOSED DEDUCTION DISALLOWANCE

QUESTION. Gentlemen, as you know, the Internal Revenue Service and Treasury are studying a proposed Revenue Ruling which would deny otherwise tax deductible housing expenses to the extent they are covered by already tax free allowances such as BAQ. It has been reported that the Secretary of Defense has written the Secretary of the Treasury strongly opposing the proposed ruling. Please provide us with your assessment of both the near and long term impact if such a Revenue Ruling is implemented.

Answer. We foresee significant near term and long term impact. Morale, retention, and the budget would all be affected. This action would have a devastating financial impact on the persons directly affected. The significant loss of take-home pay which these personnel would suffer would undoubtedly lower their morale and, for many, could be the deciding factor in choosing not to remain in military service. Further, the effect of this action will extend well beyond those directly affected, ranging from those persons not now homeowners, who will perceive that homeownership has become economically infeasible, to those who will view it as a general assault on military benefits.

We would expect an immediate adverse impact on retention. Though the effect is difficult to quantify, we estimate that the career force could be reduced by up to 9,000 members within five years after the limitation goes into affect, as compared to what the career force would otherwise be. The adverse retention effect of this ruling will be proportionally greater for senior NCOs and petty officers who are eligible for retirement, since they are more likely to own homes and to be in higher tax brackets than other members of the enlisted force and tend to be more responsive to pay changes than for those approaching 20 years of service. To the extent that retention is reduced, it will be necessary to recruit additional entry level personnel to replace the lost careerists. In the environment which we face now of an improving economy and a declining youth population, making our recruiting objectives could prove to be very difficult. The retention effect on our officer community could be even worse than for career enlisted. Since officers are proportionally greater homeowners and would suffer the greatest financial loss under this ruling, we can expect many to leave military service.

We can estimate the financial impact on military homeowners. Approximately 270,000 servicemembers live in homes they own and would be adversely affected by the revenue ruling. The disallowance of deductions for interest and property taxes to the extent of housing allowances would effectively cut their pay by an estimated 4 to 6 percent. Of these, 80 percent are in pay grade 0-3 or lower. For example, a typical homeowner in grade 0-3 in San Antonio, Texas, would have a pay cut of $1,213 per year. An E-7 in Washington, D.C., would lose $1,054. We estimate the total pay loss to be $320 million. The greatest share of this loss is in grades 0-5 ($40M), 0-4 ($45M), 0-3 ($40M), E-7 ($40M), and E-6 ($35M).

Because of equity considerations and the potential impact on retention, these losses in take-home pay may need to be restored. Thus, the potential budget impact results from restoring the pay of affected personnel to the pre-disallowance level. We estimate the cost of restoring the take-home pay of those members affected to be approximately $1.1 billion. Restoring pay would be accomplished by raising housing allowances. The allowances would have to be raised for those who rent as well as the members who purchase their homes. Because it may be unworkable to make a direct reimbursement for the take-home pay loss to those members affected, the most practical and cost-effective solution may be to authorize the deductions explicitly for mortgage interest and property taxes which military homeowners can presently take.

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THE SECRETARY OF DEFENSE,
*Washington, DC, February 15, 1984.*

Hon. DONALD T. REGAN,
*Secretary of the Treasury,*
*Washington, DC.*

DEAR DON: Thank you for your letter of January 12, 1984 concerning possible action by the Internal Revenue Service to deny deductions for home mortgage interest and property taxes paid by members of the armed forces who receive tax free housing allowances.

I appreciate your willingness to involve the Administration in what was perceived by some as an issue within the Internal Revenue Service's enforcement authority. I appreciate also your determination to preclude enforcement of any decision adverse to military members that would affect mortgage interest and property taxes paid before January 1, 1985. These actions will meet the immediate concerns of most servicemembers who could have been adversely affected by the Internal Revenue Service position on this matter.

For two reasons, I remain concerned, however, that the Administration must resolve this issue promptly. First, there is my concern for the career servicemembers who must consider this issue when they are forced to make a decision to rent or buy a home upon reassignment. Hundreds of these decisions are being made daily, and a lengthy period of issue resolution may only serve to emphasize the fact that the Government presently does not adequately reimburse military families who move pursuant to Government orders. Second, there is no current military compensation issue that more directly affects the career force. This issue affects today's take-home pay. Thus, the issue has an immediacy that future benefits such as retirement pay will never assume.

So if we could resolve this issue by midsummer this year it would be very helpful—but, of course, better the present situation than the wrong resolution! The Defense staff and I will be pleased to help in any way you think would be useful. We look forward to our discussions with you and your staff.

Sincerely,

CAP.

Mr. WARNER. Mr. President, those of us who have worked with military compensation for many years are well aware of the concept of a total compensation package.

The Armed Services Committee under the leadership of the distinguished Senator from Mississippi, and then under the leadership of the distinguished Senator from Texas, has worked to establish a compensation package for military personnel which equates to what they might expect if they chose a career in the private sector.

That effort is dramatically apparent in the quality of individuals coming into the military today and in the higher retention rates the services presently enjoy.

Revenue rulings dating back at least to 1955 and a 1925 court of claims case uphold the current tax treatment of the allowances in question here.

My amendment does not create any new benefits or add any additional costs to this bill.

It merely serves to make explicit the longstanding intent of Congress for our service people and clergy.

It will also have the added benefit of removing the strain of not knowing the outcome of this attack on their compensation.

The proposed revenue ruling has been hanging over their heads like the "Sword of Damocles," an impending disaster for those individuals and, indirectly, to military readiness.

Mr. President, the Congress has provided tax advantages for military allowances for many, many years as an intended part of the total compensation package for our military personnel.

They provide a very efficient and cost effective means to offset some of the hardships of military service.

A servicemember's entitlements are comprised of pay and allowances.

Pay is defined as "basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances."

Military allowances are not considered compensation for services rendered.

Congress closely examines military compensation every year to ensure fairness to our service people and the taxpayers.

The IRS has long respected this practice.

The tax advantages accruing to military allowances may appear to be anomalous to some tax accountants, but in fact, there is a clear history of executive, judicial and legislative approval for them.

Housing allowances, in various forms, have existed for the military since before the Civil War.

These allowances were determined to be nontaxable in 1925.

The IRS adopted the position of the Court of Claims decision and issued Treasury Decision 3724 which announced as policy the nontaxable nature of allowances for quarters.

The current Basic Allowances for Quarters [BAQ] was created as an entitlement by section 302 of the Career Compensation Act of 1949.

Variable Housing Allowance [VHA] was added recently through the efforts of this body to more equitably target regional variations in housing expenses.

The importance of providing housing for the military is seen in the judicial attitude concerning their right to publically provided quarters.

The Supreme Court has said:

> Quarters are expected to be furnished by the Government . . .; When it cannot thus furnish, it allows them to be obtained otherwise and pays a monthly compensation therefor called commutation.

The Court of Claims has gone even further by stating:

> Public quarters . . . (is) are as much a military necessity as the procurement of implements of warfare or the training of troops.

The court added:

> Military quarters . . . are no more than an integral part of the organization itself.
>
> They are . . . the indispensible facilities for keeping the Army intact.

BAQ, by statutory definition, is not considered a part of a servicemember's pay.

BAQ is paid to an eligible member regardless of its resultant or intended use.

Thus it is a statutory entitlement to a fixed sum of money unrelated to any actual expenses incurred for private quarters.

The judicial attitude that an allowance for quarters is for the benefit of the Government and not the individual, explains, in part, the favorable tax treatment of such allowances.

The strongest indication of congressional intent regarding this tax treatment is found in the statutory definition of Regular Military Compensation [RMC]:

> "Regular compensation" or "regular military compensation [RMC]" means the total of . . . basic pay, basic allowance for quarters (including any variable housing allowance or station housing allowance), basic allowance for subsistence: and Federal tax advantages accruing to the aforementioned allowances because they are not subject to Federal income tax.

This definition of RMC makes it clear that Congress intended the allowances to receive favorable tax treatment.

The tax benefits allowed for these allowances are, no doubt, a recognition of the fact that the military housing situation is unique.

The military member must occupy adequate public quarters, when available, or forfeit his allowance.

He can receive BAQ and VHA only when the Government has failed to provide those quarters.

Military personnel are frequently required to move involuntarily, with no compensation for real estate expenses, a benefit commonly available to employees in the private sector in similar circumstances.

They may be required to relocate to high-cost areas, such as the Washington metropolitan area, where they find little or no government housing available for them.

Their moving expenses are generally not fully reimbursed.

They face frequent and prolonged family separations.

Their working conditions are frequently hazardous.

They live each day knowing they may be called on with little notice to combat areas where they will be expected to risk their very lives for us.

Tax advantaged allowances such as the basic allowance for quarters and the variable housing allowance, allow us to address the special housing needs of our military personnel in the most cost-effective manner.

With separate allowances, as opposed to basic pay, the needs and even variations in costs from region to region can be targeted.

Making such allowances tax free reduces the amounts Congress must appropriate to provide fairly for the targeted expenses.

The Department of Defense estimate to restore take-home pay of those affected is $1.1 billion.

This is because any raise to restore their losses would have to be paid across the board to homeowners and renters alike.

Yet the offsetting gain to the Treasury would only be about $300 million.

The proposed revenue ruling would then mean a net loss to the Treasury of $800 million.

The most insidious aspect is already in effect.

Just the threat of this loss of part of their compensation is having an adverse morale impact on our service people.

For the men and women of our uniformed services, this is one more glaring example of erosion of their benefits.

Moreover, they view it as an attack on one of the most fundamental and long-standing aspects of their total compensation package.

The resulting influence on retention, and eventually readiness, is bound to be negative.

What will it cost us to recover from that?

Mr. President, we have historically sought comparability in total compensation for our military personnel.

Revenue ruling 83-3 would destroy that carefully constructed comparability by telling our service people that some of their take-home dollars are not as valuable as a civilian's of comparable pay, if they spend them on a home.

I urge my colleagues to continue making explicitly clear the tradition dating to 1925 that our service people deserve the existing tax treatment as a well earned and appropriate benefit, and as a uniquely cost-effective means for the Government of the United States to discharge part of its obligation to house the uniformed personnel who so steadfastly protect this Nation.

Mr. President, at this time I yield to my distinguished colleague from North Carolina [Mr. HELMS].

Mr. HELMS. Mr. President, I support completely the amendment of my good friend the able Senator from Virginia [Mr. WARNER] and I am honored to join him in sponsoring it.

Mr. President, in early 1983 the Internal Revenue Service issued a ruling preventing ministers from deducting mortgage interest and taxes on their residence to the extent that they receive a traditional, nontaxable parsonage allowance. Later, the IRS indicated that it would apply the same ruling to military personnel with respect to their quarters allowance.

As a consequence of these IRS actions, I introduced a bill, S. 2017, to preserve the status quo for both ministers and military personnel. When the deficit-reduction package came before the Senate in April, Senator WARNER and I jointly sponsored an amendment—which was adopted—to postpone the implementation of the IRS ruling until January 1, 1986. In the meantime, Congress would have time to study the whole matter and to decide if this change in current law is merited. Many, including myself, have questioned whether the IRS should have attempted to make such a substantive change in the law unilaterally anyway.

Mr. President, the Warner-Helms amendment will complement our amendment to the deficit-reduction package. It is a fact that if the IRS ruling is allowed to take full effect, both ministers and military personnel will be given a direct pay cut. Churches would face the prospect of having to raise the pay of their clergy, and Congress would have to do likewise for the military. Moreover, the uncertainty already caused the military in this matter has had an adverse effect on troop morale, according to reports available to my office.

I urge my colleagues to support this amendment.

Mr. President, an enlightening article on the military side of this subject appeared in the fall 1983 edition of the Military Law Review. I ask unanimous consent that this article, written by Maj. Thomas A. Pyrz of the Judge Advocate General's Corps, U.S. Army, and entitled "Deductibility of Mortgage Expenses by the Military Homeowner after Revenue Ruling 83-3," including footnotes be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### DEDUCTIBILITY OF MORTGAGE EXPENSES BY THE MILITARY HOMEOWNER AFTER REVENUE RULING 83-3

(By Maj. Thomas A. Pyrz)*

#### I. INTRODUCTION

Since 1925, the military homeowner has enjoyed the benefits of a nontaxable allowance for quarters.[1] This allowance is generally used to offset, at least in part, the service member's monthly mortgage payment. The portions of the payment which constitute interest[2] and taxes[3] are allowable itemized deductions under current tax laws. This allows a military homeowner to use tax-exempt dollars to generate a second tax benefit in the form of itemized deductions to the extent that these deductions exceed the zero bracket amount. A recent Internal Revenue Service (IRS) Revenue Ruling, 83-3, raises doubt concerning the continued availability of this tax benefit for the military homeowner. This article will analyze Revenue Ruling 83-3 and its potential effect on the military homeowner.

#### II. THE RULING

Revenue Ruling 83-3 was issued in January of 1983 on the initiative of the IRS rather than at the request of a specific taxpayer. The ruling announces IRS policy that, "veterans and other students may not deduct educational expenses; and ministers may not deduct interest and taxes paid on a personal residence, to the extent the amounts expended are allocable to tax-exempt income."[4]

The ruling states that section 265(1) of the 1954 Internal Revenue Code (IRC) prohibits the deductions in question. Section 265(1) provides that no expense may be deducted for "any amount otherwise allowable as a deduction which is allocable to one or more classes of income . . . wholly exempt from the taxes imposed by this title."[5] This section of the Code is substantially unchanged from its predecessor, section 24(a)(5) of the Revenue Act of 1934.[6]

This ruling expressly overrules Revenue Rulings 62-212[7] and 62-213[8] which had authorized the deductions which 83-3 now denies. Ruling 62-212 dealt with the deductibility of a minister's mortgage expenses paid out of his tax-exempt "rental allowance" governed by section 107, IRC. The section of Revenue Ruling 83-3 dealing with the deductibility of a veteran's reimbursed educational expenses merely adopts the position of the Tax Court of the United States in the case of Manocchio v. Commissioner.[9] Prior to any discussion of the effect of the ruling on the military homeowner we must examine the two prongs of the ruling in greater detail.

#### III. THE RULING AND THE MINISTERS

Section 107, IRC, provides:

In the case of a minister of the gospel, gross income does not include—

(1) The rental value of a home furnished to him as part of his compensation; or

(2) the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.[10]

There is no statutory entitlement to a rental allowance for a qualifying member of the clergy. Congress had merely created a specific exclusion from gross income for the rental allowance to the extent it is used to offset actual or reasonable expenses. Section 107, IRC, was drawn from section 22(b)(6) of the 1939 IRC and has remained substantially unchanged since it first appeared in the Revenue Act of 1921.[11] The legislative history of section 107 provides no indication why Congress granted this tax benefit to the clergy.

Whatever its congressional inspiration, the "parsonage exclusion" is much less attractive after Revenue Ruling 83-3. At its broadest, the exclusion is not available to all clergy. * * *.

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* * * airline pilot who attended a flight-training course which maintained and improved the skills required in his profession. Pursuant to section 1677 of Title 38, U.S. Code, he received checks from the Veterans Administration (VA) covering 90 percent of his expenses. He endorsed the checks over to the training facility. These reimbursements were not taxable income to him; section 3101(a) of Title 38, U.S. Code provides a blanket exclusion from taxation for all benefit payments received pursuant to any law administered by the VA. Manocchio, properly, did not report the payments as income on his 1977 Federal Income Tax return. He nonetheless deducted the entire flight-training expense as a business expense on this return.[21]

The Tax Court found that the expense was "directly allocable" to tax-exempt income and therefore nondeductible under section 265(1), IRC. Manocchio argued that section 265(1) did not apply to his case because the section was intended to apply only to expenses incurred in producing tax-exempt income. His argument was based on the legislative history of section 24(a)(5) of the Revenue Act of 1934, the predecessor of section 265(1).[22] While the court conceded that the "principal target" of the provision was expenses incurred in an active trade business or investment activity, it was unwilling to read the provision as limiting the scope of section 265(1) to so narrow an area.[23]

The court found that section 265(1) was intended to reach all expenses "allocable to" exempt income. As such, it found the language of section 265(1) broad enough to reach situations such as Manocchio's wherein, but for the expense, there would be no tax-exempt income. The court further found that a one-for-one relationship between the reimbursement and the expenses created a sufficient nexus to consider the expense "direct allocable" to the tax-exempt income.

Manocchio's final argument was based on an equal protection theory. He argued that it was unfair discrimination for the IRS to disallow an expense deduction for recipients of benefits under section 1677 while still permitting expense deductions for recipients of VA benefits under section 1681 of the same Title, education allowance benefits. The court found that, since the section 1681 benefits were paid in the form of a "living stipend" and not paid based upon any actual training cost, the different tax treatment was not unreasonable.[24]

### V. THE RULING AND THE MILITARY HOMEOWNER

Having now considered the effect of Revenue Ruling 83-3 on the minister's "rental allowance," and the court's decision in Manocchio, the skeptical military homeowner must wonder whether he or she can still deduct mortgage expenses even though BAQ and VHA are tax-exempt income. The answer lies in a closer analysis of section 265(1), its legislative history, and a study of the congressional and judicial treatment of BAQ and VHA.

At first blush, the similarity between the parsonage allowance and the military allowance for quarters is startling. In reality, the allowances are quite different in form and in their treatment by Congress.

A service member's entitlements are comprised of pay and allowances. Pay is defined as "basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances."[25] Military allowances are not considered compensation for services rendered.[26] Housing allowances have existed for the military since before the Civil War.[27] These allowances were determined to be nontaxable by the Court of Claims in 1925.[28] The IRS adopted this decision and issued Treasury Decision 3724 which announced the nontaxable nature of allowances for quarters as IRS policy.[29] The current BAQ was created as an entitlement by section 302 of the Career Compensation Act of 1949.[30] The legislative history of this Act gives no indication as to the intended tax treatment of BAQ.

Congress, however, clearly intended the BAQ and VHA to be treated differently than the ministers' rental allowance. Unlike the specific exclusion from gross income given the ministers' allowance, the BAQ is merely excluded from the definition of gross income in the IRC.[31] While a rental allowance, by statute, must be paid to a minister as a part of regular compensation,[32] BAQ, by statutory definition, is not considered a part of a service members pay. The BAQ is paid to an eligible member regardless of its resultant or intended use. The minister only receives the tax-exempt allowance if an expense is generated. The BAQ is a statutory entitlement to a fixed sum of money unrelated to any actual expenses incurred for private quarters. The rental allowance is not fixed by statute and is limited to a reasonable amount. These differences show that the only real similarity between the two allowances is that they are both generally related to housing. After that, any comparison of the two fails.

The importance of providing public housing to the military has been noted in the judicial attitude concerning the right to public quarters. The Supreme Court has said: "Quarters are expected to be furnished by the government . . .; when it cannot thus furnish, it allows them to be obtained otherwise and pays a monthly compensation therefore called commutation."[33] The Court of Claims has gone further by stating: "Public quarters . . . are as much a military necessity as the procurement of implements of warfare or the training of troops."[34] The court added: "military quarters . . . are no more than an integral part of the organization itself. They are . . . the indispensible facilities for keeping the Army intact. . . ."[35]

This judicial attitude that an allowance for quarters is for the benefit of the government and not the individual explains, in part, the favorable tax treatment of BAQ. The ministers' rental allowance does not enjoy this exhalted position.

It could be argued that Congress has defined away BAQ from any application of section 265(1): this provision of the Code would now allow "an otherwise allowable deduction which is allocable to one or more classes of income . . . wholly exempt from the taxes of this subtitle . . . ."[36] One could argue that, BAQ in not income, section 265(1) does not apply and the deduction for interest and taxes allocable to BAQ are therefore allowable under sections 163 and 164.

This technical analysis of section 265(1) stretches a point and may leave the military homeowner uncomfortable. The definition of income is the subject of much disagreement among tax scholars;[37] the homeowner need not rely solely on defining the problem away.

To understand the critical difference between the ministers' rental allowance and BAQ, the Tax Court's decision in Manocchio must be recalled. That court's holding merely extended the prohibition of section 265(1) to cover the stituation where tax-exempt dollars were "generated" by incurring an expense. Receipt of the specific exclusion under section 107 is conditioned upon the actual expenditure of the allowance for rental or mortgage expenses. Even then, the exclusion is limited to a reasonable living expense and can never exceed the amount actually expended by the minister; it is the expense that generates the tax-exempt dollars. The exclusion is tied dollar-for-dollar to the expense and is "directly allocable to the expense."

Receipt of BAQ has no such precondition. The entitlement does not depend on whether the military recipient generates an expense. It is fixed by statute and payable whenever suitable quarters are not provided to eligible service members. A service member may live in a parent's home, pay nothing, and still receive BAQ. As such, section 265(1) does not apply because any deductible expense is not "directly allocable" to the tax-exempt income; the expense does not generate the tax-exempt dollars.

The final obstacle to the continuing deduction is found in the IRS position that the IRC shall not be read to allow a "double deduction" absent a "clear declaration" of congressional intent.[38] Congress has shown this intent, however, with respect to the BAQ.

The strongest indication of congressional favoritism for the BAQ is found in the statutory definition of Regular Military compensation (RMC): "regular compensation" or regular military compensation (RMC) means the total of . . . : basic pay, basic allowance for quarters (including any variable housing allowance or station housing allowance), basic allowance for subsistence: and Federal tax advantages occurring to the aforementioned allowances because they are not subject to Federal income tax.[39]

This definition of RMC makes it clear that Congress intended the allowance to receive favorable tax treatment. The tax benefits allowed for BAQ are, no doubt, a recognition that the military housing situation is unique. The military member must occupy adequate public quarters, when available, or forfeit the allowance.[40] The service member can receive BAQ only when the government has failed to provide those quarters. Because of this unique situation, the military receives a tax advantage that is not available to Department of the Army contract surgeons[41] or to former members of the military.[42]

### VI. CONCLUSION

When the technical legal arguments have all been made, the ultimate decision as to the deductibility of the military homeowners' mortgage expenses will be decided by reference to section 265(1), IRC. If the reach of that section is broad enough to prohibit deductions for otherwise deductible expenses simply because they are paid out of tax exempt dollars, the military homeowner may become extinct. The tax benefit received because of the deductibility of these mortgage expenses would be reduced by 60 to 100 percent, depending upon mortgage terms and BAQ and VHA rates.

In the final analysis, it seems unlikely that the IRS will attempt to question the deductibility of these mortgage expenses payable from BAQ. The congressional intent to provide favorable tax treatment to military BAQ is unquestionable. The recent extension of section 265(1) to prohibit the previously allowed deductions concerned in Revenue Ruling 83-3 is not inconsistent with continued favorable treatment for the BAQ. In both the VA and rental allowance cases, the extension merely applies to the denial of expense deductions which generate tax-exempt dollars. But for the expenses, there would be no tax-exempt income in either case.

Judge Fay's concurring opinion in Manocchio states: "I agree petitioner's claimed deduction is disallowed by section 265(1). However, I disagree with any implication that we are deciding section 265(1) applies to expenses paid out of exempt income. . . . Given the legislative history's indication that the principle target of section 265(1) is expenses incurred in the production of exempt income, I find no reason to consider any possible reach of section 265(1) beyond that clear target."

Judge Fay's opinion was joined by two other members of the five judge panel. While the opinion does not decide the issue expressly, it seems that the Tax Court will not extend the reach of section 265(1) to deny a deduction merely because the expense is paid out of tax-exempt dollars. Given the present feeling on the court and the tremendous ramifications which an adverse decision would have on the armed services, it seems that Revenue Ruling 83-3 is no more than an initial scare for the military homeowner.

The issue discussed in this article has not yet been presented to or by the IRS. Until such time as it is raised, the military homeowner should continue to deduct the expenses on the theory that section 265(1) does not apply to expenses simply because they are paid out of tax-exempt funds.

### FOOTNOTES

[*] Judge Advocate General's Corps, United States Army. Currently assigned to the Litigation Division, Office of The Judge Advocate General, U.S. Army, 1983 to present. Formerly assigned to Office of the Staff Judge Advocate, III Corps, Fort Hood Texas, 1980-82; Battery Commander, Headquarters and Headquarters Battery, III Corps Artillery, Fort Sill, Oklahoma, 1976-77. J.D., Indiana University, 1980; B.S. United States Military Academy, 1971. Completed 31st Judge Advocate Officer Graduate Course, 1982-83; Distinguished Graduate, 94th

Judge Advocate Officer Basic Course, 1980; Completed Field Artillery Officer Advanced Course, 1976. Member of the bar of the state of Indiana.

[1] *Jones* v. *United States*, 60m Ct. Cl. 552 (1925).
[2] I.R.C. § 163 (1976).
[3] *Id.* at § 164.
[4] Rev. Rul. 83-3, 1983-1 I.R.B. 10.
[5] I.R.C. § 265 (1976).
[6] Revenue Act of 1934, Pub. L. No. 216, § 24, 48 Stat. 691 (1934).
[7] Rev. Rul. 62-212, 1962-2 C.B. 41.
[8] Rev. Rul. 652-613, 1962-2 C.B. 59.
[9] Manocchio v. Commissioner, 78 T.C. 969 (1982).
[10] I.R.C. § 107 (1976).
[11] W. Pedrick & V. Kirby, The Study of Tax Law—Income Tax Volume 81 (1979).

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[21] *Manocchio* v. *Commissioner*, 78 T.C. 989 (1982).
[22] *Id.*
[23] *Id.*
[24] *Id.*
[25] U.S.C. § 101(21) (Supp. V. 1981).
[26] Weiss, "Tax Problems of the Serviceman," 34 Taxes 277 (1956).
[27] Ct. Cl. at 555.
[28] *Id.*
[29] Treas. Dec. 3724, IV-2, C.B. 136 (1925).
[30] Career Compensation Act of 1949, Pub. L. No. 351, 302, 63 Stat. 815 (1949).
[31] Treas. Reg. 1.61-2(b), T.D. 6416, 6696 (1963).
[32] I.R.C. § 107 (1976).
[33] *United States* v. *Phisterer*, 94 U.S. 224 (1877).
[34] See *Jones*, 60 Ct. Cl. at 569.
[35] *Id.*
[36] See I.R.C. § 265 (1976) (emphasis added).
[37] See Pedrick & Kirby, *supra* note 11, at 41.
[38] Rev. Rul. 83-3, 1983-1 I.R.B. 10.
[39] 37 U.S.C.A. § 101(a) (Supp. 1982).
[40] U.S. Dep't of Army, Reg. No. 210-50, Installations—Family Housing Management, Para. 3-3 (1 Feb. 1982).
[41] Rev. Rul. 60-66, 1961-1 C.B. 21.
[42] *Van Rosen* v. *Commissioner*, 17 T.C. 834 (1951).

The **PRESIDING OFFICER.** Is there further debate?

Mr. **NUNN.** Mr. President, we have looked at the amendment of the Senator from Virginia. I have some reservations about putting that amendment on this bill. I am for the substance of the amendment. This matter has been checked with the chairman of the Finance Committee and the ranking minority member of the Finance Committee. I think the chairman of the Finance Committee gave his assent and I would say the ranking minority member did not interpose an objection. Therefore, I will not object to the amendment.

Mr. **WARNER.** Mr. President, at this time I wish to state that the observations by the distinguished Senator from Georgia are correct. This matter has been reviewed by both the chairman and the ranking minority member of the Finance Committee.

I was informed that, regrettably, at the conference yesterday the basic substance of this amendment, which I put forth as an amendment to the Deficit Reduction Act, was rejected by the conference. In the words of the Senator from Kansas [Mr. DOLE], he thought it was wise that I proceed today very promptly to try and recover the lost ground of yesterday, because the purport of this legislation is to help two very, very needed professions. It is, therefore, my desire to see that this be done as promptly as we can.

Mr. President, seeing no Senators desiring to speak upon this measure pending before the Senate, I ask that the amendment be adopted.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Virginia [Mr. WARNER].

The amendment (No. 3223) was agreed to.

Mr. **HELMS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **WARNER.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The Senator from Virginia.

Mr. **WARNER.** Mr. President, we are waiting for the distinguished Senator from Utah. It is my understanding that this will be the last item with respect to this bill today and that we can anticipate the leadership on this side will soon join the distinguished Senator from West Virginia on the floor which will conclude today's activities.

Mr. **NUNN.** That is my understanding, also, I would say to my friend from Virginia. I do have a NATO amendment that I could bring up, if the Senator would like to discuss it and vote on it this afternoon by voice vote.

### AMENDMENT NO. 3224

(Purpose: To establish a Secretary of Defense Joint Service Study Group to study and recommend possible changes in Military Dress and Appearance Regulations to accommodate Religious Requirements of Members of the Armed Services)

Mr. **HATCH.** Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3224.

Mr. **HATCH.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of page 239 add the following new section:

### STUDY OF MILITARY DRESS AND APPEARANCE REGULATIONS AND RELIGIOUS REQUIREMENTS OF MEMBERS OF THE ARMED SERVICES

SEC. . (a) In an effort to augment religious freedom in the Armed Services, to the greatest extent consistent with requirements for discipline and uniformity, the Secretary of Defense shall form a Joint Service Study Group, to consist of two representatives from each Service appointed by the Chief of each Service, and four non-military citizens, one to be selected by the Chief of Chaplains of each of the four services, to conduct a study concerning the dress and appearance standards for members of the Armed Services.

(b) Such study shall focus on the interests of members of the Armed Services in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The views of non-military representatives of various major religious organizations concerning religious dress and appearance requirements will be presented to the Study Group in written or oral testimony and shall be included in the study.

(c) Upon completion of the Study Group shall recommend to the Secretary of Defense any changes in military regulations which may be necessary and appropriate to reasonably accommodate the interests of members of the Armed Service in abiding by their religious tenets and the interests of the military services in maintaining discipline and uniformity of appearance. The Service Secretaries shall issue changes, as appropriate, in military regulations pursuant to these recommendations to become effective no later than January 1, 1985.

(d) A report of the findings and recommendations of the study group, together with any changes made in military regulations, shall be submitted to the Committees on Armed Services of the Senate and House of Representatives by January 1, 1985.

Mr. **HATCH.** Mr. President, my proposed amendment and a similar Solarz amendment passed in the House have been prompted by the May 8 decision of the U.S. Court of Appeals for the District of Columbia circuit in the case of *Goldman* v. *Secretary of Defense*, No. 81-3197.

In offering this legislation and directing that the military services conduct a thorough study of this subject and that they issue appropriate regulations, I do not mean to suggest that the basic, underlying constitutional question should not be decided promptly by the courts in favor of religious freedom. I think it is important that the court of appeals consider the Goldman case en banc, and I would hope that the full Court would reverse the unfortunate decision of the lower court. I also hope that if the court of appeals does not so rule, the Supreme Court of the United States grants certiorari and reverses the Goldman decision.

It appears to me, as I am sure it appears to my colleagues in the Senate and those in the House, that it is in the finest traditions of religious freedom in this country to permit very slight accommodations to religious observance that the military would be allowing if orthodox Jewish servicemen were permitted to wear unobtrusive yarmulkes. I hope that neither the court of appeals nor the Supreme Court reads our action today as undercutting, in any way, the importance of prompt decisions by those courts on this constitutional question.

Although my proposal gives the military services until January 1, 1985, to issue regulations which make necessary and appropriate accommodations for religious freedom, the services should be cognizant of the fact that there are individual enlisted personnel who are daily being deprived of constitutional rights if modest accommodations are not granted to them. This amendment, if enacted into law, may not result in formal changes until January 1, 1985, but I surely expect that the military services will take every reasonable measure in their power to grant full religious freedom, to the extent feasible, even while the matter is under study.

I have been told that there are only a handful of orthodox Jewish servicemen whose religious beliefs require them to wear skullcaps. I believe the military services should, in this interim period, permit them to do so, especially to individuals who are in circumstances similar to Captain Goldman.

Although the proposed bill contemplates a study of the entire subject of religious freedom and its effect on military discipline and uniformity of appearance, it is my expectation, based on discussions with the highest officers of the services, that the study will result in regulation changes that will accommodate religious beliefs to the maximum extent feasible consistent with requirements for military discipline. I will be severely disappointed in the representations of top military officers who have discussed the matter with me if the result of this study is simply a documented defense of the status quo or the study becomes a measure to justify denying religious rights and liberties.

Mr. President, this amendment arises out of the concerns which I have as chairman of the Constitution Subcommittee, concerns which are shared by a number of our colleagues, concerning religious freedom in the military. As you aware, the House has adopted an amendment that would require the military to allow the wearing of unobtrusive headgear by members of the Armed Forces on a 1-year trial basis.

Mr. President, I have been meeting off and on over the last couple of weeks with the leaders of our military attempting to resolve this issue of religious freedom involving the tenets of sincere people.

We have agreed to present the following amendment which will establish a Secretary of Defense joint services study group to study, and recommend possible changes in military dress and appearance regulations to accommodate religious requirements of members of the armed services.

That group will meet, take testimony, hold hearings, obtain information from concerned people, and then, of course, will make their recommendations concerning any changes in military regulations which may be necessary and appropriate to reasonably accommodate the interest of members of the armed services in abiding by their religious tenets, and the interests of the military services in maintaining discipline and uniformity of appearance.

The whole amendment is important. But the most significant provision of the amendment is where it provides that the service secretaries, after receiving this information, shall issue changes—I will emphasize "shall"—as appropriate, in military regulations pursuant to these recommendations to become effective no later than January 1, 1985.

Mr. TOWER. Mr. President, I would like to commend Senator HATCH for his leadership on issues related to protecting religious freedom. As chairman of the Constitution Subcommittee he has built a fine record as a statesman dedicated to protecting constitutional rights.

I would now like to express my appreciation to Senator HATCH for his willingness to work with the services and the committee in drafting a flexible and reasonable amendment, designed to address the interests of members of the armed forces in abiding by their religious beliefs within the context of the interest of the military services in maintaining discipline and uniformity of appearance.

Finally, I would like to offer Senator HATCH my assurance that this matter will be not lost in the shuffle of the conference. I will make a good-faith effort to ensure that Senator HATCH's concerns are addressed in the conference report, preferably through the adoption of the Senator's amendment.

● Mr. D'AMATO. Mr. President, I rise today in support of the amendment offered by the distinguished junior Senator from Utah. This amendment is the counterpart of the amendment offered in the House by Representative STEPHEN J. SOLARZ to correct an injustice created by a recent U.S. court of appeals decision in the case of Goldman against Secretary of Defense.

This decision upheld a U.S. Air Force regulation which prohibits the wearing of yarmulkes, among other items of religious clothing. A yarmulke is a skullcap worn by men of the Orthodox Jewish faith. Under most conditions, it is unobtrusive and will not interfere with the service member's performance of his duty. When it does interfere, as when wear of a pilot's helmet or some other mission essential head covering is necessary, it can be removed.

While courts have limited the constitutional rights of members of the Armed Forces, ruling that military necessity circumscribes the protections afforded them as civilians, I see no reason why first amendment religious freedom should be abridged in this arbitrary and unnecessary manner.

I do not support changes which would undermine good order and discipline. I do not believe that garish or bizarre wearing apparel should be tolerated in the military service, because it would clearly undermine the ability to create and maintain a cohesive and effective fighting force.

Frankly, I would have preferred passage of the Solarz amendment, because it overrules dress regulations in all services for 1 year to permit the wearing of unobtrusive religious headgear. The leaders of our armed services were opposed to an remain opposed to the Solarz amendment, precisely because it overrules their regulations and, in their view, opens the door to the wearing of religious items which would disrupt discipline.

Because this is a pressing issue of importance to members of the Orthodox Jewish community who belong to our armed services, I decided that it is more important to place both Houses of Congress on record in support of religious freedom than it is to insist upon the stronger version of this measure on the floor of the Senate.

I call upon the distinguished chairman of the Armed Services Committee to take action in conference on this provision, accepting the direction of the Solarz amendment and retaining the requirement to gather evidence on this matter, so that well-crafted regulations may be issued by the services. In this way, those members of the Orthodox Jewish faith who are now members of the armed services may not be deprived of their religious freedom, but we may also reinforce the principle that the leaders of our armed services are the people who have the authority, the responsibility, and the experience to establish the rules which govern the conduct of service members.

I congratulate the distinguished junior Senator from Utah for his strenuous, intense, and effective work with the services to craft this amendment. I believe it is the most specific measure we could expect to pass the Senate. Given the negative reaction of the armed services to the Solarz amendment, his achievement is all the more impressive.●

Mr. HATCH. Mr. President, I move the amendment. It is my understanding that both sides have agreed to it.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. We accept the amendment on this side.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, I think this is a satisfactory resolution of a very difficult issue. I know the Senator from Utah has worked on it for some time. This is going to be a study, as I understand it—Senator, correct me if I am wrong—that would balance the religious freedom aspects with the military discipline aspects and consider both. The study will be done by the people who are representing the services, who are cognizant of the importance of the individual freedom issue, but are also cognizant of the importance of uniformity and discipline in the military services. So we are really asking for a study now of this very sensitive issue.

Mr. HATCH. It is more than a study. It is a study with recommendations which will have to be reviewed by the service secretaries. Changes will have to be issued as appropriate to change the military regulations pursuant to those recommendations that will become effective on January 1, 1985. It is my fond hope that we can resolve all of these sensitive problems, and the military has asked me to give them this period of time in order to resolve them. It is also my understanding that the respective Members who represent the Senate in conference will carry the amendment through the conference.

Mr. NUNN. I say to the Senator that I understand the language says regulations will be issued after the study is made as appropriate. That is correct?

Mr. HATCH. That is correct.

Mr. NUNN. So the regulations that will be issued will depend on the findings of the study.

Mr. HATCH. That is correct.

Mr. SYMMS. Mr. President, this would mean the Chief of Staff of the Army, Secretary of the Army, or Secretary of Defense would in fact have the authority to issue such regulations?

Mr. HATCH. They certainly would be part of it. Yes.

Mr. SYMMS. In other words, we are not saying we are passing anything over here that Congress in any way is trying to set the pattern for the uniform.

Mr. HATCH. That is correct, except that there is a good-faith representation by the Members representing the services that they will try to resolve this issue along with other issues concerning religious freedom.

Mr. NUNN. I completely agree with the Senator on that point, that the services certainly ought to consider that. I think to the extent there may be any omissions now the study will help reflect on that. But also I know the Senator would agree that the purpose of our military services is to protect the Nation. For that purpose, discipline in the services and a certain degree of uniformity are also necessary. So the Senator's amendment directs them to study both of those interests.

Mr. HATCH. That is correct.

Mr. NUNN. And to approach it from the point of view of considering not one or the other, but both of those important considerations.

Mr. HATCH. They have to take both into consideration. It is my understanding that secretaries of the armed services are anxious to resolve this problem. They do need more time to do it than just the instant time that we have right now. I am willing to provide that time. I want changes made. I think we have made some suggestions on how to do it while conforming with the necessary uniformity of appearance and uniformity of discipline in the military services. The services are intrigued by some of the suggestions we have made. I believe they will resolve this problem. We mentioned the unobtrusive headgear problem. But it is more than that. It involves religious tenets in general. I am just hopeful that we can come up with regulations that will resolve these in the most reasonable way but with the maximum degree of recognition of those tenets.

Mr. SYMMS. In other words, this is in no way micromanagement of what the uniform codes will be and dress codes will be in the military as opposed to what happened in the other body?

Mr. HATCH. The Senator is correct. This is a recommendation of the military that resolves issues that I think have to be resolved or we shall be right back here next year without resolving them. I think they will. I believe in the good-faith representations they made to me that they will resolve these problems. I want to give them the opportunity to do so without making the amendment so rigid that they must do it in a particular way without the appropriate hearings and consideration.

Mr. SYMMS. Mr. President, this amendment would have nothing to do with the other subject of some sort of religious problems that certain members of the armed services may have with respect to where they chose to go for overseas deployment?

Mr. HATCH. This has nothing to do with that, Mr. President, to my knowledge. This does deal with religious tenets across the board, but we are particularly concerned about unobtrusive headgear and other similar types of considerations.

In all of these religious areas, we want the military to balance their need for uniformity of apparel and uniformity of discipline with the need of the religious community in this country. In other words, the study provided for in this amendment specifically says that this Joint Service Study Group will conduct a study "concerning the dress and appearance standards for members of the armed services." That is the area we are interested in in this amendment. I believe in good faith of the services, I think we ought to resolve these problems, I believe there are some ways of resolving them that will be in conformity with uniform dress and appearance standards and discipline in the military and we are going to give them time to do it.

Mr. SYMMS. I thank the Senator.

Mr. TOWER. Mr. President, I commend Senator HATCH for his leadership on issues related to protecting religious freedom. As chairman of the Constitution Subcommittee he has built a fine record as a statesman dedicated to protecting constitutional rights.

I wish also to express my appreciation to Senator HATCH for his willingness to work with the services and the committee in drafting a flexible and reasonable amendment, designed to address the interests of members of the Armed Forces in abiding by their religious beliefs within the context of the interest of the military services in maintaining discipline and uniformity of appearance.

Finally, I offer Senator HATCH my assurance that this matter will not be lost in the shuffle of the conference. I will make a good-faith effort to ensure that Senator HATCH's concerns are addressed in the conference report, preferably through the adoption of the Senator's amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HATCH. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment No. 3224 was agreed to.

Mr. HATCH. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I thank the distinguished Senator from Idaho for his interest, and I thank the distinguished Senator from Georgia [Mr. Nunn] the ranking member of the committee, as well as my good friend, the distinguished majority manager of the bill [Mr. TOWER] and the acting majority manager [Mr. WARNER] for their kind cooperation and courteous accommodation of me in this matter.

I thank the members of the military for their accommodations as well.

Mr. WARNER. Mr. President, unless there are further matters that my distinguished colleagues from Georgia wishes to address, I suggest that absence of a quorum until the leadership can come to the Chamber.

Mr. NUNN. Mr. President, I know of no further business on this measure we can dispose of today.

Mr. WARNER. Mr. President, I note the presence of the distinguished minority leader. At this time, the leadership on this side of the aisle has not yet arrived. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask my good friend from West Virginia if there would be any objection if the Senate went into executive session for the purpose of considering the nominations of the President of the United States that begin on page 5 of the Executive Calendar, commencing with new reports and through page 7—I understand one of those items has already been confirmed, No. 653; that will not be included again—through the nominations on the Secretary's desk on page 8. Does that meet with the approval of my good friend?

Mr. BYRD. Mr. President, the nominees that have been referred to by the distinguished assistant Republican leader are cleared on this side of the aisle if he wishes to proceed in any way, en bloc or otherwise.

## EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate go into executive session for the purpose I mentioned.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I now ask unanimous consent that the nominees I have mentioned beginning on page 5 with new reports and on pages 6, 7, and 8, with the exception of the nominee already having been confirmed, be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

### The Judiciary

Robert M. Hill, of Texas, to be U.S. circuit judge for the Fifth Circuit.

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California.

James M. Ideman, of California, to be U.S. district judge for the central district of California.

William J. Rea, of California, to be U.S. district judge for the central district of California.

Peter K. Leisure, of New York, to be U.S. district judge for the southern district of New York.

### Department of Justice

Layn R. Phillips, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years.

John D. Tinder, of Indiana, to be U.S. attorney for the southern district of Indiana for a term of 4 years.

Joseph Wentling Brown, of Nevada, to be a member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1986. (Reappointment.)

### Department of Labor

Frank C. Casillas, of Illinois, to be an Assistant Secretary of Labor.

### Federal Council on the Aging

Albert Lee Smith, Jr., of Alabama, to be a member of the Federal Council on the Aging for a term expiring December 19, 1985.

### Harry S. Truman Scholarship Foundation

The following-named persons to be members of the Board of Trustees of the Harry S. Truman Scholarship Foundation for terms expiring December 10, 1989:

Anita M. Miller, of California. (Reappointment.)

Elmer B. Staats, of the District of Columbia.

### Nominations Placed on the Secretary's Desk in the Coast Guard, National Oceanic and Atmospheric Administration

Coast Guard nominations beginning Herbert W. Davis, Jr., and ending John C. Crawford, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 1984.

National Oceanic and Atmospheric Administration nominations beginning Michael H. Fleming and ending Stephen M. Brezinski, which nominations were received by the Senate and appeared in the Congressional Record of May 24, 1984.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I now ask unanimous consent there be a period for the transaction of routine morning business during which the Senator from West Virginia may speak therein as long as he desires.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 10 A.M., MONDAY, JUNE 18, 1984

Mr. STEVENS. Mr. President, at the conclusion of the remarks of the Senator from West Virginia, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the very distinguished assistant Republican leader for his thoughtfulness, and I also thank the very distinguished majority leader for his consideration in this matter from time to time.

I apologize to the officers of the Senate and others who will have to bear with me during my remarks.

Mr. STEVENS. Would my good friend, Mr. President, permit me to interrupt. I ask unanimous consent that this dialog not interrupt the Senator's statement, but I would like to ask unanimous consent that the majority leader's announcement of the business for Monday appear at the conclusion of the remarks of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, at any time any other Senator wishes to come to the floor and speak during the morning business period prior to the conclusion of my remarks, I will gladly yield the floor for that purpose.

## THE UNITED STATES SENATE

## THE SENATE AND THE GREAT DEPRESSION

Mr. BYRD. Mr. President, this is the 68th in the series of statement I have been making with regard to the United States Senate. The statement today is entitled "The Senate And The Great Depression."

I have some very clear recollections of the Great Depression myself. I was born in 1917, and therefore was in my teens when the Great Depression was felt around this country and throughout the world. My recollections are quite vivid, and it is somewhat within that context of recollections that I proceed today to speak on this subject.

Many tense debates have occurred in this chamber, many moments of history enmeshed with anxiety; but I cannot imagine a more fearful night than Friday, June 17, 1932. The Senate was debating the "Bonus Bill," passed by the House just two days earlier. This bill was designed to advance the bonus promised to World War I veterans from its scheduled payment in 1945 to immediate payment in 1932. Thousands of veterans had marched on Washington, many riding the rails on freight cars, to demonstrate their poverty and their fear that payment in 1945 would be too late to save them. As Senator Joe Robinson, the Democratic floor leader, said, "It was a debt, Mr. President; it was not a bonus. It is not due in 1945. It was due on the day the armistice was signed." There was no drama over the outcome of the vote. It was a foregone conclusion, inside the chamber, that the "Bonus Bill" would be defeated by a wide margin. The drama was not inside the Capitol, but immediately outside it on the Eastern Plaza. As the Senate debate began that morning, Bonus Marchers appeared on the Plaza, first in small numbers, then in hundreds, and by that evening some 12,000 men were congregated outside, silently waiting the outcome. Inside, Capitol policemen with rifles were posted at the doors. One wonders what went through the minds of the senators as they looked out the windows at that vast crowd. This was 52 years ago tomorrow. Near 9:00 p.m. the Senate voted down the Bonus Bill, 62 to 18, and then adjourned. Walter W. Walters, one of the leaders of the "Bonus Expeditionary Force," came out and announced the vote. Walters called it a "temporary setback" and promised to continue the fight, and the crowd roared its approval. Then the 12,000 veterans stood facing the Capitol and sang "America," before departing in the night back to their camps.[1]

Although that tense night ended peacefully, we know that the Bonus March itself came to a violent end a month later. Most of the veterans left the city after Senate rejection of their bill, but others lingered on in camps on the Anacostia Flats, within sight of the Capitol dome. At the end of July a skirmish broke out between a small group of demonstrators and District of Columbia police, in which two men were killed and several more wounded. The District commissioners asked for Federal troops to handle the crowd.

I recommend to Senators and others the book titled "The Glory and the Dream," which is a narrative history of America 1932 to 1972, written by William Manchester. Mr. Manchester states that:

> General Douglas MacArthur was the only four-star general in the country at that time. There were no three-star generals. As Chief of Staff, he—

General MacArthur—

> received $10,400 a year, a home at Fort Myer and the exclusive use of the Army's only limousine.

Mr. President, I am sure that Senator Proxmire will read this with great interest, and perhaps he has already read it, but the situation at that time would have certainly conformed to his strong viewpoints and feelings, for which I respect him.

> To his aide—

Speaking about General MacArthur's aide—

> he seemed to occupy a distant pinnacle.

Who was his aide? Major Dwight Eisenhower.

> Major Eisenhower's annual salary was $3,000. Because he doubled as the military's congressional lobbyist, he frequently went up to Capitol Hill. But his employer never loaned him the limousine. Nor was the major given taxi fare; in all of official Washington, there was no such thing as a petty cash fund. Instead, as he liked to recall in later life, Eisenhower would walk down the hall and fill out a form, in exchange for which he received two streetcar tokens. Then he would stand outside on Pennsylvania Avenue and wait for a Mt. Pleasant trolley car.

As one who came to Washington to serve in Congress at a time when there were still streetcars operating in the city daily, I can sense Major Eisenhower's feelings and also have a sense for his experiences, which would include, naturally, difficulty in getting to Capitol Hill at times in those days.

> Attorney General Mitchell had already ordered the evacuation of all veterans from government property.

Herbert Hoover, of course, was President and Commander in Chief.

Hoover learned at lunch of a shooting which had occurred, and the President told Secretary of War Patrick J. Hurley to use troops to clear out the veterans, the bonus marchers, and Hurley passed the word on to the chief of staff.

> The chief wasn't in uniform. His aide didn't think he should be. "This is political, political," Eisenhower said again and again, arguing that it was highly inappropriate for a general to become involved in a street-corner brawl. The general disagreed. "MacArthur has decided to go into active command in the field," MacArthur declared. "There is incipient revolution in the air." So the soldiers, who were arriving from Fort Myer, milled around on the Ellipse, watched by Hoover from his oval office while an orderly dashed across the river to fetch the chief's tunic, service stripes, sharpshooter medal, and English whipcord breeches. The general also ordered Eisenhower into uniform. "We're going to break the back of the BEF," he said, and led his staff to the limousine. At Sixth and Pennsylvania (which later became the site of Washington's largest cut-rate liquor store) the car pulled over and began still another wait. "What's holding us up?" someone asked. "The tanks," MacArthur replied. He was going to use tanks. Everyone sat back and sweated—everyone, that is, except MacArthur. This is the first recorded instance of the general's remarkable inability to perspire. He remained cool, poised, and starched. It gave him an immense psychological advantage, and there were those who bitterly resented it.
>
> Meanwhile the White House was issuing communiqués. President Hoover announced that the troops would "put an end to rioting and defiance of civil authority." A few minutes later the White House revealed that the men who had clashed with the police were "entirely of the Communist element." Reporters, finding MacArthur in his car, asked him what he was going to do. "Watch me," he replied. "Just watch me." Instead they were watching the astonishing display of force which was arriving, at last, down Pennsylvania Avenue. Troopers of the 3rd Cavalry, led by Major Patton, pranced along brandishing naked sabers. Behind the horses marched a machine gun detachment and men from the 12th Infantry, the 13th Engineers, and the 34th Infantry, the sun glinting on their bayonets. Behind these units rolled the six tanks, the caterpillar treads methodically chewing up the soft asphalt. It was now 4:45 p.m. The operation had become the worst-times in MacArthur's career. Fifteen minutes earlier, the District's civil service workers had begun pouring into the streets, their day's work done; twenty thousand of them were massed on the sidewalks across from the bewildered, disorganized veterans. Someone was going to get hurt if the cavalry commander didn't watch out, and Major Patton was not celebrated for his solicitude toward civilians.
>
> The veterans, assuming that this display was a dress parade for their benefit, applauded. The spectators clapped, too, though they were the first to be disillusioned. Abuptly Patton's troopers wheeled and charged into the crowd. "At first," wrote J. F. Essary, veteran Washington bureau chief of the *Baltimore Sun*, "it seemed that this attack upon the civilian observers was merely the act of a few of the armed horsemen. But later it appeared that it was a part of a concerted movement by the cavalry officers." Essary reported that the troopers charged "without the slightest warning" into "thousands of unoffending people"; that men and women were "ridden down indiscriminately"; and that one man who refused to move from the front of a telegraph office was beaten back into the doorway by two cavalrymen who flailed him with the flat side of their blades. Among those trampled was Senator Hiram Bingham of Connecticut—Panama hat, Palm Beach suit, and all.
>
> "Clear out!" the mounted men yelled, and the spectators shouted back, "Shame! Shame!" The veterans, meanwhile, had hurriedly formed a solid line across the street. Their leaders were waving flags at rallying points, and it was these colors which became the troopers' second objective. Reforming in extended order, they bounded across Pennsylvania Avenue, converging on the faded standards. The vets were stunned, then furious. Some dared the soldiers to dismount and fight. By now all the bonus marchers were hooting and booing. One soldier in his late teens wrested a banner from the hands of a former AEF sergeant. "You crummy old bum!" the boy spat. A man near MacArthur called out, "The American flag means nothing to me after this." The general snapped, "Put that man under arrest if he opens his mouth again."

The General's troops used tear gas.

> The only participants with real protection would be the general's troops, who were now donning masks. Policemen tied handkerchiefs over their faces, storekeepers who had been warned slammed their doors and transoms, and those veterans who saw the masks spread the alarm, for they knew what was coming.
>
> Driven by sabers, bayonets, and a rising wind—which blew the vile gas southward—the stricken BEF retreated toward the Anacostia River. The infantry came running on the heels of the horsemen, pulling the blue tear gas bombs from their belts and throwing them ahead. Suddenly the air was sharply tainted; the spectators broke and fled. A sickly-sweet haze hung over Pennsylvania Avenue, and beneath it the BEF women, blinded and choking, stumbled from the occupied buildings clutching pots, pans, and children. "It was like a scene out of the 1918 no-man's land," reported the Associated Press. It wasn't quite. Washington was the capital of a nation at peace. The uneven struggle was being waged in the very shadow of Congress. Most of those present were noncombatants, and some were professionally neutral, though armed authority regarded newspapermen with suspicion. One

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[1] Footnotes at end of article.

> reporter darted into a phone booth outside a filling station to call his office; a soldier tossed a bomb inside and drove him out.
>
> Resistance vanished. Driven by sabers, bayonets, and a rising wind—which blew the vile gas southward—the stricken BEF retreated toward the Anacostia River. It was clumsy withdrawal. The women were carrying infants and their husbands shabby suitcases, and the retirement was harried by the puffs of fresh gas bombs. Gallinger Hospital was beginning to fill up with casualties. The evening noises were frightening: ambulance sirens, fire engines, galloping horses, tramping soldiers, newsboys hawking extras, and the clanking of the tanks, whose role was, and would continue to be, quite vague; "so far as I can recall," Eisenhower wrote toward the end of his life, "they took no part whatever in the movements to evacuate the veterans," although there was plenty of time for them, because the retirement "proceeded slowly." Nevertheless, by 9 p.m. the refugees had crossed the Eleventh Street Bridge and joined the main BEF camp on the far shore. MacArthur's force had cleared out other camps on C Street, on Maryland and Maine Avenues, along the wharves, and near the Congressional Library. Stacking arms near a gas works at about eight o'clock, the troops messed at a field kitchen while their leader contemplated his next move.
>
> To him the decision was obvious. His mission was the destruction of the BEF. There was no substitute for victory. His job wouldn't be complete until he had crossed the river invaded the vet's sanctuary, and leveled their headquarters.
>
> Commander in Chief Hoover had his own ideas about how his army should be used, and they stopped at the water's edge. To make certain his instructions reached the general, he sent duplicate orders through General Moseley and Colonel Clement B. Wright, secretary of the General Staff. According to Eisenhower, the President "forbade any troops to cross the bridge into the largest encampment of the veterans, on open ground beyond the bridge." That was clear enough, and another general would have submitted instantly. Not MacArthur. He was choleric at this civilian meddling. He told the astonished Moseley that his plans had to go forward; he would not brook interference. To Eisenhower the chief of staff declared emphatically that he was "too busy and did not want either himself or his staff bothered by people coming down and pretending to bring orders." For the first but not the last time, the general decided to disobey a President.
>
> Mounting heavy machine guns on the bridge to meet any counterattack, MacArthur led a column of infantry across, with Major Eisenhower at his side. The Anacostia camp was a jumble of packing crates, fruit crates, chicken coops, burlap-and-tarpaper shacks, tents, lean-tos, wrecked touring cars, and dun-colored, tepee-like shelters. It didn't seem possible that anyone could have become attached to so preposterous an array of junk, but it was the only home the BEF families had. They were huddled here in the dark, praying for deliverance. What they got was another fusillade of tear gas bombs. Some fled screaming, some hid; one large group of about five hundred gathered on the edge of the camp and mocked the troops with the chant, "Yellow! Yellow! Yellow!" Veterans who had planted vegetable gardens pleaded with the infantrymen to spare their crops. The green rows were trampled anyhow. At 10:14, the Associated Press reported, soldiers put the torch to the hodgepodge of buildings. Flames leaped fifty feet in the air and spread to a nearby woods; six companies of firemen had to be summoned. From his White House window the President saw the glow in the eastern sky and demanded to know what had happened. To Eisenhower "the whole scene was pitiful. The veterans, whether or not they were mistaken in marching on Washington, were ragged, ill-fed, and felt themselves badly abused. To suddenly see the whole encampment going up in flames just added to the pity one had to feel for them."
>
> The major's compassion wasn't universal. Seven-year-old Eugene King, a vet's son, tried to rescue his pet rabbit from the family tent.

I do not like to use profanity, but I will read the sentence:

> "Get out of here, you little son-of-a-bitch," said an infantryman, and before the boy could move, the soldier ran a bayonet through his leg. Again ambulances raced the two miles from Gallinger Hospital. There were over a hundred casualties. Two babies were dead of gas, and the angry editor of the BEF newspaper suggested the epitaph for one: "Here lies Bernard Myers, aged three months, gassed to death by order of President Hoover."

That was unfair because it was not by order of President Hoover that these people be wounded and so mistreated or killed.

> * * * but the veterans were bitter. They had seen soldiers pouring gasoline on their huts while well-to-do Washingtonians in yachts cruised close to look at the show. And at 11:15 p.m. they had watched Major George S. Patton, Jr.,

For whom I have tremendous admiration and have had over the years.

> * * * lead his cavalrymen in a final destructive charge. Among the ragged bonus marchers routed by their sabers was Joseph T. Angelino, who, on September 26, 1918, had won the Distinguished Service Cross in the Argonne Forest for saving the life of a young officer named George S. Patton Jr.

President Hoover, locked in the White House, did not countermand the violation of his orders, and received public blame for the Army's overreaction against its own veterans. The president's humanitarian reputation lay in ruins along with the burning camps on the Anacostia.[2]

Incidentally, President Hoover had created a stir by becoming the first Chief Executive to have a telephone on his desk, and he also employed five secretaries. No previous President had required more than one. And he summoned them by an elaborate buzzer system.

The Bonus March brought home to Washington the terrible suffering that the Depression had inflicted upon the United States, the desperation of the people, and the revolutionary potential behind the social unrest. Although we have recently been through the worst economic recession since the 1930's, it is almost impossible today—except for those of us who lived through and experienced it—to comprehend the severity of the Great Depression. When the Penn Square Bank of Oklahoma failed two years ago in 1982, the Federal Deposit Insurance Corporation protected and insured the funds of its depositors. When the Bank of the United States, located on New York's Lower East Side, failed in 1930, its depositors, mostly immigrants and the working poor, lost their entire savings.

To recount a bit of personal experience, as a boy I sold the Cincinnati Post, and I saved $7. I put that $7 in the bank of Matoaka, West Virginia. The bank went under and I have not seen my $7 since.

Thousands of men, women, and children lined up at the bank's doors through the night in a vain hope of getting their money back. One man, a janitor who had lost forty years of savings, went home and hanged himself.

I can remember the newspapers in those days. As I said, I delivered the Cincinnati Post. Daily or weekly there were stories of businessmen, bankers and others, who took their lives by jumping out of windows or holding cocked pistols to their temples and blowing out their brains.

Many other banks failed; businesses laid off workers, or closed their doors altogether; mortgages were foreclosed. People who a few years earlier had been prosperous found themselves out-of-work, homeless, and hungry. As Professor Arthur Schlesinger, Jr. has vividly described it:

> With no money left for rent, unemployed men and their entire families began to build shacks where they could find unoccupied land. Along the railroad embankment, beside the garbage incinerator, in the city dumps, there appeared towns of tarpaper and tin, old packing boxes and old car bodies. Some shanties were neat and scrubbed; cleanliness at least was free; but others were squalid beyond belief, with the smell of decay and surrender. Symbols of the New Era, these communities received their sardonic name: they were called Hoovervilles. * * * At the breadlines and soup kitchens, hours of waiting would produce a bowl of mush, often without milk or sugar, and a tin cup of coffee. The vapors from the huge steam cookers mingling with the stench of wet clothes and sweating bodies made the air foul. But waiting in the soup kitchen was better than scavenging in the dump.[3]

Between March 1930 and March 1931 unemployment doubled from four to eight million, grossly overburdening local and state relief agencies. The private sector simply could not handle the immensity of the human tragedy. Americans turned to Washington for help. The federal government was the people's last resort, the only institution capable of tackling the crisis. But the president and the Congress were divided and unsure of what to do, fearful of making mistakes that would worsen the situation, locked into old ideologies, and hesitant to adopt bold experimentation.

Let us go back to the beginning of the Depression to understand how all this developed and to follow the changing response of the United States Senate to these events. The 71st Congress, elected with Herbert Hoover in 1928, was preponderantly Republican, with 56 Republicans to 39 Democrats and 1 independent in the Senate; 267 Republicans to 167 Democrats and 1 independent in the House. President Hoover, however, could not count on the complete support of his party in Congress. Before he ran for the presidency, Hoover had never held elective office. He had not much sympathy and respect for politicians, and they had little for him. When Hoover ran for the Republican nomination in 1928, his chief opponent, as he noted in his memoirs was "most of the United States Senate." The Republican Old Guard did not trust him. They considered him too progressive, too independent, too aloof. They called him "Sir Herbert" because of his many years of residence in London. They took potshots at him in the CONGRESSIONAL RECORD; they investigated his preconvention expenditures; they ran "favorite son" candidates against him in the primaries. When he won the nomination and the election, they were stuck with him.[4]

I well remember those days, Mr. President, the days of the 2-cent stamp, the penny postcard. I once lived on a little hillside farm up a hollow more than 3 miles from what we called the "hard road." I walked those 3 miles out of that hollow to catch the school bus, ride to Spanishburg, West Virginia, a distance of 4 miles; in the afternoon, I would ride the 4 miles back on the bus and then walk the 3 miles back up the hollow—the screech owls were screeching and the hoot owls were hooting. That was really "forced busing". We did not have any other high school or junior high school nearer. So that one was for me 7 miles away, 4 miles of which I traveled on the bus and 3 miles of which I traveled on "shank's mare," as we called it; that is, walking.

I used to take a jar of sweet milk to school and a piece of cornbread; I never heard of a refrigerator in those days. My refrigerator was the old springhouse where my foster mother kept a little bit of butter and milk. We had one old cow and one horse named George and one old hound, with which I used to go out in the night with a bottle filled with kerosene and a rag in the top of it to give me a light. We would go out and sit on a rock and look at the moon or the dog would chase a rabbit into one of the rabbit gums which I had built.

The next morning I would go out to the rabbit gum and find a rabbit with its leg broken. I would get it out and shed tears at such cruelty. But I took the rabbit down to Fred Jennings' store on the hard road 3 miles down the creek and got 15 cents for it, which was a lot of money in those days when we could only have maybe one Coca-Cola a year and a little ice cream on the Fourth of July, and that was homemade. The days of the Great Depression—they were a bitter school of hard knocks.

President Hoover described Congress as "that beer garden up there on the Hill," and referred disparagingly to the intelligence of its Members. Sometimes we may think that the situation is pretty bad these days, in the light of the excoriations which Congress gets from time to time from Mr. Reagan, but we can see that President Hoover might have been worse. He talked about this very unhappy relationship with his own party's congressional leadership. "Is it my fault," he asked, "if Jim Watson [the Republican Senate majority leader] * * * prefers to play his own politics against me?"

Incidentally, President Reagan does not know how lucky he is to have HOWARD BAKER for his majority leader, a man who is thoroughly dedicated and extremely skillful and well liked by others, even those on this side of the aisle.

Found too progressive by conservative Republicans, Hoover was regarded as too conservative by such progressive Republicans as George Norris and Robert La Follette, Jr. Only a small group of moderate Republicans, led by Michigan Senator Arthur Vanderberg, rallied to Hoover's support with any consistency. Thus, as Hoover's biographer, David Burner, has noted, he exerted only "slight leadership" over the 71st Congress, which was slow to act on his suggestions. Hoover was also reluctant to take on the mantle of Teddy Roosevelt and Woodrow Wilson and "blast" reforms out of Congress. "I had little taste for forcing congressional action or engaging in battles of criticism," Hoover candidly admitted in his memoirs.[5]

In April 1929, President Hoover called Congress into special session to deal with his two major campaign pledges: farm relief and tariff revision. In a previous address I discussed how the tariff tinkering went beyond Hoover's limited goals and produced the Smoot-Hawley Tariff, the highest in the Nation's history, which further contributed to the building of international trade restrictions. Here, however, I should like to mention the farm bill, which was the first indication of Hoover's legislative leanings.

Within the Senate Agriculture Committee, Farm Bloc senators strongly favored a debenture plan for dealing with farm surpluses. This was a complex plan under which agricultural exporters would receive treasury certificates representing the differences in cost of production between the United States and other nations. This plan did not call for federal buying and storing of farm products, as the McNary-Haugen bills had advocated; but tried to subsidize the shipment of surpluses overseas. Despite President Hoover's opposition, the Republican Senate passed the debenture plan, but it died in conference with the House. President Hoover, who had long been dubious about the potential of overseas sales of American surpluses, instead supported the Agricultural Marketing Act of 1929, which established an eight-member Federal Farm Board to promote agricultural cooperatives to market farm commodities at home, and to further crop diversification, and attempt to stabilize farm prices. This was an improvement over previous conditions, but a modest one at best. Farm Bloc senators like George Norris were especially disappointed over Hoover's appointments to the Farm Board. "These men have grown, and grown fat, have become millionaires, all from the money they have received from the farmers of America," Norris scoffed, while the farmers "have been going down and down and down" through bankruptcy and mortgage foreclosures.[6]

Hoover had won on farm matters, suffered a setback on tariff revision, and was terribly embarrassed by the Senate's rejection in 1930 of his nominee to the Supreme Court, John J. Parker. Judge Parker of North Carolina was strongly opposed by labor leaders and black leaders. Parker was accused of having made speeches against blacks while a candidate for office, and of having handed down anti-black decisions as a judge. He was also accused of favoring anti-labor injunctions while serving on the bench. In the face of a lobbying campaign against Parker, President Hoover noted, "a number of our Republican senators ran like white mice." On May 7, 1930, the Senate rejected Parker's nomination by a vote of 41 to 39. "This failure of my party to support me," Hoover later commented, "greatly lowered the prestige of my administration."[7]

Senatorial courtesy also confounded President Hoover. He discovered that the Senate's tradition of deferring to individual senators' opposition to nominees from their home states gave them considerable influence in the selection of those nominees. Hoover found such political involvement in judicial appointments intolerable, particularly when Republican Senators William Vare of Pennsylvania and Thomas Schall of Minnesota recommended men who were "wholly unfitted for the bench." When Hoover refused to nominate their candidates and offered alternative selections, Vare and Schall blocked his appointees, leaving lengthy vacancies in the federal courts. Hoover and his attorney general finally devised a plan for reducing such confrontations. Whenever a vacancy seemed imminent, the Justice Department would poll local officials for a list of potential candidates. The president would then submit to the senators from that state a list of candidates whom he could approve, allowing the senators to take credit for the final selection. It was clear, however, that Herbert Hoover found such political maneuvering extremely distasteful if unavoidable.[8]

The major event of the 71st Congress was not Judge Parker's rejection, the Agricultural Marketing Act, or even the Smoot-Hawley tariff. That event did not take place in the Senate chamber or even in Washington, D.C. It occurred on Wall Street in New York City when the Great Bull Market of 1929 crashed in panic selling on "Black Thursday," October 24, 1929. Despite the effort of prominent bankers and investment brokers to stem the tide, the price of stocks slipped lower and lower, wiping out investors who had bought on the margin, and depreciating the paper value of all stocks on the New York exchange by some $26 billion, a forty percent decline in value. The crash ruined investors, dried up investment capital, and shattered confidence in the economy. The Nation plunged into its worst depression. Nineteen Twenty-Nine was only the beginning. Nineteen Thirty brought factory shutdowns, job layoffs, bank failures.

Reading again from William Manchester's book, "The Glory and the Dream":

> Hoover had considered economy in the White House kitchen, then decided that would be bad for the country's morale. Each evening he entered the dining room wearing black tie—he was the last president who unfailingly dressed for dinner—and addressed himself to seven complete courses. The reporter who had coined the 1928 Republican campaign slogan ("A chicken in every pot and two cars in every garage") was broke and pleading for loans to support his three children, but the chief executive believed that America would despair if its first family lost faith in the return of prosperity.
>
> Usually some of the courses were out of season; so were the cut flowers on the table. A custom-built humidor held long thick cigars handmade in Havana to the President's specifications; he smoked twenty a day. As the Hoovers ate, a remarkable number of men stood around and watched. The butler and footmen—all had to be the same height—stood at attention, absolutely silent, forbidden to move unbidden. In the doorways were duty officers from the company of marines who stood by wearing dress blues to provide ceremonial trappings, and there were buglers in Ruritanian uniforms whose glittering trumpets announced the President's arrival and departure from the nightly feast, even when the only other diner was his wife Lou. Hoover was proud of Lou. She spoke five languages fluently, was president of the Girl Scouts of America, and set what was conceded to be the finest table in White House history. Sometimes she wondered whether the President really appreciated the food. He wolfed it down with such incredible speed.
>
> Junky shantytowns of tin, cardboard and burlap were Hoovervilles—Manhattan had two big ones, below Riverside Drive and near the obelisk in Central Park. The unemployed (an adjective which had become a noun in these years) carried sacks of frayed belongings called "Hoover bags." In North Carolina the rural poor sawed the fronts off broken-down flivvers, attached scrawny mules, and called the result "Hoovercarts." (The government tried to change the name to "Depression chariots," but no one bought it.) "Hoover blankets"' were old newspapers which park bench tenants wrapped around themselves for warmth. "Hoover flags" were empty pockets turned inside out. "Hoover hogs" were the jackrabbits hungry farmers caught for food. Vaudeville comedians called out, "What? You say business is better? You mean Hoover died?" or reported that Hoover asked Secretary of the Treasury Mellon for a nickel to telephone a friend and was told, "Here's a dime, phone both of them."
>
> Mr. Hoover was convinced that a balanced budget was "indispensable," an "absolute necessity," "the most essential factor to economic recovery," "the first necessity of the nation," and "the foundation of all public and private financial stability"—all this despite the fact that in 1932 he was running the federal budget four billion dollars into the red. When he became convinced at last that the government must do something, he created the Reconstruction Finance Corporation to prop up sagging banks, and agreed to spend twenty-five million dollars on feed for farm animals on the condition that a bill authorizing $120,000 for hungry people be tabled.

I think to his credit:

> Hoover was trying desperately to find solutions. He worked eighteen hours a day, proclaimed a statesmanlike moratorium on war debts, and even cut his own salary. And he was hopeful. In the end, he felt, what he called "rugged individualism" would win.
>
> Riffling through Hoover's papers, one sometimes has the strange feeling that the President looked upon the Depression, as a public relations problem—that he believed the nightmare would go away if only the image of American business could be polished up and set in the right light. Faith was an end in itself; "lack of business confidence" was a cardinal sin. Hoover's first reaction to the slump which followed the Crash had been to treat it as a psychological phenomenon. He himself had chosen the word "Depression" because it sounded less frightening than "panic" or "crisis." In December 1929 he declared that "conditions are fundamentally sound." Three months later he said the worst would be over in sixty days; at the end of May he predicted that the economy would be back to normal in the autumn; in June the market broke sharply, yet he told a delegation which called to plead for a public works project, "Gentlemen, you have come sixty days too late. The Depression is over."
>
> A writer for the Saturday Evening Post asked John Maynard Keynes, the great British economist, whether there had ever been anything like the Depression before. "Yes," he replied. "It was called the Dark Ages, and it lasted four hundred years." This was calamity howling on a cosmic scale, but on at least one point the resemblance seems valid. In each case the people were victims of forces they could not understand.

I have already made reference to the stories in the newspapers which told of the suicides that were taking place daily because the financial world of businessmen and bankers and others was crashing down around their shoulders.

> Newspapers of that period are crowded with accounts of men who took their own lives rather than go on relief. Emile Durkheim had created a special category, "altruistic suicides, for men who killed themselves rather than become a burden to the community.
>
> United States Steel and General Motors had dropped to 8 percent of their precrash prices. Overall stocks listed on the big board were worth 11 percent of their 1929 value.

Investors had lost 74 billion dollars, three times the cost of the World War. More than 5,000 American banks had failed and 86,000 businesses had closed their doors. The country's Gross National Product had fallen from 104 billion dollars to 41 billion (in 1973 it would be 2,177 billion). In 1932, 273,000 families were evicted from their homes, and the average weekly wage of those who had jobs was $16.21.

Mr. President, this is not just storytelling, it is real. My first job was that of working in a gas station. They were not service stations in those days; they were gas stations. I had to wait almost a year after I had gotten out of high school before I could get a job, and mine was at the enormous salary of $50 a month, with 2 Sundays off during each month. $50!

When I married, my wife and I were able to get two rooms in which to live and our refrigerator was half an orange crate nailed up outside the kitchen window.

I remember that my foster father worked in the mines, and there were days I did not get to see him because he left before daylight and came home after dark. He might earn $2 or $2.50 a day, depending on how much coal he loaded in those subterranean caverns. I have been inside them. I have heard the timbers cracking on the right, and the timbers cracking on the left. Those miners worked on their knees with kneepads. They did not have hard hats in those days; they wore cloth caps with a carbide lamp on the front of the cap. Mine explosions were not rare, they were common in those days.

> U.S. Steel, the key to heavy industry, was operating at 19.1 percent of capacity. The American Locomotive Company didn't need much steel. During the 1920s it had sold an average of 600 locomotives a year; in 1932 it sold one. Nor was the automotive industry the big steel customer it had been. Month by month its fine names were vanishing: the Stutz Motor Company, the Auburn, the Cord, the Edward Peerless, the Pierce Arrow, the Duesenberg, the Franklin, the Durant, the Locomobile. One rash man de-

cided to challenge Ford with another low-priced car. He called it the Rockne, lost 21 million dollars, and killed himself. You learned to pay for a nickel cup of coffee, to ask for another cup of hot water free, and, by mixing the hot water with the ketchup on the counter, to make a kind of tomato soup. In winter you stuffed newspapers under your shirt to ward off the cold; if you knew you would be standing for hours outside an employment office, you wrapped burlap bags around your legs and tied them in place.

I have seen all of this, Mr. President.

Shoes were a special problem. Pasteboard could be used for inner soles, and some favored cotton in the heels to absorb the pounding of the concrete. But if a shoe was really gone, nothing worked. The pavement destroyed the cardboard and then the patch of sock next to it, snow leaked in and accumulated around your toes, and shoe nails stabbed your heels until you learned to walk with a peculiar gait.

Men resharpened and reused old razor blades, rolled their own cigarettes or smoked Wings (ten cents a pack), and used twenty-five-watt light bulbs to save electricity. Children returned pop bottles for two cents . . .

When a cigarette was thrown on the ground, I have seen boys rush to pick it up. They called these "ducks." They smoked those "ducks"—little pieces of cigarettes that had been smoked by someone else. The word "sanitary" did not mean much in those days.

If a man had a dime, he could sleep in a flop house reeking of sweat and Lysol. If he was broke he salvaged some newspapers and headed for Central Park, or the steps of a subway entrance, or the municipal incinerator. Because those figures were poorly kept, the precise extent of poverty is unknown. Somewhere between 15 million and 17 million men were unemployed, with most of them representing a family in want.

I am just recalling that when I was born in 1917, the population of this country was about 100 million to 110 million persons. When I graduated from high school in 1934, the total population was about 130 million. So 15 million to 17 million unemployed, with most unemployed representing a family in want, was massive unemployment.

*Fortune*, in September 1932, estimated that 34 million men, women, and children were without any income whatever. That was nearly 28 percent of the population, and like all other studies it omitted America's 11 million farm families, who were suffering in a rural gethsemane of their own.

Farmers were getting less than twenty-five cents for a bushel of wheat, seven cents for a bushel of corn, a dime for a bushel of oats, a nickel for a pound of cotton or wool. Sugar was bringing three cents a pound, hogs and beef two and a half cents a pound and apples—provided they were flawless—forty cents for a box of two hundred.

In 1932 hourly rates had shrunk to ten cents in lumbering, seven-and-a-half cents in general contracting, six cents in brick and tile manufacturing, and five cents in sawmills.

By 1932, a third of a million children were out of school because of lack of funds. Teachers in Mississippi, northern Minnesota, Idaho, South Dakota, and Alabama managed to eat only by "boarding around" at the homes of parents.

In Kansas, twenty-five-cent wheat meant rural teachers were being paid $35 a month for an eight-month year—$280 a year. Akron owed its teachers $300,000, Youngstown $500,000, Detroit $800,000, and Chicago's debts to its teachers were more than 20 million dollars.

I remember when teachers in West Virginia sometimes could not get their checks cashed unless they discounted 20 or 25 percent of the check.

The story of the Chicago schools was a great Depression epic. Rather than see 500,000 children remain on the streets, the teachers hitchhiked to work, endured "payless paydays"—by 1932 they had received checks in only five of the last thirteen months—

In the mining counties of Ohio, West Virginia, Illinois, Kentucky, and Pennsylvania, the secretary of the American Friends Service Committee told a congressional committee, the ratio was sometimes over 90 percent, with deprived children afflicted by "drowsiness, lethargy, and sleepiness," and "mental retardation." A teacher suggested that one little girl go home and eat something; the child replied, "I can't. This is my sister's day to eat."

"Nobody is actually starving," President Hoover told reporters. "The hoboes, for example, are better fed than they have ever been. One hobo in New York got ten meals in one day." In September 1932 Fortune flatly called the President a liar and suggested that "twenty-five millions in want" might be a fairer description of the nation's economic health.

In the Pennsylvania countryside they were eating wild weed-roots and dandelions; in Kentucky they chewed violet tops, wild onions, forget-me-nots, wild lettuce, and weeds.

I can remember going out on the hills and picking what we called "poke salad." So, one way or another, we made it through.

In this atmosphere, the election of 1930 saw a substantial repudiation of Hoover and the Republican Congress. The Republicans, who had enjoyed a 100-seat advantage in the House, came out of the election with a mere two-vote margin. Between election day 1930 and December 1931 when the new Congress convened, several Republican members died and were replaced by Democrats. As a result, the Democratic party organized the House for the first time since 1919. John Nance Garner, of Texas, would be Speaker in the 72nd Congress. The Senate, which had seen a 56 to 39 Republican majority in the 71st Congress, now had 48 Republicans, 47 Democrats, and one Farmer-Labor senator (Henrick Shipstead of Minnesota). In point of fact, Hoover had no more than 40 "real Republicans" as he called them. Eight were Progressive Republicans, like Norris and La Follette, who were not inclined to support the president.

President Hoover, showing his political iconoclasm, suggested to Republican leaders that they allow the Democrats to organize the Senate. "I felt that I could deal more constructively with the Democratic leaders if they held full responsibility in both houses, than with an opposition in the Senate conspiring in the cloakrooms to use every proposal of mine for demagoguery." Senate Republican leader James Watson understandably rejected Hoover's advice. "Watson, of course, liked the extra importance of being majority leader," Hoover noted, "and the Republicans liked to hold committee chairmanships and the nicer offices in the Capitol." That statement, I suggest, indicated Hoover's fearsome lack of understanding of how Congress operates, and of the significant differences between a party's operating and shaping policy in the majority versus the minority.[9]

Prospects for a peaceful relationship between the Republican president and the politically divided Congress were not good. Herbert Hoover clung to his belief in limited government and his abhorrence of direct federal relief to the unemployed. Democratic senators and representatives called for a bolder, more dramatic, and perhaps unorthodox approach to the massive human suffering in the Nation. During the "lame duck" session of the 71st Congress, in the winter of 1930-31, Democratic and Progressive Republican senators such as Kenneth McKellar, Smith Brookhart, Thaddeus Caraway, Tom Walsh, and Hugo Black were all proposing federal relief measures. President Hoover accused them of "playing politics at the expense of human misery." When the 71st Congress adjourned on March 3, 1931, some members of the incoming 72nd Congress urged the president to call a special session. Hoover, recalling perhaps the difficulties he had encountered with the Smoot-Hawley tariff after he called the Congress into special session in 1929, had no desire to repeat the experience, especially with a Democratic House. "It is my belief, and the belief of my advisers," Hoover wrote to Representative Clarence Lea, "that an extra session at the present time would create ten times the unemployment that can be cured by any possible legislation enacted." So, unbelieveable as it may seem to us, as the Nation faced one of its gravest crises, the United States Congress remained out of session from March to December 1931.[10]

When the 72nd Congress did convene, on December 7, 1931, the Senate was presented with a host of resolutions from the state governments seeking various forms of relief from the economic distress. The state legislature of Colorado proposed increased silver monetization as a means of restoring flexibility (or inflation) to the monetary system. The Mississippi legislature wanted a one-year moratorium on farmer debts to the government. The state legislature of Wisconsin called for federal unemployment insurance. The territorial government of Alaska proposed a grant of 160 acres of land to all war veterans from Alaska, in lieu of a monetary bonus. The National Association of Furniture Manufacturers called for the creation of an industrial board to secure a better balance between production and employment, and so on. Senator McKellar observed that "there is hardly a day that I do not receive letters from constituents of mine saying, 'Oh, Senator, is there not some way by which it can be arranged that my home and my farm on which the government has a mortgage may be saved? Is there not some way in which a foreclosure may be postponed and my home and farm saved?' "[11]

President Hoover, in his State of the Union message, which he delivered in writing rather than in person, continued to put the best face on affairs. The depression was worldwide, he said. Business depressions were transitory, actions by local and private groups were protecting people "from hunger and cold." The president reiterated his absolute opposition to any form of direct or indirect federal aid to unemployment, and his belief that "the largest measure of social responsibility in our country rests upon the individual. If the individual surrenders his own initiative and responsibilities, he is surrendering his own freedom and his own liberty." Yet, having said that, Hoover then proposed dramatic new federal programs to address the problems of the depression and to seize the initiative from Democrats and progressive Republicans in Congress. He proposed a Reconstruction Finance Corporation, modeled after the World War I War Finance Corporation, to make emergency loans and provide credit to banks and industry. He also recommended creation of a Home-Loan Discount Bank, to relieve mortgage pressure on home and farm owners. Hoover favored, but did not spell out a method for achieving, a reform of the banking laws to safeguard deposits. And he urged the reorganization of all federal building and construction activities into a Public Works Administration.[12]

So we can see, Mr. President, that although 30 years afterward we campaigned on an anti-Hoover platform and won elections, he did indeed propose some constructive ideas, moreso than he has been given credit.

Congress gave Hoover what he wanted, and more. In January the Senate and House passed the Reconstruction Finance Act, setting up the RFC with a borrowing capacity of $2 billion. Former Vice President Charles Dawes headed up the new agency. In February, Congress passed the Glass-Steagall Act, which gave the Federal Reserve Board greater authority to expand credit. And in July the Federal Home Loan Bank Act was sent to the president for his signature. But while Hoover won widespread support in Congress for these measures, Democrats and progressive Republicans believed they were too limited, and proposed vast new spending.

However, while hobbled by his own philosophy of life and government, Hoover proposed far greater federal action than had any previous president during a depression. This has led historians to speculate whether Hoover was the last of the old presidents or the first of the new; that is, the last of the laissez-faire or the first of the activist, interventionist presidents. Some historians have gone so far as to portray Herbert Hoover as a "Forgotten Progressive," a reform-minded man who, fearful of the rise of a corporate state, proceeded in a correct, if impolitic, way to restore confidence in the economy.[14]

Reading some of these revisionist historians' accounts of Herbert Hoover caused me to scratch my head and wonder if all those millions of people who voted against Herbert Hoover's reelection in 1932 could have been wrong? Was it possible that Hoover was on the right track after all? My anxieties were quickly dispelled when I read in Hoover's memoirs: "Many persons left their jobs for the more profitable one of selling apples." No, Mr. President, anyone who seriously believed that men and women quit their jobs to stand in tattered clothing on street corners to sell apples simply did not understand the magnitude of the Great Depression. Hoover could not bring himself to recognize that millions of people were honestly and desperately out of work through no fault of their own but because of a massive failing of the national economic system. They sold apples in the street out of desperation, not greed. They lived in tarpaper shacks in public parks because they had nowhere else to go. They foraged for food in garbage cans because they were starving. They sought federal relief because states and cities, churches and private relief agencies were overburdened and helpless. No, the voters were correct in 1932. Herbert Hoover did not see things clearly and the times called for new leadership.[15]

Before moving on to that new leadership, I want to take a few minutes to discuss the Senate's most memorable response to the Depression during the Hoover years, and that was the Banking and Currency Committee's investigation of Wall Street, better known as the Pecora investigation. That investigation originally grew out of President Hoover's suspicion that "bear raiders" were worsening the stock market conditions by "short selling" and other tactics designed to drive stock prices down. The president also imagined that prominent Democrats were behind these bear raids, hoping to undermine his economic recovery plans. Hoover and his conservative supporters in the Senate initially called for the investigation as a means of exposing such tactics and of using the publicity to force the stock exchanges to voluntarily reform their rules and practices. The hearings began in April 1932, but failed to prove the president's suspicions. Democratic financiers were not trying to sabotage the economic system. A few "bear raiders" admitted that they timed their sales to correspond with Hoover's optimistic speeches on the economy. "Sell 'Em" Ben Smith, for one, had discovered that public confidence in the president was so low that whenever Hoover predicted recovery, the market invariably declined. The hearings foundered around at first because of inadequate attention on the part of distracted committee members, and woefully inadequate staffing. It seemed as if the Wall Street investigation was about to disappear into history as so many congressional investigations had done. "Nothing is so easy as to start a congressional investigation," a newspaper reporter had commented a few years earlier. "A resolution, a brief but violent speech, a few newspaper interviews—and the game is on." Most investigations died quiet and obscure deaths, often without filing reports, and rarely producing any legislative recommendations. But after the election the Wall Street investigation took a significant turn.[16]

In November 1932, the American public had rejected Herbert Hoover's leadership and elected Franklin D. Roosevelt as President of the United States. In that election, the voters also gave overwhelming control over Congress to the Democrats.

My good colleague, JENNINGS RANDOLPH, was one of them.

After fourteen years of Republican majorities, the Senate now had a 60 to 35 Democratic margin, with one independent. Senator Peter Norbeck, a progressive Republican from South Dakota, was the outgoing chairman of the Banking and Currency Committee, but because of the long interregnum between elections and the inauguration of a new president and Congress, Norbeck would remain in charge of the investigation until March. It was at this point that Norbeck hired a new chief counsel, a 51-year-old attorney from New York, Ferdinand Pecora. Senator Norbeck assured Pecora that the work of the investigation was largely over and little remained except to draft the final report. But looking through the committee's files, the fiery little Italian immigrant was frustrated over their lack of conclusive evidence. He persuaded Norbeck to allow him to broaden the inquiry. Significantly, the new hearings opened in February 1933, a week after the governor of Michigan had declared a "bank holiday," shutting down the entire banking system in the state. State after state was following Michigan's example in a desperate effort to stave off further bank failures. "For the bewildered thousands of depositors who waited in line to withdraw their savings, if possible," one historian has noted, "the Banking Committee hearings provided a timely financial education."[17]

As his first subject for inquiry, Pecora chose Charles E. Mitchell, the prominent and flamboyant chairman of the National City Bank. Armed with subpoenas, Pecora and his staff went through the bank's records in preparation for the public hearings. Mitchell walked into the Senate Caucus Room on February 21, 1933, surrounded by lawyers and bank officials. He wore the expression of a man who could handle anything dealt to him.

He had testified before other counsels of the committee a year earlier with no difficulty at all. But under Pecora's questioning, the millionaire Mitchell conceded that he had paid no income taxes in 1929, after selling stock to his wife in an effort to establish a loss. "That sale was really just a sale of convenience to reduce your taxes?" one senator asked. "Yes," Mitchell replied. Pecora was also able to detail the speculative excesses and unethical practices of the National City Company, an investment firm tied to the bank, and how Mitchell and other bank officers had unloaded their own unprofitable stocks onto the bank's customers. The National City exposé made headlines nationwide, leading the new Democratic majority on the committee to decide to extend the investigation into the next Congress. As a result of his testimony, Charles Mitchell was forced to resign as chairman of the National City Bank, and the bank announced that it was severing its ties with the investment company. On March 2, as the Banking Committee recessed for the presidential inauguration, Pecora was conferring with Senator Norbeck in his office in the Russell Office Building. From the window they spied Charles Mitchell, walking along with stooped shoulders, carrying his suitcases toward Union Station, the retinue of bank officials no longer in sight.

Two days later the new president, Franklin Roosevelt, proclaimed in his inaugural address that "The money changers have fled from their high seats in the temple of our culture." Indeed, as Charles Mitchell was toppled from his position of eminence, other bankers appeared before the committee to confess to their own participation in the shocking financial excesses of the 1920's. Throughout 1933 and early 1934, Pecora called one banker and investment counselor after another. Even the mighty J. P. Morgan sat in the witness chair in the Caucus Room. Pecora's investigation was an object lesson to all other would-be congressional investigators: do your homework, prepare thoroughly, absorb yourself in the documentation.

And I would immodestly add: Listen carefully to what the witness says in his answers to your questions.

By the time it had concluded its inquiry, the Banking Committee saw the fruits of its labor written into law. The Securities Act of 1933, the Banking Act of 1933, and the Securities Exchange Act of 1934 all grew directly out of Pecora's revelations. In contrast to President Hoover's more limited objectives, the investigation resulted in the establishment of regular federal supervision of the sale of stocks and the operation of the stock exchanges. Now on the law books were mechanisms to prevent the draining of legitimate investments into fly-by-night operations, and to avoid a repeat of the great stock market crash of 1929.[18]

Mr. President, let me now turn to a period which gives me, as a Democrat, great pride to recount, and that is the "First Hundred Days" of Franklin D. Roosevelt and the New Deal. The "First Hundred Days" were not, as some commentators erroneously suggest, the first hundred days of the Roosevelt administration, but the length of the first session of the 73rd Congress, from March 9, 1933 (five days after Roosevelt took office), until the early morning hours of June 16, 1933, 51 years ago tomorrow. The New Deal's First Hundred Days began in an atmosphere of apprehension. The president declared a national bank holiday to shut the doors of every bank in the United States until emergency banking legislation could be drafted. But apprehension was mingled with excitement and exhilaration as members of Congress—particularly those on the recently swollen Democratic side—realized they were participating in a momentous period of American history.

I want to point out again with pride that of the 528 Members of Congress who participated in those 100 days, as I say, 51 years ago, only 1 is still serving in Congress, and that is my venerable colleague from the great State of West Virginia, Senator JENNINGS RANDOLPH, named after William Jennings Bryan.

When the first session of the 73rd Congress convened on March 9, 1933, the first order of business before the Senate was the president's Emergency Banking Relief Act. The House passed the bill that day after only thirty-eight minutes of debate, without having even seen a printed copy of its text. The Senate deliberated for the afternoon, and then passed the bill by a 73 to 7 margin at 7:30 in the evening. An hour later President Roosevelt signed it. The act permitted sound banks to reopen only under licenses from the Treasury Department, and gave increased powers to the Federal Reserve Board and the Reconstruction Finance Corporation to help stabilize the banking system and restore public confidence. Confidence, of course, was the key word, and on March 12, President Roosevelt made the first of his famous "fireside chats" over the radio to reassure depositors that their savings were safe, and to prevent a renewed run on the banks. Later in the Hundred Days the Glass-Steagall banking bill further strengthened American banks by requiring separation of investment from commercial banking. The Glass-Steagall bill also created the important Federal Deposit Insurance Corporation, which federally guaranteed bank deposits.

So no more, Mr. President, will a little boy sell the Cincinnati Post, put $7 in the bank in Matoaka, West Virginia, and watch the bank go under and never see his $7 again.

For those who claimed that the New Deal rammed its legislative program through Congress, or that Congress simply walked in step behind the president, FDIC provided evidence of the congressional role in shaping the Hundred Days. As we now know, President Roosevelt did not initially see the wisdom of the federally insured deposits, and the initiative for this measure came not from the White House but from Congress, Senator Arthur Vandenberg and Representative Henry Steagall being chief sponsors of the F.D.I.C. While it was true that Congress looked to the new president for leadership in a great national crisis, it is important to remember that the success of the Hundred Days came from the mutual cooperation of the executive and legislative branches, and their ability to draw from each other's strengths.

One of the major bills to come out of that Hundred Days session was the Muscle Shoals Bill, which set up the Tennessee Valley Authority. In earlier remarks I described how Senator George Norris had persisted during the 1920's in sponsoring legislation for federal development of public power plants on the Tennessee River. Presidents Coolidge and Hoover had vetoed such legislation, but President Roosevelt made known his support. On March 9, 1933, Senator Norris reintroduced his bill. The Senate Majority Leader, Joseph Robinson of Arkansas, asked Norris and other senators if they would refrain from introducing legislation "not having relationship to the present emergency," but Norris countered that his bill did "have something to do with the continuation of employment." And indeed, Mr. President, Congress passed Norris' bill creating the Tennessee Valley Authority, which President Roosevelt signed on May 18. Over the next fifty years the TVA's building of hydroelectric plants and programs for flood control and land reclamation radically changed the nature of that region, greatly improving the quality of life for its residents.[19]

The Banking Act and the TVA Act were but two of the important legislative results of that first Hundred Days. There was such an array of laws coming out of that session, that it is difficult to condense them. There was, for example, the Economy Act, passed by the Senate on March 15, and signed by the president on March 20, which cut federal salaries by up to fifteen percent and reorganized certain federal agencies in an effort to reduce federal expenditures. Looking back, this act of orthodox economics, designed to balance the budget and restore confidence, seems out of character for the Roosevelt administration, which later embraced deficit spending as its tool for overcoming the depression; but enactment of the Economy Act symbolized the pragmatic and experimental nature of the New Deal—it tried orthodox measures and when they failed it did not hesitate to try unorthodox approaches. Also in March of 1933 came the Civilian Conservation Corps Reforestation Relief Act. We remember the CCC in West Virginia. We remember it as a wonderfully imaginative program that gave employment to 250,000 young men across the Nation, putting them to work planting trees, halting soil erosion, building roads, and doing other useful tasks. It was in March, 1933 that Roosevelt signed the bill sending the 21st Amendment to the states for ratification, to repeal Prohibition. And in December, when ratification was completed, the "Noble Experiment" of the Roaring Twenties came to an end.

In May, came another burst of significant legislation. In addition to TVA there was the Federal Emergency Relief Act, which appropriated $500 million in matching funds to state and local governments to estabish work relief programs, putting the unemployed back to work. Roosevelt appointed Harry Hopkins to head the FERA, and even before he had an office, Hopkins moved a desk into a hallway and began distributing work relief funds. On the same day that Roosevelt signed the FERA, he also signed the Agricultural Adjustment Act, designed to help farmers by eliminating surplus crops and establishing parity prices for farm commodities. There was also the Federal Securities Act, which I mentioned earlier, which required full disclosure of stock information to investors.

In June, Congress passed a joint resolution abandoning the gold standard, a move to stimulate prices. Following on its heels came the National Employment System Act, establishing the United States Employment Service. The Home Owners Refinancing Act created HOLC, the Home Owners Loan Corporation, to refinance home mortgage debts. The Glass-Steagall Banking Act established federal deposit insurance. The Farm Credit Act aided the refinancing of farm mortgages. The Emergency Railroad Transportation Act promoted financial reorganization of the railroads.

Finally, the crown jewel of the Hundred Days was the National Industrial Recovery Act, which the president signed on June 16 at the end of that spectacular first session. That is 51 years ago tomorrow. This act established the famous National Recovery Administration, or NRA, with its "blue eagle" symbol and its slogan "We Do Our Part." The NRA sponsored industry-wide boards to establish fair competition codes. Business and labor sat at common tables to work out arrangements designed to raise and stabilize prices and wages. The system was based on industrial self-regulation, and gave industries which cooperated some relief from anti-trust restrictions.

In return they agreed to recognize labor's right to organize. Ultimately, the NRA did not work as well as it was intended, and eventually the Supreme Court ruled that Congress had unconstitutionally delegated too much of its authority to the NRA. But it is important not to forget the tremendous national morale boost that the NRA initially produced, how people marched in the street under its banners, and how it contributed to the restoration of public confidence. "The only thing we have to fear, is fear itself," Franklin Roosevelt had proclaimed. That message was not all that different from Herbert Hoover's optimistic prediction. The difference was that the people believed Roosevelt.[20]

Mr. President, I began this address with an extended discussion of Herbert Hoover, trying to give him due credit as a remarkable man and a talented administrator, and trying to understand why he failed as president. Franklin Roosevelt was a very different man and president. Born into an old and wealthy family, he enjoyed great privilege in life, by contrast to Hoover the orphan boy. The turning point in Roosevelt's life, however, occurred in 1921 when he contracted paralytic polio. People who lived through the Roosevelt years really had no idea how severely handicapped the president was, that he was unable to walk without heavy braces, that he was confined to a wheelchair, and that he needed to be carried up steps. Roosevelt's ebullient spirit covered his affliction. He was a man supremely confident in his own abilities, who radiated his confidence to others. Franklin Roosevelt, who needed physical assistance to move about, understood that giving assistance to those in need would not necessarily rob them of their initiative and their spirit. Giving jobs to the unemployed, protecting the bank depositor, helping farmers not to lose their land, saving homes from foreclosure, was to him the simple, rational response to a great national economic catastrophe. He never shared Hoover's fears and, therefore, he was free to act and to experiment. That is what made the New Deal such a popular success, and won Franklin Roosevelt an unprecedented four elections to the presidency.

FDR has largely stolen the attention of historians and political scientists away from the men, activities, and contributions of Congress during that era. Roosevelt's "Brains Trust" and other young advisors were gifted and creative originators and drafters of legislation, and the president dealt closely with his party leaders in both houses, making himself open and accessible. But his program also benefited from the support and leadership of some highly capable committee chairmen. In the Senate, the two money committees, so critical for shaping any legislative package, were in the hands of shrewd Southerners. Pat Harrison of Mississippi chaired the Finance Committee, while Carter Glass of Virginia chaired Appropriations. Both were essentially conservative men, but they were willing to work with the new president and to support his liberal programs. "I am a good Democrat and I go through," Harrison explained.[21] The silverite Senator Key Pittman of Nevada chaired Foreign Relations; the eloquent Henry Fountain Ashurst was chairman of the Judiciary Comittee; the progressive C.C. Dill of Washington headed Interstate Commerce, which would handle much of the regulatory legislation. Other legislative strategists included James Byrners of South Carolina, Kenneth McKellar of Tennessee, Robert Wagner of New York, and Hugo Black of Alabama. The Western Progressive Republicans who had played such an influential role in promoting reform during the 1920's—men like William Borah and Hiram Johnson—went into eclipse during the 1930's. For one, they were no longer committee chairmen, but more importantly they could not adjust to the experimental nature of the New Deal. There were men more attuned to the Republican Roosevelt, Teddy, than to his distant cousin Franklin. With the exception of Senator Norris and "Young Bob" La Follette, they became severe critics of the New Deal, and in later years they broke with Roosevelt entirely over foreign policy—which will be the subject of a later address in this series.[22]

Democratic leadership was ably provided by Joe T. Robinson, who sat at this desk. I see his name inside the desk. Senator Robinson was by all descriptions a commanding figure with a "terrifying, open-air voice." He seemed to be able to shake the Senate chamber when he spoke. Robinson sat on the Senate floor every afternoon, waiting, cajoling, counseling, not saying a great deal, but with his presence making sure that people got on with their business. He had a "Scotch temper," we are told, and would brook almost no opposition. The one senator who rankled Robinson the most was the irrepressable Huey Pierce Long of Louisiana. Senator Long—father of our own Russell Long, the distinguished senior senator from Louisiana—was perhaps the most colorful and iconoclastic member of the Senate in the 1930's. Darrell St. Claire, who for many years was Assistant Secretary of the Senate, came to work for Senator Carl Hayden during the first Hundred Days in 1933. Many of us remember Darrell St. Claire. He recalled seeing Senator Robinson completely lose his temper with Huey Long during one Senate debate: "I can see Joe Robinson now going all the way down that empty row to Long, talking at the top of his voice," St. Claire described it, "and putting his fist under Long's face as he stood over him. . . . Robinson was shaking his fist under Long's chin, roaring out his words. Long, seated, looked meanwhile at the ceiling as if he heard nothing, as if he had no idea anyone was anywhere around." St. Claire found Huey Long "probably one of the most extraordinary minds that was ever on the floor. A man who could speak on anything after a minimum of preparation, because he had an extraordinarily receptive and retentive mind.

I have heard the late Senator Harley Kilgore talk about Senator Huey Long in the same way. I heard him say that Senator Long would come down to the restaurant, sit down with other Senators and say "Well, fellows, what do you want to discuss today?" Another thing that Senator Kilgore said about Senator Huey Long was that he was a man who had "unlimited brass."

Huey Long could speak to the horizon, you could hear him anywhere in the chamber. He spoke rapidly, using what I would say was the vernacular of the South, but in perfect grammatical form. Huey Long was a master at using humor and sarcasm in debate, and when he spoke, the presiding officer frequently had to quiet the galleries which were roaring with laughter. In many ways Senator Russell Long is the same. In those days the walls of the Senate chamber had decorative recesses, which were subsequently enclosed for accoustical purposes; but Senator Long would keep a Biblical Concordance and a Shakespearean Concordance in the recess by his desk, and in the midst of debate he would whip out a volume and throw an appropriate Biblical or Shakespearean quote into the fray. It was Senator Long, in fact, who gave the Senate reporters of debate the reference Bible that they use today, so they could double check his quotations.

The only Senator who could match Huey Long in color and debate style was J. Hamilton Lewis, the first party "whip." There is a fine portrait of Senator Lewis hanging in the corridor just outside this chamber, but it does not do complete justice to his sartorial splendor, his pink whiskers, and his toupees, which he was reported to change daily. "Very few could ever understand what J. Hamilton Lewis was talking about anyway," Darrell St. Claire recalled. "He was a man who just kept talking, quietly, rather disconnectedly, because I think he felt that if he kept on saying something people would think he was saying something, when in actual fact, all he was doing was reaching for words. Long found him to be quite a delight, because Ham would stand up and point to Long with his gloved fingers and lecture the senator from Louisiana on his manners."[23]

Senator Long was also largely responsible for the presence of a woman senator in this chamber during the New Deal, and that was Hattie Caraway, who was appointed to succeed her late husband Thaddeus Caraway in 1931. When she filed to run for reelection in 1932 no one gave her a chance to win. They assumed she would serve only for a year to keep the seat warm until a male was elected. But Huey Long decided to campaign for Mrs. Caraway, crossing the border from his own state of Louisiana into Joe T. Robinson's Arkansas and canvassing the entire state. Many political observers interpreted Long's campaign as a sign of his national ambitions and as a warning to powerful Senator Robinson to take him seriously. With Huey Long's support, Mrs. Caraway became the first women elected to a full six-year term in the Senate. Historians sometimes assume that she could not have won without Long's support, but it is interesting to note that after Long's death in 1935, Mrs. Caraway went on to win renomination and election in 1938, defeating the late John L. McClellan in the Democratic primary. She was finally defeated for renomination in 1944 by the young J. William Fulbright.[24]

Senator Long wrote two books that I would commend to my colleagues. His memoirs, Every Man a King, told his life and philosophy, but a second book, My First Days in the White House, rather candidly told of his national ambitions. My First Days in the White House is, as Huey Long described himself as *sui generis*, or unique. In his humorous style, Senator Long outlined what he would do as president, including the naming of his cabinet, and his intention of appointing Franklin Roosevelt as secretary of the Navy. There were indeed many indications that Senator Long planned a presidential campaign, perhaps as an independent, in 1936 or 1940. That was never to be, however, for in September 1935 the senator was assassinated in the state capitol building in Baton Rouge, Louisiana. His memory has been preserved since then in novels, poetry, stage plays, and motion pictures, and in a monumental biography, *Huey Long* by the late Professor T. Harry Williams.[25]

I have spent considerable time on Senator Long, who was a junior senator, did not chair a committee, and was not in a position to significantly shape legislation—but who in fact exerted considerable influence on the New Deal's legislative program between 1933 and 1935. The threat of Long's candidacy against Franklin Roosevelt, combined with the pressure from other popular leaders with radical solutions, men like Dr. Francis Townsend, who proposed an old-age pension scheme, and Father Charles Coughlin, the popular "radio priest," and Milo Reno, the farm protest leader, and even from the Socialist and Communist parties, whose ranks were growing in response to the economic crisis, forced Democratic leaders constantly to reassess their programs. While there was a "New Deal Boom" in 1933, improving economic conditions, the Nation was still locked in a terrible depression and millions of people were still out of work. In February 1934—the year in which I graduated from Mark Twain High School, Stotesbury, West Virginia, Congress enacted the Civil Works Emergency Relief Act, authorizing an additional billion dollars to the FERA for civil works projects to put people back to work. Nineteen Thirty-Four also saw the passage of the Farm Mortgage Refinancing Act, the creation of the Export-Import Bank, the Crop Loan Act, the Cotton Control Act, the Municipal and Corporate Bankruptcy Acts, the creation of the Securities and Exchange Commission, the Federal Communications Commission, and the Federal Housing Administration. The congressional elections that year served as a ratification of the early New Deal. Usually in the "mid-term" elections the incumbent party loses seats in Congress, but in 1934 the Democrats gained nine seats in the Senate and nine seats in the House.

In 1935, the Congress convened on January 3, as set by the new 20th

Amendment to the Constitution sponsored by Senator Norris. No longer would a new Congress need to wait a year between its election and its first meeting. No longer would "lame duck" members remain in office so long after their defeat. No longer would five-month interregnums exist between the election and inauguration of a president. On January 4, President Roosevelt appeared in person to deliver his State of the Union message. "The outlines of the new economic order, rising from the disintegration of the old, are apparent," he proclaimed. "We test what we have done as our measures take root in the living texture of life. We see where we have built wisely and where we can do still better."

President Roosevelt proposed a threefold plan of action: that the federal government should ensure "the security of a livelihood through the better use of the national resources of the land in which we live", "the security against the major hazards and vicissitudes of life", and "the security of decent homes." Although not completely spelled out at that time, these became the heart of what some historians call the "second hundred days," of the second New Deal."[26]

The first action of this new program was the Emergency Relief Appropriation Act, which the president signed on April 8. We remember this act for its creation of the Works Progress Administration, or WPA, under the talented leadership of Harry Hopkins. Here was the creation of Federal works programs to put literally millions of Americans to work, constructing highways, building courthouses and libraries, building airports, repairing and landscaping parks. If you walk on the sidewalks of many a town in my home state of West Virginia you may see the initials "W.P.A." inscribed in the concrete at the corner, reminding us who put those sidewalks down.

But the unemployed who found employment through the WPA were not all construction workers and heavy laborers. The WPA recognized that artists, musicians, actors, and writers were also suffering mightily during the Depression. Even today, you can walk into many a federal building, or a local school, or a courthouse, and find a magnificent mural painted by WPA artists. From a high school library in the Bronx to Coit Tower on Telegraph Hill in San Francisco, these murals are a reminder of this imaginative program. Many Americans saw their first stage play, or heard their first opera or symphony from a traveling WPA theater program. As Professor William Leuchtenburg has written of the WPA: "It restored the Dock Street Theater in Charleston; erected a magnificent ski lodge atop Oregon's Mount Hood; conducted art classes for the insane in a Cincinnati hospital; drew a Braille map for the blind at Watertown Massachusetts; and ran a pack-horse library in the Kentucky hills." Writers turned out guides to cities and states, and conducted some of our first "oral history" projects, including an important series of interviews with elderly people who had been born slaves, and who gave us our final first-hand account of that "peculiar institution." Those who disparaged the WPA as a boondoggle filled with leaf-rakers and shovel-leaners ignored its imagination and vitality and its positive contributions to rebuilding the human spirit of the unemployed during the Depression.[27]

May 1935 was a critical month for the New Deal. Congress continued to produce important legislation: the Resettlement Act, setting up the Resettlement Administration to help farm families, and to construct "new towns" to house workers—the town of Greenbelt, Maryland, just outside Washington is one of those communities. The Rural Electrification Administration was also created that month. But on May 27, the New Deal received a major body blow from the Supreme Court, which unanimously ruled the National Recovery Administration unconstitutional. It was clear to many observers that the NRA was not doing its part; that it had overextended itself and could not police all of its codes; that large businesses were using the codes to squeeze small businesses out of the market; and that they were not all honoring their pledge to recognize labor's right to organize. Still, the NRA and its Blue Eagle had been an important symbol of the New Deal's recovery effort, and its demise left a gaping hole in the president's program that needed to be filled.

So it was at this point that the New Deal took a very significant turn, and the Senator who played the largest role in that development was Robert Ferdinand Wagner of New York. When we speak of significant Senators in the twentieth century, Robert Wagner must be numbered among them. Born in Germany, he immigrated to the United States at the age of nine with his family. His father was a janitor in a New York tenement where the Wagner family lived in the basement; his mother took in laundry; and young Robert Wagner got his start as a newsboy. His brothers saved enough to send him to the City College of New York and to New York Law School.

In 1898, Wagner began his long association with New York's Tammany Hall, which in 1904 launched his political career with an election to the New York state assembly. As a state legislator, Wagner chaired a special investigating commission to inquire into factory safety after the infamous Triangle Shirtwaist Company fire, in which 146 women workers died. This was a sobering experience for Wagner and the commission's co-chairman, Alfred E. Smith, which led them to sponsor some sixty bills in the New York state legislature for more humane working conditions. Fifty-six of the Wagner-Smith bills became law. Al Smith went on to become governor of New York and a presidential candidate; Robert Wagner was elected to the state supreme court, and in 1926 to the United States Senate.[28]

In the Senate, Robert Wagner was consistently rated as one of the hardest working members. He was an immaculate dresser, with his Phi Beta Kappa key dangling from a watch chain; he smoked cigars; and he retained some of his "Tammany East Side" diction. As his biographer, J. Joseph Huthmacher, wrote: "He lacked the flair of showmanship that friends like Al Smith, and senatorial colleagues like Huey Long and J. Hamilton Lewis, possessed to consummate degrees." He never played to the galleries. He seemed self-consciously shy. Senator Henry F. Ashurst recalled how Wagner would blush if he mispronounced a word in a debate. A senator was more likely to find Wagner in the cloak room or the committee room than on the Senate floor. Nevertheless, he was a supreme legislative craftsman. Simon Rifkind, Wagner's secretary, recalled the senator's transformation when he had an important bill pending. He was "like a great actor who has absorbed a role"; he would become unusually sociable with his senatorial colleagues; he would employ every technique to win the friendship, good will, and support of his fellow senators. As a result he was speedily accepted into the Senate's "inner club," the senior members who in those days controlled what happened in this body.[29]

Senator Wagner was a man with a vision of what the government could and should do. "The Democratic party can well afford to plead guilty to the charge . . . that we are dreamers," he once said. "If a government or a people is to progress, its goal must ever be a little beyond its reach." In 1935, Senator Wagner shepherded through Congress two of the most important bills ever passed during the New Deal. The first was the Social Security Act, drafted in Secretary of Labor Frances Perkins' office, which set up a national old-age pension system and provided federal grant-in-aid to states to assist dependent mothers and children. Interestingly, in light of the recent "bail-out" efforts for Social Security, the drafters of the measure were aware that Social Security taxes would not cover all expenses, and they proposed that the "deficit" in the fund should be paid by federal contributions directly from the general tax revenues. A more conservative faction in the administration, led by Treasury Secretary Henry Morgenthau, Jr., insisted that the Social Security system be put on a self-supporting basis. Reluctantly, Senator Wagner supported this position in order to win passage of the bill.

On the second measure, however, Wagner pressed ahead despite some administration reluctance. This was the National Labor Relations Act, better known as the Wagner Act, which created the National Labor Relations Board. This bill was designed to replace section 7(a) of the NRA, by which business recognized labor's right to organize collectively. The president, according to Frances Perkins, "never lifted a finger" for the labor relations act. Instead Roosevelt adopted a neutral stance. As Professor Huthmacher has written: "Rejecting the advice of some top Democratic leaders in Congress, the Chief Executive gave Wagner a green light in order to see how far he could get, on his own, with his pet bill. The outcome astonished the president perhaps as much as it did anyone else." After ushering the bill through committee, and defending it in the national press, Senator Wagner beat back a series of crippling amendments, drafted by the National Association of Manufacturers, and saw the passage of his bill by a margin of 63 to 12, on May 16, 1933. Professor William Leuchtenburg has termed the Wagner Act "one of the most drastic legislative innovations of the decade." It changed the face of labor-management relations. As we know, the Wagner Act permitted the NLRB to hold elections in which workers could vote to join or not to join a union. Passage of this bill provided a tremendous boost to the American labor movement and contributed to the rise of the Congress of Industrial Organizations, or CIO, which began organizing the masses of unskilled and semi-skilled workers who had long been ignored by the American Federation of Labor, or AFL. The Wagner Act, as its author proclaimed, aimed to protest workers "caught in the labyrinth of modern industrialism and dwarfed by the size of corporate enterprise," to keep them from becoming the mere "playthings of fate."[30]

For every action, there is a reaction, and the reaction to the New Deal was loud and severe. Conservative businessmen and politicians joined together in a Liberty League to oppose Franklin Roosevelt and such New Deal measures as Social Security and the Wagner Act. Roosevelt was villified in the conservative press. His opponents decried him as a dictator. Two well-known cartoons of the 1930's captured the spirit of these attacks. In one a little girl is calling "Mother, Wilfred wrote a bad word!" And on the sidewalk her brother is seen writing: "ROOSEVELT." In the other, a group of fashionably dressed people are seen outside the window of an obviously expensive home. "Let's all go down to the Trans-Lux to hiss Roosevelt in the newsreels," they propose. The anti-Roosevelt barrage was so intense that two historians have written a book about it, aptly titled *All But The People.* The anti-Roosevelt groups had "all but the people" behind them. In 1936, the *Literary Digest* predicted a landslide for the Republican candidate, Governor Alfred M. Landon of Kansas, father of the very distinguished, likable and effective junior senator from Kansas, Nancy Kassebaum. But when the votes were tallied, Roosevelt had won with over sixty percent of the vote. His broad coat-tails carried Democrats into office seemingly by the truckload. The Senate in the 75th Congress contained 76 Democrats and only 16 Republicans, with 4 Farmer-Laborites and Progressives.

There were so many Democrats in the Senate that junior members had to be seated on the Republican side of the aisle. In the House, the Democrats enjoyed a 331 to 89 margin.[31]

Mr. President, it is a strange fact of political life that too great a victory can be a detriment. Landslides can cause political leaders to lose perspective, to become cocky, to consider themselves invincible, to let down their guard, and lose their protective sense of caution. Certainly this was true of Franklin Roosevelt in 1937. In the moment of his greatest electoral victory, the president allowed himself to make a terrible political blunder. With the executive and legislative branch locked solidly in Democratic control, the president turned his focus to the judiciary, and specifically to the Supreme Court. During his first term in office he had made no appointments, and a majority of its members were conservative Republicans, presided over by Chief Justice Evans Hughes, the Republican presidential candidate in 1916. Roosevelt feared that the court would invalidate key elements of the New Deal, such as Social Security and the Wagner Act, as it had ruled unconstitutional the National Recovery Act and the first Agricultural Adjustment Act. He decided to use his election mandate to reform the court.

Instead of confronting the court's obstructionism openly, Roosevelt argued that the justices' advancing age was retarding their work. He proposed a retirement pension system along with the addition of "younger blood." By this Roosevelt meant that he would request that for every justice over the age of seventy he could add another appointee, until the Supreme Court contained as many as fifteen members. The number of justices of the Supreme Court, by the way, is not set by the Constitution, but by statute, so Roosevelt was completely within his rights to make such a proposal. But what a storm it raised! Critics called it a Supreme Court "packing" plan, that would undermine the independence of the judiciary. "Many Americans were suspicious of any tampering with the court," Professor James Patterson has written. "To these people court and Constitution were almost synonymous." President Roosevelt had not taken members of his party into his confidence while planning his court offensive. Party leaders were informed shortly before the public announcement was made. As Vice President John Nance Garner and Senate and House Democratic leaders left the White House to return to the Capitol they were so stunned they hardly spoke.[32]

The president's Supreme Court plan fired up and revitalized conservatives in Congress, and forged a new alliance between conservative Democrats and Republicans. The Senate's tiny band of Republicans, led by Senator Charles McNary, wisely took back seats in the debate and let the two factions of the large Democratic majority fight out this war between themselves. Not only did Southern Democrats—such as Harry Byrd, Sr., and Carter Glass of Virginia and Josiah Bailey of North Carolina—oppose the bill, but they were also joined by such erstwhile progressives as Burton K. Wheeler of Montana—"Fighting Bob" La Follette's runningmate in the 1924 campaign. "I am against the president's proposal," said Wheeler, "because it is a sham and a fake liberal proposal. It doesn't accomplish one of the things that the liberals of American have been fighting for. It merely places upon the Supreme Court six political hacks." On the Senate Judiciary Committee, seven Democrats and three Republicans opposed the president's plan, but despite the committee's adverse decision the president pressed on. In the meantime, Justice Owen Roberts, the swing vote on many 5-4 decisions, had begun casting his vote in favor of New Deal measures, thus reducing some of the urgency of the court reform. Debate on the plan began on July 6 and was "Unprecedentedly bitter." Senator Joe Robinson led Roosevelt's forces, while Senator Wheeler led the opposition.

Whatever chance Roosevelt had of winning, however, evaporated on July 14 when the Senate received news that Senator Robinson had died in his apartment at the Methodist Building just across First Street, overlooking both the Capitol and the Supreme Court. At the urging of President Roosevelt, Vice President Garner sought out Senator Wheeler, on the train returning from Robinson's funeral, and sought a compromise. Garner told Wheeler to set his own terms, but for "the sake of our party, be reasonable." The end of the court reform plan

**came on July 22 when the Senate voted 70 to 20 to recommit the bill to the Judiciary Committee. The revised Judicial Procedure Reform Act that passed the following month reformed some procedures of the lower courts but left the Supreme Court untouched.[33]**

**They say that Roosevelt lost the battle and won the war, that is that he lost on his reform bill but within the next four years was able to appoint a majority of the court's members. But in the larger sense, Roosevelt suffered a terrible setback as a result of his court reform plan. He united the opposition in Congress against him in a way they would have been completely incapable of achieving on their own. He helped forge a conservative alliance that frustrated much of the remainder of his domestic program. Over the next two years the Congress did pass the Bankhead-Jones Farm Tenant Act to set up the Farm Security Administration to help tenant farmers, sharecroppers, and farm laborers. It passed the second Agricultural Adjustment Act, modifying the AAA that the Supreme Court had struck down. And in June 1938 it passed the Fair Labor Standards Act, also known as the Wages and Hours Law. In other administrations these would be touted as major accomplishments, but measured against Roosevelt's earlier successes the pace of the New Deal was clearly slowing down. When Roosevelt called Congress into special session in November 1937 he proposed an ambitious legislative package, but during the five week session the Senate and House failed to enact a single one of his proposals. The Congress handed the president an embarrassing defeat on his executive reorganization plan, with conservative members charging that Roosevelt was seeking dictatorial powers. That plan, to create the Executive Office of the Presidency and enable the president to appoint a handful of special assistants, seems quite modest when we consider the bloated size of the White House staff today, but back then Roosevelt's plan appeared ominous.[34]**

**In the congressional elections of 1938, President Roosevelt decided to "purge" the Democratic party of its conservative leaders by campaigning for their liberal challengers in various Democratic primaries. The President went to Georgia to campaign against Senator Walter George, and to Maryland to campaign against Senator Millard Tydings. But they won, as did other conservatives in the party. That fall, for the first time since 1930, Democrats lost seats in Congress, although they held on to their majorities in both houses. The opposition to Roosvelt's programs in the 76th Congress would be even greater.[35]**

**The record of Roosevelt's second administration did not live up to the high expectations following his landslide reelection in 1936. If domestic matters had been the only concern, Roosevelt's presidency might have ended with his retirement in 1940 after completion of his second term. He would have held a record of unprecedented legislation for both recovery and reform to claim his legacy. The New Deal changed the relationship between individuals and their governments, and built a "safety net" to protect against the hardships of economic recession and depression. When American citizens deposit their savings in a bank, buy a stock, join a union, turn on an electric light switch, or receive a Social Security check in the mail, they are still being influenced by New Deal programs. For all this, even if Franklin Roosevelt had retired in 1940, he would still be remembered kindly by history.**

**But Roosevelt was not ready for retirement, and his story was not yet over. The dismal record of his domestic program during his second term did not become the primary issue in the election of 1940. Foreign, not domestic, policies dominated the headlines. Roosevelt's critics may have tried to paint him as a dictator, but overseas there were real dictators who threatened world peace, and the American public was able to tell the difference. The United States became locked in a great national debate over whether to stick to its neutrality once Europe plunged into another world war, or to support their allies in their struggle against Hitler and Nazism. Mr. President, this was such a great and dramatic story, in which the United States Senate stood at the very center of the debate, that I shall save it for now and make it the subject of my next address in my continuing series on the history of the United States Senate.**

Mr. President, I ask unanimous consent to have printd in the RECORD at this point footnotes to "The Senate and the Great Depression."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### NOTES TO "THE SENATE AND THE GREAT DEPRESSION"

[1] *Congressional Record*, 72nd Congress, 1st sess., 13229; Donald J. Lisio, *The President and Protest: Hoover, Conspiracy, and the Bonus Riot* (Columbia: 1974), 111-114.

[2] Geoffrey Perrett, *America in the Twenties: A History* (New York: 1982), 479-481.

[3] Arthur M. Schlesinger, Jr., *The Crisis of the Old Order, 1919-1933* (Boston: 1957), 171.

[4] Herbert Hoover, *The Memoirs of Herbert Hoover: The Cabinet and the Presidency* (New York: 1952), Vol. II, 191-193.

[5] David Burner, *Herbert Hoover, A Public Life* (New York: 1979), 257-258; Hoover, *Memoirs*, Vol. II, 217.

[6] Joan Hoff Wilson, *Herbert Hoover: Forgotten Progressive* (Boston: 1975), 104-107; Richard Lowitt, *George W. Norris: The Persistence of a Progressive, 1913-1933* (Urbana: 1971), 416-421.

[7] Hoover, *Memoirs*, Vol. II, 268-269.

[8] Ibid., 269-270.

[9] Hoover, *The Memoirs of Herbert Hoover: The Great Depression, 1929-1941* (New York: 1952), Vol. III, 101.

[10] Burner, *Herbert Hoover*, 258-259.

[11] *Congressional Record*, 72nd Congress, 1st sess., 36-38, 1093.

[12] Ibid., 22-26.

[13] Burner, *Herbert Hoover*, 268-279; Patrick J. Maney, *"Young Bob" La Follette, A Biography of Robert M. La Follette, Jr., 1895-1953* (Columbia: 1978), 90-102.

[14] See Albert U. Romasco, "Herbert Hoover's Policies for Dealing with the Great Depression: The End of the Old Order or the Beginning of the New?" in *Herbert Hoover Reassessed: Essays Commemorating the Fiftieth Anniversary of the Inauguration of Our Thirty-First President*, Senate Document 96-63, 96th Congress, 2nd sess. (Washington: 1981), 292-307.

[15] Hoover, *Memoirs*, Vol. III, 195.

[16] J Frederick Essary, *Covering Washington, Government Reflected to the Public in the Press, 1822-1926* (Boston: 1927), 212-213.

[17] Donald A. Ritchie, "The Pecora Wall Street Expose," in Arthur M. Schlesinger, Jr. and Roger Bruns, eds., *Congress Investigates: A Documented History, 1792-1974* (New York: 1975), Vol. IV, 2562.

[18] Ibid., 2555-2578; see also Donald A. Ritchie, "The Legislative Impact of the Pecora Investigation," *Capitol Studies*, Vol. V (Fall 1977), 87-101.

[19] CONGRESSIONAL RECORD, 73rd Congress, 1st sess., 46-47.

[20] A useful summary of the legislation enacted during the first Hundred Days can be found in Richard B. Morris, ed., *Encyclopedia of American History* (New York: 1976), 403-409; for more extensive treatment of the period see William E. Leuchtenburg, *Franklin D. Roosevelt and the New Deal* (New York: 1963), and Frank Freidel, *Franklin D. Roosevelt: Launching the New Deal* (Boston: 1973), Vol. IV.

[21] Martha H. Swain, *Pat Harrison: The New Deal Years* (Jackson: 1978), 52.

[22] See Ronald L. Feinman, *Twilight of Progressivism: The Western Republican Senators and the New Deal* (Baltimore: 1981).

[23] "Darrell St. Claire, Assistant Secretary of the Senate," Oral History Interviews for the Senate Historical Office: 1976-1978, 16-25.

[24] See Diane Kincaid, *Silent Hattie Speaks* (Westport: 1979).

[25] Huey P. Long, *Every Man A King: The Autobiography of Huey P. Long* (New Orleans: 1933), and *My First Days in the White House* (New Orleans: 1935); T. Harry Williams, *Huey Long* (New York: 1969).

[26] *Congressional Record*, 74th Congress, 1st sess., 94-97.

[27] Leuchtenburg, *Franklin D. Roosevelt and the New Deal*, 125-128.

[28] Thomas C. Leonard, "Robert Ferdinand Wagner," *Dictionary of American Biography* (New York: 1977), Vol. V, 717/719.

[29] J. Joseph Huthmacher, *Senator Robert F. Wagner and the Rise of Urban Liberalism* (New York: 1971), 111-113.

[30] Ibid., 174-198.

[31] George Wolfskill and John Hudson, *All But The People: Franklin D. Roosevelt and His Critics, 1933-1939* (New York: 1969).

[32] James T. Patterson, *Congressional Conservatism and the New Deal: The Growth of the Conservative Coalition in Congress, 1933-1939* (Lexington: 1967), 87, 91-92.

[33] Ibid., 114-127.

[34] See Richard Polenberg, *Reorganizing Roosevelt's Government: The Controversy Over Executive Reorganization, 1936-1939* (Cambridge: 1966).

[35] Patterson, *Congressional Conservatism*, 270-287.

(During the foregoing address, the chair was occupied by Senator WILSON and Senator SYMMS.)

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wyoming [Mr. SIMPSON], who occupies the chair at this time, and other Senators who have occupied the chair before him today, as they have patiently listened to this long discourse.

I also thank the officers of the Senate and the employees who sit at the tables and the desks, as well as the pages, for being so patient.

I sort of feel a little tired myself after listening to a statement so long as this, but I hesitate to insert it in the RECORD without reading it. These statements on the Senate history, I think, are too precious to be inserted in the RECORD but instead should be read. I yield the floor.

The PRESIDING OFFICER [Mr. SIMPSON]. The Chair is privileged to agree that the sort of record of the Senate which is presented by the Senator from West Virginia is absolutely extraordinary. I deeply appreciate it. There is no one else in this body presently who can match the Senator's history of the Senate.

(The following preceedings occurred earlier and are printed at this point by unanimous consent.)

## ORDER FOR RECOGNITION OF SENATOR PROXMIRE AND PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. BAKER. Mr. President, there is already an order for the Senate to convene on Monday next. I ask unanimous consent that when the Senate does so, the Senator from Wisconsin [Mr. PROXMIRE] be recognized after the two leaders on special order for the transaction of routine morning business of no more than 30 minutes in length in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I remove my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BAKER. Mr. President, on Monday, we will convene pursuant to recess and, after the time for morning business has expired, we will resume consideration of the defense authorization bill. I hope that by Monday we will be within sight of final passage.

I repeat briefly what I said earlier today, that is, I hope we can get a unanimous-consent agreement approved on both sides that would provide for a time certain for passage of this bill no later than Tuesday during the day and that we would identify the amendments as the only amendments which would be in order.

Such request is being prepared. Senators on this side are being solicited for identification of amendments they wish to offer. I will consult further with the minority leader in respect to such proposal. I do not anticipate that we will be able to get that agreement today. Senators are on notice that such an effort will be made on Monday.

## RECESS UNTIL 10 A.M. ON MONDAY, JUNE 8, 1984

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 10 a.m. on Monday next.

Thereupon, at 4:07 p.m., the Senate recessed until Monday, June 18, 1984, at 10 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate June 15, 1984:

### EXECUTIVE OFFICE OF THE PRESIDENT

John P. McTague, of California, to be an Associate Director of the Office of Science and Technology Policy.

Bernadine Healy Bulkley, of Maryland, to be an Associate Director of the Office of Science and Technology Policy.

### FEDERAL EMERGENCY MANAGEMENT AGENCY

Clyde A. Bragdon, Jr., of California, to be Administrator of the United States Fire Administration.

### FEDERAL COMMUNICATIONS COMMISSION

James H. Quello, of Virginia, to be a Member of the Federal Communications Commission for a term of seven years from July 1, 1984.

### DEPARTMENT OF LABOR

Frank C. Casillas, of Illinois, to be an Assistant Secretary of Labor.

### FEDERAL COUNCIL ON THE AGING

Albert Lee Smith, Jr., of Alabama, to be a Member of the Federal Council on the Aging for a term expiring December 19, 1985.

### HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

The following-named persons to be Members of the Board of Trustees of the Harry S. Truman Scholarship Foundation for terms expiring December 10, 1989:

Anita M. Miller, of California.

Elmer B. Staats, of the District of Columbia.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

### THE JUDICIARY

Robert M. Hill, of Texas, to be U.S. circuit judge for the fifth circuit.

Rudi M. Brewster, of California, to be U.S. district judge for the southern district of California.

James M. Ideman, of California, to be U.S. district judge for the central district of California.

William J. Rea, of California, to be U.S. district judge for the central district of California.

Peter K. Leisure, of New York, to be U.S. district judge for the southern district of New York.

Franklin S. Billings, Jr., of Vermont, to be U.S. district judge for the district of Vermont.

### DEPARTMENT OF JUSTICE

Layn R. Phillips, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years.

John D. Tinder, of Indiana, to be U.S. attorney for the southern district of Indiana for a term of 4 years.

Joseph Wentling Brown, of Nevada, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1986.

### IN THE COAST GUARD

Coast Guard nominations beginning Herbert W. Davis, Jr., and ending John C. Crawford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 4, 1984.

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Michael H. Fleming, and ending Stephen M. Brezinski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 24, 1984.

# HOUSE OF REPRESENTATIVES—*Friday, June 15, 1984*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O gracious God, to honor those values and traditions that we share with others. We admit our own ideas and styles and uniqueness, but we also celebrate together as a people the gifts of peace and justice and fairness and respect that are our common heritage. As we so often focus on what separates us one from another, so may our knowledge that You have created us as one people, remind us of those values that bind us together as a human family. Amen.

## THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **HARTNETT**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **HARTNETT**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 254, nays 24, answered "present" 3, not voting 152, as follows:

[Roll No. 242]

### YEAS—254

Ackerman
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Archer
AuCoin
Barnes
Bateman
Bates
Bedell
Bennett
Bereuter
Berman
Biaggi
Bilirakis
Bliley
Boehlert
Boner
Bonior
Borski
Boucher
Britt
Broomfield
Brown (CA)
Brown (CO)
Burton (CA)
Burton (IN)
Carper
Carr
Chappell
Clinger
Coleman (TX)
Collins
Conable
Corcoran
Courter
Coyne
Crane, Philip
Crockett
D'Amours
Daniel
Darden
Daschle
Daub
de la Garza
DeWine
Donnelly
Downey
Dreier
Duncan
Dwyer
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Fields
Fish
Florio
Foley
Ford (TN)
Frank
Gaydos
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Gore
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hartnett
Hayes
Hightower
Hiler
Hillis
Hopkins
Howard
Hoyer
Huckaby
Hughes
Hyde
Ireland
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Leath
Lehman (FL)
Lent
Levin
Levitas
Lewis (CA)
Lewis (FL)
Loeffler
Long (LA)
Lowery (CA)
Lujan
Luken
Lungren
Markey
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McEwen
McGrath
McHugh
McKernan
McKinney
Mica
Michel
Mikulski
Miller (CA)
Minish
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Mrazek
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Price
Rahall
Ratchford
Ray
Regula
Reid
Ridge
Rinaldo
Robinson
Roe
Rogers
Rose
Rostenkowski
Roukema
Roybal
Rudd
Savage
Sawyer
Scha[illegible]
Schneider
Schulze
Seiberling
Sharp
Shaw
Shelby
Shumway
Shuster
Sisisky
Skeen
Smith (FL)
Smith (NE)
Smith, Robert
Snowe
Snyder
Solarz
Spence
Spratt
Staggers
Stangeland
Stark
Stenholm
Stokes
Stump
Sundquist
Swift
Synar
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Traxler
Valentine
Vander Jagt
Vandergriff
Volkmer
Watkins
Weaver
Weiss
Wheat
Whitehurst
Whitten
Williams (OH)
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zschau

### NAYS—24

Chappie
Clay
Coughlin
Dickinson
Dorgan
Durbin
Emerson
Frenzel
Gejdenson
Harkin
Hawkins
Jacobs
Lowry (WA)
McDade
Miller (OH)
Mitchell
Penny
Richardson
Roemer
Sabo
Sikorski
Solomon
Vento
Young (AK)

### ANSWERED "PRESENT"—3

Dymally
Rodino
St Germain

### NOT VOTING—152

Addabbo
Akaka
Albosta
Alexander
Anthony
Applegate
Aspin
Badham
Barnard
Bartlett
Beilenson
Bethune
Bevill
Boggs
Boland
Bonker
Bosco
Boxer
Breaux
Brooks
Broyhill
Bryant
Byron
Campbell
Carney
Chandler
Cheney
Clarke
Coats
Coelho
Coleman (MO)
Conte
Conyers
Cooper
Craig
Crane, Daniel
Dannemeyer
Davis
Dellums
Derrick
Dicks
Dingell
Dixon
Dowdy
Dyson
Early
Evans (IA)
Ferraro
Fiedler
Flippo
Foglietta
Ford (MI)
Fowler
Franklin
Frost
Fuqua
Garcia
Gephardt
Gingrich
Goodling
Gradison
Gramm
Gray
Hamilton
Hansen (ID)
Hansen (UT)
Harrison
Hatcher
Hefner
Heftel
Hertel
Holt
Horton
Hubbard
Hunter
Hutto
Jeffords
Kaptur
Kemp
Kostmayer
Latta
Lehman (CA)
Leland
Levine
Lipinski
Livingston
Lloyd
Long (MD)
Lott
Lundine
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (NC)
Matsui
Mavroules
McCain
McCurdy
McNulty
Mineta
Moody
Morrison (CT)
Morrison (WA)
Neal
O'Brien
Oakar
Oberstar
Ottinger
Paul
Porter
Pritchard
Pursell
Quillen
Rangel
Ritter
Roberts
Roth
Rowland
Russo
Scheuer
Schroeder
Schumer
Sensenbrenner
Shannon
Siljander
Simon
Skelton
Slattery
Smith (IA)
Smith (NJ)
Smith, Denny
Stratton
Studds
Tauke
Tauzin
Torres
Torricelli
Towns
Udall
Vucanovich
Walgren
Walker
Waxman
Weber
Whitley
Whittaker
Williams (MT)
Wilson
Winn
Young (FL)

☐ 1010

Mr. ACKERMAN and Mr. VOLKMER changed their votes from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 316. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1149.

The message announced that the conferees to the bill (H.R. 4170) entitled "An act to provide for tax reform, and for other purposes," be changed with respect to the Committee on Governmental Affairs jurisdiction as follows:

For subconference 6, concerning Civil Service issues, the minority conferees would be Mr. EAGLETON, Mr. CHILES, and Mr. BINGAMAN.

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

For subconference 7 and 11, concerning titles XV and XVI, the minority conferees would be Mr. EAGLETON, Mr. CHILES, and Mr. LEVIN.

□ 1020

## TRIBUTE TO THE CAPITOL PAGE SYSTEM

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, last night in a rather moving and impressive ceremony we graduated the first class from the new Page School in the House of Representatives.

It was only a year ago that the Page Program was wracked by alleged charges of scandal and many of us in this body were wondering whether or not the institution of the Page School would continue, whether we would proceed on this traditional program here in the House of Representatives.

Well, I think the evidence is that after the first year under a new system and new leadership we have certainly done very well. We made the correct decision.

I would like to pay particular tribute to several individuals who I think were at the core of that decision and also very instrumental in carrying out the new program.

Mr. MINISH of New Jersey, our good friend and colleague, who is chairman of the Capitol Page Board, is clearly one of those who has involved himself in great depth and has succeeded in bringing about much better and safer conditions for our pages.

Mr. WILLIAM WHITEHURST of Virginia, who has taken on the task of effectively being our school board chairman, also deserves credit for vastly improving the educational program. Along with staff people like Donn Anderson of the Democratic Cloakroom; Jim Oliver, the chief Republican page; and our Doorkeeper, Jim Malloy, Dr. Knautz, the principal and Len Shible, the dorm counselor, these members I think, are central among many who have really improved the performance of our Page School and program.

Let me say that the pages have enriched their lives, but they have also done a great deal to enhance this institution. This class, the beginning of a new era, deserves a great deal of extra credit for reestablishing the credibility of the page system. I hope all the Members will continue to support this program in the years ahead the way they have this year.

## SEPARATE NICARAGUAN AID AND GIVE YOUNG PEOPLE A CHANCE TO WORK

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, action by the administration and the majority of the Members of the other body underlines the insensitivity of this administration to the plight of young adults. The unemployment rate for 16 to 19-year-olds is 19 percent, unchanged. For black teenagers, the unemployment rate is 44 percent, up 20 percent since May 1981. Only 20 percent of all black teenagers are employed, compared with 49 percent of white teenagers.

But now it was revealed to us yesterday that the other body and the administration intends to hold hostage the Youth Employment Opportunities Act in order to wage their secret war in Nicaragua. It appears that their answer to youth unemployment will be to send tens of thousands of young unemployed Americans to fight their secret war.

The administration that pontificates so eloquently against crime refuses to give tens of thousands of young people an opportunity to have productive lives.

The administration that comes out against child pornography and prostitution wants to assign to those young people a life of economic destitution.

Mr. Speaker, we cannot allow this farce to continue. It is an insult to the youth, it is an insult to those who are unemployed, it is an insult to this body.

Separate the Nicaraguan aid, give young people a chance to work.

## HOW THE ADMINISTRATION'S NEW FEDERALISM WORKS—EVERYONE LOSES

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, the administration last week gave us a perfect example of how its New Federalism works—everyone loses.

The administration formally proposed legislation transferring the Railroad Unemployment Insurance System to the States. This proposal was artfully designed to add to the burden on the States, greatly increase taxes on the railroads and hurt rail labor.

Many States already owe the Federal Government billions of dollars in unemployment insurance debt. The administration proposal, by adding to the State unemployment rolls, would only add to the debts of the already hard pressed States. This is the New Federalism at work—make the States pay more.

But the States aren't the only ones hurt. The proposal would subject railroads to four different taxes for unemployment benefits. And rail labor, because it believes the proposal would hurt railroad workers, has already gone on record in opposition.

Clearly, this proposal is a loser.

## AMERICA'S UNEMPLOYED TEENAGERS ARE BEING HELD HOSTAGE

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, last night the President boasted of the creation of more than 5 million jobs in the 18 months since the depths of the recession. He overlooked the fact that the recession has not ended for the Nation's teenagers. They still face an unemployment rate of 19 percent and minority youth unemployment are at rates of almost 50 percent.

The administration and a minority in the other body are holding America's teenagers hostage in an effort to prolong their covert war against Nicaragua.

One hundred thousand summer jobs for the poorest young people in America are being tied to the approval of another $21 million in covert aid to the Nicaraguan rebels.

The will of this House is clear. We will not support additional covert aid.

It is time for the administration and the majority in the other body to accept that fact and to remove that item from the pending supplemental appropriation.

It is time they stopped using America's unemployed teenagers as pawns.

□ 1030

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The will of this House is clear: We will not support additional covert aid. It is time for the administration and the majority in the other body to accept that fact and to remove that item from the pending supplemental appropriation. It is time they stopped using America's unemployed teenagers as pawns.

## AN ABUSE OF THE DEMOCRATIC PROCESS

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, we have heard about linkage in foreign policy. But linking the ability of 100,000 poor young people to work to the President's insistence in maintaining a covert war—the most publicized covert war in the history of either wars or covertness—in Nicaragua is outrageous.

People are going to hear a lot about it, as they have heard a lot about it this morning, because I do not think the American people fully understand what President Reagan and his Republican colleagues are saying. They will not allow the bodies of Congress to vote to create the summer jobs that we have traditionally had for disadvantaged young people who want to work and for whom there is work to do unless we reverse the decision of this House made several times in full vote and fund the war in Nicaragua, which has become an embarrassment to us.

The President has a right to his position on the war in Nicaragua, and those of us who oppose him have a right to that. The President is simply flatly wrong in denying to 100,000 needy young people a chance to work for this summer, make money for school, make money for themselves, because of his insistence on bludgeoning us into reversing our position on Nicaragua. It is an abuse of the democratic process and an abuse of those young people.

## FUNDS SHOULD BE APPROVED FOR SUMMER JOBS FOR YOUNG PEOPLE

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, the majority leader of the other body announced this week that at the direction of the White House he would not separate money for 100,000 summer jobs for young people from legislation the President wants to fund his covert war against the Nicaraguan Government.

Last night, the President was asked about the issue directly, and responded by laughing off the question with some vague nonanswer.

Mr. Speaker, the failure of the administration and its Republican supporters in the other body to approve the funds necessary for these jobs means that 100,000 young Americans will learn this summer not what it means to work but rather what it means to be out of work.

The President's attitude is a disgrace. He is attempting to hold these young Americans hostage to force Congress to provide money for a war that most Americans do not want.

## RECONCILIATION UPDATE

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I am putting into the RECORD an update on the reconciliation conferences that are going on between the House and the Senate Budget Committee in some 12 subconferences that are involved in reconciliation.

Yesterday, we completed action on one of the subconferences beween the House Government Operations and Armed Services Committees and the Senate Governmental Affairs Committee relating to procurement and competitive contracting areas, and the other subconferences are presently continuing.

Let me just make this one point: I am very concerned about the present budget impasse that is going on with regard to a procedural issue. It would be a national shame to have that kind of procedural issue bog down the Congress in terms of arriving at an agreement on reconciliation. My hope is that the other body understands that, if that happens, the blame will rest with those who are involved in that kind of budget bungling. We have a responsibility to complete the action on reconciliation. Hopefully, they will join with us in that end.

Highlights of action taken so far include:

Senate Finance and the Ways and Means Committee have reached agreement on more than 30 billion dollars worth of 3-year tax increases.

The same two committees met on Tuesday and ageed to 3-year spending reductions of $2.6 billion (including medicare cuts and Grace Commission savings).

Noncontroversial items were agreed to in a meeting Tuesday between Senate Finance and the House Energy and Commerce Committee (subconference 2).

Last week subconference 6 involving the House Post Office and Civil Service and Senate Governmental Affairs Committees met and resolved a number of issues.

In the other subconferences informal discussions are underway.

I would like to thank the committee chairmen and other conferees for their hard work so far, and encourage them to wrap up action in their subconferences as soon as possible.

Below is a list of the subconferences, the committees participating in each and the issues they are discussing:

| Subconference | Committees | | Issues |
|---|---|---|---|
| | House | Senate | |
| 1 | Ways and Means | Finance | Taxes. |
| | | Budget | Do. |
| 2 | Energy and Commerce. | Finance | Medicaid/CHAP. |
| | Budget | Budget | Do. |
| 3 | Ways and Means | Finance | Medicare part A, SSI, AFDC, Grace Commission. |
| | Budget | Budget | Do. |
| 4 | Ways and Means | Finance | Medicare part B. |
| | Energy and Commerce. | Budget | Do. |
| | Budget | | Do. |
| 5 | Appropriations | Appropriations | Appropriations cap. |
| | Rules | Governmental Affairs. | Do. |
| | Budget | Budget | Do. |
| 6 | Post Office and Civil Service. | Governmental Affairs. | Federal retirement. |
| | Armed Services | Budget | Do. |
| | Judiciary | | Do. |
| | Budget | | Do. |
| 7 | Armed Services | Armed Services | Procurement/competitive contracting. |
| | Government Operations. | Governmental Affairs. | Do. |
| | Budget | Budget | Do. |
| 8 | Banking | Banking | Federal credit union insurance premiums. |
| | Budget | Budget | Do. |
| 9 | Small Business | Budget | Small Business. |
| | Budget | | Do. |
| 10 | Veterans' Affairs | Veterans' Affairs | Veterans' issues. |
| | Budget | Budget | Do. |
| 11 | Government Operations. | Governmental Affairs. | Miscellaneous. |
| | Budget | Budget | Do. |
| 12 | Budget | Budget | Miscellaneous. |

## SALVADORAN GUERRILLA RECRUITMENT OF YOUTH

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, critics of U.S. policy in Central America and El Salvador are usually quick to quote the church in ways to suggest that the church is taking sides on the issue. I believe it is useful to remind my colleagues that the church in El Salvador has consistently said the guerrillas do not have the support of the people. Archbishop Rivera y Damas told me and some of my colleagues, "The guerrillas have small popular support."

Moreover, a recent report from May 28 describes the Salvadoran church's demand that the leftwing FMLN guerrillas take a more respectful attitude toward the country's civilian population. The church says the anguish of many families has increased because of the forcible recruitment of youths by the guerrillas in the eastern region of El Salvador, and in other areas of the country as well.

Obviously, if the guerrillas are reduced to forcing youngsters to join their ranks, they are not winning in their efforts to gain the support of the Salvadoran people.

## NEW REPORTS SHOULD BE CALL TO ACTION ON ACID RAIN

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, more and more evidence is accumulating every day that acid rain is a serious national problem. Two studies released this week bring that point home yet again.

The first, a new report by the National Clean Air Coalition, found that the South is now suffering from the same kind of acid rain damage that has been plaguing the Northeast—

dead and dying lakes, thinning forests, damaged crops, eroded buildings. The average rainfall in the South, the study found, is now 10 to 20 times as acidic as normal rainfall. That's not good news for the South, but its helpful to us who are trying to enlist more fighters in our ranks to battle acid rain.

The study confirms the conclusion of April's National Wildlife Federation report that declared, "Acid rain is not just New England's problem anymore."

The second new report was issued by the Interagency Task Force on Acid Precipitation, a group not known for its sympathy toward acid rain legislation. Yet that report cites several studies linking lake, forest, and crop damage to acid rain and studies showing that a cut in sulfur dioxide emissions could cut acid rain.

These reports should be a call to action for the administration and for the Congress. we have the power to halt this damage, to stave off environmental disaster, but we have done nothing. We need action now to combat acid rain. As these reports indicate, time is not on our side.

### PAGES COMMENDED AS THEY CONCLUDE YEAR'S SERVICE TO HOUSE

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS. Mr. Speaker, a year and a half ago now the system of using high school teenagers as pages was in serious jeopardy in this body. The Speaker appointed a commission to study the conditions of our page system and to make certain recommendations. This House adopted all of the recommendations made by that commission, and we now have a system of using the junior in high school age bracket for our pages. They have a very fine school, and they have a dormitory.

Last night this first class of juniors concluded their services to the House. Very eloquently and very appropriately, the young people addressed and told about their experiences. But most importantly, these young people have proven the House to be right. We have found that the junior class age bracket is the proper age. They are mature, yet they are not to the point where they are going to try to take over and run the Congress, the House, as some have in the past. They have proven the action of the House to be right.

There are a great many people to be thanked, the Members themselves, the staff here who serve so well, and certainly the school under Dr. Knautz and his faculty; but the ones who we really thank are those 61 high school juniors, now high school seniors, who have served this body in the past year in such a commendable fashion. For that, we thank these young people and wish them well as they go on through life.

### BURYING OURSELVES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, why does the United States of America insist on arming our enemies?

Gen. Robert W. Sennewald, commander of the U.S. forces in South Korea, has recently reported that the North Koreans are digging huge tunnels under the demilitarized zone in preparation for an invasion of South Korea. According to UPI, North Korea has dug about a dozen tunnels big enough to enable a fully armed regiment to pass through in less than an hour.

Where are the North Koreans getting the weapons and supplies that would be needed for such an invasion of South Korea? We all know that the major supplier of weapons to North Korea is Communist China. We are about to sell a great many weapons to the Chinese Communists and, along with it, a great deal of the security of the free world. This policy is wrong. It is a policy which will come back to haunt us in the future.

Nikita Khrushchev once said, "We will bury you." They will if we continue to help them do it.

□ 1040

### LET US HAVE PRODUCTIVITY IN THE HOUSE

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute.)

Mr. YOUNG of Alaska. Mr. Speaker, I want to compliment 156 Members of this House that are not in the Chamber at this time, they are back in their districts doing their job; that is more than I can say we are doing here today.

There are only 279 Members here working on a bill and we are all going to adjourn at 3 o'clock. I would urge the leadership of this House, if we are going to have a session on Friday, let us have a session. Let us work until late hours and let us get the legislation done. Let us not work half time; let us work full time. Let us have some productivity in this House.

### MAKING IN ORDER AMENDMENT TO H.R. 5813, TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1985

Mr. COUGHLIN. Mr. Speaker, I ask unanimous consent that notwithstanding clause 2 of rule XXI, an amendment I am having printed in the RECORD today to H.R. 5813, the Transportation appropriations bill, be considered in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HOYER. Mr. Speaker, reserving the right to object, I would like at this point in time to yield to the chairman of the Subcommittee on Transportation of the Appropriations Committee.

I yield to the chairman.

Mr. LEHMAN of Florida. Mr. Speaker, I strongly urge that this unanimous-consent request be granted. We have spoken to the chairman of the Rules Committee; he is on the way to the floor now, and he informs me that he has no objection to this request.

Mr. HOYER. Mr. Speaker, further reserving the right to object, and I do not intend to object, the gentleman is asking that an amendment be made in order which I oppose, and will vigorously oppose on the floor. But I believe, in the interest of adopting the rule and passing this very important legislation, that it is appropriate that the gentleman, the ranking Member, be allowed to, and have the right to, offer this amendment.

Mr. Speaker, therefore, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

### IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

□ 1043

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, June 14, 1984, the amendment in the nature of a substitute recommended by the Committee on the Judiciary was considered as an original bill for the purpose of amendment which is only subject to amendment by the amendments made in order pursuant to House Resolution 519.

### AMENDMENT NO. 49 OFFERED BY MR. OWENS

The CHAIRMAN. Pursuant to the order of the House of June 14, amendment No. 49 is in order at this time.

Does the gentleman from New York [Mr. Owens] desire to offer amendment No. 49?

Mr. OWENS. Mr. Chairman, I do.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 49 offered by Mr. Owens: Page 90, line 17, strike out "one-year" and inserting in lieu thereof "eighteen-months".

Page 90, line 18, strike out "ninety days" and insert in lieu thereof "180 days".

Page 98, line 23, strike out "eighteen months" and insert in lieu thereof "27 months".

Mr. OWENS. Mr. Chairman, this amendment is a very simple one which is administrative basically, perhaps almost technical in nature. It is designed to increase the workability of the legalization program. Before I describe the amendment specifically, I want to note that nothing is more important in this bill than the legalization program. The amnesty program is not only the most humane approach to the problems we are confronted with, with large numbers of illegal aliens already in the country, it is also a very practical approach.

We have been told or the impression has been given that this bill would somehow help us to control our borders better. That once this bill is passed, our borders will be better controlled, and fewer illegal aliens will enter the country. There is really not much in this bill that addresses itself to the control of our borders. I think we should consider the problem of controlling the borders is still there and will cost a great deal of money. At the same time, if we do not have an amnesty program, if we do not have the maximum feasible amnesty program which will allow those people who are already in the country to go through a procedure to become legal, we are going to have a double cost. Not only will we have an inhumane attempt to rid the country of people already here, but it will also be a very costly program.

The INS will become a kind of Gestapo with shock troops in the streets of our cities like Los Angeles, New York and Chicago, and it will be very costly, and also in terms of just the nature of the terror that will have to be inflicted upon large numbers of people. It will also drag down this country's image and its reputation.

I would urge us to do everything possible to make the legalization program as workable as possible by adopting this amendment which would allow for a 6-month period for startup instead of a 3-month period; an 18-month period for application to be submitted instead of a 12-month period; and allow the President to make a report 27 months after the program has been in operation.

The first part of my amendment is a simple recognition of reality. INS will need time to organize and publicize the legalization programs. Forms and checklists will have to be developed and there must be workload and staffing adjustments made to accommodate this task.

No matter what outreach is contemplated by INS, their efforts will have to be supplemented by support groups in the immigrant community. This process will also take time.

The second part of my amendment would extend the application period from 12 to 18 months. The additional time is in recognition of the reality that documentation of residency will be difficult for those who apply for legalization. Life in the immigrant community may be described as "cash and carry." Credit cards and checking accounts which produce a paper trail of each middle-class American's life are virtually unknown in the immigrant community—particularly for those who do not currently have legal immigration status. The collection of school, health and other records which certify presence will be a time consuming process. It is clear to me that off-the-books employers and landlords will be unwilling to supply documentation. Those who came and stayed with various relatives and friends will have no rental or utility records indicating residency.

In recognition of the difficulties inherent in documenting residency, I urge you to support the extension of these time periods.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment. The Committee on the Judiciary, in writing the bill H.R. 1510, does of course provide a very generous legalization program. The gentleman's amendment simply extends the periods of time within which people can come forward in order to apply for and be adjudicated as to whether they are entitled to legalization.

I think the gentleman makes a substantial contribution to the bill and the majority is prepared to accept the gentleman's amendment.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman.

Mr. ROYBAL. I would like to compliment the gentleman from New York for the amendment that he has now presented. I think it is actually a step in the right direction; it makes possible the legalization of the program within a 6-month period. Again, in complimenting the gentleman, I would like to say that I too, support wholeheartedly the amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman.

Mr. FISH. I am happy to say on behalf of the minority that we accept the gentleman's amendment, and I hope the gentleman will bear in mind what he just said about the importance of legalization next Tuesday, when the showdown will come as to whether that essential part of the bill will survive. We will be working together to make sure that it does.

Mr. OWENS. I thank the gentleman from New York, and the distinguished chairman of the committee for accepting my amendment. I would like to assure the Members that you have my wholehearted support on the legalization provisions in the bill, and the attempt to hold the legalization provisions at the level that is specified by the committee. I think that this is as practical as any part of the bill. To have to pay the cost of trying to rid the country of those who have come in illegally, at this point, would be to pay a very dear cost. At the same time, we would not be able to expend the kind of money needed to establish the controls on the border which would stop future illegal aliens from entering the country. I think we should bear that in mind as we approach the legalization question.

We would like to see the image and the reputation of our country preserved as we carry out a very difficult process. Nobody is in favor of advocating illegality. We would like to have procedures established which would prevent the flood of illegal aliens in the country in the future. The way to do that is not to have a punitive and hostile policy which would be unworkable, and this amendment would help to make the legalization program more workable.

I thank the committee for accepting it.

The CHAIRMAN. The question is on amendment No. 49 offered by the gentleman from New York [Mr. Owens].

The amendment was agreed to.

The CHAIRMAN. Amendment No. 50 reported by the Committee on Energy and Commerce is in order at this time.

Does the chairman of the Committee on Energy and Commerce desire to offer amendment No. 50?

### AMENDMENT NO. 51 OFFERED BY MR. BROWN OF CALIFORNIA

The CHAIRMAN. Amendment No. 51 is in order at this time.

Does the gentleman from California [Mr. Brown] desire to offer amendment No. 51?

Mr. BROWN of California. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. BROWN of California: Page 94, at the end of line 4, add the following new sentence: "For purposes of this section, an alien shall not be excludable under section 212(a)(15) if the alien demonstrates a history of employment evidencing self-support without reliance on public cash assistance.".

☐ 1050

Mr. BROWN of California. Mr. Chairman, this amendment is one very similar in its purpose and intent to the one that we just acted on. It is, in a sense, a technical amendment which seeks to clarify the intent of the law with regard to the program of legalization.

I hope that after the committee has studied it that they might see fit to accept it.

Mr. MAZZOLI. Mr. Chairman, will my friend, the gentleman from California, yield?

Mr. BROWN of California. I would be more than happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, the gentlemen on this side of the aisle have examined the gentleman's amendment. It makes a contribution to the bill and we are prepared to accept the gentleman's amendment.

Mr. BROWN of California. Mr. Chairman, if I may be permitted, I would like to spend a few minutes in explaining the purpose of the amendment.

In the process of legalization, it is, of course, intended that it be done in a humane fashion and with a liberal interpretation of the law. However, the Attorney General and other officials acting in the legalization program still are authorized to exclude from legalization those persons who do not meet certain criteria for citizenship.

Amongst those criteria, and this is the one that I am dealing with, is the provision that the person shall not become a public charge. There is no clearcut definition of how that particular criteria for excludability shall be actually interpreted. It has been announced by INS that they would use the criteria of having an income below the poverty line as a criteria for excludability on the grounds that the person might become a public charge.

Even that I would not object to, and my amendment would not preclude that, but the underlying criteria here of the provision with regard to excludability is not whether they are below the poverty line, but whether or not they are actually likely to become a public charge. What my amendment does is to assert that the Attorney General will follow a criteria which is based upon whether or not that person has a consistent employment history that shows the ability to support himself and his family even though his income may be below the poverty line.

That merely recognizes a fact which is known to all of us: that these people, these undocumented aliens, historically have worked at the lowest rung of the economic ladder; that they are sometimes paid less than the prevailing wage or have an income that is actually less than the prevailing wage would provide; that they may actually show incomes that are below the poverty line, and yet still they may not have been a public charge. They may have supported themselves and they may have been productive citizens of this country.

My amendment does not change the flexibility that exists. The Attorney General can waive this provision in the amnesty program if he wishes. But I will tell you precisely why it is that I seek to incorporate in the language of this bill a provision which demonstrates more flexibility than we have historically had in connection with the application of the immigration law. I would like, if I may be permitted to, to recite one anecdote that goes back to my earliest years in this body, showing the inflexible and arbitrary and inhumane way in which the immigration service can, on occasion, interpret the immigration law.

My first case, my first private bill before this body more than 20 years ago, involved a retired Mexican citizen who was excluded because more than 50 years before, as a teenager in this country, and as an illegal, he had been picked up in possession of a small amount of marijuana. For 50 years that man was excluded, as a criminal and damned of moral turpitude. In the meantime his legal American wife, his legal American children, his legal American grandchildren, sought in every way possible to bring him over.

They were unsuccessful because the Immigration Service as I have said, held that this man was a man of immoral character with a criminal record.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 3 additional minutes.)

Mr. BROWN of California. After 50 years of being excluded, and after he had retired as the chief law enforcement officer of his own city, even then, Immigration excluded him. But the evidence was so compelling that this was arbitrary, capricious and not in accordance with the clear intent of the law that this House and the Congress passed a private bill to allow that man to come over.

I present this example merely as one of many showing the way in which inflexible standards have been used by the INS. I sometimes believe that such clearly irrational decisions are made to justify their existence more than anything else, because they tie up more of their manpower doing things that are so obviously nonsensical, relying on arbitrary language that seems to justify their action.

I appreciate the fact that this provision of the bill is not intended to be interpreted inflexibly. My amendment merely tries to make this clear, and I solicit the support not only of the chairman, who has so generously indicated that he would support it, but of my friends on the minority side. I think this will help to clarify the true intent of the law and help to make it more workable as we proceed to administer it.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although I understand the purpose of the gentleman from California in offering this amendment, I must oppose the amendment on several grounds. One is that by amending it in this fashion, those who have been here illegally for whom we are now going to embark on a new program of legalization for any number of reasons, and I support that, will be able to be legalized under easier standards than someone from another country who has waited for years and years to come to these shores legally. I do not think that is quite fair.

Second, we have given the Attorney General, in the bill, the flexibility to waive this section where appropriate. What the gentleman does is go beyond that and say that the Attorney General must waive this particular exclusion under certain circumstances, which unfortunately I do not think are articulated enough.

If the alien demonstrates a history of employment evidencing support without reliance on public cash assistance. Does it say a continuous history or a partial history? The definition of public cash assistance, does that include medical benefits having been received at taxpayers' expense, or is it limited to AFDC, or exactly what is it, I might ask the gentleman?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Certainly I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, I would never contend that my language is flawless. I think the gentleman knows that it is very difficult to write that kind of language. But I would ask the gentleman in return, if the language of the amendment, which he has read, is not really what the Attorney General is trying to achieve?

Mr. LUNGREN. I am not certain it is. In some circumstances. You say a history. This puts it in the statutory language which requires an interpretation by a court taking full discretion away from the Attorney General. If this is what the Attorney General is attempting to achieve, he may do it now in a discretionary fashion. Unfortunately, this takes it away from him. A court will then decide whether it is a partial history, a complete history, a spasmodic history, whether public cash assistance means all types of welfare or only some types of welfare, and so forth.

We thought allowing the Attorney General the discretion to waive it under these circumstances would be more appropriate for a number of reasons, one of which is, as the bill is presently written, the obligation or the burden of proof will be on the applicant attempting to receive legalization as opposed to the way it will shift under the gentleman's amendment, in which case the burden completely shifts in the Government's direction.

Mr. BROWN of California. If the gentleman will yield further, I can see the possibility of that happening, but would the gentleman not agree that if the Immigration Service or the Justice Department were to accept, as they have indicated they would, the poverty level as an arbitrary guideline, that they can use that arbitrary guideline to come up with provisions that could be equally inappropriate in various different circumstances. Whereas, if their underlying goal is really to make sure that the person is not a public charge, that he is self-sustaining, that he has maintained himself as a taxpaying citizen over a reasonable period of time, that would not preclude the use of the poverty line as one indicator. I would not want to preclude that. But it would preclude the use of the poverty line as the sole criteria for determining whether or not that person is likely to become a public charge. That is the problem that I am fearful of.

□ 1100

Mr. LUNGREN. Mr. Chairman, I understand the gentleman's concern, but at the present time in fact, the way this exclusion has been utilized for many years, it is not, as the gentleman suggests, being overly stringent. It has been in many cases overly liberal. I hate to use that word in this context; I do not mean it that way. I mean they have not really done a good job of looking at what it is we have given them.

Just 2 years ago "60 Minutes" did an exposé for about 15 or 20 minutes on national television in which they indicated that, despite the fact this exclusion is in the law, certain individuals have brought in as many as 32 people and said they would not be public charges and said they would in fact be their sponsors, and over half of those people are on the welfare rolls. That is what the law is right now.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(By unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. Mr. Chairman, we have been trying to have them take a look at it. My feeling is that it gets us into a situation where we would not even be able to have any discretion when in fact the recent history has been that they have not been stringent enough. That is the only concern I have.

I would be happy to work with the gentleman, as I am sure the majority side would, in dealing with the Attorney General to make sure we do not have a standard that is too stringent. But I am afraid that this gentleman's amendment does not give us that opportunity for flexibility. It gives us one standard, a hard and fast standard, depending on how it is interpreted.

For instance, say a particular individual had had a history, whatever the definition of "employment" had been, but has absolutely no likelihood of employment thereafter; under the gentleman's amendment that could not be taken into consideration. At present, both of those concerns are allowed to be taken into consideration.

Second, an individual who just had a debilitating injury or disease would be, under the flexibility we grant the Attorney General, cleared for legalization without absolutely saying that he could not come in because he had missed employment most recently. We give some flexibility to the Attorney General, I would suggest to my friend, the gentleman from California, and I am afraid we take it away here.

Mr. Chairman, that is why I must oppose the gentleman's amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too, like my colleague, the gentleman from California, am concerned primarily with the ambiguity in the language, and I would like to address some questions to the author of the amendment, if I may.

The first problem I have is with the words "a history of employment" that must be demonstrated by the alien. Is it the intention of the author that this be continuous employment?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. BROWN of California. No; it is not the intent of the author that it be continuous in the sense that it is uninterrupted. It is intended that it be continuous in the sense that the person shall be regularly attached to the work force, has an income over a reasonable period of time, such as a year, and that he has demonstrated the capacity to exist on it and to maintain his family without recourse to public assistance. That is the intention of the author.

Mr. FISH. Mr. Chairman, the other part that concerns me is the last few words, "evidencing self-support without reliance on public cash assistance."

As my colleague, the gentleman from California, was indicating, there are two kinds of public assistance, direct cash payments and medical assistance. It is quite conceivable that the individual head of the family might not have received cash assistance but numerous of his children might be receiving public assistance in the form of substantial medical assistance. I presume that the gentleman would approve enlarging that phrase to include medical assistance for family members as well as the individual?

Mr. BROWN of California. Certainly it is the intent of the gentleman to include the family within the criterion that is set forth here, but I think the gentleman is aware that the bill itself has certain provisions with regard to the receipt of public assistance, and that those standards do include the receipt of medicare, for example, and that that is not considered to be contrary to the purpose of the bill—medical treatment for conditions which pose a public health threat and other things of that sort.

Mr. FISH. But the gentleman understands that it is narrowly drawn. As the gentleman said, it has to be in those categories of a public health threat. What I am trying to establish here, in order to avoid my opposition to this amendment and hopefully contribute to the outcome in the conference, is a clearer definition than the gentleman gave me of the capability of work and the inclusion of medical assistance and the inclusion of families.

If that would be agreeable to the gentleman as a final outcome, I would not object to this amendment at this time.

Mr. BROWN of California. Mr. Chairman, I think that fits into the intent very clearly.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, it is my intention to ask the author of the amendment some questions, and perhaps he can answer them.

What I want to know is whether or not it is the purpose of this amendment to take any powers away from the Attorney General. It is my belief that that is not the intention, but I wanted the author of the bill to clarify that decision.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FISH. Certainly, I yield to the gentleman from California.

Mr. BROWN of California. No. It is my intention to have the Attorney General retain precisely the same discretionary powers he has at the present time.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. FISH. Certainly, I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I understand that may be the intention of the gentleman, but in fact the plain words of the gentleman's amendment results in taking power away from the Attorney General, as opposed to the language in the bill. He has the discretion to waive this exclusion under the bill. The gentleman takes that discretion away from him and makes the answer a very simple one, which is that he cannot use this exclusion if the person shows this history of work.

So the gentleman may not have intended to take anything away from the Attorney General, but in fact the gentleman does.

Mr. FISH. Mr. Chairman, I appreciate what the gentleman said, but I believe this could be overcome, in light of the colloquy we have had, by changing the word "shall" to "may" in the conference and conforming this language to the intention which the gentleman indicated.

The CHAIRMAN. The time of the gentleman from New York [Mr. Fish] has again expired.

(On request of Mr. Brown of California, and by unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the intent of the gentleman is to set in the bill a standard for excludability based on becoming a public charge.

My language in this amendment, in my opinion, would still allow the Attorney General to exclude someone who had a history of earnings above the poverty line if other factors—for example, that he had been on welfare despite that for a substantial period of time or for other reasons—led the Attorney General to feel that the applicant still might become a public charge even though he had an intermittent history of relatively high income earnings.

Mr. FISH. Mr. Chairman, I appreciate the gentleman's comments, and I yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 51 offered by the gentleman from California [Mr. Brown].

The amendment was agreed to.

### AMENDMENT NO. 52 OFFERED BY MR. WAXMAN

The CHAIRMAN. Amendment No. 52 is in order at this time.

Does the gentleman from California [Mr. Waxman] desire to offer amendment No. 52?

Mr. WAXMAN. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 52 offered by Mr. Waxman: Page 95, after line 7, insert the following new subparagraphs:

"(C)(i) The Attorney General shall publish guidelines for the approval of applications for adjustment submitted under this section. In establishing such guidelines, the Attorney General shall liberally construe the requirements for eligibility for adjustment of status under this section taking into account the special circumstances relating to individuals previously residing unlawfully in the United States.

"(ii) An alien's application submitted under this section which meets such guidelines shall be approved, unless the Attorney General can establish legal grounds for the denial of the application.

"(D) Such regulations and guidelines shall recognize and accept the use of affidavits of witnesses, whether alone or with other evidence, to establish continuous residence in the United States and shall take into consideration the special circumstances relating to individuals previously residing unlawfully in the United States.

"(E)(i) In establishing regulations and any guidelines to carry out this section, the Attorney General shall provide for flexibility in the determination of periods of continuous residence in the United States and shall not find a failure to maintain continuous residence where an alien has not been physically present in the United States due merely to brief and casual trips abroad or due to temporary trips abroad required by emergency or extenuating circumstances outside the control of the alien.

"(ii) Any such regulations and guidelines shall not find an alien to have filed to have been continuously resident in the United States solely on the basis that the alien was not physically present in the United States for any period of less than 30 days per year since January 1, 1982.

"(iii) Continuous residence shall not be considered to be interrupted merely because of the voluntary departure of the alien from the United States where no final order of deportation has been entered and there is no evidence of an intent to terminate residence.

"(iv) The Attorney General may waive the requirement of subsection (a)(2)(A) in cases which would otherwise result in undue hardship to the alien or to his spouse, parent or child.

The CHAIRMAN. The gentleman from California [Mr. Waxman] is recognized for 5 minutes in support of his amendment.

Mr. WAXMAN. Mr. Chairman, as currently drafted, H.R. 1510 requires applicants for legalization to establish that they have continuously resided in the United States since January 1, 1982. My amendment essentially is a technical amendment which clarifies the procedure for the Attorney General to establish eligibility guidelines for this requirement. It also clarifies the term "continuous residence," which is not defined in the bill, and which will be one of the requirements for eligibility.

Let me make clear that continuous residence is not the only test undocumented persons will have to meet to become eligible for permanent residency. Criminals, likely public charges, and persons with certain health and mental disorders are automatically excluded. And the same 33 exclusions that apply to legal immigrants also are applicable to the undocumented individuals seeking legalization.

Because the bill before us does not specify the kind of documentation necessary to prove continious residence, my amendment would clarify that the Attorney General could use affidavits signed by credible witnesses who can verify that an individual meets the continuous residence requirement. Such affidavits are currently used by INS to determine continuous residence for naturalization applicants. The unique circumstances of undocumented persons would make it difficult if not impossible for some who qualify for legalization to prove how long they have lived here if they cannot present affidavits from parish priests, landlords, and other upstanding members in the community who can vouch for them.

This amendment also would prohibit the Attorney General from penalizing an individual who has traveled out of the United States for a period of less than 30 days per year. As the bill is written, we don't know whether or not a week's absence to attend a funeral or wedding, or some other voluntary trip, would exclude an individual from meeting the continuous residence requirement.

The rationale behind this amendment is consistent with the goal of the bill's proponents for a successful legalization program, which is explicit in the committee report: "The committee's intent is that legalization should be implemented in a liberal and generous fashion."

The purpose of the committee's language is to ensure that those undocumented persons who should be legalized under this program, are legalized, to help relieve us of the terrible problem of an underground population living outside of the legal system. If Congress agrees that a legalization program is necessary, the logical step is to guarantee that it will be administered fairly.

If it is not fair, and administrative procedures work to exclude persons who are qualified for legalization under the bill because of unmeetable conditions of verification and continuous residence, we will be perpetuating the crisis we have today. And 5 years from now we will be seeking new reforms to solve it.

If you support the theory on which this legislation is based—that employer sanctions and legalization of certain persons are inextricable components of immigration reform—then you will support this amendment which will ensure a fair and reasonable approach to legalization.

□ 1110

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I would be pleased to yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I would like to compliment the gentleman from California for bringing in this amendment.

It is my understanding that the Attorney General is to draft regulations that would establish definitions for the continuous residing portion of this.

Does that also mean that continuous residency would provide for an occasional absence crossing either border of the United States, would that break then the continuous residence provision?

Mr. WAXMAN. No. It is our intent that the continuous residence requirement permit short trips outside the United States. I think that is a reasonable way to handle this; otherwise we would say that someone is not a permanent resident just because they went to a wedding or a funeral outside the United States. That would be unfair.

Mr. ROYBAL. Mr. Chairman, I feel that is more reasonable.

Mr. MAZZOLI. Mr. Chairman, I rise in reluctant opposition to the gentleman's amendment.

Mr. Chairman, I intend to be brief and I hope that the gentleman from California, if he is so disposed, be willing to withdraw the amendment based on our discussions regarding conference language that would solve some of the problems, because there is much in the gentleman's amendment to commend it. We do want to have flexibility. We do want to be generous and magnanimous in accepting the undocumented who will come forward to seek legalization under the program.

We also want to be sure that the continuous residence requirement is interpreted in a way that an occasional transitory visit to a foreign land, perhaps back home just for a bit, would not disqualify that individual. The flaw in the gentleman's amendment is that the burden of proof is shifted from the petitioners to prove that they have been here by a given date and that they qualify under the terms, to the Government to disprove that the individual has been here for the time and is qualified.

The gentleman from Kentucky believes that the shifting of proof is a flaw which cannot be accepted by the committee. However, if my friend, the gentleman from California, would withdraw the amendment, the gentleman from Kentucky assures if appointed to the conference, and I devoutly hope to be, I would indeed try to have in the conference report language which would suit the gentleman's purposes.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me?

Mr. MAZZOLI. I certainly will.

Mr. WAXMAN. Mr. Chairman, I certainly hope the gentleman would be appointed to the conference and if he were to be appointed to the conference, I would want his assurance that he would provide some specification of the term "continuous resident" to allow for those circumstances where an individual may be out of the country for perfectly legitimate and short-term purposes, something along the lines we have suggested in our amendment.

Second, that there be a procedure set up for affidavits to be received in order to establish the eligibility under the legalization section.

If I were assured of that and that the gentleman would write in language so that we can understand what the rules will be and anticipate these problems, then I would be pleased to withdraw my amendment on that assurance.

Mr. MAZZOLI. Mr. Chairman, let me assure the gentleman that indeed if the gentleman from Kentucky is a conferee and in a position to act on his own personal view, then the ideas of the gentleman from California will be incorporated into the conference report. I think they are healthy. I think they are really what the committee intended.

The only problem the gentleman from Kentucky has is with the shift of the burden of proof. With that assurance, then, before the gentleman withdraws, may I yield to my friend, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I would like to also suggest that when the gentleman is in conference that he clarify how long the absences may be. It simply says absences from here to go back to visit. It does not say how long those visits might be. I think there may be some problem there.

Mr. MAZZOLI. The gentleman is exactly right, and as the gentleman from California said, some guidelines to help the Attorney General make these decisions would be there.

Mr. Chairman, I now would yield to the gentleman from California [Mr. WAXMAN] for his unanimous consent.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

### AMENDMENT NO. 53 OFFERED BY MR. MITCHELL

The CHAIRMAN. Amendment No. 53 is in order at this time.

Does the gentleman from Maryland [Mr. MITCHELL] desire to offer amendment No. 53?

Mr. MITCHELL. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 53 offered by Mr. MITCHELL:

Page 95, strike out lines 8 through 16 and insert in lieu thereof the following:

"(6)(A) The Attorney General shall provide that in the case of an alien who is apprehended before the end of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until such period), until the alien has had a reasonable opportunity to complete the filing of an application for adjustment during the period, the alien—

"(i) may not be deported or excluded, and

"(ii) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(B) The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during such application period, and until a final determination on the application has been made in accordance with this section, the alien—

"(i) may not be deported or excluded, and

"(ii) shall be granted authorization to engage in employment in the United States and be provided an 'employment authorized' endorsement or other appropriate work permit.

"(C) The Attorney General shall provide that in the case of an alien who is apprehended before the end of such application period, the alien shall be advised that—

"(i) the alien may be eligible to have his status adjusted under this section,

"(ii) an alien who can establish a nonfrivolous case of eligibility for such adjustment under this section shall not be deported or excluded until a final determination on the application has been made in accordance with this section, and

"(iii) the alien may contact such voluntary agencies, or other qualified State, local, and community organizations, as are designated by the Attorney General, for assistance in determining whether or not the alien has a nonfrivolous case for adjustment of status under this section.

The Attorney General shall make available a list of voluntary agencies or other qualified organization to such aliens.

**Mr. MITCHELL.** Mr. Chairman, today I am offering an amendment to strengthen the legalization process contained in H.R. 1510, the immigration reform bill, as currently drafted. This particular amendment is designed to provide protections from deportation and transitional legal status for legalization applicants as well as for those aliens apprehended prior to the end of the application period.

First, the amendment seeks simply to further enhance the effectivenss of the legalization mechanism by ensuring that apprehended undocumented workers are apprised fully of its existence.

Second, moreover, the amendment requires that, should there be deemed a possibility for legalization, the worker could not be deported until the application period has ended.

Third, it will also ensure those aliens who have already applied for legalization the security of staying in the United States, without fear of deportation, until the application period has ended.

Fourth, further, if a nonfrivolous case of eligibility is established, the alien shall be granted authorization to work in the United States and be provided with the appropriate work permit until final determination on the application has been made.

There are several reasons why the enhancement and strengthening of the legalization procedure would benefit the United States. First, it would curb the exploitation of undocumented workers which results in various kinds of illegality, affects wage standards, impacts upon ethnic relations, and so forth.

Second, the legalization of a significant portion of the undocumented population would increase the manageability of our current immigration problems. The Immigration and Naturalization Service [INS] is currently devoting a substantial amount of time and money to the task of deporting people who have established themselves as contributing members of their communities.

Third, for those employers who rely on the work of these aliens, the strengthening of the legalization process will facilitate their lawful employment.

Finally, only through legalization will we be able to obtain the data necessary to accurately define the undocumented worker problem and, through this information, deal effectively with future influxes.

For the above stated reasons I firmly believe in the legalization process and this amendment which would strengthen the procedure. I urge strongly that my colleagues demonstrate their commitment to addressing this issue forthrightly and cast an affirmative vote for this amendment.

**Mr. MAZZOLI.** Mr. Chairman, would my friend, the gentleman from Maryland, yield?

**Mr. MITCHELL.** I would be delighted to yield.

**Mr. MAZZOLI.** Mr. Chairman, let me salute the gentleman, my congressional classmate, on having offered this amendment. We both came here 14 years ago and at that time neither one of us had very much gray hair.

I thank the gentleman. I think the amendment adds to the bill and on behalf of the majority, we would be prepared to accept it.

**Mr. MITCHELL.** I thank the chairman very much.

**Mr. LUNGREN.** Mr. Chairman, will the gentleman yield?

**Mr. MITCHELL.** I would be delighted to yield.

**Mr. LUNGREN.** Mr. Chairman, on behalf of those of us who do not have gray hair, I would like to say that we would be happy to accept it.

I am not sure of the precise language here, but we want to go to the same point the gentleman does. It is something again, as so many things are, we are going to work on in the conference. I think the gentleman has added a few things that needed to be added in this section and we appreciate it.

**Mr. MITCHELL.** Mr. Chairman, I thank the gentleman who does not have gray hair, but will soon have it if he continues to work at the rate at which he is working.

**The CHAIRMAN.** The question is on amendment No. 53 offered by the gentleman from Maryland [Mr. MITCHELL].

The amendment was agreed to.

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### AMENDMENT NO. 54 OFFERED BY MR. FASCELL

**The CHAIRMAN.** Amendment No. 54 is in order at this time.

Does the gentleman from Florida [Mr. FASCELL] desire to offer amendment No. 54?

**Mr. FASCELL.** I do, Mr. Chairman.

**The CHAIRMAN.** The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 54 offered by Mr. FASCELL: Page 92, line 21, before the period insert the following: "and by other persons, so designated, who the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145".

Page 92, beginning on line 22, strike out "and organizations" and insert in lieu thereof ", organizations, and persons".

Page 93, beginning on line 4, and on line 10, strike out "organization and insert in lieu thereof "agency, organization, or person".

Page 94, lines 13 and 24, strike out "and organizations" and insert in lieu thereof ", organizations, and persons".

**Mr. FASCELL.** Mr. Chairman, this amendment will allow qualified, legitimate businesses and organizations with longstanding experience and expertise in providing legalization support services to receive Federal reimbursement for their efforts. Based on criteria to be developed by the Justice Department, the Attorney General will determine on a case-by-case basis which businesses and organizations are qualified to provide services which will be required as a result of the legalization program. The bill currently limits reimbursement for such services only to qualified voluntary organizations and State, local and community agencies.

While I commend the Judiciary Committee's action as an attempt to protect those who apply for legalization from unscrupulous individuals or organizations, I am offering this amendment because I believe there are qualified businesses that can and should provide legalization assistance and should receive reimbursement for their efforts. The amendment has been carefully drafted so as to exclude unscrupulous individuals who might wish to take advantage of illegal aliens who come forward under the program. Placing the determination in the hands of the Attorney General will provide a safeguard against unqualified agents while protecting the legitimate interests and livelihood of well-established honest businesses and organizations.

Because large numbers of illegal aliens may choose to take advantage of the legalization program, I believe flexibility in processing the necessary paperwork and other services required to adjust status is essential. This amendment would provide that flexibility and would protect those who apply to adjust their status under the bill. I urge my colleagues to support this amendment.

**Mr. SMITH of Florida.** Mr. Chairman, will the gentleman yield?

**Mr. FASCELL.** I yield to the gentleman from Florida.

**Mr. SMITH of Florida.** I thank the gentleman for yielding.

I would like to congratulate the gentleman on his amendment. I think it is very obvious to many of us that know about this problem and have areas of the country that have been impacted, that under this kind of legalization program which the bill contemplates there are going to be a large number of people who are going to have to be serviced.

INS at the present time, and even many of the PVO's will not be capable of providing the services necessary as the ancillary support service to the legalization process, x rays, blood tests, and the like that are necessarily performed for the purpose of legalization.

I think the gentleman's amendment will go a long way in allowing for additional help in that regard to provide the kinds of services that need to be provided so that the legalization process does not get bogged down because those items are not there capable of being plugged into the legalization process as it moves forward.

In addition, as the gentleman would know, and I think the gentleman might want to comment on this, we have had in our area of the country in south Florida some unfortunate consequences of the lack of knowledge of the laws of this country with some of the people that came here under special status. They have been literally taken by unscrupulous people who set themselves up in this kind of business without any controls, without any approval by any agency, by the Attorney General or the INS and claim to perform services and take hundreds if not thousands of dollars for literally filling out a small piece of paper that could be done by the INS in the lobby of the building, or done by the applicant himself.

So this amendment would go a long way in making sure only genuinely certified, capable and legally constituted businesses would be able to perform these services, saving what we consider to be thousands of dollars to applicants who are getting ripped off.

Mr. FASCELL. I thank the gentleman for that, and he is absolutely right. That is what this thing does.

The unscrupulous person is going to be out of business because if they cannot meet the criteria laid down by the Attorney General and if the Attorney General does not approve them, and he has total discretion, then they cannot perform this service.

Mr. ROYBAL. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. ROYBAL. I am somewhat concerned about this particular amendment. I think the gentleman is correct in what he is doing. But my concern is with regard to those who would practice so-called immigration law without being attorneys and those individuals who are notary publics.

In Mexico and Latin America a notary public is a respected individual who may not be a lawyer but has a tremendous knowledge of the law.

Would these notary publics in California, in Texas and Florida, would these notary publics simply because they are notary publics be considered to be qualified to assist?

Mr. FASCELL. I will tell the gentleman from California he has raised a good point and we have run into this problem, he and I both, with respect to the differences that exist on that term "notary public" between the cultures.

I would say to the gentleman in answer to his question, absolutely not. I cannot imagine any Attorney General simply because somebody has a notary public seal automatically approving them to provide this kind of service.

Mr. ROYBAL. Would I then understand that the Attorney General would have some guidelines to follow with regard to this problem?

Mr. FASCELL. He has the total discretion as to whether or not any organization, private, voluntary organization, or other organization, will be permitted to provide this service.

Mr. ROYBAL. I thank the gentleman.

Mr. PEPPER. Will the gentleman yield?

Mr. FASCELL. I yield to my colleague from Florida.

Mr. PEPPER. Mr. Chairman, I want to say that I consider this amendment offered by my distinguished colleague from Florida [Mr. FASCELL], and supported by my distinguished colleague [Mr. SMITH], a very meritorious amendment, and I wish to join in support of it.

Mr. MAZZOLI. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding. I, on behalf of the majority, am prepared to accept the gentleman's amendment.

As I was reminded by the distinguished chairman of our committee, the Attorney General and the Department of Justice have already created guidelines for the program. We accept the gentleman's amendment.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words and rise to briefly accept the amendment, and yield back the balance of my time.

The CHAIRMAN. The question is on amendment No. 54 offered by the gentleman from Florida [Mr. FASCELL].

The amendment was agreed to.

### AMENDMENT NO. 55 REPORTED BY THE COMMITTEE ON EDUCATION AND LABOR AND OFFERED BY MR. FORD OF MICHIGAN

The CHAIRMAN. Amendment No. 55 reported by the Committee on Education and Labor is in order at this time.

Does the chairman of the Committee on Education and Labor desire to offer amendment No. 55?

Mr. FORD of Michigan. Mr. Chairman, I am the chairman's designee, and I rise to offer amendment No. 55 on behalf of the Committee on Education and Labor.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 55 reported by the Committee on Education and Labor and offered by Mr. FORD of Michigan: Page 96, after and below line 19, insert the following new sentence:

Programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Vocational Education Act of 1963, chapter 1 of the Education Consolidation and Improvement Act of 1981, the Headstate-Follow Through Act, the Job Training Partnership Act, and subparts 4 and 5 of part A of title IV of the Higher Education Act of 1965 shall not be construed to be programs of financial assistance referred to in subparagraph (A)(i).

Mr. FORD of Michigan. Mr. Chairman, I rise to offer amendment No. 55 on behalf of the Committee on Education and Labor as provided for by the Rule.

Section 301 of the bill creates a new section 245(A) of the Immigration and Nationality Act. This section denies newly legalized aliens eligibility for 5 years for "any program of financial assistance furnished under Federal law * * * on the basis of financial need, as such programs are identified by the Attorney General * * *." (This section can be found on pages 93-95 of the Committee Print.) The amendment which I am offering for the Education and Labor Committee clarifies the meaning of the phrase "program of financial assistance furnished under Federal law * * * on the basis of financial need."

The amendment makes it clear that this phrase should not be construed to apply with respect to eligibility to participate in the programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Vocational Education Act of 1963, chapter 1 of the Education Consolidation and Improvement Act, the Head Start-Follow Through Act, the Job Training Partnership Act, the TRIO programs and the HEP/CAMP programs.

There are three simple reasons why this amendment should be adopted:

First, as a matter of national policy it would seem to be self-evident good sense to ensure that the children of the newly legalized aliens receive a full opportunity to be educated and trained so that they can become fully integrated and productive members of our Nation. To deny these children access to educational training and child nutrition programs would imply that it is sound national policy for these people to be malnourished, unskilled, and ignorant. That would obviously be an absurd policy.

Second, the Supreme Court in its 1982 decision Plyler against Doe held that a Texas statute withholding funds from local school districts for the education of illegal alien children was unconstitutional as a violation of the equal protection clause of the 14th amendment. Thus, if the States and local school districts cannot deny public education to illegal alien children, they clearly cannot deny education to the children of the newly legalized aliens. Therefore the question is not whether these children will receive a public education. The question is whether they will receive a quality education and who will pay for it. Denying these children access to Federal education programs would mean that they would receive a lower quality education, which is clearly in no one's interest. It would also mean that the total cost of educating these children would be shouldered by the State and local school districts without the Federal Government paying a share. Obviously the Federal Government should pay a share for the education of these children because it is our national immigration policy, or lack thereof, that enables these children to be in this country.

This amendment is needed to provide for a clarification of the intent of Congress the need for which has been recognized by the Department of Justice. When the Committee on Education and Labor considered legislation comparable to H.R. 1510 in the last Congress, it included in its report a statement that—

> This legislation should not be interpreted as prohibiting any newly legalized aliens from participation in any programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Vocational Education Act of 1963, title I of the Elementary and Secondary Education Act of 1965 (or chapter 1 of the Education Consolidation and Improvement Act), or the Job Training Partnership Act.

In response to an inquiry from Chairman PERKINS, Assistant Attorney General McConnell in a letter of November 30, 1982, indicated that the report language was not sufficient to guarantee that the education, nutrition, and training programs listed in the committee report would not be identified by the Attorney General as programs of "financial assistance furnished under Federal law * * * on the basis of financial need." Assistant Attorney General McConnell further expressed the hope that Congress would specifically "clarify its intentions" with respect to which programs should not be included in the scope of this term.

Mr. Chairman, I might mention that this amendment will not result in any additional costs being incurred by the Federal Government. This is only a clarifying amendment. No one to my knowledge ever intended that the newly legalized aliens be excluded from the education, training, and nutrition programs that are enumerated in the amendment. Therefore, it does not make the newly legalized aliens eligible for any program that it has not been assumed that they were already eligible for.

In conclusion, the newly legalized aliens should not be deprived of the benefits of educational, training, and nutrition programs which are crucial for their educational development and nutritional well-being. They should be eligible for these programs so that they can become and remain full and productive members of our Nation.

I urge my colleagues to support the amendment.

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Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

I think the gentleman has an excellent amendment. I rise to commend him and the Education and Labor Committee for bringing the amendment to us. I certainly want to support it.

If I may be permitted to, I would like to cite one recent study in Los Angeles County which bears on the importance of this amendment.

This study indicated that the illegals in that one county were paying something like $2½ billion in taxes, but that 60 percent of those taxes went to the Federal Government, that is the income and Social Security taxes, and because they were illegal they were getting no benefits from it. The 40 percent, roughly $1 billion, that went to the local government was having to bear the total cost of the services, schooling, health, and so on that was being provided.

The gentleman's amendment in making sure that there is a Federal role in the support of these programs, of course, makes use of some of this very large amount of taxes that are being paid for which no benefit was being received, even though they may be overpaying their income tax and never receiving Social Security benefits, they were paying those very substantial taxes.

Mr. FORD of Michigan. I thank the gentleman for his support.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, I would just like to take this opportunity to congratulate the gentleman from Michigan. I think this is not a new battle for the gentleman.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has again expired.

(At the request of Mr. GARCIA and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. GARCIA. Mr. Chairman, I think this is a battle that the gentleman from Michigan has been fighting, not only with this bill, but for many, many years. I would like to compliment the gentleman and tell the gentleman that I think it is a great amendment.

Mr. FORD of Michigan. I thank the gentleman.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I would like to compliment the gentlemen for this amendment. I think it is most fair. And the best part of it is that it will provide no additional cost. Am I correct?

Mr. FORD of Michigan. That is correct.

Mr. ROYBAL. I thank the gentleman.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, I might say to the gentleman that I accept the amendment on our side.

I am not assured in my own mind that all of the programs the gentleman has pointed here ought to be treated in this way, but I am certain that a number of them that the gentleman enumerated should be. We will certainly protect that in conference. I do think the gentleman has made a contribution because it would not make much sense, it seems to me, on a school district level that we would require them to find out which of the children are there, not illegally, but are going through the legalization process and say they cannot get support for those while they will be for every other category.

Mr. FORD of Michigan. Unfortunately, it would not work that way. The money for title I, for example, the eligibility is not determined by the school district. It is determined by census data from Federal numbers that do not go below county level.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] had again expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. And then you estimate in a large multischool district county the relative proportion of the people disclosed by the census to be there to be eligible.

Then the money is paid to the school district. The people in the school district then decide how they are going to spend the money and some of it is indeed spent on the specific children that were counted and some is spent on children who did not meet the criteria at the time the count was made. Because the school district during the ensuing 10 years is going to spend it on the current school population for the needs that they identify each school year.

So the money does not track back from an individual child. It tracks by an assumed statistical child into a governmental jurisdiction, which then has the money for the purpose of generally—from 1965 we have used this method of distribution, lacking any way to identify individual children on any regular basis. It is imperfect, but the statisticians tell us that we come pretty close to about 85 percent correlation.

Mr. **NIELSON** of Utah. Mr. Chairman, will the gentleman yield?

Mr. **FORD** of Michigan. I yield to the gentleman from Utah.

Mr. **NIELSON** of Utah. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the gentleman's remarks. This is one bill which the minority also supported in the Education and Labor Committee. It takes the burden off the State to decide whether to help on these programs or not. I think it is a good amendment.

Mr. **MAZZOLI**. Mr. Chairman, will the gentleman yield?

Mr. **FORD** of Michigan. I yield to the gentleman from Kentucky.

Mr. **MAZZOLI**. I thank the gentleman for yielding.

Mr. Chairman, the majority side has examined the gentleman's amendment. It is a very worthy addition to the bill and we accept it.

Mr. **FORD** of Michigan. I thank the gentleman.

The **CHAIRMAN**. The question is on amendment No. 55 reported by the Committee on Education and Labor and offered by the gentleman from Michigan [Mr. FORD].

The amendment was agreed to.

### AMENDMENT NO. 56 REPORTED BY THE COMMITTEE ON ENERGY AND COMMERCE AND OFFERED BY MR. WAXMAN

The **CHAIRMAN**. Amendment No. 56 reported by the Committee on Energy and Commerce is in order at this time.

Does the chairman of the Committee on Energy and Commerce desire to offer amendment No. 56?

Mr. **WAXMAN**. Mr. Chairman, on behalf of the Committee on Energy and Commerce, we do wish to proceed with this amendment, and I offer the amendment.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 56 reported by the Committee on Energy and Commerce and offered by Mr. WAXMAN: Page 94, line 18, insert "(and, to the extent applicable, the Secretary of Health and Human Services)" after "Attorney General".

Page 96, line 18, strike out "or medical assistance" and insert in lieu thereof "assistance or for medical assistance described in subparagraph (A)(ii)".

Page 96, after and below line 19, insert the following new sentence:

Programs authorized under the Public Health Service Act and title V of the Social Security Act shall not be construed to be programs of financial assistance referred to in subparagraph (A)(i).

Page 96, strike out line 24 and all that follows through page 97, line 12, and insert in lieu thereof the following:

"(B) in the case of assistance furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act), or

"(C) in the case of medical assistance (i) for care and services provided to an alien who is under 18 years of age, (ii) for emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act) or (iii) for services described in section 1916(a)(2)(B) of such Act (relating to services for pregnant women).

The eligibility, comparability, and any other State plan requirements of title XIX of the

Page 97, at the end of line 15, add the following: "The Secretary of Health and Human Services, in coordination with the Attorney General, shall promulgate regulations in order to carry out subparagraphs (B) and (C).".

Mr. **WAXMAN**. Mr. Chairman, this amendment clarifies the circumstances under which legalized aliens could qualify for medicaid.

Under the Judiciary bill, aliens who are granted lawful permanent resident status cannot, for a 5-year period, receive benefits under any need-based Federal program of financial assistance, including medicaid.

There are three exceptions to this 5-year prohibition on medicaid eligibility. First, Cuban and Haitian entrants. Second, aged, blind, and disabled aliens identified in regulations issued by the Attorney General. Third, aliens who the Attorney General, by regulation, determines require assistance in the interest of public health or because of serious illness or injury.

The Energy and Commerce amendments do not alter the basic framework of the Judiciary bill. Legalized aliens who are otherwise eligible for medicaid would, as a general rule, still be denied medicaid coverage for 5 years. However, the Energy and Commerce amendment does clarify the exceptions to this prohibition.

First, the amendment makes clear that the prohibition on eligibility does not apply to any public health service program, including the community or migrant health center programs, or to the maternal and child health services block grant. Unlike medicaid, these are not individual entitlements. Instead, they make services available to broad classes of people, such as mothers and children or residents of medically underserved areas. To require these programs to identify legalized aliens and deny them services for 5 years would be administratively infeasible and completely unnecessary.

Second, the amendment clarifies that the aged, blind, and disabled aliens who are allowed medicaid coverage are those who meet the eligibility standards of the supplemental security income program. Receipt of SSI benefits is the basic eligibility standard for the aged, blind, and disabled under medicaid now, and there is simply no reason to establish a different set of standards for aged, blind, and disabled aliens.

Third, the amendment provides that medicaid services may not be denied to eligible legalized aliens if they are children, if they are pregnant women, or if they require emergency care, as defined in the medicaid statute.

It makes absolutely no sense to deny health services to an indigent pregnant woman simply because she has not held permanent resident alien status for 5 years. Society will end up bearing the cost of any preventable disabilities her child—a U.S. citizen—might develop due to the lack of medical care.

The same case can be made with respect to children: access to needed medical care is essential to their—and society's—future well-being.

The exception for persons in need of emergency services clarifies the Judiciary provision, which allows medicaid coverage for eligible legalized aliens with "serious illness or injury." The Energy and Commerce amendment specifies that coverage will be available for those in need of "emergency services," as that term is used in the medicaid program.

I want to emphasize that this amendment does not automatically entitle legalized aliens to medicaid benefits. The pregnant women, children, and others identified in these exceptions must still meet the same restrictive eligibility requirements that apply to any other poor person in the States where they live. Thus, they must meet the income and resource tests demonstrating indigency, and they must meet the program's categorical requirements.

We should also keep in mind that, in order to qualify for lawful permanent resident status, an alien must not only meet the medical requirements for admission to the country, but must also demonstrate that he or she is not likely to become a public charge. For the most part, legalized aliens will be people who are working, or people whom someone is willing and able to support. This is not a population that is likely to have a high indigency rate.

I also want to stress that this amendment does not change the current policy of denying medicaid coverage for aliens who do not have permanent resident status. This amendment protects only certain specified groups of aliens who have adjusted their status under this bill: pregnant women, children, and those in need of emergency services.

The cost of this provision is quite modest: $11 million in fiscal year 1985, $34 million in fiscal year 1986, and $44 million in fiscal year 1987. If we are going to have a legalization program, then we must be prepared to accept the costs of assuring the health and well-being of the children that we are bringing into our society. Paying for prenatal care for pregnant women and early medical care for children will avoid much larger costs resulting from preventable, long-term disabilities.

In closing, I want to note that the Energy and Commerce amendment now before the House does not contain any language relating to abortion. As initially reported by the committee, this amendment contained language prohibiting medicaid payment for abortions for legalized aliens except where necessary to save the life of the mother if the fetus were carried to term, or in cases of rape or incest.

Under the rule, this abortion language was deleted. The amendment does not speak to abortion directly or indirectly. As I am sure all Members know, under the current appropriations legislation, Federal medicaid funds cannot be used to pay for abortions except when necessary to save the life of the mother. Under this amendment, that policy would apply to legalized aliens as well as to all U.S. citizens.

I know of no serious opposition to this amendment, and I urge its adoption.

□ 1140

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleague, the chairman of the Health Subcommittee [Mr. Waxman] has described, this amendment clarifies the populations and services which are exempted from the 5-year denial of financial and medical assistance mandated in H.R. 1510. This amendment would only allow assistance during the 5-year period for:

First, aged, blind, or disabled individuals as defined under the supplemental security income program, and

Second, provide medical assistance for: children under 18, emergency services, or services for pregnant women.

Under this amendment, only those individuals who meet the eligibility requirements of the supplemental security income program or the medicaid program would be eligible to receive services. The amendment also clarifies that the eligibility, comparability and State plan requirements for these programs are superseded by this law as to restrict medical assistance to certain individuals and services.

According to the Department of Health and Human Services this amendment will save $400 million over the current language in the bill. Therefore, this amendment is far preferable to the current language in this bill.

The CHAIRMAN. The question is on amendment No. 56 reported by the Committee on Energy and Commerce and offered by the gentleman from California [Mr. Waxman].

The amendment was agreed to.

The CHAIRMAN. Amendment No. 57 is in order at this time.

Does the gentleman from California [Mr. Matsui] desire to offer amendment No. 57?

Amendment No. 58 is in order at this time.

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Kentucky [Mr. Mazzoli] is recognized for 5 minutes.

There was no objection.

Mr. MAZZOLI. It is the intention of the gentleman from Kentucky to momentarily move that the committee do now rise. We will continue our deliberations on the bill, H.R. 1510, on next Tuesday, at which point our first effort will be on the offering of the gentleman from California [Mr. Lungren], which begins the process of legalization.

I take these few moments really to inform the House as to where we are now, after this day's work, and where we will be next week.

As I have done many times, I would like to congratulate the House on an excellent piece of work this week. It has been an historic debate.

I think it has been very dignified. And I congratulate the House for having looked to the substance and for having avoided the emotion.

What the House had done this week, starting on Monday, is to proceed through employer sanctions. There were 20 amendments in that section. And, of course, the House eventually voted to have employer sanction legislation in this immigration bill.

The House then went to the question of asylum and adjudication. That deals with the people here seeking refuge from persecution at home. Amendments 21 through 29 were disposed of in that section. Now in our bill have an asylum section, which makes the process better and more fair and more objective for those who are seeking asylum in this country.

The House then turned its attention to what we called legal immigration, and we disposed of amendments 30 to 35. I think it is very important to note that we supported the position of the gentleman from New Jersey, our distinguished chairman, and we rejected the effort to put a cap on legal immigration; we rejected the effort to change family preference categories.

What the House did in this activity, Mr. Chairman, is to endorse the work the gentleman has done during his distinguished career in this House and to say that the problem, if there is a problem, resides with illegal immigration, not with legal immigration.

Then the House turned its attention yesterday, as we very well know, to the section on what we call H-2, the temporary worker programs. We had any number of amendments and we debated the entire day. We disposed of amendments 36 through 45.

After the vote on the so-called Panetta amendment last night there were many press conferences and many statements, "Well, we have now gone overboard, we have tilted too far, we have now conceded too much, and we may not have a bill." Well, let me just advise all my friends to just do as they have done this week, turn down the viewpoint of the pundits, object to the statement that the House will have worked this much and this elegantly to come to no conclusion.

□ 1150

I would tell my friends not to say that you are going to vote against the bill simply because of one amendment or another that passed. The amendments, all of them that we have accepted or rejected, will be dealt with in the conference which the gentleman from Kentucky hopes to be a member of, under the leadership of the gentleman from New Jersey [Mr. Rodino].

The House will have working for its positions and on its behalf to retain its positions and to modify others, the gentleman from New Jersey. I therefore would ask my friends when they go home this weekend not to succumb to the blandishments or the statements or the urgent entreaties of any of the organized groups. The gentleman from Kentucky can assure all Members of the House: You have labored mightily, you have labored courageously, and you have labored well. You have a good bill, one we can all proudly support. Next Tuesday we will have some major votes on the legalization provisions, on whether we should do something to regularize the status of those tens of thousands or hundreds of thousands or perhaps millions of people who are in this Nation now. I would like to reiterate that a bill absent the section on legalization is a bill which does not have balance, which does not have reach and breadth, and which is a bill that we hope the House will absolutely not permit.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. Mazzoli] has expired.

(By unanimous consent, Mr. Mazzoli was allowed to proceed for 5 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, let me conclude by saying that there are other elements in the bill that we have to remember, that I think are very important.

If the House committee bill passes, H.R. 1510, there are 25,000 Haitians in the United States who would be immediately legalized and given an opportunity to earn citizenship. There will be perhaps 100,000 or 125,000 Cubans in this Nation who came along with Haitians during the freedom flotilla. They will be given immediate legalization and an opportunity to become U.S. citizens.

We have in our bill a visa waiver program for those of you who are interested in tourism. For the first time, we will engage in an experimental program to say to those nations in the world which allow us to enter, reciprocally without visas, but from whom we require visas, that we will experiment with a system to permit you to enter our Nation without the problem of getting visas. This is in our bill.

We have in our bill, a change in the colonial quotas, affecting for Hong Kong particularly. Currently the colonial quota is 600. Our bill, if it passes, raises it to 3,000. Many of the Americans of Asian descent have come here from Hong Kong and this is something which has been long sought. This is in our major bill; we do not talk about it, but it is in our bill.

We have in our bill a provision which allows foreign students and foreign professors to be able to continue their activities in the United States. This is very important for high technology; very important for our universities of higher education.

Let me now yield, but with this one last word to my friends: I am very, very proud of what the House has done to this point. Any flaws or errors, in the views of some, can be corrected. I would hope that the House next Tuesday will vote a generous legalization program. Vote down the effort to strike legalization; vote up the bill. We go to conference with a good bill and will return a good bill to this House.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. FISH. This has been a long week, and I think the gentleman will agree that his legislation has come out intact; the fundamental structure that we have been laboring on for so many years together remains. I have listened to the gentleman in the well compliment other Members of this House. He very correctly compliments the Chair for the masterful performance that he has rendered as usual. I think it is time that somebody said something nice about the gentleman from Kentucky, who took some abuse with the rest of us in the early days of this week, but has crafted, I think, a bill that we will all be very proud of.

I would like to take this opportunity to second what the gentleman just said about the legalization being an essential part of this bill. It goes back in its genesis to the Select Commission on Immigration and Refugee Policy chaired by Father Hesburgh, which Chairman RODINO served on and I served on, a bipartisan commission. When it came to deciding to come down on various issues the vote was 16-to-nothing in favor of legalization. We examined other alternatives and decided that for those people who had been in this country long enough to build up equities, that this was the only possible humane response—that rounding up millions of people, many of whom have American-born children, is simply not an option.

I hope that the House will continue under your leadership and that we can be united next Tuesday and vote down the only dangerous amendment that is left, which is, of course, to strike the legislation provision.

Again, I would like to compliment my friend; I am almost sorry this bill is going to pass and become law because I have enjoyed the last 2 or 3 years working with the gentleman.

Mr. MAZZOLI. Without going into elaborate detail for the Members in the Chamber, they well understand the tenacity and the value of the gentleman from New York. I personally know of one other factor: During some of the early days of the drafting of the predecessor to the bill, H.R. 1510, the gentleman from New York was sorely tested in many respects. The gentleman was going through a personal travail that would have daunted any of us, any of us, but the gentleman did not let that stop him from attending meetings in my office, attending conferences away from the Hill. The gentleman showed a kind of courage, that is rare in life particularly needed here on the Hill.

The gentleman will always have a place in my heart for having gone through some dark times, but worked with the gentleman from Kentucky when the gentleman could very well have said for any number of reasons that there are other important things. The gentleman stayed with the bill, and I think that is to the gentleman's credit, and I will always admire him for it.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has again expired.

(By unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, I yield to my friend, my own personal parliamentarian here, the gentleman from Texas [Mr. KAZEN].

Mr. KAZEN. Mr. Chairman, thank you for yielding.

Let me also echo the words of the gentleman from New York: The gentleman in the well, the distinguished gentleman from Kentucky, has really withstood one of the sternest tests that this House has ever placed one of its Members in since I have had the privilege of being a Member.

He has come through with flying colors. He has shown his true character. He has withstood a lot of heated debate, sometimes bordering on abuse, but he has come through beautifully, and his demeanor, his actions, his parliamentary skills have brought us to where we are today. As I have said many times, I may disagree with the product, but I certainly do not disagree with the fact that in the eyes of all of his colleagues, he is a first-rate legislator and has done a tremendous job for the cause in which he believes.

Mr. MAZZOLI. I thank my friend for that.

As I have said earlier in the debate, I think it was on Monday, my friend is leaving this Chamber for other pursuits. My friend from Texas [Mr. KAZEN], was one of the first senior Members, when I came here 14 years ago, to take the gentleman from Kentucky aside and talk with him and be a good friend. I personally will very much cherish our friendship and I will miss the gentleman from Texas. I wish him long health and much happiness in the years ahead.

☐ 1200

Mr. KAZEN. I thank the gentleman. Since this is the only opportunity under the rule that we have, may I ask the gentleman something that has been worrying some of us recently?

Mr. MAZZOLI. Certainly.

Mr. KAZEN. Recently we passed a bill and an appropriation through the Congress to help those school districts that, because of a Supreme Court decision, have been mandated to educate children of illegal aliens. The gentleman is well familiar with that bill.

Under the bill that we now have, will that situation change, since the majority of them no longer will be illegal aliens but will still be aliens? Will the provisions of that bill still apply, and will that help come to those local school districts?

Mr. MAZZOLI. Our expectation is that the laws should not change. The status of the individuals might change, but the intention is that those people, while on one day they may be illegal and the next day they might be legalized, are the same people, with the same needs, the same requirements, and I personally will fight for the fact that they should continue to have those needs filled.

Mr. KAZEN. If the gentleman will yield further, the only reason I brought this up is because there is a difference of opinion.

Mr. MAZZOLI. For legislative history.

Mr. KAZEN. Let me urge the gentleman, when he goes to conference, if at all possible, to clarify that in this bill so that those whom we now consider illegal aliens who will no longer be illegal, yet that help is still needed by those school districts, to see to it that there is some language in this bill that does not change the intention of the Congress.

Mr. MAZZOLI. I shall, certainly, and if the gentleman from New Jersey appoints the gentleman from Kentucky to the conference, I can assure the gentleman that I will defend that position.

Mr. KAZEN. I thank the gentleman.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I would yield to my friend, a member of the committee, the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I would like to, as a member of the Committee on the Judiciary, not a member of the particular subcommittee turning this bill out originally, compliment the gentleman and also compliment the gentleman from California [Mr. LUNGREN].

The gentlemen have made a tremendous team. I have never seen such a controversial item that has been so mistreated for so long by the priorities of this House to continue in such a great form and come to the House in such a nonpartisan manner. It has been refreshing. At least to this point, we are at a high point in the history of the House of Representatives, and I recognize that the gentleman from Kentucky and the gentleman from California [Mr. LUNGREN], working together, have made a tremendous team. There are very few Members of this House, in my opinion, who could have persisted and done as good a job as the gentleman in the well and the gentleman from California [Mr. LUNGREN] have.

Mr. MAZZOLI. I thank the gentleman from Florida. I might say for the benefit of the Members of the House who might not know it, the gentleman from Florida, while not a member of the subcommittee, has been very, very helpful to the subcommittee.

Coming from the State from which he comes, having studied the subject very carefully, the gentleman has made many contributions to the final product and I thank him.

With respect to my friend, the gentleman from California, who is my dear friend as well as my ranking member, we have, I would tell my friend from Florida, "The Notre Dame Connection."

It happened that my friend, the gentleman from California [Mr. LUNGREN], is also a Notre Dame graduate of a much more recent vintage than the gentleman from Kentucky, but nonetheless a proud member of the Fighting Irish of Notre Dame alumni. There is, of course, another member of the Notre Dame Connection, Father Hesburgh, who has played an overshadowing role here.

Mr. SHAW. If the gentleman will yield further, I think the RECORD should reflect that I, as a graduate of the University of Alabama, have said nice things about you gentlemen. That is not going to continue beyond this bill, however.

Mr. MAZZOLI. I thank the gentleman. Since the Fighting Irish beat the Crimson Tide the last four times running, it takes courage for the gentleman to have said that.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. MAZZOLI] has again expired.

(On request of Mr. GARCIA and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 5 additional minutes.)

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, this has been a long week, for many of us a week that was probably the toughest week in our legislative lives, I know in mine. I have been in the legislature 18 years, and I do not believe I have ever had legislation come before us that has hurt a specific community as much as this bill has.

But I would say to my colleagues, while I remain opposed to the legislation, the one shining moment, the one shining part of this legislation, is the legalization aspects. I would ask all of those Members who are in their offices at this moment who have stayed with us throughout this long debate, and who have voted the way we have asked them to vote, and who have sympathized with the cause of minorities in America, that on legalization they come here and be present on Tuesday to vote for legalization, to strike down amendments that are being planned, that are going to be offered. If we can come out of this legislation with anything, at least give us something to take back to our communities, and that is legalization.

I say that to my colleagues who are in their offices and the few who are in this Chamber. I said during the course of this week that the emotions of employer sanctions were very difficult, and I fought the chairman of this committee as hard as I knew how. But now I take my hat off and I put the other hat on, and that is to fight for legalization.

So please, every Member, be here on Tuesday to strike those amendments that will do harm to the bill and give us nothing at all.

Mr. MAZZOLI. May I salute the gentleman. The gentleman has been in that approximate location in this Chamber for the better part of the last 5 days, and while, as the gentleman has accurately reported, we have not always agreed, the gentleman has been there fighting for his cause.

I salute the gentleman and commend him and the people who sent him to Congress. They made a good choice.

Mr. GARCIA. I thank the gentleman.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend from California, who also has been in that approximate location for 5 days, and I would suggest to my friend, the gentleman from California, that when this is over we ought to ask the Architect of the Capitol if he could get 2 brass plaques, one to put on the gentleman's chair and one on that chair.

Mr. ROYBAL. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks made by Members of this House with regard to the gentleman from Kentucky. I think he has done an excellent job.

We do disagree, and we hope that we have not been disagreeable. I, for example, do not believe that this bill is the best bill that could possibly be passed by the House of Representatives. I firmly believe that the bill has legalized exploitation at the expense of Hispanics, labor, and industry.

But regardless of my particular position, I cannot possibly deny that the gentleman from Kentucky has done a yeoman's job. He is a dedicated individual. He has his differences with me and with other Members of the House. He has expressed them continuously and I commend him, Mr. Chairman, for the excellent job that he has done.

I sincerely hope that when we get into conference that some of these differences can at least be discussed and perhaps come out with a bill that reflects more clearly the general opinion of Members of the House of Representatives. I know that can be done. The matter of legalization is coming up Tuesday. That is part of this bill, and as part of this bill, it seems to me that the vote on that particular item should definitely carry, and then give the opportunity to the Committee on the Judiciary, the gentleman from Kentucky, the gentleman from New Jersey, to sit down in conference and try to work out with the Senate a bill that can come back that at that particular time even I can say is acceptable.

I think that it can be done, because the skills of these two gentlemen are such that such a piece of legislation can be drafted and be brought to the House as a conference report.

Mr. MAZZOLI. I thank the gentleman very much. That was an important statement and I deeply appreciate the gentleman's observation about the work the gentleman from Kentucky has done.

But as the gentleman has said many times, it is the opportunity the gentleman from New Jersey has accorded him, it is the opportunity the House has accorded us to move on with it and to stay alert and active until way late at night, and finally, and not lastly, the gentleman from California himself has made a very ardent, articulate, a very vigorous defense for the people he represents, and I salute him for that.

I can assure the gentleman that if the gentleman from Kentucky is a member of the conference, I will certainly fight for the gentleman's positions.

Mr. ROYBAL. I thank the gentleman.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend, the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. Mazzoli] has again expired.

(On request of Mr. Rodino and by unanimous consent, Mr. Mazzoli was allowed to proceed for 5 additional minutes.)

Mr. RODINO. I thank the gentleman for yielding.

Mr. Chairman, it is late in the day and I know many Members are anxious to get on with either other business or to get home. We have had a very grueling week and I am sure that we have lived up to the reputation of a body that is worthy of representing the people we all represent.

□ 1210

But I especially want to salute the gentleman in the well as the captain of this team over the years, having labored over a matter which I consider very close and dear to my heart because it had its genesis back 13 years ago when I was chairman of the Subcommittee on Immigration. I had hoped this day would come, notwithstanding the fact that the House had wisely enacted the employer sanctions provision on two separate occasions. The other body did not act. Maybe we might not have had a problem now if the Congress had acted then.

Nonetheless the problem is with us, and the gentleman assumed a great responsibility. I was one of those who urged him to assume the chairmanship of this subcommittee, and I feel a sense of having been part of it all. I know that he labored hard, along with the ranking minority member, the gentleman from California [Mr. Lungren], over the years that this bill was under consideration.

As we all know, the Simpson-Mazzoli bill was first, of course, adopted on the part of the other body, but I think that we on the House side came through with a balanced bill. We have stated that all along. We thought that there were certain areas that needed some cleaning up and some correcting, and I think that we sought to do this.

The bill is not in what I would say such a state of disrepair that Members ought to vote against it. There is the legalization provision, which I consider very important, because it would address a problem that has been one that I dealt with, and I know all of us are concerned with it. The gentleman from New York [Mr. Fish] stated the need to address this problem humanely. I think it is important to allow these people who are presently the undocumented workers and who have been the subject of abuse to be able to come up out of that shadow society and to now have the prospect, if they elect the legalization provision opportunity, to live a decent life and a dignified life. I know of individuals who have been living as a part of a shadow society, individuals whose children still are afraid to come forth and who still are afraid even to come out and register to vote because their parents are illegal.

I think that the gentleman from Kentucky, under these trying conditions, has indeed done a good job. Notwithstanding the fact that sometimes the discussions became heated, nonetheless, I think he has demonstrated the kind of determination and the kind of patience that is needed and has tried to be as gracious as possible to all the Members who might have been critical and opposed him.

So, as I say, there is yet something to be done. We have in this institution the opportunity to act on these measures on Tuesday and then to be able to go to conference with the other body. I think that this must give us heart. I think this is important, and I know the gentleman from Kentucky is going to be a willing colleague in trying to do those things which are important to still bring about a balanced bill that some of the Members who were opposed to him might not object to.

I will give all my energy and all my effort, as I have in the past, to it. I am wedded to a balanced bill, a fair bill, and I will do all in my power to assist.

Again, Mr. Chairman, I want to salute the gentleman who has captained this team, along with the ranking minority member, and we must not forget the ranking member of the Judiciary Committee, the gentleman from New York [Mr. Fish], who was a yeoman in the kind of cooperation and leadership he provided.

Mr. MAZZOLI. Mr. Chairman, I salute my chairman, and I thank him very much for the observations he has just delivered.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. Mazzoli] has expired.

(By unanimous consent, Mr. Mazzoli was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, if there is one gentleman in this House who has given the House of Representatives in the legislative process a dignity which it deserves, if there is any one Member of the House, as my colleagues know, who deserves the appellations of "great" and "distinguished," it is the gentleman from New Jersey. I have been very proud to work with him and under his guidance in the last years that I have served on the gentleman's committee.

If the gentleman from Kentucky has done a good job up to this point on the bill, it is because I have listened and learned at the gentleman's knee.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield briefly?

Mr. MAZZOLI. I yield to my friend, the gentleman from California.

Mr. LUNGREN. Mr. Chairman, I did not join in this entire observation session because, as the gentleman mentioned, we are both from Notre Dame, and it does remind me about playing the victory march at halftime and not staying around until the end of the game. I hope we can play the victory march at the end of Tuesday or Wednesday, and then I will be happy to join in all the commendations made for all Members, because this is in fact an important bill.

Legalization is extremely important. We have a tough fight on our hands for next week, and I hope everybody gets a good rest in the locker room and comes back out dressed to play next Tuesday.

Mr. MAZZOLI. Mr. Chairman, I will proceed for just one last second.

I want to salute the gentleman because I understand the Notre Dame connection extends to the White House, and I am glad that the "Gipper" came forward with a very important statement last night on the whole question of legalization, which is a very courageous position on the part of the President, and I salute him.

Last, but not least, Mr. Chairman, may I salute the Chair on an excellent job all the way through.

With that, Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Brown of California] having assumed the chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

## PROVIDING FOR CONSIDERATION OF H.R. 3282, WATER QUALITY RENEWAL ACT OF 1984

Mr. **BEILENSON**. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 522, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 522

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3282) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a), rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The **SPEAKER** pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. **BEILENSON**. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], and pending that, I yield myself such time as I may use.

Mr. Speaker, the rule makes in order the consideration of the Water Quality Renewal Act of 1984. The bill, H.R. 3282, is a 5-year authorization of appropriations for various water quality programs, principally wastewater treatment activities. The bill also amends the Federal Water Pollution Control Act and provides for certain construction and other activities under the act.

Mr. Speaker, this measure deals with a large and important national program, and the bill is not without controversy. However, the rule is relatively straightforward, and I am aware of no controversy over the procedure recommended by the Committee on Rules.

This is an open rule, providing for 1 hour of general debate, divided in the customary manner.

The resolution provides for the committee amendment in the nature of a substitute to be considered as original text and to be read for amendment by section. The rule contains provisions customarily included when a committee has reported a substitute. These provisions are noncontroversial and simply assure that Members will have the same rights that would be available in the case of a clean bill:

The substitute is considered as original text. Unless that provision is made, amendments to amendments are considered to be in the third degree and not in order.

Members are permitted to demand a separate vote in the House on amendments to the substitute. Lacking this provision in the rule, only a demand on the entire substitute is permitted.

Finally, provision is made for a motion to recommit, with or without instruction. Without this provision, the adoption of a substitute would preclude instructions in the motion to recommit.

Mr. Speaker, the rule provides waivers of points of order in two cases.

The rule waives the point of order under section 402(a) of the Congressional Budget Act. That provision prohibits the consideration of any authorizing bill not reported by May 15. The Committee on Rules agreed to the request, on the grounds that the bill was acted on in a timely fashion. The general budget parameters were widely understood at the time the bill was initially ordered reported on May 10. And that a good faith effort was made to meet the deadline but that the complexity of the issues involved in H.R. 3282 precluded filing the report by May 15.

Mr. Speaker, the rule also waives points of order against the committee substitute for failure to comply with the provisions of clause 5(a) of rule 21. That rule prohibits appropriations in legislative bills. There are no actual appropriations in the bill, but in making program modifications, the bill makes funds previously appropriated available for new purposes.

Mr. Speaker, this bill presents important issues for Members, both in terms of the budget and the environment. There certainly will be controversy over some provisions. But this is an open rule and it provides a fair and orderly method for the House to work its will.

Mr. Speaker, I urge the adoption of the resolution. Under my prior announcement, I reserve the balance of my time.

□ 1220

Mr. **LOTT**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 522, as has been explained by the gentleman from California, is an open rule providing for the consideration of the bill H.R. 3282, the "Water Quality Renewal Act of 1984." The rule waives section 402(a) of the Budget Act against the consideration of the bill since the bill was reported on June 6 of this year, and that provision of the Budget Act requires that bills be reported by May 15.

Mr. Speaker, the rule further provides for 1 hour of general debate on the bill, to be divided between the chairman and ranking minority member of the Committee on Public Works. Following general debate, the bill will be subject to germane amendments under the 5-minute rule, and the amendment in the nature of a substitute reported by the Public Works Committee now printed in the bill shall be considered as an original bill for the purpose of amendment.

The rule waives clause 5(a) of House Rule 21 against the substitute. That rule prohibits appropriations on a legislative bill. The waiver is necessary because the bill contains three instances in which already appropriated funds are being applied to new purposes—in subsections 12 (d) and (e) and 16(g)(4)(B).

Following the consideration of the bill for amendment, the rule provides that it shall be reported back to the House and that a separate vote may be demanded on any amendment adopted to the bill or committee substitute. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 3282 reauthorizes the clean water programs administrated by the Environmental Protection Agency through fiscal year 1988. Most of the programs are extended at present levels at a total cost of approximately $600 million a year. These include $100 million a year for grants to develop and operate areawide waste treatment management processes; $100 million a year for the Rural Clean Water Program; $100 million a year to implement interagency agreements for the utilization of other Federal laws to assist in controlling water pollution; and $160 million a year for general administration of the Federal Water Pollution Control Act by EPA.

The bill also increases the authorization level for the construction grants program from its present level of $2.4 billion a year to $2.9 billion for fiscal 1985 and $3.4 billion each for fiscal years 1986 to 1988. The bill also authorizes $1.6 billion a year to establish a new separate grant system to enable States to establish revolving funds to assist communities within States in constructing needed sewage treatment facilities. The bill extends the compliance dates for achievement of best available and best conventional technology. And it increases the Federal share for construction of publicly owned treatment works to 65 percent.

Mr. Speaker, I should point out that this bill was originally reported from the Public Works Committee on May 10, but when it was learned that a sequential referral to the Merchant Marine and Fisheries and Science and Technology Committees was likely, the committee went back on June 6 and reported a substitute that deleted the sections which infringed on those jurisdictions.

Mr. Speaker, while the report on this bill contains five sets of additional and supplemental views, the bill was reported from the Public Works Committee by voice vote, and general bipartisan support for the bill was expressed during our Rules Committee hearing on the measure. Several Members indicated an intention to offer amendments to further toughten or change the bill, but these will be in order under the open rule we have granted. Moreover, the rule was reported by voice vote.

The statement of administration policy we received on this bill indicates opposition to the existing funding levels in the bill: The $6 billion for construction grants in the bill exceeds the administration's fiscal 1985 request by 130 percent, and the cumulative total of $19 billion for these programs through fiscal year 1988 is $11.2 billion or 144 percent over the administration's requested projections.

I urge the adoption of this rule so that we can consider this legislation under an open amendment process.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the committee, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I rise in support of House Resolution 522, the rule on H.R. 3282, the Water Quality Renewal Act of 1984.

This bill contains extensions of authorizations and new provisions in order to strengthen the Nation's efforts to achieve clean water. H.R. 3282 increases the current authorization for grants to assist in the construction of sewage treatment works from its present level of $2.4 billion to $2.9 billion for fiscal year 1985 and $3.4 billion per fiscal year for fiscal years 1986, 1987, and 1988. Coupled with this is a $1.6 billion per year grant program for the establishment by the States of revolving funds which can be used to assist local communities in constructing sewage treatment plants through innovative financing mechanisms.

Other items in the bill include:

The identification of toxic hot spots where water quality standards will not be met, even with the application of best available technology, and the development of individual control strategies to clean up these critical areas.

The addition of criminal and administrative penalties to add to EPA's enforcement capabilities.

A grant assistance program to encourage the States to develop and implement plans for the control of nonpoint source pollution.

The extension and expansion of the Clean Lakes Program, which provides assistance to restore the water quality of lakes.

Mr. Speaker, as you and the other Members of this body are aware, certain aspects of this bill have become the subject of criticism by various environmental groups. We are presently preparing floor amendments to this bill to resolve the issues which have been raised.

Mr. Speaker, I urge my colleagues to support the rule so that we may proceed with consideration of H.R. 3282.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Jersey [Mr. ROE] the distinguished chairman of the subcommittee.

Mr. ROE. Mr. Speaker, I rise in support of House Resolution 522, the rule on H.R. 3282, the Water Quality Renewal Act of 1984. This bill is the result of an enormous amount of effort on the part of the subcommittee and the full committee, as well as by Chairman JAMES HOWARD, who has been and is working diligently to develop legislation which is environmentally sound and can be enacted into law.

This bill contains a number of provisions designed to improve the Nation's water pollution control programs.

The Construction Grants Program which provides Federal assistance for the construction of publicly owned sewage treatment plants is presently authorized at a totally inadequate level of $2.4 billion per year. As a result, municipalities are falling farther behind in their attempts to meet the requirements of the act. Our bill addresses this problem in three respects. First, it increases the Federal share after fiscal year 1984 from 55 percent to 65 percent. Second, it increases the authorization for the Construction Grants Program, and, third, it establishes a new grant program to be used by the States to establish water pollution control revolving funds. These revolving funds may be used by the States to make low-interest loans, subsidize bonds, and the like in order to further assist local communities in the construction of sewage treatment works. These new levels of authorization are the absolute minimum required if we are to meet the goals of the act for clean water.

Another major provision is the establishment of a program to encourage and assist States in the control of nonpoint sources of water pollution.

Also, the Clean Lakes Program which provides assistance to the States for the development and implementation of plans to restore the water quality of lakes is addressed. Our bill extends the authorization for the program. In addition, it provides grant assistance to States for priority projects for the control of nonpoint sources of pollution which are contributing to the degradation of water quality in lakes.

Finally, it includes administrative and criminal penalities for violations of the act. These are designed to greatly increase the ability of the Environmental Protection Agency to obtain compliance with the act.

I believe that H.R. 3282 is a sound bill. I recognize, however, that not all interested parties agree with this assessment. We are, therefore, developing floor amendments designed to ameliorate the difficulties which have arisen since the bill was ordered reported.

Mr. Speaker, I urge passage of the rule so that we may proceed to floor action on this very important bill.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I rise in support of this open rule and I want to say to my colleagues that in both the Clean Water Act and the omnibus water bill we are setting a good precedent by having an open rule in both instances.

Relating to the Clean Water Act, there are a number of amendments that will be offered by a number of Members of the House. We are still in negotiations with the chairman of the subcommittee and the chairman of the full committee and the ranking members are working out some of the details of that compromise.

I think an open rule will give us an opportunity to address each of the issues.

I think this House needs to place before it a Clean Water Act that is environmentally sensitive and continues the desire on the part of the House and the Senate to have legislation that provides for clean water that is swimable, fishable, and drinkable.

I believe that the legislation that we have before us is almost in that direction. With a few minor changes dealing with some issues that have been in contention, I believe we can come up with a strong sensible bill, a piece of legislation that makes sense.

So I urge my colleagues to support this open rule and to look at the issues as carefully as they can.

Mr. Speaker, I am a cosponsor of H.R. 3282 and a very strong supporter of many of the provisions of the bill which will advance our constructive efforts to clean up the Nation's waters. Among the most important items contained in the bill are increases in funding for the EPA Construction Grants Program; a valuable grant program for the control of nonpoint pollution from urban and rural runoff; and targeted efforts to clean up the Chesapeake Bay and other bays and estuaries.

Furthermore, as a matter of policy, authorizing legislation to extend the Clean Water Act provides essential continuity for our pollution control programs and reiterates the commitment of Congress to the essential goal of fishable, swimable, pollution-free waters. Many of the programs and general authorizations under the Clean Water Act expired in 1982, and we have been operating without a regular authorization since then.

I was disappointed that some of the most forceful environmental provisons contained in the original version of H.R. 3282, such as the codification of strong water quality standards, were stripped from the bill during committee consideration. I was further disappointed that some additions made to the legislation during committee proceedings may have the effect of delaying enforcement of, or even weakening, existing environmental protection law. Among the most problemmatic of the provisions are a liberal extension—from 5 to 10 years—of the discharge permits issued under our national program to control industrial pollution; an extension of pollution control compliance deadlines for the electroplating industry which discharges over 50 million pounds of toxic chemicals and metals each year; and a loophole in existing law which will allow mining companies to reopen abandoned mines but ignore stringent pollution control measures normally required at mines. I am also discouraged that the committee saw fit to grant variances of normal pollution control requirements for two pulp mills in Alaska, contrary to the decisions and requirements of the EPA.

Granting delays, variances, and waivers for specific industries and firms can only encourage those who might see some short-term benefit in the more substantial weakening of the cirtical provisions of the Clean Water Act. Congress knew that the goals of the act would be difficult to achieve when the act first passed, but Congress also realized that the long-term consequences of poisoning the environment and destroying our natural resources are even more costly. By and large, progress has been made in cleaning up water pollution. Citizens, industry, and Government have made important efforts to accustom themselves to the farsighted requirements of care for the environment. Yet, it will be difficult to sustain this progress if Congress is going to be seen as backing down from some of the most difficult tasks or as granting inequitable relief from regulations.

We all realize that some adjustments must be made in ongoing programs. The original H.R. 3282 took this into account, for example, by extending deadlines under the best available and best conventional technology requirements of the act. But once we find the appropriate deadlines and requirements, we must stick to them and, Mr. Speaker, I support the granting of an open rule for the consideration of H.R. 3282. As I stated there are some vital improvements to this bill which I think must be made on the House floor in an open process. I myself intend to seek changes in the form of amendments on at least three items: The remaining issue; the Alaska pulp mills; and the deadline extension for electroplaters. There are also two additions to the bill which I would like to make in the form of amendments. I would like to offer an amendment to create a national commission to deal with the Nation's ground water problems, and I would also like to offer an amendment to provide some assistance to sewage agencies around the country in dealing with disposal or use of sewage sludge. I have discussed the addition of these two items with the leadership of the Public Works Committee and I hope to get their support on these items.

I am aware of a number of other Members who also are preparing amendments to H.R. 3282 dealing with a number of specific issues. I believe that the committee is also aware that our colleague from Minnesota, Mr. **Oberstar**, has prepared a substitute amendment for H.R. 3282 which comprehensively deals with the concerns of many Members of the environmental community. I am pleased that the committee will allow a full debate on the range of issues raised by the environmental community on H.R. 3282.

Mr. Speaker, I believe that all the members of the Public Works Committee and of the House want to produce a responsible Clean Water Act reauthorization which preserves and strengthens our commitment to tough measures to clean up pollution. This bill has already undergone substantial changes and modifications in the drafting process thus far. Those of us with concerns on the legislation are continuing to communicate with the leadership of the committee in order to address our remaining concerns. It is important to bring this bill to the floor under an open process so that all remaining problems can be resolved and we can pass a major piece of environmental legislation in the 98th Congress.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR CONSIDERATION OF H.R. 3678, WATER RESOURCES, CONSERVATION, DEVELOPMENT, AND INFRASTRUCTURE IMPROVEMENT AND REHABILITATION ACT OF 1983

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 515 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 515

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3678) to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 7 of rule XIII are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Public Works and Transportation, Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the amendment printed in the Congressional Record of May 31, 1984, by Representative Roe of New Jersey as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a), rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1230

The **SPEAKER** pro tempore. The gentleman from Michigan [Mr. Bonior] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. Lott] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 515 provides for the consideration of H.R. 3678, concerning the conservation, and development of water and related resources as well as improvements and rehabilitation of the Nation's water resources infrastructure. The bill will be considered under an open rule, allowing the consideration of all germane amendments. The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

Because H.R. 3678 authorizes new budget authority for fiscal year 1984 but was not reported by May 15 of last year, the bill is in violation of section 402(a) of the Congressional Budget Act. However, because much of the newly authorized budget authority in the bill had already been appropriated, the Committee on Rules waived section 402(a) of the Budget Act against consideration of the bill.

The rule also provides a waiver of clause 7 of rule 13 for failure of a committee report to contain a cost estimate.

H.R. 3678 was sequentially referred to four committees. Three of those committees reported the bill with amendments. In an effort to streamline the process by which this already complex bill is considered, the committees involved agreed upon an amendment in the nature of a substitute to be considered in lieu of individual committee amendments to the bill. Therefore, the Committee on Rules made in order an amendment in the nature of a substitute printed in the Congressional Record of May 31, 1984, by Representative Roe of New Jersey, as original text for the purposes of amendment. The substitute will be considered for amendment by title rather than by section.

The rule also waives clause 5(a) of rule 21 prohibiting appropriations in an authorization measure, against consideration of the substitute. This waiver was granted because several sections call for some type of modification or redirection of prior appropriations.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the last water resources development bill to be signed into law was in 1976. The last construction authorization bill became law in 1970. The 1976 act, and another passed in 1974, were primarily authorizations for advanced engineering and design studies rather than for construction. As a result, this bill is quite complicated due to the need to address a 14-year backlog of proposed projects.

I want to note that the Committee on Public Works and Transportation expended much time and effort, not only in developing this omnibus water bill, but also in trying to accommodate as many needs and concerns as possible in a bill of this nature which is of special interest to nearly every Member of this body.

Due to the sheer magnitude of H.R. 3678, there are still some areas of controversy. However, House Resolution 515 allows for full and open debate of those sections as well as the offering of all germane amendments. It is a very good rule under which to consider this important legislation and I urge its adoption.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 515 is an open rule, providing for 1 hour of general debate on the bill H.R. 3678, the Water Resources Conservation, Development and Infrastructure Improvement and Rehabilitation Act of 1983. The rule waives points of order against the bill for failure to comply with section 402(a) of the Budget Act which prohibits the consideration of bills reported after May 15 preceding the fiscal year in which it is to take effect. Since this bill takes effect in fiscal 1984, the present fiscal year, and was not reported by May 15 of last year, it is in violation of that section of the Budget Act. But the Rules Committee received a letter from the Budget Committee chairman indicating that a poll of the committee's members indicates that a majority support this waiver.

The rule also waives clause 7 of House rule 13 against consideration of the bill. That clause prohibits the consideration of a bill for which there is no cost estimate in the report. I would hope this is an oversight that is not repeated because I think it is essential that such estimates be available to Members in a timely manner.

The rule also makes in order a substitute printed in the Congressional Record of May 31, 1984, by Mr. Roe of New Jersey as an original bill for the purpose of amendment, and waives clause 5(a) of rule 21, which prohibits appropriations in a legislative measure, against that substitute. The substitute is an attempt to incorporate the provisions reported by the Committees on Agriculture, Interior, and Merchant Marine and Fisheries, to whom the Public Works bill was sequentially referred.

The Roe substitute will be considered for amendment under the 5-minute rule by title instead of by section. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, Congress has not enacted an omnibus water resources bill since 1976. This bill is an attempt to establish a nationally coordinated water use policy. The bill authorizes projects estimated to cost a total of $19 billion, and in addition deauthorizes some 300 dormant projects. Moreover, the legislation establishes a new Federal/non-Federal partnership in the form of new cost-sharing formulas and establishes a National Board on Water Resources Policy.

The measure was reported from the Pubic Works Committee by a record vote of 49 to 0. While there will be several important amendments offered to the bill, this is an open rule so all Members will have an opportunity to offer germane amendments to the bill. I therefore urge adoption of this rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. Hopkins].

Mr. HOPKINS. Mr. Speaker, I rise in support of the rule on H.R. 3678, the Water Resources, Conservation, Development, and Infrastructure Improvement and Rehabilitation Act.

This is an open rule which will allow me to offer an amendment to section 301(b) which changes the authorization for the Falmouth Dam project on the Licking River in Kentucky.

In its present form, the section of the bill which I hope to amend violates not only public law, but also basic rules of economic reason and fairness.

It does so by mandating that the Federal Government pay the entire cost of the project. As currently written, it also excuses the project from the requirement of State matching funds and waives cost/benefit ratio requirements by legislative fiat.

My amendment does not remove this project from the bill. It simply requires the Falmouth project to comply with the same cost-sharing requirements as projects in your district. My very limited amendment is confined to this project and this project only.

This change will allow the legislation to conform to public law, to economic reason, and basic fairness.

My amendment will make the project comply with current Federal law by restoring the local cost-sharing responsibilities for the recreational benefits. And it will comply with new law established in section 302 of this bill by requiring local cost sharing for the flood control benefits.

The economic soundness of this project will be restored by my amendment. The Falmouth project has a negative cost/benefit ratio, for every dollar spent, only 60 cents worth of benefits would be received. The Corps of Engineers says that the project cannot be economically justified. My amendment would allow the State of Kentucky to weigh these factors when deciding whether to fund the project. If Kentucky is not for this project, why should the Federal Government flood 25,000 acres of our land?

Fairness also requires that the people of Kentucky have a part in the decision. I have been denied a say in the process, as the project was put in the bill without my knowledge 1 day prior to Congress recessing for 5 weeks. The last public hearing on this proposal was 20 years ago.

I ask my colleagues to support the rule and my amendment to restore economic soundness and fairness to the Falmouth Dam project.

A copy of my amendment follows:

Amendment to the Amendment in the Nature of a Substitute to H.R. 3678, as Reported, Offered by Mr. Hopkins of Kentucky

Page 75, line 13, strike out ", at full Federal expense,".

Page 75, line 15, strike out "$189,000,000" and insert in lieu thereof "$135,400,000".

Page 76, line 3, after the period insert the following:

The provisions of section 302 of this title shall apply to the project for flood damage reduction and recreation in the vicinity of Falmouth, Kentucky, authorized by this subsection.

□ 1240

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. Howard].

Mr. HOWARD. Mr. Speaker, I rise in support of House Resolution 515, the rule on H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act. H.R. 3678, as is traditional with water resources development bills, contains project authorizations, authorizations of water resources studies, project modifications, and general provisions affecting the overall water resources program of the Corps of Engineers. This bill also continues the practice of refining the manner in which the corps' existing water resources program is carried out to meet our constantly changing water resources needs. As a result, the bill contains a number of features addressing water supply needs, environmental concerns, energy needs, and project study procedures, in addition to the traditional provisions addressing flood control, navigation, erosion control, recreation, and the like.

This bill also contains a number of new provisions which significantly expand the water resources program of the Corps of Engineers in order to recognize new water resources needs that have arisen as a result of the aging process on our water resources infrastructure.

Mr. Speaker, H.R. 3678, which is the result of over 3 years of intensive study by our committee, represents the first major construction authorization bill since 1970—and the most comprehensive and environmentally sensitive water resources bill ever developed. It is necessary to the dynamics of our Nation's economy; it is timely; and I urge adoption of the rule.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the subcommittee, the gentleman from New Jersey [Mr. Roe].

Mr. ROE. Mr. Speaker, I rise in support of House Resolution 515, the rule on H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act. This bill contains project authorizations, authorizations of water resources studies, project modifications, and general provisions affecting the overall water resources program of the Army Corps of Engineers. It also includes a title deauthorizing over 300 unconstructed Corps of Engineers projects or portions of projects, a title relating to water resources policies for all Federal agencies that establishes a new Board on Water Resources Policy to replace the currently authorized Water Resources Council, and a title which establishes a Federal interest in single purpose water supply projects and establishes a loan program for the repair, rehabilitation, expansion, and improvement of public water supply systems.

The last Water Resources Development Act was signed into law in 1976, and the last true Construction Authorization Act was signed into law in 1970. Consequently, over the past 14 years, a very large backlog of vitally needed water resources projects has accumulated. Detailed testimony and information was received on all these projects, and they have all been analyzed very carefully by our committee.

Our committee has also worked hard to ensure that this legislation is the most environmentally sensitive authorization bill we have ever developed. While the projects recommended by the corps to the committee were planned in full compliance with all existing environmental laws and regulations, the committee, in many instances, has gone beyond the recommendations of the corps to include in the authorizations for many of those projects a number of detailed provisions for the additional protection of environmental values.

I strongly urge my colleagues to support this rule so that we may proceed to consideration of the bill.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Shaw].

Mr. SHAW. Mr. Speaker, I would like to compliment the chairman of the committee, the ranking member of the committee, the chairman of the subcommittee as well as the ranking member of the subcommittee for the tremendous job that they have done in bringing this through the Public Works Committee.

As a member of the full committee it has been a real honor to watch their progess and to work with them on this most important project.

I would also like to compliment and express my appreciation to the Rules Committee for the open rule that has been provided for us. I certainly intend to support and vote for the rule.

This rule will make in order an amendment which Mr. Buddy MacKay and I intend to offer which would deauthorize the Cross-Florida Barge Canal. This Cross-Florida Barge Canal was stopped in its construction back in the seventies when it appeared that we might be on the brink of an environmental disaster.

Further study has shown that it is not only an environmental disaster, but it would be an economic disaster to continue the construction of this particular public works project.

I would ask that all Members watch carefully and listen carefully to the debate once it starts on the Cross-Florida Barge Canal deauthorization. I would certainly hope that they would vote in favor of the amendment to deauthorize this project.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Pennsylvania [Mr. Edgar].

Mr. EDGAR. Mr. Speaker, I rise in support of this omnibus water bill and perhaps to the surprise of many Members of the House I find that the number of reforms that have been placed in this legislation clearly outweigh any of the problems.

So I hope that the House will endorse and support the legislation. I am pleased that the Rules Committee has brought the bill up under an open rule.

There are some issues that we are going to deal with on the House floor. There is the issue that Mr. Hopkins has raised dealing with a dam which will flood many acres of land in his district. There is the issue of the Cross-Florida Barge Canal which will be dealt with on the floor. There is a larger issue being offered by our colleague, Mr. Petri, on the issue of cost sharing and I will be involved in the process of trying to raise the level of cost sharing in the bill.

While there are some minor problems with the legislation and some changes that I would like to see made, on the whole I think this omnibus water bill does move in the right direction. It provides for a 25-percent cost sharing for all new projects. It provides a revolving loan fund to replace both municipal and investor-owned water supply systems. It provides for some cost sharing on deep port development. It provides an opportunity for a water resource board to analyze future projects. It sets up environmental mitigation fund. I could go on and list several other important facets of this legislation.

Let the record show that for the last 7 or 8 years I have been one of the major opponents of any omnibus water bill proceeding either through the House or the Senate. We have been quite successful in holding up projects. Many Members who have very worthy projects have asked why.

The why of that issue is that for a long time the process, I thought, and many other Members thought, was based simply on who had the most political power, rather than on the merits of the individual projects.

We now are beginning to set some policy initiatives which I think are moving us into a national water policy that is based on merit, based on a selection process of selecting the best project, and at a time when we have $180 to $200 billion deficits, it is critical for us in expending money through the Army Corps of Engineers or Bureau of Reclamation or Soil Conservation Service or any of the agencies that deal with water policy to spend those limited dollars fairly and equitably on projects that are needed throughout the Nation, north, east, south and west.

So I rise in support of the legislation and in support of the rule. I urge my colleagues to look carefully at the reform issues that are in the legislation and hopefully as we pass this and go to conference, we can develop a national water policy.

I am a cosponsor of this bill, I supported it in the Public Works Committee, and I support its passage on the floor. As many of the members of this committee know, this is something of a first for me. I have actively opposed water resources authorizing legislation in the past and led numerous legislative efforts to delete funding for projects from appropriations bills and to raise questions about the direction of our national water policy.

The reason that I support this bill this year is that I have been able to join forces with Subcommittee Chairman BOB ROE and other members of the Water Resources Subcommittee and the full committee in order to address any of the policy questions which I have raised over the years. This bill is not only a project bill, containing some $12 billion worth of authorizations for individual water resources projects, it is also a policy bill.

The bill, as reported from the Public Works Committee, requires important new local cost-sharing initiatives—such as 50 percent local financing for new deep port projects and minimum 25 percent non-Federal match for flood control projects; we deauthorize approximately $11 billion in outmoded project authorizations still needlessly on the books of the Corps of Engineers; we strengthen environmental mitigation provisions for water projects; and we create a new National Board to review and guide national water policy to replace the lapsed Water Resources Council. One of the most significant provisions, which Chairman ROE included in the legislation, is the creation of a new Corps of Engineers loan program which will aid our older cities and towns to rehabilitate their deteriorated water supply systems. In Pennsylvania and other States these systems are not only wasteful of water but actually threaten public health.

The objections which many of us have raised about water policy are fairly straightforward. We have argued that our water resources program has not treated our older, industrial regions fairly and has not addressed the pressing water needs in some regions of the Nation. Our policy has not always selected projects strictly on the basis of merit and need but has often rewarded only political influence or seniority on certain committees of Congress. We have argued that the water program has not always required the proper financial commitment from non-Federal beneficiaries of Federal projects. Such financial requirements are probably the best practical way to ensure that only needed, economical projects are built and that our water resources are conserved wherever possible.

Mr. Speaker, as a supporter of this bill I must also point out that any bill of this size and magnitude could not possibly command the support of every Member in all of its details and provisions. There are a number of projects contained in the bill about which I have serious reservations, among them the Great Lakes winter navigation project and others. I must also point out to the committee that the environmental community has raised some valid concerns about whether the cost-sharing provisions of the bill go far enough in certain areas. Changes are not made in all categories on the non-Federal financing issue. For example, H.R. 3678 requires no further non-Federal contribution to the inland navigation system despite proposals from the administration and the Senate to require a larger user contribution to construction and maintenance of this system. I understand that an amendment or amendments may be offered to give the House the opportunity to break more new ground on the issue of cost-sharing and user fees for water projects.

Because the bill is still perfectable in my view, I support the Public Works Committee's request for an open rule so that the House may decide on those issues which are still in dispute at this stage in the process. Mr. Speaker, H.R. 3678 makes great strides in reforming and modernizing our water policy and offers us an opportunity to end some of the contentious disputes which have divided the House on this issue in the past. I hope and believe that we can pass a water policy bill in the House which deserves the broad support of both Congress and the public.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I would like to take a moment to voice my very strong support for the rule here under consideration for H.R. 3678 and especially to indicate my deep appreciation and commendation to the chairman of the full Public Works Committee, Mr. HOWARD; the chairman of the Water Resources Subcommittee, Mr. ROE; as well as to our respective ranking and indeed respected ranking members, Mr. SNYDER and Mr. STANGELAND, for their diligent and bipartisan efforts to bring this important legislative package to the floor under this rule today.

As a new member of this committee in the 98th Congress, I have found it gratifying indeed to serve with such forthright individuals who have achieved many consensus in this kind of legislation because the issues are difficult and they are complicated, but indeed they are very important issues. So I want to salute them on that premise.

I am therefore pleased to rise in strong support of this rule as well as in strong support of H.R. 3678. The legislation has been a long time in coming and the rule before us will provide for fair and thorough deliberation in the House.

At this time let me also indicate my very strong support for an amendment which will be offered on behalf of the committee which will particularly affect my district. The past few weeks, in fact as of this very moment, my State of Nebraska has endured devastating flood and storm damage. Many residents have been displaced from their homes and sustained irreparable damage to their property.

Thus, it is particularly timely that the committee amendment will include a long needed and crucial provision providing for a study and reclamation efforts along the Platte River and its tributaries. Such efforts have long been advocated by the entire Nebraska delegation and are now imperative to the welfare of the residents of eastern Nebraska.

I particularly want to take a moment to commend the gentleman from Pennsylvania [Mr. EDGAR] for his support of this rule and support of the bill. I, too, have long been an advocate of improved cost-sharing formulas in our Federal legislation. That might surprise some of my colleagues because I come from a small State where I think there has been some objection to this kind of move.

I hope that the members of the committee will again reaffirm the commitment the committee has made on a very bipartisan effort to pass this rule and support the legislation.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WEAVER].

Mr. WEAVER. Mr. Speaker, I want to join with others in complimenting the chairman of the subcommittee, the gentleman from New Jersey [Mr. ROE] for a very well thought out and well-drafted bill.

I thank him also for intending to offer as one of the committee amendments a provision that I put into the bill several years ago which would require a prohibition against the study of the diversion of the Columbia River waters into another region. I want to thank the chairman for his willingness to ask the House to put that back into the language of the bill.

I also intend to offer an amendment to a provision which calls for a study of the Elk Creek Dam in southern Oregon. The Elk Creek Dam has been in my congressional district for many years. In reapportionment it was kind of cut down the middle and now is in the district of another Oregon Member as well as partly in mine.

☐ 1250

This dam is called the biggest boondoggle in the United States of America. It is over $100 million for an irrigation dam that has no irrigation project, and it strikes me as being promoted simply by a few real estate developers. And for increasing our deficit to do this is an atrocity.

The General Accounting Office calls it the worst cost-benefit ratio of any dam they have studied. This provision that I would attempt to amend asks that it be studied again with an interest rate at a level in 1963. That is like going into a restaurant and ordering from a menu from 50 or 100 years ago. My amendment will simply say: Let us study the dam, if you must waste that money to do so, with an interest rate at present levels.

Mr. BONIOR of Michigan. Mr. Speaker, I have no further request for time.

Mr. LOTT. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 7, not voting 140, as follows:

[Roll No. 243]

YEAS—286

Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Archer
Aspin
AuCoin
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Boucher
Britt
Brown (CA)
Burton (CA)
Burton (IN)
Campbell
Carper
Carr
Chandler
Chappell
Chappie
Clinger
Coleman (MO)
Coleman (TX)
Collins
Conyers
Corcoran
Coughlin
Courter
Coyne
Craig
Crockett
D'Amours
Daniel
Daub
Davis
de la Garza
DeWine
Dickinson
Dicks
Dingell
Dixon
Dorgan
Downey
Dreier
Duncan
Durbin
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Erlenborn
Evans (IL)
Fascell
Fazio
Feighan
Fiedler
Fields
Fish
Foley
Ford (TN)
Fowler
Frank
Garcia
Gaydos
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Gore
Green
Gregg
Guarini
Gunderson
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hance
Harkin
Hawkins
Hayes
Heftel
Hightower
Hillis
Hopkins
Howard
Huckaby
Hughes
Hunter
Hyde
Ireland
Jacobs
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kasich
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Leath
Lehman (FL)
Lent
Levin
Levine
Lewis (CA)
Lewis (FL)
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Mack
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McHugh
McKernan
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Obey
Olin
Ortiz
Ottinger
Owens
Oxley
Packard
Parris
Pashayan
Patman
Patterson
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Ray
Reid
Richardson
Rinaldo
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Rudd
Savage
Sawyer
Schaefer
Schneider
Schulze
Shaw
Shelby
Shuster
Sikorski
Sisisky
Skeen
Slattery
Smith (FL)
Smith (NE)
Smith (NJ)
Smith, Robert
Snyder
Solarz
Spence
Spratt
St Germain
Staggers
Stangeland
Stark
Stenholm
Stokes
Stratton
Stump
Sundquist
Swift
Tauzin
Thomas (CA)
Thomas (GA)
Torres
Udall
Valentine
Vander Jagt
Vandergriff
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zschau

NAYS—7

Brown (CO)
Conable
Crane, Philip
Frenzel
Nielson
Shumway
Solomon

NOT VOTING—140

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anthony
Applegate
Badham
Barnard
Bartlett
Bethune
Bevill
Boland
Boner
Bosco
Boxer
Breaux
Brooks
Broomfield
Broyhill
Bryant
Byron
Carney
Cheney
Clarke
Clay
Coats
Coelho
Conte
Cooper
Crane, Daniel
Dannemeyer
Darden
Daschle
Dellums
Derrick
Donnelly
Dowdy
Dwyer
Early
Evans (IA)
Ferraro
Flippo
Florio
Foglietta
Ford (MI)
Franklin
Frost
Fuqua
Gejdenson
Gephardt
Gingrich
Goodling
Gradison
Gramm
Gray
Hamilton
Hammerschmidt
Hansen (ID)
Hansen (UT)
Harrison
Hartnett
Hatcher
Hefner
Hertel
Hiler
Holt
Horton
Hoyer
Hubbard
Hutto
Jeffords
Jones (NC)
Kaptur
Kemp
Kramer
Latta
Leach
Lehman (CA)
Leland
Levitas
Lipinski
Lloyd
Lundine
MacKay
Marlenee
Marriott
Martin (NC)
Matsui
Mavroules
McCain
McCollum
McGrath
McNulty
Moakley
Moody
Morrison (CT)
O'Brien
Oakar
Oberstar
Panetta
Paul
Pursell
Regula
Ridge
Ritter
Roberts
Roth
Russo
Sabo
Scheuer
Schroeder
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Siljander
Simon
Skelton
Smith (IA)
Smith, Denny
Snowe
Studds
Synar
Tallon
Tauke
Taylor
Torricelli
Towns
Traxler
Vento
Walgren
Weber
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Young (MO)

☐ 1300

Mr. NIELSON of Utah changed his vote from "yea" to "nay."

Mr. SCHAEFER and Mr. PETRI changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I will be glad to yield to the distinguished majority leader for the schedule for today, if any remains, and for the schedule for next week.

☐ 1310

Mr. WRIGHT. I thank the distinguished acting Republican leader for yielding.

This concludes legislative business for today and for this week.

We will meet at noon on Monday and have 15 bills considered under the suspension of the rules, as follows:

H.R. 5688, veterans compensation amendments, fiscal year 1985;

H.R. 5606, FEC authorizations;

H.J. Res. 452, recognizing the important contributions of the arts to a complete education;

H.R. 5177, Wheeling Creek Watershed Protection and Flood Prevention District Compact;

H.R. 4308, Interstate High Speed Intercity Rail Passenger Network Compact;

H.R. 5365, amend title 28 of United States Code to provide selection of the Court of Appeals with respect to the same agency order;

H.R. 5426, Colorado Wilderness;

S. 837, Washington Wilderness;

H.R. 5740, Barrow Gas Field (Alaska) Transfer Act;

H.R. 3766, San Juan Wilderness (New Mexico) Protection Act;

H.R. 3130, amending Repayment Contracts for Frenchman Unit of the Pick-Sloan Missouri River Basin Program;

H.R. 4697, Carl W. Morris Post Office Building;

H.R. 4598, John Dent Post Office Building;

H. Res. 374, Barbara C. Jordan Post Office Building; and

H. Con. Res. 294, sense of Congress re nondelivery of international mail in the Soviet Union.

We will postpone recorded votes demanded on any of those bills until on Tuesday.

Then we will take general debate Monday on the Water Quality Renewal Act and on water resources authorizations, both of which have just been granted rules. We will not get into amendments on either of those bills. We would hope to avoid votes on Monday.

On Tuesday, we will meet at noon and vote on any of those bills that had been requested on suspension from the day before and then return to the Immigration Reform and Control Act. We hope to complete that bill on Tuesday.

Wednesday, we meet at 11 a.m., and at 10 a.m. on Thursday and Friday

The following bills really need to be completed next week:

H.R. 5580, organ transplants;

H.R. 5604, military construction authorizations for fiscal year 1985;

H.R. 5798, Treasury-Postal appropriations for fiscal year 1985; and

H.R. 5813, Transportation appropriations for fiscal year 1985.

That probably means that we will have votes on next Friday. It is necessary if we are to complete our work there being only 1 remaining legislative week following next week before the adjournment of the House for the Fourth of July recess.

Mr. LOTT. I thank the majority leader for going over the schedule. I would like to assure my colleagues that this list of 15 suspensions does look like most of them are genuinely noncontroversial.

The votes, though, I want to emphasize, from what the gentleman said, would not come until Tuesday on the suspensions.

Mr. WRIGHT. The gentleman is absolutely correct.

Mr. LOTT. On the two water-related bills, we will have general debate only on Monday, and once again, hoping that there would not be any votes. In view of that, though, I take it that we would not get to amendments, obviously. Does the gentleman have any idea when we might bring back these two water bills for the purpose of amendments and conclude their consideration?

Mr. WRIGHT. Sometime during the succeeding week, the week of June 25th. It is not possible at this time to give a definite day because we have so many things that have to be completed. There are at least two other appropriations bills which we expect to take up that week.

Then there is the necessity of doing something about the debt ceiling, and there may be—I expect and hope that there will be—some conference committee reports that we may act upon the tax bill, perhaps, and also on the budget resolution and the reconciliation bill.

Mr. LOTT. Does the gentleman have any information about the possibility of action on bankruptcy legislation, since I understand that would expire on June 20? I believe that is the date to which we extended the deadline on the bankruptcy law. Does the gentleman have any indication as to what might be occurring there?

Mr. WRIGHT. Of course, that matter is in conference. Something has to be done, obviously, by Tuesday, and I certainly hope that some conference committee resolution will come to us. We will make way for it.

Mr. LOTT. So, if they do act, and we have to take further action, that would be placed on the schedule. I assume it would be in the form of a conference report.

Mr. WRIGHT. Absolutely. Of course, the general rule is that conference reports may be taken up at any time. In this case, the urgency is all the more imperative.

Mr. LOTT. On Tuesday, we will meet at noon, at Wednesday at 11, and at 10 o'clock, as I understand it from what the gentleman said here, on Thursday and on Friday, if we are in session on Friday?

Mr. WRIGHT. That is correct, and we will adjourn by 3 o'clock on Friday.

Mr. LOTT. That was my other question. The gentleman does anticipate at this point, in view of the fact that we have two appropriations bills scheduled for the end of the week, that we would be in session on Friday?

Mr. WRIGHT. That is my expectation. I do not see how, reasonably, we can expect to finish the schedule without having a Friday session.

Mr. LOTT. And the gentleman would expect that to involve recorded votes, probably, on Friday.

Mr. WRIGHT. I think it will, yes. I think Members would be well advised to anticipate votes on Friday.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I would be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I have, by rumor, the fact that one of the reasons why we are not going to be able to have any votes on Monday is because there will be a number of Members of the body engaged in activities off the Hill. I do not know whether, when the schedule was made, people were aware that there are going to be at least 50 or 60 Members engaged in an activity off the Hill on Friday as well.

Was that calculated when we made the decision not to have votes on Monday, but to have votes on Friday?

Mr. WRIGHT. If the gentleman would yield further, as the distinguished gentleman from Pennsylvania knows, Members of Congress are wont, on occasion, to engage in cultural activities of one type and another throughout this land of ours, and while that may be the case next Monday, I am not aware of what diverse and sundry cultural or other high-level activities might be engaged in; intellectual pursuits as well.

Mr. WALKER. If the gentleman will yield further—

Mr. LOTT. I do not want to yield too much on this subject. It might get into specificity.

Mr. WALKER. I appreciate the gentleman yielding, and I was not making any kind of comment beyond the fact that, as I say, there are going to be a number of Members involved in a conference, I know, on Friday, and with the scheduling of votes on Friday, that does make it somewhat difficult.

The only question I have is whether or not that was taken into calculation in making up this schedule. It seems to me if we can do it for some activities, that we ought to be considering all activities that involve large numbers of Members of Congress.

Mr. WRIGHT. I would hope we would have a considerable number of Members here on the floor some time next week. It would be useful.

Mr. WALKER. That would be useful at any time during the legislative sessions, I would say to the gentleman.

Mr. LOTT. Let me ask just a couple more questions that have been pointed out to me about the schedule on Tuesday.

The gentleman expects that the votes on suspensions carried over from Monday would occur early in the day, after the 1-minutes; is that correct?

Mr. WRIGHT. I think so. I think most of the Members would like to get them done and behind us, rather than waiting until we had completed action on the immigration bill. That may be late Tuesday evening.

Mr. LOTT. That was my other question. Since we are going back to the Immigration Reform and Control Act, and I assume that we do not have that many amendments left, and some of them are going to be very hotly debated, but does the gentleman anticipate we would probably be in late, possibly, on Tuesday night?

Mr. WRIGHT. We can always hope, and it is easy to envision a scenario in which we can be finished by a reasonable time, 5 o'clock or so. I do not think we will, however. It is my personal opinion that we might more likely be 8 o'clock or 9 o'clock. In any event, we owe it to ourselves and to the country, I believe, to finish this bill, not just leave it continuing to dangle on the schedule.

We have spent a productive week, and I think the level of debate and the quality of the debate and the tenor of the debate all have been good and have reflected credit on the House. So if we can conclude it on Tuesday of next week, I think we owe it to ourselves and to the country to do so. We will try and stay here until it is done.

Mr. LOTT. I thank the gentleman. Noting the gentleman's flowing comments today and his powder-blue coat, and observing that next week on Monday we will be taking up two bills related to water, the Water Quality Renewal Act and the Water Resources Authorization, I wonder if the gentleman might have something he would like to say about the importance of these very significant drops of water that we are going to be debating next week.

□ 1320

Mr. WRIGHT. Mr. Speaker, the gentleman sorely tempts me.

As the distinguished gentleman from Mississippi recalls, on one occasion we were so moved to recite some words from that notable poem, "Gunga Din," on the thoughts of water. And, of course, there is that magnificent poem containing the words:

> Water, water, everywhere,
> Nor any drop to drink.

And when we think of the pure water bill, the Water Quality Renewal Act, that comes up next Tuesday, I am reminded of these words from William Juniper's notable poem, "The True Dunkard's Delight," in which poet Juniper wrote:

> And if from man's vile arts I flee and drink pure water from the pump;
> I gulp down infusoria, and quarts of raw bacteria,
> And hideous rotatorae, and wiggling polygastricae,
> And slimy distomacae, and various animalculae
> Of middle, high and low degree.

Let that be a warning to you.

Mr. LOTT. Mr. Speaker, with that, I yield back the balance of my time.

## ADJOURNMENT TO MONDAY, JUNE 18, 1984

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore [Mr. BENNETT]. Is there objection to the request of the gentleman from Texas?

There was no objection.

## HOUR OF MEETING ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, June 19, 1984, it adjourn to meet at 11 a.m. on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MACK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## AIR FORCE DISCLOSES IRREGULARITIES IN PROCUREMENT POLICY

(Mr. NICHOLS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, the Air Force brought a matter to my attention rather late yesterday afternoon that I feel must come to the attention of this body.

The Air Force has discovered that it has been disposing of spare parts to salvage dealers which are usable and for which the Air Force still has a requirement.

A policy was established in 1983 that the Air Force depots would dispose of an item when there had not been any call for it during the previous 24-month period. In implementing that policy, parts which could have been repaired were sent to disposal, and later the Air Force found out it had a need for those parts and had to reprocure new items. They also found that, while several parts were still in the property disposal system, item managers chose to buy new parts rather than to recover the serviceable parts and repair them for further usage.

Mr. Speaker, this discovery is further evidence of the confusion which exists in military parts management. While the Air Force deserves credit for bringing the matter to our attention, I am greatly disturbed that such a situation could have occurred.

I have directed our Investigations Subcommittee staff to examine this situation and to determine whether it exists in any of the other services within the Department of Defense procurement activities.

## OUR NATION'S CRITICAL HOUSING NEEDS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. VENTO. Mr. Speaker, the U.S. Conference of Mayors survey of low income housing cuts through the Reagan administration's false rhetoric of adequately meeting low income housing needs.

The insights that this survey provides is a painful reality, the reality of an overburdened assisted housing program and a significant failure of the much touted Reagan voucher program.

Millions of Americans today are without hope of achieving affordable housing. The application lists for public housing is measured in years and yet the Reagan administration's abandonment of assisted housing construction plainly means that these low-income Americans today and tomorrow are sentenced to a life of substandard, unsanitary, unsafe housing.

The Reagan voucher program is a cruel hoax. It is clear that safe, sanitary affordable housing is no more available to low-income Americans today or tomorrow.

**Mr. Speaker, this should be a clear signal to the Congress to address these critical housing needs.**

**I include the news article from this morning's paper.**

### MAYORS' GROUP SAYS U.S. POOR LACK HOUSING

(By Howard Kurtz)

The nation's mayors, slicing into a basic premise of Reagan administration housing policy, yesterday issued a report saying there is a serious shortage of housing for the poor in cities across the country.

The administration has said there is no shortage, and has virtually ended the main federal programs for building new housing for poor people.

But, in a survey of 66 cities, the U.S. Conference of Mayors found that low-income families must wait an average of nearly two years to get into public and subsidized housing.

The average waiting period is eight years in the District of Columbia and as long as 25 years in some cities, the study says, and 61 percent of the cities have closed their waiting lists.

In some cities, the mayors found, as many as three out of four poor families are forced to turn down federal rent subsidies because they can not find suitable places to rent.

The report is certain to provide new ammunition for big-city mayors at their annual meeting this week-end in Philadelphia. Boston Mayor Raymond L. Flynn wasted little time, accusing the administration of "further exacerbating the housing crisis."

Housing and Urban Development Secretary Samuel R. Pierce Jr., whose department has virtually eliminated new construction of low-income housing, said yesterday that the administration's program is "designed to meet the very needs identified in the . . . report." He said expanded use of housing vouchers, or rent subsidies, could serve 10 times as many poor people.

Housing aid to the poor has become the third-largest federal welfare program, after Medicaid and food stamps. Before Ronald Reagan became president, they were among the fastest-growing items in the budget.

But vouchers, which help poor people pay their rent up to a certain ceiling if they find apartments that meet minimum standards, depend on an adequate stock of housing. And the survey found that many cities have had limited success with the current "Section 8" rent certificates.

Fifty-five percent of the cities surveyed said that a quarter or more of low-income recipients turn back the rent certificates because they cannot find suitable housing. And, 24 percent of the cities said at least half the rent certificates are returned; 6 percent said at least three-quarters are given back.

Overall, 51 of the 66 cities in the survey said the demand for housing had increased over the past year, while 13 said it remained the same and two had no response.

"The stark reality of this unmet demand is illustrated in the waiting lists," said the report, which placed the average wait for public and subsidized housing at 20 months. Most cities said at least half the waiting families live in substandard housing or pay more than half their income in rent.

"We are housing families that applied in 1976," said Melvin Adams, director of the Dade County, Fla., housing department. "By the end of this year, the only units available will be when someone moves out." He said he has 25,000 applicants for 11,000 public housing units, and 18,000 applicants for 2,500 rent certificates.

Oliver Cromwell, a spokesman for the District housing department said the city has not issued rent certificates for several years, "but if we were to advertise tomorrow, we'd be swamped with people coming in."

Kenneth Patterson, of Salt Lake City's housing authority, said his waiting list runs up to six years. He said two of every three people who are given rent certificates come back empty-handed.

"We have not had one new public housing unit allocated to us since the Carter administration," he said. "There's a tremendous pent-up demand."

Most of the cities surveyed, which ranged from Los Angeles to Burlington, Vt., blamed the shortage on federal aid cutbacks. Eighty-nine percent said the private sector alone could not meet local housing needs.

## ORDER OF BUSINESS

Mr. COLEMAN of Missouri. Mr. Speaker, I ask unanimous consent that I may precede my colleagues, the gentleman from Oregon [Mr. WEAVER] and the gentleman from Illinois [Mr. PHILIP M. CRANE], in special orders.

The gentlemen have agreed to this so that I might make this brief statement as my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. WEAVER. Mr. Speaker, reserving the right to object, I am glad to let my colleague go ahead of me. He has informed me that he only needs 7 minutes, and that is perfectly fine with me.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## SEVEN STEPS TO IMMEDIATELY AID AMERICAN AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. COLEMAN] is recognized for 60 minutes.

Mr. COLEMAN of Missouri. Mr. Speaker, today I am setting forth seven proposals which I believe are vitally needed if we are to put American agriculture back on sound financial ground. Most of these proposals can be implemented quickly. They are steps we can take right now, within a few weeks, to address the dire situation in rural America.

Standing head and shoulders above any other agriculture-related problem is the Federal deficit, and solving this problem is a task which demands immediate action. Further delay is inexcusable. Farmers who now pay exorbitant interest rates on large amounts of credit are suffering beyond any reasonable expectation. We must put political differences aside and find a workable way to bring Federal spending under control and reduce the exorbitantly high interest rates now plaguing all Americans—but particularly our farmers.

The economic conditions on many American farms today are the worst in generations. The recovery that our Nation is experiencing in other sectors is woefully absent in the rural heartland of our Nation. Farmers, who are used to being battered by the weather and occasional hard times, are now facing the dire prospects of bankruptcy and foreclosure. Farmers have withstood droughts and flood, but I fear that thousands will not be able to withstand the more dire effects of high interest rates, low commodity prices, international monetary conditions, national social policies and more.

I am reminded, as many Americans know, that there is an increased emphasis on U.S. aid to large banks and foreign countries in danger of defaulting on loans. If our banking regulators can bail out big banks like Continental Illinois in Chicago and stretch out loans at lower interest rates to Mexico and other nations, fairness demands equal consideration for our farmers.

Therefore, I believe we have a moral obligation to set forth new ideas and proposals which can lead American agriculture out of the economic morass in which it finds itself. In that hope, I set forth seven steps which I believe can get American agriculture moving again immediately.

### 1. FMHA URGED NOT TO SELL REPOSSESSED FARMS

I am calling on Farmers Home Administration to refrain from putting any of its surplus or inventoried property on the open market for sale. Over the last 3 years the asking price of Missouri farm land has dropped from an average $941 per acre to $759. This decline has severely hurt working farmers who have depended on the value of their land as collateral in securing loans. While there are fewer than 52,000 acres in Missouri currently held by FmHA, regrettably, 42 percent of the farms and 45 percent of the acres are in the sixth Congressional District of Missouri. Those percentages represent 89 farms and 23,379 acres. The effects of foreclosures do impact land values. As more land goes on the market, land values decline and all farmers, whether or not they are FmHA borrowers, are hurt. Declining land values mean lower borrowing ability and that means a financial squeeze which forces many farmers out of business. To avoid further, unnecessary erosion of farm values, I have sent an urgent message to top officials of FmHA to get their agreement to hold their inventory of surplus farms. This will help maintain land values by avoiding a flood of excess property being dumped on the market.

### 2. FEDERAL RESERVE SHOULD LOOSEN EXAMINATION GUIDELINES

I am calling on Paul Volcker and the Federal Reserve to alter an accounting procedure which has forced many banks to foreclose unnecessarily on hard-working farmers. In light of current economic conditions, and past bad weather, many farmers have fallen somewhat behind on their loans. Of course, others—some 10 percent—have actually gone out of business. But, for a vast majority of farmers their delinquencies have caused their loans to be classified as doubtful in banking parlance. The Federal Reserve and Federal Deposit Insurance Corporation monitor the number of substandard and doubtful loans in bank portfolios and when they get too high, the Fed pressures the banks to foreclose.

I am calling on Mr. Volcker, and the Federal Reserve Board, to acknowledge the unique situation on America's farms and to give banks more latitude in carrying loans which under other conditions would be considered doubtful. It would be tragic if a bureaucratic accounting procedure was allowed to force good, responsible farmers off their land. Federal bank regulators should exercise caution when examining banks with large portfolios of farm loans. It is true that many bank examiners are inexperienced in agricultural lending practices and therefore they should show restraint when examining farm loans.

### 3. NEW LENDING BOARD CREATED TO IMPROVE CREDIT SITUATION

I am calling for the formation of an Agricultural Monetary and Lending Advisory Board made up of Government and private representatives to study new ways of making capital and credit available to American farmers at affordable rates. I want to see high ranking Government officials in an alliance with the private sector banks, cooperative lenders, insurance companies, and others who lend funds to farmers. While I don't want to dig the credit hole deeper, I believe new ways must be found to package loans, refinance them, create secondary markets, and improve farm cashflows if American agriculture is to avoid the boom-and-bust economic cycle we have found ourselves in. I am calling on Farmers Home Administration, and representatives of various trade associations in the financial fields, including the American Bankers Association and Independent Bankers, to come together for their own economic good and for the financial viability of farmers throughout the Nation.

There is an unquestioned need for such action. Credit is the lifeblood of American agriculture, but recent statistics paint a grim picture. Loan losses and debt-service burdens are spiraling upward. Losses in the Farm Credit System climbed to $250.7 million in 1983. Of the $113.8 billion in cash expenses for American farmers last year, $21 billion or 18.4 percent was in the form of interest on loans. Ten years ago, interest accounted for only 8 percent of some $4.5 billion in cash expenses for farmers. And, Farmers Home Administration—the lender of last resort—has experienced a 39-percent increase in demand for loans because farmers are being turned down by commercial lenders.

Clearly, our agricultural lending policies of today can't cope with the overall economic situation. It is my hope that an Agricultural Monetary and Lending Advisory Board could explore new ways of creating and funneling capital to our farmers.

### 4. LEGISLATIVE ACTION NEEDED IN AGRICULTURAL CREDIT

Congress should take legislative action in several areas. First, however, it is important to note that some significant accomplishments have taken place in recent months. Congress has passed, and the President has signed into law, farm legislation that would improve distribution of economic emergency loans; allow for the rescheduling of intermediate operating loans at reasonable interest rates; and, streamline procedures for receiving a disaster declaration in order to qualify for emergency loans.

These items were part of my bill, H.R. 1190, and later H.R. 4072. However, the Senate has failed to act on other items in this legislation which I believe are vitally important. Specifically, we must pass the section which would allow a 1-year deferral of principal and interest on farm operating loans from FmHA if a borrower can show his inability to pay is based on circumstances beyond his control; and, a section of the bill which would change the composition and procedures for naming FmHA county committees in order to make them more responsive to local needs.

Congress should explore the possibility of offering an interest rate adjustment bill which would keep borrowing costs at a manageable level. With interest rates so high, and the cost-price squeeze so tight, many farmers can't make their payments on many sources of credit. Their cash flow statements won't work under these conditions, but with an interest buy-down, they probably could stay in business. This proposal might set a target rate at which all farm loans would be bought down, say by 2 percentage points.

### 5. AGRICULTURAL SECTOR MUST INITIATE NEW IDEAS

I'm calling on the agricultural sectors of business, industry and farmers themselves to come up with some new ideas. Let's explore new and creative ways to keep the safety net under good, but financially-strapped farmers. For instance, as another way of keeping farmland off the market, the Agricultural Stabilization and Conservation Service [ASCS] might lease farmland from commercial and Farm Credit Banks and allow the farmer to farm that land under a crop-share plan.

### 6. EXPORT COMMISSION MUST BE INSTITUTED

I am calling on the Secretaries of the Departments of Agriculture, Treasury, and Commerce to work with Congress in establishing an Agricultural Export Commission to evaluate our farm export picture and to coordinate the many facets of international trade which affect American agriculture. For instance, the value of the dollar is currently artificially high which makes our farm produce unattractively expensive to foreign buyers. This Commission would be charged with proposing solutions to solve this critical fact of dollar overvaluation. Trade barriers in some countries keep our farm products out while we import TV's, and cars. This commission would, from agriculture's point of view, determine the best ways to increase our farm exports and to break down the barriers which will insure our premier position in international agricultural trade.

### 7. USDA EXPORT AUTHORITIES NEED TO BE UTILIZED QUICKLY

In anticipation of farmers moving their crops directly to market at harvest time this fall, I am calling on the Administration to move up its purchase of commodities for the Food for Peace and other export credit programs, to October 1, 1984—the first day of the new fiscal year. By so doing, commodity markets will not be as full as they might possibly be, and therefore the prices farmers receive should be somewhat better than otherwise. Because farmers' cash flow is so poor this year, it is reasonable to expect them to take their crops directly to market this year rather than sitting back waiting for prices to improve. By buying Public Law 480 commodities on the first of the fiscal year and moving credit guarantees, the Federal Government could take a small step toward improving prices to our farmers.

### CONCLUSION

These seven steps will serve as a blueprint to begin work on agricultural policy reform. We owe it to our farmers, ranchers, agribusinessmen and financial institutions to find new and creative ways to improve this vital sector of our economy while continuing to provide food to the world, to our own citizens and the millions of people in other nations.

☐ 1330

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield, but I did request and receive unanimous consent from my colleagues just to make a very brief statement. I will yield briefly to my friend, the gentleman from Nebraska.

Mr. **BEREUTER**. I understand. I thank the gentleman for yielding then at least briefly.

I would like to commend the gentleman for the special order that he has taken, for the points that he has made. I have been running back and forth trying to be here in time to take part in a colloquy with the gentleman, but the parts of his proposal that I have heard appear to be quite good to me and quite necessary.

The gentleman and I have adjacent districts and the farm problem is as critical and almost as unprecedented as the gentleman describes.

I think we need to be very careful, as has been suggested by others outside this body, about levying additional requirements on the Farmers Home Administration in that they seem to be inundated with demands upon their time at this point.

I would also mention that our colleague, the gentleman from Oklahoma, WES WATKINS, has offered some very positive suggestions about how the Farmers Home Administration might be reorganized to cope with rural development, community development activities on the one hand, and with the more traditional kind of loan and loan guarantee programs for operating costs and for land acquisitions that I think deserve additional merit.

Finally, I would just conclude my remarks in response to the gentleman, that his examples about what happens when a bank examiner comes into a small or even medium sized bank in our part of the Corn Belt in the Great Plains is exactly right. It sends a ripple through the whole economy.

The land values, agricultural land values, have gone down for the first time in my lifetime during the last 18 months and they have gone down precipitously.

I would also like to suggest that beyond having greater introspection and knowledge on the part of Federal bank examiners, the same is true of examiners that deal with our State chartered banks. Indeed, there is quite a bit of evidence in our State that the State examiners, because of recent problems in the banking structure, are even more conservative in some ways and less helpful in the kind of examination reports that they are writing today.

There is much more that could be said about this, but I do respect the gentleman's commitment to other Members of the body and I thank him for permitting me to have a small part in this very important special order.

Mr. **COLEMAN** of Missouri. Mr. Speaker, I thank my colleague, the gentleman from Nebraska, for his contribution. It is certainly very well accepted here and we will continue to work together with other Members from the Farm Belt.

I think the gentleman pointed out that in Nebraska, and Iowa, and Missouri, and parts of Kansas we seem to have had the brunt of this because of the drought last year and now with severe flooding in many parts of our areas, we seem to be getting a double whammy, which is very difficult for farmers to get out from under.

So I look forward to working with the gentleman from Nebraska and many others that are concerned about this issue.

I thank my colleague for allowing me to precede him in this special order.

## PERSIAN GULF WAR BEING FOUGHT WITH OUR WEAPONS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. WEAVER] is recognized for 60 minutes.

Mr. **WEAVER**. Mr. Speaker, I have been paying close attention, as I am sure all the Members of Congress have, to the fighting in the Persian Gulf, to the war between Iraq and Iran and the sending of missiles and the bombing of oil tankers in the Persian Gulf. It has struck me in reading about this in the newspapers that they are fighting each other with our weapons.

□ 1340

I saw that the Saudi Arabian military sent our F-15's that they had bought from us out to fight and try to shoot down, and I believe did shoot down an Iranian F-16, manufactured here in this country and bought from us. So we are supplying the world with arms on both sides. We are sending Stinger heat-seeking missile weaponry to Saudi Arabia in an attempt by the Saudis, I assume, to shoot down our jet fighter planes that we have sold to the Iranians or whoever else might attack them, and on and on it goes. Arms supplier to the world, which to my mind is immoral, which to my mind is dangerous, for who knows what friendly country these arms might be turned against, including they might be turned against ourselves at some time, and we will be faced with and perhaps have already been faced with this in Lebanon where our own arms are shooting our own soldiers.

So I was much disturbed to read in the Wall Street Journal on the 13th of June that we are not only selling these arms throughout the world to countries that use them to fight one another, but we are selling them with easy credit at a cost to the American taxpayer, and the cost is in the billions, and billions, and billions of dollars.

There is a Pentagon agency called the Defense Security Assistance Agency. The Wall Street Journal says one of its functions is to provide easy credit to stimulate sales of U.S.-made jet fighters, missiles, and other weapons around the world. Since 1969, it has handed out $19 billion in credit, much of it to weapons hungry nations already troubled by heavy debt and stagnant economies.

In other words, these impoverished nations of the world that are in debt and cannot pay the debt back to our banks, and the taxpayer is bailing the banks out, and we are selling them arms, countries that cannot afford to feed their own people buying expensive weaponry, and we are furnishing them the credit through taxpayer subsidies to buy these arms.

Some countries, according to the Wall Street Journal, missed their December payments, forcing the Defense Security Assistance Agency, the agency that gives this easy credit at taxpayer subsidy, forcing them to dip into a special revolving fund designed to cushion the shock of temporary defaults. That in turn sent the fund below a minimum set by Congress.

Now, isn't that wonderful? Isn't that just grand? We arm both sides and we loan them the money to buy the weaponry and we will probably never get the money back. As a matter of fact, billions and billions of these loans have already been forgiven and therefore are just direct, permanent subsidies by the taxpayer.

So we have the laudable situation where we are arms supplier to the world. To my mind that is immoral. Then we are increasing the Federal deficit, although this is an off-budget item, so, therefore, we pretend it is not increasing the Federal deficit. Indeed it is. It is increasing the debt of the United States of America.

That in turn is forcing interest rates up and devastating the economy of Oregon and many other places. My own congressional district, dependent as it is on timber and a lumber economy, goes into depression when housing and high interest rates and high interest mortgages are affecting the housing markets, and so we have here a subsidy to foreign countries to buy weaponry and we will not help, we will not help our own mortgage rates to allow Americans to continue working, to produce homes for people here in America.

It is guns for overseas and no housing for Americans, no jobs for Americans in the timber industry. I find that the classic example of a twisted, misshapen policy.

It is, of course, the prime policy of the Reagan administration. The Reagan administration loves to sell arms. They love to build them. They love to buy them. And they are itching to shoot them wherever they possibly can.

The people in the White House, including the President himself, I call jingo bells. You know what the word "jingo" means? It comes out of the 19th century and people who were always wanting war. They went around clamoring for war.

As a matter of fact, the dictionary says the definition of jingo is clamorous, bellicose, chauvinist, and the people in the White House, around the President and including the President himself, it strikes me are jingo bells. They are ringing the bells for war wherever and whenever they can.

Since the President has come into office he has increased the military budget so astronomically that it has been almost the sole cause of the deficits that we face today. His jingo bell policy, and I want to show you this, I want to show exactly what our Federal budget looks like. This is a chart of the Federal budget, this huge high figure. These are all items in the Federal budget. This huge high figure is, of course, our military and military foreign aid. It does not include the subsidies, loan subsidies to buy our arms. It does include, however, military foreign aid direct.

That is where your deficit comes from. That is the Reagan military buildup.

The next big huge item here, guess what that is? That is interest on the national debt, the second largest item in our Federal budget, and it is going up. It is almost doubling every couple of years now because of the astronomical national debt, caused primarily by the military buildup and the huge increases in military spending.

This little item right here is all social spending. That little, tiny thing right there is all social spending. It was so small that I included unemployment compensation in it, because even though I do not believe unemployment compensation is social spending, it was just so small.

If we reduced all social spending, food stamps, welfare, Medicaid, housing assistance, Medicare, unemployment compenstion paid by the Federal Government, it would reduce the deficit by one-third, by one-third, reduce it all, cut it all out entirely.

And here is this astronomical military budget.

You will see the President and others try to deceive the American people by adding in Social Security. Lyndon Johnson had the same problem. He did not want the American people to know how much the Vietnam war was costing and so he had a brilliant idea; he said he would add Social Security into the Federal budget and that would make it look like social spending was greater than military spending, and it has been in the Federal budget ever since.

But last year in the Budget Act we took Social Security out. It will not officially go out for several years, but it is out under law.

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Let me just remind my colleagues that Social Security has its own trust fund, has its own taxing program, and they are in balance, they are not in deficit. The Federal deficit is caused by military spending, not Social Security.

Here is Social Security outlays, benefits. Here is Social Security revenues. They are in balance. Approximately $250 billion each. So it is not contributing to the deficit. It is in balance with its taxing program.

It is the staggering military and military foreign aid.

Here is another look at the Federal budget. Those are the three main items in the budget. Here is military and military foreign aid. Here is all other spending in the Federal budget, all of it, every single other penny in the Federal budget is there, smaller than military with the exception here in the third column interest in the national debt.

So the military, takes out interest in the national debt, and the military exceeds all other Federal spending by a whopping amount, $60 billion. Now that is where your deficit is coming from.

When we got President Reagan in the White House what we got were extraordinary huge deficits caused by extraordinary huge outlays for a fat bloated military.

I want to say something. I want a strong America. I enlisted in the Navy at 17 and was on an aircraft carrier in the Second World War and I would go again if my country needed me. All other Americans would too. We would be ready to go. But there is no attack on Pearl Harbor today. This bloated dangerous military buildup of weapons of holocaust that bring us closer to Armageddon are just not only wastes of money causing high interest rates in this country, but also bringing us closer to the possibility of holocaust. So on both counts the Reagan administration's military buildup is dangerous to our economy and dangerous to our security.

But our jingo bells in the White House have foisted on us this military buildup. Unfortunately a majority of the Congress has voted for it. I think that is tragic. I wish my colleagues would turn around. But it has been primarily an almost unanimous vote by the Republicans in the House of Representatives and some Democrats that have put through President Reagan's military budgets.

We all know the tragic story of Lebanon. How anxious the President is to fight wherever he can. The Joint Chiefs of Staff recommended strongly against sending marines to Lebanon, but the President is so eager, so hawkish was the President, such a jingo bell, that he went in anyway to tragic cost of the lives of 260 marines.

In Nicaragua, he is so anxious to fight that he stations troops in Honduras and finances through the CIA a counterrevolutionary army composed of the Fascist Somoza, of brutal national guard troops and officers.

He wants badly to fight in Nicaragua and you can be assured that if he is reelected we will fight in Nicaragua even through Honduras now is saying, "Look, we do not want Americans. We are not sure we want American troops and bases here. We don't want to be overrun with the military. We can take care of ourselves."

But the President and the jingo bells in the White House are so adamant in fighting that they want to stay there and they do everything they possibly can, including bringing poor little democratic peaceful Costa Rica into the war. They have done their best to try to make Costa Rica a militaristic state. Tried to force them into the war. It is unimaginable, but now this morning, in the newspaper, unfortunately—I was working in my office and did not watch the President's newscast last night, so I read about it in the paper this morning—it really actually made me angrier than the President's constant attacks and warlike gestures and bellicose attitudes toward other nations of this world, it actually made me angrier when I read that the President now is suddenly, in this election year, in this year when the votes count of the people, he suddenly said, oh, my goodness, maybe we better talk to the Russians. He is so desperate to be reelected he is stooping to peace. That is really saying something for President Reagan. I will have to admit that. He is bending a long, long way, a long way. He is actually making a peaceful gesture and that must have been difficult for him. It must have been extremely hard for him to do, but so desprate is he to be relected—he has read the polls. The polls show clearly the American people do not want us to fight another Vietnam war in Central America, do not want our marines dying in Lebanon, do not want our battleships and warplanes involved in the Persian Gulf. President Reagan does. He wants them any time, any chance he can get. So he had to repress those instincts of battle, of attack, of military buildup because he was told it is going to endanger his reelection.

Now that is a terrible thing to say because it says that President Reagan is playing politics with peace, playing politics with the most deep grave issue the world faces today, Armageddon, nuclear holocaust, the relations between the nuclear powers. Playing politics with that. That is one issue that no politics should ever be played with because the life of every single person in this country and in the world, our entire civilization, is at stake.

Therefore, I cannot commend the President, even being forced into by an election year, stooping to peace, because I know that as soon as that election is over that charade is over as well. I know then he goes on the attack in Nicaragua, that he starts making bellicose statements against the Soviet Union without trying to find some form of agreement on arms control, on nuclear arms control with the Soviets.

President Reagan and the jingobells around him do not want arms control. It is very, very clear, unquestionable that they do not want arms control. They want a military buildup and they want to continue that military buildup even if it breaks the economy of this country.

And break it it will. Already there is depression in scattered areas of this United States. There is a farm depression, there is a depression in the steel industry in the States of that manufacture, there is a depression in the timber and housing-related areas in this country, including my own congressional district, because of high interest rates, because of this military buildup. That depression, if we continue this military buildup and if we continue these huge deficits of $200 billion a year, that depression will gradually seep through the rest of the Nation, swamping it, swamping the economy of the rest of the Nation.

Then when, possibly next year, because almost every single financial collapse in the history of our country, going all the way back to George Washington, has occurred in the year following the Presidential year.

That could happen next year when all those countries we have sold arms to with our credit and with our taxpayer subsidies and our banks have loaned them money by the tens and hundreds of millions of dollars that they cannot pay back now and they do not pay back. In fact, they have repudiated the debt. Argentina has repudiated their debt without saying so. Equador, Bolivia have repudiated their debt without saying so.

□ 1400

When that starts happening and people become aware of it, our banks would face dire emergency, and that could lead to a serious economic panic. And I would not doubt if this would occur next year, the year following the Presidential election. So what can we do about it? We can do two things. We can defeat President Reagan at the polls this fall, or we can hope that the Congress asserts itself and says to the President this year, "Cut those deficits, cut military spending sharply, drastically, cut those weapons of holocaust, seek true arms control," and then maybe our economy can have a firmer footing and the world would be a safer place.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I would be only too delighted to yield to my good friend and dear colleague from the State of Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, because it has been interesting sitting here and hearing the gentleman's rather incredible analysis of the events around us. But since he bases so much of his analysis on the military spending, I just have a question for the gentleman: What level of military spending does he think would be appropriate? Does the gentleman have a figure that he could give us that would give us some idea as to what level of military spending he thinks would be appropriate?

Mr. WEAVER. Sure. I voted in the budget resolution to cut military spending $70 billion. That would cut out the MX missile of about $4 billion. We are spending $7.7 billion on the B-1 airplane alone. We are spending $7.7 billion on an airplane we do not need, that is worthless, that is useless, that allows a few Air Force generals to get their kicks. And on and on. The Pershing II missiles, the cruise missiles, et cetera. In other words, cutting out those weapons of holocaust that only threaten our security.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I will be glad to yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding further, of course, because he is not only cutting out the B-1 and the MX, and so on, at $70 billion, he is cutting out literally the entire procurement program, both conventional and strategic, of the U.S. military, and so therefore he is talking about absolute unilateral disarmament. At a $70 billion level. But I would also say to the gentleman that that only eliminates now about half or less than half of the overall deficit.

Now, does the gentleman contend that this country can continue? He puts the deficit at $200 billion, I think. Does the gentleman contend that we can have all of this great economic recovery that he is talking about with $130 billion worth of deficit every year, I mean after he emasculates the entire defense of the country, we have unilateral disarmament, we would still have $130 billion deficit, does the gentleman contend that we can go ahead and have this economic recovery with $130 billion?

Mr. WEAVER. I would say to my dear, dear friend, reclaiming my time, that—was somebody ruled out of order for saying "nonsense"? I do not think so. But, first of all, on unilateral disarmament, I want to cut this fiscal year's budget $70 billion. That would leave us with 10,000 nuclear warheads on strategic missiles, 10,000, 10,000 warheads, when 300 can destroy the world.

So I hardly call that unilateral disarmament, when we still have 10,000 nuclear warheads, all of which can reach the Soviet Union in 30 minutes or less. And we need 300 that would probably destroy the entire world. So it is hardly unilateral disarmament.

Mr. WALKER. If the gentleman will yield——

Mr. WEAVER. I am going to keep my time for a few minutes.

Mr. WALKER. The gentleman will not yield? The gentleman refuses to yield further?

Mr. WEAVER. Mr. Speaker, I will not yield at this time.

I find the gentleman's saying to be just totally unrelated to reality. It is utterly unrelated to reality. And when I see my friends on that side of the aisle, the Republican side of the aisle, talk about fiscal conservatism and vote for the largest single item in the Federal budget—they vote for this item, which is more than all other Federal spending combined, if you take out interest on the national debt, and they call themselves fiscal conservatives. That absolutely undermines the point of the charade of fiscal conservatism if you support military weaponry.

You know, the silliest amendment I can imagine passed the House of Representatives the other day, one that I completely concur with the military on. It allowed people in the service to wear all kinds of different caps. And had I been able to prevail on that vote—I certainly voted against it. I think the military should have discipline, strong and good discipline, and I completely support the military in such measures.

Does the gentleman wish more time? With that, I am going to yield back.

Mr. WALKER. I would appreciate the gentleman yielding. I thank him.

The gentleman still did not answer the question. Does the gentleman think that the economy can stand $130 billion a year worth of deficit? He eliminates $70 billion. He says it is nonsense to raise that question. I would suggest that the gentleman has not answered the question.

Mr. WEAVER. I would be delighted to answer the question.

Mr. WALKER. So of course he regards it as nonsense.

The gentleman is one of the biggest spenders in the House.

Mr. WEAVER. Oh.

Mr. WALKER. The gentleman spends for nearly everything in sight, and he is willing to cut out $70 billion out of defense. I would just like to know where we could find $130 billion more so that we can balance the budget.

**Mr. WEAVER.** I just find it absolute nonsense. I vote against almost every spending bill that comes to the House of Representatives. I vote against some of my most cherished programs. I believe that if you are going to have an investment in the strength of America, education must come first. Must come first. And I support education programs strongly.

Any yet I was willing to vote a freeze to educational programs if we voted a freeze on the military.

And, no, you would not do that. No, you vote a freeze on education, but you increase the military 13 percent or 7.5 percent over and above inflation.

**Mr. WALKER.** Will the gentleman yield?

**Mr. WEAVER.** And I just find that just to be terrible.

So I would be delighted to yield to one of my big spending colleagues.

**Mr. WALKER.** Well, I would say to the gentleman that there is an organization, the National Taxpayers Union, that rates every spending vote in the Congress. They go down through, and they rate all of the spending votes in the Congress.

Now, this gentleman, this gentleman from Pennsylvania does some spending. I vote for spending about 21 percent of the time, which means that 79 percent of the time I vote against spending.

So I do some spending, and the gentleman regards that as being a big spender. That is what he just called me, I think.

Now, I wonder where that puts the gentleman from Oregon.

**Mr. WEAVER.** Go ahead and read it.

**Mr. WALKER.** Because he votes for spending 61 percent of the time. Only 39 percent of the time does he vote against spending.

Now, I would say that the gentleman had better take a look at this rating sheet that rates all of the spending votes, because somehow here the gentleman is a little confused about who is doing the spending of money in this body and who is not.

**Mr. WEAVER.** I am delighted the gentleman brought this up, and I will reclaim my time to answer.

I used to be rated by the National Taxpayers Union as one of the top 20 to 30 Members in the House of Representatives in fiscal conservatism, back when they took honest records of actual voting on spending. And I used to cherish the National Taxpayers Union as an objective, neutral group. And they came out, and every year I would use the National Taxpayers rating, showing me one of the most fiscally conservative Members of Congress, until this year.

And let me tell you something about it, just one illustration about that National Taxpayers Union.

**Mr. WALKER.** If the gentleman would yield just for a moment——

**Mr. WEAVER.** No, I will not yield.

**Mr. WALKER.** OK. He has just called an organization dishonest. I would just like him to make certain that——

**Mr. WEAVER.** I will be glad to illustrate that. I will be glad to illustrate that.

I had a bill in the Congress, in the House of Representatives, last year that would allow eight elderly citizens who claim land amounting to about 1 acre in a little lonely rural road because a missurvey taken 25 years ago showed they owned that land, their homesteads, very modest homes—they were lumber workers—I had this bill to quit claim any claim that the Bureau of Land Management had on it through this mistaken survey. Now, remember, these people had paid property taxes on both their land that they owned and the land that the BLM claimed for 25 years. The BLM never paid property taxes on the property it claimed. These people did. So they paid for it when they bought it; they paid for it through property taxes. It was just a very small little bill to help these people reclaim something that was really their own that they paid for, just modest, retired lumbermill worker couples on a lonely rural road.

□ 1410

The House of Representatives was good enough to pass this, as was the Senate. But when it got to President Reagan, who was busy spending billions of our dollars on the military allowing Jim Watt go give away billions of dollars of our natural resources, when it got to the President, the President vetoed that bill. He vetoed that bill that helped eight poor, retired citizens reclaim the land that they paid property taxes on for 25 years. That was the kind of man and sensitivity that President Reagan is. He vetoed that bill.

Somebody called up the White House because they thought the President would not know what he vetoed, and he told me, no, the President knew full well what was in that bill, and he vetoed it. I was so proud of the House of Representatives when they overrode that veto and the Senate overrode that veto. Those people now have, they have their property that they paid for twice.

Let me tell you something about the National Taxpayer Union survey. They count a vote on the $287 billion defense bill, remember this is a survey as to how you vote on spending bills in the Congress, they count a vote on the $287 billion Defense appropriation bill equal to a vote on the override of that veto of the people whose land was returned to them. In other words, the National Taxpayers Union counts a vote against the override, they did not want to give back the land to those people.

**Mr. WALKER.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I will not for a second. They count the vote on that veto override to give those eight elderly citizens back their land the same as the vote on the $287 billion Defense appropriation bill. Now, I say let us take a look at that.

**Mr. DORGAN.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I yield to the gentleman from North Dakota.

**Mr. DORGAN.** I appreciate the gentleman yielding to me. I know that the gentleman has been very generous in yielding to the gentleman from Pennsylvania on previous occasions. That is what prompted me to come to the floor and get involved in this discussion.

Several weeks ago, I responded to some fingerpointing about who is responsible for deficits and who is responsible for our fiscal crisis. Let me respond again.

President Reagan is probably the most conservative President in this decade, or in this century. This year, he sent a budget to this Congress and here is what he said: Ladies and gentlemen of the Congress, I would like you to spend $925 billion in the 1985 fiscal year, and I would like you to raise revenues of $745 billion.

Now, I took arithmetic in a very small community in North Dakota, but the arithmetic is the same all across this country. That tells me that President Reagan was asking this Congress to adopt a budget that calls for $180 billion Federal deficit in the 1985 fiscal year.

The largest deficit in this countrys' history before President Reagan took the Presidency was in 1976, the last year of President Ford. The deficit was $66 billion. Last year, President Reagan said to Congress: I would like you to pass a budget that calls for about $850 billion in spending, and I would like you to raise revenues of about $660 billion.

Again, by my arithmetic, this conservative President was asking this Congress to pass his plan that calls for a $190 billion Federal deficit. I think that's nuts.

You can talk all you want about who is responsible. I am not very impressed with the Republicans or the Democrats in this town on this subject. But I can tell you this: There is no leadership at all, none, coming from this President on the deficit issue. This President talks about balanced budgets and asks for the biggest deficits in our countrys' history.

The people in this body who voted for tax cuts and the unprecedented buildup of the military in this country—almost doubling it in 4½ years—

and believed that it would lead to anything but fiscal chaos were fooling themselves.

Does anybody in this country really believe that you can increase military spending by about $100 billion in 3 years, reduce taxes at the same time, and come up with a balanced budget? When I came here, I always throught that maybe if you were going to spend money, you were going to have to ask the taxpayers to come up with it, or you were going to charge it. The President's motto is borrow and borrow, and borrow and spend, and spend and spend. That is his credo. I do not think it is working.

Now, the gentleman from Pennsylvania asked the gentleman from Oregon a question. That is what prompted me to join this debate. He said, where are you going to cut this military budget?

**Mr. WALKER.** No; I asked where he was going to cut the other budget.

**Mr. DORGAN.** Congressman BEDELL took the floor, as the gentleman from Oregon knows, a while back, and he talked about where we might cut the military budget. I just want to bring to your attention a news story about Congressman BEDELL's testimony and his work. He asked some questions about why the Pentagon spent $400 for a hammer.

We talk about the Cadillac welfare queens all across this country; we hear about it every day on the floor of this House. I am against cheating: I am against cheating in any part of Federal spending programs. But I am especially appalled when people we pay a fair amount of money to, the generals and admirals who are supposed to be concerned about the defense of this country, and they purchase hammers for $400 that cost you $7 down at the hardware store.

Let me, if the gentleman from Oregon will permit me, talk about what the gentleman from Iowa discussed the other day. He was chairing a hearing in the Small Business Subcommittee. He had asked about stories about the military paying $400 for a hammer. So he asked the military officers about it. He said, how on earth could that happen? Did somebody pay $400 for a hammer? And the Navy representative at the Small Business Subcommittee said, yes, that they were involved in that. And Mr. BEDELL said, could I get some more information from you, how did it happen? The hammer, this Navy officer said, was part of a repair kit for flight simulators. Yes, he said, he would be happy to send Mr. BEDELL some background.

So the kit, it turned out, contained 21 small hardware items that the Navy purchased for a flight simulator, including a hammer. So these 21 little tools bought by the Pentagon for this flight simulator repair kit cost the taxpayers $10,168.56. Congressman BEDELL went out to a hardware store—it took him two trips to two hardware stores—and purchased the identical items—absolutely identical items. His bill for the 21 little tools was not $10,168.56; it was $92.44. The difference is waste. This is one example, and it goes on and on and on.

If it is a feeding program to give milk to hungry children, we have some people who jump up as far as they can jump and scream, "Liberal, pointy-headed welfare nonsense." But if it is for defense, they say it is for the strength of America. And God bless it, whatever it is, we are certainly willing to spend it.

I am just wondering when the time will come that the same test on public spending will be applied to the Pentagon that so many of us expect to apply to everyone else who spends the taxpayers' money. I think the gentleman from Oregon has made a very important and constructive point when he talks about defense spending. You ask, where can we save money? When you stuff peoples' pockets so full of money that they cannot possibly spend it fast enough, they waste it. It is time that we get involved in an effort to make them stop it.

**Mr. WEAVER.** I thank my friend from North Dakota.

**Mr. WALKER.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I would be delighted to yield to my friend who voted for this monstrous military budget.

**Mr. WALKER.** I thank the gentleman for yielding.

First of all, I did not ask the question; the gentleman from North Dakota did. But I am glad the gentleman made the point, because I, of course, voted for the Bedell and all those amendments to cut out waste in the military too; I agree with it. I think the military wastes a lot of money, but I would contend that if you can find $70 billion worth of waste there, that is fine; let us cut it out. I am not so certain that anybody has come up with the kind of figure.

I would also ask one other point: When was that contract signed that bought those kits? Under what administration signed, which administration signed that contract? What was the date of the purchase?

**Mr. DORGAN.** I do not have the date of the purchase.

**Mr. WALKER.** The reason why we do not have that date is because the purchases were made under the Carter administration. The Carter administration was the one all of these horror stories that we have heard around here were uncovered by the Pentagon just recently under Cap Weinberger's tenure there. They started a rather extensive look at what had happened at the Pentagon. This is not material that was uncovered here on Capitol Hill, it was material that was uncovered within the Defense Department, and it was done during the Carter administration. All these horror stories are from the Carter administration.

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**Mr. WEAVER.** Mr. Speaker, if I may reclaim my time, they always blame it on somebody else. I am sure there was plenty of fault in Carter, Ford, Nixon, Johnson, Kennedy, on back, but right now we are faced with the biggest deficits in our history which have been promoted by the President of the United States, whose name is Ronald Reagan.

**Mr. DORGAN.** If the gentleman will yield further, as gently and delicately as I can, let me say that what the gentleman has said is nonsense.

Let me give my colleagues the MX missile as an example. I know the gentleman has voted for almost every goldplated weapons system that has been proposed in this House, in recent months at least. I do not know of any weapons program that has been proposed by the brass over at the Pentagon that this President has not said to Congress, "Let us go for it. Let us go for the whole barrel."

Let me give my colleagues the MX missile as an example, because now we are talking about really big dollars. The MX will probably cost up to $30 billion. That is not small change. That is a big chunk of the taxpayers' money.

When I came here, the President said, "We have a very serious missile crisis on our hands." I know something about missiles because I come from the State that has more of them than any other State in the Union. We have 300 underground ICBM's, each with MIRV'd warheads, Minuteman III's with Mark XII warheads.

The President says our problem is that there is a window of vulnerability. You see, the Soviets have a component of accuracy that is so great they can pinpoint those silos and knock those Minuteman silos out. That is called the window of vulnerability. So we need to close the window of vulnerability.

How does the President propose we do it? Well, let us put MX missiles in the very silos that he says are vulnerable, and let us spend $30 billion doing it. Who does he get to support him on that? My friend from Pennsylvania and a lot of other folks in the House who believe that is a good idea.

I think it is a goldplated weapons scheme that does not make a darn bit of sense to anybody. It wastes the taxpayers' money, increases the Federal deficits and it does not produce one additional ounce of strength for this country.

I am proud and tickled pink to vote against the MX missile as often as it is brought to the floor of the House. I think we ought to vote for readiness.

We ought to vote for operation and maintenance. We ought to vote for the kind of things that make this country strong, but let us be a little bit choosey about what we are willing to vote for in the name of defense.

The gentleman talked about the repair kit that the gentleman from Iowa [Mr. BEDELL] mentioned. There have been dozens and dozens of examples and studies that have demonstrated exactly the point that I made. I do not know exactly when that purchase contract was issued, but I can say this: that the amount of purchasing by the Pentagon in the last several years under this administration has increased exponentially. My guess is that the waste we are uncovering has also increased exponentially.

If we are really concerned about the Federal deficit, let us really start doing something about the major items of spending.

I would like to pose one question: If you are a Member of Congress who has voted to increase defense spending by $100 billion over the last several years, did you vote for taxes to pay for it, and if not, who did you think you were charging it to? I think we ought to ask some questions like that in the House of Representatives.

Let me reiterate one more time that I am not very impressed with the Democrats and our record on spending issues. But I am sure not impressed with the total absence of leadership from this President, who walks around that side of the Capitol with the Rev. Jerry Falwell saying, "I want to balance this Federal budget of ours and I want to put something in the Constitution that requires it, in the U.S. Constitution." Then the next day, he sends us a budget that says, "except I want that to apply to some other President because I want you to have big deficits, I want you to spend a whole lot more than you are going to take in."

I do not like that approach, and I do not think it is any kind of leadership for this country.

**Mr. BEDELL.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I yield to the gentleman from Iowa, whose name has been mentioned in this debate, but I will say his name has been mentioned in a very illustrious way. I would be delighted to yield to the gentleman.

**Mr. BEDELL.** I thank the gentleman for yielding. I just thought if my colleagues were going to talk about me, maybe I better be here to defend myself.

The question was asked, I think, about the contract. I have the contract here. The contract is dated November 29, 1982. Not only was this done under the current administration, I have to tell you that I had the Navy in my office.

I ought to explain how they did their buying, as to how this occurred. There was a little bit of misunderstanding on the part of the gentleman from North Dakota. The cost of the repair kit was not $10,000; it was $847,000 for the repair, and it included additional items in addition to those that I bought. I bought 21 of the items that are in the kit here, and that was what happened of the ones that I bought. But if you think that the Government only overpaid $10,000 for what they bought, I am telling you that was——

**Mr. WEAVER.** What was that figure again, I ask my colleague?

**Mr. BEDELL.** $847,000.

**Mr. WEAVER.** $847,000?

**Mr. BEDELL.** Yes.

**Mr. DORGAN.** Will the gentleman yield on that point?

**Mr. WEAVER.** I would be delighted to yield to the gentleman from North Dakota.

**Mr. DORGAN.** Did I understand the gentleman from Pennsylvania to say that he had additional information about when that contract was signed? Was the gentleman saying it was not signed in 1982?

**Mr. WALKER.** I was asking the gentleman the questions here, and so on, because it was my understanding, and I think the gentleman from Iowa would confirm this, that some of the things that we have been turning up recently—and I appreciate the gentleman making that point—that a number of the things that we have been turning up recently in fact came out of the Pentagon studies and were, in fact, contracts that were signed under the Carter administration. In this particular instance, this one was signed in 1982. I certainly appreciate the gentleman bringing that to our attention, and so on.

As I stated before, that was one of the reasons why I voted for the gentleman's amendment on the floor the other day. I think the waste and abuse ought to be cut out of the defense budget, too, and there is plenty of it, but it is not something that started under the Reagan administration.

**Mr. DORGAN.** If I might just make the point, then, when the gentleman said earlier that this occurred under the Carter administration, he was wrong?

**Mr. WALKER.** Evidently I was.

**Mr. DORGAN.** I thank the gentleman.

**Mr. WALKER.** The point that I was makng was that a number of the abuse cases that we have heard on the floor in recent weeks are abuse cases that did come under the Carter administration. I think that what we have is a situation where we are able to line up a whole series of these things, not all of which have occurred under this administration, but I do appreciate the fact that the gentleman from Iowa has clarified the matter with regard to this specific contract.

The gentleman, I think, makes an excellent point and I am glad that he brought the contract to the floor.

**Mr. WEAVER.** I thank the gentleman from Pennsylvania. I just want to say that when we are talking about waste in the military, we can talk about the extravagant, exorbitant waste the gentleman from Iowa [Mr. BEDELL] has so dramatically illustrated and documented, but we can also talk the way the gentleman from North Dakota talked on the waste in the MX missile itself, $30 billion, the B-1 bomber, $7.7 billion in this fiscal year budget alone.

Can my colleagues imagine what we could do in this country in housing and education and other elements such as that for $7.7 billion?

**Mr. BEDELL.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I would be delighted to yield to my friend, the gentleman from Iowa.

**Mr. BEDELL.** I want to make it clear. There are several dates on the contract, but all the dates on the contract are either 1982 or 1983, at least on the front page modification dated November 29, 1982. I did not want it to be said it is not November because there is one place here dated May 13, 1982, another place says November 29, 1982, and so on, but definitely it is a 1982 contract.

**Mr. WEAVER.** So the gentleman is saying that the blaming of this on Carter by the gentleman from Pennsylvania was incorrect, wrong; it was under the Reagan administration?

**Mr. BEDELL.** If the gentleman will yield further, I would like to explain how it happened, because I think it is even worse than it sounds. Let me tell my colleagues what happened. Let me tell my colleagues first of all how it occurred.

The way it occurred was that there was a person in the Pensacola branch of the Navy base down there who was able to get hold of the prices that were paid without going through the normal process; in fact, there was an effort to keep him from it. He is the one who first found out that they had paid some $400 for a hammer, and he was so upset that he tried to get more information in regard to it. The way we found out about it was that when we had our hearing, I asked him who it was who had paid $400 for a hammer and the gentleman said that it was him, and we succeeded, after a time, in getting this list that I have right here.

If my colleagues think the hammer is a problem, let me say it was about the best buy that we had on that tool kit that I bought. They only paid $400 for a $7 hammer. That is only about 60 times what one would pay for it retail. The kit cost over 100 times what one would pay for it retail. The way it occurred was that the buying office in Orlando, FL, decided that they should have a repair kit for these flight simulators.

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They decided what should be in the repair kit. They decided who they should buy it from, one firm, and they decided they could pay as much as $1 million for this repair kit. So they sent it up to New York to the buying office and told that buying office that they were supposed to negotiate with the Gould Co., the company they said they had to buy it from.

They knew that they had to buy it from them. The knew that they had $1 million that they could spend for it. My people have been up there and talked to the buyers up there. They thought this was one of the best jobs of negotiating they had ever done, that they got it down to $847,000 and only paid $10,000 for what you could buy retail for less than $100.

I had the Navy in my office. The people were there who were responsible for this, and they insisted that this was a perfectly proper way to do the buying, that it was just fine, and that they would not make any changes in it. That is under this administration.

It is only by our getting involved in it and through Members such as are here on the floor tonight insisting that things be changed that we are able to get any of that changed.

If the gentleman over on the other side of the aisle is saying that the Pentagon is supporting what we are doing to try to correct these things, I have to tell him that he had better get involved more in what is happening, because that is not at all what occurred here.

I want to go further and say that if you think we have solved the problems just by doing this, God help us. Let me tell the gentleman that this problem exists all through the system, and somebody had better see that something is corrected.

**Mr. WALKER.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I yield to the gentleman from Pennsylvania.

**Mr. WALKER.** Mr. Speaker, I thank the gentleman for yielding.

The point this gentleman made was the fact that Secretary Weinberger upon assuming office did begin studies himself of waste and inefficiencies that had taken place in Government, and a large portion of the things that we have discussed on this floor were items that had been turned up by the Pentagon people themselves as being problems in their procurement process. In fact, there were articles some months ago about the whole business of the gold plating of the weapons system, and I think some of the items the gentleman from Iowa has mentioned in terms of stopping some of that are excellent. That is the reason I voted for the gentleman's amendment.

I think to contend that the press and the Congress have uncovered all these things is not correct. Some of them have been uncovered in the Pentagon process.

I certainly thank the gentleman for clarifying the case with regard to this one point. I think that his diligence and the diligence of everyone concerned is precisely what we need. We should not be buying a lot of things at high prices. Where I think the gentleman's point differs from the point that we sometimes hear on this floor is the fact that it is important to buy what we need to buy at the proper price, but it is also important from time to time to buy enough defense to defend this country, too. Those are two different points, the point being made here earlier, and the point that I was critical of earlier was that it seemed to be that to some extent we were hearing an argument here for buying no defense at all.

**Mr. WEAVER.** Mr. Speaker, I will reclaim my time.

I only have a few minutes left, and I need no more time. I would be delighted to yield to my colleagues for the remaining time that I have.

I yield to the gentleman from Iowa [Mr. BEDELL].

**Mr. BEDELL.** Mr. Speaker, I would just have to express this gentleman's opinion. We hear all the time that it is the military that has exposed this thing and they are correcting it.

Let me say that there did not need to be any exposure on this. The buyers knew what they were paying for every item. There was no secret about any of it. I have got the list right here. They knew it all the time.

The only way it was exposed was by somebody in the military, through practices that were not agreed to by their superiors, being able to bring this matter up because they were so disgusted about what was happening.

I do not really think the issue, however, is who is exposing what. I think the issue is whether or not anything is going to be done to correct the problem. I think it is no secret that the military were not supportive of our efforts in Congress to correct it. They are not supportive of efforts in the Senate to go all the way in the correcting of it. In my opinion, if we really care about a strong defense, we do not get a strong defense by paying 100 times retail price for the things we are providing for the defense.

I commend those who have worked for this, but I guess the concern I have with the argument of the gentleman from Pennsylvania is that that is what we have been fighting for all the way through, I say to the gentleman from Pennsylvania. What we have been fighting is those people who say, "Look, it is all going to be corrected because Cap Weinberger says he cares about it."

I am not here to argue whether Cap Weinberger cares about it. I do not know about that. All I know is that the system is such under this leadership that they are fighting to try to keep us from doing what at least a great many of us think makes sense in having competition for the things that the military buys, and if we accept that argument that he is doing everything, "and don't worry about it," then my argument is that it is going to continue as it has every year under this administration, wherein the percentage of the military contracts in dollars that are let under true advertised, competitive bids has declined every single year.

I do not think that is what the American people think should happen. As sure as heck, that is not what I think should happen, and I hope we will not try to fool the American people or fool ourselves by saying that since Cap Weinberger says he cares about this, it is all right to go on and have the percentage that is left under true advertised, competitive bids decline every single year.

**Mr. WALKER.** Mr. Speaker, if the gentleman will yield, that is not the point the gentleman makes.

**Mr. WEAVER.** Mr. Speaker, it is true that every time you throw money at something, I do not care what it is, throwing hundreds of billions of dollars, as we are now, in the military, you are going to get extraordinary waste, and it is just a product of that.

For the balance of my time, Mr. Speaker, I yield to the gentleman from North Dakota.

**Mr. DORGAN.** Mr. Speaker, I thank the gentleman from Oregon.

Let me say again that the gentleman from Iowa [Mr. BEDELL] has done the House a real service with the kind of work he has done on this issue. He has uncovered a lot of waste and a lot of abuse, and these are the kinds of things the Congress has to take care of.

I joined this debate not because I think the Democrats should be commended for their fiscal policies. I do not feel that way at all. I think all of us have a long way to go in this town before we solve this fiscal crisis.

We have a $110 billion Federal trade deficit, we have interest rates that are climbing, and we have nearly $200 billion a year deficits, even with healthy economic growth every year now through the 1980's. I am telling you that these problems are going to bankrupt this country.

We need leadership. I do not like to say that the President is not providing leadership, but he is not. Let me say again that I do not think there is much leadership coming from Democrats either. But I have had it right up to here with that little smile and that wink and that nod of the President's when he says, "My friends, I am for a balanced budget, but it is all those other folks that aren't for a balanced budget and are causing this country to have fiscal troubles."

The President is asking for massive increases in military spending year after year. He insists that we can have tax cuts at the same time. Now, again I did not take a very sophisticated kind of arithmetic, but I understand that when you increase spending and cut revenue, it means deficits. The kind of Federal deficits we have today are unlike any other Federal deficits in the history of this country. I am convinced it is going to take extraordinary leadership by the President, the Democrats and the Republicans in Congress to begin to solve this problem.

A deficit downpayment? What a bunch of nonsense. They all talk about the deficit downpayment program. You do not have to make a downpayment on something you do not buy. I sure as heck, as one Member, do not buy this sort of fiscal nonsense. Why on Earth do they talk about downpayments? Even the press is into it. The stories are that the House and Senate conferees will cut the deficits by blank.

There is nobody cutting deficits. The deficit in the next 3 years, even with the deficit downpayment program, will be $500 to $600 billion.

We are involved in a mirage of terms. They talk about arms control. There is no arms control. Arms are out of control. Sometimes we get a little tired of that rhetoric.

All I am asking is that the President give us a little leadership on fiscal policy, and I am also asking the same of the leaders in Congress, Democrats and Republicans.

Mr. Speaker, I think the gentleman from Oregon [Mr. WEAVER] should be commended for coming into the well and starting to talk about military spending and fiscal policy in combination and beginning to initiate this dialog.

**Mr. WEAVER.** Mr. Speaker, I want to thank the gentleman from North Dakota [Mr. DORGAN], whose contribution in all these debates has been outstanding. The gentleman has been one of the absolute top Members in the House to bring these issues before us, and he is consistently on the side of the right.

**Mr. WALKER.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I will yield to the gentleman from Pennsylvania for 1 minute, and then I am going to yield the balance of my time.

**Mr. WALKER.** Mr. Speaker, I just want to make certain that we get something clarified here before this debate ends.

I have just been informed by the House Appropriations Committee that the contract we have been talking about here with regard to the kit was indeed originally signed in 1979, and that this is a supplemental agreement, that this is an extension of the contract signed in 1979. And I understand that that information comes directly from the man who originally blew the whistle on the hammer problem. I do not doubt the gentleman's paperwork. He has the paperwork there, but we do have that information, and I just wanted to make certain. I was operating out here without the documentation, but that in fact is the case.

**Mr. WEAVER.** I only say, more fool they to have resigned a contract that was that bad.

Mr. Speaker, I believe my time is nearly over.

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**Mr. BEDELL.** Mr. Speaker, will the gentleman yield?

**Mr. WEAVER.** I yield to the gentleman from Iowa.

**Mr. BEDELL.** Mr. Speaker, is it proper for me to ask unanimous consent for 15 minutes to address the House?

**The SPEAKER pro tempore.** Under the rules, the time cannot be extended; however, the gentleman can ask the gentleman from Illinois [Mr. PHILIP M. CRANE] who is next up if he would yield.

## THE DEBT CEILING

**The SPEAKER pro tempore.** Under a previous order of the House, the gentleman from Illinois [Mr. PHILIP M. CRANE] is recognized for 60 minutes.

**Mr. PHILIP M. CRANE.** Mr. Speaker, in response to my colleague, the gentleman from Iowa, I would be happy to yield some of my time; if the gentleman would like to respond to the issue that we were just discussing first, I will happily yield to him to do that.

**Mr. BEDELL.** Mr. Speaker, I think it should be made clear that the only documentation I have is this document which I think the gentleman agrees is clearly dated November 29, 1982. I had no knowledge and if indeed there was something earlier, I am not here to question that. I think it is quite clear that the only date on the documents that we have is this date.

I think it is entirely possible indeed that there could have been some earlier negotiations. I want the gentleman to understand that I was not aware of them if there was.

I do have to say in all fairness that I do not think that is the issue, however, of importance. I would hope that we would agree that the issue of importance is what is being done now to correct the problem, what is going to be done to correct the problem and what we can do to help see that the problem is corrected. I would hope that we would all take whatever steps are necessary to see that that is done.

**Mr. WALKER.** Mr. Speaker, will the gentleman yield to me?

**Mr. PHILIP M. CRANE.** Yes, I yield to the gentleman from Pennsylvania.

**Mr. WALKER.** Mr. Speaker, I could not agree with the gentleman from Iowa more and that is precisely the point that I was making and I did not want to be misinterpreted on it. I do not defend Cap Weinberger when he goes out and signs a lot of outrageous contracts. The only point that I was making was that a lot of what we were in the process of uncovering was uncovered as a part of some Defense Department studies, too. That does not mean that the Defense Department has corrected it or that I think they have corrected it.

I have my battles with Cap Weinberger. I think that there are some problems with regard to the way we spend money. That is the reason why I supported the gentleman's amendment; but to some extent here we came over with the idea that this was a total Reagan administration problem and that I had misrepresented the facts.

I agree with the gentleman that the dates on the contract that he has there are 1982 and that he was very sincere on that. It is marked, however, that it is a supplemental agreement in the paperwork as I look at it, which would tend to confirm the fact that the information that I had been given that it was indeed originally signed in 1979 under the Carter administration.

I certainly agree with the gentleman from Iowa. It does not matter when it was signed. We still have some problems here and we ought to correct those problems.

**Mr. BEDELL.** Mr. Speaker, will the gentleman yield for a very short further statement?

**Mr. PHILIP M. CRANE.** Certainly.

**Mr. BEDELL.** It is my understanding, at least, that the exposure of this situation did not come about by the result of Government auditors or any of that sort of thing. It came about because somebody in a base in Pensacola, FL, who was not supposed to have the information found out that that is what it was costing and made the information available, rather than any effort by the Department to try to expose these things and get them corrected.

I thank the gentleman.

**Mr. PHILIP M. CRANE.** Mr. Speaker, I am happy for the gentleman's comments. I might just inject one other comment along the same lines.

I am sure all of us remember when Jay Solomon was at the General Services Administration and an audit revealed that that one small agency in a single year had stolen anywhere from $66 to $100 million of taxpayer dollars.

I talked to Jay Solomon about that afterward and he told me that he was convinced that the problem with the GSA in that one small agency was endemic to every department of Government.

I have no special wisdom or insight to verify or refute that statement, but I did see a report at the time contending that had we put all of the General Accounting Office auditors to work auditing just that year's budget for health, education, and welfare, when they were still combined, that it would have taken them approximately 20 years to complete the audit.

I think that highlights one of the problems we have. The gentleman from Iowa is doing diligent work in exercising an oversight responsibility, which is one of the most important aspects of our job here. Several years ago, I was the ranking minority member on the Oversight Subcommittee of the Committee on Ways and Means. We had responsibility for Social Security, medicare, welfare, trade, tariff, and customs, and all tax-related matters. On the Oversight Subcommitttee, we only had three full-time investigators.

In short, what I am suggesting is that we are not fulfilling our oversight responsibilities any longer in this body. It is absolutely impossible to do it with the resources that we have, and for that reason, frankly, I think it would be prudent for the House of Representatives to contemplate appropriating the first year after an election for a 2-year period and then devote each election year, since we end up doing a lot of political posturing on both sides of the aisle in election years, not for voting appropriation bills or adding legislation to the books, but reserve that second year exclusively for oversight, with a view to hopefully verifying whether agencies and departments that we have voted money to spend are indeed doing the job that we want them to do and with the kind of diligence that the gentleman from Iowa has exercised in this case that we have discussed this afternoon.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield.

Mr. BEDELL. Mr. Speaker, I think the gentleman from Iowa should also make it public and let people know that the gentleman from Illinois was one of the signers of a "Dear Colleague" letter in support of the amendment that the gentleman from Iowa offered and I want to thank him for his help and support in trying to do something about this particular problem.

Mr. PHILIP M. CRANE. Well, I congratulate the gentleman for the job he has done.

Mr. Speaker, I would like to comment on an issue that is going to be topical again, according to the remarks of the majority leader earlier, as to the agenda between now and the July recess. That is the reoccurrence of the vote on the hike in the debt ceiling. That vote, sad to say, is an increasing activity in this Chamber. We keep hiking the debt ceiling with regularity. We had two votes on it, as the Speaker recalls, just a couple weeks ago.

I got in the well and spoke in behalf of my own position and that was that I would not vote to increase that debt ceiling. I had never voted to increase the debt ceiling, not because that is necessarily a responsible position on the part of the entire body, but rather because my voting record historically has clearly demonstrated a commitment to fiscal responsibility and if all the expenditures that I voted against had prevailed, we would not have been running a deficit.

My leader, Congressman CONABLE from New York, who is on the Ways and Means Committee, got up and eloquently made the plea at the time of that second vote to raise the debt ceiling that that was the only responsible course by this Chamber, to which I can respond affirmatively. Indeed, that is the only responsible vote by this Chamber; but the point that I made and I harkened to the National Taxpayers Union ratings at the time, is that the people who voted to spend the money are the ones who have the obligation to raise the debt ceiling.

The reason I invoke the National Taxpayers Union ratings, Mr. Speaker, is because that is the most objective rating of the entire Congress of the United States.

Now, all of us in public office are subjected to the rating games. You get everything from the AFL-CIO, on the one hand, representing organized labor and they will take the selective issues that are of concern to them and rate Members based upon their support or opposition to those issues, just as on the other extreme the chamber of commerce rates us and the business community will take its selective issues and then determine how many were for and how many against.

We have two senior citizens organizations that almost invariably rate the Members of this Chamber diametrically opposed. One is the National Council of Senior Citizens and the other is the National Alliance of Senior Citizens. The national council, I remember in their first rating, had such seniors issues as whether we voted for the SST, or whether we voted for funding the Metro system. The national alliance, by contrast, tends to focus on those heavy expenditures that are calculated to produce deficits which have the heaviest burden on people trying to live on fixed incomes if you get the inflation that inevitably attends chronic deficits or you get escalating interest rates. But the virture of the National Taxpayers Union rating of the Congress of the United States is that it does not make qualitative evaluations. It takes everything from votes for missiles to mortgage subsidies, from welfare to weapons.

I think the gentleman from Oregon who was in the well earlier was confused in his understanding of how the National Taxpayers Union evaluates us. They take all spending bills, all bills relating to spending, and they do not equate a vote for the defense budget, for example, with a vote for the food stamp program. They are weighed and evaluated in terms of their total dollar impact.

□ 1450

Now, after we had the debate on the hike in the debt ceiling, which failed to carry, as the Speaker recalls, on the first go round, I suggested that we get the National Taxpayers Union rating, and we start with those people who were the biggest spenders until we reach a majority. On their rating system a score of 100 would be the most fiscally responsible and a score of zero would be total fiscal irresponsibility.

No one in this Chamber had either score. But the fact of the matter is if you start working up from the bottom until you get to 218 Members of this body, which is a majority, you will find that you only get to a threshold score of 28 to find 218 Members. That score of 28 means that 72 percent of the time those Members voted for spending and only 28 percent of the time were they voting against spending. That is not a very high score because the scores do range from 6 to 99.

When you look at the 218 who are at the score of 28 or below, I am proud to report as a Republican Member of this body that of the 218 who were in that category there are only 7 Republicans. This means that of the other 217 Members of this body there are 160 Republicans and 57 Democrats.

I think that is illustrative of a difference between our parties. The gentleman from Oregon did comment on the phenomenon that is observable in this Chamber in the 15 years I have been here that Republicans do tend to support defense, probably less critically then many of our liberal friends on the other side of the aisle. And I think that represents a philosophical difference.

We conservatives would argue that if you are going to err on the question of defense spending, since protection of the country is the No. 1 obligation we have as Members of the National Government, you better err on the side of being over- rather than under-protected. And in that determination we sometimes fail to fulfill our responsibilities as fiscal conservatives to exercise the oversight that the gentleman from Iowa discussed and is attempting to do on a small scale. But every little bit helps. Our liberal friends, by contrast, tend to go overboard on social spending.

These are significant differences between our two parties' stands on spending.

I think it would be futile for one to attempt to suggest that notwithstanding the conservatives' commitment to funding our defense establishment in this country, when we still show up as the fiscal conservatives on the National Taxpayers Union rating, that the deficits are the product this side of the aisle. It is important I think for all of us to go back and review a little bit of history.

Since 1932, the Speaker's party has been in control of this Chamber for all but 4 years. Our side has not been in control of the Chamber since 1955. That was 30 years ago.

In the course of the past 30 years we have witnessed some rather remarkable increases in the total levels of expenditure in this country.

In fact they are startling and have aroused the concern that the gentleman from North Dakota expressed earlier, and a legitimate expression of concern because it took us 154 years, until World War II, 1943, before we got to a national debt of $100 billion. It then took us another 32 years, until 1975, to reach a $500 billion conventional national debt, half a trillion. And it only took us 6 more years after that, until 1981, when we got to $1 trillion in national indebtedness. And by 1984 we were at $1½ trillion where we stand today, and there are projections right now that before 1985 is out our conventional national debt will be in excess of $2 trillion.

I submit to you that we are hemorrhaging, that this is a crisis. We have an obligation to address it, not as Democrats and not as Republicans. Let Democrats focus on Republicans' tendency to be a little excessive when it comes to accepting uncritically what the defense establishment wants, but let us also look at the Democrats contribution in the nondefense spending portion of that budget, too. It should be apparent that we cannot continue past spending habits without the fate the gentleman from North Dakota already touched upon, and that is national bankruptcy.

I saw a report just the other day that is frightening to an extreme. If we were over the next 16 years, between now and the year 2000, if we were to balance every aspect of our budget exclusive of debt service for the next 16 years, and when we look back at the previous 16 years we only did it one time, and if we financed it at just 10 percent interest rates, with a compounding of the interest rates, our $1.5 trillion conventional national debt today goes $7.5 trillion by the year 2000.

Our gross national product this year is guesstimated to run $3.5 trillion this year. Optimists looking at growth in our economy are projecting a doubling of our gross national product between now and the year 2000. That means our GNP will go from $3.5 trillion today to $7 trillion in the year 2000.

But even under this most optimistic scenario that I just outlined, our conventional national debt goes from $1.5 trillion to $7.5 trillion. And everyone should be frightened to death over figures like that.

The Speaker is senior to me in chronology but the Speaker knows, and at my age, past 50, I can assure the Speaker I am conscious of the fact that we do not calculate birth dates annually anymore but, rather, in decades. We are talking about a brief period of time, years in which my youngest daughter will go from age 11 to 27, and she is still going to be a young lady. In fact, the 21st century, God willing, is the century in which my eight children will be spending most of their lives. And one of the advantages I discovered in turning 50, which I faced with great trepidation when I was in my forties, was the realization that 50 is not one foot in the grave and the other on a banana peel. It was a realization, harking back to my childhood growing up in the Depression on the South Side of Chicago, that it was richer, fuller, and more rewarding experience than anything I had dreamed possible had I lived to be 100. When my older brother and I were growing up we were optimists. We did not realize we were deprived in the Depression. We had to read about that in the history books after the war. We did believe firmly that this life would be better for us than it was for our folks and, indeed, it was better for us than it was for our folks. And I think all of us at this station in life who have at least reached my age have the obligation to be worrying to death over whether our children who are comparable in age to my own and who will be passing that threshold of 50 in the next century, will at that point be able to look back and say "Thank God I had the opportunity for this grand experience."

That is our stewardship obligation at this point and in that I think we are overlooking some fundamentals.

U.S. News & World Report in an issue published on February 13 of this year had on the cover "Drowning in Debt," it says, "Impact of another $180 billion deficit," with the red ink spilling over the Capitol dome.

When you turn inside they have the tidal wave of red ink depicted starting in 1946 with President Truman and then running through 1984, with President Reagan. And they have the pictures of the President's depicted over years of surplus and deficit, and President Truman comes out very well. Of the eight budget surpluses since World War II, four of these occurred under the administration of President Harry Truman.

But I think where U.S. News & World Report errs in portraying pictures of Presidents there is that Presidents have nothing to do with spending. You remember Jimmy Carter ran in 1976 with a commitment to have a balanced budget by 1980. President Carter, I am convinced, was very sincere in his determination to do that. By the end of his 4-year administration we had at that point, relatively speaking, unprecedented years of budget deficits.

Ronald Reagan ran in 1980 with the hope that by 1984 we would have a balanced budget, and the deficits have become aggravated in the intervening years.

☐ 1500

The fact of the matter is this Chamber, the U.S. House of Representatives, has from the beginning of the Republic, originated all general appropriations bills. The spending starts here.

Harry Truman was noted for that slogan on his desk: "The buck stops here."

We have got to acknowledge to the American people that the buck stops here on this spending question. All general appropriation bills originate here. We also originate constitutionally all taxes, with the exception of TEFRA in 1982, which originated in the other Chamber. I am a plaintiff in a lawsuit still to overturn that dangerous precedent. But that means that all policy originates in this body. The arrangement of the priorities originate in this body. When we engage in the finger-pointing exercise, ultimately the fingers have to point back at each and every one of us here. Each and every one of us, I think, owes an explanation to the American people as to why we have these enormous deficits when the spending power is really a power of the House of Representatives, when the taxing power is a power of the House of Representatives, and the origination of policy, as I say, and the arrangement of priorities are as well.

These are House functions and it does not serve the debate when U.S. News & World Report, which is an outstanding periodical, attempts to equate spending with functions of the executive branch.

The President proposes and we dispose. Now that is a point that is, I am sure, misunderstood by many young people today, judging by some of the revelations about the deterioration of education in this country. But Americans ignore an understanding of our system at their own peril. Because unless Americans come to the realization that they are not going to affect significant change just by changing Presidents or even changing the Senate then our problems will continue unabated.

What we need, and as I indicated earlier it is a bipartisan effort, what we need is to address urgently the question of spending here in the House of Representatives.

Now the gentleman from Oregon earlier touched upon the role of the defense budget. Defense is a big chunk of total spending, no question about it. But I think it is important to recognize that back in John Kennedy's administration it was 45 percent of the budget allocated for defense. Under Eisenhower it was the same. This was true on a roughly bipartisan basis, really, down until the Nixon administration.

That is when we began significantly to reduce that portion of our total budget spent on defense. I am not going to blame Democrat Presidents or Republican Presidents. I am saying this was a bipartisan observable phenomenon and this body went along with it and during those years of the Nixon administration, I did not recall hearing criticism about reducing the portion of the budget spent on defense. By 1980 we were down to 23 percent of our budget spent on defense.

Now, President Reagan recommended that we move that up to about 29 percent of the budget, sustain that effort in this decade, and there would be no question about any potential threat from the Soviet Union or blackmail by 1990. I think that was wise counsel.

The fact of the matter is, however, today we are spending less on defense than President Carter recommended we should be spending at this point.

To attempt, when that is only 25 percent of our total budget, to suggest that defense spending is the cause of this is misleading to an extreme.

In addition to that, there is another way you can look at it. You can look at defense spending as a percentage of gross national product. As a percentage of GNP we are spending one-third less of our gross national product on defense today than we were spending in 1958.

So whether measured in GNP terms or measured in terms of a percentage of the budget, it is not the Defense budget.

I think furthermore when one examines the ingredients of the defense budget, 55 percent of our defense budget is manpower costs and maintenance. Now procurement is only about 35 percent of that Defense budget. When I hear a lot of young people who are echoing sentiments they have heard about how desirable it would be to slash defense spending, I have pointed out to them there is one way you can make a dramatic reduction in defense spending. That is to reinstitute the draft.

I happen to be one of those who voted for the volunteer military. And in peacetime I believe in the concept of a volunteer military and notwithstanding the skeptics at the time, I think it has already been borne out that the volunteer military is working. We have a much higher percentage of high school graduates going into the military today than we had under the draft. In addition to that, most recent figures indicate that all of the services are getting more people who are seeking to enlist than they can accommodate at the present time.

But, on the other hand, you have to pay more. That, I acknowledged at the time. I said, well, that is the price we pay for the security we get. Whether it is police and fire protection in your local community, or whether it is the defense establishment at the national level.

But I remember when I served I got paid $85 a month as a private, when I could have made $500 a month on the outside.

When you reinstitute a draft, in effect what you are putting is a disproportionate tax burden on the people you are asking involuntarily to serve their country. I think anyone should be proud to serve his country any time, but, on the other hand, there is a price involved.

I think the young people today who are talking about making vast economies ought to look at the possibility of whether they would like to alter the system. I would like to hear from those young people if they want to make those economies and get into the 75 to 80 percent tax bracket, because that for all practical purposes is what they are going to find if we were to reinstitute the draft as a means of making a major economy when it comes to defense spending.

This problem, Mr. Speaker, is one that transcends our partisan differences. I think everybody in this Chamber has a profound concern about the legacy that we leave for those who follow us.

And above the Speaker's chair there is a quotation from Daniel Webster and I wrote it down because I would like to read it. It is germane to this discussion.

> Let us develop the resources of our land, call forth its power, build up its institutions, promote all its great interests and see whether we also in our day and generation may not perform something worthy to be remembered.

Worthy to be remembered, I think, are the key words in that quotation.

What we are performing right now is not worthy of remembrance because it is calculated to destroy the Republic if we do not reverse ourselves.

Here we are an infant Republic. I got an artifact in China on a recent trip over there. I asked the person who gave it to me, "Is this old?" And the woman said, "No, not really. It is only as old as your country."

I said that is one of the reasons why when I determined to work on a Ph.D in history I gave up consideration of studying Chinese history. I said we think in centuries and you people think in millennia.

The fact of the matter is 500 years hence we could end up little more than a footnote in the history books if we do not address the seriousness of the problem confronting us and recollect some of the wisdom of such people as Thomas Jefferson, who was probably our most frugal President, one most concerned about putting debt burdens on other generations.

Jefferson said, "The principle of spending money to be paid by posterity under the name of funding"—and that was deficit spending in his day—"is but swindling futurity on a large scale."

We have the moral obligation not to swindle futurity because futurity is our children and our children's children and the fate of this Republic.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I want to thank the gentleman, first of all, for his presentation. I think it was magnificent. I think he puts the matter of the deficit spending of the Government very much into perspective.

But I think it is interesting to note that he made the point there are many young people out across the country who do not understand the process and may be misled into believing that Presidents do in fact create deficits.

It was apparent in what we heard from the gentleman from North Dakota earlier on the floor that there are some Members on this floor who either do not understand the process or are attempting to confuse the process for political purposes. Because, of course, the gentleman from North Dakota made the point that the President sent us a budget that was out of balance and so, therefore, it is his leadership that is leading to these massive deficits.

There is no doubt the President sent us an unacceptable budget from the standpoint of the gentleman from Illinois and certainly from my standpoint.

□ 1510

But the fact is that the President can send all of the numbers up here he wants. It is we who have the responsibility to do something with those numbers. If we disagree with those numbers, and, unfortunately, most people in this House do, we can do something about it. We can simply stop the spending. We can simply cut back on the spending and do what is necessary to bring those deficits in order. Only we can do that because only we begin the appropriations bills. This is where the spending starts. The budget process has become a political charade. It is a sham. We waive it on the floor anyhow. It makes no difference. The difference is when we begin to spend the money.

The fact is, as the gentleman has pointed out, when you take a look at the spending records of Members of Congress, it becomes pretty clear who is spending us into deficits and who is not spending us into deficits. And all of the political shenanigans, all of the rhetoric, all of the attempt to blame the President, all of the attempt to blame other parties, all of that is ridiculous. What people out across the country need to do is look at the individual spending records of their Members of Congress. It is that simple. People can begin to react to the deficit by simply asking, "Does my Congressman spend money or not? Is he one of the big spenders or is he one of the little spenders?" If he is one of the big spenders, he is contributing to the deficit problem; if he is one of the small spenders, he is not contributing to the deficit problem. It is a very simple question. All people have to do is begin to ask it, evaluate their own Members of Congress, and if they think the deficit is important, vote accordingly.

I thank the gentleman for yielding.

Mr. PHILIP M. CRANE. I thank the gentleman for those remarks.

Mr. Speaker, I would like to add to that something again that has happened in the time I came to Congress. I came here in 1969. I remember that the President at that time attempted to carry out the congressional mandate given him, because we gave him his marching orders down there, and he felt that he could do that and make some economies. They called it impoundment. And what was the congressional reaction? Why, Congress promptly passed the Anti-Impoundment Act. I liken that to the chief executive officer sitting down with his board of directors to run a company in the private sector and they map a budget for the year, but the board also expects the chief executive officer to exercise some independent judgment in pursuing the interests of the company in seeking to maximize profits, and if he can save a dollar along the way, if he does not try and save that dollar or increase profits in the process, then he surely is going to be confronted with a pink slip forthwith at the next board meeting.

And yet in effect that is what we have asked our President to do. We give him his guidelines, and we say, "You cannot effect it."

I had Don Hodel out in my district at a bankers conference last October, and Don Hodel, who was kind of new in town in that new position, felt that he could carry out all the responsibilities that we gave him, follow the instructions we gave him, and yet do it with 300 fewer personnel than he had on his payroll at that time. He was promptly informed that he could not make that economy, that that was a congressional decision. And to the degree those are congressional decisions and we do not permit the flexibility to those administrators in the executive department to effect economies over the guidelines that we give them, I think we have locked into the system excesses that cannot in any way be blamed on the executive branch of Government.

What is the other tool the President has? He can veto legislation. And if he gets one-third support for his veto, he can force us to go back and negotiate, with a view to trying to hold down total levels of expenditure. But that is the only weapon available to the Chief Executive, the veto. And the Senate can force us into compromises. If they wanted to be hard-nosed and fiscally more responsible than the House is, they could force us into compromises to get legislation through the two Chambers. But the significant thing is, as the gentleman from Pennsylvania just observed, all of that process really begins right here in the House, and no one focuses attention on the House. Back home they are mostly preoccupied with casework and local problems, and every time we get somebody's Social Security check sprung when it was caught up in the bureaucratic redtape or if we take care of a veteran's problem, or an immigration or passport problem, our staff does it, we get the credit for it. And you will never be able to bad mouth in the presence of a person thus served out of any congressional office that Member in the future. I do not care what the party affiliation is. We do that indiscriminately, Democrats, Republicans, vegetarians, Independents. Everybody gets served the same way out of a congressional office. But it is also something that tends to ingratiate the Member in the eyes of his voting constituency. What they have to do is look beyond just constituent service and look at some of these vital issues that come before this body, especially those involving expenditures, and insist that those of us in this Chamber will vote to guarantee that we do indeed live within our means. And when I suggest that, I am not recommending raising taxes, either. The fact of the matter is that the percentage of our gross national product consumed by government today is at an all time high. We ranted and raved as Republicans at it getting up to about 22.9 percent in Carter's last year, and Republicans were committed to try to get it down, hopefully, to the 19 percent range again, where it was as recently as 1973. By 1983 it was up to 25 percent of the gross national product. That is the problem. And we did have an opportunity to vote on it. And again people should go back and check these votes. The are important.

We had the balanced budget amendment brought before this body through a discharge petition. We could not get action on it in committee. But we finally did get the balanced budget bill up which did not just mandate balanced budgets but put a fix on total levels of spending with an escape clause provision that will enable us to break that by a special vote in any given fiscal year in case of a national emergency. And unfortunately, while we had a majority, we did not have the two-thirds necessary to report it out.

I submit to you that this amendment is an important ingredient of addressing the problem. There are many other aspects as well, but we will save that for another occasion.

I will be happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Just briefly, I think the point the gentleman makes is also emphasized by the fact that the Grace Commission recommendations that have been sent to Capitol Hill by the President for reducing the amount of expenditures in government, the President has sent those recommendations up here, Congress has regularly just flatly turned down those recommendations.

The gentleman from California [Mr. DANNEMEYER] has been bringing them to the floor as a part of the appropriation and authorization process. And regularly we reject those here on the floor, saying that we are not going to implement those cost savings. When the President implements some of them at the executive level, we regularly have congressional committees that say, "We are not going to let you do that. We are not even going to let you do what you have the power to do yourself. We are going to reverse that by some action here on Capitol Hill."

So the real momentum in Congress is certainly toward spending money rather than saving money.

I thank the gentleman again for yielding.

Mr. PHILIP M. CRANE. I have been somewhat surprised that some of our colleagues who do prefer spending that I would view as excessive in social categories have not jumped with alacrity to embrace the Grace Commission recommendations. Those recommendations were designed to make economies where there is simply bad business practice or duplication or inefficiency in Government, and there is a way in which we can all get on the same bandwagon and we can reduce total levels of expenditure without getting into substantive questions, policy questions about some of the programs before this body.

The ratings follow:

HOUSE OF REPRESENTATIVES—NATIONAL TAXPAYERS UNION RATINGS

[Democrats in roman; Republicans in italic]

| | Percentile | Congressional spending score |
|---|---|---|
| Alabama: | | |
| *Edwards* | 60 | 38 |
| *Dickinson* | 67 | 49 |
| Nichols | 60 | 38 |
| Bevill | 16 | 16 |
| Flippo | 40 | 23 |
| Erdreich | 49 | 28 |
| Shelby | 60 | 38 |
| State average | | 33 |
| Alaska: | | |
| *Young* | 62 | 41 |
| Arizona: | | |
| *McCain* | 81 | 62 |
| Udall | 6 | 13 |
| *Stump* | 96 | 78 |
| *Rudd* | 88 | 67 |
| McNulty | 32 | 20 |
| State average | | 48 |
| Arkanses: | | |
| Alexander | 0 | 8 |
| *Bethune* | 84 | 64 |
| *Hammerschmidt* | 69 | 51 |
| Anthony | 37 | 22 |
| State average | | 37 |
| California: | | |
| Bosco | 27 | 19 |
| *Chappie* | 82 | 63 |
| Matsui | 2 | 11 |
| Fazio | 0 | 8 |
| Burton, P.[1] | 0 | 0 |
| Burton, S.[2] | 16 | 16 |
| Boxer | 23 | 18 |
| Miller | 48 | 27 |
| Dellums | 49 | 29 |
| Stark | 49 | 29 |
| Edwards | 16 | 16 |
| Lantos | 9 | 14 |
| *Zschau* | 84 | 64 |
| Mineta | 9 | 14 |
| *Shumway* | 97 | 80 |
| Coelho | 3 | 10 |
| Panetta | 42 | 24 |
| *Pashayan* | 73 | 55 |
| Lehman | 4 | 12 |
| *Lagomarsino* | 78 | 59 |
| *Thomas* | 75 | 57 |
| *Fiedler* | 75 | 57 |
| *Moorhead* | 93 | 75 |
| Beilenson | 37 | 22 |
| Waxman | 23 | 18 |
| Roybal | 16 | 16 |
| Berman | 16 | 16 |
| Levine | 16 | 16 |
| Dixon | 9 | 14 |
| Hawkins | 9 | 14 |
| Martinez[2] | 12 | 15 |
| Dymally | 16 | 16 |
| Anderson | 46 | 26 |
| *Dreier* | 98 | 84 |
| Torres | 6 | 13 |
| *Lewis* | 72 | 53 |
| Brown | 23 | 18 |
| *McCandless* | 88 | 67 |
| Patterson | 23 | 18 |
| *Dannemeyer* | 99 | 86 |
| *Badham* | 91 | 71 |
| *Lowery* | 74 | 56 |
| *Lungren* | 94 | 76 |
| *Packard* | 86 | 66 |
| Bates | 52 | 32 |
| *Hunter* | 86 | 66 |
| State average | | 37 |
| Colorado: | | |
| Schroeder | 62 | 40 |
| Wirth | 40 | 23 |
| Kogovsek | 35 | 21 |
| *Brown* | 98 | 83 |
| *Kramer* | 89 | 68 |
| *Schaefer* | 93 | 75 |
| State average | | 52 |
| Connecticut: | | |
| Kennelly | 4 | 12 |
| Gejdenson | 6 | 13 |
| Morrison | 42 | 24 |
| *McKinney* | 57 | 36 |
| Ratchford | 6 | 13 |
| *Johnson* | 52 | 32 |
| State average | | 21 |
| Delaware: | | |
| Carper | 58 | 37 |
| Florida: | | |
| Hutto | 50 | 30 |
| Fuqua | 23 | 18 |
| Bennett | 56 | 35 |
| Chappell | 27 | 19 |
| *McCollum* | 88 | 67 |
| MacKay | 57 | 36 |
| Gibbons | 52 | 31 |
| *Young* | 75 | 57 |
| *Bilirakis* | 85 | 65 |
| Ireland | 65 | 46 |
| Nelson | 49 | 29 |
| *Lewis* | 71 | 52 |
| *Mack* | 96 | 78 |
| Mica | 23 | 18 |
| *Shaw* | 86 | 66 |
| Smith | 9 | 14 |
| Lehman | 32 | 20 |
| Pepper | 1 | 9 |
| Fascell | 6 | 13 |
| State average | | 37 |
| Georgia: | | |
| Thomas | 40 | 23 |
| Hatcher | 9 | 14 |
| Ray | 71 | 52 |
| Levitas | 56 | 35 |
| Fowler | 16 | 16 |
| *Gingrich* | 82 | 63 |
| McDonald[2] | 99 | 92 |
| Darden[1] | 54 | 33 |
| Rowland | 37 | 22 |
| Jenkins | 61 | 39 |
| Barnard | 62 | 41 |
| State average | | 38 |
| Hawaii: | | |
| Heftel[3] | 27 | 19 |
| Akaka | 2 | 11 |
| State average | | 13 |
| Idaho: | | |
| *Craig* | 95 | 77 |
| *Hansen* | 97 | 80 |
| State average | | 78 |
| Illinois: | | |
| Washington[1] | 0 | 0 |
| Hayes[3] | 27 | 19 |
| Savage | 37 | 22 |
| Russo | 49 | 29 |
| *O'Brien* | 54 | 33 |
| Lipinski | 20 | 17 |
| *Hyde* | 75 | 57 |
| Collins | 35 | 21 |
| Rostenkowski | 20 | 17 |
| Yates | 32 | 20 |
| *Porter* | 69 | 51 |
| Annunzio | 6 | 13 |
| *Crane, P* | 99 | 87 |
| *Erlenborn* | 77 | 58 |
| *Corcoran*[2] | 88 | 67 |
| *Madigan* | 75 | 57 |
| *Martin* | 90 | 70 |
| Evans | 37 | 22 |
| *Michel* | 66 | 48 |
| *Crane, D* | 99 | 89 |
| Durbin | 50 | 30 |
| Price | 0 | 7 |
| Simon | 6 | 13 |
| State average | | 39 |
| Indiana: | | |
| Hall | 12 | 15 |
| Sharp | 55 | 34 |
| *Hiler* | 92 | 72 |
| *Coats* | 89 | 69 |
| *Hillis* | 67 | 49 |
| *Burton* | 93 | 73 |
| *Myers* | 66 | 47 |
| McCloskey | 23 | 18 |
| Hamilton | 42 | 24 |
| Jacobs | 69 | 51 |
| State average | | 45 |
| Iowa: | | |
| *Leach* | 73 | 55 |
| *Tauke* | 90 | 70 |
| *Evans* | 79 | 60 |
| Smith | 27 | 19 |
| Harkin | 44 | 25 |
| Bedell | 52 | 32 |
| State average | | 44 |
| Kansas: | | |
| *Roberts* | 94 | 76 |
| Slattery | 72 | 53 |
| *Winn* | 78 | 59 |
| Glickman | 54 | 33 |
| *Whittaker* | 86 | 66 |
| State average | | 58 |
| Kentucky: | | |
| Hubbard | 61 | 39 |
| Natcher | 16 | 16 |
| Mazzoli | 37 | 22 |
| *Snyder* | 79 | 60 |
| *Rogers* | 71 | 52 |
| *Hopkins* | 86 | 66 |
| Perkins | 4 | 12 |
| State average | | 38 |

HOUSE OF REPRESENTATIVES—NATIONAL TAXPAYERS UNION RATINGS—Continued

[Democrats in roman; Republicans in italic]

| | Percentile | Congressional spending score |
|---|---|---|
| Louisiana: | | |
| *Livingston* | 69 | 51 |
| Boggs | 0 | 8 |
| Tauzin | 69 | 51 |
| Roemer | 91 | 71 |
| Huckaby | 58 | 37 |
| *Moore* | 78 | 59 |
| Breaux | 60 | 38 |
| Long | 4 | 12 |
| State average | | 41 |
| Maine: | | |
| *McKernan* | 54 | 33 |
| *Snowe* | 62 | 41 |
| State average | | 37 |
| Maryland: | | |
| Dyson | 37 | 22 |
| Long | 20 | 17 |
| Mikulski | 32 | 20 |
| *Holt* | 84 | 64 |
| Hoyer | 0 | 8 |
| Byron | 58 | 37 |
| Mitchell | 32 | 20 |
| Barnes | 16 | 16 |
| State average | | 25 |
| Massachusetts: | | |
| *Conte* | 56 | 35 |
| Boland | 12 | 15 |
| Early | 49 | 28 |
| Frank | 40 | 23 |
| Shannon | 35 | 21 |
| Mavroules | 12 | 15 |
| Markey | 35 | 21 |
| O'Neil[1] | 0 | 0 |
| Moakley | 9 | 14 |
| Studds | 42 | 24 |
| Donnelly | 40 | 23 |
| State average | | 22 |
| Michigan: | | |
| Conyers | 44 | 25 |
| *Pursell* | 69 | 51 |
| Wolpe | 37 | 22 |
| *Siljander* | 85 | 65 |
| *Sawyer* | 64 | 43 |
| Carr | 23 | 18 |
| Kildee | 44 | 25 |
| Traxler | 27 | 19 |
| *Vander Jagt* | 67 | 49 |
| Albosta | 27 | 19 |
| *Davis* | 42 | 24 |
| Bonior | 20 | 17 |
| Crockett | 48 | 27 |
| Hertel | 46 | 26 |
| Ford | 12 | 15 |
| Dingell | 16 | 16 |
| Levin | 23 | 18 |
| *Broomfield* | 79 | 60 |
| State average | | 30 |
| Minnesota: | | |
| Penny | 50 | 30 |
| *Weber* | 93 | 75 |
| *Frenzel* | 94 | 76 |
| Vento | 35 | 21 |
| Sabo | 12 | 15 |
| Sikorski | 40 | 23 |
| *Stangeland* | 73 | 55 |
| Oberstar | 27 | 19 |
| State average | | 39 |
| Mississippi: | | |
| Whitten | 20 | 17 |
| *Franklin* | 81 | 62 |
| Montgomery | 73 | 54 |
| Dowdy | 9 | 14 |
| *Lott* | 81 | 61 |
| State average | | 42 |
| Missouri: | | |
| Clay | 32 | 20 |
| Young | 20 | 17 |
| Gephardt | 12 | 15 |
| Skelton | 44 | 25 |
| Wheat | 16 | 16 |
| *Coleman* | 64 | 45 |
| *Taylor* | 75 | 57 |
| *Emerson* | 79 | 60 |
| Volkmer | 52 | 31 |
| State average | | 32 |
| Montana: | | |
| Williams | 35 | 21 |
| *Marlenee* | 73 | 55 |
| State average | | 38 |
| Nebraska: | | |
| *Bereuter* | 69 | 51 |
| *Daub* | 86 | 66 |
| *Smith* | 75 | 57 |
| State average | | 58 |
| Nevada: | | |
| Reid | 27 | 19 |
| *Vucanovich* | 89 | 69 |
| State average | | 43 |
| New Hampshire: | | |
| D'Amours | 50 | 30 |
| *Gregg* | 96 | 78 |
| State average | | 54 |
| New Jersey: | | |
| Florio | 40 | 23 |
| Hughes | 56 | 35 |
| Howard | 9 | 14 |
| *Smith* | 42 | 24 |
| *Roukema* | 73 | 54 |
| Dwyer | 6 | 13 |
| *Rinaldo* | 44 | 25 |
| Roe | 1 | 9 |
| Torricelli | 23 | 18 |
| Rodino | 2 | 11 |
| Minish | 23 | 18 |
| *Courter* | 78 | 59 |
| *Forsythe* | 89 | 69 |
| Guarini | 12 | 15 |
| State average | | 28 |
| New Mexico: | | |
| *Lujan* | 75 | 57 |
| *Skeen* | 79 | 60 |
| Richardson | 23 | 18 |
| State average | | 45 |
| New York: | | |
| *Carney* | 77 | 58 |
| Downey | 27 | 19 |
| Mrazek | 46 | 26 |
| *Lent* | 62 | 41 |
| *McGrath* | 66 | 48 |
| Addabbo | 12 | 15 |
| Ackerman | 20 | 17 |
| Scheuer | 12 | 15 |
| Ferraro | 16 | 16 |
| Schumer | 20 | 17 |
| Towns | 27 | 19 |
| Owens | 23 | 18 |
| Solarz | 9 | 14 |
| *Molinari* | 64 | 42 |
| *Green* | 60 | 38 |
| Rangel | 23 | 18 |
| Weiss | 46 | 26 |
| Garcia | 16 | 16 |
| Biaggi | 12 | 15 |
| Ottinger | 40 | 23 |
| *Fish* | 58 | 37 |
| *Gilman* | 37 | 22 |
| Stratton | 23 | 18 |
| *Solomon* | 93 | 75 |
| *Boehlert* | 48 | 27 |
| *Martin* | 65 | 46 |
| *Wortley* | 66 | 48 |
| McHugh | 12 | 15 |
| *Horton* | 46 | 26 |
| *Conable* | 93 | 74 |
| *Kemp* | 73 | 54 |
| LaFalce | 27 | 19 |
| Nowak | 6 | 13 |
| Lundine | 37 | 22 |
| State average | | 29 |
| North Carolina: | | |
| Jones | 16 | 16 |
| Valentine | 56 | 35 |
| Whitley | 23 | 18 |
| Andrews | 27 | 19 |
| Neal | 27 | 19 |
| Britt | 27 | 19 |
| Rose | 4 | 12 |
| Hefner | 20 | 17 |
| *Martin* | 82 | 63 |
| *Broyhill* | 92 | 72 |
| Clarke | 23 | 18 |
| State average | | 28 |
| North Dakota: | | |
| Dorgan | 52 | 32 |
| Ohio: | | |
| Luken | 35 | 21 |
| *Gradison* | 78 | 59 |
| Hall | 50 | 30 |
| *Oxley* | 82 | 63 |
| *Latta* | 89 | 69 |
| *McEwen* | 78 | 59 |
| *DeWine* | 88 | 67 |
| *Kindness* | 81 | 62 |
| Kaptur | 46 | 26 |
| *Miller* | 89 | 69 |
| Eckart | 49 | 29 |
| *Kasich* | 85 | 65 |
| Pease | 32 | 20 |
| Seiberling | 27 | 19 |
| *Wylie* | 71 | 52 |
| *Regula* | 64 | 45 |
| *Williams* | 46 | 26 |
| Applegate | 56 | 35 |
| Feighan | 44 | 25 |
| Oakar | 27 | 19 |
| Stokes | 32 | 20 |
| State average | | 42 |
| Oklahoma: | | |
| Jones | 58 | 37 |
| Synar | 35 | 21 |
| Watkins | 50 | 30 |
| McCurdy | 58 | 37 |
| *Edwards* | 81 | 62 |
| English | 64 | 42 |
| State average | | 38 |
| Oregon: | | |
| AuCoin | 58 | 37 |
| *Smith, R.* | 84 | 64 |
| Wyden | 44 | 25 |
| Weaver | 61 | 39 |
| *Smith, D.* | 98 | 81 |
| State average | | 48 |
| Pennsylvania: | | |
| Foglietta | 9 | 14 |
| Gray | 16 | 16 |
| Borski | 16 | 16 |

HOUSE OF REPRESENTATIVES—NATIONAL TAXPAYERS UNION RATINGS—Continued

[Democrats in roman; Republicans in italic]

HOUSE OF REPRESENTATIVES—NATIONAL TAXPAYERS UNION RATINGS—Continued

[Democrats in roman; Republicans in italic]

| | Percentile | Congressional spending score |
|---|---|---|
| Kolter | 20 | 17 |
| *Schulze* | 75 | 57 |
| Yatron | 27 | 19 |
| Edgar | 44 | 25 |
| Kostmayer | 23 | 18 |
| *Shuster* | 92 | 72 |
| *McDade* | 48 | 27 |
| Harrison | 6 | 13 |
| Murtha | 1 | 9 |
| *Coughlin* | 69 | 51 |
| Coyne | 2 | 11 |
| *Ritter* | 85 | 65 |
| *Walker* | 97 | 79 |
| *Gekas* | 85 | 65 |
| Walgren | 49 | 29 |
| *Goodling* | 82 | 63 |
| Gaydos | 6 | 13 |
| *Ridge* | 57 | 36 |
| Murphy | 40 | 23 |
| *Clinger* | 62 | 41 |
| State average | | 34 |
| Rhode Island: | | |
| St Germain | 12 | 15 |
| *Schneider* | 52 | 32 |
| State average | | 24 |
| South Carolina: | | |
| *Hartnett* | 96 | 78 |
| *Spence* | 81 | 62 |
| Derrick | 35 | 21 |
| *Campbell* | 78 | 59 |
| Spratt | 27 | 19 |
| Tallon | 27 | 19 |
| State average | | 43 |
| South Dakota: | | |
| Daschle | 32 | 20 |
| Tennessee: | | |
| *Quillen* | 67 | 49 |
| *Duncan* | 66 | 47 |
| Lloyd | 52 | 32 |
| Cooper | 40 | 23 |
| Boner | 4 | 12 |
| Gore | 9 | 14 |
| *Sundquist* | 74 | 56 |
| Jones | 23 | 18 |
| Ford | 6 | 13 |
| State average | | 30 |
| Texas: | | |
| Hall, S. | 66 | 48 |
| Wilson | 12 | 15 |
| *Bartlett* | 91 | 71 |
| Hall, R. | 66 | 47 |
| Bryant | 9 | 14 |
| *Gramm* | 95 | 77 |
| *Archer* | 97 | 79 |
| *Fields* | 93 | 73 |
| Brooks | 32 | 20 |
| Pickle | 32 | 20 |
| Leath | 67 | 49 |
| Wright | 2 | 10 |
| Hightower | 55 | 34 |
| Patman | 62 | 40 |
| de la Garza | 6 | 13 |
| Coleman | 9 | 14 |
| Stenholm | 86 | 66 |
| Leland | 20 | 17 |
| Hance [3] | 56 | 35 |
| Gonzalez | 9 | 14 |
| *Loeffler* | 91 | 71 |
| *Paul* | 99 | 99 |
| Kazen | 37 | 22 |
| Frost | 2 | 11 |
| Andrews | 52 | 32 |
| Vandergriff | 57 | 36 |
| Ortiz | 2 | 11 |
| State average | | 38 |
| Utah: | | |
| *Hansen* | 96 | 78 |
| *Marriott* | 73 | 54 |
| *Nielson* | 95 | 77 |
| State average | | 69 |
| Vermont: | | |
| Jeffords | 55 | 34 |
| Virginia: | | |
| *Bateman* | 72 | 53 |
| *Whitehurst* | 69 | 51 |
| *Bliley* | 79 | 60 |
| Sisisky | 32 | 20 |
| Daniel | 82 | 63 |
| Olin | 62 | 40 |
| *Robinson* | 81 | 62 |
| *Parris* | 69 | 51 |
| Boucher | 2 | 11 |
| *Wolf* | 64 | 45 |
| State average | | 46 |
| Washington: | | |
| *Pritchard* [2] | 68 | 50 |
| Swift | 16 | 16 |
| Bonker | 16 | 16 |
| Morrison | 61 | 39 |
| Foley | 2 | 10 |
| Dicks | 16 | 16 |
| Lowry | 44 | 25 |
| *Chandler* | 65 | 46 |
| State average | | 26 |
| West Virginia: | | |
| Mollohan | 4 | 12 |
| Staggers | 12 | 15 |
| Wise | 32 | 20 |
| Rahall | 37 | 22 |
| State average | | 17 |
| Wisconsin: | | |
| Aspin | 6 | 13 |
| Kastenmeier | 42 | 24 |
| *Gunderson* | 74 | 56 |
| Zablocki | 0 | [illegible] |
| Moody | 42 | 24 |
| *Petri* | 84 | 64 |
| Obey | 27 | 19 |
| *Roth* | 81 | 61 |
| *Sensenbrenner* | 96 | 78 |
| State average | | 39 |
| Wyoming: | | |
| *Cheney* | 90 | 70 |

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[1] Score based on less than 25% of the votes.

[2] Score based on less than 75% of the votes.

[3] Score based on less than 50% of the votes.

Senate Key.—Congressional spending score: The Congressional Spending Score indicates how often a congressman votes for reduced spending. Good, 60% or more; Fair, 47-59%; Average, 34-46%; Big Spender, 33% or less.

Percentile: A percentile helps you quickly compare a senator's score to the rest of the Senate. For example, a senator who scored higher than 78 of the 100 senators would be in the 78th percentile.

● **Mr. SHUMWAY.** Mr. Speaker, I rise to join my colleagues in addressing what I consider to be the most critical problem facing our Nation today. The magnitude of this problem is of such awesome proportion that it staggers the imagination. I am referring to this country's $200 billion budgetary deficit and indebtedness of almost $1.5 trillion. Although we have repeatedly discussed the crisis caused by such fiscal irresponsibility, we have failed to arrive at a solution; in fact, we rarely address the root of the problem, which I maintain to be the spending practices of this House and the other body.

Throughout our Nation's 208-year history, we have enjoyed unprecendented growth and prosperity, which have enabled us to provide for our citizens. Unfortunately, Congress, in its zeal to be an institution for all seasons (and all pressure groups), has attempted to solve the Nation's ills with financial medication, and in the process has plummeted the Nation into unprecedented debt. As a body, we have become uncontrollable and unaccountable in our allocation of tax dollars, and we have overstepped the constitutional boundaries governing the proper role of the Federal Government.

Abraham Lincoln stated that the Federal Government's role is to do for the people what they cannot do for themselves; our Founding Fathers in the preamble to the Constitution defined this role to include the establishment of justice, insurance of domestic tranquility, provision for the common defence, and promotion of the general welfare.

But during past decades we have liberally interpreted the context of these directives to include such lunacies as regulation of pot holders and swimming pool slides, and I seriously doubt that Thomas Jefferson would have signed legislation providing for the bailout of a failing business, or guaranteed money for a bankrupt city. Fortunately, many of our Nation's leaders have recognized the need for a limited, albeit central, government to provide that which States could and should not provide for their citizens.

If Federal legislators had continued the propensity to spend within the limits fashioned by the Founding Fathers, we would not have any deficit or national debt. The wealth generated by our country each year is more than sufficient to support the functions delegated to the Federal Government in the Constitution. We as Members of Congress would be well advised to study this document, to learn the relationship between the Federal Government to a more proper fiscal role.

In conclusion, let us say to the citizens of America who elected us to serve as their representatives that we hear their call for a balanced budget. As we contemplate the pressing legislative issues of this final session of Congress, may we redirect our priorities toward restoring fiscal sanity in the Nation's Capital by undertaking a conscientious approach to reducing the scope of Government by making corresponding reductions in Federal expenditures.●

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## GENERAL LEAVE

Mr. PHILIP M. CRANE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## THE FINANCIAL INSTITUTIONS ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. WIRTH] is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the bill I am introducing today, the Financial Institutions Act of 1984, is legislation that melds together several legislative proposals dealing with the issue of financial restructuring. It has broad support among members of the Subcommittee on Telecommunications, Consumer Protection and Finance. A substantial portion of the bill is a very much like the St Germain-Wylie bill, H.R. 5734, of which the distinguished chairman of the Energy and Commerce Committee, Mr. DINGELL, and myself are cosponsors, as is the ranking minority member of the subcommittee, Mr. RINALDO. Members will also recognize that much of the language in the bill is identical with, or similar to, that in earlier bills which I have introduced, particularly H.R. 5342.

The new bill introduced today accomplishes much of what the majority of the subcommittee and I intended to accomplish when we introduced H.R. 5342, the "Capital Markets Commission and Moratorium Act" on April 3 of this year. Our objective was to stop the piecemeal, ad hoc rush to deregulation that has occurred over the last several years in order to preserve congressional options in dealing with comprehensive financial restructuring proposals. Our hearings on the bill, on April 3 and 4, and May 17, revealed that there was strong support for this objective. But we also learned that there was substantial support for permanently closing the largest loopholes in current financial law—an alternative means of achieving most of the objectives we sought. The St Germain-Wylie bill adopted a form of this approach.

One of the important loopholes that will be closed by this legislation relates to the breakdown of the separation between banking and securities activities—the so-called Glass-Steagall loophole. The issues raised by the erosion of this law in recent years are matters of concern to both the Banking Committee, which has jurisdiction over banking, and the Energy and Commerce Committee which has jurisdiction over securities activities. The wall between these two different industries could be rebuilt from either side. The moratorium bill, H.R. 5342, did not amend the banking laws, but accomplished the objective of temporarily imposed a separation between banking and securities. It also temporarily reinstated the separation between these two functions and insurance, and between finance and commerce.

The present bill focuses more narrowly on the crumbling wall that has divided banking from other financial functions and from commerce for 50 years. It does not attempt to resolve legislatively the broader structural concerns dealt with in the moratorium bill, but it sets in process studies which will help us resolve them in the future. This approach, I believe, is practical and appropriate at this time. The concerns involving securities, insurance and commercial firms entering banking and vice versa are immediate concerns. Those involving other financial intermediaries are important, but less immediate. The entry of banks into securities and insurance activities and vice versa raise questions about the structure and functioning of those industries and markets that are of as much concern to the Energy and Commerce Committee as are issues that relate primarily to these intermediaries.

For the sake of clarity, we have therefore included a number of provisions in our bill that amend banking law. However, in dealing with some of the specific securities issues, we have added references to securities law—again for the sake of clarity. The substantive issues are very complex. For this reason, we have worked very closely with the Banking Committee in redrafting our bill and have coordinated our efforts with theirs in achieving what leading members of both committees perceive to be a common goal.

As the attached analysis of the bill indicates, title I of this bill retains most of the findings and policy outlined in title I of the moratorium bill, H.R. 5342. Title II tracks the St Germain-Wylie bill in many respects. This bill, however, exempts trust companies from the new definition of the term "bank" provided in the bill and from the restrictions on banks securities activities, because these specialized institutions do not make commercial loans and are not now—and could not become—major players in the payments system.

This bill also differs from St Germain-Wylie in the provisions relating to State powers. The intent of this section is to end the so-called South Dakota problem—whereby that State allowed a large New York based national bank to purchase a State bank to sell insurance outside—but not within—South Dakota. To clarify the intent of avoiding an end-running of rational policy through a State-by-State regulatory race to the bottom we have added restrictions on bank holding companies that own banks in more than one State. They cannot do through State banks in several States that which is forbidden by Federal law.

The bill also adds a definition of retail securities brokerage to the section that restricts banks discount brokerage activities and adds a new section that prevents banks from offering mutual funds based on IRA accounts. The latter section closes a loophole recently discovered by the Comptroller of the Currency which—like discount brokerage—would not be covered merely by closing the Glass-Steagall loophole.

Finally, the bill places a 3-year moratorium on decisions by the Comptroller of the Currency, the Federal Reserve Board, and the Federal Home Loan Bank Board giving new financial or commercial powers to banks and thrifts. Interpretations by these regulators have contributed to the breakdown in the existing structure and regulation of the financial services industry and, unless halted, could continue the process of erosion that this bill is intended to stop. Future interpretations that expand banks powers into areas not now permitted by law might not be explicitly prohibited by this legislation. Like discount brokerage and the pooling of IRA accounts for securities investment, Congress might have to address each new regulatory action separately. Thus, an across-the-board moratorium is needed to ensure that what we hope to accomplish in this legislation is, in fact, accomplished.

Title III of the bill would require that various Federal agencies undertake analyses of the issues involved in financial restructuring. In bills introduced in 1982 and 1983, these analyses were to be conducted by a congressionally appointed Commission on Capital Markets composed of outside experts representing the financial services industry and those who use the services of this industry. The idea was to create a new process for dealing with these highly complex and controversial issues along the lines of the Social Security Commission. Due to lack of support for that mechanism from some key Members of Congress, we have reluctantly abandoned the Commission proposal. It is my hope that a special congressional process can be created in its place, and I am encouraged by our preliminary discussions on this point.

But whatever the process upon which we agree, the analyses mandated in this bill will provide a needed basis on which to make decisions. In particular, Congress needs to know how changes in the structure and regulation of the financial system affect the distribution of savings and credit. The allocative function of the financial system is a key element in economic growth. Regulatory issues are too important to be relegated to a debate over the relative advantages and disadvantages for particular financial intermediaries in competing for the funds of savers and investors.

The bill as originally drafted also contained provisions reflecting deep concerns about problems which are raised when securities and insurance firms are combined or when they own affiliates that are engaged in commercial activities this is an increasing trend. Our concerns are similar to those raised related to banks' involvement in areas outside banking: conflicts of interest, safety and soundness, customer protection, the prevention of economic concentration, and maintaining fair and equal access to capital and credit. Conflicts of interest are almost certain to occur when financial operations are combined with different financial or nonfinancial services as banks' experiences with real estate investment trusts [REIT's] in the mid-1970's and the recent Baldwin-United bankruptcy demonstrate. There is an obvious conflict of interest when a securities firm underwrites the shares of its railroad or high tech affiliate. The importance of the securities industry in our economic life has required that we ensure an arms length relationship between its activities and the issuers and investors that it serves. We have been particularly concerned that this traditional objective of securities regulation be preserved as the structure of the industry changes.

Therefore, we believed it reasonable to anticipate and prevent problems from arising as a result of the new trend toward combinations in the financial services industry outside of the banking sector. We have raised these concerns repeatedly in our hearings, and sought to address them. This bill includes a variety of provisions requiring expert agencies to explore the full range of these issues. In addition I intend to offer amendments which would require the appropriate regulatory authorities to take action to address the most obvious problem: conflict of interest.

The bill I am introducing today is only a first step on the road toward financial restructuring. Much remains to be done to make our financial system as responsive to our economic needs in the future as it has been in the past. But this is a first critical step. Without it, we will lose our options for future progress.

I urge Members to consider this legislation very carefully.●

## CONGRESSMAN DAN ROSTENKOWSKI RECEIVES DEPAUL UNIVERSITY COLLEGE OF COMMERCE AWARD FOR OUTSTANDING CONTRIBUTIONS TO AMERICAN BUSINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. RUSSO] is recognized for 5 minutes.

● Mr. RUSSO. Mr. Speaker, on May 18 Congressman DAN ROSTENKOWSKI addressed the DePaul University College of Commerce Alumni Dinner, and was honored to receive the College of Commerce's award for Outstanding Contribution to American Business.

In gratitude for the thoughfulness of the DePaul alumni and in recognition of the accomplishments for which this award was bestowed, I would like to enter the award citation in the CONGRESSIONAL RECORD as follows:

> Whereas the Honorable Dan Rostenkowski has represented the 8th District of Illinois in the United States House of Representatives since his first election to that body in 1958, and
>
> Whereas he has served as chairman of its Committee on Ways and Means and the Joint Committee on Taxation, and
>
> Whereas he has been a member of the Subcommittee on Trade, chairman of the Subcommittee on Select Revenue Measures and chairman of the Task Force on Foreign Source Income of the House Ways and Means Committee, and
>
> Whereas he has served as a member of the Joint Study Committee on Budget Control and sponsored legislation which created a new system of Congressional budgetary controls during the 93rd Congress, and
>
> Whereas he has been a member of the House Committee on Interstate and Foreign Commerce, and
>
> Whereas he has three times represented the President of the United States at the Polish International Trade Fair in Poznan and has been cited as "Man of the Year" by the Illinois Retail Merchants Association, and
>
> Whereas such long meritorious service has benefited the many millions of American citizens,
>
> Now, therefore, be it resolved that DePaul University's College of Commerce does hereby recognize his many achievements and does proclaim him the recipient of its second annual award for Outstanding Contribution to American Business.●

## ECONOMIC GROWTH ZONE ACT OF 1984

(Mr. COYNE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. COYNE. Mr. Speaker, I am today introducing the Economic Growth Zone Act of 1984.

The debate in recent years over the urban enterprise zone concept has served to point up the need for a concentrated policy of urban development in the most distressed neighborhoods of our cities. I am among the cosponsors of the enterprise zone bill introduced in the House by my good friend and colleague, BOB GARCIA, a measure which relies mainly on tax incentives to stimulate businesses in distressed areas.

If we are to rebuild our neighborhoods, we need to do more than offer tax incentives. Some of the businesses we seek to stimulate are years away from being able to benefit from tax breaks.

We need to provide access to capital for those small and medium sized businesses seeking to locate or expand in distressed areas.

Moreover, to encourage business development, we must repair the decaying water and sewer systems, the crumbling streets, and the less than adequate lighting in older urban areas.

In our efforts, we should resist the temptation to reinvent the urban development wheel. We should instead target existing programs more efficiently in areas designated for development.

The Economic Growth Zone Act of 1984 was drafted with these goals in mind. We consulted a wide variety of labor, business, neighborhood, and government experts to determine what assistance is most needed in very depressed areas. In the legislation which resulted, neighborhoods eligible for assistance would be similar to those eligible in the enterprise zone bill now before the House. But the assistance provided for job development is more comprehensive and, I would suggest, more tailored to specific needs than legislation advanced thus far. It would promote the startup of new businesses by providing seed capital. For medium- and large-sized firms seeking to locate or expand in the zone, loan guarantees would enable a city to make the infrastructure repairs which are the prerequisite for such activity. The legislation provides protections for labor, broad citizen participation, and a prohibition against relocating a facility from one location to another solely to take advantage of zone benefits.

The purpose of this measure is to broaden the concept of targeted urban development as envisioned in the enterprise zone proposal. While the intent of the enterprise zone proposal is to create jobs, most of the incentives are based on reductions in the corporate income tax. More than 80 percent of the for-profit enterprises in the United States, however, are sole proprietorships and partnerships. Generous corporate tax breaks do little to aid development of these businesses. Help in the critical early years of a business, when cash flow typically is a major headache, is very limited. Tax credits are nonrefundable and, while they are able to be carried over in future years, are of little help to a struggling firm concerned about the here and now.

Businesses concerned with the here and now often cite the need for access to low-cost capital as a primary concern. Certainly this is the case for those fledgling enterprises located in the distressed neighborhoods of our urban centers. The Economic Growth Zone Act establishes a locally administered economic growth zone development fund. This fund, which would match Federal dollars to local dollars, would make or guarantee loans to businesses for the purchase, rehabilitation, or expansion of facilities within a designated zone. The decisions would be made at the local level, not in Washington, based in part on the likelihood that new jobs will be created for residents of the zone.

Cities which take part in the economic growth zone effort would be required to plan and carry out a comprehensive rehabilitation of the public streets, lights, water system, or other facilities in a designated zone area as part of an effort to promote business development. Working in tandem with State development agencies, the city would qualify for a long-term, low-interest loan guarantee from the Department of Housing and Urban Development for repair of public facilities. In this respect, this proposal differs from most of the initiatives advanced in this Congress for targeted economic development. Repair of a neighborhood's infrastructure is a condition of development, not the spinoff result of development of some point down the line.

This legislation would build on existing urban development programs by requiring that preference be given in several HUD programs for projects initiated within a designated zone. In addition, 5 percent of appropriations from the highly successful urban development action grant program would be available for projects within the zone. To increase the involvement of private lenders in the new initiative, and to promote a type of greenlining in mortgage lending in designated zones, the Neighborhood Reinvestment Corporation would carry out projects in designated zones. This federally backed initiative brings together private lenders, community groups, and local government leaders in cooperative efforts to construct and rehabilitate low-cost housing through neighborhood housing services groups.

The Economic Growth Zone Act builds on the old while breaking ground with the new. Section 307 of the act, for example, provides grants to local governments for the development of incubator facilities to stimulate new businesses. By constructing such facilities, local governments can reduce the cost of office space and management services to small, innovative businesses while increasing access to educational resources.

The revitalization of neighborhood commercial strips is essential for an improvement of the business climate in any distressed area. Recognizing this need, the Economic Growth Zone Act provides for low-interest loans for concentrated physical development, including facade improvement, in commercial areas.

This legislation, the combination of the old and the new, a mix of Washingtion resources with local initiative, would enable up to 250 neighborhoods to begin the process of revitalization over the next 5 years. It stresses planning, citizen participation, and economic growth as the factors which will produce the jobs that will bring about a change in a local economy. If we are willing to go this route while preserving existing programs, I believe we can take an important step toward the rebuilding of our cities.

At this point, I would like to include in the Record a section-by-section description of the legislation:

## A Section-by-Section Description of the Economic Growth Zone Act of 1984

### TITLE I: DESIGNATION OF ECONOMIC GROWTH ZONES

#### *Section 101: Designation by the Secretary*

Would require the Department of Housing and Urban Development (HUD), within two months after the Economic Growth Zone Act of 1984 (EGZA) is enacted, to issue regulations detailing the procedures for State and local government nomination of an area as a Federal Economic Growth Zone (zone). HUD must designate at least 200, but no more than 250, areas as zones. As a prerequisite for designation, a State must pass enabling legislation granting the State and local government the authority to make federally prescribed State and local commitments required under Section 102 of EGZA. Designation of an area as a zone would be for a period of 5 years. HUD may terminate designation as a result of State or local government noncompliance with Section 102 of EGZA. In such instance, HUD will specify the termination date.

#### *Section 102: Eligibility requirements*

States that HUD may designate an area as a zone only if: (1) the area designated has a population of 4,000, as determined by the most recent available census data; (2) such area is one of pervasive poverty, unemployment and general distress; (3) such area is within a metropolitan city or urban county eligible for Urban Development Action Grants, and (4) such area meets any one of the following criteria: (a) the area has an unemployment rate of 1.5 times the national unemployment rate; or (b) at least 20 percent of the population of the area have incomes at or below the poverty level; or (c) 70 percent of the households in the area have incomes that are at or below the median of the local jurisdiction; or (d) the population of the area declined by 20 percent or more during the period 1970 to 1980.

To qualify an area for designation as a zone, the State and local governments must agree to follow a specific course of action which would address the infrastructure repair needs of the proposed zone and provide incentives that would create permanent private sector jobs and stimulate economic development. The course of action shall include: 1) a commitment by the State and local government to conduct a comprehensive review of the infrastructure needs of the proposed zone; 2) a commitment by the local government to finance infrastructure repairs through a guaranteed loan, as provided in Sec. 302; 3) a commitment by the State of such funds as may be necessary to assist in the repair of infrastructure in the area and 4) a commitment by the State to coordinate existing economic development plans in the area proposed for designation, and to list components of a plan to encourage acquisition by the State from firms located, or which intend to locate, in the proposed zone. The course of action may also include, but is not limited to, an increase in the level of such services as crime prevention with the area proposed for designation, and may involve private entities, such as neighborhood development organizations.

#### *Section 103: Preliminary approval of designation*

Provides that HUD may give preliminary approval for designation of an area as a zone only if the local government, in cooperation with the State government, and in consultation with area businesses, residents and neighborhood development organizations, prepares an Economic Growth Zone Development Plan. The plan must be consistent with the overall economic development plan of the unit of general local government, and shall include: 1) an analysis of the economic and social conditions of the proposed zone; 2) specific development objectives for the zone; 3) advisory guidelines for making investment and development decisions in the area, and for monitoring the effectiveness of the economic growth zone plan; 4) evaluations of empolyment opportunities, job skills and training needs of area residents; 5) assessments of existing job training, business development and management assistance resources available to zone residents and buisnesses, including any commitments for training assistance from neighborhood development organizations or educational institutions; 6) an evaluation of energy conservation efforts within the zone; 7) a strategy to incorporate the Job Training and Partnership Act in activities within the zone. Zone approval may be granted by HUD only when the local government, in cooperation with the State, prepares a preliminary plan for infrastructure improvement in the zone.

#### *Section 104: Approval of designation*

In accordance with this section, HUD's approval of zone designation requires that: (1) HUD must have given preliminary approval of the area for zone designation; and (2) the unit of general local government involved must pledge to set aside for two consecutive years 5 per cent of its annual community development block grant allocation, or $1 million, whichever is the lesser for an Economic Growth Zone Development Fund (fund), as authorized under Section 301 of EGZA. Further, the local government must apply for an infrastructure repair loan guarantee and pledge to use local manpower agencies as the first source in employment for repairs.

This section further states that when a local government designates an area as a proposed zone, that local government shall file an application to HUD which shall include a map of the area and a certification by the local government that public hearings have been held on the proposed designation and that a plan has been developed to minimize displacement of low and moderate income residents of the area. The local government must also assess the infrastructure condition in the area and prepare a preliminary repair and maintenance schedule for such infrastructure, including cost estimates. In addition, the local government must agree to offer various incentives to create permanent private sector jobs and stimulate economic development. Such incentives may include, but are not limited to: (1) an increase in the level of local government services, such as police protection, transportation or road improvement; (2) a business and industrial development program which provides for payment of property liability and property loss insurance premiums, and for payment of payroll taxes, if participating businesses agree: (a) to locate or expand in the zone; and (b) to comply with federal fair labor, safety and health, environmental and other laws; and (c) to allow employees to organize unions and to bargain collectively.

In addition, the local government must agree to commit to nonprofit entities engaged in zone activities local planning and other resources, at no cost.

Business incentives are available only to those businesses certified under Section 301(f).

### *Section 105: Final approval of designation*

States that when an application is submitted by a State and local government for a zone designation, HUD shall consider the following: 1) the extent of poverty, unemployment and general distress in the proposed zone; 2) the extent of State and local government financial commitment to promote community and economic development activities within the zone; 3) the extent of resident, business and private organization support for the development of the zone; 4) the need for widespread geographical distribution of zones throughout the nation; and 5) the extent to which State and local government can provide guarantees that commitments made in the economic growth zone development plan can be enforced.

### *Section 106: Data used*

Specifies that HUD may use data supplied by federal agencies or data supplied by the State and local government when determining eligibility of an area for zone designation.

## TITLE II: ADVISORY NEIGHBORHOOD COUNCILS

### *Section 201: Establishment*

Requires the establishment by the State and the unit of general local government of an advisory neighborhood council in the zone within 90 days after zone designation under Title I.

### *Section 202: Membership*

Provides that members of the council, who shall be representative of business, labor, neighborhood residents and local government, shall be appointed by the chief executive office of the local government in which the zone is located.

### *Section 203: Duties*

Requires the advisory neighborhood council to act in an advisory capacity to the local government in which the zone is located on economic activities relating to the zone. In addition, the council shall: (1) prepare analyses of economic changes taking place within the zone; (2) act as an advocate for the promotion and development of businesses in the zone; (3) consult with the local government and appropriate departments of the State involved on the incentives offered for business development in the zone. The council shall coordinate the local needs of employers and assist, on the request of an employer, in the recruitment of employees for existing or future jobs.

### *Section 204: Meetings and records*

Provides for procedures for meetings of the council and sets a policy of public access to records of the decisionmaking of the council.

### *Section 205: General provisions*

Requires that the local government shall provide the council with such offices and staff as shall be necessary. The council is required to make a detailed report of its activities to the State and local government each year, with such report being forwarded to the Secretary, together with additional comments by the units of government involved.

## TITLE III: ASSISTANCE FOR ECONOMIC GROWTH ZONES

### *Section 301: Economic growth zone development funds*

Requires each unit of general local government in which there is a designated zone to establish an economic growth zone development fund. The fund shall provide loans and loan guarantees to small businesses for working capital or equipment and facilities expansion.

Loans may be used to fund business and industrial development programs if the participating businesses agree in writing to: 1) locate or expand operations in the zone; 2) strictly obey Federal fair labor, safety and health, labor relations, environmental and pollution, equal employment opportunity, sex and age discrimination and child labor laws; and 3) allow employees to organize and bargain collectively.

The local government would set aside for each of not less than 2 consecutive years 5 per cent of each annual Community Development Block Grant allocation, or $1 million each year, whichever is the lesser amount, to the Economic Growth Zone Development Fund. For fiscal years 1985-1989, HUD is authorized $70 million each year to match the setasides. At least one Federal dollar for every community development block grant dollar, and not more than three dollars, shall be matched by HUD. A fund may also include amounts from any other source, including grants, gifts and loans.

The fund shall make or guarantee loans for initial or working capital to small businesses for the purchase, rehabilitation or expansion of facilities and equipment, and shall make grants to neighborhood development organizations within the zone for activities designed to promote jobs and economic development.

An existing business located in the zone may qualify for assistance under this section if 50 per cent of its present workforce are residents of the local jurisdiction, and if the business pledges that 75 per cent of newly hired employees shall be residents of the local jurisdiction, with special preference given to hiring residents of the zone.

A business seeking to locate in the zone would qualify for assistance under this section if it pledges that 75 per cent of its workforce will be residents of the local jurisdiction, with special preference given to hiring residents of the zone.

In addition, both classes of business must be willing to agree to set aside 25 per cent of the new jobs for one or more of the following: (1) persons unemployed 6 months or longer; or (2) recipients of general assistance or aid to families with dependent children (3) heads of households with family incomes at or below the statewide poverty level; or (4) residents of the zone.

Furthermore, in order to receive assistance, a business cannot be found by the local government to have been assessed civil penalties for, or convicted of, substantial violations of the Occupational Safety and Health Act of 1970.

HUD may waive one or more of the business qualification requirements if it determines that, despite a good faith effort, a business is unable to hire employees who meet conditions described in EGZA.

The local government shall enter into a written agreement with the business receiving assistance which shall explain how the business will meet the conditions for certification described in this section.

In administering the Economic Growth Zone Development Fund, the local government shall review periodically employer records to ensure that a business continues to qualify for assistance.

### *Section 302: Economic growth zone infrastructure loan guarantees*

Under this provision, notes and other public obligations issued by local governments and guaranteed by HUD would be used to finance public works and site improvement in the zone. The aggregate amount of loans guaranteed by HUD may not exceed 5 per cent of the amount appropriated for the Community Development Block Grant program for each of the fiscal years 1985 through 1989, or approximately $175 million in loan guarantees per year. Loan terms shall be for not less than 20 years, and not more than 40 years, and may not exceed 3 times the local government's CDBG allocation for one year. The local government shall pledge to repay the note with increments of local tax receipts generated by the activities under EGZA, or from the local government's CDBG allocation or by proceeds from the sale of real property. The rate and maturity of notes shall be determined by the Secretary of the Treasury.

### *Section 303: Economic growth zone urban development action grants*

Provides that HUD set aside 5 per cent of the amount appropriated for Urban Development Action Grants for allocation to zone areas in each of the fiscal years 1985 through 1989. Based on fiscal year 1984 appropriations for the UDAG program, this would create a setaside of approximately $22 million per year. Applications for grants shall compete only with applications involving other zone projects. The leveraging ratio may be as low as 2 private dollars for every UDAG dollar.

### *Section 304: Preference in Department of Housing and Urban Development programs*

Directs HUD to give preferential treatment to projects in designated zones for other HUD programs, including Section 312 Rehabilitation Loans, Section 810 Urban Homesteading, Section 202 Handicapped and Elderly Housing and the Solar Energy and Energy Conservation Bank.

### *Section 305: Rehabilitation and neighborhood conservation housing insurance in economic growth zones*

Directs HUD to make available Section 220 mortgage insurance in designated zones.

### *Section 306: Use of Department of Housing and Urban Development property in economic growth zones*

Under this provision, HUD is directed to offer for sale to the local government such vacant and underdeveloped property within the zone owned by HUD, if the local government has a detailed plan for use of the property. Such land or property shall be sold for nominal consideration.

### *Section 307: Development of facilities for new businesses*

Provides $10 million for each of the fiscal years 1985 through 1989 for grants by HUD to local governments and nonprofit organizations for the development shared facilities within the zone designed to promote the creation of new businesses. The grants may be used to acquire, rehabilitate or pay for certain expenses of structures located within the zone which are designed to lower costs for start up businesses through sharing several fixed and management expenses, and which promote access by the new businesses to local educational resources.

### *Section 308: Neighborhood reinvestment*

Authorizes $7 million for each of the fiscal years 1985 through 1989, in addition to the current authorization for the Neighborhood Reinvestment Corporation, to attempt, where feasible, to replicate successful Corporation projects in designated zones. To the extent practicable, the Corporation shall attempt to establish Neighborhood Housing Services in the zones, drawing together local residents, businesses, and lenders to increase the number of housing-related loans made in the zone. In addition, the Corporation shall develop such programs for the zones which emphasize the improvement of low and moderate income housing, promote homeownership by persons of low and moderate income, and generally improve the climate for private lending within the zone.

### *Section 309: Neighborhood commercial revitalization*

Provides $13 million for each of the fiscal years 1985 through 1989, in addition to the current authorization for the Sec. 312 Rehabilitation Loan Fund, for loans to local governments to rehabilitate commercial strips located within designated zones. Such activities as facade improvement, as part of an effort to upgrade the commercial area of a zone, would be eligible for the low interest loans.

### *Section 310: Prohibition of assistance for facility relocation*

This section would forbid any activity under EGZA which would promote the relocation of any industrial or commercial plant or facility from one location to the other, unless it is determined by HUD that such relocation will not be harmful to the employment or economic base of the location from which the plant or facility is to be relocated.

### TITLE IV: GENERAL PROVISION

### *Section 401: Coordination with other Federal programs*

Directs HUD to coordinate existing federal housing, community and economic development, small business, banking, financial assistance and employment training programs carried out within the zone, and to expedite application for programs through the consolidation of forms and periodic reports.

### *Section 402: Regulations*

Requires HUD, within 120 days of passage of EGZA, to issue program regulations which include application deadlines and which prescribe the form and manner in which applications are to be submitted.

### *Section 403: Annual report of the Secretary*

Requires HUD to submit to Congress an annual report detailing the impact of zone designation.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Oklahoma, for 60 minutes, on July 25.

Mr. GUNDERSON, for 60 minutes, on June 18.

(The following Members (at the request of Mr. WEAVER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COYNE, for 10 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. RUSSO, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LANTOS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,880.

(The following Members (at the request of Mr. COLEMAN of Missouri) and to include extraneous matter:)

Mr. BILIRAKIS.

Mr. YOUNG of Alaska.

Ms. FIEDLER.

(The following Members (at the request of Mr. WEAVER) and to include extraneous matter:)

Mr. GARCIA.

Mr. LEHMAN of Florida.

Mr. COYNE.

Mr. MARKEY in two instances.

Mr. KOLTER in two instances.

Mr. LANTOS.

Mr. DONNELLY.

Mr. EDGAR.

Mr. WEISS.

Mr. JONES of Tennessee.

Mr. SOLARZ in two instances.

## BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on June 14, 1984, present to the President, for his approval, bills of the House of the following title:

H.R. 1723. An act to authorize appropriations through fiscal year 1986 for the Great Dismal Swamp, Minnesota Valley, and San Francisco Bay National Wildlife Refuges; and

H.R. 5517. An act to amend title 31, United States Code, to provide for certain additional experts and consultants for the General Accounting Office, to provide for certain additional positions within the General Accounting Office Senior Executive Service, and for other purposes.

## ADJOURNMENT

Mr. WALKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until Monday, June 18, 1984, at 12 o'clock noon.

## OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 98th Congress, pursuant to the provisions of 2 U.S.C. 25:

GERALD D. KLECZKA, Fourth District of Wisconsin.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3569. A letter from the Secretary of Education, transmitting a copy of proposed final regulations for National Institute of Handicapped Research Fellowships, pursuant to GEPA, section 431(d)(1) (88 Stat. 567; 90 Stat. 2231; 95 Stat. 453); to the Committee on Education and Labor.

3570. A letter from the Acting Administrator, General Services Administration, transmitting the results of investigations of the cost of travel and the operation of privately owned vehicles to Federal employees while engaged on official business, pursuant to 5 U.S.C. 5707(b)(1); to the Committee on Government Operations.

3571. A letter from the Chairman, National Endowment for the Humanities, transmitting a report on its compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3572. A letter from the Secretary of the Interior, transmitting a report on the geological surveys conducted outside the national domain, pursuant to Public Law 87-626, section 2 (88 Stat. 1971); to the Committee on Interior and Insular Affairs.

## SUBSEQUENT ACTION ON REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Post Office and Civil Service discharged from further consideration of H.R. 4694; H.R. 4694 referred to the Committee of the Whole House on the State of the Union.

The Committee on Agriculture discharged from further consideration of H.R. 5426; H.R. 5426 referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AuCOIN (for himself, Mr. Wyden, Mr. Weaver, and Mr. Denny Smith):

H.R. 5871. A bill to amend the Tariff Schedules of the United States to increase the duty on certain shelled filberts; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. Edwards of California, Mr. Seiberling, and Mr. Boucher):

H.R. 5872. A bill to amend title 18 of the United States Code with respect to certain bribery and related offenses; to the Committee on the Judiciary.

H.R. 5873. A bill to amend chapter 93 (relating to public officers and employees) of title 18 of the United States Code to forbid the recording by Federal officers and employees of telephone conversations without the consent of all parties to such conversations; to the Committee on the Judiciary.

By Mr. COYNE:

H.R. 5874. A bill to provide for the designation of, and provision of assistance to, economic growth zones for purposes of promoting economic growth within economically distressed communities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DYMALLY (for himself, Mr. Won Pat, Mr. Solomon, Mr. Solarz, Mrs. Burton of California, Mrs. Boxer, Mr. Fauntroy, Ms. Mikulski, Mr. Jeffords, Mr. Rangel, Mr. Crockett, Mr. Owens, Mr. Berman, Mr. Lagomarsino, Mr. Anderson, Mr. Frost, Mr. Torres, Mr. Simon, Mr. Ottinger, Ms. Fiedler, Mrs. Hall of Indiana, Mr. Fazio, Mr. Mineta, Mr. Matsui, Mr. Britt, Mr. Mrazek, Mr. Martinez, Mr. Panetta, Mr. Levine of California, Mr. Lantos, and Mr. Barnes)

H.R. 5875. A bill to permit the naturalization of certain Filipino war veterans; to the Committee on the Judiciary.

By Mr. ENGLISH:

H.R. 5876. A bill to amend the Agricultural Act of 1949, and for other purposes; to the Committee on Agriculture.

By Mr. FRENZEL:

H.R. 5877. A bill to allow Federal employees a 1-year period to modify or revoke any survivor benefit election made under section 8339 (j) or (k) of title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. KASTENMEIER (for himself, Mr. Synar, and Mr. Kindness):

H.R. 5878. A bill to amend title 17, United States Code, with respect to the Copyright Royalty Tribunal and cable transmissions; to the Committee on the Judiciary.

By Mr. OLIN:

H.R. 5879. A bill for the relief of the Harrison school project in Roanoke, VA; to the Committee on Ways and Means.

By Mr. VANDERGRIFF:

H.R. 5880. A bill to amend section 459 of the Social Security Act to provide for the enforcement of support obligations of any individual employed by an employer located on a Federal enclave or any other area of Federal jurisdiction; to the Committee on Ways and Means.

By Mr. WIRTH (for himself, Mr. Dingell, Mr. Swift, Mr. Leland, Mr. Bryant, and Mr. Rinaldo):

H.R. 5881. A bill to clarify current law with respect to the powers and regulation of financial institutions and to require Federal agencies to make comprehensive analyses of the impact of changes in financial structure and regulation on the economy; jointly to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

## MEMORIALS

Under clause 4 of rule XXII,

421. The Speaker presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Industrial Competitiveness Act (H.R. 4360); to the Committee on Banking, Finance and Urban Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BIAGGI introduced a bill (H.R. 5882) for the relief of Douglas and Maureen Wilkie, husband and wife, which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1315: Mr. Bethune, Mr. Markey, Mr. Martinez, Mr. Morrison of Washington, Mr. Murphy, and Mr. Siljander.

H.R. 1955: Mr. Edwards of California, Mr. Fazio, and Mr. Hopkins.

H.R. 3028: Mr. Garcia.

H.R. 3284: Mr. Guarini, and Mrs. Kennelly.

H.R. 4097: Mr. D'Amours, Mr. MacKay, Mr. Howard, Mr. Ottinger, Mr. Matsui, Mr. Edgar, Mr. Hawkins, Mr. Foglietta, Mr. Seiberling, Mr. Schumer, Mr. Akaka, Mr. Ford of Michigan, Mr. Rangel, Mr. Fish, Mr. Martinez, Mr. Crockett, and Mr. Gekas.

H.R. 4167: Mr. McCurdy.

H.R. 4494: Mr. Broyhill and Mr. Kogovsek.

H.R. 4540: Mr. Borski.

H.R. 4642: Mr. Boelhert, Mr. Bryant, and Mr. Gore.

H.R. 4773: Mr. Dwyer of New Jersey, Mr. Murphy, and Mr. Conte.

H.R. 4800: Mr. Waxman, Mr. Martinez, Mr. Wyden, Mr. Williams of Montana, and Mr. Torricelli.

H.R. 4832: Mr. Sikorski, Mr. Kasich, and Mr. Owens.

H.R. 5081: Mr. Barnes, Mrs. Boxer, Mr. Brown of California, Mrs. Burton of California, Mr. Clay, Mr. Coleman of Texas, Mr. Durbin, Mr. Early, Mr. Frost, Mr. Leath of Texas, Mr. Leland, Mr. Pepper, Mr. Studds, Mr. Hightower, Mr. Rangel, and Mr. Rodino.

H.R. 5090: Mr. Reid, Mr. Donnelly, Mr. Traxler, Mr. Porter, Mrs. Lloyd, Mr. Huckaby, and Ms. Snowe.

H.R. 5377: Mr. Gilman, Mr. Patterson, Mr. Wolpe, Mr. Kemp, Mrs. Collins, Mr. Tauzin, Mrs. Burton of California, and Mr. Aspin.

H.R. 5438: Mr. Leath of Texas, Mr. de la Garza, Mr. Wise, Mrs. Boxer, Mr. Rinaldo, Mr. Barnes, and Mr. Lent.

H.R. 5495: Mr. Ottinger and Mr. Leland.

H.R. 5503: Mr. Dwyer of New Jersey.

H.R. 5550: Mr. Martinez.

H.R. 5605: Mr. Robert F. Smith, Mr. Stratton, Mr. McHugh, Mr. Smith of Iowa, and Mr. Whitley.

H.R. 5640: Mr. St Germain, Mr. Kildee, and Mr. Lehman of California.

H.R. 5784: Mr. Porter, Mr. Gingrich, Mr. Lowery of California, Mr. Broomfield, Ms. Ferraro, Mr. Lent, Mr. Horton, Ms. Mikulski, Mr. Petri, Mr. Kasich, Mr. Molinari, Mr. Daniel B. Crane, Mr. Dickinson, Mr. Scheuer, Mr. Leach of Iowa, Mrs. Johnson, Mr. Pepper, Mr. Dicks, Mr. Nowak, Mr. Mitchell, Mr. Skelton, Mr. Frank, Mr. Shuster, Mr. Oberstar, Mr. Whittaker, Mr. Conte, Mr. Simon, Mr. Owens, and Mr. Frost.

H.R. 5835: Mr. Ford of Tennessee, Mr. Matsui, Mr. Kildee, Ms. Ferraro, Mr. McGrath, Mr. Durbin, Mr. Bates, Mr. Mazzoli, and Mr. Neal.

H.J. Res. 319: Mr. Derrick, and Mr. Hartnett.

H.J. Res. 482: Mr. Martinez, Mr. Ackerman, and Mr. Hughes.

H.J. Res. 528: Mr. Sawyer, Mr. Broyhill, Mr. McGrath, Mr. Whitley, Mr. Gramm, and Mr. Kolter.

H.J. Res. 544: Mr. Gingrich, Mr. Campbell, Mr. Skeen, Mr. Markey, Mr. Guarini, Mr. AuCoin, Mr. Edwards, of California, Mr. Minish, Mr. Lundine, and Mr. Martinez.

H.J. Res. 555: Mr. Akaka, Mr. Fowler, Mr. Volkmer, Mr. Dwyer of New Jersey, Mr. Lewis of California, Mr. Nielson of Utah, Mr. Lagomarsino, Mr. Marriott, Mr. Roe, Mr. MacKay, Mr. Nelson of Florida, Mr. Hansen of Utah, Mr. Chandler, Mr. Leland, Mr. Andrews of Texas, Mr. Gingrich, Mr. Skeen, Mr. Dymally, Mr. Scheuer, Mr. Moakley, Mr. Udall, Mr. Bevill, Mr. Heftel of Hawaii, Mr. Levine of California, Mr. de la Garza, Mr. Mavroules, Mr. Long of Maryland, Mr. Carney, Mr. Watkins, Mr. Walgren, Mr. Green, Mr. Whitehurst, Mr. Fazio, and Ms. Oakar.

H.J. Res. 556: Mr. Britt, Mr. Biaggi, Mrs. Boxer, Mr. Brown of California, Mr. Crockett, Mr. DeWine, Mr. Dorgan, Mr.

Dwyer of New Jersey, Mr. Evans of Illinois, Mr. Frenzel, Mr. Fazio, Mr. Frank, Mr. Fauntroy, Mr. Howard, Mr. Hertel of Michigan, Mr. Hayes, Mr. Lagomarsino, Mr. LaFalce, Mr. Levin of Michigan, Mr. Mazzoli, Mr. Madigan, Mr. McGrath, Mr. McHugh, Mr. Oberstar, Mr. Ottinger, Mr. Owens, Mr. Panetta, Mr. Patterson, Mr. Ratchford, Mr. Roe, Mr. Reid, Mr. Richardson, Mr. Vento, Mr. Volkmer, Mr. Weiss, Mr. Wyden, Mr. Waxman, and Mr. Weaver.

H.J. Res. 592: Mr. Barnes, Mr. Dellums, Mr. Fauntroy, Mr. Frost, Mr. Leland, Mr. McKernan, Mr. Mitchell, Mr. Owens, Mr. Richardson, and Mr. Weaver.

H. Con. Res. 294: Mr. Britt, Mr. Brown of Colorado, Mr. Bates, Mr. Borski, Mr. Carney, Mr. Downey of New York, Ms. Fiedler, Mr. Gejdenson, Mrs. Johnson, Mr. Kildee, Mr. McHugh, Mr. McKinney, Mr. Matsui, Mr. Miller of California, Mr. Petri, Mr. Sabo, Mr. Sawyer, Mr. Vander Jagt, Mr. Williams of Ohio, Mr. Wirth, Mr. AuCoin, Mr. Bryant, Mr. Burton of Indiana, Mr. Cheney, Mr. Early, Mr. Erdreich, Mr. Frost, Mr. Gekas, Mr. Gore, Mr. Harkin, Mr. Hertel of Michigan, Mr. Ratchford, Mr. Roberts, Mr. Reid, Mr. Shannon, Mr. Simon, Mr. Tauke, and Mr. Glickman.

H. Con. Res. 312: Mr. Kolter, Mr. Ridge, and Mr. Jeffords.

H. Con. Res. 315: Mr. Frost, Mr. Lloyd, Mr. Rangel, Mr. Richardson, and Mr. Shaw.

H. Con. Res. 317: Mr. Porter, Mr. Gingrich, Mr. Lowery of California, Mr. Broomfield, Ms. Ferraro, Mr. Lent, Mr. Horton, Ms. Mikulski, Mr. Petri, Mr. Kasich, Mr. Daniel B. Crane, Mr. Dickinson, Mr. Scheuer, Mr. Leach of Iowa, Mrs. Johnson, Mr. Pepper, Mr. Dicks, Mr. Nowak, Mr. Mitchell, Mr. Skelton, Mr. Frank, Mr. Shuster, Mr. Oberstar, Mr. Whittaker, Mr. Conte, Mr. Simon, Mr. Owens, and Mr. Frost.

H. Res. 518: Mr. Dannemeyer and Mr. Roberts.

## PETITIONS, ETC.

**Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:**

384. By the **SPEAKER**: Petition of the City Council of New York, NY, relative to the Hazardous Materials Transportation Act; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

385. Also, petition of Community Free Democrats, New York, NY, relative to Central America; jointly, to the Committees on Foreign Affairs and the Judiciary.

## AMENDMENTS

**Under clause 6 of rule XXIII, proposed amendments were submitted as follows:**

### H.R. 3678

By Mr. HOPKINS:

(Amendment to the amendment in the nature of a substitute.)

—Page 75, line 13, strike out ", at full Federal expense,".

Page 75, line 15, strike out "$189,000,000" and insert in lieu thereof "$135,400,000".

Page 76, line 3, after the period insert the following: "the provisions of section 302 of this title shall apply to the project for flood damage reduction and recreation in the vicinity of Falmouth, Kentucky, authorized by this subsection.".

### H.R. 5813

By Mr. COUGHLIN:

—On page 28, line 22, after the word "request", insert the following: " for an operable segment".

# EXTENSIONS OF REMARKS

## THE NATIONAL PEACE ACADEMY STRONGLY ENDORSED BY LEADERSHIP GROUPS ACROSS AMERICA

### HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE UNITED STATES SENATE

*Friday, June 15, 1984*

● **Mr. RANDOLPH. Mr. President, the U.S. Academy of Peace bill, S. 564, awaiting action in the U.S. Senate, is strongly endorsed by more than 60 leadership organizations, 14 State legislatures, and numerous newspaper editors all across America.**

**I have excerpted endorsements from several of those organizations, and quote as follows:**

"The Academy should be a tremendous boon to education and training in international affairs. I look forward to my own Center's collaboration with the Academy."—David M. Abshire, Chairman, The Center for Strategic and International Studies, Georgetown University, May 12, 1982.

"We believe the bill to establish the U.S. Academy of Peace could constitute a genuine national resource and serve as a focal point to advance this nation's commitment to peace."—Charles B. Saunders, Jr., VP for Govt. Relations, American Council on Education on behalf of 7 Associations for Public and Private Higher Education, May 11, 1983.

"Its an idea whose time has come from sheer necessity. War has become unthinkable in the nuclear age, but it may become inevitable unless we have the kind of skilled negotiators who can protect national interests without resort to military force."—Jack Anderson Column, Washington Post, Wednesday, Oct. 5, 1983.

"Some, of course, will protest that the idea of a national peace academy is a dreamy, utopian scheme. But what better way could there possibly be of demonstrating to the world that we in this country are the "peace-loving" people we claim to be?"—Huntington (WV) Herald-Dispatch, Sunday, April 19, 1984.

"Peacemaking is an instrument of power, because it puts the United States on the side of the highest aspirations of mankind, and not just the pursuit of its own self-interest."—Hon. Harold Saunders, Former Assistant Secretary of State.

"Our times demand the kind of creative response to the questions of war or peace that the Peace Academy proposal provides. In fact, never has there been a time when we have needed to be more earnest in—and inject more urgency in—our efforts to achieve lasting peace."—Ray Denison, Director, Dept. of Legislation—AFL-CIO.

"Peace deserves a chance. So does a national academy devoted to studying the art and science of making the world safer."—Editorial, Concord Monitor, "Time to Wage Peace" Thursday, Feb. 9, 1984.

"The United States has always been a country whose visions of the possible have inspired the world. The most dynamic demonstration of world leadership and faith in the future that we could provide today would be to prove our determination to strengthen our knowledge of peace and our ability to maintain it . . . through establishment of the United States Academy of Peace."—Milton C. Mapes, Jr., Miami Herald Newspaper, December 31, 1983.

"Many good ideas, like seeds with tough shells, must be hardy in order to survive until conditions are right for it to take root and grow. I believe that the concept of a U.S. Peace Academy is such an idea. I support the proposed legislation."—Dr. Guthrie S. Birkhead, Dean, Maxwell School of Citizenship and Public Affairs, Syracuse University.

"We must match our growing physical power with spiritual and moral power. We must wage peace as energetically and as imaginatively as this nation has waged its wars. Peace involves the skillful management of conflict. This skill has to be learned and organized."—Editorial, Desert News, Salt Lake City, Utah, December 24, 1982.

"If this country can pump millions into, say, an M-1 tank, which even the Army acknowledges does not work, surely it can afford an academy dedicated to peace in the world."—The Asheville Citizen, Asheville, NC, April 14, 1982.

"A national Peace Academy obviously will not bring peace in a world plagued by incessant conflict. What it will do is provide a focus for increasingly sophisticated studies in conflict resolution. Congress should move to final passage next year.—The Baltimore Sun, Sept. 19, 1982.

"If we can afford $1.5 trillion to build a machine to make war, we can afford $60 million [1] to establish a National Academy to make peace . . . it needs President Reagan's endorsement and a public groundswell."—Chicago Sun Times, April 18, 1982.

"We do not have the luxury of waiting. We must realize that continuing wars of greater devastation will be in a sense, a part of our collective failure if we fail now to pass this legislation."—Senator Jennings Randolph, Huntington (WV) Herald-Dispatch, April 19, 1984.

**Mr. President, the measure about which I speak, S. 564, has been reported by the Committee on Labor and Human Resources, with 55 cosponsors on the legislation. Those sponsors, in alphabetical order, are as follows:**

55 SENATE COSPONSORS OF S. 564, JUNE 1984

Mark Andrews of North Dakota.
Max Baucus of Montana.
Joseph R. Biden, Jr. of Delaware.
Jeff Bingaman of New Mexico.
Rudy Boschwitz of Minnesota.
Bill Bradley of New Jersey.
Dale Bumpers of Arizona.
Quentin N. Burdick of North Dakota.
Robert C. Byrd of West Virginia.
John Chafee of Rhode Island.
Lawton Chiles of Florida.
Thad Cochran of Mississippi.
Alan Cranston of California.
John C. Danforth of Missouri.
Dennis DeConcini of Arizona.
Christopher J. Dodd of Connecticut.
David Durenberger of Minnesota.
Thomas F. Eagleton of Missouri.
J. James Exon of Nebraska.
Wendell H. Ford of Kentucky.
John Glenn of Ohio.
Gary Hart of Colorado.
Mark Hatfield of Oregon.
H. John Heinz, III of Pennsylvania.
Ernest F. Hollings of South Carolina.
Walter D. Huddleston of Kentucky.
Daniel K. Inouye of Hawaii.
Roger W. Jepsen of Iowa.
J. Bennet Johnston, Jr. of Lousiana.
Nancy L. Kassebaum of Kansas.
Edward M. Kennedy of Massachusetts.
Frank R. Lautenberg of New Jersey.
Patrick J. Leahy of Vermont.
Carl Levin of Michigan.
Russell B. Long of Louisiana.
Charles McC. Mathias, Jr. of Maryland.
Spark M. Matsunaga of Hawaii.
John J. Melcher of Montana.
Howard Metzenbaum of Ohio.
George J. Mitchell of Maine.
Daniel Patrick Moynihan of New York.
Frank T. Murkowski of Arkansas.
Claiborne Pell of Rhode Island.
Larry Pressler of South Dakota.
David Pryor of Arizona.
Jennings Randolph of West Virginia.
Donald W. Riegel, Jr. of Michigan.
William V. Roth of Delaware.
Paul S. Sarbanes of Maryland.
Jim Sasser of Tennessee.
Alan K. Simpson of Wyoming.
Arlen Specter of Pennsylvania.
Robert T. Stafford of Vermont.
John C. Stennis of Mississippi.
Paul E. Tsongas of Massachusetts.

(Senator Gordon Humphrey of New Hampshire has agreed to become the 56th Cosponsor of the bill, S. 564, as amended.)●

## THE BULGARIAN CONNECTION

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● **Mr. HYDE. Mr. Speaker, in last Sunday's edition of the New York Times, Claire Sterling reveals excerpts from a secret 78 page report by Italian State Prosecutor Antonio Alabano that links the Bulgarian secret service to the plot to kill the Pope. Sterling, an American author and foreign correspondent, has been investigating the attempted assassination of the Pope for some time and is considered one of the foremost authorities on terrorism.**

**The disclosures in Sterling's story also raise questions as to whether the Soviet Union may have been involved in the conspiracy to assassinate the Pope. It is generally acknowledged that Bulgaria has an especially close relationship with the U.S.S.R., and clears everything it does with its Soviet mentors. The pervasive nature**

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[1] The $60 million figure refers to the Study Commission's recommended spending for a 4-year period.

of this relationship was spelled out by Paul Henze in recent testimony before the House Foreign Affairs Committee's Task Force on International Narcotics Control.

According to Henze, a former staff member of the National Security Council and an author, consultant, and specialist on international terrorism, "nothing Bulgaria does can be regarded separately from the larger framework of pernicious and destructive Soviet operations directed against the free world. They range from propaganda and disinformation to support of terrorism and assassination. These are also part of an interlocking web for which basic responsibility lies in Moscow."

Mr. Speaker, I believe the full text of Mr. Henze's enlightening testimony merits the attention of all Members, and I, therefore, insert it in the RECORD at this point.

### BULGARIA AND NARCOTICS—AN INTERLOCKING WEB OF SUBVERSION

(Statement for the Committee on Foreign Affairs, U.S. House of Representatives, Task Force on International Narcotics Control—hearings held on 7 June 1984—by Paul B. Henze, former U.S. Government official, author, consultant and specialist on international terrorism)

Bulgaria's support for narcotics operations cannot be separated from all the other forms of international illegality in which Bulgaria has long been involved. They form a continuous, interlocking web. And nothing Bulgaria does can be regarded separately from the larger framework of pernicious and destructive Soviet operations directed against the Free World. They range from propaganda and disinformation to support of terrorism and assassination. These are also part of an interlocking web for which basic responsibility lies in Moscow.[1]

Bulgaria occupies a special place in this elaborate Soviet network. This is because, like Cuba, it has leaders who take pride in serving Soviet purposes in whatever field they are instructed or encouraged to operate. There is no aspect of Soviet-sponsored subversion in which the communist government of Bulgaria has not taken part—and continues to take part. The process began early, with Bulgarian support for the brutal, communist-directed Greek civil war in the late 1940s. Bulgaria sent arms to Algeria in the 1950s, to Vietnam in the 1960s and to many parts of Africa and the Middle East in the 1960s and 1970s. It has been playing the role of junior partner to Cuba in sending arms and advisors to Central America in recent years.

The relationship which the Soviet Union has with Bulgaria resembles that between Moscow and a constituent republic of the USSR. The history of one of the key personalities in this relationship, Nikita Pavlovich Tolubeev, dramatizes these interlocking connections. Tolubeev left Sofia in June 1983 where he had served as Soviet ambassador for four years. He had come to Sofia in 1979 from Havana, where he had been Soviet ambassador since 1970. We know what a productive period the 1970s were in Soviet-Cuban relations.

We still do not know whether Tolubeev may have departed from Sofia last year in some form of mild disgrace—for the Bulgarian connection to the plot to kill Pope John Paul II had been exposed only a few months before, at the end of 1982. Earlier the same year extensive Bulgarian connections with the Italian Red Brigades (including the kidnapping of U.S. General James Dozier) and with arms and narcotics smuggling in Italy as well as penetration of the Italian labor movement through Luigi Scricciolo, had been exposed. These cases are still being investigated and evidence of Bulgarian entanglements is expanding steadily.[2] Chances are that Tolubeev was simply extricated from a situation that had grown uncomfortable and that he is now working at new subversive tasks. Moscow's "old boys" look out for each other. Tolubeev came up through the same communist party/KGB channels as present KGB head, Viktor Chebrikov, recently promoted to Marshall of the Soviet Union, and was made a Central Committee member at the same time as Chebrikov and Geidar Aliev, Andropov's Azerbaijani deputy, in 1971.

Bulgarian aiding and abetting of narcotics trafficking can be traced back to the early 1960s. The import-export firm KINTEX, was set up in 1965 to co-ordinate drug, arms and other kinds of smuggling operations, and, incidentally, to engage in legitimate trade as well, as cover for its higher priorities. Headquartered at 66 Anton Ivanov Boulevard in Sofia, it has been remarkably successful. No commodity that can be smuggled has been neglected by KINTEX, but its prime growth lines have been weapons and narcotics. No one has ever examined Kintex's books, but what we now know about this extraordinary communist state enterprise justifies the guess that it may make a fairly steady profit—and thus lessen the cost to Sofia and Moscow of the subversion that has expanded steadily for the past 20 years.

Destabilization of Turkey became a major Soviet objective in the late 1960s. This—and several other similar programs, such as support of the PLO and expansion of terrorist operations in many other areas—coincided with the advent of Yuri Andropov as head of the KGB in 1967. Italy was another major target for destabilization. But while Bulgaria played a key role in respect to Turkey from the beginning, Italy seems to have been initially left to other East European countries, such as Czechoslovakia and Hungary. These apparently proved less proficient than Bulgaria, for it moved into the front line in Italy at the end of the 1970s. For a long time what Bulgaria was doing in Italy went largely undetected, or ignored, even by the Italian security services. The whole series of Bulgarian connections began to unravel only in 1981, after the assassination attempt on the Polish Pope.

Bulgaria started early to offer protection to Turkish drug smugglers. With Bulgarian help, what came to be called the "Turkish mafia" set up elaborate networks, lodged in part among Turkish workers in Europe, for moving opium products westward. At first these Turkish operators drew their supplies from Turkey itself, but the Turkish government banned poppy growing in 1971 and, when it permitted resumption of it in 1975, instituted tight controls which have been largely successful in preventing diversion of Turkish-grown products into illegal channels. Turkish mafia leaders had meanwhile steadily expanded their operations, were permitted to make high profits by the Bulgarians, and had connections with smuggling interests in the countries to the south and east: Arabs of many kinds, Armenians, Cypriots, Iranians, Pakistanis. The Bulgarians took this whole shady underworld under their protection, offered transit facilities, warehouses, support for forming dummy commercial enterprises with legal seats in Germany, Belgium and many other countries. Narcotics supplies were drawn from as far away as the "Golden Triangle". Fugitives from justice in their own country, these Turkish mafia figures were permitted to buy villas in Bulgaria and were given passports and eased through Bulgarian border and customs controls. Their seagoing vessels enjoyed Bulgarian naval escorts.

Moscow encouraged the flow of drugs into Europe and America to undermine Western society. It also supported the traffic for the more mundane and direct purpose of getting the money to support political subversion, destabilization and terrorist operations in countries such as Turkey and Italy. Bulgaria funneled weapons to both leftists and rightists in both countries. Sometimes the KGB was directly involved, as in the case of Maurizio Folini in Italy; usually it was behind the scenes, as in the mounting of the plot against the Pope. What we know about all these activities would already fill books, and we are learning more all the time. As an example of smuggling techniques let us consider the case of the Cypriot-flag vessel *Vassoula*. It left the Bulgarian port of Burgaz in June 1977 allegedly bound for Cyprus with a KINTEX shipment billed as "spare parts". Turkish officials got a tip that the vessel was actually going to transship her cargo in Turkish waters to small coastal vessels, so they stopped the *Vassoula* and opened its hold. The "spare parts" turned out to consist of 55 crates containing 495 portable rocket launchers, 21 crates with 55 rockets, 1,667 crates of ammunition and 60 gas bombs. In the ensuing legal tangle, the Bulgarian government disclaimed knowledge of the shipment and the Ethiopian government eventually alleged it owned the cargo. It was confiscated by Turkey.

After the military leadership of Turkey took control on September 12, 1980 to keep the country from falling into total anarchy, more than 800,000 weapons were collected, along with millions of rounds of ammunition, mines, bombs and other kinds of destructive devices and communications gear. A major portion of this material came to Turkey as a result of Bulgarian and Syrian smuggling operations. An important channel, in addition to sea shipments, was the enormous fleet of international transport trucks with which Bulgaria carries out a shipping business from Europe to the countries of the Middle East and South Asia. In addition to transporting legitimate goods profitably, these trucks have been used for arms, terrorists, narcotics and narcotics traffickers. Frequent inspections and tightened Turkish security procedures since 1980 have dented these Bulgarian operations severely, but they have not stopped. Narcotics which used to move by truck now goes by sea from the eastern Mediterranean through Cyprus and Greece to Italy and elsewhere in Europe.[3]

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[1] I characterized this relationship in a letter to the Wall Street Journal, "Soviets are the Mafia of Terrorism", 1 June 1983.

[2] All of these topics are dealt with at some length in my recently published book, "The Plot to Kill the Pope," New York (Scribners), 1983 and in a parallel study by Claire Sterling, The Time of the Assassins, New York (Hold, Rinehard, Winston), 1984.

[3] A recent Reader's Digest report sums up striking evidence of Bulgaria's operations, "Drugs for Guns" by Nathan Adams, January 1984.

Bulgaria has long, and correctly, been regarded as Moscow's most loyal satellite. Does this mean that Bulgarians are all simply more Russian than the Russians and 150% communists? Hardly. Bulgaria never had a chance to be otherwise. Soviet control was clamped down on it in September 1944. Though Bulgaria never declared war on the USSR during WWII, it got rougher treatment than any other East European country.

Nothing remotely resembling free elections was ever permitted in Bulgaria in spite of Soviet promises to the Western Allies. Thousands of Bulgarian democrats were executed or herded into concentration camps. The human rights situation in Bulgaria has consistently remained one of the most deplorable in the entire communist bloc. Nevertheless the Kremlin's control of Bulgaria was not consolidated to its satisfaction until 1954, when Todor Zhivkov came to power. In 1962, he declared: . . . our political watch-dial is exact to the second with the watch of the Soviet Union. . . . Our watch is working on Moscow time.

Zhivkov has kept Bulgaria strictly on Moscow time ever since. When Bulgarians have protested his subservience, they have been imprisoned and often shot. Opponents of the regime who have escaped abroad have been kidnapped, sought out for harrassment and some have been liquidated by ingenious technical means such as the poison-pellet umbrella used against defectors Kostov and Markov in 1977. Markov was even warned quite specifically of the fate that awaited him, according to revelations in a recent book by his wife: . . . a Bulgarian delivered the warnings who professed to be a friend . . . The decision to kill had been taken by the Bulgarian Politburo, he said; and the means by which the murder would be effected had already been transported to the West. Georgi would be poisoned with a rare substance which would be undetectable (and had, by the way, been tested in Moscow), and he would develop a high fever before his death, which would be put down to natural causes. Everything the Bulgarian said . . . led Georgi to believe that his enemies would attempt to administer the poison orally, and this may have been intentional.[4]

Careful research by Scotland Yard identified the poison, contained in a minuscule pellet shot from an umbrella tip, as ricin, a castor oil plant derivative on which, among other places, research is still known to be continuing in Hungary.[5] In this connection—and perhaps in others not yet detected—we see another facet of the narcotics business exploited for subversive and destructive political purposes by Bulgaria—and behind it, the Soviet Union.

Stefan Sverdlev, a colonel in the Bulgarian State Security Service (KDS) at the time of his defection to Greece in 1971, traced the Bulgarian regime's current narcotics operations back to a KDS directive issued on 16 July 1970, No. M-120/00-0500, which he said represented the final stage of implementation of decisions taken in Moscow in 1967.[6] Many of Sverdlev's revelations were taken lightly at the time he originally made them, even by many intelligence professionals. In light of what we have learned since, it is clear that they should have been given greater weight. He has provided eloquent testimony of the extent to which the Bulgarian security services have been subordinated to Soviet purposes. For all practical purposes they have to be regarded as mere sub-sections of the KGB.

The Bulgarian authorities have been tireless in pleading their innocence and lack of knowledge of what goes on in their country. How could they, they maintain, keep track of the activities of a million Turks who cross their country every year traveling to and from Western Europe? They have tried to use the same kind of argumentation to claim that they were not involved with Mehmet Ali Agca, would-be assassin of Pope John Paul II. The most elementary examination of how Bulgaria actually works gives the lie to this facile sophistry. Another Bulgarian security defector, who has been living in Switzerland for many years, describes Bulgarian internal security procedures: Bulgaria is situated at a crossroads . . . so agents can pass through unnoticed. I mean to the eyes of Western intelligence services. For on Bulgarian territory itself, nothing, absolutely nothing, can escape the notice of the state security organization. There is an enormous surveillance apparatus in place which checks on people who transit in only a few hours. Two foreigners cannot have a meeting in a hotel in the capital or even in the street without the special services being informed.[7]

What we know justifies the conclusion that Bulgaria has deliberately encouraged and facilitated narcotics traffic and arms and other forms of smuggling for subversive purposes as a matter of state policy and that such actions could not conceivably be undertaken by Bulgarian officials without the authorization of the highest levels of the Bulgarian government. Furthermore, everything we know of the manner in which Bulgaria is kept under control by the Soviet Union, and examination of 40 years of history of the Soviet-Bulgarian relationship, permits no conclusion other than that Bulgaria has been acting with the full endorsement and approval—and in effect at the urging—of the leadership of the Soviet Union.

We are inevitably going to learn a good deal more—so everything we already know, or can deduce, will be further substantiated. The following are some of the activities in process:

In Italy, continuing investigation of the massive arms and smuggling ring centered in Trento, in which not only at least a dozen Bulgarian agents have been implicated, but several dozen others, Italians, Middle Easterners, other Europeans. The operations of this group extended into Iran, the whole Arab World and Africa, as well as the Balkans and Turkey.

In Italy, the investigation of the Scricciolo case, which has implications for the plot to kill the Pope, Red Brigades relationships and Bulgarian/Soviet subverson directed at Poland—specifically Lech Walesa and Solidarity.

The investigation of the plot to kill the Pope, in which the Bulgarian connection is already well established—which, centered in Italy, has already revealed links to Germany, Austria, Switzerland and Spain, as well as Turkey.

In Turkey, continuing investigation of terrorist groups who received arms and funds through Bulgarian channels.

In Turkey, from the currently ongoing trial of Abuzer Ugurlu, a leading mafia figure extradited from Germany in March 1981, who stands charged of massive smuggling operations, including narcotics, as well as serving as a channel for organizing the first phase of the activities of Mehmet Ail Agca.

What is to be done? The United States broke relations with Bulgaria in 1950 on grounds that were serious—but for Bulgarian actions that were much less damaging to the basic interests of this country and its allies than those which have been exposed in the past several years. Shouldn't such action again be considered? The Bulgarians have neither acknowledged nor apologized for any of their actions which have been exposed since 1981. Instead they have heaped vilification both on the United States as a nation, Americans as a people and on individual Americans who have examined and exposed their activities. Their embassy in Washington utilizes the U.S. mails to distribute scurrilous propaganda and fabrications.

I can recall from my own government service that Bulgaria and its activities—foremost among them its support of narcotics trafficking—were seldom seriously studied by intelligence agencies—certainly not on a sustained and continuing basis or with any depth or intensity—and almost no attention was given by our diplomatic officials to planning ways by which pressures might be generated on the Bulgarian communist regime that would force it to pay a price for its atrocious behavior and utter subservience to Kremlin purposes.

It is true of course that we do not want to punish the Bulgarian people en masse for the criminal behavior of "their" leadership, for the leadership has been forced upon them. There has been no freedom of political choice in Bulgaria for 40 years. But we need to ask ourselves more often, and more rigorously, whether we are really serving the interests of the Bulgarian people by conducting relations with a regime which, in their name, has sustained a continuing pattern of subversion against free countries and corruption of Western societies.●

## IT IS TIME FOR THE BUDGET CONFERENCE TO MEET

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. DOWNEY of New York. Mr. Speaker, there is no issue of more immediate concern to the economic wellbeing of the Nation than cutting the Federal deficit. Unless the deficit is reduced, interest rates will continue to rise and the chances for an economic recovery will be jeopardized. But our efforts to reduce the deficit by $182 billion over the next 3 years are being obstructed by the other body's unwillingness to confer on the budget.

The fact is there will not be a budget resolution if we do not sit down with our friends in the other body and complete the work of passing a budget.

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[4] Annabel Markov in the Prologue to "The Truth That Killed," by Georgi Markov, London (Weidenfeld & Nicolson), 1983, p. xii.

[5] Kyril Panoff, "Murder on Waterloo Bridge", Encounter, November 1979.

[6] Cited from Adams, "Drugs for Guns," p. 137.

[7] Cited in Le Quotidien (Paris), 24 January 1983.

Right now there are critical differences between the House budget and the budget passed in the other body. Our budget contains $82 billion more in deficit reduction than the President's budget and $42 billion more than the other body's budget. The House proposes to spend $13.3 billion less on defense than does the other body. The House proposes to spend $5.8 billion more for nondefense discretionary spending than does the other body. These differences will not disappear by themselves. They must be worked out.

But the other body seems to be resisting the opportunity to resolve this problem by insisting that the question of enforcement of spending levels be discussed first. The other body ignores the fact that it is pointless to discuss enforcing limits until the limits themselves are set. It's like calling all cars without deciding where they're supposed to go.

Mr. Speaker, the House is prepared to act responsibly. The House is waiting to meet. The House has had a budget ready for discussion for months. The House has conferees ready and willing to discuss the issues and to make the necessary compromises. The House wants to work out a budget for the Nation. Why then are we waiting?●

## SURFACE TRANSPORTATION AND UNIFORM RELOCATION OF 1984

**HON. E. CLAY SHAW, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. SHAW. Mr. Speaker, during the House of Representatives' consideration of H.R. 5504, the Surface Transportation and Uniform Relocation Act of 1984, I offered an amendment which would allow the various States, by agreement with the Secretary of the Department of Transportation, to pay a greater percentage of the just compensation required to be paid for the removal of nonconforming billboards on the interstate and primary highway systems. My amendment was accepted and if enacted into law, would amend section 131(g) of title 23, United States Code, by adding to the end of the sentence "the Federal share of such compensation shall be 75 percentum" the following, "or such lesser percentage as may be agreed to by the Secretary and the State."

As I stated during the consideration of the amendment, section 131(g) of title 23, United States Code, may be construed as prohibiting the States from paying a greater percentage of the compensation that must be paid for the removal of a sign if they so desire. This implied prohibition is further inferred by section 131(g) of title 23, United States Code, which states, "no sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon the removal of such sign, display, or device is not available to make such payment."

By providing in law that the Federal share of the compensation paid for the removal on nonconforming billboards may be reduced, the States may assert greater responsibility for the removal of these signs. According to the Department of Transportation, some States are already paying 100 percent of the compensation required; meaning this amendment, to some extent, is codifying existing practice.

Under the proposed change, a State may, by agreement with the Secretary, pay 100 percent of the compensation for the removal of these signs but not less than the 25-percent currently required by law. A State assuming 100 percent of the compensation would, therefore, not be dependent on the Federal share being made available as required by section 131(g) of title 23, United States Code, before the sign, display or device may be removed. A State bearing full responsibility for the just compensation required could then proceed at the State's convenience in removing nonconforming signs in accordance with the practices recognized in the State.

The General Accounting Office has estimated that it would cost in excess of $1 billion to remove nonconforming billboards from the interstate and primary highway system. Under current law, the cost to the Federal Government would be about $800 million. Meeting this obligation at the rates provided for in H.R. 5504, $5 million per year, would take roughly 160 years. This fact, coupled with the mounting budget deficits of the Federal Government indicates that the Federal commitment to this program is only token and that other alternatives and methods of compensating for the removal of nonconforming signs are necessary. By permitting the various States to increase their responsibility in this area and allowing the States to provide compensation in accordance with the procedures of the State will assist in the removal of these nonconforming signs.●

## IN MEMORY OF MARIE NEWTON SEPIA

**HON. BILL CHAPPELL, JR.**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. CHAPPELL. Mr. Speaker, Marie Newton Sepia, a resident of Jacksonville, FL, from 1942 until her death in 1983, was a renowned leader and an outstanding humanitarian dedicated to community service. I take this moment to share with my colleagues one of her many inspiring achievements.

A devoted member and officer of Pilot Club and Pilot International for over 30 years, Marie Newton Sepia was a woman of special quality. Her love for education and deep concern for the causes of Pilot International, resulted in her idea to combine the two. Through dedication and foresight, Pilot International and the Cooperative for American Relief Everywhere (CARE) joined together in a school construction project in Guatemala. The project successfully established some 30 schools equipped to provide a basic education for thousands of underprivileged children. You see, Marie believed that no one should be deprived an education—not for any reason.

Mr. Speaker, words are not adequate in describing to you the love Marie had for mankind. We are fortunate in that Marie's husband, M. Fred Sepia, established a scholarship fund in her name. Through his generous contribution, Pilot International can continue toward its goal of full citizenship for disabled people, by assisting worthy and capable students to pursue careers in which they will teach and encourage those with handicaps. Also because of his contribution, Marie Newton Sepia's courage and determination will live to inspire others.

I am proud to pay tribute to this remarkable woman for her unselfish dedication to humanity. I share with you in her fine memory, Marie's favorite quote—Edmund Burke's definition of leadership:

> To use and guard jealously the achievements of those who have preceded you; to work earnestly for the welfare of those who now depend on you; and to do all of this so as to leave an even richer heritage for those who come after you.●

## THE 24-HOUR HIRE THE VETERAN RUN

**HON. JACK F. KEMP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. KEMP. Mr. Speaker, in my home community of western New York, an extraordinary group of veterans and public figures will be undertaking a 24-hour relay run today and tomorrow to commemorate Hire the Veteran Month and promote employment and training opportunities for all veterans.

This relay run, which will take place in Buffalo's Delaware Park, has been organized by the Veterans Helping Veterans Center under the leadership of its oustanding director, Ed Simmons. I think that this event is an exciting one for our community, and I commend the participants in their run, and particularly in their goal of finding productive jobs for all our vets, both able and disabled.

The participants in the 24-hour hire a veteran run are:

Edward S. Simmons, William A. Buyers, Edward Rutkowski, county executive, John Brummer, John Grandits, Robert McPartland, Michael Billington, Councilman James Pitts, Jerry Bowman, Robert Daley, Robert Muller, Donald McReynolds, James Donahue, James Fitzgerald, Jack Thielman, Bill Smith, Fram McLaughlin, Michael Teelak, Charles Volk, Phil Wingenbach, Undersheriff Thomas Higgins, and Harry Schultz.●

## REJECT THE VOLUME CAP ON INDUSTRIAL DEVELOPMENT BONDS

### HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. DYSON. Mr. Speaker, during the next few days, Members of the House and Senate will forge a compromise tax bill. I rise today because the House conferees go into the negotiations with a bill that would severely restrict the Industrial Development Bond [IDB] Program. H.R. 4170, imposing a statewide limit on the amount of IDB's that can be issued, poses a clear threat to local development.

Two points should be kept in mind as my colleagues consider the IDB program. First, on purely economic, cost-benefit grounds alone, the program is a powerful incentive for investment and should not be restricted at all. The program creates jobs, increases payrolls and expands the local and Federal tax base. Restricting the program in any way is simply cutting off our nose to spite our face. In addition, the program brings other benefits, not strictly economic in nature, such as increasing local control over local development and encouraging investments that clearly serve the community.

Second, the population based volume cap seriously disadvantages the rural communities which need IDB's the most and which get the biggest return from IDB financing. Maryland's First Congressional District, is composed of 13 counties that authorized more than $150 million worth of IDB's during the last 2 years. if the restrictions in H.R. 4170 go into effect, these counties will have a total bonding authority of closer to $40 million. For rural communities, where sparse population and limited infrastructure are natural obstacles to business development, bond authority limits of $1.5 to $2.5 million are altogether inadequate. Pretending that local officials can effectively promote business development with such limited bonding authority is a cruel hoax.

Ronald Kupferman, president of the Aberdeen Commissioners in the Upper Shore area expressed these concerns in recent correspondence. His city has recently authorized two IDB issues, for nearly $11 million. These two bonds will promote badly needed commercial development, adding jobs and payroll to the city. Yet if H.R. 4170 were in effect, the city would have had a nominal $1 million or so in bonding authority, and neither development could have been undertaken.

"The Federal tax-free status of IDB's", says Mr. Kupferman, "seems a small price to pay for the many benefits which accrue to the citizenry and the great tax revenue ultimately generated by IDB's." I completely agree, and know that Mr. Kupferman's views are shared by public officials all around the Chesapeake Bay.

St. Marys County, in southern Maryland, for example, authorized 12 IDB's in the last 2 years worth $36 million. The bonds helped finance commercial center, hi-tech computer design firms and manufacturing, and brought more than 700 new jobs into the county. These jobs represent $15 million in annual payroll, and that's a pretty good return on the IDB investment. The House limit, however, would cut St. Marys IDB authority to $4.5 million.

Charles County, adjacent to St. Marys, has also been active in business development. Mr. Ray Tillman, director of the county's economic development committee, will have an IDB authority of only $5 million for continuing his work. Last year he successfully funded $3.2 million for a badly needed nursing home. The facility not only provides care for more than 140 elderly disabled, but it brought approximately 100 jobs to the county. This is a shining example of the blend of economic and social benefits which the IDB cap would eliminate.

Development is costly, and a single project can easily consume a $2 million bond. But under the House limit, eight of my counties will have less than $2.5 million in annual authority. Queen Anne's County is now undertaking an aggressive development program. Last October the commissioners approved a $10 million issue for an industrial park on Kent Island. But the House provision would strangle this program by restricting the county to a mere $1.9 million authority.

Further down the Eastern Shore, Dorchester County will have only $2 million in bonding authority. According to County Commissioner Calvin Travers, this limit will tie the hands of local officials struggling to recruit new jobs and new businesses into rural areas. At the very least, he points out, the limit should not be retroactive to October 1983 or January 1984. No limit that we enact today should penalize local officials for actions taken last month or last year.

Even Ocean City, the most popular tourist center in the State, will be sorely strapped. Worcester County's bond limit will be $2.3 million, and last year Ocean City itself approved $6 million to expand its supply of hotel accommodations. The House-imposed limit will clearly inhibit the contributions that Ocean City now makes to the economy of the entire lower shore.

The flaws in the House version are self-evident. In a period when high real interest rates stunt productive investment, the House would shut off a valuable source of inexpensive credit. In a period when everyone agrees that local officials should have greater control over the affairs of government, the House would practically eliminate one of the most valuable tools for accepting this responsibility.

The Senate bill contains no IDB volume cap. I strongly urge my colleagues to accept the Senate's provisions, and to report back a compromise bill that will not unfairly burden our local officials.●

## BALTIC FREEDOM DAY

### HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. SENSENBRENNER. Mr. Speaker, on this the 44th anniversary of the illegal and immoral Soviet invasion of the three Baltic nations of Estonia, Latvia, and Lithuania, I am reminded of the portion of the Helsinki Declaration which affirms that, "All people always have the right, in full freedom, to determine, when and as they wish, their internal and external political status."

In June 1940, the Soviets ruthlessly moved into the Baltic region and instituted massive executions, arrests, and deportations of innocent Baltic people. Many of these people were deported to Siberian slave-labor camps, never to see their families again.

The purpose of Baltic Freedom Day is twofold. First of all it is a statement to the world that we as a freedom loving people will not ignore or condone oppressive governments and regimes. Baltic Freedom Day also serves as a source of hope for freedom in the future. We, as Americans, should all work together to bring about an end to the illegal occupation of the Baltic States. It is my hope that our efforts in support of the Baltic people will strengthen and encourage them in their struggle for freedom from Soviet domination.●

## A TRIBUTE TO DETECTIVE THOMAS KELLY, NYPD

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. RANGEL. Mr. Speaker, I rise to commend Detective Thomas Kelly, who after 29 years of service with the 24th precinct of the New York City Police Department, is retiring to take up a less hectic pace of life.

Detective Kelly has had close ties to community leaders and elected officials representing the Upper West Side. His last 18 years of service were, in fact, as the community relations officer of the 24th precinct. During the most trying of times, Tom Kelly was a voice of reason and a stabilizing force. He was an able representative for the police department in New York.

Kelly helped turn the 24th precinct council into one of the most effective councils in New York, and showed great leadership in developing youth activities on the Upper West Side. Tom made an outstanding contribution to the community I represent, and it is with great sadness that I see him leave our community. I wish him happiness in his retirement, and hope that he will enjoy his leisure time as much as I know he enjoyed his work with New York's finest.●

## SOUTHERN HILLS MEDICAL CENTER

### HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BONER of Tennessee. On Saturday, June 16, Southern Hills Medical Center in Nashville, TN, will formally open two new patient floors, a computerized tomographic scanner wing and an additional doctor's office pavilion. It will be my pleasure to take part in these opening ceremonies and to place a copy of today's CONGRESSIONAL RECORD into a time capsule that will be sealed during the dedication of the new medical facilities.

Southern Hills Medical Center is growing up and out in southeastern Davidson County as residents of the area have shown an increasing demand for quality health services. Those familiar with the hospital's dramatic growth point to two factors which have caused the medical center to almost double in size before the facility reached its fifth anniversary.

According to Southern Hills Administrator John Fitzgerald, patients who have come to the center for treatment have discovered that its physicians, RN's, LPN's, and allied health professionals are committed to delivering personalized patient care based on the high standards of excellence set by the Nashville medical community. The other factor contributing to its rapid growth has to do with the center's location. Southern Hills is located in the heart of one of Tennessee's most rapidly growing residential areas: southeast Davidson County, and the cities of Brentwood and Smyrna.

As the population has risen in this area, so have the medical needs of its residents. As a result, Southern Hills Medical Center has, for instance, developed emergency facilities to meet some of these needs. Last year, well over 16,000 people went to Southern Hills Medical Center for emergency room treatment. According to Administrator Fitzgerald:

> When minutes count, nobody wants to travel any further than absolutely necessary to obtain quality medical attention. Southern Hills is close and accessible for residents of this area in an emergency situation and is also more convenient for family members when someone must be admitted for inpatient care.

The hospital has also seen an increasing demand for its outpatient care facilities. In the past year, 5,047 patients have been referred to Southern Hills for outpatient treatment. Again, location has made it an attractive place to go for outpatient surgery. As Fitzgerald explains: "The hospital is close to home and when patients are released from outpatient care, they do not have to battle traffic to get home and back to bed." The hospital staff and directors expect outpatient care, including surgery, to increase over the next several years and therefore have already improved their facilities and expanded outpatient services.

While the addition of two patient floors consisting of 80 additional beds is expected to help meet the needs of southeastern Davidson County, Brentwood, and Rutherford residents, there is also excitement about the addition of the new computerized tomographic scanner center.

The CT scanner will enable Southern Hills physicians to diagnose certain types of illnesses and injuries without surgery. This will help reduce the length of stay in the hospital for some patients, will reduce the overall need for surgery, and will eliminate the need to travel across town to receive CT services at other Nashville hospitals.

Southern Hills Medical Center has also completed construction of an additional medical pavilion on the hospital property. The facility includes offices for private physicians practicing in many specialties, including: cardiology, dermatology, ear, nose, and throat, family medicine, general surgery, internal medicine, obstetrics and gynecology, ophthalmology, orthopedics, pediatrics, plastic surgery, radiology, neurology, and urology.

I am proud to congratulate the Southern Hills Medical Center family on reaching this new threshold in their brief history of service to the citizens of middle Tennessee. I know that the future holds limitless opportunities for the physicians and staff of Southern Hills to continue their search for better and even more diverse ways to serve the health needs of the community they serve.●

## THE LAWMAKERS

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. HYDE. Mr. Speaker, I was saddened to read in "The TV Column" of this morning's Washington Post that the public televison program "The Lawmakers" is scheduled to end June 28.

For many of us in Congress who have been interviewed by "The Lawmakers" through the years, and who have come to appreciate its fair and balanced treatment of the complex and controversial issues we deal with, word of its demise comes as a great disappointment. Unlike some of the network commentators/celebrities who cannot resist interjecting their own political predilections into their reportage, we have come to rely on Paul Duke, Cokie Roberts, Linda Wertheimer, and those associated with "The Lawmakers" for an honest and unbiased presentation of both sides of an issue, allowing the viewer to formulate his own opinion.

Furthermore, for those among us who are more and more often turning to public broadcasting as an intelligent and educational alternative to so much of the vast wasteland of TV mediocrity, the loss of a quality news show like "The Lawmakers" is unfortunate.

The President of WETA, Ward Chamberlin, has stated that he is hopeful that "The Lawmakers" can be refunded and repositioned next year. Let's all hope that we will see its resurrection in 1985.●

## THE U.S. VIRGIN ISLANDS FIELDS ANOTHER CHAMPION

### HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. DE LUGO. Mr. Speaker, the 19th century British Prime Minister, W.E. Gladstone, when speaking in support of a bill before the House of Commons warned his colleagues, "You cannot fight against the future." That advice, given over 100 years ago would be just as meaningful in our time if it had been given to the former World Boxing Association lightweight champion, Ray "Boom Boom" Mancini, before his match with Livingstone Bramble. For the serious fight fan, who had studied the records and abilities of each man, no other determination could be made than to realize that Bramble is the champion of the future.

Livingstone Bramble is a native of St. Kitts who began his boxing career in the U.S. Virgin Islands. He is not the first, nor will he be the last champion to go on to greater glory from our shores. In the 1960's, Emile Griffith, also achieved the title of champion for his weight class. Before Livingstone's victory last week he had 13 straight victories, a 20-1-1 record, with 13 knockouts, and the WBA's No. 1 contender ranking. Mr. Speaker, I believe it fair to say that if any of our colleagues could claim a similar record in their careers of public service, they could be justified in believing that they had died and gone to Heaven.

I know that the Members of this body join me and my fellow Virgin Islanders in congratulating Livingstone Bramble on becoming the new WBA lightweight champion of the world. May his reign be long and properous.●

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## THE CRIMINAL FINE ENFORCEMENT ACT

## HON. FREDERICK C. BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BOUCHER. Mr. Speaker, I am pleased to introduce today, along with Congresswoman LYNN MARTIN and more than 50 of our colleagues from both sides of the aisle, a clean version of the Criminal Fine Enforcement Act of 1984 which was reported unanimously from the Subcommittee on Criminal Justice of the House Judiciary Committee.

This legislation is urgently needed to give Federal law enforcement authorities the tools they need to collect criminal fines in Federal cases. Under current law, law enforcement authorities have great difficulty in collecting fines imposed as punishment, and as a result, more than 21,000 criminal fines amounting to more than $132 million are now past due. One-fourth of these fines have been past due for more than 10 years.

A number of parties were involved in the drafting of this legislation, including Congresswoman MARTIN, representatives from the Criminal Division and the Office of Legislative Affairs of the Department of Justice, the Executive Office of U.S. Attorneys, the Judicial Conference of the United States, and the Administrative Office of U.S. Courts.

The legislation we are introducing today represents a further revision of H.R 5684, the measure reported by the Subcommittee on Criminal Justice on May 22.

The two most significant parts of the bill are sections 2 and 6. Section 2 contains several provisions intended to make it easier to collect fines. It gives the Government a lien on all of the defendant's property, other than property that would be exempt from levy under the Internal Revenue Code.

Section 2 also has provisions intended to encourage defendants to pay their fines promptly and in full. Interest at the rate of 1.5 percent per month is charged on past due fines, and a penalty assessment of 25 percent of any amount past due for over 90 days is charged.

The legislation contains an acceleration provision that gives the Government the option of requiring payment of the outstanding balance of the fine in full immediately if the defendant falls behind in installment payments.

Section 2 also requires the courts to take several steps that will make it easier for the Justice Department to carry out its responsibility to collect fines. The court must include in the judgment imposing a fine such information as the address of the defendant and, if installment payments are ordered, the schedule of payments. This information will assist the Justice Department in its recordkeeping and collection efforts.

Section 6 of the bill also contains provisions making it easier to collect fines. If the defendant appeals the conviction, the court may stay the payment of a fine. Under current law, the court has unfettered discretion to impose or not to impose any conditions upon the stay. Section 6 changes that by requiring that, absent exceptional circumstances, upon ordering a stay the court must first, require the defendant to deposit the amount of the fine in the registry of the court, or second, require the defendant to post bond or other security for the payment of the fine, or third, restrain the defendant from transferring or dissipating assets.

Section 6 substantially increases maximum fine levels but leaves with the court the ultimate discretion to determine the appropriate fine in each individual case.

Section 6 spells out the factors the court must consider when deciding whether to impose a fine and the amount of any fine to be imposed. These factors include such things as the seriousness of the offense, the defendant's criminal history, the defendant's ability to pay and the need to deprive the defendant of any illegally obtained gains.

Finally, section 6 makes it a misdemeanor offense for someone willfully to fail to pay a criminal fine. It is a defense and a charge under this section, which the defendant has the burden of establishing by a preponderance of the evidence, that the defendant's failure to pay the fine was caused by his or her responsibility to provide necessities for himself or herself or for others financially dependent upon the defendant.

It is my understanding that the full Judiciary Committee will consider this measure at its next meeting, and I am hopeful we can have the Criminal Fine Enforcement Act before the full House later this summer. By incorporating key components of the crime victims legislation and the criminal code reform legislation now under consideration in the Subcommittee on Criminal Justice, the Criminal Fine Enforcement Act has garnered broad, bipartisan support. I invite additional cosponsorship.●

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## IRRELEVANT WEEK IX

## HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BADHAM. Mr. Speaker, while the House of Representatives has been involved in recent days with such pressing matters as the Federal deficit, tax legislation, immigration reform, and relations with Latin America, an issue of real importance has once again reared its ugly head in Newport Beach, CA: Irrelevant Week.

Irrelevant Week IX—it's difficult to believe any sane person would do this 9 consecutive years—will begin June 25. The ceremonies which comprise Irrelevant Week honor the last draft pick of the National Football League.

This year's lucky honoree, Randy Essington, was drafted No. 336 by the Los Angles. Raiders in the NFL draft. Randy, a native Californian, was born in Norwalk, CA, and attended high school in nearby Whittier at Monte Vista High, where he gained more than 4,500 yards and was named All League in his 2 years as quarterback.

Following high school, Randy attended United States International College in San Diego—a real football powerhouse—before transfering to the University of Colorado. While at Colorado, Randy had three successful years as the Buffaloes' quarterback.

In his first season as a backup quarterback, Randy gained 453 yards and completed 53 percent of his passes. In his final 2 years as a starter, he had a 49 percent completion rate for an average of 1,160 yards.

Randy and his wife Julie live in Brea, CA. Randy is currently employed by Rockwell International, home of the B-1B "not irrelevant" bomber.

I wish Randy much success in the future and look forward to an irrelevant Irrelevant Week when Newport's finest honor the first draft pick of the USFL. Now that would be irrelevant.●

## SECONDARY SCHOOL RECOGNITION AWARD

### HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. MOODY. Mr. Speaker, I am pleased to bring my colleagues' attention to two excellent secondary schools in my district, John Burroughs Middle School and Brown Deer High School, which were selected for the Secondary School Recognition Award from the Department of Education.

Between March 19 and May 25, two 18-member panels, appointed by Secretary Bell of the Department of Education, paid 2-day visits to recommended high schools around the country. The panels spoke with students, teachers, parents, and community groups to determine if a school met the criteria established by the Commission of Excellence in Education Report. That Criteria includes an evaluation of overall student performance, school discipline, teacher performance, and school and community relations. The panels selected 210 high schools for the award out of an original 555 schools recommended.

It is, indeed, an honor and a tribute to the fine public school systems in the Milwaukee area that these two schools were chosen to receive the award. John Burroughs Middle School and Brown Deer High School exemplify the type of excellence which is possible when students are intellectually stimulated, teachers are motivated, and the administration, parents, and others in the community take an active role in our children's education.

I extend my congratulations to Principal Helen M. Harrison of John Burroughs Middle School and Principal Charles A. Hayes of Brown Deer High School, and to the teachers, students, and parents of these two deserving schools.●

## PERILOUS TIMES IN THE PERSIAN GULF

### HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. COELHO. Mr. Speaker, during these very critical and perilous times in the Persian Gulf, the question of international petropolitics once again comes to the forefront. Over the past decade, the Western democracies, and America in particular, have grown content with an artificial status quo. The ready supply of oil at stabilized prices covers the essential instability and volatility of Mid-East relations.

Recently it is becoming increasingly apparent that the current situation could all too quickly be reversed. In addition to the tragic human consequences of the armed conflict between Iran and Iraq, a broadening of hostilities could seriously threaten our closest ally in the Middle East and adversely affect the cost and supply of oil to the United States.

In the past, we have considered our domestic energy production problems and our foreign relations with Israel as separate items of our national agenda. My recent visit to Israel and my discussions with leaders in the American-Jewish and energy development communities, however, lead me to conclude that the two issues are inextricably related.

Accordingly, Mr. Speaker, I would like to bring our colleagues' attention to the following article written by my close friend, Samual Eisenstadt, entitled "Let's Make Oil Kosher," which appeared in the May 28 issue of the Jewish Press. As a prominent leader in the Jewish community and an investor in energy development, Mr. Eisenstadt is in a unique position to argue persuasively for a unified domestic and foreign energy policy.

The article follows:

[From the Jewish Press, May 25, 1984]

### LET'S MAKE OIL KOSHER

(By Samuel Eisenstadt)

To many of us, oil is a dirty word. It is synonymous with OPEC, Arab power and trouble for the United States and the State of Israel.

To a certain extent, the feeling is well placed, for petro-politics has dominated the world scene during the past decade and has enabled the oil-rich Arab states to blackmail the free world and to jeopardize the security and the very existence of the State of Israel.

Nor is the United States immune from this problem. We import approximately five million bbls. of oil a day and in addition have commitments to our allies to supplement their supplies in the event of an oil boycott.

The United States is Israel's greatest ally. Our country has stood by Israel and supported its security and survival. This relationship has obviously benefited Israel, but it has also been in the best interests of the United States—for a strong and secure Israel, the only democracy in the Mid-East, represents a stable friend to our country in a very volatile area.

However, petro-politics has and will continue to affect the U.S.-Israel relationship. For so long as America is not energy independent, its foreign policy will be, in part determined by its dependence on Arab oil.

We therefore have to fine-tune our perceptions and beliefs. We must have a better understanding of the oil and gas industry, for in so doing we will conclude that the "industry" is really comprised of two different segments, the international industry and the domestic industry. And although our current disdain for the international segment may be valid, we should and must support and encourage those companies who explore for oil and gas in the United States.

The domestic oil and gas companies are the key to America's energy independence. It is these "wildcatters" who risk capital and discover most of the oil and gas in the United States.

Drilling for oil and gas is a high-risk investment. One out of every nine wildcat wells is successful but only one out of forty of the successful wells is involved in the discovery of a commercial field.

The independent oil and gas producer is a special breed of American. He possesses the pioneering spirit that built this country and is prepared to risk his life on the success of a drilling prospect. Fortunes have been made and many more lost by these independent entrepreneurs.

Although approximately 80,000 wells were drilled last year in the United States, much of the potential oil and gas areas in the United States remain unexplored. The only way we can develop our resources base is by drilling, and the only way the drilling will take place is if the independent oil and gas producer is encouraged to drill.

The tax benefits attendant to oil and gas exploration are essential if an exploration effort is to continue. The ability of the explorer to reduce his risk in drilling by deducting his intangible drilling costs (approximating 60-70% of the cost of an average well) must be maintained domestically. "Depletion", or the ability to exclude 15% of gross income for domestic oil and gas production is also essential, for it enables the producer to have capital to invest in other drilling ventures.

The bottom line is very simple. We who support the special relationship that exists between America and Israel must exert our efforts on behalf of U.S. energy independence. We must support the development of alternate forms of domestic energy (e.g., coal, geothermal and nuclear.) We must speak out and encourage the strategic oil reserve program. We must encourage the independent domestic oil and gas producer and insure that this industry is able to continue expanding and, in fact, increase the exploration effort.

We must support the decontrol of the price of natural gas to enable the producer to take risks commensurate with the rewards. Our hope should be that the profits of this industry increase annually, for only then will serious exploration effort escalate.

Nor will the impact on the consumer be over-bearing. The average price of natural gas has risen from 10 cents per thousand cubic feet to approximately $3 per thousand cubic feet during the past ten years. Although the consumer has had the cost of his utilities increased, it is nowhere near what was envisioned. Furthermore, much of the consumer's increase has resulted from the increases in the cost of transporting the gas and not the cost of the gas itself. One must also consider basic economics. As the exploration effort increases, more gas will be found and will come into the market, thus having an ultimate depressing effect on the market price of gas. (It should be noted, however, that even at today's prices, gas, which is a more efficient fuel than oil, is still cheaper than its oil equivalent.)

Finally, whatever the price of domestically-produced gas, it is far cheaper than the cost of imported oil and gas—without considering the political ramifications.

We must remove the stigma from this very important domestic industry and support its development and hope for its success.●

## SALUTE TO MANVILLE CO.'S CORONA, CA, FACILITY

### HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. McCANDLESS. Mr. Speaker, last week I was privileged to tour the Manville Co.'s fiberglass insulation manufacturing plant in my district in Corona, CA. I must tell you that the process by which little glass marbles are transformed into packaged fiberglass insulation is truly impressive.

As impressive as the manufacturing process is, there exists something even more impressive at the Manville Corona facility: the exuberant spirit of enthusiasm among the people who work there. The Manville Corona plant is alive with it. Over 300 people work at this facility, which runs 24 hours a day. Never have I witnessed such an upbeat, work-together attitude among such a large organization. This esprit de corps even carries over after hours, as the plant has its own softball field, where intraplant teams play each other, as well as with teams from around the community.

Mr. Speaker, the people who work at the Manville Corona plant also possess something that many people think has been lost in America: pride in workmanship. This pride and enthusiasm has made the Corona plant an innovator in Manville products, product applications, and manufacturing techniques.

I congratulate those who work at the Manville Corona facility on their successes, and I thank them for the courtesies they extended me during my visit to their plant.●

## CHAIRMAN PICKLE IS HILL GUARDIAN OF SOCIAL SECURITY

### HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. SHANNON. Mr. Speaker, today I am submitting for the Record an article that recently appeared in the Congressional Quarterly (May 26, 1984) discussing the strong and able leadership that J.J. Pickle, chairman of the Social Security Subcommittee, has provided on behalf of the disabled.

We all know that the review of disabled workers receiving Social Security disability insurance benefits—a review accelerated and intensified by the Reagan administration in 1981—has proven to be a national disaster.

Throughout the chaos, disruption, and heartbreak which have defined this ordeal, Chairman Pickle has provided a responsible and steady voice of reason. He has offered exemplary leadership as Congress has worked to fix a good program gone awry.

As is clear from the following article, the Reagan administration, left to its own devices, cannot be relied upon to implement the SSDI program in a fair and compassionate manner.

Thanks to Chairman Pickle, the Reagan administration has not been left to its own devices; and thousands of disabled workers have been restored to full benefit payment status as originally promised.

The article follows:

#### Pickle: The Hill Guardian of Social Security

Jake Pickle talked, and the administration apparently listened.

Pickle, D-Texas, chairman of the House Ways and Means Subcommittee on Social Security, condemned the administration in uncharacteristically harsh terms May 21 for failing to issue guidelines for its five-week-old moratorium on reviewing the eligibility of individuals receiving Social Security disability payments.

He charged that some 40,000 disabled workers had been left in limbo as a result, without benefits and with no means to appeal decisions terminating them from the disability rolls.

"Subjecting thousands of disabled Americans to such bureaucratic arrogance and indifference is shameful," Pickle told reporters. He said officials of the Health and Human Services Department, who told him the guidelines would be ready "in the next couple of weeks," were just trying to "save a few pennies."

But in little over 24 hours after Pickle's press conference, the guidelines were in print and on their way to state agencies that administer the disability program.

While a spokesman for the Social Security Administration said the timely release was coincidental, Pickle and his aides were skeptical. "It just confirms the congressman's claims that they had the guidelines and could have issued them earlier," said subcommittee staff director Erwin Hytner.

The incident is symptomatic of a recent tension between the administration and Pickle, who has been a key ally on legislation involving Social Security and the Disability program. He is respected by Republicans and Democrats alike for his knowledge of Social Security issues and his moderate, non-partisan approach.

Last year, Pickle worked with the administration to fashion an acceptable disability bill in response to widespread criticism of administration efforts to clear the rolls of ineligible recipients.

But early this year, officials of the Social Security Administration did an about-face, testifying before the Senate Finance Committee in opposition to the proposed legislation. Pickle was furious, calling the new position "irresponsible and reprehensible."

He saw the change as a "direct slap in the face . . . at the very time he was trying to resolve this issue in an atmosphere of responsibility," said Hytner.

In March, on the day before Pickle's bill (H.R. 3755) was set for a floor vote, word was leaked that the administration was going to propose an 18-month moratorium on the controversial disability reviews as a substitute for legislative action. Pickle, who had not been consulted, was again outspoken, calling the reports a "cruel hoax" and urging passage of his bill.

The message soon became clear: As Pickle goes on Social Security, most often, so goes the House. It voted 410-1 to pass his bill. "Sometimes," Pickle said, "you have to slug 'em to get their attention."●

## TRIBUTE TO NATE DOAN

### HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. TRAXLER. Mr. Speaker, I rise today to pay special tribute to a most remarkable individual who has served the community of Bay City, MI, for 44 years as a dedicated employee of the Bay City public schools and has further distinguished himself by touching the lives of countless children as Santa Claus. The man I speak of is Nate Doan, who is now preparing to retire from his post as warehouse supervisor for the Bay City public schools.

Nate was born and raised in Bay City and graduated from Bay City Central in 1939. A year later he began his employment with the Bay City schools and in 1952 was named warehouse supervisor. In his spare hours, Nate began his long career of community service by working on school board elections and the Central High School talent show "The Band Bounce." He also has served as president and board member of the Michigan Association of School Employees.

Nate Doan first began delighting children as Santa Claus over 40 years ago when he donned the traditional red suit and beard at a church Christmas party. His uncanny ability to put children at ease spread to the State of New York as he enrolled in the Santa Claus School in Albion, later becoming dean of the school in 1965. His renown as Santa Claus has taken him beyond our shores to Australia where he has taught aspiring St. Nicks the fine art of merriment and mirth. In the span of his 40-year career as Santa, it is estimated 30,000 youngsters every year climb on Nate's lap to whisper their Christmas wish lists. Between Thanksgiving and Christmas, Nate has visited as many as 300 shopping centers across Michigan. The people of Bay City have demonstrated their appreciation and affection for Nate by naming a park in his honor in August of 1982.

It is said there is more to Santa Claus than a jolly laugh, flowing beard, and twinkling eyes. I believe Nate Doan embodies both the spirit and ideal of Santa Claus by his years of sharing with the community of Bay City. As his Congressman, I am proud to honor this special individual who has spread his love and laughter to children of all ages. I want to take this opportunity to thank Nate for a lifetime of caring and wish him and his wife, Mary Ida, the very best in retirement.●

## FLAG DAY COMMEMORATION

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. TORRICELLI. Mr. Speaker, I rise today in recognition of our Nation's celebration of Flag Day. The meaning of this day was epitomized by President Woodrow Wilson in 1915 when he said:

> The things that the flag stands for were created by the experiences of a great people. Everything that it stands for was written by their lives. The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, those who do and live under the flag.

America exists and represents the people—by the people, and for the people. In our Nation, individual Americans direct the course of our government through votes, letters, and voices. Through these actions we've created and sustained a democratic system which has served as a symbol and model to freedom-seeking people throughout the world.

As stated in the U.S. Constitution democracy is not only defined in terms of political participation, but in terms of the freedom for "life, liberty, and the pursuit of happiness." These freedoms encompass all the necessary freedoms of life—social, economic, and political.

Our flag is the embodiment and symbol of all these virtues held by our country. This day provides the opportunity for all who share in these privileges to take a moment to reflect on how fortunate we are and to pay tribute to all those who fought and gave their lives in the struggle for freedom.

Mr. Speaker, I ask my colleagues to join with me today in celebrating Flag Day—a day which, as President Gerald Ford said, "is a special period in which to pay homage to our country."●

## MEMORIAL IN HONOR OF MARINES WHO SERVED IN THE MULTINATIONAL PEACEKEEPING FORCE IN LEBANON

### HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. SHANNON. Mr. Speaker, I remember vividly the morning we learned that over 200 marines had died in Beirut, victims of an act of terrorism. That tragedy will haunt the memories of Americans for a long time to come.

But for those who were too young to understand what happended in Lebanon and for all those who will know these events only as history, it is important that we insure that the memory of those who gave their lives is not lost.

It is in this spirit that I am introducing a resolution to establish a memorial in honor of the marines who served on the Multinational Peacekeeping Force in Lebanon, particularly those 266 young men who lost their lives there.

A memorial, honoring and paying tribute to these men, would serve as a constant and tangible reminder. A reminder of not only the extreme sacrifices made by all who served there, and by their families and loved ones, but also a reminder that these sacrifices were made in the name of peace.●

## CONGRATULATIONS TO JOYCE CAPOBIANCO AND NEIL SOLOMON ON THEIR RECENT MARRIAGE

### HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. MORRISON of Connecticut. Mr. Speaker, it is my pleasure today to congratulate Joyce Capobianco and Neil Solomon on their recent marriage. Ms. Capobianco, the daughter of Nicholas and Madelyn Capobianco of New Haven, CT, is a graduate of Southern Connecticut State College. She was a schoolteacher for 10 years in the New Haven public schools before becoming the current chief flight attendant for New Air Flight, Inc.

Mr. Solomon, also from New Haven, is the son of Peter Solomon and the late Eleanor Solomon, and the stepson of Irene Solomon. He graduated with honors from the University of Nevada at Reno. He is a member of the Air Line Pilots Association on furlough from Flying Tiger Airline, and is currently the chief pilot for the New Air Flight, Inc.

I fly back and forth from New Haven on New Air at least once a week whenever Congress is in session. Frequently, I have the pleasure of being flown by Neil and served by Joyce. Their warmth and friendliness have made my trips very enjoyable. As my colleagues are so well aware, a Congressman is often forced to cut the timing very close in catching planes. Both Joyce and Neil and other members of the New Air family have shown concern and understanding which have helped me avoid missing my flights.

Getting to know them both has been a pleasure and I am very happy for them on the occasion of their marriage. The wedding took place on June 2, 1984, in Hamden, CT. I wish them the very best of luck and happiness in their lives together.●

## WITNESS FOR PEACE

### HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. FEIGHAN. Mr. Speaker, Witness for Peace is a project organized by U.S. religious groups to affirm, by a permanent presence in Nicaragua, the growing North American opposition to U.S. policy in Central America. Delegations have been in Nicaragua observing the border conflict between Nicaragua and the contras operating from Honduras since October 1983. The delegations take part in nonviolent prayer vigils in support of the people of Nicaragua, and in opposition to U.S. military intervention in that country. Their stated aim is to mobilize public opinion and help change U.S. foreign policy to one which fosters justice, peace, and friendship.

Twenty Ohio members of Witness for Peace participated in an ecumenical prayer vigil in Managua and Jalapa, Nicaragua, from April 3 to 15, 1984. Six of the delegation members—Doug Van Auken, Rick O'Connor, Marilyn Withers, Rev. Dale Withers, Judith Opalach, and Louise Sandercock—recently traveled to Washington to discuss what they saw with various Congressmen and staff assistants. Their personal testimony was eye opening and compelling.

Mr. Speaker, the Americans participating in Witness for Peace are modern-day profiles in courage. They are struggling to understand a conflict clouded by rhetoric, ideology, and official secrecy. And they are a force for peace in a region riddled by war. I salute these partriots who are struggling to promote America's highest ideals, and I hope all of my colleagues find the time to listen to their message.●

## BALTIC FREEDOM DAY

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. YOUNG of Florida. Mr. Speaker, 44 years ago today, the Baltic nations of Lithuania, Latvia, and Estonia were seized by the Soviet military and stripped of their independence. One year later, the Soviets began a campaign of genocidal terror during which they deported 34,260 men, women, and children to the far reaches of Siberia in an effort to eliminate all traces of Baltic identity.

We remember the pain and suffering of the Baltic people during those tragic June days by designating today Baltic Freedom Day. In doing so, we pay homage to those who, while suffering under Soviet oppression, refuse to relinquish their burning desire for independence and individual freedom. It is this same spirit that should unite Americans and all other free people in the appreciation of the liberties we are afforded and able to enjoy.

In addition, recalling the Soviet aggression and repression of the Baltic people should inspire us to do all within our power to resist future Communist expansion and human rights violations. By spreading the word of this example of Communist expansion, the world will grow to understand that this is simply one piece of the grand Soviet plan for world domination.

The courageous Baltic people have endured much pain and suffering, but continue their unwavering battle to regain their freedom and enjoy their ethnic heritage. Let us join with, and offer our prayers and support for the freedom-loving people of the Baltic States as we commemorate Baltic Freedom Day.●

## THE AMERICAN FLAG—A SYMBOL OF FREEDOM AND DEMOCRACY

## HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. YOUNG of Florida. Mr. Speaker, Americans throughout our Nation today are flying the Stars and Stripes in honor of Flag Day.

The American flag is a symbol of freedom and democracy not only in the United States, but wherever it is flown throughout the world. Our friends and allies are secure knowing the American flag is flying over U.S. embassies and military installations in their countries.

Here in the United States, there is no more patriotic group of people than the residents of Pinellas County. One of the most popular requests made of me as a Member of Congress is for help in securing an American flag that has been flown over the U.S. Capitol. Each year I have the pleasure of mailing out hundreds of American flags of all sizes.

When I travel throughout Pinellas County, I'm proud to see American flags flying year-round in front of businesses and homes in addition to State, county, and local offices and schools. There is indeed a spirit of patriotism throughout the county I represent as there is throughout our Nation.

Flying the American flag is a means by which our friends and neighbors show their pride in the United States and our great history. Whether it is flying here atop the U.S. Capitol or on a flagpole in front of a Pinellas County home or business, the American flag evokes in me a feeling of patriotism because it stands as a sacred emblem of our great Nation and serves to remind us of the struggles we have endured to maintain our form of government and way of life.●

## CARDINAL SIN: A MAN OF JUSTICE AND PEACE

## HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. SOLARZ. Mr. Speaker, a short while ago, Brandeis University honored His Eminence, Jaime Cardinal L. Sin, archibishop of Manila, with an honorary degree. On that occasion, Cardinal Sin, who has been an outspoken and courageous champion of justice and human rights in the Philippines, delivered a most eloquent and moving address which demonstrates, I believe, just why this churchman is so widely revered in his own country and abroad.

Speaking to the commencement audience at Brandeis in Waltham, MA, Cardinal Sin linked his interest in the poor and the oppressed with that of Justice Louis Brandeis, the great jurist and humanitarian whose name the university bears.

Cardinal Sin, as a representative of the developing world, vividly depicted how awesome the power and wealth of the United States appears, and how important it is that our traditional moral values, including the protection of life and the rights of the individual, remain at the core of our domestic and foreign policy. As someone who understands the brutal lessons of history, Cardinal Sin reminded us that "whenever the freedom and rights of men and women are sacrificed in the interests of national security, the abomination that was Auschwitz once again casts its demonic presence."

Mr. Speaker, given the significance of the cardinal's message and the personal courage and commitment to which his life is a witness, I ask that Cardinal Sin's address be reprinted in today's CONGRESSIONAL RECORD. May his commitment to justice and to aiding the lives of the poor and oppressed everywhere encourage his countrymen, and all of us, to redouble our efforts to achieve a more just and decent world.

### THE THREE CHAPELS OF BRANDEIS AS SYMBOLS OF PEACE

(By His Eminence, Jaime Cardinal L. Sin, Archbishop of Manila)

(Address delivered on the occasion of the conferring of a doctorate *honoris causa* by Brandeis University in Waltham, Massachusetts, U.S.A., on 20 May 1984)

The President of Brandeis University and Members of its Board of Trustees,

Distinguished Guests and Friends of Brandeis,

I come to your midst, a pilgrim priest from a distant, troubled land. That Brandeis University should have thought of conferring an honorary doctorate degree on the Archbishop of Manila, whose pittance of wisdom is reported to consist more of humorous parables rather than theological treatises, is indeed a cause of bewilderment for me. That this academic act should align me in the distinguished company of past recipients like Prime Ministers Golda Meir and David Ben Gurion, President John F. Kennedy and Richard Cardinal Cushing—further increases my uneasiness. I finally found some tranquility in the thought expressed by one of your Board of Trustees (Congressman Stephen J. Solarz) that, more than honoring me, this conferment does honor to the people of my country, the Philippines.

The sculptor, Elbert Weinberg, placed at the entrance of your Jewish Chapel a representation of Jacob wrestling with an angel. Before coming here, I too, had my moments of wrestling with the angel of doubt. It was a perplexity that covered not only the choice of a relevant topic but the efficacy a voice from the Third World might expect when addressing an American audience.

For to come to America is to be overwhelmed by her immensity and complexity. It is to experience her vastness geographically, in the magnificence of your plains and mountains; it is to experience her progress technically, in the dramatic achievements of your sciences; it is to be dazzled culturally by the creativity of your arts and literature.

Here, a traveler from an Asian village could easily feel his smallness and insignificance, while realizing furthermore, that the inevitable companion to this preeminent progress is power—the power economically to render him poorer or richer; the power politically to support or to destabilize governments abroad; the power technologically to enrich or to totally destroy our planet.

Underneath the awe and fear one has before the mighty presence of America, are many questions, such as: Does America, in spite of the bigness of her industries, the bigness of her military forces, the bigness of her financial resources, still possess an understanding of the abject misery that poverty inflicts on millions of human beings?

Can America, in spite of her tremendous material achievements, still have the heart to empathize with the hunger for justice and freedom felt by millions of small farmers, small fishermen and laborers? Does America continue to preserve the memory of her early history when she was sanctuary for men and women fleeing persecution and oppression?

Today, I am glad to come to a part of America that recalls the "little republics" of your early town meetings, where the life of citizens was exercised on a human scale, where people could come together and personally participate in the building of their community, establishing associations that developed through bonds of trust and affection.

For Brandeis makes America comprehensible.

Here, one easily feels at home in the Franciscan simplicity of the Chapel of Bethlehem, in the inviting biblical atmosphere of your Protestant Chapel, and in the familiar Old Testament symbols of your Jewish Chapel. In these surroundings, one easily listens to the heart of America while recalling what President Woodrow Wilson said at Independence Hall on July 4th, 1914:

"My dream is that as the years go on and the world knows more and more of America, it will also drink at the fountain of youth and renewal; that it also will return to America for those moral inspirations which lie at the basis of all freedom . . . and that America will come in the full light of the day when all shall know that she puts human rights above all other rights and that her flag is the flag not only of America but of humanity."

I also have a dream, one arising from the biblical perspective that says the poor will inherit the earth, that the small people of the world will one day possess the Kingdom of God.

It is easy to remember the poor while in Brandeis where the architectural restraint and unpretentiousness of the Three Chapels reflect the asceticism and humility of the world's poor.

It is not strange to talk of the poor while on this campus, since the great jurist whose name this university proudly bears was a courageous defender of the poor and the oppressed. One recalls that Justice Louis D. Brandeis was called the "People's Attorney" because of his many legal battles on behalf of small businessmen, organized labor and consumers against the industrial giants of his age. The protection of the poor against the "curse of bigness" was a primary concern of Justice Brandeis whom President Franklin Delano Roosevelt affectionately called: "My dear Isaiah."

We need not review the already familiar statistics of misery and hunger endemic to the poor, the harshness of whose lives undermines the twentieth century dream of creating material abundance for all. The year 2000 will most likely have for its first historical scenario, the picture of widespread food shortages among the peoples of the South, while the North enjoys an even higher level of prosperity fueled by an ever insurmountable technological advantage.

But to dwell mainly on the material dimensions of poverty, is to invite despair and disunity. The challenge of poverty needs to be expressed in a profoundly spiritual sense by urging the wealthy and the powerful to look into their innate capacity to understand the sufferings of the poor. The paramount spiritual task of the rich is to overcome their scandalous separation from the suffering part of mankind.

In turning towards the poor, the rich world finds its true self. It is an encounter that brings forth humility, charity and compassion—moral impulses whose source is the Divine Will which created us all in the likeness of his own image. In this affinity that we have of one another, as sons and daughters of God, we discover the profound design that impels us to strive for oneness.

Here I recall a reflection on this topic made by an Asian scholar friend, who wrote: "We turn continually to one another giving life and receiving life. In this manner, we continually make and remake our human world. We are all, each one of us, involved in the making of an authentic humanity. Once this responsibility has become a habit of our minds and hearts, true solidarity will flourish. It will become the foundation of all our social arrangements and institutions, with rich and poor united in actively redeeming the family of man. Then we might envision a unitary world radiating its happiness on a planetary scale, the poor releasing its creative energy, turning its suffering into wisdom—bringing forth a new human life whose bright loveliness we cannot now fully imagine."

Human life—how precariously it clings to a planet that has become one great arsenal of destruction. Realizing the need to join every effort seeking to protect the gift of life, we gave our fraternal support to the 1983 pastoral letter of the Catholic Bishops of the United States, entitled: "The Challenge of Peace: God's Promise and Our Response." We were especially interested in the pastoral's views on the value of nonviolence, since this option has recently surfaced in the Phillippines.

Human life was once more the theme at the 1983 World Council of Churches Sixth Assembly which affirmed Jesus Christ as the Life of the World. We likewise support its statement on human rights which calls on the churches to reaffirm their common commitment to work more fervently for the elimination of all forms of inhumanity, brutality, persecution and oppression.

Human life and its extermination was the final solution adopted for six million Jews in the death camps of Hitler. The insane tragedy of the Holocaust now impels Jews and Christians alike to shout, "Never again!" to all repressive forces that manipulate, subjugate and finally eliminate the weak and the defenceless.

Yet, because the barbaric underside of mankind waits for any opportunity to unleash its savagery against a passive people, we must maintain our vigilance constantly and courageously.

Whenever the freedom and rights of men and women are sacrificed in the interests of national security, the abomination that was Auschwitz once again casts its demonic presence.

Whenever the international economic order ignores distributive justice and creates greater unemployment and poverty in the Third World, the adoption of another efficient version of the Final Solution against millions becomes another grotesque possibility.

Our vigilance is all the more necessary since those who design economic policies devoid of social justice and who go about militarizing government machineries behind the facade of law and order, are individuals whose outward demeanor and motives are just as ordinary, just as rational and neighborly as the dutiful Mr. Eichmann.

It was Barbara Ward who once said that our world, with its science and technology, with its instruments of total destruction, can still set the process in reverse and create a world in which the Divine can break through to our human state. It was this vision to help make this world a place in which the Lord and his creation could happily dwell, that finally became my principal motive in coming to Brandeis.

For it was in the preparations for my visit here that I first came to know the thoughts and writings of Justice Brandeis. It was this Justice whose brooding eyes and craggy face reminded onlookers of a Hebrew prophet, who championed the cause of the poor, considering too great a concentration of power as a menace to a free society. His work for the Zionist movement was thoroughly American in spirit, based as it was on the right of small nations to shape their own destiny and for their people to live freely in their own homeland.

Only last April 25th, in my commencement address to the College of Law graduates of the University of the Philippines, I quoted from Justice Brandeis:

"Those who won our independence believed that the final end of the State was to make men free . . . and that in its government, the deliberative forces should prevail over the arbitrary. They believed liberty to be the secret of happiness and courage to be the secret of liberty . . . they knew that order could not be secured merely through fear of punishment . . . that it is hazardous to discourage thought, hope and imagination; that repression breeds hate, and hate menaces stable government."—(Whitney v. California, 1927)

I also learned that Justice Brandeis did not limit himself to propounding legal theory. He was above all a practical man who could be deeply moved by the apathy and slowness of people in the face of recognized wrongs. It was Justice Brandeis who helped found in 1900, the Public Franchise League which resisted long-term exclusive franchises of public utilities in Boston. He was counsel for life insurance policy holders, devising a savings-bank insurance plan as a means of security for wage earners.

This is familiar biography for you; for me, however, they are a confirmation in hope. For Brandeis the man and jurist is gone. But the Univeristy that carried his name and tradition, remains. Here, among you, I sense the resolve to continue the life quest of Louis D. Brandeis for an elightened world freed from all forms of injustice and oppression.

I, therefore, humbly urge you to continue placing the richness of your intellectual resources at the service of practical programs designed to help poor students receive an education in democratic principles and life; to help Third World faculty redesign law and legal systems to promote human-oriented needs; to strengthen international organizations and private voluntary agencies that seek ways of inserting moral values into the framework of social, economic and political institutions.

Through such unremitting efforts, we bring about oneness between Brandeis and the Philippines, between Brandeis and the poor of this world. Peace enters our planet through such small beginnings.

My friends, at the Funeral Mass for the assassinated Senator Benigno Aquino, I depicted our people as a pilgrim nation whose Promised Land of freedom and justice still beckons far beyond the desert's horizon. Our poverty is like a roaring lion devasting our countryside and devouring our youth. The lack of truth and freedom are like dried up streams that can no longer quench one's thirst; the injustice of our system is like a plague of locusts tormenting our daily lives.

Yet, I make my journey back home armed with that hope which my Brandeis visit renewed in me. If here on your campus, diverse faiths can live in fraternal coexistence and amity, then, mankind's eventual reconciliation with God and each other can indeed become a reality.

Let me, therefore, now thank you—as a priest (who echoes Cardinal Cushing's insistence that his own theology had barely gone beyond that taught to children in catechism class)—for the great honor this conferment bestows on me and my countrymen.

Let me thank you—as a friend, who recalls what President Abram Sachar of Brandeis said of those who enter the Three Chapels, that there "only the hearts need speak."

As I bid you farewell, my heart speaks to you:

Peace!

Shalom!●

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## JUNE 6, 1944—I WAS THERE: PERSONAL REFLECTIONS ON D-DAY BY CONGRESSMAN SAM GIBBONS

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. LANTOS. Mr. Speaker, last week as a Nation we paid tribute to the thousands of heroes whose young lives were snuffed out in the first hours of D-day as the free nations of the world began their ultimate triumphant offensive to smash Hitler's tyranny in Europe.

In the midst of this turbulent election year it is critical that we pause for a moment to be reminded by the heroism of allied soldiers on the Normandy beaches of all the fundamental things that bring us together—Democrats and Republicans and peoples of all free democracies.

I had the honor of participating in the delegation of members who represented this House at the solemn and moving commemoration on the beaches of Normandy. Among the members of this congressional delegation was our distinguished colleague from Florida, Congressman Sam M. Gibbons.

This was not his first visit to Normandy, however. Sam was a 24-year-old captain in the 101st Airborne Division who participated in the night parachute landings hours before the main assault on the beaches began. As our delegation visited the places that have become part of our history—Omaha and Utah beach, the cliffs of Pointe du Hoc, the square at Ste. Mere-Eglise, and the roads to St. Come-du-mont—Sam recounted some of his experiences and feelings on that day 40 years ago when he jumped from the plane into the blackness.

Mr. Speaker, Congressman Gibbons has put down his reflections of those experiences on that "Longest Day."

I insert the following:

### June 6, 1944—I Was There

(By Congressman Sam M. Gibbons)

It was dark—slight ground fog—body arched forward, feet together—head tilted forward—

My parachute snapped open with a loud crack—reflecting the added weight of combat equipment—as I had been taught to do, I looked up to check the parachute canopy—it was functioning perfectly—then looked around to make sure I was clear of other jumpers—couldn't see anyone. Did see and hear rifle and machine gun fire coming up from below me about 75 yards to my right—guess about 15 weapons in action. Could see muzzle blast and occasional tracers—apparently aimed at the waves of planes flying on toward the southeast. Got brief glimpses of small, blacked-out town six or seven hundred yards in front of me. Guessed it to be Ste. Mere-Eglise. Guess later proved to be correct. Prepared to land—focused eyes on ground—looking fifty yards ahead of me (looking straight down might cause a broken leg). Knees slightly bent and feet together so that bone and muscle in both legs would absorb the force of landing. Feet hit—knees give—roll forward—end lying flat on my back. Lie quietly, after a noisy landing, my camouflaged parachute settles to ground right above my head. Germans fifty to seventy yards to the southeast would have heard that landing had they not been so noisy shooting at low-flying planes.

Instantly I knew I was in the wrong place—at least six miles from my planned drop zone and far deeper in German territory than planned. The time was 1:26 a.m., June 6, 1944. D-Day was to begin on the beaches at 6:30 a.m. The parachute jump from plane to ground in Normandy, France had taken 35-40 seconds, maybe less.

This is a good point to add some personal and "big picture" details.

I was 24 years old—a captain—in the 501st Parachute Infantry, a part of the 101st Airborne Division which, together with the 82nd Airborne Division, landed a total of 12,000 parachutists that night. We were the spearhead of the invasion of Europe. I realize that 12,000 sounds like a large force, but when you consider that we had been told there were 70,000 Germans there, you can see what the situation looked like to us. I jumped from plane #42 in a total of nearly 1,000 planes used in that assault. There were 17 of us who jumped from that plane, all from Regimental Headquarters 501st. The 501st jumped about 2,000 officers and men. All of us were volunteers and received extra hazard pay for our line of work.

For this performance our heads had been shaved—the surgeons insisted we'd be easier to sew up that way—our faces and hands blacked to be less visible. We wore a special jumper's combat uniform and boots. All of our clothing, including the long underwear and socks, had been impregnated with a chemical to protect us from poison gas. We smelled like inside men from the skunk works. Our unique uniforms were made of a heavy cotton cloth—big pockets and lots of them with snap fasteners for quick opening—the jacket collars were high and right below the neck we carried a switchblade knife in a pocket for emergencies like cutting your self out of your parachute. My normal weight was 165 pounds. That night when I hit the ground I was well over 200 pounds. All of this extra weight made for a strong opening shock of the parachute and hard landing—we expected it because we had been trained for and rehearsed it many times back during our stay in England.

My equipment was typical for the jump that night. Two parachutes—one main on my back and a reserve on my chest in case the main malfunctioned—both camouflaged green and brown and made of nylon (a brand new substance in those days). We had used some silk ones in our early training. We all wore a Mae West, inflatable-type, life jacket because we crossed 150 miles of ocean and jumped near a river. Many were used that night.

We also wore an equipment harness and ammunition belt with thirty rounds of .45 caliber pistol ammo and about one hundred rounds of .30 caliber rifle ammo, two hand grenades, a .45 caliber pistol, loaded and cocked, a .30 caliber folding stock rifle (carbine), loaded and cocked, a ten-inch blade knife strapped to the leg calf for hand-to-hand combat, a canteen with one quart of water, one spoon and canteen cup used as a cooking utensil, some water purification tablets, a combat first aid kit tied to the camouflage material that covered our steel helmets (special helmet liner required so helmet wouldn't be blown off in jump), special first aid kit containing two shots of morphine, sulfa drugs and compress bandages to stop bleeding. In leg pocket we carried a British-made anti-tank mine because there were plenty of tanks nearby, a gas mask (I stuck two cans of Schlitz beer in mine), an equipment bag containing a raincoat, a blanket, toothbrush, toilet paper and six meals of emergency K rations—a combination shovel and pick for digging in; maps, flashlight, compass; also an "escape kit" containing a very small compass, small hacksaw blade, a map of France printed on silk and $300 worth of well-used French currency. This kit was enclosed in a waterproof container measuring four inches by six inches by one-quarter inch—everyone was encouraged to hide it in a different place on the body—I carried mine inside my sock, just above boot top on my right leg.

We carried two other items in our equipment. We wore our identification (dog tags) on a light metal chain around our necks, taped together so they didn't click or rattle. And at noontime before the invasion we had received our last surprise: A "cricket." This was a metal device made partially of brass and partially of steel. When you depressed the steel it made a snapping sound or a "crick." And when you released the steel part, it would crick again. This was something we had not counted on and had never heard about, but it was to be our primary means of identification between friend and foe during the night assault. We cricked them a few times and rehearsed (we were to crick once and wait for a response of two cricks)—laughing all the time. Most of us hadn't seen anything like that since Crackerjack boxes or the Buster Brown shoe store give-aways of our youth. Also at lunch time we were given the passwords for the next two days. The challenge was to be "thunder" and the response was "welcome" for the first day, beginning from the time we hit the ground. And the second day, the password challenge was "hustle" and the response was "along." So with a cricket, "thunder-welcome" and "hustle-along," we were at least partially prepared for the tough job of identification during the night hours.

So with all this gear on me (the same for about 12,000 others), I was the third man to step out of plane #42, and dropping 800 feet to start what some have called "The Longest Day."

Of the 18 in plane #42, I can only tell you what happened to a very few of us. The rest is lost, and so were all of us for a time.

Shortly after 1:26 a.m. while still on my back, I wiggled my feet and legs to make sure they were okay. Then unfastened my reserve chute and chest straps came off. But I couldn't get the leg straps unbuckled because the harness was tight, so I cut those straps with my switchblade knife. Next off came the life preserver and my personal equipment bag that had been hanging below my reserve chute. I took my folding stock rifle out of the holster—checked the safety and finally rolled over on my stomach. All this probably took less than a minute, but it seemed like an hour. No one had seen me, and I had seen no one else, but there was plenty of shooting by those Germans about seventy yards from me. Their shooting was a blessing because it drowned out any noise I might make and because they are paying more attention to the sky than they were to the ground.

I was in a grassy field or pasture, which seemed to be about 200 yards long in a north-south direction, and 150 yards wide east to west. I couldn't tell if there was anyone else in the field except those Germans near the southeast corner and they seemed to be just outside that corner. The nearest edge of the field was south of me about 30 yards. So I crawled or really slid on my stomach until I reached the boundary hedge row, then got up on my knees, looking and listening. Finally I moved to a crouched position. Nothing moved in the field. Then I crawled up to the side of the earthern hedge row and looked on the other side. Nothing moved. No sound except the shooting at the southeast corner of the field.

Now I could hear new firing behind me but because of its distance I knew it was no immediate danger. Occasionally another plane or two would come over. They seemed to be on an erratic course and their engines seemed to be wide open, apparently trying to dodge the fire coming up from the ground. They certainly were not in any flight altitude to be jumping parachutists.

On the other side of my hedge was a narrow, paved road. Then on farther south about ten yards, another hedge like the one I was leaning against, and on past that more fields and hedges.

Normandy is a farming and dairy country and the hedges have been built over the years—maybe from as long ago as the time of that great Norman, William the Conqueror, who defeated the English at the Battle of Hastings in 1066 A.D. As farmers over the centuries cleared the fields, they piled the stones and brush up along these hedges until they became more than fences. They are a solid tangle of rocks, earth, vines, brush, and even trees. Some hedges were six to eight feet wide at the base and many six feet high of solid material. Most of the hedges were topped with tall, ghostly-looking trees. This part of Normandy was a vast collection of these small, irregularly shaped fields, bounded by hedges on all sides, at some places with roads and highways between the hedges. All of this is cut up by rivers and marshes. The local farmers live in small clusters of homes, many centuries old.

There are a few small towns. Carentan, located six miles south of where I landed, was one of the largest towns with a population of about 5,000. Carentan lays south of the Douve River and is about three miles from the seacoast. Ste. Mere-Eglise, located a half mile north of my landing spot, with a population of about 2,500, was astride the main north-south road that stretched from the big port city of Cherbourg to Paris—150 miles away. Cherbourg was our long-range objective.

Our immediate objective was to open up the assault beach about six miles east of my landing spot and secure the river line of the Douve so that the Germans could not bring in reinforcements while we captured Cherbourg. Cherbourg sits at the north end of the Cotentin Peninsula that juts out into the Atlantic like a thumb. The thumb-like peninsula was 35 miles long by 20 miles wide.

Getting oriented—finding out where you are—in the middle of the night with no lights—no stars or moon visible and no distinctive terrain features or landmarks—is not easy. Two things helped me. First, we had studied the area using maps, aerial photographs and models for hours and days until it was drilled into us. Second, I had been in the open door of the plane on the flight from England and had picked up such landmarks as the islands of Guernsey and Sark and the French coastline near Cap de Carteret, where the anti-aircraft fire got heavy and patches of ground fog blacked out small areas. I though I recognized St. Sauveurle-Vicomte and then the Douve River with its marshes. As we approached the Douve our plane had slowed down and elevated the tail to lessen the chances of hitting the tail assembly in case you made a bad door exit. So as we crossed the Douve, the green light signal to jump came on.

It seemed to me that we were too far north and too far west of our designated drop zone. But you can't hesitate and argue with the pilot because he couldn't hear you anyway and since we were flying in very tight formation, there was no chance of independent judgement. Then there was always that fear that the planes behind you might to below you and jumpers would run the risk of hitting another plane. Parachutes, propellers and wings don's mix too well and there were lots of planes behind us and none below us, so we jumped. It was either go then or risk the chance of something far worse. At least we were over land—some weren't so lucky that night.

We flew in tight formation so as to make assembly on the ground easier. Parachuting out of a plane under ideal conditions in the daylight made ground assembly difficult and time consuming. Practicing at night in England with no anti-aircraft fire and no one shooting at you on the ground was much more difficult so we knew this night assembly was going to be rough.

But first we had to push the two equipment bundles out. These contained radios for Headquarters Command and control of the 501st. Next were two radio operators. I never found the operators or the radios. Next me, and then 13 or 14 others who probably had little or no idea where they were. I believe the last man out that door was Lt. Colonel Harry Kinnard, the Regimental Executive Officer and second in command of the 501st Parachute Infantry. Kinnard and I next met about thirty hours later and many miles from where we jumped.

I slid back down the hedgerow and turned again to examine the field in which I had just landed. There was just enough moonlight coming through the clouds to allow me to determine that no other Americans had landed or were landing in my field. I could not hear any American weapons being fired. The German weapons sounded distinctly different from ours; the principal difference being the rate of fire for their automatic weapons. Theirs fired much faster and did not seem to sound as deep in resonance as ours. This made it easier to determine who was friend or foe in the dark.

The Germans to my southeast—about seventy yards away—were manning a roadblock I figured and the new firing about 1,000 yards to the north appeared to be near Ste. Mere-Eglise.

I turned west and began crawling along the edge of the hedgerow rather slowly, trying to be as quiet as possible. The firing continued behind me at the crossroads. I must have crawled slowly for five or ten minutes. Then I halted and again crawled up on the hedgerow and looked across. I could not see or hear anyone. Occasionally a plane would come over; all generally headed southeast, confirming my suspicion that I was too far north and too far to the west—away from my designated drop zone and assembly area. I had other thoughts. I began to doubt that I knew exactly where I was. Maybe I was closer to the beach than I thought and the planes had already dropped their parachutists. Then I began to wonder whether the whole mission had been aborted and I just hadn't gotten the signal. I resumed moving again, still trying to get away from that crossroads fire without being detected. This time I was crouched over and moving a little faster. I finally came to the southwest end of the field. To my left was a cattlegate and other things that cows leave around when they are in a field, but at least I knew the field probably wasn't mined if there were cows around. We had been told that there was a good possibility that our landing fields would be mined and booby-trapped. I eased the gate open because, like most gates, it squeaked, and found myself in a narrow, paved road with hedges on each side. The tall trees in the hedges gave the place a spooky look, but still no signs of anyone except those people back at the crossroads. By this time I was sure that they didn't hear me and couldn't see me so I began walking in an upright position, my rifle in both hands ready for action and my cricket between my left thumb and forefinger. I must have walked along for about ten minutes keeping to the right side of the road near the edge where there was a shallow ditch. Then about 25 feet in front of me I thought I saw a helmet silhouetted against the sky. It looked like an American helmet, but in the dark I couldn't tell, so I kneeled down in the ditch and "cricked" my cricket one time. Instantly the response came back with two cricks. I felt a thousand years younger and both of us moved forward so we could touch each other. I whispered my name and he whispered his. To my surprise, he was not from my plane. In fact, he was not even from my Headquarters group. He was a sergeant and lost, too. He also had been heading away from the firing at the roadblock which was now about 200 to 300 yards behind us. This meeting happened about 45 minutes after my landing.

The firing toward Ste. Mere-Eglise was still going on, but it was fainter than ever, even though there seemed to be more of it. Planes were still passing over, and I guess it was then for the first time that I realized how cold the air was and it felt good to have on those long woolen underwear under that thin jumpsuit.

We kept going down the road for about 50 or 100 yards when we suddenly ran into some more cricks and picked up three more people, none of whom were from my plane. But they seemed to know each other and they were from the 501st. By that time we were beginning to feel pretty good and our confidence was coming back. We got out the maps, pulled out the flashlight, covered it as best we could and began to try to figure out exactly where we were. We concluded rapidly that it was impossible to get to our designated assembly area and that we had best try to accomplish the 501 mission of securing the Douve River line as that seemed to be the most practical thing to do because of distance and time. We then decided that moving along the road, while it might be productive in finding other friends, also might be extremely dangerous. So we decided to take off across the field to our left and head for the Douve River line. As we entered the field, we found some more 501 parachutists. Still no one from my plane and no coherent pattern to the people we were finding. They were from different groups and it seemed that the scattering had included far more people than I had first imagined. I learned later that our scattered pattern had covered a distance of about 15 or 20 miles in a north-south direction and at least 15 miles in an east-west direction.

Some people in the Division had actually landed in the ocean east of the beaches and some in the Douve River to our west and some even further west than that—almost to the west coast of the peninsula we were attempting to capture. But at this moment all I knew was that we had about 12 or 14 people, some of whom knew each other, most from different units, so we began to move out more rapidly. I don't mean we were walking at a normal pace. We crouched down low, we would move a while, stop, and listen; then continue to move and all the time keeping within visual distance of each other. I took a position in the middle of the column of twos and prescribed its general direction. This certainly wasn't the way I had thought the invasion would go nor had we ever rehearsed it in this manner. We had always rehearsed with rapid assemblies in a drop area with quick, personal identification and would move out in organized units. Here I was, an officer who had been doing staff duty for a year and a half, leading a patrol of men, none of whom I knew personally and probably few of whom had ever heard of me, but we worked together surprisingly well. The sergeants took command of the corporals and privates and quickly organized them into small units. I thought how unusual this patrol leader job was for me but I learned later that this was the way it was on that early morning. Instead of a highly organized landing and assault that we had planned, most of the first day 12,000 invading parachutists fought as very small units and sometimes as individuals. The only thing that saved our plan was that we all knew the overall mission and most of us tried to perform it in the best way that we thought was available.

It was about three o'clock a.m. when we hit the next road. It was a paved road and generally ran east-west. It was a little larger than the first road I had been on, and we seemed to be getting closer to the river line because the land was flatter; the hedges not quite so high. In fact, as you looked ahead you didn't see so many of those spooky, eerie trees that had surrounded the field where I had first landed. We moved out vigorously on this road, with not quite a carefree manner, but our spirits were rising. We walked in a generally westerly direction when the lead man signaled a halt, and I went forward to see what the trouble was. He said he could see a small town ahead—or at least some buildings that he thought was a town—so we halted for a minute or so and listened. No sound came from the town.

About that time we heard noise toward the rear of the column and a couple of shots were fired by my patrol. There was a clatter of someone falling to the pavement. I ran back and found that they had shot at a German who had been riding a bicycle. He apparently was a messenger of some sort. He was more injured from the fall and the scare he had gotten than anything else. We disarmed and searched him, and tried to figure out what we would do with him. His bicycle was a wreck, and he was skinned up from his tumble. The men took off his belt and tied his hands behind him, and we decided then that with that noise if there were many more Germans in town they had heard us, so we moved in rapidly. It was a short dash into town. It was a very small town, completely dark. At the head of the column there were a few more shots fired and the word came back that they had killed some Germans—probably two who were apparently trying to run from one of the houses in town when we ran in. By this time we were making so much noise that if there were anyone else there, they certainly would have heard us. The noise of the shooting seemed to raise our spirits even more. Still we didn't know where we were. Those little towns had no signs in them and there was nobody out there to greet us. I began to pound on doors and shout for people to come out, but, of course, none of the doors opened and no one moved. I was shouting in English and if there was anyone in that town that understood English, we never found them. Finally, after two or three minutes, one man about 50-55 years old came to the door of one of the houses. He was a short man, about 5'6", and had on farmer-type clothing—a light shirt and dark trousers. He had apparently been dressed for some time—most of the night—because his shoes were tied and he had on a sweater. In English I began to ask him where we were, what was the name of his town, and he just stared back and began to speak in French. He was excited and eventually some other people in the house came forward—none of whom could speak English. Some of my men had gotten responses at doors and windows, and were running into the same trouble. Finally I went into the dark house, pulled out my map and flashlight, and began to make gestures, hoping he would point to where we were. But he was either afraid or was determined not to get involved—even though I recited with my best French accent the names of some towns that I thought he would know and would point to, I got no response. Finally one of the sergeants came up and said that he had found out that the name of the town was Carquebut. At last we knew where we were!

During all this exchange with my first Frenchman, I tried out some of my high school Spanish on him but he looked at me with even greater puzzlement when I tried Spanish. I'm afraid that even if he had known Spanish, he wouldn't have known what I was saying. But when I said "Ste. Mere-Eglise," he responded "eglise—eglise" and began to point down the street. I got my first French lesson. "Eglise" means church. He hadn't understood my "Ste. Mere," but he did know where the church was in town and he started to point to it. On checking my map, I confirmed that we were in Carquebut, because there was a little church by the street where he had pointed and the pattern of the buildings in the town seemed to be the same as the pattern shown on my map of Carquebut. We continued our search of Carquebut and found no Germans. There was some more shooting at the end of town by some of my group, and the word came to me that the two Germans who had been seen running from the house were dead. We still had one prisoner with whom we didn't know what to do. We took off his shoes and threw them away, figuring that he couldn't run very far without shoes. We tried to turn our prisoner over to the small group of Frenchmen who were now appearing near the center of the town but they didn't want him. Most of this was through hand gestures and through some broken French and English that somehow spontaneously came out of the group of American soldiers and Frenchmen.

We tried to find out from the French people gathered there if there were any more Germans in the area. To that question they usually stared back with blank expressions on their faces. I believe they thought we were a raiding party and they were afraid to commit themselves, thinking that with the coming of light we would be gone and they would still be left there with the German occupation forces. No one wanted to cooperate.

I don't want anyone to think I am critical of the attitude of the French upon our arrival. They weren't hostile. They just weren't cooperative because the Germans had warned them against cooperation and had threatened them with retaliation, such as had been carried out against the French people after the Dieppe raid not too far from where we were. After the French cooperated with the British and Canadian forces during the Dieppe raid, and the raiders had returned to England, the Germans slaughtered those who were identified as cooperators.

The action in Carquebut had taken about 20-25 minutes. It was now approaching 3:30 a.m. We knew that Carquebut was outside of the sector of the 101st Airborne Division—our parent unit—and was in the sector of the 82nd Division, who had a different responsibility than we did that first day. After a quick conference with some of the sergeants, I decided that we should move to the south toward St. Come-du-Mont, which was about five miles from where we were. St. Come-du-Mont had been a part of the 501 objective. It was on the Douve River line and it was not far from the bridges across the Douve that we had been assigned to seize and destroy.

We had three approaches to St. Come-du-Mont. We could attempt to go across country, but some marshes showed on the map and no one was anxious to tackle them. Or we could follow a railroad track slightly to our west that crossed some of the marshes and crossed the Douve River just west of St. Come-du-Mont—or we could follow the roads to St. Come-du-Mont. While the road route was slightly longer—perhaps adding a mile or so to our distance, we opted for the road because we figured the railroad track would be guarded at its bridges and trestles and that there would be some long open areas that we would have to cross that could be pretty dangerous. The route across the field we figured would be too slow and time-consuming, so the road was the best bet. When we left Carquebut we were heading east, dawn was just beginning; it was at least 45 minutes to sunrise but it was already lighter. The firing of our weapons had been heard by other parachuters who were in the area and when we hit the road to move east we found them coming out of the fields to join us.

We were still using a basic column of twos, with a single file on each side of the road and me giving commands from the forward center part of the column. We still were close enough together to maintain eye contact but we began to move more aggressively. We passed through a town that we figured was Eturville, hardly much of a town—

one farmhouse on the left of the road and two or three on the right. The doors and windows were all closed and if there were any Germans there they didn't bother us.

In about thirty minutes we hit the main two-lane, north-south, road between Ste. Mere-Eglise and Carentan. At a little town called Les Forges, as soon as we got in sight of town we could see two or three American soldiers near the crossroads and we moved more rapidly to meet them. Here for the first time I ran into someone I knew. There was an American Lieutenant by the name of Charlie Poze, a member of the 501st. He had rounded up five or six men and they were controlling the town. They had already searched the buildings and found no Germans. To our north was the town of Ste. Mere-Eglise, about one and a quarter miles away. To the south of us was St. Come-du-Mont, nearly three miles away, and the Douve River highway and railroad bridge crossing. Controlling these crossings was our objective. We were now in what seemed to be more familiar territory. Ste. Mere-Eglise had been originally assigned to our unit up until a few days before the invasion. But about the end of May, because of evidence of German buildup in the Cotentin peninsula and heavier German tank buildup south of Carentan, our initial objective of St. Mere-Eglise had been switched to the river line and to the capture of the bridges at St. Come-du-Mont. The capture of St. Mere-Eglise had been given to the 82nd Airborne Division.

As dawn came it was possible to see scattered parachutes lying around in the fields. Some hanging in trees; some lying partly in the road. It was obvious that we were coming closer to a place where some men had been dropped. Poze reported that the road to the north of him seemed to be clear—at least there was no firing from that direction so apparently the roadblock that I had spotted earlier had either been moved northward toward Ste. Mere—Eglise or else those German soldiers manning the roadblock were holding their fire. But our mission was to the south so we moved out as rapidly as possible along the highway.

Just a short distance along we ran into the town of Blosville. We encountered some fighting from our left but it did not appear to be well aimed and when we returned the fire the hostile firing would die out, so we chose to ignore it and to move more rapidly toward St. Come-du-Mont. It was now approaching 7:30 or 8:00 a.m. We had gathered strength as we had moved along and we now had approximately fifty men, including Lt. Poze and myself.

By the time we got to the end of Blosville, a Captain MacNeilly, also with the 501, moved out on the road and we had a reunion! I had known and worked with MacNeilly. He was from San Francisco and a genial fellow and a good man. But his experience in leading a combat patrol was even more limited than mine so I remained in control and gave Poze control of the men on the right-hand or west side of the road and MacNeilly control of the men on the east side of the road. Since it was now daylight and we could see and be seen at greater distances, we changed our patrol formation to a diamond-shaped wedge with a point to the front and rear and a flanking point to the right and left of the center.

About 200 yards ahead of me on the road was our forward patrol point which was manned with two men. Flanking off in each direction from the road about 200 yards to my east and west, we established another two-man team and filled in the distance between the point and the east and west team with rifleman spaced about 25 yards apart. We did roughly the same thing behind us with a party of two men bringing up the rear about 200 yards behind me, and some rifleman coming down in a "V" formation filling in the gaps so that we could maintain eye and voice contact. We still had our prisoner with us; nobody seemed to want him. There had been a small group of French people in Blosville, but they would have nothing to do with us and when we tried to get them to keep our prisoner they refused. Most of this was in sign language because we still had no one who could speak French and we still had found no one who could speak English. The two men in the rear, glider pilots whom we had picked up on the march from Carquebut, in addition to being the rear guard, were charged with controlling the prisoner.

Upon signal we moved out toward the south. Here again it struck me how peculiar this was. I had never envisioned myself leading a combat patrol. The skills I was using were ones I had first learned at Plant High School in junior ROTC in 1936, and were skills that I had taught during basic training instruction in 1941 and 1942.

While our confidence had returned, we all still felt very isolated. There was firing going on to the east of us, but it was so faint that it was hard to distinguish what we heard. There was one sound though that I will never forget. That is the sound of a gun that we learned to call the "burp gun." It was a German weapon which could be fired either automatically or semi-automatically. I had never seen one before and had never heard one. Our prisoner had been equipped with an ordinary rifle, but I had heard the burp gun all night and had wondered what it was. It looked a lot like our Thomson submachine gun and was to be used in about the same manner—except it fired a smaller cartridge but it fired many more of them and much faster. In fact, it fired so fast you could hardly hear the space between the shots. And it seemed to spray bullets out. Just the sound of it was unnerving.

As morning came it was beautiful; a cloudless sky, cool, no more planes of any sort were in sight. There was scattered fire in about every direction except off to the west so we moved out to the south and headed to St. Come-du-Mont which seemed to be three and one-half miles away. In the diamond formation that we had assumed in our patrol the going was slow. The flankers to the east and west and all of the riflemen were walking in the fields and having to cross hedgerows and, as I said before, some of these hedgerows were six feet high and were a solid combination of stone, dirt and bushes, vines and trees. And, of course, before each hedgerow was crossed it was necessary to make sure no one was ready to surprise you on the other side. So while daylight had its advantages, one of them was not speed.

We continued to move. After about an hour, I called a halt, brought in Poze and MacNeilly and the one flanker from both the east and west and held a council. At the end of the council no one could suggest a better method of moving and because there was also occasional firing on both flanks with more to the east, some of which seemed to be aimed at us, we decided to continue in the diamond formation. At the end of this council I brought out my two cans of beer which we shared. I estimate we had moved about a mile and a half south from Blosville. When the cans were empty we decided to leave them in the middle of the road as a monument to the first cans of Schlitz consumed in France and moved on.

In about five minutes the point man signaled with his hand and beckoned me forward, and I discovered what he had found. In the west ditch was a wounded German soldier. I moved the patrol on up. The German had been hit in the stomach area and was in bad shape. He had already turned rather gray-looking and seemed to be rather incoherent. There were some parachutes lying in the fields nearby and I assumed the parachutists had gotten him. We searched the area but found no one. The German was moaning, his eyes closed. We disarmed him and then had to decide what to do with him. We finally decided just to leave him where he was. He was a pitiful sight, so all alone, so badly injured and so near death, with us standing over him. We didn't waste much time. We just went on. He was no danger to us. As I recall, one of the men did give him some water and someone propped his head up a little and he quit moaning. But his breathing was laborious. Down the road a point man spotted a sign post on a little concrete marker on the right-hand side of the road: Carentan-6km, Paris-250 km. We joked about being in Paris that night or maybe it was just the fact that it was broad open daylight and that our luck seemed to be going well.

The road was now straight and well-paved with shallow ditches on each side; hedgerows out from the fields and occasionally a shallow stream. To our left were more parachutes and to our right were a few. We were now running into our equipment bundles, some of which had been opened but were still connected to their parachutes. We could tell from the markings what they had contained, and since we had no need for any of the materials we left them alone. If we could only have found a bundle with some radios or some machine guns in it, we would have been in great shape. Our rifles were fine but a few automatic weapons and some radios would have improved our capabilities.

We had moved a short distance when the flanker on the left to the east signaled for a halt and word came that he had found a dead American parachutist. No one knew what to do. We just went on and left him there. By this time we were picking up occasional hits to our patrol, usually from the left-hand, east, side of the road where the greatest concentration of parachutes could be seen.

Around la Croix-Pan we came to the low point between two swallow hills. There was a marsh of the Douve River on the west side and some low marshy land on the east. Here also was another road intersection but we continued straight ahead. We were picking up more dead and injured American parachutists. We were also picking up more fire from our left flank, most of which was not particularly serious—a single shot or so or perhaps a burst from a burp gun. And then after we returned the fire there would be no further exchange.

The hedges were so thick that it was impossible to tell whether you were firing in the right direction. You had to hope, and if there was no further enemy fire, you had to assume it was safe to proceed. This we did until about 10:30 or 11:00 in the morning. By that time we had crossed another crossroad which I vaguely remember—the road to the right led to Houesville, and on the east, the road led to Angoville-au-Plain. We kept moving straight south to St. Come-du-

Mont. It was obvious that the flankers in our diamond formation were getting tired. They had covered about three miles in fields with rows of hedges to get over. All of us were tired because we hadn't had a chance to eat or sleep since leaving our airfield in England. We had been awake and moving for thirty hours. Our last meal had been 17 hours earlier. We halted for a minute and I called Poze to me and told him to go up and take the forward point position because we needed to make better time. St. Come-du-Mont was near—perhaps 400 yards away.

According to regimental plan, St. Come-du-Mont should already be in 501 hands. In fact, it should have been in 501 hands for about six hours. Unfortunately, I was wrong.

Poze took over the point position on the right hand side of the road and one of the sergeants followed him on the left side of the road about 15 yards behind. The flankers were now about 100 yards out to the east and west with a riflemen filing in between and the bottom or rear part of the diamond was still covered by the two glider pilots and their prisoner. I'd pulled the patrol into a tighter formation because the hedgerows seemed more ominous and our visibility was limited to about 100 yards in each direction from the road. In this formation we continued our advance toward St. Come-du-Mont.

Just as we moved out, we cleared a handsome looking farmhouse, set back from the righthand side of the road. A hedgerow divided the house from the field to the south and at the corner of the hedgerow and the road we came upon an empty foxhole that we know had been there from our intelligence briefing and aerial photographs. The foxhole was empty but appeared to have been recently used so we continued on. Now we were about 200 yards from St. Come-du-Mont. I was in the middle of the road controlling our diamond-shaped formation patrol with hand signals. MacNeilly was behind me on the left-hand side about 15 yards and Poze was about 30 yards to my right front.

As we got closer to St. Come-du-Mont nothing appeared to be unusual. The windows in the buildings were all closed with wooden shutters as we had seen in all the other small towns. The doors were not open. No one appeared to be moving around on the main street which was the highway that we were on. Cows were grazing in the nearby field. There was firing—both German and American—far off to the left. I could now see the first building very clearly on the right-hand side of the road, and I had great expectations that we would at last run into the main body of the 501 forces.

I moved over toward the edge of the road to the right. I was now at the bottom of a very small hill with St. Come-du-Mont sitting at the crest. We found the main body of forces, but it wasn't the 501. In fact, it wasn't even a friendly force. Shortly after I had give the signal to Poze to continue forward I heard a gun bolt move just on the other side of the hedge on my right-hand side. I looked toward the sound and saw a gun muzzle pointed in my direction. As I dove for the ditch, all hell broke loose! We had been ambushed. I remember seeing Poze go down in front of me as if he, too, were diving in the ditch. The gunner was standing behind the hedge—the muzzle of his gun pointed through the bushes and he apparently had his weapon set on full automatic because when it started to fire it sprayed bullets all over the area.

Instantaneously shots started coming from the buildings in St. Come-du-Mont and from the hedges that stretched out to the east and west, just outside of the town perpendicular to the road that we were on. Fortunately, there did not appear to be more than one gunner who was right on top of me. He had a greater field of vision across the road than he did right under him because of the thickness of the hedge. So while he could see me as I was standing up, he couldn't see me lying down—nor do I believe he could see Poze. After the first shot my patrol began to fire back—slowly at first, but building up their volume as they got into firing position. I could hear MacNeilly some 50 to 60 yards behind me shouting orders, but I was pinned down and couldn't move. I knew that if I stood up the man on the other side of the hedge could see me. If I continued to lie there, the Germans in St. Come-du-Mont would finally pick me off. The grass was about a foot high in the ditch, but not very thick. It was still early summer and the weeds had not grown very high. They offered me some concealment, but not much.

The first thing I had to do was to get rid of that gunner right over my head. I knew I couldn't exist long with him there. He had probably seen me dive into the ditch, but he couldn't get a good shot at me until he climbed to the top of the hedge. I took a grenade out of my pocket, pulled the safety pin, and lobbed it over the hedge. I hoped that he didn't have time to throw it back. He didn't. After it went off, I heard no more firing from his position and assumed that that problem was out of the way for a while.

I called to Poze and had no response. I lay there for a minute or so, but it seemed like a lifetime. I couldn't get my head up because every time I moved I drew fire. I yelled back to MacNeilly to tell him to cover me. He understood and so the fire from our patrol picked up. It was accurate enough to cause the German fire to slow down—and as soon as it slowed, I jumped up out of the ditch, took about six fast paces and took cover behind a concrete telephone pole. It wasn't very good protection, but it was better than I had had.

Of course, I was partially visible so I attracted a lot of fire toward me and the telephone pole. I couldn't stand there very long or they would have gotten me. I guess only luck saved me. It was clear then that the far side of the road offered better protection than my old or current position so I made a dash across the road and dove in the ditch again. How I escaped getting hit I will never know, but at least this ditch was deeper and no one could directly observe my movements as long as I stayed flat on my stomach. I slid down the ditch in the direction of MacNeilly. It was the easiest crawling I ever did. I had received such a shot of adrenalin I think I could have crawled a mile and I probably only crawled 50 yards when I slid under a low drainage culvert in the road and felt safe—or at least relatively safe. The firing continued, and I continued to crawl. After I had gone a short distance out of the culvert I had passed the crest of the low hill on which my patrol had taken up firing positions, and I was out of immediate danger. The first person I ran into was MacNeilly, and he was laughing a sort of nervous laugh. He said he had never seen me run so fast in my life and that I had looked like a jack rabbit going across that road with the Germans firing at me. I don't think he really thought it was funny, he was just uptight like the rest of us.

We began a visual search from our position for Poze. We could still see St. Come-du-Mont—we were now about 300 yards from the town. We continued firing and would occasionally call for Poze and for the sergeant. Neither of them responded. We guessed that they were either out of action or so close to the German positions that they didn't want to give away their own positions.

By that time our patrol had taken up some good firing positions. Everyone was in the firing line except for the two glider pilots and their prisoner. The glider pilots couldn't have done much good anyway because all they had were pistols, and I could see them huddled over by the side of the road about 100 yards north of me. We slowed down our firing to conserve ammunition. It was obvious that we were badly outnumbered. We had at least two missing and one man reported that he was slightly wounded. I sent men out to the right and left to try to determine the extent of the German positions, but every time they moved they drew a lot of fire. It was more and more obvious that the Germans were well emplaced and had planned to defend St. Come-du-Mont stubbornly.

So there we were—200-300 yards north of St. Come-du-Mont meeting superior fire from a major force. We had no automatic weapons, no radios—only our semi-automatic rifles and a few pistols. We hardly knew each other, but we were getting well acquainted, and we were working well together that day. Despite all the noise that we were making, we could not seem to attract the attention of any other Americans in the area. In fact, we had no idea that there were any more in the area. Before we decided to break off the fire fight, two of our men were killed. MacNeilly and I held a council. We called in a couple of the sergeants and decided that since the day was half over and since it appeared useless to try to attack the town, we just couldn't sit there for the rest of the day and wait for some miracle to happen. Also, I did not know what was building up behind us to the north because during our advance on St. Come-du-Mont there had been intermittent firing from our flanks. We knew that there were Germans behind us, but we did not know where they actually were nor how many they were.

I decided that the best thing to do was to split the patrol—leaving some with MacNeilly to continue firing into St. Come-du-Mount—and for me to go northward to try to find some friendly force. I designated two sergeants and about 15 men to stay with MacNeilly. I took the rest and returned north. I knew we had to move fast for it was then 1:30-2:00 o'clock in the afternoon, and we were not finding any more parachutists coming out of the fields to join us. Instead of using our our diamond formation to move north, we formed up into a column of twos, spread out on each side of the road so that we could move more rapidly. We moved at a slow trot back toward Blosville. When we passed the spot where the wounded German had been, he was dead.

As we approached Blosville, the two empty beer cans that had been left on the road were gone. Someone had been there. Blosville was still quiet. Doors all closed; windows all shuttered; cows in the field—but no one stirred. No one bothered us so we didn't stop. There were some shots, but not many, as we continued north. The firing didn't seem to bother the cows. They just kept on eating. Occassionally one would lift its head and look at us. I guess even during a war cows have to be fed and milked. Some things just don't stop.

About an hour and a half after we departed St. Come-du-Mont area we reached the outskirts of Ste. Mere-Eglise. We found a small unit of the 82nd had established a roadblock there near a crashed glider. The crashed glider was one of the bloodiest sights I saw on D-Day. It had been used by some units of the 82nd to attempt to bring in anti-tank guns and the pilot had overshot the field and crashed into a stone wall right off the highway. If ther were any survivors, they weren't around. There were plenty of bodies. We turned over our prisoner and said goodbye to our two glider pilots who rejoined the 82nd. It was comforting to know that at least there were some American forces occupying the north and south ends of the stretch of road between Ste. Mere-Eglise and St. Come-du-Mont. And at least if we weren't right on the river line, we were close to it and our patrol actions up and down this highway prevented any German forces from using it. So, in retrospect, I guess we were the western outpost of the D-Day assualt—perhaps the largest organized unit deepest into German-held territory. In fact, from the firing—most of which seemed to come from the east side of our highway—it appeared that we had a large portion of the German forces between us and the Utah beachhead.

We headed for the designated glider landing zone, hoping that those operations which had been planned for D Day evening would come off as scheduled. I had been designated to receive one of the six jeeps the 501st was to get. Jeeps were quarter ton open trucks.

Going south we again passed near the spot where I first landed. About a mile south of Ste. Mere-Eglise we hit a road leading eastward in the direction of Hiesville. We turned there and began to run into scattered German fire again. We returned the fire and went on.

This kind of fighting was always inconclusive. It was seldom even possible to see who was firing at you. You just had to hope that your return fire was hitting the target—or at least near it—and if the enemy fire dropped off, you felt you had been successful. You didn't go over try to find any bodies. That was too time consuming and too dangerous. You just continued on toward your objective.

At Hiesville there were already gliders in the field—those that had come in about three hours after our initial parachute assault. General Pratt, Assistant Division Commander, was killed in the landing of his glider. In fact, his body had not been removed when I reached the glider landing zone. There were other American soldiers from the 101st around. Not many—perhaps fifty. They were near a farmhouse, and I discovered it was the Division Command Post, hardly the kind you might expect for a Division. The farmhouse was large and substantial, surrounded by large trees that offered plenty of protection from overhead observation, but no Brass was around. (No high-ranking officers.) Just a few men who had only begun posting maps on walls and preparing to get the Command Post in operation. They de-briefed me in about ten minutes and entered the situation as I described it on their maps, and I headed immediately for the glider landing zone just south of Hiesville. I got there between 6:15 and 7:00 o'clock.

Right on time the scheduled C47's, towing two gliders apiece, appeared coming in from a northerly direction. As soon as they were in sight of the drop zones the gliders cut loose and began to land. What a mess! The fields were small, and there were still some of those anti-glider, anti-parachute poles in the field. There was small arms fire from the Germans directed toward the planes and the gliders. The gliders began to dive for the fields. Some hit short; some hit long; all of them hit hard. Some sheared wings; others ran into each other, but somehow they got down. I had seen glider landings before and knew that glider riders and pilots really earned their pay in that branch of the service, as those fellows did coming in that evening. I am sure some were killed, but we couldn't stay around to count bodies.

I am sure there were a lot of miracles on D-Day, but my own second miracle occurred when that glider assigned to carry my jeep landed right on time and right at the designated spot. I wasn't more than 50 feet from the spot where the glider landed—certainly within shouting distance—the glider nose opened and my jeep rolled out. I called the driver's name; he recognized me and drove right over.

We had been isolated for about 18 hours that day. We had been shot at, taken some casualties, and inflicted a few ourselves but the arrival of this jeep was like a miracle. In this little landing zone twenty gliders had landed. Not one of them was in serviceable condition. Some were badly battered.

When I arrived back at the Division CP, I was asked to help provide local security for protection of the Command Post because by that time darkness was approaching fast and there was still an awful lot of German firing going on. We organized a guard detail with others who had been arriving at the CP, and I was assigned a sector to the north about 300 yards from the Command Post. I took my small patrol to our sector and we divided the responsibility for the night. We posted the first guards, then moved into a well built cluster of farm buildings which I had learned by that time was called the "chateau." There was nothing glamorous about this chateau. It was strictly a farm house with farm buildings—a milking shed, tool shed, hay barn, all clustered around a stone-paved courtyard. But it was home. There was already a small first-aid station operating at one end of the building and there were quite a few injured and wounded Americans, as well as Germans, lying on the ground. Some were resting up against the buildings. Others were just lying in the courtyard. In the dim light I could see some of our aid personnel hustling around but I didn't need their services, so I stayed out of their way.

I sat down in the equipment barn beside an old two-wheeled hay rake and opened my first K-ration; Ham and eggs in a small tin can, a fruit bar, some biscuits that looked and tasted like I guess dog biscuits taste, a hard chocolate bar for dessert. That chocolate bar was so hard that if you had thrown it as a rock it would have been a dangerous weapon. Some kind of powdered coffee. I put the unopened powered coffee back in my pocket, and I devoured my meal in record time.

I had the second shift of the guard detail that night so I went to sleep as soon as I finished eating. It was now dark, and there was still plenty of firing going on. And there was some moaning from the direction of the aid station, but I fell asleep so fast that by the time my turn came to pull my tour of guard duty it seemed like only ten minutes had passed. I pulled my two-hour shift, woke up my relief and then went to sleep again. Once more I must have slept about an hour rather fitfully, but it sure felt good.

When the word came to wake again, we were in contact with some other members of the 501 who had also shown up in the Division Command Post area. I went over toward the direction of the CP, and found Colonel Kinnard. I knew at least two people from the plane had survived. He said that we were moving out in a few minutes to join a force of the 506. He asked me how many men I had and I told him about 35. I told him about NacNeilly being back at St. Come-du-Mont with 15 others. Kinnard had about 150, I believe. I asked him about the rest of the Regiment, and he said he knew where Colonel Ewell was with his Battalion, but he did not know where the rest of them where.

A parachute battalion at full strength consisted of three rifle companies and a headquarters weapons company with a total of about 600 officers and men. Ewell's battalion at that hour was hardly what you would call an organized, full-strength unit. He probably had 150-200 men, roughly organized along company lines. They had been very effective in the early morning hours of D-Day when they had been acting as Division Reserve—at that time he had no more than 50 men. But they had cleared out one of the four exits to the mainland from the invasion beach. The clearing out of these exits was essential to the successful passage of the seaborne assault forces from the beach to the mainland. Utah Beach was about four miles long. It had been designated as the landing beach for the seaborne elements of the Seventh Corps. The Seventh Corps was under the command of General J. Lawton Collins, who was later to become known as "Lightning Joe."

Ewell's mission that night was to act as division reserve and be under the direction of General Taylor for whatever purpose that Taylor wanted to use him. Because the drop had been so scattered, Taylor directed Ewell to use his small force to open up the nearest causeway and Ewell had proceeded to do so.

At about 4:30 a.m. on the the first day after D-Day—or D+1—Ewell's battalion was again in division reserve. Kinnard was acting as Regimental Commander for our part of the Regiment, which, excluding Ewell, was not more than 200 men. The situation of Colonel Johnson, our Regimental Commander, and the exact location of the rest of the 501 Regiment was not clear to me. I learned later that the 1st Battalion had been badly mauled when landing near its drop zone—that the drop zone had been well and vigorously defended by the Germans and that the Battalion Commander, Colonel Carroll, had been killed before he could get out of his parachute harness. Colonel Johnson has landed safely, had assembled a small force and had moved directly to one of the Regiment's objectives which was to secure a dam and locks across the Douve River about one mile down stream from the main highway that connected Carentan and Ste. Mere-Eglise. Johnson and his command, which was probably not more than 100 men during the early hours of D-Day, captured the locks and crossed the Douve River so as to secure the locks. The locks were essential to the control of the depth of the water of the Douve and it was essential that the Douve be kept flooded so as to act as an anti-tank barrier to the German forces to the south. So one part of the Regimental objective had been accomplished with dispatch and with great success.

Colonel Robert Ballard, from Jacksonville, Florida, commanded our 2nd Batallion—501. He later commanded the Regiment after Johnson was killed in Holland and after Ewell was wounded at Bastogne. He later became the commanding General of the Florida National Guard. Bob and his wife now live south of Miami at Goulds, Florida. He had landed near his drop zone somewhere between Vierville and Angoville on one of the roads leading to St. Come-du-Mont. His Battalion had encountered stiff opposition but it had organized and was in position contesting the road to St. Come-du-Mont. At this hour on D+1 I knew little about Johnson or Ballard or about the fate of the 1st Battalion. We moved out from the Division Command Post near Hiesville in the direction of Vierville with a mission of seizing the bridges across the Douve between St. Come-du-Mont and Carentan. The advance from Hiesville to Vierville was relatively uneventful. There was some firing but it didn't stop us.

It was not until I had reached Angoville that the first serious action of that day began for me. When we reached Angoville there were already some other American forces there—apparently remnants of our 1st Battalion. We quickly exchanged information and no sooner than that had happened then we came under heavy fire. I jumped into a barn adjacent to a farmhouse on the east side of the little road that we were on. It must have been about 9:30 or 10:00 o'clock in the morning. I felt safe in the barn—heavy, sturdy stone walls and a tile roof. At first we received rifle fire and machine gun fire, which we returned. Then mortar shells began to fall. This was the first time I had been under fire by mortar since the beginning of the invasion. After the third or fourth round hit in Angoville, one hit the roof of the barn. The roof was sturdy and covered with tiles about a half inch thick, but when that shell went off, those nice red clay tiles turned into lethal weapons. I learned then and there to stay away from barns with tile roofs—even if they do have good walls. I also learned later that same day that the first thing you do when you go into a house is to break out the glass windows. I had been in some houses on D-Day but there was no artillery fire directed at me and no mortar fire, and I felt safe with the glass windows but that day at Angoville I learned how dangerous glass windows and tile roofs could be.

We took some casualties. I don't remember how many. After an hour the firing stopped. It seemed that German troops who had been positioned on or near the beaches and who had been driven back by the landing forces were now moving toward us. With the 4th Division and some elements of our 101st pushing from the east with the only way across the Douve river and into Carentan being blocked by us, we were picking up one German unit after another as they were trying to move to a better position. Our road to the southwest to St. Come-du-Mont was still blocked and so we spent the rest of that day in the Angoville-Vierville area. There was too much resistance at St. Come-du-Mont for us to move south. There was too much resistance to the northeast for us to move in that direction. So we settled down after nightfall for some rest.

In the meantime I had almost started to like K rations. I hadn't had a chance to try any of the powdered drinks, but the eggs and cheese were good. I couldn't get very enthusiastic about the rest. I was still nibbling on my first chocolate bar, and despite the fact that I had put it in my inside pants pocket, it hadn't melted! I think it must have been mixed with concrete.

Well, that takes you through two days of the invasion. The first day didn't seem like it would every end and the second day went so fast I hardly remember it. Eventually we would take St. Come-du-Mont. Instead of taking it with one company of the 501, as had been our original plan of operation before the invasion—or with my small combat patrol as I had tried to do on D-Day, it took the whole Division plus the fire support from the cruiser Quincy plus eight or ten tanks that were assigned to us from the 5th Corps. It took plenty of lives, both German and American. But within three days we held St. Come-du-Mont and control of the bridges, the line of the Douve River was secure and our first mission completed.

Near the end of the third day the 501 was ordered into division Reserve near Vierville. We assembled there. Colonel Johnson, our Regimental Commander, and his group showed up with about 150 German prisoners. Ewell and his Battalion rejoined us. Ballard and his Battalion rejoined us, and while I can't say we were a happy lot, we were a relieved lot. I remember we counted heads that evening at Vierville on the third day and from our group of about 2,000 that came in by parachute, we now numbered no more than 600 to 700.

Fortunately, in the next few days more and more of our 501 men showed up and by the fourth day it seemed to me that we had about 800 to 900 officers and men. We reorganized as quickly as possible—reassigning duties, redistributing weapons, going out into the fields and finding the equipment bundles, getting what few radios we could find in action, and on the night of the third day I dug my first foxhole in France. It wasn't a very good one. The ground was hard and I was tired. But I scooped out a little place, covered myself with a parachute, and before I could count ten I was dead asleep. Well, that night and the next day the war went on . . . we had more missions to accomplish—which we did.

Carentan was captured. The Cotentin peninsula was cut off so as to assure the capture of Cherbourg, which had been one of the prime missions of the D-Day landing and follow-up forces. It was necessary to capture Cherbourg because it was the only deep-water port available in that part of France which could be used to land the heavy equipment and the supplies that were needed to sustain the breakout of the beachhead and the dash across France of the American and British Armies.

A few days after the Fourth of July, 1944, the 501 returned to England. I had flown back a couple of days early in order to make the necessary arrangements for the reopening of our camp at Hampsted Marshall near Newbury and meet the Regiment at the docks in South Hampton with the necessary transportation to get them the 50 to 60 miles back to what we now called "home." I had enough vehicles for 800 men, and we filled them up with a little room to spare.

So from a total strength of about 2,200 that went to France by parachute and by sea from the 501, we brought back about 800. Some of the men were arriving back at Hampstead Marshal from hospitals but most of the rest were just gone. The 501 jumped into Holland for that invasion on September 17, in what has been called "A Bridge Too Far." Then back to a reorganization area in France in time for Thanksgiving and then to Bastogne for Christmas. And eventually to Hitler's capital in south Germany—Berchtesgaden—for the May 8, 1945 German final surrender.

From there we made contact with the Russian forces in Austria, south of Vienna, and were being redeployed to "God-knows-where" in Bar le duc, France, when the atom bomb was dropped at Hiroshima. A few weeks later we dissolved the Regiment, turned in all of its equipment, transferred out its remaining personnel, and some of us came home.

As I recall there were 12 or 15 of us left from the original cadre that had formed the 501 in Toccoa, Georgia in 1942. The personnel officer told me at our last, rather wild party in Auxerre, France, that we had had about 12,000 people on our personnel records to make up our assigned strength of about 2,200 people. War uses up a lot of people—not all are killed. Some just fall out on the way. Others are injured and wounded but such is the nature of war. The 501 had plenty of tough and exciting times, but for me, I don't think any day will ever be like D-Day—June 6th, 1944.

I think some personal footnotes are appropriate here. I don't want anybody to ever think that I was either brave or a hero. I was just there and did what had to be done and could be done. There were many heroes. Some of them are dead, but some still very much alive.

Julian Ewell became a Lieutenant General and retired after Vietnam. Harry Kinnard became a Lieutenant General and retired after Vietnam. Elvie Roberts became a Lieutenant General and retired after Vietnam. Robert Ballard became a Major General and commanded the Florida National Guard and now lives in the Miami area. Richard Allen became a General and retired after Vietnam. Joe Jenkins became a Colonel, having risen through the ranks and receiving a battlefield commission, and retired some years ago. Captain Hugo Simms served one term in the Congress from South Carolina, and also served in Korea. Lieutenant Charles Poze who was my point man—and whom I never saw after that morning just outside of St. Come-du-mont—apparently died in the 1960's of a heart attack. Unfortunately, I've never been able to find out what happened to Charlie. I have the VA looking into that.

Maxwell Taylor became a four-star General and Chairman of the Joint Chiefs of Staff. General J. Lawton Collins led his 7th Corps to victory in Europe and earned the nickname of "Lightning Joe" because of the speed with which his troops advanced through France and into Germany.

On May 14, 1984 I was privileged to sit on the reviewing platform with Generals Taylor and Collins and the Secretary of the Army, John Marsh, as an honored guest for the special parade honoring Taylor and Collins. Ewell and Kinnard were there also.

You might classify D-Day as my "first junket" and because I'm the only member of Congress who was there on D-Day, I will be allowed to take another one, with Martha this time, to participate in the ceremony in Normandy with President Reagan, Queen Elizabeth of England, and President Mitterrand of France on June 6, 1984 . . . The 40th anniversary of my "Longest Day".

I am sure by now there must be some question in your mind about why these memories are so vivid to me. I find as I talk to others who were there at that time that they have the same sort of vivid recollection. For most of us the rest of the war seems to be a blur with a few high spots that we can remember—but D-Day and the day following seemed to be burned into our memories. Perhaps it is because we had prepared for so long. Perhaps it is because we had studied the maps and rehearsed the format so many times. Perhaps it was because it was our first brush with the enemy and with death. And perhaps it was because we were required to write about it in an after-action report while we were still in Normandy. Somewhere in the vast files of the Defense Department are thousands of reports written by hand by those who participated and survived.

In addition, my parents kept all of my letters. My father would take them to the office, have them typed up and distribute them to the family. He kept a copy of these letters until just before he died when he turned them over to me. I hadn't realized what he had done.

A few months ago I read over the letters, and I've got to say they are the longest weather reports every written. Because of censorship I was careful not to give away much information, but I did write in order to try to relieve my mother's and father's tension. After all, they had not only me to worry about, but my brother Myron who made his crossing of the invasion beaches about a month later and fighting with Patton's army began the breakout of the beachhead. In the breakout, he was wounded on three different occasions, received three Purple Hearts, and spent about a year in the hospital. Later he retired as sixty percent disabled. Despite his disability, he successfully practiced law until very recently—he is now 100 percent disabled and living quietly with his family in Tampa.

These days had a tremendous impact upon me. I'd been in ROTC almost continuously since 1936 at Plant High School. In mid-1941 I was called to active duty and had spent years preparing for what I was called upon to do on D-Day.

I had lots of opportunity to reflect before and after at the University of Florida while studying world history and political science. In the late 1930s and 1940s the world had disintegrated. Hitler had begun to march. First, Austria had fallen; then Czechoslovakia; next Poland, Denmark, and Norway; then Hitler's lightning stab through France and France had fallen. England had been under seige. The oceans were no longer safe for travel. World commerce had been destroyed by an act of Congress in the Smoot-Hawley Tariff, which I believe had been one of the major contributors to the disintegration of the international community.

World commerce was at its lowest ebb. A feeling of despair swept Europe and Japan. Unemployment was high in the United States, but higher in Europe. Fortifications were built and destroyed. Then in December '41—Pearl Harbor.

These events and my own experiences long ago gave me a mission. That mission is to help create an environment in which people can work and live together—not just in the United States, but worldwide. The opportunity to create a peaceful environment with our political differences is not very good, but in our commercial contacts we can build confidence, understanding, and a spirit of cooperation. So my mission is to do that.

We've made progress. There is a general agreement on tariffs and trade matters. World barriers in a commercial sense have been vastly reduced. The expansion of international commerce has made much progress and, I hope, brought about a better understanding and working relationships between those trading partners.

As an example, in the United States our international commerce has grown from only a few billion dollars a year back in the early 1950s to five hundred billion dollars a year in the 1980s. My role as chairman of the Subcommittee on Trade places me in a key position to advance my mission. The determination that drives me is based upon those vivid experiences of D-Day and the rest of the war.

World War II was perhaps not the last major war—and if another one occurs, D-Day and that whole war will have been like a Sunday School picnic in comparison.

I am determined to do all I can to make sure that something like that will never occur.

We Americans are only a small part (less than six percent) of the earth's population—but we have a responsibility to lead. A good, successful leader leads by example. We must reduce barriers, ours and theirs. We must remain strong, but not be provocative. And we must negotiate, not because of fear but because we are strong. And if we use that strength sparingly and wisely, we will not have to face another time like that between World War I and II. We must inspire confidence in our actions and try to understand and accept the vast differences in beliefs and cultures that surround us.●

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## MAYOR'S SURVEY SHOWS ADMINISTRATION HAS FAILED IN HOUSING THE POOR

### HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. COYNE. Mr. Speaker, this administration has attempted to halt all Federal assistance aimed at increasing the availability of housing for the poor. In large part, it has succeeded. Only the insistence of the Congress has allowed a small amount of new public housing construction and rental housing development to be included in the budget for the coming fiscal year.

The administration argues that new rental units are unnecessary, that there are more than enough units for poor families already in the stock. It has used this argument as the basis for a shift in our housing program toward vouchers and away from actual production of new units.

A recent survey by the U.S. Conference of Mayors shows the administration clearly misperceives the seriousness of the shortage of housing for the poor. In a survey of 66 cities, the Mayor's Conference found that, in some instances, the waiting period for subsidized and public housing can be as long as 25 years. The average waiting period is 8 years. Three out of five cities have closed their waiting lists.

Shifting to housing vouchers, which would help people pay their rent if they can find adequate housing in an area, is an approach doomed to failure. The survey found that a similar program now operated by HUD, the section 8 existing certificate program, has not worked well in areas where housing is in short supply. Fifty-five percent of cities contacted in the survey found that one out of four people turn back the certificates because they cannot locate suitable housing. In 24 percent of the survey cities, at least half the participants return their certificates.

The problem for poor people seeking adequate housing is not simply cost, as the administration suggests, but availability. If the Federal Government continues to withdraw from the process of expanding the housing supply, demand can be expected to rise which, of course, will increase costs as well. The urban poor will be unable to find habitable shelter at any reasonable cost.

At this point, I include in the RECORD an article from the June 15, 1982, Washington Post which describes the U.S. Conference of Mayors Survey:

### MAYORS' GROUP SAYS U.S. POOR LACK HOUSING

(By Howard Kurtz)

The nation's mayors, slicing into a basic premise of Reagan administration housing policy, yesterday issued a report saying there is a serious shortage of housing for the poor in cities across the country.

The administration has said there is no shortage, and has virtually ended the main federal programs for building new housing for poor people.

But, in a survey of 66 cities, the U.S. Conference of Mayors found that low-income families must wait an average of nearly two years to get into public and subsidized housing.

The average waiting period is eight years in the District of Columbia and as long as 25 years in some cities, the study says, and 61 percent of the cities have closed their waiting lists.

In some cities, the mayors found, as many as three out of four poor families are forced to turn down federal rent subsidies because they cannot find suitable places to rent.

The report is certain to provide new ammunition for big-city mayors at their annual meeting this weekend in Philadelphia. Boston Mayor Raymond L. Flynn wasted little time, accusing the administration of "further exacerbating the housing crisis."

Housing and Urban Development Secretary Samuel R. Pierce Jr., whose department has virtually eliminated new construction of low-income housing, said yesterday that the administration's program is "designed to meet the very needs identified in the . . . report." He said expanded use of housing vouchers, or rent subsidies, could serve 10 times as many poor people.

Housing aid to the poor has become the third-largest federal welfare program, after Medicaid and food stamps. Before Ronald Reagan became president, they were among the fastest-growing items in the budget.

But vouchers, which help poor people pay their rent up to a certain ceiling if they find apartments that meet minimum standards, depend on an adequate stock of housing. And the survey found that many cities have had limited success with the current "Section 8" rent certificates.

Fifty-five percent of the cities surveyed said that a quarter or more of low-income recipients turn back the rent certificates because they cannot find suitable housing. And, 24 percent of the cities said at least half the rent certificates are returned; 6 percent said at least three-quarters are given back.

Overall, 51 of the 66 cities in the survey said the demand for housing had increased over the past year, while 13 said it remained the same and two had no response.

"The stark reality of this unmet demand is illustrated in the waiting lists," said the report, which placed the average wait for public and subsidized housing at 20 months. Most cities said at least half the waiting families live in substandard housing or pay more than half their income in rent.

"We are housing families that applied in 1976," said Melvin Adams, director of the Dade County, Fla., housing department. "By the end of this year, the only units available will be when someone moves out." He said he has 25,000 applicants for 11,000 public housing units, and 18,000 applicants for 2,500 rent certificates.

Oliver Cromwell, a spokesman for the District housing department, said the city has not issued rent certificates for several years, "but if we were to advertise tomorrow, we'd be swamped with people coming in."

Kenneth Patterson, of Salt Lake City's housing authority, said his waiting list runs up to six years. He said two of every three people who are given rent certificates come back empty-handed.

"We have not had one new public housing unit allocated to us since the Carter administration," he said. "There's a tremendous pent-up demand."

Most of the cities surveyed, which ranged from Los Angeles to Burlington, Vt., blamed the shortage on federal aid cutbacks. Eighty-nine percent said the private sector alone could not meet local housing needs.●

## IN COMMEMORATION OF THE LENINGRAD TRIALS

### HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BATES. Mr. Speaker, as a participant in the Second Congressional Fast and Prayer Vigil for Soviet Jewry, I rise in solidarity with my congressional colleagues to commemorate the 14th anniversary of the Leningrad trials.

We remember the Leningrad trials today because the 11 men first sentenced to death or extended prison terms in 1970 were arrested for trying to hijack a Soviet aircraft in their desperation to emigrate. The harsh sentences these men received heightened international awareness of the ruthlessness with which the Soviets can treat their showcase "Refuseniks."

But we often forget that for every Leningrad-type case which receives international attention, literally thousands of unnamed Jewish refuseniks live in fear and deprivation in the Soviet Union. Russian Jews who apply to emigrate and are refused may suddenly find themselves unemployed, homeless, without medical protection, or any of the other privileges accorded to Soviet citizens in good standing. These outcast refuseniks must then live off the charity of their Jewish brothers and sisters who have not yet fallen out of favor with the Soviet state.

I rise today in special solidarity with Sofia Melnikova Eikhenwald, a refusnik whose case is less well known simply because it is to typical. Sofia has been refused permission to emigrate four times since she first applied in September 1979. The reason given for refusal has been that her father's occupation involves a security clearance. However, Sofia has not seen her father since infancy when he divorced her mother. Thousands of Soviet Jews have similar stories to tell.

We, in Congress, have an opportunity and a responsibility to make it clear to President and Party Secretary Chernenko that the improvement of American-Soviet relations depends on the improvement of the human rights record of the U.S.S.R. Since 1979, Russian Jewish emigration has fallen 98 percent. We can, and we must, pressure the Soviet leader to reverse this process. Sofia Melnikova Eikhenwald and thousands of unnamed Jewish refuseniks are depending on us.●

## 11 PERCENT OF PUBLIC LANDS OFF LIMITS TO PUBLIC

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. YOUNG of Alaska. Mr. Speaker, with one in 10 of the acres owned by the people of United States now off limits to all except those who can take the time to walk into an area, many people are now changing their minds about wilderness. They are now told they can't take their campers or their wheelchairs or their bicycles into about 11 percent of the acreage they are told they own. Whole families are being denied the opportunity to vacation in land they pay taxes on. While this situation is not much different than that which existed when kings owned the land and peasants were treated as criminals if they cut wood for fuel, Congress continues to sock away wilderness in cheap environmental vote after cheap environmental vote.

In a recent American Mining Congress Journal, J. Allen Overton, the president of the Congress, discusses the issue. I would like to share the article with the Members, and ask that it be placed in the RECORD.

IS AMERICA RUSHING INTO THE WILDERNESS?

(By J. Allen Overton, Jr.)

Increasing numbers of Americans are coming to appreciate that often the pursuit of public policy requires trade-offs to achieve balance. This is true in such vital areas as the federal budget, military preparedness, foreign assistance and social entitlement programs. All involve compromises and give-and-take.

One place where this is apparently *not* true is in locking up public lands for wilderness. The appetite of the "forever wild" school of nature preservationists seems insatiable, and the government seems to be going along in feeding it.

When this Congress ends, another 10 million acres of wilderness could be created, an area about twice the size of Massachusetts. That would be in addition to the 80 million acres already designated as wilderness, and one can bet dollars to doughnuts that a grab will be made for scores of millions more.

Although on one reasonably can argue against preserving many tracts of land in their pristine state, one has to ask when enough is enough. Already huge stretches of our land in rugged and remote terrain effectively have been fenced off to all except the affluent few who have the time and means to gain access to them.

One has to ask, also, about the competing values of these wilderness lands, especially in light of the fact that an estimated two-thirds of our vast public lands—an area almost equal in size to all the states east of the Mississippi—are now de facto or de jure foreclosed to minerals exploration and mining.

Nobody knows for sure the extent of public land withdrawals, because an accurate inventory has never been taken, despite repeated calls for one by the American Mining Congress. What we do know is that all geological evidence points to a high degree of mineralization in these OFF LIMITS acres, including many that have been designated as wilderness or are being considered for it.

Cutting off access to the nation's material patrimony is not balance. It is a short-sighted and dangerous gambit by self-professed idealists whose image of the future is shaped by tunnel vision.

It's sometimes said that wilderness bills appeal to Congress because they offer the chance of a "cheap vote" that aligns a member with the "good guys." If that's true, there are some terrible misconceptions on Capitol Hill.

It is folly to lock up the nation's minerals base while we talk about re-industrializing America. It is reckless to cut off the material sustenance that underlies economic activity while we talk about creating new jobs. It defies logic to believe we can remove the hinterland of our continental domain from the touch of man and not feel the impact in our cities and towns.

Moreover, such policies aggravate and perpetuate our perilous dependence on foreign sources for minerals of strategic importance, when much of the world is in turmoil or armed conflict. Why should we cut the domestic sinews of our strength, when we know that the bulk of Western Europe's and Japan's oil moves through the Strait of Hormuz and nearly half of all foreign cargo, including crude oil, shipped to this country moves along the sea lanes off Central America?

Our nation's reliance on foreign sources of energy and critical materials has been growing, and our vulnerability along with it, but this scarcely disturbs those "good guys" who have a single-minded zeal for more wilderness.

The environmental lobby is a powerful force in Washington. It is lavishly financed and spearheaded by a shrewd cadre of paid professionals. It is backed by a network of political super-activists that spans the country. It has all the advantage of spurring a rousing crusade on behalf of a simplistic credo.

This lobby has done good work in correcting some excesses of the past, but now it has veered off into an extremism of its own that can threaten the future. It is time for rational people to call a halt and say that America should have wilderness where it is appropriate, but not so much that one day the nation itself will be left to cry in it.●

## CHALLENGE TO CIVIL RIGHTS

### HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. FAUNTROY. Mr. Speaker, once again the 30 years of civil rights gains of blacks, Hispanics, and women have been set back. I am referring to the U.S. Supreme Court's decision in Firefighters Local Union No. 1784 against Stotts. In this case the Court ruled that seniority should prevail over affirmative action agreements whenever layoffs occur.

In keeping with its view that the disadvantaged deserve no assistance, the Reagan administration is moving to use the decision as an excuse for dismantling all affirmative action consent decrees. Before the ink was dry on the Stotts case, William Bradford Reynolds, Assistant Attorney General for Civil Rights, announced that he had advised Federal agencies not to negotiate any additional affirmative action agreements. Moreover, Mr. Reynolds also plans to review 50 such major affirmative action agreements, including a 10-year agreement.

Mr. Reynolds is attempting to use a narrow Court decision as an excuse to blanket all class action affirmative action agreements. Blacks, Hispanics, women, and other disadvantaged groups can no longer look to the Justice Department, the Equal Opportunity Commission and the Department of Labor's Office of Federal Contract Compliance Programs for relief. These agencies will be operating under orders to dismantle all affirmative action agreements.

Mr. Speaker, in 1896, the U.S. Supreme Court issued its opinion in the case of Plessy against Ferguson. That decision approved the concept of "separate-but-equal" which led to the segregation of blacks. Many States, mostly Southern, used the Court's decision to enact laws restricting blacks in politics, civil rights, economics, and social contacts. States rewrote their constitutions to formally legalize segregation and discrimination. Facilities available to this Nation's black citizens, especially schools, were separate, but hardly equal. It literally took decades for black Americans to regain the rights afforded following passage of the 13th, 14th, and 15th amendments to the U.S. Constitution.

Mr. Speaker, people often state that history repeats itself. The Plessy decision in 1896 was the culmination of efforts begun as a result of the compromise of 1876. In return for retaining control of the Presidency, the Republican Party agreed to withdraw Federal protection for the recently freed blacks in the South. Thus, the compromise allowed for the elimination of black civil, economic, and social rights.

The Supreme Court's decision in Stotts eminates from a similar political, economic and social climate, represented by the Reagan administration. Mr. Reynolds, as in Plessy, is seeking to use Stotts to turn back the civil rights clock. But unlike the period following the 1876 compromise, the human rights movement is stronger. Nationally, there are more elected officials who will not tolerate in, nor cooperate in, a movement that seeks to take us back to Jim Crow. On the international level, the human rights struggle enjoys support in the Third World, especially in the emerging black nations upon which our economy depends.

Class action suits and affirmative action agreements will not be needed when blacks, Hispanics, women or other disadvantaged persons become chief executive officers of Fortune 500 companies, Governors, Senators, and President of the United States. That time has not arrived and until it does we will take every possible legal course to gain and secure rights guaranteed by our Constitution.

Finally, I find myself in rare agreement with the Washington Post, but I wish to commend to my colleagues the June 14, 1984, Post editorial on this decision:

FIREMEN'S SENIORITY

The Supreme Court's decision in the case of the Memphis firemen is unfortunately ambiguous. Read explicitly, it says only that federal civil rights laws do not invalidate employees' seniority systems.

The Memphis Fire Department is under a consent decree requiring it to raise the proportion of firemen who are black. In 1981, in a budget squeeze, the city decided to lay off 55 firemen. A federal judge ordered it, under the decree, not to include any of the blacks. The result was that white firemen with more seniority were laid off to preserve the jobs of black firemen with less seniority. The Firefighters Union sued, charging reverse discrimination, and now the Supreme Court has said that the lower courts were wrong—the rule of seniority should have prevailed. People cannot be pushed out of jobs that they already hold in order to change a fire department's racial balance. That's a reasonable position that, over time, will give racial minorities valuable protection.

But does the decision do any more than that? It contains hints and allusions suggesting that the majority is at least thinking of changing a basic standard. It is apparently thinking about requiring plaintiffs to prove discrimination against themselves personally, in cases where in the past it has sufficed for classes of people—all blacks, for example, or all Hispanics—to cite only broad patterns of general discrimination. This decision casts a long shadow forward into a time when, after many years of successful civil rights enforcement, class action litigation will no longer be plausible in employment cases.

There is one thing you can say without qualification about this opinion: that some people at the Justice Department are grossly and deliberately exaggerating its scope. They are misrepresenting it as a sweeping prohibition against hiring quotas except where specific discriminatory actions have been proved. But there's nothing in this decision that would invalidate the kind of consent decree under which this case arose, requiring the Memphis Fire Department to fill half its job openings with black applicants.

The court is correct in foreseeing a time when class action suits will be unnecessary. But that time has not come yet—not, certainly, in Memphis. The Justice Department sued the city and got a decree on hiring a decade ago; at that time, in a city in which blacks were half of the population, 4 percent of the firemen were black. There's been progress since then, but nothing on a scale to persuade you that further enforcement has become superfluous.

Racial goals in hiring have troubling aspects, and they are best regarded as no more than an interim stage of the passage toward a society in which both goals and discriminatory hiring have vanished together. But the country is not yet there and—despite the insinuations from those who won the case—the Supreme Court has not abolished the means for further progress.●

## REFUGEE GROUPS SUPPORT POLL FINDINGS ON REFUGEE ADMISSIONS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. TOWNS. Mr. Speaker, in response to the poll conducted by the U.S. Committee for Refugees, the following organizations have joined together to express their concern and support for the results of the poll. Their experiences are firsthand and concerns strong enough that the results of this poll warrant our support. As some of America's newest citizens and residents, their veiws are particularly important in terms of the public's views on future refugee and immigrant admissions. I want to submit their statement, which was coordinated by the National Forum on Immigration, Refugees and Citizenship, for review by my colleagues. Their statement follows:

### Statement of Refugee Communities in the United States on Public Attitudes Toward Refugees and Immigrants

We are newcomers to the American society who in recent years have come to the United States in need of refuge and sanctuary from persecution. We are very appreciative of the warm welcome and generous spirit of the American people. We are lucky. We have faced war and persecution in our homelands. We are the survivors.

Most of our families and friends have not been so fortunate. Hundreds of thousands have perished. Today, over 10 million refugees world-wide face danger, death and persecution on a daily basis.

We are aware that the vast majority of these refugees must seek protection and care in other countries near their homelands. But, for many, the humanitarian commitment and international leadership of the American people are their only source of hope. American assistance, here and abroad, is the helping hand which sustains them for the day when, they dream, their homelands will again be free.

In this spirit, we who represent new Americans and refugee communities welcome and applaud the Report on Public Attitudes Toward Refugees and Immigrants which the U.S. Committee for Refugees is today releasing. We are encouraged by the report's findings that the American people remain open to the admission of immigrants and refugees in need of sanctuary.

At the same time, we are challenged by the findings that the more knowledge and understanding a person has regarding refugees and immigration issues, the more willing they are to support the kind of generous admissions policies and international assistance which have allowed us to escape persecution. As new Americans and refugees it is our special responsibility to help educate the American people, and enhance their understanding of the plight and needs of refugees worldwide.

We therefore pledge to ourselves, to the American people and to all the world's refugees our commitment and duty to continue and improve our public education efforts. To this end we greatly appreciate and support the work of the U.S. Committee for Refugees. And we commend the efforts of religious leaders, voluntary agencies, government officials, and others with whom we share a common commitment.

Together with all Americans, we pray for the day when there are no wars, no refugees and no persecution on the face of this earth which we share.

ON BEHALF OF

American Vietnamese-Chinese Friendship Association, Los Angeles, CA.

Association for Cambodian Survivors, Washington, DC.

Association of Hmong in Illinois-Hmong Center, Chicago, IL.

Afghan National Unity, Washington, DC.

California Lao Association, Reseda, CA.

Cambodian Family, Inc., Santa Ana, CA.

Cambodian Appeal, Washington DC.

Cambodian Association of America, Long Beach, CA.

Center for Southeast Asian Refugee Resettlement, San Francisco, CA.

Colorado Cambodian Community, Denver, CO.

Commission to Aid Iranian Refugees, Washington, DC.

Ethiopian Committee on Immigration, Washington, DC.

Ethiopian Community Development Council, Northern Virginia.

Ethiopian Refugee Mutual Assistance Association, Washington, DC.

Federation of Lao Associations of the Americas.

Haitian Refugee Center, Inc., Miami, FL.

Haitian Refugee Project, Washington, DC.

Hmong-Lao Unity Association, Inc., Providence, RI.

Hmong Natural Association of North Carolina.

Hmong Non-Profit Organization, VA.

Indochina Resource Action Center, Washington, DC.

Indochinese Community Center, Washington, DC.

Indochinese Service Center, Harrisburg, PA.

Khmer-Parent Association of Arlington, VA.

Khmer Women's Association, Long Beach, CA.

Laotian Assistance Organization, Akron, OH.

Lao Association of the Greater Washington Area, Washington, DC.

Lao Family Community, Inc., Milwaukee, WI.

Lao Family Community, Inc., Fresno, CA.

Lao Family Community, Inc., Kansas City, KS.

Lao Family Community, Inc., St. Paul, MN.

Lao-Highland Refugee Association of Washington State.

Maryland Vietnamese Mutual Association, Inc.

Montana Association for Refugee Services, Billings, MT.

Mutual Assistance Association Consortium of Northern Virginia.

National Coalition on Haitian Refugees, New York, NY.

Orientation Committee for Mayan-Kanjobal Refugees, Indiantown, FL.

Oromo Committee on Immigration and Refugees, Washington, DC.

Refugee Consortium of Atlanta, GA.

Refugee Consortium of Atlanta, GA.

Refugee Women in Development Project, Washington, DC.

Southeast Asian Project, Philadelphia, PA.

Southeast Asian Refugee Foundation of Portland, OR.

Southeastern Hmong Research Association, Decatur, GA.

United Xeng Hmong Committee, Inc., of Colorado.

Utah Indochinese Mutual Assistance Association.

Washington State Council of Vietnamese Associations.

World Federation of Vietnamese Women Association, Inc., VA.●

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## VIETNAM VETERANS OF AMERICA

### HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. EDGAR. Mr. Speaker, on June 11 the House approved H.R. 4772, legislation which would grant a Federal charter to the Vietnam Veterans of America, an organization representing 17,000 men and women who served in the Armed Forces during the Vietnam era.

As chairman of the House Veterans' Affairs Subcommittee on Hospitals and Health Care I can attest to the fact that the Vietnam Veterans of America have been, and are, a responsible voice before our committee. They have testified consistently in favor of meaningful programs designed to assist those who served in our last and longest war. But a Federal charter is not designed to provide recognition for the leadership of this organization but for the rank and file members throughout the United States who have earned and deserve the opportunity to further their effective support for those who served with them during the Vietnam war.

Mr. Speaker, during debate on this legislation it was apparent that the legacies of the Vietnam war and the devisiveness which accompanied the Vietnam era were still with us. I would hope that the other body in a continuing spirit of reconciliation would follow the House action and approve H.R. 4772.

I would like to submit for the record two articles, the first from the Wall Street Journal of June 12, 1984, the second, an editorial from the Philadelphia Daily News which appeared this past Memorial Day.

[From the Wall Street Journal, June 12, 1984]

### Vietnam Veterans of America's Bid for Charter Gains

(By David Rogers)

WASHINGTON.—The House, despite an often bitter lobbying campaign by the national Veterans of Foreign Wars, approved legislation granting a federal charter to Vietnam Veterans of America.

The 295-96 margin was far in excess of the two-thirds majority needed under the procedures used to bring the bill to the floor, but the measure still faces controversy in the Senate where conservative Republicans have begun to withdraw their support in the face of VFW lobbying and criticism of the Vietnam Veterans' leadership.

Most of these attacks have focused on Vietnam Veterans' president, Robert Mueller, a former Marine Lieutenant who was severely wounded in Vietnam and has been outspoken in his criticism of the war. For example, Mr. Mueller's visits to Hanoi and comments supportive of actress Jane Fonda, a celebrated critic of the war, are cited in a recent VFW letter. In addiiton, the Vietnam Veterans leadership was criticized sharply on the floor by Rep. John McCain (R., Ariz.), a former Navy pilot and prisoner of war in North Vietnam.

The bitterness of the debate is in striking contrast with public ceremonies recently when the remains of an unidentified American soldier were buried in the Tomb of the Unknowns in Arlington Cemetery. The Memorial Day weekend services were hailed then as an effort to heal wounds left from the war, but old animosities have surfaced in the fight over the Vietnam Veterans' charter.

Proponents of the charter legislation acknowledged mistakes by the young leadership, but said the VFW's record on the problems of Vietnam veterans has been weak.

They noted that the VFW opposed readjustment centers and early legislation to help soldiers suffering from exposure to the heribicide, Agent Orange.

Vietnam Veterans, which claims some 16,000 members, was recognized as a service organization by the Veterans' Administration in 1981. A federal charter would add to its status and put it on more of an equal footing with more-established organizations like the VFW. The recognition doesn't alter any corporate rights or responsibilities under Vietnam Veterans' current state charter in New York, but it does require the group to keep certain records, perform an annual audit and report to Congress annually.

In the Republican-controlled Senate, the VFW is expected to be stronger, and the charter bill is still before the Senate Judiciary Committee, of which conservative Sen. Strom Thurmond (R., S.C.) is chairman.

[From the Philadelphia Daily News, May 28, 1984]

### WORDS AND ACTIONS

The president's words were stirring. He vowed at the tomb of the unknown Vietnam War soldier that he would not close the books on that war until all the missing were accounted for.

That's an admirable objective.

Someone might inform the president that there is a group already working hard to accomplish it—the Vietnam Veterans of America. It is that group's efforts that the Reagan administration has consistently opposed.

The VVA has taken a rational approach to the issue of servicemen still listed as missing in action, to the immigration of the children of American soldiers, to research into the health effects of Agent Orange.

It has actually gone to Southeast Asia and spoken with representatives of the Vietamese government. Through these efforts, the VVA has arranged the return of the remains of some American soldiers, has convinced the Vietnamese to permit Amerasian children to emigrate and convinced them to allow scientists to come to Vietnam for Agent Orange research.

All this has happened since 1981, when the group's president, Robert O. Muller, first led a delegation to the Vietnamese. The VVA does not suffer from delusions. It went to the people who could solve the problem.

Unfortunately our government which has had no such accomplishments, has some serious delusions. A lot of politicians, including the president, make a lot of political hay by portraying the Vietnam War as "a noble cause" and the Vietnamese government as communists that we shouldn't be talking to. Our State Department says there are no diplomatic ties because Vietnam occupies Cambodia.

Cambodia, you will recall, became a major part of the war when we invaded it. It then suffered incredibly under the murderous Pol Pot, whom Vietnam overthrew. The United States maintains the absurd position that the mass murderer is the legitimate leader.

In other words, while our government diddles around in a firm of unreality while providing nothing but stirring speeches the VVA is doing something.

In return, the politicians who still sense political benefit from talking tough about a war that's over have consistently denied the VVA a federal charter of the sort more traditional veterans' groups have.

The VVA doesn't talk tough. It doesn't have to. If anyone has a right to be a rigid anti-Vietnamese it would be Muller, who's been in a wheelchair since he was shot in the spine in 1969. But he doesn't have to be. He has more important things to do.

Wouldn't it be nice if our government finally followed the VVA's example and tried to solve the problems left over from that nasty war? Until it does, President Reagan's fine words will have a hollow ring.●

## VOICE OF DEMOCRACY

### HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. KOLTER. Mr. Speaker, I would like to take this time to formally congratulate three most deserving students, residing in Beaver County, Pa. These students participated in the Voice of Democracy Scholarship Program, and came through with flying colors. Lara Koban of Beaver Falls, Roberto Ceccarelli of Aliquippa, and Mark Adams, also of Aliquippa, finished first, second, and third, respectively, in the contest after writing fine essays on the Constitution of the United States. Also competing in the program, and receiving honorable mentions were Betty Jo Miller, Lanny Allen Dillon, Jr., and Carlotta Smith.

The Voice of Democracy Program started 36 years ago, in 1948, with the endorsement of the U.S. Office of Education and the National Association of Secondary School Principals. Sponsorship of the program was provided by the National Association of Broadcasters, Electronic Industries Association and State Associations of Broadcasters, and was conducted in cooperation with the Veterans of Foreign Wars.

Finally, in 1961, the Veterans of Foreign Wars assumed the sole sponsorship responsibility, with the first place national winner receiving an award consisting of a single $1,500 scholarship. During the past 22 years under VFW sponsorship, the annual national scholarship have been increased to six, totaling $32,500 with the first place winner currently receiving a $14,000 scholarship to the school of his or her choice.

Student participation in this program has tripled and school participation has almost doubled. This past year, more than one-quarter of a million students and over 8,000 schools participated. Close to 4,000 VFW posts and 3,500 auxiliaries sponsored the program, with the cooperation of some 2,300 radio and TV stations.

During the past 22 years of sponsorship by the VFW, over 5 million students have participated, and awards totalling more than $3 million have been given to winners at all levels in scholarships, savings bonds, and so forth, I am happy to announce that because of their efforts, Lara, Roberto, and Mark will be able to reap some of the benefits this program provides.

Lara graduated in May from Beaver Falls High School, was a member of the National Honor Society, and was ranked 11 in a class of 238. She will attend Drexel University in the fall. Roberto will be entering his junior year at Quigley High School, where he is currently ranked first in his class of 127. He is also a member of the National Honor Society and is eligible for advanced placement at Carnegie Mellon University. Mark Adams just completed his sophomore year at Hopewell High School. Mark carries a B average, is a member of the Latin Club, and is president of the Christian Youth Organization in his area.

The contestants were asked to tell how they would uphold the guidelines set down by our forefathers in the Constitution of the United States. Each answered in a most spirited way, telling of their responsibilities as a citizen to follow these guidelines, making our country a strong Nation. As intelligent young people, they were able to recognize the tough order they have to fulfill as Americans. Miss Koban put it best, and I hope all will take heed when reading this:

> We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution of the United States of America . . ., a tough order for the United States to fill, but the United States is made up of tough individuals. Each individual, in some way, is doing his or her share to keep the American spirit alive. Being one of these individuals, I, too, have a part to contribute to our country, and a role to play in upholding our Constitution.

Again, congratulations to Lara, Roberto, and Mark. I wish them all the luck and blessings in their future endeavors.●

## 1984 CONGRESSIONAL CALL TO CONSCIENCE VIGIL

### HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. DURBIN. Mr. Speaker, I rise to add my voice to those who have already spoken out in the 1984 Congressional Call to Conscience Vigil for Soviet Jews.

Unhappily, the world is already very familiar with the plight of Soviet Jews because of the publicity that has been focused on the case of Andrei Sakharov. His situation has also heightened frustration among Westerners at our inability to persuade the Soviets to release Dr. Sakharov or to ease up on their emigration policies—despite the fact that they are signators of the Helsinki accords.

The right to emigrate is a basic human freedom, one that has been much abused by the Soviet Union in recent years. This right goes along with other freedoms, such as the freedom to express one's own views, to worship one's own God, and to choose meaningful work. All these rights have been denied to Jews in the Soviet Union in one way or another.

The situation has deteriorated sharply in recent years, so much so that only 1,315 Jews were given permission to emigrate in 1983. This figure is down from 51,320 in 1979. These statistics, as bad as they are, don't begin to describe the treatment that Soviet Jews have had to endure once they have the courage to apply for permission to emigrate. In countless instances, Soviet officials make the lives of these people far more difficult than they already are, with general harassment, torture and arrest.

The list of Jews wishing to leave the Soviet Union is testimony to the treatment they receive there. It is also no flattering comment on the Soviet state that treats them that way. We have all heard of refuseniks such as Dr. Sakharov, Anatoly Shcharansky, Ida Nudel, Vladimir Slepak, and others. The names of many other refuseniks may not be known to the West, but their plight is no different, and we desire their releases just as much.

Despite my frustration at the lack of progress so far, I will continue to write to Jews still living in the Soviet Union and to speak out against this policy that violates these people's basic human rights. I am confident that many of my colleagues will continue to do the same. I thank my colleague, Mr. COUGHLIN, for coordinating this Congressional Vigil and will continue to participate in it in the future.●

## THE CASE FOR HANDGUN CONTROL LEGISLATION

### HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. LEHMAN of Florida. Mr. Speaker, despite the existence of statistics showing the constantly increasing relationship between handgun proliferation and violent crime, opponents of gun control continue to cling to the second amendment as a shield protecting them from any progressive gun control legislation. In 1969, it was estimated that Americans owned 24 million handguns. Today that figure is about 60 million. Additionally, in 1963, 4,762 of the homicides in this country involved the use of a gun. In 1982, 12,648 homicides involved handguns and 43 percent of all murders were caused by handguns.

Mr. Speaker, opponents of gun control believe that the second amendment's provision granting "the right of the people to keep and bear arms" is absolute. A clause in this sentence, however, also mentions the need for a "well-regulated militia." This clause indicates that: First, national defense was one of the intents of this amendment; and second, the right to carry a handgun, as any other right, is not absolute but rather is subject to reasonable restrictions.

Gun control opponents also frequently point to Switzerland as an example of how a low-crime rate is compatible with the wide availability of firearms. In a recent Miami Herald article, syndicated columnist Sydney J. Harris convincingly argues in favor of gun control by comparing the Swiss experience with firearms to that of the United States: He says that the possession of rifles by every male citizen in Switzerland, which requires extensive training and restrictions, is related to the legitimate need for guarding the Swiss frontier. In our society, handguns are much less restricted yet one of their main uses is for criminal activity.

In light of the escalation of violent crime due to handguns, we must institute stronger limitations on handguns such as those enumerated in H.R. 1543, the Handgun Crime Control Act of 1983, which is currently pending in the Judiciary Subcommittee on Crime.

Mr. Speaker, I would like to share the following article with my collegues since it illustrates the need for Federal handgun reform such as H.R. 1543:

#### THE SWISS RIGIDLY CONTROL GUNS—THEY ALL OWN, BUT ALSO RESPECT, FIREARMS

(By Sydney J. Harris)

> Of all the absurd rebuttals to a recent piece on the need for gun-control laws in the United States, none made less sense than the letters pointing proudly to Switzerland as a country where every man is armed, and the homicide rate is comfortingly low.
>
> If these jubilant correspondents had stopped to think for a moment, they might recognize that the system in Switzerland precisely confirms my position about the promiscuous ownership and use of guns in our country.
>
> In Switzerland, every able-bodied citizen actually belongs to the militia, as the first line of the country's defense. Every Swiss male, from puberty to senescence, is given time off from his job for strict training in rifle practice and patrol duty throughout the year.
>
> The Swiss officially dispense rifles (but not handguns) to this civilian army, but each weapon is registered with the state and is carefully supervised. The militia is taught how to handle arms, and how to keep them safely out of irresponsible hands. Anyone who violates these regulations is subject to immediate penalties.
>
> (Realistically, of course, the Swiss riflemen are more symbol than substance in these times, when one well-placed atomic bomb would turn all of Switzerland into a hole in the ground.)
>
> Only a rapid gun-nut would possess the combined ignorance and gall to compare the prudent and severely supervised system of guarding the Swiss frontier and mountain passes with the wild anarchy of American handgun ownership, where any loony can walk into a shop and stroll out with a Saturday Night Special to kill the object of his greed or anger or jealousy or paranoia.
>
> In Switzerland, there is a respect for weapons as a legitimate national defense against invasion: here, the handgun has little value and no meaning. Of course, criminals use them, for they are part of our popular mythology. But more homicides are committed by assailants with no previous criminal record than by professional lawbreakers.
>
> It is significant, I think, that most American police departments (and especially in the big cities, where the crime rate is highest) advise citizens not to keep handguns in their homes or on their property, because the odds that they or someone in their family will die from a bullet are greater than their repelling or winging an intruder. (Even a trained policeman in Chicago recently killed his own female partner accidentally in a shootout.)
>
> Handguns do not make us "safer"; they put us more at risk. If the law-abiding Swiss regulate firearms as severely as they do, how much more so should we?●

## A CHALLENGE TO AMERICA

### HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. BILIRAKIS. Mr. Speaker, I would like to bring to the attention of my colleagues the following article which was written by a constituent of mine, Mr. C. Robert Martin of Clearwater, FL.

In his article, entitled "A Challenge to America," Mr. Martin discusses the Federal deficit, its massive growth following the Depression and World War II, and the future implications of unrestrained spending. In his article, Mr. Martin also contends that,

> The unsound policies that created the debt are more significant than the debt itself for they are being adopted as standard policy.

This is a perspective which I feel goes to the heart of the deficit issue, namely that "government business as usual," is unacceptable.

Altogether, Mr. Martin calls for "a generation of strong leaders who will put our national well-being above the clamor of the courtiers * * *." He warns of the impending danger of deficit spending and asserts that "something must be done to remind the public that its government is no stronger than the people."

I believe these words ring true as we confront the fiscal year 1985 budget cycle and seek to reduce projected deficits over the next few years. But I believe these words ring even more clearly when it is noted that Mr. Martin wrote this article not in 1984—but in 1959.

Twenty-five years ago, in this article which was sent to all Representatives and Senators, Mr. Martin warned that we needed to restore order to our economy and to break the cycle of deficit spending which had increased the national debt by 1,500 percent in the previous 30 years; 25 years ago, Mr. Martin could state that

> we are living beyond our means when we finance subsidies by raising the debt limit and plundering the future of our children.

Perhaps if all Representatives and Senators had read Mr. Martin's article thoroughly when it was originally written, we would not be in the position we find ourselves today. Perhaps if Congress had adopted some of this sound perspectives on Federal spending, then my submission of this article today, in 1984, would not carry with it the irony of an accurate warning unheeded. Perhaps, indeed, this "Challenge to America" would have been met—and conquered.

### A CHALLENGE TO AMERICA

We, the American people, honor our country and cherish the high order of human dignity it provides us. We live in the most glorious era that mankind has ever seen and we appreciate it. But there are ominous signs of national disaster intermingled with our luxury and I challenge America to read these signs and face up to the truth while there is yet time.

In one generation, from 1929 to 1958, we have increased our national debt eleven fold, from $139 per person to $1,584 for every man, woman and child in the country. Our debt at $272 billion is surmountable and certainly it should be paid, for it is a mortgage on the future of our unborn children. The unsound policies that created the debt are more significant that the debt itself for they are being adopted as standard policy. The figures below show the changes that these policies have brought to our economy in 30 years.

| | 1929 | 1958 | Increase (percent) |
|---|---|---|---|
| Population (millions) | 122 | 175 | 43 |
| Total number employed persons in millions (exclusive of military) | 46.7 | 62.3 | 33 |
| Government employees in millions (exclusive of military) | 3.1 | 7.5 | 140 |
| Personal income (billions) | $85.763 | $359.039 | 320 |
| National debt per person (dollars) | $139.04 | $1,584.02 | 1,040 |
| National debt (billions) | $16.961 | $272.624 | 1,500 |
| Personal tax to Federal Government (billions) | $1.263 | $36.729 | 2,800 |
| Federal Government purchase of goods and supplies (billions) | $1.311 | $52.180 | 3,880 |

The trend that produced these figures began as emergency spending during the depression and World War II. After the war, people showed sincere concern over the debt and openly discussed ways of paying it off. Now, 13 years later, payment of the debt is rarely mentioned; now we are pleased if we can close a year without having to raise the debt limit. Our government cannot survive indefinitely if we persist in this attitude and, unfortunately, few Americans seem to be concerned.

Five areas of our economy should be scrutinized to bring about the change we need. They are:

(1) National Security: Our military and scientific leaders continually urge strong military and, since the layman is not qualified to disagree, we dare not refuse. We recognize that the cost of this military strength is high, but it need not weaken our country. Physical strength has been an important ingredient in every ascending civilization of history. Decay, on the other hand, has come from within, when the people lost their virility through easy living. Let us keep our military strong if necessary, but let us pay for it as we go, rather than leave the debt for our children to pay.

(2) Bureaucracy: With 8 million employees, government is the largest business in the country and, as in every big operation, efficiency is difficult to acquire. Certainly, every effort should be made to get first class office management in our government.

A special effort should be made to find and eliminate professional bureaucrats who create projects to advance their own careers. This is not uncommon and it should be classed as near-treason.

We should seek to improve our method of establishing appropriations by putting an end to the practice of emergency spending at the end of the year to avoid losing funds the following year, and by honoring those agencies that can close their year with a surplus.

(3) Lobbyists: The lobbyists have perfected the art of convincing our lawmakers that we need their projects. Thus highways, education, farm subsidies, housing, flood control, and many similar programs have become normal functions of our Federal Government. Undoubtedly, the Federal Government should render useful service in many areas but, wherever possible, such programs should be kept at the State or Local level. We should brace ourselves against the petitions of selfish interest groups.

(4) Backdoor Financing: Devious methods of financing government projects should be eliminated. Projects that are not worthy of complete scrutiny should be avoided. The allocation of public funds should be above political considerations; those who engage in backdoor financing are trying to fool either themselves, or the public.

(5) Public Attitude: Perhaps our most serious problem is the apparent greed of the public. Individuals and special interest groups have come to expect the government to assure and insure ever situation. We are doing as the Romans did when their democracy floursished and the people enjoyed unprecedented luxury; when their appetites exceeded their production and their treasury needed fattening, the sent out an expeditionary force to plunder a neighbor. We are living beyond our means when we finance subsidies by raising the debt limit and plundering the future of our children. Something must be done to remind the public that its government is no stronger than its people.

We need a generation of strong leaders who will put our national well-being above the clamor of the courtiers and yield their office if necessary to set the people of the nation straight. Certainly we have great leaders today, but we need more men with the wisdom of Thomas Jefferson, the daring and eloquence of Patrick Henry, and the devotion of George Washington. There were only three million people in this land when these great men came forward to free the colonies and mold them into the great nation it is today. Now, with 175,000,000 people we should be able to find enough strong men to restore order to our national economy. We believe our elected officials could vote their conscience with little risk to their political careers; that the people will ask fewer favors and meet the tax challenge—if they understand the need. I challenge America to read the signs and face up to the truth while there is yet time.

September 15, 1959; C. Robert Martin; 423 Summit Street; Marion, Ohio.●

## BENJAMIN BOGOMOLNY

## HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. COYNE. Mr. Speaker, today I join my colleagues who are participating in the Congressional Fast and Prayer Vigil for Soviet Jewry in marking the 14th anniversary of the notorious Leningrad trials and in calling attention to the continuing plight of refuseniks in the Soviet Union who are denied the basic rights of thought, conscience, and religious and political freedom.

In this regard I would like to call attention to the plight of Benjamin Bogomolny and his wife Tatiana. Mr. Bogomolny can truly be considered a veteran refusenik. In 1966, when he was 20 years old, his parents applied for exit permits for themselves and their four children. At the end of 1970, his parents and three sisters were allowed to go to Israel, but Benjamin who had been drafted into the army, was refused an exit visa. After his discharge Mr. Bogomolny reapplied for an exit visa in 1972, but has since been repeatedly refused permission to join his family in Israel. The official reason given for this refusal has been Mr. Bogomolny's army service. But Benjamin Bogomolny was a private who worked on a construction crew 14 years ago. He is certainly no threat to national security.

Like other refuseniks, life has not been easy for Mr. Bogomolny or his wife. Since applying for an exit visa in 1972 Mr. Bogomolny has had no permanent job or housing. He and his wife have suffered continuous harassment by the KGB. His apartment has been ransacked, he has suffered beatings by the KGB, and has been told that he will be hanged if he does not give up his demand to go to Israel.

Despite the hardships, Mr. Bogomolny and his wife are still determined to join the rest of their family in Israel. It is my hope that the Soviet Union will comply with the Helsinki accords of 1975 and allow Benjamin and Tatiana Bogomolny to emigrate to Israel.●

## A. PHILIP RANDOLPH INSTITUTE SUPPORTS REFUGEE STUDY FINDINGS

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● **Mr. TOWNS.** Mr. Speaker, the A. Philip Randolph Institute, in voicing their support for the poll conducted by the U.S. Committee for Refugees, expresses the sentiment of black leaders across the country as we attempt to educate the black community about the plight of refugees. Education is the only tool that will aid in the process of remedying the public's lack of knowledge about immigrants and refugees. These comments reflect the need for all groups to work toward a better understanding of other's problems. I would like to submit the statement of Norman Hill, president of the institute, for my colleagues' review:

STATEMENT BY NORMAN HILL, PRESIDENT, A. PHILIP RANDOLPH INSTITUTE

Black Americans and black trade unionists have an important stake in refugee and immigration issues. Blacks in our country have been both voluntary and involuntary immigrants to our nation's shores. Recently many leaders in the black community have been in the forefront of the fight for Haitian refugees, fleeing the terrorist police state of "Baby Doc" Duvalier and have sought to awaken public awareness of the refugee problems in Ethiopia and elsewhere in Africa.

Black community leaders and elected officials have sought to play a role in educating the black community about the refugee issue. Black leaders have joined together in endorsing the view that "concern for human rights and for human beings does not end at the water's edge." Black leaders have long recognized that a nation which is not compassionate enough to open its doors to those fleeing tyranny, war, and repression will not be compassionate enough to solve the pressing problems of poverty and joblessness at home.

As the findings of this important poll indicate, black perceptions of refugee issues are largely in line with those of other ethnic and racial groupings in our country. Which is to say that blacks like other Americans are largely not well-informed about refugee matters. When asked to think about refugees abstractly blacks, and most Americans, respond negatively and without appropriate compassion. But when the issue of refugees and immigration is made real, when concrete examples of a Soviet Jew fleeing Communist persecution or of a Vietnamese "boat person" fleeing the totalitarian Bamboo Curtain are presented, the vast majority of blacks and working people respond with compassion.

The role of the A. Philip Randolph Institute and of the civil rights and trade union movements, therefore, must be to better educate our constituencies about the human dimension of the refugee and immigration issue. Our role must be to speak forthrightly about the contributions immigrants and refugees make to our nation. After all, Americans are a nation of immigrants and refugees from tyranny.

If we play our role properly, if we make the issue of refugees and immigrants concrete, if our communities can see the flesh and blood human beings affected by refugee and immigration policies, then, as the poll's findings suggest, the American people will strongly support the compassionate policy of reunifying families and of providing a haven for those fleeing death and repression.

The maintenance of a liberal refugee policy is a litmus test of our national compassion. The opening of our borders to those fleeing death or repression is a measure of our commitment to social justice and human rights.

And the findings of this poll are of great encouragement to those of us who are confident of the humanity and generosity of the American people, both black and white.●

## A LABORATORY OF DEMOCRACY?

### HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● **Mr. KOLTER.** Mr. Speaker, Mr. Charles L. Kennedy, executive director of the Manufacturers Association of a tricounty area in Pennsylvania, serving Beaver, Butler, and Lawrence Counties, respectfully requested to have an article inserted into the CONGRESSIONAL RECORD.

The purpose of his request is to provide an example of potential cooperation between labor, industry, and government. This article is an excerpt of the paper: "Regulatory Reform: A Laboratory of Democracy." It was presented to the annual meeting of the American Society of Public Administration in 1984. I believe it gives some insight into the problems involving government and labor relations.

The article follows:

A LABORATORY OF DEMOCRACY?

The rhetoric of the political campaign of '84 has produced a clear consensus (at least between Walter Mondale and Gary Hart) on the need for a cooperative relationship between business, labor and government. This approach is advocated to address the problems of the Modern American Revolution—the post-industrial technological revolution. This approach sounds the death knell for the traditional adversary relationship between business, labor and government.

This rhetoric of consensus can be translated into action by the adoption of the problem-solving mechanism advocated by Dr. J. Ronald Fox of the Harvard Business School. In his article entitled, "Breaking the Regulatory Deadlock" in the Harvard Business Review, Dr. Fox deplored a regulatory process based on conflict and adversarial relationships. He wrote:

"Our regulatory procedures encourage conflicts among the parties at interest . . . where highly technical issues are involved, as in energy regulation, consumer product safety, occupational health and safety, and environmental pollution, reasonable and effective solutions rarely result from the adversary process."

Dr. Fox advocated a regulatory partnership that can prevent extreme stands and provide solutions that satisfy all factions. In his partnership alternative, "representatives of business, government, labor, and other special interest groups work to resolve problems and to build a consensus. . . ."

The regulatory partnership proposes regulatory forums to facilitate the procedure of regulatory negotiations. This consensus-building procedure ensures that, "business, labor and other interest groups . . . have ways of participating in the decision process to help ensure that the government takes into account all the significant information when it makes trade-offs." These forums, essentially functioning as workshops whereby the participants can freely and openly exchange ideas, are the keystone for the ultimate success of the Fox Model. These forums would be moderated by an independent and neutral third party. In Pennsylvania this role could be performed by the Independent Regulatory Review Commission or the Governor's Regulatory Relief Task Force.

The ideal situation, however, would be to have these forums conducted by a Regulatory Institute of Pennsylvania operated by one of the major universities in the state. In addition to the forums, the Regulatory Institute would also:

1. conduct comprehensive cost benefit/cost effective analysis of both existing and proposed regulations in Pennsylvania;
2. conduct "training sessions" and seminars for the participants in the regulatory process.

Although the Fox Model is primarily applicable to regulation, it could be readily adopted to the development of public policy. In considering this proposal, Pennsylvania's decision-makers should consider the following examples:

1. The response of Woodrow Wilson, when accused of being an idealist, "America is the land of idealism."
2. When Andrew Jackson died, someone said, "Will he go to heaven?" And the response was, "He will if he wants to."

So it is with the regulatory partnership system, it will work if leaders with vision want to make it work. It could make Pennsylvania "a laboratory of democracy."●

## QUALITY IS NOT OLD FASHIONED

### HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● **Mr. DONNELLY.** Mr. Speaker, quality and craftsmanship were long regarded as the hallmarks of American manufacturing. That proud tradition is still alive and well in Rockland, MA, which is home to one of the most highly regarded shoe factories in the United States.

E.T. Wright & Co. was recently recognized as 1 of the 10 best-managed factories in America by Fortune magazine. A profile of the company also appeared last month in the Boston Globe. I would like to share that article, and the example of Wright's tradition, with this House.

[From the Boston Globe, May 24, 1984]

### THIS MASSACHUSETTS FACTORY HAS THE WRIGHT STUFF

(By Wendy Fox)

ROCKLAND.—At the E.T. Wright & Co. shoe factory here, it takes 20 days and the skills of 250 people to produce a pair of men's shoes. The company is quite proud of that record.

They are, to be sure, very nice and rather expensive shoes. They're all leather, inside and out, meticulously hand sewn around the top. They contain a steel shank in the sole covered with cork for a contoured fit. Goodyear welts (leather strips) are sewn around the soles for extra strength.

In a final touch from old England, the inner corner of each heel is rounded off to keep it from catching on a cuff.

The 108-year-old firm, which relies on highly skilled human labor and technology several decades old, is an example of American manufacturing at its best, according to Fortune magazine. In its current issue, the magazine named it one of the 10 best-managed factories in America. Hewlett-Packard's Waltham plant, which makes medical electronics, also made the list.

For years, manufacturing has taken a back seat to some of the flashier aspects of corporate life such as marketing, finance and research and development. But in recent years, the study of manufacturing has come back into vogue, as professors and authors prophesize that unless companies pay attention to the manufacturing end of business, they will not be able to compete.

Robert Hayes, a professor of business administration at Harvard who recently co-authored a book called "Restoring Our Competitive Edge: Competing Through Manufacturing," believes such companies as E.T. Wright may be doing exactly the right thing.

"Some of the wisdom that we seem to have forgotten about manufacturing . . . is just because something is 108 years old doesn't mean it's old fashioned," he said in an interview this week. "There's a lot of timeless wisdom in running one of those plants and the worst thing they can often do is say, 'Gee, let's make this modern.' "

E.T. Wright, President Alfred Donovan, descendant of one of the company's founders, credits the national recognition to the firm's long-standing policy of sacrificing nothing for quality and instilling in the employees real pride in the product.

Workers can buy the $100-$150 shoes for half price, and many do. Windows in the creaky frame factory stand open on nice days, letting soft breezes waft across the women at their sewing machines and the men at leather-cutting boards. Many smile and call out, "G'morning, Alfred." as the president walks by.

On the other hand, employees are expected to do meticulous work. Not the smallest scratch or stretch mark from the soft, imported calfskin hides can become part of an E.T. Wright shoe, according to the company.

George Gamby carefully arranges the cutting dies on a skin to include only the unmarred areas. Each shoe in a pair is cut from the same hide, and the pieces travel from one assembly point to the next as a pair for a close-to-perfect match.

Diane Donadio takes the plastic lasts, or shoe molds, and, with a high-heat machine, forms part of the insole. It looks much like a human foot.

"All we're trying to do is reproduce the bottom of the foot in the shoe," says Donovan of the company's patented process. The old machine is one of very few in the country, and Donovan later points out two others the firm found and saves for spare parts.

Willie Harrison works over a soft calfskin loafer, a needle in each hand, carefully stitching the top to the sides. A young man at an aged, rumbling machine smoothes the soles around a pair of black wing-tips, making sure the left matches the right.

Women at long tables cut and stitch, trim and bend the leather until, after each step, the floppy, oddly shaped parts look more and more like a shoe.

Each shoe, containing three square feet of leather, goes through 155 steps and is handled by each of 250 workers. From the time the leather is cut until the shoe is finished, polished, dried and boxed, about 20 working days elapse. The company completes about 1300 pairs a day.

So far, the $15 million business has escaped erosion by imports, which now claim about 70 percent of the U.S. market. In fact, Donovan says, the company is growing 10 percent a year.

Imports tend to be in lower price ranges, say Donovan and Joseph Marrocco, executive vice president, and while Bally provides the company's most serious foreign competition, the Swiss firm has sold shoes in this country for so long that they hardly consider it foreign anymore.

They do worry, however, that if the domestic shoe market dries up, so will the companies that supply them with heels and shanks and other small parts. Importing or making those parts themselves could become prohibitively expensive, they say.

But if the company's economic future is uncertain, its customers are not. A survey done for the firm 2½ years ago showed the typical buyer to be a man in his mid-40s, married, conservative, earning about $40,000 a year and very loyal. He has more than one pair of E.T. Wrights in his closet.●

## THE 30TH ANNIVERSARY OF DESERT HAVEN TRAINING CENTER OF ANTELOPE VALLEY

### HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. THOMAS of California. Mr. Speaker, on June 19, 1984, the Desert Haven Training Center in Lancaster, CA, will celebrate its 30th anniversary as a community center serving handicapped citizens of the Antelope Valley. I would like to take this time to highlight just a few of the outstanding contributions this organization has provided for its community.

In 1954, under the leadership of Mr. and Mrs. Jack Henstra, a small group of concerned citizens recognized that retarded youngsters in the community could benefit from group preschool sessions, and formed an organization to serve that need; 30 years later, the Antelope Valley Association for the Retarded and the Desert Haven Training Center provides many other services beyond those original preschool sessions.

The center offers skills training classes which enable clients to develop necessary basic work skills. This training is provided in numerous job areas including ground maintenance, food services, solar panel assembly and ceramic wind chime production.

In addition, work adjustment classes and supportive services are available through the center. These services aid clients in developing the work habits and attitudes necessary to compete in job markets. In essence, the center helps handicapped individuals achieve the dignity, self-respect, and independence they need and deserve.

Significantly, the center is operated by a wholly volunteer board of directors comprised of concerned and interested parents and citizens. These dedicated people willingly give their time and money to help those in the community who are less fortunate. Without their vision and hard work, the center would not have grown from its one program serving over 150 individuals.

The Desert Haven Training Center and the dedicated staff behind it deserve the highest praise for the work they do in the Antelope Valley. On the occasion of their 30th anniversary, I would like to say thank you, and congratulations, and keep up the good work.●

## IN MEMORY OF FORMER REPRESENTATIVE JOHN G. FARY

### HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. HOWARD. Mr. Speaker, on Thursday, June 7, 1984 John G. Fary, a former Member of this body, a distinguished member of the Committee on Public Works and Transportation and chairman of its Subcommittee on Public Buildings and Grounds during his service in the House, and a dear friend of mine, died.

John G. Fary served as a member of this body from 1975 to 1983. He was an effective Member, intelligent chairman, and a friend to all.

Prior to his service in the Congress of the United States he was a legislator in the State Legislature of Illinois for 21 years. His was a distinguished career of public service for his city, his State, and his country.

Among his legislative contributions to the Chicago area was his work in revitalizing Midway Airport and developing the Little Calumet watershed plan.

John Fary, a modest man, made a real contribution in his life simply by being the warm, unassuming person he was and offering his friendship to all who accepted it.

I extend my deepest sympathy to his wife, Lillian, to his family, and many friends in the Illinois area. ●

## SUPPORT A STRONG IDB PROGRAM

### HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. WEBER. Mr. Speaker, last week over 100 Members of Congress signed by letter to the House conferees on the tax bill, H.R. 4170. I want to take this opportunity to thank them for their support of this effort to sustain a strong Industrial Revenue Bond Program.

Specifically, the letter asks the conferees to modify or eliminate the $150-per-resident State volume cap on tax-exempt bonds in the House-passed tax bill.

The fact that most of the Members represent rural areas of the country is not surprising. If these IDB restrictions are enacted, they will fall squarely on the back of rural America.

Mr. Speaker, just as many developing areas of our country are beginning to get back on their feet, the IDB provisions in the House bill will slam the door on thousands of planned renewal and small business expansion projects.

Let's make no mistake about it. With interest rates still too high, our local governments, small businesses, health agencies, electric cooperatives and many others depend on IDB's to meet their financing needs.

In Minnesota alone, according to preliminary Treasury Department figures, at least $250,000,000 in tax-exempt financing will be lost each and every year if these restrictions become law. Other States show even greater losses.

Given that the Members who signed my letter represent areas of 32 States, I think the past success of this program is self-evident.

Therefore, to my colleagues who have the difficult task of ironing out differences in the House and Senate bills, I urge you to consider the long-term affects these IDB restrictions will have in our localities.

Yes, we need to bring spending under control. However, we cannot balance the budget by weakening the one Federal program that has provided jobs, real growth, and the infrastructure needs that our communities depend on for the future.

Mr. Speaker, we need a strong IDB program. I urge my colleagues to consider the attached letter and to renew their support for this program.

The letter follows:

House of Representatives,
*Washington, DC, June 4, 1984.*

Dear House Conferee: We are writing to ask your support to modify or eliminate the $150 per capita state volume limit on tax-exempt bonds (IDBs) in the Tax Reform Act of 1984, H.R. 4170.

We all recognize the need to take action to reduce the deficit, but we believe these IDB restrictions would place undue limits on an extremely important tool for local governments. With interest rates still too high, municipalities depend on IDBs to (1) meet their infrastructure needs, (2) spur private investment, and (3) stimulate the development of distressed areas of their communities.

H.R. 4170 will require users of tax-exempt bonds—including students, small businesses, pollution control authorities, sewer and water agencies, rural electric companies and hydroelectric energy facilities—to compete with each other for authority to issue IDBs. Unfortunately, after the doors are closed for many legitimate users of tax-exempt bonds, it is clear that the big losers will be the consumer and the unemployed.

It is important to realize that there are ways to shut off abuses in the IDB program without resorting to a state cap. For example, the 1982 tax bill (TEFRA), prohibited the use of IDBs for fast food restaurants and entertainment facilities. It also required that issuers of all private activity bonds make quarterly reports to the IRS and required approval by a local elected body.

Please give this request the consideration it deserves, and protect this one government program that has proven its value over the years.

Sincerely,

Martin Frost, Don Young, Pat Roberts, Barney Frank, Bob Livingston, Bud Shuster, Bill Whitehurst, Silvio O. Conte, Arlan Stangeland, Dan Coats, Beverly B. Byron, Joe Skeen, David Dreier, Vin Weber, Marjorie Holt, Hamilton Fish, Barbara A. Mikulski, Robert Lagomarsino, John Hiler, Parren J. Mitchell, Richard Shelby, Carl Pursell, Larry E. Craig, John McCain, Gerry Sikorski, Ron Marlenee.

Chris Smith, Bill Emerson, Barbara F. Vucanovich, Timothy J. Penny, Ron Packard, Daniel B. Crane, Roy Dyson, Guy Molinari, Charles Pashayan, James M. Jeffords, Stan Lundine, Jack Brooks, Bill Chappell, Lawrence Coughlin, Harold L. Volkmer, Dan Daniel, Joseph M. McDade, Joseph P. Addabbo, Daniel Akaka, Tom Bevill.

Edward Madigan, Bill Nichols, Matthew J. Rinaldo, Norman D'Amours, Virginia Smith, John Paul Hammerschmidt, Frederick Boucher, Harry M. Reid, Howard Wolpe, Bob Wise, Tom Kindness, Marilyn Lloyd, Thomas Luken, Robert Roe, Henry J. Hyde, Austin J. Murphy, Mervyn M. Dymally, John Edward Porter, Herbert H. Bateman, Frank Harrison.

William Carney, George W. Gekas, Tom Ridge, James McNulty, Jr., Dennis Eckart, Newt Gingrich, Benjamin Gilman, Frank Horton, George (Buddy) Darden, Bob Whittaker, Nicholas Mavroules, James V. Hansen, Albert Gore, Jr., Dan Marriott, Lyle Williams, Charles Wilson, Antonio B. Won Pat, Fofo Sunia, Robert Davis, Raymond J. McGrath.

Ben Erdreich, Ron Packard, Major R. Owens, Don Ritter, Katie Hall, Norman F. Lent, Lane Evans, Claudine Schneider, Hal Rogers, Michael Barnes, Mickey Leland, Thomas Bliley, Mark Siljander, Don Sundquist, Robert E. Badham, John R. Kasich, Tony Coelho.●

## BALTIC FREEDOM DAY

### HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. LEVIN of Michigan. Mr. Speaker, 44 years ago today, troops of, the Soviet secret police, then known as the NKVD, began mass deportations of Estonians, Latvians, and Lithuanians from their ancestral homelands. Children, wives, fathers, sisters were herded into cattle cars and taken to the Siberian wastelands to work as slave labor in the mines and forests of the Soviet Union. By the time the Soviets were done 2 weeks later, over 650,000 people had disappeared from these nations. Many never arrived at the work camps; they died in those cattle cars of starvation or disease.

Forty-four years ago no one in the world protested this horror; no one came to the assistance of these people. Today, we mark this tragedy and console the families of these victims.

In communities all over America, citizens of Baltic heritage will commemorate the sacrifices of their relatives and friends. Many Baltic Americans themselves lived through the nightmare of the deportations and this weekend they will remember the terrible loss of a mother, an uncle, or a friend. They will remember the joys they shared with loved ones who never returned and the nightmare of those weeks in June 1940 when they felt so utterly alone and helpless before the bands of armed police who broke down doors in the middle of the night. They will remember the dreams of their youth in their newly independent homelands and they will give thanks for the refuge they found in their own exile.

This Congress joins our Baltic-American citizens in their grief and their hopes for the future. We will not allow the sacrifices of their relatives and friends to be forgotten.

The Baltic Republics reemerged in 1918 after years of czarist oppression to join the family of nations. Czarist rule had taken its toll on the Estonians, Latvians, and Lithuanians; their languages had been banned, the people exploited as tenant farmers and their young men conscripted for 25 years of service in the Russian Army. In the new Baltic Republics there was striving for freedom of expression, education, and a better standard of living. All too soon, the Baltic States found themselves cut off from Western Europe and engulfed in a war not of their making.

Although the Baltic States remain occupied by the Soviet Union, there is ample evidence that their people continue their resistance to the occupation and Sovietization of their societies. They will not allow the victims of that June in 1940 and the countless victims of years since to be forgotten. There is a song of Lithuanian partisans from that era which gives testament to the determination of the Baltic peoples for freedom and independence. Its words may be translated to read:

> The people went out to die for freedom; they sought but a handful of land for their own; the land remains consecrated with their blood; therefore, fellow Lithuanian never forget your native land.

We too in the United States respect that determination for freedom and independence. We will not legitimize the occupation and forced incorporation of the Baltic Republics by the Soviet Union. We too will not forget the martyrs of 1940.●

## WINTHROP, MA: ONE OF THE SAFEST AND MOST DESIRABLE CITIES IN THE NATION

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. MARKEY. Mr. Speaker, I want to bring to the attention of my colleagues a recent study done which shows Winthrop, MA, to be one of the safest communities in the country. This designation deserves the commendation of this House as a great accomplishment in the battle to secure safety for all of our citizens.

The study, conducted by Family Circle magazine, reviews suburban communities for both crime rates and for the general desirability of the communities. Winthrop was found to have affordable homes, accessibility to an urban center, and friendly people that afford residents "lots of good living and very little crime."

I am extremely proud of this designation since I have always believed that Winthrop is a great place to live. I am glad that this study has confirmed this view. The people of Winthrop should be congratulated for their neighborliness and joint efforts in achieving a safe and desirable community.●

## CONFERENCE ON PEACE AND SECURITY IN CENTRAL AMERICA HIGHLIGHTS CONTADORA

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. SOLARZ. Mr. Speaker, I would like to call my colleagues' attention to the conference on Regional Cooperation in Peace and Security in Central America and the Caribbean, which was held in Ixtapa, Mexico, March 9-11, 1984, under the auspices of the International Peace Academy. The conference again highlighted the importance of the Contadora process in the search for peace in Central America.

The International Peace Academy is a nonpolitical, nonprofit, educational institute which designs and conducts professional training programs for dispute settlement and conflict management. Since 1970, over 2,250 diplomats, military officers, policymakers and academicians from 125 nations have attended IPA seminars in Africa, Asia, Europe, and the Western Hemisphere.

The conference report reflects the diversity of thoughtful and thought-provoking viewpoints expressed in Ixtapa. Following are excerpts from that report:

#### INTRODUCTION

The International Peace Academy held an off-the-record Workshop on the topic of "Regional Cooperation in Peace and Security in Central America and the Caribbean" in Ixtapa, Mexico, from 9 to 11 March 1984.

The purpose of the Ixtapa Workshop was to bring together a senior group of diplomats, government officials, academics and other interested parties in an informal setting on a non-attribution basis to exchange ideas on the major issues of regional peace and security in this critical area of the world. The agenda for discussions included the Contadora negotiating process, the threat perceptions of the states in the area, the possibilities for political and negotiated solutions to crises, and the mechanics of defusing the so-called "detonators" of conflict in the region, which would include arms buildups, foreign military advisors, and efforts to destabilize governments.

#### THEMES IN THE DISCUSSIONS

As expected, the Contadora process was the central theme in the workshop's discussions because of its immediate impact on the possible resolution of the crisis as well as its significance as a major Latin American effort of considerable symbolic value. The Workshop analyzed in some detail both the September 1983 objectives document (the "21 points") as well as the more recent "principles for the implementation of the commitments undertaken in the document of objectives."

#### THEME 1: THE CONTADORA PROCESS—GENERAL

The Contadora process was strongly supported by the Workshop participants as the best hope for a peaceful resolution of the Central American crisis. There was also a belief that Contadora had a significance that transcended the specific negotiation of current conflicts: that as an initiative of four regional Latin American actors plus the five Central American states it represents a benchmark in the history of the international relations of the Latin American nations. This is particularly noteworthy, several participants observed, since it was taking place in an area under considerable historic United States influence and interest which continues to this day, and could be interpreted as an important response to U.S. policies in the area. Thus, as suggested above, Contadora has a considerable symbolic value, and to reject or dismiss it is in a sense also a rejection of the idea that the nations of the region have the capacity to work out their own problems.

Several of the Workshop participants had had close contact with the Contadora process, and although they were not at liberty to discuss specific negotiations, they were able to enlighten the group and provide much useful up-to-date information. One participant noted the impact that the Contadora effort was having on Latin American integration: the year-long process of consultation and negotiation had greatly increased the contact between the nations of the area; he noted that at the present moment over 100 highly skilled diplomatic and specialized personnel from the countries involved were working full-time on the details of the next steps in the process, and observed that this high degree of international cooperation was unprecedented and was bound to have an impact beyond the negotiating process itself.

A number of general comments were made regarding the nature of the Contadora effort, which was consistently described as a continuing process, and not simply an agreement or a treaty. Its major goals were explained by one participant as being a truce with disarmament plus a political socio-economic effort to solve the basic problems of the region. Seen in this light, the Contadora process has both short and long range goals; the metaphor frequently used in the Workshop to describe the short range goals was that of a "containment dam" which over the last year has achieved the major goal of preventing the outbreak of a major regional conflict. However, all the participants recognized that this achievement, as important as it was, could only be the secondary one of gaining the time necessary to resolve the fundamental issues which have led the region to the edge of disaster.

The Workshop participants demonstrated less agreement over the obstacles preventing Contadora from fully and quickly achieving its longer-range goals. One current of opinion held that it was the United States that was the major obstacle because of its support for certain actors in the conflict and because of its unwillingness to surrender a measure of its historic influence (some would say hegemony) in the region. Other participants suggested that this was an exaggeration, and that United States policy goals were in fact consistent with those of Contadora.

Assessments of the outlook for the Contadora process were mixed. Some were optimistic in view of the intensity of the effort, the importance of the participants, and the feeling that the next few months might offer a "window" which should be exploited. Others emphasized the magnitude of the problems and, in some cases, expressed doubts about the sincerity of some of the actors involved in the conflict. The pessimists also noted the long-range effects of a possible failure of the Contadora process given the fact that major figures in Latin America had made personal and institutional commitments to make it work; its failure would carry a price for these parties as well as for certain principles of international law. Another current of opinion in the Workshop argued that even if Contadora did not reach all its objectives, the process should go on since even a partial victory would be important and would set the stage for further cooperation and integration.

### THEME 2: THE CONTADORA PROCESS—SECURITY ASPECTS

The Workshop spent a considerable amount of time discussing the "security affairs" portions of the January 1984 Contadora "principles for implementation" document (see Appendix), which establishes the basic Contadora security goals. These goals include: preparing registries of military installations, weapons and troops; preparing censuses of foreign military and security advisors; identifying and eradicating irregular destabilizing forces; locating and eliminating illegal arms traffic; and establishing communications mechanisms for preventing and resolving incidents between states. One of the Workshop participants noted that while this was a most impressive list of goals, they were not impossible ones, and that for each of them there was a precedent in some kind of a previous peacekeeping or confidence-building effort; he added that this type of peacekeeping and peacemaking activity could work if the political will to do it were present and if neutral third party assistance were made available.

There was divergence of opinion on this issue. Some participants argued that efforts should focus on getting the political will, with the expectation that the necessary verification and observer mission details could be quickly worked out once that political will were made evident. Others held that mounting a major verification and observation mission was a very difficult undertaking requiring close coordination which would not come easily; in fact, a dismal scenario was sketched out in which the Contadora process might fail despite political will if the necessary technical details were not adequately faced early on. A further complication was noted by one participant who remarked that one or more parties to the conflict might give lip service to a political agreement but would not be willing to sincerely support the implementation process, thus dooming it from the start.

Several participants noted that traditional notions of "national," "regional" and "hemisphere" security were being challenged. Events such as the continuing crisis in Central America, the South Atlantic War of 1982, and the intervention in Grenada all pointed to a considerable divergence of security concepts at the present moment. One observer noted that the traditional issues of cross-border security were perhaps the easiest to solve, but that the Central American crisis involved a number of internal security issues which vastly complicated the conflict-resolution process, along with the interest and presence of extra-regional actors. The providing of weapons and military assistance by outside actors was criticized and challenged by several participants; others responded that this military assistance was necessary because of fundamental threats to their national security.

Some time was devoted in the Workshop to the specific problems of mounting a peace-observer mission in the Central American conflict environment. The group was fortunate to hear the experiences of several participants who had had relevant experience, including duties with the OAS observer mission along the Honduras-El Salvador border after the conflict of 1969, and again in 1976. It was noted that while this was an important and relevant precedent, the complexity of current Central American conflicts, the multitude of actors, and the levels of tension and arms, all made the precedent of limited value and served to illustrate how much more of an effort might be needed under Contadora. Interesting questions were raised in this connection regarding who would provide the manpower, logistical support and funds to support such an effort. It was noted that in the past the United States had supplied much of the transportation and communications equipment for Inter-American peacekeeping and peaceobserving efforts, but that in the current Central American political context this might not be possible. The search for third-party neutrals who would be willing to perform such tasks and be acceptable to all parties concerned might not be an easy one.

A number of the participants took note of the political roles of the military in the Central American environment, and one wished (only partly in jest) that it might be possible to have a "Costa Rican solution" to the problem of a political military (i.e., abolish them, as that country did in the late 1940's). It was noted that a number of Latin American countries might view this as a bad precedent, or one which would have little relevance outside of the special circumstances prevailing in Costa Rica. The related problem of how to integrate regular and guerrilla forces in a nation as part of a negotiated solution to conflict was also discussed with some consideration of illustrative examples taken from the Zimbabwe case.

An interesting suggestion was made that any actions taken to implement the provisions of the security affairs of Contadora be done in an incremental way. This incremental approach would stress that the first tasks to be tackled should be the easier ones which would have a high probability of success and would require the least amount of resources. Thus, the process would be launched with actions which would be most likely to have positive results. These would then serve as a way of building up the confidence of all concerned in the process before attempting subsequent and more difficult steps.

### THEME 3: THE CONTADORA PROCESS—POLITICAL ASPECTS

The Workshop also devoted considerable discussion time to a consideration of the political aspects of the Contadora process, specifically the points listed in the January 1984 document under the category of "Political Affairs." It was noted by several participants that the key element was political will, and that once that will made itself known then the security and socioeconomic details could be solved with the right amounts of attention, manpower and resources. Others continued the argument sketched out above, to the effect that unsolved details could bring down the best intentioned of political agreements. One member argued that there was no such thing as a non-political technical detail in Central America, and that one should not attempt to isolate such technical matters from their political environment.

The heavy Contadora emphasis on elections came under considerable scrutiny. Given the history of elections in Central America, many participants felt that a great deal of skepticism (and even some cynicism) on electoral solutions was in order. Others disagreed, maintaining that the electoral process, properly and honestly managed, was the way out of the power-sharing dilemma.

Several observers with intimate knowledge of Central America continually stressed the differences between the five nations, arguing that outsiders have historically tended to propose homogeneous solutions for Central American problems which overlook very real differences beyond the surface similarities. Thus, a solution that might work for one Central American country with a given historical and socioeconomic experience might be a failure in a second Central American country with a different experience.

The discussions on political aspects also included some relating to international politics, international law and international organizations. It was noted that Contadora was based on respect for several fundamental tenets of Inter-American law, such as non-intervention and juridical equality, and that in a sense Contadora was an instrument for defense against acts which were generally considered to be contrary to international law, such as the attempt to destabilize another government or the illegal flow of arms. Some mentions was made of the relations between the Contadora process and various international organizations; it was noted that the magnitude and complexity of the present crisis seemed well beyond the capacity of the traditional elements of the Inter-American system (i.e., the Rio Treaty and the Organization of American States). As an ad hoc initiative the Contadora process was free of much of the bureaucratic weight associated with traditional international organizations, and might be the genesis of a new type of "Latin-only" grouping of some importance.

The discussion of political themes also included consideration of revolution and reformism in Central America and the Caribbean. Those participants from countries with a recent history of revolution tended to minimize the contributions of reformism, arguing that the problems of the area required sweeping structural changes which might do away with a number of traditional institutions, such as the military.

Such differences in views underscored some of the major political difficulties of the Contadora process, and gave rise to some pessimism in the Workshop that political solutions would not be soon reached. To some, the conflict situation had not yet "crystallized" to the point where a peaceful resolution seemed likely. Despite tragic levels of violence and human suffering, many of the parties in the conflict still seemed to have faith in a military solution at acceptable costs, and still did not see the value of compromise and a negotiated end to the struggle.

### THEME 4: THE CONTADORA PROCESS—SOCIOECONOMIC ASPECTS

Even though the Workshop did not devote major discussion time to this area, it was agreed that the basic roots of the Central American crisis, aggravated by other factors, lie in this socioeconomic area. Thus, it seems clear that once the immediate conflict crisis in Central America is overcome, this area must receive priority attention in order to deal with the fundamental and long-range aspects of the crisis.

The Workshop did assess a number of problems which fall in this category. These included such items as the capacity of the Central American countries to absorb major aid programs, the effect of inefficiency and corruption, and the broader issue of whether massive aid at this time might not strengthen the hold of those elements in the conflict which represented an unjust stutus quo. The specific points relating to socioeconomic affairs in the January 1984 Contadora document were examined, and several participants noted the commitment to Central American integration and economic cooperation through such organizations as SIECA (the Secretariat for Central American Integration) and CADESCA (Committee for Support of the Economic and Social Development of Central America).

The social and economic aspects of two recent United States policy initiatives (the CBI and the Report of the Kissinger Commission) were noted, with differences of opinion as to whether these represented positive approaches which would make a substantial contribution to the region's problems, or whether, on the contrary, they were flawed by their exclusion of certain countries, and their emphasis on military and geopolitical considerations.

During the discussion of the socioeconomic aspects one participant suggested that in the Central American enviornment mass media can serve either as a builder of confidence or as a stimulant to violence and tensions. Thus, it might be worthwhile to hold a conference or workshop to analyze this apparently unexplored instrument in the conflict resolution process.

RECOMMENDATIONS OF THE WORKSHOP

"The International Peace Academy Workshop meeting at Ixtapa, Mexico, 9-11 March 1984, recommends that:

1. All participants convey the Workshop's strong support of the Contadora process, and its appreciation for the progress made to date along with an expression of confidence in the capacity of the countries of the area to resolve their own problems.

2. The Contadora Group be encouraged, as it continues to make progress on the road to peaceful settlement of disputes in Central America, to draw all interested parties more closely into the process.

3. The IPA be available to the Contadora Group nations, at their request, as an independent third party non-government organization to provide technical advice and assistance in the areas of peacekeeping, peaceobserving and peacemaking in the implementation of security aspects of the Contadora process.

4. Nations and international organizations outside of the Contadora process prepare to make available appropriate resources specifically in support of the proposals of the socioeconomic working group.

5. The IPA study internal civil conflicts in various areas of the world for their possible lessons of value to the Contadora process.

6. The IPA develop a data bank on relevant comparative historical studies of peacekeeping experiences."

PARTICIPANTS IN THE WORKSHOP

Lic. Adolfo Aguilar Zinser, Coordinator of the Program of Central American Studies, CIDE, Mexico City, Mexico.

Mr. Juan Astiasarian, Advisor, North American Division, Ministry of Foreign Affairs, Havana, Cuba.

Amb. Lloyd M. H. Barnett, Director, Political Division, Ministry of Foreign Affairs, Kingston, Jamaica.

Lic. Manuel Barros Nock, Director General of Fidecomiso de Bahía de Zihuatenejo, Mexico.

Mr. Geraldo Bolaños, Assistant to the President, University for Peace, Escazu, Costa Rica.

Amb. Emilio Cassinello, Ambassador of Spain to Mexico, Embassy of Spain, Mexico City.

Dr. Jack Child, Co-Director, Associate Professor of Spanish and Latin, American Studies, The American University, Washington, D.C., U.S.A.

Senator Dick C. Clark, Senior Fellow, Aspen Institute for Humanistic Studies, Washington, D.C., U.S.A.

Dr. Guillermo A. Cochez, Vice President, Christian Democratic Party, Panama City, Panama.

Colonel Charles D. Corbett, Colonel US Army (retired); Industrial Relations Consultant, Arbitrator, Decatur, Georgia, U.S.A.

Lic. Alejandro C. Delgado, Governor of the State of Guerrero, Chelpancingo, Guerrero, Mexico.

Amb. Aldo Díaz Lacayo, Director General of Foreign Policy for Bilateral Affairs, Ministry of Foreign Affairs, Managua, Nicaragua.

Lic. Haroldo Dilla Alfonso, Researcher on the Caribbean, Centro de Estudios sobre America, Havana, Cuba.

Amb. Bernard Dorin, Director of Americas, Ministry of Foreign Affairs, Paris, France.

Colonel César Elvir Sierra, Director of Public Relations, Armed Forces, Tegucigalpa, Honduras.

Amb. Roberto Galvez Barnes, Special Ambassador for Central American and Caribbean Affairs, Ministry of Foreign Affairs, Tegucigalpa, Honduras.

Lic. Ricardo García Pelaez, Minister-Counsellor, Embassy of Guatemala in Mexico, Mexico City.

Ms. Marie Gervais, Second Secretary, Permanent Mission of Canada to the United Nations, New York.

Colonel Peter C. Harvey (U.K.), Coordinator of the Workshop, Executive Director and Director of Peace-keeping Programs, International Peace Academy.

Dr. Margaret Daly Hayes, Senior Professional Staff, Committee on Foreign Relations, United States Senate, Washington, D.C., U.S.A.

Mr. Claude Heller, Director General for UN Affairs, Tlatelolco, Mexico.

Amb. Narendra P. Jain, Ambassador of India in Mexico, Embassy of India, Mexico City.

Mrs. Geraldine S. Kunstadter, Vice President, Albert Kunstadter Family Foundation, New York, U.S.A.

Mr. John W. Kunstadter, IPA Board Member and Treasurer; Principal of Kunstadter Associates, New York, U.S.A.

Dr. Neville O. Linton (Trinidad and Tobago) Assistant Director, International Affairs Division, Commonwealth Secretariat, London, U.K.

Dr. Rodrigo Madrigal Nieto, Attorney at Law; President, Costa Rican Kissinger Commission, San Jose, Costa Rica.

Amb. Joaquin Mas Martinez, Director, North American Division, Ministry of Foreign Affairs, Havana, Cuba.

Lic. Helen McEachrane (Trinidad and Tobago), Co-Director, Researcher, Caribbean Project, Ceestem, Mexico City.

Dr. Richard Millett, Co-Director, Professor of History, Southern Illinois University, Edwardsville, Illinois, U.S.A.

Mr. Graham L. Minter (U.K.), First Secretary, British Embassy, Mexico City.

Amb. Francois Nordmann, Ambassador of Switzerland to Guatemala, Guatemala City.

Mr. Horst Palenberg, Minister-Counsellor, Embassy of the Federal Republic of Germany, Mexico City.

Maj. Gen. Indar Jit Rikhye (ret.) (India), Chairman, President, International Peace Academy.

Dr. Lila Roldán Vázquez, Secretary of Embassy, Embassy of Argentina, Mexico City.

Amb. Ignacio Umaña de Brigard, Ambassador of Colombia to Mexico, Embassy of Colombia, Mexico City.

Dr. Henry Wiseman, Professor of Political Studies, University of Guelph, Guelph, Ontario, Canada.

H.E. Dr. Fernando Zumbado Jimenez, Permanent Representative of Costa Rica to the United Nations.●

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## SOVIET JEWRY

## HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. GORE. Mr. Speaker, I welcome this opportunity to join my colleagues in this year's prayer and fast vigil for Soviet Jewry. It is extremely important that we continue to acknowledge those persons who have been denied permission to leave the Soviet Union and who are not only prisoners of body, but of conscience.

The plight of Soviet Jews has worsened dramatically over the last decade, with emigration slowing to a trickle of 1,300 in 1983 and only some 3,000 in the preceding year. To illustrate the deterioration of the situation in recent years, the Soviet Jewish emigration in 1979 was estimated to be 51,000.

Commensurate with the drastic drop in emigration is a near-total prohibition on the teaching of the Hebrew language, Jewish religious instruction, and the celebration of Jewish holidays in the Soviet Union. In the view of some observers, the Soviet authorities have embarked upon a campaign of cultural genocide with the aim of eliminating any vestige of Jewish culture within the Soviet Union. Furthermore, the Government has launched a campaign of cruelty and harassment against a great number of Soviet Jews who have filed for visas, many attempting to join their families who have already secured asylum in Israel; 1984 marks the 14th anniversary of the arrests which led to the Leningrad trials. On June 15, 1970, 11 men were arrested and charged with attempting to hijack a Soviet aircraft. All were Jewish; all were driven to this last desperate attempt to escape the Soviet Union after all conventional and legal means had failed. When the Soviet Government sentenced two of the men to death and the rest to harsh prison terms, the free world reacted with outrage.

It is imperative that we in the United States continue to speak out against the cruelty, injustice, and oppression which the Soviet Union continues to subject its Jewish citizens to. The cause for freedom is one which can never be abandoned as long as there are persons such as Irina Ratushinskaya, who I am proud to represent today, who remain in the Soviet Union against their will. And, until they are released, the conscience of every free citizen of the world must not rest.●

## AMERICAN BAPTIST HOMES OF THE WEST—35 YEARS OF SERVICE

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. STARK. Mr. Speaker, today is the celebration of the 35th anniversary of American Baptist Homes of the West. Based in Oakland, American Baptist Homes provides nonsectarian services in retirement living and health care. Indeed, they are the largest provider of continuing care retirement living in California.

With life spans continuing to increase and as a larger segment of the population moves into their golden years, the kind of services that American Baptist Homes provides become increasingly important.

I have visited several of the homes in the Oakland area. American Baptist Homes are outstanding examples of exemplary care of elderly individuals.

I would like to extend my congratulations to American Baptist Homes. I know that they will continue to build the 35 years of success into a bright future.●

## TRIBUTE TO ROBERT ALLEN

### HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to share with my colleagues a story of a remarkable young man in my district, Mr. Robert Allen. Mr. Allen, like about 1.2 million Americans this year, received a college degree. He graduated from Bethel College, a small private school located in my district at McKenzie, TN.

Obtaining his degree is where Robert Allen's similarity with the rest of the class of 1984 stops. That is because college was Robert's first formal education. He began his college studies just 3 years ago after spending the first 32 years of his life reading every book he could get his hands on. I might add that he graduated with a 3.8 grade point average on a 4.0 scale.

I wouldn't even jokingly suggest that this is the way we ought to be educating our young people, but I bring Robert Allen's achievement to the attention of this body because of its symbolic value. This remarkable accomplishment is a tribute to the spirit of one person who was deeply committed to education for the sake of learning. We can all take a lesson from Robert Allen. We should all pass along his love of reading to the young people of today who tend to spend all their spare time in front of a video game machine.

Robert Allen's hard work and his undying effort to obtain an education is what education is all about. He obviously did not have infused into him that great thirst for knowledge we all hear about. He acquired it through his own limited experience and acted upon it through his own determination.

This one young man among 1.2 million Americans who are receiving degrees this year personifies a lesson that we should all take back home and use as an example to the young people of today who think that television and computers are the means and ends of education. They must be made to understand that it has been the Robert Allens of our Nation's history with their undying appetite for answering the questions of what makes things happen that have brought about not only those televisions and computers but the electricity that powers them and the human element that makes them of value to us.

I extend my heartiest congratulations of Robert Allen and my best wishes for continued success as he enrolls at Vanderbilt University in Nashville this fall.●

## CLEANING UP THE CLEAN WATER ACT

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. LANTOS. Mr. Speaker, the Clean Water Act amendments, H.R. 3282, as reported by the Public Works and Transportation Committee, needs to be cleaned up.

The legislation has many good features that will significantly increase our ability to improve the quality of our water resources. However, certain provisions weaken many otherwise strong portions of the Clean Water Act and represent a step backward.

For example, H.R. 3282 would lock in water pollution discharge permits for a decade, blocking any future modifications to reflect upgraded water quality standards or changes in critical pollution control requirements. This is a major change from the current law which only allows 5-year permits to be issued. Other provisions delay deadlines already written into law for industrial pollutants. These delays would only reward those firms which have dragged their feet on pollution control, while penalizing their competition which properly obeyed the law.

In many parts of the country, EDB, other pesticides, and fertilizers have leached into drinking water supplies. The pollution control provisions of H.R. 3282 ignore this problem, and only deal with surface water sources. This bill must be strengthened to include tough groundwater protections.

As a cosponsor of this legislation, I urge my colleagues to support the amendments to be proposed by Congressman OBERSTAR. The American people are counting on the House of Representatives to enact the strongest possible protections against water pollution. We must not dirty the Clean Water Act.●

## THE ARMS RACE

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. OWENS. Mr. Speaker, as we approach the end of the 98th Session of Congress, we must again call attention to the fact that the arms race is out of control and that under President Ronald Reagan, America is much less safe in 1984 than it was in 1982.

Despite repeated requests for bargaining chips, the administration has done little to see that there was a table to place those chips on. The Euro-missiles were deployed last December and the Soviet Union responded by walking out of the talks to limit the levels of first strike weapons in Europe. The U.S. self-interest in a European deployment can be readily recognized when one realizes that missiles based in Europe can hit Soviet targets, but Soviet-based missiles cannot hit targets in the United States except in a small part of northern Alaska.

In addition to the European weapons talks, the strategic arms reduction talks [START] have ended. Negotiations for a comprehensive nuclear test ban continue to be suspended. The overall chill in United States-Soviet relations has now spread to less critical areas such as the Olympic games.

What can be done to bring the United States and the Soviet Union back into the negotiating process? To begin with, it would be useful if the level of rhetoric were toned down and accompanied by movement away from the development and deployment of ever more destructive and destabilizing weapons. I have voted against the funding of destabilizing weapons including the MX, which is anything but a "Peacemaker," Pershing II and Trident II. I am an original cosponsor of the recently introduced quick freeze (H.R. 5571) which suspends funds for underground testing of nuclear weapons and the deployment of first-strike and antisatellite weapons.

There are those who argue for the strategic necessity of nuclear weapons.

Others comprehend the sheer insanity of devices which can produce fallout and destruction of life far away from their intended targets. The childhood chant, "I'm rubber and you're glue. Whatever you do to me sticks to you," is applicable to the use of nuclear weapons. Although all of the destruction will not bounce back, enough will rebound to destroy our world as we know it.

Before this present session ends, I hope Congress will be able to exert greater influence on the administration to achieve a renewed and sincere effort to end the arms race.●

## THE LATE HAZEN A. DEAN

### HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. NATCHER. Mr. Speaker, I would like to take this opportunity to pay tribute to a fine gentleman, the late Mr. Hazen A. Dean, of Owensboro, KY, who recently passed away at the age of 84.

Mr. Dean, had been involved in Scouting for 70 continuous years of his life, both as a Scout and as a Scoutmaster. During his Scouting career, he guided 86 young men to the rank of eagle. His dedication to the youth of Daviess County will not be forgotten.

In addition to his service to the Boy Scouts of America, Mr. Dean was active in his community. He was a charter member of the Retired Senior Volunteer Program and logged over 11,400 hours of volunteer service. In 1982, the Daviess County Bar Association awarded him their Liberty Bell Award for his many years of service to the community.

Mr. Dean has certainly left his mark on his community and on the lives of those who knew him and I sincerely regret his death. My deepest sympathy is extended to the members of his family.●

## DR. ALEKSANDR LERNER

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 14, 1984*

● Mr. BURTON of Indiana. Mr. Speaker, millions have suffered under the iron hand of the Soviet Union and tonight we protest the continuing oppression of Soviet Jews. One such person is Dr. Aleksandr Lerner. In 1971, Dr. Lerner, an internationally know cyberneticist, applied for permission to emigrate to Israel with his family. He was the first high level scientist from Moscow to apply for an exit visa. Dr. Lerner was the vice-president of IFAC [International Federation of Cybernetics] and served as the official U.S.S.R. representative at all international meetings. He was also a professor at one of the large institutes on cybernetics for over 20 years. His application was rejected on the grounds that he had access to state secrets, although he had formerly been permitted to travel abroad in his professional capacity for many years. He was dismissed from his position as director of the Department of Large-Scale Systems at the Institute of Control Problems, and his children were also dismissed from their respective occupations. Dr. Lerner and his family have been continually harassed by Soviet authorities—acts which undoubtedly led to the death of his wife, Judith, of a heart attack in July 1981. He has been accused of espionage and treason, and threatened with imprisonment, a totally ridiculous charge.

Thank God we live in America, where Dr. Lerner would be free to speak against the country and leave it if he chose. We must continue to fight for the freedom of our Jewish friends in the Soviet Union until their dreams are finally realized.●

## A SPECIAL COLLEGE GRADUATE

### HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. MARTINEZ. Mr. Speaker, the East Los Angeles College Graduation on June 14, 1984, was very special this year as the list of graduates included a lovely lady named Guadalupe Arguijo. The reason that Lupe is so unique is that she is 79 years young, proving that you're never too old to reach a goal. Mrs. Arguijo began her college career in 1981 at the age of 76. She is a bright, articulate woman, fluent in both English and Spanish who was determined to get a college education.

This June her dream became a reality, as she received her associate of arts degree in psychology, and a certificate as a community counselor.

Mrs. Arguija was born in Piedras Negras, Mexico, on January 4, 1905. She moved to New Mexico in 1912, then to California in 1938. She has resided in Monterey Park ever since. Mrs. Arguija raised 9 children, and now claims 27 grandchildren and 11 great-grandchildren.

The graduation of Guadalupe Arguija from East Los Angeles College on June 14, 1984, was noteworthy, and a reason for special recognition. I ask my colleagues to join with me in congratulating Mrs. Arguija on her accomplishment.

## THE 25TH ANNIVERSARY OF FATHER LOUIS GIGANTE'S ORDINATION TO THE PRIESTHOOD

### HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. GARCIA. Mr. Speaker, it is with great pleasure and distinct honor that I rise today to recognize the 25th anniversary of Father Louis Gigante's ordination to the sacred priesthood of the Roman Catholic Church on May 30, 1959. During these 25 years of selfless commitment Father Gigante has dedicated his life to all of the people of New York.

Born in 1932 in Manhattan's Greenwich Village, Father Gigante attended Georgetown University here in Washington and then went on to graduate studies at Saint Joseph's Seminary in Yonkers, New York. Since his graduation from Saint Joseph's in 1958, Father Gigante has ministered to the needs of the people of New York. For the past 22 years Father Gigante has served the community of New York, especially that of the Bronx, from his beloved Saint Athanasius Church which is located in the Hunts Point section of the Bronx. From this church Father Gigante—who is known to his parishioners simply as "Father G"—has run the South East Bronx Community Organization [SEBCO]. In his capacity as president of SEBCO, Father Gigante has been led by an overwhelming concern for the poor, the elderly, the young, and the disadvantaged.

Beginning in 1968 as a collection of 13 local organizations—among them business institutions, churches, and community associations—the South East Bronx Community Organization was formed under the strong leadership and careful guidance of Father Louis Gigante. By 1975, the magnitude of New York's urban problems, and the demands of the commitment to eradicate them, had decreased SEBCO membership to five: Saint Athanasius Church, Simpson Street Development Association, Casita Maria, SISDA Yough Inc., and Saint Chrysostom Church.

By 1975 Father Gigante's formidable administrative talents, leadership skills, and selfless dedication to the cause of the underprivileged began to better the condition of the people of the Bronx. Indeed, by 1984 SEBCO had translated Housing and Urban Development funding and private financial assistance into 1,500 section 8 housing units, 2 parks, and 3 companies two of which are profit motivated.

This urban "miracle" has increased the morale and well-being of all the people of the Bronx incalculably; the sense of hope it has fostered will benefit the community for many years to come.

Hence, Father Gigante's life has indeed exhibited those qualities of leadership, service, and pesonal sacrifice which stand as the epitomy of what is admirable within the human spirit. While others dealt with the urban problems of crime, poverty, and homelessness by running away, Father Gigante dealt with these seemingly insurmountable challenges by fighting back.

Thus, Mr. Speaker, I am honored to have had this opportunity to bring to the attention of my colleagues the laudable achievements of this outstanding community leader, servant of God, and model citizen. It is my deepest hope that future generations of public servants and social activists will use Father Gigante's example as a role model to be followed.●

## NATIONAL RECOGNITION FOR ROCKLAND JUNIOR HIGH SCHOOL

### HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. DONNELLY. Mr. Speaker, Rockland Junior High School has been recognized for many years in southeastern Massachusetts as an exciting and innovative educational institution.

It was a proud moment, but scarcely a surprise, when the U.S. Secretary of Education yesterday selected Rockland Junior High for the Secondary School Recognition Program. Rockland Junior High was 1 of only 202 schools nationwide so honored, and the only junior high school in Massachusetts.

Its selection came as a result of the nomination of the State education department, interviews with parents, students, teachers, and administrators, and a review of the schools programs. The schools were judged on student achievement, teacher efficiency, and the leadership of school principals.

Congratulations are in order for Dr. Robert S. Levine, principal of Rockland Junior High School, for the faculty and staff, for the students of Rockland Junior High, and for the entire community, which has supported and encouraged excellence in its public school system.

As Secretary Terrel Bell acknowledged in making the award announcement, Rockland Junior High School can serve as an outstanding role model for other middle schools across our Nation.●

## GEORGE PUTNAM

### HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Ms. FIEDLER. Mr. Speaker, I rise today to bring to the attention of the House a significant milestone that is being celebrated next week in Los Angeles. George Putnam is celebrating 50 years as a journalist. This man, who has touched the lives of many, is an example of the best that the fourth estate has to offer.

His story is that of the American dream. He was born in Minnesota, a direct descendant of the Revolutionary War hero Israel Putnam. He grew up there and attended Macalester College. During that time he started his career at radio station WDGY in Minneapolis later moving on to KSTP.

In 1939, he went to the "Big Apple," New York where he became New York City's most listened to newsman working at WNBC. But, sunny southern California beckoned and George moved West and for the past 39 years has been informing Los Angeles. When the magic box of television arrived, George was already there and became one of the first television newsmen in the Nation.

Over the course of George's career he has received over 250 radio and television industry awards as well as scores of community and national commendations.

The fact that George is a real media star is attested to by the fact that he has been honored by having a star in his name placed in the internationally famous Hollywood Walk of Fame.

George has given to the southern California communities in many other ways as well. He has been involved in programs for the handicapped, for drug and alcohol abuse, for young people, for the elderly, for law enforcement, for the humane treatment of animals, for minority rights, and, whenever called, he always graciously donates his time and energy.

People across the Nation know George as well when they see him every New Year's Day riding his golden palomino in the Tournament of Roses parade.

Mr. Speaker, I am proud to call George Putnam my close, personal friend. He is a man who despite a daily radio and television schedule manages to remember virtually every detail he has ever learned. In fact, I think George could recite my father's entire career back to me better than I could myself.

George Putnam has been a major force in an industry that has revolutionized our country. He is a man who is not afraid to stand up for what he believes in. When you're right, George will tell you so. But, when you're wrong, George will disagree with you and never waiver.

I can think of several broadcasting pioneers in southern California who are today still working in the business. But, I think all of them will agree that there truly is only one George Putnam.

A kind and generous man, a humanitarian, an authority on subjects too numerous to mention, George Putnam is an example of the best in this country. He is a great American.●

## A CONGRESSIONAL SALUTE TO CURT SORENSON—1983-84 PRESIDENT, GREATER LAKEWOOD CHAMBER OF COMMERCE

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. Anderson. Mr. Speaker, on June 22 the Greater Lakewood Chamber of Commerce will hold their annual Installation and Awards Dinner. I would like to take this opportunity to congratulate and commend Mr. Curt Sorenson, outgoing president of the Greater Lakewood Chamber of Commerce, on a job well done.

Born on a farm in western Iowa, Curt moved to Los Angeles after completing business college. He entered the Army Air Corps and spent 2 years in India while his transport group delivered fuel to the 5th Air Force in China.

In 1949, he became a salesman for the Auto Club of southern California. He held this position until 1954, when he became sales manager. At this time, he also was a member of the board of directors of Flexco, Inc., an aerospace parts manufacturer in Huntington Park.

In 1956, Curt formed CN Sorenson & Associates. In 1965, he rejoined the Auto Club and later became district manager of their south Los Angeles district office. He was transfered to the Bixby Knolls office in 1973.

Curt has been affiliated with the Lakewood Chamber of Commerce for 11 years. Over the years, he has continually worked in helping make the greater Lakewood area a better place to live and work. His dedication and efforts have certainly not gone unnoticed by the community and they can be thankful that Curt was there to donate his time.

It is both an honor and a pleasure for me to call the Nation's attention to the many accomplishments of Curt Sorenson. My wife, Lee, joins me in congratulating Curt on a job well done and wish him and his wife, Ruth, and their three children, Scott, Larry, and Lisa, all the best in their future endeavors.●

## AUFBAU CELEBRATES 50 YEARS OF PUBLICATION

### HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. WEISS. Mr. Speaker, today is the 50th anniversary of Aufbau, a remarkable German-language newspaper whose influence extends far beyond the West Side of Manhattan, where it is published, and also far beyond its subscribers, who are relatively few in number.

For half a century, Aufbau has been a powerful force in the German-Jewish immigrant community, guiding the refugees from nazism through the difficult years of adjustment in a new land and providing them with moral and spiritual leadership.

Aufbau's influence was recognized by President Kennedy, President Johnson and many other leading statesmen. Among its friends and frequent contributors have been Albert Einstein, Thomas Mann, Henry Kissinger, and Otto Eckstein.

Its founder and owner, the New World Club, Inc., originated in 1924 as a social and sports-loving membership club for German immigrants. On or about June 15, 1934, the year after Hitler came to power in Germany, the club decided to publish a regular newspaper to replace its mimeographed club bulletin. The first issue came out in early December of that year. The paper, at first a monthly, was called Aufbau, meaning "build-up" in German but roughly translated as "reconstruction" on the paper's masthead.

After 1937 when the refugees from Nazi persecution started arriving in greater numbers, Aufbau became a weekly with distribution in California, Chicago, Philadelphia, and other areas across the globe where the immigrants found refuge and were settling.

With the outbreak of World War II, Aufbau assumed a sharper political profile—patriotically American and ruthlessly anti-Hitler. Efforts to promote a more general anti-German image were always rejected, however.

After the war ended, Aufbau began to support efforts to build a new democracy in Germany. It also vigorously supported the birth of the State of Israel. Later, it spearheaded and helped win the fight for German restitution payments for the victims of nazism.

Aufbau has never had a large circulation but even today, subscribers share each issue with relatives, friends, neighbors, and old-age home pensioners, so that its readership is estimated at 10 times the actual circulation.

Aufbau is read in some 45 countries where German refugees have settled, providing a vital link to their German roots and history. Copies of Aufbau even go to Eastern Europe, though it seldom reaches the libraries and government agencies to which it is addressed. Mail carriers apparently pocket the paper to read clandestinely at home.

Since 1938, Aufbau has had only two editors. The first, Manfred George, contributed enormously to the paper's growth and development. After Mr. George's death in 1965, Han Steinitz assumed the editorship, maintaining the paper's influence and high journalistic standards to the present time.

Today, I ask my colleagues to join in a salute to this exceptional newspaper and to send it best wishes for another thriving half century of publication.●

## WINTHROP YACHT CLUB: 100 YEARS

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 15, 1984*

● Mr. MARKEY. Mr. Speaker, since 1882, the Winthrop Yacht Club has been a centerpoint of boating activity on the Massachusetts coast. During that time, membership in the club has grown to 700 members and the club has developed new designs of very competitive racing boats. The club has a long history of racing class boats, ever since the first design, known as the "Winthrop Fifteen Foot Class."

These boats have participated in 3 day regattas that were very popular during the 1930's and 1940's. More recently, the club has a current design of racing boats, known as the "National Ten Class." This year the club is celebrating its 100th anniversary and I want to congratulate them on their long years of dedication to boating.●

# HOUSE OF REPRESENTATIVES—*Monday, June 18, 1984*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore [Mr. Wright].

## DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
*June 15, 1984.*

I hereby designate the Honorable Jim Wright to act as Speaker pro tempore on Monday, June 18, 1984.

Thomas P. O'Neill, Jr.,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Gracious God, may we be aware of the passing of time and the moments of opportunity. We have been thankful when we have used the time given to us in ways that contributed to the quality of life for ourselves and those about us, and we confess that we have also used time wastefully or foolishly. Encourage us, O Lord, while time is before us, to make wise use of our days to better be the people we ought to be and to do the things that make for peace in our land and in our world. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 3131. An act for the relief of Marina Kunyavsky;

H.R. 3221. An act for the relief of Harvey E. Ward;

H.R. 4201. An act to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes; and

H. Con. Res. 226. Concurrent resolution expressing the sense of the Congress regarding the persecution of members of the Baha'i religion in Iran by the Government of Iran.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4325) entitled "An act to amend part D of title IV of the Social Security Act to assure, through mandatory income withholding, incentive payments to States, and other improvements in the child support enforcement program, that all children in the United States who are in need of assistance in securing financial support from their parents will receive such assistance regardless of their circumstances, and for other purposes," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Dole, Mr. Packwood, Mr. Armstrong, Mr. Grassley, Mr. Long, Mr. Moynihan, and Mr. Bradley to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 548. Joint Resolution authorizing the President's Commission on Organized Crime to compel the attendance and testimony of witnesses and the production of information, and for other purposes.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 197. An act to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes;

S. 2483. An act to rename Dulles International Airport in Virginia as the "Washington Dulles International Airport";

S. 2619. An act to extend programs under the Indian Education Act through fiscal year 1985;

S. 2635. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1985;

S. 2706. An act to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1985 and 1986, and for other purposes;

S.J. Res. 55. Joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities;

S.J. Res. 270. Joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp";

S.J. Res. 297. Joint resolution to designate the month of June 1984 as "Veterans' Preference Month"; and

S.J. Res. 306. Joint resolution to proclaim July 10, 1984, as "Food for Peace Day."

## CONSENT CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

## JAMES O. EASTLAND U.S. COURTHOUSE

The Clerk called the bill (H.R. 3401) to designate that hereafter the U.S. Post Office and Courthouse at 245 East Capital Street in Jackson, MS, will be known as the James O. Eastland Federal Court Building.

There being no objection, the Clerk read the bill, as follows:

H.R. 3401

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter the United States Post Office and Courthouse at 245 East Capital Street in Jackson, Mississippi will be known as the James O. Eastland Federal Court Building. Any reference in any law, map, regulation, document, record, or any other paper of the United States to such building shall be deemed to be a reference to the "James O. Eastland Federal Court Building."

With the following committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

That the United States Post Office and Courthouse located at 245 East Capital Street in Jackson, Mississippi, shall hereafter be known and designated as the "James O. Eastland United States Courthouse". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "James O. Eastland United States Courthouse".

The committee amendment was agreed to.

● Mr. YOUNG of Missouri. Mr. Speaker, I rise in support of H.R. 3401, a bill to designate that the U.S. Post Office and Courthouse at 245 East Capital Street in Jackson, MS, be known as the "James O. Eastland U.S. Courthouse."

Senator James O. Eastland was born on the family farm in Sunflower County, Doddsville, MS, on November 28, 1904. He grew up in Scott County, MS, and was a graduate of Forest High School. He attended the University of Mississippi, Vanderbilt University, and the University of Alabama. He was admitted to the bar in 1927 and commenced practice in Forest, MS. He also engaged in farming. He was elected to the Mississippi House of Representatives from Scott County in 1927 and served one term from 1928 to

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

1932. Thereafter, he returned to Sunflower County to farm and practice law.

Senator James O. Eastland married Elizabeth Coleman in 1932 and they have four children.

Senator Eastland was appointed to the U.S. Senate on June 30, 1941, and served in that capacity until September 28, 1941. He was elected to the U.S. Senate on November 3, 1942, for the term beginning January 3, 1943, and was reelected for five succeeding terms until his resignation on December 27, 1978. During his tenure in the U.S. Senate, Senator Eastland served with distinction on the Committee on Agriculture, Nutrition, and Forestry, and was the author of agriculture legislation which benefited Americans nationwide. In addition, he served as chairman of the Committee on the Judiciary longer than any Senator in history and was the sponsor of significant anticrime legislation. Senator Eastland is the first Mississippian to have served in the line of Presidential succession. He was elected President pro tempore on July 28, 1972. He was President of the Senate on two occasions; namely, October 11, 1973, through December 6, 1973, and August 9, 1974, through December 19, 1974.

In view of his many years of service to his fellow citizens, and his many contributions to the quality of American life, it is fitting that the U.S. post office and courthouse at 245 East Capital Street, Jackson, Miss., be known as the James O. Eastland U.S. Courthouse.

I urge enactment of H.R. 3401.●

● Mr. HOWARD. I rise in support of H.R. 3401, a bill paying tribute to Senator James O. Eastland by naming the U.S. post office and courthouse at 245 East Capital Street in Jackson, Miss., as the "James O. Eastland U.S. Courthouse."

Mr. Speaker, Senator Eastland served with distinction in the U.S. Senate for the term beginning January 3, 1943, until his resignation on December 27, 1978. During his tenure, he was held in high regard by his colleagues on both sides of the aisle and served with distinction as chairman of the Senate Committee on the Judiciary.

I urge enactment of H.R. 3401.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office and Courthouse located at 245 East Capital Street in Jackson, Mississippi, as the James O. Eastland United States Courthouse."

A motion to reconsider was laid on the table.

## DR. A.H. McCOY FEDERAL BUILDING

The Clerk called the bill (H.R. 3402) to designate that hereafter the Federal building at 100 West Capital Street in Jackson, MS, will be known as the Dr. A.H. McCoy Federal Building.

There being no objection, the Clerk read the bill, as follows:

H.R. 3402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That hereafter the Federal building at 100 West Capital Street in Jackson, Mississippi, will be known as the Doctor A.H. McCoy Building. Any reference in any law, map, regulation, document, record, or any other paper of the United States to such building shall be deemed to be a reference to the "Doctor A. H. McCoy Federal Building."

With the following committee amendment:

That the Federal building at 100 West Capital Street in Jackson, Mississippi, shall hereafter be known and designated as the "Doctor A.H. McCoy Federal Building". Any reference in any law, map, regulation, document, record, or any other paper of the United States to such building shall be deemed to be a reference to the "Doctor A.H. McCoy Federal Building".

The committee amendment was agreed to.

● Mr. YOUNG of Missouri. Mr. Speaker, I rise in support of H.R. 3402, a bill to designate that the Federal Building at 100 West Capital Street in Jackson, MS, be known as the D.A.H. McCoy Federal Building.

Dr. A.H. McCoy was a black dentist who provided care to the citizens of Jackson, MS, for over 40 years. He worked to improve the plight of those living in poverty. He participated in many civic organizations and was constantly involved in the activities of the community.

As a business leader, Dr. McCoy was held in high regard. He built and operated two movie theaters in Jackson after World War II and helped to build and operate a trade school for veterans after the war. Dr. McCoy was in the forefront in the struggle to gain equal justice under the law for all citizens, black and white. He was the first State president of the NAACP in Mississippi and held that office at the time of the Brown against Board of Education Supreme Court decision in 1954.

Dr. McCoy's widow, the former Dr. Rose Embly, served on the faculty of Jackson State University for many years where she was a professor and headed the department of psychology. She remains active in the community.

Paying tribute to Dr. McCoy by naming the Federal Building located at 100 West Capital Street in Jackson, MS, in his honor is fitting in the view of his dedication and service to the community of Jackson, MS.

I urge enactment of H.R. 3402.●

● Mr. HOWARD. Mr. Speaker. I rise in support of H.R. 3402, a bill to memorialize the late Dr. A.H. McCoy by designating the Federal building at 100 West Capital Street, in Jackson, MS, in his honor and concur with the remarks of the distinguished chairman of the Subcommittee on Public Buildings and Grounds of the House Committee on Public Works and Transportation, the gentleman from Missouri, Congressman ROBERT A. YOUNG.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on H.R. 3401 and H.R. 3402.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## RONALD BECK

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, last Friday, Ronald James Beck was buried. It was a sad day last Friday not only for the people who knew him but also for America.

Ron Beck was a war hero who served three tours of duty of Vietnam. He received three bronze stars and two purple hearts along with more than a dozen other medals.

Ron Beck survived Vietnam. Unfortunately, he did not survive a decade of battles with the Veterans' Administration here at home. Mr. Beck lived in pain for 19 years as a result of a back injury suffered in Vietnam. The pain was so intense he had to drop out of school and could not hold a job.

After 10 years of attempting to convince the VA that he was fully, rather than partially disabled, Ron Beck finally decided he had had enough when he was notified that his $535 monthly disability payments had been cut off because the VA claimed he had been overpaid.

The VA now admits that it was wrong and never should have taken such action against Mr. Beck. The VA's admission of error is little consolation, however. Mr. Speaker, our veterans deserve to be treated with respect and with dignity. Unfortunately, too often they get neither. I promise to do all I can to ensure that Ron Beck will not have suffered in vain and that this tragedy will not be repeated.

## NELLIS AIR FORCE BASE, "HOME OF THE FIGHTER PILOT"

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, Nellis Air Force Base, NV, is known as the Home of the Fighter Pilot, and justly so. Virtually every free-world fighter pilot since the Korean conflict has trained there. And, its Tactical Fighter Weapons Center continues to provide graduate-level fighter weapons training for mission-ready air crews.

Much of the success of this center can be attributed to three of the men who commanded it, men who continue to call Las Vegas home.

Gen. R. G. Zack Taylor founded the center in 1966. Taylor, himself a highly decorated fighter ace, spent 30 years commanding fighter units. The combat veteran of two wars is now president of First Western Savings & Loan.

Gen. Homer Hansen, the first Air Force pilot to fly 100 combat missions in Korea, took command after General Taylor. Hansen, who also received many decorations, including the Distinguished Flying Cross, is now an executive with Family Savings & Loan.

In the early seventies Gen. William Chairsell commanded the center. Having served as a fighter pilot, and military leader for 32 years, General Chairsell retired from the Air Force in 1973. He then became an executive with the Union Plaza Hotel.

Three commanders who gave nearly 100 years of cumulative service, to our military.

Three leaders who continue to serve the interests and needs of this Nation in Las Vegas.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. This is the day for the consideration of bills under suspension of the rules.

Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 19, 1984.

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## VETERANS' COMPENSATION AMENDMENTS FOR FISCAL YEAR 1985

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5688) to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes, as amended.

The Clerk read as follows:

### H.R. 5688

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation Amendments for Fiscal Year 1985".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### TITLE 1—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### PART A—RATE INCREASES

#### DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$67";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "123";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$187";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$269";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$380";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$479";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$604";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$700";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$787";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,309";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,626" and "$2,279", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,626";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,793";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,038";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,279" ;

(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$978" and "$1457", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,464"; and

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$283".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

#### ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$80";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$134" and "$43", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$43", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$65";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$145"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$121".

#### CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$353".

#### DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 104. (a)(1) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| "Pay grade | Monthly rate |
|---|---|
| E-1 | $481 |
| E-2 | 495 |
| E-3 | 507 |
| E-4 | 540 |
| E-5 | 555 |
| E-6 | 567 |
| E-7 | 596 |
| E-8 | 628 |
| E-9 | [1] 656 |
| W-1 | 608 |
| W-2 | 633 |
| W-3 | 651 |
| W-4 | 689 |
| O-1 | 608 |
| O-2 | 628 |
| O-3 | 672 |
| O-4 | 710 |
| O-5 | 783 |
| O-6 | 882 |
| O-7 | 954 |
| O-8 | 1,046 |
| O-9 | 1,123 |
| O-10 | [2] 1,230 |

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $707.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,319.".

(2) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(3) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$145".

(4) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$71".

(b) Section 413 is amended—

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$243";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$348";

(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$451"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$451" and "$91", respectively.

(c) Section 414 is amended—

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$145";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$243"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$123".

### EFFECTIVE DATE FOR RATE INCREASES

Sec. 105. The amendments made by this part shall take effect on December 1, 1984.

## PART B—COMPENSATION PROGRAM AMENDMENTS

### PRESUMPTION OF SERVICE-CONNECTION FOR LUPUS

Sec. 111. (a) Section 301(3) is amended by inserting below "Leukemia" the following:

"Lupus erythematosus, systemic".

(b) Section 312 is amended—

(1) by striking out "to a degree of 10 percent or more" each place it appears;

(2) by striking out "a 10 percent degree of disability or more" each place it appears; and

(3) by striking out "or aggravated by" both place it appears.

(c) The amendments made by this section shall take effect on October 1, 1984.

### PERCENTAGE OF DISABILITY FOR PEACE-TIME SERVICE-CONNECTED DISABILITIES IN ORDER TO RECEIVE ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 112. (a) Section 335 is amended by striking out "50 per centum" and inserting in lieu thereof "30 percent".

(b) The amendment made by subsection (a) shall take effect on October 1, 1984.

## TITLE II—OTHER VETERANS' PROGRAM IMPROVEMENTS

### ADVISORY COMMITTEE ON ATOMIC VETERANS

Sec. 201. (a)(1) Chapter 3 is amended by inserting after section 222 the following new section:

**§ 223. Advisory Committee on Veterans Exposed to Ionizing Radiation**

"(a) The Administrator shall establish an advisory committee to be known as the Advisory Committee on Veterans Exposed to Ionizing Radiation (hereinafter in this section referred to as the 'committee').

"(b) The committee shall consist of—

"(1) members appointed by the Administrator from the general public, including—

"(A) veterans, or appropriate representatives of veterans, who were exposed to ionizing radiation from the testing of a nuclear device or during the occupation of Hiroshima or Nagasaki during World War II;

"(B) individuals who are recognized authorities in fields pertinent to ionizing radiation, including the health-care needs of persons exposed to ionizing radiation; and

"(C) representatives of veterans with service-connected disabilities;

"(2) the Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary from the Defense Nuclear Agency); and

"(3) the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration (or their designees).

"(c) The Administrator shall determine the number, terms of service, and pay and allowances of members of the committee appointed by the Administrator, except that the term of service of any such members may not exceed three years.

"(d) The Administrator shall, on a regular basis, consult with and seek the advise of the committee with respect to (1) the administration of benefits under laws administered by the Veterans' Administration for veterans who were exposed to ionizing radiation during active military, naval, or air service, (2) the unique needs of such veterans and their dependents and survivors with respect to compensation, health care, and rehabilitation, and (3) the basis for, and appropriateness of, the recognition of disabilities, disorders, infirmities, diseases, or chromosomal damages as symptomatic of exposure to ionizing radiation.

"(e) Not later than July 1, 1985, and not later than July 1 of each second year thereafter, the committee shall submit to the Administrator a report on the programs and activities of the Veterans' Administration that pertain to veterans exposed to ionizing radiation. The committee shall include in each such report an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation, a review of the programs and activities of the Veterans' Administration designed to meet such needs, and such recommendations (including recommendations for administrative and legislative action) as the committee consider appropriate. The Administrator shall immediately submit such report to the Congress with any comments concerning the report that the Administrator considers appropriate.

"(f) The committee may also submit to the Administrator such other reports and recommendations concerning veterans exposed to ionizing radiation as the committee considers appropriate.

"(g) The Administrator shall include in each annual report submitted to Congress pursuant to section 214 of this title a summary of all reports and recommendations of the committee submitted to the Administrator since the previous annual report of the Administrator.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Advisory Committee on Veterans Exposed to Ionizing Radiation.".

(b) Section 223 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1984.

### VOCATIONAL TRAINING ASSISTANCE FOR NEW PENSION RECIPIENTS UNDER AGE 50

Sec. 202. (a)(1) Subchapter II of chapter 15 is amended by adding at the end the following new section:

**"§ 524. Vocational training assistance for new pension recipients under age 50**

"(a) This section applies (in addition to the other requirements of this title) to the awarding of pension to a veteran under the age of 50.

"(b) In the case of a veteran under the age of 50 who has applied for pension and has been determined to be permanently and totally disabled from a non-service-connected disability and otherwise to be entitled to pension, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after a personal interview with the veteran by a Veteran's Administration employee who is trained in vocational counseling. Failure of the veteran to participate in the interview and to otherwise participate in a manner required by the Administrator in order to make such determination shall result in this suspension of the veteran's pension until the veteran completes the required participation.

"(c) If the Administrator determines that the achievement of a vocational goal by the veteran is not reasonably feasible, payment of pension to the veteran shall continue.

"(d)(1) If the Administrator determines that the achievement of a vocational goal by the veteran is reasonably feasible, then the veteran may elect to undertake a program of vocational training under this subsection. Any such program shall be designed in consultation with the veteran in order to meet the veteran's individual needs.

"(2) Notwithstanding the provisions of sections 1502 and 1503 of this title, a vocational training program for the purposes of this section shall be carried out as a vocational rehabilitation program under chapter 31 of this title.

"(3) A veteran enrolled in a vocational training program under this section shall be paid pension in accordance with this chapter and may receive any of the types of service and assistance described in section 1504(a) of this title with the exception of a subsistence allowance and other assistance authorized by sections 1508 and 1512 of this title.

"(4)(A) The vocational training provided a veteran under a vocational training program under this section may not exceed 48 months.

"(B) Upon completion of a program of vocational training under this section, a veteran may receive the counseling and placement and postplacement services described in clauses (2) and (5) of section 1504(a) of this title for a period not to exceed 18 months.

"(5) A program of vocational training may not be begun under this section after September 30, 1989.

"(e) In the case of a veteran to whom this section applies who is entitled to increased pension by reason of being permanently housebound or in need of regular aid and attendance who pursues a vocational training program under this section and whose entitlement to pension is terminated after completion of such program solely because the amount of the veteran's annual income is greater than the applicable maximum annual income limitation, the eligibility of the veterans for drugs and medicine under section 612(h) of this title shall continue (without regard to the amount of the annual income of the veteran) for one year after such termination of the veteran's entitlement to pension.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new item:

"524. Vocational training assistance for new pension recipients under age 50.".

(b) Section 524 of title 38, United States Code, as added by subsection (a), shall apply only with respect to the awarding of pension for which application is first received by the Veterans' Administration after September 30, 1984.

### SERVICEMEN'S GROUP LIFE INSURANCE

Sec. 203. (a) Section 767 is amended—

(1) by striking out "$35,000" in subsections (a) and (d) and inserting in lieu thereof "$50,000";

(2) by striking out "the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000" in subsections (a) and (c) and inserting in lieu thereof "any amount less than $50,000 divisible by $5,000"; and

(3) by striking out "the amount of $35,000, $30,000, $25,000, $20,000, $15,000, or $10,000" in subsection (c) and inserting in

lieu thereof "the amount of $50,000 (or any lesser amount divisible by $5,000)".

(b) The amendments made by subsection (a) shall take effect on October 1, 1984.

### AUTOMOTIVE ADAPTIVE EQUIPMENT PROGRAM

SEC. 204. (a) Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$5,000".

(b) Section 1903(c) is amended by adding at the end thereof the following new sentence: "An eligible person who owns an automobile or other conveyance for which such person has received assistance under this chapter and who subsequently conveys such automobile or other conveyance is entitled to adaptive equipment assistance under this chapter for an automobile or other conveyance acquired after such conveyance, regardless of the person to whom the conveyance was made.".

(c) The amendments made by this section shall take effect on October 1, 1984.

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **HAMMERSCHMIDT**. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

### GENERAL LEAVE

Mr. **MONTGOMERY**. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks, and included extraneous matter, on H.R. 5688.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. **MONTGOMERY**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House a bill to provide cost-of-living increases in rates of compensation paid to service-connected disabled veterans and dependency and indemnity compensation payments [DIC] for the survivors of veterans who die of service-connected causes. The rate of increase in this bill is 4.3 percent. The effective date of the rate increase is December 1, 1984.

As my colleagues know, cost-of-living adjustments for compensation and DIC purposes are not indexed by law. Therefore, we must make annual adjustments and this bill will offset the rate of inflation that has occurred since the last increase.

Mr. Speaker, I can assure my colleagues that the budget authority and outlays contained in this bill are within the target allocation for compensation and DIC benefits as contained in the House-passed budget resolution. The 4.3 percent cost-of-living increase is the major provision of this bill. It will benefit 2.25 million veterans and 300,000 survivors of veterans who die of service-connected causes. Passage of this bill will let our veterans and their families know that the House of Representatives places the highest priority on service-connected benefits.

Mr. Speaker, I shall not take the time of the House to discuss in detail other provisions of the bill. They are set out in the committee report. In addition to the rate increase, the bill would:

Increase the one-time automobile allowance for service-connected disabled veterans from $4,400 to $5,000.

Permit an eligible veteran to be reimbursed for the special adaptive equipment required because of disability for the safe operation of the vehicle if the veteran divests himself or herself of the title to a previously purchased and adapted vehicle;

Increase the maximum servicemen's group life insurance available to active duty military personnel from $35,000 to $50,000;

Add the disease lupus to the list of chronic diseases for which compensation is paid; and

Establish an advisory committee on veterans exposed to ionizing radiation.

Finally, Mr. Speaker, the bill would make certain vocational training benefits available for some veterans under the age of 50 who are eligible for pension benefits from the Veterans' Administration. The purpose of this provision is to encourage certain younger veterans who are disabled to overcome their disabilities and become employed rather than stay on the Government pension rolls. This provision of the bill is discretionary in that the Administrator would make the decision as to which veterans might be prime candidates to participate in the program. We think the program will permit some veterans to go back to productive jobs, thus saving the Federal Government money in the long run. The program is a pilot program and would expire in 1989. At that time the committee will evaluate the results of the program to determine whether or not it is cost-effective and, if so, whether it should be extended beyond the 1989 date.

Mr. Speaker, I want to commend the chairman of our Subcommittee on Compensation, Pension and Insurance, Mr. APPLEGATE, for his leadership in getting this measure to the floor. He has done an outstanding job. In addition, I want to commend the distinguished ranking minority member of the subcommittee, Mr. MCEWEN, who has cooperated fully with the leadership of the committee. I want to thank the distinguished gentleman from Georgia, [Dr. ROWLAND], for his interest in this bill. Dr. ROWLAND and Mr. HAMMERSCHMIDT are the chief sponsors of the provision of the bill that would establish an Advisory Committee on Veterans exposed to ionizing radiation. They worked very hard to get this accomplished.

Finally, Mr. Speaker, I want to recognize the outstanding leadership of the distinguished ranking minority member of the committee, my good friend, Mr. HAMMERSCHMIDT, for his work on this bill. He has been a great help to the leadership of the committee, and I sincerely appreciate his cooperation. I am grateful to all members of the subcommittee: Mr. HALL, Mr. DASCHLE, Mr. MARTINEZ, Mr. LEATH, Mr. SHELBY, Mr. MICA, Mr. DOWDY, Mr. WYLIE, Mr. HAMMERSCHMIDT, Mr. DENNY SMITH, and Mr. BURTON. All members of the subcommittee have attended the hearings and markup sessions and are to be commended for the time and attention they have devoted to this bill.

This is a good measure, Mr. Speaker, and I urge all Members of the House to support the bill.

□ 1210

Mr. **HAMMERSCHMIDT**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5688, and I wish to commend the chairman of the Veterans' Affairs Subcommittee on Compensation and Pension, Mr. APPLEGATE, for his dedicated efforts in bringing this bill to the full Committee on Veterans' Affairs. He, and his colleague from Ohio, the subcommittee's ranking member, Mr. MCEWEN, have done an excellent job of consolidating several pressing issues into a bipartisan, noncontroversial measure.

I also congratulate the distinguished chairman of the committee, Mr. MONTGOMERY, for his continuing leadership in addressing the needs of our Nation's service-connected disabled veterans and their widows and survivors.

Mr. Speaker, I know this House shares with me the conviction that this Nation owes much more than it can possibly repay to those who have become disabled in the service of our country. From time to time, therefore, it is incumbent on us to act to alleviate the financial hardships or inequities that affect the lives of service-connected disabled veterans.

These veterans—and their dependents, through their representatives in the several veterans' organizations—ask of their Government only that they be accorded the respect they are certainly due. When these representatives appear before the Veterans' Affairs Committee, they are always most gracious.

This graciousness was amply demonstrated last year when, in response to budgetary necessity, all the veterans' organizations agreed to a 6-month deferral of the normally scheduled cost-of-living increase.

The administration, in the budget submitted for fiscal year 1985, projected a 4.3-percent compensation COLA with an effective date of April 1985. Mr. Speaker, Public Law 98-223 was passed and signed following that submission. It expressed the sense of the Congress that compensation COLA's be effective on December 1 of each year, and I do not think we should depart from that target. We should not ask these disabled veterans to wait for their benefits a day longer than absolutely necessary when this Congress has already made its intentions clear.

I support such an increase, with an effective date of December 1, and I join with my colleagues on the committee who voted unanimously for this measure in urging the House to act favorably upon it.

In addition, Mr. Speaker, the bill has other valuable and compassionate aspects that make it good legislation.

The modest increase in the one-time automobile allowance for certain service-connected veterans is a good example. It represents a vitally needed adjustment if we are to offer relief to those men and women whose day-to-day routines depend on reliable devices to operate their automobiles. We must assure them of the means to operate their cars safely and with up-to-date equipment.

Mr. Speaker, the systemic disease known as lupus—a disease of the body's connective tissue—is difficult to diagnose and is often masked as other ailments in its early stages. The Veterans' Affairs Committee recognizes this disease to be a seriously debilitating one, and this legislation would add lupus to the Veterans' Administration list of chronic diseases for which compensation is payable on a presumptive basis.

Mr. Speaker, among our veteran population, there are those nonservice-connected pensioners who have developed crippling diseases or have suffered debilitating injuries after their military service. Many of these men and women are relatively young—there are some 35,000 who are under 50—and, because of their disabilities, have been unable to join the regular workforce.

Although the pension program has not, to date, included vocational rehabilitation as part of its scope, this bill would institute such a goal for a pilot period of 5 years. It would be directed at those pensioners under 50 considered by the Veterans' Administration to be eligible for job training and counseling. As these veterans are trained and find jobs, their numbers on the pension rolls should decrease, offering both a reduction in costs to the Government, and an increase in income to the veterans.

Holding a job is, for most of us, a mark of achievement and dignity. For those who wish to work but cannot because they are blocked by a disability, this bill would clear the way toward adding a number of productive and proud years to their lives.

Last year the President signed into law a measure that required the VA to look into the possibility of instituting a study of the effects of ionizing radiation on veterans. Because of the delayed and insidious effects of atomic radiation, we are just now coming to grips with the potential damage it may possibly inflict.

I was pleased to join with my colleague, Dr. ROWLAND, in sponsoring the portion of this bill that would create an advisory committee to oversee studies of atomic radiation. It would also set in place the mechanism with which to catalog and review the wealth of medical data that is currently not adequately compiled.

Finally, Mr. Speaker, this bill would increase the maximum amount of servicemen's group life insurance from $35,000 to $50,000, at no cost to the Government. The SGLI Program has been a good one, one that has assured our active-duty servicemen and women fair insurance coverage during times when private policies may not be practical.

In order to keep the maximum SGLI level competitive with other plans. We have, from time to time, raised its limits. This bill once again provides that necessary and equitable adjustment.

Mr. Speaker, H.R. 5688 is a well-considered bill. All its provisions have as their goals the best interests of our veterans, and I join with my colleagues of the Veterans' Affairs Committee in urging the House to see to it that those interests are justly served.

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I thank the gentleman for yielding, and I want to note his valuable contributions of leadership and expertise as the ranking member of the Veterans' Affairs Committee in helping to guide this bill through the committee.

I wish to also commend the chairman of the Compensation and Pension Subcommittee [Mr. APPLEGATE] for his guidance and bipartisan spirit in coordinating the various bills that make up this measure. He is truly committed to bettering the lives of our veterans, and it is a pleasure to serve on the subcommittee with him.

As a member of the Veterans' Affairs Committee, I am privileged to work with our distinguished chairman [Mr. MONTGOMERY]. In concert with the gentleman from Arkansas, he represents the best this Nation can offer to her veterans.

Mr. Speaker, I support H.R. 5688, and urge my colleagues to pass it without delay. America's service-connected disabled veterans are among our most valued national resources, and I, for one, believe they are deserving of no less than the best this Congress can offer.

These veterans have been patient with their Government—they accepted a COLA delay last year and they have worked closely with the Veterans' Affairs Committee to work within a limited budget this year.

I agree with the committee that we must move forward in the spirit of Public Law 98-223 and provide this much-needed increase for December 1 of this year.

As Mr. HAMMERSCHMIDT has noted most eloquently, the other provisions of the bill include necessary adjustments for specially adapted automobiles, improved SGLI insurance rates, the institution of Disabled Pensioners Vocational Program, and the organization of an Atomic Veterans' Advisory Committee, which the gentleman from Arkansas cosponsored with Mr. ROWLAND.

I stand firmly behind the intent of these provisions and urge my colleagues to do the same and support this bill.

Again, I commend the chairman, Mr. HAMMERSCHMIDT, and Mr. APPLEGATE for their leadership in directing this measure through the Veterans' Affairs Committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Puerto Rico [Mr. CORRADA].

□ 1220

Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 5688, a bill providing, among other things, an adjustment to service-connected disability compensation and dependency and indemnity compensation for veterans and their survivors reflecting the impact inflation has on these sorely needed benefits. The measure also proposes a modest increase from $4,400 to $5,000 in the one-time automobile allowance for certain service-connected disabled veterans.

The provisions contained in the legislation are warranted and of paramount importance to the welfare of our veterans. We must continue to revise the benefits our veterans and their survivors receive to ensure that inflation does not subdue the original intent of Congress when approving these benefits. Our veterans depend dearly and some totally on these benefits for their sustenance and daily living. Our responsibility to these loyal servants of democracy and freedom, and to the survivors of those who made the ultimate sacrifice for the America we enjoy today, demand our consistent review of their needs in line with the changing economic situation of the Nation. The cost-of-living adjustment the bill proposes reflects our commitment to the welfare of our veterans in just reciprocity for their deeds on our behalf.

The increase in the one-time automobile allowance for our disabled veterans is also fitting. Given the soaring increase in the cost of automobiles in recent times, the current $4,400 grant which we approved in the last Congress, fails to properly serve the purpose for which it was established. Automobiles with adaptive equipment are no longer within the economic reach of many of our disabled veterans. We must increase our participation in this effort to secure a reasonable opportunity for disabled veterans to acquire the kind of automobile that suits the needs their special conditions demand. These special conditions, such as the loss of extremities and the like, were suffered at our expense. We must continue to alleviate the burden their past sacrifices in the defense of our ideals pose on their daily living.

I urge my colleagues to vote for the passage of this sound legislation crafted to further our efforts on behalf of our most deserving citizens.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

I would like to recognize again the gentleman from Arkansas [Mr. Hammerschmidt] and thank him for the work he has done on this bill, plus the gentleman from Ohio [Mr. Applegate], who is the chairman of this subcommittee and who would be handling the bill today if he did not have a matter that he had to attend to, and the gentleman from Ohio [Mr. McEwen], the ranking minority member.

Mr. Speaker, I might say that we are very proud that all of the members of the subcommittee did go to all of these hearings and had 100-percent attendance at these hearings, which included the gentleman from Texas [Mr. Sam B. Hall, Jr.], the gentleman from South Dakota [Mr. Daschle], the gentleman from California [Mr. Martinez], the gentleman from Texas [Mr. Leath], the gentleman from Alabama [Mr. Shelby], the gentleman from Florida [Mr. Mica], the gentleman from Mississippi [Mr. Dowdy], the gentleman from Ohio [Mr. Wylie], the gentleman from Oregon [Mr. Denny Smith], and the gentleman from Indiana [Mr. Burton]. So we are very proud of that record. It was a full attendance when this bill was reported out.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Edgar], who is chairman of the Subcommittee on Hospitals and Health Care of the Veterans' Affairs Committee.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Speaker, I just want to rise in strong support of this legislation. I think the Subcommittee on Compensation, Pension, and Insurance did an excellent job in putting the legislation together. I commend the chairman.

● Mr. APPLEGATE. Mr. Speaker, before commenting on H.R. 5688, I want to express my thanks and appreciation to my good friend and colleague from Ohio [Bob McEwen] for his assistance in bringing this bill to the floor. As the ranking member of the Subcommittee on Compensation, Pension, and Insurance, he has worked with diligence and perseverance to shape this legislation. During the various meetings of the subcommittee and the full committee, Bob has been an outstanding supporter of the veterans compensation program. His willingness to meet with me and the various veterans' organizations has been of invaluable assistance in resolving troublesome issues.

I also want to say that I am grateful for the support and cooperation given to me by our chairman, Mr. Montgomery and by the ranking minority member, the gentleman from Arkansas [Mr. Hammerschmidt]. The Veterans' Affairs Committee can always count on the leadership of these men; and when it comes to veterans' programs, their record speaks for itself. I just want to express my feelings about their magnificent contributions in shaping the legislation to care for those who have fought for and defended our country.

Mr. Speaker, there are more than 2.25 million veterans receiving compensation as a result of having incurred disabilities during their military service. The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which in turn, is required by law to represent to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

We also have over 300,000 widows and children receiving dependency and indemnity compensation as survivors of veterans who died from service-related causes. The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support his wife and children.

The centerpiece of this bill is the cost-of-living increase of 4.3 percent in disability compensation for veterans with service-connected disabilities and in dependency and indemnity compensation for widows and children of veterans who died from service-connected causes. It has an effective date of December 1, 1984, and is in agreement with Public Law 98-223, which contained a sense of the Congress statement that the next COLA should be in December. The Budget Committee agrees with us and funds for this bill are within our target allocation for compensation in the House-passed budget resolution. I also want to point out that this increase for service-connected veterans will have the same effective date as the indexed non-service-connected pension program. This should eliminate some of the concern as to which of the programs, service-connected or non-service-connected, are adjusted on a more timely basis.

Mr. Speaker, I am sure that all Members are aware of the concern of those veterans who were exposed to radiation while in service, either in the occupation forces in Japan or while participating in the atmospheric testing of nuclear devices. Beginning in 1945 and continuing until 1963, the U.S. Government exploded approximately 235 nuclear bombs or devices over the American Southwest and Pacific Ocean. The Department of Defense estimates approximately 220,000 military personnel participated in those tests. Many of them were exposed to low-level ionizing radiation which may or may not have been accurately documented. Additional personnel may have been exposed to low-level radition while in the occupation forces at Hiroshima and Nagasaki, Japan in 1945.

Public concern about the health effects of low-level ionizing radiation has been heightened in recent years by the results of several studies. The U.S. Government has spent close to $2 billion for research on the health effects of exposure to radiation. At least 80,000 scientific papers on the subject have been published worldwide. There is still much uncertainty about the effect of exposure to low-level ionizing radiation and how to predict the effects of exposure to low doses of ionizing radiation.

Because of these uncertainties, the Congress enacted Public Law 97-72 which authorized the provision of basic health care by the Veterans' Administration for a veteran's disability if it is found that during active service, he or she may have been exposed to ionizing radiation. Public Law 98-160, enacted in 1983, contained a provision which requires the Administrator of Veterans' Affairs to consider the feasibility of conducting an epidemiological study of the effects of low-level radiation on veterans exposed in service.

The bill we bring to you today would create an advisory committee to look into the special problems and needs of veterans exposed to radiation. It is considered vitally important that a mechanism be put in place for reviewing the volumes of medical and scientific data that are now available on this subject. This wealth of information is meaningless to veterans or their survivors if there is no mechanism to sort through the data and literature and make objective determinations on whether or not particular disorders are relatable to a veteran's military service. This advisory committee should be of material assistance to the Administrator of Veterans' Affairs and to the Congress in evaluating the needs of this group of veterans and their survivors.

Mr. Speaker, I would be remiss if I did not recognize the efforts of our colleagues from Georgia, the Honorable ROY ROWLAND and the Honorable JOHN PAUL HAMMERSCHMIDT from Arkansas, on behalf of atomic veterans. They have been most vigorous and tireless in their efforts in this area.

One of the significant provisions of our amendments is the vocational training to be made available to younger disabled wartime veterans who are in receipt of pension. This pilot program will, I believe, show that with a minimum investment, we can restore these unfortunate veterans, disabled after their discharge, to a productive place in our society. This optimism as to the potential for success is reflected in the cost estimates by the Congressional Budget Office and by the Veterans' Administration which anticipate a net savings by the end of either the third of fourth year. Initially, it will be available to pensioners going on the rolls after September 30, 1984. If it looks like it will work as we intend it to, we can open it up to all younger disabled veterans already receiving pension. And whether we rehabilitate 10 or 10,000 veterans in this pilot program, it is a far greater achievement to restore veterans to productive life than to continue them on pension.

Mr. Speaker, the increase from $35,000 to $50,000 in Servicemen's Group Life Insurance for our active duty and Ready Reserve personnel is most appropriate. The Defense Department has strongly endorsed the increase and described it as an integral part of the compensation package for military personnel. Since the premiums paid by service personnel will cover the costs of the increased protection, it represents no budget increase. Also, I would point our that through efficient management of this program, the Veterans' Administration has announced a premium reduction of some 31 percent to be effective July 1, 1984. As a result, our military personnel will be able to have $50,000 coverage after enactment of our amendments at a lower cost than they now pay for $35,000 protection.

Another provision would increase the one-time automobile allowance for certain service-connected veterans from $4,400 to $5,000. This allowance is a readjustment benefit for veterans with certain severe service-connected disabilities such as the loss of an arm or leg, and has not been increased since 1981. It is a one-time benefit and the VA estimates 700 such cases will be approved in fiscal year 1985, at a cost of less than $500,000.

This bill would also straighten out another inequity caused by a recent ruling by the General Counsel of the Veterans' Administration. Current law provides that a veteran who meets the requirements for the one-time payment of the automobile allowance is eligible, on a continuing basis, for reimbursement of the costs of special adaptive equipment necessary for the veteran to operate the vehicle in a safe manner. For example, a veteran with a leg amputation may require an automatic transmission or repositioning of the pedals on the floorboard. The law further provides that a veteran is not entitled to adaptive equipment for more than one automobile at any time. The General Counsel ruled recently that reimbursement for adaptive equipment is prohibited if the previously purchased and adapted automobile has been sold or given to a spouse or family member in the same household. In effect, the general counsel said the vehicle remains in his household and is available to him.

This means that if an eligible veteran has an older, worn-out, and unreliable car with adaptive equipment furnished by the VA many years ago and he replaces that old car with a new one, reimbursement cannot be made for the adaptive equipment on the new car if title to the old car is transfered to the spouse or teenaged child. But there is no problem if he sells the old car to a neighbor who in turn resells the car to the spouse or child. Our amendment would simply permit the veteran to be reimbursed for the required adaptive equipment on the new car if he divests himself of title to the old car.

Another amendment in the bill would add systemic lupus erythematosus to the list of chronic diseases in section 301 of title 38. Systemic lupus is a disease that affects connective tissue of the body. Symptoms that appear in the early stages of the disease are sometimes difficult to diagnose, except in retrospect. Many times it appears as arthritic like symptoms, skin rashes, or fever, and the accurate diagnosis of lupus is not made until many months after the first symptoms. This amendment would permit the Veterans' Administration to pay compensation if this disease is manifested within the first year after separation from service.

This amendment would also modify the requirement that a chronic disease be manifested to a compensable degree within the presumptive period, a requirement that is usually honored in the breach when it is shown that the disease actually existed during that period. It is most difficult in many cases to fix the actual level of disability which existed during the first year after discharge, even though it is clearly shown that the condition existed during that period.

Mr. Speaker, this completes my comments on the bill. It is a good one, reasonable in its costs and its approach to meeting the needs of our veterans in a responsible manner. I urge my colleagues to support this measure.●

● Mr. DASCHLE. Mr. Speaker, I rise in support of H.R. 5688, the Veterans' Compensation Amendments Act of 1984. This measure authorizes a 4.3-percent cost-of-living increase for veterans with service-connected disabilities and to survivors of veterans eligible for dependency and indemnity compensation [DIC]. It is important to note that the Veterans' Committee approved this increase effective December 1, 1984, rather than April 1, 1985, as had been requested by the administration. The committee felt it unfair that veterans' cost-of-living increases be delayed for 2 years in a row. Some 2.25 million veterans nationwide and approximately 6,300 in my home State of South Dakota can look forward to this increase later this year.

Another noteworthy aspect of this legislation is authorization of an Advisory Committee for Atomic Veterans. This will give greater focus and attention to the concerns of atomic veterans in the Veterans' Administration. It is my hope that the advisory committee will be active and aggressive in making recommendations to the agency and not become a rubber stamp of existing agency policy in this area.

Active-duty service men and women will benefit as a result of the increase in servicemen's group life insurance coverage from $35,000 to $50,000. As the Veterans' Administration plans a 31-percent reduction in premium costs effective July 1, 1984, it is unlikely that the insuree will have to pay additional premium costs for this extra coverage.

Another positive step in this legislation is authorization for a 5-year pilot program of vocational rehabilitation to pension beneficiaries under age 50. Presently, this category of veterans is ineligible for these benefits. The VA's vocational rehabilitation program has had outstanding success in assimilating severely wounded veterans back into society. Extending the services and training available under the program will greatly assist this other group of veterans in obtaining employment and further assimilating into normal society. I might point out that by the end of the 5-year authorization of this provision a net inflow to the Treasury is expected.

Finally, I would like to mention the increase in the one-time automobile allowance from $4,400 to $5,000. This increase will enable disabled veterans to keep up with rising costs in purchasing adaptive equipment. A provision is also included permitting veterans to be paid for adaptive equipment on a new car if he transfers title of the older adapted car to another person.

All things considered this is an excellent bill and I am pleased to have worked with the chairmen and ranking minority members at both the subcommittee and full committee levels.●

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5688, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## FEDERAL ELECTION COMMISSION AUTHORIZATION, 1985

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5606) to authorize appropriations for the Federal Election Commission for fiscal year 1985, as amended.

The Clerk read as follows;

H.R. 5606

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second sentence of section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1978," and by inserting after "1981" the following: ", and $12,019,000 for the fiscal year ending September 30, 1985".

SEC. 2. Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(1) by striking out "SEC. 314." and inserting in lieu thereof "SEC. 314. (a)"; and

(2) by adding at the end the following new subsection:

"(b) In addition to the amount authorized to be appropriated by subsection (a) for the fiscal year ending September 30, 1985, there are authorized to be appropriated to the Commission for such fiscal year $815,000 for moving the offices of the Commission to a new facility and for necessary physical improvements to such facility.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5606 is the authorization for the Federal Election Commission for fiscal year 1985.

As reported from the House Administration Committee, the bill authorizes a total of $12,834,000 for the upcoming year. This amount is $814,000 less than the Commission request.

This proposed budget for 1985 covers many activities related to the Presidential election this year, in addition to the usual postelection duties of the Commission. The FEC is required to oversee spending that is expected to reach $1 billion in this election cycle, and to audit the millions of dollars that will have been spent by the Presidential candidates.

The authorization total includes several major items. Two of the largest portions of the $12.8 million are $11,289,000 to maintain the current services level at the Commission, and $295,000 for a new computer contract when the current 5-year contract expires in April.

I would like to point out, Mr. Speaker, that it is important to have sufficient up-to-date computer capability at the Commission for several reasons. In the first place, the FEC gathers and stores enormous amounts of information.

They track documents, maintain the details of financial transactions, summarize the activities of political committees—and their data processing equipment is vitally important to enable them to perform those duties.

Second, the Commission is responsible for making much of this information it gathers available to the public in a timely and understandable fashion. This disclosure function is one of the most important duties of the Commission, and the computer both assists the Commission in organizing the data, and ultimately makes it possible to present the data in a form that is much easier for people to read and understand than the form in which it is initially received by the Commission.

Third, by the nature of their function, most of the Commission's budget goes for staff, but their computer capability has helped keep staff costs down. At its 1981 high point, Commission staffing was 282 positions; presently, the Commission is operating with fewer than 245 staff.

That is about a 13-percent decrease in staff, which has been achieved while the Commission's duties have been steadily growing.

The number of political action committees (or PAC's) filing with the Commission has risen by more than 20 percent in that time, and the overall amount of money spent in elections—which the Commission must track—continues to increase dramatically each year.

In addition to these components, there is a rather small item—$95,000—for the Commission's National Clearinghouse on Election Administration. This is to develop voluntary voting systems standards, and is the culmination of several years of study.

Finally, the last major item in this proposed authorization is $1,155,000 to cover the expected costs of the Commission's move to new offices.

It has been apparent for some time that the basic working conditions at the Commission are poor. Their building neither accommodates their needs, especially for adequate public access to their offices, nor meets the General Services Administration's requirements for physical standards, such as fire safety.

Since their lease will expire in February, the Commission has been working with GSA, and with GSA's recommended space-planning contractor, to determine whether to move or to renovate. The conclusion of the contractor is that relocation would be substantially less expensive than renovation.

Furthermore, renovation could never provide adequate space for access by the general public to Commission meetings and to their public records. Accordingly, the Commission plans to move after the first of the year, and the committee supports that plan.

A portion of the total amount that the committee is recommending for these moving costs is to cover the expected increase in rent when the FEC's current lease expires. The remainder, $815,000, is a one-time cost. It is specifically for the costs of the move itself, and of any necessary physical improvements to the new facility. Any of the amount that is not used for either of those purposes will revert to the U.S. Treasury.

Mr. Speaker, after careful examination of the Commission budget request and supporting testimony, the committee believes that each of these items is essential for the smooth functioning of the Commission in the upcoming year.

I urge all my colleagues to support this authorization.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5606, as amended, is the Federal Election Commission's authorization for fiscal year 1985.

The Federal Election Commission's request was for $13,648,000 and 278 employees for fiscal year 1985 at an increase of 27 percent over last year's level. The Office of Management and Budget recommended $10,230,000 and 236 positions. The House Administration Committee approved $12,834,000. That same amount has been included in this year's appropriation by the House committee.

The components of this request include: $11,289,000 which is the 5-percent increase over last year's appropriation and is the base figure required to maintain fiscal year 1984 level of activity; $1,155,000 for relocation expense of which $815,000 is dedicated solely to cover the cost of the move and cannot be used for any other purpose. Additionally, the authorization contains $295,000 for the projected cost of a new computer contract and $95,000 for completion of the voting system standards study by the Clearinghouse.

The Federal Election Commission also requested additional moneys to increase entry into the computer to include individual contributions between $200-$500, enhance the contractual capability of the National Clearinghouse on Election Administration, and to hire 15 additional staff persons. The committee did not believe these additional requests were warranted at this time.

At this authorization level, Mr. Speaker, the amount—excluding the move costs—represents an 11.9 percent increase over last year's appropriation.

The minority is not opposed to this authorization which was worked out by the chairman of the committee's Task Force on Elections [Mr. SWIFT] and its distinguished ranking member [Mr. THOMAS].

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 5606, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1230

## GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## RECOGNIZING THE IMPORTANT CONTRIBUTIONS OF THE ARTS TO A COMPLETE EDUCATION

Mr. KOGOVSEK. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 452) recognizing the important contributions of the arts to a complete education.

The Clerk read as follows:

H.J. RES. 452

Whereas historically the arts have provided societies with a truly human means of expression that goes well beyond ordinary language;

Whereas the arts serve as a powerful expression of thoughts and feelings, as a means to challenge and extend the human experience, and as a distinctive way of understanding human beings and nature;

Whereas few areas of life are as important to a free, democratic society as education;

Whereas a country in which pluralism and individual expression are an essential part of its character must rely on a high level of shared education to foster a common culture;

Whereas public discussion following recent studies of education in America indicates an increasing desire to strengthen our Nation's schools;

Whereas the arts provide an important aspect of a complete education and have been included as one of the six basic academic subjects by the college board;

Whereas practice and preparation in the arts can develop discipline, concentration, and self-confidence;

Whereas participation in the arts helps to develop the higher levels of skill, literacy, and training essential to enable individuals to participate fully in our national life;

Whereas exposure to the arts is an integral part of the understanding and appreciation of the diverse cultures of the world;

Whereas the arts serve to preserve our uniquely American culture and provide a particularly effective means to present it to other nations; and

Whereas the arts enrich our lives by offering fulfillment through self-expression and aesthetic appreciation: Now, therefore be it,

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That we recognize the important contribution of the arts to a complete education and urge all citizens to support efforts which strengthen artistic training and appreciation within our Nation's schools.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Colorado [Mr. KOGOVSEK] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. KOGOVSEK].

Mr. KOGOVSEK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us this morning, House Joint Resolution 542, deserves the support of every Member. This resolution has enjoyed bipartisan support at every step, from introduction through unanimous approval by the Committee on Education and Labor. It is backed by the Congressional Arts Caucus. This legislation has no cost, but it is very important.

House Joint Resolution 452 acknowledges the valuable contributions of the arts to a complete education. The resolution calls attention to the role of the arts in human experience, the role of education in fostering democracy and culture, and the benefits of exposure to and participation in the arts. The resolution also urges all citizens to support efforts to strengthen artistic training and appreciation within our Nation's schools.

At a time when the issue of education is high on the public agenda, we must not forget the contributions of the arts to a well-rounded education. Many recent reports on educational quality have emphasized the arts as a basic academic subject. For example, the National Commission on Excellence in Education report stated that in high school, a high level of shared education in five basic subjects, "together with work in the fine and performing arts and foreign languages, constitutes the mind and spirit of our culture." Studies published by the College Board and the Carnegie Foundation for the Advancement of Teaching also cite the importance of arts in education.

Through this resolution, we also hope to stimulate discussion about the need to expose students to the arts and to increase support for arts education programs. Testimony before our subcommittee revealed that many students have not had adequate exposure to arts education. For example, elementary schools are, on the average, committing only 4 percent of the school week to arts instruction, with only a quarter of that provided by trained art teachers.

In addition, funding cutbacks at all levels of government have resulted in reductions in art courses in the school curriculum. Fiscal year 1982 was the last year that the Federal Government provided grants to the local level specifically for arts in education. This diminishing support is beginning to take its toll. The president of the Maryland Institute's College of Art has noted that in his State, there has been a 50-percent drop in the last 5 years in the number of high school students expressing an interest in pursuing arts as an area of study in college.

Through passage of House Joint Resolution 452, we wish to demonstrate that arts education is a Federal priority and to generate increased support through Federal leadership. I urge my colleagues to join with the

Committee on Education and Labor in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GUNDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 452 was introduced by our colleagues from New York [Mr. DOWNEY] and from Vermont [Mr. JEFFORDS], the chairman and vice chairman, respectively, of the Congressional Arts Caucus. I commend them both for their leadership in focusing attention on the arts in education. Their resolution now has more than 180 cosponsors.

The resolution sets forth the numerous ways in which study of the arts enriches our lives and would have the Congress recognize this important contribution of the arts of a complete education. In addition, the resolution would have the Congress urge all citizens to support efforts which strengthen artistic training and appreciation within our Nation's schools.

In other words, Mr. Speaker, by adopting this resolution here today, we affirm the importance of the arts to a basic, well-rounded education. There has been a tendency in some areas to neglect the arts and many Americans have had no training at all in the subject. We just want to ensure that schools do not overlook the arts.

My colleagues may have noted that many of the recent reports on the condition of education in our country have recommended including the arts as a basic component of a well-rounded curriculum. The Carnegie Commission's report, for example, included the arts in it core curriculum.

Through this resolution the House can show its Members also believe more attention should be given to the arts in education. I urge my colleagues to support House Joint Resolution 452.

● Mr. JEFFORDS. Mr. Speaker, I am very pleased that we have the opportunity today to consider House Joint Resolution 452 and I want to thank Chairman PERKINS of the Education and Labor Committee for his leadership on this issue. I also would like to recognize my colleague on the Arts Caucus, Mr. TOM DOWNEY, who introduced this resolution with me. His commitment to the arts and to the recognition of the importance of exposure to the arts to a complete education in this country is exemplary.

At a hearing before the Education and Labor Committee's Subcommittee on Elementary, Secondary, and Vocational Education held earlier this year, we heard from a panel that included art educators, an artist and the Chairman of the National Endowment for the Arts on the critical need to expose today's students to the arts and provide opportunities for artistic development expression in our schools. In recent evaluations of our Nation's educational system, a common observation has been that in our desire for fiscal restraint we cannot forget the contribution of the arts to a basic, well-rounded education. The National Commission on Excellence in Education's report, "A Nation at Risk," clearly states that the arts are one of six basic essentials to a complete education. Likewise, studies published by the college board and the Carnegie Foundation for the Advancement of Teaching also cite the importance of arts in education.

It is time we legislators recognized these facts. Fiscal year 1982 was the last year that the Federal Government provided grants specifically for arts in education. Similarly, we have essentially level funded the only other two programs of this nature, the Kennedy Education Program and the National Committee on the Arts for the Handicapped.

These actions are beginning to take their toll. At a recent conference held by the American Council on the Arts in preparation for their upcoming national conference on the arts in America, the president of the Maryland Institute's College of Art testified that in his State there has been a 50 percent drop in the last 5 years in the number of high school students expressing an interest in pursuing art as an area of study in college. This is an unbelievable statistic. It underlines a growing problem across the country. He cited a reduction in formal art programs, specifically at the secondary level, as a major factor. These programs are essential to providing an atmosphere to stimulate and encourage the creativity of students interested in the arts.

In my own State of Vermont, schoool officials and administrators have recognized the importance of providing this atmosphere. In a spirit of cooperation, the State education department, the Vermont Council on the Arts utilizing State and Federal grant moneys and private contributors last year experimented with a summer program of intense training for selected art students in the State; the Governor's Institute on the Arts. It was a tremendous success, providing a vehicle for individual to express themselves in a supportive environment that they would not normally find at their respective schools.

This program demonstrates the value of public and private cooperative ventures. We should take note of this experiment as a prime example of the need for continued Federal involvement in such projects. In addition, it highlights the need to offer these type of programs throughout the school year.

Mr. Speaker, I cannot say enough how glad I am to see this resolution before us today. Our endorsement of this resolution will reaffirm the commitment of this Congress to the goal of securing a complete education for our Nation's youth and to the importance of the arts to a broad, well-rounded curriculum. I urge my fellow Members to support House Joint Resolution 452. Thank you.●

### GENERAL LEAVE

Mr. GUNDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER pro tempore [Mr. KAZEN]. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GUNDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOGOVSEK. Mr. Speaker, before I yield back the balance of my time, I would like to commend Congressman DOWNEY and Congressman JEFFORDS from the Congressional Arts Caucus for their tremendous amount of work on this piece of legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. KOGOVSEK] that the House suspend the rules and pass the joint resolution, House Joint Resolution 452.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

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## WHEELING CREEK WATERSHED PROTECTION AND FLOOD PREVENTION DISTRICT COMPACT

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5177) granting the consent of Congress to an amendment to the Wheeling Creek watershed protection and flood prevention district compact entered into by the States of West Virginia and Pennsylvania.

The Clerk read as follows:

H.R. 5177

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the consent of Congress is given to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania and consented to by Congress by the Act of December 8, 1967 (81 Stat. 553), which amendment adds at the end of article VI of such compact the following:

"(i) The commission, subject to the conditions herein, may sell, exchange or lease property, real or personal, or any interest therein.

"When the property, or any interest or right therein, is being held for future use, it may be leased. When the real property, or any part thereof, or any interest or right therein, is deemed by the commission not necessary, or desirable for present or presently foreseeable future use, it may be exchanged for other property, or any interest or right therein, deemed by the commission to be necessary or desirable for present or presently foreseeable future use, or may be sold. In addition the commission may exchange real property, or any part thereof, or any interest or right therein, even though it may be desirable or necessary for present or presently foreseeable future use, if the exchange is made for other real property, or any interest or right therein, in close proximity thereto which the commission deems of equal or superior value for presently foreseeable future use. In making exchanges the commission may make allowances for differences in values of the properties being exchanged and may move or pay the cost of moving buildings, structures, or appurtenances in connection with the exchange.

"Every such sale of real property, or any interest or right therein or structure thereon, shall be at public auction in the county in which the real property, or the greater part thereof in value, is located, and the commission shall advertise, by publication or otherwise, the time, place and terms of such sale at least twenty days prior thereto. The property shall be sold in the manner which will bring the highest and best price therefor. The commission may reject any and all bids received at the sale. The commission shall keep a record, open to public inspection, indicating the manner in which such real property or any interest or right therein or structure thereon, was publicly advertised for sale, the highest bid received therefor and from whom the person to whom sold, and payment received therefor. Such record shall be kept for a period of five years and may thereafter be destroyed.

"The commission may insert in a deed or conveyance, whether it involves an exchange, lease or sale, such conditions as are in the public interest.

"All moneys received from the exchange, sale or lease of real or personal property, or any right or interest therein, shall be paid into the commission's treasury and used for the purpose for which the commission was created.

"If the commission has heretofore sold and conveyed away or leased any such property, such transaction and the documents of lease or transfer are hereby approved and confirmed and shall be as effective as if the authority to lease or convey the said property had been given in this statute as originally enacted.".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. SAM B. HALL, JR.] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

The bill H.R. 5177 grants congressional approval of an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District compact, entered into by the States of West Virginia and Pennsylvania.

The Wheeling Creek Watershed Protection and Flood Prevention District compact was entered into by the States of West Virginia and Pennsylvania in 1967 to establish a governing body to carry out the purposes of the Wheeling Creek Watershed projects. Congressional consent was given that compact that year with the enactment of Public law 90-181.

The Wheeling Creek Watershed Commission was created by the original compact and acts as the governing body to carry out the Wheeling Creek Watershed project. In 1978, it was discovered that the commission did not have the power to sell or dispose of property it acquired. Pennsylvania's State Legislature rectified the problem on October 5, 1978, when it approved an amendment to the Wheeling Creek Watershed compact permitting the commission to sell, exchange, or lease real or personal property. The State of West Virginia also amended its Wheeling Creek Watershed compact, chapter 29, article 1F, of the official Code of West Virginia, 1931. Both State amendments are identical to the language of H.R. 5177.

The bill H.R. 5177 gives the required congressional ratification to the amendment. The need for congressional action was recognized earlier this year when the commission was exploring the possibility of conveying land in the flood pool of dam PA-648, the final structure of the Wheeling Creek watershed project, to a conservation agency for management of the unique, natural land. Attorneys exploring this transaction informed the executive director of the Wheeling Creek Watershed Commission, that even though the legislatures of both West Virginia and Pennsylvania had amended the original compact to allow for the disposal of property, Congress had not yet ratified the States' action.

The Subcommittee on Administrative Law and Governmental Relations conducted a hearing on the bill, H.R. 5177, on April 11, 1984, and there was no opposition expressed during the hearing nor during the full committee's consideration.

The committee is of the opinion that this bill does not impact on interest or jurisdiction of the United States. The granting of congressional consent to this amendment is consistent with the interest and purpose of the Wheeling Creek watershed project. It is recommended that the bill be considered favorably.

□ 1240

Mr. Speaker, I might state that the gentleman from West Virginia [Mr. MOLLOHAN], has been very active in this matter. He is a prime sponsor of this bill, H.R. 5177.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, before I discuss the merits of H.R. 5177, I would first like to commend the gentleman from New Jersey [Mr. RODINO], the distinguished chairman of the Judiciary Committee, as well as the gentleman from Texas [Mr. HALL], who so ably chairs the Judiciary Subcommittee on Administrative Law and Governmental Relations, for their utmost cooperation in bringing this bill to the floor expeditiously.

H.R. 5177 would grant the consent of the Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention compact. This bill is of extreme importance to those who live and work along the Wheeling Creek in northern West Virginia. The enactment of H.R. 5177 is instrumental to the timely and efficient completion of the Wheeling Creek Watershed project's sixth and final dam, which will reduce average annual flood damages along Wheeling Creek by an additional 27 percent.

The interstate compact between the States of West Virginia and Pennsylvania, which was first ratified by the Congress in 1967, needs to be amended to allow the Wheeling Creek Watershed Commission, the governing body of this project, to sell property so that the commission may sell land in the flood pool of the final dam to a conservation agency for proper management. Proceeds of the sale would be placed by the commission into a trust fund for maintenance of the dam site. The sale of land in the flood pool of the project's final dam to a conservation agency would also satisfy requirements of the environmental impact statement.

The legislatures of both West Virginia and Pennsylvania have passed laws approving this amendment, and now only congressional ratification is needed.

The Wheeling Creek Watershed project has been a longtime priority in my congressional district, and I hope my colleagues will act today to adopt H.R. 5177 so this essential project can be completed as soon as possible.

I would, at this time, like to provide you with some background as to why this bill is necessary.

Wheeling Creek in Ohio and Marshall Counties of West Virginia is subject to severe flooding. After considerable study in the 1960's, it was decided that a watershed project to be developed by the U.S. Soil Conservation Service [SCS] would be the best way to provide flood protection and prevention as well as water-based recreation opportunities in northern West

Virginia and southwestern Pennsylvania.

Congressional authority for the project was accomplished through the adoption of resolutions by the Committees on Public Works of the U.S. Senate and U.S. House of Representatives on October 17 and 18, 1966, respectively.

In 1967, the legislatures of West Virginia and Pennsylvania, by passing legislative measures, entered into an interstate compact, establishing a governing body to carry out the Wheeling Creek Watershed project. On December 8, 1967, Public Law 98-181 was enacted, providing congressional ratification of the compact.

The development of the watershed project began and the compact suited its purpose until 1978, when it was discovered that the governing body—the Wheeling Creek Watershed Commission—did not have the power to sell or dispose of property it acquired.

The Legislatures of West Virginia and Pennsylvania responded that year by amending the interstate compact, authorizing the commission to sell, exchange, and lease real and personal property. The judiciary committee has verified the legislative actions through the West Virginia and Pennsylvania secretaries of state.

Due to an administrative oversight during personnel changes, the Watershed Commission neglected to bring this matter before the Congress for ratification. Therefore, I was requested by Ms. Anne Bower, who has been the executive director of the Wheeling Creek Watershed Commission since 1979, to resolve this oversight.

This matter came to the forefront earlier this year when, according to Ms. Bower, the commission was exploring the possibility of selling land in the flood pool of dam PA-648, the sixth and final structure of the Wheeling Creek Watershed project, to a conservation agency for management of the unique, natural land. Attorneys exploring the sale informed Ms. Bower that even though the legislatures of West Virginia and Pennsylvania had amended the original compact to allow for the disposal of property, Congress had not yet ratified the States' action. Ms. Bower immediately began researching the situation and, finding no record of congressional ratification, concluded that congressional action would be needed.

This led to my introduction of H.R. 5177, which would rectify the oversight and allow the Wheeling Creek Watershed Commission to continue its negotiations with a conservation agency for management of the land in the flood pool of dam PA-648.

There is considerable support for the timely completion of the Wheeling Creek Watershed project and H.R. 5177. My predecessor and I have worked closely for years with West Virginia Senators JENNINGS RANDOLPH and ROBERT C. BYRD on this project. As a matter of fact, Senator RANDOLPH has introduced identical legislation, S. 2475, in the U.S. Senate. I have also cooperated with my colleague, AUSTIN J. MURPHY of Pennsylvania, whose district is affected by the development of two dams of the Wheeling Creek Watershed project.

In addition, the U.S. Soil Conservation Service has stated in writing that it is "pleased to see this bill introduced."

It gives me great pleasure to bring this matter before the House for its consideration today, and I would appreciate the support of the House for H.R. 5177.

Mr. Speaker, in closing I would like to again thank the distinguished chairman of this subcommittee, the gentleman from Texas [Mr. SAM B. HALL, JR.], for his cooperation and help to this Member of Congress on this legislation.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe the case has been very well stated by my colleague, the gentleman from Texas, the chairman of the Subcommittee on Administrative Law and Governmental Relations.

I would only add that in the consideration of interstate compacts, I believe it is the function and duty of the subcommittee and the committee, and of this House, to consider primarily whether the States have regularly acted in entering into the interstate compact or agreement, and that basically the subject matter of the compact or agreement is not really what is involved here. However, I would say to my colleagues that I undertook on yesterday afternoon to do a personal, onsite inspection and can assure my colleagues that that part of the world which is encompassed within the Wheeling Creek Watershed and Flood Prevention District is indeed intact and in place except for such erosion as is likely to occur with that kind of terrain.

Therefore, the subject matter of the compact can certainly be carried out and I would urge my colleagues to expeditiously approve the bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. KAZEN]. The question is on the motion offered by the gentleman from Texas [Mr. SAM B. HALL, JR.] that the House suspend the rules and pass the bill, H.R. 5177.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as passed.

A motion to reconsider was laid on the table.

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## GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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## SELECTION OF COURT OF APPEALS IN MULTIPLE APPEALS OF AGENCY ORDERS

Mr. SAM. B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5365) to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order, as amended.

The Clerk read, as follows:

H.R. 5365

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2112(a) of title 28, United States Code, is amended by strking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the following shall apply:

"(1) If within ten days after issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in at least two courts of appeals, the agency, board, commission, or officer shall proceed in accordance with paragraph (3) of this subsection. If within ten days after the issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in only one court of appeals, the agency, board, commission, or officer shall file the record in that court notwithstanding the institution in any other court of appeals of proceedings for review of that order. In all other cases in which proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency, board, commission, or officer concerned shall file the record in the court in which proceedings with respect to the order were first instituted.

"(2) (For purposes of paragraph (1) of this subsection, a copy of the petition or other pleading which institutes proceedings in a court of appeals and which is stamped by the court with the date of filing shall constitute the petition for review. Each agency, board, commission, or officer, as the case may be, shall designate by rule the office and the officer who must receive petitions for review under paragraph (1).

"(3) If an agency, board, commission, or officer receives two or more petitions for review of an order in accordance with the first sentence of paragraph (1) of this subsection, the agency, board, commission, or officer shall, promptly after the expiration of the ten-day period specified in that sentence, so notify the judicial panel on multidistrict litigation authorized by section 1407 of this title, in such form as that panel shall prescribe. The judicial panel on multidistrict litigation shall, by means of random selection, designate one court of appeals, from among the courts of appeals in which petitions for review have been filed and received within the ten-day period specified in the first sentence of paragraph (1), in which the record is to be filed, and shall issue an order consolidating the petitions for review in that court of appeals. The judicial panel on multidistrict litigation shall, after providing notice to the public and an opportunity for the submission of comments, prescribe rules with respect to the consolidation of proceedings under this paragraph. The agency, board, commission, or officer concerned shall file the record in the court of appeals designated pursuant to this paragraph.

"(4) Any court of appeals in which proceedings with respect to an order of an agency, board, commission, or officer have been instituted may, to the extent authorized by law, stay the effective date of the order. Any such stay may thereafter be modified, revoked, or extended by a court of appeals designated pursuant to paragraph (3) with respect to that order or by any other court of appeals to which the proceedings are transferred.

"(5) All courts in which proceedings are instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals.".

SEC. 2. The amendment made by the first section of this Act shall take effect one hundred and eighty days after the date of the enactment of this Act, except that the judicial panel on multidistrict litigation may issue rules pursuant to subsection (a)(3) of section 2112 of title 28, United States Code, as added by the first section of this Act, on or after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. SAM B. HALL, JR.] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5365 is to simplify the selection of the proper court to handle the judicial appeal of an agency order in those cases where petitions for review are filed in more than one court of appeals.

Often more than one party files a judicial challenge to the validity of an agency order. Many statutes do not specify a particular circuit as the court to handle these challenges, therefore venue is proper in any of the circuits. If appeals are filed in more than one circuit, a single circuit must be selected to handle the appeal.

Until recent amendments to title 28, an agency had the option of selecting which circuit would have venue in the review of an agency order if multiple appeals were filed. This appeared to result in an unfair advantage to the agency, so in 1958, title 28 was amended to provide that the court of venue would be the court where the appeal was first filed. This first-to-file rule was intended to introduce balance and fairness into the selection of a court of venue by simply allowing the circuit of the first appeal to be the court of jurisdiction.

However, the 1958 amendment had an unintended result. Many lawyers believe that particular circuits will be more sympathetic to their client's arguments. Thus, races to the courthouse occur, with each lawyer trying to file first in the circuit he or she feels will be sympathetic. Because of this belief, courts have increasingly been faced with nearly simultaneous filings of appeals to the same agency order.

These races to the courthouse have resulted in some unfortunate consequences for the system of justice. Since the races are based on the theory that one court will interpret the law differently from another court, they detract from the public's perception of the Federal courts as impartial, consistent dispensers of justice. Moreover, these races produce no economic benefit, yet often cost private participants tens of thousands of dollars. In addition, once that race is complete, the parties—as well as the Federal courts and agencies—must then expend more resources on wasteful litigation to determine who won the race and which is the appropriate circuit for review.

H.R. 5365 remedies the existing situation by removing the incentive to race to the courthouse. It does this by modifying the first to file rule for those cases where more than one appeal of an agency order is filed in the first 10 days after the order is issued. In these cases, all petitions will stand on the same footing in the determination of which circuit will handle the appeal.

H.R. 5365 establishes a simple procedure to determine venue in these situations. It provides that the existing Judicial Panel on Multidistrict Litigation will choose a court of venue from among those circuits in which petitions to review an agency order have been filed. This choice will be made by a system of random selection. A party wishing to qualify for the random selection procedure will have to meet two conditions. First, the party will have to file an appeal of the agency order within 10 days after issuance of the order. Second, the party will also have to file a copy of the petition for review with the agency within the same 10-day period.

The random selection will include one entry for each circuit in which proceedings are pending, rather than one entry for each petitioner. After the selection, the judicial panel will issue an order consolidating the petitions for review in the selected circuit. The judicial panel is required to establish rules to govern these selection procedures after providing the public with notice and an opportunity to comment on such rules.

The circuit in which the proceedings are consolidated will take jurisdiction over all review proceedings dealing with the same order. This court will retain its existing power to transfer proceedings for the convenience of the parties in the interest of justice. H.R. 5365 does not change current standards for transfer. It also does not cover cases where venue is specified by statute to lie in one particular circuit; nor does it cover cases which are filed in the district courts.

During the period before the random selection, any court of appeals in which a proceeding has been filed may stay the effective date of the agency order. Any such stays may thereafter be modified, revoked, or extended by the selected court in which the proceedings are consolidated. H.R. 5365 does not alter the current standards by which courts determine whether to grant a stay.

No random selection will be required if a second proceeding is commenced more than 10 days after issuance of the agency order or if all proceedings are filed later than 10 days after the issuance of the order. In these cases, the first-to-file rule will continue in effect since no real race to the courthouse is involved.

### CONCLUSION

In the 96th and 97th Congresses, the Committee on the Judiciary favorably reported a provision smiliar to that contained in H.R. 5365 as part of the omnibus regulatory reform bill. A similar measure was also adopted by the Senate in the 97th Congress as part of the Senate regulatory reform bill. The basic approach of the bill has had strong bipartisan support.

H.R. 5365 contains a significant improvement in the way venue is determined in cases of multiple filings. It is supported by the Department of Justice, the Judicial Conference of the United States, the Administrative Conference of the United States, and the American Bar Association.

The Judiciary Committee recommends its enactment.

Mr. Speaker, I urge the adoption of H.R. 5365.

□ 1250

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the pending bill, H.R. 5365.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Mr. Speaker, I rise in support of H.R. 5365, which I hope and trust will be approved by this House without any substantial question at all. H.R. 5365 has been explained in an exemplary and detailed manner by our esteemed colleague, the chairman of the Subcommittee on Administrative Law, the gentleman from Texas [Mr. Sam B. Hall, Jr.].

I remember, Mr. Speaker, when the practice of law was a whole lot more fun than it sometimes is today, and we are doing today, by passing H.R. 5365, one more thing to take a little bit of the fun out of practicing law for lawyers. But it will cost clients a whole lot less for the lawyers to have fun.

The "race to the courthouse" described by the gentleman from Texas [Mr. Sam B. Hall, Jr.] which would be eliminated by the enactment of H.R. 5365 is indeed something that could be fun, with today's modern technology and the use of walkie-talkies and all sorts of communications to try to coordinate things so your client gets into court first to select the forum in which to contest the validity of a new administrative law or regulation. But how seemly is it?

I would conclude, as others have, that it is quite unseemly, and while it might be fun for the lawyers and the people who get involved in the communications, the cost is unseemly, too. So I would add my voice to those of our chairman of the Subcommittee on Administrative Law urging that H.R. 5365 be promptly approved by this House.

Mr. Speaker, having no requests for time, I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I would like to state that the gentleman from Ohio [Mr. Kindness], the ranking minority member of the subcommittee, has been of great help in working toward the passage of this bill, and I appreciate his efforts and I appreciate him for being an outstanding member of the Committee on the Judiciary. Also I would like to state the administration supports the enactment of H.R. 5365, in addition to those that I mentioned previously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. Sam B. Hall, Jr.] that the House suspend the rules and pass the bill, H.R. 5365, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## AUTHORIZING AMENDMENTS TO CERTAIN REPAYMENT AND WATER SERVICE CONTRACTS FOR THE FRENCHMAN UNIT OF THE PICK-SLOAN MISSOURI RIVER BASIN PROGRAM

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3130) to authorize amendments to certain repayment and water service contracts for the Frenchman unit of the Pick-Sloan Missouri River Basin Program, as amended.

The Clerk read as follows:

H.R. 3130

*Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, notwithstanding any other provision of law, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to execute an amendatory contract with H&RW Irrigation District (hereinafter in this Act referred to as the "district"), Nebraska, to amend the provisions of the district's existing contract (numbered 7-07-70-W0045) with the United States for water service and construction of a distribution system in the following manner:

(1) Rescind the construction charge obligations remaining unpaid as of September 30, 1980, and any interest or penalty thereon, under part B of such existing contract.

(2) Amend part A of such existing contract to provide that, beginning January 1, 1982, the district's annual obligation for payment of costs to the United States for water service (including the cost to the United States to operate and maintain the reserved water supply works on the Frenchman unit of the Pick-Sloan Missouri River Basin Program) and for the construction of a distribution system shall be limited to the annual water service charges for the amount of water delivered to the district. Such charges shall be based on the repayment ability of the district associated with the amount of water delivered by the district for irrigation purposes as may be determine by the Secretary taking into account an appropriate share of the district's costs for the care, operation, and maintenance of these works of the Frechman unit transferred to the district for such purposes.

(3) Those costs allocated to the irrigation purpose of the Frenchman unit and properly assignable to the district for payment which are in excess of the district's repayment ability as determined by the Secretary, pursuant to paragraph (2), and all obligations (including any interest or penalty thereon) described in paragraph (1) shall be repaid from municipal and industrial and/or power revenues in accordance with procedures established for the Pick-Sloan Missouri River Program, authorized by the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 887-901, as amended).

The SPEAKER pro tempore [Mr. Lowry of Washington]. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. Kazen] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. Lujan] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Kazen].

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3130 would authorize the Secretary of the Interior to execute an amendatory contract with the Hitchcock and Red Willow Irrigation District in Nebraska.

This irrigation district receives its water from the Frenchman unit of the Pick-Sloan Missouri Basin Program, a Federal reclamation project. In 1956, the H&RW irrigation district signed a contract with the Federal Government which requires them to pay annually a water service charge for the delivery of 17,500 acre-feet of water and an installment for the repayment of the construction costs of the distribution and drainage works built by the Bureau of Reclamation. The contract established a ceiling of $1.5 million to be repaid by the irrigation district. As of September 30, 1982, neary $300,000 had been repaid.

In the past few years, extensive ground water development, combined with increased surface water use upstream of Enders Reservoir, the main feature of the Frenchman unit, has depleted reservoir inflow by nearly 60 percent. Due to this depletion of the water supply for the Frenchman unit, the H&RW Irrigation District is no longer able to meet its repayment obligation under its contract with the Federal Government. Since no viable plan for augmenting the district's water supply has been identified, the district is seeking a revision of terms of its contract to reflect the quantity of water delivered by the Bureau of Reclamation and the district's ability to repay its obligation.

H.R. 3130 authorizes the Secretary of the Interior to amend the contract with the H&RW Irrigation District by rescinding the construction charge remaining unpaid as of September 30, 1980, as well as any interest or penalty charge thereon. The amendatory contract would establish a water service charge commensurate with the district's repayment ability for the water delivered. The approximately $1.21 million in construction charges, interest and penalty charges that are beyond the district's ability to repay will be repaid using revenues from municipal and industrial, and/or power receipts from the Pick-Sloan Missouri Basin Program.

Mr. Speaker, the administration supports enactment of H.R. 3130. The Department of the Interior advised the committee that the Frenchman unit case is an unique one. The administration believes, and the committee agreed, that the situation justifies the execution of a new contract. We do, however, want to make it clear that enactment of this legislation is not to be considered as establishing a precedent of any kind.

Mr. Speaker, I urge my colleagues to support this necessary legislation.

□ 1300

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3130. This is a simple bill, supported by the administration, reported by the Interior Committee by voice vote, and unopposed so far as I am aware.

Basically, Mr. Speaker, what H.R. 3130 does is to authorize the amendment of a contract between a Nebraska irrigation district and the United States. The contract now in existence provides for the supply of water by the United States to the district, in return for payment of certain charges by the district to the United States. Unfortunately, the water supply for this project is failing, through no fault of the irrigation district involved. For this reason, it is basically inequitable to require the irrigation district to continue to pay for water it does not receive in a situation where it has been deprived of its water supply and has no legal recourse through which that supply can be recovered. The legislation authorizes an amended contract between the United States and the district. In this amended contract the district will pay as much as it can afford to pay for water it actually receives. Existing charges from which the district is relieved will be repaid to the United States from Pick-Sloan Power revenues. The use of such revenues to support irrigation development seems appropriate in this unusual and exceptional circumstance. As far as I am aware, there is no opposition to this arrangement.

For these reasons, Mr. Speaker, I support H.R. 3130 as a fair resolution of an unfortunate problem. I hope that the Bureau of Reclamation will learn from this experience and take steps to guarantee that this type of difficulty does not recur with respect to its other projects. I also take this opportunity to commend the gentlewoman from Nebraska [Mrs. SMITH] on the quality of her representation of her constituents who are members of the H&RW Irrigation District. She deserves considerable credit for getting this matter resolved.

Mr. KAZEN. Mr. Speaker, in closing, I also want to pay my respects to the gentlewoman from Nebraska [Mrs. SMITH] who did a tremendous job in getting an understanding among all parties involved and guiding this bill to the point where it was considered by the committee and brought to the floor today. She does a wonderful job in representing her constituency and I commend her for a job well done on this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. KAZEN] that the House suspend the rules and pass the bill, H.R. 3130, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## COLORADO WILDERNESS ADDITIONS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5426) to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5426

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be entitled as the "Colorado Wilderness Additions Act of 1984".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands in the State of Colorado are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the San Isabel National Forest, which comprise approximately forty-six thousand acres, as generally depicted on a map entitled "Buffalo Peaks Wilderness—Proposed", dated June 1984, and which shall be known as the Buffalo Peaks Wilderness;

(2) certain lands in the Uncompaghre National Forest, which comprise approximately twenty-one thousand acres, as generally depicted on a map entitled "Cannibal Plateau Wilderness—Proposed", dated May 1984, and which shall be known as the Cannibal Plateau Wilderness;

(3) certain lands in the San Isabel National Forest, which comprise approximately eighteen thousand acres, as generally depicted on a map entitled "Huajatolla Wilderness—Proposed", dated May 1984, and which shall be known as the Huajatolla Wilderness;

(4) certain lands in the San Isabel National Forest, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Greenhorn Mountain Wilderness—Proposed", dated May 1984, and which shall be known as the Greenhorn Mountain Wilderness;

(5) certain lands in the White River National Forest, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Hunter-Fryingpan Wilderness—Proposed", dated April 10, 1984, and which are hereby incorporated in and shall be deemed a part of the Hunter-Fryingpan Wilderness as designated by Public Law 95-237;

(6) certain lands in the Pike National Forest, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Lost Creek Wilderness Additions—Proposed", dated June 1984, and which are hereby incorporated in and shall be deemed a part of the Lost Creek Wilderness as designated by Public Law 96-560;

(7) certain lands in the Routt National Forest, which comprise approximately eighteen thousand acres, as generally depicted on a map entitled "Mt. Zirkel Wilderness Additions—Proposed", dated May 1984 and which are hereby incorporated in and shall be deemed a part of the Mount Zirkel Wilderness as designated by Public Laws 88-577 and 96-560;

(8) certain lands in the San Juan National Forest, which comprise approximately thirty-seven thousand acres, as generally depicted on map entitled "Piedra Wilderness—Proposed", dated May 1984 and which shall be known as the Piedra Wilderness;

(9) certain lands in the Gunnison National Forest, which comprise approximately five thousand five hundred acres as generally depicted on a map entitled "Raggeds Wilderness Additions—Proposed", dated April 10, 1984, and which are hereby incorporated in and shall be deemed a part of the Raggeds Wilderness as designated by Public Law 96-560;

(10) certain lands in the Arapaho National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "St. Louis—Vasquez Peaks Wilderness—Proposed", dated June 1984, and which shall be known as the St. Louis—Vasquez Peaks Wilderness;

(11) certain lands in and adjacent to the Rio Grande and San Isabel National Forests, which comprise approximately two hundred and thirty-five thousand acres, as generally depicted on a map entitled "Sangre de Cristo Wilderness—Proposed", dated May 1984, and which shall be known as the Sangre de Cristo Wilderness;

(12) certain lands in the Routt National Forest, which comprise approximately forty-eight thousand five hundred acres, as generally depicted on a map entitled "Service Creek Wilderness—Proposed", dated

May 1984, and which shall be known as the Service Creek Wilderness;

(13) certain lands in the San Juan National Forest, which comprise approximately seven thousand acres, as generally depicted on a map entitled "Weminuche Wilderness Additions—Proposed", dated May 1984, and which are hereby incorporated in and shall be deemed a part of the Weminuche Wilderness as designated by Public Laws 93-632 and 96-560;

(14) certain lands in the San Juan National Forest, which comprise approximately twenty-three thousand acres, as generally depicted on a map entitled "West Needles Wilderness—Proposed", dated May 1984, and which shall be known as the West Needles Wilderness; and

(15) certain lands in the Arapaho National Forest, which comprise approximately forty thousand five hundred acres, as generally depicted on a map entitled "Williams Fork Wilderness—Proposed", dated June 1984, and which shall be known as the Williams Fork Wilderness: *Provided, however,* That subject to valid existing rights the Williams Fork Further Planning Area as generally depicted on said map shall be managed, until Congress determines otherwise, to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided further,* That no right, or claim of right, to the diversion and use of water from the Williams Fork Further Planning Area by the Board of Water Commissioners of the city and county of Denver shall be prejudiced, diminished, altered, or affected by this section, and this section shall not be construed to impair, impede, or interfere with the exercise of such rights, including the exercise of such rights in a manner affecting the Williams Fork Further Planning Area's presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in subsection (a) and legal descriptions of each wilderness area designated by subsection (a) with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Sec. 3. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as Wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

Sec. 4. Subparagraphs (1), (3), (5), (6), (7), (8), and (9) of section 105(a), subsection 105(b), section 106 and section 107 of the Act of December 22, 1980 (Public Law 96-560) are hereby repealed.

Sec. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in Colorado and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado;

(2) with respect to the National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Colorado reviewed in such final environmenal statement or referenced in subsection (d) and not designated wilderness or remaining in wilderness study upon enactment of this Act, except for the Williams Fork Further Planning Area, shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purposes of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Colorado are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Colorado which are less than five thousand acres in size.

Sec. 6. (a) In order to protect the area's paramount geologic, natural and scenic values certain lands in the Rio Grande National Forest, Colorado, which comprises approximately eighteen thousand acres, as generally depicted on a map entitled "Wheeler-Wason National Monument—Proposed", dated May 1984, are hereby designated as the Wheeler-Wason National Monument.

(b) The Secretary of Agriculture acting through the Forest Service shall administer the Wheeler-Wason National Monument as a separate unit within the boundary of the Rio Grande National Forest in accordance with the laws generally applicable to the National Forest System, and subject to the following provisions:

(1) the Secretary shall manage the monument to protect the wildlife, biologic, geologic, ecologic, and cultural resources, in accordance with the provisions of this Act allowing geologic forces and ecological succession to continue substantially unimpeded, with special emphasis on protection of the geologic and wildlife resources;

(2) the Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the monument or (B) cause substantial damage to significant resources adjacent to the monument;

(3) timber harvesting shall not be permitted within the monument except as may be necessary for the control of fire, insects, or disease as set forth in subparagraph (b)(2) above;

(4) the use of motorized vehicles (including snowmobiles) or aircraft may be permitted within the monument; and

(5) roads or other developments needed for recreational or interpretive purposes may be permitted but should be generally limited to those areas where they existed prior to enactment of this Act.

(c) Subject to valid existing rights all lands within the monument are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. Seiberling] will be recognized for 20 minutes and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 5426. This legislation is necessary because when Congress passed the Colorado wilderness bill in 1980 there were approximately 700,000 acres of roadless land on which we did not make a wilderness/nonwilderness decision. Instead, we left the acreage in wilderness study or further planning status in order to allow more time for the land to undergo additional wilderness evaluation.

As amended by the committee, H.R. 5426 would designate approximately 565,500 acres of wilderness and an additional 18,000 acres for administration as the Wheeler-Wason National Monument. Two areas would be left in wilderness study. In formulating the wilderness and other proposals of the bill, the committee worked closely with the Members of the Colorado congressional delegation in the House, and particularly with Congressmen WIRTH, KOGOVSEK, KRAMER, and BROWN. The result is a bill which I believe is supported by the entire House delegation and which represents a true consensus among the various interests. In this regard I would particularly like to commend Messrs. WIRTH, KOGOVSEK, KRAMER, and BROWN, two of whom are on our committee, for their good faith and diligence in negotiating a reasonable compromise. And I should note that the bill is a compromise because the committee was considering proposals ranging from the conservationists' recommendation of 1,204,870 acres of additional wilderness, to industry endorsed positions of 400,000 acres or less.

Briefly, Mr. Speaker, this bill contains several wilderness proposals which are remarkable in their scenic, natural and wild values. Many of these acres have been either fully or partially recommended for wilderness designation by the Forest Service. The Wilderness proposals of H.R. 5426 include:

Buffalo Peaks: Perhaps the finest bighorn sheep area in the State;

Piedra: Exceptional lower elevation wildlife habitat that is covered almost entirely with forests and is thus a rarity in the Wilderness system in the West;

Sangre de Cristo: A mountain range known throughout the Nation for its dramatic peaks, which tower 6,000-7,000 feet above the Colorado plains;

Davis Peak: Headwaters of the Encampment River (a proposed addition to the wild and scenic rivers system) and critical elk habitat;

Cannibal Plateau: An area containing the largest expanse of alpine tundra south of Alaska;

Huajatolla (pronounced Wayatollah): The dramatic so-called Spanish Peaks which rise 6,000 feet above the surrounding countryside and contain unusual dikes and other geologic structures; and

The gorgeous Oh-Be-Joyful drainage which is the secondary watershed for Crested Butte, CO, and which the House proposed for wilderness in 1979.

In addition to the above, the bill would designate several new wildernesses within an hour's drive of the rapidly growing Denver metropolitan area, and in so doing help insure that Denver residents will have ample primitive recreation opportunities in the future. As Members may be aware, the existing wildernesses near Denver experience some of the highest primitive recreation use in the Nation and are in danger of becoming overused and overcrowded. Thus, wilderness additions near Denver are another critical component of this legislation.

In summary, Mr. Speaker, I believe H.R. 5426 is meritorious legislation which deserves our full support and I urge my colleagues approval of the measure.

□ 1310

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have great respect for the gentlemen from Colorado [Mr. KOGOVSEK, Mr. BROWN, and Mr. KRAMER] who have worked diligently to develop a compromise bill.

I am confident that the negotiations were conducted in good faith but I am concerned that the final product is still flawed and of highly questionable merit.

First, I believe this bill is a bad precedent and a bad omen of things to come in other States. Colorado was the first State where we passed a major RARE II wilderness bill and we are now coming back only 4 years later for a second look.

It is true that we left the door open in 1980 by leaving a number of areas in study status or as further planning areas but it was never contemplated that we would put all or most of these areas in wilderness or that we would branch out beyond the study boundaries into nonwilderness lands released in 1980. This bill does both.

The 1980 bill created 1.4 million acres of wilderness bringing the total in the State to 2.6 million. The 1980 act left approximately 491,872 acres in wilderness study and 169,638 acres in the further planning category which adds up to 661,510 acres. The bill reported from committee puts 564,500 acres into wilderness, leaves another 87,500 in wilderness study and puts 18,000 acres in a national monument for a total of 670,000 acres more than what we left unresolved in 1980.

This bill clearly demonstrates that leaving areas in wilderness study is a political compromise which eventually leads to wilderness designation and more importantly, this bill clearly demonstrates the weaknesses in the release formula concept. Less than 4 years after the first bill, the conservationists are back wanting what they supposedly compromised on in 1980.

I challenge the chairman of the subcommittee to deny this or to deny that similar efforts will not be made in other States where the so-called release formula has been passed.

The second point that needs to be made today is the cost of what we are doing. The Forest Service has spent hundreds of thousands of dollars on the studies mandated by the 1980 act. On May 10, the Forest Service testified that of the 12 wilderness studies required by the 1980 act, all or parts of 6 areas have been found to be at least tentatively suitable for wilderness totaling only 293,370 acres. Of the further planning areas 61,560 acres have been tentatively found suitable for wilderness designation. Combined we have about 354,930 acres as suitable based on the preliminary findings of the professional studies we asked for. The bill reported out of the subcommittee would designate 564,500 just as wilderness. What then was the purpose of the studies if we are going to throw their conclusions out the window and act before the studies are even complete.

Lastly, I am disturbed by the quality of several of the areas. I believe there is truly some question as to whether or not certain areas meet minimum requirements for wilderness designation. In eastern areas we sometimes excuse man's works and obvious evidence of the land being trammeled by man. But, in the West and in Colorado (which already has 2.6 million acres of wilderness) I believe we must stick to a more stringent criteria. We are not doing so in this bill.

A number of the areas also have major resource conflicts. Three areas, St. Louis Peak, Vasquez Peak and Williams Fork, are in close proximity to an operating mine and have very high potential for mineral development. A simple boundary adjustment has been made to resolve some immediate problems but we are still locking up areas with high mineral values. Another very large area called Sangre de Cristo is blanketed with oil and gas leases and lease applications. Fifty thousand acres have been added to the administration's recommendation seriously impacting the lease applications. The companies affected have been attempting to work out some accommodations but I simply question the need for compromise here. The compromises were made in 1980. Areas with problems now should be dropped out of the bill.

If this bill passes today, I am hopeful that Members of the other body will take a very careful look at it before any further action is taken.

I intend to oppose the bill and urge my colleagues to do so.

Mr. SEIBERLING. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I simply wish to respond to the gentleman from Alaska. First of all I would point out that while the bill incorporates in wilderness about 41,000 acres of land that had previously been released, it releases from further planning or wilderness study 44,500 acres, so there is a net amount of land release of 3,500 acres beyond that which was released by the 1980 bill.

Second, I would point out that the 41,000 acres that were added to wilderness by this bill from lands previously released are all lands around the fringes of areas that are put in wilderness by this bill, lands that were in further planning or study and were added because we made some adjustments in the boundaries to take into account natural features and come up with more easily administered and more logical boundaries.

This was not an effort to take an entirely new area and put it in wilderness, but merely to come up with a more suitable and logical set of boundaries for the nonreleased areas that we are designating.

Anyway, the bottom line is that a net 3,500 additional acres are released beyond the amount released by the 1980 act.

I would also point out that all of the leased oil and gas rights that were in the Sangre de Cristo Range have been dropped or excluded from the boundaries of the wilderness area in this bill. So there is no conflict with leases.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. In response I would say we just passed a bill in 1980. You say now you have released lands so that there is a net gain of released lands. But I have to remind the gentleman that through efforts of this committee, which I serve on as the ranking member, we are taking up lands previously released.

I am confident that we will be back in the committee asking for the lands we are releasing under this bill, to put them back under wilderness classification.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today opposing the bill that adds additional released lands that were released in 1980. I am suggesting respectfully that we will have to come back in a few years and put the released lands that you say we have gained again in wilderness classification.

I again have expressed that we have these conflicts that are existing in the bill.

It is unfortunate, if I may remind the gentleman again, you say there is no conflict in the remaining oil and gas leases, but can the gentleman assure me that the applications now that are before the Secretary of the Interior will be recognized as valid?

Mr. SEIBERLING. Will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Ohio.

Mr. SEIBERLING. No; I cannot assure him that the applications will be granted. We release lands from wilderness that are already leased. We did not release lands as to which there are applications.

Mr. YOUNG of Alaska. But the lease applications are in wilderness now, are they not, and if we put the lands into wilderness classification with the applications that are now on file, in fact, are we not making those leases no longer valid?

Mr. SEIBERLING. It is up to the Secretary to decide what to do about those applications.

Mr. YOUNG of Alaska. But if he cannot grant those applications now, if we put it into a wilderness area——

Mr. SEIBERLING. The answer is, he could grant them but they could not be carried out.

Mr. YOUNG of Alaska. Then we are taking the lease applications away from the applicant right now.

Mr. SEIBERLING. There is a question as to whether the lease applications have any validity and whether they were entered into or submitted with full knowledge that the area was being considered for wilderness. So they took their chances and that was the way it worked out.

Mr. YOUNG of Alaska. What about the premise that we have spent thousands and thousands of dollars on studies, yet we have not listened to the recommendations of the Department? Does that hold any merit?

□ 1320

Mr. SEIBERLING. No; that is not true. We are following, by and large, the boundaries of the wilderness study areas. In making adjustments to the boundaries, we have added 41,000 acres of land that was released previously, but we are releasing 44,500 acres of land.

Mr. YOUNG of Alaska. We are doubling the recommendation of the administration; are you not?

Mr. SEIBERLING. We are making our own judgment as to the best way to draw these boundaries and we do not necessarily feel ourselves bound by whatever the administration decides.

Mr. YOUNG of Alaska. But the administration was bound by the act of 1980 to make recommendations to the Congress. We have totally ignored those recommendations. We have doubled the total amount.

We have taken what they offered and added 300,000 acres more.

Mr. SEIBERLING. In many cases we have followed their recommendations exactly. We have deviated from their recommendations with respect to 41,000 acres but we have released 44,500 acres of land that was previously in wilderness study.

So I do not really understand what the gentleman is so concerned about.

Mr. YOUNG of Alaska. My understanding is the administration recommended 293,370 acres; that is their recommendation of the studies that were charged to the administration under the act of 1980. Now the bill passed this committee with 564,500 acres; that is just about double the amount they are recommending.

We may take the recommendation and say we have worked with the administration and used their expertise, but through some unknown factor we are putting land in there has been no study made at all.

Mr. SEIBERLING. The administration has made no final recommendations; the recommendations they have made are tentative recommendations and the Congress has repeatedly reserved the right to make their own decision.

Mr. YOUNG of Alaska. Why make recommendations at all if we do not pay any attention to the experts?

Mr. SEIBERLING. We have paid attention.

Mr. YOUNG of Alaska. We have taken what they said and added something out of the sky, additional lands, with no understanding of what effect it has on the areas we are discussing today.

Mr. SEIBERLING. We have paid attention, we just have not followed their recommendations in every case.

Mr. YOUNG of Alaska. That is the problem, we do not follow up on the money we have spent, the taxpayers' dollars, we do not follow those recommendations at all.

I reserve the balance of my time.

The SPEAKER pro tempore [Mr. KAZEN]. The gentleman has consumed 3 additional minutes.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. KOGOVSEK] whose role in putting together this package deserves great commendation by all of us.

Mr. KOGOVSEK. Mr. Speaker, I thank my chairman, the subcommittee chairman from Ohio, for his tremendous amount of work on this very important piece of legislation.

I commend the ranking member on the subcommittee for his interest in wilderness, whether it is in Colorado, Washington, Oregon, Nevada, Idaho, wherever; and I mean that very seriously, because the gentleman has done a good job in representing a point of view on the committee that has to be represented.

I would tell the gentleman from Alaska that to the best of my knowledge in the 1984 Colorado Wilderness bill that there are only 6,000 acres that are put into the bill that were not studied or were not recommended by the Forest Service.

And that 6,000 acres happens to be put in pretty much at my insistence because it happens to be close to my hometown of Pueblo, CO, Pueblo County, that I think deserves the kind of wilderness designation that my recommendation has given it.

The gentleman knows and we all know that any time you are putting together a wilderness bill and we get it as far as final passage, that not everyone is going to be happy. We started this process, at least as far as I am concerned, when I got here back in 1980, when Representative JOHNSON and I teamed up together to put together the 1980 wilderness bill that set aside some 1,200,000 acres of wilderness.

In that piece of legislation, we knew at that time that we were not ready to complete our study; we knew there were things we would have to address further, the Sangre de Christos and many, many other areas that we insisted in that legislation be either designated as further study or further planning areas.

It seems to me that after talking with both conservationists for the past couple of years and people who make a living in Colorado, whether they are cattlemen, people in the timber industry, people in the mining industry that we are now closer to agreement as to a total package than we have ever been before.

There is no doubt in my mind there are environmentalists in Colorado who are saying right now we have not put enough wilderness together for the State of Colorado even today, and I think we have.

There happens to be people on the other side, cattlemen, timber people, people in the mining industry who are saying that we have put too much of Colorado into wilderness.

Mr. Speaker, I think we have come close to a good compromise. We have the total support of all six members of the delegation: three Republicans and three Democrats in the Colorado delegation for this piece of legislation.

I want to commend Representative WIRTH, Representative KRAMER, and Representative BROWN for their work and their input into this piece of legislation.

I have said this many, many times to my chairman and to the gentleman from Alaska that many years ago somebody had the uniquely good idea to build a State right on the Continental Divide and even as the gentleman is present, I say that we have the most beautiful State in the whole 50 in Colorado.

Those Rocky Mountains, that Continental Divide has given us all kinds of problems as far as trying to make sure that we set aside many, many acres and many, many unique vistas for future generations to enjoy because where those beautiful vistas are, we also have timber, we also have mining, we also have a cattle industry that has to be taken care of.

I think this piece of legislation, with the help of the chairman, with the cooperation of the minority side, reaches the kind of compromise that we desire in Colorado as a Colorado delegation.

Mr. Speaker, I thank my chairman for working with me not only on the 1980 bill but on this 1984 piece of legislation that I think is going to serve the future of Colorado very well.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 5426, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## WASHINGTON STATE WILDERNESS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill, S. 837 to designate certain National Forest System lands in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes.

The Clerk read as follows:

S. 837

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be referred to as the "Washington State Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Washington possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of National Forest System lands in the State of Washington and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fullfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of National Forest System lands in the State of Washington and the related congressional review of such lands have also indentified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Washington as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other National Forest System lands in the State of Washington be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Washington are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately forty-nine thousand acres, as generally depicted on a map entitled "Boulder River Wilderness—Proposed", dated March 1984, and which shall be known as the Boulder River Wilderness;

(2) certain lands in the Olympic National Forest, Washington, which comprise approximately forty-five thousand eight hundred and seventeen acres, as generally depicted on a map entitled "Buckhorn Wilderness—Proposed", dated March 1984, and which shall be known as the Buckhorn Wilderness;

(3) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately fourteen thousand three hunderd acres, as generally depicted on a map entitled "Clearwater Wilderness—Proposed", dated March 1984, and which shall be known as the Clearwater Wilderness;

(4) certains lands in the Olympic National Forest, Washington, which comprise approximately twelve thousand one hundred

and twenty acres, as generally depicted on a map entitled "Colonel Bob Wilderness—Proposed", dated March 1984, and which shall be known as Colonel Bob Wilderness;

(5) certains lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately one hundred twelve thousand six hundred and seven acres, as generally depicted on a map entitled "Glacier Peak Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Glacier Peak Wilderness as designated by Public Law 88-577 and Public Law 90-544;

(6) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately three thousand and fifty acres as generally depicted on a map entitled "Glacier View Wilderness—Proposed", dated March 1984, and which shall be known as the Glacier View Wilderness;

(7) the boundary of the existing Goat Rocks Wilderness, as designated by Public Law 88-577, located in the Wenatchee and Gifford Pinchot National Forests, Washington, is hereby revised to include those lands generally depicted on a map entitled "Goat Rocks Wilderness—Revised", dated March 1984;

(8) certain lands in the Wenatchee and Mount Baker-Snoqualmie National Forests, Washington, which comprise approximately one hundred three thousand five hundred and ninety-one acres as generally depicted on a map entitled "Henry M. Jackson Wilderness—Proposed", dated March 1984, and which shall be known as the Henry M. Jackson Wilderness. The Henry M. Jackson Wilderness is designated in remembrance of Senator Jackson's deep, personal feelings for this area, especially that portion known as "Monte Cristo," which he visited often as a boy. Through such designation, the Congress recognizes his unparalleled contributions to the natural resource policies of the Nation in general and Washington State in particular;

(9) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately twenty thousand six hundred and fifty acres, as generally depicted on a map entitled "Indian Heaven Wilderness—Proposed", dated March 1984, and which shall be known as the Indian Heaven Wilderness;

(10) certain lands in the Okanogan and Wenatchee National Forests, Washington, which comprise approximately one hundred fifty thousand eight hundred and thirty-three acres as generally depicted on a map entitled "Lake Chelan-Sawtooth Wilderness—Proposed", dated March 1984, and which shall be known as the Lake Chelan-Sawtooth Wilderness;

(11) certain lands in the Gifford-Pinchot National Forest, Washington, which comprise approximately fourteen thousand four hundred and twenty acres, as generally depicted on a map entitled "Mount Adams Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be a part of the Mount Adams Wilderness as designated by Public Law 88-577;

(12) certain lands in the Mount Baker-Snoqualmie National Forest, Washington, which comprise approximately one hundred seventeen thousand nine hundred acres as generally depicted on a map entitled "Mount Baker Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Baker Wilderness;

(13) certain lands in the Olympic National Forest, Washington, which comprise approximately fifteen thousand six hundred and eighty-six acres, as generally depicted on a map entitled "Mount Skokomish Wilderness—Proposed", dated March 1984, and which shall be known as the Mount Skokomish Wilderness;

(14) certain lands in the Mount Baker-Snoqualmie National Forest, which comprise approximately fourteen thousand three hundred acres, as generally depicted on a map entitled "Noisy-Diobsud Wilderness—Proposed", dated May 1984, and which shall be known as the Noisy-Diosbud Wilderness;

(15) certain lands in the Mount Baker-Snoqualmie and Wenatchee National Forests, Washington, which comprise approximately fifty thousand nine hundred and twenty-three acres as generally depicted on a map entitled "Norse Peak Wilderness—Proposed", dated March 1984, and which shall be known as the Norse Peak Wilderness;

(16) certain lands in the Okanogan National Forest, Washington, which comprise twenty-four thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Pasayten Wilderness Additions—Proposed", dated March 1984, and which are hereby incorporated in and shall be deemed to be part of the Pasayten Wilderness as designated by Public Law 88-577;

(17) certain lands in the Kaniksu and Colville National Forests, Washington, which comprise approximately forty-one thousand three hundred and thirty-five acres, as generally depicted on a map entitled "Salmo-Priest Wilderness—Proposed", dated March 1984, and which shall be known as the Salmo-Priest Wilderness;

(18) certain lands in the Gifford Pinchot National Forest, Washington, which comprise approximately fifteen thousand seven hundred and twenty acres, as generally depicted on a map entitled "Tatoosh Wilderness—Proposed", dated March 1984, and which shall be known as the Tatoosh Wilderness;

(19) certain lands in the Olympic National Forest, Washington, which comprise approximately seventeen thousand two hundred and thirty-nine acres, as generally depicted on a map entitled "The Brothers Wilderness—Proposed", dated March 1984, and which shall be known as The Brothers Wilderness;

(20) certain lands in the Gifford Pinchot National Forest, which comprise approximately six thousand and fifty acres, as generally depicted on a map entitled "Trapper Creek, Wilderness—Proposed", dated March 1984, and which shall be known as the Trapper Creek Wilderness;

(21) certain lands in the Wenatchee and Gifford Pinchot National Forests, Washington, which comprise approximately one hundred and sixty-six thousand six hundred and three acres, as generally depicted on a map entitled "William O. Douglas Wilderness—Proposed", dated March 1984, and which shall be know as the William O. Douglas Wilderness. The William O. Douglas Wilderness is designated in remembrance of Justice Douglas' lifelong efforts to preserve the Cougar Lakes area for the recreational benefits of future generations. Through such designation, the Congress recognizes his persistent concern for the Cougar Lakes area, and his contribution to conservation efforts throughout the Nation; and

(22) certain lands in the Olympic National Forest, Washington, which comprise approximately two thousand three hundred and twenty acres, as generally depicted on a map entitled "Wonder Mountain Wilderness—Proposed", dated March 1984, and which shall be known as the Wonder Mountain Wilderness.

SEC. 4. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designed by section 3 of this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area dessignated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Washington and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Washington, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Washington;

(2) with respect to the National Forest System lands in the State of Washington which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Washington reviewed in such final environmental statement or referenced in subsection (d) and not

designated as wilderness upon enactment of this Act or identified for special management in section 7 or 8 of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Planning Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Washington are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Washington for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Washington in the Gifford Pinchot, Olympic and Umatilla National Forests which were evaluated in the Upper Cispus; Lone Tree; Clear Creek; Upper Lewis; Trapper-Siouxon; Soleduck; Quinault; Oregon Butte, and Shelton Cooperative Sustained Yield Unit plans; and

(2) National Forest System roadless lands in the State of Washington which are less than five thousand acres in size.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act of 1964, certain public lands in Franklin County, Washington, which comprise approximately seven thousand one hundred and forty acres, as generally depicted on a map entitled "Juniper Dunes Wilderness—Proposed" and dated March 1984, are hereby designated as the Juniper Dunes Wilderness and, therefore, as a component of the National Wilderness Preservation System.

(b) Subject to valid existing rights, the Juniper Dunes Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this section, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this section, any reference to the Secretary of Agriculture with regard to the administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Juniper Dunes Wilderness designated by this section. For purposes of this section, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

(c) As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Juniper Dunes Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 7. (a) In order to assure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enchancement of the recreational values associated therewith, the Mount Baker National Recreation Area located in the Mount Baker-Snoqualmie National Forest, Washington, is hereby established.

(b) The Mount Baker National Recreation Area (hereafter referred to as the "recreation area") shall comprise approximately eight thousand six hundred acres as generally depicted on the map entitled "Mount Baker National Recreation Area—Proposed", dated March 1984, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

(c) The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such legal description and map be made. The map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(d) The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide for (1) public outdoor recreation (including but not limited to snowmobile use); (2) conservation of scenic, natural, historic, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources on federally owned lands within the recreation area which are compatible with and which do not significantly impair the purposes for which the recreation area is established.

SEC. 8. (a) The Congress finds that certain lands within the Mount Baker-Snoqualmie and Okanogan National Forests along the North Cascades Highway have remarkable scenic values, representing a unique aesthetic travelway through the Cascade Mountains in the northern portion of the State of Washington. The value of preserving this scenic area and assuring that it is managed in such manner that its scenic beauty and recreation qualities are maintained for future generations is recognized by the Congress.

(b) In order to preserve and protect these values, certain National Forest System lands comprising approximately eighty-seven thousand seven hundred and fifty-seven acres, as generally depicted on a map entitled "North Cascades Scenic Highway—Proposed" and dated March 1984, shall be administered by the Secretary of Agriculture to preserve the scenic value of this highway corridor. Management activities, including resource use and development, within the area may be permitted by the Secretary of Agriculture if the existing scenic values of the area are maintained.

(c) Management direction for the area that recognizes these scenic values shall be included in the forest plans developed for the Okanogan and Mount Baker-Snoqualmie National Forests in accordance with section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

SEC. 9. Congress does not intend that designation of wilderness areas in the State of Washington lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 10. The Secretary of Agriculture shall exchange lands and interests in lands with Weyerhaeuser Company in accordance with the following provisions:

(a) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands the Secretary shall accept such lands and interests therein:

KING AND PIERCE COUNTIES, WASHINGTON

| | Acres |
|---|---|
| Township 19 north, range 10 east (W.M.): | |
| Section 25: All fractional | 643.43 |
| Township 19 north, range 11 east (W.M.): | |
| Section 31: All fractional | 647.61 |

(b) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described National Forest System lands and interests therein:

KING COUNTY, WASHINGTON

| | Acres |
|---|---|
| Township 21 north, range 10 east (W.M.): | |
| Section 20: Lots 2, 4, 6, 7, 10, 11, 12, and 14, south half northwest quarter, southwest quarter | 355.58 |
| Section 28: North half southwest quarter and southeast quarter | 240.00 |
| Section 30: All | 640.00 |

(c) The instruments of conveyance respecting the lands and interests exchanged under this section may contain such reservations as may be agreed upon by the Secretary and Weyerhaeuser Company.

(d) It is the sense of Congress that the exchange authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use other existing acquisition authorities if the exchange authorized by this section is not completed within a reasonable time after the expiration of such ninety day period.

(e) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein which formed the basis for the exchange provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein had occurred, the Secretary shall not carry out the exchange for those lands or interests so affected and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with other provisions of law.

SEC. 11. Subject to valid existing rights, the Federal lands in Walla Walla and Columbia Counties, Washington, located within the Mill Creek Watershed roadless area as identified in the Oregon Butte Unit Plan are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] is recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] is recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 837, the Washington Wilderness Act of 1984. This bill, which designates some 1 million acres of land in Washington State as wilderness, is supported by the entire Washington delegation on both sides of Congress, by the local and national conservation groups, and by numerous other organizations and individuals. Because many members of the Washington delegation can explain this measure better than I, I will not take time to outline the bill in detail. However, I strongly support the bill in its Senate-passed form, although there are several points I would like to briefly address:

This legislation does not designate any wilderness in the Kettle Range in eastern Washington. I was fortunate to be able to visit the Kettle Range in 1979, and I beleive it possesses outstanding scenic and natural values. The Senate committee report emphasizes these values and directs the Forest Service to be very sensitive in its management of the area. I would like to strongly endorse the language of the Senate report, particularly with respect to its direction to protect 30,000 acres for their primitive recreation and wild values and to protect the religious values and watershed of the Colville Confederated Tribes. If this direction is not carefully followed, the committee may decide to revisit the Kettle Range wilderness issue in the near future.

The boundary of the Tatoosh Wilderness in the vicinity of Butter Creek has been drawn along topographic features and excludes a trailhead and several hundred yards of a trail leading into the wilderness. I am informed that the delegation drew this boundary with the understanding that the Forest Service would not engage in any timber harvest or other development which would adversely impact the scenic values of this area and the small portion of the trail which lies outside the wilderness.

The Senate committee report notes that the boundaries of the Glacier Peak Wilderness Additions and the Brothers Wilderness have been drawn so as not to preclude possible future construction of two small hydroelectric projects on Railroad Creek and on the Dosewallips River. However, the report indicates that the exclusion of these areas from wilderness is by no means intended to indicate a congressional preference for these projects, and it is my understanding that there are members of the Washington delegation who feel the projects are without merit. I would thus stress the committee's endorsement of the Senate report language that S. 837 does not take any position on the merits of the two projects.

The boundary of the Goat Rocks Wilderness additions permits continued motorboat use of the portion of Walupt Lake that lies within the wilderness. This use has been permitted to continue since the area was designated wilderness by the Wilderness Act in 1964, and is authorize by section 4(d)(1) of the Wilderness Act. However, I note that such continuing use is discretionary with the Forest Service and is subject to such regulation as they deem appropriate. As with other wilderness areas where continued motorboat or aircraft use continues, Congress envisions that such use will be allowed at the approximate levels and types which were occurring at the time the area was designated wilderness.

In conclusion, Mr. Speaker, I believe the bipartisan support for S. 837 indicates that it is a consensus bill which merits our strong support.

□ 1330

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 837, the Senate-passed Washington Wilderness bill.

Mr. Speaker, I would compliment the Washington delegation on both sides of the aisle. The process to which we have been exposed in the committee, the unanimity between the Members of the House and the Senate, has been well followed. Hopefully, we can do the same thing with the remaining wilderness bills, such as Wyoming, Utah and Idaho, where the Governor, the State legislature, the Senate and the House Members themselves, all agree on the position similar to that which we have before us today. We will be able to bring forth to this floor a bill which is agreed to by all Members involved.

I would urge though at this time a point of caution. Even the chairman admits we will go back to and visit these areas at a future date. As I mentioned in the previous bill on the Colorado Wilderness, I can suggest respectfully that within the next 2 or 3 years, we will be back putting more land, additional land, into the State of Washington for wilderness concept.

Mr. Speaker, I would like to remind this body that there is nothing wrong with wilderness if you do not want to use the lands at all. But those listening to this program on the great televised network we have, representing this House at this time, should recognize that wilderness is not everything everybody wishes it to be. Wilderness cannot be used by the average recreational user. Wilderness cannot have a mechanized vehicle, for instance, such as a snow machine or an offroad vehicle or a camper or any other mechanized equipment which is used by many of the recreation users today to get into these areas.

So every acre we put into wilderness, although it is agreed upon by the Members of this delegation, every acre we put into wilderness makes the areas that are open for public use for recreational purposes more crowded. I do not believe the people in America today recognize that each day we stand on this floor in the guise of putting land into wilderness, thinking it protects them from just the ordinary profit motive are taking it away from those people who wish to use it.

I think it is time that we recognize that we can have what many people are seeking: land, solitude, et cetera, but not so much in solitude status that you cannot use them in any way but by the very few—usually by the strong, the young, and those who have the time or the wealth to take the time to hike in to the area—however, the average working person will never be able to use the wilderness lands that we pass on the floor of this House. It will be deprived from them. The fishing, the hunting, and those activities can only be done by the very few.

I am suggesting respectfully, although this bill has been agreed to by the members of the Washington delegation, as we address these issues why can we not make these lands recreational lands and areas so that there is a broader use of the land in such a more concentrated single use as comes forth in this bill.

Mr. Speaker, I reluctantly support this because of the unanimity of the congressional delegation on the House side and the fine work they have done. But again I remind them and remind this body we should be placing these lands in a more diversified usage classification than we are doing today.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. Pritchard].

Mr. PRITCHARD. Mr. Speaker, we have worked at least 6 years on this piece of legislation. People all over our State have been involved in the effort. All of the delegation worked together, the Senator and the House Members all worked together. It has been a remarkable process.

We believe this is a good bill. We believe it is balanced. We have national forests, we have our national parks, we have our wilderness, and we have our forestry lands, with multiple use. We believe that this million acres in wilderness will give us a balanced recreational program for the citizens of our State.

I am proud of the delegation, the fact that we worked out our differences and that we come to this floor with a bill which all can support. We believe it is good for the State of Washington, not only today, but will be good for the State 20 and 50 years from now.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. Lowry].

Mr. LOWRY of Washington. Mr. Speaker, the Washington State Wilderness Art is an excellent example of how good environmental policy and good economic policy go hand in hand. While protecting vital wilderness areas in our State it protects the same natural resources that are crucial to our Northwest economy in particular: fishing, hunting, and tourism. This farsighted act preserves the Northwest's greatest economic asset, namely, that it is a wonderful place to live, raise your family, and locate your business. The Washington State Wilderness Act is, in the best sense of the term, a jobs bill.

Mr. Speaker, the entire Washington delegation supports this legislation. The Washington Wilderness Act represents a balanced agreement among all eight House Members and both Senators. After two marathon meetings, the delegation reached a compromise that produced a 1.03-million-acre wilderness bill. With the assistance of the chairmen of the Interior Committee and the Public Lands Subcommittee, the House and the Senate were also able to reach a new agreement on the release question. That issue deals with the management of national forest roadless land that is not designated as wilderness.

The Senate has ratified that agreement. We, of the Washington delegation, ask now for the support of our House colleagues of both parties in passing this delicately balanced result.

This bill offers important benefits not only for hikers and climbers, but also for hunters and particularly sport, commercial, and tribal fishermen. It does this by protection of the upper portions of critical watersheds. Among the major rivers that will have some protection are the Skagit, the Stilliguamish, the Nooksack, the Twisp, the Dosewallips, the Gray Wolf, the Chewack, and the Rapid Rivers. Trapper Creek, Rattlesnake Creek, and Crow Creek are also well known for fishing enthusiasts. These and other rivers and creeks in the bill support salmon and steelhead as well as excellent resident fish. The Forest Service will manage these areas for high quality fishing, particularly on wild fish. Even fishermen from California, Oregon, and Alaska will benefit from the anadromous fish produced by these streams.

Mr. Speaker, the Senate report notes that the Senate has left space along one bank of the Dosewallips River for the needs of a proposed hydroelectric project. At the same time, the report further directs that if the project is not approved, this omitted land should be managed by the Forest Service to preserve its wilderness character. I strongly concur with this directive. In view of the truly outstanding value of the Dosewallips River to our anadromous fisheries, this river deserves the highest protection, and the project itself deserves intense scrutiny.

Section 10 of the bill directs the Secretary of Agriculture to acquire lands just outside of and adjacent to the proposed Norse Peak Wilderness. Acquisition of these lands along the Greenwater River is desirable to insure public access to this new wilderness area, to support recreational values, and to decrease the risk of flooding in downstream communities.

Finally, Mr. Speaker, I would like to thank my colleagues in the delegation for their cooperation, good humor, tolerance of my pushiness, and spirit of compromise in our long and difficult deliberations. I would also like to recognize the tremendous efforts put in by their staffs. The essence of a wilderness debate is its details, which makes competent staffwork doubly important. They did an excellent job, and deserve our thanks. I particularly want to thank Dr. Lynn Corn of my staff for her excellent work on this act. Private groups, from environmentalists and fishing organizations to timber trade associations all provided useful information and assistance. The result of all of this effort from so many people is a wilderness bill that will be a source of pride to the citizens of Washington State for many years to come.

This bill is an important compromise that enjoys broad support from the people of the State. I urge my colleagues in the House to join the Washington delegation in supporting it.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. Morrison].

Mr. MORRISON of Washington. Mr. Speaker, I was pleased to notice in the news today that Seattle had been selected by the mayors of the cities of the United States as being the most livable city in the United States. Perhaps the same spirit goes into this bill before us today. We think that Washington has been blessed with many wilderness opportunities, and I am proud, as others have stated, to be part of the delegation that now makes some decisions, I believe long overdue, on setting aside this very beautiful natural resource.

I view this bill in front of us today with a sense of commitment and a feeling of pleasure, a commitment because it is past time, a commitment because I felt all along that we could get together and reach the decisions that are embodied in the measure before us today. A feeling of pleasure because the State delegation did work together.

□ 1340

Our negotiating sessions were one of those experiences that you really have only once in a lifetime. And a feeling of pleasure because the committees and the staff all worked together to make this be in front of us at this moment.

The compromise was a compromise between the environmental interests, recreation, and the timber industry. I would say, on behalf of citizens of the great State of Washington, with this legislation in front of us now—and I urge your support—everyone lost a little, but gained a lot. And that was our goal.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. Bonker].

Mr. BONKER. Mr. Speaker, obviously, this is a consensus bill, and that is the way we in the Washington delegation prefer to deal with some of these issues. But it is certainly a landmark measure when one considers the scope of this legislation and the fact that we were able to come together and reconcile many of the inherent differences that exist when you are trying to balance wilderness values and the economic needs of our great area.

Mention has been made about the process. It truly was an extraordinary effort, when you consider that 8 House Members and 2 Senators met for nearly 10 hours of uninterrupted time, poring over maps, trying to understand the timber values and the wilderness values involved. It was truly a good process, but it could not have happened without not only the cooperation of the delegation but the cooperation of the distinguished chairman of the subcommittee, the gentleman from Ohio, and the ranking minority member, the gentleman from Alaska.

We all know that we cannot move legislation through this Chamber unless almost everybody is in support, and certainly when the issue comes before the Chamber under suspension. I am particularly pleased with the outcome in my area, recognizing that southwest Washington does depend on a timber base for its economic survival.

I am hopeful that the decisions we have made will protect that timber industry, and at the same time have recognized the important environmental benefits that will come with this designation.

So to the chairman of the subcommittee, to my colleagues, I want to express my gratitude and hope that this House will act expeditiously on this measure and that we will have it on the President's desk where I am certain he will sign it into law.

All interests in this seemingly endless battle over wilderness designation stood to lose much by putting off this important legislation any longer. The timber industry faced the prospect of drastically reduced harvests due to ongoing litigation over the adequacy of the Forest Service review of roadless areas suitable for wilderness designation. On the other hand, delay of the legislation may have precluded consideration of some areas that would, due to development, no longer be suitable.

We are blessed by living in what I believe to be the most beautiful State in the Nation. Nearly every acre of unroaded area left in Washington is of immeasurable value. Our job in Congress is to strike a compromise that protects and preserves unique areas, while taking into account other critical needs in national forests.

The timber industry is a major employer in Washington, particularly in the Southwestern area of the State. Certainly, allocation of wilderness in itself will not sound the death knell for this industry on which our region and Nation depend. There are other matters concerning the industry that Congress must attend to: overpriced Federal contracts that threaten to bankrupt small mills, alarming increases in Canadian timber imports, inequitable tariffs in the Pacific Rim, and insufficient funding for high-yield reforestation efforts. But the long-term adequacy of timber supplies is also a crucial problem which demanded consideration in this legislation.

At the same time, decisions on allocation of public lands cannot be made by economic considerations alone. Wilderness boundaries should be based on the need to provide critical recreational experience, to protect drainage basins, to preserve wildlife habitat, and to maintain our natural resources for the benefit of future generations. It is also important to note that recreational opportunities in Washington State provide substantial jobs and other economic benefits.

I believe our legislation succeeds in balancing these critical needs. Briefly, I would like to address specific additions to the Wilderness System in the Third District, which I represent.

### GLACIER VIEW

On the west boundary of Mount Rainier National Park, the 3,050-acre Glacier View Wilderness will be established. Glacier View Point and Mount Beljica offer spectacular views of the Tahoma Glacier. I received significant input favoring its inclusion, particularly from the Washington State Department of Game. As this area adjoins the national park, but is otherwise largely surrounded by heavily clearcut private land, it is a critical corridor for wildlife.

The Tatoosh Wilderness will be added on the southern boundary of the park. Our bill differs markedly from the Forest Service's proposed boundary by including Backbone Ridge. The Tatoosh Ridge offers views of Mount Rainer and the Tatoosh Range.

The Goat Rocks Wilderness established in 1964 will be expanded by 23,143 acres. In the third district, these additions include Coal Creek Bluff; the area surrounding Packwood Lake; the Jordan Creek basin; the area surrounding Walupt Lake; and the Cispus River Valley. As this area was established along section lines, these additions were necessary to include entire ecosystems within the wilderness and to make more manageable topographic boundaries. I will also note for the subcommittee that I support the boundary adjustment that may allow expansion of the White Pass ski area. Originally, the proposed adjustment totaled 2,400 acres and impinged unacceptably on a critical drainage basin. The 800-acre adjustment is acceptable. I support expansion of this ski area to benefit skiers from throughout our region and to benefit the local economies. I also believe this adjustment to be consistent with our effort to redraw the entire boundary of the Goat Rocks along more manageable lines.

I also worked closely with other members of the delegation on the boundaries for the William O. Douglas Wilderness. The southwest portion of that area in my district includes key trails and other important ecologic features.

Finally, I am pleased that the delegation has decided to honor the late Senator Henry M. Jackson by naming a critical wilderness area after him. This area is in the Wenatchee and Mount Baker-Snoqualmie National Forests. Sentor Jackson's wife, Helen, reminds us that this area was a favorite of Scoop's as a boy. It is indeed proper to honor a man who acted so consistently to provide protection for our public lands.

The support of the chairman and other subcommittee members through this deliberative process is deeply appreciated. I would especially like to thank the chairman of the subcommittee and chairman of the full committee for their work that culminated in a long-awaited agreement on the "release" issue. Without that agreement, this legislation would not be headed toward enactment.

At this time, I would like to point out a technical matter regarding the Butter Creek Trail on the western edge of the Tatoosh Wilderness. Following enactment by the Senate, the Forest Service informed the delegation that it had miscalculated the location of the trailhead in this area. It was clearly the intention of the delegation to include the trailhead in the bill. Therefore, it is now the intent of the delegation and the committees that the Forest Service protect the approximately 30 acres between that trailhead and the wilderness boundary.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. I thank the gentleman for yielding.

Mr. Speaker, I, too, want to join in congratulating ourselves, the delegation from the State of Washington, the chairman of the subcommittee and the ranking minority member.

I believe this bill, Mr. Speaker, is in the finest tradition of a State that has a history of reverence for its natural beauty and its appeal. This bill will serve the interests of people who are engaged in recreation, those who enjoy backpacking, photography, as I do, hunters, fishermen—all of those people who utilize the unspoiled areas in the State of Washington.

Tourism will certainly be greatly enhanced by this bill adding one more element to the magnetism of a State which is rapidly becoming one of the real magnets of the country, a place to visit and enjoy the fresh, green outdoors. And obviously for those of us who live in the State of Washington and enjoy its environment, it will add to the quality of life.

Having said that, I also want to say that there is a great deal of merit to the comments made by my good friend, the gentleman from Alaska, the ranking minority member of this subcommittee. Last weekend I attended the dedication of a Forest Service seed orchard in my congressional district, not far from Enumclaw. The seed orchard is there so that the Forest Service can find the best seed stock planted and use those seeds for future generations of trees. It occurred to me as we were dedicating this facility that the trees that will eventually grow from those seeds will be harvested by a generation that is not yet born, and most of those who attended the dedication ceremonies will long be gone. That is the nature of this industry.

The forest products industry is in big trouble all over the United States but especially so in the State of Washington. And as I looked at the people attending that dedication, those people wearing the cutoff levis with the red suspenders, the blue work shirts and the funny hats and the Red Man tobacco stuffed down their shirts, I realized what a tremendous group of people they are, hard-working people, who sweat in the summer and slog through waste-deep snow in the wintertime to earn their livelihood from this great resource. And we simply cannot turn our backs on those people. As we dedicate today this wilderness designation to the people I have mentioned above, we must not forget those who through hundreds of years in the Pacific Northwest earned their livelihood—and I know these people, because I grew up with them and worked beside them—we simply cannot turn our backs on them and continue to set aside acres which in the future could very well be the livelihood for them, their children and their grandchildren.

I want to congratulate everyone involved in this bill today. I think it is a tremendous bill and a balance between the interests at work here. But I also want to agree with my good friend, the gentleman from Alaska, that we must be cautious in the future as we deal with wilderness that we not overdo what has already been done.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. Swift].

Mr. SWIFT. I thank the gentleman for yielding.

One does not normally think of a tree as being something that is controversial. But where it can provide both excellent recreational opportunity and also can provide jobs, it becomes that. There are a lot of trees in Washington State. And dealing with the wilderness issue was controversial. There were among the 10 members of the Washington State delegation a wide diversity of opinions on exactly what lines should be drawn and where they should be drawn. But a good compromise is a wonderful thing, because if it is worked right, you end up with it giving you more than the sum of its parts. And the fact is that after the work by the Washington delegation, I think we have come up with a bill that gave conservationists more acreage than they had any reason initially to believe they were going to get, and for the timber industry there was less timber involved as a percentage of that acreage than anyone would have reason to believe.

It is in that sense a very good compromise. It was also an honest compromise. You can compromise things sometimes in a very bad way. Very frankly, and awful lot of this did not lend itself well to just dividing the difference. If you got somebody who wants so many acres and somebody else who wants so many acres, it does not work out that you can always do a responsible job by just splitting the difference, because you have to take into consideration bridges and boundaries and rivers, topographical areas, wildlife, and so forth. These compromises were worked out in the most honest fashion possible; namely, when we ran into a place where we seemed to be high centered, we kept working and working and working to see if there was not a rational way to approach the issue in a different way. And almost all of the major disagreements were worked out in that fashion, finding another way to approach the issue.

A great deal of staff work on the personal staffs of the various Members went into this. But all 10 of us met on two separate occasions for, the gentleman from Washington [Mr. Bonker] said, 10 hours—I thought it was 16; maybe we should make it 32 and make it sound better, but at least 10 hours steadily—in working these things out personally. All of that, I think, resulted in a bill that is very good for the people of Washington State, all of the people of Washington State, the people who look to our great national resources for tourism, for recreation and for a base to our wood products industry. I would certainly commend this very balanced bill to all of my colleagues and urge their support for it.

Mr. Speaker, I rise in support of S. 837, the Washington wilderness bill. This bill, which was developed through a truly consensual process involving the entire Washington State congressional delegation, is a fair and balanced proposal that strikes a delicate compromise between the widely divergent views held by both the public and the delegation on this issue.

In developing this legislation, the delegation was very cognizant of the need to resolve the decade-long RARE II controversy in our State and to eliminate the obstacles to timber sales in roadless areas that had sprung up due to several recent court decisions. We were of course greatly aided in this process by the suggestions and work of the many groups and parties with such a vital interest in this bill. There was not any group that got everything it asked for, but we did respond favorably to many suggestions, and those are reflected in the final bill.

In drawing boundaries, the delegation attempted both to preserve wilderness values and to minimize the impact of the bill on the forest products industry, which in Washington provides thousands of jobs and materials that all of us use in our daily lives. The result is a bill which preserves many of the real gems in our State, but which does not drastically reduce the planned programmed harvest for the timber industry. For example, in my district, where a significant part of the economy relies on this industry, there was a reduction of less than 4 percent of the current annual programmed harvest in the national forests as a result of wilderness additions.

The bill also designates for protection of an area that I have long supported for wilderness, the Boulder River. This spectacular area is one of the last low-lying valleys with major stands of virgin timber in the State. Because it is low lying, it is accessible to almost everyone. I have walked the Boulder River trail, and I met not only hard-core backpackers, but also families and senior citizens, people able to navigate the easy terrain in this area who would be unable to negotiate some of the more remote trails in our State. The beauty of Boulder River is that it enables the average citizen to have a wilderness experience.

Mr. Speaker, I am pleased to be able to support this bill which was conceived through the efforts of our entire delegation. I urge the support of my colleagues for this landmark piece of legislation.

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Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. Dicks].

Mr. DICKS. Mr. Speaker, I would like to take this opportunity to add my strong support to the Washington Wilderness bill which is before the House today, and to urge my colleagues to vote for the legislation. As you know, the Washington congressional delegation has managed to accomplish something not easily done in Congress. Although we are a delegation split evenly along party lines and with divergent political philosophies, we have reached unanimous agreement on an issue that is of extreme importance to our State and our constituents.

The wilderness issue has always been a sensitive one in Washington State. Much of our economy is dependent upon the timber industry, while at the same time our citizens are acutely aware of the national beauty around them and our responsibility to preserve our environment for future generations.

Mr. Speaker, no one got everything they wanted in this bill. It is a true compromise. This means it is a balanced bill, reflecting the need to nurture our timber industry as well as our environmental concerns. The bill contains some of the loveliest and most sensitive areas in our State. It protects old growth timber and salmon spawning areas—glacial elevations as well as deep valleys. And, as a result of the compromise release language that the House and Senate have agreed upon, it provides security for the timber industry, aiding in their ability to make future planning decisions.

As an added touch, and one that is particularly important to me personally, two areas of wilderness included in the bill have been set aside to honor the memories of valued citizens that enjoyed their beauty. The first, a beautiful portion of the Snoqualmie National Forest, will be named the Henry M. Jackson Wilderness. All of us in the delegation felt it would be a fitting tribute to the great statesman if the trails he loved to hike were preserved in his honor. The second area, also in the Snoqualmie, will be named the William O. Douglas Wilderness. In this case as well, a permanent reminder of the contributions of the great jurist has been preserved for future generations.

Mr. Speaker, Washington needs this wilderness bill now if it is to move along to other issues of importance for the State. The wilderness issue must be settled, and this bill is the fairest settlement possible. I urge the Members of the House to consider it favorably, and to forward it to the President with our strongest recommendation that he sign it without delay.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the distinguished majority whip, the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Speaker I rise in strong support of S. 837, the Washington Wilderness Act, as approved by the Senate on May 24, 1984. I would like to take this opportunity to express my personal appreciation to the leadership of the House Committee on Interior and Insular Affairs and the Committee on Agriculture for expediting House consideration of this legislation.

The purpose of S. 837 is: First, to designate approximately 1,031,738 acres of naitonal forest system land in the State of Washington as wilderness; second, to designate approximately 7,140 acres of BLM land as wilderness; third, to create a national recreation area totaling some 8,600 acres; fourth, to establish a North Cascades Scenic Highway Corridor comprising approximately 87,757 acres; and fifth, to make certain other national forest system lands in the State of Washington are available for other multiple uses.

As you know, this bill has the unqualified support of all of the Members of the Washington State delegation. After extensive hearings, our entire delegation met at great length, and we believe that we have reached a reasonable consensus that balances the legitimate interests of all of the parties involved.

The choices made during the delegation discussions were often difficult and quite complex. We recognize that no single member of our delegation—and more importantly, no particular interest group—is completely satisfied with the provisions of the legislation.

We are, however, firmly convinced that we have done the best that we can and that prompt enactment of our bill is in the best interests of all parties and the people of our State.

I am particularly pleased to note that the delegation has recognized the significant contribution to our State and Nation made by the late Senator Henry M. Jackson and the late Justice William O. Douglas. One of the 18 new national forest wilderness areas in this bill is named in honor of the late Senator Henry M. Jackson.

The 103,591 acre Henry M. Jackson Wilderness is located in the Wenatchee and Mount Baker-Snoqualmie National Forests. This area, which includes the Monte Cristo and Lake Vahalla area, is included in the bill in tribute to Senator Jackson's unequaled contributions to preserving and protecting our Nation's park and forest lands for the enjoyment of all Americans. As chairman of the Senate Energy and Natural Resources Committee and the former Committee on Interior and Insular Affairs for 18 years, Senator Jackson left a memorable imprint on important legislation which today protects our Nation's precious heritage.

This legislation honors the late Justice William O. Douglas by designating approximately 166,603 acres located in the Wenatchee and Gifford Pinchot National Forests. This magnificent area lies adjacent to or in some places straddles the crest of the Cascades range. The legislation recognizes Justice Douglas' lifelong effort to preserve this area, known locally as Cougar Lakes. Through this designation, the Congress will recognize Justice Douglas' persistent concern for this area and his many contributions to conservation efforts throughout the State of Washington and the entire Nation.

Mr. Speaker, prior to closing, I would be remiss if I did not express my personal appreciation to both committees and, particularly, Representative John Seiberling, for their efforts in resolving the release controversy and for their willingness to honor the delegation's request of May 24, 1984, asking for prompt House action to this legislation.

In particular, I want to again thank the distinguished chairman of the subcommittee, Mr. Seiberling of Ohio, who has given so much of his own personal attention to this bill and other legislative issues involving wilderness. He and the ranking minority member of the subcommittee, Mr. Young of Alaska, together with the other members of the Committee on Interior and Insular Affairs, have not treated these issues in a routine fashion. Indeed, the matters involved with wilderness legislation are complex, difficult, and often quite contentious. I am particularly grateful to the committee for their efforts on this legislation.

Mr. Speaker, the legislation before the House proposes the addition of over 1 million acres of magnificent wilderness in the State of Washington for inclusion in the National Wilderness Preservation System, and I urge our colleagues to join with the Washington delegation in support of this bill.

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank and again commend the Washington delegation in both bodies for the tremendous effort they have made to bring out this compromise consensus legislation. I would just like to say one other thing: There are similar bills that are pending in the other body, including the bill, the Arizona Wilderness bill, which passed this House, which was put together by the distinguished chairman of the Interior Committee, our colleague, Mr. Udall, and they are being held up in the other body, in effect, held hostage to the working out of some of the other Members' separate bills.

I discussed with the two Senators from the State of Washington the possibility of reciprocating and holding this bill until we got the others that are being held up that are also delegation consensus bills, and move through the other body. But I thought better of it. One of the Senators said to me that he felt it was very unfair to hold bills hostage when they have been all worked out by all concerned. I said, I agree completely. It is very unfair. I do not want to participate in that kind of activity.

Fortunately, Congressman Udall and I had a meeting with the chairman of the Senate Energy and Natural Resources Committee on Friday and asked him to reconsider if he could, the action of holding those bills in suspension and he agreed to do that. In the hope that he will match our willingness to be cooperative——

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I will in just a minute.

Mr. YOUNG of Alaska. Well, I do not want to have to make a point of order, but with all due respect to my good chairman——

**Mr. SEIBERLING.** There is no point of order in order.

**Mr. YOUNG** of Alaska. I would suggest, Mr. Chairman, that we should not be talking about the actions of the other body and the other Senators. I do believe that this is not appropriate at this time.

**Mr. SEIBERLING.** We are entitled to refer to actions of the other body, as long as we do not make personal criticisms of Members of the other body.

In any event, I am not making a personal criticism; I am saying that I am confident that we will meet a similar response in kind from the other body and from the chairman of the corresponding committee, and that is why we are moving this bill today.

Mr. Speaker, I yield back the balance of my time.

**Mr. YOUNG** of Alaska. Mr. Speaker, I would only suggest in all due respect to my good chairman, that negotiation between himself and the Senators involved in this legislation does not, would we say, expedite the process of some of the bills. We have worked with a sense of compromise on this Washington legislation. I have risen in support of it, and that is rare, far between, and I would suggest that we do not serve our endeavors here to finalize legislation by referring to hostages, et cetera, when it comes to this type of legislation.

**The SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the Senate bill, S. 837.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

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## THE SAN JUAN BASIN WILDERNESS PROTECTION ACT OF 1983

**Mr. SEIBERLING.** Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 3766) entitled: "The San Juan Basin Wilderness Protection Act of 1983", as amended.

The Clerk read the bill, as follows:

H.R. 3766

*Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,* That this Act may be cited as the "San Juan Basin Wilderness Protection Act of 1984".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Albuquerque District Bureau of Land Management, New Mexico, which comprise approximately three thousand nine hundred and sixty-eight acres, as generally depicted on a map entitled "Bisti Wilderness—Proposed", dated June 1983, and which shall be known as the Bisti Wilderness; and

(2) certain lands in the Albuquerque District of the Bureau of Land Management, New Mexico, which comprise approximately twenty three thousand eight hundred and seventy-two acres, as generally depicted on a map entitled "De-na-zin Wilderness—Proposed", dated June 1983, and which shall be known as the De-na-zin Wilderness.

(b) Subject to valid existing rights each wilderness area designated by this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area designated by this Act shall be filed by the Secretary of the Interior with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made by the Secretary subsequent to such filings. Each such map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

(d) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this Act.

SEC. 3. (a) In recognition of its paramount aesthetic, natural, scientific, educational, and paleontological values, the approximately two thousand seven hundred and twenty acre area in the Albuquerque District of the Bureau of Land Management, New Mexico, known as the "Fossil Forest", as generally depicted on a map entitled "Fossil Forest", dated June 1983, is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing and all amendments thereto. The Secretary of the Interior shall administer the area in accordance with the Federal Land Policy and Management Act and shall take such measures as are necessary to insure that no activities are permitted within the area which would significantly disturb the land surface or impair the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

(b) Within one year of the date of enactment of this Act the Secretary of the Interior shall promulgate rules and regulations for the administration of the Fossil Forest area referred to in subsection (a) in accordance with the provisions of this Act and shall file a copy of such rules and regulations with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

SEC. 4. (a) The Secretary of the Interior shall exchange such public lands or interest in such lands, mineral or nonmineral, as are of approximately equal value and selected by the State of New Mexico, acting through its commissioner of public lands, for any State lands or interest therein, mineral or nonmineral, located within the boundaries of any of the tracts designated as wilderness under section 2. For the purpose of this section, the term public lands shall have the same meaning as defined in section 103(c) of the Federal Lands Policy and Management Act of 1976.

(b) Within one hundred and twenty days of enactment of this Act, the Secretary of the Interior shall give notice to the New Mexico Commissioner of Public Lands of the tracts to be designated as wilderness pursuant to section 2 of this Act and of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the designated wilderness areas. Such notice shall contain a listing of all public lands which are located within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as being available to the State in exchange for such State lands as may be within the designated wilderness areas.

(c) The value of the State and Public lands to be exchanged under this section shall be determined as of the date of enactment of this Act.

(d) After the receipt of the list of available public lands, if the commissioner of public lands gives notice to the Secretary of the State's selection of lands, within one hundred and twenty days of such notice of selection, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State and Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the commissioner as to relative value of the acquired and selected lands, the Secretary and the commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the commissioner.

SEC. 5. (a) The Secretary of the Interior shall exchange any lands held in trust for an Indian whose lands are located within the boundary of the De-na-zin area referred to in section 2(a)(2) at the request of the Indian for whom such land is held in trust. Such lands shall be exchange for land approximately equal in value selected by the Indian allotee concerned and such lands so selected and exchange shall thereafter be held in trust by the Secretary in the same manner as the lands for which they were exchanged.

(b) Except as provided herein, nothing in this Act shall affect the transfer to the Navajo Tribe of any lands selected by the

Navajo Tribe pursuant to Public Law 93-531 and Public Law 96-305: *Provided. however*, That, notwithstanding the limitations imposed by section 4 of Public Law 96-305, within eighteen months after the date of enactment of this Act, the Navajo Tribe, after consultation with the Relocation Commission, shall have the authority to and shall select lands in New Mexico administered by the Bureau of Land Management of equal acreage in lieu of the lands which have been previously selected by the Navajo Tribe within the boundaries of the wilderness areas and of the Fossil Forest, as described in sections 2(a) and 3(a) of this Act. The Navajo Tribe, after consultation with the Relocation Commission, shall also have authority to select lands in New Mexico administered by the Bureau of Land Management of equal acreage in lieu of lands which have been previously selected by said tribe within the boundaries of the Ah-shi-sle-pah Wilderness Study Area as described in section 6 of this Act. A border of any parcel of land so selected shall be within eighteen miles of the boundary of the Navajo Reservation described in Executive order dated January 6, 1880.

(c) Title to such in lieu selections shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation, and shall be subject only to valid existing rights as of December 1, 1983.

SEC. 6. Certain lands in the Albuquerque District of the Bureau of Land Management, New Mexico, which comprise approximately seven thousand one hundred and ninety-three acres, as generally depicted on a map entitled "Ah-shi-sle-pah Wilderness Study Area", dated June 1983, shall be studied pursuant to section 603 of the Federal Land Policy and Management Act (Public Law 94-579) and shall be protected as as not to impair their suitability for preservation as wilderness pursuant to section 603(c) of such Act.

SEC. 7. The Congress hereby finds and directs that all public lands in San Juan County, New Mexico, administered by the Bureau of Land Management and not designated as wilderness or wilderness study by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act (Public Law 94-579), and are no longer subject to the requirement of section 603(c) of the Federal Land policy and Management Act pertaining to management in a manner that does not impair suitability for preservation as wilderness.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want first of all to thank the gentleman from New Mexico [Mr. RICHARDSON] for the leadership he has taken in working out this legislation.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank my colleague, the gentleman from Ohio, for yielding this time to me.

Mr. Speaker, H.R. 3766 is a compromise bill which is the result of months of hard work, negotiations, and cooperation with all concerned interests. I want to also express my appreciation to my good friend and colleague from New Mexico, the ranking minority member of the Interior and Insular Affairs Committee, Mr. LUJAN, for his contributions to this legislation. I also wish to commend the chairman of the Subcommittee on Public Lands, Mr. SEIBERLING, and his fine staff, for their efforts in bringing this legislation to the floor.

In particular in this regard, Mr. Speaker, I wish to commend the work of Mr. Wiessner and Mrs. Toohey for their contribution to this legislation.

Mr. Speaker, last July in New Mexico, the Interior Committee held a thorough field hearing on this issue. An overwhelming majority of the over 500 people who attended that hearing supported legislation which would protect the precious Badlands in the San Juan Basin. Upon returning to Washington, I introduced H.R. 3766 to designate the three wilderness study areas in the San Juan Basin as wilderness and to provide permanent protection for an archeologically valuable area known as the Fossil Forest. The compromise we have under consideration today which was unanimously approved by the Interior Committee differs somewhat, but not radically from my original proposal.

First, under H.R. 3766 as amended, the wilderness study area, Ah-shi-sle-pah, will remain under its current BLM study status. The area will also be expanded to include a small, but valuable portion that is not now under study. I still believe this area is worthy of wilderness protection. Its unique geological formations and petrified remains are among the most beautiful and unique in the Southwest. However, there are a number of unresolved issues that cloud the area and should be settled before it receives permanent protection. I am hopeful that continuing the current study process will lead to the designation of this environmentally valuable area as wilderness.

Second, the substitute makes a minor change with respect to Navajo land selections under the Navajo-Hopi Relocation Act. The Navajo Tribe's original land selection includes 8,000 acres which overlap the three WSA's and the Fossil Forest. Last fall, an amendment was adopted during the Public Lands and National Parks Subcommittee markup on the bill to provide for alternate Navajo land selections for these 8,000 acres within 36 miles to the east of the Navajo Reservation. The substitute will allow for alternate selections within 18 miles of the reservation in accordance with current law. This change is necessary to allay the concerns of those who have interests in this area. It should be noted that the Navajo Nation has agreed to this provision.

Mr. Speaker, H.R. 3766 will designate as wilderness the Bisti and De-na-zin WSA's. In addition the bill also makes certain that the area known as the Fossil Forest will be withdrawn from any coal or mineral leasing in order to protect some of the finest fossil assemblages in the world. In all H.R. 3766 will provide permanent protection for over 30,000 acres and will make certain the study process continues for Ah-shi-sle-pah.

However, this bill is a modest proposal. The areas we are protecting comprise roughly 1 percent of the total acreage in San Juan County and less then three-tenths of 1 percent of all the recoverable coal in the San Juan Basin. Designating such a small fraction of environmentally sensitive lands as wilderness will not hinder coal development. H.R. 3766 will ensure that the unique and fragile Badlands region of New Mexico is preserved in its natural beauty for future generations to enjoy.

This bill is strongly supported by the State of New Mexico and its Governor, conservationists, archeologists, and the Navajo Nation.

Mr. Speaker, again I to want express my appreciation to all those who made a contribution in developing this legislation, with my special thanks going out to Mr. LUJAN and Mr. SEIBERLING.

In connection with the gentleman from New Mexico [Mr. LUJAN], I believe he has shown himself to be exteremly environmentally sensitive, fair, and he has made a major contribution to this legislation. I also want to thank the Navajo Nation for their willingness to cooperate and work for the passage of this bill. Chairman Peterson Zah of the Navajo Nation played a key role in formulating this legislation and deserves to be recognized for his efforts in assuring that these lands of religious significance to the Navajo people are protected.

I urge members to support H.R. 3766.

### PURPOSE

H.R. 3766, as amended, would designate two new wilderness areas, totaling approximately 27,840 acres, in the San Juan Basin in New Mexico. A third area, the Fossil Forest, will be managed to protect its paramount paleontological, scientific, and natural values. The bill also slightly expands the boundary, and reaffirms the ongoing wilderness study, of the Ah-shi-sle-pah Wilderness Study area.

### BACKGROUND AND NEED

H.R. 3766, as amended, is the product of the Committee's consideration of various proposals to designate portions of the Badlands formations in

New Mexico's San Juan Basin as wilderness. Aside from the Badlands Wilderness designated by Public Law 94-567 in South Dakota, the exposed and highly erodible badlands type of landscape is one which is currently not well presented in the National Wilderness Preservation System. The Bisti area, Navajo for Badlands, consists of approximately 70,000 acres of highly eroded sedimentary formations of Federal, State, Indian and private lands north of Chaco Canyon in the San Juan Basin. Over time, water and wind erosion of the ancient sedimentary formations has resulted in a dramatic and highly scenic landscape consisting of sculpted pinnacles, spires, boulders, mushroom shaped "hoodoos" and colorful banded mounds of clay and silstone. These formations are interspersed with deep washes and relatively undisturbed rolling uplands covered by sagebrush, grasses and other vegetation.

As the sedimentary rock erodes, abundant fossils are constantly becoming exposed and have made the area internationally known for its rich diversity of vertebrate and invertebrate fossil specimens, as well as petrified wood. Numerous significant archeological sites have also been found, and portions of the area include religious sites of great importance to the Navajo people.

In recognition of these outstanding values, conservationists, scientists, the Navajo Nation, the State of New Mexico, and others have expressed a keen interest in securing permanent legal protection for portions of the overall area. Pressures for wilderness or other protective designations have increased in recent years with the filing of applications for coal leasing in the area and with the attention focused on the area by the Bureau of Land Management's ongoing wilderness study of three BLM roadless areas—Bisti, De-na-zin, and Ah-shi-sle-pah wilderness study areas. Proposals for construction of a coal fired power generating station and attendant railroad, increased coal mining, and other development activities likewise prompted public concern for the area's future.

In response to these concerns, the committee held a field hearing in Santa Fe, NM on May 21, 1983, and shortly thereafter H.R. 3766 was introduced by Congressman BILL RICHARDSON of New Mexico. As amended by a consensus substitute offered during committee markup by Congressman MANUEL LUJAN, the bill would provide protection for the following areas, which although small in comparison to the total San Juan Basin, the committee believes comprise the "gems" of the San Juan Basin badlands areas:

Bisti Wilderness.—This proposed 3,968 acre wilderness lies directly east of State Highway 371 some 30 miles south of Farmington, and by virtue of its easy accessibility is perhaps the best known and most often visited of the Badland areas. Terrain consists of badlands interspersed with ricegrass/snakeweed dunes and contains superb stretches of sandstone towers, billowy mounds of siltstone, mushroom shaped sandstone scriptures, and multicolored rock formations. One area, known as the bowling alley resembles a hodgepodge of mushroom and ball shaped features which exhibit remarkable diversity and form fascinating patterns. In addition to its spectacular geology, the area has numerous sites with significant fossil resources, including 16 listed as critical or highly important. Archeological remains also abound and the area has several localities sacred to the Navajo people. Although the area is relatively small in size, excellent opportunities for solitude and primitive recreation can be found in the badlands, which generally lie substantially below the surrounding uplands. Thus, visitors to the area are isolated from the nearby highway and mining activities once they enter the badlands.

In recognition of its outstanding values, the Bisti has been recommended by the Bureau of Land Management to the Registry of National Natural Landmarks and has been endorsed by the administration for wilderness designation. Land ownership in the proposed wilderness is 100 percent Federal and the area is withdrawn from further mineral leasing. Pursuant to Public Law 96-475 the Secretary of the Interior is preparing to exchange two coal leases within the area for lands outside the area. The exchange will eliminate any possible conflict between wilderness designation and mineral leasing and ensure that the entire 3,968 acre wilderness proposal is permanently protected from development.

De-na-zin Wilderness.—At approximately 23,872 acres, this is the largest of the badland units and arguably the most spectacular in terms of overall size and diversity. As with the Bisti proposal, the majority of the area consists of badlands with a rich diversity of "hoodoos", "mushrooms", washes, and multicolored rock formations. Solitude and isolation are easily found in the badlands and washes which lie as much as several hundred feet below the surrounding uplands. The area's diversity is perhaps best described on page B-5 of the Bureau of Land Management's draft environmental impact statement on the San Juan Basin Wilderness study areas:

> The WSA (wilderness study area) contains great scenic diversity because of varied topography that includes sand-stones bluffs, mesas, and badlands. The majority of the De-na-zin WSA consist of broken, rough badlands. The sand-stone-capped bluffs and mesas intermingled with spires and mushroom formations give this WSA a scenic appeal distinctly its own. A wide variety of viewscapes is provided by mesa tops, intricately sculptured bluffs, and rolling, alluvial washes. The delicate coloration of these formations ranges from creams and tans to strikingly banded maroons and purples.

As with the other areas designated for protection H.R. 3766, the proposed wilderness contains a rich assemblage of fossils that are of international significance. However, the proposed De-na-zin Wilderness is of particular importance because it is one of the few known areas in the world where the fossil record represents the full transition from the age of dinosaurs, the Mesozoic era, to the age of mammals, Cenozoic era, with the deposits of primitive, early Cenozoic, mammals being especially noteworthy. The proposed wilderness is also rich in archeological sites and contains numerous areas of religious significance to the Navajo people.

In addition to federally owned lands, the proposed wilderness contains some 2,000 acres of State lands, which the State of New Mexico supports for inclusion in wilderness. The State lands are added to the wilderness in order to round out the wilderness proposal, form a more manageable boundary and, most importantly, to insure that the wilderness contains the broadest possible diversity of terrain and ecosystems. Section 4 of the bill directs the Secretary of the Interior to acquire the State lands by exchange.

In designating the wilderness the committee is aware that the area also contains some 1,120 acres of Navajo inholdings, as well as a 40-acre occupancy tract that is in the process of of being exchanged and will become an additional inholding. The committee wishes to emphasize that pursuant to section 5 of the Wilderness Act and other applicable law, the inholders rights to live on their land, and have access to and use their land, are not intended to be abridged by the designation of the De-na-zin Wilderness. The committee notes that the present occupany and use of the inholdings is largely pastoral in nature and does not appear to be incompatible with the surrounding wilderness designation. However, if some or all of the inholders voluntarily request that their land be exchanged for land outside the wilderness, section 5(a) of H.R. 3766 directs the Secretary of the Interior to acquire the inholdings by exchange. Further, although the Navajo Nation has selected additional lands within the proposed wilderness for transfer to the tribe pursuant to the Public Laws 93-531 and 96-305, subsections (b) and (c) of H.R. 3766 authorize and mandate in lieu selections outside the wilderness in order to retain the bulk of the proposed wilderness in Government ownership and avoid the possibility of additional inholdings in the future. The Navajo Nation has agreed to such in lieu alternate, selections in order to insure complete protection of the De-na-zin Wilderness. The in lieu selection provision is discussed in greater detail later in this report.

The committee finally notes that the proposed wilderness overlaps some 7,700 acres of land that are under application for the issuance of coal leases pursuant to subsection 2(b) of the Mineral Lands Leasing Act of 1920. The committee has carefully examined the coal lease issue and believes that the issuance and development of coal leases within the De-na-zin area would substantially impair the area's wilderness, paleontologic, archeologic, and other values. Even if mining were limited to underground methods, there could be unacceptable disruption of the area's world renowned fossil beds and the badlands ecosytem. Mining activity is also strongly opposed by the Navajo Nation in recognition of De-na-zin's important religious and cultural values. As such, the committee believes that the coal values of the area, which amount to less than one-half of 1 percent of the Federal recoverable coal in the San Juan Basin, are far outweighed by the area's other values. In the committee's opinion mining would not be economically viable after all costs of compliance with reclamation standards, avoidance of mining in fossil deposits, protection of the surface badlands resources and topography, and other factors are considered. Therefore, although the wilderness designation of H.R. 3766 will permanently withdraw the area from coal leasing, the committee believes that the preference right lease applications within the area would fail to meet the commercial quantities test of section 2(b) of the Mineral Lands Leasing Act even in the absence of wilderness designation. However, the committee agrees that the designation of the De-na-zin Wilderness is in no way intended to interfere with the processing of all or portions of pending lease applications, and the issuance of preference right coal leases, on lands outside the proposed wilderness.

"De-na-zin Rock": During the course of the committee's deliberations on the proposed De-na-zin Wilderness, the Navajo Nation requested that wilderness designation or other special consideration be given to the so-called De-na-zin Rock area which lies in De-na-zin WA some 4 miles southwest of the proposed wilderness boundary. The precise tract in question covers approximately 10 acres and is located in township 23 north, range 13 west, section 14, NE¼ NW¼ SE¼. The site contains a prominent rock and pictographs which are considered sacred to the Navajo people. In investigating the area for possible inclusion in the De-na-zin Wilderness, the Committee has determined that intervening roads and non-Federal land ownerships result in the rock being physically separated from the rest of the wilderness. Wilderness designation would also be complicated by the fact that the area comprises a portion of the site for the proposed New Mexico Generating Station and has been selected for transfer to the Navajo Nation pursuant to the Navajo and Hopi Indian Relocation Act, Public Law 93-531 and 96-305.

As the area has been selected by the Navajo Nation, the committee believes that any special Federal designation at this time would be premature, because if the Navajo's selection is honored, the rock and its surroundings will belong to the Navajo to be managed as they determine appropriate. It is possible, therefore, that Navajo ownership will moot the issue and permit the Navajos to prohibit mining or other development in the area.

However, prior to the transfer, or in the event the area is not transferred to the Navajo, the committee expects the Bureau of Land Management to regulate all use in the 10-acre area to fully insure that the religious and cultural values are protected. In particular, no disruptive mineral exploration, road construction or other development should be allowed in the 10-acre area.

Fossil Forest.—This relatively small 2,720 acre area contains some of the finest fossil assemblages in the world, and is especially renowned for its large numbers of Cretaceous fossil tree stumps, which have been preserved upright in their original growing position and location. While numerous remnants of fossil forests exist elsewhere in North America, the large number of in situ stumps in the Fossil Forest of New Mexico is without peer. Interspersed in this relict forest are great quantities of the fossilized remains of early mammals and dinosaur skeletons. The dinosaur fossils are extremely noteworthy in that they include many articulated—nearly complete—skeletal remains. Complete, as opposed to scattered dinosaur skeletons are rare in most other known fossil research areas. As such, the Fossil Forest presents a virtually unique opportunity in North America to study a microcosm of the paleoecology of the late Mesozoic period, and is prized by scientists worldwide for that reason.

Due to the fact that the Fossil Forest Area contains roads and other marks of mankind, and motor vehicles are used to access research sites, the area is not proposed for wilderness designation in H.R. 3766. Rather, the area will be withdrawn from coal and other mineral leasing and managed to fully protect its paramount paleontological values for future research. The minerals withdrawal provision is of utmost importance as the area is under application for coal leasing pursuant to section 2(b) of the Mineral Lands Leasing Act of 1920. Stated simply, the mining of coal in the area, which would likely have to be accomplished by surface mining methods, could permanently disrupt or destroy the fossil beds. Even if care were taken to protect the currently know fossil resources mining could uncover and disturb deposits currently buried and hidden from view, and thereby disrupt the overall fossil resource. The greatest scientific values often derive from deliberate study of fossil bearing formations in relation to each other and their undisturbed surroundings. The committee believes, therefore, that the only way to insure complete protection of the area's paramount scientific values is to withdraw the area from any coal or other mineral leasing. As with De-na-zin, the committee believes the current coal lease applications would fail the commercial quantities test, because it would be virtually impossible to mine and reclaim the area and still protect the fossil resources. However, with De-na-zin, nothing in the designation of the Fossil Forest area is intended to interfere with the processing of all or portions of pending coal leases applications, and the issuance of preference right leases, on lands outside the boundaries of the protected area.

Consistent with the withdrawal from mineral leasing, H.R. 3766 also authorizes and mandates the Navajo Nation to select in lieu lands pursuant to Public Laws 93-531 and 96-305 outside of the Fossil Forest. The Navajo Nation has agreed to this alternate selection in order to ensure complete protection for the Fossil Forest.

Ah-shi-sle-pah Wilderness Study Area (WSA).—Section 6 of H.R. 3766 reaffirms the ongoing wilderness study of BLM's Ah-shi-sle-pah Wilderness Study Area pursuant to section 603 of the Federal Land Policy and Management Act (FLPMA), and adds 640 acres to the study area. With this addition, the study area will total approximately 7,193 acres.

The Ah-shi-sle-pah Wilderness Study Area represents a classic case of conflict between the wilderness resource and potential mineral—coal—development. On the one hand, the area contains significant deposits of coal which appear to be recoverable by strip mining methods. This coal is under application for preference right leasing pursuant to section 2(b) of the Mineral Lands Leasing Act of 1920 and much of the area has also been selected by the Navajo Nation for transfer pursuant to Public Laws 93-531 and 96-305. The Bureau of Land Management estimates that the coal resource amounts to only nine-tenths of 1 percent of the Federal recoverable coal in the San Juan basin, but mining companies believe the coal resource is especially valuable because of its accessibility to road networks or potential transportation corridors, the relatively thin layer of overburden in the area, and its substantial percentage of the total recoverable coal under preference right lease application.

On the other hand, there is no doubt that Ah-shi-sle-pah possesses superb wilderness resources. Wilderness designation is supported by the State of New Mexico, the Navajo Nation and conservationists. In general, the Ah-shi-sle-pah area consists of badlands terrain similar to that of the Bisti, De-na-zin and the Fossil Forest. However, in terms of fossil locations, Ah-shi-sle-pah is rated by BLM to have 31 critical or highly important sites and 195 important sites—more than Bisti and De-na-zin combined—and is widely recognized for its excellent Mesozoic sediments bearing dinosaur fossils. The most complete fossil remains found in the 3 WSA's to date were removed from the Ah-shi-sle-pah area, and some outstanding fields of petrified stumps have also been identified. Like Bisti and De-na-zin the badlands portions of the study area lies below the surrounding uplands and provide outstanding opportunities for solitude and primitive recreation.

If Ah-shi-sle-pah is leased and mined for coal, the BLM estimates that in excess of 5,300 acres of the 7,100 acre area would have vegetation removed by surface mining. Quite obviously, this would have a tremendous impact which could permanently harm the area's wilderness values and opportunities for scientific research. As such, the committee reached agreement that the area should receive further wilderness study pursuant to section 603 of FLPMA. In reaffirming the study, the committee notes that the Bureau of Land Management has indicated, and section 603(c) of FLPMA requires, that until Congress reaches a decision on the area, no coal leases will be granted. Thus, although the bulk of the area is under application for preference right coal leases, those applications should not be processed until Congress acts on the area. Nothing in H.R. 3766, however, is intended to prevent the processing of all or portions of coal lease applications and issuance of coal leases outside the boundaries of the WSA.

As with De-na-zin and the Fossil Forest, much of the Ah-shi-sle-pah area has been selected for transfer by the Navajo Nation pursuant to Public Laws 93-531 and 96-305. The Navajo support wilderness designation for the area and have agreed to mandatory, in lieu, alternative selections. However, as the area is not being designated wilderness, the in-lieu selections in Ah-shi-sle-pah are made discretionary pursuant to section 5(b) of the bill. This will preserve the Navajo's right to further pursue transfer of their selected lands in the WSA.

### IN-LIEU LAND SELECTIONS

As has been discussed, portions of the proposed De-na-zin Wilderness, the Fossil Forest and the Ah-shi-sle-pah WSA have been selected by the Navajo Nation for transfer to the tribe pursuant to the Navajo and Hopi Indian Relocation Act, Public Laws 93-531 and 96-305. Although the Navajo support wilderness designation for De-na-zin and Ah-shi-sle-pah and protection for the Fossil Forest, administration of the areas could be complicated in the future if they are partially in private Indian ownership. The Navajo currently indicate that they would likely use selected lands for pastoral or resettlement purposes only, but there is no guarantee that coal or other development of the selected lands might not be proposed at some future date. Accordingly, in order to fully insure that wilderness and other values are permanently protected, the committee worked with the Navajo Nation to authorize and mandate the selection of alternate lands outside the De-na-zin and Fossil Forest areas, and to authorize alternate discretionary selection outside of Ah-shi-sle-pah. Subsections 5 (b) and (c) modify Public Laws 93-531 and 96-305 to allow such alternate selections, and limit the selection area to parcels within or bordering 18 miles of the boundary of the Navajo Reservation. In order to permit maximum flexibility in selection of alternate lands, the Navajo Nation had requested expansion of the selection of the in-lieu selection area to a 36-mile limit, but complicated land ownership patterns, conflicting land uses and other matters prompted the committee to stay with the original 18-mile limit of existing law.

### SECTION-BY-SECTION ANALYSIS

Section 1 entitles the bill the "San Juan Basin Wilderness Protection Act of 1984."

Section 2(a) designates two new wilderness areas comprising 27,840 acres.

Section 2(b) contains the standard language of all wilderness bills pertaining to administration of wilderness.

Section 2(c) contains the standard language of all wilderness bills pertaining to the filing of maps and legal descriptions of the wilderness areas designated by H.R. 3766.

Section 2(d) recognizes that livestock grazing shall be permitted to continue in the wilderness areas, subject to reasonable regulations.

Section 3 provides protection for the 2,720-acre Fossil Forest area.

Section 4 provides for the exchange of any State-owned lands within the wilderness proposals of the bill.

Section 5(a) provides for the discretionary exchange of any privately owned lands within the proposed De-na-zin Wilderness.

Section 5(b) provides for alternate in-lieu land selections by the Navajo Nation. This issue is discussed earlier in this report.

Section 6 provides for the continued wilderness study of the Ah-shi-sle-pah area and adds 640 acres to the study area.

Section 7 insures that public lands in San Juan County, NM, not designated wilderness or remaining in wilderness study have to be adequately considered for wilderness pursuant to section 603 of the Federal Land Policy and Management Act [FLPMA] and will not be subject to the interim management provisions of subsection 603(c) of FLPMA.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in strong support of H.R. 3766, the San Juan Basin Wilderness Act of 1984. Briefly, this legislation would designate two areas of public lands administered by the Bureau of Land Management as wilderness. These two areas, known in Navajo as Bisti and De-Na-Zin, contain perhaps the finest examples of badlands in the Southwest and also have internationally recognized values for paleontological study. In addition to designating wilderness, H.R. 3766 provides special protection for the magnificent fossil deposits of the 2,720 acre Fossil Forest and continues the wilderness study of the Ah-shi-sle-pah Wilderness study area.

Mr. Speaker, the four areas protected by H.R. 3766 are different from most areas Congress has considered for addition to the National Wilderness Preservation System for several reasons. First, in contrast to the forested or mountainous terrain which comprises much of the Wilderness System, the areas embodied in H.R. 3766 consist of badlands and arid country that is dominated by highly eroded and scenic pinnacles, spires, mushroom shaped hoodoos, and multicolored, banded mounds of clay and siltstone. The badlands formations largely lie in desert washes somewhat below the surrounding countryside, so that when a visitor is down in the badlands he or she is likely to experience a sense of true isolation and solitude. The badlands formations thus provide excellent opportunities for hiking, exploring, camping photograph, and other primitive recreation.

A second exceptional value of the four areas addressed by H.R. 3766 is that all four contain extensive fossil deposits which bear the remains of late Mesozoic dinosours, early mammals and late Mesozoic/early Cenozoic forests. The De-na-zin, Fossil Forest, and Ah-shi-sle-pah areas are particularly significant. De-na-zin is recognized worldwide because it is one of the few known places on the globe where the fossil record represents the full transition from the age of dinosaurs, Mesozoic era, to the age of mammals, Cenozoic era. The Fossil Forest, only a few miles away, is renowned because of its remarkably large number of fossil tree stumps which are preserved upright in their original growing location and position. While numerous remnants of fossil forests exist elsewhere in North America, the Fossil Forest is without equal in its number and quality of in situ stumps. Along with Ah-shi-sle-pah the area is legend for its assemblage of relatively complete and well preserved dinosaur skeletons. The dinosaur remains are particularly interesting in that some of the areas contain associated deposits bearing the skeletons of the very earliest mammals. As such, all four areas represent an incredible paleotological laboratory. In my opinion, these values alone merit permanent protection for all four areas.

In addition to their badlands and paleontological values, the four areas are rich in archeological sites and have numerous locations sacred to the Navajo people. Wilderness designation or other protection for the areas is, therefore, strongly endorsed by the Navajo Nation.

In the committee's analysis of the areas' wilderness and resources potential, it appears that the only significant development opportunities that would be precluded by wilderness or other protective designations would be possible future coal development. However, the committee notes that:

> The recoverable coal resources of the four areas are estimated to comprise only about 2 percent of the recoverable Federal coal in the San Juan Basin and three-tenths of 1 percent of the total Federal, State, Indian, and private recoverable coal in the basin.

Thus, even at rates of coal mining and use that far exceed the current development rate in the San Juan Basin, it is likely that the basin could provide coal for several centuries before the limited reserves in the four small areas protected by H.R. 3766 might be needed. As it is clear that surface or underground coal mining could destroy or significantly alter the areas badlands and fossil bearing formations, our committee determined that coal leasing and mining should be permanently prohibited in Bisti, De-na-zin, and the Fossil Forest.

In spite of its relative insignificance in the overall San Juan Basin coal picture, the fourth area, Ah-shi-sle-pah has attracted more interest in coal mining than the others. Mining companies claim that its coal deposits are more likely to be economic in the near future because of the relatively thin overburden in the area and better access to existing or planned transportation. Therefore, although I believe that Ah-shi-sle-pah's paleontogical, cultural and badlands values will ultimately result in much of the area being judged unsuitable for surface mining, I am willing to support the compromise which continues the current wilderness study status of the area. I note that the Bureau of Land Management has indicated that no coal leasing or mining will take place in Ah-shi-sle-pah until the wilderness/nonwilderness issue is resolved by Congress and that the area is, therefore, protected until Congress makes up its mind. Wilderness study status will allow us to gather more information on the area's conflicting wilderness and coal development values, and hopefully assist us in making a decision on the area. I also note that development of the Ah-shi-sle-pah area involves several issues other than wilderness, including questions concerning Navajo land selections, suitability for surface coal mining of all or portions of the area, preference right versus competitive coal leasing, and land reclaimability. The resolution of some or all of these issues could have a substantial bearing on the area's wilderness versus economic development potential and assist Congress in breaking the political impasse which currently appears to make a wilderness/nonwilderness allocation unfeasible. I, therefore, believe wilderness study represents a reasonable compromise on the area.

In summary, Mr. Speaker, I believe H.R. 3766 represents an excellent solution to some difficult problems. I would particularly like to commend Congressmen Richardson and Lujan for the leadership and flexibility they have demonstrated in arriving at a consensus solution, and I should also express my deep appreciation to Chairman Peterson Zah and the Navajo Nation for their invaluable assistance and advice in helping us reach a compromise. The Navajo, who have selected portions of the areas for transfer to the tribe, were willing to accept alternate land selections in order to insure that the areas are permanently protected. In placing the area's protection above other interests the Navajo are telling us that these badland areas are most valuable for their wild, religious, cultural, and scientific values. The Navajo have used the areas for centuries and their collective wisdom indicates that this one small portion of our natural heritage in northwestern New Mexico merits protection above all else. I, therefore, strongly urge my colleagues approval of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after many long and difficult months of negotiations, my colleagues Mr. Richardson, Mr. Seiberling, and others, and I have reached a compromise on the San Juan Basin Wilderness question which is reflected in the bill before us today. I intend to vote for the bill.

The bill will designate the Bisti and De-na-zin areas in New Mexico as wilderness and will withdraw the fossil forest area from mining and mineral leasing. The total acreage of these three areas is 30,560 acres, 27,840 acres of which will be wilderness. The remaining area is the one known as the Ah-shi-sle-pah. I have agreed to expand the boundaries to 7,193 acres from the original 6,563 acres but to leave the area in a wilderness-study status under section 603(c) of the Federal Land Policy and Management Act. FLPMA requires that the area be managed "in a manner so as not to impair the suitability * * * for preservation as wilderness" until Congress determines otherwise and subject of course, to valid existing rights.

As my colleagues will recall, the major controversy has been over the Ah-shi-sle-pah area, and whether or not to process existing lease applications for the mining of more than 270 tons of recoverable coal, and whether or not to superimpose wilderness protection on top of the area.

Our agreement to leave it as a study area under section 603 of the FLPMA does not prejudice the outcome of the adjudication of the lease applications, but does not designate the area as wilderness either. Admittedly, we are leaving the situation somewhat up in the air but, after all, that is what a wilderness study area is intended to do—we allow the various forces to make their case and then after careful consideration and with all the facts before us finally decide whether or not the area qualifies for wilderness and is in the best interests of the Nation.

The wilderness area, the fossil forest wilderness and the study area are all subject to valid existing rights.

In all of the many wilderness bills which this committee has developed, we have always recognized valid existing rights and left it to the individuals and parties involved to establish just what their rights are and how to exercise them. To do otherwise would deny due process of law and could result in an unconstitutional taking of private-property rights, a situation this committee has gone to great pains to avoid.

Another point of disagreement was over the language adopted in the Public Lands Subcommittee which would have allowed the Navajo Tribe to select in lieu lands outside the boundaries of the wilderness and fossil forest areas and expanded the selection area to within 36 miles of the Navajo Reservation. The existing Navajo-Hopi Relocation Act limited the selection area to 18 miles from the reservation boundary.

Major objections to the 36-mile extension were voiced in New Mexico after the subcommittee acted and it is, therefore, our intention to delete the 36-mile provision and return to the existing 18-mile requirement already established in the Navajo-Hopi Relocation Act.

In agreeing to this bill, it is important to note that no one has achieved everything they might have wanted. However, I believe reaching a compromise is significant in that passage of a wilderness bill will help remove one of the issues delaying energy development activities in the San Juan Basin.

Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

□ 1410

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill, H.R. 3766, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed

A motion to reconsider was laid on the table.

## PERMISSION TO HAVE UNTIL MIDNIGHT FRIDAY, JUNE 22, 1984, TO FILE CONFERENCE REPORT ON H.R. 4170, TAX REFORM ACT OF 1973

Mr. **ROSTENKOWSKI**. Mr. Speaker, I ask unanimous consent that the managers may have until midnight, Friday, June 22, 1984, to file the conference report to accompany the bill (H.R. 4170) to provide for tax reform, and for other purposes.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. **CONABLE**. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the distinguished chairman of the committee about the time involved here. He is asking for permission to have until midnight Friday, June 22, to file a conference report.

We are a long way from a conference report. There is a good deal of conferring going on even as we speak. The conference committee is meeting, and there is, of course, a multiple obligation on the part of that conference committee.

Is it the gentleman's belief that we will have the conference completed in advance of this date of Friday, June 22?

Mr. **ROSTENKOWSKI**. Mr. Speaker, If the gentleman will yield, that is certainly my hope. I do not think I am being an optimist either. I think that in fact we will conclude the conference certainly in the middle of the week.

Mr. **CONABLE**. I acknowledge under my reservation, Mr. Speaker, that it is absolutely necessary that we get this out of the way if we possibly can before the recess. If we do not, we are unlikely to get it out of the way at all, and I think we all agree that a deficit downpayment is definitely necessary.

With that in mind, Mr. Speaker, I have no ojection, and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 4170, TAX REFORM ACT OF 1983, ON WEDNESDAY, JUNE 27, 1984, OR ANY DAY THEREAFTER

Mr. **ROSTENKOWSKI**. Mr. Speaker, I ask unanimous consent that it be in order, any rule of the House notwithstanding, to consider the conference report to accompany the bill (H.R. 4170) to provide for tax reform, and for other purposes, on Wednesday, June 27, 1984, or any day thereafter, that all points of order against the conference report be waived, and that the conference report be considered as having been read when called up for consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## THE BARROW GAS FIELD TRANSFER ACT OF 1984

Mr. **SEIBERLING**. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 5740) entitled, the "Barrow Gas Field Transfer Act of 1984," as amended.

The Clerk read as follows:

H.R. 5740

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. The following may be cited as the "Barrow Gas Field Transfer Act of 1984".

SEC. 2. (a) The Secretary of the Interior (hereinafter "the Secretary") shall convey to the North Slope Borough the subsurface estate held by the United States to the Barrow gas fields and the Walakpa gas discovery site, related support facilities, other lands, interests, and funds in accordance with the terms and conditions of the agreement, including appendix numbered 1, between the Secretary of the Interior and the North Slope Borough dated September 22, 1983 (hereinafter "the NSB Agreement"), on file with the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee, which is hereby incorporated into this Act.

(b) Upon conveyance, the North Slope Borough is authorized, notwithstanding any other provision of law, to explore for, develop, and produce fluid hydrocarbons within the lands and interests granted: *Provided*, That section 301(a) of the NBS Agreement shall not reduce revenues which would otherwise be shared with the State of Alaska under the provisions of Public Law 96-514 by providing for the disposition of gas at less than the value referred to in section 301(d) of the NSB Agreement or as a result of the crediting provisions of section 301(a)(3) of the NSB Agreement.

(c) The Barrow gas fields and related support facilities shall continue to be exempt from the Pipeline Safety Act, title 49 of the Code of Federal Regulations, and all other rules and regulations governing the design, construction, and operation of gas pipelines, wells, and related facilities.

(d) The provisions of the National Environmental Policy Act shall apply to any land conveyance under section 203(b) of the NSB Agreement. During the NEPA process, the North Slope Borough shall consult with the United States Fish and Wildlife Service, the Alaska Department of Fish and Game, and the National Park Service concerning the fish, wildlife, cultural, and historic values of the area to be selected. The Secretary is authorized to approve or deny the selection. If denied, the North Slope Borough shall be entitled to identify an alternative site, which shall be subject to the review process set forth in this section.

(e) The North Slope Borough shall not make a selection under section 203(b) of the NSB Agreement in areas designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act.

(f) Notwithstanding the time limit specified in the NSB Agreement, the North Slope Borough shall have ten years from the date of this Act to make its selection under section 203(b) of the NSB Agreement. If, within ninety days of the expiration of the ten-year period, or after the expiration of such period, the Secretary denies any selection, the North Slope Borough shall select an alternative site within ninety days of such denial. If an alternative site is denied, the selection and review process in this subsection shall be repeated until a site is approved by the Secretary.

(g) Notwithstanding any provision of the NSB Agreement, the North Slope Borough shall obtain the right to divert, use, appropriate, or possess water solely through compliance with applicable laws of the United States and the State of Alaska.

(h) Notwithstanding any provision of the NBS Agreement, the right of the North Slope Borough to exploit gas and entrained liquid hydrocarbons from Federal test wells in the National Petroleum Reserve-Alaska shall not apply to test wells in areas designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act.

(i) The Secretary shall process any application submitted by the North Slope Borough under section 203(d) of the NSB Agreement for a right-of-way which crosses, in whole or in part, any lands within any area designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976 for the protection of surface values, as depicted on the map set forth on page 125 of the "Final Environmental Impact Statement on Oil and Gas Leasing in the National Petroleum Reserve in Alaska" dated February 1983, or within the boundaries of the Kasegaluk Lagoon Potential Natural Landmark as identified in study report numbered 2 prepared pursuant to section 105(c) of that Act, or within any area withdrawn or designated for study pursuant to section 604 of the Alaska National Interest Lands Conservation Act, under the provisions of title XI of the Alaska National Interest Lands Conservation Act. In processing any such application for a right-of-way which crosses, in whole or in part, any lands within any area designated by the Congress or the Secretary under section 104(b) of the Naval Petroleum Reserves Production Act of 1976, the protection of the values and the continuation of the uses specified in section 104(b) of that Act shall be considered to be the purposes for which the area was established.

(j) Nothing in this Act or in the NSB Agreement shall be construed as amending the provisions of the Alaska National Interest Lands Conservation Act or as amending or repealing any other provision of law applicable to any conservation system unit, as that term is defined in section 102(4) of that Act.

SEC. 3. The Secretary of the Interior shall convey to Ukpeagvik Inupiat Corporation (hereinafter "UIC"), subject to valid existing rights, all right, title, and interest held by the United States to sand and gravel underlying the surface estate owned by UIC in the Barrow gas fields and Walakpa gas discovery site, upon execution of an easement agreement with the North Slope Borough, satisfactory to the North Slope Borough, in consideration for the conveyance to UIC of such sand and gravel, providing for easements, for all purposes associated with operation, maintenance, development, production, generation, or transportation of energy, including the transmission of electricity, from the Barrow gas fields, the Walakpa discovery site, or from any other source of energy chosen by the North Slope Borough, to supply energy to Barrow, Wainwright, and Atkasook, and providing such easements when and where required as determined by the North Slope Borough during the life of such fields or other energy sources.

SEC. 4 (a) Section 102 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6502) is amended by adding "and the North Slope Borough" immediately after "Alaska Natives", by deleting "and" immediately after "responsibilities under this Act,", and by replacing the period following "Alaska Native Claims Settlement Act" with ", and (4) grant such rights-of-way to the North Slope Borough, under the provisions of title V of the Federal Land Policy and Management Act of 1976 or section 28 of the Mineral Leasing Act, as amended, as may be necessary to permit the North Slope Borough to provide energy supplies to villages on the North Slope."

(b) Section 104(e) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504(e)) is repealed effective October 1, 1984.

SEC. 5. (a) In consideration for the relinquishment of rights that Arctic Slope Regional Corporation has under section 1431(o) of the Alaska National Interest Lands Conservation Act, Public Law 96-487, 94 Stat. 2371, 2541, to the subsurface resources in the Barrow gas fields and the Walakpa gas discovery site conveyed to the North Slope Borough and Ukpeagvik Inupiat Corporation pursuant to sections 2 and 3 of this Act, the Secretary of the Interior and Arctic Slope Regional Corporation are authorized to exchange lands and interests as set forth in the separate agreement between the Secretary and Arctic Slope Regional Corporation dated January 24, 1984 (hereinafter "the ASRC Agreement"), on file with the Senate Energy and Natural Resources Committee and the House Interior and Insular Affairs Committee. The specific terms, conditions, and covenants of the ASRC Agreement are hereby incorporated into this Act and ratified, as to the rights, duties, and obligations of the United States and Arctic Slope Regional Corporation and as to the rights and interests of the North Slope Borough, as a matter of Federal law.

(b) Notwithstanding the provisions of paragraph 4 of the ASRC Agreement, in lieu of the additional 69,120 acres of subsurface estate to be identified by ASRC pursuant to said paragraph 4, ASRC shall identify for conveyance or relinquishment to the United States, as appropriate, the 101,272 acres of subsurface estate beneath the surface estate of the lands described in subparagraphs 2 (a), (b) and (d) of the August 9, 1983 agreement between Arctic Slope Regional Corporation and the United States of America.

(c) To the extent that any provision or interpretation of the NSB Agreement is inconsistent with the provisions of this section or the ASRC Agreement, the provisions of this section and of the ASRC Agreement shall prevail.

(d) All of the lands, or interest therein, conveyed to and received by Arctic Slope Regional Corporation pursuant to this section or the ASRC Agreement and pursuant to the August 9, 1983 agreement between Arctic Slope Regional Corporation and the United States of America shall, in addition to other applicable authority, be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SEIBERLING] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Barrow Gas Field Transfer Act is a somewhat complicated bill but one that apparently is without any controversy.

This bill would alter the present arrangement whereby the United States supplies natural gas to the village of Barrow and other locations near Point Barrow, AK, and would ratify certain land exchanges and other agreements involving the Department of the Interior, the North Slope Borough, the Arctic Slope Regional Corporation, and the Village Corporation for Barrow.

The Barrow gas field—actually consisting of two parts, the south Barrow and east Barrow fields—is located within the National Petroleum Reserve in Alaska [NPR-A]. This reserve was originally established by Presidential Executive order in 1923 as Naval Petroleum Reserve No. 4 (often termed "Pet Four").

The village of Barrow, AK, is the northernmost settlement in the United States, with approximately 3,000 residents, most of whom are Inupiat Eskimos. The village is entirely within the petroleum reserve.

In exploring the reserve during and shortly after World War II, the U.S. Navy discovered the significant reservoir of natural gas in the Barrow field. In the late 1940's, this supply of natural gas was developed for use by the Federal facilities in the Barrow area, but local residents were not permitted to tap into this fuel supply. Instead, the residents of Barrow were forced to import costly fuel oil or rely on meager local sources of energy. In 1964, Congress authorized the Navy to supply natural gas to the residents of Barrow.

By enactment of the Naval Petroleum Reserves Production Act of 1976, Congress transferred administrative responsibility for the Petroleum Reserve on Alaska's North Slope from the Navy to the Department of the Interior.

As part of the 1976 act, responsibility for maintenance of the gas field and the supply facilities was given to the Interior Department, and section 104(e) of the 1976 act provides that "the Secretary of the Interior shall take such actions as may be necessary to continue such service * * * at reasonable and equitable rates."

Since 1976, there have been many changes in Federal activities in the petroleum reserve. There are now essentially no Federal facilities in operation there, and so the Interior Department is in effect obliged to act as a municipal public utility, so far as the Barrow gas fields are concerned.

Understandably, the Department would prefer to be relieved of this responsibility, especially since it involves unreimbursed costs of at least $6 million annually.

The bill before us is designed to relieve the Federal taxpayer of these costs, in a manner which protects the other Federal interests in the area as well as the interests of the State, the local government, and the Native Corporations who have rights and interests arising under the Alaska Native Claims Settlement Act.

The bill meets these objectives by repealing section 104(e) of the Naval Petroleum Reserves Production Act and by generally ratifying agreements worked out by the Interior Department with the North Slope Borough, the Arctic Slope Regional Corporation, and the Village Corporation for the Village of Barrow.

Under those agreements:

The gas fields and certain other lands are transferred to the borough, along with the right to use the gas and other hydrocarbons for the domestic and municipal purposes of the residents of Barrow and the other communities;

The Regional Corporation transfers to the United States about 170,000 acres of its Settlement Act holdings—including 100,000 acres of subsurface inside the Gates of the Arctic National Park—and in exchange receives about 70,000 acres of other Federal land within the national petroleum reserve adjacent to the gas fields area;

And the Village Corporation, in exchange for giving the borough necessary easements across its Settlement Act surface estate, receives the sand and gravel under its lands.

Mr. Speaker, earlier this year, some of us were concerned that the other body might consider adding this Barrow gas field transfer onto an appropriations measure. Our concerns were partly procedural and also partly substantive because some earlier versions of this legislation lacked important provisions to protect the public interest, provisions which are in fact included in H.R. 5740.

The Interior Committee can now report to the House that this bill fully meets our concerns and the concerns of all those who had earlier expressed misgivings. I urge enactment of the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5740.

May I compliment the chairman of the subcommittee, the gentleman from Ohio [Mr. SEIBERLING], for the expeditious way he has moved this legislation. I would suggest respectfully that he has explained it as well as anyone can explain it.

Mr. Speaker, I introduced this legislation in order to provide the necessary congressional ratification of agreements entered into by the Department of the Interior, the North Slope Borough, and Alaska Native corporations for the transfer of the Barrow gas fields.

These agreements, which were reached after nearly 2 years of negotiation between the parties, call for the transfer of the gas fields, associated lands and subsurface interests in return for an agreement by the North Slope Borough to assume the Federal Government's obligation to provide natural gas for the local utility needs of the residents of Barrow.

Mr. Speaker, in addition to transferring the gas fields, the legislation also conveys to the borough lands which are intended to provide the borough with a means to meet the energy needs of the Barrow residents in the future.

These are fair and equitable agreements. They are necessary to ensure that a stable, secure supply of natural gas continues to be available in this region. In order to complete these agreements and settle the complicated land ownership patterns of the parties involved, the agreements also call for a relinquishment of land selection rights by the local Alaska Native Regional Corporation in return for receipt of a smaller surface estate near Barrow. Over 100,000 acres of subsurface estate will be retained by the Federal Government in the gates of the Arctic National Park as a result of the agreement with the Arctic Slope Regional Corporation.

Mr. Speaker, I believe passage of this legislation demonstrates that Federal legislation settling complicated energy and land ownership issues in Alaska can be swiftly enacted through the mutual efforts and arrangements of the parties involved, the Alaska congressional delegation, and committee leadership. With this in mind, I commend the distinguished chairman of our subcommittee on Public Lands and National Parks, Mr. Seiberling, for his cooperation with my request for prompt action on this bill. I look forward to working with the gentleman from Ohio in the future on legislation such as this which benefits the citizens of Alaska and the Nation.

Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SEIBERLING] that the House suspend the rules and pass the bill (H.R. 5740) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1420

## GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## CARL W. MORRIS POST OFFICE BUILDING

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4697) to designate the U.S. Post Office Building in Romulus, MI, as the "Carl W. Morris Post Office Building."

The Clerk read as follows:

H.R. 4697

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States Post Office Building to be located at 36115 Goddard Road, Romulus, Michigan, shall be designated and hereafter known as the "Carl W. Morris Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Carl W. Morris Office Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4697 would designate the U.S. Post Office Building to be located on Goddard Road, in Romulus, MI, as the "Carl W. Morris Post Office Building."

Carl W. Morris, a lifelong resident of Romulus, was an active civic leader who served his community for more than 30 years until his death in 1982. Mr. Morris made especially important contributions in the field of education, serving first as a member of the Romulus Board of Education, and later as president of the Wayne Intermediate School Board and of the Michigan Association of School Boards.

The city of Romulus is located within the district represented by my good friend, the distinguished chairman of the Committee on Post Office and Civil Service, BILL FORD. I join with Chairman FORD in urging passage of this bill and in paying tribute to the memory of a distinguished public servant, Carl W. Morris.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the statement made by the gentleman from Missouri and in recognition of this dedication to Carl W. Morris, who has given so much to his community. We consider it to be a deserving honor.

● **Mr. FORD** of Michigan. Mr. Speaker, today we pay tribute to the memory and to the achievements of Carl W. Morris, a man who served his fellow citizens, his community, his State, his Nation during a career which spanned 30 years.

A lifelong resident of Romulus, MI—which I am privileged to represent in this House—Carl Morris was a prominent member of the local business community. But it was his activity during his spare time which endeared him to his fellow citizens. Beginning with his election to the Romulus Board of Education in 1947, Carl Morris devoted his time and energy to a wide variety of civic activities. It was in the field of education, though, in which he made his most important and lasting contributions. His record of service includes terms as president of the Wayne Intermediate School Board and of the Michigan Association of School Boards.

Carl Morris passed away in 1982 at the age of 66. Enactment of H.R. 4697 would be a fitting tribute, and a permanent reminder to all of his publi service.

I urge passage of H.R. 4697.●

**Mr. GILMAN.** Mr. Speaker, I yield back the balance of my time.

**Mr. CLAY.** Mr. Speaker, I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill (H.R. 4697).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

**Mr. CLAY.** Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just considered and passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## JOHN DENT POST OFFICE BUILDING

**Mr. CLAY.** Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4598) to designate the U.S. Post Office building in Jeannette, PA, as the "John Dent Post Office Building."

The clerk read as follows:

H.R. 4598

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States Post Office Building in Jeannette, Pennsylvania, is designated as the "John Dent Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John Dent Post Office Building".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

**Mr. CLAY.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4598 would designate the U.S. Post Office Building in Jeannette, PA., as the "John Dent Post Office Building."

John Dent was a distinguished Member of Congress for 20 years (1958-78). He is a native of the town of Jeannette, within the then 21st Congressional District of Pennsylvania which he represented in the House. When he retired, he was second ranking member of the House Education and Labor Committee and chairman of the Subcommittee on Labor Standards. Among the landmark bills he sponsored and supervised through to enactment were the Employee Retirement Income Security Act of 1972, the Coal Mine Health and Safety Act of 1969, and the Black Lung Act. Prior to his service in the House, John Dent was a distinguished member of the Pennsylvania State Legislature. In total, John Dent devoted 43 years of his life to public service representing the people of Pennsylvania and the Nation.

I want to thank the distinguished sponsor of this bill, Congressman JOHN MURTHA, who now so ably represents much of John Dent's old district—including the town of Jeannette. Congressman MURTHA has given us this special opportunity to pay tribute to a very special man.

I was privileged to serve with John Dent in the House and on the Education and Labor Committee for many years. I am honored to be the floor manager of this bill today. Enactment of H.R. 4598 will be a fitting tribute to his life of service to his community, his State, and his country.

I urge the passage of H.R. 4598.

**Mr. STANGELAND.** Mr. Speaker, will the gentleman yield?

**Mr. CLAY.** Yes; I yield to the gentleman from Minnesota.

**Mr. STANGELAND.** Mr. Speaker, I thank the gentleman for yielding.

I have asked the gentleman to yield just to pose a question.

Is it customary that in the naming of post offices, they come out of the Committee on Post Office and Civil Service, as opposed the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation?

**Mr. CLAY.** Well, it had not been customary until just recently. The Committee on Public Works had been naming all post offices, but recently it was agreed upon that postal buildings would be named by the Post Office and Civil Service Committee.

**Mr. STANGELAND.** Mr. Speaker, I thank the gentleman for yielding and thank him for his response.

**Mr. CLAY.** Mr. Speaker, I reserve the balance of my time.

**Mr. GILMAN.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join the gentleman from Missouri in designating the post office in Jeannette, PA, as the John Dent Post Office Building, an appropriate recognition of the years of distinguished service given by our former Member in the House. John Dent, who not only served as a Member of this body for 20 years, but had many years of distinguished public service, a total of some 43 years, serving the State of Pennsylvania.

● **Mr. MURTHA.** Mr. Speaker, I am pleased to insert these remarks into the RECORD noting how extremely pleased I was to introduce this bill with 13 cosponsors to name the post office in my dear friend John Dent's hometown of Jeannette after this distinguished Congressman. I congratulate Chairman FORD and the members of the Post Office and Civil Service Committee for bringing this bill to the House today.

Congressman John Dent is very special to me. When I first came to Congress in 1974, it was John Dent who helped to orient me to the procedures and traditions of Congress, and who helped me to do many things for the citizens in my area that would have otherwise proved impossible. He is also special because following the 1980 reapportionment, I now represent a large part of John's former congressional district, including Jeannette. It is very seldom that I hold a workshop or meeting in the area that I do not meet individuals who tell me how much they appreciated the things John Dent did for the area, or how he helped them with a personal problem. And John Dent remains special to me because of his friendship, his guidance, and his expertise.

In 1974, in coming to Congress, the first major bill I voted on was the Employee Retirement Income Security Act, a bill John Dent had spent 7 years in developing. A hallmark of his career was that he was continually ahead of his time, campaigning for several years for legislation whose benefit was eventually realized by a majority of Congress and the Nation. Among his other major accomplishments were the Coal Mine Health and Safety Act of 1969 and the black lung law. He was a pioneer in a wide range of legislation to help the working men and women of our Nation, including unemployment and workmen's compensation, job safety, labor law reform, trade regulations, and many other items. I well remember in 1974 being in Pittsburgh with John Dent for a hearing on legislation to protect communities where a major industry has just pulled out or closed down, another idea where we benefit in our debates today from his early leadership.

And I remember, in 1978, when John Dent had to spend time in the hospital, but he never stopped working for his constituents, planning legislation to help them, and keeping in touch with the people he loved to represent. I remember being with him at the opening of the Volkswagen plant in New Stanton which resulted largely from his efforts. I see continuing today his leadership in developing the Westmoreland County Airport where he still serves as authority head. I remember the day John Dent retired and said one thing he wanted to do was talk around the country on the economy because "I don't believe the majority of America has any realization of the depth of the danger we face economically in this country. We have got to pay more attention to providing production jobs upon which this country survives." As usual, John Dent was several years ahead of his time.

Passage of this bill is another way for those of us in Congress who benefited from serving with John Dent, and his constituents who benefited from his hard work and dedication, can say thanks once again to John Dent for his outstanding career of public service.●

● Mr. GAYDOS. Mr. Speaker, It is with great pride that I rise to speak on behalf of H.R. 4598, a bill to designate the U.S. Post Office Building in Jeannette, PA, as the "John Dent Post Office Building."

John Dent, as many of us here well know, was a distinguished Member of the Congress for 20 years, and during his two decades in the House of Representatives, he accomplished a great deal—by anyone's standards but his own.

In a newspaper interview when he announced his decision not to run for reelection, Johnny Dent described his career this way: "I have not been an outstanding Member of Congress. I've been an ordinary Member, but to me that's the strength of Congress."

I have known Johnny Dent for many years, and despite his self-description, he was an outstanding Member of Congress, and his colleagues knew it and respected him for it.

As a member of the Pennsylvania congressional delegation, I was fortunate to serve in the Congress with Johnny, and he was both a friend and a mentor. I have tried hard to follow his sense of justice in seeking to help the working man, especially those who labor deep beneath the surface in our coal mines.

I can only hope that I can fulfill my obligations to the citizens of this country and the State of Pennsylvania as well as Johnny Dent did during his two decades in the U.S. Congress and before that in the Pennsylvania Legislature.

I could enter into the RECORD a long list of bills that John Dent sponsored and actively supported during his 20 years in the Congress, for his list of accomplishments is long.

Instead, I'll just cite three bills that have made a big difference in the lives and livelihoods of America's working men and women.

The first is the Black Lung Act which has provided assistance to so many coal miners who suffered from this deadly disease. The second was the Coal Mine Health and Safety Act of 1969, which created MSHA, the Agency that sees to maintaining safety standards in the Nation's coal mines. And the third is the Employee Retirement Security Act of 1972, ERISA as it is familiarly called.

Those three acts, in my own mind, set John Dent far ahead of so many others. Those three acts typify Johnny's strength—his concern for others and his willingness to act on their behalf.

By designating this Post Office Building in Jeannette, PA, John Dent's hometown, as the "John Dent Post Office Building," we are telling his folks how much we care for and respect John Dent.

It is our small way of remembering a colleague who contributed so much to his country, his State, his constituents, and to us who know him and who served with him.

This is a lifting tribute to a man who has earned and kept the respect of the people.●

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. SEIBERLING]. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 4598.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## BARBARA C. JORDAN POST OFFICE BUILDING

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 374) calling upon the U.S. Postal Service to designate the Houston Main Post Office Building in Houston, TX, as the "Barbara C. Jordan Post Office Building."

The Clerk read as follows:

H. RES. 374

Whereas Barbara C. Jordan is a native and longtime resident of Houston and lifetime citizen of the State of Texas;

Whereas Barbara C. Jordan has served the greater Houston community, the people of the State of Texas, and of the United States of America with distinction in numerous public capacities over the years;

Whereas Barbara C. Jordan also served as a member of the Texas Senate for six years, where she was elected "outstanding freshman senator" and later President Pro Tempore during her tenure;

Whereas Barbara C. Jordan represented the eighteenth Congressional District of Texas, including much of the City of Houston, in the United States House of Representatives for six years, and was a distinguished and influential member of the Committees on the Judiciary and on Government Operations;

Whereas Barbara C. Jordan is a prominent member of numerous eminent national and Texas civic institutions;

Whereas Barbara C. Jordan currently serves with distinction on the faculty of the Lyndon Baines Johnson School of Public Affairs at the University of Texas at Austin, where she is an inspiration and shining example to the young people of this country as to what personal determination and a commitment to excellence can contribute to the life of an individual and the Nation;

Whereas her public service and civil rights achievements are nationally known and honored; and

Whereas the long and distinguished service of Barbara C. Jordan should be permanently recognized by the United States Postal Service on behalf of a grateful Nation: Now, therefore, be it

*Resolved*, That the House of Representatives calls upon the United States Postal Service to designate the Houston Main Post Office Building in Houston, Texas as the "Barbara C. Jordan Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Barbara C. Jordan's long and renowned career of public service includes 6 years in the U.S. House of Representatives, 6 years in the Texas Senate, and continuous and active membership in innumerable national and State civil rights, civic, and educational organizations. She currently is a distinguished member of the faculty of the Lyndon Baines Johnson School of Public Affairs at the University of Texas.

Barbara C. Jordan is a native of Houston and a lifelong citizen of the State of Texas. House Resolution 374 recognizes her achievements and honors her life of service by calling upon the U.S. Postal Service to designate the Houston Main Post Office as the "Barbara C. Jordan Post Office Building."

I want to thank my good friend and colleague, Congressman MICKEY LELAND, for sponsoring this resolution and giving us this opportunity to pay tribute today to a great American, Barbara C. Jordan.

I urge the adoption of the resolution.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

☐ 1430

Mr. Speaker, it is with a great deal of pride that I rise in support of this resolution designating the Houston main post office building in Houston, TX., as the "Barbara C. Jordan Post Office Building."

Barbara C. Jordan gave a great deal of her life to public service and served with distinction in our body for 6 years. And while she was here she was a highly respected Member of this body. She now serves as a professor in the Lyndon Baines Johnson School of Public Affairs at the University of Texas and is still very active in public affairs and is a leading speaker throughout the Nation.

I join my colleagues in supporting this resolution and ask my colleagues to join with us.

I have no further requests for time and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. KAZEN].

Mr. KAZEN. Mr. Speaker, I am pleased and honored to rise in support of House Resolution 374, to designate the main Post Office building in Houston, TX, as the "Barbara C. Jordan Post Office Building."

I believe that history will record Barbara Jordan as one of the outstanding leaders of our time and that the inspirational example she has provided young people will carry her message of honesty, hard work, and dedication to the principles of this Nation for many years to come.

Her eloquence and intelligence first came to the attention of Texans during the 6 years she so ably served in the Texas Senate, and we were proud to share her with the Nation during her three terms in the U.S. House of Representatives. Few have done so much, or captured the imagination of a generation, in such a short period of time.

We are equally proud that she has become a national leader through her work in countless worthy endeavors an as a distinguished member of the faculty of the Lyndon Baines Johnson School of Public Affairs at the University of Texas.

This legislation is but a small effort to recognize Barbara Jordan for her achievements, past, present, and future, and to repay her for debts owed by a grateful nation. I urge your approval.

● Mr. ANDREWS of Texas. Mr. Speaker, I rise today in support of House Resolution 374 which urges the U.S. Postal Service to designate the main post office in Houston, TX, the Barbara C. Jordan Post Office Building. I would like to commend my colleague and friend, Representative LELAND for introducing this measure.

Barbara Jordan is a woman of enormous talent and intellect who has never permitted the barriers of race and sex to stand in the way of her achievements. Although she is best known for her 6 years as a Member of this body, representing the 18th Congressional District of Texas from 1973-78, her entire career has been marked by a series of remarkable achievements in public service and civil rights. In 1959 she was admitted to the Texas Bar, several years before the legal barriers faced by talented black professionals in the South had disappeared. In 1966, Barbara Jordan was elected to the Texas State Senate, the first black elected to that body since Reconstruction, and the first black woman ever to serve in the Texas Senate. While a State senator, Barbara Jordan served as a chairperson for two standing committees, and also for a time served as the president pro tempore of the State senate. Her outstanding career in the Texas Senate made her the logical choice to represent the 18th Congressional District of Texas, located in Houston, the State's first predominantly black congressional district. When she was elected to represent the new district in 1972, she became the first black woman to be elected to Congress from a Southern State.

Barbara Jordan served with great distinction in this body. She was a member of the Committees on Judiciary and Government Operations. She first gained national recognition while serving on the Judiciary Committee during the hearings on the impeachment of President Nixon. In 1976, she was the keynote speaker at the Democratic National Convention in New York City. Her speech was so eloquent and inspiring that it prompted talk of Barbara Jordan's selection as the party's Vice Presidential nominee.

Barbara Jordan has been recognized as one of the 10 most influential women in Texas. She was selected once as the Democratic Woman of the Year by the Women's National Democratic Club. Redbook magazine listed her as a woman who could be President, and she was selected by Time magazine as 1 of 10 women of the year in 1976.

Barbara Jordan has come to serve as a role model to many, especially to those in our society who must still overcome the hurdles posed by discrimination. We in Congress have the opportunity to recognize the continuing achievements of Barbara Jordan and to honor her many accomplishments by passing this resolution. I strongly urge my colleagues to support this resolution offered by the gentleman from Texas.●

● Mr. LELAND. Mr. Speaker, as sponsor of House Resolution 374, I rise in support of this piece of legislation naming the main post office facility in my home city of Houston after one of its most outstanding citizens, Ms. Barbara Charline Jordan. Ms. Jordan is a lady with whom many of you have had the honor and pleasure to work when she was a Member of the U.S. House of Representatives. This resolution was unanimously approved by the full Committee on Post Office and Civil Service in May of this year.

Although she is no longer in the Congress, she is still very active in her home State of Texas. While she has already made far more than enough contributions, her work is not finished and I know that we can look forward to many more contributions from her. She has proven time and again that she thrives on new challenges and excels at each new opportunity. She is living proof that you can be what you really want to be and she is a worthy role model for women and men of all races.

Despite her unwillingness to be cast as "the first black Woman," I find it hard to refrain from mentioning several of these firsts: The first black woman to be elected to the Texas Senate, in 1966; the first black woman to represent a Southern State in Congress since Reconstruction; the first black keynote speaker at a Democratic National Convention. And continuing this tradition of firsts for her, upon passage of this resolution, she would also become the first black woman to have a post office named after her.

Barbara Jordan is one of the most notable, capable, gifted, and inspirational leaders this country has had. It is a very modest honor that I am proposing we bestow on her, but I think it can do a great deal to remind all Americans of what can be accomplished through application of qualities that Barbara Jordan so abundantly possesses. Even though her accomplishments and capabilities are larger than any one city, I find it very appropriate that we honor her in this modest way in the city where she was born and reared. It is even more appropriate that we honor her now, so that she can know of the appreciation and warmth we feel for her and her contributions. To quote from a poem entitled, "So Give Them the Flowers Now," "Life is the time we can help them, so give them the flowers now."

I ask that you join me today in honoring this great woman by supporting House Resolution 374. I appreciate your support. Thank you, Mr. Speaker.●

● Mr. **PICKLE**. Mr. Speaker, it is a great honor to speak out in favor of designating the Houston Main Post Office Building the "Barbara C. Jordan Post Office Building."

I served with this remarkable and dynamic woman when she represented the 18th Congressional District from 1972 through 1978. She served with distinction, and it was a sad day for our country when she retired from this body.

Prior to coming to Congress, Barbara Jordan had already distinguished herself when she was elected to the Texas Senate in 1966. As president pro tempore of the Texas Senate, she served as Governor for a Day, the first black woman Governor in American history.

But most Americans remember Barbara Jordan as the articulate lawyer that served on the House Judiciary Committee during the impeachment hearings during the Nixon Presidency. But there were many more accomplishments.

She helped push through an amendment to the Voting Rights Act that introduced bilingual ballots; she backed legislation that would eliminate vertical price-fixing schemes; and she worked for fairness in civil rights law enforcement.

Time magazine named her 1 of the 10 Women of the Year in 1976 and the Ladies Home Journal selected her as 1 of the 11 Women of the Decade in 1979.

In 1979 she left the Congress and accepted an appointment as the Lyndon B. Johnson public service professor in the LBJ School of Public Affairs at the University of Texas at Austin.

When she left the Congress, we lost more than a great public servant. We lost a true friend, and I want to add my voice to those of us who remember her service today as we vote to designate the Houston Main Post Office as the "Barbara C. Jordan Post Office Building." I wish there were more we could do, but at least we can do this.●

Mr. **CLAY**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The Chair is happy to say that as a former colleague of Barbara Jordan he is privileged to preside over this occasion.

The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and agree to the resolution, House Resolution 374.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. **CLAY**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the resolution just agreed to.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

## SENSE OF CONGRESS RE NONDELIVERY OF INTERNATIONAL MAIL IN THE SOVIET UNION

Mr. **CLAY**. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 294) expressing the sense of the Congress that the President should express to the Government of the Soviet Union the disapproval of the American people concerning the Soviet Union's systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union, and that the U.S. delegation to the Congress of the Universal Postal Union seek the compliance of the Government of the Soviet Union with the treaties governing international mail to which it is a party.

The Clerk read as follows:

H. CON. RES. 294

Whereas the integrity of the mail service between the United States and the Soviet Union is being called into question by postal patrons in the United States and by postal patrons of 17 other countries who assert that postal items are systematically not being delivered to selected addresses in the Soviet Union;

Whereas the Subcommittee on Postal Operations has documented these facts with over 2,000 exhibits and testimony from witnesses at hearings on this matter;

Whereas the explanations required under international law and given by the Soviet postal administration regarding the nondelivery of mail to certain addresses have consistently been untimely and inadequate;

Whereas the mail which is not being delivered typically is between family members or persons sharing a religious bond and typically consists of personal correspondence or gifts of articles for personal use;

Whereas the nondelivery of mail which is deliverable as addressed and which does not contain prohibited articles is an interference by the Soviet Union with internationally recognized human rights guaranteed to all persons by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Final Act of the Conference on Security and Cooperation in Europe; and

Whereas the systematic exclusion of certain persons from international mail service also violates the Articles of the Constitution of the Universal Postal Union (with protocols), the general regulations of the Universal Postal Union with final protocol and annex, the Universal Postal Convention with final protocol and detailed regulations, and the Constitution of the Union of Soviet Socialist Republics: Now, therefore be it

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress

(1) that the President, through the Secretary of State, should express to the Government of the Soviet Union the disapproval of the American people of the Soviet Union's—

(A) systematic nondelivery of properly addressed mail originating in the United States to the persons to whom it is addressed; and

(B) violation of the Articles of the Constitution of the Universal Postal Union (with protocols), the general regulations of the Universal Postal Union with final protocol and annex, the Universal Postal Convention with final protocol and detailed regulations, and the Final Act of the Conference on Security and Cooperation in Europe; and

(2) that, at the meeting of the Congress of the Universal Postal Union in Hamburg, Germany, from June 18 to July 17, 1984, the representatives of the United States Postal Service should

(A) bring the Soviet Union's violations of international law governing international mail to the attention of the representatives of the member countries of the Universal Postal Union, and call upon such countries for support in encouraging the Soviet Union to respect its treaty obligations;

(B) request the Universal Postal Union to conduct an investigation of such alleged violations; and

(C) consider possible sanctions against the Soviet Union for such violations.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. **CLAY**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 294 urges the President and the U.S. Postal Service to address the growing problem of the Soviet Union's disruption of international mail service between it and the United States. Two hearings by the Post Office and Civil Service Committee's Subcommittee on Postal Operations, chaired so ably by my colleague, Congressman

Bob Garcia, documented claims by numerous postal patrons and by postal patrons of 17 other nations that mail lawfully posted to certain addresses within the Soviet Union is systematically not being delivered. Nondelivery of such mail violates numerous treaties and agreements to which the Soviet Union is a signatory, including the constitution and regulations of the Universal Postal Union [UPU].

House Concurrent Resolution 294 urges the President, through the Secretary of State, to communicate to the Government of the Soviet Union the American people's disapproval of this Soviet conduct. The resolution also urges the U.S. Postal Service delegation to the UPU Congress—which begins this week in Germany—to take appropriate actions concerning the Soviet violations of UPU agreements and regulations.

I urge the adoption of House Concurrent Resolution 294, and I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of an urgent piece of legislation for this House, House Concurrent Resolution 294. The Universal Postal Union Congress begins today in Hamburg, Germany, with delegates from 167 countries participating in their first convention in the past 5 years.

As most Members of the House are aware, Mr. Speaker, the Subcommittee on Investigations has been conducting an extensive probe during the past 15 months into Soviet sabotage of the international mails. What first began as a routine inquiry into many lost letters and packages sent from the United States to addressees inside the Soviet Union and the Eastern bloc countries soon expanded into an investigation by our subcommittee into Soviet tactics of knowingly interfering with the free flow of communications between the United States and the Soviet Union. We soon learned that this probably was not limited to the United States. To date, we have documented evidence that no less than 17 nations are affected by the cold, calculated, systematized program of the Soviets to cut the lifeline between Soviet citizens and their friends and relatives in other countries. We have accumulated some 2,408 pieces of evidence to date, overwhelming proof that the Soviets are in violation of five international treaties—not the least of which is the UPU Convention standards.

Today, we ask favorable action on House Concurrent Resolution 294, which would be a first step toward alleviating the problem. Last week, we received evidence from additional witnesses in New York City at a hearing held by our Subcommittee on Postal Operations. We heard testimony from people who had lost hundreds of letters and many, many packages in the international mails to the Soviet Union.

We heard charges from a number of witnesses—as we did in earlier hearings in both Washington and Chicago—that the KGB, the Soviet Secret Police, was the cause of this interruption in the flow of mail. They also charged that the recent harsh policies of the Soviets have resulted in a severe cutback in the number of Soviet Jews being permitted to leave the U.S.S.R.—down about 97 percent in less than 4 years. Telephone communications have also been cut back and duties on packages coming into the Soviet Union have doubled and tripled, making the delivery of packages prohibitive; a Soviet citizen having to pay almost 6 weeks of wages as duty for just a pair of jeans.

In recent days, the Soviet Union has gone further announcing it will cut off acceptance of any prepaid duty packages from the United States and other Western countries.

The Soviet actions are nothing short of an outrage. To date, they have been operating a number of Soviet-licensed parcel services, which actually utilize the U.S. mails deriving substantial hard Western cash for the coffers of the Soviet Union's Government. Price-gouging, missing mail, deliberate mail interference, knowing interception and destruction of international mails have been revealed in our committee's investigation.

As if this outrageous situation were not of sufficient significance, some 16 countries are now calling for the expulsion of Israel from membership in the UPU. In the course of our investigation, our committee has received exhibits showing that Israel—far from being the offending party—is an aggrieved party due to the Soviet sabotage of the international mails from Israel to the Soviet Union. Rather than spending its time in considering the expulsion of such an aggrieved nation, the UPU should concentrate its efforts in resolving these violations in the flow of international mail.

I cannot find the words to communicate the anger and hurt in the hearts of those here in America who can no longer communicate with their loved ones in the Soviet Union.

Resolution 294 comes to us today with 159 Members of Congress as cosponsors. My colleagues have heard from many religious and ethnic people in their districts who are directly affected by the Soviet sabotage of the international mails. Among the hundreds of witnesses we have interviewed, many are experiencing their communications being cut with a greater intensity day by day.

There is a genuine concern in nearly every ethnic group in this Nation. Fully 9.3 percent of the American public comes from ethnic backgrounds from the countries where these problems exist. A large part of that 9.3-percent figure can no longer correspond with friends and relatives in Soviet countries.

One witness we interviewed told of a friend who had paid a bounty of $50,000 to get out of a Soviet country. Upon arrival in this country broke, he was able to find a modest job. From his meager earnings, he saved to buy a blood pressure kit and some dried fruit to send to his elderly and sick relatives in the Soviet Union. But his package was intercepted and returned undeliverable to the United States. In addition, the Soviets charged him $22 in surcharges before he could recover his own package. The U.S. Postal Service ended up as tax collector for the Soviets, because the surcharge eventually was returned to the Soviets.

Next, the man went to a Soviet-licensed parcel service doing business here in the United States—for 25 years without knowledge of our postal executives in Washington—and paid a substantial fee to have the same package shipped duty prepaid. It is commonplace to turn up witnesses who have paid between $150 and $300 per package in various Soviet charges just to get their packages through.

Mr. Speaker, such an obstructive procedure and exorbitant charge amounts to extortion.

The trigger words that keep popping up in our investigation are: Larceny, looting of packages, gouging, scheming, deception, con game, and a host of others.

This issue is extremely important to every ethnic community in this Nation. We've talked to and heard testimony from Latvians, Lithuanians, Soviet Jews, Baptists, Pentecostals, Roman Catholics, Ukranians, Czechoslovakians, the Poles, the Slavs, the Georgians, the Armenians, the Hungarians, and hundreds of others.

There is a unanimity of opinion among those groups that the United States should move swiftly and decisively on the sabotage of the international mails. Approval by the House today—the very day the UPU Convention gets underway in Germany—would arm our delegation with a strong mandate to call the attention of other nations to the distress of those people from many countries who can no longer correspond or contact in any manner with their mothers and fathers and brothers and sisters behind the Iron Curtain.

Mr. Speaker, Resolution 294 would, briefly, do the following:

First, it calls upon the President, through the Secretary of State, to express to the Government of the Soviet Union the disapproval of the American people of the Soviet Union's—

Systematic nondelivery of properly addressed mail originating in the

United States to persons to whom it is addressed, and

Violation of the articles of the constitution of the Universal Postal Union—with protocols—the general regulations of the Universal Postal Union with final protocol and annex, the Universal Postal Convention with final protocol and detailed regulations, and the final act of the Conference on Security and Cooperation in Europe; and

Second, at the meeting of the Congress of the Universal Postal Union in Hamburg, Germany, from June 13 to July 27, 1984, the representatives of the U.S. Postal Service should—

Bring the Soviet Union's violations of international law governing international mail to the attention of the representatives of the member countries of the Universal Postal Union, and call upon such countries for support in encouraging the Soviet Union to respect its treaty obligations;

Request the Universal Postal Union to conduct an investigation of such alleged violations; and

Consider possible sanctions against the Soviet Union for such violations.

Accordingly, Mr. Speaker, I urge my colleagues to join our 159 cosponsors in support of this important measure.

□ 1440

Mr. CLAY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank my colleague from Missouri for chairing this important legislation and all the work he has done and a special note of gratitude to the gentleman from New York who has worked on this issue in a very meticulous manner.

Mr. Speaker, as I started to say when we were debating another piece of legislation that was especially important as well; I and Congresswoman SCHROEDER went to the Soviet Union and did talk among other things about the problems of the nondelivery of international mail.

Mr. Speaker, the resolution before us does two things; it asks the Soviet Union to comply with the treaties governing international mail and it calls for the Soviet Union to stop engaging in the systematic real torture, in my judgment, and lessening of the morale of the people in the Soviet Union.

While we were there, we talked to people who were Baptists, Jews, Catholics, Pentecostals, and visited some of the Refusniks, visited some members of the Ukrainian community, and the answer was always the same; that they know they are not getting the mail that their loved ones are sending to them and they also gave us documentation which I turned over to my good friend from New York, Mr. GILMAN. One gentleman gave documentation of all the mail he had sent out from the Soviet Union which was never received by his loved ones in the United States.

Mr. Speaker, what this does, this is a form of intellectual suppression, it is a form of attempting to lessen the morale of the people in the Soviet Union who really have a desire to know what is going on outside of the Soviet Union, and they want that connection with their loved ones throughout the world, and I was especially aware of those in the United States.

Mr. Speaker, let us pass this resolution; let us ask the Soviet Union to engage in complying with the treaties that govern international mail that all, or most of the countries in the world are part of.

This is not a United States-Soviet issue; this is an international issue. Nothing is more subtle, it seems to me, than trying to take away from individuals the opportunity to communicate, and that is what this is all about.

So I hope, Mr. Speaker, we pass this resolution by a 100-percent margin and we send a signal not only to the leaders of the Soviet Union but to the people who live in the Soviet Union who really want to have some form of dialog, not only with their loved ones, but with people throughout the world. That is where the Soviet Union can really show what it stands for, by not inhibiting the intellectual growth of its own people.

So I am very, very pleased to join with my friends from Missouri, from New York, and others who have been a major thrust behind this legislation.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Ohio for her remarks in support of this resolution, for her efforts on our recent trip to the Soviet Union in attempting to resolve this issue and for her longtime concern with regard to the violation of human rights behind the Iron Curtain.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO] who also has been a longtime foe of violation of rights behind the Iron Curtain.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of this legislation, House Concurrent Resolution 294. Action on this important topic has been long overdue in my opinion, and I am pleased that the House is considering this measure. I strongly urge my colleagues to support it as well.

Mr. Speaker, the term "human rights" is quite broad and elicits thoughts of involuntary arrest and detention, religious or political persecution and harassment, and other ideas which are important and of concern not only to Americans, but freedom-loving people everywhere. One aspect of human rights which receives very little attention, however, is the ability of individuals to receive international mail from acquaintances on both sides of the Iron Curtain. The systematic nondelivery of international mail is almost beyond comprehension for most Americans, but it is unfortunately common practice in the Soviet Union.

I commend my colleague, Representative BEN GILMAN, and others, for holding extensive field hearings on this subject which documented the Soviets' practice of systematic interference and nondelivery of international mail addressed to certain persons residing within the Soviet Union. This is in direct violation of the Universal Postal Union [UPU] constitution and general regulations and the Helsinki accords. The legislation now before us calls upon the President to communicate the disapproval of the American people to this continued pattern of human rights violations by the Soviets.

In addition, the legislation states that the U.S. delegation to the UPU Congress, which incidentially convenes today, should bring the issue of Soviet violations to the attention of other UPU member countries and urge them to request an investigation and possible sanctions. It is important for this country, with our heritage of freedoms, to undertake these actions to expose this practice and to pressure other nations to urge the Soviet Union to cease this unethical activity.

Apparently, the Soviets will continue the practices of gouging persons for delivery in order to gain much-needed hard currency for their failed Socialist economy until worldwide attention is focused on the situation. This legislation, if passed, would go a long way in this regard.

In sum, the practice of systematic interference and nondelivery of international mail to certain persons in the Soviet Union is morally reprehensible, I believe we would all agree. How to respond is the important question. This legislation, Mr. Speaker, by insuring the issue is raised with other UPU member nations and bringing pressure to bear on the Soviets, is a sound response to this tragic and unethical practice.

One final note, Mr. Speaker. It has come to our attention that during this UPU session, there may be an effort to expel Israel from that body. Obviously, the United States should and will resist such efforts as it has efforts to expel our friend and ally from the United Nations. Should such a tragic occurrence take place, the State Department has informed me that the United States will immediately pull our delegation out of the Congress, suspend our participation in UPU activities, and withhold payments to the UPU. The suspension of our participation and the withholding of our payments would continue until the illegal action was reversed.

I commend the State Department and the administration for their steadfast position on this matter, and, again, urge my colleagues to support this worthy legislation.

□ 1450

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting remarks and for his continuing efforts in focusing attention on the violation of human rights behind the Iron Curtain. The gentleman is a distinguished member of our Foreign Affairs Committee and has been a long-time foe of these kinds of violations.

Mr. Speaker, at this time I yield 5 minutes to the gentleman from California [Mr. LANTOS], a distinguished member of the Foreign Affairs Committee, who has led the fight for human rights for many years in this body.

Mr. LANTOS. Mr. Speaker, I want to thank my friend and colleague for yielding.

There are two issues, Mr. Speaker, I would like to deal with in joining my friends both on the Republican and Democratic sides of the aisle in dealing with this matter.

The first refers to the systematic failure on the part of the Soviet Union to live up to its international obligation with respect to the delivery of international mail.

My colleagues have detailed this issue. Let me just add that I find it unconscionable that groups of individuals who are being persecuted for a whole variety of phony reasons have heaped upon them the additional anguish of not receiving their mail.

Second, Mr. Speaker, I would like to say a word about the attempt by some to oust Israel from the Postal Union. This is not the first attempt to delegitimize the State of Israel.

We have seen similar attempts in other bodies and I believe that our State Department deserves commendation for standing firm on this issue.

The democratic State of Israel has meticulously adhered to all of its obligations it has undertaken with respect to the Postal Union. To see yet another international body in the process of being politicized to this extent in indeed distressing.

A few days ago I introduced a resolution called the Elba resolution. As you know, Mr. Speaker, it was on the 25th of April 1945, that Soviet and American troops linked up at the Elba River at the small town of Torgau. My resolution calls on our President to initiate on the 40th anniversary of the Soviet-American linkup annual summit meetings with the Soviet leadership on a full range of issues that are before us.

This particular matter adds yet another small dimension to the importance of annual summit meetings between leaders of the Soviet Union and our own President.

I would like to see our President next April 25 sit down with Mr. Chernenko and explore with him why in the Soviet Union mail is being withheld and destroyed from individuals who should be receiving it.

We have a broad range of issues that we need to talk about. This particular violation by the Soviet Union is yet another instance of the importance of maintaining dialog and contact with them on the full range of outstanding issues.

So, Mr. Speaker, I join my colleagues in calling on the Soviet Union to live up to international obligation with respect to the delivery of mail and I call on all nations of the Postal Union to reject the notion of politicizing this important entity and serve notice on them that this Congress along with our administration will pull out U.S. participants from the Postal Union. We will suspend our funding of that entity if any democratic nation should be expelled.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California for his strong supporting words, and I thank him for participating in this debate.

● Mr. FORD of Michigan. Mr. Speaker, I rise to express my support, in the strongest possible terms for House Concurrent Resolution 294.

The Soviet Union's interference with postal communications between its citizens and citizens of the United States and other nations has reached alarming proportions. I am speaking here not of sensitive or confidential information which the Soviet Government does not wish its people to receive from the outside world. I am speaking of the most innocent and personal communications which link separated families, and distant friends.

Two hearings by the Post Office and Civil Service Committee's Subcommittee on Postal Operations have documented these tragic facts. It is clear that Soviet postal officials simply do not deliver international mail to certain addresses within that nation. It is also clear that the addresses of Soviet Jews are predominant among that group of undeliverable addresses.

This conduct by the Soviet Union violates countless treaties and agreements to which it is a party, including the Helsinki accords and the Universal Postal Convention.

Today, June 18, in Hamburg, Germany, the Congress of the Universal Postal Union convenes a 6-week meeting. Adoption today of House Concurrent Resolution 294 will send a timely message to the U.S. delegation—and to the Soviet delegation. We look forward to action on this fundamental issue of legal rights and human rights.

I urge the adoption of House Concurrent Resolution 294.●

● Mrs. KENNELLY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 294, which asks the President to express to the Soviet authorities the disapproval of the American people of Soviet nondelivery of mail to its citizens, and also asks that this matter be raised by our delegation to the Universal Postal Union Convention this summer.

Over the last year, the House Post Office and Civil Service Committee has documented over 2,000 cases of Soviet nondelivery or interference with the delivery of mail to its citizens. This systematic disruption of the right of Soviet citizens to receive mail and packages from abroad is yet another example of the Soviet disregard for the human rights of its citizens. It is another effort to isolate Soviet citizens from their loved ones and friends outside the Soviet Union, and also clearly violates the provisions of the Helsinki accords and the constitution of the Universal Postal Union.

Many of my constituents have friends and family in the Soviet Union. Often, their only link to their loved ones is through the letters and packages they are able to send. Individual contacts between residents of the United States and the Soviet Union have great humanitarian significance. But equally important, they help create a better understanding between the citizenry of our two nations. Free exchange of mail is an exchange of ideas and information which the United States should encourage. And interference with that free flow should not be allowed to continue without objection.

Over the last few years, the Soviet Union has interfered with the delivery of parcels as well as letters. Strict limits have been established as to the assortment and quantity of items that can be sent, and many of the items permitted are subject to extremely high customs duties. The Soviet Union has also made a practice of returning many parcels to their senders instead of delivering them to the addressee, and many parcels sent to Russia from abroad simply disappear without a trace.

Recently, the Soviet Postal Service, Vneshposyltorg, announced that on August 1 it will stop accepting parcels from the West whose customs duties have been prepaid by the sender. While it will still be technically possible to send parcels to the Soviets via international mails, customs duties for such deliveries will have to be borne by the recipient. Since duties on packages can be as high as 100 percent of the value of the goods or higher, the practical effect of requiring the recipient to pay the customs duty will be to choke off parcels from the West. This policy is yet another example of the Soviets attempt to isolate its citizens from contact with the West. It is part of the pattern of abuse of international mail that my colleague, Mr. Gilman, has so ably documented.

This resolution addresses a critical human rights issue, and I urge my colleagues to support it.●

● Mr. GARCIA. Mr. Speaker, I want to thank the gentleman from New York for his hard work, not only on this resolution, but on the entire issue of the Soviet Government's disruption of mail service coming from the United States. He has been tireless in his efforts to see that those individuals living in the Soviet Union will be able to remain in contact with their families and friends in the West.

On June 11, the Subcommittee on Postal Operations and Services held a hearing in New York City on the Soviet disruption of mail. As chairman of the subcommittee, I've become more aware of how complex and how difficult it can be to simply have the mail delivered. I've also become even more aware of how much we depend on the mail as a way to keep in touch. Yet, it's even more than that for many Americans who have relatives living abroad, particularly in Eastern bloc nations. For them, mail service is literally a lifeline.

This resolution points out the struggle that millions of people living in this country and in the Soviet Union have merely keeping in touch through letters and packages. I want to emphasize that this is not a Christian issue, this is not a Jewish issue, this is not a political issue; this is a human issue.

The Universal Postal Union Congress is being held in Hamburg, West Germany, beginning this week. This is a perfect opportunity for U.S. delegates to raise this issue. I'm not suggesting that they stir up trouble with the Soviets, thereby making it worse for the victims of this abuse. I simply want to see that the mail is delivered. I want to insure that people living in this country can maintain the lifeline that mail service offers to their friends and families in the Soviet Union. This resolution will let the Soviet representatives know just how important we consider this issue.

It has come to my attention that there may be a resolution introduced rejecting Israel's credentials at the UPU meeting. I strongly condemn any such action, and would ask that the UPU member nations reject any proposal that would reject Israel's credentials.

The purpose of the UPU and of all international organizations is to encourage dialog. The exclusion of Israel would indicate a blatant disregard of this principle. Coexistence can only be achieved by breaking down false barriers, and putting aside political posturing. A rejection of Israel at the UPU Congress would be a grave mistake.●

● Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 294, expressing the sense of the Congress that the President should express to the Soviet Union the disapproval of the American people of the systematic nondelivery of international mail addressed to persons living within the Soviet Union. And I want to commend the gentleman from New York, Congressman Ben Gilman and the gentleman from Missouri, Mr. Clay for their work on the measure before us today.

This resolution was referred to the Committee on Foreign Affairs and the Committee on Post Office and Civil Service on April 26. In the Committee on Foreign Affairs, it had been referred to several of our subcommittees—Human Rights and International Organizations, Europe and the Middle East, and International Operations—for appropriate action. Because of the press of regular committee business and the urgency of our expediting consideration of this resolution so it can be sent to the head of the U.S. delegation to the General Conference of the Universal Postal Union which convenes today in Hamburg, Germany, the Committee on Foreign Affairs has agreed to the Committee on Post Office and Civil Service bringing the resolution up under suspension without prejudice to the jurisdiction of the Committee on Foreign Affairs.

Mr. Speaker, the Universal Postal Union is a specialized agency of the United Nations. Its General Conference which convenes every 5 years opens today in Hamburg, West Germany. The U.S. delegation to the Conference plans to raise the issue of the systematic nondelivery of international mail to persons living in the Soviet Union in the statement to be given by the head of the U.S. delegation—the U.S. Postmaster General—in the next few days. Other member governments of the UPU also plan to raise this serious problem. The nondelivery of international mail is a clear violation of several international regulations—the UPU conventions and protocols as well as the provisions on the free flow of information and communications under the final act of the Conference on Security and Cooperation in Europe. It is, therefore, appropriate for us to consider and adopt this resolution today so it can be forwarded through the Department of State to our delegation at the UPU Conference. Passage of the resolution will convey to the postal convention the serious concern felt by the American people on the matter of the Soviet Union's systematic nondelivery of international mail and will bolster the position of our delegation at the current meetings.

Mr. Speaker, I also want to raise a related matter that is expected to arise during the opening days of the UPU General Conference; namely, a resolution sponsored by some 16 Arab States that calls for the suspension of Israel from UPU membership. Mr. Speaker, efforts to delegitimize Israel are not new—this resolution to be proposed this week is only the latest in a series of similar resolutions. The Congress has already gone on record in Public Law 98-164 on this matter. That law provides that if Israel is illegally expelled, suspended or denied its credentials or is denied its right to participate in the General Assembly of the United Nations or any specialized agency, the United States shall suspend its participation until the illegal action is reversed and shall also withhold payment of its assessed contribution. The Department of State has conducted numerous bilateral discussions with our allies and friends to gain their support for opposing the resolution when it comes up in the UPU later this week. And the Secretary of State, the Honorable George Shultz, noted last Thursday in the Department's noon briefing that should this resolution be pressed by the cosponsors of the resolution and should it be adopted, the United States will withdraw as called for in Public Law 98-164. I really hope that we will not be forced to withdraw from the UPU. And, I want this message to be conveyed to the U.S. delegation at the UPU Conference so that they will be able to inform other delegations of our determined intention to support Israel's membership in the UPU.

Again, I want to commend the gentleman from New York, Congressman Ben Gilman and the gentleman from Missouri, Mr. Clay for their work on this resolution. I am inserting at the end of my statement my correspondence with the distinguished chairman of the Committee on Post Office and Civil Service on this resolution.

Mr. Speaker, I urge adoption of House Concurrent Resolution 294.

Committee on Post Office
and Civil Service,
*Washington, DC, June 6, 1984.*

Hon. Dante B. Fascell
*Chairman, Committee on Foreign Affairs,*
*House of Representatives, Washington, DC.*

Dear Mr. Chairman: Our Committees have on joint referral H. Con. Res. 294 (copy attached) expressing the sense of the Congress that the President communicate to the Government of the Soviet Union the disapproval of the American people concerning the Soviet Union's systematic nondelivery of international mail and, further, that the United States delegation to the Congress of the Universal Postal Union (UPU) seek the Soviet Union's compliance with treaties governing international mail.

H. Con. Res. 294 has broad bipartisan support. In view of the impending commencement of the UPU Congress on June 18 in Hamburg, I am requesting your agreement to the consideration of H. Con. Res. 294 by the full House under Suspension of the Rules at the earliest possible opportunity. H. Con. Res. 294 as introduced on April 26, 1984, would be placed on the suspension calendar without a report and without prejudice to the jurisdiction of your Committee.

Thank you for consideration of this request.

Sincerely,

WILLIAM D. FORD,
*Chairman.*

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COMMITTEE ON FOREIGN AFFAIRS,
*Washington, DC, June 8, 1984.*

Hon. WILLIAM D. FORD,
*Chairman, Committee on Post Office and Civil Service, Cannon House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: This is in response to your letter regarding the consideration of H. Con. Res. 294 expressing the sense of the Congress that the President communicate to the Government of the Soviet Union the disapproval of the American people concerning the Soviet Union's systematic nondelivery of international mail and, further, that the United States delegation to the Congress of the Universal Postal Union (UPU) seek the Soviet Union's compliance with treaties governing international mail.

I have no objection to your request that this important resolution be placed on the Suspension Calendar without prejudice to the jurisdiction of the Committee on Foreign Affairs.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
*Chairman.*●

● Mr. BERMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 294. I urge adoption of this measure because I am deeply disturbed by the Soviet Union's practice of intercepting properly addressed mail sent to citizens of that country.

The Soviet Union's outrageous behavior in interfering systematically with the international mails is documented by extensive testimony of ethnic, religious, and scientific groups, along with over 2,000 exhibits accumulated by the Committee on Post Office and Civil Service. In light of the substantial body of evidence available, action by the Congress is imperative.

In addition to imploring the President to take this issue up with the Government of the Soviet Union, this legislation further urges the U.S. delegation to the Congress of the Universal Postal Union, meeting in Hamburg, Germany, from June 18 to July 27, to take the Soviet's unacceptable violations up with member states.

Furthermore, some Arab countries are sponsoring a move to expel Israel from the UPU, continuing the reprehensible campaign against Israel's participation in the United Nations system manifested in other U.N. forums in recent years.

In order to express congressional disapproval of the Soviet's handling of international mail, and to underscore U.S. opposition to any move to expel Israel from the UPU, I urge the Members to support House Concurrent Resolution 294.●

● Mr. CORCORAN. Mr. Speaker, I rise in support of House Concurrent Resolution 294, expressing the sense of Congress that the President communicate the disapproval of the American people regarding the actions of the Soviet Union in the nondelivery of international mail. Not only do the actions of the Soviet Union constitute noncompliance with several treaties and agreements, but they constitute a total disregard for human rights and the dignity of countless individuals in the United States, the Soviet Union and other Soviet-bloc nations.

I was privileged in February of this year to chair a hearing in Chicago, IL, on the Soviet interruption of U.S. mail. Several groups testified including Chicago Action on Soviet Jewry, Freedom of Communications, POMOST (a Polish-American organization), Chicago Conference on Soviet Jewry, National Inter-Religious Task Force on Soviet Jewry, and the U.S. Postal Service. It was the testimony of these dedicated people, who continue to work on behalf of individuals and families behind the Iron Curtain, which brought this issue home to me. Although all the statements were very eloquent, Mr. Harvey Barnett of the Chicago Action for Soviet Jewry opened his remarks with a very descriptive paragraph. He said, and I quote:

> Three months ago I went to the Soviet Union for the second time in four years. A great part of me is still there, with an astonishingly brave group of people. These friends of mine are experiencing anti-Semitism at a level unprecedented since the Nazi occupation of Europe. The Soviet regime is attempting to silence them by isolation and persecution. The very things that are the most important to Soviet Jews are being denied them. Thousands upon thousands of Jews are being absolutely tormented in knowing that mail rightfully theirs is being stolen. . . .

While many organizations and individuals in the United States, attempting to maintain written communications with friends and relatives in the Soviet Union, have been aware for some time that substantial numbers of their letters and packages never reach the intended recipients, Congress was unaware of the magnitude of the problem until approximately 400 pieces of evidence were submitted to the Subcommittee on Postal Operations of the House Post Office and Civil Service Committee at a hearing held in Washington, DC. Those 400 pieces of evidence have multiplied several times and now number in the thousands.

I imagine that many of my colleagues are wondering what we can hope to accomplish by passage of this resolution. Certainly, no one has any definitive answers. However, we have heard time and time again from those most intimately involved in communications between the United States and the Soviet Union that pressure from the West gets results. Several Members of Congress, including myself, have written letters to Soviet citizens who are being denied the right to emigrate. The Soviet Union has not bothered those individuals because a Congressman has taken an interest in their welfare. This is not a final solution, but it is a start. I encourage my colleagues to support House Concurrent Resolution 294.●

● Mr. COURTER. Mr. Speaker, I rise today in support of legislation under consideration, House Concurrent Resolution 294, concerning the Soviet practice of intercepting mail. While we consider this a noncontroversial bill, it is, in fact, one which touches on a serious plight affecting the Soviet people, and one which serves to give them hope that someone in the world cares about their well-being and happiness.

Too few recognize that international mail is a lifeline of support to Soviet citizens wishing to be in contact with friends and family in the United States. Additionally, it is not widely known that unobstructed mail delivery is vital to those who wish to leave the country. To emigrate, a citizen must present a written invitation from abroad before applying. Since 1979, narrow rules determined that this invitation must come from first-degree kin, virtually precluding hundreds of thousands of people from receiving the mandatory document. If such invitations are diverted, lost, or simply not delivered, then the laborious emigration process cannot be completed, and the individual involved stands no chance of being allowed to emigrate.

This is a tragic situation, for behind the cold statistics lies the realization that tens of thousands of Jews are now being denied the right to build new lives and to exercise their fundamental cultural, religious, and personal freedoms. By continuing its practices in obstructing mail delivery, the Soviet Union is violating an integral element of the human contracts provision of the Helsinki Final Act, a human rights act which was signed in 1975 by the United States and 34 other countries, including the Soviet Union.

Last year, 81 Members of the House urged Postmaster Bolger to address this problem during the Universal Postal Union [UPU] meeting held in Berne, Switzerland. The response by the Soviet authorities was not encouraging, as to date, no further action has been taken by them to improve the situation. The adoption of House Concurrent Resolution 294, therefore, is entirely appropriate in urging that this issue be addressed again at this year's UPU meeting to be held in Germany.

President Reagan has repeatedly expressed his support for renewed improvement in relations with the Soviets. While arms control will remain the most important and complex issue facing the superpowers, the mail situation presents an area in which progress could be made with a little effort. Eliminating the problem on nondelivery of mail would be a small but important step in not only advancing the rights of all people, but also in advancing our ability to communicate with the Soviets on other issues of importance.●

● Mr. LEVIN of Michigan. Mr. Speaker, I rise in support of House Concurrent Resolution 294 which expresses the sense of the Congress that the President and the U.S. delegation to the Universal Postal Union Congress take up with the Soviet Union its failure to deliver international mail to certain addresses in the U.S.S.R.

Over 2,000 complaints of nondelivery of mail have been received by the Post Office and Civil Service Subcommittee in their investigations. Some of these complaints come from my own State of Michigan. One of these, for example, was brought to light by a group which has written regularly to a Soviet refusenik for the past 3 years but received no mail back. A Detroit member of this group, on a trip to the Soviet Union, had a chance to ask the refusenik about the mail and learned that although a few letters had been received 3 years ago, none had been delivered since then. In addition, packages sent from Detroit to the refusenik family had not been delivered. In some cases, the Detroiters received the return receipt, but with an illegible scribble instead of a recognizable signature.

Now, the Soviets are proposing postal policy changes designed to hinder mail communications more blatantly. One is a change in Soviet regulations which would require duty on packages to be paid by the receiver, not by the sender, as is now the case. Another change would affect the popular program of "twinning" a Jewish youth from the United States with one from the Soviet Union.

Since nondelivery of international mail is a violation of the Universal Postal Union Treaty, as well as other international agreements, I support actions aimed at bringing pressure on the Soviet Union to comply with its treaty obligations. Therefore, I strongly support this resolution and ask other House Members to support it as a protest of Soviet interference in the mail.●

● Mr. PORTER. Mr. Speaker, I am pleased to join my colleagues today in support of House Concurrent Resolution 294, a resolution which expresses the Congress' disapproval of Soviet interference with mail delivery. This is an important issue and deserves to be on the agenda during discussions between the United States and the U.S.S.R.

I would like to commend the gentleman from New York [Mr. GILMAN] and the other members of the Post Office and Civil Service Committee for their hard work and leadership on this issue. I would also like to point out that the committee held public hearings around the country on mail interference in the Soviet Union and provided citizens who have first-hand experience in this area with the opportunity to testify on their experiences. On February 3, 1984, hearings were held in Chicago, and representatives from several local organizations testified, including Chicago Action for Soviet Jewry, Chicago Conference on Soviet Jewry and POMOST.

Throughout these hearings the committee collected examples of over 2,000 cases of Soviet interference with mail delivery. I have also had experiences with the Soviets' policy on nondeliverance of mail. Over the past year I have sent over 100 letters to Soviet refuseniks. During this time I have waited patiently for responses and indications that my letters have been received by the addressee. Despite my efforts, I have received only one written response, from Boris Prudinsky, and have been assured by only two relatives of refuseniks living in the United States of America that my letters have been received. In addition, letters that I sent to Iosef Begun and Mark Kats have been returned. I find it hard to believe that all of my other letters reached the addressee, since in my closing I ask the recipients to write and let me know how we in the Congress can help them. If they received my letters, I believe they would have written me.

As my colleagues are aware, the Soviet's interference with mail delivery violates several international agreements and treaties the Soviets have committed themselves to. These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Final Act of the Conference on Security and Cooperation in Europe, the general regulations of the Universal Postal Union, and the Constitution of the U.S.S.R.

It is particularly timely that the House consider this resolution today since later this week the Universal Postal Union Convention will begin its meeting in Hamburg, Germany. This resolution directs the U.S. representative to the convention to raise the issue of Soviet interference with mail delivery, to request that the Universal Postal Union further investigate this issue and encourages participants at the convention to support efforts to encourage the U.S.S.R. to comply with its treaty obligations relating to mail delivery.

Earlier this spring I attend the first meeting of the International Parliamentary Group for Human Rights in the Soviet Union [IPG], and I am pleased to report that our colleagues in Europe share our concerns over mail interruption. In addition, participants at the IPG conference expressed an interest in participating in discussions of the Soviet's violations of mail delivery treaties at international meetings such as the Universal Postal Union meeting and also at upcoming IPG meetings.

We who are lucky enough to live in freedom know how welcome a letter from a friend or family member can be. But for Soviet refuseniks, ostracized by their society, threatened and harassed regularly by Government officials and isolated from their loved ones, mail from abroad is a lifeline of hope for freedom. We must speak out against this violation of international law and basic human rights which only serves to make these unfortunate people more miserable.

In closing, I submit for the RECORD a copy of a letter I received from a constituent and friend of mine, Bob Mednick, which documents his experiences with the Soviets' interference of mail delivery.

WEST WASHINGTON STREET,
*Chicago, IL, July 25, 1983.*

Hon. BENJAMIN A. GILMAN,
*U.S. House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR MR. GILMAN: A friend of mine, Josephine B. Minow, who is active in the Hebrew Immigrant Aid Society, has passed on to me your June 22 letter to the President of HIAS concerning your Subcommittee's investigation of Soviet interference with U.S. mail. Jo knows that I have a continuing correspondence with about 20 families in the Soviet Union and thought that my experience might be useful to the Subcommittee on Investigations of the Post Office and Civil Service Committee of the House of Representatives. A completed "Soviet Mail Questionnaire" is enclosed for this purpose.

By way of background, my wife and I visited the Soviet Union for two weeks last September. During that period, we met with approximately 30 families in Moscow, Leningrad, Riga and Minsk who have applied to emigrate to Israel and have been repeatedly denied exit visas for periods of up to 17 years. As a group, these so-called Refuseniks are the most warm, sensitive and certainly courageous people we have ever met.

Since returning home, we have sent over 100 letters to our Soviet friends and have received approximately 50 letters in return from them. We generally mail about 15 to 20 letters at a time. The last batch was sent about a month ago. Substantially all of the letters are sent registered, return receipt requested.

Our success rate to date has been very good. Close to 90% of our letters have been delivered based on the return of receipted pink cards. I have made claims to the U.S. Post Office which are still pending on those letters that apparently have not been delivered.

Unfortunately, friends and others who have written without registering their letters have had very poor success. As a matter of fact, based on comments in the letters we have received from the Soviet Union, it appears that virtually none of our friends' letters that have been to the same people without being registered have gotten through. This is consistent with the experience of the Union of Councils for Soviet Jewry which has over 30 local branches throughout the country. Furthermore, I am told that our success rate of close to 90% on registered mail is much better than the average.

Despite this success, we and our Soviet friends have had serious problems with the Soviet postal authorities. We know that most of our letters—going in both directions—are opened and read by the Soviet authorities. Several times materials sent with our letter were not included in the envelope when it was delivered. Similarly, one of our friends wrote on April 23 that "we have received our new photographs and I am sending you one of them." Unfortunately, the photographs were not in the envelope delivered to us.

While the cost of a registered, return receipt requested letter may seem expensive to some U.S. citizens, the cost of registering a letter in the Soviet Union is almost prohibitive for most Refuseniks who are generally dismissed from their jobs and can find only menial labor. In a way, it gives us mixed emotions to receive such registered letters from our Soviet friends. Nevertheless, unless they take a substantial portion of their income to send letters in that manner, it is highly unlikely they will be received by us and others in the U.S.

As an example, one Refusenik wrote us on March 15 that "it is a thousand pities that my previous letter to you was lost . . . I sent it by regular mail . . . I hope this one will be more lucky . . . ." And on May 10 we received our first letter from yet another Refusenik which, among other things, indicated that "we decided to number our letters . . . this is the fifth . . . by the way did you receive our letter of December 22 with photos?" Unfortunately, we had not received any of the previous four letters, nor has this family received several of ours to them. Interestingly enough, this particular individual is an internationally known physicist who had actually taught in the U.S. and U.K. for short periods before applying to emigrate to Israel in 1981.

While I have many more examples of Soviet tampering with the mails, one more example of the terrible effect of this practice might be of some help. On December 19, 1982, we received a letter from a Refusenik who has been marked for special harrassment by the KGB, Soviet Secret Police, including one year in a labor camp in Siberia. He was released just one month before our visit to the Soviet Union, and had not yet found a job by the time we returned home. Among other things, his letter states:

"A week ago, I have found a job at last. I'm working now as a simple worker. I carry the bricks and so on. My wages are only 65 rubles a month, but I couldn't find any job during six months. (I earned 320 rubles a month before I asked for the visa to Israel.) I would like you to get this letter and I'm not able to tell more."

This particular individual has a Ph.D. in mathematics and had worked in applied mathematics at Leningrad University before applying to emigrate in 1978. His short, registered letter cost him a fairly significant portion of his current monthly salary.

As indicated in the completed questionnaire, I would be most willing to make available copies of the letters referred to above and other information to the House Committee on Post Office and Civil Service's Committee on Investigations. Also I would be very willing to further discuss my experience with House investigators if it would help you.

Sincerely,

ROBERT MEDNICK.

Enclosure.

P.S. For your information my wife and I showed a slide presentation on the families we visited to the Human Rights Caucus in the House of Representatives this past April at the request of our Congressman John Porter. For this reason, I am sending a copy of this letter and the completed questionnaire to Congressman Porter for his information.

(Copy to: The Honorable John Porter.) ●

Mr. **GILMAN**. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The **SPEAKER** pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 294.

The question was taken.

Mr. **GILMAN**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## CONSENTING TO GOOSE LAKE BASIN COMPACT BETWEEN CALIFORNIA AND OREGON

Mr. **KAZEN**. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1135) to consent to the Goose Lake Basin compact between the States of California and Oregon.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. **LUJAN**. Reserving the right to object, Mr. Speaker, I do so simply to ask the gentleman from Texas if he would explain the bill.

Mr. **KAZEN**. Mr. Speaker, will the gentleman yield?

Mr. **LUJAN**. I yield to the gentleman from Texas.

Mr. **KAZEN**. I thank the gentleman for yielding.

Mr. Speaker, Goose Lake Basin is a closed basin encompassing nearly 1,100 square miles of which two-thirds are in southeastern Oregon and the balance in northern California. The compact relates to the development and use of the scarce water resources of the basin.

The States of Oregon and California negotiated the Goose Lake compact in the early 1960's and both States ratified it in 1963. The attitude of the administration at that time was not favorable to compacts and attempts to obtain congressional consent to the compact were not successful.

The water shortage in the basin has become more acute since the compact was first negotiated. In 1980, local citizens pressed the States for a new effort to gain approval of the compact. Each State conducted a thorough review of the compact and concluded that they favored congressional consent.

There are no Federal water rights or interests which would be impacted by the compact.

Since the Goose Lake Basin is a closed basin lying wholly within the States of Oregon and California, no other State water rights are involved.

Enactment of the legislation is necessary because the Constitution, article 1, section 10, requires congressional consent to make the compact legally binding.

There is no known opposition to enactment of S. 1135 and its enactment is supported by the State legislatures and Governors of Oregon and California and by the entire congressional delegations of both States.

Mr. **LUJAN**. Mr. Speaker, I thank the gentleman for his explanation and I join him in urging the approval of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas [Mr. KAZEN]?

There was no objection.

The Clerk read the Senate bill, as follows:

### S. 1135

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the consent of Congress is hereby given to the Goose Lake Basin Compact between the States of California and Oregon, which compact is as follows:

### GOOSE LAKE BASIN COMPACT

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### ARTICLE I. PURPOSES

"The major purposes of this compact are:

"A. To facilitate and promote the orderly, integrated and comprehensive development, use, conservation and control of the water resources of Goose Lake Basin.

"B. To further intergovernmental cooperation and comity and to remove the causes of present and future controversies by (1) providing for continued development of the water resources of Goose Lake Basin by the States of California and Oregon, and (2) prohibiting the export of water from Goose Lake Basin without consent of the legislatures of California and Oregon.

"ARTICLE II. DEFINITION OF TERMS

"As used in this compact:

"A. 'Goose Lake Basin' shall mean the drainage area of Goose Lake within the States of California and Oregon and all closed basins included in the Goose Lake drainage basin as delineated on the official map of the Goose Lake Basin which is attached to and made a part of this compact.

"B. 'Person' shall mean the States of Oregon and California, any individual and any other entity, public or private.

"C. 'Water', 'waters' or 'water resources' shall mean any water appearing on the surface of the ground in streams, lakes, or otherwise, and any water beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of Goose Lake Basin.

"ARTICLE III. DISTRIBUTION AND USE OF WATER

"A. There are hereby recognized vested rights to the use of water originating in Goose Lake Basin existing as of the effective date of this compact and established under the laws of California and Oregon.

"B. Except as provided in this Article, this compact shall not be construed as affecting or interfering with appropriation under the laws of California and Oregon of unappropriated waters of Goose Lake Basin for use within the basin.

"C. Export of water from Goose Lake Basin for use outside the basin without prior consent of both State legislatures is prohibited.

"D. Each State hereby grants the right for a person to construct, and operate facilities for the measurement, diversion, storage, and conveyance of water from the Goose Lake Basin in one State for use within the basin in the other State, providing the right to such use is secured by appropriation under the general laws administered by the Water Resources Director of the State of Oregon or the Water Rights Board of California and the laws of the State from which the water is to be taken shall control.

"E. Should any facilities be constructed in one State to implement use of water in the other State, the construction, operation, repairs and replacements of such facilities shall be subject to the laws of the State in which the facilities are constructed.

"ARTICLE IV. ADMINISTRATION

"No commission or administrative body is necessary to administer this compact.

"ARTICLE V. TERMINATION

"This compact may be terminated at any time by consent of the legislatures of California and Oregon and upon such termination all rights then established hereunder shall continue unimpaired.

"ARTICLE VI. GENERAL PROVISIONS

"Nothing in this compact shall be construed to limit, or prevent any State from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction thereof for the protection of any right under this compact or the enforcement of any of its provisions.

"ARTICLE VII. RATIFICATION

"A. This compact shall become operative when ratified by the legislatures of California and Oregon and consented to by the Congress of the United States.

"B. This compact shall remain in full force and effect until amended in the same manner as is required for it to be ratified to become operative or until terminated.

"C. A copy of any proposed amendments to or termination of this compact shall be filed with the Board of Supervisors of Modoc County, California, and the County Court of Lake County, Oregon, at least 30 days prior to any legislative consideration by the legislatures of the States of California and Oregon.

"ARTICLE VIII. FEDERAL RIGHTS

"Nothing in this compact shall be deemed:

"A. To impair or affect the existing rights or powers of the United States of America, its agencies, or instrumentalities, in and to the use of the waters of the Goose Lake Basin nor its capacity to acquire rights in and to the use of said waters.

"B. To subject any property of the United States of America, its agencies or instrumentalities, to taxation by any State or subdivision thereof, nor to create an obligation on the part of the United States of America, its agencies or instrumentalities by reason of the acquisition, construction or operation of any property or works of whatsoever kind, to make any payments to any State or political subdivision thereof, State agency, municipality or entity, whatsoever in reimbursement for the loss of taxes.

"C. To subject any property of the United States of America, its agencies or instrumentalities, to the laws of any State to any extent other than the extent to which these laws would apply without regard to the compact.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. **KAZEN**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## WATER QUALITY RENEWAL ACT OF 1984

The **SPEAKER** pro tempore. Pursuant to House Resolution 522 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3282.

□ 1500

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3282) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, with Mr. SWIFT in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes and the gentleman from Minnesota [Mr. STANGELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. **ROE**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure for me to bring to the floor the bill H.R. 3282, the Water Quality Renewal Act of 1984. This bill is the result of an enormous amount of effort on the part of the Subcommittee on Water Resources and the full committee, as well as by Chairman HOWARD who has been and is working diligently to develop legislation which is environmentally sound and can be enacted into law. I would like to take this opportunity to thank him for his leadership and dedication, and to acknowledge the most helpful cooperation of the ranking minority member of the subcommittee, Congressman ARLAN STANGELAND, and of course, the ranking minority member of the full committee, Congressman GENE SNYDER.

This bill contains a number of provisions designed to improve the Federal Water Pollution Control Program. The bill continues through fiscal year 1988 authorizations at existing levels for a number of programs in the Water Pollution Control Act, including research activities, training of personnel, forecasting the supply of and demand for occupational categories needed in the water pollution control field, grants to State and interstate agencies to assist in administering programs for water pollution control, grants to educational institutions for programs to train personnel in the operation of water pollution control facilities, grants under section 208 for developing and operating areawide waste treatment management planning processes, grants for the Rural Clean Water Program, the Clean Lakes Program, and the General Administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

The authorization level for the construction grants program is increased from its present level of $2.4 billion per fiscal year to $2.9 billion for fiscal year 1985, and $3.4 billion per year for fiscal years 1986, 1987, and 1988. The Construction Grants Program which provides Federal assistance for the construction of publicly owned sewage treatment plants is presently authorized at a totally inadequate level of $2.4 billion per year. As a result, municipalities are falling further behind in their attempts to meet the requirements of the act. Our bill addresses this problem in three respects. First, our bill increases the Federal share after fiscal year 1984 from 55 to 65 percent. The existing Federal share which was established at 75 percent is scheduled to drop to 55 percent next fiscal year pursuant to the 1981 amendments to the act. Second, we increase the authorization for the Construction Grants Program as previously described; and, third, we establish a new grant program to be used by the States to establish water pollution control revolving funds. These revolving funds may be used by the States to make low interest loans, subsidize bonds and the like in order to further assist local communities in the construction of sewage treatment works. These new levels of authorization are the absolute minimum required if we are to meet the goals of the act for clean water.

Other major provisions of the bill include the following. A program to encourage and assist States in the control of nonpoint sources of water pollution is established. Approximately 50 percent of the pollution entering our Nation's water comes from nonpoint sources. In order to achieve adequate water quality it is absolutely essential that we begin to address the very serious problem of nonpoint sources of pollution.

A new section is added to the Federal Water Pollution Control Act, to provide for nonpoint source control implementation programs. The Governor of each State must submit to the Administrator for his approval a plan which the State proposes to implement, in the first 4 fiscal years beginning after the date of submission of the plan, for controlling pollution from nonpoint sources. The new section provides for grants to States with approved plans for the purpose of assisting the States in implementing the plans. The Federal share of the cost of the plan shall not exceed 50 percent of the cost incurred by the States. However, where the Administrator determines that a significant number of non-Federal, non-State interests in a watershed area are willing and able to enter into agreements to participate in nonpoint source pollution control measures, the grant shall be not less than 50 percent and not more than 60 percent.

The bill contains a number of amendments to section 314 of the Federal Water Pollution Control Act, which establishes a grant assistance program to improve the water quality of lakes. The Clean Lakes Program is made applicable to saline, as well as freshwater lakes. The Administrator is authorized to make grants to States for priority projects for control of nonpoint sources of pollution which are contributing to the degradation of water quality in lakes. The amount granted to the State for such a project shall not exceed 70 percent of the cost of the project. There is authorized to be appropriated not to exceed $100 million per year for the fiscal years 1985 through 1989 for these purposes. Also, grants are authorized for restoration of water quality in lakes and other waters in States which have deteriorated because of high acidity. The amount granted to any State for any fiscal year shall not exceed 80 percent of the funds expended by the State in that year.

There is a provision for the development and implementation of individual control strategies to achieve compliance with applicable water quality standards where it is determined that such compliance will not result from the application of best available technology and best conventional technology.

The maximum amount of a civil penalty for violating certain provisions of the act is increased from $10,000 per day to $20,000 per day.

A provision is added to the act to provide that dischargers or individuals who knowingly violate or cause the violation of certain of the act's requirements will be subject to criminal penalties of up to $50,000 per day and/or imprisonment for up to 2 years. Also, the assessment of administrative penalties is authorized for violations of the act. These are designed to substantially increase EPA's enforcement capability to ensure compliance with the act.

Other provisions include:

A requirement that the Administrator, before approving sewage treatment construction grants for any project, determine that any required areawide waste treatment management plan under section 208 is being implemented for such area and the proposed treatment works are included in such plan or that reasonable progress toward implementation is being made.

A direction to the States to allocate at least 50 percent of the amount granted to the State for planning purposes to comprehensive planning organizations in the State, except in any fiscal year for which the Administrator and Governor of any State determine jointly that allocation of at least 50 percent to such organizations will not substantially assist in achieving the goals of the act.

Mr. Chairman, I believe that H.R. 3282 is a sound bill. I recognize, however, that not all interested parties agree with this assessment. I, therefore, join with the chairman in assuring that we will continue our efforts to develop floor amendments designed to ameliorate the difficulties which have arisen since the bill was ordered reported.

I urge passage of the bill.

I would say to my colleagues who are here today that what we are attempting to do today is have our general debate on this most important legislation, and then we will move from there at another time to go into the amendments that are going to be added.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume. Mr. Chairman, I am pleased to rise in support of H.R. 3282, the Water Quality Renewal Act of 1984, as reported by the Committee on Public Works and Transportation. This legislation is the result of extensive hearings and concentrated efforts by many Members. The committee had the benefit of information presented by 184 witnesses in 15 days of hearings during the 98th Congress, as well as additional hearings during the 97th Congress. These witnesses included Members of Congress, representatives of State and local governments, industry and environmental organizations, and other interested individuals and organizations.

The chairman of our Public Works Committee, the gentleman from New Jersey [Mr. HOWARD], is to be complimented on the encouragement and leadership that he has once again shown with respect to H.R. 3282. Special recognition is warranted for the chairman of our Subcommittee on Water Resources, the gentleman from New Jersey [Mr. ROE]. The ranking minority member, the gentleman from Kentucky [Mr. SNYDER], has been exceptionally interested and active as well. These legislators have done a remarkably commendable job in researching the issues and crafting the provisions of H.R. 3282.

Mr. Chairman, this bill represents a bipartisan effort to fashion a strong, efficient, balanced approach to ensuring cleaner water for all Americans. H.R. 3282 continues existing programs of the Federal Water Pollution Control Act. It also establishes new important programs which will help meet the goals of the act in a rational, feasible way.

The existing water pollution control program stems from the complete rewrite of earlier law that was incorporated into the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500. The 1972 act had as its goal to reduce and ultimately eliminate the discharge of pollutants from municipal sewage systems, industrial plants, and other sources into the Nation's waters. Important changes in the law were enacted in 1977. These so-called midcourse corrections included additional authorizations for the construction grants program and the establishment of a program for encouraging innovative and alternative approaches to wastewater treatment. Other significant changes to the 1972 act occurred in the 1981 amendments, which related primarily to the construction grants program.

Under the Federal Water Pollution Control Act, the U.S. Environemntal Protection Agency [EPA] is required to establish water quality criteria, technology-based effluent limitation guidelines, pretreatment standards, new source performance standards and a national permit program to regulate the discharge of pollutants. A grant program for construction of publicly owned treatment works provides the carrot for communities to reach the levels of treatment mandated in the law.

States are given the responsibility for developing water quality management programs and for setting water quality standards. The act's technology based limitations prescribe minimum standards of performance for municipal and industrial discharges without regard to the quality of receiving waters. Water quality standards, by contrast, identify intended uses of particular water bodies and, on the basis of water quality criteria guidance developed by EPA, set forth the biological and chemical conditions necessarly to sustain those uses.

Under the act, direct dischargers of pollutants are classified as either point or nonpoint sources. To deal with point sources, the Clean Water Act provides for the national pollutant discharge elimination system [NPDES] which incorporates and applies effluent limitations in individual permits to both municipal and direct industrial dischargers. Under these permits, dischargers are subject to both technology-based treatment requirements and, where necessary to protect a designated use, additional controls based on water quality standards.

Technology-based standards also deal, in part, with pretreatment of industrial wastes from facilities that discharge into municipal sewer systems instead of directly into a particular water body. These facilities are referred to as indirect dischargers. To prevent certain toxic pollutants in these dischargers' waste effluent from passing through a municipal treatment works insufficiently treated or from interfering with the operation of the treatment works, technology-based effluent pretreatment limitations are applied. Delays in getting this program in place and the potential negative impact on already well-performing local pretreatment programs have been continuing problems.

Technology-based does not mean that the Agency prescribes the technology that must be used. Rather, EPA reviews the various treatment techniques presently in use or available in each industrial sector to determine what limitations are achievable using available methods. Once EPA adopts effluent limitations for a particular industry, each discharger can use any method it chooses to achieve these limitations. In practice, however, the range of choice is limited by the availability of technology and its effectiveness in removing pollutants.

The 1972 amendments to the act directed EPA to establish a minimum level of technology-based standards for publicly owned treatment works [POTW's] based on secondary treatment as defined by the Agency, and to establish best practicable technology currently available [BPT] standards for industrial categories. Both are uniform national standards and originally had a compliance date of July 1, 1977. Under the 1972 amendments, EPA was also directed to establish a second level of control standards for industrial categories, based on best available technology economically achievable [BAT], to be complied with by July 1, 1983.

The 1972 amendments' control strategy for toxic pollutants required EPA to develop pollutant-specific effluent standards to be applied to all industrial categories regardless of technological or economic achievability. These effluent standards for toxic pollutants were to be based on the nature of the pollutant rather than on the technologies available to treat those pollutants. The 1972 act instructed EPA to, first, identify toxic pollutants, and then to issue effluent standards for those pollutants.

The act's initial provisions for the development of toxic pollutant standards proved to be cumbersome and time consuming. During the 5-year period immediately following passage of the 1972 amendments, EPA only managed to produce effluent standards for six toxic pollutant standards. The Agency was sued by several citizen groups and, as a result of the suit, a consent decree, commonly referred to as the NRDC consent decree, was entered in June 1976.

In 1977, Congress passed amendments to Public Law 92-500 in the form of the Clean Water Act Amendments of 1977. The 1977 act codified many of the provisions of the 1976 decree. It classified types of pollutants into conventional pollutants, toxic pollutants, and nonconventional pollutants. Conventional pollutants include those traditionally controlled by wastewater treatment systems, including biochemical oxygen demand [BOD], oil and grease, suspended solids, pH, and fecal coliform. Toxic pollutants include the 65 pollutants and categories of pollutants identified in the NRDC consent decree and section 307(a) of the act. Further subcategories of this number have brought the total to 129 pollutants. Nonconventional pollutants is a catchall category which includes pollutants not otherwise designated, such as phosphorus, nitrogen, and ammonia.

New compliance deadlines were also established under the 1977 amendments. BAT for priority toxic pollutants and BCT for conventional pollutants were required to be achieved by all industrial direct dischargers by July 1, 1984. BAT for nonconventional pollutants was to be achieved no later than July 1, 1987, with the possibility of environmental waivers under certain circumstances.

The construction grants amendments of 1981 significantly modified the program for Federal funding of sewage treatment plants that had been in the act since 1972. In 1981, annual funding for the program was reduced from $5 billion per year to $2.4 billion per year. What has been 75 percent Federal funding reduces to 55 percent in October 1984, and certain categories eligible for funding, such as collector sewers, will be funded only if a Governor chooses to do so under a 20-percent discretionary authority.

The bill to be considered today by the House, H.R. 3282, builds on this background, making changes where needed and reinforcing parts of the act so that it can function more efficiently toward our real goal: The highest practicable instream water quality throughout the Nation that can be met for the many needs of the American people.

The Clean Water Act, now being reauthorized and amended, has been successful, but it can be made more effective. The act has significantly improved the control of discharges of pollutants into our Nation's waters. It is leading to the cleanup of some of our most polluted waterways, including the St. Louis River in Minnesota, the Potomac River, and the Hudson River. Still, inadequacies of the Clean Water Act have become evident. The program has enabled fish to return to various rivers, but the fish are sometimes too contaminated to eat. It has kept the Nation's waterways from getting any more polluted, despite substantial growth in industry and population. This is a significant accomplishment, but the fact remains that overall water quality has not improved in the last 12 years as much as we would like.

The program has not performed as well as hoped for numerous reasons. These include uncertainties in funding, delays in promulgation of effluent standards for industrial discharges, and lack of detailed information on causes of some instream water quality problems.

Some of the problems relate to the current Clean Water Act. The failure to control nonpoint sources of pollution is one example. It is estimated that over half the pollution entering the Nation's waterways is from nonpoint sources such as construction activities, agriculture, and runoff from streets. Unfortunately, the nonpoint-source situation has not improved much since 1972. Since 1974, nearly half a million dollars has been spent on studies and projects, particularly in the section 208 program of the act, but the problem remains. The costs to society are high. The Nation is losing both productivity and nutrients from its land. The situation demands responsible legislation. H.R. 3282 can help solve our nonpoint-source clean water problems, and it can be done in a way that provides incentives to, not regulation of, our important agricultural and other activities.

Generally, H.R. 3282 provides for an increase in the total authorization for construction grants and a separate grant system to enable States to create revolving funds to help their communities construct needed sewage treatment plants. The bill also make eligible for grant assistance combined sewer overflow projects and collector sewers. It increases the Federal share for the construction of publicly owned treatment works to 65 percent. It also extends the compliance dates for achieving the best-available technology and best-conventional technology requirements of the act. This reflects the delays which have occurred in the promulgation of the effluent limitations. The bill is strict enough to maintain a strong program, while remaining flexible enough to allow necessary adjustments and permit the Environmental Protection Agency to carry out its provisions in a manageable fashion.

The bill provides for, among other things:

A 5-year reauthorization of existing programs;

Revisions of some of the act's compliance deadlines;

An expanded program of grants and revolving funds for the construction of sewage treatment plants;

A new nonpoint-source-control program;

Authority for administrative penalties;

Ten-year national pollutant discharge elimination system [NPDES] permits and partial program delegation to the States;

Continued eligibility for combined sewer overflows [CSO's] and collector systems;

Required passthrough of 205(j) grants to substate planning organizations;

A one-quarter of 1 percent set-aside for investigation and auditing activities within the construction grants program; and

Several site-specific projects to deal with major problem areas.

There is one important area not covered by the legislation that I believe should be. It is that of a local alternative to the national pretreatment program. The national categorical program will be of use to the majority of communities in the United States. At the same time, there are cities that can and have developed and operated their own pretreatment programs very successfully. A job is usually done best when it is managed as close to the problem as possible. That is why we have encouraged delegation of many clean water and other programs. It is why we should do the same in the area of pretreatment. Communities, with their industries, are often much better able to manage their mutual water-quality-treatment needs.

I have considered proposing both a nationwide program and a demonstration program. The latter would allow a limited number of cities to show how well a local equivalency pretreatment option might work. In no case, however, would the local option program delay the national pretreatment program. In fact, it could speed it. There would be less opposition to proceeding with the categorical program if those with good locally controlled pretreatment programs were given a chance to act on their own.

In order to proceed, a local pretreatment program would have to control industrial discharges to avoid passthrough of pollutants, interference with its operations, and maintenance of its sludge-disposal options. The POTW also would have to be achieving secondary treatment or be on a schedule of compliance and would have to show that it has adequate funding and resources to implement the local program before being approved for operation. POTW's that are not inclined or do not have the resources to develop and maintain a local program would continue to be required to comply with the national categorical standards.

The current EPA pretreatment program, centered on national technology-based pretreatment standards, does not properly take into account whether such treatment is needed. It can result in costly, redundant treatment by industry and POTW's. In addition, the application of national standards will not appreciably reduce the number of water-quality violations, where they exist. The problems that exist are generally site specific and cannot readily be solved by uniform national standards.

Local conditions are handled best by local entities developing locally responsive programs. Locally controlled pretreatment programs would direct resources to particular problems rather than to treatment for treatment's sake. Where pollutants are removed by the POTW system, it should not be necessary for an industry discharging into the POTW to remove those same pollutants with redundant treatment.

In 1977, Congress amended the act to provide that, if a POTW were capable of removing pollutants without causing problems with its operations, industrial dischargers should be given credit for such removals. In response to this mandate, EPA developed the present removal credit regulations which were supposed to alleviate the problem of redundant treatment by POTW's and industrial dischargers. However, the regulations are so complex and restrictive that most POTW's have not applied for those removal credits. Industrial dischargers must therefore often continue to install treatment technology and meet pretreatment limits even though a POTW may remove some or all of the pollutants. Implementation of a locally controlled pretreatment program would allow for reasonable resolution of this problem. Where appropriate, the removal credit/national program would be continued. In most cases the national program will probably be used. The efficiency and savings of local control, however, make a local option program desirable in certain situations.

I want to stress that this is not a proposal promoted solely by industry. It is strongly supported by cities and sewage treatment agencies throughout the Nation. The following is quoted from a recent letter from the association of metropolitan sewerage agencies:

> An alternative pretreatment approach would expedite the implementation of effective local controls by enabling POTW's to move forward and avoid the administrative delays associated with the existing Federal program. Any such program should include stringent criteria to provide sufficient safeguards against abuse and also ensure the protection of water quality, sludge quality, and the integrity of wastewater treatment facilities.
>
> Implementation of an alternative pretreatment program would allow the EPA and State agencies to concentrate their resources on those local agencies requiring assistance in carrying out industrial pretreatment programs. Looking over the shoulders of sophisticated and experienced local agencies would only detract from this much needed effort, without any corresponding environmental benefit.
>
> Most important from our perspective, an alternative pretreatment approach would acknowledge the important contribution that local agencies have made and will continue to make to improve the quality of the Nation's waters. The managers of these agencies are indeed the front line environmentalists who bear the ultimate responsibility for protecting the health and environment. We believe it is important to acknowledge their expertise and experience, given recognition to their important status as environmental managers, and enable them to do their jobs without unnecessary Federal interference.

The U.S. Conference of Mayors favors an amendment to provide an alternative system for local pretreatment programs. As communicated to the Committee on Public Works, and Transportation, and EPA, the Conference of Mayors states:

> Cities have the technical expertise and commitment to water quality to develop standards that address the site specific circumstances of their industrial base, and would look forward to carefully and pru-

> dently implementing such a program improvement with public health as the top priority.
>
> A provision which utilizes the existing administrative pretreatment regulatory program as a foundation is a manageable way to provide an alternative approach to pretreatment of industrial wastewater and assure the maintenance of industrial wastewater and assure the maintenance of the Clean Water Act's goals and objectives.
>
> We believe that alternative local pretreatment can meet this test.

The National Leagues of Cities, too, is actively supporting such an amendment. The following is part of the league's national municipal policy adopted last year:

> Local governments should be allowed to devise methods to satisfy national standards that not only assure protection of water quality but which are also cost effective under the conditions of their particular jurisdiction. Therefore, as an alternative to federally mandated implementation of the national categorical pretreatment standards, Congress should authorize States to approve local pollutant elimination programs. To qualify for the alternative local program, a POTW should be required to demonstrate to an authorized State agency that: (1) the POTW is in compliance with the requirements of its permit under the national pollutant discharge elimination system [NPDES]; (2) it has developed and implemented a local pollutant elimination program that in the aggregate is equivalent to implementation of the national categorical pretreatment standards; and (3) it is maintaining a local monitoring and reporting program which is adequate to disclose the quality of the receiving waters.

There have been arguments made against the locally controlled programs. Some are outright incorrect. Others are not true for the pretreatment proposal that I am considering. Here are some of the arguments followed by the facts:

> (1) Numerical standards for toxic pollutants are not required by the proposal. It will increase public exposure to toxics, not provide adequate toxics protection, and allow greater discharge of toxics into sewers.

Specific numerical limits on toxic pollutants would be required. These include limits on the POTW's own discharge and on the industrial users of the POTW to assure necessary local pretreatment. The limits on the POTW are both technology-based and water quality-based. This requirement for toxic pollutant limits in the POTW permit follows a specific recommendation of the December 1980 report of the Subcommittee on Oversight and Review—now Investigations and Oversight—of our committee.

> (2) Monitoring programs and maintenance of technical, legal and administrative authority of the POTW is not required.

A rigorous monitoring program would be required for every local system obtaining the authority provided. The monitoring goes beyond current Federal law and would be specifically designed to advance the state of the art of biological monitoring and the development of toxicity data for receiving streams and additional limits for inclusion in the POTW's permit. Adequate technical, legal, and administrative resources are necessary components of an acceptable application. Failure to maintain those resources would be a cause for rescission or modification of the local program authority.

> (3) The proposal will increase pressure on localities to set weaker local pretreatment standards and let industry get away with those weaker local limits.

Because this proposal would apply toxics limits in the POTW's own discharge permit, the POTW will have the greatest incentive to set and maintain strong local pretreatment standards. The major reason for this proposal is that many POTW's across this country have strong local pretreatment programs that should not have to be redesigned to accommodate the Federal categorical standards.

> (4) The proposal would eliminate present enforcement authority against industrial users of POTWs authorized to implement the alternative local system. This lack of enforcement authority includes EPA and citizens.

The proposal would not eliminate any existing enforcement authority. Both the local and State governments have complete enforcement authority over industrial users of a POTW through the requirements of this proposal and through the existing provisions of the act. Federal and citizen enforcement is available through section 309(f), 505 (a) and (f), section 307(d) and EPA's general pretreatment regulations.

> (5) The proposal will create delays in the Federal categorical pretreatment program, allow indefinite delay in localities applying under the proposal so long as their application is incomplete, and prove unworkable administratively.

The proposal would avoid any prospect for delay. Decisions on applications are made by the existing discharge permit officials so as not to impose any administrative burdens on EPA personnel responsible for the categorical pretreatment regulations. Once a complete application for local program authority is filed, a stay of the applicability of the Federal categorical standards is granted until final decision on the application. However, if the application is denied, each industrial user covered by the application must achieve compliance with the Federal categorical pretreatment standards within the time originally allowed for compliance with those standards. In effect, there would be a stay of enforcement only during the processing period for the application. Processing would be required to be completed within 120 days of submission of complete application. A POTW applicant with an incomplete application can obtain one additional 120-day period to complete the application. A stay during this extension may be, but is not required to be, granted by the authority.

> (6) This proposal was rejected by the Senate Environment and Public Works Committee.

This proposal was never considered by the Senate Environment and Public Works Committee. Indeed the Senate committee never voted on any locally controlled pretreatment proposal. A similar provision, in fact, is likely to be considered on the floor of the Senate.

> (7) The current EPA removal credits regulations will provide POTW's and their industrial users with adequate flexibility.

The EPA removal credits program has not been successful to date. The complexity of the regulations is amazing. There are so many interconnections, stipulations, data development requirements, and conditions to be satisfied in an application that very few POTW's have even seriously considered making an application. The operators of good local POTW's have said that the removal credits program is an empty EPA regulatory promise.

> (8) There is not adequate knowledge to decide when "something less" than technology-based standards is adequate because there are few water quality criteria for toxics and virtually no sludge disposal standards for toxics.

The proposal recognizes that water quality considerations cannot be the sole basis for determining whether a POTW system and its local pretreatment program will adequately protect water quality in the stream to which the POTW discharges. For this reason my amendment would include two important provisions. First, when an application is granted, the permit authority must modify the POTW's discharge permit to include technology-based effluent limits at least as stringent as the most stringent direct discharge standards on industrials for each pollutant included in the alternative program authorization. Second, it includes a mandatory monitoring program to develop data on receiving water quality effects of any residual pollutants after these technology-based limits are met. These data are then used to develop and impose water quality-based limits on the POTW and through its pretreatment program on its industrial users.

Sludge use or disposal is recognized under the Clean Water Act, section 405(e), to be a matter for local determination. Once EPA publishes guidelines on the use and disposal of sludge, a POTW must use for dispose of its sludge in accordance with those guidelines. Unfortunately, EPA has not published section 405(d) guidelines as yet. Consequently, States and local governments have had to establish their own guidelines and standards concerning sludge use and disposal.

These State and local requirements have, of course, been established and implemented by POTW's for several years. But EPA's tardiness in publishing section 405 guidelines does not mean that there is no Federal information available to the States and local governments on the proper use and disposal of sewage sludge. In fact, there are numerous Federal regulations, guidelines, and documents on the safe use and disposal of sewage sludge.

Of course, as section 405 guidelines are developed by EPA they will apply to all POTW's including those POTW's which have obtained authority to implement their own local pretreatment programs under this approach.

(9) The EPA pretreatment implementation review task force will "iron out" problems with the pretreatment program, making this proposal unnecessary.

This task force has specifically rejected consideration of any legislative changes as part of its agenda, including any consideration of this proposal. Whatever problems the task force irons out with pretreatment, it will not consider mechanisms to allow well-run local POTW's with effective local pretreatment programs to implement their programs as an alternative to the Federal categorical pretreatment program. The task force has the potential to help carry out the national program, and EPA should, as a start, consider early action on the task force's June 12 interim report recommendations. None of this, however, removes the need for an alternative, locally run, program.

Mr. Chairman, there are several provisions which were included in the bill as ordered reported on May 10 but which were deleted after the committee's June 6 reconsideration of H.R. 3282. A number of jurisdictional questions were raised by the Committees on Merchant Marine and Fisheries and Science and Technology. Attempts to resolve these issues informally were not successful. Because of the urgency in assuring that this bill reach the floor, as it has now done, the committee reconsidered H.R. 3282 on June 6 and removed all of the provisions about which questions had been raised. The committee took this action without in any way agreeing to the jurisdictional claims of the two other committees. In fact, we did not discuss these claims with the parliamentarian, and the Public Works Committee disagrees with the two committees' claims. We took this action solely to expedite action on this legislation, and we intend to add these provisions to the bill through the amendment process on the floor.

The provisions deleted include the following:

Discharges into marine waters. This section added a number of new requirements to be met by publicly owned treatment works applying to receive the NPDES permit modification authorized by section 301(h) of the Federal Water Pollution Control Act;

Maintenance of water quality in estuaries. This section authorized the Administrator to convene management conferences to protect the quality of water in estuaries;

Research on effects of pollutants. This section amended section 104(c) of the Federal Water Pollution Control Act to require the Administrator to conduct research on the harmful effects on the health and welfare of persons caused by water pollution;

Chesapeake and Narragansett Bays; New York and New Jersey Harbors; Great Lakes study. This section provided new authority to the Administrator to address water pollution control needs in the Chesapeake and Narragansett Bays and New York and New Jersey Harbor area and authorized the Administrator to conduct a Great Lakes consumptive use study;

Application for ocean discharge modifications. This section provided new authority for a publicly owned treatment works to make application to receive a section 301(h) ocean discharge modification;

Clean lakes—lake liming demonstration. This section directed the Administrator to carry out a demonstration program to restore acidified lakes and watersheds through liming;

Great Lakes International Coordination Office. This section authorized the establishment of a new Great Lakes International Coordination Office to provide focused and priority attention to addressing Great Lakes water pollution control needs; and

Conforming amendments. Various conforming amendments were made to reflect the deletion of the above sections.

Mr. Chairman, some of the provisions in the bill are being attacked as not in keeping with reaching clean water goals. Some changes in the legislation may be warranted to clarify the purposes. After all, no bill or law is so perfect that it cannot be improved. However, I am very disturbed that blatant misstatements are being made about some of the bill's provisions.

I am convinced that the challenges to many provisions would delay cleanup, provide inequitable treatment, and make the programs of the act less workable. As an example, I cite the attack on the 10-year permit provision. The NPDES permits are a cornerstone to the act. They are issued to every direct discharger and contain the limits on what can be discharged. The act now calls for a 5-year limit on each permit. Of the tens of thousands of permits, the vast majority are totally noncontroversial. Still, it takes a great deal of administrative review to reissue the permits. With most first-round permits expiring, a backlog of tens of thousands of nonissued permits is diverting attention from the major permits. Extending the permits to 10 years will help relieve the amount of time needed in the future. The 5-year permits can be reopened at the discretion of the Administrator for many reasons. Also, despite the fact that it is not required in the law, the EPA has, in its regulations, a mandatory reopener for changes in toxic effluent guidelines. H.R. 3282 incorporated in the statute for the first time, such a mandatory reopener for the 10-year permits as well.

Why will eliminating 10-year permits hurt water quality? There are thousands of permits that are not being issued. Having them in place is the best way to achieve clean water. The Agency needs to have its personnel devote their time to getting the best, enforceable permits for the largest, most potentially problem industrial and municipal treatment plant discharges. A 10-year permit with the ability to reopen the permit when needed will lead to better management, better enforcement, and better water quality.

Another provision related to conventional, nontoxic constituents is a restatement of existing policy. It has been grossly misrepresented. It does not eliminate pretreatment by industry. Instead, it encourages municipalities to correct operational or other problems caused by that municipality's plant.

I ask all Members to not be misled by misrepresentations. The legislation was developed with one view in mind—to carry on the Federal Water Pollution Control Act by the best, most effective means possible to continue restoring our Nation's water quality.

Mr. Chairman, H.R. 3282 is a vital and greatly needed bill. I can honestly say that this major environmental legislation is crucial to the districts of each and every Member of Congress and that each of us should vote for its passage. We must protect the future of the Clean Water Act. We must strengthen the Clean Water Act. We must finish the job we began 12 years ago.

Mr. ROE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Chairman, I am a cosponsor of H.R. 3282 and a strong supporter of many of the provisions of this bill which will advance our efforts to clean up the Nation's waters. As a matter of policy, authorizing legislation to extend the Clean Water Act provides essential continuity for our pollution control programs and reiterates the commitment of Congress to the essential goal of fishable, swimmable, pollution-free water. Many of the programs and general authorizations contained in the original act have lapsed since 1982, and we have been operating without a regular authorization since that time.

Aside from reauthorizing pollution control programs, the bill before us contains several important new initiatives. Among the most important items are funding increases for the EPA Construction Grants Program and a new State Loan Program to assist in the construction of sewage treatment facilities. The bill also creates a valuable new grant program for the States to control nonpoint pollution from rural and urban runoff. We also provide for targeted efforts to clean up pollution in the Chesapeake Bay and other bays and estuaries.

I was disappointed that some of the most forceful environmental provisions contained in the original version of H.R. 3282, such as codification of strong water quality standards, were stripped from the bill during committee consideration. I was further concerned that some of the additions made to the legislation during committee proceedings may have the effect of delaying the enforcement of, or even weakening, existing environmental protection law and regulations. Among the most problematic of these provisions are: A liberal extension—from 5 to 10 years—of the discharge permits issued under our national program to control industrial pollution; an extension of pollution control compliance deadlines for the electroplating industry which discharges over 50 million pounds of toxic chemicals and metals each year; and a loophole in existing law which could allow mining companies to reopen abandoned mines without stringent pollution control measures. I was also discouraged that the committee saw fit to grant variances of normal pollution control requirements for two pulpmills in Alaska, contrary to the decisions and requirements of the EPA.

Granting delays, variances, and waivers for specific industries and firms is bad policy in general. In making such exceptions we are inviting other industries and individuals to come to Congress and ask for further weakening of the critical provisions of the Clean Water Act and the regulations put in force to enforce the act. Congress knew that the goals of the act would be difficult to achieve when the law was enacted, but Congress also realized that the long-term consequences of poisoning the environment and destroying our natural resources are even more costly. Citizens, industries, and Government have all made important efforts to adjust to the far-sighted requirements of care for the environment. Yet, it will be difficult to sustain our progress in cleaning up our water if Congress is seen as backing down from some of the most difficult tasks or granting unfair relief from certain regulations.

We all realize that it is sometimes necessary to make adjustments in ongoing programs and regulations, but once we find the appropriate requirements and deadlines for enforcement, we must stick to them and get on with the business of cleaning up the water.

Mr. Chairman, there are some vital improvements to the bill, as reported, which must be made on the House floor during the amendment process. I have already been involved in discussions with the committee leadership and other members of the committee to find acceptable ways of improving the bill. We have reached some understanding on issues such as the mining provision, and I believe it is possible to agree on provisions which will take care of a number of other issues. There are also two additions to the bill which I would like to make in the form of amendments. I intend to offer an amendment which would create a national commission to deal with the Nation's ground water problems, and I will also offer an amendment to provide for some assistance to sewage agencies around the country in dealing with disposal and use of sewage sludge.

I am aware that the chairman of the committee is preparing a substitute amendment for the bill which hopefully will put to rest some of the controversy surrounding certain provisions of H.R. 3282. I should also point out that a number of other members have expressed interest in certain provisions. Our colleague from Minnesota, Mr. OBERSTAR, has prepared a substitute which comprehensively deals with the concerns of many people in the environmental community. I am confident that there will be a full debate of the environmental concerns when we consider amendments to the bill.

I believe that all the Members of the House want to produce a responsible Clean Water Act reauthorization which preserves and strengthens our commitment to tough measures to clean up pollution. Those of us with concerns on the legislation are continuing to communicate with the committee leadership in order to solve the remaining problems. I believe these problems can be resolved so that we can pass this major piece of environmental legislation in the 98th Congress.

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Mr. STANGELAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I am pleased to rise today in support of H.R. 3282, the Water Quality Renewal Act of 1984.

The history of the Federal Water Pollution Control Act, particularly since 1972, has been one of substantial progress in meeting the water quality goals of our Nation. A combination of regulatory and funding mechanisms has led to widespread industrial and municipal construction of wastewater treatment facilities. These efforts, together with other special progams in the law, continue to improve the Nation's water quality.

The amendments in H.R. 3282 are a result of a great deal of work, especially on the part of our Public Works Committee chairman, the gentleman from New Jersey, Congressman HOWARD. He has striven to assure the strongest environmental bill possible, consistent with real-world needs. The leadership of our committee's ranking Republican, the gentleman from Kentucky, Congressman SNYDER, as well as that of the Water Resources Subcommittee chairman, Congressman ROE, and his ranking counterpart, Congressman STANGELAND, has also been noteworthy.

H.R. 3282 continues numerous existing programs and establishes some creative and needed new programs. In summary, the bill provides for, among other things:

A 5-year reauthorization of existing programs;

Revisions of some of the act's compliance deadlines;

An expanded program of grants and revolving funds for the construction of sewage treatment plants;

A new Non-Point Source Control Program;

Authority for administrative penalties;

Ten-year national pollutant discharge elimination system [NPDES] permits and partial program delegation to the States;

Continued eligibility for combined sewer overflows [CSO's] and collector systems;

Required passthrough of 205(j) grants to substate planning organizations;

A one-quarter of 1 percent set-aside for investigation and auditing activities within the Construction Grants Program; and

Several site-specific projects to deal with major problem areas.

One of H.R. 3282's most innovative proposals is the bill's authorization of a new revolving fund program through which a State will be able to provide financing assistance to its political subdivisions and, upon repayment, be able to use that money again to construct needed pollution-control facilities. These funds can be used for loans, guarantees, interest subsidies, and other nongrant purposes. Under this new authority, many more communities will receive funding for construction of needed wastewater treatment facilities. Many communities throughout the Nation have waited in vain for Federal funding, being too far down on the State's priority list, and this new revolving fund program is designed to help those communities meet the act's 1988 deadline.

Mr. Chairman, among its many noteworthy provisions, H.R. 3282 contains two new authorities that should be highlighted. Section 24(c), among other things, directs the Administrator of the Environmental Protection Agency, in cooperation with the U.S. Army Corps of Engineers, to conduct a comprehensive 1-year study of Beaver Lake, AR, in order to identify measures to optimize the use and quality of the lake's waters. The provision also directs the Administrator, upon completion of his study, to conduct a demonstration project at Beaver Lake to determine the effectiveness of measures designed to preserve and enhance the quality of the lake's water for current and future users. Section 24(c) Beaver Lake language is designed to protect one of northwest Arkansas' most important sources of drinking water, and I am strongly supportive of this provision.

A second provision in the bill which is of great importance to me and the people of Arkansas is H.R. 3282's section 25(c), which amends the Federal Water Pollution Control Act to authorize partial delegation to the States of the act's NPDES Program. This provision is designed to increase individual States' NPDES Program implementation activities, particularly those of the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. It is a provision which I believe will expedite achievement of the act's water quality goals and I compliment the committee for recognizing its importance and including it in the Water Quality Renewal Act of 1984.

Mr. Chairman, there are numerous other important water quality provisions in the bill before us today which are deserving of mention but which time will not permit us to discuss in detail. Some of those have been highlighted by the Members who have preceded me and others will be described after I conclude. Allow me, in summary, to indicate my strong support for H.R. 3282 and my desire to see this bill pass quickly and overwhelmingly here in the House.

Mr. ROE. Mr. Chairman, I yield 4 minutes to the honorable gentleman from Arizona [Mr. McNulty].

Mr. McNULTY. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to take this opportunity to thank the chairman and his good staff for their efforts in getting this bill out and before us today. This legislation presents a careful balancing of interests, certainly. I am particularly impressed with the range of water-quality issues that are addressed in this bill.

Probably one of the more important sections of the bill is that which is dedicated to non-point-source-control programs. I agree that pollution from nonpoint sources is our biggest obstacle in realizing the goals of the Clean Water Act. We have made major strides in controlling point sources of pollution—those coming from municipal waste water-treatment plants and from industry. There has been no comparable program for runoff, or nonpoint pollution. The committee bill before us today would provide for such a program.

Pollution from nonpoint sources represents a serious threat to the integrity of our waters. The total economic costs of sediment and pollutants associated with erosion may amount to as much as $3 billion per year, for water treatment and dredging, in damages to fisheries and recreation, in lost reservoir capacity, and many other resources. Nonpoint sources carry not only sediment and excess nutrients, but pesticides and other toxics from construction and street runoff and other sources. This is a serious problem in urban areas as well as rural areas.

Without a doubt, the biggest water-quality problem we face in Arizona is ground-water contamination. Further, our ground water is being contaminated to a large degree by nonpoint-source pollution. Metropolitan Tucson, with a population of 550,000 people, is one of the largest cities in the country that is entirely dependent on ground water for its water supply. Recently, however, trichloroethylene [TCE] contamination of ground water has been found in Tucson and Greater Phoenix. Our situation in Tuscon is particularly severe; the quantities of TCE in our aquifer are large and the potential for spreading is very real. Given the fact that Tucson is solely dependent upon ground water for its municipal supply—we are in trouble.

Mr. Chairman, we in Tucson are far from being the only area that is concerned about the protection of sole-source aquifers. EPA defines a sole-source aquifer as one that supplies 50 percent or more of the drinking water for area. Now, there are 17 sole-source aquifers in 12 States and they are located beneath all or parts of 49 congressional districts. This designation, however, does not provide enough protection for these special aquifers. In an effort to identify the water-quality problems that these special aquifers are threatened with, I intend to offer an amendment to this bill that would authorize the Administrator of EPA to conduct five studies of particular sole-source aquifers. The studies are to identify existing and potential point and nonpoint sources of ground water degradation and to develop management plans to improve ground water quality in the sole or principal source aquifer.

In closing, I salute Mr. Roe for directing this major environmental effort and I thank Mr. Oberstar for developing the strong and well-advised non-point-source control scheme that the committee has adopted here in this measure.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no further requests for time, but before I yield my time back, I want to commend those who participated in the debate today, particularly Mr. Hammerschmidt of Arkansas, who preceded me as the ranking member on Water Resources, for his diligence and hard work in the past and also in helping to craft this legislation.

I would also commend my friend from Pennsylvania, [Mr. Edgar]. I think the Public Works and Transportation Committee has brought a good clean-water bill to the floor of the House. However, as the gentleman from Pennsylvania points out, the leadership of the committee and the subcommittee went to the Committee on Rules, requested an open rule, and Rules was kind enough to approve that open-rule request that the House passed last Friday. So, while I believe we have an excellent piece of legislation before us, the House will have the privilege and the opportunity to work its will in passing this legislation.

I just want to say that it is extremely critical that we act on this legislation and we will be going into the amendment process in a very short time. It is important to pass this legislation prior to the Fourth of July break, so that we can move on and assure that we have a reasonably decent chance of getting this bill passed into law before this Congress adjourns.

With that, Mr. Chairman, I yield back the balance of my time.

Mr. ROE. I yield myself such time as I may consume.

Mr. Chairman, I want to take a minute to express my great regard for Arlan Stangeland, our Congressman from Minnesota, who is our ranking Member, who has done an extraordinary job on this bill. I want to commend Mr. Edgar of Pennsylvania, who has been a real leader in the field of water quality and cleaning up the pollution of the waters in our Nation.

I also want to commend Mr. McNulty, who spoke so well in reference to his non-point-source contribution to this legislation and I think they all have made a great contribution to the overall intent of what we are trying to do here in Congress.

I join with the gentleman from Minnesota in some of his comments. We have asked for an open rule, giving everyone an opportunity to be able to be heard on this vitally important legislation, and we will take up those areas where we may have some differences of opinion when we get to the point of considering amendments.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 3282, the Water Quality Renewal Act of 1984. I wish to commend the chairman of the House Public Works and Transportation Committee, JAMES HOWARD, and Mr. ROBERT ROE, chairman of the Subcommittee on Water Resources, for their diligence, leadership, and expertise in bringing this legislation to the House floor.

The bill we are debating today is crucial in maintaining the national program of support for construction and maintenance of sewage treatment plants in Puerto Rico and throughout the rest of the Nation. I commend the gentlemen from New Jersey for shaping this important legislation, and in playing their leadership role in attempting to maintain the role of the Environmental Protection Agency in helping our environment.

Mr. Chairman, H.R. 3282 increases the annual authorization for municipal sewage treatment plant construction grants to $2.9 billion in fiscal year 1985, and $3.4 billion for 3 consecutive fiscal years thereafter. This section of the legislation also sets the Federal share of funding for treatment plants at 65 percent of construction costs, a reasonable compromise which will help many States and communities continue programs already begun. This is a reasonable level of funding for the Federal share, and a workable compromise which keeps the Federal presence at a level to help maintain water quality standards.

Across the board, the legislation before us today has been brought to the floor with the concern of all U.S. citizens that the water supply in this country is a cherished national resource, one that merits a continuing congressional response, and one that needs continuing Federal presence.

Other provisions of H.R. 3282 are also commendable. The committee has recommended an expansion of the Clean Lakes Program, already in existence, and authorized a 4-year program of ways to control nonpoint source pollution, as well as an increase in the Federal role in studying acidification of lakes.

The legislation also restores funding eligibility for collection sewers previously curtailed in the 1981 amendments, a provision which will restore funding for lines which run from individual homes to the central system.

Mr. Chairman, in sum, the legislation before us is, overall, a sound measure, one designed to continue the national role in maintaining water quality standards. I am aware that there will be amendments offered today with the intent of strengthening some of the programs of this legislation, and altering the bill as it was brought to the House floor. But I think all of us here today owe a debt of gratitude to the leadership and the House Public Works Committee for bringing this measure to the floor in its present form.●

● Mr. RAHALL. Mr. Chairman, as William D. Ruckelshaus, the EPA Administrator pointed out in a recent speech to the National Press Club, the problems of identifying and dealing with toxic pollutants are substantially more complex than those that we encountered in earlier stages of our environmental clean up efforts.

EPA has needed more time than Congress originally anticipated to develop the complicated guidelines that are to be implemented in the NPDES permit system and that serve as the benchmark for pretreatment standards under the Clean Water Act. Recognition of that fact is embodied in H.R. 3282 through extension of compliance dates under the Clean Water Act for achievement of effluent limitations requiring application of best available technology [BAT] and best conventional pollutant control technology.

Given the complexity of the task, it is not surprising that EPA has needed additional time to develop effluent limitations and categorical pretreatment standards. Under the act, BAT guidelines are to be developed for various classes and categories of point sources, taking into account such factors as the age of the equipment and facilities involved, the particular process employed, the engineering aspects of applying various types of control techniques, process changes, the cost of achieving effluent reductions, environmental impacts other than those relating to water quality—including energy requirements, and such other factors as the Administrator deems appropriate.

When these factors are considered, EPA may well find it necessary to develop separate effluent limitations and standards for different sources or groups of sources within a single industry. Indeed, given the range that may exist in age of equipment, production processes, engineering requirements, compliance costs, and so forth, it might well be appropriate to prescribe a separate effluent limitation or pretreatment standard for an individual facility which differs significantly from other plants in the same industry or production category with respect to one or more of these characteristics.

A recent decision of the U.S. Court of Appeals for the Third Circuit in the case of National Association of Metal Finishers against EPA underscores the importance of taking interplant differences into account during the standard-setting process. The appeals court in that case held that EPA may not grant fundamentally different factor variances from pretreatment standards for toxic pollutants once those standards have been promulgated in final form. If the third circuit's decision is upheld on review—and I take no position on the question, since it is now before the Supreme Court—the only way to take account of fundamentally different factors between facilities will be through the establishment of appropriate subcategories—even at the individual plant level—during the standard-setting process.

As a member of the subcommittee which authored this legislation, it is my opinion that the Clean Water Act currently allows EPA to establish subcategories reflecting differences in circumstances among facilities within an industry. In appropriate cases, the subcategory, in my opinion, could be limited to a single source or facility if that source or facility possesses relevant characteristics different from those of the other sources or groups of sources within the industry.●

● Ms. FERRARO. Mr. Chairman, I want to commend the Public Works and Transportation Committee and its chairman, the distinguished gentleman from New Jersey, for bringing this important piece of legislation to the floor. The bill before us today, the Water Quality Renewal Act of 1984, has a number of admirable features.

For example, the increase in the construction grants program to $2.9 billion in fiscal year 1985 and $3.4 billion for the following 3 fiscal years is of critical importance to the Nation's cities.

Also, I am pleased to note that the problem of combined sewer overflows, a very serious concern in many older communities, is addressed in the bill. I want to express my appreciation to the Public Works Committee and to the chairman for these and many other improvements to existing law that are incorporated in the bill.

Regrettably, there is one provision of the bill, a provision aimed solely at New York City, that I oppose. Section 30 purports to increase environmental protection by hastening the completion of two sewage treatment plants and thus ending raw sewage discharges.

In fact, the end of these discharges is in sight and this provision will not cause the discharges to end any sooner. The city of New York is proceeding on an accelerated schedule to complete the two treatment plants that, when in operation, will end raw discharges. The only constraints affecting the construction schedule are the physical characteristics of the sites. For instance, at the site of the North River plant along the Hudson River, there are six contractors working side by side on this immensely complicated construction project. The only way you could have more workers on the site would be to put them on barges working from the Hudson River. So the only constraints are physical ones, not lack of effort, or commitment.

Furthermore, the city has entered into a court-supervised consent decree that specifies the exact dates when these plants must go into operation. Mr. Speaker, the city of New York is 6 months ahead of the schedule governing completion of the plants. The North River plant is now slated to begin operation in November 1985. The Red Hook plant in Brooklyn will go into service a year later.

I repeat, nothing in this provision will get these plants built any more quickly. And I would add, New York City has spent $1.5 billion in the past decade to upgrade nine sewage treatment plants to full secondary treatment. This effort is indicative of the good faith effort the city has made to modernize its treatment facilities and improve regional water quality.

Some of you may be wondering why I and other Members of the New York State delegation are so concerned about the language in this section of the bill. Quite simply, the bill could make it very difficult to finance new construction in New York City. It would not do this explicitly. But by establishing a numerical ceiling for average daily discharges of sewage, a ceiling that cannot be exceeded, it leaves open the possibility that a court enforcing the provision would call for a moratorium on new sewer hookups.

Furthermore, the possibility of such courts action creates a cloud of uncertainty over the development market, which could greatly complicate the financing of new projects. Mr. Speaker, section 30 of the Water Quality Renewal Act is unfair, it is discriminatory in that it applies only to New York City, and it will provide no environmental benefits whatsoever. It puts at risk one of New York's most important industries.

If the House wishes to address the problem of raw sewage discharges—and I believe that we should do so—let us act in an even handed, nonpunitive, nondiscriminatory manner. Next week, when we consider amendments to the Water Quality Renewal Act, I will offer such an amendment and I urge my colleagues to support it.●

● Mr. HOWARD. Mr. Chairman, I wish to express the strongest possible support for H.R. 3282, the Water Quality Renewal Act of 1984, as reported by the Committee on Public Works and Transportation.

It is my belief that H.R. 3282 represents the strongest effort to protect our Nation's water resources that has been produced since this program was initiated more than a decade ago. I believe this bill charts national water policy for the remainder of the 1980's.

I wish to commend Representative ROBERT A. ROE, the chairman of the Subcommittee on Water Resources, the other members of the subcommittee as well as the members of the full committee for their outstanding work on this bill.

Protection of our waters is among the most important responsibilities we have in the Congress. Water is at the same time the cheapest but most expensive commodity we have. Over the years, we have learned that we can pollute the waters quickly but it takes years to clean them up. Coming from a shore district that is strongly dependent on clean water, I am especially aware of the need to prevent any degradation.

We must continue the efforts that have been made in the last decade to clean up the waters. We have heard many reports of improved water quality, of the return of fish to areas where they had not been for years. I believe H.R. 3282 will allow us to continue in that direction.

Among the major features of the bill are:

A $19 billion, 4-year combination grant and loan program for construction of sewage treatment plants;

A program to clean up toxic hotspots that cannot be removed through normal procedures;

A program to set up interstate management conferences to protect and clean up our bays and estuaries;

The cleanup of some of the Nation's major waterways, such as the Chesapeake Bay, the Narragansett Bay and the New York-New Jersey Harbor area;

A ban on the discharge into estuaries of sewage that has not received secondary treatment;

Authorization of the $125 million Clean Lakes Program;

Requirements that industry comply with best available technology requirements within 3 years, 6 months of the promulgation of regulations by EPA.

One other feature of this bill that I would like to describe would place a cap on the amount of raw sewage that New York City can discharge. This issue has been sneered at as local but is extremely important in the protection of our environment.

New York City discharges 220 million gallons of raw sewage daily by its own admission. Some say the amount may be even greater. To understand the magnitude of that amount, it is necessary to realize that 220 million gallons of raw sewage would cover 12 square miles an inch deep, or, if piled on the football field at Giants stadium, would reach to more than half the height of World Trade Center. New York discharges that amount every day and the sewage heads directly to the beaches of New Jersey.

New York is 30 years behind in its schedule of sewage treatment plant construction and years behind every other major city in this country.

This provision is not punitive, malicious or discriminatory. It simply requires New York to do what every other city has done—stop discharging raw sewage.

All the amendment does is set a date of March 15, 1986, almost 2 years away, by which New York must stop adding to its raw sewage discharge. There is no requirement that it be reduced except through the existing court orders which go into effect after that date. If New York complies with the court order requiring construction of the sewage treatment plants, there should be no problem. However, adoption of this provision will place New York on notice that there will be no further delays or waivers in the requirement that sewage be treated.

This is not a construction ban—New York can build all it wants as long as the construction does not increase the discharge of raw sewage.

This provision is not discriminatory. More than 100 towns in New Jersey and hundreds of other cities throughout the Nation have had building bans because of a lack of sewage treatment facilities, but New York has not. New York does not have to live with the sewage. New Jersey does.

This provision is not punitive. If New York does what the court order requires, what every other major city has done and what its own officials claim will be done to complete the sewage treatment plants, there will be no violation of this provision.

The Clean Water Act was approved in 1972 to clean up the Nation's waters. It is time that the act applied to New York City.

Mr. Chairman, I urge passage of H.R. 3282, the Water Quality Renewal Act of 1984, so that we can continue the efforts to preserve the quality of our environment that were begun with the 1972 act.●

● Mr. ADDABBO. Mr. Chairman, although H.R. 3282 has many good features, I would like to take this opportunity to bring to the attention of my colleagues one provision of the bill which is very bad—bad as policy, bad as precedent, bad for the Clean Water Act. That is section 30 of the bill as reported. This section is directed solely at New York City.

The section specifically would limit raw sewage discharges in the city to the average over the year preceding March 15, 1986.

There should be no mistake: sewage discharges are not to be condoned. The Clean Water Act is designed to clean them up, quite properly, and much progress has been made. Along with funding for construction grants, the act contains substantial civil and criminal enforcement authority which applies equally to all communities in this country to compel continued progress in cleaning up our waters. What is troubling about this provision of the bill is that it retreats from this national approach, choosing instead to impose unique penalties upon one particular region, New York.

The bill is silent on the consequences to New York City of violating the new standard. Presumably the civil and criminal penalties of the Clean Water Act would apply. In addition, a court enforcing the provision would quite likely call for a moratorium on new sewer hookups. More important, a cloud on real estate development in the city would be created by the prospect of such sanctions, and by the uncertainty as to how much new construction is allowed—regardless of whether the new standard is ever violated.

Mr. Chairman, New York does not plan to increase its sewage discharges. On the contrary, two large new treatment plants are currently under an accelerated construction program which will put them on line well ahead of schedule, barring unforeseen circumstances. Indeed, it is precisely this fact which renders the provisions in H.R. 3282 devoid of any practical justification. Funding is available to ensure completion. The construction site is large, and there is a limit to the number of contractors that can work there, but these minor problems are being resolved.

A great deal remains to be done in this country to clean up pollution, notwithstanding the sweeping environmental statutes that were passed in the 1970's. For example, the original deadline for secondary treatment of sewage was 1977; yet in 1982, the Environmental Protection Agency estimated that $31 billion of construction is still needed to meet our goals. There are still over 200 communities in all areas of the country where municipal wastes are being discharged into our waters with no treatment at all. There are hundreds of plants which are not in compliance with the secondary treatment requirement, including many in New Jersey, New York, and every other State. We can either pretend this isn't so, or we can seek to address the facts honestly and constructively.

Let us endeavor to speak honestly about the Clean Water Act. The people of this country demand clean water. Every level of government shares in this goal. Let us seek to work together to find solutions to the remaining problems, which are not exclusive to New York.

An amendment will be offered to remedy this situation and I urge my colleagues to join me in support of it.●

● Mr. McKINNEY. Mr. Chairman, I rise today to congratulate the members of the Committee on Public Works and Transportation for undertaking and accomplishing an unenviable task—approving a measure to reauthorize and revise the Clean Water Act. While H.R. 3282, the Water Quality Renewal Act, does not satisfy each constituency affected by water pollution law, it is a comprehensive measure designed to address each important section of the Clean Water Act, as well as to add further sections of law to compensate for areas that have until now been overlooked by water pollution regulations. I am also confident that in our deliberations the House will be able to perfect the measure so that it will maintain the all important balance between industrial development and the well-being of our natural environment.

Of particular importance to New England, more specifically the States of Connecticut and New York, is the committee-approved section regarding estuaries. If enacted, this section will have an historic effect on pollution control efforts in Long Island Sound. As originally introduced by Mr. HOWARD, H.R. 3282 included a general provision which required the Environmental Protection Agency [EPA] to convene a management conference to formulate a comprehensive water quality restoration plan for each estuary affected by interstate-sourced pollution.

On September 30, 1983, and again on March 2, 1984, I wrote to the Public Works and Transportation Committee outlining the need for an EPA conference to help untangle the interstate management problems impeding a coordinated pollution control strategy for Long Island Sound. Each letter was cosigned by the Connecticut and Long Island House delegations, as well as by Representatives RICHARD OTTINGER and HAMILTON FISH. I was pleased to learn that on May 1, 1984, the Subcommittee on Water Resources approved a Clean Water Act reauthorization package in which Long Island Sound was given priority consideration under the estuaries provision. The full committee also approved the estuaries section on May 10.

For the residents of New York, Connecticut, and thousands of others who each year use Long Island Sound for their livelihood and recreation, a comprehensive interstate pollution control plan has been long overdue. Numerous water quality problems occur each year, such as the closure of shellfish beds and periodic prohibitions on swimming. Yet, disagreements over State jurisdiction and responsibility have always stood in the way of progress.

Currently, the National Marine Fisheries Service, the U.S. Coast Guard, the Interstate Sanitation Commission, the Army Corps of Engineers, Connecticut and New York and two regional offices of the EPA share authority over the sound. In the past everyone's efforts to deal with the sound's very real pollution problems were sabotaged by the resulting bureaucratic snarl.

In contrast to the current makeshift and often contradictory Long Island Sound management policy, enactment of section 9 and the subsequent establishment of an EPA conference would lay the firm groundwork for a coordinated water quality scheme. The interstate conference would be charged with: First, developing an inclusive master plan for the sound; second, coordinating and implementing the master plan; third, recommending priority corrective actions and compliance schedules; and fourth, monitoring the estuary to determine the success of the master plan.

The estuaries provision is a crucial addition to existing water pollution law; and one which promises to be instrumental in maintaining the integrity of one of the Northeast's primary water resources—Long Island Sound.●

● Mr. CARPER. Mr. Chairman, few environmental bills of this scope and magnitude will escape controversy. Though this bill is no exception, I think the Public Works Committee, particularly Chairman HOWARD and the ranking member, Mr. SNYDER, as well as the Water Resources Subcommittee Chairman ROE and ranking member of the subcommittee, Mr. STANGELAND, deserve credit for their hard work.

I believe we do have some additional work to complete on this legislation before adopting it. I, and several others in this body, feel the Clean Water Act, which is the foundation for a return to fishable and swimmable waters in this country, will be undermined in several important respects if this bill passes in its present form.

Perhaps the prevailing attitude on this bill is that we have achieved the goals set forth in the Clean Water Act of 1972, and therefore can let go of the reins. Sadly, that is not the case. The goals of the 1972 act have not been reached, and every day we recognize and are forced to redress new insults to our water resources. Now is not the time to take even a small step back from our commitment to clean and healthful waters.

It is not the time, Mr. Chairman, to compromise protection of streams in areas reopened for mining. It is not the time to misuse our sewage treatment construction grants for collector sewers which are more expensive and cause greater environmental problems than other wastewater treatment options. Nor is it the time to cut back on EPA's pretreatment authority either for conventional or toxic discharges.

Fortunately, there is still time to discuss these and a handful of other concerns with the bill, and I urge a strong effort to work out suitable compromises on those sticking points that remain.●

Mr. ROE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McNulty) having assumed the chair, Mr. Swift, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3282) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, had come to no resolution thereon.

## GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

## WATER RESOURCES CONSERVATION, DEVELOPMENT, AND INFRASTRUCTURE IMPROVEMENT AND REHABILITATION ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 515 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3678.

□ 1514

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3678), to provide for the conservation and development of water and related resources, and the improvement, and rehabilitation of the Nation's water-resources infrastructure, with Mr. Sam B. Hall, Jr., in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. Roe] will be recognized for 30 minutes and the gentleman from Minnesota [Mr. Stangeland] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Roe].

□ 1520

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring to the floor H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act. This bill is the product of over 3 years of intensive work by the Subcommittee on Water Resources, including extensive hearings and countless hours of gathering information and consulting interested Members and their staffs. I am deeply appreciative of the many, many hours the members of the subcommittee, and of the full committee, have devoted to this legislation. I also wish to express my gratitude for the fine cooperation of the ranking minority member of the subcommittee, the gentleman from Minnesota [Mr. Stangeland], and the ranking minority member of the full committee, the gentleman from Kentucky [Mr. Snyder]. I especially want to thank the chairman of the committee, the gentleman from New Jersey [Mr. Howard] for the outstanding leadership he again has exercised in bringing this legislation to the floor.

It certainly would be remiss at this time, Mr. Chairman, if I did not extend my greatest appreciation to the staff on both sides of the aisle here, who have done an extraordinary job in putting this legislation together.

Mr. Chairman, we began work on this legislation with two basic premises in mind. The first is that water is our most important and most valuable national asset, and resolving the problems relating to the use, overuse, and abuse of water, as well as protection from catastrophic flooding, are items of the highest priority in the Nation. The second premise is that we must begin to deal with these water resources problems according to a national policy that is both rational and bipartisan in nature. We have worked diligently to achieve that goal in this legislation.

H.R. 3678, as is traditional with water resources development bills, contains project authorizations, authorizations of water resources studies, project modifications, and general provisions affecting the overall water resources program of the Corps of Engineers. This bill also continues the practice of refining the manner in which the corps' existing water resources program is carried out to meet our constantly changing water resources needs. As a result, the bill contains a number of features addressing water supply needs, environmental concerns, energy needs, and project study procedures, in addition to the traditional provisions addressing flood control, navigation, erosion control, recreation, and other related matters.

This bill also contains a number of new provisions which significantly expand the water resources program of the Corps of Engineers and which recognize new water resources needs that have arisen as a result of the aging process on our water resources infrastructure. In this regard I refer specifically to title VIII, which authorizes loans for the purpose of repairing, rehabilitating, expanding, and improving our Nation's water supply system and which declares a national interest in economically conserving existing water supplies and economically developing new supplies through Federal participation in the construction of single-purpose water-supply projects. I will describe these provisions in more detail later as I describe the bill title by title.

Also, Mr. Chairman, in recent years the Corps of Engineers' civil works program has been subjected to much undue criticism because of its large backlog of unconstructed, authorized projects, many of which have become obsolete or have encountered irresolvable environmental or social problems. Our committee conducted an exhaustive examination of the corps' backlog of unbuilt projects and unbuilt portions of projects, and every such project was reviewed and analyzed in detail. Every single Member who could be identified as having an interest in any of the projects proposed for deauthorization was contacted, and the comments of every Member who responded were reviewed. As a result, the committee has included in title X of the bill the deauthorization of over $11 billion worth of unconstructed corps projects. This action will clear the slate for the corps' water resources program and enable us to proceed with a logical agenda for the development and conservation of our water resources, as dictated by modern environmental and social considerations.

Mr. Chairman, with these prefatory remarks, I would like to proceed through the bill title by title to describe for you its contents in greater detail.

Title I authorizes six deep-draft navigation projects—projects with an authorized depth of 45 feet or more—and 29 projects for the improvement of general-cargo ports—ports with an authorized depth of between 14 and 45 feet. The six deep-draft navigation projects include Norfolk Harbor and channels, Mobile Harbor, the Mississippi River ship channel, the Texas City channel, New York Harbor and adjacent channels, and Los Angeles and Long Beach Harbors, San Pedro Bay.

I think it is important to point out, Mr. Chairman, that these six deep-draft projects—along with the previously authorized Baltimore Harbor projects—will be subject, under the terms of the bill, to a new cost-sharing arrangement. The non-Federal share for deep-draft ports is established at 50 percent of the incremental costs associated with that part of any project which is deeper than 45 feet. Non-Federal interests will also be responsible for 50 percent of the incremental costs associated with the maintenance of that part of the project deeper than 45 feet.

For general-cargo ports the Federal share will continue to be 100 percent of the costs of planning, designing, engineering, and constructing the general navigation features and of operating and maintaining those projects.

If a non-Federal interest collects fees on vessels in order to pay for its share of a deep-draft port, those fees may only be collected from vessels which require a channel with a depth of more than 45 feet. The bill does not authorize the collection of fees from vessels, but it states that non-Federal interests which do collect fees—under any authority which they might otherwise have—can do so only with respect to vessels which require the greater depth.

Section 104 provides a mechanism to permit non-Federal interests to plan, design, and construct port projects and later to be reimbursed for those costs that ordinarily would be a Federal responsibility. The purpose of this provision is to allow a project to be expedited by non-Federal interests, who may be reimbursed by the corps, subject to appropriations.

Section 104 also provides for consolidation of the permit processes associated with the non-Federal construction of navigation projects, by requiring an agreement among the appropriate Federal and non-Federal agencies that establishes a schedule of no more than 2½ years for permit decisionmaking.

This title also provides, in section 107, for Federal bond guarantees of up to 90 percent to assist non-Federal interests who wish to proceed with the construction of authorized deep-draft navigation projects; and it contains a new provision in section 108 which will permit any authorized port project to be constructed in usable increments, thus permitting the phasing in of a project to meet changing project needs.

Title II authorizes the construction of seven critically needed lock and dam projects on the inland waterway system. These projects consist of replacements of obsolete structures and improvements to structures needed to prevent unacceptable constraints on navigation. They include projects at Oliver Lock and Dam, Gallipolis Locks and Dam, Winfield Locks and Dam, locks and dams No. 7 and No. 8 on the Monongahela River, the second lock at lock and dam No. 26 on the Mississippi River, and Bonneville Lock and Dam on the Columbia River. This title also provides that one-third of the cost of the general navigation features of these projects shall be paid only from amounts appropriated from the Inland Waterways Trust Fund—the fund derived from fuel taxes on vessels used in commercial waterway transportation. The balance in the trust fund is presently over $100 million, with annual revenues expected to increase to over $80 million per year by fiscal year 1988. The moneys in the trust fund are paid by the users of the inland waterway system—the commercial barge operators, their customers, and the consumers of the goods and services produced by those customers. Therefore, using appropriations from the trust fund to pay for one-third of these navigation projects means that one-third of the cost of those projects will be paid for by their users. The balance of two-thirds will be paid with appropriations from the general fund of the Treasury.

Title III authorizes the construction of 72 projects for the control of destructive flood waters throughout the Nation. Here again, Mr. Chairman, we have developed a new system of cost sharing which we believe to be fair and equitable. Under present law the non-Federal sponsors of local flood protection projects pay for lands, easements, rights-of-way and relocations necessary for the project's construction. Depending on varying degrees of urbanization and relative land values, these costs can vary widely. For example, we found that the non-Federal share under existing law for the projects authorized in this bill ranged from 5 percent to over 50 percent. The committee determined that it was neither logical nor equitable to base flood control project cost sharing on accidents of geography and the extent of development in an area; therefore, we have included a new uniform cost-sharing formula which will ensure that regional needs are addressed with fairness, and which will result in the equitable distribution of national water resources investments needed throughout the Nation. The non-Federal share for local flood protection projects is established at 25 percent. Non-Federal interests will continue to provide lands, easements, rights-of-way and relocations, up to a cap of 30 percent of the project's cost. If the lands, easements, rights-of-way and relocations necessary for a project to exceed 30 percent of its cost, the corps will provide those items to the extent they exceed 30 percent. If, on the other hand, the cost of lands, easements, rights-of-way and relocations provided by the non-Federal interests is less than 25 percent, the non-Federal interests must pay in cash the amount necessary to meet the 25 percent non-Federal share, with interest, over a period of 15 years.

Title III also provides a comprehensive mechanism to encourage non-Federal interests to undertake local flood protection work in order to alleviate flood damages in the period preceding authorization and construction of a Federal project, and to ensure that they will not be penalized for doing so. If non-Federal interests perform work prior to a study, the benefits and costs are to be included in the study. This is important because the local work often is the first increment which captures many of the benefits for a relatively low cost, and the corps would otherwise be able only to consider remaining benefits and remaining costs, which would adversely affect the project's benefit-to-cost ratio.

If the non-Federal interests perform the work during the study, the project report is to include a recommendation that it be counted toward the local share.

If the non-Federal interests construct part of an authorized project, their costs are to be credited toward their required contribution.

Title IV authorizes a number of projects for the protection of shorelines on the Atlantic, and the gulf coasts and the Great Lakes, and on the west coast. These projects have been and will continue to be planned and designed by the corps in full compliance with existing environmental laws and regulations. In a number of these projects, however, the committee has recognized remaining concerns which have been raised by environmental interests. Therefore, where appropriate, the committee has included special provisions to ensure the protection of specific environmental assets and features such as sea turtle populations, sea grass communities, bird sanctuaries, and sensitive coral reefs.

Title V authorizes 55 projects for water resources conservation and development purposes—including mitigation of damages to fish and wildlife, which is an important environmental issue, water supply, hydroelectric power, streambank erosion control, navigation, and other purposes. Here, again, the committee has included many detailed provisions designed to protect specific environmental values.

Title VI authorizes the corps to conduct a number of studies. These include studies of specific water resources problems in particular localities, as well as studies of a more general nature. I will describe a few of the most important provisions for studies of a general nature.

Section 604 directs the corps to study the possibility of rehabilitating the hydroelectric potential at former industrial sites, mill races, and other existing facilities.

Section 605 directs the corps and the Fish and Wildlife Service to study the feasibility of utilizing the corps' capabilities to conserve indigenous wildlife and wildlife habitats, including creating alternative habitats, and beneficially modifying existing habitats.

Section 606 authorizes the corps to make a nationwide study of the Nation's flood problems and the effectiveness of existing projects in reducing losses from floods. This study is particularly necessary in order to adequately judge future needs, which are constantly changing, and the proper Federal interest in fulfilling those needs.

Section 610 directs the corps to prepare an estimate of the long-range capital investment needs for water resources programs within its jurisdiction—including investment needs for ports, inland waterway transportation, flood control, municipal and industrial water supply, hydroelectric power, recreation, and the fish and wildlife conservation and enhancement associated with those programs. Many corps projects—particularly many of the locks and dams on the inland waterways—have reached or are nearing the end of their useful lives and need rehabilitation or replacement. In addition, many of the Nation's water resources needs are yet to be met, particularly in the areas of flood control and water supply. The information contained in this report is necessary to enable the Congress to make appropriate budgetary and policy decisions with regard to future water resources projects.

Section 614 directs the corps to prepare a list of authorized water resources studies for which no report has been transmitted to the Congress, and to make recommendations with respect to each such study as to whether or not it should continue to be authorized. There are a large number of authorized studies which have not been completed or which have never been commenced. The information provided pursuant to this section will enable the Congress to pass legislation deauthorizing studies which are no longer needed.

Title VII contains a number of project modifications for a number of authorized water resources projects. These modifications were all analyzed by the committee on a case-by-case basis and were determined to be necessary for the functioning of the projects to which they relate.

Title VIII, which is a very important title under the leadership of the gentleman from Pennsylvania, **Bob Edgar**, as I noted earlier, relates to water supply. Subtitle A establishes a loan program to be administered by the corps for the purpose of repairing, rehabilitating, expanding, and improving public water supply systems and publicly regulated water supply systems. These loans are limited to 80 percent of the cost of the water supply project for which each loan is made, with an annual limit of $40 million for each project and an annual limit of $80 million for any State. Before receiving a loan, an operator must implement a water conservation program in order to encourage the responsible use of water. The loans will be repaid in accordance with the provisions of the Water Supply Act of 1958. This subtitle also authorizes 16 water supply projects to receive loans under subtitle A, subject to all the applicable requirements established for the loan program.

Subtitle B of title VIII declares a national interest in economically conserving existing water supplies and in economically developing new supplies through Federal participation in the repair, rehabilitation, and improvement of water supply systems and through Federal construction of single-purpose, as well as multiple-purpose, water supply projects. The non-Federal share of such projects is to be 100 percent, with the non-Federal interests initially providing the necessary lands, easements, rights-of-way and relocations, up to a cap of 20 percent, and repaying the remaining 80 percent of the project costs over a period of up to 50 years in accordance with the provisions of the Water Supply Act of 1958. Where the value of necessary lands, easements, rights-of-way and relocations is less than 20 percent of the project costs allocable to water supply, the difference must be paid in cash by the non-Federal interests before construction. This subtitle also authorizes a number of specific Federal water supply projects.

Title IX changes the names of eight water resources projects which have been constructed by the corps and names specific features of two other such projects. One naming is geographical and the others are in honor of prominent individuals who have contributed their efforts to the development of water resources.

Title X, as I mentioned earlier, deauthorizes more than 300 previously authorized corps projects or portions of projects. The Congressional Budget Office has estimated that, if these projects were funded, Federal outlays would be approximately $17 billion, and outlays by non-Federal units of government would be approximately $3.1 billion through fiscal year 1996.

Title XI consists of a number of general provisions relating to the corps' water resources program. The following are a few of the most important provisions contained in that title.

Section 1101 defines the objectives for which corps water resources projects are to be planned, including the objectives of enhancing regional economic development, the quality of the total environment, the well-being and quality of life of the people of the United States, the prevention of loss of life, and national economic development. It also provides that the benefits and costs attributable to these objectives—both quantifiable and unquantifiable—shall be included in the corps' evaluations of benefits and costs for corps projects.

Section 1102 requires for the first time that non-Federal interests contribute 25 percent of the costs of any feasibility report for any water resources study prepared by the corps. An exception is made in the case of inland waterway projects, for which the benefits are generally acknowledged to be too widespread to be specifically identified with individual local governmental entities.

Section 1103 provides that in the evaluation of corps projects, the benefits attributable to environmental measures shall be deemed to be at least to equal to the costs of those measures.

Section 1104 establishes a new $35 million environmental protection and mitigation fund. Amounts in this fund are to be available for undertaking, in advance of the construction of any corps project, any measures authorized as part of the project which may be necessary to ensure that project-induced losses to fish and wildlife production and habitat will be mitigated. This fund will be reimbursed when appropriations are made for particular projects.

Section 1109 authorizes the corps to restore to a safe condition dams owned by States and local governments when those dams have been found to be hazardous as a part of the corps' inspection of dams program. The costs of such restorations are to be repaid by non-Federal interests within a period of 50 years at the interest rate specified by the Water Supply Act of 1958.

Section 1122 relates to the master plan for the management of the upper Mississippi River system, which was prepared by the Upper Mississippi River Basin Commission pursuant to Public Law 95-502. This section contains congressional approval of the master plan as a guide for future water policy on the upper Mississippi River system and grants the consent of Congress to the appropriate States to enter into agreements for cooperative effort for mutual assistance in the comprehensive planning for the use, protection, growth, and development of the upper Mississippi River system. It also authorizes the corps and the Interior Department, in consulation with the States, to undertake a program, as identified in the master plan, for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement, implementation of a long-term resources monitoring program, and implementation of a computerized inventory and analysis system.

Section 1128 modifies the corps' authority to accept contributed funds to be used in connection with project construction to provide that no funds may be accepted and expended unless such acceptance and expenditure have been specifically authorized by law. It also amends in the same fashion the corps' authority to accept advances of funds to be expended in connection with construction of projects from non-Federal interests. The Department of the Army has cited these statutes as authority for its policies that no funds will be recommended for new water project construction starts unless the non-Federal interests agree to provide local cooperation greater than that required by the project's authorization. Our committee feels very strongly that changes in cost-sharing for authorized projects should be made by Congress—as they have been in this bill—and not unilaterally by the administration without the benefit of congressional review and action.

Section 1135 authorizes the corps to review the operation of previously constructed projects in order to determine the need of modifications in the structures and operations of those projects for the purpose of improving the quality of the environment in the public interest. Many of the older corps' projects were constructed without current higher requirements to protect and enhance the environment, and there are other instances where unexpected environmental effects have occurred. The corps is authorized to carry out a 2-year demonstration project to make project modifications which the corps determines are feasible and consistent with authorized project purposes and which will improve the quality of the environment in the public interest.

Section 1148 amend the corps' various continuing small project authorities by increasing the limitations on individual project costs and overall annual limitations to reflect cost increases which have occurred generally in the construction industry. Under these continuing authorities, which apply to a wide variety of types of projects, the corps is authorized, without the specific authorization of Congress, to undertake project construction.

Section 1150 provides limited authority for continued planning and engineering of water resources projects between the completion of the Chief of Engineers' report and the authorization of the project. It is designed to maintain the continuity of the planning efforts so that important time will not be lost in restudies and reevaluations and in the assembly of new project study teams.

Section 1152 provides that the corps, in recommending funding for construction of water resources projects, shall not give priority to any project for which the non-Federal interests agree to provide a greater non-Federal share than is required by the law authorizing that project. Our committee strongly feels that the determination of which water resources projects are to be recommended for construction funding should not be based on the financial capabilities of non-Federal interests to contribute greater amounts of money than required by the laws authorizing those projects.

Title XII establishes a National Board on Water Resources Policy to replace the Water Resources Council. The Board's duties and responsibilities will be essentially the same as those of the Council, but the Board will be a smaller, more efficient and more independent organization. The Board will be composed of the Secretaries of the major Federal water resources agencies, together with two other members and a chairman appointed by the President with the advice and consent of the Senate. Among other things, the Board will be responsible for establishing principles and standards for the formulation and evaluation of Federal water and related land resources projects. The establishment of this Board is critical to the establishment and implementation of a balanced water resources policy. The Board's independence and openness will ensure that all points of view will be considered and that one agency's programs and policies will not be favored over or imposed on other agencies, which can result in regional biases in water resources development.

Title XIII establishes a port infrastructure development and improvement trust fund, and provides that there is to be appropriated each year to that fund an amount equal to the customs duties collected during the preceding year, but not to exceed $2 billion annually. Amounts in the trust fund will be available as provided by appropriations acts for studies, construction, operation, and maintenance of general cargo and deep-draft projects; for studies, construction, rehabilitation and maintenance of the St. Lawrence Seaway project; and for making payments to any non-Federal interest which has planned, designed or constructed a port in accordance with section 104.

Title XIV relates to bridges over navigable waters. It provides Federal assistance for the relocation of two bridges that have become obstructions to navigation as a result of local land subsidence problems.

Finally, Mr. Chairman, title XV requires that any report dealing with fish and wildlife mitigation, benthic environmental repercussions or ecosystem mitigation, that is required to be sent to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works shall also be sent to the House Committee on Merchant Marine and Fisheries.

Mr. Chairman, H.R. 3678, which is the result of over 3 years of intense study by our committee, represents the first major construction authorization bill since 1970—and the most comprehensive and environmentally sensitive water resources bill ever developed. It is necessary to the dynamics of our Nation's economy; it is timely; and I urge adoption of the rule so that we may proceed with it to the floor as soon as possible.

□ 1530

Mr. KAZEN. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. ROE. I am pleased to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, H.R. 3678 was referred to the Committee on Interior and Insular Affairs by the Speaker for consideration of some specific sections and all of title XII.

Our committee considered the bill and recommended certain clarifying amendments.

The amendments approved by the Committee on Interior and Insular Affairs are incorporated in the amendment in the nature of a substitute which, under the rule, will be considered as an original bill for the purposes of amendment.

After approving the amendments which are in the bill to be considered, our committee ordered the bill reported favorably to the House, with those proposed amendments.

Thus, Mr. Chairman, the bill, as amended, does have the support of the Committee on Interior and Insular Affairs and we urge its approval by the House.

Mr. ROE. Mr. Chairman, I want to thank the gentleman from Texas [Mr. Kazen] for his generous remarks and also comment on the excellent contribution that has been made by the gentleman and the members of the Committee on Interior and Insular Affairs. We appreciate their support.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. ROE. I am pleased to yield to the distinguished gentleman from Puerto Rico.

Mr. CORRADA. Mr. Chairman, I wish to congratulate my colleague and good friend, the gentleman from New Jersey [Mr. Roe] for his leadership in bringing this complex and substantial legislation to the floor today. The chairman of the subcommittee, with the help of all subcommittee and committee members, has labored extensively to craft a reasonable piece of legislation which is fair and which will not unduly burden the Federal coffers.

Mr. Roe has allowed various important projects to be included in this legislation. This is crucial to many of our citizens who cannot wait 7 to 10 years for the next major water resources bill to be considered by the lawmakers of this country.

I am proud to rise in strong support of this legislation, as amended by the substitute bill. Mr. Chairman, this bill will authorize projects which are vital to the well being of our citizenry, economic and otherwise. The flood control projects will save millions of dollars in lives and financial ruin. The port projects will enhance the economy of those areas involved by developing these resources for national and international trade. These port projects are also important because of the role they play in our national defense.

For the first time, this bill will integrate the authorization and deauthorization of all types of water resources projects. Also, it creates reasonable and equitable cost sharing where such a measure is appropriate.

Among the projects which this bill authorizes is a very important port project for Puerto Rico, the San Juan Harbor project. San Juan Harbor is the most important American port facility in the Caribbean. It plays an essential role in the administration's Caribbean Basin Initiative as a fundamental link in trade between the United States, including Puerto Rico and the CBI countries. This harbor is also important to our national defense in both readiness training as well as naval operations. San Juan Harbor is used by both the U.S. Atlantic Fleet and NATO during training exercises along our east coast. This harbor is a vital part of Puerto Rico's economy. Eighty percent of all cargo entering or leaving Puerto Rico is handled by the Port of San Juan.

Among the changes which the plan calls for are the following:

First, modifying the treacherous bar channel to allow easier access to the port.

Second, deepening the Anegado channel and easing the bend at the junction with the Army terminal channel.

Third, deepening the cruise ship basin to 36 feet. These navigation improvements will not only reduce the possibility of accidents inside the port, it will also allow San Juan to continue its vital role as the Commonwealth's principal harbor.

I am grateful to my colleagues, Mr. Roe and Mr. Howard, for including a vital flood control project in San Juan, PR, as part of the committee amendment they offer. The flood control project for the Rio Puerto Nuevo and its tributaries will protect vast portions of the San Juan metropolitan area from serious devastation which would take place if a major natural disaster occurred in the island.

Close to a quarter of a million people live in the basin of the Rio Puerto Nuevo, right in the middle of the city of San Juan. When the river overflows, it affects over 6,000 families, numerous public buildings and facilities including the general post office, National Guard Armory, police headquarters, port facilities, and Plaza Las Américas, the largest shopping center in the Caribbean. The most important transportation arteries supporting the economic base of San Juan and providing access to the VA hospital and medical center of Puerto Rico are affected. Damage from the floods is estimated at $20 million annually.

The improvement suggested includes a concrete channel of about 10 kilometers along the river's principal tributaries. Total construction cost, as estimated in the draft report by the Jacksonville district engineer, dated December 1981, is $201 million. The total annual benefits of the project is estimated to be over $30 million. As proposed, the project has a cost to benefit ratio of 1.9/1.

Once again, I want to thank my colleague from New Jersey [Mr. Roe] for acting on my request to help the people of Puerto Rico.

These two projects are representative of the vast economic impact this bill will have on the many communities it affects. For this reason, I urge my colleagues to approve overwhelmingly this essential legislation.

Mr. ROE. Mr. Chairman, I thank the gentleman from Puerto Rico [Mr. Corrada] for his support and for his kind remarks.

Mr. STANGELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to rise in support of H.R. 3678, the Water Resources, Conservation, Development and Infrastructure Improvement and Rehabilitation Act of 1984. This bill is the product of extensive hearings, numerous studies, and indepth consideration by the Subcommittee on Water Resources. Thirty-three days of hearings were held over a 2-year period, during which testimony was received from 486 witnesses, including Members of Congress, Federal and State officials, representatives of local organizations, environmental groups, and interested citizens. I am deeply appreciative of the many hours the members of the subcommittee, and of the full committee, devoted to this legislation. I wish to express my gratitude for the cooperation of the chairman of the subcommittee, the gentleman from New Jersey [Congressman Roe] and the chairman of the full committee, Congressman Howard. I especially want to acknowledge their outstanding leadership and that of our committee's ranking Republican, Congressman Snyder, in bringing this legislation to the floor for consideration. Through their many hours of work, H.R. 3678 was reported unanimously from the Public Works Committee and enjoys the cosponsorship of most of our committee members.

Mr. Chairman, H.R. 3678 is a much needed piece of legislation which is long overdue. This body has not acted upon a comprehensive water resources development bill in more than 4 years.

Many of you remember the fate of the predecessors to today's bill. During the 95th Congress, both the House and Senate passed counterpart omnibus water project authorization bills. However, on the final day of that Congress, the compromise bill, having been approved a few hours earlier by the Senate, died in this Chamber—despite strong support for it—when it was considered as the last bill of the year and a quorum was not present to ratify final passage.

H.R. 4788, developed during the 96th Congress, began with indepth hearings and built upon the work of the 95th Congress. The bill passed resoundingly in the House. However, it was never brought to the Senate floor, again failing to become public law.

Work continued during the 97th Congress and progress was made in perfecting the legislation.

As a result, we have before us today a bill based upon the accumulated work and effort of the last four Congresses. Mr. Chairman, the last water resources development bill was signed into law in 1976. The last true construction authorization bill was signed into law in 1970 because the 1974 and 1976 acts consisted primarily of authorizations for advanced engineering and design of projects rather than for construction. It is time to act. Fourteen years is far too long to wait for legislation addressing the physical plant and public works infrastructure of this country. We cannot afford to let such inaction continue.

Mr. Chairman, you and each of my colleagues are aware of the glaring problems and deficiences or our existing public facilities. Our infrastructure is wearing out faster than it is being replaced, undermining efforts to revitalize the economy and threatening the continuation of basic Government services. For too many years, our basic policies have favored consumption over investment. While the Nation has been able to live off its past accomplishments, deferring capital investment to subsidize current consumption we have reached the point where maintaining the status quo, not to mention improving our Nation's economy and quality of life, requires substantial increases in both real levels of investment and the share of GNP devoted to investment in our capital plant.

Our failure to acknowledge these needs has resulted in growing economic problems which cannot simply be set aside for future consideration. We are fast approaching the situation where the deteriorated or outdated conditions themselves are posing bottlenecks to national economic growth. Examples abound.

Our water resources infrastructure forms a vital part of our Nation's transport system, its economy and well-being. Yet, that system is in critical need of repair, rehabilitation, and improvement. On the inland waterways many of our canals, locks and dams are past the end of their design lives. Of the 194 locks in the inland waterway system the average age is 40 years, and some locks are approaching 80 years of service.

Major dredging of the Nation's ports is essential to accommodate expanding shipping needs. Today's large cargo carriers require depths of 55 feet or more. Yet major U.S. ports average only 45 feet in depth. Numerous instances can be cited of existing harbor facilities unable to efficiently service world shipping coming to American docks. This situation will only worsen as our foreign trading partners and competitors continue their modernization efforts.

The Nations municipal water supply needs are substantial. The General Accounting Office estimated that the 756 urban areas with populations over 50,000 will require between $75 and $110 billion just to maintain their systems over the next 20 years. Approximately one-fifth of those 756 areas will face investment shortfalls, even if present water rates are doubled to produce new capital.

A significant number of the Nation's 43,500 dams require investment to reduce hazards. The Corps of Engineers had inspected 9,000 of these facilities and found many in need of safety improvements and repair.

H.R. 3678 addresses these and other concerns. It contains innovative approaches to solve basic water problems and presents a rational, reasonable, planned, and orderly approach to the development of America's water resources and public works facilities.

Mr. Chairman, the subject of public works and water resources development has been a matter of concern to this body since the very beginnings of our Republic. Federal law relating to these programs and their management is an everchanging body of law which has developed over a period of 150 years. It is a fluid, changing, dynamic body of law that has continually been modified and amended to address the existing problems and changing priorities of the Nation. Our Nation has progressed from an early emphasis on economic growth, as evidenced by the settling of the West during the mid-1800's and the harnessing of our major river basins through the first part of this century; through the environmental and special planning concerns of the 1970's; to today's need for a balanced approach emphasizing both the economic and environmental concerns of our population. The bill you have before you—and the policy and procedural changes contained in it—does nothing more than reflect the special set of circumstances and problems that face our Nation today. It is a bill we can all support.

Mr. Chairman, as is traditional with water resources development bills, H.R. 3678 contains a number of project authorizations, authorizations for water resources project studies, modifications to authorized projects, and other provisions generally affecting the water resources development program of the Corps of Engineers. Yet this bill goes beyond the traditional. It includes a program for assistance to communities to aid in the construction, repair, and rehabilitation of water supply systems. It includes the creation of a National Board on Water Resources Policy and deauthorizes a large number of other water resources development projects which have not been constructed. It directs the implementation of new policies designed to be responsive to the critical water resources needs of our Nation. In short, this bill reflects over a decade of detailed planning and study of the water resource problems throughout the Nation.

A matter of great concern addressed by H.R. 3678 is that of port development. Six deep-draft navigation projects are authorized by this legislation. Twenty-eight projects for improvement of general cargo ports are included in the bill. Perhaps nowhere is the payback on Federal dollar investment higher than that associated with port development. A substantial portion of the Nation's export and import trade moves through our ports. In calendar year 1982, total tonnage exceeded 780 million tons with total value of that tonnage exceeding $280 billion. Annual customs revenue for that year exceeded $9 billion. Yet that $9 billion only reflects specifically itemized returns. There is no real way to gauge what the benefits to the Federal coffers are when you factor in jobs and other kinds of economic activity generated by that shipping. When over 50 percent of our population lives in coastal areas and we see increased migration of our citizens in that direction, the significance of enhanced port activity becomes apparent. This bill addresses those opportunities on a priority basis.

It establishes a $2 billion a year trust fund derived from customs receipts to finance port development, development that is linked to State and local cooperation. The linkage, however, is not designed to place impossible burdens on our local governments. Rather this legislation allows 100 percent Federal funding of all construction and maintenance associated with ports having a depth of 45 feet or less. The 45-foot depth establishes a base standard of Federal involvement. Yet, our ports require depths beyond 45 feet and we recognize that need. Responsibility for providing those excess depths, however, is not a total Federal responsibility.

As such, this bill provides for 50-50 Federal/non-Federal sharing of all incremental costs associated with construction and maintenance of ports with depths in excess of 45 feet. Non-Federal participation in these costs is appropriate since the greater depths serve specialized vessels and cargoes and are used by a small segment of the market. Further, this bill allows local interests to proceed with both planning and construction of authorized projects, subject to approval, and be reimbursed appropriate costs, thus allowing flexibility and insuring a speeding up of the construction process.

I have previously referred to some of the problems associated with the marked deterioration of our inland waterway transportation system. The efficiency of that system is a matter of great concern to me and my constituents. This legislation authorizes construction of seven critically required lock and dam projects on the inland waterway system, projects which consist of the replacement of obsolete structures and improvements to structures needed to prevent unacceptable constraints on navigation.

Some have suggested that this body seek increased cost recovery for the expense of these improvements. Yet, it has been pointed out that such cost recovery can have serious adverse economic impacts, not only on the inland waterways transportation industry, but on many of our major commodities. Those impacts can reduce our competitive position in world trade. This bill effects a reasonable alternative. In 1978 we imposed a fuel tax on commercial users of the inland waterway. The revenue from those taxes were deposited in the inland waterway trust fund and today amount to more than $90 million. The users of the inland waterway have paid those taxes and this legislation provides that one-third of the cost of new construction on the inland waterway be paid for out of that trust fund. This legislation, therefore, provides that those who use the system bear some of the costs of improvement, but it also provides that the great benefit to this Nation as a whole is not shouldered completely by those few.

Mr. Chairman, improvements to our deep ports and to the inland waterway system are not the only items subject to cost sharing under this bill. H.R. 3678 also establishes a consistent, equitable cost sharing arrangement between Federal and non-Federal interests for flood control projects.

Historically, we have required non-Federal interests: First, to provide the necessary lands, easements, rights-of-way and relocations for flood control projects; second, to hold and save the United States free from damages due to construction; and third, to operate and maintain the finished project. Non-Federal costs have thus varied widely depending upon the requirements of each individual project.

This legislation removes that happenstance of geography with respect to non-Federal funding of project costs. In its stead, it substitutes an equitable, fair approach to non-Federal cost sharing on flood control projects. This bill establishes a 25-percent floor with respect to the non-Federal share of project costs. If lands, easements, rights-of-way and relocations do not equal at least 25 percent of project costs, then the bill requires the difference to be paid to the Federal Government in cash over a period of 15 years. If those costs exceed 25 percent of project costs, then the project sponsor is required to pay the excess, but only up to a 30-percent cap.

Consistent with this policy, H.R. 3678 establishes new guidelines on water resource studies requiring local governments to shoulder 25 percent of the cost of any study, with payment of that 25 percent to be at least one-half in cash and up to one-half in kind. The bill also authorizes the construction of 72 projects for the control of floodwaters and includes provisions, subject to approval, to allow non-Federal interest to proceed with flood control efforts and seek subsequent reimbursement of costs.

Mr. Chairman, one of the most innovative and significant provisions of this bill is title VIII, which establishes a new program of loan assistance to local interests for the rehabilitation and construction of water supply facilities. Many of our water supply systems are deteriorated and in need of substantial rehabilitation. Yet the owners of those systems have experienced marked difficulty in obtaining capital to fund needed improvements. This legislation addresses those needs. It establishes a vehicle to provide a source of supplemental funding without damaging or replacing the historic reliance on long-term local bonding sources of capital for water supply systems.

The bill authorizes annual appropriations of $800 million for fiscal years 1984 through 1987 for the repair, rehabilitation, and improvement of water supply systems. Loans from this fund are to be available to water suppliers, whether public or private, and can be used to finance up to 80 percent of the cost of any approved project. I emphasize that this is a loan program and that the recipient is required to pay back the loan over a 50-year period with interest. Only projects with applications approved by resolutions of the House and Senate Public Works Committees can receive these loans. A cap is placed on any given loan of $40 million per year per project and provisions are included to insure that no more than $80 million per year is loaned for projects in any given State.

The net result is an innovative approach to a major problem facing this country. This loan program is not a giveaway, but rather is a reasonable, business-like approach to investment. The return from this investment is much greater than the simple market rate interest provided in the bill. The return is the improvement and resulting economic development arising from our investment in the future.

Mr. Chairman, by their very nature, water resources projects are difficult to evaluate. Historically, we have relied upon a benefit-cost analysis. Yet these analyses inevitably have shortcomings. Costs or estimates of costs are generally easy to quantify. Benefits, on the other hand, can be almost impossible to quantify. The end result has been that most quantifiable economic costs of a project are counted while many of the benefits relating to environmental, social, and quality of life issues are ignored and not included in the benefit-cost analysis.

This bill addresses that problem by providing that the benefits attributed to environmental measures shall be deemed to at least equal their costs. In other words, H.R. 3678 establishes the general policy that the benefits of measures included in a water resources project for purposes of environmental quality are worth their economic costs. This is a significant step forward and insures that projects can be constructed and operated to serve not only their needed purpose but also to ensure against the unnecessary loss of environmental quality.

Another significant environmentally protective initiative is established by H.R. 3678 to ensure in advance of construction that funds are available to protect environmental values. Historically, we have lost many opportunities to mitigate environmental losses simply by not being able to act in a timely fashion—resulting in increased costs and ultimate deterioration of the potential benefits from our water resource projects. This bill establishes an environmental protection and mitigation fund to provide financial resources which can be utilized prior to a project's construction to take necessary measures to ensure that project-induced losses to fish and wildlife production and habitat will be mitigated.

H.R. 3678 also establishes a new national board on water resources policy. The board is directed to coordinate water project activities of the Federal agencies and develop principles and standards for the formulation and evaluation of Federal water and related land resources projects. Membership of the board is composed of an independent chairman, the Secretaries of Interior, Agriculture, and Army, the Administrator of the Environmental Protection Agency, and one member recommended by both the House and Senate and appointed by the President. The board is intended to function as a reconstituted and improved Water Resources Council, without the institutional shackles that so severely limited the Council's effectiveness, and is designed to facilitate cooperation and coordination in water resources policymaking at the national level.

Finally, Mr. Chairman, this bill takes a bold, forthright approach to reducing the existing backlog of authorized but outdated projects. Our Water Resources Subcommittee spent many hours reviewing the project status of the backlog of authorized but unconstructed water resource projects. Every Member of Congress was personally notified of all projects being considered for deauthorization and the views of each Member were thoroughly considered before deauthorization decisions were reached. The result is the deauthorization of more than 300 water resource projects having a potential cost savings in excess of $11 billion.

Mr. Chairman, I have only touched on what I considered to be some of the more important policy initiatives contained in this legislation. The bill contains many more items which I have not mentioned. Fifteen specific projects are authorized for shoreline protection. Fifty-five projects dealing with water resource conservation and development are authorized in the bill. A number of feasibility studies on water resource projects are authorized and numerous project modifications and new general policies are established to govern water resources decisionmaking in the years to come.

Mr. Chairman, H.R. 3678 is a downpayment on the improvement and rehabilitation of the basic public works infrastructure of the country. It is a bold step and not one that should be taken lightly. Yet, it reflects the acknowledgment of this body of the necessity for action to avoid further deterioration.

The members of our committee have studied this legislation in detail. Time was spent not only on the specific projects but also on determining the manner in which our water resources program can be most effectively carried out. These concerns are reflected in H.R. 3678—in its project authorizations, its studies and its general provisions.

Enactment of the bill will enable us to meet some of the pressing needs of our deteriorated water resources infrastructure. More importantly, however, H.R. 3678 will make us better prepared for the future. Without this legislation, essential needs will remain unmet, to the detriment not just of a few, or of scattered regions, but of the entire Nation.

I, therefore, urge, in the strongest possible terms, the passage of H.R. 3678.

The CHAIRMAN. The gentleman from Minnesota [Mr. STANGELAND] has consumed 6 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. EDGAR].

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Mr. EDGAR. Mr. Chairman, after 8 years with no authorization bill getting past the House and the Senate and on to the President, I stand here ready to support this legislation.

H.R. 3678 has a number of major environmental improvements and national policy initiatives that I think are critical to our Nation and critical to the whole issue of developing a sound water policy.

Let me point out five issues that are in this legislation that I hope my colleagues will focus on. The first is the question of fairness. This bill for the first time in a very long time provides for legitimate water needs throughout all regions of the country. There is a major shift from simply building new water systems to rehabilitating and reconstructing existing water systems throughout the Nation that we put in place 50 and 75 years ago and that shift from new starts to rehabilitation will be of enormous value to the older industrial areas of our Nation, particularly those in the Northeast and the Midwest.

The second major policy initiative in the bill is the issue of cost sharing, demanding that each new project coming on line would have to provide a minimum of 25-percent cost sharing. These cost sharing provisions will help us to develop an initiative in only selecting those projects whose local supporters in the local communities and States are willing to come up with their fair share of the funding for the projects. I think this will eliminate many unnecessary projects that may have been built in the past.

The third issue is the issue of planning and environmental mitigation. We enable with this legislation the opportunity to mitigate projects up front so that we do not do the kinds of serious damage to our environment that some previous water projects may have caused.

The fourth major area is the deauthorization of existing projects that we feel should not be built. There are some $11 billion worth of projects that are on the shelf ready to go, but our committee looking at those projects feels that they should be deauthorized.

Finally, there is a major rehabilitation of aging water supply systems. For the first time, working through the Army Corps of Engineers, we set up a revolving loan fund to replace both municipally owned and industrially owned water systems. This will help those communities that have systems that they put in place 75 or 100 years ago who need major renovations, but at a time when high interest rates are forcing them not to be able to go into the bond market, we provide some funding in this legislation to replace those aging water systems and then over the life expectancy of those water systems we expect a 100-percent recovery of the 80-percent Federal loan that will be provided.

In this instance of aging water supply systems, the local communities again will have to come up with a minimum of 20-percent funding, assuring that there is strong local interest in the program.

So for the issue of fairness, the issue of cost sharing, the issue of planning and environmental mitigation, the deauthorizations that are in the legislation and the establishment of the new urban revolving loan fund, I can in all good conscience support this legislation. While I have been the major opponent of authorization bills dealing with water construction and supply, I urge my colleagues to support this legislation.

There will be several amendments offered on the House floor, but by and large I think this legislation is not only critical and important, but begins to set the stage for setting some new direction.

I want to commend the chairman of the subcommittee and the ranking Republican. I think we have done an excellent job with the gentleman from New Jersey [Mr. ROE] and the gentleman from Minnesota [Mr. STANGELAND] in putting together a bipartisan piece of legislation that works and I support the passage of this bill.

Mr. Chairman, I rise in support of passage of H.R. 3678, the water resources development legislation. Since I have been one of the most vocal critics of water resources policy and water projects in the past, I should take a moment to explain why I believe that the bill before us addresses several of the most important water policy issues.

The questions I have raised about water policy in the past have been fairly straightforward. While I have often criticized individual projects, I have also attempted to point out the larger policy matters which cause wasteful and destructive projects to be built. One of the major issues in this program has been its balance in addressing the legitimate water needs of all regions of the Nation. Our water program has made massive investments to irrigate the arid Western States, to provide water supply and flood control and inland navigation largely in the South and West. Yet, at the same time, the needs of many of our older cities and towns have been ignored. Antiquated water supply systems in Philadelphia, New York, and Boston have been allowed to deteriorate, lead, and break down. In some areas, inadequate water supply systems have led to serious threats to human health.

Another issue has been project financing and the question of how much local beneficiaries and users of projects ought to share in the burden of construction of Federal projects. Environmentalists and fiscal conservatives have long argued that requiring a minimum amount of investment from non-Federal interests is the single best way to ensure that the projects selected for construction are needed and are cost-effective. The requirement for local cost-sharing helps to free project selection from undue political influence, accidents of geography, and other arbitrary factors.

A third issue has been proper concern for the environment in the project selection and planning process and adequate mitigation of environmental damage caused by construction of water projects.

There has also been concern about impartial review of both projects and policy. One of the key aspects of review has been the need to deauthorize outmoded projects and set up a process whereby projects which are not funded and carried out can be stricken from the books.

The bill before us addresses these types of concerns in a number of important ways. While there is still some disagreement about whether this legislation goes far enough in the major water policy reform categories, there is no dispute that this bill finally takes a look at some of the major policy questions instead of just authorizing a shopping list of new projects.

Specifically, H.R. 3678 authorizes a new program to deal with the issue of rehabilitation of aging water supply systems. Title 8 of the bill sets up a new loan program, to be administered by the Corps of Engineers, to provide capital to repair and replace leaky and inadequate water systems if local water systems can establish need, come up with a 20-percent local matching share, and implement a program for conservation of water.

The bill also takes important steps on the issue of minimum non-Federal cost-sharing. A major item is the requirement for a minimum 25-percent share for all flood control projects. Another key requirement is for a 50-percent local share for all new deep-draft port construction. While I do have some concerns about the port financing provisions added by the Merchant Marine Committee, I believe that the port construction provisions developed by the Public Works Committee are a major concession on the cost-sharing issue.

The bill also addresses project review, selection, and environmental mitigation question. Symbolic of our commitment to a new policy process is the fact that this bill eliminates about $11 billion worth of outmoded project authorizations, some of which have lingered for over 100 years without being funded or built. The bill also resurrects and reforms the independent review process in the form of a new national board on water resources policy. The bill also requires that environmental mitigation costs be fully considered in project planning and sets up a new environmental mitigation fund to allow for repair of environmental damage during construction of projects.

As I mentioned earlier, there are still some objections to the bill on the part of the environmental community and the administration. Proposals have been made for modifications of certain projects in the bill as well as for strengthening of certain of the cost-sharing policies. While I support the bill, I believe there is ample room for improvement in any measure of this size and scope. I, therefore, feel that it is important for us to have a full and complete debate on specific issues during the amendment process.

Mr. Chairman, I believe that this bill offers a rare opportunity for the historic critics of water policy and the supporters of traditional water development to work together to create a modern water policy based on merit and fair play and proper concern for the environment and conservation of natural resources. I have been pleased and honored to be included in this process with the gentleman from New Jersey [Mr. ROE], and I hope that we can work together to produce legislation which will move our national water policy forward once again.

Mr. STANGELAND. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in most strong support of H.R. 3678. First, I want to commend the leadership of the Public Works and Transportation Committee, and particularly the chairman of the Water Resources Subcommittee, Mr. ROE, and ranking member, Mr. STANGELAND, for the fine work on this legislation. There has not been a water resources development bill since 1976, and it has been longer—since 1970—that a major water resources bill has become law. H.R. 3678 addresses many of the outstanding issues, concerns, and projects that have not been able to proceed for too many years. It also provides new policy directives, increases non-Federal cost sharing, and is a framework for revitalization of the entire Water Resources Program throughout the United States. The subcommittee and committee have worked literally hundreds of hours to fashion this piece of legislation. Chairman ROE and Mr. STANGELAND have tirelessly worked with their colleagues throughout the House to find equitable solutions to individual problems. I firmly believe that this water resources legislation deserves to go forward now.

The legislative proposal we discuss today is a compromise which includes the bill as reported from the Committee on Public Works and Transportation with modifications agreed upon based on the interests of four other committees. I believe that the Committee on the Judiciary, the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, and the Committee on Agriculture are all in agreement with the version before us today.

Others have already explained in detail the provisions of the bill. However, a few of these are so important that I feel I must mention them.

This legislation creates a port trust fund, established from customs receipts, which, together with increased non-Federal cost sharing, will speed up the construction process. This will allow our ports to be constructed, deepened, and maintained so that the United States can compete with foreign nations in the international trade market.

Construction of a number of locks and dams on the inland waterway transportation system is provided for and a source of funding is established for these inland waterway projects, based in significant part on the trust fund paid for by inland waterways users.

Also, the non-Federal cost sharing for flood control projects is increased. This increase in local responsibility will mean less overall Federal investment. I use the term "investment" because, for the projects and programs in this legislation, there will be a significant return to the Nation monetarily, socially, and environmentally. This return will more than justify the investment.

I think it is also important to note that one title of this bill deauthorizes more than 300 projects. These projects have a remaining construction value of over $11 billion. This provides an offset that is a significant economic savings to the Nation. It also reduces the existing backlog of Corps of Engineers projects and permits focusing on current important water resources projects.

There are a number of provisions of great importance to the State of Arkansas. These include a water supply loan for the Fort Smith and Van Buren area, a provision relating to bridge replacements for Cane Creek in Logan County and Norfork Reservoir, and flood control projects for Fourche Creek in Little Rock and Fifteen Mile Bayou and Eight Mile Creek. There is also a study and demonstration project at Beaver Lake that I am most anxious to see proceed. In addition, several of the locks and dams along the Arkansas River Waterway are to be renamed. These renamings are the same as those I had earlier introduced as separate legislation. I add my thanks and my accolades to the very professional and hard-working staff of the subcommittee.

This legislation goes far toward working out issues that have confronted us for years. This is a vital piece of legislation that should proceed through the legislative process as expeditiously as possible.

Mr. Chairman, I urge all Members to join in most strong support for H.R. 3678.

Mr. STANGELAND. Mr. Chairman, I want to thank the gentleman from Arkansas for his statement.

Let the record show that the gentleman from Arkansas was the ranking Republican in the last Congress where most of the record was made to put this piece of legislation together. He needs to be commended for his role in this legislation as well.

Mr. ROE. Mr. Chairman, I also share those sentiments for the extraordinary job that the gentleman from Arkansas [Mr. JOHN PAUL HAMMERSCHMIDT] has contributed to our efforts. He has been a long time champion of the need for adequate water resources in our Nation.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. Mr. Chairman, I would like to thank the gentlemen from New Jersey [Mr. HOWARD and Mr. ROE], the distinguished chairmen of the Committee on Public Works and its Subcommittee on Water Resources, respectively, for their fine work in fashioning this legislation. Their task has not been an easy one, and the very fact that we are now debating the bill on the floor is a fine testament to their sensitivity and skill.

It has been 8 years since this body passed a major water resources authorization bill. Opposition in the past has come from Democratic and Republican administrations, and both sides of the aisle in Congress. If we were to assess blame, it could be spread evenly throughout. But we are not here to point fingers; our goal must be to get on with the backlog of very necessary projects which will conserve and enhance our Nation's water resources, and protect the lives of countless Americans.

One provision of this bill is of particular concern to me and my constituents in the Tulsa area. Eight years ago a devastating flood hit the Tulsa area when Mingo Creek overflowed its banks. That flood took two lives and caused close to $50 million—in 1982 dollars—in damage. The Tulsa community closed ranks after the flood and made a commitment to solve the Mingo Creek problem. The city of Tulsa has spent over $15 million on flood control, and has made a firm commitment to meet all non-Federal requirements stemming from the project authorized in this bill.

Despite this firm commitment, the Mingo Creek flood control system has still not been authorized, more than 8 years after that flood.

Tragically, the need to authorize the project was underscored over Memorial Day weekend when the creek flooded again, this time taking 13 lives and causing over $200 million in damage. One flood, caused by a few hours of rain, left damage costing more than twice the $82.1 million authorized in this legislation for the Mingo Creek flood control system.

Immediately after the latest flood, the city of Tulsa and the State of Oklahoma reaffirmed their commitment to share in the cost of controlling Mingo Creek. Just last Friday, the Tulsa City Council expressed its willingness to do its share by promising to participate in a land acquisition program in the most flood-prone section of East Tulsa. Under the leadership of Tulsa's new mayor, Terry Young, we can be sure that the city administration will explore every option which will reduce the cost of flood control to the American taxpayer, while ensuring that lives and property are protected.

The State and the city stand ready to do their part. They have agreed to share the cost, as they should, so we must now do our part by approving this legislation.

The Mingo Creek flood control system, if authorized, will be a cooperative venture between Federal, State, and local officials which will protect lives and property, while also saving tax dollars. We could not ask for a better plan, and we must get on with it before another disaster strikes.

Mr. ROE. Mr. Chairman, I thank the gentleman.

Mr. STANGELAND. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Chairman, I rise today in strong support of the Water Resources, Conservation, Development, and Infrastructure Improvement and Rehabilitation Act. Also, I would like to take this opportunity to recognize the outstanding efforts of my subcommittee chairman [Bob Roe] and the ranking minority member [Arlan Stangeland] for their diligent work in crafting this important legislation.

The bill is a vital rewrite of water resources policy and seeks to approach water development in a coherent manner. As we all know, since 1976, water projects have operated under the equivalent of the stopgap budgets that have plagued the congressional budget process with indecisiveness. For my State of Pennsylvania, the standstill of water policy has left the issues of deteriorating water systems, aging locks and dams, and flood protection unaddressed for far too long.

Support for the legislation was unanimous in the Public Works and Transportation Committee, I feel, because the controversial issues were so thoroughly examined by the subcommittee in hearing after hearing during this Congress and the 97th. Thus, the legislation before us today is more than a compromise, it is a product which reflects the genuine national benefit conveyed to all sectors of the economy by our ports and inland waterways. In addition, H.R. 3678 enables the Congress to deauthorize water projects no longer viable and provides long overdue technical assistance for small communities lacking the expertise and funding to apply for water system aid. I especially applaud this provision because it improves the likelihood that these water systems would be planned to accommodate and encourage economic growth.

Finally, the legislation introduces a new cost-sharing formula for flood control projects which I believe will ferret out unneeded projects and allow the Congress to concentrate on projects that will help communities prevent such disasters as the 1972 Agnes floods. I urge my colleagues to support this legislation, and again, I would like to recognize the efforts of my chairman, the ranking member, and both committee staffs for their efforts to bring this bill to the House floor.

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Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Chairman, early in the 1st session of the 98th Congress, I introduced H.R. 1268, which specifically sought to deauthorize a water project in my district known as the Onaga Lake project. This measure has since been incorporated in title X of H.R. 3678, and is one of 317 Corps of Engineers water projects to be deauthorized through passage of this bill with an estimated cost saving of $11.1 billion.

The Onaga Lake project was first authorized in 1944 as a flood control project under the Missouri River study. The proposed lake would be located primarily in Pottawatomie County and would cover almost 16,000 acres of land. The Corps of Engineers estimates that the Federal Government has already spent $2.1 million to date on this project, although for several years now it has been classified in the inactive category. For a project to qualify in the inactive category, it must be deemed to lack economic justification, to not adequately meet current and prospective needs, and to lack the support of local interests. I want to assure you that the Onaga Lake project in Kansas meets all these qualifying requirements.

There is no local support for going forward with the Onaga Lake project. The continued authorization of this project causes serious flaws in the land titles of property owners in the concerned area. The benefits initially estimated to be derived from this project have long been discounted and, the Kansas State water plan has excluded the Onaga Lake project from consideration.

It is my hope, and that of many of my constituents in the Second District of Kansas, that this unnecessary and unwarranted water project be deauthorized through passage of H.R. 3678. I want to thank the chairman of the Public Works and Transportation Committee [Mr. Howard], and the chairman of the Water Resources Subcommittee [Mr. Roe], and ranking minority member [Mr. Stangeland] for incorporating this very important deauthorization measure in the Water Resources Development Act of 1984.

Further, I commend the gentlemen and the members of committee for their diligent work in coming up with a way to reduce the deficit.

Mr. STANGELAND. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. Petri], a member of the committee.

Mr. PETRI. Mr. Chairman, the bill before us today is needed. There are many water projects around the country that deserve to be authorized and constructed. As other speakers have pointed out, we have not had a Corps of Engineers water projects authorization bill passed and signed into law since 1976, and we have not had one of the same scope as the present bill since 1970. So, we can use a bill.

Moreover, the Committee on Public Works has made a number of useful reforms in overall water policy, even including higher levels of local cost sharing in many cases. Unfortunately, I do not believe the committee has gone far enough in its reform efforts, either to get the bill passed and signed into law or to produce a workable program if it does become law.

Mr. Chairman, there are reasons why we haven't passed a water projects bill for 10 years. The traditional approach is to pour enough projects into one bill to ensure that a majority of members have a stake in it. The result is a bill that is too expensive, includes too many questionable projects, and provides no assurance that the good projects will be built and the bad ones won't.

In the present case, the price tag on H.R. 3678 is in the range of $18 billion. I would suggest that all of my colleagues know that price tag is just too high. There is no way we are going to spend that kind of money on water projects in the coming years. In fact, already the corps has a list of hundreds of so-called "active" projects for which funding, some $10 billion worth, is not available.

Now what happens if we add $18 billion of new projects to that list? Everyone knows we have a massive budget problem in this country. How do we decide which projects to fund? The answer, I am afraid, is one word—"politics." Not economics, not local support, not environmental soundness, not analysis of alternatives—just politics.

I would like to suggest that there is a basically simple reform that would go a long way toward solving both the problems I have mentioned: both the excessive overall price tag and the difficulty of deciding which projects get portions of a limited pot of money. That reform is substantial local cost sharing required up front during the period of construction. I think we would find that a lot of so-called vital projects would become less necessary the moment we ask the beneficiaries to help with the expenses. With local cost sharing required up front, projects that are the worst economic turkeys won't command enough local support to come up with the local cost share. They will be discarded by a simple market process, and the way will be cleared for justified projects to receive funds.

This is not a new idea. The General Accounting Office, the Congressional Budget Office, the 1973 National Water Policy Commission, President Carter's Water Policy Task Force, and various environmental groups have all reached similar conclusions. I believe the time for this idea has now come.

I also have a simple message for those of my colleagues who have worthwhile projects for their districts in this bill. Those projects will have a far better chance of seeing the light of day if local cost-sharing reforms are adopted than if they are not. In the first place, the bill is far more likely to become law. In the second place, if the bill does become law, worthwhile projects will have a far better chance of receiving funds if they are not competing against projects that are economic pygmies but political giants. Let us seize the occasion provided by H.R. 3678 to achieve a long overdue reform of our national water policy.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MacKay].

Mr. MacKAY. Mr. Chairman, I appreciate the work of Chairman Roe. I can attest to his efforts to bring about a consensus on this myriad of projects which are involved in this legislation, to his diligence.

My purpose in speaking today is to put Members on notice of one issue which cannot be resolved by consensus and which must be resolved by a vote of the full House. The cross-Florida barge canal is a partially completed project. Its proposed route runs across my district and also those districts of Congressmen Bennett and Chappell.

The barge canal is complete except for digging that section across the ridge or crown of Florida which is known as the Summit Reach of the canal. That section which is not completed lies totally within my district.

Florida's ridge, the uncompleted portion of the canal, is a limestone strata. It has been likened to the crown, the indented crown of a hat.

□ 1600

Although it is the highest part of Florida, it is the source of most of the water supply for both north and south Florida.

Known as the Florida Aquifer, it is a porous system of caves, springs, sink holes, and underground rivers.

Its purity is essential to the future of Florida and its adequacy is potentially the single factor which ultimately will limit the growth of the State of Florida. So the proposal to deauthorize the Cross-Florida Barge Canal is essentially a proposal that cannot be resolved by consensus because it involves a choice between competing values, the value of danger to the environment which completion of the canal of danger to the environment which completion of the canal poses and the value of the marginal economic benefits which it might also pose.

Members will have 10 days to 2 weeks to consider this issue. I urge that they consider it very carefully. It is an essential issue to the State of Florida and I look forward to the opportunity to debate it. Thank you.

The CHAIRMAN. The Chair will announce that the gentleman from New Jersey [Mr. Roe] has 6 minutes remaining and the gentleman from Minnesota [Mr. Stangeland] has 14 minutes remaining.

Mr. STANGELAND. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. Gunderson].

Mr. GUNDERSON. Mr. Chairman, I rise today to provide well deserved congratulations to the distinguished members of the Committee on Public Works and Transportation for their successful efforts in bringing this important proposal before the House. I urge my colleagues to recognize the reasoned approach that has been taken in developing this proposal and to support its passage by the House.

While many Members will rise to detail the ample reasons for passage of this bill, I would like to limit my remarks to three issues of critical importance to the people of western Wisconsin.

The Mississippi River is an awe-inspiring natural resource. Even the most casual observer in reviewing the map of our United States, must be struck by is importance in our Nation's geography. Those of us who have been blessed to live near its banks are true benefactors of its bounty. We know it to be a great highway of water transporting great quantities of agricultural and other products in either direction from its headwaters in Minnesota to the open seas at the gulf. Its wide arms embrace and nurture wildlife and fish resources of great variety. It also provides recreational opportunities without peer.

During my short term of service in the Congress, the promotion of appropriate use and management of the river environment has been one of my primary objectives. While the scope of the resource is truely great, it is not without limit. Under wise management and careful development, alternative uses can be complimentary rather than exclusionary.

Along with other Members of this House, I have taken an active role in the development of the Upper Mississippi River system management plan. We continue to seek implementation of the key aspects of this effort through legislative proposals.

This legislation provides and historical step forward toward implementing through legislation our commitment to the concept of multiple use.

Congressional management of the Upper Mississippi River started in 1824 with authorization to remove snags and local obstructions hampering navigation. In 1878, Congress recognized the importance of navigation on the river by authorizing the development of a 4½-foot channel from St. Paul, MN, to the mouth of the Missouri River. In 1907, a 6-foot channel was authorized. With the development of a lock and dam near Keokuk, IA, in 1914, the trend toward spending for navigation improvements on the river was on.

Congress waited until 1924, however, to recognize in statute the environmental value of the river system by authorizing the Upper Mississippi Wild Life and Fish Refuge. This designation gave a mandate to the river system as a nationally important ecosystem. Unfortunately, the proud public pronouncements in favor of balance management of the river to accommodate multiple uses has never been reflected in the allocation of funds for river projects.

This began to turn around in the 1970's with congressional attention to the importance of the river's dual capacity as a transportation artery and a significant ecosystem. Congressional authorization for studies by the Great River Environmental Action Team [GREAT] was provided in 1976. These studies focused on acceptable methods of dredge material disposal. In 1978, Congress authorized the Upper Mississippi River Basin Commission to prepare a master plan for the management of the system.

After years of careful study and development, Congress is now well prepared to provide a greater balance in the allocation of funds to environmental and damage rehabilitation programs on the Mississippi. The bill before us provides a 10-year program allocating virtually equal sums to a second lock and dam at lock and dam No. 26 and to environmental protection, monitoring, and rehabilitation programs. This program includes:

| | *10-yr cost* |
|---|---|
| Habitat rehabilitation and enhancement | $124,600,000 |
| Long-term resource monitoring | 53,400,000 |
| Second lock and dam at No. 26 | 245,000,000 |
| Computerized inventory and analysis | 8,365,000 |
| Recreational projects | 5,000,000 |
| Assessment of econ. benefits of rec. proj | 750,000 |
| Monitoring of traffic movements | 500,000 |

This Mississippi River legislation is the most comprehensive legislation to authorize specific projects for the balanced development of the resource that has been brought before the Congress. I applaud the foresight of the committee in providing this historical step forward in placing into action our philosophical commitment to multiple-use management of the river.

One of the important provisions of the committee amendment which will be offered to the omnibus water development bill directly relates to my desire to promote and preserve appropriate public use of the recreational advantages the Mississippi River provides. It extends existing provisions in Public Law 97-140 to ensure privately owned facilities crucial to maintaining public access to the waterway will not be subject to an arbitrary decision requiring their removal by extending the effect of the law beyond December 31, 1989.

The U.S. Army Corps of Engineers, which exercises shared authority over the management of the Mississippi River shorelands, has presented plans for land-use allocation. Unfortunately, these plans fail to recognize the importance of allowing the continued use of existing facilities crucial to public access to the Mississippi River.

The Federal Government has right of ownership over a relatively thin strip of shoreland along the banks of the Upper Mississippi River. They have announced their intent to restrict the reissuance of special permits that allow adjacent landowners to maintain docks, cabins, and other recreation-oriented structures in these areas.

Those who have been most closely involved in Mississippi River issues know of my longstanding support for the goal of public access and use. I have been convinced that the corp's announced plan ill serves this important objective. For some 45 years, these facilities have been in place and have increased public use. To restrict the placement of these structures will reduce overall public enjoyment of this resource and is not at all inconsistent with our goals in the area of transportation or fish and wildlife habitat preservation. I sincerely appreciate the willingness of the committee members to grapple successfully with this important issue.

The second issue I will discuss today relates to sections of the bill which hold the promise of relief for two Wisconsin communities that have suffered under the ravages of periodic flooding of the Kickapoo River for far too long. First authorized through the adoption of the 1962 Flood Control Act, the La Farge Lake project was designed to provide protection of life and property from flooding of the Kickapoo. Funds to initiate construction were provided in 1971. Tragically, the entire project was placed in a state of suspended animation when construction was suspended in 1975.

Developing a solution to the flooding problem plaguing this area has been a central focus of my attention for many years. My goal has been to find a resolution that is environmentally acceptable, legislatively possible, and which can garner the support of a majority of valley residents. I have consistently supported efforts to provide a solution to all the flooding problems of the valley and continue under that philosophy. Consistent with that goal, I intent to support elements of the overall project which can provide flood protection improvements now to some of these beleaguered communities.

Section 716 of the bill before us is an important step forward in this regard. It would authorize and direct the construction of a flood control levee, channel improvements, and interior drainage facilities for Gays Mills, WI. This project has an estimated cost of $4,000,000 and is a wise expenditure of public funds in the protection of life and property in this community. In addition, it authorizes the completion of a reconnaissance study of structural and nonstructural measures to prevent flood damage in Viola, WI.

The flooding threat to other communities in the valley is not jeopardized under this approach due to important legislative language which ensures that the benefits and costs of the project will continue to be included for purposes of determining the economic feasibility of completing the overall La Farge Dam project. Simply put, this vital language ensures we can accomplish needed protections for some without unduly jeopardizing further flood control projects necessary for other valley communities.

Finally Mr. Chairman, the committee amendment also includes new language that will allow the Army Corps of Engineers to study and respond to groundwater flooding in communities across the Nation plagued by this difficult problem.

Some time ago, the people of Arcadia, WI, contacted me for help in addressing the innundation of their homes, schools, roads, and commercial buildings by ground water due to a rising water table. To the people of Arcadia and to any rational observer this problem is identical to those presented by any other flood. However, unless the amendatory language proposed by the committee is adopted, this type of situation will not be subject to redress by the corps. In fact, intensive review of statutory authorities revealed to us that no Federal agency had a clear and defined role in responding to this type of flooding problem. The proposed language will repair this oversight.

The people of Arcadia need the corps' help and this language is the first step in providing that help. We believe that appropriate dredging by the corps of the Trempealeau River can effectively reduce flooding of the basements and households of Arcadia. While we seek corps' help, the community itself has a long tradition of trying to help itself. Until 20 years ago, they owned and operated their own dredging equipment. Significant investments have been made in upstream soil erosion prevention projects. However, the lack of dredging has covered drainage pipes and has resulted in a slow and relentless rising of the water table.

Today, the school has a couple of feet of water in its basement, as do many commercial facilities and homes. While this problem does not meet our current statutory definition of flooding, they are flooded, in every sense of that word, on a constant basis nevertheless.

After many meetings with local groups, State and Federal officials, the pleas for help from Arcadia have been met by the scratching of official heads. While the corps and others express an interest in helping these people, lack of clearly enunciated authority has been a roadblock to progress.

The passage of the committee's amendment will ensure the people of Arcadia and other communities across the Nation with similar problems can expect clear answers and not bureaucratic mumbling as a response to their urgent requests for help.

Mr. Chairman, the bill before us has been many months in development and has received favorable review from four separate committees. I would urge prompt consideration and passage of this important measure.

Mr. ROE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, Boggy Creek is a small, normally calm tributary that flows through the east part of the capital city of my State—and my hometown—Austin, TX. After meandering through a highly developed commercial and residential district in the low, flat southeastern part of the city it feeds into the Colorado River on its way the Gulf of Mexico. It is most times a peaceful little creek, but whenever thunderstorms move out of the hill country over Austin the people who live along Boggy must keep one eye on the sky and one eye on the rising creek, for when it rains hard in Austin, as it often does, Boggy becomes a threat to life and property.

Flooding in 1975 caused millions of dollars in damage, and we have had two severe floods since then. We would have suffered major trouble again last year—but it quit raining in the nick of time and the storm never brought its full power to bear on East Austin and Boggy Creek. This problem won't go away by itself; it will only get worse until something is done.

The city and local residents are willing to do their part. But they need help. The city has already contributed much to this project by beginning certain improvements on the Boggy Creek channel compatible with the recommended plan. The total non-Federal contribution will amount to about $5.5 million. Boggy Creek is at its meanest in the heart of southeast Austin, where its frequent flooding wrecks havoc on more than 2,000 homes and businesses. Most of the people hardest hit when Boggy comes out of its banks are blacks and Hispanics of limited financial means, people for whom it is difficult to rebuild, but who can least afford insurance or to move away to safer locations. These people have suffered for years and they find it difficult to understand why their Government is so painstakingly slow in coming to their aid; they do not want to hear explanations about the size of the bureaucracy, or all the other worthy projects, or how long it takes to prepare a preliminary environmental impact statement. They want to see results, and I regret to say that far too many of them have lost hope of ever seeing positive Government action on their behalf. They sometimes doubt that help will come because they are not a rich and powerful constituency.

With every year now we come closer to showing these people that their Government can work for them. I am determined to prove it. And, I hope the Congress will help me by avoiding any delays in this project and by authorizing the funds to continue on Boggy Creek. This work has been recommended up and down the line through more than a dozen reviews from the District Engineer, to the Civil Works Board of Engineers for Rivers and Harbors, to the Army Corps Chief of Engineers office. It is time now for the Congress to support this very important authorization bill which our committee has brought before us. This bill contains many worthy projects which would save lives and property. We cannot afford to wait another 8 years before authorizing a public works bill.

Mr. ROE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I appreciate the opportunity for this time. I have consistently supported the chairman from New Jersey's bills and his excellent work.

However, today, I am here to speak to one of the amendments that will be offered to this legislation, the amendment offered by my colleague from Florida [Mr. MACKAY] the effect of which would be to deauthorize the Cross-Florida Barge Canal.

And in speaking in favor, during this period of general debate of the bill, I would merely mention this particular statistic: Each year I send out a questionnaire to my constituents in the 11th Congressional District in Florida. This year, we had almost 19,000 that returned those questionnaires. And of those nearly 19,000 responses, they responded to the last question on the questionnaire which is "Do you favor completion of the Cross-Florida Barge Canal?"

Only 6 percent did not respond; in other words, they were undecided. The remaining 94 percent divided up this way: On whether they favored completion of the Cross-Florida Barge Canal; only 29.7 percent said "yes," and 64.3 percent of my constituents responding said "no," they did not favor completion of that barge canal.

I think that is ample evidence, and I want to share it with the Committee at this time. Thank you.

Mr. ROE. I thank the gentleman.

Mr. Chairman, I would yield 3 minutes to the distinguished gentleman from Florida [Mr. CHAPPELL].

Mr. CHAPPELL. Mr. Chairman, I thank the chairman of the committee for yielding.

I rise to say to the Committee that, when this amendment by Mr. MACKAY is offered, I will join other Members of the Florida delegation in opposing it. First, all of us can show what is popular in our districts and I assure you that this project, the Cross Florida Barge Canal, while being unpopular in some other Members' districts, has popularity in mine.

The last time this matter was considered in a hearing before a committee of this House was in April 1977, at which time the Appropriations Subcommittee on Energy and Water Development, based upon the study and reports thereon made by the Corps of Engineers, refuted every item mentioned on this floor a few moments ago.

The Corps of Engineers witnesses testified, and the committee found, that no damage to the quality of the ground water supply would result from completion of the canal.

□ 1610

That there would be no damage to the Florida aquifer, that the water supply of south Florida would not be affected, that extensive tests conducted by the Corps of Engineers show no damage from saltwater intrusion. The Appropriations Subcommittee on Energy and Water Development further found that the report of the cost/benefit study of the Corps of Engineers was not yet complete and ordered that that study be completed and a report be made thereon.

The Appropriations Committee and this Congress have, in recent months, appropriated the moneys for the completion of that study, and for us to take this kind of action at this time would be premature.

I would urge that the House, at the proper time, vote down this amendment. I believe we can bring the necessary facts to soundly bear out that position.

I thank the Public Works and Transportation Committee for taking its position against such an amendment.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. CHAPPELL. I yield to the gentleman from Florida.

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Chairman, in the moment or so that is available to me, I would say that certainly my district is enthusiastically for building the canal. The only controversy I have heard about this canal is with regard to a railroad interest, that you want a monopoly on the movement of coal and other things through the area.

This canal has been found to be economically justified and environmentally sound. They have had study after study of people, including the Corps of Engineers that supervise the studies.

The studies show that environmentally it has a lot of pluses to it and overall it is not negative.

It has had a political difficulty about it because President Nixon peremptorially, without any notice to anybody, halted work on the canal. It took us years to get the court to address the question of whether he had the legal constitutional authority to do it. When they finally decided, they said it was unconstitutional to do what he did.

Now we are trying to pick up the chips after they have been thrown away that way and we are not seeking any funds for the canal. So any action by Mr. MacKay on this matter would not save a penny for the Treasury.

So it is not a positive thing that is going to help anybody in any way that I see. Certainly my district is very much for the building of the canal. I think it is sound economically and I think it is sound environmentally.

Mr. CHAPPELL. I thank the gentleman.

I would say in closing we have three alternatives. First, to complete the canal. We are not seeking that route. The second would be to deauthorize and run the risk of all kinds of drawdowns and the destruction of a very valuable national public works project, which is one-third complete. And the third would be to do nothing and have the best of both worlds—that can be accomplished by defeating this amendment.

● Mr. RAHALL. Mr. Chairman, as a member of the Committee on Public Works and Transportation I am pleased to be associated with the legislation we are considering today, H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1983.

This legislation is the product of an intense series of hearings held by the Subcommittee on Water Resources, conducted under the able leadership of Chairman Robert Roe.

It addresses many areas of need with respect to our Nation's water resources, but I would like to discuss those matters pertaining to commercial navigation on the waterway system.

No major authorization bill for new U.S. Army Corps of Engineers construction has been enacted since 1970, with legislation passed in 1974 and 1976 primarily authorizing advanced engineering and design of projects rather than new construction. Indeed, there has been no major new construction appropriations for 5 years now.

The subcommittee found that the Nation's inland waterway infrastructure is in shambles. Many critical locks and dams, constructed over 50 years ago, are no longer adequate to accommodate larger barge tows and increased traffic. This has presented many hazardous situations, time delay, and increased costs.

There has been an effort over the years from certain quarters to impose additional user fees on commercial navigation. It must be noted that there presently exists a barge fuel tax at 8 cents per gallon which will rise to 10 cents per gallon next year. This revenue is deposited into the Inland Waterways Trust Fund to pay for a portion of new construction costs. Under H.R. 3678, one-third of the costs of new lock and dam projects will be paid for out of the trust fund—representing a 33 percent cost-sharing level by non-Federal interests.

Additional cost recovery would have severe adverse impacts not only on the inland waterway system and those who use it, but on the consumers of products transported by barge. These products include coal, steel, and grain and an increase in their transportation cost would show up in a variety of consumer products and services such as electricity, automobiles, and breakfast cereals to name a very few. User fees, in essence, are a form of indirect taxation on the American people and must be limited in scope and duration.

As we consider amendments to this bill, I would urge my colleagues to oppose any effort to impose caps on Corps of Engineers' spending and to increase the level of cost recovery for these projects.

The committee has included only those inland waterway projects in critical needs of replacement or rehabilitation. Among them is an authorization for improvements to, and an additional lock, in the vicinity of the present Winfield Locks and Dam on the Kanawha River in West Virginia. As the sponsor of this project in the committee, I am pleased that its improvement will provide for a more efficient movement of steam and metallurgical coal from southern West Virginia to markets throughout the Nation.

Another project is the rehabilitation and construction of new locks at Gallipolis, on the Ohio River about 30 miles upstream from Huntington, WV. This is the premier locks and dam project in need of improvement.

Also provided for by the bill are projects at locks and dams No. 7 and 8 on the Monongahela River in Pennsylvania and West Virginia, the William Bacon Oliver Lock and Dam on the Black Warrior River in Alabama, and a second lock at No. 26 on the Mississippi River in Illinois, and the Bonneville Lock and Dam on the Columbia River in Oregon and Washington.

This legislation also seeks to improve many of our ocean ports which have long been in need of deeper channels. Authorized for these deeper drafts would be six projects, including those at Norfork and Mobile Harbors. Cost sharing would be required for 50 percent of the incremental construction and operation and maintenance costs associated with channel depths greater than 45 feet. The imposition of user fees to achieve the cost-sharing requirement by any non-Federal interest would be limited to only those vessels which require the deeper channel drafts.

I am confident that these port-related provisions will enable the United States to become more competitive in the world market with respect to commodities such as coal.

Mr. Chairman, I commend the leadership and members of the Committee on Public Works and Transportation for bringing H.R. 3678 to the floor today. This bill certainly deserves the support of all Members.●

● Mr. HOWARD. Mr. Chairman, I rise in strong support of H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act. This bill contains project authorizations, authorizations of water-resources studies, project modifications, and general provisions affecting the overall water-resources program of the Army Corps of Engineers. It also includes a title deauthorizing over 300 unconstructed Corps of Engineers projects or portions of projects, a title relating to water-resources policies for all Federal agencies that establishes a new Board on Water Resources Policy to replace the currently authorized Water Resources Council, and a title which establishes a Federal interest in single-purpose water-supply projects and establishes a loan program for the repair, rehabilitation, expansion, and improvement of public water supply systems.

Mr. Chairman, although this is an extremely complicated piece of legislation that had taken over 3 years of intensive work by our committee to develop, our efforts have been made much easier by the bipartisan nature of the problems addressed in the bill and by the strong support of all members of our committee on both sides of the aisle. In this regard, I would especially like to commend the efforts of our ranking minority members, the gentleman from Kentucky [Mr. Snyder]—as well as the work of the ranking minority member of our Water Resources Subcommittee, the gentleman from Minnesota [Mr. Stangeland]. Without their support and cooperation we could never have formulated such a complex bill as this that could be unanimously adopted by both the subcommittee and the full committee, as this one was. And, of course, the greatest credit of all must go to the chairman of our Water Resources Subcommittee, the gentleman from New Jersey [Mr. Roe] for his tireless work in initially developing the legislation and in subsequently working out the compromises which have enabled it to enjoy such wide bipartisan support.

I would also like to thank Chairman JONES of the Merchant Marine and Fisheries Committee, Chairman RODINO of the Judiciary Committee, Chairman UDALL of the Interior and Insular Affairs Committee, Chairman DE LA GARZA of the Agriculture Committee—and all the involved members of those committees—for their help and cooperation in resolving the differences between the various reported versions of this bill so that we can appear on the floor today with a mutually acceptable piece of legislation from the perspective of those committees.

The last Water Resources Development Act was signed into law in 1976, and the last true Construction Authorization Act was signed into law in 1970. Consequently, over the past 14 years, a very large backlog of vitally needed water-resources projects has accumulated. Detailed testimony and information was received on all these projects, and they have all been analyzed very carefully by our committee. As a result, this bill contains a large number of authorizations for all types of corps water projects, including navigation projects flood-control projects, shore-protection projects, fish and wildlife habitat mitigation projects, and other projects for the conservation and development of our Nation's water resources. While the total number of projects appears large, it must be remembered that they represent well over a decade of detailed planning and study of water-resources problems thoughout the Nation.

Our committee has also worked hard to ensure that this legislation is the most environmentally sensitive authorization bill we have ever developed. While the projects recommended by the corps to the committee were planned in full compliance with all existing environmental laws and regulations, the committee, in many instances, has gone beyond the recommendations of the corps to include in the authorizations for many of those projects a number of detailed provisions for the additional protection of environmental values.

Mr. Chairman, we hear far too much about the supposedly undesirable effects of water-resources development and far too little about the enormous economic and environmental benefits that are associated with such development. The fact is that a careful reading of this bill and of our committee's report—and a careful examination of the history of our Nation's water-resources program—easily demonstrates the enormously beneficial role that this program has played and will continue to play in our Nation's development.

Thank you.●

● Mr. MONTGOMERY. Mr. Chairman, H.R. 3678 contains $10 million for Sowashee Creek. Unless you live near Sowashee Creek this will mean nothing to you. However, for those folks that live in my hometown of Meridian, MS, it is a body of water that is far too familiar. The average annual flood damage caused by Sowashee as computed by the Corps of Engineers stands at $2,710,000.

The Sowashee flood plain is dense in population and includes a large commercial section of Meridian. Periodic flooding damages homes, businesses, industries as well as public facilities. There is grave concern that this continued threat will seriously thwart future development plans in the area.

The losses are indeed in need of correction. The South Atlantic region Corps of Engineers plan dated March 30, 1984, states:

> Citizens expressed a desire for the alleviation of flood damage to personal property and a desire for relief from the mental anguish and trauma which result from experiencing a flood in one's home.

I know these citizens personally. They are my constituents, and I can certainly add my own concurrence with the Corps of Engineers statement.

The Corps of Engineers report concluded that the project should be approved. They considered alternatives to Corps of Engineers structural work, and determined that none were feasible. Their recommendation was for the estimated $16.4 million project be shared between Federal and non-Federal sources of funding in accordance with congressional and Presidential policies and procedures.

I was pleased to learn that just last week the Board of Engineers for Rivers and Harbors after having reviewed the South Atlantic region report concurred with the recommendation.

The bill before us authorizes the work on Sowashee. It includes engineering, design and construction funds, land, easements, and right-of-way costs as well as the costs of relocations. The cost will be shared by the local government.

The city of Meridian is prepared to meet their obligation and are anxiously awaiting the flood relief that will result. I thank the committee for including this badly needed flood control project in H.R. 3678, and hope my colleagues will support their decision.●

● Mr. FIELDS. Mr. Chairman, I rise to express my strong and enthusiastic support of H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act.

Before highlighting several provisions which are important to my congressional district, I would first like to compliment Chairman HOWARD, Chairman ROE, Congressman SNYDER, and Congressman STANGELAND for their extraordinary leadership in bringing this critical bill to the House floor.

As a former member of the Water Resources Subcommittee, I know that this legislation is the product of hundreds of hours of deliberations and is an outstanding tribute to the dedication and perserverance of its authors.

It has been 8 long years since the Congress last approved a major water resources bill authorizing vital new water projects in this Nation and I am hopeful that this year we can enact this long overdue legislation into law.

While there are a number of important projects contained within H.R. 3678, I intend to briefly discuss several which have particular importance to my congressional district.

The first of these key provisions authorizes my bill, H.R. 1138, directing the Army Corps of Engineers to implement a badly needed flood control project on the Upper White Oak Bayou.

Mr. Chairman, the people who live in central and northwest Houston along the Upper White Oak Bayou have made every effort to protect their homes and businesses from the ravages of flooding. It is my firm and unwavering belief that the Federal Government must now do its part to assist these courageous Americans who alone cannot accomplish this vitally needed flood protection.

The Army Corps of Engineers has carefully studied the Upper White Oak Bayou for a number of years and has submitted to the Congress a detailed and comprehensive plan to eliminate its persistent flooding problems. It is a plan that has the wholehearted support of all interested parties and one which has received high priority from the Corps of Engineers on its list of nationwide projects. Upon completion, this project will provide $1.70 worth of flood protection for every $1 of Federal cost.

Mr. Chairman, clearly, this project is sound. It is an investment in America's future. It will save taxpayers money. It will create jobs. And, it will provide flood relief to these citizens who must now suffer from the personal and economic hardships of persistent flooding.

I am extremely pleased that the House Public Works and Transportation Committee has included this meritorious project within this legislation.

A second key provision involves several navigation projects along the Houston Ship Channel which I introduced as three separate pieces of legislation.

Incorporated within H.R. 3678 is language which will direct and authorize the Army Corps of Engineers to maintain a 40-foot depth at the Barbours Cut Terminal at Morgan's Point, the

Greens Bayou Channel, and the Bayport Ship Channel.

In each of these cases, private funds have been spent by the Houston Port Authority to dredge from various depths these tributaries of the ship channel to the 40-foot level.

What this provision simply does is to require that the Corps of Engineers now assume responsibility for maintaining that water depth.

This responsibility is consistent with our congressional mandate to the Army Corps of Engineers, and I am convinced that such maintenance costs will be more than offset by the creation of new jobs and other types of positive economic activity.

As the representative whose district includes most of the Port of Houston, I long have recognized the vital importance of this critical waterway. In fact, it has been estimated that $1 of every $3 in the Houston economy can be attributed to the ship channel. Directly or indirectly, the channel provides employment and livelihood to thousands of citizens in the Houston metropolitan area.

Clearly, it is in the best interests of this Nation to do whatever we can to ensure the economic vitality of our port system, and I believe these Houston navigation projects are an important ingredient in this process.

Finally, Mr. Chairman, I would like to briefly discuss a provision which is included within the substitute amendment to be offered by the distinguished subcommittee chairman, Bob Roe. This provision would allow the Port of Houston Authority to receive Federal reimbursement for the raising of a railroad bridge which the Coast Guard ruled an obstruction to navigation over Greens Bayou.

Although the actual modifications were completed in November 1980, I believe the Federal Government should provide partial reimbursement for these repairs which became necessary, through no fault of its own, because of severe land subsidence in this area.

While the Port of Houston Authority has spent in excess of $1 million to make the necessary modifications, I am pleased that under the chairman's substitute amendment, the port authority can receive up to $450,000 in the form of a reimbursement.

Mr. Chairman, H.R. 3678 is the product of 3 years of tireless work and determination by the Public Works and Transportation Committee. It has not been an easy process and I know from my own experiences in the last Congress that the Water Resources Subcommittee received testimony from hundreds of individuals on projects located throughout this country.

H.R. 3678 is a bill which deserves our wholehearted and enthusiastic support. In addition, I believe that the American people owe a great debt of gratitude to the sponsors of this proposal who have labored long and hard.

We simply cannot afford to postpone for yet another year the massive job of rebuilding our Nation's water resources system. While some may argue about individual provisions of this bill, the investment called for in this legislation is certainly justified when we weigh the benefits to the Nation which are derived from vital communities and ports with thriving industry, versus decay, which generates unemployment, saps our tax base, and generally impedes economic growth.

Now is the time to start the rebuilding process. I urge my colleagues to join with me in strongly supporting H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1984.●

● Mr. PORTER. Mr. Chairman, we have before us today a very important piece of legislation skillfully crafted by the very able chairman of the Subcommittee on Water Resources, Robert Roe, and the equally able ranking minority member, Arlan Stangeland. I want to take this opportunity to commend Representatives Roe and Stangeland for their excellent work in this regard. I am one of the many Members indebted to them for taking on this difficult and controversial task.

H.R. 3678, the Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1983 creates a comprehensive nationally coordinated water resources development policy. In addition, it includes authorizations for many important water resource projects across the Nation. The bill includes projects to control flooding, to improve inland waterway transportation, to repair essential bridgework, to provide for shoreline erosion protection, and to establish plans for water conservation and water supply development.

Of particular concern to me are two projects in my district to be authorized for construction upon completion of Army Corps of Engineers design and review work. They are a flood control project on the north branch of the Chicago River and an erosion control project at the Illinois Beach State Park.

The bill includes an authorization of $11.209 million for the construction of flood control basins along the north branch of the Chicago River flood water basin. My district has experienced periodic and devastating damage resulting from heavy flooding throughout this area. The construction of the Army Corps approved flood water management plan will go a long way toward alleviating the situation.

The second project is not yet in the bill but will be included as part of the chairman's package of amendments. The second project is an authorization for construction of a shoreline erosion protection project at the Illinois Beach State Park near the Illinois-Wisconsin State line based on Army Corps of Engineer criteria. The preservation of this beach, which is the only public facility along the shoreline, through the construction of this project is important for the continued economic development of the greater Waukegan region. I was extremely pleased to find that the committee agrees with me that this project has merit and has decided to include it in the package of committee amendments.

Securing an authorization for both of these projects is only the first step to actually getting them constructed. The next step is to ensure that annual appropriations are set aside through the regular appropriations process until they can be finished. I will be working through my position as a member of the Appropriations Committee to see that this goal is achieved.●

Mr. STANGELAND. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I have no further requests for time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Bennett) having assumed the chair, Mr. Sam B. Hall, Jr., Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 3678, to provide for the conservation and development of water and related resources and the improvement and rehabilitation of the Nation's water resources infrastructure, had come to no resolution thereon.

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## GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3678, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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## DEVELOPMENT OF THE UPPER MISSISSIPPI RIVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. Gunderson] is recognized for 60 minutes.

Mr. GUNDERSON. Mr. Speaker, I am taking this special order today in that I might share with Members a bit of the history and perspectives of what has happened and what we are trying to have happen in regard to the development of the upper Mississippi River.

As my colleagues will note from the charts to my left we have had a real concern, those of us from the upper Midwestern part of this country, over what we know as the Upper Mississippi River Basin. This particular area is unique. It is unique in that it has a multiuse concept used for transportation, used for navigation, used for recreation, and used also for fish and wildlife habitat.

As these particular charts will show, however, that is not the case of the Lower Mississippi River Basin. They simply do not have the backwaters, the areas for recreation, for fish and wildlife habitat that we have in the north in the areas we so desperately want to preserve.

If one takes a historical perspective of the Mississippi River they will recognize that Congress has been involved in the management of the Mississippi River since 1824, for it was at that time that the Congress—if you can believe it or not—authorized the removal of local snags, obstructions, and other such measures from the river. Obviously the trees, the twigs, et cetera.

Navigation was recognized as a part of the role of the Mississippi River in 1878 when Congress authorized a 4½-foot channel. In 1907, we moved that up to a 6-foot channel. And, in 1914, we authorized the first lock and dam in Keokuk, IA.

In 1917, what is now known as lock and dam No. 1 was authorized and construction was begun in Minneapolis.

Therefore, the trend was on toward spending for navigation on the river.

Now we also have a concern for the environment, a concern that followed a few years later, in 1924, when we authorized the Upper Mississippi Wildlife and Fish Refuge, recognizing, as the chart on my far left shows, that we do have a fish and wildlife refuge in that particular area.

Yet in 1930, and I suspect as part of the concern about the recession or depression at that particular time and to follow, an authorization was made for 29 different locks and dams, and an authorization was made not for a 4½-foot, not for a 6-foot, not for a 7-foot, but for a 9-foot channel.

□ 1620

And so we had two congressional mandates, some would say, counteracting each other. One was a congressional mandate calling for commercial navigation; the other was a congressional mandate calling for a national significant ecosystem.

Now, I think it has been clear to each and every one of us who has followed this legislation, who has followed the budgets through the years, that clearly the vast majority of funding has gone to improve and to promote navigation on the river, to maintain and to build those various locks and dams which are there.

In the late 1970's, however, we began to see a turnaround in this whole area. We began, as part of the environmental movement, I suspect, to recognize the importance of both mandates—on the one hand, the navigation, but also the environmental aspect as well.

In 1976, Congress authorized the great studies, known as the great river environmental action team. The purpose of those studies was to focus on the proper use and methods of dredging of the river.

What is dredging? Well, dredging is the mechanism by which the corps will come and dig out the sedimentation, to reestablish that 9-foot channel, to allow the navigation to continue.

I think everyone would agree that there were some real abuses not only in the process of dredging, but perhaps more importantly, also in the means by which the dredging was disposed.

One of the beauties of the great studies and the actions that have followed is that this was an example of where Federal, State, and local entities can work together and cooperate for the development and enhancement of the river, and that I think is followed through today.

The controversy became, should we say, more pronounced in 1978, when before this Congress was a proposal to replace lock and dam 26 at Alton, IL. Determining whether or not the Congress ought to continue on what many would suggest was quite a commitment to improving navigation, with little concern on the other side, Congress at that time authorized the Upper Mississippi River Basin Commission to develop a master plan for the furture development of the river. That master plan was submitted to this Congress in January 1982. It included some 12 different recommendations, mainly calling for a balanced multipurpose management of the river.

In response to that, in the 97th Congress we had two different legislative proposals. One proposal recognizing the interests of those in the Missouri area and elsewhere, called for the establishment of the second lock and dam at Alton, IL. Because that was 1 of the 12 recommendations, I then introduced legislation calling, frankly, for the other 11 recommendations so that we would have the opportunity to promote some kind of a balanced development of the river as the master plan called for.

Now, mine was introduced at that point in time, in February 1982 calling for a 10-year program and costing, frankly, over $1 billion.

It is fair to say that because we did not have an omnibus water bill last session, both of those particular proposals died at the end of the 97th session.

As we came back in the 98th session, this session that we are now in, we again had the proposal just for the additional lock and dam at Alton, IL, but at that time we introduced a new and revised proposal known as the Upper Mississippi Management Act. Frankly, what we wanted to do is we wanted to be more realistic than I think we were in the last session, and we wanted to allay any fears that we were only trying to promote environmental concerns and that we were trying to in some way stop or renege on the navigational role of the Mississippi River. And so we provided a proposal that called for the habitat rehabilitation, the long-term resource monitoring, the second lock and dam at Alton, IL, computer inventory analysis, recreation, allowing the States to enter cooperative agreements, economic assessment, and traffic monitoring.

The particular chart that I now put up really lays down all of those particular recommendations that are a part of that particular proposal.

You will note that we have dropped from here one of the more expensive proposals that we introduced in the last Congress, and that was the soil erosion proposal which would cost over $912 million over a 10-year period. The reason for that is, first, obviously, recognizing the cost concerns that we have to face in this Congress at the present time; and second, recognizing that realistically we are at a point where most of the needs in the conservation area and sedimentation rolling off the hills and coulees of the upper Midwest into the lakes, and into the streams, and the rivers, and creeks that run into the Mississippi River, sedimentation being one of our major problems, the language and the authority is already there to do something. All we need is the money, and we already have the opportunity when and if that money is available through the present mechanisms.

The other proposal that is different from this act and the one we introduced last session would be the second lock and dam at Alton, Ill. We wanted to, as I mentioned earlier, recognize the complete balanced development of the upper Mississippi River.

Now, the bill that is before us is a 10-year authorization, with a projected cost of about $437 million. Expensive, yes. However, less than half of the cost that we were talking about before. And, second, I think it is important to note that we have a very balanced perspective and that half of the cost of the second lock and dam to improve navigation cost $245 million, and about $200 million is included for improving the environmental aspects of the river.

So the strategy then was to clearly emphasize the total master plan concept.

It is fair to say, without doubt, I think, that this is the most comprehensive legislation for balanced development of the Mississippi River that has ever been before this Congress. And if we can enact this into law as a part of the bill that is now in front of us, the omnibus water bill, we will indeed make history.

Let me spend a little bit of time giving some of the detail of what we are talking about in this particular proposal, because so often I am asked, "Exactly what do you mean in each of these areas?"

In the habitat rehabilitation area, really what we are trying to do is, we are trying to repair the damage that has already been done and improve the breeding and habitat for our fish and wildlife situation.

As you looked at those backwaters that were in the pictures and charts before us, you will clearly note that the expenditures in this area will go for such things as island creation, backwater dredging, side channel modification, wing dam and closing dam modification, shoreline protection, riprap, that type of thing.

Each of the States in the Upper Mississippi River Basin; Wisconsin, Minnesota, Iowa, Missouri, and Illinois; have each established their own priorities based on local conditions and needs of the river under their particular jurisdiction.

The second thing that we do is that we call for the long-term resource monitoring project. This is one of the more difficult, more complicated aspects, perhaps, of the bill, even though it may not be one of the more expensive.

With the complex problems, the number of uses for the Mississippi River, the Upper Mississippi River Basin today, it is clear that we need some scientifically sound data to determine the proper future of the Mississippi River.

The scientists, the others on the river, will tell you today that we have data that will only give us suggestions into the 1990's. We have no sound scientific evidence to go beyond that time.

So the purpose of this particular aspect, then, the long-term resource monitoring, is to collect scientifically valid and statistically sound data over time to detect site specific or systemwide changes in the river that need to receive the attention of this Congress, the corps, the Fish and Wildlife Department of the Interior, and others who are involved in the protection and maintenance of the river.

There are five elements in the monitoring project. First is the lead agency in the bill before us calls for the Army Corps of Engineers to be that lead agency, in cooperation with Interior Fish and Wildlife, and certainly the State agencies.

Second, we are talking about field stations. We are calling upon each of the five States in the Upper Mississippi River Basin to collect the data within existing facilities in each of the five States, not to get on some kind of a roadbuilding, a whole bunch of new facilities, just to carry out the importance and collection of this data.

Third, there are various components of the long-term resource monitoring project that are essential to determine what really is happening to the river and what needs to happen.

I will give you some examples. Land use, meteorology, hydrology, water and sediment, contaminants, aquatic vegetation, micro-organisms, and the list goes on.

Fourth, what we are trying to do is, we are trying to develop a systems approach, that is, that the monitoring would be done in selected pools and regions on a systems approach, where we can go in in the areas that are selected, hopefully will be representative, and, likewise, we will be able to do a comprehensive integrated study in this particular area.

Actually, the work has already been done by the people in the Upper Mississippi River Basin to select those pools. Seventeen different pools have been selected and included in that master plan developed by the Upper Mississippi River Basin Commission.

The 17 pools were selected on the basis of four different criteria: First, that the area is representative of major habitat types in the system or is important in influencing a significant portion of that system; second, that the historical data base is available; third, that the area is recognized as an important fish and wildlife resource; and fourth, that the area has the availability of the manpower and facilities necessary to do this resource monitoring.

□ 1630

Now, you will notice that the next thing on the chart is the second lock and dam at Alton, IL. I think that is pretty much self-explanatory, and I am not going into details on that.

The next issue is the computerized inventory, which costs $8.4 million over the 10-year period. Really what we are talking about here is the gathering and the story of this historical data collected in the long-term resource monitoring program. Likewise, for the proper management of the data that is collected, so frankly, it is of use. It is of use to the scientists, it is of use to the various State departments of natural resources, it is available and useful to the Fish and Wildlife Service, and most importantly, available and useful to those of us in Congress who have to determine what course we ought to follow in the river in the future.

The next area as a part of the whole proposal is the recreation projects. Presently, it is projected that existing river-related recreation projects account for over $1 billion in revenue annually to the Upper Mississippi River Basin five States. We believe that there are many opportunities to more than double that particular opportunity for recreation and the opportunity for the revenue that it will bring it. Obviously, this area alone will much more than pay for the costs that we are making in this particular investment today.

What are we talking about? We are talking about improving public access and promoting expanded use. We are talking about projects such as public boat ramps; park development, such as picnic areas, scenic overlooks, land acquisition for park expansion; development of multipurpose trails, and the restoration of some of the historical sites along the river.

The next one, economic assessment, where we are going to spend some $700,000 over 10 years, is to really determine what the economic assessment, mostly of this recreation effort is, but I suspect also of all of the uses of the river, when one considers the shipping that goes up and down the river, in the backwaters and the beginnings in Minnesota to the mouth of the river down at the gulf, it is clearly a monumental resource to this country, and we need to determine, I think, its true value in order to determine its true appreciation.

Finally, the traffic monitoring, something that you notice we have in parentheses, the reason for that is because of the legislation that is before us does not authorize a particular amount; it authorizes such sums. Frankly, we are hopeful that much of the traffic monitoring can be done by the Army Corps of Engineers under their present appropriation. What we are trying to determine is exactly what the amount of traffic is, where it is going, when it goes, what its impact is on the river, and so forth. The purpose of this is multifold. Obviously, to find ways in which we can best utilize the upper Mississippi River and all of the river for the navigation aspect, and second, to determine the impact of that navigation on the river and what must be done to minimize that impact and its adverse effect on the fish and wildlife habitat and the other ecosystems that are in front of us at this time.

How does all of this fit together? I hope it becomes quite clear that one of these compliments the other. For example, when we talk about such things as the resource monitoring, that is what we will need to determine exactly what is happening in the river; what needs to be done. We will put that on the computerized inventory analysis so that we can have a proper means of studying and obtaining the information we have which we can use hopefully, to determine what the proper expenditure and habitat rehabilitation, what the proper efforts are in this particular area so that we can move forth and achieve whatever is necessary.

As I said before, I wish that each and every Member, I wish that each and every person in this country would have an opportunity to visit the Mississippi River from its beginnings to its mouth, but most important, the Upper Mississippi River Basin. This is a special resource, and the people of the area have a very special bond to this Mississippi River, it is something we want to preserve not only for today, but for tomorrow.

We have the beginnings in making history today, because for the first time in the history of this country, we are going to be able, as we proceed with this legislation, to incorporate the most comprehensive development, balanced development of the Mississippi River ever into the statute books of our land.

You know, there is a saying that I use at home as I am speaking around Wisconsin or other areas about exactly what is going on with the river and what we are trying to do and I say, freedom is a gift from our forefathers, our resources are a gift from our God. We have, I suspect, a moral obligation to preserve both. I cannot in any way suggest that this particular legislation will help maintain us a free and independent country, but I clearly believe that this is the kind of effort that must be made by the Federal Government in cooperation with our State and local governments to maintain one of the most valuable inland water resources that this country has.

## CENSORED—FOR LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Brooks] is recognized for 5 minutes.

● **Mr. BROOKS.** Mr. Speaker, today's Washington Post contains a lead editorial entitled "Censored—For Life." This editorial reports on a recently released GAO survey, conducted on behalf of Chairman Ford and myself, which demonstrates that President Reagan's suspension in February of his national security decision directive 1984 has, in reality, suspended very little of this administration's censorship and polygraph policies. In fact, censorship contracts, virtually identical to those proposed by the President under his directive, are currently being imposed on thousands of Government employees. In a letter to accompany its report, GAO indicates that the Departments of Agriculture, Commerce, Defense, Energy, Justice, State, Transportation, Treasury, and all the other agencies queried, are requiring many employees to sign lifelong censorship agreements. The number of employees covered exceeds well over 100,000 and will climb as new employees are brought into these jobs and forced to sign.

The Washington Post has long been a champion of the first amendment. I commend them for their recommendation that the administration should abandon its censorship policy, once and for all. Congress was left with the impression that the President had suspended the policy in February. As the GAO survey indicates, however, the suspension was so narrow and technical that it did nothing to turn aside, even temporarily, the implementation of these dangerous policy initiatives. If the administration continues to play around with these serious issues, the Washington Post suggests Congress should act.

Mr. Speaker, the administration is continuing to expand the use of polygraphs and censorship. Congress should act now. The Post Office and Civil Service Committee has scheduled subcommittee markup tomorrow on my bill—H.R. 4681—the Polygraph Limitation and Anticensorship Act of 1984. I hope it can move swiftly through the full committee to the floor so that the House can act to stop further erosion of our constitutional rights.

I ask unanimous consent that the Post editorial be included in the Record.

[From the Washington Post, June 18, 1984]

### Censored—For Life

The Reagan administration's proposal to impose prepublication censorship for life on hundreds of thousands of federal and federal contractor employees appeared to have died a well-deserved death on Feb. 15. That's when the president withdrew that portion of the infamous National Security Decision Directive 84 that authorized such censorship.

Now it turns out that more work is needed to really finish off this proposal. According to a General Accounting Office report, some 119,000 non-defense and 156,000 defense employees had already signed lifetime prepublication censorship agreements by the beginning of the year. For the rest of their lives every one of those 275,000 people may have to send to the government for review anything—even an article on what they did last summer—before it can be published. The government has 30 days for review, but of course that is the beginning, not the end, of the potential for delay. These agreements aren't voluntary; some people have lost their jobs for refusing to sign them. But they might be enforced by a court, and that very possibility will discourage many people—including those uniquely qualified to comment on some issues—from exercising their rights of free expression.

And the damage is not all potential. Last year, at least (some agencies didn't report totals to the GAO) 28,364 books articles, speeches and other writings were reviewed by government censors. There may be a good argument for government review of writings of current employees exposed to the highest level of secret documents; some would argue for lifetime censorship of writings of those employed by inherently secret agencies such as the CIA and NSA. But as a general rule, this is not a business the government should be in. It allows all too easily government officials—or political operatives—to undermine freedom of expression and limit the information the public can have to what they would like it to have.

The president's retreat from this obnoxious law came through bipartisan pressure from Congress. Legislators such as Sen. Charles Mathias and Rep. Jack Brooks were appalled by these censorship agreements, and got the administration to agree not to require them for the rest of this year. But damage—the 275,000 contracts signed—remains to be undone, and to be prevented in the future.

For that purpose Mr. Brooks has sponsored legislation scheduled for markup in a Post Office and Civil Service subcommittee this week. Drafting such a law is delicate work. Legislators should make sure that, in asserting some rights, they do not by implication relinquish others. The ideal thing would be for the administration, which has said it won't force employees to sign such contracts in the future, in effect to tear up those signed in the past and promise not to seek any in the future. If it doesn't, Congress should act.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Sensenbrenner (at the request of Mr. Michel), for today and the balance of the week, on account of hospitalization.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted:

(The following Members (at the request of Mr. Lowery of California) to revise and extend their remarks and include extraneous material:)

Mr. McKinney, for 5 minutes, today.

(The following Members (at the request of Mr. MacKay) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Hamilton, for 20 minutes, today.

Mr. Brooks, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, today.

Mr. Murtha, for 60 minutes, on June 20.

Mr. Gaydos, for 60 minutes, on June 20.

Mr. Sunia, for 60 minutes, on June 20.

Mr. LEVIN of Michigan, for 60 minutes, on June 21.

Mr. LEVIN of Michigan, for 60 minutes, on June 25.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LOWERY of California) and to include extraneous matter:)

Mr. BROOMFIELD.
Mr. MICHEL.
Mr. LEWIS of California.

(The following Members (at the request of Mr. MACKAY) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee.
Mr. BONER of Tennessee.
Mr. MONTGOMERY.
Mrs. HALL of Indiana.
Mr. ANDREWS of Texas.
Mr. AUCOIN.
Mr. HAMILTON.
Mr. SOLARZ.
Mr. YATRON.
Mr. STARK.
Mr. NELSON of Florida.
Mr. HARRISON.
Mr. FRANK.
Mrs. LLOYD.
Ms. FERRARO.
Mr. ROE.

## SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 197. An act to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes; to the Committee on Public Works and Transportation.

S. 2635. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1985; to the Committee on Public Works and Transportation.

S.J. Res. 55. Joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities; to the Committee on Post Office and Civil Service.

S.J. Res. 270. Joint resolution designating the week of July 1 through July 8, 1984, as "National Duck Stamp Week" and 1984 as the "Golden Anniversary Year of the Duck Stamp"; to the Committee on Post Office and Civil Service.

S.J. Res. 297. Joint resolution to designate the month of June 1984 as "Veterans' Preference Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 306. Joint resolution to proclaim July 10, 1984, as "Food for Peace Day"; to the Committee on Post Office and Civil Service.

## ADJOURNMENT

Mr. GUNDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Tuesday, June 19, 1984, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3573. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the American Institute in Taiwan's proposed letter of offer to the Coordination Council for North American Affairs for defense articles estimated to cost in excess of $50 million, pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

3574. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the addition of five further countries to receive antiterrorism assistance, pursuant to FAA, section 574(a)(1) (97 Stat. 972); to the Committee on Foreign Affairs.

3575. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of Defense's proposed lease of defense articles to Turkey (Transmittal No. 15-84), pursuant to AECA, section 62 (a) or (b) (95 Stat. 1525); to the Committee on Foreign Affairs.

3576. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed lease of defense articles to Peru (Transmittal No. 16-84), pursuant to AECA, section 62 (a) or (b) (95 Stat. 1525); to the Committee on Foreign Affairs.

3577. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the American Institute in Taiwan's proposed letter of offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $325 million (Transmittal No. 84-50), pursuant to AECA, section 36(b) (90 Stat. 741; 93 Stat. 708, 709, 710; 94 Stat. 3134; 95 Stat. 1520); to the Committee on Foreign Affairs.

3578. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting information on the President's decision to make China eligible to purchase and lease defense articles and defense services under the foreign military sales program; to the Committee on Foreign Affairs.

3579. A letter from the Comptroller General of the United States, transmitting a list of the General Accounting Office reports that were issued or released in May 1984, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3580. A letter from the Assistant Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting a copy of the proposed final rules for the National Estuarine Sanctuary Program, pursuant to Public Law 96-464, section 12; to the Committee on Merchant Marine and Fisheries.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee on Education and Labor. H.J. Res. 452. Resolution recognizing the important contributions of the arts to a complete education (Rept. No. 98-844). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KINDNESS (for himself, Mr. SAM B. HALL, JR., Mr. FISH, Mr. FRANK, Mr. BOUCHER, Mr. MCCOLLUM, Mr. HUGHES, Mr. GLICKMAN, Mr. MOORHEAD, Mr. SAWYER, and Mr. SHAW):

H.R. 5883. A bill to provide for an equitable reduction of liability of contractors with the United States in certain cases, to provide a comprehensive system for indemnification by the United States of its contractors for liability in excess of reasonably available financial protection, and for other purposes; to the Committee on the Judiciary.

By Mr. LEWIS of California:

H.R. 5884. A bill to require a two-thirds vote of both Houses of Congress on appropriation legislation, including any conference reports, and for other purposes; to the Committee on Rules.

H.J. Res. 593. Joint resolution proposing an amendment to the Constitution to require a two-thirds vote of both Houses of Congress on bills and joint resolutions making appropriations and on concurrent resolutions on the budget; to the Committee on the Judiciary.

By Mrs. LLOYD (for herself and Mr. COATS):

H.J. Res. 594. Joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youths in need of adult companionship; to the Committee on Post Office and Civil Service.

By Mr. MAZZOLI:

H.J. Res. 595. Joint resolution to designate the month of October 1984 as "National Spina Bifida Month"; to the Committee on Post Office and Civil Service.

By Mr. YATES:

H.J. Res. 596. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1984; to the Committee on Appropriations.

By Mr. SWIFT (for himself and Mr. THOMAS of California):

H. Con. Res. 321. Concurrent resolution expressing the sense of the Congress with respect to the adverse impact of early projections of election results by the news media; to the Committee on House Administration.

## PRIVATE BILLS AND RESOLUTIONS

**Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:**

### PRIVATE RESOLUTION

Mr. FAUNTROY introduced a resolution (H. Res. 525) to refer the bill H.R. 5869 for the relief of Naum S. Bers to the chief judge of the U.S. Claims Court, which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

**Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:**

H.R. 1880: Mr. Sikorski.

H.R. 4126: Mr. Horton.

H.R. 4475: Mr. Siljander.

H.R. 5143: Mrs. Roukema.

H.R. 5232: Mr. Kogovsek, Mr. Dwyer of New Jersey, Mr. Beilenson, Mr. Gonzalez, Mr. Durbin, Mr. Sunia, Mr. Smith of Florida, Mrs. Lloyd, and Mr. Stenholm.

H.R. 5377: Mr. Moakley, Mr. Brown of Colorado, Mr. Harkin, and Mr. Berman.

H.R 5511: Mrs. Roukema and Mr. Williams of Montana.

H.R. 5581: Mr. Fauntroy, Mr. Dellums, Ms. Kaptur, Mr. McNulty, Mr. Stokes, and Mr. Ratchford.

H.R. 5592: Mr. Perkins and Mr. Murtha.

H.R. 5593: Mr. Miller of Ohio, Mr. Hamilton, Mr. de Lugo, and Mr. Ritter.

H.R. 5640: Mr. Frost and Mr. Mitchell.

H.R. 5745: Mr. Corrada.

H.R. 5791: Mr. Price.

H.R. 5865: Mr. Bevill, Mr. Bennett, and Mr. Derrick.

H.J. Res. 485: Mr. Coughlin, Mr. Akaka, Mr. Ackerman, Mr. Carper, Mr. Yatron, Mr. Hawkins, Mr. Badham, Mr. Kemp, Mr. Harrison, Mr. Udall, Mr. Valentine, and Mr. Derrick.

H.J. Res. 497: Mr. Cheney, Mr. Kostmayer, Mrs. Boxer, Mr. Traxler, Mr. Frenzel, Mr. Biaggi, Mr. Minish, and Mr. Stokes.

H.J. Res. 543: Mr. Spratt, Mr. Morrison of Connecticut, Mr. Addabbo, Mr. Andrews of North Carolina, Mr. Akaka, Mr. Bevill, Mrs. Boggs, Mr. Bosco, Mr. Breaux, Mr. Walgren, Mr. Dellums, Mr. Donnelly, Mr. Fazio, Mr. Frank, Mr. DeWine, Mr. Boland, Mr. Wright, Mr. Heftel of Hawaii, and Mr. Panetta.

H.J. Res. 566: Mr. Bates, Mr. Crockett, Mr. Kramer, Ms. Mikulski, Mrs. Boggs, Mr. Kolter, Mr. Sisisky, Mr. Boner of Tennessee, Mr. Vento, Mr. Gekas, Mr. de la Garza, Mr. Durbin, Mr. McCollum, Mr. Bennett, Mr. Fauntroy, Mr. Dreier of California, Mr. Boehlert, Mr. Young of Alaska, Mr. Frank, Mr. Conable, Mr. Lowry of Washington, Mr. Garcia, Mr. Miller of California, Mr. Richardson, Mrs. Johnson, Mr. Winn, Mr. LaFalce, Mr. Lowery of California, Mr. Yatron, Mr. Ackerman, Mr. Seiberling, Mr. Britt, Mr. Fowler, Mr. McHugh, Mr. Coughlin, Mr. Sabo, Mr. Mazzoli, Mr. Martinez, Mr. Oberstar, Mr. Bryant, Mr. Lantos, Mr. Coelho, Mr. Rostenkowski, Mr. Madigan, Mr. Evans of Iowa, Mr. Brooks, Mr. Dowdy of Mississippi, Mr. Weiss, Mr. Solarz, Mr. Moorhead, Mr. Udall, Mr. Scheuer, Mr. Darden, Mr. Myers, Mr. Wright, Mr. Conte, Mr. Barnard, Mr. Coyne, Mr. Kastenmeier, Mr. Bilirakis, Mr. Young of Missouri, Mr. Clay, Mr. Lehman of Florida, Mr. Spratt, Mr. Smith of New Jersey, Mr. Thomas of Georgia, Mr. Tallon, Mr. Roemer, Mr. Gradison, Mr. Conyers, Mr. Pepper, Mrs. Kennelly, Mr. Heftel of Hawaii, Mr. Gingrich, Mr. Dannemeyer, Mr. Boucher, Mr. Schumer, Mr. Rodino, and Mr. Mavroules.

H. Con. Res. 285: Mr. Denny Smith.

H. Con. Res. 301: Mr. Young of Missouri, Mr. Kolter, and Mr. Andrews of Texas.

H. Con. Res. 302: Mr. Simon, Mr. Gekas, Mr. Hyde, Mr. Porter, Mr. Martinez, Mr. Frost, Mr. LaFalce, and Mr. Waxman.

H. Res. 518: Mr. Michel.

## AMENDMENTS

**Under clause 6 of rule XXIII, proposed amendments were submitted as follows:**

### H.R. 3678

By Mr. CHENEY:

(An amendment to the amendment in the nature of a substitute.)

—Page 301, Line 3: Delete Title XII in its entirety (Page 301, Line 3 through and including Page 313, Line 17).

### H.R. 5798

By Mr. LUNGREN:

—Page 18, strike out lines 22 and 23.

—Page 18, strike out line 16 and insert in lieu thereof "$2,230,228,000, of which (1) not to exceed $86,814,000".

# SENATE—*Monday, June 18, 1984*

*(Legislative day of Monday, June 11, 1984)*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Beloved, let us love one another: for love is of God* * * *—I John 4:7.

Father in Heaven, we live in a world that is starved for love. Children, unloved by parents, are exploited by greed. Elderly die of loneliness, forgotten and unloved. There are men and women who work here who feel that no one loves them.

God of love, help us never to forget that Thou dost love us with impartial, unconditional, eternal, perfect love. Remind us that there is nothing we can do to make Thee love us more—there is nothing we can do to make Thee love us less—for Thou art love. And Father, if we forget Thy love, help us to remember the man on the cross. In the name of Him who was incarnate love. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## LATE SESSION EXPECTED

Mr. STEVENS. Mr. President, Members of the Senate should be on notice that the manager of the defense authorization bill has indicated that we can expect a late night and perhaps an all-night session if we do not get a time certain agreement to terminate the consideration of this bill by tomorrow evening.

## WOMAN AT THE TOP OF THE WORLD

Mr. STEVENS. Mr. President, I would like to bring to the attention of the Senate the tremendous effort one Alaskan has contributed to the welfare of the Native Alaskans who hunt the bowhead whale for subsistence purposes. Marie Adams is the city manager of Barrow, AK. Before taking that position she was the executive director of the Alaska Eskimo Whaling Commission [AEWC].

The purpose of the AEWC is to ensure that the needs of the Native peoples are not ignored when the International Whaling Commission [IWC] sets quotas for whaling, and to manage the actual subsistence take. Marie Adams was instrumental in convincing the U.S. Government, as a member nation of the IWC, to support a position which permitted the Native peoples to continue the subsistence hunting of bowheads.

Marie was faced with resistance from her own people, as well as from parties interested in protecting the bowhead. Eskimo men have traditionally held the predominant role during the whale hunts. Many individuals were hesitant when a woman was appointed to spearhead the drive which would eventually lead to the preservation of subsistence hunting rights. Through her diligence, Marie succeeded in convincing critics in Washington that the subsistence hunt could continue without endangering the species. She also convinced her own people that a woman could do the job.

Mr. President, I ask unanimous consent to print in the RECORD the following article entitled "Success Story: Woman at the Top of the World," which recently appeared in the March 1984 edition of Working Woman. It describes Marie's role in the preservation of the subsistence hunt, and offers a valuable insight into the importance of this facet of the native culture.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### SUCCESS STORY—WOMAN AT THE TOP OF THE WORLD

(By Deborah Heidecker)

Marie Adams, 31, is the new city manager of Barrow, Alaska, the political hot seat of the oil-rich North Slope. Adams administers a budget of more than $1 million and oversees city projects involving additional millions. But Adams isn't the ordinary young executive fast-tracking her way to the top. Before becoming city manager, she was the executive director of the Alaska Eskimo Whaling Commission, a private, self-regulating association of Alaskan natives who rely on whale-hunting as part of their livelihood. Below, the story of that unusual job.

Like pieces of a jigsaw puzzle, the jagged ice shelf and the deep blue Arctic Ocean meet. It is late afternoon in May 1982 at the top of the world, Barrow, Alaska, about 1,000 miles from the North Pole. The sun is high and bright; it will not set again until August 2. Crowds of people from this small city (population 2,800) have rushed out to the ice so that they can watch the landing of the first whale in two years.

A few feet away, Inupiat men with white smocks over their parkas use long knives to butcher the bowhead whale. (Inupiat is the preferred term for the North Slope Eskimos.) They cut vertically, from backbone to belly. The outer black skin, with a few inches of blubber attached, is cut away first. The women waiting nearby then cut this skin, a delicacy called muktuk, into small pieces with their crescent-shaped ulu knives.

As the men cut shiny, purple "black meat" from the carcass, the whale's blood stains the ice red. Steam rises as the men work, because the blood is still warm and the temperature on the ice registers only 20 degrees above zero. A low roar signals the rising wind. Soon the warmest of Arctic gear will be penetrated by cold; with the windchill factor, the temperature on this May afternoon will drop to ten or 20 degrees below zero.

The men continue cutting the whale with amazing precision and speed. Even the young men, the teenagers who are just beginning to claim the inheritance of this rich tradition, seem to know exactly what do do. Young and old work in rhythm, grunting as they pull the heavy pieces of meat from the carcass. Within an hour, most of the 28-foot whale has been butchered. The meat will find its way into every Inupiat household in Barrow, distributed at Thanksgiving and Christmas by the captain who led the crew that caught the whale. And anyone in Barrow who needs food during the winter can count on receiving some whale meat from this catch.

Among the spectators is Marie Adams, who had been in her Barrow office, meeting with a visiting attorney from Washington, DC, when news of the whale reached the shore. She had rushed out to the ice camp in time to see her uncle, Captain Jonathan Aiken, Sr., and his crew land the whale. Although Adams appears to be just another observer, she is responsible for landing the whale as surely as if she had harpooned it herself.

Adams, a native Alaskan, is the executive director of the Alaska Eskimo Whaling Commission (AEWC), and in this position she presides over the most important of her people's traditions: bowhead whaling. Appointed in 1980 as the AEWC's first woman executive director, Adams has transformed the commission from a loosely structured organization of Inupiat whaling captains and community leaders into a formal nonprofit association that regulates subsistence whaling.

### PROTECTING A WAY OF LIFE

For whaling is more than a cultural tradition to the people of Barrow—it is a means of support. While commercial whalers use large, factory-built whaling vessels and modern weaponry and sell the whale meat and some oil from their catches, subsistence whalers from Barrow and other Inupiat communities hunt from small skin boats and use traditional harpoons and turn-of-the-century Yankee shoulder guns. Their entire catch is used by the villagers; nothing is sold for profit. Most of the Inupiat whalers combine seasonal jobs with subsistence whale hunting. (Government and construction companies are the major employers in Barrow).

When Adams first took her position, Alaskan whaling was managed by the National

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Marine Fisheries Service, a part of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). "This caused problems," Adams says. "People were nervous because they felt they were being policed out on the ice."

In 1981, a cooperative agreement between the AEWC and NOAA was signed, giving the AEWC the power to manage subsistence whaling by the Inupiat people. Each of the nine Inupiat villages involved in bowhead whaling is represented by a commissioner, and Adams and the commission have drawn up a set of hunting regulations and developed a hunt-reporting system.

During the whaling season, Adams flies on bush planes to some of these villages, from Gambell and Savoonga on Saint Lawrence Island, up the Bering Strait to Wales, which lies opposite the Soviet Union, and along the Arctic coastline of Kivalina, Point Hope, Wainwright, Barrow and, finally, Nuiqsut and Kaktovik, a village on Barter Island near the Canadian border. She also is in telephone contact almost daily with Washington, DC, keeping abreast of proposed legislation that would affect whaling in Alaska.

The AEWC holds annual meetings to discuss priorities for the coming year; in the past three years, Adams and the AEWC have given priority to raising the bowhead-whale strike quota for subsistence whaling in Alaska. [Strikes—harpoon attempts—are regulated by the International Whaling Commission (IWC), a group of 40 interested nations.] Adams also has worked diligently to make the US government, environmentalists and IWC members aware of the difference between commercial and subsistence whaling

By the end of 1983, Adams had made progress toward both goals. In 1982, the IWC passed an amendment providing that it would set quotas for subsistence whaling according to different principles than those it used when setting commerical whaling quotas—the IWC now takes the cultural and nutritional needs of the Inupiat whalers into account, for example. And in 1983 the IWC delegates set the number of Alaskan strikes for subsistence whalers at 43 over the next two years. Communities like Barrow care deeply about getting higher strike quotas because they sometimes use their allotted strikes without landing a whale.

Less than a century ago, Inupiat women like Adams had a rigid role in the superstition-steeped, ritualistic whaling events. They helped launch the boats, brought supplies to the all-male crews, who sometimes camped for months on the ice, and hauled whale meat back to the villages by sled after a catch. If a menstruating woman refused to go ashore, she was beaten severely.

Today, snowmobiles coexist with sleds in Barrow, but women seldom become crew members on the umiaks, or sealskin boats, that still are used during whaling season. Like many modern Inupiat people, Adams is a person of two worlds: the rich and sometimes brutal world of the traditional Inupiat society and the fast-paced world of Western society. Most of her Inupiat contemporaries have chosen to become homemakers, and Adams admits that few of them hold positions comparable to her own.

In addition to crossing traditional sex barriers, Adams has managed to earn respect from whaling crews and environmentalists alike. She has had to battle hard for acceptance as the woman who oversees the male world of Inupiat whaling. Says Eugene Brower, the powerful mayor of the North Slope Borough (Barrow and the surrounding area) and a whaling captain, "There was a lot of skepticism in the beginning, even on my own part. Like a lot of whaling captains who spend time out on the ice. I wasn't sure about Marie. But she's proven herself over and over."

Adams' first battle was her parents. "They wanted me to get married and have a family," she says. "After I turned 25, they just sort of accepted what I was doing. I got teased a lot for being an 'old maid,' though." She doesn't think marriage and her career are mutually exclusive; it's just that, "when men have asked me to marry them, they always expected me to quit doing things. So I said no." She admits that when she first took the executive directorship, she didn't know the implications it held for her personal life. "I didn't realize it would take over my life for at least two years," she says. What would have been free time was often spent traveling to the nine villages she represents, to Washington, DC, or to an annual IWC conference.

Adams and her five brothers and four sisters are part of a family with a long whaling history. Her mother, born and raised in Barrow, has several generations of whalers behind her. Adams's uncle, Whitlan Adams, was the captain of a whaling crew for many years, an honored position in the Inupiat culture. He has passed his generations-old Yankee whaling equipment and his blessing to Marie's brother Jake. (Adams' father, interestingly, was not a whaler but a reindeer herder.)

Adams has lived in Barrow all of her life, except for absences to pursue her education. She attended high school in Sitka, Alaska, and studied at the University of Alaska at Fairbanks, Evangel College in Springfield, Missouri, and finally, George Washington University in Washington, DC. She graduated from George Washington with honors in 1980, with a BA in education and human development. Adams says she had planned to return to Barrow to teach, but she was sidetracked by the issue that eventually became a passion in her life: the preservation of subsistence whaling in Alaska.

### FIGHTING FOR HER PEOPLE

In spring 1970, while Adams was still a student, her brother Jake (AEWC's first chairman) asked her to work for the commission. Adams because a legal intern at Van Ness, Feldman, Sutcliffe, Curtis & Levenberg, the Washington, DC, law firm that has represented the AEWC in suits against the US government. Almost ever since 1977, the IWC has proposed to ban or severly restrict bowhead whaling, and the AEWC has sought either to get the US to object to the proposed IWC bans or to regulate whaling itself instead of following IWC amendments. In the beginning, the IWC's efforts to ban bowhead whaling were based in part on fears of the whale's possible extinction: A 1977 partial count of the bowhead whales off the shores of Alaska turned up only 800 to 1,200 whales.

Adams was one of the people who pushed for better research about bowhead populations, research that eventually proved the 1977 count to be vastly understated. Howard Braham, cetacean research program manager at the National Marine Mammal Laboratory in Seattle, Washington, says that the 1977 count was never intended to be a complete population estimate, although some interpreted it as such. Later, more scientific, studies funded by the US government, the North Slope Borough and the state of Alaska have convinced many that the bowheads would not be threatened by subsistence whaling. Scientists now agree, says Braham, that there are about 4,000 bowheads.

Because of the threat of AEWC suits, the new scientific evidence proving that the bowhead whales are more numerous than once thought, and a more open attitude on the part of NOAA administrator John V. Byrne, the federal government now works more closely with the AEWC. As a result, the AEWC has decided not to pursue any lawsuits against the US. Some IWC members undoubtedly will continue to seek bans or tight restrictions on bowhead whaling, but for the moment, at least, the AEWC seems to have won US government support for its position.

Deborah Gottheil, an attorney with Van Ness, Feldman, recalls the hurdles Adams faced when she began working for the AEWC and in her early days as executive director: "In the beginning, we had to fight to get an Eskimo allowed into an IWC meeting. Adams is the only non-commissioner or non-deputy commissioner who has been allowed to address the commission, aside from scientists."

And once she was before the commission, Adams held her own. "Marie has spoken three times in the IWC forum, and she's expressed herself elegantly and forcefully," says Mayor Brower. "She's done a hell of a job fighting for her people and their beliefs," he sums up.

"She commands phenomenal respect from everyone she deals with," Gottheil agrees. During negotiations, "by the time Marie speaks, there's no more room for give. People understand that she's expressing the bottom line." As executive director, Gottheil adds, "she's had to negotiate as much with her community as with the government." Two years ago, an angry whaler from Barrow sent telegrams to President Reagan and others, saying he and his fellow whalers would defy the strike quota imposed by the IWC, because Barrow had used its three strikes without catching whales. Adams was able to convince whalers not to violate the quota; if they had done so, they would have endangered future negotiations. "During a crisis she has been able to get people off the ice when no one else could," says Gottheil.

Adams is self-contained, not given to wide gestures or emotional displays. But in her hometown, she participates in the feasts centered around whaling. Last spring, she helped her brother Jake ready his boat for launching. And at the end of the whaling season, which runs from April to mid-June, her people celebrate with a Nalukataq, or blanket-tossing celebration, in which villagers are tossed in the air, trampoline-style, from a large skin blanket held at the edges by neighbors and friends. Whale meat and muktuk are distributed at the Nalukataq, and Adams always is there to join in the festivities.

Long ago, Inupiat women poured fresh water in a dead whale's spout hole, as a sign of respect for the animal and to ensure future catches. Adams has worked toward the same end, using words instead of water.

**Mr. STEVENS.** Mr. President, I reserve the remainder of my time.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The distinguished acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the minority leader be reserved for his use later in the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I think I have a special order. Is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. PROXMIRE. I will speak under that special order at the present time.

## WHY SPEAK OUT EVERY DAY ON THE THREAT OF NUCLEAR WAR?

Mr. PROXMIRE. Mr. President, for more than 2 years this Senator has been speaking on the floor of the Senate every day the Senate has been in session discussing how and why this Federal Government should take much more aggressive action to stop the nuclear arms race. I intend to continue these speeches for these reasons:

First, there is no more dangerous threat to the survival of our Nation and of civilization itself than the threat of nuclear war.

Second, the prospect of nuclear war is far more serious and likely than most Americans and most Members of Congress realize.

Third, although we have concentrated our military resources to prevent a preemptive nuclear attack on this country by the Soviet Union, such an attack represents the least likely potential origin of nuclear war.

Fourth, a more likely initiation of nuclear war might come from a breakdown in command and control that would give one side or the other a false warning of an attack. Such a false warning could precipitate a retaliation that would initiate a total nuclear war.

Fifth, by far the most likely cause of a nuclear war will come if nuclear armed nations continue to permit the spread of nuclear arms technology to other nations. U.S. military intelligence services have forecast that if we and other nations continue to follow present nuclear technology export policies within the next 16 years more than 31 nations will have nuclear arsenals. These nations include Libya and Iran. If this develops we would have virtually no chance of maintaining a nuclear peace.

Sixth, according to Dr. Carl Sagan and other eminent scientists from many countries, even a small nuclear war not involving the United States or the Soviet Union in any way could trigger a worldwide nuclear winter that would envelope the planet, pitch the entire Earth into almost total darkness for weeks and into bitter subzero cold for months. Animals and plants would die. Hundreds of millions of people would perish from starvation, including many Americans. It would be the worst environmental disaster on Earth in 50 million years. Congress has given the threat of nuclear winter no attention whatsoever. I intend to press for hearings in depth on this phenomenon and its implications for congressional policy. We will hold hearings in the Joint Economic Committee on July 11 and 12 on the nuclear winter. I hope that other Members of Congress will conduct hearings before other committees.

Seventh, there are no simple, obvious easy answers to the nuclear war threat. We cannot, and will not, and should not unilaterally disarm or destroy our nuclear weapons. On the other hand we should not continue our present policy—the policy that has been carried on through the administration of the last eight Presidents—ever since the dawn of the nuclear weapons age at Hiroshima, that is, a virtually unrestrained nuclear arms race, and the erratic, off-and-on sale of nuclear technology to other nations. It is true that deterrence has constituted a successful policy for 30 years. It may serve to keep a nuclear peace for a few more years. But by itself it will fail because it permits the nuclear arms technology to race ahead pushing both superpowers into unpredictable and sometimes unstable postures. And it aggravates the danger of proliferation.

What then is the wisest policy our Nation can pursue to give the United States and civilization the best chance to survive this nuclear weapons age? I suggest these policies:

First, vigorous pursuit of a comprehensive nuclear arms control treaty with the Soviet Union that will stop the nuclear arms race, enforced by the strongest verification program we can negotiate.

Second, a continuous followup of this comprehensive, verified nuclear arms treaty with an agreement for a drastic reduction of nuclear arms by both sides, and

Finally, most important of all: A full court press for an effective international antinuclear proliferation agreement. We should put the full force of the U.S. economic strength behind the enforcement of the treaty, including a refusal by this country to trade with any nation that bought or sold any product or material or technology that might be transferred to nuclear war purposes. Here too we should press hard for the strongest possible kind of verification procedures to stop the spread of nuclear weapons.

We must understand that even if this and other countries take each of the steps I advocate, we will still have to live with nuclear weapons in a cruelly dangerous world. But these steps will at least give us and our children and grandchildren a fighting chance to survive.

So Mr. President, I intend to continue these speeches in the months ahead in the earnest hope that somehow we can find our way through this terrible minefield with nuclear catastrophe threatening our future as mankind's future has never been threatened before.

## THE HORROR OF THE HOLOCAUST ON FILM

Mr. PROXMIRE. Mr. President, the U.S. Holocaust Memorial Council, the American Film Institute, and the Congressional Arts Caucus will be presenting on Tuesday the first American showing of an important film on the Holocaust.

This film, supervised in part by Alfred Hitchcock, was abandoned just 1 month after the end of World War II on the orders from the British and American Governments due to its ghastly content. It was screened for the first time in February of this year to a select audience at the Imperial War Museum in London. That group felt they just witnessed the most terrifying movie ever made.

The film has no name. The footages used to compose it were extracted from German archives. It is alleged that the master of horror on the screen, Hitchcock, could not bring himself to watch the film. It was so terrible.

This film presents the reality of the Jewish Holocaust—no acting, no special effects. It serves as a reminder to us that our work is not complete in preventing this crime from occurring again.

Mr. President, none of us can possibly understand or even begin to understand the fear, helplessness or anger that the 6 million men, women, and children must have felt at that time—even if we view live footage of this massacre.

No Jew was exempt. The young and the old, the strong and the weak, the males and the females were all forced to die.

But, Mr. President, no one expects us to fully understand what they went through. We are just required to know that it did happen and to try to prevent it from recurring. It was in this context that the Genocide Treaty was conceived.

In December 1946, the newly created United Nations, appalled and shocked at detailed reports of Nazi atrocities, unanimously adopted a resolution declaring genocide a crime under international law. Two years later the General Assembly gave its unanimous approval, 55 to 0, to the text of the Genocide Convention.

The United States, playing a key role in drafting and formulating the Genocide Convention, signed it 2 days after its approval by the General Assembly. It was transmitted to the Senate on June 6, 1949. It has been reported by the Foreign Relations Committee to the floor of the Senate four times. It has never passed. Six Presidents—Democratic and Republican—have strongly endorsed the treaty, but the Senate has failed to act on it.

I earnestly hope, Mr. President, that at long last we can act. It is my understanding that the administration is now considering very seriously supporting the treaty, and I think with the support of this administration, we have a particularly strong chance of getting enactment of this Genocide Convention at long last.

Rarely is it given to a single treaty the near unanimous support that this one has received throughout the years. Yet, we have repeatedly failed to hear this call.

Let us hear this call today. Let us heed the silenced voices of 6 million persons who were victims of this crime.

Let us, in the Senate, ratify the Genocide Convention.

Mr. President, I yield the floor.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. Durenberger). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 10 minutes each.

## IN SUPPORT OF THE FAIR AND SIMPLE TAX

Mr. KASTEN. Mr. President, my good friend Jack Kemp and I have introduced the fair and simple tax plan (H.R. 5533/S. 2600) as a much needed tax reform for the American taxpayers.

FAST is a flat tax, but is carefully designed to overcome the negative features of a pure flat tax. It will raise roughly the same amount in revenue as current law, but without shifting the tax burden from the upper income to low- and middle-income taxpayers. It also maintains important provisions for the working poor, families, homeowners, savers, and small businesses.

And yet, as a flat tax, FAST solves many of the problems of a progressive tax system, such as the marriage penalty for a family with two income earners, the disincentives of increasing marginal tax rates as earnings increase, and bracket creep.

Since its introduction, our plan has received attention—and favorable response from many quarters. One such pat on the back comes from Patrick Buchanan. In his column of May 11, 1984, he puts it very simply: "Kemp-Kasten tax law a must." I appreciate his good words, and commend the article to the attention of my colleagues. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Kemp-Kasten Tax Law a Must

(By Patrick Buchanan)

In 1983, the Reagan recovery created more jobs than Europe did in 10 years.

Francois Mitterand, the French socialists who came to power at the same time as Ronald Reagan, with similar economic problems, made his hegira to Silicon Valley to learn how Yankee entrepreneurs are paving the way to the future.

While the German economy stagnates, with 10 percent unemployment, the U.S. economy, we are told, is in danger of "overheating," and needs to be restrainted by Paul Volcker, who has shown previous aptitude for such work.

With the strongest recovery since World War II, with his philosophy of sound money and lower taxes vindicated, Ronald Reagan, one would think, would be leading the victory parade, announcing to his troops, plans for even deeper tax rate reductions, even better times, if they will help him win another term.

Where, however, is the troubadour of private enterprise to be found? Home from China, he is building support for the fourth major tax increase in 20 months, acquiescing in congressional cuts in the rearmament program that was to be part of his presidential legacy.

One understands the senior Republicans recidivist to the core; they needed little prodding to return to the business of raising taxes to "balance" budgets unbalanced by their Democratic colleagues' procilivity for spending what they do not have.

But apparently Reagan has suffered a lapse of faith.

How explain it?

During 1982, the most difficult of times, when the Democrats were blaming the president for the "worst recession since the Great Depression," the president remained chipper. The ideas are valid, he insisted; the program will work.

Work it did. But even as the Democrats have ceased talking about economics and begun focusing on more fruitful matters such as Ed Meese's cufflinks, Reagan himself seems to have lost faith, or lost interest. Just as the political pot is to be raked in, the president is throwing away a winning hand.

Currently, he is about to accept some $45 billion in tax hikes and commensurate cuts in his defense buildup in exchange for increasingly vague promises of cuts in social spending. It is the same pig in a poke he was sold in the summer of 1982.

Meanwhile, the younger Democrats, having been flanked and routed by Reagan on the issue of tax cuts, have picked up in the ideas and the themes that helped Ronald Reagan win the presidency.

Sen. Bill Bradley of New Jersey and Rep. Richard Gephardt of Missouri are lining up broad support within their party for steep cuts in the marginal tax rates—from 50 percent to a maximum of 30 percent—in exchange for closing tax loopholes and ending tax perferences. Bradley-Gephardt has been on the table for a year and has the endorsement of Gary Hart.

Unwilling to wait on the White House, younger Republicans led by Rep. Jack Kemp (N.Y.) and Sen. Bob Kasten (Wis.) have come forward with an idea of their own—the Fair and Simple Tax, or FAST.

Personal exemptions would be doubled to $2000. Deductions would be pretty much limited to IRAs, interest (including mortgage), charitable contributions and real property taxes. The poor would pay nothing. A single working man would not begin paying until his income reached $5,875 (currently he starts paying at $3,800). A family of four would not begin paying federal income taxes until $14,875 (roughly $9,000 under current law). The flat rate on all wages and salaries above these figures would be 25 percent.

The superiority of Kemp-Kasten over Bradley-Gephardt lies in the lower tax rate, greater simplicity (the K-K tax form fits on a single page) retention of the capital gains differential—and retention of indexation, the working class' insurance against inflation.

With more and more Americans enraged at the complexity and unfairness of the existing code, with the middle class paying at rates intended for the Mellons, with tax revolts brewing in a dozen states, reform and the "flat tax" are ideas whose time has come. Where is the Leader?

## A TRIBUTE TO REV. ROBERT C. MORGAN

Mr. HEFLIN. Mr. President, today I rise to pay tribute to a very special Alabamian, a fine pastor with a lifelong commitment to serving God and his fellow man, Robert C. Morgan of Birmingham.

Robert Morgan was born and educated in Birmingham, graduating from my alma mater of Birmingham-Southern College. He received a master of divinity from Emory University and returned to Birmingham-Southern to be honored with the doctor of divinity degree. In 1957, Bob became an ordained United Methodist minister. He now serves as senior pastor of Vestavia Hills United Methodist Church in Birmingham.

During his years of church service, Robert Morgan's ability and devotion have placed him in positions of leadership in both community and religious roles. Presently, Bob serves as a member of the board of trustees of Birmingham-Southern College and as a member of the board's executive committee. In addition, he is a member of the Board of Ordained Ministry and a past member of the Board of the Methodist Children's Home and the Wesley Foundation of the University of Alabama.

In the past, Bob Morgan has served the church as district superintendent of the Tuscaloosa District for 5 years. He has also participated in preaching missions in Central and South America, and in a pulpit exchange program with the World Methodist Council.

Around a year ago Dr. Morgan visited the Nation's Capital. I was impressed that he spent a considerable amount of time with his son, explaining historical sites and scenes to him. He obviously is a caring father, interested in historical values which must be instilled in our youth if this Nation is to continue to be "the land of the free and the home of the brave."

Mr. President, Bob Morgan is an outstanding example of the type of individuals who have given our country its strong religious heritage. He has a warm heart, clarity of vision, overriding compassion and has, time and time again, demonstrated that he is an outstanding religious leader. I am pleased to be able to share his story with my colleagues.

Thank you, Mr. President.

## POPULATION AND WORLD ECONOMIC DEVELOPMENT

**Mr. DENTON.** Mr. President, during the last several days, there have been press reports about a White House policy paper on population policy and international economic development. Reporters and columnists have quoted freely from it. Organizations seem to have copies, both to praise and to oppose. Some Members of Congress, it is reported, have received copies through the courtesy of two former Members, Senators Robert Taft and Joseph Tydings, who have worked closely on this matter with the Population Crisis Committee.

In short, everyone seems to have information on the controversy except the taxpayers, who annually are billed one-quarter billion dollars just for the population account at the Agency for International Development.

I think that it would, therefore, be appropriate to have the administration's proposed policy paper on population and world economic development appear in the RECORD. In my opinion, it is quite good, but I will welcome the judgment of others.

To assist us all in assessing the document, I submit along with it copies of three documents that take a different position:

An alternate policy statement prepared at the Department of State;

An alternate policy paper prepared at the Agency for International Development;

A "Critique of the White House Draft Position Paper" prepared by Peters Willson of the Alan Guttmacher Institute.

Those documents, Mr. President, will form the basis, during the next several days, for one of the most important decisions our Government will make this year. It could turn out to be an extremely expensive decision for the taxpayers, if it results in the expenditure of still more money for population control.

The alternatives to the White House policy paper raise more than financial questions. Why, for example, do some in the State Department still speak about "terminating unwanted pregnancies."

Moreover, on the basis of what evidence did some in the State Department ascertain that "violent demonstrations and mass riots over food or sectarian causes in the recent past" in various large cities are manifestations of growing demographic pressures?

Both the State paper and its AID counterpart stand in stark contrast to the policy statement developed at the White House. That statement sounds so much like our President—candid, optimistic, humane, sensible, unafraid to challenge time-worn shibboleths—that it may already bear the imprint of his hand, as it surely reflects his head and heart.

So that we all may compare these sharply distinct, and even divergent, documents, I ask unanimous consent that they be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

### WHITE HOUSE: DRAFT STATEMENT

For many years, the United States has supported, and helped to finance, programs of family planning, particularly in the less developed countries. This Administration has continued that support but has placed it within a policy context different from that of the past. It is sufficiently evident that the current exponential growth in global population cannot continue indefinitely. There is no question of the ultimate need to achieve a condition of population equilibrium. The differences that do exist concern the choice of strategies and methods for the achievement of that goal. The experience of the last two decades not only makes possible but requires a sharper focus for our population policy. It requires a more refined approach to problems which appear today in quite a different light than they did twenty years ago.

First and most important, in any particular society today, population growth is, of itself, a neutral phenomenon. It is not necessarily good or ill. It becomes an asset or a problem only in conjunction with other factors, such as economic policy, social constraints, need for manpower, and so forth. The relationship between population growth and economic development is not a negative one. More people do not mean less growth; that is absurd on its face. Indeed, both in the American experience and in the economic history of most advanced nations, population growth has been an essential element in eocnomic progress.

Before the advent of governmental population programs, several factors had combined to create an unprecedented surge in population over most of the world. Although population levels in many industrialized nations had reached or were approaching equilibrium in the period before the Second World War, the baby boom that followed in its wake resulted in a dramatic, but temporary, population "tilt" toward youth. The disproportionate number of infants, children, teenagers, and eventually young adults did strain the social infrastructure of schools, health facilities, law enforcement and so forth. It also sustained strong economic growth and was probably critical in boosting the American standard of living to new heights, despite occasionally counterproductive government policies.

Among the less developed nations, a coincidental population increase was caused by entirely different factors, directly related to the humanitarian efforts of the United States and other western countries. A tremendous expansion of health services—from simple inoculations to sophisticated surgery—saved millions of lives every year. Emergency relief, facilitated by modern transport, helped millions to survive flood, famine, and drought. The sharing of technology, the teaching of agriculture and engineering, the spread of western ideals in the treatment of women and children all helped to drastically reduce the mortality rates, especially infant mortality, and to lengthen the life span.

The result, to no one's surprise, was more people, everywhere. This was not a failure but a success. It demonstrated not poor planning or bad policy but human progress in a new era of international assistance, technological advance, and human compassion. The population boom was a challenge; it need not have been a crisis. Seen in its broader context, it required a measured, modulated response. It provoked an overreaction by some, largely because it coincided with two negative factors which, together, hindered families and nations in adapting to their changing circumstances.

The first of these factors was governmental control of economies, a pathology which spread throughout the developing world with sufficient virulence to keep much of it from developing further. As economic decision-making was concentrated in the hands of planners and public officials, the ability of average men and women to work toward a better future was impaired, and sometimes crippled. Agriculture was devastated by government price fixing that wiped out rewards for labor. Job creation in infant industries was hampered by confiscatory taxes. Personal industry and thrift were penalized, while dependency upon the state was encouraged. Political considerations made it difficult for the economy to adjust to changes in supply and demand or to disruptions in world trade and finance. Under such circumstances, population growth changed from an asset in the development of economic potential to a peril.

The worst consequence of economic statism was that it disrupted the natural mechanism for slowing population growth in problem areas. The world's more affluent nations have reached a population equilibrium without compulsion and, in most cases, even before it was government policy to achieve it. The controlling factor in these cases has been the adjustment, by individual families, of reproductive behavior to economic opportunity and aspiration. Economic freedom has led to economically rational behavior. As opportunities and the standard of living rise, the birth rate falls.

That historic pattern would already be well under way in many nations where population growth is today a problem, if shortsighted policies had not disrupted economic incentives, rewards, and advancement. In this regard, localized crises of population growth are evidence of too much government control and planning, rather than too little.

The second factor that turned the population boom into a crisis was confined to the western world. It was an outbreak of an anti-intellectualism, which attacked science, technology, and the very concept of material progress. Joined to a commendable and long overdue concern for the environment, it was more a reflection of anxiety about the unsettled times and the uncertain future and disregard of human experience and scientific sophistication. It was not unlike other waves of cultural anxiety that have, over the centuries, swept through western civilization during times of social stress and scientific exploration.

The combination of these two factors—counterproductive economic policies in poor and struggling nations and a pseudo-scientific pessimism among the more advanced—provoked the demographic overreaction of the 1960's. Doomsday scenarios took the place of realistic forecasts, and too many governments pursued population control measures that have had little impact on population growth, rather than sound economic policies that create the rise in living standards historically associated with decline in fertility rates. It was the easy way out, and it did not work. It focused on a symptom and neglected the underlying ailments. For the last three years, this Administration has sought to reserve that approach. We recognize that, in some cases, immediate population pressures may make advisable short-term efforts to meliorate them. But this cannot be a substitute for the economic reforms that put a society on the road toward growth and, as an aftereffect, toward slower population increase as well.

Nor can population control substitute for the rapid and responsible development of natural resources. In responding to certain Members of Congress concerning the previous Administration's Global 2000 report, this Administration in 1981 repudiated its call "for more governmental supervision and control. Historically, that has tended to restrict the availability of resources and to hamper the development of technology, rather than to assist it. Recognizing the seriousness of environmental and economic problems, and their relationship to social and political pressures, especially in the developing nations, the Administration places a priority upon technological advance and economic expansion, which hold out the hope of prosperity and stability of a rapidly changing world. That hope can be realized, of course, only to the extent that government's response to problems, whether economic or ecological, respects and enhances individual freedom, which makes true progress possible and worthwhile."

Those principles underlie this country's approach to the United Nations Conference on Population to be held in Mexico City in August. In accord with those principles, we reject compulsion or coercion in family planning programs, whether it is exercised against families within a society or against nations within the family of man. The United Nations Declaration of the Rights of the Child (1959) calls for legal protection for children before birth as well as after birth; and the United States accordingly does not consider abortion an acceptable element of family planning programs and will not contribute to those of which it is a part. Nor will it any longer contribute directly or indirectly to family planning programs funded by governments or private organizations that advocate abortion as an instrument of population control. Efforts to lower population growth in cases in which it is deemed advisable to do so must, moreover, respect the religious beliefs and culture of each society. Population control is not a panacea. It will not solve problems of massive unemployment. Jobs are not lost because there are too many people in a given area. Jobs are created by the conjunction of human wants and investment capital. Population growth fuels the former; sound economic policies and properly directed international assistance can provide the latter. Indeed, population density may make the latter more feasible by concentrating the need for both human services and technology. But as long as oppressive economic policies penalize those who work, save, and invest, joblessness will persist.

Population control cannot solve problems of unauthorized migration across national boundaries. People do not leave their homes, and often their families, to seek more space. They do so in search of opportunity and freedom. Reducing their numbers gives them neither. Population control cannot avert natural disasters, including families provoked by cyclical drought. Fortunately, world food supplies have been adequate to relieve those circumstances in recent years. Problems of transportation remain; but there are far deeper problems as well, in those governmental policies which restrict the rewards of agricultural pursuits, encourage the abandonment of farmland, and concentrate people in urban areas.

It is time to concentrate upon those root problems which frequently exacerbate population pressures. By focusing upon real remedies for underdeveloped economies, the United Nations Conference on Population can reduce demographic issues to their proper place. It is an important place, but not the controlling one. It requires our continuing attention within the broader context of economic growth and of the economic freedom that is its prerequisite. Most of all, questions of population growth require the approach outlined by President Reagan in 1981, in remarks before the World Affairs Council of Philadelphia: "Trust the people, trust their intelligence and trust their faith, because putting people first is the secret of economic success everywhere in the world." That is the agenda of the United States for the United Nations Conference on Population this year, just as it remains the continuing goal of our family planning assistance to other nations.

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## STATE DEPARTMENT DRAFT U.S. SCOPE PAPER FOR THE INTERNATIONAL CONFERENCE ON POPULATION

### INTRODUCTION

A demographic watershed occurring in many Third World countries of vital concern to U.S. interests has critical implications for political stability, economic development, and health and humanitarian concerns. For this reason, international population policy is of high priority to U.S. foreign policy.

The International Conference on Population (ICP) offers the U.S. an opportunity to strengthen the international consensus on the interrelationships between economic development and population which has emerged since the last such conference in Bucharest in 1974. Our primary objective will be to encourage developing countries to adopt sound economic policies and, where appropriate, population policies consistent with respect for human dignity and family values. As President Reagan stated, in his message to the Mexico City Conference:

"We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society."

### I. NATIONAL SECURITY CONCERNS

Conservative projections indicate that, in the sixty years from 1950 to 2010, many Third World countries of strategic or economic importance to the U.S. will experience four-, five-, or even sixfold increases in the size of their populations. Even under the assumption of gradual declines in birth rates, the unusually high proportion of youth in the Third World means that the annual additions to the populations of many of these countries will continue to grow larger for the next several decades.

Population growth—of such dimensions and over such a relatively short timeframe—is contributing to unusual economic, social, and resource pressures which threaten to undermine U.S. initiatives for peace, economic progress, and human dignity and freedom in many areas throughout the world. Intelligence analyses identify four destabilizing aspects of population change and demographic pressures that can be exploited by communism and extremist movements which breed on frustrated aspirations.

(a) Fast-growing youth populations.—The numbers of youth requiring jobs, education, and housing are growing faster than most developing countries can absorb them. For example, even with an anticipated decline in the birth rate, the number of young men in Egypt in the 15-to-24 age group will rise from 4.6 million in 1980 to 7 million by 2000; most of these men are already born. It is men in this age group, increasingly frustrated and angry, ready recruits for a cause, who have fueled unrest in Kenya, India, Lebanon, the Philippines, Iran, and elsewhere.

(b) International migration.—International labor migration, legal or illegal, and refugee movements, are creating growing political and social tensions in Africa, the Near East, Asia, and Central and South America.

(c) Explosive growth of cities.—The combination of rural poverty and high birth rates is bringing unprecedented growth to cities in the Third World. If present trends continue, Mexico City may surpass 25 million by the end of the century; Tehran, Karachi, and Cairo may reach 11-13 million; and places like Lagos and Kinshasa, which contained 200-300,000 people as recently as 1950, are headed toward over 9 million. The combination of overcrowding, unmet expectations, and different ethnic, religious, and social groups makes a politically volatile mix. Violent demonstrations and mass riots over food or sectarian causes in the recent past in cities as varied as Tunis, Bombay, Sao Paulo, Cairo, Rabat, Karachi, and Rio de Janeiro, are manifestations of these growing pressures.

Ethnic tensions.—Shifts in ethnic and religious composition are an actual or potential destabilizing influence in many developing countries.

Although rapid population growth is only one factor contributing to rising dangers of social unrest, political instability, and potential international conflicts over land, water, or resources, its influence should not be ignored. Moreover, the next few years will see many more people entering their child-bearing ages than leaving: the number of young adults in the 20-to-39 age category will increase by 20 million in the North between 1980 and 2000—in the Third World, the increase will be 600 million, all of them already born. Thus, unless birth rates decline rapidly, demographic pressures in many countries will cumulate in the coming generations.

### 2. POPULATION, DEVELOPMENT, AND ECONOMIC POLICIES

Sound economic policies and a market economy are of fundamental importance to the process of economic development. Rising standards of living contributed in a major way to the demographic transition from high to low rates of population growth which occurred in the U.S. and other industrialized countries over the last century.

The current situation of many developing countries, however, differs in certain ways from conditions in 19th-century Europe and the U.S. The rates and dimensions of population growth are much higher now, the pressures on land, water, and resources are greater, the safety-valve of migration is more restricted, and, perhaps most important, time is not on their side because of the momentum of demographic change.

The problem is not the population growth in itself is bad. The problem is that rapid population growth compounds already serious problems faced by both public and private sectors in accommodating changing social and economic demands. It diverts resources from needed capital investment to consumption, and increases the costs and difficulties of economic development.

Population and family assistance policies and programs alone will not achieve economic miracles. They are no substitute for sound economic policies. Nevertheless, the governments of many developing countries now believe that rapid population growth has itself become, in many cases, an obstacle to the economic progress which should in time lead to smaller family size and slower population growth. A broad international consensus has emerged since the 1974 Bucharest World Population Conference that economic development and population policies are mutually reinforcing. This is why even LDC's with relatively sound, market-oriented economies have found it important to pursue voluntary programs to moderate population growth as part of their overall development strategy.

### 3. HEALTH AND HUMANITARIAN CONCERNS

Perhaps the most poignant consequence of rapid population growth is its effect on the health of mothers and childern. Especially in poor countries, the health and nutrition status of women and children is linked to family size. Maternal and infant mortality rises with the number of births and with births too closely spaced. In countries as different as Turkey, Peru, and Nepal, a child born less than two years after its sibling is twice as likely to die before it reaches the age of five, than if there were an interval of at least four years between the births. Complications of pregnancy are more frequent among women who are very young or near the end of their reproductive years. In societies with widespread malnutrition and inadequate health conditions, these problems are reinforced; numerous and closely space births lead to even greater malnutrition of mothers and infants.

The World Population Plan of Action, adopted at the Bucharest Conference in 1974, states: "All couples and individuals have the basic human right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community;"

Yet, throughout the world, hundreds of millions of families lack the information and means to exercise this right to have the number of children they desire. Because of the unprecedented and growing numbers of people moving into and through their childbearing years, the need for information and assistance is great. Even now, there is unmet demand for such services, and requests from developing countries for assistance from the U.S., UN, and other donors exceed current budgets (population assistance is currently less than two percent of worldwide Official Development Assistance). Because of the demographic momentum and the numbers involved, delays in offering voluntary programs may result in desperate governments resorting to measures which infringe upon human rights and dignity.

It is an unfortunate reality that in many countries abortion is used as a means of terminating unwanted pregnancies. This is unnecessary; voluntary family assistance programs can provide a humane alternative to abortion for couples who wish to regulate the size of their family, and evidence from some developing countries indicates a decline in abortion as such services are expanded.

### 4. U.S. POPULATION ASSISTANCE

It seems clear that ignoring demographic realities or delaying practical responses to these conditions runs the risk of perpetuating poverty and human degradation and undermining the stability of the family and of society. Hence, the U.S. has considered population to be one important component of a balanced development assistance strategy.

The basic objective of all U.S. assistance, including population programs, is the betterment of the human condition, improving the quality of life of mothers and children, of families, and of communities for generations to come. For we recognize that people are the ultimate resource—but this means happy and healthy children, growing up with an education, finding productive work as young adults, and able to develop their full mental and physical potential.

U.S. aid is designed to promote economic progress in developing countries through encouraging sound economic policies and freeing of individual initiative. Thus, the U.S. supports a broad range of activities in various sectors, including agriculture, private enterprise, science and technology, health, population, and education. Population assistance, while important in concept, amounts in monetary terms to only about ten percent of total development assistance.

As population factors had been neglected in early aid programs, the U.S. has in recent years taken an international leadership role in encouraging other donors and and international organizations to support voluntary population programs, as an important, cost-effective component of development aid. There is now substantial evidence, from countries with widely varying economic, social, and religious backgrounds, that relatively inexpensive family assistance programs can improve maternal and child health, bring down birth rates, and contribute to economic development.

Under this Administration, U.S. support for population programs abroad aims at strengthening family life and enhancing the freedom of couples in the exercise of responsible parenthood by expanding access to a side range of safe, effective, and acceptable family planning methods. The emphasis is on voluntarism, education and informed choice, and individual responsibility.

U.S. policy in this area is guided by certain basic ethical precepts:

Aid will be provided in ways which are sensitive to human dignity and local cultural values;

U.S. funds will not be used for abortion or abortion-related activities, for involuntary sterilization, or for population activities involving coercion;

U.S. development aid will never be conditioned on a country's acceptance of any particular population policy;

U.S. population assistance will be provided only in the context of an overall development program.

### 5. THE U.S. AT MEXICO CITY

Because nearly all major LDC's have themselves adopted positions on population matters advanced by the U.S. and its Western allies over the past twenty years, the U.S. delegation need not be out front in Mexico City. Other countries will, however, look for our support in strengthening the broad consensus on population and development that has emerged over the past several years.

Based on the above discussion, the following principles should be drawn upon to guide the U.S. delegation at the ICP.

1. Population factors merit serious consideration in development strategy, although they are not a substitute for sound economic policies which liberate individual initiative through the market mechanism.

2. Population policies and programs should be fully integrated into, and reinforce, appropriate, market-oriented development policies; their objective should be clearly seen as an improvement in the human condition, and not merely an exercise in limiting numbers.

3. Access to family education and services needs to be significantly expanded, expecially in the context of maternal/child health programs, in order to enable couples to exercise responsible parenthood. Consistent with local values and customs, the U.S. favors offering couples the widest practicable variety of medically approved methods, including natural family planning.

4. Respect for human life is basic, and any attempt to use abortion, involuntary sterilization, or other coercive measures in family planning must be rejected.

5. National and international resources addressed to population issues should be commensurate with the growing dimensions of the problem.

6. The status, education, and employment of women should be strengthened.

7. There should be higher international priority for biomedical research into safer and better methods of fertility regulation, including natural family planning, and for operations research into more effective service delivery and program management.

8. Issues of migration should be handled in ways consistent with both human rights and national sovereignty.

9. Problems of aging populations also merit international attention.

10. The U.S., in cooperation with other concerned countries should resist intrusion of polemical or non-germane issues into Conference diliberations. In particular, a draft recommendation on disarmament and the arms race, proposed by the Soviet

Union, should be rejected, although we can accept suitable language on the need for peace and disarmament in an appropriate preambular clause.

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### A.I.D. POSITION PAPER FOR THE INTERNATIONAL CONFERENCE ON POPULATION, MEXICO CITY—AUGUST 5-13, 1984

For many years, the United States has supported, and helped to finance, family planning programs in less developed countries. This Administration has continued support for population assistance, but has placed it within a policy context based on the development experience of the past twenty years.

The world's rapid population growth is a recent phenomenon. Only several decades ago, the population of developing countries was relatively stable, the result of a balance between high fertility and high mortality. There are now 4.5 billion people in the world, and six billion are projected by year 2000. Such rapid growth places unmanageable pressures on government when out of equilibrium with productive capacities. The problem is not that population growth, as such, is "evil." Population pressures become a problem only in conjunction with other factors such as: economic policies which constrain economic growth; social and institutional arrangements which prevent individuals or groups from utilizing their full capabilities; and environmental and natural resource limitations. In this context, the world is experiencing unprecedented population growth in precisely those countries which are already struggling to feed and educate even their current populations.

U.S. support for family planning programs is based on two fundamental principles: enhancing human dignity and strengthening family life. These principles are reflected in our emphasis on voluntarism and informed consent in the acceptance of family planning methods. Our objectives are to enhance the freedom of individuals in the exercise of responsible parenthood and to encourage population growth consistent with the growth of economic resources and productivity.

In our view this will be accomplished when couples are able to decide freely the size of their families. Since surveys show that only 40 percent of the population of developing countries has access to acceptable contraceptive information and materials, families now find it difficult to make their personal choice. Our goal is to enhance personal choice. As a by-product, given accessible, acceptable and affordable services and adequate information and education, the aggregate result of such individual family decisions will be a declining birth rate.

Thus, our goals are increased accessibility of safe, effective and affordable family planning methods, goals we believe will result in a population growth that places less demands on the economic resources of developing nations. The focus, however, remains on individual choice.

Thus, the Administration has defined the strategic goal of our population program as working for 80% of the population to have access to a wide range of acceptable contraceptive methods. By this phrasing, we emphasize that our focus is on individual voluntary decisions.

During the 1979s, A.I.D. supported fertility surveys in 42 developing countries, representative of nearly one and a half billion people—an initiative that showed that nearly half of all couples wanted no more children, and a much larger percentage wanted family planning services. The rapid population growth being experienced in many developing countries has had significant impact on the lives of families, and it is the family unit which is at the core of every society.

(President Reagan remarked before the World Affairs Council in Philadelphia in 1981 "Trust the people, trust their intelligence and trust their faith, because putting people first is the secret of economic success everywhere in the world." U.S. family planning assistance is built around this idea. In the 1960s and early 1970s, before most government programs were initiated, A.I.D. was assisting family planning efforts by private institutions to meet the family planning needs of couples and individuals.)

#### ECONOMIC DEVELOPMENT AND POPULATION PROGRAMS

Population growth and economic development are closely interrelated. One of the contributing factors to current rapid population growth in developing countries has been declining mortality resulting from health interventions supported by both LDC governments and donor agencies. A tremendous expansion of health services—from simple inoculations to basic preventive health care education—saved the lives of millions of children each year. Also, increases in LDC food production and improved nutrition contributed to the decline in mortality. Emergency relief, facilitated by modern transport, helped millions survive flood, famine and drought. The sharing of technology, agricultural and technical education, the expansion of women's rights and education all helped reduce mortality rates, especially infant mortality, and to lengthen life spans.

Resulting rapid population growth requires heavy investments in schools, health care facilities, and other infrastructures, thus imposing major demands on resources needed for investment; and provides a challenge which was perhaps not foreseen and addressed early enough as part of an integrated development strategy by LDC governments and donors alike.

The impact of the current rapid population growth is to sorely strain the resources of LDC's which could be used for investment for economic growth, but are needed for basic infrastructures and services for burgeoning populations. The economic resources of a country, however, are not finite. The economic policies espoused by many governments have hindered economic growth making the rapidly increasing populations an even greater burden on the assets of those countries.

Slowing population growth is no panacea for the problems of social and economic development. It is not offered as a substitute for sound and comprehensive development policies. Without other development efforts and sound economic policies which encourage a vital private sector, it cannot solve problems of hunger, unemployment, crowding or social disorganization.

Population assistance is but one essential ingredient of a comprehensive program that focuses on the root causes of development failures. The U.S. program as a whole, including population assistance, lays the basis for well-grounded, step-by-step initiatives to improve the well-being of people in developing countries and to make their own efforts, particularly through expanded private sector initiatives, a key building block of development programs.

By helping developing countries slow their population growth through support for effective voluntary family planning programs, in conjunction with sound economic policies, U.S. population assistance contributes to stronger saving and investment rates, speeds the development of effective markets and related employment opportunities, reduces the potential resource requirements of programs to improve the health and education of the people, and hastens the achievement of each country's graduation from the need for external assistance.

The U.S. will continue its long-standing commitment to development assistance of which population programs are an integral part. We recognize the importance of providing our assistance within the cultural, economic and political context of the countries we are assisting. We do not and will not condition development assistance on the adoption of particular population programs.

#### THE PRIVATE SECTOR'S ROLE

A distinctive feature of U.S. family planning assistance is its success in engaging private sector U.S. institutions to work with private sector organizations in developing countries to meet family planning needs. U.S. assistance demonstrates the effectiveness of non-profit and market/oriented private institutions to make family planning services available to people who are beyond the reach of public sector delivery systems, providing services that respect their preferences, and gaining their financial support for the services. The ultimate achievement of self-reliant national service delivery networks is in large part dependent on the extensive growth of these private sector family planning activities.

At the same time, the U.S. will also continue well-designed bilateral assistance programs with governments that request family planning assistance and are ready to make effective use of our assistance. The United States welcomes the responsible leadership of governments such as those of Egypt, Indonesia, Kenya, and Mexico in making family planning services available to their people as an integral part of public health programs. Thus, public sector programs and complementary private sector programs will continue to receive U.S. support.

#### TECHNOLOGY AS A KEY TO DEVELOPMENT

The transfer, adaptation, and improvement of modern know-how is central to U.S. development assistance. People with greater know-how are people better able to improve their lives.

Population assistance ensures that a wide range of modern technology related to demographic issues is made available to developing countries and that technological improvements critical for successful development receive support.

The efficient collection, processing, and analysis of data derived from census, survey, and vital statistics programs, contributes to better planning in both the public and private sectors. A wide range of modern family planning technology has been developed with U.S. assistance and made available to developing countries together with operations research that improves the effectiveness of family planning delivery systems. U.S. assistance also helps countries to acquire the technical capacity for contraceptive manufacture.

(The U.S. statement at the Conference should give concrete examples of the variety of technology transfer supported by the U.S., including the African census program and follow-up efforts to ensure the availability of needed software for data collection and analysis, research to improve natural family planning methods, and technology related to improved family planning management.)

### INSTITUTION BUILDING IN LESS DEVELOPED COUNTRIES

A primary thrust of the U.S. program is strengthening local institutions so that less developed countries have the capacity within country to implement population programs. Lessening reliance on external support, both technical and financial is a goal of the U.S. This is particularly important since the population programs of developing countries must be designed and implemented within their own political, cultural and economic context and therefore should be established and maintained by local entities, either private or public.

### ACCOMPLISHMENTS OF THE REAGAN ADMINISTRATION

This Administration has emphasized two program areas which represent valuable means of extending the accessibility and acceptability of voluntary family planning in developing countries.

The first program, Contraceptive Social Marketing (CSM): involves the use of market distribution methods for family planning and has grown to about 10 percent of our population program. Typically, condoms and pills are introduced at the wholesale level at low cost so they can be distributed through the retail system of a country for ultimate consumer purchase. This means of distribution, using market mechanisms, ensures that the consumer has a choice of what to purchase and also extends the availability of contraceptives by increasing the number and coverage of outlets to serve those not adequately reached by other private or public sources.

The U.S. has experienced great success using market distribution channels for contraceptives. In Bangladesh, for example, subsidized condoms and pills are available in over 50,000 retail locations throughout the country and sales of subsidized condoms in that country now exceed 80,000,000 a year and is the most rapidly growing family planning program in the country. In fact, market channels can serve remote rural areas more efficiently than government programs. This method, which actually reduces the effective cost to governments of distribution, enhances voluntarism since the essence of a market sale is choice.

The second area of emphasis has been natural family planning (NFP). It has increased ten-fold in this Administration. It is especially useful where cultural and religious values make other methods of family planning unattractive to larger parts of the population. Since the Bucharest Conference, substantial scientific progress has been made in NFP. The U.S. continues to sponsor research designed to further enhance our understanding of the process of human reproduction and is currently giving increased attention to the field delivery of natural family planning methods.

NFP is an important component of worldwide population assistance since it provides a method which is consistent with the cultural and religious values of many individuals throughout the world. We believe that inclusion of these methods will enhance the effectiveness of the family planning programs we support because they will be able to serve a wider group of people with varying cultural and religious values.

### ABORTION

U.S. policy prohibits U.S. government support for abortion-related activities in other countries. In fact, we believe that voluntary family planning services are an effective, humane alternative to abortion.

(While abortion is legally permitted, in some degree, in the great majority of the countries taking part in the Conference, none of the draft recommendations before the Conference encourage abortion as a method of family planning. One Recommendation—13(e)—urges assistance "to help women avoid abortions, and, whenever possible, to provide for the humane treatment and counseling of women who have had recourse to illegal abortion.")

(The U.S. supports Conference approval of Recommendation 13(e). Urging couples to avoid abortion minimally implies that abortion is not encouraged as a method of family planning and that government funds should not be used to provide abortion services. The proposed Recommendation puts a UN intergovernmental population conference on record for the first time as not favoring abortion, a position fully consistent with U.S. policy. Securing an explicit Conference condemnation of abortion, on the other hand, is unlikely because of the legally approved status of abortion, in most countries. The U.S. should therefore seek to limit debate on this issue to ensure necessary support for the draft Recommendation.)

(The draft statement provides: " . . . and will not contribute to those (programs) of which (abortion) is a part. Nor will (the U.S.) any longer contribute directly or indirectly to family planning programs funded by governments or private organizations that advocate abortion as an instrument of population control.")

(By focusing on what an organization advocates, as contrasted with what it does, the statement will be extremely, and in our view unnecessarily, controversial. We agree that it is important for the U.S. to stand witness for its position on abortion and to make it clear that AID funds must be separate from assistance to abortion-related activities.)

### U.S. STRATEGY FOR IMPLEMENTATION OF POPULATION ASSISTANCE

The implementation of U.S. family planning assistance is based on four policy cornerstones.

First, we are working with developing countries to establish policies and programs that are supportive of smaller families and the spacing of births, including:

Increasing schooling for girls;

Increasing employment opportunities for women;

Lowering the high levels of infant mortality that perpetuate the vicious cycle of high fertility, poor maternal nutrition, low birthweight babies and high infant mortality.

Second, we are helping to strength institutions in developing countries themselves so that they can deliver the basic services which their citizens need.

Third, we support the development of promising new technologies and methods of family planning, including natural family planning. We also support research to improve the safety and effectiveness of family planning under actual developing country conditions.

Fourth, we are building on the strength of the private sector by providing a relatively large proportion of our assistance through United States and indigenous private and voluntary organizations. We are also encouraging the private sector in developing countries to become involved in family planning service delivery, contraceptive research, and the commercial marketing of contraceptives.

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## CRITIQUE OF THE WHITE HOUSE DRAFT POSITION PAPER FOR THE MEXICO CITY CONFERENCE

### GENERAL

The paper does not repudiate U.S. support for international family planning aid. However, because of the way it is written, the draft virtually dismisses the importance of family planning. Instead of discussing the enormous unmet need for family planning services around the world, the paper focuses exclusively on the need to deregulate developing nations' economies. It leaves the reader with the impression that if only developing nations would encourage free market economies, they would experience rapid economic development that would take care of their population growth.

In addition to de-emphasizing family planning, the paper also would stop U.S. government funds to family planning programs that use non-U.S. government monies (private funds or contributions from other governments) to pay for abortion-related activities. Current law and policy do not do that.

In short, the paper leaves itself open to interpretations that clearly conflict with U.S. foreign aid law and the Reagan administration's own policies on population assistance. It seeks to pre-empt Congress, which for 20 years has spelled out U.S. policy on population aid, and it threatens to spark confusion and controversy at the Mexico City Conference.

### QUOTES FROM THE PAPER

The following quotes from the paper illustrate the problems it could create:

"The relationship between population growth and economic development is not a negative one. More people do not mean less (economic) growth." (p. 2)

While the paper is correct in suggesting that population growth, in and of itself, is neutral, it leaves the impression that the very rapid population growth of developing nations today is not a problem. However, the U.S. Agency for International Development's 1982 policy paper on population aid states: "Continued high rates of population growth significantly increase the cost and difficulty of achieving basic development objectives by imposing burdens on economies presently unable to provide sufficient goods and services for the growing population."

"That historic pattern (the gradual decline in population growth that accompanied the industrialization of Europe would be well under way in many nations where population growth is today a problem, if short-sighted policies had not disrupted economic incentives, rewards, and advancement. In this regard, localized crises of population growth are evidence of too much government control and planning, rather than too little." (p. 4)

The paper gives the impression that the historical experience of Europe, whose population growth rate gradually declined over the past two centuries of modernization, is comparable with the demographic situation in developing nations. Yet, today's developing nations are experiencing rates of population growth far greater than ever experienced in Europe, with far less time and capital to generate economic development on a massive scale. Between 1830 and 1930, the world's population increased from 1 billion to 2 billion. In contrast, during the next 16 years the world's population is expected to grow by 1 billion, and 90 percent of that growth will occur in the developing nations. At current rates of growth, some of those countries are experiencing growth that could double their populations every 20 years or less.

". . . Too many governments pursued population control measures that have had little impact on population growth, rather than sound economic policies that create the rise in living standards historically associated with decline in fertility rates. It was the easy way out, and it did not work." (p. 5)

While it is true that not all nations' commitments to population and family planning have been equally effective, it also is true that family planning programs, well integrated into larger efforts to improve the economic opportunity and well-being of people, have proven to be effective. The U.S. Foreign Assistance Act makes this point explicitly in Sec. 104: "Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least effected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services . . . voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition."

". . . the United States . . . does not consider abortion an acceptable element of family planning programs and will not contribute to those of which it is a part. Nor will it any longer contribute directly or indirectly to family planning programs funded by governments or private organizations that advocate abortion as an instrument of population control." (p. 6)

Currently, U.S. law and policy prohibit the use of U.S. population aid to pay for abortions, abortion research, or lobbying for abortion. They do not deny funding to family planning programs that use non-U.S. government funds for abortion-related activities. The 1981 conference report on the Foreign Assistance Act made this point by saying the existing abortion funding prohibition "effectively sets necessary limits on U.S. support for international population planning programs with respect to concerns about adequate directives against promotion of abortion-related activities."

## THE BEST PATH TO DEFICIT REDUCTION

**Mr. KASTEN.** Mr. President, this week House and Senate conferees will continue meeting to resolve the differences in their deficit reduction plans. This comes after many months of wrangling over deficits, spending cuts, and tax increases.

Unfortunately, it's the tax increases in each of the plans that are sailing through Congress. The spending cuts are the problem. This shouldn't be.

Our goal of a balanced budget needs to be achieved at a low level of spending and taxes. And, just raising taxes to cover our ever-increasing spending is wrong. It's only with a balanced approach of spending cuts and economic growth that we will ever achieve a balanced budget.

This essential argument is the heart of Wendell Wilkie Gunn's article—"'Balancing Down' and Breaking Free." Mr. Gunn is a special assistant to President Reagan for policy development, and has written a piece that embodies the essence of the President's economic policy. Although it appeared in the Wall Street Journal in April, it is relevant to the on going deficit reduction debate in Congress this week. I commend it to my colleagues, and ask unanimous consent that it be included in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[The Wall Street Journal, Apr. 25, 1984]

### "Balancing Down" and Breaking Free

(By Wendell Wilkie Gunn)

"The real question America must face is not whether we should work toward a balanced budget, but how. As we look to the future, we can 'balance up' with tax increases and lock ourselves into economic bondage, or we can 'balance down' with lower tax rates and spending, permitting our economy to break free." These were the words of President Reagan in his March 27 speech to the Independent Insurance Agents of America. It is a clear statement of the budget strategy he has chosen for 1984 and beyond, i.e., a determined adherence to the strategy he initiated in 1981. It is called "balancing down."

Balancing down embodies the notion that a vital part of the goal of a balanced federal budget is the goal of achieving balance at a low level of taxes and spending. More specifically, it is a rejection of the idea that balancing up achieves any real benefits at all. Balancing up stifles economic activity. Balancing down permits it to break free.

Those who oppose the president on this issue come from both ends of the political spectrum. Liberal economists and politicians have always believed that deficit spending has a beneficial, stimulative effect on the economy, boosting aggregate demand and employment. But opponents also include conservative economists and politicians who have always decried budget deficits.

The political argument made by the liberals is that anyone who insists upon a balanced budget at the expense of "human" programs is inhumane, totally lacking in compassion. Needless to say, the conservatives have consistently lost the political fight against spending increases and concluded after each round that the only prudent thing to do under the circumstances is to increase taxes to finance them. The irony is that the conservatives put themselves into the awkward position of financing the spending that they opposed in the first place, all the while advancing their own reputation as austere and uncaring. That reputation persists. The most important result, however, was the upward spiral in spending and taxes that we have witnessed over the past 50 years.

For the taxers, particularly the conservatives, there is no way to reverse this destructive trend. For example, Fed Chairman Paul Volcker told the Senate Finance Committee in September 1979 that it was a shame that we had allowed tax rates to reach "such a high level that economic growth and productivity are stifled." Yet later, in response to a question, he said, "we cannot afford to cut tax rates substantially because the resulting increase in the deficit will fuel inflationary expectations." The implication is that the U.S. is permanently trapped. Increasing taxes produces stagnation; reducing taxes creates inflation. Balancing down embraces the first half of this notion but soundly rejects the second half.

Balancing down seeks to reverse this tend, while preserving the essential improvements in our national security without which no economic policy can produce its intended benefits. Of course, the taxers, presuming incorrectly that balancing down is simply a call for spending cuts, say that they, too, would rather reduce spending than increase taxes. But because they think that it is politically impossible to achieve significant additional spending reductions at the present time, they conclude that the only prudent thing to do is to increase taxes.

Thus the president's refusal to consider tax increases is regarded as "a lack of concern" about deficits. This is not the case. The reason the president insists upon balancing down is that he knows that the deficit itself is not the problem, but merely the reflection of a larger problem. The problem is that the government, through its spending activities, is diverting an excessive amount of resource away from private productive enterprise, a malady that cannot be corrected by increasing taxes. In fact, tax increases would serve only to mask the problem at best.

Balancing down recognizes that there are two financing sources for the government's spending—current taxes and future taxes (borrowing)—and the difference is important. We can increase current tax rates beyond their current high levels, then hope that we actually collect the increased revenues. This would surely slow down the recovery and abort any significant expansion of the tax base. We might even balance the budget in the process (although that is unlikely)—but a very high level of spending and taxes.

On the other hand, we can give the tax base room to grow by reducing the tax barriers that stand between entrepreneurial dreams and real economic activity. Balancing down chooses the latter course. The Economic Recovery Tax Act of 1981 was its beginning, declaring that tax-rate cuts would lead the way. The ERTA tax-rate reductions were a signal to investors and workers that this administration's preferred method for generating tax revenues is growth. At the same time, that fraction of the government budget called the deficit was left exposed as a reminder that our budget work was not yet finished. Of enormous importance, too, was the innovative tax-indexing provision, telling low-income and middle-income taxpayers that, in the future, if the government uses inflation to rob them, they won't also automatically be punished for it by being pushed into higher tax brackets. The economic recovery is clear evidence that the strategy is working, and it must be permitted to continue.

Then comes phase two of balancing down, as the climate of growth and expanding opportunities provides our first real hope for developing the political support necessary for achieving serious and substantive reductions in government spending. This will begin as people who previously depended for subsistence upon government support programs find what they wanted in the first place—productive opportunities in the marketplace—and government dependents become taxpayers. Balancing down reverses the cruel policies that, however well-intended they were, have served to destroy opportunities for people to improve themselves by their own efforts. It is therefore the most humane and compassionate policy of all.

Through balancing down, the president is simply helping us to discover again what made America great in the first place—economic freedom, pure and simple.

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## THE 1984 HEALTH FAIR PROGRAM

Mr. THURMOND. Mr. President, as President pro tempore, I had the privilege of sponsoring the 1984 Health Fair Program. For years, I have taken a lead role in promoting this important program because I strongly believe in its purpose—to provide the public with free health screening and education services without any cost to the Government.

On March 20, the 1984 kickoff ceremony of National Health Fair Week took place in the Senate Caucus Room. I am pleased that my colleagues, Senators STEVENS and LAXALT, joined me in sponsoring this event, and the Senate Health Fair that occurred on June 12 and 13. The kickoff ceremony proved to be a celebration of the success and effectiveness of the Health Fair Program. Joining us on this occasion were Vice President BUSH, representing the executive branch; Department of Health and Human Services Secretary Margaret Heckler, who delivered an excellent keynote address; Defense Secretary Caspar Weinberger, representing the men and women of the Armed Forces; and other congressional leaders dedicated to promoting Health Fair Week—the largest health promotion program in American history.

Mr. President, there is good reason to celebrate the accomplishments of health fairs. From March 21 to mid-June, over 100,000 volunteers provided nearly 1 million Americans in more than 3,000 locations, with almost $200 million worth of free health screening and education services. All this was achieved through the cooperative efforts of the news media, and corporate, nonprofit, and community groups.

I want to take this opportunity to recognize those organizations which made the 1984 Health Fair possible.

Corporate sponsors providing valuable financial resources were Chevron, U.S.A., and Pfizer Pharmaceuticals. The American Association of Retired Persons and the American Red Cross were two of the volunteer sponsors who also played a vital role in promoting health fairs across the country. The American Broadcasting Co., Gannett, and lifetime cable television network contributed much as media sponsors for this worthwhile effort.

Mr. President, in addition to these sponsors, there were many individuals and organizations which worked diligently to make the Senate Health Fair last week the best ever. Special recognition is in order to the Capitol Hill Hospital, which provided numerous medical professionals to administer the various tests at the Health Fair. Indeed, the 1984 Health Fair could not have been such a great success without their tremendous assistance. I commend each staff member of this excellent hospital for demonstrating their commitment to quality health care through this benefical program.

Also, I want to thank Jane Mayfield of the National Health Screening Council for Volunteer Organizations for the outstanding work she did as the chief coordinator for the Capitol Hill Health Fairs. Mrs. Mayfield, a capable medical professional in her own right, performed her administrative duties with exceptional skill, and she may take great pride in knowing that her yeoman efforts have gone a long way in meeting some of the fundamental health care needs of our staff members.

Organizing an event of this magnitude requires hundreds of hours of planning and preparation, and I am particularly pleased to commend Michael Schick of my staff for his dedicated service as Senate liaison for the Health Fair. For the past 3 years, Mr. Schick has worked closely with the sponsors and Senate staff office to ensure that this service produces maximum results for Health Fair participants.

Mr. President, without the vision and initiative of one man, the Health Fair would not exist. That individual is Dr. John Brensike, founder and chief executive officer of the National Health Screening Council for Volunteer Services. Dr. Brensike, an accomplished practicing physician, established health fairs 9 years ago, and continues to devote countless hours of his own time to expand and stregthen this worthwhile health care service. I know my colleagues in the Senate would want to join me in congratulating Dr. Brensike and the Screening Council staff for the remarkable service they provide the American public.

Without question, Health Fairs are a shining example of volunteerism, and prove that many of the public's most fundamental needs can best be met through community involvement. Through a spirit of cooperation, and with a shared concern for the well-being of others, underscored by a deep sense of compassion, we can ensure a healthier America through health fairs.

## BOYS HOME OF THE SOUTH AND ITS FOUNDER, CHARLES W. AIKEN OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding South Carolina institution, the Boys Home of the South, and its founder, Mr. Charles W. Aiken, who recently received the prestigious Jefferson Award for outstanding public service from WYFF-TV in Greenville, SC, and was nominated for a national Jefferson Award. He earned these important distinctions because of his sacrifice and dedication to the youth of America.

Mr. Aiken, who received the Purple Heart while serving in the U.S. Army Air Force in World War II, vowed to do something to help young children if he returned safely to South Carolina. He kept his promise by opening the Boys of America Home, as it was first called, in 1959, with only two boys. Today, the Boys Home of the South has a capacity of 40, and since its founding, has cared for almost 2,000 dependent boys from throughout the Southeast and as far away as California.

The home serves as a refuge for orphaned, abused, and neglected boys between the ages of 6 and 18. These special young men are provided a family atmosphere where they receive the love, care, and attention they desperately need. Each boy lives with nine others in cottages supervised by houseparents. This homelike environment allows the boys to develop healthy and harmonious relationships through daily interaction. The home receives no financial aid from any institution or organization, and operates entirely on voluntary donations.

In addition to his leadership at the Boys Home of the South, Mr. Aiken has also been highly involved in other community activities by serving as a board member on such organizations as the Palmetto Unified Schools; Missionaries of the Sacred Heart in Aurora, IL; and the board of visitors of the Methodist Home in Orangeburg, SC. He also serves as a district representative of the National Guard and Reserve.

Mr. President, Charles Aiken's life and service to South Carolina and to the youth of this country serve as an inspiration to many. South Carolina owes him a tremendous debt of gratitude for his compassionate and effective contributions in helping young men to become responsible and productive citizens.

I know my colleagues join me in congratulating Charles Aiken on receiving the Jefferson Award and in wishing him continued success in the future. In order to share more about this outstanding individual and the Boys Home of the South, I ask unanimous consent that the following information appear in the RECORD following these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### CHARLES AIKEN IS RECOGNIZED INSIDE BOYS HOME OF THE SOUTH

Charles W. Aiken, founder of Boys Home of the South, recently was the recipient of a Jefferson Award Medallion from WYFF-TV in Greenville. Along with four other recipients from this area, he has been nominated for a national Jefferson Award.

During his World War II days in the U.S. Army Air Force, Aiken was a gunner on an A-20 attack bomber flying missions over Germany, Belgium and France.

"I vowed in my heart that if I returned safely to South Carolina, I would do something to help young children," Aiken recalls.

He did return safely and he remembered his promise. Although there were many obstacles and discouragements to overcome, Boys of America Home (as it was first called) opened in early 1959 with two boys, whom Aiken describes as being "pretty emaciated." The Home occupied an old school building about 22 miles from Greenville in the Easley area.

Today Boys Home occupies a 127-acre campus on Highway 25 about 23 miles south of Greenville. Since its founding, the Home has cared for more than 1,500 dependent boys. The present capacity is 40 boys.

Aiken is quick to give credit to individuals who played a big role in the Home's success.

He praised the contributions of Mrs. Cora Stewart, who served as director for the first six years.

"Cora—as I did—believed in discipline, but we also believed in fairness. And Cora's day-to-day activities reflected a great Christian desire to serve."

Aiken says that in those early days he would sometimes go out to the Home twice a day—"if Mrs. Stewart was having trouble with the potbellied stove or if the water pipes froze," he explains.

"She was just a grand lady and director. She held her head high and people respected her. She did a great deal to stimulate interest in Boys Home . . . I can't really say enough about her."

When the old school building became a bit cramped, Jack Greer, then owner of Texize, Inc., donated the land on which the Home is now situated. He calls Greer "a great friend to Boys Home for many years."

Aiken believes the boys are "the main thing . . . We should almost consider ourselves as aircraft carriers. The aircraft are the main reason we are out there. We're there to care for the boys."

He credits the Home's success to "a lot of fine people who assisted with their time and money." Aiken believes "anything can be done if you don't really care who gets the credit."

The founder recalls the wonderful financial help given the Home in past years by Apple Tuck of Greenwood and the late Frank Outlaw, former Bi-Lo Stores board chairman. He considers these men to have been "godsends" in times of special need.

One other individual who Aiken says did a great deal for the Home was singer Jim Nabors (Gomer Pyle, USMC), whose appearances on behalf of Boys Home, raised more than $45,000.

Although his business—Aiken Bros. Auto Supplies in Greenville—keeps him busy, he untiringly devotes time and energy to the work of the Home.

Born on the family farm between Piedmont and Pelzer where his parents still live, Aiken is a graduate of Rock Hill High School. His wife is the former Evelyn Suber of Piedmont. The Aikens have a daughter, Cathey, who lives in Orangeburg, and a son, Charles, Jr., who lives in North Vernon, Ind.

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### FACTSHEET ON BOYS HOME OF THE SOUTH

#### BOYS HOME OF THE SOUTH

Mailing address, Route 3, Box 115, Belton, SC 29627; located on Highway 25 about 23 miles south of Greenville, SC; a home for orphaned, abused, and neglected boys between the ages of 6 and 18; founded in 1958 by Charles Aiken, who while a gunner on an A-20 attack bomber flying missions over Germany in World War II, vowed to do something for children needing a good home if he returned safely to South Carolina; Aiken returned home, remembered his vow, and in 1958 started the Home; since then, in the last 26 years, close to 2,000 boys from throughout the Southeast—and some from even as far away as California—have lived in the home.

#### ABOUT THE HOME

Boys live on a 127-acre campus; they live in a pastoral setting, raising 40 head of beef cattle, chickens, goats, pigs, and horses; they grow vegetables—beans, peas, melons, strawberries, okra—both for consumption by the Home residents and for selling at their roadside produce stand on Highway 25.

Boys live in cottage-type arrangement in which eight boys live with their houseparents in each cottage. Boys live two to a room. There's no institutional flavor here.

Boys all are expected to share in the work at the Home. Home's philosophy is that the discipline of having a task to complete contributes to building of character.

A full-time activities director heads programs that gives boys plenty of physical activity: softball, running, swimming, football, basketball, fishing, etc.

With their houseparents, families of boys are regular attendants at church services in nearby Honea Path, S.C. The Home believes the spiritual development of the young men is essential.

Boys are mainstreamed into public schools. One young man, Gary Gravley, who has lived in the Home for six years, was the captain of the Woodmont High School football team in 1983 and was voted by his classmates to be the Outstanding Senior in the graduating class of 1984. Another young man, Robert Callison, as a freshman, was named the Most Valuable Member of the Woodmont High School cross-country team.

#### SUPPORT OF THE HOME

The Home is not underwritten by any religious organization, denomination or other organization. It does not solicit nor does it accept financial aid from the federal, state, or local government. Revenue for operating the Home comes from donations of individuals, businesses, foundations, and other community organizations. Founder Charles Aiken has always felt strongly that the work should be supported by the community on a voluntary basis. In addition to the revenue from donations, several fund raising events are held each year, including an airshow (in 1983 the U.S. Air Force Thunderbirds performed; in 1984, the U.S. Navy Blue Angels performed); an antique and classic car show; a horse show; a golf tournament; and an auction of new merchandise contributed by the business community.

In December, 1983, the public relations director of the Home ran 235 miles in six days from Charlotte, NC, to Augusta, GA, via Spartanburg, Greenville, Greenwood, and Aiken, to raise money for a 62.5 horsepower tractor that was badly needed by the Boys Home farm operation.

In the winter of 1984-85—exact date still pending—LA Dodger Manager Tommy Lasorda will speak in Greenville at a fundraising dinner for the Home.

Several years ago Jim Nabors (Gomer Pyle, USMC), raised more than $45,000 in appearances for the Home. The chapel at the Home was erected from funds raised by Nabors.

#### PUBLICIZING THE HOME

Recently a public service announcement featuring former NBC newsman Frank Blair was run coast-to-coast on the Cable News Network as well as on numerous TV and radio stations in the Carolinas and Georgia.

Inside, a news publication of the Home, is sent free to whoever requests it.

Public relations director speaks extensively upon invitation of service clubs, churches, and other organizations.

#### EXPANDING THE HOME

Founder Charles Aiken is seeking support for construction of two more cottages that would enable Home to accommodate 16 more boys. Cottages will cost about $100,000 each. He also seeks an additional $14,000 a year in support to employ social worker to serve as liaison between Home and child's home, with the goal being to improve child's home environment to the point where child may return to his own natural parents.

#### ABOUT THE FOUNDER

Charles Aiken, owner, Aiken Bros. Auto Supplies, Greenville, SC. Born on family farm between Piedmont and Pelzer, SC. Graduate of Rock Hill High School.

Veteran of U.S. Army Air Force, flying 38 missions in European Theatre, World War II; winner of Air Medal with six clusters, Purple Heart.

Married to Evelyn (nee) Suber of Piedmont, SC; son Charles, Jr., of North Vernon, Ind.; daughter Cathey, of Orangeburg, SC.

Board Member, Palmetto Unified Schools (Division of Dept. of Corrections). Board Member, Department of Interior (National Parks). Board Member, MIVA (Missionary Vehicles for the World). Board Member Missionaries of the Sacred Heart, Aurora, IL. Board Member, Board of Visitors, Methodist Home, Orangeburg, SC. Fourth Congressional District Representative of National Guard and Reserve. Member, St. Matthews Methodist Church, Greenville, SC.

## SOVIET SABOTAGE OF THE INTERNATIONAL MAILS

Mr. JEPSEN. Mr. President, I join with many other Senators today as cosponsor of Senate Concurrent Resolution 121, aimed at curtailing the Soviet sabotage of the international mails.

While this issue has attracted little publicity in the press unfortunately, it has become a major topic of conversation by just about every ethnic group in this entire Nation.

I know that Congressman GILMAN of New York has held three hearings thus far, in an effort to document efforts of the Soviet KGB, the secret police, to interfere with the international mails.

Over on the House side there is a safe containing upward of 2,500 exhibits of forgery of return receipt requested forms that have obviously been forged, along with many other obvious postal violations. The Subcommittee on Investigations of the Post Office and Civil Service Committee is to be commended for an exhaustive effort, in which documents were obtained not just from the United States, but 16 other countries as well.

In the State of Iowa, congressional investigators turned up the case of one individual in Des Moines, who served as chairman of a committee of concern for human rights in the Soviet Union. The group had mailed over 5,000 letters, but received a response from only one.

They found many of their return receipt cards had been forged. That occurred, in calendar years 1982-83, and if memory serves correct, came into the hands of the congressional investigators on or about September 19, 1983. It is logged as exhibit 1,275.

If any Senator here today has any questions as to the depth of evidence, I invite them to contact me and we both can examine the investigative files together. Exhibit 1,306 pertains to price gouging by Soviet-licensed parcel agencies operating here in the United States. The U.S. Postal Service said they knew nothing about them, until congressional investigators found a victim, once again in the State of Iowa.

Over in Ubandale, IA, investigators turned up a witness who had to pay a surcharge on a package he mailed to the Soviet Union. He had to pay the U.S. Postal Service $27.60 in surcharges on two small packages that were intercepted and returned. The $27.60 surcharge on the return was, of course, in addition to the original mailing cost. Thus, the U.S. Postal Service was turned into the tax collector for the Soviets.

Those exhibits, for your information, are contained in exhibits 1,308 and 1,309.

I understand from the investigators with whom I have been working that the Soviets are using their international mail racket as a prime source for receiving hard Western currency, which they badly need. Investigators tell me that the total take is approximately $20 million per year.

We have a great ethnic mix in the State of Iowa and many Jewish people, Christians, Penticostals, Baptists, Lithuanians, Latvians, Estonians, Ukrainians, and many, many others have been involved in this investigation. I'm very proud to have worked with those involved in this investigation. There is no question in my mind but that the Soviet KGB is cutting the lifeline of communications between its citizens and their friends and relatives on the outside.

I think it is reprehensible that this is going on. I think there is a need for clear, decisive action on the part of the United States. I plan to request hearings in the Midwest, so that some of my constituents can testify as dozens have already in the House hearings in Washington, Chicago, and New York City.

In the meantime I am seeking additional exhibits from my constituents and I should like to request that the following article from the New York Post be accepted into the Record at this time.

Passage of Senate Concurrent Resolutions 121 by the Senate comes at a very appropriate time: Some 16 countries are seeking to oust Israel from the Universal Postal Union Congress, which started this week in Germany.

Documents of the U.S. Congress will prove that, far from being an offender, Israel is indeed an aggrieved party at the UPU. For contained among those 2,500 exhibits are some from Israel, indicating the Soviets have been intercepting letters and packages from that country as well.

Accordingly, Mr. President, I urge my colleagues to join our current cosponsors in support of this important measure.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Post, June 12, 1984]

### Kremlin Plot To Block U.S. Mail

(By Amy Pagnozzi)

The Kremlin's campaign to sabotage U.S. mail to the Soviet Union has reached such proportions that many Americans have been cut off from relatives there.

"The Soviets are involved in a sophisticated, calculated attempt to cut the lifeline between Soviet citizens and their friends and relatives on the outside," Rep. Ben Gilman (R-N.Y.), said yesterday.

"To date, we have over 2,300 exhibits showing how this international con game has been operated for the benefit of the Marxist ideology—and the bank accounts—of the Soviets."

The Rockland County congressman, who has led a yearlong investigation into the matter by the House postal subcommittee, presided at a regional hearing at 26 Federal Plaza yesterday.

Various witnesses testified about disappearing letters and packages, KGB-forged receipts, and a Soviet scam to get millions of dollars of Western currency through Soviet-licensed U.S. package services.

Former state Assistant Corrections Commissioner David Eno, who conducted the probe, estimated that the Russians net $20 million a year in American money with their parcel scheme.

"It can cost as much as $450 or more to send a $50 package to the Soviet Union—if you even succeed in getting it delivered," said Eno.

When a package is returned, the sender must pay a surcharge and handling fee to the Soviet Union to get it back.

Mail sent through the package services has a higher chance of reaching its desitnation—but Gilman said the companies often gouge $150 to $300 per parcel, most of which ends up in Moscow banks.

Soviet Jews, Catholics, Baptists and Pentecostals as well as political prisoners are particularly unlikely to receive their parcels.

And those Russians who are licky enough to get their packages must pay exorbitant duty.

"It would take the average Russian a month and a half to pay the duty on a single pair of jeans," said Eno.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

Mr. TOWER. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. Morning business is closed.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 2723, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense, and for other purposes.

The Senate resumed consideration of the bill.

### AMENDMENT NO. 3229

(Purpose: To express the sense of the Congress regarding armaments cooperation with NATO member countries)

Mr. TOWER. Mr. President, it is my understanding there are no amendments pending on the bill at the moment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. Roth], for himself.

Mr. Nunn and Mr. Glenn proposes an amendment numbered 3229.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 27, after line 14, add the following:

POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

Not later than December 1, 1984, the Secretary of Defense shall prepare and transmit to the Congress a report setting forth a comprehensive plan by which the United States and NATO member countries may achieve the objectives of section 1122(b) of the Department of Defense Authorization Act, 1983.

Mr. **ROTH.** Mr. President, I ask unanimous consent that the distinguished Senator from Georgia [Mr. NUNN] be shown as a principal sponsor of this amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **ROTH.** Mr. President, 2 years ago, the Senate overwhelmingly endorsed the Roth-Glenn-Nunn amendment on NATO defense industrial cooperation That amendment was introduced for two primary reasons:

First. Weapons costs. The cost of advanced weaponry is rising and, in all likelihood, will continue to rise as the sophistication of our weaponry increased. However, those costs must be stabilized if hi-tech weaponry is to be procured. This necessary stabilization can be achieved only through a dramatic broadening of our weapons manufacturing base such as will enable us to achieve reasonable economies of scale and long production runs. Thus, it is economically vital that the United States move swiftly to team its defense-industrial efforts with those of its European allies.

Second. The current status of NATO's conventional defenses. Gen. Bernard Rogers already has pointed out that NATO's so-called defensive strategy of flexible response has little basis in reality. Currently, NATO's conventional posture is so weak that, in the event of a confrontation with the Warsaw Pact, a relatively swift escalation of the conflict to the nuclear level would be almost unavoidable.

Neither the people of the United States nor of Western Europe wish to contemplate the horrors of nuclear war. Consequently, it is essential that NATO improve its conventional posture in order to lower the so-called nuclear threshold.

NATO's military leadership is fully in accord with this position and, consequently, has committed itself to a new, deep strike convention strategy for the defense of Europe. This strategy seeks to capitalize upon NATO's technolgical advantage over the Warsaw Pact by building a new generation of smart weaponry derived from emerging technologies which will effectively prevent the forces of the Warsaw Pact from exploiting their broad numerical superiority on the battlefield in the event of conflict.

It should come as no surprise to any of us when I say that this new generation of hi-tech conventional weaponry will prove extremely expensive. In fact, if the United States tries to manufacture these systems alone, it is doubtful whether the Congress will be willing to procure them in sufficient numbers for the new strategy to be implemented. Certainly, our European allies will prove unwilling to procure such expensive items if they are not allowed to partake in any of the economic benefits associated with their manufacture. In short, NATO's new deep strike strategy cannot be conceived outside the framework of a meaningful, NATO-wide, defense-industrial cooperation effort. If we fail to make progress in the cooperation field, we will fail to make progress in improving NATO's conventional defenses and we will continue to live with the horror of the "nuclear trip wire."

Consequently, I urge the Department of Defense to treat arms cooperation as a matter of the highest priority. Granted, the Secretary of Defense has made some initial proposals in the field of emerging technologies and some progress has been made in the area of NATO's air defenses. However, time is not on our side and such piecemeal progress cannot substitute for an overall plan of action which can be discussed by the Congress and, hopefully, placed before the political leadership of our European allies. Therefore, I have introduced this amendment requiring the Secretary of Defense to submit a plan for the implementation of the Roth-Glenn-Nunn amendment, to the Congress, no later than December 1, 1984. I hope that my colleagues will join with me in supporting this effort which is so vital for the future security of both NATO and the United States itself.

Mr. President, I yield back the floor.

Mr. **NUNN.** Mr. President, I congratulate the Senator from Delaware for offering this amendment. The Roth-Glenn-Nunn amendment last year and other amendments that Senator ROTH has worked on to try to further coordinate procurement practices in NATO I think are enormously important. I think they are particularly important when we are in a period of time where we do have a chance for a real conventional defense, a viable conventional defense in NATO if we work together. We are as an alliance outspending the Warsaw Pact and the Soviet Union each year. We simply are not getting our money's worth. We have enormous duplication. In my view, we have enormous waste in NATO expenditures because of that duplication. I think the amendment of the Senator, as his previous amendment, is a very strong signal from this Senate as to our intention both to the American administration and to our NATO allies. I support the amendment, and I hope that it will be accepted on both sides.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **TOWER.** Mr. President, I have long been an advocate of defense industrial cooperation between and among the NATO allies.

I think we are bound to observe that our NATO allies spend a great deal more in the United States on military hardware than we spend in NATO. This tends to militate against the political cohesion of the alliance. It tends to militate against rationalization, standardization, and interoperability, and I think it presents us with a whole set of problems that cry for solution.

I commend the Senator from Delaware on his initiative and the Senator from Georgia on his continuing interest in this matter.

On behalf of the majority on the committee, I am prepared to accept the amendment of the Senator from Delaware, cosponsored by the Senator from Georgia.

The **PRESIDING OFFICER** (Mr. KASTEN). Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3229) was agreed to.

Mr. **TOWER.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **NUNN.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **TOWER.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **GOLDWATER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **GOLDWATER.** Mr. President, if Senator BRADLEY should come to the Chamber before I complete my remarks, I will ask that the rest of this material be printed in the RECORD.

Mr. President, during this particular time of the year, when we are engaged in debate over the armed services budget, we occasionally read things in magazines that express, in a most appropriate way, some of our general feelings.

Mr. President, I should like to read an article published in National Guard magazine, the June 1984 issue, by Maj. Gen. William E. Ingram:

FINANCING A STRONG NATIONAL DEFENSE

In this election year, we will not find many politicians who do not say they support a strong national defense. However, many such candidates, when asked about their defense-spending views, will answer you with something like, "I believe in a strong national defense, but . . ." That "but" can cover a lot of territory, and usually means the politician doesn't support President Reagan's and Secretary of Defense Caspar W. Weinberger's idea of what constitutes a strong national defense.

Critics of Weinberger's $305 billion fiscal year 1984 defense-spending proposal respond in a variety of ways when confronted with the question "Where would you cut if you don't like what the President and Defense Department have proposed?"

One. They want to get at fraud, waste and abuse. Few would suggest there is no waste in a $305-billion spending proposal. However, what is usually heard in this regard are tales of $400 claw hammers and $916 stool caps. The reason these incidents occur is not because huge sums are expended in this way, but rather because the item like the stool cap is procured infrequently. That doesn't mean the Air Force should have been paying $916 for it, but neither does it mean the Air Force is paying $916 apiece for thousands of stool caps.

Two. Another frequent response from defense-spending critics is to say they fully support a strong national defense, but they oppose such weapons systems as the B-1 bomber, the MX missile, the M-1 tank and the AH-64 attack helicopter because they are too expensive. This is generally a prelude for the argument to buy more weapons cheaper. There are two things wrong with this argument.

First, the easiest thing in the world is to single out one expensive weapons system for criticism and cancellation without explaining how its elimination would affect a coherent defense program. President Reagan sometimes is criticized for "buying everything" without the critics noting that it requires more than one weapons system or even a handful to make a coherent, worldwide, superpower defense work. Just as an example, it doesn't make much sense to have a number of rapidly deployable light infantry divisions stationed in the United States if the Air Force doesn't have the airlift capability to deploy them.

Second, what many critics of specific systems ignore is that much of the spending for things like the MX and the M-1 tank is for modernization. Just as businesses don't use computers nor motorists drive cars designed in the 1950s, neither can the military rely on intercontinental ballistic missiles nor main battle tanks designed 25 years ago. They provide no deterrence and little ability to survive and prevail in combat, if need be.

Three. When one peels back the layers of criticism of defense spending, one frequently finds isolationism of the type that was popular in the 1930s. Another name for this is "Fortress America."

There can be little doubt that if the United States adopted a foreign policy of only "defend our shores," our requirements for defense spending would plummet. One such proposal was published recently by Dr. Earl C. Ravenal, professor of international relations at Georgetown University in Washington, D.C. He suggested that $176 billion could be saved by withdrawing our forward-deployed forces in Korea and Europe and $47 billion could be saved by scrapping the U.S. Central Command in its mission of keeping the Persian Gulf open to shipping and defending the Persian Gulf nations from attack.

What isolationists like Ravenal do not usually explain—he did not in his newspaper articles—are the assumptions that underlie such a proposal. They assume a 180-degree turn in U.S. foreign policy as we know it today and as we have known it since World War II. That turn would include a vast restructuring of the world and its alliances, allegiances and friendships. It would assume a Western Europe that was neutralist at best and probably pro-Soviet in part. Many small, weak European countries would believe they had no choice but to make a deal with the Soviets if they lacked strong U.S. support and defense.

Such a Fortress America foreign policy would mean some, though not all, Latin American countries would be under Fidel Castro's domination. Mexico could become an unfriendly neighbor. It could mean a Middle East and Persian Gulf region under the domination of governments that might or might not be friendly to us. What is certain is that Persian Gulf oil would be available to western nations at the sufferance of our foes—and probably only if we acted mighty polite toward them.

This is not the posture of a superpower. It is the posture of a supplicant, the kind of supplicant the United States has not been since President Thomas Jefferson decided to fight the Barbary Pirates rather than send them tribute, which, no doubt, would have been less expensive.

Freedom is not cheap. Delaware Governor Pierre S. du Pont IV commented on this to a small group of Guardsmen the day of the arrival home of some of the bodies of the victims of the Marine massacre in Beirut: "Freedom has a price, and sometimes that price has to be paid."

That price is composed of both dollars and lives. We'd like to suggest that the easiest part should be the dollars needed for a strong national defense. Perhaps by paying these dollars, difficult though that is, we can avoid some of the human costs associated with a weak national defense that is vulnerable and inviting to attack.

Mr. President, I read that because no one has shown up to offer an amendment, and if there is anything that gets boring, it is silence in this vast Chamber, and I do not like to have that happen.

This piece that I just read was written by Maj. Gen. William E. Ingram (Ret.), who is president of the National Guard Association of the United States, and appeared in the National Guard magazine.

Mr. President, I read it because almost daily we hear in this Chamber, "Oh, I support national defense. I am all for national defense."

And then the next thing you hear is a long amendment that would destroy a part of national defense, or most all of it, and sometimes all of it.

Mr. President, the American public knows that defense is expensive. Defense has never been cheap. We are paying about 6.6 percent or 6.7 percent of our gross national product for national defense. And that, I might suggest, is precisely the sum that George Washington spent in the last years of the Revolution, a Revolution that was of extreme importance to us.

It established America. It established our Constitution and our heavenly concept of freedom. And believe me, Mr. President, it was nearly ruined. We nearly lost that conflict for the same reason that we are temporarily but dangerously affected by people in this body and the other body who say, "I am all for national defense but."

Mr. President, we cannot have Congress injecting itself as strongly as we have had it in the efforts to cut down national defense at a time when at the very best we should be sustaining our national defense. We should be backing up these men and women who are now wearing the uniform of our country, and I might say after nearly a lifetime devoted to it I have never seen the quality of men and women in our services to the extent of excellence that they are today.

So, Mr. President, as time grinds on on this bill, that takes forever to pass, and we do have moments of silence, I might just get up and read something that does not seem to be of particular application to the moment, but nevertheless, the result of what you have to read when you have nothing to do in traveling from here to Arizona and back on an airplane. It is probably the only way a lot of magazines ever get read. But, nevertheless, sometimes you come across a good one.

I have another one here I am not going to read now, but it is a beauty, and when there is a little silence, I will take it up.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, some time this afternoon or tomorrow morning or at least during the course of this debate on this bill I plan to send an amendment to the desk which will have as its goal major collective improvements in NATO's conventional defense capabilities. I am hoping that amendment will be known as time goes by, whatever that outcome here in the Senate this week, as "The NATO Conventional Defense Improvements Amendment" and not "The NATO Troop Withdrawal Amendment."

Let me begin by quoting an assessment by Gen. Bernard Rogers, NATO's Supreme Allied Commander, Europe, of the nature of conventional defense in Europe. I quote:

> Allied Command Europe's current conventional posture does not provide our nations with adequate deterrence and it leaves the nuclear threshold at a disturbingly low level.
>
> Thus, NATO's deterrence is jeopardized by our current heavy reliance on the early

> use of nuclear weapons to stop a non-nuclear attack. The remedy is for NATO to strengthen its conventional forces which will also raise the nuclear threshold.
>
> There are a number of shortcomings in NATO's non-nuclear forces that put us in the predicament I describe. However, the fundamental cause is a low level of sustainability. ACE is simply unable to sustain its conventional forces in combat for long with manpower, ammunition and war reserve material to replace losses and expenditures on the battlefield.

This quote was from General Rogers testimony before the House Armed Services Committee, March 6, 1984.

Mr. President, we cannot continue to paper over such serious and dangerous military problems in NATO. Here we have the highest military leader of the alliance stating bluntly that NATO's current conventional posture is little more than a delayed tripwire for early resort to nuclear escalation. The alliance has spent hundreds of billions of dollars for the common defense to this point.

A great sum of money has been spent by the United States in the last 5 years in trying to improve NATO's conventional defenses.

During the decade of the 1980's and beyond we need more than a military posture that, to quote General Rogers again, would require:

> The release of nuclear weapons fairly quickly after a conventional attack. And I'm talking about in terms of days not in terms of weeks or months.

The citizens of both this Nation and Europe will, and should, question why their hundreds of billions in defense investment buys such a limited conventional defense that NATO must relay on the untenable military strategy of early resort to nuclear weapons.

This policy might have been sufficient in the 1950's when we had strategic nuclear advantage. It may have been sufficient in the 1960's when we had advantages with what we would call theater nuclear weapons.

I contend that it is totally untenable in a period of strategic nuclear parity and a period of NATO theater nuclear disadvantage, and that is where we are today.

Some would argue that the Europeans want it this way; they do not want more robust conventional defenses and are content to rest deterrence of Warsaw Pact conventional attack on the threat of rapid nuclear escalation.

Others suggest another theory which may be plausible. They suggest that it is a matter of economics, that while a nuclear tripwire may be less than desirable, it is the best that can be obtained for the funds that the Europeans are willing to spend on defense.

Still others have another explanation for our current dilemma. They suggest the Europeans have merely recognized a soft touch, that they know the United States will continue to cover their gaps by spending the money for all our forces in NATO, for six POMCUS division sets, for many hundreds of tactical aircraft, for airlift and aerial tankers to move these assets to Europe in a crisis, and for munition stocks substantially above those of most of our allies. They figure that as long as the United States will spend over 30 percent of our annual budget, $90 billion, in support of NATO, and I reference that figure to Secretary Weinberger's June 1984 report entitled "U.S. Expenditures in Support of NATO," the $90 billion—and I will be using this during the debate that will ensue on this amendment a good many times and it should be clarified, and I will clarify it further later and give the incremental costs—the $90 billion is for the U.S. European-deployed forces and those U.S. based forces we have pledged as early reinforcements; in other words, the forces we have there now on the ground and in the air and the forces that would be Rapid-Reinforcement Forces to join the battle in the early stages thereof.

The third explanation is that the Europeans figure as long as the United States will spend over 30 percent of our annual budget, approximately $90 billion, in suport of NATO, why should they spend more?

Mr. President, at this point I ask unanimous consent that a DOD transcript showing the range of U.S. costs in supporting NATO be printed in the RECORD.

There being no objection, the transcript ordered to be printed in the RECORD, as follows:

### THE RANGE OF NATO COSTS

The following is a verbatim unclassified transcript from page 9 of the June 1984 Secretary of Defense's Report to Congress on "United States Expenditures in Support of NATO."

The Range of NATO Costs.—As noted in the preceding section, estimates of the cost of the United States' commitment to NATO can vary widely, depending on the categories of forces and the types of expenditures being evaluated. The following examples illustrate a range of possible estimates (expressed as total obligational authority for fiscal year 1985), along with the assumptions that were made in developing them:

(a) The incremental operating costs incurred by stationing U.S. forces in Europe rather than in the United States (about $2 billion);

(b) The incremental operating costs associated with maintaining European-deployed U.S. forces in the active force structure (about $15 billion);

(c) The total cost of European-deployed U.S. forces (about $55 billion);

(d) The total cost of European-deployed U.S. forces and those U.S.-based forces that we have pledged to contribute as NATO reinforcements in the early stages of a conflict (about $90 billion);

(e) The total cost of European-deployed U.S. forces and all of the U.S.-based forces that we have pledged to contribute as NATO reinforcements over the course of a conflict (about $177 billion);

(f) The total cost of all U.S. conventional forces (about $227 billion); and

(g) The total cost of all U.S. forces (about $306 billion).

Mr. NUNN. Mr. President, this chart shows an incremental cost of operating forces that are stationed in Europe rather than in the United States. It shows the incremental operating costs associated with maintaining European-deployed U.S. forces in the active force structure. It shows the total cost of European-deployed U.S. forces, which is about $55 billion.

It shows the total cost of European-deployed U.S. forces and those U.S.-based forces that we have pledged to contribute as NATO reinforcements in the early stages of a conflict, about $90 billion. It shows the total cost of European-deployed U.S. forces and all of the U.S.-based forces that we have pledged to contribute as NATO reinforcements over the course of the conflict. This includes not just the rapid forces that would be there in the early days, but also those that would take considerably longer time to arrive. That figure about $177 billion.

So the $90 billion figure is certainly not all we are doing for NATO.

The total cost is also shown of all U.S. conventional forces; and that is about $227 billion. And that includes, of course, those that are designated for NATO and those that are designated for other areas of the world.

And the total cost of U.S. forces is about $306 billion.

Mr. President, I hope this table will appear in the RECORD as indicated. I think if my colleagues would examine the table, and also, if they have time, the report of Secretary Weinberger that is available in the Armed Services Committee, I think Senators would benefit from reading that.

Mr. President, I do not know which reason or combination of reasons can explain the current situation, but I do know that it is high time—indeed, past time—to put the issue of European intentions to a reasonable and responsible test. That is what I propose to do with the amendment that I shall introduce later.

Our NATO Ambassador to Europe, Dr. David Abshire, is a very qualified and a very dedicated Ambassador to our NATO council. He has contacted me. I will say at the outset that he does not favor this amendment. I can list all sorts of people who do not favor the amendment. I am sure Senator TOWER, during the course of this debate, will call that to our attention.

But let me state from the very beginning that Ambassador Abshire does not favor this amendment. General Rogers does not favor this amendment. I am sure our Defense Department does not favor the amendment. I am sure the State Department does not favor the amendment. I am sure the President, when he is notified, will not favor the amendment. And I am certain our allies in Europe will not favor the amendment.

So I am not here pretending to my colleagues that this is in any way endorsed by this administration, because it certainly is not endorsed by this administration.

I have been involved in NATO matters for a long time. If there is one thing that is absolutely certain it is that the status quo in NATO is what every administration always seeks. This amendment will require a very substantial departure, if it passes, from that status quo.

I would at this point like to put into the RECORD a letter from Ambassador Abshire, which goes into his view at this point in history of our European intentions regarding conventional defense. I ask unanimous consent that the letter from our Ambassador, Dr. Abshire, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
*Washington, DC, June 15, 1984.*

Hon. SAM NUNN,
*Committee on Armed Services,*
*U.S. Senate.*

DEAR SENATOR NUNN: Ambassador Abshire has asked that the following letter be delivered to you:

DEAR SAM: Secretary Weinberger has relayed your request for a letter outlining my personal observations on the attitude of NATO allies toward conventional defense improvements. During your visit to Brussels last January and on other occasions, we discussed how in the past some Europeans have in effect wanted only an "extended trip wire" and really did not believe in filling out the conventional leg of NATO's flexible response triad.

Like you, I was skeptical about this when I came to NATO last July. But I have been deeply struck by the altered attitudes of our alliance colleagues.

I can assure you that a significant change of attitude is taking place in Western Europe. It is especially manifest at the level of Defense and Foreign Ministers.

Since my arrival I have attended six meetings of Foreign and Defense Ministers. With the initial INF deployments successfully behind us, ministers are now most concerned about improving conventional forces. They are motivated in part by a realization that European public opinion is increasingly worried about the nuclear risk and, consequently, ready to devote greater attention to conventional defense.

At the 1983 December Ministerial, Secretary Weinberger did indeed take the lead in pointing out that such improvements could be achieved in the shorter term by increased ammunition stocks, reserve mobilization and other measures to improve sustainability, and in the longer term by exploitation of Emerging Technologies. In the discussions that followed, other Ministers are equally convinced of the urgent need to move forward toward these objectives. I recall Italian Defense Minister Spadolini emphasizing the obligation of all NATO governments to make every possible effort to safeguard the credibility of the conventional component of the deterrent. The German and British Defense Ministers and those of several of the smaller countries argued along similar lines. They all reflected heightened concern about Warsaw Pack conventional improvements and the need to do something in response.

The communique reflected this concern. The allies, it stated, "will meet their legitimate security requirements with the conventional and nuclear forces necessary. They will devote resources and energy to the modernization of conventional forces, seeking a more effective and balanced trans-Atlantic armaments cooperation."

The May 1984 Defense Ministers' meeting re-emphasized the critical need for conventional improvements. Ministers stressed it heavily in their communique: "While NATO has made considerable progress in modernization, the growing offensive strength of Warsaw Pact forces means that NATO nations must improve their current forces . . . in order to enhance the flexibility and therefore the credibility of NATO strategy. Ministers reaffirmed their determination to strengthen the conventional capabilities of the Alliance."

At the spring 1984 meeting of Foreign Ministers in Washington, Secretary Shultz addressed the importance of conventional force improvements. He was followed by the Norwegian Foreign Minister who made a very forceful intervention stressing the urgency of this challenge. Secretary General Luns, in his official appraisal to the Washington Ministerial, also argued strongly that the Alliance must make conventional improvements its highest priority.

The most recent report of the Conference of National Armaments Directors (CNAD) shows that, among many positive developments, allied nations have agreed to stress seven key programs that should make especially important contributions to improved conventional defense. Beyond the work of the CNAD, the increased activity of the EUROGROUP and the Independent European Program Group (IEPG) has been sparked in large part by the European desire to find more effective and more efficient ways to develop better conventional weapons systems.

Moving from the ministerial and official level, I would also note a great change in public attitudes. In short, improving conventional defense is no longer a taboo subject for debate.

Last month I participated in a conference in the Hague attended by an interesting cross-section of European parliamentarians, almost all of them chairman of, or members of, their Parliaments' Defense or Foreign Affairs Committees. Statements made at the conference demonstrated the parliamentarians' broad interest in converting the heightened nuclear concern among European publics, following the "Year of the Missile," into conventional improvements which reduce the nuclear risk. This attidue was especially striking among parliamentarians of the left, including British and Dutch laborites.

Other examples include the British Atlantic Committee report, the Bundestag hearings and conclusions of the European contributors to the CSIS series on Nato in the Times of London.

You are correct in saying that in the past part of the problem was an attitudinal one. I think we have won that battle. The problem now is quite different. It is how to finance the improvements on which NATO has indeed agreed. I am not addressing this second issue in this letter, but did want you to know the attitudinal battle has been won. I do indeed hope you can share this view of mine with your interested colleagues.

That, I believe, is where we stand. The effort to achieve an improved conventional defense will require vigorous leadership on both sides of the Atlantic and will need steady congressional support. This change of attitude reflects a critical step.

Sincerely,

DAVE.

Sincerely,

W. TAPLEY BENNETT, Jr.
*Assistant Secretary, Legislative and Intergovernmental Affairs.*

Mr. NUNN. Mr. President, we must begin, however, not to measure just intentions. And that is what we are inclined to debate in NATO—What do they intend to do over the next 5 years? What do they intend to do over the next 10 years? It is time for us to start measuring programmatic progress and not just intentions. If the allies are not prepared to make modest efforts to improve conventional defenses in the remainder of this decade, while the United States plans to spend many hundreds of billions of dollars on our NATO commitment—if the allies really want, or will continue to settle for, a nuclear tripwire, then I believe the United States should recognize this at some point and adjust our own military commitment and our defense priorities.

We can provide for a nuclear tripwire—or even what some call an extended tripwire—with far fewer conventional forces and personnel than the United States currently has stationed in NATO. And, I might add, without the expense of massive reinforcements, all at significantly less cost than we now incur. I do not favor that course.

Mr. President, I want to make abundantly clear that I do not favor the withdrawal of American forces. I do not favor an alliance posture of going to an early use of nuclear weapons. I do not favor a tripwire policy. I do not favor an extended tripwire policy. I am against all of those. But that is where we are now and I think we have to recognize it and begin to deal with it accordingly.

If that is where we are going to stay, then I am in favor of making some very substantial adjustments and I am also in favor of the European leaders basically informing their public that that, indeed, is the policy of NATO and is going to continue to be the policy of NATO, as reflected in their defense budgets.

Then, if the European public is satified to continue to have a policy based on the early use of nuclear weapons, and if the American public is satisfied to continue to have a policy that basically says, when the first tanks come across the border after a few days, we are going to start popping theater nuclear weapons in Europe, and who knows from there, if that is what we want, then we are going to be in a position to at least know that that is what we, indeed, have. I do not think that is what we want. I do not believe, after thoughtful analysis, that is what the Europeans want. But somebody still has to put it to a test. Perhaps, as my colleague from Texas, I am sure, will argue, perhaps this is not the appropriate time. I have been trying to sort back over my 12 years in the Senate, trying to determine what would be the appropriate time during the last 12 years. I have not come to a conclusion that any time is better than the present.

There always are different advantages of timing, with elections and democracies in a very complex world, with the Soviet Union; all timing is a subjective judgment. So I am not going to argue that this is precisely the best time, looking at a 25-year sweep of history. This is a judgment all Senators will have to make for themselves when they vote on this amendment. But I am saying that if you wait for a time that is appropriate and to deem it be appropriate, we will be waiting forever and we will be endorsing the early use of nuclear weapon strategy that we now have in NATO.

Mr. President, I consider myself a longstanding and strong supporter of the NATO alliance. I have written three reports to the Senate on the subject of NATO defenses, starting with the first report in 1974, 2 years after I got to the Senate. I have sponsored various legislation over the years to improve NATO's defense capabilities. I was a leader in the floor fights in the mid-1970's to defeat the Mansfield amendments to cut U.S. forces in NATO unilaterally. I still would oppose that approach. I would not favor cutting our forces in 1985. I do not favor cutting them in 1986, even. My amendment will reflect that.

But I do favor putting the test to our allies and this test will be revealed during the course of this debate.

I want to emphasize one point at the outset. Although my amendments calls for sizable troop reductions in the late 1980's if our European allies do not show a willingness to improve conventional defense capabilities, this amendment is not intended either as blackmail or as punishment. I am realistic enough to know that someone will label it such. But that will be a label that in no way reflects the intent of the author. I am hopeful that no troops will ever be withdrawn by reason of this amendment. It is merely a recognition that continued, even redoubled, U.S. sacrifices to improve conventional defenses and to raise the nuclear threshold in Europe are to no avail without similar allied efforts.

We must move forward and improve the alliance in tandem. We must head for these goals on a bicycle built for two—the United States can have the front seat but it takes someone pedaling behind as well. That has not been forthcoming.

In an era of well-recognized NATO disadvantage in theater nuclear weapons, at a time of rough strategic nuclear parity between the United States and the Soviet Union, it is, in my view, unrealistic and dangerous to rest the fate of the alliance on a strategy of deliberate, early nuclear escalation. Yet what General Rogers has described in clear testimony is a situation in which, in the event of a major Warsaw Pact conventional attack on NATO, the alliance leaders would be faced with choosing "in terms of days, not weeks" between capitulation or NATO being the first to use nuclear weapons. Even if the Soviets limit their attack to conventional means, NATO will be forced to escalate the conflict into a nuclear exchange, an area of alliance disadvantage.

As I mentioned a few minutes ago, we are in a fundamentally different era than we were in the 1960's and 1950's. The threat of nuclear escalation giving an advantage has some credibility, even though it would be horrible to contemplate. It has some credibility, but when your own alliance recognizes and acknowledges that your theater posture is in one of disadvantage, I must ask the fundamental question: What is the credibility of a threat to escalate into an area where you have even more pronounced disadvantage?

We cannot continue this posture.

Mr. President, the United States is pledged to ship to Europe, within the first 10 days of such a war, a total of 6 Army divisions and 20 tactical fighter wings as early reinforcements to the 4 divisions and 7 wings we already have over there. Yet if this huge early reinforcement nonetheless leads only to "days, not weeks" before nuclear weapons are used, I question the soundness of the basic plan under which we, in America, are spending hundreds of billions of dollars.

If NATO is going to have to surrender, then six more U.S. divisions added to the four already there more than doubles our "Dunkirk problem." If instead, NATO is going to resort to early nuclear escalation, our additional divisions will be irrelevant by the time they arrive there.

Indeed, Mr. President, General Rogers addressed this situation, too:

> Because of the failure to meet commitments in the conventional area by all nations and through trying to buy Alliance defense on the cheap by relying on nuclear weapons, we have mortgaged our defense to the nuclear response.

To his considerable credit, General Rogers has done everything in his power to correct this militarily untenable situation. Now the U.S. Senate and the Congress of the United States must lend a helping hand. It is apparent that this status quo situation is not going to change in the next 4 or 5 years based on all the reports that we have from the allies' planning documents. It is not going to change unless we do something about it. Make no mistake.

The quiet approach of spending more and more U.S. dollars on NATO defense that we have undertaken since the 1970's, and greatly intensified in the 1980's, based on leadership has thus far failed. It is not working. If I saw any sign on the horizon that it would work, then I would not be here today with this amendment. I also was one who hoped that that kind of approach would work. We cannot permit the bulwark of Western defense—NATO—to continue this situation endlessly into the future. If it does, the alliance has no real future. It will be one of constant erosion. The problems we have seen today that are emerging more and more between the alliance I do not believe are incidental. I think they directly reflect the growing perception of the public in Europe—and also the public in this country—that our military strategy in NATO is not being implemented. I think it reflects the trends in that direction.

Mr. President, we can debate why we are in this untenable military trap today and there are many sides to this argument. It is very complex. I do not want to over simplify it. However, two things are clear—first, we must improve conventional defenses; and, second, NATO is not currently planning to make these improvements.

It is time for us to recognize too that the U.S. defense budget, no matter what it has in it, for NATO cannot unilaterally cure the problem in our NATO conventional defense. That is one fault I have with this administration. They seem to believe, or they have in the past, that we can simply cure the NATO problems within our own defense budget. I do not believe that is correct. I know there are many people in this administration who do not agree with that view. I do not say that as the direct formal view, but too many times we act as if as a part of alliance we can cure the problems ourselves. That simply cannot be done, as General Rogers makes very, very clear in all of his testimony. These two inevitable realities that we must improve our conventional defenses—and NATO currently has no such plans—is the case we faced despite alliance agreements in principle year after year, starting in the late 1970's, to implement specific measures to improve NATO's conventional defense capability.

From a major set of alliance meetings in 1977 and 1978 emerged the following agreed goals which are still in effect today:

The pledge to increase defense spending in each country by at least 3 percent per year in real terms;

The pledge to acquire a 30-day supply of conventional munitions within 5 years in the center region;

If that had been pledged, carried out, we would now have that capability.

The agreement on what ultimately became the rapid reinforcement plan.

These goals have been agreed to in NATO ministerial guidance and have been reaffirmed at their annual meetings. The rapid reinforcement plan constitutes the commitment by the United States to move a total of six Army divisions and roughly 20 tactical fighter wings from the United States to Europe within 10 days to reinforce our forces already there.

Now, Mr. President, as noted, the United States has been spending many billions of dollars on Army combat equipment to go into the six pre-positioned overseas materiel configured in unit sets [POMCUS] sites, so that we can fly only the troops from the United States to Europe and have them match up over there with their equipment. This means we have to buy two sets of equipment—one here to train with, one there to fight with. We have been spending many more billions to acquire the 20 wings of tactical aircraft for rapid deployment. We have been spending still more billions of dollars on airlift and tanker support, in order to carry out these time-urgent deployment plans. We have been spending billions for U.S. stocks of munitions in Europe, which are well above the 30-day NATO goal and climbing. Keep in mind that this $52 billion figure that we plan to spend according to our defense guidance over the next 5 years on NATO munitions.

We plan to spend $52 billion on munitions for our NATO forces over the next 5 years to increase this sustainability level even higher.

In return for all this, the allies agreed to do two things. First they agreed to provide host-nation support in wartime—the provision of some of their reservists and equipment—and to provide rear-area support for our reinforcing combat divisions. To give our allies their due there has been some progress in this wartime host-nation support area. The chairman of the Armed Services Committee and I have led the fight in Congress to back up these agreements. Second, the allies also agreed to fund critical facilities and aircraft shelters for our reinforcing aircraft.

I see the Senator from Arizona on the floor. I know he is acutely aware of how important it is to have minimum essential facilities in Europe available for those aircraft that number approximately 1,500 or 1,600 that will go over in the early days of the war. I know the Senator also recognizes the importance of having the shelters there for those aircraft if they are to survive. No one has been more active in making sure that our Tactical Air Force stays ahead than the Senator from Arizona. He is to be commended greatly for that.

Finally, we have carried out our 3-percent pledge every year in the process of implementing all of these activities. The Secretary of Defense has just reported to Congress that we have exceeded our 33-percent goal every year since 1979 and that the total cost of European-deployed U.S. forces and those U.S. based forces that we have pledged to contribute to a NATO reinforcement in the early stages of a conflict is about $90 billion of the fiscal year 1985 budget, or over 30 percent of the entire budget. The Secretary's report also indicates that the total cost of all the U.S. NATO deployed forces and reinforcements planned over the course of a NATO conflict is $177 billion in this year's budget and will be growing each and every year.

Now, Mr. President, let me briefly recount what our allies have done to meet their commitments:

They have not achieved the goal of a 3-percent increase after inflation, on average, in any year since the pledge was made; indeed the size of their increases has gotten smaller each year. The more we have done, the less they have done. For fiscal year 1983, DOD estimates that the average allied increase will be 1.9 to 2.1 percent; for fiscal year 1984, 1.2 to 1.7 percent. The United States, however, has met the goal every year and continues defense spending that is substantially above 3 percent real growth. Starting with 1980, our increases have ranged from 4.9 to 9 percent.

The second interesting thing about our allies' participation. No allied country has reached the agreed goal of a 30-day supply of munitions. Allied sustainability is uneven at best; some kinds of munitions are close to the goal but others are in critically short supply, measured in days, not weeks. These critical munitions are what our generals call war stoppers, and when that term is used it means that when they give out, when we give out of those munitions, so far as the scenario that is most realistic is concerned, the war has been stopped. Most allies have indicated that they plan little or no progress toward the 30-day goal in their current 5-year projections. During the same period, the United States will be spending $52 billion to increase its stocks which are already substantially larger.

In other words, we have much more sustainability in NATO than our allies do. We are planning on spending about $52 billion over the next 5 years to increase our sustainability to a much greater degree. Our allies do not even plan to do anything appreciably to affect or alter the status quo. Is that not a sad state of affairs?

Secretary Weinberger has summarized this situation well in his May 1984 report to Congress on "Improving NATO's Conventional Capability." He stated:

> The lack of adequate capability to sustain combat operations for long with . . . munitions . . . is one of NATO's most critical and persistent shortfalls. In war, such shortages would force commanders to curtail operations to avoid running out . . . and the price of such rationing would be measurable directly in lives and kilometers lost." Secretary Weinberger added, "History records that of all the reasons given for military defeat, running out of ammunition ranks near if not at the top.

The Secretary also stated:

> The current situation is sufficiently serious that the need to increase munitions stocks is important enough to give that effort a higher priority than other national force improvements.

The situation isn't much better in terms of the facilities and shelters the Allies are to provide on their air bases for U.S. reinforcing tactical aircraft. Our own U.S. main operating bases in Europe are so crowded with our 7 wings already there that most of the roughly 20 U.S. reinforcing wings will be scattered across many European air bases operated by other NATO countries. Those bases are called colocated operating bases, or COB's; they have enough space to accept our arriving aircraft. However, these COB's do not have extra minimum essential facilities, such as fuel and ammunition storage adequate for 7 days' operations, extra emergency operating facilities such as control towers and maintenance facilities and extra semihardened aircraft shelters to protect our reinforcing aircraft. Without these facilities and shelters that the allies have agreed to provide, the arriving $50 billion worth of U.S. aircraft are unlikely to survive, let alone be able to operate effectively.

Fifty billion dollars' worth of aircraft that we will send over there in the first stage of a war will probably fly only one time. That is not because they are shot down, although some unfortunately will be, but because they do not have any place to be maintained, to have refueling capability, or to have any chance of surviving because they do have shelters.

Where are we specifically in terms of the facilities and shelters to support our early reinforcement aircraft?

Today—6 years after the agreement—there are minimum essential facilities in place for less than 20 percent of our reinforcing aircraft. There still are virtually no hardened aircraft shelters for any of these reinforcing aircraft.

Twenty percent minimum essential facilities and no aircraft shelters.

In other words, only a relatively few aircraft will have fuel and ammunition available and they will be unsheltered, in the open, in the middle of World War III. Now, we learned as long ago as the 1973 Middle East war that unsheltered aircraft really are sitting ducks. Yet, year after year, we renew in the defense planning questionnaire our commitment to deploy over $50 billion worth of the finest and most modern U.S. fighters to become sitting ducks.

I might add, we will have some of our finest young airmen manning these planes and they, too, will be sitting ducks.

These aircraft have little chance to survive since our NATO allies have been unwilling to provide the roughly $1 billion extra to fuel, arm and protect these aircraft. That is right—the total cost to the allies to provide minimum essential facilities, emergency operations facilities and hardened shelters for our $50 billion worth of aircraft is about $1 billion more than currently planned. It is incomprehensible that $50 billion of sophisticated aircraft would be virtually useless because our allies refuse to provide an additional $1 billion to house them.

Mr. President, unfortunately, we could continue this sorry tale. Let me give only one more pertinent example. The NATO force goals, which are developed every 2 years by the NATO military commanders and cover 6 years, are considered an expression of the forces and facilities necessary for the accomplishment of NATO military commanders' assigned missions. These goals are designed to challenge each nation to meet these critical missions.

It should be no surprise to anyone that the performance toward these goals has been less than satisfactory for the most part.

In fact, General Rogers recently said that NATO was "running in the wrong direction" in terms of the force goals:

> When we figured out the force goals—not the one we just approved earlier this month but the previous one approved in 1982—we figured that they would require a 4-percent real increase in defense spending per year, per nation for each of the 6 years from 1983 to 1988 to fully meet those force goals. New force goals have just been approved for the years 1985 to 1990. Now we calculate that to meet those force goals fully, it's only going to cost a little over 3 percent. So you see we're running in the wrong direction. We're going down to 3 percent to meet those force goals. Those force goals, even if fully implemented, won't give us the kind of conventional capability that I've talked about.

General Rogers is pessimistic that the NATO allies will even meet these lower force goals:

> When you ask the question do I think its logical that they're going to be able to meet it, the answer is no.

Mr. President, it is my belief that it is time to challenge our European allies to begin to make good on longstanding commitments like those I have described.

Nothing in this amendment reflects any goal that has not been signed off on not once but over and over and over again by our NATO allies.

Without achieving these goals, a more robust conventional defense of Europe is virtually impossible. It is time to turn our attention to raising the nuclear threshold by improving NATO's collective conventional defenses.

It is time to put to a reasonable and responsible test the proposition of whether the Europeans want to continue a nuclear tripwire posture or seriously want to improve conventional capability. The long and short of it is: it is shapeup or shipout time for NATO.

Let me briefly describe how my amendment is designed to test this proposition. The test will be comprised of two optional paths: one based on input goals; the other based on output goals.

First, the amendment extends and makes permanent the troop ceiling on U.S. ground forces stationed in NATO at a level of 326,414. This is a cap at exactly the level DOD has requested for the end of fiscal year 1985. The Department does plan over the next 5 years to request additional increases. Given the current situation and the lack of any major indication that the allies are moving forward, it makes no sense, in my view for us to increase our forces beyond the fiscal year 1985 level at this time. Since 1977 U.S. forces in NATO have increased by almost 45,000 personnel while allied force levels have remained essentially static. Interestingly enough, 1977 was the year the United States began to have serious discussions with our allies on improving conventional defenses.

In other words, Mr. President, as I shall explain in my amendment in a few minutes, if all the tests fail in the amendment and if total cuts are made between now and 1989 as indicated in the amendment, we shall have only 48,000 less troops there than we had in 1977. If half the tests are met and we only reduce by half the 90,000 that is called for in the amendment over that 3- or 4-year period, then we shall be at the 1977 level; we shall essentially be holding our own in terms of where we were in 1977, which is about where our allies are now so they have not improved significantly since 1977.

The second intent of the amendment is to establish a 5-year period during which the NATO allies will be expected to meet certain goals related to improving conventional defense. All of these goals have been formally agreed to by the alliance, but the allies may need a year, if this amendment passes, to discover America is finally ready to fish or cut bait on conventional improvements. The amendment works as follows: The allies would have 1 year to get ready. It would be a little over a year, considering the balance of 1984 and all of 1985. These are calendar years, not fiscal years.

Then they would have 3 years of performance which would be measured—the first performance measuring year would be 1986; the second performance measuring year would be 1987; the third would be 1988. Serious deficiencies would be corrected at a rate of 20 percent a year in those 3 years. I have divided the total needs of categories that are part of this amendment into five parts. That means 20 percent each year, but the measuring years cover only 3 of those 5 years. So we shall measure by 20 percent a year. We will not require one-third performance each year, but rather, one-fifth performance each year under these goals. By requiring performance over only 3 of the 5 years needed to make up 100 percent of the deficiencies in the designated areas, Congress will have an opportunity for a midterm review and to make adjustments should unforeseen circumstances arise.

The amendment ties future U.S. troop strength in NATO to progress—or lack of it—by the allies in improving conventional defense capabilities in certain specified areas.

As I have mentioned, Mr. President, the input-oriented test is the NATO agreed target of a 3-percent average increase in defense spending, after inflation, by the non-U.S. NATO allies. This goal, first established in 1979, has just been reaffirmed by the NATO Ministers. If the non-U.S. allies reach this goal, no troop reductions are required—nothing; not one. As indicated, this would be adequate for the allies to achieve the current force goals, although, as General Rogers indicated, current force goals in his view are not adequate.

However, if in any year the allies fail to meet the 3-percent test in any year, the amendment offers an output-oriented path for the allies to forestall the U.S. troops reductions, by meeting a set of three other goals in specific areas of longstanding deficiency. Each should be considered a war stopper in its own right.

What we are essentially asking the Allies to do is to take one of two paths—either meet the longstanding 3-percent increase pledge or move down another path: First, to increase systematically over 5 years their munitions sustainability to reach the 30-day goal, at the rate of 20 percent of the shortfall each year. These increases would require the six center region allies collectively to spend less than $1 billion per year. While these allies together would have to spend about a billion a year more to get to 30 days, the United States is spending $6.2 billion this year on our NATO munitions and plans to spend $52 billion over the next 5 years to increase our stocks which are already substantially higher than theirs.

In other words, we are spending $6.2 billion this year on our munitions in NATO and we already have substantially more munitions than our allies have.

The second part of the second test, or path, is to commit to an infrastructure funding level adequate to provide over 5 years the roughly $1 billion extra needed from the allies to build the facilities and shelters to give the $50 billion we have invested in U.S. reinforcing tactical aircraft a fighting chance; the needed facilities and shelters also must be committed to construction at the rate of 20 percent of the shortfall per year. To meet this test, the allies would have to agree to contribute about $600 million more to the NATO infrastructure fund during the 3-year measuring period; $1 billion is needed to completely close the gap.

To close the gap completely over a 5-year period would require approximately $1 billion. That would be of allied funds. Interestingly enough, the United States makes a substantial contribution to that infrastructure fund and I am using figures that will only relate the allied portion thereof.

The third test, under part 2: To make significant progress in lengthening the interval between onset of a conventional attack by the Warsaw Pact and the time at which nuclear release would have to be requested, as determined and certified to the Secretary of Defense by the SACEUR, General Rogers.

This third test would be a subjective test and it would be up to our Supreme Allied Commander to make that assessment, considering not just the two items I have enumerated as a part of this amendment, but meeting other parts of our conventional force structure and posture that needs improving.

If, upon reflection and with 2 years in which to plan and begin responses, the allies are nonetheless unwilling to make these essential and agreed-upon improvements, the United States will have a clear indication of allied intent. It will be evident that the allies are content with nothing more than a tripwire, and we can begin to reduce the number of our forces stationed in NATO and also begin to reduce our related NATO expenditures.

Mr. President, I repeat: If this happens, I think it will be very bad. It will not, however, be a change in the status quo. That is where we are now. I hope we can change.

Let me now describe the reductions. If the allies do not make the first path of 3 percent, let me call it the No. 1 test, and if they also fail to meet any of the three goals under path two, then the ceiling will be reduced by 30,000 per year. If, however, the allies meet one of the three goals under path two, the ceiling would be reduced by only 20,000; if two out of three under path two, by 10,000, and if they meet all three, or if they meet the 3 percent test under path No. 1, there would be no reduction.

I repeat, either of the compliance paths offered, the 3-percent growth path or the specific goals path, is both realistic and affordable. Moreover, for the second path, the spending is entirely in Europe on European goods and services, and produced by European labor. Indeed, in the case of facilities and aircraft shelters at European bases, the United States will also pay more than one-fourth of the total bill as its share of common infrastructure funding. Moreover, Mr. President, nothing in this amendment forces the allies to do anything that has not been agreed to previously—indeed, agreed, and agreed again. All that has as been missing is performance on the agreements.

Thus, Mr. President, if NATO's de facto strategy really is a conventional tripwire with early resort to nuclear weapons, the last thing the United States should be planning is to send six more divisions and about 1,500 more tactical aircraft into Europe just as the alliance is ready to escalate to nuclear weapons.

Indeed, if that is the strategy the Europeans want, I believe that a far smaller commitment of U.S. stationed forces than those we now maintain in peacetime would be called for. That is why I regard as wholly appropriate the troop reductions called for in this amendment, if the allies are not serious about improving conventional capability.

Mr. President, there are two other parts of this amendment that I think deserve careful attention:

This amendment also requires the Secretary of Defense to submit an annual report outlining U.S. defense expenditures in support of NATO. This report would provide a direct link between our defense spending and our formal commitment to NATO as reflected in the NATO defense planning questionnaire response. This is an annual document in which the member nations commit forces to NATO. Congress will be able, using this report, to determine just what this commitment costs.

This reporting will also include as assessment of Allied performance in meeting the following—and it is important to recognize that none of these areas are covered by the amendment. This is only a report. They are not covering areas that are not capable of precise measurement—

First. Increasing overall defense spending.

Second. Increasing sustainability as well as support for U.S. reinforcing tactical aircraft.

Third. Improving airbase defenses.

Fourth. Meeting NATO force goals.

Fifth. Increasing NATO infrastructure funding.

Sixth. Increasing trained manpower levels, particularly reserves.

Seventh. Increasing war reserve material.

Eighth. Improving initial defense capability.

Ninth. Improving NATO's ability to neutralize enemy follow-on forces, particularly through the use of emerging technologies.

Tenth. Improving mine/counter mine capability.

Eleventh. Improving offensive counter air capability.

When we have this assessment, each year Congress will be able to look at U.S. expenditures in support of NATO and how the Allies are performing in certain key areas. Congress can then make judgments on whether or not the U.S. expenditures should be approved in the annual authorization process or whether they should be reduced.

In my judgment, this is an appropriate way to link Allied performance to our own commitment to NATO. If the Europeans simply shift their priorities and resources to meet these formal tests, abandoning other agreed goals, we will soon recognize this shift.

Finally, Mr. President—and I hope that particularly our European friends and the European media will take notice of this part of the amendment. I know that Senator Roth has already talked about this on the floor this morning, but I think it is an enormously important part of our NATO alliance. I note that this is one area where the United States clearly has not done enough over the years and that is making a two-way street in armaments cooperation work. Chairman Tower and I have been strong supporters of the emerging technology initiative in NATO, and I welcome the recent tangible progress in this area. Nonetheless, our European allies spend a great deal more on U.S. weapons systems and components than we do in acquiring European-developed systems. While some of that can legitimately be justified on the grounds that our worldwide commitments sometimes impose requirements beyond those typically considered by European manufacturers, I am inclined to believe that much more of that stems from U.S. industry and our own military's reluctance to buy somebody else's product rather than being involved from the very beginning.

However, Mr. President, I say that if we are ever to get to the point where NATO's resource inputs, which are larger than those of the Warsaw Pact, are efficiently transformed into a larger defense output, it must be because we have done a better job of mutual planning, cooperative development, and equitable sharing of production. Therefore, I have included in the amendment a provision to encourage the side-by-side testing, by the Secretary of Defense's Office of Test and Evaluation, not by the services themselves, of systems and subsystems of European manufacture against those developed by our military establishment. This is but a small step toward greater transatlantic cooperation in armaments, but I hope it will mark an important new start, and help persuade European governments that we do not want troop cuts, we want more effective conventional defenses, and we are willing to look closely at what they have to offer in terms of military procurement.

In summary, Mr. President, the United States cannot continue to expend billions and billions to prepare for the conventional war that our allies are not prepared to fight. These precious resources are better applied for other purposes, to meet our other worldwide interests and commitments.

I am under no illusions about the ability of the Senate or indeed the entire legislative branch of our Government to influence or certainly to dictate the actions of other nations. Also I am under no illusions about the many obstacles to improved conventional defense capabilities that would remain even if the allies fully comply with the goals of this amendment. This amendment is not designed to cure all of NATO's defense problems. I do not believe they can all be codified in an intelligible way. It is not a panacea but it is a beginning. This is a modest test of whether the vitality of the alliance is still capable of being energized. If such movement and such energy is evident over the next few years this amendment will have a significance far beyond its modest scope.

In my judgment, the citizens of the Western democracies will not long sustain nor support large defense establishments that can only provide a military posture that has as its end result either capitulation or resort to early use of nuclear weapons. In an era of pronounced NATO theater nuclear disadvantage and rough strategic nuclear parity between the United States and U.S.S.R., this status quo makes no sense.

I will urge my colleagues at the appropriate time to take a look at the amendment very carefully. I will have the amendment printed. It will be available for my colleagues, and at the appropriate time I will send the amendment to the desk, but I will carefully coordinate with my colleague from Texas so that we can both have ample time to debate the amendment and our colleagues will have a chance to consider the amendment in depth.

Mr. President, again, the purpose of this amendment is not to withdraw forces, although that could result. The purpose is to improve NATO's conventional capability over a 5-year period within defense spending levels that are readily achievable. Mr. President, I yield the floor.

(Later the following occurred:)

Mr. NUNN. Mr. President, I will send my amendment to the desk and ask that it be printed in the RECORD. I also ask unanimous consent that it appear right after my remarks in the RECORD. This is the NATO amendment. At a later time I will offer the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment follows:

On page 128, between lines 12 and 13, insert the following new section:

### IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

SEC. . (a) The Congress finds that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the time period that Western Europe can be defended adequately by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country. The Congress further finds that increasing defense spending, improving conventional sustainability, and providing support facilities in Western Europe for rapid reinforcements from the United States are crucial to accomplishing that objective.

(b) After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this or any subsequent Act may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 326,414.

(c) Beginning on December 31, 1987, and ending December 31, 1989, the permanent ceiling prescribed in subsection (b) shall be reduced effective December 31 each year by 30,000 unless, during the previous calendar year, member nations of NATO, other than the United States, have increased their defense spending by an aggregate average of at least 3 percent, after inflation, as measured in the annual report of the Secretary of Defense on the allied contribution to the common defense required by section 1001.

(d) The Secretary of Defense may waive the reduction required by subsection (c) for any calendar year if he certifies to Congress in writing that, during the previous calendar year, member nations of NATO (other than the United States) have accomplished the following objectives:

(1) Those member nations of NATO (other than the United States) who have committed forces to the Center Region have placed on firm order, or accepted delivery of, an increase in the supply of air and ground munitions so as to reduce, on an average, 20 percent of the gap between the goal, as established in NATO Ministerial Guidance, of 30 days supply and the level of such munitions available in the Center Region of NATO as of January 1, 1985.

(2) Member nations of NATO (other than the United States) have increased the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe so as to reduce, on an average, 20 percent of the gap between the number of such facilities and shelters available on January 1, 1985, and the number required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, the annual commitment of United States reinforcing tactical aircraft in the previous year's Defense Planning Questionnaire (DPQ) Response. Such reduction in the gap must be accomplished by real increased spending and may not be met by reallocation within existing spending levels of infrastructure funds.

(3) The Supreme Allied Commander in Europe has certified to the Secretary of Defense in writing that in the previous calendar year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity which contributes to lengthening the time period between an armed conventional attack on any NATO country and the time the Supreme Allied Commander would have to request the release and use of nuclear weapons.

(e) If the Secretary of Defense is unable to certify to the Congress that member nations of NATO (other than the United States) have met all three objectives of subsection (d) in any calendar year, but is able to certify that some of those objectives have been met, the permanent ceiling prescribed in subsection (c) shall be reduced as follows:

(1) If the Secretary certifies to the Congress that one of the three objectives has been met, the permanent ceiling shall be reduced by 20,000.

(2) If the Secretary certifies that two of the three objectives have been met, the permanent ceiling shall be reduced by 10,000.

(f) Whenever a reduction in the permanent ceiling is required to be made under this section in any year, such reduction shall be in addition to any reduction in the ceiling required to be made under this section in any previous year.

(g)(1) Not later than March 1 in each of the calendar years 1985 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status, as of January 1 of the year in which the report is submitted, of the following matters:

(A) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Center Region.

(B) The number of facilities and semihardened aircraft shelters completed or under constuction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(C) The measures taken to accomplish the objectives of subsection (d)(3).

(2) The March 1985 report shall establish the baseline for measuring the annual performance of member nations of NATO (other than the United States) in meeting the objectives established in subsections (d)(1) and (d)(2); the March 1986 report shall describe and employ, on a trial basis, the methodology to be used.

(3) The report required by this subsection shall also include an assessment as to whether the reduction of the gaps in:

(A) air and ground munitions was accomplished by reallocation of funds within existing or planned spending levels, and

(B) minimum essential and emergency operating facilities, and semi-hardened aircraft shelters was accomplished by real increased spending or by reallocation within existing spending levels of infrastructure funds.

(4)(A) Beginning with the fiscal year 1986 budget submission to the Congress, but not later than March 1, 1985, and annually thereafter, the Secretary of Defense shall report to the Congress on the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request. The report shall be an annual update of the Department of Defense Report on "United States Expenditures in Support of NATO", first submitted to the Congress in June 1984 pursuant to section 1107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 677), and shall include not only the information required by that section but also information which specifically identifies those items in the Secretary of Defense's procurement budget request that are in support of United States forces committed to or earmarked for NATO.

(B) In addition to the requirements under subparagraph (A), the Secretary of Defense shall include in such report an assessment of the performance of the members of NATO (other than the United States) in the following areas:

(i) Allied contributions to the common defense (this requirement is satisfied by submission of the report required by section 1001).

(ii) Improvement in sustainability and support for United States reinforcing tactical aircraft (this requirement is satisfied by submission of the report required by subsection (g)).

(iii) Meeting NATO force goals.

(iv) Increasing NATO infrastructure funding.

(v) Improvements in air base defenses.

(vi) Increasing trained manpower levels, particularly reserves.

(vii) Increasing war reserve material.

(viii) Improving initial defense capability.

(ix) Improving NATO's ability to neutralize enemy follow-on forces, particularly use of emerging technologies.

(x) Improvements in mine/counter mine capability.

(xi) Improvements in offensive counter air capability.

(h)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2) In addition to any funds appropriated pursuant to the authorization contained in section 116 (a) for the activities of the Director of Test and Evaluation, Defense, the Director may utilize an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture (including submunitions and dispensers; anti-tank and anti-armor guided missiles; mines; runway-cratering devices; torpedoes; mortar systems; light armored vehicles; and high-velocity anti-tank guns) for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act.

(i)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

Mr. TOWER. Mr. President, while I appreciate Senator NUNN's motivation in offering this amendment, and whereas there are many matters that he has touched on in his address that I could agree with, I would reluctantly have to strongly oppose his amendment. I understand the objective of Senator NUNN, and I think we all share that objective. Let me say that we can right now make a stipulation, as the lawyers say—at least I think that is what they say. I only have 1 year of law school and it is said I know just enough law to be dangerous, but the fact is I think we all agree that we are not satisfied with the current level of NATO burden sharing. We are not satisfied with it. We do not believe that our allies are doing what they should do or what they are capable of doing given their resources. This is not at issue in this debate. There is no point in debating this. There is no point in repetition of what they are not doing as justification for this amendment. What the debate must focus on is would this amendment cure the problem, would it lead us toward a solution to the problem, or could it conceivably exacerbate the problem. That is the point. I think the proponents of this measure are going to have to make a convincing argument that this will indeed move our allies in the direction we want them to go. My own view is that there is strong evidence to the contrary. This amendment will be opposed by the administration. Very, very strong réclamé has come back from our Ambassador to NATO, and I think that these arguments must be very carefully considered. I will not at this moment engage in debate on this issue. There are many points to be made. Should I begin a rejoinder now, it would take some time. But there are many points that should and must be made which I intend to make, and I am sure others who are in disagreement with the amendment will attempt to make them during the course of this debate.

I believe we all want substantial and significant improvement in the level of burden sharing of our allies, but I do not think any of us want to wittingly act favorably on an amendment that might be counterproductive, as I strongly suspect this amendment would be. So more will be said on the matter later.

Mr. President, we still have a number of amendments to dispose of in this bill, and I hope Senators who have amendments to offer to this bill will offer them. The leadership expressed the intention Thursday, when we finally decided to permit Members to get at least a half-night's sleep, that we would attempt today to get an agreement which would set a time certain for conclusion of the debate on this bill and final passage of it. It was also suggested that we may attempt to limit amendments to those that are at the desk at the time the consent agreement is arrived at.

Mr. President, we have already disposed of some 49 amendments to this measure. We are now in the 8th day of debate on the authorization bill. We have covered a lot of territory. As I say, we have disposed of 49 amendments. There were only 47 amendments pending to the bill last Monday, when we were in the 3d day of debate, and there are approximately 30 amendments now left to go.

The longer this bill hangs around, I think the more inclination there is on the part of people to think up amendments to add to it. But I serve notice on the Senate that it is certainly my intention, if the leadership will permit it, to spend long hours today and tomorrow on this bill, until we have completed it. We must complete it. We must get to conference and complete work on a conference report before we go out for the Fourth of July recess. It is a matter of absolute necessity, because we will be holding up the appropriations process otherwise, and we will not finish our work on defense authorization and appropriations in a timely fashion this year.

If we have to go into a continuing resolution, as we have had to do in past years, that will mean that we will get less percent for the dollar. We spend our money less efficiently when we do this, and we bilk the American taxpayers.

We can find a lot of fault with the Defense Department itself, what we believe to be some of its deficiencies and unnecessary expenditures. We can find fault with defense contractors. The fact is that if we do not complete our work in a timely fashion, we have become part of the problem; and the American people should understand that we, then, are a party of those who cause defense to cost more.

So I say to my collegues that it is my intention—again, the leadership willing—to work hard on this bill, long hours, to try to complete it tomorrow night.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. TOWER. I yield to my colleague from Idaho.

Mr. SYMMS. I thank the distinguished Senator for yielding.

Mr. President, I say to the distinguished chairman of the committee that he has displayed a great deal of patience.

We have watched these amendments that have been coming up. Judging from many of the amendments, it appears that what we are doing is establishing a kind of dangerous trend, that some Members in the other body and in the Senate are almost advocating the abandoning of control of our weapons systems over to the Soviets.

It seems to me that we need to move this bill. I think the chairman has had far too much patience. I wish he would call for third reading right now, and let us get this bill passed before anything else bad has an opportunity to happen. So far as I am concerned, I wish the chairman would go ahead and move the bill. If Senators are not here, that is too bad. We have had ample notice of being here today, ample notice that there would be votes today. If no Senator wants to offer an amendment, I urge the chairman to move to third reading.

**Mr. TOWER.** Mr. President, I appreciate the remarks of the Senator from Idaho.

We will have record votes today. We will have them during the afternoon, and we will have them tonight.

I know that some Senators will not be back until perhaps midafternoon, and they might miss two or three votes. They will have an opportunity to vote tonight.

It occurs to me that if we do our work on these bills during the daytime, we will not have to stay so late at night. Very often, Senators say: "My stars, we should not be compelled, when we are tired and working hard all day, to work late at night."

I suggest to my colleagues who feel that way that if we start functioning better in the daytime, we will not be here late at night.

Mr President, I believe that the Senator from New Jersey will be prepared to offer an amendment shortly, and pending his arrival on the floor, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. NUNN.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. NUNN.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

**Mr. SYMMS.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. SYMMS.** Mr. President, as I mentioned a moment ago to the chairman of the Armed Services Committee, I have been somewhat concerned in recent weeks as we have witnessed the alarming beginning of what I think is a very dangerous trend with respect to our defense policy.

To people outside this land of ours, it would almost appear that many Members of the House and some in the Senate are advocating an abandoning of control over our weapons systems deployment and research and development programs to the Soviets.

This year's Defense Authorization Act has been the target of numerous amendments which make action on U.S. weapons systems conditional upon Soviet arms control and negotiating positions. This approach to unilateral disarmament is not new, but its acceptance certainly is.

In December 1981 an amendment was offered in the Senate to the Department of Defense Appropriations Act of 1982 which would have expressed in the sense of Congress that the United States should take no action "in connection with its defense programs which would undercut existing strategic arms limitation agreements" unless Congress was informed by the President that the Soviet Union "was no longer exercising the same restraint." In 1981 the Senate had sufficient wisdom to defeat this motion. We knew then, as we know now, that the Soviet Union has never exercised such restraint.

This year, though, we seem to have lost the resolve to conduct our own affairs. The House-passed Department of Defense Authorization Act for fiscal year 1985 states that the United States may acquire not more than 15 MX missiles, and these only after April 1, 1985. The United States, says the House bill, may field more MX missiles only if the President can certify that the Soviet Union is not willing to take action to further the control and limitation of types of strategic nuclear missile weapon systems. Thus, only if the Soviets fail to exercise their veto power over our MX program by failing to express interest in arms control, can we proceed with the modernization of our land-based nuclear deterrent force. In my opinion, this approach is absurd.

The House did not stop with the MX. The House bill contains a Russian approval caveat to our testing of antisatellite weapons also. The House declared that no funds may be used for testing of the space defense system—antisatellite weapons—against an object in space unless the President certifies that the Soviets have conducted such tests after the date of enactment of this act. In my judgment this is a foolhardy approach and it ignores the fact that the Soviets have already tested and have already had deployed for 13 years an operational ASAT system. Why would we want to give the Soviets a veto over our belated ASAT program?

The other body has, in my opinion, been irresponsible, but the Senate is not blameless. We are on the verge of compounding the follies of the other body. Many amendments have been proposed to this year's Defense Authorization Act which would greatly weaken our Nation's defenses if they were adopted. The Senate ASAT amendment places unnecessary and illogical limits on our testing of this technology.

We cannot, as this amendment requires us to do, allow our research and development efforts to be contingent upon arms control negotiations with a country which already has an ASAT system, which has walked out of all strategic nuclear arms control negotiations, and which is violating all major arms control agreements in force today. We have been doing the Soviet's work for them. I think Senator GOLDWATER said it best the other day when he said that sometimes when he looks at these amendments he is surprised that he does not see Chernenko's name on the amendment as a cosponsor. But we are in fact doing their work for them; we have been unilaterally weakening both our force strength and any bargaining position which we might choose to take in future arms control negotiations. The opponents of ASAT, the MX missile, the strategic defense initiative, and other weapon programs, constantly claim to be seeking mutual, verifiable arms control agreements with the Soviets. Why can they not realize that there is no incentive for the Soviets to negotiate anything if we have unilaterally deprived ourselves of our capabilities to deter war and defend ourselves?

We must present a strong, united front to the Soviets. We must seek the most effective defense which we can produce. And, above all, we must make our decisions, based upon what is best for the security and defense of the United States.

Mr. President, in view of that I think what we need to do is to pass amendments, if there are to be amendments to this defense authorization bill, that would strengthen the position of the United States, not weaken it.

We in this country are blessed with a free press. We are blessed with free elections. We are blessed with an opportunity to have the right to free assembly. None of those things are present in the Soviet Union. The dictators in the Kremlin do not have to answer to an electorate. They do not have to answer to people who might assemble and demonstrate for a reduction in the Soviet war machine. They do not have to answer to a free press. They have a controlled news media in that country and in no way do they have the same policy or attitude that we might have with respect to this.

In summary, Mr. President, last week, the week of June 11 through 15, was a very ominous one. Several very dangerous events occurred, weakening American national security:

First, the U.S. Senate required that arms control negotiations with the Soviets must begin before the United States can even test an antisatellite space weapon. The Soviets, in contrast, have had an operational ASAT weapon for 13 years, and have three other ASAT weapons systems either operational or under development.

Second, the Senate rejected a measure which would allow the President to protect U.S. national security.

Third, deployment of the MX ICBM was almost defeated by the Senate, save for the tie-breaking vote of the Vice President.

Fourth, while President Reagan confirmed that there had been "outright violations" of arms control treaties by the Soviets, he flatly rejected his 1980 platform goal of military superiority over the Soviets.

Finally, Senate leaders and the press demanded that the President seek a summit meeting with the Soviets, and President Reagan was forced to agree to pursue such a meeting.

These events demonstrate quite clearly the weakness of America, and the now rampant tendency to appease the Soviets in their attempt to dominate the world. Soviet strategic and overall military superiority is plain for its effects on American political will to be visible.

### AMENDMENT NO. 3231

(Purpose: Amendment to reaffirm U.S. Policy Toward Cuba)

Mr. SYMMS. Mr. President, in view of my assessment of the Soviet threat and the need to demonstrate U.S. political will, it is my intention to send an amendment to the desk at this point and I send the amendment to the desk and ask that the clerk state the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendent numbered 3231.

Add at the end of the bill the following new section:

"SEC. . Resolved by the Senate of the United States of America in Congress assembled, That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled 'A Joint Resolution Expressing the Determination of the United States with Respect to the Situation In Cuba,' passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

### AMENDMENT NO. 3232

(Purpose: Perfecting amendment to Symms et al. amendment)

Mr. SYMMS. Mr. President, I then send a perfecting amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 3232.

Add at the end of the Symms amendment the following:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

Mr. SYMMS. Mr. President, on this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment in the first degree of the Senator from Idaho [Mr. SYMMS] be temporarily set aside so that the Senate might proceed to the consideration of an amendment to be offered by the Senator from New Jersey [Mr. BRADLEY] and that on the disposition of the amendment of the Senator from Idaho.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Reserving the right to object; if the Senator's unanimous-consent agreement is agreed to, after we dispose of the Bradley amendment what will then be the pending business?

The PRESIDING OFFICER. The pending business will be the amendment of the Senator from Idaho.

Mr. NUNN. The Senator from Idaho has two amendments. Which one will be the pending business?

The PRESIDING OFFICER. The first- and second-degree amendments both will be before the Senate.

Mr. NUNN. And a rollcall has been ordered on the first-degree amendment but not on the second-degree amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Jersey.

### AMENDMENT NO. 3233, AS MODIFIED

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. SASSER, Mr. LAUTENBERG, Mr. GLENN, and Mr. RIEGLE, proposes an amendment numbered 3233.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, this is a very simple amendment. It is an amendment that expresses the sense of the Congress that the International Olympic Committee should establish a permanent facility for the Olympic games on a site that is suitable for insulating the games from unwarranted and disruptive international politics that have plagued the games in recent years.

Mr. President, this does not specify where that site shall be. My own preference has often been stated to be Greece, but this simply calls on the International Olympic Committee to establish a permanent site for the Olympic games. I think if there were a permanent site in 1980 or 1984 that you would have seen neither the pullout of the United States in 1980 nor the pullout of the Soviet Union in 1984.

The PRESIDING OFFICER. If the Senator will withhold, the Chair must inform the Senator from New Jersey that his amendment is out of order because the amendment contains a preamble and a resolving clause as well.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I have modified my amendment. Is it now in order?

Mr. TOWER. Mr. President, will the Senator yield?

Mr. BRADLEY. Yes.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Jersey formed the modification to strike the preamble and the resolving clause. Consequently, the amendment is now in order.

The amendment (No. 3233), as modified, reads as follows:

> Since the Olympic games, which were begun more than 2,000 years ago in Greece to foster peace and goodwill among the city states, have more and more frequently become an arena not for sport but for nations to further their own political goals;
>
> Since it is the athletes who suffer when nations use the Olympic games for propaganda purposes;
>
> Since when nations boycott the Olympics it deprives the participating athletes from pitting their strength, skill, and endurance against all of their competitors to determine the best in the world;
>
> Since the participants in Olympic games form friendships that cross political and geographic borders and lead to better world understanding;
>
> Since many millions of people across this Nation believe that the Olympic games should be insulated as much as possible from politics: Now, therefore, be it declared, That it is the sense of Congress that the International Olympic Committee should establish a permanent facility for the Olympic games on a site that is suitable for insulating the games from the unwarranted and disruptive international politics that have plagued the games in recent years.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, as I was stating, the amendment calls on the International Olympic Committee to select a permanent site for the Olympic games and the permanent site should be at a place that, as much as possible, takes politics out of the games so that the Olympic games themselves could be fulfilling their original purpose, which is to promote mutual understanding among the world's youth.

Since Olympic games first began, they have been buffeted by politics. That is clear. To see this, one does not have to point only to the Nazi Olympics in 1936, nor the withdrawal of the Swiss or Dutch in 1956, nor the assassinations of 1972, nor the withdrawal of 28 Third World countries from the Montreal Olympics in 1976. I remember when I participated in those games in 1964 being awakened in the middle of the night as the North Koreans were pulling out of the games in Tokyo for yet additional political reasons.

I think, therefore, it is time that we go on record saying very clearly that we believe that the Olympic games serve an international purpose. That purpose should be the promotion of mutual understanding among nations; and that a permanent site would remove the games from much of the politics that buffets them as they are moved every 4 years to yet another site, not that the games will ever be free of politics as long as nations are represented as nations. But I think that a permanent site will at least prevent the moving-target phenomenon where every 4 years the problems that are associated with the individual country all come to the fore in generating a political furor around where the games are held, and among those people that might be opposing the country which that year is hosting the Olympic games.

Mr. President, that is the thrust of the amendment.

The PRESIDING OFFICER. Is there further debate? The Senator from Texas.

Mr. TOWER. Mr. President, that amendment is not germane to the defense authorization bill that is before us. However, although I do not view nongermane amendments favorably ordinarily, I will not object on those grounds to give the Senate a chance to express its will on this particular amendment. I might say, however, that the Senator from New Jersey some days ago indicated his desire to offer this amendment. I would certainly discourage any other nongermane amendments that might pop out of the woodwork sometime today. So this is the last nongermane amendment that I will be inclined to have an equitable attitude toward. I hope to not get more nongermane amendments.

I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, is the Symms amendment germane in the Senator's opinion.

Mr. TOWER. I cannot comment on the germaneness of the Symms amendment. It is probably not germane, but I think we will get some other foreign policy-type amendments that are not germane, but that have been pending for some time. What I am saying is I hope no more will surface than have already surfaced because I think we have some that have been pending for some days that are nongermane.

Mr. NUNN. Mr. President, I have no objection to the Bradley amendment. I share the Senator's frustration with the current status of the Olympic games. I am hopeful that the Olympic Committee would consider this resolution. I know there are arguments on both sides of this, but obviously the status quo of rotation is not working very well right now with all of the international atmosphere of problems and politics. So I think the Senator is on the right track. I support the amendment.

● Mr. LEVIN. I have spoken to Senator BRADLEY, the sponsor of this amendment, regarding the reference to "unwarranted and disruptive international politics."

He assured me that the words do not refer to the boycott of the Moscow games. He felt that boycott was warranted, as did I.

On that basis, I can support the amendment.●

The PRESIDING OFFICER. Is there further debate?

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified, of the Senator from New Jersey. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ZORINSKY (when his name was called). Present.

Mr. STEVENS. I announce that the Senator from South Dakota [Mr. ABDNOR], the Senator from North Dakota [Mr. ANDREWS], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Florida

[Mrs. HAWKINS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Iowa [Mr. JEPSEN], the Senator from Georgia [Mr. MATTINGLY], the Senator from Illinois [Mr. PERCY], the Senator from South Dakota [Mr. PRESSLER], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBLE], and the Senator from Virginia [Mr. WARNER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Colorado [Mr. HART], the Senator from Kentucky [Mr. HUDDLESTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. PRYOR], the Senator from Maryland [Mr. SARBANES], the Senator from Mississippi [Mr. STENNIS], and the Senator from Massachusetts [Mr. TSONGAS], are necessarily absent.

I further announce that the Senator from Vermont [Mr. LEAHY] is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Rhode Island [Mr. PELL], and the Senator from North Dakota [Mr. BURDICK], would each vote "yea."

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 22, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—48

Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Byrd
Chafee
Chiles
Cohen
Danforth
DeConcini
Dixon
Domenici
Eagleton
Ford
Garn
Glenn
Goldwater
Hatfield
Helms
Inouye
Johnston
Kassebaum
Kasten
Laxalt
Levin
Long
Lugar
Mathias
Matsunaga
Melcher
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Proxmire
Randolph
Riegle
Rudman
Sasser
Simpson
Specter
Symms
Tower
Weicker

NAYS—22

Armstrong
Boschwitz
Denton
Dole
Durenberger
East
Evans
Gorton
Grassley
Hatch
Hecht
Heflin
Heinz
Hollings
McClure
Nickles
Quayle
Roth
Stevens
Thurmond
Wallop
Wilson

NOT VOTING—29

Abdnor
Andrews
Bumpers
Burdick
Cochran
Cranston
D'Amato
Dodd
Exon
Hart
Hawkins
Huddleston
Humphrey
Jepsen
Kennedy
Lautenberg
Leahy
Mattingly
Metzenbaum
Pell
Percy
Pressler
Pryor
Sarbanes
Stafford
Stennis
Trible
Tsongas
Warner

ANSWERED "PRESENT"—1

Zorinsky

So Mr. BRADLEY's amendment (No. 3232) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3231

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I ask unanimous consent to change my pending amendment in the first degree from "resolve" to "it is declared by the Senate and the House of Representatives."

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Mr. President, reserving the right to object, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NUNN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. A unanimous-consent request is pending.

Mr. NUNN. Will the Chair state the request?

The PRESIDING OFFICER. The request is that the first-degree amendment be modified.

Mr. NUNN. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. NUNN. Mr. President, I make a point of order against the amendment.

The PRESIDING OFFICER. Title I, United States Code sec. 103 reads as follows:

> No enacting or resolving words shall be used in any section of an Act or resolution of Congress except in the first.

The amendment falls as being out of order. The second-degree amendment falls.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3234

(Purpose: Amendment to reaffirm U.S. policy toward Cuba)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 3234.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Add at the end of the bill the following new section:
>
> "SEC. . It is declared by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled "A Joint Resolution Expressing the Determination of the United States with Respect to the Situation In Cuba," passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

Mr. SYMMS. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. Until the Senator loses his right to modify his own first-degree amendment, the second-degree amendment is not in order.

Mr. NUNN. Mr. President, I shall suggest the absence of a quorum.

I think if we will be able to go over the amendment we might be able to ease the way. I wish to see it before we have it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask to modify my amendment that is pending at the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3234), as modified, reads as follows:

> Add at the end of the bill the following new section:
>
> "SEC. . It is declared by the Senate and House of Representatives of the United States of America in Congress assembled,

That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled 'A Joint Resolution Expressing the Determination of the United States with Respect to the Situation In Cuba,' passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the excercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;

*Provided further* That nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

**Mr. SYMMS.** Mr. President, I ask for the yeas and nays on the amendment.

**The PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. NUNN.** Mr. President, what is the pending question?

**The PRESIDING OFFICER.** The pending question is amendment No. 3234, as modified, by the Senator from Idaho.

**Mr. NUNN.** I thank the Chair.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Idaho [Mr. Symms]. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

**Mr. STEVENS.** I announce that the Senator from Mississippi [Mr. Cochran], the Senator from New York [Mr. D'Amato], the Senator from Arizona [Mr. Goldwater], the Senator from Florida [Mrs. Hawkins], the Senator from New Hampshire [Mr. Humphrey], the Senator from Iowa [Mr. Jepsen], the Senator from Georgia [Mr. Mattingly], the Senator from Illinois [Mr. Percy], the Senator from South Dakota [Mr. Pressler], and the Senator from Vermont [Mr. Stafford], are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. Hawkins], would vote "yea."

**Mr. BYRD.** I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from California [Mr. Cranston], the Senator from Nebraska [Mr. Exon], the Senator from Colorado [Mr. Hart], the Senator from Kentucky [Mr. Huddleston], the Senator from Ohio [Mr. Metzenbaum], the Senator from Rhode Island [Mr. Pell], the Senator from Arkansas [Mr. Pryor], and the Senator from Maryland [Mr. Sarbanes] are necessarily absent.

I further announce that the Senator from Vermont [Mr. Leahy] is absent on official business.

**The PRESIDING OFFICER.** Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 77, nays 3, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—77

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Burdick
Byrd
Chafee
Chiles
Cohen
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Eagleton
East
Evans
Ford
Garn
Glenn
Gorton
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Levin
Long
Lugar
Mathias
Matsunaga
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Proxmire
Quayle
Randolph
Riegle
Roth
Rudman
Sasser
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson
Zorinsky

NAYS—3

Durenberger
Tsongas
Weicker

NOT VOTING—20

Bumpers
Cochran
Cranston
D'Amato
Exon
Goldwater
Hart
Hawkins
Huddleston
Humphrey
Jepsen
Leahy
Mattingly
Metzenbaum
Pell
Percy
Pressler
Pryor
Sarbanes
Stafford

So Mr. Symms' amendment (No. 3234), as modified, was agreed to.

**Mr. SYMMS.** Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

**Mr. QUAYLE.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** The majority leader.

**Mr. BAKER.** Mr. President, I have consulted with the distinguished chairman of the committee, as well as with the minority leader, and I wish to say that it appears to me that we can make good progress until well into the evening tonight. I would like to finish tonight, but in all fairness, I do not think we can. Given the number of amendments that have been listed on this side alone, I think it would be unlikely that we can finish this evening.

Therefore, after consulting with the manager on this side, I wish to announce that the Senate will be in until perhaps past midnight this evening. I would urge Senators to consider that it will be late and as long as we are making good progress, we will stay, and stay well into the evening. As I say, perhaps midnight.

Mr. President, I thank all Senators, and I hope that we will now continue with amendments.

**Mr. SYMMS** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from Idaho.

**Mr. SYMMS.** Mr. President, I want to thank all Senators who supported us on that last amendment. That amendment was voted on in 1982 here in the Senate. There has been adequate debate on it. In fact, I think the debate lasted about 2 days at that time. The amendment is self-explanatory.

We did have a slight technical difficulty in presenting the amendment. I thank my colleague from New Jersey, Senator Bradley, who aided in the modification of the amendment to put it in order, for his support on the amendment, I yield the floor.

**The PRESIDING OFFICER.** The Senator from Alaska.

### AMENDMENT NO. 3235

(Purpose: Requesting that the President study crude oil exports)

**Mr. MURKOWSKI.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. Murkowski] proposes an amendment numbered 3235.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128 between lines 12 and 13 insert the following new section:

PRESIDENTIAL REPORT ON CRUDE OIL EXPORT

Sec. 1019. Not later than nine months after the enactment of this bill, the President shall submit to the Congress a report and his recommendation regarding the export of domestically produced crude oil, particularly that crude oil covered by Section 7(d) of the Export Administration Act of 1979 (50 App. U.S.C. 2406). This report shall include recommendations on the export of domestically produced crude oil, particularly on the advisability of retaining section 7(d) of the Export Administration Act. These recommendations shall be based on a comprehensive review of the issues and related data concerning exports of crude oil.

This review shall include, but is not limited to, the effect of such exports on the energy and national security of the United States, especially as it applies to the security of our armed forces overseas; the energy and national security of our allies; the role of such exports in United States foreign policymaking; the impact of such exports in the maritime industry, the oil industry, and other industries; the impact of such exports on Federal Government revenues and expenditures; the effect of such exports on incentives for oil and gas exploration and development in the United States; the effects of such exports on the efficient allocation of resources; and the legal impediments to such exports.

Mr. MURKOWSKI. Mr. President, I have been advised by the minority manager, Senator Nunn, that one Senator who will be arriving in a few moments wants to study the amendment. I would like to withhold any action until that Senator arrives.

Mr. President, the amendment is a simple one. It would require that a study be made on the implications of exporting domestically produced crude oil from the United States. Perhaps some of my colleagues will remember that we dealt with this matter earlier in March. At that time, the Senate voted in favor of the amendment to the Export Administration Act which would create a study commission. That amendment and the Export Administration Act are now pending in conference. There are a number of issues to be worked out in the Export Administration Act among the conferees. It could be tied up. For that reason, I am looking for an appropriate vehicle for the study amendment to be attached to. I have chosen this one.

Mr. President, I would like to remind my colleagues that this does not in any way authorize or address the question of exporting domestically produced crude oil outside the United States. It specifically addresses the appropriateness of studying whether or not at some future time it is in our national interest to export oil outside the United States.

The amendment was directed as a consequence of a reality that exists where the energy security of nearly a half-million Americans overseas, who are responsible for our national security and the security of our allies, is somewhat in question. This was brought out at a meeting that I had with Gen. Robert Sennewald, commander of U.S. forces in Korea, Chief of U.S. Command in Korea. It was General Sennewald's contention that our forces in Korea must depend on their fuel supply; that is, their jet fuel, diesel fuel, and other fuels, from Korean refiners. There is no assurance whatsoever that in an emergency, wherever it may be or if it is quite prolonged, the Koreans would be able to assure the continuation of oil supply to our military forces, inasmuch as the Korean supplies are dependent on sources from the Mideast.

In fact, Mr. President, our Government has stated that it will help in the attempt to find new sources for Korea in the event their supplies are disrupted. Then the question comes to mind, Who will take care of our forces in Korea if their conventional supply is curtailed?

The amendment before us today merely seeks to instruct the President to study the situation and make recommendations to Congress as to what action, if any, he feels is necessary to promote the national interest. It also specifies that one of the areas to be studied be the security of our Armed Forces overseas.

It is my understanding that the administration is supportive of this amendment. It has been discussed with the ranking minority member on the military authorization bill [Mr. Nunn], and been cleared with Senator Tower. I defer to my colleague from Indiana, who is managing the bill, or perhaps the Senator from Georgia, with regard to accommodating a Senator who wants to see the amendment.

Mr. QUAYLE. Mr. President, as the Senator stated, on this side, there is no problem with the amendment, and we are prepared to accept it. I understand Senator Nunn would like to wait until Senator Sarbanes has returned and seen the amendment. I shall let him speak to that.

Mr. NUNN. Yes, Mr. President; I do not believe, in response to the question on the amendment of the Senator from Alaska, that I can say for certain, but I should like to wait for one other Senator to have a chance to see that amendment. I ask him to wait for possibly 35 to 45 minutes to have a vote on the amendment. I have no problem with the amendment myself.

Mr. MURKOWSKI. I thank the Senator. I wonder if he could tell me procedurally, what would be the status.

Mr. NUNN. I think the Senator from Indiana or whatever Senator is managing the bill would seek unanimous consent to bring it up.

Mr. QUAYLE. Mr. President, I suggest to the Senator from Alaska what I would like to do: I have an amendment myself that will take no more than 5 minutes. I shall ask unanimous consent to set the Senator's amendment aside temporarily and that the Senator's amendment be the pending business. I understand we are going to wait for another Senator to return before we accept the Murkowski amendment, is that correct?

Mr. NUNN. Mr. President, the Senator is correct. We would set Senator Murkowski's amendment aside for Senator Quayle's amendment, and if another amendment is ready, we could set it aside again.

Mr. QUAYLE. If that is OK with the Senator from Alaska, that is the way we would like to proceed.

Mr. MURKOWSKI. I agree, and I should like to have the staff call me when it is time for my amendment to be brought up.

Mr. QUAYLE. Mr. President, the amendment will automatically return as the pending business. It is the pending business before the Senate, but I think what we shall do is temporarily set it aside, and there is another amendment I would like to get into, although we shall have to wait to see that.

Mr. MURKOWSKI. Mr. President, I thank the Senator from Indiana. I should like to withdraw my amendment temporarily.

Mr. QUAYLE. The Senator could leave it pending at the desk. That would force us to deal with the amendment as soon as possible.

Mr. MURKOWSKI. Mr. President, I shall leave my amendment pending at the desk, and yield the floor to my colleague from Indiana.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the Murkowski amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it so ordered.

AMENDMENT NO. 3182

(Purpose: To express the sense of the Congress regarding submission to the Congress of a report on programs for the verification of compliance with the 1972 Biological and Toxin Weapons Convention and a ban on chemical weapons production, storage, and transfer)

Mr. QUAYLE. Mr. President, I call up my amendment No. 3182.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Indiana [Mr. Quayle] for himself and Mr. Moynihan, Mr. Pres-

SLER, Mr. BOSCHWITZ, and Mr. DIXON, proposes an amendment numbered 3182.

Mr. **QUAYLE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

### SENSE OF THE CONGRESS REGARDING A REPORT TO THE CONGRESS ON CERTAIN VERIFICATION PROGRAMS

SEC. . (a) The Congress finds—

(1) that the Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict;

(2) the President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union currently maintains an offensive biological weapons capability in violation of the 1972 Biological and Toxin Weapons Convention;

(3) that experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925;

(4) that the 1972 Biological and Toxin Weapons Convention is up for review in 1985;

(5) that the United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons;

(6) that any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and that in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) the Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of the Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating the following:

(1) Existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(2) The budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than December 31, 1984.

Mr. **QUAYLE**. Mr. President, I ask unanimous consent that Senators MOYNIHAN, BOSCHWITZ, DIXON, and PRESSLER be added as original cosponsors.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **QUAYLE**. Mr. President, I have discussed this amendment not only with Senators on my side but also on the minority side. I believe it will be accepted.

This amendment is very simple and very direct. It asks for a report and information on the resource capacity that we have in verifying any compliance with biological and chemical warfare treaties and any of the bans that may potentially be imposed. As the Chair well knows, the President of the United States has recently called upon the world to enter into a total ban of chemical and biological weapons, an idea that was supported by this Senator and, I know, a number of others. What this amendment directs itself to is not only that specific prospective proposal that may or may not be implemented but the idea of trying to garner enough factual information on whether or not we have enough resources allocated within the agencies to verify this proposal or any other proposal which may occur. I might just read what we are asking. It is very straightforward.

We are asking for existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban. We also ask for the budget resources necessary to support verification requirements necessary to determine the compliance with the 1972 Biological and Toxin Weapons Convention and the chemical weapons ban.

Mr. President, in recent months there has been considerable concern that the international inhibitions regarding the use of chemical weapons and the production and development of biological weapons may be breaking down. Earlier this year the President's report to Congress on Soviet arms control noncompliance concluded that the Soviet Union currently maintains an offensive biological weapons capability in violation of the 1972 Biological and Toxin Weapons Convention. Evidence of such a capability recently was confirmed in a story that ran in the Washington Post on the alarm Soviet scientists themselves have expressed about Soviet activities in this area.

Experts at the recent meetings of the American Association of the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare also confirmed the growing international trend toward the use and manufacture of chemical weapons in the Persian Gulf and elsewhere. Experts at both meetings were anxious that verification be strengthened to assure continued adherence to the Geneva Protocol of 1925 banning the use of chemical agents and to the Biological and Toxin Weapons Convention, which is up for review next year.

I share this concern and want to be sure that our verification capabilities in the areas of chemical and biological weapons is as good as it can be. I am not entirely convinced that this is so.

Earlier this March I learned that as a part of the President's report on Soviet noncompliance on arms control an internal review had been done to determine what funding levels should be to improve our ability to verify existing arms control agreements. The President has proposed an international, comprehensive ban on the production, storage, or use of chemical weapons and the 1972 Biological and Toxin Weapons Convention is up for review next year.

It is imperative that Congress be fully apprised of what the administration believes it needs to accomplish the arms control objectives we all support. It is for this reason that Senators MOYNIHAN, BOSCHWITZ, DIXON, and PRESSLER have joined me in supporting an amendment that would have the President report in December moneys that will be needed to fulfill verification requirements of both the Biological and Toxin Weapons Convention and the President's proposed ban on chemical weapons.

What my amendment would do is express the sense of Congress that the President should file a report December 31, 1984, with the Foreign Relations Committee, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House. This report would identify and evaluate the existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and the President's proposed chemical weapons ban and specify what moneys are needed to support these programs. This report would enable the appropriate congressional committees to determine what funding would be appropriate for these programs in fiscal year 1986.

The staffs of the Senate Intelligence and Senate Armed Services Committees have reviewed this amendment as have the legal counsels at State, ACDA, and Defense and have lent it their support. If we are serious about doing something about stopping chemical and biological war, I believe passage of this amendment is the least we can do.

Mr. NUNN. Mr. President, I believe this is a constructive amendment. I think it will provide information that we need. It is a subject that is extremely important, extremely complicated. This report, I think, will be very useful to the Armed Services Committee and to the Senate. I urge my colleagues to accept the amendment.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The question is on agreeing to the amendment.

The amendment (No. 3182) was agreed to.

Mr. QUAYLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3235

The PRESIDING OFFICER. The question recurs on the Murkowski amendment.

Mr. QUAYLE. Mr. President, we are still waiting. I think unless the minority member has an objection, I shall suggest the absence of a quorum and see if there might be another amendment we can take up and dispose of while we are awaiting the comment of another Senator on this amendment.

Mr. NUNN. If the Senator will withhold the quorum call for just a moment, I urge our colleagues on this side who have amendments to bring them over now. The more amendments we handle this afternoon, the better chance there is that we may not be here all night tonight, although with the number of amendments we have pending, it looks like it will be a very late evening. I hope we will not be placed in the position of marking time during the daylight hours and staying up all night. If amendments are not presented, that is exactly the kind of scenario that will likely unfold. I hope people on both sides who have amendments will come forward and present them.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABDNOR. Mr. President, I wish to send an amendment to the desk.

The PRESIDING OFFICER. The amendment by the Senator from Alaska is pending. It will require unanimous consent to set it aside.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the Senator from Alaska be temporarily laid aside to permit the Senator from South Dakota to offer his amendment and, further, upon disposition of the amendment of the Senator from South Dakota the amendment of the Senator from Alaska will once again become the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### AMENDMENT NO. 3236

(Purpose: To make certain minor and technical amendments to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress))

Mr. ABDNOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendent will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABDNOR), for himself and Mr. PELL, proposes an amendment numbered 3236.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

#### AMENDMENTS TO IMPACT AID PROGRAM

SEC. . (a)(1) Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

#### "SPECIAL PROVISIONS

"(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.".

(b)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

Mr. ABDNOR. Mr. President, first let me thank the chairman of the Armed Services Committee for allowing me to offer this amendment at this time. Last week, I offered two amendments dealing with impact aid.

Mr. President, my colleagues will recall that the first amendment, which was cosponsored by Senator PELL and 43 of our colleagues, reauthorizes for 5 years Public Law 81-874. This amendment, which has adopted last Wednesday, increases the authority for the program from $565 million to $700 million, increases authority for section 2 of the statute from $20 million to $30 million, and reauthorizes at one-third of entitlement category B payments.

The second amendment I offered contained five provisions, the most substantive of which struck the regulations proposed last March by the Department of Education. The amendment I am offering today contains three provisions—the language striking the regulations and one other provision the Department raised objection to, are no longer part of my amendment. I have thrown in the towel on those.

This amendment ensures that payments made under section 3(d)(2)(B) of the statute will not be prorated, provides no less than 100 percent of entitlement under section 3(A) for districts which are coterminous with military installations, and places a provision enacted last year for the State of Hawaii as part of the Education Consolidation and Improvement Act technical amendments package, in a separate section of the statute. Since the Hawaii provision was attached to a section of Public Law 81-874 that the appropriations language usually waives, this amendment places the Hawaii provision in its own section to ensure it is recognized by the Department.

Mr. President, I am advised that this amendment has been cleared by both the chairman's and ranking member's staff. Further, I wish to point out that this language has been endorsed by the National School Boards Association [NSBA], the National Education Association [NEA], the American Association of School Administrators [AASA], and the National Association of Federally Impacted Schools.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from the Under Secretary of Education relative to the proposed regulations which have provoked so much controversy.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF THE UNDER SECRETARY,
*June 15, 1984.*

Hon. JAMES ABDNOR,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR ABDNOR: As you know, the Department published proposed regulations on March 30, 1984, that would govern payments under Section 3 of the Impact Aid Program. These regulations were proposed principally because a Federal District Court invalidated one of the Department's main procedures for setting local contribution rates.

Based on the many public comments received in response to the proposed regulations, we plan to adopt the major suggestions of the commenters and include a "hold-harmless" provision for fiscal year (FY) 1984 that provides significantly higher local contribution rates than proposed in the regulations. These rates—increased by 37.57 percent over the 1981 rate to adjust for the increase in the per pupil expenditure since 1981—should distribute funds so as to cause little or no disruption to impacted districts.

In July the Department expects to issue final regulations governing the rates on which payments are based for FY 1984 and beyond. In developing these regulations, the Department has attempted to devise methods for determining local contribution rates based on objective factors that produce equitable payments. Although we believe the methods are fair, some Members of Congress continue to express concern. Therefore, we will take additional public comment on these regulations, as they affect Impact Aid payments beyond FY 1984, for a period of 60 days after they are published in the Federal Register. During this time, we will work with you and your staff and with other interested Members of Congress to ensure the regulations are as fair and equitable as possible.

We believe the additional comment period will provide ample opportunity to make changes in the regulations, if needed, very early in FY 1985. Our principal goal is to provide Impact Aid assistance to applicant districts fairly, and in a prompt and orderly fashion to avoid disrupting their budget cycles.

We appreciate and share your concern that Impact Aid payments be made on an equitable basis. I remain convinced it is important to continue to work with Members of Congress and their staffs in order to alleviate concerns about payments under this program.

Sincerely,

GARY L. JONES.

**Mr. ABDNOR.** Mr. President, I would like to point out to my colleagues several elements I view as key to a discussion of the regulations. First, it is not this Senator, nor Senator MELCHER, who wishes to alter the status quo with respect to the rates established for impact districts. Rather, it is the Department of Education which is seeking to change the method by which rates are established for districts which utilize individually selected comparable districts to determine their local contribution rates, the Department feels compelled to take this action since it has been unable to defend in Federal district court a practice it has used for a number of years—the so-called $50 rule—which has never been codified in statute or regulations.

In addition, the Department has some additional problems to contend with as a result of the overpayments it made to many districts earlier this year. This problem, which I alluded to a couple of months ago in my statement on the Melcher amendment, stems from the fact that the Department incorrectly interpreted language in the first continuing resolution relative to preliminary payments to federally impacted districts. The continuing resolution provided that moneys for those programs under the jurisdiction of the Labor-HHS, and Education Subcommmittee should be distributed in the same manner as they were during the prior fiscal year—fiscal year 1983. A colloquy between Senator WEICKER and myself clarified this further. Nevertheless, the Department paid all districts 75 percent of their prior year payment, as opposed to 75 percent to super A districts, and 50 percent of the prior year payment to all other impacted districts. Consequently, as many of my colleagues are aware, many districts are receiving overpayment notices from the Department of Education. It is in part this situation of overpayments which, I believe is prompting the Department to pursue a change in rate policy during the current fiscal year.

It has also become clear to me that the Department has lost sight of the purpose of this program. Regardless of how one might feel about the fact that the fiscal year 1984 appropriations act provides a higher rate of payment for super A and super B districts, that is in fact the intent of Congress. For better or for worse, the Department is responsible for carrying out the provisions of Public Law 98-139.

I might add that it is the hope of this Senator, that with additional dollars available for impact aid, we will be able to ensure that all federally impacted districts receive higher payments than they did during fiscal year 1983, or than some may in fiscal year 1984. In the long run, Mr. President, I do not feel that it is in the best interest of any federally impacted district for Congress to provide a much higher rate of payment for some districts than for others.

It is my hope that in the coming months, we can work together to ensure that any new regulations will not affect adversely the rate of payment districts in the States which currently use comparable districts receive. Finally, I wish to emphasize that in the event the regulations proposed in March, or any substantially similar, do take effect, a number of districts in my State, and in some 17 other States, may receive significantly smaller payments in fiscal year 1985—despite the fact we have agreed to authorize a $135 million increase in program funds.

**Mr. MATSUNAGA.** Mr. President, I rise to express my support for the amendment offered by the Senator from South Dakota [Mr. ABDNOR], providing for the distribution of impact aid funds.

Last week I joined the distinguished Senator in offering an amendment to increase impact aid authorizations to $700 million. I am most pleased that the Senate adopted that amendment which will help to ensure that school districts in federally affected areas have sufficient resources to provide adequate educational services. I am also supporting this amendment which will clarify the allocation of funds under section 3(d)(2)(B) of the statute and under section 3(A) for districts which are coterminous with military installation.

Mr. President, I would also like to thank the Senator from South Dakota for including a technical provision intended to facilitate the implementation of a provision enacted into law last year as part of the Education Consolidation and Improvement Act technical amendments.

The provision passed by Congress last year allows Hawaii, the only State with a statewide school district, to subdivide its school district for the purposes of the impact aid formula. This provision was attached to section 5(c) of Public Law 81-874. This section sets out the impact aid tier system to be used when impact aid funds are especially low. For the past several years, appropriations language has waived section 5(c). Consequently, a question has been raised by the Department of Education as to the applicability of the Hawaii provision. This amendment simply takes the Hawaii provision out of section 5(c) and places it in its own section, thus clarifying the status of the Hawaii provision.

I urge my colleagues to adopt this amendment.

Mr. President, I ask unanimous consent that I may be recorded as a cosponsor of the Abdnor amendment passed earlier today.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Georgia is recognized.

**Mr. NUNN.** Mr. President, if I may ask my friend from South Dakota a couple of questions. As I understand it, the other evening when this amendment was proposed and we asked that it be withdrawn, the Senator graciously did that until we could study it further; and that amendment at that time specifically overturned certain of Department of Education regulations.

**Mr. ABDNOR.** Proposed regulations.

**Mr. NUNN.** Proposed regulations. It is my understanding that this amendment we now have before the Senate does not do it. That portion of the amendment has been deleted.

**Mr. ABDNOR.** The Senator is correct. Yes.

**Mr. NUNN.** The Senator put a statement in the RECORD about the regulations, but there is no directive to the Department of Education on those at this time.

**Mr. ABDNOR.** The Senator is correct.

**Mr. NUNN.** It is my further understanding that the Senator's amendment now rearranges certain portions of the $700 million impact aid fund; is that correct?

**Mr. ABDNOR.** It simply clarifies the different sections of the statute. The $700 million the Senator from Georgia refers to, if that same figure becomes authorized and is appropriated, the appropriations committees will decide how the funds are ultimately to be distributed.

**Mr. NUNN.** Is there not permission for the Secretary, or within the Secretary's discretion, to provide additional funds in a certain limited number of districts?

**Mr. ABDNOR.** The amendment ensures that several of the Nation's most heavily impacted districts will not have their payments prorated: This language is compatible with this year's appropriations language. Also, let me assure the Senator that South Dakota does not have any districts in the coterminous category—three are in Texas, two are in Arizona, and one is in Kansas.

**Mr. NUNN.** But the Secretary could, under this, take portions of the $700 million and shift a very small portion to districts that have unique problems, as I understand it.

**Mr. ABDNOR.** He is given the authority to ensure that payments to these districts are not prorated. However, at this point in time, before the $700 million authorization approved by the Senate becomes law, and prior to action by the appropriations committees relative to fiscal year 1985 funding for impact aid, it is premature to talk of a shift in funds. Congress has not yet determined how to distribute funds for impact aid in fiscal year 1985.

**Mr. NUNN.** Does the Senator have an estimate about how much money could be involved in this shifting in the discretionary? It is my understanding it is a very limited amount of money.

**Mr. ABDNOR.** Collectively, the districts addressed in this amendment are probably not assured of more than $5 million over and above what they might otherwise receive in the event the appropriations provisions for fiscal year 1985 are similar to those contained in the fiscal year 1984 bill (Public Law 98-139).

**Mr. NUNN.** That is the understanding I have, also.

And the portion that specifically overrules the proposed regulation has been deleted?

**Mr. ABDNOR.** Yes; it has.

**Mr. NUNN.** Mr. President, I have no objection to the amendment on this side.

I yield to the Senator from Hawaii.

**Mr. INOUYE.** Mr. President, I wish to commend my colleague from South Dakota for his leadership in this area. On behalf of the school systems of Hawaii, I thank him for his leadership.

**Mr. ABDNOR.** I thank the Senator from Hawaii. I move the adoption of the amendment.

**Mr. TOWER.** Mr. President, I am certainly prepared to accept the amendment of the Senator from South Dakota.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from South Dakota [Mr. ABDNOR].

The amendment (No. 3236) was agreed to.

**Mr. ABDNOR.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. TOWER.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. ABDNOR.** I thank the Senator from Texas for allowing me to bring the amendment up at this time.

**Mr. TOWER.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. GORTON). Without objection, it is so ordered.

**Mr. BOSCHWITZ.** Mr. President, I ask unanimous consent that the Murkowski amendment be temporarily laid aside.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

### AMENDMENT NO. 3237

(Purpose: To earmark $860,000 of research and development funds of the Army for the development of ceramic elements for rotating valves for use in certain type engines)

**Mr. BOSCHWITZ.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] for himself and Mr. SYMMS proposes an amendment numbered 3237.

**Mr. BOSCHWITZ.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 10 and 11, insert the following new subsection:

(e) Of the funds appropriated to the Army pursuant to the authorization contained in subsection (a), $860,000 shall be available only for the development of ceramic elements for rotating valves for use in automotive and other engines.

**Mr. BOSCHWITZ.** Mr. President, this is an amendment that deals with the development of a new ceramic element for rotary valves that would be used in automotive and other engines. It is a new technology that is designed to greatly increase the efficiency and reliability of combat vehicle engines. It was funded in the fiscal year 1984 DOD appropriations bill at $500,000, and it was authorized last year as well, Mr. President.

This amendment would continue that research inasmuch as the development of a ceramic element for rotary valves would be of great use to the military. This amendment will keep the authorization going for another year, and would continue this important research.

The appropriation and authorization last year will bring the valve to the position where it is used in the larger one-cylinder engine. This year the authorization moneys would be spent to include the multicylinder engine in the use of this valve.

Mr. President, I believe the amendment has been cleared on both sides. I move adoption of the amendment.

The **PRESIDING OFFICER.** Is there further debate?

**Mr. TOWER.** Mr. President, I have discussed this amendment with the Senator from Minnesota. I believe it is a meritorious amendment, and I am prepared to accept it.

**Mr. NUNN.** Mr. President, I have no objection to the amendment. This will be an item in conference. I will ask the Army and others questions about it, and get their views little more than I have now. I think this amendment is certainly worthy of being taken up.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3237) was agreed to.

**Mr. BOSCHWITZ.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. TOWER.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** The Senator from Texas.

**Mr. TOWER.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. BAKER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BAKER.** Mr. President, may I say for the benefit of those who may be listening in their offices that three lights, if three lights indeed appeared in their office, or elsewhere, was a malfunction of the signal system. The quorum that was initiated was a two-bell quorum, not a three-bell. It was not a live quorum.

I am going to suggest the absence of a quorum again, and we will see if the laws of nature and the wonders of technology can produce a different result.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **TOWER**. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

### AMENDMENT NO. 3235

Mr. **TOWER**. Mr. President, we have been on the Murkowski amendment for some time. It has been set aside I think about three times to accommodate other amendments.

Senator MURKOWSKI was good enough to respond to our entreaties to Senators to come over, deal with their amendments; and, I think we should go ahead and proceed with debate on it. I understand that Senator SARBANES has an interest in it, is here, and ready to debate. I think we should continue the debate on this, and try to dispose of this matter.

The **PRESIDING OFFICER**. The Senator from Maryland.

Mr. **SARBANES**. Mr. President, I say to the managers of the bill that I think the distinguished Senator from Oregon [Mr. HATFIELD], also has some interest, and I was delaying slightly to enable him to come to the floor so we can address this matter with Senator MURKOWSKI.

It would be my intention to provide that opportunity to him in any event.

If the manager wants us to discuss it briefly in advance of that, I am quite happy to do that as well.

Mr. **TOWER**. Mr. President, I am afraid that if we get into the business of delaying things for individual Senators to get to the floor, it is going to take us an awfully long time to finish this bill. As it is, we are going to be here past midnight tonight. I know that Senators will start complaining around 8 or 9 o'clock tonight that we are in late-night session. But no one seems to be coming over to debate.

Mr. **SARBANES**. Mr. President, I understand that.

Mr. **TOWER**. Mr. President, the problem is everybody knows which bill is on the floor. Many people know what amendments are likely to be offered, especially those who have an interest in them. We simply have to take them as they come to try to dispose of them. When I came in here this morning, there were about 30 amendments pending. I think we have disposed of about five or six. There are now 49 or so amendments.

So we cannot continue this way to complete action on this bill tomorrow night. I hope the debate can proceed on this matter.

If it is a controversial matter that requires a record vote, we will have a record vote.

The **PRESIDING OFFICER**. The Senator from Alaska is recognized.

Mr. **MURKOWSKI**. Mr. President, I thank my colleague, the bill manager, from Texas.

Mr. President, to accommodate my friend from Maryland, Senator SARBANES, I send to the desk a modification of my amendment. It is my understanding that that modification was made with the constructive suggestions of my friend from Maryland. I accepted his suggestion.

The text of the amendment follows:

> On page 128 between lines 12 and 13 insert the following new section:
>
> PRESIDENTIAL REPORT ON CRUDE OIL EXPORT
>
> SEC. 1019. Not later than nine months after the enactment of this bill, the President shall submit to the Congress a report and his recommendation regarding the export of domestically produced crude oil, particularly that crude oil covered by Section 7(d) of the Export Administration Act of 1979 (50 App. U.S.C. 2406). These recommendations shall be based on a comprehensive review of the issues and related data concerning exports of crude oil.
>
> This review shall include, but is not limited to, the effect of such exports on the energy and national security of the United States, especially as it applies to the security of our Armed Forces overseas; the energy and national security of our allies; the role of such exports in United States foreign policymaking; the impact of such exports in the maritime industry, the oil industry, and other industries; the impact of such exports on Federal Government revenues and expenditures; the effect of such exports on incentives for oil and gas exploration and development in the United States; the effects of such exports on the efficient allocation of resources; and the legal impediments to such exports.

Mr. **SARBANES**. Mr. President, will the Senator yield.

Mr. **MURKOWSKI**. I will be happy to yield.

Mr. **SARBANES**. Mr. President, I simply state to the Senator that at the time I first came to look at his amendment, I expressed some misgivings about it, including I think the particular sentence which he has addressed. But on further thought, I really have difficulty with the entire amendment. I say that to the Senator because it may affect whether he wants to modify it or not. I feel that this bill is the wrong vehicle for this amendment.

It is a matter involving the Export Administration Act. At the time that legislation was considered in the Senate, an amendment was added to it, at the instance of the distinguished Senator from Alaska, which provided for the establishment of an advisory commission to study the export of crude oil. Of course, that amendment differs significantly from the one now before us. But at least that amendment, whatever misgivings some Members of this body might have had with respect to it, addressed the pertinent legislation. The provision we are talking about here is an issue about which the Senator from Alaska has repeatedly raised a question—a provision contained within the Export Administration Act.

Mr. **MURKOWSKI**. If I may respond to that particular point, I say to my friend from Maryland that I would refer to the body of the amendment starting on line 15.

> This review shall include, but is not limited to, the effect of such exports on the energy and national security of the United States, especially as it applies to the security of our Armed Forces overseas; the energy and national security of our allies; the role of such exports in United States foreign policymaking; the impact of such exports in the maritime industry, the oil industry, and other industries; the impact of such exports on Federal Government revenues and expenditures; the effect of such exports on incentives for oil and gas exploration and development in the United States;

I would remind my friend from Maryland there is specific reference, again, to national security. I would like to refer to a letter from the Commander in Chief, Gen. Robert W. Sennewald.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HEADQUARTERS, U.S. FORCES, KOREA.

Subject: Procurement and refinement of crude oil.

### MEMORANDUM FOR SENATOR FRANK H. MURKOWSKI

Reference your question "how much crude oil (MOGAS, DIESEL, JP-4) is procured and refined off-shore versus in the ROK in support of US Forces Korea?"; the following information was obtained from the Deputy J4 (Col. Beatty):

a. All crude oil is procured and refined in ROK by Honam Oil Corporation, which is under contract from Defense Fuel Supply Center of Defense Logistics Agency.

b. Contract does not specify crude oil source, but only that a finished product at a specified price will be delivered to a certain place in country.

ROBERT W. SENNEWALD,
*General, USA,*
*Commander in Chief.*

Mr. **MURKOWSKI**. The letter pertains to the refinement of crude oil. It states:

> Reference your question "how much crude oil (MOGAS, DIESEL, JP-4) is procured and refined off-shore versus in the ROK in support of U.S. Forces Korea?"; the following information was obtained from the Deputy J4 (Col. Beatty):
>
> a. All crude oil is procured and refined in ROK by Honam Oil Corporation, which is under contract from Defense Fuel Supply Center of Defense Logistics Agency.
>
> b. Contract does not specify crude oil source, but only that a finished product at a

specified price will be delivered to a certain place in country.

In responding to the concern of my friend from Maryland, I would again point out the significance of this particular amendment which refers to the authorization of a study group to direct its attention to the national security requirements of our U.S. troops overseas. There are approximately 570,000 of our military people dependent on domestic supplies of crude oil refined in those various countries, all of which, without exception, are dependent upon Mideast sources.

If those sources were curtailed, due to a blockade in the Strait of Hormuz or some other action, the question is, how well examined are the alternatives associated with supplying those particular needs with a source of crude oil?

I would suggest to my colleague from Maryland that indeed there is no provision. Korea is not under the energy security agreement. Those particular military troops of ours have no assurance that there has even been a study made relative to the need to supply that military capability with crude oil so that it can operate.

To specifically identify more narrowly, I think the amendment is appropriate on the military authorization bill. It responsibly reflects on the security needs of our Armed Forces overseas and explicitly states that, as opposed to the former study authorization on the Export Administration Act which simply stated a study of the merits of exporting crude oil outside the United States.

I want to reassure my friend from Maryland that in no way does this amendment reflect one way or another on the propriety of exporting oil outside the United States. It very simply authorizes a study and nothing more, emphasizing the national security of our military forces overseas. It is solely limited to that.

I would be happy to expand further but I tried to direct my response to the question raised by my colleague from Maryland.

Mr. SARBANES. First, I will say to the Senator that when the amendment providing for an advisory commission on crude oil was added to the Export Administration Act, to which the Senator from Alaska has directed his attention, it provided, amongst other things that the commission should examine the effect of such exports on the energy and national security of the United States and its allies. So those particular factors were encompassed within the terms of that study, along with a number of other factors. There is a whole list with respect to the impact of it.

The fact of the matter is that you can give almost any issue a defense and national security consequence.

The point I am trying to make to the Senator is that a provision with respect to a study commission has already passed through the Senate and is now in conference. That provision actually was much broader, more comprehensive. In fact, at one point, in response to some questions on the floor, the Senator from Alaska indicated that the commission would be bipartisan; that it would undertake a broad analysis; that it would undertake to do so with an impartial and independent body to study this issue and make recommendations to the administration and the Congress.

Of course, what we have here being attached to the defense authorization bill is a very different proposition.

Mr. MURKOWSKI. I would respond to the statement made by my colleague from Maryland that in no way is it the intent of the Senator from Alaska that this proposed amendment would amend the Export Administration Act, which the Senator from Maryland referred to. It simply identifies in detail a consequence of what is an obvious oversight, any attention being given to the military requirements for the utilization of crude oil being authorized into those various countries in the event there is a curtailment as a consequence of their dependence on Mideast sources from that oil flowing within those various countries.

Again I cite the situation in Korea. Our military mobility is dependent upon crude oil. That crude oil source is from oil refined in the Republic of Korea that is brought over from the Mideast. I ask my colleague, the Senator from Maryland, what would he propose if an emergency existed to provide that country with an immediate source of crude oil so that our military capability would be protected?

Mr. SARBANES. What I would propose is that in an emergency situation the President proceed under the existing provisions of the Export Administration Act, propose a change to the Congress, and that the Congress would agree that the exports would occur.

Second, the Senator's present amendment directs the President to submit a report to the Congress. This is in sharp contrast to what was contained in the Export Administration Act, which provided for a separate commission to look into this matter.

The President can do that in any event. He could do it tomorrow, he could do it next week, he could do it a month from now, or he could do it 6 months from now. In other words, the President has the authority to undertake such an action if he so chooses, we can send a report and a recommendation to the Congress. In fact, the administration people have from time to time studied this very issue which the Senator from Alaska has brought here to the floor.

If this issue is going to be examined for the purpose of changing the policy—and the Senator from Alaska and I differ, I assume, on the basic policy, at least at present—it is quite possible that a commission could do a study, a careful and objective study, and come up with an analysis of facts which would lead people to revise positions they have heretofore taken on this issue. But it seems to me that the opportunity for doing that rests with the amendment establishing a commission, which was included in the Export Administration Act. That, in fact, was a much broader gauged proposition than the one that is now before us.

Mr. MURKOWSKI. Perhaps I can answer my colleague from Maryland. With regard to his response to my question, what do we do if indeed there were an energy crisis and getting the President to enact his emergency powers, I would remind my colleague from Maryland that the Export Administration Act has certain provisions the President would have to meet. There are various tests. Among them are the reference to the consumer test, where the President has to show that it is in the best interest of the consumer with regard to assurances that there would be no price increases.

The ability to do this in a punctual timeframe is the whole point of my amendment, which again reflects the necessity of studying the appropriateness of recognizing that there may or may not be deficiencies in the present program. If there are not deficiencies, obviously, the study group will point that out and there will be no changes. But to suggest that here, we have a situation where we propose a study group—we do not know what that study group is going to find. It may indeed find that there is no need for any further recommendations or actions. I am prepared to accept the findings of the study group. But to suggest that the President can act expediently in a manner which would result in the free flow of oil coming from the United States to reinforce the deficit that would be left as a consequence of a Mideast crisis, I think, reflects less than a realistic examination of what might be the facts.

The facts indeed might be that we do not have adequate protection; the facts might be that we do not have an adequate policy.

My colleague makes reference to the aspects of the study commission and the change. In these times of deficits, the proposal—the advantage of the study group recommendation covered in the amendment is specifically with regard to a savings of approximately $500,000, inasmuch as the proposed study group in the amendment of the Senator from Alaska would require very, very little cost in comparison with the study group under the

Export Administration Act, which is a full-blown, highly paid task force to study the issues.

I think if my colleague will reflect on the merits of the amendment, the amendment is open for bipartisan examination on the merits of whether there are needed improvements or there are not.

Mr. President, I am prepared to accept whatever recommendation comes down. My colleague from Maryland would suggest that we not authorize the study, that there is no justification for it. I am suggesting, as a consequence of trips that I have made in connection with my position on the Committee on Foreign Relations as the chairman of the Pacific and East Asian Affairs Subcommittee, that, indeed, our military situation overseas is jeopardized. It is jeopardized specifically because we do not have nor have we addressed in detail what kind of policy we should have in this country if sources of oil in the Mideast that go to Korea are cut off.

Mr. President, I think this is a responsible amendment. I think it is germane to the military authorization bill before us, and I urge that my colleagues consider the appropriate merits of the amendment.

Mr. SARBANES. Mr. President, let me say to my distinguished friend from Alaska, first of all, that the amendment before us does not call for a study commission. Rather, it directs the President to make a report to Congress, a report or recommendation. But the President can make a report or recommendation tomorrow morning if he wants to. He can make it a month from now, he can make it 6 months from now. That is the first point.

Second, with respect to this amendment, the Senator asserts the defense and national security implications of the restriction in the Export Administration Act, but that restriction has many other implications as well. That is true of many of the issues covered by the Export Administration Act. Of course, previously, the study commission amendment was offered to the Export Administration Act.

Third, that amendment called for a separate commission to study this matter. There were assurances given of its objective nature, its independence, its impartiality, bipartisanship. There were factors listed to be considered—including, incidentally, the consumer factor which, of course, the Senator has dropped altogether in the review that he here calls for the President to make from the list of items to be considered.

In fact, it is instructive to compare the items listed for consideration when we were talking about an independent commission in the context of the debate on the Export Administration Act and the items listed here. The comparison is particularly instructive with respect to those that have been omitted.

Mr. MURKOWSKI. Mr. President, I cannot allow my friend from Maryland to assume that I am willing to drop the consumer test. Of course, that would be part of the study. I fail to understand why my friend from Maryland would not recognize the merits of this issue for what it is. It is a report to Congress. Congress can accept it or deny it. But if the viewpoint of my colleague from Maryland were to prevail, Congress would not even get the chance to determine or review the recommendations of the study group as proposed.

Mr. SARBANES. There is no study group in the Senator's proposed amendment to the defense authorization bill. The study group was contained in an earlier amendment proposed by the Senator, contained in the Export Administration Act legislation sent from the Senate and now in conference. That is the pertinent legislation with respect to this issue.

I know this subject is close to the heart of the Senator from Alaska and I understand that. But it is not appropriate to the defense authorization bill. We have considered this matter before, in the proper context, which was the Export Administration Act. An amendment was added to that bill calling for a study commission. There were provisions in that amendment for the powers of the commission, the nature of its members' appointment, the factors which they would look at. There were assurances given by the Senator as to the independence, objectivity, and impartiality of that study. If we want the content examined, that is the context in which to do it.

Mr. President, I submit to the Senator from Alaska that he has already obtained what I understood he was seeking; that is, the opportunity for a study group to examine this issue in the appropriate legislative context. Now we are facing yet another effort to add an amendment to an entirely different bill; this amendment does not cover the provision of the Export Administration Act, does not call for a study. I respectfully suggest to the Senator from Alaska that enough is enough and that his issue has been addressed. It was addressed in the proper context and I suggest that it ought not to be now confronting us on this bill. That is the matter, very simply put.

Mr. MURKOWSKI. Would my colleague, the Senator from Maryland [Mr. SARBANES], accept word for word the study group amendment on the Export Administration Act as supplemental to the military authorization bill?

Mr. SARBANES. I thought about that, Mr. President, because that goes to the question of the difference between what is here, which is simply a report, and the independent commission in the earlier amendment. My response to the Senator is that that provision is contained in the very legislation that addresses this question—the Export Administration Act. The provision the Senator is concerned about is a provision contained in the Export Administration Act, particularly section 7(d) of that act. When we sent the bill out of the Senate to conference, there was a provision in it calling for a study commission. It seems to me that is where it ought to be.

Is the Senate going to add that provision to every piece of legislation that comes through the Senate? It was added to the relevant, pertinent piece of legislation, the Export Administration Act, and we ought to let it works its way through that process. We ought to not seek to attach it to every piece of legislation that comes before us, as dear and close to the Senator's heart as this issue may be.

Mr. MURKOWSKI. My colleague did not respond to my question. He said he thought about it. It is kind of interesting to reflect that we have contacted the Banking Committee, and at least two individuals on the committee suggested that we go ahead and pursue our amendment on the military authorization bill with the reality that the status of the Export Administration Act might be such as the conferees might delay it substantially more than it has already been delayed. I think to reflect on the merits of what we have before us is what is important. My colleague from Maryland would make the case specifically that Congress should not avail itself of this proposed study, highlighting and emphasizing the specifics of the national security of our country and the obligation we have toward our military people overseas and their needs for crude oil. He would have you suggest that we not examine the merits of determining whether we have adequate protection and adequate provisions. My proposal is a much simpler one inasmuch as it does not require a large appropriation. It authorizes a Presidential study group report on the propriety of exporting crude oil outside the United States and, if so, under what conditions.

Why should we deprive ourselves of examining the merits of what could be a very critical situation. Let us go ahead and authorize the amendment, get the study underway, and look at the merits of it. Again, I remind my colleagues they have every opportunity, once whatever recommendation is made, to take action, to take no action, or act in any manner which they wish. But I think from the standpoint of national security, we have a responsible obligation to consider that our military dependence on Mideast crude oil sources. I am prepared to debate with the Senator from Maryland at length on the merits of our military needs overseas, and that is appropriate and it is germane to this legislation. This is a responsible amendment to the specific point of just what these requirements are and, if they are inadequate, what we should do to resolve them.

I attempted to be responsive and I think reasonable to the concerns of my colleague from Maryland. I have already modified the pending amendment in order to be responsive to his consideration, and I have also offered to substitute it with the same amendment that he supported on the Export Administration Act.

I have indicated earlier that there has been some concerns as to what this amendment may do, and it does nothing more than establish a Presidential report on the question of crude oil export. It is not a report recommending any change in our current policy regarding the prohibition on crude oil export outside the United States. I know that we have different points of view from our different States and our different interests as a consequence of various export policies. But my point is our national defense, and I think it is appropriate that this be the vehicle to address that. While I recognize we each have our constituent areas to which we must be responsive and address, I respectfully point out that I have no objection to airing the entire matter in a report to the Congress. I think that is in the best interests of a well-informed Congress. I fail to understand why my colleague from Maryland is reluctant to have this issue, which is specifically referred to in the amendment on the energy and national security of our Nation and its allies, examined in detail and reported to this body.

Mr. HATFIELD. Mr. President, I will not take but just a few seconds to indicate my concern about this amendment at this time. I would only reflect we had 6 hours of debate in the Senate on the subject that surrounds this amendment under the Export Administration Act. The Senator from Alaska offered that amendment, which was to make a decision on export policy, and it was defeated 70 to 20. Then the idea was raised as to the appointment of a commission to make this study with broad representation, and that was accepted by a voice vote, as I recall, by those of us who opposed the Senator from Alaska at that time. We have not had any word, at least that I have heard, from Senator Garn, the chairman of the committee, that he has yielded or given up on the possibility of resolving the conference committee matter. Because this matter has already been determined by the Senate, and such a commission has been set up through the Senate version of the bill, I do not see it as an appropriate action to take at this time on this bill.

Unless there is someone else who wishes to be heard, I will make a motion to table the amendment offered by the Senator from Alaska.

Mr. MURKOWSKI. If my friend from Oregon will hold for just a moment, I would like to make one correction. The vote was not an up-and-down vote on the merits. It was a tabling motion.

Mr. HATFIELD. The Senator is correct; it was a tabling motion, but I think it was pretty well understood that a vote to table at that time was pretty equivalent to a vote against the measure.

But that is a subject of interpretation. The Senator is correct, it was a tabling motion but it was a rather decisive vote of 70 to 20.

Mr. MURKOWSKI. The second point I should like to make, with the permission of my friend from Oregon, is whether he has had an opportunity to examine the proposed amendment. It is quite explicit in the question of the effect on the energy and national security of the United States as it applies to the security of our Armed Forces overseas. Those are in lines 16, 17, and 18.

I cannot help but be somewhat amused at—I do not make reference to my colleague from Oregon—the response of what is a simple amendment to be determined on its merits and the tremendous interest that this amendment has garnered as a consequence of my efforts to bring this to the floor as early as this morning and finding that there were at least six to seven informal holds on the amendment. One can only presume the rationale. But again in all due respect to my colleague from Oregon, I suggest this amendment is substantially different. It identifies a specific area that the other did not. For that reason, I think it warrants consideration at this time.

Mr. HATFIELD. Mr. President, I now move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. (Putting the question.)

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislation clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee [Mr. Baker], the Senator from Mississippi [Mr. Cochran], the Senator from New York [Mr. D'Amato], the Senator from Iowa [Mr. Jepsen], the Senator from Illinois [Mr. Percy], the Senator from South Dakota [Mr. Pressler], and the Senator from Vermont [Mr. Stafford], are necessarily absent.

Mr. BYRD. I announce that the Senator from Arkansas [Mr. Bumpers], the Senator from California [Mr. Cranston], the Senator from Connecticut [Mr. Dodd], the Senator from Nebraska [Mr. Exon], the Senator from Colorado [Mr. Hart], the Senator from Kentucky [Mr. Huddleston], the Senator from Ohio [Mr. Metzenbaum], the Senator from New York [Mr. Moynihan], the Senator from Rhode Island [Mr. Pell], and the Senator from Arkansas [Mr. Pryor], are necessarily absent.

If present and voting the Senator from Rhode Island [Mr. Pell] would vote "Yea."

The PRESIDING OFFICER (Mr. Simpson). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 29, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—54

Andrews
Baucus
Bentsen
Biden
Bingaman
Boren
Burdick
Byrd
Chafee
Chiles
Cohen
Danforth
DeConcini
Dixon
Domenici
Durenberger
Eagleton
Ford
Glenn
Hatfield
Hecht
Heflin
Hollings
Humphrey
Inouye
Johnston
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Mathias
Matsunaga
Melcher
Mitchell
Nunn
Packwood
Proxmire
Quayle
Randolph
Riegle
Rudman
Sarbanes
Sasser
Specter
Stennis
Trible
Tsongas
Warner
Weicker
Wilson
Zorinsky

NAYS—29

Abdnor
Armstrong
Boschwitz
Bradley
Denton
Dole
East
Evans
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Heinz
Helms
Kassebaum
Lugar
Mattingly
McClure
Murkowski
Nickles
Roth
Simpson
Stevens
Symms
Thurmond
Tower
Wallop

NOT VOTING—17

Baker
Bumpers
Cochran
Cranston
D'Amato
Dodd
Exon
Hart
Huddleston
Jepsen
Metzenbaum
Moynihan
Pell
Percy
Pressler
Pryor
Stafford

So the motion to table Mr. Murkowski's amendment (No. 3235) as modified, was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

Mr. TOWER. Mr. President, we expect that the next amendment to be offered will be an amendment by the Senator from Missouri, Mr. Eagleton, on JCS reform. We expect that will be followed by amendments in which the Senate, I think, will have enormous interest, amendments relative to Nicaragua by the Senator from Massachusetts, Mr. KENNEDY. We expect record votes through the evening.

At this point, I yield to the distinguished Senator from Maryland, Mr. MATHIAS, to present some distinguished guests.

Mr. MATHIAS. Mr. President, I thank the Senator from Texas.

Mr. TOWER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

## VISIT TO THE SENATE BY MEMBERS OF THE SUBCOMMITTEE ON CONVENTIONAL DEFENSE IN EUROPE OF THE NORTH ATLANTIC ASSEMBLY

Mr. MATHIAS. Mr. President, the Senate is honored this afternoon by the presence of members of the Subcommittee on Conventional Defense in Europe of the North Atlantic Assembly. This subcommittee is composed of members of the parliaments of NATO nations.

The chairman of this group is Sir Geoffrey Johnson Smith, of Great Britain. The other members are Mr. Enea Cerquetti, of Italy; Mr. José Desmarets, of Belgium; Mr. José Angelo Ferreira Correia, of Portugal; Mr. Erwin Horn, of the Federal Republic of Germany; Mr. Bo Kristensen, of Denmark; Mr. Karsten Voight, of the Federal Republic of Germany; and Mr. Arnold Weiburg-Aurdal, of Norway.

It is a great personal privilege to welcome them to the Senate today.

## RECESS UNTIL 5:22 P.M.

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so that Senators may meet our guests.

There being no objection, the Senate, at 5:20 p.m., recessed until 5:22 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SIMPSON].

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want the RECORD to show that I was unable to be here during the debate on the last amendment because we had an Ethics Committee meeting in executive session. I could not come to the floor at that time. I am saddened that the Senate has taken a position, as it did in this vote, that there was no need for a study of the question concerning the transportation of Alaskan oil in some instances to other ports. I hope that we will revisit this question again in the future. I think it will be a matter that will of necessity be required to be revisited.

I thank the Chair.

### AMENDMENT NO. 3167

(Purpose: To amend title 10, United States Code, to establish an improved system for providing military advice to the President, the National Security Council, and the Secretary of Defense, and to establish a National Military Advisory Council)

The PRESIDING OFFICER (Mr. TOWER). The Senator from Missouri is recognized.

Mr. EAGLETON. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. EAGLETON] proposes an amendment numbered 3167.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

IMPROVEMENT IN SYSTEM FOR PROVIDING MILITARY ADVICE TO THE PRESIDENT, THE NATIONAL SECURITY COUNCIL, AND THE SECRETARY OF DEFENSE

SEC. . (a) The Congress finds that—

(1) under current law, the Joint Chiefs of Staff are the principal military advisers to the President, the National Security Council, and the Secretary of Defense;

(2) since the creation of the Joint Chiefs of Staff a number of studies by so-called blue-ribbon commissions have found serious defects in the organizational structure of the Joint Chiefs of Staff; and

(3) in order to ensure that the President, the National Security Council, and the Secretary of Defense receive the best possible military advice, it is imperative that major organizational changes be made in the present system of providing such advice.

(b)(1) Chapter 5 of title 10, United States Code, is amended to read as follows:

"CHAPTER 5—CHIEF OF MILITARY STAFF

"Sec.
"141. Chief of Military Staff.
"142. Deputy Chief of Military Staff.
"143. Joint Military Staff.

**"§ 141. Chief of Military Staff**

"(a) There is a Chief of Military Staff who shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chief of Military Staff serves at the pleasure of the President for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(b)(1) The Chief of Military Staff is the principal uniformed military advisor to the President, the National Security Council, and the Secretary of Defense. While holding office, the Chief of Military Staff outranks all other officers in the armed forces. However, he may not exercise command over any of the armed forces or any component thereof.

"(2) Subject to the authority and direction of the President and the Secretary of Defense, the Chief of Military Staff shall—

"(A) prepare strategic plans and provide for the strategic direction of the armed forces;

"(B) prepare joint logistic plans and assign logistic responsibilities to the armed forces in accordance with those plans;

"(C) establish unified commands in strategic areas;

"(D) review the major material and personnel requirements of the armed forces in accordance with strategic and logistic plans;

"(E) formulate policies for the joint training of the armed forces;

"(F) formulate policies for coordinating the military education of members of the armed forces;

"(G) provide for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

"(H) perform such other duties as the President or the Secretary of Defense may prescribe.

"(3) The Chief of Military Staff shall also direct the operations of the Joint Military Staff.

**"§ 142. Deputy Chief of Military Staff**

"(a)(1) There is a Deputy Chief of Military Staff. The Deputy Chief shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Deputy Chief serves at the pleasure of the President for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(2) If the Chief of Military Staff is a member of the Army or Air Force, the Deputy Chief shall be a member of the Navy or Marine Corp. If the Chief of Military staff is a member of the Navy or Marine Corps, the Deputy Chief shall be a member of the Army or Air Force.

"(b) The Deputy Chief acts as Chief of Military Staff in the absence or disability of the Chief of Military Staff and exercises such duties as may be delegated by the Chief of Military Staff with the approval of the Secretary of Defense. When there is a vacancy in the office of Chief of Military Staff, the Deputy Chief, unless otherwise directed by the President or the Secretary of Defense, shall perform the duties of the Chief of Military Staff until a successor is appointed.

**"§ 143. Joint Military Staff**

"(a)(1) There is under the Chief of Military Staff a Joint Military Staff consisting of not more than 400 officers.

"(2) Members of the Joint Military Staff shall be selected by the Chief of Military Staff from among officers recommended by the Secretaries of the military departments. The Chief of Military Staff shall select officers for service on the Joint Military Staff in approximately equal numbers from (A) the Army, (B) the Navy and Marine Corps, and (C) the Air Force. The Secretary of a military department shall recommend for selection for service on the Joint Military Staff only those officers under his jurisdiction who are most qualified by training, experience, and knowledge to serve on such staff.

"(3) The Chief of Military Staff may specify the number of names on any list of officers recommended by the Secretaries of the military departments for selection to serve on the Joint Military Staff, but may select for service on the Joint Military Staff not more than one hundred officers who are not recommeded for selection by the Secretaries of the military departments.

"(4) Members of the Joint Military Staff serve at the pleasure of the Chief of Military Staff for a period of three years. The Chief of Military Staff may select an officer for service on the Joint Military Staff for a second consecutive three-year period after consultation with the Secretary of the military department of which such officer is a member.

"(b)(1) The Chief of Military Staff in consultation with the Secretary of Defense shall select the Director of the Joint Military Staff. Except in time of war, the tour of duty of the Director may not exceed three years. Upon the completion of a tour of duty as Director of the Joint Military Staff, the Director, except in time of war, may not be reassigned to the Joint Military Staff. The Director must be an officer junior in grade to each member of the National Military Advisory Council established under section 178 of this title.

"(2) The Joint Military Staff shall perform such duties as the Chief of Military Staff prescribes. The Chief of Military Staff manages the Joint Military Staff and its Director.

"(c)(1) Under regulations approved by the Secretary of Defense, the Secretaries of the Military departments shall take such actions as may be necessary to ensure that the service of officers on the Joint Military Staff is accorded substantial weight in determining the qualifications of officers for recommendation for promotion to grades specified by such Secretaries.

"(2)(A) At the same time that selection boards are convened by the Secretary of the Military department concerned under chapter 36 of this title to consider officers in a particular competitive category for promotion to the grade of lieutenant colonel, colonel, brigadier general, or major general in the Army, Air Force, or Marine Corps or to commander, captain, commodore admiral, or rear admiral in the Navy, the Secretary of such military department shall also convene a special selection board under this paragraph if the Chief of Military Staff so requests.

"(B) When a special selection board is convened under this paragraph, the board shall consider for promotion to the next higher grade only officers serving on the Joint Military Staff in the same grade and in the same competitive category as officers being considered for promotion to such grade and in such competitive category by a board convened under chapter 36 of this title and who are otherwise eligible for consideration for promotion to the next higher grade.

"(C)(i) Of the total number of officers in each particular competitive category in the grade of lieutenant colonel and colonel in the Army, Air Force, and Marine Corps and in the grade of commander and captain in the Navy to be promoted to the next higher grade, as determined by the Secretary of the military department convened under section 615 of this title, a number of officers considered for promotion to such grade in such competitive category equal to 3 percent shall be promoted to such next higher grade from among officers in such competitive category recommended for promotion to such grade by a special board convened under this paragraph.

"(ii) Of the total number of officers in each particular competitive category in the grade of brigadier general in the Army, Air Force, or Marine Corps and commodore admiral in the Navy to be promoted to the next higher grade, as determined by the Secretary of the military department concerned under section 615 of this title, a number of officers considered for promotion to such grade in such competitive category equal to 10 percent shall be promoted to such next higher grade from among officers in such competitive category recommended for promotion to such grade by a special selection board convened under this paragraph.

"(iii) The number of officers that may be selected for promotion to any grade in any competitive category by a selection board convened under chapter 36 shall be reduced by a number of officers equal to the number that is to be selected for promotion to such grade in such competitive category by a special selection board convened under this paragraph.

"(D) Special selection boards convened under this section shall be subject to the provisions of chapter 36 of this title to the extent practicable, as determined by the Secretary of Defense. The provisions of this paragraph shall be carried out in accordance with regulations prescribed by the Secretary of Defense.".

(2) The table of chapters at the beginning of such title and at the beginning of subtitle A of such title are each amended by striking out the item relating to chapter 5 and inserting in lieu thereof the following:

"5. Chief of Military Staff—141."

(c) Chapter 7 of such title is amended by adding at the end thereof the following new section:

**"§ 178. National Military Advisory Council**

"(a) There is established in the Department of Defense a National Military Advisory Council. The Council shall consult with and advise the Chief of Military Staff on all matters with respect to which the Chief of Military Staff is responsible.

"(b)(1) The Council shall consist of four senior military officers, one each from the Army, Navy, Marine Corps, and Air Force, to be appointed by the President, by and with the advice and consent of the Senate. Before making an appointment under this subsection, the President shall consult with the Secretary of Defense and the Chief of Military Staff regarding the appointment. Only officers having outstanding qualifications, including substantial joint or unified command experience, shall be eligible for appointment to the Council.

"(2) Officers shall be appointed to the Council for a term of two years and may be reappointed in the same manner as originally appointed for not more than three additional terms, except that in time of war declared by the Congress there is no limit on the number of reappointments.

"(3) Officers appointed to the Council may not be assigned any duties other than those referred to in subsection (a) and may not exercise any command authority in any armed force.

"(c) Only the most experienced and outstanding members of the armed forces may be appointed to the National Military Advisory Council. Notwithstanding any other provision of law, a member of the armed forces may not serve on active duty after completion of his term or terms on the council, except that such restriction may be waived by the Secretary of Defense in the case of any member in time of war declared by the Congress.".

(d)(1) Section 171 of title 10, United States Code, is amended by striking out clause (7) and inserting in lieu thereof the following:

"(7) The Chief of Military Staff;".

(2) Section 264 (b) of such title is amended by striking out "Joint Chiefs of Staff" and inserting in lieu thereof "National Advisory Council".

(3) Section 268 (c) (2) of such title is amended by striking out "Joint Chiefs of Staff" and inserting in lieu thereof "National Advisory Council".

(4) Section 525 (b) (3) of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(5) Section 743 of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(6) Section 5081 (b) of such title is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(7)(A) Section 413 of title 37, United States Code, is amended by striking out "Chairman of the Joint Chiefs of Staff" and inserting in lieu thereof "Chief of Military Staff".

(B) The heading for section 413 of such title is amended to read as follows:

**"§ 413. Chief of Military Staff".**

(C) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chief of Military Staff.".

(8) Section 411 (a) of title 38, United States Code, is amended by inserting "or Chief of Military Staff" after "Chairman of the Joint Chiefs of Staff" in footnote 2 of the table contained in such section.

The **PRESIDING OFFICER** (Mr. SIMPSON). The Senator from Missouri is recognized.

Mr. **EAGLETON**. Mr. President, this amendment would address and remedy one of the most serious problems plaguing our national defense: the performance of the Joint Chiefs of Staff. It is identical to S. 2485, legislation which I introduced on this subject on March 28, with the exception of one provision which I have deleted in response to comments of Senator Stuart Symington and Gen. David Jones, two leading advocates of JCS reform.

I do not pretend to have discovered this problem; quite the contrary. As R. James Woolsey, former Under Secretary of the Navy, has written, "The weakness and lack of influence of the Joint Chiefs is one of the Pentagon's less well-kept secrets." The problems date back to the original compromise creating the Joint Chiefs of Staff in 1947. The organization of JCS has been the subject of an almost endless series of critical studies—20 in 35 years—by blue-ribbon panels inside and outside DOD. Former Secretary of Defense Harold Brown summarized his view, and the conclusion of virtually every study, when he observed:

> Service conflicts over roles and missions are a major source of waste and duplication; even worse, they hamper military effectiveness . . . Unfortunately, as now constituted, [the JCS and the Joint Staff] are unable to resolve such issues. . . .
>
> It should be clear that the service chiefs, who now together with the Chairman of the JCS, constitute the JCS, have a built-in and insuperable conflict of interest. They have responsibilities for operating their services and the loyalties and internal pressures on them to stand up for their service positions are very strong.

This is a fundamental, inescapable flaw in the system. Despite the great abilities of the officers involved, the Joint Chiefs of Staff as an organization does not work. Their deep, understandable, and admirable commitment to the respective service which they lead make it impossible for the chiefs to set aside their service perspectives to effectively discharge their joint responsibilities.

According to the studies, the Chiefs' conflict of interest makes effective joint planning of strategy and a thoughtful allocation of resources and responsibilities impossible. The tradition that JCS advice be unanimous—giving each service a veto over JCS advice—reduces that advice to negotiated pablum, rather than the crisp, well-reasoned assessment of the problems and options which the Secretary of Defense and the President are entitled to expect from their principal military advisers.

John Kester, Secretary Brown's Special Assistant and Deputy Assistant Secretary of the Army during the Nixon administration, has observed:

> When I worked in the Secretary of Defense's Office, I was surprised that memoranda from the Joint Chiefs of Staff were not the crisp assessments of situations and options one might expect. They more closely resemble the contract for sale of your house, with numbered lines and carefully drafted circumlocutions designed to protect bureaucratic interests and conceal compromises.

Gen. David Jones, former Chief of the JCS, whose willingness to criticize the organization sparked new interest in the issue, put it this way:

> When the Chairman or the other members of the Joint Chiefs gave their own personal advice, it was given high marks. But when it became corporate advice, of five people together, it was of very little use, not very influential, and given very poor marks by the customers, the civilian leadership, as well as the senior military officials.

The organizational failings of the JCS leave our defense effort with a profound vacuum at the top where joint strategy, contingency planning, and budgeting and allocation of resources are involved. The distinguished retired Gen. Andrew J. Goodpaster has testified:

> Although the Joint Chiefs of Staff bear only part of the responsibility [for the lack of] a coherent, effective defense policy, military strategy and military posture . . . they bear an important part . . .
>
> The contributions to increased military efficiency and effectiveness that could be made through improved toplevel military planning and advice are not being realized. In particular, the mechanisms for developing and advancing individual service interests and promoting individual weapons systems are stronger by far than those for providing coherent overall strategic plans and responding to overall national security interests and needs . . .

It is not necessary for us as Members of Congress to look hard for the adverse consequences of the current organization with respect to the defense budget. We know full well that the military is not making the hard choices between weapons which an effective joint system could help to produce. As former Defense Secretary James Schlesinger wrote in a recent call to reorganize the JCS:

> The reality of the nation's defense problem is that we seek to achieve security with an economy . . . of national treasure. Little help can be provided through the existing structure.
>
> The general rule is that no service ox may be gored . . . The unavoidable outcome is a structure in which log-rolling, backscratching, marriage agreements and the like flourish . . .
>
> What comes up from the Joint Chiefs is a mutual endorsement of the individual desires of the several services. There is no crosscutting—nor, given the nature of the structure, can there be any crosscutting. As I generally have been a supporter of the top dollar for the military services, I believe I can say that the dollar requests are invariably so high that they cannot conceivably be sustained by the national consensus.

The present JCS system has taken its toll operationally as well. According to Dr. Schlesinger, "the existing structure does impede planning, for each of the services quite naturally wishes a piece of the action in any crisis—and the existing structure assures that all somehow will be fitted in, even if a service provides less than optimal forces for dealing with that particular crisis." Robert Komer, Ambassador and former Under Secretary of Defense, has provided a specific example:

> I was unable to get a corporate view from the Joint Chiefs of Staff on the optimum strategy for deterrence and defense in the Persian Gulf.
>
> That doesn't mean that each of the Chiefs didn't have some clear ideas on what to do. Some of them emphasized a maritime strategy. Some of them emphasized victory through air power. Others emphasized sending a lot of divisions. But there was no way which would permit them to give meaningful military advice to the Secretary of Defense institutionally as to how best to defend Persian Gulf oil.

Experience teaches what logic would suggest: the weaknesses resulting from the lack of an effective joint mechanism—and the dangers inherent in the "something for every service" approach—do not disappear when actual combat situations occur. Instead, they are exacerbated. Consider the following:

The Vietnam war: According to former JCS Chairman Jones, "the organizational arrangements were a nightmare; for example, each service fought its own air war."

The Iranian hostage rescue attempt: Air Force helicopter pilots, who had flown in Vietnam and were specially trained for hazardous overland missions, were passed over in favor of marine pilots who were clearly less qualified. The overriding consideration was, apparently, ensuring that the marines would have some role to play in the important missions.

The tragedy at the marine compound in Beirut: Marines found themselves at the bottom of an unwieldy chain of command headed by an Army general, then Air Force general, and then four levels of Navy officers. The Defense Department's own Long Commission reported apparent and understandable confusion about who actually was the senior commander of the U.S. multinational force in Lebanon. The Navy commander of the Amphibious Task Force was the Commander, U.S. Forces Lebanon. The Marine commander of the Amphibious Task Force was the Commander, U.S. Forces Ashore Lebanon. The Commission sharply criticized the entire chain of command for not "initiating actions to effectively insure the security" of the marine compound.

Even beyond the fundamental problem of conflict of interest which arises from "dual hatting," the time demands placed on the Chiefs are unreasonable. Leading one of the armed services is a more than full-time responsiblity by itself, without the distraction of joint responsibilities. Inevitably, the need to play two roles can undermine the performance of one or the other—or both. General Jones has observed:

> Omar Bradley once said he didn't have time to do both jobs well . . . Things are much more complex now than they were in his time . . . It is very difficult to have enough time to immerse oneself deeply into joint issues and to do the job as the chief of a service . . .

Because JCS is not respected as an organization, and because the service interests of the services take precedence over the joint interests generally, the quality of the joint staff suffers. Many experts have observed that the services are unwilling to assign their best officers to joint service, and as John Kester, has noted that, "talented officers approach service on the joint staff with the enthusiasm of sailors ordered to chip paint." They recognize that the JCS does not play a significant role and that the assignment will not advance their careers. Something of a vicious cycle results: The quality of JCS advice is not good and a joint staff assignment lacks luster; the best officers do not come to the joint staff; and therefore the quality of the JCS advice declines even further.

In 1960, Senator Symington chaired a Committee on the Defense Establishment for President-elect John Kennedy. That committee, which included Clark Clifford, Thomas K. Finletter, and Roswell Gilpatric, reported to the President-elect:

> The predominance of service influence in the formulation of defense planning and the performance of military missions must be corrected. At present, defense planning represents, at best, a series of compromised positions among the military services. Action by the Joint Chiefs of Staff takes place, if at all, only after prolonged debate, coordination and negotiation between the staffs of the three service chiefs in preparing them to represent the points of view of their services in the Joint Chiefs of Staff.
>
> No different results can be expected as long as the members of the Joint Chiefs of Staff retain their two-hatted character, with their positions preconditioned by the service environment to which they must return after each session of the Joint Chiefs of Staff. Nor can the Joint Staff become fully effective in developing the basis for clear military judgment unless the present degree of influence exercised by separate service thinking is sharply reduced.
>
> In short, there is a clear need for defense interest, rather than particular service interest.

What is striking about the 1960 Symington report is that the words are as true today as they were then, but the indictment is far more serious. We have lost the clear military superiority over the Soviets which we had in 1960; we face the need to prepare for a variety of military contingencies far more numerous and complex; our budget problems and economic difficulties are far more acute. We will never again have the time to compensate for our lack of preparedness if a war should start. We simply cannot afford the luxury of a JCS which has been found again and again and again to be completely unsuited to the awesome responsibilities which it should be addressing.

In 1982, 22 years after his original report, Stuart Symington returned to Capitol Hill to remind Congress that "for over 30 years, various studies have presented why the present setup of the Joint Chiefs of Staff is wrong"—a "grave danger to our national security." He went on to conclude:

> If the Congress itself in its wisdom would correct this archaic setup, it might well avoid financial deterioration; better still, reduce the chances of the white light of a hydrogen Armageddon.

Since Senator Symington's testimony, I have thought about the impact that the failings of the JCS have on military operations, planning and budgeting. There is no single "magic bullet" that will solve all our defense problems overnight, but I am convinced that fundamental change of the JCS is as important as any single step we could take. On May 31, 1983, I wrote to Senators TOWER and JACKSON, chairman and ranking minority member of the Armed Services Committee, setting forth my views on this issue, urging them to take the lead in remedying the failings of the Joint Chiefs of Staff. I am gratified that Senator TOWER has included JCS organization among the DOD management issues the committee is reviewing. Because I feel so strongly that revamping the JCS is absolutely critical, I decided to offer this amendment to help spur the debate and lay out one way in which the failed system can be changed. Here in essence, Mr. President, is what my amendment would do:

It would abolish the Joint Chiefs of Staff, replacing the corporate entity with a single Chief of Military Staff who would serve as the principal military adviser to the President, Congress, and the Secretary of Defense.

It would create a Deputy Chief of Military Staff, also to be appointed by the President and confirmed by the Senate. If the Chief came from the Army or the Air Force, the Deputy would come from the Navy or the Marines, or vice versa.

It would establish a National Military Advisory Council [NMAC], comprised of four officers drawn from the respective services, to advise the Chief of Military Staff. Unlike the present situation, however, the members of the NMAC would not be the chiefs of their services. In fact, the legislation envisions that the NMAC would be the last tour of duty for particularly distinguished, senior military officers who would not be returning to their services—except in cases of necessity during a declared war.

In this way, hopefully, the Chief of Military Staff could get the advice of senior officers of unquestioned stature who would be in a position to consider our overall defense picture, rather than the interests of a particular service.

Service on the Joint Staff would be upgraded in several ways. The legislation specifies that the Secretaries of the services should recommend only outstanding officers for joint service. To underscore the importance of the assignment, the legislation would give the Chief of Military Staff the authority to select up to 100 others who were not recommended by the services. Special provisions are made to insure that service of the joint military staff will be accorded substantial weight in considering promotions. If the Chief of Military Staff requested, a service secretary would be required to convene a special selection board to consider promotions for officers of the joint staff, at the same time that the selection boards were considering promotions for those officers in individual services, and a percentage of the vacancies would be set aside for officers being considered by the special board.

Those are the essentials of the amendment.

Those who favor serious reform of the Joint Chiefs of Staff have fallen into one of two camps. My amendment represents one school of thought which argues that because the conflict of interest arising from "dual hatting" is the essence of the problem, we should eliminate the services chiefs from their joint responsibilities. Many noted defense experts—civilian and military—have endorsed this view, including Harold Brown, Gen. "Shy" Meyer, Gen. Maxwell Taylor, and David Packard. Others, seeing the same problem, argue that reform would be more realistic—and encounter less resistance—if the chiefs retained their position on the JCS, while the Chairman's role was significantly strengthened.

While I strongly prefer the alternative presented by my amendment, the overriding imperative is serious reform soon. If the Senate, now or on separate legislation, endorsed JCS reform which centered on strengthening the Chairman, I would certainly support that effort. I hope that the Senate will recognize that while the two groups favoring reform split on the proper role for the service chiefs, a consensus has formed about major elements of a reform package; namely, making one officer the principal military adviser to the President, the Secretary of Defense, and the NSC; allowing that officer to direct the activities of a strengthened joint staff, with incentives to make joint service more attractive; and creating a 4-star deputy chief to the chief military officer to discharge his responsibilities.

Last October, the House approved legislation, H.R. 3718, making certain changes in the JCS structure. Last month, the House added H.R. 3718 to its version of the defense authorization bill, insuring that the issue of JCS reorganization will be facing the conferees on this bill.

In my view, Congress and the country owe a debt of gratitude to the House Armed Services Committee for its work on this issue. In 1982, the House Investigations Subcommittee, then chaired by Congressman White of Texas, held 15 days of hearings. Their witness list was a virtual "who's who" of national defense in America; they heard from civilian and military experts on both sides of the issues. The subcommittee raised the level of public and congressional understanding immeasurably, and followed up energetically with legislation in this Congress under the leadership of Congressman NICHOLS.

It seems to me that the House action presents the Congress with an opportunity, but also a danger. Not since

1958 has Congress focused seriously on the issue of JCS. Realistically, once we legislate, any changes made are likely to stay in effect for years. For that reason, reform must be accomplished soon, but it must be done right, through legislation which will stand the test of time.

While I admire the leadership of the House committee on this issue, I believe that the House legislation does too little and too much at the same time.

It does too little in just those areas where a consensus on the need for reform seems to have emerged: The legislation does not create a deputy chairman; it does not give the Chairman the sole authority for directing the activities of the Joint Staff; it does not explicitly make the Chairman the principal military adviser to the President, the Secretary of Defense, and the NSC.

At the same time, the House legislation goes too far by straying into two sensitive and dangerous areas. The House makes the Chairman of the Joint Chiefs of Staff a member of the National Security Council. It also places the Chairman, by statute, in the chain of command, specifying that orders to combat commands shall be issued by the President or the Secretary through the Chairman.

These are far-reaching changes. Under current law, the Joint Chiefs have staff, not command, duties. "Their function," President Eisenhower reminded Congress, "is to advise and assist the Secretary of Defense."

By placing the Chairman on NSC, the House legislation makes him a coequal with the Secretary of Defense—not his foremost military adviser. John Kester, who has given these issues as much thought as anyone, has predicted these consequences:

> It gives the Chairman another hat, as they say in the military. It gives him a statutory office which is not derivative from the Secretary of Defense. It takes little foresight to predict that some day, if only because of the relentless pressure of his subordinates (who are not malevolent, but simply behave like any other official's subordinates), the Chairman will have a staff to assist him in preparing for his participation in the National Security Council, and for developing his NSC positions.
>
> . . . such a separate role would encourage barriers (there are already enough of them at the staff level) between the Chairman and the Secretary of Defense. When queried by the Secretary of Defense, or more likely by one of the Secretary of Defense's staff such as the Undersecretary for Policy, the Chairman's staff will politely reply that what the Chairman does in his role as an NSC member is independent, and is none of the Secretary's business. It is already difficult enough to get the rest of the government to understand that the JCS is part of the Defense Department and that the Chairman by law does work for the Secretary of Defense. No legislation is needed to enhance the problem.
>
> This totally unnecessary addition of role (unnecessary because the Chairman is in attendance and available at all NSC meetings anyway), can do nothing but work mischief. No coherent argument in support of such a change has been advanced; the best thing that proponents say for it is that it may be harmless. That is no basis on which to alter one of the most important and delicate organizational balances in our government.

Placing the Chairman in the chain of command represents an even more fundamental change. The House has amended the longstanding law that prohibits the Chairman from commanding the Armed Forces. The legislation inserts the Chairman into the chain of command between the Secretary of Defense and the nine worldwide commanders. Every order from the President and the Secretary of Defense would have to go through the Chairman. The Defense Department's counsel to the Congress that the legislation would vest him with supreme military command in his own right as a single military leader of all American combat units.

Harold Brown has testified to the Senate Armed Services Committee about his misgivings about putting the Chairman in the chain of command: That it is unnecessary and simply invites others to circumvent the Secretary of Defense. John Kester has elaborated on the dangers:

> The issue is whether one military officer should develop his own policy, channel all civilian orders and direct all American forces around the world . . .
>
> What the House ignored is that civilian-military relationships rest on delicate and crucial balances that are of constitutional dimensions and are not to be altered needlessly.

In my view, then, the House legislation is the wrong way to go. The dangerous departures outweigh the worthwhile reforms by a considerable margin. But the flaws in the House legislation do not change the fact that JCS reform remains fundamentally needed. Both my amendment and the reform proposals of General Jones demonstrate that meaningful reform can be accomplished—and should be accomplished—without shifting the country's chief military officer from an advisory position to a command position. Hopefully, those who oppose the idea of JCS reform will focus their arguments on the concepts presented in this amendment, or General Jones' proposal, and not the worst provisions of the House plan.

We face many genuinely intractable problems with respect to our national defense. We need to find a way to insure quality and control costs in weapons featuring state-of-the-art technology. We need to somehow stop the Soviets from acquiring our critical military technologies, which have proven to be such a major asset to their military buildup, without imposing unfair burdens on our business community or dangerous restraints on our scientific community. We must find a way to equitably share the burden of national defense with our European allies and Japan at a time when our military allies are our most serious economic competitors.

The organization of the JCS stands in stark contrast to these other problems: While vitally important to our national defense, it is completely within our control. We can make changes needed to fundamentally improve our military posture if we have the will to do so. One of the great values of a free society is that we face our problems openly. But that great asset can become a liability when we identify, beyond a shadow of a doubt, critical failings in our defense establishment and let them fester year after year. I shudder to think how reassuring it must be to the Soviet Union to have read 20 studies in the past 35 years pointing out the major failings of the Joint Chiefs of Staff. How can we ask our citizens to give up needed domestic programs, or to assume new tax burdens, or to give up potentially lucrative trade opportunities, or even to serve in the military if Congress is unwilling to take some relatively simple steps needed to fundamentally strengthen our national defense, simply because reform would step on the toes of the affected services?

One final point. On June 10, Secretary of the Navy John Lehman, writing in the Washington Post, launched a scathing attack on the House bill and the whole concept of JCS reform. For reasons noted above, I share Secretary Lehman's concern about some of the House provisions. I completely disagree with the rest of his article in which he equates JCS reorganization with the specter of a German-style general staff, threatening the very foundations of civilian control of the military.

This is an old argument, and in my judgment, a red herring. Obviously, in any reform we undertake, we must be vigilant about maintaining the tradition of civilian control of the military which is essential to the way our democracy—and any democracy—functions. I oppose the House legislation because I believe it tampers excessively with the civilian-military balance.

But I think that the issue—like so many that we face in Congress—is one of trying to strike a realistic balance—and not being afraid to make needed changes because of a worst-case, doomsday scenario. We have a serious problem amply documented over decades: The service interests have prevailed over the joint interest and prevented coherent budgeting, planning, and operations for the overall defense needs of the country. The quality of military advice to the Secretary of Defense, the NSC, and the President is not what it should be. That is the reality we deal with. Our commitment to civilian control of the military does not require us to leave the present failed system intact. As Mr. Kester has written:

> Inefficient organization is one way of keeping the military under control, but surely not the only way, especially for a military with a tradition of loyalty as ours.

General Jones has pointed out that the British, after whom we modeled our JCS, have recently moved to strengthen their chief of defense staff to enhance effective integration of their defense capabilities—"secure in the knowledge that their democratic traditions will not be threatened." Other experts have noted that since 1947, many power centers in our Government have developed to hold any military staff in check: The Assistant Secretaries of Defense, the State Department, the Arms Control and Disarmament Agency, the staff of the National Security Adviser, and the CIA. With these realities in mind, Harold Brown has described the fear that JCS reorganization would produce "something analogous to a German general staff * * * as completely baseless." Or as James Woolsey, former Under Secretary of the Navy, has written more graphically:

> We can afford to move several light years toward military staff centralization before we come within any distance of Prussianism. The United States is about as close to having a Prussian style general staff today as it is to having a dictatorship of the proletariat.

Secretary Lehman is entitled to his view that JCS reform "is usually pushed by a coalition of civilian arm chair strategists, who don't really understand the Pentagon bureaucracy, and by uniformed military staff officers, who understand it too well." Into the first category, Secretary Lehman would apparently put: Harold Brown, James Schlesinger, David Packard, Elliot Richardson, Mel Laird, Robert Komer, Clark Clifford, Stuart Symington, Roswell Gilpatric, James Woolsey, John Kester, and Brent Scowcroft. Into Secretary Lehman's second category would fall the following Generals: David Jones, "Shy" Meyer, Andrew Goodpaster, Maxwell Taylor, James Gavin, Omar Bradley, and Dwight D. Eisenhower. All these men have identified themselves with the cause of JCS reform. I have been persuaded by their collective wisdom, even after reading Secretary Lehman's article.

Mr. President, the amendment I have introduced today may not be the best answer. But it is long past time that we commit ourselves to finding the right answer to what Dr. Schlesinger has called "the central weakness—perhaps the Achilles' heel—of the existing system" of military decisionmaking. It is astonishing and depressing that Congress and successive Presidents have failed to rectify weaknesses almost universally diagnosed and perceived to be extremely detrimental to the defense of the Nation.

Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I thank the Senator from Missouri for having a deep enough interest in this matter to take a legislative initiative on the question of the reorganization or reform of the Joint Chiefs of Staff. I think that there are a number of us who have recognized for some time the need for reform. The great difficulty is trying to agree on what form reform should take.

Being concerned about not only the JCS problem, but the whole business of the organization and procedures of the Department of Defense and the Joint Unified Command, at my direction last summer, in cooperation with our late lamented colleague, Senator Jackson, who was at that time the ranking member of the Armed Services Committee, we directed the staff to make an extensive study. We undertook to hold hearings on this matter of reorganization. That includes the JCS, but goes far beyond that.

We had some 12 hearings and listened to some 31 witnesses. In addition to that, the staff had a great number of staff interviews, perhaps numbering in the hundreds, and made a lot of inquiries of their own. The result was that they produced a rather comprehensive review and a lengthy report which has been submitted to Senator NUNN and myself.

We have studied this very voluminous study and report. It is our intention in late July, when we return from the Fourth of July recess, to convince the Armed Services Committee to consider legislation that would effect some fairly comprehensive reform.

While I feel that the Senator from Missouri has done us a service in focusing on this problem, Mr. President, I suggest that we perhaps should not act on this measure at this time but await action of more comprehensive nature that will certainly include as one of its priority elements reform of the Joint Chiefs of Staff.

While I agree with some of the observations of the Senator from Missouri, I do have some concerns with his proposal. I believe that a great deal of power would actually be divested of the Secretary of Defense and, I think, would tend to militate against our tradition of civilian control of the military.

But that is a debate we can get into at another time if necessary. I hope that the Senator from Missouri would give some consideration to waiting until we can deliberate in committee on more comprehensive reform and contribute his ideas to that effort and his interest can be manifest in action on the floor on that measure at that time.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, because it is so important, may I ask the chairman, if he does not mind, to repeat his intentions regarding this JCS reform. The chairman and I have worked together very carefully in this area. We have an excellent staff report that gives us a tremendous number of points which need to be considered and also a large number of options that have been testified to and advocated by several witnesses before our committee. If we could get a firm outline about the possibility of addressing this very important legislation in the committee, I think it not only would be significant to my friend and colleague from Missouri, who has taken a lead in this area—and I commend him for that—but also it would be very important to us in the conference. As the chairman has already observed, we do have a House bill sponsored by Congressman NICHOLS which we will be addressing in conference. I think we are going to need to have some firm idea about our own plans in this respect in trying to prepare for that conference.

Mr. TOWER. I will be glad to accommodate the distinguished ranking member by reiterating what I said earlier, and that is that in the interim period between the July 4 recess for the Democratic Convention and the recess for the Republican National Convention, a period of 3 weeks of legislative days, it is my intention, which has been endorsed by the ranking member, to begin deliberations in the committee on legislation aimed at comprehensive reform of the JCS, the OSD, the Joint Unified Commands, and other aspects of the organization of the Pentagon that we feel should be addressed.

Mr. NUNN. So, if we are able to complete the conference report on this bill before the July recess, as the chairman desires—and certainly I share that hope—we would be able to turn our attention in the committee to an intensive look at this legislation at the end of July?

Mr. TOWER. The Senator is absolutely correct. And that is an additional incentive for conpletion of the conference report before we break for the July 4 recess.

Mr. NUNN. We will be able to make it the top item for our committee during July.

Mr. TOWER. That will be our priority effort then.

Mr. NUNN. And hopefully get a bill out that would reflect our consideration of the House bill plus any amendments or changes we might make. And if that House bill, as amended, or a new Senate bill comes out of the committee before the end of July recess, before the Republican Convention recess, I might call it, then we would have a reasonable opportunity perhaps of bringing that up on the floor in September.

Mr. TOWER. Of having a reasonable chance of acting on it in September.

Mr. NUNN. I thank the chairman. Mr. President, I again commend the Senator from Missouri for taking the lead in this for about a year and a half. The Senator from Missouri has been very interested in this matter and he and I have had discussions. He has corresponded with me. He has brought this to the attention of our colleagues in a very articulate and forceful way. I do not agree with all of the provisions the Senator from Missouri has in his amendment, nor do I agree with everything in the House bill, but I do think the Senator from Missouri has greatly assisted and provided the catalyst for our consideration in the Senate.

I hope all of our colleagues will review carefully what the Senator from Missouri has said today and they will begin to focus on this as an important issue. I do not know of anything more important, frankly, that we face in the whole defense arena. One of the most frustrating things about our budget cycle, of all the processes we go through, is debating the authorization bill and coming back with the appropriation bill and preceding that by a budget debate on defense. We really are so caught up in the budget cycle we do not have time in the committee to give the attention that this kind of structural subject deserves and in fact demands.

I do want to point out to the Senator from Missouri that we have an excellent staff report which Senator TOWER and I have examined. I have been over it thoroughly once, and I anticipate going over it again before our committee deliberations in July. I commend it to the attention of all members of our committee and other interested Senators. It does not make recommedations, but it points out options that are available and gives the pro and con arguments on the various options. So that is an enormously useful document and I think this discussion today will be very helpful in our committee deliberations.

The House has several provisions with which I agree in their bill. They have several provisions with which I do not agree. We are going to have an interesting time in conference. I am hoping our House colleagues will accept the statement of intent by the chairman to deal with this subject in July and that we can deal with and complete it this year both in the House and in the Senate. If we do, I think this will serve as a landmark year in terms of looking at the organization of not only the JCS but the Department of Defense itself, our unified commanders, our planning process, our procurement processes, our budgeting process, all of which are of enormous importance. The only critique I have in general of the House approach is that they dealt with just the JCS part of the reform. They have not dealt with the more comprehensive parts. While I think the JCS may well be the most important, to deal with that without dealing with DOD and without dealing with the unified command in a very broad way is to isolate the problem beyond what overall is required.

So, Mr. President, I commend again the Senator from Missouri for taking this action, and I do assure him that I will work diligently on this side of the aisle to see that we have a bill for the Senate's consideration on this subject in early September.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I compliment and thank my friend from Missouri for a very obvious and deep understanding of the problem that has prevailed in the Joint Chiefs almost since its inception. I will not take much time of the Senate. But this has been of particular interest to me ever since the 1947 meeting when we set up the Joint Chiefs, we set up the different services with their Chiefs. The main reason we set up the departments was to do away with conflict of interest, to establish roles and missions, but instead of doing away with it, Mr. President, we seem to have in a way emphasized them a bit more. As the Senator from Missouri noted, some of the roles have not been understood, some of the roles are superseded or replaced by other services. He mentioned several in particular. For example—and this is not said in any way to indicate any feeling against all of this—we have four different Air Forces in the United States. We actually now find ourselves with other services interested in ships than just the Navy. So it goes on and on and on. I do not care how carefully we select these men to be Chiefs of their outfits; their loyalty is with that outfit, and when they represent their outfits on the Joint Chiefs of Staff I think it is only natural they would carry over some of this loyalty to the Joint Chiefs. I say to my friend from Missouri that this is not going to be an easy task. This is a task that the Armed Services Committee through the leadership of Senator TOWER and Senator NUNN have devoted many, many, many days and hours in the past 2 years to studying. Many of us have done it on our own. For example, when I took my training at air war college, I discussed this problem.

It is not a problem that is inherent in or particularly confined to the American system. All through military history this has been a basic problem.

Someone might suggest that one solution could be for a man like Napoleon or a man like Wellington to run the whole show. That is not the way we think it can be done best.

I do not know whether Senator NUNN will be chairman of the Armed Services Committee next year or whether I will be, but I think I am perfectly safe in saying that, whether he is chairman or I am chairman, this is a subject that is going to receive very deep study and, it is hoped, some resolution, so that our military services not only can perform better in military decisions, but also, just as important to me, perform better in procurement.

I am a great believer that procurement can be improved, and improved immensely, in our armed services if we merely pay attention to a simple, little thing like management. Today, not just under the Joint Chiefs but under the services, we pull some young major or lieutenant or lieutenant colonel out and say, "We want you to go to XX factory, and you'll be there 2 or 3 years, and during that time you're going to manage a multimillion-dollar or multibillion-dollar program." Then, the inherent desire of this man is to go back to his service, to get back in operation.

Somehow, in our studies and our discussions—and I have already started this—we will have to develop the management type as well as the operations type, a man who can take a program such as the X-15 and follow it through, until we have absolute perfection in the purchasing of that particular piece of equipment.

If there has been one glaring weakness in our whole procurement system, it has been in the management system. I have had some preliminary discussions of this problem. I think it can be solved, but first we have to overcome some of the problems inherent with the Joint Chiefs of Staff. By the very nature of human beings and human nature, there is not much we can do about it.

Mr. NUNN. Mr. President, will the Senator yield for an observation?

Mr. GOLDWATER. I yield.

Mr. NUNN. I agree with most of what the Senator from Arizona has said. I should like to pursue one point, because this business of managing the procurement system is enormously important.

As the Senator knows—I do not know whether our colleagues recognize it—the Senator from Missouri may or may not know it—in the procurement area, we have taken an important position in this bill. We have said that the tenure of a program manager of our major systems has to be at least 4 years.

Mr. GOLDWATER. That is right.

Mr. NUNN. The Navy already has that. The Navy has been implementing it, and the Army and Air Force are not.

When you look at the short-term tenure the managers have on multibillion-dollar systems, it tells you why we have so many problems and so little accountability.

It is rumored that when Lyndon Johnson was President, somebody asked him about a program in the Department of Defense and asked if he was going to fire the individual involved. It is rumored that Johnson said: "Fire him, heck; I don't think I can even find him."

That is where we are in terms of managing these major procurement systems.

I hope all our colleagues will recognize that we have taken some initiative here, and we probably will have to go further, as the Senator from Arizona has said. We will have to have some career paths that lead not to isolation from operation completely, but operational experience followed by a long career in the procurement and management end.

There are some Members of this body and the House who are pushing for a totally civilian procurement system, removing the uniformed military from all management responsibility and procurement. I am not prepared to go that far or to bite that bullet at this point; but I think our friends in the Pentagon, particularly those in uniform, had better start thinking about this, themselves, because the frustration level about management and procurement is growing, and I think with cause.

Mr. GOLDWATER. The Senator mentioned the Navy. As long as I have been around here, the Navy has had the practice of observing a midshipman while he is in Annapolis and being able to pick out a man with good management policies. They see that he gets his 5-year sea duty, which qualifies him for any promotion; and, to the best of his ability, he stays with his class in promotion. But the man is pretty much confined then to management and procurement throughout.

I agree completely with the Senator from Georgia, that we should work to the end that we will establish a management branch of the services of equal importance to the operational branch of the services. If we cannot get a better job done on our procurement, we are not going to get a better job done on our operations.

While it is an inborn, inherent desire of every man who has ever worn a uniform to wind up his career in operations, I think we are going to see a lot of them—if we have our way, and I think we will—wind up in procurement.

It has been my pleasure to travel around and look at the qualifications of managers and results of good management, and I am in complete agreement with the Senator from Georgia that this has to be one of our major approaches in the coming year.

I thank the Senator from Missouri. I think he has done a great service to all of us by bringing this matter to its proper recognition in a very understandable way.

Mr. STENNIS. Mr. President, I commend the Senator from Missouri for bringing this matter to a head and for the work he has done on a very difficult subject. I am not versed in it myself, but I have been here during most of the lifetime of the reorganization, as it was called at the time it was passed. Despite some of its fine virtures, this is a need, and it had to be proven by time and experience. There have been those who have come and gone, and someone should put the program together who knows the subject.

I am not versed in that field, but I know enough about the problem to recognize the good work the Senator has done. The assurances by the Senator from Texas and the Senator from Arizona have meaning for all of us. I commend the Senator again.

Mr. EAGLETON. Mr. President, I thank my colleagues from Mississippi, Arizona, Texas, and Georgia.

May I ask one question of the Senator from Texas? He mentioned the report by the staff of the Armed Services Committee. Has that report been issued?

Mr. TOWER. It has not been. As a matter of fact, there are only two copies of the report extant, and they reside in the possession of the Senator from Georgia and myself, because it is only a staff report. It is not an official position of the committee. In due course, it will be circulated by the members of the committee.

Mr. EAGLETON. Would the chairman have any objection if I and a member of my staff took a look at the report—not to disseminate it or to make it public, but to further educate ourselves on some of the things the staff may have found?

Mr. TOWER. In a timely way, we would like to do that.

Mr. EAGLETON. Would timely be——

Mr. TOWER. Let me say that we are not prepared to do it at the moment, but before very long.

Mr. EAGLETON. Perhaps by the time the committee starts to work on the bill in July?

Mr. TOWER. Yes; certainly.

Mr. EAGLETON. Mr. President, let me say a word or two, as I am prepared to conclude.

I think the distinguished Senator from Arizona [Mr. GOLDWATER] made the best case of all. In his usual insightful and incisive way, he got to the heart of the matter.

One can belabor this issue back and forth, but I think the record speaks for itself. As I said at the outset, there have been 20 reports over 35 years, and while not every recommendation and every conclusion is identical in all 20, the common thrust is inescapable—to wit, the present system is unworkable and ineffective. It hampers military operations, military planning, and military procurement. We could debate long and hard as to the precise remedy or nature of the remedies that we might propound, and we should, but the urgency of the need for reform is clear. The record speaks for itself.

The present system cannot carry its own weight in the kind of world in which we live, and thus I am delighted that Senator TOWER and Senator NUNN have indicated that perhaps as early as July, they will begin work in the Armed Services Committee on a separate bill dealing with the Joint Chiefs.

I do not know whether in the 8 short workweeks that we have remaining in this year that the committee and the Senate will be able to complete their work, and the other body likewise, and have a conference.

I would hope that we could act this year but, if the calendar beats us this year, I feel comforted from their remarks that the Speaker from Arizona and the Senator from Georgia [Mr. NUNN] will seek to report a bill early next year which makes significant structural reform of an institution that has long outlived its usefulness in the age in which we find ourselves.

Madam President, I withdraw the amendment that is now pending.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The amendment of the Senator from Missouri is withdrawn.

Mr. TOWER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3239

(Purpose: To limit the introduction of United States Armed Forces into or over El Salvador or Nicaragua for combat)

Mr. KENNEDY. Madam President, I send to the desk an amendment on behalf of myself, the Senator from Oregon [Mr. HATFIELD], and the Senator from Rhode Island [Mr. PELL], and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. HATFIELD, and Mr. PELL, proposes an amendment numbered 3239.

**Mr. KENNEDY.** Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

LIMITATION ON INTRODUCTION OF ARMED FORCES INTO EL SALVADOR AND NICARAGUA FOR COMBAT

SEC. .(a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the purpose of introducing United States Armed Forces into or over the territory or waters of El Salvador or Nicaragua for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to the introduction of United States Armed Forces into or over the territory or waters of El Salvador or Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

(d)(1) Any joint resolution or bill introduced at the request of the President pursuant to subsection (c)(1) shall become the pending business of the House in which it was introduced and shall be voted on within 3 calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(2) Such a joint resolution or bill passed by one House shall become the pending business of the other House and shall be voted on within three calendar days after it has been received, unless such House shall otherwise determine by yeas and nays.

(3) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than 2 calendar days after the appointment of the committee of conference. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than 1 calendar day after the conferees report back to their respective Houses.

(e) The provisions of this section are in addition to and should not be construed to suspend or amend the War Powers Resolution (Public Law 93-148).

(f) Nothing in this legislation is intended to alter the constitutional authority of the Congress or of the President or the provisions of existing treaties.

**Mr. KENNEDY.** Madam President, when President Duarte came to Washington at the end of May he made an important statement. He said clearly and unequivocally that he would "never ask for any presence of foreign troops in my country." That was a very welcome announcement.

Two days afterwards President Reagan was asked at an evening press conference whether he would state unequivocally that he would not send troops down to El Salvador, even if it appeared that without them El Salvador might fall to the Communists. He refused to answer that precise question, but he did tell the Nation:

> First of all, President Duarte made it very plain that they would never request American troops. We have never had any consideration of doing that or any thought of doing that at all. I don't know how I can convince anyone, but all you'd have to do is look at all our friends and neighbors in Latin America and probably as a holdover from the past, we'd lose all those friends and neighbors if we did that. They want our help . . . but they don't want American manpower there.

And his Secretary of Defense stated on April 8 that the Defense Department had no plan, no strategy, no thought of putting U.S. combat troops in Central America.

That is what the administration has been telling the American people about its intentions. But what exactly has the administration been doing while at the same time denying any intention of introducing U.S. combat troops into Central America?

Let us look at the record of administration conduct:

The administration has embarked on a major effort to construct a vast military infrastructure that could support the deployment of American forces in a contingency. By the end of the present exercise underway in Honduras, the United States will have built or improved eight airfields in Honduras, with the two most recent additions within 25 miles of the Salvadoran and Nicaraguan borders. Two radar stations were established and manned by Americans. The administration sought $8 million to construct a prestock ammunition depot and an airplane hangar plus living quarters at Palmerola Airbase and a prestock ammunition depot at San Lorenzo, supposedly a temporary facility. (The administration only withdrew $4.3 million of that request after receiving great pressure from Senators BINGAMAN and SASSER.) And the Defense Department acknowledged in a May 4 letter to Representative LEE HAMILTON that "the possibility of U.S. participation in the construction of a Honduran naval and air facility at Puerto Castilla on the Caribbean coast has been discussed informally with the Government of Honduras."

The administration has staged repeated, large-scale, almost continuous military exercises in the region. Big Pine II last year involved up to 5,000 American troops over an 8-month period. Grenadero I, now underway, involved several thousand American forces. Such exercises, the administration has stated, "were conducted to demonstrate U.S. resolve and willingness to support our regional friends."

The American military presence in the region has increased. According to Defense Department figures, there are now 111 U.S. military personnel in El Salvador. The number of U.S. military in Honduras even when exercises are not underway has jumped to over 1,000.

U.S. military personnel in U.S. military aircraft over El Salvador are providing real-time intelligence for combat activities by Salvadoran forces on the ground.

U.S. military personnel in El Salvador have been in areas that came under hostile fire three times since November 1983.

And since we last debated Central America, we have learned about increased involvement of U.S. personnel in the hostilities in Nicaragua. Let me give you some examples:

We learned that, 3 months before the mining of the harbors in Nicaragua, U.S. personnel directed a sabotage raid against the Nicaraguan Port of Corinto, destroying 3.2 million gallons of fuel and forcing the townspeople to evacuate.

We learned that, with respect to the mining of the harbors, the involvement of U.S. personnel was much, much more direct than anyone had ever believed. U.S. personnel were operating a ship in the Pacific—called the mothership—from which the mining activities were supervised and directed.

We also learned that U.S. personnel directed two air strikes against Nicaragua in February. The planes and bombs used in the February attacks—and in other raids—were provided by the CIA. The attacks were planned and supervised in Honduras and El Salvador, and the people in charge of the operations were Americans.

We also know that U.S. financial commitments in Honduras and El Salvador have been steadily and dramatically rising.

In 1980, 1 year before Ronald Reagan became President, the United States sent $8.5 million worth of military supplies to El Salvador, Honduras, and Costa Rica. Last year, the United States agreed to send $170 million, 20 times as much. This year, if Congress approves the administration's request, we will be signing contracts to send more than $580 million in military equipment, 70 times as much as we spent in 1980.

This last figure does not include the money for training—$22 million—nor the tens of millions of dollars that have been used for constructing airstrips, radar sites, and other facilities. Nor does this $580 million figure include the covert aid.

How is this assistance being used? What has been the involvement of U.S. personnel?

The answer is clear. In the course of the last 3 years, Central America has become an armed camp. Honduras is bristling with weapons and warriors. El Salvador has tripled the size of its military, and we are now paying for 12,000 Contras in Nicaragua.

And as for U.S. forces, on land, sea, and air, our people have become more and more directly involved in the conflict, and we are moving closer and closer to the fighting.

Do these activities sound like an administration with no intention of involving American forces in combat?

Do these sound like the activities of an administration seeking to promote a negotiated settlement in the region?

Or does this sound like an administration getting ready to pick a fight and commit American forces?

The conclusion is unmistakable: The Reagan administration is systematically placing U.S. ships, planes, and personnel in harm's way, by injecting them into situations where, directly or indirectly, they are becoming increasingly involved in hostilities in violation of the War Powers Act.

In Central America we need to give diplomacy a chance to work before the President of the United States takes the Nation any closer to combat in that region.

For this reason, I offer an amendment that prohibits the introduction of U.S. Armed Forces into or over El Salvador and Nicaragua for the purposes of combat. This amendment is identical to the one introduced last month by Congressman FOLEY and adopted by the House of Representatives by an overwhelming vote of 341 to 67.

This amendment reflects the deep and growing concern of the American people that the administration is taking us to war in Central America. Congress must not permit the President to go to war without the consent of the American people.

The amendment I offer today is straightforward. It bars the use of any funds in this bill to send U.S. Armed Forces into combat in or over El Salvador or Nicaragua.

As stated in the amendment, the word "combat" means "the introduction of U.S. Armed Forces for the purpose of delivering weapons fire upon an enemy." U.S. Armed Forces are not precluded from conducting military training in El Salvador. Nor does the amendment limit flights by American military aircraft in the region carrying out reconnaissance activities. Only the introduction of U.S. Armed Forces for the purpose of delivering weapons fire upon an enemy is prohibited.

The amendment does not apply in all circumstances. The exceptions are clearly stated:

This prohibition does not apply if Congress has declared war or enacted specific authorization for such introduction.

The amendment does not apply when such introduction is necessary to meet a clear and present danger of hostile attack upon the United States, its territories or possessions.

The prohibition does not apply when such introduction is necessary to meet a clear and present danger to, and to provide necessary protection for, the U.S. Embassy.

The prohibition does not apply when such introduction is necessary to meet a clear and present danger to, and to provide necessary protection for and to evacuate, U.S. Government personnel or U.S. citizens.

The amendment leaves to the President the determination of when force is necessary under the three circumstances I have just listed. The amendment thereby preserves the President's authority to respond to threats to the United States, its embassies, personnel, and citizens.

Some may say this amendment usurps the War Powers Resolution. I would reply that the War Powers Resolution is not enough for this President under these circumstances. We need to protect the right of Congress to exercise its constitutional responsibilities. We do not want to wake up one morning to find American troops fighting and dying in Central America without the consent of the American people.

Madam President, I want to point out that included in the amendment is section (e) which specifically states that "The provisions of this section are in addition to and should not be construed to suspend or amend the War Powers Resolution." We have added this to the text of the Foley amendment; this is one difference between our amendment and the Foley amendment.

A number of my colleagues have expressed concern about how this would basically change the War Powers Resolution. We know at the current time that if the President of the United States decides to send American troops into combat in Nicaragua or in El Salvador, he would be free to do so and would only have to notify the Congress under the procedures of the War Powers Act. He would then be able to maintain those troops for a period of 60 days. What this particular amendment provides is that, prior to the involvement of American combat troops in combat, as defined in the amendment, the President would simply have to obtain approval, positive approval, by the Congress of the United States before sending those troops. We are simply asking that the Congress be permitted to act prospectively, not after the fact.

It does seem to me, Madam President, that this is not an unusual precedent. There is a precedent for what we are proposing in our amendment in the action that was taken by the Congress on a resolution involving American troops in Lebanon. That was in response to the serious concern in this body about the application of the War Powers Act. We acted in this body to modify the War Powers Act in that particular country and on that particular resolution. I did not support it, but nonetheless the Senate did act in that fashion.

I believe, Madam President, that given the factual situation—the escalation of American involvement in El Salvador and in Nicaragua, with more military personnel in that area and with the kind of activities that I mentioned earlier in my statement, that it is important that we, the Congress, play some role in the decision before American combat troops are sent to these two countries "for the purpose of delivering weapons fire upon an enemy."

But the War Powers Act would still apply and be in effect. We have tried to make that clear, and I believe we have made it clear in the amendment itself.

President Reagan has stated that he has no intention of introducing U.S. Armed Forces in Central America for combat. This amendment simply takes the President at his word and puts into law what has been stated as the administration's official position.

We just want to make sure that the deeds will match the words. The stage has now been set for the United States suddenly, massively, and without warning to intervene with U.S. troops. I do not think we should go to war in Central America—nor should we send American combat troops to El Salvador or Nicaragua—unless the Congress has been consulted, and unless the Congress has given its consent. That is why I urge the Members of the Senate to support this legislation.

I would add, Madam President, that we have included in this amendment under section D an expediting of procedures by the Congress should the President ask for such consent. I think the Members of this body are familiar with this provision.

Madam President, at this time, to complete my presentation, I want to mention a few things that this amendment will not do. It will not affect the activities of the current military advisers assigned to El Salvador, nor their role in assisting in the training of the Salvadoran military. It will not limit the current reconnaissance flights by U.S. military aircraft in the region. It will not limit the ability of the U.S. Naval or Air Forces in the high seas or in the air to monitor Soviet or other naval activities of concern to our Armed Forces.

It will not inhibit any duly authorized military operations currently under way in Central America or elsewhere in the Caribbean. It will in no way limit our treaty obligations in the regions, or in the hemisphere. It will allow the President to carry out his constitutional responsibilities to protect the United States from aggression, or to protect the U.S. citizens. And it will allow the President to use U.S. combat forces to eliminate any threat he deems is a clear and present danger to the United States, its territory or its possessions. The judgment is up to him, and under this legislation he would be justified in using U.S. combat forces in a preemptive strike against any missiles that might be introduced in Central America by the Soviet Union.

It will allow the President to use U.S. combat forces to protect American lives, if he deems that it is a clear and present danger to their safety. Again the judgment is up to him. Under this legislation, he would have been justified in using the U.S. combat forces to intervene in Grenada.

This legislation will require the President to seek authorization from Congress to invade Nicaragua with U.S. combat troops in the absence of any of the exceptions set forth in the legislation. It will require the President to seek the consent of Congress to send combat troops to El Salvador in the absence of any of the exceptions set forth in the legislation.

Madam President, I think that explains the amendment, what it does and what it does not do. Earlier in the spring when we debated the whole issue of combat forces in Central America, I think there was ample reference to what our Founding Fathers intended in terms of the division of responsibilities in the war-making area. The President is recognized as the Commander in Chief, but the ability to declare war is retained in the Congress of the United States. It is a balanced responsibility. That is what our Founding Fathers intended. And it seems to me that, given the particular fact situation that we find ourselves in in El Salvador and in Nicaragua, and given the type of activities that have been taking place, and given the increasing involvement of the American military personnel in that region, and given the dramatic escalation of the reliance upon military solution—it seems to me that it is appropriate for us in this body to make a determination and a judgment that before combat troops are going to be used in this particular area we ought to have some ability to express ourselves.

Madam President, finally, I would say that this amendment is presented in a bipartisan way before this body tonight.

It was offered in a bipartisan way in the House of Representatives, carried overwhelmingly in the House, and I hope that we could at least replicate that action in a way to fulfill our responsibilities under the Constitution as well as to insure that we are going to be involved in the takeoff, and not just landing, should American combat troops become involved in these two countries.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Madam President, the Senator from Massachusetts has introduced an amendment that has very, very far-reaching implications. I would like to address myself to it because originally when this came to our attention, we intended to answer it in two different sections: One, the money involved in this comes out of the Intelligence Committee's budget; and the Intelligence Committee's budget is included in the Armed Services budget as it has historically been done. But I believe from listening to the amendment offered by the Senator from Massachusetts, and reading it, that the amendment goes across the board.

While I will not confine myself to entirely the money end of it, I think it does raise some important questions. To begin with, the Senator from Massachusetts raises what I consider to be a very misunderstood point. It was raised constantly on this floor in the debate on the War Powers Act; that the President does have the power to go to war, but that only the Congress can declare war. What I want to make perfectly clear in my estimation of the Constitution's intent is that, yes, the Congress can declare war. We can declare war every 5 minutes. But we cannot send troops to war. Only the President has this power as the Commander in Chief. It is one of the great misunderstood parts of the so-called War Powers Act. We in the history of our country have called out the troops for different purposes—some very minor, and some very major—about 202 different times, believe it or not. But there have only been five declarations of war, and two of those have been in the same war.

Mr. KENNEDY. Would the Senator yield?

Mr. GOLDWATER. Yes.

Mr. KENNEDY. I wonder whether the Senator from Arizona believes that the President would be able to send combat troops into Nicaragua or El Salvador without the approval of Congress?

Mr. GOLDWATER. Yes. The President has that ability.

Mr. KENNEDY. Do you as a matter of policy believe that is wise? Do you believe as a matter of policy that it is a wise policy for us to have? Do you want to have young sons of Arizona citizens be sent down there, possibly into Central America for the purposes of combat without, as a Member of the U.S. Senate, having a voice and a vote as to whether they should go or they should not go?

Mr. GOLDWATER. While I might be inclined to understand the arguing of the Senator because I do have sons and grandsons, I would rather trust the important decision of sending troops to one man backed up by his advisers, or the National Security Council, the Joint Chiefs, and so forth than to a body of 535 people who might be influenced a bit by ancestral problems, by religious problems, and so forth. I am not going to stand here and argue that it is the ultimate way. If I had been one of the Founding Fathers I probably would have voted or argued against it. But it is something that the country has lived with for 205 or 206 years. As I say, only five times has the Congress expressed itself in a declaration of war. But that really is beside the point.

The Senator has pointed out one of the great problems that the Intelligence Committee faces. This actually is a subject, when we get into whether it shall be covert or overt, that I do not think the Intelligence Committee should be solely responsible for delving into. I would like to see the Armed Services Committee, and I would like to see the Foreign Policy Committee have more to do with it.

We reach this point: What the Senator is actually suggesting in this amendment is very, very comparable to the amendment passed by Mr. Foley in the House on May 23, when he said:

> I further try to be equally uncomplicated and direct in defining combat by saying that combat means the introduction of U.S. Armed Forces for the purposes of delivering weapon fire upon an enemy.

We have reached the point, I might say to my friend from Massachusetts, several times in the Intelligence Committee when many of us have said what we are listening to in the way of amendments like Mr. Foley's is to do away with overt operation and to become covert. The moment we do that, then we get into the problem of being at war, and then the question comes up, in a situation like this would we be better off at war or better off with covert action? We have stayed with the covert approach because we think it is manageable.

When the Senator's amendment covers everything that I see, it will do away with sending advisers down there?

**Mr. KENNEDY.** The answer to the Senator's question is "no."

I have two amendments. There is one in behalf of Senator HATFIELD, SENATOR PELL, and myself, which deals only with American combat troops. Later I will offer an amendment to terminate support of covert activities in Nicaragua. But that is not included in this amendment. You and I talked earlier about both of these amendments, but they are being offered separately so as not to confuse the issue. This amendment deals only with American combat troops.

**Mr. GOLDWATER.** In the Senator's opinion, would the application of this amendment eliminate the Contras immediately?

**Mr. KENNEDY.** No. There is nothing in this amendment that refers to any covert activity. I will have an amendment that follows this that will address that issue. But this amendment does not do so. This is only for prior approval for the introduction of American combat troops for the purpose of delivering weapon fire upon the enemy. It does not affect American advisers. It does not prohibit American combat troops being sent to even El Salvador or Nicaragua from defending themselves. All it does is to require that the American President come to the Congress prior to the time that American combat troops would be sent to El Salvador or Nicaragua for the purpose of delivering combat fire upon an enemy which is basically an offensive act.

**Mr. GOLDWATER.** I am glad the Senator cleared that up. I was under the impression that he might include overflights, the use of naval vessels, but he will next deal with covert.

I might reiterate that this is one of our big problems. On a committee that really has no legislative power at all, when our job is to oversee, there comes a time in the overseeing that we raise the same questions that are now in the Senator's mind and in the minds of others. So if the Senator intends to bring these other matters up in another amendment, I possibly will be better in defending our own budget then, than by trying to get any points across here. I do not see anything in the amendment at this time, other than the continued efforts to interfere with the powers of our President as Commander in Chief, that would do anything other than express the feelings of the Senators mentioned. That is all I will say at this time.

**Mr. TOWER** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Texas.

**Mr. TOWER.** Madam President, the Senator from Massachusetts posed a question about whether or not we would want to send our troops into Central America. Of course we do not, and do not intend to do so. But at the same time, it does not behoove us to make it very clear to forces hostile to the United States and hostile to friendly governments that we will not do so.

Let me further note that the Senator from Massachusetts indicated that it is apparently the policy of this administration to seek military solutions in Central America. That simply is not true. But when a government friendly to the United States of America is confronted by military activity, being internal in origin or external in origin, by forces and/or countries hostile to the United States of America, it seems to me that it becomes incumbent on us to do what we can to assist that friendly government and prevent these hostile forces from imposing a military solution to a political problem.

The fact is we did not send military assistance to Central America in significant quantities until it became apparent that certain political elements were themselves seeking a military solution. I do not think anyone can now make a case that the guerrillas in El Salvador represent a majority of the people. They are trying to take over that Government by military force.

I might note that they are not just fighting Government troops; they are fighting the general citizenry. They are destroying the infrastructure of the country. They attack utilities, communication centers, roads, and transportation facilities. These are not very nice people.

It is they who sought to achieve a political goal by military ends. The United States of America seeks a political solution. But there has to be internal military security in a country before a political solution will last and a viable democratic government can be established.

I know that many of these military efforts in Third World countries start out as honest political movements, revolutions that are inspired by the fact that people are politically or economically oppressed. I think it is unfortunate that too often revolution efforts are exploited by the Soviet Union or her surrogates. When that happens, the political solution that insures or at least creates some kind of climate in which democratic institutions can evolve is not possible until the military forces have been defeated.

I hope the Senate will reject the amendment of the Senator from Massachusetts. The War Powers Act already puts detailed restrictions on the authority of the President to insert troops in Central America.

**Mr. HATFIELD** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Oregon.

**Mr. HATFIELD.** Madam President, there are really only five options, five possible outcomes in this whole conflict in El Salvador.

No. 1, the guerrillas win militarily; No. 2, the Salvadoran Army wins militarily; No. 3, a continuation of the bloody status quo; No. 4, to send in American troops; or, No. 5, to negotiate a peaceful settlement.

This amendment strikes through all of these to get to the most acceptable one, as far as the sponsors are concerned.

That is to get to the point of negotiations.

We can argue all the legalisms, we can argue all the constitutionality questions we wish and they are very legitimate. But let me suggest that there is also a moral and an ethical dimension to this whole thing, because in my view, too much Salvadoran and Nicaraguan blood has already been drawn in these unnecessary conflicts and wars down there and I do not see why American blood should be drawn as well, or even the possibility of that.

We have traveled this path once before in Vietnam and now the temptation grows to do it right this time. We may have only had five declarations of war, but, Madam President, that was one too few. The longest war in history was in Vietnam, which was never declared by Congress.

The temptation derives from the close proximity of this conflict and the absence of logistical impediments we faced trying to win a war in Southeast Asia. I believe we are being drawn in deeper, inch by inch, day by day.

We might ask ourselves a question: Why is there war in El Salvador in the first place? Because of the Soviet Union? Because of Cuba? Because the guerrillas have developed a significant military capability?

Madam President, no. There are no geopolitical origins; there are only geopolitical consequences. And there is nothing, nothing which can be resolved by sending American boys any more than El Salvador's problems are being solved now by the carnage taking place between Salvadoran boys.

The war does not have military or ideological origins; it has human origins. More people have died in El Salvador due to poor sanitation, malnutrition, and lack of health care in the last 4 years than all of those who have died in the war. Forty-seven percent of the deaths not caused by war in El Salvador are children under the age of 5 who died of malnutrition. One of every 20 children in El Salvador does not survive its first year of life. Fifty-three of every 100 Salvadoran children do not have access to education. More than 50 percent of the people in El Salvador are without safe water or proper sanitation.

Yet there is more than enough money flowing from the United States and multilateral organizations to El Salvador not only to feed and care for all the children living in poverty but also to provide housing and sanitation for all the El Salvadoran poor. If we really want to deal the guerrillas a fatal blow, we would send in an army of peace—doctors, farmers, and teachers—to eradicate these shameful and inexcusable conditions.

Second, there is a legitimate role, Madam President, for Congress to be playing. It is a practical response to the realities of modern warfare and the proven tendencies of a superpower to allow itself to be drawn subtly into a conflict without realizing the consequences.

Do not tell me we are trying the President's hands. We are only tying, if you want to look at it figuratively, a finger. He has nine fingers left and there is a social, diplomatic, humanitarian, and even a military option for each one of them. We are simply saying that this particular option is out of the question, sending combat troops in to fire upon a so-called enemy.

I think there is a third point to the reason, the justification for this amendment. It is the least obvious implication, but possibly the most critical. It is the positive impact that passage of this amendment is likely to have on the botton-line question which faces this Congress. That question is how are we going to end this war and when are we going to start the process?

I repeat, how do we stop the war? There is no step we can take here today which will lend more psychological impetus to this process than a prohibition of U.S. combat troops. There is no greater gift we can give to President Duarte to enable him to move to the negotiating table than to preclude, shut out, eliminate the ultimate option, the introduction of U.S. combat troops: "If things take a turn for the worst, we can bring the American boys to the rescue; we do not need to negotiate." That is the mentality we are up against.

Every Senator in this Chamber knows that it is at least a possibility to send in such troops. I am saying that that possibility provides enough psychological security for the Salvadoran military to effectively prohibit a bold move to end the war. Any reliance on this option must be removed from the minds of the policy planners in Washington and the military in El Salvador. If we are as committed as we say we are to prohibiting a guerrilla victory, we shall simply have to find another way. We should let the Salvadoran military know in no uncertain terms here today that they had better allow President Duarte to seek a political solution to the conflict, which is the only way to end this struggle and to bring peace to Central America.

Madam President, I hope the Senate will adopt this amendment. It has been carefully crafted. It does provide all the necessary exemptions to allow the President to continue his responsibilities as Commander in Chief. In no way does it deny the President the right to protect Americans or American property such as our Embassy by sending in such troops to do so. But it does signal to both El Salvador and our own people that Congress has to have a voice if a decision is made to send in American combat troops.

**Mr. GOLDWATER.** Madam President, just to answer my friend from Oregon very briefly, I do not think the question of morality in war enters into this debate. Nobody who ever discusses a subject can ever argue that there is anything moral to war. It is the most immoral thing that man has ever engaged in. There is only one problem: it is one of the instruments of national policy—that is, the instrument of power, the threat of the use of power, that sometimes will work when other instruments such as economics, political, and so forth have not worked.

The only thing I am exploring with this amendment, are we to give up every effort at trying to indicate help, whatever form that help would take, even to the exclusion of war or sending in troops? Or have we sent more troops down there now? Are we now actively engaged in overt action? I am not prepared to debate whether we are or we are not, but I can tell my friend that this is a subject that comes up almost every time we discuss the Central American situation in the Intelligence Committee.

Our job is merely oversight. It is not to judge whether or not we are going to have a shooting war. That is the whole point in my discussing with the Senator from Massachusetts and the Senator from Oregon and with others whether we want to do what we are doing or whether we want to give up all uses of the instrument of power and even actually see ourselves losing Central America or, even worse, seeing ourselves in a position of having to exercise that power.

I would be the last one to use that.

**Mr. HATFIELD.** Madam President, let me say again I reiterate the moral dimension I was referring to is in the causes that brought this conflict into being—depression, poverty, the kinds of injustices that have existed there for so long. I would not in any way suggest that anyone who is supporting this action in El Salvador is immoral or those opposing it are moral. But I do think there is a moral dimension to this action. When we recognize that there are these options before us as I listed them—five—I think we have a responsibility to bring this kind of immoral action to a close as quickly as possible. That is why I think this amendment helps hasten that day to bring these people to the negotiating table.

I met President Duarte. I was very impressed with the leadership qualities I sensed in President Duarte. But President Duarte was also very frank to admit that he has problems on the home front.

The question was asked, "Why do you think you will succeed now as President when you did not succeed before as a member of the junta in areas such as land reform?"

His response was:

> Because I now have a mandate from the people in a legitimate election.

He said, "I feel now I can bring the military into line in terms of having it commanded by a government rather than just by the generals, with the policy being formed by the elected legitimate government.

He said, "I feel I can bring in some of those business interests that have opposed me before."

In other words, I see this as strengthening the hand of Duarte, not saying, "Look, you can count on the American military coming in to direct a military action they are determined to pursue when maybe you want to go to the negotiating table."

What I am saying about the moral dimension is simply the proposition that when we have ways to leverage a conclusion and support the positions of such men as President Duarte, I think we have a legitimate reason to do so.

**Mr. TOWER.** Madam President, I want to read a statement from the White House dated April 10 of this year, a statement that was concurred in by the Secretary of State, the Secretary of Defense, the Director of the Central Intelligence Agency, and the Assistant to the President for National Security Affairs. I will simply read a portion of that statement. It says:

> Allegations have been made that we are planning for U.S. combat troops to conduct an invasion in Central America. We state emphatically that we have not considered, nor have we developed plans to use U.S. military forces to invade Nicaragua or any other Central American country. Secretary Weinberger made this point in his television appearance on Sunday. Some have chosen to disbelieve him—consciously or unconsciously confusing what they call "invasion" plans with our longstanding obligations under the 1947 Rio Treaty, our treaty obligations to defend the Panama Canal, or military contingency plans for disaster relief, humanitarian assistance, or emergency evacuations. For over a generation, as prudence would dictate, we have maintained and updated plans for these contingencies. We have not, however, planned to use our forces to invade any country in the region.

The Senator from Oregon, a man of enormous humanitarian instincts—he is known for that—a man who has a deep-seated conviction that war is a desperate way for men and nations to resolve their differences, has suggested that if we send food, medicine, doctors, and I suppose technical advisers of various kinds to help rebuild the infrastructure of the country, it would lead to a resolution of that country's problems. I might note, however, that with guerrilla soldiers occupying a substantial portion of the countryside, it might be rather difficult to do anything constructive. And, too, as I pointed out earlier, these guerrilla troops have been busy destroying a portion of the country's infrastructure. I think all of the things suggested by the Senator from Oregon are things we should do. Again, I submit that the country has to be reasonably secure before those efforts can be successful.

I might point out that some of our medical people in Central America, there in an advisory capacity, there to provide humanitarian assistance, have themselves done a great job of both clinical and preventive medicine in that area. We are not without the presence of American medical assistance. In some instances there has been far greater utilization of military medical capability by civilians than by combat troops.

Now, I believe in the humanitarian objectives, and I believe that we should do everything to foster a climate for the evolution of democratic institutions in Latin America. I think we Americans sometimes fail to realize the institution of self-government cannot simply be thrust on a people with no experience or tradition of self-rule and expect them to function as responsibly as democrats— and I use the term with a small "d." In fact, it took centuries for legal political institutions of the United States to evolve beginning in Britain and being transferred to these shores where they were refined and evolved further.

Democracy is successful in this country because we have that background, that tradition. There are some highly civilized countries in which the people have not yet clearly demonstrated an ability to govern themselves simply because they do not have this background of tradition.

One thing is certain, that if Marxist authoritarianism is institutionalized in any of these countries, the prospect for the evolution of democratic institutions is virtually nil. So I think we must do what we must do to try to stabilize these countries. I think particularly of El Salvador. I do not think it is necessary for us to send American troops. I think it will not ever be necessary for us to send them there to protect our own interests if indigenous forces have the capability to do it for themselves.

I do not foresee any necessity of the introduction of American troops in Central America, but it would certainly be a terrible mistake for us to send a message to forces hostile to the United States and hostile to friendly governments to the effect that we will never intrude without some lengthy congressional process. I remember what happened in Korea. Most scholars agree that the statement the United States would not militarily intervene in Korea resulted in the invasion of South Korea by the North. I can cite something even more recent. It was an amendment passed in this Congress in both Houses, the Fulbright amendment, very similar to the one offered by the Senator from Massachusetts, that proscribed the use of American military forces in or over Vietnam, and that was the incentive for North Vietnam to mount not the usual type of guerrilla warfare against South Vietnam and the kind of infiltration that they had utilized by a conventional military attack on South Vietnam supported by the Soviet Union, which the South Vietnamese were unable to resist because we served notice that the United States would not use military force to enforce the Paris accords.

I hope the Senate does not repeat these mistakes. I do not think it would be conducive to peace or reduce the likelihood that American troops will ever be used. I think the absence of such a proscription is itself a deterrent and reduces the likelihood that American troops will ever be used. Therefore, I urge my colleagues to defeat the amendment offered by the Senator from Massachusetts.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. DENTON). The Senator from North Carolina was first to seek recognition.

Mr. EAST. Mr. President, I should like to take a minute or two, if I might, to speak in opposition to this amendment which I think is ill-conceived and would be counterproductive to the very thing which its proponents seek to avoid in Central America—namely, a greater broadening of the conflict.

Former Secretary of State Henry Kissinger has indicated that in order to accomplish the very ends that the supporters of this amendment seek—namely, a more equitable social and economic system—that in order to build that infrastructure, there must be a shield, if you will, a military shield, in view of Soviet-Cuban military intervention in the area, behind which this process can take place. If you eliminate the military option completely, you certainly telegraph to the enemy the idea that they are free to pursue a military solution.

I recall that when President Duarte was here—at that time, President-elect—he said it is a very complex situation. It is military, it is social, and it is economic. But his point was that if you have one army on one side and one army on the other and one is armed and the other is not armed, the armed army will win and you, in fact, will have a military solution.

If, in fact, we say and we telegraph to the people in this area and to the world that the United States, under no circumstances, would give sufficient latitude to the President to utilize our conventional military capability, I think you bring about what President Duarte was talking about—namely, that there will be a military solution, and it will be imposed by the Soviet Union and Cuba and those military forces it is backing in that area.

I think it is simply impossible in our time to micromanage American foreign policy, let alone defense decisions, from the floor of the U.S. Senate. To do so will greatly imperil the effectiveness of this country to meet the very serious challenge it meets today from the Soviet Union and her surrogates in every continent in the world.

Let me put it another way: If we do fail in Central America, if the Marxists take control of the military solution, who will be held accountable? Yes, the President will be. I say that if we are going to hold him, as Commander in Chief, and his principal spokesman and formulator for American foreign policy responsible, we had better give him enough elbow room to do that which is necessary in order for his policies to succeed.

But if we try to micromanage every move he makes, we cannot hold him responsible. I think our policy will fail, and you will see, yes, a military solution in central America, and it will be dictated by Moscow, Havana, and Managua. That is what is going on currently.

Invariably, in a debate of this kind, I often find it interesting that our most honorable and patriotic opponents say there must be a political solution, in citing Vietnam. Of course, as Durate has pointed out, if you do not have the military shield, you will not have a political solution; you will have a military solution, and it will be imposed by the superior military forces, which in this case, again, would be those forces in the area backed by the Soviet Union and by Cuba.

Senator GOLDWATER, I thought, made a very perceptive point the other day, that we are always trying to fight a current conflict on the basis of the last war. The current struggle in the world today, going on right now in the underdeveloped world, is of a guerrilla type. It does not candidly lend itself to formal declarations. It does not lend itself to micromanagement from the floor of the U.S. Senate. Guerrilla warfare is the key to military success in our time.

I think that what Senator GOLDWATER is saying, in his very preceptive way, is that you are attempting to respond to the military challenge of our time by the standards of World War II or World War I or the Spanish-American War or the Mexican War, or something or other where you had formal declarations. That simply will not work in the kind of world in which we live and move.

Alexandr Solzhenitsyn remarked one time, "You need not worry about nuclear war in your time." Why? "Because," he said, "they are taking you with their bare hands," and they are. They are doing it in every part of the world. Solzhenitsyn said he did not think the West had read the Communist Manifesto. He did not think they had read the works of Lenin.

The point was that you would take the soft underbelly of the world, the underdeveloped continents of Asia, Latin America, and Central America. You would do it militarily. Yes, you would do it through guerrilla warfare. Those are the realities of warfare in our time. They cannot be denied. Solzhenitsyn is correct: We are losing. We lost in Southeast Asia. Cam Ranh Bay, which used to be a military base, is now a Soviet base. Yes, we were told we were looking for a political solution. What did we get? A military solution, Soviet and Vietnamese imposed. Then they moved into Cambodia, and so it continues.

The same scenario is being repeated in Central America. The same problem exists in Africa. It would exist in the Middle East, were it not for the strength of Israel. Syria and the PLO, backed by the Soviet Union, would impose a military solution in Lebanon—indeed, throughout the entire Middle East. Would it make sense to say to the Israelis, for example, "Disarm"? Or, should we say that we would never, ever, under any circumstances, intervene? That simply telegraphs to the Soviet Union and her surrogates that military solutions are possible. It rules out the potential for political solution. It rules out the shield to which Henry Kissinger has referred.

How are you going to build the infrastructure for social and economic justice and social and economic growth and development where the enemy, the opposition, is free to shoot its way to power, as President Duarte put it?

A few hours ago, we adopted overwhelmingly, as I recall, an amendment supporting the Monroe Doctrine concept of 1823, which stated that the United States would not accept foreign intervention and military presence in the New World from the Old. This is precisely what we are allowing to happen now in Central America. The Soviet Union and Cuba are intervening in Central America. They are supplying the armed support to Nicaragua, as Jeane Kirkpatrick has very ably pointed out, all out of proportion to the needs of Nicaragua to defend itself. She said: "What are they doing with the military capability? They are exporting it into El Salvador." For what? Purposes of murder, she said; for destroying the infrastructure, economically and socially, of that country, and eventually imposing a military solution.

If you tie the hands of the President of the United States publicly in the Senate and the House and say that under no circumstances can he do this without formal declarations or authorizations, and so forth, it simple telegraphs to Managua, to Havana, and to Moscow: "Gentlemen, full steam ahead." And what will we get? A military solution—the very thing that the proponents, the very honorable proponents, of this amendment hope to avoid.

Let me end on this thought in terms of the reality of international relations of our time. There is no question about it. It has been spelled out carefully that the Marxist-Leninist solution is through military guerrilla operation to take the soft underdeveloped parts of the world and ultimately, as Marx and Lenin stated it, "You surround the urban industrial continents of Europe, of North America, including ultimately now Japan, and they in time will fall like ripe fruit."

We have to develop the acumen, the astuteness, the alertness, the ability to respond to that military challenge and it is of a guerrilla warfare nature, and hence we must allow the President the latitude, because we will hold him accountable now, will we not? We will not bear the burden, we will not accept responsibility if the military solution is imposed. We will point down Pennsylvania Avenue to the White House and say they failed, he failed.

We can only blame him if we so tie his hand as to telegraph how limited his operations are.

The Marxist-Leninist approach then is clear, and as Solzhenitsyn said:

> If the West would only read the Communist Manifesto, read the works of Lenin, read the works of Mao Tse-tung, they will know what is occurring in the world.

I leave, one, with that thought and, second, I leave us with this thought: Has the United States no area in the world where we have self-interest to assert?

We were told during the Vietnam conflict that it was distant, far away, and it was none of our concern. We were told in the Middle East that that perhaps is distant and far away and none of our concern. We are told that Africa is distant and far away and none of our concern.

And now, we are in our own hemisphere. We are in Central America. We see the Monroe Doctrine repudiated de facto, and once again it seems to me the thrust of what the proponents of this amendment are saying again is we have no self-interest.

I ask you this: Where do we, as one of the two great superpowers in the world, have a self-interest?

The Soviet Union moves with impunity into Afghanistan. It sends its surrogates, such as Syria, into Central America. It sends its surrogates in Africa in the form of Cuban troops into Ethiopia, Angola, and Mozambique. It sends the PLO into Central America. It sends the Eastern European forces into Central America. It sends Cuban forces into Central America. In the Far East it takes over again Southeast Asia, uses Cam Ranh Bay, our former base, as its own base of operation. It gives the moral, logistic support to Vietnam to take over Cambodia, to threaten Thailand, and to broaden and expand its power in that whole part of the world.

Apparently, we have no self-interests in either we are told.

Now, here we are right in our own hemisphere and, again, it seems to me it is the old refrain: So we have no self-interests there. It makes no difference.

But it has been pointed out repeatedly if you allow Nicaragua to become the model in Central America, El Salvador will fall, Costa Rica will fall, Honduras will fall, Guatemala will fall, and Belize will fall. The pressure will be on Mexico and it ultimately will have no option except to itself to succumb to what? Yes, a military solution imposed by Moscow, Havana, and Managua.

Now, as has been pointed out repeatedly between the Rio Grande and the Panama Canal are 100 million people. We have heard this before, but let me say it. I think it is worth repeating. We have learned from past experience that at least 10 percent of the population invariably flees when the Communists take over. All the voting is one way. Where they can vote with their feet, they come here.

Look at the poor pathetic boat people who went out and drifted in the South China Sea, just waiting for any vessel to come along and pick them up. Is it not curious where people have a choice, they leave? They leave the Communist system. We have to build up walls to keep them out. They have to build up walls to keep them in.

Now, I ask this, and in this case they would not even have to get into boats, they would simply walk. If they take over that area between the Rio Grande and the Panama Canal, of 100 million people, 10 million people will move northward across the Rio Grande. How will you stop it? Will you machinegun them down? Of course, you will not.

It will create enormous economic and social disruption in our country and it poses an enormous geopolitical threat to the peace and the freedom and the security and the well-being of this country. It jeopardizes not only your freedom and mine in our time, let alone that of our children and our grandchildren.

Come now, gentlemen, this amendment is a part of that whole fabric of thinking that seems to operate on the assumption that nothing is going on in the world today of consequence. I put it this way: We fiddle while Rome burns. We are excused by two facts. We do not know, first, that we fiddle and, second, we do not know that Rome burns. But Rome is burning in Central America and if you do not allow the President of the United States, who has the responsibility as the Commander in Chief under the separation of powers, who has the principal responsibility for the conduct of foreign policy and for the protection of this country, the latitude to do what must be done in this area, I think that what you are going to see is all Central America fall under Soviet and Cuban control and domination and the whole Caribbean Basin will simply become a dominant sphere of Soviet influence, military influence.

That I find totally unacceptable. Totally unacceptable from whose standpoint? From not only those people in that part of the world who must fall under this tyranny, but from the standpoint of the security, the freedom, and the well-being of this country.

So, I urge my colleagues to reflect very seriously on this. The stakes are high in Central America. They are in our own hemisphere, and if we will not defend our friends, our democratic friends, such as Duarte, in our own hemisphere, I simply question, gentlemen, who will we help? Who will we defend?

It is an eminently fair question to ask where would you draw the line—anywhere? Apparently not.

And that would be the great tragedy of our time and World War III has been subtly lost and it has been lost to Moscow. It has been lost to the Marxist-Leninist world vision. And it is over with a whimper.

And I suspect in due course, as Marx and Lenin predicted, the industrial, urban continents of North America, Europe, and Japan will eventually have to succumb to the realities of power in their time. Solzhenitsyn has said the world is finite in geography. At some point the balance tips against you.

I do not know if it has occurred or not. He said psychologically it occurred in Vietnam. Perhaps it has. But it will have occurred, as a matter of reality, if we tie the hands of the President of the United States and allow the Soviet Union and Cuba and her surrogates such as in Managua to take over that area.

It is a very heavy question we face; I think the most serious facing this Congress and this country at this point in our history. And I vigorously disassociate myself from this amendment. I vigorously oppose it. And I hope my colleagues would reflect long and hard and repudiate it, vote it down. I will support Senator TOWER when the time comes for him to make his motion to table, and I hope you will do likewise.

Thank you, Mr. President. I yield the floor.

Mr. HATFIELD. Mr. President, the debate and comments of the recent hour reminds me of an incident that took place in a Cabinet meeting with President Eisenhower following the unsuccessful project of intervening in Guatemala. Former Ambassador Henry Cabot Lodge said to the President:

> Mr. President, we know how to win wars, but we don't know how to win revolutions. We should spend less time reading the Communist Manifesto and more time reading the Declaration of Independence.

Mr. President, I think the crux of the question we have before us is that we are looking at this situation in El Salvador today, and those who support the policy, those who advocate it, those who defend it, recognize, like all of us, we are in a stalemate.

We are asked to lay aside these major alternatives of policy which I have outlined until the country is secure. But let me remind you, according to my recollection, in 1980, it was estimated we had 500 guerrillas in El Salvador and my latest understanding of the estimate is 15,000.

Mao Tse-tung did have one or two thoughts to offer on the question of guerrilla warfare. One of them was that guerrilla warfare can only be as successful as the support of the countryside is forthcoming. Obviously, those guerrillas exist in El Salvador today in some part due to the fact they have local support. Why? I think those who ask us to continue a bankrupt policy that has failed up to this point ought to tell us, the proponents of this amendment.

Are we going to be in another Vietnam? It is a relevant analogy. It is a parallelism.

I said on the floor before, and I will repeat it again, I was in Hanoi during World War II when we cheered the flag raised over the city hall because we saw in that flag an ally who was fighting the Japanese, as we were, a flag not with the hammer and sickle of communism. He was a Communist, yes; Marxist. But he was our ally and we were fightng a war as allies at that point. It was a flag of Vietnamese nationalists. But we could not reconcile the testimony of nationalistic revolution with the knee jerk temptation to reimpose the imperial colonial system of France upon that part of the world.

And now we evolve some kind of justification to make this—El Salvador—a Communist and non-Communist issue. Let us go back and read our history.

There is no one that hates it and fights it more than I would any place. For anyone to imply that we are on the side of Moscow is utterly ludicrous.

For whatever credentials this gives me, I fought in the China civil war on the side of Chiang Kai-shek. I fought communism on the battlefield; laid down our gunfire on the beaches to drive them back from Chiang Kwen Tau when we landed our troops in there with the Chinese Nationalists.

I do not understand those who fail to understand that guerrilla warfare—we are dealing with a totally different animal than we were dealing with in World War II where we had battlelines and geography that we could determine.

Let me tell you, guerrilla warfare obviously is different. And we better start recognizing the difference between that kind of warfare and the kind of warfare we fought with the Maginot Line or some other battleline of demarcation where the enemy was on one side and we were on the other side. It is a simplistic look at this conflict down there when we begin to try to make it the battle of Armageddon between communism and noncommunism.

Of course, the Communists are involved. But why? I come back to the original proposition that I offered the Senate here, and that is because we are not dealing with geopolitics in the traditional sense. We are dealing with human misery as a cause of the conflict down there. We better start dealing with those causes rather than trying to define it as a military issue.

Why are the guerrillas gaining support? Well, I suggest that if Mr. Duarte wants to lay out some of these alternatives about land reform now, as he tried to do in the junta and was rejected by the business interests and military, if he reaches out, as he says he will, and tries to bring the business sector to support his administration, then this is strengthening his hand because the military can no longer rely upon the bailout of an American military expedition.

I think the burden of that question lies with those who have been supporting this failed policy. Why not support this proposal?

I am deeply concerned that until we start addressing those causes of misery, human misery, we are going to have a continued expansion of the guerrilla warfare that will be encouraged by Moscow and Cuba and all the other Communists because they do not have to do it directly. They can just supply the materiel and the environment if necessary, for that kind of revolution will take care of itself.

When Dr. Walter Reed discovered that the mosquitoes were the carriers of malaria of the Panama Canal areas when we were building it, he said you don't go out and kill all the mosquitoes to destroy malaria but, instead, you drain the breeding swamps. It is about time we begin to look at the breeding swamps of communism, fascism, and all the other autocracies. And in draining those breeding swamps, it seem to me we would find greater possibilities of solving this conflict than trying to impose upon it a military solution.

I say again, Mr. President, send in the marines, no; send in the American fighting troops, no, no, no, no. Send in the army of peace soldiers—the teachers, the doctors, the others that are dealing with the those problems of human oppression, human misery. Let that become part of Mr. Duarte's whole era of life and hope for the people of El Salvador. I am convinced it will do more to strengthen his hand than this idea of holding in reserve somehow the possibility that we may send in troops down there. To do what? To obliterate the countryside in order to get the last guerrilla?

Do not forget that marvelous statement made by one of those military leaders who was leading us in Vietnam. He said, "In order to save the village, we had to destroy the village."

That does not provide the solution. We are not going to provide solutions, in my view, following this kind of policy.

I hope this amendment is adopted to send a signal of hope to Mr. Duarte and those who want to see a stable El Salvador.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it appears that the Senator from Oregon makes basic about dealing with human misery. That is, in fact, part and parcel of the report of the Kissinger Commission.

But you cannot read one part of it and neglect the rest of it and have a policy that is going to work. There is human misery down there. But I would directly and personally quarrel with the assumption of the Senator from Oregon and the Senator from Massachusetts that guerrilla warfare in El Salvador is a popular movement.

I hope that the Senators would avail themselves, both of them, of the Washington Post this morning where it said that the guerrillas are, in fact, going into villages, and taking young people away from their homes, and conscripting them by force. Now, how are you going to confront a warfare such as that solely with kindness? The answer clearly and truthfully is that you are not.

To recognize one thing and fail to recognize another thing is to do just as much harm, to create just as much failure as is what the Senator from Oregon and the Senator from Massachusetts are suggesting; that this policy that is sought to be sustained by Senator TOWER and the Armed Services Committee is failing on the same basis.

The Senator from Oregon's heart is clearly in the right place. The historical heart is not altogether in line with what history has been. The Senator mentions Guatemala. Guatemala was not such a bad deal. It provided over 20 years of stability with a democracy that was not there when we went there. What is happening now is another thing. But there were 20 years when they had what lots of Central America has not had for over 20 years.

I believe that the amendment of the Senator from Massachusetts, despite what he would say, is an invitation to hostility. It is a plea to Nicaragua to come and test the waters. His question to Senator GOLDWATER about Arizona children is a fair question, and it has an answer in his own amendment. His is the procedure. His is the amendment. His is the policy which is going to bring Americans, and American people, into a conflict. It is an invitation to cross the border. It is an expression, lack of will, an invitation to test and see if there is anything left in this country.

Just take one-half of a minute to look around the world and see what is taking place. Does any Senator in this body think that it is some kind of a coincidental uprising of human aspirations, that there is a belligerent, brutal, and ghastly thing going on in Afghanistan where 150,000 Soviet troops are trying to beat into submission a proud people, or would somebody look at the map and tell us that maybe that is an approach to the Indian Ocean, and the two major oil straits of the world, that of Hormuz and the Straits of Aden?

Does any Senator in this body think that Angola is an aberration in history, that it is some kind of a little thing that is being supported by Cubans and Soviets, some uprising of people who want something better than they had, or does somebody want to take a look at a map and see Walvis Bay in Namibia a deepwater port in the South Atlantic? Does anyone in this room now believe that Nicaragua and Central America is an accident, or is perhaps Panama Canal, the Pacific, and the Caribbean Basin a portion of a geopolitical expression of the advancement of power?

We simply just cannot view the world the way we would wish it to be. We have to view it the way it is, and the map will tell you what is taking place. It would be lovely. I would like nothing better than to have the world the way the Senator from Massachusetts and the Senator from Oregon would like it. I would like nothing better than this to be a war of human aspirations only in El Salvador and in Nicaragua. What a wonderful thing. We could win that in a little bit. But I would remind this body that it was unwilling to do very much in the Caribbean Basin Initiative, unwilling because of the domestic political interests to even give a few jobs down there, and how much money are you willing to spend to fight the war of medicine, of teachers, of agriculture? How much agriculture is the Soviet Union providing to Nicaragua, with the PLO, with Bulgarians, with East Germans, and North Koreans, all of whom are known worldwide for their expertise in growing tropical fruit and raising cattle? Come on, my friends. Look at what is real.

How important is it for us to know people live with little spies in their families, and cannot contest the point of view that the Government raises?

The Kennedy amendment is really not a legal question. It is a question of constitutional authority. We ought to view it as that. But we ought to view it as well as what it seeks to do, to cripple this country's ability to deal with its own self-interests at least in this hemisphere.

Mr. KENNEDY. Would the Senator yield?

Mr. WALLOP. I would be happy to yield for a question.

Mr. KENNEDY. Is it the Senator's position that you would welcome the President of the United States making a unilateral decision about sending the sons of Wyoming constituents down to combat in Central America without a vote, or without a voice, or without an opinion? Is that what the Senator from Wyoming is advocating here this evening?

Mr. WALLOP. The Senator can ask the most flamboyant questions in the world—and I do not yield for a comment. I yielded for a question and will provide it.

Mr. KENNEDY. That is fine.

Mr. WALLOP. The comment is this: I would not welcome it. But I would perfer it to a catastrophic loss of the Central American countries and—I will not yield again. Let me finish this because the Senator cannot believe that there are 15 million to 20 million Hispanics in this country who are employers, are employees, our friends, our neighbors, our police, our soldiers, our sailors, all kinds of other people, and when the great exodus comes out of there, when the PLO's little teams that are being trained down there are coming across this border and doing what they do in Israel, keep in mind that this country cannot defend its border against the most simple-minded peasant who only wants a better job let alone drug smugglers and other things. And I would ask the Senator if he knows what the PLO has done to the border in Israel which is the most sophisticated border defense in the world. They can come across there and blow up a bus full of senior citizens touring, take over a school and machinegun children. No, that is not going to topple the United States if they do that in Texas, or if they do that in any of the Gulf States. Of course it is not. But what is it going to do to us and the people who are our brothers, our neighbors, our employees, our employers, and all of those Hispanics? Terrorism is terrorism, and it is designed to do just that. It is to create doubt amongst us; to create wonder of who is going to be doing what; to wonder if somewhere along the line, somebody who looks a little Hispanic, or has a Hispanic surname, may be one of those PLO-trained teams.

The Senator is asking me, would I want those boys to be sent to prevent that? The answer is clearly yes. Would I want them sent? No. And my guess is that I will have much less chance of having them sent with the Senator's amendment failed than with it passed, because that is when we are going to be tested. I believe the Senator is asking us to have this question asked of us in blood, not in a debate on the Senate floor. I believe that is the most likely event for the blood of children of Massachusetts, Wyoming, or Arizona, or anywhere else, to be spilled, in following a path that you seek to have us follow. My point is that I believe that if we can stand as a country strong, stop what we see to be taking place, it is very unlikely that we will see American blood shed. But give that cancer a chance to grow, which the Senator's amendment seeks to do, to provide flesh to grow upon, and that is when we will see it. That is when American choices that are too difficult for Americans to confront until they are on our doorstep is going to take place.

That is what I am saying here tonight both in this and the amendment which the Senator seeks to follow in a little while: that if there is no place in this world that is in our self-interest but our own border, then there will be bloodshed, lots of it, and there will be constitutional crises as we seek to try to deal with our neighbors who have Hispanic names or who look a little Hispanic. That is when we are going to face this world in a way in which everybody will wonder why we did not do something when it was worthwhile, and in our interests.

Now we have a simple situation where people are willing to fight and die with their blood in behalf of their freedom, as our ancestors did; and, that is, leave the comfort of their homes to go to the bush, to hope somehow or another that when they worship it will be permitted, when they vote they will have a choice to speak, be heard, and not be obliterated.

That is what we are talking about. Why is it that America sits here doubting whether it is a good idea to support people who seek freedom? What is there possible in the minds of Americans who doubt that is a good idea when somebody says, "I am willing to go put my life on the line. I have left my home. I have no more to earn. I am in the bush. I want what you have every day. I want to vote. I want to go to my church. I don't want to have them obliterate the Pope when he comes in, or establish a new Catholicism, take away the press, say that I cannot join the union, say that my candidate cannot run."

This little freedom is what they want. And we are saying, "We doubt your sincerity in that," when all they are asking from us is a little help, a little money, a little technical advice.

I just do not believe that there was a reason that was related to that which was behind the Senator's amendment. But whether that was the reason or not, that is the result and that is the signal that is being sent.

There are two questions involved here. One is the constitutional authority and one is the question of prudence. A third perhaps is the question of the signal we wish to send to friends and enemies abroad.

In the Constitution and in the essence of foreign policy, according to the Federalist Papers, is "secrecy and dispatch." That is why the Constitution vests the power in the Commander in Chief, in one person, not in 535 additional ones who do not run for that office but wish to exercise its powers.

The President in our system must be able to attack the enemy and defend allies on a moment's notice, not with the question of Congress, when one notes how quickly we do things. The fastest thing this Congress has done in a long time is to make certain they could watch Redskin football games on television.

The Constitution gives the President this power and no legislation can take it away.

On the question of prudence, why would anybody want to deprive the President of the ability to combat hostile military forces on our own doorstep?

Would the Senator from Massachusetts or anyone else believe that hostile military forces are not in existence in Central America? Sandinista Armed Forces are larger than those of all the other Central American forces combined. Does anyone think they will not attack their neighbors? Why not? That is the question of the signals. The main reason why the Sandinistas do not attack now is because they are afraid of what this country might do.

There is another reason and that is perfunctory. In two amendments, the Senator from Massachusetts wishes to remove these two disincentives of war. I say war. It is an invitation to war that the Senator is asking us to do. Perhaps not us, but war with neighbors, with Nicaragua, war with El Salvador, war with Honduras, war with Costa Rica. It is an invitation to aggression.

Recall the statement by the Secretary of State in 1949 that initially left South Korea outside the U.S. zone of military concern. That invited the Korean war, and a congressional prohibition of congressionally directed involvement of America, though it would unlikely be recognized.

It is a powerful signal of America's disinterest in this hemisphere, its friends, its liberties and democracy as requested by its friends and neighbors.

A civil war is not engulfing Central America. It is not a war of passion by peasants who will somehow or other seek to join some force and grow on their own. The evidence is to the opposite. The evidence is that those are not growing but they are forced. And now the Senator wishes to give the signal that they really ought to grow because that is the side that is likely to win.

I do not believe this Congress will do that. I do not believe it ought to do that. I believe it would be immoral if we did do that.

Mr. President, I yield the floor.

Mr. **BIDEN** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Delaware.

Mr. **BIDEN**. I yield to the Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, I do not think that anyone in this body has a monopoly on devotion to democratic ideals and values. I reject any suggestion that those who oppose this amendment have a higher set of values, or are more patriotic, or are less concerned about the movements of the people of Central America, or are not concerned about the progress of democratic values in Central America or throughout the world.

Members of this body can distort, can misrepresent amendments, and that was just done by the Senator from Wyoming.

I will just take a moment at this time in the debate to suggest that the people of Massachusetts understand that we live under a Constitution. The people of Massachusetts believe that the warmaking powers are divided between the President and the Congress of the United States. I believe, contrary to the view or the position of the Senator from Wyoming, that when I took the oath of office right at that desk where the Senator from Alabama is now presiding, that they expected me to abide by the Constitution and to fulfill my responsibilities and not walk away from them.

If it is the position of the Senator from Wyoming that he wants to see the children of his State go down to Central America without his voice and his vote either of approval or disapproval on a resolution, so be it.

But I was here, Mr. President, at the time that the Gulf of Tonkin Resolution was considered and passed. Only two Members of the U.S. Senate at that time said, "Hold up. Let us get into this. Let us find out what is really intended." That, to my regret, was the most unfortunate vote I have cast in the U.S. Senate. I am going to make sure, to the extent that I can, Mr. President, that the Members of this body are going to vote yea or nay before the young people of my State are sent overseas again, whether it is in jungles in Central America or in other parts around the world.

If the Senator from Wyoming believes that we can yield that particular constitutional responsibility, so be it. But it seems to me we have been reminded in recent times, whether it has been in Lebanon or in other places around the world, what the failure of us to meet our obligations can lead to.

I would hope that those Senators who have been listening and following this debate will understand that the purpose of this amendment is to ensure that the Members of this body and the House of Representatives under expedited procedures would have a voice and a vote on any decision to involve American combat troops in Central America in a way which would ensure their continued involvement.

Mr. SYMMS. Will the Senator yield for a question?

Mr. KENNEDY. I do not have the floor. The Senator from Delaware has the floor and has been waiting to speak. But I plan to be around here. I know the Senator from Connecticut, Senator DODD, wants to speak, and the Senator from Tennessee wants to speak. Also, my colleague from Massachusetts wants to speak. But I will be here for the remainder of the debate and will welcome the opportunity to respond to any question of the Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am a little confused. I am not sure, listening to the opposition to this amendment, whether or not we are talking about the same amendment.

I heard the Senator from North Carolina, Senator EAST, talk about a fabric of thinking, that he was worried about, developing here.

I heard one of my colleagues in opposition to this amendment talk about telegraphing to the—I think they have all used the phrase—"telegraphing a message to the forces of darkness" in some way. Let me suggest to my colleagues assembled here and those who are listening to us on the squawk boxes the reason why, over a year ago, Senator DODD and I, in the Committee on Foreign Relations, attempted to attach language to the foreign aid bill which would have restricted U.S. combat troops engaging in combat in El Salvador. It was very simple.

I do not know where you have all been in the last 15 years. Maybe there is a sort of generational amnesia on this floor. Because it seems to me that my generation thought that we had a little problem with the policies of this body and the Congress relative to the question of under what circumstances we would be asked to go to war.

In the meantime, whether or not we were right or wrong, whether or not the leadership of the time was right or wrong, I doubt whether many of us would disagree that one of the lessons we have learned out of Vietnam, whether or not Vietnam is analogous to El Salvador, standing all by itself, has taught us in that a foreign policy, no matter how well conceived, no matter how brilliant in its origin, no matter how precise in its execution, cannot be sustained in this country absent the consent of the governed—absent getting a majority of the people in this country to say: "Hey, that is a good idea. We sign on."

I do not care whether you think, as the President thinks, that we had a noble conflict in Vietnam and we lost and we should have done more, or you think, as former Senator McGovern thinks, we should never have gotten involved. I do not know how any of us can deny that one of the prices we paid for Vietnam is that the American people want to know ahead of time, want to have some idea of what they are signing on to.

In case you fellows and ladies in this body have not figured it out, the folks are a little worried about El Salvador. Whether they lie out on the prairie in Wyoming or in Dagsboro, DE, or in Salem, MA, they are a little bit worried. They wonder what we are doing. We have a President who says: "Ladies and gentlemen, my fellow Americans, I am not sending any American boy to fight and die in El Salvador. I want to make it clear to you, my fellow Americans, that is not the case."

I am prepared to believe him. Let us assume, which I do, that he is telling us the truth. And let us assume, and I do, that the Senator from Wyoming wants no part of sending Americans in there except as the absolute last resort. I believe that of the Senator from Wyoming.

In case you have all not figured it out, any President, including this one, is going to have trouble, going to have a little difficulty maintaining the policy of supporting El Salvador by sending American troops.

In case you have not figured it out, we are having difficulty, I say to Senator WALLOP, getting people to say we should support the Contras active in Nicaragua at all. I do not know how we ever missed that.

There is not a snowball's chance of the House of Representatives saying: "More aid to the Contras." And I will say on record what I have said before, under circumstances that limit the Contras' objectives, I am prepared to support them. But the folks are not.

Mr. SYMMS. Will the Senator yield?

(Mr. GRASSLEY assumed the chair.)

Mr. BIDEN. No, Mr. President; let me finish and I shall be happy to yield. I shall not be much longer.

Mr. President, I think it is about time we got both tough and smart around here. We have a lot of tough, dumb people and a lot of smart, weak people in this country. I think it would be nice if we could be tough and smart. And regardless of what your ideological disposition is on Marxist-Leninist communism or whether or not you believe the best way to deal with it is to send teachers and Peace Corps, I do not give a darn what you believe: Just stop and think for a minute. We have to get the American people to support a policy. And what is the one thing they are most worried about?

The Senator from Connecticut is taking off his glasses and wiping his eyes because he has heard me make this argument hour on hour in committee. I respectfully suggest that had we adopted it a year ago in committee, the President might have a lot more support for his policies in Latin America, because the one overwhelming thing the American people want to be assured of is we are not going to ask Americans to die in the place of them, fighting for their freedom.

I find it absolutely incredible that we have men stand on this floor and talk about the fact that the other side is supported by, funded by, and so forth—Moscow, Havana, and Managua. I would think the logical response to that, assuming it is true, is let us then fund the other guys—not send Americans.

I have had it up to here and my whole generation has had it up to here with the motion that what we should do is to send an American to fight in the place of a Salvadoran, to defend the Salvadorans' freedom.

Is anybody here telling me that the rebels have more arms than the El Salvador Army?

Is anybody here telling me there are more rebels than there are military personnel in El Salvador? I challenge anyone to tell me that and substantiate such a claim.

So I say to my friends in the Senate, "them" first, my brother last; my son last. Freedom starts here.

If the Senator from Wyoming is correct and they are willing to die and fight for their freedom, I will support them. And when the Soviets roll in tanks manned by Soviet military, when the Cubans invade, then I will send Americans.

But let me tell you something, gentlemen: I think it is about time that we understand what we are talking about here. I do not want to hear about the Vietnamization of El Salvador or any other place in Latin America. I ran for this job because of a war in Vietnam and I swore I would never vote to send any American into combat, unless two conditions prevailed before they were sent: One, there was an absolute clear definition of what their mission was and some reasonable prospect of accomplishment; and, second, they had the full faith and support of the United States of America behind them whatever it took to meet the mission as we defined why we were sending them.

Now, even I have gotten a little afield because that is not what this amendment is about. The reason why I proposed something similar to this amendment in the Foreign Relations Committee was to get the support of the American people for a policy that my friends on the right, including the ideological right, not just the right in this room, are partially correct about. With all due respect to my friends who talk about the Peace Corps and economic aid, that will not do it, in my humble view. But what are we doing? Look, their boys versus our boys, our boys being Americans, their boys being El Salvadorans. "We got a dog in a fight. I am prepared to back the dog in the fight," to quote Howard Baker when he talks about not wanting to get involved in a matter, but I am not going to send "us" to fight for "them" unless you can show me that the conditions asked for in the amendment of the Senator from Massachusetts prevail, unless the President of the United States of America, whoever he or she may be, says that there is a clear and present danger of a hostile attack upon the United States of America, and so on.

Now, look, I do not know why we cannot just get together in and try to drop all the ideological garbage that we keep spreading on both sides, left and right, and say, "Hey, we have an interest in Latin America; it is real; it is genuine. We, in fact, wish to and we will support President Duarte, and we will in fact support, to the best of our ability, other governments in the region who are fighting for their freedom with economic and military aid."

But, folks, let us level with the American people. If you want them to sign on, if you want more Senators to stand up and support a policy of economic, military, and political aid to the region, tell them straight out that only under the most extraordinary circumstances, which is a request from a President signed on by the Congress, will their boys go. And let me tell you why they are suspect. There are a lot of people in my generation who went to Vietnam and an awful lot of parents who watched them go and they remember how it worked before. In case you have not figured it out, there is not what you would call a reservoir, a deep reservoir, of trust for American elected officials. When is the last time an American President or Senator could stand before an audience in their hometown or in the Nation and say, "I can't tell you the detail of that but just trust me."

The gallery is not supposed to respond, but they snicker because they are just like everybody else in this country. We all know we would be laughed off the stage because we have so, as a nation, depleted their faith in our judgment, and, so, guess what? They are in a position now where they say, "I remember how it was in Vietnam. I remember when that training flight went out and we were just training the Vietnamese first. And then we found the next thing was there was an American pilot in that plane, and then we found the American pilot was directing the fire in the attack. Then we found the American flyer was shot down and brought home in a body bag." But we were told, "We are not involved, we are not going to do much." And they watched it build incrementally.

Let us assume there is nothing in fact analogous between Vietnam and El Salvador. In the minds of the American public there is. So why do we not get together and just say simply, "We in the U.S. Senate and the U.S. Congress take the President of the United States of America at his word when he says we will send no Americans down there to be engaged in that fight. Mr. President, if circumstances change, and you need to send them, come on back up and let us talk about it." I suspect you would find the pressure on the Latin American policy of this administration, which is its weakest link, notwithstanding what the Heritage Foundation may say—read the polls—would change considerably. And we might be able to have a reasoned, balanced policy along the lines of what the Kissinger Commission called for. I find it fascinating to hear Senator EAST intone Kissinger as authority. Does he know that means excommunication for him? That is like the President of the United States of America, President Reagan—I have never heard one President quote Franklin Delano Roosevelt more in my whole life.

Well, folks, we need to establish a bipartisan foreign policy, but we will not establish a bipartisan foreign policy unless we have a policy we can sell to the American people because, if anything, one of the criticisms I would make of the Congress is that we tend to be sometimes too responsive to the immediate whim of the American people before they have had a chance to think it out. So if we want a bipartisan foreign policy, why do we not say what we mean? Give them a guarantee. It is a little bit like, folks, the alcoholic. The alcoholic goes to the rehabilitation center and comes back and says to the husband or wife, "I'm going down to the bar with Charlie but trust me." Not a smart move. Maybe the way to do it is say, "Honey, would you like to come down to the tavern with Charlie and me and watch me not drink?" We have to build a little confidence or I predict to you this policy is going to go tumbling down and what the Sentor from Wyoming predicts is going to happen will happen. We will have a total loss of faith and confidence in American policy in the region; things will begin to fall and things will become a self-fulfilling prophecy for a totally different reason than the Senator from Wyoming or my other friends who oppose this amendment suggest.

The last point I will make, I find it somewhat—I want to say this in a way that is constructive and not destructive—educational that the Senator from Wyoming mentions the Panama Canal Zone. I find it interesting the President of the United States mentions the Panama Canal Zone in his speeches about the region. I would ask the rhetorical question: What shape do you think we would be in today in Latin America had we not passed the Panama Canal Treaty? What do you think we would be having to deal with now? Those of you who were critics of the former President, and I have been on occasion, I think would have to admit we are for the moment at least better off having a treaty there than we would have been had we had no treaty. Let us try to establish a bipartisan foreign policy.

You do not have to accept every reason offered by the Senator from Massachusetts, although I am comfortable with all of them, for this amendment. You do not have to accept the reasons offered by the Senator from Oregon. Just accept the reality of present-day political life; a foreign policy absent the consent of the American people, no matter how well conceived, cannot last. And until the American people are convinced that this is not a subterfuge to incrementally get their sons and daughters involved in a war that should be fought by those who in fact say they want their freedom—and I believe they do—we are going to have trouble maintaining our policy.

So I thank my friend from Massachusetts for introducing the amendment. I think it is a good amendment, and I hope before we all shift into our ideological mode when we vote we just stop and think; we are not in any way damaging the President of the United States of America and we may be doing the single most important thing that must be done in the formation of American foreign policy, building the confidence of the American people to take a chance with us and their leaders in the formation of a policy. I yield the floor.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. BIDEN. I am happy to answer a question, but I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I have just listened with great interest to what I think is an outstanding debate on the part of Senators on both sides of this issue.

I pose a question to the Senator from Delaware. Earlier this afternoon, the Senate adopted an amendment by a resounding margin, with only three Senators voting against the amendment. That amendment reads, in part:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined
>
> (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;
>
> (b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States.

I appreciate my colleague's support for that amendment. It also had a section that made it very clear that it was in conformity with the War Powers Resolution.

How does he square that prior amendment with the pending amendment that you have to have a vote first, as he is projecting? In my judgment, this prior language, which the Senator voted for, simply makes a very clear statement that we will do what is necessary.

I think the Senator from Wyoming spoke very eloquently to that point—that we cannot and we must not deliver and announce in advance that we are not going to do anything.

The fact is that the liberation of Grenada may have done more for the credibility of the United States than anything that has happened in the Western Hemisphere in the last 20 years, including the Senator's rhetorical question with respect to the U.S. Canal Zone Treaty.

I ask the Senator how he squares this with the language for which he voted?

Mr. BIDEN. I think that is a fair question. Let me answer it by making two points.

Mr. SYMMS. I yield to the Senator for the purpose of answering the question.

Mr. BIDEN. I think the Senator is correct, that what happened in Grenada may be one of the most positive things that happened in the region.

The Senator may recall—there is no reason why he should—that this Senator was on the floor of the Senate making a speech in support of the President's actions in Grenada, which aggrieved many of my friends on the left of me, and that disturbed them. But I think the Senator is right.

Under this amendment, the President would be able to do that. Under this amendment, drafted by Senator KENNEDY:

> (2) such introduction is necessary
>
> (A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or
>
> (B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or
>
> (C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

The second part of the Senator's question, clearly as important, is whether or not the second part of the Senator's amendment which I voted for, which calls for invoking the War Powers Act, is inconsistent with the mechanism employed by the Senator from Massachusetts in his proposal. I argue that it is not inconsistent. It is different but not at all incompatible.

The point is that in both cases, as the Senator knows, there is some doubt as to the extent and validity with which the War Powers Act is to be employed, in view of the recent Supreme Court decision regarding legislative vetoes. We all have knowledge, including the leadership, that one of the matters on the agenda that must be taken up, if not in this Congress, the beginning of the next Congress, is clarification of the War Powers Act.

So this, in fact, is an interpretation and an application for the War Powers Act rationale, which is to get Congress involved in the process.

If that is the Senator's major concern, I suggest that perhaps the Senator and I could come up with an amendment to amend this, to require the limitation of the War Powers Act, if that is the language about which the Senator is most concerned.

I hope that answers the Senator's question.

Mr. SYMMS. Mr. President, I thank the Senator for that lucid answer.

It would appear that one of the purposes of this is to try somehow to strengthen the War Powers Resolution. But what I think all Senators should consider is that in politics, whether it be domestic politics or international politics, the perception is what ultimately becomes the truth. It is an open invitation to aggression, in my judgment, if we tie the hands of the President of the United States in advance.

The Senator from Delaware and this Senator came to Congress together. I was in the other body. I opposed the War Powers Act. I will be candid with my colleagues. I think the War Powers Act is a mistaken piece of legislation. I know that many of my colleagues will disagree with that. But I think it telegraphs in advance and ties one's hands.

As Lenin said his guidelines on the utility of compromise:

> To tie one's hands in advance, to tell the foe openly—a foe now armed better then we are—whether or not we shall fight with him, and when, is not the revolutionary spirit, but stupidity. To accept battle when this is known to be an advantage of the enemy and not ourselves is a crime. The policies of the revolutionary class which do not know how to carry through an adroit maneuver, a tolerationist policy, and compromise so as to evade a battle known to be disadvantageous are good for naught.

That is Lenin speaking, telling his people notifying the enemy of one's plans in advance would be stupid. He is giving his own people this advice.

I say to my colleagues that there is no way the amendment offered by the Senator from Massachusetts can be accepted by this body without in advance saying that the United States will not use its force, its power, its wherewithal to defend freedom and liberty in this hemisphere.

I recall to my colleagues—and I am sorry I do not have the very articulate quotation at my fingertips—the words of the late President Kennedy. I am sure the Senator from Delaware is very familiar with the passage from President Kennedy's inaugural address:

> We will pay any price and bear any burden to support those in the cause of liberty and freedom throughout the world.

I support what Senator EAST said earlier: If not here, where will we draw the line? And where will we stand with our fellow Americans? Those people in Central America, we often forget, are Americans just as we are. They are right here in our back yard, or rather, our front yard.

For the life of me, I cannot see how this amendment can be accepted by this body, this evening, without making a policy statement that, no, Central America is not close enough to home yet. We are not going to stop Marxist-Leninist expansionism there.

**Mr. BIDEN.** Mr. President, will the Senator yield for a question?

**Mr. SYMMS.** I yield.

**Mr. BIDEN.** I am not being facetious in this, so I ask the Senator to hear the question.

Would the Senator, given the option of having this amendment as law and also having full financial and military support for El Salvador—those two things: This amendment as law, and increased support from Congress for the President's military support package in El Salvador—would he rather have that or would he rather have this amendment fail and less of that support?

I am not being smart with this. I believe that the best chance to get more coherence in and cohesion on the President's military package is if the American people are assured that "we are not going" unless the President formally acts and invokes one of the exceptions enumerated in the amendment.

That is how I see it. I see the absence of such an amendment diminishing the prospects of aid and its presence increasing the prospects of aid.

I am asking the Senator whether he thinks they are reasonable alternatives?

**Mr. SYMMS.** I just say to my colleague, and I appreciate his question, that in an either/or situation, I view the amendment that is now pending as tying the President's hands to effectuate a strong policy for the United States. So I have to reject that.

**Mr. BIDEN.** I see. Let me ask another question.

**Mr. SYMMS.** Second, I just also wish to say, though that my biggest concern is with respect to Nicaragua and El Salvador. We are just giving our allies and our friends down there barely enough ammunition, weapons, and support to keep them from bleeding to death but not enough to win. I think that is a concern that the Senator from Delaware put his finger on, and I share his concern in that respect. That I think would be tragic, but you just cannot put a pricetag on the President's constitutional powers and by the Senator's own answer to my question he is talking about the fact we want to strengthen the War Powers Act.

I wish to see the War Powers Act taken completely to the Supreme Court and thereby force the Supreme Court to make a decision.

I might point out one other thing to my colleague. When I say we are giving the El Salvador Government and Nicaragua's freedom fighters enough just to keep them fighting and to keep them from bleeding to death, but not enough to win, I want to point out that we are actually requesting less money for El Salvador and Nicaragua than the administration has requested this year for the National Endowment for the Arts. We are talking about human freedom and human rights right here in this hemisphere. For a country with all the wealth, the power, the wherewithal, and the opportunities that we have here in the United States of America, I find it hard to believe that we cannot give the meager supplies that are necessary to the Contras and to the Duarte forces and those people in the newly elected Government of El Salvador, so that they can be successful in carrying out this war effort. They are seeking desperately to free themselves from the tentacles which reach clear from the Soviet Union into South America, and it is absolutely inexcusable in this Senator's opinion that we are not doing more to help our neighbors in Central America escape the fate of Cuba.

**Mr. BIDEN.** Mr. President, will the Senator yield for a question?

**Mr. SYMMS.** I am happy to yield for a question.

**Mr. BIDEN.** In the tradition of the Senate I will try to sneak in a statement with the question.

I understand the Senator's concern, as to why the American people will not do it and why we will not. There is a short answer. They do not trust us.

The question I have is this: If the Senator will recall that immediately after Watergate, there were a rash of proposals here in Congress relating to financial disclosure of Senators and Congresspersons, some of which went far beyond any constitutional requirement, and quite frankly, some of which were just downright humiliating.

Did the Senator not feel that, in light of the fact that public confidence was so low at the time, there was an institutional requirement to demonstrate to the American people that all of us were not like the press was painting everyone here out to be and one of the ways to deal with that was to pass a stronger than necessary disclosure legislation? It was done to bring about some confidence. We did not have to do it. In ordinary times we should not do it, and we do not do it now. But at that time in our history when Gerald Ford was being appointed President, the major issue was the honesty of Government, and that is why I think Gerald Ford served such an incredibly useful purpose because he was an honest and sincere man.

Does the Senator not think that under certain circumstances, it is required that we take extraordinary procedures to send a message to the American people? That is the message that will be sent tonight if we pass this to the American people.

**Mr. SYMMS.** Mr. President, I would just say to my colleague, first on the answer to his question, I do not think in the hysteria at that time it was necessary to pass the Watergate legislation. I would say unequivocably, no, I do not think it was necessary. In fact, this Senator voted against it when I was in the other body, and I still do not believe that it has changed the quality or the respectability of the public esteem, or lack of, for Congress.

You earn respect and credit. The word "credit" itself means credibility. That is earned.

President Ford did go into the White House, and he did have a great deal of credibility with the American public.

**Mr. BIDEN.** I respect the Senator's answer.

**Mr. SYMMS.** That credibility was not because of any ethics in Government law that was passed. That was because of the sincerity with which he carried out his responsibilities.

I think, as we mentioned earlier, the best thing that has happened in this whole equation in the last few months with respect to gaining credibility was the liberation of Grenada. That is where we gain the credibility and the respect. The American people supported President Reagan on his efforts in Grenada.

I just think that passing of more laws or more amendments micromanaging the political situation in El Salvador is not going to do anything toward fulfilling the promise that those people in that part of this hemisphere I think deserve.

I think what is going to solve this problem is a clear, concise, credible position of the United States of America and the full force and support of the United States economically, politically, ideologically, and militarily, if necessary, in order to see that we do not allow another slave state to be built in Nicaragua.

For Heaven's sake, why are they going to need a 12,000-foot runway in Nicaragua? They are going to put Backfire bombers in there.

We should start answering those questions.

I yield the floor.

**Mr. BIDEN.** Mr. President, I do not wish to speak any more.

I publicly thank the Senator from Idaho for being so gracious in letting me interrupt him as many times as I did and for the way he did answer my questions.

I yield the floor.

**Mr. DODD.** Mr. President, I will not take a great deal of time. I have been here for a couple of hours, and I suppose much of what was to be said has been said on this issue.

It is not the first time that this body has debated the question of Central America or debated the substance of the amendment that is pending before this body.

I did not want to let the debate conclude without adding a few thoughts.

This debate has moved from the substance of the amendment to the question of what our policy should be in Central America, certainly a very legitimate discussion. I think we are all enlightened a bit as a result of that debate, but unfortunately the substance of this amendment has become the question whether or not you are willing to allow Marxist governments to emerge in our hemisphere and to become solidified. It has not even been implied—it has been stated unequivocally by those who oppose this amendment that if you support this amendment, then you clearly come down on the side of those who would like to see or are willing to allow, anyway, the emergence of Marxist states that could prejudice our security interests in this region.

Unfortunately, that has been the case.

I do not take a back seat to anyone in this Chamber or anyplace else in my opposition to the establishment of Marxist states in this hemisphere or anywhere else. I wish for once we might get beyond the question of what our goals are because I think by and large the Members agree on that. None of us here want to see that happen. We would like to take the intelligent steps to at least minimize if not eliminate the possibility of that occurring.

I think that is the common denominator which unites us in this debate.

So the question is not over the goals but the means we choose to minimize the possibility of that occurring, and that is where the debate, it seems to me, should be focused.

This amendment that has been offered by the Senator from Massachusetts is really a procedural question. It is an effort that would suggest that if the President, this President or any other future President, may decide that it is in our interests and the interests of our allies in this hemisphere to send U.S. forces to protect our interests because no other option exists then he should be able to do that, but that he should request and seek the support of a majority of Members in this body and the other body, the House.

I do not know of anyone here, if we were dealing with an abstract situation who would probably disagree with that formulation. That is basically what our Constitution insists upon, that there be the shared responsibility, the shared power of making that kind of a decision.

The issue is not over whether or not we ought to utilize this power. I happen to believe very firmly that the use of military power is a very legitimate tool in protection of our foreign policy interests. There ought to be no doubt, no equivocation, on that particular point.

The debatable issue is whether or not that particular force or that particular power ought to be used prior to the consideration of other options which are available to us which could achieve the same result, and minimize the possibility of longstanding or perpetual hostilities. That, it seems to me, is what is the essence here. As I said at the outset, it has unfortunately became the question of whether those who support it are willing to accept the emergence of Marxism in the region and those who oppose it are unequivocally against it.

A historian in this country once said that when governments are confronted by perceived menaces they usually try to smash it rather than try to define it and to understand it or to examine it. It seems to me it would do us all a great deal of good if we try to understand and to examine and to define what is going on in our hemisphere.

The simple quick response, of course, is to see it as a threat posed by the Soviet Union with its surrogates in Cuba and Managua. That is certainly a dimension to the problem in Central America, and to deny so would be naive. But that is not the sum and substance of what is occurring in our hemisphere.

A few short years ago a well-respected individual said the following, which I think is somewhat enlightening. He said, "There is absolutely no doubt in my mind that revolution is inevitable in Latin America." By way of explanation, he offered this:

> The people are angry—

Speaking of the people of Latin America—

> They are shackled to the past with a bond of ignorance, injustice, and poverty. And they no longer accept as universal or inevitable the oppressive prevailing order which has filled their lives with toil, want, and pain. The terrible realization dawned upon them that the futulity of their lives and that of their parents' lives need not have been, that it is the bitter fruit of an evil system of justice. And so they are filled with a fury and a determination to change the future.

Now, I suppose if I were to ask my colleagues who made that statement or quote, they may say Che Guevara, or Fidel Castro, or some other purveyor of revolution in Latin America. The fact of the matter is it was Milton Eisenhower, the brother of the former President of the United States, speaking back almost 2½ decades ago. And those prophetic words have come true.

Now, it is not a hopeless situation. It is not a situation which is absolutely inevitable in the sense that the only course in front of these people is to turn to radical elements to resolve their problems. We have a chance in this hemisphere to do something differently, to approach a problem that we have avoided for far too long and to come up with some creative solutions to it.

If I felt this evening that we had no other option as a way of retarding the aggression that we see before us, then I would support a military solution.

But what is available, what is staring us in the face is an option other than the military one. We see the Contadora nations, we see the efforts being made to try and come up with some resolution of these difficulties, short of expanding the military conflict. And I think we ought to take advantage of that and try it.

I do not have the total confidence that it is going to succeed. It may not. But it seems to me that ought to be the option we choose in this country.

I spent several hours only a few short months ago with Lech Walesa in Gdansk, Poland. It was an enlightening experience. I found him to be creative, uncorrupted by the attention, and fascinating to talk with not only because of what was going on in his own country, but his perception of Eastern Europe and other parts of the world. It struck me, talking to him, that the last thing we want to do as a nation, is engaging in the same basic foreign policy that the Soviets have engaged in Eastern Europe.

We have the ability to do it. There is no doubt about that. We have the military prowess and power to be able to absolutely curtail any activity in any of the Central American countries. We can, in effect, create a mirror image of the foreign policy that the Soviet Union has cruelly foisted on the people in that part of the world. That is an option available to us. But I do not think anyone in this Chamber or anyone in this country wants to see the United States develop a foreign policy in what we perceive as our sphere of influence to engage in the same type of behavior which has condemned Eastern Europe to the hostility and to the deprivation that the Soviet Union has foisted on those people.

Yet that is what I seem to be hearing from some; that there is no other way to deal with the problem of this region than by engaging in that particular approach.

What I think the author of this amendment and others are suggesting is that we ought to proceed on another course, not to rule out the military option, but to at least put it on a back burner and to give these other opportunities a chance. That, it seems to me, is something that all of us, regardless of one's philosophical or ideological leanings, ought to be able to support.

So this evening, Mr. President, I hope, given the delicate and careful wording of this amendment, which takes into consideration many of the concerns that others have raised when similar amendments have been offered, that we would be able to get behind this choice; that we would be able to say that this is what we want to happen. Not that we rule out the military option, but that we feel that if a President, not necessarily this one, but any President, decides to exercise that, this body would have an opportunity to participate in that decision.

I do not find that to be such a radical thought. I do not think it sends an improper signal. I think it is merely stating what has been the longstanding tradition of this country going back almost 200 years, that both the executive branch and the legislative branch should be involved in that decisionmaking process.

Let me add one last thought. The question of Vietnam has been raised this evening—and there are distinguishing features between the war in Southeast Asia and what is going on in Central America. I do not want to draw too close a parallel, but I think it is enlightening to remember that this Congress never once authorized that particular conflict. It was too easy an issue to duck. The only battles were over appropriation levels; never on the fundamental decision of whether or not we ought to have been there.

There were some who are in this Chamber today who had the courage to stand up and to say they supported that war. There were others who said they did not. But far too many waffled back and forth on the issue.

What the Kennedy amendment is trying to do is to see to it that we do not find ourselves in that position once again; that we, as a body, would be able to make that decision to be involved in that decisionmaking process.

My hope would be that we have the intelligence and the wisdom to understand that this is a worthwhile step and something thought ought to be supported in a bipartisan way.

Mr. LEAHY. Will the Senator yield for me?

Mr. DODD. I am glad to yield to my colleague from Vermont.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. I was yielding to my colleague.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. LEAHY. Mr. President, the Senator from Connecticut has made a point that has been raised before in this discussion on Vietnam. I will refer to that in a question: Is it not a fact, I asked my friend from Connecticut, that the Kennedy amendment is not to determine aid levels, to say whether we shall or shall not give economic aid or any kind of aid, for that matter, to El Salvador? It is not an amendment to say whether we do or do not support the President's Caribbean Basin Initiative.

It is not a foreign aid appropriations amendment, but it is simply an amendment saying what would be the conditions under which American troops would be sent to fight a war in Central America. Is not that basically it?

Mr. DODD. That is the sum and substance of the amendment.

Mr. LEAHY. I also ask my good friend from Connecticut, is it not basically a simple issue, clear and to the point? Are we going to send U.S. troops into Central America, and, if we are, should not the American people through their elected representatives have a voice in that decision?

Mr. DODD. That is true. It also adds, of course, the important clause referring specifically to the War Powers Resolution. Nothing in this amendment would in any way expand or detract from that particular act of Congress.

Mr. LEAHY. I also ask my good friend from Connecticut—he mentioned Vietnam—to think back to the last 2 or 3 years of the Vietnam War. I remember the great speeches up and down on the floor of both bodies of Congress, but nobody ever really grappled with the question of whether American troops should be there fighting that war. We even had discussions of what we should say we accomplished over there, or did not accomplish over there, but yet the same people would not say, "I am now going to stand up to vote to put restrictions," or "I am now going to stand up to vote to bring them home." I ask the Senator if he will recall back to 1975? I recall well. I had just come to the Senate. We finally had a vote in the Armed Services Committee for a further authorization of money for the war in Vietnam. We had a whole series of votes, and the Armed Services Committee had voted each time to authorize more money for Vietnam.

This time by a one-vote margin it refused to authorize any more money. I remember when the most hawkish member of that committee, one of the most supportive of the war in Vietnam, was asked by a rather incredulous chairman of the committee if he realized he had voted no on the matter. He said, "Yes, they have lied to me long enough."

The majority of that committee always voted—every single time without exception in a whole series of votes throughout a day in April—against any more money to Vietnam. And the war ended as it was going to end eventually anyway. We left, and I think accomplished really nothing there except the deaths of 55,000 Americans and hundreds and hundreds of thousands of Vietnamese.

But what struck me in April 1976 was a discussion among a group of Senators, and how all of them were opposed to the war in Vietnam; all of them. I started paying more attention a year later. I started paying more attention to the House and Senate Members. All of them were opposed. I could not find any supporter of the war in Vietnam. Yet these were the same people who made up the majority of the vote year after year for further authorizations, and further appropriations for Vietnam.

I ask my friend from Connecticut: Does he not think if we were to go out to the people of Connecticut, Vermont, or any of the other 48 great States and say should not the United States, if it has vital interests in Central America, or anywhere else, be allowed to defend and protect its vital interests? I think the general answer of course would be yes. Is there anything, I would ask my friend from Connecticut, in the Kennedy amendment to stop the United States from doing that?

Mr. DODD. None whatsoever.

Mr. LEAHY. Also, if we were to ask that based on the facts, the situation as we see it today, and as the American people know it today, if we were to ask them do you want American troops to go down and take over the war or oversight in any way in Central America, is there any question in the mind of my friend from Connecticut about what the answer of the vast majority of Americans would be, Republicans, Democrats, Liberal, Conservative, Independent, whatever? Would not the response of the vast majority of them be negative based on what we know in Central America today.

Mr. DODD. I say to my colleague the answer is probably yes, given the present situation. I tried to make the case in my own remarks. I think, however, there are circumstances under which the American public would say something quite different, and it is my view as I believe it has been that of my distinguished colleague from Vermont, that we do not foreclose or suggest by this amendment, that that option of a legitimate extension of our foreign policy ought to be eliminated, and there is nothing in this amendment which would suggest it ought to be the case. That situation may arise where that is the only opinion. But based on the present facts I would say that the answer would be a resounding no.

Mr. LEAHY. Does not the amendment for that matter specifically lay the groundwork, if indeed America's vital interests are at stake, for America to act?

Mr. DODD. It does. In fact, it uses that vague terminology as well. It does not even define what those interests may be.

Mr. LEAHY. I should start off by saying that I do not want to draw or try to draw too much of a parallel between Central America and Vietnam, because there are significant differences. But the principle of when and how American troops are going to be committed is the same, whether it is in Central America or whether it is in

Vietnam. I think that is something we should not lose sight of. Nobody is trying to draw some kind of a geographical or historical parallel with Vietnam because you can find enough differences between them. But the principle of when and how American troops should be utilized or committed is the same, or was the same, at the time of Vietnam as it is today.

I think one of the things we should do is learn from history, and learn from the mistakes of history. And I think most people in America recognize that we have made a mistake, that the Congress made a mistake in not stepping in, in not representing the will of the people, and in not giving the people of this country, the greatest democracy in the world, a chance to have a say in how our power is being committed abroad. Really, we are giving them at least a little say here—at least a little say. I would suggest to my friend from Connecticut that this is the minimum say that most people certainly in my State would be willing to have. At some point we are going to have to realize that we do not serve here in the Senate to go poll by poll, or whim by whim, or pressure group by pressure group, or administration lobbyist by administration lobbyist. Rather the Senate of the United States should be here as the conscience of the United States.

We are elected for 6-year terms. There are only 100 of us for 235 million Americans. This is an awesome responsibility. We should be here as a conscience of America. And the conscience of America is crying out, saying ". . . go slow, ask some questions, do not commit our forces, our honor, and our morals as a Nation without some substantive reason."

I commend the Senator from Massachusetts, the Senator from Oregon, the Senator from Rhode Island, and the Senator from Connecticut for pursuing this line similar to the one I tried once before on the foreign aid emergency supplemental, because it allows us to act as a conscience of the Nation, and it allows us to say when the United States could make such a commitment.

I wish to God that had been done at the time of Vietnam. But let us not have a lot of us standing here years from now saying, "I wish to God we had done that at the time we had the chance."

We do not tie the President's hands by this, but we say, "Here is how the American people feel through their elected representatives. Go slow, Mr. President. Make sure that indeed America's vital interests are there."

That is why I support it. I appreciate the Senator from Connecticut yielding to me for my questions.

Mr. DODD. I thank the Senator for his comments. He has taken a significant leadership role on this issue in the 3 or 4 years that I have been in this body. As the Senator from Vermont knows, I have a deep and abiding interest in this part of the world, having spent 3 years of my life there. I think I have more than just a passing knowledge of what life is like among these people, and also what the Marxist threat is like and how we are perceived in our own hemisphere. My hope would be that this amendment would be agreed to so that we might put ourselves in a position far better to manage our foreign policy interests in the coming weeks and months in this part of the world.

Does the Senator from California want me to yield?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, the proponent of this measure, my friend from Massachusetts, is off the floor temporarily. I will simply ask, when he returns, if his answer is in the negative he may have the opportunity to insert a clarification in the RECORD. I will ask whether or not he intends the same legislative intent as was carefully spelled out by his colleague [Mr. FOLEY] in the House. The measure before us is essentially the same if not identical to the one upon which the House recently voted.

In his floor statement, Representative FOLEY took great pains to make clear what this resolution would not do, at least in his view. He sought to persuade his colleagues in the House that it does not limit the current reconnaissance flights by American military aircraft in the region. It does not impact in any way on current military advisers assigned to El Salvador in their role of assisting in training and development of El Salvador Armed Forces. It does not limit the ability of the President to declare the danger of a hostile attack upon the United States, its territories or possessions. It does not limit the ability of the President to see a clear and present danger and provide necessary protection for Embassy personnel in any country, meaning El Salvador or Nicaragua. It does not limit the President in his ability to provide protection for and to evacuate U.S. Government personnel or U.S. citizens from any country. It does not inhibit or limit the ability of U.S. naval or air forces on or over the high seas to monitor Soviet or other naval activities deemed inimical to our national interests.

If the proponents agree that these are things which the amendment does not do, then I think it would be useful, perhaps, to him, and were this measure to pass to those who would later construe it, to provide this clarification as legislative history.

Mr. President, having said that, I will say this: My colleague from Massachusetts indicated to the Senator from Wyoming that those who oppose this amendment need not feel that they have any reason to think that they have a monopoly upon virtue, that they have a monopoly upon patriotism.

Well, that is quite true. No one doubts the patriotism of those who are the proponents of this amendment.

But, Mr. President, What I would say to the proponents is that those who support this amendment have no monopoly upon the concern for the lives of young American servicemen. Those who have expressed resentment at some implication that they might feel from our opposition to this amendment might well understand our resentment at any implication that those who oppose this amendment do so from any reason other than our imperative concern for the lives of young American servicemen.

The question is, How shall the United States best avoid jeopardy to them? It is not just in 1984 on the eve of the Presidential election. The question is, How do we avoid jeopardy to those same young men in 5 years?

I think perhaps we should look at history as so many have urged us to do on both sides of this question. I think we should be concerned with what kind of signal we are sending both to our allies and to our adversaries. We should be concerned with whether or not the image of the United States is that of a reliable ally. We should wonder whether we are doing what is required in order to satisfy the hunger, which I found last August and on three subsequent visits to Central America, for a credible American presence, whether I was talking to the Government in each of the six nations that I visited—or five. I do not find a hunger for American presence in Nicaragua.

Mr. President, let us indeed determine whether or not the signal that we are sending to our allies is the kind which so many have warned about on this floor.

The Senator from North Carolina, with eloquence rare even for him, has outlined the fear, the very real fear, that should be shared by every Member of this body. That is that we are sending the wrong signal, a signal to our allies that we are not a reliable ally; a signal to our adversaries, a very dangerous signal, virtually an invitation, for them to increase the pressure to engage in misadventure. Mr. President, if we do that, then we are guilty of a tragic dereliction.

Let us indeed examine history. We have been told that those who ignore its lessons are doomed to repeat its mistakes.

A very clear perspective on a pertinent piece of history is provided by Robert F. Turner writing in the War

Powers Resolution, "Its Implementation In Theory And Practice" for the Foreign Service Research Institute. On page 130, Mr. Turner has written:

> The Senate, for example, rather gratuitously passed the National Commitments Resolution, putting the world on notice that the United States had no national commitment to any country with which it did not have a formally ratified treaty or other congressionally approved defense relationship.[62] In a similar vein, shortly thereafter the Congress announced to the world in section 8(a)(2) of the War Powers Resolution that in the event of an enemy attack on our closest NATO allies the president would not have legal authority to commit U.S. forces unless Congress decided to vote him that authority.
>
> The Senate, in other words, essentially went full circle. It assured the world's potential aggressors that the United States had no obligation to assist any country with which it did not have a congressionally approved defense agreement, and it then joined the House in saying that for the president to have the power to execute our solemn treaty commitments he would need to seek the same type of formal congressional approval that would be required to assist a state with which the United States had no relations at all. This gave a new meaning to the concept for a commitment.
>
> Senate passage of the National Commitments Resolution reminded some observers of a January 1950 speech by Secretary of State Dean Acheson outlining a U.S. defense perimeter that excluded South Korea. Pyongyang was apparently listening, because within a few months more than 60,000 North Korean soldiers invaded South Korea. At that point Acheson apparently decided that he had been mistaken and that South Korea was worth defending. Nearly 34,000 U.S. soldiers lost their lives in rectifying that mistake.
>
> During the height of its anti-Vietnam irresponsibility, the Congress ignored this lesson. Not satisfied with having assured our adversaries that genuine U.S. defense commitments were few—and that those which existed were, legally speaking, essentially meaningless—the Congress began enacting other legislation limiting the president's flexibility in dealing with national security problems. According to Senator Tower, during the 1970s "over 150 separate prohibitions and restrictions were enacted on Executive Branch authority to formulate and implement foreign policy." Several of these laws virtually guaranteed our enemies that the United States would not effectively help to resist aggression in specific trouble spots like South Vietnam, Laos, Cambodia, and Angola. It may have been coincidental, but it is worth noting that upon enactment of those laws external communist forces substantially escalated their activities, and each of those states is today under Marxist rule.

Mr. President, I think the lesson of history is clear: this resolution is at best gratuitous and needless. It is arguable from the lessons of history that President Reagan and President Duarte may have gone too far in giving assurances that one will not ask and the other will not send American troops into El Salvador.

In that respect, this entire debate is academic. What is true is that by doing what is proposed this evening, we are giving assurance of the kind which the Senator from North Carolina quite correctly indicated is an invitation. We are needlessly and gratuitously giving assurance not to revolutionaries, as my friend from Oregon mistakenly believes these insurgents to be, but to those who are armed and directed from Managua in a Marxist effort to expand the Sandinista revolution beyond the borders of Nicaragua, that they need never have any fear that American troops will be used, perhaps not even to honor our commitment under the Rio Treaty.

Let me just say, Mr. President, whether it is intended by my friend from Delaware or my friend from Connecticut, this amendment is, for many on this floor and off it, a foothold for those who seek a position on the part of the United States of opposition to a military solution in El Salvador, whether it involves U.S. troops or simply U.S. aid.

To my friend from Oregon, I shall have to say that I think he should go back. I think he should heed the lesson of the newly elected President, his friend, President Duarte, who will tell him in the clearest possible terms, whether he likes it or not, whether anybody likes it or not, a military solution is imperative if anything in the way of a peaceful reconciliation is ever to be possible. It is not enough to send a Peace Corps, it is not enough to send doctors, it is not enough to hope that we can quickly undo with social and economic remedies all of the ills that have, indeed, been the terrible and tragic lot of generations in El Salvador.

We can send billions in social and economic aid, and send teachers, and send physicians, and should do so. But there cannot be economic revival in El Salvador if, day after day, week after week, bridges are blown, powerlines cut, busloads of workers ambushed—not by revolutionaries, Mr. President, but let us call them what they are: Marxist terrorists armed and directed from Managua. The social, the economic revival is not possible unless we can at least so suppress the level of terrorism that people will be encouraged to have the courage to reinvest in an economic revival.

Mr. President, I say also to my friend from Oregon, the military solution is imperative not because these are revolutionaries; these insurgents for whom he seemed to feel there is a broad base of popular support are not supported locally. The reason there must be a military solution is precisely because their support is external.

If he does not believe that, he should talk to the archbishop of San Salvador—no cheerleader for the United States, for the Magaña government in El Salvador, but someone who are least has seen clearly there is not popular support for the insurgents. To quote him in the answer that he made to those of us who were there with the United States observer team: "Their support is external." By external, he meant that they are armed and directed from Managua.

Mr. President, I shall take no more time. I shall simply say that I could have simply dismissed this amendment as gratuitous, but I think that is more. I think it is dangerous. I think it sends the same kind of signal of which Robert Turner has written so eloquently. I do not think it is any comfort to those who understand that a military solution is required, a solution without U.S. troops. Let me say that many on this floor have repeatedly voted to end U.S. military support to El Salvador. They have done so recently. This is welcomed by those who voted in that fashion, because it is a foothold. It is a basis for them to argue next that we should not be involved in sending trainers, that we should not be involved in sending arms.

Mr. President, we have defeated this amendment before by a lopsided, bipartisan margin. We should do so again.

Mr. THURMOND. Mr. President, I would like to voice my opposition to the pending amendment. Although I am also concerned about the possibility of conflict in Central America, I feel that this amendment is clearly not in the best interest of our Nation. The Constitution designates the President as the Commander in Chief of our Armed Forces, and at times it may be in our best interest for him to commit troops to shore up an ally or protect American lives. The Congress should not tie the President's hands by requiring prior approval from Congress before a commitment of U.S. forces to Central America.

We have not enacted similar provisions concerning the defense of Europe, or Korea, or the Persian Gulf. Therefore, it makes no sense to adopt such restrictions for Central America.

Additionally, Mr. President, during consideration of this bill, the Senate voted 77 to 3 to reaffirm support for the principles of the Monroe Doctrine. Adopting this amendment would completely contradict that vote. I urge my colleagues to oppose the pending amendment.

Mr. MATHIAS. Mr. President, no one can seriously argue against the spirit of this amendment which is based on a fear that American soldiers will be sent to fight in the jungles of Central America. No one wants that.

But I believe the amendment is redundant. What it seeks to do can already be done under the War Powers Act. And by legislating in this way for one region of the world, we may raise doubts about the vitality of the War Powers Act everywhere else. Sections 2 and 3 of the act make it clear that the

President is now bound by law to seek congressional authority to order troops into battle except in specific and defined circumstances.

By adding a regional chapter to war powers legislation, we would risk new interpretations of new language that may impact adversely on the original law. No thoughtful American wishes this to happen by either design or happenstance; so I think it prudent to vote against the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Massachusetts to make a statement without losing my right to the floor.

The PRESIDING OFFICER (Mr. QUAYLE). Is there objection? Hearing no objection, it is so ordered.

Mr. KENNEDY. Mr. President, I wish to make a final comment on the points that were raised by the Senator from California. We have been on this amendment now for about 4½ hours. Prior to his presence on the floor, I did, as a part of my presentation on this amendment, indicate not only what this amendment does, but also what the amendment does not do. The Senator from California, quite correctly, stated the positions that have been expressed by the originator of this amendment, the Representative from the State of Washington [Mr. FOLEY]. I would have considered that any fair reading of the amendment would certainly support that expression of the purposes of the amendment as what activity is covered and what activity is not covered.

The Senator from California is quite correct: reconnaisance flights are not covered; military advisers are not covered; there may be the introduction of U.S. troops if American Embassy personnel are in danger or American citizens are in danger. The President can make that judgment and send troops without the consent of Congress.

Of course, the War Powers Act then would apply. We have expressly included in this amendment reference to the War Powers Act. Should those emergencies arise which have been suggested by the Senator from California—where the President would not be required under this amendment to get the approval of the Congress—the War Powers Act would very definitely apply. So that has been included in our proposal. The War Powers Resolution would permit the President to wage war with combat troops in El Salvador and Nicaragua for 60 days and only then would he have to withdraw those troops unless Congress acts in a positive way. This amendment turns that proposition around and says before the President sends combat troops in there for the purposes of offensive action—not for defensive action—he is going to have to get prior approval. But if the President does take action along the lines stated by the Senator from California, the War Powers Act would certainly apply.

The final point I would like to make is that the Senator from California talked about concern for the sons of American families from those States whose Senators oppose this particular amendment. Let me point out that it is true that I inquired of the Senators from Wyoming and Arizona whether they were being sanguine about the situation where the sons of their constituents would be sent into jungles of Central America without either a voice or a vote on sending them there.

I did not intend to suggest that they were, by rejecting this amendment, less concerned about the sons of their constituents. What I am saying, however, is that it does appear to me that this amendment links their concern about their constituents to their participation in the decision of whether they should or should not be sent to fight in Central America. I think that has been clearly stated by a number of those who support this amendment.

I thank those Senators who have spoken in support of this amendment. I think it has been very constructive, very positive, and very helpful to our general understanding not only of the particular provisions of this amendment, but also in the discussion of our policy in Central America. I am hopeful that the Senate will permit us to vote on this amendment. I know the Senator has yielded for the purposes of making a brief comment. I hope that we would have an opportunity to get the yeas and nays on the amendment or any other motion that will be made at this time.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER (Mr. WILSON). The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I have heard a number of speakers this evening say that a matter of such serious import as the dispatch of troops to Central America should be submitted to the affirmation of the people through their elected Representatives in the Congress of the United States. In fact, of course, we do not have direct democracy in this country. We have representative democracy. But it is also a fact that Members of the Congress are very often more guided by domestic political considerations on foreign policy issues than is the President of the United States.

I note further that the Constitution vests in the President the power of Commander in Chief of the Armed Forces of the United States. The President has the power to formulate foreign policy and engage in day-to-day conduct of diplomacy, a power that, according to the Curtis Wright case, would reside in the Presidency, even in the absence of specific authorization by the Constitution. The President is elected by all of the people to fulfill that responsibility. He is the only person in the United States except for the Vice President, who is his subordinate, who is elected by all of the people of the United States. You cannot submit every major issue to popular referendum. Indeed, we submit virtually none on the Federal level, except in rare instances when it is specified that amendments to the Constitution will be ratified by popular referendum in the separate States.

And so in the interest of orderly government, in the interest of being able to maintain a sustained and credible foreign policy, the Founding Fathers vested a great deal of power in the President. They vested powers in the President on external issues that they never would have vested in him in domestic issues, and this is an extremely important dichotomy.

Mr. President, the amendment offered by the Senator from Massachusetts goes beyond the War Powers Act. The War Powers Act itself is of dubious, at least questionable, constitutionality. The War Powers Act is regarded by many, particularly by people in friendly governments over this world, as an inhibition on the President to carry on a long-term, cohesive, reliable, and credible foreign policy. We would be foolish to take this additional step.

Much has been made of Vietnam, but let me say Vietnam was not lost by our gallant soldiers, sailors, airmen, and marines who perished in that conflict. Vietnam was lost under the Capitol dome in an amendment very, very similar to the one offered by the Senator from Massachusetts that proscribed the use of American Armed Force in or over Vietnam. This was an open invitation to North Vietnam to mount a conventional attack with armor and everything against South Vietnam in violation of the Paris accords because the Congress of the United States dictated to the President that he would not be permitted to enforce the Paris accords.

For God's sake, let us here tonight not convince the elements hostile to the United States and hostile to friendly governments and hostile to people in Central America who aspire to self-determination that they have an open invitation to proceed at will while the Congress debates whether or not to permit the President to defend our interests in the hemisphere with perhaps some reasonable degree of assurance that with a one House veto on his action nothing will be done. I implore the Senate to vote with me to table this amendment.

Mr. President, I move that the amendment of the Senator from Massachusetts be tabled, and I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The question is on agreeing to the motion of the Senator from Texas.

Mr. **KENNEDY** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Massachusetts is recognized.

Mr. **KENNEDY**. Does the Senator want to yield to me 2 minutes or can we get a quorum call?

Mr. **TOWER**. I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. **TOWER**. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **KENNEDY**. Mr. President, have the yeas and nays been ordered?

The **PRESIDING OFFICER**. The yeas and nays have been ordered. The motion is nondebatable.

The question is on agreeing to the motion to table the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Illinois [Mr. PERCY], is necessarily absent.

Mr. **BYRD**. I announce that the Senator from California [Mr. CRANSTON], the Senator from Nebraska [Mr. EXON], the Senator from Colorado [Mr. HART], the Senator from Rhode Island [Mr. PELL], and the Senator from Nebraska [Mr. ZORINSKY], are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL], would vote "nay."

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 31, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—63

Abdnor
Armstrong
Baker
Boren
Boschwitz
Bradley
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
East
Evans
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson

NAYS—31

Andrews
Baucus
Bentsen
Biden
Bingaman
Bumpers
Burdick
Byrd
DeConcini
Dodd
Eagleton
Ford
Hatfield
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Specter
Stafford
Tsongas
Weicker

NOT VOTING—6

Cranston
Exon
Hart
Pell
Percy
Zorinsky

So the motion to table Mr. KENNEDY's amendment (No. 3239) was agreed to.

Mr. **TOWER**. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. **WARNER**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **TOWER**. Mr. President, the Senator from Massachusetts has another amendment to offer which I understand will be offered as an amendment in the nature of a substitute. All parties involved have indicated they do not expect to take an extended amount of time on these amendments. There has already been quite a bit of debate on Central American policy this evening.

So I think Senators should anticipate that a vote could occur in 45 minutes to an hour, possibly. So I just want to put our colleagues on notice. After we dispose of the Kennedy amendment, there are other amendments, not sequenced but Senators are ready to offer them and they will require rollcall votes. So I would suggest that Senators go to the cloakroom, take off your shoes and relax, unless you would rather sit out here and listen to some rather sparkling debate.

Mr **WILSON**. Mr. President, I would like to inquire of the Senator from Indiana about several aspects of section 191 of the pending legislation dealing with weapon system warranties. I should note that the Senator has served as chairman of the procurement task force of the Armed Services Committee, which was responsible for consideration of this provision. The Senator, I am sure, is aware that in appropriate instances, for example in the case of service life requirements, compliance with the requirements is conclusively determined by demonstration of a test article prior to acceptance of the weapon system or other defense equipment. It is clearly impractical to subject every production item to a destructive test. Does the Senator agree with me that this practice which, by the way, is explicitly provided for in the regulations issued by the Secretary of Defense to implement the existing statute, is entirely permissible under the provisions of section 191?

Mr. **QUAYLE**. I agree with the Senator. The Defense Department is free under section 191 to determine the time, place and manner of testing and it is consistent with the Secretary's discretion to determine what will constitute a contractually binding demonstration that the guarantees have been fully satisfied.

Mr. **WILSON**. I have read with care the text of section 191 and the committee report especially as it relates to the issuance of class waivers. Recognizing as I do and as the Senator does, that the authority to issue waivers should be invoked sparingly, does the Senator nonetheless agree with me that the Secretary may, consistent with section 191, make a good-faith determination that the inclusion of performance guarantess might not be cost effective in the case of certain classes of contracts and could be waived as he has done in the case of cost-type contracts under the existing statute?

Mr. **QUAYLE**. I would agree with the Senator's interpretation. The Secretary has the waiver authority and the Senator and I, as well as the committee, expect him to use the authority sparingly and with prudence. If, however, the Secretary determines that inclusion of the performance requirements in a particular contract or group of contracts is not cost effective, he has the authority under section 191 to issue a waiver with respect to such contract or group of contracts. I would point out, however, that if a group of contracts with respect to which a waiver is issued includes one or more contracts which are major defense acquisition programs, we expect prior notice of the Secretary's intention to issue the waiver.

Mr. **WILSON**. I observe that section 191 makes no explicit reference to authority of the Secretary to include in the mandated guarantees appropriate limitations, exclusions, and duration provisions. I also observe that this aspect of the bill is addressed to a degree in the committee report. I am concerned that it would be clearly inappropriate for this body to undertake to legislate details of this type. On the other hand, I am concerned that our silence in this regard may be construed as preempting the discretion otherwise given to the Secretary of Defense. Typical of the provisions I have in mind would be those which specify the conditions and limitations of the guarantees, for example timely notice, exclusions from the guarantees—for example, failure of the Government with respect to proper maintenance and upkeep of the equipment and, of course, the duration of the warranty and guarantee provisions. I, and I am sure many of my colleagues, consider the matter of secretarial discretion in these respects to be of critical importance and I think it would be appropriate to confirm that section

191 is not intended to restrict the Secretary's discretion in this regard.

Mr. **QUAYLE**. Let me reassure the Senator that the Secretary's discretion in the areas outlined by the Senator is not at all curtailed by section 191. We regard this discretion as being so inherent in the Executive authority committed to the Secretary as to make explicit reference to it beyond the mention in subsection (g)(2) unnecessary.

Mr. **WILSON**. Following the enactment of section 794 of the 1984 DOD Appropriations Act, the Defense Department issued implementing regulations which are currently in effect. May I ask the Senator if he understands the regulations now in effect to be consistent with the provisions of section 191 so that only revisions of minor consequence will be required?

Mr. **QUAYLE**. The Senator's understanding is partially correct. Part of the record considered by the committee was the DOD policy guidance as well as the views requested from the General Accounting Office. The GAO analysis of the implementing regulations, as well as the committee's discussion in its report, must be fully considered as DOD prepares its policy guidance for section 191. However, since there are many similarities between section 794 and section 191, I doubt that major revisions to the DOD guidance are required.

### AMENDMENT 3240

(Purpose: Nothing in DOD FY 85 Authorization Act shall be deemed to authorize support for the Contras in Nicaragua)

Mr. **KENNEDY**. Mr. President, on behalf of myself and the Senator from New Mexico, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The bill clerk read as follows:

> The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. BINGAMAN, proposes an amendment No. 3240.

Mr. **KENNEDY**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> Nothing contained in this Act (FY 85 DOD Authorization Act S. 2723) shall be deemed to authorize the appropriation of any funds for the purpose of or which would have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement or individual.

Mr. **KENNEDY**. Mr. President, I ask that we have order.

The **PRESIDING OFFICER**. The Senator's point is well taken. There is not order in the Senate. Senators will please take their conversations into the Cloakroom.

The Senator from Massachusetts.

Mr. **KENNEDY**. Mr. President, this amendment is only five lines long. I will take a moment of the Senate's time to read it because I think the language itself explains the amendment most effectively. The language is:

> Nothing contained in this act (FY 85 DOD Authorization Act, S. 2723) shall be deemed to authorize the appropriation of any funds for the purpose of or which would have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement or individual.

Mr. President, that language is very clear. Basically, what the Senator from New Mexico and I seek to achieve by this amendment is to say in 1985, starting in the fiscal year 1985, that none of the funds authorized in this bill would authorize the use of any of these funds for paramilitary operations in Nicaragua of any group, organization, movement or individual.

Mr. President, we are not asking that we go into any secret session here this evening. What we are saying is that if there are funds in this bill—and there is reason to believe that there are funds in this bill—we believe that that funding ought to be halted to the Contras in 1985. There is not a Member of this body who does not understand that the funding for the Contras is being used to overthrow the Sandinista government.

The case has not been made over the period of the last year that there has been significant or serious interruption of arms movement from Nicaragua to El Salvador.

We know, Mr. President, what the Contras have in mind they have stated it very clearly—and that is to use this funding to overthrow the Sandinista Government. But we know from our own intelligence agency's assessment that that will not happen. That is the assessment of the Central Intelligence Agency that the Sandinista government will not be overthrown by this particular group.

Furthermore, Mr. President, we know that this kind of activity and support of this type of organization is in violation of international law. That case has been made effectively by a distinguished group of international law professors representing all different political shades and viewpoints which have signed the petition indicating that in their judgment it is violative of international law.

This secret war makes the efforts that were started by Mr. Shultz to try and reach a negotiated solution more difficult, if not impossible.

This program is damaging for the Central Intelligence Agency.

And whether we like it or not, Mr. President, it involves the United States in supporting terrorism in Nicaragua.

Mr. President, I had the opportunity of chairing a forum with the Senators from Kansas and Minnesota earlier this month in which a number of civilians that were living in Nicaragua told us stories about the actions of the Contras.

No one could have heard those individuals testify or could read the transcript and not understand what the real function of the Contras is today in Nicaragua.

It seems to me that by 1985 we should be able to summon up enough courage to say, "Let us halt this kind of terrorism, let us halt this kind of activity, and let us move toward negotiation and try and give negotiation a chance."

### STOP THE SECRET WAR AGAINST NICARAGUA

Mr. President, 2 months ago, the Senate debated and voted on President Reagan's request for $21 million in supplementary covert aid against Nicaragua for fiscal year 1984. Now we are looking at fiscal year 1985. I opposed that program then, and I oppose it even more strongly now.

We have learned a great deal more about Mr. Reagan's secret war since casting those votes last April 4. These troubling revelations demonstrate that now is the time for the Senate finally to close ranks with the American people and the House of Representatives. Now is the time to halt American support for state-sponsored terrorism in our hemisphere. Now is the time for us to take a stand for peace in the region.

Since we voted last April, we have learned that U.S. personnel played a direct role in mining the territorial waters and harbors of Nicaragua. CIA personnel directed the operations: A CIA mothership launched the high-speed boats that mined the harbors. Is that the way to bring peace to Central America?

We know now what the mining accomplished. Millions of dollars of damage was done to foreign-registered freighters and tankers, including flagships of our friends—the Netherlands, Panama, Liberia, and Japan. Innocent crewmen were injured. Nicaraguan fishing boats were sunk, and fishermen were killed. Two of our closest allies—Great Britain and France—voiced their objections. Is that the way to bring the Sandinistas to the bargaining table?

We now know where the International Court of Justice stands on the President's war. It put aside the administration's effort to evade the Court's jurisdiction and ordered the United States to cease the mining and other aggressive actions against Nicaragua while it considered Nicaragua's complaint. Is that the way to strengthen respect for the rule of law in our hemisphere?

We now know that the mining was not the beginning of the direct involvement of U.S. personnel in the war against the Sandinistas. Last October, 3 months before the mining of Nicaragua's harbors, the CIA reportedly directed a sabotage raid against the Nicaraguan Port of Corinto. Over 3 million gallons of fuel was destroyed, many people were killed and the town's residents were forced to evacuate.

And the New York Times as recently as May 3 reported that CIA personnel supplied the planes, and planned and directed two airstrikes on February 2 against military targets in Nicaragua from bases in Honduras and El Salvador. Is that the way to strengthen domestic opposition to the Sandinista regime?

There is one more chilling fact for which we now have irrefutable proof: When we vote to support the Contras, we are arming terrorists who kill innocent fathers, mothers, and children. Let's be clear about this. We have heard such reports in the past. But now we have firsthand testimony from Nicaraguan citizens who literally risked their lives to remove all doubts.

On Friday, May 25, I sponsored a forum on violence and human rights abuses by both the left and the right in El Salvador and Nicaragua. During one panel, we heard testimony from three Miskito Indians—a mother, a nurse's aide, and a father—from the town of Sumubila. Sumubila is a new town of 3,000 people on the northern coast of Nicaragua, constructed by the Nicaraguan Government for the purpose of relocating Miskito Indians from their original villages along the border with Honduras.

These three Nicaraguans provided eyewitness accounts of a raid on their town by the Contras on April 17, 1984. In the course of that raid, 7 people were killed, 15 people were wounded, and 39 people were kidnapped. There was no military objective to the raid; no Sandinista troops in the town; no strategic value to the town; and no return fire. The mother described the death of her only son. The nurse's aid described the injuries suffered by the townspeople. And the father—a 50-year-old carpenter—testified about the kidnaping of his teenage son.

Let us be clear about this. Whether we like it or not, whether we want it or not, the United States is engaged in state-supported terrorism in Nicaragua.

This is what the Nicaraguan mother from Sumubila had to say:

> My son had already been wounded (by the Contras). I asked the Contras to let me go through so I could go to my son, and they told me that I could not go through and they would shoot me if I did. Then the Contras gathered us in a group, and I was crying and begging them to let me go and find my son. A man came, a gentleman came with him, and he had him in his arms. When the gentleman had him in his arms, he said, "Mother, please hold me tight. I do not want to lose you." He was wounded. And then I took him and I laid him down on the floor in a patio. As my son was on the patio floor, three Contras came, and I told them, I said "Look at what you have done. You have burned the hospital down; you have wounded my son. Do you not at least have a medication or pill or something that would help my son in his pain?" They said they had no pill to give me for my son, and this was my only son, and I was mother and father to him. He died.

And this is what the Nicaraguan father—a 50-year-old carpenter—had to say:

> We are refugees from the Rio Coco region for the last 2 years and 4 months. The Government tried to give us some help, a house, and now, just like children, we started out crawling, and now we are just beginning to be able to walk.
>
> And now the Contras come, now that we are just being able to get up onto our feet, and destroy everything. We, the Miskitos are very poor; we are poorer than anybody else. We are really very poor. And now our feeling is if the Contras want to kill us, it is better to kill us all, or if they want to take us to Honduras, take all of us, all of our resettlement camps to Honduras.
>
> But now we have raised children; we have been working hard and raising children from infancy so these young people can help us. Now that we are old, what do they do? They take our young people away.
>
> So what I am doing, really, together with Irma and Laura, is coming here to ask the favor that something be done so that this not be allowed to happen in Sumubila. We did not come here to blame either of the two sides. We came here to seek that justice be done, to seek our rights.
>
> So I would ask you to be good enough to do anything you can because I believe that you have our interests at heart.

These are not isolated stories of great personal loss and suffering. There have been many other Sumubilas, many other mothers and fathers whose children have been killed or kidnapped, many other hospitals burned down and ambulances destroyed. This suffering and violence will continue as long as we vote, as we did last April, to continue funding President Reagan's war.

In our debate last April, supporters of the secret war argued that, under international law, the United States was entitled to conduct these kinds of operations so long as the Nicaraguans continued to supply the guerrillas in El Salvador with arms and ammunition.

But now there is compelling evidence to suggest that the support being provided to the rebels is, at best, a trickle.

In an interview with the New York Times that was published last Monday, David C. McMichael, a former analyst for the CIA made the following statements:

> The whole picture that the administration has presented of the Salvadoran insurgent operations being planned, directed and supplied from Nicaragua is simply not true. There has not been a successful interdiction or a verified report of arms moving from Nicaragua to El Salvador since April 1981.

He went on to say:

> The administration and the CIA have systematically misrepresented Nicaraguan involvement in the supply of arms to Salvadoran guerrillas to justify its efforts to overthrow the Nicaraguan Government.

Mr. McMichael further described a meeting that he attended inside the CIA to discuss plans to support the Contras.

He reported that:

> Although the stated objective was to interdict arms going into El Salvador, there was hardly any discussion of the arms traffic, the routes it followed, the amount involved, the ways it could be stopped and the impact interdiction might have on the guerrillas in El Salvador.

Mr. McMichael concluded that—

> I couldn't understand this failure until months later when I realized, like everyone else, that arms interdiction had never been a serious objective.

And last Sunday, an article in the Boston Globe reported the following:

> Since 1981 when the United States began to train Salvadoran sailors in special techniques for hunting arms traffickers, the Salvadoran armed forces have not intercepted a single clandestine weapons shipment from any foreign country on water or land.

This was acknowledged by both American and Salvadoran commanders. The report goes on to state:

> U.S. and Salvadoran officers here say they have turned up so few traces of arms supplies to the rebels in the last 3 years, they have no evidence to show that the shipments from Nicaragua do occur or to describe when they ebb or flow. They also lack any evidence directly implicating the Sandinista government in weapons smuggling.

As one U.S. officer stated:

> On the basis of what the Salvadorans didn't find and couldn't show us, I concluded that the guerrillas outside supply was down to a trickle, no guns, mainly ammunition and medicines. They were bringing in very small amounts by very ingenious means. It was always an embarrassment to me not to have more to show for our efforts.

Let me reiterate the reasons why I believe support for the Contras must be terminated.

First, support for the Contras violates our international legal obligations. Article 18 of the Charter of the Organization of American States reads:

> No state or group of states has the right to intervene directly or indirectly for any reason whatever in the internal or external affairs of any other state.

By any interpretation, the United States is violating that provision. Over 100 distinguished American law professors reached the same conclusion; they described President Reagan's support for the Contras as "a serious violation of both international and domestic law."

Second, support for the Contras has expanded the conflict in the region rather than strengthened the prospects for peace. Further support threatens greater escalation and wider war. The Contra force has grown to a reported size of 15,000 armed guerrillas; civilan casualties and destruction in Nicaragua have increased proportionately. Contra activities keep tensions on the border with Honduras high—within the past 6 months, one American and one Honduran helicopter have been shot down. The conflict threatens to engulf Costa Rica. In the words of Mexican President de la Madrid, the administration's policy risks "a generalized war, the scope and duration of which no one can forsee."

Third, support for the Contras hampers efforts to achieve a negotiated resolution of the region's conflicts. At their April 30 meeting in Panama City, the Contadora foreign ministers declared:

> The progress achieved has been nevertheless parallel to an increase of violence, military escalation, arms buildup and foreign military presence in the area, which translate into a serious threat to peace and create a justified uneasiness in the international community.

Despite its rhetoric, the administration has devoted nowhere near the support and energy to Contadora group initiatives that it has shown in taking the war to the Sandinistas.

Fourth, support for the Contras diminishes sharply the chance to promote the steps toward pluralism inside Nicaragua that we all would like to see. This war provides the Sandinistas with a pretext to stifle domestic opposition and to move against the church. The war has brought about greater polarization and greater militarization of Nicaraguan society, inhibiting further the ability of the internal democratic opposition to promote another path.

Fifth, the covert war has achieved none of the escalating goals the administration set for the program. It has not stopped the Salvadoran guerrillas from getting arms. It has not toppled the Sandinista government. It has not forced the Sandinistas to cut their ties with the Cubans and Soviets. It has not isolated the Sandinistas. It has not brought greater democracy to Nicaragua.

Finally, the covert war has damaged our image and international standing in the region. It smacks of the worst practices of interventionism and imperialism.

We must acknowledge at least one positive development in this dangerous U.S. policy toward Nicaragua. Last Friday, Secretary of State Shultz made a dramatic visit to Managua and held brief talks at the airport with the highest levels of the Nicaraguan Government. No breakthroughs took place, but at least both sides agreed to continue the discussions and designated special envoys for that purpose.

I welcome this initiative. I hope that both sides will use this channel to pursue serious discussions that can reinforce Contadora efforts to reduce tensions and end the conflict.

We can only hope that this initiative represents a genuine commitment by the administration to seek a negotiated resolution of its differences with Nicaragua. Only time will tell. No one can blame us for being less than optimistic: Only last month President Reagan delivered a speech on nationwide television that amounted to a declaration of war against Nicaragua. Dialogs were proposed in the past and failed. But at least this time, the Reagan administration took the initiative to propose another round.

But 2 hours of discussions in Managua do not possibly justify continued congressional support for a program that for the past 2 years has been demonstrably illegal, immoral, and counterproductive. Support for the Contras is not a form of pressure tactics, able to move negotiations forward. The Contras admit they seek to overthrow the Sandinistas, not force them to the bargaining table. Continued support for the Contras is inconsistent with good-faith negotiations. Negotiations at gunpoint cannot succeed.

U.S. support for the Contras has corroded the highest ideals of this Nation. For the first time in our history, this Nation has knowingly engaged in state-supported terrorism. We have aligned ourselves with the forces of repression and violence, with marauders who do not hesitate to kill innocent men, women, and children. The administration has taken unprecedented steps to evade our responsibilities under the International Court of Justice, an institution that we helped create and which represents the best of Western tradition.

We have been on this slippery slope before. We need to get off, and get off now.

Last month a group of 50 government, business, church, and political leaders from the United States, Canada, the Caribbean, and Latin America, known as the Inter-American Dialog, issued a deeply troubling analysis of Central America. They wrote:

> Central America in 1984 is a region at war. Polarization, violence, repression, and destruction are prevalent. The human suffering is staggering: 150,000 people have been killed and almost 1.5 million have been displaced in the last 5 years. The physical infrastructure and productive capacity of Central America is being badly damaged. The Isthmus is being drawn in to the world-wide superpower rivalry.

They urged the United States to end support for the military and paramilitary activities of the Contras in Nicaragua. They wrote:

> We believe that further support for them is unjustifiable. It would be ineffective, counterproductive, and, in the view of most of us, plain wrong.

Ten days ago marked the 40th anniversary of the Allies invasion of Normandy. As a nation, we look back at D-day with great pride—and with deep admiration for the courage of the men who fought to free Europe from the grip of Nazi Germany. That was a just and an honorable war. We had the support of virtually all the civilized peoples of the world.

But today we are in the midst of another war—a less honorable war, an undeclared war, a secret war. For 3 years, the Reagan administration has funded efforts by paramilitary groups in Nicaragua to overthrow a government that we disapprove of. Unlike World War II, our participation in this war is one of the darkest chapters in our Nation's history. Unlike World War II, this war has been condemned by our closest friends and allies—as well as by the World Court. Unlike World War II when President Roosevelt led a mighty Western alliance, in Nicaragua President Reagan is going it alone.

The Inter-American Dialog called our support for the Contras "just plain wrong."

I agree with that. It is just plain wrong.

It violates our values.

It poisons relations between the Congress, the American people, and the President.

It harms our interests.

It adds to the growing risk of a Central American war.

It increases the risk of U.S. military involvement.

It diminishes the chances for negotiations.

I urge my colleagues to stand for peace and vote to terminate American support for this war.

Mr. President, I see my colleague, the Senator from New Mexico, on the floor and I yield the floor.

Mr. BINGAMAN. Mr. President, I am honored to cosponsor this amendment. This is essentially the same amendment that was presented to this body some 2 months ago. It is an amendment which would have the effect of terminating the activities that we are supporting with our funds and our taxpayer dollars in Central America.

It would do so, as the Senator from Massachusetts has said, effective in the fiscal year 1985; in other words, this October. There is therefore time under this proposal to wind down the effort, if people are concerned about that, and I think there are legitimate concerns about that. But it would send a clear signal to anybody interested in this subject that Congress has determined not to pursue this cause of action for yet another year.

This would not interfere with the funding that is already available and it would not, I must add, interfere with whatever action the conference committee decides to take on the supplemental appropriation which is now pending.

I think the reasons that this Nation should not continue to support this covert or overt guerrilla activity are well known to all of us. One that I think needs to be given primary attention is that the activity that these guerrillas are engaged in is, in fact, counterproductive. It is counterproductive to our own goals in that region. It is having the effect of strengthening the Sandinista government among its own population rather than weakening that government. It is clear to me that, whatever hope there was that the Contras would provide an alternative rallying point for those people in that country, who would be disposed to rise up and overthrow the Sandinista government, has not materialized.

In addition to being counterproductive to our goal, by strengthening the Sandinista government, I believe it is clear that this support undermines the efforts that are going forward to bring about a peaceful solution in Central America. It undermines the efforts of others such as the Contadora nations. It undermines the efforts of our own Government which, I am glad to see, are now beginning. Our own Government has begun at least according to news reports, the difficult process of trying to begin to design a peaceful resolution of the problems there. I firmly believe that the termination of this covert war will help greatly in that process.

The third and final reason I would offer, Mr. President, in support of this amendment is very simple, that the action we are supporting here is not worthy of this Nation.

If we wish to take action against the Sandinista government, there are many types of action we could take. We could take diplomatic action. But we have chosen not to do so. We could take economic action, and we have chosen not to take many actions that could have been taken in that category. Of course, we could take military action, but instead, we have chosen the route of supporting an undeclared covert activity now become overt, which I think certainly does not do justice to the people of this Nation, or to the grand goals that this Nation sets for itself.

Mr. President, let me point to a few sentences in an editorial today in the New York Times. I think they summarize very well what has happened, and what is before us. That editorial states:

> Congress needs no access to classified files to see what is visible to all, that the contra operation has become an embarrassment. Its unstated purpose to oppose the Managua regime is unattainable. Its stated purpose to interdict a weapons flow is justified only by assertion. On three occasions the House has voted against spending another $21 million for this war while the Senate has narrowly voted to give Mr. Reagan what he wants.

Mr. President, we are not, as I said before, interfering here or attempting to interfere with whatever action the conference committee takes on that supplemental appropriation, but we are saying that effective October 1, this funding would cease.

Let me quote the last few sentences of a statement I made on the Senate floor on April 4, 1984, because the same statement is equally valid tonight.

> I would say that the policy we are pursuing now is a military intervention in that region of the world. It is one that we amassed behind various words such as covert, such as contra, paramilitary, whatever you want to call it, but the truth is it is not an activity worthy of the people of the United States. It is one that we should terminate.

We have that opportunity here in the Senate this evening, and I hope that my colleagues will agree with me, and vote to terminate the funding for this activity.

Thank you, Mr. President.

AMENDMENT NO. 3241 TO AMENDMENT 3240

(Purpose: To Provide for an Orderly and Humanitarian Withdrawal and Resettlement of Guerrillas Opposing the Sandinista government in Nicaragua)

The **PRESIDING OFFICER**. The Senator from Hawaii is recognized.

Mr. **INOUYE**. Mr. President, I have an amendment at the desk. I wish to submit that amendment in the nature of a substitute for the Kennedy amendment, and I ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Hawaii [Mr. INOUYE], for himself and Senators MOYNIHAN, DODD, and HATFIELD, proposes an Amendment Numbered 3241 to Amendment No. 3240.

Mr. **INOUYE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

> Except as provided in this section, no funds included in this Act may be appropriated for the purpose of or which would have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement, or individual. Notwithstanding Sec. 775 of Public Law 98-212 and Section 108 of the Intelligence Authorization Act for Fiscal Year 1984 (P.L. 98-215), there is authorized, in addition to amounts previously appropriated, not to exceed $6,000,000, to remain available for obligation until September 30, 1984: *Provided*, That of such sum, not to exceed $2,000,000 may be obligated or expended solely for the safe and expeditious withdrawal from Nicaragua of any individual engaged, or who has been engaged, directly or indirectly, in military or paramilitary operations in Nicaragua; *Provided further*, That of such sum, not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly, in paramilitary operations, in Nicaragua, if such individuals are not equipped for military or paramilitary operations while outside Nicaragua. None of the funds authorized pursuant to this section may be used except as expressly provided herein.

Mr. **INOUYE**. Mr. President, this amendment is a very simple one. It will phase out, terminate the operations, and will provide adequate funds to those who are participating in the paramilitary operation and humanitarian support. I think this is the only rational, reasonable, and humanitarian way to withdraw our support for the Contras.

Mr. President, by my voice, and by my vote, I have supported our covert paramilitary activities in Nicaragua. But in the past several weeks I have given this matter thought. And I have spent many agonizing hours in this process.

I have arrived at the following conclusion, Mr. President: First, that our support for the paramilitary operations which are supposed to be covert are no longer covert. They are no longer secret. The world knows about it. Every citizen of this Nation is aware of our involvement in Nicaragua. Second, the events and the reports indicate very clearly that we have lost control over the activities of the Contras. We may have had the best of intentions, Mr. President, but we cannot control the Contras.

Third, the operation has gone beyond the initial justification of weapons interdiction.

Mr. President, I believe that these conclusions justify my decision to withdraw my support of our paramilitary operations in Nicaragua. However, I believe we should be out of Nicaragua for another reason. And for me, this reason is most compelling. This operation is slowly but surely eroding whatever credibility is left with our Central Intelligence Agency. That Agency has been the subject of relentless attack. Any person who has any criticism of our activities in Nicaragua is given front page coverage. Hardly a day goes by without some media coverage, and negative coverage at that, of our Agency participation in Nicaragua. If we permit this situation to continue, I believe it will eventually destroy the usefulness of this important Agency.

Mr. President, for example, the Intelligence Committee at this moment is considering the authorization of vast numbers of moneys—many billions of dollars—for our intelligence community. Yet, we are spending almost 95 percent of our time on one little item which is no longer secret—$28 million. I served in this session, this Legislature, during that period which followed the investigation conducted by the late and beloved Senator Frank Church. I saw the Agency castigated. I saw the Agency attacked. I felt the morale of the Agency dropping. I felt the support of that Agency diminishing in this body. Yes, Mr. President, our continued involvement in Nicaragua may well destroy the usefulness of this Agency.

So I believe, Mr. President, the time has come to terminate in a most humanitarian manner our support for the Contra paramilitary activities.

Mr. President, let us rid ourselves of this tragic distraction and get on with the business of our Nation. I hope that my colleagues will support this substitute amendment.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. INOUYE. I will be happy to yield.

Mr. KENNEDY. First of all, I want to express my very deep appreciation for the work that has been done by the Senator from Hawaii on this issue. This, I know, has been a subject to which he has given a great deal of attention and a great deal of thought. He has been enormously helpful to those of us who have been strongly opposed to this program. I think all of us listened with great attention to his presentation this evening, the logic of the presentation, and to the arguments that were made by the Senator from Hawaii.

I would just like to ask the Senator from Hawaii if the amendment is adopted, will this terminate all support of the Contras as of October 1, 1985?

Mr. INOUYE. It will terminate our support as of the moment the President signs the bill.

Mr. KENNEDY. So this basically is a proposal to terminate the support for the Contras and end that program and the authorization for that particular program.

I want to commend the Senator for his substitute. I intend to support that substitute because it is a program to end the support for the Contras. It would include the fact that there would be no funding for the Contras in 1985. It ends the authorization for that particular program, for the 1985 authorization. It provides some transition now. I think it would give the Senate a very great opportunity to follow the wise decision which has been made by the House.

I just hope that Members have listened carefully to the argument that has been made by the Senator from Hawaii and that they will support his amendment.

Mr. INOUYE. I thank the Senator.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to join the Senator from Hawaii in this matter. It is a difficult decision for this body. We do not find it easy for those members of the committee who have been involved in this matter. We do not expect our colleagues to find it any easier.

Mr. President, may I make the point that in the bill before us there are no funds allocated to specific activities or programs of the Central Intelligence Agency. There is a global figure that awaits the authorization bill that is still in the Select Committee on Intelligence and which will allocate funds to specific activities.

I would ask the Senate particularly to know that this particular amendment before us adds money to the bill for the purpose the Senator from Hawaii has described. That is to say, the purpose of bringing out of country those persons who may be there and providing aid to those who have been there, to their families.

Mr. President, it seems to me that the elemental dictates of realism require us at this point to take this action. I would point to three particular imperatives.

The first is that the activity has surely reached the limits of its effectiveness. I would not dispute that there has been a measure of effectiveness. It is even so the case that the persons opposed to the regime in Managua were never able to establish an effective unity, as the most important of those persons was severely wounded and is in Venezuela.

I would make the second point that the nature of the regime, as the Sandinista leaders would wish to have it in Nicaragua, is far better understood in the world now than it was 3 years ago, 2 years ago, or even 1 year ago. Countries in the Western Hemisphere that were disposed not only to support but to aid that regime seem less inclined to do so. I think that is a measure of success for the policies and purposes we would pursue in the world.

Last, as a dictate of realism, I would point to what we all know, which is that the House of Representatives has withdrawn its support, a year ago, in the face of the Senate's decision otherwise. The House yielded then, if you will, to our view of the matter. It seems to me that they have now gone back to their original view. There is not a realistic alternative save for us to yield to theirs.

This measure will provide moneys that an honorable nation owes to persons involved in that activity. Absent this legislation, there would be no moneys. I think the House will come to us in conference and provide it.

Last, I join with the Senator from Hawaii in expressing the deep and troubled and prolonged concern which many of us on the Intelligence Committee—not all, but many—have had at the harm this activity has done, is doing, the intelligence community. It is exactly the case the Senator from Hawaii suggests, that in dollar terms and any terms one might suppose, save world attention, this has been a minuscule activity, but it has absorbed overwhelmingly the greater part of our intelligence. It has given to the intelligence community a revived reputation which it was well rid of and which seriously hampers effectiveness in matters of far larger consequence.

It may seem the easy thing to suggest that this is in the best interest of those who would think otherwise, but that is a deeply developed sense of conscience and of responsibility by the Senator from Hawaii and by this Senator.

I thank the Chair.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me first, if I may deal with the argument that this activity is destroying the reputation of the intelligence community, destroying the Central Intelligence Agency.

The intelligence agency is not a government, it is not a corporation that operates outside the policy of this Government. It is an arm of policy. The responsibility for the policy belongs to the Government, not to the executor of it. Nor is policy made for the convenience of its executors. The Agency is not off concocting some kind of a thing away and apart, separate from the policies of the Government of the United States. It is an arm of policy and so it should be.

In the amendment of the Senator from Hawaii, consciously or unconsciously, if this body is to adopt it, we are endorsing the Brezhnev doctrine as expressed in Czechoslovakia. And what a place to express that doctrine. The Czechs had tried to break out of the domination of the Soviet Union and had been crushed in that attempt. And Brezhnev said to the socialist world, which he controlled and to the rest of the world, What is ours is ours, is untouchable and incontestable by the free world, but the the rest of the world is ours to liberate when the time and occasion to suits us.

Tonight we are asked to pay $6 million to finance a Soviet victory in our hemisphere. This is an instrument of legislative capitulation.

This amendment is also a suggestion that those who support the Nicaraguan people's fight for freedom join those who oppose them in that fight, in killing the Nicaraguan people's hopes for freedom and in ensuring the victory of the Soviet Union, the victory of slavery in our hemisphere once again. This amendment is an attempt by those who want to hand the Soviets a victory, intentionally or unintentionally, to evade the responsibility for what they are doing.

It is a distasteful amendment, I say to my friends, because its drawing power is the concern of those who support the freedom fighters for their well-being. We are all being asked to take on this group's hardship now that we have decided to abandon them.

The amendment seeks to trade a little bit of humanitarian concern for the freedom fighters, in exchange for agreement to doom the cause of freedom in Central America for the foreseeable future. It is a definitive attempt to make certain that the Sandinistas will win their civil war—that very Sandinista government which took power by the gun, supported by the Government of the United States, which hoped it would establish free elections, free press, free labor unions, free religion, the kind of things which all of us have and take for granted in our daily lives in this country. But that revolution was hijacked. Within days of the exit of Somoza, the Cuban Ambassador walked everywhere with the leader of the Sandinistas, and every single cabinet agency of that government had a Cuban representative in it all the time, full time; no independence of thought was permitted. Their great hero of that revolution, the one which was lionized by the American press, Commander Zero, Eden Pastora, was put out because he still believed in democracy, the democracy that he sought. So Pastora went to the hills once again to fight to establish a principle for his people and his country. But now, this amendment simply says, to the likes of Pastora "That is too bad."

To the Sandinistas this amendment says, "You took power by the gun and whatever you want to do that is legit, even if you do align yourselves with the Soviet Union and Cuba. With this amendment the Sandinistas will tighten their grip around the throats of their people, and they will then be free to make war upon their neighbors, to conquer at will, and to bring the frontiers of these captive regimes to the borders of the United States."

That statement is not delivered glibly. It is delivered with all the passion and conviction that I can raise. The Sandinistas regime is not a revolution of Nicaragua, it is a projection of Soviet and Cuban force, I say to my friends, and it is taking place.

We have heard the Senator from Massachusetts and the Senator from New Mexico make the case that if we continue this, we are destroying the possibilities for negotiation. I ask my friends, what is there to negotiate, when the one thing that bothers the Sandinistas is the Contras? We are told that the Contra action is an embarrassment to the United States. It is an embarrassment to the Government of Nicaragua. It is a revolution, unlike the one in San Salvador, that is growing. It is growing not by forced conscription but by the dreams of people who want to be free.

The Senator from Connecticut earlier said that no one on his side of the aisle intends to reinforce or consolidate any Communist tyranny, nor to bring the United States onto the side of slavery and against freedom. This is plainly a statement that cannot stand the test of responsible argument. It is like applying the brakes to a car and saying, "It was not my fault that it stopped."

The Senator from Hawaii knows full well that there is a civil war going on in Nicaragua and, through his amendment, would seek to have us forbidden to help one side while the Soviet Union, the East Germans, Cuba, the Palestine Liberation Organization, Bulgaria, Libya, and Yemen help the other. On what grounds can anyone disclaim an intent to help that side if you remove the help from the other? How does anyone propose we deal with the Sandinistas after the Contras are gone? Moreover, note that the word "negotiations" is no magic word. What is it that we will ask the Sandinistas to give? In exchange for what? If we destroy the Contras, what is left that is troublesome to the Sandinistas?

If anyone thinks that the Sandinistas and the Soviets, having won this victory, will stop before the Rio Grande, I know a bridge that you can buy cheap. If the Contras were not here, how would anyone propose to stop a Cuban drive in this hemisphere?

This is what the Kissinger Commission has to say on this subject. This was, incidentally, an uncontested statement in the separate views that were written. It said simply this:

> The Commission encountered no leader in Central America, including democratic and unarmed Costa Rica, who did not express deep foreboding about the impact of a militarized, totalitarian Nicaragua on the peace and security of the region. Several expressed the view that should the Sandinista regime now be consolidated as a totalitarian state, their own freedom, and even their independence, would be jeopardized. In several countries, especially those with democratic traditions, we met leaders who expressed regret and outrage that the revolution against Somoza—which their own governments had supported—had been betrayed by the Sandinistas.

They go on to say:

> In this sense, the development of an open political system in Nicaragua, with a free press and an active opposition, would provide an important security guarantee for the other countries of the region and would be a key element in any negotiated settlement.

What is so terrifying to Americans about freedom? They go on to say:

> The notion that the United States should cope with a Marxist Leninist Nicaraguan military allied to the Soviet Union and Cuba through long-term containment assumes an analogy between conditions in post war Europe and the present circumstances of Central America. The experience of the post war period, however, shows that containment is effective as a long-term strategy only where U.S. military power serves to back up local forces of stable allies fully capable of coping with internal conflict and subversion from without. In such circumstances the United States can help to assure the deterrence of overt military threats by contributing forces in place or merely by strategic guarantees.

Is that what the backers of this amendment want? I hope not.

Finally, let us take on the Senator's amendment on its face. It is not well thought out. We had in fact eight budget hearings and six markups and this amendment was not brought to any of them. The Senator proposes we spend $4 million to quit our own responsibilities to the freedom fighters who have fought on our side. Let us take the mathematics of it for a minute. There are 15,000 Contra troops in the field. Suppose only 10,000 of these people choose to leave and that each fighter has only three family members to come with him. We would then have to resettle 40,000 people. The amendment would provide a very generous $100 per person. And if the Congress were to pass this amendment, would it also authorize the entry of 40,000 new refugees? What would be the quota for each State? How many would go to Hawaii or Arizona or Wyoming or Florida or any other State?

Mr. President, the business of capitulation, of defeat, of surrender is messy and the items I have just mentioned are by no means the messiest ones. I have spoken before about what a hostile southern border would do to our own ability to make and keep commitments overseas and to our own ability to maintain a civil society at home in the face of massive terrorism. I ask anybody in this Chamber again to tell me what the Palestine Liberation Organization and the Libyans are doing down there but training for terrorism. We do not have to absorb this. We have a choice and we can go on to secure freedom in this hemisphere with what the Senator from New York described as a pittance, $28 million. But let us return to the messy details. Who would run this relocation program if it were established under this amendment? The CIA? Would the State Department run it? Who is going to certify the eligibility of the people to be resettled? How many days or weeks or months of service would qualify someone for resettlement? The amendment calls for resettling anyone who has been directly or indirectly involved. Who is going to certify whether an individual was related to a Contra activity sufficiently to qualify for this resettlement?

People in that part of the world believe in extended families. Would brothers and sisters qualify? Nephews?

In-laws? Wives? Who is going to make such judgment? And who is going to deal with the appeals? Who gets to say who comes and who does not come? Who is to decide whether an individual refugee gets to be resettled in the United States or in Honduras or some other Latin American country? What is the criteria that are going to be used under this measure of capitulation? This is not a humanitarian way out of a difficult situation. It will not work. And it will not work for $4 million or $100 a person. It will not work for $500 a person. Cut my figures and just say those who are directly involved, and you still come up with a nightmare.

The Senator from New York talked about realism. Colombia, to the south, has been invaded by guerrillas coming directly from Cuba and landing on its beaches. Venezuela suddenly working with the United States more than ever; Panama and Costa Rica, which were once almost aligned with the Soviet Union in the Third World, are now working with us not because they like us more but because they fear Cuba and Nicaragua more. Honduras has staked its future on our success.

And if you wonder why there has been a little bit of hesitation in Honduras in recent months, ask the Hondurans what they think of the machinations of the Congress of the United States while it tries to make up its mind whether or not it does believe in freedom? What, may I ask anybody in here, if this amendment should pass, should anyone in those countries think who is concerned about his own survival in a political or a mortal sense?

Who wants us to fail in this? Who wants us to fail? Clearly, the Cubans want us to fail; the Nicaraguans want us to fail. Clearly, the Soviets would be delighted to have us fail. This is cheap stuff for them and getting cheaper all the time.

We have heard the Senator from Oregon say that the movement in El Salvador was growing. But its growth is through enforced conscription of peasants and villagers, while the Contras have no enforced conscription. The Contra movement is growing because people have a fundamental belief in freedom—I wish I could say tonight that it was the purpose of the United States to overthrow the Government of Nicaragua, but it is not.

No one better described the underlying dilemma than John Stuart Mill:

> To be morally legitimate—

He wrote—

> nonintervention needs to be respected by all. The despot must consent to be bound by it as well as free states. And unless they do, the profession comes to this miserable issue that the wrong side may help the wrong but the right must not help the right.

Now, on its face this amendment is ill-conceived and ill-contrived, has not had any hearings, has not been presented to anyone, has not got enough money, and has not got any criteria by which it can be construed but on its face is something even more insidious—and I will close with this point. This amendment is the unwitting endorsement of the Brezhnev doctrine and the witting abandonment of a people's legitimate hopes for freedom from the one country that they thought might be there to help them when they needed it. If totalitarianism is to be a one-way street, uncontested and unconfronted by freedom as it moves around the world, whether or not it is getting closer to our borders—but that is an argument that is legitimate in this instance—there soon will be no freedom left to contest for but our own. I think it is a mistake to abandon people whom we have supported. I think it is an even greater mistake to pay them blood money so that at night when we go home we feel better about something that we did not have the courage to finish. Freedom is, as we all thought once, the life blood of this country and its philosophical and moral underpinnings. Let us live by it.

Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I take the floor this evening not to urge my colleagues to vote one way or the other on this particular measure, but, rather, to offer a few of my own observations about the kind of frustration that many members of the Senate Intelligence Committee—perhaps many Members of this body—have experienced for the past year or so.

I just listened to the very powerful statement delivered by the Senator from Wyoming [Mr. WALLOP]. He makes a very good case for why we should declare war upon Nicaragua. He did not, however, contribute, in my judgment, to an elucidation as to what our policy is and what it ought to be in dealing with the issue of covert aid to the Contras. That is because there is so much confusion about our goals, what they have been in the past and what they are going to be in the future.

I have supported aid to El Salvador. I intend to continue supporting the forces of moderation in that beautiful but war-torn country.

I believe, as was said earlier this evening, that President Duarte is a good, decent man who offers the best hope for leading his country toward a reconciliation of the forces and factions within it, of ending the death squads, and of promoting judicial and land reform. I believe he deserves the support of all of us. I think all of us are committed to those goals.

As the Senator from Hawaii has done, I have supported aid to the Contras. I should like to continue to support aid to the Contras, even this evening, or tomorrow, or next week, provided it is for a very specific and limited purpose—namely, the interruption and the interdiction of the flow of arms going from Nicaragua to El Salvador.

For the past year, there has been a good deal of confusion surrounding the nature of our relationship with the Contras, and I should like to add a parenthetical thought here.

It has been suggested by some that perhaps some Members on the other side of the aisle are engaged in making this a political issue this year, attempting to politicize this matter in an election year. They are against covert aid to the Contras; we are for it—a nice split, just right for the elections in November, a clear choice.

There are some members of the other party, I might suggest, who might fall in that category, who would vote against any covert aid, no matter how meritorious.

There are members in this party, the Republican party, who would vote for covert aid even if it meant the overthrow of a government with which we currently maintain diplomatic relations. But so far as the Senate Intelligence Committee is concerned, there has been no such partisanship. Time and time again, there were occasions when a party-line vote would have been an easy way out of a nasty difficult situation. To their credit, Senators like Mr. MOYNIHAN, Mr. INOUYE, Mr. BENTSEN, Mr. HUDDLESTON, Mr. BIDEN, Mr. LEAHY, and Mr. NUNN, the entire committee, chose not to emulate the other body, chose not to divide the issue along party lines, but, rather sought some way to reach an accommodation so that we might continue to devote a bipartisan position to a foreign policy. They refused to turn our policy in Central America into a football game, trying to score points with the American people at the expense of American security.

Well, again it is suggested that this is a different year, a different timeframe, perhaps. Everyone is human, and they have fallen victim to temptation. Somehow they have fallen from being statesmen to politicans. Therefore, we on the Republican side must take the hard road, which is the high road.

If the issue were that simple, I would not feel compelled even to stand here tonight. I would just cast a vote in favor of the administration's position and vote against the amendments that have been offered. I do not think the issue is that simple.

For the past year and a half, the member of the Intelligence Committee on both sides have asked the question: What is the nature of our relationship with Contras? What is the extent of our commitment to the Contras? Will there come a point in time when we will have to say, "We are sorry; we are no longer committed to your goals or objectives. We do not share them and therefore cannot continue the funding of your efforts"? Will the administration ever be prepared to do that? Or will it keep coming back to the committee, saying: "The money must continue to flow, or else we will be signing the death warrant of thousands of freedom-loving Nicaraguans"? Who among us will be able to erase the damned stain from our hands?

The Senator from Wyoming touched upon it even now as he asked the question: "Who among us will decide how many of the Contras will get how much and how many relatives will be allowed humanitarian aid?" The same question will be asked time and time again, with more and more people who might be involved.

We were told originally that the goal of the Contras was, in fact, the overthrow of the Sandinistas, that that was their motivation. But, as a practical matter, a small, lightly armed force of ragtag fighters could never accomplish that goal. That was originally what we were told. Our goal was far more modest, far more limited—the interdiction of the flow of weapons from Moscow to Havana, to Nicaragua, to El Salvador.

Therefore, we could use the services of the Contras to serve our own goal, which was running on a parallel course with the Contras. Again, there were members of the committee who continued to ask: What happens when the courses are no longer parallel but start to converge at some point in time and ultimately start to merge?

What happens when the force is not 5,000 but 10,000 or 15,000, as it is today, or 25,000, as it might be next month or next year?

What happens when the Contras start to attack civilian areas, start destroying economic targets, start bombing damsites, bridges, economic infrastructure? What do we do then?

What happens when the Contras start controlling the day-to-day military operations without our supervision?

What happens when they demand that we support certain military operations, no matter how foolhardy or dangerous, no matter how potentially embarrassing to the United States?

Well, the answer to these questions, to the extent that there were answers, depended on the latest revelation that appeared in the New York Times or Time magazine.

It is clear that there has been an evolution in our policy during the past year—from one confined to the interdiction of the flow of arms to one of removing foreign troops, reducing troop levels in the surrounding country, forcing the Sandinistas to dissociate themselves from Cuba and the Soviet Union, to meeting the goals promised during the course of their revolution.

There should be no mistake about it: The Nicaraguan people have been given a left-wing dictatorship in place of a right-wing dictatorship. The Sandinistas are dedicated Marxists and are busily reshaping their society into a police state wearing the cloak of democratic socialism.

The difficulty with this evolving policy of ours, however, is that it is now much closer to that of the Contras than when we began. The tracks are no longer running parallel. They are starting to converge; they are starting to merge.

This became evident during the mining of the harbors—that fiasco, in my judgment—the planting of those little homemade bombs, firecrackers, which were designed to frighten but not harm ships that were entering the harbors of Nicaragua.

I said "ships" without any qualification, because it did not matter if the ships were loaded with corn or Kalishnakovs. It did not matter whether they were loaded with bombs or blood plasma. It did not matter whether the ships flew a British or a Libyan flag.

So we had to suffer the ignominy of being hauled into an international court by a band of hard-eyed thugs accusing us of violating the law, to which our major response was that the court lacks jurisdiction. We do not recognize this international court of law.

One of my colleagues drew a parallel, with the equivalent—and I am paraphrasing—of the Mafia suing the Justice Department for harassment, and the Justice Department arguing only that the court lacks jurisdiction in this case, and besides, we are not doing it any more.

My basic problem, if I can draw upon, perhaps, a different metaphor, is that some of us were willing to ride the train to a certain destination, but once on the train the conductor now says we cannot get off because the train does not stop here any more. A 200-mile journey is turning into a 2,000-mile trip and there does not seem to be any end in sight.

This may be an oversimplification of the problem. But at least, it represents and reflects for me what I believe is taking place.

At one time we were told that the operations of the Contras were under our direct supervision and very tight control. I pass over the fact that Senator HART and I missed by just a few hours a convention either in heaven or hell—wherever we shall go—when the Contras decided to bomb the airport at which we were about to land. As I said at that time, so much for supervision, so much for control.

But now we have a different problem. Now we are told the operation is so big that we no longer can control or supervise it. Besides, we are asked rhetorically, do you really want the CIA to start running that war?

The bottom line is—the "stop-you-have-finally-arrived" sign for American policy is that the Sandinistas have to keep the promises of the revolution.

So, the tracks have now converged and they are virtually identical. They are running an express lane to the very same destination.

The question we have to resolve is, Is that the proper role of covert aid?

I am told there still is a difference. The Contras do not want to overthrow the government, they do not want to have power sharing, only the opportunity for full and open participation in elections, a chance at the ballot box.

That sounds reasonable enough. But as a practical matter, that just is not going to happen in the foreseeable future.

While the Contras talk of elections, they really do mean, in my judgment, the overthrow of the Sandinistas, who they know are never going to open up that political process to them, unless there is substantial increased pressure upon their economic means of survival.

So the question is, Where does that leave us?

It is my personal judgment—I wish I had that choice this evening—to continue aid to the Contras to serve our original stated purpose, and not that of the Contras. I believe that we should strive to stop the flow of arms into the neighboring countries, that we should try to isolate Nicaragua economically and diplomatically through aid to the neighboring countries, and that we should encourage change in the region through the Contadora process.

But I believe it is also a misuse of covert aid to strike economic and civilian targets, and I believe it is a mistake to allow our goals to become merged with those of the Contras.

For these reasons, I intend to support the amendment of the Senator from Hawaii [Mr. INOUYE].

Mr. GOLDWATER. Mr. President, I wish to comment very favorably upon the comments made by my friend from Wyoming and also on the comments made by my friend from Maine. I think these two differing opinions will point out to my colleagues one of the basic problems that we have on the Intelligence Committee.

We were a committee formed by Senate Resolution 400 to perform oversight on the intelligence family, and that is a pretty big family. We were to do whatever we could to help rebuild the intelligence family which had nearly been destroyed by a committee of Congress, by the press, and by other people who are opposed to this country having the best of anything.

Mr. President, what we are trying to do here tonight is not, in my opinion, a way out. It is a way in. What we are actually doing is once again trying to write the foreign policy of the United States. We are telling the President that he has been wrong. We can blame some of it, if we want to, on the intelligence family. Probably they are due some blame.

But, Mr. President, I keep reiterating what the Constitution says, that the Commander in Chief is our President. When our President decides on an action, although we have the right to differ with him, I do not think we have the right to differ publicly to the point that, as the distinguished Senator from Massachusetts asked me earlier today, he asks do I want my boys or my grandchildren going to war. No; I do not. But I want them to go to war if the freedom of our country is threatened.

What I cannot get through my mind is why Members of Congress cannot see a danger 800 miles from us. The trouble in Central America for me is closer than what is going on in Chicago. Why can we not see the long-held desire of the Mexican people to take back the land that we took from them in a war that I always thought was unnecessary and uncalled for? Why can we not see an enemy sitting down there dedicated to helping these people? I do not want to see war on the Rio Grande, and I do not want to see war on the borders of New Mexico, Arizona, or California.

Mr. President, whenever we have problems, whether it is in this country or whether it is elsewhere, there is always confusion, there is always argument. We have been through four wars in my lifetime. I do not want to see another war, but I do not want to see this country once again humbled before the rest of the world.

Mr. President, we have lost the last two wars we fought, in my opinion. We do not have much of a chance to win another war, and I do not want the world to keep on saying "paper tiger" when they think of my country.

Mr. President, this amendment imposes no obligations on Nicaragua for reciprocal action by the Sandinista Government with respect to Nicaraguan support for the destructive insurgency in El Salvador. There is no fair deal here. It tells what we cannot do with regard to our friends in the region, but does not place any obligations on the Sandinistas.

It is one thing to say that aid for the Contras should be ended if and when the Sandinistas end their support for the violence directed against the democratic, elected Government of El Salvador. But the amendment that we are talking about does not do this. It would cut off assistance to the Contras, while leaving the Sandinistas perfectly free to continue to support the spread of death and destruction in El Salvador.

Mr. President, this administration is convinced that continuing assistance to the Nicaraguan rebel movement is an indispensable part of any solution to the Central American problem. There have been two free elections in El Salvador over the past 4 years. There is no way that the Duarte government in El Salvador, which has committed itself to democratic reforms, can defeat the Nicaraguan-supported Marxist guerrillas if our country withdraws its support of the Contra movement.

Mr. President, that is all I have to say about this. I had a rather long speech, but I tell you I can stand on this floor just so long and listen to people who want to speak against our Government, who want to make it impossible for our Government to spread freedom around the world.

I can remember 20 years ago when 30 percent of the people in this world lived under freedom. Tonight 16 percent of the people live under freedom. If we keep up this action—I am not criticizing anyone, we all have our rights to our thoughts and I think I can understand how listening to the things that we have heard in the Intelligence Committee could confuse the daylights out of anyone—we will hurt the country. The country is the important thing, not the Senate, nor the Intelligence Committee. In my mind the President of our country, the Commander in Chief, has made a decision and, Mr. President, I intend to follow orders.

I yield the floor.

Mr. WALLOP. Mr. President, I have only a couple of things to say in response to the Senator from Maine. I agree that a more appropriate definition of our policy might be forthcoming. But one rule of reason is not to abandon everything you have simply because you seek something better.

It is also important that it be on the record that interdiction of arms has never been the sole, or even the principal reason for this covert action. No administration has ever testified to us that this was the sole or even the principal reason.

Part of the reason for this covert action has been to force the attention of the Sandinistas inward from their borders, to stop their export of revolution, so that they had something to do at home.

The Carter administration was the first one to recognize the emerging totalitarian nature of the Sandinista government and they were the first who initiated the covert action to change that, even while they were providing them significant amounts of material.

Now, it has never been the stated reason of the Contras to overthrow that government. They have time and again said that they would stop immediately. We have said we will stop immediately if they were offered a shot at elections. Some observers feel they would not win the election. They have said they do not ask, as do the guerrillas in El Salvador, for powersharing. They said simply they wanted a shot at the electoral process.

There is a big difference in these two groups and how they are approaching themselves. That is all I wanted to have on the record, Mr. President.

[Mr. GORTON assumed the chair.]

Mr. TOWER. Mr. President, I think it is unfortunate that we have gotten to the point where we debate at such great length so delicate a subject as covert action. There was a time when covert action was never debated in the Congress of the United States. It was something that we engaged in.

As a matter of fact, had it not been for covert action, there are a number of countries that are democratic countries today that would not have been otherwise. We have in some instances, by virtue of covert action, been able to preserve a climate in the country that permitted democracy to prevail.

I think it is unfortunate that there seems to be a double standard. There are some that feel that the Salvadoran guerrillas should be permitted to shoot their way into the Salvadoran Government but feel that the Contras in Nicaragua are not a legitimate revolutionary revolution and therefore should be discouraged.

I find it intriguing that we have an amendment that would subsidize the Contras to surrender and go away and relocate themselves elsewhere. That is one that really disturbs me, because if we start a flood of refugees in Central America, I know where the first ones are coming. They are coming to my State. But they will be in other States eventually. We already have an enormous illegal alien problem. I think some of my friends who are not from border States do not perhaps fully appreciate the problem. And, of course, I do not expect them to, I suppose, because Brownsville, TX, is much closer to Managua than it is to Boston. I might say it probably has a greater kinship in many respects.

But I hope that this amendment will not prevail. The Soviet Union maintains clandestine infrastructures all over the world. The KGB operation dwarfs our entire intelligence community by comparison. They are actively engaged in the business of fomenting political instability throughout the Third World. And their movements are all too often not only well organized, well disciplined, and well financed, but well armed, as well.

And so, I think we should be permitted to mount covert action, especially in areas where the security of the

United States is threatened. And that is certainly the case in Central America.

As Senator WALLOP points out, the Contras are only seeking to be participants in an electoral process. I think it is not likely that democracy will prosper if the Sandinista regime becomes so institutionalized that the evolution of democratic institutions will not be permitted.

Make no mistake about the nature of this regime. The current ones in power were people who exploited a legitimate revolution for their own purposes. Their postage stamps have pictures of Karl Marx and the Communist Manifesto on them, the Nicaraguan postage stamps. How can there be any mistake what the philosophic complexion of that Government is?

So I hope we will not inhibit this administration or any future administration. Covert action has been something that has been carried out by Presidents of both the Republican and Democratic Parties. It has long been regarded as a legitimate tool of the United States in our efforts to try to create a climate in this world in which all people can aspire to self-determination and have some reasonable hope of realizing that aspiration.

Mr. President, I move to table the amendment of the Senator from Massachusetts.

**Mr. HUDDLESTON.** Will the Senator withhold?

**Mr. STENNIS.** Will the Senator withhold that just 2 minutes?

**Mr. TOWER.** I will withhold that. And if I may be permitted to retain the floor, I yield to the Senator from Mississippi for a statement.

**The PRESIDING OFFICER.** The Senator from Mississippi.

**Mr. STENNIS.** Mr. President, I did not plan to say anything about this. But for a long, long time it has been troublesome about how we were going to handle these matters of the CIA and undercover activities. Just a few weeks ago, we had up the supplemental bill, the appropriation bill. In that was an item about this very subject matter, $21 million. There is nothing personal about this now. I was approached by quite a few Senators to ask what, if any, suggestion I had. "What shall we do? This is uncertain. This is not clear. You have been to the hearings."

Well, I told them that the Senator from Hawaii—and I am not being personal to him—had looked into this matter and had gone into it and had firm recommendations and is a man of experience and judgment and he was backing the $21 million and I was going to back that. And I suggested that they do it. We had a vote here, I do not remember what it was, but very definitely this body settled its position under the present facts as I understood, very firmly, clearly and I thought finally on that vote.

Now, we turn around—the facts are almost the same; just a few weeks have expired—and we make an about turn and go marching back down the hill and we are led—nothing personal about this—by the Senator from Hawaii, in large part.

Now, we need, it seems to me, good faith on all parts, someone to take another look, a group of composite judgment, men who are familiar with these facts.

This is dead serious. I feel like it can be almost a disaster to us if we do not meet this situation the very best we can on a combined judgment, taking in some Members of the House, someone representing the President.

But whether you go that way or not, let us not just finally put a ban on this thing and vote all the money out except the little amount here to take care of the immediate situations. I think it would be the gravest kind of mistake in an area of the world that is not going to be solved overnight. I have decided we will be down there 10 years, 15 years, 20 years with trouble of some kind. I do not want to pull out.

I have to admit I do not have any solution. So I hope we will withhold voting out these funds and let them go on in the bill and see if we cannot reach a more composite settlement later.

**Mr. HUDDLESTON.** Will the Senator from Texas yield?

**Mr. TOWER.** I ask unanimous consent that I may yield to the Senator from Kentucky for a statement without losing my right to the floor.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Kentucky.

**Mr. HUDDLESTON.** I thank the distinguished Senator from Texas.

Mr. President, the Senate again is confronted with one of those intractable problems. It certainly has no easy solution. I listened very carefully to the discussion here on the floor today and tonight. I have listened and studied intently this question for several years now through my membership on the Senate Intelligence Committee.

To listen to the discussion, one might think that there are those who are for democracy and those who are against democracy engaged in this debate; those who are for our country and those who are against our country.

I would like to say as forcefully as I can that I do not believe this issue is one that can be so conveniently or easily divided.

I am convinced that there is no Member of this body, nor any member of this administration, who does not have essentially the same objectives in Central America; that is, to preserve those nations that are free, that want to be free, democratic, and to restrain those nations that want to pursue a course that is contrary to our beliefs, and might pose a threat to these United States. I do not think there is anyone here who does not recognize that Central America, just from the standpoint of its geography, if nothing else, is a key factor to the economic well-being of the United States, and to the security of the United States. I doubt if there is anyone here who would not move beyond that somewhat selfish motive perhaps, and say that the people of that section of the world are so intertwined with our own people that we wish for them, for them the very best, and we want them to have a free society. We want them to have economic opportunity. We do not want them to be controlled by governments that place little value on human dignity.

I think we all want the same thing. We have an obligation to El Salvador. I think if we fulfill that obligation, and give that country the security and stability that is necessary for them to complete the democratic election process, that we have an excellent chance of establishing a free and democratic government there. They cannot survive without it. And in providing that help, I think we have an obligation to try to prevent those countries that might want to prevent progress from interfering with that process.

I do not think we have any real disagreement in what we ought to do. I do not think we have any real reason to say that the President of the United States has a misguided objective. But I think there is room for legitimate question and legitimate concern as to whether or not we are going about it not only in the best and most effective way, but in a way that is consistent with the principles that this country espouses. A covert action by its very nature is almost anathema to a free, democratic, and open society. We know that. We have learned to accept it, to realize that in many cases it is necessary because of the kind of world that we live in, because it can be a step short of actual hostilities or warfare, and therefore, sometimes is desirable. This particular operation, of course, ceased to be covert some time ago when the President of the United States himself announced it from the White House. It was something of a shock to those who had been dealing with covert activities now for a number of years, but nevertheless, that has occurred.

It seems to me the real question that we have to resolve is whether or not this country wants to be responsible for numbers and numbers of innocent people's deaths, whether we want to be responsible for the disruption of civilian life in order to accomplish part of our objectives; that is, to prevent the flow of arms through Nicaragua into El Salvador or other countries in the Central American area; to stop the command and control communications network that operates in Nicaragua for the guerrillas in El Salvador; and to stop the influence of the Nicaraguan Government in a negative way on the other countries of the area.

It seems to me that, even if the amendment by the Senator from Hawaii is adopted, we are not foreclosed from attempting with some success all of those objectives. As a matter of fact, our agencies are hard pressed to demonstrate to us right now a single incident of arms interdiction in Nicaragua by the Contras.

The Senator from Maine has outlined very well, I think, what the conflicting situation is. It seems to me that we have reached a point were our conscience as well as our good sense has to tell us that the course we are on now has little chance of succeeding in reaching the objectives that we have. The Contadora group that is trying to negotiate a settlement has not indicated to us as far I know that we are advancing the cause of a reasonable peace in Central America.

There is one thing I am certain of, as certain as I can be of anything—and I do not present myself in this body as being an expert in foreign relations. But if we attempt to impose upon Central America or South America a U.S.-only solution, we will fail. We will fail if we stay there 10 years, 15 years, or 50 years, and if we stay there with considerable force. But if we can work out a solution that our friends in the area agree to, the Contadora group, one that we can abide by and enforce, I think we have a reasonable chance of success.

I have been concerned for some time, as I know other members of the Intelligence Committee have, as to when we are going to draw this thing to an end. When are we going to see that we have accomplished what can be accomplished? When are we going to recognize that the divergent objectives of the Contras and the United States cannot continue down the same path forever, that sometime we have to make a break because those objectives are not the same? We support the Contras because in achieving what they consider to be their objective, they do some of the work that we think enhances our objective—some of the work. But when it gets to mining harbors, blowing up innocent fishing vessels, when it gets to firing indiscriminately in civilian communities, when it gets to blowing up power stations, interrupting the food supply of the public, it seems to me that goes beyond what this country ought to be involved in.

I have hoped and hoped as we have had these meetings week after week over the past many months that we were going to be shown that there is a light at the end of the tunnel, and that we are progressing in such a way that very soon now we will be willing to say that we can negotiate our way out, and we can achieve the objective. I must say that as of now that light at the end of the tunnel seems farther away than ever.

We have an obligation to those who have under our support and encouragement conducted certain kinds of activities, and placed themselves in jeopardy. It may be that the Senator from Hawaii has found a solution that provides some safety for those people. It seems to me that there might even be some common ground yet that we can agree on.

We also ought to be able to participate in activities designed directly to cutoff specific aid to the guerrillas in El Salvador, or to other guerrilla activities that may be occurring. I think we will have an opportunity to address that at a later date. But with all of these uncertainties, with all of the questions about what this Government stands for and what we ought to be engaged in, I have come to the conclusion that we ought to take the step that has been suggested here tonight by the distinguished Senator from Hawaii, Mr. INOUYE, who has studied this proposition and has been as much involved in it as any Member of this body over a number of years.

Thank you.

Mr. TOWER. Mr. President, I ask unanimous consent that I might yield to the distinguished Senator from Minnesota for a brief statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I intend to be brief.

For many of the reasons that the Senator from Kentucky said he was going to support the amendment, I think I am going to oppose it.

I have been here 5½ hours now listening to the debate on Central America. One of the things I have learned in that period of time is that this afternoon, about 1 o'clock, I voted for Marxism-Leninism and against the Monroe Doctrine. I know I am going to be haunted by that position as long as I live in the U.S. Senate.

That same sort of apparent inconsistency, I think, has hung around my 3- or 4-year involvement with this particular issue. If I had with me the remarks that I made in December 1981 in the Intelligence Committee when this whole issue of covert action was raised, they would sound ludicrous compared to the conclusion I am going to come to with regard to the amendment by the Senator from Hawaii.

At that time I recall talking about the Bay of Pigs situation, and all the questions we confront here this evening. "What are you going to do when your experiment turns out to be a failure? What we you going to do when the Senator from Maine says your missions diverge? What are you going to do? What are you going to do? What are you going to do?"

For the better part of 3 years, now, there have never been any answers to the questions propounded by anybody on the Intelligence Committee. That is why you see all this frustration from the members of the Intelligence Committee this evening. Maybe in a way there are no answers. Maybe that is how I got my bottom line. Maybe getting Bill Casey, George Shultz, and everybody else into this administration to answer with precision questions that do not have answers for 3, 6, or 12 months has turned out to be an impossibility.

But the reality is that I cannot buy a lot of the arguments I have heard tonight by my dear colleague from Hawaii. And there is no person on this floor who does not love him, who does not turn to him for advice on Central American issues. He used among his reasons the fact that this is no longer covert. But it has not been covert for 1½ or 2 years.

We cannot control the Contras. We have had those problems from the beginning. But if anything, we have erred on the side of controlling them too much, taking the control away from them and putting it in the hands of what we laughingly call the unilaterally controlled Latino assets. So they go out at the direction of the President and use fireworks against ships. I am not sure that is a good enough reason.

And the operation has gone beyond the original efforts to interdict. Of course, it has gone beyond that for all the reasons that the Senator from Maine stated. That is, there are two missions here. One mission is the U.S. mission as that gets redefined from time to time. The other Mr. President, is the mission of Nicaraguans. That is where we are getting to the bottom line of this whole issue.

If you just walked in here and addressed this issue tonight for the very first time without a heck of a lot of background, you would assume that these people called Contras are a group of guerrillas planted in Nicaragua by the Central Intelligence Agency to either interdict the flow of arms to El Salvador or some other scheme.

For the most part, that is not accurate. For the most part these people are Nicaraguans who have fought Somoza and everything else in that country for years and years and years.

Unfortunately, a large number of them were gathered together under the aegis of the CIA in 1981 and asked to go to work for us. So they got branded Contras. Some of them got branded Contras. All of them got branded Contras. Eden Pastora, whose name has been evoked tonight, who would not have anything to do with the CIA, who fought the CIA for a long time, now he is a Contra.

The Sumu Indians, the Miskito Indians, they get to the Contras.

Each of them has their own rebellion going in some fashion. Unfortunately, we have taken advantage of their revolution to our particular end, and sometimes that end coincided with theirs and sometimes it did not.

I think that is the distinction that I would like to draw tonight for my colleagues.

There is so much that I agree with by all of these who have spoken for this amendment. It is frustrating to find out that the President of the United States ordered up that fireworks when we were being told they were not even being contemplated. That is frustrating to me, as a patriotic American. There is a lot of frustration in it.

But the decision you make tonight, if it is effective at all on this bill, will not be just a condemnation of American policy. By pulling the rug on this and leaving behind $6 million until September—and that is another part of the problem I have with this, that it is only good until September, that if you do not take advantage of it by September you do not get it and you are stuck in the swamps—by pulling the rug tonight you are not just pulling the rug on what some Members may think are the Contras and some the old Somocista National Guard and so forth. You are going to pull the rug on an incipient revolution. You are going to pull the rug on some trade unionists and on the folks at La Prensa who are holding in there, on Miguel Bolanos, on the Nicaraguan Human Rights Commission, still fighting for human rights.

You are going to pull the rug on a lot of Nicaraguans.

I hate to come to the bottom line and say that everything is great and we are running a great covert action down there and I am blessing this covert action. I am not blessing it. I am trying to plead for a lot of Nicaraguans being left out of this.

I will draw this to a conclusion by quoting from the unanimous statement of all the Catholic bishops, about eight of them. You have read enough to know they represent a majority of Nicaraguans, or a substantial number of them. It is said that if you take the pressure off the Sandinistas they would do anything to get at the bishops.

This is from the pastoral letter at Easter:

> Our country, too, is plagued by a belligerent situation pitting Nicaraguan against Nicaraguan, and the consequences of this situation could not be sadder:
>
> Many Nicaraguan youths and men are dying on the battlefields.
>
> Many others look toward the future with the fear of seeing their own lives prematurely ended.
>
> A materialistic and atheistic educational system is undermining the consciences of our children.
>
> Many families are divided by political differences.
>
> The suffering of mothers who have lost their children, which should merit our great respect, is instead exploited to incite hatred and feed the desire for vengeance.
>
> Farmworkers and Indians, for whom the Church reserves a special love, are suffering, living in constant anxiety, and many of them are forced to abandon their homes in search of a peace and tranquility that they do not find.
>
> Some of the mass media, using the language of hate, encourage a spirit of violence.

And so on and so on, Mr. President. That did not start with the CIA. Yes, we contributed to it. Yes, we contributed to it. But that did not start with the CIA. That started when some people decided to abort the revolution.

So, Mr. President, I guess what I am advising my colleagues is what I have found myself advising myself. That is that we not take action at this time to withdraw support from a covert action that so many of us have a hard time getting our arms around and defining and giving a specific mission.

Yes, follow it closely, and a whole lot better than we in the Intelligence Committee have done for you since last September. You are right to demand of us that we do one hell of a better job than we have done for you in the last 10 months.

But those, I think, are the choices facing us. I thank the Senator from Texas for yielding time to me.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield briefly to the Senator from Pennsylvania to pose a question to the Senator from Massachusetts without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. I thank the Senator. I request of the Senator from Massachusetts that he yield for a question.

Although the substitute of the Senator from Hawaii is taking precedence, going back to the amendment by Senator KENNEDY, it says:

> Nothing in this act shall be deemed to authorize the appropriation of any funds for the purpose of or which would have the effect of supporting directly or indirectly paramilitary operations in Nicaragua by any group, organization, movement, or individual.

My question is, Is there in the current measure an authorization for the appropriation of such funds?

Mr. KENNEDY. What I would like to do is defer to the response that the Senator from New York [Mr. MOYNIHAN] gave as a member of the Intelligence Committee. He is a member of the Intelligence Committee. I can respond to it but I ask, for the benefit of the RECORD, if I may let the Senator from New York, who is a member of the Intelligence Committee, speak to that issue. He got into it in considerable detail before offering his amendment, but I think the Senator from New York may answer it.

Mr. MOYNIHAN. Mr. President, in order that I may be precise in my answer, will the Senator from Pennsylvania restate the question to which I am asked to respond?

Mr. SPECTER. The amendment of the Senator from Massachusetts says nothing in this act shall be deemed to be going to the covert operation in Nicaragua. The question I have is a very threshold question: Is there anything in this measure now under consideration which authorizes such covert funding?

Mr. MOYNIHAN. I thought I understood that to be the Senator's question. The answer is, there are no specific funds in this measure for any specific activity of the Central Intelligence Agency. Those specific allocations, line-item allocations, will be made in the intelligence authorization bill which is still in the committee and will come before us later this session.

Mr. SPECTER. That is what I thought. That is why I wonder why we spend so much time debating a question about eliminating funding which does not exist in this act.

Mr. MOYNIHAN. May I say to the Senator that I remarked earlier that the effect of the amendment by the Senator from Hawaii is to add $8 million to this authorization for the purposes he specifies.

Mr. KENNEDY. May I just respond, I believe the figure is $6 million, but there is the general authorization. This amendment that I offered would prohibit any general authorization to be used for this program for the support of the Contras in 1985. The Senator from Hawaii has offered a substitute that would indicate that there would be no moneys in this bill that could be used for this program in 1985, but there would be authorized funding for the phasing out, $2 million for the phasing out, $4 million for humanitarian support.

Mr. SPECTER. What does the Senator from Massachusetts mean by general authorization if there is no authorization for such funding?

Mr. KENNEDY. As the Senator from Pennsylvania understands, within this defense authorization bill, there is spread among various provisions funding for central intelligence activities. All this amendment would have done—that has been acknowledged by members of the Intelligence Committee, both those who support this amendment and those who oppose it. This amendment which I had originally offered would say of those funds that are included in this, nothing could be spent for the Contras.

To that amendment there has been a substitute added, as indicated by the Senator from Hawaii.

Mr. SPECTER. How much of this bill, then, is for funding for the Central Intelligence Agency?

Mr. TOWER. I might respond to that. Whatever funding there is for the Central Intelligence Agency is a classified matter.

Mr. NUNN. Mr. President, will the Senator yield for a brief observation?

Mr. SPECTER. I yield.

Mr. NUNN. If I may speak in hypothetical terms, I might say I think they have dealt, in the answer to the Senator's question, with direct funding through the Intelligence Agency. There is another aspect of this that could be involved on a hypothetical basis.

If, for instance, any of our military forces or any of our military intelligence forces were giving any indirect assistance, whether reimbursed or not reimbursed, then it seems to me that this amendment would cut that off.

For instance, if there are, hypothetically, any kind of supplies being transported in or out of that region by military air, whether reimbursed or not reimbursed, it seems to me this amendment, when it says, as it clearly does, no fund included in this act may be appropriated for the purpose of or which would have the effect of supporting directly or indirectly paramilitary operations in Nicaragua by any group, organization, movement, or individual—on a hypothetical basis, if that were occurring, and I frankly am not familiar enough with it to state one way or the other, I think it would cut off any such activity.

I think also hypothetically, if there were any kind of tactical intelligence that were coming from a military source funded in this bill that was being transmitted, hypothetically, through intelligence or otherwise to the Contra organization, it seems to me that that, too, would be terminated under the terms of the amendment.

I think there is a dual kind of possibility here. One possibility, if hypothetically there were any funds—and the Senator from New York already answered that question. I shall not try to capture that answer, but I think he is certainly accurate in it. If there were intelligence funds here, hypothetically, they would be cut off. But military funds used indirectly would also be cut off by this amendment. So, even though there is an intelligence bill that will at some point be more directly addressing these issues, I think it would be a mistake to assume that this bill has no implications, because I think it does.

Mr. JOHNSTON addressed the Chair.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from Oklahoma for a brief statement without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank the Senator from Texas. I know the hour is late and I do not want to take more time of my colleagues than is necessary.

I have been laboring myself for some hours now over the decision I would make on this amendment. As the Senator from Kentucky, the Senator from Minnesota, and the senior Senator from Mississippi have indicated, this is a question on which many of us feel torn. There are aspects of the present so-called covert aid to Nicaragua which certainly trouble me. I felt let down by what I judged to be a serious mistake by the administration in the use of the tactic of the mining of the harbors. Many of us are concerned by apparent indiscriminate use of force on civilian targets. There is use of methods that are not carefully enough crafted to be effective in simply shutting off the supply of arms for export of revolution from Nicaragua to other countries. That surely should be our most appropriate and proper objective in terms of any activities that are being carried on in Nicaragua—that is, to protect neighboring, friendly countries from undue attack and undue interference.

At the same time, we would have to be blind to refuse to recognize that Nicaragua has been used as a staging area for unfair attacks by powers even beyond the immediate area of Central America to export revolution and attack legitimate governments in neighboring countries. So we have to weigh those two factors.

I suppose the item which is most influential with me is something that goes to the philosophy each of us has as to how the Constitution should operate. I have become more and more concerned as we have debated almost daily new sets of instructions to the President of the United States as to how he should conduct negotiations, how he should make certification to the Congress of progress that has been made in all areas of policy. I have been tempted at times to offer a substitute amendment that, before the President of the United States could test any weapons system or embark upon any foreign policy decision, he should have to certify that he has consulted with each and every Member of the 535 Members of Congress and then wait 10 years before he acts.

I think we have been dangerously drifting in that direction. Those who framed this Constitution realized that there can only be one Commander in Chief, there can only be one President of the United States, there can only be one chief negotiator for this country. There are times when any of us individually will have misgivings about the policies that he follows. There will be times when any of us could second-guess his judgment; could read about what he has said in negotiations and perhaps could wish that he had negotiated a little differently with people from other nations. But the practical facts are that 535 Members of Congress cannot go into negotiations with chiefs of state of other nations. We cannot conduct foreign policy ourselves, though we may advise the President in the conduct of foreign policy. And I think in many ways we are trying to do things that are impractical. We can advise the President to have negotiations; we can require him to have negotiations. We cannot really force him to negotiate earnestly about something that he does not think he should negotiate. We cannot sit here and pick the timing at which we think he should unveil proposals. That cannot be done in the real world. Only one person can do that at a time which he will select.

That does not mean I think it is inappropriate for us to have this debate or to send a message to the President. We hope that we can have a genuine, bipartisan, foreign policy; that we hope we can have a foreign policy which will bring Congress as a full partner into private discussions with the President in the Oval Office and elsewhere so that when once that policy is announced by the United States it is a policy we can stay with and not reverse ourselves constantly, as the senior Senator from Mississippi discussed a few moments ago when he said: "We can't keep going up the hill and then turn around and go down the hill in the face of the whole world." It is going to cause us to be questioned as to whether or not we have the patience or ability as a Nation to have any kind of consistency or credibility at all in foreign policy if we keep reversing our field.

So, Mr. President, I think by this debate we have sent the President a message. We want whatever activity is going on in Nicaragua to be very carefully crafted. We want to avoid civilian targets. We want it to be aimed primarily at the interdiction of the flow of arms and the export of revolution out of that country. So I do not think it has been a waste of time to have this debate but I cannot bring myself to say I think this is the right time or the right place to tie the hands of the President of the United States. We have a newly elected leader in El Salvador, a democratically elected leader through a fair election process. He has indicated in many public statements that he is ready to embark upon negotiations himself with other heads of state in that area, presumably with the Government of Nicaragua and others. The Contadora process is also ongoing. I am just not sure, if we were to take this action tonight, it would not undermine what bargaining position we might have left with the Nicaraguans in terms of winning from them an agreement to stop the use of Nicaragua as a base for operations against neighboring states.

Since I have that doubt, I feel obliged to vote against this amendment and to give the President of the United States as Commander in Chief the benefit of the doubt, to have a position of leverage in the bargaining process for a little longer. I think we are obliged to carefully weigh the appropriate role of the Congress of the United States in the making of foreign policy under circumstances as delicate and as closely divided as are the current circumstances.

I do not mean to say that if the President were to persist at length in the policy of intervening in the internal affairs of another nation in a way which a majority of this Congress should determine is appropriate, if the President were to be insensitive to the messages being sent to him by Congress, if the President were to continue to fail to have full-scale negotiations with congressional leaders on both sides so that we can carefully craft a consistent, bipartisan policy in Central America that I would continue forever to vote against an amendment like this. That would be a misreading of my position. Six months from now, if the present policy continues, I do not know how I would vote. I might vote in favor of an amendment like we have tonight. But all I can say, Mr. President, is that I urge my colleagues to seriously consider the circumstances we now have with a new leader in El Salvador, with the Contadora process underway, with our own Secretary of State having made overtures by going to Nicaragua himself. Have we reached the point in time when 100 Members of this body and 435 on the other side of the Capitol should substitute their judgment and remove from the hands of the President possible leverage at an important and critical time in the bargaining process. I conclude by saying I do not believe so. I do not say not ever, but I say not now. I urge my colleagues to defeat this amendment.

Mr. TOWER. I ask unanimous consent that I may yield to the Senator from Louisiana for a brief statement without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I will be brief. I hesitate not to follow the leadership of the distinguished Senator from Hawaii, whose wisdom I respect and whose leadership I do indeed usually follow. Mr. President, as most of the Members of this body know, I along with the distinguished Senator from Florida [Mr. CHILES] recently returned from Central America. Many of you have been there. Some of you have come to an opposite conclusion from mine. But let me tell you, Mr. President, having come back from Central America and talking to most of the leaders in the area, I can tell you I do not believe this is a close question. I do not believe the United States can turn its back on the Contras. I am sorry, I know a lot of my friends are greatly offended by being with the Contras. Indeed, I was one of those who voted with the Sandinistas for aid early on. You remember when they first came into power. Oh, yes, we voted for the Sandinistas. We wanted to give them a chance, let them establish a new and autonomous kind of, whatever you call it, Marxism or what else. I was one of those who said, "Give them a chance, let this new kind of government take root, take seed in Central America. The other governments have not worked, not the Somozas, not the Batistas, not all the other dictatorships that we had been associated with. Maybe it will work."

We voted for money. Indeed, one of the Contras, the head of the biggest Contra organization, came here to Washington to plead for money for the Sandinistas. He said, "Give them a chance." That man, who happens to be a graduate of Holy Cross High School in New Orleans and Notre Dame University, imprisoned by Somoza, fought against Somoza and went with the Sandinistas, was more than greatly disappointed in what the Sandinistas have done.

Now, Mr. President, I think we have to be very naive to ignore the record of the Sandinistas. Oh, you can talk to Ortega and he is a great logician and he will spin out all of the arguments about how he wants peace and yet they have the strongest army in Central America, 100,000, and what are they doing with almost 100 tanks by the Honduran border? What happened to those free elections? Oh, maybe they will have elections in November. But I can tell you the Nicaraguans do not think, at least the so-called free Nicaraguans do not think they are going to be very free.

The only promise they have made good on is their promise to export revolution. If you do not think the command and control of the revolution in El Salvador is in Nicaragua, then go to Tiger Island, because that is where it is located in Nicaragua.

I do not doubt that the amount of arms coming through is not massive now, and they have many, many different areas in which it can come in. It does not come down one central Ho Chi Minh Trail. It comes through many different areas, so you are never going to intercept a huge cache of arms at any one time and be able to prove there are arms and ammunition in great amounts coming down.

I think most Senators know that Nicaragua is supporting today the revolution in El Salvador, if you would call it a revolution. I do not think there is much support by the people for the insurgency in El Salvador.

They have a new President in El Salvador, Mr. Duarte. Read his history. He has backed the cause of land reform, the cause of the campesinos all along, and he is for aid to the Contras. That is not the only reason to be for aid to the Contras. The Hondurans are, as well as other Central Americans.

Mr. President, in a sense it is a grimy business, being with somebody else's revolution; but it seems to me that the Nicaraguans have richly deserved our support of the Contras, and I shall vote for aid to the Contras and against this amendment.

Mr. DOMENICI. Mr. President, will the Senator from Texas yield 2 minutes to the Senator from New Mexico?

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the Senator from New Mexico to make a brief statement.

Mr. KENNEDY. Mr. President, reserving the right to object, I should like consent for 2 minutes for the Senator from Delaware, and I will object to any other yielding. We ought to vote on this or get into more debate.

Mr. TOWER. I told the Senator from Massachusetts some time ago that I was prepared to vote if he was, but apparently some Senators have not had the opportunity to speak.

I yield 2 minutes to the Senator from New Mexico, with the understanding that I will not lose my right to the floor.

Mr. DOMENICI. I thank the Senator for not objecting.

Mr. President, I was fooled once, the worst way I have ever been fooled in my adult life. It occurred in the Senate coffeeshop, when the present Foreign Minister of Nicaragua was invited to meet with some other Senators by the distinguished Senator from Nebraska, who was then in charge. He was the Foreign Relations subcommittee chairman on Central America when the Democrats were in majority. He said, "Why don't we come down and meet with this priest?"

I am a Catholic, I grew up thinking about priests. Senator BIDEN knows about priests. He is a Catholic, also. He just made the sign of the cross.

Anyhow, we sat down there and talked with this priest. He was still wearing a collar.

He said: "Why don't you vote for $120 million worth of aid? We Sandinistas are really good people."

"What are you going to do with the aid, Father?"

"Well, we're going to complete this revolution. We're going to have freedom, free elections, free labor unions."

He went on through their entire agenda. I sat there and looked at him. How could I think he would lie to me?

I told him I never thought I could vote for that kind of money but I would think about it. In the end, I was 1 of 10 Republicans who voted for it.

For those who think we have harmed the Sandinista revolution so much, let me say that $120 million—I have checked the record—is more money than we gave Nicaragua in 25 years. We supported the Somoza dictators, we were told, but $119 million in 1980-81 for the Sandinista was more money than we ever gave the Somoza family.

I went down to Managua with the Kissinger Commission in October 1983, and it was a real thrill. I saw the same priest that I saw years before in the Senate coffee shop. He does not wear a collar any more. He sat there in Managua and told us everything that has gone wrong with Nicaragua, from top to bottom, is our fault. He did every bit of it. He sat across the table and looked at us 12 Americans who were over there to see what we could do to help.

He gave us a 30-minute lecture on how each of us and our leaders just destroyed everything that was good in Nicaragua. Henry Kissinger was our negotiator, and we did not talk much; we listened. I could not take it. I said, "Will you let me talk for just 3 minutes?"

I looked at that fellow and said: "You know, I can't believe you are what you are. You sat down there in the Senate with your roman collar on and lied to me." There were many Catholic Senators that day in Washington having coffee with that fellow—and most were Republicans, as I recall. Ten of us voted for it.

In Managua, I said, "How come you don't have free elections?"

He said, "Because you won't let us."

"How come you don't have free labor unions? You told us you would."

"You don't let us."

"How come you don't have an independent court system?"

"You don't let us."

"What do you have this large army for?"

"It's because you are going to attack us."

Everything he told us he promised in order for us to vote the money in 1980 is absent from the country now.

I do not know what this story has to do with this debate tonight, except that, from my standpoint, I am not going to make another mistake. I feel worried tonight. A few weeks ago, we voted for this aid. I do not know what has happened in the meantime, but tonight we are going to reject the aid. A few weeks ago, we voted 61 to 30, something like that, to continue the aid. Now, on a defense bill that does not even have the $21 million in it—it is going to come in another bill—we have been here 3 hours debating that we should have some general authorization prohibition.

I do not understand what we are doing. It seems to me that we should at least be civil about this. Do we not have a committee? Can we not tell these chairmen and ranking members to go and meet with our President? If you are going to phase out aid to the free Nicaraguans, at least phase it out with a little commonsense.

It seems to me that you gave the Nicaraguans some money. They are having a new revolution. We did not want them to have that revolution, but it has given a lot of Nicaraguans some hope.

If you want to talk to a real hero, talk to the one in Managua who the Nicaraguan people look to for leadership. I saw him. He is followed all the time. I figure that in another month or so, he could get killed or hurt, and then the Sandinista comandantes will say it is our fault.

They have some new kind of Catholic Church in Nicaragua. The Sandinista have their own Catholic Church. They call it the People's Catholic Church. I wonder what it has been for all of history. Did they invent a new one? And we are here tonight wondering if we are doing something wrong.

There is no way to know for certain whether we are doing something wrong or right, but it seems to me that we should not go up the hill and go down the hill on covert aid every 5 or 6 weeks.

The Senate used to be the body that made deliberative decisions. Why do we not act as though we are concerned enough to work this matter out between the administration and Congress. Neither of us has a monopoly on truth.

I commend the Senator from Oklahoma for his remarks. I do not know nearly as much as he does about foreign affairs. I have not studied it as much.

The Senator from Louisiana [Mr. JOHNSTON] is right. I did not talk to anybody down there outside of Managua who thought America was the culprit, not one. Every leader I talked to in all the countries said, "Don't go home. We're scared. Stay here."

We read here in the United States that we are the bad guys. I do not know where we got that idea. It seems to me that we are living in some kind of fairyland. We do not want to act. Do we think the Sandinistas are doing right? We do not want to be part of their revolution. I do not, either. They have a revolution—an expectation of freedom—which they betrayed themselves, and they betrayed a lot of us, and, more importantly, their own brave people.

I do not want to undo the little bit of hesitancy we caused in that regime in Managua, making them think a little about the betrayal of their own revolution—not before us, but before their own people.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield time to the Senator from Delaware without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, if this amendment would prohibit mining navigable waters I would support it. If it would waive objections to the jurisdiction of the World Court to decide cases arising out of the mining of harbors I would support it. But the amendment does neither.

Or if the amendment could roll back time so that the Contra program could be erased before it started the amendment would merit support. But it cannot do that either.

What it is likely to do is abort the negotiations that Ambassador Schlaudeman is about to begin with Deputy Foreign Minister Tinoco.

There are several points in the near future at which this program can be terminated. This is only an authorization so we shall revisit the subject very soon when we consider appropriations. Even better, the negotiators may find a way to eliminate the program. This amendment is premature and should not prevail.

Mr. THURMOND. Mr. President, I would like to voice my opposition to the pending amendment. In my opinion, it is totally improper for a nation founded on the principle of consent of the governed to take legislative action to protect a dictatorial Marxist government.

Such action, however, is not without a very unfortunate precedent. Following the fall of Vietnam, Congress cut off funds to the pro-West, Union for the Total Liberation of Angola led by Jonas Savimbi. Despite our severance of funding, Mr. Savimbi has built a large base of popular support. Were it not for the presence of 25,000 to 30,000 Cuban troops in Angola, Mr. Savimbi's forces would have in all probability toppled a Communist government that is grossly unpopular with the people.

There is a similar situation in Nicaragua. The Government came to power with support of the people and has betrayed its promises to the people. The Sandinista regime is becoming increasingly unpopular. The Easter demonstration is an obvious manifestation of the public mood.

It is in our best interest to keep the pressure on the Sandinistas to reform their Government and allow the freedoms that they promised. To do this, we must continue our support to the anti-Sandinista forces.

Mr. President, I certainly hope that we will not willfully protect another Communist dictatorship from its own destruction. I urge my colleagues to oppose this amendment.

Mr. SYMMS. Mr. President, I would like to rise in support of aid to the freedom fighters and say that we should support the efforts of the Catholic Bishops of Nicaragua to institute a dialog of national reconciliation.

The Bishops issued a pastoral letter at Easter, on April 22, that was backed by all sectors of Nicaraguan society—the business sector, the trade unions, the opposition parties, and those armed forces opposing the Sandinista rule. This nearly universal appeal, however, was instantly rejected by the Sandinista government, and its issuance was branded as a criminal act.

This rejection of the Bishops' appeal is a highly visible demonstration of the fact that the Sandinistas refuse to deal with the reasons for which there is now an armed insurgency in their country. They have flagrantly refused to even discuss fulfilling the commitments they made in 1979 to the Nicaraguan people and to the Organization of American States.

The Contradora process emphasizes the need for internal democratization, for free elections, and for nonintervention in the internal affairs of sovereign countries. The Sandinistas to date have shown no evidence of pursuing any measures toward democratic government in Nicaragua, nor have they demonstrated any respect for nonintervention in neighboring countries. Our intelligence reports, as well as firsthand evidence from defectors from the Sandinista regime, have proven that the headquarters of the guerrillas in El Salvador trying to overthrow the democratically elected government is in Managua. Further, the Sandinistas have publicly proclaimed their revolution to be without borders.

President Duarte, in his recent visit to the United States, stressed to the Congress that aid to the freedom fighters in Nicaragua benefits El Salvador in its struggle against the guerrilla offensive in El Salvador. If the Congress is truly committed to the support of the newly elected government of El Salvador, and I believe it is, then we must recognize, as has President Duarte, that the future of the two countries, and indeed of all of Central America, is inextricably tied.

Honduras, Guatemala, and Costa Rica have all solicited military assistance from the United States to combat the terrorism and subversion sponsored by the Soviet and Cuban allies in our hemisphere. Is it not a proper signal to our friends in the Caribbean that the United States supports those fighting to preserve the liberal benefits enjoyed by free and democratic societies? Similarly, is it not dangerous to our peacekeeping efforts in the region to show that the United States is an undependable and fickle ally, willing to abandon our neighbors in Central America to a foreign tryanny?

The military buildup in Nicaragua, with an army now six times larger than the former regime's, clearly surpasses any legitimate security interest. Further, there is no justification for the 40 military bases, deepwater ports, and strategic airfields and heavy artillery for fighting a vastly inferior, underfunded, rural counterrevolutionary movement.

While the Congress is quibbling over giving $21 million per year to assist the freedom fighters in Nicaragua. The U.S.S.R. is providing a generous $10 million per day to Cuba. The Soviet Union, the Warsaw Pact Allies, and Cuba have made different arms deliveries to the Sandinistas to equip their vast army. There is a 2,500-3,500 man Cuban military advisory force in Nicaragua, as well as a Cuban civilian force that has had military training.

There are several myths that I would like to dispense with with regard to Nicaragua. First, that our Govenment has refused to pursue diplomatic means of resolving the conflict there. To the contrary, the previous administration exhausted all diplomatic channels. It was the Carter administration, after exhaustive and futile negotiations, that finally realized that our $100 million in aid over 2 years—much more than Somoza ever received—and other manifestations of goodwill were having absolutely no effect on the Sandinistas. They pursued, from the start, a policy of totalitarianism and a strengthened alliance with the Soviet Union and Cuba. In fact, the core leadership of the Sandinistas were trained in Cuba.

It was the Carter administration that finally recognized the Marxist-Leninist bent of the Sandinistas, and terminated the aid, while at the same time, reinstating aid to the El Salvador Government, to fight the subversion and terrorism being exported by its Marxist neighbors.

Second, the myth still persists that the Sandinistas are supported by the people. The origninal revolution received the overwhelming support of the people. But, the Nicaraguan populace never wanted a totalitarian regime. The popular revolution was hijacked by the Marxist-Leninist elements, and the Sandinista government is now hated and feared by the people of Nicaragua. A poll conducted in August 1981 revealed that over 70 percent of the Nicaraguans want free elections, and a Christian education for their children, while only 8 percent believe a Marxist education should be taught in their schools. This poll was to be published in La Prensa, the only remaining independent newspaper, but the Sandinistas censored it.

As for the myth that the Sandinista regime is not Marxist-Leninist, that is wishful thinking at best. The Sandinistas have openly avowed their allegiance to the tenets of Marx and Lenin. Borge, the Nicaraguan Interior Minister in an American magazine interview, was asked to respond to President Reagan's assertion that if America did not watch out, the dominoes in Central America would fall—Honduras, Guatemala, Costa Rica, and then Mexico. Borge's response: "That is one historical prophecy of Ronald Reagan's that is absolutely true." In one billboard above a cathedral in Managua, the Sandinistas have plastered a sign reading "Lenin and Marx: Giants of Proletarian Thought." Clearly, this is no Tito regime in Nicaragua.

Last, I'd like to touch on the appalling human rights record in Nicaragua, which was the subject of a hearing on May 25, attended by Senators KENNEDY, DURENBERGER, and KASSEBAUM.

The testimony from the representative of the Permanent Human Rights Commission of Nicaragua was particularly compelling. The Commission has reported objectively about the abuses under both the Somoza and the present day Sandinista regime. The Commission, however, is hindered in its efforts by the Sandinistas, who at one point, forced the shutdown of the Commission because it was accused of destabilizing the revolution. Following my statement, I will submit to the RECORD a copy of a letter from the Permanent Human Rights Commission of Nicaragua which details the abuses of the Sandinista rulers.

It is my belief that our aid to the freedom fighters in Nicaragua serves both humanitarian purposes as well as our national security interests and those of our neighbors to the south. I urge my colleagues to support this tabling motion, which once again, urges the President to support the efforts of the Catholic Bishops to institute a dialog of national reconcilation within Nicaragua. This dialog will include the many groups that supported the Bishops' appeal to the government, the trade unions, the media, the professional societies, the opposition parties, and the armed forces opposing the Sandinistas. The problem in Nicaragua is an internal struggle, and until the Sandinistas deal with the source of this struggle and begin to honor their commitments of 1979, there can be no peace in Nicaragua. We must serve notice to the Sandinistas that the U.S. Government and other OAS members have the right and moral obligation to insist that the Sandinistas fulfill those commitments upon which their assumption of power was based. To not support the Contras would be the wrong thing to do at this time.

Mr. SPECTER. Mr. President, I am voting to table the Kennedy amendment because the appropriate time to consider the issue of authorization or appropriations for covert aid is on the intelligence authorization bill or foreign operations appropriations bill. I opposed covert aid to overthrow the Nicaraguan Government and covert aid to mine the Nicaraguan harbor and will continue to do so when the relevant issue is presented.

[The following proceedings occurred after midnight:]

Mr. BIDEN. Mr. President, our votes over the last several months regarding CIA funding for paramilitary operations against Nicaragua have posed unusually difficult choices for the Members of this body.

First, we find ourselves in the unprecedented position of publicly debating and voting on a CIA covert action. This occurred because public disclosures of information about this paramilitary program, have left little about it secret. Nevertheless, because we do not want to appear to be declaring war on Nicaragua to embarrass other countries we persist in calling this operation a covert action.

I can appreciate some of the reasons for persisting in calling this covert action secret. Further, I do not mean to suggest that all covert actions should be debated publicly. I believe that, if used sparingly and wisely, secret covert action can be an essential element of our foreign policy and that our system of congressional oversight can provide adequate, representative checks on them.

On the other hand, these reasons for keeping the program formally secret come perilously close to being outweighed by the severe constraints which this continued security classification places on our debate.

From my own experience as a member of the Intelligence Committee, there have been discussions of this covert action which we have had in the Intelligence Committee which are not really classified in the sense of containing information whose disclosure could be expected to cause identifiable damage to our national security. In spite of this, under the provisions of Senate Resolution 400 which created the Intelligence Committee and under the committee's rules of procedure, we are technically proscribed from recounting such debates or the various proposals which we have discussed. In this way, there are impediments to our full public airing of this matter, that are of dubious appropriateness in the current case.

But there is an even greater source of difficulty affecting our decision and that is that there exists strong arguments for and strong arguments against both sides of the issue of whether we should vote to terminate this paramilitary program.

Over the last 3 years, as a member of the Intelligence Committee, I have scrutinized the intelligence information about Nicaraguan support for insurgencies in Central America, particularly in El Salvador. Over those 3 years, I have been critical of the uses to which much of this intelligence information has been put. The Reagan administration has made sweeping claims about the Nicaraguan supply of arms to the FMLN in El Salvador. We have heard, for example, administration officials say things like "the arms flow has doubled" even though we never knew the exact amounts to begin with. Recently, leaks from unnamed administration officials referred ominously to a fall 1984 or a tet offensive. Similarly, there has been a range of assertions about the degree to which Nicaraguan, Cuban, and Soviet Government officials are involved in directing the Salvadoran guerrilla movement. At times, mere bits or pieces or shreds of intelligence information have been all there was to back up vast claims by the President and his administration about the origin and nature of insurgencies in Central America.

Moreover, the intelligence process itself became highly politicized at times. U.S. intelligence collection and analysis resources were forced singlemindedly on the job of finding proof for the administration's ideological preconceptions or discovering the so-called "smoking gun" of high level Nicaraguan and Cuban involvement. We would be much better served if the intelligence community were, instead, directed to illuminate, dispassionately, the military, political, economic and social state of affairs in Central America.

On the basis of my review of this intelligence, I am, in fact, convinced of the accuracy of many of the administration's statements about intelligence information.

I will attest that the accumulation of intelligence information does show that Nicaragua is deeply involved in providing arms, command and control support, and safe haven to Salvadoran guerrilla groups.

As a result, I think that paramilitary operations against Nicaragua are, in some respects, an appropriate response to that country's interference in the internal affairs of other countries. This sort of interference should not be rewarded by a congressional declaration that, henceforth, Nicaragua is out of bounds from the point of view of U.S. intelligence operations.

Whether or not we are wildy enthusiastic about the prospects for reform, stability, and justice in El Salvador, it is our national policy, one that has been duly chosen by the Congress and executive branch, to support the Government of El Salvador and nurture its democratic processes. Consequently, I really don't see why we should stand idly by while Nicaragua sends arms into El Salvador and helps direct violent attacks inside that country. This consideration then is one which argues in favor of continuing U.S. support to paramilitary operations.

Another consideration arguing in favor of continued support is that the Sandinistas no doubt find these attacks extremely draining and costly. The Sandinistas probably have found the prospects of ending such attacks an incentive for reaching an accommodation with other countries in the region, and participating in the Contadora process. Further, the existence of a significant armed internal opposition might encourage the Sandinistas to return to the ideals of their revolution and hold truly free and open elections this November.

Unfortunately, relentless paramilitary pressure on the Sandinistas might equally well force them only to continue their military buildup and to extend their March 1981 state of emergency that serves only to camouflage repressive, governmental practices.

In short, there are a number of reasons supporting the proposition that we should continue CIA assistance to paramilitary operations against Nicaragua. There are also a number of reasons supporting the proposition that we should end such assistance. The difficulty of our decision lies in the fact that there are powerful reasons supporting both positions.

However, Mr. President, we must remember that we are not weighing the pros and cons of this CIA covert action in the abstract. We must evaluate it in terms of its actual history and implementation. We must evaluate it in terms of the way this administration has represented it to the Congress and to the American people. Finally, we must evaluate it in terms of its results.

Mr. President, when I look at this covert action in this concrete context, the choices which we face become significantly clearer. When I examine this paramilitary operation in terms of its history, its appearance to the world, and its results, I reach the conclusion that as currently implemented, U.S. aid to Contra activities in Nicaragua should stop.

Although, as I have indicated, there are desirable objectives which these paramilitary operations might bring, the record shows that the operations are simply not well enough under control to merit continued U.S. support. The Contras have conducted in Nicaragua a pattern of attacks on civilian targets, such as farms, food storage facilities, towns, and harbors which bear no clear causal relationship to the legitimate aim which one can have for such attacks—which is that Nicaragua ends its support for insurgencies.

Between the FDN, Misura, and ARDE, there are an estimated 10,000-15,000 armed Contras fighting against Nicaragua. In one sense, these numbers are relatively small and pose no immediate threat to overthrow the Government of Nicaragua. The Sandinista have over 125,000 men under arms. They have helicopters, tanks, armored personnel carriers and, soon, possibly jet fighters provided by the Soviet Union.

In another sense, though, the fact that the number of Contras has grown so rapidly from the 3,000-5,000 estimated 18 months ago and is larger than the estimated 8,000-10,000 insurgents active in El Salvador show, the extent of dissatisfaction within Nicaragua against the Sandinista regime.

Nevertheless, before we arm, and, in some cases, direct paramilitary forces of 15,000 men, we had better be very sure we have some means of control over the conduct of those paramilitary operations. Otherwise, we are left with a shotgun when we need a scalpel and, even worse, a shotgun when there are innocent bystanders.

The record of this paramilitary operation—including the September aerial bombing of Managua airport and attacks on innocent civilian targets—shows that we have inadequate control over the conduct of these Contra forces.

In other instances, such as the mining of the ports of El Bluff, Puerto Sandino, and Corinto by the so-called unilaterally controlled Latino assets, we find that the level of U.S. involvement is too close for comfort an almost involves U.S. personnel in acts of war. For no other reason, if a paramilitary plan is a sort for which it is virtually impossible to draw a line between too much U.S. direct control and too little direct control, then I think, as in this case, the suitability of that paramilitary operation is doubtful.

In addition to the administration's politicizing of intelligence information, there have been other events which make this program the biggest black spot on the record of executive compliance with statutory and other obligations under congressional oversight of U.S. intelligence activities. The attempt, last March, to end run the intelligence authorization committees when the administration requested a $21 million supplemental for the Nicaraguan program is symptomatic. So was the failure to notify us about the mining of Nicaraguan ports.

Finally, the inflammatory, rhetoric-charged way in which the administration has presented this program to the Congress, the American public, and our allies raises doubts about the administration's judgment. Frankly, if its rhetoric had been less, the administration would have done itself a great service in terms of retaining congressional support for the substance of this program. If the administration had only appeared to be more vigilant about the possibilities for violence against and abuse of innocent civilians in both El Salvador and Nicaragua, there would be far less cynicism about its intentions and its discretionary use of force.

As it is now, the administration's management of this has embarrassed the United States. It has shed doubt on this country's judgment in regard to the use of violence.

As with all covert actions, the United States should have a clear, distinct, and verifiable objective in its support for Contra operations. The cessation of Nicaraguan support to insurgencies in Central America is such an objective.

In contrast, the administration's vague statements of objectives including the requirement for the Sandinistas to alter their internal political processes provides no clear and distinct terminus to this covert action.

On April 4, President Reagan wrote to the majority leader saying, "We are trying, among other things to bring the Sandinistas into meaningful negotiations and constructive, verifiable agreements with their neighbors on peace in the region." Apart from the rather troubling expression, "among other things," I find this statement of objectives by the President to be far too vague, for what are we to understand by "verifiable agreements"? The Sandinistas have already made several conciliatory steps—such as subscribing to the Contadora 21-point plan and offering amnesty to dissident forces, only to have them dismissed out of hand by the administration.

Furthermore, it is essential that the Contras themselves, who are risking their necks in combat inside Nicaragua and who are, in one sense, our allies, have an absolutely unambiguous understanding of the point at which U.S. support for them will stop. If we have a clear statement of goals, the termination of Nicaraguan interference in the affairs of other countries, then they will have no grounds to cry "betrayal" if the United States pulls out at some time before the Contras achieve that for which they are fighting.

Further, a guiding principle for the conduct of paramilitary attacks must be that the paramilitary operations that we fund should meet certain standards of relevance and proportionality to our objective. A clear and legitimate goal for us is that Nicaragua stop supporting insurgencies in Cental America. The paramilitary operation we sponsor should, in application of this principle, bear some direct and casual relationship to our goal of getting the Sandinistas to cut out their support for insurgencies.

One can argue that attacks on civilian or joint economic-military targets might also, by demoralizing or terrorizing the civilian populace or destroying the economic prerequisites of a war-fighting capability, make the Sandinistas look inward. No doubt, they might have this effect. But this clumsy approach is a dangerous and irresponsible use of the covert action instrument. It is necessary to attach standards to the actual conduct of these paramilitary operations which prohibit attacks on civilian targets. They should be limited first to attacks on the insurgency supply infrastructure inside Nicaragua. Second, they should be limited to attacks on military targets as a means of raising the cost to the Sandinistas for interfering in the internal affairs of other countries.

Covert action is a valuable but highly complex instrument of American foreign policy. To the extent that we can define clear and achievable objectives for CIA's covert actions, we have made an important contribution to their design, implementation, and success.

I believe that open-ended support for the Contras causes us to pay higher costs than the limited benefits we are likely to get out of this program are worth. If it is the case that we cannot exert influence over the conduct of the Contras' military operations or over the targets they select, then, unfortunately, this paramilitary program is simply not an appropriate means for us to use for achieving the legitimate but limited objective of inducing the Sandinistas to stop interfering in the internal affairs of other countries.

In the absence of a clear and limited objective to this program, and in the absence of standards of conduct for Contras activities that prohibit attacks on civilian and economic targets, I cannot vote for its continuation. Therefore, I join with Senators KENNEDY and BINGAMAN in voting for its termination.

Mr. President, let me just make a couple points, if I may.

First of all, I did not realize this was a religious issue. I hope I will be forgiven.

I am having a problem here tonight. Beside being on the losing side of two important issues, assuming this one goes down, we have some awfully soft thinking around here, not soft in terms of being soft and tough in foreign policy, but soft in terms of careless thinking.

I thought what we were debating here and what the issue has been in our Intelligence Committee on which I serve and on the floor here was whether or not the President means what he says about the limits which he has placed on the covert aid in terms of its objectives.

I have heard three very brilliant speeches here tonight about overthrowing the Sandinistas, and I say good, have at it, fellows, let us have at it.

The Senator from Oklahoma talked brilliantly about the Sandinistas and about what is at stake, and the Senator from Louisiana made one of the more impassioned speeches I ever heard him make, and I say that sincerely. I know he means it from this heart. And he talked about the betrayal, and I heard about the Catholic revolution that was somehow overthrown here, and I say, "look, let us level with the American people. If we want to overthrow the Sandinistas, let us say so and let us do it. Let us not pussyfoot around."

But why go through this charade of telling the press, telling the American people, that the aid to the Contras is designed only to disrupt the arms flow and the reason we are doing this is that because, for example, the tonnage of arms flow has doubled—we do not know what the tonnage was in the first place.

The heck with all of that. What you guys are talking about is overthrowing the government. If that is our objective let us get about the business of overthrowing the government, but let us not kid ourselves.

I am being very serious. I am not joking.

My friends in the Intelligence Committee have had to hear me say this time and again. Let us not go through the charade of saying there is a Presidential finding designed for one purpose which is to ultimately disrupt the arms flow and to modify the regime as an ancillary purpose.

Where I come from in Wilmington, DE, that means we want them out. We want to overthrow the Sandinistas.

So why do we make fools of ourselves here standing up making speeches about the Sandinistas and what they are doing to betray the revolution and how collars have been turned around backward and how we were duped on this issue. These matters are not supposed to be relevant to what our objective is purported to be.

So since my time is almost up, I would suggest to you, let us get tougher in our thinking. I do not quite understand who else is going to deal with this issue. Let us stop kidding the American people.

Are we in there to overthrow a government? And if we are, let us do it up front. I will debate that issue with you, and I may very well be with you, but do not have me on the Intelligence Committee stand before those press people and have to say I cannot comment, that is classified, what we are doing down there. But I can assure you it is not to overthrow the government of another country.

That is a baldfaced—how should I say this. It is not true.

Mr. TOWER. Mr. President, I renew my motion to table the amendment in the first degree of the Senator from Massachusetts, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. EVANS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON], the Senator from Colorado [Mr. HART], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

(During the vote, the chair was occupied by the Vice President.)

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—58

Abdnor
Andrews
Armstrong
Baker
Boren
Boschwitz
Chafee
Chiles
Cochran
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Durenberger
East
Evans
Garn
Goldwater
Gorton
Grassley
Hatch
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Johnston
Kasten
Laxalt
Long
Lugar
Mathias
Mattingly
McClure
Murkowski
Nickles
Nunn
Packwood
Quayle
Roth
Rudman
Simpson
Specter
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Wallop
Warner
Wilson

NAYS—38

Baucus
Bentsen
Biden
Bingaman
Bradley
Bumpers
Burdick
Byrd
Cohen
Cranston
Dodd
Eagleton
Ford
Glenn
Hatfield
Huddleston
Inouye
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Stafford
Tsongas
Weicker
Zorinsky

NOT VOTING—4

Exon
Hart
Pell
Percy

So the motion to lay on the table amendment No. 3240 was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I inquire of the distinguished chairman of the committee, and the manager on this side—and I think I know the answer to the question I am about to put—whether or not in his judgment it would be possible or feasible to try to finish this bill yet this evening.

Mr. TOWER. Mr. President, I have to reluctantly respond to the distinguished majority leader in the negative.

Mr. BAKER. Mr. President, I assume that. Indeed, I had an opportunity to consult with the manager on this side a few moments ago, and he showed me an overwhelming list of amendments yet to be disposed of. I surmise from that, that we cannot finish. The manager, as I believe both managers are probably of the same mind, feel that we need to drive very hard to try to finish this bill tomorrow night.

If that is the case, I think it unlikely that we would spend much more time on this bill tonight in deference to the fact that we are going to have to be in much later tomorrow night.

Would the manager agree with that?

Mr. TOWER. I would agree with the distinguished majority leader.

May I say, if there are some Members that have amendments that can be disposed of by voice vote, I would be glad to stay here with them as long as we could get those up and get them out of the way.

We have about 40 amendments left, only about 10 of which are really controversial, and only about 5 of those of which are critically controversial, I would say. A lot of these are relatively minor amendments that can be disposed of pretty quickly.

If the majority leader would like, I would identify some that I think I will precipitate some of the debate and votes.

Mr. President, I am not reading all of the amendments that we have identified as amendments that are going to be offered. These are just the ones that I expect the most controversy over, and that are virtually certain to have record votes.

The Stafford amendment to delete the DOD independent school provision;

The Mathias amendment to prohibit deployment of nuclear sea-launched cruise missiles. However, I might note that there is an amendment being prepared to compromise that one. So it is possible it can be disposed of without a vote;

The Bumpers amendment on SALT II extending U.S commitment to abide by the SALT II agreement that we of course expect to be very controversial, and have considerable debate;

The Kennedy-Mathias amendment stating that sense-of-Congress language calling on the President to submit the Threshold Test Ban Treaty, and the Comprehensive Test Ban Treaty to the Senate for ratification;

The two Specter amendments;

A Nunn amendment which would put a cap on troop strengths in fiscal year 1985, and that would provide for troop withdrawals from Europe based on certain criteria that he has established.

Mr. NUNN. Mr. President, would the Senator let me amend that so we get a little more favorable summary? I prefer it be called the Nunn amendment for NATO conventional improvements that will require no troop withdrawal provided our allies do their proportionate share.

Mr. TOWER. A Specter amendment expressing the sense of the Senate urging the President to a summit on nuclear arms;

A Hollings amendment on contracting out, and we expect another amendment to reduce funding for special defense initiatives.

We have not identified who is going to offer that, though we have been assured it will offered. If the offerer could identify himself——

Mr. NUNN. Mr. President, I will say to the chairman I may very well offer that. It will not require a long debate. We have debated it. The vote was very close. There were a good many absentees. I would think we would have a brief debate and go to a vote.

Mr. TOWER. Then the Matsunaga amendment on the Peace Academy; another amendment on the MIRV-SALT II limitations. That completes the list of what I believe to be controversial.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I thank the chairman and the ranking Member. It is clear to me, based on this information, that we cannot finish tonight. Therefore, I wish to announce there will be no more recorded votes tonight.

Mr. FORD. Mr. President, will the Senator yield for a question? Is there a chance that we can begin working during the days and not as much at night? We seem to be mixed up.

Mr. BAKER. I would do almost anything on Earth to get our days and nights straightened out. I have a grandson who is 2 years old, and he has his days and nights mixed up. He stays up all night and sleeps all day. I would not hope the Senate would follow his example.

I will confess to my friend I have tried everything I know how, including sending the Sergeant at Arms on mythical missions to instruct Senators to come, including when we have votes on amendments agreed to, of 91 to zip, but I have not made an impression.

I would encourage Senators to listen to what the Senator from Kentucky has to say and to come here in the daytime and try to dispose of our work instead of waiting to do it all at night. I guess I am preaching to the wind, but I thank my friend from Kentucky for saying that because once again I am confronted with the wet noodle phenomenon and I have not been able to push it.

Mr. TOWER. If the majority leader will yield, we have discussed that several times throughout today, the fact that we cannot get people over here to debate during the daytime. All of a sudden, about 8 o'clock at night, things liven up around here and we have rather spirited debate.

I would suggest that henceforth, rather than convene the Senate at noon, we ought to convene at 8 o'clock at night and go out 8 o'clock the next morning. We might get more done.

Mr. BAKER. My friend from Texas will remember, as my friend the minority leader, that years back it was not uncommon for the Senate to convene at 4 or 6 in the afternoon and to work very hard for a relatively brief period of time. I do not intend to do that because I am afraid that if we convene at 6 o'clock in the evening, it will be midnight before we get started.

The Senator spoke of spirited meetings. Maybe we ought to—no, I do not think I will say that.

Mr. President, I thank the Senator.

Mr. TOWER. Mr. President, I think the point should be made that we simply must stay around the clock tomorrow to finish this bill because we have to get it to conference and we have to complete the conference report.

Mr. BAKER. I agree with the Senator.

Mr. President, I thank both managers for their information.

Mr. TOWER, Mr. President, if there are some Senators who have amendments that can be disposed of by voice vote, we will be glad to take those up.

Mr. McCLURE. Mr. Chairman, I wish to raise an issue which is of great concern to me, for purposes of clarification. My question relates to the new production reactor. Mr. Chairman, is it your understanding that the Senate has given ample direction to the Department of Energy to begin an environmental impact study [EIS] on the recommended sites and reactor concepts for the new production reactor?

Mr. TOWER. Yes; that is precisely my understanding.

Mr. McCLURE. Is anything further needed in order for DOE to proceed with the EIS activities?

Mr. TOWER. No. DOE has already notified the House and Senate Armed Services Committees of the Department's plans to proceed, by a letter dated May 17, 1984, and nothing further is needed. I ask that the letter dated September 6, 1983, from the Senate Committee on Armed Services to the Energy Department, and the letter dated May 17, 1984, from the Energy Department to the affected committees, be printed in the Record at this point.

The letters follow:

U.S. Senate,
Committee on Armed Services,
*Washington, DC, September 6, 1983.*

Hon. Donald Paul Hodel,
*Secretary of Energy, Department of Energy, Washington, DC.*

Dear Mr. Secretary: Receipt is acknowledged of your letter dated August 16, 1983, advising the Senate Committee on Armed Services, as required by Section 212 of P.L. 97-90, of your intention to proceed with an Environmental Impact Statement (EIS) for a New Production Reactor.

The Committee has no objection to your proceeding with such an EIS provided that such EIS considers the environmental consequences of constructing a new production reactor at each of the three major nuclear facilities sites (i.e., the Savannah River Plant, Aiken, South Carolina; the Richland Plant, Hanford, Washington; and the Idaho Falls site, Idaho Falls, Idaho). The Committee cannot agree to the exclusion of any of these sites as a potential new reactor site until economic and environmental studies have been completed. Similarly, the Committee feels that the environmental consequences of at least two types of reactors should be examined before selecting the preferred reactor type and location.

As the Committee has stated in the past, the construction of a new production reactor is supported, and the Department is urged to act with dispatch on these preliminary studies.

Sincerely,

John Tower,
*Chairman.*

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The Secretary of Energy,
*Washington, DC, May 17, 1984.*

Hon. Samuel S. Stratton,
*Chairman, Subcommittee on Procurement and Military Nuclear Systems, Committee on Armed Services, House of Representatives, Washington, DC.*

Dear Mr. Chairman: This is to inform you of the status of the Department of Energy's (DOE) studies for the New Production Reactor (NPR) and to request your continued support for our planned activities on this very important project. As indicated previously in my August 16, 1983, letter to Mr. Price, an NPR will be needed to provide long term assurance of an adequate and reliable supply of tritium and other nuclear materials for maintaining the effectiveness of the nuclear weapons in our stockpile. Studies and related activities have been initiated with the objective of compiling data and performing analyses for selection in mid-1985 of both a reactor concept and a site for future construction to be recommended by DOE to the President. These studies are necessary in order that the NPR issue can be considered properly during the FY 1986 budget cycle.

At present, NPR tasks have been initiated in four principal areas: preparation of cost estimates which are reactor concept specific and site specific, development of safety studies, evaluation of required support facilities, and compilation of environmental data. Also, an NPR project office has been established at DOE Headquarters to manage the study activities, staffed principally with supporting personnel from each of the candidate sites. The NPR tasks have been initiated using primarily a combination of the operating contractors at the candidate sites, temporary technical working groups including other DOE contractor personnel, and the NPR project office staff.

Based on my August 9, 1983, guidance to the Assistant Secretary for Defense Programs and my September 1983 discussion with you, I requested that information be developed fully on alternative reactor concepts and sites. In accordance with the request and reflecting comments provided by the Senate Armed Services Committee in a September 6, 1983, letter, we are now evaluating three principal candidate sites: Idaho, Hanford, and Savannah River (ID, RL, and SR). Additionally, on March 15, 1984, Senator Baker requested that the Clinch River Breeder Reactor site be considered and the information available on that site is being reviewed. Three candidate reactor concepts are also being evaluated: heavy water reactor, light water reactor, and high temperature gas-cooled reactor.

Additionally, in accordance with comments provided in Mr. Price's September 13, 1983, letter on the NPR, the environmental impact statement (EIS) has not yet been initiated. There have been subsequent discussions between our staffs and testimony before your committee on February 29, 1984, in which additional information was conveyed on the advantages that preparation of the EIS would provide to us in this decision process and the need to initiate the EIS preparation promptly. As indicated in these discussions, preparation of the EIS at this time offers: an orderly approach for considering the advantages and disadvantages associated with each NPR concept/site alternative as well as the need date, the most efficient mechanism for obtaining public involvement in the decision process, and the best means for reducing the risk of any potential future project delays stemming from requirements of the National Environmental Policy Act process. The EIS is also one of the principal items needed to enable us to respond to your request to provide a reactor concept, site and cost estimate proposal for congressional consideration. Accordingly, we are now proposing to initiate the EIS for the NPR.

With regard to the need date for the NPR, additional studies are currently ongoing aimed at extending the useful lifetimes of the existing Savannah River reactors and the Richland N Reactor and reducing the uncertainty concerning when we can no longer depend on these reactors. These studies address the design features and operating requirements which could be expected to limit reactor lifetime and the types of renovations and equipment modifications which would be required for these reactors to continue to operate reliably for as long as feasible. No specific design feature has been identified as yet which would end the useful life of the Savannah River reactors. However, they will be more than 40 years old by the time an NPR could be completed and there is an increasing risk that the operational reliability of these aging facilities will be inadequate by that time. The Richland N Reactor is expected to reach the end of its useful life by the time an NPR could be completed unless extensive and very costly renovations are undertaken to accommodate the fundamental design problem of irradiation-induced swelling of the graphite moderator and the effects of irradiation induced degradation of the mechanical properties of the pressure tubes. The feasibility of such renovations on this large scale has not been demonstrated.

Although it previously has been possible to perform most of the NPR work using a combination of operating contractors at the candidate sites, temporary technical working groups, and special committees, we have reached the point where substantial additional support and expertise is required. We propose to proceed promptly to contract for these services. Specialized support is required for assembling cost data and preparing the necessary reactor concept specific and site specific cost estimates to permit comparison of the alternatives on a uniform basis. Also, specialized additional support is required for compiling environmental impact data to permit comparison of the candidate sites on a uniform basis, performing safety analyses including risk assessments, and preparing environmental documentation, such as the EIS.

The estimated cost for these NPR activities totals approximately $22.5M during FY 1984 and 1985. When the FY 1984 budget was submitted to the Congress, we did not have a firm DOE plan covering the studies necessary for recommending a reactor concept and site to the President in mid-FY 1985. Accordingly, we had initially estimated that only $5M would be needed for NPR activities in FY 1984. In the planned FY 1984 House Authorization Bill, only $2M was to be recommended. With the plan for NPR studies now firm and initial activities underway, we are able to estimate that $17.5M of the $22.5M total will be required in FY 1984 to proceed efficiently for a mid-1985 reactor concept and site recommendation. The balance of approximately $5M would be required early in FY 1985.

The funding for NPR activities is contained in our supporting services budget account, and we will need to reassign funds and delay up to $12.5M of lower priority work to accommodate the increased NPR work. Among the items we expect to delay are the purchase of spare equipment and materials for the FAST (Fluorinel) project at ID, design studies for retubing the steam boilers for the N Reactor at RL, and work in support of restoration projects at SR. We consider the NPR activities very high priority, and we propose to accept the impacts on these other parts of the nuclear materials production program to support the NPR studies.

Thank you for your continued strong support of DOE's defense programs which serve such a vital function in helping to meet our national security needs. Please advise me if you have any questions or concerns about any aspect of these proposed NPR activities.

Sincerely,

Donald Paul Hodel.

Mr. McCLURE. Mr. President, I wish to address several questions to the distinguished chairman of the Budget Committee, Mr. Domenici, regarding the effect of section 1014 of S. 2723. That provision would earmark 30 percent of the receipts from the naval petroleum reserve in fiscal year 1985 to be credited to the national defense stockpile transaction fund under function 050. The effect of this provision is to transfer the credit for these receipts from the energy function (270) to the defense function (050).

I believe that this represents a difference from the earlier assumption of the Budget Committee for the purpose of the first budget resolution for fiscal year 1985. Am I correct?

Mr. DOMENICI. The Senator from Idaho is correct. The assumption for the purpose of the first budget resolution is that these receipts are credited against the energy function.

Mr. McCLURE. My next question is this. Under existing law, these naval petroleum reserve receipts are returned to the Treasury and serve, therefore, to lower the budget spending totals. It is my assumption that the intent of section 1014 is to make 30 percent of these receipts available to the national defense stockpile transaction fund so that they may be used, as prescribed by law, for the purposes of that fund. If that assumption is correct and all other elements of the budget occur as envisaged in the first budget resolution for fiscal year 1985, would the aggregate spending levels in the budget resolution be exceeded?

Mr. DOMENICI. On the basis of the assumptions stated, the Senator is correct. The aggregate spending levels contained in the first budget resolution, as passed by the Senate, would be exceeded by an amount equal to 30 percent of naval petroleum reserve receipts, which I understand to be about $295 million in fiscal year 1985.

Mr. McCLURE. Then here is my principal question. If section 1014 were enacted into law, would the spending overage cited by the Senator have to be absorbed by reducing appropriations for function 270 energy programs within the jurisdiction of the Appropriations Committee?

Mr. DOMENICI. The answer to the Senator's question is "No." Enactment of section 1040 would not cause the Budget Committee's section 302(a) "crosswalk" allocation to the Appropriations Committee under the first budget resolution to be changed in any way, and that allocation is the target for the appropriation bills handled by the Appropriations Committee. The Appropriations Committee could thus proceed with appropriations for energy programs in a manner consistent with the budget resolution.

The only way that appropriations could be affected—and this would apply to all appropriations, not just those for energy—is that after the second budget resolution is operative in the fall, a point of order can be made under section 311 of the Budget Act against any legislation that would breach the budget spending totals.

### OLYMPIC SITE AMENDMENT

Mr. WARNER. Mr. President, earlier today, the Senate voted on Senator Bradley's amendment regarding establishment of a permanent facility for the Olympic games. I wish the record to show that had I been here I would have voted for that resolution.

When that vote occurred, I was at Fort McNair addressing the Department of Defense National Security Forum for Women. This gathering of approximately 500 representatives of women's groups that focus on business, economic, political, ethnic, and social issues had, some time ago, asked me to speak to them regarding "Congressional Responsibility for the Defense Budget." The overall theme of their 2-day seminar is "the Defense Budget and National Security."

As my colleagues know, I do not take lightly my responsibilities in the Senate and have established a near-perfected attendance for votes. Today, when I was notified that the vote on Senator Bradley's amendment had begun, it was apparent that I would not be able to return in time.

Though I regret missing that vote, I do not regret the excellent interchange of ideas on many current defense issues that I enjoyed with this group. My audience was well informed and well prepared. Indeed, I was pleased to learn how closely many in the group were following our current debate. Our exchange was highly beneficial to me and, I hope, also to them.

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## ORDERS FOR TUESDAY

### ORDER FOR RECESS UNTIL 11 A.M.

Mr. STEVENS. Mr. President, as in the morning business, I ask unanimous consent that when the Senate completes its business this morning, it reconvene at 11 a.m. this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. STEVENS. Mr. President, following the time for the two leaders under the standing order, I ask unanimous consent that there be special orders for not to exceed 15 minutes for each of the following: Senator Domenici, Senator Proxmire, and Senator Eagleton.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, following the time for the special orders, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 12 noon, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER OF BUSINESS

Mr. STEVENS. Mr. President, following the conclusion of the period for the transaction of routine morning business, it is my assumption that the Senate will resume consideration of S. 2723, the bill which we are presently considering. That will be the pending business at that time.

The PRESIDING OFFICER. The Senator is correct.

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## ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## A TRIBUTE TO CHARLES COOK

Mr. BIDEN. Mr. President, some fine examples of courage and compassion will be on display on June 30 when the 29th Annual Blue Gold All Star Football Classic is played at the University of Delaware Stadium. The game is played each year to benefit the mentally retarded citizens of Delaware. The motto of the event is, "We play that they may learn," and seldom has such a worthy cause been aided by such fine young people as this year.

Charles Cook has been deaf since birth. Mr. President, learning is tough, at least at one time or another, for most kids who can hear. The struggle to learn for a deaf child is always difficult. Charles aggressively sought the education that comes more eagerly to his peers. He attended the Sterck School for the Hearing Impaired and successfully earned his high school diploma. But Charles wanted to do more than just learn what his peers were learning. He wanted to play football, just like any other high school kid could.

Charles has overcome his handicap in the classroom and on the football field as well. He played for the Glasgow High School football team for 4 years, and was selected to be on the gold team in the Blue Gold Classic. To make his high school team was quite an accomplishment; to make an all-star team is truly remarkable.

Charles has more than overcome his handicap—he has worked to help others. He participates in the Hand-to-Hand Program, and will be giving of himself by appearing in the Blue Gold Classic. His achievements give new meaning to the words of President Theodore Roosevelt:

> It is far better to dare mighty things and to enjoy your hour of triumph, even though it may be checkered occasionally by failure, than to take stock with those poor souls who neither enjoy much nor suffer much, because they live in a gray twilight that knows neither victory nor defeat.

Charles Cook will never live in that gray twilight.

Mr. President, I will not be able to root for or against either team, but I will be at the game, cheering for Charles Cook and all the other players, supporters, and organizers who make this great event possible. I applaud their generosity.

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## A TRIBUTE TO GENE BRECKENRIDGE

Mr. BIDEN. Mr. President, some fine examples of courage and compassion will be on display on June 30 when the 29th Annual Blue Gold All Star Football Classic is played at the University of Delaware Stadium. The game is played each year to benefit the mentally retarded citizens of Delaware. The motto of the event is, "We play that they may learn," and seldom has such a worthy cause been aided by such fine young people as this year.

It has been said that "the vocation of every man and woman is to serve other people." Gene Breckenridge gives new definition to those words.

Gene has been an interpreter for one of the participants in the game, Charles Cook, who has been deaf since birth. Charles was able to make it to this game in large part because of the help of Gene.

Gene has gone far beyond the call to help Charles reach his full potential. He has gone with Charles to the practices, the games, the team meetings, the banquets, and the other functions that make up a young student athlete's life.

Gene has put his time and talent to use in a way that helped someone else make the most of his life. In doing so, he has made the most out of his. He must feel great satisfaction in seeing Charles play football, particularly in an all-star game, and particularly for so good a cause. That satisfaction is richly deserved.

Mr. President, I will not be able to root for or against either team, but I will be at the game, cheering for Gene Breckenridge and all the other supporters and for the organizers who make this great event possible. I applaud their generosity.

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## A TRIBUTE TO JIM QUILL

Mr. BIDEN. Mr. President, some fine examples of courage and compassion will be on display on June 30 when the 29th Annual Blue Gold All Star Football Classic is played at the University of Delaware Stadium. The game is played each year to benefit the mentally retarded citizens of Delaware. The motto of the event is, "We play that they may learn," and seldom has such a worthy cause been aided by such fine young people as this year.

Last fall, during the football season, Jim Quill, a guard and linebacker for the St. Mark's High School Spartans, learned that he had lymphatic cancer. He spent much of last fall and winter in New York City at the Sloane-Kettering Cancer Center. Initial prognoses were not very favorable, but Jim did not give up. Responding to the challenge, Jim underwent chemotherapy in an attempt to slow down the disease, and anyone who has ever had a loved one go through that form of treatment knows how exhausting and debilitating it can be. Still, Jim worked hard to keep himself in the best physical shape he could.

Jim's chances of beating his disease have risen to 80 percent, according to his doctors. The time and effort he spent keeping his body in good shape during his convalescence has paid off—he is in good enough condition to play in the Blue Gold Classic.

It has been said that "perfect courage is to do unwitnessed what we should be capable of doing before all the world." The determination shown by Jim in fighting his illness is an example of such courage. By appearing in the classic, Jim is showing that he is concerned for others, despite his own immense difficulties. I am moved by his achievements, and by his attitude toward life.

Mr. President, I will not be able to root for or against either team, but I will be at the game, cheering for Jim Quill and all the other players, supporters, and organizers who make this great event possible. I applaud their generosity.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## PRESIDENTIAL APPROVALS

A message from the President of the United States announced that on June 15, 1984, he had approved and signed the following joint resolutions:

S.J. Res. 285. Joint resolution to designate June 13, 1984, as "Harmon Killebrew Day."

S.J. Res. 296. Joint resolution to designate June 14, 1984 as "Baltic Freedom Day."

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHILES:

S. Res. 410. Resolution to designate the week of October 14, 1984 through October 20, 1984, as "National Honey Week"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

### S. 905

At the request of Mr. EAGLETON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 905, a bill entitled the "National Archives and Records Administration Act of 1983."

### S. 1578

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1578, a bill to clarify the application of the Federal antitrust laws to local governments.

### S. 1615

At the request of Mr. MATSUNAGA, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1615, a bill to amend title XVIII of the Social Security Act to authorize payment for occupational therapy services under part B of the medicare program.

### S. 1816

At the request of Mr. THURMOND, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1816, a bill to amend the Textile Fiber Products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939, to improve the labeling of textile fiber and wool products.

### S. 1841

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

### S. 2190

At the request of Mr. HUDDLESTON, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2190, a bill to amend the Agriculture and Food Act of 1981 to provide protection for agricultural purchasers of farm products.

### S. 2266

At the request of Mr. SIMPSON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2266, a bill to grant a Federal charter to Vietnam Veterans of America, Inc.

### S. 2353

At the request of Mr. GRASSLEY, the names of the Senator from Illinois [Mr. PERCY], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 2353, a bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction.

### S. 2436

At the request of Mr. GOLDWATER, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of S. 2436, a bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes.

### S. 2470

At the request of Mr. DENTON, the name of the Senator from Iowa [Mr. JEPSEN] was added as a cosponsor of S. 2470, a bill to provide for the national security by allowing access to certain Federal criminal history records.

### S. 2488

At the request of Mr. BURDICK, the name of the senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of S. 2488, a bill to terminate the effect of provisions of the Voting Rights Act of 1965 that require bilingual ballots and election materials.

### S. 2600

At the request of Mr. KASTEN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2600, a bill to reduce tax rates in a manner that is fair to all taxpayers and to simplify the tax laws by eliminating most credits, deductions, and exclusions.

### S. 2623

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2623, a bill to implement the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civilian Aviation, and for other purposes.

### S. 2624

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2624, a bill to implement the International Convention Against the Taking of Hostages.

### S. 2625

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S.

2625, a bill to permit the payment of rewards for information concerning terrorist acts.

#### S. 2626

At the request of Mr. Thurmond, the name of the Senator from Utah [Mr. Garn] was added as a cosponsor of S. 2626, a bill to prohibit the training, supporting, or inducing of terrorism, and for other purposes.

#### S. 2679

At the request of Mr. D'Amato, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of S. 2679, a bill to amend title IV of the National Housing Act and the Federal Deposit Insurance Act with respect to brokered deposits.

#### S. 2719

At the request of Mr. Lautenberg, the names of the Senator from West Virginia [Mr. Randolph], the Senator from Utah [Mr. Garn], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

#### S. 2735

At the request of Mr. Nickles, the names of the Senator from Rhode Island [Mr. Chafee], and the Senator from Connecticut [Mr. Weicker] were added as cosponsors of S. 2735, a bill to rescind funds appropriated to the Energy Security Reserve by the 1980 Department of the Interior and Related Agencies Appropriations Act, and for other purposes.

#### S. 2738

At the request of Mr. Thurmond, the name of the Senator from North Dakota [Mr. Andrews] was added as a cosponsor of S. 2738, a bill to provide State and local governments greater flexibility and self-determination in addressing how specific highway needs can best be met.

#### S. 2766

At the request of Mr. Thurmond, the names of the Senator from Illinois [Mr. Dixon], and the Senator from Nevada [Mr. Hecht] were added as cosponsors of S. 2766, a bill to amend Chapter 44, Title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition.

#### SENATE JOINT RESOLUTION 5

At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Percy] was added as a cosponsor of Senate Joint Resolution 5, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures.

#### SENATE JOINT RESOLUTION 97

At the request of Mr. Boschwitz, the name of the Senator from Iowa [Mr. Jepsen] was added as a cosponsor of Senate Joint Resolution 97, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States and the allied forces who served in the Korean war.

#### SENATE CONCURRENT RESOLUTION 121

At the request of Mr. Boschwitz, the names of the Senator from South Dakota [Mr. Pressler], the Senator from Nebraska [Mr. Zorinsky], the Senator from Colorado [Mr. Hart], the Senator from Wisconsin [Mr. Proxmire], the Senator from New York [Mr. Moynihan], and the Senator from Iowa [Mr. Grassley] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress regarding the nondelivery in the Soviet Union of certain mail from the United States, and for other purposes.

At the request of Mr. Jepsen, his name was added as a cosponsor of Senate Concurrent Resolution 121, supra.

## SENATE RESOLUTION 410—DESIGNATING NATIONAL HONEY WEEK

Mr. CHILES submitted the following resolution; which was referred to the Committee on the Judiciary:

#### S. Res. 410

Whereas the farmers of this country produce greater quantities and a greater variety of food than any other country;

Whereas almost one-third of this total food production comes from plants which require or are benefited by insect pollination;

Whereas the honeybee is the most important pollinating insect and the only one that can be readily managed by man; and

Whereas most beekeepers must depend on the sale of honey to stay in business: Now, therefore, be it

*Resolved*, That the Senate joins with the American Beekeeping Federation in designating and promoting the week of October 14, 1984, through October 20, 1984, as "National Honey Week", and urges all citizens of the United States to recognize the contribution of the honeybee to our well-being.

## AMENDMENTS SUBMITTED

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### PERCY AMENDMENT NO. 3228

(Ordered to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes; as follows:

On page 128, between lines 12 and 13, insert the following new section:

#### REPORT BY THE SECRETARY OF THE ARMY ON BOILER PLANT CONSOLIDATION PROJECTS IN THE FIFTH CORPS, UNITED STATES ARMY, EUROPE

Sec. . (a) The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than March 1, 1985, an interim report on the program for the installation of 21 United States manufactured boilers procured in 1982 for utilization as Government Furnished Equipment in boiler plant consolidation projects at installations of the Fifth Corps, United States Army, Europe. The report shall compare the performance, effectiveness, and cost of all such Government Furnished Equipment boilers installed at installations of the Fifth Corps United States Army, Europe, as of the reporting date with comparable foreign made boilers installed at all installations of the United States Army, Europe, during the same time period.

(b) Not later than six months after the installation of the last of the 21 Government Furnished Equipment boilers referred to in subsection (a), the Secretary of the Army shall submit a final report to the committees referred to in subsection (a) which compares the performance, effectiveness, and cost of the 21 Government Furnished Equipment boilers with comparable foreign Contractor Furnished Equipment boilers installed at all installations of the United States Army, Europe.

### ROTH (AND OTHERS) AMENDMENT NO. 3229

Mr. ROTH (for himself, Mr. Nunn, and Mr. Glenn) proposed an amendment to the bill S. 2723, supra; as follows:

On page 27, after line 14, add the following:

#### POLICY ON ARMAMENTS COOPERATION WITH NATO MEMBER COUNTRIES

Not later than December 1, 1984, the Secretary of Defense shall prepare and transmit to the Congress a report setting forth a comprehensive plan by which the United States and NATO member countries may achieve the objectives of section 1122(b) of the Department of Defense Authorization Act, 1983.

### NUNN AMENDMENT NO. 3230

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

#### IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Sec. . (a) The Congress finds that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the time period that Western Europe can be defended adequately by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country. The Congress further finds that increasing defense spending, improving conventional sustainability, and providing support facilities in Western Europe for rapid reinforcements from the United States are crucial to accomplishing that objective.

(b) after September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this or any subsequent Act may be sued to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level exceeding a permanent ceiling of 326,414.

(c) Beginning on December 31, 1987, and ending December 31, 1989, the permanent ceiling prescribed in subsection (b) shall be reduced effective December 31 each year by 30,000 unless, during the previous calendar year, member nations of NATO, other than the United States, have increased their defense spending by an aggregate average of at least 3 percent, after inflation, as measured in the annual report of the Secretary of Defense on the allied contribution to the common defense required by section 1001.

(d) The Secretary of Defense may waive the reduction required by subsection (c) for any calendar year if he certifies to Congress in writing that, during the previous calendar year, member nations of NATO (other than the United States) have accomplished the following objectives:

(1) Those member nations of NATO (other than the United States) who have committed forces to the Center Region have placed on firm order, or accepted delivery of, an increase in the supply of air and ground munitions so as to reduce, on an average, 20 percent of the gap between the goal, as established in NATO Ministerial Guidance, of 30 days supply and the level of such munitions available in the Center Region of NATO as of January 1, 1985.

(2) Member nations of NATO (other than the United States) have increased the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe so as to reduce, on an average, 20 percent of the gap between the number of such facilities and shelters available on January 1, 1985, and the number required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, the annual commitment of United States reinforcing tactical aircraft in the previous year's Defense Planning Questionnaire (DPQ) Response. Such reduction in the gap must be accomplished by real increased spending and may not be met by reallocation within existing spending levels of infrastructure funds.

(3) The Supreme Allied Commander in Europe has certified to the Secretary of Defense in writing that in the previous calendar year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity which contributes to lengthening the time period between an armed conventional attack on any NATO country and the time the Supreme Allied Commander would have to request the release and use of nuclear weapons.

(e) If the Secretary of Defense is unable to certify to the Congress that member nations of NATO (other than the United States) have met all three objectives of subsection (d) in any calendar year, but is able to certify that some of those objectives have been met, the permanent ceiling prescribed in subsection (c) shall be reduced as follows:

(1) If the Secretary certifies to the Congress that one of the three objectives has been met, the permanent ceiling shall be reduced by 20,000.

(2) If the Secretary certifies that two of the three objectives have been met, the permanent ceiling shall be reduced by 10,000.

(f) Whenever a reduction in the permanent ceiling is required to be made under this section in any year, such reduction shall be in addition to any reduction in the ceiling required to be made under this section in any previous year.

(g)(1) Not later than March 1 in each of the calendar years 1985 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status, as of January 1 of the year in which the report is submitted, of the following matters:

(A) The number of days of supply of the ground and aerial munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Center Region.

(B) The number of facilities and semihardened aircraft shelters completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(C) The measures taken to accomplish the objectives of subsection (d)(3).

(2) The March 1985 report shall establish the baseline for measuring the annual performance of member nations of NATO (other than the United States) in meeting the objectives established in subsections (d)(1) and (d)(2); the March 1986 report shall describe and employ, on a trial basis, the methodology to be used.

(3) The report required by this subsection shall also include an assessment as to whether the reduction of the gaps in:

(A) air and ground munitions was accomplished by reallocation of funds within existing or planned spending levels, and

(B) minimum essential and emergency operating facilities, and semi-hardened aircraft shelters were accomplished by real increased spending or by reallocation within existing spending levels of infrastructure funds.

(4)(A) Beginning with the fiscal year 1986 budget submission to the Congress, but not later than March 1, 1985, and annually thereafter, the Secretary of Defense shall report to the Congress on the status and cost of the United States commitment to NATO as reflected in the DPQ Response and in the defense budget request. The report shall be an annual update of the Department of Defense Report on "United States Expenditures in Support of NATO", first submitted to the Congress in June 1984 pursuant to section 1107 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 677), and shall include not only the information required by that section but also information which specifically identifies those items in the Secretary of Defense's procurement budget request that are in support of United States forces committed to or earmarked for NATO.

(B) In addition to the requirements under subparagraph (A), the Secretary of Defense shall include in such report an assessment of the performance of the members of NATO (other than the United States) in the following areas:

(i) Allied contributions to the common defense (this requirement is satisfied by submission of the report required by section 1001).

(ii) Improvement in sustainability and support for United States reinforcing tactical aircraft (this requirement is satisfied by submission of the report required by subsection (g)).

(iii) Meeting NATO force goals.

(iv) Increasing NATO infrastructure funding.

(v) Improvements in air base defenses.

(vi) Increasing trained manpower levels, particularly reserves.

(vii) Increasing war reserve material.

(viii) Improving initial defense capability.

(ix) Improving NATO's ability to neutralize enemy follow-on forces, particularly use of emerging technologies.

(x) Improvements in mine/counter mine capability.

(xi) Improvements in offensive counter air capability.

(h)(1) The Congress finds that a viable "two-way street" of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

(2) In addition to any funds appropriated pursuant to the authorization contained in section 116(a) for the activities of the Director of Test and Evaluation, Defense, the Director may utilize an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture (including submunitions and dispensers; antitank and anti-armor guided missiles; mines; runway-cratering devices; torpedoes; mortar systems; light armored vehicles; and high-velocity anti-tank guns) for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act.

(i)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor.

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### SYMMS AMENDMENT NO. 3231

Mr. SYMMS proposed an amendment to the bill S. 2723, supra; as follows:

Add at the end of the bill the following new section:

"SEC. . Resolved by the Senate of the United States of America in Congress assembled, That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled 'A Joint Resolution Expressing the Determination of the United States with Respect to the Situation In Cuba,' passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

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### SYMMS AMENDMENT NO. 3232

Mr. SYMMS proposed an amendment to amendment No. 3231 proposed by him (and others) to the bill S. 2723, supra; as follows:

Add at the end of the Symms amendment the following:

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta Del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

## BRADLEY (AND OTHERS) AMENDMENT NO. 3233

**Mr. BRADLEY (for himself, Mr. SASSER, Mr. LAUTENBERG, Mr. GLENN, and Mr. RIEGLE) proposed an amendment to the bill S. 2723, supra; as follows:**

Since the Olympic games, which were begun more than 2,000 years ago in Greece to foster peace and goodwill among the city states, have more and more frequently become an arena not for sport but for nations to further their own political goals;

Since it is the athletes who suffer when nations use the Olympic games for propaganda purposes;

Since when nations boycott the Olympics it deprives the participating athletes from pitting their strength, skill, and endurance against all of their competitors to determine the best in the world;

Since the participants in Olympic games form friendships that cross political and geographic borders and lead to better world understanding;

Since many millions of people across this Nation believe that the Olympic games should be insulated as much as possible from politics: Now, therefore, be it declared

*Resolved by the House of Representatives (the Senate concurring),* That it is the sense of Congress that the International Olympic Committee should establish a permanent facility for the Olympic games on a site that is suitable for insulating the games from the unwarranted and disruptive international politics that have plagued the games in recent years.

## SYMMS AMENDMENT NO. 3234

**Mr. SYMMS proposed an amendment (as modified) to the bill S. 2723, supra, as follows:**

Add at the end of the bill the following new section:

"SEC. . It is declared by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the Government of the United States to continue in its relations with the Government of Cuba the policy set forth in the Joint Resolution entitled "A Joint Resolution Expressing the Determination of the United States with Respect to the Situation in Cuba," passed by the Senate on September 20, 1962 and by the House of Representatives on September 26, 1962, and signed into law by the President on October 3, 1962 (76 Stat. 697) as follows:".

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety", and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union", and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."; *Provided further,* That nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

## MURKOWSKI AMENDMENT NO. 3235

**Mr. MURKOWSKI proposed an amendment to the bill S. 2723, supra; as follows:**

On page 128 between lines 12 and 13 insert the following new section:

### PRESIDENTIAL REPORT ON CRUDE OIL EXPORT

SEC. 1019. Not later than nine months after the enactment of this bill, the President shall submit to the Congress a report and his recommendation regarding the export of domestically produced crude oil, particularly that crude oil covered by section 7(d) of the Export Administration Act of 1979 (50 App. U.S.C. 2406). This report shall include recommendations on the export of domestically produced crude oil, particularly on the advisability of retaining section 7(d) of the Export Administration Act. These recommendations shall be based on a comprehensive review of the issues and related data concerning exports of crude oil. This review shall include, but is not limited to, the effect of such exports on the energy and national security of the United States, especially as it applies to the security of our armed forces overseas; the energy and national security of our allies; the role of such exports in United States foreign policymaking; the impact of such exports in the maritime industry, the oil industry, and other industries; the impact of such exports on Federal Government revenues and expenditures; the effect of such exports on incentives for oil and gas exploration and development in the United States; the effects of such exports on the efficient allocation of resources; and the legal impediments to such exports.

## ABDNOR (AND OTHERS) AMENDMENT NO. 3236

**Mr. ABDNOR (for himself, Mr. PELL, and Mr. MATSUNAGA) proposed an amendment to the bill S. 2723, supra; as follows:**

On page 128, between lines 12 and 13, insert the following new section:

### AMENDMENTS TO IMPACT AID PROGRAM

SEC. . (a)(1) Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.".

(2)(A) The second sentence of section 3(d)(2)(B) of such Act is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the".

(B) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.".

(b)(1) The last two sentences of section 5(c) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (as added by section 23 of the Education Consolidation and Improvement Act of 1981) are redesignated as subsection (h) of section 5 of that Act.

(2) The amendment made by paragraph (1) of this subsection shall be effective December 8, 1983.

## BOSCHWITZ (AND SYMMS) AMENDMENT NO. 3237

Mr. BOSCHWITZ (for himself and Mr. SYMMS) proposed an amendment to the bill S. 2723, supra; as follows:

On page 11, between lines 10 and 11, insert the following new subsection:

(e) Of the funds appropriated to the Army pursuant to the authorization contained in subsection (a), $860,000 shall be available only for the development of ceramic elements for rotating valves for use in automative and other engines.

## DENTON AMENDMENT NO. 3238

(Ordered to lie on the table.)

Mr. DENTON submitted an amendment intended to be proposed by him to the bill S. 2723, supra; as follows:

On page 128, between lines 12 and 13, insert the following new section:

AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CENTRAL AMERICA

SEC. . (a) During fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge to any country in Central America goods and supplies which have been furnished by a nongovernmental source outside the Department of Defense and which are intended for humanitarian assistance.

(b)(1) The Secretary of Defense shall institute such procedures as may be necessary, including complete inspection prior to acceptence for transport, for determining that the goods and supplies referred to in subsection (a) are suitable for humanitarian purposes and are in useable condition. Goods and supplies determined by the Secretary to be unsuitable or unuseable for humanitarian purposes may not be transported under the authority provided in this section.

(2) It shall be the responsibility of the donor of any goods or supplies to be transported under this section to ensure that such goods are suitable for humanitarian purposes and suitable for whatever space available transport that the Secretary may be able to provide under this section.

(c) Goods or supplies accepted by the Secretary of Defense for transport under this section shall be distributed in the country to which they are transported through or under the supervision of the United States Government. The Secretary of Defense shall not accept any goods or supplies for transportation under this section unless the provider or providers of the goods and supplies agree to the condition that the goods and supplies be distributed under the supervision of the United States.

(d) The Secretary of Defense shall advise the Secretary of State of the transportation of all goods and supplies made under this section.

(e) No later than 60 days after the end of fiscal year 1985, or upon request of the Congress, the Secretary of Defense shall advise the Congress of the origin, contents, destination, and disposition of all goods and supplies transported under the authority of this section.

## KENNEDY (AND OTHERS) AMENDMENT NO. 3239

Mr. KENNEDY (for himself, Mr. HATFIELD, and Mr. PELL) proposed an amendment to the bill S. 2723, supra; as follows:

At an appropriate place in the bill add the following new section:

LIMITATION ON INTRODUCTION OF ARMED FORCES INTO EL SALVADOR AND NICARAGUA FOR COMBAT

SEC. . (a) None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expanded for the purpose of introducing United States Armed Forces into or over the territory or waters of El Salvador or Nicaragua for combat.

(b) As used in this section, the term "combat" means the introduction of United States Armed Forces for the purpose of delivering weapons fire upon an enemy.

(c) This section does not apply with respect to the introduction of United States Armed Forces into or over the territory or waters of El Salvador or Nicaragua for combat if—

(1) the Congress has declared war or enacted specific authorization for such introduction; or

(2) such introduction is necessary—

(A) to meet a clear and present danger of hostile attack upon the United States, its territories or possessions; or

(B) to meet a clear and present danger to, and to provide necessary protection for, the United States embassy; or

(C) to meet a clear and present danger to, and to provide necessary protection for and to evacuate, United States Government personnel or United States citizens.

(d)(1) Any joint resolution or bill introduced at the request of the President pursuant to subsection (c)(1) shall become the pending business of the House in which it was introduced and shall be voted on within 3 calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(2) Such a joint resolution or bill passed by one House shall become the pending business of the other House and shall be voted on within three calendar days after it has been received, unless such House shall otherwise determine by yeas and nays.

(3) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than 2 calendar days after the appointment of the committee of conference. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in consideration of such reports, such report shall be acted on by both Houses not later than 1 calendar day after the conferees report back to their respective Houses.

(e) The provisions of this section are in addition to and should not be construed to suspend or amend the War Powers Resolution (Public Law 93-148).

(f) Nothing in this legislation is intended to alter the constitutional authority of the Congress or of the President or the provisions of existing treaties.

## KENNEDY (AND BINGAMAN) AMENDMENT NO. 3240

Mr. KENNEDY (for himself and Mr. BINGAMAN) proposed an amendment to the bill S. 2723, supra; as follows:

Nothing contained in this Act (FY 85 DOD Authorization Act S. 2723) shall be deemed to authorize the appropriation of any funds for the purpose of or which have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement or individual.

## INOUYE (AND OTHERS) AMENDMENT NO. 3241

Mr. INOUYE (for himself, Mr. MOYNIHAN, Mr. DODD, and Mr. HATFIELD) proposed an amendment to amendment No. 3240, proposed by Mr. KENNEDY to the bill, S. 2723, supra, as follows:

In lieu of the language proposed to be inserted, insert: Except as provided in this section, no funds included in this Act may be appropriated for the purpose of or which would have the effect of supporting, directly or indirectly, paramilitary operations in Nicaragua by any group, organization, movement, or individual. Notwithstanding Sec. 775 of Public Law 98-212 and Section 108 of the Intelligence Authorization Act for Fiscal Year 1984 (P.L. 98-215), there is authorized, in addition to amounts previously appropriated, not to exceed $6,000,000, to remain available for obligation until September 30, 1984: *Provided*, That of such sum, not to exceed $2,000,000 may be obligated or expended solely for the safe and expeditious withdrawal from Nicaragua of any individual engaged, or who has been engaged, directly or indirectly, in military or paramilitary operations in Nicaragua; *Provided further*, That of such sum, not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly, in paramilitary operations in Nicaragua, if such individuals are not equipped for military or paramilitary operations while outside Nicaragua. None of the funds authorized pursuant to this section may be used except as expressly provided herein.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be deemed to have been authorized to meet during the session of the Senate on Monday, June 18, for the purpose of holding a hearing on S. 2687, the Youth Employment Opportunity Wage Act.

## ADDITIONAL STATEMENTS

### THE STEEL INDUSTRY

● **Mr. CHAFEE.** Mr. President, the steel industry has suffered tremendous setbacks in the last 10 years. There are many different views on the causes of these setbacks and the solutions for making American steel a viable industry again both domestically and worldwide.

The International Trade Commission [ITC] believes that the domestic steel industry has been injured by imports, as it ruled this week on the petition of Bethlehem Steel Corp. and the United Steelworkers. The ITC will recommend a remedy to the President within a month. The President then has a choice between imposing tariffs, quotas, or no protection at all.

Further protection for the steel industry is not advisable. Protection will delay necessary adjustments in the industry itself, cost consumers millions of dollars annually, and hurt Third World exporters who are struggling to pay their debts, much of which is owed to American banks.

One remedy proposed by the steel industry and its advocates is legislation to impose quotas. Senate bill 2380, which is presented by its sponsors as necessary to give the steel industry breathing room to modernize and regain its competitive edge, would impose quotas limiting imports to 15 percent of U.S. consumption.

I do not believe in the concept of breathing room. Industry after industry comes to us to ask for breathing room from import competition; the auto industry, the footwear industry, and now the steel industry. Too often breathing room just means a chance to hike up prices and salaries. Breathing room is too often not used to get breath back but to further suffocate.

The protections given to this industry go as far back as the 1968 voluntary restraint agreement with the European Economic Community. That breathing space merely allowed the industry to avoid necessary restructuring. The labor costs of U.S. steel makers were then and still are undermining its competitiveness. By 1978, U.S. labor costs per ton of steel shipped exceeded that of any other major steel supplying country. Between 1969 and 1982, the real hourly cost of iron and steel wage employees increased from $14.14 to $23.78, or by 68 percent, all out of proportion with wage increases for all manufacturing. The premium of steel wages over wages for all manufacturing was 65 percent by 1982.

Precisely because they thought they could shield themselves from the world market, companies and workers postponed dealing with the industry's basic problems: old and inefficient plants, lagging technologies and high labor costs. As a result, the industry grew less competitive, and its retrenchment came as a sudden but inevitable shock.

Protection for steel has never been an economic success, because any benefits were quickly dissipated and because the problems with this industry did not originate with imports. The Comptroller General in his 1981 report to the Congress, entitled "New Strategy Required for Aiding Distressed Steel Industry," states that imports are a result, not a cause, of the U.S. steel producers' problems. That report stated:

> The companies we interviewed frequently cited the unavailability or the restricted sources of certain steel mill products domestically, and the undependability or slowness of U.S. companies' delivery, as reasons for buying foreign steel. Several of the firms we contacted said foreign mills were more willing than U.S. producers to work with them in solving problems. Additionally, the foreign mills would be more willing to tailor products to customer specifications or perform additional manufacturing operations at the mill before shipment.

Steel executives were late in seeing that cars would get smaller and plastics and aluminum would substitute for steel; that steel would not recapture the beverage can market from aluminum, that stronger steel and reinforced concrete would reduce the need for steel in construction; and that they didn't have the luxury of being lax with customers, using a marketing technique of take it or leave it, while foreign steel makers were in there competing.

There are fundamental changes taking place in our economy that no legislation can reverse. The simple fact is that we need less steel today than we did 10 years ago. Ever increasing prices for steel will not stem, but will stimulate the movement toward substitutes.

Trade barriers are like a hidden tax on consumers of the protected product. According to a recent article in Europe magazine titled, "The High Cost of Protectionism," in 1980 alone, tariffs and quotas on steel imports cost consumers about $6 billion. The trigger price mechanism cost an additional $1.1 billion. Since 1980, protection of the steel industry, and the accompanying costs to consumers, has continued and even accelerated.

Higher steel prices in the United States will increase competition from finished steel products made abroad to the detriment of the vast number of U.S. steel product fabricators and their hundreds of thousands of workers, including a number of Rhode Island companies like Amtrol, Inc. and Weatherking.

Then there are the metalworking producers whose concerns and problems are rarely addressed because they aren't well organized. According to the U.S. Trade Representative, Ambassador Brock, this segment of the industry employs 20 times more people and accounts for almost 10 times the share of GNP than the integrated producers. Metalworking firms are typically small, and they depend on imports. These producers would clearly be hurt by increased prices for their raw material and also be increased import competition as foreign producers shift from exporting steel to exporting finished products made of steel.

While increased domestic production as a result of quotas might lead to employment of about 10,000 additional steelworkers, the loss of jobs in the metalworking industries will be many times 10,000. This would hit a number of metalwork producers in Rhode Island, where unemployment of that magnitude could have devastating effects. I for one cannot accept action by the Senate which helps one relatively uncompetitive part of the industry at the expense of another sector which makes a greater contribution to GNP and to employment.

Next we will be hearing a much larger chorus of fabricators and metalworking producers who will seek protection from imports of practically all finished steel products. Where will we draw the line on all this protection?

The point is that if the problems of the steel industry stem from unfair trade practices, the administration has sufficient authority under existing trade laws to provide relief. The docket of the International Trade Commission is full of such petitions. We should not short circuit or interfere with that legal process by taking action that could only lead to retaliation by our trading partners. The imposition of quotas would apply to fairly and unfairly traded imports alike, from all sources. Those countries that trade fairly, like Canada, from which we import steel daily, will probably feel the most aggrieved by the quotas and would be the most likely to retaliate, in commodities other than steel.

I can, therefore, see no value whatsoever in imposing quotas. They will hurt, not help, the steel industry, by removing the stimulus for modernization. They are not needed, because we are now seeing a strong upturn in demand for steel of all types. Integrated steel producers are making an effort to restructure and modernize their plants, some are attempting to check increases in employment costs. The steel industry utilized 74.6 percent of its production capability in the first quarter of this year, compared with 49.3 percent in the same period in 1983, according to the American Iron & Steel Institute. The total employment cost of hourly paid workers, per hours worked, was $21.17 in March of this year, compared with $21.68 in February and $22.50 in March 1983. Also according to the American Iron & Steel Institute, shipments of steel mill products by American mills continued to improve in the first quarter of this year.

Iron Age, the prominent industry publication, in its annual steel forecast in January, was very positive about the prospects for improvements in consumer markets. Steel shipments to the railroad industry will rise 80 percent in 1984, it estimates. Though it's farfetched, Iron Age says, there may even be a steel shortage in 1984, since no one really knows how much effective steel capacity is available. "It's reasonable to consider that any surprises in the steel market situation should be on the upside," the forecast concludes. Throughout the industry there are signs of hope and improvement in demand. Hardly the time to limit supply by cutting off imports I would say.

The future of the American steel industry may not lie with those companies requesting our assistance, but rather with those modern, lean, and highly specialized operations dubbed minimills. Typically small, they use electric furnaces, state-of-the-art equipment in steelmaking, and have combined high productivity and low operating costs to invade the stodgy American steel market almost overnight. The result is an industry whose domestic prices match the lowest cost foreign imports. According to a 1978 study by the Congressional Office of Technology Assessment, the number of man-hours needed to produce a ton of steel with an electric furnace dropped 25.3 percent from 1972–77 compared with a 6.9-percent drop in integrated mills. And the cost of building a minimill was 10 to 20 percent of the cost of a new larger integrated plant.

These small mills match foreign producers in efficiency and costs. Between 1969 and 1983, minimill shipments more than doubled, increasing from about 6 million tons per year to 13 million tons per year. In that same period, the relative gain by minimills exceeded by nearly 50 percent the gain by imports.

Kenneth Iverson, president and chief executive officer of one such mill, Nucor Corp., the country's 10th largest steel producer, disdains any trade protection from foreign producers. In a National Journal interview, Mr. Iverson said:

> I'm not pessimistic at all about the integrated steel industry. It can be rationalized so it can compete. But if we provide the steel companies with trade protection, it'll delay modernization. We won't need to modernize if we have that protection.

I believe that steel quotas whether legislated or voluntary are contrary to the national interest. I wholeheartedly agree with the remarks of TRW Chairman Ruben F. Mettler made recently to a meeting of the American Iron & Steel Institute:

> We are not confronted with a choice. Either we try to raise a wall around ourselves, close out the world, and compete for shares of a shrinking home market; or we make up our minds to stay in the real world and compete as we have never had to complete before.

Mr. President, editorials commenting on the decision of the International Trade Commission, which appeared in the Washington Post, Wall Street Journal, and the Christian Science Monitor, all agree that the President should avoid imposing a remedy which will result in retaliation by our trading partners or make the debt situation in developing countries even worse. I ask that these editorials be printed in the Record.

The editorials follow:

[From the Washington Post, June 13, 1984]

### Import Quotas for Steel?

One-fourth of the steel used in this country is now imported, a proportion that has sharply increased over the past year. Is the domestic steel industry being injured by these imports? By three votes to two, the U.S. International Trade Commission found that in most (but not all) products, injury was demonstrable. That leads to the next question, to be answered in July: What remedy will the ITC recommend to President Reagan? This case was brought by the Bethlehem Steel Corporation and the United Steelworkers, who want import quotas holding foreign steel to 15 percent of the market. The final decision lies with the president—to be made in the midst of the election campaign.

The real issue is whether the rising imports are the cause of the American steel industry's weakness, or the result. Unquestionably, many foreign governments subsidize their steel exports to build their own industries and hold down their unemployment.

But there are five other conspicuous reasons for the big American steel companies' troubles. First, demand for steel is dropping in this country, with the trend toward lighter and cheaper materials. Second, through the 1970s the American mills often put their money into the wrong technologies, as they expended for the boom that never arrived. Third, their wages far outran productivity. Fourth, a new kind of producer known as the minimill has appeared—typically small, specialized and ferociously efficient; these mills are cutting into some of the big integrated companies' markets. And fifth, the high exchange rate of the dollar makes the imports cheaper and more competitive than ever.

The big American companies argue that, whatever their sins and errors of the 1970s, they are correcting their performance now. By negotiating concessions from the union and by raising their productivity, they observe that they have lowered the labor cost of producing a ton of steel by one-third in the past two years—a remarkable achievement. They are cutting capacity down to more realistic estimates of demand, and they are attacking the technological lags. As for the dollar's exchange rate, that's altogether out of their hands.

From the steelworkers' point of view, the case for quotas is clear and compelling. But President Reagan is required to take a different and broader perspective. He has to take into account the interests of the whole economy, including other American industries that use steel. Import quotas would cut them off from cheaper foreign sources, pushing up the prices of their products. Jobs saved in the steel industry would be lost in the machinery industry.

Mr. Reagan has repeatedly emphasized the importance of keeping the world's markets open. It's a principle that will serve him well this summer in the steel case.

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[From the Wall Street Journal, June 13, 1984]

### Worsening the Debt Problem

It seems everyone these days is scrambling to solve the world debt "crisis." Well, almost everyone. In Washington some folks appear to be doing their best to make it worse. The U.S. International Trade Commission decided yesterday, 3 to 2, that U.S. steelmakers qualify for more protection. If the president agrees, among the losers will be steel-exporting Third World countries struggling to earn enough dollars to pay their debts.

American steel producers have been protected for years. The Japanese have agreed to "voluntary" restraints on their exports and the Europeans have signed a quota pact. But the more Washington propped up American steel prices, the more American steel users looked for cheaper foreign sources to help them remain competitive in their own markets. They turned to places like South Korea and Brazil. So Bethlehem Steel asked the ITC to limit all foreign producers to 15% of the U.S. market, down from 22% currently. This demand was backed by the industry's pals in Congress, who proposed legislation with similar goals.

The ITC excluded wire rod, railway products, bars, and pipe and tube from its finding of injury or potential injury to U.S. producers. But widely used items like sheet and strip were included, and the ITC will soon dump its recommendation for protection on President Reagan.

Steel companies complain that Third World governments subsidize companies to keep the price of exported steel artificially low. They are not moved by arguments that it is advantageous to Americans to have Korean or Brazilian taxpayers subsidize them. But even without subsidies, Korean steel would still be cheaper than much American steel. Analysts figure the average U.S. steelworker makes $23 an hour including fringes, while the average Korean earns $5 an hour. Superior U.S. technology can't compensate for that kind of wage bulge.

Protection has delayed the kinds of adaptations the U.S. industry has needed to preserve its markets. But the steel industry is hardly vanishing; as we've said before, it's changing, as the big integrated producers close older plants and the nimble minimills prosper.

The Federal Trade Commission figures more protection could cost consumers of products made from steel $768 million a year. And then there are the dangers of retaliation against the U.S. by other countries; U.S. banks, for example, could suffer in their campaign to open Korea's financial markets.

But the most perverse damage would be done to Third World exports. Mexico has already agreed, under pressure, to "voluntarily" restrict its steel exports. Brazil may be next. And Korea, though its more than $40 billion debt is manageable so far, will probably follow. The very exports these countries need to repay their debts thus will be damaged by the very country—the U.S.—that is most worried about their ability to repay. We doubt that's the kind of message the ITC, the Congress and the president should send to the developing world.

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[From the Christian Science Monitor, June 14, 1984]

### STEEL MUST COMPETE

Now that the world economy is finally growing—after going through a difficult recession—it is vital that nations avoid protectionist measures that work against global trade. For that reason, the United States should not impose broad new restrictions on steel imports—as sought by the domestic steel industry and its trade union allies.

The push for new restrictions on steel imports was given a boost this week by the 3-to-2 vote of the International Trade Commission. The ITC held that imports are a major cause of harm to segments of the American steel industry. Some 70 percent of all imports are covered by the ITC's ruling. The commission must now decide what form of relief should be granted the domestic steel industry, and pass its recommendation along to President Reagan. He, in turn, must either act on or deny the ITC proposal by late September, just before the presidential election.

That timing—looked at in political terms—is awkward for the administration. The old-line steel producers are found in electorally important states, such as Pennsylvania. And the administration in the past had opposed global quotas to aid domestic steel—instead preferring nation-by-nation (or regional) agreements. The US has a quota agreement with Europe. Japan, meanwhile, has agreed to limit its exports voluntarily.

The nation-by-nation approach remains preferable to moving to across-the-board restrictions on imports, as sought by the domestic steel industry. An across-the-board limit on imports could add millions of dollars to the prices that consumers pay for durable goods. It would raise the price of many US goods sold abroad. And some newly emerging nations in Asia that are major steel exporters could well have difficulty meeting their large debt obligations if steel exports to the US were suddenly reduced.

One possible upshot: retaliation by those nations in the form of restricting purchases from the US.

The next step in all this is up to the ITC. It could propose quotas or tariffs, or a combination of both, over a defined period of time. Whatever course of action it recommends, the long-run principle seems most crucial: namely, that the world economy is best served by expanding, not restricting, global trade.

The domestic steel industry is already taking many steps toward the modernization that will be needed to make the industry truly competitive: such steps as mergers, closing of outdated facilities, and joint ventures with overseas producers.

Protectionist measures, by contrast, will only work against genuine job creation.●

## COMPETITION PHASE 1: HMO VOUCHERS

● Mr. DURENBERGER. Mr. President, the most significant change in health care delivery and financing for America's elderly and disabled is now beginning its implementation stage. From my view as chairman of the Senate Finance Committee's Health Subcommittee, I am excited by the potential for positive in the voucher plan for competitive medical plans.

An excellent explanation appears in today's issue of McGraw-Hill's Washington Report on Medicine and Health Perspectives. I ask that this article be printed in the RECORD.

The article follows:

### COMPETITION PHASE 1: HMO VOUCHERS

After long delays and continuing disputes with the Office of Management and Budget (OMB), HHS last month issued proposed regulations to allow capitated Medicare payments to health maintenance organizations (HMOs) and competitive medical plans (CMPs). The proposed regulations, which were published in the May 25 "Federal Register," would implement provisions of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (P.L. 97-248).

The HMO industry greeted the publication of the proposed regulations, which provide for payments to HMOs on their traditional capitated basis, with enthusiasm and relief. Many observers had feared that the HHS-OMB infighting would result in the proposal becoming stalemated indefinitely. The OMB-HHS dispute centered around the actuarial determination that the proposal, endorsed by the Administration as a "procompetitive" cost-saving measure, actually would cost the Medicare program $100 million in the first two years of implementation. HHS maintained that the regulations would result in increased services for beneficiaries immediately, and would produce some cost savings after the initial transition period. OMB kept its attention fixed on the short term bottom line, which anticipated losses of $30 million in 1985 and $65 million in 1986. Many observers believe that OMB's final approval of the regulations was due to the fact that further delay would have been a political embarrassment. The HMO/CMP provisions included in TEFRA are the only portions of the Administration's health care competition package that it has been able to guide through Congress.

#### MEDICARE PAYMENT METHODS

HMOs provide all necessary medical services to an enrollee in return for an established capitated pre-payment. Since the HMO is not paid more when it provides more services, it has no incentive to provide unnecessary or marginal care. Instead, it has incentives for economy. This HMO characteristic has made it popular with economists searching for ways to hold down health care costs and has propelled HMOs to the forefront of competitive theory.

Generally speaking, however, Medicare had not been paying HMOs on this capitated basis. Instead Medicare paid most HMOs treating Medicare patients on a reasonable cost or fee-for-service basis. HMOs serving Medicare patients also could take the alternative option of serving Medicare patients on a modified "risk" basis. HMOs with these contracts received monthly payments reflecting the estimated costs of care provided their Medicare enrollees, although these costs could not exceed 100 percent of the adjusted average per capita cost (AAPCC)—an actuarial measure of the costs of the enrollees' care if they had obtained it from other area providers. At the end of the year, an HMO's reasonable costs were compared to the retrospectively determined AAPCC. If its costs fell below the AAPCC, it retained 50 percent of the savings, up to 10 percent of the AAPCC. If its costs were higher, it absorbed the loss. (Only two of the HMOs participating in the Medicare program have elected to be paid on this basis.) A small third group of HMOs participating in demonstration projects have received waivers so they could be paid on a capitated basis.

#### ADVERSE AND FAVORABLE SELECTION

HMOs had long lobbied for changes in Medicare reimbursement principles that would allow capitated payment. This could help standardize their budgeting and accounting principles as well as their incentives. Many HMOs had been reluctant to enroll Medicare patients because Medicare payments were inconsistent with their operating reimbursement principles. Still Congress rejected the idea of capitated HMO payment for several years, largely due to the fear of "adverse selection." Although proponents argued that HMOs saved money, opponents charged that they did so through "favorable selection" or enrolling healthier patients. If this were the case, Medicare could end up paying more for healthier patients enrolling in HMOs than it would otherwise since the flat payment would exceed the cost of the same services provided on a fee-for-service basis. At the same time, Medicare would be left to provide for sicker, more expensive patients through traditional providers. In fact, in a Health Care Financing Administration (HCFA) demonstration project, two of three HMOs had extremely favorable selection. The average use of pre-enrollment services by Medicare beneficiaries joining the Kaiser Portland HMO and the Fallon Community Health Plan was 21 percent below that indicated by the AAPCC.

However, a recent study from the Rand Corporation, published in the June 7, 1984, "New England Journal of Medicine", indicates that HMOs have the potential for saving money whether or not they benefit from favorable selection. The study randomly assigned people to fee-for-service physicians or to the Group Health Cooperative (GHC) of Puget Sound. Although the groups were indistinguishable in terms of age, sex, race, family size, income, and general health, costs at GHC were about 25 percent lower than in the fee-for-service system. This was due in the fact that GHC's hospitalization rates were 40 percent below those in the fee-for-service system. This was attributed to GHC physicians "practicing a different style of medicine." (Copies of the article are available from the Health Sciences Program, The Rand Corporation, 1700 Main St., Santa Monica CA 90406.)

#### CMP LEGISLATION

HMOs finally won their capitation fight in the House-Senate budget conference of 1982. Competition advocates who failed to win Medicare voucher legislation united with HMO advocates to pass a "competitive medical plans" proposal instead. Under the legislation, both HMOs and certain other providers organized as CMPs could obtain capitated Medicare payments equal to 95 percent of the AAPCC. On average, this could save Medicare 5 percent per enrollee. In order to prevent windfall profits resulting from favorable selection, however, Congress also mandated that certain savings would have to be used to provide enrollees with reduced cost-sharing or additional services.

### THE PROPOSED REGULATIONS

The regulations proposed by HHS closely follow the statute. Eligible organizations include federally qualified HMOs as well as other entities that provide their members with physicians' services through physicians or physician groups that they employ or with whom they contract; provide inpatient hospital services, laboratory, x-ray, emergency and preventive services, and out of area coverage; receive payment on a prepaid capitated basis; assume full financial risk for the provision of these services; and provide against the risk of insolvency to the Secretary's satisfaction. It is expected that a number of perferred provider organization (PPOs) will attempt to qualify as CMPs for Medicare payment purposes. While HMOs fear that many small organizations may spring up as CMPs to compete with them for Medicare business, they are protected somewhat by a requirement that combined Medicare/Medicaid enrollment in a participating HMO or CMP may not exceed 50 percent of total enrollment (except in certain unusual cases explained in the regulations). Furthermore, eligible organizations must have at least 5,000 enrollees unless they are located in nonmetropolitan areas, in which case the requirement is reduced to 1,500 enrollees. To be eligible, organizations also must have a Medicare enrollment of at least 75 persons or a plan for achieving this within two years of the initial contract date.

Under the regulations, the current modified method of Medicare payment would be eliminated, and eligible HMOs and CMPs could choose to be paid on either a reasonable cost or capitated risk basis. (HCFA is interested, however, in the possibility of applying an organization's AAPCC as an overall limit to the payments made to organizations being paid on the basis of reasonable cost.) Organizations choosing the capitated method would receive a payment equal to 95 percent of the AAPCC for each class of enrollees. AAPCC payments would vary according to age, sex, institutional, and welfare status. HCFA will include a disability status indicator in the final regulations and is attempting to determine if a health status indicator can be developed as well. (This would further avoid problems with adverse and favorable selection.) HCFA would furnish each eligible organization with its per capita rate of payment for each class of enrollee at least 90 days before its contract period began. The organization would respond with a computation of a weighted average of these rates based on its anticipated enrollment distribution. It would also furnish its adjusted community rate (ACR) for Medicare patients—that is, its per capita financial requirements for furnishing Medicare covered services to its Medicare enrollees. If the ACR were less than the AAPCC, the organization would then specify the additional benefits which it would offer its Medicare enrollees. Alternatively, it could accept a reduced monthly payment from HCFA.

Eligible organizations would be required to hold open enrollment periods of at least 30 consecutive days annually. During the open enrollment period, the organization would be required to accept enrollees up to the limit of its capacity on a first come, first served basis, regardless of age, sex, race, income level, health status, or other factors. (They could not enroll Medicare beneficiaries with end stage renal disease, however.) Organizations would not be allowed to engage in discriminatory enrollment practices (such as marketing only in high income areas), to use misleading advertising or claims that it had been endorsed by HCFA or other government agencies, or to offer promotional gifts. Enrollment applications would have to be dated as received and acted on in a timely, chronological fashion. HCFA is interested in suggestions for other methods of obtaining an equitable enrollment process.

### NONRISK CONVERSION

One of the most complicated and controversial issues handled in the proposed regulations is that of converting a Medicare beneficiary enrolled in an HMO on a reasonable cost basis to enrollment on a capitated or risk basis. Medicare's problem is financial. Government actuaries estimate that an average current expenditures for Medicare patients enrolled in HMOs on a cost basis are only 80 percent of the AAPCC. This means that Medicare would take a loss, equal to about 15 percent of the AAPCC for each enrollee who converted from a cost plan to a risk plan. (Enrollees might want to convert in order to obtain the mandated additional benefits to be offered in the case of HMO savings.) Congress had hoped that over time conversion losses would be offset by the 5 percent average gain achieved when competitive HMOs and CMPs, offering enhanced benefit packages, drew new enrollees from the fee-for-service sector. Realizing the conversion problem, however Congress mandated that HMOs must recruit two new enrolles for each one they convert from a cost to a risk plan. This requirement does not entirely mitigate the problem during the transition period, however. Conversion costs are responsible for the $100 million loss that Medicare is expected to sustain during the first two years of the new payment system's implementation. The proposal sets out involved regulations concerning conversion procedures, waiting lists, offering of supplemental benefit packages to risk and non risk enrollees, and final total conversion of the entire enrollment to a risk basis. (Comments on the proposed regulations must be received by July 9. Write: HCFA, BERC—247, P.O. Box 26676, Baltimore, MD 21207.)

### OUTLOOK

There are currently 775,000 Medicare beneficiaries enrolled in HMOs nationally. HHS predicts that in the next three or four years, another 250,000 to 600,000 Medicare patients will join HMOs. About 150—or approximately half to two-thirds of the nation's HMOs—will choose to participate in the capitation program, the Department estimates. This new enrollment may be skewed toward the larger HMOs, however. HHS makes no predictions regarding new organizations that may spring up or existing providers which may try to be approved as CMPs. HHS does believe, however, that some private physicians will lose Medicare patients to the capitated plans. In the meantime, the HMO industry continues to boom. InterStudy reports that overall HMO enrollment reached 13.6 million in December, an increase of 9 percent over the previous six months, for an estimated 18 percent annual growth rate.●

## THE 100 CLUB OF HOUSTON

● Mr. TOWER. Mr. President, the protection of our lives and our property provides a sense of security and stability for every American. The task of maintaining this protection is difficult, and local law enforcement agencies play a vital role in this regard. In addition, these agencies welcome the support of private organizations.

One such organization is the One Hundred Club of Houston, which has made outstanding contributions to local law enforcement for the past 31 years. On July 14, 1984, the Harris County Sheriff's Deputies Association will honor the club with a special tribute. This will be the first time that the One Hundred Club of Houston has ever been recognized for its continuing support of these law enforcement agencies.

This group of dedicated citizens has raised millions of dollars for the purpose of fulfilling its impressive goals. The organization provides financial assistance to the dependents of certified peace officers who have lost their lives in the line of duty. The members also donate life protecting equipment to local agencies that are unable to make these purchases themselves due to a lack of funds. Other functions of the club include the development of community education and lifesaving programs. These substantial contributions have certainly helped to improve the law enforcement effort in Harris County.

Since its beginning in 1953, the One Hundred Club of Houston has grown from its original 100 members to an active membership of over 6,000. The organization was the first of its kind in the United States, and today it serves as a model for numerous groups throughout the country interested in supporting local law enforcement agencies.

This special tribute on July 14, involves an honors presentation program and an old fashioned Texas barbecue held at the Farm & Ranch Club facility located outside of Houston. The special guests for the event include the club's membership and the families of those local peace officers who have lost their lives in the line of duty. Many notable personalities and distinguished governmental officials will also be present to show their support for the One Hundred Club and its selfless, dedicated, and distinguished service to the law enforcement effort and to the citizens of Houston.

As American citizens, we must continue to encourage the recognition and support of organizations such as the One Hundred Club of Houston, which provide invaluable services to their respective communities. Their contributions to the law enforcement agencies help maintain our quality of life and our sense of local security.●

## RETIREMENT OF CLIFTON FRENCH

● Mr. DURENBERGER. Mr. President, the preservation and enjoyment of parks and open space has been a personal priority of mine for many years. Prior to my election to the U.S. Senate, I had the privilege of serving as a member and chairman of the Hennepin County Park Reserve District, and as a member and chairman of the Twin Cities Metropolitan Parks and Open Space Commission.

One of the things I value most about that service was the opportunity to work with Clifton French, the superintendent of the park reserve district for the past 22 years. Clif French is retiring this summer and he will be sorely missed by all those in the Twin Cities metropolitan area who care about preserving open space for future generations.

During the past 22 years, Clif French has been a major force behind the acquisition of almost 24,000 acres of land in 3 Twin Cities area counties. The Hennepin County Park Reserve District now encompasses 7 park reserves which are large tracts of land with 80 percent of the space kept in a wild state and 20 percent used for recreation. The park reserve district also includes nine regional parks, seven special-use areas, and an expanding trail corridor system.

Under Clif French's leadership, the staff of the Hennepin County Park Reserve District has grown from 3 to 132 full-time employees. Nearly 2 million people visit one or more of the district's parks or trails each year.

One of the unique aspects of the work which Clif French has done over the years is the type and location of land which has been acquired. Clif French knew that major land acquisitions for parks and park reserves would have to be made in the 1960's and 1970's, before major residential and commercial developments took place. Because of Clif's leadership, large areas of valuable recreational and environmentally sensitive land have been preserved for both present and future generations. Had the park reserve district not acted when it did, much of that land would now have been lost to development.

Mr. President, because of the outstanding contributions which Clif French has made to the preservation and enjoyment of important natural resources, I ask that a recent article and editorial from the Minneapolis Star & Tribune be printed in the Record.

The articles follow:

[From the Minneapolis Star & Tribune, May 30, 1984]

### Clifton French Leaves County Parks Bigger Than He Found Them

(By Joe Kimball)

Twenty-two years ago Clifton French was hired as the first superintendent of the fledging Hennepin County Park Reserve District. He had a staff of three to care for about 400 acres.

When he retires from the job this summer he'll leave one of the nation's premier park systems, with about 24,000 acres of land, nearly 2 million users per year and a full-time staff of 132.

"The district couldn't have been put together without Clif French," according to current board chairman David H. Latvaaho. "He dedicated his life to building the system."

When French was hired as superintendent in 1962 he headed a small department: a secretary, a part-time bookkeeper and one maintenance employee at Baker Park on Lake Independence. The park reserve district had been created in 1957, but those early years were devoted to small-scale land acquisition. In 1963, though, the Legislature appropriated $8 million for land acquisition.

"Through the '60s and early '70s I was more in the real estate than the park business," French said. "I did most of our negotiating for the land."

The negotiations often took place in farmhouse kitchens, with whole families looking on, he said. Usually it took several trips to each farm before he came away with a deal. The district had condemnation power to acquire the park land—with the consent of the affected municipality—but that power was rarely used, French said. "Only 9 or 10 times, out of about 300 transactions," he said.

The early park reserve district boards established boundaries for the parks, then French tried to buy the land inside the boundaries. For the most part he was successful, although there are isolated parcels under private ownership in most of the parks.

"Our legislative mandate says we may not duplicate the services of local and neighborhood parks and recreational facilities," French said. "Instead we try to complement those local parks by acquiring large areas for forest preserves and wildlife refuges, and make them available for public use."

There are seven park reserves in the district: large tracts where 80 percent of the land is kept in a wild state and 20 percent is used for recreation.

There are also nine regional parks, seven special-use areas and an expanding trail corridor system.

French can recount many tales of his time in office. Once, he recalled, he had to deal with a group of motorcyclists who wanted private use of part of Crow-Hassan Park in northwestern Hennepin County. The group had no permit, and a saddle and bridle club was scheduled to use that area of the park the same day.

After some discussion, French convinced the motorcyclists to move to another area of the park, but he forgot that a house and barn had burned in that area years earlier and the the ground was littered with nails. Dozens of motorcycle tires were punctured.

"I didn't do it maliciously," he said, "but they were mad about the tires. They were livid."

When French retires, he and his wife, Jo, plan to travel—camping some of the time, he said. He also has some consulting ideas and lots of projects lined up on his farm.

[From the Minneapolis Star & Tribune, June 9, 1984]

### Builder of a County Park System—(Editorial)

Today it seems only natural that Minneapolis, with its famed city park system, should be surrounded by a comparably splendid system of Hennepin County parks, totaling 24,000 acres. Yet just a little over 20 years ago, when much of the county had already been inundated by suburban growth, there was no county park system. About all the then-youthful Hennepin County Park Reserve District could claim was a single functioning park, a small picnic area and a strong-willed new superintendent named Clifton French.

The greatest asset proved to be French. Thanks in large part to his foresight and determination, the park district soon put itself in front of the urban bulldozer, setting aside and preserving for the enjoyment of future generations the natural spaces that help make a metropolis livable. Under French's direction, the park reserve district acquired and developed park land not only in Hennepin but in Carver and Scott counties as well.

Building a park system almost from scratch can be a desperate race against time, financial constraints and developer competition. It is not always a way to win friends. Thus, in seizing his land-acquisition opportunities, French sometimes left behind wounded local sensibilities. And some of his fellow park professionals think he may have given too much attention to acquiring and developing parks and too little to promoting and expanding their use.

But even French's critics concede the value of his achievements. Largely because of his efforts, the Hennepin County Park Reserve District has been the leader and model for the development of a comprehensive regional open-space system. He prepares to retire this summer after earning the thanks of the thousands of Twin Citians whose lives have been made more enjoyable by the land he has set aside for their recreational use. Thousands more will be equally grateful in the decades to come.●

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## PAPER BY SENATOR MOYNIHAN ENTITLED "WORLD TRADE AND THE WEALTH OF A NATION"

● Mr. DANFORTH. Mr. President, I wish to call the Senate's attention to a paper on the domestic effects of U.S. trade policy written by the senior Senator from New York. This paper was written for the edification of the Senate Subcommittee on International Trade following a meeting on April 4 of this year. The Senator's discussion of the history behind current trade policy problems is both stimulating and insightful. Although I have some disagreement with the Senator's assessment of the U.S. trade system and his prescriptions for change, I believe that his views merit the consideration of all the Members of this body. I therefore ask that this paper be printed in the Record.

The paper follows:

### World Trade and the Wealth of a Nation

The most important fact about international trade is that it is declining.

In the decades after World War II, under an international economic system established just before and after the end of that War, world trade doubled, redoubled, and redoubled again. Leonard Silk has called this, "Three decades of the greatest growth in history." It may not be over, but for now it has stopped.

In 1980, worldwide imports and exports of goods each passed the two trillion dollar mark. Thereafter, for the first time since World War II, trade declined for three successive years. By 1983, world exports had fallen to $1,923 billion.

For some time now—seven of the ten years of the 1970s—the United States has registered a negative merchandise trade balance. Even so, the value of U.S. goods exported abroad increased steadily during the 1970s—it was simply that our imports of foreign goods increased faster. In 1975, our exports passed the $100 billion mark for the first time; by 1980, U.S. exports had reached nearly $225 billion. Exports began to decline in 1981, dropping to $200 billion by 1983. Our imports passed the $100 billion mark a year before U.S. exports did so, in 1974, and by 1980 imports of foreign goods into our country had reached nearly $250 billion. And they have continued to increase in this decade, reaching more than $258 billion in 1983.

What has been happening, of course, is something of an undeclared trade war, and one we are losing. As old markets contract, competition for them intensifies. Some of our trading partners subsidize their exports, and generously, but that is not the whole story. With the dollar highly over-valued—the Council of Economic Advisers estimated this overvaluation at 52 percent in the 1984 Economic Report of the President—the competition of foreign with American manufacturers has become unequal and ruinous. Put simply, quite apart from any subsidies they may receive from their own governments, foreign industries receive a huge subsidy from our own. Consider this, the real value of our merchandise exports, adjusted for inflation and movements in exchange rates since 1972, reached $105 billion in 1980. Three years later it had fallen more than 21 percent, to about $83 billion. The real value of merchandise imports into our country, once again adjusted for inflation and exchange rate movements, was but $86 billion in 1980. Three years later it had jumped to nearly $96 billion, a real increase of about 11 percent. 1983, then, marked the first time since the breakdown of the world trade system in the early 1930s that the real value of our merchandise imports exceeded the real value of our merchandise exports.

### THE AMERICAN RESPONSE

As best statistics can tell, the United States is the industrial economy most affected by the current trade war. Our response has not been especially coherent, nor should this surprise us. Many of the changes taking place are not only unexpected; they bring into question ideas and arrangements which the United States, more than any other nation, put into place.

For four decades, our government has been committed to an expanding system of world trade, primarily brought about by treaty agreements that lowered trade barriers by lowering tariffs. These bilateral treaties often had a multi-lateral effect—economists might call it a "multiplier effect"—through the workings of the Most Favored Nation (MFN) clause of the General Agreement on Tariffs and Trade (GATT), whereby a concession granted to one trading partner is automatically extended to all others in the treaty system.

This process began with the reciprocal trade agreement program of Cordell Hull, Secretary of State during the Great Depression. Following World War II, many hoped to institutionalize this process through an International Trade Organization, a specialized agency of the United Nations, much like the World Health Organization and UNESCO. The Senate Finance Committee demurred, and the ITO never came to be. But in the meantime, its primary purpose—the extension of trade agreements—was assumed informally by a multilateral treaty negotiated in Geneva in 1947, the General Agreement on Tariffs and Trade, now known as the GATT. To be sure, the GATT was a highly informal arrangement, in the sense that it was self-enforcing and required almost no central organization. (For years, what there was by way of organization consisted of an inspired British civil servant, Eric Whydham White, a few secretaries, and a small villa outside Geneva. White, who presided over most of the period of the "greatest growth in history", hardly prospered himself. So informal were the arrangements of the GATT, that no one ever thought to provide him a pension.)

For the longest while, the GATT seemed to work wonderfully well. the general level of tariffs kept going down. In 1934, the average U.S. tariff rate was 47 percent. By the opening of the 1962 "Kennedy Round" of trade negotiations, this average rate had dropped to 12 percent. Today the average U.S. tariff rate is but 6 percent.

The official rhetoric of these policies never changed; and for the most part it is still based on the teachings of earlier economists. But in the manner Keynes took note of, it was very much up-to-date businessmen who gave the ideas their currency. A good example would be Thomas J. Watson, founder of IBM and a long-time head of the United States chapter of the International Chamber of Commerce. "World peace through world trade" was a particular theme of that organization, echoing, however unintentionally, a favorite thesis of Jeremy Bentham and the early 19th Century British "liberal" economists.

No president has been more firm in his commitment to these ideals than Ronald Reagan. In a radio address of November 20, 1982, just prior to the opening of GATT ministerial meeting in Geneva, he said:

"We are reminding our trading partners that preserving individual freedom and restoring prosperity also requires free and fair trade in the marketplace. The United States took the lead after World War II in creating an international trading and financial system that limited governments' ability to disrupt free trade across borders. We did this because history had taught us an important lesson: free trade serves the cause of world peace.

"When governments get too involved in trade, economic costs increase and political disputes multiply. Peace is threatened. In the 1930's, the world experienced an ugly specter—protectionism and trade wars and, eventually, real wars and unprecedented suffering and loss of life.

"There are some who seem to believe that we should run up the American flag in defense of our markets. They would embrace protectionism again and insulate our markets from world competition. Well, the last time the United States tried that there was enormous economic distress in the world. World trade fell by 60 percent, and young Americans soon followed the American flag into World War II."

The President had great hopes for that GATT conference; he himself had proposed it the previous year. It might have led to a "Reagan Round" of trade negotiations. In the actual event, it came to near disaster. At its very outset Michel Jobert, the French Minister of Foreign Trade, denounced the United States for "dogmatic liberalism," an accusation not normally associated with the Reagan administration. At the close of the meeting, Hobart Rowen of the Washington Post described the results as "a bitter defeat for free trade." The Wall Street Journal wrote that the GATT "just barely survived the meeting." Ambassador William Brock, former Senator, Republican National Chairman and now our distinguished U.S. Trade Representative, returned to tell the Senate Finance Committee, "We came so close to a disaster that maybe the biggest achievement we had was in keeping the system in some form intact." It was bad as that.

But why? It would be accurate to say that the main reason is that most nations do not subscribe to the principles of the GATT, and for the most part never have. They have political economies; and international trade, including trade war, is for such merely the extension of politics by other means.

And the United States? Our principles have not changed, but our practices are more and more at variance with these principles. I can fairly claim, in this respect, to have been "present at the creation." On January 25, 1962, John F. Kennedy asked the Congress to authorize a new round of trade negotiations, one designed to reduce tariffs still further. Tariffs being a tax, this required a statute—known in this case as the Trade Expansion Act of 1962. Congress, however, was in no mood to grant it. To recall those days, textile imports, especially from developing countries, had begun to threaten the prosperity of the textile mills in the Carolinas and Virginia. These were businesses of significance and, for the South, a symbol of economic renascence. "Bring the Mills to the Cotton." (To this day, about one out of every ten American manufacturing workers is employed in textiles or apparel.) Something had to be done about these imports. And something beyond tariffs, which in general present few real barriers if the foreign products are just plain cheaper.

Something was done. Early in 1962, Under Secretary of State George Ball flew off to Geneva and negotiated a brief period of export restraints among the leading textile and apparel producing nations. In July, the formal GATT negotiations began. The American delegation was headed by W. Michael Blumenthal, then a deputy Assistant Secretary of State, Hickman Price and myself, respectively Assistant Secretaries of Commerce and of Labor. Our mission was to negotiate a long term quota agreement on textiles and apparel, one sufficient to win Congressional approval of the President's proposal.

The negotiations were prolonged and painful, not least because the French were in a period of high Gaulist negativism regarding anything the United States wanted. Hence the irony of the outcome. On July 20, the French tabled their "final" offer. It was taken for granted that we could not accept it and, at all events, the budding diplomatic careers of our threesome would come to an early and inglorious end. We went to dinner, but had no appetites. We wandered back to the delegation headquarters to see if there were any hope, and began adding up the French proposal. We found they—to the man, inspecteurs des finances—had made a mistake; they were offering us more than our instructions required that we obtain. The next morning, to much Gallic astonishment, British relief, and Japanese bows, we accepted. Blumenthal went on to negotiate the Kennedy Round, and later, of course, to be Secretary of the Treasury.

The Long Term Textile Agreement, as it came to be known, is still in force, much expanded: it is, indeed, a small international trade organization of its own. But American markets continue to be taken up by imports. Twenty-two years ago, about 10 percent of all apparel sold here was imported; today the proportion is nearly 30 percent.

The events of 1962 set a pattern followed with remarkable consistency in the years since. Presidents and Secretaries of State proclaim the American commitment to ever more free and expanding world trade. Their subordinates in the subcabinet, often acting in alliance with members of Congress from the affected districts or regions, negotiate quantitative import restrictions. Sometimes such involve formal, detailed provisions, as in the original cotton textile agreement (now formally the Multi-Fiber Agreement). Sometimes they are more informal, as with the recent understanding that the Japanese would export no more than 1.68 million cars a year to the United States from April 1981 to April 1984 (the ceiling was raised to 1.85 million cars for the year April 1984-April 1985).

In much the manner of the "Gentlemen's Agreements" on immigration of the early-20th Century, there was a pronounced effort to save face—excepting that in this instance, it was the United States' dignity that had to be preserved. It had come to pass that American auto makers no longer believed they could make cheaper and so better cars than anybody else!

In real life, American industry never has been overmuch concerned with the niceties of these matters. A quota's quota: grab it. Prefer it. There are such things as unfair trade practices, and there are laws providing remedies. The oldest of these is the so-called countervailing duty. If a foreign nation subsidizes its exports, the United States can level an additional tariff, a countervailing one, on any such imports to neutralize the subsidy. In 1982, European firms were selling alloy and carbon steel in the United States for $500 a ton. U.S. steel producers filed 132 anti-dumping and countervailing duty petitions with the International Trade Commission (until 1974, called the U.S. Tariff Commission). The ITC took up the matter, but in the meantime the U.S. Trade Representative and the Commerce Department began their own negotiations with the Commission of the European Economic Community.

On October 21, 1982, the Europeans agreed to limit their exports of alloy and carbon steel to no more than 5.5 percent of American consumption. The American steel manufacturers were willing to give up a fixed share of the domestic market, so long as they could retain their control over the rest. (Before the I.T.C. on 8th Street could impose countervailing duties, a consensus had been reached on 16th Street, at the White House, to negotiate quotas with the Europeans instead.) So much for free men and free markets.

By constitution or humor, organized labor has never been especially keen on the ideology of free trade—anymore than it has been zealous about free enterprise defined as the entrepreneur's untrammeled right to do whatever maximizes his profit. Even so, since the 1930s American labor has been much concerned with foreign policy, and insofar as free trade was a key element of American foreign policy, it has had the support of American labor.

But all the above is changing. In 1962, the International Ladies Garment Workers and the Amalgamated Clothing Workers both sent representatives to the textile talks in Geneva. The contrast between these two New Yorkers and the Southern mill owners in whose company and on whose side they found themselves was, well, striking. The trade unions were idealist and internationalist—and, for their pains, relatively penniless. Even so, they fought hard for their respective unions, and the mostly low-paid, unskilled women their unions represented. (In that year the combined membership of the ILGWU and the ACW was about 800,000. This year it is 580,000.)

The problem for labor is that it is the one element left out of what has been called the "internationalization" of the factors of production. Capital, technology and management now move about the world with considerable ease. (Management that can't move—typically because of huge plant investment here—in much the position of labor; and the unions and management of such industries press increasingly for protection.) Management that has sent capital and technology abroad is necessarily opposed to measures that would inhibit their ability to import products back in to the American market and, if you like, compete with their former selves. They become closet free traders and not much is heard from them, as they set up in Matamoros, Shannon or, in Robert Heilbroner's memorable phrase, is some country they need not fear going Communist because it already has. Labor, however, stays put in Lackawanna, Akron, or the South Bronx. People can move, to be sure, but moving to look for work is never easy. (Michiganders arriving in Texas at the depths of the 1982 depression were greeted with a State welfare department pamphlet entitled "Down and Out in Texas." The message was: you won't like it here.)

In any event—so far—American workers do not travel abroad to find work. To the contrary, they also must compete with millions of illegal aliens who travel here for that purpose, in addition to legal immigrants. (In his classic Theory of the Labor Movement (1928) Selig Perlman stated that the organizing principle of the trade union was a sense of a scarcity of job opportunities. It was then; it is still.)

And so we muddle into a new era which, whatever else, we seem determined not to shape. Whatever happens will just happen. Or maybe some other nation or group of nations will make it happen. We won't even think about it. It is an embarrassment, abandoning Cordell Hull. Besides, there are immediate matters which must be attended to. For example, the quota agreement on clothes pins, negotiated under the Carter Administration, is soon to expire.

### TWO ERA OURS ISN'T

As a nation, we still strive to live by the insights of Adam Smith. And well we might—there never was an economist so intelligent and so attractive.

In our age, the great avowed challenge to private enterprise has come from newly established forms of state intervention, while we have quite lost the memory of the former system of state controls which Smith helped lead us out of. (Every so often we are reminded. 1984 is the 400th anniversary of the first book published by the Cambridge University Press. The Press is observing the occasion with a series of advertisements in scholarly journals, which note in passing that it was King Henry VIII who granted their charter in 1534 to "print and sell all manner of books." Imagine needing a king's permission to start a publishing business! But the right to start a business on one's own scarcely existed four centuries ago. Today it is virtually a right of citizenship in the free world, for which all praise to Adam Smith. Including the right to start a business in Taiwan to export books, or undergarments, to Chicago. Today, that is part of the problem.)

Smith's abiding concern was production at least cost. This is the heart of the doctrine of comparative advantage. You can grow grapes in Scotland and raise sheep in Portugal, but there will be much more wine and wool to go around if you do it the other way. And this is the point. Smith lived in a world which was glimpsing for the first time the possibility of life not pervasively constrained by scarcity. Technology had the potential to end scarcity, if technology could be liberated from the old constraints of government and, more generally, of society.

The doctrine came to be called "liberalism"; in practice, there were such problems as the Iron Law of Wages, which was held to follow from first principles. There was also something cultural about our response to the doctrine. We need not reinvent Max Weber, but it is important to note that the Roman Catholic Church has never quite accepted the tenets of capitalism or, in the view of theologians such as Michael Novak, ever quite understood it. Either way, I can remember from my own youth the puzzlement of working class congregations, Democrats and New Dealers to the core, listening to Pastoral Letters deploring "liberalism". The old Irishmen were still quarrelling with Ricardo, while their parishioners thought they were being told there was something wrong with the Fair Labor Standards Act. (In fact, the Bishops had been advocating such standards, in one form or another, for a third of a century.)

No matter, scarcity as it was known before liberalism is behind us today. That this will be disputed is a measure of just how removed we are from a world of scarcity. A watertight roof, leather shoes, a kitchen stove, sufficient heat: such things were beyond the imaginings of most men and women three, even two centuries ago. Conditions changed slowly. The Confederate Army fought barefoot at Gettysburg, and would not have expected to do otherwise. In Albert J. Kennedy and Robert A. Wood's research on the emergence of working class stability in Boston nearly a century ago, they took note that steadier folk who could accumulate a little something over the years did so, in part, because they looked upon potatoes (with just occasionally a little milk) as their diet, period. Wander about a supermarket today and consider how far we are removed from Marx's "realm of necessity."

Scarcity is behind us; want is not.

This is the point. Just as it was possible in Adam Smith's age to envision a society free of scarcity, so it is possible today to envision a society free of want. The two are different, as Henry George argued in Progress and Poverty (1879) and as Will Rogers immortalized in his remark during the Depression, that America was the only country ever to "go to the poorhouse in an automobile."

In Adam Smith's time, it was possible to envision a society free of scarcity if only political and economic arrangements gave a freer hand to technology. Today, it is possible to envision a society free of want if we reverse those arrangements.

And it is possible to argue that if we don't do so, we are going to find ourselves in a lot of trouble, and fast.

Just twenty years ago, Lyndon B. Johnson proclaimed an end to poverty as a national purpose. For a while it appeared to be happening, and among the aged, for the most part, it did happen. At the same time, however, there emerged a wholly new incidence of poverty concentrated among young adults and their children. (Elsewhere, I have attempted to show that one child in three born in the United States in 1980 can expect to be on public assistance before age eighteen, and one has yet challenged the data.)[1] The proportion of the entire population classified as poor is now as high as when LBJ proclaimed the war on poverty; only the "mix" is different.

I cannot help think that at the root of this new social disorganization is a growing scarcity of work opportunities. This is the new scarcity which challenges our time. Among minorities this scarcity of work opportunities, as measured by the unemployment rate, has been endemic for a generation.

When the Bureau of Labor Statistics began measuring employment in 1946, it published its data only in terms of large aggregates. No one was fully confident that the statistical art had been mastered. Even so, samples were taken of smaller groups. In those first surveys, black teenage unemployment was lower than white. Many black youths of that time lived on farms where, indeed, they did work and were so recorded. But not everyone lived on a farm; there was work in cities, and black youth found it. Last month, May 1984, the unemployment rate for black youth was more than 44 percent and, as we roll into a general economic recovery, goes all but unremarked.

It is heretical, but is it also time to consider adjusting technology to keep everybody on board? We have all the food in the world, but some 21 million people receive food stamps because they don't have enough income to buy it. Food stamps provide a better diet than most Americans could have hoped for a half century ago. But shopping in a supermarket today with foodstamps is not so very different from going to the poorhouse in an automobile. Whatever the mode, you're still in need. We need to provide our people with what they don't have and do need. This means work and, in some measure, work lost to foreign competition or soon to be.

The second era ours' isn't, is the era of tariff walls, of the Smoot-Hawley Tariff of 1930 when Congress and President Hoover contrived a huge and wholesale tariff increase, against the pleas of the economic profession. It "worked." In two years, merchandise imports into America dropped nearly 60 percent, from $3.1 billion to $1.3 billion. But so did American exports, plummeting from $3.9 billion to $1.7 billion. A trade war broke out in the Atlantic. Totalitarianism spread, and war came. The breakdown of world peace followed the breakdown of world trade.

American post-war trade policies were deeply influenced by the conviction that prewar tariff policies had helped bring about that war. This was a matter that stirred passion in Foggy Bottom, and well it ought. If Smoot-Hawley helped Hitler's rise, then the concern to prevent such from happening again was deserving of passion indeed.

It won't happen again. These days, the industrial world is pretty much divided between nations that are securely democratic and others just as persistently totalitarian. War will not break out among the democracies, and if it should come to pass between the two blocs, it will not be about trade.

The danger in the present system is rather the opposite. By adhering too firmly to our internationalist credo, we well could undermine the political foundations that made internationalism a working doctrine rather than an abstract theory. I addressed this matter at the 1983 commencement ceremony for the graduates of the Rensselaer Polytechnic Institute in Troy, New York. There, I drew on Daniel Boorstin's notion that the American nationality, our cultural identity, was formed largely by the common artifacts which industrialization enabled us to share with one another.

The Model T Ford is a great instance of this. (John Steinbeck once wrote of a generation of young men who grew up knowing more about the mechanical system of gears than the planetary system of the universe.) The inundation of the American market by foreign automobiles and similar bonding artifacts, then, is no small event in our culture. It threatens not just jobs, but cultural identities as well. One result is the anger—yes, anger—spreading among the citizens of "smoke stack America," working men and women who have given almost unbroken support to internationalist Presidents, with their foreign aid programs and tariff reduction rounds. There also is a matter (and a problem) of class perception here. Internationalists, to risk a large generalization, like foreign cars. (This had led Robert Heilbroner to speculate, "how staunchly economists would stick to their free-trade guns if the Japanese were to export another commodity of excellent quality which they produce at home and could market for less than its counterpart, namely, economists.")

### THE AGE OF WELFARE STATISM

What, then, is the era we have entered upon? It is something old and something new and, lacking a name, I will call it the age of welfare statism. Two political traditions have come together in the context of advanced technology. First, there is the old tradition that the state is sovereign with respect to economic as well as political affairs. This is not a matter of the state running the economy—such is a modern idea that could not antedate the postal service, the telephone, and the technologies of management that make such an ambition possible beyond a city state of very ancient limitations. Rather, it is best thought of in terms to the mercantilists who combined feudal prerogatives with economic theory. Their object was to enhance the power and prestige of the State, which was to say the Prince. Second, as technology made it feasible, the modern idea emerged that the State's proper purpose was to serve its citizens and, if need be, provide for their welfare.

Contrary to our rather insistent misreading of our own history, the United States was no laggard in this regard. The Articles of Confederation, a scanty enough provision for something like a central government, even so provided in Article VIII that "charges" for the "general welfare" should be "defrayed out of a common treasury." If the authors did not exactly have Social Security contributions and Medicare services in mind, they were thinking of something which they chose to term "welfare", and pointedly excluded "paupers, vagabonds and fugitives from justice" from the company of the deserving. The subsequent Constitution specified the "general welfare" as one of the six specified objects of the new government.

So with modern governments generally. Under one banner or another, the old tradition of active state involvement in economic affairs has revived, but for the new purpose of ensuring the well being of the citizens, as against that of the Prince and the power of his State. France provides a nice example of this transition. In 1665, Jean Colbert, chief minister to Louis XIV, founded the state Royal Factory of Mirror Glass. Later, under the influence of laissez-faire economics, the enterprise was transferred to private ownership as the Compagnie Saint-Gobain and grew to be a major producer of building materials. In 1982, the Socialist government of Francois Mitterand re-nationalized it.

In postwar Europe, at all events, full employment became the defining, economic goal of the new welfare state. This never quite happened in the United States. The Employment Act of 1946 set the goal, to promote "Conditions under which there will be afforded useful opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production, and purchasing power."

This Act, which also established the Council of Economic Advisors to keep track of our progress, was originally entitled the Full Employment Act; but Congress was not prepared to go that far. In time, this asymmetry helped produce the crisis of the international trading system unfolding today.

In brief, the architects of the U.S. trade policy that evolved in the 1930s and 1940s hoped to end government interference in world markets, primarily by reducing tariffs. President Reagan has faithfully affirmed the twin political and economic objectives of this approach: "preserving individual freedom and restoring prosperity . . . requires free and fair trade in the marketplace." The GATT was established on the assumption that its members all would have something like free economies, in which the overwhelming proposition of commercial decisions were in private hands. If government interference through tariffs and quotas could be minimized, the world would have free trade and more trade.

The original 23 members of the GATT basically fit the description of free market economies. Almost everywhere but here, government owned the railroads; but the goods and services traded on world markets were in preponderant measure privately produced and privately traded. As GATT's membership expanded, however, this general characteristic was diluted, if not lost altogether. Today, GATT is a world trade organization with 87 members, including four from the Soviet Bloc. In most GATT member nations today, the central government is deeply engaged in economic decisions. This is perhaps most pronounced among the developing nations in GATT, for the simple reason that the modern ethos in such countries considers economic development the first task of government. As such, controls, export subsidies, import substitution and so on grow more common, not less so. (Most members of OPEC belong to the GATT. Whatever considerations might have given them pause in the early 1970s when they got together to fix the world price of oil, the General Agreement on Tariffs and Trade surely was not among them.)

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[1] Children and Welfare Reform", in *The Journal of the Institute for Socio-economic Studies, Vol. VI, No. 1, Spring 1981.*

The oil price shock hit the developed nations hard, and unemployment soon reemerged as a problem in economies that had thought it behind them. In one nation after another, unemployment rates reached their highest levels since the 1930s. The response, if not necessarily predictable, even so was recognizable. One after another nation began trying to "export its unemployment," to use the phrase applied to similar efforts in the 1930s.

Of GATT's industrialized members, then, the United States almost alone still subscribes to the economic tenets of 1947 which underlay GATT's formation. In Japan, the powerful Ministry of International Trade and Industry formulates industrial as well as trade policy and facilitates corporate modernization, investment and technological decisions in accordance with these policies. France has moved from the state-planning principles of the Gaullist's Dirgisme, embodied in the Commisariat General Au Plant, to the state-directed economics of the current socialist government. Here, we continue to resist any state direction or planning of matters concerning international trade.

Just as it took the United States a long time to recognize that the United Nations was no longer made up of nations with the political systems and values of the majority that subscribed to the original Charter—political values which made the Charter at least theoretically workable—so we have taken the longest time to recognize that the international trading system formalized in the same period no longer works as it was expected to, in part because the principal traders no longer abide by the original rules. This is a politically neutral development. The relationship between free markets and political freedoms is certainly not a tenuous one, but neither is it absolute. Unemployment is a kind of unfreedom which counts for a great deal, and nations which choose to think hard about it, and try to arrange their affairs to minimize it, are not to be deplored. Rather, their example is to be studied.

Mr. George Gilder recently commented that the United States "is already leading the world in job creation and is applying new technologies 50 percent faster than either Europe or Japan." [2]

But even so, we show no sign of moving toward full employment, and little disposition any longer to consider this important in its own right. To the contrary, we are settling ever so slowly into the idea that levels of joblessness thought horrendous in the 1960s are now the mark of economic recovery. In 1964, Lyndon B. Johnson sent his first Manpower Report to the Congress. (This report, mandated under the Manpower Development and Training Act of 1962, was modelled after the Economic Report of the President, concentrating on employment as against economic growth.) Unemployment in 1964 had dropped to 3.8 percent, the lowest in a decade (and the lowest since). The President was scarcely satisfied. His message to the Congress, accompanying the technical document in the manner of the Economic Report, spoke with satisfaction about the number of Americans who had jobs and with indignation about the numbers who did not. "Their idleness," he declared, is "a tragic waste both of the human spirit and the economic resources of a great Nation." He went on to state that this waste was one an "enlightened Nation should not tolerate" and one which ours "cannot tolerate."

Tolerate it we did, both in the black slums LBJ was thinking of at that time and in whole regions and industries today. We have paid, and are paying, the cost.

There is much talk just now of the need for an "industrial policy" to respond to the problems, somehow just perceived, of American industry. This is a shift from the earlier notion that "manpower policy" would do the job, which is to say that given a minimally intelligent management of the macroeconomy, workers with skills would find jobs. It is now clear that this is not enough. It is no longer widely believed that manpower training programs have been very effective. Imports ate away at these jobs, no matter how skilled its workers were. Imports, of course, were also devastating to the unskilled. Imports will eat away at industries in much the same way.

It is time to consider two propositions.

First, just as the most important elements of industrial policy are to be found today in the tax code, where different activities are taxed at quite different rates, so trade policy is a way in which we decide which industries will continue to exist, which will grow, and which will disappear. Other nations have made these decisions, and we have no alternative but to follow. Our merchandise trade deficit in 1984 will likely top $100 billion. Alfred Eckes, chairman of the International Trade Commission, has estimated that each $1 billion increase in our trade deficit costs 25,000 new job opportunities. In part, this deficit is due to the overvaluation of the dollar, which increases the price of American exports abroad and reduces the prices of foreign imports here. (The 1984 Economic Report suggests it may take a decade to realign exchange rates.) The old, old pieties about a self-equilibrating system simply no longer hold.

Second, it is possible to apply to trade policy the same considerations and values which led us, a half century ago, to begin to think of unemployment as socially unacceptable and of full employment as both desirable and feasible. Most of all, this will require a shift from a macroeconomic, grand scale view of world trade—the view that it all works out in the end—to a more detailed and avowed approach of asking, what is going to happen to this set of workers in this part of the country, and whether putting their jobs in jeopardy would be fair or wise.

As a matter of fact, we already use such an approach for trade matters, but we don't admit it. And so we move furtively, almost shamefacedly, from one protectionist measure to another, as one crisis after another forces itself on the attention of government. It is too far into the 20th Century to offer the vision of a rational, smoothly functioning government policy about any matter as vast and complex as international trade. But is it too much to ask that we listen to the Ruth Dunham's of our land? For 28 years, she has been a lathe and saw operator in a clothespin plant in West Paris, Maine—a town that has seen imports close down its shoes and textile concerns. She told the Wall Street Journal, "You'd think the government would look out for people in this country." [3] If not, or so the assumption has been, the government had better look out.●

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[2] The New York Times, April 22, 1984, P. F-2.

[3] *Wall Street Journal*, April 11, 1984, p. 24.

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## IOWA PLAN TO LOWER HEALTH CARE FEES

● **Mr. GRASSLEY.** Mr. President, a rare phenomenon is occurring in Iowa: Health insurance rates are actually being reduced for several hundred thousand Iowans. This gradual phase-in of rate reductions is a result of a cooperative effort by business, labor, the health care industry and Government to halt rapidly escalating health care costs.

I have previously reported to my colleagues the tremendous progress achieved in Iowa through the implementation of an innovative health care strategy which enjoys broad support throughout the State. The following article, which appeared in the June 14, 1984, New York Times, is yet another illustration of the leadership role Iowa is taking in cost containment plans.

I ask that the article be printed in the RECORD.

The article follows:

### IOWA PLAN TO LOWER HEALTH CARE FEES

(By Milt Freudenheim)

DES MOINES.—The first general reduction in health insurance rates since double-digit inflation took hold six years ago will go into effect in Iowa at the end of June. Experts say the reduction, a result of an innovative statewide plan, is setting a national pattern in combatting rising health costs.

Under the plan, health insurance rates for 330,000 Iowans will go down 5 percent, a $24 million reduction that is getting close attention in Washington and around the country, where rate increases of 15 to 30 percent are still the rule.

The reduction, based on a significant decline in the use of hospital beds, is the first fruit of a three-year combined effort by employers, unions, the state government and the health care industry. The plan is based on controlling costs through such strategies as de-emphasizing expensive types of care and long or frequent hospital stays in favor of outpatient care or treatment that can be administered in physicians' offices.

Donald P. Rowen, a leading participant who is executive vice president of the Iowa Federation of Labor, calls the plan "an experiment to see if competition within the system will work." Similar coalitions have been established with varying effectiveness in 150 communities around the country.

"Employers who are paying the bills in Iowa and other parts of the country are starting to realize that they have the opportunity to exercise some control over health care costs," said Bruce Steinwald, acting director of health policy in the office of the Secretary of Health and Human Services in Washington.

"The actions in Iowa and the result they've achieved constitute a dramatic example of a national trend," said Bernard R. Tresnowski, president of the national Blue Cross and Blue Shield Association, the nation's largest health insurer. "Blue Cross and Blue Shield plans in 50 states are initiating a variety of cost-containment strategies. The results are adding up to an overall decline in the use of the most expensive types of care and an increase in lower-cost alternatives such as care in outpatient departments and physicians' offices."

Three years ago the use of Iowa hospitals, measured in patient/days, was well above national norms, and rising expenditures for Medical and health coverage for state employees were straining the state budget.

### CHANGED THE PATTERN

"We have changed the pattern of medical and hospital care dramatically," said Donald W. Dunn, president of the Iowa Hospital Association.

In the first three months of 1984, patient/days dropped 3 percent more as hospitals began observing Medicare payment ceilings under a new system: Instead of billing for care provided on a case-by-case basis, the hospital is paid a fixed amount for each case, depending on which of 467 specified diagnoses it comes under.

Mergers and closings of some of Iowa's 128 acute-care hospitals are widely predicted.

The 5 percent rate decline in rates applies to individuals and groups of fewer than 25 people, said D. Eugene Sibery, president of Blue Cross and Blue Shield of Iowa. This amounts to one-third of the one million subscribers in the state. In addition, 100,000 Iowa Farm Bureau members got a 2 percent reduction. Iowa's economy is rooted in agriculture, but 70 percent of the 2.9 million population live in or near medium-size cities. Health care in the state costs $3 billion a year.

Nationally, admissions to hospitals fell in 1982 for the first time in more than 30 years, according to the American Hospital Association's latest figures. Hospital costs are still rising, but the growth rate is slowing. The costs increased 10.2 percent last year, 14.9 percent in 1982 and 17.5 percent in 1981.

Blue Cross plans in Connecticut, Cleveland and Kansas City are cutting back projected rate increases, but only Iowa's rates are going down, spokesmen for the associations said. Blue Cross and Blue Shield of Greater New York, with eight million subscribers in the metropolitan area, said that monitoring of costs and use saved $140 million last year. New Jersey Blue Cross said similar programs had brought a continuing decrease in inpatient hospital use there.

"Doctors were putting too many people in hospitals, keeping them there too long and running too many tests," said Glenn Witt, staff vice president and personnel director of the Meredith Corporation, a Des Moines-based magazine publisher and television chain. "Since 1970, our health costs have doubled every five years."

Iowa's prosperous physicians have gone along with the changes.

"We haven't taken an adversarial position," said Eldon Huston, executive vice president of the state medical society. Physicians run the Iowa Foundation for Medical Care, which reviews hospital admissions and treatment for Blue Cross-Blue Shield and private employers.

### STUDY GROUP ORGANIZED

Worry about the state's shrinking tax base and its growing elderly population made controlling costs a priority. Mr. Sibery, who came to Des Moines from the Greater New York Blue Cross plan started a review of hospital use in 1981. Under the rules, insurance payments for a hospital stay are not approved until less-expensive alternatives such as care in a physician's office or a clinic are ruled inappropriate by advising physicians.

In 1981, business leaders also persuaded Gov. Robert D. Ray to appoint the 11-member Commission on Health Care Costs. Its recommendations are being carried out by the Health Policy Corporation of Iowa, an independent planning agency headed by representatives of business, labor and state government.

"We are building a system based on market forces, as an alterative to Government regulation," said Paul M. Pietzsch, the agency's president. His group persuaded the Legislature to establish a Health Data Commission, which published comparative hospital charges in May for the 25 most frequent procedures. The commission also plans to issue a comparison analysis of physicians' charges.

The information will be used by employers and health plans negotiating with hospitals and physicians. Some large groups in other states are forcing hospitals to give discounts in return for an assured volume of patients, under a system known as preferred provider arrangements.

[In the Blue Cross-Blue Shield plan announced Wednesday in Washington by Mr. Tresnowski, an educational effort would be used to persuade doctors not to use certain procedures, and at some future date payments would not be made for those disapproved procedures.]

Carrying out another recommendation of the Commission on Health Care Costs, the Legislature ended hospital and physician control of Blue Cross and Blue Shield, giving consumers two-thirds control.

### CATERING IS ATTEMPTED

The squeeze has left many Iowa hospitals half empty and hurting financially. A hospital in Davenport is selling laundry and catering services to outsiders.

"Our challenge is to down-size with minimum trauma, while maintaining accessibility in hospitals and doctors in the rural areas," said Michael V. Reagan, the state's Human Resource Commissioner.●

## THE AMERICAN STEEL INDUSTRY: MYTH VERSUS REALITY: V

● **Mr. HEINZ.** Mr. President, today I present the fifth in a series of brief statements which will appear periodically in an effort to elevate the level of debate on the crisis in the American steel industry.

I would like to continue my discussion concerning the role of labor in the American steel industry. My focus will be on the cost of labor and its overall relation to the health of the industry. Too often, it is assumed that the wages of American steelworkers have risen without regard for economic realities or that the U.S. workers are paid much higher wages than their counterparts abroad without accompanying advantages in productivity.

These generalizations often pass for argument in the current debate over steel import quotas and the critical state of the steel industry. Interest has been heightened with the affirmative vote by the International Trade Commission on the section 201 petition filed by Bethlehem Steel and the United Steelworkers. In order to firmly ground the debate in fact rather than fiction, I am offering some further myths and realities about the state of the American steel industry.

Myth: Labor costs continue to increase regardless of the overall economic situation.

Reality: According to data published by World Steel Dynamics, labor has accounted for about 35 percent of total steel production costs since 1977. Beginning in 1976, the rate of increase for labor costs has been minimal compared to other components of steelmaking costs. Between 1976 and 1983, labor costs per ton of steel produced increased by 47 percent. In the same period, energy costs per ton increased by 233.7 percent, financial costs per ton grew by 97 percent, and iron costs per ton went up by 81.9 percent.

Labor costs per ton of steel shipped were $158.38 in 1980. Today, they have decreased to $138 per ton shipped. The problem remains, however, that even while domestic costs of production are dropping, foreign competitors, with ever lower, subsidized prices are seizing an ever larger share of our market.

Myth. U.S. labor costs continue to increase at rates greater than those of our competitors.

Reality. Among the industrial nations, in terms of labor costs per ton shipped between 1976 and 1983, dollar increases for Japan and West Germany were within $6 per ton of the United States, with a greater rate of increase. French labor costs are still within $10.54 per ton of ours. If the effects of the dollar's appreciation from its 1978-79 levels is calculated in addition to wage increases, Japan would have lost 12 percent and the United Kingdom would have lost 37 percent of the cost advantage they now enjoy over the United States. Both West Germany and France would have significantly higher labor costs than the United States.

In comparison with Third World labor costs, the United States simply cannot compete with South Korea, Brazil, Taiwan, or South Africa. However, it cannot be national policy to drive steelworker wages down to levels equal with the worst paid labor in the world. The use of collective bargaining since the 1930's has substantially raised the standard of living for steelworkers to generally acceptable levels. Lynn Williams, head of the United Steelworkers describes the situation:

> At present, some of them, after years in the mill, earn enough to meet the intermediate family budget, as adjusted, set by the Labor Department for a family of four ($26,568). The earnings of others, however,

remain in the low category, ($16,334). Thus, the most highly paid of our members have reached a point where they can afford a car, a modest home and an education for their children. The lowest paid barely make it.

Myth. In spite of their high wages, the efficiency rates of American labor remain very low.

Reality. As published in World Steel Dynamics, in 1983 it took 6.59 total man-hours in the United States to produce a ton of steel. Corresponding rates for France were 10.92 total man-hours, for West Germany, 10.76 total man-hours, for the United Kingdom, 10.75 man-hours, and for Japan, 7.72 man-hours. This means that the average American steelworker produces 65 percent more steel per hour than his French counterpart, 63 percent more than a West German or British steelworker, and 17 percent more than a Japanese steelworker.

In 1984, the number of U.S. man-hours needed to produce a ton of steel has already decreased to 5.80 per ton. This gives the U.S. a 25-percent advantage over its nearest rival.

Myth. The benefit to the consumer from lower priced foreign products outweighs the costs of import-related steel unemployment.

Reality. In calculating the price paid by the United States for steel imports, all the costs of import-related steel unemployment must be considered. Large numbers of unemployed steelworkers affect those in tertiary support areas which includes mineworkers, refractory makers, mill equipment manufacturers, steelhaulers, and others. Lynn Williams, head of the steelworker's union, estimates that for every laid off steelworker, between two and three jobs are lost in steel support industries. When lost wages and tax revenues are included as well as higher welfare and social costs, too many steel imports at lower prices represent no bargain for the American consumer.

The Fair Trade in Steel Act, S. 2380, is the proper legislative response to the difficulties faced by the American steel industry. We must focus the debate on the major cause of the problem, unfairly traded imports, rather than parading the same old cliches concerning the outrageously paid and inefficient American steelworker. A comprehensive policy is needed to restore competitiveness to a crippled domestic steel industry to insure its long-term survival.●

## DRUG WAR TEAMWORK PAYS OFF

● Mr. CHILES. Mr. President, I wish to commend the hard work of the Florida customs agents who on June 15 uncovered the second largest cache of cocaine seized in the United States to date.

Sometimes the frontline troops in the war against drugs get lost in the midst of grandiose claims which politicize and exploit their victories. Turf fighting and selfish credit claiming, in the past, have been counterproductive and demoralizing to the personnel working with the several Federal agencies involved in drug law enforcement. This recent seizure, however, is a good example of the team effort and the coordination of units within the South Florida Task Force—wherein the U.S. Customs, Coast Guard, Drug Enforcement Administration, Internal Revenue Service, Armed Forces, and State and local law enforcement work hand in hand. Customs agents can rightly be proud of their accomplishments, but I'm sure that they would be the first to acknowledge the background support offered by the rest of the task force team.

Teamwork is imperative in our continuing battles against drug trafficking. Not just the teamwork among law enforcement agencies, but a coordinated commitment among all of us. No better expert than the former head of the Drug Enforcement Administration, Pete Bensinger, could attest to that and instruct us on this lesson. To that purpose, Mr. President, I ask that an article by Mr. Bensinger, published in the June 18, 1984, Miami Herald, be printed in the RECORD. This article originally appeared in the June 15 New York Times under a different title.

The article follows:

### DRUG WAR MUST BE A TEAM EFFORT

(By Peter B. Bensinger)

The drive to control drugs has been well described by Vice President Bush as a marathon, but in this race no one party or branch of government can hope to capture all the glory. It is tempting to herald new initiatives or to announce large-scale arrests—I know because I made my fair share of such announcements when I headed the Drug Enforcement Administration.

The real breakthrough will come when Congress, the Administration, our courts and foreign governments, backed by citizens, overseas and here, become fed up with the violence, corruption, intimidation, health and safety hazards, accidents and deaths produced by our $100 billion a year, self inflicted disease.

Cocaine abuse is at record levels, with more than four million regular users. Importation of heroin, deaths from overdoses and injuries are climbing again. Marijuana use is still unacceptably widespread, with one out of 10 Americans smoking marijuana at least once a month even though today's marijuana is 5 to 10 times as powerful and dangerous as that of 10 years ago. Pills, abused by 10 million Americans, still kill more people than heroin and cocaine.

What can we do?

Education and information: Our children make major health decisions before they are 12 years old: whether to smoke, to drink or to use drugs. Information on drugs and alcohol must be communicated early and effectively, through knowledgeable teachers who understand the gateway that leads from experimentation to dependency. Drug education in primary school is essential, and all teachers, not just science teachers, should reinforce this information.

In 1982, the Surgeon General issued a report on marijuana, citing specific health hazards. Just recently, it was reported that 63 percent of high school seniors believe use of marijuana is harmful, compared with 35 percent in 1978. There is a direct and significant connection here. We need another Surgeon General's report on cocaine and greater education on poly-drug use—mixing different drugs and drugs and alcohol. And medical school curriculums must include instruction in the abusive aspects of prescription drugs.

Enforcement: Colombia is the principal source of illegal drugs in the United States. If the drug faucet is left on there, we will continue to get buried in dope no matter how many planes and radar screens are placed on our borders. Colombia must destroy illegal crops before they are harvested, as was successfully accomplished in Mexico. If Colombia doesn't change, we could consider revoking most-favored-nation trade status for its principal exports, coffee and flowers.

Lack of consistency and certainty of punishment in the United States is one reason for our high crime rate. Because of unrealistically low bail, traffickers become fugitives rather than stand trial. (There are now 2,950 fugitives, while there are only 2,100 Drug Enforcement Administration agents.) Seizures of assets from traffickers should be used extensively by states as well as the Government.

Private-sector efforts: Drugs in the workplace affect the health and safety of employees and the public. Employers are beginning to recognize the tremendous cost of drug and alcohol abuse: $65 billion per year in productivity, lives lost, futures forfeited and unnecessary accidents. More companies must face this problem and provide employee education, supervisory training and employee assistance programs to curb substance abuse on and off the job. Trade associations and such groups as the Jaycees and the Chamber of Commerce should develop policy guides on drug and alcohol abuse for their members.

Use of television: Parents spend an average of 14 minutes a day with their children. Students watch 10,000 hours of TV before graduating from high school. Where do they get their values? From shows like "Dynasty" and "Saturday Night Live," where drugs, sex and booze permeate the living room. The TV industry should not delude itself into thinking that a documentary on cocaine or angel dust can offset the constant glamorization of drugs. Communications companies suing the public airwaves should provide entertainment that is consistent with health and research information.

For a decrease in drug abuse to be sustained, government, parents, schools, industry, the courts and television must all contribute. When enough of us care to change what goes on in our homes, schools, factories and offices, what we watch on TV and what we put up with on our streets, a consistent and overpowering commitment will take hold, and our children and this country's future will be the better for it.●

## IOSEF BEGUN

● Mr. PERCY. Mr. President, on February 5, 1984, a group of academic and religious leaders and prominent legal scholars met in Evanston, IL, to constitute a tribunal of inquiry into the case of Iosef Begun. Mr. Begun, a Hebrew teacher, had received a sentence of 7 years in a labor camp and 5 years in internal exile in the Soviet Union in October 1983.

Irwin Cotler, professor of law at McGill University, presented arguments and evidence that the Soviet Union violated several international agreements it has signed as well as its own constitution in all three of its convictions of Iosef Begun. Mr. Begun was convicted of parasitism—not holding a socially useful job, malicious violation of internal passport law, and anti-Soviet slander and agitation.

The tribunal agreed unanimously that the Soviet Union acted illegally in its prosecution of Iosef Begun. They found that Iosef Begun was unlawfully denied his right to emigrate from the Soviet Union. Mr. President, Mr. Begun only sought to emigrate and to study and teach Hebrew, the language of his religion. The Chicago Conference on Soviet Jewry has prepared a summary of the proceedings of the Begun tribunal. I commend the Chicago Conference on Soviet Jewry and all who participated in defending Mr. Begun. I submit for the Record this summary.

The summary follows:

### THE PEOPLE VERSUS THE SOVIET UNION: A TRIBUNAL OF INQUIRY INTO THE CASE OF IOSIF BEGUN, SOVIET JEW

On February 5, 1984 at the Norris Center at Northwestern University, Evanston, Illinois the matter of "The People Versus the Soviet Union: A Tribunal of Inquiry into the Case of Iosif Begun, Soviet Jew" was presented before Honorable George N. Leighton, Judge of the United States District Court, Northern District of Illinois, and Honorable Benjamin S. Mackoff and Frank G. Sulewski, Judges of the Circuit Court of Cook County.

The Prosecutor, Irwin Cotler, Professor of Law at McGill University presented arguments and evidence to show that the Soviet Union violated International agreements it had signed and violated its own Constitution in all three of its convictions of Iosif Begun. Begun was first convicted of "parasitism", (not holding a socially useful job). His second conviction was for "malicious violation of internal passport law", and his most recent conviction was for "anti-Soviet slander and agitation."

Dr. Benjamin Fain, Professor of Physics at Tel Aviv University on sabbatical leave at Arizona State University, Tempe testified for the prosecution. Dr. Fain had known Begun since 1974 while Fain still lived in Moscow. Fain said that Begun's first conviction for parasitism (for which he served one year) was incorrect because Begun was working as a private Hebrew tutor which is socially acceptable work according to Soviet regulations and definitions.

Fain also testified about several points cited in Begun's most recent conviction under Article 70 of the RSFSR Criminal Code "anti-Soviet agitation and propaganda." Begun was said to have amassed anti-Soviet documents and planned an anti-Soviet meeting. Dr. Fain testified that he knew of the documents, that they are Jewish in nature, and that the meeting was organized by Fain. Begun assisted him. Yet Fain was permitted to emigrate from the Soviet Union (Begun has repeatedly applied for emigration since 1971 and been refused) and Begun is now serving a 12 year sentence.

Ellen Bass, witness for the prosecution, is Counsel to the International Human Rights Law Group and is an expert in the Begun Case. She testified that there was no discussion of the substance of the materials or finding of anti-Soviet intent in the materials or Begun's activities. In absence of these essential features, and therefore in contravention of Soviet law, Begun was convicted and his appeal was denied.

Sister Ann Gillen, Executive Director of the National Inter-religious Task Force on Soviet Jewry testified to the pervasive religious repression in the Soviet Union. She demonstrated how the internal passport system employed by the Soviets has been used against ethnic and religious groups. Sister Ann said "this same internal passport system Iosif Begun suffered through because he was denied the right to go back to live with his wife and child in Moscow after he had returned from his Siberian exile."

Professor Zvi Gitelman, Professor of Political Science at the University of Michigan put the three prosecutions of Iosif Begun into the context of a pattern of anti-Jewish policies followed by the Soviet government. Soviet Jews, recognized as one of over 100 nationalities in the Soviet Union do not enjoy the same cultural rights as other nationalities. There are no Jewish schools, religious or secular, and yet Soviet Jews cannot assimilate. The Soviet system of listing nationality on internal passports prevents entry into the mainstream of Soviet society.

Registered letters were sent to the procurator general of the Soviet Union, Alexandr M. Rekunkov, and Ambassador Anatoly Dobrynin. Receipts for the letters were received, but there were no replies to the requests that the afore-mentioned men appear to defend the actions of the Soviet Union. In their absence, the court appointed Alexander Aloyts, PhD in civil law from Leningrad University to defend. Mr. Aloyts said in defense of Soviet actions with respect to Begun: "The Soviet Union has some laws which allow the government, courts, and police to restrict rights of its citizens if it is in the interest of the Socialist State. According to these laws of which Iosif Begun, as well as all Soviet citizens, was well aware, his conviction was legal and did not violate Soviet Constitution or Criminal Code or the Code of Criminal Procedure." Mr. Aloyts concluded that the Soviet Union had acted legally in all three prosecutions of Iosif Begun.

Mr. Cotler summed up the case for the prosecution in these words: "that having regard to the strictures of Soviet law and procedure, having regard to the obligations of the Soviet Union under international law, this judgment should be vacated, the conviction reversed. . ."

The judgment was unanimous. Chief Judge George Leighton spoke first. He said: "We speak from the conscience of mankind; and, thus, we express the fundamental principles of human rights embodied in constitutions and international treaties." The Judges found that Iosif Begun was unlawfully denied his right to emigrate from the Soviet Union. Judge Leighton concluded as follows: that because of his denal of the right to emigrate, the undermining of his wishes to perpetuate and to study his cultural heritage, that of the Jewish race; his harassment, the surveillance and searches, his prosecution for parasitism under statutes that, from their face, violate fundamental law of the country in which he lived, his prosecution for allegedly having violated the passport laws of the Soviet Union, and, finally, his current incarceration for defamation of the Soviet State, we find that these convictions were not only in violation of international law, but, indeed, in violation of the very fundamental law, the Constitution of the Soviet Socialist Republics.

And, therefore, we order that these convictions be invalidated, that they be proclaimed set aside in accordance with the conscience of mankind, and that we direct that the record of these proceedings be transcribed . . . and transmitted to the government of the Soviet Union to the end that Iosif Begun be released from custody and be permitted to emigrate to Israel as he originally sought in his application and which for illegal reasons were denied him.

Judge Sulewski, and Judge Mackoff, in concurring, each made a brief statement.●

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## CLOSE UP'S PUBLIC AFFAIRS PROGRAMMING

● Mr. STAFFORD. Mr. President, for the last 14 years, the Close Up Foundation has been bringing young Americans and educators to Washington for one of the most highly regarded educational programs in the country. During their week, participants get the opportunity to engage national leaders and officials in lively and often provocative debate. While the impressive growth of Close Up has accounted for more than 140,000 participants to date, it is clear that many more Americans, young and old, have a need for this kind of educational experience.

In 1979, Close Up joined with the Cable Satellite Public Affairs Network [C-SPAN] in an effort to increase Close Up's educational outreach through cable television. Since that time, Close Up has produced hundreds of television programs designed to bring timely information on national and international issues to schools and classrooms throughout the United States. This effort is cosponsored by R.J. Reynolds Industries, Inc.

By linking the expertise of Washington with the classrooms of the Nation, a wealth of new and current information becomes immediately available to educators. Close Up, through the sponsorship of R.J. Reynolds Industries, also offers printed curriculum materials to accompany several of these television series.

President Reagan has appeared in special editions of these televised seminars, as have many of the members of the Cabinet, Senators, Representatives, and other national leaders and officials.

R.J. Reynolds Industries, Inc., and its chairman and chief executive officer, Mr. J. Tylee Wilson, are to be congratulated for their strong support which allows Close Up's public affairs programming to reach into some 17 million households and 2,500 schools in all 50 States.●

### FRANK "FUZZY" ZOELLER

● Mr. LUGAR. Mr. President, as the Senate continues to debate late into another evening, I should like to take a moment of my colleagues' time to praise the speedy work of my fellow Hoosier, Frank "Fuzzy" Zoeller, who won a playoff round today to capture the U.S. Open Golf Championship. Zoeller, who learned to excel at the game of golf along the banks of the Ohio River in New Albany, IN, staged an awesome and overwhelming comeback today to beat Australian Greg Norman by eight strokes. On Sunday, Norman displayed an incredible skill to tie the tournament, but today Zoeller stopped Norman cold. And he did it with a great display of good humor and sportmanship. I have closely watched Zoeller's career since the time he was an outstanding high school golfer in Indiana, and I am proud to celebrate his success tonight.●

### SENATOR LLOYD BENTSEN'S STATEMENT HONORING THE 100 CLUB OF HOUSTON

● Mr. BENTSEN. Mr. President, I wish to add my warmest appreciation to the upcoming tribute to the 100 Club of Houston sponsored by the Harris County Sheriff's Deputies Association. The July 14 event is in recognition of the 100 Club's 31 years of service to the Houston law enforcement community.

Founded in 1953, the 100 Club originated with 100 members of the private sector contributing $100 apiece to, quote, "Provide assistance to dependents of certified peace officers who have lost their lives in the line of duty while protecting our lives and our property; to provide life protecting equipment that cannot be secured through regular channels for lack of funds; and to provide law enforcement with education and life saving programs."

The first check to the family of a slain officer was for $1,000; today they average $82,500. In the 31-year history of the 100 Club, $1,300,000 has been given to 59 families. Another $1,300,000 has been used to purchase and donate safety equipment such as bulletproof vests, communication equipment, and an armored vehicle, and $200,000 has financed the graduate degree education of police officers. Today, annual dues remain $100, but the club has grown to 6,000 members. Similar clubs throughout Texas and the Nation have patterned themselves after the 100 Club, which is the first of its kind.

The July 14 tribute to the 100 Club is the first ever. Families of peace officers killed in the line of duty are invited to meet with local personalities at an old-fashioned Texas Bar-B-Q. Past and present officers will be honored for service to their community, and entertainment will follow.

Mrs. Bentsen and I have long been aware and grateful for the valuable services provided to the Houston community by the 100 Club. We take this opportunity to thank the officers and members of the club for their dedication and wish them our best for their continued success.●

### THE CLOSE UP FOUNDATION

● Mr. JOHNSTON. Mr. President, I am pleased today to bring once again to the attention of my colleagues the fine work of the Close Up Foundation and the strong support which the foundation receives from R.J. Reynolds Industries, Inc., and its corporate family of companies.

I first became acquainted with the work of the foundation even before I entered this body in 1972. My predecessor, the late Allen J. Ellender, had been an early and active supporter of the young organization, and I was proud to help sponsor legislation which, in the memory of Senator Ellender, affords low-income students and their teachers the opportunity to participate in the program. Since the foundation created its National Development Council in 1980, I have been honored to chair this group, which includes Members of the Senate and the House, as well as corporate executives from around the country.

While the foundation enjoys the support of numerous corporate, business, and philanthropic sources, no company has exhibited a stronger sense of corporate citizenship than R.J. Reynolds Industries and its chairman and chief executive officer, Mr. J. Tylee Wilson.

In each of more than 54 Close Up communities, the R.J. Reynolds corporate family of companies provides fellowship or local program support. As a result of the interest and support of R.J. Reynolds Industries, Close Up has been able to expand its program to allow participation for handicapped students as well as students in foreign countries.

The work of the foundation reached new heights when it joined forces with the Cable-Satellite Public Affairs Network [C-SPAN] to make some of its materials available to high school classrooms and the home viewer. Today Close Up seminars are available to more than 17 million households and 2,500 schools wired to receive cable television. This project, too, is cosponsored by R.J. Reynolds.

Corporate citizenship is a responsibility that must be taken most seriously. It is a responsibility in which R.J. Reynolds Industries has exhibited an outstanding model for others to follow. Mr. J. Tylee Wilson, chairman and chief executive officer of R.J. Reynolds Industries, must be proud of this important national example of a partnership among business, government, and education in the service of young people and the country.●

### RECESS UNTIL 11 A.M. TODAY

Mr. STEVENS. Mr. President, I ask my good friend from West Virginia if there is any further business he wishes to bring before the Senate.

Mr. BYRD. Mr. President, I thank my good friend. My answer is in the negative.

Mr. STEVENS. Mr. President, the Democratic leader had good judgment. I think we should all go home.

Mr. President, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 12:38 a.m., recessed until 11 a.m., on Tuesday, June 19, 1984.

### NOMINATIONS

Executive nominations received by the Senate June 18, 1984:

#### DEPARTMENT OF COMMERCE

Katherine M. Bulow, of Maryland, to be an Assistant Secretary of Commerce, vice Arlene Triplett, resigned.

#### IN THE AIR FORCE

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

*To be general*

Gen. James V. Hartinger, 298-12-6337FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be general*

Lt. Gen. Robert T. Herres, 521-30-4808FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. Duane H. Cassidy, 194-26-2682FR, U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

*To be lieutenant general*

Lt. Gen. Charles G. Cleveland, 121-18-3678FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be lieutenant general*

Lt. Gen. Kenneth L. Peek, Jr., 314-30-4967FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. Thomas C. Richards, 573-36-4941FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

*To be lieutenant general*

Maj. Gen. Edward L. Tixier, 525-40-7833FR, U.S. Air Force.

DEPARTMENT OF STATE

Alberto Martinez Piedra, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

# EXTENSIONS OF REMARKS

## REVIVAL OF SAN FRANCISCO'S CABLE CAR SYSTEM

### HON. PETE WILSON

OF CALIFORNIA

IN THE UNITED STATES SENATE

*Monday, June 18, 1984*

● Mr. WILSON. Mr. President, I rise today to share with you a story with a storybook ending. Mr. President, this week San Francisco celebrates because its rustic cable cars will once again crawl over her many hills.

A relic from the era of the horse-drawn trolley, the San Francisco cable car system is the only survivor of its kind. But, at 106 years of age, the system had grown weary and in desperate need of a facelift. In fact, they had to rebuild the entire system.

Thursday, San Franciscans and millions of visitors will once again be able to enjoy and rely upon these historic cable cars which climb up steep hills and slip down into little valleys in a city once dubbed by columnist Herb Caen as "Baghdad by the Bay."

Many have contributed to making this national historic landmark like new again. At a cost of $58 million and nearly a year of intense mending, the San Francisco cable cars are clanging once more and that is due, in no small measure, to the help received from Congress when the need was the greatest.

In partnership with the people of San Francisco, the Federal Government has done its share to restore one of the miraculous transportation systems in the world. Thanks for helping an old friend.

I am personally very proud of my small part in this marvelous campaign to save the system. It has been a long wait to complete the task. But the sacrifice to allow the repair now seems all worth it because we will surely see another 106 years of joy to those who ride those San Francisco cable cars "halfway to the stars."●

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## VOLCKER WARNS ON BANK-FINANCED MERGERS

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. HAMILTON. Mr. Speaker, in reply to a letter I addressed to him on May 4, Chairman Paul Volcker of the Federal Reserve Board has sounded a "cautionary note" to the financial and corporate communities concerning the recent wave of bank-financed merger activity.

Chairman Volcker's letter provides new information on the size of the bank-financed merger wave. According to Federal Reserve staff estimates, about $60 billion in outstanding corporate equities were liquidated in the first 3 months of 1984 alone. As Chairman Volcker states:

> These deals frequently result in the creation of business balance sheets that are heavily laden with debt, and this leverage exposes the firms to great risks should their revenues prove unexpectedly weak or *should interest rates rise substantially* (emphasis added).

Moreover, there is often no offsetting public interest in the underlying merger:

> . . . it appears that a good many acquisitions are motivated largely by tax angles, desire to avoid "unfriendly" takeovers (which may mean only protecting existing management), or other considerations that may have little to do with serving the public interest, let alone shareholders' interests.

Chairman Volcker's letter makes clear that it is Federal Reserve policy to attempt to distinguish the effects of leveraged buy-outs from other sources of credit creation, and to avoid a contractionary policy response to surges in credit creation from its source. I believe that this is welcome news, at least for the short run. Nevertheless, so long as these transactions continue on their present scale, the financial soundness of our business corporations and the financial institutions which support them will continue to erode. If interest rates rise sharply, the next financial crisis may stem, not from Third World debt, but from the consequences of such pyramided stock deals here at home.

A copy of my correspondence with Chairman Volcker is appended.

U.S. CONGRESS,
JOINT ECONOMIC COMMITTEE,
*Washington, DC, May 4, 1984.*

Hon. PAUL VOLCKER,
*Chairman, Board of Governors, Federal Reserve System, Washington, DC.*

DEAR CHAIRMAN VOLCKER: As you know, we are experiencing sharp increases in private credit demand. I am concerned that such increases may provoke a policy response by the Federal Reserve which does not take appropriate account of the composition of these increases in addition to their magnitude. I write to seek clarification of the Federal Reserve position.

Though this is only the fifth quarter of expansion, short-term private credit demands are said by some to be approaching the magnitude of end-of-expansion booms. Private sector credit usage has risen more rapidly in this recovery than in any recovery in the last thirty years. Borrowing by nonbank financial institutions jumped an estimated $3.7 billion in the first two and a half months of 1984, which is the biggest gain ever for a comparable period. And short-term business borrowing expanded by some $8.7 billion through mid-March, a pace exceeded only once before.

What lies behind this surge? As Henry Kaufman has pointed out, neither inventories nor receivables are excessive. And the sharp rise in profits still seems adequate to support accelerating capital spending without recourse to borrowing.

Part of the explanation seems to lie in the pace of recent cash merger activity. The volume of mergers in the previous quarter exceeded $20 billion, more than double the previous record. Kaufman notes that even if only a third of this was financed through the banking system or in the paper market, then much of recent credit growth was associated with mergers. Excluding this merger-related demand, business loans at large commercial banks would have fallen in the quarter instead of rising by $4.6 billion.

Once, banks were reluctant or unwilling to finance mergers. Today, as Fortune magazine put it, "banks are greeting each new loan with jubilation and are falling over one another to get as big a piece of the action as possible. Banks are now openly lending to competing bidders and have made a quantum leap in backing leveraged buyouts."

I believe it is appropriate to examine the impact of these mergers on credit growth and interest rates, so as to define an a dilemma. If the Federal Reserve fully accommodates increased merger activity, so as to prevent interest rates from rising, there is an implied endorsement of such activity and some observers would argue that the consequences would be inflationary. On the other hand, to ignore the phenomenon altogether is to condone a crowding out of productive investment activity in favor of essentially unproductive uses of bank finance, with possible adverse consequences for investment, employment and productivity growth.

In the past, on at least three occasions the Federal Reserve has expressed its concern about the extensive use of credit to finance purely financial transactions.

In an October 10, 1979 letter to large member banks in the wake of such activity, you stated "this is not the time to finance activities that have little to do with the American economy."

In a letter to member banks on October 23, 1979, you wrote: ". . . credits for extraordinary financial transactions would be viewed as questionable by the Board. Examples would include loans . . . for corporate takeovers that simply substitute one source of financing for another and do not clearly promise improvement in economic performance.

". . . Lending institutions need to be alert to the continuing need for credit to finance the basic needs of the economy. In accommodating these needs, we believe banks should take particular care that small businesses, consumers, home buyers, and farmers continue to receive a reasonable share of available funds."

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

In 1982, in response to questions about merger activity, a Federal Reserve spokesman said:

"I do not want to suggest that we should be complacent about takeover loans. They may in some cases be cause for concern and they should be given close scrutiny. Moreover, they can have a somewhat inhibiting effect on short-run flows of credit. In committing themselves to a large volume of takeover loans, banks may restrict for a time their lending to other potential borrowers. . ."

How will the Federal Reserve respond to the current situation? Do you intend to allow interest rates to rise, despite the merger-related source of much of the credit? Or will policy be to ignore that part of rising credit which is due to merger activity? If policy is to allow higher interest rates irrespective of the merger-based nature of recent excess credit growth, are we not then imposing serious costs—higher unemployment, lower output growth, lost opportunities for productivity gain—on certain elements in our society for the sake of a line of activity whose social benefit is debatable at best?

In short, is this not the appropriate time to return to a vigorous policy of discouraging bank-financed mergers?

Sincerely,

LEE H. HAMILTON,
*Vice Chairman.*

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BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
*Washington, DC, May 29, 1984.*

Hon. LEE H. HAMILTON,
*Vice Chairman, Joint Economic Committee,*
*Washington, DC.*

DEAR VICE CHAIRMAN HAMILTON: Thank you for your letter of May 4. The surge in corporate mergers and buyouts raises many complex questions and, as you suggest in your letter, it is a phenomenon that must be reckoned with in the conduct of monetary policy. I can assure you that the Federal Reserve does endeavor to take account of the impact of this activity on financial markets and flows, with a view toward avoiding any policy actions that might disrupt the satisfactory performance of the economy.

Basically, the loans extended to parties involved in takeovers are merely financiing the transfer of ownership of existing corporate assets. As such, they should have no significant impact over time on interest rates and aggregate demand in the economy—so long as we recognize, when making policy decisions, the distorting effects the transactions may have on the financial flows we watch. We do indeed recognize those distortions. They are, for example, quite visible in the flow-of-funds data we recently published for the first quarter of the year (see enclosure). Our staff has estimated that, during the first three months of 1984, there was a net reduction in the outstanding shares of domestic nonfinancial firms amounting to around $60 billion at an annual rate—reflecting the impact of the absorption of shares of acquired companies.

This liquidation of shares was financed in many ways, including the use of liquid assets and loans from foreign banks, which are not directly reflected in the debt aggregate for which the Federal Open Market Committee has established a monitoring range. Even so, the takeover financing clearly boosted growth of the domestic nonfinancial sector debt measure, probably accounting for all of the acceleration in borrowing that occurred in the quarter; absent the merger financing, though, debt growth still would have been near the top of the range. Similarly, the funding efforts of banks to finance merger loans contributed substantially to the growth of our broadest monetary aggregate, M3, which has been running around the top of its target range thus far this year. Small impacts have been registered on M1 and M2 growth as well, but these have been largely transitory, short-run effects that have not left any appreciable mark on the year-to-date rates of expansion.

Our staff monitors these developments closely, and it keeps us apprised of the estimated effects on money and credit flows. The staff has been assisted in this effort by the cooperation of corporate treasurers and financial firm executives who have provided them with confidential information on credit arrangements and day-by-day payment data for some of the large transactions. With this information, my colleagues and I are in a position to evaluate the performance of money and credit aggregates and to adjust, at least in a rough way, for the distortions caused by the mergers. In this way, we hope we are able to avoid placing undue restraint on the availability of financing to households, businesses, or others attempting to undertake normal spending and investment.

I should emphasize, in this regard, that demands for credit this year—setting aside those that are merger related—have been very strong, as economic activity has expanded rapidly. The rising demands of households and businesses have had to compete in the market with the continued huge credit needs of the federal government, and these pressures inevitably have tended to leave their mark on interest rates. Especially in circumstances where the federal government maintains a highly stimulative fiscal posture, and investors remain concerned about the potential inflationary implications of sustained massive Treasury deficits, there can be no assurance of steady, let alone declining, interest rates even if the Federal Reserve makes appropriate allowance in its actions for the distortions of merger activity.

I should also note that my concerns about merger activity extend beyond the questions of aggregate monetary and credit growth impacts. These deals frequently result in the creation of business balance sheets that are heavily laden with debt, and this leverage exposes the firms to great risks should their revenues prove unexpectedly weak or should interest rates rise substantially. This in turn implies considerable vulnerability for those institutions that have provided the loans. I am encouraged to hear bankers say that they are taking a hard look at their lending policies to ensure that prudent standards are applied to merger loans and that they are turning down deals where the numbers don't look good under a wide range of potential future economic circumstances. I hope that this will result in an adequate degree of self-discipline, so that, even if merger activity does not soon subside markedly, it will at least not contribute to a greater financial fragility of our economy.

It is also entirely appropriate for officials in other parts of the government to take an interest in the many facets of the merger phenomenon. Some mergers certainly do perform useful functions, such as making possible the realization of potential economies of scale or other efficiencies; others provide needed infusions of capital or improved management. These can foster more competitive market conditions and greater productivity. On the other hand, it appears that a good many acquisitions are motivated largely by tax angles, desire to avoid "unfriendly" takeovers (which may mean only protecting existing management), or other considerations that may have little to do with serving the public interest, let alone shareholders' interests.

At this point, while I think a cautionary note to the business and financial community should be sounded, I would not be inclined to undertake vigorous jawboning or to place other extraordinary pressures on banks to curtail merger and takeover lending. However, it certainly is incumbent upon the System, as both a monetary authority and a supervisor-regulator, to monitor developments closely—and we intend to continue doing so.

Sincerely,

PAUL.●

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# NEW ALTERNATIVE FUELS AND COAL SLURRY PIPELINES WOULD BENEFIT FLORIDA

## HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. NELSON of Florida. Mr. Speaker, on June 25-27, some 800 individuals who are on the cutting edge of one of the energy world's most exciting new technologies will gather in Orlando for an important conference on slurry fuels. As a long-time proponent of coal slurry pipeline legislation in the Congress, I am excited about this conference and the benefits the new fuels may bring to the consumers of Florida. Stuart Serkin, a native Floridian and vice president for government affairs of the Slurry Technology Association in Washington, has written an article on this subject which I would like to bring to the attention of my colleagues.

### NEW ALTERNATIVE FUELS AND COAL SLURRY PIPELINES WOULD BENEFIT FLORIDA

(By Stuart D. Serkin)

While many are talking about the need for energy independence, some 800 people who are doing something about it will be meeting in Orlando to share their findings. Every American who pays a utility bill has a stake in this important conference scheduled for June 25-27 in Orlando, Florida. The Sixth International Symposium on Coal Combustion and Technology, sponsored by the Pittsburgh Energy Technology Center of the Department of Energy, will address the overall technology developments in the coal-liquid fuel mixture field, especially coal-water slurries.

Florida, as a state with extremely limited energy resources, would especially benefit from these cheaper fuels and the coal pipelines which may ultimately transport them. Orlando-area Congressman Bill Nelson and Bill McCollum are supporters of coal pipelines in the Congress. Florida Power and Light Company is currently conducting a year-long commercial test firing of these fuels to evaluate their performance.

Slurry fuels consist of between 65 and 75 percent coal with the remainder water and a small portion of additives to facilitate burning and suspension. Unlike coal slurry which is transported by pipeline with the water separated from the coal before burning, slurry fuels have the unique characteristic of being able to be direct-fired in boilers constructed to burn diesel fuel. The potential of direct-firing is in the cost savings that will result from eliminating the dewatering process, handling savings and from utilizing existing boilers without the expensive cost of retrofitting. The cutting edge of this technology involves the successful long-term test firing of slurry fuels and the economic long-distance transportation of these slurry fuels.

Clearly, a growing number of researchers and corporate executives are viewing coal-water fuels as a way to replace billions of barrels of imported oil while providing major new markets for the ailing U.S. coal industry. Moreover, the new fuels' price is half to two-thirds that of imported oil.

With nearly one-third of the world's known coal reserves (some 483 billion tons), the United States could use this fuel—its most abundant energy resource—to become more energy self-sufficient and to improve its soaring trade deficit. While we are making substantial strides in the battle to become energy self-sufficient, such as through extensive research into developing slurry fuels, many troubling obstacles remain. First, the railroads continue their successful campaign to block the development of coal slurry pipelines. At every turn, whether in the Congress or in the courts, the railroads are there to block the competition which would result from transporting a mixture of finely ground coal and a liquid through environmentally-safe underground pipelines. Such pipelines could save American consumers billions of dollars in utility costs. As Carl Bagge, president of the National Coal Association has said, "This is a consumer issue. The electric ratepayer is the one who is cross-subsidizing the railroads." Without competition in transportation, there are no restraints on the railroads to moderate rates and the customer pays.

Another troublesome development, but one with the same source—the railroads—is the fact that U.S. imports of foreign coal nearly doubled from 1982 to 1983. According to Department of Commerce figures, we imported 1.2 million tons of coal in 1983 compared with 650,000 tons imported in 1982. Much of this increase is coming from Colombia and South Africa into the Gulf ports of Mobile, Alabama, and New Orleans for use by southern utilities. It is no less than mind-boggling that, while the U.S. is presently suffering from the worst trade deficit in its history, and we are sitting on some 483 billion tons of coal reserves (enough to last us hundreds of years), we are importing foreign coal because it is cheaper than transporting U.S. coal to the utility. Obviously, a problem exists and the problem is the rapacious rate making of the railroads.

Electric Fuels Corporation, the company that purchases coal for Florida Power Corporation of St. Petersburg, Florida, has purchased 150,000 tons of Colombian coal for delivery later this year. Frederick J. Murrell, vice president of EFC, called the Colombian coal an excellent bargain. He said, "We are a natural market for Colombian coals, which offer significant transportation savings over some of our traditional sources in Appalachia. . . . I have been particulary concerned with the recent increases in rail rates, which escalated by 4.1 percent in January. We simply cannot afford this type of cost increase."

The transportation costs for moving coal from Colombia to the U.S. range from $4 to $7 per ton, while the rail haulage rates for moving Appalachian coal to Florida range from $18 to $22 per ton.

Finally, we must be concerned by the ongoing heated activity in the Persian Gulf between Iran and Iraq. It is clear that we are not energy "secure" in the world. According to the Americans for Energy Independence, the 1979-1980 oil disruption in Iran "took a trillion dollars out of Western industrialized countries." We must be concerned, even though we get only about 30 percent of our oil from the Middle East.

What needs to be done? We must utilize modern technologies to further the use of U.S. coal both domestically and for export. How can we do it? First, Congress must recognize that the needs of the consumer must be considered before those of special interest groups such as the railroads. It is imperative that Congress pass legislation to give coal slurry pipelines the opportunity to compete with railroads. Vigorous competition, a time-honored American tradition, will start to moderate prices and ease the utility burden on the consumer. Coal slurry pipelines are noiseless, safe, out of sight, and unlike rail lines, they don't block traffic, divide towns or cause needless injuries and deaths at railroad crosssings. Coal slurry is non-toxic and non-flammable. Coal piplelines would be built by the investment of private capital, with no tax dollars or loan guarantees. In addition, we must promote the expeditious development and utilization of slurry fuels.

The importance of bringing coal to Florida more cheaply is evident by the nearly unanimous support of coal pipeline legislation by the Florida Congressional delegation. Other Members of Congress should join with them to make these technologies a reality. We must commit ourselves to winning the legislative battle next year. It is the Florida consumer who will pay the price if we continue to permit the railroad monopoly to dictate the price we pay for our electricity.●

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# ARMS CONTROL: THE MISSING ARGUMENT

## HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mrs. LLOYD. Mr. Speaker, Mr. George Will has written a most provocative and thoughtful article entitled "Why Arms Control Is Harmful," which appeared in the June 18, 1984, edition of Newsweek. It is refreshing to see a frank discussion about certain illusionary aspects of arms control and the naivete about the intentions of the U.S.S.R., which is symptomatic of its strongest advocates. Mr. Will discusses a paper presented by Seymour Weiss, retired Ambassador and State Department Director of Political and Military Affairs from 1960-67. Mr. Weiss provides an incisive analysis of the five aims of the Soviets in their approach to arms control negotiations, and it is alarming in retrospect to realize how successful they have been in achieving these aims. Mr. Will reminds us that negotiations, as Dean Acheson noted years ago, can also be used to continue conflicts as well as terminate them. I suggest that any Member of the House who has more than a passing interest in U.S./U.S.S.R. arms control and its attendant negotiations should read this stimulating piece:

> Today's arms-control controversy is remarkable for the virtual absence of the most important argument. It is that the arms-control process is injurious to U.S. interests. That argument offends conventional wisdom and (what is much the same thing) wishful thinking. It has the redeeming merit of being true, as Seymour Weiss knows. In a paper presented at the Lehrman Institute, Weiss, retired ambassador and State Department director of political and military affairs from 1960-67, argues that enthusiasm for the arms-control process—a process barren of achievements—reflects misapprehensions about the usefulness of that process in slowing the arms race, saving money and taming the Soviet Union.
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> The idea of an arms "race"—often described as "spiraling"—is odd. The U.S. nuclear-weapons inventory has been sharply reduced. It contains 8,000 fewer warheads and 25 percent less megatonnage than in the 1960s. This is the result not of arms agreements but of modernization programs that produced safer, more effective weapons—modernizations of the sort that arms-control advocates try to block with agreements.
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> ### SAFER WORLD?
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> During the era of détente and arms control the Soviet nuclear arsenal has grown quantitatively and qualitatively. A study commissioned during the Carter administration compared 41 categories of nuclear capabilities (warheads, megatonnage, delivery systems, etc.) in the period beginning with the Cuban missile crisis. It concluded that the United States had been well ahead in every category in 1962 and was behind in all but two by the late 1970s. Since SALT II was signed in 1979 the Soviet Union has added more than 3,400 warheads. Does anyone think the world is safer than it was when the SALT process began in 1969?
>
> The achievement most celebrated by arms-control enthusiasts is the 1972 treaty effectively banning antiballistic missiles. True, we saved the cost of ABM's. But partly as a result of that decision we will spend many more billions on MX missiles, an unsatisfactory response to the fact that our undefended land-based ICBM's are vulnerable. Because MX is unsatisfactory, billions more may be spent on smaller, mobile "midgetman" missiles. Why is MX so unsatisfactory? Because of an arms agreement.
>
> SALT I limited the number and size of launchers—basically, holes in the ground—rather than numbers or megatonnage of warheads. Limits on those would be hard to verify, given Soviet secrecy. So SALT I drove arms planning toward big missiles packing maximum megatonnage. SALT I did what arms agreements usually do: it did not restrain competition, it turned it in a new direction. It was a direction in which the Soviet Union, with its huge SS-18s, had a lead. SALT I ratified a Soviet advantage and, by giving rise to the inherently vulnerable MX, reduced the stability of deterrence.
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> This republic overflows with laws, lawyers and faith that the world can be tamed by words on parchment. Americans see arms

control as a way of freezing the status quo; the Soviets see it as one arena in a comprehensive, unending competition. Furthermore, Weiss says, persons who think arms control should be the "centerpiece" of U.S.-Soviet relations ignore the fundamental incompatibility of U.S. and Soviet objectives. The configuration of the Soviet buildup in the arms-control era is unambiguous. The arms are not designed for defense but for producing a world pliant to Soviet designs. Weiss says there is no reason to expect the Soviets to negotiate away advantages, and ample reason to expect the Soviets to exploit the American thirst for agreements.

In addition to selling discord among U.S. allies and paralyzing U.S. procurements, Soviet negotiators have, Weiss says, five aims. First, limit the wrong things (e.g., launchers). Second, make sure the limits on important things are ambiguous. (SALT I limited but did not define "heavy" missiles.) Third, accept specific limits only if they are unverifiable (e.g., the ban on biological weapons or the SALT II limits on cruise-missile ranges). Fourth, evade even strict, verifiable limits by claiming they do not apply to this or that program. (The Soviets claim their ABM system is just a defense against bombers.) Fifth, get the treaty to legitimize violations of the treaty. (SALT II's flimsy verification terms forbid encryption of data from missile tests—except when encryption is not intended to evade arms-control limits. But given that it is encrypted, how are we to tell?)

Because ours is an open society, our government cannot cheat on agreements, and because our society invests such hope in arms control, even an administration as starchy as Reagan's is apt to forgive Soviet cheating or mute even required reports of it. When, complying with a Senate demand, the administration submitted a list of Soviet violations, The New York Times denounced the—you guessed it—administration for "initiating this damaging laundry list."

### WEAPONS

The arms-control era has coincided with unparalleled Soviet aggression and threats, from Indochina through Afghanistan. Try to tell victims of "yellow rain" about the wonders of arms control. Biological weapons are controlled—on paper. What has violation of the controls produced? A U.S. clamor for yet more agreements. And arms-control enthusiasts, their enthusiasm impervious to evidence, continue to use slogans that were threadbare when Dean Acheson refuted them.

Acheson demolished the bromide that "as long as the Russians are talking they are not fighting." Acheson said that Americans are so wedded to the belief that negotiations are means of ending conflicts that they are blind to the fact that negotiations are equally suited to continuing conflicts. Of the slogan "There is no alternative to negotiations with the Russians," Acheson said: "This is, of course, silly. For if there is no alternative, and if the Russians will only negotiate, as is now the case, on their own terms, then there is no alternative to surrender."

For that reason someone should tell Ronald Reagan to quit saying that nothing is more important than "development of a better working relationship with the Soviet Union." Such talk worsens the asymmetry in U.S.-Soviet negotiations by building pressure on the U.S. government for concessions to produce "movement." An immoderate and unempirical belief in arms control produces a policy of apologetic retreats.●

## D-DAY RECOLLECTIONS

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## HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. MONTGOMERY. Mr. Speaker, I was honored to lead a delegation of 18 Members of Congress to the 40th anniversary of the D-day invasion of Normandy on June 2-6. This visit had special meaning to several members of the group, who participated in the invasion or went ashore just days afterward, and to others who saw action during World War II.

One of the Members on the trip was Representative CHALMERS WYLIE of Ohio. He went ashore on D-day plus 4 as part of the 30th Infantry Division. He has written an account of his thoughts on the events we experienced on this return to Normandy. I want to share them with my colleagues.

### D-DAY: FORTY YEARS LATER

(By Chalmers P. Wylie)

I had not wanted to return to Europe to recall World War II experiences until this year. But when G. V. "Sonny" Montgomery, chairman of the House Veterans Affairs Committee, announced that he planned to take a delegation to the 40th Anniversary of D-Day Observance, I signed up immediately. There was something about this occasion that was different. President Reagan would be there with President Mitterrand of France. It would recall an alliance with British and Canadians that would save France and the rest of Europe from much distress. It would be the beginning of a fight to the death of the Third Reich which would rid the world of perhaps the most evil man who ever lived and gained such power.

It was my lot to be assigned to the 30th Infantry Division, a Tennessee National Guard Division that went ashore on D plus 4. I joined the 30th Division as a 2nd lieutenant replacement officer in July. In September, a monument will be erected at Mortain in honor of the 30th Division for winning perhaps the second most important battle in 1944. General Patton had taken off to the south and captured Rennes with a very extended-exposed supply line. The Germans, with Hitler's elite SS Gestapo Division leading the attack, were to try a desperate drive to the sea to cut off Patton! This would have prevented the Falaise Gap where several thousand Germans were surrounded and captured which no doubt shortened the war. The 30th was later to distinguish itself in the Battle of the Bulge and the Rhine River Crossing at Wessel among other decisive battles.

Returning to the D-Day Observance brought back memories kept mostly hidden for 40 years. Codel Montgomery, with 16 Congressmen and 2 Congresswomen, left Andrews Air Force Base at 8:00 a.m. on Saturday, June 2nd. On the way I learned that Sam Gibbons, a Member from Florida, was a Captain in the 501st Parachute Infantry 101st Airborne and landed at 1:24 a.m. on D-Day, 1,000 yards from St. Mere-Eglise. Sam did it right. He kept in touch and was to give us a most interesting narrative account of those first hours on D-Day. He even showed us the tree beside which he dug his foxhole upon landing.

Congressman Bob Young from Missouri was a PFC with the 15th Army Engineer Brigade. He waded ashore at Utah Beach on D Plus 4 with the 87th Infantry Division, 346th Regiment, and stayed on until the war ended in Europe on May 8, 1945.

Bill Nichols was a Captain with the 8th Infantry Division. He was a Battery Commander when he lost a leg in a mine field in Hertgen Forest, Germany.

Teno Roncalio, a former Member who made the trip, was a 2nd Lieutenant in a rifle company with the 18th Regiment of the Big Red 1 Division and waded ashore on D-Day.

G. V. Montgomery came through Le Havre in November 1944 as a 2nd Lieutenant. He was assigned to the 12th Armored Division. He is now a Major General in the Mississippi National Guard.

Tom Bevill was a 1st Lieutenant with the 5th Armored Division of the 3rd Army.

Sam Hall spent 3 years in the Air Force stationed as an Administrative NCO at Sheppard Field.

John Myers was an Infantry Replacement Officer, who served with several different units.

Tom Lantos has a fascinating story to tell as an anti-Nazi underground agent at age 16 in Hungary. He left Hungary after the war when the Soviet occupation began, and later brought his bride-to-be to the United States from Hungary. His parents were killed by the Nazis.

John Paul Hammerschmidt reminds us that there was another theatre. He was awarded 4 Distinguished Flying Crosses, 5 Air Medals and 3 Battle Stars as a C-47 Pilot flying the Burma Hump.

Sam Stratton was a Lieutenant in the Navy who learned Japanese so he could be an intelligence officer. He was a part of the 7th Fleet assigned to the 41st Infantry Division to interrogate prisoners of war.

The husband of Congresswoman Holt, T. Sgt. Duncan M. Holt, was in England on D-Day. He flew 33 missions as a radio operator in a B-17 and received an Air Medal with 6 Oak Leaf Clusters.

Del Latta served a 3-year enlistment with the 37th Division of the Ohio National Guard after which he entered Marine Corps training. He saw no action but his brother did as a Sergeant in the Battle of the Bulge. His wife's brother was killed in the South Pacific.

Congresswoman Byron's father is Harry Butcher. He was a Chief Naval aide to General Eisenhower for three years. While the men were off to war, Mamie and Congresswoman Byron's mother lived together.

Congressmen Robert Badham, Harold Rogers and Toby Roth are too young to have been in World War II. They went as interested observers and to gain a different perspective of World War II.

There was some apprehension as to whether my wife Marjorie would get to go. Marjorie had broken her ankle the Sunday before while rescuing our dog from a groundhog hole. She went with a cast on her leg and with excellent help made all the stops.

The first stop was at Orly Airport in France at 9:20 p.m. (having lost six hours in the process).

The next morning, we went by plane and bus for a tour of Omaha Beach, Pointe Du Hoc and other historical sites on Normandy. We visited the cemetery at Omaha Beach where 9,386 Americans are buried. I asked Mr. Jackie F. Bell, an officer with the Brittany American Cemetery service if any

Ohioans are buried there. Sgt. John W. Calvin of Ohio who was with the 561st F.A. Battalion is buried there and I took a picture of the grave. Most Ohioans were repatriated back to the United States by their families which was their privilege. Altogether from WWII there are 15 American cemeteries in Europe with 79,124 American soldiers buried there.

We toured Omaha Beach. I saw the place where I waded ashore as a replacement officer. It seemed very strange that the picture came back to me so very clear.

We visited Pointe Du Hoc where we saw a climb by soldiers of the 10th Special Forces depicting the climb of the Rangers of June 6, 1944 when 225 went in for the assault. Ninety made it.

We witnessed an Airborne jump of 150 Paratroopers of the 82nd Airborne Division.

This ceremony was meaningful because I met and talked with J. Lawton Collins, who was a Major General, Commander, Seventh Corps, during the Normandy Invasion. The highest rank he obtained in his career was a Four-Star General. I said to General Collins, who was nicknamed "Lightning Joe Collins", "General, I was with the 30th Infantry Division." He said (sharp and alert at 93), "The 30th wasn't a very good division at the beginning but they were one of the best at the end."

General James M. Gavin, Brigadier General of the 82nd Airborne Division during the Normandy Invasion, who advanced to the rank of Lieutenant General, and General James A. Van Fleet were there. It was interesting to hear them talk of how this daring gamble paid off 40 years ago.

On the 6th, we attended the special service at the American Cemetery at Omaha Beach. President Reagan attended with President Mitterrand. It was one of the most moving experiences I have ever had. President Reagan gave a very sensitive and emotion-packed talk which brought tears to the eyes of all those present. I think the most moving experience came as the ceremony was ending when the French Foreign Legion Band played the French National Anthem, Le Marseilles. The crowd was very still and quiet and all that could be heard was the band music. The American Armed Forces Band started to play the Star Spangled Banner and some of us in our delegation started to hum or sing the words softly, others took it up. The President, startled, looked in our direction, a slight smile came to his lips and he started to sing the Star Spangled Banner. President Mitterrand looked slightly to the left towards the President, giving a slight smile and looked straight ahead at the American Cemetery standing at attention. The crowd of about 5,000 Americans picked up and started singing the Star Spangled Banner. This was a most thrilling moment.

I knew then why I went. While we were there we visited a British Cemetery. I was struck by its beauty. Every grave had live flowers. Then we visited the German Cemetery which is stark and bare and makes one feel very sad, very sad that so many young men had to die; American, British, Canadian, French, Belgium, Dutch, Russian and German because of one man.

Yet West Germans are now our friends and the Russians are our adversaries.

I went back to pay my respects and as a tribute to the brave individuals I personally knew and all who paid the supreme sacrifice so that we could live in a world free of Nazism.

I was reminded that I was with 11 Members of Congress who felt a sense of patriotism and pride so strong that they helped change the history of the world.

World War II established the United States as the preeminent power for peace, freedom, democracy, and decency. D-Day 1984 may give us as a nation a psychological lift knowing that we still have the capacity along with the British, the Canadians and the French to provide the balance for keeping our freedom and liberty.●

## TRIBUTE TO DR. THOMAS F. O'DONNELL

### HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. HARRISON. Mr. Speaker, on June 20, 1984, a prominent northeastern Pennsylvania educator, Dr. Thomas F. O'Donnell, curriculum director of Luzerne Intermediate Unit 18 will receive this year's James L. Nicholas Educational Leadership Award being presented by the University of Scranton Internal and External Advisory Committee for school administration and supervision programs.

This award, named in honor of the late James L. Nicholas who served as principal of Lake Lehman High School at the time of his death, is presented annually to an educator who has best personified qualities of educational leadership and contributed to the improvement of elementary and secondary practitioners in the field of education.

Dr. O'Donnell, a Wilkes-Barre area school director for 18 years, is a graduate of GAR High School and received his bachelor of arts degree from King's College, Wilkes-Barre, in 1956. He received a master of arts from the University of Scranton in 1961 and his doctorate in education from Lehigh University in 1973.

He has taught in elementary, secondary, college, and professional schools.

Dr. O'Donnell is a member of the Pennsylvania State School Boards Association and has served that group as State vice president, regional director and member of its executive committee. He is a member of the American Association of School Administrators, the Wyoming Valley Historical Association, the Wilkes-Barre Chamber of Commerce, and is president of the Wilkes-Barre Area Vocational & Technical School Joint Operating Committee.

He and his wife, the former Eileen Harkins, are the parents of four sons.

Mr. Speaker, it is with great pleasure that I rise to join Dr. O'Donnell's family, friends, and colleagues in recognizing him for his outstanding achievement in being named recipient of this year's James L. Nicholas Educational Leadership Award.●

## HON. SILVIO CONTE ADDRESSES WOMEN'S RESEARCH AND EDUCATION INSTITUTE

### HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Ms. SNOWE. Mr. Speaker, I recently had the enviable task of introducing my respected colleague from Massachusetts, the Honorable SILVIO O. CONTE at the annual conference sponsored by the Women's Research & Education Institute.

For the past 4 years, the Women's Research and Education Institute [WREI] has brought leading researchers on the status of women together with policymakers in a forum that greatly enhances the efforts of both groups. This year's conference focuses on one of the most pressing concerns of both policymakers and researchers—the issue of women as low-wage earners: its causes and consequences.

Few Members of Congress have done more to improve the status of American women than SILVIO CONTE, and those attending the WREI symposium were extremely fortunate to have the opportunity to hear SIL discuss his important work as ranking minority member of the House Appropriations Committee and Subcommittee on Labor, Health and Human Services and Education. Mr. Speaker, I would like to share these remarks with my colleagues, and express my appreciation to SILVIO CONTE for his substantial record of achievement on behalf of American women.

REMARKS OF THE HONORABLE SILVIO O. CONTE, WREI LOW WAGE-WORK SYMPOSIUM, JUNE 5, 1984, RUSSELL SENATE CAUCUS ROOM

I welcome the opportunity to speak with such a distinguished group and appreciate the kind words of my good friend Olympia Snowe. As co-chair of the Caucus for Women's Issues, Olympia and Congresswomen Pat Schroeder have led the Caucus through a successful transition, expanding the political base and defining the legislative agenda for women's issues in the Congress.

Before 1981, an organization of women Members of Congress was the lone voice in the House advocating women issues. In November of that year, the name of the organization was changed and the political base was dramatically expanded. This change symbolized the growing importance of women's issues not only in the Congress but in American political life as well.

In the 97th Congress, 86 Congressmen and women were members of the Caucus for Women's Issues. In this Congress, membership has grown to 130 members of the House. The expanding political base is evident—115 members of the caucus are men, including myself.

The expanding political base has given women's issues increased importance on the legislative agenda of the Congress. These issues no longer reflect narrow legislative goals designed to affect one group. Instead, women's issues affect all Americans and raise important questions about our government and our society. Will there be equal pay for comparable work? Will our civil rights laws be applied as the Congress intended and enforced uniformly? Will there be economic equity for all Americans?

Legislation has been introduced to address these important questions. One of these questions is answered by a major initiative developed by the Caucus for Women's Issues. First introduced in 1981, the Economic Equity Act has focused the legislative effort in both the House and Senate. During the 97th Congress, three provisions were enacted: a reform of military spouse pension system, the expansion of the dependent care tax credit and the revision of the agricultural estate tax.

These successes continued in the 98th Congress. Earlier this year, the House of Representatives passed the Child Support Enforcement Act, and just two weeks ago the Private Pension Reform bill was unanimously approved. Later today, the House will consider another provision of the Economic Equity Act. The Child Care Information and Referral bill is included in the Head Start Reauthorization legislation.

It has been my privilege to participate in these victories, and it is my sense that those are just the first of many to come.

My work, as Ranking Minority Member of the House Appropriations Subcommittee on Labor, Health and Human Services and Education, concentrates on funding issues affecting women. It is there, in the face of our $200 billion deficits, that the fight seems to get harder rather than easier.

In fiscal year 1985, the budget request for the Department of Health and Human Services will exceed $300 billion, the first Department to exceed $300 billion, and the third largest budget in the world, after the United States and the Soviet Union. Out of the total HHS budget, and this is a new fact for me, 55.7% is spent on women or on women's concerns—just don't ask me how HHS came up with that figure.

Sitting back and taking a look at the overall picture, one of the amazing but little known facts is how much our spending for these programs has increased. In FY 1980, total outlays for the Department amounted to $195 billion. In FY 1984, 4 years later, outlays are now estimated to amount to $296 billion. So in those 4 years, outlays have grown by over $100 billion, or more than 50%, well above the average rate of inflation, and at the same time as the most massive effort to control spending since many of these programs were created.

These figures show two things. First, the continued commitment of the federal government to provide basic assistance to those in need. Second, when those figures are broken down, almost all the increases are in the uncontrollable entitlement programs like Social Security and Medicare. So when it comes to appropriating for the discretionary programs, funded on an annual basis, there isn't much money left. Congress has been successful in restoring proposed cuts. In FY 1980, for example, discretionary budget authority in HHS amounted to $12.3 billion, and in FY 1984, $13.1 billion. But in FY 1985, the budget request is for $11.9 billion, so we have our work cut out for us again.

Clearly, as we are forced to make the difficult funding decisions, programs like maternal and child health care receive top priority. The program received $373 million in 1982, including a supplemental of $25 million that survived two vetoes. For the past two years, the appropriation has ended up above that authorization level of $373 million. I have introduced a bill, H.R. 4661, to raise the authorization to nearly $500 million. Rather than be bound by existing authorization levels, I believe that my L/HHS Subcommittee will not act on the MCH appropriations until the efforts to raise the authorization level have been successful.

I have also fought hard to maintain the family planning program. For three years running, now, we have turned back efforts to block grant the program, and have gotten the appropriation back up to $140 million. But last year, in the FY 1984 appropriation bill, I sponsored an amendment directing the Department to transfer the program back from the Office of the Assistant Secretary for Health to the Bureau of Health Care Delivery, where it previously had been located. Well, the Department thumbed its nose at us, and I can tell you that in the mark-up of the general supplemental last week, I moved to turn down the Assistant Secretary's request for a pay supplemental of $1 million. I hope to be able to use that as leverage to either transfer the program back under the control of health professionals or else get somebody in charge of the program who has the best interests of the family planning program in mind.

Another critical area that remains a high priority is child care. Title XX is what's known as a capped entitlement, and I support the position that the Congress has to appropriate whatever is authorized. Late last year, the cap was raised to $2.7 billion, but the Administration failed to send up a budget request to raise the appropriation to that level. During our mark-up of the fiscal year 1984 supplemental last week, we included the $25 million necessary to bring Title XX up to its cap.

Furthermore, if and when the Child Care Referral provisions I mentioned earlier and the School Facilities Child Care Act are enacted into law, I would certainly be supportive of working with my colleagues on the Appropriations Committee to address the issue of funding for these programs.

Over in the Department of Education, I have fought long and hard over the past 4 years for the continued existence of the Women's Educational Equity Act program. For the past three years, the Administration has proposed to zero fund this program. I am pleased to say that it has been preserved. After lengthy negotiations, the publishing center for the program is still at Wellesley College, and several publications have been coaxed through the PAVAC review process at the Department. Last year, report language was included in the L/HHS bill telling the Department not to undermine the integrity of the program through any reorganization. As you probably know, the reorganization did take place, and efforts are underway to enact legislation to reverse that action. I believe it is interest like this that discourages any attempt to take on things like rewriting the regulations. I hope so, anyway.

Those are some of the battles I fight on a day to day basis. They may not get the attention that many other efforts get, but if you can't preserve your gains with the appropriations necessary to keep those efforts going, then before you know it, you can be back where you started from.

All of these efforts—the revision of our civil rights laws, the progress of the Economic Equity Act and the maintenance of adequate funding for important federal programs—are positive steps but do not address the fundamental principle of equality for every American. This principle must become part of our fundamental body of law. We must continue to pursue ratification of the Equal Rights Amendment. No law, government program or Presidential directive can replace the ERA.

For those interested in the Fall elections, let me close with some political advice and encouragement, borrowed from a great women activist. Over 100 years ago, Susan B. Anthony—in a letter to Elizabeth Cady Stanton—wrote:

"I shall work for the Republican Party and call on all women to join me, precisely . . . for what that party has done and promises to do for women . . ."

I'm sure Olympia agrees.

Thank you.●

## IT IS TIME TO TALK, MR. CHERNENKO

**HON. WM. S. BROOMFIELD**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. BROOMFIELD. Mr. Speaker, President Reagan is ready for a summit meeting with the Soviets. He has taken conciliatory approach to the leaders of that country. This is a step in the right direction. I trust that Mr. Chernenko will take the olive branch and participate in the meeting.

As you all know, President Reagan recently announced the prospect of an eventual summit meeting with Soviet President Chernenko. The United States and the Soviets are already engaged in exchanges to establish a basis for talks.

Our President has shown real flexibility on this issue. He has wisely backed away from some of the conditions he previously insisted upon as prerequisites for a summit meeting. He wrote to the Soviet leader and very clearly told him that he was ready, able, and willing to meet Mr. Chernenko. President Reagan continues to believe in the need for some substantive content as a condition of summit talks. The President is right in saying that the talks should be well prepared in advance to increase the prospect of producing concrete results. The Soviets are also supportive of a general agenda for the talks.

The President has also compromised on another important issue. He has abandoned his previous refusal to discuss with Moscow a treaty to limit antisatellite weapons. Work is already in progress on specific aspects of an antisatellite proposal that will be made to the Soviets. Informal talks on this subject may be held this year. Our Government had previously insisted that such a treaty be verifiable as a condition of discussing it with the Soviets.

I am encouraged by Moscow's initial reaction to the President's initiative.

Although somewhat guarded, the Soviet response was generally positive. This may indicate a significant change in Moscow's attitude. Let us hope that the Soviets will agree to a summit and that discussions on a broad range of subjects will clear the atmosphere and improve mutual understanding between our two countries.

I commend the President for his brave decision to take a chance and for his desire to relax previous conditions for a future summit meeting. His willingness to meet and talk with the Soviets is a step in the right direction. Let us hope that the Kremlin has really abandoned its previous uncompromising position on this important issue.

I am certain that my colleagues will join me in hoping that real progress can now be made on a future summit meeting.●

## THE FAIR TRADE IN STEEL ACT OF 1984

### HON. KATIE HALL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mrs. HALL of Indiana. Mr. Speaker, I rise to speak in favor of, and urge the support of my colleagues for, the Fair Trade in Steel Act of 1984.

In the First Congressional District of Indiana, the district I am proud to serve, there are more steel mills than in any other district in the country. There is also the highest unemployment in the country. The people of northwest Indiana are all affected in one way or another by the steel industry. Steel is the backbone of the economy in our district; moreover, the repercussions of the crisis in the steel industry can be felt throughout the Nation's economy.

In the first quarter of 1984, foreign steel imports accounted for 25.4 percent of the American market. This means that more than 1 out of every 4 tons of steel used in this country is a foreign import; 1984's first quarter imports were 92 percent higher than those in the first quarter of 1983. These imports account for a loss of over 200,000 American jobs. If ever there was a time for the Fair Trade in Steel Act, it is now.

Steel quotas are the remedy to this critical situation in the steel industry. The Fair Trade in Steel Act of 1984 would impose quotas on foreign countries based on their historical trade patterns with the United States for the next 5 years.

I pledge my total commitment to the task before us because I believe that we are in the midst of the most serious crisis ever to face the American steel industry. I also believe that the Fair Trade in Steel Act is essential to the revitalization of this industry and equally essential to the continued economic growth of the United States.

I urge my colleagues to join me immediately in the cosponsorship of H.R. 5081, the Fair Trade in Steel Act of 1984. If we do not act immediately we may soon witness the death of the American steel industry.●

## CITIZENS' SCHOLARSHIP FOUNDATION OF AMERICA HELPS STUDENTS MEET FINANCIAL DEMANDS

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. FRANK. Mr. Speaker, one of our Nation's highest goals is to help deserving young people with the difficult task of financing higher education. We are all fortunate that the Citizens' Scholarship Foundation of America [CSFA] has existed since 1958 to help establish and to guide scholarship programs.

CSFA grew out of a local "Dollars for Scholars" program, initiated by Mr. Irving Fradkin in Fall River, MA. His idea was to raise money to assist worthy young men and women in the community so that they could attend the college of their choice. Today, there are over 200 "Dollars for Scholars" programs with dedicated volunteers carrying out this important task.

More than 100 companies and foundations sponsor scholarship programs through CSFA, which because of its extensive experience continues to grow both at the community and corporate level. Just this year, CFSA was chosen to administer an education grants program for minority and female employees of General Motors and their families. Over the next 5 years, that program will distribute $7 million to 4-year college programs and vocationally oriented programs of shorter duration.

Overall, an estimated 10,000 college students will receive more than $6.5 million in CFSA program-related scholarships in 1984. While this assistance is no substitute for adequate levels of Federal education funding, we can all be proud of the work that Mr. Irving Fradkin and so many others at CFSA have done.

Mr. Speaker, I commend CFSA on the occasion of its 25th year and ask that an article from a recent addition of CSFA News be inserted in the RECORD.

The article follows:

GM AND EEOC NAME CSFA TO CONDUCT PROGRAM

1984 DISTRIBUTION: $1,400,000

The new year was ushered in as a happy one for CSFA by a joint announcement from General Motors Corporation and the United States Equal Employment Opportunity Commission confirming that CSFA had been named to administer a significant, new student aid program.

The Education Grants Program for Minorities and Women will provide in 1984 some $200,000 in support of four-year college programs and an additional $1,200,000 in support of programs of less than four-year duration in technical or trade schools, science or engineering programs, or courses preparatory to such programs, including remedial training. Both programs have a life cycle of five years, bringing the total distribution during that span to $7,000,000.

The Education Grants Program is one part of the outcome of negotiations between GM, EEOC, and the United Auto Workers for settlement of a long-standing discrimination charge against the company. The grants will benefit employees of GM on a first-come, first-served basis who are minorities or women as well as their spouses and children who are also minorities or women. Awards are for tuition only and may be as much as $2,500 in a single year.

CSFA was judged capable of handling the grants program because of a long history of involvement with several aid programs targeted on vocational-technical education, minorities, and women. CSFA administers vocational-technical programs for Weyerhaeuser Company Foundation, United Parcel Service, Bemis Company Foundation, and for the first time in 1984, Bristol-Myers Company.

In 1979 CSFA custom designed the Feminists for Media Rights Opportunities for Women in Broadcasting Scholarship Program for residents of Eastern Pennsylvania. CSFA also designed and administers programs for minorities that are sponsored by Meredith Corporation Broadcasting Group and New York Telephone Company.

In offering congratulations to the senior management of CSFA who conducted negotiations with GM and EEOC on the Education Grants Program, Ralph Seifert, Chairman of CSAF, said: "Beyond the value of the assistance that will be welcomed by the participants in this program, I am personally gratified by the expression of confidence in CSFA by both General Motors Corporation and EEOC. We have no doubts whatsoever concerning our ability to handle programs of this size and even greater magnitude. That confidence is now obviously shared by the largest of the Big Three auto makers and by one of the more visible and respected commissions of the United States Government. This program is obviously a landmark in the ongoing development of CSFA in student aid programs in the private sector."

The Education Grants Program for Minorities and Women opens on April 2, 1984. CSFA expects to make upward of 3,000 awards in the first year.●

## SUCCESS WITH SELF-HELP

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. STARK. Mr. Speaker, on July 14, Community Resources for Independent Living, Inc. [CRIL], will celebrate its fifth birthday and the construction of a new multiservice center building in the city of Hayward which is in my congressional district.

CRIL was formed in 1979 by a small group of disabled residents in southern Alameda County in response to a lack of basic services to meet the special needs of persons with disabilities. In a relatively short time it has become the central resource for vital services in the area. The program is extremely successful due to the commitment and leadership of the disabled themselves, continually strengthened by growing community support.

CRIL is committed to equal access and equal rights for all persons with disabilities. As an advocate for the disabled community, CRIL keeps abreast of new legislation and programs relevant to the disabled.

Housing services, benefits counseling, advocacy, independent living skills through training, peer counseling, attendant/reader referral and information are among the comprehensive services provided the disabled community by CRIL. It is an exemplary self-help center and I join the friends and supporters of Community Resources for Independent Living in extending congratulations on 5 years of success and in wishing many more years of community enrichment.●

## DEMOCRATS AND QUOTAS

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. MICHEL. Mr. Speaker, when two lifelong, dedicated advocates of civil liberties, with records of proven commitment to civil rights for all Americans, tell one of our major political parties that it is lacking in candor and commitment in the fight against the quota system, that is news. When those two spokesmen are longstanding Democrats and they are addressing the Democratic Party's National Platform Committee, that news deserves to be known by ever Member of this House and by the American public, no matter what party you belong to.

At this point, I wish to insert in the RECORD, "Democrats, Take a Stand on Race Preferences," a statement by Morris B. Abram and John H. Bunzel, both members of the U.S. Civil Rights Commission.

### DEMOCRATS, TAKE A STAND ON RACE PREFERENCES

(The following is taken from testimony Monday to the Democratic National Platform Committee by Morris B. Abram and John H. Bunzel, both members of the U.S. Civil Rights Commission:)

We come before you as longstanding Democrats who have supported for 40 years the efforts of this party to provide rights and opportunities for all individuals independent of race, color, religion, sex or national origin. Twenty years ago we joined with other individuals and groups in urging Congress to pass the Civil Rights Act that was designed to bring Americans together, not to separate or divide them. The purpose of that historic act was to take race out of the equation, to cut out the tumor of racial categories that had been poisoning our whole society for too long. The nation's commitment to equality of opportunity had been reaffirmed.

During the last decade or so, however, congressional policy has undergone many changes—but not because there has been a great reversal of public opinion. As verified by every poll, the American people remain committed to the goal of equal opportunity. Yet today in many quarters the principle of equality of opportunity is being replaced by another principle, namely, equality of results. We are now told, for example, that racial preference should be given to certain persons by virtue of their group membership. That is why there is so much talk today about quotas.

In the name of a new equality, the policy of color blindness, which had long been the moral touchstone and mandate of our Constitution and is a requirement of the 1964 Civil Rights Act, has been severely modified. Benjamin Hooks, the NAACP's executive secretary, said recently that a color-blind approach to civil rights is "wrong because it's stupid." If he really means this, then he is calling into question the lifework of Hubert Humphrey, Roy Wilkins, George Meany and millions of other civil rights activists who have sought to establish a national standard that is blind to color distinctions. Does the Democratic Party now think that a colorblind approach to civil rights is wrong and stupid?

We come before you today because we believe the time is at hand for the Democratic Party to state clearly and unambiguously how it feels about this redefinition of equality. Glittering generalities will not do. It is not enough, for example, for the 1984 Democratic Party Platform to voice strong support for affirmative action without articulating the terms and standards on which this endorsement rests. The issue of affirmative action is not one of moral virtue or "right thinking." Nor is affirmative action, as some would have us conclude, merely an attempt to make up for our past sins as a racist society. The truth is that in practice it frequently presents a collision of rights and a conflict of principles. We urge our fellow Democrats at their convention in San Francisco to be forthright with the American people and tell them what they mean by affirmative action—and what they do not mean. . . .

Does the Democratic Party believe that the principle of nondiscrimination should be replaced with the principle of race-based entitlements to political influence or representation? Most Americans do not believe that race should be the predominant basis on which status is determined, individual worth assigned, entitlements settled or legal rights measured. They believe that everyone should have a "fair shake," which is very different from the concept that everyone should have an "equal share." Does the Democratic Party agree or disagree?

There is clear evidence that racially preferential treatment for certain groups is strongly opposed by the public. It is not their idea of equality. Where does the Democratic Party stand on this important issue? Does it agree that racially preferential treatment is not what affirmative action policy or practice should be all about, or does it disagree? Will the Democratic Party Platform address the issue of preference based on race directly and candidly—or will it blur the issue or, even worse, not mention it at all?

Affirmative action in public education has frequently taken the form of school assignment on the basis of race and compulsory transportation of students to the schools to which they are assigned, in many cases far from where they live. The issue of mandatory busing is extraordinarily complicated, and it would be foolish to pretend that its many vexing questions could be dealt with in a party platform. But in light of the fact that busing for purposes of desegregation and racial balance has met with strong resistance from parents and the public at large (especially in many of our large metropolitan centers), we believe there are some critical questions that the Democratic Party should give attention to. For example, should the student body of every school be racially balanced according to some specified proportion? Should no school be allowed to have a black majority?

The American people have strongly supported the Voting Rights Act in order to eliminate racial discrimination in the electoral process. But we ask this committee to consider an incident that took place during the election of Harold Washington as mayor of Chicago last year. It did not escape the attention of many Democrats everywhere. Several members of the Congressional Black Caucus and other black leaders sent Walter Mondale a mailgram charging him with "profound disrespect" and expressing their sense of "dismay" and "betrayal."

What had Mr. Mondale done? He had endorsed a candidate in the Chicago primary who happened to be white. Harold Washington, is black. The mailgram stated: "You have enjoyed great support from the black community, and for you to endorse a local white politician over a member of the Congressional Black Caucus forces us to seriously reconsider your judgment and sensitivity." The 52-member Black Caucus of the Democratic National Committee, in a unanimous resolution, also expressed "utter dismay and extreme disappointment" with Mr. Mondale and Sen. Kennedy for supporting white candidates in the race.

We think not only Democrats but voters throughout the country deserve to be told how the Democratic Party stands on such a fundamental principle. Does it believe that there should be less, not more, of an emphasis on race in the political process—and will it say so?

Minister Louis Farrakhan of the Nation of Islam, an associate of the Rev. Jesse Jackson, has threatened violence and preached his own brand of racism. Will the Democratic Party repudiate these sentiments and disavow Mr. Farrakhan?

We think there is a significant thread running through what we have tried to say—all too briefly—today. The American people want and will continue to work for a society that is free of racial hatred, racial division and racial injustice. They do not wish to support those whose actions would increase the already pronounced trend to politicize and racialize more and more aspects of American life. They do not believe that racial distinctions should have any place in our laws or public practice, or that persons should be judged on the basis of the group to which they belong. They believe that the individual, not the group, is the fundamental bearer of rights in our society, and that justice is done to an individual, not a race.

Where does the Democratic Party stand?●

## TRIBUTE TO DR. RUSSELL H. DERR

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. YATRON. Mr. Speaker, it is with great pleasure that I have an opportunity today, upon the occasion of a public dinner in honor of Dr. Russell H. Derr at the Peace United Church of Christ in Swartzville, PA, on July 22, to recognize his outstanding contributions to the medical profession and his community.

Dr. Derr is being honored by the people of his community as a local family physician who served his patients well in Adamstown, PA, and the surrounding area in both Lancaster and Berks Counties, from 1946 to the present. Dr Derr was born in Denver, PA, attended and graduated from Denver High School in 1932, Muhlenberg College in 1936, and Jefferson Medical College in 1940. He is married to the former Mary E. Knerr and they came to Adamstown in 1946. Dr. Derr served in the U.S. Army during World War II where he reached the rank of major and served much of his duty in China. He is a member of the American Medical Association, the Pennsylvania Medical Society, the Academy of Family Physicians, and St. Paul's Lutheran Church where he serves as a councilman and choir member. He is also a member of the Adamstown VFW, the Adamstown Lions Club, and the Ephrata Lodge No. 665, F.&A.M. Further he is the health officer for the Adamstown Borough.

Few people have contributed as much to the community as Dr. Derr over the last several decades. Even now he continues his practice in the homes of some of his patients who cannot come to his office. For him, the term "house calls" still applies underlining his determination to ensure the best possible care for all his patients. Dr. Derr has also had a close relationship with the Reading Hospital, where he served his internship/residency and with the Ephrata Community Hospital.

Without question, Dr. Derr's efforts have truly played a major part in medical care in his community. I would like to ask my colleagues to join me in saluting his life's work and in wishing him continued future success. I am indeed grateful that I had this opportunity to bring some of Dr. Derr's accomplishments to your attention.●

## U.S. HAZELNUT INDUSTRY

### HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. AuCOIN. Mr. Speaker, I am today introducing legislation for the growth and enhancement of the U.S. hazelnut industry.

The industry, which is largely centered in my State and my own district, produces only about 4 percent of the world's hazelnuts, yet these are without question the best quality hazelnuts in the world. The United States is the leader in establishing quality standards through administrative regulations in the Department of Agriculture and I am proud to have worked successfully to pass legislation requiring importers of hazelnuts to meet similar quality control standards as domestic producers.

Unfortunately, despite the efforts of myself and other members of the Oregon delegation, we have been unable to obtain the 1-percent quality standard at the U.S. Department of Agriculture established by legislation. A 1-percent quality standard simply provides that no more than 1 percent of imports—and domestic product—will have serious defects: Defects defined by the USDA as "mold, rancidity, insect disease or decay." The domestic producer and the consumer alike are both harmed by allowing more than 1 percent of these defective, rotten, and decayed nuts entering the United States.

Despite this reasonable demand and the clear benefit to the American consumer, we have been unable to obtain enforcement of a 1-percent standard from the Department of Agriculture, which has settled for 2 percent, or double the amount of decayed, rotten and mold-ridden nuts by volume.

The USDA is refusing to implement a quality control provision that is in everybody's interest. With an increased quality standard upheld by importers as well as domestic producers, the consumer will be ensured that all hazelnuts are consistently of the highest standard. The demand for hazelnuts will then increase which the exporting countries can meet in future years.

The legislation I have introduced seeks, in part, to enforce this 1-percent quality standard through the enactment of a 50 cent per pound prohibitive tariff on all imports not meeting the 1-percent quality standard. There are clearly ample quantities of foreign hazelnuts to satisfy this standard from the hundreds of thousands of tons of hazelnuts produced in the exporting countries of Turkey and Italy. Let there be no mistake—this is not a "protectionist" bill. It simply seeks to enforce a strong and necessary quality standard for the sake of the market, the consumer, and the industry here and abroad.

The second feature of this bill is an adjustment to the existing tariff on shelled hazelnuts, referred to as kernels, from 8 cents per pound to 16 cents per pound. The existing tariff was enacted over 36 years ago, and due to the effects of inflation, has been severely eroded. In fact, if it were adjusted for inflation today, the tariff would approximate 32 cents per pound which is not being sought in this bill. Rather, this legislation seeks to establish a 16-cent tariff which is comparable to the existing tariffs for similar nut products; namely, almonds at 16.5 cents and walnuts at 15 cents per pound. The present filbert tariff needs to be adjusted to provide a balance between the rather small producing growers of this country compared to the almost monopolistic pricing power of the dominant producing country, Turkey, which produces roughly 70 percent of the world crop and sets the world price for hazelnuts. With boom crops in Turkey, prices have been driven down, and it appears that some exporting parties have been subsidized.

I am pleased to introduce H.R. 5871 on behalf of the filbert growers and handlers of Oregon. Recognizing the need to establish balance and fair competition, we need to strongly consider increasing the tariff to 16 cents. This bill should be given prompt and thorough consideration and hope my colleagues in the House will join in the effort.●

## ITC IN AGREEMENT WITH AMERICAN COPPER PRODUCERS

### HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. McNULTY. Mr. Speaker, yesterday the International Trade Commission voted 5 to 0 in the affirmative in the petitition of 11 major American copper producers to find injury from foreign competition.

I welcome this conclusion and regard it as the fair and logical conclusion from the facts presented to the Commission and the provisions of our trade laws.

The suffering of the U.S. copper production companies was proven to the satisfaction of all Commissioners. They took note that the American producers are now operating at two-thirds of capacity and in the past 2 years have shut down half of the larger mines in our country. Inventories on the copper commodity exchange have doubled and employment has fallen by half. The ITC members and staff carefully examined the economics of the problem and concluded that on account of copper imports into the United States, a movement facilitated by the easy flow of information on price and production, it is a certainty that further imports would eliminate any increase in U.S. prices. Imports play and will continue to play the most important role in transmitting a depressed world price to the U.S. market.

Heavy world overproduction is the culprit and the ITC has recognized this crucial fact. There has been serious injury and on behalf of the men and women of the U.S. copper industry. I welcome this finding, believing that an appropriate and timely remedy can now be commended to the President for his approval.●

## REQUIRING A TWO-THIRDS VOTE ON ANY GENERAL APPROPRIATION BILL, CONTINUING RESOLUTION AND ON ANY CONCURRENT BUDGET RESOLUTION

### HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. LEWIS of California. Mr. Speaker, I am pleased to introduce today a bill and an amendment whose time has come. As responsible legislators, we all know that time is running out for putting our financial house in order. Therefore, I am proposing both a bill and an amendment that would require a two-thirds vote of both Houses of Congress on bills and joint resolutions making appropriations and on concurrent resolutions on the budget.

Currently, the Constitution requires a two-thirds or three-fourths vote in situations that the framers believed warranted an extraordinary majority. a two-thirds vote is required for convictions by the Senate in impeachment cases, expulsion of Members of Congress, congressional overrides of Presidential vetoes and Senate concurrence to treaties. Extraordinary majorities are also required to amend the Constitution itself. In each case the framers decided to place on Congress, or on one House, an exceptional burden for legislative action.

I propose that we take up that burden regarding certain Federal spending measures. The time is long overdue for serious consideration of the need for extraordinary majority approval before the Congress decides to spend the people's money. If such a requirement had been in place over the last several decades, clearly the upward spiral of our national debt and the taxpayer's obligation would have been drastically curtailed. My bill or constitutional amendment will promote fiscal responsibility and accountability on the part of Members of both Houses and force a more bipartisan atmosphere in our proceedings.

I hope my colleagues will join me in reducing the deficit and establishing a balanced budget by supporting these measures. A copy of the bill and the amendment follows:

H.R. 5884

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Rule XXI of the Rules of the House of Representatives is amended by inserting at the end thereof the following new clause:

"8. (a) A vote of two-thirds of the Members present and voting shall be required on the question of passage of any bill or joint resolution making appropriations which is reported by the Committee on Appropriations or on the question of adoption of any conference report thereon.

"(b) The provisions of paragraph (a) may be suspended by the President by declaration of an emergency such as war, the threat of war, or a national domestic crisis. Such suspension shall require the concurrence of both Houses of Congress by a two-thirds vote of all Members of each such House.".

SEC. 2. Rule XVI of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"9. (a) A vote of two-thirds of the Senators present and voting shall be required on the question of passage of any bill or joint resolution making appropriations which is reported by the Committee on Appropriations or on the question of adoption of any conference report thereon.

"(b) The provisions of paragraph (a) may be suspended by the President by declaration of an emergency such as war, the threat of war, or a national domestic crisis. Such suspension shall require the concurrence of both Houses of Congress by a two-thirds vote of all Members of each such House.".

SEC. 3. Section 305 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(f) TWO-THIRDS VOTE REQUIRED FOR APPROVAL OF CONCURRENT RESOLUTION ON THE BUDGET.—

"(1) A vote of two-thirds of the Members of the House of Representatives or Senators present and voting in the House or Senate, as the case may be, shall be required on the question of passage of any concurrent resolution on the budget or on the question of adoption of any conference report thereon.

"(2) The provisions of paragraph (1) may be suspended by the President by declaration of an emergency such as war, the threat of war, or a national domestic crisis. Such suspension shall require the concurrence of both Houses of Congress by a two-thirds vote of all Members of each such House.".

H.J. RES. 593

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. A vote of two-thirds of both Houses shall be required to pass any bill or joint resolution making appropriations or to adopt any concurrent resolution on the budget.

"SEC. 2. Section 1 of this article may be suspended by the President by declaration of an emergency such as war, the threat of war, or a national domestic crisis. Such suspension shall require the concurrence of both Houses by a two-thirds vote of all Members of each such House.".●

## PUTTING OUR RAILROAD SYSTEMS BACK ON THE RIGHT TRACK

### HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. HERTEL of Michigan. Mr. Speaker, I support the outstanding efforts of the gentleman from Pennsylvania to promote high-speed passenger train service. Such a venture would spark economic growth, revitalize industries, and enhance tourism, as well as create much-needed job opportunities.

Rail technology in the 19th century revolutionized commerce, enabling business to be conducted on a regional and national scale. In addition to facilitating interstate trade, the advent of railroads opened vast territories to settlement. During the early 1900's, thousands of intercity passenger trains linked practically all U.S. cities.

The monopoly of rail transportation inevitably led to the development and diversification of other means of excursion, such as automobiles, buses, and airplanes, resulting in a decline in passenger usage of trains. In other countries, the deterioration of the rail industry was offset by the creation of high-speed passenger trains. For years, they have been providing fast, reliable, safe, and comfortable trips at a profit.

Economic prudence would indicate that a transportation system for a country as large and heterogeneous as the United States necessitates many healthy travel alternatives. It would be a major mistake for the United States to abandon passenger rail service. To prevent the withering away of an important component of our transportation system, it is essential that state-of-the-art technology be fostered for trains, as it has been for cars and aviation.

The Federal Government has historically promoted rail technology. By passing H.R. 4308, which would authorize the establishment of an interstate high-speed rail compact to conduct feasibility studies on an improved train system, we uphold this tradition and put the gears of railroad transit back in motion.●

## PROGRESSIVE CONSUMPTION TAX

### HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. HEFTEL of Hawaii. Mr. Speaker, recently I introduced H.R. 5841, a bill to replace the Federal income tax with a progressive consumption tax. Since the income tax has played such an important role in the public finances of our National Government, I should like to explain why the new tax I am proposing is needed at this point in our history.

I want to make clear that the principle underlying the income tax—the principle of taxing in accordance with ability to pay—is one I firmly hold to and seek to advance with the progressive consumption tax. As first enacted 70 years ago, the income tax followed that principle and continued to do reasonably well through World War II, when it became the mainstay of the Federal revenue system.

However, in the past several years the income tax has been severely eroded by the granting of tax privileges that have eaten away more and more of its base. The Internal Revenue Code now contains far more than a hundred exemptions, exclusions, deductions, and credits. They are called tax privileges but as these special provisions have proliferated—as exempt IRA's were added to the Keogh plans, after expensing of some capital outlays was added to accelerate depreciation, as income tax incentives were given for everything from saving with life insurance to the preservation of historic structures, and so forth—the tax privileges might better be called tax freebies.

The old stereotype of the tax privilege lobby as being the spokesmen for bankers, Wall Street, and big business has long been out of date. It is too narrowly drawn. Now the reasonable expectation of every right-minded group in America—whether the association represents homeowners, the elderly, church ministers, college presidents, physicians, professional athletes, retired military officers and noncoms, artists, inventors, small or large businesses, infant or old industries, State or local governments, or who you will—is that it will receive a tax freebie for its members. And the successful record of the tax lobby in the Congress gives them every reason to be confident that it can deliver.

We have come to the point where less than half of the net income received by the people of this Nation is subject to the income tax. If you add the income received surreptiously in the underground economy, only about a third of all personal income is actually reached by the IRS. That third, mostly in the form of salaries and wages, bears the entire burden of the income tax.

Mr. Speaker, we have approached the political limits of the income tax. It is common knowledge that the income tax applies most unequally, that its burden increasingly depends not so much on how large your real income is but on the form in which you receive it. Should we attempt to raise more revenues from income taxation, as the monstrous national deficit requires, we run the risk of driving those who bear the heavy burden into tax evasion. That would be fatal, for voluntary compliance has been the mainstay of our tax system. Without it we would be forced to depend on excises or other forms of sales taxation, where the individual circumstances of the taxpayer do not matter and where justice in taxation cannot be achieved.

The danger to the integrity of the Federal tax system is recognized in the several bills introduced before this Congress to reform the income tax law. The measures introduced by Mr. GEPHARDT and Mr. KEMP would eliminate many, though by no means all, of the tax privileges which now undercut the tax base. In my opinion, however, it is too late to reclaim the income tax. Tax privileges are so firmly set in place that I do not think they can be removed by mere amendment of the income tax statutes.

That is why I have introduced a bill for a progressive consumption tax. It provides a fresh start. It reaches all personal receipts, in whatever form. It provides no special exclusions, exceptions, or credits. Of the long catalog of deductions under the income tax, only five are retained: For charitable contributions, large medical costs, uninsured property losses, State/local income taxes, and mortgage interest—on a principal residence only.

Conceptually, the consumption tax differs from the income tax in that it taxes according to how much of the national product the taxpayer uses and not according to how much he contributes to it. The purpose is to encourage savings and investment, on which the growth of the national economy depends.

In form, the consumption tax strongly resembles the income tax. The taxpayer aided, by W-2 and 1099 information returns, as at present would report the sum of his receipts during the year. From that total, less a standard deduction or the few deductions noted above, he would subtract the amount added to savings or investment during that year. The difference—the amount of receipts not saved—must be the amount consumed. That is the basis of taxation at a progressive rate.

During the past several days the national press has reported on a current proposal of the Brookings Institution that the income tax be replaced by a new form of taxation, a cash-flow tax. That is simply the consumption tax under a different name. The details vary in some respects from H.R. 4442, the bill I introduced last November, but the cash flow concept is essentially the same as the progressive consumption tax.

The authors of the Brookings Institution proposal, like myself, are concerned lest the new tax shift the tax burden to persons in lower income groups. Their proposal, like mine, raises the personal exemption level. Both proposals defined investment to include social security contributions, the major form of saving for many low- and moderate-income families. In my bill, the initial tax rate is set at 10 percent, a point below the beginning rate of the income tax.

There are other provisions to ensure that low-income groups do not bear an unfair portion of the tax burden under the progressive consumption tax. However, the encouragement of saving under the tax must be balanced by a tax on wealth. It is in the national interest to stimulate investment. However, justice requires that wealth accumulated under the shelter of the progressive consumption measure be taxed after the death of the saver.

Therefore, as an integral part of my proposal the estate tax would be restored to provide a check on the accumulation of wealth and the further growth of family dynasties.

Mr. Speaker, I urge the leadership of the House to set aside sufficient time during this session for an examination of the alternative routes to tax reform which have been placed before us in the Committee on Ways and Means. I am impressed by the advantages of the progressive consumption tax and its apparent administrative feasibility. However, it must be thoroughly analyzed by the committee, along with the other tax reform bills that have been introduced. We must act deliberately, but we must start acting now.●

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## THE CAPS ISSUE

### HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. ASPIN. Mr. Speaker, the key issue of this year's jockeying on the Federal budget is caps. The Senate, at the behest of the White House, wants to enact a new law with two caps, one limiting defense spending and the other limiting discretionary domestic spending. The House of Representatives would rely on the existing Budget Act, which puts a single cap on total discretionary spending, whether for defense or domestic programs.

The announced rationale for the two caps idea is to forestall any later shifting of funds from defense to domestic programs by the Appropriations Committees. The budget resolutions debated in the House and Senate are broken down into categories like defense, agriculture, health and other domestic areas. The division of discretionary funds to each category, however, is not binding on the Appropriations Committees. In theory, they are free to divide the total amount allocated to them by the budget resolution in any way they see fit. The Senate says this is giving too much freedom to the Appropriations Committees—that Members believe when they vote for a budget resolution they are setting priorities and the Appropriations Committees should be required to observe those priorities.

The Senate argument sets forth the letter of the law correctly. What it misses is the spirit. The Appropriations Committees may be free in theory to deviate from the priorities of the budget resolution, but the politics are quite another matter. This is particularly true with gross categories, like defense spending, on the one hand, and domestic spending, on the other—the very categories the Senate is worried about.

The table shows for the last 4 years how budget authority under the control of the Appropriations Committees would have been divided by the budget resolution, and how the committees actually divided it.

| | Defense | Nondefense |
|---|---|---|
| 1981: | | |
| Budget resolution | $165,338 | $254,943 |
| Appropriation | 177,338 | 252,975 |
| Difference | +12,000 | -1,968 |
| 1982: | | |
| Budget resolution | 222,286 | 242,341 |
| Appropriation | 212,122 | 238,250 |
| Difference | -10,164 | -4,091 |
| 1983: | | |
| Budget resolution | 246,759 | 240,202 |
| Appropriation | 239,094 | 236,027 |
| Difference | -7,665 | -4,175 |
| 1984: | | |
| Budget resolution | 260,311 | 279,266 |
| Appropriation | 256,327 | 281,341 |
| Difference | -3,984 | +2,074 |
| 4 year average difference | -2,453 | -2,040 |

Notes.—In this table, "defense" is the total budget authority provided by the Department of Defense and Military Construction appropriations bills and "non-defense" is the total provided by all other appropriations bills.

The budget resolution numbers shown are those of the first resolution. Accordingly, the appropriations numbers for 1982 and 1983 exclude supplemental appropriations for two mandatory programs, the unemployment trust fund and the Commodity Credit Corporation. The original appropriations bills fully funded the amounts provided for these programs in the budget resolutions. When these amounts proved inadequate, supplemental appropriations were requested and approved and subsequently the budget resolution numbers amended to accommodate the higher appropriations.

Clearly, the Appropriations Committees have varied somewhat from the defense-domestic priorities of the budget resolutions. This is most evident at the beginning of the current defense buildup in 1981 when more was appropriated for defense than provided in the budget resolution and at the height of the buildup in 1982-83 when somewhat less was appropriated than provided in budget resolutions basically dictated by the White House.

The significant point, however, is that none of these savings were diverted to domestic programs. In every year except 1984, appropriations for domestic programs were less than would have been provided for the budget resolution—and in that year they would have been less but for the appropriation of $8.5 billion for the International Monetary Fund, that was not contemplated in the budget resolution.

The Senate caps aren't really necessary to prevent siphoning defense money to domestic programs. That hasn't been a problem and it's not likely to be, given the politics of the situation.

The only remaining rationale for caps is to interject the President in the congressional budget process. Not content with preparing the basic budget document and the President's veto power over appropriations' bills, this White House wants to etch the defense and domestic targets in granite and curtail what little flexibility remains to the Appropriations Committees.●

## ANTIBALLISTIC MISSILE INTERCEPTOR

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, June 18, 1984*

● Mr. MARKEY. Mr. Speaker, the Pentagon recently announced the testing of an antiballistic missile interceptor.

This latest item in the Reagan administration's warfighting arsenal is a giant steel catcher's mitt in the sky.

The administration seems to think that we can just catch bombs in a nuclear war, and everything will be all right.

Well, what happens if you drop the ball? You don't lose an out. You lose a city.

And how many of these monster missiles should we build?

Ten for every Soviet warhead?

What about Soviet decoys?

Maybe we should start thinking about a million Minuteman interceptor missiles.

Then, after a nuclear war, we can say, maybe they incinerated all our cities, but we caught a lot of their bombs.

This new missile is another example of the administration's dangerous delusion that nuclear wars can be fought and won.

And the Pentagon admits these interceptor missiles can also be used as antisatellite weapons. This is another step toward extending the arms race into space.

The Pentagon has spent $300 million to develop these destabilizing missiles. How much have we spent to negotiate a treaty to ban antisatellite weapons?

The Soviets want to negotiate on antisatellite weapons, but President Reagan refuses.

For every problem, real or imagined, the Reagan administration thinks arms are the answer, and negotiations are a nuisance.

It is time for Congress to stop the arms race in space before it is too late.●

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 19, 1984, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

### JUNE 20

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on the proposed sale of Conrail by the Department of Transportation.
SR-253

Foreign Relations
To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Energy, Nuclear Proliferation and Government Processes on S. Res. 368 and S. Res. 283, measures calling for a ban on chemical weapons.
SD-419

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold joint hearings with the Committee on Foreign Relations on S. Res.

368 and S. Res. 283, measures calling for a ban on chemical weapons.
SD-419

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1734, to revise the scope of the copyright limitations on the performance of a nondramatic musical work on a coin-operated phonorecord player (jukebox).
SD-226

Labor and Human Resources
To continue oversight hearings on certain allegations involving the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers.
SD-430

Joint Economic
Investment, Jobs, and Prices Subcommittee
To hold hearings on urban policy.
2212 Rayburn Building

10:00 a.m.

Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1984 for the District of Columbia school system.
SD-138

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 747, to prohibit any person from exporting from the United States any currency directly or indirectly to any person in Vietnam.
SD-538

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Finance
Health Subcommittee
To hold oversight hearings to review a General Accounting Office study on program changes in the Maternal and Child Health Block Grant Program.
SD-215

Small Business
Business meeting, to mark up S. 2375, to facilitate the development of a secondary market in the Small Business Administration's guarantee loan program.
SR-428A

Veterans' Affairs
To hold hearings on measures to provide for veterans' compensation, including S. 2736, S. 2737, S. 2267, S. 2268, S. 2451, S. 2759, and S. 2760.
SR-418

Select on Intelligence
To hold closed hearings on intelligence matters.
S-407, Capitol

2:00 p.m.

Foreign Relations
To hold hearings on the nomination of Thomas H. Etzold, of Rhode Island, to be Assistant Director of Multilateral Affairs, U.S. Arms Control and Disarmament Agency.
SD-419

JUNE 21

9:00 a.m.

Office of Technology Assessment
The Board, to meet on pending business matters.
EF-100, Capitol

9:30 a.m.

Appropriations
Business meeting, to mark up the provisions of H.R. 5798, appropriating funds for fiscal year 1985 for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.
SD-192

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on the proposed transfer of the Civil Aeronautics Board authority to regulate consumer protection, including related provisions of H.R. 5297, Civil Aeronautics Board Sunset Act of 1984.
SR-253

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 463, to limit the amount of severance taxes imposed by States on oil, natural gas, and coal.
SD-215

Labor and Human Resources
To hold hearings on S. 2501, the substance of S. 2502, and S. 2503, bills to provide for greater use of competitive medical plans and preferred provider arrangements.
SD-430

10:00 a.m.

Energy and Natural Resources
To hold hearings on the nomination of Frank K. Richardson, of California, to be Solicitor, Department of the Interior.
SD-366

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to investigate alleged involvement of organized crime and mismanagement of funds in the hotel and restaurant workers' union (HEREIU).
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Select on Indian Affairs
To hold hearings on S. 2480, to restore mineral and grazing rights on certain lands in North Dakota to the Three Affiliated Tribes of the Fort Berthold Reservation, and S. 2663, relating to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota.
SR-485

2:00 p.m.

Governmental Affairs
Information Management and Regulatory Affairs Subcommittee
To hold hearings on S. 2127, proposed Federal Advisory Committee Act Amendments of 1983.
SD-342

JUNE 22

9:00 a.m.

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 817, S. 1069, and H.R. 555, bills to authorize the Federal Energy Regulatory Commission to approve the inclusion in the rate base of a public utility of the costs of construction work in progress.
SD-366

9:30 a.m.

Environment and Public Works
To hold hearings on proposals for establishing appropriate levels of lead in gasoline, including S. 2609.
SD-406

Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 10, proposing an amendment to the Consitution of the United States relative to equal rights for women and men, focusing on the impact of ERA on family law.
SD-226

10:00 a.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2762, the Barrow Gas Field Transfer Act of 1984.
SD-562

Finance
International Trade Subcommittee
To hold hearings on measures to provide import relief to the domestic nonrubber footwear industry, including S. 2731, American Footwear Act of 1984, and amendments to section 201 of the Trade Act of 1974.
SD-215

2:00 p.m.

Finance
Health Subcommittee
To hold oversight hearings on medicare home health care benefits and the difficulty interpreting the intermittent care rule.
SD-215

Foreign Relations
To hold hearings on the nominations of John W. Shirley, of Illinois, to be Ambassador to the United Republic of Tanzania, and Owen W. Roberts, of New Jersey, to be Ambassador to the Republic of Togo.
SD-419

JUNE 25

10:00 a.m.

Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

JUNE 26

9:30 a.m.

* Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Lacey Act amendments (Public Law 97-79), to control international trade in wildlife.
SD-406

Judiciary
Constitution Subcommittee
To hold oversight hearings on issues of religious freedom.
SD-562

10:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings on Outer Continental Shelf leasing activities.
SD-366

Finance
International Trade Subcommittee
To hold hearings to examine the impact of the American Telephone & Telegraph divestiture on international trade and the future of international trade in telecommunications.
SD-215

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine measures to combat adolescent drug use.
SD-342

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the status of college athletic programs.
SD-430

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2649, authorizing funds through fiscal year 1989 for the Environmental Protection Agency to develop regulations for monitoring of unregulated contaminants now found in surface and underground drinking water sources.
SD-406

Labor and Human Resources
To hold hearings on S. 2568, the Civil Rights Act of 1984.
SD-430

4:00 p.m.
Temporary Select Committee to Study the Senate Committee System
To hold an organizational business meeting.
SR-301

### JUNE 27

9:00 a.m.
Environment and Public Works
Environmental and Pollution Subcommittee
To hold hearings on amendment No. 2807, proposed Wildlife and the Parks Act of 1984, to S. 978, to provide financial assistance to States for wetlands conservation.
SD-406

Labor and Human Resources Handicapped Subcommittee
To hold hearings to review recommendations to improve services for the mentally retarded.
SR-428A

9:30 a.m.
Judiciary
Constitution Subcommittee
To hold oversight hearings on the implementation of the Voting Rights Act.
SD-226

Special on Aging
To hold hearings on the scope of medical malpractice, and to examine options to medicare.
SD-628

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on S. Con. Res. 56, to express the sense of the Congress in opposition to further expansion of cargo preference requirements.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Finance
International Trade Subcommittee
To hold hearings on the state of the U.S. automobile industry, focusing on the competitiveness of the industry, effects of the Japanese auto export restraints, and the future of international trade in autos.
SD-215

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on congressional access to reliable agency information.
SD-562

Labor and Human Resources
Business meeting, to consider S. 2568, the Civil Rights Act of 1984, and the nomination of Rosemary M. Collyer, of Colorado, to be General Counsel of the National Labor Relations Board.
SD-430

Joint Economic
To hold hearings on the minimum wage.
340 Cannon Building

### JUNE 28

9:00 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2692 and H.R. 2982, bills to exempt certain water conveyance systems from right-of-way fees and conditions under the Federal Land Policy and Management Act of 1976, H.R. 2889, to authorize funds for fiscal years 1984 through 1987 for the National Museum for the Building Arts for operating expenses during its renovation, and to change the name of the museum to the National Building Museum, and H.R. 2838, to provide assistance to certain groups and organizations volunteering to plant tree seedlings on public lands.
SD-366

Labor and Human Resources
To hold hearings on S. 2748, to revise the procedures for new drug applications and to provide for the extension of patents for certain regulated products, and the proposed Drug Export Amendments of 1984.
SD-430

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

Finance
To hold hearings on the trade deficit.
SD-215

*Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2561, authorizing funds for fiscal year 1985 to facilitate the transfer of computerized training programs of the Federal Government to the private sector and to State and local governments for use in manpower training programs.
SD-562

### JULY 6

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation in June.
SD-106

### JULY 10

9:30 a.m.
Labor and Human Resources
To hold hearings on the practice of defensive medicine by the medical profession in an effort to avoid malpractice suits and its effects on the quality of medical care.
SD-430

### JULY 26

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings to discuss whether tax law should encourage employers to provide certain fringe benefits.
SD-215

### JULY 27

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To continue hearings to discuss whether tax laws should encourage employers to provide certain fringe benefits.
SD-215

### JULY 30

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To resume hearings to discuss whether tax law should encourage employers to provide certain fringe benefits.
SD-215

### SEPTEMBER 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To resume oversight hearings to examine the scope and impact of certain occupational diseases.
SD-430

11:00 a.m.
Veterans' Affairs
To hold hearings to review the legislative priorities of the American Legion.
SR-325

# HOUSE OF REPRESENTATIVES—*Tuesday, June 19, 1984*

The House met at 12 o'clock noon.

The Reverend Earl Modean, First Lutheran Church, Clifton, NJ, offered the following prayer:

Dear Lord, as we open another session of this legislative body, we call upon Your eternal presence as we once again confront a variety of concerns for our great Nation. If we have failed to measure up to the standards of Your will, forgive us. Break through the various barriers that would limit Your love and expression among men. We come together at this moment in a spirit of thanksgiving. For our great Nation blessed with beauty, freedom, and peace, we give You thanks. For the rich resources we find in our people, in talent, intellect, dedication, and devotion, we give You thanks. May these same attributes found in this body be put to rich use this day and in the days ahead so that our Nation might not only flourish but lead others in the path of justice, righteousness, brotherhood, and peace. Amen.

## THE JOURNAL

**The SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2436. An act to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes; and

S. 2606. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1985, and for other purposes.

## PRIVATE CALENDAR

**The SPEAKER.** This is Private Calendar day. The Clerk will call the bill on the Private Calendar.

## RESTORATION OF COASTWISE TRADING PRIVILEGES TO THE VESSEL "LA JOLIE"

The Clerk called the Senate bill (S. 1015) a bill to clear certain impediments to the licensing of the vessel *La Jolie* for employment in the coastwise trade.

**Mr. BOUCHER.** Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

**The SPEAKER.** Is there objection to the request of the gentleman from Virginia?

There was no objection.

## HOUR OF MEETING ON TOMORROW

**Mr. FOLEY.** Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on tomorrow.

**The SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

## REQUEST FOR CHANGE OF HOUR OF MEETING ON WEDNESDAY, JUNE 27, 1984

**Mr. FOLEY.** Mr. Speaker, I ask unanimous consent that when the House adjourns on June 26, 1984, it adjourn to meet at 11 a.m. on Wednesday, June 27.

**Mr. THOMAS of California.** Reserving the right to object, has the minority side been informed, has the minority leader been informed of this date change and has the leadership on this side understood and accepted the date change, I would ask the majority whip?

**Mr. FOLEY.** If the gentleman will yield, this is done to accommodate the meeting of the Democratic Caucus. And as we usually do with respect to Republican conferences, each side has been granting comity on these arrangements.

**Mr. THOMAS of California.** Would it be amenable to the majority whip if, since this is several days off in terms of the need to make a decision, that we could consult with the minority leadership and get back to the distinguished majority whip as soon as possible?

**Mr. FOLEY.** Mr. Speaker, I withdraw my second request.

**The SPEAKER.** The gentleman withdraws his request.

## SOMETHING FISHY GOING ON

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

**Mr. ANDERSON.** Mr. Speaker, a few months ago this Chamber passed the Small Business Administration authorization bill. Adopted unanimously during the consideration of it was an amendment that declared the El Nino phenomenon (the unusual warming of Pacific coast ocean waters) a natural disaster and allowed west coast fishermen to become eligible for Federal disaster relief. The administration, however, has stated opposition to this provision and the House-Senate conference on the SBA bill is deadlocked over it.

It came as quite a shock, Mr. Speaker, to hear on Friday's CBS Evening News that while the administration will not help our own fishermen, they have sent $185 million to South American countries for disaster relief due to the severe economic impact El Nino has had on their fishing industry.

The National Marine Fisheries Service has attributed the sharp decline of west coast fisheries to El Nino. Still, the SBA has denied relief on the grounds that El Nino does not constitute a physical disaster. Obviously, such a ruling does not apply to South American fishermen.

## AMNESTY PROVISIONS IN IMMIGRATION REFORM

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

**Mr. MICA.** Mr. Speaker, in just a few moments we will continue the debate on the Simpson-Mazzoli immigration bill and I would just like to make a comment as to why I oppose the amnesty provision.

I recognize that we are a nation of immigrants and our culture and history is rich with diversity and strengths from these immigrants. But I feel that we are not a lawless nation, and in fact, I think that is why many people come to this country, because of our laws and our heritage and our traditions of abiding by laws.

I think to grant amnesty in the same bill in which we are trying to control our borders is a mistake and would be sending the wrong signal. So I am asking my colleagues to join with me in opposing amnesty provisions at this time.

I recognize that we will have to do something about those who live here, but first let us try to get our borders under control and let people know what the law is before we proceed with any action like this.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

## TWO SCHOOLS IN COBB COUNTY, GA., RECEIVE AWARDS FOR EXCELLENCE

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, last week, the Department of Education announced the winners of its Secondary School Recognition Program. From over 16,000 secondary schools across the Nation, 202 were selected to received this award. Two of those schools, Luke Garrett Middle School and George Walton High School, are located in the Seventh District of Georgia. These were selected based on criteria such as student performance, outstanding teachers, school community relations, discipline, and emphasis on academics.

Luke Garrett Middle School has been recognized for outstanding art, physical education, and special education programs, but its effectiveness in educating children does not end with these areas. For example, extended home base activities are directed toward skills and areas that need additional emphasis or reinforcement for all students. Individuals who are lacking in specific academic, behavioral, or social skills are assisted by the student support team composed of administrators, counselors and teachers. The team organizational pattern is the basis for success in this Austell school, as academic, special education, physical education, and unified arts teachers use common planning times to aid in communication and implementation of concepts that maximize student performance. Communication is enhanced by this arrangement, and efforts such as interschool and intraschool visits are continually being made to increase teacher awareness of the forces affecting their students. This awareness is most vividly displayed in the staff's willingness to address the problems of a special population—students from divorced and single-parent families which number 30 percent.

George F. Walton High School possesses some impressive statistics to accompany its massive enrollment of 2,054 students. This Cobb County school consistently scores well above State, regional, and national averages on the SAT and annually places 85-90 percent of its students in institutions of higher learning. A fully functioning individual advisement program, combined with quality use of instructional time and sensitivity to critical points in the school calendar—such as dead week, a period preceding final exams when school-related activities are severely limited—have contributed to the development of this East Marietta school as a statewide leader at the high school level.

Cobb County and the Seventh District of Georgia are extremely proud of these outstanding schools. At a time when improvement in our educational system is being stressed, these schools serve as an example of excellence in education. I want to commend Garrett Middle School, its 836 students and principal, Larry Cooper. I also want to commend the 2,054 students of Walton High School and principal, Kelly Henson. They, and Cobb County School superintendent, Dr. Thomas Tocco, deserve congratulations for a job well done.

## FUNDING FOOD-FOR-PEACE

(Mr. DORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN. Mr. Speaker—

> Every minute of every day, more than $1.3 million are channeled to military purposes, while during that minute, 30 children in the poor countries die, mostly from starvation and malnutrition.

Those alarming figures from the Director-General of the U.N.'s Food and Agricultural Organization should alert us in Congress to the need to get our priorities straight. In my view, it's time to stop holding food aid for starving Africans hostage to military aid for Contra guerrillas in Central America. But that is precisely what the administration is asking the other body to do.

Right now, Africa faces the prospect of continental famine, which already threatens some 150 million people in at least 24 nations. The FAO warned last month that the situation could become even worse—especially in urban areas—unless donor nations respond quickly and generously with both food and nonfood aid.

Around the world, we have yet to reach the Presidential Commission on World Hunger's interim goals for eliminating the worst aspects of hunger by the year 2000. Every year, 500 million people still go to bed malnourished and hungry, even though we have made important strides in reducing infant mortality.

We have at our disposal the peaceful tools to build a better world: abundant food stocks, farming know-how, and proven health techniques. It's these American gifts that we should share with the developing world, not more guns, tanks, and ammo.

Overwhelming evidence shows that Food-for-Peace Programs have a lasting positive effect in reducing chronic hunger. CARE's "food for work" and maternal and child feeding programs have not only raised nutritional levels, but increased local employment in Asia and Africa—to cite just one example of Food-for-Peace in action.

Food-for-Peace not only fights famine, it also builds bridges to other nations and strengthens our own economy. These benefits come with minimal impact on the budget, since increased farm trade and income generate a better trade balance and return flows to the Treasury.

To meet anticipated food aid needs and to avoid further food aid shortfalls, it seems prudent to me to increase the fiscal year 1985 title II program by a substantial amount. Taking such action will ensure that people don't starve today while we promise food for the future.

□ 1210

## JAMES H. ROWE, JR.

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I take this time to advise the House that one of the great figures in the Democratic Party over the past 40 years in Washington passed away over the weekend, the Honorable James H. Rowe, Jr. Jim Rowe was a man with probably more influence and corporate memory of what has happened in the Democratic Party since the advent of the Roosevelt administration.

Mr. Rowe came to Washington from Montana. He got a job as an attorney in the New Deal. In 1938 or 1939, he became one of President Roosevelt's top assistants in the White House, one of those White House aides whom F.D.R. said should have a "passion for anonymity." As a result, Jim and his associates were known as the "Passionate Anonyms."

I came to know Jim Rowe well in 1941 when I served as a staff member to Congressman Tom Eliot of Massachusetts. Jim left the White House to serve in the Navy in World War II and I renewed my acquaintance with him when I, too, came back from Navy duty. After the war, Jim joined a law firm with another great Roosevelt White House wunderkind, the late Thomas G. Corcoran, "Tommy the Cork."

Jim Rowe's deep knowledge of Government and Washington made him one of the city's most outstanding lawyers. But Jim Rowe remained an active Democrat. He worked closely with Speaker Rayburn when Mr. Rayburn chaired the National Democratic Convention. Similarly, Jim also worked closely as an adviser to Lyndon Johnson, both as the Senate floor leader, and later as President—since Jim Rowe and Lyndon Johnson came to Washington at almost the same time.

I have lost a great friend, and a great son of Harvard. We will miss his wise and sensible advice. Washington has lost an outstanding public servant. The political legacy of Jim Rowe will be hard indeed for anyone else to match.

Funeral services will be held at the Washington Cathedral at 10:30 a.m. on Thursday.

## AMERICAN YOUTH DENIED JOBS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, in refusing to pass the urgent supplemental appropriation bill, President Reagan has instructed his supporters in the U.S. Senate to deny summer jobs to more than 100,000 American youths for the simple reason, it is explained, that the President wishes for the funds to carry on the illegal war in Nicaragua to be included in that bill.

There is a simple undeniable and tragic message to the youth of America. Instead of teaching our youth how to work, the President is holding them and their hostage to force Congress to approve money to carry on an illegal war in Central America, which the people of the country oppose.

## WHAT MEMORIAL DAY MEANS TO ME

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MONTGOMERY. Mr. Speaker, this Nation recently celebrated Memorial Day, the day set aside for all Americans to honor those citizens who made the ultimate sacrifice in defense of basic human rights and the democratic ideals of the greatest Nation on Earth. Many moving speeches and statements were made regarding this special day, but of all that I heard and read, I was particularly impressed with the remarks of Miss Tiffany Drach. Tiffany is 7 years old and the daughter of Ron Drach, employment director for the Disabled American Veterans and an amputee as the result of service in Vietnam. I believe Tiffany's sensitivity and perception of the meaning of Memorial Day will be appreciated by all of my colleagues.

### WHAT MEMORIAL DAY MEANS TO ME

(By Tiffany Drach)

Memorial Day means to salute the flag and be kind to our country and put flowers by graves because men died in the Vietnam war. We hope our country will be free for the rest of our lives and the men can rest in peace. Some children don't have fathers because of the Vietnam war. Nobody likes wars.

Some men did not die. Some men just got hurt. Everybody has to die. Some people die when they are old, some die when they are young. Several months ago on the news a boy died when he was 18 years old (Marine killed in Beirut).

And that is what Memorial Day is all about. There are a lot more things about it, but that is all I wrote.

## NEW YORK TIMES ARTICLE SUBJECT TO QUESTION

(Mr. SAM B. HALL, JR., asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM B. HALL, JR. Mr. Speaker, today, in the New York Times, under the byline of one David Burnham, much is said about the work identification system amendment which passed the House this past week.

He says he has been told that the Hall amendment would cost $1.5 billion within 5 years.

There is absolutely no evidence that that is a true statement. There are statements in this article that I do not think can be borne out by the facts. I would urge those who read the New York Times to read this article with reservation.

## PRESIDENT DEMONSTRATES UNFAIRNESS

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, President Reagan still refuses to allow passage of the urgent supplemental unless it includes the $21 million for his secret war in Nicaragua. By holding up this bill the President is offering new proof of his unfairness and especially his unfairness to those Americans who are young, poor, or female.

First, he is denying summer jobs to 100,000 young people.

Second, he is endangering the Federal nutrition program for women and infant children. Three million people are on the WIC feeding program, Mr. Speaker. Without an urgent supplemental that program will be out of funds on July 10.

We Democrats have a message for President Reagan: School is out. It is time to put American's young people back to work. It is time to assure American mothers and children that the WIC program and other nutrition programs are not going to be shut down.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5835

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that my name be removed from H.R. 5835. When I signed on as a cosponsor of this measure, I thought this was armor-piercing ammunition legislation sponsored by Congressman JACK BROOKS, and while it is similar, I have since found out this is not the case.

I am a cosponsor of H.R 5845—armor-piercing ammunition legislation—which was introduced by Congressman BROOKS of Texas on June 14, 1985. This is the bill that has been endorsed by every major law enforcement organization in the United States as well as by the administration and the National Rifle Association.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## COMMEMORATING 10TH ANNIVERSARY OF INTRODUCTION OF HAWKINS-HUMPHREY FULL EMPLOYMENT BILL

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, few people may remember 10 years ago today, June 19, 1974. However, it was on that day that our esteemed colleague, Representative AUGUSTUS HAWKINS of the 29th District of California, on behalf of himself and the 16 other members of the Congressional Black Caucus, introduced the Equal Opportunity and Full Employment Act of 1974. This historic measure led 4 years later to the enactment of the Hawkins-Humphrey Full Employment and Balanced Growth Act of 1978.

The introduction of this initiative by GUS HAWKINS was a historic step in the ongoing fight against those who oppose minimum wages and decent wages, those who oppose the right to organize for better working conditions and a safer workplace, and those who oppose the opportunity for each member of our society to earn a decent living needed to sustain a part of the American dream.

Today, 10 years later, GUS HAWKINS is still leading this struggle. He is at the forefront against substandard wages, against substandard education, against discrimination in employment, against the forces blocking the right to a decent wage. He is at the forefront not only in the struggle for a decent living but also for community renewal, for effective training and good education, and for all the measures needed to expand the mass purchasing power needed for a full recovery.

Mr. Speaker, let us ask ourselves how we can show in our lives, just a fraction of the high resolve of commonsense, creative energy, and dedication that GUS HAWKINS demonstates every day in the House, in this Congress, and in this Nation during these trying times.

## SUMMER JOBS FUNDS HELD HOSTAGE

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, Ronald Reagan has told 100,000 young people that they better take less or get nothing. I say this for two reasons:

First, the President's response to record youth joblessness is to subvert the minimum wage and pay those under 19 $2.50 an hour instead of the present $3.35 an hour.

Unfortunately, this solution only displaces the mothers and fathers of these disadvantaged young people by employers seeking to take advantage of this so-called opportunity wage.

Second, Senator HOWARD BAKER, taking his cues from the Reagan White House, announced last week that the Republicans would not agree to separate $100 million for summer youth jobs from the supplemental appropriations measure which is tied up in a dispute over funding Nicaraguan guerrillas.

Unless he changes this position, some 100,000 teenagers will not get a summer job because Ronald Reagan cares more about funding illegal activities against the Government of Nicaragua than he cares about giving a real chance to disadvantaged teenagers.

I hope that the majority leader of the other body will rethink his position on this matter so that Congress can act to release these summer job funds prior to our July recess.

□ 1220

## CLOSE UP FOUNDATION

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, one of the most interesting aspects of the Close Up Foundation is its program for students from different countries of the world and the American territories.

Earlier this spring, students from Spain, Colombia, Mexico, Japan, Egypt, Switzerland, and American Samoa participated in a specially designed 2-week Close Up Program.

Their experience began as a regular Close Up week as they, along with students from South Carolina, crisscrossed Washington for an intensive series of seminars and meetings on the Hill. From here, the international students departed for Williamsburg and then went to New York City to investigate the roots and future of democracy.

Participants are American citizens now living abroad, as well as students native to those lands. Fellowships for this program are provided solely by R.J. Reynolds Industries, Inc. I am happy to report that participation in the 1984 Close Up International Program nearly doubled that of the previous year.

Here in Washington, we can debate international relations in an attempt to secure a lasting peace. The Close Up Foundation and R.J. Reynolds Industries are providing more than simple talk. They are providing young people with the opportunity to meet and experience the American system of government firsthand.

Under the leadership of its chairman, J. Tylee Wilson, R.J. Reynolds Industries, Inc., is helping to promote greater international understanding through its support of this program.

## INTERNATIONAL GAMES FOR THE DISABLED

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, the attention of many American sports fans was focused last weekend on the likes of Carl Lewis, Edwin Moses, and Fuzzy Zoeller, and with good reason. These are men of the finest athletic capabilities who were performing at the peak of their powers.

But I'm happy to report, Mr. Speaker, that the sports pages of this country also will give space during the next 2 weeks to an inspiring and incredibly talented collection of men and women from the world over who have gathered in Nassau County, Long Island. More than 1,800 disabled athletes from more than 50 nations are competing there in the International Games for the Disabled, and it's safe to say that the state of disabled athletic competition in this country may never be the same.

The games are, plain and simply, a triumph of the human spirit over the terrible challenges that life can hand out. Some will win at the games, more will not. However, the games will produce no losers.

Mr. Speaker, the International Games for the Disabled can show those who sometimes place victory above all else that the spirit of the games is more important than medal totals. Disabled athletes can perform amazing feats, and they have earned the spotlight every bit as much as Mary Decker or Michael Jordan. Further, the games will raise the awareness of our Nation and the world to the rights of the handicapped and the disabled.

I'd like to close my remarks by congratulating the Long Islanders who have worked so hard to make the games a success. Nassau County is carrying our Nation's banner this week, and the organizers and volunteers who are making the games run are doing so with class and spirit. In every way, the International Games for the Disabled reflect well upon our Nation, and show our country to the world in the best possible light.

## SPEAKER'S ADVISORY COMMITTEE ON BROADCASTING

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to verify his remarks.)

Mr. THOMAS of California. Mr. Speaker, an open letter to Republican Leader BOB MICHEL:

> DEAR BOB: Thank you for offering my name to Speaker O'Neill as the Republican appointment to the Speaker's Advisory Committee on Broadcasting in your letter dated March 12, 1981.
>
> In your letter notifying me on the same date you said: "I hope you will find your service on this committee worthwhile." Bob, what can I say—
>
> I have never been notified of a meeting of the Speaker's Advisory Committee on Broadcasting, not in 81, or 82, or 83 or so far in 1984.
>
> As you know major policy decisions have been made recently changing House television broadcasting. I found out about them when you and the world found out about them—When they happened!
>
> Bob, thanks again for the nomination to the Speaker's Advisory Committee on Broadcasting Back on March 12, 1981.
>
> But Bob—do you know if there is a requirement that a person be reelected to the House twice after being nominated to serve on this Committee, or is once enough?
>
> Warm regards and still waiting to serve,
>
> BILL THOMAS.

## DANIEL ORTEGA VISITS MOSCOW

(Mr. COLEMAN of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Missouri. Mr. Speaker, this morning's Washington Post carried a 1-inch article hidden away on the bottom of page 10. The headline, if you can call one-eighth of 1 inch letters headlines, stated: "Chernenko Sees Nicaraguan." Who was this masked Nicaraguan visiting Moscow? It was none other than Dear Comandante Daniel Ortega. What was Comandante Ortega doing in Moscow? Well, as usual, Soviet secrecy precludes us from knowing; but I'll bet it was not to visit the ballet.

And while Comandante Ortega is in Moscow, what is happening in Central America? Well, those same leftist guerrillas in El Salvador that Ortega's Sandinistas support have just announced that they are going to destroy this year's entire cotton crop in El Salvador. They have also thrown in threats to sabotage Salvadoran coffee plants and sugar mills. These are the staples, the basic foodstuffs and export crops of the Salvadoran peasants, the very people Comandante Ortega claims he wants to liberate. I am sure this crop destruction will help the peasants.

## MORE AMERICANS WORKING UNDER REAGAN ADMINISTRATION

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, it occurred to me this morning that we have not spoken on the unemployment rate for a long time, and I was somewhat surprised when I looked at the most recent figures which show that in 1984 we have 105 million Americans working as opposed to some 98 million in 1980.

We talked about unemployment a great deal when it was up, and I remember speeches were made every day by Members on the other side of the aisle when in fact the unemployment rate was very high. Now that it is down, Mr. Speaker, I would hope that my Democrat friends would share the joy of the American people in receiving the good news that 7 million more Americans are working under the Reagan administration than under the Carter administration.

## INTERSTATE HIGH-SPEED INTERCITY RAIL PASSENGER NETWORK COMPACT

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4308) granting the consent of the Congress to an interstate compact for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service.

The Clerk read as follows:

H.R. 4308

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress consents to the Interstate High Speed Intercity Rail Passenger Network Compact as participated in by the States of Illinois, Indiana, Michigan, Ohio, and Pennsylvania, which States have enacted such compact into law, and any other State which subsequently becomes a participant through enactment of the compact. Such compact is substantially as follows:

### "INTERSTATE HIGH SPEED INTERCITY RAIL PASSENGER NETWORK COMPACT

"ARTICLE I—POLICY AND PURPOSE

"Because the beneficial service of and profitability of a high speed intercity rail passenger system would be enhanced by establishing such a system which would operate across state lines, it is the policy of the states party to this compact to cooperate and share jointly the administrative and financial responsibilities of preparing a feasibility study concerning the operation of such a system connecting major cities in Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky.

"ARTICLE II—COOPERATION

"The states of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky, hereinafter referred to as participating states, agree to, upon adoption of this compact by the respective states, jointly conduct and participate in a high speed intercity rail passenger feasibility study by providing such information and data as is available and may be requested by a participating state or any consulting firms representing a participating state or the compact. It is mutually understood by the participating states that such information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing such information agrees to waive the confidentiality.

"The participating states further agree to:

"(a) Make available to each other and to any consulting firm representing the member states or the compact such assistance as may be legal, proper and available, including but not limited to personnel, equipment, office space, machinery, computers, engineering and technical advice and services; and

"(b) Provide such financial assistance for the implementation of the feasibility study as may be legal, proper and available.

"ARTICLE III—INTERSTATE RAIL PASSENGER ADVISORY COUNCIL

"There is hereby created an interstate rail passenger advisory council, the membership of which shall consist of two representatives from each participating state. The members shall select designees who shall serve in the absence of the members. The advisory council shall meet within thirty days after ratification of this agreement by at least two participating states and establish rules for the conduct of the advisory council's business.

"The advisory council shall coordinate all aspects of the high speed intercity rail passenger feasibility study relative to interstate connections and shall do all other things necessary and proper for the completion of the feasibility study.

"ARTICLE IV—EFFECTIVE DATE

"This compact shall become effective upon the adoption of the compact into law by two or more of the participating states. Thereafter, it shall enter into force and effect as to any other participating state upon the enactment thereof by such state.

"This compact shall continue in force with respect to a participating state and remain binding upon such state until six months after such state has given notice to each other participating state of the repeal thereof. Such withdrawal shall not be construed to relieve any participating state from any obligation incurred prior to the end of the state's participation in the compact as provided herein.

"ARTICLE V—CONSTRUCTION AND SEVERABILITY

"This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.".

SEC. 2. The two members from each State on the advisory council created under article III of the compact shall be selected in accordance with such State's enacting legislation.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. SAM B. HALL, JR.] will be recognized for 20 minutes and the gentleman from Ohio [Mr. KINDNESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4308 would grant the consent of Congress to an interstate compact for the preparation of a State-funded feasibility study for the development of a system of high-speed intercity rail passenger service.

The States of Illinois, Indiana, Michigan, Ohio, and Pennsylvania have entered into this interstate compact for the preparation of a feasibility study for the development of a high-speed intercity rail passenger service, connecting major cities in the participating States. West Virginia and Kentucky are eligible to be participating States. However, their legislatures have not yet enacted the compact.

The compact provides for the creation of an Interstate Rail Passenger Advisory Council to coordinate the feasibility study. Each participating State selects two representatives to serve on the council. The States have agreed to fully cooperate in sharing information, data, and other responsibilities, and the compact is to be liberally construed so as to effectuate its purpose.

Upon enactment, the bill H.R. 4308, provides the consent of Congress necessary to bring the compact into effect. The compact itself requires the agreement of two or more of the participating States in order to bring it into force. This has already been accomplished since, as stated above, five of the seven designated participating States have enacted substantially similar laws. The General Assembly of Ohio enacted amended house bill 168 on May 3, 1979, with an effective date of August 28, 1979. On December 21, 1979, the Legislature of Michigan approved senate bill No. 469. The General Assembly of the Commonwealth of Pennsylvania adopted the compact, house bill 2231, on June 22, 1980. On September 19, 1980, Illinois enacted the compact through Public Act 81-1504. Finally, the State of Indiana joined in the agreement, Public Law 107, on April 27, 1981.

The Subcommittee on Administrative Law and Governmental Relations held a hearing on this bill April 11, 1984. Testimony was received from various parties, including the Chairman of the High Speed Rail Commission. There was no opposition to the bill expressed during any phase of committee consideration.

The Department of Transportation, as the Federal agency responsible for Federal transportation policy, expressed no objection to the bill. In its letter to the committee, the Department expressed its willingness to assist in considering the feasibility of high-speed rail passenger service. However, the Department of Transportation stated that it considers the Federal funding of the development of high-speed passenger service itself to be inappropriate. As I have noted, this compact merely provides for a feasibility study, and article II of the compact requires the participating States to agree to provide the financial assistance to implement the feasibility study.

The Committee on the Judiciary recommends that the bill be considered favorably.

□ 1230

Mr. KINDNESS. Mr. Speaker, I would like to urge my colleagues to consider that the explanation of the bill that has been presented by the gentleman from Texas [Mr. Sam B. Hall, Jr.], the chairman of the Subcommittee on Administrative Law and Governmental Relations, is an excellent summary of the content of the bill, its meaning, and its purpose, and its functioning. I would urge the passage of the bill, but would first, Mr. Speaker, yield such time as he may consume to the gentleman from Michigan [Mr. Pursell].

Mr. PURSELL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 4308, the high-speed rail bill, and urge my colleagues to look favorably on the measure.

This bill would grant congressional approval of the high-speed rail passenger compact as required by law. Congress set a precedent in this area when in 1982 it passed public law 97-213 enabling Louisiana and Mississippi to form a rapid rail transit commission.

H.R. 4308 would extend the same privileges to five Midwest States: Michigan, Illinois, Indiana, Ohio, and Pennsylvania, and would permit a feasibility study of a high-speed rail system connecting them.

As everyone knows, the recent recession had a devasting effect on the Midwest. However, a high-speed rail system could bring added jobs and tourist dollars to these ailing States.

According to a study done by Michigan State University, the high-speed system could add 68,000 construction jobs and stimulate the economy enough to add 12,000 to 13,000 new jobs.

Furthermore, the study estimates that tourist trade in Michigan, Illinois, and Indiana would increase by $13 million.

Chairman of the compact and former deputy director of the Michigan Department of Transportation James Kellogg believes that the high-speed rail is a key to changing people's grim attitude about the future economy. Kellogg is convinced that the high-speed rail will improve the economy in the Midwest and stimulate the job industry.

I believe that passing H.R. 4308 is vital to getting the high-speed rail system started in the United States. America is one of the few industrialized countries that does not have some type of high-speed rail system. It is time we took action to catch up to other nations in the world.

Mr. SAM B. HALL, JR. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Kolter] the prime sponsor of this bill. I would like to state that Mr. Kolter has done yeoman work in working with the committee on this bill. He is very dedicated to this bill, and supports it 100 percent.

Again, I yield such time as he may consume to the gentleman.

Mr. KOLTER. I thank the gentleman for yielding to me.

Mr. Speaker, I stand before you today—very pleased and very proud—that one of my first pieces of legislation as a freshman Congressman, H.R. 4308, is, under consideration.

I would like to commend my colleagues, on both sides of the aisle, for their discerning vision and support, of this legislation that could, quite conceivably, change the face of this Nation, for decades to come.

There are so many people I would like to take time to thank. I would like to really take time to thank the chairman of the Subcommittee of Administrative Law and Governmental Relations, Sam B. Hall, Jr., for his dedication and his support. I would like to thank the chairman of the Judiciary Committee, Peter Rodino, for his support.

Senator John Heinz, the Senator from Pennsylvania, gave me a lot of support. He came before the committee and testified on behalf of the bill. When I was a state legislator several years back, I worked very closely with Rick Geist, who is now chairman of the Interstate High Speed Rail Association of Pennsylvania.

I would like to thank the U.S. Department of Transportation general counsel, Jim Marquez for his support and his letters. Quite definitely, I must thank, take the liberty and take the time to thank the 5 Governors who wrote letters to their Congressmen asking for their support: Gov. Dick Thornburg of Pennsylvania; Gov. Richard Celeste of Ohio; Gov. James Blanchard of Michigan; Gov. William Thompson of Illinois; and Gov. Robert Orr of Indiana.

Mr. Speaker, H.R. 4308, would lay the crucial groundwork for establishing a modern, high speed, passenger train line through the Nation's heartland. High speed rail promises not only to provide a safe, fast, and dependable means of transportation; but also, it would enable a revitalization of America's basic industries, while spurring a resurgence in the economy.

Intrinsically, this bill provides congressionally required Federal consent to an agreement between the States of Pennsylvania, Ohio, Indiana, Illinois, Michigan, Kentucky, and West Virginia, to jointly fund and perform feasibility studies on a new system to connect cities in those States.

To date, I am honored to report that there has been absolutely no opposition to the bill which is cosponsored by 65 Members of both political parties. In fact, at this moment, companion legislation sponsored by Senator John Heinz of Pennsylvania, is making its way through the Senate. S. 2564 has met with considerable support in the Senate.

Although the concept of high-speed rail brings to mind images of incredible speeds—the creation and implementation of legislation to achieve that end is not as fast in comparison. This program to improve transportation and industry in our region is, of course, a long-term project. It is only in the embryo stage. Like many other ideas, it has been discussed for years, but the time has come for movement.

The Japanese, Germans, and the French, have had enormous success with high-speed rail in their countries. The Japanese, even during the lowest period of traffic for their line still posted a profit of $1.37 billion in 1979 alone. Clearly, my colleagues, this is no "white elephant."

Of course, I am sure that one of the major factors that will please many of my colleagues is that no Federal moneys are involved in this bill. While there may be some among you who may have reservations about the evolution of a Federal program of this nature, allow me to reassure you that this is merely a State-sponsored program, which is seeking Federal recognition.

The agreement is for the participating States to share administrative responsibilities for a feasibility study of service to cities in the States, including personnel, equipment, office space, machinery, computers, engineering, and technical advice and services. It also sets up an advisory council of two representatives from each State.

I would ask that each Member here today, reach within himself and pull out the admirable pioneering spirit of our forefathers. I realize that this compact in particular deals only with the States mentioned previously, however, how many of you can recall the dream of the "Trans-Continental Railroad" and the "Golden Spike?" I submit the fact that history can indeed repeat itself.

As I stand before you today, business people, bankers, lay-people, academicians, lawyers, politicians and others from all walks of life have concerned themselves with the success of high-speed rail in America. So much so, that they have formed an international organization termed "the High-Speed Rail Association." The States of California, Nevada, New Mexico, Texas, Mississippi, Louisiana, Alabama, Florida, Wisconsin, Missouri, and Massachusetts are all currently exploring the possibility of high-speed rail in their respective regions.

Without question, high-speed rail has the potential to spark a major upturn in the economies of all the States involved. Jobs will be created in areas such as steel, aluminium, specialized metals, high tech industries, as well as the positions that will be made available in a high-speed rail system.

The United States is one of the few industrialized countries, that does not have some type of high-speed rail service. I believe that a high-speed rail system would provide the necessary inducements that we need: speed, safety, comfort, and dependability in order to prompt more people to travel by rail.

But—until a foundation is laid through the existence of a feasibility study which will measure the efficacy of such a system, this dream of high-speed rail will remain just that—a dream.

That is why I appear before you today, so that progress can be made and that we may all look toward a more promising future.

I ask all of my colleagues on both sides of the aisle to cast a vote for the future of America in this bipartisan effort and vote in favor of H.R. 4308, high-speed rail.

● Mr. ECKART. Mr. Speaker, as a cosponsor of the bill, I would like to urge my colleagues to vote for passage of H.R. 4308, a bill granting the consent of Congress to an interstate compact for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service. The compact will be among the States of Ohio, Illinois, Michigan, Pennsylvania, and Indiana.

The high-speed rail compact began as a result of Ohio's initiatives in exploring high-speed rail technology. Ohio was also the first State to become a member of the compact by passing State legislation in the spring of 1979.

The high-speed rail compact is another example of how the Great Lakes region has worked together in an attempt to overcome a dying industrial base and massive unemployment. A high-tech, high-speed rail system connecting each of the State corridors into a new transportation system is of vital importance to any reindustrialization strategy. In my State of Ohio, Governor Celeste appointed a 15-member high-speed rail task force comprised of nine leading Ohio citizens from business, labor, and higher education as well as three legislative appointments from both the Ohio House of Representatives and the Ohio Senate. Their task will be to determine the potential for participation by Ohio-based industries in the development of an advanced surface transportation system for Ohio, report their findings to the Governor, and investigate all possible sources of financing for construction and implementation.

H.R. 4308 provides the necessary congressional approval for development of a high-speed rail service to expedite the movement of goods and people to promote the economic development in the Great Lakes region.●

● Mr. REID. Mr. Speaker, I would like to express my support for H.R. 4308, a bill granting the consent of the Congress to an interstate compact for the preparation of a feasibility study for the development of a system of high-speed intercity rail passenger service.

There are currently two countries—Japan and West Germany—currently developing Maglev technology. My personal interest in this legislation, introduced by my colleague, JOE KOLTER, stems from efforts by the city of Las Vegas to implement a super-speed train to move passengers from southern California to Las Vegas.

In January 1983, the Los Angeles/Las Vegas high-speed super-speed train feasibility study performed by the Budd Co. and Bechtel Engineering was concluded. The results indicate that a Maglev train—powered by electromagnetic levitation—is both feasible and capable of operating at a profit. In fact, the Maglev train would attract 3.5 million passengers per year to Las Vegas adding over 170 million new dollars to our economy. Construction on the Maglev train could begin in 1986 and be in full operation by 1991. The project, which will create some 50,000 jobs, would move passengers from southern California to Las Vegas in about 70 minutes. The round trip fare for the 230-mile trip is projected at $65 in 1982 dollars.

In addition, a recent Office of Technology Assessment report, "U.S. Passenger Rail Technologies" listed the benefits of Maglev technology. The OTA report listed the benefits of Maglev technology as "the most promising means to avoid many of the costs and problems associated with wheel-on-rail technology and, at the same time, to provide a smoother ride and much higher top speed than conventional rail could ever achieve."

For these reasons, I believe that H.R. 4308 deserves our support. Thank you.●

● Mr. WALGREN. Mr. Speaker, I want to express my support for the Midwest Rail Service Compact. H.R. 4308, introduced by Congressman JOE KOLTER and Senator JOHN HEINZ, both of Pennsylvania. This bill would provide the congressional approval required under our Constitution before States may join together in compacts among themselves. In this case Pennsylvania, Illinois, Indiana, Michigan, and Ohio have agreed to study the feasibility of developing high-speed rail service connecting major cities in their five-State region.

High-speed rail has proved successful in other countries, particularly in Japan and Europe. To be able to travel from city to city by rail in approximately the same time as it would take by air would open up great travel opportunities for many Americans.

H.R. 4308 also has important potential for economic growth. Not only could high-speed rail ultimately create jobs, but it could be a valuable asset to our transportation industry and economy. It could be a great stimulus to sluggish economies like that in western Pennsylvania. The five States involved are the "heartland" of America, with a wide range of industries which would benefit from regional transportation. These five States form an area perfectly suited for such a project.

Intercity high-speed rail could be an important link in a mixed and balanced transportation system and a boon to travel and commerce of western Pennsylvania. I hope the Senate also will act promptly on this bill.●

□ 1240

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Texas [Mr. SAM B. HALL, JR.] has 9 minutes remaining.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KINDNESS. Mr. Speaker, I am still in favor of the bill, but before we hear more about it, I believe I had better yield back the balance of my time, too.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. SAM B. HALL, JR.] that the House suspend the rules and pass the bill, H.R. 4308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## SENSE OF CONGRESS RE NON-DELIVERY OF INTERNATIONAL MAIL IN THE SOVIET UNION

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 294.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 294, on which the yeas and nays are ordered, and on which further proceedings were postponed on Monday, June 18, 1984.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 30, as follows:

[Roll No. 244]

### YEAS—403

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (NC)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Barnard
Barnes
Bartlett
Bateman
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bryant
Burton (CA)
Burton (IN)
Byron
Campbell
Carney
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Crane, Daniel
Crane, Philip
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Dickinson
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Dingell
Dixon
Dorgan
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Evans (IA)
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Flippo
Florio
Foglietta
Foley
Ford (MI)
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Hall (OH)
Hall, Ralph
Hall, Sam
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Hansen (UT)
Harkin
Harrison
Hartnett
Hatcher
Hawkins
Hayes
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Sikorski
Siljander
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Sisisky
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Slattery
Smith (FL)
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Smith (NJ)
Smith, Denny
Smith, Robert
Snowe
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Studds
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Sundquist
Swift
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Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traxler
Udall
Valentine
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Walgren
Walker
Watkins
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Whittaker
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Williams (OH)
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Wolpe
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### NOT VOTING—30

Bates
Bethune
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Conyers
Corcoran
Coughlin
Crockett
D'Amours
Donnelly
Dowdy
Dymally
Erlenborn
Fields
Guarini
Hall (IN)
Hansen (ID)
Hillis
Jones (TN)
Livingston
Markey
Mavroules
Roemer
Roth
Sensenbrenner
St Germain
Tallon
Towns
Vander Jagt
Williams (MT)

☐ 1250

Mr. McCAIN changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1300

## GENERAL LEAVE

Mr. LELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF ADDITIONAL CONFEREE ON S. 540, NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES ACT OF 1984

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint an additional conferee on the Senate bill (S. 540) to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan? The Chair hears none and, without objection, appoints the following conferee: Mr. SHELBY.

There was no objection.

## HOUR OF MEETING ON WEDNESDAY, JUNE 27, 1984

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns at the close of business on June 26, 1984, it adjourn to meet at 11 a.m. on Wednesday, June 27, 1984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## IMMIGRATION REFORM AND CONTROL ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 519 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1510.

☐ 1305

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, June 15, 1984, the amendment in the nature of a substitute recommended by the Committee on the Judiciary was considered as an original bill for the purpose of amendment which is only subject to amendment by the amendments made in order pursuant to House Resolution 519. If more than one of the amendments numbered 46, 47, and 48 are adopted, only the last of these three shall be considered as having been finally adopted and reported back to the House.

### AMENDMENT NO. 46 OFFERED BY MR. LUNGREN

The CHAIRMAN. Pursuant to the order of the House of June 14, amendment No. 46 is in order at this time.

Does the gentleman from California [Mr. LUNGREN] desire to offer amendment No. 46?

Mr. LUNGREN. I do, Mr. Chairman.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 46 offered by Mr. LUNGREN: Page 90, line 9, strike out "1982" and insert in lieu thereof "1980".

Page 90, lines 23 and 25, and page 91, lines 2, 4, 6, and 8, strike out "1982' and insert in lieu thereof "1977".

Page 90, line 10, insert "TEMPORARY OR" before "PERMANENT".

Page 91, line 18, strike out "(b)(3)" and insert in lieu thereof "(c)(3)".

Page 92, after line 15, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien has entered the United States, is physically present in the United States, and applies for such adjustment during the one-year period described in subsection (a)(1),

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuously in the United States in an unlawful status since January 1, 1980, or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status since January 1, 1980; and

"(III) in the case of an alien who at any time was a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

"(ii) the alien—

"(I) has received an immigration designation as a Cuban/Haitian Entrant (Status Pending), or

"(II) is a national of Cuba or Haiti who arrived in the United States before January 1, 1982, and with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and (unless the alien filed an application for asylum with the Service before January 1, 1982) was not admitted to the United States as a nonimmigrant; and

"(C) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(3),

"(ii) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(iv) registers under the Military Selective Service Act, if the alien is required to be so registered under that Act.

Notwithstanding subparagraph (A), an alien who (at any time during the one-year period described in such subparagraph) is the subject of an order to show cause issued under section 242, must make application under such subparagraph not later than the end of the 30-day period beginning either on the first day of such one-year period or on the date of the issuance of such order, whichever day is later. For purposes of subparagraph (A), an alien described in subparagraph (B)(ii) shall be considered to have entered the United States.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3), and

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the thirty-seventh month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(3),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States,

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

"(iv) has registered under the Military Selective Service Act, if the alien is required to be so registered under that Act; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(3), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(B) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

Page 92, line 17, page 93, line 4, page 95, lines 12 and 21, and page 97, lines 23 and 24, insert "or (b)(1)" after "subsection (a)".

Page 93, beginning on line 21, strike out "subsection (a)(3)(A)" and insert in lieu thereof "subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i)".

Page 95, line 20, insert "temporary or" before "permanent".

Page 98, in the matter following line 21, strike out "1982" and "permanent" and insert in lieu thereof "1980" and "temporary or permanent", respectively.

Page 101, beginning on line 1, strike out "permanent resident status under section 245A(a)" and insert in lieu thereof "temporary or permanent resident status under subsection (a) or (b)(1) of section 245A".

Mr. LUNGREN. Mr. Chairman, I might state that this is the first of a series of major votes we are going to have on the question of legalization. This is the first of perhaps a series of amendments that are considered to be the major amendments in the legalization section of the bill. Although it will be my intention to address the question of legalization as a concept later in this debate concerning the amendment of my colleague, the gentleman from Florida [Mr. MCCOLLUM], I would just like to say that after having lived with the question over the last 5½ years, I have come to the conclusion, as has the President, I might add, and the Attorney General, that in the context of an overall enforcement bill, there is no alternative.

I might just say to my colleagues that if they would like to pass this on a voice vote, I will be happy to sit down now and we can all begin discussing other matters, but I doubt that it is going to be that simple.

Mr. Chairman, I would like to take this opportunity to distinguish two things. I think we ought to make it clear that what this amendment is about is not an idea of blanket exoneration or so-called blanket amnesty for those involved. What we are talking about with respect to this amendment to this section of the bill is a legalization program that would require a case-by-case adjudication of individual applicants who must individually demonstrate that they meet the equities required by both the bill as well as the Immigration and Nationality Act.

During a 5-year period of time after obtaining temporary or permanent resident status, these individuals would be disabled from receiving welfare and health benefits other then medical assistance required in the interest of public health, and that section has been further refined by an amendment that we adopted on Friday from the Energy and Commerce Committee, and with respect to the aged, blind, and disabled.

With that in mind, Mr. Chairman, I will now take this opportunity to explain why I believe that this amendment should be adopted to replace the provision of the bill which would grant permanent-resident status to those who entered the United States prior to January 1, 1982.

□ 1310

My amendment would bring the legalization provisions of the bill into conformity with that of the other body. Essentially this amendment establishes a two-tier system that allows those who have permanently resided in this country since January 1, 1977, to obtain permanent-resident status as long as they are not excludable under the law. And those that came in before January 1, 1980, but after January 1, 1977, would be placed in the category of temporary-resident status.

Additionally, special provisions for Cubans and Haitians embrace not only persons with the Cuban- and Haitian-entrant designation but also the pre-1982 Cubans and Haitians and therefore would really not affect that section of the bill dealing with Cubans and Haitians.

I think it is important for us to realize that the rationale for legalization is not just to give legal status to all illegal aliens but, rather, it is to grant legal status to those who have demonstrated a commitment to this country by long-term, continuous residence as contributing, self-sufficient members of this community.

I believe the two-tier legalization permits the inclusion of a substantial portion of the illegal population while ensuring at the same time that persons are not given the benefit of permanent residency before they have demonstrated the requisite commitment to this country.

The two-tier legalization program further empahsizes the commitment of self-sufficiency by providing that those who fall into the temporary-resident category after 3 years may then apply for permanent-resident status and would again be subject to the appropriate exclusions, although as we know, under the bill, the Attorney General could waive some of them, one of them being that they would not be likely to become a public charge.

My amendment would also require that those seeking to alter their status from temporary to permanent status would have to have attained a minimal understanding of ordinary English or be satisfactorily pursuing a course of study to achieve such an understanding.

I must say this part of the amendment is an addition that resulted from the concern expressed by the gentleman from Texas [Mr. WRIGHT] in his original amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(By unanimous consent Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. So that this is a contribution in a sense from the gentleman from Texas [Mr. WRIGHT], in that he expressed the concern that we ought to have some progress toward English from many of those following the legalization program.

I might say that my requirement for the English assistance is only in that category of people who have come here most recently and therefore would be in the temporary-resident status. Prior to the time they could become residents they would either have a minimal understanding of ordinary English or be satisfactorily pursuing a course of study to achieve such an understanding. Those that came in before that time presumably have been here long periods of time and who are older would not have that same requirement.

One of the reasons we think it is important to have that requirement with the first category, however, is that we found out through the refugee program that the inability to speak the English language is an impediment to successful entrance into the full benefits of American society.

We have discovered, for instance, that if you happen to be a refugee with a Ph.D. but have no English proficiency, your ability to get a job is absolutely less than someone who has virtually no education but has an English proficiency and therefore has an ability to enter the job market.

I think it is to the benefit of our society as well as to the recipients of this new legal status that they be encouraged to learn English. This does not mean they should lose their native language but it seems to me that we ought to acknowledge the importance of a minimal proficiency in English, as has been suggested on several occasions by the gentleman from Texas [Mr. WRIGHT].

A two-tiered legalization appropriately treats the most recent illegal arrivals differently from persons who have lived in undocumented status for long periods of time. A temporary status gives an illegal alien who lacks the equities of long-term residence an opportunity to earn, and I underscore the word "earn," permanent residence through their conduct during a trial period. And while it is my feeling that there is no viable alternative to conferring legal status on many of those who are here in an undocumented status, a legalization that is overly broad, on the other hand, also carries great risks.

Moving the legalization date to January 1, 1982, would confer the status of permanent residency on those who have been here for a period of as little as 2½ years, and this would entail the right to petition for the admission of family members and to apply for citizenship after 5 years.

It is in my judgment, therefore, imperative we not extend the benefits of legalization before the requisite commitment to our country has been established.

Mr. Chairman, many Members may not be aware of the fact that there is a substantial turnover among undocumented aliens in the United States. This is reflected in estimates indicating that a large percentage of illegal aliens have entered in the last few years. The fact that we make the decision to legalize part of this undocumented population does not, therefore, mean that the residual population will live indefinitely in the United States in a limbo status.

Many of these undocumented persons voluntarily return to their home countries after living here for but a few years.

In addition, employer sanctions will make it more difficult for the residual undocumented population to remain in the United States and therefore the conferral of legal status with respect to a cutoff date as recent as that presently contained in the bill has the potential of making what would otherwise be a temporary population permanent. And I might add that the select commission recommended in a unanimous 16 to 0 vote that "no one be eligible for legalization who is not in the United States before January 1, 1980." That cutoff date would exclude anyone who is attracted to the United States as a result of the ongoing public discussions concerning legalization.

Although 3 years have passed since the select commission issued its report in March 1981, it is not unusual for anyone to think that the legislative process would act more quickly than it has. The fact is we have not acted on this subject in a comprehensive fashion for 32 years.

Mr. Chairman, one of the important reasons why I believe we should not advance the date beyond January 1, 1980, as the bill does, is that that then would give the opportunity for legalization for those people who were attracted here because of the discussions of legalization or amnesty. It is extremely important that as we deal with this difficult issue we deal with it in such a way that we do not set the momentum for another amnesty down the line and another amnesty after that, so that people outside this country feel that all they have to do is get themselves within the confines of the United States and wait for the next amnesty.

In my judgment we have to have a carefully defined program. I believe the other body has done that. I believe the administration's position, which by and large is embodied in my amendment, does that. I think we meet the very important midground between those who do not want to have any legalization whatsoever and those who want to have amnesty.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has again expired.

(By unanimous consent Mr. LUNGREN was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. Importantly, I think we also ought to recognize that elimination of this two-tier approach in combination with advancing the cutoff date to 1982 significantly increases legalization costs. According to the estimates by the Office of Management and Budget, the cost of reimbursing the States for welfare expenditures will exceed $6.6 billion between fiscal year 1985 through fiscal year 1989 if the bill as currently drafted is adopted.

By contrast, my amendment containing the two-tier approach would reduce such costs to $3.4 billion over the same period.

In other words, we are talking about a savings of $3.2 billion.

Again, Mr. Chairman, I think it is important for us to be careful in designing this particular aspect of the bill so that it is not viewed as overly generous and therefore planting the seeds for a rolling amnesty program in the future.

The argument that legalization represents a humane response to the plight of undocumented aliens is simply not applicable to recent arrivals who have not attained sufficient equities and not become firmly entrenched members of our community. At some point in time we have to say enough is enough.

It is important that we accommodate many who are here because we have not enforced the law for many years. On the other hand, we have to make sure we do it in such a way that we do not communicate the message to those who have been waiting in line all those years that: "You should have tried to get across the border in 1981 while others were dealing with this bill instead of complying with our laws."

Mr. Chairman, I might say that this amendment I believe is consistent with what the polls show the American people are asking for. Perhaps one of the most extensive polls taken in my home State of California on this whole subject was the Field Foundation poll taken in the summer of 1982.

□ 1320

At that time, it found that approximately 69 to 72 percent of the people in all categories together believed that we ought to deport those people who are here illegally, including approximately 60 percent of the Hispanic respondents.

But on the following question, asked immediately thereafter, the response is revealing. The second question was: "Should we legalize those people who have been here 5 years of more?" And in the same group of people who had said overwhelmingly that all who have been here illegally ought to be deported, approximately 60 to 73 percent of the people in my home State said that yes, we ought to have legalization for those people who have been here 5 years or more.

That was consistent across the board as that polling data broke it into Anglos, blacks, and Hispanics. They all seemed to agree that that is where we ought to go. Most polls that have been taken suggest that is about the timeframe that the American people think makes sense; about 5 years, the bill before us says we will do it in 2½ years. I think that is wrong.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(On request of Mr. SHAW and by unanimous consent, Mr. LUNGREN was allowed to proceed for 4 additional minutes.)

Mr. SHAW. Mr. Chairman, will the gentleman from California yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman from California on his amendment, a very fine amendment, and one that would cure a serious problem in the bill, at least go a long way toward doing it.

Under the rule that this particular amendment is brought to the House floor, the Shaw amendment, which is scheduled to be debated immediately following this, should the gentleman's [Mr. LUNGREN] amendment pass, the Shaw amendment, if it would prevail, it would knock the gentleman's amendment out and then after that the Wright amendment would be considered.

I have considered that the Lungren amendment is a more inclusive and better amendment than the one that I have offered for consideration and I would like to advise the gentleman and the Members of the House that in the event the Lungren amendment does pass, I will withdraw the Shaw amendment and that I do think that the gentleman's [Mr. LUNGREN] is a more preferable vehicle to go forward for final passage of this bill.

Mr. LUNGREN. I thank the gentleman.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from California.

Mr. ROYBAL. I would like to better understand the amendment that the gentleman has presented.

Mr. Chairman, it is my understanding, based on the remarks of the gentleman from California that those who came in before January 1, 1977, would receive permanent status.

Mr. LUNGREN. Permanent resident status, that is correct.

Mr. ROYBAL. They would get permanent-resident status, but would still have to wait at least 3 years before they become eligible for benefits under the law.

Mr. LUNGREN. We do not change the section of the bill that is presently before us and that is 5 years disability.

Mr. ROYBAL. All right. That is 5 years.

Now if they came in after 1977, they would get temporary-resident status.

Mr. LUNGREN. Between 1977 and 1980 they would be temporary residents.

Mr. ROYBAL. Which means if someone came in on January 2, 1977, that that particular person would get temporary-resident status.

Mr. LUNGREN. For a 3-year period of time, correct.

Mr. ROYBAL. For a 3-year period of time and within those 3 years they would not be eligible for any benefits?

Mr. LUNGREN. For a total of 5 years they would not be eligible for any benefits because I do not change that part of the bill that is before us.

Mr. ROYBAL. That is precisely what I wanted to understand; whether that was changed. Which means that regardless of the time it is still a matter of 5 years before they can participate.

Mr. LUNGREN. That is true.

Mr. ROYBAL. Now, does the gentleman have any studies or the benefit of any studies that have been made with regard to the number of aliens that would come under his provision?

Mr. LUNGREN. No. I tell the gentleman there have been studies that have been done but I frankly do not believe that anybody can truly predict what the numbers are. There have been some estimates made by the Census Bureau, there have been some estimates made by the HHS on the Federal level.

I have used the figures that came from OMB based on estimates from HHS, only to show the difference in the cost of my proposal versus the bill if you use common assumptions. But I do not necessarily accept those assumptions as being valid because frankly, I think, as the gentleman knows, we do not know how many people we are talking about and no one does.

Mr. ROYBAL. Then we also do not know how many individuals may wish to apply.

Mr. LUNGREN. Absolutely, that is correct.

Mr. ROYBAL. So we are talking then about an unknown number which may be as many as a million.

Mr. LUNGREN. As millions, yes, that is correct.

Mr. ROYBAL. All right.

Now, the administration of your program, with the two-tier program, how does that add up to less cost than a one-tier program?

Mr. LUNGREN. Well, in a couple of ways. One is that from an administrative standpoint, we have been informed by the Immigration and Naturalization Service that the bureaucratic burden of processing the various individuals would be less.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROYBAL and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. LUNGREN. We have been informed by the INS that as far as the expense of administering the program, they would find it to be less because then the number of people to be processed ultimately toward permanent resident status would be spaced out over a larger number of years.

The savings with respect to this bill come more in the area of bringing the date back as opposed to the two-tier system since we have blanket applicability of the disabling sections as the bill is presently written.

Mr. ROYBAL. One last question, if the gentleman will yield.

Mr. LUNGREN. Certainly.

Mr. ROYBAL. That is, I am concerned about the temporary status of the individual, once he gets that particular status. And when that person finally does not qualify, what happens to that individual? He has already exposed himself to the Immigration Service, and may be in danger of deportation.

Mr. LUNGREN. That is true.

Mr. ROYBAL. Is he immediately deportable or what happens?

Mr. LUNGREN. Well, for those few individuals who would fall into that category, they would then be here by definition in illegal status and they would be, yes, deportable.

Mr. ROYBAL. Now, one of the problems that I see with that is that these men and women who are here and would be eligible to remain under that particular status would not even apply.

Mr. LUNGREN. Well, if I might reclaim my time to respond to the gentleman, that is the problem you are always going to have if you have a carefully drafted legalization program as opposed to a blanket amnesty.

If it is an individual case-by-case analysis, then obviously you will have some people that do not meet that test; that is a fact of life. But I suggest to the gentleman, No. 1, blanket amnesty would never pass on the floor in whatever guise it might be presented and No. 2, I do not think it is the fairest thing to do.

So the complaint of the gentleman does arise with respect to this, but I would suggest to the gentleman that it would rise with respect to the bill as it is written because some people presumably are going to be excludable after having made application.

Mr. ROYBAL. Will the gentleman yield on that particular point?

Mr. LUNGREN. Certainly.

Mr. ROYBAL. I thank the gentleman. It is not a matter of complaint that is being raised; at this particular time I am seeking information.

Mr. LUNGREN. That is fine; I would be happy to respond.

Mr. ROYBAL. One of the things I want to know is how you are going to have to save $3.2 billion by having a two-tier program which in fact makes it more difficult to administer.

Mr. LUNGREN. Primarily with respect to the cost of public assistance as estimated by OMB and HHS using similar assumptions. All I am saying is that based on the same assumptions this is the savings, a magnitude of about half of what they would otherwise anticipate it would be costing us.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from New Mexico.

Mr. RICHARDSON. I thank the gentleman for yielding.

Mr. Chairman, first of all I wish to commend the gentleman for being very serious and comprehensive in his approach to this issue. But I have a number of questions I would like to raise.

First of all, the most fundamental one is how does the gentleman know how much it is going to cost if [illegible] do not know the number of illegal aliens in this country. There are all kinds of estimates.

Mr. LUNGREN. If I might reclaim my time, I have tried to answer that question. What I have said is taking similar assumptions, and applying them to the various approaches, the committee bill now before us and my amendment, these are the savings.

Obviously, if the assumptions were different, the savings would be different. But the relative savings would not be.

I would be happy to yield further to the gentleman.

Mr. RICHARDSON. The reason I ask this is because the assumptions are, there is a CBO, Census Bureau, the population is estimated at anywhere between 1 and 10 million; with the probably most accurate between 4 and 6 million by the Census.

Another concern that I have relating to the numbers, according to the INS, if your amendment passes only one-third or less, between 25 and 30 percent of those undocumented aliens would be affected.

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In other words, you really are not attacking the problem comprehensively.

Mr. LUNGREN. If the gentleman will allow me to reclaim my time, I might suggest that neither the INS nor I know how many people we are talking about, but to suggest that because I cut off the date at 1980 instead of 1982 that in 2 years two-thirds of all those people who are here illegally came in suggests that the situation is far worse and accelerating at a far worse level than even I believe is the case.

I would say to the gentleman that there are within those numbers of people who are here illegally a not insignificant number who do not intend to stay in the United States permanently. We have a number of studies that suggest that. The longer you stay, the greater tendency there is to permatize your residence here. But those who have most recently come to the United States are the least likely to wish to attain permanent status.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has expired.

(At the request of Mr. RICHARDSON and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

Mr. RICHARDSON. If the gentleman would continue to yield, I would just like to read to the gentleman some estimates by the Congressional Budget Office which estimate that only 60 percent of those eligible will actually seek to be legalized. This means that about 23 percent of the current undocumented population will actually apply.

As the gentleman knows, he is very cognizant of this issue, there have been a number of countries, Australia, France, the Virgin Islands, that have had legalization programs. Always the estimate of how many will actually apply is substantially below projections, way below 50 percent. In fact, it is at a point where many feel that even though you have an offered legalization program, that many of these countries, many of those eligible, because of the tier systems, because of the requirements, they do not actually proceed to apply.

I think this is a very compelling statistic that what you have is that a group of people that not necessarily are going to stay in this country for whatever reason. I agree with the gentleman there.

Furthermore, another concern that I have was the fact that we have just proceeded in this bill with the INS to give them more strength and more funds for border enforcement. Now you are giving the INS another role. We have already made the INS a number of other bureaucratic jobs, now you are giving the INS a very burdensome task of getting involved in temporary and the permanent decisions. The INS has enough trouble just taking care of the border. Now we are making them superbureaucrats. I think it goes against the intent of this bill.

Mr. LUNGREN. If the gentleman will allow me to reclaim my time, I might just say that rather than establish some new bureaucracy to deal with the problem, we felt it was important to keep it within the INS.

The complaints that the gentleman registers with respect to my amendment are complaints that the gentleman can register with respect to the bill as it is or anything short of total blanket amnesty, which I will repeat, this House will never pass.

So I acknowledge the gentleman's comments that this is imperfection. We are going to have human beings working on this and I acknowledge that. I also would say to the gentleman that the CBO has no more idea how many people are here or how many will apply than I do. They have no basis in fact to make that statement any more than I do, except to suggest this. We have made a conscious effort here, not only to involve the Federal Government, we made a conscious effort to allow private organizations, voluntary agencies, to participate in this. We passed an amendment offered by the gentleman from Florida [Mr. Fascell] last week to allow private organizations that may be profit making, as well as nonprofit making organizations to assist in this. We have cast the net as far as we can to bring in as many groups in our society that are not official to assist in the legalization program and we have never, frankly, ever had a program like this. I do not think you can compare it with any program in other countries.

Mr. RICHARDSON. If the gentleman will yield further, the question that I have is that I know the gentleman has not given the CBO much credence, but does he agree that the Census Bureau has made a reasonable determination at estimating how many there are in this country?

Mr. LUNGREN. If I might respond to the gentleman on that, I find it difficult to agree with the Census Bureau's statistics which showed there are 3.5 million people here illegally when I think it is in the higher range. Plus, the Census Bureau was not allowed by law to ask the ultimate question. They made estimates.

I am saying this is a big unknown out there. We have got to recognize it.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

I think this is a very interesting question and that figure has been thrown around here. I think it is interesting to point out and most important to point out that in 1979 the Census Bureau researchers reported to the Select Commission that there were between 3.5 and 6 million illegals in the country at that time. Now, that is 1979. The influx since then has been considerable.

So if we are talking about the Census Bureau and the figures, we have to take this in historical context because that was in 1979.

Mr. RICHARDSON. Is the gentleman aware of the census in 1980, what the estimate was? It was between 4 and 6 million. That is a Census Bureau estimate.

Mr. SHAW. I think that points out very well the problem, that they are estimates. This is one of the problems that we have when we are talking about legalization. We have no idea how many illegals are out there. The Census Bureau takers could not even find a bunch of them.

Mr. RICHARDSON. But the point we are trying to make with my colleague is that my colleague has created—and I think he is very serious and substantive about his amendment—if his amendment goes through, there is the 5-year period where he is going to create in the next 5 years a substantial underclass that has no status, that has no options, that has no recourse and again we are brought back to the premise of this bill.

The CHAIRMAN. The time of the gentleman from California [Mr. Lungren] has again expired.

(At the request of Mr. Richardson and by unanimous consent, Mr. Lungren was allowed to proceed for 3 additional minutes.)

Mr. RICHARDSON. I think that concession by the gentleman has been made that we have got to deal with this problem.

Mr. LUNGREN. Let me just reclaim my time to suggest to the gentleman that I do admit that there will continue to be some underclass here who are here illegally, those who have come in within the last 2½ years. I readily admit it.

I think it is important not to have legalization so close to the time of enactment of the bill that you encourage further illegal immigration in the hopes of having another amnesty. I concede that to the gentleman.

Mr. RICHARDSON. It is 3½ years. That is a substantial number. The point that we are trying to make is the gentleman has said he is trying to deal with the problem, but I sense that he said the most practical and political way to do it is to reach a compromise. But if you reach a compromise, you are not really dealing with the problem. I believe that the committee amendment which is 1982, which has a number of standards that require for some kind of supervision, that deals with the problem in a more comprehensive way, probably will be most cost efficient, more humane, and I just think what the gentleman is creating is a new underclass, an ability of the INS to probably not be able to——

Mr. LUNGREN. If I might reclaim my time, I am not creating any new underclass.

What I am attempting to do is to have a compromise solution to a very difficult situation. I am not creating any underclass at all. There is an underclass right now that may be as large as 12 million. I am making a good faith effort to try and resolve that problem as credibly as possible, to the extent those who most recently came here have the least claim on legitimacy in having a commitment to this country. I will acknowledge to the gentleman those people are going to be left on the outside.

Whenever you draw a line there are some people who are going to be left on the outside. That is a fact. I concede it to the gentleman. But my suggestion is if the gentleman believes, as he does, and carries his argument to logical extension, then we should have not what is in this bill. Under that thinking we should have a legalization that goes up to the date of enactment so that as long as you get your foot across the Rio Grande the day that the bill is passed, you have legal status. I do not think that that type of blanket amnesty makes sense, is justifiable to those who have waited for many years following the law, nor is it possible to pass, I might add.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I think it is important to clarify a misimpression the gentleman may have inadvertently given. The gentleman from California, the ranking minority member of the subcommittee, in support of this legislation in general debate and innumerable times since the general debate that preceded the amendment has cited the select commission.

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has again expired.

(At the request of Mr. BERMAN and by unanimous consent Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

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Mr. BERMAN. I appreciate the gentleman's continuing to yield.

The gentleman cited on a number of occasions the support of this tradeoff, the employer sanctions for the legalization, the work of the select committee, its bipartisan status, its distinguished status.

Earlier in the debate, the gentleman made reference that the select commission selected January 1, 1980, as the ideal date.

I think it is only fair to point out that that recommendation was made in April 1981, No. 1. No. 2, it was in the context of believing that any legalization program with a continuous residence requirement for participation in the program be no longer than 2 years; and, third, that the select commission made its own estimates of when different cutoff dates would affect portions of the population.

This came up earlier. I would like to read exactly what the select commission said, interpreting their estimates based on the tremendous delay we have had since the select commission came down.

Mr. LUNGREN. I appreciate the gentleman's comment. If I might just reclaim my time in order to allow a member of the select commission to respond——

Mr. BERMAN. May I just indicate the figures for the RECORD?

Mr. LUNGREN. Let me yield to the gentleman to respond to that, and then I will grant you more time.

Mr. FISH. As a member of the Select Commission, I would like to advise the gentleman that the reason the Select Commission determined the legalization should not be a date past January 1, 1980, was the very fact that the report was issued after that date, and it realized that once that unanimous recommendation for legalization was announced, it would serve as a magnet to encourage a great many people to come into this country illegally to qualify for a later date. Hence, the importance of the 1980 cutoff date.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding.

Since we have got a clouded issue here, let me cloud it up a little further.

Eight years ago, I was getting estimates from retired regional directors of the Immigration and Naturalization Service of between 14 and 15 million illegal immigrants in the country. By the same token, in later years coming up, it seems to me to be growing by leaps and bounds at the rate of about 1 million illegals each year.

So we can conceivably say that we have 20 million plus illegal aliens living in this country today, which would be a tenth of the population.

So I support the gentleman's amendment, reluctantly, because I do not agree with amnesty, but because I know that something must be done, that we must find some way to begin to control what is happening to our country here, and that is why I support it.

Mr. Chairman, this amendment establishes a two-tier legalization program that grants permanent resident status to undocumented aliens who can prove entry into the country prior to January 1, 1977, and temporary resident status to those who arrived prior to 1980. It is similar to the legalization program which has already been approved by the other body.

This two-tiered amnesty plan is an improvement over the unprecedented amnesty program included in the bill which covers all those who entered prior to 1982. For that reason I will support it.

However, it is with great reluctance that I do support this amendment. Amnesty raises serious questions of fairness with regard to those who have waited patiently—sometimes for more than a decade—to immigrate through proper legal channels. Furthermore, I doubt that it will free any resources to deal with our immigration problems, but instead will encourage millions more to immigrate illegally in the hope of benefiting from some future amnesty plan. If we grant amnesty once, there is no reason that we cannot do it again.

I will support the amendment because it represents a less drastic approach than that currently in the bill. However, I will encourage my colleagues to support a later amendment to strike the amnesty provisions from the bill altogether.

Mr. LUNGREN. I just want to thank the gentleman for his reluctant support. I appreciate it. I will get any support that I can.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from California again.

Mr. BERMAN. I thank the gentleman for yielding.

First, I might say that I am not engaging in speculation about estimates of numbers. I think the gentleman from California has very straightforwardly indicated that neither he nor anyone else has any idea of what numbers we are talking about. We have a tremendous disparity of estimates. That does have consequences on the cost figures. I think we are trying to deal with a conceptual approach to the problem here.

I would be interested in hearing, as the debate proceeds on this amendment, from the gentleman from New York or anyone else, the extent to which illegal immigration since April 1981 has in fact been motivated by some belief that some legalization blanket will cover people. I start out skeptical that that is the belief.

Mr. LUNGREN. If I may respond to the gentleman at that point, in speaking with a number of agents on the border, in fact they found comment by people coming across the border about amnesty when they came across, as this seemed to be discussed broadly either in the Congress or by the select commission. That is just anecdotal information, but in fact they have commented on that to me in the past.

Mr. BERMAN. If the gentleman will continue to yield so that I might present the figures of the select commission into the RECORD for this debate, assuming enactment this year, the legalization program would be in full swing only in early 1985, 3 years after even the January 1, 1982, legalization cutoff date in H.R. 1510. Assuming enactment in this Congress——

Mr. LUNGREN. If I might just reclaim my time, is the gentleman referring to the actual report, or the staff report?

Mr. BERMAN. I am referring to the estimates of the select commission.

Mr. LUNGREN. But is that the select commission staff report or the actual language of the report adopted by the members of the commission?

Mr. BERMAN. I can have the answer to that question for the gentleman in a few moments. I will try to pin that down.

The following table would apply——

The CHAIRMAN. The time of the gentleman from California [Mr. LUNGREN] has again expired.

(On request of Mr. BERMAN and by unanimous consent, Mr. LUNGREN was allowed to proceed for 2 additional minutes.)

**Mr. BERMAN.** With a cutoff date of January 1, 1983, the estimated percentage of the population covered is 75 to 80 percent; with a cutoff date of January 1, 1982—in other words, the bill before us, without the gentleman's amendment—60 to 70 percent; with a cutoff date of January 1, 1981, 45 to 50 percent; with an estimated cutoff date of January 1, 1980, 35 to 40 percent.

The gentleman from New Mexico has cited the experiences in other countries and estimates of experts that no more than 60 percent of those eligible will likely apply, so we are dealing perhaps with 20 percent of the undocumented worker population now in this country. I think the amendments that we will be hearing, this amendment and the future ones, should be considered in that context.

I thank the gentleman for yielding.

**Mr. LUNGREN.** I appreciate the gentleman's remarks.

I do think it is fair to say that I believe those statements the gentleman made are from the staff committee report, and if that is correct, that committee report was issued long after the commission had completed its recommendations, and was never formally adopted, as I understand it, by the commission.

**Mr. FRANK.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope very much that this amendment is defeated. As has been indicated, there will be a change in the situation. The gentleman from California said that he is not creating an underclass, and that is true. In fact, the gentleman from California has quite courageously worked for 3½ years on this fairly unpopular subject, to try and alleviate—and I genuinely believe he has been moving in that direction—the plight of those people.

But out of a combination of political necessity—and I do not mean his personal political necessity, because anybody thinking about his personal political necessity would not mention the word "immigration"—but out of the floor management requirements of trying to get a bill through, I think we have an amendment which confounds the logic of the bill and, if adopted, will make the situation worse, if the whole bill is then adopted, for a lot of people who do not deserve to have that inflicted on them, because you will have a situation where sanctions will be in place, it will be illegal to hire people who enter here illegally but we will have people who have entered here since January 1, 1980, who will be subject to the sanctions.

It cannot be in our interest to create so large a class of potentially desperate people.

Now, the gentleman is correct. No one is talking about a contemporaneous date. We have in the bill a cutoff date of January 1, 1982. That is a year and a half. The gentleman has 3½ years, during which time people would have come to this country, would have been working, would now face a situation, if the bill passes, where, if they have to change their jobs because they have been fired, because they want to quit, because their job is abolished—and these are not people who are necessarily in the most stable forms of employment, they are people who are going to have to change their jobs—they will face a situation where 3½ years' worth of people who have come here simply cannot work legally. It cannot be in the interest of this or any other society to create by the working of a statute so large a number of people who are here physically who probably cannot be removed forcibly, and who are disbarred from legally supporting themselves.

What do you do when you create a situation when you have a large number of people who are here and cannot legally support themselves? You are inviting desperate behavior. And I say that not to invite it, not to excuse it, not to say that if it happens we ought to in any way refrain from punishing it if we can. But is it in our interest to create it? I think not.

Now, people can say, "Well, remove them."

If it were possible through our law enforcement capacity to remove all of those who are here illegally, then I would be in favor of doing that. But we have a situation now where all of us have admitted we have not any idea how many people in that category there are. To create the kind of situation in which it would be possible to remove those people, as we have the legal and moral right to do, when people have entered illegally, would unfortunately require transforming the nature of this society. In other words, this is a case where, to ask law enforcement officials to do something that serious, would be to introduce into this society a degree of regimentation that none of us want to live with.

So the premise of the gentleman from California is the premise of the subcommittee bill. Legalization is necessary because forced physical removal is simply an impossibility, not necessarily an undesirability but an impossibility.

Once you have conceded that there ought to be some legalization precisely because of that fact, why is it in our interest to say that we want to keep 3½ years' worth of those people unable to get a job?

Remember that in both bills people who are legalized are for 5 years—I think this is unprecedented in the history of the United States, we are not even sure of the constitutionality—the people who will be given legal status will be for 5 years disabled from receiving Federal financial assistance except in case of medical emergency that HHS says—and it is not in our interest to have sick people around with infectious diseases—we are saying to these people, "You have got to work because you are not eligible for any form of financial assistance at the Federal level, and if the States want to exclude you, we will let the States do it too."

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This is hardly some great boon. We are saying that if these people want to stay here in this second-class form of residence, but at least a legal one, and work, and support themselves, and not take any benefits that will let them do it. When people talk about how much it is going to cost the Government, there ought to be some assessment of how much they are going to be contributing. These will be people who will be taxpayers. The vast majority of them for that 5 years will be self-supporting. If not, under this statute they are here illegally, and they are working illegally and we are hoping that the sanctions are going to work.

We are talking about people who are at work, that is the problem. Now, I want to add, a further problem, from the standpoint of the bill, and then I will be glad to yield to my friend from Michigan. For many of us, this has been a very difficult piece of legislation. I believe that already last week, in accepting the Panetta amendment, allowing a large number of people to come in and do agricultural work, the terms of this bill have been changed.

**The CHAIRMAN.** The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 5 additional minutes.)

**Mr. FRANK.** I am speaking now as one who has come to the conclusion after several years of study that only a carefully worked out program of sanctions and legalization will begin to resolve this terrible problem we have all confronted. If the House adopts this amendment, you apply the sanctions in a terribly unfair and damaging fashion. You change a balanced proposal into one that will be quite punitive on a lot of people. These are people who, I understand, did something wrong when they entered illegally, but I recall the words of the gentleman from California [Mr. DANNEMEYER], who gave last week, during the Panetta amendment, a very moving tribute to the fact that these people, while they came illegally, were not ill-motivated. These were people who did not come here for a free ride; they came to try to work.

What the Members will do if they pass this amendment is to say that we will apply the full force of the sanctions to these people, but we will cutoff the legalization; we will cutoff the possibility of them even trying to support themselves legally as of entrance in January 1, 1980. You will create among us a pool of 1, 2, 3 million, nobody knows, people who are here with no legitimate way to support themselves.

It may make some sense to oppose legalization all together, but I think this is a politically driven rather than an intellectually driven compromise which does not make sense on its own terms. It cannot make sense to say we understand that we cannot throw you out of here, so we are going to have sanctions to keep people from coming in the future, and we will legalize so that we do not have this set of illegal people who are in a desperate status themselves and then cut it off in January 1, 1980.

I am skeptical, anecdotal evidence to the contrary, that news of a potential legalization was so widely credited in South and Central America and the Caribbean and elsewhere, that it contributed to a vast increase in the number of people. I think the thing that drives the number of people who come here are the relative economies of those countries and our own. I do not think that reading select commission reports, albeit a distinguished select commission, is a significant factor, anecdotal evidence to the contrary, in the flow of immigration.

The question is if you accept, on its own terms, the premise that legalization and sanctions go together because the alternative is to have sanctions and say that people cannot work and they are here, and to create a class of we do not know what, then the January 1980 date does not make sense. There is one other problem with the gentleman's amendment, that is the two-tier. That is going to be a cost, a bureacratic addition, and obviously, INS has to do it in any case, but you require double processing of some of these people in a way that adds to it and I do not see what is accomplished by the two-tier amendment.

The fundamental point though is that you are going to create a stuation in which people have come here, are told that they cannot work, and we understand that we cannot remove them, and I think it is going to be a very dangerous situation for ourselves. If you accept the logic of legalization, I do not understand what, other than an effort to pull a few votes away from people who are opposed to the whole legalization program, justified doing it with a 3.5-year waiting period rather than a 1.5-year waiting period.

Obviously there are lines, and there is arbitrariness on both sides of any lines. But the difference between 3.5 years and 1.5 years is significant. I have to aid that if this is adopted, and we have this 3.5-year waiting period, the bill, in my judgment, becomes not an intent, but in effect so punitive, so negative in conjunction with the Panetta amendment, that I could not in good conscience support it, and I would hope that the House at that point would reject it because what has been a balanced, mutually compromising effort to find common ground will have been transformed by the votes of the House into an instrument that I believe to be, again not an intent, but in effect a more vindictive one that will cause a great deal more misery than it will alleviate, and it will not at that point, be a bill, that in my judgement, would be worth salvaging if we went to conference.

Mr. SAWYER. Mr. Chairman, will the gentlemen yield?

Mr. FRANK. I yield to the gentleman.

Mr. SAWYER. I thank the gentleman for yielding.

I want to say I am compelled to agree with the gentleman. You are miscounting though; the gentleman is saying it would be a year and a half. Under the present committee bill, it would be 2.5 years, really 3, because there is 6 months before the employer sanctions come in.

Mr. FRANK. Four and a half.

Mr. SAWYER. So we will have people that were here, under the bill as it stands, for a significant amount of time, over 3 years, who suddenly will be unable to be employed. I think the ideal thing, if you are going to have legalization, and I am not an enthusiast over legalization. This has been very bothersome to me. But the ideal thing would be to have the date concurrent with the date of the bill going into effect. Obviously, you would have disaster if you could not seal your borders in the meantime.

Anyway, you are going to leave a reservoir of people who are not going to be able to work and who are physically here. The further down or the smaller we can keep that reservoir, the better off we will be.

Mr. FRANK. Let me just respond to that correction. It is 4.5 versus 2.5.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 5 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. MAZZOLI. I want to thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman on a very pertinent and a very important statement. Let me salute my friend from Michigan, who once again, has in all the years that we have worked together, shown his ability to go to the heart of the problem.

The gentleman's absence next year from our committee will be a very serious loss and I will, myself, personally miss his advice and counsel. The gentleman, despite a lot of obvious push and pull and emotional discussions, has suggested, as his colleague [Mr. DANNEMEYER] did, even last week, that when you examine the issue carefully, when you examine it under the microscope of good faith, it is inevitable you must come to the conclusion, first, that any bill with balance requires a legalization section.

Furthermore, as the gentleman has exactly said, if you examine the legalization section further, you inevitably come to the conclusion that the nearer the date is to enactment, the better the thing is going to work administratively, humanely, and otherwise.

Let me salute the gentleman once again on having added very much to this debate. I thank him.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding to me.

Mr. Chairman, I would like to point out to the gentleman from Massachusetts that we now have in the existing law a provision that the Attorney General, if a person has been here for not less than 7 years, has a right to suspend any deportation proceedings if that person can prove that by taking him or her out of the United States it will be a hardship on that person, or, it might be a hardship on their family.

Now, if we could, allow the Attorney General and give him absolute authority, to allow people to stay here who have been here not less than 7 years, under certain circumstances would it not make for a better citizenry rather than just allowing everybody who came here after a certain period of time, to be given certain rights of citizenship?

Mr. FRANK. No. The answer is as follows: First, the gentleman from California has pointed out this is not a blanket extension of automatic amnesty to everyone. There is a case-by-case element here which does add to the administrative burden, the gentleman is right. It is not his amendment that creates an administrative burden, it is the committee acceptance of the notion of legalization.

The problem I have with what the gentleman suggests is that that is in the bill for exceptional reasons; that is in the law. Giving the Attorney General that extraordinary power is meant to be used in exceptional cases. I think it would be a mistake to say that that should be the way you would deal with potentially millions of people. I do not know how many Attorneys General we would have to have; now we apparently have no Attorney General. We would have to have about 25 or 30 if we went that way.

The situation there is one to give an extraordinary power to alleviate a difficult situation. I do not think that is the way, in such an untrammelled form of discretion, that you want to deal with an ongoing problem such as we have now. I agree, and most of us in the subcommittee agree, that some form of case-by-case legalization is there; the question is whether we should wait 2.5 years, as the gentleman from Michigan corrected me, or 4.5 years for the cutoff date, and how large a pool of people who are not even eligible to work are going to be in this country.

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Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, on my own time I will be addressing the competing interests that lead us to the conclusion that this two-tier is a more balanced result, but I would like to just respond to a couple things the gentleman said.

This amendment does not create an underclass. Whatever date is picked, there will be millions of illegal aliens in the United States who simply do not come forward, and the gentleman knows that.

Mr. FRANK. I know that, and that is why I did not say what the gentleman has corrected.

Mr. FISH. But it is not the Lungren group that created those here now.

Mr. FRANK. I am going to respond to the gentleman from New York. What I said was that inevitably there will be a line, and some people will be put in that position of being subject to the sanctions and not working.

Mr. FISH. All right.

Mr. FRANK. By picking a 1980 date rather than a 1982 date, I think we greatly increase that number. So I think the workings of this amendment are to increase by a substantial amount—no one knows exactly how much—the number of people who will be in that very vulnerable underclass situation.

Mr. FISH. If the gentleman will yield further——

Mr. FRANK. I want to finish the statement. I will get more time.

Mr. FISH. I want to respond to the gentleman, and I cannot.

Mr. FRANK. When the gentleman gets his time, he can do whatever he wants.

Mr. FISH. All right.

Mr. FRANK. But I want to respond to the point, because the gentleman misstated my assertion. I did not say that the gentleman from California was creating, by himself, an underclass.

What I am saying is that the effect of this amendment, along with sanctions, will be to make that underclass a larger pool than it would be. There would be under the committee bill. But I think having a 4½-year period in which we have people's vulnerability building up is much more of a problem than the 2½ years and serves no countervailing purpose.

Mr. FISH. If the gentleman will yield further, I am sure the gentleman is aware of the fact that on two occasions, the last being last fall, the other body, the U.S. Senate, voted about 4 to 1 in favor of employer sanctions and the two-tier legalization which they did not consider harsh nor punitive.

Mr. FRANK. That I did not consider harsh nor punitive or the Senate did not?

Mr. FISH. The gentleman characterized it as such. They, by a margin of 4 to 1, did not agree with the gentleman.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 3 additional minutes.)

Mr. FRANK. If the gentleman from New York is making the point that the Senate sometimes does things of which I do not approve, I will not disagree whatsoever. Citing the fact that the other body has done something seems to me less persuasive of its automatic rectitude than it is to the gentleman from New York, but he is entitled to his opinion.

The fact is the fact. And I should add, by the way, that that makes me feel even stronger because what happens here is there is some difference between the two bodies. If we adopt the amendment of the gentleman from California, we are locked into those dates; we guarantee that anyone who got here after January 1, 1980, will be in that extraordinarily vulnerable position and, yes, we will have some people after January 1, 1982, but the gentleman from California is simply expanding by 2 years the pool of people in that position and, as I said, for no countervailing purpose that is clear to me.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman made the assertion that, in fact, and it was followed up by the chairman of our subcommittee, that this is a balanced approach which we arrived at; we tried to make sure that both sides, or all different sides, were looked at, and we had this very nicely compromised proposal before us that somehow my amendment is upsetting.

If the gentleman will remember, we passed out of subcommittee a date that was 1981. The gentleman had the amendment before the full committee that, I must say, passed basically on partisan lines that changed the date to where we are now. So we have had dates changing ever since we have been involved in this bill, and to suggest that one necessarily is a greater compromise, with more thought to it, I know the gentleman does not believe that. I know the gentleman believes very sincerely that his date is right, and I believe very sincerely that my date is right.

Part of it is political, I want to make sure we get a legalization. But I say to the gentleman that I have supported this amendment for some period of time before I even knew that we were going to have difficulty on the floor on legalization.

Mr. FRANK. I understand that, but I say to the gentleman, the point is that time marches on. A date that was valid a year ago is no longer valid, at least on the assumptions that I have, which is that a big time lag builds up. Yes, we reported out an earlier date. I always thought that it had to be adjusted, and the fact is that when we reported out a 1981 date, that was in a much earlier period. the gentleman and I both had expectations that this bill might come up sooner and, yes, I think that requires some adjustment.

So the fact that there was an earlier date at a much earlier period does not invalidate my point. My problem is, I still do not understand why, other than to get some votes, which is a perfectly valid business that most of us are in most of the time, what the difference is between 1980 and 1982. I know what the difference is on the negative side. The difference on the negative side is, we have 2 more years of people in that desperate situation.

On the positive side, I suppose the argument is that a number of those people came here because they heard about legalization. I do not think that is a very valid point.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield further.

Mr. FRANK. Yes; I will yield to the gentleman from California.

Mr. LUNGREN. I might say to the gentleman that when I originally looked at this, I thought a 10-year time was appropriate. Then, for about 2 years, I settled on a 7-year period of time because it is consistent with what we have in the law now, allowing the Attorney General, in his discretion, to grant suspension of deportation under humanitarian reasons.

One of the reasons we have always had the 7 years in the law is that that is a substantial period of time with commitment to the community. What we are now talking about is 4½ years.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(By unanimous consent, Mr. FRANK was allowed to proceed for 2 additional minutes.)

**Mr. FRANK.** Mr. Chairman, the gentleman from California himself correctly said before that this legalization is unlike anything we have ever contemplated. I reject the analogy to the Attorney General's suspension of deportation. It is meant to be a case-by-case, individual thing. I do not think it is analogous.

I understand the gentleman wants some kind of statement of commitment to the community. These are people who have been here for several years. The legalization process itself takes some time. The gentleman and I both agree that legalization is not to be automatic; there is to be some showing of concern. I think that with a period that will be about 3 years, as the gentleman from Michigan pointed out, before it even starts that we can get that kind of showing.

I come back to being unhappy with, and I have to say to the gentleman, when we are talking about the compromise, obviously this is not the only change. The Panetta amendment also greatly disturbs me. I think what we have was a bill, when it came out of committee, that tried to deal, in my judgment, reasonably unsatisfactorily with all interests, because in a bill like this we cannot please everybody, that has become much more heavily weighted on the punitive side and is no longer, if this amendment is adopted, a bill that seems to me to have a sufficient degree of balance to be able to be supported, especially since on the other side, as the gentleman from New York has pointed out, your legalization date is already locked in.

**Mr. LUNGREN.** If the gentleman will yield further, I understand the gentleman says that times are different and now we have this. If we were to take the full weight of the gentleman's argument, then why does not the gentleman have an amendment before us to move this up another year, since we adopted the gentleman's amendment in committee to bring it up to 1982, a year ago in May, I believe it was.

**Mr. FRANK.** Because I did not, at the time, get to the Committee on Rules in time. I would agree, it should be earlier on.

I agree with the gentleman, and we both agree. I do not think either one of us considers that a central point. I think the gentleman could go back to 1979 and I could go back to 1983. There is an element of arbitrariness in every year, but there is also indisputably a difference between our positions.

**Mr. LUNGREN.** I agree.

**Mr. FRANK.** The gentleman has 2 additional years, and maybe it should be 4 additional years, or 6½, but the 2 was a big enough difference to make the point.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. FRANK.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank the gentleman for yielding.

Mr. Chairman, just to take what little bit of time is left, let me once again salute the gentleman from Massachusetts and my colleague from California [Mr. LUNGREN]. The gentleman from Kentucky has had the great privilege of chairing this subcommittee for the last 4 years during which we labored mightily and yielded, we think, a very fine bill.

**The CHAIRMAN.** The time of the gentleman from Massachusetts [Mr. FRANK] has again expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. FRANK was allowed to proceed for 1 additional minute.)

**Mr. MAZZOLI.** Mr. Chairman, if the gentleman will yield further, the two gentlemen who have been perhaps the most responsible for getting us to this point, because they each represent a different spectrum on the ideological dial, but they each have a devotion to bringing to the House the best bill possible, are the gentleman from Massachusetts, my friend [Mr. FRANK], and the gentleman from California [Mr. LUNGREN], my esteemed friend and ranking member on the committee.

So I just want to take this moment to tell the House and to tell all who have observed these proceedings that it has been an absolute pleasure to work with these gentlemen. While they represent different views, they have each been devoted to getting a bill out there, and I salute the both of them.

**Mr. FRANK.** I thank the gentleman. I just want to add, I agree; the gentleman from California has been absolutely reasonable, up until now.

**Mr. FISH.** Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I favor legalization.

I am pleased to rise in support of the pending amendment, which provides a two-tiered legalization and sets appropriate eligibility cut-off dates. What has not been emphasized enough is that this amendment is an attempt to strike a fair balance between competing interests, and we have been challenged to present the positive side of this amendment, and I intend to attempt to do that.

Persons who entered the United States prior to January 1, 1977, under the amendment, may qualify for permanent resident status, and persons who entered prior to January 1, 1980, may qualify for temporary resident status—a transition status leading to permanent residence after 3 years. Cubans and Haitians who arrived prior to January 1, 1982, and meet certain other conditions also are covered under the temporary resident provisions.

The two-tiered approach of this amendment attempts to balance the competing equities of different groups seeking legal status in the United States. The amendment has two major advantages over the approach of H.R. 1510. First, the amendment recognizes the efficacy of treating persons with many years of U.S. residence and significant attachments to the United States differently from individuals who arrived in a more recent time period. Second, the amendment recognizes that legalization is inappropriate for persons who lack the significant ties to this country that develop over substantial periods of U.S. residence. The Judiciary Committee, in the last Congress, endorsed the two-tiered 1977-80 approach. The Senate has twice endorsed this approach. In this Congress, however, the committee regrettably rejected that balanced approach, and by a narrow margin of 15 to 14 adopted a 1982 cut-off date.

Why do many of us favor a temporary transition status for persons who arrived in the 1977-80 period? The gentleman from California and I pointed out in our additional views to the Judiciary Committee report:

> A temporary status gives an illegal alien (who lacks the equities of long-term U.S. residence) an opportunity to earn permanent residence through good conduct during a trial period. This is a reasonable requirement for someone who has chosen to enter or remain in the United States in violation of our laws.

The concept of the two-tiered legalization dates back to the Carter administration. "The purpose of granting a temporary status," President Carter informed Congress,

> is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed.

This amendment, by contrast, treats temporary residents much more generously by offering assurance of permanent residence after 3 years to persons who meet minimal requirements.

Immediate permanent residence for the 1977-80 group, as contemplated in H.R. 1510, is unfair to persons who have entered the country legally and now seek to reunify their families. This is because newly legalized permanent residents will be able to petition—in competition with permanent resident aliens who arrived in the United States lawfully—for spouses and unmarried sons and daughters under the second preference. Both must compete within the worldwide ceiling. The class of potential new petitioners in the early years will be much more manageable if we provide temporary status to the 1977-80 group.

Bearing in mind that any date leaves people in an illegal status, why is a 1980 cutoff date for legalization preferable to 1982? There are a number of reasons: First, a 1980 date appropriately excludes persons who came in response to active discussions of legalization by the Select Commission, the administration, and congressional committees. Second, a 1982 date undoubtedly embraces many people who came to seek employment with the intent to stay only temporarily. Many never anticipated permanent residence. They can be expected to return voluntarily to countries of origin unless we offer the prospect of permanent status. Third, humanitarian considerations that underly legalization do not dictate conferral of legal status on recent arrivals who have not built up equities.

The CHAIRMAN. The time of the gentleman from New York [Mr. Fish] has expired.

(By unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, fourth, the cost of public assistance that has been mentioned associated with a cutoff date of 1982 should give us pause. Those costs in the Judiciary Committee version of H.R. 1510 are approximately double the figure under the pending amendment. We are talking about $5 billion, and I am talking of public assistance, not the additional educational costs involved.

Mr. Chairman, the proposals that we are considering on legalization represent a wide range of views. The option embraced in this amendment No. 46 provides a substantial legalization without subjecting us to the risk of a legalization that is overly broad and expensive. The amendment offered by the gentleman from California, in my view, represents an appropriate middle ground that Congress and the American people can embrace.

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to my friend, the gentleman from New York.

Mr. GARCIA. Mr. Chairman, I listened very carefully to what my colleague, the gentleman from New York, said. I am really interested to know where and how we are going to get the money to make sure that this process is put together in the way the gentleman described.

Mr. FISH. I am sorry, I do not understand the question.

Mr. GARCIA. Well, let me repeat it. The INS is going to need a great deal of money to implement this program. Now, is there money that will be appropriated that the INS needs to make sure that the registering the two-tiered system is in place, and that people will be able to come forth, and that the INS will have the personnel to handle this?

Mr. FISH. Any date we pick, whether it is one tier or two tiers, is going to involve enormous administrative costs. This has been planned and worked on and prepared by the INS. It was ready a year ago, long before we had the bill on the floor.

The CHAIRMAN. The time of the gentleman from New York [Mr. Fish] has again expired.

(On request of Mr. Mazzoli, and by unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, if I may continue, the process is going to involve initially voluntary agency store fronts where people in undocumented status can go and seek advice before going to see the man in uniform to get some assurance that they will be legalized.

Mr. GARCIA. Mr. Chairman, will the gentleman yield further?

Mr. FISH. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Chairman, the reason I asked that question of my colleague, the gentleman from New York, is that from 1979 through 1981 I chaired the Census Subcommittee, and during that period of time I traveled throughout this country, and one of the areas that I really concentrated a great deal on was the Catholic Church. I went to the churches in various parts of the country, in the Southwest, in the Far West, and up here in the Northeast, and I met with a group of archbishops in a town just north of Miami to discuss their involvement in the question of the census and to get the people involved.

I did everything humanly possible with the church to try to make them understand that everything we did was confidential, and the church had a problem with it. They were reluctant to get involved. They were concerned with the question of the imprisonment of the Japanese at the outset of World War II. They were concerned that some of the census tracks they had heard about had been taken, and that that is how they obtained the names of these people.

The point I am trying to make, I guess, to my colleague, the gentleman from New York, is that there is no way we are going to have a legalization, whether it is 1 tier, 2 tiers, 5 tiers, or 10 tiers, without the help of the groups the gentleman described very well, and in particular, the Catholic Church.

Now, I would venture to say that at this particular moment in history it seems to me that there may be some reluctance on the part of the Catholic Church. They are not going to go to a person sitting at a desk at 26 Federal Plaza in New York; they will go to the church.

The CHAIRMAN. The time of the gentleman from New York [Mr. Fish] has again expired.

(On request of Mr. Garcia, and by unanimous consent, Mr. Fish was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. So, Mr. Chairman, if the gentleman will yield further, just to finish my point, it seems to me that while we are talking about all of this, there is going to be a great deal of help that these people are going to need if we want their help, and that is financial help. If we are going to register people, those community-based groups and organizations are going to need the financing.

Whatever we have talked about here, it seems to me, with my colleague, the gentleman from New York, I just see a reluctance on the part of these groups we are going to need to help us. It seems to me, bearing upon the Lungren amendment, that if we just had a flat 1982 cutoff date, that, I think, would be the appropriate way to go, because I think in many instances there are many people who are being hurt badly by employer sanctions and who are being stripped of a great deal of dignity, and the least we can come out of this with at this particular moment in the history of this bill is to at least have a 1982 cutoff date, which everybody can understand, which is simple, and which people would not be afraid to administer.

□ 1420

Mr. FISH. If I could regain my time, the chairman of the subcommittee I think wanted to respond to the question of the gentleman from New York.

I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding to the gentleman from Kentucky. Let me just make a couple brief points.

I salute the gentleman from New York [Mr. Garcia] for having been very active in the debate and having brought to the attention of the House some very important points that we must consider.

One of the points the gentleman has just brought up is the fact that the Catholic Church and other churches would have to play a part, and that is true. To the gentleman from New York, my trusted helpmate in this effort, he knows that in the bill we provide that there be an expanded outreach involving labor unions and churches. As a matter of fact, under the amendment offered by the gentleman from Florida [Mr. Fascell] we can even have other organizations involved in this first outreach.

Second, I would assure the gentleman from New York, if he would read page 92 of the committee print at line 22 in which we say that all the records involved in this application process are private, they are secure, they are not available to the Immigration Service in order to perhaps establish a paper trail to the undocumented. We want to make sure that this is no facade.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. MAZZOLI, and by unanimous consent, Mr. FISH was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. FISH. I would be happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

Last, I think, just to remind the House perhaps, on Friday last we adopted two amendments by agreement in which we extend the application period to 18 months in order to make sure that the people really can come forward, make it easier for them.

Last, but not least, we also adopted an amendment which changes the idea of the continuity of continuous residency. We accept the fact that there may be incidental minor inconsequential breaks in this continuity and that would not disqualify people from establishing when they have been here.

So I would suggest to the gentleman from New York that many of his concerns which arose from his chairmanship of the Census Committee have been dealt with by this committee and I thank the gentleman.

Mr. FISH. Mr. Chairman, I ask for a yes vote on the pending amendment.

Mr. RODINO. Mr. Chairman, I rise in support of the legalization provisions of H.R. 1510 as reported by the Judiciary Committee and to urge rejection of amendments that would strike legalization from the bill or dilute the formula of the committee bill.

I have supported some form of legalization since 1975, because it is necessary to the fair functioning of the employer-sanctions provisions in the bill. I support the legalization terms now in H.R. 1510 because they provide for a decent, just, and humane resolution of a long-festering condition that leaves decent human beings existing in a callous world of indignity and exploitation.

If we do not preserve the legalization formula in the committee bill, we will be condemning unknown millions of hard-working, law-abiding people—and their children—to an inhumane existence, with the constant dread of discovery and the protection of our laws denied them.

When the Immigration Reform and Control Act was first introduced in early 1982, it proposed a two-tiered legalization using the dates of 1978 and 1980 set forth in one of the amendments we will soon take up. If this amendment were to be adopted, we will have failed to move the legalization cutoff to coincide with the passage of time and will, in fact, have gone backward from where we were in 1982.

These amendments basically say there is nothing wrong with allowing the United States to be a nation in which some people enjoy the full protections of our laws, and some do not. I simply cannot accept that proposition. It is unfair; it is unequal, and it is impractical.

It is unfair and unequal, because it treats one class of people in two different ways: Allowing some to assert their legal rights and participate openly in our society, while forcing others to live in the back alleys of society. And it is impractical, because it is impossible to track down, round up and deport 2 or 3 million people.

The amendment to be offered by the gentleman from Florida [Mr. SHAW] changes the date from 1982 to 1980. While less onerous than the two-tier approach, the 1980 date would go a long way toward negating the very essence of the legalization program: to reach as many people as possible in fairness and equity, within the bounds of administrative practicality.

Mr. McCOLLUM's amendment would strike the legalization program entirely. If this were to be done, the evils of the status quo would be perpetuated, dooming untold millions of men, women, and children to continuing lives of fear and abuse.

The Judiciary Committee established the 1982 cutoff date after many months of study and hearings. The committee chose the 1982 date, because it would be current but would not cover any aliens who, upon hearing of pending legislation, would make a mad rush across the border to benefit from it.

Legalization serves two purposes. It brings the subrosa undocumented population of our country out of the shadows and lets them live as free human beings, no longer afraid to send their children to schools, to register and vote, to collect from a social security system to which they contribute, to get refunds on the tax dollars they have paid, to enjoy all the rights and freedoms that this Nation offers to lawful members of its society.

The second purpose of legalization is to put our mistakes behind us by admitting that we have done a poor job in preventing illegal immigration and by resolving to wipe the slate clean so that the Immigration Service can concentrate on stopping future illegal immigration.

Mr. Chairman, I feel very deeply about this: We have spent a long time grappling with this issue: By adhering to the 1982 cutoff date, we will strike a blow for humanity and decency. We will enable this underground population to live indignity and become productive, participating members of our society. These people are for the most part an asset—not a burden—to this great Nation. They are people who own homes, pay taxes, have children, and enrich our communities.

Our committee drafted the legalization provision with great care and deliberation. I feel very strongly that these provisions best conform to the purposes of the legislation program and that they will redress injustice and promote good will in our communities.

Mr. RODINO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me make it clear that I believe that the proponent of this amendment, the gentleman from California, is certainly well intentioned and I know that he has worked very, very diligently and with a great deal of concern to pass this bill. I am sure he recognizes that a balance is essential if we are to pass the immigration reform control bill. Certainly, the bill should contain both employer sanctions which we have now adopted, and—in order to ensure that the bill is balanced—legalization.

There is an undocumented society that lives here. It is presently a society composed of decent people who come here for only one reason: to find work so they could provide for themselves and their families. They have been working diligently, paying taxes and, indeed, have become part of our society, except that they are a shadow part of that society.

Do we not want to give them the opportunity to be not only productive, but to come forward and to live a decent life, to live as other members of society live?

The gentleman from New York suggested that many of these individuals who have come here since 1980 may have come to work only for a temporary period of time, to stay here only temporarily. If that be the case, then those individuals will not come forward if we adopt the provision that is in the committee bill which would have a cutoff date of 1982 and which would not make them eligible until 5 years later for any of the benefits, but would give them an opportunity to actually have permanent resident status.

I believe the question of cost which is a factor has to be weighed against the question of the cost to those individuals who from 1980 to 1982 are here, who would no longer be permitted to work in new jobs because of the sanctions provisions that we now have adopted.

I think that we would be doing not only a disservice to ourselves, but we would be acting inconsistently with what we are attempting to do and that is to recognize a fact of life, that these people are here and we ought to come as close as we can to the current date, allowing for the greatest number to be given this opportunity to become legal.

Mr. Chairman, I have worked on this legislation for a great period of time. Without legalization, there can be no immigration reform bill, but beyond that, there is a case of being realistic and recognizing these facts.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. RODINO was allowed to proceed for 2 additional minutes.)

Mr. RODINO. Without that, Mr. Chairman, I think that we do not only a disservice to ourselves, as I said, but we are really being unrealistic. We are not recognizing that we would be leaving the undocumented who have come in from 1980 up to 1982 in limbo.

I do not know whether those individuals who came in from 1978 to 1980, and who would be given temporary resident status believe it is going to be worth their while to come forward. I do not know what the answer to that question might be, but I do know that the post-1982 people like their predecessors, are presently engaged in employment, have paid into income taxes and have done whatever they possibly can to show they are part of this society. We should not now cut them off and say that they will now belong to a class that is in legal limbo.

I think that this House cannot and should not act in this manner, and should have the bill that is before us and its provision of a 1982 cutoff date adopted by the House.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield on that point, since he addressed a question that I do not believe is rhetorical?

Mr. RODINO. I yield to the gentleman from California.

Mr. LUNGREN. What I would say to those people is this, "You will be given an opportunity to earn permanent legal status in this Nation."

We are not granting blanket amnesty. We are setting a carefully drawn program in which we feel that you have to show that you have a commitment, a long-term commitment to this country, in order to receive the fruits or the benefits of this society. That is what I would say to them.

Mr. RODINO. It is well for the gentleman to state that, but I think the message that is going to be given to those people now if we were to adopt the amendment of the gentleman is to say that those people have yet another road to go down and again you are going to be putting obstacles in their path.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. RODINO was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Kentucky.

□ 1430

Mr. MAZZOLI. Let me salute the gentleman from New Jersey, the distinguished chairman of our committee on an absolutely eloquent statement in behalf of the correct proposition, and that is that a bill without legalization is no bill at all, and that the House formula, the formula that is in the committee bill, is a superior formula to the good faith offering of my friend from California.

The gentleman from New Jersey, to all those who are here today and observing these proceedings, is the one person in this Nation who understands this whole area of the law better, and he is the one who can actually give us the guidance we need to craft what we hope to be the genuine, humane, and decent immigration reform.

So I salute the gentleman on his many years of hard work. I salute him on bringing us to this point, and I thank him for that statement.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

If we are to regain control of our borders, it is absolutely essential that we finish the amendment process on this bill—that we pass it and send it to conference with the Senate.

Although I have an amendment coming up later to strike the legalization section, and strongly urge you to vote with me on it, I intend to vote for the Lungren amendment as it improves the bill and it would be much better to have the Lungren legalization structure in place should my amendment fail.

Now let's look at what's wrong with amnesty and why the American people want it stricken from this bill and why the majority of this body should vote to delete it altogether.

First of all, granting legal status to millions who were here on January 1, 1982, or January 1, 1980, as in the Lungren amendment, either one, would be a slap in the face to the millions who have stood in line around the world for years waiting to come to this country legally. We have been taking in on the average somewhere between 450,000 and 500,000 immigrants legally each year for the past few years, plus refugees. There are anywhere from 3 to 12 million illegals who could come forward in 1 year and gain a status leading to citizenship if the legalization provisions remain. That is just not right. It is a reward to lawbreakers and is very unfair to those who have stood in line for their opportunity to come legally.

Second, the passage of the immigration bill with the amnesty provisions in it will be a magnet that will encourage thousands, possibly millions more, to come across our borders in the hope that they can fake thier way and fool the authorities with fraudulent documents in order to qualify under the provisions of this bill or in the belief that once we have given this one-shot amnesty, we will give it again in a few years, as has happened numerous times in the past. This new magnet will draw others across the border; it will neuter the employer sanctions provisions of this bill which are designed to eliminate the magnet of jobs and the economic rewards that pull people here.

Additionally, the legalization provisions will distort the existing balance in our immigration laws. Some counties in regions of the world from which most of the illegals have come will have placed far, far more than their proportional share would normally allow into the stream of immigrants programmed to become American citizens. This not only means a dramatic change in our historical patterns and mix of immigration to our country, but it also means a great potential future distortion in these patterns as those who are grandfathered in by the legalization provisions become citizens and thereby automatically make many relatives eligible under our present preference system in the legal immigration laws. This multiplier effect could be enormous.

Lastly, there is an undeterminable expense to American taxpayers involved in any amnesty program. Not only are there millions of dollars of attendant costs to carry out the program, there are millions and millions of dollars to be spent by local, State, and Federal taxpayers as additional burdens on social services and educational systems come about when legalization is in effect.

For all of these reasons, it seems to me to be quite wrong to pass the legalization provisions of this bill. Without these provisions, the bill will still accomplish the goals of immigration control. In fact, in the earlier efforts to regain control of our borders in 1971 and 1972, bills passed this House incorporating employer sanctions without any mention of legalization or amnesty. The problems are the same today—they are just worse and there is no reason to add a bad provision to a good bill in the name of getting some imagined consensus to pass a bill.

There are those who argue that there will be some mass deportation of illegals and their families if we strike the legalization provisions. That just isn't so. The INS does not have the manpower or the capability of any such massive roundup. Things would go on just as they are now with occasional raids where illegals are working and over a period of time, as employer sanctions took effect, there would be a gradual movement back across the border by those who are no longer able to get work in this country. Some would stay, and some would be apprehended, but there would be no more disruption and no more arrests than we've been having all along, and over a period of time there would be much less.

It should be noted that even if my amendment to strike legalization passes, there is a safety net in this bill for those who have been residing in the United States continuously since on or before January 1, 1973. This is the so-called registry date. If an illegal has been here continuously since January 1, 1973, the Attorney General, on a case-by-case basis, could legalize that alien by granting permanent residence status. Since this date is 10 or 12 years back, it does not pose the kind of problems that the current dates in this bill for legalization do. The current registry date is 1948, and the last time that was updated was 19 years ago. Obviously, too much time has passed since we have advanced the registry date, and this needs to be reviewed and updated periodically, and I would support efforts to provide for this.

Please make no mistake—I am speaking for the Lungren amendment only as insurance if my amendment to strike should fail. Lungren provides for a two-tiered system, but the bottom line is that the amnesty date would be January 1, 1980. Under the bill as it now reads, it's January 1, 1982, and the same January 1, 1982 date would exist if the Wright amendment were to be adopted; 1980 is preferable to 1982, but what we really should do is strike legalization altogether and go with the registry date of January 1, 1973 that is in the bill. I urge my colleagues to vote for the Lungren amendment, against the Wright amendment, and later to strike all of the legalization provisions by voting for the McCollum amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCollum] has expired.

(By unanimous consent Mr. McCollum was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to the distinguished chairman of the subcommittee.

Mr. MAZZOLI. I thank my friend for yielding. He has been one of the most diligent workers in his 4 years in Congress, all 4 of which were spent on this subcommittee. The gentleman has impressed the gentleman from Kentucky not only with respect to your knowledge of the law but with your willingness to work. I would therefore ask my friend, whose amendment to strike, of course, I very seriously oppose, if the gentleman, as he has done all the way through in this process, would the gentleman still support the bill in the event that the gentleman from California's amendment were voted down, and the gentleman's amendment were not supported?

Mr. McCOLLUM. Reclaiming my time, it is my judgment we have reached the point where employer sanctions and the adjudication provisions in the bill are so important that no matter what happens to the legalization provision, whether the amendments are all stricken down, whether my amendment passes, whether the Lungren amendment passes, however the form goes——

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCollum] has again expired.

(On request of Mr. Mazzoli and by unanimous consent Mr. McCollum was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. We should pass this bill. It is too important a bill to let die here and I urge, I implore my colleagues who have strong feelings on both sides, to listen to that kind of logic because this bill, the guts of this bill, the employer sanctions and the adjudication provisions, are absolutely essential to regain control of our borders.

Mr. MAZZOLI. If the gentleman will yield further, let me salute the gentleman on a wonderfully eloquent statement. The gentleman has again, as he has shown through his 4 years, each year of which the gentleman's amendment has been offered and defeated in the subcommittee and in the full committee, the gentleman continues to offer to the House and to the country a willingness to try to work out the best of a very difficult subject. Let me thank the gentleman. I hope all who are here and those who are observing the proceedings recognize what my friend has said. It is a very difficult position for the gentleman to reach. He has reached it through intellectual honesty and through knowledge of the subject matter and courage, and I thank him for that and I hope that all the Members will, despite what happens on these amendments, will support the committee bill on final passage.

Mr. FRANK. Will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding. I guess I want to say, to reiterate from my standpoint, the guts of this bill will be lying all over the floor if this amendment passes. I am afraid I will not be able to support it and I may have to even give back one of my salutes to my distinguished chairman, which I will regret.

□ 1440

But I just wanted to stress the point, and I appreciate the gentleman's honesty, he is speaking for the Lungren amendment from the standpoint of someone who is against the whole legalization process. From that standpoint it makes sense. if you are not for legalization, then you are for less legalization than we have got. But if you support the concept of legalization, the 1980 date is an illogical one.

So I appreciate the honesty of the gentleman from Florida; he is against the whole concept; he will take half legalization rather than have the whole thing, but he really would rather have nothing at all. And I think he has put it in the best possible perspective.

I yield back.

Mr. McCOLLUM. If I might take back my time, Mr. Chairman, the fact is I think the gentleman from Massachusetts has done an admirable job on the subcommittee up to this point; he is dead wrong about his concern about voting for this bill—whatever happens on legalization. We have got a good bill, we need to vote for it, whatever happens. I happen to believe that legalization is wrong, it should not be in here, and as a matter of principle I am moving to strike it.

The gentleman ought to express his views, but I hope that whatever the outcome of the legalization votes, the gentleman from Massachusetts will join me in voting for final passage of this bill.

The CHAIRMAN. The time of the gentleman from Florida [Mr. McCollum] has expired.

(By unanimous consent, Mr. McCollum was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. But it is absolutely essential that we get the employer sanctions provisions in this bill. It is nonsense to say that the legalization provisions are essential to the workings of this bill for balance. Balance in this bill comes from the fact that we have employer sanctions and adjudications provisions and will only come if we strike legalization and allow the currently existing, balanced immigration laws of our country to work in the right proportions that historically we have had in this country. It is essential for this bill to maintain legalization and in fact it is wrong and unjust to keep it. And I am sorry to hear the gentleman say that he personally cannot support the bill if we take it out.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I will have to concede that the gentleman is my superior at contortion and gymnastics. Maybe he can balance on one arm, but I cannot, even in my present new figure. To have sanctions and no legalization is to say to several million people in this country: "You are here illegally and you cannot work."

And the gentleman agrees we cannot physically remove them, he is not advocating that. So what we are really saying is, "You are here illegally and you cannot work and over the next 5 or 6 years we will wait for you to trickle out of here."

I do not think it is in the interests of any society to create such a class. The first time in American history that I can think of we have people to whom we say, "We understand you are not here legally, we understand we cannot get rid of you. Therefore what we are going to do is make sure that you cannot earn an honest living."

Mr. McCOLLUM. Reclaiming my time, the gentleman should know full well that regardless of what amendments are adopted, whether legalization remains as it is now or not, there are going to be a lot of illegals in this country and there are going to be a lot of them trickling out. So it is only a matter of degree.

Mr. FRANK. We make our living on matters of degree.

Mr. McCOLLUM. Keeping my time, it is a question of what kind of magnet we are going to have, what kind of a slap in the face to those who have been waiting in line to come here legally and whether or not we are going to make our laws stand up and mean what we say or are going to reward lawbreakers.

I think the gentleman on that particular point is again, as I said earlier, dead wrong. We need to have the legalization provisions stricken. I do urge, though, a vote for the Lungren amendment, a "no" on the Wright amendment when it comes up and then a vote for my amendment to strike legalization, and put some commonsense, fairness, and responsibility back into this bill and allow us to go to conference with employer sanctions and adjudications.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

If those who are listening to this debate think they are confused, how do you think the poor illegal alien who is trying to figure out whether he can get in on the amnesty provisions of this particular amendment is going to come out?

Let me try to put this in a little perspective. I have been on the Judiciary Committee now for almost 14 years. I was on the Immigration Subcommittee the very first time I was here. I went with Chairman Rodino, then chairing it, to the Mexican border; we held hearings in Los Angeles and El Paso, New York and Chicago, and we talked to aliens in detention camps who were waiting to be shipped back to their countries of origin.

And I have voted for a pure employer sanctions bill twice in this House. And I say to my friend from Florida [Mr. McCollum], that it failed, and one of the reasons that it failed was because we had not taken into account the other side of the equation, that is dealing with the situation of the millions of illegal aliens who are already here.

Now I also happen to think that if we just take a legalistic approach and think that any statute is going to solve the problem of illegal immigration in this country, we are kidding ourselves. Until and unless we can help our good neighbors to the south of the border get their economies to the point where their people can find work in their own countries, we are going to continue to have illegal immigration from that area. If there aren't jobs in Mexico and their population continues to expand, as it will, then more and more people will be in dire poverty. We are going to have more and more illegal immigration into the United States, regardless of any legislation we enact.

And if you know anything about the border down there and how rugged it is, you will know that there is no way that you can physically keep them out.

Nevertheless, we must get our immigration problem under control, to the extent that that is possible through legislation. And the two keys to this are: First, employer sanctions; and second, legalization for those who are already here.

Now this is not just a humanitarian gesture; though indeed it is a humanitarian act. Illegal aliens, because they fear discovery of their status, will not go to the law enforcement authorities when they are not being given standard wages. They will not go to law enforcement authorities when they are working in inhumane conditions or when their housing is substandard or when they are being abused in other ways. We owe it to them to correct these inhumane conditions, but we also owe it to our own citizens. This situation is dragging down our entire set of laws dealing with the conditions under which labor works in this country, and driving down wages.

Moreover, this festering situation is undermining our immigration laws and respect for law generally. So we must get a handle on it, and that requires that we maximize, not minimize, the number of illegal aliens who can come forward and declare themselves and feel at long last that the fear of being discovered has been lifted from them. If, as I believe, legalization is important, then what we ought to be doing is making it possible to bring the maximum number of illegal aliens under this umbrella.

Obviously you cannot make it the current date of enactment, whatever that may be, because you may encourage more immigration. But I tell you, ladies and gentlemen, if you have been down to the border, and I was there as recently as last weekend, there is no way that the cut-off date is going to make an awful lot of difference, in terms of encouraging additional illegal immigration. Many Mexicans, for example, feel that it is a right, which they have been exercising for generations, to simply walk across the Rio Grande, which is very easy to do. Nevertheless, we have to have a cutoff at some time in the past. But there is no sense and no logic at all, I submit, putting it as far in the past as 1977.

And there is no sense and no logic in having a more complicated system. It is complicated enough even under the committee's bill. I submit to you that the committee's bill is about as far as we ought to go and that the idea of a two-tier system and pushing that date farther in the past just does not make any sense. So I strongly support the committee's bill and I oppose the Lungren amendment.

Mr. LEWIS of Florida. Mr. Chairman, I move to strike the requisite number of words.

I thank the Chairman.

Mr. Chairman, I rise in support of the gentleman's amendment, and I want to commend the gentleman from California—for offering it.

This amendment strikes at the heart of the bill.

Mr. Chairman, I come from a State that because of its location, is particulary susceptible to whatever decision the House makes today on the serious issue of legalization.

I firmly believe that to grant amnesty to those who have resided here illegally before January 1, 1982, would be a tragedy.

Such a decision flies in the face of those who have waited for years to immigrate to this country legally.

And it will make a mockery out of our immigration policy.

If the House retains the blanket amnesty provision now in the bill, I would have to say to those who are waiting to immigrate to this country through legal channels, "Sorry, you lose, you should have sneaked through the borders, falsified your papers, and kept a low profile."

Mr. Chairman, there are many aliens who have made investments in this country and who have obeyed our immigration laws.

While they are waiting to be granted permanent resident status under the present quota system, these people come to this country each year on their visitor's visa and then return to their homeland when their visas expire.

To grant amnesty to others whose visas have expired or who never had visas, but they managed to stay in this country and avoid detection, is a slap in the face to those who have carefully obeyed our immigration laws.

And what do you think will happen if we grant this blanket amnesty?

The same thing we saw happen during the Mariel boatlift.

You and I know that INS is already so overworked and understaffed that there is no way this agency can process all of the millions of new applicants under this bill—even with the support of volunteer organizations.

Those aliens who have carefully followed our immigration laws and who now have paperwork in the mill will suffer.

INS will turn its attention to those massive numbers of new applicants under the amnesty provision and put the other work now in process on the back burner.

Mr. Chairman, every day caseworkers in my district offices receive calls from illegals asking for information.

The common question being, of course, "How soon do you think it will take them to catch up with me?"

Clearly there are illegals waiting and hoping that Congress will be deceived into thinking that we can only resolve the problem we have with millions of illegal aliens here in this country by granting them amnesty.

And believe me these illegal aliens know our immigration laws better than we do.

They know how to work the system so to speak.

Once here they find sympathetic community groups such as churches and local volunteer organizations.

Sooner or later they give every appearance of being here legally.

Mr. Chairman, illegal is illegal.

And I pose this question to my colleagues, "Is Congress prepared to take a stand against those who deliberately violate our laws?"

Those who prey upon our sense of sympathy and humaneness?

Or, are we going to resist the temptation to let our borders disintegrate and all semblance of control disappear?

The crash amnesty program in the House bill is far too generous and undermines our legal system.

Why do we feel we owe automatic privileges to those millions of people who blantantly break our immigration laws?

I say we should restore some respect and discipline to the legalization process.

Therefore I support the gentleman from California's amendment and I urge my colleagues to do the same.

□ 1450

Mr. GARCIA. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of Florida. I yield to the gentleman from New York.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Chairman, there is no question that people have broken the law. They have crossed the borders and entered into our country without the necessary papers, without waiting in line.

But I think the overwhelming reason for their coming in is hunger. I do not know if the gentleman has ever been hungry. I think that hunger places the thought processes in a totally different direction. When you are hungry, you feel that you must do everything you can to curb that hunger. You have to find a job. And yet, if you cannot find a job where you are, you may try to go some where you think you can get a job.

You cannot fault people who are hungry for trying to feed themselves. I think some of those persons who the gentleman describes—and I am not saying that the gentleman is wrong, did arrive here illegally, but they also arrived here hungry. That is the difference.

The CHAIRMAN. The time of the gentleman from Florida [Mr. LEWIS] has expired.

(By unanimous consent, Mr. LEWIS of Florida was allowed to proceed for 2 additional minutes.)

Mr. GARCIA. I say to my colleague from Florida, that politically, I know it is easier to go with the Lungren amendment than with the 1981 date.

But I hope that my colleague understands that so many of these people came here only for one reason—to build a decent life for themselves.

Mr. LEWIS of Florida. If I may reclaim my time, I sympathize with the gentleman. Yes, I have been hungry and I have been without shoes and I—like a lot of other Members in this Chamber—but I also recognize, as I mentioned in my statement there are people who have been standing in lines, doing the legal thing to come into this country like our ancestors did and why should we say to them, "You were wrong. You should have been illegal." That is what I am stating.

Mr. GARCIA. If the gentleman would yield further, I am not going to quarrel with what the gentleman says, because what he says may very well be true.

But I would hope that my colleagues understand that many of these people who have come here have very little education, they really don't understand what a law is; they don't understand that you must get a visa. Not all of them, but most of them. You cannot fault people for simply trying to feed themselves.

I know that if I were hungry I could conceive that I might break the law. And if my children were hungry I would probably be even more inclined to break the law. I wouldn't want my children to be without food. That is all that so many of these people wanted to do.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. I thank the gentleman for yielding.

I noticed the gentleman mentioned illegal is illegal. I think as we proceed and look for solutions I would like to engage the gentleman in a short colloquy. If his view prevails and the McCollum amendment passes, it seems that there are three choices for that shadow underclass.

Mr. LEWIS of Florida. If I may reclaim my time, I believe we are talking about the Lungren amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. LEWIS] has again expired.

(At the request of Mr. RICHARDSON and by unanimous consent, Mr. LEWIS of Florida was allowed to proceed for 3 additional minutes.)

Mr. RICHARDSON. Three things could happen with that shadow underclass that is here for 3½ years.

One, there could be mass deportation. Now, I think resources and objectives of the INS indicate that this is probably not feasible, although perhaps the gentleman feels it might be.

Second, they are not going to leave voluntarily, a lot of these that will see the Simpson-Mazzoli bill passing on television and try to figure out whether they qualify or not.

The third option is the status quo. The status quo is what we have right now and I think the gentleman should recognize that the reason that we have many in this country in the status they are is because we have had no policy. We have had no immigration policy.

I would also like to mention to the gentleman, does he know the statistics about the contributions that many of these undocumented workers have had in this country in terms of job creation, paying their taxes, the low amount that the Government pays them in welfare services, and Social Security. The high amount that they pay into Social Security. Does the gentleman know that undocumented workers, 77 percent of them, pay into the Social Security system?

The gentleman is talking about illegals being illegal. But there are men and women who have come into this country that are contributing to society, that are parts of their communities—I can think right in the gentleman's own State of Florida, in Little Havana, a vibrant growing community of young people that want to be part of this country and they are patriotic. Should we treat them as illegals? Should we deport them? What is it that the gentleman suggests we do?

**Mr. LEWIS of Florida.** If I may reclaim my time, the gentleman is suggesting that we do need a legalization policy and that is what I was under the impression we were working on here today. But illegal is illegal. And when illegals are taking jobs and positions away from my constituents where they cannot have the opportunity to pay Social Security, then I have to be concerned about it.

This gentleman should also be concerned about that as well.

We do have a problem. We do need some sort of legalization policy, but certainly not a blanket amnesty like we are speaking about in this particular amendment.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman from Florida yield?

**Mr. LEWIS of Florida.** I yield to the gentleman from Kentucky.

**Mr. MAZZOLI.** I thank the gentleman for yielding.

It has been a very interesting discussion.

I would just point out to the gentleman, as the gentleman from California [Mr. Lungren] has on a number of occasions, this is really not a blanket amnesty. This is a case-by-case adjudication of whether or not you entered here by such a date, whether or not you are excludable, that is whether you have had perhaps a criminal record or you have had a record of persecution.

So, really, and I respect the gentleman, and it is a very important topic to his home State, but I would just say that this is a case-by-case careful adjudication program of legalization and not, again with all respect, a program of blanket amnesty.

The CHAIRMAN. The time of the gentleman from Florida [Mr. Lewis] has again expired.

(At the request of Mr. Mazzoli and by unanimous consent, Mr. Lewis of Florida was allowed to proceed for 2 additional minutes).

**Mr. MAZZOLI.** If the gentleman will continue to yield, as I was going to say, the fact of the matter is we were importuned at different stages of the development of this bill over the 4 years to, in fact, adopt a blanket amnesty program.

Well, we resisted that blandishment and that siren song in favor of this case-by-case approach.

So, we may differ on the offering of the gentleman from California. We may differ on the offering of my friend from Florida, your colleague [Mr. McCollum]. But I think it is fair to say that this does not wave a wand and everybody's past is forgiven. Everybody will be examined on a case-by-case basis.

**Mr. LEWIS of Florida.** I happen to agree with the chairman of the subcommittee, but I must state this. It may not be a blanket, but it certainly is a large cover.

□ 1500

You are talking about 1 or 2 million illegal aliens to be on a case-by-case basis. But then when you go to the 1982 figure, you are talking about several million. That is a lot of illegals, Mr. Chairman.

**Mr. McCOLLUM.** Mr. Chairman, will the gentleman yield?

**Mr. LEWIS of Florida.** I will be happy to yield to the gentleman from Florida.

**Mr. McCOLLUM.** A few minutes ago the gentleman from New Mexico, engaging you, was talking about what would happen, what will happen whether we pass the Lungren amendment or the McCollum amendment, or what is going to happen to all of the people we do not take in under this who are illegal, whatever happens today.

I think the clear fact is, as I said earlier, that nobody is going to deport them. That is not going to happen. But what is so terrible about a large portion of them going back across the border voluntarily when they do not have jobs? I think that is what is going to happen. That is why they came here in the first place, and that is what is going to happen to most of them over a period of time.

And, second, if they do not go back—we are always going to have some who do not—there is not going to be a very high percentage apprehended. They are going to ultimately find themselves in the position of meeting some grandfather position, but at least it will be a long enough way that whether it is Lungren—and I do not think it is long enough, personally, but some Members do—or McCollum, back in 1973, with a registry date updated some time in the near future, that they will be able to come in under it.

So I do not think that the argument should be on that basis of how terrible is it. Actually, it is good for them.

**Mr. RICHARDSON.** Mr. Chairman, will the gentleman yield?

**Mr. LEWIS of Florida.** I yield to the gentleman from New Mexico.

**Mr. RICHARDSON.** So the gentleman is telling me that, once Simpson-Mazzoli passes, those who are created in this shadow underclass, which I will state is my view—it is not the gentleman's view—what you are saying is that these men and women, after being in this——

The CHAIRMAN. The time of the gentleman from Florida [Mr. Lewis] has again expired.

(On request of Mr. Richardson and by unanimous consent, Mr. Lewis of Florida was allowed to proceed for 1 additional minute.)

**Mr. RICHARDSON.** That these men and women, once this bill passes and we create, say, the Lungren amendment, are going to voluntarily return back to their country?

Is the gentleman telling me that this is what is going to happen after years of working and having roots in this country and establishing themselves as part of the American work force? Is the gentleman telling me that there is going to be a voluntary exodus?

**Mr. McCOLLUM.** Not of everyone. I am telling you that a large number will, because a large number of them, as has been pointed out earlier in debate, are not here with years of established roots but come and go across the border, as this gentleman has seen, and I am sure that gentleman has, on a yearly basis, or maybe earlier. They have family ties back in Mexico or in other countries. They only come here to earn money. They will be able to have a chance to come here legally if the Simpson-Mazzoli bill passes without legalization under a temporary worker program or under an H-2 program, whatever is finally crafted in conference, and they will have no reason or excuse to stay here.

Now, ultimately, I think there will be a few who do. But the vast majority, yes, this gentleman is telling you, have every reason to go back or get into the legal process in some fashion, which is where we should have them all along.

**Mr. RICHARDSON.** I would suggest that what they might do, since we have also passed the Panetta amendment and you will see many going back, and then perhaps reapplying under the Panetta amendment, since what we seem to be doing is a bit contradictory. The two gentleman tell me what we are trying to do is preserve American jobs. Yes; we want to do that, and that should be a goal. But at the same time it is difficult to justify that when I believe both gentlemen supported the Panetta amendment which imports close to half a million guest workers into this country. I mean is not what we are doing a bit contradictory?

**Mr. McCOLLUM.** If the gentleman will yield, I think there is a real problem on the employment question here that has not been discussed at all in this debate, and that real problem centers around what happens if we grant legalization, we then have a lot of workers who are now in lesser employed jobs who get lower pay, who are going to probably move into the higher paying markets. They will be squeezing out more American workers. If we look at it——

The CHAIRMAN. The time of the gentleman from Florida [Mr. Lewis] has again expired.

**Mr. McCOLLUM.** Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. Lewis] be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. McKINNEY. Mr. Chairman, reserving the right to object, I will object, after this, for another extension of time. The speaker in the well has been in the well for practically half an hour, and I think it might be interesting for others to make their points of view clear to the House.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield under his reservation?

Mr. McKINNEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Would my friend who joined me here in this place in 1971 perhaps consider withholding his objection? An important debate is taking place, which not only deals with the amendment offered by the gentleman from California, but also deals with the amendment offered by the gentleman from Florida [Mr. McCOLLUM] and all of the other offerings.

I think really we are taking time, but I think we are in effect establishing the whole question of legalization. The gentleman from Florida has been there perhaps not even 10 minutes. The gentleman from Kentucky is not standing up to speak. So I would ask the gentleman if he might consider withholding his objection.

Mr. McKINNEY. Further reserving the right to object, Mr. Chairman, I will just simply say that I will obviously yield to the wishes of my good friend, the chairman of the subcommittee. I just think there are others of us who would like to talk about other aspects of this bill, and it is impossible to do it under this form of debate.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, will the gentleman continue to yield?

Mr. LEWIS of Florida. I continue to yield to the gentleman.

Mr. McCOLLUM. The gentleman was yielding to me to make a point that I would like to make about employment.

The fact is that if we allow the legalization provision to go through and we legalize several million illegals right now, there is going to be a multiplier effect take place very quickly. We have no ceiling or quota for immediate family relatives. They are immediately, once they become citizens down the road, and after permanent residence alien status is complied with, they are going to be able to bring in a lot of other people. And, as a consequence of that, there is going to be a tremendous pressure on jobs in this country. So I think those who are concerned about jobs ought to be concerned about that fact.

May I make one additional point on the gentleman's time? If these folks go back, in addition to being able to possibly come in under Panetta-Morrison amendment to do temporary work, they might get visa numbers and come in legally, like anybody else. And plus if they have been here for 7 years, even, they could get suspensions of deportation based on extreme hardship. And if they have been here long enough, they will get caught in the registry dates in the bill, which ought to be moved up periodically.

So, there are a lot of escape valves. I think the concern over what happens with people if we do not pass legalization or if we shorten or lengthen the time is sadly mistaken and misplaced. I think the gentleman has made a good statement, and we should support the Lungren amendment, as well as ultimately the McCollum amendment.

Mr. LEWIS of Florida. I thank the gentleman.

In responding to the gentleman from New Mexico on the Panetta amendment, yes, I did, but you are comparing apples with oranges, because those people under the Panetta amendment must come into this country with visas. When their visas are expired, then they must return to their home countries.

I ask my colleagues to support the Lungren amendment.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are several different things that are disturbing about this amendment. First of all, the two-tier legalization process creates a different class, two classes within the legalization program.

May I be the first to suggest that there may be something inherently discriminatory that will serve as a disincentive for the undocumented to come forward and participate in a legalization program of this nature.

I think it is very clear that we will be able to ostracize, segregate, and harass one small segment of that population that is now created by this amendment. I find it most unacceptable and hope that it will be very, very carefully rejected.

The second consideration is that the two-tier system of legalization diminishes the number of people who are going to be legalized. And I cannot help suspect that that might be one of the objectives of the two-tier program. With all candor, we now have figures from a couple of our agencies that suggest that that might happen.

The INS itself has estimated that under the two-tier system only 38 percent of the current undocumented population would be eligible for legalization, 38 percent.

Now, in addition to that, the Congressional Budget Office has estimated only 60 percent of those eligible will ever actually seek to be legalized. What does that mean? That about 23 percent of the current undocumented population will actually apply.

It is also important to keep in mind that in all of the countries which have had legalization programs, fewer persons have applied for legalization than were expected.

So notwithstanding the wave and hoards of people coming forward for legalization, I think that there will be a great disincentive, more particularly with a two-tiered legalization program.

Now, we have heard constantly here reference to immigrants and aliens who know the immigration law better than we do. Well, I think the gentleman from Ohio [Mr. SEIBERLING] may be more correct when he said that anybody who thought they knew the law is certainly fairly confused about the legalization program as it exists now.

And, finally, I think there is an administrative nightmare on our hands, and maybe that is not wanted, maybe some do not care, maybe we will leave it to the future for it to work itself out. But let us just face it, how do we know that INS is capable and effective and willing to operate with a two-tier program?

But more importantly, how do we know that Congress is willing to appropriate the money that is going to be necessary to effectuate a two-tier program?

If anybody can suggest to me, now that we are in the era of cost cutting and budget balancing and Reaganizing the Federal bureaucracy, that we are now at this point going to be able to come forward with a stupendous sum of money, I do not think it will happen. And the result will be that only a fraction of those who thought they would be covered under the one humane part of the program, will find that it was a hoax, that it does not work.

□ 1510

I am beginning to think that the legalization program, with its many qualifications and restrictions, we understand that there are about 33 grounds for exclusion right now, is never going to work. I have sincere doubts about the two-tier program, and I am led to remind myself of the debate last year in which I objected to someone talking about how sanctions and legalization go together like love and marriage. I thought that was the world's worst analogy.

Now I am being told that we do not even need the legalization program; that we are going to do a balancing act without any legalization program at all, or better yet, with a two-tier program.

I think I am going to have to remind the Members now that the labor movement has regained consciousness in the United States and they have now come out against this bill. They do not like it, and I am afraid I do not either.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it would be remiss for me to talk publicly on this bill for the first time without congratulating both the chairman of the subcommittee and the ranking member of the subcommittee for an incredible job well done. It is with a deep amount of sadness, really, that I stand up to oppose very strongly, the particular amendments people desire to put on the provision dealing with "amnesty" in 1982.

I have listened to what I have called the California-Texas-Florida debate for quite some time, and I am very aware of the problems those States have. However, it seems to me that we in the Northeast can express some concerns about what is happening to the illegal aliens in our industrial cities.

One of the biggest mockeries, and I have heard the term "biggest mockery" used quite often, is quite frankly to so distract the INS that they cannot in any fashion, because of the illegal alien problem, service those who are waiting legally. If you go into almost any immigration office in any big city in this country, you will find petitions, citizenship applications, and labor certifications, running at least a year to a year and a half behind, because the Immigration Service is in fact understaffed and underbudgeted.

It is a mockery, ladies and gentlemen, when I have to turn to someone who is a constituent and say, "No, your family member, even though processed and even though acknowledged and even though granted cannot get in for another 1½ years because the agency is totally distracted with the illegal immigrant issue."

Now let us talk about this illegal immigrant. That is the second mockery. The illegal immigrant is not taking Federal funds except perhaps in a few mistaken cases. He is not on the public dole; he is not filling up the soup kitchen. What the illegal immigrant in the northeastern city, ladies and gentlemen, is going through is working in unsafe conditions; working below the minimum wage; getting no protection under the law for health insurance or anything else. God help the illegal immigrant workers who are hurt on the job because, that is when we will find out that they are illegal and start to move for deportation.

That is a mockery of what this country stands for. We have a problem. We cannot solve the problem as it exists today, so let us face up to this reality. Let us in fact pick the date of 1982; get that problem behind us. Good God, let us not clutter up our immigration offices with a two-tier system. We absolutely cannot handle what we now have.

Let us take the focus of the Immigration Service and put it where it belongs, on stopping illegal entry, instead of encumbering INS even with a tiered system. Where are we going to get the personnel even if we triple the budget, and I have looked at it, to double certify? First we would need to certify on a temporary resident basis and then we would certify on a long-term basis. This would be certifying a great many people twice in a long and involved process. This is not "amnesty," it is not even legalization—this is certification under scrutiny.

Now look, most of these immigrants are here working. You know, I do not want to be a cornball, but what happened to our belief in that monument in New York Harbor and what it says? These people are working. Go into the cities such as New York, go into Boston, go into Bridgeport; I will show them to you. I will show them to you sewing blouses at $3 an hour, 10 hours a day. Not the sweatshops of the old days, but not an awful lot better.

These are people that will contribute to our society, facts show that. The immigrant who is at the low end of the entry-level job situation is by far the least likely to go onto public assistance. No matter how bad things are for him here, they are invariably far better than they were for him there.

Let us get on with the job. Let us recognize our problem. The committee has done a good job; it has faced the issue. Let us not play nonsense games with human lives, and that is what you are talking about. Human lives that, except for the calendar, ladies and gentlemen, were my grandparents and yours.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the pending amendment. I think we need to remember, and be reminded every now and then during this debate, that there is a procedure, and there has been a procedure in effect for many years, since 1929 referred to in a shorthand manner as the registry date provision, whereby the status of immigrants can be regularized by the Attorney General through the Immigration and Naturalization Service, and that in the last Congress, in that version of this legislation, the registry date provision was updated to 1973 as a beginning of a period of time of living in the United States, which would entitle people to go to the INS and make a showing that they had ties in the United States and intended to stay here and were of good behavior and so on.

They would get an artificial entry date that would, in effect, legalize them. In a manner of speaking, it is an amnesty-type of provision. It has been in the law for many years. We are accustomed to it, we know how to operate with it, the only question might be should that registry date be moved up to a date subsequent to 1973, of course.

We are now talking basically about a similar process moved up to some very recent date; 1982, 1980, whatever it might be. I believe the amendment of the gentleman from California that is pending is the appropriate way to deal with this matter. I will support the amendment of the gentleman from Florida [Mr. McCollum], if it is offered at a later time, to strike the legalization provision altogether if we cannot get this more reasonable approach adopted.

I would urge the support of the amendment.

□ 1520

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. FISH. I thank my colleague very much for yielding.

Mr. Chairman, I think what my friend, the gentleman from Ohio, just stated points out what the gentleman from California and I have been trying to state for the last couple of hours, particularly to the proponents of the 1982 date: We are advocating a middle ground. There are those who do not want any date. There are those who want a registry date of 11 years ago.

That is why we have adopted our position, which we think is a middle ground.

Mr. Chairman, I take this opportunity to read a letter dated June 19 from the Attorney General of the United States addressed to me:

Office of the Attorney General,
*Washington, DC, June 19, 1984.*

Hon. Hamilton Fish, Jr.,
*Ranking Minority Member, Committee on the Judiciary, Washington, DC.*

Dear Ham: I am writing to express my personal appreciation for your active participation in the House immigration reform debate and to seek your support for an important amendment. As you know, the Administration is strongly committed to the enactment of reform legislation to address the twin realities of substantially uncontrolled illegal immigration and the existence of a sizable and potentially exploitable shadow population in this country. Already the House is on record for enforceable sanctions to remove the economic incentive for illegal immigration and now the issue is whether to include a legalization program and, if so, what its terms should be.

As a threshold matter, it is the Administration's firm belief that a rational legalization program is an integral part of this important reform effort. We have neither the resources not the desire to effect mass deportations. A fair legalization program is the only humane and practical response to the existence of millions of illegal aliens in this country. Such a legalization program is also consistent with effective law enforcement. Long term illegal aliens are the ones most likely to use all available administrative and judicial avenues to resist removal, diverting important enforcement resources at precisely the time our priority should be effective implementation of employer sanctions.

However, the rationale for legalization is not to give legal status to all illegal aliens. Rather, legal status should only be granted to those who have demonstrated a commitment to this country by their long term continuous residence as self-sufficient, contributing members of their communities. Extending the legalization date to January 1, 1982 as the House bill now provides would bestow the benefits of permanent resident status (including the right to petition for the admission of family members and to apply for citizenship after 5 years) substantially before the requisite attachment to this country has been demonstrated.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KINDNESS] has expired.

(By unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. KINDNESS. I yield further to the gentleman from New York.

Mr. FISH. I thank the gentleman. Continuing to quote the letter from the Attorney General:

> To remedy this defeat, the Administration urges support for Congressman Lungren's amendment restoring the "two-tier" 1977/1980 legalization program originally contained in the House bill. Under that approach only aliens who have continuously resided in the U.S. since before January 1, 1977 would be immediately eligible for permanent residence status. Those who entered after that date but before January 1, 1980 would first receive temporary resident status and, after three years as productive members of their communities, permanent residency. Due to their unique status, legalization for Cuban and Haitian entrants would be available up to January 1, 1982.
>
> Legalization is a critical element of comprehensive reform legislation. At the same time, legalization is an extraordinary benefit which must not be conferred lightly. The gradual adjustment to full legal status proposed by the Lungren amendment appropriately ensures that our original basis for legalization—demonstrated commitment to this country—is honored.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, I would ask the gentleman from New York, if I could, when he read the letter from the Attorney General coming out for a legalization date of 1980 and not 1982, when President Reagan, at his press conference last week, came out temporarily for the 1982 date, was it that he had not yet heard from the Attorney General, was the letter too long for the President to get it all the way through, or was I mistaken in assuming that this is one of those occasions on which the President might have known what he was talking about?

Will the gentleman explain how the President happened temporarily to agree with us, and then got reversed?

One further question: Does the Attorney General intend to reverse the President on any other matters concerning this issue?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I would yield to the gentleman from California, and then to the gentleman from New York.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, a distinguished Latin professor of mine in high school used to say that a slip of the tongue is not a slip of the mind. That was obviously a slip of the tongue.

The important point was that the President four-square stood behind the idea of a legalization program.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KINDNESS] has again expired.

(On request of Mr. FRANK and by unanimous consent, Mr. KINDNESS was allowed to proceed for 2 additional minutes.)

Mr. LUNGREN. Mr. Chairman, if the gentleman from Ohio will continue to yield, in fact, as the gentleman from Massachusetts knows very well, this has been the consistent position of the administration all along. This is no change, in fact, in their position in the Senate or their position which they supported before our committee last year. In fact, I thought the significant point that was made by the President was that he believes that legalization is important as part of a comprehensive bill, but as the gentleman knows, there has never been a position taken by the administration that 1982 would be the proper date.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, the gentleman can always be trusted to introduce a note of levity, and it is a good idea sometimes, but it was a slip. The President does support legalization, and a number of us asked him to bring it up and make that point during his press conference. He simply hit the wrong date.

But I think we have to go back to the point that this very committee that brings up the 1982 date today proposed exactly the dates of the gentleman from California [Mr. LUNGREN] when we considered this the last time on the floor.

Mr. FRANK. Two years earlier.

Mr. FISH. A year and a half ago we had the 1977-80 dates, so once again, we are in the middle between those who want either no legalization or only updated registry and those who would like 1982—and I am sure some of my colleagues would like 1984 or even 1985.

But this is the amendment that really does the job without being overly broad and being an actual enticement to people who have not even anticipated this.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I will yield for a constructive contribution by the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

Mr. Chairman, first of all, I want to decline the credit that said I introduced a note of levity. I do not write Ronald Reagan's material; I only read it.

The point is, and I want to make one response to the gentleman from New York——

Mr. KINDNESS. I am still trying to figure out if I am going to reclaim my time on that one.

Mr. FRANK. I want to respond to the gentleman from New York. Yes, it is true that 2 years ago we had a date that was 2 years earlier. I would simply point out to the gentleman from New York that it being 2 years later, it seemed to us appropriate that the date be 2 years later. We are simply trying to adjust the date because we do not think it makes sense to have this pool.

I would just concede to the gentleman from New York that he is in the middle, but he is in the middle, it seems to me, between the intellectually consistent position and one that is opposed to legalization at all.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. KINDNESS] has again expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. KINDNESS was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield to the gentleman from Kentucky?

Mr. KINDNESS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank my colleague, the gentleman from Ohio, for yielding to the gentleman from Kentucky.

Mr. Chairman, let me say that on this very floor in the well last week, the gentleman from Kentucky commended the President of the United States for having the courage to say was for an amnesty program, a legalization program. I think it was a constructive statement. I am sure it took courage on his part. I am sure there was much pressure against him for saying it.

My only thought is: Legalization is not just the formula of the gentleman from California. He feels very strongly in favor of that formula as "legalization." We on this side may feel just as strongly that 1982 or 1981 is "legalization."

My only thought is, the President has made a very substantial contribution to the debate. I would hope that even in the event the gentleman's amendment is voted down that everybody suggest to themselves that without legalization of some kind, the bill is not balanced and, therefore, support the bill and oppose the amendment of the gentleman from Florida to strike that balancing part.

Mr. HANCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the legalization provisions in this bill and I oppose this amendment and all others except the McCollum amendment which I support.

There is no doubt in my mind that legalization is an explosive issue. I speak from personal experience. But I guarantee you this: That no one who casts a vote in this chamber on this issue can walk away without thinking that his or her vote will not be scrutinized by the constituents back home. If you have an opponent with an IQ above 40, they are going to point it out. I just hope you are all confident enough of where your people stand on the issue because I believe that many of my colleagues, as deep thinkers as you all may be, are not aware of the true proportions of the alien problem that exists in the United States.

Those from the Midwest, New England, Northwest and Plains States do not experience the problem as do the border States which must deal with it on a daily basis. It is all fine and well that you decry the situation but the reality is that you do not know the effects of the problem first hand. For example, over 1 million aliens were caught on our borders last year trying to cross it illegally. You can offer this amnesty program as a cure-all along with a complicated system of employer sanctions that will be well nigh impossible to enforce and that will bring about widespread disorder, but the truth of the matter is you will not benefit or suffer from the program you are trying to force on the border States today.

You can call it legalization or call it what you will, but my experience tells me amnesty is amnesty, no matter how you phrase it. I believe there is a widespread attitude among the American public against a general amnesty and I do not think we serve the best interests of our people, or our country, by ignoring that opinion. In my estimation, no amount of legislation is going to change that attitude, and the actions we take in this Chamber will not reverse that opinion.

This is an economic and social issue. Some have tried to turn it into a racial issue. Nothing is further from the truth. I see it in terms of justice for aliens already legally in our country and in terms of fair play for American citizens.

Above all, I believe the issue of amnesty is an economic one; an issue of jobs. For every job in this country now occupied by an undocumented worker, it costs this country. For every job that will be taken by an undocumented worker who is encouraged to come across our border because of amnesty, employer sanctions notwithstanding, it costs our country. Amnesty costs jobs for American citizens. It legalizes the theft of American jobs.

A study published by Rice University concluded that 65 Americans lose a job for each 100 aliens that enter the country. Other studies have also confirmed this displacement effect. A 1979 interagency task force report from the Department of Labor showed displacement among American workers due to undocumented workers. Ray Marshall, former Secretary of Labor, has claimed that U.S. unemployment would be significantly reduced if illegal aliens were kept out of the job market. Even the Urban Institute study, which I know many cite as evidence in support of amnesty, concluded and I quote:

> Displacement will occur among low skilled workers who are not able to upgrade their jobs or to move from the region; some of these workers will find their wages continuing to erode, others will find themselves out of work.

The worst aspect of displacement is that it occurs at the very level where steady employment is needed most—at the low-income, unskilled labor level. Furthermore, those American citizens being displaced are blacks, Hispanics, and youth. To quote the Urban Institute study again, "most of the adverse economic effects associated with new immigration will be borne by the unskilled." It doesn't matter which study you believe there are still American citizens who are losing their jobs.

There is an economic cost to amnesty in terms of our public assistance programs also. The Congressional Budget Office has estimated that each unemployed American costs the Federal Treasury an average of about $7,000 per year in unemployment compensation, food and health benefits, and other associated costs. Thus for every million Americans displaced by undocumented workers, the Treasury loses $7 billion per year.

The economic costs are evident in other ways, too. Studies have shown that expenditures for public services used by aliens are not offset by taxes paid by this group. The clearest example of this I can give you comes from my own State of Texas where the border communities have been forced to assume the economic burden of educating alien children in the local school system. I have been among the strong supporters of Federal assistance for alien education, but I believe this example only points up the realities of the economic costs of the undocumented in America. In Texas, the State education agency estimates there are more than 29,000 illegal aliens in Texas schools. The average cost of educating a child in Texas is $2,600. Even without accounting for special instruction costs that may be necessary with bilingual or educationally disadvantaged students, the cost of educating illegal alien children comes to more than $75 million. Taxes returned by undocumented persons in Texas have in no way reflected this cost.

Further, the presence of undocumented workers reduces wages in low skilled occupations relative to other wages. The cost then, becomes one of economic stagnation in certain occupations and in particular regions of the country where the undocumented tend to settle. When we should be encouraging economic development, promoting job development and skills training, and protecting wage bases, we are instead offering to American society a policy of amnesty that is in direct opposition to our goals.

Even in the most practical of terms the amnesty program falls substantially short. It is generally agreed that only a fraction of those acutally eligible for amnesty would come forward, so the alien problem that advocates of legalization say would be solved with this program would in fact not be. The greatest number of aliens would still be in legal limbo, having failed to take advantage of the program.

The economic costs incurred in the simple administration of the program must be acknowledged also. If the INS can barely handle its workload now processing applications for legal immigration, how will it handle the millions more expected under the amnesty program? At a time when Government spending is being cut left and right, can we logically expect enough funding to go to INS to make a legalization program run smoothly or work anywhere near the level we are going to demand of it?

There is even one further cost to this program: With the time spent on paperwork and the demands of the bureaucracy, more time, attention, and personnel will be taken away from the task of protecting our border, where this whole issue really begins. We cannot solve the problem of illegal aliens in our country if we do not take steps to secure our borders first.

There are social costs to this legalization program, too. If we are truly interested in the plight of aliens, in justice for these people, then tell me: Is it fair to enact a sweeping program of general amnesty to illegal aliens when thousands and thousands are waiting patiently, and have been for years, to enter our country legally? Where is the justice in that? Amnesty makes a mockery of our laws. It insults those who have migrated legally and worked hard to earn their right to be in America. It sets a bad precedent that will encourage the migration of more people. One study by the Trans-Century Foundation estimated an additional 939,000 illegals would come across the border each year expecting amnesty at some point in the future. An amnesty program now raises the specter of another in the future and ridicules and makes worthless our entire immigration policy.

Nor does amnesty represent fair play for Americans. Can we condone a policy that legalizes aliens who have illegally taken jobs from Americans? If illegal aliens were taking jobs away from doctors, lawyers, and bankers, it would have been stopped long ago. Is it fair to write off hundreds of thousands of jobs that could go to Americans who need work because this policy blesses the presence of undocumented workers? Is it fair to America and Americans to enact laws that further strain our already shaky economy as this one does? I do not believe it is and I cannot accept this legalization program.

I recognize the problems of the Third World and the hopes that America's shores hold out to its people. We must be compassionate when dealing with the alien problem, the refugee problem, and those seeking political asylum. But we must also recognize our own limitations. We cannot be all and do all for everyone. Just as in recent years we have faced the necessity of tailoring our fiscal policy, we must now tailor our immigration laws to reflect a more reasonable, rational policy. Amnesty does not help us tailor our policy; it does just the opposite. I cannot accept this provision in the bill and cannot urge any more strongly that it be rejected.

I ask each of you to reconsider what you will be doing to our country and those you think you are going to help with this program. In the end, you will hurt the most vulnerable in our society.

□ 1530

Mr. DAUB. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendments that will be offered, first, the one that is presently before us offered by the gentleman from California [Mr. LUNGREN], and, second, to alert my colleagues that I indeed will support the amendment that will be offered by the gentleman from Florida [Mr. McCOLLUM].

Now, my support for both of these amendments lies not so much out of concern for the social impact of immigration upon our Nation, for I am concerned about that, and indeed immigrants have been a tremendous source of enrichment for our country, but my support for these amendments lies chiefly or revolves chiefly around my concerns for the economic impact of any kind of legalization program that is being offered either by the committee and/or by the various sets of amendments that may survive.

The committee bill, plus McCollum, would take advantage of a mechanism that is already in place. It was addressed quite articulately by the gentleman from Florida [Mr. McCOLLUM] and in the argument by the gentleman from Ohio [Mr. KINDNESS] when they spoke of the registry date. That is section 302. Section 302 is already in the bill, and if sections 301 and 303 are stricken, which is what the McCollum amendment will do, then the registry date survives.

Now, the present law, which contains a registry date, is a procedure that has been used to provide a limited form of amnesty for all aliens who can show good moral character and continuous residence in the United States since 1948. The registry date was established in 1929, and it then provided for an admission date of 1921. It has been updated several times, most recently in 1965.

In the 97th Congress I proposed in a bill I authored, entitled H.R. 7060, that the registry date provision of the current law be moved from June 30, 1948, which is what it is today, to January 1, 1973. Subsequently, during House Judiciary Committee mark up of the immigration reform bill, an amendment was proposed to strike the general amnesty provisions of that bill and substitute it with the language of my bill, updating the registry date, which is much like what the amendment offered by my colleague, the gentleman from Florida [Mr. McCOLLUM] will in effect do.

Because of continuing debate over amnesty, that amendment was withdrawn, and the language of H.R. 7060, the registry date amendment alone, by itself, was adopted without dissent as a new section of this bill, currently section 302 in title III.

The amendment of the gentleman from Florida [Mr. McCOLLUM], therefore, as I said, would strike section 301, leaving intact section 302, this registry date provision. Not only is this provision an acceptable middle ground, in my view, but it is a procedure with which immigration officials are already familiar.

Furthermore, I believe that the legalization program contained in H.R. 1510 is setting a dangerous precedent. Since legalization has been under discussion in the past few years, illegal immigration has reached unmanageable levels, largely out of the anticipation of the enactment of the present bill. I am also convinced that this body has not given enough consideration to the compounded numbers which will result from the bringing in of relatives by those who are legalized. As well, while some consider this legalization program a "one-time thing," I am not convinced that further illegal immigration will not continue in the expectation of another amnesty perhaps 10 years down the road.

While I realize that many people believe amnesty to be the only practical solution to our illegal immigration problem, I also question the legitimacy of "doing away with laws, simply because someone says they cannot be enforced."

Why should the economic resources going into a legalization program not go into better enforcement of our existing laws? By way of economic resources, I am speaking, for one, of public assistance costs.

I want my colleagues to pay particular attention to this. Those favoring the legalization provisions in this legislation are quick to say that the rate of dependence on public assistance is usually lower for immigrants. While this may be true initially, I am convinced that eventually the public assistance rate will rise at least to the level of the present American population, which is approximately 9 percent, according to the Department of Health and Human Services. Estimates figured by HHS in 1982 further noted that if fewer than 2 milion aliens take part and come forward in legalization, Federal public assistance costs alone could be as high as $7 billion over the next 5 years.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. DAUB] has expired.

(By unanimous consent, Mr. DAUB was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman from Nebraska yield?

Mr. DAUB. In a moment I will yield. I am just about finished.

Mr. MAZZOLI. I have a unanimous-consent request I would like to make.

Mr. DAUB. Let me finish first, and then I will be happy to yield, as I always have, to my good friend, the gentleman from Kentucky.

Mr. Chairman, while we are talking about spending this kind of money for legalization, I fail to see why spending more to enforce our present laws, coupled with Lungren, the better of the choices, and/or with McCollum, would not be an even better solution, rather than simply ignoring the backlog of applicants who have waited now for years legally to immigrate to this country.

Citizenship is the most valuable thing that the United States can offer to anyone. U.S. citizenship carries with it the promise of opportunity, the hope for a future, and the freedom to pursue them. Do we cheapen, I ask my colleagues, the value of that citizenship by granting it to those who have evaded our laws while still denying it to those who earnestly abide by them?

The McCollum amendment would be the most realistic alternative, but indeed since the bill contains the registry date, I ask all the Members to remember that there is a form of judicious, temperate, compassionate amnesty that the committee saw fit to include in the bill in anticipation of the very debate we are having today on the floor. I will circulate a two-page memorandum containing 12 points that circulate the concept of registry, and I ask each and every one of my colleagues to take a good look at this handout, which will go into further detail about the concept to which I am alerting my colleagues now by taking this time.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. Daub] has again expired.

(By unanimous consent, Mr. Daub was allowed to proceed for 1 additional minute.)

Mr. DAUB. Mr. Chairman, I said once before when I came to this well that if you take the undocumented worker who achieves any form of legalization in the course of this legislation and becomes a permanent resident of some type and then can immediately proceed to the citizenship window, if you move from that undocumented status to the documented status and then to the citizenship window, we have to remember that we are looking at, for example, fifth preference numbers right now of a 1.4-million backlog and we will be looking at a chain migration question that would just blow our minds. There will be millions and millions of those seeking relative status by petition that simply will get the fast shuffle and will have no reasonable hope of ever achieving entrance in a legal way to our country.

So I urge my colleagues to support the better alternative, the Lungren amendment, saying that, of course, we defeat ultimately the proposition of blanket legalization in exchange for the committee's position that the registry date will provide all of us with that opportunity to achieve the very compassionate kind of immigration that we are looking for.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. Daub] has expired.

□ 1540

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent that we conclude debate on this amendment at 20 minutes to 5.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The Chair will recognize Members standing at the time of the request for 4 minutes each.

The Chair now recognizes the gentleman from Kansas [Mr. Glickman].

Mr. GLICKMAN. Mr. Chairman, amnesty or legalization is a very unpleasant situation, but I am going to support the committee position and oppose the amendment offered by the gentleman from California [Mr. Lungren].

The gentleman from Florida [Mr. McCollum] is in part correct. Legalization is not a good idea for people who have been trying to get into this country legally. It may establish a precedent. I hope not, but it is possible.

But what is the other side of the coin to what the gentleman from Florida [Mr. McCollum] says? The other side of the coin is a permanent subculture in this country of illegal immigrants, alienated people who are neither fish nor fowl. It is basically what I call a festering sore of people, of human beings who are here without any form of legality whatsoever and if there is not some sort of resolution to this problem in terms of these people, it will create all sorts of serious political problems for this country in the years to come. It could create domestic political instability in the United States of unparalled proportions in the future.

What do we do with these millions of people who are here? Do we deport them? I doubt if we have the political will nor the economic capability to round up millions of people and send them home. We are not going to do that.

So the first question is, should we have legalization? I say reluctantly, yes, because without it, you have no bill. Also, the alternative is to keep a permanent subculture of people here who are not identified and who are not affiliated with any other part of this country and that spells trouble for America in the years to come, politically, economically, and in all sorts of other ways.

The second question is, what should the date for that legalization be? Well, I go with the date in the committee bill, because I think if you go with the Lungren date it becomes a very confusing situation politically.

As the gentleman from Massachusetts [Mr. Frank] said when we marked up this bill in committee in early 1983, we had a 1980 date. It was about 2 or 2½ years old at that time. Now 1½ years has since passed, so what we are saying is bring that date basically up to where it was before. There is no basic change in the situation. Then when we go to conference, we are going to end up with a 1981 date.

The bottom line to all of this is I want an immigration bill. I supported employer sanctions, which are very unpopular. That is the heart of this bill; but politically, you have no employer sanctions unless you have a legalization program. Those are the facts of life. Both are going to be in any final product that passes this Congress or else nothing will pass.

So I urge my colleague that if you want responsible, fair immigration reform, if you want to keep our borders secure and if you want to be fair, not only to the millions of people who are here, but to this country that is going to have to deal with this political problem in years to come, you will oppose the amendments gutting legalization and you will vote for this bill, which is a package. It is a package of employer sanctions and legalization. As the song goes, "You can't have one without the other."

There are some people on this side that only want employer sanctions and no legalization. There are some people on this side that only want legalization and no employer sanctions. I say to both sides, there is no immigration bill in those situations. You have to package the two. I realize this is unpleasant.

I wish I did not have to come down here and talk on this issue. I wish I did not have to vote on this issue, but for the future of America, we need to keep the legalization program in, because we are not going to get an immigration bill if we delete it.

The CHAIRMAN. The Chair now recognizes the gentleman from New York [Mr. Owens].

Mr. OWENS. Mr. Chairman, we are talking about amnesty or legalization, which represents the heart and the soul of this bill. Not only is amnesty important because of the fact that it is a humane policy, not only is it important because it dovetails with the best of our foreign policy, not only is it important because it is a continuation of the best of American traditions, and presents the best image of America, but it is important because it is the most practical provision in the bill.

Let us consider for a moment the most important priorities in our immigration policies. We are first of all concerned about securing our borders. The problem we are faced with now with millions of illegal aliens is due to the fact that we failed to secure our borders properly in the first place or we allowed floods of people to come in with very sophisticated ways from Europe and other parts in the northern part and through the ports of entry and did not do the kind of job we should have done.

In the case of immigration policy, an ounce of prevention is worth a pound of cure. It is like good-health-prevention measures. If we take the proper preventive measures, we do not end up with the kind of disease that we have now. We are not faced with the kind of problem we are faced with and that is our first priority or should be our first priority.

The resources that we have available must first be dedicated to securing the borders. We all know that we are not going to get unlimited resources for the Immigration and Naturalization Service. The money that is needed to secure our borders should come first.

Second, priority should go to those people who are seeking entry legally, who are in the country applying for legal status.

My office is full every week with people who are here legally trying to get their papers completed, trying to complete the permanent residency and become citizens and there are not enough employees available to do it.

Somebody mentioned before that in their area they are as much as a year and a half behind. I thought that was only the case with the Brooklyn section of the Immigration and Naturalization Service; but they are at least a year and a half behind.

Priority should go to the people who are here legally, complete the process.

The last thing we should be spending money for is the financing of shock troops and Gestapo-like operations in the streets to root out the people who are here illegally. I do not condone their being here illegally, but it is going to take a tremendous amount of resources and money and some activities which we do not approve of, some violations of human rights that are going to trample on the rights of those people who are here legally and of the rights of American citizens.

When you have a situation like this, you are going to have selective prosecution. Most likely that selective prosecution is going to be aimed at blacks, and at Hispanics, and you are going to have concentrations in areas and there is going to be a reaction and it is going to get very brutal. You are going to have to have the INS moving into areas with undercover operations, all kinds of brutal violations of rights that are going to progress as we go along if we are serious about getting rid of all those illegal aliens in the millions.

The best thing to do is to start with a clean slate. Let us accept the fact that we have made errors in the past. Let us accept the fact that people are here. Let us accept them, put them through an orderly process, allow them to become legal and dedicate our resources instead to the massive job we have of securing our borders and of taking care of the people who are applying legally.

**Mr. CONYERS.** Mr. Chairman, will the gentleman yield?

**Mr. OWENS.** I yield to the gentleman from Michigan.

**Mr. CONYERS.** I just want to salute the gentleman. Has the gentleman been saluted during the course of these proceedings?

I would like to salute the gentleman and identify with a very fine statement.

**Mr. MAZZOLI.** Mr. Chairman, will the gentleman yield?

**Mr. OWENS.** I yield to the gentleman.

**Mr. MAZZOLI.** Mr. Chairman, let me also salute the gentleman, as I have done earlier.

The **CHAIRMAN.** The time of the gentleman from New York has expired.

The Chair now recognizes the gentleman from Florida [Mr. SHAW].

**Mr. SHAW.** Mr. Chairman, I rise in support of the Lungren amendment.

This has been a very difficult debate, Mr. Chairman. We have had to face a situation of including and excluding specific people, specific people who have been categorized by date, date of illegal entry in many instances, and deciding as to whether we are going to confer upon them the highest honor that this body can confer upon anybody who is not native to this country, and that is the possibility for citizenship.

We are including a large group of people who arrived here illegally, many of them in anticipation of what this House is debating today and that is that their status shall become permanent.

□ 1550

If we are going to be led by our hearts then we have to look at the world population, the starving, the huddled masses throughout this world whose destination would be the United States if they could physically get here. There are many that have come to our shores and come to our land because of geographical proximity to the United States, and to them goes the largest consideration as to this debate.

But I would say to the Members of the House that we must look squarely in the eyes of those we represent, that we must not let our heart overrule our best judgment, the best judgment as to what is best for the United States. How many people can the United States accommodate? How many people can come into the United States and have the quality of life as we know it today still continue.

This is going to be a tough call for many of us, many of us who personally are acquainted with some of the people who would possibly be excluded from the Lungren amendment. But I think the overall consideration is what is best for the future of this country.

I think we all should support the Lungren amendment and we should take a very close look at the McCollum amendment when it comes before us later this evening or tomorrow.

It is going to be a tough call. But I think on this call we must put the citizens who are here in the United States first.

I urge you to vote "yes" on Lungren.

(By unanimous consent Mr. DELLUMS yielded his time to Mr. WEISS.)

The **CHAIRMAN.** The Chair recognizes the gentleman from New York [Mr. WEISS].

**Mr. WEISS.** Mr. Chairman, I thank my distinguished colleague for yielding his time to me.

As have many of my colleagues, I have listened to this debate without participating up to this point because I felt somewhat ambivalent about the thrust which this legislation was taking. I was perturbed to a great extent because those people about whom this legislation really is, that is the undocumented workers, seem to have no real representatation in this body. Nobody was speaking on their behalf. Everybody was talking about all kinds of other problems. But as far as the 2 million or 5 million or 7 million or 10 million or 12 million people who would be directly affected by this legislation, they have had no spokespeople here.

Finally, when their problems seem to be addressed, they are being addressed negatively. They are being addressed in a fashion to disadvantage them when the legislation, to begin with, I think, does precious little for them.

I am concerned about the problems of immigration, the problems of granting legal residency status and citizenship to people who did not come in through the normal legal processes. I happen to be an immigrant myself. There was one term during my service here when I was the only non-native-born Member of the House. Now there are a handful of us, and I think that I speak for all of us when I say that I consider myself extremely fortunate to have had the opportunity to become an American citizen.

But I think that when we start talking about "illegal is illegal," we ought to hark back to Auden's poem entitled "The Law Is the Law." "Illegal is illegal" may state the truth but it does not necessarily state the whole truth. When we look back to how our ancestors came to the United States through legal processes we ought to be knowledgeable about the circumstances which then prevailed.

We ought to remember that there was a long period of our history when the United States, for its own purposes, welcomed massive immigration.

We wanted and welcomed people coming in by the millions during decades when we wanted to expand our development and when there were problems in other parts of the globe. At least we welcomed them when the bulk of the citizens who were coming to the United States were coming in from northern and western Europe.

When the situation shifted and large numbers of immigrants started coming to the United States from southern Europe and eastern Europe, then for ethnic or religious reasons or, in the case of orientals, who for a large part of our history were never even given eligibility to become citizens for racial reasons, when those people started coming here by the millions, suddenly we discovered that there was something wrong with immigration. And in the early 1920's we started cracking down with a vengeance and we started imposing quota systems which were racially and ethnically and religiously obnoxious. That is our history. And whether we like to admit it or not, although there is an element of legitimate concern about jobs which theoretically could be said to be taken from American citizens, I am afraid that intertwined with the concern for jobs is a very, very strong dose of racism and ethnic discrimination. I do not think that it is an accident or coincidence that the people who would be denied legalization by this amendment for the most part would be Hispanics or blacks coming from Central America and the Caribbean.

I think we ought to face that. My sense of it is that if we remove amnesty or legalization or cut it back into the two-tier system that the gentleman from California suggests, we would make this bill administratively difficult, and send a message to undocumented workers that they apply for temporary status and then permanent status only at the risk of deportation.

What we are really saying is that we want the stick but we do not want the carrot.

That is not the basis on which this legislation has been sold. Whether you are for it or against it, the basis on which it was sold was that it was going to be a balanced approach. It would provide certain restrictions and sanctions on those who employ people who do not have proper papers and at the same time would bestow the opportunity for citizenship on those who have been here without proper documentation.

You take away the legalization aspect of the bill, either all at once as the gentleman from Florida [Mr. McCOLLUM] would have it, or in pieces as the gentleman from California [Mr. LUNGREN] would have it, and you no longer have the bill that you said that you were going to be offering to the American people and to the undocumented.

It will then appear to many Americans and others that we have engaged ourselves in a great charade.

It will be a tremendous disservice to the whole concept of fairness as far as the United States of America is concerned and especially as far as this legislative body is concerned.

So I would urge my colleagues on all sides of this issue to think very, very carefully before we start down the path that the gentleman from California would take us.

Mr. Chairman, I urge a "no" vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Chairman, I rise for only one comment and that is that I think it should be said, as some have taken the well in this I think very carefully articulated debate by each and every colleague who has stood to speak, to indicate that they would be for one or against the other of the different amendments as they may appear in order.

Some have suggested that they would be inclined to support Lungren but if Lungren failed they would be inclined to support McCollum. And if McCollum failed they would be inclined to do I do not know what.

I want to let my colleagues know that I enjoyed the subcommittee chairman's colloquy with one of the first speakers in the debate when he said, "Now, just a minute, what are you going to do if * * *"

I want to tell my friend before he asks me that if indeed legalization is in the form offered is a part of the final bill, then I will be constrained to have to vote "no."

☐ 1600

And I would like to reserve the explanation for that by and large for the McCollum debate, but I think it does have a bearing on how some may view the statements that have been made that have encouraged our colleagues to look at the registry provision.

I want to give the committee credit. Please understand the committee did include section 302 in the bill, recognizing the value at some point of the registry date and with that, Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Last week, we debated the portions dealing with sanctions which I have opposed from the very beginning.

I agreed with the amnesty provisions. I am sorry that so many of my colleagues on that side of the aisle are not here who participated in this debate during the course of this afternoon.

But just let me warn each and every one of my colleagues, whether they are on this floor or whether they are in their offices, that if we kill the amnesty provisions of this bill, if Lungren, McCollum, or the Wright provisions should sustain, should hold up, you are going to lose the editorial support of those papers across this country which to this point have been calling for immigration reform.

They have made it very clear that it is one for the other; if you want employer sanctions, then let us get on with the business of amnesty. I want to make it very clear that those of us who are citizens, who will be forced into a corner, who will be asked where we are from and where our parents are from and whether they are Americans or not as compared to those others in this Chamber who will never be asked that question; we are going to support and fight for the amnesty provisions.

Now, it seems to me that everybody here has made it very clear, that if amnesty is not part of this legislation then the bill is dead. And maybe politically the thing is to ask all my colleagues to vote against it. But morally I cannot do it. We have got to support amnesty.

It is the right thing to do. We are going to try and bring people out of the shadows, we are going to try and give them dignity; we are going to try to give them everything that our grandparents and their grandparents have enjoyed; that is all we are asking for.

We are not looking to walk in front of, or walk taller; all we want to do is walk alongside. I would say to you you have already lost the support of the AFL-CIO, you do not have the support of the business community; you will lose the editorial support; then you have no bill at all.

Now you have a choice; you cannot have your cake and eat it too; you just cannot do it. I would say to many of you on that side of the aisle that you are really misinformed as to the reasons why people come here. They come here to find a job; they come here to find food for their families.

Unless you understand the poverty of the Caribbean, the poverty south of our border, then you will never understand the reasons why people come here. No different than the famine in Ireland and at the turn of the century when many millions of people came here, no different than the problems of the Mediterranean countries or some of the other European countries; no different.

And today in the year 1984, the immigration that is coming in, the people who are coming in are just a drop in the bucket compared to those who came in at the turn of the century. And I would close by saying that the President did not have a slip of the tongue, he was very specific; he said, "And I think the thing that should be of the greatest appeal to them," meaning those of us who are noncitizens "is the very generous amnesty that goes all the way up to 1982, we are ready to give these people permanent residency."

I did not say that; the President of the United States said that.

**Mr. FRANK.** Mr. Chairman, will the gentleman yield?

**Mr. GARCIA.** I yield to the gentleman from Massachusetts.

**Mr. FRANK.** I thank the gentleman for yielding.

Mr. Chairman, I am glad that he stressed that point about people coming here for jobs because one of the issues we have heard in this debate is that the committee version is going to cost more than the other version.

And the fact is, the gentleman from California acknowledged and I appreciate his doing this; since no one knows how many people we are talking about; no one's estimates of how much it is going to cost make any sense whatsoever.

You might argue for more or less. The point that ought to be clear is both the committee version and the amended version agree that these people uniquely in our history would be allowed to be here legally but would be disabled from receiving public assistance for 5 years.

So none of these costs could be incurred for 5 years. And then what they mean by cost is that once these people have been here for 5 years.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. BERMAN].

**Mr. BERMAN.** Thank you, Mr. Chairman.

Mr. Chairman and colleagues: Last week this House chose to pass an amendment which set up a massive guest worker program for farm workers. The amendment before us now drops the limitation on agriculture and sets up a massive guest worker program for potentially all employers.

The two-tiered system becomes nothing more than a Government-sponsored, officially sanctioned method of utilizing temporary guest workers. That is, those workers who have chosen to apply for temporary status, those undocumented workers who came here between January 1, 1977 and 1980, subject to filing once again with the INS an application for permanent resident status, knowing that they have to demonstrate a good employment record; knowing they have to demonstrate evidence of a continuous residency and knowing that they are vulnerable to whatever the wishes might be of an arbitrary or capricious employer who knows that he has those people over the barrel.

There is little chance that this is going to be a legalization program that is going to give confidence to the undocumented workers to come forth, to come out of the underworld that they live in, hold themselves out to the potential for deportation; such a conclusion is a far-fetched stretch of the imagination.

The fact is that the gentleman from California, the ranking minority member of the subcommittee, described his amendment as a middle approach. It is not the middle approach. The middle approach is in the bill before us.

Some of us think that bill is far too weak in many areas. We think that the date should be much closer to the present time than January 1, 1982. We are very concerned about what an administration could do with the public ward provisions or the continuous residence provisions, but in the course of trying to achieve some kind of balance we find ourselves required to overlook what we think are flaws in the bill before us in the name of getting some meaningful legalization program.

The Lungren amendment intends to do that, but it does not do that. By virtue of its two-tiered process, by virtue of the complicated processes it requires people to go through, it will reach the smallest number of undocumented workers.

Do not think that by voting for the Lungren amendment you are supporting a meaningful legalization program, because you just are not. In fact, if you really want to do it right, better you should turn down Lungren and vote for the straightforward amendment which achieves in practical terms the exact same results, the McCollum amendment.

I ask for a "no" vote on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. STRATTON].

**Mr. STRATTON.** Mr. Chairman, like many other Members in the House, I have some questions and some confusion about exactly how to vote on this matter of amnesty.

I think there are two particular problems that concern me in discussing this matter with my constituents and in trying to represent their views. In my constituency there are a large number of people of Polish ancestry and also a large number of people of Italian ancestry. They come to me and they say, "I want to bring my mother in," "or my sister," or "I want to try to get another member of the family in." But they cannot do it. They are told by the INS that "the quotas are all filled up; so you cannot get in," and they say, "How come I cannot bring over just one relative from Poland when we have a million Cubans who have been allowed to come in; thousands of Haitians who have been allowed to come in; and millions of Vietnamese;" Now how can we refuse to allow families from Poland, or Italy, or other countries to be reunited as the current law provides and at the same time certify the millions of those who are going to be provided amnesty under this bill?

□ 1610

The other thing that concerns me has been represented by the amendment to be offered by my distinguished colleague from New York [Mr. SCHEUER]. That is what is happening down in the area where these undocumented aliens are still coming in by the thousands every day down along the Rio Grande. What are we really doing to stop this kind of enormous violation of our borders? Are we going to provide amnesty to those still coming in? We will have a 1984 class of amnestied aliens, we will have a 1985 class of amnestied aliens, and we will have another 1986 class of amnestied aliens. When are we really going to stop that flow? The amendment of the gentleman from New York [Mr. SCHEUER] suggests that we should not go ahead with this amnesty idea until there has been some clear evidence that our borders to the south are no longer wide open as they have been for so many years.

Unless we can answer those two questions, I cannot see how or others in my situation can vote for any form of amnesty.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. FISH].

**Mr. FISH.** Mr. Chairman, I have maintained from the very beginning that legalization is necessary. I had the honor to serve on the Select Commission on Immigration and Refugee Policy where we voted 16 to nothing recommending legalization.

There simply is no other humanitarian option available to us. If you want to look at this as a failure of immigration policy, of enforcement policy over the last decade, fine, but it is certainly our responsibility and there is nothing we can do in the way of rounding these people up.

So, the question is what date to use. The yardstick that we did apply throughout our considerations in the Subcommittee on Immigration and in the full committee in the last Congress and in the 1st session of this Congress was that the failure to provide a substantial legalization ignores the equities of those who have lived in the United States for a number of years. It perpetuates the existence of a large underclass of undocumented aliens and it continues to subject citizens and lawful permanent residents, as well as the undocumented, to enormous social cost.

On the other hand, if the legalization is overly broad it serves as too strong a magnet for future flows. There is no question, despite some of the comments that have been made here, that the talk during the years 1979 and 1980 of the Select Commission thoughts on legalization, of the deliberations in our subcommittee and in the Senate subcommittee, have coincided with the largest surreptitious entry flows in our history. These have occurred in the last few years and obviously are related to the talk of legalization.

If overly broad, it would also bestow a gift on many who came here temporarily to work and had no idea of staying, and suddenly are told that they can if they wish apply for permanent resident status. This is simply not fair to the 1,400,000 people who have approved petitions waiting for visa numbers abroad.

An overly broad process confers immediate petition rights on persons who came here illegally, putting them in direct conflict with lawful permanent residents who are in the United States, competing for the single pool of the worldwide quota against which those peitition rights, including the second preference would be exercised.

The Lungren amendment is the balanced amendment between those who want 1982 and those who want nothing or the registry date of the early seventies.

I think it is fair. I think it is humane. I think it is balanced and I urge a "yes" vote.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I have listened for the last week to the debate on this bill. When I came to the floor last Monday, I was genuinely undecided about how I would vote on this legislation.

Like many Members in this House I think that the political pressures upon us in this legislation were not as great as they are in many other pieces of legislation and we could listen to the debate and decide to do what we thought in our hearts and minds was right and of course we will come out in different places.

Well, I have listened to that debate. I think, by the way, due to the main debaters on both sides, it has been one of the most outstanding debates, an erudite debate, and a debate that Members are really reaching to do the right thing, that I have witnessed since I have been here.

I have come to the conclusion that what this debate on this particular issue, amnesty, boils down to and the debate on the entire issue boils down to is this: Those who are against the bill are saying the provisions, both the amnesty provisions and the employer sanctions provisions, will not work. They are illusory, they are there to make us feel good, but they will not happen.

Those who are for the bill have said not that the bill is perfect, but that other solutions have either not been offered or are less desirable than the present solution. Of course, the corollary to that is that doing nothing is worse than the present solution.

I think that both those arguments are valid. In fact, they remind me of an issue in the State legislature and one legislator said when he heard the arguments from one side they pushed him to the other side. And when he heard the arguments from that other side, they pushed him back to the side where he started.

Well, what does that do in terms of these provisions here?

On the employer sanctions, many of us who had some doubts about them, voted for them nonetheless. It was our view that they ought to be given a chance, let them work. Therefore, most of the amendments that passed in regard to employer sanctions were in that spirit. Let us try employer sanctions, let us improve them, let us not make them too onerous, but let them work.

Well, now I think the same treatment, the same spirit, has to be addressed to the amnesty issue. Let it work. It is a difficult issue. I think the McCollum amendment is out of hand. No amnesty destroys the careful balance in this bill. But even amendments such as the Lungren amendment virtually do the same thing.

I have real doubts in my mind whether an illegal alien would want to take advantage of any amnesty that was not blanket and uniform and without any proof, particularly given the mind set of those illegal aliens, most of whom come from totalitarian countries, countries with less rights than ours. I have a good number of former Soviet citizens, immigrants from the Soviet Union, in my district and they are not used to trusting this government. Any roadblock you put in their way will prevent them from coming forward and will continue the huge underclass that we have in this country.

Two tiers will prevent a certain percentage of illegal aliens from coming forward.

□ 1620

More documentation will prevent a certain percentage of illegal aliens from coming forward. Amendments such as the Lungren amendment, and I would even say the Wright amendment, which are offered in good spirit, will keep this underclass here. They will not return home.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. HAYES].

Mr. HAYES. Mr. Chairman, from the beginning I have had serious reservations about this proposed legislation. I just hope that the time will come when we will recognize, as Members of this great House, the No. 1 issue that faces our country today: jobs and income for people who are out of work and who want work. I realize that this bill has been talked about for roughly 4 years now, so it has seniority over that issue. However, I must say that my reservations force me to get up and speak in opposition to this particular amendment. I have never felt that the 69 proposed amendments that we began to debate since last week, some good and some bad, were going to really change what I consider to be a bad piece of legislation.

As far as I am concerned, this amendment is another nail in the coffin which will be the final burial of this particular bill.

It has been said here by others who have preceded me that the AFL-CIO, of which I am still a member, has soundly had a change of heart and has now come out in opposition to this bill. I would like to read into the RECORD the letter which I and some of you have received just today from that organization, which represents roughly 13 million people, some of whom are constituents of ours:

> On behalf of the AFL-CIO, I urge you to vote against final passage of H.R. 1510, the immigration bill now pending before the House of Representatives.
>
> The actions taken during last week's debate on this legislation have so undermined the basic elements of the bill that we no longer, in good conscience, can support it. With the defeat of the Hawkins amendment, effective and enforceable sanctions are precluded. With the rejection of the Miller amendment, the H-2 program will no longer protect the labor standards of agricultural workers. And with the inclusion of the Panetta amendment, the agriculture industry has been given a free hand to continue to employ and exploit undocumented workers, to their detriment and the detriment of U.S. domestic workers.
>
> The AFL-CIO does not consider this legislative product worthy of our support. * * *

I want to say that this is another step in the direction that places me in a position where I have to oppose this bill, and I would urge this House to vote against this particular amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Let me just say that I do not think that the AFL-CIO's position on anything should determine anyone else's position. The bill is not a bad bill. I might say the gentleman from New Jersey, the chairman of the committee, said last Friday the bill is not in such state of disrepair that it cannot be fixed.

The **CHAIRMAN.** The Chair recognizes the gentleman from California [Mr. ROYBAL].

Mr. **ROYBAL.** Mr. Chairman, I rise in opposition to this amendment because I firmly believe that it will destroy the effectiveness and the purpose of the legalization program. There is no doubt about that in my mind.

What this amendment does is, grant a two-tiered program, which makes it a lot more difficult to administer the program. The bureaucracy will take place. It will cost more money. Therefore, its administration will be faulty and lengthy and, as a result, the bill that Uncle Sam will be paying will be increasing day by day.

But it also grants temporary status to certain individuals who are in the United States. And what this actually does is endanger the status of those individuals, for if they seek, first of all, temporary status, that means one visit to the bureaucracy. Then they will have to come back the second time and seek the permanent residency status. Twice they will come before the bureaucracy. What will happen to those individuals if they finally do not qualify for permanent resident status? I am afraid that there will be mass deportations if they do not qualify under the more than 32 qualifying provisions. But what I am really afraid of is that these individuals will not seek the benefit of legalization when the law passes.

May I say that it also provides a two-tiered legislation program that creates different classes of legal status with different rights attached to each. This undermines the intent of legislation which is to simulate undocumented aliens into the communities in which they live. That is the purpose of all this legalization process.

But if this amendment were to pass, it then establishes the two-tier system, but it establishes legally different classes of individuals. This house has done too much to make this bill worse than it was before the debate started. I believe, Mr. Chairman that this is the reasons why the AFL-CIO finally took a stand against this legislation. They said that they now oppose the bill becasuse "with the defeat of the Hawkins amendment, effective and enforceable sanctions are precluded."

Well, that is so.

"With the rejection of the Miller amendment," they say, "the H-2 program will no longer protect the labor standards of agricultural workers."

And then they go on to say that the Panetta amendment gives the agricultural industry a free hand to continue to employ and exploit undocumented workers and that this is not only to their detriment but to the detriment of domestic workers.

These are good reasons. But it seems to me that they are a little late. I wish that the AFL-CIO would have seen the light last week. I wish they would have come forward while there was still time looked at the legilsation and concluded as many of us did that this legislation is offensive to Hispanics, Asians, and organized labor. One cannot say that they were not told, because they were. We told them what the results would be. But I am glad to find now that they are opposing Simpson-Mazzoli. And in so doing, I am sure, oppose the amendment before us. This amendment if passed would make this piece of legislation even worse. The AFL-CIO is opposing the bill now because amendments that were passed by this House last week made Simpson-Mazzoli worse than what it was before the debate first started, and for no other reason.

So it seems to me that now, in this instance, if we do vote for the amendment before us, Simpson-Mazzoli will only continue to lose more of its friends.

The **CHAIRMAN.** The Chair recognizes the gentleman from Texas [Mr. HANCE].

Mr. **HANCE.** Mr. Chairman, I spoke earlier on this bill, and I said then it is a jobs issue. I think it is a jobs issue. And I think if you vote for this amendment you are voting for amnesty, and you are going to have to explain that to the voters.

I think that if you look as far as it being a jobs issue, there are five different studies. It does not matter whether you go with the Rice University study, the 1979 interagency task force study, University of Pennsylvania study, the Urban Institute study, or the statement from Ray Marshall, former Secretary of Labor, there is going to be some displacement. It does not matter how you cut it, there is going to be some displacement of American jobs.

Another thing we have to look at is the Immigration Service. I guess of all agencies that we deal with, we get more complaints because in your district offices, people always complain that it is almost impossible to get a passport on time, it is almost impossible to find out some immigration problem without a long delay. The INS is underfunded as it is, and they do a pretty good job under the circumstances, but you get more complaints on their being slow than on any other thing.

If you ask INS to take up these extra burdens, I guarantee you there is no way that they can take care of the functions that they will need to take care of, much less secure the borders. I think that is something that we have to look at.

Also, it has been said there are 6 to 12 million illegal aliens in this country. And let us say that maybe 1 million decide that they want to become permanent citizens, or 2 million. How many American citizens are going to be dropped out of the job market because of that? How many citizens of this country will lose their jobs to illegal aliens?

□ 1630

That is what you have got to think about. The other thing is that if you go home and talk to the people in your district, amnesty is not favored by the people back home.

The last thing I would point out is, I have sympathy and I have compassion for the illegal aliens that are here, we all do, but our first duty and our first obligation belongs to the people that we represent that are American citizens. It is a jobs issue; I hope the Members will consider that when we vote on this. I hope the Members will vote against the Lungren amendment, as well as the other amendments, and vote for the McCollum amendment to stop blanket amnesty for illegal aliens.

The **CHAIRMAN.** The Chair now recognizes the gentleman from California [Mr. LUNGREN].

Mr. **LUNGREN.** Thank you, Mr. Chairman.

Mr. Chairman, little did I know when I offered this little old amendment a few hours ago that we would reargue the entire bill. I wish we would confine our debate to the amendment before us in the future so that we might not intrude on the time of all our Members.

Be that as it may, maybe I have done something right with this amendment because I have been attacked on both sides. I have been attacked by those who say this amendment preserves amnesty, and by those who say that it kills amnesty. I happen to think this strikes the proper compromise. There is no doubt that this is less generous than the bill is as it is. This is less liberal than the bill is as it is. The gentleman from Texas can talk from now until doomsday and say that this is not, but all you have to do is look at what the bill does; it makes anybody who is here before January 1, 1982, eligible for legalization, and what my amendment does, which brings it back to 1980, sets another category for those before 1977, and requires an English language skill or a participation in a program to learn English, as suggested by the gentleman from Texas [Mr. WRIGHT].

So in those regards, it is less generous than the bill before us. At the same time, does it destroy legalization? What I have operated under from the very beginning is the assumption that the American people have some common sense here. When a poll was taken in my State, the California field poll, in 1982, the basic question was, "Do you support deportation of those who are here illegally?" Absolutely. Seventy-five percent of the people said that statewide.

Broken down into different groups, whites, 77 percent supported it; Hispanics, 59 or 60 percent; blacks, 68 percent. Then you ask the next question: "How about legalizing those who are here illegally but have lived 5 years or more?" Statewide in California, 73 percent. Among whites, 74 percent; among Hispanics, 74 percent; among blacks, 71 percent.

I frankly do not understand the arguments of those who say that my amendment somehow appeals to the discriminatory nature of those who are against amnesty. I find it strange that Hispanics, by a 74-percent margin indicate that they would support this approach to the very difficult problem we have before us, unless somehow they want to discriminate against people of their own color. I just do not understand it.

I also do not understand why the weight of the debate against my amendment has come from—mostly from—those who oppose this bill anyway, and it used the criticism of this amendment that it blows up the carefully crafted compromise that we have. We have even had members of our committee who voted against that carefully crafted compromise, come here and tell you to vote against the Lungren amendment because it upsets the compromise. They do not tell you that they were against the compromise in the first place.

Lastly, I do not understand those Members who fought valiantly for us to have an open rule, to have 69 amendments in order, who now argue that you cannot consider any of the amendments seriously because they will upset the carefully crafted work that was done in the committee.

I say to my colleagues, we move from a 1981 date to a 1982 date, basically on a party line vote. I think that was unfortunate. I do not think we fully discussed this. It was one of the very few things that was done on a party line basis.

So, if we can change in the subcommittee, if we can change in the full committee, why can we not have an opportunity to change here? I do not frankly care what the AFL-CIO says. I do not care what the Chamber of Commerce says at this point with respect to the entire bill. What we have shown is that this body is willing to decide these issues within this body as we relate to our own constituencies, and that is as it should be.

Maybe it is one of the few times that we have been able to do that in this fashion. I think we should be congratulated for it. I do not think we should be condemned because we make changes in this bill. We are not perfect in the committee or the subcommittee. Some of those changes are actually for the better. For all those Members who may be dropping off because those amendments have been adopted, I would suggest we have got as many or more Members who are going to support this bill in its final form because we in fact have adopted the amendments as they are.

I would just suggest if you want a commonsense, comprehensive compromise on this question, support the Lungren amendment.

The CHAIRMAN. The Chair now recognizes the gentleman from Kentucky [Mr. MAZZOLI] to close debate.

Mr. MAZZOLI. Thank you very much, Mr. Chairman and ladies and gentlemen of the House.

Let me first pay public tribute to the Speaker of the House, the distinguished gentleman from Massachusetts, Mr. O'NEILL. When our Speaker suggested that this bill would come to the floor, it indeed came to the floor, and when the Speaker said publicly that he would give this bill time to be heard, he has done that. I want to thank the Speaker for that kind of show of courage on his part and deference to this committee.

I would like to pay tribute to my chairman, the gentleman from New Jersey who has been a stalwart supporter of the gentleman from Kentucky. He has given the gentleman from Kentucky a chance to work with the bill.

Let me salute the President of the United States who had the courage on last Thursday night in the course of the press conference to come out in favor of legalization or amnesty or whatever we want to call it. That took courage on his part and I hope that Members, not only of his party but our party as well, understand that that component part of this bill, that of legalization, strikes the President as a necessary element without which the bill lacks balance.

Let me last but not least pay tribute to my friend from California, DAN LUNGREN, who has shouldered a very heavy load on this side of the aisle. He has been with me for the last 4 years working on the bill. This has been difficult for him, for all of us. I want to salute DAN for having worked in a very close yoke with the gentleman from Kentucky.

Let me say, back in Kentucky, when I was in the State Senate, we had a little rule of thumb, and maybe we might apply it to this bill. With respect, let me suggest we always felt back home that if, on a given bill, the AFL-CIO was against it, and the Chamber of Commerce was against it, then the bill had to be a pretty good bill. I understand that the AFL-CIO is supposedly against our bill; I understand that the National Chamber of Commerce is against our bill, so let me heartily recommend our bill as probably being an excellent piece of draftsmanship.

Let me suggest that the two-tier approach of my friend from California, which was in the original bill, is not meant to hurt anybody. It is not meant to put people in bondage or not meant to put people in deprivation or in any sort of a discriminatory mode. It is meant as a good faith effort to not only provide a workable system but a system which is fair to all parties.

I respectfully oppose my friend's amendment. I think it ought to be voted down, and I hope it is voted down strongly. It does a couple of things which I do not believe are correct. One, it reduces I think, by the fact that there would be a temporary program in here of temporary residency, reduces the incentive to come forward. We have wanted our bill to be honest, one that people would come forward to take advantage of.

Second, and questionably, it increases the administrative workload. You have got two or three hoops to jump through. Two or three moments when you have to present yourself to the authorities and that is not necessarily designed to reduce the cost of the bill.

Frankly, the more remote the date is, whether you can go back to 1980, which is a pretty close-in date, but the more remote the date is, the more likely you are to have had American children born to families here without proper documentation. Were those families to be uprooted and sent back because they do not qualify by the date, that is disruptive to say the least.

Let me remind my friends in the House, first of all, this is, despite what anyone has said, is not a blanket amnesty program. It is a case-by-case adjudication program. Everyone who would seek advantage of it must come forward and prove that they have been here by a given date; that they are not of bad character; that they have not been the kind of people we do not want here. They have not been dependents; they have not been bad actors.

Second, we know for a fact, it has been stated many times, a component part of any proper and humane form of immigration reform is legalization, and if you accept that, as my friend, the gentleman from Michigan [Mr. SAWYER] did, this day, and on last week, I ask that the House defeat the gentleman's amendment and support the committee bill.

● Mr. FAUNTROY. Mr. Chairman, I rise in opposition to amendment 46 which would substitute a two-tier 1977-80 legalization program for the committee proposal. The amendment offered by our distinguished colleague falls short of the committee proposal in terms of administrative efficiency, and the ability to target enforcement in a workable manner on new flows of undocumented workers. Additionally, amendment 46 would treat people similarly situated in an unequal fashion. It is inferior to the committee proposal in terms of fairness and I urge its rejection.●

The **CHAIRMAN**. The question is on amendment No. 46 offered by the gentleman from California [Mr. LUNGREN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. **LUNGREN**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 245, not voting 7, as follows:

[Roll No. 245]

AYES—181

Andrews (NC)
AuCoin
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bilirakis
Bliley
Boehlert
Boner
Breaux
Brown (CO)
Broyhill
Bryant
Burton (IN)
Byron
Campbell
Carney
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Coleman (TX)
Conable
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daub
Davis
Derrick
Dickinson
Dreier
Durbin
Edwards (AL)
Edwards (OK)
Emerson
Erdreich
Erlenborn
Evans (IA)
Fish
Flippo
Fowler
Franklin
Frenzel
Frost
Gekas
Gingrich
Goodling
Gore
Gradison
Gregg
Gunderson
Hansen (UT)
Harrison
Hartnett
Hatcher
Hefner
Hiler
Hillis
Holt
Hopkins
Horton
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Jones (TN)
Kasich
Kazen
Kindness
Kramer
Lagomarsino
Latta
Leach
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan
Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McKernan
Mica
Michel
Miller (OH)
Moore
Moorhead
Murphy
Myers
Neal
Nelson
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pritchard
Pursell
Quillen
Ray
Regula
Reid
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland
Rudd
Schaefer
Schulze
Shaw
Shelby
Shumway
Shuster
Sisisky
Skelton
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
Stangeland
Sundquist
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Volkmer
Walker
Weber
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)
Zschau

NOES—245

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Barnes
Bates
Bedell
Beilenson
Berman
Bethune
Bevill
Biaggi
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Britt
Brooks
Broomfield
Brown (CA)
Burton (CA)
Carper
Carr
Chandler
Chappell
Clarke
Clay
Coelho
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daschle
de la Garza
Dellums
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (CA)
English
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Fields
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gramm
Gray
Green
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hawkins
Hayes
Heftel
Hertel
Hightower
Howard
Hoyer
Hubbard
Huckaby
Jacobs
Johnson
Jones (NC)
Jones (OK)
Kaptur
Kastenmeier
Kemp
Kennelly
Kildee
Kleczka
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McHugh
McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Pickle
Price
Rahall
Rangel
Ratchford
Richardson
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shannon
Sharp
Sikorski
Siljander
Simon
Skeen
Slattery
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauzin
Torres
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Vucanovich
Walgren
Watkins
Waxman
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Young (MO)

NOT VOTING—7

Corcoran
Dymally
Hall (IN)
Hansen (ID)
McCurdy
Sensenbrenner
Vander Jagt

□ 1650

The Clerk announced the following pair:

On this vote:

Mr. Corcoran for, with Mr. Dymally against.

Messrs. **ENGLISH**, **FIELDS**, **MOLLOHAN**, and **WATKINS** changed their votes from "aye" to "no."

Mr. **McKAY**, Mr. **PHILIP M. CRANE**, and Mr. **HARRISON** changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 47 OFFERED BY MR. SHAW

The **CHAIRMAN**. Amendment No. 47 is in order at this time.

Does the gentleman from Florida [Mr. SHAW] desire to offer amendment No. 47?

Mr. **SHAW**. Yes, I do, Mr. Chairman.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHAW: Page 90, lines 9, 23, and 25, page 91, lines 2, 4, 6, and 8, and page 98, after line 21, strike out "1982" and insert in lieu thereof "1980".

Page 90, line 21, strike out "(2)(A)" and insert in lieu thereof "(2)(A)(i)".

Page 91, lines 1 and 9, strike out "(B)" and "(C)", respectively, and insert in lieu thereof "(ii)" and "(iii)", respectively.

Page 91, line 14, strike out "and" and insert in lieu thereof "or".

Page 91, after line 14, insert the following new subparagraph:

"(B) the alien—

"(i) has received an immigration designation as a Cuban Haitian Entrant (Status Pending), or

"(ii) is a national of Cuba or Haiti who are arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and (unless the alien filed an application for asylum with the Service before January 1, 1982) who was not admitted to the United States as a nonimmigrant, and".

Page 92, amend the sentence beginning on line 4 to read as follows: "For purposes of paragraph (1), an alien described in paragraph (2)(B) shall be considered to have entered the United States."

□ 1700

Mr. **SHAW**. Mr. Chairman, today I am offering a compromise amendment which I feel offers Members a commonsense approach to the legalization section regardless of how Members feel about legalization in general. In fact, later we will be given an opportunity to strike the legalization section entirely. However, right now we have the opportunity, through my amendment, to push the legalization date in the bill back from 1982 to 1980. Why use 1980 as a cutoff? I feel that there are very strong reasons for choosing 1980 as the cutoff year.

First, prior to 1980, there was no official talk of any amnesty program for illegal aliens. However, in 1980, the Select Commission on Immigration Reform, which was charged with the responsibility of studying our immigration problems and making recommendations, began discussing the feasibility of a massive legalization program. The word spread quickly that the United States might be thinking of granting amnesty to illegal aliens. In fact, it was reported that some of the people who entered illegally in south Florida did so because of the so-called amnesty that was about to be conferred. I think it is wrong to reward those who came to this country illegally simply to take advantage of a legalization program. The Lungren amendment would embrace only those who came to the United States previous to the amnesty discussions.

Second, one of the major arguments for a legalization program is that the United States is recognizing that many of the illegal aliens who have been residing in this country for several years have built up equity. This, however, is rarely true with illegal aliens who have only been here since 1982. So the equity argument is not valid.

Third, we have no real idea of how many aliens we are talking about. Conservative estimates start at 6 million while other estimates range from 8 to 12 million. Imagine the possibility of 12 million illegal aliens residing in this country. And do we have any idea what the impact, financial and otherwise, would be on State and local governments and agencies once these people are free to come forward and apply for this legalization process? Under my amendment, at least 1 million and possibly up to 4 million of the most recently arrived illegal aliens would be disqualified from taking part in the legalization program.

Therefore, if you are looking for an amendment which offers a compromise to the broad and overly generous 1982 legalization date in H.R. 1510, I hope you will support the Shaw amendment. It is fair. It is logical. And, by accepting this amendment you can insure yourself a safeguard against the broad 1982 date currently contained in the bill, regardless of how you plan to vote later on striking the legalization section entirely.

Mr. Chairman, this amendment differs from the previous amendment in that it does not have a two-tier process. It simply changes the date that appears in the bill from 1982, it slides it back to 1980.

I think it offers a compromise that all of us can support.

The question of what is going to happen with the McCollum amendment, I am concerned in particular with some of the comments made by one of the previous speakers that a vote for one of these amendments would be a vote for amnesty. This is not true.

I myself may very well support the McCollum amendment.

What this simply does is offer a position where the Members can push back the legalization date. The legalization date simply is trying to focus on the question of equity that people who have been here have gained by their presence in the United States. There are many who feel very strongly that by not having effectively adopted an immigration program that our country is guilty of some type of laches or some type of a status where we should recognize the equity that these people have built up, even though they have been here over the years illegally. This is a commonsense approach.

I would hope that each of the Members would examine the points very carefully and vote in favor of the Shaw amendment.

I yield back the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words. I do not intend to take a long time to speak on my friend's amendment. I think he anticipates a fairly short debate and a very short vote, perhaps by voice.

I think what the gentleman has done is to make a very constructive offering because he does have one aspect which is attractive and which is what our committee sought in defeating the Lungren offering. One of the objectives was to seek a legalization formula that has a single tier. The Shaw amendment has the single date and a single tier. The Wright offering, which will come shortly, has a single date. Of course your committee bill has a single date and a single tier.

So the only thing we are arguing about now is dates. We have accepted the fact you will not have a temporary residency period, but have a permanent residency period.

Let me just respectfully suggest to my friends that they vote down my friend's offering. It is, again, a very good faith offering, very serious, by a gentleman who, while not a member of our subcommittee, has made very constructive offerings from start to finish on our bill, and whose help we have appreciated.

But the gentleman would return the date to 1980, and simply stated, we have already voted just a moment ago by 245 to 181. This House went on record that it wanted a more generous date than 1980. It wanted a 1982 date, and that 1982 date is in the Wright amendment. The 1982 date is in the committee bill.

So let me just suggest that while the gentleman does offer the amendment as a good faith offering, which it clearly is, and while it may be somewhat alluring or bewitching because it does have the single tier, its fatal defect is that it has the date of 1980. We have already debated the point about if you go back to 1980 there are too few people involved. If you go back to 1980 you have a very large class of people who do not qualify for legalization, and that class could feel very scorned and they might feel that they are here in a kind of subordinate role, not as full-fledged citizens.

□ 1710

That individual in a class not covered might feel even resentful.

So let me urge my friend again, perhaps without a lot of debate to reject the gentleman's good faith offering.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the distinguished chairman of our committee.

Mr. RODINO. I thank the gentleman for yielding.

I think the gentleman in the well, the chairman of the subcommittee, has stated his case clearly. This is merely a rehash of what we had a while ago except for the fact it may take away the bite of the two-tier complication that was in the prior amendment. But it is going to do nothing to offer an opportunity to those people who will be left in legal limbo; those who have been here since 1980 who have been working, who have become part of our society, who have been productive and who, from all data we have been able to compile, have been worthwhile individuals who would be eligible if given the opportunity to apply for citizenship.

Again, I say that is not what our intention is. I think our intention is to legalize, to put this in balance and for that reason, I urge defeat of the amendment.

Mr. MAZZOLI. May I suggest, under the rule which was very, very wonderfully crafted by the Rules Committee, there is this sequence of amendments. We have now disposed of one.

The second amendment, the Shaw offering, is before us. If it fails or if it carriers, either one, we then move to the Wright amendment. And if the Wright amendment were to carry, that supplants the amendments prior to.

So we play what is called King of the Mountain. I think in this situation that the gentleman's amendment should not be voted up.

Mr. SAWYER. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to my friend from Michigan.

Mr. SAWYER. I thank the gentleman for yielding.

One additional thing, in addition to leaving these people in limbo you are also kicking them out of their jobs and leaving them unemployed and in limbo which would create not only a large reservoir of illegal aliens but worse than that, unemployed illegal aliens.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. Happy to yield to my friend.

Mr. LUNGREN. That is not quite accurate. The fact of the matter is as long as you stay in the job you had at the time this bill goes into effect, you are not affected in any situation.

The employers' sanctions only refers to new hires. So no one is kicked out of any jobs.

The fact is, if you seek new employment and you are in this status, then you would be affected, but as long as you would remain in the job you had already found yourself in, it does not affect it whatsoever.

So at least we ought to talk about the amendments before us. This gentleman had enough trouble defending his amendment when we talked about everything else, and I think Mr. SHAW should have us at least talk about the amendment he has presented, not something that someone has suggested he would like to present.

Mr. MAZZOLI. I thank the gentleman.

I yield back the balance of my time.

Mr. HANCE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I think if you vote for this amendment, you are voting for amnesty.

I just want to make sure everyone understands this is a vote for amnesty if you vote for this amendment. I do understand the gentleman is trying to improve the bill. But it does not matter whether you are for 2 years or 4 years amnesty; you are still for it.

I think one of the earlier comments was that it would be unfortunate to have illegal aliens unemployed. I agree with that. But I will tell you something that is more unfortunate, and that is to have American citizens unemployed.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I yield to the gentleman from Florida.

Mr. SHAW. I think the point you have made with regard to the unemployment of Americans who have been unemployed due to the presence in large part by illegal aliens is an excellent argument and one I think this House can embrace and one I think we should very much consider when we are voting.

However, the logic does not apply in my opinion when you are talking about what is before the House right now, a simple proposition: Are we going to turn that date back from 1982 back to 1980? How that can be construed as a vote in favor of legalization when we are cutting back on legalization, I do not know.

There are many Members of this House who are going to vote "yes" on the Shaw amendment and then are going to vote "yes" on the McCollum amendment. There is absolutely nothing inconsistent about that. Nor would it be inconsistent to vote "yes" on the Shaw amendment and then vote "no" on the McCollum amendment.

Mr. HANCE. I appreciate the gentleman's comments. I understand what you are trying to do. But I think a Member of this body will have a difficult time explaining to the voters of their congressional district that they voted for amnesty.

The only thing the public is going to look at is were you for 2 years or 4 years of legalization or amnesty, whatever you want to call it. Amnesty is what most people call it, throughout this country that is what the press calls it, amnesty. I think the key as far as the public is concerned is whether you voted for amnesty or against amnesty.

Mr. SHAW. If the gentleman from Texas would yield further.

I think the people in Florida would understand it. I would also venture that the people in Texas would equally understand it. I think part of this job is communicating with the people that we are representing.

I think that is probably the reason for the 2-year term also.

Mr. HANCE. I agree with that for individuals that follow legislation very closely they might have some understanding of the process, but the key is that this amendment puts you on record being a Member who would vote for immigrants to be here 4 years instead of just 2 years; either way you are for amnesty for people who come to this country illegally.

That is the reason I rise in opposition to the amendment.

I yield back the balance of my time.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

I thank the chairman.

Mr. Chairman, I want to take this opportunity to ask the author of the pending amendment a couple of questions.

During the debate earlier this afternoon on the Lungren two-tier amendment, one of the objections raised related to the cost of having two tiers—the administrative costs and delays of having a period of a number of years prior to permanent residence.

Do I understand from my friend from Florida that his amendment involving only one tier—one cutoff date for legalization—could not be subject to the same criticism in terms of the administrative costs and delays that would be incurred with two tiers?

Mr. SHAW. If the gentleman will yield, the gentleman is quite correct in his observation. As a matter of fact, as you cut down on the pool of those out there that would be subject to legalization, you are actually cutting back on the administrative load that would be placed on the Immigration Service.

Mr. FISH. Well, I think, having listened to the arguments against the prior amendment that related to the issue of the various problems inherent in having two tiers—that you have overcome these in your amendment.

I would be happy to support it.

Mr. SHAW. That is quite correct.

I thank the gentleman.

Mr. McNULTY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, peers, for heaven's sake defeat this amendment and with it defeat the myth of the plotting, scheming immigrant, because he comes from the same whole cloth from which comes the plotting, scheming criminal.

Almost everybody in this Chamber has at one time or another in his or her legislative life been confronted with the question of sanctions for criminal punishment.

In New Mexico they give 10 years for first degree burglary and we only give 5 years here in Arizona. Conclusion: The thinking criminal of New Mexico commits burglaries in Arizona because he will only receive a 5-year sentence, if found.

Well, the same thing is true with respect to these people. Which of you would give up your home and for what reason would you do it? Because you were attracted somewhere else? Of course not. Because a deterioration of your sense of well-being where you are, as a last act of desperation, you look for somewhere else to go.

So as a person who has traveled the Babicoras and the Sahuaripas and the Granados of Sinaloa and Sonora and Chihuahua, I can tell you from firsthand experience there are not knots; little groups of people terribly ungraced, thinking up datelines by which they must come under the fence.

That is not the case at all. So discharge that from your ideas and vote "no" on this amendment and accept the sensible 1982 date that the committee as proposed.

Mr. DAUB. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to rise in support of the well-crafted amendment of my colleague from Florida.

□ 1720

I am going to support it for two reasons. First, because in previous debate on this bill the committee has rejected the Moorhead amendment and basically the concept that there ought to be some limitation on the numbers in the outyears.

As my colleagues all know, I have been talking about the stark reality of the suffocating numbers of faces that are going to come into this country and, in my judgment, deprive a lot of folks who are here already of what they are entitled to by way of full participation in our society.

Because of the absence of agreement on limiting the numbers at some point in time in the future, I am going to support this amendment.

That brings me to my second reason. Because it provides for the orderly legalization of a substantial number of those who are here on documented status, and indeed, my colleagues, should we not be mindful of serving those who come first?

Mr. CROCKETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the subcommittee and full Committee of the Judiciary charged with this legislation, I can fully appreciate the hard work done by the chairman of the subcommittee and the chairman of the full committee to resolve some of these basic problems that confront us with respect to immigration.

But I am not going to be able to vote for final passage of this legislation and since I do not intend to do that, it probably makes no difference what my position is on this particular amendment. Except that I feel compelled to use this occasion to let my vote be a statement because what is involved here is a significant difference between the cutoff date for legalization set forth in the act as it came out of our committee, January 1982, and the date that is proposed in the amendment offered by the gentleman from Florida, which is 1980.

That significant difference is as clear as the difference between black and nonblack.

If you accept this amendment then, of course, you feel in. All of the Cubans who came over because they came over before 1980. You exclude all of the Haitians who came over because they came over after 1980.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. CROCKETT. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

The bill makes a specific exemption as to the Haitians and the Cubans who enjoyed entrance status. So the year 1982 under the Shaw amendment would still apply to the Cubans and the Haitians.

Mr. CROCKETT. What we are concerned about is the perception, whether or not the bill contains that provision, the perception is that the amendment is anti-Haitian. That is the perception that people out in the street will have, that is the perception that will be confronting those of us who run for reelection in districts where we have a Haitian constituency.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. CROCKETT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Let me thank the gentleman from Michigan, Judge CROCKETT, for all of his help in these last several months. He has been a member of my subcommittee for several months.

Let me just respectfully suggest to my friend the judge, that the perception could well exist—but the task that we have as Members of Congress is to overcome perception.

I would say my friend from Florida is right. In the bill is the legalization of all the Haitians and the Cubans up to January of 1982. That is not dealt with by the gentleman's amendment. It is in the bill.

We would love to have the gentleman's help with the bill because that is an important part of our bill which may not independently be able to go through this shortened legislative period. So perhaps my friend, the judge, could perhaps even help the bill in final passage.

Mr. CROCKETT. At least this exchange clears it up.

Mr. SHAW. If the gentleman would yield further to me, I would like to point out to the chairman of the subcommittee that it is specifically provided in my bill and I would invite the gentleman's attention to page 270, starting at line 1.

I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for an additional 5 minutes.)

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Chairman, any suggestion that this bill provides an amnesty is a misnomer; what it provides is a limited chance for a limited number of people to adjust their status from undocumented to documented. It does not confer citizenship. It does not give a blanket right to adjust status—only an opportunity to apply, and even then the Senate bill would deny any right of appeal from administrative decisions, however wrong or arbitrary or contrary to law they might be. That is hardly an amnesty.

The fact of the matter is that the Mazzoli bill would give the right to apply for legal status only to people who would have been entitled to legal status in the first place—people who would have been admitted as immigrants if visa numbers had been available. And we all know that in the case of Mexico, at least, the possibility of getting a visa is nonexistent except for those in the two top preference categories. The legalization provision in effect says, "if our law had been reasonable in the first place, you would have been admissible. We're now giving you a limited chance to obtain documents." Calling this limited legalization program an amnesty is a gross inaccuracy.

The bill says that you have only a limited amount of time to apply for legalization; it leaves it up to the applicant to prove that he or she was continuously in the country—whatever the word "continuously" is eventually construed to mean—for a prescribed amount of time. The applicant can't become a public charge; nor can anyone with any record of a criminal offense or even a series of misdemeanors adjust status. Any undocumented alien with less than a sterling character, or any alien who can't meet yet to be devised standards of proof, need not apply for legalization. And indeed, anyone who applies must do so in the knowledge that failure to qualify, for any reason, means the likelihood of deportation. In a very real sense, the bill doesn't offer amnesty so much as it offers a chance to turn yourself in. It is true that the House bill says that applicant documents submitted are confidential, but the organizations that have the documents can't process them. Only the Attorney General can say who qualifies and who does not, and of course he is also the official empowered to deport those who do not qualify—he is judge, jury, and executioner. Thus, if there is some question about eligibility for legalization, no agency that accepts your application can give you much more than advice about how risky it would be to submit the application to the Attorney General.

The only sure way to get an answer on any question of eligibility would be to take the risk of being deported. If the standards were more clear, then the guarantee that applications can be received in confidence by designated nongovernment agencies would have greater meaning, but since no such agency can be sure that its advice is correct, it would have no alternative but to forward only the safest applications and advise all others either to run the risk of being found deportable or simply to remain as they are—undocumented. Indeed, it is not likely that more than half the alien population will even be eligible to adjust status, let alone qualify.

The bill would probably make legalization impossible for many undocumented aliens who are in fact solid, positive members of society. I have been advised by the committee staff that one family wouldn't be eligible for legalization even though that family had an absolutely stunning record of citizenship and productivity—so much so that newspapers have editorialized against attempts to deport them. Why couldn't they adjust status? Because, I am told, at one time or another, one member of the family has used a false green card, a border crossing document. The term "otherwise admissible," which is the ultimate standard prescribed for legalization, is so vague that the administration could easily deny legalization to anyone it wanted to, for whatever reasons it wanted to invoke. If the family I have in mind is not eligible, the legalization provisions of this bill represent anything but amnesty. It might make possible an adjustment for some, but I suspect many—if not most—will be so wary of the vague standards and likelihood of arbitrary action—action that is not appealable under the bill as passed by the Senate—that only the brave or the foolhardy might apply for legalization. The legalization provisions will no doubt solve some problems for some people, but I suspect that for half or more of the illegal aliens in this country, legalization will be impossible or not worth the risk of applying, since even under the House bill the agencies that can receive your application in confidence cannot act upon it. Ultimately, the only way to have a chance at becoming legalized would be in effect to turn yourself in, to be judged by standards that have yet to be devised, and submit to proceedings that may turn out not to be appealable, if the Senate bill prevails in conference. For if you apply and can't qualify, you are sure to be deported. Vast numbers will prefer not to run the risk of deportation.

Calling the legalization program an amnesty is a misnomer; calling the bill itself a reform is a misnomer. Immigration law is not reformed when the bill keeps in place country limits that make legal entry all but impossible for Mexicans, who constitute perhaps half the country's illegal aliens. Order is not restored when employer sanctions will in fact act as more of a discrimination device than any uniform check on legal status, thanks to vague documentation requirements and hazy enforcement provisions. The much-feared flood of easily exploitable, cheap labor is not halted when the bill embraces an annual flood of perhaps a half million foreign farmworkers who are given virtually no legal protections against exploitation of the most vicious kind. It may comfort some to claim that the legalization provisions in this bill represent the best of bad choices, but that argument rings hollow when you recognize that anybody who seeks legalization under the terms of this bill does so only at great risk. Does this bill provide amnesty? Hardly. Does it provide reform? Not at all. What the bill does is to allow those who want cheap farm labor to get all of it they want, playing off the poorest of our poor against the poorest of Mexico's poor, and to give those who want to say they reformed immigration to claim action. But the bill does not address root causes, it does not reform, and it will ultimately be found, as virtually all other immigration bills have been, to be a failure. For this bill, like those that have gone before, is a product of the fears and prejudices of its time. It is no less wrong than the Chinese Exclusion Act, no less biased than the old quota system, and no less unworkable than the disastrous so-called reform of 1965, the bill that led largely to the flood of illegal immigration that we have today—because it prescribed unrealistic and unenforcible country limitations, which limitations will go almost unchanged in this bill. But it satisfies the fears of the moment, the same fears that in earlier times have lain behind other bills that sought to exclude orientals or southern Europeans or Africans. Ultimately, this bill represents reaction, not reform.

● Mr. TOWNS. Mr. Chairman, I rise in opposition to this amendment. The numbers of illegal aliens in the United States have been grossly exaggerated. The Census Bureau counted 2.1 million in 1980, and believes on the basis of these statistics that there can be no more than 4 million illegal aliens here. Certainly 6 million is an outside figure. Even with this reduction in numbers, INS says only 65 percent have resided continously since January 1, 1982. Only 65 percent are expected to apply meaning only about 1.7 million will legalize.

The legalization provisions in the Judiciary Committee bill do not authorize a blanket amnesty. The INS will have ample opportunity to establish screening criteria. The burden of qualifying for legalization rests with the alien. If we believe that an amnesty program is needed to balance employer sanctions in this bill, then we should have the most comprehensive bill possible. Therefore, I urge my colleagues to support the January 1, 1982, as reported by the Judiciary Committee.●

1730

The CHAIRMAN. The question is on amendment No. 47 offered by the gentleman from Florida [Mr. SHAW].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SHAW. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 246, not voting 10, as follows:

[Roll No. 246]

AYES—177

Andrews (NC)
Archer
AuCoin
Badham
Barnard
Bartlett
Bateman
Bennett
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Broyhill
Burton (IN)

Byron
Campbell
Carney
Carper
Chappie
Cheney
Clinger
Coats
Coleman (MO)
Conable
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip

D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Derrick
Dickinson
Donnelly
Dorgan
Dreier
Duncan
Durbin
Edwards (AL)
Emerson

Erlenborn
Evans (IA)
Fish
Fowler
Franklin
Frenzel
Frost
Gekas
Gibbons
Gingrich
Goodling
Gore
Gradison
Gregg
Gunderson
Hansen (UT)
Harrison
Hartnett
Hatcher
Hiler
Hillis
Holt
Hopkins
[illegible]
Hunter
Hutto
Hyde
Jeffords
Jenkins
Jones (OK)
Kasich
Kindness
Kramer
Lagomarsino
Latta
Leach
Lent
Levitas
Lewis (CA)
Lewis (FL)
Livingston
Lott
Lowery (CA)
Lujan

Lungren
Mack
MacKay
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McKernan
Mica
Michel
Miller (OH)
Moore
Moorhead
Murphy
Myers
Neal
Nelson
Nielson
O'Brien
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pritchard
Pursell
Quillen
Ray
Regula
Reid
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Roukema

Rowland
Rudd
Schaefer
Schulze
Sharp
Shaw
Shelby
Shumway
Shuster
Sisisky
Smith (IA)
Smith (NE)
Smith, Denny
Smith, Robert
Snowe
Snyder
Solomon
Spence
Spratt
Stangeland
Sundquist
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Vander Jagt
Walker
Watkins
Weber
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
[illegible]
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)
Zschau

NOES—246

Ackerman
Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Barnes
Bates
Bedell
Beilenson
Berman
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Breaux
Britt
Brooks
Broomfield
Brown (CA)
Bryant
Burton (CA)
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
de la Garza
Dellums
DeWine

Dicks
Dingell
Dixon
Dowdy
Downey
Dwyer
Dyson
Early
Eckart
Edgar
Edwards (CA)
Edwards (OK)
English
Erdreich
Evans (IL)
Fascell
Fazio
Feighan
Ferraro
Fiedler
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
[illegible]
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hawkins

Hayes
Hefner
Heftel
Hertel
Hightower
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jones (NC)
Jones (TN)
Kaptur
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kolter
Kostmayer
LaFalce
Lantos
Leath
Lehman (CA)
Lehman (FL)
Leland
Levin
Levine
Lipinski
Lloyd
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCurdy
McDade
McHugh

McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Minish
Mitchell
Moakley
Molinari
Mollohan
Montgomery
[illegible]ody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Natcher
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Ottinger
Owens
Panetta
Patman
Patterson
Paul
Pease
Penny
Pepper
Perkins
Pickle
Price
Rahall
Rangel
Ratchford
Richardson
Rinaldo
Rodino
Roe
Roemer
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Seiberling
Shannon
Sikorski
Siljander
Simon
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Solarz
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauzin
Torres
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Volkmer
Vucanovich
Walgren
Waxman
Weaver
Weiss
Wheat
Whitten
Williams (MT)
Wirth
Wise
Wolpe
Wright
Wyden
Yates
Young (MO)

NOT VOTING—10

Chandler
Cooper
Corcoran
Davis
Dymally
Hansen (ID)
Ireland
Kennelly
Schumer
Sensenbrenner

□ 1750

The Clerk announced the following pairs:

On this note:

Mr. Corcoran for, with Mr. Dymally against.

Mr. **VOLKMER** changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 48 OFFERED BY MR. WRIGHT

The **CHAIRMAN**. Amendment No. 48 is in order at this time.

Does the majority leader, the gentleman from Texas [Mr. WRIGHT], desire to offer amendment No. 48?

Mr. **WRIGHT**. I do, Mr. Chairman.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 48 offered by Mr. WRIGHT: Page 90, line 10, strike out "PERMANENT" and insert in lieu thereof "LAWFUL", and amend the table of contents accordingly.

Page 90, line 14, strike out "permanent" and insert in lieu thereof "temporary".

Page 91, line 18, strike out "(b)(3)" and insert in lieu thereof "(e)(3)".

Page 92, line 15, insert the following new subsection:

"(b)(1) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the one-year period beginning with the thirteenth month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (e)(3), and

"(ii) has not been convicted of any felony or of three or more misdemeanors committed in the United States;

"(D) can demonstrate that he either (i) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or (ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States, and

"(E) can demonstrate, in the case of an alien who is accompanied by a dependent child who is subject to a State law requiring compulsory school attendance, that the child is enrolled (or arranging for enrollment) in an elementary or secondary school or other course of instruction which complies with such law.

An alien shall not be considered to have lost the continuous residence referred to in subparagraph (B) by reason of an absence from the United States permitted under paragraph (3)(A). The Attorney General may, in his discretion, waive all or part of the requirements of subparagraph (D) in the case of an alien who is 65 years of age or older.

"(2) The Attorney General shall provide for the rescission of temporary resident status granted an alien under subsection (a)—

"(A) if it appears to the Attorney General that the alien was in fact not eligible for such status,

"(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (e)(3), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(C) at the end of the twenty-fifth month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

"(3) In the case of an alien during the period he is granted lawful temporary resident status under subsection (a)—

"(A) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need;

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit, and

"(C) the alien shall not be deported or otherwise removed from the United States by the Attorney General or other law enforcement agent of the United States except pursuant to a lawful deportation proceeding or other due process of law.

Page 92, line 16, strike out "(b)(1)(A)" and insert in lieu thereof "(c)(1)(A)".

Page 92, line 17, and page 93, line 4, insert "or under subsection (b)(1)" after "subsection (a)".

Page 93, beginning on line 21, strike out "subsection (a)(3)(A)" and insert in lieu thereof "subsections (a)(3)(A), (b)(1)(C)(i)(I)".

Page 93, line 24, insert "(15) (except as it applies to the adjustment to lawful temporary resident status under subsection (a))," after "(10),".

Page 94, beginning on line 11, strike out "During the six month period beginning on the date of the enactment of this section" and inserting in lieu thereof "Beginning not later than the date designated by the Attorney General under subsection (a)(1)".

Page 94, line 14, insert "in English and other appropriate languages" after "broadly disseminate".

Page 94, at the end of line 16, insert the following new sentence: "Such information shall include (A) information respecting the requirements that aliens with lawful temporary resident status would have to meet to have their status adjusted to permanent resident status under subsection (b)(1) and the facilities available to provide education and employment training and opportunities in order to meet such requirements, (B) information on the conditions under which temporary lawful residence status can be rescinded under subsection (b)(2), (C) information on conditions for employment and foreign travel of aliens with lawful temporary residence status under subsection (b)(3), and (D) information respecting compulsory school enrollment requirements for minors in the various States and localities and the identification of the appropriate schools in which children should be enrolled."

Page 95, line 19, strike out "(c)(1)" and insert in lieu thereof "(d)(1)".

Page 95, line 20, strike out "is granted lawful permanent" and insert in lieu thereof "was granted lawful temporary".

Page 97, line 21, strike out "(d)(1)" and insert in lieu thereof "(e)(1)".

Page 98, in the matter following line 21, strike out "permanent" and insert in lieu thereof "lawful".

Page 101, line 1, strike out "has been granted permanent" and insert in lieu thereof "was granted lawful temporary".

The **CHAIRMAN**. The gentleman from Texas [Mr. WRIGHT] is recognized for 5 minutes in support of his amendment.

Mr. **WRIGHT**. Mr. Chairman, this amendment is an attempt to create an orderly system of legalization which will be fair to the country, fair to the immigrant, and acceptable to the American public. It would combine compassion with commonsense.

We have before us now three basic choices.

First of all, we have the committee bill, which would automatically bring in all those who have been in the country since 1982 and make them permanent residents of the United States.

At the other extreme is the McCollum approach, which would allow no legalization at all for any of those unnumbered, probably millions, who have come into this country unlawfully, seeking jobs and seeking opportunity. It would leave them in their present shadowy substatus, subject to deportation, subject to exploitation, frightful, furtive, and lurking in the shadows of our society, with no change in their status at all, no help.

Then there is this third choice. I think it is a sensible, reasonable middle ground that most Americans would support. It treats all alike. It would allow all those who have been here since January, 1982 to qualify for a temporary residency of 2 years. Having been so endowed as temporary residents of this country, they would be entitled to the full protection of the laws of this country, and they would be entitled to work in this country legally.

During that time if they desire to be permanent residents and make their permanent lot in the U.S. of America, it would permit them to apply for permanent residency and to qualify for it.

The amendment would set up four qualifications, not difficult to meet but sufficient to test the sincerity and the seriousness of purpose of the immigrant who would cast his or her lot with us and with our Nation for the rest of his or her life.

□ 1800

First, the applicant would have to demonstrate, as immigrants to this country are expected to demonstrate, that he is not likely to become a ward upon the State, that he is employable and that he is able and willing to work.

The second qualification is that he has not been convicted of a felony under the laws of the United States or habitually convicted of misdemeanors during that 2 years.

The third qualification is that the individual is at least attempting to learn rudimentary English. My amendment does not require that he have mastered even the rudiments of ordinary English as are required for citizenship, but only that the person be enrolled in some course of study attempting to learn the rudiments of English in order that he or she, admitted to this country, can fully participate in all those boons and blessings that are available in this land of ours.

Thus, it would build the bridge into full participation in our society and not condemn that person to a permanent substatus of mential jobs only. Everyone knows that language is the key to the gates of opportunity.

Finally, if that person is accompanied by children of school age, it would require that those children be enrolled in school. That is all; these are simple qualifications.

Well, what are the advantages of having these qualifications fulfilled by anyone who would be a permanent resident? First, it dignifies the gift that we are bestowing upon these people. It is a precious gift to live the rest of your life in the United States of America, legally recognized, with status, fully entitled to the protections of the laws and the Constitution of our country. To expect some good faith performance in exchange for that will reinforce the sense of its being worthwhile, the splendid sense of opportunity and accomplishment felt by those who have come to this country in the past and qualified to become full participants in our society.

Second, it would provide the bridge that will dignify the status of the individual. Surely, all of us know that only the most menial jobs characterized by the term "stoop labor," only second class jobs are available to one who does not have any familiarity or facility with the language. This amendment will provide the incentive to cross that bridge into full participation.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. WRIGHT. Finally, I think it would do something for this country as a whole. I am not one of those who believe that we must homogenize America. I do not think we have to pour all these great strains into one great melting pot and come out with a single stream of sameness. I do not think we must obliterate the beautiful, rich culture that gives color to the fabric of American life.

But I do not believe either that we want to create the temptations to a balkanization of American society into little subcultures, each wholly contained and isolated within itself by language, and by custom, and not capable of communicating with one another. Language is the thread, the common thread that ties us all together. When we can communicate one with another by any common language, then all of us are better off because we can understand one another better. We are in truth one nation.

So it is a bridge to nationhood, it is a bridge to full participation and to an honored, dignified status for the immigrant. It is an opportunity for all to qualify for the most precious thing, and that is citizenship in these United States. Ultimately that ought to be the goal. And surely none ought to satisfy themselves, even when they become permanent residents, if they can persevere a bit further and become citizens.

I have attempted in this to protect human and individual rights. I have attempted assiduously to write in full protections against arbitrariness on the part of officialdom. I have a provision which says that the requirement of 1 year's stay in this United States may not be abridged by reason that a temporary legal resident for a perfectly good cause has a casual trip abroad to attend to family business or other important family matters, and he must be allowed to return.

There is another provision which would exempt from the language qualification people who are 65 years of age or older.

There is another which provides that under no circumstances may the Attorney General or any other official of the United States deport or otherwise remove such a person once granted this status, except by a lawful deportation proceeding or due process of law.

The amendment further guarantees that information shall be widely disseminated in the languages of those who have come to this country seeking opportunity, telling them such things as the exact requirements that aliens with lawful temporary-resident status will meet if they want that status adjusted to permanent status, and the facilities that are available to provide education and employment opportunity and training in order to meet these requirements, as well as information on all the conditions of foreign travel and the other conditions to which they would be applicable. It requires that this information be broadly disseminated among these groups in our society in order that they may be aware of the privileges that we are offering them.

I think something like this will be acceptable to the American people, even though it is true that they have indicated in numerous polls that they are not for unconditional amnesty. Surely, we have to offer some inducement if these people are to come forward and identify themselves and participate legally in our society. Surely, this is not too much to ask and, surely, it is not too little to ask.

I would like to ask for your serious consideration, because I believe this will restore a modicum of fairness and reasonableness to this bill as a whole and help get it back on the track on which most of us want it to be.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. Yes; I will yield to my friend, the gentleman from New Mexico, who was standing earlier, and then I will be glad to yield to my friend, the gentleman from California.

Mr. RICHARDSON. Mr. Leader, I wish to commend you on your statement. I am uncertain how I will vote on this amendment.

On the one hand, I applaud the gentleman's efforts on behalf of undocumented workers throughout this Chamber. I applaud the gentleman's efforts on behalf of Hispanic amendments in the gentleman's career.

I have several concerns about the provision that I think has been illustrated by the questions relating to the amendment of the gentleman from Florida [Mr. SHAW] and the amendment of the gentleman from California [Mr. LUNGREN].

I think of particular concern to many Hispanic Americans and many in this country is the provision relating to the English language. The reason I mention this is because there is an assault right now on bilingual education. There are cutbacks, there are all kinds of hysteria. Recently a constitutional amendment was offered to make English the official language of the United States, which I think was unfortunate, because I think it is a matter of choice.

The gentleman's provision relating to English is a bit troublesome and I would like the gentleman if he could to explain it, especially since statistics have shown that in Hispanic households 77 percent of the Hispanic households have English as the dominant language.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. RICHARDSON, and by unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield further?

Mr. WRIGHT. I yield.

Mr. RICHARDSON. So while I support the gentleman's emphasis on the English language, I am concerned as to how this would work.

Question No. 1 would be how would this be enforced? Are we in effect having the INS as the determinant officer for English?

No. 2, what does the requirement mean? Does it require course work at a community college? Most undocumented workers have very little education or access to education.

Once again, are we talking about requirements that would befit a Rhodes scholar?

Once again, what is the minimal requirement? Once again, the question arises as to whether this in effect is not going to be a very serious barrier to the undocumented worker coming forward and wanting to legalize and wanting to be part of the mainstream.

I would like the majority leader to answer those questions.

Mr. WRIGHT. I would be glad to respond to those questions. They are fair questions and they deserve fair answers. I am not sure that my answers will be satisfactory to the gentleman. I hope that they will be.

I have attempted to the best of my ability to create a standard that anyone truly desirous of permanent residence could meet.

As the gentleman is aware, in order to become a citizen of the United States, there is a requirement that an individual should demonstrate a minimal understanding of ordinary English; that is the requirement for citizenship.

I do not impose that restrictive a requirement. The requirement that this amendment will impose would be quite considerably more lenient than that. It would allow him to demonstrate either that minimal understanding of ordinary English or that he, the applicant, is pursuing a course to study of achieve an understanding of English.

Now, it seems to me that anyone can meet that standard. If I were the age of the gentleman from New Mexico, and he and I at that age were to decide that we wanted to live the rest of our lives in Italy and should apply for permanent residence so that Italy would be the place of our home and of our work and of our careers, I think the gentleman would agree that we would be well advised to learn to speak and understand Italian.

□ 1810

We would not think to live there permanently without attempting to learn the language, if that is where we are going to spend our careers.

So this provides that incentive to learn the language which is the bridge into the better paying jobs and the broader opportunities in the workplace, as all of us would agree.

Now as to the second part of that question, what provision is there for opportunities to learn the language? I must confess to the gentleman that this amendment does not, in itself, contain adequate guarantees for opporunity. It provides guarantees that those opportunities which exist shall be made known, and in the language of the applicant, to all applicants.

They are not required to demonstrate any fluency in English or any capacity with English to be a temporary resident. They can do that just as they are, without one plea. They can forward and become a temporary resident.

During that 2 years, however, if they want to be a permanent resident of this country, by simply demonstrating that they are engaged in a course of study aimed at achieving a minimal understanding of ordinary English, they can qualify.

Now, I think beyond that, as the gentleman I am sure has in his mind, that we have the responsibility to provide—and there will be opportunities for us to provide—ample funding to carry out all that is required in this law, including opportunities for people to master knowledge of this country, knowledge of our laws, knowledge of our language, opportunities that have existed in the past for other waves of immigrants who have enriched our society.

And I pledge to the gentleman now that just as I have stood in this well and fought for money for school districts to help immigrant children gain an education, I will stand with him shoulder to shoulder here in this House any day, and every day, and fight for an adequate funding in order that these people who will now be children of our land might be given every opportunity to which a child of our land is entitled.

Mr. RICHARDSON. Mr. Chairman, will the majority leader yield?

Mr. WRIGHT. I surely do, I yield to my friend.

Mr. RICHARDSON. The second part of my question, Mr. Leader, relates to, in essence we have created or we would create a two-tier system. The same question that we posed to the gentleman from California relating to the role of the INS, we have made the INS a super bureaucracy; enforcement at the border.

We now have another situation where we are giving them other substantive responsibilities, possibly as English teachers.

The concern that many of us have, Mr. Leader, is that you are making administratively a very burdensome situation.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. RICHARDSON and by unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. RICHARDSON. Administratively burdensome for the INS to be able to manage such a program; to be able to keep the records, to be able to keep track of all those who have applied at the two different stages that we have discussed.

The concern I think that many of us have is that we are giving the INS, which I think requires its main emphasis in border enforcement, we are giving them enormous powers to make determinations that might necessarily put them in a situation where they might not have the training for.

Mr. ROYBAL's provision for more INS training was for border enforcement, but I do not know if it involved language training or it involved cultural training like the leader stated.

I think one of the regrets that your bill does not present is an authorization for communicating some of the provisions in the leader's bill, for education.

So, I wonder if the leader could talk about how he foresees the role of the INS, what safeguards are there; what happens if records are lost? Would the undocumented worker be deportable?

Many questions relating to the specifics of how his provision would be enforced.

Mr. WRIGHT. Let me respond to those as best I can.

In the first place, of course, it is not my expectation that the INS would administer language training. I think there are other agencies far better equipped to do that. I think the Department of Education ought to be called into play to provide that kind of training and also local school districts. Local churches, as the gentleman knows, oftentimes provide that very type of training.

But this bill requires that information as to the locality and whereabouts of every such training course must be made known to the applicant.

Now with respect to the powers that it would give to or withhold from the INS; first of all, it does not confer any additional power upon the INS; it confers the powers upon the Attorney General and he will of course delegate them.

Some he will no doubt delegate to the INS since that is the agency charged under the present law to carry out immigration policy. But the question the gentleman asks with regard to whether these temporary legal residents might be deported simply if their documents were lost, the answer is absolutely not; the amendment absolutely forbids any law enforcement agency of the United States from doing so.

On page 275 in the book of amendments, under C, the gentleman will discover the following subsection:

> The alien shall not be deported or otherwise removed from the United States by the Attorney General or any other law enforcement agency of the United States except pursuant to a lawful deportation proceeding or other due process of law.

**Mr. RICHARDSON.** I thank the gentleman for answering those questions.

Once again this provision puts us in a quandary; on the one hand, there are those of us who are very much against this bill, but legalization is a provision that is humane, that is honest, that makes an effort.

I believe the leader is making a strong effort. However, I still have these concerns and I hope in the debate they might be cleared up.

**Mr. WRIGHT.** I appreciate very deeply the genuineness of the gentleman's concern and I hope I have to some degree satisfied his question and abated his concern.

**Mr. ROYBAL.** Mr. Chairman, will the gentleman yield?

**Mr. WRIGHT.** I yield to the very distinguished gentleman from California.

**Mr. ROYBAL.** I thank the gentleman for yielding.

I would like to better understand the gentleman's amendment. As of this point, I do not agree, but maybe the gentleman can convince me.

My understanding is that temporary residency will be made available to individuals who, in turn, will have an additional 2 years to, first, enroll in a class learning English and also in one learning American history; is that correct?

**Mr. WRIGHT.** Yes; that is essentially correct.

**Mr. ROYBAL.** All right. Here then is an individual, a working man who may or may not have a family but nevertheless works at a job where he comes home late and he finds that there are no schools available.

Is the gentleman prepared to, first of all, authorize and then appropriate sufficient funds to place in various communities throughout the country the schools that would teach these individuals?

**Mr. WRIGHT.** The answer is absolutely yes, I am prepared to support ample provision and ample funding to make certain that these people are given all those opportunities.

(On request of Mr. ROYBAL and by unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

**Mr. ROYBAL.** If the gentleman will yield.

**Mr. WRIGHT.** Yes; I yield to the gentleman.

**Mr. ROYBAL.** What concerns me is that we, under this amendment, would force these individuals who may not even be literate in their own language, to go to a school to learn English and to learn American history.

Now if we had a policy in the United States where we would send Ambassadors to different countries of the world and that those Ambassadors be fluent in the country in which they served, I would then say to the gentleman that he is correct in demanding that these immigrants learn the language of this country.

We do not have that provision in the United States of America. We send Ambassadors to different countries; they do not speak the language of that country; they have to speak through interpreters.

Now, there is then a difference, is there not, in the treatment, and in those objectives that we want to accomplish, with the diplomat who is very well-versed, graduate of various universities, maybe Ph.D.'s, he does not know the language of the country to which he will be sent, but nevertheless, we do not make it a prerequisite that any ambassador that wishes to go to any country learn the language of those countries.

□ 1820

**Mr. WRIGHT.** The gentleman is absolutely correct in that regard. I join him in deploring the fact that we do not always do so. As the gentleman I think is aware, he and I both have deplored that fact publicly for a good many years. I think we should require our Ambassadors to have knowledge of the customs, the mores, the habits and the thought patterns and surely the language of those countries to which they go representing our own country.

**Mr. ROYBAL.** Mr. Chairman, will the gentleman yield?

**Mr. WRIGHT.** I yield to the gentleman from California.

**Mr. ROYBAL.** I thank the gentleman for yielding.

But the truth of the matter is that we do not and we are imposing these on these immigrants.

Now the other thing is that they are going to learn history. I wonder how many Members of this House—and this is taken from the questions that are asked of immigrants that are going to become American citizens—what powers does the Senate have that the House of Representatives does not have? Real quick, I would like to have an answer. I do not think there are too many who can answer that.

**Mr. WRIGHT.** We are not fair guinea pigs because we would know more of the answers than the average citizen would be expected to know.

I think the gentleman's point is well taken. But the questions the gentleman asks are questions from the book of knowledge required of those applying for citizenship. I believe the gentleman will read in my amendment that it does not require that much but simply that people be engaged in a course of study attempting to learn this kind of knowledge.

**Mr. ROYBAL.** If the gentleman will yield further, I firmly believe that to impose such a provision on immigrants who may not even be able to write in their own language, that is quite an imposition in view of the fact that we do not do it with our own diplomats.

**Mr. WRIGHT.** Well, the gentleman makes a valid point. I cannot quarrel with that particular point.

I think we dignify the applicant when we give that applicant the assumption of an ability to learn and the opportunity to learn to participate fully, not as a substandard member, but as a full fledged member of our society.

**Mr. GARCIA.** Mr. Chairman, will the gentleman yield?

**Mr. WRIGHT.** I yield to the gentleman from New York.

**Mr. GARCIA.** I thank the gentleman for yielding.

Mr. Chairman, one of the problems I have with the gentleman's amendment—there are several problems—but the one I heard constantly during Wednesday and Thursday of last week in preparing for the amnesty debate, was that the reasons why the Wright amendment made sense was the possibility that the Lungren amendment would carry.

Well, the Lungren amendment did not carry. We eliminated the two-tier system which developed here again as we have gone from the two-tier system of my colleague from California back to another two-tier system.

I have no problem with my leader's talking about the English language. I think all of us want to be as competitive as we possibly can. But I have a deep problem that we are back to where we were before even though it is not the same as the Lungren amendment, but it is a two-tier system.

I would hope and I would have hoped had the Lungren amendment been defeated that the gentleman's amendment would have been withdrawn and that was not the case. We have got the amendment here.

Mr. WRIGHT. I think at this point what the gentleman from New York must compare is the amendment that I offer as against the committee bill. The gentleman may find the committee bill as it is more acceptable.

Mr. CHAIRMAN. The time of the gentleman from Texas [Mr. WRIGHT] has expired.

(At the request of Mr. SCHEUER and by unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. WRIGHT. The second thing, though, is that the gentleman really should consider the choice between this amendment which is at least generous in the sense that it treats all alike and makes all temporary residents just as the committee bill would make then permanent residents without any additional proof and then gives them the opportunity to qualify. The gentleman really needs to compare this in his mind with what might happen under the McCollum amendment, which would wipe out all forms of legalization whatever. I think if he will rationalize those things—he can make his choices.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

I was just interested in pursuing with the leader on page 273 in paragraph (d) it says: "or satisfactorily pursuing a course of study to achieve an understanding of the English and such knowledge and understanding of history of the Government of the United States."

My concern is that in the area which I have represented, historically organizations of people of like ethnic backgrounds from time to time have helped their own learn the English language. Japanese-American organizations in my area, Hispanic organizations, Italian organizations. My concern is that we not rule out for migrant workers and for others that if there are local community organizations of volunteers to help individuals learn language while they are in that area because in the case of migrant workers as in Texas, that this is not a requirement that they enroll in the public schools or in a federally supported program, but for those community organizations who want to provide self help for the people who would be legal residents under the rest of the gentleman's amendment, that if they went nights to the community center to engage in English language instruction that that would satisfy this so that we can encourage those efforts.

Mr. WRIGHT. The gentleman is absolutely correct and I am very happy that he has brought this subject to our attention. It is my firm intention, and I will stipulate now for the record and for purposes of legislative intent, that such endeavors as those conducted by local organizations, by cultural organizations, the LULAC's the GI Forum, other organizations of that type, by labor unions and organizations, by churches, by any genuine bona fide valid effort on the part of a citizen group to confer this knowledge and information upon as many of their number as they can shall be accepted for purposes of this act.

Mr. MILLER of California. I thank the gentleman.

Mr. WRIGHT. I yield to my friend from New York [Mr. SCHEUER]

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to my colleague from Kentucky.

Mr. MAZZOLI. Mr. Chairman, perhaps my colleague from Texas would engage the gentleman from Kentucky in a little discussion about where we go from here and try to finish the bill.

May I have the attention of the gentleman from Florida [Mr. McCOLLUM] and the gentleman from California [Mr. LUNGREN].

The gentleman from Kentucky is soliciting the advice of his friends and colleagues on how we might best and most expeditiously, but most fairly complete consideration of the bill H.R. 1510.

The gentleman from Kentucky would suggest a kind of scenario like this and then I will be happy to hear the thinking.

The gentleman from Kentucky suggests that we complete consideration on the amendment of the gentleman from Texas [Mr. WRIGHT] tonight.

We would then rise, come back in tomorrow morning at 10 o'clock, without 1-minute speeches, if the Speaker were so indulgent as to not have 1-minute speeches. We would begin consideration on amendment No. 58, which is already agreed to with the gentleman from California [Mr. MINETA].

We would then proceed to amendment No. 61 of the gentleman from Florida, whom I would now address to suggest would the gentleman believe, if he would indulge the gentleman from Kentucky, would my friend from Florida believe that his amendment, which of course is an extremely important amendment, would perhaps be disposed of fully and fairly in say, for example, 2 hours, or something. Would the gentleman help me on that?

Mr. McCOLLUM. If the gentleman would yield, I would certainly hope that it would, but, of course, this gentleman is not certain of how many Members are desirous of speaking to it when it comes up, although we have had good debate today.

I would hope that the gentleman, if this is agreeable, and I am certainly agreeable to it being considered tomorrow under the circumstances, would leave the question open and not put a time limit on it tonight.

Mr. MAZZOLI. Would the gentleman suggest then even though he may not be willing to agree to unanimous consent tonight for tomorrow, would the gentleman agree that he would, as he has always been, try to achieve a kind of understanding at the beginning of the day tomorrow early on so we could complete consideration of the gentleman's amendment?

□ 1830

Mr. McCOLLUM. I would be happy to work with the gentleman from Kentucky, as we always have, to try to work those things out. I would like to see just how many Members are really interested in speaking and let the debate proceed a little bit before we put a time limit.

Mr. MAZZOLI. Of course, the gentleman understands that much of our debate tonight on the amendment of the gentleman from California, and the others, did deal with the question of striking the whole section.

May I ask my friend, the gentleman from California, with the further indulgence of my friend, the majority leader, could I perhaps engage my friend, the gentleman from California, the ranking minority member, in a colloquy?

The CHAIRMAN. The time of the gentleman from Texas [Mr. WRIGHT] has expired.

(On request of Mr. MAZZOLI and by unanimous consent, Mr. WRIGHT was allowed to proceed for 5 additional minutes.)

Mr. MAZZOLI. If the gentleman will continue to yield, the gentleman's amendment No. 66, which is the amendment to discuss whether or not we have the block grant approach which is in the Senate bill or the reimbursement formula which is in the House bill, would the gentleman from California help the gentleman from Kentucky in suggesting about how much time he would think—assuming only that we have a general framework of, say, for example, about 2 hours, just for that assumption—about 2 hours on the amendment of the gentleman from Florida No. 61, and, like I say, we have accepted almost all of the amendments up to amendment No. 65, which I will talk about, but on amendment No. 66 would the gentleman suggest about how much time he thinks would be encompassed?

Mr. LUNGREN. If the gentleman will yield, I would be happy to dispose of my amendment tomorrow, amendment No. 66, with an hour time limit.

Mr. MAZZOLI. I thank the gentleman.

Then I would ask my friend, the gentleman from New York, who may not be on the floor now—Mr. SCHUMER has an amendment No. 65, but I think, Mr. Leader, that would not be a consequential length of time.

My friend, the gentleman from New York, has agreed to engage in a colloquy, and withdraw his amendment.

So, in effect, if we had tomorrow, Mr. Leader, 2 hours, for example, about 2 hours in the round on the gentleman's amendment No. 61, about 1 hour in the round on the gentleman's amendment No. 66, and then we would move to final passage, we would rise at the end of that time and move to final passage, Mr. Leader, we would, in my judgment, be finished in the very early afternoon. The ladies and gentlemen of the House would not be tested tonight. They could get home and have dinner with their families.

Would my friend, the gentleman from New York, help me here?

Mr. FISH. If I could propound a question, if the gentleman will yield, at the conclusion of the pending amendment, we jump over to amendment No. 58, the Mineta amendment.

Mr. MAZZOLI. Right.

Mr. FISH. From the conversations, since you have not mentioned it, I presume you plan to accept that?

Mr. MAZZOLI. Exactly.

Mr. FISH. And then No. 59, delaying legalization, the Scheuer amendment.

Mr. MAZZOLI. The gentleman from New York has told me he engages in a colloquy with the gentleman and then withdraws his amendment.

Mr. FISH. And then we had one other that we were going to oppose, No. 65, the Schumer amendment, reimbursing the States for the costs.

Mr. MAZZOLI. The gentleman from New York is not here. I have talked to him earlier today. He does not intend to take a great deal of time. There is a potential area of some agreement and then a withdrawal, some agreement for perhaps some efforts in conference.

Mr. FISH. I just want to add that I think it would take at least about 45 minutes to explain it.

Mr. MAZZOLI. Perhaps.

Mr. FISH. And I certainly intend to oppose it.

Mr. MAZZOLI. I understand. But I would say that we would not have—an hour then on Lungren No. 66, and then we rise, and then we have a vote in the House.

Mr. ROYBAL. If the gentleman will yield, I would like to know in what crystal ball he is looking at.

How do you know tonight how many Members will be on the floor who may want to speak?

I would say it is impossible.

And I may as well tell the gentleman now that I will object to any unanimous-consent request to limit debate. This is an important bill.

Mr. MAZZOLI. Mr. Chairman, we are not limiting debate. I will tell my friend from California this is not an effort to limit debate. It is an effort to put a framework around the debate. It is an effort to solicit full and fair discussion but at the same time to understand that the House has given this gentleman a great opportunity in the sense of bringing the bill to the floor without having the kind of pressure in order that we could have a full debate. And I would remind my friend from California that, just say, for example, if on tomorrow, after finishing the gentleman's amendment, we were to achieve an agreement with the gentleman from Florida, in which he is the author, knowing full well that we have debated the essence of his amendment in debating the other formula tonight, would, say, 2 hours, 2½ hours is fine, guaranteeing the gentleman 10 minutes, for example, would not that suggest to the gentleman that that is a good, fair way to continue, I mean to complete deliberation of the bill?

Mr. ROYBAL. If the gentleman is asking and if the gentleman will yield—I think the fair way to proceed is to follow the legislative process and not enter into an agreement the night before as to what will happen, or what we will do the next day.

Mr. MAZZOLI. I just will tell my friends in the House that I will withdraw my unanimous consent——

Mr. WRIGHT. Let me reclaim, then. I just want to say that I think the gentleman from Kentucky has done a magnificent job in managing this bill under very trying circumstances. I want to compliment all of the Members who have participated in the debate. Actually, it has been a very civil, intelligent debate, conducted on an intellectual plane that does credit and honor to the House, given the fact that the——

The CHAIRMAN. The time of the gentleman from Texas [Mr. WRIGHT] has expired.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent to proceed for one additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. RUSSO. Reserving the right to object, Mr. Chairman, I will not object at this point, but I want to make it clear to my colleagues who are going to oppose any unanimous-consent request that I will stay on the floor and object to any extension of time by any individual in the well. I will not object at this time, but if we are going to have an orderly debate, we are not going to have any particular individuals dominate the debate, so we can have a wide variety of individuals talking on it, even if we do not have any limitation. So I just want to put the House on notice that I will object to any further extensions.

Mr. WILSON. Mr. Chairman, will the gentleman yield for a unanimous-consent request?

Mr. SCHEUER. I have the floor, Mr. Chairman

The CHAIRMAN. The gentleman is recognized for 1 additional minute.

Mr. WRIGHT. You have the floor?

Mr. SCHEUER. Yes. You yielded to me, and I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I have nothing further to say.

The CHAIRMAN. The gentleman from Texas has 1 additional minute. The gentleman from Texas controls the time.

Mr. WRIGHT. Let me just say in this one additional minute that I appreciate the depth of feeling which is entertained by various Members here. I am grateful to them for the hearing that they have given me on this amendment. I think it is a reasonable and sensible amendment. I think it will make the bill more palatable and more acceptable to a broader variety of the American people.

I yield to my friend from Texas.

Mr. WILSON. Mr. Chairman, I move that all debate on this amendment cease at 10 minutes until 7.

The CHAIRMAN. Is there objection to the request of the gentleman?

Mr. WEISS. Objection, Mr. Chairman.

The CHAIRMAN. The gentleman from New York [Mr. WEISS] objects. Objection is heard.

Mr. WILSON. Mr. Chairman, I move that all debate cease on this amendment in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas [Mr. WILSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WEISS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1840

### QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considerd as vacated.

The Committee will resume its business.

Mr. WILSON. Mr. Chairman, I ask unanimous consent to withdraw my motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LUNGREN. Mr. Chairman, I ask unanimous consent that all debate on this amendment end at 7:15.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WEISS. Objection, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. LUNGREN. Mr. Chairman, I move——

Mr. MAZZOLI. Mr. Chairman, I should be recognized as the floor manager.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

### PARLIAMENTARY INQUIRY

Mr. MAZZOLI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MAZZOLI. Mr. Chairman, I believe under the rule, the gentleman from Kentucky, the floor manager, is entitled to be heard and to be recognized on matters limiting debate.

Let me just respectfully suggest to my friend, the gentleman from California, the House has made it clear we are not going to protract the debate tonight. Let us just cool it. Let us just sit down. Let us just let the debate work on. The gentleman from Texas is here, and if the gentleman would just indulge the Chairman, we will be here tonight, and then we start tomorrow at 10 o'clock and work it over.

Mr. LUNGREN. Mr. Chairman, if I might reclaim my time, I indulged the gentleman from Texas and asked him to withdraw his motion on the pretext that I would make a motion, as I have the ability to do under the rule, that debate on this amendment shall end in a half hour. Since I had the gentleman agree to withdraw it, I feel bound that I will then continue with this motion, and I so move.

Mr. MAZZOLI. Mr. Chairman, can the gentleman say 45 minutes? I understand 45 minutes will be enough.

The CHAIRMAN. If the gentleman from Kentucky has no motion, the gentleman from California is entitled to make his motion. Does the gentleman offer a motion?

Mr. LUNGREN. Yes, Mr. Chairman.

Mr. Chairman, I move that debate on the amendment offered by the gentleman from Texas [Mr. WRIGHT] be concluded at 7:30.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. LUNGREN].

The motion was agreed to.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. WEISS. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. SHAW. I yield to the gentleman from New York for a parliamentary inquiry.

### PARLIAMENTARY INQUIRY

Mr. WEISS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WEISS. Mr. Chairman, is it proper to request that the time remaining be allocated amongst those who wish to speak, after the gentleman from Florida has spoken?

The CHAIRMAN. According to the discretion of the Chair, with 45 minutes remaining, that would seem ample, as far as time is concerned, to proceed under the 5-minute rule.

Mr. WEISS. Could the Chair ask how many Members wish to speak?

The CHAIRMAN. The Chair can, at a later time, allocate the remaining time, if necessary.

Mr. WEISS. I appreciate that, Mr. Chairman.

Mr. SHAW. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Texas [Mr. WRIGHT].

We have heard tonight, and all day today and, indeed, in the days preceding the day of this particular debate, long oratory regarding what we are going to do with the people who are here illegally.

I certainly do not think it is too much at this time for the Members of this House to at least expect that those seeking permanent residency here in the United States at least attempt to demonstrate and acquire a satisfactory knowledge of the English language. The English language is not provided for in the Constitution of the United States, but we are an English-speaking nation, and I think when we are talking about these people coming into this country and remaining here, and the fact that they are going to be able to improve themselves economically, we will be actually doing them a favor to require them to demonstrate an ability, or at least try to acquire an ability, to be able to communicate with the vast majority of the American people. This is the only way that they are going to be able to break out of the menial jobs that the gentleman from Texas [Mr. WRIGHT], discussed in his presentation from the floor. I believe he called it stoop labor, and things of this nature.

But in order to get out of that sphere, they are going to have to try to communicate with the other Americans on a rational basis. I would also like to say, having heard the majority leader demonstrate his ability to speak Spanish, I think if the majority leader can learn Spanish that we can certainly expect those who are here illegally to acquire an ability to speak English. Therefore, I think that is living proof of the fact that this will certainly happen, and I would certainly hope that all of the Members would try to support this most important amendment, and it is, indeed, an important amendment.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is awkward to rise in opposition to an amendment offered by my distinguished friend and colleague, the majority leader, and I do so with some hesitation because of the personal respect that I have for him.

On the substance, however, I believe that we really have no choice except to oppose his amendment. I think that at the time that he prepared the amendment as part of a king of the mountain procedure, whereby he intended to offer it should the Lungren or Shaw amendments carry, it made a certain amount of sense. I think in the course of events, somehow he lost sight of why he had prepared that amendment to begin with and it has now become an end in itself.

□ 1850

It may have been justified as being the lesser of evils, but when those evils themselves have been defeated, for the distinguished majority leader to come forward and to offer a lesser evil when it is unnecessary defies understanding. It escapes me why he would be doing that at this point.

Let us look at what we would be doing. Under his proposal, for the first time people who have not achieved citizenship status but who achieved a legal residency status would have to go through a series of hurdles which nobody has ever had to go through. That, it seems to me, is again a demonstration of the kind of discriminatory attitude or conduct that we are demonstrating toward the people who would qualify under this bill, primarily Hispanics and blacks from Central America and the Caribbean.

Second, we have in his proposal a situation where, should temporary residence not be followed within a year by an application for permanent residence, the eligibility for permanent residence will have expired, and, worse than that, if within 25 months there has not been an application for permanent residence, the Attorney General shall provide for the rescission of temporary residence.

This proposal is filled with booby traps, making it more and more difficult for undocumented workers to ever achieve permanent residence or citizenship.

Let us look at some of the other provisions. If in fact during the time of temporary residence a felony is committed, that is it, you are finished. In some States drunken driving is a felony. For the first time we do not have crimes of moral turpitude as a disqualification, a felony or three misdemeanors on its face will be sufficient to disqualify. If they are living in an environment where the people are not happy about undocumented workers or illegal aliens, they can be harassed into three misdemeanors, which automatically disqualifies them.

It seems to me that this amendment does the same kind of thing that the gentleman from California [Mr. LUNGREN] or the gentleman from Florida [Mr. SHAW] would do. It puts a bar, a hindrance, and, I think, a booby trap in the way of those very people whom we have said during the discussion of this legislation we wanted to empower legally.

I do not know whether the gentleman from Texas intended that in the beginning. I doubt it. But that is the consequence of his amendment, and I would suggest that the better part of wisdom is not to approve the amendment.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am delighted to yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, I would surely like to suggest to my friend that most certainly I did not intend that we set up a booby trap or anything like that. I think the gentleman would agree, if we were jointly to say that we had confidence in law enforcement officials and in courts, that we do not want people coming into the country as permanent citizens who are felons or who are habitual violators of the law.

Mr. WEISS. Mr. Chairman, if I can, I would reclaim my time.

Mr. WRIGHT. The gentleman would agree to that, would he not?

Mr. WEISS. The amendment does not say, habitual criminals. It says, if a felony is committed. It does not define what kind of felony, and it does not have to be a crime of moral turpitude. You could have been here for 25 years, and if you drive while intoxicated, you are finished.

Mr. WRIGHT. Mr. Chairman, the gentleman is aware, is he not, that that same identical provision applies with respect to the admission of people into the United States as immigrants, and that it applies with respect to citizenship? The gentleman is aware of that, is he not?

Mr. WEISS. For the most part, what we have talked about is crimes of moral turpitude. That is not the way the gentleman has put his definition. He has it strictly as misdemeanors, no matter what those misdemeanors are. In some places spitting on the sidewalk may be a misdemeanor.

The CHAIRMAN. The time of the gentleman from New York [Mr. WEISS] has expired.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the sponsor of the amendment, the distinguished majority leader, one very simple question that I think we can dispose of rather quickly.

In paragraph (D), the part that talks about the educational requirements before the Attorney General can grant permanent residence, I wonder if the gentleman from Texas would kindly explain the word, "satisfactorily," in subparagraph (ii). It says, "satisfactorily pursuing a course of study." Is the gentleman intending to refer to attendance, or is it academic achievement?

Mr. Chairman, I think it might be well for legislative intent purposes to cover that point.

Mr. WRIGHT. Mr. Chairman, I appreciate the gentleman's question, and for purposes of legislative intent, it certainly would be my purpose to indicate by this a demonstration of diligence and sincerity of purpose. If a person is attending with an obvious effort to learn, then he should satisfy this requirement.

Mr. MOLINARI. Mr. Chairman, if the gentleman would allow me to ask another question, who would make that judgment as to whether the person is pursuing it with diligence? I think it is well that we understand that.

I mean this is the majority leader's amendment, and I think because it is sponsored by him, it has a reasonable chance of success.

Mr. WRIGHT. Mr. Chairman, if the gentleman will yield, that is a good question, and I am not certain that I have the answer for it.

The answer lies in the initial instance in the Attorney General. It would be a designee of the Attorney General. I have to presume that under this law it is going to be necessary for the Attorney General and the district courts to appoint people to go out and hold hearings of one kind and another and conduct examinations of one kind and another.

But, it is my purpose in this, having departed from the requirements for citizenship and having broadened it so as to permit anyone simply to make a showing that he is pursuing a course of study, to make it clear that we are not trying to be restrictive; we are trying instead to give an opportunity to the broadest number of people in order that they might elevate themselves to full participation in American life.

Mr. MOLINARI. Mr. Chairman, I understand that. If I understand the gentleman correctly, then, it is not intended that there is any passing level or passing grade or academic standard that the designee would have to meet in order to satisfy the criteria of the gentleman's amendment?

Mr. WRIGHT. Mr. Chairman, if the gentleman will yield, I would tend personally to be quite lenient in that respect so long as progress is being made. Different ones of us are able to proceed at a somewhat faster pace than others. When the gentleman from Florida was saying something to the effect that the majority leader had learned with some facility the Spanish language, one of the Members on my side of the aisle said, "That proves it. If the majority leader can learn Spanish, anybody can learn Spanish."

Mr. SHAW. Mr. Chairman, if the gentleman will yield, I would say to the distinguished majority leader that that is what I was thinking, but I was not going to say so aloud.

Mr. MOLINARI. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York [Mr. MOLINARI] has expired.

Mr. GARCIA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the majority leader would be kind enough to just answer a question, I would be deeply appreciative.

I think I have to sum up pretty much what my colleague said. It is pretty difficult for a Member who spent as many years as I have in legislative places to question the good will or the intent of legislation put forth by the majority leader, knowing that when they count the votes in the final analysis, it is like David against Goliath. But I will try anyway.

At the present time, Mr. Leader, we have a situation where we have defeated the Lungren amendment and the Shaw amendment, and I think it becomes very clear to us at this point that the will of this House is that we have all agreed or, for the most part, there has been agreement that there will be the tradeoff, amnesty for sanctions. Now, if that is the case, it seems to me that by the gentleman introducing his amendment, what we are doing is going back to a two-tiered system.

If the will of this House is such that amnesty will be traded off for employer sanctions, then I would think that the gentleman's amendment would not be necessary. His amendment complicates the amnesty portions of the legislation. Up until the point of the Lungren defeat we had no problem discussing that issue, but after that defeat it seems to me that we do not really need the gentleman's amendment, and that what we are doing is laying on additional bureaucracy.

I have no problem with the English language portion of the amendment. I think it is necessary. I think if we are going to compete in a free and open society, we should be able to compete in the language that is spoken. I have no problem with that, and I think we will find that most of the aliens or most of the people who benefit from the legislation feel the same way. But I really have a problem with the two-tiered system, and it is for that reason that I urge my colleagues to vote against the amendment, because so far we are doing pretty good without it. Just by putting it in, it takes us back a step or two.

□ 1900

Mr. WRIGHT. If the gentleman will yield, the gentleman may well be right in his assessment of what the Members want.

If the Members want complete amnesty granted in the initial instance to everybody who has been here without any demonstration of this kind to make them permanent residents now, then the Members will have the opportunity to vote for that.

I think what I do is not unusual nor is it extreme. I would grant temporary residency on exactly the same showing that the committee bill would grant permanent residency.

Some people, as the gentleman knows, desire to be here only a short time, to make a little bit of money, a grubstake, and then to return to their native lands.

Those, however, who want to be permanent residents of our country would, I feel, expect to demonstrate some greater diligence and some greater dedication to the proposition of living here permanently and making their careers and their lives and their futures and the futures of their families as part and parcel of our Nation, and that they would not find this onerous. I did not intend it to be onerous. I intended, rather, that it should be a standard that any diligent person truly desirous of making a life in the United States could meet.

To the degree that I have failed to satisfy the gentleman, I regret it very much because I think the gentleman realizes that the intent was to dignify the gift of permanent residency and make it worthwhile.

Mr. GARCIA. If I can have back my time, the answer is at the time the amendment was introduced there is no question in my mind that the majority leader was probably looking ahead and wondering what would happen if in fact Lungren, the Lungren amendment had passed. But, as I said before, and I guess I am repeating it for the third time now, it failed.

So it is for that reason that I would hope that the Members—I do not think it is necessary. I think if it does pass I would hope that in conference they would look at this very carefully and eliminate it if at all possible. But I would hope that my colleagues would vote against the measure, and I thank the gentleman and yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

I wonder if I might ask the majority leader just one question about this amendment of his. I recall a vigorous debate on the Voting Rights Act amendments a couple of years ago and one of the big issues was bilingual ballots. I do recall some vigorous presentations on behalf of American citizens. But there were protestations made that they would have difficulty reading the ballot and that we ought to publish them in different languages and they ought to be bilingual.

I supported that. I think someone ought to vote intelligently and with the information, anyway.

But does not your amendment run in the opposite direction? Are you not insisting that somebody have some familiarity with the English language, which I think is very important, if assimilation is ever to occur? But were we not going in the opposite direction, then, on the Voting Rights Act by saying you do not have to have at least the knowledge of identifying a candidate on the ballot or a political party or reading a ballot proposition or having someone read it for you?

I just see a kind of contradiction here that I would like the gentleman to explain.

Mr. WRIGHT. Will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. WRIGHT. Who was it who said that a foolish consistency is the hobgoblin of little minds? It may be that we are not wholly consistent in everything that we do.

I am somewhat ambivalent about what I see as the future of our society. I do not disparage the preservation, the protection of cultural traditions and languages from other societies and other cultures that have come to enrich the fabric of our lives. I think it is good that some of these traditions be maintained.

By the same token, I do not believe that we want to see the total vulcanization of American society into little subgroups clustered in small, isolated sectors, talking only with themselves and not able to communicate across those subgroups with one another.

While I do honor and I think we should honor the linguistic origins of our American people who come from many parts of this world, at the same time I think there has to be some single thread of communication that allows us all to communicate with one another.

In this country, for better or for worse, the reality is that if one does not have some facility with the English language, then that person is handicapped, that person is inhibited, that person is not really susceptible to being given the opportunities to participate fully. And it is for that reason that it seems to be plausible that when we bring in these people, open our arms and say now be one of us, you are one of us, we count you, you are part of this big American family, you do not have to give up your traditions but really you should make an effort to come into harmony with all of the rest of our society so that across these little cultural barriers that we may enjoy we still have some things that unite us bigger than those things that divide us.

Mr. HYDE. I certainly appreciate the words of the majority leader and I agree with them. I do not want to refight the battle over the Voting Rights Act bilingual ballots, except to say that most of the ethnic groups that I am familiar with, and I am familiar with a lot of them, who came over here without the ability or the facility rather, they had the ability but not the facility of speaking the English language, learned it rather quickly. They were thrown into the water and told to swim, and swim they did.

I just wonder as I think about this issue, whether we have not inadvertently, and from the best of intentions, crippled people by not urging them, sometimes through necessity, and that would be through the voting process, to learn the language?

Mr. GARCIA. Will the gentleman yield?

Mr. HYDE. I yield to my friend from New York.

Mr. GARCIA. You make an excellent point and I would probably have to say in many instances I agree. But when you talk about the Hispanic community, as I said during that same debate, we have television outlets throughout this country, we have a Spanish international network that is not as powerful as NBC, ABC, and CBS, but very much part of our total society. We have dailies in every major city. We have periodicals. We have everything.

So it is a community that is well informed.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

For the life of me I cannot understand how any Member of this House can object to a requirement when an immigrant comes to our shores that he or she make an effort to become comfortable and fluent and effective in our language. This is the time-tested manner in which immigrants have made it here.

My grandparents and my great grandparents attended night school here, free night school, to learn English. And I am almost certain that virtually every Member of this House had grandparents and great grandparents, whether they came to this country with Polish or with Italian or with Yiddish or with Russian or with German or with whatever language, they made an effort when they came here to learn English, generally at a free night school that was provided by churches and synagogues and the school system frequently, and the Knights of Columbus and other religious groups. That was part of the aculturation process and it has worked very, very well.

The gentleman from New Mexico [Mr. RICHARDSON] mentioned somewhat critically that the bilingual education program had come under some fire, as if there was too much English. To the contrary, if the Bilingual Education Act has been subject to criticism in the last decade it has been because its original purposes were perverted and politicized, and instead of giving kids, as the original sponsor designed and intended, a pressure cooker experience in English to make up for the fact that they came from foreign language homes, instead of doing that the English has been sort of thinned out and stretched out and in many cases banished into the mists and all of the courses tended to be taught in Spanish.

That was not the original intent of the program. I was an original sponsor of the Bilingual Education Act, along with Senator Ralph Yarborough of Texas, and I remember very well that it was clearly intended, the history is perfectly clear, it was intended to be a pressure cooker exposure for the kids to learn English from foreign language homes. And because many of them had suffered from some sense of stigma in their youth, we would also teach them in their own language the history, tradition, cultures and more of their country of origin.

□ 1910

I remember although these hearings were perhaps 15 years ago the distinguished gentleman from California [Mr. ROYBAL] testifying before our committee, and I will not forget his testimony until the day I die; testifying before our committee that when he was a kid in the schools of Los Angeles, it was prohibited to speak Spanish during the luncheon recess when the kids were playing in the yard.

Is that correct, Mr. ROYBAL?

Mr. ROYBAL. That is right.

Mr. SCHEUER. Fifteen years ago; I could virtually repeat it, it made such a fantastic impression on me. So we did not want kids to have that stigma that there was something wrong or dirty or inferior in coming from a foreign language home.

So we wrote into the bill largely as a result of Congressman ROYBAL's touching and moving testimony that they had to give the kids a sense of worth, and a value, and a meaning and richness of their own language origins and the history and culture and traditions and mores of their own country.

Now we have grown away from that. We went to teaching all of the subjects in school in Spanish, which of course was not the original intent at all. It was quite contrary to the original intent.

So now, in effect the Wright program is totally consistent with the Bilingual Education Act, it is totally consistent with our history and tradition of the last generation; two, three, four generations of immigrants coming to this country and working their tails off at night, after they had worked all day long in sweat shops, under far more onerous conditions than people work today, after they worked all day long they wanted to acquire the language of our country to be real Americans.

So I applaud the majority leader and I think his amendment is right on target.

As to the policy of our country in requiring that ambassadors of our country learn the language of the country, that is absolutely clear.

Mr. HANCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly respect my colleague and fellow Texan, but I must rise in opposition to the Wright amendment.

This amendment tries to confer a good name on amnesty but I am afraid no amount of window dressing will change the real substance of the issue.

For all the criteria this amendment imposes on the amnesty process—

The positive work history;

The absence of a criminal record; and

Engaged in the learning of the English language and American Government.

All these tests don't erase the basic flaw with amnesty: it is unfair to aliens legally in our country and to all Americans.

I think the requirement of learning English and American Government should be the same as it is for persons seeking citizenship of this country.

Amnesty sanctions displacement of Americans from jobs that they need and they want. It represses wage levels in low income, unskilled labor markets, it encourages others to migrate illegally and it insults the millions of legal immigrants who waited patiently to enter our country under the law.

This amendment does not remedy the illegal alien situation, it merely blurs it with a shopping list of rules and regulations.

I oppose this amendment and urge its defeat.

Could the gentleman from Kentucky answer that for me? My question was: In the Wright amendment it says, engaged in the learning of the English language and American Government.

My question is, How does that compare with present law, someone that is legally trying to come in?

Mr. MAZZOLI. If I understand correctly, and I yield to others who might be more experienced; I understand the current test for nationalization is a fairly simple test in which certain sentences are dictated to the would-be citizen and if they can write those sentences down, then that would be sufficient.

As far as their knowledge of the Government, I understand certain questions as to the branches of government and the activities of the branches of government, the role that the President has; the role that Members of Congress have.

Relatively speaking, not the most perplexing or demanding but nonetheless requiring reasonable skills.

Mr. HANCE. So it would be basically the same?

Mr. MAZZOLI. I think not too different. Again, I cannot say they are exactly, but not too different, in my judgment.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I think the gentleman from Kentucky is correct that the requirements for citizenship are roughly the same but there is no requirement for citizenship; this is a requirement for permanent resident status and that is all the difference in the world.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. HANCE. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

The only difference really is that the requirements for citizenship do ask for minimal understanding of ordinary English and the knowledge and understanding of the history and government of the United States.

This relaxes that requirement simply by saying that you may be pursuing a course of study to achieve such an understanding. You do not have to have achieved it already.

Mr. HANCE. I thank the leader.

Mr. LUNGREN. Mr. Chairman, I rise to strike the requisite number of words. I am not sure rising to speak on this amendment will necessarily help the author based on what happened to the last two amendments.

But I might say that I think this slightly improves the bill, as to where it is now. It has an English requirement as my amendment had an English requirement. It does have a type of two-tier system as mine did; though not as extensive, but it does maintain the 1982 date as opposed to going back to 1977 and 1980 as my amendment did.

So I suppose those Members who voted against my amendment and Mr. SHAW's amendment because it allowed some vestiges of legalization might be predisposed to vote against this amendment as well.

I think that would be a mistake, however, because this does raise at least additional obligation that goes toward what what we would normally consider to be elements of good citizenship; an elementary sense of the history of the United States; the beginnings of some English knowledge and certainly usage of English, which are all to the good.

We can have debates on bilingual ballots and we can have debates on bilingual education, but the fact of the matter is those who have served on this subcommittee for the last 6 years have had a chance to look at our refugee program, a program that has been established with every good purpose.

Yet we have seen in States such as mine as much as 80 percent of the people from Southeast Asia in refugee status are still on the public dole. We have taken a whole culture of people who are very strongly independent and very strongly work oriented and somehow in a short period of time transferred them to a welfare dependency status.

Upon examining that experience at least it occurred to me as it has other members of the subcommittee, that part of that problem has resulted from the lack of English ability for many of those members of that community.

As I mentioned in my opening statement with respect to my amendment some hours ago we found, for instance, that although one may have a Ph.D. and be from a foreign country, he or she has a less ability to acquire a meaningful job in our society, a job that takes them off the welfare rolls, than someone who has basically no education, but at least rudimentary English language.

Perhaps instead of always looking at the refugee program for the problems that may be involved there, and perhaps instead of just confining our look at the refugee problem to the refugee experience, we ought to elicit some lessons from that experience.

Have you ever had a control group, not that they were intended as such, come to the United States and suggest what would be the impact of the welfare system and what would be the impact of not knowing English? We have that control group.

It has been largely many of those who are in the refugee communities around our country today. We have done a disservice to them by not requiring English skills better than we have in the past.

I would say we would do a disservice to those we would legalize if we did not require them to make sufficient initial strides toward learning English because other than that we will be fooling ourselves and we will be fooling these individuals.

So those who wish to have some improvement in the legalization program that is in this bill, I would suggest that you might support this amendment; to those who said they could not support my amendment or the Shaw amendment because it allows some vestiges of legalization, you have to recognize this does, but at some point in time you are going to have to screw up the courage and say, "Yes, I am absolutely against it."

The last thing I would say is I did a check and found out 180 Members of this House in the last Congress presented private bills to those of us on the Immigration Subcommittee, thereby suggesting that they felt that legalization was important and appropriate on an individual basis where it involved constituents in their district.

I would suggest to you that what we are doing here is looking at it in a slightly different vein but nonetheless we are looking at it carefully and we are saying with what confronts us today, some form of legalization is appropriate and this amendment I think at least provides a modicum of improvement to the bill before us and I would support it.

□ 1920

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment, if adopted, will be unfair to thousands upon thousands of men and women whose language of the home is Spanish, Italian, Greek, German, and so forth and who some day wish to become not only residents, but citizens of the United States.

In my opinion it discourages these people from seeking legalization. The moment you say to working people throughout this country that unless you start learning English you will not be able to become a legal resident, then there is a reservation in his mind. For it is most difficult for those who work long hours to be able to go to school at night.

I believe that if this amendment is passed, we will be faced with many problems. There is no appeal process in this amendment at all. For an example, the individual who seeks status as a temporary resident and then does not qualify as a permanent resident, does not have the right of an appeal. He cannot appeal to anyone.

It could well be that at the time that he applied for his first status that he was in school. Then some time before he sought permanent status he was enrolled but not attending because of reasons beyond his control. Will the INS exclude him because he might have joined but not attended a school somewhere?

I think that what is lacking here is just the very thing that is necessary and that is an appeal process that should have been part of this amendment, but unfortunately it is not.

Now we have been able to bring into the United States thousands upon thousands of refugees. You just go to Miami for an example. You hear Spanish no matter where you go. But you also see these immigrants from Cuba who came to this country not too long ago who are in business, who compete in the economy, who do very well and they speak English also. But they did it on their own time. They were not denied residence because they didn't learn English and American history within 2 years.

Now we have been told that our parents, for an example, did learn the English language; sure they did. But how long did it take? They did it on their own time and should do the same thing for these people from Western Europe and the Western Hemisphere who will be legalized under this bill.

Under this amendment, if it is not done within a 2-year period that individual does not get the permanent status, simply because he was too old or too tired after working all day to be attending an English and history class.

I see that the gentleman would like to have me yield, I would be happy to.

Mr. WRIGHT. I thank my friend for yielding.

I do not disagree with a lot that the gentleman is saying because I know that he harbors a very strong reservation about the good will and the intent of some of the people in the INS. However, when the gentleman says that my amendment would require that the applicant complete this study or acquire a knowledge of English within 2 years, that is not the intention of the amendment and I do not believe that it would have that effect. Simply that he be engaged in the study, that he be engaged in the study of the English language. Then he qualifies.

Mr. ROYBAL. If the gentleman would permit me, I did not say that he had to complete the course of study within a 2-year period, but that within that 2-year period he had to show that he was in a class and so forth.

But the main point, Mr. Chairman, is that this amendment is most unfair. It is not imposed on anyone who gets a legal status by the regular process. He is not required to learn English. We do not force, for example, our diplomats who are sent all over the world to learn the languages of those countries. They are well-educated individuals, but still not required to learn the language of that country that they are sent to. And still we are asking these poor people who come to the United States, many of whom are illiterate in their own language, to learn English, know something about American history within 2 years and if they do not they do not become temporary residents of the United States, and cannot possibly appeal their case because this amendment does not provide for an appeal process. That is most unfair.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

It is very definitely the policy of the State Department to require Ambassadorial appointees to learn the language of the country to which they are accredited. That includes languages like Japanese and Chinese.

Mr. ROYBAL. May I respond to the gentleman, I have been to Mexico, I have been to Spain, I have been to various countries, our Ambassadors do not speak the language of that country.

The CHAIRMAN. The Chair now recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Texas offers an amendment of great perception concerning the future of our country. The need is obvious for our society to continue to be a compassionate one and one that encourages immigration. But the encouragement must be one not just to seek the refuge of our shores, but, as well to become a productive part of this great society and to grow with it as an individual.

For too long we have simply said to entering immigrants "Welcome, you're on your own." Yes; we have requirements for becoming citizens, but we have had none for those who wish to make this their home, to live, work, and raise their children in our country. We have thereby contributed to ghettos—societies within our society—which interact only within themselves, but whose inhabitants are not encouraged to learn our English language, understand our economic, political, and governmental systems, or otherwise be participants in the general life of the Nation. Such a situation is healthy neither for the country nor for the individual.

There is a need for us to gain insight into these kinds of problems from other countries which have dealt with them successfully. One such nation, one that has, more actively than perhaps any other on Earth, sought emigrants with the intention of forging a viable, new society has been the State of Israel. People have come to her shores from all over the world, speaking a variety of different languages, schooled in a variety of different political, monetary, economic, and governmental systems, and with completely different histories. What has Israel done to bring about a cohesive nation? She has required that all who seek entrance to become a part of her society learn the Hebrew language, learn the operation of her government and the political system, understand the workings of her economy and monetary systems, and study her history and customs. All of this has been a formal requirement of entry, administered under a system called ulpan. In many cases the prospective entrant has been kept at a study center until the requirements for entry I have outlined have been mastered and a job secured. Sometimes this process has lasted as long as 6 months. But the advantage for the State and for the individual is obvious and we should allow ourselves to benefit from it.

In 1979 my wife, Kathryn, and I sponsored a Laotian family who had worked for the CIA during the Vietnam war and fled from almost certain death when the Communists overran their country. They lived for almost a year in a Thailand refugee camp before they were admitted to the United States. They stepped off the plane to our welcome and for them this country, its language, customs, history, government, and systems were a complete mystery and we, their hosts, the only source of learning. Such a lack of direction and help for new arrivals strikes me as close to cruelty and even with all we attempted to do could only lead to "K.K." and his family seeking others in a similar situation. Within 6 months they became a part of the Laotian ghetto where English was not spoken and integration with our society was less likely soon to occur—without public education for the children, I would say, unlikely ever to occur.

So, the gentleman's amendment asking simply for some proficiency in our language or a commitment to learn it, together with some study of our country's Government and history, is a very modest effort to address the best interests of the immigrant and the Nation. I, personally, would go a great deal farther and adopt a system similar to that used in Israel. Actually we are proceeding to explore this approach in working with the INS and other agencies. Now is not the time to adopt such a program broadly, but surely the steps proposed by this amendment are ones in the right direction in addressing what has become and what will continue to be a very serious problem for our country.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from California.

Mr. BERMAN. I thank the gentleman for yielding.

Is it not also correct, however, that under the Israeli law of return neither permanent resident status nor citizen status is in any way contingent on knowledge of Hebrew, learning Hebrew, or meeting any long list as is suggested in this amendment, 33 different criteria before such status is granted?

Mr. PORTER. It is not true.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding.

There was a member of the Israeli Parliament who could not speak Hebrew. Now there are Members of this body whose grasp of English is shakey.

The gentleman from Texas [Mr. WILSON] is applauding a little too vigorously.

But the fact is there was a member of the Israeli Parliament who in fact could not speak Hebrew. He only lasted one time, but he was in fact a member of the Knesset without being able to speak Hebrew.

He did have a lot of money.

Mr. BERMAN. If the gentleman will allow me, I think if one checks out the State of Israeli law on this subject and the law of return they will see that there is no such requirement as a condition of residence status or citizenship.

Mr. PORTER. I disagree with that. I think that there is. I think the genius of the system is very evident.

● Mr. FAUNTROY. Mr. Chairman, I rise in opposition to amendment No. 48 offered by our distinguished colleague, the majority leader, JIM WRIGHT. This amendment, although offered in good faith and good will, would be unworkable and would have an unfair result. It would place a special burden on those undocumented workers seeking legalization to permanent-resident status, that is not placed on others who are applicants for permanent-resident status. The amendment would require eligible undocumented workers to remain in a temporary status for 1 year. During this year, applicants in an unspecified manner would have to acquire an unspecified level of competency in the

English language. Other applicants for permanent residence are not required to pass such a test. While I favor the acquisition of competency in the English language for all, so that they may compete in our society, I don't think this vehicle is appropriate nor will it accomplish the educational objective desired. There are not enough facilities equipped and accessible to accomplish this. I urge the rejection of this amendment and support for the committee proposal on legalization.●

□ 1930

The CHAIRMAN. All time has expired.

The question is on amendment No. 48 offered by the gentleman from Texas [Mr. WRIGHT].

The question was taken; and the Chairman announced that the noes appeared to have it.

### RECORDED VOTE

Mr. WRIGHT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 170, not voting 16, as follows:

[Roll No. 247]

### AYES—247

Albosta
Alexander
Anderson
Andrews (NC)
Anthony
Applegate
Aspin
Badham
Barnard
Bartlett
Bates
Bedell
Bennett
Bereuter
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner
Bonker
Borski
Boucher
Breaux
Britt
Brooks
Brown (CO)
Broyhill
Burton (IN)
Byron
Campbell
Carney
Carper
Carr
Chandler
Chappell
Chappie
Cheney
Clarke
Coats
Conable
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
Derrick
DeWine
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dreier
Durbin
Dwyer
Dyson
Early
Eckart
Emerson
Erdreich
Evans (IA)
Fascell
Feighan
Flippo
Florio
Foley
Fowler
Franklin
Frenzel
Frost
Fuqua
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gore
Gradison
Gregg
Gunderson
Hall, Sam
Hansen (UT)
Harrison
Hartnett
Hatcher
Hefner
Heftel
Hertel
Hillis
Holt
Horton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson
Jones (OK)
Jones (TN)
Kaptur
Kasich
Kazen
Kemp
Kindness
Kolter
Kramer
LaFalce
Lagomarsino
Latta
Leach
Leath
Lehman (CA)
Lehman (FL)
Levitas
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lundine
Lungren
Mack
MacKay
Marlenee
Marriott
Martin (NC)
McCandless
McCollum
McDade
McEwen
McKernan
Mica
Michel
Miller (OH)
Minish
Moakley
Molinari
Moody
Moore
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Neal
Nelson
Nielson
O'Brien
Obey
Oxley
Packard
Parris
Pashayan
Pease
Penny
Perkins
Petri
Pickle
Porter
Pritchard
Ratchford
Ray
Regula
Reid
Richardson
Ridge
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Roth
Rowland
Rudd
Russo
Sawyer
Schaefer
Scheuer
Sharp
Shaw
Shelby
Shumway
Shuster
Sikorski
Siljander
Simon
Sisisky
Skelton
Slattery
Smith (IA)
Smith (NE)
Smith, Denny
Snowe
Snyder
Spence
Spratt
Staggers
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Weaver
Weber
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wise
Wolf
Wright
Wylie
Yatron
Young (AK)
Young (FL)
Zschau

### NOES—170

Ackerman
Addabbo
Akaka
Andrews (TX)
Annunzio
Archer
Barnes
Beilenson
Berman
Bethune
Bonior
Bosco
Boxer
Broomfield
Brown (CA)
Bryant
Burton (CA)
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
de la Garza
Dellums
Dixon
Dowdy
Downey
Duncan
Edgar
Edwards (CA)
Edwards (OK)
English
Erlenborn
Evans (IL)
Fazio
Ferraro
Fiedler
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gramm
Gray
Green
Guarini
Hall (IN)
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hance
Harkin
Hayes
Hightower
Hopkins
Hoyer
Huckaby
Hunter
Jacobs
Jones (NC)
Kastenmeier
Kildee
Kleczka
Kogovsek
Kostmayer
Lantos
Leland
Lent
Levin
Levine
Loeffler
Lowry (WA)
Luken
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCurdy
McGrath
McHugh
McKinney
McNulty
Mikulski
Miller (CA)
Mineta
Mitchell
Mollohan
Montgomery
Morrison (CT)
Mrazek
Natcher
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Ottinger
Owens
Panetta
Patman
Patterson
Paul
Pepper
Price
Pursell
Quillen
Rahall
Rangel
Rinaldo
Rodino
Rostenkowski
Roukema
Roybal
Sabo
Savage
Schneider
Schroeder
Seiberling
Shannon
Skeen
Smith (FL)
Smith (NJ)
Smith, Robert
Solarz
Solomon
St Germain
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Torres
Towns
Traxler
Udall
Valentine
Vandergriff
Vento
Vucanovich
Waxman
Weiss
Wheat
Whitten
Wolpe
Wortley
Wyden
Yates
Young (MO)

### NOT VOTING—16

AuCoin
Bateman
Dymally
Edwards (AL)
Hansen (ID)
Hawkins
Hiler
Howard
Kennelly
Madigan
Schulze
Schumer
Sensenbrenner
Stump
Williams (MT)
Wirth

□ 1940

Ms. KAPTUR and Mr. SIKORSKI changed their votes from "no" to "aye."

Mr. LENT changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. HILER. Mr. Chairman, I was not recorded on rollcall No. 247. Had I been present, I would have voted "aye."

● Mr. FAUNTROY. Mr. Chairman, I rise in opposition to any and all of the weakening amendments to title III of H.R. 1510. The legalization program in the Committee on the Judiciary bill is the best proposal we have before us in terms of future administration, enforcement of our immigration laws, and it is the fairest proposal.

All of the weakening amendments before us will make legalization much more difficult and will leave large numbers of people who are here in an underground situation which compounds the problems of law enforcement and the maintenance of fair labor practices.

The January 1, 1982, cutoff date for legalization is a reasonable and fair approach. Under this proposal qualified undocumented workers would be able, once they came out in the open, to contribute more fully to our society. Most undocumented workers are dedicated to the work ethic, are productive, and pay taxes. The legalization program contained in H.R. 1510 offers the only possibility before us of bringing this underground and exploitable work force out of the darkness and into the sunshine of our society where they can avail themselves of the protection of our laws. Under this proposal, with the cutoff date of January 1, 1982, the Immigration and Naturalization Service will be able to target its limited enforcement resources on new flows of undocumented workers.

I am also very pleased that H.R. 1510 provides an authorization for the appropriation for such sums as may be necessary in fiscal year 1984-fiscal year 1987 to reimburse States for 100 percent of the cost of public assistance to those eligible under the legalization program.●

● Mr. LUNDINE. Mr. Chairman, the House of Representatives has covered a multitude of issues in our wide ranging debate on immigration. While I have some reservations about particular provisions which have been passed, I am pleased that the House has attempted to come to grips with a critical issue which would have been easy to avoid in an election year.

I am particularly pleased to note that Congress has chosen to include the Simpson-Mazzoli provision for a waiver of the 2-year residency requirement for foreign engineers in what is shaping up as the final version of the immigration bill. This provision contributes to filling what will be an increasingly pressing demand for engineering talent in the coming years. Our economy is experiencing a period of transition in which is changing the composition of skill demand being demanded by the marketplace. It is essential that American industry and business have the talent it needs so that the United States can remain competitive in a global economy.

The projected shortages in the supply of qualified engineers has been well-documented. In a recent survey conducted by the National Science Foundation, it was found that, while the shortage in engineers and scientists has decreased, there are still less skilled personnel than the market could employ. In fact, 28 percent of the firms surveyed in this report still experienced shortages during the period covered. The primary factor causing the reduction in reported shortages, a decline in job openings, can clearly be attributed to the recent recession which plagued our economy in the 1982-83 period. In fact, when one examines table 1 of the NSF report, the projected demand for the 1983-84 period shows that in computer, electronic, and electrical engineering, demand will be high.

The Bureau of Labor Statistics [BLS] also projects increasing demand for engineers which will strain the high technology job market. BLS regularly looks into the future of various occupations in the widely used Occupational Outlook Quarterly. In the spring 1984 edition of this publication, BLS projects that the demand for engineers will increase by 49 percent over the next decade compared to an average increase of only 22 percent for all professions. This means that we as a nation will need over 580,000 new engineers over and above the 1.2 million we had in 1982. Even when engineering is broken down into various subfields, increased demand for the specialties equals or exceeds the average increase needed for all professions. The BLS category which roughly corresponds to high tech engineers is expected to experience an explosive growth in demand of 69 percent.

While some may argue that this provision allows foreign engineers to take jobs from American workers, the projected demand is high enough that such displacement will in all likelihood not occur. In testimony heard last week before the Science, Research, and Technology Subcommittee, Dr. Delbert Tesar, a graduate research professor of mechanical engineering at the University of Florida, stated that the percentage of engineers who are out of work has never been more than 1.6 percent. Not even considering the double digit unemployment rates of recent years, a rate of 1.6 percent unemployed does not seem to indicate that this is a field where Americans are in danger of being unfairly crowded out of jobs.

If concern exists over crowding out, consider the effect the massive military buildup will have on civilian industries' ability to attract and retain engineers. The defense industry does have to respond to the same market pressures as civilian industries. Top salaries can be paid to attract engineering talent to defense-related employment because defense products are not sold on the general market. Civilian industrial operations, on the other hand, are price sensitive and salary levels are restrained by what consumers will pay for the final products. Defense industries can therefore attract top talent away from civilian industries and also artificially drive up the cost of engineering talent.

When viewed in the broader context of where our economy seems to be going, none of the aforementioned projections should be surprising. The House Task Force on Industrial Innovation and Productivity, which I chair, has come to the same conclusion that future demand for engineers will increase. In testimony from representatives of both the academic and business communities, an understanding has emerged of the changing direction of the world's economy. We are undergoing a second industrial revolution, and technological advances are coming so fast that quantum leaps in the skills of our work force are required. Instead of 10 to 20 years, 10 to 20 months is becoming the necessary timeframe for product obsolescence in some fields. Specialized technical skills such as engineering will be essential to maintaining and increasing the competitiveness of American industries in such a rapidly changing marketplace. We are in a time of economic transition, and this provision can help us to provide the talent necessary to keep American industry in the ballgame.

An immigration problem experienced by one of my constituents demonstrates the perverse consequences which can and do result from current policy. Dr. Pat Hung Chan, a resident of Hong Kong, came to the United States and received his M.A. and Ph.D. in computer science. Fredonia State University hired Dr. Pat after conducting a nationwide search which yielded no takers, American or foreign, willing to accept a professor's salary. Dr. Pat has foregone higher salaries offered in the private sector and instead has chosen to fulfill what he considers a responsibility to educate students. As the only Ph.D. in this school's computer science department, Dr. Pat is critical to the existence of a computer science curriculum at Fredonia. Current immigration restrictions may force Dr. Pat's return to Hong Kong. If he were forced to leave, Fredonia State University loses its only Ph.D. in computer science and risks losing the school's certification allowing a computer science curriculum. As you can see, the net effect of requiring Dr. Pat's return is simply a denial of educational opportunity for Americans in an area critical to the future of American industry.

For the aforementioned reasons, I am pleased that provision has been made in the Simpson-Mazzoli bill which enables American industry to meet the demands of the future.●

Mr. MAZZOLI. Mr. Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

There was no objection.

Mr. MAZZOLI. Mr. Chairman, I would ask the attention of my colleagues in the House, if I could, to talk about the remainder of our program today and for tomorrow.

Let me first salute the House on an excellent job. We have had another long day of debate, but it has been on a very high plane and it has been a very diligent effort on the part of the House to deal with a very tough subject. I personally am extremely proud to be associated with this level of debate. I think we are adding luster to the image of the House, and I think we are crafting a chapter that we can all be very proud of, regardless of our position on the bill.

Let me also salute the gentleman from Kentucky [Mr. NATCHER] who as chairman has just done a superb job. I think it is fair for the gentleman from Kentucky to say that we would not have reached this moment, on the verge of passing a bill, without the gentleman's outstanding leadership.

We have completed our program for today. At the conclusion of my remarks, I will move to rise. We will return to the bill tomorrow in the vicinity of 10 o'clock, and let me tell my colleagues what I hope can be done either by agreement or just by the indulgence of the body.

We will return tomorrow morning. The first amendment is amendment No. 58, which we believe is pretty well agreed to.

The next amendment thereafter is amendment No. 61, which is the amendment of the gentleman from Florida [Mr. MCCOLLUM] which is a very important amendment, and that, of course, would strike all that we have done in the section on legalization; a very important amendment.

The gentleman from Florida was on the floor and in an earlier colloquy with the gentleman from Kentucky indicated that while he could not necessarily now agree on time limits, he felt that in the range of 2 hours might well circumscribe that debate.

□ 1950

He feels, as we all do, that having discussed much of the question of whether or not there should be legalization in the course of discussing the three formulae, 2 hours could well discharge that debate.

If that is done, then the committee will move to a couple of other intervening amendments which we have generally agreed to or on which we have gotten permission from the authors to withdraw after some discussion.

We then would move to amendment No. 66 offered by my friend, the gentleman from California [Mr. LUNGREN] which is another very important amendment. That deals with the question: Shall we continue the committee formula of reimbursement for the costs of legalization, whatever those costs might be, or do we go the other body's route, which is a block grant formula and which is the administration's request? The gentleman from California, in an earlier colloquy with the gentleman from Kentucky, said that perhaps within a range of 1 hour we might dispose of that amendment. Either by agreement or by the indulgence or patience of the body, we believe that could be done.

Then if we have already dismissed all of the remaining amendments, we would move after that to rise and go back into the House for the votes on final passage.

So I will tell my friends in the committee that we have made remarkable progress. We have patiently and decorously attacked a subject that many thought we could not deal with on this level of decorum and this level of intelligent debate and nonrancorous debate.

Mr. Chairman, I just salute my friends and thank them for their help and their patience, and I am happy to tell them that I believe we can complete our work on tomorrow at a relatively early hour, and I think we can complete it on a note that we will be very proud of.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, is the gentleman saying that amendments Nos. 64 and 67 are pretty much agreed to?

Mr. MAZZOLI. Mr. Chairman, basically speaking, I would remind my friend, the gentleman from Pennsylvania, that all the amendments except for amendments Nos. 61 and 66 are pretty well squared away.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, [Mr. NATCHER], Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1510) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5680, FEDERAL PAY EQUITY AND MANAGEMENT IMPROVEMENT ACT OF 1984

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-846) on the resolution (H. Res. 526) providing for the consideration of the bill (H.R. 5680) to promote pay equity and to eliminate certain discriminatory wage-setting practices within the Federal civil service; to establish a performance management and recognition system; to improve the Senior Executive Service; and for other purposes, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5395, NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1985

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-847) on the resolution (H. Res. 527) providing for the consideration of the bill (H.R. 5395) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5490, CIVIL RIGHTS ACT OF 1984

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-848) on the resolution (H. Res. 528) providing for the consideration of the bill (H.R. 5490) to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil rights Act of 1964, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5604, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1985

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 98-849) on the resolution (H. Res. 529) providing for the consideration of the bill (H.R. 5604) to authorize certain construction at military installations for fiscal year 1985, and for other purposes, which was referred to the House Calendar and ordered to be printed.

### ASSISTING THE H&RW IRRIGATION DISTRICT, NEBRASKA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nebraska [Mrs. SMITH] is recognized for 5 minutes.

● Mrs. SMITH of Nebraska. Mr. Speaker, on behalf of the H&RW irrigation district, Nebraska, I thank the gentleman from Texas [Mr. KAZEN] and the gentleman from New Mexico [Mr. LUJAN] for expediting consideration of my bill, H.R. 3130, through to final passage by the House of Representatives on June 18, 1984.

My bill would authorize amendments to a repayment and water-service contract between the Bureau of Reclamation and the irrigation project.

Earlier this year, I persuaded Interior Secretary Clark, during his testimony before my Appropriations Subcommittee on Energy and Water Development, to personally intercede in this matter to overcome objections of the Office of Management and Budget to this legislation. As a result, the administration, after nearly 2 years of delay, is now recommending passage of this bill, H.R. 3130, a technical measure of vital importance to this irrigation district in my congressional district in Nebraska. I offer for the record a letter dated March 2, 1984, setting forth the administration's position, written to Chairman UDALL from Deputy Assistant Secretary Harold W. Furman II.

This bill makes it possible to address a contractual injustice being visited upon the people of the H&WR irrigation district, Frenchman unit, Pick-Sloan Missouri Basin development, Nebraska. An identical bill, S. 1428, is pending before the Senate Committee on Energy and Natural Resources.

Enactment of this long-overdue legislation is vital. It is my hope that it is now sufficiently noncontroversial that it can be considered and passed quickly by the other body.

As I have already indicated, H.R. 3130 would authorize amendments to certain repayment and water-service contracts between the Bureau of Reclamation and the H&RW irrigation district.

The problem is that under present contracts, the water users are obligated to repay certain fixed costs in full even though the Federal Government is capable of delivering only about 40 percent of the water it is contractually obligated to provide. The reason is that available water supplies are declining and are expected to continue to do so.

The inflow is expected to be nearly nonexistent by the year 1992 under continued ground water development conditions and other circumstances. The inflow from the Frenchman Creek to Enders Reservoir is irreversibly declining probably for several reasons. One cause is extensive ground water use upstream of Enders Reservoir, which applies the H&RW irrigation district and other districts of the Frenchman-Cambridge unit of the Pick-Sloan Missouri River Basin Program. Other causes may be changes in farming practices, weather patterns, and ground water flow. Consequently, the water supply is declining and thereby reducing the district's ability to meet its repayment, water service, and operation, maintainance, and replacement obligations to the United States under the existing contract.

If the Congress grants this relief, the irrigation district and the United States would be required under a proposed amended contract to continue to cooperatively seek to obtain and develop other sources, including interbasin transfers, that would augment the depleting water supply from Enders Reservoir.

Legislation is necessary to provide the Secretary with authority to execute an amendatory contract as is contemplated upon passage of H.R. 3130 because the Reclamation Project Act of 1939 prohibits amending contracts with terms less advantageous to the United States than the existing ones.

The intent is to amend the existing H&RW contract so as to cancel more than $73,500 of the water users' total annual payment—$73,000 in 1983—to the Federal Government for construction, operation, maintenance, and replacement costs. The amended contract would rescind the district's obligation for construction repayment charges as of September 30, 1980, along with any penalty charges applied since that date and establish a water-service charge for water actually delivered.

This is a district irrigating 11,714 acres with revenues totaling less than $150,000 a year for the Federal water payment, district payroll, and office overhead. The district simply lacks the financial ability to make the full Federal payment and cover other essential expenses.

The existing contract calls for repayment of $1.5 million of construction costs of the distribution works over 40 years. Nearly $300,000 have been repaid. The proposed amended contract would release the water users from their obligation to repay the remaining $1.2 million and allow the Government to recover this amount eventually from power revenues from Federal generating facilities throughout the Pick-Sloan Missouri Basin Program.

The Bureau of Reclamation has stated in a letter to committee counsel that power rates in the Pick-Sloan Missouri Basin Program would not measurably rise as a result of dedicating power revenues to repay the H&RW irrigation district's $1.2 million of construction cost. That letter is made a part of the record.

Because of the water user's lack of ability to pay, the Bureau has deferred this payment for the past 2 years and has the power to defer it again. It does not have the authority, however, to lengthen the repayment period beyond the remaining 30 years. Therefore, without H.R. 3130, the district faces an obligation to pay more and more money in less and less time for less and less water.●

## NATHANIEL OWINGS—A GREAT ARCHITECT, A GREAT AMERICAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to say a few words about Nat Owings, who, as my colleagues know, died recently in New Mexico. Nat, one of the world's great architects, planners, and conservationists, was a resident of Big Sur—a constituent and a friend—and his contributions to that area, and to the entire country will live for many years, even centuries.

Nat Owings is unique in that he played a large role in some of the major urban projects in our country as well as preservation of the natural world. In addition, he helped to create other buildings and complexes that are vital to some of our Nation's most significant institutions.

In order to give an idea of the influence of Nat Owings in our country's architectural heritage, I would like to list some of the projects with which Nat was associated as a primary designer or organizer: the reflecting basin in front of the U.S. Capitol, the Air Force Academy, the town and laboratories of Oak Ridge, TN, Lever House and Chase Manhattan Bank headquarters in New York, the John Hancock Center in Chicago, the Oakland Coliseum, the 1933 Chicago World's Fair, the 1939 New York World's Fair, the Terrace Plaza Hotel in Cincinnati, the New York University-Bellevue Medical Center, our Nation's military complex on the island of Okinawa, the Ohio State University Medical Center in Columbus, and the Norton, Crown Zellerbach, and Alcoa buildings in San Francisco.

Here in Washington, DC, we can see the fruits of Nat's work on the redevelopment of this great city. Nat worked for over 20 years to bring about a restoration of Pennsylvania Avenue to the great thoroughfare it should be. Construction there has gone on for several years and will continue for some time. When it is complete, Pennsylvania Avenue will serve not only as a proud center of a great Capital City but also as a monument to Nat Owings' great skills, dedication, and persistence.

In addition to his architectual design and organizing capabilities, Nat played a major role in the preservation of Big Sur in its current pristine state. In 1962, Nat developed the coast master plan for Monterey County. That plan, while modified somewhat by the time it was implemented, served as a model of environmental conservation.

Highway 1, the coastal highway, is a Federal scenic highway due in large part to Nat's work, and the countless people who have traveled up and down the highway and marveled at one of the world's most magnificent coastlines owe to Nat Owings their ability to see it in a virtually undeveloped, natural state. And I might add that Nat worked in the decades following implementation of the coast master plan to continue to preserve Big Sur in that pristine state.

Mr. Speaker, in 1972, Nat wrote, "Our present attitude toward our land ethic is privilege without obligation. It must be otherwise, since only nature has continuity, being immortal." From a great architect, these were important words indeed, and they remain meaningful today.

As we remember Nat Owings, and share in the loss felt by his wife Margaret and the rest of his family, we should remember that he improved our lives immensely by this philosophy. Where development was essential, he helped to create beautiful buildings and made sure that manmade structures harmonized with nature; where development would be harmful, he helped to prevent it. Many of the monuments he left behind him will last for centuries, but it remains to us to continue to carry out his dream.●

## PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. DONNELLY] is recognized for 5 minutes.

● Mr. DONNELLY. Mr. Speaker, due to the fact that my airplane from

Boston was delayed, I was absent from the House Chamber during the recorded vote of 403-0 in favor of House Concurrent Resolution 294, expressing the sense of Congress concerning nondelivery of international mail in the Soviet Union. Had I been present, I would have voted in strong support of this most timely resolution. In my work for Soviet Jewry, I have become well aware of the systematic disruption of mail service destined for and emanating from the Soviet Union. This practice is in clear violation of treaties governing international mail to which the Soviets are a signatory. House Concurrent Resolution 294 sends a strong message condemning Soviet noncompliance with international mail treaties, and calling for international attention to this matter of grave concern.●

## FEDERAL TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LEVINE] is recognized for 5 minutes.

● Mr. LEVINE of California. Mr. Speaker, it is with a great sense of urgency that I join my colleagues in addressing the need for reforming our Federal tax laws. The Federal Income Tax Code is so filled with extraneous tax credits, deductions, and exemptions that most taxpayers cannot even decipher it. Moreover, only the most affluent individuals and corporations can afford to take advantage of the generous tax loopholes built into our existing system. It is no wonder that most Americans agree that the Tax Code must be simplified, and that the income tax burden should be more fairly distributed.

In order to correct the inequities and complications built into the Tax Code, I have joined 50 of my colleagues in the House in supporting H.R. 3271, the Fair Tax Act. This measure proposes a simple progressive tax with three rates: 14-percent, 26 percent, and 30-percent. Over 70 percent of all taxpayers will pay the 14 percent rate. Even the most affluent taxpayers would pay the 30 percent rate, rather than the current 50-percent income tax rate. In lowering overall tax rates and broadening the tax base through elimination of most existing tax loopholes, the Fair Tax Act will ensure a more efficient and equitable tax system.

While the Fair Tax Act would eliminate most deductions, it would retain the fairest deductions and those used by the greatest number of taxpayers, including home mortgage interest, charitable and retirement plan contributions, and local and State taxes. Simplification of the Tax Code will aid both the Government and taxpayers alike in calculating an individual's tax liability. Public Citizen's monthly publication "People & Taxes" has reported that mathematical errors showed up on 8.7 percent of all 1982 1040 returns. As we retain such complex tax laws and returns, the "tax gap"—the difference between what is collected in taxes and what is owed—will grow beyond its already unacceptable level of over $80 billion.

I would also point out that the Fair Tax Act has several basic advantages over the several flat tax proposals. Any flat tax proposal violates our progressive tax tradition which recognizes the fairness of taxing individuals at a rate relative to their ability to earn and pay taxes. Consequently, a flat tax measure would shift the tax burden more toward the middle and lower income taxpayer. Under a 10 percent flat tax proposal, for example, a single taxpayer earning $100,000 would have his tax liability reduced by more than 50 percent, while a married couple earning $20,000 would receive virtually no tax benefit.

Additionally, unlike the Fair Tax Act, many of the flat tax proposals would reduce tax revenues. At a time when we are faced with a $200 billion deficit, it would be unconscionable to enact legislation which would further reduce tax revenues for the sake of reducing the tax burden of our most well-to-do citizens.

Regrettably, the Reagan administration's only significant contribution to tax reform has been a program of regressive Federal tax relief. According to the Congressional Budget Office, 19 percent of the 1982 tax cut went to the top 1.6 percent of all households, those earning over $80,000. Only 8 percent of the tax cut went to the 50 percent of households earning less than $20,000. Additionally, while the poverty rate increased from 14 percent to 15 percent in 1982, the income tax burden for a family of four living at the poverty line increased 9 percent.

This administration's tax policies have shifted the tax burden to lower- and middle-income earners. It is now up to Congress to enact a more equitable and simplified tax system. American taxpayers have indicated that they support more favorable treatment. Passage of the Fair Tax Act will achieve that goal.●

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McCAIN) to revise and extend their remarks and include extraneous material:)

Mrs. SMITH of Nebraska, for 5 minutes, today.

Mr. WALKER, for 60 minutes, today.

Mr. DANNEMEYER, for 60 minutes, on June 21.

Mr. McEWEN, for 60 minutes, on June 21.

Mr. McEWEN, for 60 minutes, on June 26.

Mr. McEWEN, for 60 minutes, on June 27.

Mr. McEWEN, for 60 minutes, on June 28.

(The following Members (at the request of Mr. LEVIN of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DONNELLY, for 5 minutes, today.

Mr. LEVINE of California, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEVIN of Michigan, before the vote on House Concurrent Resolution 294.

(The following Members (at the request of Mr. McCAIN) and to include extraneous matter:)

Mr. GILMAN in five instances.

Mr. BROOMFIELD.

Mr. McGRATH in two instances.

Mr. YOUNG of Florida in two instances.

Mr. DAUB.

Mr. ERLENBORN.

Mr. LAGOMARSINO.

Mr. GRADISON.

Mr. PHILIP M. CRANE in two instances.

Mr. DEWINE.

Mr. KEMP.

(The following Members (at the request of Mr. LEVIN of Michigan:))

Mr. MARKEY.

Mr. HARRISON.

Mr. PEASE.

Mr. TORRICELLI.

Mr. MORRISON of Connecticut.

Mr. BORSKI.

Mr. TRAXLER.

Mr. DOWNEY of New York.

Mr. FAZIO.

Mr. FRANK.

Ms. FERRARO.

Mr. PANETTA.

Mr. SKELTON.

Mr. ROE.

Mr. VENTO.

Mr. YATRON.

Mr. HERTEL of Michigan.

Mr. SOLARZ.

Mr. OTTINGER.

Mr. ECKART.

Mr. SHANNON.

Mr. ENGLISH.

Mr. LEVITAS.

Mr. SCHEUER.

Mr. GARCIA.

Mr. DARDEN.

Mr. GEPHARDT.

Mr. LANTOS.
Mrs. SCHROEDER.

## ENROLLED BILLS SIGNED

**Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:**

H.R. 1149. An act to designate certain national forest system and other lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 3131. An act for the relief of Marina Kunyavsky;

H.R. 3221. An act for the relief of Harvey E. Ward; and

H.R. 4201. An act to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes.

## ADJOURNMENT

**Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.**

**The motion was agreed to; accordingly (at 7 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, June 20, 1984, at 10 o'clock a.m.**

## EXECUTIVE COMMUNICATIONS, ETC.

**Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:**

3581. A letter from the Secretary of the Treasury, transmitting a copy of the 1983 audit of the Student Loan Marketing Association, pursuant to HEA, section 439(k) (90 Stat. 2140); to the Committee on Education and Labor.

3582. A letter from the Secretary, Interstate Commerce Commission, transmitting notification of the Commission's determination to extend the time period for action upon the appeal before the Commission in No. 37886S, *Potomac Electric Power Company* v. *The Baltimore and Ohio Railroad Company*, et al., pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

3583. A letter from the Chairman, Merit Systems Protection Board, transmitting a report on the Board's compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3584. A letter from the Director, Office of Revenue Sharing, Department of the Treasury, transmitting a report on the revenue sharing entitlement amounts for all recipient governments for the current fiscal year (entitlement period 15); to the Committee on Government Operations.

3585. A letter from the Supervisory Copyright Information Specialist, Copyright Office, Library of Congress, transmitting a report on its activities under the Freedom of Information Act during 1983, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3586. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting a report on the Department's study of the adequacy of royalty management for energy and nonenergy minerals on Federal and Indian lands, pursuant to Public Law 97-451, section 303(b); to the Committee on Interior and Insular Affairs.

3587. A letter from the Comptroller General, General Accounting Office, transmitting a certification of the Defense Department's estimate of revenue to be deposited in the Panama Canal Commission Fund, pursuant to Public Law 96-70, section 1302(c)(2); to the Committee on Merchant Marine and Fisheries.

3588. A letter from the Administrator, Environmental Protection Agency, transmitting the annual report on the administration of the ocean dumping permit program, pursuant to Public Law 92-532, section 112 (94 Stat. 2245); to the Committee on Merchant Marine and Fisheries.

3589. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report dated May 1, 1984, from the Chief of Engineers, Department of the Army, on Lake Erie wastewater management study, New York, pursuant to 33 U.S.C. 1258(d)(1) (86 Stat. 829); to the Committee on Public Works and Transportation.

3590. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, together with other pertinent reports, on Jacksonville Harbor (Mill Cove), FL (H. Doc. No. 98-233); to the Committee on Public Works and Transportation and ordered to be printed.

3591. A letter from the Secretary of Commerce, transmitting a report on the status of the Small Business Export Development Assistance Program; to the Committee on Small Business.

3592. A communication: From the President of the United States, transmitting a letter designating Paula Stern as Chairman of the International Trade Commisson, pursuant to the act of June 17, 1930, chapter 497, section 330(c)(1) (91 Stat. 867); to the Committee on Ways and Means.

3593. A letter from the Deputy Secretary of Agriculture, transmitting a draft of proposed legislation entitled, "National Forest Recreation Use Fee Act of 1984"; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

3594. A letter from the Deputy U.S. Trade Representative, transmitting the biannual report on the operation and effect of the International Sugar Agreement, pursuant to Public Law 96-236, section 5; Executive Order 12224; jointly, to the Committees on Agriculture and Ways and Means.

3595. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to provide by statute for an Assistant Secretary for Business and Consumer Affairs in the Department of the Treasury; jointly, to the Committees on Banking, Finance and Urban Affairs and Post Office and Civil Service.

3596. A letter from the Joint Chairmen, Acid Precipitation Task Force, transmitting the 1983 annual report of the National Acid Precipitation Assessment Program, pursuant to Public Law 96-294, section 704(e); jointly, to the Committees on Energy and Commerce and Science and Technology.

3597. A letter from the Under Secretary of Energy, transmitting the quarterly report on biomass energy and alcohol fuels for the period between January 1 and March 31, 1984, pursuant to Public Law 96-294, section 218(a); jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

3598. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's 1983 annual report, pursuant to Public Law 93-633, section 305; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Merchant Marine and Fisheries.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

**Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:**

Mr. HUGHES: Committee on the Judiciary. H.R. 4901. A bill to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes; with an amendment (Rept. No. 98-845, Pt. I). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 526. Resolution providing for the consideration of H.R. 5680, a bill to promote pay equity and to eliminate certain discriminatory wage-setting practices within the Federal civil service; to establish a performance management and recognition system; to improve the Senior Executive Service; and for other purposes (Rept. No. 98-846). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 527. Resolution providing for the consideration of H.R. 5395, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1985, and for other purposes (Rept. No. 98-847). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 528. Resolution providing for the consideration of H.R. 5490, a bill to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964 (Rept. No. 98-848). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 529. Resolution providing for the consideration of H.R. 5604, a bill to authorize certain construction at military installations for fiscal year 1985, and for other purposes (Rept. No. 98-849). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

**Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:**

By Mr. ANDREWS of North Carolina (for himself, Mr. PERKINS, and Mr. PETRI):

H.R. 5885. A bill to authorize appropriations for Head Start, Follow Through, and Native American Programs, to establish a program to provide child care information and referral services, and for other purposes; to the Committee on Education and Labor.

By Mr. HAWKINS (for himself, and Mr. Frenzel):

H.R. 5886. A bill to authorize appropriations for the American Folklife Center for fiscal years 1985 and 1986; to the Committee on House Administration.

By Mr. BILIRAKIS (for himself and Mr. Roybal):

H.R. 5887. A bill to promote the establishment of family support groups for families of victims of Alzheimer's disease or a related memory disorder; to the Committee on Energy and Commerce.

H.R. 5888. A bill to provide for medicare demonstration projects for alternative medicare benefits for individuals with Alzheimer's disease or a related memory disorder; jointly to the Committee on Ways and Means and Energy and Commerce.

By Mr. BURTON of Indiana:

H.R. 5889. A bill to amend section 1086 of title 10, United States Code, to delete the provision which excludes persons entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act from eligibility for health benefits under such section; to the Committee on Armed Services.

Mrs. HALL of Indiana (for herself, Mr. Courter, Mr. O'Neill, Mr. Kemp, Mr. Wright, Mr. Michel, Mr. Foley, Mr. Gray, Mr. Conyers, Mr. Fauntroy, Mr. Hoyer, Mr. Dellums, Mr. Dixon, Mr. Rangel, Mr. Nowak, Mr. Kogovsek, Mr. Horton, Mr. Ratchford, Mr. Fascell, Mr. Regula, Mr. Glickman, Mr. Frank, Mr. Boner of Tennessee, Ms. Kaptur, Mrs. Kennelly, Mrs. Johnson, Mr. Wirth, Mrs. Collins, Mr. Mitchell, Mr. Akaka, Mrs. Burton of California, Mr. Ottinger, Mr. Dymally, Mr. Roe, Mr. Scheuer, Mr. Addabbo, Mr. Savage, Mrs. Schneider, Mr. Stokes, Mr. Owens, Mr. Derrick, Ms. Oakar, Mr. Moody, Ms. Mikulski, Mr. Markey, Mr. Berman, Mr. Fuqua, Mr. Richardson, Mr. Kildee, Mrs. Boggs, Mr. Bonior of Michigan, Mrs. Schroeder, Mr. Yates, Mr. Fazio, Mr. Studds, Mr. Green, Mr. Long of Louisiana, Mr. Bates, Mr. Andrews of Texas, Mr. Tallon, Mr. Hughes, Mr. Waxman, Mr. Ackerman, Mr. Shannon, Mr. Rahall, Mr. Foglietta, Mr. Lowry of Washington, Mr. Daub, Mr. Morrison of Connecticut, Mr. Weiss, and Mr. Evans of Illinois):

H.R. 5890. A bill to establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr.; to the Committee on Post Office and Civil Service.

By Mr. SEIBERLING (by request):

H.R. 5891. A bill to amend chapter 402 of title 18, United States Code, to provide relief from collateral results of convictions of certain first offenses by youth offenders; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 5892. A bill to amend title XVIII of the Social Security Act to include dental care, eye care, dentures, eyeglasses, and hearing aids among the benefits provided by the insurance program established by part B of such title, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WOLPE (for himself, Mr. Synar, Mr. Tauke, Mr. Coughlin, Mr. Akaka, Mr. Brown of California, Mr. Crockett, Mr. Dicks, Mr. Edwards of California, Mr. Gilman, Mr. Kastenmeier, Mr. Livingston, Mr. Matsui, Mr. Mitchell, Mr. Moody, Mr. Panetta, Mr. Richardson, Mrs. Schneider, Mr. Slattery, Mr. Vander Jagt, and Mr. Bethune):

H.R. 5893. A bill imposing certain limitations on the United States Synthetic Fuels Corporation, and for other purposes; jointly, to the Committees on Appropriations; Banking, Finance and Urban Affairs; Energy and Commerce; and Science and Technology.

By Mr. YOUNG of Florida:

H.R. 5894. A bill to extend the period allowed for rollover of gain on the sale of principal residence under section 1034 of the Internal Revenue Code of 1954 in the case of members of the Armed Forces who are stationed outside the United States or are required to reside in Government quarters; to the Committee on Ways and Means.

By Mr. KEMP (for himself and Mrs. Boggs):

H.J. Res. 597. Joint resolution to designate the week beginning September 2, 1984 as "Youth of America Week"; to the Committee on Post Office and Civil Service.

By Mr. SOLARZ (for himself, Mr. Gilman, Mr. Levine of California, Mr. Hyde, Mr. Lagomarsino, Mr. Lantos, Mr. Foglietta, Mr. Torricelli, Mr. Pritchard, Mr. Lent, Mr. Moore, Mr. Solomon, Mr. Mica, and Mr. Dymally):

H. Con. Res. 322. Concurrent resolution to express the sense of the Congress regarding Americans missing in Southeast Asia; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Colorado:

H.R. 5895. A bill for the relief of Larry Land, Marie Land, Brian Land, Keith Land, Patricia Vandenberg, Lorri Vandenberg, James W. Land, Lois Land, Tamra Lee Land, Sandra Gay Land, Vincent James Land, Viola Hollenbaugh, William L. Phinney, Senior, Emily V. Phinney, Lora Phinney, and William L. Phinney, Jr.; to the Committee on the Judiciary.

By Mr. LOWERY of California:

H.R. 5896. A bill for the relief of Jean Willrich; to the Committee on the Judiciary.

By Mr. SPENCE:

H.R. 5897. A bill for the relief of Reina Estela Olvera; to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 4 of Rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 425: Mr. Beilenson, Mr. Studds, Mr. Crockett, Mr. Hawkins, and Mr. Morrison of Connecticut.

H.R. 1250: Mr. Wolpe.

H.R. 2715: Mr. Nelson of Florida.

H.R. 2729: Mr. Pease and Mr. Nielson of Utah.

H.R. 2996: Mr. Cheney, Mr. Stokes, Mr. Ratchford, Mr. Weiss, Mr. Corcoran, Mr. Pashayan, and Mr. Daniel.

H.R. 3039: Mr. Britt.

H.R. 3239: Mr. Lent.

H.R. 3277: Mr. Ackerman.

H.R. 3400: Mr. Bosco, Mr. Savage, Mr. Dwyer of New Jersey, Mr. Roe, Mr. Dyson, Mr. Ford of Tennessee, and Mr. Smith of New Jersey.

H.R. 3434: Mr. Fields.

H.R. 3905: Mr. Frank, Mr. Hayes, Mr. Yates, and Mr. Lehman of Florida.

H.R. 4111: Mr. Rinaldo.

H.R. 4272: Mr. Bereuter and Mr. Kastenmeier.

H.R. 4273: Mr. Bereuter, Mr. Sundquist, Mr. Hillis, and Mr. Kastenmeier.

H.R. 4356: Mr. Fish, Mr. Long of Louisiana, Mr. Beilenson, Mr. Solarz, and Mr. Markey.

H.R. 4429: Mr. Kindness, Mr. Lagomarsino, Mr. Roberts, and Mr. Whitehurst.

H.R. 4559: Mr. Gray, Mr. Gore, and Mr. Williams of Montana.

H.R. 4571: Mr. Derrick.

H.R. 4639: Mr. Nowak, Mr. Rahall, Mr. Martinez, Mr. Fazio, Mr. Rangel, Mr. Levine of California, Mr. Kostmayer, Mr. Guarini, Mr. Hawkins, Mr. Matsui, and Mr. Wortley.

H.R. 4711: Mr. Lundine, Mr. Guarini, Mr. Boucher, Mr. Morrison of Connecticut, Mr. Frank, Mr. Richardson, and Mr. Moakley.

H.R. 4800: Mr. Shannon.

H.R. 4876: Mr. Ackerman.

H.R. 4966: Mr. Hoyer.

H.R. 5023: Mrs. Boxer, Mr. Leath of Texas, and Mr. Kasich.

H.R. 5098: Mrs. Burton of California, Mr. Mavroules, Mr. Levine of California, and Mr. Owens.

H.R. 5110: Mr. Whitehurst, Mr. Horton, Mr. Bedell, Mr. Skelton, Mr. Wheat, Ms. Snowe, Ms. Kaptur, Mr. Lent, Mr. Rogers, and Mr. McGrath.

H.R. 5374: Mr. Mitchell.

H.R. 5377: Mr. Durbin, Mr. Gore, and Mr. Jacobs.

H.R. 5422: Mr. Stratton and Mr. Solomon.

H.R. 5423: Mr. Martinez.

H.R. 5446: Mr. Lewis of Florida, Mr. MacKay, Mr. Fascell, Mr. Pepper, Mr. Shaw, Mr. Bilirakis, Mr. Mack, Mr. Gibbons, Mr. Smith of Florida, and Mr. Lehman of Florida.

H.R. 5534: Mr. Fish.

H.R. 5621: Mr. Won Pat, Mr. Crockett, and Mr. Williams of Montana.

H.R. 5640: Mr. Mavroules.

H.R. 5647: Mr. Stokes, Mr. Frank, Mr. Mitchell, Mr. Ford of Michigan, Mr. Evans of Illinois, Mr. Kolter, and Mr. Luken.

H.R. 5664: Mr. Annunzio, Mr. Martinez, and Mr. Mitchell.

H.R. 5674: Mr. Jones of North Carolina, Mr. Hubbard, Mr. Breaux, and Mr. Tauzin.

H.R. 5730: Ms. Mikulski.

H.R. 5754: Mr. Goodling and Mr. Harrison.

H.R. 5761: Mr. Bliley, Mr. Gekas, and Mrs. Johnson.

H.R. 5762: Mr. LaFalce, Mr. Smith of Florida, Mr. McHugh, Mrs. Johnson, Mrs. Holt, Mr. McGrath, Mr. Badham, Mr. Roybal, Mr. Studds, Mr. Reid, Mr. Walgren, Mr. Scheuer, Mr. Kostmayer, Mr. Kolter, Mr. Florio, and Mr. Stark.

H.R. 5791: Mr. Murtha.

H.R. 5835: Mr. Ratchford, Mr. Anthony, Mrs. Burton of California, Mr. Tauzin, Mr. Frank, Mr. Beilenson, Mr. Boggs, Mr. Wheat, Mr. Garcia, Mr. Howard, Mr. Conyers, Mr. Mineta, Mr. Mavroules, Mr. Wolpe, Mr. Rangel, Mr. Nichols, Mr. Pursell, Mr. Long of Maryland, Mr. Brown of California, Mr. Leland, Mr. Daschle, Mr. Hoyer, Mr. Torres, Mr. Dellums, Mr. Panetta, Mr. Kastenmeier, and Mr. Minish.

H.R. 5845: Mr. ALEXANDER, Mr. ANDREWS of North Carolina, Mr. BOUCHER, Mr. BRITT, Mr. CHAPPIE, Mr. CORRADA, Mr. D'AMOURS, Mr. DARDEN, Mr. DE LA GARZA, Mr. DOWDY of Mississippi, Mr. DUNCAN, Mr. EVANS of Illinois, Mr. FLIPPO, Mr. GRAMM, Mr. HAMILTON, Mr. HYDE, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. MCCLOSKEY, Mr. MCCURDY, Mr. NICHOLS, Mr. PEPPER, Mr. QUILLEN, Mr. REID, Mr. ROE, Mr. SOLOMON, Mr. TALLON, Mr. VANDERGRIFF, Mr. WISE, and Mr. WOLF.

H.R. 5884: Mr. BROWN of Colorado.

H.J. Res. 174: Mr. WIRTH, Mr. KILDEE, Mr. CAMPBELL, Mr. STENHOLM, Mr. CARR, Mr. STRATTON, Mr. MARTINEZ, Mr. PASHAYAN, Mr. MICHEL, Mr. MCCLOSKEY, Ms. SNOWE, Mr. CONTE, Mr. MCGRATH, Mr. MOLINARI, Mr. GREEN, Mr. GILMAN, Mr. MCHUGH, Mr. MCDADE, Mr. COLEMAN of Texas, Mr. OLIN, Mr. HALL of Ohio, Mr. TAUZIN, Mr. LUKEN, Mr. MADIGAN, Mr. LIVINGSTON, Mr. BOEHLERT, Mr. DEWINE, Mr. MOORE, Mr. PRITCHARD, and Ms. MIKULSKI.

H.J. Res. 243: Mr. SHAW, Mr. SMITH of New Jersey, and Mr. WOLF.

H.J. Res. 332: Mr. CRAIG, Mr. PAUL, Mr. WAXMAN, and Mr. GORE.

H.J. Res. 482: Mr. DARDEN, Mr. BREAUX, Mr. ROBINSON, Mr. BONIOR of Michigan, Mr. HOWARD, Mr. LOWRY of Washington, Mr. HARRISON, Mr. SIKORSKI, Mr. ALBOSTA, Mr. CORCORAN, Mr. TORRICELLI, and Mr. YATRON.

H.J. Res. 491: Mr. DANNEMEYER.

H.J. Res. 505: Mr. ANTHONY, Mr. APPLEGATE, Mr. BORSKI, Mr. CARPER, Mrs. COLLINS, Mr. KOLTER, Mr. LIVINGSTON, Mr. MCCLOSKEY, Mr. MCNULTY, Mr. MARTINEZ, Mr. MILLER of California, Mr. MITCHELL, Mr. MOAKLEY, Mr. MURPHY, Mr. NEAL, Mr. OBERSTAR, Mr. PATMAN, Mr. PRICE, Mr. RODINO, Mrs. ROUKEMA, Mr. ROYBAL, Mr. SCHUMER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Iowa, Mr. SPRATT, Mr. SUNIA, Mr. TALLON, Mr. TAUKE, Mr. WALGREN, Mr. WEAVER, Mr. WILLIAMS of Ohio, and Mr. WINN.

H.J. Res. 508: Mr. ERDREICH, Mr. FISH, Mrs. HALL of Indiana, Mr. HORTON, Mr. LOTT, Mr. PANETTA, Mrs. SCHNEIDER, Mr. SOLOMON, and Mr. LANTOS.

H.J. Res. 512: Ms. OAKAR, Mr. BROWN of California, Mr. EMERSON, Mr. EDWARDS of Alabama, Mr. SCHEUER, Mr. MRAZEK, and Mr. LEVITAS.

H.J. Res. 546: Mr. RICHARDSON, Mr. PRITCHARD, Mr. BORSKI, Mr. WHITLEY, Mr. RITTER, Mr. ACKERMAN, Mr. ANDERSON, Mr. BONER of Tennessee, Mr. LUNGREN, Mr. BREAUX, Mr. FOGLIETTA, Mr. FAUNTROY, Mr. LATTA, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEWIS of California, Mr. LOWERY of California, Mr. MCDADE, Mr. MCNULTY, Mr. MARRIOTT, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MURPHY, and Mrs. BURTON of California.

H.J. Res. 555: Mr. OXLEY, Mr. HUGHES, Mr. BROWN of California, Mr. FLIPPO, Mr. WILSON, Mr. HAWKINS, Mr. MCGRATH, Mr. MATSUI, Mr. MINETA, Mrs. LLOYD, Mr. TALLON, Mr. RALPH M. HALL, Mr. STENHOLM, Mr. LANTOS, Mr. DANIEL, Mr. HAMMERSCHMIDT, Mr. BADHAM, Mr. HARKIN, Mr. LOWERY of California, Mr. SMITH of Florida, Mr. YOUNG of Missouri, Mr. WAXMAN, Mr. SKELTON, Mr. WHEAT, Mr. BOLAND, Mr. RANGEL, Mr. CLAY, Mr. BARNES, Mr. O'BRIEN, Mr. BLILEY, Mr. BONER of Tennessee, Mr. DURBIN, Mr. KRAMER, Mr. DE LUGO, Mr. CORRADA, Mr. CHAPPIE, Mr. LUNDINE, Mr. ANTHONY, Mr. ANDERSON, Mr. DARDEN, Mr. COUGHLIN, Mr. BROOKS, Mr. HORTON, and Mr. LEWIS of Florida. Mr. BOUCHER, Mr. RUDD, Mr. TORRES, Mr. REID, Mr. BATEMAN, Mr. WALKER, Mr. SIKORSKI, Mr. DERRICK, Mr. EDWARDS of Alabama, Mr. FORD of Michigan, Mr. FISH, and Mr. TORRICELLI.

H.J. Res. 560: Mr. WORTLEY, Ms. KAPTUR, Mr. MARKEY, Mr. PATTERSON, Mr. DANIEL B. CRANE, Mr. KLECZKA, Mr. MATSUI, Mr. ANNUNZIO, Mr. LELAND, Mr. ADDABBO, Mr. NOWAK, Mr. BEILENSON, Mr. WALGREN, Mrs. JOHNSON, Mr. CORCORAN, Mr. VOLKMER, Mr. LEVIN of Michigan, Mr. FRANK, Mr. BORSKI, Mr. PANETTA, Mr. FROST, Mr. TORRICELLI, Mr. KINDNESS, Mr. LANTOS, Mr. RANGEL, Mr. SCHUMER, Mr. ROE, Mr. FAZIO, Mr. LEVINE of California, Mr. WON PAT, Mr. DEWINE, Mr. DAUB, Mr. LAGOMARSINO, Mr. FRENZEL, Mr. FLORIO, Mr. MADIGAN, Mr. BERMAN, Mr. STOKES, Mr. MCGRATH, Mr. SOLARZ, Mr. SIMON, Mr. RUSSO, Mr. HYDE, Mr. WEAVER, Mr. MOLLOHAN, Mr. HOWARD, Mr. PORTER, Mr. BIAGGI, Mr. SMITH of Florida, Mr. MINETA, Mr. CORRADA, Mr. BRYANT, Mr. HERTEL of Michigan, Mr. DWYER of New Jersey, Mr. SPRATT, Mr. KOLTER, Mr. OTTINGER, Mr. RICHARDSON, Ms. FERRARO, Mr. MARTINEZ, Mr. BOLAND, Mr. KOSTMAYER, Mr. BONIOR of Michigan, Mr. FISH, Mr. HUGHES, Mrs. KENNELLY, Mr. LIPINSKI, Mr. AKAKA, Mr. BEDELL, Mr. GREEN, Mr. DINGELL, Mr. O'BRIEN, Mr. GRADISON, Mr. WHEAT, Mr. REID, Mr. MCHUGH, Mr. SKELTON, Mr. VENTO, Mr. LEHMAN of California, Mr. BRITT, Mr. SISISKY, Mr. SAWYER, Mr. HORTON, Mr. FAUNTROY, Mr. DURBIN, Mrs. BOXER, Mr. BADHAM, and Ms. OAKAR.

H.J. Res. 587: Mr. SKELTON, Mr. DEWINE, Mr. FAZIO, Mr. AKAKA, Mr. MINETA, Mr. KOLTER, Mr. SMITH of Florida, Mr. ROWLAND, Mr. LEVIN of Michigan, Mr. MOLLOHAN, Mr. REID, and Ms. MIKULSKI.

H.J. Res. 591: Mr. FRANK, Mr. O'BRIEN, Mr. WOLF, Mr. YOUNG of Alaska, Mr. WORTLEY, Mr. ROE, Mr. MILLER of California, Mr. MCEWEN, Mr. YATRON, Mr. SOLARZ, Ms. KAPTUR, Mr. RICHARDSON, Mr. SMITH of New Jersey, Mr. FORD of Tennessee, Mr. MORRISON of Connecticut, Mr. DURBIN, Mr. LELAND, Mr. RANGEL, Mrs. BOXER, Mr. RAHALL, Mr. KINDNESS, Mr. WIRTH, Mr. PORTER, Mr. BARNES, Mr. ROE, Mr. THOMAS of California, and Mr. WEISS.

H. Con. Res. 268: Mr. SOLARZ and Mr. FASCELL.

H. Con. Res. 301: Mr. MACKAY, Mr. LUNDINE, Mr. WILSON, Mr. REID, and Mr. EDWARDS of Oklahoma.

H. Con. Res. 312: Mrs. MARTIN of Illinois, Mr. BADHAM, and Mr. LUNDINE.

H. Con. Res. 315: Mr. BADHAM, Mr. BERMAN, Mr. BETHUNE, Mr. BROYHILL, Mr. EDWARDS of California, Mr. LUKEN, Mr. MACKAY, Ms. MIKULSKI, Mr. MINETA, Mr. MRAZEK, Mr. WILLIAMS of Montana, and Mr. YOUNG of Florida.

H. Res. 100: Mr. DENNY SMITH.

H. Res. 430: Mr. HAMILTON, Mrs. JOHNSON, Mr. LEHMAN of Florida, Mr. MILLER of California, Mr. RAHALL, Mr. ROE, Mr. SHANNON, Mr. SMITH of Florida, Mr. TORRICELLI, and Mr. WILLIAMS of Montana.

H. Res. 518: Mr. THOMAS of California and Mr. LOEFFLER.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

**Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:**

H.R. 5835: Mr. FORD of Michigan.

## PETITIONS, ETC.

**Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:**

386. By the SPEAKER: Petition of the Episcopal Diocese of Central New York, Syracuse, NY, relative to lost, missing, and stolen children; to the Committee on Education and Labor.

387. Also, petition of the U.S. Olympic Committee, relative to title IX of the Higher Education Act; to the Committee on Education and Labor.

388. Also, petition of the Essex County Board of Chosen Freeholders, Newark, NJ, relative to cable legislation; to the Committee on Energy and Commerce.

389. Also, petition of the Episcopal Diocese of Central New York, Syracuse, NY, relative to the establishment of the U.S. Academy of Peace; jointly, to the Committees on Foreign Affairs and Education and Labor.

## AMENDMENTS

**Under clause 6 of rule XXIII, proposed amendments were submitted as follows:**

### H.R. 5580

By Mr. ANDREWS of Texas:

—Page 16, insert after line 6 the following:

### TITLE III—VOLUNTARY ORGAN TRANSPORTATION

SEC. 301. Any person who engages voluntarily in the transportation in interstate commerce of a human organ for the purpose of assisting a recipient of a human organ transplantation shall not be liable under any State law for injury, harm, or death to such recipient, the donor of the human organ, or the heirs, successors, or assigns of the recipient or donor resulting from direct or indirect damage to the human organ while being transported by such person unless the damage is the result of the gross negligence of such person. As used in this section, the term "human organ" has the meaning prescribed for it by section 201(c)(1) of this Act.

### H.R. 5604

By Mr. HOWARD:

—Page 8, line 15, strike out "$101,076,000" and insert in lieu thereof "$105,876,000".

—Page 40, line 9, strike out "$3,133,974,000" and insert in lieu thereof "$3,138,774,000".

—Page 44, line 6, strike out $160,053,000" and insert in lieu thereof "164,853,000".

### H.R. 5798

By Mr. LUNGREN:

—Page 18, strike out lines 16 through 23 and insert in lieu thereof the following: "$2,230,228,000, of which (1) not to exceed $86,814,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

"New Construction:".

By Mr. NELSON of Florida:

—Page 28, line 5, strike out "$1,170,000" and insert in lieu thereof "$750,000".

—Page 28, line 5, strike out $1,170,000" and insert in lieu thereof $1,022,900".

# SENATE—*Tuesday, June 19, 1984*

(*Legislative day of Monday, June 11, 1984*)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of wisdom and knowledge, the Senate confronts the awesome burden of decision concerning national defense, which Congress is bound to provide—the common welfare, which Congress is bound to promote—a decision which inextricably involves the national debt and deficit. Grant to the Senators Thy wisdom as they struggle with these issues and the ambivalence of pragmatism and principle in their souls. As time moves inexorably, pressure increases, tension mounts, and long hours lead to exhaustion—a vicious cycle that diminishes ability to make sound decisions. Gracious God, help the Senate resolve these issues in a way consistent with truth, justice, and peace. In the name of the Prince of Peace. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## THE CHAPLAIN'S PRAYER

Mr. STEVENS. Mr. President, I hope that all Members of the Senate will listen to the wise counsel and request for divine guidance that the Chaplain of the Senate has just delivered. He has once again put his finger on the problem, and the problem is that of really seeking some guidance as we try to work our way out of the apparent dilemmas we face. I think we should all be thankful that we do have a semiactivist Chaplain. I thank him for not lobbying in his prayers, but I do thank him for them. Also, I think the record should show that Chaplain Halverson has been very active in writing to each of us and urging us to listen to his comments in the Senate as our Chaplain and to seek his guidance on a personal basis. I personally thank him for myself and I think I speak for the rest of the Senate in doing so.

## SENATE SCHEDULE

Mr. STEVENS. Mr. President, again, I should indicate that the schedule for today is that we will have a series of special orders and then a period for the transaction of routine morning business. At noon, the Senate will stand in recess for the meetings of the two parties in their conference and their caucus, and at 2 p.m. we will resume consideration of the pending business, the Omnibus Defense Authorization Act of 1985. I reserve the remainder of our time.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. DENTON). The distinguished minority leader is recognized.

Mr. BYRD. I thank the Chair.

## SUMMER YOUTH EMPLOYMENT

Mr. BYRD. Mr. President, I should like to ask the distinguished assistant Republican leader what he can tell the Senate, if he knows of definite plans in the matter, what we can expect with regard to summer employment for youth legislation. I believe the summer season will begin either tomorrow or the day after, and if the Congress has not enacted legislation by the end of next week to deal with this very critical matter, it in many respects will have been too late for some of the Nation's youth.

I would appreciate, on behalf of my colleagues on this side of the aisle, any plans or suggestions that the distinguished assistant Republican leader might give us.

Mr. STEVENS. Mr. President, I thank my good friend, the distinguished Democratic leader, for his inquiry.

As has been reported accurately in the newspaper this morning, the majority leader has under consideration a proposal to find a way to act on the additional moneys for the summer youth program. That is a supplemental, in addition to the moneys that already have been provided in 1984. But the distinguished Democratic leader, the Senator from West Virginia, is correct, that additional moneys are needed; and we hope we can find a way to assure that a bill containing the additional appropriation will reach the President before the Fourth of July recess.

That matter is a subject of conference at this time, and we hope the majority leader will have a suggestion to discuss with my good friend from West Virginia later today.

Mr. BYRD. Mr. President, I thank the distinguished assistant Republican leader.

My friend from Illinois, Mr. ALAN DIXON, has been a leader in this effort, and I will be pleased to yield to him if he has any thoughts he might impart to us on the subject.

Mr. DIXON. Mr. President, I thank my warm friend, the distinguished minority leader, for making this inquiry this morning of the majority side. I thank the assistant majority leader for his assurances.

I conferred with the majority leader last night—I think it is appropriate to say on the floor—and I expect to confer shortly with the minority leader this morning. The majority leader gave me assurances last night that something would be done in time.

Many schoolchildren, as the assistant majority leader knows, are already out of school for the summer. It happens that in the city of Chicago, school ends by the end of next week, which coincides very nicely with the time we expect to leave here for the Fourth of July break.

I appreciate the assurances from all sides, and I again express my deep and warm appreciation to the minority leader for bringing this matter to the attention of the entire Senate this morning.

I believe it is critical that we act on this matter expeditiously in the next several days. It probably should be called to the attention of the leadership, as well, that some of the other programs that are on that supplemental, House Joint Resolution 492, which is presently on the calendar, are becoming critical as well.

I am told that the WIC program—this would be subject to further examination—expires on July 1. If that is true, that is another critical program involving women, infants, and children and their nutritional requirements.

I hope the leadership on both sides are giving attention to this concern. It is clear that the minority leader is doing so, and I express my profound appreciation to him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Illinois for his response, and I compliment him for the leadership he has provided for all of us in this important matter.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. President, I yield the remainder of my time to Mr. Proxmire, if he wishes to use it.

## RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I thank the distinguished Democratic leader for yielding.

It is my understanding that I have a special order that would normally follow the order for the Senator from New Mexico [Mr. Domenici]. I have discussed this with Mr. Domenici, and he is willing to let me go ahead. So, with the permission of the Chair, I will use whatever time I require of my time and yield back the remainder.

The PRESIDING OFFICER. The Senator is recognized.

## THE NUCLEAR ARMS RACE IS A VERY DEAD END—WITH THE FREEZE WE CAN SURVIVE

Mr. PROXMIRE. Mr. President, are we prepared to face the risk and uncertainties of living in a nonnuclear world? In his new book, "Weapons and Hope," Freeman Dyson asks that question. The answer seems so obvious. Would not most of us rush out and shout: "Yes, indeed. Bring on the nonnuclear world. Ban the bomb." After all, is not the threat of nuclear annihilation the terrible danger of living in this otherwise beautiful and constantly improving country?

For Americans, life today is better than ever. Our standard of living is constantly improving. We live longer and healthier lives than ever before. With all our educational woes, more Americans are finishing high school and going on to college, and graduate school. Through television and radio, we are now, for the first time, bringing an astonishing variety of entertainment to the vast majority of Americans—rich or poor. The news media have made information, discussion, and debate about the problems of our society available to almost all Americans. So we have a better informed democracy than ever. Robots are beginning to do our routine, monotonous work. Computers can organize and focus the new explosion of knowledge to assure us the continued expansion of scientific progress. We are now reaching out in space, to literally new worlds. With all this magic and these marvels, who needs the one new force that can and, in the view of many, probably will end it all—nuclear weapons?

Some thoughtful—if wrong-headed—people, including Members of this body, would not abolish nuclear weapons if they could. I disagree with this view. But it has its point. The nuclear weapons advocates argue that, like it or not, it is the terrible threat of mutual annihilation posed by massive nuclear weapons on both sides that has kept the pace between the nuclear superpowers for the past 30 years. Churchill called safety the twin child of terror at the beginning of this nuclear arms standoff. Why cannot the nuclear weapons standoff continue for another 30 or 300 or 3,000 years?

Answer:

First, the arms race continues to build immensely destructive weapons and in doing so increases the likelihood of a faulty computer warning of some other nuclear weapons accident setting off an explosion like a single little match in a sea of gasoline.

Second, the initiation of a deliberate preemptive strike because the progression of the nuclear arms race moves ahead to a stage where one side or the other feels it has a temporary and fleeting but decisive advantage that can probably enable it to "win."

Third, most likely of all—unless we stop the arms race now—the certainty that within 15 years, more than a score of additional nations will have nuclear arms, and within 30 years, more than 100 nations will have nuclear arsenals.

So what Mr. President, is the alternative? Nuclear weapons are a fact of life. They are here. We have to live with them. "Ban the Bomb" makes a slogan. It does not make a policy. What, then, is the alternative? Freeman Dyson puts the case exactly right in his book "Weapons and Hope." Listen to these words:

> A nonnuclear world is not a world with all nuclear weapons magically annihilated and all knowledge of their construction erased from human memory by a supernatural power. A nonnuclear world is a world where, after long and arduous negotiations supported by an aroused public opinion, a treaty has been signed and ratified by the nuclear powers, prohibiting possession and deployment of nuclear weapons; where the major nuclear delivery systems and the declared stockpiles of warheads have been publicly dismantled; where the good faith of the signatory powers is monitored by a substantial but imperfect verification system; where the existence of limited numbers of hidden nuclear weapons in unfriendly hands cannot be excluded; and where the knowledge and the technology for reassembling weapons are widely disseminated.

Mr. Dyson might have added that the "nonnuclear" world is also sure to be a world in which there are violent conventional conflicts such as are taking place at this moment in Afghanistan, Central America, and periodically in the Middle East as well as elsewhere in the world. As long as we humans are the kind of quarrelsome, ornery critters we are, we can expect to endure the heartbreak, tragedy, and military violence that have afflicted mankind since we began to inhabit this planet. The issue is not fulfilling the impossible dream of ending war. The issue is whether mankind can survive in a world in which we stop the arms race and severely limit nuclear weapons.

To this Senator, the choice is very clear. This Senator is certain that mankind will perish from the face of the Earth within the next three or four generations if we permit the nuclear arms race to continue. So we have an absolute moral obligation to do everything within our power to end it now.

Unfortunately, what we have within our power, as Freeman Dyson points out, is limited. A comprehensive agreement with the Soviet Union, buttressed with the strongest verification we can negotiate to stop nuclear arms testing manufacture or deployment, followed by a determined, sustained effort to reduce nuclear stockpiles, will not assure our survival. But it will give a fighting chance for our children and our grandchildren to live out their lives.

## RACE UNITY DAY: THE BAHA'IS

Mr. PROXMIRE. Mr. President, June 10 marked Race Unity Day, a holiday sponsored each year by the Baha'is of the United States. It is motivated by their belief that the most critical issue facing our Nation today is racial prejudice. The principal of race unity ensures that no race or cultural group will ever be considered superior to any other.

The Baha'i faith was established in Iran—then Persia—more than 140 years ago. Its followers believe in world peace, world order, and unity of mankind. The religion teaches the principals of social equality and tolerance. It is most ironic that these passive and tolerant people have fallen victim to one of the most tragic histories known to any faith.

On May 2, 1984, the Subcommittee on Human Rights of the House Foreign Affairs Committee heard testimony on House Concurrent Resolution 226, which expresses congressional opposition to the persecution of members of the Baha'i, faith in Iran by the Government of Iran.

Mr. Said Eshraghi, an Iranian Baha'i, who has resided in the United States for the last 6 years appeared before the subcommittee to tell the story of the persecution of his family in Iran.

On June 17, 1983, Mr. Eshraghi received a phone call from his brother in Australia informing him that his father had been killed in Iran. Shortly thereafter he was told that his sister and mother were also killed.

Mr. Eshraghi, left Iran before the revolution. During the revolution, he kept hearing news about the persecution of the Baha'is in Iran. Then on November 29, 1982, his mother, father, and sister were arrested. They were taken by the authority of the Government on spurious charges.

The officials gave his family four chances to recant their faith. If they would repudiate their beliefs, they would be released from prison. None of them wanted to recant their faith.

Only Mr. Eshraghi's younger sister, age 18, was left at their family home. On June 18, she received news that there had been a round of executions, and that the bodies were in the morgue. She was not surprised when she saw her family members at the morgue. She cried on the body of her mother, and uttered the words. "I am proud of you."

This is just one story among hundreds of others concerning the executions of the Baha'is in Iran.

What can we do? Well, to begin with, we can take immediate action and pass House Concurrent Resolution 226, as the House has. I am proud to be a cosponsor of this legislation. This resolution charges the Iranian Government with responsibility for respecting the rights of all of its citizens, including the Baha'is. It condemns the Iranian Government's decision to label all the Baha'i activities as criminal acts. It also calls on the President to work with other nations to appeal to Iran on behalf of the Baha'is.

But there is more that we can do. The Genocide Convention expressly condemns any attempt to eliminate, in whole or part, any national, racial, ethnic, or religious group.

Let us take a definitive stand against the Government of Iran's action against the Baha'is. Let us take a positive step toward achieving fundamental human rights for the world community. During this commemoration of the Baha'is Race Unity Day. Let us ratify the Genocide Convention.

I yield the floor.

## MALFUNCTIONING SENATE SIGNALS

**Mr. STEVENS.** Mr. President, for the information of all Senators and their staffs, we are checking out a malfunction in the system that signals quorum calls and votes. The appearance of one bell and the sound of one bell does not connote or signal a vote at this time.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. DOMENICI.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

## RECOGNITION OF SENATOR DOMINICI

The **PRESIDING OFFICER.** Under the previous order, the Chair recognizes the Senator from New Mexico.

**Mr. DOMENICI.** I thank the Chair.

## SHARING OF COSTS OF UNDERTAKING MULTINATIONAL ACTION IN THE PERSIAN GULF

**Mr. DOMENICI.** Mr. President, the President's recent European trip is cause for us to reflect and remember, as we consider the 1985 Defense authorization, about what we as a nation must do to preserve peace through vigilance and the high costs of failure to do so.

Poignantly, the President ended his trip with an economic summit with the leaders of the free world. I say poignantly because leading participants in the economic summit who were once enemies, now trusted partners, should not fail to see the connection between the events.

Normandy is a reminder that freedom is our most cherished right and that there exists an obligation on the part of strong nations to insure freedom for all other nations. For without freedom how can we hope to achieve human rights, civil rights or economic freedom and basic human achievement, for most of it comes when someone is free.

For 40 years after World War II, free nations have united and together created economic, scientific, and social miracles unparalleled in world history. We need not dwell on enumerating the pinnacles we have reached. There are too many and it would serve no useful purpose. Everyone knows that such is the case.

The fact remains however, that a major portion of the world's population is not free and rather than progressing, the world is increasingly engaging in armed conflict and despotic domination. Terrorism is rampant; arms buildup is rampant.

Nations who have been blessed with freedom and economic strength have an obligation. We in this country recognize that duty and are discussing today—and have been for a couple of weeks here on the floor of the Senate—in real terms and real dollars what we will pay to do our share. However, this country no longer assumes nor wants to assume the unilateral role of policing the world. As Normandy was a reminder of our contributions to freedom and justice 40 years ago, the economic summit should mark the recognition of multinational defense obligations in maintaining peace and thereby economic vitality.

We can no longer nor should we carry the burden alone. We have done more than our share for 40 years. Our allies know that leadership demands responsibility, and as economic leaders, they must share in the burden of preserving the peace. To whom more is given, more is expected.

Today we have a potential crisis in the Middle East, Mr. President. That is no news to anyone, but I would like to take this opportunity to send a message of my feelings to those that we participate with in attempting to keep waterways of the Middle East open, particularly for oil and the energy needs of much of the free world. In this troubled spot and in others that arise, we, the United States, should indeed expect our allies to do their share and stand with us shoulder to shoulder to protect the world from those who may aspire for the opposite of peace and the opposite of prosperity.

Mr. President, today I will send a resolution to the desk and ask that it be printed and appropriately referred. This is a sense of the Senate resolution. I will read just three or four operative paragraphs, but hopefully this expresses the will of the Senate regarding the sharing of the costs of undertaking multinational action in the Persian Gulf and for other purposes.

It states that the present instability in the Persian Gulf threatens the energy supply of the free world, and the United States may find it necessary to assist in keeping the shipping lanes of the Persian Gulf open to commerce. The resolution then states:

> That (a) it is the sense of the Senate that—
>
> (1) any intervention in the Persian Gulf to protect the supply of oil to the free world should be multinational;
>
> (2) the President should inform each country which is a party to a mutual defense treaty or a regional collective security agreement to which the United States is a party and which does not or cannot participate in the multinational action referred to in paragraph (1) will be assessed a proportionate share of the costs of such action; and
>
> (3) for purposes of assessing a country participating in the action referred to in paragraph (1) for a share of the costs of undertaking such action and for purposes of assessing a country for a share of the costs under paragraph (2), the President should consider—
>
> (A) the dependence of such country on the oil supplies of the Persian Gulf region;
>
> (B) the total defense contribution of such country in maintaining world peace and stability; and
>
> (C) the current trade surplus or deficit of such country.

I think that speaks for itself. I am hopeful that some opportunity in the not too distant future will be at hand for us to discuss and debate this proposal for a way to have our trading partners realize—those who, at this time in history, depend far more than we do on the Persian Gulf oil, Middle East oil—that somehow we could figure out a way that the United States would not bear a disproportionate share of the cost of maintaining those lanes open for shipping.

I do not want to be pessimistic. Perhaps some will say. "We should do more; they are doing enough." But, frankly, I think we are doing more than our share.

I think some of our allies, such as Japan, are not doing enough. They are very dependent upon oil from the Middle East. Perhaps this will stimulate some thinking on the part of the international community regarding the costs of the multinational commitment and responsibility.

I am hopeful that debate will ensue in the not too distant future but, more important, I am hopeful that it be both multinational, if we are going to do anything there and, second, that it be used as an opportunity to share and share equally in the cost of doing what might have to be done in the future to keep those valuable energy supplies going to the free world and underdeveloped countries of the world. Obviously this proposal would not assess any costs to those underdeveloped countries which clearly cannot afford it. But the formula I have in mind would assess those that benefit the most, that have trade situations in the world on both ends. They need the oil from the Middle East and they share in the world trade in a significant degree and should bear a significant proportion of the burden of the multinational cost of maintaining the waterways open.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD and appropriately referred.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 411

Whereas the present instability in the Persian Gulf threatens the energy supply of the free world; and

Whereas the United States may find it necessary to assist in keeping the shipping lanes of the Persian Gulf open to commerce: Now, therefore, be it

*Resolved*, That (a) it is the sense of the Senate that—

(1) any intervention in the Persian Gulf to protect the supply of oil to the free world should be multinational;

(2) the President should inform each country which is a party to a mutual defense treaty or a regional collective security agreement to which the United States is a party and which does not or cannot participate in the multinational action referred to in paragraph (1) will be assessed a proportionate share of the costs of such action; and

(3) for purposes of assessing a country participating in the action referred to in paragraph (1) for a share of the costs of undertaking such action and for purposes of assessing a country for a share of the costs under paragraph (2), the President should consider—

(A) the dependence of such country on the oil supplies of the Persian Gulf region;

(B) the total defense contribution of such country in maintaining world peace and stability; and

(C) the current trade surplus or deficit of such country.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

**Mr. DOMENICI**. Mr. President, I have no need for the remainder of my special order time. Therefore, I yield it back.

## RECOGNITION OF SENATOR EAGLETON

The **PRESIDING OFFICER**. Under the previous order, the Senator from Missouri [Mr. EAGLETON] is recognized for not to exceed 15 minutes.

## CIVIL RIGHTS. 20 YEARS OF FORWARD MOVEMENT HALTED BY RONALD REAGAN

**Mr. EAGLETON**. Mr. President, standing at the crossroads of history, Congress 20 years ago struck a blow for freedom and adopted the 1964 Civil Rights Act. This law, and the Voting Rights Act which came a year later are still, to this day, the most comprehensive—and successful—legislative assaults on racial inequity in history.

These and succeeding civil rights measures were of such great moment because we, as a people, resolved that every technique used for a century to keep blacks in an inferior position—restrictive voting rules, educational segregation, job and housing discrimination—were simply unacceptable. These laws shine in history because they have brought the power of the Federal Government permanently to bear on discrimination.

In proposing the 1964 act—prohibiting discrimination in education, employment, federally assisted programs, and other areas—President Kennedy said it should be enacted "not merely for reasons of economic efficiency, world diplomacy and domestic tranquility—but, above all because it was right." He evinced a ringing determination and an unwavering belief that equality was the automatic birthright of all Americans. That was no easy position in those days.

Nearly 20 years later, President Reagan was confronted with a civil rights issue of his day: whether the Government should confer the benefit of tax-exempt status on private, religious schools that openly discriminated against blacks. Even though civil rights is now an accepted part of American life (some even think the issue was long ago "settled"), Reagan said: "I think we should" assist these discriminatory institutions.[1] That is a measure of the distance that separates Reagan from the young President who, two decades ago, truly understood his country.

Today's tribute to the Civil Rights Act of 1964 seems a fitting moment to assess how civil rights protections fare 20 years since the act's passage—under the Presidency of Ronald Reagan.

The Reagan administration likes to maintain that its opposition to the remedies of busing and hiring quotas are the only reasons anyone could criticize its record. It should not be allowed to get away with concealing its embarrassing policies under an umbrella of opposition to only these two matters. The fact is, Reagan has undertaken a broadscale attack on the statutes and judicial precedents encompassing civil rights law across the board: In education, voting rights, employment, and housing. This body of law has reached a plateau of consensus in America. A look at the damage Reagan has wrought in each of these areas will show just how far away from the mainstream he is.

* * * * * *

A brief review of the school tax exemption fiasco concerning the Supreme Court case of Bob Jones will classically demonstrate the radical and disingenuous nature of this administration. The issue before the Court was whether private schools that have racially discriminatory admission standards on the basis of religious doctrine, qualify for tax exemption. Initially, the Reagan Justice Department supported the 12-year IRS policy of denying exemptions, and was prepared to submit a brief to the Court so stating.[2] But House Minority Whip TRENT LOTT wrote to the President, asking him to support tax exemption. Reagan agreed, ordering the Justice Department to switch positions.[3]

There was a firestorm of critcism in Congress and with the public, even producing a rift within Justice itself. More than half of the Civil Rights Division attorneys wrote a letter to Wm. Bradford Reynolds, division chief, charging that the Department's position "cast serious doubt upon the Division's commitment to enforce vigorously the Nation's civil rights laws."[4]

Surprised by the outcry, the administration then invented a bewildering array of explanations. Ed Meese, the President's counsel, took personal blame.[5] Reagan said he himself was at fault. The President announced that he rejected racism in any form, but felt tied to his position because the IRS "lacked authority" to deny the exemptions.[6] Reagan then took a now-notorious tack: he would propose legislation to explicitly authorize the IRS to deny the exemptions. Justice Department attorneys presented Reagan's bill to congressional committees. It was such a sham. "It's the shabbi-

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Footnotes at end of article.

est, most unbelievable bunch of crap I've heard since I've been here," exclaimed Michigan Congressman Bill Brodhead.[7] Many of us felt that no new law was needed to say what was already on the books.

Despite such vitriolic opposition, the Government stuck to its guns: it filed its brief with the Supreme Court, urging that the exemptions be preserved. Three months later, the Court, in an 8 to 1 decision, handed the Government's head back to it on a platter. The IRS Code's history and purpose, the Court held, clearly established that tax exempt status for charitable institutions required that they "serve a public purpose and not be contrary to established public policy."[8] The Court then explained what should have been obvious to Justice: for the past quarter of a century the judicial, legislative and executive branches provided unmistakable evidence that there was a firm national policy against racial segregation and discrimination in public education.[9] Exemption status denied.

The Department's premise, that the IRS had stepped beyond its bounds and should not have done so without congressional approval, strained credulity. The tax exemption policy was changed in 1970 not by IRS administrative fiat, but substantially because a three-judge district court in that year enjoined it from issuing exemption rulings to racially discriminatory schools in Mississippi (Trent Lott's State).[10] The IRS has not been acting on whim, but under court order.

The Department's justification also camouflaged underlying motives. Clearly, it went out on a limb to rescue a band of private, religious schools which openly discriminated. Why? The answer is that the administration wanted to test the limits of civil rights policies in order to curb their reach. It knew that its position would pump life into a system which for years had provided one avenue for dodging the school desegregation mandate.

At least part of the Bob Jones spectacle is widely known, though perhaps not long remembered. Not as familiar are the other steps Justice has taken to strip away good law in the field of elementary and secondary education—law that was slow to come but which quickly took a high place in the literature of liberty.

Beginning with the watershed 1954 Brown against Board of Education decision by the Supreme Court, which changed beyond recognition the landscape of this country, the legal tools that could be brought to bear on segregation were suddenly significant. Brown was a profound turning point, providing that: "in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." But this momentous decision did not alone desegregate public education: a decade after the Court had ruled, 98 percent of all black children in 11 Southern States still attended all-black schools.[11]

It was the 1964 Civil Rights Act that pushed school districts into compliance. Title VI of the act (nondiscrimination in federally assisted programs) was an awesome weapon because the Civil Rights Division at Justice could bring lawsuits to enjoin noncomplying school districts that refused to eliminate discriminatory practices. During the 1960's, the Division brought legal actions against more than 500 school districts.[12] According to reports, by 1972 fewer than 9 percent of black children in Southern States remained in all-black schools.[13]

Subsequent judicial rulings bolstered the desegregation mandate. Enlarging upon and extending Brown, the Supreme Court held that if actions involving intentional segregation occurred in one part of a school system, the onus was on school officials to show that the rest of the school system was free of such racial ostracism.[14] In practical terms, this extended Brown's holding to the North—where segregation was less by state law per se but rather through intentional actions of State officials. In addition, in a long line of cases, the high court has held that Federal courts may require transportation of students if deemed necessary to effectively remove the vestiges of purposeful segregation.[15]

This formidable legal apparatus led us "out of the darkness and into the light," implementing our national will to be a single society. But Ronald Reagan has stopped the clock—and reversed it. Effective implementation of these laws and legal precedents—respected by Democratic and Republican Presidents and upheld by the Supreme Court—has vanished under Reagan and his Civil Rights Division.

The Civil Rights Division has played an historic and invaluable role in enforcing the laws which mandated public school desegregation. But this has changed under the Reagan Administration. On Reagan's marching orders, the current Division has gone from advocate to critic of effective civil rights enforcement. For one, the Division has flouted Brown. The very essence of that decision was that separate educational facilities will never be equal. Although Brad Reynolds, chief of the Division, embraces this principle in the abstract, and says the administration will "ferret out all unlawful racial segregation," he believes such a policy does not require use of transportation or other effective remedies, but merely requires "produc[ing] schools of like quality, facilities and staffs."[16] However well disguised, Reynolds in effect has substituted the constitutional imperative of abolishing segregation for the promise of merely equalizing resources in segregated facilities.

For another example of defective civil rights policy, let's look at the Civil Rights Division's approach to title VI—the most important desegregation weapon. Owing greatly to the efforts of the Justice Department, this title may well have been emasculated.[17] With great aplomb, the Department urged the Supreme Court (and it agreed), in the recent case of Grove City College, to take the teeth out of the most important law governing sex discrimination in education and, by implication, three other civil rights statutes, of which title VI is one.

These affected statutes, presently worded to prohibit discrimination in "any education program or activity receiving Federal financial assistance," were intended to ensure that Federal money would not end up subsidizing an institution that practiced discrimination. But the new view championed by Justice allowed that only the particular program or activity receiving the funds had to obey the law, and not the institution. This "compartmentalization" of discrimination will inevitably result in making most cases of bias simply unreachable by Federal law.

The Justice Department disguised its motive with the flimsy and disingenuous excuse that a narrow interpretation of the statutes prevented Federal Government "bureaucratic overkill." [18] To me, protection of constitutional rights stands much taller than an interest in bureaucratic convenience. I am certainly not alone in this view, for Congress is presently considering legislation to overrule these results. The legislation has enormous support in both Houses of Congress, and even though nearly half of the cosponsors in the Senate are Republican, Brad Reynolds of the Civil Rights Division is firmly against the bill and President Reagan has refused to throw the important weight of his office behind it.

Litigation activity under Brown or title VI—one barometer of the Department's enforcement commitment—has seriously slowed. It took the Civil Rights Division 3 years to initiate its first elementary and secondary school desegregation suit. After 3½ years, the Department has filed only two such cases.[19] Although there are still a few months left in President Reagan's term, it is highly unlikely his Justice Department will come close to matching the previous Department's record of initiating nine suits [20] by the end of its 4 years.

Justice has disregarded its enforcement duty even with cases it inherited from prior administrations. A Tulsa, OK, school system was already under a desegregation order, and the schools' counsel sought in 1982 a fairly common agreement from Justice, whereby the schools would actively continue their desegregation plan for 3 more years, followed by dismissal of the suit. Reynolds responded by instructing his line attorney: "Let's be a little bold and go for dismissal."[21] Defense counsel, who well could have been gleeful at such a reaction, in fact thought Justice was retreating from the requirements of the law. As a result of Reynolds' withdrawal, Justice no longer required yearly reports for 3 years in order to monitor the schools' progress. That's what you call overzealous unenforcement.

As for the judicial precedents so heavily relied upon in litigating education cases, this Department has struck a new theme: Make them harder to win. The Supreme Court, as recently as last year, affirmed the authority of Federal agencies involved with title VI, to enforce regulations providing that a prima facie violation of the title is established if disproportionate effect is shown, regardless of intent.[22] The Department refused to file a brief in the case. Reynolds' explanation for the Department's silence—that there were "conflicting views among the affected Federal agencies"[23]—is a subterfuge. All affected Government agencies use regulations which are based on an effects standard.[24] Only because of Reynolds' strong opposition to the standard, was there any "conflict." Although the Justice Department's own regulation[25] also calls for this less burdensome effects test, Reynolds will not allow his legal staff to use it.

More significantly, in 1981 Reynolds announced[26] a dramatic break from legal precedent—respected by Democratic and Republican Administrations—that once it is proven that discriminatory intent has produced racial isolation in one part of a school system, the burden shifts to the school officials to show that the rest of the school system is not discriminatory.

In rejecting this "well-settled evidentiary principle," as the Court termed it, Reynolds forced on his legal staff the heavy task of providing violations "school by school." As a deliberate consequence, in the future the pace and reach of desegregation efforts inevitably will be reduced. One Civil Rights Division attorney, troubled by the radical change, sent a confidential memo to Attorney General Smith, stating: "Under this standard * * * our relief will by design seek a remedy drawn more narrowly than we are, as a matter of law, entitled to seek * * * This may be the basis for some criticism of our enforcement record."[27] As Brad Reynolds must know from his days in private practice, if an attorney deliberately threw away a legal presumption this vital to a client there would be grounds for a malpractice charge. Our Justice Department should not border on the incompetent.

Reagan's Justice Department has also disregarded judicial precedents on busing. While it dismisses this line of cases as radical and wrong, let us remember that the flagship opinion was written by Justice Warren E. Burger, a Nixon appointee and, I might add, a conservative.[28] Nevertheless, the Department will not support a busing order of a Federal court. Although I have actively opposed, in the so-called Eagleton-Biden amendment,[29] a Federal agency going outside the judicial process and using its fund cut-off power—absent any judicial finding of a violation of the Constitution—to compel busing, I have consistently supported the Supreme Court's several crucial decisions establishing that Federal courts may, on the basis of their detailed findings, order busing.

The Department has also opposed voluntary integration programs that contain a busing component as one of several remedies. My State of Missouri is a case in point. There, the Reagan Justice Department reversed its predecessor's position and opposed[30] the desegregation plan agreed to by an unprecedented number of parties: black students and their parents, the St. Louis City Board of Education and 23 suburban school districts. This plan, later approved by the district court and the Eighth Circuit Court of Appeals,[31] included voluntary reassignment of black and white students. Justice told the eighth circuit last year that it would not endorse the settlement agreement. Apparently it objected to the agreement's inclusion of an enforcement mechanism if the stated objectives were not achieved. It makes one wonder whether the Department opposes all forms of effective school desegregation.

The eighth circuit itself questioned the Justice Department's opposition. Since the Government had not appealed the trial court judgment, the court queried whether Justice could "be heard to attack the judgment, either to enlarge their own rights, or to lessen the rights of their adversary."[32]

Even measured by its standards, the administration's own voluntary desegregation programs can be faulted. Essentially, it has refused to provide either the carrot or the stick in ensuring the success of these voluntary efforts.

In the most recent of two elementary and secondary desegregation suits initiated by this administration, the consent decree provided for the voluntary remedy of magnet schools, which involves featuring theme curricula to attract a racially mixed student body. The Justice Department has required only that the school officials exercise "good faith" in achieving a unitary school system.[33] There is no enforcement mechanism: no yardstick for measuring progress, and no goal necessarily to be achieved. Thus, it does not appear that Justice is serious about making even this modest desegration effort effective, which is what the Supreme Court has required.

The other vital component of successful voluntary desegregation efforts is money—the "carrot," creating incentive for school districts to implement their own desegregation plans. This administration has consistently opposed Federal funding of local desegregation efforts, even though the task of remedying constitutional violations creates a fairly compelling case for Federal involvement. A Federal program was begun back in 1972[34] to fund voluntary and mandatory desegregation efforts, and worked well. But the program became an immediate casualty of Reagan's budget cutting in 1981. Therefore, Senator MOYNIHAN and I have introduced legislation in this Congress to establish a relatively inexpensive fund for school districts.[35] Not surprisingly, the administration opposes even this modest effort.

* * * * *

Most fundamental to our way of life is the right to choose our leaders. That is what makes us different from most other countries in the world. The 15th amendment, ratified in 1870, was supposed to ensure that this right was freely exercised by blacks. But nearly a century later, it was clear that this was not the case. In 1964, only about 7.5 percent of the southerners registered to vote were black, although blacks constituted 20 percent of the voting age population.[36]

The Voting Rights Act of 1965 became the vehicle for putting the instruments of democracy into the hands of all. At the time, many felt that voting was the key, from which all other incidents of full participation in society would flow. Some 19 years later, it is today unquestionably considered the brightest star in the constellation of civil rights statutes. I was astonished the administration sought to gut the act when it came before Congress for extension in 1982.

The act contained a powerful array of weapons against the ingenious means that had been devised to deny access to the ballot box. It provided for blacks to be registered by Federal officials if State officials refused to register them; ensured that those registered would not be prohibited from voting; and eliminated literacy and good character tests, and educational requirements as criteria for voter eligibility. Of utmost importance was a provision—often called the heart of the act—requiring that States with a history of using their laws to discriminate against blacks must obtain clearance from the Justice Department for any changes in their election laws. In cases where Justice brought suit under the act, violations could be proven by showing that the laws had discriminatory effects, regardless of their intent.

On the advice of Attorney General Smith, Reagan fought against the strongest features of the bill. The President proposed to restrict the scope of the preclearance section by allowing States to more easily "bail-out" of the procedure,[37] and insisted that violations of the act must be proven by showing their intent was discriminatory.[38] The House bill, providing for extension of the act, expressly included a less burdensome discriminatory results test. If Reagan's stringent intent standard had prevailed, many unfair voting law cases simply could not be brought because satisfying that level of proof would be next to impossible. To the bitter end, Reagan had Brad Reynolds pushing for intent. Reagan knew full well he was cutting very close to the nerve in insisting on these changes.

The President ultimately approved the act's extension, but only after fighting it for more than a year. When he did sign the extension bill into law—without his debilitating amendments—he had the audacity to embrace the act as if it were his own creation, calling it "the crown jewel of American liberties."[39]

Public and congressional interest in securing the act's extension was not for casual reasons. Just one measure of the act's success is the fact that the percentage of black voters registered to vote in Mississippi increased from 6.7 percent in 1964 to 67.4 percent in 1976.[40] In all, black registration in the Southern States covered by the act since 1965 has doubled and in some districts increased tenfold.[41]

Some people argued that the act was the victim of its own success—that it was no longer needed. Out of 35,000 changes in voting procedures submitted for preclearance since 1965, 815 were found objectionable, and over half—or roughly 66 percent—of them occurred since 1975.[42] In Mississippi alone, there were as many preclearance violations entered by the Attorney General since 1965 as there were in the previous 10 years.[43] We need the act.

The Justice Department not only denounced the act's central features, but has refused effectively to enforce the act. For the first time since the act's original passage, Federal district courts have struck down State election plans that have been approved by Justice.[44]

One case involved North Carolina;[45] another concerned Louisiana.[46] In the latter case, that State obtained clearance from Justice for a congressional district realignment plan, despite substantial evidence that it was discriminatory. It took private plaintiffs to persuade a Federal court that the plan should not have been approved. Thus it appears that, contrary to the intent of Congress, the Department had not required the State to demonstrate that its voting plan conformed to the act.[47]

In a very important case before a South Carolina District Court,[48] Justice abandoned the litigation, even though its involvement would have made a vast difference. There, black voters alleged that a statute (providing for a discriminatory at-large election system) had failed to obtain necessary preclearance from Justice in 1971. The Department had prepared a brief, vouching for the plaintiffs. Just before the case was heard, Brad Reynolds pulled the brief which was poised for filing, because of Senator STROM THURMOND's last minute political intervention.[49] The Court ruled against the plaintiffs. The Department's brief well could have tipped the scale, because its view in voting rights cases is taken to be so determinative. Fortunately, when the case reached the Supreme Court this year, it was reversed.[50] Even though Justice supported reversal, the matter could have been settled long ago—and the affected country could have had elections under fair procedures in 1982—if Justice originally had taken its responsibility seriously.

Reagan's Justice Department has also delayed compelling fair election law changes long enough to prompt private counsel to do the Department's work. Last year, line attorneys in the Division's voting rights section recommended to Reynolds that lawsuits be filed concerning 10 election law changes in Mississippi. After substantial delay, Reynolds finally announced that suits would not be filed, on the ground that local counsel would handle them.[51] The Voting Rights Act clearly places this responsibility on the Department, instead of those least able to bear the cost of litigation.

* * * * *

Employment is another area of the Department's responsibility. Although much of the activity lies with the Equal Employment Opportunity Commission which has exclusive jurisdiction to sue private employers, the Department of Justice has tried to backslide in its more narrow responsibility of overseeing public sector employment. In at least two instances it has urged the Supreme Court to adopt positions which would de-fang important weapons used to fight job bias.

One case, decided by the Court in 1982, involved the standard of proof necessary to show that non-job-related tests were discriminatory.[52] Justice filed a brief, arguing against its own policy since 1966, that a prima facie case of discrimination must be established by the more burdensome intent standards.[53] The Court rejected the Department's argument: "A non-job-related test that has a disparate racial impact, and is used to 'limit' or 'classify' employees, is 'used to discriminate' * * * whether or not it was 'designed or intended' to have this effect * * *."[54]

In another case, decided by the Court in 1983,[55] Justice filed a brief urging new rules in job bias cases in general, that would impose a substantially heavier burden on plaintiffs in establishing a prima facie case of discrimination.[56] Writing for the Court, Justice Rehnquist criticized the lower court (which Justice sided with) for stacking the deck against the plaintiffs.

Reynolds likes to boast about the large number of job bias suits the Department has filed. But when the Department strips away the legal tools important in winning many of them, sheer volume of litigation begins to mean less.

* * * * *

Removal of discrimination in housing holds more promise for permanently integrating society than nearly anything else. But it is also one of the most difficult goals to achieve. The Fair Housing Act of 1968 elevated the goal to an urgent national priority. In spite of this 16-year-old commitment, unfair housing discrimination is still widespread. A study commissioned by the Department of Housing and Urban Development has found that, in a sample of 40 metropolitan areas nationwide, the odds of a black person encountering discrimination are 3 out of 4 in the rental market and 1 out of 2 in the sales market.[57]

Since the Justice Department is the only Federal agency empowered to bring housing enforcement actions,[58] it is essential that its effort be a serious one. This is far from the case. To begin with, in 1983 Reynolds personally ordered separation of the housing and education sections of the Civil Rights Division, obviously preventing his legal staff from pursuing a more effective litigation strategy.[59] It is indisputable that there is a strong correlation between housing discrimination and school segregation. Reynolds includes in his list of achievements one desegregation case in particular (Yonkers), because it involves both of these elements. But this suit was brought by the previous administration, and Reynolds has made sure there won't be any like it during Reagan's term.

Another salient feature of this Department is that the housing section will not pursue cases of exclusionary zoning.[60] In the past, these cases were some of the most effective in eliminating housing bias on a large scale.

Last year President Reagan pretended to get serious about fair housing, by boldly proposing stiff fines for landlords found violating the Fair Housing

Act.[61] What he omitted from his remarks was his opposition to bipartisan amendments in Congress which would have put teeth in the law by appointing administrative judges to swiftly and effectively handle housing discrimination complaints instead of forcing victims to endure months and even years of delay in crowded Federal courts.[62]

But the central controversy in the Department's record has concerned the evidentiary showing necessary for the Government to provide housing discrimination. Federal courts and the Congress have said that a violation may be proven by showing discriminatory effects, regardless of intent.[63] As in other areas of civil rights enforcement, time has shown that increasingly sophisticated discriminatory techniques necessitate reliance on the effects test.

Predictably, Justice has abandoned the more aggressive standard,[64] claiming there is no legal authority for it. The fact is, several of the Federal Courts of Appeal have upheld the test,[65] in part as a result of the Department's own insistence during previous administrations. Adopting this tougher standard has hobbled the most effective fair housing program. As one Department attorney said to Attorney General Smith in a confidential memo:[66]

> [I]n some instances that may mean we will not bring a suit we could otherwise bring; if we can bring the same suit, the magnified legal standard means delay while trial attorneys continue investigations in search of the sensitive and subtle factual patterns that usually constitute proof of intentional discrimination.

The Department's housing litigation activity reveals how little good work is being done. In past years, until 1981, some 20 to 32 cases per year were filed.[67] After 3½ years, this Department has filed less than 10 cases,[68] and these have tended to provide relief for fewer victims and have involved less significant legal issues than in previous administrations. It is ironic that the administration is not more aggressive in fair housing issues, for strenuous efforts there can most help reduce the long-term necessity for transportation remedies, which it abhors.

* * * * * *

President Reagan frequently enlists support for his initiatives by beckoning Congress to consider America's founding principles, its traditional values, and its history.

I can think of no better sources than these with which to condemn Reagan's civil rights policies. There is no more ancient tradition, no more omnipresent theme running through American history, than man's unending search for freedom. It began with the Puritans—with men like John Winthrop who, in 1630, led his group of believers to the new world in search of religious freedom. It continued at Lexington and Concord in 1775, when scraggly revolutionary troops fired on the British to bring on independence, with Sam Adams proclaiming: "This is a glorious day for America!" Catholics, Jews, Irish, Italians and others, all played later roles in this drama unique to America. The question for freedom and opportunity for black Americans has been a continuation of the dream of man, that he need not be a hostage to his past.

The Puritans had a definite mission in America, embodied in a sermon Winthrop wrote, from which the President is fond of quoting. It is a testament to Winthrop's hope that his people would live in harmony with the precepts of Christian charity, so that they would be a model—a "City on a Hill"—for all to emulate. His cardinal theme, may I remind the President, was that men were inherently equal and were bound together by a common fate. Winthrop wrote:

> . . . manifest the work of the Spirit . . . so that the rich and mighty should not eat up the poor . . . That every man might have need of the other, and from hence they might be all knit more nearly together in the bond of brotherly affection; from hence it appears plainly that no man is made more honorable than another or more wealthy, etc. . . There are two rules whereby we are to walk towards one another: Justice and Mercy.

Like Winthrop, I think the unifying principle of this land is that we share a belief in the equal dignity of each person and that we are bound together by a common destiny. This has always been America's promise, and we must continue to make good on it. This calls for perpetual resolve to ensure that the blessings of liberty apply with equal force to everyone. We will not be content as a society until we are a single society. President Kennedy said as much in introducing the 1964 legislation: "this nation, for all its hopes and its boasts, will not be fully free until all its citizens are free * * * this is one country."

Enactment of our civil rights laws did not come easily. The 1964 act, for instance, was so controversial that it crawled through Congress. The House had endless hearings; there was some worry it might not even get past the powerful Rules Committee. The conservative Senate, in the face of doubts, filibusters and provocations, debated it exhaustively for 83 days. Outside the Halls of Congress, 250,000 Americans gathered at the Lincoln Memorial in the summer of 1963, to admonish Congress to "let freedom ring." In the hot August sun, Martin Luther King, Jr., spoke of a dream and moved not only the crowd but the Nation. When final passage ultimately came, it was a tribute to so many, who had worked so hard.

The sorrow and the pity of it all, is that Mr. Reagan believes that the measures I've discussed—which were adopted by Congress, signed into law, given broad interpretation by the courts, and upheld by Presidents of both political parties—are merely optional. Such a posture has opened up a lot of wounds that had long since healed. Hopefully, the 20-year anniversary of the 1964 act will provide the occasion for us to remind President Reagan and his Justice Department that the civil rights protections which millions struggled for—that give expression to what we are as a country—must be taken seriously.

FOOTNOTES

[1] J.N. Miller, "Ronald Reagan and the Techniques of Deception," *Atlantic Monthly*, February 1984, at 63.

[2] *Congressional Quarterly Almanac of 1982*, at 397 (97th Cong., 2nd Sess., 1982).

[3] *See supra* note 1.

[4] *New York Times*, February 3, 1982, at A-1.

[5] *See supra* note 1.

[6] *See supra* note 1.

[7] *See supra* note 2 at 398.

[8] *Bob Jones University* v. *United States*, 103 S. Ct. 2017 , 2026 (1983).

[9] *Id.*, at 2029.

[10] *Green* v. *Kennedy*, 309 F. Supp. 1127 (D.D.C. 1970), and *Green* v. *Connally*, 330 F. Supp. 1150 (D.D.C. 1971).

[11] The Civil Rights Leadership Conference Fund Report: *An Oath Betrayed: The Reagan Administration's Civil Rights Record*, October 1983, at ii.

[12] Richard Kluger, Simple Justice, ch 27 at 759 (Vintage Books, 1975).

[13] *See supra* note 11, at iii.

[14] *Keyes* v. *School Dist. No. 1, Denver, Colorado*, 413 U.S. 189 (1973).

[15] *Swann* v. *Charlotte-Mecklenburg Bd. of Education*, 402 U.S. 1 (1970).

[16] School Desegregation: Hearing before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary, 97th Cong., 1st Sess. 26 (November 19, 1981) (Statement by Wm. Bradford Reynolds, Asst. Attorney General, Department of Justice), pp. 619-620; also *New York Times*, November 20, 1981 at A-14.

[17] Brief for the United States as Amicus Curiae in *Grove City College* v. *Bell*, 104 S.Ct. 1211 (1984).

[18] *Washington Post*, March 8, 1984 (Letter to editor, by Paul M. Bator, deputy solicitor general, Department of Justice, who represented the U.S. before the Supreme Court in *Grove City*.)

[19] Telephone interview with John Wilson, Office of Publications, Department of Justice (May 22, 1984).

[20] *Id.*

[21] Department of Justice internal memo to Chuck Cooper and Tom Keeling from Wm. Bradford Reynolds (Nov. 5, 1982).

[22] *Guardians Assn.* v. *Civil Serv. Comm'n N.Y.C.*, 103 S.Ct. 3221 (1983).

[23] Letter from Wm. Bradford Reynolds to Linda Chavez, Staff Director of the U.S. Civil Rights Commission (October 11, 1983) at 10.

[24] *Guardians, supra* note 22 at 3241 n. 7.

[25] 28 C.F.R. § 42.104(b) (2), (3) (1982).

[26] Hearing before the Subcommittee on the Separation of Powers of the Senate Committee on the Judiciary, October 16, 1981 (Statement by Wm. Bradford Reynolds); also stated in House hearing, *see supra* note 16, at 618.

[27] Memorandum to Attorney General William French Smith from Gregg Meyers, Trial Attorney, General Litigation Section, Civil Rights Division; re: "Civil Rights Enforcement Policy," August 27, 1983, at 2.

[28] *See supra* note 15.

[29] *See* H.R. 3913, Sec. 306 (1983 appropriations act for Departments of Labor, Health and Human Services and Education).

[30] Brief for the United States on Proposed Settlement Agreement, filed April 27, 1983, with the U.S. District Court for the Eastern District of Missouri.

[31] *Liddell* v. *Bd. of Educ.*, 667 F. 2d 643 (8th Cir. 1981), (*Liddell III*), *Cert. denied*, 454 U.S. 1081 (1982), 567 F. Supp. 1037 (E.D. M. 1983).

[32] *Liddell* v. *Bd. of Educ.*, No. 83-1957 at 21 (8th Cir. 1984).

[33] *U.S.* v. *Bakersfield*, No. 84-39 at 11 (E.D. Ca. 1984).

[34] Emergency School Aid Act (ESAA), enacted by the Education Amendments of 1972 (P.L 92-318).

[35] *See* 130 Cong. Rec. S6673 (June 6, 1984).

[36] *An American Primer*, at 945 (Daniel Boorstin, ed. 1966) chapter on Voting Rights, edited by Oscar Handlin.

[37] *Congressional Quarterly Almanac of 1981*, at 417 (97th Cong. 1st Sess. 1981).

[38] *See supra* note 2, at 374.

[39] *Id.*, at 373.

[40] *Congressional Quarterly Weekly Report*, Vol. 39, No. 15, at 635 (April 11, 1981).

[41] *National Journal Weekly Report*, Vol. 13, No. 31 at 1364 (August 1, 1981).

[42] U.S. Department of Justice; also, American Civil Liberties Union Report:, *Voting Rights in the South*, January 1982, pp. 17, 20-21.

[43] *Congressional Quarterly Weekly Report*, Vol. 39, No. 15, at 635 (April 11, 1981).

[44] The Association of The Bar of The City of New York, Committee on Legal Assistance, *Counsel Fees in Public Interest Litigation*, n. 174.

[45] *Gingles* v. *Edmiston*, No. 81-803-Civ. 5 (E.D.N.C. 1984).

[46] *Major* v. *Treen*, 574 F. Supp. 325 (E.D. La. 1983).

[47] 28 C.F.R. Sec. 51.39 Justice Department Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

[48] *McCain* v. *Lybrand*, No. 74-281 (D.S.C. May 10, 1982) (unpublished).

[49] *Richmond Times-Dispatch*, September 18, 1981, p. 1, 14.

[50] *McCain* v. *Lybrand*, 52 U.S.L.W. 4195 (1984).

[51] Telephone interview with John Wilson, Office of Publications, Department of Justice (May 22, 1984); Wilson read from unpublished law review article by Brad Reynolds.

[52] *Connecticut* v. *Teal*, 457 U.S. 440 (1982).

[53] Brief for the United States as Amicus Curiae in *Connecticut* v. *Teal, supra*.

[54] *Connecticut* v. *Teal, supra* note 52, at 452.

[55] *U.S. Postal Service Bd. of Govs.* v. *Aikens*, 103 S.Ct. 1478 (1984).

[56] Brief for the United States as Amicus Curiae in *U.S. Postal Service, supra*.

[57] *Measuring Racial Discrimination in American Housing Markets*, Department of Housing and Urban Development (1979).

[58] *See generally* H.R. Rep. No. 96-865, 96th Cong. 2d Sess. (1980).

[59] Department of Justice internal memo from Wm. Bradford Reynolds to Civil Rights Division staff (Nov. 22, 1983).

[60] Citizens' Commission on Civil Rights, *A Decent Home: A Report on the Continuing Failure of the Federal Government to Provide Equal Housing Opportunity*, at 75 (April 1983).

[61] *See* S. 1612, introduced on July 13, 1983.

[62] *See* S. 1220, introduced on May 5, 1983.

[63] Sen. Rept. 96-919, pp. 18-19 and House Rept. 96-865, p. 12; *United States* v. *Pelzer Realty Co., Inc.*, 484 F.2d 438 (5th Cir. 1973) *cert. denied* 416 U.S. 936 (1974); *United States* v. *City of Black Jack*, 508 F.2d 1179 (8th Cir. 1974) *cert. denied*, 422 U.S. 1042 (1975); *Resident Advisory Board* v. *Rizzo*, 564 F.2d 126 (3d Cir. 1977), *cert. denied* —— U.S. ——; *Metropolitan Housing Development Corp.* v. *Village of Arlington Heights*, 558 F.2d 1283 (7th Cir. 1977) *cert. denied* 434 U.S. 1025 (1978).

[64] U.S. Civil Rights Commission, *Federal Civil Rights Commitments: An Assessment of Enforcement Remedies and Performance*, at 186-186 (Nov. 1983).

[65] *See supra* note 63.

[66] *See supra* note 27, at 3.

[67] *See supra* note 60, at 74.

[68] Telephone interview with Glenda G. Sloane, Director of Housing and Community Development, Catholic University Law School (May 23, 1984).

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## ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. There will now be a period for the transaction of routine morning business.

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## U.S. CONFERENCE OF MAYORS ENDORSE ITEM VETO

Mr. **DIXON**. Mr. President, I am very pleased to report to the Senate that the U.S. Conference of Mayors has formally endorsed a constitutional amendment providing the President with the power to veto individual items of appropriations. The action took place yesterday in Philadelphia as part of the organization's annual meeting.

It is particularly significant that the Conference of Mayors endorsed the item veto now, because city budgets and resources have been under such severe pressure. The mayors, however, are out on the firing line, and they know that the Federal Government must make some changes in the way it makes its spending decisions if it is ever to restore some semblance of fiscal sanity to the budget.

The mayors recognize that ever-increasing deficits make it impossible for them to effectively address their own problems. As executives who have to make difficult budget decisions every day, they also recognize that sound budgetmaking is impossible if they do not have the necessary fiscal tools.

I am convinced that the item veto is a reasonable and prudent way to provide additional fiscal discipline to a Federal budgetmaking process that is clearly out of control. I urge my colleagues to consider the action of the Conference of Mayors very carefully. I hope the Senate will take the advice of the mayors and the many other supporters of the item veto around the country, and send an item veto constitutional amendment to the States for ratification as quickly as possible.

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## PERMANENT OLYMPICS SITE

Mr. **PERCY**. Mr. President, I wish to associate myself with an action the Senate took yesterday while I was in Illinois. That is the vote in support of the Bradley amendment to the Defense authorization bill expressing the sense of the Senate that the International Olympic Committee should establish a permanent facility for the Olympic games, to insulate the games from international politics.

It is a regrettable fact of life that the Olympics have become another victim of international power politics. I hope that the IOC has learned the sad lessons of Olympic politics of recent years, and will seek out a permanent Olympics site which will remove location as an issue in nations' participation in the games. It is high time we paid the dedicated Olympic athletes around the world the tribute of trying to return the Olympics from politics to sports.

## GOVERNMENT TRANSPORTATION SAVINGS FROM THE USE OF TENNESSEE-TOMBIGBEE WATERWAY BY FEDERAL DEPARTMENTS AND AGENCIES

Mr. **HEFLIN**. Mr. President, today I am calling on the President of the United States to issue an Executive order requiring each Federal and department agency engaged in material transportation, including the Departments of Defense, Agriculture, Transportation, Energy, State, and Interior, to conduct an internal study of how use of the Tennessee-Tombigbee Waterway can reduce total Federal transportation expenditures. This study should not be limited to the present inland water transportation uses, but include all forms of transportation, including truck and rail.

In several months the Tennessee-Tombigbee Waterway will become a reality when it opens more than a year ahead of schedule it will then provide low cost barge transportation to industry, agriculture, and space and defense installations, as well as any movement of military equipment or supplies from mid-America to any port of the world. It will be a vital element in meeting future energy needs.

The Tennessee-Tombigbee Waterway will open up a vast new area to economic and industrial growth and will provide an extensive refuge for fish and wildlife, as well as numerous outdoor recreational centers. Some 23 States in the Midwest, North Central, Southern and Central regions of the country will be affected. The waterway will join 12 rivers and form a key link in a 16,000 mile navigable waterway system, saving hundreds of shipping miles, millions of dollars, and untold energy annually. River systems that will benefit from completion of the Tenn-Tom include the Coosa-Alabama, Warrior-Tombigbee, Tennessee, Cumberland, Upper Mississippi, Illinois, Ohio, Muskingum, Green, Kentucky, Monongahela, Kanawhat, and Allegheny Rivers.

Mr. President, our funding of the Tenn-Tom at the Federal, State, and local levels has been a wise investment. The Federal Government has a $1.8 billion investment. State and local governments have spent millions more for relocation and construction of ports, industrial terminals, roads, bridges, pipelines, docks, and piers.

This investment by the American people, this monument of American engineering, must not be ignored by a deficit-ridden Federal Government groping for ways to save money. We are approaching a new era in transportation in the United States.

Transportation planners in the various departments and agencies of the Federal Government should be required—and required by Presidential directive—to take advantage of this new transportation link. We must not allow the economic benefits of this waterway to be lost due to the inertia of the Federal bureaucracy—that tendency to resist beneficial and cost savings change.

To illustrate the potential savings, shipping costs on the Tenn-Tom will be 9.3 mills per ton-mile compared to 26.3 mills per ton-mile for the next cheapest form of transportation—a cost difference of almost 200 percent.

The Tenn-Tom will also provide a distance savings of up to 800 miles from America's heartland to the Gulf of Mexico, in both southbound and northbound traffic.

Wernher von Braun, the great rocket scientist and developer of the Saturn booster, said that man's first step on the Moon would have been 12 days earlier if the Tennessee-Tombigbee Waterway had been operational. The massive Saturn rocket, constructed in Huntsville, was sent by water up the Tennessee, down the Ohio, then via the Mississippi to the Gulf of Mexico. The transportation of the Saturn rocket would have been 12 days shorter had it gone down the Tennessee-Tombigbee Waterway through the Port of Mobile into the gulf.

The advantages in shipping of northbound freights should be particularly studied. To push barges up the Mississippi River requires vast amounts of energy to fight the brisk downstream current.

The Tennessee-Tombigbee Waterway has been designed as a slack water route with little or no currents to fight. When the waterway reaches the Tennessee River, that river flows northward—one of the very few U.S. rivers to flow in that direction—until it joins the Ohio River. The economic advantages for northbound traffic will be significant.

While President Richard Nixon presided over the Tenn-Tom groundbreaking, many of his predecessors—including President George Washington—have gone on record as being in favor of a waterway between these two rivers.

Early American settlers recognized the advantages of the shortcut and approached Congress in 1810 with a proposal to connect the Tennessee and Tombigbee Rivers.

The Army Corps of Engineers first surveyed the project in 1827, but it was more than 100 years later, in 1938, before the waterway was considered economically feasible. Congress formally authorized the project in 1946—but failed to provide any construction funds.

President Nixon included a recommendation of $1 million for construction in his 1971 budget and the start of construction was officially dedicated at the Port of Mobile on May 25, 1971. Construction finally began in December 1972, starting with the Gainesville Lock and Dam at the southern end of the waterway.

I call on the President of the United States to issue an Executive order requiring that each agency and department of the Federal Government which engages in the transportation of material, supplies or goods to institute a study on savings that can be implemented by using the Tennessee-Tombigbee Waterway when it opens next year.

I am attaching a copy of a letter I have written to Secretary of Defense Weinberger which I ask unanimous consent to appear in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
*Washington, DC, June 19, 1984.*

Hon. CASPAR W. WEINBERGER,
*The Pentagon,*
*Washington, DC.*

DEAR MR. SECRETARY: As I am sure you know, in less than a year the Tennessee-Tombigbee Waterway will be completed. I recommend that you initiate a study within the Department of Defense and each agency and division thereof, including the Army, Air Force, Navy and Marine Corps, on the transportation savings that can be realized by the Department through the use of this waterway. The study should not be limited to present inland water transportation, but all forms of transportation, including rail and truck.

When completed, the Tenn-Tom will provide low cost barge transportation to industry, agriculture and space and defense installations, as well as any movement of military equipment or supplies from mid-America to any part of the world. Some 23 states in the Midwest, North Central, Southern and Central regions of the country will be affected. The waterway will join 12 rivers and form a key link in a 16,000 mile navigable waterway system, saving hundreds of miles, millions of dollars and untold energy annually. River systems that will benefit from completion of the Tenn-Tom include the Alabama-Coosa, Warrior-Tombigbee, Tennessee, Cumberland, Upper Mississippi, Illinois, Ohio, Muskingum, Green, Kentucky, Monongahela, Kanawhat and Allegheny Rivers.

The Federal Government and numerous state and local governments have made a wise and substantial investment in the Tenn-Tom. Millions of dollars have been invested by state and local governments for relocation and construction of port/industrial developments, roads, bridges, pipelines, docks, and piers. I believe the Department of Defense must take advantage of this new transportation link.

To illustrate the potential in savings, shipping costs on the Tenn-Tom will be 9.3 mills per ton mile compared to 26.3 mills per ton mile for the next cheapest form of transportation—a cost difference of almost 200 percent more. The Tenn-Tom provides a distance savings of up to 800 miles from America's heartland to the Gulf of Mexico, both on southbound and northbound traffic.

The advantage in shipping of northbound freights should be emphasized. To push barges up the Mississippi River requires large expenditures of energy to fight the brisk downstream current. The Tennessee-Tombigbee Waterway has been designed as a slack water route with no currents to fight. When the Waterway reaches the Tennessee River, that river flows northward—one of the very few U.S. rivers to flow in that direction until it joins the Ohio River. The economic advantages for northbound traffic will be significant.

Recently, I wrote to you protesting a decision by the Military Traffic Management Command to discontinue Mobile shipments of cargo bound for U.S. troops in the Far East and, instead, test the consolidation of all shipping to the Far East through Charleston, South Carolina. This study, due by the end of the year, fails to take into consideration the opening of the Tenn-Tom. This ill-timed test only emphasizes the need for a study within DOD on the impact of the Tenn-Tom on the transportation of its material.

At a time when we are trying to find ways to cut Federal spending, the Tenn-Tom offers great promise for transportation savings to the government. I urge you to institute as soon as possible a study on the transportation savings your department and all agencies thereof can realize when the Tenn-Tom opens next spring.

With kindest regards, I am
Sincerely yours,
HOWELL HEFLIN.

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## ADDRESS BY SENATOR LEAHY ON ENVIRONMENTAL POLICIES

Mr. MITCHELL. Mr. President, I would like to place in the CONGRESSIONAL RECORD today an excellent speech recently delivered by my colleague from Vermont, Senator LEAHY.

While I may not agree with him on every issue, the Senator's work on the Subcommittee of the Senate Appropriations Committee responsible for the budget of the Environmental Protection Agency has been exemplary. He has done a real public service in focusing the attention of the Senate and the public on the impact of the administration's budget on environmental law enforcement. In these remarks, he reviews the environmental policies of the last 3 years. I commend him for his tireless efforts to provide adequate funding for the implementation of our environmental laws.

Mr. President, I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

### SPEECH BY SENATOR PATRICK LEAHY

I've had one of those special Vermont days. First, I rode the old Vermont Historical Railroad and saw the majesty of the land . . . a beauty that first attracted our ancestors years ago. Now, it's a real pleasure to be here with you on the 20th annual meeting of the Aiken R, C and D. You are the folks who are working to keep Vermont beautiful and productive, and I'm glad that we have had some time to chat.

This evening I want to take a few minutes to talk with you about an issue which is critical to our nation and the communities in which you live—that issue is environmental protection.

Our deep feeling for the land has always been at the heart of how we identify ourselves as Americans.

We are rightfully proud of our land, our history, our ideals.

As Vermonters, we, especially, have much to be proud of . . . and grateful for . . . the broad waters of Lake Champlain, the clear morning air from atop Mount Mansfield, the splendor of Queechee Falls, the Connecticut River, which the Indians named "the smile of God."

America's unparalleled natural beauty has been a guiding force in the nation's development and culture since the founding of the Republic. These resources are not just America's past—they are our present and our future.

This evening, rather than speaking on any particular environmental issue, I would like to pose a broader question: "How much are we prepared to do to protect our natural environment?"

This year we are standing at a crossroads in the nation's environmental history.

To understand which road to take, we must look at the political map of the last decade. We must understand which roads are dead ends. We must understand the consequences of putting on the brakes and standing still. And—we must know what it takes to move forward.

Since 1980, our national Administration has charted a major retreat from the environmental consensus built in the 1970's.

It launched this retreat because it badly msiread the meaning of the 1980 Presidential election. During the campaign, candidate Reagan repeatedly attacked environmental laws and environmental institutions. He ridiculed our clean air laws. He attacked our environmental institutions by charging that "if the EPA people had their way, we would all live in rabbit holes or bird nests." Indeed his entire campaign was fueled by resentment to governmental interference; and he appointed officials who shared his views.

But, as one wise man has said, "resentment is an effective spur, but a deceptive rein." It can elect a President, but it cannot be the basis for governing the nation.

The Reagan Administration badly misread the resentment of how our environmental laws were being administered as a mandate to decimate them.

Thus, instead of streamlining the administration of the existing laws, it proposed massive change in those laws. Mr. Watt and Mrs. Gorsuch, with the encouragement of the President, proposed wholesale changes in clean water, clean air, and hazardous waste laws.

Where they could not change the laws outright, they tried to cripple enforcement of those laws by cutting their budgets in half.

I am glad I can report to you today that they failed. They failed, first, because those who would exploit, rather than preserve, are outside the mainstream of American society. But they also failed because protecting our environmental resources is not just good policy, it is a moral obligation we owe the future. In the words of a great champion of the environmental conservation, and a great Republican President, Theodore Roosevelt: "To waste to destroy our natural resources, to skin and exhaust the land instead of using it as so to increase its usefulness, will result in undermining, in the days of our children, the very prosperity which we ought by right to hand down to them amplified and developed."

Now those persons who symbolized wholesale retreat and repeal have been replaced. The Administration no longer proposes major changes in the air, water and hazardous waste laws or cutting the EPA budget by 40 to 50 percent. This Administration finally understands that the route of retreat is an environmental, political and moral dead end.

If not a retreat, then what? It is clear that the government, unable to go back and afraid to go forward, has chosen to stand still. It has chosen a stagnant environmental program.

Let me offer an illustration. Congress this year is working on the acid rain, clean water hazardous waste, pesticide and superfund problems.

In not a single instance has the Reagan Administration proposed legislation. It has not said how it would control acid rain. No new methods of cleaning up our water have been proposed.

Now a standstill environmental policy is like standing water. For a short time standing water stays clean, but soon—it sours.

But the problem is more serious. Even when we do have laws in place, the government has refused to enforce them.

As State's Attorney and as a U.S. Senator, I have fought for strong law enforcement. These laws protect us all. We cannot stand still and leave our environmental laws unenforced any more than we can fire our police officers or close our jails. Let me give you an example on hazardous waste.

I went to those who actually implement the environmental control programs—the state environmental administrators to see what they thought the effect of the present standstill budget would be on their hazardous waste programs.

In a nationwide survey, the managers of the state hazardous waste programs were asked, "How long should it take to implement the hazardous waste program?" They estimated 5-7 years.

They were then asked, "How long, with the present level of resources, would it take to put in place the public health protection promised by the laws passed in 1980? They answered 16-23 years. That is right—16-23 years, not months—before the regulations and programs necessary to prevent future environmental disasters like Love Canal are in place.

If the American people understood that the dry numbers in the EPA budget mean that they will have grandchildren before the hazardous waste program is complete, they would be outraged. I know I am.

I believe that taking a generation to complete implementation of the hazardous waste laws is completely unacceptable. Last week I wrote EPA Administrator Ruckelshaus asking him to give me the cost of an accelerated program of environmental controls in over eighty programs. When I get these estimates, I will offer an amendment to allow the Senate to vote on whether it wants to wait a generation to enforce our environmental laws.

I asked the EPA to prepare this information because I believe it is each of our responsibilities—mine as a United States Senator—and yours as a citizen, to do more than criticize. If 23 years is too long, and I believe it is far too long, we must be willing to support an environmental law enforcement budget that will get the job done now.

We must be willing to oppose wasteful anti-environmental water projects, such as the Tennessee Tombigbee Canal, so that we can enforce our environmental laws without breaking the budget.

We must move forward.

We must give the Environmental Protection Agency and our state agencies the funds they need to enforce our environmental laws. If we do not move forward to control the poison in the air, the water and the land, then we mortgage our future just as surely as the present $200 billion deficits do.

We do stand at an environmental crossroads today. The road of retreat is out of the question. The only two choices are whether we will stand still or move forward. I, for one, am clear on what we must do, and with your help, will accomplish.

## WILLIAM RUCKELSHAUS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCY. Mr. President, today I want to pay tribute to an individual who is one of the most competent, educated, and able men I have ever worked with in government—Bill Ruckelshaus. I have great respect and admiration for this man. He has done an outstanding job restoring the integrity, morality, and quality of the work product at the U.S. Environmental Protection Agency.

I would like to take a moments of the Senate to review some of the major accomplishments of the EPA during the last year under Bill Ruckelshaus. Each is a testament to the excellent work and leadership exhibited not only by Administrator Ruckelshaus, but also by the fine and much-improved staff throughout the Agency.

First, the Administrator has strengthened public trust by becoming more responsive to the public. Public trust in EPA—and in the Government in general—has improved because of the Agency's commitment to explain how decisions are made. Further, EPA is now more sensitive to the needs and interests of all those affected by its actions.

Second, morale at the EPA has improved dramatically as is evident to all of us working with the Agency. There is a renewed sense of mission. There is a reinvigorated commitment to the public—a momentum to finish work that has languished—an urge to launch new initiatives, and a desire to act decisively. Overall, this change has resulted in improved performance and a higher level of work quality than has been seen at the EPA in quite some time.

A third major accomplishment is the strengthening of Agency management. An improved planning, priority-setting, and tracking system is now operating throughout the Agency. Increased attention is being paid to the delegation of additional responsibility to the States, and to more effective Agency oversight. Citizens can judge EPA's performance on the basis of concrete goals it has accomplished. Taxpayers' money can be spent far more productively in this new environment.

I am convinced that these accomplishments exemplify the unshakable commitment that Bill Ruckelshaus has made to the Agency's primary goals: the protection of the environment and public health. The future path of EPA has been laid. It is a path in which we all can have confidence.

I commend the President on this outstanding nomination and his business colleagues who made it possible for him to leave his heavy responsibilities at Weyerhouser.

## BALTIC FREEDOM DAY

Mr. PERCY. Mr. President, just a few days ago on June 14, this Nation once again marked Baltic Freedom Day. On June 14, 1940 Soviet armies invaded and occupied the independent countries of Lithuania, Latvia, and Estonia. Following the Soviet takeover, thousands of these Baltic peoples were imprisoned, deported, persecuted or executed. Their religious, cultural, and historical heritage is still denigrated. Despite over 40 years of systematic Soviet attempts to stamp out the identity of the Baltic nations, the identity and heritages of Lithuania, Latvia, and Estonia are still very much alive. Dozens of Lithuanians, Latvians, and Estonians have paid for the nurturing of their national identity with their freedom, even their lives. At this time we pay honor to them, and to all those Lithuanian, Latvian, and Estonian Americans who work with them to ensure that the light of Baltic freedom is not permanently extinguished.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. The hour of 12 noon having arrived, the Senate will stand in recess until 2 p.m. today.

Thereupon, at 12 noon, the Senate recessed until 2 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. LUGAR].

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2723), to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

The Senate resumed consideration of the bill.

### WASTE AND ABUSE

Mr. HEFLIN. Mr. President, I should like to congratulate the chairman of the Armed Services Committee, Senator TOWER, and the ranking minority member, Senator NUNN, as well as the other members of the committee for bringing this measure before us. With this bill the Senator from Texas illustrates once again the dedication, judgment, and leadership that have marked his years of honorable service in the Senate and to his country. Under his guidance and leadership the Nation's defense has become stronger. He will be sorely missed in this body.

During my time in the Senate, I have been privileged to be counted among the staunchest supporters of our Nation's military readiness and weapons development programs. I have been a strong advocate of rebuilding and modernizing our conventional and nuclear forces, replacing obsolete equipment and funding procurement and development of needed weapon systems. In working to revitalize our Nation's defense, I have supported the development and procurement of the M-1 tank because I believe its advanced systems and agility will help counter the Soviet armored forces for many years to come. I have been a strong proponent of the B-1 bomber in order to give the United States a survivable, strategic bomber for those years prior to deployment of the advanced technology bomber and after the B-52's usefulness has expired. I have advocated and supported steps to strengthen our defense capabilities in order to enhance deterrence and significantly reduce the chances of nuclear war. After years of neglect our defense posture is once again strong. All of these programs and many others are important to our national defense and must be sustained in order to ensure peace and prosperity for the United States and its allies.

The massive effort to rebuild our Nation's defense is both an ambitious and an expensive undertaking, but a necessary one. However, there are those that would have us significantly reduce our defense efforts in order to lower the Federal deficit, arguing that we simply cannot afford such an expensive program. While I agree wholeheartedly that we must bring Federal spending under control and reduce the deficit if we are to ensure continued economic growth, we can not at this particular period sacrifice our military preparedness and national security. I do, however, believe that a substantial savings in the Department of Defense can be realized if we ensure that our dollars are wisely spent.

Given the sheer size of our defense program, there is little doubt that some degree of poor management and inefficient procurement practices exist in the Department of Defense. It has been estimated that waste and abuse adds 10 to 20 percent more to military costs. If this is true, then millions and millions of taxpayers are being wasted each year.

One area where reform is badly needed is the procurement of spare parts. We have all read the horror stories about hundreds of thousands of dollars being spent by the Defense Department to purchase such common items as Allen wrenches, nuts and bolts and other items easily and cheaply purchased in any hardware store.

This plague of abuse, waste, and fraud was not brought to the attention of the American public by the executive branch but by a congressional committee under the leadership of a great Alabama Congressman, BILL NICHOLS.

According to Joseph Wright of the Office of Management and Budget, the Department of Defense will spend about $22 billion to purchase spare parts this fiscal year. And in a report recently released by the Inspector General of the Department of Defense, approximately 6 percent of the $22 billion can be attributed to overcharges. Furthermore, the Grace Commission has reported that the Defense Department, with the cooperation of Congress and the leadership of the President, could save approximately $19.5 billion over 5 years in procurement and contract expenses by implementing certain procurement and contract management improvements. In fiscal year 1985, if one-third of this amount could be saved, that savings alone would completely pay for the cost of the MX, the Trident, and the M-1 tank in that year.

I was pleased when, last summer, Secretary Weinberger announced a 10-point program to reform spare parts procurement. Obviously, structural inefficiencies in the procurement process cannot be cured overnight, but I believe the reforms proposed by the Secretary are a positive first step.

I am also very glad to see that efforts to further streamline and correct problems in the procurement system have been included in the defense authorization bill. Patterned to a large extent after a bill which has passed the House of Representatives, authorized by Alabama's Congressman BILL NICHOLS, this program is a comprehensive reform of the Defense Department's procurement practices and should save taxpayers hundreds of millions of dollars annually. I believe many of the problems that currently exist in the procurement process will be cured by these initiatives. The major reforms proposed by the committee include requiring the Defense Department to do the following:

Issue a regulation prohibiting the allocation by contractors, in their charges to the DOD, of unjustified overhead for spare parts obtained from subcontractors;

Upgrade its computer software with improved graphics that would let procurement officers see drawings of parts they want to order, and know the buying histories of the parts, to assure they understand what they would be ordering;

Require bidders on Pentagon contracts to state what technical data relative to the design and assembly of spare parts would be provided to DOD, so the Pentagon could make such data available to other suppliers, to promote competition;

Maintain (by law) a competition advocate for each military service;

Publish procurement regulations in the Federal Register for public comment, to assure that proposed procedures are fair and reasonable, and that they will promote competition.

The Senate bill also takes steps that will improve accountability in the Defense Department's weapons acquisitions process by leaving key procurement managers in place longer. The Grace Commission reported that inventory managers in the private sector hold their jobs on an average of 8 years. In the different branches of the military, however, the average time served is only 2 years. The short term of military procurement managers hampers continuity and stability that would lead to careful and deliberate administration of contracts and to thorough inventory of warehouses.

These changes, and other included in the bill, are all examples of good business sense. These measures and those recommended by the Secretary will go far toward bringing waste, fraud and abuse within the Department of Defense under control. Putting an end to waste also depends on the individual worker. I would like to see programs established with DOD that would reward men and women for jobs well done.

Mr. President, again, let me express my strong support for this bill and congratulate the fine work done by the Senator from Texas and his committee. I hope that the proposals to reduce fraud and abuse included in this bill will ensure its approval.

Mr. TOWER. Mr. President, Senators are being very cooperative now and offering to introduce their amendments. We are trying to sequence them in some sort of order so that Senators can be reasonably sure about approximately what time of the day their amendments could come up.

We are also going to try to work on some time agreements on the amendments in order to finish our business with some degree of dispatch and we so will not have to be in all night tonight. I believe we can finish the bill tonight if Senators will be cooperative and agree to time agreements; it might be very, very late, but, nonetheless, we can finish if we can organize our business in an orderly way and Senators can cooperate and agree to controlled times.

The Senator from West Virginia has very kindly agreed to be first up this afternoon with an amendment that I am eager to hear him tell us about and that I am going to support vigorously.

### AMENDMENT NO. 3242

(Purpose: To express the sense of the Congress regarding the furnishing of food and medical supplies to the people of Afghanistan)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3242.

On page 128, between lines 12 and 13, insert the following new section:

#### POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

SEC. 1019. (a) The Congress finds—

(1) that after more than four years of occupations by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue bravely to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of the Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have the necessary food and medical supplies adequate to sustain themselves while they are being ravaged by the invading forces of the Soviet Union.

Mr. BYRD. Over the past several days, I have brought to the attention of my colleagues reports of the latest Soviet offensive in Afghanistan. This assault on the Panjshir Valley, north of Kabul, is the largest military operation in the 4 years since Soviet troops first entered Afghanistan.

Much of the Soviet firepower has been brought to bear on civilian targets, including hospitals. This is part of the Soviet's "scorched earth" policy in Afghanistan. What they cannot control, they seek to destroy. About two-thirds of the country remains in the control of the Afghan freedom fighters, so the Soviets are determined to force civilians in those areas to abandon their homes, crops, and livestock and join the estimated 3 million Afghans who have become refugees from Soviet atrocities.

As a result of these Soviet policies, the people who remain in Afghanistan—the civilians and the brave freedom fighters—are suffering from malnutrition and starvation. In a recent report based upon interviews and firsthand observations, the British Afghan Aid Committee established that as many as half a million Afghan men, women, and especially children, may face starvation. On Friday, June 8, I placed a New York Times account of that report in the CONGRESSIONAL RECORD.

The amendment I offer today is an effort to bring this problem into focus, and to encourage other free world governments to assist the plight of the Afghan people. As the Afghan aid report points out, one of the most immediate effects of the Soviet use of hunger as a weapon will be to destroy the Afghan resistance. During our discussion of the Defense authorization, we spend a great deal of time discussing the importance of deterrence and our ability to resist Soviet expansionism. I believe our commitment to assist the Afghan resistance is as clear a test of our will to resist Soviet aggression as any circumstance in the world today. It is unthinkable that we should turn our backs on these courageous people in their struggle to free their homeland. Certainly free world nations cannot let the Afghan people starve under Soviet occupation.

The amendment I offer is nonbinding. It does not mandate certain levels of food assistance from the United States. In fact, it calls upon all free world countries to provide the Afghan people with the necessary support to sustain themselves in their fight to regain control of their country. I would hope that many Moslem nations, in particular, would do more to fulfill their responsibility to their brothers in Afghanistan.

This amendment is an opportunity to reaffirm our commitment to the people of Afghanistan, and to let them know that they are not forgotten.

I ask unanimous consent that an editorial from the Wall Street Journal of yesterday, June 18, entitled "Boiling the Ocean" be reprinted in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

### Boiling the Ocean

News from Afghanistan is both exhilarating and tragic. The Soviets have failed to crush the Afghan resistance in their largest offensive to date. But they may take their vengeance on the Afghan population with an induced famine that competent Western observers think may rank among the more spectacular disasters of the last few years.

The Soviet invaders staged a massive march this spring into the strategic Panjshir Valley stronghold of the mujahedeen, the Afghan freedom fighters, northeast of the capital city of Kabul. Military observers have marveled at the Russians' coordinated use of ground troops, helicopters, paratroopers and saturation high-altitude bombing (as well as poison gas). Yet the guerrillas have bounced back. Afghan exile headquarters in Peshawar, Pakistan, claim that Soviet troops have withdrawn from the upper half of the Panjshir under increasing harassment. One Russian outpost is currently cut off. A 900-man unit of Afghans, including an Afghan general and a number of Soviet officers, surrendered in a side valley and is being brought back to Pakistan. The Soviet forces, 16,000 strong, have now concentrated in the towns of Bazared and Rukha, famous for an ice cream parlor made by Afghans out of a downed Soviet Supply helicopter.

It remains to be seen whether this withdrawal is a classic anti-guerrilla tactic, designed to draw the mujahedeen out in the open, part of a Soviet plan to hold only the lower valley, or simply a retreat. But there is growing agreement that Soviet hopes of a military victory have been frustrated, and possibly at higher cost to the Russians than to the mujahedeen. Ahmad Shah Massoud, the Panjshir Valley commander who is deservedly becoming a legend, evacuated troops and civilians before the assault and left his abandoned strongholds heavily mined. Afghan sources think this tactic alone caused 400 to 500 serious injuries among elite Soviet paratroops.

In short, the Afghans appear to have kept pace with the improved Soviet military. In spite of scandalously inadequate Western aid, a network of local commanders, some of whom equal Massoud in ability if not fame, has brought the resistance to its highest level yet of coordination and organization. In turn, the Soviets appear to have decided that if they can't win a military victory, they will have a demographic one by eliminating the population that gives the resistance its base.

Warnings of this strategy came last year from Claude Malhuret, executive director of the Paris-based Medecins sans Frontieres (Doctors without Borders), a volunteer group that maintains six hospitals in mujahedeen-controlled parts of Afghanistan. If guerrillas move among the population, in Mao's words "like fish in the water," then the Soviet response is to boil the ocean. Anti-guerrilla wars aren't decided by the Western strategy of winning over the population, Dr. Malhuret concludes glumly, but by "making terror reign." Over the years his group has seen this Soviet approach firsthand several times. In the Ogaden province of Ethiopia, the populations of villages and towns were driven into Somalia. In Cambodia after the Vietnamese invasion, grain was bottled up in Kompong Som until the population that might support the resistance had starved or fled. Now it's Afghanistan's turn.

More than four million Afghans, maybe half the population under mujahedeen control, have fled to Pakistan and Iran, helped along by indiscriminate Soviet bombing, massacring and sowing of mines. (These mines are designed to maim rather than kill, French doctors from several groups report, and some have been disguised as toys.) A million more Afghans may have been driven to cities under Soviet control. The Soviet invaders are working hard to centralize the food-distribution system, and they are now trying to destroy crops they can't buy up. Afghans report Russian bombing of the irrigation system in the rich Shomali plain and napalming of storage bins to destroy the wheat harvest.

The parallel often cited is Stalin's man-made famine in the Ukraine in 1932-33, when communist confiscation of the harvest caused at least five million to seven million deaths and wiped out the entire nationalist strata of that society. So far, Afghans have escaped the worst, but danger signs are already up. The British group Afghan Aid recently released a nutritional and economic survey by Frances D'Souza of the Food Emergencies Research Unit of London University. To its shock, field examinations in remote Badakshan revealed severe malnutrition among more than 20 percent of the children, worse results than in Biafra. Not by accident, Badakshan sits on important Soviet supply lines; mujahedeen attacks have been intense, and earlier reports say the Russians have tried to terrorize and drive out its inhabitants by dropping "yellow rain."

The mujahedeen are deeply aware that their most important battle now may be to feed their population. Some commanders have delegated units to help with the harvest and repair the irrigation system. Emissaries to the West now plead for food aid as urgently as they ask for antiaircraft missiles. They deserve both. But if the West lacks the nerve to send them SAMs (or Stingers), it has no excuse to stint in shipping humanitarian aid. The Soviet famine strategy can be frustrated if sufficient grain supplies are made available in Pakistan to the mujahedeen distribution network. Perhaps even more so than the fight in the Panjshir Valley, the economic battle will be critically important. Will the West sit this one out?

Mr. BYRD. Mr. President, much time is not required for debate on this amendment. I hope it will be unanimously adopted.

I have no desire to say anything further. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum until the managers come.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. Inouye, Mr. Zorinsky, and Mr. Mitchell be added as cosponsors to this amendment. Mr. Inouye is the ranking member on the Foreign Operations Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am ready for the vote. I am ready to cooperate in any way I can with the distinguished manager.

Mr. TOWER. Mr. President, I thank the distinguished minority leader.

Some Senators have just left for a bill signing ceremony, and will be back shortly. In the meantime, if the Senator from West Virginia would be agreeable, there is an amendment to be offered by the Senator from Alaska, Mr. Stevens, which has been agreed to by the Senator from Georgia, the distinguished minority floor manager of the bill.

If the Senator is agreeable, we will set the amendment aside to deal with that, and come back.

Mr. BYRD. I will be happy to do that. I say to the distinguished manager of the bill that I also have an amendment which I can call up any time to accommodate the progression of amendments.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the distinguished minority leader be temporarily set aside.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, the distinguished manager of the bill has asked that this be done so that another Member can call up an amendment while we wait for certain

Members to return to the Chamber from the White House. I have no objection.

Mr. TOWER. Mr. President, the request is that the pending amendment be temporarily set aside to permit the Senator from Alaska to offer an amendment. Further, upon the disposition of the amendment of the Senator from Alaska, the Senate will return to the consideration of the amendment of the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from Texas and the Senator from West Virginia for their courtesy.

### AMENDMENT NO. 3243

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3243.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 106, delete lines 13 through 22 inclusive and on page 143, line 18, after the number "7204." insert the following new section:

"2304 note. Shipbuilding claims

"None of the funds hereafter available to the Department of Defense shall be used to adjust any contract price for amounts set forth in any shipbuilding claim, request for equitable adjustment, or demand for payment incurred due to the preparation, submission, or adjudication of any such shipbuilding claim, request, or demand under a contract entered into after the date of enactment of this Act arising out of events occuring more than eighteen months prior to the submission of such shipbuilding claim, request or demand. For the purposes of this section, requirement for submission of a shipbuilding claim, request, or demand is met only when the certification required in section 6(c)(1) of the Contract Disputes Act of 1978 and supporting data are provided."

Mr. STEVENS. Mr. President, this amendment codifies section 787 of the Defense Department Appropriation Act of 1984, as modified by the Senate Armed Services Committee recommendation. The provision established a statute of limitations for the submission of shipbuilding claims. The pending bill amends the provision in section 199E to clarify the required documentation to be submitted with such claims. Report language further specifies that the Department of Defense is responsible for the development of regulations which conform to the spirit of the Contract Disputes Act of 1978.

While I find the recommended change acceptable, my amendment will codify this provision along with 20 other recurring provisions of law in section J of the bill, as recommended by the Armed Services Committee.

This has been discussed with the managers of the bill, and I hope it will be accepted. It is a matter which I have discussed with Senator TOWER and Senator NUNN. It will become permanent law and, therefore, not have to be constantly repeated in the appropriations act.

Mr. NUNN. Mr. President, we have reviewed this amendment very carefully. I have discussed it with the Senator from Alaska and with the majority manager. I have no objection. Secretary Weinberger came back with a letter saying that he felt this area should be dealt with in a generic sense so that it covered not just the shipbuilding claims but all claims. Perhaps we can consider that in the future. For the time being, I would not have objection to the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I understand there is a request from other Members to be present. I certainly am willing to comply with that request.

I will state to my friend from Georgia that the matter was carried in the Senate version of the defense appropriations bill for last year, for fiscal year 1984, in the generic sense he discussed. When the matter came to conference, the House Members did not wish it to be as broad a generic section as recommended by the Senate and now supported by the Department of Defense. We were only able to sustain it for the submission of shipbuilding claims.

This provision incorporates the changes recommended by the Armed Services Committee.

I agree with the Senator from Georgia, we should attempt to set a statute of limitations on all claims, but at this point we would prefer to make this section permanent law as recommended by the committee.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, several Members on this side have indicated they wish to be on the floor before we act on this amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I am informed that the question that was raised concerning my amendment has now been resolved. Therefore, once again, I offer the amendment to put into permanent law the statute of limitations provision regarding the presentation of claims to the Navy, as I described previously.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3243) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Members of the Senate who were involved in clearing this matter. I think it is a matter that has to be resolved further, as the Senator from Georgia has indicated, regarding all other claims.

### AMENDMENT NO. 3242

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from West Virginia.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I was out of the Chamber when the distinguished minority leader completed his statement on his amendment. He is to be commended for this amendment.

It was my privilege, recently, to visit Pakistan and to see the plight of the Afghanistan refugees. It is a fact that various international organizations are providing some support for these people, but the Government of Pakistan, a country that is in economic difficulty, a country with limited resources, is still bearing about 50 percent of the burden of support for those Afghan refugees.

Pakistan is in a difficult position because they feel militarily threatened by the Soviet Union on the north and by India, a country with whom their relationship has not always been the best, on the south. They have been strong supporters of American policy in the region.

I think it not only is a moral obligation on the rest of the world to assist the Afghan refugees, but also, there is a strong responsibility on the part of the West to help relieve Pakistan of this enormous burden that the Pakistanis have very cheerfully undertaken, I might add.

So I commend to the Senate the amendment of the Senator from West

Virginia, and I hope it will receive unanimous support of this body.

**Mr. BYRD.** I thank the distinguished manager of the bill [Mr. Tower] for his support of this amendment.

Mr. President, I ask unanimous consent that the name of the able Senator from Washington [Mr. Gorton] be added as a cosponsor of the amendment.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. TOWER.** Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment of the Senator from West Virginia.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BYRD.** I thank the distinguished Senator.

**Mr. TOWER.** Mr. President, I suggest the absence of a quorum.

**The PRESIDING OFFICER.** The Secretary of the Senate will call the roll.

The Secretary of the Senate proceeded to call the roll.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BYRD.** Mr. President, I have been asked by the able Senator from Wisconsin [Mr. Kasten] to have his name added as a cosponsor of the amendment, and I ask unanimous consent that that be done.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BYRD.** Mr. President, I also ask unanimous consent that the names of Mr. Cohen and Mr. Nunn be added as cosponsors.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. BYRD.** I thank all Senators.

**The PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislation clerk called the roll.

**Mr. CRANSTON.** I announce that the Senator from Ohio [Mr. Glenn] and the Senator from Colorado [Mr. Hart] are necessarily absent.

**The PRESIDING OFFICER.** Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall vote No. 142 Leg.]

YEAS—98

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—2

Glenn
Hart

So Mr. Byrd's amendment (No 3242) was agreed to.

**Mr. TOWER.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. McCLURE.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** The Senator from Texas.

**Mr. TOWER.** Mr. President, Senator Mathias is here and is prepared to offer his amendment. I am trying to assist Senators in determining when amendments might come up. Obviously, who seeks the floor can get it, if they get the attention of the Chair.

After the disposition of the amendment of the Senator from Maryland [Mr. Mathias] Senator Trible of Virginia will be prepared to offer his amendment. Following that, Senator Specter will be prepared to offer his. That would give us an idea about three amendments.

It is my understanding that Senator Mathias is prepared to agree to a 1-hour time limitation to be equally divided, and 30 minutes on any amendment thereto be equally divided. Before I propound that, let me get the sentiment of the minority leader.

**Mr. BYRD.** Mr. President, I respectfully suggest to the distinguished manager that I have an amendment. I would not want to agree at this point to sequencing amendments.

**Mr. TOWER.** Mr. President, this is an informal order. I am saying that these Senators will be prepared in that sequence.

**Mr. BYRD.** Mr. President, I am certainly not wanting to delay action. I simply want to retain my rights to call up my own amendment at any point. As to time limitation on the Mathias amendment, we will be very glad to explore that on this side. We want to cooperate in getting time agreements, as much as we can.

**Mr. TOWER.** Mr. President, may I suggest to the minority leader that obviously we cannot sequence amendments without a unanimous consent. What I am simply saying is that people have been notified that this is an order that they could appear in. Hopefully we can get an amendment on sequencing later. Obviously, the minority leader does not want to be foreclosed, nor should he ever be foreclosed for any reason.

**Mr. BYRD.** I thank the Senator.

**Mr. TOWER.** Mr. President, I wonder if we could go ahead and proceed on the Mathias amendment. In the meantime, maybe we could work out a time agreement on that amendment.

**Mr. BUMPERS.** Mr. President, would the distinguished chairman of the committee yield for a question?

**Mr. TOWER.** I yield.

**Mr. BUMPERS.** I want to know if we cannot agree. I was under the impression that Senator Leahy and I were going to be next. Apparently, there has not been any kind of a firm understanding that we are ready to go.

**Mr. TOWER.** Would the Senator from Arkansas be ready to go after the Senator from Maryland?

**Mr. BUMPERS.** I will, indeed.

**Mr. TOWER.** Mr. President, may I say that there is no agreement on sequencing. I was simply proposing a sequencing order.

**The PRESIDING OFFICER.** The majority leader is recognized.

**Mr. BAKER.** Mr. President, I believe both cloakrooms have put out notices that an effort would be made at this point to see if we could get time limitations on amendments. I urge that we explore that at this point and forego the possibility of sequencing the matters, as the chairman has pointed out, which would be highly desirable but would complicate this a little bit. What we are really striving for is to identify the amendments we have to deal with, to see how much time it is going to take, and perhaps later we can figure out the time we are going to finish, or even get an order for a time certain to finish. But you have to walk before you can run. The first step is to identify the amendments that are still to be dealt with, and see if we can get time agreements.

I have a listing of amendments on this side of the aisle. I believe the minority leader may have a list of amendments on his side. If the two managers would like us to do so, I am willing to go over these lists as our cloakrooms have developed them on this side, and see if the managers would accept a time agreement; and, to see then if there is objection to putting down such an agreement without an attempt to sequence at this point.

**Mr. TOWER.** Mr. President, that is perfectly agreeable with me. What I suggested was that we proceed with Senator MATHIAS' amendment. He is here and ready to proceed. While we are in the process of debating that amendment, we have already been prepared to agree on the time, but we can have a time agreement on that one.

Mr. BAKER. I thank the Senator. I would like to get agreements now. If the Senator from Maryland would let me take 10 minutes, I would like to try. Is that agreeable with the Senator from Maryland?

Mr. MATHIAS. The majority leader can do anything he wants, Mr. President. [Laughter.]

Mr. BAKER. Mr. President, I wish that were so. But I am grateful for the cooperation from my good friend, and a man with whom I have such great respect, the Senator from Maryland.

Mr. President, first I have on my list an amendment to be offered by the Senator from Connecticut [Mr. WEICKER]. I am advised that Senator WEICKER is agreeable to a time limitation of 30 minutes equally divided, and that this amendment deals with the submarine school in Connecticut. If I could inquire, first of the manager on our side to see if that is agreeable with him, and then the minority leader, if he is prepared for me to put a request in that respect. Before they answer, may I say that the form of the request I will put in each case is that no amendment will be in order in the second degree. They will be first-degree amendments, and no second-degree amendments will be in order; that there be a time limitation of 30 minutes, and the control of the time be in the usual form.

Mr. BYRD. Mr. President, does the majority leader wish me to respond?

Mr. BAKER. Mr. President, I yield to the minority leader.

Mr. BYRD. Mr. President, the distinguished majority leader is attempting to get an order on each amendment that will alleviate the problem of unknown amendments which could come in, and get a vote without any time for debate. That is what he is trying to do. I would be agreeable to this procedure. If the majority leader would not mind, I could visit with him about the language. I do not think the language that he has indicated will do the job completely.

If he does not mind, I will talk with him privately, or I would be glad to suggest openly the language I have in mind.

Mr. BAKER. I wonder if the minority leader would go ahead and make his suggestion. I would very much like to have it.

Mr. BYRD. Mr. President, I hope the majority leader in his request would provide that upon the expiration of the time agreed to on the amendment, no further amendment and no further motion be in order, with the exception of a motion to reconsider, until the amendment is disposed of.

Mr. BAKER. Mr. President, I understand and I adopt that language. The language, as I believe the minority leader described it, would not preclude a motion to table.

Mr. BYRD. It would preclude a motion to table.

Mr. BAKER. Mr. President, I would wish to modify that so that it would be on or in relation to that amendment so that the managers would preserve the right to table if they chose to do so.

Mr. BYRD. That is agreeable. The motion to table is with reference to the amendment on which the time agreement has been obtained.

Mr. BAKER. Mr. President, I believe we better put this on paper. May I withdraw my earlier request and suggest to the managers that they go forward, if they can, with the Mathias amendment or some other amendment and I will try to reduce this to writing.

Mr. TOWER. Might I say to the minority and majority leaders that we are shopping with people who have amendments.

Mr. SARBANES. Is it the intention of the majority leader to have a lengthy quorum call on this?

Mr. BAKER. I do not think it will take over 5 minutes. I would suggest that Members remain in the Chamber while the minority leader and I try to agree on language such as we just agreed on.

Mr. SARBANES. There are some Senators in meetings this afternoon. I do not know whether they would support this proposition or not.

Mr. BAKER. Mr. President, there is no consent for committees to meet this afternoon. If they are meeting, I trust they are not transacting business because that would be illegal at this point. Mr. President, in any event, I think in just a moment or two we can pick up where we left off.

Mr. BYRD. Will the majority leader yield to me?

Mr. BAKER. Yes.

Mr. BYRD. If any committees, except Appropriations and Budget, are meeting without the consent of the Senate, they are meeting in violation of the rules of the Senate. I would hope, and ask the majority leader if he would agree, that in view of the fact that there is a great desire to get this bill acted upon and completed, and there is talk of going all night, but there is hope on the part of many that we might be able to reach an agreement which would allow us to go to midnight tonight and go over until tomorrow and finish the bill tomorrow—I am describing my side of the aisle, to try to work out an agreement to that effect—with all that effort to try to complete this bill, I hope Senators will come to the floor and be here to call up their amendments and contribute to the action on this bill. Therefore, I hope that the majority leader will not allow any committees to meet today, this afternoon.

Mr. BAKER. Mr. President, may I say that no requests were put for committees to meet beyond the time permitted under the rules. Therefore, no consent was given. The minority leader is entirely right. Any committee meeting at this point is doing so in violation of the rules of the Senate.

Mr. BYRD. Except for Appropriations and Budget.

Mr. BAKER. Except for Appropriations and Budget.

Mr. President, I think if I can have just a moment, we can get this train back on the track.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, let us have order, please.

The PRESIDING OFFICER. The Senate will be in order.

### AMENDMENT NO. 3193

(Purpose: To express limits on the sense of the Congress regarding verifiable limits on the deployment of sea-launched cruise missiles equipped with nuclear warheads, and for other purposes)

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. MATHIAS], for himself and Mr. DURENBERGER, proposes an amendment numbered 3193.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON FURTHER DEPLOYMENT OF SEA-LAUNCHED CRUISE MISSILES

SEC. 1019. (a) The Congress finds that—

(1) the Soviet Union has yet to return to the strategic arms reduction talks (hereafter in this section referred to as "START") or the intermediate nuclear force reduction talks (hereafter in this section referred to as "INF");

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States has both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete

elimination of all such weapons from the earth;

Whereas the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth;

Whereas sea-launched cruise missiles equipped with nuclear warheads, could greatly complicate the prospects for such nuclear arms control agreements and unless verification can be achieved; and

Whereas limits on sea-launched cruise missiles equipped with nuclear warheads can be verified by on-site inspections. Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That the President should, at the earliest possible date—

(1) urge the Soviet Union to return to the START and INF negotiations;

(2) include in the appropriate negotiations a discussion of sea-launched cruise missiles equipped with nuclear warheads with a view toward the complete elimination of such missiles from the arsenals of the United States and the Soviet Union; and

(3) advise the Government of the Soviet Union, that as means of advancing the goal described in pargagraph (2), the United States is willing to accept intrusive, on-site inspection as an integral part of mutual arms reduction, provided that the Soviet Union will do likewise; and

(4) further, advise the Government of the Soviet Union of the willingness of the United States to apply such intrusive verification measures to an interior agreement limiting the deployment of sea-launched cruise missiles pending the implementation of a final START or INF agreement, as appropriate.

**Mr. MATHIAS.** Mr. President, this amendment is offered for Senator DURENBERGER and myself. It deals, as I said, with the question of deployment of nuclear armed sea-launched cruise missiles [SLCM's].

Mr. President, the month of June 1984, may be recorded in history as a fateful month for the human race, because some time between now and the end of this month the United States will begin deployment of the nuclear-armed sea-launched cruise missile, popularly known as SLCM.

As weapons go, the nuclear SLCM has a kind of a macabre appeal. It is a bargain on the nuclear sales rack.

It is cheap at just over $3 million per missile. It is extraordinarily easy to transport, and because of its relatively small size, it is very easy to conceal. Moreover, it looks very much like other members of the cruise missile family: The air-launched cruise missile [ALCM] and the ground-launched cruise missile [GLCM]. But as weapons go, I think it is as unnecessary as a weapon can be. It will make only a marginal contribution to our national security and the price for that, the real price, is endangering the prospects for verifiable arms control agreements in the future.

This weapon will be ours within 11 days, perhaps even sooner. All this body has to do to make that so is exactly what we have done in the past in the course of considering this type of missile: Nothing. So I am here today in the company of the distinguished Senator from Minnesota [Mr. DURENBERGER] in what is obviously a last-minute, last-ditch effort to do something to prevent one more step toward nuclear folly—SLCM deployment.

Our amendment calls upon the President to propose to the Soviet Union a mutual and verifiable moratorium on the deployment of sea-launched cruise missiles equipped with nuclear warheads pending completion of a START or INF agreement.

Senators will remember, perhaps to their grief, that this is not the first time I have attempted to focus the attention of this body on the dangers posed by the nuclear SLCM. I underline, Mr. President, that we are talking about a nuclear SLCM, not the conventional SLCM. I am deeply concerned that time, once an ally in this debate, is no longer on my side.

The current U.S. program, the Tomahawk land attack missile/nuclear, known as TLAM-N, is intended to provide a range of sometimes conflicting capabilities. The Navy wants it to be a force multiplier, to diversify its tactical strike capability. But TLAM-N is also expected to become part of a strategic reserve, although just how targeting instructions would be relayed to our attack submarines after the U.S. command and control structure has been blown away is unclear, even to the experts. TLAM-N is also considered a theater weapon, although Supreme Allied Commander Bernard Rogers told the Senate Armed Services Committee in 1982 that he did "not anticipate having these U.S. strategic systems assigned to me as theater commander."

The operational Soviet nuclear SLCM program, while ongoing, while we know it is there, is unimpressive when compared with the TLAM-N, and is confined for the most part to a 600-kilometer range. We anticipate that that range will be extended. It is almost inevitable if we deploy a long-range missile, because that is the history of the nuclear arms race.

There are people who find apparent comfort in the fact that our SLCM technology is currently ahead of Soviet capabilities. What other reason might there be for responding to the Soviet nuclear SLCM threat, which has been around since 1962, with the first American nuclear SLCM in 1984? We have lived with this for 22 years. Why do we have to react now?

Historically, however, we know, that there is little comfort to be found in such superiority. In the late 1960's, the United States enjoyed a similar lead in MIRV technology. Our reluctance to relinquish MIRV's then created the land-based ICBM vulnerability that the United States in experiencing now. By refusing to include MIRV's in the SALT talks, we virtually invited the Soviet Union to match our MIRV capability in the fastest manner possible. They did.

I am fully aware of and increasing concerned by anticipated deployments of Soviet long-range nuclear SLCM's, like the SS-N-X-21, on submarines cruising off our east and west coasts. I think such activity should increase our sense of urgency. Not only is there very little time before large-scale nuclear SLCM deployments occur on both sides, but those deployments will further reduce the time either country would have to react to a missile attack, especially when supersonic SLCM's become operational, which is not too far in the future.

The manifold dangers posed by nuclear SLCM deployments are not military alone. Although the implications for verifiable arms control agreements have been clearly stated, the diplomatic consequences of nuclear SLCM deployments have been virtually ignored.

A hastily arranged appearance of Defense Secretary Weinberger before the Foreign Correspondents Club of Tokyo was necessary to allay Japanese fears about the impending arrival of the nuclear SLCM on U.S. warships. The extent of Japanese concern is reflected in the demonstrations and sit ins there against a nuclear SLCM presence within Japanese territory. The United States should think twice before inviting even minor confrontations over a missile of such marginal military utility. Similar protests could occur in any number of friendly ports where U.S. ships have traditionally been granted access.

Remember too that the diplomatic considerations will be unique to U.S. deployments, even though the U.S.S.R. will certainly continue to deploy. The U.S.S.R.'s relationship to its allies is one of enforced consent; there will be no placard-carrying Cubans and North Vietnamese awaiting the *Feodor Shalyapin* as she steams into port. And the Soviets will surely exploit any rumblings among our allies as the nuclear SLCM works its way around the world on our warships.

There is virtual unanimity among the arms control community and the defense establishment that American and Soviet SLCM activity will be, and in fact already is, difficult to verify. Once deployed on submarines and surface vessels the cruise missile will be almost impossible to detect. This problem is compounded by the fact that a conventional and nuclear SLCM are practically identical.

At present, we can estimate the numbers and capabilities of Soviet nuclear SLCM's with a reasonable degree of certainty. But a new generation of these weapons will make this task a practical impossibility. It is not unreasonable to imagine a time in the not to distant future when the United States will have to assume that every Soviet fishing trawler is a potential cruise missile launch platform.

Not long ago, as recently as September 1981, we were warned by General Rogers that:

> We have always, in the past, maintained that if you put cruise missiles with nuclear warheads on submarines you are, in fact, fuzzing up the distinction between tactical and strategic nuclear weapons.

Since this country began negotiating about nuclear weapons with the Soviet Union, it has avoided fuzzing up the distinction between tactical and strategic forces. In this respect, the nuclear SLCM is a giant step backward. The time to tackle such problems is now, before major deployments have occurred, not after the fact.

I am painfully aware of the difficulties associated with verifying a moratorium or an eventual ban on nuclear SLCM deployments. Neither I nor Senator DURENBERGER would support an accord that we did not find to be verifiable. But I do not see how we or the U.S.S.R. will be in a position to judge what might constitute adequate verification until we are talking to one another about this subject. An a priori assumption on either side that an agreement limiting nuclear SLCM deployments is unverifiable is the wrong approach. It is also wrong to simply respond to Soviet proposals on SLCM's and not consider an offer of our own—unless, of course, so little is understood about this missile's mission that a substantive U.S. proposal is impossible to present.

The alternative to negotiation, in this case, is not acceptable. Once both sides are engaged in nuclear SLCM deployments, President Reagan's search for an arms-control agreement incorporating verifiable deep cuts in nuclear arsenals will become a practical impossibility. A Congressional Budget Office study from March 1984 notes that "* * * unless an agreement embraces emerging weapons like the sea-launched cruise missile, it may be obsolete before it is signed."

So I say, Mr. President, let us not repeat the negotiating errors of the past. Let both the United States and the Soviet Union make an effort to address the nuclear SLCM question before it becomes an insurmountable obstacle to negotiated progress, to future arms-control agreements. Let us talk while there is still some time to talk.

As the astute British statesman, David Ormsby Gore, once said: "It would indeed be a tragedy if the history of the human race proved to be nothing more than the story of an ape playing with a box of matches on a petrol dump."

We may not be able to eliminate the petrol dump. We may not be able to confiscate the matches all at once. But we could start taking them away from the ape one by one—and we must do just that.

Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER (Mr. SPECTER). The Senator has the right to modify his amendment.

The modified amendment is as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON FURTHER DEPLOYMENT OF SEA-LAUNCHED CRUISE MISSILES

SEC. 1019. (a) The Congress finds that—

(1) the Soviet Union has yet to return to the strategic arms reduction talks (hereafter in this section referred to as "START") or the intermediate nuclear force reduction talks (hereafter in this section referred to as "INF");

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States has both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth;

(5) sea-launched cruise missiles equipped with nuclear warheads, if further deployed, will greatly complicate the prospects for such nuclear arms control agreements; and

(6) sea-launched cruise missiles equipped with nuclear warheads could create unforeseen and undesirable military and diplomatic consequences for the United States, its allies, and adversaries.

(b) It is the sense of the Congress that the President should, at the earliest possible date—

(1) urge the Soviet Union to return to the START and INF negotiations;

(2) include in the appropriate negotiations a discussion of sea-launched cruise missiles equipped with nuclear warheads with a view toward the complete elimination of such missiles from the arsenals of the United States and the Soviet Union; and

(3) propose to the Government of the Soviet Union, as an interim means of advancing the goal described in paragraph (2), a mutual and verifiable moratorium on any further deployment of sea-launched cruise missiles equipped with nuclear warheads pending the implementation of a final START or INF agreement, as appropriate.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. COHEN. What is the modification?

Mr. MATHIAS. Removal of the resolve clause.

Mr. President, I yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am pleased to join Senator MATHIAS in offering this amendment to impose a mutual and verifiable moratorium on the deployment of new, long-range sea-launched cruise missiles armed with nuclear weapons. It was nearly 1 year ago that Senator MATHIAS brought this complex and pressing problem to our attention. Now, we have a chance, quite likely our last chance, to provide a measure of guidance to a program which needs it.

Let me emphasize what this amendment is not.

It is not an effort to stop, or to urge that we stop, the development and production of any sea-launched cruise missile, whether land attack or antiship, nuclear armed or otherwise. In fact, the amendment is based on a strong belief that this Nation needs an antiship missile like the Tomahawk, and a land-attack missile with a conventional or submunitions warhead. So development, production, and deployment of the conventionally armed versions of the Tomahawk will go forward—by far the greatest portion of the overall Tomahawk program. The only thing called for—on a reciprocal and verifiable basis—is a pause in the actual deployment of the nuclear-armed land-attack cruise missile.

If the nuclear version of the Tomahawk is needed as leverage, production and stockpiling can continue. We seek only a pause before crossing the critical threshold of deployment, for we are deeply concerned that actual deployment will make future arms agreements exceedingly difficult, if not outright impossible to monitor.

We are asking for time to think this issue through—the same kind of time we missed by only seven votes last year and which the House mandated a few weeks ago. This administration needs that time simply to reach an internal agreement within the administration about the mission for and how to handle the known military and diplomatic problems and risks in deployment of the TLAM-N nuclear missile.

Since we introduced Senate Concurrent Resolution 111 about 1½ months ago, and especially during preparation for this amendment, we, its authors, have been lobbied from a dozen different administrative directions, and there is about as much agreement within this administration on the purpose and mission of the SLCM as there is on the administration's policy in Nicaragua. They need to get some satisfactory answers before we venture into this area. So a moratorium is appropriate American policy.

Second, this amendment does not cut into or impede production of the actual nuclear warhead proposed for the TLAM-N. If development work is needed, it can continue. Again, we seek only a moratorium on actual deployment.

Third, this amendment is not, nor does it propose, a direct tradeoff of the TLAM-N for the Soviet SS-N-X-21, or any other system comparable to the Tomahawk. In fact, I tend to think that these systems, while technologically similar, are in fact quite different in ultimate effect, given the relatively shallow strategic depth of the United States and the enormous strategic depth of the Soviet Union. What I mean is that we probably have more to gain if we can halt the Soviet system—which will strike halfway across our country—than the Soviets will gain if we pause on the TLAM-N, which is restricted by range to peripheral targets.

Obviously, even though this amendment is not designed as a tradeoff, it does link the TLAM-N with the SS-N-X-21. Why? Simply to use the coincidence of these two weapon systems as an entree to the larger issue of United States arms and arms control policy.

In essence, the proposal to go ahead with deployment of some 758 TLAM-N's aboard surface vessels and submarines represents a statement about arms control. It is a statement which holds that deployment of 758 additional weapons is good arms control. It is a statement which relies on both leverage and inevitability. It is a statement which I do not accept.

Deployment will underwrite arms control only if you accept the notion that the purpose of arms control is to build up in order to build down. And deployment will underwrite arms control only if you hold that when a weapon poses a serious threat to verification, it should be deployed since the problems are inevitable.

These are not definitions of good arms control with which I am comfortable. Let me note why.

First, while I accept the need for leverage in our arms and arms control policy, I point out the leverage is psychological, not physical. We retain leverage as long as we retain the evident capability to do something of interest. Leverage is based on capacity, not action. So to deploy a weapon like the TLAM-N, about which there are many unanswered questions, on grounds that we thereby gain leverage strikes me as arms racing, not arms control. It is likely to elicit reaction, not restraint.

Second, and likewise, I strongly feel that if there is any prospect whatsoever of getting a handle on verification issues, we should do so. But the time to do so is before deployment, not afterward. If we can gain a moratorium, we lose nothing and we may gain much. But we will not get that handle on verification if we move to deployment now. And the loss in this case will not be offset by any gain at all.

Some people argue that because the Soviets already have a large number of cruise missiles at sea, many armed with nuclear warheads, our own deployment is long overdue. In effect, they argue that we are responding to Soviet leverage, and that verification is a moot point given two decades of Soviet cruise missile deployment.

Am I aware of the current Soviet SLCM threat? Yes, absolutely. Am I aware that the Soviets have increased their SLCM deployments off our coastline in response to our deployment decision in Europe? Of course. But are these facts relevant? No, not at all.

The current generations of Soviet cruise missiles at sea are of limited range; they are moreover primarily antiship missiles, not land-attack versions; if used in a land-attack mode, they are primarily redundant weapons which can restrike the population centers that have already been attacked by other weapons in the Soviet ballistic arsenal, but they cannot attack targets of military interest such as missile silos or air bases; finally, they are deployed in highly observable launchers. So the point is that the current generation of Soviet cruise missiles represent a problem which is known and bounded, and verification in particular does not pose a challenge. That is why people can speak with such precision about just how many SS-N-3 and other Soviet missiles are now facing us.

By contrast, the Soviet SS-N-X-21 and the TLAM-N are of comparatively long-range, and the Soviet system is certainly capable of attacking point targets deep in our interior. Ironically, of course, one of the failings of the TLAM-N is that it does not go far enough to present a countervailing capability. Nonetheless, the long range in these systems makes them qualitatively different from existing cruise missiles. Moreover, in contrast to the current generation of Soviet cruise missiles, the TLAM-N is explicitly a land-attack weapon, not an antiship weapon. Finally, since the launchers for the TLAM-N and the SS-N-X-21 are as common as torpedo tubes, there are no observable features with which to estimate launcher levels.

Mr. President, if the Presiding Officer will look to his left or his right from where he is seated and look at one of those columns and presume it starts on the floor and goes up about to the top of the head of one of those reporters it is about 21 inches in width, that is what one of these Tomahawk missiles looks like. If you look the other way at the pillar on the other side you will find something that looks just like it, and this is a conventional Tomahawk.

Given current counting rules in the SALT and START negotiations, this suggests that any vessel capable of carrying a TLAM-N will be counted as a nuclear delivery vehicle. The result could be either such strict limits of cruise missiles that no antiship missiles get built, or, conversely, such high levels that arms reductions become meaningless.

So to argue that the TLAM-N is an appropriate response to the existing Soviet cruise missiles is ultimately no argument at all. It is an attempt to compare two entirely different problems, which I think is both bad economy of force and worse arms control policy.

So the real issue Senator MATHIAS, I, and others suggest we address here is simply the issue of timeliness. Is this the time to lauch our first major weapon in the President's five-part strategic modernization package? Unlike the controversy over the MX missile, where the weapon itself became the issue, the issue with the TLAM-N is timing, not technology. There are at least five reasons why this is simply the wrong time to deploy, and why it is the right time to attempt a mutual and verifiable moratorium.

First, the Soviets have not yet launched the SS-N-X-21, and while they may do so, for now, they have not. If we go ahead with our deployment of the TLAM-N, they will certainly follow on with the SS-N-X-21. If we pursue a momentary pause—a mutual moratorium—there is at least a chance we can keep them from deploying. The key here is timing.

Second, let us remember that no matter how we define arms control, the real arms control agenda will emerge only after November, when President Reagan has demonstrated to the Soviets that he is in charge for another 4 years. It is when a newly reelected President once again offers to put everything on the table that Konstantin Chernenko, or his successor, will become interested in talking. But for now, the arms control process is at a standstill, and the Soviets are to blame—a point expressly made in our amendment.

It would be a tragic loss of opportunity, however, if we were to diminish the chances of a post-November agreement by a hasty action in June. Nobody would argue that the TLAM-N is urgently needed today. We can clearly afford to wait, but we cannot afford to lose. Again, the key issue is timing.

Third, let me return to the point I mentioned earlier—leverage is psychological, not physical. If the Russians are as worried about our TLAM-N as the Department of Defense has told me, my response is "good, let them worry. Maybe President Chernenko will have another reason to put everything on the table." But, let me add, if we deploy now, before November, we have shot our bolt. Our leverage will be exhausted before it does any good. Again, the issue is timing.

Fourth, and I do not wish to dwell on this point, the fact is that President Reagan's leadership has helped to pull NATO through a very tough decision, courageously reached by all the members of the alliance. That decision, of course, was modernization of the Intermediate Nuclear Force.

Now the fact is that a TLAM-N is part of the same Tomahawk family as the ground-launched cruise missile being emplaced in Europe. At this critical time, when 572 new systems are programmed for Europe, I fear that an additional 758 TLAM-N's, with their dual status as strategic reserve and theater weapons, will cause us major problems. Once again, Mr. President, the issue is timing.

Finally, let me briefly note that we appear bent on deployment of the TLAM-N before we have answered some very serious questions about the impact of deployment on our day-to-day military situation. For instance, are we really prepared to offload torpedos from our submarines until we get vertical launchers some time in 1986? Have we thought through whether the manning requirements for our fleet will become more stringent as more nuclear weapons are deployed? Do we have clear lines of command, given the dual status of TLAM-N?

Mr. President, over the past 2 years, I have had the honor to speak at both the launching and the commissioning of the U.S.S. *Minneapolis-St. Paul*, SSN-708. I have toured this attack submarine at length, and have gotten to know its captain and crew. One thing which I have learned above all else is that our fleet of attack subs is the cutting edge of our maritime strategy. I do not want the *Minneapolis-St. Paul* and its crew to lose their fighting effectiveness because they are forced to carry nuclear weapons which will never be used. And I do not want the people of the United States to weaken their ties with the men and women in our Navy because of a decision to proliferate nuclear weapons aboard every possible platform.

I am not satisfied we can answer any of these questions affirmatively. Until we can, deployment is simply not merited. As before, the issue is timing.

Mr. President, let me conclude by reminding my colleagues that there are plenty of reasons to question the TLAM-N on its merits. But the issue here is not just that. The issue here is whether we will give arms control a chance, at no cost, to succeed.

I urge my colleagues to support the moratorium, and I yield to my colleague from Maine.

### AMENDMENT NO. 3246 TO AMENDMENT NO. 3193 AS MODIFIED

(Purpose: To express the sense of the Congress regarding Sea-Launched Cruise Missiles and Mutual arms reductions)

**Mr. COHEN.** Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 3246.

**Mr. COHEN.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Strike all after "The Congress finds that—" and insert in lieu thereof the following:

(1) the Soviet Union has yet to return to the Strategic Arms Reduction Talks (hereafter in this section referred to as START) or Intermediate Nuclear Force Reduction Talks (hereafter in this section referred to as INF);

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States has both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) the President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth; and

(5) the existence of Sea-Launched Cruise Missiles complicates the prospects for nuclear arms control agreements given the characteristics of such missiles which constitute impediments to effect verification:

(6) Sea-Launched Cruise Missiles equipped with nuclear warheads are currently deployed in large numbers by the Soviet Union.

(7) Both the Soviet Union and the United States have tested and are in the process of deploying new, long-range Sea-launched Cruise Missiles equipped with nuclear warheads.

(b) It is the sense of the Congress that the President should, at the earliest practicable time—

(1) urge the Soviet Union to return to the START and INF negotiations

(2) include in the appropriate negotiations a discussion of means whereby limitations on Sea-launched Cruise Missiles equipped with nuclear warheads may be verified with a view toward achieving the complete elimination of these and all nuclear weapons from the arsenals of the Soviet Union and the United States; and

(3) advise the Government of the Soviet Union that as means of advancing the goals discussed in Paragraph 2, the United States continues to be, and the Soviet Union should be, willing to accept those intrusive on-site inspection procedures necessary for effective verification as an integral part of mutual arms reductions.

**Mr. COHEN.** Mr. President, I rise to express my opposition to the amendment offered by the Senators from Maryland and Minnesota. But first, before addressing the issue, I wish to say that in this morning's newspaper I saw that there was a statement quoting a high administration official. How high or what official will remain forever anonymous, apparently. But according to that particular article, there is a deep-seated feeling within administration circles that most American citizens somehow have only a primitive understanding of arms control issues. The statement was then volunteered that most Senators have a better than primitive understanding of arms control issues. I would like to say that the Senator from Maryland, Senator MATHIAS, and the Senator from Minnesota, Senator DURENBERGER, certainly have more than a primitive understanding of arms control issues, as I suspect many Members who are here today would also have.

So I must take issue with those statements that are emanating from on high that we up here on the Hill fail somehow to express any thoughts and thought-provoking ideas about how we can establish a better arms control regime or relationship with the Soviet Union.

I also noted in today's Washington Post that the head of the Arms Control Disarmament Agency has come to the conclusion that perhaps in order to avoid a split in partisanship up here on the Hill, the time has come for the establishment of an enduring—durable, if I can use that phrase—bipartisan commission that will have longevity over and beyond that of any passing administration.

And suddenly, one year after the idea was submitted originally by those primitive-thinking Members up here on the Hill—including Senator NUNN and myself—I would recall for Members who are here that this was part of the original build-down proposal that was submitted for the White House's consideration. A year ago we called for the establishment of a bipartisan commission that would have an enduring relationship in terms of surviving any one given administration.

So apparently ideas that are surfaced on the Hill as primitive-thinking eventually do percolate to the top and have at least the possibility of becoming actual policy.

Mr. President, I rise against this particular amendment because I believe that it is tantamount to a unilateral moratorium. While it is phrased with the words of a mutual moratorium, it, in effect, would serve to be unilateral. The primary benefit to our Nation from this deployment would be a reduction, in my judgment, of the risk of nuclear war with the Soviet Union because these missiles are not first strike weapons. They have a flight time of at least 3 hours—they can in no way be considered on a first strike basis. They are retaliatory. They can be deployed on ships and submarines at sea, and they are resistant to preemptory attacks when compared to weapons in fixed locations.

I was interested to hear both of my colleagues from Minnesota and Maryland suggest: Is this the time to go forward? Is this the kind of signal we want to send?

Well, it strikes me as being somewhat ironic that a year ago we certainly were insisting that our allies measure up, screw up their courage against Soviet attempts to intimidate them and go forward with the deployment of a ground-launched cruise missile and the Pershing II missile, and now we would suggest that we ought not to go forward with a system which is inherently more survivable and inherently more stable than a ground-launched system.

A second and similar benefit is a reduction in the incentive for the Soviet Union to initiate preemptive nuclear strikes against our aircraft carriers. By distributing this tactical offensive capability from a small number of 13 aircraft carriers as it now exists, to a much larger number of ships and submarines, the Soviets will be less inclined to ever launch such an attack.

And I have heard the debate rage in this body for the past 6 years about how advisable it is to have a dispersed force as opposed to a concentrated force. And that is exactly what the Tomahawk cruise missile is designed to do, disperse the offensive capability, the tactical, theater, or, indeed, strategic capability of our forces.

Finally, as has been pointed out, the Tomahawks would provide an important and effective addition to this Nation's strategic nuclear reserve. It also has been conceded by the sponsors of the amendment that the Soviets have already deployed cruise missiles themselves. They have since 1962. Their first one was the SS-N-3. It does have a land-attack capability with a dual-warhead option. It can either be conventional, or it can be nuclear. Apparently, that is dismissed.

They now have at least six different kinds of sea-launched cruise missiles with a dual capability. At least two of the missiles have a stated mission of attacking land targets. Each one can be used to attack large populated areas that do not require a very precise targeting capability or a long-range flight.

I point out, Mr. President, that 50 percent of the population of this Nation lives within 50 miles of our coastline. So, 50 percent of our people are currently threatened by nuclear-armed, sea-launched cruise missiles carried on Soviet submarines and surface ships at this very moment, and have been since 1962. And we have no effective means for determining which of their dual-capability missiles have nuclear warheads. I think that is conceded by the sponsors of this amendment. We cannot tell at this time how to distinguish between a conventionally armed cruise missile and a nuclear-armed cruise missile.

Mr. President, I would argue that the amendment before us today would have the President go to the Soviets and offer to impose a unilateral moratorium on the deployment of nuclear SLCM's. If the Soviets were to agree, we would not deploy Tomahawk, and they not deploy their next missile, the SS-NX-21. It would still amount to a unilateral moratorium, given the large deployments the Soviet ships now carry.

With so much of our population so close to the coasts, and with so much of theirs so far inland, we again fail to improve our deterrent posture; we enhance their potential against us; and we submit ourselves to arms control that will not be reciprocated. We would hold hostage the modernization of our nuclear deterrent while supplying neither an impediment to nuclear war or an incentive to the Soviets to discuss meaningful arms control.

I think the supporters of this amendment have expressed a number of legitimate concerns. The question is: Are these expressed concerns sufficient to merit, in effect, unilateral constraint on our naval forces?

One concern is that it is not possible to differentiate the nuclear versions of these weapons from similar conventional versions. That may be true; and what would it mean?

Among other things, it means that it is impossible for us to verify Soviet compliance with a moratorium or ban on these weapons. Adoption of a moratorium, even though it is intended to be mutual, would be impossible to uphold and would deny us an important modernization of our nuclear deterrent. It would do so without addressing existing Soviet capabilities or effectively limiting future Soviet deployments. Mr. President, I favor arms control provided it is effective and not illusory.

A second concern is that the Soviets will deploy their own nuclear cruise missiles at sea.

As I said before, the fact is they have already deployed them for the past 20 years. They threatened, in retaliation, to deploy something that looks like the Tomahawk, a Tomahawkski. The fact is it is unclear whether the unilateral moratorium would have any effect whatsoever on the deployment of the new SS-NX-21, or, even if it did, whether we could verify whether they were deploying a conventionally armed or nuclear-armed Tomahawk look alike. We do not even know for sure whether or not they had deployed or held back from deploying the SS-NX-21.

I would suggest that a moratorium at this time provides no additional incentive to the Soviets for arms control that is not already in place.

Mr. President, make no mistake about it. I think the Soviets would be interested in having us not go forward with this system. I do not disagree with that. But some have suggested—not the authors of this amendment, but others—that we avoid deployment of both types of missiles—since you cannot distinguish between the conventional and the nuclear, do not deploy any cruise missiles.

Once again, to go back to the existing situation, the Soviets already have substantial cruise missiles at sea now, including some with ranges over 200 nautical miles, some of which are supersonic. And we have only the Harpoon, which has a range roughly of 60 miles. So to forgo the deployment of the conventional Tomahawk would freeze us into a permanent disparity in sea-launched cruise missiles relative to the Soviet Union and this, I should add, at a time when the Soviet Navy has embarked on the construction of many, large blue-water surface ships.

Some have also observed that nuclear Tomahawk missiles can blur the difference between strategic and theater nuclear weapons, and have then gone on to suggest this is a reason for a unilateral moratorium on our own deployment. Mr. President, I see little evidence to support that assertion. The blurred difference between strategic and theater nuclear weapons has hardly made an impression on the Soviets. They continue to deploy SS-20 missiles on land in Europe. They maintain that the SS-20 is a theater system because it can only strike our allies and over 300,000 American Troops, but the Pershing II and GLCM are strategic because they can strike the U.S.S.R. They obviously make very little of our commitment to our allies, and, indeed, even less to our soldiers who are currently stationed there.

Mr. President, the fact is that we must deal with events and facts in this world as they exist; and the fact is that with the deployment of the nuclear Tomahawk we are taking only one small step in redressing a huge disparity in U.S. naval weapons, a step that should have been taken years ago, and it must not be delayed further.

For those of us who want to seek arms control in the field of SLCM's, I should point out that President Reagan has said: "Everything is on the table."

Second, I am satisfied that if the Soviet Union would agree to serious verification procedures—such as random onsite inspection of their ships—that a basis for control in this area is within our grasp.

As I said earlier, any move toward what is essentially a unilateral moratorium on the deployment of an essentially retaliatory weapon is just bad arms control, and I would urge my colleagues to reject the amendment offered by the Senators from Maryland and Minnesota and to support the substitute amendment which I have offered, rather.

I would like to take just a moment to read through the provisions so that we can at least discover that there are a number of common interests that the amendment I have offered shares with that of the Senators from Maryland and Minnesota.

First of all, Congress would find No. 1, that the Soviet Union has yet to return to the strategic arms reduction talks, or START, or the intermediate nuclear force reduction talks, referred to as INF; No. 2, that an early resumption of these negotiations is in the interest of all mankind; No. 3, that the United States has both demonstrated flexibility in START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposal. I do not think there is any question about No. 3. We have a President who has demonstrated flexibility, and he has expressed a willingness to consider any reasonable Soviet proposal.

No. 4, the President has repeatedly emphasized his willingness to negotiate limits, or reductions, in the stocks of all nuclear weapons with a view toward the complete elimination of such weapons from the Earth. In shorthand, Mr. President, the President has said everything—including Tomahawks, GLCM's everything—is on the table subject to negotiation with the Soviets.

No. 5, I share the belief as expressed by the Senators from Minnesota and Maryland that the existence of sea-launched cruise missiles complicates the prospects for nuclear arms control agreements, given the characteristics of such missiles which constitute inherent impediments to effective verification. There is no doubt that the cruise missiles pose a problem for verification.

No. 6, sea-launched cruise missiles equipped with nuclear warheads are currently deployed in large numbers by the Soviet Union. There is no dispute on that.

No. 7, both the Soviet Union and the United States have tested and are in the process of deploying long-range sea-launched cruise missiles equipped with nuclear warheads. There is no dispute again.

It is the sense of Congress that the President should, at the earliest practicable time, No. 1, urge the Soviet Union to return to START and INF negotiations; No. 2, include in the appropriate negotiations a discussion of means whereby limitations on sea-launched cruise missiles equipped with nuclear warheads may be verified with a view toward achieving the complete elimination of these and all nuclear weapons from the arsenals of the Soviet Union and the United States; and No. 3, advise the Government of the Soviet Union that as a means of advancing the goals discussed in paragraph 2, the United States continues to be—I emphasize "the United States continues to be"—and the Soviet Union should be, willing to accept those intrusive, on-site inspection procedures necessary for effective verification as an integral part of mutual arms reductions.

Mr. President, those are the essential elements of the sense-of-the-Congress resolution that I believe takes into account the legitimate concerns raised by the not-so-primitive thinkers from Maryland and Minnesota, men who have studied this issue over the years in their service in the Senate. I believe it accomplishes the basic goals of trying to bring the Soviet Union back to the negotiating table, and telling them in advance that everything is on the table. It is all subject to negotiation, and we are willing, as we have always been willing, to subject ourselves to intrusive verification measures which would be essential if there is to be any reliable, verifiable means of confirming the existence and presence of nuclear armed cruise missiles.

I yield the floor.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. COHEN. I yield to the Senator from Indiana for a question.

Mr. QUAYLE. Mr. President, I certainly think the Senator's substitute is far preferable to the one offered by the Senator from Maryland and the Senator from Minnesota. However, if I had my preference, I would not adopt either one of them because I think what it does again is that we are getting into the position of being Monday morning arms control experts, although three Senators have a great deal of expertise in this. I think it is a poor way to conduct business. Be that as it may, I am certainly opposed to the moratorium. One thing that concerns me about the Senator's substitute is No. 5 where he says the existence of sea-launch cruise missiles complicates the prospects for nuclear arms control agreements given the characteristics of such missiles which constitute inherent impediments to effective verification.

That is true. But I think there are a lot of other weapons systems we can say that about, too.

I wonder if the Senator might modify his substitute and after "sea-launch cruise missiles" insert the words "and other weapons systems" because I can name other weapons systems that would have essentially these kinds of characteristics and would complicate the arms control aspects. I think it will not be picking on this, saying yes, this complicates it, but other weapons systems as well. I wonder if the Senator would take that as a modification.

Mr. COHEN. Mr. President, I have no objection to accepting that as a modification. However, this amendment was tailored specifically to deal with the SLCM.

Mr. QUAYLE. That is one of the reservations that I have as we discussed this. We ought to be talking about other weapons systems as well. I think even though the emphasis would still be on the sea-launched cruise missile, if you include those words "and other weapons," I think it would show, and the record will show, that this is not the one that is going to be the central problem in the area of verification.

Mr. MATHIAS. Mr. President, let me urge the Senator not to press that point. He has made the point in debate. It is now recorded for immortality in the records of the Congress. I do not disagree with the points he makes. But we are focusing here on a sea-launched cruise missile amendment. I would hate to see us diffuse that attention by including other systems.

Mr. QUAYLE. Mr. President, I would tell the author of the substitute that yes, this is what has precipitated the debate but I can assure the Senate that this issue of impairing impediments to effective verification is not just going to be relegated to the SLCM. There are a lot of other weapons systems that are affected.

Mr. MATHIAS. Mr. President, each one of them ought to have their day. Let us debate them day by day. But today we are debating the nuclear SLCM.

Mr. QUAYLE. That is what the Senator does not want to get involved in: for every single weapons system we will have to have an amendment to discuss a problem of verification. I think to make this more accurate, to reflect what the Senator from Maryland says, that is somewhat the debate going on. I would not see any problem with having the modification, if the Senator from Maine would be agreeable to put in "and other weapons systems." We are not spelling out what those weapons systems are, but we are going to show—in this substitute that will hopefully be adopted over the amendment by the Senator from Maryland—that it was not just a sea-launch cruise missile that is going to present a lot of problems out there in the future. Knowing the good judgment of my friend from Maine, he would like to accommodate his good friend on the Armed Services Committee. He might be willing to modify that.

Mr. COHEN. Let me say to the Senator from Indiana, I have no dispute with his statement that there are other systems which also pose problems of verification. That has been something that we dealt with on this floor just last week with the so called ASAT weapons, whether they be armed with conventional or nuclear tips. There are inherent problems of verification of ASAT weapons which we all recognize now. But the fact of the matter is that this is one that has a particular relevance today. It is about to be deployed. There is substantial disagreement within, if not the administration, certainly our military forces, whether it be General

Rogers who does not want to have it considered as theater, or whether it be other military people who want it considered as theater. There are some who would characterize it as tactical. It can be used as a tactical weapon. There are others who say it is part of the Strategic Reserve. So it has the characteristics of all three. So it does offer some unique problems in terms of how do we verify compliance with any arms control regime.

The Senator is absolutely right, there are others. But I would think that for the purpose of this debate on this amendment, we can, as the Senator from Maryland has suggested, incorporate the Senator's words into the legislative history. Everyone is put on notice that this is not the only system; there are many others.

Mr. MATHIAS. And we will join in agreeing to that. But when we are talking abut Jersey cows, we do not have to list Golden Guernseys and Holsteins. We are talking about Jerseys. If we can limit the amendment to that scope, it would make for more precision in the legislative process.

Mr. QUAYLE. I would say to my friend from Maine, I know there is discussion on how they are going to get into a counting on this weapon, a lot of concern on verification. I do not think anyone has a good handle on how you are going to verify without on-site inspection of each and every one of the cruise missiles and whether it is a conventional or whether it is a nuclear. But I also know in the military they want to go ahead with this program. They are for this program. They want to move forward on this program. That is why I think by just singling this one program out and having to have this debate, we are saying, "Well, this is sort of all by itself and raising the red flag." I do not see any harm in putting those words in there. The amendment goes to the sea launched cruise missile. I think for accuracy of the amendment you might want to modify it to include "and other weapons systems."

Mr. COHEN. The fact is that the military is going forward with the deployment of this system in about 10 days. This amendment will allow them to do that. There is really no impediment to them. It does call attention to the serious questions of verification. Frankly, I think it puts the issue in such a way that it calls upon the Soviet Union and the United States to sit down and negotiate or at least to explore ways in which there might be effective limitations on their unrestrained deployment.

I agree with what the Senator has said, but I see no need for including that language.

Mr. MATHIAS. Mr. President, the Senator from Maine has presented an interesting analysis of this problem, combined with a great deal of information and judgment. I respect the views he has expressed. I think perhaps he has miscast the amendment that Senator DURENBERGER and I have offered by calling it a unilateral restraint that would hold only the U.S. SLCM hostage, because it is anything but unilateral. Senator DURENBERGER and I have every intention that our amendment will be purely mutual. It is merely an invitation to the President to call for a special SLCM negotiation. That does not hold U.S. SLCM's hostage. In fact, it invites a mutual restraint and not a unilateral restraint.

Mr. COHEN. If the Senator will yield, the President is calling for negotiations now. General Rowney has his bags packed now. The negotiators are sitting with their bags packed waiting to go to Geneva.

Mr. MATHIAS. The Senator knows that, and every Member of the Senate knows that.

Mr. COHEN. The Soviets know that.

Mr. MATHIAS. But I think by identifying a particular and urgent problem which can be understood on both sides of the Atlantic we may be able to break out of the cycle that is imprisoning us.

I am not going to argue with the Senator about the details, about whether the TLAM-N has a 3-hour flight time. The Senator is expert in these matters, knowing that is a question of range and speed and fuel type as to what the flight time would be. But the important thing is to get down to the areas in which we agree.

The Senator has made a suggestion, and it is an important suggestion. He says that the U.S. Senate shall enact language which says that the United States continues to be willing to accept intrusive onsite inspection.

That is where the Senator is saying someting of real importance. That is the same language that I employed in an amendment which I offered earlier in this debate, which I had intended to call up at some later time. I think it is language which should be given great weight and great importance. It states before all the world that the United States will accept onsite intrusive inspection in this very delicate and sensitive area.

The reason that that appeals to me in this context is that it is a real invitation to the Soviet Union to break out of our fatal cycle. It is an important step forward. It puts the United States out in front where we should be with a gesture of peace, a gesture of willingness to reduce nuclear arsenals.

I am inclined to think that it might be a useful step at this time even beyond the moratorium that Senator DURENBERGER and I have suggested, for this reason: the very fact that our moratorium is mutual. It would only go into effect and remain in effect so long as the Soviet Union had not deployed any long-range SLCM's. And that, given the verification problems, is a matter of some uncertainty.

I can see it leading to enormous debates within the defense community: Have they or have they not deployed long-range SLCM's? I do not think we want to get too deep into that subject here today.

But those uncertainties will plague the moratorium question; whereas, if we go to intrusive onsite inspection, making clear that we are the first ones to be willing to accept it, then we have a concrete, objective test that the whole world will witness and respect.

Therefore, I am inclined, subject to the views of my friend from Minnesota, to accept this modifying language.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have a few brief comments.

First, let me compliment the Senator from Maine on the tack of his argument. I do not mean the part about the nonprimitives and the primitives. I mean the thrust of the discussion on the role that SLCM's play in arms control.

In preparation for this debate, I went back and read the RECORD of debate in the House. It was, in fact, embarrassing. I feared for a while if any of those people who opposed this effort on the House side were able to extricate themselves and come over here, the theory of unilateral moratoria would be taken to its extreme, and once again, despite what I did last night on funding in Nicaragua, I was painted up against the pink wall over there and given my own version of the Communist manifesto.

Let me just say that on an issue that is complex and difficult and on which none of us have all of the knowledge necessary to understand it entirely, I found the approach of the Senator from Maine to this issue helpful to the discussion, enlightening to our colleagues, I trust, and I think in the conclusion that he came to very, very important to the future of arms control in this country.

If you believe some of the literature on the subject of arms control negotiation, the Soviet Union has been trying to deal in the area of sea-launched cruise missiles for some time in the SALT III negotiations.

I think what the Senator from Maine has crafted here, assuming it becomes law, is a positive statement in favor of defining the role that sea-launched cruise missiles will play in the whole future of nuclear deterrence and in the area of arms control because it is that kind of arms control, and ours was not that positive, it just said we would not do something until something else happened. This said a variety of things to be done, and supports it rationally.

I hope that we can have a vote on it.

I shall make just one last comment, if I may, on a point of disagreement that, at least for the record, strikes me as important.

The Senator from Maine said that 50 percent of our population in this country is on our coastlines and is threatened by the current 1962 version of the Russian SLCM. First, for the record, let me say that I thought President Reagan answered that one in the press conference a couple of weeks ago when he said "I wouldn't sleep so soundly in Washington, DC, if I worried about that."

Mr. COHEN. He has Air Force One, Mr. President.

Mr. DURENBERGER. I thought my comments relevant to redundancy—in other words, all these critics are going to be wiped out anyway by the ballistic missiles; why do we fear that?

Third, I have a cartoon that, if we could ever get the CONGRESSIONAL RECORD to print cartoons, would be appropriate at this point. It is a picture of a fellow standing on the beach, probably at Nags Head or out in Ocean City or someplace like that. He is gazing out to sea and this palatial cottage is behind him. The caption under the cartoon—which is a cartoon by a famous Minnesotan, named Guindon—says, "Since only the wealthy can afford homes overlooking the ocean, do you realize that if America is attacked on either coast, our first line of defense are the rich?"

I end my comments on this threat to our coastline only as follows: The TLAM-N does not give us a comparable threat to the Soviet Union's. The TLAM-N is not the answer to the coastal threat because our geography is an incentive to the Soviets to build long-range cruise missiles like the 21 and they are going to get a big advantage when and if they deploy it. It seems to us that a mutual moratorium—if we could get them not to deploy the 21 in exchange for our not deploying the TLAM-N, which is not any good any way because they do not have a lot of big cities on their coastlines—would be worth the effort. But I think all of this is certainly worth the effort, particularly since it produced not only this discussion but the conclusion which the Senator from Maine came to, which I intend to support. For that, I am grateful.

Mr. WARNER. Mr. President, I have followed this debate closely and I shall have to state that I shall oppose the proposal that has been submitted by my distinguished colleague from Maryland, because I think the moratorium would be counterproductive in many areas. But I am highly intrigued by the proposal of the distinguished Senator from Maine, in particular the last paragraph, which is the subject of discussion at this moment. I shall read it for purposes of the RECORD.

> * * * the Soviet Union should be, willing to accept those intrusive on-site inspection procedures necessary for effective verification as an integral part of mutual arms reductions.

My question to the distinguished Senator from Maine is that that implies that we would, in all likelihood, consider having those inspections take place aboard our naval ships.

Mr. COHEN. That is correct.

Mr. WARNER. This is a subject that I have discussed at some length with senior officials of the Department of Defense and others in the administration. I presume that the Senator from Maine is aware that there is a difference of view, but nevertheless, there is a very important constituency in the national security arena of the present administration that is willing to take a hard look at this whole proposition.

My question is, Is the Senator aware of that constituency?

Mr. COHEN. I am aware of the constituency. What this amendment does is advise the Soviets that if we continue to be—and I believe that to be the case—they should be willing to accept these kinds of intrusive onsite inspections. That is perhaps the only way we shall ever have of verifying the existence of the nuclear-tipped missiles.

Mr. WARNER. However, in discussions of this subject before, it has always been my understanding that those initiatives were related primarily to land-based installations. Now this proposal is suggesting that we take an additional step forward and include another leg of the triad, namely, the sea leg and, more particularly, consider onsite inspections of the weapons compartments of our naval vessels.

Mr. COHEN. That is correct.

Mr. WARNER. I am certain that procedures can be devised to protect, say, the communications area, the react department of certain vessels. But nevertheless, I am supportive of going forth and examining this really precedent-setting initiative to include within the discussion of onsite inspection naval vessels so long as it can be done in a way to protect those things such as communications and the react department.

Mr. COHEN. That is correct.

Mr. MATHIAS. Will the Senator yield?

Mr. WARNER. Yes.

Mr. MATHIAS. He has made a very interesting point, that there is a constituency within the Defense Department that sees this as a constructive and positive policy direction. I am well aware of the existence of this body of opinion. I think it is one of the most encouraging things that I have seen in a long time, that the professional Defense Establishment is willing to think in these terms. Before I submitted the amendment which I shall now not call up, but which expresses this same concept, I had some very interesting conversations which demonstrate the positive thinking that is going on. I think the Senator from Maine has expressed that in his amendment.

Mr. WARNER. I thank the Senator from Maryland. I think that the proposal by the Senator from Maine deserves the strongest support and I intend to support it. I just wanted to clarify that point and make clear to our colleagues that this begins to open the way toward a serious consideration of that option. How that consideration may ultimately be resolved, it is too early to predict. Nevertheless, it sets a course of action in that direction. I thank the Senator.

Mr. COHEN. I thank the Senator for his comments.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I shall be very brief, but I do want to have the RECORD reflect that there is strong support for going ahead with the SLCM. This resolution, I think, as a substitute now certainly talks about the complications of the arms control and verification particularly of this and, as it points out, other weapons systems as well, although the Senator from Maryland did not want to have that actually included in the substitute. So the focus is on the sea-launched cruise missile. Therefore, I want to point out some of the positive aspects from an arms control point of view and the positive aspects of what the SLCM, the the nuclear-tipped SLCM will, in fact, offer.

It is already conceded that the Soviets have it, but I think from a more important point of view, you take any kind of exchange now where our ships threaten the Soviet cruise missile, and in that kind of operation, our response would have to be with the larger nuclear weapons that we have right now which everybody says is destabilizing, and we are working to try to get less megatonnage, smaller missiles, more mobility.

Yet what are we doing, if we did not have this capability, is that then our reliance would have to be on the larger, more expensive, so-called destabilizing weapons. That is not the direction I think anybody wants to go in. Therefore, it is of absolute necessity that we do go forward.

Second, I think it is very important to point out the vulnerability of this system and also the accuracy that will again reduce our reliance on the large nuclear systems that we want to see changed.

We are moving in the landbased ICBM's from a large one, the one we deployed, to a smaller one. It is very interesting that the characteristics of the ICBM and the sea-launched cruise missile are very similar. They are both single-warhead. They both have mobility. They both have survivability. They both diminish—and this is very important—first-strike threat. Do they both have verifiability with a high degree of competence? The answer to that is no.

As this Senator has said time and time again, we want to move quickly to the Midgetman, the smaller land-based ICBM. The characteristics are almost identical to those of the sea-launched cruise missile.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. QUAYLE. I yield.

Mr. COHEN. I think the Senate should not be under the impression that moving to a Midgetman, which I support, is going to provide any solution to our problems. Even under any assessment I have read about, if you go to the Midgetman and if you do not have an arms control regime in place, the Midgetman does not make any sense, either, because it can be overwhelmed by numbers.

So, each must be considered in the context of some sort of arms control proposal in order to be survivable. That would be particularly true with the Midgetman as opposed to this one.

Mr. QUAYLE. I point out that under the Midgetman as well as this, the verification, absent onsite inspection, will be very difficult—as a matter of fact, virtually impossible.

The substitute and the original amendment talk about onsite inspection. I do not think there is any disagreement about moving to onsite inspection, and as soon as possible. The problem is not even having communication.

I point out there are characteristics, which I will repeat: The single warhead characteristic, the mobility characteristic, the survivability characteristic, diminishing the first-strike threat. They all are characteristics of the Midgetman, the small ICBM, and the SLCM.

They also have the same problem in arms control, that neither can be verified. Yet, that is the direction in which we are moving. We are moving in that direction on the small ICBM. But at least the first amendment says, "Wait a second. We're going to have a moratorium."

I think the Senate should know that there are similar problems and similar characteristics, and I want the record to show that there is strong support by this Senator for moving ahead with the SLCM.

I should also like to see negotiations resumed. That goes without saying. I think everybody would like to see that. But I do not know how it is going to happen. It is a problem of finding out whom you are going to negotiate with and when. But that is a different discussion.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by Richard Brody on the nuclear SLCM moratorium.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

### A NOTE ON NUCLEAR SLCM MORATORIUM

(By Richard Brody)

However pious in intent, the proposed moratoriums in the House and Senate on U.S. deployment of a nuclear sea launched cruise missile [SLCM] are both counter to U.S. interests and unworkable. The nuclear SLCM meets several urgent U.S. military needs and could do much to deter Soviet nuclear escalation of a future conflict. It is unworkable since such a moratorium would do little to accomplish its stated purpose of easing verification of nuclear limitations.

The principal potential role of the nuclear SLCM is as a deterrent counter to Soviet theater nuclear operations, particularly strikes on our carriers. The theater battle for our navy is likely to center around our sea-based forces against Soviet land-based naval air. A sea-based land attack capability is thus especially critical to us. Moreover, a moratorium on nuclear sea-based cruise missiles which allowed the Russians to keep their current "500 km anti-ship missiles" would be particularly unbalanced. The SS-N-19, for example, is dual capable and represents 1980's technology. Where the Tomahawk's 2,500 km range would allow deep strikes into the Soviet Union, a 500 km limit would allow the Soviets to take advantage of the relative concentration of U.S. installations near our coast.

As a deterrent to Soviet theater nuclear operations, nuclear SLCMs have several advantages over SLBMs. They are much more accurate than current ballistic missiles or even the planned Trident II D-5, and they can be made even more accurate. This allows use of lower nuclear yields, reduced danger of collateral damage, and a much more credible deterrent (given that a "surgical" Soviet nuclear strike on our naval forces at sea could be a militarily devastating blow to us on NATO's flanks or in the Persian Gulf while doing virtually no collateral damage). Further, our SLBMs are particularly inappropriate for limited, controlled nuclear operations since each missile has about ten warheads and firing a missile poses a high risk of localizing the launching submarine. SLCMs, on the other hand, have one warhead each and cruise missile trajectories are much less likely to reveal launcher location since they do not follow predictable ballistic trajectories which can be backtracked. A final advantage of SLCMs as opposed to SLBMs or other "strategic" forces for countering Soviet theater nuclear strikes is that they would be launched from ships directly under the theater commander's control. While nuclear release authority would, of course, still remain in Washington, a theater commander would have greater confidence that when he needed them, he would not suddenly find that they had been distracted by someone else to some other mission.

Acquisition of nuclear SLCM dispersed among our naval ships could be particularly important in improving the survivability of our theater nuclear forces: Our land-based theater nuclear systems are normally concentrated in a relatively few, fixed and known storage sites. We and our allies are very reluctant to disperse them for obvious safety and security as well as political reasons. However, this invites a limited low warning Soviet preemptive nuclear attack. Ships, on the other hand, are normally in large part dispersed. Nuclear SLCMs would spread our sea based potential theater nuclear launch capability among a large number of them. Indeed, the very difficulty the Soviets would have in distinguishing conventional from nuclear SLCMs could keep them from confidently identifying which particular ships of ours were actually nuclear-armed. Thus, any planning for a preemptive theater nuclear attack would suddenly become much more complicated and much less credible.

Finally, there is little hope that these moratoriums will substantially improve verification of limits on nuclear cruise missiles. The House sponsor, Representative Bedell, has suggested that SALT II counting rules provide a precedent for distinguishing nuclear from conventionally armed variants (Congressional Record, May 31, 1984, p. H 5050). In fact, no such distinction is drawn in the SALT II Treaty.

The House resolution calls for allowing nuclear cruise missile deployments only when nuclear as opposed to conventional missiles could be counted by "a high confidence method." In fact, the moratorium itself could not be verified with any substantial assurance, let alone "high confidence." Conventional missiles and conventional missile tests provide all the payload and accuracy required for nuclear weapons delivery. A moratorium on deployment but not procurement of nuclear cruise missiles, as both the Senate and House versions propose, would be particularly vulnerable to massive overt or covert breakout. Even if procurement of nuclear armed cruise missiles were explicitly banned, a ban on production of nuclear warheads that could easily be fitted on them would be difficult to even adequately define, let alone to enforce.

Hence, a moratorium on nuclear armed SLCMs would be unbalanced in effect and would invite Soviet cheating while at most marginally easing our wider nuclear verification problems.

**Mr. QUAYLE. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Implications for Arms Control and Alliance Relationships," by Charles A. Sorrels.**

**There being no objection, the article was ordered to be printed in the RECORD, as follows:**

### IMPLICATIONS FOR ARMS CONTROL AND ALLIANCE RELATIONSHIPS

(From Charles A. Sorrels, U.S. Cruise Missile Programs (McGraw-Hill, 1983))

The United States began to emphasize development of long-range cruise missiles after the conclusion of SALT I in mid-1972. During the protracted negotiations of SALT II, the relationship between U.S. cruise missile programs, arms control, and alliance relationships became intertwined.

Long before SALT formally began in November 1969, negotiations by the United States directly with the Soviet Union on issues of particular concern to Western

Europe, such as the status of Berlin, were sometimes a source of anxiety and distrust by key U.S. allies, such as West Germany. During SALT II, although NATO strongly supported the SALT process as a core element of detente, some doubts and suspicions within Western Europe arose over the Protocol in SALT II, which emerged in mid-1977. The Protocol legitimized constraints on some new U.S. cruise missiles (GLCM and SLCM) of interest in Europe as options for a response by NATO to the deployment of the Soviet SS-20 IRBM, which is seen in Western Europe as increasing substantially the Soviet theater nuclear threat to NATO/Europe.

In the past, prospective deployments of some theater nuclear weapons for NATO have been controversial and have strained relations between the United States and some allies in Europe. In December 1979, NATO decided to approve production and planned deployment of 464 U.S. GLCMs (and 108 Pershing IIs); this decision was linked with a commitment to pursue arms control negotiations with the Soviets to limit long-range theater nuclear forces (LRTNF). Sustaining a consensus to proceed with deployment of GLCMs and Pershing IIs in Western Europe may, however, prove quite difficult.[1] Yet without some programmatic response (such as GLCM) under way in NATO, achieving arms control limitations on the SS-20 would surely be much less likely. The effort to achieve such limitations in arms control talks—which began formally between the United States and the Soviet Union in Geneva in late November 1981—seems likely to pose a demanding test of allied cohesion and U.S. ability to manage priorities in its relationships with its close allies and its superpower adversary, the Soviet Union.

## ARMS CONTROL AND CRUISE MISSILES

Arms control objectives can be served not only by arms control agreements but also by unilateral measures in the design, development, and deployment of forces. This fundamental point is often forgotten or not even perceived. It is imperative, however, to avoid the tendency to allow the pursuit of or achievement of arms control agreements—a means—to become an end in itself. The impacts of U.S. cruise missile programs upon arms control objectives are important to examine, as are the direct and indirect impacts of the SALT II agreements upon U.S. cruise missile programs.

Fundamental arms control objectives include enhancing stability in the strategic nuclear balance, constraining the costs of arms competition, controlling escalation once conflict has begun, and discouraging proliferation of sophisticated, especially nuclear, weapons. (Verification considerations are discussed later in the context of provisions of SALT II relating to cruise missiles.)

### *Stability*

Stability in the strategic nuclear balance has long been considered an important arms control objective and, in recent years, stability in the theater nuclear balance has become a growing concern to the United States and its NATO allies.

Stability in the strategic nuclear balance has been defined as applying both to a situation in a crisis (crisis stability) and to the longer term context of the arms race or competition (arms race stability). Crisis stability is a relationship in the strategic nuclear balance in which neither superpower in a crisis has an incentive to launch a first strike—an incentive derived either from anxiety over vulnerability of key elements in its own strategic forces or from a perceived prospect of succeeding through a first strike in disarming much of the retaliatory capability of the opponent's strategic forces.[2] (Such anxiety or perceived advantage can be an incentive for a preemptive first strike.) Stability in the longer term context of the arms race or competition has been defined as "a strategic force relationship in which neither side perceives the necessity for undertaking major new arms programs in order to avoid being placed at a disadvantage." [3] A fundamental goal of the United States in SALT has been to promote through agreed limitations both crisis and arms race stability.

With the development of high accuracy and sufficient nuclear yields, ICBMs with MIRVs can pose a severe threat to crisis stability and undermine arms race stability by providing a capability to destroy several launchers (even hardened silos) with warheads from one ICBM. Although the United States was the first to test and deploy MIRVed ICBMs and has had a substantial lead in accuracy in ICBM warheads, the Soviet Union's fourth-generation ICBMs (especially the SS-18 and SS-19), introduced after SALT I was completed in mid-1972, have a greatly increased throw-weight. The SS-19 has four times the throw-weight of its predecessor, the widely deployed SS-11. The Soviets can exploit their throw-weight advantage with more MIRVs that are capable of destroying hard targets than can be carried within the much smaller throw-weight of U.S. Minuteman III ICBMs.

The United States in 1972 found the quantitative advantages in ballistic missile launchers favoring the Soviet Union (1,710 for the U.S., compared to 2,358 for the U.S.S.R.) in SALT I's Interim Agreement acceptable on a temporary basis because bombers (of which the U.S. had considerably more) were not included and because of U.S. leads in accuracy and MIRV deployment. The U.S. has subsequently become increasingly concerned with the prospective vulnerability of the 1,000 silo-based Minuteman ICBM force to Soviet MIRVed ICBMs in the early 1980s. The United States had hoped that SALT II would curb that threat, and the Carter Administration attempted to curb it with its March 1977 comprehensive proposal to the Soviet leadership (discussed later in this chapter). SALT II as concluded in mid-1979 did not, however, succeed in substantially advancing the U.S. objective of curbing the threat of MIRVed ICBMs to crisis stability in the early 1980s. The United States is responding to this Soviet threat to the land-based ICBM component of the triad of U.S. strategic forces with a new, highly accurate ICBM, the MX. Under a plan approved by President Carter in September 1979, beginning in 1986 the MX was to be based in a deployment scheme intended to enhance survivability through mobility and concealment; each missile was to be moved occasionally on a mobile launcher among 23 multiple protective shelters (MPS). This basing scheme was rejected by President Reagan in October 1981, who proposed research on other new basing modes while placing "up to 50" MX missiles on an interim basis in existing Titan or Minuteman III silos that were to be further hardened. (That interim mode of basing MX was subject to substantial opposition in Congress, including skepticism about survivability and concern over high cost. Congress in passing the FY 1983 authorization bill for defense required a report by December 1, 1982 on a plan for a permanent basing mode, thus calling for a choice earlier than the 1984 decision point envisaged by the Reagan Administration when a strategic modernization program was announced in October 1981.) Regardless of its mode of basing, however, the MX missile force will pose a severe counterforce threat to the survivability of the Soviet ICBM force, which represents more of the Soviet strategic force capability than ICBMs do in the U.S. force structure, which has been more balanced with an emphasis also upon bombers and SLBMs. Thus, crisis instability in the early 1980s posed largely by Soviet ICBMs may be succeeded in the late 1980s with crisis instability also posed by the U.S. MX program, unless the Soviets move toward a survivable mobile ICBM force, perhaps deployed in a mode similar to that of their SS-20 IRBM force.

Some observers have compared cruise missiles to MIRVs in terms of posing a threat to crisis stability and being a major obstacle in arms control negotiations. Some believe that cruise missiles, like MIRVs were technological opportunities that should have been foregone in the interests of stability in the strategic balance. The failure of the United States and the Soviet Union to agree in SALT I to a ban on MIRVs is seen as an important missed opportunity to facilitate stability in the strategic balance by curbing one key avenue to a first-strike, counterforce capability. Some critics place principal responsibility for such a failure upon the United States, which had a lead of several years in demonstrating MIRV technology.[4]

The cruise missile case and the MIRV case are not, however, comparable. First, whereas in the case of MIRVs the United States had a lead of several years in a new capability, in the case of cruise missiles the Soviets had already undertaken extensive development and deployment of cruise missiles, especially on naval platforms for antiship missions. Some of these Soviet SLCMs could strike land targets in the heavily populated coastal regions of the United States. Although the Soviet cruise missiles do not have the low radar cross section and the high accuracy of the U.S. systems that could be operational in the early 1980s, the "pandora's box" was already long open compared with the MIRV situation at the end of the 1960s when the SALT I negotiations began. The Soviets have deployed sea-launched SS-N-3, SS-N-7, SS-N-9, SS-N-12, SS-N-19 and air-launched AS-1 through AS-7 and AS-9 through AS-11 cruise missiles. In addition, new generation ALCMs not yet designated by NATO are under development. Moreover, variations on some of these cruise missiles have been placed by the Soviets on ground launchers. Thus, the concern that the U.S. in its planned substantial deployment of SLCMs will thereby open a whole new area of military capability the Soviets otherwise would not pursue seems to be a misinformed apprehension. Such a concern or expectation also is perhaps ethnocentric in its presumption that the Soviet military force structure is largely a reflection of Soviet preoccupation with imitating or "catching up" with the United States. In terms of a key objective of arms control, deployment of SLCMs with high prelaunch survivability on nuclear attack submarines would contribute to crisis stability.[5]

Second, although with its high accuracy the cruise missile can be an effective counterforce weapon even against hardened targets such as ICBM silos, the required long delivery time for a cruise missile compared with that for MIRVs carried by an ICBM (10 to 12 hours from the continental U.S. compared with 30 minutes or less) makes the cruise missile, in contrast to MIRVed ICBMs, not an ideal first strike, short-warning, or surprise-attack weapon.[6]

Although cruise missiles thus cannot be equated convincingly with the threat to crisis stability posed by MIRVed ballistic missiles, they could nevertheless contribute to crisis instability in the theater nuclear balance if they are deployed in a mode that makes them vulnerable to a Soviet first strike.

Soviet military doctrine, as discussed in Chapter 3, places major emphasis upon the value of surprise and the preemption in the use of nuclear weapons in the theater. There has been concern for several years with the vulnerability of NATO's theater nuclear forces (particularly tactical aircraft and Pershing Ia missiles on QRA status at relatively few, fixed bases) to a first strike—especially a nuclear first strike—by the Soviets. The mobile SS-20 IRBM, while making the Soviets less concerned with the vulnerability of their long-range theater ballistic missile systems (compared with the predecessor SS-4 and SS-5 force operating from fixed or prepared launch sites) and thus contributing to stability by reducing preemptive pressures on the Soviets, improves the first strike capability of the Soviets with long-range theater nuclear delivery systems.

Deployment by NATO of 464 GLCMs on 116 launchers (along with 108 extended-range Pershing II ballistic missiles on 108 launchers) will pose a substantially increased threat to the Soviet Union and thus become an even higher priority target for the Soviets than NATO's current ground-based, long-range theater nuclear strike capability concentrated in quick-reaction-alert aircraft at a few air bases near nuclear storage sites. Unless the GLCM and Pershing II are deployed in a way that assures a significant portion of the force will survive a Soviet theater nuclear first strike, these new missiles could worsen an already troubling situation in terms of the Soviet doctrinal inclination and practical incentive to launch a preemptive attack with the goal of disarming nearly all of NATO's land-based, long-range theater nuclear delivery systems.

The requirement that the GLCM and Pershing II force be sufficiently survivable to deny the Soviets a lucrative opportunity for a first or preemptive strike will be very demanding. The practicalities of meeting such a stringent requirement in peacetime in urbanized, land-scarce democratic nations in Western Europe will prove difficult. The West cannot hope to provide the degree of survivability for a land-based system that the Soviets, with large deployment areas and a secret society, can provide for the mobile SS-20, operating in field deployment away from its base structure.

Nevertheless, it is important to be not only realistic about the practical difficulties facing NATO in assuring significant survivability of GLCM and Pershing II against a Soviet first strike, but also realistic about the nature of the more likely threats and contingencies of a Soviet strike against NATO's theater nuclear forces.[7] As noted in Chapter 3, prelaunch survivability involves vulnerability of the delivery system or platform to both conventional and nuclear strikes by Soviet forces in scenarios both with and without significant warning of such attacks. Against an essentially no-warning nuclear strike by Soviet ballistic missiles (perhaps only a few minutes of tactical warning that missiles such as the SS-20 have been launched in the U.S.S.R.), it would not be feasible to provide substantial survivability of ground-based theater nuclear delivery systems such as the GLCM. In that scenario, high survivability would require much of the force being widely dispersed and frequently on the move in the field deployment, an operational mode that is impractical in peacetime (in terms of nuclear weapons traveling around) and that increases very substantially operating costs. Fortunately, such a no-warning, "bolt from the blue" Soviet missile nuclear strike is not nearly as likely as other scenarios involving conventional and/or nuclear attack with some warning. Against a nuclear missile strike that came after a political crisis, a surprise conventional attack, or a conventional conflict under way for some days or weeks, some warning to NATO would unavoidably be provided, enabling dispersal that could greatly enhance the prelaunch survivability of a ground-mobile system such as the GLCM.

A more feasible survivability requirement for U.S. theater nuclear delivery systems would be against a surprise conventional strike that would presumably come before escalation to a nuclear strike by Soviet-led Warsaw Pact forces. Hardened hangarettes (sized for tactical aircraft) at operating bases can provide some substantial survivability for aircraft or GLCMs against conventional munitions. A no-warning conventional attack is, however, regarded as very unlikely. At least a few days of warning are generally expected to be available, prompted by an atmosphere of a developing crisis and some detectable necessary Soviet preparatory measures (especially in East Germany) before actually launching an attack against NATO into West German territory.

For confidence in prelaunch survivability, especially in the case of a Soviet nuclear strike, both the GLCM and the Pershing II would have to rely upon some warning to prompt and allow time for dispersal into the field, away from well-known fixed locations such as compounds for the Pershing and main operating bases for the GLCM. Compared with the midwestern and western United States, the land area and urbanization in West Germany, Great Britain, Belgium, the Netherlands and Italy substantially constrain the opportunities for dispersal of groundmobile theater nuclear delivery systems. However, the constraints on dispersal of nuclear-armed aircraft to only a relatively few air bases are considerably greater than the constraints on systems such as the GLCM using transporter-erector-launchers.

Although, as has been noted, a caravan of a "flight" of GLCMs (16 missiles on four transporter-erector-launchers, two launch control-communications vans, and at least 12 support vehicles) would be a rather conspicuous sight traveling on an autobahn, deployment in fact will typically be off-road and in more remote surroundings, taking advantage of concealment facilitated by terrain, vegetation and camouflage and of frequent relocation to maintain uncertainty for targeting by the Soviets (including by agents, especially in West Germany). Thus, compared to current U.S./NATO theater nuclear aircraft, the dispersed, mobile deployment of GLCMs and Pershing IIs will be more compatible with crisis stability, by making less likely to succeed a Soviet nuclear first strike aimed at largely disarming U.S./NATO's land-based systems for retaliating against such a Soviet attack or for responding to a collapse of NATO's conventional defenses against a massive Soviet/Warsaw Pact armored blitzkrieg.

To take advantage of the potential mobility and survivability of GLCM and Pershing II and thereby promote crisis stability, NATO will clearly have to have the political resolve to act upon warning—which may well be ambiguous—and approve an alert posture allowing dispersal away from main operating bases with nuclear armament. The manifestation of such resolve itself should reinforce deterrence—hopefully even of the initial outbreak of a conventional conflict—by undermining Soviet confidence in being able to conduct a nearly disarming nuclear first strike against NATO's new land-based LRTNF.

In terms of arms race stability, as defined above, the continuing momentum of the Soviet deployment of the SS-20 at an average rate of one launcher per week, since early 1977, was the source of instability and prompted NATO to respond with a system such as GLCM.

*Constraining the costs of the strategic arms competition*

Continuing Soviet efforts to increase the effectiveness of their extensive air defenses, especially against low-flying targets, are anticipated to pose more of a threat to the in-flight survivability of the B-1 bomber than to the cruise missile, which presents a much smaller radar cross section to air defense radars. The cruise missile was judged in mid-1977 to have "greater growth potential to meet new and presently undefined threats." [8]

Two of the advantages to the United States of the cruise missile, stressed by the Carter Administration after its cancellation in mid-1977 of the B-1 bomber, were, first, that U.S. emphasis on the cruise missile would make obsolete much of the Soviet investment in air defenses designed primarily against bombers and, second, that it would be much less expensive for the United States to stay ahead of costly Soviet air defense improvements with upgrades of the cruise missile. The Defense Department has argued that, in an interactive offensive-defensive arms competition between U.S. cruise missiles and Soviet air defense efforts, the United States has a substantial "cost exchange" advantage—that is, the U.S. offensive improvements will cost three to five times less than the Soviet air defense improvements. As Dr. Perry stated in late 1977: "We're in a very fortunate position here in that the offense has a basic technical advantage, and therefore we are very highly leveraged against any defensive move that they would like to make." [9]

Although Soviet development of some improved air defenses such as the SA-X-10 surface-to-air missile system was underway before the United States decided in mid-1977 to place more emphasis upon ALCMs, that decision probably reinforced Soviet incentive to invest heavily in new air defense systems to attempt to cope with the threat posed by ALCMs, which air defenses designed especially against bombers cannot do well. As in the past, part of the rationale for continuing to upgrade U.S. capabilities challenging Soviet air defenses is to prompt the Soviets to continue to allocate large expenditures to investment and operating costs for air defenses, thereby using budget resources that otherwise could be added to Soviet strategic nuclear offensive forces and antisubmarine warfare programs.[10]

On the other hand, the ALCM program was a basis for the U.S. decision to spend less from 1977 through the mid- to late 1980s on the air-breathing element of its triad of strategic forces than if it had continued with the B-1 program of 244 aircraft envisioned in the Ford Administration's defense budget for FY 1978.

Thus, although the arms control objective of constraining costs of the strategic arms competition is served for the United States in the case of the cruise missile, it is not for the Soviet Union.

### *Escalation control*

Although the United States explicitly uses the arms control concept of escalation control primarily in doctrinal statements relating to the use of nuclear weapons in the theater context, the concept is an important consideration more broadly in U.S. strategy and force structure. For example, U.S. doctrinal statements, especially since the outset of the 1970s, have emphasized the requirement that U.S. strategic nuclear forces be able to respond in a limited, selective way so that the President would not be faced with the paralyzing choice between escalation to massive nuclear response and no nuclear response to a limited Soviet attack.[11] In addition, since the early 1960s, the United States has stressed maintaining and even raising the nuclear threshold in Europe by providing a conventional force response option strong enough that NATO will not have to resort very early to using theater nuclear weapons to halt a Warsaw Pack conventional attack; this emphasizes the importance of escalation control once conflict has begun.

Deployment of GLCM in Western Europe and potential use of GLCM in theater nuclear strikes against targets in Eastern Europe and the western U.S.S.R. can be seen as enhancing or being compatible with escalation control in the theater in some respects but perhaps undermining it in others.

Deployment of GLCMs, insofar as it would enable the United States and other NATO nations to release for conventional use a large number of tactical aircraft that otherwise would be unavailable because of commitment to quick-reaction alert for theater nuclear strike missions, would raise the nuclear threshold and in that way contribute to control of escalation by indirectly strengthening the conventional response option.

Attempting to limit collateral damage by nuclear weapons is an effort to control escalation. GLCM's combination of high accuracy and nuclear warhead yield of 100 to 200 kilotons is compatible with U.S. emphasis in recent years on the requirement to reduce collateral damage caused by theater nuclear weapons. (This emphasis is also illustrated in the substantial reduction in yield of the Pershing II as a modification of Pershing Ia.)

If substantial survivability of deployed GLCMs proves feasible, then GLCM, by providing a credible escalatory response in the theater to Soviet long-range theater nuclear strikes against NATO/Europe may thereby deter such Soviet escalation and contribute to escalation control within the theater. If, by providing such a credible intermediate escalatory step for NATO, a GLCM deployment also makes a linkage between NATO's theater nuclear forces and U.S. strategic forces more plausible to the Soviets, then deterrence of Soviet nuclear escalation in the theater would be further reinforcement and escalation control served as an objective. (Even though in this respect GLCM would increase the prospects of escalation, a U.S./NATO GLCM force would still contribute to escalation control if the linkage or coupling aspect strengthened Soviet concerns with the consequent risks of their launching long-range nuclear strikes against targets in Western Europe.) If however, GLCM cannot be made substantially survivable in its semimobile mode of deployment, then by increasing Soviet incentives to preemption GLCM could undermine escalation control by making Soviet escalation to long-range nuclear strikes even more likely.

Moreover, the operational characteristics and tactics associated with cruise missiles, as compared with ballistic missiles, arguably could make even more difficult efforts at escalation control once NATO resorts to using such long-range theater missiles. Attempting to control escalation in use of nuclear weapons involves an emphasis upon an ability to communicate to the adversary limits on the number, types, and distance from the battlefield of the targets under attack. U.S. doctrine for use of nuclear weapons in the theater stresses limited, selective use against high-value targets. High-value targets will generally be protected with terminal air defenses. To assure penetration to targets so protected, the United States could use the tactic of saturation with cruise missiles to overwhelm the air defenses. If saturation tactics prove necessary, that could conflict with the U.S. doctrinal emphasis upon highly selective use. Even if saturation tactics using two or three cruise missiles per target for some targets were not required, then operational characteristics of cruise missiles could still encumber escalation control.

In particular, the Soviets may be inclined to over-estimate the scale of an incoming cruise missile attack and therefore overreact. The flight path of a cruise missile on its way to distant targets would involve being reported numerous times by air defense units that perhaps could not maintain a track or attempt an intercept in time but still would notice and report the overflight. The same cruise missile thus may be reported and counted several times, thereby greatly inflating the estimated size of the attack. The circuitous, dog-leg flight path of cruise missiles to avoid some known air defenses would make it hard for the Soviets to anticipate where the intended target may be and whether it is a strategic command and control bunker for example, or a ground force installation. Thus, facilitating escalation control through communication to the Soviets of the limited scale of an incoming attack and the limited scope of the type and location of targets may be practically much more difficult with cruise missiles than with ballistic missiles. Soviet assessment of the limits of an attack would be somewhat easier in the case of ballistic missiles because they would require fewer missiless to assure penetration and their flight paths are unlikey to cause exaggerated counts by the Soviets of the numbers of missiles involved in an incoming attack.

On the other hand, as was noted in Chapter 3, despite the arguments about the potential advantages of ballistic missiles in serving U.S. doctrinal emphasis on escalation control, it may well be more realistic to stress that, in the chaotic uncertainties inherently involved in theater nuclear conflict the distinctions between the flight profiles of cruise and ballistic missiles would be "lost in the noise" of warfare. In practice, the overwhelming consideration to the Soviet leadership would be the prospect or fact that targets in Soviet territory had been hit, and that theater nuclear conflict would not involve a sanctuary in the Soviet Union.

The Soviet propaganda campaign against NATO's prospective deployment of GLCM and Pershing II has included a stated concern that the Pershing II would have such a short time (about five to eight minutes) of flight to its target—compared to the 30 to 40 minutes in the case of an ICBM or SLBM—that the Soviets would have much reduced tactical warning of such an attack and that such a compressed time frame of a few minutes would preclude crisis communications with the West for measures to "avoid the worst," including a Soviet "push button" reaction.

It is, of course, to be expected that Soviet military planners would consider a worrisome if not worst case scenario of a nuclear attack from Western Europe with NATO's LRTNF as a precursor to a strategic exchange, which might damage Soviet strategic assets for such a latter exchange (for example, command and control facilities and ICBM silos in the western U.S.S.R.). It is politically unimaginable that NATO would launch such long-range nuclear strikes at any targets in the western U.S.S.R. other than in retaliation for a Soviet first use of nuclear weapons against targets in Western Europe or in response to a collapse of NATO's conventional defenses. Nevertheless, Soviet concern with such a remote, politically implausible scenario strongly suggests the contribution to deterrence which LRTNF would make, assuming it is deployed in a mode with adequate survivability to a Soviet preemptive nuclear strike. Soviet concern with escalation in the theater getting out of hand, with the possibility that a conventional or nuclear attack on Western Europe could set in motion a chain of events escalating to strategic nuclear exchange would mean that "linkage" or "coupling" of U.S. strategic nuclear forces to the defense of NATO/Europe was indeed being served by LRTNF. In a sense, then, one man's concern with escalation damaging to him is another man's effective deterrent.[12]

### *Discouraging the proliferation of sophisticated weapons*

The capability to produce cruise missiles has existed for some time outside of the United States and the Soviet Union. Thus, a ban on transfer of cruise missile technology from the United States would not preclude such production elsewhere. Some observers have stated that any nation that can build a "business jet" can also build a cruise missile. Eventually, the capability to produce cruise missiles will extend beyond Western Europe and Japan. As a Defense Department witness testified in 1977: "I suspect that in 20 years even some fairly backward nations could acquire respectable cruise missiles."[13]

Although a demanding guidance requirement would be the most expensive obstacle, even an underdeveloped country might overcome that handicap. Again, according to congressional testimony in 1977:

> I think that one could develop guidance for cruise missiles along lines which did not require this exotic technology [such as TERCOM, with digitized storage of maps].
>
> . . . On radio guidance, for example, using existing radio stations, that is a technique which has been in existence conceptually for a long time. Admittedly, they would have trouble getting the very small CEP directly but they could get into a small enough area so they could combine it with local homing.
>
> For example, I imagine even a very backward nation could build a cruise missile which had a combination of fair to middling

inertial guidance plus a radiation homer to knock out a radar which was in territory for which you had no maps.[14]

Despite the unavoidable options already available or soon realistic for other nations to build their own cruise missiles, the U.S. emphasis upon the cruise missile may arguably have prompted greater pursuit of cruise missile options by other governments. If so, whether such increased interest and effort would threaten the United States or be contrary to U.S. interests in stability in various regions of the world would have to be examined on a case-by-case basis, a task beyond the scope of this discussion.

Generally, however, it seems reasonable to observe that an interest in producing cruise missiles does not develop in a vacuum, without some motivating requirement. In the case of the United States, a heightened interest was prompted in the 1970s by an increasing concern with how to penetrate the sophisticated, extensive air defense system of the Soviet Union and Warsaw Pact. Presumably, a concern with extensive air defense of a potential adversary would also be a principal motivation for other nations, including underdeveloped countries, to proceed to produce or purchase cruise missiles. Unless a nation faces such an effective air defense system in a likely adversary, the motivation for building a cruise missile would not be strong. In a sense, proliferation of air defenses would, at least logically, precede widespread motivation for developing cruise missiles as a partial or primary substitute for manned aircraft in delivering weapons. The larger size generally of aircraft provides an important advantage in terms of obviating the demanding design requirement for making warheads small enough to fit within the comparatively small airframe of a cruise missile. (This would be especially true of an attempt to "package" a nuclear warhead for a cruise missile.) In any event, for conventional munitions, relatively short-range and less-expensive stand-off air-to-surface missiles, available through foreign military sales programs, would provide an attractive alternative response to air defense threats facing a nation considering pursuit of a cruise missile program.

### CRUISE MISSILES AND SALT II

Whether—and if so, how—to include and limit U.S. cruise missile programs in a SALT II agreement became major issues in the protracted SALT II negotiations, especially after the Vladivostok accord of November 1974 between President Gerald Ford and President Brezhnev. That accord was meant to provide key general provisions for a SALT II agreement lasting through 1985. Under the Vladivostok accord, a fundamental provision accepted by the Soviet Union was that there would be an equal aggregate ceiling of 2,400 strategic nuclear delivery vehicles and a sublimit of 1,320 MIRVed launchers. The aggregate ceiling included heavy bombers, which had not been included in the Interim Agreement of 1972, which dealt only with ICBM and SLBM launchers. The accord continued through 1985 the subceiling in the Interim Agreement of about 300 launchers for the Soviet modern, heavy ICBMs (SS-9/SS-18).[15] At Vladivostok, the Soviets dropped their demand that so-called forward-based systems (FBS), such as U.S. F-111s based in Great Britain and A-6s on aircraft carriers in the Mediterranean, be counted in SALT II.[16]

It proved very difficult to translate the broad parameters of the Vladivostok accord into a specific agreement. Subsequent negotiations during 1975 focused on "such contentious issues as the status of the Backfire bomber, cruise missile, MIRV verification, and the definition of heavy missiles." [17] In the protracted negotiations after Vladivostok, the Soviets clearly wanted range limitations placed upon U.S. cruise missiles. By August 1975, the United States had tentatively agreed to a range limitation of 1,850 miles (about 3,000 kilometers) for the ALCM and 375 miles (600 kilometers) for the submarine-launched cruise missile. Other issues, such as verifiability of the range of cruise missiles and whether to include the Soviet Backfire bomber, remained unresolved however.[18]

In January 1976, in two proposals taken by Secretary of State Henry Kissinger to Moscow, the United States indicated a willingness to count "cruise missiles on our bombers" as well as those on surface ships and submarines under the Vladivostok accord's subceiling on MIRVed launchers. A "fall back," second proposal at the time included agreeing to ban long-range cruise missiles from U.S. submarines and reducing the aggregate ceiling of 2,400 strategic nuclear delivery vehicles by about 10 percent. Secretary of Defense Rumsfeld and the Joint Chiefs of Staff had increasing reservations about these proposals. The Soviets in January 1976 had shown some interest in the second proposal. To resolve the frustrating deadlock, President Ford proposed that the Vladivostok accord's general terms be accepted and that both the cruise missile and the Backfire bomber issues be placed in a separate category or "package" that the two superpowers would continue to negotiate, during which the Soviets would not increase production of the Backfire and the United States would not deploy cruise missiles before January 1979. The Soviets strongly rejected this approach, and President Ford concluded that a SALT II agreement could not be reached during the 1976 election year.[19]

The Carter Administration was anxious to overcome the inherited deadlock in SALT II. In March 1977 in Moscow, Secretary of State Cyrus Vance presented two U.S. proposals to the Soviet leadership for a SALT II agreement: a limited or "deferral" option, and a "comprehensive" option which the United States preferred. The deferral option involved an aggregate ceiling of 2,400 strategic nuclear delivery vehicles and a subceiling of 1,320 MIRVed launchers. The proposal was labeled a deferral option because, like President Ford's proposal noted earlier, it would defer "all issues relating to the cruise missile, the Soviet Backfire bomber, and mobile ICBMs." [20] Secretary Brown unequivocally declared that "none of those weapons was covered in the Vladivostok talks." Elaborating on this point, he stated:

> The numbers and scope in the proposal are precisely those agreed on at Vladivostok. To be more specific, the United States never agreed at Vladivostok to include cruise missiles. After the Vladivostok talks, the Soviets claimed that the term "air-to-surface missile" as used in that agreement applied to all cruise missiles. Our understanding, however, was and is that the term applied only to ballistic missiles. In any event, cruise missiles are not limited to being air-to-surface weapons; surely no one can argue that the Vladivostok text covered ground- and sea-launched cruise missiles. The Soviets, if they really insist on an agreement along the lines of Vladivostok, should be able to accept or at least discuss this deferral proposal.[21]

The comprehensive proposal, preferred by the Carter Administration, would ambitiously have gone far beyond the broad parameters of the Vladivostok accord. In addition to substantial quantitative reductions, the proposal included qualitative constraints that it was hoped would "enhance stability by delaying substantially the time when fixed ICBMs become vulnerable" by constraining "a key source of instability—ICBM improvements." The comprehensive proposal had four basic elements: [22]

(1) Substantial reductions in ceilings on launchers agreed at Vladivostok:

Aggregate ceiling on strategic nuclear delivery vehicles set at 1,800-2,000 instead of the 2,400 allowed at Vladivostok; subceiling on MIRVed launchers set at 1,100-1,200 rather than 1,320;

Subceiling on MIRVed ICBMs (not limited at Vladivostok) to no more than 550;

Subceiling on modern, large ballistic missile launchers (SS-9/SS-18), permitted the Soviet Union but denied the United States under the Interim Agreement and Vladivostok, reduced from "low 300s" to 150;

(2) Prohibition on introduction of new ICBM capabilities:

Continue ban on building new ICBM silos;

Prohibit modifications of existing ICBMs;

Ban the development, testing, and deployment of new types of ICBMs as well as mobile ICBMs;

Limit ICBM and SLBM flight tests each to only six per year (to inhibit confidence in improved accuracy);

(3) Ban cruise missiles with ranges greater than 2,500 kilometers (about 1,550 miles);

(4) Exclude Backfire bombers from the aggregates "so long as they are not deployed as strategic weapons."

With respect to cruise missiles, Secretary Brown stated that the comprehensive proposal's prohibition of cruise missiles with ranges greater than 2,500 kilometers "would prevent us from substituting cruise missiles for SLBMs." He further declared:

> The limitation would permit us to use cruise missiles as penetration aids for our bombers against the large and comprehensive Soviet air defense system—a system the Soviets have never been willing to include in SALT discussions. It would not, however, interfere with the use of cruise missiles outside of the SALT context, that is, in tactical or theater applications. In short, the cruise missile proposal limits strategic uses of cruise missiles, as is appropriate in a strategic arms limitation agreement. But it would not make us pay for a SALT agreement by limits on our nonstrategic ability to counter Soviet weapons that are controlled neither in SALT nor elsewhere.[23]

The Soviet leadership emphatically rejected both of the Carter Administration's March 1977 proposals. Subsequently, in May 1977, a three-tier framework for a SALT II agreement was established in negotiations between Secretary of State Vance and Soviet Foreign Minister Andrei Gromyko:

A Treaty, lasting through 1985;

A Proctocol, scheduled by its terms to expire within a shorter period (eventually defined as December 31, 1981); and

A Statement of Principles to guide negotiations for SALT III.

The three-tier framework eventually emerged in a final agreement in early June 1979 at the Vienna Summit between President Carter and President Brezhnev. All three tiers had provisions or aspects relating to cruise missiles. The SALT II Agreement was submitted to the Senate on June 22,

1979. After lengthy hearings, the Senate Committee on Foreign Relations voted (nine yeas, six nays) to report the SALT II Agreement to the Senate, recommending ratification. On December 20, 1979, however, the Senate Armed Services Committee, which had also held extensive hearings, adopted a report that concluded that "The SALT II Treaty, as it now stands, is not in the national security interests of the United States of America." The Senate seemed unlikely to ratify SALT II, as submitted, by the required two-thirds favorable vote even before the Soviet invasion of Afghanistan in late December 1979. After that event, in January 1980, President Carter asked that Senate consideration of SALT II be deferred. Although the SALT II Agreement remained technically on the Senate calendar, there was no active consideration (floor debate) and at the expiration of the 96th Congress, the SALT II Treaty and Protocol were, under the standing rules of the Senate, rereferred to the Committee on Foreign Relations, on whose calendar as of 1982 SALT II remains. Even though SALT II was not ratified, the government of both the United States and the Soviet Union have indicated they will take no actions which would be inconsistent with SALT II's provisions.[24]

The SALT II Treaty, lasting through 1985, sets an aggregate ceiling of 2,400 strategic nuclear delivery vehicles (to be reduced by 10 percent to 2,250 by December 31, 1981). The limitations in the Treaty that apply to cruise missiles are in Articles, Agreed Statements, and Common Understandings that:[25]

Define cruise missiles (ALCMs);

Define range capability of cruise missiles;

Require inclusion, as heavy bombers within the aggregate ceilings, of bombers equipped for cruise missiles capable of a range in excess of 600 kilometers;

Require counting under the subceiling on MIRVed launchers heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers;

Limit to 28 the average number of ACLMs (capable of a range in excess of 600 kilometers) that can be carried on heavy bomber/cruise missile carriers;

Exempt a small number of aircraft (such as A-6s), used for flight-testing cruise missiles capable of a range in excess of 600 kilometers, from counting under the Treaty's aggregate ceiling and subceiling limits;

Provide rules, intended to aid verification, for determining which airplanes among those having the same basic airframe will not be counted as cruise missiles carriers and therefore not considered subject to various Treaty limitations.

In addition, a general provision (Article XII) pledging noncircumvention of the Treaty by the parties was of concern to NATO allies because of its potential inhibiting effect on transfer to allies in cooperative programs to technology relating to cruise missiles.[26]

Unlike the Interim Agreement of SALT I, the SALT II Treaty includes heavy bombers, a force component in which the United States has long had a substantial lead over the Soviets. The parties could not agree on a definition of heavy bombers, but instead listed current types (B-52 and B-1 for the United States, Bear and Bison for the Soviet Union) and left to the Standing Consultative Commission the task of establishing agreed upon criteria for determining whether future types of bombers should be considered heavy bombers because they can carry out the mission of a heavy bomber "in a manner similar to or superior to that of current heavy bombers." The United States and the Soviet Union did agree that "types of bombers equipped for cruise missiles capable of a range in excess of 600 kilometers" shall be considered heavy bombers under the Treaty.[27]

The Treaty defines cruise missiles covered by its terms—that is, ALCMs—in a way that includes not only nuclear but also conventionally armed versions:

> Cruise missiles are unmanned, self-propelled, guided, weapon-delivery vehicles which sustain flight through the use of aerodynamic lift over most of their flight path and which are flight tested from or deployed on aircraft, that is, air-launched cruise missiles. (Article II, paragraph 8.)[28]

The Protocol, which by its terms expired on December 31, 1981, prohibited deployment of "cruise missiles capable of a range in excess of 600 kilometers on sea-based or on land-based launchers."[29] No limits were placed on the development and flight-testing of SLCMs and GLCMs with ranges greater than 600 kilometers. The Protocol further banned flight-testing from sea-based or ground-based launchers of cruise missiles with MIRVs. The Protocol, like the Treaty, defines cruise missiles—in this case, SLCMs and GLCMs—in a way that includes conventionally armed versions.[30]

Cruise missiles that are not weapon-delivery vehicles—for example, unarmed cruise missiles for missions such as reconnaissance and data relay—were not considered cruise missiles to which the Protocol applied "if such vehicles are distinguishable from cruise missiles as generally defined and covered by the Protocol on the basis of externally observable design features."[31]

In the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms (then anticipated to be SALT III), the general objectives included "resolution of issues included in the Protocol." This agreed upon agenda topic for SALT III was the basis for some concern that the United States might agree to extend the Protocol or at least some of its limitations on cruise missiles, which the Soviets sought in SALT II to have included in the Treaty itself.

### AN EVALUATION OF THE TREATMENT OF U.S. CRUISE MISSILE PROGRAMS IN SALT II

An evaluation of the treatment of U.S. long-range cruise missiles (those with a range in excess of 600 kilometers) in the SALT II Treaty and Protocol can be usefully divided between the provisions in the Treaty and the provisions in the Protocol. Before that analysis, however, it is important to consider Soviet negotiating objectives and U.S. bargaining leverage in SALT II relating to cruise missiles, and the verification of cruise missile limitations in SALT II.

### *Soviet objectives and U.S. bargaining leverage relating to cruise missiles in SALT II*

The Soviets wanted restrictions placed in SALT II upon the range and delivery platforms of U.S. cruise missiles. Early in the SALT II negotiations, the Soviets proposed that the agreement ban the testing and deployment of SLCMs with ranges over 600 kilometers; they later adopted the same position regarding GLCMs.[32]

The United States, as noted above, maintained that at Vladivostok it had not agreed to include cruise missiles and that the term "air-to-surface missile" used in the Vladivostok accord applied only to ballistic missiles.[33]

In early 1977, the Carter Administration strongly reaffirmed this U.S. position on the scope of Vladivostok's terms. For the Soviet Union, however, including not only strategic but also theater cruise missiles prospectively in the U.S. arsenal had become a high-priority goal in the SALT II negotiations. This Soviet concern and the U.S. position on the exclusion of the cruise missile from Vladivostok should have provided the United States with some substantial bargaining leverage for advancing a fundamental objective of the United States: reducing and constraining the counterforce threat of ICBMs as a major threat to stability in the strategic balance.[34] That fundamental U.S. goal had been sought in SALT I, emphasized by the United States as a key goal for SALT II at the conclusion of SALT I in mid-1972, and sought by the Carter Administration in its comprehensive proposal of March 1977. With the possible exception of the limit on MIRV fractionation, however, this goal was not substantially advanced by the SALT II agreement that finally emerged.[35] President Carter suggested the bargaining opportunity to use U.S. movement toward the Soviet position that cruise missiles be included in SALT II (and that the Backfire be excluded) as an incentive inducing Soviet movement toward the U.S. position that reductions and constraints on the large or "heavy" ICBMs such as the Soviet SS-9/SS-18 be included. He noted in mid-1977:

> The main thing that they have that concerns us is the increasing reliance on very large missiles with multiple warheads. And the thing that we have that concerns them obviously is the capability to deploy large numbers of cruise missiles at an early date.[36]

To the Soviet argument that their unilateral right to retain a force of about 300 heavy ICMBs, as allowed under the Interim Agreement of 1972, was allowed under Vladivostok in exchange for dropping their demand that U.S. "forward-based" systems be included, the United States should have replied that the Soviets themselves were proposing reopening some of the aspects of Vladivostok by insisting that cruise missiles be included within SALT II.

During the Ford Administration, the United States linked (that is, made conditional) its willingness to include and limit cruise missiles with Soviet agreement to restrictions on the Backfire bomber. In early 1975, the United States tabled a proposal in Geneva that the Soviet Backfire bomber be included in SALT II as a heavy bomber. The Soviets insisted that SALT II did not apply to the Backfire because it was a medium bomber. At the same time, the Soviets began demanding that U.S. cruise missiles were covered under the Vladivostok accord, whereas the United States insisted that they had not even been discussed at Vladivostok. In the Carter Administration's effort to break this deadlock, however, the United States agreed to include not only cruise missiles for strategic nuclear missions (ALCMs) but also cruise missiles for conventional and (in the Protocol) theater missions. Yet the Backfire bomber remained outside the SALT II agreement concluded at Vienna in June 1979, as the Soviets had long maintained it must.[37]

The United States, in return for agreeing to Soviet insistence that the Backfire not be included in the SALT II Treaty, did not apparently receive anything meaningful directly in return. As Ambassador Ralph Earle, a U.S. delegate to SALT II in Geneva, testified before the Senate Foreign Relations Committee in its hearings on the SALT II Treaty, "What did we get in exchange for Backfire? I think what we got was nothing in exchange for the Backfire, once the Soviets had taken the position that it was a medium bomber. What we got was restrictions on the medium bomber." [38]

The clearly manifested Soviet concerns with the new, technologically advanced U.S. cruise missile programs provided the United States with substantial potential bargaining leverage in the SALT II negotiations. Given the resulting agreement in 1979, however, that leverage was not well used. The Soviet success in keeping the Backfire out of the SALT II Treaty while nevertheless having limitations on U.S. cruise missiles in both the Treaty and the Protocol was a major example of the failure of the United States to use well its potential negotiating leverage.

In SALT II, the Soviets sought not only to include and limit U.S. cruise missiles but also to prevent transfer of U.S. cruise missiles and the technology related to them to U.S. allies, such as West Germany and Great Britain. Access by West Germany to U.S. cruise missile technology and the prospect of a proliferation of cruise missiles on air and ground launch platforms in West Germany was reportedly of particular concern to the Soviets. There is West German interest in the conventional application of cruise missile technology for missions such as attacking heavily defended airfields. The British government has been interested in both the ALCM and the GLCM (as well as the Trident I or II SLBM) as options for modernizing its nuclear force.[39]

The Soviets pressed for a strict "nontransfer" provision in SALT II similar to that in the ABM Treaty of SALT I. U.S. allies in NATO became concerned over the possibility that the SALT II Treaty would contain language that would either explicitly be or in effect operate as a nontransfer clause. The United States, however, successfully resisted the Soviet position, and the Treaty contained a more general "noncircumvention" pledge (Article XII): "In order to ensure the viability and effectiveness of this Treaty, each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner."

Shortly after the conclusion of the SALT II agreements in Vienna on June 18, 1979, the United States made a public declaration of its interpretation of the noncircumvention provision at the North Atlantic Council. This was done, as Secretary of State Vance stated, because: "The allies wanted confirmation that the noncircumvention clause was not a nontransfer rule in disguise, and that the long-existing pattern of U.S. cooperation on nuclear and conventional weapons could continue, and that modernization would not be affected." [40]

Although the Soviets may attempt to use Article XII to interpose objections to U.S. tranfer of cruise missile systems and technology to its NATO allies, the Soviets will not have a strong basis in the Treaty, because they did not succeed in their objectives in SALT II to have a restrictive nontransfer clause.

### *Verification*

U.S. intelligence capabilities, such as photographic satellites, provided details on developments in Soviet strategic forces, especially the beginning of an ABM deployment around Moscow and the continuing deployment of silos for heavy (SS-9) ICBMs, that prompted U.S. interest in the late 1960s in starting strategic arms limitation talks with the Soviet Union. Intelligence capabilities also made SALT agreements possible in terms of providing general confidence that the United States could estimate deployments and qualitative improvements in Soviet strategic forces.

An important consideration in the drafting of some provisions of SALT agreements—the ABM Treaty of 1972, the Interim Agreement of 1972, and the SALT II agreements of 1979—has been the degree to which compliance with a proposed limitation or prohibition could be verified. The limits of intelligence capabilities to verify some key aspects of strategic forces are reflected in some of the parameters chosen for limitation. For example, the Interim Agreement of SALT I dealing with ICBMs and SLBMs did not attempt to limit missiles; rather, it limited launchers of missiles because fixed or large launchers (such as silos or submarines) were observable, whereas missiles that might be in covered storage would not be.

The provisons of SALT II relating to cruise missiles include limitations that are difficult, if not impossible to verify.[41] For example, to determine whether a cruise missile comes within the scope of SALT II (such as either the Protocol's prohibition of deployment of GLCMs or SLCMs until after December 31, 1981 or the Treaty's counting rules for aircraft carrying ALCMs), the first threshhold judgment required is whether the cruise missile in question has a range capability in excess of 600 kilometers. If it does, SALT II's provisions apply to it.

It is not possible, however, to verify with confidence the potential range of a cruise missile.[42] The inherent difficulty of such verification derives basically from the operational flexibiliity of the cruise missile that allows trading less payload weight or space for additional space for fuel, thereby enabling greater range. In addition, variations of the type of fuel used and in the actual mission flight profile (which may include slower or more high-altitude flight requiring less fuel) can alter significantly the range potential of a cruise missile with a given airframe and engine. Observation of flight tests indicates the range under particular circumstances, but flight tests typically do not fly a cruise missile to maximum range.

It is also not possible to verify whether a cruise missile is armed or unarmed from observing the external shape of the missile itself. Similarly, observation of the external features of a cruise missile cannot reveal whether it is armed with a conventional or nuclear warhead. (If a launcher is deployed near a nuclear storage site, that may suggest nuclear armament.) [43]

Although special features on a cruise missile launcher, such as unique pylons on an aircraft, may facilitate identification for counting a launcher within a SALT provision (such as a subceiling), uncertainties remain in verifying loadings of aricraft that can carry cruise missiles internally. Internal loadings connot be observed externally and thus limitations on the average number of ALCMs that are carried cannot be verified.

It is, of course, important to have high confidence in being able to monitor compliance with provisions of arms control agreements that deal with *capabilities that could threaten to upset stability* in the military balance. Provisions of arms control agreements that cannot be verified with confidence can become a basis for a poisonous atmosphere of distrust between the parties to the agreement. Yet verification is not an end in itself. Standards of acceptable confidence levels in verification should be subject to case-by-case analysis. Such analyses should take into account considerations such as the importance of maintaining flexibility in U.S. force structure and the relative significance for stability in the strategic balance of a force characteristic to be verified. In this regard, the characteristics of cruise missiles are generally not as significant as those (especially accuracy) of MIRVed ICBMs. More generally, *there is some potential conflict between what have become imperatives of arms control*—confidence in verification, and verifiable reductions in numbers of weapons—*and characteristics the United States has good reason to emphasize more heavily in the 1980s in its force structure, for the objective of survivability.* Survivability enhances stability, which in turn is a paramount goal of arms control. On the one hand, technological improvements in reconnaissance for finding targets and in precision-guided munitions for striking located targets make it imperative that the U.S. emphasize characteristics in its force structure such as mobility, stealth features, and increasing numbers of less costly weapons systems.[44] Yet, on the other hand, these are force characteristics that make verification more difficult and, in the case of proliferating large numbers of lower cost weapons, run contrary to the emphasis some have placed upon reducing the number of weapons as an appropriate goal for arms control.

### *Range restrictions and thresholds for cruise missiles*

Initially, the Carter Administration accepted a range limitation of 2,500 kilometers on the ALCM in the prospective SALT II Treaty. After the cancellation of the B-1 bomber, however, and after further studies of Soviet options for attacking the stand-off cruise missile carrier before it reached its launch point off the periphery of the U.S.S.R., this limitation was considered imprudent. Thus, the removal of this range limitation was a desirable move achieved in the negotiations in late 1978.[45]

By agreeing to a 600 kilometer threshold for including ALCMs in the Treaty (and for GLCMs and SLCMs in the Protocol)—compared with a 5,500 kilometer threshold for classifying ballistic missiles as ICBMs and no range threshold for SLBMs—the United States allowed SALT II to reach down to system capabilities that typically would have been considered theater systems. The 600 kilometer threshold on ALCMs was an important consideration prompting the U.S. Air Force not to study seriously a theater ALCM option because of concern that aircraft carrying it would have to be counted as heavy bombers within SALT II. (There are other reasons for questioning such theater nuclear ALCMs, such as continuation of the problem of vulnerability of QRA aircraft at a few bases in Western Europe for theater nuclear missions.)

In the case of SLCMs, the 600 kilometer range threshold for inclusion within the Protocol, by placing the threshold that low, can reasonably be regarded as an asymmetrical provision, favoring the Soviet Union. As Admiral James L. Holloway III, Chief of Naval Operations, testified in February 1976:

> We should have an equality in arms limitation . . . equitable to both sides.
>
> I believe if there is to be an arms limitation agreement, one must expect there would be limitations on our arms as well as

theirs. In the specific case of the strategic cruise missile, I will say if a limit of 600 kilometers or 1,000 kilometers is placed on strategic cruise missiles of both sides, and by strategic missiles I mean nuclear-armed missiles with a guidance system which gives them a high degree of accuracy when used against targets on land, that if you compare their capability versus our capability, both of us with a 600- or 1,000- or 1,500-kilometer limit, then we are going to suffer because more of the industrial and urban areas in the United States are closer to the coasts than as applies to the Soviet Union. So I believe that we would have to put the limit, the range limit on strategic cruise missiles, out at about 3,000 kilometers before we would be approaching the same target coverage by both forces.[46]

### *Counting ALCM carriers under the subceiling applying to MIRVed launchers*

As noted earlier, the Ford Administration in January 1976 proposed to the Soviet leadership two options, which were rejected. The first option Secretary Kissinger conveyed in Moscow would have placed U.S. bombers carrying ALCMs under the subceiling of 1,320 MIRVed launchers agreed upon at Vladivostok. The Carter Administration did not include ALCM-carrying bombers under the MIRVed subceiling in either of its March 1977 options. In late June 1977, President Carter indicated his preference at that time:

> Also, the definition of what is a MIRVed weapon is one that is still in dispute. We don't believe that a bomber equipped with cruise missiles ought to be classified as a MIRVed system. But depending upon the Soviets' attitude in reaching an overall comprehensive settlement, those matters are still open for discussion.[47]

By early November 1977, however, it became clear that counting bombers equipped with ALCMs as MIRVed launchers would be part of the emerging SALT II agreement.[48] Later, a ban on MIRVed cruise missiles was included.

Under the provisions of the SALT II Treaty, there is a subceiling of 1,320 for MIRVed launchers and within that a subceiling of 1,200 for MIRVed ballistic missile launchers. Heavy bombers carrying ALCMs are counted under the subceiling on MIRVed launchers. Up to 120 such cruise missile carriers are allowed before compensating reductions in MIRVed ballistic missiles would have to be undertaken on a one-for-one basis.

The United States rather than the Soviets will place major emphasis upon long-range ALCMs in the early 1980s. Thus, this provision permitting "freedom of mix" but imposing a cost when the total of ALCM-carrying bombers exceeds 120 has much more relevance and impact on U.S. forces than on Soviet forces.[49] The provision does not seem equitable, in that it can be seen as penalizing the United States for its emphasis on systems that are not ideal for first strike purposes. Nevertheless, the impact of the provision does not come until near the end of SALT II. The United States plans to modify 151 B-52Gs to carry ALCMs. The schedule for modifying the B-52s is tight, and does not go above 120 until early 1985. The United States thus will not face the necessity of reducing about 30 MIRVed ballistic missiles (Minuteman III ICBMs and/or Poseidon SLBMs) for B-52Gs on a one-for-one basis until the last year of SALT II's duration.[50]

After cancellation of planned production of the B-1 aircraft in mid-1977, the Defense Department undertook studies of cruise missile carriers that could supplement the B-52Gs, such as versions of the Boeing 747 and the Lockheed C-5 and C-141. A decision was made, however, not to request funds in FY 1981 for development of a cruise missile carrier. Thus, a cruise missile carrier beyond the B-52 will not be available through 1985, and it is not an option that would require reduction in MIRVed ballistic missiles under the provisions of SALT II through 1985.

Even within the Carter Administration's plans, which did not call for a new strategic bomber in the 1980s, one available option was to convert about 90 B-52Hs to carrying ALCMs (perhaps externally at first), to allow a "shoot and penetrate" role for the B-52Hs through the 1980s.

If SALT II's counting rules for ALCM-carrying bombers were extended beyond 1985, the conversion of the B-52Hs would increase the costliness of the counting rule to the United States in terms of require reductions in MIRVed ballistic missiles. Also, if the B-1 program is revived, as proposed by the Reagan Administration and approved by Congress, the 100 aircraft involved will have a potential for carrying 22 to 30 long-range ALCMs. After 1985, when significant numbers of the B-1 variant could enter the force structure, the application of a counting rule such as that applied to the B-52Gs under SALT II would be very burdensome to the United States—especially once B-1Bs in the early 1990s are "equipped for" ALCMs.

### *Limiting average loading of ALCMs*

The SALT II Treaty (Article IV, paragraph 14) provides that neither party will deploy more than an average of 28 ALCMs (with a range in excess of 600 kilometers) on heavy bombers. The Soviet Union had initially proposed an average of 20 and the United States had proposed 35; 28 emerged as the compromise solution.

The B-52Gs being modified to become ALCM carriers will have two pylons that will each carry six ALCMs. In addition to the external loading of 12 ALCMs, eight can be carried internally in the B-52Gs. Under the schedule for the B-52G/ALCM program, no internal carriage will be provided until FY 1986, when the external loadings have been provided for about 150 of the B-52Gs in the inventory. Thus, the treaty limit of 28 ALCMs will not affect the loadings planned by the United States for the force of B-52Gs, which will not even begin to carry their maximum of 20 ALCMs until FY 1986.[51]

As noted previously, the Defense Department did fund studies of cruise missile carriers that could supplement the B-52Gs. The studies estimated the number of ALCMs that different commercial and military aircraft could carry. The potential loadings ranged from a high of 72 ALCMs in a Boeing 747 to a low of 16 ALCMs in versions of a new military transport (YC-14 and YC-15 prototypes of the AMST).[52] Analysis indicated that an important disadvantage of the large wide-bodied aircraft already designed and produced, such as the 747 and the C-5, was that hardening their airframes to withstand some nuclear overpressures during escape from air bases would be difficult and costly compared with incorporating such hardening early in the design of a new aircraft or derivatives of the B-1 (which was designed with hardening against some nuclear effects).[53]

A variant of the B-1 could carry between 22 and 30 ALCMs, and a new medium transport could carry 16. Therefore, the SALT II constraint would not be limiting in the case of such aircraft, whereas it would be with the wide-bodied transports. Even in the case of the wide-bodied 747, however, up to 25 of them with 72 ALCMs each could be allowed under SALT II if they were combined with 151 B-52Gs with 20 ALCMs each—producing an average (27.3) not exceeding 28 ALCMs per heavy bomber.

In early 1979, it was anticipated that a cruise missile carrier aircraft would be selected in the fall of 1979, in fact, however, when that time came, the Air Force did not recommend to the Secretary of Defense proceeding with a cruise missile carrier program. The rationale for not proceeding was evidently based on the extensive capability provided by the force for 151 B-52Gs as cruise missile carriers, and on the expense of a new program and the related opportunity costs it would impose within the Air Force budget. SALT constraints on average ALCM loadings were apparently not an important factor. In any event, even if a decision had been made in late 1979 to build a cruise missile carrier, the initial allocation of ALCMs to the B-52G force and the lead time required to produce a new cruise missile carrier would have precluded a significant availability before SALT II expired in December 1985.

Limiting in some manner, such as average loading, the number of ALCMs per heavy bomber was probably inevitable in SALT II once the United States agreed that such bombers were to be regarded as MIRVed launchers. The Soviet Union understandably saw an agreement by them to a limit on the number of MIRVs that their ICBMs were permitted to carry as being conditionally linked to a U.S. constraint on loadings of ALCMs. As we have seen, however, the ALCM-loading provisions in SALT II do not hamper the U.S. programs under way and feasible on a substantial scale through 1985.[54]

For the United States to achieve an extension of the MIRV-fractionation limit after the expiration of SALT II, it seems important for the United States to retain the option of a cruise missile carrier with an ALCM-loading potential considerably above 20, assuming that the estimated prelaunch survivability of such a cruise missile aircraft proves acceptable. Secretary Brown argued in 1979 that retaining the option of proceeding with a cruise missile carrier program is one of the major hedges available to the United States in the event of a Soviet abrogation of SALT II. As Secretary Brown noted: "Hedges, when they are real and credible options, not only give us the capability to react to Soviet cheating; they also serve to deter such activity by negating the benefit of any contemplated non-compliance."[55]

The realistic possibility that the United States could substantially increase the production rate of ALCMs should be one element in deterring a Soviet breakout from some of the provisions of SALT II, such as by adding to the number of warheads on the SS-18 beyond the 10 MIRVs per missile legally permitted under the Treaty. The production rate for the ALCM could be increased from the planned 40 per month to at least 60 per month, beginning in late 1982. Of course, to be credible, launch platforms must be available as well. Although the pacing item in the case of converting the B-52Gs is the availability of the aircraft under the program to update the offensive avionics system, the B-52Hs could be available as platforms to support the increased ALCM production.

### *Inclusion of conventionally armed cruise missiles*

The inclusion of conventionally armed cruise missiles within the SALT II Treaty as well as the Protocol was a substantial change in the U.S. negotiating position. The original U.S. proposal for a definition of cruise missiles "made no distinction between conventional and nuclear-armed for the period of the Protocol, but reserved the option to exclude long-range, conventionally-armed cruise missiles on aircraft other than heavy bombers in the post-Protocol period." [56] The Soviets, however, objected that a definition attempting to distinguish nuclear from conventionally armed cruise missiles would not be verifiable. The United States, which had no plans or programs for long-range, conventionally armed cruise missiles, eventually—in late 1978—agreed with the Soviet position. The United States did insist upon having separate definitions in both the Treaty and the Protocol and explicitly indicated its view that the definition in the Protocol including conventionally armed GLCMs and SLCMs would expire with the Protocol and not set a precedent for future limits.

The inclusion of long-range, conventionally armed ALCMs within SALT II's definition of cruise missiles to be limited surely discourages developing such a system because it would have to count under SALT II. Yet it can be reasonably argued that the definitional inclusion within the SALT II Treaty does not greatly hamper conventional options for NATO. First, NATO has not immediate plans in any event to pursue a long-range, conventionally armed ALCM. Second, most targets of interest in the Warsaw Pact for such an ALCM would perhaps be close enough to the FEBA that they could be reached by a cruise missile with less than a 600 kilometer capability.

Nevertheless, it can also be more convincingly argued that the inclusion of conventionally armed cruise missiles was a major mistake for the United States and NATO. The fact that the Soviets had a valid point about the unverifiability of a definitional distinction excluding conventionally armed cruise missiles does not mean that it was a compelling point. As Secretary Brown argued in testimony on verification of SALT II before the Senate Foreign Relations Committee, in some instances (he cited cruise missiles and mobile ICBMs as examples) difficulties and uncertainties in monitoring compliance with an agreement are acceptable when weighed against the desirability of protecting flexibility in U.S. programs.[57] This same, reasonable argument used with the Senate should have been maintained with the Soviet Union as well, during the SALT II negotiations.

Externally observable design features that distinguished conventionally armed cruise missiles could have been used—as they were used in the case of unarmed drones under the Treaty—to facilitate verification, realizing that the ultimate verification of armed or unarmed, nuclear or conventionally armed cannnot be made from observation of external features of cruise missiles. In any event, given the asymmetry for verification between the closed, secretive society in the Soviet Union and the open, multiple sources available in the United States, the difficulty of determining that the program effort involves conventional rather than nuclear armament for a cruise missile is much more a problem for the United States than for the Soviet Union.

Some NATO allies (West Germany, the United Kingdom, and France), along with the United States, have shown an interest in developing—for use against fixed land targets—a "family" of air-launched, precision-guided, conventional cruise missiles that would be covered by the definition of ALCM in the SALT II Treaty. Reportedly, the British and West German governments strongly supported the original U.S. position on excluding conventional cruise missiles from SALT II.[58] Some targets of high value for strike with conventional cruise missiles in the Warsaw Pact, especially some main operating bases in the western U.S.S.R. supporting the Backfire and other long-range aircraft threatening NATO, would require ranges of 600 kilometers or more to reach from launch points in West German air space, for example. As we have seen in Chapter 4, the constrained range of the MRASM (to less than 600 kilometers) to avoid counting under SALT II means that a substantial number of Soviet main operating bases—those located in the western U.S.S.R.—would basically be out of reach for the MRASM as an airfield-attack weapon.

Concerns with potential violation of SALT II's Protocol were a basis for the United States seriously questioning whether to proceed with a joint program with West Germany on a ground-launched "harassment" drone for the critical tactical-air-support mission of defense suppression. The unguided mini-drone in question weighs about 180 pounds with a 70 pound conventional warhead for use against Warsaw Pact air defense radars. An interest by the U.S. Navy in developing a lighter weight, air-launched, antiship variant of the Tomahawk was complicated by concerns that SALT II provisions might apply, making all A-6 carrier-based attack aircraft count as heavy bombers.[59]

The Carter Administration stated that its agreement to the Soviet position on including conventionally armed cruise missiles on grounds of concerns with verification was "in the context of satisfactory resolution of other issues." Without knowing what the other issues in the negotiating record were and the importance of those other issues to the United States and how they were resolved, an overall appraisal of how the issue of cruise missile definition was resolved is not possible. It is surely troubling, however, that the Carter Administration did not even undertake a detailed, formal study of the potential utility of conventionally armed cruise missiles for NATO as a basis for changing the U.S. position in the negotiations in late 1978.[60]

### *Inclusion of GLCM and SLCM in the protocol*

By agreeing to include the GLCM and SLCM theater-based nuclear delivery systems in SALT II, the United States made an important exception to a fundamental U.S. negotiating position in SALT I and II: that U.S. forward-based systems (FBS) would not be included. That position involved a basic U.S. commitment to its allies, especially in NATO.

Early in SALT I, it became apparent that the U.S. and Soviet definitions of offensive systems to be covered in SALT differed substantially. The Soviets defined as "strategic" any U.S. or Soviet systems capable of reaching the other's territory.[61] The Soviet definition, on the one hand, would cover what they term U.S. forward-based systems, including certain aircraft at airfields and on aircraft carriers on the periphery of the Soviet Union (for example, F-111s stationed in the United Kingdom and A-6 aircraft on carriers in the Mediterranean and western Pacific); on the hand, it would exclude various Soviet systems, such as bombers and hundreds of MRBMs and IRBMs capable of attacking U.S. overseas bases and the territory of U.S. allies.

The U.S. position was that the negotiations and initial agreement should address central or intercontinental systems having a major impact on the strategic nuclear balance, such as ICBMs, SLBMs, and heavy bombers. Moreover, the U.S. position was that U.S. forward based systems served to counter Soviet medium-range missiles and aircraft directed at U.S. allies and that accepting the Soviet approach "would have prejudiced" U.S. commitments to its allies.[62]

In May 1971, it was agreed to set aside forward-based systems and proceed toward an interim SALT I agreement on some central strategic systems (later determined to be not only ICBMs, as the Soviets initially insisted, but also SLBMs) that would be completed simultaneously with a more comprehensive treaty limiting antiballistic missile systems.

Early in SALT II the Soviets restated their position that U.S. tactical systems "capable of delivering nuclear stikes against the territory of the U.S.S.R. had to be included in any permanent agreement on strategic arms." [63] In May 1973, the United States declared that "we will not make agreements that reduce the security of other countries. Nor can we permit threats to our allies to develop unchecked because of SALT agreements. Such factors do not limit the prospects for further U.S.-Soviet limitation on offensive systems, but they do delimit the area for negotiation." [64] Later, in late November 1974, "it was agreed at Vladivostok that FBS would not be a SALT issue for an agreement to cover the period through 1985." [65]

As we have seen, neither the deferral nor the comprehensive option proposed in March 1977 by the Carter Administration included on GLCMs and SLCMs as future forward-based systems. The Soviets, however, insisted that the SALT II Treaty itself "contain a ban on testing and deployment of SLCMs with ranges over 600 KM and later adopted the same position for GLCMs." The United States initially took the position that long-term restrictions on such systems be postponed for consideration in subsequent negotiations. Then, in mid-1977, the United States agreed to Soviet insistence that the agreement include and provide some limitation on SLCMs and GLCMs, but in a protocol rather than in the Treaty itself.[66]

The rather sudden emergence of the Protocol in mid-1977 came as something of a shock to NATO allies who had come to rely on the established U.S. position that forward-based systems would be excluded from SALT II. Given that Soviet theater systems of concern to Western Europe such as the SS-20 were not included but that the GLCM and SLCM as future forward-based systems did come within the scope of SALT II, some Europeans wondered what the United states had gotten for including those systems, other than increasing the prospect of an agreement finally being reached, and whether options for NATO's defense had been sacrificed. Some Europeans were concerned that the United States had thrown away a bargaining chip in SALT II that should have been retained for more effective use in SALT III. More generally, a major concern in Western Europe was that the Protocol might be extended. Articulating apprehension felt in Western Europe in the fall of 1977 over the course of SALT II negotiations, the Economist observed:

> The greatest political—and in the end military—danger in all American-Russian strategic arms deals has been the wedge they tend to drive between America and its European allies at a time when American technical superiority is the West's best defense against the sheer weight of Russia's nuclear weaponry. On previous occasions this has been avoided. Now, however, the threatened closure of the cruise option for Europe's own armies makes the danger suddenly real. If this treaty results in a Russian missile strength not very different from what it probably would have been without any agreement at all (which is what the figures suggest) at the price of starting to unravel the Atlantic alliance, then the treaty will be not bad, but diastrous.[67]

The Carter Administration argued that if the Protocol expired at the end of 1981 as its language stated, the Protocol would not delay a realistic schedule for the operational availability of the GLCM and SLCM, because development and flight-testing are not prohibited by the Protocol. The initial deployment of the SLCM (conventional, land-attack version) was scheduled for early 1982 and then slipped until perhaps the end of 1982; in the case of the GLCM, it is not scheduled until December 1983. In the case of the SLCM, testimony during several years before congressional committees suggested that an earlier IOC, especially in the case of the land-attack variant (where concerns with availability of over-the-horizon targeting capability did not apply as a basis for slowing the pace of the program), was feasible without substantial risk. Surely the IOC of the nuclear-armed, land-attack SLCM—mid-1984—could have been advanced. Scrutiny by the Senate Armed Services Committee in 1979 led it to the conclusion that SALT was an important background factor affecting the schedule of the SLCM:

> It is unfortunate, as administration witnesses have often testified, that the schedule of work on the cruise missile programs affected by the Protocol is such that they cannot be ready for deployment before the expiration of the Protocol on December 1, 1981. In part, this is because of deliberate decisions to slow those programs, particularly the land-attack version of the sea-launched cruise missile. There is evidence that some of these decisions were influenced by SALT considerations. The formula is simple: slow the program so that it cannot be ready before 1982; agree to prohibit deployment until that time; and then argue that the prohibition is meaningless because the program will not be ready during the period it is in effect.[68]

The Carter Administration also argued that the limitations on the GLCM and SLCM in the Protocol were not a precedent for continuation in SALT III. The Soviets, however, made some strong statements about their contrary expectations in that regard. Moreover, the Statement of Principles for SALT III placed the resolution of issues temporarily treated in the Protocol as an agreed upon agenda topic for SALT III.[69]

It does seem that the United States, by agreeing to include within the SALT II Protocol limitations on theater nuclear, forward-based systems, did do what (as Secretary Brown noted in April 1977) the comprehensive proposal of March 1977 would not have done—"make us pay for a SALT agreement by limits on our nonstrategic ability to counter Soviet weapons that are controlled neither in SALT nor elsewhere."[70]

With neither the SS-20 nor the Backfire counted in SALT II, but with GLCM and SLCM included in the Protocol, the inequitable situation was similar to what Secretary Brown had described in his Annual Report for FY 1980, presented in January 1979:

> None of the Soviet peripheral attack systems are now included in either SALT or the MBFR negotiations. NATO forces of comparable range are involved, however: GLCM and SLCM in the SALT Protocol, and dual capable aircraft and Pershing in NATO's MBFR Option III proposal.[71]

This surely was not an auspicious negotiated foundation for the United States and NATO to enter into subsequent arms control talks.

### NATO AND NEGOTIATIONS ON LRTNF: NATO'S GOAL AND GUIDELINES

Guidelines for prospective negotiations dealing with long-range theater nuclear forces (LRTNF)—expected at the time to be part of SALT III—were declared by NATO at a special ministerial meeting on December 12, 1979:

> Ministers consider that, building on this accomplishment and taking account of the expansion of Soviet LRTNF capabilities of concerns to NATO, arms control efforts to achieve a more stable overall nuclear balance at lower levels of nuclear weapons on both sides should therefore now include certain U.S. and Soviet long-range theater nuclear systems. This would reflect previous Western suggestions to include such Soviet and U.S. Systems in arms control negotiations and more recent expressions by Soviet President Brezhnev of willingness to do so. Ministers fully support the decision taken by the United States following consultations with the Alliance to negotiate arms limitations on LRTNF and to propose to the U.S.S.R. to begin negotiations as soon as possible along the following lines which have been elaborated in intensive consultations within the Alliance:
>
> A. Any future limitations on U.S. systems principally designed for theater missions should be accompanied by appropriate limitations on Soviet theater systems.
>
> B. *Limitations on U.S. and Soviet long-range threater nuclear systems should be negotiated bilaterally* in the SALT III framework in a step-by-stp approach.
>
> C. The immediate objective of these negotiations should be the establishment of agreed limitations on U.S. and Soviet land-based long-range theater nuclear missile systems.
>
> D. *Any agreed limitations on these systems must be consistent with the principle of equality between the sides.* Therefore, the limitations should take the form of *de jure* equality both in ceilings and in rights. (Emphasis added.)
>
> E. Any agreed limitations must be adequately verifiable.[72]

The United States agreed with its NATO allies that in SALT III, expected to address theater nuclear systems as well as strategic nuclear forces, consultations by the United States with its allies will be "even more intense" and the "role of the allies in shaping our approach will be even more direct" than in SALT II. The procedural arrangement was described in the NATO communique of December 12, 1979:

> "Given the special importance of these negotiations for the overall security of the Alliance, a special consultative body at a high level will be constituted within the Alliance to support the U.S. negotiating efforts. This body will follow the negotiations on a continuing basis and report to the Foreign and Defense Ministers who will examine developments in these negotiations as well as in other arms control negotiations at their semiannual meetings."[73]

It will be imperative for the United States to resist the temptation of seeking movements in the LRTNF negotiations by unilateral suggestions, offers, or even exploratory questions to the Soviet Union relating to the GLCM/Pershing II deployment or Soviet long-range theater nuclear systems, such as the SS-20. Otherwise, the United States could engender allied suspicion that Washington is "not leveling" with them or is going "over their heads" in discussions with the other military superpower on topics of vital interests to Western European nations.[74] On the other hand, it will also be imperative for leaders in Western European governments to avoid the temptation of pursuing an independent dialogue with the Soviet leadership on LRTNF in ways that can prompt distrust and/or alarm by other NATO members that a common alliance negotiating position is being undermined and that the Soviets are being given an opportunity to weaken NATO's resolve to respond to the SS-20 with deployment of land-based LRTNF in Western Europe.[75]

### *NATO's dual policy: Armament and arms control*

On December 12, 1979, at a special meeting of its foreign and defense ministers, NATO made a major decision to approve production and planned deployment of U.S. long-range theater nuclear missiles. The U.S.-operated missiles—tentatively 464 GLCMs and 108 extended-range Pershing II ballistic missiles—would be deployed on ground-mobile launchers in Western Europe beginning in late 1983. This difficult decision about controversial armament was linked with an offer to pursue arms control negotiations with the Soviet Union to limit U.S. and Soviet theater nuclear systems.[76] The dual-policy approach was politically necessary to reaching consensus within the alliance. Neither approval of such a major new nuclear capability for NATO nor support for entering negotiations with the Soviet Union in hopes of restraining theater nuclear forces would have been politically sustainable without the other policy element being pursued as well. Under the NATO decision, all of the extended-range Pershing IIs would be located in West Germany, which would also accept deployment of 96 GLCMs. West Germany insisted that GLCMs be based elsewhere as well to avoid its being "singled out" by the Soviet Union. Thus, 160 GLCMs will be based in Great Britain, 112 in Italy (Sicily), and—assuming an eventually favorable decision—48 in the Netherlands and 48 in Belgium.[77]

The principal impetus to NATO's decision to proceed with a new long-range theater nuclear capability undoubtedly was the continuing deployment of the mobile, MIRVed Soviet SS-20 IRBM, which began in 1977 and had already reached a level of about 120 missiles directed toward Western Europe by late 1979. Although not as much a matter of preoccupation, the continuing production of the Soviet Backfire bomber at a rate of about 30 per year was also a source of concern in NATO/Europe, especially in West Germany.[78] NATO's communique on its decision made this background clear:

The Warsaw Pact has over the years developed a large and growing capability in nuclear systems that directly threaten Western Europe and have a strategic significance for the Alliance in Europe. This situation has been especially aggravated over the last few years by Soviet decisions to implement programs modernizing and expanding their long-range nuclear capability substantially. *In particular, they have deployed the SS-20 missile,* which offers significant improvements over previous systems in providing greater accuracy, more mobility, and greater range, as well as having multiple warheads, *and the Backfire bomber,* which has a much better performance than other Soviet aircraft deployed hitherto in the theater role. During this period, while the Soviet Union has been reinforcing its superiority in LRTNF both quantitatively and qualitatively, Western capabilities have remained static. Indeed these forces are increasing in age and vulnerability and do not include land-based, long-range theater nuclear missile systems.

At the same time, the Soviets have also undertaken a modernization and expansion of their shorter-range TNF and greatly improved the overall quality of their conventional forces. These developments took place against the background of increasing Soviet intercontinental capabilities and achievement of parity in inter-continental capability with the United States.

These trends have prompted serious concern within the Alliance, because, if they were to continue, Soviet superiority in theater nuclear systems could undermine the stability achieved in inter-continental systems and cast doubt on the credibility of the Alliance's deterrent strategy by highlighting the gap in the spectrum of NATO's available nuclear response to aggression.

Ministers noted that these recent developments require concrete actions on the part of the Alliance if NATO's strategy of flexible response is to remain credible. After intensive considerations, including the merits of alternative approaches, and after taking note of the positions of certain members, Ministers *concluded that the overall interest of the Alliance would be best served by pursueing two parallel and complementary approaches to TNF modernization and arms control.*[79] (Emphasis added.)

The U.S. government took a leading role in the process of molding a consensus within NATO to pursue a dual policy. The Carter Administration had shown an early interest in developing the GLCM as an option for NATO to modernize its long-range theater nuclear capability.

The GLCM had been given an impetus at the very end of the Ford Administration in a decision to proceed with development and to request funding for the GLCM in FY 1978 as a derivative of the Tomahawk cruise missile. The Carter Administration, which in February 1977 imposed an overall cut in the FY 1978 defense budget proposed by the Ford Administration, increased substantially the funding for the development of the GLCM—from $3.9 million to $27.9 million. In his first press conference, President Carter drew attention to the SS-20 in response to a question about arms control.[80]

In assuming this leading advocacy role for a dual policy, the Carter Administration was motivated by a genuine concern with the implications of a lack of western response to the SS-20 for the credibility of NATO's deterrent posture and flexible response strategy. Another motivating factor, however, may well have been the Administration's desire to convince some NATO allies, especially West Germany, that it was sensitive to their concerns about the need to deal with adverse trends in the theater nuclear balance. This would serve, first, to allay some of the anxiety and distrust in Western Europe that had been prompted by the Administration's agreeing in mid-1977 to a SALT II Protocol that legitimized constraints on some major cruise missile options for NATO without also including counterpart Soviet systems; and second, to overcome a reputation for indecisiveness established in some Europeans' view by President Carter's handling of the neutron bomb, a controversial theater nuclear weapon for NATO, which in early 1978 he canceled plans to produce.[81]

In urging NATO to approve production and planned deployment of the GLCM and extended-range Pershing II, the Carter Administration stressed several points:[82]

The emergence of parity in the strategic nuclear balance has made the state of, and trends in, the theater nuclear balance more significant.

Rough parity in the strategic nuclear balance makes the role of U.S. strategic forces in the deterrence of conflict and of Soviet attacks on Western Europe less credible than when the United States had a position of superiority in strategic nuclear forces.

The Soviet Union, with continuing deployment of the mobile, MIRVed, reloadable SS-20 IRBM system (and also the Backfire bomber), seeks a position of preponderance in the theater nuclear balance.[83]

The Soviet Union cannot be allowed to believe that parity in the strategic nuclear balance decouples the defense of Western Europe from a plausible U.S. nuclear response, and that the Soviet Union could launch long-range strikes at Western Europe with the SS-20 from the "sanctuary" of the western U.S.S.R., beyond the range of ground-based NATO nuclear missiles.

A determined NATO program to modernize and improve its long-range theater nuclear weapons will not jeopardize prospects for arms control but rather will provide a necessary incentive for the Soviets to consider restraint in their own buildup through arms control measures.

### NEGOTIATING LIMITS ON THEATER NUCLEAR FORCES: DIFFICULT PROSPECTS

Agreeing upon limitations relating to theater nuclear forces seems likely to prove quite difficult. It will probably not be easy to maintain a consensus in NATO on the parallel pursuit of both armament and arms control. The United States, Western Europe, and the Soviet Union will have different perspectives on the priorities within the agenda for arms control negotiations. Substantively, the negotiations will have to grapple first with formidable definitional issues over what systems to include. Even after definitional thresholds are agreed upon, two other troublesome questions will remain: how to count some systems, and how to verify confidently some limitations. Solutions to these issues will not be facilitated by the time pressure that the negotiators may face, given NATO's declared intent to proceed with operational deployment of GLCMs and Pershing IIs in late 1983. Finally, the state of the balance in long-range theater nuclear systems and the relative stages of Soviet and U.S./NATO programs affecting the future balance do not facilitate reaching an agreement meeting the criteria of stability and equity.

### *Maintaining a consensus within NATO for the dual policy*

Behind the difficult, fundamental decision by NATO in December 1979 to proceed with a dual policy was a consensus within NATO that had been fashioned in discussions over many months within the alliance, led by Washington and Bonn.[84] Although the consensus was impressive, it was not unanimous. The Dutch government, for example, despite intense lobbying by its allies, was compelled by domestic opinion to insist upon waiting at least two years to judge whether arms control negotiations would make NATO's program unnecessary before approving deployment of GLCMs in Holland. The Belgian government deferred its approval on similar grounds.[85]

The general consensus in NATO as of December 1979 did not appear fragile in the near term, however. West Germany and Great Britain strongly backed the dual policy. Efforts by the Soviet leadership in the months before and through the spring of 1980 to forestall NATO's decision to approve new long-range theater nuclear weapons by a combination of offers of Soviet restraint and of threatened Soviet countermeasures not only failed but may have galvanized some of the consensus behind NATO's decision.[86] Nevertheless, sustaining the consensus over several years of negotiations, especially support for continuing modernization efforts if there appears some hint of progress in arms control negotiations, seems likely to prove difficult for NATO. The Soviets will have future opportunities—through propaganda campaigns and more subtle diplomatic overtures and soundings with some individual allied governments—to stimulate or play upon differences of view within NATO over how to conduct a dual policy that balances both elements to the satisfaction of NATO's members.[87]

Although Prime Minister Thatcher's conservative government in Great Britian firmly endorses NATO's LRTNF plan, the Labor Party, which could be elected in 1984, has declared its fervent opposition to the prospective basing of GLCMs in the United Kingdom. Even in West Germany, whose government was a leading participant in establishing an allied consensus, there was and still is some noteworthy opposition.

Although in early December 1979, a strong majority of Chancellor Schmidt's Social Democratic Party (SPD) approved the Bonn government's support for production and prospective deployment of new U.S. long-range missiles in West Germany, within a leftist minority of the SPD there was and remains pronounced concern that NATO's decision to proceed with such new systems will damage detente and jeopardize prospects for arms control. In May 1981, Chancellor Schmidt threatened to resign if elements within his party continued their vociferous opposition to NATO's plan to deploy LRTNF. In early 1982, three regional SPD party conventions passed resolutions calling either for withdrawal from NATO's December 1979 deployment decision or for a moratorium, including a halt to preparations for stationing GLCMs and Pershing IIs in West Germany. In April 1982, Chancellor Schmidt succeeded in opposing such moves at a national convention of the SPD in Munich, which rejected a moratorium proposal by about two to one. Nonetheless, the convention still called for a review of the issue again in the fall of 1983, nearer the scheduled IOC for GLCM and Pershing

II, and "* * * in direct contradiction of recent statements by the Chancellor—declared that 'there may be not automatic deployment' of missiles if the Geneva negotiations reach an impasse" in 1983.[88]

Support for pursuing modernization of NATO's long-range theater nuclear forces has, however, been generally strong within the SPD's coalition partner, the Free Democratic Party (FDP), and within the conservative opposition party, the Christian Democratic Union/Christian Socialist Union (CDU/CSU).[89]

In terms of public opinion in West Germany, an opinion survey reported in October 1981—when about 250,000 demonstrators converged in Bonn to denounce NATO's planned LRTNF deployment—that 40 percent opposed the deployment of the new missiles but that 56 percent favored such deployment "in case arms control talks with the Soviets led nowhere." An opinion poll taken in February 1982 indicated that 31 percent believed that "the effect of having American nuclear missiles stationed in Western Europe" would be to "provide greater protection," while 24 percent believed such deployment "increases chances of an attack."[90]

In the future, consensus on deployment may not be easy to sustain. The imminent or actual start of deployment of the new NATO systems could become a focus of aroused domestic opposition in host countries. This may be particularly likely in the case of the GLCM, which—unlike the Pershing II—will involve new basing operations. In fact, leaders of the nuclear disarmament movement in Western Europe have reportedly "agreed to minimize mass demonstrations in 1982 and to concentrate instead on the period in 1983 just before final INF [LRTNF] decisions are made by NATO governments." Opposition to deployment of GLCM and Pershing II grew in Europe by about 10 percent during 1981. By the end of 1981, however, 60 percent of public opinion in West Germany and Great Britain still supported deployment *"so long as* it is tied to the Geneva INF negotiations" (emphasis added).

The fall 1982 collapse of the SPD/FDP majority coalition government (which included the ouster of Chancellor Schmidt and his replacement by CDU party chairman Helmut Kohl, heading a new majority coalition of CDU/CSU with the FDP) could make it considerably more difficult to contain strong sentiment within the SPD against basing GLCM and Pershing II in West Germany. A national election between early 1983 and 1984 in West Germany could well become a divisive plebiscite on the LRTNF deployment issue. Blocking deployment has become the declared "main priority" of the new "Green Party," which has emerged as West Germany's third largest party. Significant minority opposition to such deployment was registered in November 1982 at a national convention of the electorally weakened FDP.[91]

One basis for skepticism over NATO's ability to maintain and manage the implementation of a consensus over a dual policy is the difficulty experienced by the U.S. government itself in maintaining a balance between the two parallel courses it sought to pursue with respect to strategic forces in SALT II. In May 1973, the United States declared with respect to SALT II:

> We have entered the current phase of the strategic arms limitation talks with the same energy and conviction that produced the initial agreements. Until these negotiations succeed we must take care not to anticipate their outcome through unilateral decisions.
>
> We shall continue our research and developmental programs and establish the production capacity to sustain a sufficient strategic posture should new agreements prove unattainable. This effort also dissuades the other side from breaking the agreement.[92]

The prospective difficulty in SALT II of making sure that the parallel courses of weapons programs and arms control complement or support rather than undermine each other was noted by Dr. Kissinger:

> The question is: If we spend too little on defense, if we create such a unilateral weakness, then we destroy their incentive to negotiate seriously. If we spend too much and give them the idea that we are gearing up simply for getting ahead of them, then we create the other problem.[93]

In the case of NATO during negotiations on LRTNF, the more likely prospect would probably be that the arms control negotiations will make it difficult to sustain consensus supporting the controversial modernization of theater nuclear forces. In any event, if managing a balance of the elements of a dual policy in SALT II was difficult for the United States alone, it seems likely to be even more difficult for a coalition of allied nations with differing perspectives on priorities.

### *Differing national perspectives on the agenda for arms control negotiations*

The United States, the Soviet Union, and the Western European allies will bring different perspectives to arms control negotiations in the early 1980s. Within Western Europe, there will also be differing national perspectives on priorities to be stressed in negotiations on LRTNF and in renewed superpower discussions on strategic nuclear arms control.

After the conclusion of the SALT II negotiations in Vienna in June 1979—before substantial opposition to both the Treaty and the Protocol developed in the Senate and before the Soviet invasion of Afghanistan—it was widely expected within Western Europe and the United States that the next phase of strategic arms control negotiations, envisioned and described as SALT III, would begin relatively soon, perhaps in early 1980. It was anticipated that SALT III would emphasize substantial reductions and further qualitative constraints on strategic nuclear forces. It was also expected that SALT III would include discussions of long-range theater nuclear forces, such as the SS-20 and the GLCM. In fact, President Carter in January 1980 requested that the SALT II agreements be removed from the Senate calendar, and the Senate did not proceed to a floor debate on SALT II. In October 1980, the U.S. and the Soviets held preliminary discussions on LRTNF in Geneva and on November 31, 1981, the U.S. and the Soviet Union began LRTNF (described as INF, or intermediate nuclear forces, by the U.S.) talks.

On June 29, 1982, the U.S. and the Soviets resumed negotiations on strategic nuclear forces, described as START (Strategic Arms Reduction Talks) to emphasize President Reagan's objective of substantial reductions and to signify a break with the unratified SALT II Treaty. The Reagan Administration judged the SALT II Treaty to be seriously flawed, especially because it codified asymmetries in the strategic balance favoring the Soviet Union and contained ambiguous verification provisions. However, the Reagan Administration has declared that the United States will take no actions to undercut SALT II, so long as the Soviets exercise equal restraint.

President Reagan in early May 1982, declared that the goal of the U.S. in START would be to achieve "a stable nuclear balance at the lowest possible level" and that "the main threat to peace posed by nuclear weapons today is the growing instability in the nuclear balance . . . due to the increasingly destructive potential of the massive Soviet buildup in its ballistic missile force," especially their "giant" ICBMs. He proposed that the first phase of START should reduce ballistic missile warheads to equal levels or ceilings and that "no more than half of those warheads be land-based." President Reagan further proposed that a second phase of START should seek an equal ceiling on other elements of strategic nuclear forces and include "limits on the ballistic missile throw-weight at less than current American levels."[94]

Perhaps one of highest priority objectives for the United States in renewed strategic arms talks may be to seek an extension after 1985 of the limits on MIRV fractionation agreed to in SALT II. Under SALT II, a maximum of 10 MIRVs is permitted on the modern, large Soviet SS-18 (10 being the maximum number of MIRVs released in testing of the SS-18 as of May 1, 1979). The Soviet Union and the United States are allowed to test and deploy one "new type" of ICBM under SALT II, but that may not be flight tested or deployed with more than 10 reentry vehicles. This provision limiting the ability of the Soviets to exploit the large throwweight of their ICBMs, is of greatest value to the United States after 1985, when SALT II is scheduled to expire. Especially in the period after 1985, the Soviets could increase the MIRV loading on the SS-18 to 20 or more. In 1986, the United States was, under the plans of the Carter Administration, scheduled to begin deployment of MX ICBM on mobile launchers amid multiple protective shelters (MPS). The MPS approach was rejected by the Reagan Administration in October 1981. Some alternative modes of deployment (such as the "dense pack" scheme of closely spaced silos) may be less sensitive than others to the level and quality of the MIRV capability of the Soviet ICBM force. Nevertheless, the sizing, cost, and effectiveness of the plan for permanent basing of the MX (which Congress in August 1982 directed be submitted in a report by December 1, 1982) seems likely to be related still to whether or not the Soviets agree to extending the MIRV fractionation limit beyond 1985. (The IOC for the MX is scheduled for 1986.) If not, the MX program's survivability against an expanded warhead threat could either diminish in the late 1980s or require substantial additional deployment and funding for the MX. The Defense Department has argued that the prospective MX program's ability to destroy most of the Soviet ICBM force in fixed silos will provide an incentive for the Soviets to agree to reductions as part of an agreement to succeed SALT II. In an event, the United States would presumably prefer to reduce the cost and uncertainty about the bounds of the threat to the MX, which a negotiated extension of the MIRV-fractionation limit beyond 1985 would provide.

A perspective on arms control relating to LRTNF was provided by President Reagan in mid-November 1981, shortly before the formal INF (intermediate-range nuclear forces) talks began in Geneva on November 30, 1981. Declaring that "With Soviet agreement, we could together substantially reduce the dread threat of nuclear war which hangs over the people of Europe," President Reagan offered to cancel deployment of GLCM and Pershing II if the Soviets would dismantle comparable forces, the SS-4, SS-5, and SS-20 missiles. This U.S. proposal was strongly supported at the time by Western European governments and they reaffirmed their endorsement in 1982. (Indeed, such a "zero-level" option had been urged upon the U.S. by allies—especially West Germany and the Netherlands—at a meeting of NATO defense ministers in Scotland in October 1981.)[95]

The Soviet perspective on the agenda for arms control will include concern with the prospect not only that the mode(s) of deployment for MX could reduce the threat posed to the survivability of U.S. ICBMs by the Soviet ICBMs but also that the MX missiles will themselves pose a severe threat to the survivability of Soviet ICBMs in hardened silos. Soviet awareness of strong U.S. interest in reducing strategic forces and in extending the MIRV-fractionation limit may suggest to them a basis for major bargaining leverage to get the United States to agree to some curtailment of NATO's planned deployment of LRTNF, a high priority from the Soviet perspective. Inducing NATO to abandon entirely such deployment is strongly desired by the Soviets. As they did in SALT II, the Soviets seem likely to insist that the U.S. long-range cruise missile program, which has been expanded by the Reagan Administration, be included and limited under START.[96]

Given Soviet concern with the growing nuclear threat in the 1980s posed to them by the Peoples' Republic of China from the east and by modernized British and French national nuclear forces from the west, the Soviets seem likely to insist in negotiations with the United States that the U.S.S.R. must be in some way "compensated" for those third-party threats that are not directed at the United States. Moreover, the Soviets also may be reluctant to agree to limit or reduce Soviet theater nuclear capability for dealing with threats on their periphery. Even if the Soviets accept the principle of *de jure* parity in the balance of long-range nuclear delivery systems in the European theater, maintaining a clear, potentially intimidating *de facto* superiority in such forces seems likely to be a high priority for the Soviets. They will thus be reluctant to undertake any substantial reductions, especially in the SS-20, that would make an arms control limitation on such systems meaningful. Soviet proposals for deep reductions in theater nuclear forces have been typically vague and permitted retention of a very large SS-20 force threatening Western Europe. For example, their proposals have involved phasing out the older SS-4/SS-5 force and cutting U.S. tactical aircraft deployed in Western Europe and yet allowing for *even increasing* SS-20 deployment—all offered in exchange for NATO's abandoning its planned LRTNF deployment.[97]

In arms control negotiations in the early 1980's, the principal concerns of Western European allies of the United States will be that the continuing buildup of the SS-20 force be curbed or halted and that the noncircumvention provision in the SALT II Treaty not inhibit the United States from cooperating with its allies and transferring to them some cruise missile systems and technology.[98] Within the alliance, avoiding the need to deploy any long-range theater nuclear missiles (or certainly large numbers of them) will be for some a much favored and tolerable outcome, especially if the Soviets agree to a ceiling on their SS-20 deployment in return for no deployment of the GLCM and Pershing II by NATO.

Although anxious Soviet preoccupation with prospective LRTNF deployment by NATO may well provide the alliance with quite substantial bargaining leverage, the Soviets may still consider good their chances of stopping NATO's deployment through the opposition in Western Europe which Soviet propaganda seeks to reinforce and widen, thus avoiding a need to pay for NATO's abandonment of LRTNF by negotiated Soviet constraint on its own LRTNF. Even if the context of negotiations is important to the Soviets and not seen as secondary to opportunities for impact on NATO's plans through propaganda, the West may not be able to maintain the political will to use its potential bargaining leverage on the Soviets. In any event, if progress on limitations relating to theater nuclear systems seems to be impeded by issues between the two superpowers on "central," strategic nuclear systems, then European allies of the United States may seek to become more directly involved in affecting the status and course of negotiations on central systems and may attempt to pressure the United States to modify its negotiating position in the strategic arena.

### *Issues about what systems to include, counting rules, and verification*

Theater nuclear forces in both NATO and the Warsaw Pact include systems that are flexible in mission and in potential deployment, making it difficult to draw a definitional line for inclusion in, or exclusion from, arms control agreements.[99] For example, many tactical aircraft in both the NATO and the Warsaw Pact inventories are dual capable—that is, they can perform either nuclear or conventional strike missions. The United States currently has about 170 F-111 aircraft stationed in Great Britain, all of which are dual capable. Because of the range and nuclear capability of those F-111s, the Soviets seem likely to insist that those aircraft not be excluded from the scope of arms control limitations on theater nuclear weapons in the European theater. Yet those F-111s are also critically important assets to NATO for conventional bombing, especially in adverse weather. In the future, assuming GLCM is deployed, it may be even more likely that most of the F-111s based in the United Kingdom would be used for conventional missions, given that a basic rationale for the GLCM is that it would enable releasing tactical aircraft for conventional missions. The Soviet Union has hundreds of dual-capable tactical aircraft in its force structure as well. For example, by late 1981, the Soviets had deployed about 400 SU-24 Fencers, which have a combat radius similar to that of the U.S. F-111s.

Flexibility not only of missions but also in deployment is characteristic of aircraft that could perform theater nuclear missions. About half of the U.S. inventory of 350 F-111s is based in the continental United States. Should such dual-capable systems, which could be moved swiftly to the European theater, be included in an arms control agreement focused on the European theater, when many of those aircraft could as well be moved to Korea for use in conventional missions?

Not only aircraft are mobile theater nuclear systems, however. The SS-20 is a mobile IRBM with such a long range that it could still pose a threat to Western Europe from deployment areas (i.e., east of the Ural mountains) located beyond what would be usually defined as the European theater. The Soviets will reasonably claim that some portion of their SS-20 force is directed against the Peoples' Republic of China, not Western Europe, even though some SS-20s could be so located as to strike either theater on the periphery of the U.S.S.R. Even SS-20s deployed generally beyond range for striking Western Europe could be moved presumably rather easily and quickly to pose such a threat.

The Soviet Backfire bomber has become a major concern to the Western European allies as part of the growing Soviet long-range theater nuclear threat they wish to curb in arms control negotiations. The Soviet force of at least 200 Backfires, however, is divided about equally between naval aviation, which has a primary mission against U.S. aircraft carriers, and long-range aviation, which has missions against not only NATO/Europe but also the United States and China. What portion of the Backfire force should be counted toward ceilings on theater nuclear forces of principal concern to Europe in LRTNF talks? The United States and NATO seem likely to press for inclusion of all, or at least a substantial portion. The Soviets may argue that the half of the Backfire force assigned to Soviet Naval Aviation not be included or that, if so, all U.S. Navy carrier-based attack aircraft (about 110 A-6s and 300 A-7s) must be included because of a theoretical capability to conduct nuclear strikes against the periphery of the U.S.S.R. (In the preliminary talks in Geneva with the United States on LRTNF in the last few months of the Carter Administration, the Soviets did propose including U.S. forward-based aircraft.)[100]

In its December 1979 guidelines for arms control negotiations that deal with theater nuclear weapons, NATO directed that the subject be U.S. and Soviet systems. Such an exclusion of the U.K. and French forces seems likely to be strongly opposed by the Soviets as an inadmissible inequity in considering mutual limitations on theater nuclear systems. Yet the explicit inclusion of U.K. and French long-range nuclear systems would probably be acceptable to those nations only if they become directly involved in the negotiations. Assuming France would accept such a role, wider direct participation of governments in U.S.-Soviet negotiations on topics that go to the core of a sense of sovereignty for the British and French would make manageability of the negotiations extraordinarily difficult.

Although the inclusion of some portion of the SS-20 IRBM force is not disputed by the Soviet Union, the problem of how to count that system remains. In the case of the SS-20 and its predecessors, the SS-4 and SS-5, the launchers are reloadable, with substantially more missiles than launchers. As stated earlier, in the case of SS-20, each launcher is supported by two missiles, one as a reload. In the case of the SS-4 and SS-5, it has been estimated that about 10 missiles are available to support six launchers.[101] Counting launchers rather than missiles in the case of the SS-20 would make questionable the realism and effectiveness of an arms control agreement. Yet attempting to count missiles rather than launchers poses major problems for confidence in verification of compliance with an agreement. Counting launchers alone would neglect asymmetries (such as four GLCMs carried on each GLCM transporter-erector-launcher compared with one SS-20 missile carried per launcher) and would fail to take into account the Soviet practice of having substantial reload missiles. Neither a GLCM nor a Pershing II is MIRVed, whereas an SS-20 carries three MIRVs. A scheme for establishing "SS-20 equivalents" or using "warheads-on- launchers" as a unit of measure in an agreement relating to theater nuclear weapons could be attempted but seems unlikely to be a basis for agreement.

Verification that cruise missiles are conventionally armed rather than nuclear would pose the same impossible task for external observation that it did in SALT II. Verifying that a cruise missile's range was below a threshold of inclusion for long-range theater nuclear systems, such as 600 or 1,000 kilometers, would not be possible with confidence either. Attempts to distinguish tactical aircraft that are nuclear armed from dual-capable aircraft that are not nuclear armed—such as with externally observable different features—would not resolve the uncertainty in verification of compliance with limitations on the number of theater nuclear delivery aircraft. In the case of some systems such as GLCM or SS-20, the on-site inspection measures that might be needed to facilitate verification of compliance with limits on launchers/missiles could be so intrusive that they could jeopardize or undermine confidence in survivability of the system included.

Even if problems of verifying with high confidence Soviet compliance with limitations on long-range theater nuclear systems like the SS-20 were somehow solved, there would remain an important difficulty: the need to prevent loopholes for Soviet evasion of the effectiveness of the agreed constraints on LRTNF. The imperative of not neglecting this difficulty was noted in December 1981 in congressional testimony by Assistant Secretary of Defense Richard N. Perle:

> "In the Geneva negotiations, we will also seek limitations on some Soviet systems of shorter range. A failure to limit them, by numerical ceilings and other limitations, would leave an agreement eliminating the SS-4, SS-5 and SS-20 missiles hoplessly vulnerable to circumvention; for *the fact is that the Soviets can cover some 85% of the NATO targets assigned to the SS-20 with the shorter range SS-22 if they are deployed in sufficient numbers and moved forward on Warsaw Pact territory*. The SS-X-23, while much shorter in range [500 compared to 900 kilometers] than the SS-20, can still strike much of European NATO—as much as 50%—when forward deployed. "(Emphasis added.)[102]

### *Balance in the background and comparative stage and momentum of programs*

Difficult as they were, the SALT I and SALT II negotiations were facilitated by aspects of parity in the strategic nuclear balance, which were codified by those arms control agreements. In the case of long-range theater nuclear delivery forces, there is not a present or near-term emerging parity no codify. Thus, the task in LRTNF negotiations as declared by NATO in December 1979 to achieve "a more stable overall nuclear balance at lower levels of nuclear weapons on both sides" will be considerably more difficult than the uneasy tasks in SALT I and II.[103]

The on-going momentum in Soviet long-range theater nuclear programs of particular concern to Western Europe is substantial. As Chancellor Schmidt noted a few days before NATO's decision in early December 1979 to proceed with the dual policy.

The Western Alliance could not, however, overlook the fact that the Soviet Union has continued to build up its lead in LRTNF which even previously was quite considerable. Every week it adds another SS-20 with three more warheads—fifty a year—and thirty new Backfire bombers a year—well over 100 warheads in all[104] (Emphasis added.)

The momentum of the Soviet buildup of the SS-20 is illustrated in Figure 12, which also demonstrates the significance of warheads on missiles as a measure of trends in the LRTNF balance and how misleading would be a concentration upon missile launchers as a measure. Despite the fact that the Soviets deactivated over 200 launchers for SS-4/SS-5 missiles, the continuing expansion of the SS-20 force (at an established average rate of deployment of about one launcher per week) enabled the Soviets to more than double the number of warheads (reentry vehicles) in their long-range theater nuclear ballistic missile force between 1977 and the outset of 1982. Nonetheless, Soviet concern that NATO will in fact proceed to deploy both the GLCM and the Pershing II (especially the latter in terms of short flight time and high accuracy for destroying military targets such as ICBM silos) has provided an incentive for the Soviets to enter talks on LRTNF they initially rejected as possible if NATO approved such deployment in December 1979.

### SUMMARY

The question of whether and, if so, how to include and limit U.S. cruise missiles became a contentious issue that contributed to the difficulty and length of the efforts to reach a SALT II agreement. Verifiability, an important criterion for acceptable arms control agreements. is essentially impossible in the case of some characteristics of cruise missiles, especially range potential and type of armament (nuclear or conventional). However, the fact that cruise missile programs emphasized by the United States after SALT I became one of the obstacles to reaching a major new arms control agreement does not mean therefore that cruise missiles are necessarily antithetical to arms control objectives. In some aspects, such as their lack of suitability for first strike, cruise missiles serve a principal objective of arms control; crisis stability. If the mode of deployment of GLCM (as well as Pershing II) does not provide substantial survivability, however, then such deployment could reinforce Soviet inclination toward preemptive first strike in the theater, thereby undermining rather than facilitating crisis stability in Europe. To take advantage of the potential mobility and survivability of GLCM and Pershing II and thereby promote crisis stability, NATO will clearly have to have the political resolve to act upon warning—which may well be ambiguous—and approve an alert posture allowing dispersal away from main operating bases with nuclear armament.

The final phase of the SALT II negotiations—with the emergence in mid-1977 of the Protocol tht legitimized constraints on future forward-based systems (GLCM and SLCM) for NATO without also including some counterpart Soviet systems (particularly the SS-20)—produced some strains in the U.S. relationship with its NATO allies, who generally strongly supported the SALT II process as an element of detent. START together with negotiations on LRTNF involves an agenda and a negotiating approach for NATO that seem likely to pose a considerably more difficult test of the cohesion of the Alliance than did SALT II, if not at the outset of renewed strategic arms talks than over what may be a period of protracted negotiations between the United States and the Soviet Union and within NATO itself.

In terms of a negotiated outcome in talks relating to long-range theater nuclear systems, NATO insisted in its guidelines declared on December 23, 1979 that "limitations should take the form of *de jure* equality both in ceilings and in rights."

In terms of deployment levels for NATO of new long-range missiles for the theater, however, seeking to match the Soviet deployment of SS-20s—with or without an arms control agreement—seems neither required by NATO's doctrinal emphasis upon limited, selective use of nuclear weapons in the theater nor prudent if decoupling is not to be encouraged by reinforcing the notion of a compartmentalized, separate "Eurostrategic" balance. For purposes of NATO's deterrent posture and strategy of flexible response, it is not equal numbers of long-range theater nuclear weapons deployed but confident survivability that denies the Soviets the prospect of an effective preemptive strike.

In sum, NATO faced a dilemma in considering whether and, if so, how to respond to the Soviet buildup in long-range theater nuclear forces, especially the SS-20. If NATO had not chosen a military, programmatic response, that failure of resolve would have strained the cohesion of the alliance. It also would have demonstrated an unwillingness to take seriously the implications of its own declared strategy of flexible response.

Moreover, if the programmatic response had not involved a land-based component—whether it be GLCM, Pershing II, and/or a new mobile MRBM—the credibility of that response (to the Soviet Union and to Western Europe) would have been undermined by doubts about assured availability.

On the other hand, a land-based system was bound to be highly controversial in prospective host countries, placing strains on NATO's cohesion. A land-based system is difficult to make survivable in Western Europe because deployment areas are limited in urbanized host countries. The Soviet Union has a strong comparative advantage in mobile land-based deployment, with its continental land mass and a closed society—organized citizen opposition there would be unthinkable.

NATO, by adopting a deployment plan that was bound to face some vociferous opposition within Western Europe, also prompted an intense Soviet campaign of propaganda and diplomatic pressure to unravel NATO's decision and stimulate division between the United States and its European allies, long a principal foreign policy goal of the Soviet Union.

In its dilemma, NATO could not escape the political costs of a land-based option without losing the benefits for deterrence, as well. If NATO had chosen a submarine-based (SLCM) option as its sole or principal response to the Soviet buildup, the alliance would have avoided host country opposition and had more confidence in prelaunch survivability. But that choice would have failed to provide the assured, dedicated availability to NATO's defense that a mobile land-based system inherently provides.

Thus, in seeking to sustain its deterrent posture against the Soviet Union, NATO by approving deployment of land-based

**LRTNF was taking an unavoidable risk involving its political future. Pursuing a difficult dual policy of armament and arms control reduces the risk somewhat but will prove a demanding task for the United States and its allies.**

### FOOTNOTES TO CHAPTER 6

[1] Roger Morgan, *The United States and West Germany, 1945-1973* (Oxford; Oxford University Press, 1973), pp. 97-115; Robert E. Osgood, *NATO: The Entangling Alliance* (Chicago: University of Chicago Press, 1962) pp. 126-132; Michael H. Armacost, *The Politics of Weapons Innovation: The Thor-Jupiter Controversy* (New York: Columbia University Press, 1969), pp 180-218. John Vinocur, "U.S. Is Afraid Allies Will Back Out of Missile Plan," *New York Times*, August 29, 1981.

[2] U.S. Arms Control and Disarmament Agency, *SALT Lexicon*, rev. ed., 1975, p. 6. Crisis stability has also been defined as ". . . a situation in a strategic force relationship . . . which neither side could hope to gain in relative capabilities from initiating the use of nuclear weapons in a crisis. "Statement by Ambassador Paul H. Nitze, U.S. Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 1. 441.

[3] *SALT Lexicon*, p. 2. Congressional Budget Office, *SALT and the U.S. Strategic Forces Budget*, June 1976, p. 4; *Foreign Policy Report of the President to Congress*, 1970, p. 143; 1971, pp. 156, 160, 162, 167, 171, 175; 1972, pp. 12, 155, 162, 171, 176; 1973, pp. 194-199.

[4] *New York Times*, February 8, 1976: Alexander R. Vershbow, "The Cruise Missile: The End of Arms Control?" *Foreign Affairs*, Vol. 54, No. 1 (October 1976), pp. 133-146. In the case of the relationship between Soviet and U.S. MIRV programs and SALT I, see press conference of Dr. Henry A. Kissinger, Intourist Hotel, Moscow, May 27, 1972:

Q. Dr. Kissinger, on the MIRV, aren't we really, by deploying MIRVs ourselves so rapidly, kind of forcing them or encouraging them into the MIRV business?

A. This is a debate that has been going on for the entire post-war period; namely, whether our technological change compels the Soviet technological change, or whether the two technological changes are not occurring somewhat in parallel, and on the whole, the Soviet Union will do what it is technologically capable of doing.

You remember the debate about the hydrogen bomb in the early 1960s [sic] in which one argument against the hydrogen bomb was that if we developed it, the Soviet Union would be forced into following suit. As matters developed, we exploded our bomb six months before the Soviet Union did, making it obvious that we did not lead them but that they were pursuing a parallel evolution.

I think it is safe to say that the Soviet Union has been engaged in the first step toward MIRV at a time when we had not yet deployed MIRV, and I would not, therefore, accept the proposition.

Reprinted in U.S. Senate Committee on Armed Services, Hearing, *Military Implications of the Treaty on the Limitations of Anti-Ballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms*, 92nd Congress, 2nd Session (1972), p. 113

[5] Richard Halloran, "Reagan's Military Strategists Plan Expanded Cruise Missile Program," *New York Times*, July 13, 1981; Michael Getler, "Cruise Missiles Eyed for Ships and Subs: Arms Curbers Uneasy," *Washington Post*, August 7, 1981; Leslie H. Gelb, "The President's Options: Nuclear Bargaining," *New York Times Sunday Magazine*, June 27, 1982, p. 63; see also Rear Admiral Walter M. Locke's letter to the editor, *New York Times*, May 8, 1982. On the lack of accuracy of Soviet antiship cruise missiles if used in attacking land targets, see testimony of Admiral James L. Hollaway III, Chief of Naval Operations, House Committee on Appropriations, FY 1977, Part 2, p. 131.

Soviet spokesmen are adept at making statements to encourage the belief they are principally reacting to U.S. cruise missile programs, such as with a new land-attack SLCM as a response to prospective GLCM and Pershing II deployment in Western Europe. See Ned Temko, "Moscow Developing New Cruise Missiles," *Christian Science Monitor*, April 23, 1982; see also testimony of Ambassador Nitze, House Appropriations Committee, FY 1983, Part 4, pp. 836-837.

[6] See comments by Secretary of Defense Harold Brown in response to a question about MIRVs and cruise missiles, press conference, May 6, 1977. Even a supersonic speed cruise missile, because its range is degraded compared with a subsonic version of comparable size, must be brought up within range by a lunch platform, such as an aircraft or submarine, thereby (especially in the case of aircraft) providing some warning time.

[7] Secretary Brown noted that the concentration of Soviet theater nuclear capability against Western Europe and the emphasis upon nuclear preemption in Soviet military doctrine ". . . mean that we must plan for the possibility that the Warsaw Pact rather than NATO would be the first to use nuclear weapons. Such a use might occur at the outset of a conflict or after a preliminary conventional campaign. It might be confined initially to a narrow sector of the front, or it could be initiated on a theater-wide basis. In either event, *we probably could not count on significant tactical warning of such use.*" (Emphasis added.) *Department of Defense Annual Report*, FY 1979, p. 70 (hereinafter, these reports will be cited as Annual Report, FY 1979; Annual Report, FY 1978, etc.).

As many as two dozen vehicles (including maintenance and personnel carriers) supporting a GLCM "flight" have been reported. For a commentary on an envisioned array of vehicles in a convoy, see editorial in the *Wall Street Journal*, August 31, 1981, p. 12. The transporter-erector-launcher (TEL) and the launch control center van for the GLCM are each about 55 feet long. The launch control center van weighs, including its wheeled prime mover built in West Germany, about 80,000 pounds. The TEL reportedly also weighs about 80,000 pounds. Launchers will be connected to the launch control centers by a "nuclear-hardened" fiber optical cable. The second launch control van provides a redundancy and backup which is also emphasized in the communications supporting the GLCM. "The [GLCM] units will leave the bases for training exercises, but would leave the facilities with loaded missiles only under alert conditions." *Aviation Week and Space Technology*, March 1, 1982, pp. 63-64.

[8] U.S. Congress, House Committee on Appropriations, Subcommittee on the Department of Defense, *Hearings on Department of Defense for 1978*, 95th Congress, 1st Session, Part 7, p. 259 (hereinafter hearings of Senate and House committees on armed services and appropriations will be cited according to the name of the committee and the fiscal year of the authorization or appropriation bill for which the hearing is being held).

[9] Dr. William J. Perry, Under Secretary of Defense for Research and Engineering, press conference, October 31, 1977, pp. 11-13. Perry estimated that a Soviet "crash program" in an attempt to "defeat" new U.S. cruise missiles with fighter interceptors with look-down/shoot-down capability and new SA-10 SAMs would cost about $50 billion over 10 years.

[10] House Appropriations Committee, FY 1978, Part 7, pp. 279, 281.

[11] See, for example, *U.S. Foreign Policy for the 1970s*, report to Congress by President Nixon, February 18, 1970, p. 122; Secretary James R. Schlesinger, Annual Report, FY 1975; ". . . deterrence can fail in many ways. What we need is a series of measured responses to aggression which bear some relationship to the provocation, have prospects for terminating hostilities before general nuclear war breaks out, and leave some possibility for restoring deterrence" (p. 38). See Secretary Brown, Annual Report, FY 1979, p. 55.

[12] Multiple themes have been expressed in the Soviet propaganda campaign. Most generally, the Soviets have, as part of their "peace offensive" after invading Afghanistan, warned that NATO's planned deployment would deal a serious blow to detente in Europe and increase the likelihood of nuclear conflict in Europe. The Soviets have claimed that a buildup by them in LRTNF is a myth; that a balance in LRTNF already exists; that they have been restrained and even have unilaterally reduced their LRTNF (or as they say "medium-range") systems in recent years; that unlike the West they do not seek military superiority; and that NATO's plans (not, of course, the continuing deployment of at least one SS-20 launcher per week) will spark an arms race. They portray the U.S. as the obstacle to arms control on LRTNF and emphasize Soviet readiness to pledge no first use of nuclear weapons against any country in Western Europe that does not possess its own or allow U.S. nuclear weapons on its territory. See *The Modernization of NATO's Long-Range Theater Nuclear Forces*, report prepared for the subcommittee on Europe and the Middle East, House Committee on Foreign Affairs, by the Congressional Research Service, December 31, 1980, pp. 50-54. The campaign has included publication of a forged letter from retiring NATO Commander Alexander Haig to NATO Secretary General Joseph Luns. See "Soviet Active Measures: An Update," Department of State, July 1982, p. 2 and *Aviation Week and Space Technology*, July 26, 1982, pp. 106-107.

[13] Senate Armed Services Committee, FY 1978, p. 6435. See also address by Admiral Locke, Director, Joint Cruise Missiles Project Office, May 11, 1981: "It has also been reported that France, Israel, and even some African nations are in the process of developing cruise missiles" (p. 4).

[14] Testimony of John Walsh, Senate Armed Services Committee, FY 1978, p. 6435.

[15] Gerald R. Ford, *A Time to Heal* (New York: Harper & Row, 1979), pp. 214-216, 298-300, 302-306, 345, and 357-358; Strobe Talbot, *Endgame: The Inside Story of SALT II* (New York, Harper & Row, 1979), pp. 34-35; Congressional Budget Office, *SALT and the U.S. Strategic Force Budget*, pp. 12-13. The Soviets initially "pushed for higher figures," according to President Ford in *A Time to Heal*, p. 216.

[16] Ford, *A Time to Heal*, p. 216. At Vladivostok, the Soviets reportedly dropped their insistence on including U.S. forward-based systems in SALT II in exchange for the United States agreeing that the Soviets would retain (i.e., "intact" or without reduction) their 308 modern, heavy ICBMs, to which the United States had no right under the Interim Agreement of SALT I (nor under SALT II as it emerged). See Talbot, *Endgame*, p. 72. Although some "crazy quilt" trades are probably unavoidable in such negotiations on superpower arsenals that are so different in composition, such a trade involving potentially 3,080 highly accurate, large-yield MIRVs in the silo-based SS-18 force for U.S. dual-capable tactical aircraft, such as 170 F-111 aircraft based at two airfields in the United Kingdom capable of carrying perhaps 340 theater nuclear warheads—although they would be needed for conventional, allweather bombing in support of NATO ground forces—was remarkably one-sided in favoring the Soviet Union. More generally, as Ambassador Nitze testified in 1979 on SALT II: "We should have been the ones to have gotten compensation from the Russians because of the disparity in the theater capable systems, rather then the other way. We have, through weak negotiations, bought avoidance of negotiating about the forward-based system at least three times to my knowledge. Now we propose to pay for it again." Senate Committee on Foreign Relations, *Hearing on the SALT II Treaty*, Part 1, p. 490.

[17] Rumsfeld, Annual Report, FY 1977, p. 8.

[18] Ford, *A Time to Heal*, pp. 300-306.

[19] According to former Secretary of State Kissinger, "in the negotiations conducted by the Ford Administration, proposed restrictions on cruise missiles were made conditional on comparable restrictions on the Backfire. The concept was to limit the number of cruise missiles of more than 600 kilometer range in some relationship to limits on the Backfire." Testimony, Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 3, pp. 169-170. Ford, *A Time to Heal*, pp. 357-358.

[20] Secretary of Defense Brown, "Defense Planning and Arms Control," speech at the University of Rochester, Rochester, New York, April 13, 1977. According to Brown, "the deferral proposal would, however, call for the United States and the Soviet Union to reach agreement on some of the details not settled at Vladivostok. These include MIRV verfication (that is, agreement on when a launcher counts as being for a MIRVed vehicle); the issue of deliberate concealment, the aim being to ensure that verification will not be made any harder by actions of either side; and the data base (an agreed listing of numbers in the various categories being limited)."

[21] Ibid.

[22] Ibid.

[23] Ibid.

[24] Talbot, *Endgame*, pp. 68-87; Secretary of Defense Brown, speech at the National Press Club, Washington, D.C., May 25, 1977. In both the Carter and Reagan Administrations, the executive branch has indicated a U.S. intent to abide by or informally observe the provisions of SALT II. Secretary of Defense Caspar Weinberger, for example, in November 1981 testified that "We will take no action which will undercut existing agreements so long as the Soviets do likewise." *Strategic Weapons Propos-*

*als*, Hearings, Senate Committee on Foreign Relations, 97th Congress, 1st Session, p. 5.

[25] U.S. Department of State, *The SALT II Agreement*, Selected Documents 12B, pp. 10-11, 18, 19-20, 28-31, 36-38, 40.

[26] Ibid., pp. 42-43; Senate Committee on Foreign Relations, *The SALT II Treaty*, Executive Report 96-14, pp. 235-239.

[27] U.S. Department of State, *SALT II Agreement*, pp. 10-11, 28.

[28] Ibid., p. 18 (Article II, paragraph 8).

[29] When first agreed upon as part of a three-tier framework in May 1977, the Protocol was "to last for the next three years;" Brown, speech, May 25, 1977. See also President Carter's reference to "two or three years," press conference, May 26, 1977. Secretary Brown stated in 1978 that the Protocol would last until the end of 1980; Senate Armed Services Committee, FY 1979, p. 58.

[30] U.S. Department of State, *SALT II Agreement*, p. 52.

[31] Ibid., pp. 18, 52.

[32] Senate Committee on Foreign Relations, Hearings on the SALT II Treaty, Part 3, p. 149 Secretary Kissinger reportedly provided early support for the new U.S. long-range cruise missile program as early as 1972-73 as a "bargaining chip" that could be useful to the United States in the SALT II negotiations, and then subsequently became exasperated at the resistance of the Department of Defense to negotiated limitations upon cruise missiles in SALT II. See Talbot, Endgame, p. 35; New York Times, January 21, 1976, and February 17, 1976; Robert J. Bresler and Robert C. Gray, "The Bargaining Chip and SALT," Political Science Quarterly, Vol. 92, No. 1 (Spring 1977), pp. 77-78; Secretary of Defense Rumsfeld provided a useful perspective on bargaining chips in his Annual Report, FY 1978:

The idea of bargaining chips is not new; it was not invented in our lifetimes. For example, in 1966, President Johnson began to use the ABM defense system as a negotiating counter. In fact, despite its cost, the ABM 'chip' did not serve the United States badly. An ABM Treaty could hardly have been signed without it. It should be remembered, however, that weapons can only be effective as bargaining chips if there is a serious need for the weapon system in our strategic inventory. To develop weapon systems simply to throw them on the negotiating table would be folly. The Soviets would not pay anything to stop them. . . Serious programs thus may become bargaining chips and be affected in their development and deployment by arms control considerations. What are seen merely as bargaining chips will not become serious programs, nor will they be effective bargaining chips" [pp. 75-76].

[33] The United States had conducted a successful test of an air launch of a Minuteman ICBM after release from a C-5A transport aircraft in the fall of 1974, probably with the objective of impressing the Soviet Union in the SALT context.

[34] Congressional Budget Office, SALT and the U.S. Strategic Forces Budget, p.9

[35] The MIRV-fractionation limit of 10 RVs is primarily valuable to the United States after the expiration of SALT II in 1985, the period in which the MX deployment was scheduled to begin under the Carter Administration's plan.

[36] President Carter, press conference, May 30, 1977; see also press conference statement on "fair and balanced package," March 30, 1977, and address to Southern Legislative Conference, July 21, 1977. See also Brown, press conference, October 4, 1977, and interview on Italian television, October 15, 1977.

[37] Senate Armed Services Committee, Hearings, Military Implication of the Treaty on the Limitation of Strategic Offensive Arms and protocol Thereto (SALT II Treaty), Part 3, p. 1080, Testimony of Dr. Fred C. Ikle; Senate Committee on Foreign Relations, Hearings on the SALT II Treaty, Part 3, pp. 169-170; Senate Committee on Foreign Relations, The SALT II Treaty, Executive Report 96-14, pp. 178-182, 499-501. Some linkage between Backfire and cruise missile constraints was suggested early in the Carter Administration in statements by the President; see press conference of March 30, 1977: "We are prepared to accept restrictions on the cruise missile if it is part of an overall and balanced package. We are not prepared to accept a unilateral prohibition against development or deployment of the cruise missile absent some equivalent response from the Soviet Union, including the Backfire bomber." See also press conference on February 8, 1977.

[38] Senate Committee on Foreign Relations, Hearings on the SALT II Treaty, Part 1, p 253. President Brezhnev at Vienna provided an unwritten statement and oral declaration that the Soviets would not produce more than 30 Backfire bombers a year. Whether such an assurance, along with other aspects of the written statement, was a significant constraint is discussed in the Senate Committee on Foreign Relations, The SALT II Treaty, Executive Report 96-14, pp. 173-182, 497-503. By 1985, the Soviets may have deployed nearly 400 Backfires, which could account for about 30 percent of the total strategic [nuclear] payload in Soviet forces; testimony of Dr. Donald G. Brennan, Senate Committee on Foreign Relations, Hearings on the SALT II Treaty, Part 4, p. 371.

[39] William Beecher, "Allies Oppose Limits on Cruise Missiles, "Boston Globe, March 27, 1979, p. 21; Michael Getler, "Moscow, Bonn Differ on Cruise Missile," Washington Post, April 1, 1977, p. 18; Aviation Week and Space Technology, November 5, 1979, p. 15; November 19, 1979, p. 63.

[40] Senate Committee on Foreign Relations, Hearings on the SALT II Treaty, Part 1, P. 192. See also Secretary Brown's testimony: "But this does not at all apply to the kind of things on which we have cooperated with our allies or intend to cooperate with them, specifically including ground-launched and sea-launched cruise missiles" (p.131).

[41] Senate Committee on Foreign Relations, *The SALT II Treaty*, Executive Report 96-14, pp. 213-214; Senate Committee on Armed Services, *Military Implications of the Proposed SALT II Treaty Relating to the National Defense*, Report No. 96-1054, pp. 13-14, 16.

[42] Senate Armed Services Committee Report No. 96-1054, pp. 13, 16. The range capability of a cruise missile is defined in SALT II as follows: "The range of which a cruise missile is capable is the maximum distance which can be covered by the missile in its standard design mode flying until fuel exhaustion, determined by projecting its flight path onto the Earth's sphere from the point of launch to the point of impact;" *SALT II Treaty*, Article II, Paragraph 8, Second Agreed Statement; and *Protocol*, Article II, Paragraph 3, Second Agreed Statement.

To escape coverage under the emerging SALT II Treaty, the Soviets may have taken advantage of some uncertainty in estimating the range of their currently deployed AS-3 ALCM. With a range capability in excess of 600 kilometers, the AS-3 would have come within the terms of SALT II. Two of the three strike versions (about 75 aircraft) of the Soviet long-range Bear TU-95 bomber are equipped to carry the AS-3. For estimates that the AS-3 has a range of greater than 600 kilometers, see *Soviet Military Power* (Department of Defense, 1981), p. 61; *Air Force Magazine*, Vol. 64, No. 3, March 1981, p. 114; *Jane's Weapon Systems, 1979-1980* (London: Macdonald and Jane's, 1979), pp. 138-139; Alexander Maizeyev, "Soviet Air-Launched Cruise Missiles; Irrelevant to SALT II?" *International Defense Review* (Vol. II, No. 1.) 1978, pp. 41-45.

For discussion of the concern over Soviet evasion of the terms of the SALT II Treaty when it was being negotiated, see Senate Committee on Armed Services, *Military Implications of the Proposed SALT II Treaty Relating to the National Defense*, p. 16, and Senate Committee on Foreign Relations, *The SALT II Treaty*, Part 2, p. 351.

For a change in the estimate of the ranges of the ALCMs that can be carried on the Bear and Backfire, see Brown, Annual Report FY 1979 ("with ranges of about 600 kilometers," p. 51) and Annual Report, FY 1980 ("with range of about 500 kilometers," p. 73).

[43] Senate Armed Services Committee, FY 1976, p. 5160; FY 1978, pp. 85, 6439. House Appropriations Committee, FY 1978, Part 7, p. 283; FY 1980, Part 3, p. 730. See also statement by President Carter in question-and-answer session with editors, October 14, 1977: "So there are some things that you can't confirm . . . The new era of cruise missiles is one that opens up an additional difficulty of verification. It's hard to look at a cruise missile from a satellite and determine whether it's got a nuclear warhead on it or a conventional warhead."

[44] For a statement of the significance of Soviet acquisition of improved technology for precision-guided munitions, see Perry, Under Secretary of Defense, *The FY 1980 Department of Defense Program for Research, Development and Acquisition*, February 1979: "These weapons make high value targets such as ICBMs, bombers, carriers, and tanks much more vulnerable to destruction and will force a revolutionary change in force mix and tactics as they become more prevalent . . . to increase the emphasis on *mobility, stealth*, and *low-value weapons* in our forces" (pp. 1-13, 29).

[45] Secretary Brown said that the 2,500 kilometer limit was "enough through the early 1980s." ABC News, "Issues and Answers," November 6, 1977. Perry expressed his doubts about the appropriateness of the United States agreeing to range restrictions on the ALCM without some limitation upon Soviet air defense systems as well; see House Appropriations Committee, FY 1978, Part 7, p. 327. For a brief history of Soviet and U.S. positions on ALCMs, GLCMs and SLCMs, see Talbot, *Endgame*, pp. 66, 183-185, 210-212.

[46] House Committee on Appropriations, FY 1977, Part 2, p. 173.

[47] President Carter, press conference, June 30, 1977; see also Secretary Brown, House Appropriations Committee, FY 1978, Part 7, p. 163.

Ford, *A Time to Heal*, pp. 357-358. When first suggested by Secretary Kissinger in January 1979, counting ALCM-carrying bombers under the subceiling of 1,320 of MIRVed launchers was conditioned upon Soviet acceptance of inclusion of the Backfire within SALT II. As Strobe Talbot states, "Kissinger and Gromyko has agreed in principle that the U.S. would count cruise-missile-carrying bombers against the 1,320 MIRV subceiling if the Soviets accepted constraints on the Backfire. The Kremlin would self-righteously remind the U.S. for years afterward about the first half of that agreement while conveniently forgetting the second. It has always been standard Soviet procedure to select from a set of interlinked U.S. proposals the ones they like and ignore the ones they do not." Talbot, *Endgame*, p. 37. President Carter expressed his awareness of U.S. experience with this Soviet negotiating tactics in commenting upon the comprehensive proposal in a press conference on March 30, 1977.

[48] Secretary Brown, ABC News, "Issues and Answers," November 6, 1977. See also Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 1, p. 578.

[49] On the other hand, the subceiling of 820 MIRVed ICBM launchers affects the Soviet force structure but not the U.S. structure. The United States has 550 MIRVed ICBMs and more MIRVed SLBMs and heavy bombers than the Soviets. The 820 subceiling is at least 100 fewer than the United States had previously expected the Soviets to deploy. See Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 1, p. 115.

[50] House Appropriations Committee, FY 1980, Part 3, pp. 576-587, 612, 747, 750. Ninety-three B-52Gs will be modified by the end of FY 1984, and 131 by the end of FY 1985.

[51] Ibid., p. 612.

[52] Ibid., p. 729.

[53] Senate Armed Services Committee, *Hearings on the SALT II Treaty*, Part 1, pp. 125-126.

[54] The same may be the case with prospects for the Soviets to proceed before the mid-1980s to 20 or more MIRVs on their SS-18 and still retain their hard-target kill capability, given the lower-yield MIRVs that would be involved.

[55] Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 2, p. 243. It is assumed that nuclear warhead production would be feasible to support expanded ALCM production. In terms of the flexibility in the production line of the modular design Tomahawk missile, it is "a weapon so versatile that within a notification period of 48 hours the Tomahawk could be changed on the production line from a planned 300-mile range, conventional armed antiship missile to a 1,500-mile range, nuclear armed land-attack missile or a 700-mile range, conventional armed land-attack missile." See Admiral Locke, address, "Cruise Missiles: A Deterrent with a New Dimension," May 14, 1981, p. 2.

[56] Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 2, p. 350.

[57] Ibid., p. 244.

[58] Ibid., p. 351. Beecher, "Allies Oppose Limits on Cruise Missiles," p. 21.

[59] *Aviation Week and Space Technology*, September 10, 1979, p. 15; Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 4, pp. 481-482; House Appropriations Committee, FY 1980, Part 3, p. 705.

[60] Senate Committee on Foreign Relations, *Hearings on SALT II Treaty*, Part 4, pp. 481-482.

[61] U.S. Arms Control and Disarmament Agency, *Arms Control and Disarmament Agreements: Texts and History of Negotiations*, 1977, p. 125-126.

Ibid., pp. [illegible]

[63] U.S. Arms Control and Disarmament Agency, *SALT Lexicon*, 1979, p. 10.

[64] *U.S. Foreign Policy for the 1970s*, Report to Congress by President Nixon, May 3, 1973, p. 204.

[65] *SALT Lexicon*, p. 10; see also Ford, *A Time to Heal*, p. 216.

[66] Senate Committee on Foreign Relations, *Hearings on the SALT II Treaty*, Part 3, p. 149.

[67] *Economist*, October 22, 1977, p. 15; see also Don Cook, "U.S. Asked to Build NATO Cruise Missile," *Los Angeles Times*, April 20, 1978, p. 29; Geoffrey Godsell, "NATO Watches Moscow Talks with Anxiety," *Christian Science Monitor*, April 21, 1978, p. 1; Michael Getler, "Cruise Missile Jolts Europeans," *Washington Post*, December 22, 1977, p. A-25; Michael K. Burns, "Bonn Fears SALT II Treaty Would Ignore 'Gray Area,'" *Baltimore Sun*, August 29, 1978, p. 2. For a reference to French sharing of some German concerns about SALT II see Terrence Smith, "Carter at Summit Talks: A Gain in Stature," *New York Times*, January 8, 1979.

[68] Senate Committee on Armed Services, report, *Military Implications of the Proposed SALT II Treaty*, p. 8. As noted in Chapter 3, the schedule of the SLCM may also have been delayed in order to avoid its becoming a basis for some NATO members "bailing out" of support for a land-based response to the SS-20; see Senate Armed Services Committee, FY 1981, pp. 2991-2993. As an example of the indirect impact of the ongoing SALT process on cruise missile programs, the achievement of an accord at Vladivostok was a factor in the Defense Department's reduction by $69 million of the funding for SLCM and ALCM in the FY 1976 budget request. Senate Armed Services Committee, FY 1976, pp. 5176-5177. See also George C. Wilson, "Cruise Missiles for Subs On 'Go-Slow' at Pentagon," *Washington Post*, August 12, 1980.

[69] An important provision of the Interim Agreement of SALT I permitting the Soviets a unilateral right to about 300 modern, large ballistic missiles (SS-9/SS-18) did prove to be a precedent for SALT II; Secretary Brown on ABC News, "Issues and Answers," said of the protocol: "Well, it assures the Soviets these matters will at least remain items for future negotiations in a follow-on SALT agreement." In a press conference in Brussels on December 7, 1977, Secretary Brown states: "Clearly, at the end of that time there will be political pressures that will urge continuation of limitation."

[70] Brown, speech at the University of Rochester. See also Charles A. Sorrels, "What If SALT Breaks Down?" *Wall Street Journal*, July 20, 1978.

[71] Brown, Annual Report, FY 1980, p. 83; FY 1979, p. 69.

[72] NATO Communique, December 12, 1979, paragraph 9.

[73] Ibid., paragraph 10; Secretary of State Cyrus Vance, address in West Berlin, December 10, 1979.

[74] For what may have been examples of this, see Bernard Gwertzman, "U.S. Is Sounding Out Moscow on Missiles," *New York Times*, October 20, 1979; see also Richard Burt, "Aide Says U.S. May Cut Missiles Plan for Europe," December 8, 1979.

[75] In June 1980, Chancellor Helmut Schmidt undertook a trip to Moscow, as part of an effort to maintain a dialogue with the Soviets at a time of deteriorated relations with the West after the Soviet invasion of Afghanistan, with an agenda including a discussion of LRTNF, especially the SS-20 and the Soviet position on conditions for starting negotiations on LRTNF. The Carter Administration was concerned that Schmidt might suggest to the Soviets a freeze on deployment of LRTNF by both the Soviets and NATO. President Carter sent a "strongly worded" letter to Chancellor Schmidt cautioning him against making an offer to the Soviets that would undermine or depart from NATO's agreed upon position on LRTNF.

Although the Soviets rejected his proposal of a "three-year freeze" in the installation of LRTNF missiles in both the U.S.S.R. and in Western Europe, before he left for Moscow Chancellor Schmidt reiterated his position that, "It would serve peace if both sides did not deploy for the next three years, and instead negotiated soon on mutual reductions." *New York Times*, June 10, 1980, p. 3. On his return, Chancellor Schmidt concluded he had improved the prospects for negotiations through talks that included two hours on the topic of the SS-20 and the Backfire with Soviet Defense Minister Dmitri Ustinov and Marshall Nickolai Ogarkov, Chief of Staff of Soviet Armed Forces. See *New York Times*, June 17, 1980, p. 1; June 27, 1980, p. 3; *Washington Post* July 2, 1980. A trip by former Chancellor Willy Brandt to Moscow in July 1981 prompted concerns in West Germany itself that the visit could play into the hands of the Soviet propaganda campaign to unravel NATO's December 1979 decision for planned deployment of LRTNF. See John Vinocur, "Brandt's Soviet Visit Troubles Schmidt and NATO," *New York Times*, July 13, 1981.

[76] This offer was initially rejected by the Soviets on January 3, 1980. They insisted that no talks on theater nuclear systems could begin until NATO reversed its decision of December 12, 1979, to deploy the GLCM and Pershing II in Western Europe. See *Washington Post*, January 5, 1980, p. A-1. The Soviets subsequently droppe[illegible]is precondition.

[77] *New York Times*, December 16, 1979; *Washington Star*, December 9, 1979. See also *Washington Post*, September 17, 1981. In September 1981 the West German government reportedly extended the scope of its precondition that another non-nuclear continental member of NATO accept land-based LRTNF to include that timing of IOC in Italy (in Sicily, perhaps April 1984) not come later than that in the Federal Republic. See *Washington Post*, September 17, 1981.

[78] Chancellor Schmidt argued in an address to the Social Democratic Party (SPD) convention in Berlin on December 4, 1979, that without a NATO modernization program approved and under way "there can be no negotiations as the United States would have nothing to offer that could induce the Soviet Union to renounce something it has had for a long time . . . actually existing missiles and aircraft." See also Foreign Minister Hans-Dietrich Genscher statement to Bundestag, December 14, 1979, and Chancellor Schmidt's commencement address at Harvard University, June 10, 1979.

[79] NATO Communque, December 12, 1979, paragraqphs 3-6.

[80] *Weekly Compilation of Presidential Documents*, Vol. 13, No. 7, news conference of February 8, 1977.

[81] On European views on the Carter Administration's handling of the neutron bomb, see *New York Times*, April 1, 1978, and April 8, 1978.

[82] Address by Secretary of State Vance in West Berlin, December 10, 1979.

[83] Statements by the Carter Administration in 1979 indicated that it may have been of two minds on the significance of the SS-20. In Secretary Brown's Annual Report for FY 1980, the significance of the SS-20 seemed to be downplayed: "The Soviets, for at least 20 years, have maintained a large nuclear threat pointed at Western Europe, with their SS-4 and SS-5 ballistic missiles and their medium-range Badger bombers. The deployment of the SS-20 missile and the Backfire bomber does not initiate—though it modernizes and expands—the threat. The threat has been and remains a grim fact of international life" (pp. 84-85). Secretary Vance presented a more somber, almost alarming, assessment in his prepared address in Berlin on December 10, 1979, two days before NATO's special meeting to consider the dual policy: "Let us make no mistake: the SS-20 is not an upgrading of an old system. It is an entirely new system—the first mobile, land-based, long-range missile system in the European theater. Each SS-20 launcher can reload and refire. Each can deliver not one, but three nuclear warheads. The SS-20 can reach everywhere in Europe from bases deep within Soviet territory."

[84] To faciliate acceptability of the modernization program in Western Europe and to demonstrate a willingness to make some unilateral reductions, as the Soviets had apparently—with considerable fanfare—done in October 1979 with respect to tanks and troops in East Germany, NATO announced a prospective withdrawal by the United States of 1,000 nuclear warheads from the U.S./NATO arsenal in Europe. With such a withdrawal, long overdue in the view of some analysts, NATO could note that the deployment of GLCM and Pershing II would not involve a buildup of nuclear warheads deployed in Western Europe. Instead, these newly deployed forces would be accommodated within a reduced total inventory. This was thought to be an important consideration in countries such as the Netherlands. See address of Chancellor Schmidt, December 4, 1979, and NATO Communique, December 12, 1979, paragraph 4.

[85] *New York Times*, December 6, 1979.

[86] *New York Times*, October 5 and 7, 1979, and June 27, 1980.

[87] As a message to the Soviet leadership and his own party, as well as to NATO, Chancellor Schmidt stated in a speech a few days before NATO's December 1979 decision: "No one should attempt to make the Federal Republic of Germany a lever with which to break assunder the Western Alliance." Address to Party Convention of the Social Democratic Party, in West Berlin, December 4, 1979. West Germany has indeed been a principal target of the Soviet campaign of propaganda and diplomatic pressure against NATO's prospective deployment of LRTNF. That campaign, before and after NATO's December 1979 decision, has been persistent and well-orchestrated. The actions and tactics have ranged from major addresses by President Brezhnev (for example, in East Berlin on October 6, 1979, announcing unilaterial withdrawal of up to 20,000 Soviet troops and 1,000 tanks from East Germany and vaguely offering to reduce Soviet theater nuclear missiles if NATO would forego any LRTNF deployment) to all expense paid trips to Moscow in 1981 for some Dutch opponents of LRTNF deployment and a top Soviet expert on the West, Georgi Arbatov, using a visit to West Germany, ostensibly for autographing books, as an opportunity to attack NATO's decision. *See New York Times*, October 7, 1979, March 18, 1981 and Flora Lewis, "Soviet 'Peace Offensive': Mood in Europe Grows Fearful," May 23, 1980; *Wall Street Journal*, September 17, 1981; for a brief summary of Soviet assertions and arguments in their statements opposing NATO's LRTNF, see "The Modernization of NATO's Long-Range Theater Nuclear Forces," report prepared for the Subcommittee on Europe and the Middle East, House Committee on Foreign Affairs, by the Congressional Research Service, Library of Congress, December 31, 1980, pp 50-54. One particularly misleading assertion by the Soviets, that they have actually reduced their LRTNF in recent years, has been credulously echoed in the West by some observers.

[88] *Washington Star*, December 6, 1979, p. A-2; The Free Democratic Party, whose leader, Foreign Minister Genscher, also threatened to resign, reaffirmed its support for deploying LRTNF in a vote in May 1981. *New York Times*, May 18 and May 31, 1981; R. W. Apple, "'Ban the Bomb' Movement is Bouncing Back in Britain," *New York Times*, November 13, 1981.

John Vinocur, "Schmidt Frustrated by Regional Party Votes," *New York Times*, February 8, 1982; see also December 7, 1981 and February 15, 1982. *New York Times*, April 25, 1982, IV, p. 2; Chancellor Schmidt, directly addressing leaders of the moratorium movement in the SPD, declared: "When you state that under no circumstances will we deploy, then the Soviet Union has achieved its most important goal, but we won't have reduced the danger of nuclear war, and we will be shaking the Atlantic alliance at its roots," quoted in John Vinocur, "Bonn Party Shuns Call For A-Freeze," *New York Times*, April 23, 1982, p. A 9.

[89] William Mader, "Despite Debate, Germany To Back Missiles for NATO," *Washington Star*, December 6, 1979; *New York Times*, December 6, 1979. In early 1981, however, a youth organization associated with the Free Democratic party urged abandoning NATO's LRTNF program and criticized the head of the party, Foreign Minister Genscher, for rejecting President Brezhnev's proposal for a moratorium on deployment of LRTNF missiles in Europe; see *New York Times*, March 9, 1981. *Washington Post*, November 8, 1982, p. 23.

[90] Cited in Josef Joffe, "German Public Opinion and the 'Peace' Marchers," *Wall Street Journal*, October 14, 1981, p. 29; the February 1982 poll is reported in *Newsweek*, (International Edition) March 15, 1982. The responses in several countries in that February 1982 poll are shown below:

What is the effect of having American nuclear missiles stationed in Western Europe?

[In percent]

| | Great Britain | France | West Germany | Belgium | United States |
|---|---|---|---|---|---|
| Increases chances of an attack | 42 | 24 | 27 | 24 | 14 |
| Provides greater protection | 29 | 31 | 41 | 25 | 55 |
| No effect | 24 | 23 | 28 | 21 | 19 |
| Don't know | 5 | 22 | 4 | 30 | 12 |

[91] *NATO Today: The Alliance in Evolution*, Staff Report to the Senate Committee on Foreign Relations (June 9, 1982), pp. 77-78; it is encouraging to

note that opposition by Western European public opinion to LRTNF deployment by NATO drops by 10 to 20 percentage points when information is provided about the Soviet lead in LRTNF and "when deployment is linked to arms reductions talks" (p. 77). See also analysis of the evolution of the protest movement and some divisions within it in John Vinocur, "Bonn Rally During Reagan Visit Is a Focal Point of Antinuclear Movement," *New York Times*, June 3, 1982.

Senator Sam Nunn (Democrat-Georgia), in a report to the Senate Armed Services Committee, *NATO: Can the Alliance Be Saved?*" May 13, 1982, noted that "actual deployment" of GLCM and Pershing II, "absent an arms control agreement with the Soviets, is given no better than a 50-50 chance of success by many knowledgeable Europeans" (p. 10).

James M. Markham, "Age and Artihmetic Overtake Bonn's Coalition," *New York Times*, September 19, 1982, p. 1E; for a description of the Green Party's radical aspects and disruptive role in West German politics, see "Third Party Holds the Balance in Hamburg Politics," *New York Times*, September 18, 1982, p. 5; and David R. Gress, "German Nationalism and Neutralism Go Together," *Wall Street Journal*, September 22, 1982, p. 31 and John M. Geddes, "Bonn Government Seen Edging Right, "*Wall Street Journal*, September 20, 1982, p. 35; see also *Economist*, September 18, 1982, p. 46; *Washington Post*, October 2, 1982, p. 1 and November 8, p. 23.

[92] *U.S. Foreign Policy for the 1970s*, Report to Congress by President Nixon, May 3, 1973, pp. 201-202.

[93] Senate Armed Services Committee, Hearings, *Military Implications of the Treaty on Antiballistic Missile Systems and the Interim Agreement on Limitation of Strategic Offensive Arms*, 1972, p. 109. In the case of public opinion in West Germany, a poll taken in the fall of 1981 illustrated the problem of maintaining a balance on the "dual policy" of NATO:

Question: "Since the NATO dual decision consists of two parts, there can be different values placed on each part. Please tell me which of the two opinions you would be likely to agree with:

1. "It is important to negotiate armaments limitations with the East as quickly as possible in order to avoid having to deploy American medium-range rockets in Western Europe."

Response: 64 percent agreed with this statement.

2. "It is most important to restore military balance in Central Europe. Therefore, sooner or later the Americans will have to deploy medium-range rockets in Western Europe."

Response: Chosen by 34 percent.

Cited in "The Mood of a Nation," The Emmid Poll, conducted for *Der Spiegel*, reprinted by German Information Center, New York, April, 1982 p. 2.

[94] *New York Times*, May 10, 1982.

[95] On congressional concerns and actions regarding MX basing mode, see Senate Report No. 97-330 (April 1982), pp. 57-59, and House report No. 97-949 (August 1982), pp. 3, 6, 101-102, 130 See also *New York Times*, August 19, 1982, and press release by Senator John Tower (Republican-Texas), Chairman, Senate Committee on Armed Services, "Highlights of the Conference Report on the FY 1983 Department of Defense Authorization Bill," (August 16, 1982), p. 2.

*New York Times*, November 19, 1981, p. 17; George C. Wilson, "NATO Ministers Support Possible Missile Curbs," *Washington Post*, October 22, 1981; Michael Getler, "U.S. to Propose Sharp Reductions in Europe-based Missiles, " and "NATO Ministers Support Reagan's Missile Proposal," *Washington Post*, November 14, 1981 and March 25, 1982, John Vinocur, "West Euopeans Are Enthusisatic ," *New York Times*, November 19, 1981.

[96] Dusko Doder, "Soviets Hit U.S. Plan on Arms, "*Washington Post*, May 11, 1982; William Beecher, "Soviets Seek Curb on Cruise Missiles," *Boston Globe*, May 15, 1982.

[97] John F. Burns, "Soviet Publishes Outline of a Plan for Missile Reduction in Europe, "*New York Times*, February 10, 1982; Don Oberdorfer, "U.S. Denounces Soviet Missile Proposal, "*Washington Post*, February 11, 1982; Serge Schmemann, "Soviet Announces Freeze On Missiles in European Area, "*New York Times*, March 17, 1982, p. 1; "Allies Say Soviet Goal Is To Preserve Its Lead, "*Washington Post*, March 18, 1982, p. 27; statement by Eugene V. Rostow, Director of the Arms Control and Disarmament Agency, House Committee on Foreign Affairs, February 23, 1982, pp. 8-10; see also statement by Richard Burt, Director of Politico-Military Affairs, State Department, "Alliance Strategy and the INF Negotiations," February 23, 1982, p. 3. Statement of Ambassador Nitze, House Committee on Appropriations, FY 1983, Part 4, pp. 812-821.

[98] Some Western European members of NATO have the military-industrial base and technological ability to produce long-range cruise missiles without requiring technology transferred from the United States. Development of an independent cruise missile program in Europe either separately or in joint venture between some nations, such as the United Kingdom and France, is possible. The French government reportedly intends to develop a cruise missile by 1985. See responses of Alexander Haig, Senate Armed Services Committee, FY 1979, pp. 1524-1525, 1903. Design and production of the small engine and airframe are not obstacles to European efforts. Western Europe, however, would have difficulty developing a guidance system that would enable the high accuracy for cruise missiles provided by the U.S. technology. Despite their capability of producing cruise missiles independently of the United States, however, European governments have an interest in access to some U.S. technology for cruise missiles in order to reduce the cost and development time required for European cruise missile programs and to improve their performance.

[99] With the beginning of formal arms control negotiations on theater, nuclear forces in November 1981, the U.S. government—describing those as INF (intermediate-range nuclear forces) talks—has suggested grouping nuclear forces into the following categories:

Strategic forces.

Intermediate-range nuclear forces (INF), which include:

Longer range INF missiles (between 1,800 and 5,500 kilometers).

Shorter range INF missiles (1,800 kilometers down to short-range nuclear forces).

Nuclear capable aircraft (aircraft with less than an intercontinental capability).

Short-range nuclear forces (SNF), which consist of missiles, rockets, and artillery capable of striking only those targets in the general region of the battlefield.

See *U.S. Military Posture for FY 1983*, p. 26.

[100] Estimate of A-6 and A-7 inventories provided in Senate Committee of Foreign Relations, *The SALT II Treaty*, Executive Report 96-14, p. 103; *New York Times*, October 23, 1980.

[101] *Soviet Military Power*, p. 17; General George S. Brown, *Military Posture for FY 1976* (Washington, D.C.: Joint Chiefs of Staff, (1975), pp. 70-71.

[102] Statement before Senate Armed Services Committee, December 1, 1981, p. 11; see also Final Communique, NATO Nuclear Planning Group, March 24, 1982 (Colorado Springs), p. 3.

[103] NATO Communique, December 12, 1979, paragraph nine.

[104] Address by Chancellor Schmidt, December 4, 1979. See also address by West German Defense Minister Hans Apel, to SPD security policy meeting in Kassel, August 31, 1977: "In some countries of the alliance it has been forgotten too quickly that negotiations on disarmament are not yet disarmament, that the negotiating position of the West is weakened unless a military defense potential exists in the background which gives the negotiations some backing. On what should the West negotiate if the subject of negotiations on the part of the West has declined to the point of insignificance?"

**Mr. KENNEDY.** Mr. President, let me begin by commending my distinguished colleagues, Senator MATHIAS and Senator DURENBERGER. They have put a lot of time and energy and effort into this initiative, and I think that they have made an enormous contribution to an extremely important and complex debate.

I support this amendment. I support the idea of a mutual and verifiable moratorium on further deployment of sea-launched cruise missiles equipped with nuclear warheads.

This is a weapons system that has been enmeshed in controversy for 10 years or more. But because of the highly charged, more visible debates on the more expensive weapons systems—such as the MX missile and the B-1 bomber—the disputes that have swirled around SLCM's have not received the same degree of attention by the public or by the Congress. Those issues deserve our attention; they are extremely important. The price tag of the TLAM-N may not be as great as some other weapons systems, but the strategic consequences of deploying such a system are massive.

I support this amendment for the following reasons:

First, a moratorium is temporary and risk free. It is a pause in the mad rush to deploy every new weapon that comes out of the Nation's laboratory. It is a pause that will provide the opportunity to determine whether a permanent ban of these weapons is in fact possible.

Second, this system is redundant. Those who support deploying the TLAM-N view this weapon as having a capability that will significantly enhance our nuclear deterrence. Nothing could be further from the truth. Our deterrent capability—and the continued vitality of that capability—depends upon our ability to absorb a first-strike nuclear attack and then to retaliate in a way that will certainly cause unacceptable harm to the enemy. It is the Nation's second-strike capability that is at the heart of this Nation's deterrence. But building up that second-strike capability beyond the level of sufficiency—with massive increases in the numbers and types of weapons in our nuclear arsenal—does nothing to contribute to deterrence. It only contributes to overkill.

Our existing second-strike capability is undeniably adequate. In fact, if anything, it is already superfluous. To believe that we increase our nuclear deterrent by adding a new category of warfighting weapons to our existing stockpile of nuclear weapons is just plain wrong.

Third, the TLAM-N, if deployed along with its Soviet counterpart, will eliminate the possibility of ever being able to verify an arms control agreement limiting or banning these weapons. This is so because the Tomahawk SLCM that is nuclear is indistinguishable from the Tomahawk SLCM that is not nuclear. The body of the two weapons are identical. The only distinguishing feature lies in the hidden differences in the destructive capabilities of the warheads. Thus, national technical means of verification are useless in any effort to identify the nuclear SLCM as opposed to the nonnuclear version. The only way to distinguish between the conventional and the nuclear SLCM is through intrusive onsite inspection. Even if this method of verification were totally reliable, which it is not, neither the Soviet Union nor the United States have accepted the principle of such inspections.

In addition to the difficulties in distinguishing between the nuclear and nonnuclear SLCM, the other threat to arms control posed by these weapons comes from their great mobility. They are small. They are relatively light. They are easily moved. SLCM's can be deployed on anything that floats—whether it is a battleship, a submarine, or a ferry boat. The military of each nation would henceforth have to view every vessel in or under the sea as a potential platform for the launching of nuclear weapons.

We stand to lose nothing with this moratorium, and I think we may well achieve a lot. If we initiate this moratorium, if the moratorium becomes mutual, if the moratorium then becomes verifiable through negotiations with the Soviets, and then if the moratorium becomes a permanent ban, we will have forestalled the destruction of arms control. It will be a single success in the history of the nuclear arms race.

I urge my colleagues to support this amendment.

The **PRESIDING OFFICER** (Mr. Mattingly). Is there further debate? If not, the question is on agreeing to the amendment in the second degree.

Mr. **NUNN**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **TOWER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Is there further debate?

Mr. **TOWER**. Mr. President, I commend the distinguished Senator from Maine for his statesmanlike work on this matter. I thank all the parties involved, and I suggest that perhaps now is the time to vote.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment in the second degree. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Tennessee [Mr. Baker] is necessarily absent.

Mr. **CRANSTON**. I announce that the Senator from Ohio [Mr. Glenn] and the Senator from Colorado [Mr. Hart] are necessarily absent.

The **PRESIDING OFFICER**. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—97

Abdnor
Andrews
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Evans
Exon
Ford
Garn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Trible
Tsongas
Wallop
Warner
Weicker
Wilson
Zorinsky

NOT VOTING—3

Baker
Glenn
Hart

So Mr. Cohen's amendment (No. 3246) was agreed to.

Mr. **COHEN**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **LEAHY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Alaska is recognized.

Mr. **STEVENS**. Mr. President, there is an understanding on the bankruptcy bill. I shall ask in a moment to set aside the pending bill temporarily for the purpose of handling the bankruptcy bill pursuant to this unanimous-consent request. I hope all Senators will allow this agreement to be consummated. The bankruptcy bill must be handled by the Congress as a whole by the close of business tomorrow.

Mr. **TOWER**. Mr. President, would the Senator yield?

Mr. **STEVENS**. I yield to the distinguished Senator from Texas.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **TOWER**. Mr. President, we have acted on the amendment of the Senator from Maine, Mr. Cohen. But that is an amendment in the second degree. We have not acted on the underlying amendment of the Senator from Maryland, Mr. Mathias, which I believe now can be disposed of by voice vote.

The **PRESIDING OFFICER**. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as amended, of the Senator from Maryland [Mr. Mathias].

The amendment (No. 3193, as modified) was agreed to.

Mr. **TOWER**. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. **MATHIAS**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Arkansas.

Mr. **BUMPERS**. Mr. President, we have been talking all afternoon about when Senator Leahy and I were going to offer the amendment. Each time I thought we were going to be next. I was just wondering. Everybody is ready. They have been notified that this was to be the next amendment, and we ought not to take long disposing of it.

I have assured the committee chairman that I do not intend to belabor it. I was wondering if the majority leader would consider setting the bill aside until we do this amendment.

Mr. **STEVENS**. Mr. President, we will be happy to do that. I did not know there was another amendment ready to go. We thought it was best to go to the bankruptcy bill by a unanimous-consent agreement. We will be happy to do that.

The **PRESIDING OFFICER**. The Senator from Arkansas is recognized.

### AMENDMENT NO. 3248

Mr. **BUMPERS**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas (Mr. Bumpers), for himself, Mr. Leahy, Mr. Chafee, Mr. Heinz, Mr. Glenn, Mr. Biden, Mr. Bentsen, Mr. Bingaman, Mr. Sarbanes, Mr. Proxmire, Mr. Cranston, Mr. Levin, Mr. Riegle, Mr. Mathias, Mr. Danforth, Mr. Burdick, Mr. Ford, Mr. Pell, Mr. Matsunaga, Mr. Tsongas, Mr. Durenberger, Mr. Kennedy, and Mr. Mitchell, proposes an amendment numbered 3248.

Mr. **NUNN**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

Sec. —. (a) The Congress finds that:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies;

(2) the President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint";

(3) the United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other pro-

visions of existing strategic arms agreements;

(4) the President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions";

(5) the President has also declared that "the United States is continuing to carry out its obligations under relevant agreements";

(6) it would be detrimental to the security interests of the United States and its allies, and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union;

(7) the continuation of existing restraints on strategic nuclear arms would provide an atmosphere more conducive to achieving and agreement significantly reducing the levels of nuclear arms;

(8) the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

(9) a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

(10) both sides have to date abided by important numerical and other limits contained in existing strategic arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missiles launchers and other related limits; and

(11) it is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missiles-firing submarines as new one are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV'd ICBM's one thousand two hundred launchers of MIRV'd ICBM's and SLBM's, and one thousand three hundred and twenty launchers of MIRV's ICBM's and SLBM's, and ALCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of the Congress that:

(1) The United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements through the Standing Consultative Commission and, where appropriate, other confidential diplomatic channels;

(2) the United States should continue to carry out its obligations and commitments under, and otherwise to observe the provisions of, existing strategic arms agreements so long as the Soviet Union continues to observe those provisions, or until a new strategic arms agreement is concluded; and

(3) the President should carefully consider the impact of any changes to this current policy regarding existing strategic arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy.

### AMENDMENT NO. 3249 TO AMENDMENT NO. 3248

(Purpose: Expressing support for the U.S. to pursue vigorously any outstanding arms control compliance concerns through appropriate confidential channels, and at the same time to continue to carry out its commitments under, and otherwise to refrain from undercutting the provisions of existing strategic offensive arms agreements)

Mr. NUNN. Mr. President, I send an amendment to the desk, on behalf of myself and Senator PERCY to the Bumpers amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. PERCY, proposes an amendment numbered 3249.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after line 23 in the Bumpers amendment and insert in lieu thereof the following:

"(7) the continuation of existing restraints on strategic offensive nuclear weapons would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms;

"(8) the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

"(9) a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

"(10) both sides have to date abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits; and

"(11) it is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV's ICBM's, one thousand two hundred launchers or MIRV'd ICBM's and SLBM's, and one thousand three hundred and twenty launches of MIRV'd ICBM's and SLBM's, and ARCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of the Congress that:

(1) The United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements through the Standing Consultative Commission and, where appropriate, other confidential diplomatic channels;

(2) the United States should through December 31, 1985, continue to carry out its commitments under, and otherwise to refrain from undercutting the provisions of, existing strategic offensive arms agreements so long as the Soviet Union continues to refrain from undercutting those provisions, or until a new strategic offensive arms agreement is concluded; and

(3) the President should carefully consider the impact of any changes to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy."

Mr. NUNN. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, 5 years ago yesterday the SALT II Treaty was signed by Secretary Brezhnev and President Carter. Since that time, happily for our security interests and the Soviet security interests, both the United States and the Soviet Union have been abiding by the terms of that agreement.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order? Will the staff please retire and quit talking so those Senators who would like to talk can do so? Would the Senators who wish to talk please go to the cloakroom?

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I do not want to be too difficult. But I was wondering if we could not get order once and for all so that we can debate this amendment. Everybody can be heard that wants to be heard. We will get it over with. We spend a lot of time during debate calling for order. I wonder if the Chair could not ask the Senators who do not want to participate and who do not want to listen to please retire to the cloakroom.

The PRESIDING OFFICER. Will the Senate please come to order?

The Senator from Arkansas.

Mr. BUMPERS. Mr. President——

The PRESIDING OFFICER. Just one moment. The Chair would appreciate it if the Senate would come to order, and give the Senator from Arkansas their attention.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in 1981 I was one of the first Senators in the U.S. Senate to applaud President Reagan, who during the campaign in 1980 said that the SALT II Treaty was fatally flawed. It was a key position on arms control in that contest. I have always said I would not vote for somebody that does not have a good understanding of history, and that I would not vote for somebody that does not occasionally change his mind. And I applauded President Reagan when he announced in his first year in office what has come to be known as the no-undercut policy which was that as long as the Soviet Union did not violate the terms of SALT I and SALT II, we would not either. I welcomed it and I think the American people did.

What this amendment does is to simply say we encourage the President of the United States to continue pursuing any alleged violations by the Soviet Union through proper channels, mostly the Standing Consultative Commission; No. 2, not to abandon the no-undercut policy through the end of 1985, and the amendment by the Senator from Georgia specifically provides that this amendment has a lifetime from now until December 31, 1985; and, finally, it says that before the President would change the no-undercut policy—which would destroy the only standing agreement that limits a breakout in the arms control process—that he will consult Congress. This is certainly not an attempt to interfere with the President's duties and responsibilities as Commander in Chief. It is simply to say that SALT I and SALT II are all we have. And there are limits in those treaties that benefits us as much as the Soviet Union.

Indeed, in the past several years, if you look at the limits on intercontinental ballistic missiles and submarine-launched ballistic missiles that are MIRV'd, that have more than one warhead, the SALT II treaty limits both them and us to 1,200; 1,200 is the maximum number of MIRV'd missile launchers that either the Soviet Union or the United States could have, but within that 1,200 limit there is an 820 limit on the number of launchers you can have on land-based missiles.

On land-based missiles, the Soviet Union has been sitting on 818 for a very long time. And they are staying within the 1,200 limit. In complying with the SALT I interim accord, they have been systematically dismantling *Yankee* class submarines as their new submarines have been launched. No less an authority than Gen. John Vessey, Chairman of the Joint Chiefs of Staff, has remarked that of the submarines that the Soviet Union has dismantled, every one of those *Yankee* class submarines is newer than any strategic submarine in our inventory, with the exception of the Trident.

This is not guesswork. They have dismantled these submarines. We have watched them dismantle them. We know that it has happened. Ten *Yankee* class submarines with 16 launchers each, or 160 launchers, that the Soviets have dismantled in order to stay in compliance with the SALT I interim accord.

Mr. President, I promised the chairman of the committee that I would be brief, so let me just say a couple of things.

We can get into an argument here and stay until midnight debating compliance and the charges that were made last year by the President about Soviet compliance. It is very sophisticated debate, and I might also say that it is impossible, really, to debate that on the floor of the Senate because you immediately run into very highly classified information which you cannot discuss on the floor of the Senate. While I am not suggesting how the opposition to this amendment should argue their point, I am saying that it would be impossible for it to be a very enlightening debate due to the very fact that we are not going to go into an executive session, and it would be impossible really to get into those subjects.

There is one thing I can say. That is that whatever the Soviet Union is doing, whether they have a phased array radar system in the central part of the Soviet Union that is in violation of the ABM Treaty, and whether or not their SS-25 is really in violation of SALT II, they have not yet done anything that keeps us from verifying the terms of the SALT II Treaty. Therefore, we know that they are living within the SALT II Treaty so far as the limits are concerned.

If the President and the Congress at any given time were to say, "All bets are off; we are not going to abide by this treaty anymore," bear in mind the Soviet Union has the capability of adding at least 10 and maybe 20 warheads to their SS-18, and they have 308 of them. They are big missiles.

David Jones told me that that missile could accommodate 30 warheads. And yet under SALT II they are constrained to 10 warheads per missile.

So there is not any question that if they really want to, they can add somewhere between 3,000 and 6,000 warheads just on that delivery system alone. They are in a much better position right now to break out of the terms of SALT II than we are. I am hoping they do not want to, and I am hoping we do not want to, and that we will hang onto the last thread we have in arms control.

I want to make two additional points.

One, when the President went to Normandy and subsequently met with some of the NATO leaders in Western Europe, the single most important thing they talked about was not economics, or our deficits, or interest rates. It was that the NATO Alliance was pleading with the President of the United States to do everything in his power to get the negotiations with the Soviets started again.

I can sympathize with the frustration the President must have felt. It was the Soviets who walked away from the INF talks. It was the Soviets who walked away from the START talks. The President had consistently said, "Here we stand, ready to negotiate. Please come back to the table."

So I understand his frustration when he is accused of not wanting to negotiate, when he says he does. I think everybody in this body was pleased last week, as I was, when the President said, "I am willing to talk without a preconceived agenda, a predetermined agenda."

People down at the State Department said, "Oh, this would just be terrible." I understand that. I think it might be worse to meet and come away empty-handed than it would be to at least agree in advance so that when you leave the meeting you have three or four things you can say you accomplished. But at least the President is holding out the olive branch and saying, "Let us sit down and talk about this, with or without an agenda."

But my point is, No. 1, our NATO allies are very suspicious of just how sincere we are about arms talks. It occurs to me that arms control, once we break out of the terms of SALT II, is going to be virtually impossible to accomplish. Under our START proposal which was on the table at Geneva when the Soviets walked out, there was on the table a proposal from the United States that we limit the number of warheads on both sides to 5,000. If we decide to scrap the only constraint there is on both sides, and both sides begin to deploy more and more warheads, do you think it is going to be easier to get to a 5,000 level from a 9,000 to 10,000 level than it will be from a 15,000 to 20,000 level?

So, No. 1, we can at least allay some of NATO's grave apprehensions about the United States and its intentions; and, No. 2, we can prohibit this breakout which would add thousands of warheads to a civilization which is already hanging by a thread.

So I plead with my colleagues to follow the advice of people like Averell Harriman, Alexander Haig, George Shultz, and President Reagan, and, yes, Brent Scowcroft.

Some in this body met with me and General Scowcroft less than a week ago on another matter. But before we broke that meeting up, I said, "General, do you favor continuing the no undercut policy in this administration, and complying with the terms of SALT I and SALT II as long as the Soviets do?"

Without a moment's hesitation, he said, "Absolutely."

I can go on and on. There are 27 cosponsors on this amendment and a lot of them feel very intensely about it and want to speak.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, as the principal cosponsor on the Bumpers-Leahy, et al. amendment, I want to state before I start my comments how proud I am to have authored this amendment with my distinguished colleague from Arkansas [Mr. BUMPERS]. He is a leader in the Senate for sensible arms control policies. It is an honor and a pleasure to work with him.

I also thank those who have shared this commitment with us in arms control and made this a truly bipartisan piece of legislation. I see my friend from Rhode Island [Mr. CHAFEE] and my friend from Pennsylvania [Mr. HEINZ] also on the floor.

I welcome the perfecting amendment by Senators NUNN and PERCY as a response to what we understand from informal conversation with administration officials to be their main concerns.

I should hope that the Senate would realize that our willingness to accept these changes reinforces what we said when we first introduced Senate Concurrent Resolution 105, which is the basis for the present amendment. Our principal objective is to strengthen the present interim restraint or "no undercut" policy followed by the President by giving it the sanction and the support of Congress.

Mr. President, we shall talk a lot about this amendment this evening and each one of us will express our own feelings. Obviously, we have done that back home, we have done it on the Senate floor, and we do it by offering an amendment. But we can sum up this whole amendment and the purpose of it very simply this way: It is a small step—but it is a small step to go from the terror of a nuclear arms race toward the security of nuclear arms control. That is really the issue that faces the United States today. It faces all of us as Americans and, quite frankly, faces the rest of the world.

We have a very simple choice: We can have the terror of a nuclear arms race that cannot be won by either side. We are not going to get a significant jump on the Soviets, the Soviets are not going to get a significant jump on us. Whatever we do, whatever new weapons we develop or deploy, they can match; whatever new weapons they develop and deploy, we can match. So neither side is ever going to get a truly qualitative or quantitative jump on the other in the nuclear arms race. But as we continue the race, our security and their security diminish. And quite frankly, in a nuclear age, the security of the whole world diminishes. So, as I say, we substitute the terror of the nuclear arms race for the security of nuclear arms control. Because there is no security in an arms race; there is security, tenuous security, in arms control.

We revised the amendment before the Senate by the amendment of the distinguished ranking minority member of the Armed Services Committee and the distinguished chairman of the Foreign Relations Committee. As it is revised, our amendment would accomplish the following goals:

First, it would place the Senate firmly on record in support of a vigorous policy of pursuing acceptable resolutions in the SALT Standing Consultative Commission and other confidential channels of American concerns over Soviet compliance with arms agreements.

This is important. Arms control issues do not get resolved in the blare and glare of headlines but through the tried and true methods of the SCC. The approach taken by the President of the United States in continuing arms control commitments while seeking solutions to our legislative concerns is the proper one, and I support President Reagan in that regard. I warn that these discussions with the Soviets should be private. There should be no public debating of them while there is still a chance to work out these problems, and I believe there is.

Second, the amendment declares that the United States should continue the policy of not undercutting existing strategic offensive arms agreements until December 31, 1985, or until a new strategic arms agreement with the Soviets is concluded, as long as the Soviets continue to show similar restraint.

It is of very limited duration. And, like most Americans—I hope like most Senators—I would hope that there might be a new arms control agreement by that time.

The original amendment called for the no undercut policy to be continued indefinitely, as a bridge to carry us to a new nuclear arms treaty. I personally believe that is the preferable posture for the United States, and would convey a more positive signal to Moscow. However, we want to gain broad bipartisan support.

Speaking from this side of the aisle, Mr. President, we want to allay what we understand to be administration concerns. I want to satisfy my distiguished friends, Senator NUNN and Senator PERCY, for whom I have the highest regard. So I have no problem with inserting the expiration date of the SALT II treaty as the termination date of this amendment.

In fact, even with the original wording, I fully expected Congress and the administration to review the no undercut or interim restraint policy next year, either in context of deciding what to do about the entry of the seventh Trident missile submarine on sea trials sometime in the summer or fall of 1985, or as part of a general reassessment of U.S. strategic policy in light of the arms negotiations and United States-Soviet relations at that time.

Insertion of the December 31, 1985, date means that the administration and Congress must review policy toward the SALT I and II agreements before that point and decide what to do. It is my strong intention that the date not be interpreted to mean that the United States is precluded from continuing the no undercut policy beyond December 31, 1985, should the President and Congress decide it is in the national interest to do so.

Third, finally, this amendment emphasizes to the President that in any reevaluation he might undertake of the present interim restraint policy, he should consult with the Congress. Altering the present policy, absent a new treaty or abandonment of mutual restraint by the Soviet Union, would in effect mean the end of all limitations on the strategic nuclear arms race.

In this unstable age, Mr. President, that would probably be the greatest step toward instability, certainly in my lifetime.

Such a decision vitally affects the safety and security of the American people, and Congress should have a voice. Neither the Senate, with its special constitutional responsibilities to advise and consent to treaties, nor the Congress as a whole, has spoken out in favor of strategic arms control in several years. This silence is in spite of the fact that the American people strongly want arms control to continue.

Mr. President, I was thinking the other night. I was at home looking over the list of Senators. I am relatively new as a Senator. I came to the U.S. Senate at the age of 34. Now, well over half of the Senate—in fact, about two-thirds of the Senate—have either served the same amount of time I have or less. That same group of Senators, myself included, has never voted on an arms control treaty in that 10 years. I think the vast majority of people—Republicans, Democrats, independents, liberals, conservatives, whatever—want arms control. Yet in this country of 235 million Americans, only 100 people can ever vote on an arms control treaty—the 100 men and women of the U.S. Senate. At least two-thirds of us have never voted on one. Certainly, as I said, there has not been one here that I have been able to vote on in 10 years' service in the Senate.

Mr. President, we wrote the administration to seek its views of Senate Concurrent Resolution 105, the basis of this amendment. The letter we received in response was a masterpiece of ambiguity.

As one who sometimes gets interested in doing word puzzles, I commend it. But after reaffirming the no undercut policy, the letter states that "Senate Concurrent Resolution 105 in its present form would not be in the best interests of the United States."

Following up on that barely disguised signal, we asked executive branch officials what was wrong with the original language. The problem, we heard, was the lack of a termination date, and the use of terminology like "observe" and "abide by" rather than the administration's phrase "no undercut."

So the changes proposed by Senators NUNN and PERCY ought to eliminate any such problems the administration may have. Anyone who votes against the Bumpers-Leahy amendment, as amended, ought to know that they are going against the approach taken by the President over the past 3 years. The President's spokesmen have stated that there is no intention to alter or abandon the no-undercut policy.

Mr. President, I ask unanimous consent to include in the RECORD at the conclusion of my remarks numerous pertinent quotes from the President and other top administration officials affirming the no-undercut policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. LEAHY. As for future intentions, a letter Senator BUMPERS and I sent earlier this year about the implications for the no-undercut policy of sending the seventh Trident to sea trials stimulated the bureaucracy to produce a statement of position. The State Department's Bureau of Politico-Military affairs prepared guidance for the press on behalf of the administration. Let me quote part of it:

> The President's policy on interim restraint has not changed. We are continuing to implement this policy with respect to the SALT Interim Agreement and SALT II agreement, and we are proceeding to implement the President's strategic modernization program. As the President stated on January 23, "The United States is continuing to carry out its own obligations and commitments under relevant agreements * * *." When the time comes for a decision it will, obviously, be taken in the context of the international situation and U.S. national security requirements. Among other things, our assessment of the Soviet commitment to a corresponding policy will be relevant to our considerations.

Mr. President, I ask unanimous consent that two press-guidance statements by the State Department on the no-undercut policy and the seventh Trident be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. LEAHY. Mr. President, while many Americans, including a number of Members of the Senate, felt that the SALT agreements did not do much to halt and reverse the arms race, it is painfully apparent after the last 4 years that those agreements were very much in the security and foreign policy interests of the United States. My distinguished colleague from Arkansas has expressed our feelings in that regard earlier this evening.

That is precisely why President Reagan, who is a strong and avowed opponent of SALT, decided to adopt the no-undercut approach. Let me quote from a recent excerpt in the June 25 issue of Time magazine from a piece by the well-known national security reporter, Strobe Talbott:

> Soon after he came into office, Reagan was convinced that despite his campaign rhetoric about its fatal flaws, the unratified SALT II Treaty of 1979 should remain informally in force, since its rules restricted Soviet weapons programs more than American ones. This was the view of the Joint Chiefs of Staff, who were holdovers from the Carter Administration, and of Secretary of State Alexander Haig. Without SALT II regulating the number of multiple independently targetable re-entry vehicles (MIRVs) on each side's ICBMs, the Soviets would be able to increase their MIRVed ICBM force much more quickly than the U.S.

Now, I remember the Foreign Relations and Armed Services Committee hearing in the summer of 1979 and General Haig's criticisms of the SALT II treaty during that time. But when General Haig became Secretary of State Haig, reality caught up with the rhetoric. He was forced to a hard-headed examination of what was best for America's security interest. And then Mr. Haig's position was, "You can't beat something with nothing," he is quoted as saying in one of his first meetings with the staff. "And we don't have our own SALT policy, so we'd be nuts just to throw out the old one."

Really, that is where we are, Mr. President. It is not the best in the world, but it is a lot better than nothing. And until we can come along with a new SALT treaty or START treaty, or call it whatever else you want, we ought to make sure that we at least stick with what we have. Without it, we will have an arms race that gives us no security at all, unless, led to its ultimate, it brings the security to the grave.

Many other influential Americans also understand the importance of SALT, and of maintaining the current restraints on the arms race, for U.S. security. Senator BUMPERS and I wrote to a number of former executive branch officials and students of strategic affairs asking their view on the value of proceeding to introduce Senate Concurrent Resolution 105 as an amendment to the Defense authorization. I am proud that we received strong support from President Carter. President Nixon, while he did not specifically endorse the resolution, did wish us well in pursuing our goal and applauded our intention to have a debate on arms control. President Ford also declined to endorse the resolution that forms the basis of this amendment, but reasserted his belief that the policy he set forth at Vladivostok was correct. That policy, of course, led to the SALT II Treaty.

Other prominent Americans who support this amendment include former Secretaries of State Cyrus Vance and Dean Rusk; former National Security Adviser to the President, McGeorge Bundy; former SALT negotiator, Ralph Earle; former Secretary of Defense, Harold Brown; former Air Force Chief of Staff, Gen. Lew Allen; Marshall Shulman, former adviser to Secretary Vance on Soviet affairs; Averill Harriman, that grand old man of United States-Soviet relations; and others.

Now, Mr. President, I know we have others who wish to speak, and I will soon yield the floor because the amendment is put together by Senator BUMPERS, Senator CHAFEE, Senator HEINZ, myself, and 20 other additional cosponsors, many of whom do wish to speak. But let me end on a personal note, Mr. President. Nothing so motivated me to run for the Senate and leave what was a very comfortable life in the State of Vermont than the question of arms control. It has been, it was at the time I ran, and it is today the overwhelming motivation I have for being in the U.S. Senate.

One questions very much some of the down sides of being in the Senate: The deprivation of family life, the almost complete lack of privacy, the long, 80-hour weeks. I believe you have to have a real motivation for being in this body. Each one of us has a different motivation. For me it is primarily arms control.

When I first ran for the Senate at the ripe old age of 33, somebody asked if I didn't think I was too young for the United States Senate, since I was coming here to replace a man elected the year I was born. I said at that time I had three young children who would live most of their lives in the next century—if we have a next century. That could be said, for many of us in this body, either of our children or grandchildren. Once again I say that on arms control matters, especially arms control treaties, we are the only people in the country who get to vote on such a treaty—only 100 people in the country. I urge my colleagues to think of that in supporting this resolution; that they may be moving themselves and the country just a step nearer to finally having an arms control treaty that we vote on and be able to express the desires, wishes, hopes, and prayers of people throughout the country of all political backgrounds.

So with that, Mr. President, I say that we will not have any greater or more important issue come before this body this year. It is only a tiny step, but it is a step closer to the security of nuclear arms control.

### EXHIBIT 1

### STATEMENTS REAFFIRMING NO-UNDERCUT POLICY

"As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint."—President Reagan, May 31, 1982, Speech, Arlington Cemetery.

"But there's no question that, while there was a kind of an informal agreement that, since the treaty had not been ratified but was still in existence there, having been signed, that both sides would agree in good faith that they would observe the things that they had arrived at in that treaty."—President Reagan, February 23, 1983.

"The United States is continuing to carry out its own obligations and commitments under relevant agreements."—President Reagan, January 23, 1984.

"Accordingly, it is consistent with our stated policy that, while our SALT review is underway, we will take no actions which will undercut existing agreements so long as the Soviet Union does likewise."—Secretary of Defense Weinberger, November 3, 1981, FRC Testimony.

"I share the worries of many throughout the country expressing concerns of living with nuclear arms and the lack of progress in arms control. I am pleased that the national policy is that we will not do anything inconsistent with SALT II while we move toward further negotiations and reductions."—General David C. Jone, Chairman JCS, April 29, 1982, FRC Testimony.

"We intend to comply by those provisions (of SALT), providing the Soviet Union does likewise."—Secretary of State, Alexander Haig, May 11, 1982, FRC Testimony.

"We understake to live by the provisions of SALT II in a general way and expect the Soviets to do likewise."—Secretary of State, George Shultz, March 28, 1984, Appropriations Committee.

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### EXHIBIT 2

### SALT INTERIM RESTRAINT

Question. Is it true that the U.S. is considering revoking its "no undercut" policy of SALT II?

Answer. The President's policy on interim restraint has not changed. We are continuing to implement this policy with respect to the SALT Interim Agreement and SALT II agreement, and are proceeding to implement the President's strategic modernization program.

As the President stated on January 23, "The United States is continuing to carry out its own obligations and commitments under relevant agreements."

Sea trials for the seventh Trident submarine are not scheduled to begin until late 1985, that is, in fiscal year 1986. The issues this event raises regarding the SALT I and SALT II agreements will be addressed at the appropriate time.

It would be misleading to infer that the absence of a decision before one is required implies anything about what course of action will eventually be taken.

When the time comes for a decision it will, obviously, be taken in the context of the international situation and U.S. national security requirements. Among other things, our assessment of the Soviet commitment to a corresponding policy will be relevant to our considerations.

#### TRIDENT AND SALT LIMITS

*Question.* When will continued Trident submarine construction put the U.S. above the SALT II MIRV sub-ceiling of 1200 launchers? When will the Trident program cause us to exceed the SALT I Interim Agreement limits? What is the U.S. position on continuing to observe these limits? When would they have expired had SALT II been ratified?

Answer. U.S. policy on interim restraint was set by the President in 1982, when he stated that, "As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint." The U.S. is continuing to carry out its obligations and commitments under relevant agreements, including our no undercut policy on existing arms control agreements. In keeping with this policy, compensating dismantlements for new Trident launchers in excess of SALT I Interim Agreement limits have been completed or are programmed using Polaris and Titan II strategic ballistic missile launchers that have been deactivated, and we have programmed sufficient money through the end of Fiscal Year 1985 for continued dismantlement of these launchers in accordance with SALT I procedures.

The SALT II Treaty as written would have expired in December 1985, had it been ratified. It is the seventh Trident that will bring into play the possible applicability of both SALT I and SALT II limits. However, sea trials for the seventh Trident submarine are not scheduled to begin until late 1985, i.e., during FY 86. Thus, no decision need be taken at this time regarding compensation for the seventh Trident. The U.S. will carefully evaluate both the international situation and our own national security requirements in reaching such a decision.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, first I commend the Senator from Arkansas and the Senator from Vermont, my friends, DALE BUMPERS and PAT LEAHY, for bringing to the Senate an amendment that I think is the most important one we are going to consider during this lengthy debate on the defense authorization bill.

I also recognize the work of Senator NUNN and Senator PERCY in perfecting this amendment through modifications which I think, indeed, are significant and important improvements in it.

We have been on this bill for 12 days. It seems like about 21. Before the night is over it is going to seem longer still. But in the course of these 12 days so far we have considered a variety of very important amendments. We have had votes on the MX, we have had votes on seal-launched cruise missiles, we have had votes on the size of the authorization—a lot of important votes. Why do I say this amendment is the most important one we are going to consider out of all those other meritorious amendments?

After all, was there not a big fight decided by one vote on the MX, as to whether we were going to have zero or 21 or some number in between? Was that not a big, crucial vote?

I submit that, in comparison to all those other amendments, important as they may be to us and others, this is the one that strikes at the real heart of the arms race; because if this amendment is defeated, it means that the United States wants to start an arms race. I suggest that it would be an arms race that we would take a very serious risk in starting, because the evidence I have suggests that, at least for the next 8 to 10 years, it is an arms race we would not win. I do not happen to think there can be a winner in an arms race.

I think that those who suppport this amendment recognize—together with Senator BUMPERS, Senator LEAHY, Senator CHAFEE, and the other cosponsors—that if we want to reaffirm our commitment to not kicking off a new arms race, voting in favor of this amendment is the single most important step we can take.

What does this amendment say that is so important? First, that Congress should go on record to proclaim that it is the policy of the United States to continue to carry out its obligations and commitments under existing strategic arms agreements so long as the Soviet Union does the same.

Then we take the prudent step of saying that the President should carefully consider the impact of any changes that might undercut this current policy and consult with the Congress, before making any changes in current policy.

In practical terms, why is that so important? It sounds so modest. It sounds like common sense. It sounds simple. Well, as my friend from Arkansas pointed out at the beginning of this debate, there is a day of reckoning coming soon, a day of decision, when the seventh Trident submarine the U.S.S. *Alaska* begins its sea trials. That event will cause the United States to face the possibility of exceeding the SALT II limits, 1,200 for multiple warhead missiles—ICBM's and SLBM's—unless we do something about it—dismantle either 14 Minuteman III's or 1 Poseidon submarine, carrying 16 missiles.

Dating from March 29 of this year, our administration's response to what we are going to do at that point has become very ambiguous, very clouded. I will not bother to read into the RECORD the quotations from the Washington Post of March 30, or from the New York Times of the same date, quoting State Department spokesmen and George Shultz when he testified before the Senate Appropriations Committee. They will be in the remarks of someone else.

The point is that when the administration was asked on the record, "What are you going to do?", they said, "Well, we're going to wait and see what the circumstances are, and it is likely we will do something not to exceed the ceiling, but we are not making any promises. We will evaluate the international situation and our own national security requirements."

Mr. President, why is it in our interest not to undercut SALT II? It is in our interest because if we undercut it and a new arms race starts breaking out, what is going to happen is that we are not going to be able to keep up with the Joneses. The Joneses in this case happen to be the Soviet Union, and they are in a far better position than we to engage in the building of large multiple warhead ICBM's with a first strike capability.

I want to share with my colleagues these statistics.

If the United States chooses to ignore the 1,200 limit, we would add relatively little to our strategic force capabilities. The seventh Trident submarine would put us only 14 missiles over the 1,200 limit. Additional Trident submarines are being built at a rate of less than one per year, so from Trident production alone we would be less than 100 over the limit for the remainder of the 1980's.

What about bombers? At present the United States has deployed 74 ALCM-equipped B-52's. The program of equipping B-52's with ALCM's will not begin to reach the 1,320 ceiling—1,200 MIRV'd missile launchers plus 120 ALCM-carrying heavy bombers—until mid to late 1986. The United States will not complete the planned 195 ALCM-equipped heavy bomber program until about 1990.

Under current plans, the U.S. deployment of MX will not affect our levels of deployed MIRV'd ICBM's. MX will be deployed in existing Minuteman III silos, which is permitted. We could deploy additional Minuteman III missiles, each with three warheads, in silos currently containing single-warhead Minuteman II missiles, but we would gain a net of only two warheads per additional missile. Deployment of the remaining spare Minuteman III's would deprive the United States of missiles for essential operational testing purposes. With only about 120 Minuteman III's currently in storage and 100 freed up by the deployment of MX, and keeping at least 70 for testing, we would be able to add at most only 150 Minuteman III's, or 300 warheads—450 less than 150 dismantled Minuteman II's—by the full operational capability of MX in 1990.

The Soviets, on the other hand, if they saw us ignoring the 1,200 limit on numbers of MIRV'd missiles, could really play the arms race to the hilt; because they are right next to the 820 limit on MIRV'd ICBM's—they have 818—and they could far exceed that limit in a no-holds-barred arms race in several ways.

They could do it first by deploying SS-24 missiles. SS-24's will fit in silos that now take SS-11's and SS-13's. The difference, of course, is that SS-11's and SS-13's have one warhead. The SS-X-24 has 10 warheads. If you want to work out the math on that, it means that the Soviets can deploy 5,000 accurate warheads very quickly—5,200, in fact.

The second thing they can do, which we certainly cannot do, is that they can add warheads to the SS-18. The SS-18 is the large, heavy missile we all worry about, which we would like to get reduced under START. It currently carries 10 large warheads, but we have reason to believe that it could easily carry 20 and maybe 30 or more.

And so if you assume they could put 30 warheads, 20 more than they now have, they could put another 6,000 warheads on those S-18's.

Third, if you want to get into a race building silos, the Soviets can build silos, and if you assume the Soviets can build silos at about the rate they did in the 1960's you are talking about them building 300 silos a year.

The bottom line, Mr. President, is that the Soviets could have the capability to deploy over 11,000 warheads with a prompt, hard target kill capability, simply by taking advantage of their current capabilities, whereby the United States could add no more than 1,500 warheads to its landbased missile force given current plans and capabilities. That is why undercutting observance of SALT II is simply not in our best interest as long as the Soviets continue to observe it as well.

There is a second reason why I think we need to continue to observe SALT II and that has to do with how we are going to continue to build an arms control strategy for the future.

It is a fact of life that under the observance of SALT II, we promote the policy of sacrifice whenever there is modernization. That is why when the seventh Trident submarine comes out we have to give up something. That is sacrifice. The Soviets also have to sacrifice when they deploy, and indeed Moscow has retired 209 ICBM's and since 1978 has dismantled 160 missiles on 10 missile-firing submarines. Those submarines were newer than all but four of our optional missile-firing submarines.

There are many Senators, including myself, who sponsored an even more wide ranging notion of sacrifice called the mutual guaranteed build down, and if that concept is to be kept alive and hopefully used as the basis for a successful negotiation at START, the last thing we want to do is tear up SALT II and the modest sacrifices that it requires.

The remaining and third reason why this amendment is a good idea, Mr. President, relates to the following question that I would hope someone might be tempted to ask. If SALT II was a bad idea in 1979, why is it a good idea today? After all, was it not Ronald Reagan who said back in 1979, maybe even in 1978, that SALT II is dead and by contrast is it not Ronald Reagan who says today long live SALT II?

The reason many of us were very reluctant indeed, and this is before Afghanistan, to sign on to SALT II is that many of us felt that the simple ratification of SALT II by the Senate would cause both Congress, the House and Senate, and the American people, to decide that an arms control agreement had been reached, and that there was no need for us to do anything in the way of rebuilding our strategic deterrent capability.

Back in 1979 I stated here on this floor that in the final analysis the SALT debate is going to be about credibility, the credibility of our deterrent, the credibility of any commitments that the administration—that is the Carter administration—made on defense policy, and the credibility of American foreign policy.

The SALT II treaty itself never inhibited a commitment to a strong national defense. It was our lack of will, our own lack of commitment, our failure as an institution, to pay attention to the defense needs of this Nation which caused our strategic and conventional capabilities to erode in the 1970's.

We have a different situation today. We have an administration which, in concert with Congress, has renewed its commitment to our national defense and to the modernization of our strategic and conventional forces. The point is that today no one questions the will of this country, no one questions our commitment to modernization, no one questions our genuine strength. We are a secure, confident superpower with tremendous strategic capability, and because we are in such a position of strength, we can afford to do something that is in our own best interest: namely, to continue to observe existing strategic offensive arms control agreements.

Mr. President, the only other thought I would leave to my colleagues who might be in doubt about this amendment is simply to ask them the question that if they do not want us to continue to observe SALT II as long as the Soviets continue to do so, what is the alternative?

I quite honestly do not know what someone is going to answer to that because the only other answer is an arms race, and I do not think that is what is in our interest. It is not what we need. It is not what the American people want. It is not what is safe for the world.

I am not sure that any critics of this amendment have an alternative. If they have one that makes somesense I would surely like to hear it. Frankly, I challenge anyone to advance an alternative to the commonsense policy set forth in this amendment: to preserve the peace and avert a new destabilizing arms race.

Mr. President, this amendment by Senator BUMPERS, myself, and others represents a reaffirmation of what we know to now be the policy of the United States with regard to existing offensive strategic arms agreements, and what we believe should remain our policy through this year and next.

Simply stated, our amendment expresses the sense of the Congress that the United States should continue to carry out its obligation and commitments under existing strategic arms agreements, so long as the Soviet Union does the same.

Now I want to make clear that by this amendment we neither promote any unilateral action by the United States nor condone Soviet violations of existing strategic arms agreements. This resolution does not attempt to be selective in terms of the provisions to be observed; it does not give the Soviets license to choose to observe some provisions and ignore others. If we are to maintain the integrity of negotiated strategic arms agreements, we cannot allow partial, self-serving compliance by the Soviets to undermine the security of this Nation.

Our amendment emphasizes that the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms agreements with the Soviets through the Standing Consultative Commission [SCC] in Geneva.

Mr. President, I also want to make clear and emphasize that our amendment contemplates no openended commitment to existing strategic arms agreements which would jeopardize the security of this Nation. Rather, we expect that the President will, and properly should, reevaluate the policy of interim restraint, the stated policy of this Nation, as the unratified SALT II Treaty approaches its 1985 expiration date.

But this amendment is equally emphatic on the point that the President should carefully consider the impact of any changes to his current policy, regarding existing strategic arms agreements, upon the long-term security interests of the United States and its allies, and that he should consult with the Congress before making any changes in current policy.

Now why is this important in practical terms?

The 1985 deployment of the seventh Trident submarine, U.S.S. *Alaska*, will cause the United States to face the possibility of exceeding the SALT II ceiling, of 1,200, for multiple warhead missiles. When questioned as to whether or not the United States would dismantle either 14 Minuteman III ICBM's or one 16 missile Poseidon submarine in order to stay within the SALT II ceilings, the administration has provided ambiguous answers. I believe this ambiguity is as unfortunate as it is unnecessary. Let's be candid: what remains of Soviet-American relations is at best severely strained. Opening the door to the possibility that the United States may be the first to undercut the existing mutually observed restraint of the SALT II limitations cannot help to ease tensions or create the proper climate for reconvening the now-stalled Strategic Arms Reduction Talks [START] or the Intermediate Nuclear Force Talks [INF].

Mr. President, I suspect there is enough blame to go around for everyone that relations between the Soviet Union and the United States have deteriorated to the point where there is very little dialog. Certainly the Soviet Union has much to answer for. The Soviets, having first tried, unsuccessfully, to undermine the political cohesion of the NATO alliance to implement its program of nuclear modernization, has picked up its marbles and abandoned the negotiating table, both at the START and at the INF talks. We should and we do condemn such irresponsible behavior. And whatever the ultimate cause or causes, it is a fact that there is today little effort and no cooperation between the Soviet Union and the United States in seeking the management and resolution of conflicts throughout the world, conflicts which have the dangerous potential for super-power confrontation.

To make matters worse—and more threatening for any meaningful arms control—both superpowers stand on the threshold of developing new weapons technologies which threaten to undermine the arms control rules of the road which have guided us for over a decade.

Mr. President, this Senator draws little comfort from the new strategic vision enunciated by the administration which centers on the aggressive pursuit of ballistic missile defense technologies, antisatellite weapons, and candid talk about revisions to the ABM Treaty. The risk is enormous that such actions can only lead to a new destabilizing arms race with unforeseeable and possibly catastrophic consequences.

I suggest instead, Mr. President, that this is a time for prudence and restraint. And in the absence of progress toward the conclusion of the new offensive strategic arms agreement, it is in our national interest to continue to abide by the ceilings established by the SALT II Treaty. Those ceilings—820 on launchers of MIRV'd ICBM's, 1,200 on launchers of MIRV'd missiles [ICBM's and SLBM's] and 1,320 on launchers of MIRV'd missiles plus heavy bombers equipped to carry cruise missiles have been observed by both the Soviet Union and the United States—these ceilings force both nations to continue to retire systems in their existing arsenals as new systems come on line. For example, to comply with the SALT I Treaty, Moscow retired 209 ICBM's in the 1970's and since 1978 has dismantled 160 missiles on 10 missile-firing submarines. Those submarines were newer than all but four of our optional missile firing submarines.

And it is important to note that the Soviets have done this dismantling under the SALT I interim accord on offensive arms—a treaty which technically expired over 7 years ago.

Many Senators who have cosponsored the mutual guaranteed builddown, including myself, understand that though weapons modernization programs are important, they must be tied to real arms reductions. It is this very concept of sacrifice, the retiring of older warheads as newer ones come on line, which must continue to be built into any new strategic arms agreement with the Soviet Union.

As we seek to transform the strategic force structures of both superpowers away from a reliance on first strike weapons, in particular large MIRV'd warheads on land-based missiles, it will be essential that the concept of sacrifice created by SALT I and SALT II remain alive.

As deficient as the SALT process has been in curbing the proliferation of strategic warheads, nonetheless it remains in our national interest to ensure that the ceilings established by the treaty are not undercut by unilateral action because the alternative of an uncontrolled strategic arms race is a nonwinner for both sides. Let me take a minute to explain that. A look at the composition of the Soviet force structure and the traditional modernization plans which emphasize large ICBM's, makes it clear that a breakdown in the SALT II regime would immediately allow the Soviets to take advantage of their superior throw-weight by loading more warheads on their large SS 18's and 19's, thereby enhancing an already sizable first strike capability on their land-based missiles. It is almost unavoidable that undercutting the SALT II limits will result in a new arms race to deploy more vulnerable land-based assets, a race in which both superpowers succumb to pressures to protect those admittedly vulnerable assets with ballistic missile defense schemes which will certainly lead to the abrogation of the ABM treaty. The consequences of such actions would clearly undermine the vision of stability we are all trying to promote.

Finally, Mr. President, at the time the Senate began its process of advise and consent with regard to the SALT II Treaty, many Senators, including myself, believed that the treaty could not be considered in isolation but rather should be analyzed in the contexted of this Nation's overall defense capabilities.

In July of 1979, I stated on the Senate floor:

> In the final analysis, the SALT debate is going to be about credibility: The credibility of our deterrent; the credibility of any commitments the administration makes on defense policy; and the credibility of American foreign policy.

The fact remains that the SALT process itself never inhibited a commitment to a strong national defense. Rather, it was our own lack of will—our failure to pay attention to the defense needs of this Nation, which caused our strategic and conventional capabilities to erode.

This administration, in concert with the Congress, has renewed its commitment to our national defense and to the modernization of our strategic and conventional forces. From fiscal year 1980 through fiscal year 1984, budget authority for the Department of Defense has increased by about $116 billion, or 40 percent over 4 years. And for the period fiscal years 1981-84, the portion of the defense budget allocated to strategic forces has experienced annual real growth of 27 percent compared to 8.5 percent for general purpose forces and 9 percent for defense budget as a whole. This has permitted us to proceed along the path to deploy 100 MX missiles, a new single-warhead ICBM, 100 B-1B bombers, and 132 Stealth bombers, and to continue the procurement of 1 Trident submarine a year to a total of 20 by 1996, of which most will possess the new D-5 missile.

Some will question our strategic priorities or claim that we have overemphasized strategic modernization at the expense of conventional forces and readiness. These may be valid criticisms. However, the real issue here is the fact that whatever we or the Soviets thought of U.S. will and preparedness in the Carter years, today we are a secure, confident superpower, with tremendous strategic capability.

Yes; we must be concerned about Soviet compliance with existing strategic arms agreements. And we must continue to pursue any violations vigorously in the context of the SCC. But let us not forget the fact that this Nation remains well equipped to cope with any Soviet actions of noncompliance which may jeopardize our national security.

To those who would advocate a policy of undercutting the SALT II ceilings because they believe they do not serve the national security interests of this Nation, I would ask only two questions: First, what is it that you would like to do in the area of strategic modernization that this Nation is not now engaged in? Second, once having cast aside the rules of the road which have guided us for over a decade, would we be better or worse off and why?

Mr. President, it is time that we recognized our strengths as a nation. And because of the concerted, successful effort we have made to address our weakness, we are now, today, in a position of strength to resolve our differences with the Soviet Union at the negotiating table, while we continue to abide by the provisions of existing strategic arms agreements. I challenge any one to advance an alternative to this commonsense policy to preserve peace and avert a new and destabilizing arms race.

Mr. CHAFEE. Mr. President, I am delighted to join with my colleagues, Senators BUMPERS, LEAHY, and HEINZ in offering this amendment to the Defense Authorization Act.

Mr. President, this amendment puts the Senate on record in support of the policy which this administration has been following for the past 3 years, namely, not to take any actions which would undercut existing arms control agreements so long as the Soviets show equal restraint.

This policy has served the United States well. Despite the fact that the SALT II agreement was not ratified by the United States, both the United States and the Soviet Union have observed its terms regarding limitations on strategic offensive weapons. Thus, the restraint on offensive nuclear forces which the SALT II Treaty envisioned has been accomplished. I believe, as do the others in support of this resolution, that continued observance of these features of the treaty remains in our national interest and that the Senate should go on record in support of this policy.

The principal reason for supporting this amendment is that the continued "interim restraint" policy is in our national interest. That is what this is all about. We are doing something that is in the best interest of the United States. This policy serves to help constrain Soviet force developments.

The second reason, Mr. President, for support of this amendment is that it provides some predictability and some stability in the strategic balance, a stability which serves as a useful background for talks on the next agreement.

We all know that the START talks are currently suspended and that the Soviets currently show no signs of returning to these talks soon, but at some point those talks must be resumed and when they are the chances of successfully concluding a new agreement will be improved if both sides have continued to adhere to the limits of the existing SALT I and SALT II agreements.

This does not mean that we observe these limits forever or that this resolution seeks to make this a permanent feature of U.S. policy. As a matter of fact, the amendment as presented by the distinguished senior Senator from Georgia specifically provides that this resolution extends through the period of 1985.

That, of course, is when the SALT II accord would have expired, and developments in our own force modernization plans will cause us to reexamine the policy at some point.

What this resolution seeks to do is draw attention to this matter, to place the Senate on record in support of continued restraint, and to indicate that the President and the Congress should review this matter before the policy is changed. We should not make the decision to deviate from our existing policy without the most careful thought and thorough study.

Mr. President, I recognize that there are qualms in this Chamber, there is concern, and I suspect that the subsequent speakers are going to address that concern, that the Soviets have not adhered to the letter and spirit of arms control treaties which they have signed.

This amendment acknowledges that fact. It acknowledges those concerns. It recognizes the seriousness of them. It calls for the full exploration and discussion of these concerns with the Soviets and, through the proper diplomatic channels, to resolve those concerns.

It seems to me, Mr. President, there are two things we can do when we suspect the Soviets of having violated the SALT II agreement. We could say that frees us from all constraints, all shackles are off and on we go into a fullblown arms race. Or, Mr. President, there is an alternative. The alternative is to proceed through the proper existing channels, the principal one of course being the Standing Consultative Commission, and to go into that Commission with hard negotiations and try to resolve the differences. I suspect we will find, after careful study, that the differences are not as great as some syspect they are.

Everyone who is going to address this matter this evening does so with the spirit of trying to arrive at some sort of an arms accord and a limitation to the expansion of the nuclear arms race.

I believe that the recommendations that we have in this amendment are the best method of achieving our objectives. With this amendment the U.S. Senate says we are going to adhere to the SALT II agreement through 1985 and if there are differences and suspected deviations then we will address those in the proper manner, namely through the Standing Consultative Commission or other diplomatic channels as might exist.

Mr. President, there are many proposals for arms control being discussed on the floor of this Senate and throughout the United States. Many of them have been addressed in resolutions. There have been builddowns, there have been freezes, there have been START proposals. I think most Senators here have supported one or another of these approaches. Many of them have great merit and others perhaps do not form a workable basis for an arms control regime. But, Mr. President, regardless of the alternatives, right now they are all hypothetical.

Builddown, yes, people can talk about it and it is fine; freeze, yes, that is fine. And START II, yes, that is fine also. But they are all hypothetical. The existing limits which we are now observing and which the Soviets are observing are not hypothetical. They are there. The Soviets have agreed to them. The United States agreed to them and then brought it back for ratification where, due to a whole series of circumstances, they were not brought forth for ratification. If I had my way, we would have ratified the SALT II agreement, but that was not the view of the then existing administration, nor has this administration sought to come forward seeking ratification from the Senate.

But the limits are there and they are real and they are actual examples of restraint on offensive nuclear arms. So let us not talk about something else when we have got this right before us. They should be preserved, these limitations of SALT II, as long as they serve our national interests. That is what arms control agreements are all about. That is why we get into them, because they are in our best interests, and continuing to observe SALT II is in our best interest.

For those reasons, I urge my colleagues to join with me and the others in support of this amendment.

Mr. NUNN. Mr. President, very briefly, I know the Senator from Idaho has some comments and I will only take a moment. I would like to give a brief explanation of the amendment that is pending, which is my amendment to the Bumpers-Leahy amendment.

The amendment adds the word "offensive" to "strategic arms" in several different places in the amendment to make it clear that this is not an effort to tackle the so-called strategic defensive initiative. We have debated that already, and will debate it again. We are simply making clear we are talking about the strategic offensive weapon agreements and not getting into the defensive area.

The second point I would like to make is that the Senator from Arkansas and the Senator from Vermont I think have made some valid and very important points, as have the Senator from Rhode Island and the Senator from Pennsylvania.

There have been certain values to SALT I and SALT II. One value, one important item, is that the Soviets have continued to dismantle Yankee class ballistic missile submarines and those are newer than any of our Poseidon submarines. That is not to be diminished in importance.

The Soviets have dismantled older ICBM silos. Again, that is not to be discounted.

The Soviets have not expanded either launchers or warheads to the extent their, what we call, "hot production" base would have allowed had they so chosen.

I was concerned about the original amendment and could not have supported it without the amendment that is now pending as part of it, or will be part of it if the Senate adopts it. The reason is because the original amendment had no time limit for our own compliance. It simply tied us to the Soviet Union's continued compliance—a very important part of the amendment. Nevertheless, I did not think it should be open-ended. The original SALT II treaty was not open-ended. If we had ratified that treaty it would not have been open-ended. It would have expired on December 31, 1985.

So what I have placed in this amendment is a provision that calls for our continued adherence to the SALT II provisions, provided the Soviets also adhere to the SALT II agreement, and that this obligation will expire on December 31, 1985. That would have been the original expiration date of SALT II and that would bring this amendment in sync with SALT II.

Just to give you a couple of items to show the importance of this. One relates to our small intercontinental ballistic missile, that is, the so-called Midgetman. We may begin testing that in 1987. Of course, if the SALT II provisions were in effect at that time, that could have an adverse bearing on compliance. The same thing would apply to our air-launch cruise missile program for modernizing our bomber force—whether we are going to exceed the 120 ALCM-equipped bombers sometime roughly by mid-1986, which may very well be the case. That, too, could be interpreted as violating the SALT II agreement if compliance was extended beyond the original expiration date. So I think it is important that we have this date limitation. All of us hope that by December 31, 1985, which will be over a year after the election, we will have reached some updated START of SALT agreement with the Soviet Union.

So this is the perfecting amendment I have sent to the desk. I am hopeful at this point, or at some point when he returns to the floor, the Senator from Texas, may have a further suggestion as to how we can improve this amendment which could perhaps be agreed to by the authors.

Mr. President, may I ask what the pending business is at this point?

The PRESIDING OFFICER. The pending business is the amendment 3249 to amendment 3248; 3249 being the Nunn-Percy amendment to the Bumpers amendment.

Mr. NUNN. I thank the Chair. I yield the floor.

Mr. McCLURE. Mr. President, I approach this subject with a great deal of care because I think it is very important for us to carefully state what the amendment is but, at the same time, also carefully state what it is not.

One of the reasons for my concern is that as many Members know, I have been very much interested in the Soviet record of treaty compliance. I do not want this resolution to be misread by anyone saying that the Senate is not concerned about the treaty compliance by the Soviet Union. Last September I offered an amendment that required the President of the United States to make a report with respect to treaty compliance. That amendment was adopted on a record vote of 93 to nothing by Members of this Senate.

Mr. President, I do not believe that the 93 Members of the Senate who voted for that amendment wanted to do something that was a useless gesture. They intended that the report be presented to us. The first installment of that report has been presented to us by the President of the United States. President Reagan has already confirmed in his report to Congress of January 23, 1984, that the Soviets have violated SALT II in four cases. At the time that it was presented to us, and since that time, the administration said that is the first installment on the report. There will be others because they laid out in that report as I recall nine illustrative kinds of concerns that we have about violations, possible violations, apparent violations, and so on. The President's report of January 23, 1984 charged the Soviets with nine violations of six arms control treaties. Five of these cases were conclusive violations, and four related to SALT II. Two of the SALT II violations were conclusive.

But they specifically said that was not an exhaustive report from all that we know, and my struggle has been to get the information to the American people so the American people can know what it is we are dealing with. Assistant Secretary of Defense Richard Perle has testified to the Senate's Defense Appropriations Committee, of which I am a member, that the administration is studying 20 to 25 other Soviet arms control treaty violations, and that the President's January 23, 1984 report was only an illustrative, interim report. I am advised that phase

II of the report is almost ready for delivery to the Senate.

I believe that when the Members of this Senate look at that report, and have that information available to us the Senate, we must be very careful how we characterize Soviet compliance behavior. Past is prologue, and whatever they have done is OK with us. I do not read this resolution as condoning Soviet SALT violations in anyway, although I think unless we are careful, somebody may try to interpret it that way.

Mr. LEAHY. Would the Senator yield?

Mr. McCLURE. I would be happy to yield?

Mr. LEAHY. I tell the Senator from Idaho that it certainly is not intended to wipe the slate clean. It is not a de novo type of resolution. I, too, share the concern about whether the Soviets have complied or not with the terms—even though it is an unratified treaty—of SALT II. I would note for my distinguished colleague from Idaho that last August I was one of a group of Senators who met with the then premier of the Soviet Union, Yuri Andropov, and I delivered then—not on the basis of the Senate, of course—what I thought was a rather strongly worded statement which raised with the Soviets my grave concern of the actions they have taken in the area of the encryption of telemetry, possible violation of the ABM Treaty, the phased array radar, and other matters. Certainly as the primary author of Bumpers-Leahy it is not my intention to say that we ignore everything in the past; not by any means.

These of course are issues that could be far better handled in a treaty negotiation. But we, I think, spell it out very clearly in our amendment, and certainly in the statements of Senator BUMPERS, myself, Senator CHAFEE, and Senator HEINZ which have been made.

But there are steps to be taken. The administration is still using the SCC, as are the Soviets. I think that is a good step to take. I applaud the President for doing it. The President has reported to the Congress on what they have done, and I know the Foreign Relations Committee, certainly the Intelligence Committee, I believe the Armed Services Committee, and the appropriate committees of the Senate have received reports on what is happening.

So I mention that as a rather lengthy answer to my friend from Idaho. I do not want him to have any question in his mind that any of us want to ignore either past or current situations.

Mr. McCLURE. I thank the Senator for that expression. The reason I take the time to be careful in that expression is that the resolution refers to "we will continue" to abide by and will not undercut the terms of the unratified treaty so long as they do not. That is current language. There are great questions about whether or not the Soviets have already undercut the terms of the treaty, and in some respects there is no question at all. President Reagan has confirmed to clear cut Soviet SALT II violations, encryption and rule on ICBM modernization. As a matter of fact, the treaty says without going into exhaustive detail, that neither country will interfere with the national technical means of verification on both sides. One of those accepted means of verification is the electrionic telemetry data from test flights. There is no question that the Soviet Union is encrypting that telemetry. It has been referred to so often. We do not have to worry about going into closed session to discuss at least general terms of what we know about that encryption and what it means in terms of our ability to know what they are doing, and whether or not we have confidence in the terms of that treaty. Moreover, there are recent reports in the press of Soviet jamming of our satellites used for telemetry collection, and blinding of our reconnaissance satellites with laser beams. These actions by the Soviets, if confirmed as accurate, are serious obstacles to our ability to monitor and verify arms control treaties.

I will not go into exhaustive detail with respect to the SS-25 or the SS-16 violations. President Reagan has confirmed that the Soviet SS-X-25 is probably a second new type ICBM, and that the SS-16 is probably deployed. The evidence supports them and what that means to the national security of this country. But I do think it is important for us to say that nothing in this proposal is intended to tie the hands of the President of the United States to respond in whatever way is necessary to protect the security of the United States against whatever other violations we may find, and accordingly that we do not resolve through the standing consultative commission, or through the other diplomatic channels, or whatever other means are available to us.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. McCLURE. I am happy to yield to the distinguished Senator.

Mr. NUNN. I agree with what the Senator said completely. I would not support this amendment if I found it in any way taking a position that would imply that there have been no violations. We do not have to solve, nor do I think we can solve, the question on this amendment on the floor tonight—whether or not there have been violations. I think we can perhaps have further clarifying language if necessary, but as I read this amendment from the very beginning, and before it was amended by my amendment, I think it is neutral as to that. I think the amendment urges the President of the United States to take such steps through the Standing Consultative Commission and other appropriate means to require that the Soviets correct any violations. So this amendment I would view as totally neutral on the question of whether or not there have been violations. I think that is enormously important. I would suggest that we work on some other language here. I think Chairman Tower and his staff have worked on it.

I would suggest that the Senator perhaps take a look at this language. If he believes that would further clarify it, then perhaps we can get some understanding. I think I could modify my amendment accordingly.

Mr. HEINZ. Mr. President, reserving the right to object.

Mr. McCLURE addressed the Chair.

Mr. NUNN. I have not asked to modify it.

Mr. McCLURE. Mr. President, I also am very concerned that we do not by our actions here imply that the action taken by this Senate just a week and a half ago in adopting an amendment I offered with respect to requiring the report of the President's General Advisory Committee on Arms Control, the so-called GAC report, being provided to us was a useless thing. I believe this Senate wants to see what the General Advisory Committee report says, and what implications it has for national security. The GAC report, I am able to say according to press reports confirms 17 violations by the Soviet Union of treaties.

The extent of those violations, whether the Soviets are undercutting SALT II or showing equal restraint, the importance and the impact which the Soviet violations have on the security of the United States, is important for the Senate to evaluate, and it is important for the administration to evaluate. I think the amendment before us today must be read in the context, with its expiration date, as being flexible enough to allow the President of the United States and the Congress of the United States to respond to whatever we find to be true, past, present, or future, that is necessary to protect the security of this country.

Finally, I would say to my good friend Senator CHAFEE, who a moment ago said that regarding treaty observance, we have but two courses of action. Senator CHAFEE suggested that if we discover or believe there is violation, we can either abrogate the treaty, in effect, and just go our own way irrespective of the treaty, or we can turn it over to the Standing Consultative Commisson and diplomatic channels. Senator CHAFEE is right. But the SCC has been a mechanism for U.S. acquiescence in Soviet SALT violations.

But I would submit there is another course in addition to those two, not instead of those two, and that is a measured response that is tailored to the degree necessary to protect the security of the United States. It does not have to be all or nothing; it does not have to be black or white; it does not have to be total observance; it can be a measured response that is tailored to the security requirements of the United States as we find them to be threatened by the Soviet violation of the treaty provisions which we find to be fact.

I read this resolution, and have concluded from my discussion with the sponsors of this amendment, that it will allow the President of the United States to take those actions which are necessary, in his judgment, to protect American national security. If the President finds that even after Soviet violations have been submitted to the Standing Consultative Commission are not resolved there, after they have been submitted to diplomatic channels and have not been resolved there, he must have a mechanism at the end of that process, a mechanism that guarantees the security of the United States.

I do not believe we want to get ourselves into the all-or-nothing posture of saying small and marginal violations or lack of observance must be dealt with either by total abrogation or by simple forgiveness. There simply must be a way in which the Soviet Union can be encouraged to comply with the terms and conditions and not rewarded for their violations short of total abrogation of the treaty, which would not be supportable in many instances.

Mr. President, I have had the opportunity to look at the proposals that the Senator from Georgia has made as possible modifications to his amendment.

I have had the opportunity to discuss those possible modifications with the Senator from Texas.

Before going further with that, it might be a good idea at this time to have a brief quorum call in order that we can discuss whatever fine tuning of those modifications might be justified on both sides.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

Mr. NUNN. Will the Senator withhold?

Mr. LEAHY. Yes.

Mr. NUNN. Mr. President, I think the Senator's suggestion is well taken. I will in a moment suggest the absence of a quorum. I would hope we can agree on the modifications. Right now we are concerned about certain dates but it seems to me that that can be worked out.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senator from New Jersey [Mr. BRADLEY] be added as a cosponsor to the Bumpers-Leahy amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. NICKLES]. Without objection, it is so ordered.

Mr. EXON. Mr. President, the Senate has been in session now for about 10 hours, and we have had 2 votes today—one by 98 to 0 and one by 97 to 0. It is now 7:30 or thereabout. I have been listening to the quorum call for 30 or 40 minutes.

I understand that an agreement has been worked out, and I salute the principals for working it out. I understand—and I will be corrected if I am not right—that we are now waiting for the retyping of the wording.

I inquire of the Chair if it would be out of order, in the interest of saving some time, if the principals who have worked this out could begin the explanation now of the amendment that has been agreed to; and when it is offered, assuming that it is acceptable, I and others who would like to know what the details are, could be better informed.

I ask the principals or the mnager of the bill: Has a general agreement been worked out on the wording of the amendment?

Mr. TOWER. Mr. President, will the Senator yield?

Mr. EXON. I yield.

Mr. TOWER. The debate has been going on for some time, and the compromise has been somewhat shaped in debate. I hope we would not prolong the debate much longer. When you work out a compromise of this sort, things are penciled in and sentences are juxtaposed, and that sort of thing, and it has to be sorted out to get a clean print.

I would not want anybody to get the impression that nothing is being done this afternoon. I think a great deal is being done on some rather important matters. I do not think you can measure it by the number of rollcall votes that have been had.

It occurs to me that we have done a good job of work when we can arrive at a consensus, an agreement, between what appear to be conflicting views on an issue. Then I think the Senate speaks with a stronger voice than if one side or the other wins marginally on an issue.

I regard this as progress. I think that if Senators want to engage in discussion or respond to questions from the Senator from Nebraska, that is fine.

Mr. EXON. My question is this: Has the gentlemen's agreement been reached on the wording, and are we not waiting for the typing of the wording, or am I misinformed?

Mr. TOWER. It has been agreed to.

Mr. EXON. Does the manager of the bill think it would be out of order for the principals, who I am sure want to talk on this, to speak now, so that we could save some time and get on with the business?

Mr. TOWER. The principals have already been over their positions with some degree of repetition, perhaps. But if the Senator would like to hear it again, I am sure they would be delighted to accommodate him.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. EXON. I am happy to yield.

Mr. HEINZ. Mr. President, I really do not have any problem if the suggestion of the Senator from Nebraska is that we might take 2 minutes to explain what is being typed up. Maybe there is a reason why we should not do that, but I do not know what it is. I would have to yield to Senator NUNN, who offered a perfecting amendment.

I think we all know what we agreed to and what is going to be typed up. I think the Senator from Nebraska makes a perfectly legitimate suggestion that we might discuss what is in there.

Mr. LEAHY. Mr. President, if the Senator will yield, we are discussing the Bumpers-Leahy amendment, which has gone through a bit of metamorphosis here. I am still questioning whether we have gone from the caterpillar to the butterfly or from the butterfly to the caterpillar.

I think that one of the reasons for the typing is to make sure that we are not going from a rather lovely and delicate butterfly to a horny, multilegged caterpillar, munching its way through the pages of our debate. Before this metaphor gets too far away, I will drop it, because I am not sure I can sustain it. [Laughter.]

I say to the Senator from Nebraska that I share his concern about long quorum calls. But in this case, there could be five or six of us talking, and the quorum calls probably have saved us a couple of hours of debate. I think that by nature we are disinclined to repeat what has been going on. But, for a very quick summary:

We started off in Bumpers-Leahy as a no undercut amendment modified by Nunn-Percy. It gives an expiration date which I think is well worthwhile. But then we have had another question raised that is one of a verification issue, a legitimate issue, raised by the Senator from Idaho, but I have some question whether that should be as a separate amendment or not. That is the one hangup. If I had my druthers I would prefer to vote Bumpers-Leahy modified by Nunn-Percy and then go immediately to whatever the Senator from Idaho wishes to bring up on his verification issue and vote that as a separate thing. Then I know we still have the butterfly. Otherwise, I am not absolutely sure what we have.

Mr. EXON. Mr. President, I certainly do not want to get into an argument between the butterfly and the worm, but I certainly thought that maybe, just maybe, if we could be advised, those of us who were sitting here and listening and those who are listening in their offices on their boxes, as to what the status is.

When I hear the Senator from Vermont, I get the feeling that maybe we have not reached a compromise after all.

Is that what the Senator from Vermont is telling the Senator from Nebraska or is he saying we are very close?

Mr. LEAHY. The Senator from Vermont is saying that the original purpose of the Bumpers-Leahy resolution could be voted on as modified by Nunn-Percy and could be voted on up or down I think fairly easily.

I also think that without any delays the suggestion made by the Senator from Idaho [Mr. McClure] could be voted on up or down very quickly.

And I think that everyone is in general agreement for the wording on both of those things. The rub is whether they should be joined in the same amendment or not.

Mr. EXON. I yield the floor.

Mr. NUNN. Mr. President, I inquire of the Senator from Nebraska if he heard more than he wants to hear or he would like to hear more.

Mr. EXON. I answer by saying if the Senator from Georgia can do anything constructive to move along this by talk, by action, I am willing to sit here and listen because I am sure we are going to be here until 12 or 1 o'clock and I hope it does not take that long to resolve this one issue.

Mr. NUNN. Mr. President, if the Senator is inquiring what I do be constructive, perhaps I should again suggest the absence of a quorum.

Mr. McCLURE. Mr. President, will the Senator withhold that request for a moment.

Mr. NUNN. I withhold.

Mr. McCLURE. Mr. President, I share with the Senator from Nebraska the frustration that sometimes occurs when we are trying to revise language and come to an agreement. I think we had all this put together and we asked people to type it up because there were getting to be too many changes written on one page. While they are out doing that typing, there are further suggestions for further changes and I would suggest if indeed we want to expedite it we do not change it further, we just go with what we have and vote on it and go on to the next amendment.

Mr. EXON. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to. I do think I am delaying the Senate.

Mr. EXON. The point the Senator from Nebraska is trying to make: It seems to me there has been general agreement at least on that paper that went into the room to be typed, at least a gentlemen's agreement that probably we are going to go with this.

All I am suggesting is that assuming that paper comes back and assuming all of the Members of the Senate who were involved in the arrangement agree with that, history indicates that to me there are probably some principals who would want to say something.

What I am suggesting is that maybe the principals could say that now on the assumption that the language is satisfactory and then we would ready for another 98 to 0 rollcall vote.

Mr. McCLURE. Mr. President, I appreciate the suggestion made by the Senator from Nebraska and my own reaction would be if that paper did not get stuck in the roller and the typewriter in some mysterious way and it comes out as it went and was intended to come out we will be finished with this issue very soon.

If it gets garbled in the typewriter or if the agreement comes unstuck in the interim we might well not have it resolved immediately.

Mr. President, for purposes of legislative history, I ask unanimous consent that the following articles and letters be printed in the Record:

First, the Washington Times article by Walter Andrews, June 14, 1984, entitled "Soviet Breaches In Arms Pacts Reported."

Second, Senator McClure's letter to the President on other possible Soviet arms control violations, dated May 23, 1984.

Third, Senator McClure's letter to the President on Soviet violation of the Limited Test Ban Treaty, dated May 24, 1984.

Fourth, the article entitled "Congress, Meet the SS-X-25," from the Wall Street Journal, May 22, 1984.

Fifth, Senator McClure's letter to the President on U.S. compliance with the unratified SALT II Treaty, dated May 16, 1984.

Sixth, Senator McClure's letter to the Director of the Arms Control and Disarmament Agency on Soviet compliance with the SALT I interim agreement SLBM ceiling, dated May 16, 1984.

Seventh, a letter to the President on Soviet violation of the Kennedy-Khrushchev agreement prohibiting offensive weapons in Cuba, signed by six Senators, dated May 21, 1984.

Eighth, Senator McClure's letter to Secretary of State Shultz on Soviet violation of the Kennedy-Khrushchev agreement, dated April 6, 1984.

Mr. President, I also ask unanimous consent that two letters to the President from my distinguished colleague, the senior Senator from North Carolina [Senator Helms], be printed in the Record. The first deals with the legal basis for U.S. compliance with the unratified SALT II Treaty. The second deals with Soviet production of more than 35 Backfire bombers per year.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Times, June 14, 1984]

### Soviet Breaches in Arms Pacts Reported

(By Walter Andrews)

A secret government report has concluded that the Soviet Union violated about half the provisions in arms-control agreements reached with the United States, government sources said yesterday.

The extent of the violations far exceeds previous administration charges.

The conclusion outlining the violations is contained in a summary of a report on Soviet violations over the past 25 years compiled by the General Advisory Committee on Arms Control. It is still classified "secret."

"Aspects of Soviet conduct related to about half their documentary arms-control commitments were found to constitute material breaches of contracted duties," says a summary of the report.

The GAC is part of the State Department's Arms Control and Disarmament Agency. The committee completed the report earlier this year but has kept it classified.

However, the House and Senate recently approved amendments to the defense authorization bill requiring the administration to send Congress copies of the classified report within 30 days of the bill's enactment.

The amendments, introduced by Rep. Jim Courter, R-N.J., and Sen. James A. McClure, R-Idaho, also would require that a purged, unclassified version of the report be made public in 60 days.

President Reagan would be able to delete or modify any material he determines would compromise intelligence sources or intelligence-gathering methods.

The sources declined to detail the violations and the arms-control agreements involved because the GAC report is still secret.

The Reagan administration has been reluctant to make the report public because of fear that, in this election year, political opponents would use it to support their claim that the administration is against arms control.

The GAC report is far more comprehensive than the report President Reagan sent to Congress in January listing seven Soviet violations of arms-control agreements.

Mr. Courter, who was given a briefing on the report, said it shows "a clear pattern of Soviet violations over many, many years that adds a new dimension to the January report."

Shortly after President Reagan sent his report to Congress in January Assistant

Secretary of Defense for International Security Policy Richard Perle said the president's report of seven violations was only illustrative and that investigation of an additional 20 to 25 Soviet violations was warranted.

On the floor of the Senate earlier this week, Sen. Steven D. Symms, R-Idaho, said the GAC report confirms these violations and covers 17 other arms-control violations since 1958.

Agreements covered in the GAC report included the 1958 test moratorium, the 1962 Kennedy-Khrushchev agreement on Cuba, the 1963 limited test-ban treaty, the outer space treaty of 1967, the ABM treaty and Salt I accord of 1972, the 1972 biological warfare convention, the 1974 threshold test-ban treaty and the 1979 Salt II agreement, sources said.

Sources told the Washington Times the Soviet Union only recently began jamming U.S. satellites used for monitoring Soviet missile tests.

The agreements prohibit interfering with the means used for verification.

The president's January report charged the Soviets with encoding or encrypting missile test data being transmitted to ground stations, which show the number of warheads each missile can carry.

Begun in recent months, the jamming prevents even the gathering of encrypted data for later decoding and indicates the Soviet intent to block verification when possible, the sources said.

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U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
*Washington, DC, May 23, 1984.*

Hon. CASPAR WEINBERGER,
*Secretary of Defense, Department of Defense, Pentagon, Washington, DC.*

DEAR CAP: Thank you for your excellent and timely responses to my recent letters. They have been most helpful to my deliberations on national security.

I have some additional questions to which I request answers:

First, is there any evidence and analysis indicating that the Soviets are deploying 12 to 14 warheads on each of their SS-18 super heavy ICBM, despite the fact that SALT II only provides for 10 on each ICBM? Could such deployment add 1,000 nuclear warheads to the present Soviet SS-18 force?

Second, are there Soviet Pechora-Pushkino-class ABM battle management radars at the following six locations, as reported by the press:

Abalakovo/Krasnoyarsk (as reported by the President); Lyaki; Pechora; Sary Shagan; Michelevka; and Moscow-Pushkino?

Are the Olenogorsk and Komsomolsk AMB radars also reported in the press similar to the above Pechora-Pushkino class?

Third, what is the likelihood that additional new large radars in the Pechora or Pushkino class will be discovered? What are the implications of such a discovery?

Fourth, is the Soviet SA-12 a mobile anti-ballistic missile? What effect would the production of 1,000 units of the SA-12 have on our own ability to retaliate against the Soviet Union? When will the Soviets reach the level of 1,000 SA-12 units?

Fifth, is the new Soviet SLBM, the SS-NX-23, a heavy SLBM in the terminology of Article 9 of SALT II, and therefore prohibited?

Sixth, are the Soviets violating the Montreaux Convention by sending aircraft carriers through the Dardanelles?

Seventh, are the Soviets violating the Conventional Weapons Convention of 1980 by their genocide and use of illegal incendiary bombs in Afghanistan?

Eighth, is there an expanding pattern of Soviet strategic camouflage, concealment, and deception under the command of Marshal Nicolai Ogarkov, the Soviet Chief of General Staff? Is it significant that Marshal Ogarkov himself was formerly in charge of both SALT negotiations and of the Directorate of Strategic Deception?

Ninth, are the Soviets producing 32 to 36 Backfire bombers per year, when Brezhnev personally promised to President Carter as an integral part of the SALT II negotiations that the Soviets would not produce more than 30 per year?

Tenth, have the Soviets exceeded the SALT II ceilings on multiple independently targetable reentry vehicles (MIRVs)?

Do the Soviets have more than the SALT II ceiling of 820 MIRVed ICBMs, the ceiling of 1,200 MIRVed ICBMs and SLBMs and the ceiling of 1,320 MIRVed missile launchers and bombers equipped with long-range cruise missile, including those under construction?

Eleventh, have the Soviets recently deployed Backfire bombers in Arctic staging bases in violation of Brezhnev's written SALT II Backfire bomber statement that the Backfire would not be given intercontinental radius flying capabilities?

Twelfth, are there any indications that the Soviets are preparing to deploy both the new SS-X-24 and SS-X-25 ICBMs in both a silo and a mobile mode? Will one of these ICBMs be deployed in a mobile mode on railroads, and the other as a road-mobile ICBM? Is there some indication that hardened railroad tunnels might be used to shelter the rail-mobile missiles?

Thirteenth, do the Soviets have underwater tunnels for protecting their strategic missile carrying submarines from nuclear attack? What percentage of the Soviet Submarine-Launched Ballistic Missile force not on patrol could be so protected?

Fourteenth, if the Soviets have already constructed large numbers of extremely hardened ICBM silos, road-mobile ICBMs, rail tunnels for rail-mobile ICBMs, underwater tunnels for SLBMs, and then go on to defend a high proportion of their ICBM warheads with an ABM system, will the Soviets largely erode the U.S. deterrent retaliatory capability?

Fifteenth, when will the Soviets be able to significantly erode the U.S. retaliatory deterrent capability?

Sixteenth, what will be the geo-strategic effects of such a Soviet invulnerable first strike counterforce capability?

Seventeenth, in view of the proliferation of Soviet ABM defenses, why are the DoD budget cut revisions eliminating penetration aids and maneuverable warheads for our new ballistic missiles?

With warmest personal regards.

Sincerely,

JAMES A. MCCLURE.

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U.S. SENATE,
*Washington, DC, May 24, 1984.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: A recent letter to Senator Pell from Arms Control Director Adelman dated April 19, 1984, has been made available to all Senators. This letter contains a highly important official confirmation of Soviet violation of the 1963 Limited Test Ban Treaty:

> ". . . there continue to be numerous Soviet ventings involving dispersal of radioactive materials beyond Soviet borders and numerous U.S. demarches to the Soviet Union protesting this practice."

The Limited Test Ban Treaty explicitly prohibits Soviet underground tests of nuclear weapons from venting radioactive debris beyond Soviet borders. There have reportedly been over 30 unequivocal Soviet ventings of radioactive debris outside their borders.

Answers to several questions are respectfully requested:

1. Why were the LTBT violations not included in the January 23, 1984 Report to Congress on Soviet Non-Compliance With Arms Control Agreements?

2. How many Soviet ventings of nuclear debris outside their borders have occurred since 1963, and how many U.S. demarches to the Soviets on these ventings have been sent? What were the dates?

3. What have been the Soviet responses, if any, to these demarches?

4. What are the military implications of the Soviet LTBT violations for U.S. national security?

5. What are the implications of Soviet violation of the LTBT for further progress in the arms control process?

6. What was the cause of the 1979 and 1980 "Flashes" in the South Atlantic? Were these atmospheric tests of nuclear weapons? Have the U.S. National Technical Means of verification degraded in their capability to detect nuclear weapons tests in the atmosphere? Were the Soviets invovled, as some report suggest?

7. Was the recent event reported by airline pilots in the North Pacific also an atmospheric nuclear test? Were the Soviets invovled? Have these ventings and tests affected the world's weather?

The fundamental purpose of the LTBT was to prevent contamination of the whole world's atmosphere by radioactive fallout from nuclear weapons tests in the atmosphere. The Treaty's Preamble states that one of its purposes is "to put an end to the contamination of Man's environment by radioactive substances." The U.S. should do everything it can to ensure Soviet compliance with the environmental protection purpose of the LTBT.

Accordingly, we request a report to Congress as soon as possible on the environmental impact of the Soviet radioactive debris ventings outside the USSR in violation of the LTBT.

Thank you in advance for your prompt answer to the questions above.

With warmest personal regards.

Sincerely,

ERNEST F. HOLLINGS.
STROM THURMOND.
ORRIN HATCH.
JIM MCCLURE.
BOB KASTEN.
STEVE SYMMS.

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[From the Wall Street Journal, May 22, 1984]

CONGRESS, MEET THE SS-X-25

Soviet missile rattling, much in evidence lately, Sunday took the form of a warning by Defense Minister Ustinov that an increased number of Soviet A-subs are cruising off U.S. shores. Contrast that with a vote by the U.S. House last week to halve production of the MX missile—and build none at all if the Soviets simply show up at arms talks between now and next April. In short. "Please return to the arms negotiations, or we *may* defend ourselves."

Perhaps Mr. Ustinov's threats will buck up the Senate when it takes up the MX. But obviously U.S. nuclear deterrence is in trouble. The House has not been talking about replacing the MX with a better system, but about killing it outright. Its final language was a "compromise" heading off that outcome.

Congressman Les Aspin, author of the compromise, seems to believe that the biggest U.S. strategic problem is to prove its "sincerity" to the Russians. Missing from this view is any recognition that arms talks have not deterred the Russians from anything they have wanted to do to try to intimidate the U.S. and Europe. If a treaty stands in the way, the simply violate it.

Pictured in this column is one of the recent discoveries of U.S. surveillance satellites, reproduced from the Pentagon's latest booklet on Soviet military power. Dubbed the SS-X-25, it carries three warheads capable of reaching U.S. cities. Its main feature is disguisability. A network of rail tunnels and concrete highways will allow the 200 SS-X-25s to be built between now and 1986 to be moved about and hidden in shacks like the one pictured. Any number of cheap shacks can be dotted around the countryside to give the missiles concealment.

Also being tested is a giant solid-propellant ICBM, capable of carrying 10 or more warheads. Solid-fuel ground tests are distinguishable from liquid-fuel tests, and the CIA has identified two such tests near Biysk.

Both the SS-X-25 and the unnamed giant are violations of the SALT II treaty the U.S. has undertaken to observe (even though it was not ratified by the U.S. Senate). The treaty allowed the Soviets only one new ICBM, the SS-24. And it explicitly said that any missile changed from liquid to solid fuel would be regarded as a new missile.

Rep. James Courter of New Jersey is asking why the White House has been so reluctant to detail Soviet arms-agreement cheating. Congressmen were given only a short briefing and a fact sheet on a 275-page report discussing what the U.S. has learned on this subject. When Mr. Courter asked for more information, the State Department replied that the SS-X-25 was still in "development" and hence not a pressing security risk.

One reason for secrecy may be that the report describes the fuzzy arrangement under which Mr. Reagan promised not to "undercut" SALT II so long as the Soviets show "equal restraint." These arrangements apparently encouraged the Soviets to think that they could ignore "obsolete provisions" of SALT II, such as, hold your breath, the missile ceilings. At the most recent meeting of the standing talks on arms compliance, the Soviets argued that any restraints on the SS-X-25 are simply among those "obsolete provisions."

Meanwhile, the treaties continue to inhibit U.S. developments. The design of the MX has been changed, at a cost of hundreds of millions of dollars, to conform to SALT II guidelines on throw weight. This year, the U.S. will chop up two more Polaris submarines to keep under the SALT ceiling. Identifying markers are being added to U.S. bombers carrying cruise missiles, to meet SALT II verification standards. Congressionally mandated funding to deploy up to 100 stockpiled Minuteman missiles has not been spent.

Even more significantly, the problems of the MX program itself can be traced to arms treaties. Congress has been ambivalent about the missile because of the impracticality of the "racetrack" mode of deployment—moving MXs about and using some silos as decoys. But the U.S. hesitates to do the same thing cheaply, as the Soviets are with the SS-X-25, because it would make arms agreements more difficult to verify. So it has decided instead to build some MXs with no method of concealment.

Several pro-defense senators, led by Malcolm Wallop of Wyoming, may vote against the MX unless the administration comes up with a better means to defend it from Soviet attack. A point defense costing $1 billion to $5 billion would fill the bill. But despite Mr. Reagan's "Star Wars" research program, the administration is reluctant to break out of treaty restrictions on anti-ballistic missile defense systems. Of course, the Soviets are also violating this treaty with their ABM radars.

How do these things affect Soviet willingness to engage in serious arms control talks? The answer is apparent. They have zeroed in on the one area where the NATO allies have shown toughness, the deployment of medium-range missiles in Europe, hurling threats and describing Mr. Reagan as a superhawk. They recognize that arms treaties do not stop their arms programs, only ours.

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U.S. SENATE,
*Washington, DC, May 16, 1984.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: In Fiscal Year 1981, five million dollars was authorized by Congress to begin deployment of 100 stockpiled Minuteman III MIRVed ICMs in existing Minuteman II silos. In FY 1982, these funds were appropriated by Congress for beginning Minuteman III deployment.

In a letter to Senator Pell of April 19, 1984, made available to the Foreign Relations Committee, Arms Control Agency Director Adelman stated: "If any launchers of Minuteman II ICBMs are converted to launchers of Minuteman III ICBMs, as some in Congress have proposed, they would be made distinguishable . . ."

Evidently, some members of your Administration are unaware of the Congressional authorization and appropriation for Minuteman III deployment. I also note from the Defense and Joint Chiefs of Staff posture statements that stockpiled Minuteman III ICBMs have not been deployed, as ordered by Congress. I request that you order a Defense Department study of what happened to the funds for Minuteman III deployment, and the basis for cancelling this deployment previously ordered by Congress.

With warmest personal regards.

Sincerely,

JIM MCCLURE.

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U.S. SENATE,
*Washington, DC, May 16, 1984.*

Hon. KENNETH ADELMAN,
*Director, Arms Control and Disarmament Agency, Department of State, Washington, DC.*

DEAR MR. ADELMAN: I have noted the following statement in the Defense Department's Soviet Military Power for 1984: "As of March 1984, the [Soviet] force numbered 64 submarimes fitted with some 936 nuclear.tipped missiles. Two of these submarines do not count toward the 62 SSBN limit established by SALT I."

Leaving aside the fact that the SALT I Interim Agreement and its Protocol expired in 1977 and was not jointly extended indefinitely, I am puzzled by the exclusion of two Soviet submarines from counting above the 62 SSBN limit. Presumably these two submarines are test bed submarines for the SS-N-17 and SS-NX-23. But the 12 SS-NX-17 count in the 936 SALT I accountable SLBMs, and the tubes on the SS-NX-23 test bed presumably are also SALT I accountable.

My question relates to how the two Soviet submarines are excluded. I am unaware of anything in the SALT I Interim Agreement, its protocol, or its Agreed Statements or Common Understandings which exlcude test bed submarines from counting in the 62 total SSBMs allowed. How did these two SSBNs come to be excluded? Was this exclusion ever reported to Congress? Futher, have the Soviets in fact dismantled all the missile tubes and missile bays on their Y class submarines being converted to attack or cruise missile carriers?

Thank you for your prompt answers to my questions.

Sincerely,

JIM MCCLURE.

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U.S. SENATE,
*Washington, DC, May 21, 1984.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: We strongly support your bold efforts to defend American national security in the Caribbean and in Central America. Secretary of Defense Weinberger has written the following statement to us recently:

"Whether the stopovers on Cuba of [Soviet] reconnaissance and ASW Bears constitute 'deployment' in a legal or strategic sense and whether they or Soviet military equipment furnished to Cuba are 'offensive weapons' within the terms of the 1962 U.S.—USSR agreements, as later amplified, are questions of considerable importance and implications, which are addressed at the highest levels of the U.S. government."

The 1962 Kennedy-Khrushchev Agreement was supposed to "halt further introduction of offensive weapons" [i.e. Soviet offensive missiles, bombers, submarines, and other offensive weapons, which Khrushchev even defined as including Soviet troops] into Cuba "as firm undertakings" on the part of "both" the U.S. and the Soviet governments.

You stated quite courageously at a press conference in May 1982:

"You know, there's been other things we think are violations also of the 1962 agreement . . ."

On September 14, 1983, you repeated your bold accusation, by stating:

"As far as I'm concerned, that agreement has been abrogated many times by the Soviet Union and Cuba in the bringing of what can only be considered offensive weapons, not defensive, there."

Two letters from the State Department on the 1962 Kennedy-Khrushchev Agreement have recently been delivered to us, and they have raised additional questions. In the first letter, the State Department has stated:

"The *basing* of *any* nuclear-armed submarine in Cuba would *contravene* the U.S.-USSR Understanding on Cuba. The Soviets are aware of this." (Emphasis added.)

From this statement, it seems reasonable to conclude that the publicly acknowledged Soviet basing of Golf and Echo class nuclear armed missile submarines in Cuba in 1970, 1972, 1973, and 1974 should be regarded by the State Department as Soviet contraventions of the Kennedy-Khrushchev Agreement.

There have been other authoritative official U.S. confirmations of Soviet violations. CIA Director William Casey was asked in *US News and World Report* of March 8, 1982: "Does what is happening now in Cuba violate the 1962 Kennedy-Khrushchev Agreement ending the missile crisis?" CIA Director Casey answered:

"Oh sure it does, because the 1962 agreement said the Soviets would send no offensive weapons, and it also said there would be no export of revolution from Cuba. *The agreement has been violated for 20 years.*" *(Emphasis added.)*

Also on March 8, 1982, Congressman Jack Kemp asked the Chairman of the Joint Chiefs of Staff:

"Is is not true that . . . there is a *de facto*, if not a *de jure* violation by the Soviet Union of understandings that this country had with them?"

The JCS Chairman answered:

"We interpret . . . Soviet actions in Cuba as a violation . . . in my judgment, *they [the Soviets] have gone beyond the 1962 accords.*" (Emphasis added.)

On March 11, 1982, Under Secretary of Defense for Policy Fred Ikle *confirmed that the Soviets had bases in Cuba capable of nuclear attack* and he testified to Congress that the 1962 Kennedy-Khrushchev Agreement *"had been eroded away to nothing" by Soviet actions.*

In the second letter, the State Department has also stated:

"The Department of State does agree with the President and the other officials [i.e., the Chairman of the JCS, the CIA Director, and the Under Secretary of Defense for Policy] * * * that the Soviet Union has on occasion *violated* the *spirit* of the [Kennedy-Khrushchev] Understanding." (Emphasis added.)

This statement is a State Department concession that the Soviet Union has in fact also violated the spirit of the Kennedy-Khrushchev Agreement.

The first State Department letter also states that "All Soviet tactical aircraft in Eastern Europe, *including Floggers*, are rated as potential nuclear delivery systems." (Emphasis added.) The CIA has told us that the Soviet MIG-21 Fishbed in Cuba has a nuclear delivery capability, and the Defense Department has told us that there are about 200 MIG-21s in Cuba. The April 1984 edition of *Soviet Military Power*, on Page 75, also gives Soviet MIG-21 Fishbeds a nuclear delivery capability.

Several questions emerge from these State Department concessions concerning the status of Soviet compliance with the 1962 Kennedy-Khrushchev Agreement:

1. If the Kennedy-Khrushchev Agreement is neither a treaty nor a legally binding international agreement, but is instead a "political understanding," as the State Department maintains, what are the precise terms of this understanding?

2. Does the Soviet deployment of Golf and Echo class nuclear armed submarines in Cuba in the early 1970s constitute "basing" and therefore a contravention or violation of the understanding?

3. What specific Soviet actions violate the "spirit" of the understanding? Have these actions stopped? How dangerous are they to U.S. national security?

4. If Soviet MIG-23 and MIG-27 *Flogger* aircraft and Soviet MIG-21 *Fishbed* aircraft are officially credited with a nuclear delivery capability against NATO, why is it that when Floggers and Fishbeds are based in Cuba, their nuclear delivery capability somehow disappears?

5. The State Department has promised to answer all of Senator Helms' and Senator Symms' questions. When will these answers be received?

Thank you for your prompt answer to our questions. We strongly support your attempts to uphold the Monroe Doctrine in Central America.

With warmest personal regards.

Sincerely,

Steve Symms,
*U.S. Senator.*
Jesse Helms,
*U.S. Senator.*
James A. McClure,
*U.S. Senator.*

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U.S. Senate,
*Washington, DC, April 6, 1984.*

Hon. George Shultz,
*Secretary of State, Department of State,*
*Washington, DC.*

Dear George: The Kissinger Commission report released last month emphasizes that there is an "acute and urgent crisis in Central America." The main security problem in the region is the Soviet military base in Cuba and Soviet-Cuban support for the Sandinista efforts to attack the peaceful states in the region. The Soviet military base in Cuba and Soviet support for revolution in the Western Hemisphere violate the accords which ended the Cuban Missile Crisis in 1962.

The Kissinger Commission report on pages 107 and 108 makes a very significant reference to the Kennedy-Khrushchev Agreement, which ended the Cuban Missile Crisis in 1962 by requiring the Soviets to remove their offensive weapons from Cuba. The report reaffirms President Kennedy's important warning to the Soviets and the Cubans on November 20, 1962:

"If all [Soviet] offensive weapons systems are removed from Cuba and kept out of the hemisphere in the future, and if Cuba is not used for the export of aggressive Communist purposes, there will be peace in the Caribbean."

But the Soviets have reportedly brought bombers, fighter-bombers, and strategic submarines and support bases back into Cuba. These forces have more nuclear delivery capability than the Soviet missiles and bombers discovered in October 1962. The Soviets reportedly also have a Combat Brigade, nuclear warhead storage facilities, and even Biological Warfare facilities in Cuba.

The Kissinger Commission report points out the consequences for Inter-American security of the failure of the Kennedy-Khrushchev Agreement to prevent Soviet-Cuban offensive bases and aggression in the region:

"[Kennedy's warning] was more than an expectation. It was a declared policy objective of the United States. Obviously, it has not been achieved. The problem has been that it [i.e. the Kennedy-Khrushchev Agreement] was eroded incrementally . . . the total effect of such small changes, however, has been—over five Administrations of both parties—an enormously increased military power and capacity for aggression concentrated on the island of Cuba, and the projection of that threat into Central America . . ."

We must point out the dangers of the Soviet-Cuba military bases and aggression in violation of the Kennedy-Khrushchev Agreement, both to American security and to the security of the Western Hemisphere. I believe that President Reagan should apply pressure to the Soviets to remove their nuclear delivery-capable bombers and submarines and other offensive military forces from Cuba, and to stop using Cuba as a military base for the export of revolution in Central America. Accordingly, I would like to ask you the following specific questions on this problem:

1. President Reagan has twice publicly accused the Soviets of violating the 1962 Kennedy-Khrushchev Agreement, and the CIA Director, the JCS Chairman, and the Under Secretary of Defense for Policy have all publicly agreed with the President. Do you agree?

2. How many Soviet MIG-21 Flogger fighter-bombers are present in Cuba? Does the Soviet MIG-27 Flogger have greater range and payload than the Soviet IL-28 Beagle bombers that the U.S. required the Soviets to withdraw beginning in 1962? Can the U.S. determine by National Technical Means whether the Soviet Floggers in Cuba are not nuclear delivery capable?

3. Are new Soviet TU-95 Bear H bombers being produced and equipped with Air-Launched Cruise Missiles? Could the U.S. distinguish by National Technical Means between the TU-95 H and the TU-95 Ds and Fs currently deployed in Cuba? Could the U.S. determine whether Bears were equipped with long range cruise missiles?

4. Is the Victor III class of Soviet nuclear attack submarines being equipped with new SS-N-21 long range nuclear Submarine Launched Cruise Missiles which can be fired from its torpedo tubes? Has a Victor III submarine recently been seen at Cienfuegos? Was this submarine equipped with SS-N-21 SLCMs? Can the three Soviet Foxtrot attack submarines recently given to the Cuban Navy also be equipped with SS-N-21s?

5. Are Soviet strategic nuclear delivery and storage capabilities observed in Cuba a violation of Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America?

I thank you in advance for your prompt response to these questions.

I strongly support President Reagan's statesmanlike leadership in challenging Soviet violations of the Kennedy-Khrushchev Agreement, and in reversing the 1979 Soviet-Cuban aggressive occupation of Grenada. I believe that a sound U.S. policy toward Central America should be based upon the Monroe Doctrine, the Symms Amendment urging armed resistance to Soviet-Cuban subversion and aggression and prohibiting a Soviet military base in Cuba. Given the useful impact of my amendment last fall requesting the President to report to Congress on Soviet SALT violations, I may propose another amendment requesting a similar Presidential report on Soviet violations of the Kennedy-Khrushchev Agreement.

With warmest personal regards.

Sincerely,

James A. McClure,
*U.S. Senator.*

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U.S. Senate,
*Washington, DC, June 13, 1984.*

The President,
*The White House, Washington, DC.*

Dear Mr. President: I am disturbed at indications that the Administration continues to adhere to the unratified SALT II Treaty, and the earlier SALT I Interim Agreement, now expired.

I am enclosing a copy of an unclassified State Department cable of March 31, 1984. It includes the following statement:

We have programmed sufficient money through the end of 1985 for continued dismantlement of these (Polaris SLBM, Titan II ICBM, and Poseidon SLBM) launchers in accordance with SALT I procedures.

The SALT I interim agreement has expired. SALT II has never been ratified. Moreover, Congress has never specifically authorized or appropriated funds for the purpose of dismantling Polaris or Poseidon SLBMs, Titan II ICBMs, or B-52 D bombers in order to comply with the SALT agreements.

Section 33 of the 1961 Arms Control and Disarmament Act specifies that the United States can comply with an arms control agreement only in one of two ways, namely:

(1) By exercising the treaty-making provision of the Constitution, or

(2) By further affirmative legislation.

Manifestly, neither of these conditions has been fulfilled.

Yet, in addition to the confirmation of the State Department cable, it has been reported to me that the Defense Department is planning to deactivate two Poseidon SLBM submarines in FY 1985 to compensate for the seventh Trident submarine becoming operational.

In addition, there is also a case in which funds for the deployment of up to 100 stockpiled Minuteman III MIRVed ICBMs to replace Minuteman II's was both authorized and appropriated by Congress; yet the deployment was not carried out, reportedly because it was alleged that the action would violate the unratified SALT II Treaty. Thus it appears that the Administration on the one hand acts without authority to comply with non-existent arms control agreements; and on the other hand it refuses to exercise the authority provided by Congress when it appears to believe the limits of the non-existent agreements would be exceeded.

Therefore I respectfully request that you furnish me with the results of a study examining the legality of any U.S. actions taken in compliance or apparent compliance with SALT I and SALT II, including the legal basis for programming funds for dismantling without specific authorization and appropriation.

Sincerely,

JESSE HELMS.

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### U.S. POLICY ON SALT INTERIM RESTRAINT

Interagency cleared guidance on U.S. policy on SALT interim restraint follows. The Department released the first Q-and-A on March 29, the second on March 30.

#### TRIDENT AND SALT LIMITS

Q. When will continued Trident submarine construction put the US above the SALT II MIRV sub-ceiling of 1209 launchers? When will the Trident program cause us to exceed the SALT I interim agreement limits? What is the US position on continuing to observe these limits? When would they have expired had SALT II been ratified?

A. US policy on interim restraint was set by the President in 1982, when he stated that, "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint." The US is continuing to carry out its obligations and commitments under relevant agreements, including our no undercut policy on existing arms control agreements. In keeping with this policy, compensating dismantlements for new Trident launchers in excess of SALT I interim agreement limits have been completed or are programmed using Polaris and Titan II strategic ballistic missile launchers that have been deactivated, and we have programmed sufficient money through the end of fiscal year 1985 for continued dismantlement of these launchers in accordance with SALT I procedures.

The SALT II treaty as written would have expired in December 1985, had it been ratified. It is the seventh Trident that will bring into play the possible applicability of both SALT I and SALT II limits. However, sea trials for the seventh Trident submarine are not scheduled to begin until late 1985, that is, during fiscal year 86. Thus, no decision need be taken at this time regarding compensation for the seventh Trident. The US will carefully evaluate both the international situation and our own national security requirements in reaching such a decision.

Q. Is it true that the U.S. is considering revoking its "no undercut" policy for SALT II?

A. The President's policy on interim restraint has not changed. We are continuing to implement this policy with respect to the SALT interim agreement and the unratified SALT II agreement, and we are proceeding to implement the President's Strategic Modernization Program.

As the President stated on January 23, "The United States is continuing to carry out its own obligations and commitments under relevant agreements."

Sea trials for the seventh Trident submarine are not scheduled to begin until late 1985, that is, in fiscal year 1986. The issues this event raises regarding the SALT I and SALT II agreements will be addressed at the appropriate time.

It would be misleading to infer that the absence of a decision before one is required implies anything about what course of action will eventually be taken.

When the time comes for a decision it will, obviously, be taken in the context of the international situation and U.S. national security requirements. Among other things, our assessment of the Soviet commitment to a corresponding policy will be relevant to our considerations.

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U.S. SENATE,
*Washington, DC, May 7, 1984.*

The PRESIDENT,
*The White House, Washington, DC.*

DEAR MR. PRESIDENT: I would like to call your attention to another Soviet violation of the SALT II Treaty, recently revealed by official U.S. government sources.

According to the "Soviet Backfire Statement" issued by the late Soviet President Brezhnev at Vienna on June 16, 1979, and considered an integral part of the Treaty, "President Brezhnev confirmed that the Soviet Backfire production rate would not exceed 30 per year. President Carter stated that the United States enters into the SALT II Agreement on the basis of the commitments contained in the Soviet statement and that it considers the carrying out of these commitments to be essential to the obligations assumed under the Treaty."

Last year's edition of the Defense Department's Soviet Military Power (for March 1983) stated on page 14 that the Soviets had "200+" Backfire bombers. The April 1984 DOD edition of Soviet Military Power stated one year later on page 21 that the Soviets had "235" Backfire bombers. Thus 35 Backfire bombers apparently were produced between March 1983 and April 1984. This conclusion is confirmed on page 98 of the 1984 edition, which states that the Soviets produced "35 bombers" in 1983. The type bomber is unspecified, but the other official information cited above clearly points to a 1983 Backfire production rate of "35." (See attached documentation.) Undersecretary of Defense DeLauer also has testified several times to Congress on a Backfire production rate of 35.

I respectfully ask you to consider this information, especially in light of your Administration's commitment to continue complying with the unratified SALT II Treaty through 1985, as long as the Soviets show "equal restraint." Are the Soviets showing "equal restraint" by producing 35 Backfire bombers per year? Have the Soviets not violated a commitment which even President Carter stated was "essential" to the U.S. obligations assumed under the treaty?

Both the Washington Post and the New York Times of August 31, 1979 quoted the late Soviet Premier Kosygin as stating to visiting U.S. Senators in Moscow: ". . . If we build more than 30 [i.e. Backfire bombers] we violate it [i.e., the SALT II Treaty], and we understand that you will react."

With warmest personal regards.

Sincerely,

JESSE HELMS.

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### ARMS CONTROL AND DISARMAMENT AGREEMENTS

#### SOVIET BACKFIRE STATEMENT

On June 16, 1979, President Brezhnev handed President Carter the following written statement [original Russian text was attached]:

"The Soviet side informs the US side that the Soviet 'Tu-22M' airplane, called 'Backfire' in the USA, is a medium-range bomber, and that it does not intend to give this airplane the capability of operating at intercontinental distances. In this connection, the Soviet side states that it will not increase the radius of action of this airplane in such a way as to enable it to strike targets on the territory of the USA. Nor does it intend to give it such a capability in any other manner, including by in-flight refueling. At the same time, the Soviet side states that it will not increase the production rate of this airplane as compared to the present rate."

President Brezhnev confirmed that the Soviet Backfire production rate would not exceed 30 per year.

President Carter stated that the United States enters into the SALT II Agreement on the basis on the commitments contained in the Soviet statement and that it considers the carrying out these commitments to be essential to the obligations assumed under the Treaty.—Cyrus Vance.

Production U.S.S.R. and NATO [1]

| | USSR | | | | | United States |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1983 |
| Aircraft type | | | | | | |
| Bombers | 30 | 30 | 30 | 35 | 35 | 0 |
| Fighters/fighter bombers | 1,300 | 1,300 | 1,350 | 1,100 | 950 | 675 |
| Transports | 400 | 350 | 350 | 300 | 300 | 790 |
| ASW | 10 | 10 | 10 | 10 | 5 | 20 |
| Helicopters | 700 | 700 | 800 | 800 | 800 | 725 |
| Utility/trainers | 100 | 85 | 50 | 50 | 35 | 475 |
| Missile type | | | | | | |
| ICBM's | 225 | 250 | 200 | 175 | 150 | 0 |
| LRINF | 100 | 100 | 100 | 100 | 100 | 75 |
| SRBM's | 300 | 300 | 300 | 300 | 350 | 0 |
| SLCM's | 700 | 750 | 750 | 800 | 800 | 225 |

Production U.S.S.R. and NATO [1]—Continued

| | USSR— | | | | | United States |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1983 |
| SLBM's | 200 | 200 | 175 | 175 | 200 | 70 |
| SAM's | 53,000 | 53,000 | 53,000 | 53,000 | 55,000 | 6,000 |

[1] Revised to reflect current total production information. Includes United States, excludes France and Spain.

**Mr. McCLURE.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

**Mr. TOWER.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. PERCY.** Mr. President, I support the Bumpers-Leahy amendment, as amended, because it will, if adopted, again put this body on record in support of a policy which contributes to stability and continuity while the United States continues to pursue the far-reaching reductions in nuclear weapons which we seek in the START negotiations. Were the United States to abandon all existing arms-control restraints on United States and Soviet strategic deployments, we could unleash a totally unrestricted escalation in the United States-Soviet nuclear competition that would inevitably torpedo any chance for success in these crucial negotiations.

At the outset, I would stress that it was the President himself who recognized that the prospects for success in START would be enhanced if the United States and the Soviet Union exercised parallel restraint while the negotiations proceeded. After careful review, President Reagan announced on May 20, 1982, that: "As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint."

That means there can be no violation of these agreements by the Soviet Union and we must monitor carefully any possible violations and in no way can the President be restricted in his responsibility and his duty to insure that there are no violations so long as we both have agreed to restrain ourselves and not undercut these agreements.

There are a number of reasons why the President concluded that it was in our national interest to respect the SALT I and SALT II agreements provided the Soviets exercised matching restraint. First, the administration recognized that not a single element in the President's five-part strategic modernization program was impeded by the limitations contained in these accords. On November 3, 1981, Secretary of Defense Weinberger testified to the Foreign Relations Committee that he foresaw no military requirement to depart from the policy of respecting SALT II and affirmed that there was no near-term conflict between the policy and the President's strategic modernization program. In contrast, SALT II imposes restraints which are tangibly and immediately constraining on the Soviet Union. For example, as long as the Soviet Union adheres to the treaty, it is precluded from increasing the number of reentry vehicles deployed on specific missile types above the levels specified in the treaty, an option with adverse strategic consequences for the United States which they could otherwise readily pursue.

Second, the informal policy of mutual restraint dampens the inclination of each side's military to engage in worst-case planning. As Gen. David Jones, then Chairman of the Joint Chiefs of Staff, testified before the committee: "uncertainties would grow as to the total number of Soviet weapons systems, the production rates, and so on. There would be a number of factors involved in our future planning if there were no constraints at all." General Jones made it absolutely clear that the Joint Chiefs of Staff supported the President's policy on respecting SALT II.

Third, a policy of mutual restraint obviously enhances the climate for achieving good-faith bargaining in START. In an August 1982 letter explaining the basis for the President's decision, then ACDA Director Eugene Rostow stated: "this policy stems from the familiar practice of not unduly disturbing circumambient circumstances during a negotiation. The practice is a common and useful aspect of diplomacy, not a binding legal rule. The United States policy rests on judgments of the national interest." To sum up, I would cite Secretary of State Haig's testimony before the Foreign Relations Committee in November 1981. "Clearly," said Secretary Haig, "the arms control and geopolitical aspects of the question favor that we continue to maintain this policy."

I firmly believe that a strong majority in Congress agrees with the former Secretary of State's assessment. While some Members would prefer that President Reagan go the extra step and formally request Senate advice and consent to the SALT II Treaty, there is little dispute that the policy of informally observing the treaty serves our national interest, provided the Soviet Union indeed upholds its half of the bargain. I know of no Member who would advise a policy of unilateral U.S. compliance with SALT II.

In recent months, there have been a number of developments in the Soviet Union which have rightly provoked questions as to the Soviets' willingness to avoid actions undercutting SALT II.

In particular, I am concerned by the continued pattern of Soviet encryption of missile telemetry that is indispensible to our ability to use national technical means to verify their compliance with pertinent provisions in the accord.

I feel certain, after talking with Senator McClure of Idaho, that he himself has very deep concerns about compliance with SALT II by the Soviet Union.

In addition, the recent tests of the PL-5 ICBM, also known as the SS-X-24, and the discovery of a large new Soviet radar in central Siberia raise particularly troubling questions about Soviet behavior.

It is imperative that the United States gets answers to these questions.

Nothing in the amendment that has been offered would in any way preclude the United States from thoroughly investigating any possible infractions. In fact, the duty is even greater to investigate thoroughly, reassure the country and the Congress that the violations have been investigated thoroughly, and give us an actual factual report as to what the findings are.

If the President's policy of mutual respect for SALT II is to continue, we must be assured that the Soviet Union is not engaged in a pattern of gross violations of the agreement, whether deliberate or inadvertent. In this regard, I am pleased that the administration is forcefully addressing these issues in the forum that was specifically created to deal with SALT compliance matters, the Standing Consultative Commission, or SCC.

I would emphasize, though, that we should afford our delegation to the SCC a reasonable time for getting some straight answers before we abandon a policy that has served our national interests. The administration's report on Soviet noncompliance raises concerns which are serious and deserve serious consideration. For this reason, the Bumpers/Leahy amendment includes language putting the Congress on record in calling for vigorous efforts to resolve these serious compliance concerns.

Mr. President, the amendment which Senator Nunn and I have offered to this amendment makes it clear that it is the view of the Senate that the United States should continue to observe SALT II through next year provided the Soviets reciprocate, and that the question of complying with SALT II after its scheduled expiration in 1985 should be the matter of the closest consultation between the Congress and the executive branch. In offering this amendment, it is not our intention to suggest that the SALT compliance policy should necessarily terminate at the end of next year. To the contrary, I would hope that this restraint policy can be maintained until such time as a START agreement is achieved.

We do recognize, though, that the further beyond 1985 that one goes, the greater the strain on the terms of the treaty in a technical sense. I am confident that these technical concerns could be addressed and satisfactorily resolved if both parties recognize and are committed to preserving the significant benefits that have accrued from the observance of this informal SALT restraint regime. I would stress that the status quo is to observe the treaty, and I would fully expect that the President would not contemplate changing the status quo unless he first consulted with the Congress.

Mr. SYMMS. Mr. President, I ask unanimous consent that President Reagan's comments on Soviet arms control treaty violations from his press conference on June 14, 1984, be printed in the RECORD. It is extracted from the New York Times of June 15, 1984.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

### WEAPONS IN SPACE

Q: Can you also confirm reports about the verification issue that there has been significant Soviet violations of all of the treaties going back to 1958?

A. We turned over a 200-page report to the Congress that was classified. We made public a summary of that, declassified in a summary. The other lengthy report is still classified because of the risk of exposing sources. But it was a report on outright violations of many of the treaties in the past and also some ambiguities in which, maybe based on language differences or not, they claim a different interpretation of the treaty and that therefore they're not violating it. They have this, they're doing what they think the treaty prescribes. But between those two things, yes, there have been those violations.

Mr. SYMMS. Mr President, I want to point out that this statement is the first statement by the President himself, in his own words, that directly reveals "outright violations" by the Soviets of arms control treaties. The President himself is calling attention to his own public report to Congress on Soviet noncompliance with arms control treaties of January 23, 1984. President Reagan is also describing and calling attention to the report on Soviet SALT violations of the President's General Advisory Committee on Arms Control. The President's January report confirmed nine Soviet SALT and other arms control treaties. The GAC report, according to press accounts, confirms 17 Soviet arms control violations. In sum, the President or a Presidential commission have confirmed a total of 26 Soviet SALT and other arms control treaty violations. But some of these violations cases probably overlap, so I believe it is fair to say that there are probably 21 Soviet SALT and other arms control treaty violations which have been either reported and confirmed by the President to Congress, or confirmed by a Presidential commission.

Here is a listing of the nine Soviet arms control treaty violations confirmed by the President in his January 23, 1984 report to Congress:

The United States Government has determined that the Soviet Union is violating:

1. The Geneva Protocol on Chemical Weapons;
2. The Biological Weapons Convention;
3. The Helsinki Final Act; and two provisions of SALT II:
4. Telemetry encryption; and
5. A rule concerning ICBM modernization.

In addition, we have determined that:

6. The Soviet Union has almost certainly violated the ABM Treaty;
7. Probably violated the SALT II limit on new types (i.e., by testing a second new type ICBM);
8. Probably violated the SS-16 deployment prohibition of SALT II;
9. And is likely to have violated the nuclear testing yield limit of the Threshold Test Ban Treaty.

President Reagan has thus confirmed 9 Soviet violations of six arms control treaties. Five of these Soviet violations are stated without qualification, and are therefore conclusive. Four of these violations relate to the SALT II Treaty, and three of these are also conclusive, because the Defense Department has publicly stated several times that the Soviet SS-25 ICBM is a second new type ICBM, when SALT II allows only one.

What about the report of the President's General Advisory Committee on Arms Control? This report is entitled "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958-1983," whose title is unclassified. Press accounts of the contents of the GAC report indicate that it includes the judgment that the Soviets have made 17 material breaches of existing arms control treaties or agreements. We do not yet know what these 17 material breaches are and how many overlap with the President's January report of 9 violations. It is reasonable to speculate, however, that among the 17 GAC report violations may possibly be included the following new cases of Soviet violations:

First. Soviet violation of the Nuclear Test Moratorium, 1958-61;

Second. Soviet violation of the Kennedy-Khrushchev Agreement of 1962;

Third. Soviet violation of the Limited Test Ban Treaty of 1963;

Fourth. Soviet violation of the Montreux Convention of 1936;

Fifth. Soviet violation of the SALT I Interim Agreement and the ABM Treaty of 1972 involving widespread camouflage concealment cover and deception;

Sixth. Soviet violation of the SALT I Interim Agreement of 1972 involving excess ballistic missile launchers.

Seventh. Soviet violation of the SALT I ABM Treaty involving the ABM-3 moveable ABM radar currently in mass production and deployment;

Eighth. Soviet violation of the 1981 Conventional Weapons Convention in Afghanistan;

Ninth. Soviet violation of the late Soviet President Brezhnev's 1982 moratorium on SS-20 deployment;

Tenth. Soviet violation of the SALT II Treaty of 1979 involving their massive increase in strategic camouflage, concealment, and deception;

Eleventh. Soviet violation of the 1972 SALT I Interim Agreement through deployment of their medium SS-17 ICBM and their heavy SS-19 ICBM to illegally replace their light SS-11 ICBM.

Twelfth. Soviet tests of surface to air missiles and radars in a prohibited ABM mode in violation of the SALT I ABM Treaty.

Dr. Henry Kissinger has publicly confirmed the Soviet testing of SAM's in an ABM mode to be a violation of the ABM Treaty, on September 12, 1982. Both former Secretary of State Kissinger and former Secretary of Defense Laird have publicly confirmed Soviet SS-19 deployment as a violation of the SALT I Interim Agreement. Dr. Kissinger called SS-19 deployment sharp practice on August 12, 1979, and former Defense Secretary Laird described SS-19 deployment as an outright violation, in a Reader's Digest article in 1977. Arms Control Agency Director Adelman has confirmed publicly Soviet violation of the 1963 Limited Test Ban Treaty. President Reagan has twice publicly confirmed Soviet violation of the Kennedy-Khrushchev Agreement, and the New York Times in April 1976 confirmed the Soviet excess ballistic missile launchers as a violation. In sum, at least 5 of the above 12 additional Soviet arms control violations have been already authoritatively confirmed. All of the 12 have been discussed many times in public literature before such as in the book "The Bitter Fruit of SALT: A Record of Soviet Duplicity," by David S. Sullivan, published in June 1982 by the Texas Policy Institute. I have had the above book printed in the RECORD in June 1982.

In sum, the President's January 23, 1984, report to Congress confirms nine Soviet arms control violations. The above speculative listing of 12 more Soviet violations may also be confirmed in the GAC report. If so, there will then be a total of 9 plus 12, or a grand total of 21 Soviet arms control treaty violations either confirmed by the President or confirmed by the President's General Advisory Committee on Arms Control.

But 10 further cases of probable Soviet arms control violations which have been reported in the press and in senatorial letters to the President remain to be confirmed. These are:

First. Soviet production of 35 Backfire bombers per year;

Second. Arctic staging of Backfire: (a) Refueling capability of Backfire, (b) 8,900-kilometer range of Backfire;

Third. Soviet SS-NX-23 as heavy SLBM;

Fourth. Soviet violation of the 820, 1,200, 1,320 MIRV/ALCM SALT II ceilings, as reported in the press;

Fifth. Soviet exceeding the 2,250 SALT II ceiling by over 550 delivery vehicles;

Sixth. Soviet SS-18 rapid reload/refire capability, and reported exercises;

Seventh. Soviet testing of a prohibited ABM rapid reload and refire capability;

Eighth. Soviet deployment of a nationwide ABM defense;

Ninth. Keeping 18 SS-9 ICBM's operational at a test range;

Tenth. Soviet violation of Brezhnev's pledge not to build mobile ICBM's;

Eleventh. Deploying SS-11's at MRBM and IRBM soft sites, for covert soft launch;

Twelfth. Soviet stockpiled ICBM's, SLBM's, SLCM's—several thousand.

Thus, in sum, there are a grand total of: 21 probably confirmed by President, 12 still under study, and 33 total Soviet arms control violations.

Mr. President, I would like to have printed in the Record some unclassified official data describing the report on Soviet arms control violations by the GAC.

There being no objection, the material was ordered to be printed in the Record, as follows:

### General Advisory Committee on Arms Control and Disarmament (Bipartisan)

William R. Graham—Chairman.

Colin S. Gray.

Roland F. Herbst.

Francis P. Hoeber.

Robert B. Hotz.

Eli S. Jacobs.

Charles Burton Marshall (former Ambassador).

Jaimie Oaxaca.

John P. Roche (former Presidential Advisor).

Donald Rumsfeld (former Defense Secretary).

Harriet F. Scott.

Laurence H. Silberman (former Ambassador).

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### Tasking of General Advisory Committee on Arms Control and Disarmament

November 19, 1982 meeting with the President.

Committee asked to review arms control: Verification, compliance, and lessons for future agreements.

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### A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments (U)

Review of Soviet Commitments and Practices: 1958-1983: I. approach, II. products, III. definitions and criteria, IV. key findings, V. recommendations, VI. further issues.

#### I. Approach for the Review

Committee performed an independent review of:

All Soviet arms control obligations since WW II:

Previous studies;

United States documentation;

Soviet Union documentation;

Community-wide support;

Briefings by a wide range of officials;

Use of outside experts;

Limited cross/checking of information.

#### II. Products of the Review

Report: A quarter century of Soviet compliance practices under arms control commitments: 1958-1983(U).

Letter to the President containing recommendations.

Summary briefing.

#### III. Definitions and Criteria

Material breaches of obligations:

Violation of an agreement or treaty;

Breach of unilateral commitment;

Circumvention defeating the object or purpose of a treaty.

Standards of confidence:

High confidence—probable to certain.

Reason for suspicion—Lesser confidence in facts, law, or both.

Mr. SYMMS. Finally, Mr. President, in addition I ask unanimous consent that an article by Dr. Joseph D. Douglass, Jr., entitled "Impact of the President's Report on Soviet Non-Compliance" be printed in the Record. This excellent article describes the strong leadership role played on the issue of Soviet SALT violations by my distinguished colleague, the senior Senator from Idaho, Jim McClure. Moreover, Mr. President, I ask unanimous consent that a letter to the President by my friend Senator Jesse Helms on Soviet Backfire bomber production be printed in the Record. This letter shows another Soviet SALT violation from official unclassified Government documentation.

There being no objection, the material was ordered to be printed in the Record, as follows:

### Impact of the President's Report on Soviet Non-Compliance

(By Joseph B. Douglass, Jr.)

On January 23, President Reagan sent to Congress a report on Soviet non-compliance with arms control agreements. Evidence and analysis was presented on seven serious Soviet violations of the Biological and Toxin Weapons Convention, the Anti-Ballistic Missile Treaty, the Helsinki Agreement, the Threshold Test Ban Treaty, and the unratified SALT II Treaty. The report also states that there is an expanding pattern of Soviet violations, or possible violations, and that "additional issues of concern are under active study."

This report is directly attributable to the efforts of a growing number of senators led by Senator James McClure to force the Administration to publicly acknowledge the Soviet violations. It is significant that the number of senators taking part at various stages in this campaign is sufficient to cast severe doubts on the ability of the Administration to gain Senate approval of any questionable treaty.

In assessing the implications of the President's report, it is also significant that the seven violations represent merely the tip of an apparently much larger iceberg. Three days after the President's report was sent to Congress, Senator McClure fired off a letter to the President citing an additional thirty violations, or possible violations, that he would like to see addressed, and requested a copy of the extensive report of the President's Arms Control General Advisory Commission on seventeen major Soviet violations since 1958. This was follwed four days later by a letter from eight senators headed by Jesse Helms who identified a variety of additional extremely serious violations of both the SALT II Treaty and the Anti-Ballistic Missile Treaty that previously had been unreported.

Five observations can be drawn.

First, the arms control process has basically come to a halt. It is close to inconceivable that any agreement could be reached that could be confirmed by the Senate. Any treaty that was not equitable and that did not have every single term thoroughly defined and agreed to by both sides likely will be defeated. There is an almost inexhaustible supply of ammunition that the conservative forces can fire at will to demonstrate the duplicity of the Soviets and the need to have extremely carefully drawn and verifiable agreements, both of which are, for all practical purposes, impossible.

The main uncertainty is the Soviet election year strategy. It is reasonable to conclude that they do not want Reagan reelected and will work hard to bring about his defeat. At the same time, they also appear to analyze his reelection chances as very good. In anticipation of his possible reelection they could conclude that an arms control treaty that would inhibit the U.S. build-up, or derail it, over the next four years would be very advantageous. Such a treaty, or more likely an agreement on concept and principal terms, would need to be achieved prior to the election. At that time, the pressures on Reagan, the peace candidate, to reach an agreement would be greatest. Accordingly, the Soviets might become "quite negotiable" this summer on basic concepts, but clearly not on critical definitions, to provide the Democrats with ammunition that President Reagan is not serious in his desire to coexist peacefully, or alternatively, to obtain an agreement that will box up any signifcant efforts to achieve meaningful improvements in the U.S. posture if the President is reelected.

Second, one should expect the senator's attack on the administration relative to violations and non-compliance to slacken off, perhaps even disappear. They have made their point, they did obtain an official recognition of Soviet violations. It is not as complete as they would have liked, but it is there with sufficiently damning evidence to stave off the treaty-at-any-cost forces within the Administration. Over the past six months, the senators' campaign has gradually edged toward activating their reserve "club," namely to accuse the Administration of operating a cover-up, in the same manner that President Carter was attacked in 1980. At this time, however, this would be clearly counterproductive to the election year politics and the conclusion is obvious: stop the direct attack on the administration and concentrate on building a unified Republican campaign to defeat the Democrats in November 1984.

While the congressional attack on the Administration will cease, the efforts to keep violations in the forefront will not. The efforts will continue in the form of a series of Congressional hearings, beginning with hearings on the "Military Implications of the Soviet SALT Violations" that were just requested by Senators Kasten and McClure. Additionally, the collection (or "unofficial" release) of data on Soviet violations and noncompliance will continue. Those outside and inside the Administration who very effectively worked to bring forth the violations report will continue to amass data in the months ahead and improve still further their case against the possibility of the Administration accepting any type of non-productive arms control treaty with the Soviets. The potential, therefore, for the arms control process, even after November 1984, will remain bleak or bright, depending on your point of view.

A third critical observation of the noncompliance report is in the area of verification. In the past, a key aspect of any strategically significant treaty has been the question of verification. Today, national technical means can no longer be used to claim that verification can be adequate. The limitations in national technical means have been made clear, so much so that one of the main thrusts over the past three years has been the strong efforts, unsuccessful, to replace, or supplement, national technical means with some sort of "cooperative measures." This lack of success is compounded by the real result of the Soviet violations, which is to add to the problem of verification the even more serious problem of compliance. That is, even if you could verify, what difference would it make when you cannot force compliance.

The fourth observation is the implicit question raised by the noncompliance report and by McClure and Company, "What has the arms control process produced?" Even the most ardent arms control advocates acknowledge that relations with the Soviets are at an all time low. What they do not say is that the deterioration began in the early 1970s and took place mainly during the 1970s, the heyday of detente. Indeed, detente itself emerges as a mirage, at best, more likely a charade, especially when you recognize that nearly all of the violations almost surely had to have been planned and known to the Soviet leadership at the time the agreements were consumated. In over thirty years of arms control discussions, there has been no noticeable meeting of the minds or communication. The process has not constrained or even marginally affected Soviet military aspiration. If anything, the process has contributed to their build-up. If there is a lesson to be drawn, the evidence suggests that it is that the Soviets remain untrustworthy and dependable only to continue to pursue their proclaimed goal of destroying the West using all forces and means, including arms control.

Unfortunately, the final observation is that the bureaucracy and the arms control community do not appear to have learned this. The "system" continues to be driven by a perceived need to "continue the dialogue." The vast majority of the impetus for continuing is still a blind desire to negotiate another treaty, oblivious to the past, or perhaps more correctly, redoubling efforts to ensure that those "minor" failures or setbacks do not interfere with the process of achieving Soviet and American rapprochement. This perception or position does not appear to be limited to the State Department or arms control community. Rather, one senses its dominance throughout all agencies of the government, including, or rather especially, the military and intelligence organizations. This is the strong perception of those who labored to bring forth the President's report on Soviet noncompliance. It is also the reason why they will not diminish their efforts.

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U.S. SENATE,
*Washington, DC, May 7, 1984.*

The PRESIDENT,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: I would like to call your attention to another Soviet violation of the SALT II Treaty, recently revealed by official U.S. government sources.

According to the "Soviet Backfire Statement" issued by the late Soviet President Brezhnev at Vienna on June 16, 1979, and considered an integral part of the Treaty, "President Brezhnev confirmed that the Soviet Backfire production rate would not exceed 30 per year. President Carter stated that the United States enters into the SALT II Agreement on the basis of the commitments contained in the Soviet statement and that it considers the carrying out of these commitments to be essential to the obligations assumed under the Treaty."

Last year's edition of the Defense Department's Soviet Military Power (for March 1983) stated on page 14 that the Soviets had "200+" Backfire bombers. The April 1984 DOD edition of Soviet Military Power stated one year later on page 21 that the Soviets had "235" Backfire bombers. Thus 35 Backfire bombers apparently were produced between March 1983 and April 1984. This conclusion is confirmed on page 98 of the 1984 edition, which states that the Soviets produced "35 bombers" in 1983. The type bomber is unspecified, but the other official information cited above clearly points to a 1983 Backfire production rate of "35." (See attached documentation.) Undersecretary of Defense De Lauer also has testified several times to Congress on a Backfire production rate of 35.

I respectfully ask you to consider this information, especially in light of your Administration's commitment to continue complying with the unratified SALT II Treaty through 1985, as long as the Soviets show "equal restraint." Are the Soviets showing "equal restraint" by producing 35 Backfire bombers per year? Have the Soviets not violated a commitment which even President Carter stated was "essential" to the U.S. obligations assumed under the treaty?

Both The Washington Post and The New York Times of August 31, 1979 quoted the late Soviet Premier Kosygin as stating to visiting U.S. Senators in Moscow: ". . . If we build more than 30 [i.e. Backfire bombers] we violate it [i.e., the SALT II Treaty], and we understand that you will react."

With warmest personal regards.

Sincerely,

JESSE HELMS.

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● Mr. RIEGLE. Mr. President, I am pleased to cosponsor the amendment offered by Senators BUMPERS and LEAHY, which puts the Senate of the United States on record in support of the Reagan administration's policy of not undercutting existing strategic arms agreements, so long as the Soviet Union shows equal restraint. With yesterday marking the fifth anniversary of U.S. and Soviet compliance with the terms of the unratified SALT II treaty, it is particularly appropriate that the Senate should today voice its strong support for a continuation of that policy.

Mr. President, this amendment makes three important statements with respect to U.S. arms control policy.

First, it endorses the President's stated policy of continuing to observe U.S. obligations and commitments under existing arms control agreements;

Second, it supports the President's declared intention to pursue, through confidential channels, the resolution of U.S. concerns over Soviet compliance with the terms of several arms control agreements; and

Third, it urges the President not to make any changes in the "no undercut" policy without first consulting the Congress.

There are several reasons why it is important that the United States continue this policy of reciprocal restraint. First and foremost, it is in our national security interests to do so. In the absence of any progress on a new arms control agreement with the Soviet Union, the existing ceilings established by the SALT II treaty are the only restraints available.

According to arms control experts, the nuclear arms competition between the United States and the Soviet Union is entering a new and dangerous phase. Not only is each superpower intensifying its weapons buildup, they are also moving to deregulate existing controls. Modernization programs continue at a brisk pace. Over the next decade, the United States and the Soviet Union plan to deploy the MX, Midgetman, Trident I and II, Pershing II, SS-20, SS-21, SS-23, SS-24, SS-25, SS-N-20, and SS-N-23 missiles, air-, ground- and sea-launched missiles, Trident and Typhoon submarines, B-1, Stealth, Blackjack and Bear H bombers, and assorted tactical nuclear weapons. These forces will greatly augment the size and capabilities of the two nations' inventories.

The Reagan administration's long-term plans call for the production of 28,665 new nuclear warheads, both strategic and tactical, between 1984 and the mid-1990's. This vast increase is underway despite our present huge nuclear warhead inventory of about 26,000. While it is true that many of our existing nuclear weapons will be retired during this period, the new construction will greatly increase U.S. capacity for nuclear destruction. For each day over the next 11 years, an average of five new warheads will be produced, and three will be retired.

Since January 1981, the Reagan administration has pursued a defense policy based on the idea that more weapons will bring more security. Serious arms control efforts have only been made in conjunction with significant improvements in U.S. defense capabilities. In pursuit of that policy, the last 3½ years have witnessed an unprecedented peacetime buildup. As part of the President's 5-year $1.6 trillion defense buildup, the Senate will soon authorize some $230 billion to fund the fiscal year 1985 defense programs. This year's defense budget continues the emphasis on development of new strategic nuclear weapons including the MX, ASAT weapons, space weapons and nuclear-tipped sea-launched cruise missiles, and indications are that in a second term, President Reagan would pursue some of these controversial systems, such as the strategic defense initiative, even more vigorously.

On May 10, 1984, the Reagan administration's chief arms negotiator, Edward L. Rowny, was quoted as saying:

> We've tried in the Reagan Administration to get away, to distance ourselves, from making arms control the centerpiece of our foreign policy. To some extent, we've succeeded.

Mr. President, I suggest that few would argue with Ambassador Rowny's assessment. And it is precisely this attitude on the part of administration officials which has caused concern among Americans over the escalating arms race and our lack of commitment to controlling it.

Both the United States and the Soviet Union are approaching the SALT II limits. The Soviets have built up to, but have not exceeded the SALT II subceiling of 820 MIRV'd ICBM launchers. Unless the United States takes offsetting steps of dismantling the necessary number of older missile launchers in our arsenal, we will exceed the SALT II limit of 1,200 launchers of MIRV'd missiles when our seventh Trident submarine goes out on sea trials later next year.

Recent signals coming from the Reagan administration concerning continued U.S. adherence to the limits of the SALT II treaty are not encouraging. When asked by Senator BUMPERS recently about the 1,200 limit that the seventh Trident would exceed, Secretary of State Shultz responded: "I don't know what we'll do."

Mr. President, now is not the time for the administration to abandon its no-undercut policy. Now is the time for the Senate to encourage the President to stand firmly behind this policy of mutual restraint. The serious deterioration in U.S.-Soviet relations has adversely affected a whole series of bilateral and multilateral negotiations. Some have been interrupted and the prospect for others is not promising. In light of the dim prospects for breaking new ground in the area of arms control in the near future, the United States and Soviet Union must observe the limits of agreements already negotiated.

Mr. President, the other two provisions of this resolution each address a critical aspect of our arms control efforts.

The resolution expresses support for the President's efforts to seek the resolution of outstanding U.S. concerns about Soviet compliance with arms control agreements through existing confidential channels.

The Standing Consultative Commission—SCC—formally established by a memorandum of understanding on December 21, 1972, is one such channel. Questions of compliance involve some of the most difficult aspects of the arms control process. The SCC has demonstrated the importance of a regularized institutional framework for considering questions of compliance, and has, in the past, satisfactorily resolved compliance questions raised by both the United States and the Soviet Union.

Clearly the confidential resolution of compliance questions benefits all parties. Public charges of violations before diplomatic solutions have been exhausted is a sure way to exacerbate even further the tensions between the superpowers.

While the SCC provides the mechanism for the private resolution of compliance questions, the success of the SCC's efforts is largely dependent upon the commitment of the parties involved to making the process work. According to one arms control expert, the Reagan administration's compliance diplomacy has been muddled and ineffective because it has not decided whether it wants to uphold the nuclear arms control agreements which it charges the Soviets with violating.

I am hopeful that, with the passage of this resolution, the administration will receive a strong signal from the Senate that the United States can contribute greatly to preserving existing arms control agreements by pursuing compliance questions in the appropriate forum, the SCC, which was established for the confidential resolution of such matters.

Finally, Mr. President, the resolution requires the President to consult with the Congress prior to making any changes in our current policy of not undercutting existing arms control amendments.

On this most important issue of nuclear arms control, the Congress must have a voice. Since it is the Congress which is required, each year, to provide the funds to build up our nuclear weapons arsenal, the Congress should also be required to contribute to the decision on how those weapons are to be controlled. Prior consultation with the Congress will ensure that, if the administration is contemplating abandoning the existing restraints, Congress will have an opportunity to seriously consider the implications and consequences of that policy change.

Mr. President, in the fall of 1980, former Ambassador W. Averell Harriman appealed for early ratification of the SALT II Treaty:

> We have before us unfinished business: SALT II. For nearly a year, crisis after crisis and the election itself have effectively postponed a national decision. The hour is late, for this agreement will soon die, if not by outright rejection, then by inaction, as time, technology and tension leapfrog its provisions. . . . Neither rejection nor inaction on SALT II holds promise for American security.

The action of the Senate in approving the Bumpers-Leahy resolution will enhance U.S. security by ensuring that the gains achieved thus far through negotiated arms control agreements are not lost.●

The **PRESIDING OFFICER**. The Senator from Georgia.

Mr. **NUNN**. Mr. President, let me thank my colleague from Illinois for coauthoring the amendment that is at the desk now that places a final time on the SALT II compliance as we have discussed previously.

Mr. President, for the colleagues who are listening or anxious about when the vote may occur, it is my plan in just a moment to send a modification to the Percy-Nunn amendment to the desk. This modification has been agreed on by all the parties that have been participating in this debate. It is then my hope that we would have the modification, or the amendment as modified, that would be accepted by a voice vote. I would hope and then it would be the plan to go to a rollcall vote on the Bumpers-Leahy amendment as amended. So I would send a modification to the desk and ask that my amendment be so modified.

The **PRESIDING OFFICER**. The Senator's amendment is so modified.

The amendment No. 3249, as modified, is as follows:

Strike out all after line 23 in the Bumpers amendment and insert in lieu thereof the following:

(7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms;

(8) the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

(9) a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

(10) both sides have to date abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits; and

(11) it is in the interest of the United States and its allies for the Soviet Union to

continue to dismantle older missile-firing submarines as new ones are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV's ICBM's one thousand two hundred launchers or MIRV'd ICBM's and SLBM's and one thousand three hundred and twenty launchers of MIRV'd ICBM's and SLBM's and ALCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of the Congress that:

(1) The United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements, and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels; and

(2) The United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded; and

(3) The President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by September 15, 1984; and

(4) The President shall provide to Congress on or before June 1, 1985, a report that:

(a) describes the implications of the U.S.S. Alaska's sea trials, both with and without the concurrent dismantling of older launchers of MIRVed missiles, for the current U.S. no-undercut policy on strategic arms and U.S. security interests more generally;

(b) assesses possible Soviet political, military, and negotiating responses to the termination of the U.S. no-undercut policy;

(c) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements;

(d) makes recommendations regarding the future of U.S. interim restraint policy; and

(5) The President should carefully consider the impact of any changes to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy.

Mr. NUNN. Mr. President, I do not know how much explanation anyone else wants. But this modification makes very little change.

Mr. EXON. Mr. President, point of order. Should we have a reading of the modification that was sent to the desk? I have been waiting with bated breath to hear this. I do not think it is very long, even though it took 1 hour and 10 minutes to type it up. Would it be out of order to request a reading of the amendment?

Mr. BUMPERS. Would the Senator yield to allow me a 30-second explanation?

Mr. EXON. I would be happy to.

Mr. BUMPERS. This amendment provides two things. It says that the President on or before September 1, 1984, will report, classified and unclassified, to the Congress any alleged violations; No. 2, it provides that he will on or before June 1, 1985, report to the Congress what, if anything, we are going to do about what happens when the seventh Trident submarine goes to sea, and we would otherwise be in violation of the number of launchers we are permitted under the SALT II treaty.

Mr. EXON. I thank my friend from Arkansas. That is very helpful. I have learned something. Thank you.

Mr. NUNN. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on the amendment as modified.

Mr. NUNN. The amendment has been modified.

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

Mr. NUNN. Mr. President, I hope we could withhold the yeas and nays. The pending business as I understand it is the Nunn-Percy amendment as modified.

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. I hope we could have a voice vote on the Nunn-Percy amendment, as modified, and then have a rollcall on the underlying amendment, as modified. That would be the Bumpers-Leahy amendment.

I would ask the Chair to put the question on the Nunn-Percy amendment as modified.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment, as modified, of the Senator from Georgia [Mr. NUNN], and the Senator from Illinois [Mr. PERCY].

The amendment (No. 3249, as modified), was agreed to.

Mr. BAKER. Mr. President, the pending question is now the first-degree amendment, as amended. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware.

### SALT TREATY LIMITS ON SOVIET FORCES ENHANCE U.S. SECURITY

Mr. BIDEN. Mr. President, I wish that by this amendment we could ratify the SALT II treaty, for that one action would impose sharp limits on the Soviet military buildup before the nuclear arms race rockets out of control. This amendment, however, is much more limited. Indeed, it endorses the Reagan administration's current policy and even quotes the President's own words. It is a bipartisan effort to restore a bipartisan consensus for arms control measures that clearly enhance U.S. security.

This amendment has three simple parts. It urges the executive branch to vigorously pursue with the Soviet Union concerns which we have about Soviet compliance with existing arms control agreements. Who can object to that? It urges the President to consult with Congress before making any changes in our current policy toward those treaties. Who would deny our constitutional role in such questions? And, most importantly, it recommends a continuation of the President's own declared policy of adhering to those agreements so long as the Soviet Union does likewise. That raises the debatable question of whether such adherence is in the national security interests of the United States.

I believe it is. For, as a member of the Foreign Relations and Intelligence Commitees, I know what the Soviet Union could do if it felt free to disregard the current limits. In a short period they could add several thousand more nuclear warheads to their arsenal, several thousand more warheads which could be targeted on American bases and cities. And we could do little to offset those soaring numbers.

Right now, with both sides following a "no undercut" policy with regard to SALT II, the Russians are unable to add new multiple warhead ICBM's to their arsenal. They have 818; the ceiling is 820. They thus cannot put 4-, 6-, or 10-warhead missiles in their 520 SS-11 silos or their 60 SS-13 silos. They also have had to retire 10 Yankee class nuclear submarines with a total of 160 SS-N-6 missiles in order to stay within the limits of the expired but still observed SALT I agreement. Those submarines, by the way, are newer than all but our five Trident submarines.

Mr. President, these are useful and important limits on Soviet military capabilities. They do not go far enough, to be sure, but they are in place and should stay there. While we could be more secure with more comprehensive controls, we obviously would be less secure if these restraints were discarded.

When the unratified SALT II Treaty expires next year, and as our seventh Trident sub pushes us above the ceiling of 1,200 MIRV'd missiles, we will face a choice between retiring additional missiles or breaching the agreement. As things stand now, I see no military advantages for the United States—and several clear disadvantages—from abandoning our current policy of mutual compliance. Our modernization programs are designed for deployments toward the end of this decade. The Russians, by contrast, are capable of rapid short-term increases.

While the administration has indicated no intention to jettison the regime of SALT restraints before the end of 1985, it has been ambiguous on the subsequent period. That ambiguity prompts this amendment. We want to declare our support for the current policy and to demand a voice, through consultations, in any consideration of a change.

Mr. President, this amendment is neither a bold, new arms control initiative nor an effort to rekindle the bitter debates of the past. It is, instead, a simple measure to keep the arms race from slipping out of our grasp. Much more needs to be done, many avenues need to be pursued, to harness technology on both sides to reduce the risks of nuclear war. But if we act now, we can buy time and security to seek those additional limits on nuclear armaments.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment, as modified, of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Vermont [Mr. LEAHY]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from Colorado [Mr. HART], is necessarily absent.

The **PRESIDING OFFICER** (Mr. HECHT). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—82

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
Evans
Exon
Ford
Glenn
Gorton
Grassley
Hatfield
Hawkins
Heinz
Hollings
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Lautenberg
Leahy
Levin
Mathias
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Tower
Trible
Tsongas
Warner
Weicker
Zorinsky

NAYS—17

Denton
East
Garn
Goldwater
Hatch
Hecht
Heflin
Helms
Laxalt
Long
Lugar
Mattingly
Nickles
Quayle
Symms
Wallop
Wilson

NOT VOTING—1

Hart

So the amendment (No. 3248, as amended) was agreed to.

Mr. **LEAHY**. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **TOWER**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **DECONCINI** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Arizona is recognized.

Mr. **DECONCINI**. Mr. President, I yield to the Senator from Virginia [Mr. TRIBLE].

### AMENDMENT NO. 3250

(Purpose: To amend title 10, United States Code, with respect to the provision of medical benefits and post and base exchange in commissary store privileges to certain former spouses of certain members or former members of the Armed Forces)

The **PRESIDING OFFICER**. The Senator from Virginia is recognized.

Mr. **TRIBLE**. Mr. President, at this time I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. TRIBLE, for himself, Mr. BINGAMAN, Mr. WARNER, Mr. SARBANES, Mr. BOSCHWITZ, Mr. BURDICK, Mr. GLENN, Mr. HOLLINGS, Mrs. KASSEBAUM, Mrs. HAWKINS, Mr. DECONCINI, Mr. HECHT, Mr. MOYNIHAN, Mr. MATTINGLY, Mr. PACKWOOD, Mr. CHILES, Mr. D'AMATO, Mr. PRYOR, Mr. BIDEN, Mr. RIEGLE, Mr. SASSER, Mr. HUMPHREY, Mr. KENNEDY, Mr. DURENBERGER, Mr. HELMS, Mr. MATHIAS, Mr. MURKOWSKI, Mr. HATCH, Mr. CRANSTON, Mr. BUMPERS, Mr. GORTON, Mr. STEVENS, Mr. DOMENICI, and Mr. BRADLEY), proposes an amendment numbered 3250.

Mr. **TRIBLE**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 54, between lines 14 and 15, insert the following new section:

### MISCELLANEOUS RIGHTS AND BENEFITS FOR FORMER SPOUSES

SEC. 1605. (a)(1) Section 1072(2) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of clause (F); and

(B) by striking out clause (F) and inserting in lieu thereof the following:

"(F) a person who is the unremarried former spouse of a member or former member who performed at least twenty years of service which is creditable in determining the member's or former member's eligibility for retired or retainer pay, or equivalent pay, and who on the date of the final decree of divorce, dissolution, or annulment had been married to the member or former member for a period of at least twenty years, not less than 15 years of which were during the period the member or former member performed service creditable in determining the member's eligibility for retired or retainer pay; and

"(G) a person (i) who is the former spouse of a member or former member, and (ii) who has a disease or disability attributable to or arising from the nature or a location of the service performed by the member or former member during the marriage, or from treatment received at a United States military medical facility.".

(2) Section 1077 of such title is amended by adding at the end thereof the following new subsection:

"(c) In the case of a person covered by section 1072(2)(G) of this title who is not also covered by section 1072(2)(F) of this title, the only health care that may be provided under section 1076 of this title is health care necessary for the treatment of any disease or disability of that person described in subclause (ii) of section 1072(2)(G) of this title.".

(b)(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1011. Post exchange and commissary store privileges for certain former spouses of certain members of former members of the armed forces**

"Subject to such rules and regulations as the Secretary concerned may prescribe, a dependent of a member or former member of the armed forces, as defined in clause (F) or (G) of section 1072(2) of this title, shall be entitled to use the services and facilities of post or base exchanges and commissary stores operated under the jurisdiction of any military department.".

(2) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"1044. Post exchange and commissary store privileges for certain former spouses of certain members or for members of the armed forces.".

(c)(1) The amendments made by subsection (a) shall apply with respect to health care furnished on or after the date of the enactment of this Act and in the case of a former spouse regardless of the date of the applicable decree of divorce, dissolution, or annulment.

(2) The amendments made by subsection (b) shall apply in the case of a former spouse regardless of the date of the applicable decree of divorce, dissolution, or annulment.

Mr. TOWER addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Texas is recognized.

Mr. **TOWER**. I yield to the Senator from Iowa.

Mr. **JEPSEN**. Mr. President, I strongly oppose the amendment as offered by the junior Senator from Virginia, and I in short order will have at the desk an amendment in the nature of a substitute which I will offer at the appropriate time.

Mr. President, in a few moments I will set forth why I believe my substitute amendment is the appropriate response to the problems described by the proponents of the underlying amendment.

Mr. TRIBLE. Will the Senator yield for a moment?

Mr. JEPSEN. But first I want to explain my position to the Trible amendment.

Mr. TRIBLE. Will the Senator yield? I wonder if the Senator will permit the sponsor of the amendment to explain the amendment before he interposes his objections to the amendment. That is the normal course of action. The Senator from Iowa certainly has the floor, but I would suggest that we will move forward much more expeditiously if we adhere to the regular order and permit the Senator from Virginia to explain his amendment.

Mr. JEPSEN. Mr. President, I would like very much to yield to the Senator, but I am not going to because I want to make sure that everybody will have time. The Senator will have time to explain what his amendment would do, but I do not want to be precluded from offering my substitute amendment.

Mr. TRIBLE. It is not the intention of this Senator to so preclude the Senator from Iowa, but I would say to the Senator that if we are going to move ahead tonight, if we are going to fully consider this matter, then the Senator should yield so the proponent of this amendment can explain the measure before the Senator proceeds.

Mr. GLENN. Will the Senator yield for a question?

Mr. JEPSEN. The Senator will yield for a question.

Mr. GLENN. Would it not be in order for the Senator from Iowa to submit his amendment and then yield the floor? Then no one could ace him out; it would be an amendment in the second degree. And then we can take it up in the normal order. The Senator from Virginia would present his amendment, have the arguments and the Senator can make his refutations.

Mr. JEPSEN. The Senator from Ohio has saved the day. The Senator from Iowa would be very pleased to do that. It is not the intention of the Senator from Iowa to in any way preclude or prevent the distinguished Senator from Virginia from explaining the amendment. I point out to the distinguished Senator from Virginia, had the Senator from Iowa been afforded the courtesy of having an amendment which we had asked for before we got to this, we would not have been in this situation. So just as a matter for future modus operandi, the Senator would be well advised to lay all the cards on top of the table and then proceed as we normally do in the Senate.

I thank the distinguished Senator from Ohio for his suggestion.

AMENDMENT NO. 3247

(Purpose: To substitute for amendment 3175 to provide miscellaneous benefits for certain former spouses)

Mr. JEPSEN. Mr. President, I now offer in the nature of a substitute an amendment and ask that it be reported at this time. The amendment is No. 3247 at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. JEPSEN] proposes an amendment numbered 3247.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. DECONCINI. I object. I would like to hear the amendment.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk read as follows:

In lieu of the matter to be inserted by amendment No. 3250, insert the following:

MISCELLANEOUS BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 160b. (a) Section 1006(d) of the Department of Defense Authorization Act, 1983 (Public Law 97-252) is amended to read as follows:

"(d) The amendments made by section 1004 of this title and the provisions of section 1005 of this title shall apply with respect to the former spouse of a member or former member of the uniformed services without regard to whether the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated before, on, or after the effective date of such amendments.".

(b) The amendment made by subsection (a) shall apply to health care which is furnished only on or after the date of enactment of this Act.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I take it I have the floor now?

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. DECONCINI. I will be glad to yield to the Senator from Virginia.

Mr. TRIBLE. I thank my colleague for yielding.

At this time I will endeavor to explain the provisions of the amendment sent to the desk and reported by the clerk.

Mr. President, all of us appreciate the sacrifices made by our men and women in uniform. Separation from loved ones, frequent relocation, overseas duties and a lack of roots are all part of a military career. What is often unappreciated is that military spouses endure many of those same hardships. They, too, endure the separation and the nomadic way of life that characterizes military services. Former military spouses often must sacrifice their own autonomy and careers.

This evening, Mr. President, on behalf of myself and the distinguished Senator from New Mexico [Mr. BINGAMAN] and 32 cosponsors, I am offering an amendment to provide medical benefits and commissary and exchange privileges to former military spouses who are now excluded—unfairly excluded I would add—from the provisions of the Uniform Services Former Spouses Protection Act adopted by this Congress in 1982. These women have earned their benefits and they desperately need them.

This amendment is cosponsored by the following Senators: Senators WARNER, SARBANES, BOSCHWITZ, BURDICK, GLENN, HOLLINGS, KASSEBAUM, HAWKINS, DECONCINI, HECHT, MOYNIHAN, MATTINGLY, PACKWOOD, CHILES, D'AMATO, PRYOR, BIDEN, RIEGLE, SASSER, HUMPHREY, KENNEDY, DURENBERGER, HELMS, MATHIAS, MURKOWSKI, HATCH, CRANSTON, BUMPERS, GORTON, STEVENS, DOMENICI, and BRADLEY.

The 34 sponsors and cosponsors of this measure reach across this Chamber, Republicans and Democrats, liberals, progressive Democrats and conservative Republicans. I think it demonstrates the breadth and depth of support for this measure.

Today, Mr. President, a spouse must have been married to a service member for at least 20 years during which time the service member performed at least 20 years of credible service. Benefits are applicable only to divorces granted after February 1, 1983.

There are two problems, Mr. President, with existing law. First, most military personnel do not get married, indeed, often could not get married, until after the start of their 20-year career, and therefore their wives cannot qualify under the present law. Especially hard hit are former spouses of enlisted personnel. Moreover, the post-February 1, 1983 nature of the current law ignores the older former spouses who have made the same sacrifices and are as deserving of benefits as those more recently divorced.

Mr. President, let me read pertinent sections from several letters received by me and other Senators because I think these letters demonstrate the irresistible requirement for this amendment.

A former military spouse in Virginia writes.

My husband divorced me in May 1983 after 43 years of marriage and I have lost all my Navy benefits because I was only married to him for 19 years and 3 months of his Navy service time of 21 years. He was an enlisted man so of course did not marry until he had been in the Navy a few years. Who could marry on $21 a month he started at in September 1938? . . .

My husband deserted me and I did not want a divorce. It's bad enough to lose your companion of many years, but losing all your Navy benefits makes matters even worse.

I only worked the first 3 years we were married. I was a homemaker and mother of four and at my age there aren't many jobs available where I might earn any benefits on my own nowadays . . . .

From a woman in Maryland:

> Many women as well as I were married to military men. I was married to an Air Force Lieutenant in 1950 and he divorced me when he was a Colonel, in 1975. For 25 years I was an Air Force wife and also had two fine sons. It was always a pleasure for me to be a good mother and to be what my ex-husband expected me to be, a "good Air Force wife." . . .
>
> When my husband informed me he did not want to be married any more, I fought hard to save our marriage. At the age of 51, in 1975, I was divorced. . . . I took courses at night to learn all over again how to type, etc. I found a job as a secretary for the minister of a church where I receive a very modest salary.
>
> At the time of my divorce—and this happens to all other wives in the same sad situation—a divorce that I did not want, but had no choice, automatically, the military I.D. Card was taken away from me. This military I.D. entitled me to many benefits for which I worked hard during the 25 years of marriage. One of the benefits, especially, is the medical care. At the age of 51 I had to try to get a medical insurance which was very hard to get and very expensive and covers very little.

From another former military spouse in Maryland:

> Last year I found out I had cataract in my eyes. I was just operated on last January and between the bill for the surgery and the hospital, and the visits, and now I am in need of contact lenses and glasses, I do not need to explain in details the amount of the total bill, it is very very high. Had I had my I.D. Card and benefits from my marriage, it certainly would have helped. I had a very good job when I was married in 1950, and, at my husband's request, I quit work to be what he wanted me to be "an Air Force wife" and that I was.

From a woman in South Carolina:

> Let me explain how unfair the current law discriminates against ex-wives of enlisted men. My husband enlisted in the USMC in February 1942. He spent 3 years in the Pacific. We were married in 1947 and he retired in 1964 after 22 years of service, 17 years of which we were married. At that time enlisted men had to get permission to marry and the money was so little, it wasn't wise economically. . . . Now, after 37 years of marriage he is divorcing me. Where do I go for medical benefits and other savings like the Commissary and MX? There are few, if any enlisted men, who retired after 20 years that were married the entire 20 years.
>
> I feel betrayed by the USMC. After I kept things going at home raising children . . . being mother and father for 17 years. It wasn't only overseas unaccompanied tours that I played this role, but three tours on the drill field when my husband was home one night in three.

From a woman in Virginia:

> I married my ex-husband in 1950. During our 24 years in the military as man and wife, we were stationed in many bases around the world. I raised three children during this period, and only a "military wife" can tell you of the experience of being a "military mother." Because of my husband's prolonged absences, I was both father and mother to my children.
>
> Because of the many moves to different bases around the world, I like many other military wives, was unable to establish a career or any type of retirement plan. Consequently, now, at at a time when many of my counterparts are reaping the benefits of personal retirement, or as beneficiaries of their husband's retirement, I am forced to work at least 5 more years so that I can retire with minimum benefits. Thank goodness I had time in as a Federal Government employee, or I would not even have that. Many whose husbands who forbade them to work as mine did, are forced to work menial jobs to meet the cost of living. Many simply cannot afford the medical and dental benefits that this bill will provide them with.
>
> The women who maintained a home for military husbands during their military career deserve the benefits of retirement—regardless of the year in which they were divorced from their spouse. Indeed, it should not be a matter of dispute, it is, and should be, a basic right.

Finally, Mr. President, an excerpt from a letter from a woman in Illinois:

> I am presently 48 years old, and at age 18 I joined the U.S. Navy in September 1954 and was married on October 17, 1957 to a Navy man.
>
> On September 11, 1982, exactly 1 month and 6 days before our 25th anniversary, he left me for a younger woman with no warning whatsoever.
>
> I gave up my naval career to share my husband's. I have always been devoted, faithful, supportive, and encouraging to him and our children. Now I'm told that because I did not have 20 years concurrent as the wife of a military man that I will lose all the benefits which have sustained my family for 25 years. I ask you, is this justice?

"I ask you, is this justice?" Surely, this is not justice, Mr. President. Surely, we should take action to provide the benefits, which we deemed appropriate 2 years ago, to the class of beneficiaries that has earned them.

My amendment would permit former spouses to qualify for benefits where, first, the service member served at least 20 years of credible service; second, the former spouse and the service member were married for at least 20 years; and third, where there is at least 15 years overlap between the years of marriage and the years of military service. The date of divorce would no longer be a factor.

These revised eligibility requirements would make benefits more fully available to former spouses who have earned them.

First, by applying the provisions of the 1982 act retroactively as well as prospectively, all similarly situated former military spouses would qualify. Surely, we should not discriminate against older former spouses who have invested the same time, energy, love, and dedication as more recent former spouses, and who often need those benefits far more than those spouses divorced after February 1, 1983.

Also, by establishing the 20-20 requirement with an overlap of 15 years, we will be reaching a lot of people, especially enlisted folks, who cannot qualify because the nature of military marriage does not fit the 20-20-20 requirement of the 1982 act.

This is the right thing to do, Mr. President. I urge my colleagues to support this amendment.

At this time, I yield to the Senator from New Mexico.

Mr. BINGAMAN. Mr President, the Senator from Arizona has a very brief statement he wishes to make, and I yield to him for that purpose.

THE PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank my colleague from New Mexico.

Mr. President, I rise in support of the amendment offered by my distinguished colleague from Virginia. I strongly supported The Uniformed Services Former Spouses Protection Act when it was adopted as a part of the 1983 Defense Department Authorization Act as an important first step toward eliminating inequities and securing necessary benefits for former military spouses. These women and men have sacrificed for their country in many, many ways. Often, those married to members of our Nation's Armed Forces must give up their own careers, face constant relocation, and otherwise lose their independence so that their spouses can devote themselves to our Nation's security.

Unfortunately, the initial legislation to rectify these inequities did not go far enough. That legislation covered only those spouses divorced on or after February 1, 1983, and it only covered divorced spouses who had been married 20 or more years, with 20 of those years spent on active duty. This excluded many long-term spouses with over 20 years of marriage but only 18 or 19 years of marriage to someone on active duty with the military. Many of these women are now in their 50's and 60's. Divorce has left them without the benefits which they rightfully earned as the spouse of a member of the armed services, and all too often it also leaves them without the ability to reearn these benefits. Certainly the loss of health care hits these people particularly hard, and the loss of post exchange and commissary store privileges can also seriously change an individual's standard of living.

The amendment before us today would change the requirement for length of marriage during active duty from 20 years to 10 years. It also removes the current restriction involving the date of the dissolution of the marriage. I believe that this amendment is an important step in giving spouses credit for their considerable contribution to our Nation's military.

It is a good amendment. The substitute that has been offered by the distinguished Senator from Iowa is a killer amendment. It would take away the rights of these women, and it could be men, for that matter, but mostly women.

I urge my colleagues not to support the substitute amendment and to vote against it. I hope it is defeated.

It is an amendment that in this Senator's judgment is very hostile toward women, one that will not preserve their rights as the initial act was intended when we first passed it in 1983 in the Defense Department authorization.

I compliment the Senator from Virginia and the Senator from New Mexico for bringing this effort before us at this time.

Indeed, when we are about to approve a defense authorization bill in billions of dollars for needed armaments and some questionable by many Members here, but we will pass this bill, we certainly can spend a little bit of time to correct and make better the 1983 legislation.

I thank the Senator from New Mexico for yielding and I yield back to him.

Mr. **BINGAMAN**. Mr. President, I wish to make a few statements about this legislation, which I am honored to cosponsor.

Mr. President, I first of all commend the Senator from Virginia for his leadership on this issue which is so important to a large number of women nationwide who served their country for many years as part of the military family. These women were the backbone of their families. They arranged the numerous moves attendant upon a military career. They raised their children on their own many times when their husband's duties separated him from the family. They had to acclimate themselves to foreign cultures, and put up with other stresses which often are not present in civilian families.

With their marriages failed these women are without the medical benefits on which they had relied. And they are without them at an age when private medical insurance is prohibitively expensive, if it can be obtained at all.

Congress recognized in 1982 that medical benefits and commissary privileges should be provided to these long-term spouses of former military service members. But unfortunately these benefits were not made retroactive. Only those divorced after February 1, 1983, who meet the criteria in the law, most importantly a 20-year overlap between the marriage to the service member and his military career, are eligible for the benefits. All those women who had sought relief from Congress were not given any relief. I feel very strongly that this is an inequity that needs to be righted.

In addition, I feel that the criteria in current law on eligibility for these benefits is too stringent. My colleague from Virginia has already outlined how his amendment would adjust these criteria. It is important to note that we are still talking about at least a 20-year marriage and at least 20 years of creditable service by the service member. We are reducing the overlap between the marriage and the member's service to 15 years to take into account the fact that many service members do not marry until well into their military careers. Indeed, many service members, especially enlisted personnel, were actively discouraged from marrying in the early years of their service careers. I have received many letters from women married 25 or 30 years to their husbands, but with less than a 20-year overlap with their husbands' military career. I believe those women have earned the medical benefits we are here discussing.

It is often said that we recruit a service member but must retain a family. But when the family is torn asunder for whatever reason, the most needy member of the family has in the past been forgotten by our Government. We started to change that in 1982, and we can and should change that further today.

Let me conclude with a few remarks about the cost of these benefits which apparently was the major factor in Congress not making the benefits retroactive in 1982. The Armed Services Committee last year asked the Defense Department to estimate the cost of extending medical benefits and commissary and exchange privileges to a wider group of former spouses. We obtained that report on February 28 of this year.

The report did not estimate exactly the cost of our amendment. But it did estimate the cost of granting these privileges to those women who meet a 15-year marriage criterion and whose marriages were dissolved after February 1, 1974. The cost of that option was $21.4 million in fiscal year 1985, growing to $27.3 million in fiscal year 1988. This was significantly lower than earlier estimates which had not been as carefully analyzed. Cost estimates are inherently uncertain in this area. Most of this $21.4 million cost—about $15 million in fact—is associated with the retroactivity provision.

I believe that these are costs which we should be willing to bear in fairness to those deserving women who served their country for so long as part of the military family.

I note that we are providing benefits in this legislation which, in fact, in my view at least, are much less meritorious and which would cost more than the benefits here talked about. For example, I mentioned in committee and I believe that the benefits we are providing in the nature of chiropractic care to those under the CHAMPUS program are certainly not as high a priority item as those benefits that we are here asking to provide these former military spouses.

Mr. President, I believe strongly that the substitute amendment should be defeated, that the amendment by the Senator from Virginia is a well-drafted amendment which deals with the entire spectrum of the problem as we now see it. I think it is a good amendment. It is one that I believe deserves the support of the Members of this body, and I am honored to cosponsor it.

Mr. President, I yield the floor.

Mr. **GLENN**. Mr. President, the Trible amendment, which I strongly support, is just a matter of plain equity. It simply proposes a change to existing legislation so as to better recognize the very significant contributions by military spouses to their former husbands' careers and hence to the defense of this Nation.

I have had some firsthand experience in this area because I spend 23 years in the Marine Corps and was married all of that time except the time I spent in flight training during World War II that first year. So I can attest personally to the extraordinary pressures and demands on the military wife and mother in establishing and maintaining a stable home in an inherently unstable environment, an environment of frequent uprootings and moves, of coping with family emergencies alone when the husband is once again deployed, perhaps for a year or longer.

Let me add some figures that will illuminate that just a little bit. Just in my case, and I am not claiming any special hardship case in the Marine Corps, because there were people, I am sure, who had a completely different situation from mine that was even more mobile or required more moves than we did. But I had in that 23 years in the Marine Corps enough moves so that when Annie and I moved here to Washington when I was elected to the Senate we moved into our 21st home. Twenty-one times we had moved. That does not mean that I had that many different duty stations. But it does mean we would move some place. We would be in a small apartment, maybe live there 4 or 5 months, find a better place, move into that, and live there for a year and then maybe move to someplace else.

And only once in all that full 23 years in the Marine Corps did I ever have base housing.

It was always scratch as best you can out there, trying to find a place to live and raise a family, and it is not very pleasant sometimes. It is one of those things that you know you are going to put up with when you make a military career.

Along with that, of course, being in the Marine Corps, many times when we were transferred overseas, dependents did not go. So the wife is at home with the kids, and my wife was home with Dave and Lyn, our two children, for a year at a time. Overseas tours were 1 year. So you are out and you do not come back every month to see the family and the kids, and you do not come back to help the wife out, and she is there to cope with the emergencies and literally run the family.

I am not claiming any special hardship. People in the military know that is what they are getting into, as I said, and they put up with that and they sacrifice for their country, particularly when they are overseas with no dependents.

One time when I was being transferred someplace, I do not recall exactly which transfer it was, but I remember the incident very well in that some of the neighbors got together and they said that they were going to make some awards that night, and they did, and for service in the Marine Corps, even though I was a major at that time, as I recall; for service with the family they presented me with Pfc. stripes, private first class. That is what I deserved.

And they presented Annie a four-star general—four stars to pin on. Being the kind of husband that recognizes a fait accompli when I see it, I took those two insignia and put them up on the head of the bed. I must admit I put the Pfc. stripes over my head and Annie with the four-star general stars over on her side. She deserved it. She deserved every one of those stars. She deserved 10 stars instead of 4. She raised two very fine kids through all of those transfers.

So I would submit to you tonight there are many, many, many four-star wives in the military—four-star wives who have gone through that tough business of trying to run a family and trying to run a household and be transferred back. In those days you never were anyplace for more than 2 years at one crack; most of them are 3-year tours now. But it was 2 years. And many of the overseas tours now, in fact, are accompanied tours. Dependents go out and they are with the family overseas. In the Marine Corps, that still is more of a rarity, I might add, than being commonplace.

So it is not unusual now for people to be out a year and not see the family and the wife is at home taking care of all of the emergencies, all of the cut fingers and all of the literally big, important emergencies that occur and, as in my own family, delivering our second child with me in China and my wife back in Ohio. So they deserve four-star treatment.

Well, it is an environment of working together with the husband under often very difficult circumstances over quite a few years with a very clear expectation, usually, that they will spend their declining years together. Now, too often that does not happen. Sadly, more often than we like to contemplate, such marriages end in divorce; not infrequently from the very strains that I have just described. People put up with it for 15, 20 years and they just finally run out of gas. They get tired of it.

And where we have a very high divorce rate in this country anyway, when it is subjected to some of those extra strains of a military career, well, they cannot take it anymore. So too many of these marriages end in divorce frequently after 20 or more years of marriage.

And I suggest that reasonably the divorced spouse of any military member, which would normally be the wife, should expect to share in the benefits that those many demanding years in the military have earned. That is not always the case. A couple may have been married 20, 25, or 30 years; however, unless at least 20 of those married years were with her husband while he was on active duty, she then, when divorced, loses all those collateral benefits. The most serious benefit lost, of course, is medical care; too often, at a time of life when additional medical care begins to be needed.

So what we see then is a sizable number of former spouses of career military members who, in middle age, are frequently unemployable because they have spent their adult lives at making a home and raising the children. They did not set out to be career women. Their career was in the home. Their career was helping make a military career that they shared with their husbands. They previously had no need for medical insurance because they were covered by the military, but now that they need medical insurance they find, for various reasons, they do not qualify.

I agree that the current legislation is correct that former spouses, to qualify for medical benefits, need to have been married to a military member who put in at least 20 years on active duty. We are not going to make this for the short term, not for somebody who has been in for a short period of time and reap tremendous benefits for the wife, even though they have been divorced over a whole lifetime. That is not what this is at all. She has to have been married to him for those 20 years.

I do not agree that she should necessarily have spent at least 20 years, the full 20 years, with him on active duty.

The Trible amendment rectifies the current inequity by changing the requirement to read that the wife need spend at least 10 years on active duty with her husband. In effect, it changes the current 20-20-20 requirement to 20-20-10 and makes this fully retroactive.

I feel this is reasonable. I feel it is an equitable means of recognizing the extraordinary service to this Nation performed by military wives, even though they later may be divorced.

Mr. President, I intend to vote for this amendment. I urge my colleagues to do likewise so that we get fair treatment for what I term as four-star military wives. That is the kind of treatment all of them deserve.

Mr. JEPSEN. Will the Senator yield for a question?

Mr. GLENN. Certainly.

Mr. JEPSEN. Mr. President, first of all, I say to the Senator from Ohio there is a little difference in what the amendment contains and what has been reported in the letter that has been sent around. It is not 10 years any longer, it is 15. But that is just a technical correction.

Mr. GLENN. I stand corrected on that.

Mr. JEPSEN. But does the Senator believe that a spouse eligible for military medical care should be entitled to the medical care even though an employer provides medical coverage to that former spouse?

Mr. GLENN. Well, I think it is her right to have that. If we wish to make it a situation where, because she is now employed in some business and there is a certain amount of medical coverage there, if that adds to this, that is fine. That can be an additional protection. But I think she has earned the right to this just as much as the husband has in all of his military service. She shared in that service. So I see this as her right.

We might say the same thing to a military man who spent 30 years in the service—maybe a Congressional Medal of Honor winner, for all I know—and then is out of the service and employed by a company. Should we say then that all of his service benefits are suddenly invalid and what he would rate as far as medical care goes? I do not think we want to go that far. He has that as his right. The way I see it, the wife who has spent the amount of time we are talking here has earned that as a right, also.

Mr. JEPSEN. So you say the taxpayers should always provide that even though it could have been provided by a private employer.

Mr. GLENN. Well, would you say that a man who has put 30 years in the military should also then give up his right to medical treatment if he is employed by someone who has a health care plan?

Mr. JEPSEN. Not at all. It is not the same situation. You are not comparing apples with apples at all.

Does the Senator believe a person who has had 17 years of service and then resigns, gets discharged from the military service because of family problems and so on, does the Senator believe they should have medical care?

Mr. GLENN. I do not believe that is provided now, is it? For a lifetime military career, it is 20 years, so I think that would be exempt.

**Mr. JEPSEN.** It takes 20 full years. I am saying does the Senator think that should be moved to 17 or 15?

**Mr. GLENN.** I do not believe so. I do not think we need to do that in that particular area. We are talking about benefits that have occurred after a full 20 years; in other words, the person stays in and makes a career out of the military and earns these benefits which he thought he was getting when he signed up. That is part of his contract.

**Mr. JEPSEN.** But the spouse has to be involved 15 years and the serviceman or woman has to be involved, as things stand with this amendment now, the full 20 years; is that correct?

**Mr. GLENN.** What the Senator is saying is if they were married the full 15 years and had some problems in the last 5 years short of the 20 years and the serviceman went on and fulfilled his 20-year obligation, what you are saying is the spouse would get the benefit of that treatment. I do not find that too onerous. I think that is fair enough.

**Mrs. HAWKINS.** Mr. President, I rise in support of the amendment of the junior Senator from Virginia, and wish to commend him for this thoughtful and sensitive legislation. When you talk about poverty in America, which we do a lot in this Chamber, you have to talk about women in America. The correlation between sex and poverty is one of the sad and inescapable facts of American life. The poor of America are, for the most part, the women of America, and all too often the problems of gender-based poverty are aggravated by age considerations. Older women find training for and entry into the work force increasingly difficult. This is an issue that I believe must be addressed in a larger context, but today because of the amendment of the junior Senator from Virginia we are able to address a small but important part of that problem.

We all line up on Flag Day, Veterans Day, and Memorial Day to pay homage to the brave men and women who made great sacrifices in order to protect the freedom and safety of this great land, and rightly so. I do not believe that enough words can ever be said to right the scales of what we owe to the servicemen and servicewomen who have fought in America's wars but theirs was not the only sacrifice. The families they left behind also sacrificed, and no one was called on to do more than the serviceman's wife.

As the Senator from Ohio has so eloquently stated, the wife was expected to give up a career of her own, and follow her husband from post to post, country to country, city to city, or wherever the service decided to send the husband. She was expected to support the children's change in schools on sometimes an annual basis. She was expected to raise the family in the absence of her husband. She was expected to augment her husband's career by providing unreimbursed services in connection with his duties as well as many other activities. In return, the military wife was entitled to share in the benefits provided by the Department of Defense and the services.

As the Senator from Ohio has stated, that is a lonely path to follow. I am a Navy brat. I was raised by a mother who moved, picked up roots, and even did the packing because the military always sent the husband ahead. She thought it was a plot against women to do the packing year after year after year, but she did so cheerfully; she cheerfully enrolled us in new schools; found new houses; took care of all the details necessary for the deposits on the electricity, deposits on the telephone, and all the many, many gritty details.

Some women are really secure, never have to pay the bills, and never understand about a checking account. A military wife runs a small business all by herself. I can remember one time my mother dressing up all four children, and taking us down to the dock to watch the boat come in after my father had been gone for 18 months. That was a long time that the wife had to be mother and father, teacher, counselor, and good civic member.

I think sometimes that the 15 years that the military wife put in would seem like they have been married 20 years. That is where the correlation comes in. How many times does a normal family move? Nothing like the military family. In many instances they have had to sell part of the furniture because the military would not pay for all of the things she had acquired. I remember those things. I think we cannot do enough to correct this important gap in the benefits, and medical coverage that is so important. There is always that twilight zone. If the wife is not trained, and has to go out to have training, no one covers new medical costs. If private insurance picks up the cost, that is fine. But I would say spouses who meet the criteria of the junior Senator from Virginia's bill have earned the right to participate in the benefits from serving their country.

So many of them lack the skills and the training for the workplace. They are in desperate straits. I hope my colleagues will support Senator TRIBLE and those cosponsors of this important amendment as we take a giant step away from the poverty on America's women.

**Mr. D'AMATO.** Mr. President, I rise in support of the amendment by the distinguished junior Senator from Virginia. I am proud to be a cosponsor of this measure to correct a serious problem, a problem we left unanswered by passage of the Uniformed Services Former Spouses Protection Act as title X of last year's Defense Authorization Act.

The problem is very simple and very serious. Title X as it presently reads only protects those spouses who were divorced after February 1, 1983, and who have both 20 years of marriage and a service member spouse who has completed 20 years of active duty during this marriage. This so-called 20/20 rule excludes from the protection of the act a great many deserving spouses.

This amendment extends health care benefits to those former spouses who can show they were married to a service member or former member for at least 20 years, and whose service member spouse had at least 20 years of creditable service. The difference is that only 15 years of the marriage is required to have been during the period the service member was on active duty. Also, this amendment has no delimiting date, so the date of divorce, dissolution, or annulment of the marriage would not serve to disqualify an otherwise qualified spouse.

Why is this amendment so important? Because so many former military spouses have serious health problems and lose their health protection under CHAMPUS once the marriage ends. They are then of an age such that they are both unemployable and uninsurable. They are forced to bear the full expenses of medical care necessary to treat their conditions, paying for it from the meager resources that must be their sole support in retirement.

This situation is one which we must remedy. While there will be a financial impact from allowing these former spouses access to medical care under CHAMPUS, the overall impact on the Federal budget should not be great. The cost of this measure will be offset by savings from supplemental security income and medicaid expenditures which are not necessary to take care of these spouses, the vast majority of whom are women, who consume all of their resources and fall back upon our social safety net.

Moreover, this amendment will restore to these former spouses the privilege of access to commissaries and exchanges. This is a critical advantage for these women, allowing them to purchase the necessities of life at reduced prices. This is small compensation indeed for the difficulties they face after abandoning all opportunity to build a personal career as they remained loyally by the sides of their service member spouses during their active duty careers.

When a marriage ends, the former service member has his retirement pay, commissary and exchange privileges, and his health benefits. He also has his Social Security benefits. His former spouse, in contrast, loses everything but her share of his Social Security benefits. If her health is poor, this situation condemns her to a life of poverty and suffering.

This important amendment will prevent this situation from developing. It will, in particular, assist those former spouses who were married to enlisted personnel. Data indicates that the Uniformed Services Former Spouses Protection Act covered many more officer's wives of the otherwise eligible group than enlisted wives. This is a result of the 20/20 provision in the act. With the changes included in this amendment, equity will be restored and the former spouses of enlisted people will also be protected.

I urge my colleagues to support this amendment. Simple retroactivity is not enough. The 20/20 provision change is critical to an effective solution to this problem. If we believe in fairness, we must vote for this amendment. If we believe in equity, we must vote for this amendment. The cost is small, but the positive impact our support for this measure will have will be large.

Thank you, Mr. President.

The **PRESIDING OFFICER**. The Senator from Kansas.

Mrs. **KASSEBAUM**. Mr. President, I rise in support of the amendment of the Senator from Virginia, Mr. TRIBLE, and the Senator from New Mexico, Mr. BINGAMAN.

I thought it was a thoughtful effort to address a problem that has existed. In past efforts the Senator from Iowa, Mr. JEPSEN, has been very involved in helping us meet what has been, I think, a serious gap, and an oversight in helping assist wives who have, as the Senator from Florida I think very dramatically explained, played a wearing, tiring, and courageous role as a military spouse.

Mr. President, as a cosponsor of the Trible amendment, I am pleased to have this opportunity to speak in support of this important effort to improve benefits for many former military spouses.

During the last Congress, we took a number of important steps to address the plight of divorced military spouses. These individuals—largely women—found that their lifelong support of their spouses' military careers counted for little or nothing in terms of pension protection or health care coverage. Enactment of the Uniformed Services Former Spouses Protection Act represented an important step forward in recognizing these contributions and has proven to be of assistance to many women.

At the same time, this legislation left unprotected a large number of equally deserving former military spouses. It is the purpose of the amendment offered by Senator TRIBLE to expand the instances in which these divorced spouses could continue to receive military health benefits and commissary privileges. Right now, these benefits are available in cases where a military marriage lasted at least 20 years during which time the military spouse performed 20 years of creditable service. Moreover, these provisions apply only to individuals divorced after February 1, 1983.

These are stringent requirements, as a couple would have to be married throughout an entire military career in order to qualify in most cases. For example, if a couple had married 2 years after the military spouse entered the service and the spouse retired after 20 years and the couple then divorced 20 or more years after the marriage, the nonmilitary spouse would not be eligible for continued health benefits. This is due to the fact that only 18 of their years of marriage would have been in a time period of creditable military service.

Under the amendment now before us, the requirement that a marriage last at last 20 years and that the military spouse perform 20 years of creditable service would be maintained. However, the amendment would establish a 10 year "overlap" of the marriage and the creditable service in order for a divorced spouse to qualify for continued health and commissary benefits. In addition, the amendment would apply to all individuals meeting these requirements—whether or not the divorce occurred after February 1, 1983.

The difficulties which middle-aged and older women have in obtaining adequate health insurance are often substantial. Even in cases where coverage may be available, its cost is often beyond the means of a woman who—having spent most of her adult years as a homemaker—is unlikely to find high-paying outside employment.

This amendment represents an important effort to recognize the contributions made by long-term military spouses. It is extremely unfortunate that many deserving individuals were left without protection when Congress last addressed this issue, and it is time that we correct this situation. I urge my colleagues to join me in supporting this amendment.

Mr. **HECHT**. Mr. President, I rise in support and am pleased to cosponsor the amendment of my good friend and colleague from Virginia.

America has long recognized the dedication, hardship, and sacrifice of our men and women in the Armed Forces. The uncertainty and constant relocation experienced in the typical military life places tremendous pressures on them, as well as the members of their families.

Unfortunately, we have been somewhat deficient in recognizing the great contributions of the military spouse. Throughout the military careers of their husbands, military wives, too, had to answer the call to duty and be prepared to travel at a moment's notice to faroff and unfamiliar locations to reestablish a homelife for their families. This lifestyle precluded many from pursuing careers of their own which would have provided them with the security of a pension and health insurance benefits.

Until the passage of the Uniformed Services Former Spouses Protection Act in 1982, many spouses discovered that they were expendable and could be thrown aside and stripped of all benefits. Many were forced to the welfare roles and using food stamps to survive.

The Former Spouses Protection Act was an important first step in assuring that these inequities were removed. Unfortunately, because of restrictive eligibility requirements, many deserving former spouses were denied their earned benefits.

Mr. President, the amendment of the Senator from Virginia would revise these eligibility requirements which unfairly penalize former spouses. The amendment would provide medical care as well as commissary and exchange privileges to certain former military spouses of a service member or former member who performed at least 20 years of creditable service, and, on the date of divorce, had been married to the member or former member for at least 20 years—not less than 10 of which were during the period in which the member or former member performed creditable service. No longer would the date of divorce, dissolution, or annulment of the marriage be a factor in eligibility determination.

These former military spouses have stood behind their country and it is now time for their country to stand up for them. I would urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent that the following articles be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Las Vegas Sun, Sept. 26, 1982]

### NEW LAW WILL BENEFIT EX MILITARY WIFE

A 12-foot travel trailer under a shady tree in a dusty mobile home park is home for Mary Mannillo, 43, one of thousands of former military wives who have seen better days.

Mannillo's hours are spent sipping coffee at an outdoor table, chatting with neighbors and her pet poodle and gazing at the droning TV set spewing out an endless stream of talk shows and soap operas.

Mannillo lives in a reality much harsher than a formula soap opera.

She is afflicted with scleroderma, a progressive crippling disease which has atrophied her hands into clawlike appendages, in addition to tightening her facial features and affecting her walk.

"There is little known about this condition. It just keeps getting worse," says Mannillo. One senses a fiery determination and will to live in this small woman. She admits she has volunteered for experimental drugs and treatment, desperately seeking answers.

She proudly displays photos of herself as a dark-haired beautiful bride and young mother, bright moments eventually darkened by the disease.

Mannillo contracted the condition in the late 1950s, around the same time she and her former husband, a military man, were assigned to duty in Guam.

That coincidence has filled her head with questions. Was it because of the shots? The atmosphere on Guam? Possible earlier nuclear contamination on one of many bases she and her husband called home? Or was it linked somehow to her pregnancy? She had a son in 1957. Another son, born in 1960, died at birth.

Throughout their marriage, Mannillo and her husband lived at air force bases in Arizona, Texas, New Mexico, Maryland, Virginia and New York.

The marital relationship disintegrated and, after 23 years, Mannillo's husband sued for divorce in 1978. She countersued and was awarded 36 percent of his monthly pay as alimony.

Mannillo says she has not received a cent of that court-awarded money. She is on welfare, receiving $264 a month under the Supplemental Security I plan and $70 worth of food stamps a month. Her rent is $230 a month, leaving little for other necessities. Food is delivered regularly by a visiting homemaker because Mannillo is without transportation. The SSI Plan also pays for medical and psychological help for Mannillo.

With the recent passage of the Uniformed Services Former Spouses Protection Act, Mannillo may be relieved of some of her financial burdens. She can now seek redress for the nonpayment of support and may also qualify as a candidate for military medical benefits, through the "special cases" provision.

And that hope now brightens her long days in the dusty Las Vegas trailer court.—Barbara DeGroot.

## Military Retirement Pay Now Community Property

(By Barbara DeGroot)

The signing into law of the Uniformed Services Former Spouses Protection Act Sept. 8 represented, if not total victory, a strong advance for ex-spouses in the battle for just treatment in military divorces.

Although some former military spouses criticize the limited applicability of the new law, they strongly applaud its intent.

Briefly, the new law will permit state divorce courts to consider military retired pay when dividing property rights between parties in a divorce. This overturns a Supreme Court ruling (McCarty vs. McCarty, June 1981) that military retired pay could not be considered community property in divorce settlements.

Also, the new law allows the ex-spouse to directly receive through the pay centers any court-awarded monies entitled her or him, rather than waiting for them to be sent by the ex-spouse or, even worse, having them garnished. Applications may be made after the effective date of the new law—approximately Jan. 9, 1982. Appropriate papers must be sent to pay centers.

This is retroactive, applying to all court-awarded monies, no matter when awarded. Court orders concerning the division of military retired pay that were issued prior to June 1981 (date of McCarty vs. McCarty ruling) stand as issued; those issued later may be modified if taken back to court. However, there will be no direct payment of retired pay, if the marriage lasted less than 10 years.

In addition to other provisions, the new law extends medical benefits, commissary and exchange privileges to all former spouses who were married at least 20 years to a member who served in the military during that period. (This provision applies only to those who divorce after the law's effective date).

Exceptions for military medical benefits are allotted, however, to special cases whom the secretary of defense and the secretaries of the military deem worthy of consideration.

The new law also has provisions for the division of survivor benefit plans and the garnishing of retired pay. It allows the service member the option of designating the former spouse as his beneficiary under the survivor benefit plan.

Patty Morrison, state and local chairman of Action for Former Military Wives, believes the new law is only one step in the struggle for just compensation for all former military spouses.

"We feel this will take thousands and thousands of women off the welfare rolls. These are the women whose former husbands have gone underground or undercover and have stopped their alimony or child support payments. We're so happy that these women with court-awarded monies now will be able to directly collect them," says Morrison.

But she quickly adds, "I want this to go back and cover the thousands and thousands of hungry and ill former military wives not covered by this legislation. I want a federal mandate. It shouldn't be left up the individual state courts.

"This law basically will apply only to those getting divorced 120 days after the law has been signed. This is too restrictive. Too many of us are hurting out here and we are going to continue to pursue our goals," says Morrison.

For example, she believes it should be mandatory that the woman whose name was first applied to the survivor benefit plan not have those benefits taken away. "We also want to make it compulsory for all military men to take out survivor benefits," says Morrison.

She points to the nature of military marriages which, because of mobility and other factors, discourage a wife from developing financial independence.

"In my day, we weren't allowed to work. It was considered an insult to the man. And there was no way to get a good job because of the frequent moves.

Morrison, 62, was widowed by her first military husband and divorced from her second military husband after 30 years of marriage.

She estimates there are more than 1,500 former military wives in the Las Vegas area and 600,000 throughout the country.

"This organization fights as strongly for the military man as for the wife.

"I sincerely believe this law and future laws will strengthen military marriages now and in the future," says Morrison.

Persons interested in obtaining more information on the new law may contact Morrison by telephone at 369-1774 or letter at P.O. Box 19664, Las Vegas 89123 or attend a local meeting of Action for Former Military Wives. The group meets the second Monday of the month at 7:30 p.m. in the clubroom of the Villa de Paraiso Apartments, 4200 Paradise Ave.

## Military Spouses Deserve Justice

For most military families, the pension awarded after 20 years of service represents a pot of gold at the end of a very long rainbow. It offers the promise of easier times ahead, of times when the pension becomes a valuable second income, providing a comfortable lifestyle that makes the years of low pay, nomadic living and extended separation almost seem worthwhile.

But those years of difficulty can wreak havoc on a marriage. Divorce is high among military families, as it is for most segments of society. So what happens to the pension when a military marriage breaks up? Is it treated like most pensions, as community property which both parties in the marriage earned during their time together?

Not in the military. In the military, the pension is considered the sole property of the ex-serviceman or woman, and after a divorce the former spouse can be cut off entirely from any support.

In many cases, the beleaguered spouse is a wife who has followed her husband around the globe for 20 years or more, who has raised children and has little or no job training. The forced mobility makes it almost impossible for such a woman to pursue a career, and only 13 percent of military wives have their own pension plans to fall back on. The spouses work and sacrifice as much as their husbands for the military pension, and it can be devastating when divorce cuts them off without means of support.

A Senate committee is holding hearings on bills aimed at correcting this injustice, and chances of passage appear good. But aligned against the bills stands a formidable foe—the Pentagon.

Military leaders claim that by making pensions community property, Congress would discourage thousands of servicemen from re-enlisting. If that were true, the top brass would have grounds for concern, since retention of trained personnel is one of the major problems faced by the armed services.

But no supporting material has been offered for the military's claim, and logic dictates that the opposite is true. Most personnel up for re-enlistment are married, and the decision is so important that it is usually agreed upon by both husband and wife. Any move which would give wives a greater interest in pursuing the prized pension can't help but encourage re-enlistments.

Besides, the Pentagon ignores the prime issue—that of fairness and humanity. It is neither fair nor humane to demand the sacrifices expected of military wives, and then to cut them off without a cent because they and their husbands have gone their separate ways. Congress can and should correct the problem.

## Former Military Wives Establish Club

(By Diane Russell)

The poised woman repeatedly said with emphasis she does not want charity—she wants to support herself through her job and with the money she feels she earned during her almost 30-year career as a military wife.

But when a woman in her mid-50s suddenly finds herself in the job market for the first time, it isn't easy to find work.

And when the government makes no provision for those who have been divorced by their military spouses to receive any of the retirement or benefits accrued when they were married, divorced persons suddenly can find themselves without insurance, without medical benefits and without income.

The injustice a number of Las Vegas area women see in the situation has led them to establish a former military wives' club, with the goal of doing something to correct the problem which one member describes as "the most tragic thing in this society of ours."

The current focus of the Las Vegas group is a bill, H.R. 11354, introduced into the House of Representatives in March by Rep. Patricia Schroeder of Colorado.

The bill, which is before the House Armed Services Subcommittee on Military Compensation, would make former spouses of military personnel eligible to receive a portion of the serviceman's retirement money and survivors' benefits if the couple was married at least 10 years. The exact amount to be received would be decided by a formula based on the number of years the military service and the marriage overlapped.

But the group of 24 Las Vegas area women, which organized about four months ago when Marina Fodge contacted a newspaper about here interest in forming the club, is hoping insurance, medical benefits and commissary privileges also will be extended to former military spouses.

The way things are now, the person divorced by a military person often finds herself in the financial position of a teen-ager just starting out, said Fodge, herself a military wife for 24 years.

Like the teen-ager, the divorced spouse, usually a woman, finds herself saddled with a handicap when she goes to look for a job. Often she has no recent job experience or, worse yet, no work experience at all.

Both Fodge, who is president of the group, and her roommate, Patty Morrison, explained it's hard for a military wife to hold a job.

Employers are reluctant to hire military wives because they know husbands could be transferred at anytime, the two said. Sometimes the location of the husband's assignment, perhaps in a foreign country, makes it impractical for the wife to seek work.

An additional stumbling block the military wife of some years has is her age.

This is in direct contrast to the position in which men retiring from the military find themselves, both women said. Through contacts they have made in the service, men often are able to land good private industry jobs, they said.

In addition, while some employers are hesitant about hiring older women, the same does not seem to hold as true for the former military officer, who often is only middle-aged at the time of retirement, the roommates said.

Morrison, 54 when she and her husband divorced three years ago, used her experience as an example of problems which can confront a former military wife.

Although she never received a college degree, she did have two years of college education before she married.

She was never employed while she was married, but as the wife of a high-ranking Army officer, she did volunteer work and entertained large groups of people.

Morrison, who described herself as a people lover, said she hosted large, involved parties on little more than an hour's notice. She has been both hostess and guest of people most Americans see only on the news.

She said she feels ideally suited for some type of public relations work and tried to get into that field when she moved to Las Vegas.

But both her age and her lack of job experience held her back. After more than a year of supporting herself with part-time work, Morrison finally got steady employment.

There was a trace of sarcasm in her voice when Morrison said that after 30 years of what she thinks amounted to public relations work, she is fortunate to be working as a security guard and private detective. However, she repeatedly said she truly is glad for the work, which allows her to be self supporting.

She said she knows she will make a living with God's help, "but I need the help of my fellow man, too."

She added, "I think I should want to be dead before I am placed in a position of having to receive charity or welfare."

But Morrison knows of other less fortunate than herself.

She said she has seen enough former military wives forced to go on welfare, particularly those with children at home, to make her ask why the public is willing to be forced into supporting many of the women.

According to Morrison, the bill before Congress would in no way be an additional burden to the taxpayers. The former spouses would collect part of the retirement which the retired military person will get anyway.

The slender blonde emphatically believes former husbands of female officers should be awarded the same rights her group is trying to ensure for former military wives.

As she sat in the living room of her apartment where the dominant decoration is a set of portraits of her and her former husband, he in uniform, Morrison admitted being part of a military family is a lifestyle very different from what most would consider a normal way of life.

"I miss the life I used to work for," she said, recalling some activities and projects she coordinated when her husband was in charge of troops overseas.

While there were many things she liked about the military life, there were also bad things, Morrison said adding the general public often sees only the more glamorous side.

Morrison is willing to debate those who would say military families live an easy life because they often do not have to worry about rent or medical care.

All the conveniences are offset by things such as the 24 hour nature of the officer's job and the frequent uprooting of the family, she said.

She described the frequent moves by saying every military wife owns a trunk full of curtains which she holds onto in hopes they will fit a window at the next house.

Morrison urged any former military wives, or any former wives who think they might benefit from the experiences of the women, to come to the monthly meetings.

The group meets the fourth Monday of each month at 7:30 p.m. at the Women's Words bookstore at 2401 E. Bonanza Road. The group also can be contacted through P.O. Box 19664, Las Vegas 89109.

● **Mr. WARNER.** Mr. President, I rise as an original cosponsor of this important amendment to speak on behalf of equity for former spouses of military personnel.

For 5½ years, I served in the Secretariat of the Department of the Navy. During the difficult years of the Vietnam conflict, I came to appreciate the special hardships endured and the willing service offered by so many of the spouses.

I was active in the early legislation passed by the Committee on Armed Service on this matter, the Uniformed Services Former Spouses Protection Act (S. 1814). I believe that the pending amendment corrects certain inequitable aspects of the initial legislation.

I particularly commend the retroactivity feature of this amendment which allows former spouses whose marriages terminated before the passage of S. 1814, the benefits enjoyed by those divorced after the passage of that legislation.

Mr. President, I commend my colleague from Virginia [Mr. TRIBLE] for his determined leadership and I urge my colleagues to support this amendment as a matter of simple equity.●

The **PRESIDING OFFICER.** The Senator from Illinois.

**Mr. DIXON.** Mr. President, I want to first say I know I speak for the members of the Subcommittee on Manpower and Personnel when I say that we hope we have been very conscious of the concerns of servicemen and their families in what we have done in the subcommittee. And I feel confident that I am correct when I say that, I speak for the whole Armed Services Committee, when I say that, we believe during the course of this year's very careful hearings, we have been eminently fair to servicemen, their families, and particularly their spouses in what we do in the committee.

What has been said here by a great many fine Senators on both sides has a lot of appeal. I want to present the position of the committee as succinctly as I can. Then I leave it to the respective consciences of each Member of the Senate as to what they want to do. Clearly, there are a lot of cosponsors here. I think it has been suggested there are 33 or 34 cosponsors. So there is a lot of support for this concept.

Let me make these points: The first point is this. It has been said by some Members in their speeches that we owe a great deal to the servicemen's wives. I do not think anybody would quarrel with that at all. My good friend, the Senator from Ohio, who is one of the great heroes and great servicemen of this Nation, eloquently stated the case for his lovely wife that we are all so fond of.

No one will quarrel with anything he said there. But let me make these points. The first is this: The Congress did recognize our responsibility to the wives of servicemen in the 1982 session. In the 1982 session, we passed legislation that said that divorced spouses would be given the benefits if they had been married to a serviceman for 20 years, if the serviceman had served his full 20 years, and if the two were together in what we lawyers call coverture; that is, in the marriage during the 20 years that the serviceman served in the service.

So we recognized the problem, and acted on it in 1982. That was thoughtfully done, careful analysis was made, and that is what we did.

Then we provided that that would affect all spouses effective February 1, I think, 1983—do not hold me to the precise date, but I am roughly correct. All right? That is what we did.

That cost a lot of money. But everybody here would agree it was money well spent. Those spouses deserved that consideration.

I think first we should lay to rest the idea that the Congress has not recognized the problem. The Congress has recognized the problem, and the Congress has acted on the problem. The only question is has the Congress adequately responded to the problem? That is the question before this body tonight.

Let me make this first objection to what my friend from Virginia, and my friend from New Mexico are doing. What is the point of having committees, if we do not use them? My friend from New Mexico has given me a letter that was sent to my colleague, the chairman of the subcommittee, in November of 1983 requesting hearings. I do not know why hearings were not held. I am the ranking member of that subcommittee. I would have granted hearings. I think we should have had hearings on this subject. Hearings would have been worthwhile to look into the question of whether we had fully answered the problem.

What bothers me here tonight is the debate on the floor of this Senate at 10 minutes past 9. I do not know how many nights after we first started the DOD authorization bill, while we go onto what we hope ultimately will be a conclusion of this question, the merits of this question on the floor of the Senate that was never discussed in committee. I regret that.

We did the whole question of the GI bill the other day on the floor of the Senate without doing it in committee. I resent that. I think it is not a good way to do the public's business.

So I want to make point one: We are not doing the public's business in a responsible, careful, thoughtful, intelligent manner when we come to the floor of the Senate to do the public's business involving a lot of dollars at this time of night. That is point one.

Point two: Let us understand what has been involved here. There have been some wonderful speeches made, all of which I subscribe to. But the question is, What is involved here?

What is involved here are two things, or the Senator from Virginia wants to do two things. I agree with one of them. He wants to go retroactive. He says—and I agree with the Senator from Virginia—why would we just compensate spouses who were divorced after February 1, 1983, who meet the 20-20-20 requirement? Why do we do that? Why would we not take care of the rest of them who were divorced before that, in 1982, in 1981, in 1980, in 1979, and on back, if they meet the requirements?

Let me say to my friends, I agree with that. I agree with that. We should go retroactive. One divorced spouse meeting the requirements ought to have the fair consideration as every other divorced spouse. Anybody who does not agree with that I think is an unfair person.

I want to say to this Senate that is going to cost money. That is going to cost $20.6 million this year. That is going to cost $23.4 million in 1986. That is going to cost $26.2 million in 1987. It is going to cost $29.2 million in 1988. It is going to cost $32.5 million in 1989.

So I want to tell the Members of this Senate that to agree with the abolition of the date of February 1, 1983, and permit this to go back retroactively to affect all divorced spouses will cost the Government and the taxpayers of the United States $131.9 million over the next 5 years.

I am willing to do that, because it is fair. I am willing to do that without committee hearings because you do not need a committee hearing to determine what is fair.

The amendment of the Senator from Iowa, the perfecting amendment to the amendment of the Senator from Virginia, does exactly that. The amendment of the Senator from Iowa, the perfecting amendment to the amendment of the Senator from Virginia, will cost us tonight, over and above everything else we have spent, another $131.9 million in the next 5 years. But I say it is fair and I say I will vote for it.

Now, here is the other thing the Senator from Virginia, the Senator from New Mexico, and their friends want to do here tonight, and they may very well do it. But not with the agreement of this Senator tonight. They may do it with the agreement of this Senator next year after hearings. I want to say that tonight, because they may be right. After we have hearings, if I am convinced, I will vote for it. But I will not vote for it on the floor of the United States Senate tonight without hearings.

Here is the second thing they want us to do: they want us to change the 20-20-20 to 20-20-15. The law we passed in 1982 after careful analysis, working with everybody, says this: the servicemen has to be in there for 20 years. That is the law for the servicemen to get the benefits. The spouse has to be married to the serviceman for 20 years, and they have to be together in that relationship for 20 years, in coverture during 20 years of service.

What the Senator from Virginia and the Senator from New Mexico want to do is change that and say keep the 20-20 but change it to 15. She only has to be married to him 15 years while he is in the service. So it is changing it by 5 years.

Let me say this: Until a moment before this debate began, at 20 minutes to 9 tonight, they wanted to make it 20-20-10 instead of 20-20-15, but they yielded back a little to cost us less money at the last moment.

Now I put it to you, my friends of the Senate of the United States, is that deliberateness? Is that careful analysis? Is that thoughtful procedure? I put it to you.

That is what committees are for. That is why you study things in committee.

They may be right. I am here to say they might be in time proved right. But I am saying tonight is not the time. I am saying to you that had they kept it at 20-20-10, in the first year it would have cost an additional $37.7 million, in the second year $42.3 million, in the third year $47.5 million, in the fourth year, $53.1 million, and in the fifth year, $59.2 million, for a total of $239.8 million, almost a quarter of a billion dollars.

Now that price has been brought down some by changing the 10 to 15, so that it may only be, let us say, $25 million the first year.

But I am here to say to you that this has not been done in a deliberate fashion, and I am here to say to you that what we are willing to do is going to cost at least twice as much or more by changing the 20-20-20 to 20-20-15. I am not saying I might not do it later. I might. But I am saying it has not been done thoughtfully. We do not know how much it is going to cost. But we can guarantee the Senate that to do it will cost twice more than what the amendment of the Senator from Iowa will do with his perfecting amendment, and it is a lot of money being spent in haste without careful analysis.

I see my friend from Idaho standing. He may want to ask a question before I conclude.

Mr. SYMMS. I would like to ask the Senator a question. I believe he has made a very clear statement to one who is not aware of this issue. I am enjoying this debate, frankly, and to find out what happened.

I had a friend of mine from Idaho who was a professional Naval officer, an aviator. He was one of those lucky few, I guess you would say, the Blue Phantoms, and he flew over 500 missions over Vietnam. He survived the war. He was a four-striper, a captain. He passed away last year of a heart attack.

I was surprised to find out how few benefits his wife of some 20 years received. Is that wife of the deceased military person, whether an officer or enlisted, eligible for these same benefits after 20 years of marriage or not? He did not die in combat. He died of a heart attack.

Mr. DIXON. May I say to my friend from Idaho, she is eligible for survivors' benefits in these benefits, but she is not affected by this particular question, which directs itself only to divorced spouses of servicemen.

Mr. SYMMS. But is she eligible for commissary and medical privileges for the rest of her life?

Mr. DIXON. I say to my friend from Idaho, she is eligible for those things—until she remarries. But this would be true under this bill as well. A remarriage terminates everything that we are discussing here tonight.

May I say that my friend from Virginia originally had it in his bill that remarriage would not terminate, but my friend from Virginia has taken that out. So whether we have the existing law or what we are debating tonight, remarriage would terminate. That is not material to the question here. Take it out.

Mr. SYMMS. I will take that out of the question. The question here is whether we want to have a 30-year lapse or 20-year.

Mr. DIXON. The question here is one the manager and I agreed to. We agreed to the retroactive part. Take that out.

The question we are debating now is whether you ought to agree to 20 years of coverture—the Congress in its wisdom made it 20-20-20 2 years ago. We have had no hearings. I say to my friend from Idaho, as it is now, my friend from Virginia is here arguing about a divorce after 18 years. I said to my friend from Idaho that if a serviceman serves 19 years and 364 days, he cannot get these benefits. He must serve 20. I say to my friend from Idaho, that is true of the serviceman. They want to change it to 15 for his divorced spouse.

I say to my friend from Idaho, maybe that is right but we ought to have some hearings to find out. We are treating the divorced spouse actually, in my view, in some respects in a more beneficial way than the serviceman himself, who must do the 20.

Mr. SYMMS. I thank the Senator very much. That is very helpful.

Mr. DIXON. I thank the Senator from Idaho for his inquiries.

I conclude by saying this, if I may: The other day, this Senator joined the debate against the GI bill of his friend from Colorado, not because he does not believe in a GI bill—this Senator does—but because there had been no hearings and we had not fully looked into the whole question. I say again tonight, here we have a situation where my friend, the manager on the Senator's side of the aisle, the chairman of the committee, and the minority member, the ranking member, had no hearings. We are willing to concede to our friends who are sponsoring this legislation a concession that will cost the people of the United States $131.9 million over the next 5 years because it is fair and you do not need a hearing. But we are saying as to the other proposal that will cost more, we are simply saying, "Look, let's find out what is right before we do it."

I might come here next year and speak in favor of this proposal, I say to my friend from Idaho. I do not know that I would not. I am only saying that at this moment in time, I do not understand where the equitable argument has so much foundation in commonsense that we ought to change it now. That is all I am saying.

I say in conclusion that my friend from Idaho and others here, including some of my friends who spoke in behalf of this bill, get up and make speeches all the time about the budgetary deficit and how we ought to save money and how we ought to cut back or how we ought not to increase our expenditures.

But every time we do something around here, it costs more money. This is another fundamental example of something that is not a lot of money—it is a couple of hundred million dollars, maybe a quarter of a billion dollars over the next 5 years—but it is additional money spent without careful thought.

I may vote to spend it after careful thought. I may vote to spend it after hearings. But I say to my friend from Idaho and others that while there may be equity in the argument of my friend from Virginia, I have not been convinced of that on the floor of the Senate yet, nor have I had hearings where experts can come to me from the Joint Chiefs, from the Armed Forces, from spouses associations and others, and show me how it has merit.

Mr. SYMMS. Would the Senator yield for one more question?

Mr. DIXON. I yield to my friend.

Mr. SYMMS. What happens if 3 or 4 or 5 years from now, it is determined beause of the extension of life that Americans all enjoy, that the entire Federal system—social security, civil service and the military—the longevity would be extended, say, 10 percent so that they serve 22 years instead of 20 or 33 years instead of 30 to receive the same benefits. How does the Senators speak to that?

Mr. DIXON. I think that would be a matter for analysis. My friend knows what we did in the Social Security bill. We did it for the next century, but we extended the requirement age to 70. That is reasonably parallel to this because my friends come here tonight and want to change 20-20-20 to 20-20-15, which we did just before they started the debate. They want to make it 20-20-15. I put it to you that if we make it 20-20-15 tonight, they will be back next year to make it 20-20-10.

I say to my friend we ought to have hearings next year. If we give them what they want tonight, which is retroactive, it will cost us $130 million.

We can have hearings next year. I say as ranking member of the Manpower and Personnel Subcommittee, we will have hearings and we will come back on the DOD authorization bill next year and address the problem in a routine and responsible manner after hearings. That is what I say to my friend.

Mr. SYMMS. What the Senator is saying is that any spouse married for 20 years during an active military period would be eligible.

Mr. DIXON. That is the law now and I say it should be the law.

Mr. SYMMS. It will go back retroactively.

Mr. DIXON. It will go back retroactively, which is the law now. We will do that and it will cost $130 million, but it is simple fairness. Why should somebody divorced on January 27, 1983, not get the benefits when her lady friend across the street, who was divorced on January 2, 1983, does get the benefits?

This Senator does not want to come here and do things that do not make sense. He may sometimes, but he does not want to.

I say as to the second half of the question, you can argue 20-20-20. If you want to argue 20-20-15, as my friend from Virginia wants—a minute ago they wanted to argue 20-20-10. Maybe we will compromise at 20-20-18. There is no miracle to it. The miracle is if we do it on the floor of the Senate tonight at 9:30, that is a miracle, I say to my friend from Idaho.

Mr. SYMMS. I thank the Senator very much. The Senator won me over.

Mr. TRIBLE and Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. TRIBLE. Mr. President, I wish to respond to my friend from Illinois. As usual, he has stated his case very eloquently and with great animation. But I believe a dispassionate study of the issues here will lead this body to adopt the amendment—indeed, compel that result.

Let me meet point by point the issues raised by the Senator from Illinois.

First, he pleads the committee process. That is always the argument we hear and no one has greater respect for the procedures of the committee system than I do. In truth and fact, however, these issues have been fully examined by the Armed Services Committees in the Senate and in the House of Representatives.

After those thorough studies, that full examination 2 years ago, Congress deemed it appropriate to establish this program. The problem is that anyone can see that the class of beneficiaries established does not fit the nature of military life; therefore, the eligibility requirements should be amended as we suggest.

I say to the Senator from Illinois that on November 15, 1983, I wrote the chairman of the subcommittee, along with 12 of my colleagues, requesting a hearing on this bill. I have yet to receive a letter or a formal response from that inquiry.

I will say further that although this Member requested hearings, full hearings have been held. This matter has been fully investigated by the Armed Services Committee and the Armed Services Committee of the Senate established this program because it was the right thing to do.

Let me move beyond that point, if I may.

The Senator then summarized the two objectives of this Senator's amendment. The first is retroactivity, the idea that we should make the provisions of the program apply retroactively as well as prospectively. Indeed, on this issue we have persuaded the Senator from Illinois of the rightness of our position. There is no way one can fairly distinguish between those similarly situated people. They have faithfully served this Nation and the military services and have made great sacrifices.

On the second point, there is some contention. Under present law, as the Senator suggests, the law requires 20 years of military service, 20 years of marriage and requires that those two periods run concurrently. That was an arbitrary decision of the Congress in an effort to provide a measure of assistance to a class of deserving beneficiaries. The problem, I suggest to my colleagues, is that that classification does not square with military life. Many military personnel are not marries when they begin their 20 years service and, therefore, their former spouses are arbitrarily excluded by the 20-20-20 requirement. It was a rather hollow gesture. If we really meant what we did 2 years ago, if we really believed that these military spouses have earned these rights, then we ought to structure the law in such a way that we can provide benefits to that class of beneficiaries that earned them and that need them.

So our action 2 years ago was well intentioned and a step in the right direction but simply does not provide the relief intended.

The Senator has also suggested some arbitrariness in selecting the 15-year overlap period. Well, I suggest to my colleagues that the traditional period of overlap is 10 years. The Senator from Illinois suggested that Social Security was a reasonable parallel. I tell my distinguished friend from Illinois that in Social Security we require only 10 years. If a worker covered under the Social Security Act has been married for at least 10 years at the time the couple is divorced, the spouse is entitled to benefits; 10 years, that is all we require; 10 years is also the standard in the Foreign Service Act. A former spouse married to a Foreign Service member for at least 10 years of credible service is entitled to a pro rata share of up to 50 percent of the member's retirement benefits. Again, 10 years. I tell my colleagues that 10 years was also used by this Congress in the provisions of this very same act.

In another section of the Uniform Services Former Spouses Protection Act, the issue of dividing retirement pay is addressed. The act permits division of military pensions in accordance with State law. This enables States to apportion the pension between the service member and former spouse. According to the act, in cases of divisions of property, direct payments are limited to marriages lasting a minimum of 10 years during which time the member served in the military for 10 years.

So I would say to my colleagues that the 10-year overlap has often been used by this Congress. Now, the proponents of this amendment hoped to establish the nexus at 10 years. There was substantial precedent for doing so. We believed that was the fair and right thing to do.

We recognize, however, that this initiative will cost many dollars. In an attempt to moderate those costs and yet to reach out to military spouses who deserve our assistance, we established the period of overlap at 15 years. I say to my friend from Illinois that he can hardy complain that we made that step because it is moving in his direction and it reduces the cost and yet it still achieves our objective, which is to make these benefits apply more fully to the intended beneficiaries.

Mr. President, let me tell you why this is important. Retroactivity is a step in the right direction, but it is not enough. It excludes a host of people who have earned those rights and who deserve them. Let me cite some examples. The hardest hit are the enlisted ranks. In the past established regulations prohibited enlisted personnel from joining the service if they were married. Once in the service enlisted personnel needed written permission from the commanding officer in order to marry. Permission was not granted until they reached a certain rank. Once the draft was instituted the established policy was to draft qualified single men first and then qualified married men. When young people graduate from college on ROTC scholarships, they become a member of the service. Unless they are married on the day of their graduation they often cannot qualify under the provisions of the law today.

I say that is unfair. What we have done, is establish a class of beneficiaries that does not reflect the realities of military life because most people when they enter the military service are not married and most people serve for 20 years and there is no way in the world they can qualify.

So we are attempting to reach out to those people who get married during their first tour of duty and give them a chance to participate. They surely have earned those benefits. That is what brings us to 15 years and that is the rationale of the amendment.

In an ideal world, it would be nice to have wide ranging discussions before the committee and hold further hearings, but after all this is the Senate of the United States and we do a bit of legislating on this floor. This is especially so where the groundwork has been laid. Full hearings have been held. This Congress, House and Senate, has said these people deserve our assistance, but then in the exercise of our wisdom we have constructed a system of benefits making it impossible for most of those people to qualify; I say that is wrong and we should do something about it, and we should do something about it tonight.

Let me speak to this issue of cost. I am concerned about a million dollars. I am concerned about tens of millions of dollars, but the cost of this will be approximately 10 percent of the total program cost of CHAMPUS. Sure, we are talking about dollars, but in the Congress of the United States, where we are talking about hundreds of billions of dollars, where we are talking about a $300 billion plus defense program, it seems to me fairness dictates we provide this assistance.

That is the very modest objective of this amendment. I say to my colleagues that I believe if you will look at this amendment objectively, you will be persuaded that we should say yes to this amendment and we should say no to the Jepsen substitute which is a step in the right direction, but will leave far too many folks out in the cold.

Mr. JEPSEN. Mr. President, I strongly oppose the amendment as offered by the junior Senator from Virginia.

Mr. President, in a few moments I will set forth why I believe my substitute amendment is the appropriate response to the problems described by the proponents of the underlying amendment. But first, I want to explain my opposition to the Trible amendment.

To fully explain my opposition to this amendment, it is necessary to review the history of this subject. For several years prior to 1981, there was confusion concerning how, if at all, State courts could deal with military retired pay in the case of divorces between military members and their spouses.

Several States, most notably States in which community property laws applied, followed the view that military retired pay was simply property subject to division as was any other community property. Other States followed the practice of not treating military retired pay as property subject to division, and some States had specific statutory protections of military retired pay in divorce cases.

On June 26, 1981, the U.S. Supreme Court ruled in the case of McCarty against McCarty that, absent a Federal statute permitting such action, State courts could not order a division of military retired pay as part of a distribution of community property during a divorce proceeding. The Court went on to observe that "Congress may well decide that more protection should be afforded a former spouse of a retired service member. This decision, however, is for Congress alone."

In response to that Supreme Court decision and its adverse effects on the former spouses of retired military personnel, the Manpower and Personnel Subcommittee, which I chair, began a series of hearings on the subject in September 1981. On November 4, 1981, I introduced a bill, S. 1814, the Uniformed Services Former Spouses Protection Act. In July 1982, the Senate Armed Services Committee reported that bill to the Senate.

That bill had as its purpose returning to the States the ability, under certain limitations, to deal with military retired pay in accordance with State laws. That same bill would have continued to treat long-term former spouses of military personnel as dependents for purposes of military medical care for 180 days after a divorce. This was designed to permit these former spouses adequate time to make arrangements for their medical care.

I recite this history of the Uniformed Services Former Spouses Protection Act because I don't want there to be any doubt about my interest in and commitment to insuring that former spouses of military personnel are afforded the opportunity to be treated fairly and equitably in a divorce proceeding. I don't believe there is anyone in this body who can claim to have a greater commitment to this issue than do I.

I regret the choice of words made early this evening about killer amendment—against women's problems and I expect those words will be quoted again before November 6.

In late 1982 when the Senate bill on this matter was attached by the House to the defense authorization bill for fiscal year 1983, the House amended the medical care provisions to provide permanent military medical care to certain long time military spouses. Specifically, the provision provided that those former spouses who had been married for at least 20 years during which time the military spouse performed at least 20 years of military service would be entitled to military medical care so long as they remained unmarried and so long as they did not have health care coverage as the result of employment.

At that time, I did not think that was a wise step for several reasons. First, I believe the military medical system should have as its primary mission the provision of medical care for our active duty military personnel. I am concerned that the system cannot yet perform that mission as needed.

Also a secondary mission, that system should provide care to the dependents of active duty personnel and to retirees. This is important because it helps keep our military force more ready and willing to perform our military missions. Providing care to the former spouses of military personnel does not make our armed forces any more ready or able to perform our military mission.

Second, the military medical system is already overburdened and extremely expensive. The Armed Services Committee continues to seek ways to reduce the costs and relieve the overcrowded conditions in military facilities. I did not believe that these efforts would be helped by adding more persons to the patient population.

However, if former spouses were to continue to be treated as dependents for the purposes of being given taxpayer-provided health care, I thought that the provisions in the House bill were both fair and reasonable.

First, former spouses would only be provided military medical care if they had been married to their military spouse for at least 20 years during which the military spouse performed at least 20 years military service. This seemed reasonable inasmuch as we require that the member serve in the military for 20 years before the member may retire and continue to be provided health care. That is, if a military member serves 16 or 17 years on active duty and then is discharged, that member loses the right to military medical care. In short, it seemed fair that we require that a spouse at least be associated with military service for as long as we require a member to actually serve in order to have the taxpayers pick up the tab for their medical care.

Second, former spouses would be entitled to military medical care only so long as they remained unmarried. This seemed reasonable to me because it is the same rule we apply to the surviving spouses of military personnel. That is if a man is killed in combat, his widow is entitled to military medical care so long as she remains unmarried. That seems to be fair to the widow and fair to the taxpayer. It seems to me that former spouses should not be entitled to more consideration from the Government than are widows of men who gave their lives for the country.

Third, former spouses would only be entitled to military medical care if they did not have medical coverage from an employer. This made a lot of sense because if they had medical coverage provided by an employer they obviously didn't need the taxpayers to pay for that care.

Those provisions were enacted and became effective on February 1, 1983.

The amendment before us now asks that we reject, less than 2 years after the Uniformed Services Former Spouses Protection Act was enacted, three of these four rational and reasonable decisions about providing Government-financed medical care to former spouses of military personnel. Nothing has changed in the 2 years since those decisions were reached, and I know of no reason to change them now.

I know of no reason why the taxpayers of this Nation should pay for the medical care of persons who have not served in the military but formerly were associated with the military but for less time than we require military members to actually serve to receive similar care.

I know of no reason why the taxpayers of this Nation should pay for the medical care of persons who formerly were associated with the military but who have been divorced from their military spouse and have remarried, when we do not afford widows of combat casualties the same benefit.

I know of no reason why the taxpayers of this Nation should pay for the medical care of persons who formerly were associated with the military but who have medical care coverage as a result of their employment.

Finally, the proponents of this amendment have argued that the amendment should be adopted in its totality because there are former military spouses who are destitute and who need the medical care that would become available to them under the amendment.

There is no doubt that there are former military spouses who are needy. However, I hope that my colleagues will take note that this amendment has no procedure either to determine need or to determine whether any need is related in any way to the fact that a former spouse was once married to a military member.

Therefore under the amendment the taxpayers would have to pay for the medical care not only for needy former spouses, but also for former spouses who could be as young as their late 30's, who are in perfect health and no longer associated with the military, and even if they have plenty of money to provide their own medical coverage or have that coverage provided by an employer. I can think of no reason why the taxpayers should have to pay this $40 million bill each year.

However, there is one portion of the amendment which I believe does have merit. In the conference negotiations on the Former Spouses Act, a decision was made that medical care would be provided only to former spouses who were finally divorced after the effective date of the act, that is, after February 1, 1983.

That decision caused me concern then and it causes me concern now. I am aware that Congress has often established a new entitlement program in which only those who qualify after enactment are given benefits. Yet, in this case it seems to me that it simply is not fair to deny these benefits for former spouses divorced before February 1983 but who meet the otherwise reasonable requirements of the law.

Therefore, my amendment in the nature of a substitute would change the application provisions of the Former Spouses Act to no longer deny entitlement to military medical benefits to former spouses solely because they were divorced before February 1, 1983.

Mr. President, my substitute amendment would address the one real inequity that now exists in this area of the law. It would grant medical coverage to those former spouses who have been associated with the military for 20 years while the member performed duty. That is, it would retain the requirement that a former spouse be associated with the military for a period equal to that we require of our service personnel for that care. It would retain the requirement that entitlement to medical care would end upon remarriage, just as it does for the widows of combat veterans. It would retain the one test of need that is now in the law. That is, entitlement to free Government medical care would not exist if an employer were providing that care to a former spouse.

What it would change is the arbitrary date of February 1, 1983, as the date after which a divorce has to occur to be entitled to these benefits. In short, my amendment would make the medical care provisions of the Former Spouses Act retroactive.

Finally, Mr. President, my amendment will cost the taxpayers substantially less than the underlying amendment.

Mr. President, for these reasons, I urge my colleagues to vote for my amendment in the nature of a substitute.

**Mr. TRIBLE.** Mr. President, at this time I move to table the Jepsen substitute.

**The PRESIDING OFFICER.** The question is on agreeing to the motion to table.

**Mr. TRIBLE.** I ask for the yeas and nays, Mr. President.

**The PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**The PRESIDING OFFICER.** The question is on agreeing to the motion to table. The clerk will call the roll.

The bill clerk called the roll.

**Mr. CRANSTON.** I announce that the Senator from Colorado [Mr. HART] is necessarily absent.

**The PRESIDING OFFICER** [Mr. QUAYLE]. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—70

Andrews
Armstrong
Biden
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dodd
Domenici
Durenberger
Eagleton
Evans
Exon
Ford
Garn
Glenn
Gorton
Hatch
Hatfield
Hawkins
Hecht
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Kassebaum
Kasten
Kennedy
Lautenberg
Laxalt
Leahy
Levin
Mathias
Matsunaga
Mattingly
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Rudman
Sarbanes
Sasser
Specter
Stevens
Trible
Tsongas
Warner
Weicker
Wilson
Zorinsky

NAYS—29

Abdnor
Baker
Baucus
Bentsen
Cochran
Denton
Dixon
Dole
East
Goldwater
Grassley
Jepsen
Johnston
Long
Lugar
McClure
Melcher
Nunn
Pressler
Proxmire
Quayle
Roth
Simpson
Stafford
Stennis
Symms
Thurmond
Tower
Wallop

NOT VOTING—1

Hart

So the motion to lay on the table Mr. JEPSEN's amendment (No. 3247) was agreed to.

**Mr. TRIBLE.** Mr. President, I move to reconsider the vote by which the motion was agreed to.

**Mr. DIXON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** Senators will please clear the well. The Senate will be in order.

**Mr. TOWER.** Mr. President, have the yeas and nays been ordered on the amendment of the Senator from Virginia?

**The PRESIDING OFFICER.** They have not.

**Mr. TOWER.** Mr. President, I suggest that probably the final disposition of the amendment can be accomplished by a voice vote.

**Mr. DIXON.** That is satisfactory.

**Mr. TOWER.** It is my understanding that then the distinguished majority leader wants to turn to the consideration of the bankruptcy bill.

**The PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Virginia [Mr. TRIBLE].

The amendment (No. 3250) was agreed to.

**Mr. BAKER.** Mr. President, I move to reconsider the vote by which the amendment was agreed to

**Mr. TRIBLE.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. LEAHY.** Mr. President, may we have order?

**The PRESIDING OFFICER.** The Senate will be in order. The staff in the rear of the Chamber will cease conversation or leave the Chamber.

The majority leader.

## ORDER OF PROCEDURE

**Mr. BAKER.** Mr. President, I would propose in a moment to ask the Senate to temporarily lay aside the pending business, which is the DOD bill, and go to the bankruptcy bills on a very short time limitation, say, 10 minutes equally divided, and to proceed by unanimous consent to do certain things.

Let me explain ahead of time what all this amounts to so Members will not have to try to decipher the meaning of every word of the request I am about to put.

I will ask unanimous consent that we temporarily lay aside this bill and then go to the bankruptcy bill, which is H.R. 5174. At that point, Mr. President, the unanimous-consent request I am going to put would provide that the Packwood-Bildisco amendment would be withdrawn. It would also provide that there be a modification of the Thurmond committee amendment, so that the so-called national bankruptcy conference provisions would also be withdrawn. That is all going to be done in the unanimous-consent request. The unanimous-consent request would provide that no other labor-related provision to the bill would be in order.

We would then pass, Mr. President, the Thurmond-Heflin committee amendment, as modified relative to the substantive bankruptcy issues. Mr. President, after that it is anticipated that a Baucus amendment dealing with involuntary bankruptcy will be considered and adopted. Then we would pass the bill without further amendment or motion being in order, except the motion to reconsider and to table. And all of that will be done with an overall cap of 10 minutes.

After that, Mr. President, it would be the intention of the leadership on this side to ask the Senate to pass an extension of this bill until June 27. The reason for that, Mr. President, is the possibility that the conferees on the underlying bankruptcy bill might not be able to produce a bill immediately. So that would be an extra element of protection.

Mr. President, that is the nature of the request that we will be undertaking.

I am now told the Senator from Arizona [Mr. DECONCINI] wants 5 minutes of the 10 minutes for himself, 3 minutes for the Senator from Ohio, 1 minute for the Senator from Oregon, and 3 minutes for the Senator from Alabama. I guess we better extend that to an overall time limitation of 20 minutes then.

Mr. President, having described that, let me see if I can put it into a request.

Mr. STAFFORD. Will the distinguished leader yield for a question?

Mr. BAKER. Yes.

Mr. STAFFORD. It is the recollection of the Senator from Vermont that next in line following the bankruptcy bill, should that pass, would be the mathematics and science bill. I hope the leader would take care of that.

Mr. BAKER. The Senator is absolutely right. I should have included that. The unanimous-consent agreement which was entered into on June 6 provides that, after we dispose of bankruptcy, we would go to math-science. Under this configuration, instead, we would go back to DOD and finish it.

So I will include in the request that the math-science bill will become the unfinished business and that would bring it back automatically then after we dispose of DOD. I will also provide that no call for the regular order will bring back math-science during the pendency of the DOD bill, if that seems satisfactory.

Mr. STAFFORD. I thank the leader.

Mr. THURMOND. Will the distinguished majority leader yield?

Mr. BAKER. Yes.

Mr. THURMOND. Did the distinguished majority leader mention that, following the passage of this bill, there would be an extension of the existing bankruptcy system?

Mr. BAKER. Yes, Mr. President; I did do that. I thank the Senator.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. SARBANES. While the majority leader has the Members' attention, would he indicate what he foresees the schedule being for the balance of the evening once the bankruptcy-related legislation is completed?

Mr. BAKER. Mr. President, I will. I thank the Senator from Maryland. I ask the distinguished chairman of the Armed Services Committee to come to the floor and monitor what I am about to say, but what I am about to say is based on a conversation with him.

It is my understanding that he now believes we cannot finish this bill tonight; that we will go ahead, after bankruptcy, with certain other matters, a Specter amendment, perhaps, and maybe two other amendments may be dealt with—for example, a Mattingly amendment and a Stafford amendment—this evening. I have not asked the Senator from Texas to give me a time estimate on how late we will be in tonight. I will take my life in my own hands and say I expect it to be midnight or a little after and that we will be back tomorrow with some amendment pending, perhaps the Kennedy amendment. We will have the Nunn amendment tomorrow and no doubt others. I expect it will take the good part of tomorrow to finish this bill, but I would not expect us to be here much beyond midnight tonight based on the information given me and the inference I draw from it based on the information from the distinguished Senator from Texas.

Mr. GLENN. Is there a count on how many amendments are still remaining?

Mr. BAKER. I do not have that now. The last time I counted there were 80 and it frightened me so bad I have not counted since. But I will try to find out for the Senator from Ohio.

Mr. LEAHY. Will the distinguished leader advise us approximately what time we will be coming in in the morning?

Mr. BAKER. Mr. President, I once again would like to consult with the chairman of the Armed Services Committee before we set a time. But my present intention is to ask us to come in at 11 o'clock.

Mr. LEAHY. I thank the leader.

Mr. STENNIS. Will the Senator yield?

Mr. BAKER. Yes.

Mr. STENNIS. After the bankruptcy bill, could the Senator give us a list of what he expects to take up tonight, what amendments?

Mr. BAKER. After bankruptcy, I would expect us to go to a Specter amendment, maybe two Specter amendments, a Mattingly amendment, and a Stafford amendment yet this evening. I believe maybe two of those will require rollcall votes.

Mr. STENNIS. I thank the Senator.

### UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. I thank the Senator from Mississippi.

Mr. President, I do not have all of this on paper. Let me see if I can wing it so to speak. My colleague and friend, the minority leader, is here, and he will listen, I am sure.

Mr. President, first I ask unanimous consent that the Senate lay aside temporarily the consideration of the pending business, the DOD authorization bill, and proceed to consideration of H.R. 5174, the so-called bankruptcy bill. Further, I ask unanimous consent that the Packwood amendment relative to the Bildisco labor question be withdrawn.

Mr. President, I further ask unanimous consent that the Thurmond committee substitute amendment be modified so that the labor-bankruptcy conference's provisions on Bildisco will be withdrawn; and that the committee amendment will be modified in the form which I attach to this request.

Mr. President, I ask unanimous consent that no other labor union provisions will be in order for this bill.

Mr. President, I ask unanimous consent that after the disposition of the Thurmond-Levin committee amendment relative to substantive bankruptcy issues, and making these amendments effective on the date of enactment, that the distinguished Senator from Montana [Mr. BAUCUS] be recognized for the purpose of offering an amendment dealing with involuntary bankruptcy.

Mr. President, I ask unanimous consent that after the disposition of the Baucus amendment that no other amendments or motions will be in order except motions to reconsider votes, and motions to table motions to reconsider.

Mr. President, I ask unanimous consent that there be an overall limitation of 20 minutes on the consideration of this measure, amendments thereto, and any motions or debate in respect thereto.

Mr. President, I ask unanimous consent that the distinguished Senator from Oregon be recognized in his own right within that 20 minutes for 1 minute; that the Senator from Arizona be recognized for 5 minutes in his own right within that limit; the Senator from Ohio for 3 minutes; and, the Senator from Alabama for 4 minutes.

Mr. President, I ask unanimous consent that the control of the time remaining be in the usual form.

Mr. President, I further ask unanimous consent that immediately after the disposition of H.R. 5174 that the

Senate turn to the consideration of the simple extension of the bankruptcy bill in the form in which I now attach to this unanimous-consent request, and which provides for simple extension until June 27.

Mr. President, I ask unanimous consent that after the disposition of the second bankruptcy bill on which there will be a limitation of 1 minute equally divided, and the control of the time be in the usual form that the Senate resume consideration of the Department of Defense authorization bill.

Finally, Mr. President, I ask unanimous consent that the unanimous-consent order of June 6, 1984, be modified so that after the disposition of the bankruptcy bill the mathematics and science bill will assume the status of the unfinished business.

Mr. President, I believe that is the request.

**Mr. BYRD.** Mr. President, reserving the right to object.

**The PRESIDING OFFICER.** The minority leader is recognized.

**Mr. BYRD.** Mr. President, would the distinguished majority leader provide that no amendments or motions be in order except motions to reconsider votes, and motions to table motions to reconsider on the second original.

**Mr. BAKER.** Yes, Mr. President; I should have done that. I include that in my request at this time.

**The PRESIDING OFFICER.** Is there objection?

**Mr. BYRD.** Further reserving the right to object, Mr. President, is it clear now that the request that is being made by the distinguished majority leader provides that there would be no amendment to the Baucus amendment?

**Mr. BAKER.** Mr. President, that is the intention of the request. Let me make it clear that no other amendments are in order except those designated, and I include within the request that no amendment will be in order to any amendment to the bill.

**Mr. BYRD.** Mr. President, the request by the majority leader is satisfactory, certainly, as far as I am concerned.

It does provided that once the bankruptcy bill is disposed of the Senate would then go back to the Department of Defense authorization bill, and he made special provision protecting the math-science bill, and in doing so, he made it the unfinished business.

**Mr. BAKER.** Mr. President, I must amend in one other respect. I also ask unanimous consent that during the pendency of the first or second bankruptcy bill no call for the regular order will be deemed to displace those items.

**Mr. BYRD.** Mr. President, I remove any reservation.

**The PRESIDING OFFICER.** Is there objection?

**Mr. METZENBAUM.** Mr. President, reserving the right to object, would the majority leader be good enough to advise the Senator from Ohio whether the amendment that will be sent to the desk is a four-page document, on the fourth page of which there are several different paragraphs struck out, particularly the one having to do with the amendment on page 117. I want to be certain that we are talking about the same documents.

**Mr. BAKER.** Yes, Mr. President; would the Senator yield for just a moment? While we are checking that, I am advised now—and I have the attachment before me—that on page 4 of a copy that was submitted to accompany this request that lines 1 and 2 are stricken; that line 7 is modified by inserting beginning with after the number 117, and the balance of that sentence is stricken, and in lieu thereof is inserted all through line 31 on page 119.

**Mr. METZENBAUM.** I thank the majority leader.

**Mr. BAKER.** I thank the Senator from Ohio.

**The PRESIDING OFFICER.** Is there objection to the majority leader's request? Hearing no objection, it is so ordered.

**Mr. BAKER.** I thank all Senators. I designate the distinguished chairman of the Judiciary Committee to manage the overall time on this side for the presentation of both bills.

**Mr. BYRD.** Mr. President, I designate Mr. HEFLIN on this side to control the time.

## BANKRUPTCY AMENDMENTS OF 1984

**The PRESIDING OFFICER.** The Senate will now resume consideration of the unfinished business, H.R. 5174, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 5174) to provide for the appointment of United States bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

The Senate resumed consideration of the bill.

**The PRESIDING OFFICER.** Who yields time?

**Mr. THURMOND** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from South Carolina.

**Mr. THURMOND.** Mr. President, my package of amendments which the majority leader just sent to the desk contains amendments, many of which are technical in nature, which have been agreed to by committee members on both sides of the aisle. We have collected these amendments, which have been suggested by different Senators, in one package to facilitate timely passage of the bankruptcy bill.

The most significant change is the deletion of the labor provisions from the substitute bill. I have agreed to offer this particular amendment in light of the fact that my distinguished colleague, Senator PACKWOOD, has also agreed to withdraw his labor amendment. This procedure will hopefully allow us to pass a bankruptcy bill in the Senate and to resolve this and other issues in conference.

I would like to emphasize, however, that there are no agreements whatsoever with regard to whether there will be a labor provision in the final bill or, if there is, what that provision would be. I have agreed to this approach—and I would like to thank my distinguished colleague from Oregon for agreeing to it as well—to move us one step further in the process of passing a much-needed bankruptcy bill. It is my sincere hope that the conference on the bankruptcy bill will be a very brief and productive one.

This package of amendments also contains a number of essentially technical amendments suggested by the distinguished Senator from Arizona, Senator DECONCINI. These amendments would make certain changes in title I of the Senate substitute. Senator DECONCINI will later explain these changes in greater depth.

This package further amends the substitute to address concerns raised by my colleague from Ohio, Senator METZENBAUM. It is my understanding that, if these changes are made, Senator METZENBAUM. will allow us to proceed with consideration of the bankruptcy bill in a timely fashion, thereby avoiding the need for extended debate on these issues. It is for this purpose that I have agreed to make these changes.

The provisions which Senator METZENBAUM, has requested to be changed are as follows:

Portions of subtitle K, entitled "Supplemental Amendments: would delete provisions relating to the twist cap and Durrett issue; would also delete provisions relating to municipal bonds;

Subtitle H, entitled "Bankruptcy Oversight,": would delete this provision which would have required the Director of the Administrative Office of U.S. Courts to compile certain statistics regarding comparative performance of courts in cases filed under the respective chapters of the Code;

Amendment to 11 U.S.C. 457(b) relating to preferences: would delete this amendment which would have reinstated "reasonable cause to believe" as an element which the trustee must establish in order to reclaim a payment as a preference;

Certain amendments to 11 U.S.C. 1328. Mr. President, while I would have supported certain of these changes particularly those relating to preference law, I also support timely passage of this much-needed bankruptcy bill. It is with this larger goal in mind that I have agreed to make these changes.

This package also contains an amendment suggested by Senator KENNEDY which clarifies that nominees for Federal judgeships should be selected without regard to race, color, sex, religion, or national origin. This provision was contained in S. 1013 as passed by the Senate, but was inadvertently dropped from the substitute amendment.

Finally, this package contains an amendment making all of title III of the substitute effective on the date of enactment.

I urge my colleagues to support the changes contained in this package of amendments.

Mr. President, I commend the able Senator from Kansas [Mr. DOLE] for the great work he has done on this bill; the able Senator from Utah [Mr. HATCH] for the extensive time he has devoted to this bill and the fine work he has done on it; the distinguished Senator from Oregon [Mr. PACKWOOD] who has cooperated with us in order to pass this bill in the Senate; the distinguished ranking member of the Judiciary Committee [Mr. BIDEN] who has been very helpful; the distinguished Senator from Alabama [Mr. HEFLIN] who has worked arduously on this matter and has done a fine job; the distinguished Senator from Arizona [Mr. DECONCINI] who has been very interested and very helpful in suggesting changes which have been adopted; and the distinguished Senator from Ohio [Mr. METZENBAUM] who also has been helpful in bringing about passage of this bill. I would like to commend Vinton DeVane Lide, chief counsel of the Judiciary Committee, and Sally Rogers of my committee staff for their work on this bill. I would also like to thank and commend Arthur Briskman of Senator HEFLIN's staff, Doug Comer of Senator DOLE's staff, Randy Rader and Steve Markman of Senator HATCH's staff, Bob Fiedler of Senator DECONCINI's staff, Ellen Broadman of Senator METZENBAUM's staff, and Jan Wilson of Senate legal counsel. They have all been instrumental in securing Senate passage of this important bill.

Mr. President, I think this is the only hope we have of getting a bankruptcy bill. I hope my colleagues will support this approach and that we can pass the bill promptly.

Mr. GRASSLEY. Mr. President, once again we are revisiting the bankruptcy issue. It is important to note that the Senate had desired to move forward on bankruptcy legislation since I have been a Member of the Senate—some 3½ years. Nevertheless, it is only since the Supreme Court's decision in NLRB against Bildisco that the House has seen fit to pass legislation to revamp bankruptcy standards of adjudication.

Not a day goes by that I do not hear from someone in my State involved in a bankruptcy that this bill does not in some manner redress. From farmers embroiled in bankrupt grain elevators, to business people frustrated by their inability to collect obligations from persons who could ultimately well afford to pay their debts, this bankruptcy reform has been long in coming; and unfortunately the delay has resulted in needless pain for individuals caught in the middle.

Insofar as the Bildisco decision is concerned, I regret that this one labor issue determines the life or death of the bill as a whole. The bankruptcy debate has been thoroughly aired—we have hearing upon hearing of Federal judgeships, consumer finance amendments, shopping center amendments, grain elevator amendments, separate bankruptcy clerk offices, and one last-minute hearing on the labor provision.

I am under no misunderstanding concerning the life of this bill. The House bill that was passed on March 21 has many similarities to the Senate bill. It is a workable bill to the surprise of many of us on this side of the aisle. It is my hope that we can resolve the labor issue before us and accept the nonpartisan views of the national bankruptcy conference. I cannot support anything more than this approach which I view as fair and reasonable. I look forward to the conference on this bill and intend to actively participate.

The PRESIDING OFFICER. Who yields time?

### AMENDMENT NO. 3251

(Purpose: To amend the provisions regarding involuntary bankruptcy)

Mr. HEFLIN. Mr. President, I sent an amendment to the desk on behalf of Mr. BAUCUS and aks for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] for Mr. BAUCUS, proposes an amendment numbered 3251.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, line 15, after "427." insert "(a)".

On page 65, between lines 17 and 18, insert the following:

(b) Section 303 of title 11 of the United States Code, is amended—

(1) In subsection (b)(1) by inserting "or the subject of a bona fide dispute," after "liability";

(2) In subsection (h)(1) by inserting ", provided, however, that such order may not be based solely upon debts that are the subject of a bona fide dispute" after "due".

Mr. HEFLIN. Mr. President, this amendment deals with involuntary bankruptcy, and I am advised it has been cleared by the managers of the bill.

Mr. BAUCUS. Mr. President, my amendment is designed to correct what I perceive to be an unintended inequity in the law of involuntary bankruptcies.

Under section 303 of title 11 of the United States Code, creditors have the right to file involuntary bankruptcy petitions and obtain orders of relief against a debtor who is generally not paying such debtor's debts as such debts become due. For the most part, section 303 has proved to be both workable and fair in practice. But unfortunately it has also created a problem that I do not believe Congress contemplated when it revised the Bankruptcy Code in 1978.

The problem can be explained simply. Some courts have interpreted section 303's language on a debtor's general failure to pay debts as allowing the filing of involuntary petitions and the granting of involuntary relief even when the debtor's reason for not paying is a legitimate and good-faith dispute over his or her liability. This interpretation allows creditors to use the Bankruptcy Code as a club against debtors who have bona fide questions about their liability, but who would rather pay up than suffer the stigma of involuntary bankruptcy proceedings.

My amendment would correct this problem. Under my amendment, the original filing of an involuntary petition could not be based on debts that are the subject of a good-faith dispute between the debtor and his or her creditors. In the same vein, the granting of an order of relief could not be premised solely on the failure of a debtor to pay debts that were legitimately contested as to liability or amount.

I believe this amendment, although a simply one, is necessary to protect the rights of debtors and to prevent misuse of the bankruptcy system as a tool of coercion. I also believe it corrects a judicial misinterpretation of existing law and congressional intent as to the proper basis for granting involuntary relief.

It is my understanding that the placement of my amendment in the bill carries with it an effective date as of the date of enactment of the legislation. I believe such an effective date is particularly important in the context of this amendment in order to ensure that existing inequities do not persist in cases in which no final order has been issued.

I urge my colleagues to give careful and favorable consideration to the amendment I am proposing today.

Thank you.

Mr. HEFLIN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3251) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, there has been some question about the status of jury trials in the bankruptcy law. I have a statement to clarify the intent of these provisions that has been cleared by the distinguished chairman of the Senate Judiciary Committee.

Mr. President, the language in this substitute amends 28 U.S.C. 1480 by striking out "in a case under title 11 or in a proceeding arising under title 11 or arising in or related to a case under title 11, that is provided by any statute in effect on September 30, 1979." The purpose of this change is to eliminate any possible ambiguity as to Congress' original intent in connection with the preservation of rights to jury trials. When Congress passed this provision as part of the Bankruptcy Reform Act of 1978, it intended to maintain the status quo on jury trial rights as such rights had existed prior to the expansion of the Bankruptcy Court's jurisdiction. However, as drafted, the provision engendered confusion as to how to determine when a litigant was entitled to a jury trial. Moreover, courts differed on what was meant by the phrase "any statute in effect on September 30, 1979." It was not clear whether "statute" encompassed the U.S. Constitution as well as the various State constitutions.

This changing language is intended to clarify Congress' original intention that the expansion of powers granted to the bankruptcy system under the Bankruptcy Reform Act of 1978 was not intended to alter rights to jury trials which might have existed under State or Federal law prior to 1978. Congress never intended that the filing of a bankruptcy petition by a debtor act as an escape hatch from jury trials.

Thus, where a debtor, creditor or noncreditor third party would have had a right to a jury trial on an issue of fact pursuant to Federal or State law absent application of the bankruptcy laws, this amendment ensures that such rights remain intact. This is true whether or not an entity requesting a jury trial has filed a proof of claim with the bankruptcy court.

Mr. President, I would like to make an inquiry of the distinguished floor manager concerning two sections of the bill. The first concerns section 102 as it amends section 1411 of title 28 of the United States Code.

Would you agree that the intent of the amendment you are making is only to simplify the language of existing law and there is no intention to effect any substantive change?

Mr. THURMOND. Yes; the Senator is correct.

Mr. HEFLIN. Second, concerning clerks of court offices. Would the distinguished floor manager agree that the decision as to whether to certify the need for a clerk of court is one to be left entirely to the bankruptcy judges and that such decision will be based on the need to have a clerk as that bankruptcy judge ascertains?

Mr. THURMOND. Again, the Senator is correct.

Mr. HEFLIN. I thank the Senator.

Mr. President, one of the most important aspects of this substitute is the abstention provision.

### ABSTENTION

The language in this substitute clarifies jurisdictional provisions consistent with the Supreme Court decision in Marathon. Section 101 mandates the Court on the motion of a party to abstain from determining matters that could not have been commenced in Federal court without the filing of a petition in bankruptcy and is based upon a State claim or cause of action. By the Bankruptcy Court's or district court's abstaining from taking jurisdiction over the State matter, the State court can adjudicate the matter if the action can be timely prosecuted. The granting of abstention is not appealable, but the denial of abstention in section 101(c)(2) is an interlocutory order, appealable in accordance with section 104 of this title.

The purpose of this section is to delineate between the traditional bankruptcy court jurisdiction and jurisdiction vested within the State court, since the Marathon decision determined that an article I Bankruptcy Court did not have the authority to adjudicate private, State-created rights.

Mandatory abstention is important to be consistent with the Marathon decision and the express intent of both the House and the Senate in attempting to reestablish a constitutional bankruptcy court. The Supreme Court made it clear that article I bankruptcy courts could not adjudicate proceedings involving State-created rights.

The Congress' responsibility in light of the Marathon decision was either to make the bankruptcy courts article III and allow them to adjudicate all matters in one forum that are involved in a bankruptcy estate, or to continue an article I bankruptcy court and limit the jurisdiction of that court.

The Senate, by passing S. 1013 on April 27, 1983, and the House passing the Kastenmeier-Kindness amendment to H.R. 5174 on March 21, 1984, made policy decisions to limit bankruptcy courts to article I status and thereby limit the jurisdiction of the bankruptcy court to make it consistent with Marathon.

However, without providing for abstention by the court, we are denying an individual the right to have a State-created right adjudicated by a State court and expanding jurisdiction of the bankruptcy court inconsistent with the Marathon decision.

For example a moving company has 100 vans. One has an accident in Mississippi, another van has an accident in Arizona and a third van has an accident in Oregon. Because of general financial problems, the company files for relief under the Bankruptcy Act in Massachusetts. Without a mandatory abstention, all the Mississippi, Arizona, and Oregon parties would have to come to Massachusetts to make and adjudicate their claims against the moving company.

Not only is this unfair for obvious reasons, since the plaintiffs have to go thousands of miles to try a case for which jurisdiction lies at the place of the tort, but it also encourages individuals and companies to use the bankruptcy laws solely to escape State court jurisdiction and deny claimants a right to a fair trial in the appropriate court. This is an abuse of the bankruptcy power.

The Senate language seeks to preserve such State law right and any delusion or modification of mandatory abstention would perpetuate a system which is open to abuse.

The fundamental question at the heart of this debate on the restructure of our bankruptcy courts is: Does the Congress of the United States want to authorize a super court bankruptcy system, with greater authority than the civil jurisdiction of the U.S. District Court, that is able to supersede any State court in this country? I cannot believe that is what the Senate of the United States wants to create—I certainly am for continuing our great system of federalism in this country and not for the creation of an all powerful Federal bankruptcy system.

Mr. President, I would like to thank Senator DeConcini, Senator Armstrong, and Senator Wilson who had questions pertaining to these matters. We have endeavored to try to work out our differences in conferences.

Mr. DeCONCINI. Mr. President, will the Senator from Alabama yield?

Mr. HEFLIN. I yield to the distinguished Senator from Arizona.

**Mr. DeCONCINI.** I thank the Senator, and I thank him and his staff for the time that he put in and his cooperation, as well as that of the chairman of the committee, Senator DOLE, Senator METZENBAUM, and others.

Mr. President, when the bankruptcy bill came before the Senate on May 21, I offered an amendment that would have revised certain sections of title I of the bill concerning the court structure of the new bankruptcy system. Since the time I offered that amendment I have received tremendous support and encouragement for it.

On May 21, I basically argued that title I of the pending bill would have a very adverse impact on the bankruptcy process. I felt that it would add expense and delay to a process that requires speed and limits on needless expenditures. I have not changed my mind. I feel my amendment is necessary—and this view is shared by some distinguished people and groups. Among those that I would count that have come out most favorably for my amendment are: The Department of Justice; the National Bankruptcy Conference—a distinguished group of judges, scholars, and debtor and creditor attorneys devoted to improving the bankruptcy system; the chairman of the board of the American Bankruptcy Institute; the Ad Hoc Committee of the American Bar Association Business Bankruptcy Committee tasked with looking into the issue; the Commercial Law League of America; and many other lawyers and judges who have shared their support with me through letters and telephone calls. Additionally, my amendment is supported by the distinguished chairman of the Courts Subcommittee and one of the primary authors of this bill, BOB DOLE.

Despite this support and my own deep feelings about the necessity for my amendment I have decided against offering it at this time. The basic reason is time. The bankruptcy system as we know it expires in 36 hours. I am told that offering my amendment now might lead to extended debate by its opponents and although I would welcome the opportunity to fully explore the issue I also do not want to jeopardize the passage of this bill or further delay action on the DOD bill.

I anticipate that I will be named to the Conference Committee on this bill and at that time I will offer the amendment I had intended to offer today. I am assured that other probable members of the Conference Committee will keep an open mind during the Conference on the merits of any suggested amendments. I also presume, since I am not offering this amendment at their request, that no bias will be associated with my not offering my amendment at this time, and that no undue weight will be given to today's Senate action.

Mr. President, I particularly want to thank Bob Feidler of my staff for the outstanding work he has put forth in this effort.

Mr. President, I ask unanimous consent that a letter from the National Bankruptcy Conference, dated May 23, 1984, be printed at this point in the RECORD, together with a "Dear Colleague" letter, dated May 24, 1984, signed by me.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

NATIONAL BANKRUPTCY CONFERENCE,
*Washington, DC, May 23, 1984.*

Hon. DENNIS DECONCINI,
*U.S. Senate, Washington, DC.*

DEAR SENATOR DECONCINI: While the National Bankruptcy Conference continues strongly to prefer that bankruptcy judges be given Article III status, we are aware that such a legislative resolution does not appear to be achievable at the present time.

Accordingly, we have reviewed the Thurmond-Heflin bill before the Senate today and the proposed substantive amendments being proposed by you. We are particularly focusing on the alternative treatment of the issue of mandatory abstention to state courts.

The approach taken by Senators Thurmond and Heflin, while advanced in the utmost of good faith, in our view could have serious complicating effects on the administration of bankruptcy cases around the country. The approach could result in significant additional expense and delay in the expeditious disposition of matters in bankruptcy.

The approach that you have taken would narrow the scope of mandatory abstention to an appropriate level which would be consistent with the needs of the Marathon decision, but would not unduly interfere with the rapid and efficient disposition of matters in bankruptcy.

Hence, the position of the National Bankruptcy Conference is strongly in favor of your proposed substantive amendment.

Respectfully,

CHARLES A. HORSKY,
*Chairman.*

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, May 24, 1984.*

DEAR COLLEAGUE: At an appropriate time during consideration of H.R. 5174, the Bankruptcy Amendments of 1984, I intend to offer an amendment to the court structure provisions (Title I), as proposed by the Thurmond/Heflin substitute. I do this only after having received the counsel of many bankruptcy experts and having become convinced that an amendment such as the one I will offer is essential to the maintenance of a sound bankruptcy system.

Senators Thurmond and Heflin deserve praise for their diligent and thoughtful efforts in modifying the bankruptcy laws. I concur in what they have done except as it relates to certain provisions of Title I.

Having served as chairman of the Courts Subcommittee and having been intimately involved with the Federal bankruptcy system, I am deeply troubled by Title I as proposed. The provisions of Title I effectively strip the bankruptcy courts of their ability to function. The result will be that debtors, creditors, employees, shareholders, and everyone indirectly associated with the bankruptcy process will be disastrously affected.

In short, the Thurmond/Heflin abstention provision and related provisions will mean that in any bankruptcy proceeding involving a state law claim or cause of action, where objection to jurisdiction is raised, the proceeding would not be heard by either the Federal bankruptcy court or a Federal district court. Rather, each such proceeding within the case, if it were to be pursued, would have to be brought in a state forum of appropriate jurisdiction. The resulting costs, delays, and erosion of the estate would be borne by the debtor and every creditor and employee of the estate. The bankruptcy court will become little more than a "basket" to receive state court judgments that may well be worthless after the estate has been through a prolonged period of litigation and paid the costs of administration.

Such broad mandatory abstentio will end the efficient, expeditious handling of bankruptcy cases. Most claims that arise in a bankruptcy proceeding are grounded in state law. For a hundred years, bankruptcy courts have efficiently and fairly considered claims based on state law. In considering those claims, bankruptcy courts apply appropriate State law, but do so in a manner that reflects the need for speed and the general purpose of keeping costs to all parties, debtor and creditor alike, to a minimum.

There is also no basis for contending that mandatory abstention from all state law claims is required in response to the Supreme Court's Marathon decision which found that under the 1978 Bankruptcy Act, the bankruptcy courts had received an unconstituted delegation of jurisdiction. Marathon concerned a suit brought by the estate against a party who had no connection with the bankruptcy case, but who was forced into the bankruptcy court. I fully agree that persons in that situation should not unwillingly be subjected to Federal court jurisdiction. But the Thurmond/Heflin proposal extends far beyond that narrow situation.

The amendment I will offer responds specifically to the Marathon case and to the above concern. It mandates abstention only where a party is unwillingly brought into the bankruptcy proceedings by the estate. My amendment would balance legitimate concerns for the rights of litigants on the one hand with the urgent need for speedy resolution of bankruptcy cases on the other hand.

My concern is shared by a number of people and groups who are intimately familiar with the bankruptcy system, including the National Bankruptcy Conference (see attached letter), the Chairman of the Board of the American Bankruptcy Institute, the Commercial Law League, the American Bankers Association, and the Chairman of the Ad Hoc Courts Committee of the American Bar Association Business Bankruptcy Committee who was tasked by that Committee to look into the court structure provisions of the bankruptcy bill. My concern is also shared by the distinguished chairman of the Courts Subcommittee, Senator Dole.

The Thurmond-Heflin proposal will inject significant additional expense and delay into a system that requires both speed and limitations on needless expenditures that eat away at the estate. Its passage would seriously disrupt the operation of our bankruptcy system. I urge your support of my amendment which continues the basic, traditional jurisdiction of our bankruptcy courts, which have functioned so well in the face of the recent explosion in the numbers of bankruptcy cases.

Sincerely,

DENNIS DECONCINI.

Mr. DECONCINI. The amendments I intended to offer to the pending bill are intended to preserve the consolidation of jurisdiction that was the primary purpose of the 1978 act, while still recognizing the legitimate concerns that are reflected in the pending bill. The 1978 Bankruptcy Act ended the needlessly expensive jurisdictional games that lawyers and some parties to bankruptcy proceedings engaged in to the detriment of debtors, their legitimate creditors, their employees, and their stockholders. The amendments that I propose seek to balance effective bankruptcy administration with the constitutional concerns reflected in the Marathon decision and the concerns of personal injury tort claimants.

My amendments would address the issue presented in the Marathon case by providing for abstention by the Federal courts where a proceeding, which could not otherwise be brought in a Federal court, is brought by the trustee against a party who has no other connection to the bankruptcy proceeding. Abstention by the Federal courts would be required in such a proceeding if the claim can be timely adjudicated in a State forum of appropriate jurisdiction and abstention would not be detrimental to the best interests of the estate. Where the trustee is bringing such a claim, abstaining where timely State court adjudication will take place will not normally threaten the administration of the bankruptcy case.

You may ask why it is not possible to have a broader abstention provision. I have become convinced that a broader abstention provision would be extremely harmful to the effective operation of our bankruptcy system, threatening the recoveries of every creditor and the jobs of every employee involved in a bankruptcy proceeding. Bankruptcy courts for nearly 100 years ruled on State law issues arising from the filing of claims in bankruptcy cases. A bankruptcy court, for example, sitting in Kansas which receives a claim based on a note that is to be construed under Illinois law will, of course, apply Illinois law in resolving a dispute concerning the note. There is no threat to States' rights when a bankruptcy court applies State law to resolve such a dispute. But forcing abstention from resolution of that dispute by referring the proceeding to an Illinois State court would impose enormous administrative costs and delays on all those creditors and employees with legitimate claims in the proceeding. Even a moderate-size bankruptcy could spawn hundreds of such proceedings, threatening to wipe out the estate through delays and legal fees.

Bankruptcy courts must retain their traditional, long established, and undisputed power to resolve such claims inexpensively and expeditiously if our bankruptcy system is to to work. Otherwise, our bankruptcy courts will consist of nothing more than a basket in which claimants drop State court judgments—judgments that won't be worth the paper they are written on since all of the estate will already have been exhausted by litigation costs and attorney's fees.

My court's amendment does address a key concern of many of my colleagues by exempting out of the list of core proceedings those claims that are based on personal-injury tort actions. Bankruptcy courts have traditionally estimated unliquidated or contingent claims and should have this power for most claims. A broad limitation on estimation of contract claims, for example, would create unnecessary delays and increased cost if there had to be de novo review by a district court judge of every such matter. But there is a strong argument that personal-injury tort claimants, who of course do not voluntarily become involved with a defendant, should have the protection of having any final order entered by an article III district court judge after de novo review by the district judge of any findings of fact or conclusions of law to which any party has objected.

A third provision of my amendment is also intended to avoid unnecessary delays and costs. It would require that when the district court is asked to withdraw a proceeding from the bankruptcy court, the district court shall decline to withdraw a proceeding where withdrawal would unduly delay administration of the estate. When determining a motion for withdrawal, the district court should consider the status of the bankruptcy proceedings, the importance of the proceeding to the bankruptcy case, the relative caseloads of the district court and the bankruptcy judge, and the likelihood that the proceeding will in fact involve other laws regulating organizations or authorities affecting interstate commerce. This withdrawal provision should not be allowed to be used by any party for the purpose of delay.

The final provision of my amendments concerns the effective date of the abstention provision. Since that provision mandates abstention where certain conditions are met, my amendments provide that the abstention provision will not apply to cases pending on the date of enactment of this act. A provision with as much potential impact as a mandatory abstention provision should not be imposed on an ongoing case when such a provision could disrupt, for example, ongoing settlement discussions.

In sum, Mr. President, my amendments reflect a balance between the need for an effective and efficient bankruptcy court system that can protect creditors, debtors, employees, and shareholders, and the concerns of those who find themselves involuntarily involved in a bankruptcy proceeding. The provisions of the pending bill could be read to require abstention from and deny core proceeding status to a broad range of proceedings. With so many jobs dependent on speedy and efficient management of bankruptcy proceedings, the creation of delays by mandatory abstention and similar provisions is very troubling.

With over one-half million pending cases in the bankruptcy courts, which are now operating at full capacity, we cannot risk the disruption that could result from application of the several provisions in title I of the pending bill. Support of my amendment will assure the continued, reasonably efficient functioning of the bankruptcy courts.

Mr. President, I ask unanimous consent that an analysis of the Thurmond-Heflin bill, a section-by-section analysis, and a copy of the amendments be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### ANALYSIS OF THURMOND-HEFLIN BILL

The bill that will be offered by Senators Thurmond and Heflin could endanger the operation of the entire federal bankruptcy system. The principal danger posed by the bill is contained in new section 1334(c). That section mandates that all federal courts, including both the bankruptcy courts and the district courts, *must* abstain from deciding claims based upon a state law claim or cause of action. Under that provision, any party—a creditor, a debtor, a trustee—could insist that a proceeding that involves state law would have to come to a complete halt. The parties, regardless of the expense, would have to commence a new proceeding in state court in a state that could be thousands of miles away from where the bankruptcy case is pending. After the state court rules, and presumably after all state court appeals are exhausted, the parties would go back to bankruptcy court to enforce the state court order.

Such a procedure is not practical and would allow those who favor delay, which in some cases would be the debtor, in other cases would be a creditor, limitless opportunities to create endless delays. It is not at all clear what the drafters of this provision intended. If they intended to require a decision by a state court on all matters in bankruptcy that concern state law claims, then we might as well close down the entire bankruptcy court system, for virtually every claim in a bankruptcy case is based on a state law claim or cause of action. If every bankruptcy proceeding had to await decisions by state courts on every such matter, creditors and debtors alike would be deprived of the speedy resolution of disputes that is essential to the operation of bankruptcy. The amendment would lead to endless disputes about whether the bankruptcy court or the state court was the proper forum, disputes that would make the lawyers rich while creditors and debtors saw all hope of any benefit from the bankruptcy proceeding evaporate.

Two examples will illustrate the dangers of the amendment. The Senate has previously enacted an amendment to the Bankruptcy Code to protect farmers whose grain is stored in a grain storage facility that enters bankruptcy. The grain elevator amendment provides a bankruptcy trustee's avoiding powers are subject to statutory and common law rights of reclamation. That provision is intended to allow a farmer to exercise his reclamation rights without having these rights upset by a trustee's preference or fraudulent conveyance powers. Reclamation rights are, however, based on state law. Under the Thurmond-Heflin abstention provision, could a bankruptcy court decide in an expeditious fashion whether a farmer's reclamation rights can be exercised or would a lender with a lien on the grain elevator be able to insist that the bankruptcy proceeding come to a halt while a separate state court action was brought and adjudicated to decide the reclamation rights issue? Simply the threat of an abstention motion could be used by the lender to force the farmers to compromise their rights.

The same issue would arise under the leasehold management amendments that are contained in the Senate's bill. The leasehold amendments provide that a trustee may not, for example, assign a shopping center lease that has been terminated under applicable nonbankruptcy law. That law, of course, is state law. Under the abstention provision of the new bill, if a landlord opposed an assignment on the ground that the lease had terminated under state law, the debtor apparently could force the landlord to incur the expense and the inevitable delay to go to state court to get a determination that the lease was terminated, and then return to bankruptcy court to enforce the order.

There are countless other examples. The timeshare amendment contained in the bill requires interpretation of timeshare plans and interests which are grounded in state law. The right of setoff, a critical right preserved by section 553 of the Bankruptcy Code, is virtually always based on state law. Other examples include: The validity of post-petition security interest (11 U.S.C. § 552); the determination of secured claims (11 U.S.C. § 506); the ability of lenders to foreclose on mortgages and obtain possession of other collateral (11 U.S.C. § 362); and the right of a trustee to sell property free and clear of liens (11 U.S.C. § 363(f)).

It may well be that, after years of litigation, the courts will decide that this dangerous provision has to be narrowly interpreted in order for bankruptcy courts to operate effectively. But there is no justification for reinstituting these sorts of jurisdictional battles into the bankruptcy court system. The purpose of the 1978 Bankruptcy Reform Act was to eliminate these types of senseless jurisdictional disputes.

There is one set of disputes where abstention may be justified and that is a situation like the one that the Supreme Court addressed in the *Marathon* decision that invalidated a portion of the 1978 Act. That case involved a claim by a debtor, based on a state law claim, against a defendant who had no other connection to the bankruptcy proceeding. A defendant in that position has good grounds to object to being forced to appear in a federal court simply because the plaintiff is bankrupt. The amendment I intend to offer would limit that abstention provision to causes of action asserted or brought by the Trustee which do not arise under title 11 or in a case under title 11 and which could not otherwise have been brought in federal court. My amendment provides that, upon timely motion by the party against whom the action is brought, the federal courts would abstain from determining a state law claim where a state action will be timely adjudicated and where such abstention would not be deterimental to the best interests of the estate. This approach would protect defendants from having to appear in federal court simply because the plaintiff is bankrupt while preserving the integrity of the bankruptcy court system.

A similar problem exists in the definition of core proceedings in new Section 157 of the Thurmond-Heflin bill. That section would prohibit the bankruptcy courts from issuing final orders in the liquidation or estimation of contingent or unliquidated claims against the estate. A large portion of claims against an estate are unliquidated claims, that is, claims that have not been reduced to judgment before the commencement of a bankruptcy case. There is no reason why, after years of determining and estimating such claims, the bankruptcy courts should be deprived of that jurisdiction. If the bankruptcy courts are unable to determine matters as fundamental as liquidating claims, the bankruptcy system will be made far more expensive for creditors and debtors alike, and only the lawyers will benefit.

On the other hand, there is a legitimate concern about the estimation of unliquidated personal injury tort claims which are brought into bankruptcy court by the fact that the defendant enters bankruptcy. Unlike a trade creditor who elects to do business with a particular company, the personal injury tort claimant does not choose to be injured by a particular debtor. For that reason, my amendment would permit the bankruptcy court to issue final orders estimating or liquidating all claims except for unliquidated personal injury tort claims. Those individuals with the misfortune to have personal injury tort claims against a bankrupt would have the right to have a final order entered by an Article III district judge.

The other changes included in the DeConcini Courts Amendment are intended to allow bankruptcy courts to function efficiently while still conforming to the dictates of the Supreme Court's decision in *Marathon*. It requires motions to abstain or for withdrawal to the district court or to have a proceeding not be a core proceeding to be filed with the initial appearance of the party, so as to prevent forum-shopping and the waste of judicial resources that would result if such motions were delayed.

My amendment would clarify the list of core proceedings to conform to bankruptcy terminology in the area of preferences and fraudulent conveyances and would add to the list orders concerning the use or lease of property, including the use of cash collateral, which are traditional orders entered by bankruptcy courts.

The appeals provisions of my amendment would also clarify the composition of bankruptcy appellate panels and would provide that appeals from bankruptcy court orders have to be filed within 10 days, reflecting the need for haste in bankruptcy matters.

### SECTION-BY-SECTION ANALYSIS

1. *Section 1334(c)(2).* This provision would require Federal courts, upon timely motion, to abstain from proceedings brought by the trustee based solely upon a State law claim or cause of action which neither arises under title 11 nor arises in a case under title 11 where the claim will be adjudicated in a timely fashion in state court and abstention would not be detrimental to the best interests of the estate. This provision would protect those parties against whom such a claim is brought from having to appear in Federal court where there is no other basis for Federal court jurisdiction and where the party has no other connection to the bankruptcy proceeding. That is the type of case that was before the Supreme Court in *Marathon* and, in most instances, Federal courts should abstain from deciding such claims where there will be a timely state court adjudication and where there are not other good grounds to refuse to abstain. Thus, where the proceeding is brought against a party who is otherwise involved in the bankruptcy case, abstention would not be required.

2. *Section 157(b)(2)(B).* This provision provides that core proceedings include allowance or disallowance of claims against the estate or exemptions from property of the estate, but do not include liquidation or estimation of contingent or unliquidated personal injury tort claims against the estate. Bankruptcy judges have traditionally liquidated or estimated contingent or unliquidated claims. When a claim is based on a contract, for example, of a party dealing with the debtor, the bankruptcy judge should enter final orders estimating those claims. There are good grounds, however, for requiring that any final order estimating or liquidating personal injury tort claims, such as claims arising from automobile accidents, which are claims of parties who have not voluntarily involved themselves with the debtor, be entered by an Article III district court judge. For that reason, this provision exempts such claims from the definition of "core proceedings." Although the bankruptcy judge will enter proposed findings of fact and conclusions of law, any final order will be entered by the district judge after the district judge has considered the bankruptcy judge's proposed findings and conclusions and after *de novo* review by the district judge of those matters to which a party has timely and specifically objected.

In all proceedings, however, a debtor, trustee, creditors' committee, examiner, or representative of the estate (such as disbursing agent assigned claims under a plan) shall be deemed to have consented to have any proceeding referred to the bankruptcy judge for entry of final orders. These parties should not have the right to delay proceedings by opposing the entry of final orders by the bankruptcy judge.

3. *Section 157(d).* This provision concerns mandatory withdrawal of proceedings from the bankruptcy judge where the district court determines that resolution of the proceeding requires consideration of both title 11 and other laws of the united States regulating organizations or activities affecting interstate commerce. The district court should withdaw such proceedings only if the court determines that the assertion that other laws regulating organizations or activities affecting interstate commerce are in fact likely to be considered, and should not allow a party to use this provision to require withdrawal where such laws are not materi-

al to resolution of the proceeding. The district court should refuse withdrawal if withdrawal would unduly delay administration of the case, considering the status of the case, the importance of the proceeding to the case, and the relative caseloads of the district court and bankruptcy judge.

4. *Section 122.* This provision states that the abstention provision added by section 101 of this Act shall not apply to cases pending on the date of enactment of this Act. This is intended to prevent disruption of ongoing cases and proceedings.

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On page 2, strike out lines 6 through 20, and insert in lieu thereof the following:

"(2) In a proceeding brought by the trustee which is based upon a State law claim or cause of action neither arising under title 11 nor arising in a case under title 11, which could not otherwise have been brought in Federal court absent jurisdiction under this section, the court shall, upon timely motion of the party against whom the claim or cause of action is brought, abstain from adjudicating such claim or cause of action in the bankruptcy proceeding if (1) such claim or cause of action will be timely adjudicated in a State forum of appropriate jurisdiction and (2) abstention would not be detrimental to the best interests of the estate. Such abstention is not reviewable by appeal or otherwise.

On page 12, line 31, after "unliquidated" insert "personal injury tort".

On page 14, line 11, before the period, insert the following: ", and determines that withdrawal would not unduly delay administration of the case".

On page 22, line 25, before the period, insert the following: ", except that section 1334(c) of title 28, United States Code, as added by section 101 of this Act shall not apply to cases pending on the date of enactment of this Act".

On page 2, line 22, strike out "pleading" and insert in lieu thereof "appearance of the party".

On page 13, line 22, after the period add the following: "A motion by a party under this section shall be filed with the initial appearance of the party in the proceeding.".

On page 14, line 11, after the period add the following: "Any such motion of a party shall be filed with the initial appearance of the party in the proceeding.".

**Mr. DeCONCINI.** Mr. President, I want to thank and praise the floor manager of this bill and chairman of the Judiciary Committee for his and his staff's tremendous work on the bankruptcy.

I also want to express my thanks and admiration to the Subcommittee on Courts chairman, Mr. DOLE, and its ranking member, Mr. HEFLIN, for their outstanding efforts over the past 3 years in producing the bill before us. I also want to thank staff members Sally Rogers, Art Briskman, Doug Comer, and Bob Feidler of my staff for their long and outstanding work on this issue. I also want to thank Senators HATCH and METZENBAUM for their cooperation and assistance throughout development of this bill, their able staff, Randy Rader and Ellen Broadman are also to be commended.

**Mr. PACKWOOD** addressed the Chair.

**The PRESIDING OFFICER.** The Senator from Oregon has 1 minute.

The Senator from South Carolina has no time remaining. The Senator from Oregon has been recognized for 1 minute.

**Mr. PACKWOOD.** Mr. President, to explain what happened on the labor restriction thing, I had some provisions offered on behalf of a great many people who thought the bill had unfair provisions relating to labor contracts. My amendment has been withdrawn. The amendment of the Senator from South Carolina has been withdrawn. There are no labor provisions in the bill, period. Continential Airlines, was afraid they would be affected by this bill. As drafted, the bill will provide a general enactment date, which would not preclude application to Continental if a standard is attached to it in conference. Therefore, the issue of Continental and the standard's applicability will have to be decided at that point. What will be the standard for the abrogation of collective-bargaining contracts will be in conference. The Senate will not have to vote on that issue, except for final passage of a conference report.

**SEVERAL SENATORS** addressed the Chair.

**The PRESIDING OFFICER.** Who yields time?

**Mr. THURMOND.** Mr. President, I ask unanimous consent to yield to the distinguished Senator from Utah 2 minutes.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. HATCH.** Mr. President, I thank the distinguished chairman.

Mr. President, I would like to commend my colleague from Arizona for his willingness to forego his rights to offer an amendment in the interest of progress on this entire bankruptcy package. My Arizona colleague is a delight to work with because he is often mindful of the need for cooperation.

As my colleague knows, we each have principled reasons for adhering to our respective views on the mandatory abstention provisions contained in this bill. From my perspective, the bill preserves the proper limits of Federal question jurisdiction embodied in article III of the Constitution. It also preserves for State law claimants the protections of State law which they should not forfeit merely because they had the misfortune to be injured by or do business with a party who later went bankrupt. Finally, in my view, respect for State court processes ought to counsel against granting bankruptcy courts jurisdiction over purely State law issues.

I understand that my colleague has concerns about the efficiency of a system which permits litigation in State courts. On that point, we differ as to which system might prove more efficient. I trust that we will be able to produce in conference an acceptable compromise that will substantially accommodate both of our interest. I pledge myself to that effort.

Mr. President, today we are taking a significant step forward on the path to bankruptcy reform. I heartily commend both the chairman of the Judiciary Committee, Senator STROM THURMOND, and the Senator from Oregon, Senator BOB PACKWOOD, for their willingness to forego their own principled positions on the standard for rejection of collective bargaining agreements during chapter 11 proceedings in the interest of broader bankruptcy reform. I share their trust that a conference with the House can fairly and equitably resolve the issue arising out of the Supreme Court's Bildisco decision.

As we all understand, in the absence of a congressional clarification of the constitutional jurisdiction of the Nation's bankruptcy courts before midnite June 20, those courts will be required to turn their operations over to article III Federal district courts. With district courts already experiencing inordinate caseload burdens, the potential for delays in bankruptcy adjustication warrant expedited conference proceedings. Fortunately, I understand that we will extend this time deadline to June 29 to provide time for conference proceedings.

The conference will certainly have many important issues to consider, but I would like to express again my confidence that the bankruptcy system will be beneficially restructured permanently in the next few days. One important aspect of that restructuring is the abstention provisions in this Senate bill. I understand that some of my respected colleagues have expressed reservations about this abstention policy. In conference, however, I look forward to working with them to acknowledge the need to adhere to the proper limits of Federal question jurisdiction in article III of the Constitution, the wisdom of respecting the authority of State courts to adjudicate purely State law issues, and the advisability of fashioning an efficient bankruptcy system.

As I have mentioned earlier, one vital part of this conference will be fashioning a provision prescribing standards for a distressed business to reject its labor contract. For my part, I pledge to continue to work with Chairman THURMOND, Senator PACKWOOD, and all other interested parties representing both management and labor to find a reasonable resolution for this issue. From my perspective, a reasonable resolution to this issue must require judicial participation in the process of determining whether the drastic measure of rejecting a labor contract is warranted. Prior to approving any rejection, the Court should be required to determine that the business has made good faith efforts to negotiate modifications in the contract, that such efforts are likely to fail, and that failure to modify the contract threatens the efforts to preserve the struggling business. A business clearly should not be permitted to file for bankruptcy solely to escape the terms of a union contract. Although our extensive hearing in the combined Judiciary and Labor Committees disclosed no evidence of such wholesale abuse of the Bankruptcy Code, any potential for such abuse ought to be precluded.

With regard to the standard for ultimately deciding the appropriateness of rejection, I would like to place the Supreme Court's Bildisco decision in context. It was a unanimous decision on this question. In essence, the Court—without a dissent—struck a healthy compromise. It did not adopt the view of the business community that labor contracts, like commercial contracts, should be rejectable whenever, in the view of the business, it further the success of the recovering company. Nor did the Court adopt the view of organized labor that contracts should only be rejected if the debtor can prove the rejection is necessary to avoid complete collapse. The unanimous Court stated that this strict standard, derived from the Second Circuit's REA Express case, was "fundamentally at odds with the policies of flexibility and equity built into chapter 11." The Court decided instead that the bankruptcy court should balance all the equities, including the interests of all the employees, other creditors, and the needs of the debtor, before ascertaining the merits of rejection. This careful compromise of the Supreme Court, which was also the rule prior to Bildisco in every judicial circuit save the second, should form a reasonable basis for discussing legislative standards as well.

In any event, I am pleased at the progress of this bill. It serves debtors, creditors, and our economy in general to have this legislative moving toward final passage. Once again, I commend each of the Senators who have contributed so significantly to this progress, particularly Chairman THURMOND, Senator HEFLIN, Senator DECONCINI, Senator DOLE, and my other colleagues on the Judiciary Committee.

Mr. President, I yield the remainder of my time to Senator DOLE.

Mr. THURMOND. Mr. President, I yield the rest of the time to Senator DOLE.

Mr. DOLE. Mr. President, first, I want to thank all parties.

I would just make a few brief remarks concerning the agreement upon a procedure for moving the Bankruptcy bill that has now been reached. As Members of this body are now aware, Senators PACKWOOD and THURMOND are prepared to withdraw their respective proposals concerning collective bargaining agreements in the interest of securing passage of the House bill as amended by the Thurmond substitute. I want to commend the Senators from Oregon and South Carolina for displaying the spirit of compromise that is always essential to the work of the Senate. Their consent to proceed in this manner—which I have always felt is the best way to progress on this bill—will enable us to address the collective bargaining agreements issue in conference in a deliberate, studied manner.

In that vein, I want also to say that I have benefited from hearing the debate that has occurred on the amendment offered by the Senator from Oregon. I think that the offering of the amendment has clarified the issues at stake to a great degree, and the Senator from Oregon has helped us all in that way.

Of course, there are other issues that are as yet unresolved that the conference committee will have to address also. One of those is the problem of the present abstention language that is in the bill now. I am aware that several Members of the Senate are concerned about the effect on State courts of the consolidated jurisdiction that adheres to the bankruptcy courts under the law as it stands today. Certainly, comity between Federal and State courts depends upon the mutual respect that each of those divisions of the national judiciary has for the jurisdiction of the other. At the same time, however, I believe that it is equally essential that a bankruptcy court—or district court hearing a bankruptcy preceeding—have the ability to expeditiously dispose of all claims that may be pressed by or against a debtor. The language of the Senate substitute bill would, I believe, have the effect of fragmenting jurisdiction of the bankruptcy courts to an extent that would seriously impair the efficiency of those courts and dramatically harm the interests of creditors in need of quick adjudication of their claims. One group that would be directly, adversely affected would be farmers pressing claims upon grain storage contracts that are drafted under State law. As the substitute bill is now written, the debtor could force such claims into State court where delays that plague farmers now in bankruptcy would be magnified by the delays that are inherent in the State courts.

Nevertheless, I am willing to accede to passage of the Senate language today for the purpose of facilitating movement of the bill. I trust, however, that this important issue will be raised and dealt with by the conferees.

Mr. President, Senate action on this bill is long overdue. I urge its immediate passage and a call for conference with the House.

I want to thank all the Senators who have been negotiating what I think gives us a chance to work out something. I think there is absolutely no chance on the Senate floor. No one is going to let anyone vote. This is the best resolution I believe we can achieve.

I thank the distinguished chairman, Members on both sides of the aisle, those in the business community, those in the labor community, those on the House side, and those of us who may be conferees who will have 1 week to determine whether or not we can make it work.

The PRESIDING OFFICER. Who yields time?

Mr. HEFLIN. I yield 60 seconds to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the distinguished Senator.

Mr. President, it is most encouraging that a plan of action has been worked out that will permit progress on the bankruptcy bill. For weeks—in fact for months—Senate action on this critical legislation has been stalled while we struggled to achieve the perfect balance between two vital but competing interests. On the one hand, collective bargaining is the cornerstone of labor/management relations in the United States and is essential to our system of industrial self-government. On the other, the procedural flexibility afforded by chapter 11 reorganizations enables faltering companies to avoid liquidation, with an attendant loss of jobs and drain on national resources. Both systems are fundamental to a vigorous and healthy economy and both must be accommodated as we act to revise the Nation's bankruptcy laws.

I commend the cooperation from both sides of the aisle that has permitted us to pass a bill out of the Senate and get down to the tough negotiating that must be done with our colleagues in the other body.

The bankruptcy courts are a constitutionally mandated judicial system. Almost 1 million cases are pending—most of them involving small businesses, such as shops or restaurants, or individuals who got in financially over their heads. Almost 2 years work has gone into this bill, which provides critical reforms in the consumer credit area and procedural changes to make the process of bankruptcy expeditious and fair. We must keep this bigger picture in view as we start our negotiations and work toward a fair and equitable solution to the issues which divide us.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

**Mr. METZENBAUM.** Mr. President, I commend the manager of the bill, the Senator from Alabama, the Senator from Arizona, and so many others who have been involved in seeing to it that we have a unanimous-consent agreement in connection with the bankruptcy issue. At times it appeared that that would not be possible.

I commend all of those who have participated in that effort.

I want to point out that a number of Senators have addressed themselves to concerns relative to the matter of municipalities and have indicated that they wanted some language in the legislation having to do with the preferential rights of municipal bonds. That agreement has been disputed and negotiated on for a considerable period of time. As recently as late this afternoon, the manager of the bill, the Senator from Ohio, and others had indicated their agreement with respect to language on that subject.

The reason that language is not in the legislation is that the representatives of the municipalities who are bondholders asked that that language be dropped in its entirety bacause they had some concerns as to the prospective aspects of it as well as the fact that it did not give the same preferential rights to owners of industrial bonds to owners of ordinary municipal bonds.

Mr. President, I would also like to address myself to the consumer bankruptcy provisions of this bill. During the Senate deliberations on S. 1013, I voiced my strong objection to adopting eligibility requirements for bankruptcy relief that included a future income standard. After reviewing the record, I was and am now convinced that the bankruptcy laws are not being abused. Instead, these laws are providing a needed fresh start for individuals who cannot pay their bills.

Crushing debt burdens place enormous stress on individuals and their families. I believe it is crucial that people be able to have a fresh start. Our entire society benefits when these individuals can start over and lead happier, more productive lives. I am, therefore, opposed to any consideration of future earnings that could cut off an individual's right to secure bankruptcy relief.

The credit industry wanted us to force debtors to prove that they could not pay 50 percent of their debt over a period of 3 to 5 years in order to qualify for bankruptcy relief. I thought that was a terrible idea. It would have forced bankruptcy judges to become soothsayers and engage in the impossible task of predicting someone's earnings and financial obligations. Bankruptcy relief would have become hostage to a judge's guesses about how much an individual would earn, what their financial burdens would be, whether they would become sick, unemployed, and so on. In some cases, because judges are human, they simply would be wrong.

For 100 years, people have been able to get a fresh start through the bankruptcy court without having to jump through these hoops. For 100 years the system has worked well. Why should we change things now, in 1984, to make people who are suffering from enormous debt burdens even more miserable? I say we should not.

I cannot tell how pleased I am that both the House and Senate have agreed to the total elimination of the future income language. Under H.R. 5174, the availability of bankruptcy relief would not be limited by a future earnings standard.

I also am extremely pleased that this bill prohibits creditors from filing motions attempting to deny bankruptcy relief to individuals because of substantial abuse. If a creditor asks a court to dismiss a case claiming that there has been substantial abuse of the court would not be the bankruptcy laws by the debtor, allowed to do so. Only a bankruptcy court, acting on its own initiative, could dismiss a case involving substantial abuse. This will preclude creditors from making bankruptcy too expensive for the debtor by filing harassing motions alleging substantial abuse.

Because of these improvements in the consumer bankruptcy provisions, I do not oppose this bill. I hope that the Senate will move forward to pass legislation that establishes a constitutional and effective bankruptcy court.

**The PRESIDING OFFICER.** Who yields time?

**Mr. HEFLIN.** Mr. President, I wish to pay tribute to the great work of the distinguished chairman of the committee [Senator THURMOND]; to the ranking minority member of the committee, Senator BIDEN; to Senator DOLE, chairman of the Subcommittee on Courts; and to Senator DECONCINI, Senator METZENBAUM, and others. I also want to give particular praise to Sally Rogers, of Senator THURMOND's office for her outstanding work; to Doug Comer, of Senator DOLE's office; to Jan Wilson, of Legislative Counsel, and to Arthur Briskman, of my staff for their very diligent and continuing hard work in trying to solve many knotty problems and to come up with a workable and a constitutional bankruptcy bill.

Mr. President, I move the adoption of this substitute.

**The PRESIDING OFFICER.** Is all time yielded back?

**Mr. METZENBAUM.** Will the Senator from Alabama be good enough to include in his commendation of staff the lady on my staff, Ellen Broadman, who has worked so hard on this matter?

**Mr. HEFLIN.** It is my oversight, Mr. President, I should have done that. I appreciate being reminded.

I also want to include and thank the following staff members for the great job they have done in trying to get this bill passed over the last several months: Richard Velde of Senator DOLE's staff; Ellen Broadman of Senator METZENBAUM's staff; John Podesta of Senator LEAHY's staff; Randy Raden and Steve Markman of Senator HATCH's staff; Carolyn Osolinik of Senator KENNEDY's staff; Bob Feilder of Senator DECONCINI's staff; Mary B. Troland of Senator BAUCUS' staff; Mark Gitenstein, Cindy Lebow, and Chip Reid of Senator BIDEN's staff; and Peggy Mainor, Ellen LaVine, and Karen Kremer of my staff.

If the distinguished chairman of the committee has nothing further, maybe we can go ahead with the adoption of the amendment.

**Mr. THURMOND.** Mr. President, if there is any time left, I yield it back.

**The PRESIDING OFFICER.** Is all time yielded back?

**Mr. HEFLIN.** I yield back the time on this side.

**Mr. METZENBAUM.** I yield back the remainder of my time.

**The PRESIDING OFFICER.** All time has been yielded back. The question is on agreeing to the substitute amendment.

The amendment (No. 3251) was agreed to.

**Mr. HEFLIN.** I move to reconsider the vote by which the amendment was agreed to.

**Mr. THURMOND.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** If there be no further amendments to be proposed, the question is on engrossment of the amendments and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and to be read a third time. The bill was read the third time.

**The PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5174) was passed.

**Mr. THURMOND.** I move to reconsider the vote by which the bill was passed.

**Mr. HATCH.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

> An Act to amend title 28 of the United States Code regarding jurisdiction of bankruptcy proceedings, to establish new Federal judicial positions, to amend title 11 of the United States Code, and for other purposes.

**Mr. THURMOND.** Mr. President, I move that the Senate insist on its amendments and seek a conference with the House on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. THURMOND, Mr. DOLE, Mr. SIMPSON, Mr. EAST, Mr. HATCH, Mr. GRASSLEY, Mr. BIDEN, Mr. HEFLIN, Mr. DECONCINI, and Mr. METZENBAUM conferees on the part of the Senate.

## CONTINUATION OF TRANSITION PROVISIONS OF THE BANKRUPTCY ACT

Mr. THURMOND. Mr. President, we are now ready to proceed with the extension of the bankruptcy bill until, I believe, June 27.

Mr. BAKER. Mr. President, is that bill at the desk?

The PRESIDING OFFICER. The bill is at the desk. The clerk will state the bill.

The assistant legislative clerk read as follows:

A bill (S. 2776) to continue the transition provisions of the Bankruptcy Act until June 27, 1984, and for other purposes.

Mr. BAKER. Mr. President, this is a simple extension. Unless there is a request, I yield back the remainder of the time on this side.

Mr. HEFLIN. I yield back the remainder of the time on this side.

The PRESIDING OFFICER. All time has been yielded back.

The bill was considered, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 402 of the Act entitled "An Act to establish a uniform law on the Subject of Bankruptcies" (Public Law 95-598) is amended in subsections (b) and (e) by striking out "June 21, 1984" each place it appears and inserting in lieu thereof "June 28, 1984".

(b) Section 404 of such Act is amended in subsections (a) and (b) by striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

(c) Section 406 of such Act is amended by striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

(d) Section 409 of such Act is amended by—

(1) striking out "June 21, 1984" each place it appears and inserting in lieu thereof "June 28, 1984"; and

(2) striking out "June 20, 1984" each place it appears and inserting in lieu thereof "June 27, 1984".

SEC. 2. The term of office of any bankruptcy judge who was serving on June 20, 1984, and of any bankruptcy judge who is serving on the date of the enactment of this Act in extended to and shall expire on June 27, 1984.

SEC. 3. (a) Section 8339(n) of title 5, United States Code, is amended by striking out "June 21, 1984" and inserting in lieu thereof "June 28, 1984".

(b) Section 8331(22) of title 5, United States Code, is amended by striking out "June 20, 1984" and inserting in lieu thereof "June 27, 1984".

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank all Senators for their careful consideration of this matter over an extended period of time. There are a number of people and I shall not take the time to identify all of them. All of them negotiated in good faith and I thank them for this good result.

## OMNIBUS DEFENSE AUTHORIZATION, 1985

Mr. BAKER. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which the clerk will state.

The bill clerk read as follows:

A bill (S. 2723) to authorize appropriations for the Department of Defense and for other purposes.

The Senate resumed consideration of the bill.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas, the chairman of the committee.

Mr. TOWER. Mr. President, there are about 30-some-odd amendments remaining to the defense authorization bill. After the disposition of the amendment of the Senator from Pennsylvania [Mr. SPECTER], which is expected to be called up shortly, there will be three amendments remaining that we might call major amendments that have to do with defense policy. I should like to get the Senate to sequence those amendments and not ask for a time agreement for tomorrow so we know what our business is tomorrow. Then, we can dispose of as many of those other amendments as possible this evening—the three which the proposers are prepared to offer tonight.

Then, after we complete the consideration of these three major amendments tomorrow, we will deal with all the rest of the amendments that are being addressed to the bill, and I suggest we stay in then until we finish, regardless of when it is.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. TOWER. I yield.

Mr. BAKER. Mr. President, I think that is a good plan. I had understood the Senator from Wisconsin might be recognized for a minute or so at this point to offer an amendment which will not recall a rollcall vote. That is fine with me, if the managers wish to do that.

Mr. President, as I understand the request that may be made by the managers, or that they may be suggesting I make, is that we sequence now three amendments and that we plan to lay down one, I guess, to be the pending business tomorrow, and then to announce that we plan to finish tomorrow, no matter how late that takes. Is that the Senator's desire?

Mr. TOWER. No matter how late it takes.

Mr. BAKER. Mr. President, I am prepared to do that. I have told both managers consistently that the leadership on this side is willing to go around the clock at any point when we think we can finish. I believe we can finish tomorrow. I encourage Senators to understand that we will make the maximum effort to do that tomorrow.

Mr. TOWER. May I say at this point, it is not a matter of unwillingness of Senators to offer amendments. Most have been very cooperative, although some prefer late at night to the daytime. But it seems the optimum time is between 3 to 6 in the evening. That is when most of them like to do the amendments. In any case, what I propose to do is to ask that when we complete our business this evening, the amendment of the Senator from Massachusetts [Mr. KENNEDY], on the threshold test ban treaty be made the pending business tomorrow.

Mr. BAKER. Mr. President, will the Senator yield further?

Mr. TOWER. Yes.

Mr. BAKER. Is it fair to estimate that it will be midnight or a little after tonight?

Mr. TOWER. I would say midnight or a little after tonight, and we can expect at least one and perhaps two more rollcalls.

Mr. BAKER. Will the Senator also agree that in view of that it might be a good idea now to establish a time to come in tomorrow? I had in mind 11 o'clock. We can adjust that, if the Senator would like.

Mr. TOWER. How about 10?

Mr. BAKER. Ten o'clock will leave us with less than 10 hours between adjournment or recess and convening, which means, by the time you get home and get back, you will have powerful little sleep but I will do 10 if the Senator wishes.

Mr. TOWER. I think we should do 10, if my colleague is agreeable.

Mr. NUNN. I would certainly be agreeable to 10 o'clock. Maybe we could get through a little earlier.

Will the Senator yield for just a brief observation? I think it would be very useful at this juncture if we could get a time agreement on the three major amendments that remain in terms of tomorrow morning.

I would be willing, for instance, on the NATO amendment that I have, to enter into a time agreement. I think that the amendment the Senator from Michigan [Mr. LEVIN] and I have on the strategic defense initiative could be handled by a time agreement. Senator KENNEDY had indicated to me earlier today—and we would have to check back with him—that he would be willing to enter into a time agreement. So I think it would be to our advantage if we could explore that at this point in time, shortly.

Mr. TOWER. May I suggest that we accommodate the Senator from Wisconsin and dispose of his amendment quickly, and the Senator from Pennsylvania, who has been waiting patiently with his amendment during the course of the debate. Perhaps we could set up time agreements. The three amendments which I propose to ask to be sequenced tomorrow are the amendment just mentioned by the Senator from Massachusetts, the strategic defense initiative amendment of the Senator from Georgia, and the NATO amendment.

Mr. BAKER. Mr. President, will the Senator yield to me for just a moment?

I am advised that our staff, based on a representation I had made to them earlier that we would come in at 11 tomorrow, will find it very difficult to find people to occupy the Chair and otherwise attend the duties of the Senate in the morning. I respectfully urge the two managers to understand my dilemma.

### ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I now ask unanimous consent that when the Senate completes its business tonight, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Will the chairman yield to me very briefly?

Mr. TOWER. I yield to the Senator from Vermont.

Mr. STAFFORD. One of the amendments that was scheduled for attention this evening, the amendment with respect to the education in the Department of Defense, there is a possibility I would say that it may be such that we would not have to use very much of the Senate's time, but it would be appreciated if that could be sequenced early tomorrow morning so that if we are unable to dispose of it—and I think we can—we would have a chance to vote on it.

Mr. TOWER. I think one thing we might do is go ahead and sequence these other amendments, so we can get a consent agreement to set one of the major ones aside I think or between the major ones perhaps deal with one or two that can be disposed of quickly.

Mr. HUDDLESTON. If the floor manager will yield, that might very well accommodate my situation, too. I have a minor amendment that I do not think will take long. In fact, I am willing to agree to a 15-minute time limit. If it is put behind these major amendments and they go too far in the afternoon, I may be in trouble.

Mr. TOWER. Let me suggest this. Perhaps we could initially do some minor amendments from 11 or 12 or somewhere in that timeframe and then turn to the major amendments at 12 o'clock and sequence them in at that point.

Mr. NUNN. I say to the chairman at this time I do not want to be precluded by implicit agreement or otherwise, from offering my NATO amendment at some early point. I, of course, have been willing to offer it during the day Friday, Monday, and all day today. I know there were a lot of other amendments, and I am not complaining about that. I know there were a lot of reasons. But I do not want to implicitly agree to a sequence that would preclude me from offering that amendment at some earlier time.

Mr. TOWER. Nor would I want the Senator to. As a matter of fact, I view the Senator from Georgia very much like a 500-pound gorilla—he can do anything he wants to, and therefore if he would like to sequence his in first, that would be suitable to me.

Mr. NUNN. I just do not want to be precluded and I do not want anyone to think that I have in any way implicitly agreed, if I offered it another time, that I have slipped up on them or anything of that nature. As of tomorrow morning, I may offer that amendment, I might say, at some point that would get it available for debate during daylight hours. I am not pessimistic about the Senate schedule, having seen these amendments come up over and over again for the last 10 days that we thought were going to be debated for about 10 minutes and some of them last 2 or 3 hours. I am getting rather skeptical about saying I will wait until the end of the line on this amendment, because I do not want to be in a situation tomorrow night at 10 or 11 o'clock of having to take up my amendment.

Mr. TOWER. I say to the Senator from Georgia, it is my design to get the major amendments up during the day and complete them by nightfall. Then we can spend the evening at our leisure doing other amendments in which Senators may have an interest. But we will have the really major, most controversial amendments, behind us. That was my idea. I would have no objection to scheduling the amendment of the Senator from Georgia first or second.

Mr. NUNN. If we can get a time agreement, this will not present a problem. But if we do not get a time agreement, I want to make sure everyone understands that I will bring it up during daylight hours tomorrow.

Mr. TOWER. I think there is a problem there, because I think the minority leader is not prepared to agree to a time agreement, unless we exclude amendments in the second degree, which I am afraid I am not prepared to do.

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. TOWER. I yield to the Senator from Mississippi.

Mr. STENNIS. Will the leader of the bill call out what he thinks are the major amendments to be considered tonight as far as he knows, and also the first 4 or 5 hours tomorrow? We will not be here all the time, but it helps us to know something about when these matters will be considered.

Mr. TOWER. I would say in that category the amendment of the Senator from Pennsylvania, which would express the sense of the Senate, I believe, that the President should attend a summit conference on nuclear arms control, is a major amendment and one that might be controversial and will require a rollcall vote.

The ones I have suggested for tomorrow, I think, pretty well round out the list of what we might call major amendments, from the standpoint of greatest interest, greatest amount of controversy, and greatest impact on national security policy.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. HUDDLESTON. The definition of a minor or major amendment might be in the eye of the beholder. May I consider my amendment major, so that I can get it in the sequence? [Laughter.]

Mr. TOWER. The Senator will notice that I said "that has a major impact on national security policy."

Mr. BYRD. Mr. President, will the Senator yield?

Mr. TOWER. I yield.

Mr. BYRD. Mr. President, I have an amendment which I have discussed calling up this afternoon, but I yielded so that others might call up their amendments. I should like to call up my amendment reasonably early tomorrow. I am willing to call it up tonight, if it would accommodate the manager, but I do not want to stand in the way of Senator HUDDLESTON. I do have an amendment. Whether it is major or minor, I would like to call it up.

Mr. TOWER. I say to the distinguished minority leader that perhaps it would be good for us to dispose of the amendment of the Senator from Wisconsin and permit the Senator from Pennsylvania to offer his amendment while we sit around and try to figure out some sequence.

**Mr. HUDDLESTON.** Mine just became minor again. We have an agreement.

**Mr. TOWER.** Good.

**Mr. PERCY.** Mr. President, is the majority leader on the floor?

**Mr. BYRD.** Mr. President, while the distinguished Senator from Illinois is waiting, will he allow the Senator from Wisconsin to proceed?

**Mr. PERCY.** The majority leader is here now.

Mr. President, no one is more conversant with the problems of the majority leader and his scheduling and its importance to the Senate than I am. I have watched the distinguished majority leader also as minority leader. But committees do have their frustrations, also, and I want to evidence, on behalf of the Foreign Relations Committee, the fact that we have not had an authorization for military assistance and foreign aid or economic assistance for some time. The House now has their bill over here.

The majority leader and I have discussed on occasion when we would put this bill in, and the Senator from Illinois has a particular problem. Someone suggested that I offer it as a 51-page amendment to this bill. I am not going to do that.

We had a discussion today, and it appeared that the best timeframe for this bill would be between the two conventions, the July-August session of the Senate.

I wonder if the majority leader could give assurance to the members of the committee that we could take up that matter and not have to deal with it at this time.

**Mr. TOWER.** I say to the distinguished Senator from Illinois that there is plenty of time to discuss that schedule, if we can get on with tonight's business.

**Mr. PERCY.** It will take only 1 minute to clear this up. I know the floor manager of this bill feels it important. We do get nailed down as to when we are going to get this 5-year authorization over.

**Mr. TOWER.** Mr. President, I yield the floor.

**The PRESIDING OFFICER.** The majority leader.

**Mr. BAKER.** Mr. President, I think I can respond in a way which will be satisfactory to the Senator from Illinois, the distinguished chairman of the Foreign Relations Committee.

I have indicated to him, as I have indicated to the ranking minority member, that it is my firm intention to take up the foreign assistance authorization bill. It is not going to be between now and June 29, because there is not time. It is my hope that we can do it during the 3 weeks between the two conventions, and that is my intention.

However, the Senator knows that we have appropriations bills and other matters that must be sequenced in. I hope he will take comfort from the fact that it is the firm intention of the leadership on this side to schedule the foreign assistance authorization bill, and it is my hope and expectation that we can do that during the 3 weeks the Senator speaks of.

The Senator from Illinois has asked that it be scheduled, and properly so. The President has asked that it be scheduled, and properly so. I give the Senator assurance that the leadership on this side will schedule it as soon as we can fit it in, and I expect that that will be sometime during July.

**Mr. PERCY.** May I ask one further assurance from the majority leader—that matters dealing with fiscal year 1985 foreign assistance programs on appropriations not be considered until we have an authorization bill.

**Mr. BAKER.** Yes, Mr. President; that is the intention of the leadership.

**Mr. PERCY.** I thank the majority leader very much, and I thank the floor leader of this bill, because I know of his frustration on time.

### AMENDMENT NO. 3252

(Purpose: To express the sense of the Congress relating to consultation with allies regarding the Strategic Defense Initiative)

**Mr. PROXMIRE.** Mr. President, I call up my amendment which is at the desk.

**The PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 3252.

**Mr. PROXMIRE.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

SENSE OF THE CONGRESS RELATING TO CONSULTATION WITH ALLIES REGARDING STRATEGIC DEFENSE

SEC. . It is the Sense of the Congress that—

(a) the President shall inform and make every effort to consult with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning the research being conducted in the Strategic Defense Initiative program.

(b) The Secretary of Defense, in coordination with the Secretary of State and the Director of the Arms Control and Disarmament Agency, shall at the time of the submission of the annual budget presentation materials for each fiscal year beginning after September 30, 1984 report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives on the status of the consultations referred to under subsection (a).

**Mr. PROXMIRE.** Mr. President, I have cleared this amendment with the managers of the bill on the majority side and the minority side. They are both familiar with it; and, so far as I know, there is no objection to it.

Mr. President, today I am offering an amendment expressing the sense of the Congress that the President shall inform and make every effort to consult with our NATO allies, Japan, and any other appropriate allies concerning the research being conducted in the Strategic Defense Initiative.

The amendment also requires the Secretary of Defense, in coordination with the Secretary of State and the Director of the Arms Control and Disarmament Agency, to report to Congress each year on the status of those consultations.

Mr. President, as the administration proceeds with the Strategic Defense Initiative, it is extremely important that we closely consult with our allies.

The United States is not an isolationist nation. We have defense commitments all over the world. And one of the most important commitments we have is to insure the defense and freedom of Western Europe and Japan.

I therefore strongly urge the adoption of this amendment not only to demonstrate the commitment of the United States to that defense, but also to insure that our allies will be consulted every step of the way as we proceed with research into SDI.

Mr. President, we all agree that the research of the Strategic Defense Initiative presents a lot of unknowns.

It presents a lot of unknowns not only for this country, but also for our allies—particularly for our NATO allies and Japan.

I note that in its report on the Omnibus Defense Authorization Act of 1985, the Armed Services Committee recognized "that at the outset of such a major technological and policy undertaking, there inevitably will be uncertainty about the precise focus and goals of the program, and about the reactions of our allies and adversaries alike."

Mr. President, this amendment would address those uncertainties that exist overseas by calling on the President to consult with our allies on SDI and to keep Congress informed on those consultations.

I realize that the administration has emphasized that it would want a strategic defense system to protect our allies as well as the United States. But the reaction overseas has been that the deployment of such a system is easier said than done.

Many Europeans, for example, believe that protecting their countries would pose a whole new set of problems for a star wars defense. The fear that providing a perfect defense for

Europe may be even more difficult than providing a perfect defense for the United States.

In order for star wars to ever work against strategic nuclear weapons attacking the United States, a layered defense would have to be set up to try to knock out Soviet missiles and warheads during the 30 minutes they are in flight. That way, if one layer missed the missiles another layer would be there to try to catch the warheads escaping. But a layered defense would be impossible for intermediate range and tactical missiles because of their short flight times and trajectories.

The Soviet SS-20, for example, may have a flight time of no more than 5 to 10 minutes.

The SS-22's the Soviets are reportedly placing in Eastern Europe have a flight time of about 3 minutes.

We would have only one shot at these missiles. If we missed, there may not be enough time for another layer of defense to pick them up.

On top of that, the European defense may have to contend with thousands of Soviet cruise missiles, medium-range bombers, and strike aircraft that would be armed with nuclear weapons.

How would our allies defend against nuclear artillery shells? How would they stop commandos from infiltrating with portable man-packed nuclear weapons?

Another question being raised is, Who is going to pay for a massive defense system for Europe?

A defense system for the United States may cost as much as a trillion dollars, so you can be sure that a defense system for Europe and Japan would cost hundreds of billions of dollars.

How will our allies pay for this when we cannot even get most of them to increase their defense expenditures by 3 percent, which would mean spending only a couple of billion dollars extra?

How are we going to get them to come up with hundreds of billions of dollars?

Mr. President, I do not have an answer to all these questions and concerns. I do not think anyone does.

But I do not think we can ignore these questions and concerns that are coming from our allies.

According to press reports, the President's star wars plan came without any advance notification or consultation of our NATO allies.

The NATO ministers meeting in Turkey last April reportedly told Secretary Weinberger that a United States and Soviet defense system would leave Europe extremely vulnerable.

West German Defense Minister Manfred Worner has been quoted in the German press as saying that a U.S. antimissile system would tear apart NATO and decouple the United States and Western Europe.

The fear among many Europeans is that a two-class system of defense will arise with star wars.

The superpowers would be protected from each other's ICBM's. But because of the shorter flight times involved, Europe and Japan could never be protected.

Under this type of situation, the United States would not be able to retaliate effectively against the U.S.S.R. for any Soviet attack on Western Europe and Japan.

In other words, the nuclear umbrella would be lifted.

Europe and Japan would be left to fend for themselves.

What would Europe do in the face of such an overwhelming threat to its security?

Would NATO break apart completely?

Would Europe become neutral?

Or would the deployment of star wars enhance the security of Europe and Japan?

As I have said before, no one has the answers to these questions.

That is why, as the administration begins the research in the strategic defense initiative, it should consult closely with our allies to address these questions and concerns.

And I think that the United States should also make every effort to reach a common position with our allies if it moves beyond research in SDI and toward any possible development, testing, and deployment of a strategic missile defense system.

Mr. President, I understand there is no objection, and it will not be necessary to have a rollcall vote.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3252) was agreed to.

Mr. **PROXMIRE.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **EXON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3253

(Purpose: To strike out the restriction on the use of funds for construction, renovation, and repair of so-called section 6 schools)

Mr. **HUDDLESTON.** Mr. President, I send an amendment to the desk.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. HUDDLESTON] proposes an amendment numbered 3253, on behalf of himself and Mr. PELL, Mr. STAFFORD, Mr. FORD, Mr. ABDNOR, Mr. MOYNIHAN, and Mr. HOLLINGS.

Mr. **HUDDLESTON.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 205, beginning with line 16, strike out through line 5 on page 206.

Redesignate the succeeding sections in title II accordingly.

Mr. **HUDDLESTON.** Mr. President, the military construction portion of this bill authorizes $53 million for construction, renovation, or addition to section 6 schools on military bases. This funding is needed as many of the schools on military bases were built in the 1950's and are in dire need of repair.

Yet, the committee has recommended that these funds not be obligated until the local school districts agree to take over responsibility for the operation and maintenance of the section 6 schools. I am opposed to this restriction on the use of these funds, and the amendment I am offering on behalf of myself and Senators PELL, STAFFORD, FORD, ABDNOR, MOYNIHAN, and HOLLINGS would delete this language from the bill.

When Congress passed the Omnibus Reconciliation Act in 1981, the administration of the section 6 schools was kept in the Department of Education, while the funding responsibility was placed in the Department of Defense. If local jurisdictions are now asked to take over the responsibility for these schools, in reality their funding would be transferred back to the Department of Education because local jurisdictions would be unable to handle the burden of funding the section 6 schools.

The committee is holding out the carrot of providing much-needed construction and renovation funds but it is asking local jurisdictions to pay a high price for allowing section 6 schools to get this funding. There are many indications that local school districts cannot take on this responsibility without it causing a number of problems.

In Kentucky, there are section 6 schools at two locations—Fort Knox and Fort Campbell. The Kentucky Constitution prohibits State funds from being used for schools that are outside the State's jurisdiction. Kentucky courts have upheld this prohibition.

Officials at the Kentucky Department of Education have told me that they are unsure if this prohibition can be overcome. It appears that this question would have to be settled in the courts.

These same officials have told me that it would cost local jurisdictions at least $10 million to provide an education for the students at Kentucky's section 6 schools. At a time when

State and local budgets are already at the breaking point, such a plan would provide an even greater strain on funding for our public schools in Kentucky. It would also be difficult to convince people in the area surrounding the military base that they should pay for the education of students whose parents are often in the area only for a short time.

If the local jurisdictions where these section 6 schools are located are unable to provide the funding that is needed, it is obvious that the schools will look to the Federal Government to provide the money under the existing impact aid program. We all know that funding for impact aid has been especially tight during the last 3 years.

Last week, the Senate adopted an amendment by Senator **Abdnor** to reauthorize the impact aid program through fiscal year 1989 while raising the authorized funding level from $585 million to $700 million. Most of the increased authorization for impact aid would be used to pay for the section 6 schools if local jurisdictions are unable to supply a substantial portion of their funding.

With the section 6 schools included in the present impact aid program, their students would be classified as "A" students and the schools would compete with other "A" districts for the limited impact aid funds. Such increased competition would place greater pressure on the Senate and House Appropriations Committees to provide more funding for "A" students.

This would result in funding for "B" students being cut even more. The "B" districts have seen their funding reduced severely in the last 3 years and any further reductions would especially hurt my home State of Kentucky, as most schools that receive funding have "B" students.

Many Senators come from States where impact aid funds continue to be important to local school districts. If we do not wish to negate the effect of the increased authorization level for the impact aid program approved on Wednesday, we need to keep funding for the section 6 schools in the Department of Defense. Any changes to the section 6 schools should not be considered until we know the effect such a change will have on the schools and on local jurisdictions.

It is obvious that the ramifications of the proposed plan have not been adequately considered by the appropriate committees of the Senate. I urge my colleagues to support this amendment to delete the restriction on the use of these construction funds for section 6 schools so we can give careful examination to this issue before making any changes in present policy.

Mr. President, we have a memorandum from Col. William A. Scott, Acting Director of Training and Education, Office of the Assistant Secretary of Defense, in support of this amendment, and I ask unanimous consent that the letter be printed in the Record, together with other pertinent material.

There being no objection, the material was ordered to be printed in the Record, as follows:

Office of the Assistant
Secretary of Defense,
*Washington, DC, June 18, 1984.*

Memorandum for: Mr. Don Hellmann.

Subject: SASC MILCON subcommittee language concerning section 6 schools.

The SASC authorized funding for $53.3 million for Section 6 Schools construction but prohibited obligating these funds until local school districts agree to take over jurisdiction of the Section 6 Schools. The restriction on use of these construction funds is unrealistic.

The local public school jurisdictions have no interest, at this time, in assuming any responsibility for our Section 6 Schools since they would have to provide considerable financial resources which they currently do not have. At present, most states prohibit the use of local tax revenue from being used to support education on federal installations.

It will take time to negotiate such a proposal with each local school jurisdiction. In the meantime, we need to upgrade the quality of these school facilities to ensure that we can accommodate today's student population, curriculum approaches, and health and safety requirements.

The upgrading of the plant facilities is only the first step in negotiating the ultimate turn over of Section 6 Schools to the local jurisdictions.

The Department of Defense supports Senator Huddleston's language to remove the restriction on the use of construction funds for Section 6 Schools.

William A. Scott,
*Colonel, USA, Acting Director,*
*Training and Education.*

Fort Knox schools get funding from the following sources:

21.8 percent local; 65.6 percent State; and 6.3 percent Federal.

Fort Campbell schools get funding from the following sources:

21.6 percent local; 68.1 percent State; and 10.3 percent Federal.

These figures provided by Ron Maubrey, Director of Finance, Kentucky Department of Education, Frankfort (502) 564-3848.

*Funds for section 6 schools—Operation and maintenance*

| Fiscal year: | *Millions* |
|---|---|
| 1982 | $86.0 |
| 1983 | 100.0 |
| 1984 | 105.2 |
| 1985 | 104.4 |
| 1986 | 101.4 |

*Military construction*

| Fiscal year: | *Millions* |
|---|---|
| 1985 | $53.2 |
| 1986 | 37.2 |

**Mr. ABDNOR.** Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Kentucky—I am pleased to join him as a sponsor of the amendment.

Mr. President, Wednesday night, on this floor, several of my colleagues voiced concerns about a shift in funds which might result from an amendment I offered to prevent the Department of Education from implementing its proposed impact aid regulations. These regulations, as proposed last March, will reduce substantially the rate of payment a number of federally impacted school systems in my State, and about 17 other States, receive.

First of all, I wish to point out that it is the Department of Education which is seeking a change in the status quo—creating a shift in available funds which was clearly not intended under Public Law 98-139, the fiscal year 1984 Labor-HHS and Education appropriations measure. Earlier this year, on the urgent supplemental bill, this body approved an amendment which, if included in the subsequent conference report, would have prevented from taking effect during the current fiscal year the newly proposed regulations.

Mr. President, I trust that the same Senators who stated concerns about the amendment I withdrew the other evening will take a long, hard look at a provision in the DOD bill which is before us. Language contained in this bill could result in a significant shift in funds under the impact aid program—by making newly eligible for Public Law 81-874 funding as many as 18 section 6 schools. By tying eligibility for military construction funds to an agreement which would require that local school systems assume responsibility for the operations and maintenance of these section 6 schools, the language in question could make newly eligible for impact aid moneys these 18 schools.

I am advised, Mr. President, that in fiscal year 1981, DOD expenditures for these section 6 schools totaled more than $75 million. Should these schools lose DOD support, this amount and more may be diverted from school districts which depend currently on impact aid. In that event, Mr. President, the impact aid reauthorization amendment I offered, which was adopted by the Senate, will be diluted substantially. Rather than providing a $135 million program increase, we may be providing only a $60 million increase for the federally impacted schools the amendment was designed to assist.

The Huddleston amendment will serve to retain direct DOD support for these section 6 schools, while allowing them to utilize the funds authorized for construction, and will enable local educational agencies eligible for assistance under Public Law 81-874 to benefit from the $135 million increase in program authority we approved last Wednesday.

Mr. President, I commend my able colleague from Kentucky for offering this amendment, and I strongly urge my colleagues to support the Huddleston amendment.

Mr. HUDDLESTON. Mr. President, I undersand this amendment has been cleared in view of the fact that the distinguished Senator from South Carolina, who also has an interest in this subject, is to follow with another brief amendment which also has been cleared and which will clarify and take care of this situation.

Mr. FORD. Mr. President, I support the Huddleston amendment. The language in the Department of Defense authorization bill provides over $53 million in construction funds for the DOD section 6 schools, schools located on military bases. We have two such schools in Kentucky, one at Fort Knox and the other at Fort Campbell. These schools receive no State or local funds, but are fully funded by the Federal Government. Under provisions of the 1981 Omnibus Reconciliation Act, funding responsibility for these schools was transferred from the Department of Education to the Department of Defense. However, language in the DOD authorization bill attempts to transfer the responsibility for these schools back to the Department of Education by conditioning receipt of the construction funds upon a written agreement by the local school district that they will assume responsibility for the operation and maintenance of the schools for the children of the members of the Armed Forces located on the bases where the construction takes place. Mr. President, this is simply an attempt by the Department of Defense to unload the funding for these school districts onto the already strained Impact Aid Program in the Department of Education.

Of the $53 million in construction funds provided by the bill, over $29 million is authorized to go to the two school systems located in Kentucky. However, the language contained in the bill requiring local assumption of the maintenance and operation of these schools prohibits Fort Knox and Fort Campbell from receiving these funds. Because Fort Knox and Fort Campbell are not a part of the Commonwealth, they are viewed as foreign entities with which the local school board is prohibited from dealing. Hardin County schools have attempted in the past to absorb the Fort Knox schools, but were advised that such a takeover was not possible. The bottom line is, Mr. President, over half of the money this bill authorizes for section 6 school construction cannot be used because of the provision requiring the local school district to assume responsibility for the base school. The Huddleston amendment corrects this problem by deleting the provision requiring local assumption of the operation of these schools.

Mr. President, it is clear that the DOD wishes to rid itself of the approximately $100 million a year cost of section 6 schools. However, requiring the local school boards to pick up these schools is not the way to do this. What this language effectively does is transform a section 6 school into a school eligible for aid under the Impact Aid Program, probably as a heavily impacted "super A" school. This would entitle the local school district to funds at 100 percent of entitlement under the Impact Aid Program. However, such entitlement would not necessarily completely replace the funds provided under section 6 program. The local school districts will still be faced with the need to increase revenues without acquiring compensating tax base. Additionally, the States will have to begin funding these schools under State equalization programs. The Kentucky Department of Education roughly estimates that an influx of the approximately 7,500 students from the Fort Knox and Fort Campbell school districts would cost the State of Kentucky approximately $10 million, which is $10 million the State does not have.

A further effect of this langauge would be to increase the number of schools drawing from limited Impact Aid funds which would result in fewer funds to all current Impact Aid recipients. Currently, these section 6 schools receive their funds from DOD. If the local school districts were to take over these schools, the education department would begin funding under the Impact Aid Program. However, there is no language which transfers the funding authority to the education department, nor are there any guarantees that additional funds will be appropriated to the Impact Aid Programs to cover whatever additional expenses result from this language. As my colleagues know, Senator ABDNOR was recently successful in offering an amendment, which I cosponsored, to increase the authorization for the Impact Aid Program from $565 million to $700 million. However, this $135 million increase was not intended to pay for the $100 million section 6 program which is potentially transferred under this language. As those who are familiar with Impact Aid know, any increase in authorization for this program is hard won and greatly needed for the schools currently receiving funds under the program. Expanding the Impact Aid Program by adding these section 6 schools would simply decrease scarce funds currently going to existing Impact Aid districts.

Mr. President, this language is ill-founded. The committee with jurisdiction over the Impact Aid Program has not had an opportunity to review this proposal or the effects such a proposal will have on local and State school boards and the existing Impact Aid Program. The Huddleston amendment allows these section 6 schools, particularly the schools located in Kentucky, to receive the much needed construction funds, while avoiding the potential drain on the Impact Aid Program. This language is simply inoperative for over half of the funds provided for section 6 construction at Fort Knox and Fort Campbell due to the local Kentucky school districts' inability to meet the requirements of the bill. The Huddleston amendment provides a reasonable approach to these problems and allows the needed construction to go forward.

I urge my colleagues to support this amendment.

Mr. THURMOND. Mr. President, the issue with regard to section 6 schools is a complicated one.

There are so-called section 6 schools at 18 military installations. These schools are operated and maintained by the military on base for military dependents. They were established in the 1950's when local public schools were segregated and the Defense Department refused to send military dependents to segregated schools.

There is no justification for continuing these section 6 schools today. It is Defense policy to turn these schools over to the local school districts as quickly as possible. The services resist turning these schools over to the local school districts because local installation commanders would prefer to manage their own dependent school program rather than rely on the local school district to provide dependents' education. The local school districts are reluctant to take over these schools because they are in such bad shape.

Funding responsibility for these section 6 schools was transferred to the Defense Department in 1982. For the first time in the fiscal year 1985 budget, the services are requesting funds—about $53 million—to renovate or build new section 6 schools.

The committee feels strongly that these section 6 schools should be transferred to local school districts as soon as practical. The justification for their existence—that is, to avoid sending military dependents to local, segregated schools—no longer exists.

To provide an incentive to the services and the local school districts to proceed with this transfer, the committee has agreed to fund the construction costs to upgrade these schools with the understanding that before those funds are spent, the services and the local school districts would agree to transfer these schools to the local districts. The problem in the past has been, not so much with the local school district's reluctance to take over the schools, but with the services' unwillingness to give up the schools.

The funding impact of this transfer is somewhat complex. Under the committee-reported bill, the construction costs would be paid by DOD. Operations and maintenance costs for fiscal year 1985 for all section 6 schools are included in the DOD budget. DOD would continue to fund these operations and maintenance costs until the transfer to the local school district was effected. The effective date of that transfer would be the subject of joint agreement between the installation involved and the local school district. After the date of transfer, the school would be eligible for impact funding from the Department of Education—just as the vast majority of the costs to educate military dependents are paid today.

Some have argued that there will be increased pressure on Education Department impact funds if these section 6 schools are transferred to local school districts. This argument makes no sense because impact funds for section 6 schools already are included in the defense budget. Once the transfer takes place, OMB can simply move the DOD section 6 schools operating funds to the Education Department to be used as impact funds.

The bottom line in this section is that there is no longer any justification for section 6 schools. In fact, to continue this military dependent school system at 18 locations—to include such locations as West Point, NY and Quantico, VA—is to accord these locations some kind of special privilege that most military dependents are not accorded. The committee is simply attempting, in this provision, to afford every military dependent an equal opportunity to get a publicly financed education—just as every other American child is entitled to.

I agree with my colleague that we cannot dump the entire cost for operating section 6 schools on the local school districts. Clearly it will be necessary to provide Federal impact funds to these local school districts. Let me expand briefly on the Federal impact fund issue.

First, with regard to section 6 schools, today there are some 33,000 children attending section 6 schools. The DOD budget for fiscal year 1985 contains $104 million to pay for these schools. That results in an average cost of $3,150 per student.

Second, once these section 6 schools are transferred to the local school districts, they will be eligible for Federal impact funds under section 3A of Public Law 81-874. Today 334,900 military children attend local schools that get section 3A impact funding from the Department of Education. The budget for these funds for fiscal year 1985 is $458 million, which results in an average payment of $1,367 per student.

So the taxpayer is paying more than twice as much to educate a military child in a DOD section 6 school than for a military child in a school run by the local school district. The difference, of course, is made up by State and local taxes and the military contribute to that tax base. It seems unfair to me to give section 6 schools special treatment.

The final point I would like to make is that the committee provision does not mandate that section 6 schools are to be transferred immediately. In fact, I would expect the transfer to require several years to be accomplished.

Mr. President, we will agree to this amendment provided the next amendment that we offer is also adopted. We think that the two have to go together.

Mr. President, the issue with regard to section 6 schools is a complicated one.

The final point I wish to make is that the committee provision does not mandate the section 6 schools should be transferred immediately. In fact, I would expect the transfer to require several years to be accomplished.

Mr. President, the Senator from Kentucky has raised some additional issues which the committee did not consider. I applaud him for raising these issues. As a result of his efforts, we have worked out a compromise on this issue.

I am prepared to agree to the amendment of the Senator from Kentucky to strike the committee fencing language. Once his amendment is adopted, I shall offer another amendment to require the Comptroller General to conduct a study on this entire issue and to report recommendations to Congress by May 1, 1985.

I understand this arrangement is satisfactory with the Senator from Kentucky and the managers of the bill.

Mr. HUDDLESTON. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 3235) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3254

(Purpose: Study of Section 6 Schools)

Mr. THURMOND. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment No. 3254.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title II, insert the following new section:

"STUDY OF SECTION 6 SCHOOLS"

"SEC. —. (a) The Comptroller General shall conduct a study to determine the most suitable means to fund those Department of Defense dependent schools, established under the provisions of Section 6 of Public Law 81-874, in the future.

"(b) Such study shall consider the effect that transferring funding and operating authority for such schools would have on funding for the impact aid program as well as the effect that such transfer would have on local school districts.

"(c) Such study shall be submitted to the appropriate committees of Congress by May 1, 1985."

Mr. THURMOND. Mr. President, this method provides a study by the Comptroller General of this entire question. This has been worked out with the Senator from Kentucky and we both agreed on his amendment and this amendment to follow.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 3254) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, under the informal sequencing as announced earlier I have sought the floor to introduce two brief amendments which I shall withdraw after assurances from the distinguished chairman of the committee to hold hearings and then will proceed to the sense-of-the-Senate resolution on a summit.

### AMENDMENT NO. 3225

(Purpose: To repeal section 2392 of Title 10, United States Code, relating to the prohibition on the use of Department of Defense funds to relieve economic dislocations, and for other purposes)

Mr. SPECTER. But at this moment, I call up amendment No. 3225.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3225.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 118, strike out lines 10 through 17 and insert in lieu thereof the following:

SEC. 1007. (a) Section 2392 of title 10, United States Code, is repealed effective October 1, 1984.

(b) The Secretary of Defense shall carry out in each fiscal year, beginning with fiscal year 1985, a program under which the Department of Defense, in order to endeavor to relieve economic dislocations and provide employment in labor surplus areas in the United States, shall be authorized to pay a price differential on nonstrategic contracts awarded by the Department of Defense. Under such program, the Secretary of Defense shall award contracts to individuals or firms in labor surplus areas (as defined and identified by the Department of Labor) if the Secretary determines—

(1) that the awarding of the contracts will not adversely affect the national security of the United States;

(2) that there is a reasonable expection that bids will be received from a sufficient number of responsible bidders so that the award of the contracts will be made at reasonable cost to the United States; and

(3) that the price differential to be paid under the contracts will not exceed 2.5 per centum.

(c) The total value of contracts awarded by the Department of Defense in carrying out this section shall not be less than $12,000,000,000 in any fiscal year.

(d) Not later than April 15, 1986, and each year thereafter, the President shall submit a report to the Congress on the implementation and results to that date of the program authorized by subsection (a). Each report shall include an assessment of the costs and benefits of the program.

**Mr. SPECTER.** Mr. President, the substance of this amendment would repeal the Maybank amendment which exempts the Department of Defense from targeting defense programs to areas of high unemployment. This amendment would require that the Defense Department target no less than $12 billion annually in nonstrategic purchases to areas of high unemployment.

There is at the present time a requirement that targeting be accomplished in the neighborhood of some $4 billion a year and that unfortunately has not been accomplished.

My sense is that given the high unemployment rates in some States like Pennsylvania with many labor surplus areas, there should be a very substantial targeting of defense contracts. That is the purpose of this amendment which I now will withdraw upon the assurance which has already been discussed with the distinguished chairman of the committee that a hearing on this issue will be held as promptly as possible.

**Mr. TOWER.** Mr. President, I wish to express my views on Maybank, and I am going to agree to the request of the Senator from Pennsylvania.

Report received from the President on May 23, 1984, on the Maybank amendment test program shows the following:

DLA awarded 1,087 contracts valued at $105,000,000 on which a price differential was paid. The price differential paid amounted to $1,941,000. The cost to administer the test amounted to $2,311,000. Thus, the total cost to place contracts in labor surplus areas was $4,252,000, representing a 4.1-percent increase in making awards for which a premium was paid.

Contractors who were paid a premium indicated that 3,604 additional employees would be hired. Labor areas that lost contract awards lost 3,463 employees. Thus, there was a net gain of 141 jobs.

In fiscal year 1983, 34.8 percent of the Nation's labor areas were designated as labor surplus areas. These areas won 39.7 percent of defense contract awards independent of the test program. Thus, it appears that labor surplus areas can compete effectively with nonsurplus labor areas.

Further, repeal of the Maybank amendment would have the following effects:

Reduce competition among defense suppliers and increase prices for defense purchase;

Jeopardize making awards to the best qualified and most efficient producer and result in decreased quality and delays in defense production;

Place intense political pressures on Department of Defense contracting officials from local firms and governments;

Divert contracts now won by small business and minority firms in open competition to large business firms that may not perform as well in labor surplus areas;

Adversely affect DOD's ability to meet offset and coproduction commitments with foreign governments; and

Impede NATO rationalization, standardization, and interoperability [RSI] agreements and memoranda of understanding [MOU's] with foreign governments.

Mr. President, in short, this test program is a turkey. In fact, repeal of the Maybank amendment, I think, would add enormous costs and inefficiency to defense procurement.

But nonetheless, even considering the fact that this test program is a costly and monumental turkey, I will agree to hold a hearing for the Senator from Pennsylvania.

**The PRESIDING OFFICER** (Mr. GORTON). The Senator from Illinois is recognized.

**Mr. PERCY.** Mr. President, I commend both the distinguished chairman of the Armed Services Committee and Senator SPECTER who comes from a State like Illinois that has substantially higher than average unemployment, and I would just wish to say that we have in Illinois an area such as Joliet that has an ammunition facility that has now some 1,300 virtually empty buildings. A decision was made by a private contractor to move into those facilities, into several of those facilities, expand their activities there, and do so because they have such a huge surplus labor supply available.

Unemployment is running well above 15 percent. Yet, we are having difficulty getting serious consideration for ammunition runs in what was built as a Government ammunition plant and the local community in Joliet and surrounding areas cannot understand why they cannot get contracts where they have the labor, the facilities, the buildings, and certainly priority should be given to such facilities.

I commend the distinguished Senator for bringing this issue up and for the manager of the bill in commenting favorably upon it.

I just wish to assure them I shall continue to persist and work with the Department of Defense, and they have been cooperative in looking at it. Secretary Marsh has made a special trip out there to look at the facilities. He has well in mind what our needs are, but what we need are jobs and action now. They can be competitive. They are high efficient, and we should certainly move in the direction of those very high labor surplus areas that are underutilized right now and make the maximum usage we possibly can particularly when we have known needs.

I thank the distinguished Senator for raising the issues this evening.

**Mr. QUAYLE.** Mr. President, I am sure my esteemed chairman did not really want to refer to this idea, the Maybank test, as a turkey, such strong language, particularly when his esteemed President supports the Maybank test amendment for at least another year. I know the chairman is well aware of this letter that I read. I am sure that he remembers the letter that the President sent to the committee supporting the concept.

I am also sure that maybe the hearings will be held in the full committee, or perhaps that prestigious ad hoc task force committee on procurement will have a chance to look into this issue.

But I do want to share a thought with the Senator from Pennsylvania, who has been involved in this, on the fact that we really do have to get some handle on statistics. The statistics that were stated by the chairman of the committee I think are somewhat doubtful. I am not going to get into that argument tonight. He has already consented graciously to hold hearings.

I do believe we ought to get a better handle on this program. Now that we have the President's support, at least for another year, that will give us adequate time to pursue this.

It is important not only to the State of Pennsylvania and the State of Illinois, but the entire Midwest, particularly, and it goes to other States also where you have pockets of labor surpluses.

Every other agency of the Government has to comply with this. There is no reason that this cannot be extended to the Department of Defense. We do have it in the DLA. I think that the way that the bill is crafted right now that we are in as good a position as we can be in.

It was a delicate compromise that we worked out in the full committee. I thank the Senator for offering it and sensitizing the Senate to the issue. I look forward to working with him on getting some more constructive input on where we should or should not be going with this amendment.

**Mr. SPECTER.** Mr. President, I have a great deal to say on the subject by way of debate, but I will default that under the present arrangement. To introduce an amendment and to withdraw it in consideration for a hearing is a time-tested procedure in this body, and could have been accomplished within a few seconds, given the hour is past 11 o'clock. So I shall not debate the matter.

But I do now withdraw the amendment, in light of what the distinguished chairman has said.

**The PRESIDING OFFICER.** The amendment is withdrawn.

AMENDMENT NO. 3227

(Purpose: To amend the test program to authorize price differentials to relieve economic dislocations to make the program applicable to all Department of Defense contracts)

**Mr. SPECTER.** Mr. President, I now call up Amendment No. 3227, and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3227.

**Mr. SPECTER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 118, strike out lines 10 through 14 and insert in lieu thereof the following:

SEC. 1007. (a) Subsection (a) of section 1109 of the Department of Defense Authorization Act, 1983 (10 U.S.C. 2392 note), is amended—

(1) by striking out "Defense Logistics Agency" in the second sentence and inserting in lieu thereof "Department of Defense"; and

(2) by striking out "fiscal years 1983 and 1984" each place such matter appears and inserting in lieu thereof "fiscal years 1984 and 1985".

**Mr. SPECTER.** Mr. President, this is the second amendment under a previous arrangement to be offered and withdrawn in consideration for a hearing. This would strike the Defense Logistics Agency as the ambit for consideration of targeting to labor surplus areas and insert in lieu thereof the full Department of Defense. This is an effort to have a sufficient scope where there can be contracts given labor surplus areas.

Again, I have a great deal to say by way of debate, but since it is now almost 11:15, I do not intend to argue the matter, but only seek the assurance by the distinguished chairman of the committee that there will be a hearing on this amendment, as well.

**Mr. TOWER.** The Senator has that assurance.

**Mr. SPECTER.** I withdraw the amendment.

**The PRESIDING OFFICER.** The amendment is withdrawn.

AMENDMENT NO. 3255

(Purpose: To express the sense of the Congress regarding the holding of a summit meeting between the leaders of the United States and the Soviet Union)

**Mr. SPECTER.** Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

**The PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 3255.

**Mr. SPECTER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment reads as follows:

On page 128, between lines 12 and 13, insert the following:

POLICY ON SUMMIT MEETING

SEC. 1019. (a) The Congress finds that—

(1) the nuclear arms race continues at an increasing pace between the United States and the Union of Soviet Socialist Republics, diverting massive resources, raising the risk of nuclear war, and increasing dissension within American society and the Atlantic Alliance;

(2) technological advances are now enabling the superpowers to extend the arms race to space and are complicating arms control tasks on earth; and

(3) nuclear arms talks have been abandoned by the Soviet Government after its effective rejection of all United States proposals for reductions.

(b) It is the sense of the Congress that the President of the United States and the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics should meet as soon as possible to negotiate nuclear arms reduction, stabilization, and control, with effective verification, and if the scheduling of such a summit meeting for the coming Fall is rejected by the Soviet Government, then the President should make it his first priority following the Presidential elections in the United States in November 1984, to seek such a summit meeting, without preconditions or assurances of success.

**Mr. SPECTER.** Mr. President, the amendment which has just been submitted for consideration is virtually identical to Amendment No. 3226, which I now make reference to so that the Members may know that it has been printed in the CONGRESSIONAL RECORD. The substance is the same as in 3226, but there have been some minor changes made in the amendment submitted to the desk.

Mr. President, I am offering an amendment to express the sense of the Congress in favor of an early summit meeting focussing on nuclear arms. The amendment, amendment numbered 3255, is essentially the same as amendments I offered to the authorization bills in 1982 and 1983, which were adopted by overwhelming votes.

I am offering a summit resolution again in 1984 because with rising tensions in relations between United States and the U.S.S.R., with escalation of the arms race, including new United States and Soviet deployments of nuclear missiles in Europe and the threatened extension of the arms race to space, the need for a superpower summit is greater now than ever before.

A sense-of-the-Congress amendment to the defense authorization bill is, in my view, entirely appropriate because a summit is crucial to arms control and arms control is a part of our defense as well as any deficit-reduction strategy. President Reagan's dual policy of strength through the military buildup and arms control through negotiations is sound and is based on the recognition that progress on either side of the equation produces progress on the other.

The role of the Senate in suggesting to the President that he pursue a summit meeting derives from the constitutional power to advise and consent. If the Senate had participated more directly in the negotiations leading to the SALT II treaty, that treaty would likely have been concluded in a form which would have received Senate approval and ratification.

An expression of congressional support for a summit is even more timely now than before because the United States has proceeded with the President's strategic modernization program, including deployment of Pershing and cruise missiles in Europe, production of the B-1 bomber, and further work on the MX missile. Consequently, the United States can now bargain from a position of greater strength, a position at least of parity. Indeed, the President recently affirmed that he was satified with a position of parity and that efforts to achieve superiority were neither necessary nor helpful to arms control.

As many of my colleagues will reaffirm, everywhere Senators go, they encounter pervasive fear of nuclear holocaust. There is a worldwide fear of nuclear destruction leading to a worldwide wish for nuclear disarmament. I have personally seen the strength of this sentiment from western Pennsylvania to West Germany and beyond to the People's Republic of China. In the last 18 months, I have held over 60 open house town meetings in cities and communities throughout the State of Pennsylvania. I have encountered strong opinion against the MX missile and in favor of the nuclear freeze. Plainly, Pennsylvanians, like people everywhere, are scared.

Much has been said recently in the press of the sometimes inflammatory rhetoric of leaders in both Washington and Moscow. I do not believe that hostile rhetoric is helpful and I am concerned that it can be harmful. However, more than harsh words give rise to concern over the dangers of a nuclear war erupting from some crisis or misunderstanding.

The United States recently deployed cruise missiles at the Greenham Common Air Base in England which I visited last November. During the same week, I traveled to Mutlangen, West Germany, to visit the base where new Pershing II ballistic missiles were being assembled and deployed. Meanwhile, the Soviet Union has begun deploying new intermediate-range missiles in eastern bloc countries and continue to deploy additional SS-20 missiles in western Russia that are aimed at Western Europe.

During the same trip last fall I met with Soviet And American arms negotiators in Geneva. By the time I arrived, the Soviets had already suspended the INF talks and shortly thereafter they abandoned the START talks.

Among other events of seismic significance since the Senate last considered the summit issue have been the death of Mr. Andropov and the succession of Mr. Chernenko. Shifts in Soviet leadership, as President Reagan noted in his last news conference, have not helped arms-control negotiations or attempts to develop a sound basis for a productive summit. But the new Soviet leadership has now had an opportunity to settle in and to reexamine arms control and other critical parts of the Soviet Union's strained relations with the United States.

In President Reagan, the United States has a superb negotiator and leader. His signal accomplishments at economic summits in Ottawa, Versailles, Williamsburg, and London and his bold proposals in the areas of nuclear, chemical, and conventional arms demonstrate his potential to achieve a breakthrough on arms control and other vital subjects in a summit with Chairman Chernenko.

Of course, President Reagan, as an advocate on military strength and anticommunism, has unique credibility with important sectors of American political opinion on reaching an arms-control agreement just as President Nixon did on recognizing Red China. With the accumulated knowledge from nearly 4 years of studying and deciding a range of arms-control issues, the President also now has the requisite expertise.

Soviet leaders know, however, that, unlike their system of Government, in our country the system of checks and balance involves Congress in critical foreign policy decisions such as funding new weapons and ratifying new treaties. Therefore, there is a great need to demonstrate national unity to them on critical issues like holding a summit and negotiating arms control.

Indeed, in American Government, arms building and arms control are a partnership enterprise between the Executive and the Congress. Consequently, it is not only appropriate, it is essential for the Congress to express its will.

All too often the Congress has not accepted this role and has not carried out this responsibility. But it did so last week when the Senate adopted an amendment to the defense authorization bill requiring the President to attempt negotiations before approving tests of antisatellite [ASAT] weapons.

Inasmuch as in this bill we will approve testing production, and/or deployment of other major weapons systems such as B-1, MX, Trident II, Pershing II, and cruise missiles, it is vital that we urge negotiations on nuclear arms. With the Soviet walkout from the START and INF talks, these negotiations, if they are to be productive, must include a summit.

President Reagan emphasized in his news conference last week he is ready and willing to hold a summit. That he will no longer insist that a treaty directly result or even that major results be assured in advance is most commendable in this Senator's view. So, too, is the thoughtful suggestion from the distinguished majority leader, Senator Baker, and the distinguished chairman of the Foreign Relations Committee, Senator PERCY, of annual summit meetings.

When I first suggested a nuclear summit in April 1982, one of the concerns most forcefully expressed by administration officials was the danger of people's hopes raised and then dashed if an agreement did not result from the summit. Since the Senate approved my summit resolution on May 12, 1982, by a vote of 92 to 6, I assume that colleagues found that argument no more compelling and dispositive than I did. In any event, annual summits, as previously suggested by many thoughtful people, would certainly remove the risk of a possible letdown as the President termed this continuing concern.

I shall proceed at this point, in consideration of the hour, to summarize the arguments which are contained in my full statement.

Mr. President, the amendment which is now pending calls for a summit between the President of the United States and the leadership of the Soviet Union under this approach, that:

> It is the sense of the Congress that the President of the United States and the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics should meet as soon as possible to negotiate nuclear arms reduction, stabilization, and control with effective verification, and if the scheduling of such a summit meeting for the coming Fall is rejected by the Soviet Government, then the President should make it his first priority following the Presidential elections in the United States in November 1984, to seek such a summit meeting, without preconditions or assurances of success.

Mr. President, a virtually identical text has been offered on two occasions in the past by this Senator as amendments to the Department of Defense authorization bill in 1982, when the sense-of-the-Senate resolution calling for a summit passed by a vote of 92 to 6, and then a virtually identical sense-of-the-Senate resolution which was offered to the Department of Defense authorization bill in 1983 which passed by a vote of 82 to 7.

It is my sense that it is most appropriate when we consider authorization bills, in the range as yet precisely undetermined but probably somewhere around $260 billion to $270 billion, which I intend to support, on a very expansive set of armaments and authorizations for preparedness that at the same time there be the maximum effort to have arms reduction and arms control.

This is in fact the two-track approach which President Reagan has already announced and articulated: that we should be strong, knowing the proclivities of the Soviets, but at the same time we should be willing to talk arms reduction.

Mr. President, I think that it is especially appropriate in the constitutional setting for this sense of the Senate resolution to be offered, given the constitutional responsibility and authority in the Senate for advice and consent on treaties.

The SALT II treaty was never ratified by the United States Senate. It seems to this Senator most appropriate for this body to express itself on such an important matter and to lend encouragement to our President and to lend encouragement to the Soviet counterpart that the Senate considers such negotiations in arms reduction to be a matter of paramount importance and that with this sense of the Senate resolution, although not agreeing to anything in advance, that this body is interested in having such arms reduction agreements and, obviously depending upon the specifics of any such treaty, would be inclined to consider it favorably if, as, and when the matter came before the Senate for ratification.

This sense of the Senate resolution would enable President Reagan to bargain from a position of strength in the light of the substantial authorization and appropriation bills for fiscal year 1982, fiscal year 1983, fiscal year 1984, and now for fiscal year 1985.

The President, in his nationally televised news conference last week, said, in response to a question, that he was not looking for military superiority, but was looking for parity. A good position from which to start on the issue of negotiation.

I believe, Mr. President, that in this day and age, there is no such thing as superiority. In a very real sense, the United States is inferior to the Soviet Union because the Soviet Union has the power to destroy the United States. And similarly, in a very real sense, the Soviet Union is inferior to the United States because the United States could destroy the Soviet Union. And both major powers may be inferior to the likes of Qadhafi or Khomeini in terms of the potentiality for destruction if Qadhafi or Khomeini ever obtains nuclear arms.

Mr. President, in my judgment there is worldwide fear of nuclear destruction, and there is the corollary of a worldwide wish for a nuclear disarmament. Last November-December, I personally observed the location of the Pershing II's in West Germany, the location of the cruise missiles in England, and had occasion to talk to West Germans and British where the cruise missiles were deployed. Those missiles systems were received by those two nations but in the context of great concern by the citizenry of those nations.

During the course of the past 18 months I have had occasion to have more than 60 open house/town meetings throughout my State of Pennsylvania, and have found great concern and fear about the possibility of nuclear destruction, and great wish for nuclear disarmament. Wherever I have traveled in Pennsylvania at these open house/town meetings, there have been concerns about the MX, and the general sense in favor of a mutually verifiable nuclear freeze. There is a real sense, in my view, in this country today about wanting to have arms reduction talks at the highest level.

It is my view, Mr. President, that the Congress and the Senate has not pressed with appropriate vigor and appropriate diligence on its leadership role to push for such summit. As President Reagan himself has articulated his view of the relationship between the executive and legislative branch, there is a partnership. In seeking this sense-of-the-Senate resolution, I do little more than press for a formal statement by this body on what the President has already said that he finds to be acceptable.

Last week when our distinguished majority leader, Senator Baker, and the distinguished chairman of the Foreign Relations Committee, Senator Percy, appeared before an impromptu news conference outside the White House, and commented about their wish to see a summit on the nuclear issues so that the two major powers do not destroy themselves, it was a significant triggering factor, in my judgment, on the President's response in his nationally televised news conference where he stated his willingness to have such a summit without unnecessary preconditions, or assurances of success.

Last week, when this body voted on the antisatellite weapons system, and called upon the President for negotiations, there was an immediate impact in terms of the attitude of a White House when as reported last Saturday administration officials said on Friday that the Untied States would resume limited economic talks with the Soviet Union, and had also softened its opposition on talks with Moscow on curbing development of antisatellite space weapons.

So there can be no doubt, Mr. President, that when the United States Senate speaks on the subject there is very substantial impact. I believe it is important that this body lend its collective voice to encourage our President, and encourage the leader of the Soviet Union, to meet, to have talks on these matters of the utmost urgency, and of the utmost importance.

The sense-of-the-Senate resolution which I am submitting does not lay out any detailed blueprint as to how President Reagan may wish to proceed, or how his Soviet counterpart may wish to proceed in terms of the adequacy of preparation or the nature of an agenda, but simply that there not be preconditions or assurances of success which means that the summit meeting ought not to be delayed until all of the items have been agreed upon by the subordinates and is merely an event where documents are signed.

The language of the sense-of-the-Senate resolution comes very close to the specific language that the President stated in his press conference in terms of what he was willing to do.

Mr. President, there have been relatively few summits during the course of the last 25 years—in 1959, 1961, 1967, 1972, 1973, 1974, in June 1974, November 1977, and June 1979 and there has not been a summit meeting since June 1979.

I suggest that in President Reagan we have a uniquely well-qualified negotiator who can advance the interests of the United States in a way which is unparalleled in international negotiations. At economic summits in Ottawa in 1981, in Versailles in 1982, Williamsburg in 1983, and earlier this month in London, the President distinguished himself with his powers of negotiation.

There is no more important issue facing the world today than the possibility of nuclear destruction, and there is no more vital effort that can be made by the leaders of the United States and the Soviet Union than for the two superpowers to meet and talk about these issues in an effort to achieve arms reduction, and to relieve international tension.

I thank the Chair, and I yield the floor.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have followed with a great deal of interest the amendment offered by my friend from Pennsylvania, as I did last year when he discussed a similar amendment and proposition.

Mr. President, last year's language was much more carefully stated than this year's. I think this year's language could probably result in some problems. I state what I am going to say, Mr. President, because I do not believe it is the business of the Senate to engage in foreign policy, and calling for a summit is certainly engaging in foreign policy at the highest level.

Last year, for example, the Senator from Pennsylvania stated "since a carefully prepared summit could facilitate the accomplishment of the objectives of these negotiations and lead to a reduction in the risk of nuclear war," that is one statement. And the last statement of the amendment was "It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republic should meet at the earliest practical time following thorough preparation to discuss major issues in United States-Soviet relations, and to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms."

Yet, this year, Mr. President, in calling for substantially the same type of action, the Senator states "It is the sense of the Congress that the President of the United States and the chairman of the Presidium of the Supreme Soviet of the Union of the Soviet and Socialist Republics should meet as soon as possible to negotiate nuclear arms reduction, stabilization, and control with effective verification" and so forth and so on.

So there is a difference in the two propositions that have been made by my friend from Pennsylvania. As I say, I cannot support it. I probably will be in the great minority on this because it is engaging this body in direct foreign relations which I think is unconstitutional.

We can advise and consent. But to call on the President to do certain things in a specific language, Mr. President, I do not think is right. I do not think it is practical. I think it is infringing upon the constitutional rights of our President. I merely wanted to bring that up because again with all the 299 billion dollars' of worth of equipment that we are calling for in our Department of Defense bill, we spent most of our time debating on foreign policy, which is in no way related to a Department of Defense bill.

I was hoping at the outset of this whole thing that we could get a rule of germaneness. But that was not possible. We have literally spent I would say 90 percent of our time discussing things that are in no relation to the problem that we face of passing a piece of legislation with which we can go to conference with the House relative to how many pieces of equipment, how much we are going to pay, and how much we are going to pay the troops, and so forth.

I merely wanted to rise, Mr. President, to extend that observation. I think we make a mistake when we try to impose our will with relation to foreign policy that the President has already expressed himself on. Therefore, I would not support this.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, will the Senator from Pennsylvania respond to a question or two?

It is my understanding that this amendment is stating, "It is the sense of the Senate that the President of the United States and the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics should meet as soon as possible to negotiate nuclear arms reduction, stabilization, and control, with effect verification." That means the President and Chernenko would negotiate directly with each other on all of these complex issues, is that correct?

Mr. SPECTER. Yes; that is correct.

Mr. TOWER. Regardless of how long it takes? In other words, the President could be out of the country in Geneva for weeks on end?

Mr. SPECTER. No. A fair reading is not that it would take an inordinately long period of time. As my staff indicated to your staff, the word "negotiate" is used in a general sense. But it is my view that there ought to be face-to-face discussions and negotiations between President Reagan and the leader of the Soviet Union. I would not expect it to take an inordinately long period of time. But whatever time it took, I would say there would be no time better spent.

Mr. TOWER. In other words, they would sit there at the conference table and negotiate. It took about 3 years to negotiate SALT II. There is a lot of very arcane, technical business involved here. Does this mean that we are recommending that the President sit down at the conference table for however long it takes to negotiate directly with the Soviet leader of state?

Mr. SPECTER. No, this does not mean that the negotiations would be expected to take 3 years. There is ample language, as I said earlier, for there to be preliminaries, for there to be discussions by subordinates. I do not in this sense-of-the-Senate resolution dictate to the President or set preconditions as to how he should arrange the agenda or how he should arrange the preliminary negotiations.

Mr. TOWER. It says "without preconditions or assurances of success."

That means that the President and Chernenko would sit down and start from scratch negotiating directly with each other. Is that correct?

Mr. SPECTER. No; it does not mean that.

Mr. TOWER. What does it mean by "without assurances?"

Mr. SPECTER. It says, as I said in my opening comments, that the meeting between our President and the Soviet President would not be limited to just a signing ceremony with everything having been worked out in advance. There would be an expectation on my part that even if the subordinates could not come to agreement on all matters and there were some areas which remained for discussion and agreement, or disagreement, that President Reagan and the Soviet President would discuss those matters.

Mr. TOWER. Does this mean that if the President did not sit there every day, that would mean he would run back and forth between Washington and Geneva for plenary sessions from time to time?

Mr. SPECTER. No.

Mr. TOWER. I do not quite understand what it means.

Mr. SPECTER. Let me explain it.

Mr. TOWER. I do not understand why the Senator did not offer the amendment he offered last year which was pretty generally agreed upon around here. This one is substantially different.

Mr. SPECTER. Will the Senator yield?

Mr. TOWER. Yes.

Mr. SPECTER. If I substituted last year's amendment, would the Senator agree with it?

Mr. TOWER. I think everybody would. I talked to many Senators who supported the Senator's amendment of last year but they certainly could not support this. As a matter of fact, my own view is that we would be the laughingstock. You might get this passed because there are a lot of people who would want a summit meeting. But what it suggests here is that the President of the United States should sit down with Chernenko and try to negotiate a complex arms agreement.

Mr. NUNN. Will the Senator yield?

Mr. TOWER. I yield.

Mr. NUNN. I agree with the Senator from Texas. I think he has analyzed it correctly. It would be ideal, and at some point in the future it might be possible, to have summit conferences without unduly raising expectations. I am not sure that would be possible with this administration at this juncture in view of the forthcoming election. I just do not believe that could be done unless it is done in the first year of an administration, perhaps this administration or perhaps another one. The problem is when you raise those expectations not just in this country but in the whole world, you come away with possibly nothing, and maybe even come away with bitter feelings that ensue from vigorous discussions with no result. I think it is a dangerous situation.

The Senator asked the Senator from Texas about the amendment of last year. The amendment that I saw, that I think was the amendment that was passed last year, and I have not been able to check it out, I would be able to support. That is a different animal altogether because it calls for a carefully prepared summit. This amendment we now have before us is not carefully prepared. As I understand the amendment, the part I find particularly objectionable is the last phrase. It says, "The President should make it his first priority following the Presidential elections in the United States in November 1984, to seek such a summit meeting, without preconditions or assurances of success." That "without preconditions or assurances of success," putting that in a resolution, it seems to me is going a long way. It seems to me you would want some expectation you were going to have success. Otherwise, the President would be taking a risk to go. By success you mean the accomplishment of some objective.

Whether there was agreement or not, you might say without assurances of explicit agreement. But when you say without assurances of success, you are asking the President of the United States to go off to Moscow on some kind of hope that everything is going to work out well. I do not believe that is the proper way.

I will say to the Senator I hope he will draw down this amendment and substitute the amendment he offered last year. I think he would get a lot more votes.

Mr. PERCY. Will the Senator yield?

Mr. TOWER. I yield

Mr. PERCY. Mr. President, I would like to comment on the resolution and also on the observations of the distinguished Senator from Arizona.

It was my understanding that the summit meeting resolution that was being brought up was similar to the resolution of last year that we overwhelmingly approved.

I would have to take exception to directing the President to negotiate an arms control agreement. That would be an impractical thing for us to do.

If you set up a summit, you would have expectations that would not be meaningful. These debates have gone on for years. How many years did it take to do one relatively simple one that we have entered into, the SALT I? That took several years to do. It took highly skilled negotiators.

I would think a reaffirmation of the resolution of the distinguished Senator of last year would probably be timely.

I do very much agree with the distinguished Senator from Arizona. This is why I raised the issue, when are we going to schedule the foreign military assistance and economic assistance bill? The area of arms control comes within the province of the Foreign Relations Committee. We are on a military authorization bill and getting into arms control. We have gotten into every kind of an unrelated, nongermane item on this particular bill. I just wonder if we can set a definite time for a bill to come before the Senate that has been reported by the Foreign Relations Committee. That is where foreign relations matters and arms control matters really belong.

To my distinguished colleague from Arizona, we cannot say that the area of foreign policy, particularly arms control, is a province which involves only the President.

Arthur Dean, senior partner of Sullivan & Cromwell, who as we know is one of the most distinguished international lawyers in the world today, testified before the Foreign Relations Committee the Founding Fathers, having a very grave concern about foreign entanglements, were very clear in limiting the power of the President of the United States. In fact, they did not give the President the power to enter into treaties. They gave that clearly to the Senate of the United States. As he said, and I would be happy to pull out his testimony and give it to my distinguished colleagues, in a sense the Founding Fathers named the President as the agent of the Senate to do through the executive branch the negotiating. Then he could sign the treaties, but only upon the concurrence, advice and consent of two-thirds of the Senate could it be ratified and therefore entered into. We have not had a treaty for 12 years because advice and consent has not been given on treaties signed by Presidents Nixon, Ford, and Carter.

Mr. GOLDWATER. Will the Senator yield?

Mr. PERCY. I would be happy to yield.

Mr. GOLDWATER. I believe I mentioned the words "advice and consent." Certainly we have that responsibility. It is a constitutional charge. But the point I wanted to bring out was just the point the Senator brought out, that throughout this entire debate, now going on I think 10 or 11 days, we have not talked about F-15, F-16, M-1 tanks, how much we are going to spend on this, that, or the other thing. It has been a constant stream of amendments relating to foreign policy.

For example, I think the Senator was absolutely right the other day in offering his opinion to our President that he thinks it would be a good idea for him to have a summit. I met with him yesterday and I told him I thought it would be a good idea to knock off the War Powers Act. That is my right, and it is the Senator's right. But for us to vote on the floor of the Senate on an amendment that in effect says "you have to go to Moscow and you have to discuss this," I disagree with, and I think the founders of the Constitution would disagree with that approach, although we have the right, if this were offered in a different form, to offer it as a part of advice. It would be up to him to consent in this case.

Mr. PERCY. I thank my distinguished colleague, and I do think that the Senate-adopted amendment of last year was offered by the Senator from Pennsylvania [Mr. SPECTER] who has been a strong proponent in the Senate of the summit meeting. I know when I went to Moscow immediately after President Reagan was elected in November of 1980, I came back and said I thought that would be a good idea for the President of the United States and the Secretary General of the Soviet Union to sit down and talk, the two most powerful people on the Earth; that they have to give a sense of direction to the arms control teams, to where we go in Afghanistan, from their standpoint, establish respected policies and to get a gauge on each other, size each other up, get a feel for each other, and discuss these matters.

But there is a great deal of difference between a discussion and actually sitting down and negotiating and putting the commas and the periods in and all that that has to imply. So I much prefer the Senator's resolution of last year and would certainly support it. I would only like to ask one question. Considering that the distinguished Senator was a lawyer for many years, dealt with corporations, the regularity of meetings, even in a corporation they have monthly board meetings, they have annual meetings of their stockholders, and the regularity of meetings now we have extended to our allies. We meet every second year with our allies. It was the conclusion I came to last November probably it is a good idea to set a regular meeting once a year with our principal adversary, the other superpower—both of them have the capability to destroy life on this Earth—and try to prevent any miscalculation or mistake.

Therefore, I had hoped no later than next year the President would say beginning at least by 1985 we ought to have a regular meeting with no high expectations but the agenda would be not just arms control agreements but Afghanistan, human rights, religious freedom in Eastern Europe, where do we go in Central America, what are they doing down in Grenada, all of those things that we want to talk about and the things that they want to talk about. Obviously, comprehensive test ban treaties, the nuclear weapons in outer space, ratification of treaties that have already been signed and languished for 12 years and never have been advised and consented on by the Senate, are items the Soviet Union rightfully could put on an agenda which we could talk about. I think the regularity of that kind of meeting would probably be a very good thing.

But again, I come back to the fact that it is very frustrating for the chairman of the Armed Services Committee to constantly have foreign policy matters raised and amendments put on an armed services bill which really is trying to encompass far more than he wanted to encompass and taken us far longer, and that has not been chargeable, really, to the Armed Services Committee. We are getting into the work of other committees. That is why I was grateful the majority leader has definitely said now we will have a time to talk foreign policy, and that will be the time to raise a lot of these issues involving foreign affairs.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I have greatest respect for the distinguished Senator from Arizona [Mr. GOLDWATER], as he has articulated his views a moment ago, as he has so often on the Senate floor, about deferring to the President as the Commander in Chief. My own sense is that as part of our constitutional roll for advice and consent, it is most appropriate to give that advice or suggestion and that when Senator BAKER and Senator PERCY appeared last week and gave their advice in an informal news conference, that had a very profound effect on our President's thinking and influenced his responses directly when he had his nationally televised news conference. Similarly, when we had the vote last week in this body calling on the President to have negotiations on the antisatellite weapons issue, there was a modification of the White House position. It is my view that that is most appropriate in the partnership context the President speaks about so frequently.

With respect to comments by the distinguished Senator from Georgia [Mr. NUNN], about expectations, I quite agree that it would be highly desirable that whatever expectations were present be fulfilled. But in the absence of a meeting between the leaders of the two superpowers it is my judgment that people of the world are parched, starved, for some sort of dialog between President Reagan and the leader of the Soviet Union. It would have been in world interest to have had this meeting a long while ago.

The language as drafted in this sense-of-the-Senate resolution seeks the identical goal, as I said earlier, of the 1982 sense-of-the-Senate resolution and the 1983 sense-of-the-Senate resolution. In light of what the distinguished chairman, Senator TOWER, has said and what the ranking member, Senator NUNN, has said about their preference for the language from last year, which in my judgment accomplishes the same goal as the language for this year, I send a modification to the desk and ask that my amendment be modified to restate the precise language which was in the sense-of-the-Senate resolution submitted on July 12, 1983.

**The PRESIDING OFFICER.** The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON SUMMIT MEETING

SEC. 1019. (a) The Congress finds that—

(1) the nuclear arms race continues at an increasing pace between the United States and the Union of Soviet Socialist Republics, diverting massive resources, raising the risk of nuclear war, and increasing dissension within American society and the Atlantic Alliance;

(2) technological advances are now enabling the superpowers to extend the arms race to space and are complicating arms control tasks on earth; and

(3) nuclear arms talks have been abandoned by the Soviet Government after its effective rejection of all United States proposals for reductions.

"It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time following thorough preparation to discuss major issues in United States-Soviet relations and to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms."

**Mr. SPECTER.** I do so, Mr. President, mindful that the hour is approaching midnight and mindful that the more brief the debate, probably the better for adoption of the amendment.

**The PRESIDING OFFICER.** Is there further debate? Hearing none, the question is on agreeing to the amendment as modified.

The Senator from Georgia is recognized.

**Mr. NUNN.** Would the Senator mind reading the amendment? I think it is very short.

**Mr. SPECTER.** Mr. President, I ask for the yeas and nays.

**The PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

**Mr. SPECTER.** Mr. President, I shall be glad to read the amendment as modified:

It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time following thorough preparation to discuss major issues in United States-Soviet relations and to work for the realization of mutual equitable and verifiable reductions in nuclear arms.

**Mr. BAKER.** Mr. President, I wonder if the Senator from Pennsylvania would consider a voice vote on this? It is very late, and there are other matters that I know the two managers would like to dispose of tonight. A rollcall at this hour is going to take 30 minutes, in my opinion, by the time we get people in. I wonder if the Senator would agree to do it by voice vote.

**Mr. SPECTER.** Mr. President, I am willing to do that.

**Mr. BAKER.** I thank the Senator.

Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

**The PRESIDING OFFICER.** Without objection, it is so ordered.

The question is on agreeing to the amendment.

**Mr. QUAYLE.** Mr. President, one quick point. Did the Senator modify his amendment just by the last paragraph of the original amendment that was offered 2 years ago? I was under the impression that he was going to modify it so the entire text would read as last year's amendment. In reading the amendment, I think he just adopted the last paragraph and substituted paragraph (b) on the new one. I wonder if that is correct. If so, the other language at the top, which has not been changed, remains in there, such as:

(1) the nuclear arms race continues at an increasing pace between the United States and the Union of Soviet Socialist Republics, diverting massive resources, raising the risk of nuclear war, and increasing dissension within American society and the Atlantic Alliance;

I can say this is a far different tone than the Senator's amendment from last year. I just want to get an understanding of what was modified.

As it was read by the clerk, I think just the last part of it was there.

**Mr. TOWER.** Mr. President, it is my understanding that it is identical with last year's amendment with the substitution of the name "Chernenko" for "Andropov."

**Mr. QUAYLE.** If that is the situation, fine. I hope that is the situation. I do not believe that is what the Senator read.

**Mr. SPECTER.** Mr. President, in order to eliminate any question about it, let me send up, in addition to the handwritten version, the entire text from last year so that it will be plain that the entire text is the same as last year's.

**Mr. QUAYLE.** I thank the Senator, because I really believe that the record will show that the only part that was amended was section (b) of the original Specter resolution. I think that was the intent of all, to have the resolution of last year.

I thank the Senator for the clarification.

The amendment, as modified further, is as follows:

On page 128 between the lines 12 and 13, insert the following new section:

### SENSE OF THE SENATE RESOLUTION REGARDING A SUPERPOWER SUMMIT

Since relations between the United States and the Union of Soviet Socialist Republics are currently characterized by considerable tension;

Since on-going nuclear arms negotiations on strategic and theater force reductions being conducted by the duly appointed representatives to the respective parleys have not achieved satisfactory results to date;

Since a carefully prepared summit could facilitate the accomplishment of the objectives of these negotiations and lead to a reduction in the risk of nuclear war;

Since a carefully prepared summit could also lead to progress in resolving other major issues troubling relations between the two superpowers;

Since both President Reagan and Soviet General Secretary Chernenko have indicated their willingness in principle to participate in such a carefully prepared summit;

It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time following thorough preparation to discuss major issues in U.S.-Soviet relations and to work for the realization of mutual equitable and verifiable reductions in nuclear arms.

**Mr. TOWER.** Mr. President, I know it is going to be by voice vote, but I intend to vote against this amendment. I voted for it last year, but I do not think a carefully prepared summit can facilitate the accomplishment of the objectives of the negotiations.

Really, I think this is something that reads well, but I do not see that it can have any positive impact on any prospect of arms control. So I shall vote against it.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 3255), as modified further, was agreed to.

Mr. **BAKER**. I move to reconsider the vote.

Mr. **STEVENS**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BAKER**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BAKER**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAKER**. Mr. President, I have conferred now with the distinguished chairman of the committee, the manager on this side, who advises me that he does not expect any further rollcall votes this evening. There will be other amendments disposed of. Based on that information, I wish to announce now that there will be no more RECORD votes tonight.

### AMENDMENT NO. 3256

(Purpose: To limit the obligation and expenditure of funds appropriated to or for the use of the Department of Defense for fiscal year 1985 for consultants, studies and analyses, and management support contracts)

Mr. **MATTINGLY** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Georgia.

Mr. **MATTINGLY**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY] proposes an amendment numbered 3256.

Mr. **MATTINGLY**. I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

### CONSULTING AND RELATED SERVICES

SEC. 1019. Notwithstanding any other provision of this or any other Act, of the funds appropriated to or for the use of the Department of Defense for fiscal year 1985 pursuant to an authorization contained in this Act or any other law, not more than $1,302,599,000 may be obligated or expended for consultants, studies and analyses, management support contracts, and contract systems and Technical engineering.

Mr. **MATTINGLY**. Mr. President, the amendment that I have sent to the desk represents the latest in a series of attempts that I have made to identify and reduce the level of expenditures within the Department of Defense for consultants, studies and analyses, and related contracts.

My amendment merely stipulates that DOD cannot obligate or expend any funds for these services beyond the level that has been approved and authorized by the Armed Services Committee. That amount is a not inconsequential $1.3 billion. I am advised that the Armed Services Committee, in authorizing that level of expenditure, reduced the DOD request by less than 5 percent. My amendment proposes no further reductions but it does stipulate that no expenditures beyond the authorized figure can be made for the purpose of obtaining these services.

Recent experience had demonstrated that DOD has spent more money on these services than had been authorized and appropriated by the Congress. What I am attempting to do with this amendment is insure that the Pentagon will not be able to retain consultants and contract for studies through the use of funds that have been authorized for other programs and purposes.

Frankly, Mr. President, I suspect that the $1.3 billion that has been requested for consultant services is but a small percentage of the funds in this bill that could and might possibly wind up being spent on consultant fees and studies. That problem, however, takes us into the arcane world of Federal procurement codes and practices and I do not intend to enter that thicket today.

I inform my colleagues that the President's Cabinet Council on Administration and Management has expressed an interest in resolving the problems of identification and accountability that continue to surround the expenditure of the taxpayer's money for consultants and I remain hopeful that the Executive order which is being drafted will lend some assistance to the efforts that I and a number of my distinguished colleagues have made in this area.

I hope the distinguished chairman and ranking member of the committee will support this effort at cost control and will recommend the adoption of the amendment.

The **PRESIDING OFFICER**. Is there further debate on the amendment?

The Senator from Texas.

Mr. **TOWER**. Mr. President, the amendment of the Senator from Georgia has been cleared all the way around, I believe. On behalf of the majority, I am prepared to accept the amendment.

Mr. **NUNN**. Mr. President, the junior Senator from Georgia has been working on this a long time. I commend him for it. I think we do have an area here where we can tighten up from my point of view. I think on this side of the aisle, we have no objection to the amendment.

The **PRESIDING OFFICER**. Is there further debate? The question is on agreeing to the amendment.

The amendment (No. 3256) was agreed to.

Mr. **RUDMAN**. I move to reconsider the vote by which the amendment was agreed to.

Mr. **MATTINGLY**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **TOWER**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **GOLDWATER**. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** [Mrs. KASSEBAUM]. Without objection, it is so ordered.

Mr. **GOLDWATER**. Madam President, I should like to engage in a colloquy with the distinguished chairman.

Mr. **NUNN**. Madam President, will the Senator entertain one question? Is the colloquy directed toward getting the Department of Defense to keep the AWACS line open?

Mr. **GOLDWATER**. Yes.

Mr. **NUNN**. Would that be for the purpose of foreign military air sales or continental air defense?

Mr. **GOLDWATER**. Madam President, I should like to engage in a colloquy with the distinguished chairman of the Senate Committee on Armed Services in order to clarify the committee action on the Air Force E-3A [AWACS] program. As the chairman knows, $76.2 million in advance procurement was authorized and appropriated in fiscal year 1984 for an anticipated buy of three AWACS aircraft in fiscal year 1985. However, in the fiscal year 1985 Department of Defense budget request, no procurement funds for AWACS were requested. Instead, the Defense Department has decided to review the requirement for additional E-3A aircraft.

In the course of the committee's consideration of the fiscal year 1985 DOD budget, I requested a study of worldwide AWACS requirements which was to be submitted by March 15, 1984, in time for consideration during the fiscal year 1985 authorization process. That report has yet to be completed.

As a result, the Armed Services Committee recommended the transfer of the fiscal year 1984 AWACS advanced procurement funds to the fiscal year 1985 procurement account—with an offsetting reduction of $76.2 million from fiscal year 1985 request.

It is my understanding that the committee action was taken without prejudice and does not reflect a determination that additional AWACS are unnecessary or that the option for producing additional aircraft should be foreclosed. To the contrary, it is my understanding that the committee has in the past strongly supported the AWACS program and continues to do so today.

Mr. TOWER. My distinguished colleague from Arizona has correctly characterized the committee's views on this matter. The committee's action was based solely on the fact that at the time we acted no plan had been provided to us demonstrating DOD's intention to procure additional AWACS aircraft. Consequently, the fiscal year 1984 advance procurement funds were brought forward and applied to other purposes.

Should DOD wish to continue AWACS production, the committee would be pleased to consider a reprogramming request so long as such reprogramming action is accompanied by the requested force study.

Mr. GOLDWATER. I thank the chairman for his helpful comments.

Does that satisfy the question of the Senator from Georgia?

Mr. NUNN. Yes.

[The following proceedings occurred after midnight:]

### AMENDMENT NO. 3257

(Purpose: To authorize the acquisition of certain excess federal property)

Mr. THURMOND. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 3257.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 183, after line 15, insert the following:
>
> SEC. 236. (a) The Secretary of Defense may acquire excess federal land and facilities thereon adjacent to Fort McNair, Washington, District of Columbia, for the purpose of providing the necessary land area to construct additional facilities required by the National Defense University. The Secretary shall reimburse the Treasury for the fair market value of such land and facilities from funds otherwise authorized to be appropriated for military construction for Defense Agencies in this Act.
>
> (b) The Secretary of Defense may acquire the excess federal land and facilities thereon known as the "Appraiser's Store" and occupied by the National Security Agency in Baltimore, Maryland. The Secretary shall reimburse the Treasury for the fair market value of such land and facilities from funds otherwise authorized to be appropriated for military construction for Defense Agencies in this Act. In addition, the Secretary may use funds from the same source in an amount not to exceed $2,500,000 for the renovation of the facilities on such land.

Mr. THURMOND. Madam President, there were two projects in the budget request for military construction that involved the acquisition by the Defense Department of certain Federal property. One project for $5,022,000 involved the acquisition of excess Federal property adjacent to Fort McNair to be used for the expansion of the National War College. The second for $7,500,000 involved the acquisition of the so-called Appraiser's Store in Baltimore, MD, that is used by the National Security Agency. Even though these lands are already owned by GSA and are not needed by any other Federal agency, the Defense Department budget included the necessary funding authority to pay fair market value to the Treasury in order to acquire title to the lands.

The Committee denied the requested funds, questioning the practice of requiring one Federal agency to pay for property that was already excess Federal property. The Office of Management and Budget has written a strong letter in support of the practice of requiring one Federal agency to pay for the excess property of another Federal agency and I ask unanimous consent that a copy of OMB's letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

> EXECUTIVE OFFICE
> OF THE PRESIDENT,
> OFFICE OF MANAGEMENT AND BUDGET,
> *Washington, DC, June 14, 1984.*
>
> Hon. JOHN G. TOWER,
> *Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*
>
> DEAR MR. CHAIRMAN: In reviewing the recommendations of the Committee on the President's request for the fiscal year 1985 Defense Authorization Act, we have noted the Committee's opposition to an Administration policy on reimbursements for the purchase of surplus real property by Federal agencies.
>
> While reimbursement for transfers would appear to increase the size of agency budgets to provide funds for the transfer of property from one Federal agency to another, I would note that the reimbursement policy has no effect on overall government outlays.
>
> There is a compelling reason to maintain this policy. Unless agencies are required to pay for surplus Federal property they wish to acquire out of their own budgets, they will have every incentive to view such property as a "free good."
>
> With our policy in place, however, Federal agencies must trade off purchases of government surplus property at market value against other expenditures. The President strongly supports the policy because of the incentives it creates.
>
> The Committee's opposition to the policy has resulted in disapproval of two projects within the military construction accounts of the President's request for the Department of Defense for fiscal year 1985. We ask that these projects be restored.
>
> We are prepared to work with you and your staff on this matter to reach our common objectives.
>
> Sincerely,
> DAVID A. STOCKMAN,
> *Director.*

Mr. THURMOND. Madam President, the case made by Director Stockman has merit. Requiring one Federal agency to budget and pay for excess Federal property will prevent frivolous property transactions that may not be fully justified.

Therefore, I am proposing an amendment to reinstate the authority for the Secretary of Defense to pay for those two parcels of excess Federal lands using funds already authorized to be appropriated to the Defense Agencies for military construction. The amendment that I have proposed does not add any new authority for appropriations; it forces the Secretary of Defense to take the property costs out of his hide if he wants to complete the transactions.

Madam President, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. We have no objection, Madam President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3257) was agreed to.

Mr. THURMOND. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 3258

(Purpose: To remove limitation on funds for new hospital construction at Travis Air Force Base, California)

Mr. THURMOND. Madam President, I send an amendment to the desk on behalf of Mr. CRANSTON and Mr. WILSON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from South Carolina [Mr. THURMOND], for Mr. CRANSTON and Mr. WILSON, proposes an amendment numbered 3258.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 218, lines 5 and 6, strike out "new hospitals at Fort Lewis, Washington, and at Travis Air Force Base, California" and insert in lieu thereof "a new hospital at Fort Lewis, Washington".

Mr. THURMOND. Madam President, I am prepared to recommend that the Senate accept the amendment of the Senators from California. The amendment seeks to remove the fencing language with respect to Travis Air Force Base hospital in California. The fencing language prohibits any construction of the Travis hospital until the blue ribbon group reports on the question of hospital sizing.

The project authorized for Travis hospital is the second phase of a multiphased project and the Air Force is prepared to go to contract as soon as funds are available. If the fencing language is retained contract award could be delayed for a period of several months. The intent of establishing the blue ribbon group was to examine hospital sizing for future projects, not to unnecessarily delay hospital projects already underway.

Therefore, Madam President, I urge the Senate to consider this amendment favorably.

**Mr. CRANSTON.** Madam President, this amendment would allow work on the David Grant Medical Center at Travis Air Force Base to continue uninterrupted.

A new hospital is badly needed at Travis AFB. The current facility is 35 years old. The medical center is dispersed among 18 buildings, some of which are 1 mile apart. The buildings are so outmoded that they are functionally inadequate to carry out the mission of the medical facility—to give quality health care to active duty and military retired personnel. The new hospital will help to service the military community that is presently 70,000 and is growing rapidly.

In the Senate version of the defense authorization bill, S. 2723, the Senate includes the David Grant Medical Center in a new study on sizing of military hospitals. Because of the study, funds for the Travis hospital are restricted to site preparation construction work until the study is completed. The reason for the limitation on funding is to determine whether the size of the new medical facility is appropriate to the needs of the community. I applaud and support the intent of the study. We need to insure that we are not overbuilding hospitals, and military hospitals are very expensive. The proposed new medical facility at Travis, however, has been more than adequately studied. The Air Force has conducted careful, thorough analysis of the present and future needs of the military community. The hospital has been the subject of eight studies over the past 15 years. These studies document the need for a new hospital. The design for the hospital conforms to the criteria of title X, of the United States Code and the Department of Defense space planning for hospitals. In addition, the General Accounting Office recently gave the new Travis facility a clean bill of health. GAO determined that the hospital is properly sized and priced. We have studied this project enough. It is now time to move on to the next phase.

The Congress approved $5 million for site preparation for the hospital last year. Work in this area is proceeding on schedule. Completion of the design is expected by January 1985. Construction can begin in July 1985, if we stick to the time table. Another study will undoubtedly delay this schedule. And delays always mean additional costs. If this hospital plan had not already been thoroughly documented, analyzed and scrutinized there might be some logic to another study, but the recent GAO recommendation and the other data we have demonstrated that the David Grant Medical Center is properly sized and costed. Another study is redundant and wasteful.

Thus, I urge my colleagues to accept my amendment. It is a sensible approach, and it will help us keep our commitment to the men and women who serve in our armed forces.

The **PRESIDING OFFICER.** Is there further debate?

**Mr. NUNN.** There is no objection, Madam President.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 3258) was agreed to.

**Mr. THURMOND.** Madam President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. CRANSTON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. THURMOND.** Madam President, I state for the record that the distinguished junior Senator from California [Mr. WILSON] also favors this project, and was a cosponsor of the amendment that was just adopted.

### AMENDMENT NO. 3259

(Purpose: To expand competition for family housing overseas)

**Mr. THURMOND.** Madam President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 3259.

**Mr. THURMOND.** Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title II, add the following new section:

SEC. —. Section 803 of Public Law 98-115 is amended by striking the period at the end of subsection (a) and adding the following: "or, in the case of concrete housing, may also be the product of a manufactured or factory-built housing plant fabricated in the United States by a United States contractor, provided that the materials, fixtures and equipment (except cement, sand, and aggregates used in the production of the concrete structure) used in the construction shall be manufactured in the United States."

**Mr. THURMOND.** Madam President, last year Congress included a provision in the Military Construction Authorization Act which requires that military family housing constructed overseas must be built with manufactured or factory-built housing that is built by a U.S. contractor in the United States. The intent of the provision is to give our manufactured housing industry the opportunity to compete for this housing and to keep as many of the dollars as possible in the U.S. economy.

There are several contractors in the United States that build family housing overseas by setting up a mobile concrete plant and casting operation, and concrete shells are produced that are made into housing units. The Defense Department has ruled that such contractors are not eligible to bid for overseas military family housing under the terms of the provision passed in last year's act.

I feel that this ruling by the Defense Department unnecessary stifles competition. The purpose of the original provision would be served equally well should one of these modular concrete structure contractors successfully bid on an overseas family housing project.

Therefore, I am offering an amendment to section 803 of last year's act to make it clear that those contractors, who build concrete structures using U.S. materials, are free to compete for these contracts for military family housing overseas.

Madam President, I urge my colleagues to support this amendment.

The **PRESIDING OFFICER.** If there be no further comments, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 3259) was agreed to.

**Mr. THURMOND.** Madam President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. NUNN.** Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**Mr. THURMOND.** Madam President, I yield the floor.

**Mr. QUAYLE.** Madam President, I address my colleague from Arizona, Senator GOLDWATER, the chairman of the Armed Services Subcommittee on Tactical Warfare, on the subject of the Army's Single Channel Ground and Airborne Radio System—commonly known as SINCGARS.

On February 14, 1984, the Secretary of the Army approved the Single Channel Ground and Airborne Radio System's [SINCGARS] program acquisition strategy. The approved program is executable with the total funds programed for SINCGARS but adjustments to individual SINCGARS procurement lines are required. Since the program approval was received subsequent to the fiscal year 1985 budget submission, the Army requested these adjustments be made to avoid lengthy reprogramming delays. The following adjustments are requested by the Army:

First. Transfer $11.5 million to Airborne SINCGARS, aircraft procurement, budget line 31, from speech security equipment, KYV-4, budget line 120.

Second. Transfer $1.4 million SINCGARS (Roll), budget line 44, from speech security equipment, KYV-4, budget line 120.

These transfers do not impact the SINCGARS COMSEC Program since the projected funds for the SINCGARS speech security equipment, KYV-4 cannot be obligated in fiscal year 1985. The SINCGARS COMSEC Program is fully funded and executable in fiscal year 1986.

The award of the SINCGARS airborne radio production contract is planned for November 1984 to ensure that airborne radios with an electronic counter-countermeasure [ECCM] capability are fielded simultaneously with the SINCGARS ground ECCM radio—fiscal year 1986. The fiscal year 1985 transfer of funds is needed to award the contract in November and to avoid a delay in the fielding of the airborne half of the SINCGARS System.

Madam President, I understand that the distinguished chairman and ranking minority member of the Armed Services Committee concur in the need for this transfer, and I believe the distinguished subcommittee chairman, Senator GOLDWATER, supports this proposal.

Mr. GOLDWATER. Madam President, the Senator from Indiana is correct. The Army has requested these adjustments be made and I am aware of no objections to them.

Mr. LEVIN. Madam President, at a late hour last Thursday night, I offered an amendment that prompted several questions from the Senator from Georgia [Mr. NUNN]. One of those questions pertained to the applicability of my amendment to the various procurement set-aside programs of the Government. In reviewing the record, I inadvertently misstated one point in response to the Senator's question. I would like to take this opportunity to correct that point and respond more fully to the question of my friend from Georgia.

As I mentioned on Thursday night, the amendment as approved would apply explicitly to the Foreign Military Sales [FMS] Program where the foreign government has limited competition by specifying the number of sources that are qualified to meet the requirement and only one of those sources is a small business. But in addition, it would apply to a specific category of set-asides where there is a prequalification requirement in existence that limits competition, and only one small business has met the requirements for qualification. This amendment would remove the opportunity for the use of the set-aside program where there can be no competition among small businesses for such set-asides. I do not believe that that was the intent of Congress in adopting legislation authorizing set-asides. That latter point is the clarification that I wish to make.

I also take this opportunity to again address the concerns of the Senator from Alaska [Mr. STEVENS]. The Senator's concern focused, and very appropriately may I say, on the effective date of the amendment and how it might affect existing procurements already underway.

Because of the Senator's concern, and at his request, I agreed to change the effective date of the amendment to October 1, 1984, during the conference on this bill with the House. On further reflection and after discussions with the Senator from Alaska, I am prepared to offer a modification to my amendment that specifically addresses the concerns of the Senator while preserving the original intent of the amendment. The modification further clarifies that the amendment would not apply to any requirement for which the Government has already issued solicitations for such requirements before the date of enactment.

That was the point which my friend from Alaska was making. I believe he is on the floor and he has indicated to me that this amendment will indeed take care of the concern which he registered at that time.

I would also like to add that this amendment would not affect in any way the Small Business Administration's 8(a) Minority Business Development Program.

As I indicated the amendment has been agreed to by the Senator from Alaska. I thank him for his cooperation and effort.

I believe that the modification addresses the legitimate management concerns of the Senator while responding to the issue of competition for the purchase of requirements by the Government.

### AMENDMENT NO. 3260

(Purpose: To provide an effective date with respect to issuance of certain solicitations)

Mr. LEVIN. Madam President, at this point I send this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 3260.

Mr. LEVIN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 93, above line 1, insert the following new paragraph:

(3) The provisions of § 2322 of Title 10, United States Code, as added by paragraph (1), shall be effective with respect to solicitations issued on or after the date of enactment of this Act.

Mr. LEVIN. Madam President, I believe that this amendment has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3260) was agreed to.

Mr. LEVIN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Madam President, may I also add that the staffs of both the chairman of the committee and the ranking minority member, Senator NUNN, have been extremely helpful to me in this clarification and I am grateful to both Senator TOWER and Senator NUNN and their staffs.

Mr. NUNN. Madam President, I thank the Senator from Michigan and I think the Senator from Michigan has displayed not only his persistence but also his concern about making sure that the RECORD is absolutely accurate and reflects the amendment, and I thank the Senator for clarifying it.

### AMENDMENT NO. 3261

(Purpose: To authorize the Secretary of Defense to transport humanitarian relief supplies to countries in Central America)

Mr. DENTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. DENTON] proposes an amendment numbered 3261.

Mr. DENTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 128, between lines 12 and 13, insert the following new section:

AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CENTRAL AMERICA

SEC. . (a) Notwithstanding any other provision of law, during fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge, to any country in Central America goods and supplies which have been furnished by a nongovernmental source outside the Department of Defense and which are intended for humanitarian assistance.

(b)(1) The Secretary of Defense shall institute such procedures as may be necessary, including complete inspection prior to acceptance for transport, for determining that the goods and supplies referred to in subsection (a) are suitable for humanitarian purposes and are in useable condition. Goods and supplies determined by the Secretary to be unsuitable or unuseable for humanitarian purposes may not be transported under the authority provided in this section.

(2) It shall be the responsibility of the donor of any goods or supplies to be transported under this section to ensure that such goods are suitable for humanitarian purposes and suitable for whatever space available transport that the Secretary may be able to provide under this section.

(c) Goods or supplies accepted by the Secretary of Defense for transport under this section shall be distributed in the country to which they are transported through or under the supervision of the United States Government. The Secretary of Defense shall not accept any goods or supplies for transportation under this section unless the provider or providers of the goods and supplies agree to the condition that the goods and supplies be distributed under the supervision of the United States.

(d) The Secretary of Defense shall consult with the Secretary of State prior to the transportation of all goods and supplies made under this section.

(e) No later than 60 days after the end of fiscal year 1985, or upon request of the Congress, the Secretary of Defense shall advise the Congress of the origin, contents, destination, and disposition of all goods and supplies transported under the authority of this section.

Mr. DENTON. Madam President, the amendment that I propose has a very simple purpose. It involves no increase in obligations or expenditures. Very simply the amendment provides authority and procedures for the Department of Defense to transport only on a space-available basis privately supplied humanitarian relief supplies to people in Central America who desperately need assistance. It has the support of the Department of Defense and the White House and as well I believe has been cleared by the managers of the bill on both sides of the aisle.

As my colleagues know, the situation in Central America has created great difficulties for the peoples of that region. The economies of their countries have been disrupted. Many have become refugees. Medical supplies, clothing, food, the minimal necessities of life are, in too many instances, absent. We cannot but be concerned about such a terrible situation, and indeed many Americans, private Americans, are so concerned.

In many cases, groups of concerned Americans have exercised their rights as citizens and as caring human beings, in the spirit of voluntarism, to collect supplies of food, clothing, medicine, and other human necessities to provide aid and comfort to the innocent people in Central America who have been so terribly affected by the violence and the terror that is rampant in that region. Their selfless actions have been in the spirit of voluntary assistance to fellow human beings, in the great American tradition of community assistance to those who are less fortunate. They have given of themselves to help, and they have been encouraged in their effort not only by the Government of our country but also by our record of assistance to people overseas.

Madam President, there is no problem with what those many Americans have done, but there is a problem. The problem is that it is hard to arrange transportation, particularly speedy transportation, to that part of the world without incurring costs so great that they far exceed what is possible within the efforts of those Americans.

We know that the United States, in the normal conduct of its policy in the region, has ships and planes going to and fro. For example, Air National Guard aircraft rotate through Howard Air Force Base in Panama in order to provide ready air transport service. Frequently those aircraft, and ships as well, are not fully loaded when they go to Central America. Logically, it would seem, any extra space available could be used to move cargo to be used for legitimate humanitarian assistance. Unfortunately, because of legal technicalities, that is not the case.

My amendment, very simply, would allow the Secretary of Defense to transport, at no cost and on a space available basis—only on a space available basis—relief goods and supplies for humanitarian sources that are furnished by nongovernment sources. It would instruct the Secretary to institute procedures to determine that the goods are suitable for humanitarian assistance and are usable. That is to allow the elimination of goods that obviously are not suitable—weapons, for example, or that are unusable—expired medications or highly perishable food, for example. The responsibility for ensuring that goods are suitable both for humanitarian purposes and suitable for transportation rests with the donor.

The amendment provides that distribution of goods at the destination shall be "through or under the supervision of" the U.S. Government, and that the Secretary shall not accept goods or supplies unless the donor agrees to that condition. The purpose of that provision is to ensure that supplies get to the intended legitimate recipients, not for example into the black market, and that DOD does not transport goods to, for example, a terrorist group. Obviously, of course, because transportation is space available, goods can go only to destinations where planes normally fly or ships normally call, so that we will not obligate DOD to take goods to Cuba or someplace like that.

Finally, Madam President, the amendment requires the Secretary of Defense to consult with the Secretary of State prior to all transportation under the amendment, and requires a report to the Congress no later than 60 days after the end of the fiscal year or upon the request of the Congress, or both. That report is to cover the "origin, contents, destination, and disposition" of all goods and supplies transported.

Mr. President, this is a chance for us, in a debate that has focused upon the causes and consequences of broad policies, to do something to assist the people who are affected by continuing hostilities, terrorism, and repression. The amendment is supported by the White House and the Department of Defense, and I have discussed it with the managers of the bill and other interested Senators. I believe that it is acceptable, and I hope that it can be quickly approved.

Thank you, Madam President.

Mr. NUNN. Madam President, I reviewed this amendment. This is the humanitarian aid amendment?

Mr. DENTON. The Senator is correct.

Mr. NUNN. I think it is a good idea; it is a noble idea. I think it is an amendment we could all support. I do support it. I congratulate the Senator.

Mr. TOWER. I might add typical of my distinguished friend from Alabama.

Mr. DENTON. I wish all Senators could have heard that. I thank the Senator from Georgia, the distinguished ranking minority member on the Armed Services Committee, and my distinguished chairman, friend, and admired colleague, Senator TOWER.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama [Mr. DENTON].

The amendment (No. 3261) was agreed to.

Mr. TOWER. I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Madam President, I am happy to announce that I believe we have run out of gas.

Mr. NUNN. Will the chairman yield for a brief question to the assistant majority leader? Would the assistant majority leader indicate what time he expects us to be back on this bill? I know we come in at 11 o'clock, but I am just wondering if we would have any morning business ordered.

**Mr. STEVENS.** It is the intention of the leadership to resume consideration of this bill at 11:30 a.m.

**Mr. NUNN.** I thank the assistant majority leader.

Madam President, I have been asked to lay down the Kennedy amendment so it would be the pending business. Does the Senator have any objection to that?

**Mr. TOWER.** I would be delighted if the Senator from Georgia would lay down the Kennedy amendment so that it is the pending business.

### AMENDMENT NO. 3262

(Purpose: To express the sense of the Congress regarding the status of certain treaties to prevent nuclear testing)

**Mr. NUNN.** Madam President, I send an amendment to the desk and ask it be reported and made the pending business tomorrow morning.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. Nunn], for Mr. Kennedy and Mr. Mathias, proposes an amendment numbered 3262.

**Mr. TOWER.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment reads as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

Sec. 1019. (a) The Congress finds that—

(1) the United States is committed in the limited Test Ban Treaty of 1963 and in the Non-proliferation Treaty of 1963 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all times;

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons;

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty;

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) It is the sense of the Congress that at the earliest possible date, the President should—

(1) request Senate advice and consent to ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

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## ROUTINE MORNING BUSINESS

**Mr. STEVENS.** Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

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## THE CONFERENCE ON THE DEFICIT REDUCTION

**Mr. BAKER.** Madam President, I ask unanimous consent to have printed in the Record a letter from President Ronald Reagan addressed to Senator Robert Dole, chairman of the Committee on Finance, dated June 19, 1984, relating to the conference on the deficit reduction.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
*Washington, June 19, 1984.*

Hon. Robert Dole,
*Chairman, Committee on Finance, U.S. Senate, Washington, DC.*

Dear Bob: Despite many obstacles, we have made encouraging progress over the past several months in our efforts to achieve a meaningful downpayment on deficit reduction. Because of your leadership, the conferees from the House Ways and Means Committee and the Senate Finance Committee have reached a substantial measure of agreement on major elements of the deficit reduction package passed by each House.

However, unless we resolve remaining areas of disagreement before the July Fourth recess, our entire effort to achieve a bipartisan consensus on a deficit downpayment may be put in jeopardy. It is especially important that the overall balance of spending cuts and tax loophole measures contemplated in my agreement to the downpayment concept be achieved in the final legislative package. I know that you are working toward that end, and that you are attempting to obtain the appropriate share of spending cuts on those items in your jurisdiction.

I therefore urge that you and your fellow conferees make every effort to conclude your conference as soon as possible. I firmly believe that the most important thing we can do right now to keep the economic recovery on track is to fulfill our pledge to the American people to enact a responsible deficit downpayment at the earliest possible date.

Sincerely,

Ronald Reagan.

(During the day, morning business was transacted and statements were submitted for the Record, as follows:)

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## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

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## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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## MESSAGES FROM THE HOUSE

At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1201. An act to amend title 17 of the United States Code to protect semi-conductor chips and masks against unauthorized duplication, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 837. An act to designate certain National Forest System lands in the State of Washington for inclusion in the National Wilderness Preservation System, and for other purposes; and

S. 1135. An act to consent to the Goose Lake Basin Compact between the States of California and Oregon.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program;

H.R. 3401. An act to designate the United States Post Office and Courthouse located at 245 East Capital Street in Jackson, Mississippi, as the "James O. Eastland United States Courthouse";

H.R. 3402. An act to designate that hereafter the Federal building at 100 West Capital Street in Jackson, Mississippi will be known as the Doctor A.H. McCoy Federal Building;

H.R. 3766. An act entitled "The San Juan Basin Wilderness Protection Act of 1983";

H.R. 4598. An act to designate the United States Post Office Building in Jeanette, Pennsylvania, as the "John Dent Post Office Building";

H.R. 4697. An act to designate the United States Post Office Building in Romulus, Michigan, as the "Carl W. Morris Post Office Building";

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania;

H.R. 5365. An act to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order;

H.R. 5606. An act to authorize appropriations for the Federal Election Commission for fiscal year 1985;

H.R. 5740. An act entitled the "Barrow Gas Field Transfer Act of 1984"; and

H.J. Res. 452. Joint resolution recognizing the important contribution of the arts to a complete education.

At 6:11 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker appoints Mr. SHELBY as an additional conferee in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 540) to amend the Public Health Service Act to establish a National Institute of Arthritis and Musculoskeletal and Skin Diseases, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5426. An act to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes; and

H.R. 5688. An act to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes.

### ENROLLED BILLS SIGNED

The message further announced that the speaker has signed the following enrolled bills:

H.R. 1149. An act to designate certain National Forest System and other lands in the State of Oregon for inclusion in the National Wilderness Preservation System, and for other purposes;

H.R. 3131. An act for the relief of Marina Kunyavsky;

H.R. 3221. An act for the relief of Harvey E. Ward; and

H.R. 4201. An act to provide for the rescheduling of methaqualone into schedule I of the Controlled Substances Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. THURMOND].

## MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent.

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program; to the Committee on Energy and Natural Resources.

H.R. 3401. An act to designate the U.S. Post Office and courthouse located at 245 East Capital Street in Jackson, MS, as the "James O. Eastland United States Courthouse;" to the Committee on Environment and Public Affairs.

H.R. 3402. An act to designate that hereafter the Federal building at 100 West Capital Street in Jackson, MS, will be known as the Doctor A.H. McCoy Federal Building; to the Committee on Environment and Public Works.

H.R. 3766. An act entitled The San Juan Basin Wilderness Protection Act of 1983; to the Committee on Energy and Natural Resources.

H.R. 4596. An act to designate the U.S. Post Office Building in Jeanette, PA, as the "John Dent Post Office Building;" to the Committee on Governmental Affairs.

H.R. 4697. An act to designate the U.S. Post Office Building in Romulus, MI, as the "Carl W. Morris Post Office Building;" to the Committee on Governmental Affairs.

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania; to the Committee on the Judiciary.

H.R. 5426. An act to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5606. An act to authorize appropriations for the Federal Election Commission for fiscal year 1985; to the Committee on Rules and Administration.

H.R. 5688. An act to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5740. An act entitled the Barrow Gas Field Transfer Act of 1984, to the Committee on Energy and Natural Resources.

H.J. Res. 452. Joint resolution recognizing the important contribution of the arts to a complete education; to the Committee on Labor and Human Resources.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3414. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a report on the adequacy of royalty management for coal, uranium, and other energy and nonenergy minerals on Federal and Indian lands; to the Committee on Energy and Natural Resources.

EC-3415. A communication from the Under Secretary of Energy, transmitting, pursuant to law, the quarterly report on Biomass Energy and Alcohol Fuels for the quarter ended March 31, 1984; to the Committee on Energy and Natural Resources.

EC-3416. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual reports on the administration of the Ocean Dumping program for calendar years 1981, 1982, and 1983; to the Committee on Environment and Public Works.

EC-3417. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on fiscal year 1981 Medicare activities; to the Committee on Finance.

EC-3418. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting pursuant to law, the proposed regulations of the Commission to implement the Privacy Act and to establish a system of records; to the Committee on Governmental Affairs.

EC-3419. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on the financial status of the U.S. Civil Service Retirement System as of September 30, 1983; to the Committee on Governmental Affairs.

EC-3420. A communication from the Assistant Secretary of the Treasury (Legislative Affairs) and the Assistant Attorney General (Office of Legislative and Intergovernmental Affairs), transmitting a draft of proposed legislation to amend Chapter 44, Title 18, United States Code, to regulate the manufacture and importation of armor piercing bullets; to the Committee on the Judiciary.

EC-3421. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the American Institute in Taiwan's proposed letter of offer to the Coordination Council for North American Affairs for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3422. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Panama Canal Act of 1979, Public Law 96-70, to authorize payment of a living quarters allowance to certain employees of the Department of Defense in the Republic of Panama; to the Committee on Armed Services.

EC-3423. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the 1983 annual report of the Board; to the Committee on Commerce, Science, and Transportation.

EC-3424. A communication from the Assistant Administrator of the National Oceanic and Atmospheric Administration transmitting, pursuant to law, final rules for the National Estuarine Sanctuary Program; to the Committee on Commerce, Science, and Transportation.

EC-3425. A communication from the Chairman of the Professional Audit Review Team transmitting, pursuant to law, a performance evaluation of the Energy Information Administration; to the Committee on Energy and Natural Resources.

EC-3426. A communication from the Deputy Secretary of the Treasury transmitting a draft of proposed legislation to provide by statute for an Assistant Secretary of the Treasury for Business and Consumer Affairs; to the Committee on Finance.

EC-3427. A communication from the Assistant Secretary of State for Legislative and Intergovernmental Affairs transmitting, pursuant to law, a confidential finding by the President that the furnishing of defense articles and services to the Government of China will strengthen the security of the U.S. and promote world peace; to the Committee on Foreign Relations.

EC-3428. A communication from the Director of the Administrative Office of the U.S. Courts transmitting, pursuant to law, a report on the financial condition of the Judicial Retirement System and the Judicial Survivors' Annuities System for 1983; to the Committee on Governmental Affairs.

EC-3429. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on GAO Reports issued during the month of May 1984; to the Committee on Governmental Affairs.

EC-3430. A communication from the Chairman of the U.S. Merit Systems Protection Board transmitting, pursuant to law, a report on the Board's accounting system; to the Committee on Governmental Affairs.

EC-3431. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for National Institute of Handicapped Research Fellowships; to the Committee on Labor and Human Resources.

EC-3432. A communication from the Secretary of the Treasury transmitting, pursuant to law, the 1983 report on the financial position of the Student Loan Marketing Association; to the Committee on Labor and Human Resources.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-704. A resolution adopted by the City Council and the County of Honolulu, Hawaii relating to the overthrow of the Kingdom of Hawaii in 1893; to the Committee on Energy and Human Resources.

POM-705. A resolution adopted by the Board of County Commissioners, Okaloosa County, Florida urging the transfer of George Bosnake from his incarceration in Veracruz, Mexico; to the Committee on Foreign Relations.

POM-706. A resolution adopted by the United States Olympic Committee relating to Title IX of the 1972 Higher Education Act; to the Committee on Labor and Human Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

H.R. 29. A bill to recognize the organization known as the Polish Legion of American Veterans, U.S.A. (Rept. No. 98-525).

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

H.R. 4921. A bill to provide for the selection of additional lands for inclusion within the Bon Secour National Wildlife Refuge.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations: Edward E. Wolfe, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Contributions, amount, date, and donee.

1. Self—None.
2. Spouse—None.
3. Children and spouses names—None.
4. Parents names—Mr. and Mrs. E.E. Wolfe, none.
5. Grandparents names—None.
6. Brothers and spouses names—None.
7. Sisters and spouses names—Mrs. Beth Staples and Mr. Hugh Staples, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Frances Todd Stewart, of Pennsylvania, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1986.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN (for himself and Mr. Mattingly):

S. 2773. A bill to designate certain National Forest System lands in the State of Georgia to the National Wilderness Preservation System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. KASSEBAUM (for herself and Mr. Baker):

S. 2774. A bill to grant a Federal charter to the National Society, Daughters of the American Colonists; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. Biden, Mr. Levin, and Mr. Moynihan):

S. 2775. A bill to prohibit discrimination in insurance on the basis of blindness or degree of blindness; to the Committee on Commerce, Science, and Transportation.

By Mr. BAKER (for himself and Mr. Thurmond):

S. 2776. A bill to continue the transition provisions of the Bankruptcy Act until June 27, 1984, and for other purposes; considered and passed.

By Mr. HEINZ:

S. 2777. A bill to amend the Securities and Exchange Act of 1934; to the Committee on Banking, Housing and Urban Affairs.

By Mr. D'AMATO (for himself and Mr. Moynihan):

S.J. Res. 314. A joint resolution to designate 1984 as the "Year of the St. Lawrence Seaway" and June 27, 1984, as "St. Lawrence Seaway Day"; to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. Sarbanes):

S.J. Res. 315. A joint resolution designating the Maryland Institute for Emergency Medical Services Systems at the University of Maryland Hospital in Baltimore, Maryland as the National Study Center for Trauma and Emergency Medical Systems; to the Committee on Labor and Human Resources.

By Mr. TSONGAS (for himself, Mr. Lautenberg, Mr. Matsunaga, Mr. Nunn, Mr. Hollings, Mr. Thurmond, Mr. Andrews, Mr. Bingaman, Mr. DeConcini, Mr. Dodd, Mr. Boschwitz, Mrs. Hawkins, Mr. Hatch, Mr. Heflin, Mr. Levin, Mr. Zorinsky, Mr. Stennis, Mr. Cranston, Mr. Dixon, Mr. Exon, Mr. Denton, Mr. Trible, Mr. Stevens, Mr. Pressler, Mr. Eagleton, and Mr. Wilson):

S.J. Res. 316. A joint resolution designating the week of September 30 through October 6, 1984, as "National High-Tech Week"; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOMENICI:

S. Res. 411. A resolution expressing the sense of the Senate regarding the sharing of costs of undertaking multinational action in the Persian Gulf, and for other purposes; to the Committee on Foreign Relations.

By Mr. PELL (for himself, Mr. Hatfield, Mr. Cranston, Mr. Percy, Mr. Matsunaga, Mr. Stafford, and Mr. Sarbanes):

S. Con. Res. 125. A concurrent resolution entitled the "Common Security Resolution"; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM (for herself and Mr. Baker):

S. 2774. A bill to grant a Federal charter to the National Society, Daughters of the American Colonists; to the Committee on the Judiciary.

### FEDERAL CHARTER FOR THE NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN COLONISTS

● Mrs. KASSEBAUM. Mr. President, today I am introducing legislation to grant a Federal charter to the National Society, Daughters of the American Colonists. Senator Baker joins me in this effort. The NSDAC has active chapters in all 50 States, and I am hopeful that my other colleagues in the Senate will join us in honoring the organization in this way. Similar legislation has 139 cosponsors in the House of Representatives.

The National Society, Daughters of the American Colonists, has for over 60 years devoted itself to the remembrance of those who founded this country. By sponsoring historical and geneological research, establishing historical memorials, promoting volunteer activites, and creating educational scholarships for needy and deserving students, the society honors our system of Government and national traditions. A Federal charter would recognize these many contributions and aid the National Society, Daughters of the American Colonists as they continue to enrich our present by celebrating our past.●

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By Mr. MATHIAS (for himself, Mr. Biden, Mr. Levin, and Mr. Moynihan):

S. 2775. A bill to prohibit discrimination in insurance on the basis of blindness or degree of blindness; to the Committee on Commerce, Science, and Transportation.

### FAIR INSURANCE COVERAGE ACT

● Mr. MATHIAS. Mr. President, I am pleased to introduce today on behalf of myself and Senators Biden, Levin, and Moynihan, the Fair Insurance Coverage Act, legislation to prohibit discrimination in insurance on the basis of any degree of blindness. It is distressing that in 1984 this legislation is even necessary. However, the sad truth is that for many years blind people have encountered numerous obstacles in their efforts to secure various types of insurance coverage on an equal basis with persons who can see.

The need for legislation to end this discrimination has been well documented by the National Association of Insurance Commissioners [NAIC]. In 1978, the NAIC, after finding that the blind were the victims of widespread discrimination by some insurance companies, adopted a model insurance regulation condemning such practices when based solely on the grounds of blindness. The NAIC found no factual basis for the belief that blindness represents an increased risk to insurers. Accordingly, treating blind persons differently from those who can see was determined to be clearly discriminatory and thus an unfair trade practice.

It was assumed that the model regulation would be placed on the statute books or promulgated as an administrative rule in most or all of the States. Unfortunately, this assumption proved to be false; while some States have been willing to accept the model regulation, other States are reluctant to do so. To date, less than half the States have followed the NAIC's lead in taking positive steps to end discriminatory insurance practices against the blind. Moreover, the pace of enacting State regulations or laws to prohibit such discrimination has ground to a halt.

I am persuaded of the need for Federal policy in this area. Our legislation would prohibit discrimination in insurance solely on the basis of blindness or degree of blindness, unless the reason for such action is demonstrated through sound actuarial evidence. In effect, the Congress would be telling insurers to look at a blind person as a person, not as a blind person; and then, to underwrite that person as they would others. Of course, if there is valid actuarial evidence which relates to the assumed risk, then insurance companies may underwrite that person by charging a different rate, or by other means. But this cannot be done merely on the grounds of the existence of blindness.

The measure we introduce today is the companion bill to H.R. 4642. Introduced by Representative Bates, it has over 100 cosponsors and enjoys the strong support of the National Federations of the Blind.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 2775

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

Section 1. This Act may be cited as the "Fair Insurance Coverage Act".

### FINDINGS AND POLICY

Sec. 2. (a)(1) The Congress finds that discrimination in insurance based on blindness or degree of blindness does occur and that attempts to remedy this form of discrimination through State laws and regulations have had limited success.

(2) The Congress further finds that discrimination based on blindness or degree of blindness, by any insurer which is engaged in interstate commerce, in connection with any application for, or with the terms, conditions, rates, benefits, or requirements of insurance policies and contracts (A) burdens the commerce of the Nation, (B) impairs the economic welfare of a significant number of consumers who rely on the protection of such policies and contracts, and (C) constitutes an unfair trade practice which adversely affects interstate commerce.

(b) The Congress therefore declares that it is the policy of the United States that no insurer shall, on the basis of the blindness or degree of blindness of any person, (1) refuse to make insurance available to any applicant for insurance, (2) treat any such applicant or any insured differently than any other applicant or insured with respect to the terms, conditions, rates, benefits, or requirements of any contract of insurance, or (3) commit any other action prohibited by this Act. It is further the policy of the United States that this Act shall not affect the responsibility and authority of States to regulate the business of insurance, nor shall it affect any rule or order of any State agency concerning or applicable to the business of insurance, if such regulation, rule, or order is consistent with and does not prevent compliance with this Act.

### DEFINITIONS

Sec. 3. For purposes of this Act, the term—

(1) "blindness" means central visual acuity of not more than 20/200 in the better eye with correcting lenses, or a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees;

(2) "degree of blindness" means any limitation in visual acuity or the field of vision, without regard to the severity of such condition;

(3) "discriminatory action" means action by an insurer which is prohibited by this Act;

(4) "insurance" and "contract of insurance" means any arrangement (whether by contract, policy, binder, reinsurance, or otherwise) whereby a person agrees to provide benefits (whether by reimbursement, periodic or lump-sum payments, or otherwise) in case specified events occur in connection with death, disability, medical conditions, attainment of specified age, retirement from employment, economic loss, theft, or other similar circumstnces;

(5) "insured" means any person—

(A) who pays or has paid the premiums or contributions for a contract of insurance,

(B) with respect to whose circumstances the terms of a contract of insurance pertain,

(C) who is a beneficiary under the terms of a contract of insurance, or

(D) who is or has attempted to become an applicant for insurance issued or offered to be issued by an insurer;

(6) "insurer" means any person—

(A) who provides insurance to others or otherwise engages in the business of insurance, and

(B) whose activities—

(i) affect interstate commerce,

(ii) utilize facilities of the United States Postal Service,

(iii) utilize any facilities used in interstate commerce by any person, or

(iv) result in a discriminatory action which is carried on under color of any law, statute, ordinance, or regulation, or which is required, permitted, or sanctioned by, or supported with funds provided by, the United States, any State, any political subdivision of any State, or any agency of officer of the United States or of any political subdivision of any State;

and includes such person's agent;

(7) "person" including one or more individuals, governments, agencies of the United States or of any State or political subdivision thereof, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint ventures, joint stock companies, societies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries; and

(8) "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

### DISCRIMINATORY ACTIONS

Sec. 4. (a) No insurer may, because of the blindness or degree of blindness of any person, do any of the following with respect to any person who, after the effective date of this Act, is an insured under a contract of insurance made after the effective date of this Act, unless the basis for such action is clearly demonstrated through sound actuarial evidence:

(1) Refuse to make, or refuse to negotiate, or otherwise make unavailable or deny, or delay receiving and processing an application for, a contract of insurance of the type ordinarily made or offered by such insurer.

(2) Treat such insured differently than the insurer treats or would treat any other insured with respect to the terms, conditions, rates, benefits, or requirements of such contract of insurance.

(b) No insurer may—

(1) discriminate or take reprisal against any person because such person has opposed any practice made unlawful by this Act or because such person has made a

change, testified, assisted, or participated in any manner in an investigation, proceeding, hearing, or litigation under this Act; or

(2) make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, relating to insurance coverage that such insurer provides or will provide, indicating any preference, limitation, specification, or discrimination based on the blindness or degree of blindness of any person, or an intention to make any such preference, limitation, specification, or discrimination, except to the extent that the basis for such preference, limitation, specification, or discrimination is clearly demonstrated through sound actuarial evidence.

(c) With respect to all contracts of insurance existing on the effective date of this Act, no insurer may—

(1) charge or collect premium payments or contributions which become due after the effective date of this Act; or

(2) determine the amount of or pay to any insured any benefit under any contract of insurance after the effective date of this Act;

if such charge, collection, determination, or payment is based, directly or indirectly, on the blindness or degree of blindness of any person, unless the basis for such charge, collection, determination, or payment is clearly demonstrated through sound actuarial evidence.

### STATE ENFORCEMENT PRIOR TO JUDICIAL ENFORCEMENT UNDER THIS ACT

SEC. 5. (a) If an alleged discriminatory action occurs which falls under the jurisdiction of a State law prohibiting such discriminatory action and establishing or authorizing a State authority to grant or seek relief from such action or to institute criminal proceedings with respect to such action, no suit may be filed under section 6 of this Act unless the State has failed to complete all administrative or criminal proceedings, excluding judicial review, and to implement any remedies awarded in such proceedings under such law before the expiration of one hundred and eighty days after the State authority has received notice of such alleged discriminatory action.

(b) A State may obtain one thirty-day extension of the one-hundred-and-eighty-day period described in subsection (a) upon submission to a United States district court having jurisdiction under section 8 of this Act of a petition which satisfies such court that such State is diligently enforcing such State law.

### CIVIL ACTION BY OR ON BEHALF OF AGGRIEVED PERSON

SEC. 6. (a) If no State law confers jurisdiction over an alleged discriminatory action, or if the State authority has failed within one hundred and eighty days after receiving notice of such alleged discriminatory action to complete all administrative or ciminal proceedings, excluding judicial review, and to implement any remedies awarded in such proceedings, a civil action against the insurer may be brought by or on behalf of an aggrieved person. Such civil action may be instituted in any State court having jurisdiction under State law or in a United States district court having jurisdiction under section 8 of this Act.

(b) No suit under this section may be filed after the expiration of three years following the alleged discriminatory action, in a case where no State law confers jurisdiction over such alleged discriminatory action, or following the expiration of the period described in section 5 in a case where a State law does confer such jurisdiction. Where the alleged discriminatory action is continuing in character, time periods shall be computed from the last day on which such discriminatory action occurred.

(c) Upon the plaintiff's application and in such circumstances as the court before which an action is brought under this section may deem just, the court may appoint an attorney for such plaintiff and may authorize the commencement of the action without the payment of fees, costs, or security.

### CIVIL ACTION BY THE ATTORNEY GENERAL INVOLVING ISSUES OF GENERAL PUBLIC IMPORTANCE

SEC. 7. Whenever the Attorney General of the United States has reasonable cause to believe that any person is engaged in a pattern or practice of violation of this Act or that any person has been aggrieved by any violation of this Act, and an issue of general public importance is raised, the Attorney General may bring a civil action in any United States district court having jurisdiction under section 8 of this Act, by filing with such court a complaint setting forth the facts and requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for such pattern or practice or violation, as the Attorney General considers necessary to ensure that the policies and provisions of this Act are not violated.

### JURISDICTION

SEC. 8. Any civil action under this Act instituted in a United States district court shall be brought, without regard to the amount in controversy, in the United States district court of any judicial district in the State in which (1) the alleged discriminatory action occurred, (2) the defendant's principal office is located, (3) the defendant maintains and administers records relevant to the alleged discriminatory action, (4) the defendant resides or is located, (5) the defendant is incorporated or has a designated agent for service of process, or (6) the defendant transacts business. The case shall be heard at the earliest practicable time and expedited in every way. If no judge is promptly available to hear and decide the case, the chief judge or acting chief judge of the district shall so certify to the chief judge of the circuit who shall promptly designate a district or circuit judge of the circuit to hear and determine the case.

### JUDICIAL RELIEF

SEC. 9. (a) If the court in any action brought under section 6 or 7 of this Act determines that the defendant has violated this Act, the court shall order such monetary, equitable, or other relief as may be appropriate, including punitive damages in appropriate cases.

(b) In determining the amount of punitive damages awarded under subsection (a), of this section, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the defendant's failure to comply with requirements of this Act, the defendant's resources, the number of persons affected, the extent to which the defendant was enriched through its discriminatory action, and the extent to which the defendant's failure to comply was intentional.

### INAPPLICABILITY

SEC. 10. Nothing in this Act shall be construed to exempt or relieve any person from any liability, duty, penalty, or punishment under any law of any State, other than any such law which purports to require or permit the doing of any act is prohibited under this Act.

### EFFECTIVE DATE

SEC. 11. This Act shall become effective on the ninetieth day after the date of the enactment of this Act.●

● Mr. BIDEN. Mr. President, I am pleased to join with my friend from Maryland, Senator MATHIAS, in introducing the Fair Insurance Coverage Act, which will prohibit discrimination in insurance on the basis of blindness or degree of blindness. Similar legislation has been introduced in the House by Congressman BATES.

Blindness can be and often is a severe obstacle in life. We should not be in the position of making life even more difficult for these people through discriminatory insurance regulations which have no reasonable basis.

The need for legislation to prohibit discrimination based on blindness has been documented by the National Association of Insurance Commissioners. A model statute developed by the association, or a variation of that model, has already been adopted in 23 States, including my home State of Delaware. Although that does represent substantial progress, the fact that more than half of the States in the Union do not prohibit such discrimination means that the job is far from completed.

Our legislation would address that situation by mandating a national standard. No longer would it be legal to discriminate against the blind in one State, while such discrimination is illegal just across the border.

The need for this legislation is well documented. A staffer for a Member of Congress was recently denied life insurance on the basis of his blindness even though he is a marathon runner; and probably in much better shape than many of us in this Chamber. Another man was allowed to buy only $20,000 worth of flight insurance on himself while he was able to purchase $325,000 worth of such coverage on his wife. The reason: she is sighted and he is blind.

Mr. President, as the National Association of Insurance Commissioners has stated, there is no factual basis for the belief that blindness constitutes an increased risk. Yet, the association found evidence of widespread discrimination against blind people.

Since that time, almost half the States of the Union, usually with the State legislators and the insurance industry working together, have adopted legislation designed to eliminate such discrimination. I am proud that my State is one of them. I believe now is the time for the rest of the Nation to follow suit.

Mr. President, I urge my colleagues to give this legislation their full support.●

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By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S.J. Res. 314. Joint resolution to designate 1984 as the "Year of the St. Lawrence Seaway", and June 27, 1984, as St. Lawrence Seaway Day"; to the Committee on the Judiciary.

### YEAR OF THE ST. LAWRENCE SEAWAY AND ST. LAWRENCE SEAWAY DAY

● Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution commemorating the 25th anniversary of the completion of the St. Lawrence Seaway. This joint resolution, identical to H.J. Res. 567, introduced by Congressman PURSELL and passed by the House unanimously on June 6, 1984, designates 1984 as the "Year of the St. Lawrence Seaway" and June 27, 1984, as "St. Lawrence Seaway Day."

June 27 will mark the 25th anniversary of the opening of the Seaway to deep-draft navigation by the opening of the Dwight D. Eisenhower lock at Massena, NY. This action enabled America's heartland to transport its agricultural and manufactured goods to the world. Since the opening of the Seaway, over 1 billion metric tons of cargo have moved through the Seaway. Without the Seaway, many Americans would not have enjoyed the prosperity that is still the envy of the world.

This Seaway is one of the wonders of the modern world. The engineering accomplishment of opening America's heartland to the sea ranks as one of the great achievements of our time. It is indeed appropriate that we commemorate this marvelous effort. Additionally, the St. Lawrence Seaway is one of the cornerstones of the unique relationship this country enjoys with Canada. I doubt that any neighboring countries in the world can boast of a relationship characterized by better relations than that between the United States and Canada. This great engineering achievement is, perhaps, the greatest testimony to that relationship.

The work completed in 1959 was one of the most monumentally difficult ventures ever undertaken by man. It required, among other things, draining the Long Sault Rapids and carrying out construction while temporary dams held back the waters of the St. Lawrence. Ships that traverse the entire length of the St. Lawrence and arrive at Lake Superior to dock in Duluth travel a total of 2,400 miles inland, pass through 17 locks and move to a point more than 600 feet above sea level. Truly, a monumental journey.

Mr. President, in memory of the thousands of individuals on both sides of the border who labored to make the Seaway a reality, and in recognition of the continuing importance of the Seaway to both the United States and Canada, I urge my colleagues to pass this joint resolution with all due haste.●

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By Mr. MATHIAS (for himself and Mr. SARBANES):

S.J. Res. 315. Joint resolution designating the Maryland Institute for Emergency Medical Services Systems at the University of Maryland Hospital in Baltimore, MD, as the National Study Center for Trauma and Emergency Medical Systems; to the Committee on Labor and Human Resources.

### NATIONAL STUDY CENTER FOR TRAUMA AND EMERGENCY MEDICAL SYSTEMS

● Mr. MATHIAS. Mr. President, today, Mr. SARBANES and I introduce legislation to designate the Maryland Institute for Emergency Medical Services Systems at the University of Maryland in Baltimore as the National Study Center for Trauma and Emergency Medical Systems. This designation would focus attention on the need to improve trauma and emergency medical systems, at no additional cost to the Federal Government.

The social costs of traumatic injury and death are known to all of us. Trauma remains the third leading cause of death in the country among Americans between the ages of 1 and 30. These injuries rob us especially of the young—those on the threshold of their most productive years. Total dollar costs, including medical expenses, lost wages, and indirect work losses come to a staggering $50 billion a year.

Despite these statistics, Federal support has diminished with the closing of the Emergency Medical Systems Office at HHS in 1981 and there is no national coordination in research on emergency medical issues. Emergency and trauma service has been neglected in many parts of the country even though it has demonstrated dramatic success in saving lives.

The Maryland Institute, however, has risen to a position of national and international prominence for its work in providing medical care to seriously injured trauma patients. Records show that the Maryland Institute saves four out of five patients who are treated within its network and we are justly proud of our system in Maryland. It serves as a model for demonstrating the most up-to-date and cost-effective methods for delivering emergency medical services.

Maryland Institute is the logical location for such a study center. Because of the institute's experience it can provide first-hand knowledge, direction, and coordination for trauma treatment nationwide. It seems both appropriate and advisable to provide a national commitment for the continuation of programs, as well as leadership in the important area of trauma and emergency medical systems development. The Maryland Institute of Emergency Medical Services System is qualified and willing to assist in this.

We urge Senators to join us in this proposal to establish this study center which will include a national data base and clearinghouse for emergency medical services. The center also will train professionals in traumatology and provide technical assistance nationwide. Such a national center would dramatically improve every State's capability to provide all Americans with the quality of emergency services Marylanders now enjoy.

I ask that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 315

Whereas Federal support for emergency medical services systems has decreased, and many States have not been able to provide support for such systems;

Whereas private efforts are the primary means of improving the delivery of emergency medical services, and such improvements are needed to meet the needs of increasing number of trauma victims;

Whereas the designation of a national study center for trauma and emergency medical systems would focus attention on the need for improvement of emergency medical services systems;

Whereas a national study center for trauma and emergency medical systems is needed to conduct research, collect data, and provide technical assistance concerning the delivery of emergency medical services; and

Whereas the Maryland Institute for Emergengy Medical Services Systems at the University of Maryland Hospital in Baltimore, Maryland, has been a leader in the conduct of such research, the collection of such data, and the provision of such assistance: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Maryland Institute for Emergency Medical Services Systems at the University of Maryland Hospital in Baltimore, Maryland, shall be known and desigated as the "National Study Center for Trauma and Emergency Medical Systems". Any reference in a law, map, regulation, document, record, or other paper of the United States shall be held to be a reference to the "National Study Center for Trauma and Emergency Medical Systems".●

● Mr. SARBANES. Mr. President, I am pleased to join with my colleague in the Senate, Mr. MATHIAS, in sponsoring legislation to designate the Maryland Institute for Emergency Medical Services Systems at the University of Maryland Hospital in Baltimore, MD, as the National Study Center for Trauma and Emergency Medical Systems. The idea for a trauma institute was first endorsed by the National Academy of Sciences in a 1966 report entitled, "Accidental Death and Disability: The Neglected

Disease of Modern Society." The report noted that trauma, unlike other diseases, has traditionally lacked a public constituency. But now traffic safety and rehabilitation experts, as well as the insurance industry, recognize the importance of dealing with trauma and favor creation of an institute.

Trauma is the No. 1 cause of death in the United States for persons under age 37 and is the fourth leading cause of death in the total population, after heart disease, cancer, and stroke. Yet, trauma has received only marginal national attention, considering the magnitude of the problem. In 1980 alone, trauma cost Americans $88.5 billion. A national focus is essential in dealing with the problem of trauma, as well as emergency medical services in general. Accordingly, the mission of the National Study Center would be to function as an organization with an accumulated base of knowledge where studies on regional and national EMS and trauma systems issues could be optimally completed and information and technical assistance could be disseminated to providers as well as interested organizations. Specifically, designation of the Maryland Institute as a National Study Center for Trauma and Emergency Medical Systems will establish a national clearinghouse for emergency medical services and trauma systems, conduct research on emergency medical issues, train professionals in traumatology and emergency medical services, and provide technical assistance nationwide.

Dr. R. Adams Cowley, a Baltimore professor of thoracic and cardiovascular surgery, established the Nation's first treatment center for shock victims at the University of Maryland. Dr. Cowley insisted that emergency treatment was vital in the first hour following an accident and that treatment had to be massive and extensive. He organized and trained specialized teams of doctors, in addition to helicopter transportation services that would rush the patients to his center. Under the direction of Dr. Cowley, the Maryland Institute for Emergency Medical Services Systems [MIEMSS] has developed a regional system that serves as an international model, visited by people from all over the world, for demonstrating the most up-to-date and effective methods for delivering emergency medical services. The shock-trauma unit saves 87 percent of its patients, most of whom would die without special treatment.

Thanks to Dr. Cowley, MIEMSS operates the first statewide emergency medical service of its kind, providing voice and telemetry communication between the scene of the emergency, ambulance, hospital, helicopter, and specialty referral centers. The Maryland State Police Med-Evac Helicopter Program, a national model, has been very successful and cooperates closely with the State's volunteer and paid ambulance and rescue companies to provide transportation to appropriate care facilities. The Maryland Institute for Emergency Medical Service Systems is unique in its concept of the multidisciplinary team wherein the neurosurgeon, the orthopedic surgeon, the chest surgeon, the internist, and the anesthesiologist all meet the critically ill upon arrival and use their individual expertise to help the patient. In addition, MIEMSS was the first emergency medical service to use accelerated processing laboratory data.

The program's multidisciplinary approach combines these life-saving measures with ongoing research into many aspects of trauma and its treatment. The central theme of the research program is the need to understand the pathophysiology of shock and trauma in humans, with the hope of thereby improving patient care. Generally, the treatment of trauma has been directed to the local injury, its cause and correction. Treatment has seldom been aimed at the total problem involved; namely, the reaction of the body to trauma, the maintenance of life, and the repair of injury. To improve the treatment of the critically injured, the Maryland Institute for Emergency Medical Services has concentrated its research into the deterioration of multiple body processes.

Meanwhile, the institute is overwhelmed by the number of patients who need the kind of care that only a specialized trauma center can provide. In recent years, Federal support for emergency medical services systems has decreased; and emergency and trauma service has been neglected in many parts of the country despite its demonstrated success for saving lives. Concern over the mounting toll from accidents must be transformed into an action program, involving both research and the establishment of emergency facilities to provide the critically injured with the best treatment available. The designation of a national study center would focus attention on the need to improve trauma and emergency medical services systems. This legislation, which does not require any Federal funding, would serve as a model that could be studied by other areas interested in establishing shock-trauma centers and serve as a facility where interaction among professionals can occur. Because of Maryland's leading role in the development of trauma services and its unique program, I would urge my colleagues to support this designation which will bring much needed attention to the importance of addressing the shock-trauma problem across the country.●

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By Mr. TSONGAS (for himself, Mr. Lautenberg, Mr. Matsunaga, Mr. Nunn, Mr. Hollings, Mr. Thurmond, Mr. Andrews, Mr. Bingaman, Mr. DeConcini, Mr. Dodd, Mr. Boschwitz, Mrs. Hawkins, Mr. Hatch, Mr. Heflin, Mr. Levin, Mr. Zorinsky, Mr. Stennis, Mr. Cranston, Mr. Dixon, Mr. Exon, Mr. Denton, Mr. Trible, Mr. Stevens, Mr. Pressler, Mr. Eagleton, and Mr. Wilson):

S.J. Res. 316. Joint resolution designating the week of September 30 through October 6, 1984, as "National High-Tech Week"; to the Committee on the Judiciary.

### NATIONAL HIGH-TECH WEEK

● Mr. TSONGAS. Mr. President, I am pleased to introduce today a joint resolution designating the week of September 30 through October 6, 1984 as High Technology Week. In a bipartisan effort, 25 of my colleagues have joined me in sponsoring this legislation. I believe that a High Technology Week will provide a forum in which each of us can achieve a better understanding of the technical innovations which are transforming our lives.

The industries on which we pin our highest hopes for U.S. competitiveness are those we refer to as high technology industries. These industries, such as biotechnology, robotics, materials research, telecommunications, computers, and microelectronics, are important for all sectors of our economy. Manufacturing industries are increasing their productivity with the use of robots while biotechnical processes revolutionize the agricultural and chemical industries, to name just two examples. However, high technology industries are among the most vulnerable to trade barriers and to targeting by our international competitors. This Nation needs a time in which special attention may be focused on them and the products which may be the guarantors of our future economic success. A High Technology Week can provide such a time.

High technology will change our lives in the future even more than the changes seen in the past. A few years ago the largest computers in the world could not perform all the operations that a hand-held calculator now handles with ease. Commercial space ventures are possible now that were only dreamed of 20 years ago.

In addition to helping increase awareness and promote understanding of high technology among adults, I believe it may be even more important to designate a week for our children's sake. My children and yours will grow up with computers, cable television, and calculators as a part of their classrooms and everyday lives. In order to ensure that technological innovations and breakthroughs continue to take place, the future generation must be familiar with, understand, and be interested in high technology. We need to provide positive role models in the high tech fields. As Robert Haavind, editor of High Technology Magazine has so cogently stated: "The heroes of America's youth are movie stars, ballplayers, TV personalities, and other media celebrities. As for technologists, most kids don't even know what they do, let alone who the outstanding ones are. So why should we expect them to go into science and engineering?"

Congressman Mervyn Dymally from California has introduced a similar joint resolution in the House. We are in the process of enlisting support from all sectors—high tech industries, trade associations, the education community, and local and State government, among others—for the proposed High Technology Week. The response has been overwhelmingly favorable. A week of activities dedicated to increasing awareness and understanding of the role high technology plays in all of our lives is planned.

In closing, I urge my colleagues to support this important joint resolution. Mr. President, I ask that the text of the resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

### S.J. Res. 316

Whereas the economy of this Nation is closely tied to technological advances;

Whereas the United States has long been a leader in high technology development;

Whereas it is of the highest national interest to focus our collective abilities to maintain this leadership;

Whereas the national commitment to high technology development has been called into doubt;

Whereas the youth of the Nation need to have educational opportunities to grow and develop in a high technology environment; and

Whereas our youth should have a national focus on their high technology future: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of September 30 through October 6, 1984, is designated as "National High-Tech Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, including programs aimed at educating the Nation's youth about high technology.●

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## ADDITIONAL COSPONSORS

### S. 905

At the request of Mr. Mathias, the names of the Senator from Vermont [Mr. Stafford], and the Senator from Rhode Island [Mr. Chafee] were added as cosponsors of S. 905, a bill entitled the "National Archives and Records Administration Act of 1983."

### S. 1841

At the request of Mr. Thurmond, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 1841, a bill to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate amendments to the antitrust, patent, and copyright laws.

### S. 2353

At the request of Mr. Grassley, the name of the Senator from Nebraska [Mr. Zorinsky] was added as a cosponsor of S. 2353, a bill to amend the Internal Revenue Code of 1954 to provide that one-half of the amounts paid by a self-employed taxpayer for his or her health insurance premiums will be allowed as a business deduction.

### S. 2395

At the request of Mr. Denton, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2395, a bill to amend the Freedom of Information Act to provide for the protection from disclosure of records related to terrorism and foreign counterintelligence.

### S. 2437

At the request of Mr. Goldwater, the names of the Senator from Kansas [Mr. Dole], the Senator from Vermont [Mr. Stafford], the Senator from North Dakota [Mr. Andrews], and the Senator from South Dakota [Mr. Pressler] were added as cosponsors of S. 2437, a bill to amend the Communications Act of 1934 to clarify the policies regarding the right to view satellite-transmitted television programming.

### S. 2469

At the request of Mr. Denton, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2469, a bill to protect the internal security of the United States by creating the offense of terrorism, and for other purposes.

### S. 2470

At the request of Mr. Denton, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2470, a bill to provide for the national security by allowing access to certain Federal criminal history records.

### S. 2505

At the request of Mr. Gorton, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2505, a bill to provide a right of first refusal for metropolitan areas before a professional sports team is relocated, and for other purposes.

### S. 2618

At the request of Mr. Danforth, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2618, a bill to amend the Trade Act of 1974 to promote expansion of international trade in telecommunications products, and for other purposes.

### S. 2626

At the request of Mr. Denton, the name of the Senator from Idaho [Mr. Symms] was added as a cosponsor of S. 2626, a bill to prohibit the training, supporting, or inducing of terrorism, and for other purposes.

### S. 2692

At the request of Mr. Armstrong, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2692, a bill to exempt water conveyance systems from fees and conditions under the Federal Land Policy and Management Act of 1976, and for other purposes.

### S. 2716

At the request of Mr. Hollings, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of S. 2716, a bill for the relief of Doctor Rajko Medenica.

### S. 2719

At the request of Mr. Lautenberg, the names of the Senator from Pennsylvania [Mr. Specter], the Senator from Delaware [Mr. Biden], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Massachusetts [Mr. Tsongas] were added as cosponsors of S. 2719, a bill to amend title 23, United States Code, to direct the Secretary of Transportation to withhold a percentage of the apportionment of certain Federal-aid highway funds to be made to any State which does not establish a minimum drinking age of 21 years.

### S. 2744

At the request of Mr. Heinz, the name of the Senator from Louisiana [Mr. Johnston] was added as a cosponsor of S. 2744, a bill to amend the Social Security Act to protect beneficiaries under health care programs of that act from unfit health care practitioners, and to otherwise improve the antifraud provisions of that act.

### S. 2766

At the request of Mr. Thurmond, the name of the Senator from Texas [Mr. Bentsen], and the Senator from Maryland [Mr. Mathias] were added as cosponsors of S. 2766, a bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing ammunition.

### S. 2769

At the request of Mr. Helms, the name of the Senator from Alabama [Mr. Denton] was added as a cosponsor of S. 2769, a bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language and for other purposes.

### SENATE JOINT RESOLUTION 275

At the request of Mr. Dixon, the names of the Senator from Alabama [Mr. Denton], the Senator from Missouri [Mr. Eagleton], the Senator from Kansas [Mrs. Kassebaum], and the Senator from South Carolina [Mr. Thurmond] were added as cosponsors of Senate Joint Resolution 275, a joint resolution to designate the month of

October 1984 as "National Spina Bifida Month."

### SENATE JOINT RESOLUTION 293

At the request of Mr. Wilson, the names of the Senator from New Jersey [Mr. Bradley], the Senator from Nebraska [Mr. Exon], the Senator from Utah [Mr. Garn], the Senator from Arizona [Mr. Goldwater], the Senator from Nevada [Mr. Hecht], the Senator from Hawaii [Mr. Inouye], the Senator from Idaho [Mr. McClure], the Senator from Rhode Island [Mr. Pell], the Senator from West Virginia [Mr. Randolph], the Senator from Tennessee [Mr. Sasser], and the Senator from Nebraska [Mr. Zorinsky] were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate July 17, 1984, as "Spanish American War Veteran Day."

### SENATE JOINT RESOLUTION 297

At the request of Mr. Thurmond, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of Senate Joint Resolution 297, a joint resolution to designate the month of June 1984 as "Veterans' Preference Month."

### SENATE JOINT RESOLUTION 313

At the request of Mr. Garn, the names of the Senator from South Carolina [Mr. Thurmond], and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of Senate Joint Resolution 313, a joint resolution to designate the week beginning on October 7, 1984, as "National Neighborhood Housing Services Week."

### SENATE CONCURRENT RESOLUTION 109

At the request of Mr. Hollings, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM Program.

### SENATE CONCURRENT RESOLUTION 117

At the request of Mr. Lautenberg, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution relating to the promotion of technological innovation in computer software and the protection of computer software.

### SENATE CONCURRENT RESOLUTION 119

At the request of Mr. Pell, the names of the Senator from Utah [Mr. Garn], the Senator from Alaska [Mr. Murkowski], the Senator from New Jersey [Mr. Bradley], and the Senator from New Jersey [Mr. Lautenberg] were added as cosponsors of Senate Concurrent Resolution 119, a concurrent resolution expressing the sense of the Congress concerning infringements of religious freedom by the Governments of the Warsaw Pact states.

### SENATE CONCURRENT RESOLUTION 121

At the request of Mr. Boschwitz, the names of the Senator from New Jersey [Mr. Lautenberg] and the Senator from Florida [Mrs. Hawkins] were added as cosponsors of Senate Concurrent Resolution 121, concurrent resolution expressing the sense of the Congress regarding the nondelivery in the Soviet Union of certain mail from the United States, and for other purposes.

### SENATE RESOLUTION 402

At the request of Mr. Dixon, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of Senate Resolution 402, a resolution opposing certain proposed import restrictions by the European Community on U.S. agricultural products.

At the request of Mr. Boschwitz, the name of the Senator from Pennsylvania [Mr. Heinz] was added as a cosponsor of Senate Resolution 402, supra.

### AMENDMENT NO. 3083

At the request of Mr. Thurmond, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of amendment No. 3083 proposed to H.R. 5174, a bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstance under which collective bargaining agreements may be rejected in cases under chapter 11, and for other purposes.

## SENATE CONCURRENT RESOLUTION 125—THE COMMON SECURITY RESOLUTION

Mr. PELL (for himself, Mr. Hatfield, Mr. Cranston, Mr. Percy, Mr. Matsunaga, Mr. Stafford, and Mr. Sarbanes) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

### SENATE CONCURRENT RESOLUTION 125

Whereas the United States has, as its ultimate goal, a world which is free from the scourge of war and the dangers and burdens of armaments, a world in which the use of force has been subordinated to the rule of law, and a world in which international adjustments to changing circumstances are achieved peacefully;

Whereas the United States and the Soviet Union signed a "Joint Statement of Agreed Principles for Disarmament Negotiations, "known as the McCloy-Zorin Agreement, which was presented by both nations to the United Nations General Assembly and endorsed unanimously on December 20, 1961; and

Whereas the McCloy-Zorin Agreement calls for an international accord on general and complete disarmament in stages with agreed verification measures, agreed procedures for the peaceful settlement of disputes, establishment of a United Nations peacekeeping force, and creation of an international disarmament organization to implement control and inspection of the disarmament process to ensure that no military advantage is gained by any participant and that there is equal security for all.

Whereas a decent respect for the opinion of humankind makes it incumbent on this great free Nation to set forth its vision of the world at peace and declare its willingness to move with all deliberate speed in concert with others to negotiate the agreements, conditions, and institutions for world peace and security and the rule of law: Now, therefore, be it

*Resolved by the Senate of the United States (the House of Representatives concurring),* That it is the sense of the Congress that the President should be encouraged in his efforts to achieve deep cuts in the amounts of nuclear weapons held by each nation and to establish a peace which will endure.

Sec. 2. The Congress calls upon the President to direct renewed consideration within the government and to initiate discussions with the Soviet Union of the "Joint Statement of Agreed Principles for Disarmament Negotiations" for the purpose of assessing the relevance and validity of these principles today.

Sec. 3. (a) The President is requested to report to the Congress by December 31, 1984, on the steps he has taken respecting this resolution.

(b) The President is requested to submit a final report to the Congress by September 30, 1985, on the United States Government's reassessment of the Joint Statement and on the progress made in discussions with the Soviet Union.

Sec. 4. The Congress further encourages private organizations, foundations, and citizens to assess the continued relevance and validity of the Joint Statement and to determine a practical approach to achieve the agreed principles set forth therein.

● Mr. PELL. Mr. President, I am submitting today a concurrent resolution calling for a renewed effort to get arms control back on track. I am pleased to be joined by six cosponsors, the Senators from Oregon, California, Illinois, Hawaii, Vermont, and Maryland [Messrs. Hatfield, Cranston, Percy, Matsunaga, Stafford, and Sarbanes].

Many Senators share my distress that, for the first time in 15 years, there are no negotiations in progress to control nuclear arms, nor is an early return to the bargaining table in prospect. This unfortunate state of arms control is a reflection of the terrible relations between the United States and the Soviet Union on a whole range of issues. It is no wonder that large numbers of our constituents are fearful that the threat of nuclear war is growing, not receding.

I led a delegation of eight Senators to the Soviet Union last August to discuss some of the central issues between the two nations with senior Soviet officials, including the late Soviet President, Yuri Andropov. I came away with a greater awareness of the gulf between the sides, but with a heightened sense that it would be foolish and reckless to stop the dialog and to abandon our efforts to seek mutual areas of agreement.

We should not under estimate the seriousness of the present situation. We are engaged with the Soviet Union in an arms race that could well be propelling us toward a final conflict. It is a perilous time and we would be wrong to ignore that fact. There is nothing the Congress could do which would be more important than setting our nation back on a course toward peace.

I and my fellow cosponsors have concluded that we would do well to recall and build upon the ground work which was so carefully laid in 1961 for arms-control agreements to follow. At that difficult time in their relationship, the Soviet Union and the United States agreed upon a statement known as the McCloy-Zorin agreement. This statement was initiated under President Eisenhower and negotiated successfully during the tenure of President Kennedy. The agreement was signed on September 20, 1961, by John H. McCloy for the United States and Valerian A. Zorin for the Soviet Union. In December 1961, the U.N. General Assembly unanimously endorsed the statement.

The McCloy-Zorin agreement calls for an international accord on general and complete disarmament in stages with agreed verification measures, agreed procedures for the peaceful settlement of dispute, establishment of the U.N. peacekeeping force and creation of an international disarmament organization to implement control and inspection of the disarmament process to ensure that no military advantage is gained by any participant and that there is equal security for all.

Very optimistically, the two sides expressed the hope that the international accord would ensure:

First, "That disarmament is general and complete and war is no longer an instrument for settling international problems, and

Second, That such disarmament is accompanied by the establishment of reliable procedures for the peaceful settlement of disputes and effective arrangements for the maintenance of peace in accordance with the principles of the Charter of the United Nations."

We know now that the optimism of 1961 was premature. Regrettably, we have found in the years since the McCloy-Zorin agreement that progress toward disarmament can be excruciatingly slow. On the other hand, I suspect that there is a broader realization now of the potential value of maintenance of peace. In years past, the United Nations has been of considerable value in helping to maintain the peace in the Middle East, and U.N. forces remain there even now. The Lebanon experience has demonstrated once again how important it could be to strengthen the ability of the United Nations to accept and carry out those peacekeeping responsibilities. We and other nations would be far better off if we could turn to the United Nations in moments of need and find that body better prepared to accept peacekeeping responsibilities.

The resolution I am introducing does not presume to judge the validity of each aspect of the 1961 accord. Rather, the resolution recognizes the farsighted nature of the agreement and calls for renewed consideration by our Government and discussions with the Soviets to assess the relevance and validity of these principles today. The President would be expected to report to the Congress on the reassessment and on discussions with the Soviets.

Mr. President, I believe that there is much in the McCloy-Zorin agreement which could help us out of the present arms-control impasse and on to a genuinely productive course toward reduction and the eventual elimination of nuclear weapons. We have become diverted from that goal. We have lost sight of the importance of controlling the spread of conventional weapons. We live in a world which, like a powder keg, could explode at any point. We must not allow the situation to continue. We hold this world in sacred trust for our children, and their children, and we must not fail them.●

## AMENDMENTS SUBMITTED

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

### BYRD (AND INOUYE) AMENDMENT NO. 3242

Mr. BYRD (for himself, Mr. INOUYE, Mr. TOWER, Mr. GORTON, Mr. KASTEN, Mr. COHEN, Mr. NUNN, Mr. ZORINSKY, and Mr. MITCHELL) proposed an amendment to the bill (S. 2723) to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1985, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes, as follows:

On page 128, between lines 12 and 13, insert the following new section:

POLICY REGARDING THE FURNISHING OF FOOD AND MEDICAL SUPPLIES TO AFGHANISTAN

SEC. 1019. (a) The Congress finds—

(1) that after more than four years of occupation by the military forces of the Soviet Union, the freedom-loving people of Afghanistan continue bravely to resist the oppression of the Soviet Union;

(2) that the current Soviet Union offensive has resulted in great suffering and destruction in Afghanistan and has intensified the Soviet policy which targets civilian populations; and

(3) that this "scorched earth" policy of the Soviet Union, which has resulted in the destruction of crops, food supplies, farms, hospitals, and other public buildings in Afghanistan, has been a desperate attempt on the part of the Soviet Union to subdue the population of that country or to force the depopulation of certain areas which the occupying forces of the Soviet Union are unable to control.

(b) It is, therefore, the sense of the Congress that the free world should take all appropriate steps to ensure that the people of Afghanistan have the necessary food and medical supplies adequate to sustain themselves while they are being ravaged by the invading forces of the Soviet Union.

### STEVENS AMENDMENT NO. 3243

Mr. STEVENS proposed an amendment to the bill S. 2723, supra; as follows:

On page 106, delete lines 13 through 22 inclusive and on page 143, line 18, after the number "7204." insert the following new section:

"2304 note. Shipbuilding claims

"None of the funds hereafter available to the Department of Defense shall be used to adjust any contract price for amounts set forth in any shipbuilding claim, request for equitable adjustment, or demand for payment incurred due to the preparation, submission, or adjudication of any such shipbuilding claim, request, or demand under a contract entered into after the date of enactment of this Act arising out of events occuring more than eighteen months prior to the submission of such shipbuilding claim, request or demand. For the purposes of this section, requirement for submission of a shipbuilding claim, request, or demand is met only when the certification required in section 6(c)(1) of the Contract Disputes Act of 1978 and supporting data are provided."

### MELCHER AMENDMENT NOS. 3244 AND 3245

(Ordered to lie on the table)

Mr. MELCHER submitted two amendments intended to be proposed by him to the bill S. 2723, supra; as follows:

At the appropriate place in the bill add the following new section:

"SEC. —. Sections 1622, 1623, and 1631 of title 38, United States Code, are amended as follows:

(a) At the end of section 1622, add the following new subsection:

"(f)(1) In addition to the matching funds contributed by the Administrator under subsection (b) of this section, the Administrator shall also contribute with respect to such participant an amount equal to the interest on such amount of contributions made by the participant computed as provided in paragraph (2) of this subsection.

"(2)(A) For the purpose of paragraph (1) of this subsection, interest accrues on the balance of the contributions made by a participant and is compounded annually until the contributions are utilized under section 1631 or refunded as provided in sections 1623 and 1624. Such interest is computed from the date on which a contribution is deposited in the fund to the credit of the participant pursuant to section 1622(a) of this title.

"(B) The rate of interest applicable to the contributions of a participant under subparagraph (A) of this paragraph for the latest 12-month period ending on an anniversary of the first date on which a contribution is deposited in the fund to the credit of such participant shall be equal to the overall average market yield of all marketable interest-bearing obligations of the United States which—

"(i) were issued during such 12-month period; and

"(ii) are not due on callable until after the date which is 4 years after the first day of such period.

If the overall average market yield for such period is not a multiple of one-eight of 1 per centum, the rate of interest applicable for such period under such subparagraph shall be the multiple of one-eight of 1 per centum nearest such overall average market yield.".

(b) At the end of section 1623 add the following new subsection:

"(e)(1) In addition to the amount of contributions refunded with respect to a participant as provided in subsection (a) of this section, the Administrator shall pay with respect to such participant an amount equal to the interest on such amount of contributions computed as provided in paragraph (2) of subsection 1623.".

(c) Subsection 1631 is amended by striking subsection (2) and inserting in lieu thereof the following:

"(2) The amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veterans, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary, (D) adding the interest contributed under section 1623, subsection (f), and (E) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.".

At the appropriate place in the bill add the following new section:

"Sec. —. Within 180 days after enactment of this bill, the Secretary of the Air Force shall submit a report to the appropriate committees of Congress analyzing and reviewing the effectiveness of current security arrangements at Clark Air Base, Philippines, and reviewing the provisions of the U.S. Philippine basing agreement, and also suggest mesures that could be taken to improve overall security at Clark Air Base."

### COHEN AMENDMENT NO. 3246

Mr. COHEN proposed an amendment to the amendment No. 3193, as modified, proposed by Mr. Mathias to the bill S. 2723, supra; as follows:

Strike all after "The Congress finds that—" and insert in lieu thereof the following:

(1) the Soviet Union has yet to return to the Strategic Arms Reduction Talks (hereafter in this section referred to as START) or Intermediate Nuclear Force Reduction Talks (hereafter in this section referred to as INF);

(2) an early resumption of these negotiations is in the interest of all mankind;

(3) the United States has both demonstrated flexibility in the START and INF negotiations and expressed a willingness to consider any reasonable Soviet proposals;

(4) The President has repeatedly emphasized his willingness to negotiate limits on or reductions in the stocks of all nuclear weapons with a view toward the complete elimination of all such weapons from the earth; and

(5) the existence of Sea-Launched Cruise Missiles complicates the prospects for nuclear arms control agreements given the characteristics of such missiles which constitute inherent impediments to effective verification:

(6) Sea-Launched Cruise Missiles equipped with nuclear warheads are currently deployed in large numbers by the Soviet Union.

(7) Both the Soviet Union and the United States have tested and are in the process of deploying new, long-range Sea-launched Cruise Missiles equipped with nuclear warheads.

(b) It is the sense of the Congress that the President should, at the earliest practicable time—

(1) urge the Soviet Union to return to the START and INF negotiations.

(2) include in the appropriate negotiations a discussion of means whereby limitations on Sea-Launched Cruise Missiles equipped with nuclear warheads may be verified with a view toward achieving the complete elimination of these and all nuclear weapons from the arsenals of the Soviet Unions and the United States, and

(3) advise the Government of the Soviet Union that as means of advancing the goals discussed in Paragraph 2, the United States continues to be, and the Soviet Union should be, willing to accept those intrusive on-site inspection procedures necessary for effective verification as an integral part of mutual arms reductions.

### JEPSEN AMENDMENT NO. 3247

Mr. JEPSEN submitted an amendment intended to be proposed by him to amendment No. 3175 to the bill S. 2723, supra; as follows:

In lieu of the matter to be inserted by amendment No. 3175, insert the following:

#### MISCELLANEOUS BENEFITS FOR CERTAIN FORMER SPOUSES

Sec. 160b. (a) Section 1006(d) of the Department of Defense Authorization Act, 1983 (Public Law 97-252) is amended to read as follows:

"(d) The amendments made by section 1004 of this title and the provisions of section 1005 of this title shall apply with respect to the former spouse of a member or former member of the uniformed services without regard to whether the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated before, on, or after the effective date of such amendments.".

(b) The amendment made by subsection (a) shall apply to health care which is furnished only on or after the date of enactment of this Act.

### BUMPERS (AND OTHERS) AMENDMENT NO. 3248

Mr. BUMPERS (for himself, Mr. Leahy, Mr. Chafee, Mr. Heinz, Mr. Glenn, Mr. Biden, Mr. Bentsen, Mr. Bingaman, Mr. Sarbanes, Mr. Proxmire, Mr. Cranston, Mr. Levin, Mr. Riegle, Mr. Mathias, Mr. Danforth, Mr. Burdick, Mr. Ford, Mr. Pell, Mr. Matsunaga, Mr. Tsongas, Mr. Durenberger, Mr. Kennedy, Mr. Mitchell, and Mr. Bradley) proposed an amendment to the bill S. 2723, supra; as follows:

At the appropriate place in the bill, add the following new section:

Sec. —. (a) The Congress finds that:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies;

(2) the President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint";

(3) the United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements;

(4) the President has declared that "the United States will continue to press compliance issues with the Soviet Union through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions";

(5) the President has also declared that "the United States is continuing to carry out its obligations under relevant agreements";

(6) it would be detrimental to the security interests of the United States and its allies, and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union;

(7) the continuation of existing restraints on strategic nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms;

(8) the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

(9) a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

(10) both sides have to date abided by important numerical and other limits contained in existing strategic arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits; and

(11) it is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV'd ICBM's one thousand two hundred launchers of MIRV'd ICBM's and SLBM's, and one thousand three hundred and twenty launchers of MIRV'd ICBM's, and SLBM's, and ALCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of the Congress that:

(1) The United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements through the Standing Consultative Commission and, where appropriate, other confidential diplomatic channels;

(2) the United States should continue to carry out its obligations and commitments under, and otherwise to observe the provisions of, existing strategic arms agreements so long as the Soviet Union continues to observe those provisions, or until a new strategic arms agreement is concluded; and

(3) the President should carefully consider the impact of any changes to this current policy regarding existing strategic arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy.

## NUNN (AND PERCY) AMENDMENT NO. 3249

**Mr. NUNN (for himself and Mr. Percy) proposed an amendment to the amendment No. 3248 proposed by Mr. Bumpers (and others) to the bill S. 2723, supra; as follows:**

Strike out all after line 23 in the Bumpers amendment and insert in lieu thereof the following:

"(7) the continuation of existing restraints on strategic offensive" nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms;

(8) the Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table;

(9) a termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult;

(10) both sides have to date abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits; and

(11) it is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed, and to continue to remain at or below a level of eight hundred and twenty launchers of MIRV's ICBM's, one thousand two hundred launchers or MIRV'd ICBM's and SLBM's, and one thousand three hundred and twenty launchers of MIRV'd ICBM's and SLBM's, and ALCM-equipped heavy bombers, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of the Congress that;

(1) The United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements through the Standing Consultative Commission and, where appropriate, other confidential diplomatic channels;

(2) the United States should through December 31, 1985, continue to carry out its commitments under, and otherwise to refrain from undercutting the provisions of, existing strategic offensive arms agreements so long as the Soviet Union continues to refrain from undercutting those provisions, or until a new strategic offensive arms agreement is concluded; and

(3) the President should carefully consider the impact of any changes to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies, and should consult with the Congress before making any changes in current policy."

## TRIBLE (AND OTHERS) AMENDMENT NO. 3250

**Mr. TRIBLE (for himself, Mr. Bingaman, Mr. Warner, Mr. Armstrong, Mr. Sarbanes, Mr. Boschwitz, Mr. Burdick, Mr. Glenn, Mr. Hollings, Mrs. Kassebaum, Mrs. Hawkins, Mr. DeConcini, Mr. Hecht, Mr. Moynihan, Mr. Mattingly, Mr. Packwood, Mr. Bradley, Mr. Chiles, Mr. D'Amato, Mr. Pryor, Mr. Biden, Mr. Riegle, Mr. Sasser, Mr. Humphrey, Mr. Kennedy, Mr. Durenberger, Mr. Helms, Mr. Mathias, Mr. Murkowski, Mr. Hatch, Mr. Cranston, Mr. Bumpers, Mr. Gorton, Mr. Stevens, and Mr. Domenici) proposed an amendment to the bill S. 2723, supra; as follows:**

On page 54, between lines 14 and 15, insert the following new section:

### MISCELLANEOUS RIGHTS AND BENEFITS FOR FORMER SPOUSES

Sec. 160b. (a)(1) Section 1072(2) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of clause (F); and

(B) by striking out clause (F) and inserting in lieu thereof the following:

"(F) a person who is the unremarried former spouse of a member or former member who performed at least twenty years of service which is creditable in determining the member's or former member's eligibility for retired or retainer pay, or equivalent pay, and who on the date of the final decree of divorce, dissolution, or annulment had been married to the member or former member for a period of at least twenty years, not less than 15 years of which were during the period the member or former member performed service creditable in determining the member's eligibility for retired or retainer pay; and

"(G) a person (i) who is the former spouse of a member or former member, and (ii) who has a disease or disability attributable to or arising from the nature or a location of the service performed by the member or former member during the marriage, or from treatment received at a United States military medical facility.".

(2) Section 1077 of such title is amended by adding at the end thereof the following new subsection:

"(c) In the case of a person covered by section 1072(2)(G) of this title who is not also covered by section 1072(2)(F) of this title, the only health care that may be provided under section 1076 of this title is health care necessary for the treatment of any disease or disability of that person described in subclause (ii) of section 1072(2)(G) of this title.".

(b)(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

**"§ 1044. Post exchange and commissary store privileges for certain former spouses of certain members or former members of the armed forces**

"Subject to such rules and regulations as the Secretary concerned may prescribe, a dependent of a member or former member of the armed forces, as defined in clause (F) or (G) of section 1072(2) of this title, shall be entitled to use the services and facilities of post or base exchanges and commissary stores operated under the jurisdiction of any military department.".

(2) The table of sections at the beginning of chapter 53 of such title is amended by adding at the end thereof the following new item:

"1044. Post exchange and commissary store privileges for certain former spouses of certain members of former members of the armed force.".

(c)(1) The amendments made by subsection (a) shall apply with respect to health care furnished on or after the date of the enactment of this Act and in the case of a former spouse regardless of the date of the applicable decree of divorce, dissolution, or annulment.

(2) The amendments made by subsection (b) shall apply in the case of a former spouse regardless of the date of the applicable decree of divorce, dissolution, or annulment.

## BANKRUPTCY COURT REFORM

## BAUCUS AMENDMENT NO. 3251

**Mr. HEFLIN (for Mr. Baucus) proposed an amendment to the bill (H.R. 5174) to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, to amend title 11 of the United States Code for the purpose of making certain changes in the personal bankruptcy law, of making certain changes regarding grain storage facilities, and of clarifying the circumstances under which collective-bargaining agreements may be rejected in cases under chapter 11, and for other purposes; as follows:**

On page 65, line 15, after "427." insert "(a)".

On page 65, between lines 17 and 18, insert the following:

(b) Section 303 of title 11 of the United States Code, is amended—

(1) In subsection (b)(1) by inserting "or the subject of a bona fide dispute," after "liability"; and

(2) In subsection (h)(1) by inserting ", provided, however, that such order may not be based solely upon debts that are the subject of a bona fide dispute" after "due".

## OMNIBUS DEFENSE AUTHORIZATION ACT, 1985

## PROXMIRE AMENDMENT NO. 3252

**Mr. PROXMIRE proposed an amendment to the bill S. 2723, supra; as follows:**

On page 126, between lines 12 and 13, insert the following new section:

### SENSE OF THE CONGRESS RELATING TO CONSULTATION WITH ALLIES REGARDING STRATEGIC DEFENSE

Sec. ( ). It is the Sense of the Congress that

(a) the President shall inform and make every effort to consult with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning the research being conducted in the Strategic Defense Initiative program.

(b) The Secretary of Defense, in coordination with the Secretary of State and the Director of the Arms Control and Disarmament Agency, shall at the time of the submission of the annual budget presentation materials for each fiscal year beginning after September 30, 1984, report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives on the status of the consultations referred to under subsection (a).

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### HUDDLESTON (AND OTHERS) AMENDMENT NO. 3253

Mr. HUDDLESTON (for himself, Mr. PELL, Mr. STAFFORD, Mr. FORD, Mr. ABDNOR, Mr. MOYNIHAN, and Mr. HOLLINGS) proposed an amendment to the bill S. 2723, supra; as follows:

On page 205, beginning with line 16, strike out through line 5 on page 206.

Redesignate the succeeding sections in title II accordingly.

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### THURMOND AMENDMENT NO. 3254

Mr. THURMOND proposed an amendment to the bill, S. 2723, supra, as follows:

At the appropriate place in Title II, insert the following new section:

"STUDY OF SECTION 6 SCHOOLS

"Sec. . (a) The Comptroller General shall conduct a study to determine the most suitable means to fund those Department of Defense dependent schools, established under the provisions of Section 6 of Public Law 81-874, in the future.

"(b) Such study shall consider the effect that transferring funding and operating authority for such schools would have on funding for the impact aid program as well as the effect that such transfer would have on local school districts.

"(c) Such study shall be submitted to the appropriate committees of Congress by May 1, 1985."

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### SPECTER AMENDMENT NO. 3255

Mr. SPECTER proposed an amendment to the bill, S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following:

POLICY ON SUMMIT MEETING

Sec. 1019. (a) The Congress finds that—

(1) the nuclear arms race continues at an increasing pace between the United States and the Union of Soviet Socialist Republics, diverting massive resources, raising the risk of nuclear war, and increasing dissension within American society and the Atlantic Alliance;

(2) technological advances are now enabling the superpowers to extend the arms race to space and are complicating arms control tasks on earth; and

(3) nuclear arms talks have been abandoned by the Soviet Government after its effective rejection of all United States proposals for reductions.

(b) It is the sense of the Congress that the President of the United States and the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics should meet as soon as possible to negotiate nuclear arms reduction, stabilization, and control, with effective verification, and if the scheduling of such a summit meeting for the coming Fall is rejected by the Soviet Government, then the President should make it his first priority following the Presidential elections in the United States in November 1984, to seek such a summit meeting, without preconditions or assurances of success.

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### MATTINGLY AMENDMENT NO. 3256

Mr. MATTINGLY proposed an amendment to the bill, S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

CONSULTING AND RELATED SERVICES

Sec. 1019. Notwithstanding any other provision of this or any other Act, of the funds appropriated to or for the use of the Department of Defense for fiscal year 1985 pursuant to an authorization contained in this Act or any other law, not more than $1,302,599,000 may be obligated or expended for consultants, studies and analyses, management support contracts, and contract systems and technical engineering.

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### THURMOND AMENDMENT NO. 3257

Mr. THURMOND proposed an amendment to the bill S. 2723, supra; as follows:

On page 183, after line 15, insert the following:

Sec. 236. (a) The Secretary of Defense may acquire excess federal land and facilities thereon adjacent to Fort McNair, Washington, District of Columbia, for the purpose of providing the necessary land area to construct additional facilities required by the National Defense University. The Secretary shall reimburse the Treasury for the fair market value of such land and facilities from funds otherwise authorized to be appropriated for military construction for Defense Agencies in this Act.

(b) The Secretary of Defense may acquire the excess federal land and facilities thereon known as the "Appraiser's Store" and occupied by the National Security Agency in Baltimore, Maryland. The Secretary shall reimburse the Treasury for the fair market value of such land and facilities from funds otherwise authorized to be appropriated for military construction for Defense Agencies in this Act. In addition, the Secretary may use funds from the same source in an amount not to exceed $2,500,000 for the renovation of the facilities on such land.

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### CRANSTON AND WILSON AMENDMENT NO. 3258

Mr. THURMOND (for Mr. CRANSTON) (for himself and Mr. WILSON) proposed an amendment to the bill S. 2723, supra, as follows:

On page 218, lines 5 and 6, strike out "new hospitals at Fort Lewis, Washington, and at Travis Air Force Base, California" and insert in lieu thereof "a new hospital at Fort Lewis, Washington".

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### THURMOND AMENDMENT NO. 3259

Mr. THURMOND proposed an amendment to the bill S. 2723, supra, as follows:

At the appropriate place in Title II, add the following new section:

Sec. —. Section 803 of Public Law 98-115 is amended by striking the period at the end of subsection (a) and adding the following: "or, in the case of concrete housing, may also be the product of a manufactured or factory-built housing plant fabricated in the United States by a United States contractor, provided that the materials, fixtures and equipment (except cement, sand, and aggregates used in the production of the concrete structure) used in the construction shall be manufactured in the United States."

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### LEVIN AMENDMENT NO. 3260

Mr. LEVIN proposed an amendment to the bill S. 2723, supra, as follows:

On page 93, above line 1, insert the following new paragraph:

(3) The provisions of § 2322 of Title 10, United States Code, as added by paragraph (1), shall be effective with respect to solicitations on or after the date of enactment of this Act.

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### DENTON AMENDMENT NO. 3261

Mr. DENTON proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following new section:

AUTHORIZATION FOR SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CENTRAL AMERICA

Sec. —. (a) Notwithstanding any other provision of law, during fiscal year 1985, the Secretary of Defense may transport on a space available basis, at no charge, to any country in Central America goods and supplies which have been furnished by a nongovernmental source outside the Department of Defense and which are intended for humanitarian assistance.

(b)(1) The Secretary of Defense shall institute such procedures as may be necessary, including complete inspection prior to acceptance for transport, for determining that the goods and supplies referred to in subsection (a) are suitable for humanitarian purposes and are in useable condition. Goods and supplies determined by the Secretary to be unsuitable or unuseable for humanitarian purposes may not be transported under the authority provided in this section.

(2) It shall be the responsibility of the donor of any goods or supplies to be transported under this section to ensure that such goods are suitable for humanitarian purposes and suitable for whatever space available transport that the Secretary may be able to provide under this section.

(c) Goods or supplies accepted by the Secretary of Defense for transport under this section shall be distributed in the country to which they are transported through or under the supervision of the United States Government. The Secretary of Defense shall not accept any goods or supplies for transportation under this section unless the provider or providers of the goods and supplies agree to the condition that the goods and supplies be distributed under the supervision of the United States.

(d) The Secretary of Defense shall consult with the Secretary of State prior to the transportation of all goods and supplies made under this section.

(e) No later than 60 days after the end of fiscal year 1985, or upon request of the Congress, the Secretary of Defense shall advise the Congress of the origin, contents, destination, and disposition of all goods and supplies transported under the authority of this section.

## KENNEDY AND MATHIAS AMENDMENT NO. 3262

Mr. NUNN (for Mr. KENNEDY and Mr. MATHIAS) proposed an amendment to the bill S. 2723, supra, as follows:

On page 128, between lines 12 and 13, insert the following:

### POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

SEC. 1019. (a) The Congress finds that—

(1) the United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time;

(2) a comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons;

(3) the Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification;

(4) the entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable;

(5) a comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means;

(6) at present negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty;

(7) the past five administrations have supported the achievement of a comprehensive test ban treaty.

It is the sense of the Congress that at the earliest possible date, the President should—

(1) request Senate advice and consent to ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

## ADDITIONAL STATEMENTS

## FOOD FOR PEACE DAY

● Mr. DOLE. Mr. President, the 30th anniversary of Public Law 480, the Food-for-Peace Program, will be celebrated in 3 weeks, on July 10. In recognition of this important event, I have been joined by 68 of my Senate colleagues in sponsoring Senate Joint Resolution 306, a joint resolution designating July 10 as "Food For Peace Day," and encouraging President Reagan to urge all Americans to engage in appropriate ceremonies and activities.

Senate Joint Resolution 306 was passed by unanimous consent last Friday, and an identical resolution will be considered by the House in the near future. At this time, I would like to address questions which some have raised concerning the propriety of holding commemorative activities in honor of the Food For Peace Program.

### AN ENDURING SUCCESS STORY

I believe most of us who have worked with Public Law 480 and other food assistance programs over the years are acutely aware of the chronic and debilitating effects of world hunger and malnutrition. While Public Law 480 has served other goals in addition to providing needed food aid over the past three decades, the humanitarian motive, in my experience, has always been uppermost with its principal supporters. To suggest otherwise may appeal to those always prepared to suspect politicians of the lowest common denominator of human behavior. But we should not allow such cynical assessments to deter the celebration of what is truly one of the most enduring success stories in American political history.

The point is, Mr. President, that after 30 years of tremendous change in the United States and the world at large, the Food-for-Peace Program remains alive and well. Through massive food surpluses and equally severe shortfalls, political maneuvering on both sides of the aisle and both sides of the Hill, adamant opposition followed by equally adamant control by some agencies of Government—through all this, Public Law 480 has emerged with its principles intact, and with firm bipartisan support. Clearly, there is something here which continues to stimulate even the most jaded Washington politician or bureaucrat.

### RISING ABOVE POLITICAL ORIGINS

And for those who are only too familiar with the fickle devotion of Congress, Washington, and government as a whole to any passing cause, the continuing popularity of Public Law 480 is cause for wonder, indeed. Its universal appeal, based on the diversity of the purposes it has served, has confounded all the conventional wisdom on the subject of Federal programs. It is, in fact, the exception that proves the rule, demonstrating that, on rare occasion, our political system is capable of producing something that rises above its political origins.

### SOME SHORTCOMINGS

I am only too aware of the shortcoming and failings of this program as well, Mr. President. Its periodic use as a convenient means of disposing of large agricultural surpluses and retarding economic development abroad is reprehensible. Its domination by foreign policy arguments and concentration on two or three friendly nations while greater hunger rages in other, less strategic regions, is equally unfortunate.

### A MONUMENT TO CREATIVITY

Nonetheless, as a political initiative reflecting, by definition, a marriage of some convenience, Public Law 480 remains a monument to creativity in Government and a landmark to guide policy development in this century. Its anniversary is worthy of recognition as a time when this Nation's decisionmakers chose the right path. In our current confusion over future directions, such insight is very much in demand. Perhaps, in reflecting on Public Law 480 this July 10, we may gain some sense of the same vision ourselves.●

## GRANDMA'S BEAN SOUP

● Mr. LEVIN. Mr. President, I wish to bring to the attention of my colleagues a delicious variant to an old favorite in the Senate dining rooms, and to pay tribute to its creator. I refer to grandma's bean soup, by Mrs. Roseleen Gable of Muskegon, MI. Mrs. Gable recently won a statewide contest in Michigan for the best bean soup, sponsored by the Michigan Bean Commission and the Michigan Automobile Club and its magazine, Michigan Living. Her prize was a trip to Washington. And I am pleased to announce that on this Thursday, I will be hosting a reception for Mrs. Gable and Michigan officials, at noon in room S-120, to which my colleagues are cordially invited, and where they may sample grandma's bean soup. For those committed to the Senator's Dining Room, I am pleased to announce that Mrs. Gable's soup will be on the menu and available for consumption there. The recipe will be available there, too.

Mr. President, it is well known that the traditional Senate bean soup—which has been on the menu of our restaurants every day for most of this century—is made from Michigan navy beans. Indeed, Michigan is the only State to be identified daily on the menu of the Senate dining rooms. Mrs. Gable's bean soup is, of course, also made with Michigan beans. Michigan is No. 1 among the States in the growing of navy beans and many other agricultural products—a fact sometimes overshadowed by its fame for industrial production. And I am delighted to have this opportunity to shed new light on that fact—to offer my colleagues a chance to savor a delicious alternative to a familiar culinary pleasure—and to pay tribute to Mrs. Gable, to the Michigan officials whose recipe contest has enhanced the fame of the Michigan navy bean, and to the thousands of growers of this magnificent foodstuff in my State.●

## RON OSHIRO OF HAWAII: AN AMERICAN SUCCESS STORY IN SMALL BUSINESS

● **Mr. MATSUNAGA.** Mr. President, it is with great pride that I call the attention of my colleagues to an article published in the Honolulu Star Bulletin noting the recognition of Mr. Oshiro, one of my constituents, as region IX Prime Contractor of the Year by the Small Business Administration [SBA].

In 1976, Mr. Oshiro started his own construction company which he most appropriately named Ron's Construction. He stuck with his firm through the first hard years and has built it into a successful enterprise which last year grossed $3.2 million in revenues. Ron's Construction received the SBA award because of the company's efficiency and reliability in management, bidding, contract quality, scheduling, and other factors. The company does excavation work and street and utility infrastructure for housing subdivisions.

Mr. President, in my view the strength of our national economy depends on a healthy and thriving small business sector. After all, small business provides jobs for more than 58 percent of all the employees in the private sector. Small business accounts for 43 percent of our gross national product and 48 percent of our gross business product. Small business accounts for over 50 percent of all industrial innovations in the United States. Small business generates more than 90 percent of all new jobs in the private sector.

Behind these impressive statistics are other facts about small business which are not easily expressed in percentages. Small business stimulates competition in the marketplace, helps to reduce inflation, creates a steady stream of badly needed private sector jobs, and provides consumers with a wide choice of high quality goods and services at reasonable and competitive prices. Clearly the continued growth of small business in America is vital to the success of our efforts toward economic revitalization.

Mr. President, Ron Oshiro has made a significant contribution to the success of small business in this country. I am indeed proud of the record of Ron's construction company and am honored to be representing Mr. Oshiro in the U.S. Senate. I ask that the article from the Honolulu Star-Bulletin of May 3, 1984, be printed in Record.

The article follows:

### Contractor of Year Credits His Workers

(By Ron Daines)

In 1976, Ron Oshiro had been in Hawaii's construction business for 12 years, mostly working for other people's companies.

It was then he decided to tackle a goal he'd considered as a student at the University of Hawaii's College of Engineering.

With $7,000 in the bank, he left the presidency of Avanti Construction to start his own company, Ron's Construction.

Oshiro's entrepreneurial instinct was on the mark.

After a rough start—"The first year is always very difficult, especially if you're not highly capitalized"—Oshiro has since carved out a niche in Hawaii's construction business.

In his first year, Oshiro's firm did $350,000 in business. Today, the company has six office employees and 25 field workers. Last year Ron's grossed 3.2 million in revenues.

The Small Business Administration has honored Oshiro's success by naming him over 20 nominees as the "Prime Contractor of the Year" for SBA Region IX.

Judges for the prime contractor award look at a company's efficiency and reliability in several areas, including management, bidding, contract quality and compliance, and scheduling.

Oshiro's company does excavation work as well as the street and utility infrastructure for housing subdivisions.

His company's biggest project to date was for $1.5 million at the athletic field and track at Punahou School.

Ron's also worked on the athletic field at the University of Hawaii, a contract worth $1.2 million to his company.

Oshiro, a graduate of Roosevelt High School and the University of Hawaii, is undaunted by the government regulations many small businesses in the state seem to complain about.

"I pretty much knew what to expect in the government sector," he said, the result of his participation in the Small Business Administration's 8(a) program, aimed at businesses owned by socially and economically disadvantaged minorities.

He contends that if a business can "set its mental attitude" so that government regulations are just a part of doing business, it will do all right.

Like a lot of successful people, Oshiro gives credit for his company's growth to others, namely his company's employees.

"The credit for our success is due to the people we have here," he said.

Oshiro owns 90 percent of the company. But he's rewarded some of his key employees, who now own the other 10 percent. And he says he hopes to be able to bring other employees into part ownership at some point down the road.●

## SOCIAL SECURITY "NOTCH" PROBLEM

● **Mr. JEPSEN.** Mr. President, on Tuesday, May 8, I introduced a bill to correct a serious disservice that was done to many Social Security beneficiaries as a result of the Social Security Act Amendments of 1977. I daresay there is not one Senator or Congressman who has not heard from a constituent about the so-called Social Security "notch" problem.

Because I was not a Member of the Senate at the time of the 1977 amendments, the complaints about the notch were a surprise to me and it took some time before I had a complete understanding of just what it was these people were upset about. Needless to say, once I had completed my research, I was amazed at what had been done to these beneficiaries.

Mr. President, we hear a great deal of talk about fairness in this Chamber and whether or not we are going to cut benefits or freeze benefits of people who can ill afford reduced benefits. I would like to point out that the supporters of the Social Security Amendments of 1977 approved changes which have resulted not only in actual cuts in benefits for certain retirees but have also led to a situation where two individuals with virtually identical work histories, end up with Social Security benefits that are in some cases $150 per month different.

Now there is no doubt that changes had to be made in 1977 or the system most assuredly would have gone bankrupt. I have no quarrel with the facts surrounding the necessity for change. I do, however, have a very difficult time understanding just why we had to make the type of change we did and why we have ended up with the current situation.

Put yourself in the position of a Social Security beneficiary who always pays in the maximum in Social Security taxes and then learns that because of his or her birthdate, will end up with a benefit of $150 less per month than the person that worked along side of him or her for the past 40 years. Frankly, if it were me, I might not be as understanding as some of my constituents. But to their credit, the people who have contacted my office have been most understanding and have obviously spent a great deal of time researching and studying this issue.

Those hurt by the notch are not asking for a handout or an unjustified increase in their benefits, they are asking to be treated fairly. A slight difference in benefit amounts might be acceptable but $150 per month is a rather significant difference.

In the research I have done on this issue, I have encountered a great many people who say yes, this is a serious problem and they wish there was something that could be done but frankly, any solution we might attempt would be too costly.

There is no question that changing the benefit levels of those adversely affected by the notch will increase the costs of the system but we must also consider the fairness question.

The thousands of Iowans who have written to me over the past year are not to blame for the notch. It is not their fault that inflation was rampant during the late 1970's. Consequently, why should they be asked to bear the entire burden of correcting the problem? Why couldn't we have phased in the changes over a greater number of years so as to minimize the impact of the change on any one group of retirees?

As it turns out, Mr. President, the group of people most adversely affected by the 1977 change are some of the very people who have perhaps sacrificed the most for their country: The World War II veterans and their families. I realize that this was not a conscious decision on the part of the Congress but the fact remains that those persons called the notch-year babies, those born between 1917 and 1922, were the young men and women we also asked to go off and fight during World War II.

Just think how abandoned some of them must feel when they learn that the benefit levels had been restructured and they are going to end up with considerably less in Social Security than people who retired before them. What the Congress did in 1977 was unfair and it must be changed.

It is for these reasons, Mr. President, that I have decided to introduce S. 2644, a bill to change the Social Security benefit formulas for those adversely affected by the Social Security notch problem. This bill has been referred to the Senate Finance Committee and I will be seeking the cosponsorship of my colleagues in the coming weeks.

I would point out, Mr. President, that this bill is identical to a bill introduced late last year by Congressman Roybal, the chairman of the House Select Committee on Aging. Congressman Roybal's bill enjoys bipartisan support and I look forward to the same in the Senate.

I want to point out that this bill does not simply return to the old way of calculating benefits as a way of eliminating the problem. S. 2644 essentially holds harmless those persons who, through no fault of their own, have been adversely affected by the notch. There is a significant difference between what the benefit amounts would be if we returned to the old formula and what they would be if the Jepsen proposal gets adopted by the House and Senate.

I look forward to getting the support of my colleagues and working toward and equitable solution to this very serious problem.

In closing, Mr. President, I would just like to take a moment and thank three of my constituents who have been most helpful in educating me as to the seriousness of the notch problem; Mr. Daryl Cooper, Mrs. Arlene Sheely, and Mrs. Vera Daniels, all from Council Bluffs, IA. Mr. Cooper, Mrs. Sheely, and Mrs. Daniels have been instrumental in organizing hundreds of Iowans in an effort to correct the Social Security notch. All three deserve strong praise for their efforts and I think their work deserves to be recognized.

Mr. President, I ask that a copy of S. 2644 appear at the end of my statement.

The text of the bill follows:

### S. 2644

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 215(a)(4) of the Social Security Act is amended—

(1) by striking out "who had wages or self-employment income credited to one or more years prior to 1979" in subparagraph (B) and inserting in lieu thereof "who has 27 or more quarters of coverage based on wages and self-employment income credited to years prior to 1979".

(2) by striking out "prior to 1984" in clause (i) of subparagraph (B) and inserting in lieu thereof "after December 1978";

(3) by inserting "as in effect in December 1983" after "section 215(d)" in clause (ii) of subparagraph (B); and

(4) by striking out the last sentence.

(b) The first sentence of section 215(a)(5) of such Act is amended—

(1) by striking out "(other than an individual described in paragraph (4)(B))";

(2) by striking out "except that," and inserting in lieu thereof "except that (A)"; and

(3) by inserting before the period at the end thereof the following: ", and (B) in the case of an individual described in paragraph (4)(B), such individual's average monthly wage shall be computed as provided by subsection (b)(4)".

Sec. 2. The first sentence of section 215(b)(4) of that Social Security Act is amended by striking out "except that" and all that follows and inserting in lieu thereof the following: "except that—

"(A) paragraph (2)(A) (as then in effect) shall be deemed to provide that the number of an individual's 'benefit computation years' may not exceed 25;

"(B) paragraph (2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and prior to 1979, plus the 3 calendar years after 1978 for which the total of such individual's wages and self-employment income is the largest; and

"(C) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

Sec. 3. Section 215(f)(7) of the Social Security Act is amended by striking out "For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B)" and inserting in lieu thereof the following: "For purposes of recomputing a primary insurance amount determined under subsection (a) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(i) as in effect after December 1978, the average monthly wage shall be determined as provided by subsection (b)(4). For purposes of recomputing a primary insurance amount determined under subsection (d) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(ii)".

Sec. 4. Section 215(i)(4) of the Social Security Act is amended by striking out "(but the application" and all that follows down through "paragraph (4) of that subsection)".

Sec. 5. (a) Section 215(a)(7)(A) of the Social Security Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection" in the matter preceding clause (i).

(b)(1) Section 215(a)(7)(B)(i) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "In applying subparagraph (A) in the determination of an individual's primary insurance amount, there shall first be computer (I) in the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, an amount which is equal to the individual's primary insurance amount under that paragraph, reduced by substituting (for purposes of this computation) the applicable percent specified in clause (ii) of this subparagraph for the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1), or (II) in the case of an individual whose primary insurance amount would be computed under section 215(a) as in effect in December 1978 by reason of paragraph (4)(B)(i) of this subsection, an amount which is equal to the individual's primary insurance amount under that section, reduced by a percentage equivalent to the percentage reduction which (as determined under regulations prescribed by the Secretary) would occur under subclause (I) if such primary insurance amount were a primary insurance amount under paragraph (1) of this subsection.".

(2) The second sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection".

(c) The third sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting ", or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978," after "under paragraph (1) of this subsection".

Sec. 6. (a) The amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(b) In any case where an individual is entitled on the date of enactment of this Act to old-age insurance benefits under title II of the Social Security Act which were computed—

(1) under section 215 of that Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(2) under section 215 of that Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1) of the Social Security Act) shall recompute such individual's primary insurance amount so as to take into account the amendments made by this Act, and shall pay to such individual in a lump sum any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which such recomputation is effective) by reason of such amendments. No recomputation of an individual's primary insurance amount under the preceding sentence shall have the effect of reducing or otherwise affecting any monthly insurance benefit which is payable under title II of the Social Security Act to any other person on the basis of such individual's wages and self-employment income for any month before January 1984.●

## RENE ENRIQUEZ KEYNOTES HISPANIC LEADERSHIP DEVELOPMENT PROGRAM

● Mr. LEVIN. Mr. President, I would like to take a moment of my colleagues' time to call attention to a very special event which will soon be taking place in Detroit, MI. On June 22, 1984, New Detroit's Hispanic Leadership Development Program will graduate 41 new Hispanic leaders at the Ford Motor Co. world headquarters.

New Detroit's Hispanic Leadership Development Program identifies potential leaders from various Hispanic groups throughout the Detroit area, and provides them with 9 months of intensive training. To date, more than 100 individuals have been trained and at least 80 percent of these men and women sit on various boards and committees in the area. As a result, New Detroit's Hispanic Leadership Development Program has been instrumental in extending Hispanic influence in the political and economic spectrum.

The keynote speaker for this event will be Rene Enriquez, who plays Lt. Ray Calletano, one of the leading roles in the popular NBC-TV series "Hill Street Blues." Mr. Enriquez is well known and highly respected for his activities promoting Hispanic causes. He devotes a considerable amount of time to community affairs, particularly projects that benefit Hispanics and other minorities. He is also a founder of the Hispanic Arts Foundation which conducts workshops throughout the United States for actors in Hispanic communities.

I would like to take this opportunity to congratulate the graduates of this program and wish them the best of luck in their efforts to promote increased involvement of Hispanics in the political and economic spheres of today's society. Also, to thank Rene Enriquez for the outstanding work he is doing—on screen and off. And I also congratulate New Detroit for making this program possible. Through their leadership training program, they provide a much-needed service to their communities.●

## CONGRATULATIONS ON ARCHBISHOP GERETY'S 10TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, June 28 marks the 10th anniversary of Archbishop Peter Gerety's tenure as Archbishop of Newark. The Newark diocese is one of the largest and most diverse dioceses in the country, with over 1.4 million Catholics. The Archbishop's ability to lead and integrate this community has been exemplary.

Archbishop Gerety has had a long and distinguished career in the Roman Catholic Church, spanning over 45 years. He was ordained at the Cathedral of Notre Dame in Paris in 1939 and then returned to the United States to serve as assistant pastor and later pastor of a church in New Haven, CT. In 1969 His Excellency was appointed a bishop and served the church in Portland, ME.

In 1974, New Jersey was fortunate to gain his leadership as the Archbishop of Newark. The years since have been marked by a concerted and successful effort on his part to serve and invigorate the Newark diocese. Through his efforts the diocese was able to pay off an outstanding debt of $24 million. The Archbishop has also been a leader in responding to the needs of many minorities in his community. Archbishop Gerety has continued to search for priests that reflect the ethnic needs of the diocese and the people.

In his long career in the church, Archbishop Gerety has never been silent to the many injustices he has witnessed. He has been a determined and outspoken leader in the call for civil rights, the rights of workers, and equal rights for women. He has addressed many of the difficult problems that face this Nation and the Catholic Church, and he has done so with great insight. His support of the pastoral letter concerning nuclear weapons is only one example of the scope of his concerns.

Mr. President, it has been a pleasure and an honor to have Archbishop Gerety serve not only the needs of my State, but those of the whole country. I look forward to many more years of his distinguished service.●

## CLOSE UP FOUNDATION

● Mr. DOLE. Mr. President, during my years in the Senate I have been privileged to be a participant in the programs of the Close Up Foundation. One of the major strengths of the Close Up Foundation Government Studies Program is that it actively seeks out all types of students. Close Up offers fellowship funds for low- to moderate-income students, and encourages participation regardless of grade point average or leadership ability.

Close Up also affords students with special needs—those with visual and hearing impairments and those who are nonambulatory—the same opportunities for participation.

Through a generous grant from R.J. Reynolds Industries, the doors of citizenship education are open to these students with special needs. For the hearing-impaired, R.J. Reynolds provides interpreters and special materials. For the visually impaired, they allow for full-time aides and braille curriculum support; for the wheelchair bound, there are people available to assist.

Not only do these young people gain a great deal of knowledge and special insight, but they also share their experience of physical challenge with the thousands of other participants who take part on the program. This kind of learning and personal growth is almost impossible to measure, but many participants themselves report that this interaction helps to account for one of the most meaningful educational experiences of their lives.

During the 1983-84 program year, Close Up brought more than 400 physically handicapped young people to Washington to learn more about their role in our nation's Government. This important educational opportunity would not have been possible without the support of R.J. Reynolds Industries. And, I wish to salute, publicly, Mr. J. Tylee Wilson for his leadership and civic commitment in assuring R.J. Reynolds' continuing support for this program.●

## HAWAII'S TOM AND LUCILLE MOORE: TRIPLE-CROWN WINNERS OF SMALL BUSINESS ADMINISTRATION AWARDS

● Mr. MATSUNAGA. Mr. President, it is with great pride that I bring to the attention of my colleagues a news article noting the achievements of two of my constituents, Tom and Lucille Moore, whose company, Intelect, Inc., has become a remarkably successful enterprise in the highly competitive high-technology field.

Mr. President, I have always maintained that small business is the backbone of this Nation. The continued growth of small business in America is vital to the success of our efforts toward economic revitalization. Small business stimulates competition in the marketplace, helps to reduce inflation, creates a stream of badly needed private sector jobs, and provides consumers with a wide choice of high quality goods and services at reasonable prices.

Intelect, Inc., Mr. President, represents the best of what small business can do. Intelect, Inc., is a high technology company which specializes in the design and manufacture of advanced voice telecommunications switching systems for air traffic control, air defense, railway, and special service applications. Its customers include the U.S. Federal Aviation Administration, the U.S. Air Force, Army, and Navy, Chrysler Corp., GTE, and Hughes Aircraft Co., Intelect, Inc.'s many achievements have been recognized by the U.S. Small Business Administration which last month bestowed on the company the region IX awards for small business persons, Exporter, and Subcontractor of the Year Awards. I should like to point out that this is the first time that all three awards have gone to one business firm.

Mr. President, as a Senator from Hawaii, I am honored to be representing Intelect, Inc., and the Moores in the U.S. Congress. I ask that the article from the Honolulu Star-Bulletin of May 3, 1984 be printed in the CONGRESSIONAL RECORD.

The article follows:

### HIGH-TECHNOLOGY FIRM TRIPLE-CROWN WINNER

(By Russ Lynch)

Tom and Lucille Moore don't take the credit themselves for developing their company, Intelect Inc., into a rising star in the tightly competitive international high-technology market.

Lucille Moore, president of Intelect, for example, says that the people who work for them, “Hawaii's greatest asset,” should get the credit.

She also says support of companies such as Hughes Aircraft, which by sophisticated telecommunications equipment and other electronic components from the Isle firm, has been a big part of Intelect's success story.

But it is clear to even a casual observer that the drive the Moores themselves have, their willingness to branch out into new fields and their recognition that Hawaii can be a good location for a high-technology business have been crucial to the rise of the company.

Now the Moores and Intelect are triple-crown winners in awards sponsored by the Small Business Administration, taking regional titles in three categories: small business persons of the year, exporter of the year and subcontractor of the year.

David Nakagawa, Honolulu district director of the SBA, said it is the first time all three awards have gone to one business.

Next week is Small Business Week and that is when the Moores, already honored by the Honolulu Rotary Club, will receive their presentations in Washington, D.C., along with some 50 other Small Business Person winners.

“We have a very good group of people,” Lucille Moore said. “Through training and encouragement they've all come together. Everybody's dedicated.”

Hughes Aircraft and other companies all over the world have recognized Intelect's “flexibility”;’ and its ability to make “very sophisticated, state of the art electronic equipment,” she said.

The development of the microchip made it possible to run such a business in Hawaii, she said.

Intelect is recognized as the cornerstone of what state officials hope will be a growing high-technology business community in Hawaii.

The company was launched in 1976 with two employees working in a 500-square-foot area and sales running about $20,000 a year.

It grew to where it had sales of more than $6 million and 120 employees last year and was considering moving to the Mainland unless it could find enough space to expand.

Castle & Cooke Inc. stepped in this year, bought 20 percent of the company and provided Intelect with factory and office space in Iwilei while Castle & Cooke pushes for development of its high-technology industrial park at Mililani.

Intelect sells more than 80 percent of its output to foreign countries, hence the export award.

It has also begun selling more on the Mainland and recently opened a marketing office in Florida.

Essentially, it is a telecommunications company. It designs and manufactures switching systems for use in air traffic control, defense, railways and other specialty applications.

The main items are two integrated voice communications systems which the SBA says are “considered to represent the state of the art in systems of their type.”

Current projects includes a NATO installation in Greece, regional airports in Mexico, air defense operations in Asia and the United States, and voice communication components for computer railway control in the northeast corridor between Boston and Washington, D.C.

The company, which recently completed a system for the Fort Myers southwest regional airport in Florida, has a current order backlog worth $8 million, the SBA said.●

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### FATHER OF THE YEAR CEREMONY—MEN'S SOCIETY OF ST. JOHN'S ARMENIAN CHURCH OF GREATER DETROIT

● Mr. LEVIN. Mr. President, the following letter was read at the Father of the Year ceremony of the Men's Society of St. John's Armenian Church of Greater Detroit on Sunday, June 17. I ask that it be printed in the RECORD.

The letter follows:

U.S. SENATE,
*Washington, DC, June 15, 1984.*

MEN'S SOCIETY OF ST. JOHN'S ARMENIAN CHURCH OF GREATER DETROIT,
*Northwestern Highway, Detroit, MI.*

DEAR MEN'S SOCIETY MEMBERS: Congratulations to you and your organization for your good work and fellowship that so enriches the lives of those you touch.

As you gather today to pay tribute to this year's “Father of the Year,” we find that the title of the award must be amended to read, “Fathers of the Year,” because, unlike any other year, you will honor two deserving recipients of the community.

Charles I. Takessian and Souren Aprahamian, life-long members of St. John's Armenian Church of Greater Detroit, have been loyal and dedicated to serving their church and community. They have set an exemplary example for their children to follow, and indeed, an example that all of us can be proud to follow.

Once again, congratulations to Charles I. Takessian and Souren Aprahamian—Fathers of the Year.

Sincerely,

CARL LEVIN.●

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### THE 10TH ANNIVERSARY OF THE SENIOR COMPANION PROGRAM

● Mr. FORD. Mr. President, this month marks the 10th anniversary of the Senior Companion Program. I am pleased to take this opportunity to commend and recognize the over 3,500 Senior Companions who serve throughout our country. Senior Companions are low-income men and women over 60 who provide services to other seniors with special needs. The Senior Companion Program is one of the older Americans volunteer programs which provides seniors with the opportunity to remain involved and active while helping others. Volunteers assist others by arranging transportation to the doctor or for shopping; by helping clients fill out medicare or medicaid forms or food stamp forms; and by helping clients prepare meals or reminding clients to take medication. Most importantly, Senior Companions provide companionship and fellowship for the home-bound or institutionalized elderly. For many elderly, the work of the Senior Companion volunteers allows them to continue to live independently.

During this anniversary month, I am especially pleased to recognize the Senior Companions in the Audubon Area Community Services which serves my hometown of Owensboro, Ky., and the surrounding counties of Daviess, Henderson, Union, Webster, Hancock, Ohio, and McLean. In the 1983–84 program year, this exemplary program supported 109 volunteers serving 402 clients with a total of 92,040 service hours. We are extremely proud of the fine service our Senior Companions in Kentucky provide to their fellow seniors and it is an honor for me to recognize their work and wish them continuing success.●

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### ITC RULING ON COPPER IMPORTS

● Mr. LEVIN. Mr. President, on June 14, the International Trade Commission agreed unanimously that American copper producers are being injured by low-cost imports because of the depressed world copper market.

From my experience in my home State, Michigan, the domestic copper industry is indeed depressed. In recent years, 950 employees of the White Pine Copper Co. were laid off upon the closing of the mine and smelters. In 1982, a new refinery opened but it is only operating at one-half of its capacity.

Nationwide, the unemployment rate in the copper mining industry in 1983 was approximately 40 percent and industrial capacity was below 40 percent. While U.S. production of copper declined, Chilean copper imports rose 81 percent. It has been suggested that

U.S. copper grades are poor compared to countries such as Chile. This is simply not the case with copper mined in the Upper Peninsula of Michigan. The Federal Emergency Management Agency [FEMA], which oversees and purchases stockpile materials, agrees that the quality of copper mined in Michigan is competitive with foreign imports.

I am pleased the ITC decision addresses the serious problems faced by the U.S. copper imports industry. I am hopeful the ITC will recommend that copper be limited in the next 5 years, which will give our domestic industry an opportunity to increase its production and put our miners back to work.●

## ORDERS FOR WEDNESDAY

Mr. STEVENS. Madam President, it is my understanding that the majority leader has already requested and obtained an order that the Senate, when it recesses, will reconvene at 11 a.m. this morning, is that correct?

The PRESIDING OFFICER. The Senator is correct.

### ORDER FOR RECOGNITION OF SENATOR PROXMIRE

Mr. STEVENS. Madam President, following the time for the two leaders under the standing order, I ask unanimous consent that there be a special order of not to exceed 15 minutes in length for the Senator from Wisconsin [Mr. PROXMIRE].

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Madam President, following that special order, I ask unanimous consent that there then be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m. during which statements by Senators would be limited to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

### S. 2723

Mr. STEVENS. Madam President, as I have just stated, following the conclusion of that routine morning business, the Senate will resume consideration of S. 2723, Calendar Order No. 944, the Omnibus Defense Authorization Act of 1985, which is the pending business.

I ask my friend, the distinguished Democratic leader, if he has anything further to come before the Senate.

Mr. BYRD. Madam President, I thank the distinguished assistant majority leader. I have nothing.

Mr. STEVENS. I thank my good friend.

## RECESS UNTIL 11 A.M., WEDNESDAY, JUNE 20, 1984

Mr. STEVENS. Madam President, if there be no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to; and, at 12:23 a.m., the Senate recessed until Wednesday, June 20, 1984, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 19, 1984:

### DEPARTMENT OF STATE

Howard Bruner Schaffer, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

Paul Fisher Gardner, of Texas, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

Leonardo Neher, of Maryland, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Upper Volta.

Diana Laby Dougan, of Utah, to be Coordinator for International Communications and Information Policy, with the rank of Ambassador.

### NATIONAL SCIENCE FOUNDATION

Erich Bloch, of New York, to be Director of the National Science Foundation for a term of 6 years, vice Edward A. Knapp, resigned.

### THE JUDICIARY

Charles A. Legge, of California, to be U.S. district judge for the northern district of California vice Robert H. Schnacke, retired.

Ilana Diamond Rover, of Illinois, to be U.S. district judge for the northern district of Illinois vice Joel M. Flaum, elevated.

Marcel Livaudais, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana vice Fred Cassibry, retired.

Anthony J. Scirica, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania vice John B. Hannum, retired.

# EXTENSIONS OF REMARKS

## ADA TESTIFIES BEFORE DEMOCRATIC PLATFORM COMMITTEE

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### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. FRANK. Mr. Speaker, last week, Leon Shull, National Director of Americans for Democratic Action, presented the testimony of ADA before the Democratic Platform Committee. I ask that this testimony, which speaks for itself, be reprinted here. But I want to say a few words by way of preface about Leon Shull.

Leon has announced his retirement from his position as National Director of ADA, an announcement which has left ADA members and supporters with very mixed feelings. Personally, all of us who have known, admired and respected Leon for his decades of leadership on behalf of peace, social justice, and civil liberties respect his decision that it is time for him to move to a new set of activities—because no one who knows Leon's energy and passion for justice thinks that he is going to retire. But while we fully respect his personal wishes, we cannot help regretting the fact that he will no longer be the National Director of ADA. Many of us have come to take Leon's presence for granted: We knew that whenever a tough issue came up, whether it required defending the interests of the poor, or fighting for racial equality, or opposing unwise militaristic actions abroad, Leon would be in the thick of the fight for the right result.

Personally, I have been the beneficiary for a long time of his friendship, his advice, and his support. Leon Shull's retirement from the position of National Director of ADA means that one phase of one of the most notable careers in American liberalism is ending. But we take comfort in the knowledge that what is ending is, indeed, only a phase.

The testimony follows:

TESTIMONY BY LEON SHULL, NATIONAL DIRECTOR, AMERICANS FOR DEMOCRATIC ACTION

INTRODUCTION

Americans for Democratic Action [ADA] is an organization of liberal political activists, with 43 local chapters nationwide. Founded in 1947 by Eleanor Roosevelt, Hubert Humphrey and others, we are one of the nation's foremost, multi-issue political organizations. ADA considered it an honor this year to endorse and support the presidential campaign of Vice President Walter Mondale; likewise, we are honored to present the following testimony to the 1984 Democratic Platform Committee.

FULL EMPLOYMENT AND THE NEED FOR AN INDUSTRIAL POLICY

The centerpiece of the Democratic Party's program for the future must be a commitment to a sustained full employment economy, with a national industrial policy to provide both flexibility and security during times of major economic transition.

The average national level of unemployment today is 7.5 percent, approximately the same as when President Reagan took office. But in many regions, unemployment runs still higher. In Michigan it stands at 11.7 percent; in Ohio, 10.2 percent; and at 9.1 percent in Pennsylvania and Illinois.

Our economy is shifting. As capital is disinvested from old industries and then reinvested in new enterprises, we are faced with the awful trauma of "creative destruction." Many old jobs are being lost forever, and many young Americans are entering adulthood without ever having worked.

We are not better off than we were four years ago. Unless immediate steps are taken to ease the transition from the old economy to the new, we will be even worse off soon. We must take action to ensure that entire regions—and generations—of Americans are not forsaken.

To attack the immediate problem of unemployment, ADA endorses:

Enforcement of the Humphrey-Hawkins Act of 1978, which would utilize existing planning mechanisms to bring unemployment down to an acceptable level of 4 percent.

The Community Renewal Employment Act of 1984, targeting federal funds for vital public projects in communities which suffer from long-term unemployment.

To address the problem of youth unemployment, ADA proposes:

A National Youth Opportunity Act, to put unemployed youth to work in urban and rural areas in public service and conservation jobs, while teaching them practical job skills.

We stand firmly against proposals to create a "subminimum wage" for teenagers. The subminimum wage concept violates the fundamental principle of "equal pay for equal work." It seeks to benefit primarily labor-intensive industries whose jobs are not highly-skilled and therefore would make little contribution to the goal of job-training. Moreover, a subminimum wage will not create new jobs; instead, it will probably result in the displacement of older workers. American families are not well served by a policy which throws parents out of work so that their children can take jobs at reduced wages.

The Democratic Party must also confront the fact that as the pace of technological change quickens, the need for job-training will occur at various times in the life of an average worker. ADA therefore supports:

Regional and local Job Resource Centers, organized under government-business-labor partnerships. Such centers should coordinate retraining programs so as to match the demand for job skills in growth areas of the economy, and should provide retraining stipends to displaced workers.

To deal with the American economy's long-term transitional problems, and to coordinate existing elements of industrial policy, ADA proposes:

A National Economic Planning Board, based on the models of the Reconstruction Finance Board and the War Planning Board of the 1930's and 1940's. The Board should oversee regional and industry committees composed of labor, business and government leaders. It should be powered by an Industrial Development Bank, to provide stimulus to the basic industries which are essential to our nation's independence and national security, as well as to high-growth, high-technology industries. The Board should balance competing national interests, and rather than "picking winners" or "picking losers," should utilize different policies so as to maximize growth in different targeted areas of the country.

A National Incorporation Act, to provide for federal chartering of corporations, above a certain size, which engage in substantial interstate commerce. It should include provisions for placement of "public directors" on a company's Board of Directors, so as to represent groups with a direct stake in a business enterprise. This would institutionalize the legal concept of corporate social responsibility, whereby corporate directors owe a fiduciary duty not only to stockholders, but to employers and communities as well.

A National Plant-Closing Act aimed at regulating the disinvestment process. Such legislation would cushion the adverse effects of shifting investments on a community, and would establish payment for the social costs of economic dislocation. The legislation should include a mandatory notice requirement; community transition assistance; and provisions for severance payments, transfer rights, and relocation assistance to displaced workers.

A RENEWED COMMITMENT TO CIVIL RIGHTS AND EQUAL OPPORTUNITIES

Full employment and the rebuilding of America's economic base must be the Democratic Party's preeminent concern. But putting Americans to work is not enough. We must restore the American Dream, with its inspirational credo of unlimited freedom and opportunity. The vision of an open American economic frontier must be restored. We must remove all barriers to equal opportunity and use the powers of government to liberate Americans from adverse discrimination.

First and foremost, the Democratic Party must reaffirm its commitment to the Equal Rights Amendment. Let it take four more years, a decade, or a century. We will not abandon the struggle for equal rights of women.

Freedom of choice in reproductive decisions must be considered an inalienable right. ADA opposes restrictions on abortion coverage in Medicaid, public or private insurance policies, and other health or social programs.

The Democratic Party must press for full, effective enforcement of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Moreover, ADA renews its call for affirmative action at all levels of government and industry. We have made strong advances in creating opportunities for women, Blacks, Hispanics, Native-Americans and Asian-Americans, but we still have a long way to go. As the sad record of the Reagan Administration bears out, institutional barriers to advancement endure. As a matter of course, the admission of women and minorities to positions of power must become the norm, not the exception.

Finally, ADA urges legislation to prohibit discrimination against gays and lesbians. This is a matter of simple basic human right. Each and every individual is entitled to live and work at peace within society.

### FOREIGN POLICY: THE NEED TO BUILD THE RULE OF LAW

The Reagan Administration's foreign policy is little more than a Superman defense policy. It is not based in reality and contains no vision of the international order which America should be trying to build, in order to live prosperously and securely at peace with our neighbors. Instead, we see the United States falling back on harsh rhetoric, overblown promises, belligerence, and symbolic posturing—like a neighborhood bully who, out of fear, seeks to keep all others at bay.

The Democratic Party must reinstate a firm commitment to the rule of law as a fundamental tenet of American foreign policy. We must end the Reagan Adminstration's Cold War monologue and, instead, renew a dialogue with the Soviet Union. We must define areas of common interest and endeavor, and work together toward a containment of regional conflicts, a reduction of tensions, and a secure world order.

We must also reject the Reagan Administration's militaristic response to legitimate aspirations to freedom and economic change in Developing Nations. The Reagan Administration's attitude itself is playing directly into the hands of Communist powers, and in no place is this more evident than in Central America.

The battle for democracy and human rights under law is being fought today in Central America. But it is a battle which can be won only through talks, not troops.

ADA specifically urges the Democratic Party to call for:

An end to military aid to El Salvador.

A continued suspension of military aid to Guatemala.

An end to all forms of aid to rebels attempting to overthrow or destablize the government of Nicaragua.

Initiation of a dialog between the government of Nicaragua and its democratic dissidents, and the establishment of an open political system, with a free press.

At a very minimum, military aid to El Salvador must be strictly conditioned upon objective progress by their governments toward protecting individual human rights. ADA opposes military aid because it serves only to strengthen existing oligarchs and military officers, with links to right-wing death squads, who oppose negotiations and social reforms, and who are responsible for the massacre of thousands of innocent people.

### THE NUCLEAR FREEZE: TOWARD DISARMAMENT AND WORLD PEACE

ADA supports an immediate, mutual and verifiable freeze in the testing, production and deployment of nuclear weapons. We urge the Democratic Party to do so as well.

Once a freeze is achieved, the Democratic Party must take further steps to free the world from the threat of a nuclear Armageddon. Such steps must include:

A renewed effort to achieve the proposed SALT II Treaty.

A renewal of negotiations for a comprehensive test ban treaty.

Moreover, ADA opposes any attempt to move the United States beyond a strategy of nuclear deterrence, to a counterforce strategy, resting on the assumption that nuclear strikes can be made against purely military targets. The counterforce strategy inevitably leads to consideration of a first-strike option, which then leads to the temptation of thinking in terms of a "winnable" nuclear war. We must not ever begin to think the unthinkable. ADA, therefore, calls upon the Democratic Party to oppose the development and/or deployment of the following weapons systems:

The Trident II submarine

The MX missile

Nuclear-tipped sea-launched cruise missiles

Anti-Satellite weapons

The so-called "Star Wars" strategic defense initiative

ADA also calls for a 10 percent reduction in defense spending, and a shift away from nuclear weaponry to a strengthening of conventional defense capabilities.

### TOWARD THE FUTURE: BUILDING ON THE PAST

ADA reiterates its fundamental philosophy. Government is both necessary and good, and the Democratic Party must stand for the affirmative use of governmental power on behalf of the public welfare.

We are political liberals, but at this turbulent juncture in American history, we perhaps also stand ironically as constitutional and institutional conservatives.

The Republican Party is fast becoming a party of domestic recklessness and international lawlessness. It is not the party which can provide leadership to harness change, rebuild America, provide a full employment economy, and build a framework of international peace and cooperation.

The Democratic Party is—and always has been—the party of the future: a future attained through a recognition of interdependency and mutual sacrifice. We will experiment with new programs and new ideas, but we will also build from the foundation which, over the past 40 years, liberal Democratic presidents have constructed.

America can never achieve the future by destroying the present, or revolting against the past.●

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## WHY CONSERVATIVES SHOULD SUPPORT THE LOS ANGELES METRO RAIL

**HON. GLENN M. ANDERSON**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ANDERSON. Mr. Speaker, our colleague, Congressman DAVE DREIER, recently contributed a fine article to the Los Angeles Times, clearly and factually articulating why the Los Angeles metro rail merits the support of fiscal conservatives.

Most of us in the California delegation; Democrat and Republican, liberal, conservative, and all in between, support this most worthy project. I commend Mr. DREIER's article to all our colleagues for a better understanding of this project:

### METRO RAIL IS WORTH THE COST EVEN TO A FISCAL CONSERVATIVE

(By David Dreier)

The Los Angeles area faces a dangerous transportation crisis in the next decade, and after 10 years of studies, debates and more studies, it is truer than ever that Metro Rail is our best—and perhaps only—hope for averting that crisis.

As a member of Congress who is generally described as a fiscal conservative, I'm often challenged about my role as a Metro Rail supporter. "So, how can you call yourself a fiscal conservative," my colleagues ask, "and support a massive public transportation project like Metro rail?" Others tell me that "true" fiscal conservatives "must" oppose the project.

Hogwash, I say. The fact is that at first I did oppose Metro Rail. I argued that the government could not afford to pick up the tab for a multi-billion-dollar public works project. But then came the nickel-a-gallon tax increase passed by Congress in late 1982. That tax, which I opposed, brought billions of dollars into the Highway Trust Fund, a portion of which was earmarked for building new rail rapid transit systems.

Building these systems won't add to the deficit; they will be built with the money rolling into the coffers of the Highway Trust Fund. The point is, they *will* be built because the funds can't be spent for anything else.

But why should a system be built in Los Angeles? For one, a subway in the Wilshire corridor is desperately needed: 190,000 passengers ride buses down Wilshire Blvd. each day. That's equal to the ridership of the entire 71-mile Bay Area Rapid Transit system in San Francisco. In the next 6 years, an additional 20 million square feet of office space is scheduled for construction in downtown Los Angeles, bringing with it another 120,000 workers who must commute each day in and out of downtown.

As anyone who has driven along Wilshire knows, more buses can't help. They run bumper to bumper as it is. Moreover, because of the nature of the corridor and the lack of existing rail lines and rights-of-way, a less expensive light rail system cannot be feasibly built.

But Metro Rail isn't just for downtown Los Angeles. It is the core of a 150-mile light rail network that will cover the entire metropolitan area. Those less expensive light rail lines—such as the one being built between Long Beach and Union Station—will feed into Metro Rail, helping to alleviate freeway and surface street congestion throughout the L.A. Basin. However, they won't be built without Metro Rail.

Furthermore, the Metro Rail project calls for 62% federal financing, with the remaining 38% coming from state and local funding commitments, including Proposition A funds. No other proposed rail line even comes close to such a large local funding contribution. In fact, prior to 1982, the government regularly funded at least 80% of new rail projects. Currently, it funds 75% of them.

Part of Metro Rail's local funding comes from the private sector, and it's this private-sector commitment to the project that makes it truly extraordinary. After all, how many times does the business community lobby to increase its own taxes? The Los Angeles Area Chamber of Commerce did precisely that when the Legislature passed benefit assessment district legislation in 1983.

By supporting these districts, the Chamber in effect asked to have a share of the project cost passed on to the business community in the form of higher taxes. What's more, in order to do so, it had to take on its parent organization, the Califonia Chamber of Commerce, which opposed the legislation.

(In conversations I have had with members of the House Appropriations Committee, I've been told that this unprecedented private-sector underwriting of Metro Rail was a key fact in the strong funding support the Committee has given Metro Rail over the last two years.)

What the heavy ridership base, strong local funding commitments and private sector support all add up to is a high degree of cost-effectiveness. In fact, I believe Metro Rail is the most cost-effective system proposed in the country. And the Urban Mass Transportation Administration agrees; it recently gave Metro Rail very high marks for cost-effectiveness. It is the agency that over sees all federally-funded mass transit projects in the country, and consistently has called Metro Rail one of the best rapid transit proposals now pending.

My answer to detractors of Metro Rail is a simple one: This project is the best use of Highway Trust Fund dollars in the country. Make no mistake about it, those funds will be spent; the question is where. This isn't a case of Los Angeles chauvinism or the ubiquitous federal pork barrel. Since these funds will be spent for public transportation we ought to make the best use of them. The place to do it is right here in Los Angeles.

(Rep. David Dreier (R-Claremont) represents California's 33rd District.)●

## U.S. MILITARY BUILDUP

### HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. RALPH M. HALL. Mr. Speaker, Modern Oratory is a University Interscholastic League Competition where students research, memorize, and present an oral lecture on the topic they choose. Thirteen-year-old Corbin Wilson, son of Mr. and Mrs. Charles Wilson, Rockwall, TX, made his presentation on military buildup in the United States. I want to share young Corbin's notable thoughts with this Congress and thank Ms. Jayne Brewer for bringing this to my attention by sending me a tape recording of his speech, which is as follows:

#### Should the Federal Government Limit Military Buildup in the United States

Throughout the course of our history, national defense has been a controversial issue. Americans understandably dislike and detest war, and as a consequence, discussions on the annual defense budget and military buildup are apt to be heated throughout the land, and especially in our Congress.

Our dislike for war is evidenced by the fact that we have never been prepared to enter the wars that obviously had to be fought to preserve our freedom and security.

Our Congress has splintered into two major factions on the issue of military buildup. The pro-defense advocates, or sometimes called the "Hawks," believe we are not spending enough on defense and that, without continued monetary support, the Soviet Union's communist aggression throughout the world will become even more threatening. They believe that without modernization we cannot deter agrression against ourselves or our allies who count on us for their very survival.

The anti-defense contingent, or "Doves," seem to oppose every single defense program or project based on the assumption that the United States nuclear capabilities far exceed the need for assured destruction and that the United States and Soviet Union have great overkill capabilities.

Why continue military buildup? Pro-defense advocates feel that military spending creates jobs, cures economic recession, and that even when military expenditures are large, they hurt no one. While anti-defense advocates who are for limiting military buildup want to cut military expenditures to an extent that would send over 200,000 workers out on the street to look for jobs. I ask you, instead of spending billions of dollars on welfare and unemployment insurance, why not spend it on making useful jobs for hundreds of thousands of people?

President Reagan is a leader of the pro-defense segment. He feels as our beloved first President George Washington did in this matter. Peace can only be maintained through strength which implies that a nation must build its nuclear forces to avoid the outbreak of war and hence maintain the peace. Our President has been committed to this with his 1985 defense budget of $264 billion.

Anti-defense advocates feel the President has stripped funds from solar energy advances, school lunches, food stamps, summer youth jobs and from the financially troubled Social Security System in order that we may develop new weapons. There is also concern over the amount of natural resources such as zinc, lead, copper and nickel, not to mention the fuel that is being spent on military buildup. However, what good are any of these if one is forced to live under the tyranny of communism?

Pro-defense advocates are not people who love war. They are people who love their families, their God, and their country. They feel we can maintain our standard of living and our philosophy of living by being strong enough to defend ourselves. We have always had social problems in our country, but we are the richest nation on earth.

The public must become informed of the facts on both sides of the issue and national defense. The Soviet Union's nuclear arms far exceed the capabilities of ours and I feel that the federal government should not place limitations on the military buildup of our great nation.

We must realize that isolationism is not possible in the world we live in. Just a passing glance at the world map might give us some indication as the true measure of military holds exercised by the communist countries.

We must realize that the people of Poland, Czechoslovakia, Hungary, Yugoslavia, Rumania, Bulgaria, East Germany, the Ukrain, China, Mongolia, North Korea, Ethiopia, the Congo, Uganda, Libya, Vietnam, Laos, Cambodia, Cuba, Nicaragua, Afghanistan, Chad, and many more, would love to have the options we still have today. We must arm ourselves and hope we never have to use those arms. We must not be naive to the cancer of the communist countries as they continue to spread their plague across the world enslaving freedom loving people. It is better to have the capabilities for a strong defense and not need to use it than to need it and not not have it. We must support our President and allow him to serve as Commander-in-Chief of our forces realizing that he is privileged to information most of us will never hear about or take the time to learn about. Of course, no one likes war, but we don't want to live under the yoke of tyranny either—and there is a price to pay for our freedom.

We need more young people like Corbin—and we need to be more aware of the depth of their conviction—for our welfare—our future—is to ultimately be in their hands.

Mr. Speaker, I thank you and the Congress for this audience—and I thank Corbin for his contribution.●

## MIA/POW'S IN SOUTHEAST ASIA

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. SOLARZ. Mr. Speaker, today I am introducing, along with Congressman BENJAMIN GILMAN, the chairman of the House Task Force on American MIA/POW's in Southeast Asia and 11 other members of the task force, a concurrent resolution expressing the sense of Congress regarding Americans missing in Southeast Asia.

Resolving the fate of the 2,489 Americans missing and unaccounted for in Indochina is a humanitarian issue of fundamental importance. It is also an issue which has enjoyed broad bipartian support in the Congress.

President Reagan has publicly stated that the resolution of issues involving our missing servicemen is a matter of highest national priority. The resolution we are introducing today states that the U.S. Congress, on a bipartisan basis, has fully supported this high-level priority.

The resolution also recognizes that the Government of the Socialist Republic of Vietnam has pledged to cooperate with the United States in resolving this humanitarian issue, separate from other issues dividing our two countries and that the Government of the Lao People's Democratic Republic for the first time has taken some positive actions to assist the U.S. Government in resolving the status of missing Americans. However, both of these Indochinese governments must be more forthcoming on this issue. Thus, the resolution calls on the President to secure the cooperation that has been pledged by the Vietnamese and the Laotians. Furthermore, the Congress calls on the Governments of Vietnam and Laos to accelerate the cooperation with the United States in achieving the fullest possible accounting for missing Americans in Indochina.

We have been waiting a long time since the end of the Vietnam war to determine the fate of our MIA's and POW's. This resolution expresses the continued commitment and dedication of the U.S. Congress to achieve a full and satisfactory resolution of the POW/MIA issue.

The text of the resolution follows:

### HOUSE CONCURRENT RESOLUTION

To express the sense of the Congress regarding Americans missing in Southeast Asia.

Whereas the President has declared the issue of 2,489 Americans missing and unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam on this issue, and

Whereas, the United States Congress, on a bi-partisan basis, has fully supported these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments, and

Whereas, the Government of the Socialist Republic of Vietnam has pledged to cooperate with the United States Government in resolving this humanitarian issue, separate from other issues dividing our two countries; and the Government of the Lao People's Democratic Republic for the first time has taken some positive actions to assist the United States Government in resolving the status of missing Americans, now therefore be it

*Resolved, By the House of Representatives (the Senate concurring)* That it is the sense of Congress that the President should:

(1) Ensure that officials of the United States Government consciously and fully carry out his pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina.

(2) Work for the immediate release of any Americans who may still be held captive in Indochina and the immediate return of all American servicemen and civilians who have died in Southeast Asia whose remains have not been returned.

(3) Make every effort to secure the cooperation that has been pledged by the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

*Be it further resolved,* That the Congress calls on the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for missing Americans in Indochina.●

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## HONORING ANDREW H. FARRIS AS VETERAN ADVOCATE OF THE YEAR

### HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. LEVITAS. Mr. Speaker, I am proud that one of my constitutents, Andrew H. Farris, received the Veteran Advocate of the Year Award from the Small Business Administration. Mr. Farris has worked long and hard for Vietnam veterans. In his Vietnam Veterans Leadership Program, he and other volunteers are reaching out to other veterans, teaching them about securing small business loans from the Small Business Administration, and in addition helping these veterans readjust. I would like to share with my colleagues Mr. Farris' acceptance speech when he received this award.

### ANDREW H. FARRIS' ACCEPTANCE SPEECH, VETERAN ADVOCATE OF THE YEAR AWARD

Thank You.

Governor Harris, Mrs. Eddy, Mrs. Crenshaw, distinguished guests, and my friends. Special thanks also to Mr. Hartsel Brady.

It is indeed an honor to receive this award, I receive it in recognition of, and as a symbol of, the Vietnam Veterans Leadership Program; I represent the concept of Vietnam Veteran helping Vietnam Veteran.

My work symbolizes the quarter of a million hours of dedicated volunteer work of Vietnam Veterans nationwide. The majority of us simply returned home from the war, returned to school, or resumed careers, married and began families.

Today we are "coming of age" with our generation; I am proud to report that we are seeking and accepting the challenges and responsibilities for our families, our professions, for social and civic duties; and, in general, we are doing well.

In Georgia we are most visibly represented by: Sect. of State Max Cleland, Superior Court Judge Keegan Federal, the Chairman of our Board, and by Tommy Clack of the Veterans Administration.

In our seminar program we teach Vietnam Veterans to understand and appreciate the procedures and requirements of securing a small business loan from the SBA.

Each of our volunteer instructors, most of whom are themselves Vietnam Veterans, works hard to impress on those attending, the responsibilities, the duties, the challenges and the rewards of owning and running a small business.

The men and women who attend these seminars learn that ownership of a small business grants them the opportunity to secure the future for their families, their community and their country.

We strive to inspire them with stories of successful small business men and women; they learn that the literature, the legacy and the lifeblood of this country is peopled by those who have founded and run small businesses.

But, of even greater importance, these seminars are providing an opportunity for healing to occur.

Men like Tommy Bass, who spent two years living in the mountains of Tennessee, are now beginning to talk of starting small businesses by applying for an SBA loan; men like Earl Graham, President of T Shirts and Caps are being assisted by the SBA loan program; men like Tim Scaff, partner in Mutt & Jeff Enterprises are using SBA loans to spur the growth of their companies.

And, men like Dan Wall, one of our instructors, who tells the classes of his long suppressed anger, but who also tells of his realization that this anger must be released, because we have more important matters to attend to . . . he tells them that Congress and the SBA has provided the opportunity to begin the small businesses which will in turn provide for our families and our futures.

In acknowledging their contributions, I must also say thank you to my wife Sandi; her understanding, her encouragement and her support of this work is of inestimable value.

I'd also like to share with you the example of my Father, because it plays a great part in my being here; at an age when most men settle comfortably into careers, he left his private medical practice and joined the Veterans Administration, in St. Louis, where for 26 years, he was Chief of Physical Therapy.

I can hardly remember a Saturday growing up when there wasn't a man around the house doing some kind of work: plumbing, fixing appliances, working in the yard. I remember that they were all alike in that they were missing something, an arm, a leg, an eye, their spirit. And at the end of the day my Father would take them to his tomato garden and share a beer with them.

He cried when he told me that the war wounds of my generation were beyond the reach of his profession . . . Today I think he'd be proud of us . . .

Because of his example I can say to you that we of the Vietnam Veterans Leadership Program recognize that it is our responsibility to reach out and help our fellow veterans in need; through thought and action, by leadership and example, with compassion and sensitivity we must help them rejoin society and share in the joy of life and accomplishment.

In closing I'd like to share with you this passage, it is embraced and taken to heart by those attending our seminars; it is a lesson I learned from my Father and his work . . .

"For we would not, brethren, have you ignorant of the affliction which came upon us in Asia.

"We were crushed beyond measure—beyond our strength.

"But, we forbear, lest any man should reckon us beyond that which he sees in us or hears from us.

"Having therefore such hope, we show great boldness.

"As we abound in everything, in faith, in utterance, in knowledge and in Your love for us we may excel in this gracious work.

"Therefore, we do not lose heart. On the contrary, even though our outer man is decaying, yet our inner man is being renewed day by day.

"And so we rejoice—when we are weak but You are strong.

"This we also pray for our perfecting.

"In conclusion, rejoice, be perfected, be comforted, be of the same mind, be at peace."—From: St. Paul's Second Epistle to the Corinthians.●

## JOBS PROGRAM SAID TO RAISE YOUTH INCOME, OPPORTUNITIES

### HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● **Mr. GARCIA.** Mr. Speaker, today's fierce economic competition ought to move those of us fortunate enough to be in positions of leadership to immediate action. It is time that we begin to more vigorously support legislation which lead to programs that enhance the job skills of our young people.

Mr. Speaker, this means that we ought to begin to commit more of our Nation's resources to increasing the employment opportunities of our people. To those of our colleagues who question the ability of our Government to better the job prospects of men and women by enhancing the human resources which they offer in the marketplace, I refer them to the Washington Post article "Jobs Program Said to Raise Youth Income, Opportunities." This brief, yet comprehensive article succinctly summarizes the results of the "Youth Incentive Entitlement Pilot Projects" which operated from 1978 to the mid-1980's.

As the article shows, these experimental projects lead us to two impressive conclusions: First, that unemployment is due to lack of jobs and not slothfulness; and second, that those youth who were a part of the jobs programs—and thus were able to refine their job skills—earned an average of $10.48 a week more than their peers who did not benefit from the programs. This resulted from the fact that the youths who went through the programs benefited from increased employment opportunities. Moreover, they were also more apt to work longer hours, and they commanded higher wages in the job market than their peers.

These irrefutable facts must lead us to one definite conclusion: Well financed and intelligently administered Government job programs can work. I urge my colleagues, Mr. Speaker, to consider these facts.

The article follows:

#### JOBS PROGRAM SAID TO RAISE YOUTH INCOME, OPPORTUNITIES

(By Kathy Sawyer)

A massive experiment that guaranteed jobs for 76,000 low-income teen-agers for more than two years shows that, contrary to conventional wisdom, certain types of government intervention can raise participants' job prospects and earning power and that this improvement continues even after the program ends, according to a report just released.

The Youth Incentive Entitlement Pilot Projects, the largest such program ever conducted in the United States, operated from early 1978 to mid-1980 at a total cost of nearly $240 million. Most of this went to wages for the participants.

Funded by the Labor Department under the Carter administration, the program earlier had produced statistical findings that when jobs were there, most of the youths took them, showing that lack of jobs and not laziness or other failings is primarily responsible for the recent surges in youth joblessness.

The latest findings, which tracked 4,000 black youths over nearly four years, show a large and significant earnings gain among the participants, 15 and 16 years old at time of enrollment, which was sustained after the program ended.

While the program was operating, these youths earned $10 to $13 more each week than did a similar group living in areas without the program. These gains persisted through a phase-out year and continued after the jobs ended. At that point, the youths who had been in the program continued to out-earn those in non-program areas by an average of $10.48 each week.

The higher income represents mainly increased employment, but, the study indicated, it also reflects to some extent that the youths worked longer hours and at a higher wage.

"The new findings address the whole payoff from a jobs-creation program," said Judith Gueron of the Manpower Demonstration Research Corp., which managed the program. "This shows that massive government intervention can make a difference in the short run, can reduce unemployment, and can also facilitate the whole transition from school to job for these kids."

The findings come at a time when Congress is focusing on youth employment problems.

A key aspect of the program, in addition to guaranteeing jobs, was that it also linked school and work, requiring those who accepted work to stay in school or, in the case of dropouts, to return.

The old CETA (Comprehensive Employment and Training Act) program lacked this combination of job guarantees and mandatory school attendance, Gueron noted. And its successor, the Job Partnership Training Act, lacks the necessary money and, in any case, has ground rules that would make it difficult to create such conditions.

The guaranteed jobs—full-time in summer, part-time during school months—were in building and construction, maintenance and repairs, clerical positions, companionship to the elderly and child care. Half of the work sites and 20 percent of the hours were in private-sector jobs.

Private businesses were willing to hire disadvantaged youths, the study found, primarily for the 100 percent wage subsidy the program provided.

One-fifth of the employers in the study reported that they had hired program enrollees on their own after the subsidy period.

The cost of keeping one teen-ager in the program for one year was about $4,380. Program sponsors estimate that implementing a nationwide, targeted job guarantee would cost between $1.6 billion and $1.8 billion a year in 1980 dollars.●

## FOOD CRISIS/FARM CRISIS

### HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● **Mr. DORGAN.** Mr. Speaker, in America and in the world, we face two simultaneous crises: a farm crisis and a food crisis. There are no simple solutions to the twin problems of a distressed farm economy and world hunger. But we have the power to take steps to help solve both problems. One of the best means at our disposal is the Public Law 480 Food-for-Peace Program.

#### FARM CRISIS

The farm economy is in such tough shape today that the only person making money in rural America is the auctioneer. Every weekend when I return to North Dakota, I read newspapers that are wallpapered with auction sale notices. Young and established family farmers alike are selling their farms in record numbers. The magnitude of the problem is awesome:

Farmers Home Administration is loaning twice as much money as 2 years ago, since weak farm prices make farmers seem like credit risks to many commercial lenders.

Production Credit Association losses last year alone amounted to 40 percent of their entire 50-year loss volume.

Farm foreclosures are more common than in our worst farm depression in the 1930's as farm prices have fallen 15 percent since 1977.

I would underscore that the problem lies not with family farmers. They remain the production all-stars in our economy. Family farmers have made the United States the most productive farm nation in world history. By contrast, the Soviet Union spends six times what we do on agriculture—as respective shares of total investment, yet it has to import American wheat to feed its own people. The average American family spends only 12 percent of its budget on food, while the comparable level in West Germany is 23 percent.

So the problem with our farm economy stems not from family farmers but from farm policy. In recent years that policy has told family farmers to stop growing food and to start selling the farm. But while U.S. farmers idled land under the PIK Program, our Canadian competitors were planting fence-row to fence-row. While our competitors increased production by 11 percent, our own farm output fell by a like amount. This not only hurt family farmers, but it handcuffed the farm sector's ability to help offset our skyrocketing trade deficit. Even more disturbing, our failure to export food means that hungry people go unfed.

### FOOD CRISIS

Right now, Africa faces the prospect of a continental famine, which already threatens about 150 million people in 25 or more nations. The Director General of the United Nation's Food and Agricultural Organization warned last month that the African situation could even worsen—especially in urban areas. While world food production generally increased in the 1970's, annual grain consumption actually declined in Africa from 151 kilograms/person to 143 kilograms/person. Comparable figures for developed countries averaged about 450 kilograms/person.

Around the world, we have yet to reach the Presidential Commission on World Hunger's goal of eliminating the worst aspects of hunger by the year 2000. Every day, some 30,000 children still die from hunger and hunger-related diseases. Every year, 500 million people go to bed with a hunger-ache in their bellies. Every minute, 21 children under 5 die from malnutrition.

So the important strides we have made in reducing the global infant mortality rate and in increasing food production through the green revolution have not changed the fundamental reality. Too many people starve or survive on inadequate diets while our grain bins are bursting with surplus production. It's a shame that we don't match our food surpluses with world food needs in a responsible way. One of the best ways to do so is with the generous use of the Food-for-Peace Program.

### FOOD-FOR-PEACE WORKS

Overwhelming evidence shows that Food-for-Peace Programs have a positive and lasting effect in reducing chronic hunger. CARE's food for work and maternal and child feeding programs have not only raised nutritional levels, but increased local employment in Asia and Africa. The emergency food aid provided by Catholic Relief Services and the World Food Program, among others, have brought life and hope to millions in Africa.

Food-for-Peace not only fights famine, it also builds bridges to other nations and strengthens our own economy. For example, two of our former adversaries who received Food-for-Peace aid, Egypt and Somalia, now work with us as key friends in the Middle East and East Africa. The exports through Food-for-Peace help boost farm income, improve our trade balance, and open new markets for farm exports. This comes with minimal impact on the budget, since increased farm income generates return flows to the Treasury.

### FUNDING FOOD-FOR-PEACE

While U.S. military aid has grown by 73 percent under the 1981-85 budgets, Food-for-Peace has eked out only a 10-percent increase under the President's budgets. In real terms, the $1.355 billion requested in fiscal year 1985 will actually send less food aid to hungry Africans and Asians than the $1.229 billion Congress appropriated in fiscal year 1981.

Projections for fiscal year 1985 suggest that world food aid needs will equal or surpass those of fiscal year 1984. Seven drought-affected nations in southern Africa brought in another poor harvest in recent weeks. Some $800 million in food aid will be needed in Africa alone next year, according to CARE. Catholic Relief Services are meanwhile seeking to expand food aid to Africa by 25 to 30 percent in fiscal year 1985. So while food aid needs are likely to increase—especially for urban and drought-plagued Africans—we will actually appropriate $90 million less than we did in fiscal year 1984 under the President's request and the committee's bill.

To meet anticipated food aid needs and avoid further food-aid shortfalls it seems prudent to me to increase the fiscal year 1985 title II program to $880 million. The $230 million increase will allow for a 600,000 metric ton increase to meet program and emergency food aid needs under title II. I urge all of my colleagues to meet those targets through either a supplemental appropriation or in a continuing resolution for fiscal year 1985.

For in the final analysis, "People don't eat in the future, they eat every day." Food-For-Peace can make the critical difference.

[From the Christian Science Monitor, June 6, 1984]

### AFRICA'S FOOD CRISIS HAS DEEP, CENTURIES-OLD ROOTS

(By Richard Critchfield)

BAMAKO, MALI.—Africa faces a worsening food crisis that scientists are finding is deeply rooted in the continent's past.

For much of the last 2 million years, ice-caps covered Northern Europe, America, and Asia. In Africa, which was drier but not much colder than now, the great sand-sea of the Sahara formed, while south of it the tropical jungle contracted to its present size.

Open grassland with its thorny bush, baobab, and acacia trees became the characteristic landscape of the continent's east and south. It was in this African savanna that man evolved and learned to make fire, talk, and shape tools of flint.

Today, about 40,000 years later, man has applied science and technology to set off a quiet agricultural revolution all over the planet—except in Africa.

On a 5,000-mile journey through Senegal, Mauritania, and Mali in West Africa, this reporter saw the continent's basic problem everywhere: the red earth, starved greenery, and blowing dust of the world's oldest and weakest soil, never enriched by the glaciers of the north and leached of its minerals by irregular torrential rains.

Africa's now-endemic drought is taking a sharp turn for the worse as it enters its 13th year. Drought has spread from West Africa's eight Sahelian nations to 24 countries in all, with Mauritania, Ethiopia, and Mozambique hit the hardest.

The breakthroughs in tropical plant genetics that have rescued much of Asia and Latin America from hunger—the dwarf, fast-maturing wheat, rice, maize, and other grains—do not grow so well in Africa's soil. The soil doesn't hold water, is not easily fertilized, and if cultivated too intensely, quickly degrades.

"There's a solution in Africa, but it's going to take a lot of hard work," says John Baylis, an agricultural expert with the United States Agency for International Development in Senegal, whose view is shared widely here. "We haven't invested anywhere near the time, money, and energy in Africa that we have in Asia. The technological problems here are more difficult and will take just that much more effort," he says.

Scientists here say soil problems are the main reason Africa's food production is not keeping up with its population growth. This is why food production has fallen 11 percent per person since 1970.

Recently in Washington, Montague Yudelman, who runs the World Bank's agricultural program, said in an interview. "We thought what happened elsewhere would happen in Africa, but it didn't. If we knew the scientific and technical issues, we would be addressing them."

John F. Scheuring, a young plant breeder working in Mali, says Africa's existing agricultural system is rapidly eroding and the West needs to learn more about the Africans and their ways. "We must respect what exists," he says, "otherwise we can destroy."

Dan Goodman, another young American agricultural scientist working in Niger, says that in places where draft animals and the plow were introduced more than 20 years ago, there is already rapid degradation of the soil.

Like the other scientists, Goodman thinks Africa is going to require an entirely new agricultural technology that fits its soil and climate.

This scientific challenge has yet to be appreciated in Washington.

"Africans are always starving," one official said half-seriously just before my trip to Africa. He was probably just being more honest than most. But one sensed that even drought and famine become a bore if they last long enough.

The drought resulted in 100,000 known deaths in 1973 alone. But during the 13 years of drought, most African populations have risen at least 50 percent (largely as a result of antibiotics and modern medicine). The continent now gains 3 percent more people each year and the annual rise in food production, even before the drought worsened, was just 1.3 percent.

This year's total food deficit of 5 million tons (the United Nations is seeking 3.2 million tons of this in food aid) is twice what it was a decade ago. Meanwhile, the Sahara keeps creeping south at the rate of four to 7.5 miles every year.

Africa's predicament has yet to capture much American attention. US presidential candidate Jesse Jackson has scarcely mentioned it in all the campaign debate about the third world. Though UN agencies appealed for massive food relief almost a year ago, it took a trip to Africa in March by Sen. John C. Danforth (R) of Missouri before Congress passed a supplemental food aid appropriation of $90 million, especially for Africa. (Central America, Poland, and 2 million Afghanis in Pakistan had first priority.)

The UN is still short of its food targets. Everyone prays for rain, but if it does come this month, many dirt roads will be washed away and airlifts may be needed.

President Reagan has asked Congress for $75 million for fiscal 1985 as the first installment of a $500 million, five-year African aid initiative. The administration intends to use the aid as an incentive to get governments to raise farm prices, cut down the size of their swollen bureaucracies, and do what makes sense to grow more food. Priority will be given to governments like Mali's, where an ex-socialist military regime is abandoning state ownership in favor of a free-market economy under the guidance of the International Monetary Fund. The House of Representatives approved the request in May, and Senate action is pending.

Already $8 billion a year in aid from all donors is flowing into Africa, or about $20 per person.

The need is not really for money, but for scientific knowledge about how to grow more food in specifically African conditions. As Scheuring, one of the young agriculture scientists, says, "Real progress comes hard and from slugging away. You have to advance step by step and carefully. I've been here for five years. Five years ago, I had more solutions than I do now."

Can Africa wait?

Much of it is reeling. In the parts of the Sahel which I visited, Mauritania's largely nomadic Moor society had lost at least half its livestock. Its 1.8 million people had either fled to the capital of Nouakchott or to a few towns along the Senegal River, which was down to its lowest level since 1903. The remaining nomadic herdsmen have driven their cattle, camels, sheep, and goats deep down into Senegal and Mali. Unless the rains return soon—and seeds can survive in the Sahara sands 100 years—a way of life is ending that had gone on pretty much unchanged for 5,000 years.

"Our civilization is dying," says Ba Aliou Ilora, secretary of Mauritania's ruling military committee. "This drought is the destruction of our history and our culture—the choice forced upon us to regroup and settle our population has been more painful, more fundamental than a foreigner can perhaps understand." (One could believe him. Yet the entire history of West Africa has been the settling of pastoralists.)

South, in Senegal, the desolation, once you get inland from the coast of away from the green irrigated land along the river, comes as a shock. In villages from which everybody but children and old people have fled, wells are dried up, water tables have fallen, crops have failed, and even the baobab and acacia trees are dying. There is nothing to eat, nothing to drink, nothing to do. At water holes one sees tens of thousands of long-horn, humpback white Zebu cattle. Along the roads are the bones thousands more.

In landlocked Mali, per capita GNP is down to $185 (compared to close to $500 in Senegal and Mauritanial), making Mali Africa's fourth poorest country. (Ethiopia is now at the botton of the heap.) Mali's northern half is a semi-desert of failed crops, lost herds, and abandoned villages.

The great Niger River has fallen to its lowest level on record. Many of the inland lakes and marshes formed by its normal overspill, which provide pasture for the nomads, are dried up this year. Timbuktu and Gao, famed for the Saharan camel caravan trade, have been worst hit; many Tuareg tribesmen have abandoned the nomadic life. American Quaker missionaries trying to settle them around the Gouma area reported a mass exodus as wells dried up. Nara, near the Mauritanian frontier, is another spectacle of countless starving cattle and camels.

Even if the rains mercifully come, the biological effects could long outlive the drought's impact. For instance, lack of rain has touched off an explosion in West Africa's leaf hopper insects, much as grasshoppers plagued the Midwest during the dust bowl days. A new blister beetle has emerged to drive out millet from northern Mali. Sorghum is being planted instead, but it is less drought resistant. This spring huge (three-inch-long beetles) moved into Senegal, posing one more problem.

Africa, where man began, now needs his most advanced scientific techniques.●

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## THE CHILDREN'S READINGOTTA

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. SIMON. Mr. Speaker, the following anecdote caught my interest because, as you may recall, the legendary Johnny Appleseed planted some of his apple seeds in Illinois soil. It occurs to me that as we in Congress promote programs for increasing literacy, improving education resources, and encouraging youngsters to read, we make it possible for the seeds of knowledge to be planted in the fertile minds of America's youth.

The activities of "Johnny Readingseed," as described in the following, serve as a commendable example of one individual's attempt to broaden the minds of young people. I believe his innovative efforts merit the attention of my colleagues.

THE CHILDREN'S READINGOTTA

(By Johnny Readingseed)

Go heartily amid the vowels and the consonants and remember what peace there may be in reading. You are a denizen of the land of Childhood and therefore you will find in books a whole world of imagination and adventure. Read what you like and go where you wish. As far as possible be on good terms with your local librarian and make sure that you return your books when they are due for there are others waiting anxiously to read their favorite books, too.

Read in a chair or in a sofa or in a bed or on the kitchen table, and if you wish to curl up in front of the fireplace with a very good book, then do it. Whatever you read, my children, read, read, read. Read to your heart's delight and your mind's pleasure. You will find in books answers to your many questions and you will find in words roads that only you may travel. Read of the adventure, the mystery and the fantasy and gaze at the illustrations with wonder and with glee. Your life will be rich with a treasure chest of storybook delights and therefore count yourself lucky when you learn how to read.

With your growing mind and your infinite imagination, know that with every word you read you are taking a step toward your own wonderful future. And this is just the beginning, do you know?

In the 19th century, Johnny Appleseed planted trees across the USA. Today from this northernmost corner of the nation, a character called Johnny Readingseed hopes to spread a different kind of fruit—imagination. His real name is Daniel Bloom. He's 34 and he's a free-lance writer and author of children's books. He goes into classrooms and libraries, as his assumed character and at his own expense, to encourage kids to use their imaginations and read more. "In this age of television and video games," Bloom said, "children are not reading as much as they used to." As Johnny Readingseed, he said, he hopes to make reading "a good old-fashioned childhood activity" again. Bloom distributes a poster called Children's Readingotta. It's a guide for young readers to the world of "adventure, mystery and fantasy" in books. Schools or libraries that want a free copy should write to: Johnny Readingseed, 883 Basin Road, Juneau, Alaska 99801.●

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## A CONGRESSIONAL SALUTE TO JANET (JAN) AND W.O. (ARKY) MARCOM—"MR. AND MRS. KENTWOOD"

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ANDERSON. Mr. Speaker, on June 23, the Kentwood Players, a nonprofit, community-based theatrical group, will host their annual awards dinner/dance. Jan and Arky Marcom, founders of the Kentwood Players, will be honored at this event for their unselfish dedication over the years and their many contributions to the community. I would like to take this opportunity to commend and congratulate Jan and Arky on this special occasion.

Jan, a native of Kentucky, and Arky, a native of Arkansas, met and married in Chicago nearly five decades ago. In 1944, they moved to southern California and settled in Westchester.

It was through Jan and Arky's vision that the Kentwood Players was formed. Their first production, "You Can't Take It With You," was performed in February 1950 at Kentwood Avenue School. Incidentally, Mr. Speaker, my wife, Lee, was an original Kentwood Player and, in fact, played the lead role in this first production.

Since that time, Jan and Arky have collaborated on over 190 plays. Since 1961, these productions—which have run the gamut from Shakespeare to the modern era—have been performed in their very own, 119-seat Westchester Playhouse. Furthermore, over 1,000 person are season subscription holders to Kentwood productions and over 300 persons are members of Kentwood Players, who actually work on the plays.

Mr. Speaker, Kentwood Players is a family-oriented, award-winning organization that is highly recognized throughout southern California for its quality work. We have to thank but two people, Jan and Arky, for this tremendous success. As a matter of fact, to this day, Jan and Arky are the driving force behind each production.

This Saturday evening will be a special one for Jan and Arky. These are two wonderful people who have brought joy to the hearts of many. They are beloved by all who have had the pleasure to know them. My wife, Lee, joins me in wishing Jan and Arky and their children, Steve and Barbie, continued success in all their future endeavors.●

## ONE HUNDRED AND FIFTY YEARS OF CREATIVE SERVICE BY PRECIOUS BLOOD SISTERS

### HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. HALL of Ohio. Mr. Speaker, 150 years ago, Maria Anna Brunner founded the Congregation of the Sisters of the Precious Blood in dedication to prayer and service to the orphans of the Alpine Canton of Graubunden, Switzerland.

In 1850, the Congregation came to America seeking political and religious freedom. After first settling in northeastern Ohio, the Sisters moved their motherhouse to a site 2 miles north of the city of Dayton in what is now the Third Congressional District.

Throughout their century-and-a-half history, the Precious Blood Sisters have worked for the education of youth and care of the sick. Today, the Sisters teach at all levels, from early childhood centers to colleges. They call upon orphanages, jails, and shelters for the homeless. They care for the sick and needy not only in the United States but in Canada and Chile.

On Thursday, June 21, the Sisters of the Precious Blood will celebrate the sesquicentennial of their founding. I commend to my colleagues an article which appeared in the Cincinnati Catholic Telegraph concerning the Sisters and their service to America.

The text follows:

#### PRECIOUS BLOOD SISTERS TO MARK THEIR SESQUICENTENNIAL

(By Marie Fay)

"150 years . . . Women of Hope and Promise."

Looming above the rush of traffic on Dayton's north and east sides colorful billboards announce the sesquicentennial celebration of the Sisters of the Society of the Precious Blood.

The congregation, founded a century-and-a-half ago by Swiss widow Maria Anna Brunner, in the Alpine canton of Graubunden, will celebrate its beginnings Thursday, June 21, a continent away in Dayton's Salem Heights Convent, the order's motherhouse for the past 61 years.

A major reason for the celebration, in addition to recognizing the congregation's existence and service for 150 years, is to express gratitude to the people of the Greater Miami Valley, according to archivist Sister Mary Linus.

Opening the jubilee celebration is a 9:30 a.m. prayer breakfast at Salem Heights for civic and professional leaders. At the close of the day, Archbishop Edward A. McCarthy of Miami, Fla., will offer a 7 p.m. liturgy in nearby Precious Blood Church. The Mass for clergy, Religious, friends, relatives and former students will be followed by a reception in the school cafeteria.

Dayton Mayor Paul Leonard has issued a proclamation designating June 21 "Sisters of the Precious Blood Sesquicentennial Day." But throughout the summer, billboards, sponsored by Nicholas Keyes of Precious Blood Parish, will continue to broadcast the news of the congregation's anniversary to the Dayton community. Other celebrations for the religious order, which began with 13 members and has swelled to 475 in the United States, Canada and Chile, have been planned in the dioceses where the Sisters minister.

Now, as the time of their founding, the chief apostolate of the Congregation of the Sisters of the Precious Blood is perpetual adoration of the Blessed Sacrament, explained Sister Linus.

The first Sisters of the Precious Blood to arrive in America were three nuns who came at the request of Archbishop John Baptist Purcell of Cincinnati in 1844, eight years after the death of the order's foundress, Mother Brunner. Their work was to aid Precious Blood priests in the education of German immigrants.

First settling in Peru in northeastern Ohio, the Sisters several months later relocated in nearby New Riegel, establishing a motherhouse there from 1844 to 1846. The motherhouse was moved to Maria Stein in 1846, where it remained for the next 77 years.

By 1850, because of political and religious turmoil in Switzerland, the remainder of the community left their convent in Loewenberg Castle and joined their Sisters in America. Six years later, 10 convents had been established, nine in Ohio and one in Indiana.

When the nuns first came to the United States, they opened convents mainly in rural areas. Mother Emma Nunlist, who governed the community for a long period between 1899 and 1924, realized that if her wish to have perpetual exposition of the Blessed Sacrament was to be granted, the site of the motherhouse would have to be more populous than Maria Stein.

In 1912, she purchased 75 acres of land two miles north of Dayton. Eleven years later, with their new convent completed, the Sisters left Maria Stein for Salem Heights in a caravan of cars provided by the Knights of Columbus. Soon the new motherhouse was granted permission for perpetual adoration of the Blessed Sacrament.

In recent years, the old convent at Maria Stein has been declared a historical landmark and now houses a museum of memorabilia gathered by the Sisters during their years of service. Numerous pilgrimages from all over the United States come for prayer at the shrine and spiritual renewal at the retreat center.

Eventually the Sisters have spread across the United States, teaching in public and parish schools and caring for the sick. Although the largest number of active Sisters is still found in the classroom, the impact of Vatican II has greatly altered their ministerial profile.

Their outreach has extended to jails, shelters for battered women and children and food and clothing centers. Adult and religious education has brought the nuns into parishes as members of pastoral teams and directors of religious education. They work as campus ministers, hospital chaplains and other positions of service in the community in which they live.

Their influence is felt in Appalachia and in Hispanic, black and native American communities in the United States. They are recognized in various styles of dress, including the traditional habit, a modified habit with a short veil and contemporary clothing.

In 1977, realizing the need for care of the elderly in the Miami Valley, the Sisters gave to the Maria Joseph Living Care Center their spacious motherhouse and moved into a nearby building on the corner of Salem Avenue and Denlinger Road. There they continue to devote their lives to prayer and service to the community.●

## AN UNENDING QUEST FOR PERFECTION

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. OTTINGER. Mr. Speaker, I bring to my colleagues' attention an essay written by Roger V. Loria, a student at Roosevelt High School in Yonkers, NY, which won the top prize in the Constitution II essay contest. The contest is sponsored by Convention II, an organization founded by Boris Feinman of New Rochelle, NY, to protect and promote the Constitution and the participation of Americans in the political process.

Mr. Loria and eight other winners will travel to Washington, DC, this September for breakfast with their Senators and to talk about the Constitution on the 197th birthday of the document.

While in Washington, Mr. Loria will deliver a keynote address, adapting his ideas as he outlined them in his winning essay. I commend Mr. Loria's essay to the attention of my colleagues.

#### AN UNENDING QUEST FOR PERFECTION

(By Roger V. Loria)

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general welfare and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

This celebrated clause justifies itself as it asserts concisely the convictions of a few individuals who but two centuries ago believed in the most compassionate and coveted of all freedoms—human rights—the right of any person to express his feelings unrestrained. Hence, those individuals—our Founding Fathers, composed the Constitution of the United States of America.

To call the document significant is like calling Nero mildly offensive. This full-scale revival and revision of democracy defied the times which existed during its advent. It granted all its disciples the license to oppose oppression, pursue life, liberty and property, and promote self-determination. Not only did they believe in this unique system and write elaborately about it, but they believed this system can work more efficiently and exist as legitimately and durably as any great government past, present, or future.

However, the Preamble is only a general representation of the ideas of the Founding Fathers. Perfection, the most elusive of all goals, of the document itself is and will always be occurring but never fully attained. A paradoxical and often painful reality to accept, the simple reason for this unreachability is that human rights allocated by human beings are subject to human error.

Also, to document is only as definitive as the times permit it to be. Only reform in morals brings reform in society, which in turn brings reform in a constitution. Perhaps, examining a specific feature of the document and exploring its evolution will indicate some of the Constitution's original worth, along with some of its faults and the feelings of Americans from the late 18th century to the present. For example, in Article 1, it is appalling to learn that, with the frenzy of equality and freedom in 1787, slavery could be advocated and protected by law. The "morality" of the post-Colonial America assumed that the black race naturally stood inferior to the white. When humanists raised questions, the morality began altering, slowly but surely. The Constitution changed at the same pace. At first, slavery was ruled illegal in the year 1803. The South proceeded to defy the ruling not only on the antiquated theory of inferiority but by the profitability of the cotton industry.

The events that followed were a gradual reform, most important, a reform in morals, culminating in the Civil War. The aftermath introduced the 13th Amendment (1865), which abolished slavery forever and the 14th Amendment (1866), which ruled that "all persons born . . . in the United States are citizens of the United States" and subject to whatever citizenship implies.

But no legislation can control the ancient human ills of bigotry and malevolence. Also, the scope of application of the 14th Amendment did not widen until 1924 with the recognition of the American Indians as U.S. citizens. Ironically, our oldest companions and rivals on the North American continent were the last to receive our recognition. Probably the reasons for such a delay was that immediately after the Civil War, the new libertarian laws were associated with the emancipated blacks instead of Indians.

No matter how many setbacks the document has experienced, the U.S. Constitution endured nevertheless. Probably, the most profound source of endurance was the foundation of thought on which it was built. The authors observed the faults of former democracies, safeguarded against repeating those faults, and combined those safeguards with the ideas of democratic thinkers who could not assert themselves in their own countries; e.g., Locke, Rousseau and Montesquieu. Those concepts were further incorporated into their love for free expression and hate for totalitarianism.

In my opinion, the most intriguing and most relative republic to be observed and compared with the U.S. Constitution is that of ancient Rome. In the words of Montesquieu, "what makes free states last a shorter time than others is that both the misfortunes and successes they encounter almost always cause them to lose their freedom." The Founding Fathers pondered the French philosopher's thought closely and did their finest to respect its meaning in the Constitution. In the ancient Republic of Rome, there existed a class system. The patricians represented the upper class of wealthy nobles and participated in government through the Senate. The plebeians (the majority) represented the lower class of merchants and farmers, and took part in government through the Assembly. The class system did not foster social mobility, which resulted in widespread corruption. The wealthy, patrician Senate dominated and abused legislation; thus the power that was placed in the hands of the few and corrupt wrought political turmoil in the Republic. The Founding Fathers recognized the fault of the class system and its undeserved role in government, and safeguarded against it by eliminating social classes and encouraging social mobility. They further catechized the Republic in terms of its imbalance in power. The reign of Julius Caesar embodies all of which the Founding Fathers feared—uncontrolled dictatorship. Greed and ambition are present in any government and unpreventable in any republic, however, their influence on government can be regulated and suppressed—especially in a republic. When Caesar assumed supreme sovereignty over the Republic, he was murdered by his Senators.

The Founding Fathers took a more civilized approach to maintaining equality within the three branches of government by inventing the system of checks and balances. This unique feature of the Constitution achieves political parity by having each branch checked by each other depending on which one is abusing its power. If the president assumes dictatorial powers beyond reason, the Senate votes on impeachment. Hence the legislative branch checks the executive branch.

For all the attempts by the Founding Fathers to render a foolproof constitution, there were dilemmas for which even they were not prepared. For instance, as an unwritten tradition, U.S. foreign ambassadors have always turned to diplomacy as a means to spread democracy. (Note that the Romans used militarism, which contributed to their decline). So U.S. expansion, without sacrificing the moral principles of the Constitution had always and still is an unending debate. Additionally, racism has, to some degree, put shackles on constitutional liberties. (Even the Romans didn't have that problem as they lacked a diverse cultural mixture). It is merely the instinct of human nature along with the ever-changing, ever-entangling onflow of time that keeps us adapting. In fact, adaptibility is the very term which best explains why our Constitution has endured longer than any other in history.

So, for the 200th anniversary of the document, I hope for grandiose but meaningful forms of adulation. For instance, politically, Congress should launch a debate on the document and its significance today. Economically, the federal government should make healthy grants toward education, publications, networks, and causes dealing with constitutional matters. Money intended to be used for missile buildup should be given to medical research. Socially, a symbolic parade or marathon should channel from Boston, through New York City, through Philadelphia, to Washington, D.C.

To quench the appetite of the media, a mini-series on the origin and evolution of the Constitution should be broadcast on public television. Perhaps, even a limited edition series of coins can be minted and circulated by the U.S. Treasury. Probably the social and media events are most significant as they have the potential to renew a new sense of nationalism. But if the Founding Fathers were here today, they would probably simply ask for mere perpetuation of democracy till the end of time.

There was no way even the Founding Fathers could have known the course of events that spurred certain amendments in our Constitution. Their descendants may have interpreted the document differently but they shared the same basic convictions with their forefathers 200 years ago. And with celebrating the bicentennial of this blessed document in three years, I predict that we will continue to perfect our Constitution. We will keep defying the evil of those governments, past and present, who have oppressed civil liberty and always tried to wreak an irreparable scar on the domain of justice and equality.●

## WE CAN STOP TERRORISM

### HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. BROOMFIELD. Mr. Speaker, our Government has wisely decided to try to stop terrorism. The recent national security decision directive and the administration's antiterrorism legislative package are both long overdue. These are steps in the right direction and deserve our support.

Since acts of state-supported terrorism continue to plague us and our friends around the world, our Government has decided to do all that it can to stop this growing menace which attacks the fiber of society. There are specific areas where America can improve its ability to combat this growing scourge. Initially, we must strengthen and improve the capability of our intelligence organizations charged with penetrating terrorist groups. Terrorist cells are most effectively deterred by effective infiltration of their ranks.

We must also continue to upgrade the physical security of our missions overseas. Larger budgets will be necessary as well as increased numbers of professional security officers in our Embassies around the world. Their current levels are woefully inadequate, given the nature of the threat we face.

We must work closely with our allies to condemn countries which actively engage in state-sponsored terrorism. We and our friends should regard the actions of Libya, Iran, Syria, and North Korea as a form of warfare and respond accordingly as a group. Close consultations and concerted international action against this threat is imperative. Internationl pressures can be brought to bear on Libya, for example, in the areas of trade as well as in the political arena. If Europe were to ban the import of Libyan oil and impose export controls, as the United States did a few years ago, the economic pressures on Tripoli would be enormous. Solidarity with our allies is critical. Let's face the facts. Countries which support and practice terrorism are pariahs. They should be treated as outcasts from the international community. Let us punish them and make them pay a high price for their actions. In addition, our Nation's new commitment to using offensive measure, if no other alternative is available, will send a message to those who believe that we are incapable of reacting if threatened. Although prudence and the respect for law must guide our actions, we must reserve the right to defend ourselves.

Our laws can be toughened and we must improve intragovernmental coordination and cooperation. All of the agencies in our Government must work together. Recently, the President wisely chose to take the offensive against this ugly global threat. He sent Congress four separate bills to support a more systematic effort to combat international terrorism. The bills authorize the payment of rewards to individuals for information on acts of international terrorism and spell out prohibitions against the training and support of terrorist groups by U.S. citizens. The package also provides enabling legislation for the Montreal Convention on Aircraft Sabotage and the U.N. convention against the taking of hostages. Two parts of this legislative package are pending before the judiciary while the other two pieces of the proposed legislation have been combined into an omnibus antiterrorism package called the Act To Combat International Terrorism. The executive branch has worked closely with the committee and appropriate changes to the original proposals have been made. Let us hope that we can move forward with this important effort. This proposed legislation is an important step in our fight against terrorism. It is not bad legislation; it is badly needed legislation. It is timely and it deserves our support.

America must work to assure that there is no place in civilized society for indiscriminate threatening, detention, or murder of innocent people. I refuse to accept the defeatist attitude that there is nothing we can do about terrorism. There are ways to counter this growing menace to our way of life.

The challenge we face is a great one. Our struggle will require a commitment of resources, patience, and perseverance. I believe that my colleagues will join me in saying that we have begun to move together to confront the challenges of international terrorism.●

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## NATIONAL CHILD PASSENGER SAFETY AWARENESS DAY

## HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ANDERSON. Mr. Speaker, I am pleased to call to your attention that yesterday was National Child Passenger Safety Awareness Day. This issue, the safety of our children, is one of great concern to the American people and this Congress.

Earlier this year, on April 30, we took a major legislative step toward enhancing child passenger safety in this country by passing H.R. 4616. This bill, which I introduced after learning about the issue from concerned parents in my district, sets aside $18.8 million over a 2-year period for programs to combat the single largest cause of death among our youngest Americans, automobile accidents. The money will assist States in developing and implementing comprehensive child restraint programs, which will include improved public education, and safety seat loaner programs.

It is tragic to read day after day of children dying in automobile accidents, when those deaths could have been prevented with the proper use of child restraint devices. The statistics point to the urgent need for safety programs to be implemented. According to the National Transportation Safety Board, 3,400 children under the age of five were killed while passengers in automobiles between the years of 1978 and 1982, and more than 250,000 were injured Auto accidents are the No. 1 traumatic cause of epilepsy, mental retardation, and spinal cord injury in children. The Surgeon General's report on health promotion and disease prevention states that "No other preventable cause poses such a major threat as automobile accidents which account for 45 percent of the total childhood mortality."

I am proud of the efforts this House has taken to stop this tragic loss of lives. H.R. 4616, when implemented, will encourage the use of child-restraint seats around the country, devices that experts believe could save the lives of many of the 1,000 children killed each year in auto accidents.

In conjunction with National Child Safety Passenger Awareness Day, I feel it is appropriate to recognize and fully appreciate the efforts of many pediatricians, health groups, law enforcement officials, child safety organizations, and concerned legislators who have worked together to reduce the number of fatalities and injuries to this Nation's most precious resource—its children.●

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## NIOSH CRITICAL OF DAN RIVER COTTON DUST EXPERIMENT

## HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. VENTO. Mr. Speaker, today's Washington Post June 19, reports that J. Donald Millar, Director of the National Institute of Occupational Safety and Health [NIOSH] has criticized the decision of Virginia Department of Labor and Industry officials for allowing Dan River Inc., the State's largest textile firm to avoid compliance with the OSHA cotton dust standard while it plans a proposed experiment on the cause of brown lung disease. Mr. Millar's letter states in part:

> I do not consider it appropriate to permit workers to be subjected to unnecessary hazards while the merits of this research project are considered.

Mr. Millar's criticism is particularly important in light of his position as head of the research division of the Occupational Safety and Health Administration [OSHA] whose former Administrator, Thorne G. Auchter, encouraged Virginia officials to waive the cotton dust standard for this proposed experiment and who advocated that NIOSH finance this experiment at a projected cost of $414,000. Finally, there is some recognition within OSHA of the grave consequences which may follow from their endorsement of an ill-conceived experiment which uses the workers at the Dan River mills as guinea pigs.

Mr. Speaker, I hope that Mr. Millar's criticism will be fairly considered and will put a halt to this unconscionable proposal.

The article follows:

### VIRGINIA CRITICIZED FOR PERMITTING DUST EXPOSURE AT DAN RIVER

(By Sandra Sugawara)

The National Institute of Occupational Safety and Health has criticized Virginia for allowing Dan River Inc., the state's largest textile firm, to expose workers to high levels of cotton dust while it plans a large and controversial study of brown lung disease.

J. Donald Millar, director of the federal institute, said in a letter made public yesterday, "I do not consider it appropriate to permit workers to be subjected to unnecessary hazards while the merits of this research project are considered" for federal funding by NIOSH.

He said he believes that the study, which has been attacked by a major textile union as a needless hazard to the workers' health, can be conducted while adhering to a new federal safety standard without exposing the Dan River employes to dust levels that exceed that standard.

Millar's objections could create a serious obstacle for Dan River's plans for the study, which it has asked NIOSH to fund. The agency, part of the Department of Health and Human Services, conducts studies for the federal Occupational Health and Safety Administration.

Virginia and South Carolina officials have endorsed Dan River's proposal, which the company says is needed to determine the precise cause of brown lung, or byssinosis. It is a lung disorder found in textile workers and said to be caused by airborne cotton dust small enough to enter the lung.

Because brown lung cannot be detected through X-rays and is similar to other lung ailments such as chronic bronchitis, some textile firms including Dan River long have questioned its diagnosis and contended that federal requirements for lowering cotton dust are too costly.

The company has permission of Virginia officials to delay the installation of an estimated $7.5 million in equipment needed to bring its plants in immediate compliance with the new federal safety standards while the study is under way.

On May 4, Virginia officials gave Dan River permission to exceed federal and state cotton dust standards for six months, while the firm developed an experiment to test a theory that brown lung may be caused by a bacteria found in textile dust.

The state officials then told Dan River officials they had until Nov. 1, to obtain NIOSH funding to conduct the study and until Oct. 15 to submit a study that corroborates the bacteria theory. If Dan River failed in either effort, the firm was to move swiftly to install ventilation equipment.

Former federal OSHA head Thorne G. Auchter enthusiastically endorsed the Dan River experiment several months ago and offered to work to get NIOSH funding for the project. Auchter also urged Virginia officials to allow the experiment.

In his letter, dated June 8, Millar said that Patrick Tyson, the new acting director of OSHA, had called him the previous day "expressing concern" about the Dan River proposal. Millar added: "This situation has also caused me great concern."

Millar said that because of the need for a thorough review, the NIOSH evaluation could not possibly be completed within the state's timeframe.

Virginia Commissioner of Labor and Industry Eva S. Tieg said yesterday that the state was unaware of the letter. "The interim order is quite clear. Dan River had six months" to get the NIOSH funding. She said NIOSH has "so much credibility" in the scientific community, that state officials looked on the grant as a key element.

Tieg said the Millar letter does not necessarily mean that Dan River will be forced to install the safety equipment in November, "but the burden of proof is on them."

State approval is needed because Virginia is one of 22 states that has assumed responsibility for enforcement of federal OSHA regulations. Dan River officials could not be reached for comment.

Eric Frumin, safety director of the Amalgamated Clothing and Textile Workers Union, which has attacked the study, said, "NIOSH's action confirms the illegitimate and immoral nature of the allowances given to Dan River with the blessing of federal OSHA . . . ."●

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## MESSAGE FROM THE PRIME MINISTER FOR THE MEETING OF EUROPEAN PARLIAMENTARIANS INTERESTED IN POPULATION AND DEVELOPMENT ISSUES

### HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. SCHEUER. Mr. Speaker, I recently attended a meeting of European Parliamentarians at the invitation of the British All-Party Parliamentary Groups on Population and Development.

Parliamentarians from eight European countries gathered together in London to discuss the role of parliamentarians on population and development issues, and to prepare for the United Nations International Conference on Population to be held in Mexico City in August of this year.

The 2-day meeting ended with a communique recommending cooperation among European Members of Parliament to meet regularly to discuss population and development problems of common interest and to establish an administrative basis for coordinating activity.

I would like to share with my colleagues the messages of welcome from United Kingdom officials on the opening of this meeting.

MESSAGE FROM THE PRIME MINISTER FOR THE MEETING OF EUROPEAN PARLIAMENTARIANS INTERESTED IN POPULATION AND DEVELOPMENT ISSUES

It gives me great pleasure to welcome you to London to discuss the important issues to population and development.

The size and growth of the world's population is one of the most urgent and far-reaching problems facing the world community today. It is placing serious pressure on resources and it poses a real threat to the future economic and social development of the poorest countries of the world.

The responsibility for tackling population growth must rest with national governments but as members of the international community we also have a role to play, particularly in the light of the forthcoming International Population Conference.

I hope that this meeting will afford you the opportunity to exchange experiences and views on this vital subject and will act as a useful input to your own preparations for the Conference.

MESSAGE FROM NEIL KINNOCK TO THE MEETING OF EUROPEAN PARLIAMENTARIANS, LONDON, JUNE 15 AND 16, 1984

I am very pleased to welcome you to this meeting organised by the British all-party group on population and development.

The problem of world population growth is of great concern to all who wish to see the world develop in peace and who are aware of the damaging effects that a too rapid increase in numbers can have on the fragile economies of less developed countries. Any initiative which the developed European countries can take to understand and discuss their interrelationship with less developed countries is to be encouraged.

I wish you every success with your meeting.

MESSAGE FROM RT. HON. DAVID STEEL, MP, LEADER OF THE LIBERAL PARTY TO THE MEETING OF EUROPEAN PARLIAMENTARIANS ON POPULATION AND DEVELOPMENT

It is my pleasure to extend a welcome to you on behalf of the Liberal Party on your visit to London. The agenda you have set yourselves is an interesting one and the topics you are discussing are of vital importance to the future of our planet.

The world's problems—and particularly those of the Third World—will not be solved until the connection between the East-West issues and the North-South dialogue so much talked of becomes the focus of our actions

I hope that your meeting will confront these issues and I wish you every success.

MESSAGE FROM THE RIGHT HONORABLE DR. DAVID OWEN, MP

"It is an excellent and much needed initiative for European Parliamentarians to come together to promote a European consensus on population and development policy."●

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## CONGRESSIONAL SALUTE TO HON. KENNETH LUCIANIN, OF PASSAIC, NJ, ESTEEMED POLICE DIRECTOR, COMMUNITY LEADER, AND GREAT AMERICAN

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ROE. Mr. Speaker, on Friday, June 22, the residents of the city of Passaic, my congressional district and State of New Jersey will join together in testimony to the outstanding public service rendered to our community, State, and Nation by one of our most distinguished public safety officers—Hon. Kenneth Lucianin, of Passaic, NJ—director of the police department of the city of Passaic, good friend, leading citizen, and great American.

As Kenneth Lucianin retires from his high office of public trust as Passaic's police director, I know that you and our colleagues here in the Congress will want to join with me in deep appreciation of all of his good works and share great pride in the success of his achievements with his wife, Joanne, mother, Ann Lucianin, and children, Robert and his wife Angela, Wendy, Cathy, Kenneth John, David, Gregg, Barbara, Judy, Deanna, and Jeanna.

Mr. Speaker, Director Lucianin has indeed earned the highest respect and esteem of all of us for the quality of his leadership and highest standards of excellence in seeking to achieve optimum public safety for all of our people. He was appointed to the police department of the city of Passaic on June 24, 1958, and served in all official ranks of the Passaic Police Department—promoted to sergeant on April 4, 1967, lieutenant on April 24, 1969, captain on April 23, 1977—and on May 2, 1980, attained his present high office in his law enforcement career as director of the department.

Kenneth's personal commitment to the economic, social, and cultural enhancement of our community has been a way of life for him. He has served the community in many elective and appointive offices and we also particularly commend his tenure as president of the board of education and as business administrator for the city of Passaic.

Throughout his lifetime, Director Lucianin has forged ahead with dedication, devotion, and sincerity of purpose in combating crime and protecting the lives of our people. We applaud his knowledge, training, hard work, and personal commitment that has enabled him to achieve the fullest confidence and strongest support of the people of our community. He has always applied the most sophisticated and advanced techniques of his profession.

Ken Lucianin also served as a detective and commander of the children's bureau for the city of Passaic. He has been a staunch supporter and active participant in many civic and community improvement programs and we applaud the quality of his leadership endeavors for over a quarter of a century in the vanguard of our public safety officers.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of our way of life here in America and I am pleased to call your attention to Ken's lifetime of outstanding public service. As Director Lucianin retires his official leadership badge of courage and valor as the esteemed director of police of Passaic, NJ, I respectively seek this national recognition of his contribution to our country in placing others above self in providing safety on the streets, security in the home, and optimum public safety for all of our people. For his contribution to the quality of life for the people of our community, State and Nation, we do indeed salute Police Director Kenneth Lucianin of Passaic, NJ.●

## A CONGRESSIONAL SALUTE TO JOE R. SAUCEDO, 1983-84 PRESIDENT OF THE LONG BEACH AREA CHAMBER OF COMMERCE

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ANDERSON. Mr. Speaker, the 1984 president's celebration of the Long Beach Area Chamber of Commerce will be held June 22 at the Hyatt Regency Long Beach. At this gala event, Mr. Joe R. Saucedo, 1983-84 chamber president, will officially relinquish his duties. I would like to take this opportunity to congratulate and commend Joe on an outstanding job this past year.

A native of El Paso, TX, Joe is president and chief executive officer of Queen City Bank, NA and QCB Bancorp in Long Beach. After receiving a bachelor's degree in business administration from the University of Texas, El Paso, in 1966, Joe completed graduate studies in banking at the Pacific Coast School of Banking in Seattle, WA.

Joe began his banking career 13 years ago with Wells Fargo Bank and, in 1982, he became one of the original organizers and founders of Queen City Bank. Queen City Bank officially opened its doors for business on September 26, 1983.

In addition to his chamber position, Joe is immediate past chairman of the Long Beach Economic Development Commission. He also has found the time to be a member of the Private Industry Council of Long Beach, the advisory board to the School of Business Administration at California State University at Long Beach, and the executive council of the Long Beach Area Convention and Visitors Council.

Mr. Speaker, Joe's leadership at the chamber this past year has not gone unnoticed. On repeated occasions, he demonstrated his ability to effectively communicate with area businesses and residents. Of particular interest to me were his views on community redevelopment and civic pride. He knows that a city cannot meet the demands of tomorrow without investing in its infrastructure today. Although Joe will no longer be president of the chamber, I hope that he will continue to express his views on the many important issues we have before us.

My wife, Lee, joins me in congratulating Joe Saucedo on a job well done and we wish him and his wife, Domie, and their children, Danny, Michael, and Denise, all the best in their future endeavors.●

## TRIBUTE TO THE FOUNDING OF THE ITALIAN REPUBLIC

### HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Ms. FERRARO. Mr. Speaker, this month we observe the 38th anniversary of the Italian Republic. In June of 1948 the Italian people abolished their constitutional monarchy and established a political democracy by popular referendum. As an Italian-American, I urge my colleagues to join me in honoring our Italian ally and the contributions Italian-Americans have made to our society.

As one of the six leading industrial democracies, Italy has proven itself to be a consistent and reliable partner and friend of the United States. Italy was with us during the Iranian hostage crisis and supported our position on the Soviet invasion of Afghanistan. Italy participated in the Israeli-Egyptian peacekeeping force in the Sinai after the Camp David accords and also joined us in the international peacekeeping force in Lebanon where Italian troops outnumbered U.S. marines.

Italians came to the United States as laborers and tradesmen, steadily climbing the success ladder to ultimately participate in all facets of American life. Success is measured with many yardsticks. For Italians and Italian-Americans, family and family ties are just as important as career success. In politics, Gov. Mario Cuomo and Congressman PETER RODINO are just two of the Italian-Americans who have achieved national distinction. In sports, education, business, and the arts America has been made richer by the talent and hard work of Italian Americans.

Mr. Speaker, there are more than 12 million Italian-Americans in the United States, and more than 83,000 in my district alone. By celebrating the 38th anniversary of the founding of the Italian Republic we pay tribute to an outstanding ally and ethnic community within this society.●

## LION'S JOURNEY FOR SIGHT

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. GILMAN. Mr. Speaker, I wish to call to the attention of my colleagues the fine works performed by the Lions Clubs and the Lioness Clubs in the city of Middletown and town of Wallkill, NY.

These fine organizations are affiliates of Lions Clubs International, a world-wide organization with over 1.35

million members, and some 35,000 local clubs. I am sure there is not a Member of Congress who is not familiar with the good deeds that the Lions and the Lionesses perform—citizenship and educational programs, environmental activities, speech actions and work with the deaf, international understanding programs, international youth camp programs, and activities designed to bring all of us closer together. I am also confident that most Members of Congress are familiar with the Lion magazine, published monthly in 19 languages worldwide.

Of all the many good works performed by our Lions and Lionesses, perhaps they have earned the most renown and respect for their significant activities on behalf of the blind and the sight-impaired. While their many year-round programs to help our sight-impaired are too numerous to list here, the compassion and concern of our Lions are worthy of our wholehearted thanks.

On this Sunday, June 24, the activities of the Middletown Lions, the town of Wallkill Lions, and the Lion-ess Clubs, will reach a grand climax, as they sponsor the Lions Journey for Sight. Concerned and thoughtful people of all ages from throughout Orange County, NY., will walk, run, or bicycle a 20 kilometer course, in support of those in our Nation who have been deprived of the precious gift of sight.

The unselfish efforts of the Lions Clubs, and the people who will be supporting them, will be a major contribution in our war on diabetes, the greatest cause of blindness today, and on other sight-related problems.

Mr. Speaker, I urge all our colleagues to join with us as we wish the Lions Clubs success in their Journey for Sight, and as we commend them for giving of their time, their efforts, and their hearts to this most worthy cause.●

## IN HONOR OF ARDAHLIA MACK

### HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. RAY. Mr. Speaker, on May 27, 1984, Columbus, GA, honored a very special lady by proclaiming Ardahlia Mack Day throughout the city. I want to join this tribute to one of my district's most respected and admired citizens.

Mrs. Mack is known throughout Columbus for her civic and social work through the years. She has been a guiding influence in the development of the neighborhoods where she lives and has taught those who know her the true meaning of the phrase, "Charity Begins at Home."

For you see, Mr. Speaker, Mrs. Mack works with people and communities on a one-to-one level. She cares for the individual and her efforts are to better the life of each person.

She values her duties as a citizen and takes an active role in civic affairs. Members of the Lindsey Creek Area Civic Association, a very vital Columbus organization, credit Mrs. Mack with singlehandedly forming their organization and for 11 years has guided their growth. Under her direction, the association has grown in membership and prestige. Their work has greatly improved the member communities and has spread into surrounding Columbus neighborhoods.

Mrs. Mack is a valued citizen of Columbus and a friend I am honored to have. I am proud to join with Columbus, GA, and the friends and neighbors of Ardahlia Mack in paying tribute to a lady whose life has truly bettered our world—Mrs. Ardahlia Mack.●

## TRIBUTE TO WARREN R. O'BLENNIS

### HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Warren O'Blennis, who has served the citizens of Benicia, CA, located in my district, in a dedicated and exemplary fashion since June 15, 1971.

It was on that day, more than 10 years ago, that Mr. O'Blennis was appointed chairman of the Benicia Waterfront Study Committee. Following that, on April 18, 1972, Mr. O'Blennis was elected to the Benicia City Council. He served as a councilman until assuming the office of mayor of Benicia in April 1976. Mr. O'Blennis served as mayor—the first popularly elected mayor of Benicia in the 20th century—for 8 years until his retirement earlier this year on April 17.

Mr. Speaker, it is a great pleasure to congratulate Mr. O'Blennis for a job well done. The position of mayor was more than a part-time responsibility to Mr. O'Blennis. It was an integral part of his life. He gave unselfishly of himself so that Benicia could be a better place to live, and much of the progress the region has enjoyed in recent years can be directly linked to his efforts.

Specifically, Mr. Speaker, Mr. O'Blennis' efforts were instrumental in:

Creating Benicia's $40 million marina project;

Encouraging the develpment of the Southampton Shopping Center;

Building two new fire stations for the city;

Obtaining Federal funds for a $14 million wastewater treatment plant;

Reconstructing Military West, the main artery through town;

Getting State funding and finding a developer for the Casa Villarassa, a housing complex for senior citizens; and

Developing and maintaining recreation programs, especially sports programs, for the youth of Benicia.

Mr. Speaker, these are but a few of Mr. O'Blennis' accomplishments. Let it be known by all, however, that Mr. O'Blennis served his community with honor, dedication, foresight, and fairness. Today, Benicia is a better place because of the efforts of Mr. O'Blennis. He deserves our highest praise.●

## THE 1984 PRESIDENTIAL SCHOLARS

### HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. ERLENBORN. Mr. Speaker, this year marks the 20th anniversary of the U.S. Presidential Scholars Program, a program which demonstrates our country's commitment to excellence in education. One hundred and forty-one students have been chosen to receive this award, the highest honor our Nation can bestow on a graduating high school senior. These young people have distinguished themselves through outstanding leadership, scholarship, contribution to school and community, and accomplishment in the arts, sciences, and other fields.

By Executive order of the President, the Commission on Presidential Scholars annually selects and recognizes these distinguished graduating seniors. The Commission has invited this year's Presidential Scholars to Washington, DC this week for Presidential Scholars National Recognition Week, which culminates with the presentation of the Presidential Medallion to each scholar at a ceremony sponsored by the White House. In addition, to commemorate the 20th anniversary of the program, one scholar from each of the previous years has been invited to Washington to represent his class.

The designation of these individuals as Presidential Scholars establishes them as the representatives of excellence in our Nation's schools. According to President Reagan, the award stands as "both a recognition of past accomplishments and a challenge to excel in the years ahead." In a larger sense, then, the true beneficiary of this program is the United States. By honoring these young men and women, the future leaders of our country, we reaffirm our commitment to education and to our Nation's future.

On the occasion of Presidential Scholars National Recognition Week during the 20th anniversary celebration of the Presidential Scholars Program, it is appropriate for the Congress to commend both the 1984 Presidential Scholars and the Presidential Scholars of previous years.●

## ARTHUR SHROPSHIRE—AN AMERICAN HERO

### HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. GEPHARDT. Mr. Speaker, America's history is punctuated by the exploits of heroes who managed to create some silver linings in the dark clouds they encountered. Today I want to honor one such hero, Arthur Shropshire, a man who responded to the discrimination and indignity of a segregated school system to create an institution that subsequently amassed a most impressive record. Douglass Cooperative High School in Festus is the creation of Arthur Shropshire. It provided an education, a good education, to black students from seven counties, many of whom probably would have not attended high school at all had it not been for his efforts.

Arthur Shropshire is something of a renaissance man. He was an organizer, who began in the dark year of 1933 to mobilize public support for his dream. He was a politician in the best sense of the word, convincing white administrators to back his project.

Finally, when the school opened, he was an educator who played a variety of roles—principal, math and science teacher, and coach. Later he fought and won other battles. As president of the Missouri State Association of Negro Teachers he worked to erase the salary disparity between races.

Arthur Shropshire is an authentic American hero who can teach us all a lesson about the impact a dedicated individual can have on his environment.

Now a park in Festus—the Arthur Cortez Shropshire Park—is being named in his honor. It is on the site of the old Douglass Cooperative High School. It is a fitting honor. I join my neighbors in a salute to him.●

## UNFAIR BURDEN ON SERVICEMEN SHOULD BE CHANGED

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. YOUNG of Florida. Mr. Speaker, today I am introducing legislation to correct an inequity in our current tax laws. The Internal Revenue Code allows a taxpayer to sell a principal residence and replace it with another within 2 years to make a tax-free rollover of the gain realized from the sale of that first home. In the case of an active Armed Forces member, the replacement period is extended to 4 years.

A problem exists, however, for those members of the Armed Services who still are stationed overseas at the end of the 4-year period, or who still are required to live in Government quarters. Attempts to comply with the Tax Code can be extremely burdensome and even, in some cases, impossible. Instead of being rewarded for their service to our country, they are penalized when the capital gain on the sale of a residence must be included in income for the last year and results in a higher tax bill.

As a member of the House Appropriations' Subcommittee on Defense, I am aware and supportive of cost-savings efforts by the Department of Defense to extend the length of time between changing military assignments. Unfortunately, the current tax law serves to discourage overseas tour duty extensions and can create an unreasonable and expensive burden for active duty personnel.

This legislation recognizes the unique circumstances faced by members of the military. It provides that the tax-gain suspension for a member of the Armed Forces stationed outside the United States or required to live in Government quarters will not expire until either, first, the end of 4 years after the sale of the old home, or second, 1 year after the service member is no longer stationed outside the United States or required to reside in Government quarters, whichever is later. This measure will provide a sense of fairness for those members of our Armed Forces who might otherwise be penalized for their dedication and service to our country. I urge my colleagues to support me in this effort and act promptly on this legislation.●

## A DAY FOR CELEBRATION

### HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. McGRATH. Mr. Speaker, I rise today to share wonderful and welcome news with my colleagues. Alexsei Murzhenko is a free man. Perhaps I should qualify that to say that Alexsei Murzhenko is a freer man, for as we are too well aware, a citizen and dissident in the Soviet Union like Alexsei cannot truly be free.

Last Thursay, Congress marked the Second Annual Congressional Fast and Prayer Vigil for Soviet Jewry by paying tribute to all refuseniks who continue to struggle for liberty and the right to emigrate, while focusing the demonstration of solidarity upon two dissidents Alexsei, and Yuri Fiodorov. They were the two remaining prisoners of the infamous Leningrad trials.

For more than two years I have been writing to Alexsei, one of my adopted Prisoners of Conscience, on a regular basis. His imprisonment has been long and cruel. Finally, the promise of an end to the suffering has become reality.

As of yesterday morning Alexsei, who was scheduled to be released the day after the vigil, was indeed back at his home in Kiev. Although this release date had been set, significant concern had arisen that Alexsei would be forced to remain in prison as a result of charges stemming from allegations of poor behavior or any number of other improprieties Soviet authorities so easily fabricate.

The situation in the Soviet Union has long been declining with respect to the dissident and refusenik movement. However, Alexsei's release is a gesture which I hope will be the beginning of an improved climate. Tomorrow, we may very well have proof making it necessary to once again mourn the sorry state of affairs for the refuseniks, but for today I ask my colleagues to join me in celebrating Alexsei's release. May this first taste of freedom lead to the full freedom which he has so eagerly pursued.●

## A PLEA FOR FREEDOM

### HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. SHANNON. Mr. Speaker, the Soviet Union's treatment of Andrei Sakharov and his wife, Yelena Bonner, constitutes an appalling affront to the moral sensibility of the world. As these two remarkable individuals languish in their state of forced exile, the Soviets turn a deaf ear to pleas and appeals rung on their behalf from all over the world. The Nobel Peace Prize-winning nuclear physicist is suffering from a severe case of phlebitis as he fasts for his wife's safety, and Bonner has suffered a heart attack, and there are reports that she is losing her sight. The Sakharovs should be granted immediate and safe passage to the West for thorough medical treatment. The American people and the American Congress, the Soviets ought to know, expect nothing less. The Soviets should act now.●

## CAPT. LESLIE E. RODMAN OF THE SALINAS POLICE DEPARTMENT RETIRES

### HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. PANETTA. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of a fine police officer from the city of Salinas, Capt. Leslie E. Rodman.

Les Rodman has served the city of Salinas since 1956, when he joined the city's police force. He began as an officer in field operations and was promoted to the rank of instructor in 1961. In 1964, he became Sergeant Rodman and was eventually assigned to the investigation division. In May 1973, he was promoted to the rank of lieutenant, and later that year, October 16, 1973, he achieved the rank of captain. Since that time, he has served as commander of both the field operations and investigation division.

Captain Rodman's steady rise through the ranks is a clear sign of his skills and knowledge, as well as his dedication to duty. On July 27, a retirement dinner will be held in his honor by the Salinas Police Department. I know my colleagues join me in commending Captain Rodman for his 27 years of service and in wishing him a happy and productive retirement. The people of Salinas, as well as his colleagues on the police force, will certainly miss him. He and his family can be proud of his hard work and dedication, and I want to thank and congratulate him personally for his many years of service.●

## THE CHINABERRY CUP

### HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. DARDEN. Mr. Speaker, one of the greatest athletic rivalries in the South is the coveted Chinaberry Cup. Originated on haughtily shabby Pawley's Island, SC, in April of 1977, the Chinaberry Cup recognizes and exemplifies tennis proficiency.

Each spring outstanding tennis players from Marietta, GA, of the Seventh Congressional District meet a team of players from the hamlet of Cheraw, located in the Fifth District of South Carolina. Usually the South Carolina team consists of older men who frequent the tennis courts each day.

On the other hand, the Marietta team consists of 10, energetic young men who hold full-time jobs and play tennis on weekends or on infrequent vacations.

A fierce and intense competition has been held for the past 7 years between the two diverse groups at the Litchfield Country Club near Pawleys Island, SC. Five teams from each locality have squared off against one another in an effort to win the hotly contested championship which has come to be known as the Chinaberry Cup.

Surprisingly enough, the Marietta group has amassed an enviable record of five championships while the Cheraw professionals have won only twice.

This year was no exception. The Marietta teams easily defeated Cheraw by a score of 3-2. The Marietta teams consists of A.D. Little, captain and entrepreneur; Jon Burke, investment analyst; Terry Segars, music educator; Charles Waters, contractor; Dr. Dan Norris, dentist; Ronald K. Francis, bank president; Dr. Clem Doxey, dermatologist; Bill Rohner, financier; John Elliott, building contractor; George (Buddy) Darden, part-time attorney; and H. Neil Barfield, substitute and bank executive; and Wallace Montgomery, absentee member and realtor.

The perennial losers from Cheraw are as follows: Glenn (Bud) Anderson, gentleman farmer and manufacturer, Frank Andrews, tennis professional and part-time superviser; Dr. B.E. Coggeshall, Jr., surgeon; Dr. Walter Crosby, dentist; Malloy Evans, tennis professional and manufacturer; Fred Craft, tennis professional and personnel administrator; W.F. (Ricky) Baker, entrepreneur; Jackie Furr, understudy to Mr. Baker; M.B. Godbold, CLU; and Jimmy Spruill, country squire and attorney.●

## PINELLAS SCHOOLS HONORED FOR EXCELLENCE IN EDUCATION

### HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. YOUNG of Florida. Mr. Speaker, it gives me great pleasure to know that three schools in my congressional district, the Eighth District of Florida, have been recognized for their excellence in education by the U.S. Department of Education. The three schools, Dixie Hollins High School, Largo Middle School, and St. Petersburg High School, are all part of the Pinellas County school system which includes 14 high schools and 21 middle schools.

The Department of Education's School Recognition Program honored these schools after reviewing nominations made by each State. Representatives of the Department also visited the respective schools and evaluated them on their educational programs, standards, policies and parental involvement. Following the reviews, the Secretary of Education named these Pinellas County schools to be three of the Nation's most outstanding.

At a time when upgrading the educational process is a national priority, I am proud that Pinellas County's schools are exemplifying the improvements being made and providing a model for others to follow. This award is not only a tribute to the students and their parents in Pinellas County, but also to the dedication and professionalism displayed by the teachers, the school board and the administrative staff.●

## THE O'ROURKE CASE: THE WITHDRAWAL OF JUDGE ERNEST H. HUPP

### HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. BORSKI. Mr. Speaker, I have received numerous inquiries from colleagues indicating growing congressional interest in the case of Michael O'Rourke. Specifically, their interest and mine has been the withdrawal of the Federal immigration judge hearing that case. His withdrawal occurred under what must be described, at the very least, as curious circumstances.

The case involves Michael O'Rourke, a 32-year-old Irish citizen, whom the Immigration and Naturalization Service seeks to deport. He has been confined without bail in the maximum security facility of the Metropolitan Correctional Center in New York City since November 1979, and holds the record as the longest held prisoner on deportation charges without bail in the history of the Immigration and Naturalization Service.

I first became interested in this case when I served in the Pennsylvania Legislature and cosponsored legislation supporting Mr. O'Rourke. My interest in this case has continued since taking office as the Representative for the Third Congressional District in Pennsylvainia. As a matter of fact, Mr. O'Rourke's wife, Margie Lieb O'Rourke, lives in my district. I would also like to point out that both the Philadelphia City Council and the Pennsylvania House of Representatives have passed resolutions in support of Mr. O'Rourke.

In early February of this year, I introduced a private immigration bill, H.R. 4781, for the relief of Mr. O'Rourke. I introduced this legislation because I believe that Judge Ernest H. Hupp, the original immigration judge in the case, was intimidated and harassed into withdrawing.

Senator Arlen Specter also introduced legislation for Mr. O'Rourke after looking into the important issues raised in the case. On June 18, 1984, I testified about the withdrawal of Judge Hupp at a hearing of the Senate Judiciary Subcommittee on the Constitution.

What is at stake here is the integrity of our judicial process and the security which comes from knowing that our system is one of justice and not of men.

On February 9, 1984, I spoke with Judge Hupp in a phone conversation. He told me that at the time he withdrew from the case, he was going to rule in favor of Mr. O'Rourke and allow him to stay in this country because he had not committed any crimes in the United States, his offenses in Ireland were political in nature, and he is married to an American citizen. He also said that he supports the private immigration bill I have introduced for Mr. O'Rourke because he believes Mr. O'Rourke deserves relief.

On May 20, 1981, Judge Hupp indicated his position at a hearing by asking Mr. O'Rourke if he had a place to live in the United States, if he had employment possibilities, and if he knew that he could apply to become a U.S. citizen—once he had permanent residency—because he was married to an American citizen. Judge Hupp also informed the prosecution that he did not want to hear anything more about Michael O'Rourke's activities overseas or the violence of the IRA. That was strong indication that Judge Hupp was going to rule in Michael O'Rourke's favor.

In fact, during my conversation with Judge Hupp, he confirmed that at the time he was going to rule in favor of Mr. O'Rourke. Judge Hupp also told me that the case was nearly finished at the time he withdrew.

Two days later, on May 22, 1981, two men in a black sedan followed Judge Hupp from Philadelphia to Maryland, approximately 125 miles. Judge Hupp sought the assistance of Maryland police and the FBI during the course of this incident. The black sedan managed to elude two Maryland plainclothes police detectives.

On May 26, 1981, Judge Hupp sent a lengthy memorandum reporting this incident to Doris Meissner, Acting Deputy Commissioner, INS Central Office. This memorandum indicated that copies had been sent to Joseph W. Monsanto, chief immigration judge, Lyle L. Karn, Philadelphia INS District Director, and FBI Agent John A. Friel, Jr.

This memo was stamped received in the Philadelphia INS District Office on May 29, 1981. In this memo, Judge Hupp states:

> I became very scared for my life because I felt these men may mean harm for me and may be sympathizers of the IRA trying to intimidate me in making a decision on Michael O'Rourke (aka: Patrick Mannion).

In a May 29, 1981 memorandum to Acting Chief Immigration Judge Joseph W. Monsanto, Miami district office, which was stamped received by the INS on June 4, 1981, Judge Hupp advised Judge Monsanto that he was withdrawing himself from the Michael O'Rourke case. Judge Hupp states that:

> This decision is based upon the fact that I have in my opinion been unjustly intimidated and harassed and believe the harassment evolves from my presiding in this case.

During my conversation with Judge Hupp, he confirmed that he believes his involvement in the case was the reason he was followed.

Two whole weeks after the incident, on June 5, 1981, Judge Hupp entered his order of recusement. He formally withdrew from the case because he had been unjustly harassed and intimidated because of presiding in this case.

Following a brief description in the order of the events that occurred on May 22, 1981, Judge Hupp writes:

> I then believed that perhaps sympathizers of the IRA movement were trailing me.

Judge Hupp then describes a visit by two Federal agents from the Office of Professional Responsibility in Baltimore, MD, on June 5, 1981—the same day he entered his order of recusement. Judge Hupp writes, referring to one of the Federal agents:

> One advised that he had followed me on Friday, May 22, 1981, because of an anonymous complaint (unfounded of course) they had received about the possibility that I have been leaving Philadelphia Immigration Court on Fridays earlier than 4:30 p.m. without charging proper leave.

Obviously, it was INS agents, not IRA sympathizers, who followed Judge Hupp on May 22, 1981, and caused him to withdraw from the case.

Judge Hupp then writes:

> However, I sincerely believe that the complaint was filed because I have been involved in the O'Rourke case. In November 1979 the District Director testified in the proceeding as to the probable cause he had when he signed the order to Show Cause in the said case, and when he stated that Investigator Britt told him the alien spoke with an Irish accent, laughter prevailed in the courtroom.

He continues:

> Also, the trial attorney representing the Government at that hearing was required to step down and a special attorney for the Department of Justice took charge of the prosecution from that point forward.

Last, Judge Hupp writes that he must make his own conclusions as to why I am being harassed, be these conclusions proper or not. Therefore, I feel that I must recuse myself from the proceedings.

Following Judge Hupp's recusal, Immigration Judge Francis Lyons was appointed to replace him and began the case where Judge Hupp left off. The issue of Judge Hupp's recusal was not permitted to be discussed because Judge Lyons determined that it was irrelevant without hearing any testimony on the matter.

If we are to eliminate any doubts about justice in this case, it is very important that we are able to publicly answer the serious questions it raises.

If undercover Federal agents intimidated Judge Hupp, then their actions are an abuse of power so shocking and fundamental that they contaminate the entire proceedings against Michael O'Rourke.

If a Government agency acted wrongfully, the most emphatic possible signal must be given that the American people and the Congress will not tolerate the corruption of the administrative and judicial processes.●

## NEBRASKA MEDICAL COMMUNITY PROMOTES QUALITY HEALTH CARE

### HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. DAUB. Mr. Speaker, on the morning of May 14, 1984, I was privileged to tour the neonatal intensive care unit of the University of Nebraska Hospital in my district in Omaha, NE. I felt it necessary to point out the excellent work that is being done with newborns, and to congratulate these health professionals on their work in establishing a medical ethics committee.

The medical ethics committee is an example of another fine step that the Nebraska medical community has taken to promote quality health care. The duties of the committee include the following: First, to review medical staff policy as it relates to medical ethics issues. Second, to review medical ethics activities within the hospital on retrospective basis. Third, to serve an educational function where it would encourage medical ethics consultations by the staff and house officers.

This committee draws its membership from a broad section of the health community. Included are four physicians, an ethicist, the hospital chaplain, the hospital attorney, a hospital administrator, two nurses, and one person from the general public. This wide range of representation should allow this group a great deal of positive input from which important decisions can be made.

Mr. Speaker, the people who have created this committee represent the ingenuity and thoughtfully creative thinking that exists in our health care system today. I commend these people on their efforts to promote responsible discussion on ethics related issues in neonatal medicine. I thank them for

**their concern in this morally complicated area of medicine.●**

## THE 50TH ANNIVERSARY OF THE NATIONAL ARCHIVES

### HON. GLENN ENGLISH

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

**● Mr. ENGLISH. Mr. Speaker, one of the major bus lines in Washington ends at the National Archives Building on Pennsylvania Avenue. I am told that a driver on that bus line, with perhaps more insight than the bus riders recognize, finishes each run by announcing "Archives—End of the line."**

**He is right, of course, in one sense. The National Archives is a kind of end of the line for the records of the U.S. Government—whether they are paper, film, still pictures, slides, computer tape, or any other medium that contains information about the Government's functioning. But he is quite wrong in terms of what goes on inside the Archives Building, where the dusty records are anywhere but at the end of their line.**

**Today marks the 50th anniversary of the National Archives and Records Service. Charged in 1934 with responsibility for preserving and making publicly available the Nation's documentary history, the National Archives has been a component of the General Services Administration since 1949. Appropriately, in this its golden anniversary year, legislation to reestablish the Archives as an independent agency has been reported by both the House Committee on Government Operations (H.R. 3987) and the Senate Governmental Affairs Committee (S. 905).**

**Dr. Robert Warner, Archivist of the United States has been kind enough to share with me the foreword he prepared for a volume on the Archives, "The National Archives of the United States" by Herman J. Viola, to be published by Harry N. Abrams, Inc. Excerpts from that foreword, which follow, give some insight into just what our National Archives is.**

**I hope you will take the time to read Dr. Warner's words and to visit the 50th anniversary exhibit, which opens tonight at the National Archives building.**

FOREWORD

(By Robert M. Warner, Archivist)

The Fourth of July is the most American of holidays and in the city of Washington it is celebrated in grand style. At the National Archives there are inevitably long lines of visitors waiting patiently in the usual heavy heat of mid-summer to see a faded piece of parchment that they know instinctively represents what the Fourth is all about—and, for that matter, what this Nation is all about. Their wait ends in the great rotunda of the National Archives where the Declaration of Independence is splendidly enshrined along with the Constitution of the United States. To be sure, some of these sweltering visitors are drawn to the Archives by the sound of gunfire from the mock battle between British and American troops waged in front of the building every Fourth of July. Some may be drawn by the sound of an actor's voice as he reads Thomas Jefferson's great words from the steps of the Archives. Others are attracted by the grandeur of one of Washington's most impressive buildings. But most of these Fourth of July celebrants come because of their sense of history and their respect for the documents that created this Nation.

In the Archives of the United States are assembled the documents that are the essence, the spirit, and some would even say the soul of America. Here are the records that portray, sometimes tediously and sometimes graphically, the United States. Because it is the record of a democratic society, it touches in some way the lives of nearly every American, the living and the dead, the great and the humble.

Throughout the bulky volumes of the Census of 1790 and its decennial successors are the names of people from every part of the globe, names that represent the rich mosaic of the American people. The millions of military service records, the hundreds of thousands of pension claim files, the comprehensive naturalization and immigration records also help to form a magnificent and remarkably detailed portrait of the American people.

The great events in our Nation's history have left their documentary footprints here. The birth of the Nation is recorded in the proceedings of the Founding Fathers as they charter the course toward independence. Ornamented with fancy seals and protected in elaborate cases, the treaties that recognized our sovereignty, expanded our lands, ended our wars, and helped promote our commerce are preserved in the Archives.

The more routine work of government agencies can also be found in the National Archives represented in utilitarian volumes or boxes, indexes by the yard, folded and faded correspondence, and efficient-looking carbons. Hidden in these prosaic sheets are the efforts, hopes, and fears of men and women who helped develop and expand the Nation, fight its wars, and work for better health, education, and housing. These "ordinary" records too are part of the rich treasure of the Nation's history.

Documents written by our chief executives are highlights of the course of American history. These documents, both the formal and informal, provide information on matters of national importance and reveal glimpses of the personal lives of our presidents and their families as well. They are included among the records of government departments in Washington and, for recent presidents, they provide the central focus for the presidential libraries.

The laws and law-makers of our land have left their imprint on our Nation's documentary heritage. The engrossed laws, those beautiful parchment sheets that are the final record of our legislators' work, are in the National Archives along with the reports of the debates that enlivened our ninety-eight Congresses and a rich assortment of the records of Congressional committees. Records of the Supreme Court, the Courts of Appeal, United States District Courts and other Federal courts can be found in the National Archives. In these court records is a rich store of documentation of matters that came before our Nation's judiciary including Revolutionary War prize cases, admiralty disputes, criminal cases and bankruptcies.

Not all history in the Archives is found in written records. Much of the fascinating story of the United States can be seen in maps that range from the carefully drawn work of the explorers who first saw the face of our western lands to the sophisticated cartographic results of modern technology. Products of America's inventive spirit too can be seen in the thousands of patent drawings that mark great milestones in technological progress as well as catalogue the impractical ideas of obscure and long forgotten dreamers. More than 5 million photographs and 81 million feet of motion picture film in the National Archives give a fascinating visual glimpse of the panoply of events and people who have comprised the American scene from the Civil War through most of the twentieth century. The opening of the west and the crash of the stock market, Sherman and Lee and Lincoln, immigrants on Ellis Island, depression-era farmers and teens in bobby socks all continue to live through their images in the National Archives.

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The year 1984 marks the fiftieth anniversary of the National Archives. The scholars and national leaders who proposed and established this institution recognized the importance of a full and accurate record of a Nation's government to ensure its people's continued liberty. The National Archives now holds such a record, but also much more. The National Archives of the United States tells the story of the American people and remains a monument to our democracy and its values.

We at the National Archives and Records Service hope that this handsome volume will encourage you to explore the rich historical resources of the Archives yourself, whether in Washington in the familiar grand building on Pennsylvania Avenue, in one of the fifteen records centers or in one of the seven presidential libraries. In each of these facilities, the records of our Nation's life are carefully maintained and protected. We hope you will use them. After all, these records belong to you.●

## FRED DAVIS OF S.F.C.C.

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

**● Mr. SKELTON. Mr. Speaker, State Fair Community College [SFCC] has provided quality education to Pettis County, MO, for the last 18 years. Since its formation, Mr. Fred Davis has been its only president, and has made a major contribution to the school's development. The commencement this spring at SFCC marks the last graduation ceremony for Fred Davis, as he is retiring his post as president of SFCC.**

**As part of the school's appreciation, the board of trustees has honored Fred by naming the sports complex**

the Fred E. Davis Sports Complex. I ask my colleagues to join me now in adding to the congratulations of the faculty and students by joining me in commending Fred Davis for his years of service to his school and community.●

## THE CHANGING CHARACTER OF AMERICAN JOBS

### HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. PEASE. Mr. Speaker, during last week's press conference President Reagan continued to trumpet the number of new jobs created in America during the past 18 months. But he continues to ignore the grim reality that most of the new jobs being created in the service sector only pay a fraction of the wages paid to Americans who have lost their manufacturing jobs in recent years.

I call to the attention of my colleagues the following article by Bennett Harrison and Barry Bluestone that speaks forcefully to the disturbing changes occurring in the composition and character of the American work force. Unless American workers are paid respectable wages, it is hard to see how they will have the purchasing power to help fuel our national economy in the years ahead.

The article follows:

MORE JOBS, LOWER WAGES

(By Bennett Harrison and Barry Bluestone)

BOSTON.—The American worker is in trouble, despite the sharp decline last month in the unemployment rate to 7.5 percent.

That may seem like a strange—if not a downright ungrateful—thing to say in this Second Year of the Great Economic Recovery. Yet underneath the superficial appearance of a thriving economy, there is evidence that the basic structure of the labor market is shifting: The continued "deindustrialization," or dismantling of the country's high-paying blue-collar industries, is being accompanied by a proliferation of low-paying service sector jobs.

The result is a lower unemployment rate because of a boom in the number of jobs, but a jeopardized standard of living because of the poor quality of much of the work that is available.

That the President and his economic advisers seem oblivious to these deep-seated changes is perhaps not surprising. The relative silence of the Democrats on such structural economic matters is harder to explain. With the possible exception of the party's technically well-trained young professional constituency, virtually all Democratic voters—not just the unionized blue-collar workers—are threatened by these changes.

Since 1979, the last time the jobless rate slipped below 6 percent, the growth in employment has been exclusively in what is broadly defined as the service sector. The United States Bureau of Labor Statistics estimates that between March 1979 and March 1984, the number of jobs in wholesales and retail trade, the financial sector and personal and business services grew by more than four million. Over the same period, employment in manufacturing, construction and mining shrank by nearly 2.4 million.

This would not be a serious problem in and of itself. But the fact that the growing industries, in general, pay lower wages than the declining ones does pose a challenge to the standard of living of a significant portion of the labor force. Since the late 1960's, some 67 percent of all new jobs in the United States have been in industries that paid average annual wages and salaries of less than $13,600 (in 1980 dollars). In 1969, only 45 percent of all jobs were in that category. By contrast, the industries that paid average annual wages of more than $20,250—nearly all of them in manufacturing—grew the least after 1970.

The Bureau of Labor Statistics projects that these trends will continue to the end of the century. The occupations that will provide the largest absolute number of new jobs between now and 1995 are janitors, fast-food workers, nurses' aides and clerical employees—not the high-technology occupations like computer programming that we hear so much about. We are clearly moving toward an economy dominated by low-wage jobs. Unless this trend is offset by the technological upgrading of service jobs or widespread unionization, unemployment could fall to 5 percent, but we would not be very happy with the quality of the relatively large number of jobs that are available.

With the exception of highly educated technicians and professionals, and those workers who want part-time or part-year employment, all kinds of workers are potentially threatened by this relative decline in the availability of good jobs. Minorities who were making it into the middle class by way of secure jobs in the high-wage manufacturing sector are perhaps at greatest risk.

Consider also the phenomenon known as the "feminization of poverty." As it becomes harder for households to maintain a middle/class standard of living from the earnings of a single breadwinner, those households that are unable to put together an adequate income out of the wages of several family members are ever more likely to skid into the ranks of the nation's "new poor." The structural shifts in the economy fall especially hard on single-adult households, whatever the gender of that adult. Most such households are headed by women. Thus, on top of their historical difficulties as victims of discrimination in hiring and earnings, women heads of households will be especially hard hit by the structural shift in the economy.

Public debate about deficits, recoveries, trade balances and interest rates is useful, but it misses the main point. Economic growth and stabilization are not valued for their own sake. The question is: What do these macroeconomic conditions mean for real workers and real consumers? For some of us—perhaps for most of us—national economic growth without security, and more jobs but a declining standard of living, are simply unacceptable. The Democrats, at least, ought to be saying so.●

## VETERANS' ADMINISTRATION COMPLAINT

### HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. DASCHLE. Mr. Speaker, bureaucratic snafus are not an unusual phenomenon to Members of the House. We oftentimes deal with those problems in a routine fashion, solving the immediate problem for our constituent, but not probing to find the real root cause for the problem.

It is for that very reason I call to the attention of my colleagues an experience one of my South Dakota constituents has realized at the hands of the Veterans' Administration discrimination complaint process. On November 7, 1982, John Otten, of Arlington, SD, filed a discrimination complaint against the Veterans' Administration.

Following 11 months of preliminary review, and nearly 1 year later—September 9, 1983—he was notified that his case finally had received a number. As of March of this year, no further action had taken place on his file.

I do not raise this to argue the case for Mr. Otten. The procedure adequately allows him that opportunity. Nor do I find fault with Federal employees who are charged with implementing these programs.

My criticism lies with decisions to not allocate the appropriate manpower resources to these programs. Whether it be Social Security disability reviews, or EEO complaints within the VA, the same should hold true. If we are going to have the program, lets make them work by giving them adequate resources.●

## REMEMBERING THE MERCHANT MARINE

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. LANTOS. Mr. Speaker, in recent weeks our Nation has set aside time to pay special honor to the men and women who valiantly answered their Nation's call to arms in World War II. We have reflected with pride on those days of 40 years ago when Allied forces first stormed the beaches of Normandy to begin the long struggle of reclaiming Europe from the grip of tyranny.

In the process, we have not paid adequate homage to the thousands of dedicated Americans who answered another desperate call from their Nation during the war years. These were the men who kept the pipeline of troops and materials flowing in the darkest hours of the war. They formed our Nation's fourth arm of defense, suffering terrible losses, yet spanning the world in an unprecedented mixture of man and machine. I speak of those who served our Nation so well in the merchant marine.

The record of the merchant marine in World War II can be summed up in a single sentence: In the face of global demands, staggering losses, and desperate need the merchant marine rewrote the book on what a nation is capable of achieving on the world's oceans. What higher accolade can be bestowed upon any group in our Nation than to acknowledge that they held their duty and country dearer than themselves?

In the flush of victorious memories it is perhaps too easy to forget the terrible uncertainty that existed at times in the early stages of the war effort. In 1942, the merchant marine was suffering a greater casualty rate than all the armed services. In the first 4 months of that year alone, 82 merchant vessels were sunk off the east coast of the United States. Many of those ships went down within view of those standing on the shore. In the face of prowling U-boats and the Luftwaffe, new merchant mariners stepped forward to replace those who had fallen. They opened oceanic highways for the delivery of lend-lease materials, and the eventual landing of American troops in Europe. Honor rolls in union halls throughout this land offer quiet testimony to the 6,000 merchant mariners who died in the service of their country during World War II.

But they did deliver. Between Pearl Harbor and the end of the war, 270 million long tons of cargo were delivered to distant shores by U.S. shipping. Over 7 million military personnel were ferried overseas by the merchant fleet. Everything from locomotives to tanks to entire hospitals ready for assembly found their way to embattled areas through the service of the merchant mariner. At the same time, millions of tons of strategic commodities were being delivered back to the United States to facilitate our industrial response to the challenges of war.

As we mark the 40th anniversary of the invasion of Normandy this month, it is fitting to remember the substantial role played by the U.S. merchant fleet in executing "Project Overlord." For a full year in advance of the invasion, merchant ships cut through the Northern Atlantic delivering the heart of the assault effort to England. More than 14 million tons of cargo and 1 million troops began the long road to reclaiming Europe courtesy of the merchant marine. On D-day, more than 1,000 merchant mariners volunteered to take part in the actual landings of troops and supplies on the beaches of Normandy.

No, they did not wear uniforms. But the service rendered by the merchant mariner to his country during the Second World War transcends the notion that military service alone defined our Nation's commitment to fighting for liberty and freedom. The merchant mariner is a symbol of the national unity of purpose that carried us through the struggle and losses to ultimate victory. For every American who fought on the battlefields, there were many more who toiled, sacrificed, and died in support. As we remember our march to military victory in 1944, let us also remember the countless Americans, like the merchant mariner, who made the march possible.●

## PERSONAL EXPLANATION

## HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. MARKEY. Mr. Speaker, I regret that I was unavoidably detained and could not vote on House Concurrent Resolution 294, regarding Soviet nondelivery of international mail. Had I been present, I would, of course, have voted "yea."●

## TRIBUTE TO HARRY C. BECK

## HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mr. Harry C. Beck of Cressona, PA. On July 3 of this year, Mr. Beck will celebrate his 100th birthday. I am honored on this day to wish him an early and very happy centennial birthday.

Harry C. Beck, son of the late Charles and Mary Beck, was born in Cressona on July 3, 1884. He attended the Cressona public school and, as a youth, worked in his father's general grocery store. After helping his father for several more years, Mr. Beck became the postmaster of Cressona, a position he held for approximately 20 years.

A lifelong member of St. Mark's United Church of Christ in Cressona, Mr. Beck belonged for several years to the church choir. He has been a member of the Masonic Order for 79 years and is a life member of the Cressona Good Will Fire Co. Mr. Beck is married to the former Ruth Bittle and has one grandchild, Mrs. Carol A. Cleri of New York.

A lifelong resident of Cressona, Mr. Beck has always been keenly interested in the affairs of the community. For his earnest civic concern and for all the years of help and support he offered his friends and fellow Cressonans, I commend Mr. Beck. He has been an outstanding member of the community and truly exemplifies every meaning of the word "citizen." I know I join with the entire Borough of Cressona in honoring its eldest citizen and in wishing Mr. Harry C. Beck the best of centennial birthdays and every happiness always.●

## SENIORITY AND AFFIRMATIVE ACTION: AN ALTERNATIVE TO LAYOFFS

## HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mrs. SCHROEDER. Mr. Speaker, this week the U.S. Supreme Court struck down a U.S. district court order designed to prevent layoffs of black Memphis firefighters hired under a court-approved affirmative action plan. The court, in a 6 to 3 vote, ruled that courts may not interfere with seniority systems to protect the jobs of newly hired black workers when layoffs are necessary.

One effect of this decision is to pit the twin goals of seniority and affirmative action against each other. The history of the last 20 years since the passage of the Civil Rights Act of 1964 has been a continuing struggle to accommodate the rights of both senior workers and more recently hired minority and female workers who have traditionally been barred from certain jobs because of discrimination. The heart of the issue, however, is job security.

Recessions have become recurring events in the last decade with heavy layoffs in 1975, 1980, and 1982. Layoffs are devastating to laid-off employees and their families, who suffer not only loss of job and income, but also health and pension benefits. Historically, the Federal Government has done little planning for the next recession and programs to deal with high unemployment are implemented too late in the recession cycle for them to save workers' jobs and prevent layoffs. As a result, frequently workers lose their jobs and benefits, and sometimes exhaust the unemployment insurance payments, before Federal efforts are in place to alleviate the pain of unemployment.

Work sharing is a middle ground between seniority and affirmative action that should be given serious consideration as a means of protecting the job security of all workers. Although I have long promoted short-time compensation (STC) as an affirmative to layoffs, the Supreme Court decision in the Memphis firefighters case makes the adoption of STC even more critical.

STC is a change in the unemployment insurance—U.I.—system that permits employers, with union consent, to reduce the workweek of employees, who will receive a prorated share of the U.I. benefits to which they are entitled as compensation for the reduced workweek. For example, if an employer of 100 workers is faced with reduced demand, he can reduce the workweek of all 100 workers by 20 percent rather than by laying off 20 of them. The same U.I. benefits that would be paid to the 20 laid-off workers would be divided among the 100, to compensate for their reduced work time. Although there would be a slight reduction in earnings for all 100 workers, none would suffer the traumatic hardship of total unemployment. The employer would maintain a balanced, skilled, and productive workforce, there would be no significant additional drain on the U.I. trust fund, and affirmative action gains would be maintained.

Five States—California, Arizona, Oregon, Washington, and Florida—have amended their U.I. statutes to permit work sharing compensated by partial U.I. benefits, with successful results. All State programs were adopted with bipartisan and labor-management support. A 1982 evaluation of the California program, which was the first to be adopted in 1978, reported high levels of satisfaction by participating firms, union officials, and workers. The California study showed that workers retained close to 90 percent of their regular weekly take-home pay through the combination of their reduced salaries and prorated U.I. benefits. They also continued to receive health insurance coverage provided by their employers.

In 1982, over the objections of the Reagan administration, Congress enacted my bill to promote STC as an alternative to layoffs. The bill had strong support from the AFL-CIO—which in 1981 adopted a resolution in support of STC, Motorola, Inc., the American Jewish Committee, the National Urban League, and the Women's Equity Action League. My bill, which was attached to Public Law 97-248—the Tax Equity and Fiscal Responsibility Act of 1982—directed the Department of Labor to develop model State STC legislation, provide technical assistance to States, and to evaluate State STC programs, reporting its findings and any recommendations about future policy to the Congress and the President by October 1985.

It is ironic that during a period of double-digit unemployment that the major opponent of the STC legislation was the U.S. Department of Labor (DOL), which has assigned its responsibility under the 1982 law a low priority and underfunded its STC evaluation study. In addition, DOL rejected the urgings of the Advisory Committee, mandated by the law, which recommended that the study survey workers as well as firms.

In contrast, the Canadian Government became alarmed when unemployment rose to 8 percent in December 1981. The following month it announced a nationwide short-time compensation program, which was initially opposed by the central labor and business organizations. By the end of 1982, Lloyd Axworthy, the Minister of Employment and Immigration, called the program a roaring success. During the first year the Canadian Government received work sharing applications from 8,700 firms covering 200,000 workers in short-time compensation, which they claim averted 87,000 layoffs. In 1983, as the economy improved, 7,238 firms had 93,812 employees on work sharing. Initial opposition to the program subsided after the first year and STC became a major labor market program for dealing with unemployment which was widely used and popular among employers and workers. Canada's initial program limited workers to 26 weeks of work sharing, which was increased to 38 weeks during the first year. Funding for the program increased from $10 to $83 million when unemployment was high. In 1983, a 50-week program was instituted which was coupled with a retraining and placement program for permanently displaced workers.

In view of the Supreme Court decision in the case of the Memphis firefighters and because of the devastating effects of layoffs to workers and their families, short-time compensation deserves careful consideration as an alternative to layoffs.

Short-time compensation is not a cure-all for unemployment or all our economic ills. It should not be a substitute for other labor market strategies to create jobs or stimulate the economy. However, there is ample evidence that short-time compensation can be a powerful tool with which to fight unemployment.

I am attaching information about a recent book on work sharing entitled "Short-Time Compensation: A Formula for Work Sharing," which was published by Pergamon Press and the Work in America Institute, Inc. This book contains chapters on the STC programs in California, Arizona, and Oregon, as well as Germany and Canada. It also discusses the Federal legislation, implications for management, a labor viewpoint, and policy considerations for the future.

The information follows:

### ALTERNATIVE TO LAYOFFS EXPLORED IN NEW BOOK ON SHORT-TIME COMPENSATION FROM WORK IN AMERICA INSTITUTE

SCARSDALE, N.Y., March 7, 1984.—In the aftermath of the worst recession since the 1930s, layoffs persist and full employment remains an elusive goal. One way to cope with these problems, at least on a temporary basis, is through short-time compensation (STC), the subject of a new book edited by Ramelle MaCoy and Martin J. Morand and entitled "Short-Time Compensation: A Formula for Work Sharing." MaCoy is president of Collective Bargaining Associates, and Morand is a professor in the Department of Industrial and Labor Relations at Indiana University of Pennsylvania and director of the Pennsylvania Center for the Study of Labor Relations.

Based on their "front-line" experience, the co-editors and ten other experts in the field review the applications of short-time compensation and its possible effects on management, unions, and society as a whole. Published by Pergamon Press, the book has been sponsored by Work in America Institute, with the support of The German Marshall Fund of the United States. Representatives Patricia Schroeder wrote the foreward.

In announcing publication, Jerome M. Rosow, president of Work in America Institute, said, "The Institute is pleased to sponsor this important book in order to make available to a much wider audience the tools for establishing short-time compensation as an attractive alternative to layoff." An early supporter of short-time compensation, the Institute proposed it as one of several ways of managing work time in its policy study report "New Work Schedules for a Changing Society" (1981). In a forthcoming policy study, "Employment Security in a Free Economy," it will recommend short-time compensation as an option preferable to layoff.

### A NEW WAY TO WORK

"Short-Time Compensation: A Formula for Work Sharing" deals with a new (for America) way to work called short-time compensation—work sharing supplemented by shares of regular unemployment insurance (UI) benefits, prorated in proportion to the reduction of work time.

This system of encouraging employment instead of subsidizing unemployment was initiated in Germany over 50 years ago and, with variations, is in place in most of Western Europe and Japan. Five American states—California, Arizona, Oregon, Washington, and Florida—have in recent years amended their UI laws to permit STC benefits for reduced workweeks, and Canada has adopted a similar program. In 1982, Congress passed legislation mandating that the Department of Labor "assist states" in developing laws.

According to MaCoy and Morand, STC can be illustrated by a simple example: "Suppose because of reduced demand the employer of 100 workers is planning to lay off 20 of them. Instead, however, he reduces the workweek of all 100 workers by 20 percent, and the same UI benefits that would have been paid to the 20 laid-off workers are divided among the 100. Even though there would be a slight reduction in earnings for all 100 workers, none would suffer the traumatic hardship of total unemployment; the employer would maintain a balanced, skilled, and productive work force, and there would be no significant additional drain on the UI fund."

Some of the advantages of short-time compensation cited in the book are that it:

Combats cyclical unemployment;

Permits employers to keep their skilled work force intact through temporary setbacks;

Allows employees to retain their jobs and most of their income;

Helps maintain affirmative action gains by minorities and women;

Reduces state and federal welfare expenditures for laid-off workers;

Increases federal, state, and local tax receipts;

Avoids a drop in payroll taxes paid into the Social Security system.

### FROM WORK SHARING TO STC

Work sharing—with reduced wages as well as hours—was commonly used in the United States during the Great Depression to reduce unemployment. The practice gradually fell into disfavor and disuse after 1938, however, when unemployment compensation come into existence. Work sharing remained a dead issue until the 1970s when, as short-time compensation—work sharing plus partial unemployment benefits—it was advanced by civil rights groups concerned that layoffs would affect recently hired women and minorities more severely than others.

Nevertheless, when California enacted its STC law in 1978, civil rights groups and issues played only a minor role. STC became a reality in California because people believed that Proposition 13 would necessitate a massive layoff of public employees. In Arizona, a major corporation, Motorola, was responsible for the consideration and adoption of STC. And in Oregon, the STC law was passed in the midst of the severe 1980-1982 recession to help the state cope with one of the highest unemployment rates in the country. Canada's law also was passed as a result of the recession.

### THE NEW FEDERAL LAW

In 1982, a coalition of all sectors—women's organizations, labor unions, religious representatives, and civil rights groups—supported the federal STC legislation proposed by Rep. Patricia Schroeder at hearings in Washington, D.C. Their support made it possible for STC legislation to pass in both houses of Congress, and to be signed into law on September 3, 1982.

The federal law is limited in purpose. It merely requires the Department of Labor to "develop model legislative language" and "provide technical assistance to states in developing, enacting, and implementing . . . short-time compensation programs."

Even before the Department of Labor had written model legislation, two additional states, Florida and Washington, followed the examples of California, Oregon, and Arizona and instituted their own STC programs.

### AN OVERVIEW

In the first section of the book, "Short-Time Compensation: An Alternative to Layoff," the co-editors present a summary of work sharing and short-time compensation in the United States, from 1927 to the present, followed by chapters on the implications of short-time compensation for management and the viewpoint of unions toward short-time compensation.

In Section II, "Short-Time Compensation: At Home and Abroad," persons who are intimately involved in actual programs describe those programs in the Federal Republic of Germany; in California, Arizona, and Oregon; and in Canada. In the last chapter, the federal response to short-time compensation, culminating in federal legislation, is described. (See attached contents for names of authors).

In the final section, "Short-Time Compensation: Issues and Options," experts assess the effect of STC on affirmative action, explore the policy considerations that remain, and discuss the impact of STC on labor-management cooperation.

Work in America Institute, Inc., sponsors of this book, is a nonprofit, nonpartisan work research organization, founded in 1975 to advance productivity and the quality of working life. It has a broad base of support from business, unions, government agencies, universities, and foundations, as reflected in its board of directors, academic advisory committee, and roster of sponsoring organizations. The Institute has a particular interest in supporting this book because it offers an alternative to layoffs, an issue high on the agenda of the Institute.●

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## GOLDEN WEDDING ANNIVERSARY OF TED AND JULE HUGHES

### HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. HARRISON. Mr. Speaker, this coming weekend, two very wonderful people will celebrate a golden milestone in their lives. Edwin W. (Ted) Hughes and his wife, Jule, will have been married for 50 years.

It is typical of their long and fruitful lives that they will celebrate their joy by attending Holy Mass at St. Theresa's Church in Wilkes-Barre, at 4 p.m.

Immediately after, Ted, Jule, their family and many, many friends will be hosted at a reception by their three children, Jule Ann Conlon, Iva Hanlon, and Roberta Feldman. That occasion will give us all the opportunity to congratulate Ted and Jule not only on their lives together, but on their beautiful family, now stretching into its third generation, and on the lasting imprint they have left on the greater Wilkes-Barre community. Theirs have been lives of dedication to God and to their fellow man. They have worked in church, in civic affairs, in public ways, and in private to make the lives of those around them better, richer, and more productive.

And so it will be a day of real happiness for all of us as we join with their 3 daughters and their 14 grandchildren in celebrating a truly beautiful moment.

It should be noted here, Mr. Speaker, that Jule Ann is married to Charles Conlon and they have five children: William, Lisa, Charles, Katherine, and Christopher. Iva is married to John Hanlon and they have four: Jule, Ann, John, and Erin. Roberta, or "Bobbie," as we called her in the 1957 St. Mary's graduating class which we shared, is married to Gavin Feldman and they also have five children: John, Patrick, Mary Beth, Timothy, and Kevin.

Mr. Speaker, the daily media tells us, in great detail, what is so very wrong with this world we share. All too seldom do we have an opportunity to reflect on what is so very right about it. And that is what makes this a glorious occasion and one that I am happy to be able to share with my friends and colleagues here in the House.●

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## GREAT LAKES SUGARBEET GROWERS PRESIDENT STANLEY GETTEL COMPLAINS OF CANADIAN SUGAR EXPORTS IN CONTRAVENTION OF SUGAR IMPORT QUOTA

### HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. TRAXLER. Mr. Speaker, Stanley Gettel, president of the Great Lakes Sugarbeet Growers Association, yesterday testified at a hearing sponsored by the U.S. Department of Agriculture, that, "the Canadians continue to find loopholes in the current sugar quota program," and that this Canadian action threatens the effectiveness of our sugar quota program in the Northeast and Midwestern regions of the United States.

These hearings are being held to gather comment from farmers, the individuals most affected by our preliminary discussions over the terms of the 1985 farm bill. There is no question that the sugar program will be one of the most controversial provisions in the new farm program, and there is also no question that the sugar program is doing more to help American agriculture than any other portion of our current farm laws. I strongly support the current program and hope it will be included in the 1985 farm bill.

Many of our colleagues, Mr. Speaker, need to remember that the sugar program operates at no cost to the taxpayer, and results in a revenue gain as a result of interest collected on short-term loans made under this program. It has also stabilized the domestic price of sugar which on a world basis is seeing the lowest price in over 13 years. This world price represents fire sale clearance prices for the sugar that is produced in excess of contractual commitments which guarantee those foreign growers substantial profits.

I would like to include Mr. Gettel's testimony in the Record at this point so that all of our colleagues have the opportunity of learning more about an important situation.

### Testimony of Stanley Gettel, President of the Great Lakes Sugarbeet Growers Association

Mr. Secretary, I appear on behalf of over 2,000 sugarbeet growers in the Michigan-Ohio region. This represents all of the sugarbeet production east of the Mississippi River.

It is my understanding that representatives of other sugarbeet and sugarcane areas have submitted testimony in previous listening sessions. Our growers are in agreement with those statements. It is important, however, to highlight the specific concerns of our region.

The economy of the state of Michigan is predicated on three major industries—agriculture, automobiles, and tourism. For the past three years each of these industries has been critically ill. Only recently have we begun to recover from the depression, and the state is still far from being healthy. The economic wounds are healing very slowly, but the ugly scars left behind will be visible in both rural and metropolitan Michigan for some time to come.

The fertile Saginaw Valley of Michigan and the northern area of Ohio are fortunate to have a sugarbeet industry. Our family farms have been a reliable supplier of sugar to food processors and consumers in Michagan, Ohio, Indiana, and portions of New York state since the early days of this century. Sugarbeet production is a vital part of our farming operations, and is the life-blood of our small communities.

We are the second-lowest-cost producing region of sugarbeets in the United States. The current sugar loan program is at a level at which we, along with our processing partners, are forced to increase our efficiency in order to stay alive. In fact, it was the low loan rate which prompted the closing of the Fremont, Ohio factory in 1982. The factory reopened in 1983 simply because farmers knew that a second year of closure would be the final chapter for the industry in Ohio. The industry is desperately needed in both states.

At first glance you would think that our growing region has the best of all worlds—low-cost production, close proximity to markets, and a reasonable distance from other domestic producers. Unfortunately, one major factor threatens all of those advantages.

The threat is Canada. In fact, Canada is so close that some of our beet growers are within 10 miles of its border. Given the current depressed world price, if quotas were relaxed or lifted, sugar would flow into this country like water flows over Niagara.

The Canadians continue to find loopholes in the current quota program, and are presently shipping a dry sugar and dextrose blend into the U.S., where the dextrose is then removed. This sugar is over and above Canada's "official quota."

Mr. Secretary, it is my understanding that historically the Canadians have purchased some Cuban sugar to refine and sell. Even though our "official imports" from Canada are minimal, it concerns me, not only as a U.S. sugar producer, but as an American, that my fellow citizens not be the consumers of any "laundered" Cuban sugar through Canada. I do not know that this is in fact happening, but then again, I do not know that it isn't, either. By law we are prohibited to trade with Cuba. If quotas were lifted, would we then be encouraging Canada to act as a broker for Cuban sugar?

Given the political tensions in Central America, a simple thing like this could cause some political and diplomatic embarrassment to our country. It seems odd that a country such as Canada, which is a net importer of sugar, has been allocated an export quota to our country. I guess we must sometimes justify our actions in the name of diplomacy.

The record should be clear that I am not encouraging a change in the present program, the administration of the program, or that Canada not have a quota. I am simply pointing out concerns of my fellow growers if the program were to be relaxed or significantly changed.

Since the U.S. is a major importer of sugar, our domestic policy must be flexible enough to react to the constantly-changing domestic and international market forces. Currently there is no effective international agreement which stabilizes production with consumption. Last Tuesday, June 12, approximately 80 sugar exporting and importing nations reconvened in Geneva, Switzerland in their final attempt this year to construct a new International Sugar Agreement (ISA). The current ISA ends on December 31 of this year. If all major importing and exporting countries could come to a workable agreement within the next two weeks, it would help relieve future stress on the world market.

Whatever the outcome of the negotiations, three points must be made:

1. An international agreement never has, nor ever will be, a substitute for an effective domestic policy.

2. The mechanics of our current domestic program can work in harmony either with or in the absence of an international agreement.

3. The Administration has the authority, flexibility, and proper tools to manage the current domestic program effectively.

Mr. Secretary, we ask the Administration to support the current program in the upcoming farm bill with changes to reflect the increased cost of production.

Thank you very much.●

## TRIBUTE TO REV. WALTER S. TAYLOR

### HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. TORRICELLI. Mr. Speaker, I rise to pay tribute to one of my community's most strident and effective voices for social justice, that of Rev. Walter S. Taylor. Until the day of his passing last week, Reverend Taylor was a tireless worker for spiritual and social understanding in Bergen County and our country. I am proud to have been his friend.

Like many civil rights leaders and ministers, Walter Taylor dedicated his life to making our place on Earth one of peace and compassion. But Reverend Taylor went beyond the bounds of the traditional civil rights movement. In 1972, Reverend Taylor broke the racial barrier in Bergen County electoral politics by becoming Englewood, NJ's first black mayor. Although his term was marked by controversy and conflict, black political power would never be denied again.

As pastor of the Galilee United Methodist Church, which he helped to build over 32 years, Reverend Taylor had a keen awareness of the special relationship between religion and politics in the United States. He said, "Politics determines the kind of world you will be born in, the kind of education, health care and job you will eventually get * * *. The church must address itself and be involved in anything that affects life as greatly as this. The church must be forcing politicians to move in the interest of the community."

Although our community grieves the loss of Rev. Walter Taylor, we can celebrate the richness and meaning of his life. For like the newspaper he founded and published, the Torch-Bearer, Walter Taylor provided a beacon of peace and understanding.●

## PHYSICIANS' ATTITUDES TOWARD COST CONTAINMENT

### HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. GRADISON. Mr. Speaker, last October the Equitable Life Assurance Society of the United States released the results of a survey, conducted by Louis Harris & Associates for The Equitable, on public attitudes on health care costs in America—the first such study ever conducted.

Included in this study were the opinions of physician leaders, hospital administrators, health insurance executives; labor leaders, corporate health benefits officers, as well as a cross section of the general public. Among the findings of this survey, "The Equitable Health Care Survey: Options for Controlling Costs," were the following:

> There is a general consensus that fundamental changes are needed to make the U.S. health care system work better;
>
> There is a widespread dissatisfaction with the cost of hospitalization;
>
> The health care system as it currently exists does little to encourage price competition; and
>
> The American public is ready to accept a broad range of cost-containment proposals.

Because of the concern that this survey had not taken into account the broad cross section of physicians, The Equitable decided to commission another survey, "The Equitable Health Care Survey II: Physicians' Attitudes Toward Cost Containment."

To the extent this survey found areas of consensus between physicians and the public on cost containment, I am encouraged that doctors can and will play a valuable role in the effort to curb rising health care costs. However, survey II did reveal considerable resistance to many cost containment measures among physicians. Unless their attitudes move closer to those of the American public, doctors may find themselves viewed as part of the problem, when they should be part of the solution.

The questionnaire used in this most recent study was virtually identical to the one used in the earlier study, so it is possible to compare the views of the physicians surveyed here with those of physician leaders, hospital administrators, and the American public.

**Mr. Speaker, I submit to you a summary of the findings of this second study, "The Equitable Health Care Survey II: Physicians' Attitudes Toward cost Containment," and urge that my colleagues carefully consider these attitudes when, in the days ahead, we confront the problem of controlling health care costs.**

**The summary follows:**

1. Less than half of all physicians believe that the American health care system works well and needs only minor changes. This finding contrasts sharply with the views of physicians who head state, local and specialty medical societies (physician leaders), two-thirds of whom believe that the nation's health care system works well.

These responses are strikingly different from those of the American people, only 21% of whom believed, in 1983, that the health care system was working pretty well, and most of whom felt that fundamental changes were needed or that the system needed to be completely rebuilt.

2. There is no consensus among physicians with regard to priorities for change in the nation's health care system.

The answers given most frequently in reply to a question concerning which one change they would most like to see relate to improved access to health care, cost containment, and less government interference and regulation of the health care system.

3. Most physicians are satisfied with the availability and quality of health care generally, with their own health insurance benefits, and with the cost of health care.

However, fully 41% of physicians are dissatisfied with the total cost of care, and 32% are dissatisfied with out-of-pocket costs.

4. A majority (59%) of physicians think that the cost of hospitalization is unreasonably high.

However, sizable majorities believe that the costs of doctors' visits, laboratory tests, and health insurance are reasonable. In contrast to the opinion of a majority of physician leaders who think the cost of prescription drugs is reasonable, physicians reveal only a plurality of opinion regarding this issue.

5. Majorities, in most cases large majorities, of physicians think that seven different factors have contributed to the rise of health care spending over the last few years.

However, only a minority (17%) think that unit-cost inflation—the increasing cost of the same services—is the main reason. This latter view contrasts sharply with that of the American public, 44% of whom feel that unit-cost inflation is the main reason for increased spending.

The factors most widely believed to have had a major impact on health care spending are:

The increasing use of expensive equipment and technology;

The fact that the population as a whole is getting older;

The growth of expensive malpractice suits and malpractice insurance;

The increased availability of government-funded programs such as Medicare and Medicaid;

The increased availability of employer-provided health insurance;

Doctors ordering more laboratory tests than are necessary; and

Unnecessary hospitalization.

6. A majority of physicians believe that the third-party payment system, as it exists today, is a major contributor to increased health care spending.

While large majorities of physicians believe than the third-party payment system, the practice of defensive medicine, and the aging of the population have contributed to increased health care spending, there is a plurality of opinion on the idea that the increase is due to a lack of competitive pricing in the health care industry.

Younger physicians and physicians who are not members of AMA tend to agree that a lack of price competition contributes to health care cost inflation.

7. A majority of physicians believe that the present health care system is price competitive.

Physicians' views on this subject are in sharp contrast to those of hospital administrators and the public. A majority of the public (76%) believe that one of the problems of health care is that there is no competition to keep prices down. Furthermore, majorities of hospital administrators, insurance executives corporate benefits officers, and union leaders all share the public's view that the nation does not have a price-competitive system.

In this context, it is important to note that only 16% of the public have ever chosen a physician because his or her fees were lower than those of another doctor.

8. There is no agreement among physicians as to the proportion of all health care costs that are incurred by the highest spending 10% of the population.

The median response is that 56% of all spending can be attributed to this 10% of the population, a figure somewhat lower than available data and other estimates would suggest.

Physicians believe that the main reason for the increased concentration of health care spending on a small proportion of the public are: the aging of the population, the use of more expensive procedures to save or prolong life, the unhealthy lifestyles of some Americans, the use of new medical technology, and the overuse of health care services by a few people.

9. Reactions to specific health care cost-containment policies vary from almost unanimous acceptance to overwhelming opposition.

In general, there is a relatively high correlation between the perceived effectiveness of a policy and its acceptability. Where a policy is perceived to be effective, it is generally acceptable. Where it is not acceptable, it is generally not thought to be effective. However, there are a few important exceptions to this rule.

10. By large majorities, physicians believe that most policies which would increase cost-sharing by patients would be both effective and acceptable.

Specified policies endorsed by large numbers of physicians relate to increased deductibles and copayments, and requiring patients to pay a part of their employer-paid insurance premiums. On the other hand, less than half of the physicians view a new tax on the top portion of large health insurance premiums as an effective or acceptable cost-containment measure.

11. Overwhelming majorities of physicians endorse changes in the health care system that would reduce hospitalization.

Alternatives to hospitalization in the care of the chronically ill or for tests and minor surgery are considered both effective and acceptable in containing health care spending. However, certification by insurance companies prior to non-emergency hospitalization is acceptable to less than half of the physicians.

12. Physicians view the proposal to require second opinions prior to non-emergency surgery as generally acceptable.

However, there is some doubt about its effectiveness in controlling costs.

13. Discouraging the duplication of expensive equipment and specialists at nearby hospitals is a proposal acceptable to almost two-thirds of physicians.

Almost three-fourths of the group consider this an effective means for containing health care costs.

14. Utilization reviews are thought to be at least somewhat effective, but a sizeable minority (44%) do not regard them as acceptable.

The proposal to fix fees paid to doctors and hospitals based on diagnosis-related groups (DRG's) is unacceptable to a clear majority of physicians.

However, over half of the physicians concede that it is an effective cost-containment strategy.

15. The notion of government price controls draws the greatest consensus of negative responses from physicians.

Although almost half agree that such controls would reduce health care spending, fully 85% find the proposal unacceptable.

16. Health Maintenance Organizations (HMO's) and preferred provider plans are unacceptable to a majority of physicians. However, medical opinion is more receptive to a system where a primary care physician receives a predetermined fee for providing basic medical care and is also responsible for authorizing additional health care services.

17. Large majorities of physicians consider insurance plans that provide individual incentives for healthy living or group incentives for below target expenditures to be both effective and acceptable in controlling health care costs.

18. Changes in laws relating to malpractice that would reduce the pressure on doctors to practice defensive medicine are generally thought to be both effective and acceptable.

19. Most physicians believe that changing antitrust laws so that third-party payers can join together to negotiate fees with providers would be an effective cost-containment strategy.

A smaller majority consider this proposal acceptable.

20. Business coalitions formed to control health care costs are seen as both effective and acceptable by a majority of physicians.

21. There is some resistance among physicians to encourage the use of nurse practitioners, midwives, and physicians' assistants instead of physicians.

While over 50% find this change unacceptable, a large minority (46%) also believe that this would not be an effective means for controlling costs.

22. While most physicians believe that reducing the use of so-called "heroic" medicine would be effective in controlling health care spending, a smaller majority find this proposal acceptable.

23. There is overwhelming disapproval of the concept of cost-shifting.

Policies that result in a shift in the cost of treatment for Medicare and Medicaid patients to fees paid by private-sector patients are looked upon with disfavor by most physicians.

24. Health care coverage for the unemployed is favored by most physicians, even if it means additional direct or indirect cost to other people.

While the majority of physicians favor providing this coverage by extending employer-paid insurance or by encouraging each state to finance it, they oppose financing this coverage through a federal program or from any type of new tax.

25. In general, physicians in the South are more conservative.

They are more satisfied with the status quo and are least likely to accept policies which would adversely affect their income.

26. In most instances, younger physicians (i.e., physicians who have graduated more recently) are more receptive to the proposed changes in the health care system than are older physicians.

The changes that older physicians endorse in larger numbers than younger physicians are those that would shift additional costs to the patient. AMA members, who tend to be older than nonmembers, also tend to be more conservative than nonmembers in accepting changes in the health care system that would place constraints on the price or use of health care services and on equipment purchases.

27. Physicians are out of step with the nation on many key issues.

They are less critical of the status quo, much more likely to believe that the health care system is price competitive, and much less willing to accept alternatives to the traditional fee-for-service, doctor-patient relationship than the public, hospital administrators, employers, union leaders, or insurance executives.

28. However, practicing physicians are more likely to see the need for change than are their elected leaders.

They are also somewhat more willing to accept alternative delivery systems.●

## THE PERFORMANCE OF THE KETTERING CHURCH OF GOD YOUTH GROUP

### HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. DEWINE. Mr. Speaker, this morning, Wednesday, June 20, 1984, the Kettering Church of God Youth Group will perform on the steps of the House of Representatives. These fine young singers from the Beavercreek, and Kettering, OH, areas are touring Washington, DC for several days and are looking forward to singing on the steps of their Nation's Capitol and also to learning more about our Government.

Mr. Speaker, I would like to ask that my colleagues and the members of their staff join me on the steps of the U.S. Capitol to hear these young people from the Kettering Church of God.●

## REPEAL THE WAIVER FOR MOST FAVORED NATION STATUS

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. PHILIP M. CRANE. Mr. Speaker, today I am introducing legislation which would eliminate a provision in the Trade Act of 1974 which allows the President to ask for a waiver of Jackson-Vanik human rights provisions in conjunction with granting coveted most favored nation [MFN] trade benefits to Communist countries. The purpose of my amendment is to insure that the intent of the Jackson-Vanik amendment is respected.

The Jackson-Vanik provisions were made a part of the Trade Act in an effort to make a statement in support of basic human rights; indeed, the U.S. Helsinki Watch Committee has stated:

> The spirit of the (Jackson-Vanik) amendment has been interpreted to include the human rights situation as a whole.

Further, the amendment itself, now part of the Trade Act, states that it is "to assure the continued dedication of the United States to fundamental human rights * * *" that products of nonmarket [Communist] countries are not to receive favorable MFN treatment if they have not complied with the very simple and basic tenets of that amendment regarding the right to emigrate.

The law also contains a provision which would allow the President to ask for a waiver in cases where the Communist country does not comply with the simple and basic provisions of Jackson-Vanik, and yet the President wishes to grant the country MFN despite its noncompliance. Mr. Speaker, this provision in current law allowing the waiver makes a mockery of the basic tenet of the Jackson-Vanik section of the Trade Act.

The Jackson-Vanik provisions are very limited in scope. They ask only that for a product from a Communist country to receive special trade status—most-favored-nation status—the Communist country is not to do three specific things. The country may not "deny their citizens the right or opportunity to emigrate." It also may not "impose more than a nominal tax on emigration or on the visas or other documents required for emigration for any purpose or cause whatsoever." Finally, with respect to procedures, the country may not "impose more than a nominal tax, levy, fine, fee or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice."

Mr. Speaker, you will agree that these requirements are very simple and represent only the bare minimum in human rights considerations. It minimizes and depreciates our sincerity when we allow these simple requirements to be waived in order to grant MFN to a Communist country which does not even respect these simple basic requirements. We mock ourselves, Mr. Speaker, and we allow Communist countries to mock us also, when they see that we grant a waiver year after year. Why should Communist nations respect the Jackson-Vanik requirements when we provide them the MFN whether they comply or not? Why should we support them in their complicity? Why should we indicate approval of their failure to comply and why should we hold our own law in such disrespect that we would waive its simple provisions year after year? Where are those who honestly believe in basic human rights when this is happening?

I want to stress that the Jackson-Vanik provisions represent a minimal requirement for Communist countries, and that even these are actively avoided when possible by those countries. For example, our Jackson-Vanik provisions refer to citizens of Communist countries. To avoid our requirements, some countries simply refuse to call a "citizen" anyone who has expressed a desire to emigrate. They go further. As a noncitizen, their government takes away their ration cards (without which they cannot buy food), demotes or fires them from their jobs, harasses spouse and children, and engages in countless other forms of harassment. We would all agree that this is most severe treatment of one who simply indicates a desire to emigrate. We would all agree that to refuse to call such a person a citizen is a despicable subterfuge to engage in and an unconscionable way to attempt to avoid complying with the Jackson-Vanik provisions of the Trade Act.

I call upon all who truly support simple and basic human rights for all—including those who live under Communist regimes—to support the legislation I am offering today to remove the provisions in our current law which allow a waiver of the tenets of Jackson-Vanik.

H.R. —

A Bill to repeal the provisions of law under which the denial of nondiscriminatory treatment (most-favored-nation treatment) to nonmarket economy countries under title IV of the Trade Act of 1974 may be waived

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 402 of the Trade Act of 1974 (19 U.S.C. 2432) is amended by striking out subsections (c) and (d).

SEC. 2. (a)(1) Section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is repealed.

(2) The table of contents of such Act of 1974 is amended by striking out the following:

"Sec. 153. Resolutions relating to extension of waiver authority under section 402.".

(b) Section 154(a) of the Trade Act of 1974 (19 U.S.C. 2194(a)) is amended by striking out "402(d),".

Sec. 3. Any extension of waiver authority under section 402 of the Trade Act of 1974 that is in effect on the date of the enactment of this Act shall remain in effect with respect to the foreign countries concerned for the duration of the extension period.●

## PUBLIC APATHETIC TO "BACKYARD" PERIL

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● **Mr. LAGOMARSINO.** Mr. Speaker, I am concerned, as is Edward Neilan, foreign editor of the Washington Times, that Americans in general are not sufficiently aware of the threat that the Soviet Union, Cuba, and Nicaragua pose for Central America and the United States. I believe it is necessary to continue to stress the dangers of Communist subversion in this hemisphere and to get that message across to the American public. I urge my colleagues to read the following commentary by Mr. Neilan from the June 13 edition of the Washington Times.

### PUBLIC APATHETIC TO "BACKYARD" PERIL

(By Edward Neilan)

The Soviet Union's use of surrogate forces around the world—most noticeable Cubans—is intensifying, and the situation is growing particularly serious in "our own backyard" in Central America.

As President Reagan pointed out in his May 9 televised address to the nation, Americans have a right to be concerned about Soviet-backed Cuban subversion in Central America because it "is a region of great importance to the United States."

For one thing, it is so close. The president noted that San Salvador is closer to Houston, Texas, than Houston is to Washington.

The president characterized Central America as being "at our doorstep" and said it has become the stage for a bold attempt by the Soviet Union, Cuba and Nicaragua to install communisn by force throughout the hemisphere.

Jose Figueres Ferrer, who was president of that remarkable country Costa Rica in 1948-49, 1953-58 and 1970-74, disagrees with Mr. Reagan about Soviet intentions and Cuban actions. He wrote recently that "discussions between the Soviet Union and the United States would be extremely useful, particularly if the Russians could reassure the Americans that they have no strategic interests in the region."

The day after the Costa Rican statesman's article appeared, there were reports that a Bulgarian ship unloaded more Soviet arms and more Cuban advisers at a Nicaraguan port.

Central American leaders are not the only ones who would like to see an end to subversion and armed struggles in their region.

Secretary of State George Shultz's recent one-day visit to Managua was only the latest in a long series of bilateral meetings with the Nicaraguan government in which the United States has presented specific proposals for peace.

The real problem in Central America is that Americans up here don't take the situation down there as seriously as does the administration.

It is difficult for the average American—who has trouble getting past the latest news of U.S.-Soviet moves, summit visits or the international debt crisis—to get worked up over a story from Tegucigalpa, Honduras.

But the danger of communist subversion in Central America is clear, and it will be getting worse as Americans are preoccupied this summer and fall with the election campaign.

It is not "seeing a red under every bed" to describe the Sandinista rule in Nicaragua as a communist reign of terror.

Shortly after taking power, the Sandinistas—with help from Cuba and the Soviet Union—began supporting aggression and terrorism against Guatemala, Costa Rica, El Salvador and Honduras. They set up camps for guerrillas from El Salvador to be trained and then return to their country and disrupt its government.

Nicaragua is the headquarter or base camp for communist guerrilla activities in Central America. Plenty of help comes to Nicaragua from Cuba. In 1979 there were 165 Cuban personnel in Nicaragua. Today there are more than 10,000.

Yet the United States is criticized for having fewer than 100 trainers in El Salvador!

Nicaragua's own military forces have increased from 10,000 in 1979 to more than 100,000 today. Leaders there claim the increase is in response to American aggression in recent years. The truth is that both the Carter and Reagan administrations did everything to try harder to be friends with Nicaragua, including sending economic aid.

The overtures did no good, and Nicaragua continues to export terrorism.

The words of the Sandinistas' official party anthem describe the United States as the "enemy of all mankind."

The intentions of Nicaragua, Cuba and the Soviet Union in Central America should be clear to everyone.

The crux of the problem up here is getting the message across to an indifferent, or otherwise preoccupied, American public.●

## TUCSON STUDY TOUR OF ISRAEL

### HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● **Mr. McNULTY.** Mr. Speaker, last month a group of civic leaders from Tucson, AZ participated in the Tucson Interreligious Study Tour in Israel. The study tour was sponsored by the Tucson Jewish Community Council and led by Carol Karsch, chairman of the community relations committee. The group visited with political leaders, scholars, and military representatives of the Israeli Defense Force.

My legislative staff director was among the study tour participants. His report and conclusions may be of interest to students of the peace process in the Mideast and those more generally concerned with the advancement of American goals of peace and security in the region.

The report, published in the Arizona Post, June 15, 1984, follows:

### ISRAEL'S ACCOMPLISHMENTS AND FREEDOM ARE RARE ACHIEVEMENTS

(By John Crow)

The firt-time visitor to Israel gets a prompt introduction to the security problem soon after boarding the bus from Ben Gurion International Airport in Tel Aviv for Jerusalem. The roadway gradually makes its way upwards through the Judean hills. Rusting military vehicles and well kept memorials to the men who fought their way through this same corridor are vivid reminders of the blood that was shed to secure independence in 1948. Our guide tells us 2,000 deaths were the price of access to Jerusalem. Even the amateur student of military affairs can appreciate how difficult that operation was and understand the determination of Israelis to not again be so vulnerable.

That determination is made clear again and again as one travels through the contrasting regions of Israel and sees its remarkable achievements. As much as the numerous and contentious political parties differ on how to resolve the many pressing economic problems on the national agenda, there is no division on the first need of the nation: to assure its military security.

On our way north we stop briefly to view a non-descript school building. Four years ago three P.L.O. infiltrators made their way the few hundred yards from the international boundary with Lebanon to this school and a nearby apartment house. Twenty-one deaths of women and children were the price paid that day.

By the time the visitor reaches the Golan Heights and views the valley below and the collectives which were once bombarded from these ramparts one begins to understand Israeli determination. In a military camp in the Heights, a new tank, the Mirkava is demonstrated. As a fighting machine the Mirkava is unmatched in the world: it is an awesome weapon in firepower, speed and crew protection. The young men and women of the tank company are highly competent, well trained and in full readiness to deal with any Syrian effort to reclaim the area. Though well-fed and serious of purpose, one is reminded that youthful energies are the same everywhere when a young woman soldier does hand-stands as she talks with her companions in the bright sunshine.

In a meeting with General Yoram Yair, "General Ya Ya" to the press, we hear of Israel's current military security problems and of the determination of the officers and men of the Israeli Defense Force to do what they must. The General more than most citizens is able to voice his wish to live a life of peace with his family, his children and his crops. His government stands, as it has for many years, ready to discuss a peace agenda with its neighbors. Egypt remains the only neighbor whose government had the courage to make peace.

Israel's democratic ways place it in a minority of the nations of the world and places it in a firm, irrevocable friendship with the United States. Unique to Israel, even in the society of free nations, is that this democracy has persisted, even thrived through 36 years of constant external threat and regional tension.

Making use of its democratic ways, Israelis are preparing to listen to the party appeals being made as part of the national election to be held July [illegible]. National debate is serious, for the economic problems Israel faces are profound. The nation cannot continue to meet its goals with a 400 percent annual rate of inflation. Difficult choices must soon be made. The question of the best course of action seems to have as many answers as people one talks with.

Devoting a third of the gross national product to national security means there is a continuing, relentless pressure on non-defense programs each of which makes a contribution to building a nation. But consumer price increases on a level of 5 percent per week are unsettling: every family must wonder where it will be materially in the months ahead. The only certainty in the situation is that the choices will be made by a free and determined people.

It is impossible to visit Israel and not leave with a sense of the accomplishments of its people: free access to religious shrines held sacred to men and women of three faiths in Jerusalem, access established for the first time in human history. A modern, high-technology society is being built where for thousands of years only shepherds could extract a living from barren, rock-filled hillsides. And freedom of speech and the right to disagree with the government is thoroughly established as the right of every citizen.

Such achievements singly are rare; taken together they are largely unprecedented in our modern world where the more common response of governments has been that national security requires suppression of the unpopular or that citizens must be sacrificed so that economic development can be forced for a remote tomorrow.

Citizens of the world who have not visited Israel ought to place it high on their agenda: what they will see is very special and very important.●

## WELCOMING THE INTERNATIONAL GAMES FOR THE DISABLED

### HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. McGRATH. Mr. Speaker, on Sunday, June 17, the weather forecast for Uniondale, NY called for thunderstorms. But the afternoon turned into one of such bright light, I am certain every one of the 14,000-plus spectators at the opening ceremonies for the International Games for the Disabled, as I, was moved by the rays of hope that surrounded this extraordinary gathering.

Athletes from 44 nations have assembled in my district to participate in the competition which gives the disabled the opportunity to put the world on notice. By participating, these courageous competitors have signaled a refusal to be kept down, a refusal to pass on the chance to be an equal part of our society.

The athletes no doubt have individuals stories of hardship, discrimination, and exclusion, yet the broad and bright smile on every face belied only unbounded joy, and sheer determination.

The participants' exuberance was shared by those in the stands who loudly cheered the arrival of every national contingent of athletes. Among those in the audience were families of some of the athletes, disabled citizens from around the country and throughout the world who shared in this spirit of hope and belonging.

I am pleased that the President was able to attend, as I know his presence and encouraging words served as an inspiration. I would like to take this opportunity to congratulate Nassau County Executive Fran Purcell, and all of the county employees who worked so tirelessly to ready the Mitchel Park complex. I know the residents of my district, and I am sure of all of Long Island are proud to host this celebration of brotherhood in the true Olympic tradition.●

## OUR CONTINUING COMMITMENT TO OUR MIA'S

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. GILMAN. Mr. Speaker, today I joined the gentleman from New York Congressman STEPHEN SOLARZ, chairman of the Subcommittee on Asian and Pacific Affairs and all of my colleagues on the House Task Force on the Missing in Action in introducing House Concurrent Resolution 322 which calls upon the U.S. Government to continue our commitment to securing a full and final accounting of our missing in action and prisoners of war from the Vietnam conflict. Congressman SOLARZ has been a staunch ally of the families of our missing Americans, and his strong commitment to the MIA issue is highly appreciated.

Our House Task Force on American Prisoners and Missing in Southeast Asia, which I chair has been meeting on a regular basis to keep the issue alive and to pursue an accounting in the Congress and in the administration. As part of our mission to insure that a full and final accounting of our missing Americans is realized, we have introduced this resolution which acknowledges the work that has been done so far on the MIA/POW issue, and which seeks the cooperation of the Governments of Vietnam and Laos as we continue to work toward the release of any possible live prisoners in Southeast Asia, as well as the repatriation of the remains of our missing Americans.

Progress on the MIA/POW issue has been painfully long and arduous. To date, we have received only a handful of remains which have trickled out of Vietnam at an agonizingly slow pace. During the past year, we have received a pledge of cooperation from the Lao Peoples Democratic Republic for access to crash sites in that nation, but that progress too has been extremely slow. Our MIA Task Force is hoping that by passage of this sense of the Congress resolution, and through increased diplomatic efforts, we can join together in this humanitarian venture to improve cooperation between our nations, as well as ending the pain and uncertainty that the families of our 2,489 Americans have endured during the past decade.

For my colleagues' review and support I request that the full text of this legislation which has the support of the task force and the Subcommittee on Asian and Pacific Affairs be inserted at this point in the RECORD:

H. CON. RES. 322

Concurrent resolution to express the sense of the Congress regarding Americans missing in Southeast Asia

Whereas the President has declared the issue of 2,489 Americans missing and unaccounted for in Indochina a matter of highest national priority and has initiated high level dialogue on this issue with the Governments of the Lao People's Democratic Republic and the Socialist Republic of Vietnam;

Whereas the Congress, on a bipartisan basis, has fully supported these initiatives to determine the fate of Americans still missing in Indochina and realizes that the fullest possible accounting can only be achieved with the cooperation of the Indochinese governments; and

Whereas the Government of the Socialist Republic of Vietnam has pledged to cooperate with the United States Government in resolving this humanitarian issue, separate from other issues dividing our two countries, and the Government of the Lao People's Democratic Republic for the first time has taken some positive actions to assist the United States Government in resolving the status of missing Americans: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress that the President should—

(1) ensure that officials of the United States Government consciously and fully carry out his pledge of highest national priority to resolve the issue of 2,489 Americans still missing and unaccounted for in Indochina;

(2) work for the immediate release of any Americans who may still be held captive in Indochina and for the immediate return of all American servicemen and civilians who have died in Southeast Asia whose remains have not been returned; and

(3) make every effort to secure the cooperation that has been pledged by the Lao People's Democratic Republic and the Socialist Republic of Vietnam in resolving this humanitarian issue of fundamental importance.

SEC. 2. The Congress calls on the Socialist Republic of Vietnam and the Lao People's Democratic Republic to accelerate cooperation with the United States in achieving the fullest possible accounting for missing Americans in Indochina.●

## GRANTING VVA CHARTER THROUGH H.R. 4772

### HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. MRAZEK. Mr. Speaker, the Vietnam era necessarily touched the lives of all Americans. However, it goes without saying that one segment of our population came out of that painful period with scars, that none of the rest of us could possibly share.

While the fates spared me of this particular experience, more than 2.5 million Americans served their Nation in Southeast Asia, and more than 50,000 died there.

The special needs of the veterans who came home from Vietnam have been well documented, if not met. The war itself may create controversy in our country forever, but the individuals who fought it should—and must—be spared of this turmoil. Our Vietnam veterans, like those of every other war we have fought, should be honored, respected and treated with the dignity they deserve.

It has taken too long for this Nation to grant this respect. Slowly, we are fulfilling our part of the covenant that our Nation makes with each generation of its soldiers, a promise that we will assume certain measures of responsibility in payment for the ultimate burden that they shouldered.

In my home State, Mr. Speaker, an organization emerged which has taken the initiative in securing the rights and privileges of Vietnam veterans. The organization, Vietnam Veterans of America, now has a growing membership of some 17,000 veterans in 135 chapters nationwide. By granting the VVA a national charter through H.R. 4772, we can give the VVA its rightful place in the honorable pantheon of veterans organizations which have been spawned by our most terrible moments as a Nation.

For the record, the VVA exists as a veterans' service organization in the most fundamental and laudable sense. It assists Vietnam vets with claims pending before the Veterans' Administration and other Federal agencies. It conducts career counseling and developing programs. It monitors the needs of women and minority Vietnam vets, and has confronted the haunting issue of agent orange.

Most of all, Mr. Speaker, the VVA acts as a conscience for all of us, raising our awareness of the particular problems that Vietnam vets have confronted and continue to face. By supporting H.R. 4772, we in this body acknowledge this consciousness and act further to heal the wounds of our Nation's most controversial and divisive war.●

## THE NICARAGUAN CONNECTION: THE REAL PROBLEM IN CENTRAL AMERICA

### HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. PHILIP M. CRANE. Mr. Speaker, it seems that Members of the majority party here in the House of Representatives have yet to recognize a fundamental aspect of the current conflict in Central America. Nicaragua continues to arm itself and the terrorists in neighboring countries with the help of Cuba and numerous other Eastern bloc nations, but their apologists here in Congress insist that the growing conflict is not a result of Nicaragua's militaristic policies but of the poverty endemic to the region.

Unfortunately, this perception of the nature of the conflict is as ignorant as it is dangerous. It ties the hands of those who seek to aid the beleagured nations of the region while simultaneously encouraging Nicaragua to pursue its adventuristic policies. The results, if this trend continues unchecked, will be disastrous for the United States.

No one who has visited Central America will deny that poverty is a problem there. Nor will any objective observer claim that there is no dissatisfaction among the masses. But the real problem is intervention by foreign powers, in this case Cuba and the Soviet Union. Like the astute opportunists that they are, they have exploited the existing problems and fomented armed uprisings. I think that it is high time that we here in Congress face this reality and come to grips with it. This means the continuation of military and economic aid to El Salvador, but also continued support for the Nicaraguan Contras. These two issues cannot be separated; they are one and the same.

In the June 8, 1984 issue of the Orlando Sentinel, Mr. Charley Reese of the editorial staff clearly describes this very subject. In his editorial he makes some cogent suggestions as to what Congress must do to respond to the situation. I recommend his editorial to each of my colleagues.●

## STAR WARS

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, June 19, 1984*

● Mr. DOWNEY of New York. Mr. Speaker, as the national debate continues over the "Star Wars" strategic defense initiative, it behooves us all to be aware of the political ramifications of the controversy. I believe, therefore, that my colleagues will benefit from the following article which appeared on the front page of today's Washington Post.

### Low-Key Push Due "Star Wars"—President Plans Redoubled Effort if He Is Reelected

(By Fred Hiatt)

President Reagan decided to "low-key" his support for a "Star Wars" missile defense system this election year, but he will redouble his advocacy of strategic defense if he is returned to office, according to a senior administration official.

The official said Reagan's commitment to the controversial research effort will be reflected in personal advocacy and in substantially larger budgets. The administration asked Congress for about $1.8 billion for its "Strategic Defense Initiative" for fiscal 1985, and officials said they are likely to ask for at least twice as much next year.

"There was a conscious decision not to invest more in it this year, because it's an election year," the official said. "He's low-keyed the program this year, but that does not reflect a lessened interest, because he does believe it's a moral imperative."

The official's comments came at a seminar on arms control several days ago during which senior administration officials made clear that, despite a recent flurry of speculation about negotiations with the Soviet Union, they have not altered their fundamental pessimism about the potential value of arms talks.

The officials, who asked not to be identified, said that they foresee a long period of difficult "competition" with the Soviets, and, in contrast to public administration statements, little likelihood of "deep and substantial cuts" in stockpiles.

"The problem is, we tend to look at arms control as a solution, instead of as something which might modestly make a contribution," said one expert who has played an important role in formulating U.S. arms policy for Reagan.

At the same time, the officials said Reagan's theory that a U.S. arms buildup will impel the Soviets to bargain seriously has not been tested, despite the absence of arms control progress after several years of substantial increases in U.S. military spending. The officials said it may take several more years of increased spending and congressional firmness to persuade the Soviet Union that its interests lie in arms-control talks.

For that reason, the officials condemned Congress for attempting to link funding for the MX missile and other weapons to progress in arms-control talks. One senior official spoke of the "difficulties of forging arms control policy when the constituency has a primitive understanding of it and when Congress is similarly afflicted, though at a somewhat higher level."

To remedy what the officials described as dwindling "bipartisanship" in Congress, Reagan is likely to propose later this year a permanent commission that would advise the administration on arms control and lobby for its policies in Congress, two officials said. The commission, as envisioned by these officials, would contain Democrats and Republicans appointed to staggered terms to keep the group independent of changing administrations.

One official likened the idea, which has been championed internally by Kenneth L. Adelman, director of the Arms Control and

Disarmament Agency, to a "permanent Scowcroft commission." A bipartisan panel headed by retired Lt. Gen. Brent Scowcroft, former national security affairs adviser, last year helped secure congressional approval for production of the first 21 MX missiles.

A former Democratic Pentagon official noted that bipartisanship always seems more of a virtue for the party in power and that Reagan and many of his current aides lobbied tenaciously against the SALT II arms-control treaty negotiated by President Jimmy Carter.

The Reagan administration, bowing to congressional pressure and fearful that Reagan may be vulnerable on the issue during his reelection campaign, has indicated increased willingness to bargain with the Soviet Union in recent days. The president adopted a more conciliatory tone about the possibility of meeting with Soviet leaders, and officials are exploring arms-control proposals for antisatellite weapons.

But officials remain convinced that the Soviet Union, which walked out of arms talks late last year, is primarily to blame for the lack of progress and is not interested in significant arms reductions. One experienced official compared negotiating with the Soviets to dealing with "a crooked horse trader."

Another senior official said that U.S. security has improved recently "through no fault or contribution of arms control," while the past 15 years of arms control have only "legitimized the growth in weapons."

Given that history, the official said, Reagan puts great weight in developing a defense against nuclear missiles. His initiative in that field has drawn criticism, in part because deploying a defense would require abrogating a 1972 treaty with the Soviets controlling defensive systems.

Participants in the two-day seminar, sponsored by the Aspen Institute, included national security affairs adviser Robert C. McFarlane; Scowcroft; Adelman; Paul H. Nitze, Reagan's negotiator on medium-range nuclear weapons; Edward L. Rowny, negotiator for strategic weapons; Max Kampelman, negotiator at the multilateral talks on human rights, and several other military and diplomatic officials.●